



NMUN • NY

## GENERAL ASSEMBLY THIRD COMMITTEE BACKGROUND GUIDE 2012

Written By: Beatrice Soler, Louis-Alexandre Cazal, Molly Deacon, Lauren Shaw



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## CONTACT THE NMUN

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

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### NMUN•NY 2012 Important Dates

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

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

## POSITION PAPER INSTRUCTIONS

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

### 1. TO COMMITTEE STAFF

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

### 2. TO DIRECTOR-GENERAL

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

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

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

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

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

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

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for more information

### COMMITTEE

### EMAIL - SHERATON

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Organisation of Islamic Cooperation .....	oic.sheraton@nmun.org
Asia-Pacific Economic Cooperation .....	apec.sheraton@nmun.org
Security Council A.....	sca.sheraton@nmun.org
Security Council B.....	scb.sheraton@nmun.org
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### COMMITTEE

### EMAIL - MARRIOTT

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Commission on Narcotic Drugs.....	cnd.marriott@nmun.org
Economic and Social Commission for Western Asia .....	escwa.marriott@nmun.org
United Nations Children's Fund.....	unicef.marriott@nmun.org
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African Union.....	au.marriott@nmun.org
Organization of American States .....	oas.marriott@nmun.org
Organisation of Islamic Cooperation .....	oic.marriott@nmun.org
Asia-Pacific Economic Cooperation .....	apec.marriott@nmun.org
Security Council A .....	sca.marriott@nmun.org
Security Council B.....	scb.marriott@nmun.org
International Criminal Court .....	icc.marriott@nmun.org
Peacebuilding Commission.....	pbcs.marriott@nmun.org
Conference on the Arms Trade Treaty .....	att.sheraton@nmun.org

### OTHER USEFUL CONTACTS

Entire Set of Delegation Position Papers .....	positionpapers.sheraton@nmun.org
(send only to e-mail for your assigned venue).....	positionpapers.marriott@nmun.org
Secretary-General .....	secgen.ny@nmun.org
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NMUN Office .....	info@nmun.org



# THE 2012 NATIONAL MODEL UNITED NATIONS

SPONSORED BY THE NATIONAL COLLEGIATE CONFERENCE ASSOCIATION

1 – 5 April (Sheraton) & 3 – 7 April (Marriott) • [www.nmun.org](http://www.nmun.org)

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Dear Delegates,

Welcome to the 2012 National Model United Nations. We hope you are all excited as much as we are for this year's conference. We are pleased and excited to be serving as your Directors and Assistant Directors for the General Assembly Third Committees at the Sheraton and Marriott Venues this upcoming spring.

Let us introduce ourselves, as we will be your first contacts for any questions you may have regarding the committee. Louis-Alexandre, holds a Bachelor degree in Communication and Political Science with a focus on international law from the Université de Montréal. He currently works for Montreal's advisory board and will be serving as Director for the fifth time at NMUN in New York. Director Beatrice Soler holds a Bachelor of Arts in Political Science and International Studies with a focus on war and peace studies from Georgia Southern University where she is currently finishing her Masters of Public Administration. This is her fifth year participating in NMUN, and her third year as a staff member. Assistant Director Lauren Shaw holds a Bachelor of Arts from Alma College and is currently completing her Masters of Public Policy with a concentration in international policy and development from the Georgetown Public Policy Institute. This is her fifth year at NMUN. Assistant Director Molly Deacon is on her third year at Wells College in Aurora, New York. She is earning her Bachelors in international studies with an emphasis in women's studies. This is her third NMUN conference and her second time as staff.

This year's topics are as follows:

1. Combating Human trafficking
2. Development and the Rights of Indigenous Peoples
3. Transnational Organized Crime

The General Assembly Third Committee conducts its discussion on social, humanitarian and cultural affairs issues in order to find solutions to ongoing global problems. Delegates should use available resources while maintaining an international perspective on the topics at hand. In order to achieve this global view, delegates will need an extensive knowledge of the role of the committee and a comprehensive understanding of decisions making that will affect social and cultural changes. The background guide is meant to assist in the development of basic knowledge of the topics and provide a starting point for your research.

Being in the General Assembly Third Committee will be a challenging but rewarding experience. Please do not hesitate to direct any questions toward your respective Directors or the Under-Secretaries-General for the Department of the General Assembly, Alex Adriano (Marriott) and Roger Tseng (Sheraton). We look forward to meeting you in New York.

Sincerely,

*Sheraton Venue*  
Beatrice Soler  
Director

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely yours,

*Sheraton Venue*  
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**Delegation from  
The United Mexican States**

**Represented by  
(Name of College)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



## Committee History

*"Not a month goes by that we do not hear about a natural or a man-made disaster and the subsequent food, security, health and education crises that follow inevitably. At the same time, there are still people who are living under occupation and oppression, who are yearning for freedom and dignity."<sup>1</sup>*

### ***United Nations Formation and Structure***

The United Nations' (UN) establishment in 1945 following the horrors of World War II represented a common international goal to use dialogue and consensus to avoid international conflict in the future.<sup>2</sup> The four stated purposes of the UN are to keep the peace, develop friendly relations between states, help nations work together, and harmonize actions of states to meet common goals.<sup>3</sup> The UN pursues these aims in many ways, including the work done by the General Assembly (GA). The GA consists of 193 Member States and is the primary policy-making body of the UN.<sup>4</sup> It is subdivided into six committees, which are each tasked with addressing a specific area of international policy, to allow the UN to consider multiple issues at once.<sup>5</sup> The GA gains its authority to act from Article 13 of the United Nations Charter, which requires it to make recommendations to assist in the realization of human rights, among other goals.<sup>6</sup> Sessions of the GA begin in the fall and last a full calendar year, although the major substantive work is typically completed in mid-December, with voting continuing through the spring.<sup>7</sup>

### ***The Role of Third Committee***

The Third Committee considers social, humanitarian, and cultural issues. Specifically, the committee focuses on the advancement of human rights, including those of women, children, refugees, youth, aging persons, and indigenous peoples, based upon the Universal Declaration of Human Rights (UDHR).<sup>8</sup> More recently, the committee has considered reports of the Human Rights Council (HRC), established in 2006 as a subsidiary body of the GA with a mandate that overlaps that of the 3<sup>rd</sup> Committee.<sup>9</sup> The HRC's predecessor, the United Nations Commission on Human Rights, functioned under the authority of the UN Economic and Social Council.<sup>10</sup> Part of the Third Committee's relationship with the HRC includes the GA's review process of its functions, with the goal of strengthening the HRC to better promote human rights.<sup>11</sup> The committee also considers studies and actions by other related agencies, including UNICEF and UN-WOMEN.<sup>12</sup> Since the end of the Cold War, more international focus has been placed on the importance of human rights and the work of bodies like the Third Committee. During the 1990s, the UN established many bodies and organs that complement the work of the Third Committee, such as the post of High Commissioner of Human Rights and the International Criminal Tribunals for Rwanda and the Former Yugoslavia.<sup>13</sup>

The value of Third Committee lies in its power to make recommendations, both to Member States, various UN bodies, and inter-governmental organizations (IGO), regarding the necessary actions to promote human rights.<sup>14</sup> Although other agencies consider similar topics, the Third Committee is the only body that allows every Member State to have input into human rights resolutions.<sup>15</sup> While many believe that the participation of all Member States in debate is critical to reaching true consensus, others have criticized the GA bodies for moving too slowly to address issues within a reasonable timeframe, due to the difficulty in reconciling the stances of the many regional and sub-regional voting blocs.<sup>16</sup> In 2005, then-Secretary General Kofi Annan criticized the GA for "abandoning any serious

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<sup>1</sup> UN News Centre, *Qatari diplomat elected as President of next session of General Assembly*, 2011.

<sup>2</sup> Kennedy, *Freedom From Fear*, 1999, p. 854.

<sup>3</sup> United Nations, *UN At A Glance*.

<sup>4</sup> United Nations General Assembly, *About The General Assembly*.

<sup>5</sup> United Nations General Assembly, *Main Committees*.

<sup>6</sup> United Nations, *United Nations Charter*, Article 13.

<sup>7</sup> Fasulo, *An Insider's Guide To The UN*, 2004, p. 68.

<sup>8</sup> United Nations Third Committee, *Social, Humanitarian, and Cultural*.

<sup>9</sup> United Nations Third Committee, *Social, Humanitarian, and Cultural*.

<sup>10</sup> UN Human Rights Council, *The Human Rights Council*.

<sup>11</sup> The Carter Center, *US Engagement with the UN Human Rights System*, 17 February 2010.

<sup>12</sup> United Nations Third Committee, *Social, Humanitarian, and Cultural*.

<sup>13</sup> Ray and Kaarbo, *Global Politics*, 2005, p. 292.

<sup>14</sup> United Nations Third Committee, *Social, Humanitarian, and Cultural*.

<sup>15</sup> Fasulo, *An Insider's Guide To The UN*, 2004, p. 69.

<sup>16</sup> Fasulo, *An Insider's Guide To The UN*, 2004, p. 77.

effort to take action” and attempting to address too broad of an agenda, rather than focusing closely on current substantive issues.<sup>17</sup>

### ***Voting***

According to Article 18 of the UN Charter, every Member State has one vote, with the majority of issues discussed requiring a simple majority to pass a measure.<sup>18</sup> Certain issues, known as “important questions,” require a two-thirds majority, including the admission of new Member States to the UN and budgetary questions.<sup>19</sup> However, these important questions are only considered by the GA Plenary, and are not discussed by the Third Committee. All votes conducted in the Third Committee are by simple majority.<sup>20</sup> The resolutions passed by the Third Committee are then considered by the GA Plenary, where they are again debated and may be passed by acclamation or simple majority (acquired by recorded vote or roll-call vote), or voted down.<sup>21</sup> Although the resolutions passed represent the will of the body, GA resolutions are considered to be recommendations, meaning they are not legally binding on Member States and do not create any obligations.<sup>22</sup> Article 25 of the UN Charter states that Security Council resolutions are binding on all members; any resolutions passed by the other UN bodies are non-binding.<sup>23</sup>

### ***Recent Actions of Third Committee***

The 65<sup>th</sup> Session of the General Assembly began on September 14, 2010, with the theme of “Reaffirming the central role of the United Nations in global governance,” as suggested by Session President Joseph Deiss of Switzerland.<sup>24</sup> During this session, the 3<sup>rd</sup> Committee considered many issues, including the elimination of torture and international drug control.<sup>25</sup> A/RES/65/204 called for expansion of the functions of the Committee Against Torture, and requested for greater allocation of resources to the Committee, to allow it to perform its functions more rapidly.<sup>26</sup> Resolution A/RES/65/227 considered possible realignments to the United Nations Office on Drugs and Crime, as well as changes to the strategic framework on international drug control, and A/RES/65/233 drew attention to the multilateral nature of drug trade and promoted various methods of international cooperation to halt drug trafficking.<sup>27</sup> Many of the proposed resolutions were country-specific, meaning that they solely addressed a human rights issue in a particular country.<sup>28</sup>

### ***The 66<sup>th</sup> Session***

The 66<sup>th</sup> Session of the General Assembly began on September 13, 2011.<sup>29</sup> Nassir Abdulaziz Al-Nasser, the permanent representative of Qatar, was elected President of the session by acclamation.<sup>30</sup> The preliminary agenda for the 3<sup>rd</sup> Committee included such items as the rights of indigenous people, the right to self-determination, and the elimination of racism and racial discrimination.<sup>31</sup> At the beginning of the high-level debate, Secretary General Ban Ki-moon emphasized five issues he felt should be imperative to the 66<sup>th</sup> Session: sustainable development, preventing and mitigating conflicts, human rights abuses and the impacts of natural disasters, building a safer and more secure world, supporting countries in transition, and working to engage the talents of women and young people.<sup>32</sup>

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<sup>17</sup> United Nations, *In Larger Freedom*, p. 40.

<sup>18</sup> United Nations, *United Nations Charter*, Article 18.

<sup>19</sup> United Nations General Assembly, *Rules of Procedure*, Rule 83.

<sup>20</sup> United Nations General Assembly, *Rules of Procedure*, Rule 85.

<sup>21</sup> Fasulo, *An Insider's Guide To The UN*, 2004, p. 69.

<sup>22</sup> Slomanson, *Fundamental Perspectives on International Law*, 2007, p. 27.

<sup>23</sup> United Nations, *United Nations Charter*, Article 25.

<sup>24</sup> United Nations, *Opening State at the General Debate of the Sixty-Fifth Session of the United Nations General Assembly*, 2010.

<sup>25</sup> United Nations Third Committee, *Status of Action on Draft Proposals*.

<sup>26</sup> United Nations, General Assembly, *Committee Against Torture (A/RES/65/204)*, 2011.

<sup>27</sup> United Nations General Assembly, *Realignment of the Functions of the United Nations Office on Drugs and Crime and Changes to the Strategic Framework (A/RES/65/227)*, 2011; United Nations General Assembly, *International Cooperation Against the World Drug Problem (A/RES/65/233)*, 2011.

<sup>28</sup> United Nations Third Committee, *Social, Humanitarian, and Cultural*.

<sup>29</sup> United Nations General Assembly, *66<sup>th</sup> Session*.

<sup>30</sup> UN News Centre, *Qatari diplomat elected as President of next session of General Assembly*, 2011.

<sup>31</sup> United Nations General Assembly, *Preliminary List of Items to be Included in the Provisional Agenda of the Sixty Sixth Regular Session of the General Assembly*, p. 6.

<sup>32</sup> UN News Centre, *Ban Urges Global Leaders Gathered at UN to 'Shape the World of Tomorrow*.

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*This document summarizes a meeting of human rights advocates organized by The Carter Center and The Brookings Institute. While part of the document does focus on the United States' relationship with various human rights agencies, it also provides thoughtful analysis of the human rights system as a whole, including some possible changes for the future to make the agencies more effective. All of the advocates referenced represent resources for delegates, as they all maintain highly informative webpages, and many have observer status at the UN.*

Fasulo, Linda. (2004). *An Insider's Guide To The UN*. New Haven: Yale University Press.

*This book is an excellent resource for those not familiar with the basic occupations of the UN. Fasulo provides an in-depth history of the formation of the UN and its various bodies and organs, as well as a summary of how those bodies function. She also incorporates some of the criticisms of the UN system, which could be considered by delegates as they generate new solutions to international problems.*

United Nations General Assembly. (2011). *66<sup>th</sup> Session*. Retrieved August 29, 2011 from <http://www.un.org/en/ga/info/meetings/66schedule.shtml>

*This is the webpage produced by the UN to provide information on the 66th session of the GA (beginning September 2011). As delegates prepare for the conference they should try to remain aware of current updates. The webpage will contain links to the reports Third Committee sends to the Plenary as progress updates, as well as any draft resolutions. Often, the GA will post draft resolutions and their proposed amendments, giving more insight to the process by which the final documents are created.*

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*The Charter is the treaty that created the United Nations. It is also the main governing document for how the UN and its bodies function, including voting procedures and the rights afforded to the GA and the Security Council. Understanding the basic framework of the Charter will aid delegates in a more realistic simulation.*

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*This web resource provides specific information regarding the focus and tasks of Third Committee. It is the main webpage about Third Committee produced by the UN, and includes links to other pages about Third Committee, such as its press releases and Secretariat, as well as links to affiliated agencies. Delegates can use this webpage to better understand how Third Committee functions.*

## I. Development and the Rights of Indigenous Peoples

*"Washing one's hands of the conflict between the powerful and the powerless means to side with the powerful, not to be neutral."*<sup>33</sup>

### *Introduction*

The United Nations (UN) has, on several occasions, affirmed the importance of the preservation of indigenous peoples' rights through both declarations and action. In 2007, the UN General Assembly adopted the *Declaration on the Rights of Indigenous Peoples*, which guarantees rights specific to indigenous groups, including the rights to self-

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<sup>33</sup> Freire, *The Politics of Education*, 1985, p. 122.

determination, protection from forced assimilation, and other forms of discrimination.<sup>34</sup> The UN's work related to decolonization is also evidence of the organization's support for the rights of indigenous peoples; this represents an awareness within the international community of the injustices thrust upon people belonging to indigenous groups throughout history, as well as recognition that an unfair power dynamic does, in fact, exist between the state and its native people.<sup>35</sup>

In spite of visible progress with regard to the rights of indigenous peoples in a continuously developing world, some representatives of indigenous groups and organizations advocating for their rights feel that there is far more to be done, especially as new issues continue to arise as a result of technological and economic development.<sup>36</sup> Issues of self-determination, autonomy, structural discrimination, and exclusion continue to create strife between indigenous groups and the political structures.<sup>37</sup> As states develop and grow within the framework of their political structures that have traditionally excluded individuals belonging to indigenous groups, countless more issues seem to arise almost daily, as evidenced by the UN's continued vigilance in addressing indigenous issues.<sup>38</sup>

### *Defining "Indigenous Peoples"*

In 2004, the UN Department of Economic and Social Affairs released a document providing a specific definition of "indigenous and tribal peoples."<sup>39</sup> Many other definitions have depended upon self-identification, but this document, entitled *The Concept of Indigenous Peoples*, provides additional criteria, including the "occupation of ancestral lands," cultural identifiers such as traditions, religions, and language, and "common ancestry."<sup>40</sup> Nonetheless, the most common definition is still derived from self-identification.<sup>41</sup>

### *The Roles of Development and Globalization*

The UN has worked extensively to address issues that have to do with technological and industrial development, but compartmentalization of such issues could potentially lead to some voices, particularly those of indigenous peoples, go unheard.<sup>42</sup> Development by its very nature requires the allocation of many different kinds of resources.<sup>43</sup> Natural resources are a commonly cited example, but information resources are potentially just as important.<sup>44</sup> Those hoping to advance development often attempt to seize resources belonging to indigenous people in order to achieve progress. Unfortunately, indigenous groups may not enjoy the benefits of development due to their marginalized positions in society.<sup>45</sup> Indigenous peoples are often among the poorest demographic groups, even in developed countries, and this often translates to vulnerability when commercial interests attempt to encroach upon a group's tangible and intangible boundaries.<sup>46</sup>

Differences in languages and lack of access to information technology can also present problems. Persons belonging to indigenous groups may find their states' "mainstream" education difficult to contextualize and understand.<sup>47</sup> Many indigenous people are also simply unable to access education at all due to poverty or geographic isolation.<sup>48</sup> The disparity in access to education between indigenous and non-indigenous groups is a crucial element to indigenous oppression for several reasons. Without access to education, indigenous individuals are often unable to find work, and unemployment among indigenous groups perpetuates the common cycle of poverty.<sup>49</sup> Indigenous individuals who do not receive a traditional education may also find it more difficult to communicate with non-indigenous contemporaries, and this often precludes them from participating in the political discourse that directly affects them.<sup>50</sup> When a lack of education or an inadequate education prevents an indigenous person from participating in

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<sup>34</sup> United Nations, *United Nations Declaration on the Rights of Indigenous Peoples*, 2007.

<sup>35</sup> United Nations, *The United Nations and Decolonization*.

<sup>36</sup> Indigenous People's Council on Biocolonialism, *What Indigenous People Should Know About Biocolonialism*, 2000.

<sup>37</sup> United Nations, *State of the World's Indigenous Peoples*, 2009.

<sup>38</sup> United Nations, *United Nations Permanent Forum on Indigenous Issues*.

<sup>39</sup> United Nations Department of Economic and Social Affairs, *The Concept of Indigenous Peoples*, 2004.

<sup>40</sup> United Nations Department of Economic and Social Affairs, *The Concept of Indigenous Peoples*, 2004.

<sup>41</sup> United Nations Department of Economic and Social Affairs, *The Concept of Indigenous Peoples*, 2004.

<sup>42</sup> Bodley, *Victims of Progress*, 1975, p. 114-115.

<sup>43</sup> Bodley, *Victims of Progress*, 1975, p. 76-77.

<sup>44</sup> Bodley, *Victims of Progress*, 1975, p. 95-96.

<sup>45</sup> Bodley, *Victims of Progress*, 1975, p. 146.

<sup>46</sup> Lomawaima & McCarty, *When Tribal Sovereignty Challenges Democracy: American Indian Education and the American Ideal*, p. 281.

<sup>47</sup> Lomawaima & McCarty, *When Tribal Sovereignty Challenges Democracy: American Indian Education and the American Ideal*, p. 281-282.

<sup>48</sup> United Nations, *State of the World's Indigenous Peoples*, 2009, p. 130.

<sup>49</sup> United Nations, *State of the World's Indigenous Peoples*, 2009, p. 148-149.

<sup>50</sup> United Nations, *State of the World's Indigenous Peoples*, 2009, p. 130.

society, that person is being denied what several intergovernmental organizations, such as the UN and the International Labor Organization (ILO), have defined as an inalienable right.<sup>51</sup> Even in cases where education is made available to indigenous groups, those who organize the educational curricula often fail to consider the difficulties that an indigenous person might have with absorbing information in certain educational settings.<sup>52</sup> Individuals who belong to indigenous communities and cultures often have their own methodologies for teaching young people, and when a student who is unfamiliar with the methodology of the formal classroom is placed in such a setting, that student often finds it difficult to absorb information.<sup>53</sup> Without indigenous representatives participating in the development of curricula, this problem becomes endemic.<sup>54</sup> Underfunding of schools is also often an issue, as public schools that enroll primarily indigenous students frequently receive less funding from their states' governments.<sup>55</sup> Although each state has its own method for deciding where to allocate funding, this problem occurs in the public school systems of many developed countries.<sup>56</sup> For indigenous students wishing to leave the public school system, boarding school is rarely an option due to widespread poverty among indigenous populations, and non-traditional schooling is often viewed as invalid among academics and employers.<sup>57</sup> Additionally, information technology is often too costly to procure for people belonging to marginalized indigenous groups.<sup>58</sup> These people may benefit little from globalization as a result. Many institutions, including the World Bank, profess that they seek to find ways to plan development such that it benefits indigenous peoples.<sup>59</sup> However, some scholars feel that this would necessitate a complete reconstruction of the systems in place for development.<sup>60</sup> Unfortunately, while indigenous peoples may benefit little from many different forms of development, they are likely to become victims of its negative outcomes, such as environmental degradation. In cases in which natural resources are overused to extinction, or in which an area is clear-cut for development, an indigenous group could potentially lose a product that is instrumental to its practice of medicine or religion.<sup>61</sup> Additionally, indigenous peoples (and minority groups in general) often find themselves the victims of human experimentation or its after-effects.<sup>62</sup> Most notably, such occurrences have been documented among the Maori people in New Zealand.<sup>63</sup> However, indigenous populations in countries such as Cameroon and Cambodia have also suffered as a result of what some bioethicists refer to as "biocolonialism."<sup>64</sup> The term "biocolonialism" is generally applied when a researcher's methodology is comparable to colonialism in the traditional sense of the word.<sup>65</sup> This includes the practice of utilizing an individual's body as a source of information without obtaining permission from that individual to do so, by coercing or forcing the individual into consenting to the collection of information, or by gathering information about the individual's body without the individual's knowledge.<sup>66</sup>

### ***Case Study: Pine Ridge Indian Reservation***

The Pine Ridge Indian Reservation, located in South Dakota, United States, is home to a population of Oglala Sioux Native American people, and among the most impoverished and underdeveloped areas of the country.<sup>67</sup> Although the United States is a highly industrialized country, the people living on this reservation today continue to live in poor conditions.<sup>68</sup> Notably, violence is prevalent in this area, with many uneducated or unemployed young men joining gangs and engaging in criminal acts.<sup>69</sup> Poverty is aggravated by crime on the reservation.<sup>70</sup> As of 2010, the unemployment rate within the people living in Pine Ridge was at 80%, and the life expectancy for the average

<sup>51</sup> United Nations, *State of the World's Indigenous Peoples*, 2009, p. 130-132.

<sup>52</sup> United Nations, *State of the World's Indigenous Peoples*, 2009, p. 138.

<sup>53</sup> United Nations, *State of the World's Indigenous Peoples*, 2009, p. 138-139.

<sup>54</sup> United Nations, *State of the World's Indigenous Peoples*, 2009, p. 130.

<sup>55</sup> United Nations, *State of the World's Indigenous Peoples*, 2009, p. 141-142.

<sup>56</sup> United Nations, *State of the World's Indigenous Peoples*, 2009, p. 141-142.

<sup>57</sup> United Nations, *State of the World's Indigenous Peoples*, 2009, p. 145-149.

<sup>58</sup> Lomawaima & McCarty, *When Tribal Sovereignty Challenges Democracy: American Indian Education and the American Ideal*, 2002, p. 293.

<sup>59</sup> World Bank Group, *Indigenous Peoples*.

<sup>60</sup> Rosset, Patel, and Courville, *Promised land: competing visions of agrarian reform*, 2006, p. 209-210.

<sup>61</sup> Bodley, *Victims of Progress*, 1975, p. 78.

<sup>62</sup> Wessendorf, *The Indigenous World*, 2009, 2009, p. 242-247.

<sup>63</sup> Wessendorf, *The Indigenous World*, 2009, 2009, p. 242-247.

<sup>64</sup> Aspin, *Ethics of Research Involving Indigenous Peoples and Vulnerable Populations*, 2008.

<sup>65</sup> Indigenous People's Council on Biocolonialism, *What Indigenous People Should Know About Biocolonialism*, 2000.

<sup>66</sup> Indigenous People's Council on Biocolonialism, *What Indigenous People Should Know About Biocolonialism*, 2000.

<sup>67</sup> Press, *Pine Ridge*, 2011, p. 99.

<sup>68</sup> Press, *Pine Ridge*, 2011, p. 99.

<sup>69</sup> Press, *Pine Ridge*, 2011, p. 99-100.

<sup>70</sup> Eckholm, *Gang Violence Grows on an Indian Reservation*, New York Times.



resident was 50 years.<sup>71</sup> These poor living conditions have led American news outlets to begin referring to the Pine Ridge Reservation as “America’s Third World.”<sup>72</sup>

Although European colonialism began the process of marginalization for Native American people hundreds of years ago, indifference on the part of the United States government has made space for the state of affairs on Pine Ridge and other reservations to worsen.<sup>73</sup> The United States’ reservation system itself is challenged by some scholars, some of whom feel that the system is constructed in such a way that allows oppression and cultural insensitivity to exist *ad infinitum*, while others blame the government’s unwillingness to cooperate with the Oglala Sioux people in order to create economic and social programs that are appropriate given the culture and traditions of those living on the reservation.<sup>74</sup> In this case, policy changes regarding the reservation are often unsuccessful and culturally insensitive. For instance, when the United States government attempted to establish an agricultural program to stimulate the economy on the reservation, it failed to acknowledge an aspect of the culture of the Oglala Sioux people that would prohibit landscaping for the purpose of farming.<sup>75</sup> When the program failed, and with few other options presented by the government, poverty on the reservation did not improve, and in fact, it worsened.<sup>76</sup> Additionally, in misguided efforts for assimilation, the government began banning Sioux religious practices, such as the Sun Dance.<sup>77</sup> This only served to enforce tensions between the nation-state and its indigenous inhabitants.<sup>78</sup>

While quick to offer culturally insensitive solutions to some of the problems facing the inhabitants of Pine Ridge, the United States government has done little to address the housing issue on the reservation. According to one source, 59% of the homes on the Pine Ridge reservation are “substandard,” and 33% lack basic utilities such as electricity, running water, and sewage systems.<sup>79</sup> There is a massive homelessness problem facing the reservation, but as tradition dictates, the inhabitants are quick to bring distant relatives into their homes, leading to overcrowded living quarters in which illnesses are easily communicable, especially without reliable systems for disposal of human waste.<sup>80</sup>

Other major issues facing the people living on the reservation include alcoholism and sexual assault.<sup>81</sup> Whiteclay, Nebraska, which borders the Pine Ridge Reservation, is said to exist solely for the purpose of legally providing alcohol to the indigenous residents of the reservation, where sales of alcohol are prohibited.<sup>82</sup> Some sources report an alcoholism rate as high as 80%.<sup>83</sup> Comparatively, the United States Center for Disease Control and Prevention reports that only 52% of the population of the United States are “casual drinkers,” consuming twelve or more alcoholic drinks each year.<sup>84</sup> Rape, sexual assault, and domestic violence have consistently plagued reservations in the United States.<sup>85</sup> Statistics are difficult to generate due to low reporting rates, failure of United States law enforcement agencies to provide assistance in prosecuting these crimes, and a lack of resources available to victims.<sup>86</sup> However, it is estimated the one in every three women living on a reservation will become a victim of rape or other forms of sexual assault.<sup>87</sup> Instances of rape and sexual assault on the Pine Ridge Reservation are known, but assailants are rarely prosecuted.<sup>88</sup> While the failures of the United States’ system for its indigenous peoples may appear extreme, this example is not unique; governments of several developed countries have ignored their indigenous populations at best, and tortured them at worst.<sup>89</sup>

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<sup>71</sup> Raymond, Change.org News, *America’s Third World: Pine Ridge, South Dakota*.

<sup>72</sup> Raymond, Change.org News, *America’s Third World: Pine Ridge, South Dakota*.

<sup>73</sup> Press, *Pine Ridge*, 2011, p. 13, 22-26.

<sup>74</sup> Rosset, Patel, and Courville, *Promised land: competing visions of agrarian reform*, 2006, p. 208-217.

<sup>75</sup> Rosset, Patel, and Courville, *Promised land: competing visions of agrarian reform*, 2006, p. 208-217.

<sup>76</sup> Rosset, Patel, and Courville, *Promised land: competing visions of agrarian reform*, 2006, p. 208-217.

<sup>77</sup> Ruby, Collins, and Mutschler, *A Doctor Among the Oglala Sioux Tribe*, 2010, p. xx.

<sup>78</sup> Press, *Pine Ridge*, 2011, p. 102.

<sup>79</sup> Press, *Pine Ridge*, 2011, p. 104.

<sup>80</sup> Press, *Pine Ridge*, 2011, p. 104.

<sup>81</sup> Johansen, *The encyclopedia of Native American economic history*, 1999, p. 82-87.

<sup>82</sup> Melecki, “Nebraska must fight alcoholism on Pine Ridge Reservation,” Daily Nebraskan.

<sup>83</sup> Melecki, “Nebraska must fight alcoholism on Pine Ridge Reservation,” Daily Nebraskan.

<sup>84</sup> Center for Disease Control and Prevention, *FASTSTATS - Alcohol Use*, 2010.

<sup>85</sup> Sullivan, Walters, and Godoy, “Sexual Abuse of Native American Women.”

<sup>86</sup> Sullivan, Walters, and Godoy, “Sexual Abuse of Native American Women.”

<sup>87</sup> Sullivan, Walters, and Godoy, “Sexual Abuse of Native American Women.”

<sup>88</sup> Press, *Pine Ridge*, 2011, p. 145.

<sup>89</sup> Native Planet, *Native Planet: Non-profit NGO helping indigenous peoples preserve threatened cultures*.

## ***Previous Action to Address Issues Facing Indigenous Peoples***

### *Instruments of Protection*

Several intergovernmental organizations, including the UN, have adopted documents designed to provide protection for the rights of indigenous peoples. In particular, the *Declaration on the Rights of Indigenous Peoples* guarantees liberties of specific importance to indigenous groups.<sup>90</sup> Indigenous peoples are also protected by the *Universal Declaration of Human Rights* and similar instruments that apply to all individuals.<sup>91</sup> In addition, the *Convention on the Prevention and Punishment of the Crime of Genocide* specifically protects indigenous peoples and ethnic minorities in its language, dealing not only with outright physical violence, but with acts relating to eugenics and segregation as well.<sup>92</sup> With regards to the intellectual and tangible property rights of indigenous peoples, instruments of protection have been difficult to develop and ratify due to differences in traditional understandings of property.<sup>93</sup> The Economic and Social Council (ECOSOC) has designated several working groups and sub-commissions for the specific purpose of developing instruments that would secure indigenous property rights.<sup>94</sup> However, although some of these groups, such as the ECOSOC Working Group on Indigenous Populations (WGIP) have existed since the 1980s or 1990s, there still exist few international legal instruments guaranteeing collective ownership of land or resources to indigenous groups.<sup>95</sup>

In spite of a lack of international protection, indigenous land rights are often secured through agreements with the national governments against which indigenous peoples claim property ownership.<sup>96</sup> The Australian government has a system in place that allows it to compensate indigenous groups who have lost property as a result of colonialism.<sup>97</sup> The United States government employs a similar system, although representatives of indigenous groups such as the Haudenosaunee assert that the system has been largely ineffective.<sup>98</sup> In Canada, the Nunavut Land Claims Agreement resulted in the designation of the self-governing Nunavut Territory, in which the population is primarily comprised of Inuit people, as is the government.<sup>99</sup>

### *Structure of the United Nations*

The UN now contains several organs specifically commissioned for dealing with the rights of indigenous peoples, including the Working Group on Indigenous Populations and the Permanent Forum on Indigenous Issues.<sup>100</sup> The Permanent Forum makes a point of including individuals from indigenous backgrounds in its membership; this could indicate a willingness of the UN to work *with* indigenous peoples as opposed to working *for* them without their participation.<sup>101</sup> In January 2010, the Permanent Forum on Indigenous Issues released its extensive report entitled *State of the World's Indigenous Peoples*.<sup>102</sup> The report includes seven chapters, each of which discusses a theme relating to indigenous issues such as culture, environment, poverty, and education.<sup>103</sup> Each section states the needs of indigenous peoples, explains the history of the UN's work on the issue, and provides recommendations for further action.<sup>104</sup> It is important to note that the report was developed with the help of indigenous representatives, further demonstrating the Permanent Forum's willingness to collaborate with those it seeks to understand and assist.<sup>105</sup> Many of the UN's organs, which have a broader focus in their work, also deal with indigenous issues.<sup>106</sup> The United Nations Development Program (UNDP) is a notable example, as the issues that they address often overlap with indigenous issues when the ownership of resources or land is in question.<sup>107</sup>

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<sup>90</sup> University of Minnesota, *The Rights of Indigenous Peoples*.

<sup>91</sup> University of Minnesota, *The Rights of Indigenous Peoples*.

<sup>92</sup> University of Minnesota, *The Rights of Indigenous Peoples*.

<sup>93</sup> Posey & Dutfield, *Beyond Intellectual Property*, 1996, p. 212.

<sup>94</sup> Posey & Dutfield, *Beyond Intellectual Property*, 1996, p. 122.

<sup>95</sup> Posey & Dutfield, *Beyond Intellectual Property*, 1996, p. 121-122.

<sup>96</sup> Australian Department of Foreign Affairs and Trade. *About Australia: Indigenous land rights and native title*.

<sup>97</sup> Australian Department of Foreign Affairs and Trade. *About Australia: Indigenous land rights and native title*.

<sup>98</sup> Chen, *Battle Over Iroquois Land Claims Escalates*, New York Times.

<sup>99</sup> Inuit Cultural Online Resource, *The Inuit Impact*.

<sup>100</sup> University of Minnesota, *The Rights of Indigenous Peoples*.

<sup>101</sup> University of Minnesota, *The Rights of Indigenous Peoples*.

<sup>102</sup> United Nations, *State of the World's Indigenous Peoples*, 2009, p. 7.

<sup>103</sup> United Nations, *State of the World's Indigenous Peoples*, 2009, p. 1-3.

<sup>104</sup> United Nations, *State of the World's Indigenous Peoples*, 2009, p. 146-147.

<sup>105</sup> United Nations, *State of the World's Indigenous Peoples*, 2009, p. 7.

<sup>106</sup> International Work Group for Indigenous Affairs, *UN Mechanisms and Processes*.

<sup>107</sup> United Nations Development Programme, *UNDP and Indigenous Peoples*.

## **Conclusion**

Although the UN has certainly made substantial progress in alleviating the oppression of indigenous peoples, some persistent issues remain, and new issues arise as each state continues to grow and change. It remains to be seen whether the current structure of the UN is capable of supporting a sensitive and non-colonizing approach to solving the issues facing indigenous peoples. As states continue to develop, they will be faced with the challenge of including their indigenous populations without marginalizing them. This is no small task considering the long histories of colonialism and racism that many countries have. Moving forward, the international community can find ways to cooperate with indigenous groups, opening the lines of communication to eliminate misunderstandings that have existed, in some cases, for centuries. How can the international community and the UN include indigenous voices in the dialogue of development? Which methodologies can be used to better understand the needs of indigenous peoples? How can the international community ensure that indigenous populations benefit from development? What options to indigenous populations have for protecting their own human rights?

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*This source originates from a forum on bioethics held in Auckland, New Zealand in 2008. Many of the speakers at the forum discussed issues that arise while conducting research among indigenous populations. They provide context with regard to issues that have arisen in past research among indigenous groups, as well as suggestions for "indigenizing" scientific research. This source is helpful in contextualizing one of many issues facing indigenous populations.*

Bodley, J. H. (1975). *Victims of Progress*. Menlo Park, California: Cummings Publishing Company.  
*Although it was first published in 1975, the issues that Bodley addresses in his book are still relevant. Bodley astutely explains the issues that arise for indigenous peoples during the course of industrial and technological development. Additionally, he details the reasons why industrial and technological advancements do not often benefit indigenous peoples, providing examples throughout the book. This source is instrumental in understanding the impact of development on indigenous groups.*

Indigenous People's Council on Biocolonialism. *What Indigenous People Should Know About Biocolonialism*. Retrieved September 28, 2011, from <http://www.ipcb.org/publications/primers/htmls/ipgg.html>

*This primer, provided by the Indigenous People's Council on Biocolonialism (IPCB), provides an explanation of the concept of biocolonialism geared toward readers who belong to indigenous groups. Activists for the rights of the indigenous peoples coined the term "biocolonialism," and as such, the IPCB's primer is appropriate source for the definition of the term, although the IPCB is an activist group and may not necessarily be considered neutral or unbiased.*

Johansen, B. E. (1999). *The encyclopedia of Native American economic history*. New York: Greenwood Press.  
*This encyclopedia can serve as a primer for those hoping to understand more about how indigenous land claims function in the United States. It is useful for obtaining an understanding of the history of colonialism and its economic implications for indigenous populations in North America. It is easily navigable and is useful for obtaining information quickly.*

Posey, D. A., and G. Dutfield. (1996). *Beyond intellectual property: toward traditional resource rights for indigenous peoples and local communities*. Ottawa: International Development Research Centre.  
*Posey and Dutfield's book provides information on the struggles of international organizations seeking to understand and include indigenous peoples and of indigenous groups seeking to reclaim their land, resources, and intellectual property. This book helps readers assess what exactly ownership means in a cross-cultural context, which is crucial in understanding the nature of indigenous claims to tangible and intangible resources.*

Reinhardt, A. D. (2007). *Ruling Pine Ridge: Oglala Lakota politics from the IRA to Wounded Knee*. Lubbock: Texas Tech University Press.

*Reinhardt's book provides a history and context to the current situation on the Pine Ridge Indian Reservation. The book chronicles the history of the oppression of the Oglala Sioux people living on the reservation and the conflicts that have occurred between the indigenous population and the United States government. This case study is an extreme example of the subjugation of indigenous populations.*

Press, J. (2011). *Pine Ridge*. Xlibris Corporation.

*The Pine Ridge Reservation is a strong example of some of the hardships that face indigenous populations. Press writes clearly about conditions on the reservation and gives insight into what actions on the part of non-indigenous governments and individuals may have caused a decline in quality of life there. The Pine Ridge Reservation can be used as a case study when researching issues facing indigenous peoples.*

University of Minnesota. *The Rights of Indigenous Peoples*. Retrieved August 11, 2011, from <http://www1.umn.edu/humanrts/edumat/studyguides/indigenous.html>

*This Web page from the University of Minnesota is an excellent jumping-off point for research. It lists, in an organized fashion, resources for understanding issues affecting indigenous peoples. Additionally, it provides the names of important documents adopted by the United Nations and other IGOs relating to the protection of indigenous peoples' rights.*

United Nations. (2009). *State of the world's indigenous peoples*. Retrieved October 11, 2011, from [http://www.un.org/esa/socdev/unpfi/documents/SOWIP\\_web.pdf](http://www.un.org/esa/socdev/unpfi/documents/SOWIP_web.pdf)

*This report came into existence through a cooperative effort between several experts on indigenous issues and seeks to illustrate seven of the major obstacles to improving the quality of life for indigenous populations. This publication provides in-depth knowledge of many of the topics within the broad scope of "indigenous issues" and is an excellent source for a broad understanding of the relationship between the United Nations and indigenous groups.*

United Nations. *United Nations Declaration on the Rights of Indigenous Peoples*. Retrieved August 30, 2011, from <http://www.un.org/esa/socdev/unpfi/en/drip.html>

*The Declaration on the Rights of Indigenous Peoples is the main instrument of protection for the human rights of individuals belonging to indigenous cultures and ethnicities. While other Declarations still apply to indigenous groups, such as the Universal Declaration of Human Rights, this document defines rights that apply specifically to marginalize groups of people. It provides protection against several forms of discrimination and violence.*

## I. Combating Human Trafficking

### **Introduction**

Human trafficking is an ongoing global issue that pertains to the recruitment, transportation, and exploitation of men, women, and children from all countries.<sup>108</sup> Almost every country has been touched by human trafficking because countries can serve as a place of origin, transition or destination for victims.<sup>109</sup> The United Nations Global Initiative to Fight Human Trafficking (UN-GIFT) has defined the meaning of human trafficking in its *Protocol on the prevention and protection of women and children*; this definition includes "the recruitment, transportation, transfer, harboring, or receipt of any persons with the use of force or any coercion that may lead to the exploitation of people."<sup>110</sup>

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<sup>108</sup> United Nations Office on Drugs Crime, *Human Trafficking*.

<sup>109</sup> United Nations Office on Drugs Crime, *Human Trafficking*.

<sup>110</sup> United Nations GIFT, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*.

## *International Framework for Combating Human Trafficking*

Various instruments and treaties dealing with human rights have been adopted since 1945 and have been deliberated upon in order to create the body of international human rights.<sup>111</sup> General Assembly *Resolution 55/25* was adopted in November of 2000; this acceptance by the body created the *United Nations Convention against Transnational Organized Crime*, which upon approval became the foundation of an international instrument to collectively combat against transnational organized crime.<sup>112</sup> Member States were allowed to sign the Convention at the High-level Political Conference that convened for the sole purpose of creating the protocol in Palermo, Italy, from December 12 to 15, 2000, and was then enforced on September 29, 2003.<sup>113</sup> The Convention contains three Protocols, each of which target specific areas and manifestations of organized crime: “the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol Against the Smuggling of Migrants by Land, Sea, and Air; and the Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.”<sup>114</sup> Member States must become parties to the Convention itself before they can become parties to any of the Protocols.<sup>115</sup>

Once the Protocols came into force, the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Office on Drugs and Crime (UNODC) worked together to enforce the Convention and to decrease the problems associated with human trafficking. The UN-GIFT was created to enhance and reaffirm the international agreements and initiatives of the United Nations.<sup>116</sup> It first started in March of 2007 by the International Labor Organization (ILO), the UNODC, and the Office of the United Nations High Commissioner for Human Rights (OHCHR), the International Organization for Migration (IOM), the United Nations Children’s Fund (UNICEF) and the Organization for Security and Cooperation in Europe (OSCE).<sup>117</sup> UN-GIFT works with stakeholders such as governments, civil society businesses, media, academia, and to support, create, and develop effective tools that all combat human trafficking.<sup>118</sup> UN-GIFT’s three main goals are “to foster awareness, garner global commitment and action to counter human trafficking in partnership with these stakeholders, and to assist countries in creating and strengthening support structures for victims of trafficking.”<sup>119</sup> With those goals in mind, the initiative uses technical assistance and knowledge of law, legislation, and programs to inform law enforcement agencies. While the UNODC, UN-GIFT, and OHCHR assists with drafting laws and assists Member States, there is more to be done with each state to reinforce UN goals in the ongoing battle against human trafficking. The UNODC offers tool kits, pamphlets, programs, and resources for countries and NGOs.<sup>120</sup> These tool kits have been created for law enforcement agencies and give them the resources to recognize trends of human trafficking.<sup>121</sup> It allows officers to stabilize and control human trafficking situation by identifying human trafficking situations, and pass information on to investigators, and refer victims to specialized service providers such as NGOs, medical and psychological assistance, legal counseling, and shelters.<sup>122</sup> The tool kit was designed by the UNODC Anti-Human Trafficking and Migrant Smuggling Unit (AHTMSU) due to the necessity identified by workers within the region in order to allow fluidity of information among all law enforcement officers.<sup>123</sup>

While the UNTOC was adopted by the General Assembly in 2000, nothing came into effect until 2003, and Member States are still in the process of ratifying it.<sup>124</sup> The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, was adopted by General Assembly *Resolution 55/25* and started being enforced on December 25, 2003.<sup>125</sup> It became the first international binding instrument that had consensus on an international definition on the trafficking of persons; by citing one definition, it facilitated a union among national approaches with international cooperation in the investigation and prosecution of trafficking person’s cases.<sup>126</sup> The Protocol Against the Smuggling of Migrants by Land, Sea, and Air became active in January 28, 2004 and addresses the

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<sup>111</sup> Office of the High Commissioner for Human Rights, *International Human Rights Law*.

<sup>112</sup> United Nations, *United Nations Convention against Transnational Organized Crime and its Protocols*, 2000.

<sup>113</sup> United Nations, *United Nations Convention against Transnational Organized Crime and its Protocols*, 2000.

<sup>114</sup> United Nations, *United Nations Convention against Transnational Organized Crime and its Protocols*, 2000.

<sup>115</sup> United Nations, *United Nations Convention against Transnational Organized Crime and its Protocols*, 2000.

<sup>116</sup> United Nations GIFT, *About UN.GIFT*.

<sup>117</sup> United Nations GIFT, *About UN.GIFT*.

<sup>118</sup> United Nations GIFT, *About UN.GIFT*.

<sup>119</sup> United Nations GIFT, *About UN.GIFT*.

<sup>120</sup> UNODC, *Publications*, 2011.

<sup>121</sup> UNODC, *Publications*, 2011.

<sup>122</sup> UNODC, *Publications*, 2011.

<sup>123</sup> UNODC, *Publications*, 2011.

<sup>124</sup> UNODC, *India: Significance of the UNTOC to address human trafficking*, 2011.

<sup>125</sup> UNODC, *UNOTC and its Protocols*.

<sup>126</sup> UNODC, *UNOTC and its Protocols*.



increasing problem of organized criminal groups who smuggle migrants as profit for themselves. A large accomplishment of this Protocol was the formation of a definition that has been agreed upon through cooperation.<sup>127</sup> The Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition became enforced on July 3, 2005, and was the first legally binding piece of legislation on small arms on the international level.<sup>128</sup> It promoted, facilitated, and strengthened global cooperation in order to prevent, fight against and cease the illicit fabrication and solicitation of fire arms.<sup>129</sup> With the ratification of the Protocol, Member States committed to the adoption of the series of crime-controlled measures and implementations within their domestic legal order three sets of normative provisions: “the first one relates to the establishment of criminal offenses related to illegal manufacturing of, and trafficking in, firearms on the basis of the Protocol requirements and definitions; the second relates to a system of government authorizations or licensing intended to ensure legitimate manufacturing of, and trafficking in, firearms; and the third one relates to the marking and tracing of firearms.”<sup>130</sup> The Organization for Security and Cooperation in Europe (OSCE) hosted a conference this past June in Vienna called “Prevention of Trafficking in Human Beings for Labor Exploitation: Decent Work and Social Justice.”<sup>131</sup> During the conference, issues such as the challenges of partnerships and cooperation to fight human trafficking, how asylum and refugee issues are linked, and how to engage private sectors in combating trafficking of humans will be discussed by more than 300 senior government officials, national anti-trafficking coordinators and rapporteurs, as well as representatives from international and nongovernmental organizations, trade unions, and law enforcement agencies.<sup>132</sup>

### ***Reconciling International Law and National Law***

With continued efforts from the UN and its subsidiary agencies, there is a plethora of protocols and conventions. However, Member States have been demonstrating a lack of commitment to these forces of international law.<sup>133</sup> The lack of national legislation, or the enforcement thereof, also poses a problem.<sup>134</sup> Various countries try to tighten their borders, making it more difficult to immigrate; in southeastern Europe, a study by the German Agency for Technical Cooperation (GTZ) found that an increase in inflexible border controls which led to an increase in trafficking because people turned to third parties to smuggle them into the destination country.<sup>135</sup> These third parties are usually “disorganized crime” that involves small groups on an ad hoc basis.<sup>136</sup> The ILO estimates the total of illicit profits from trafficking in one year to be around \$32 billion.<sup>137</sup> Several countries have created sanctions against other countries in order to stop the trafficking.<sup>138</sup> For example, a United States law that made trafficking a federal crime also gave the U.S. the power to sanction states that do not crack down on human trafficking.<sup>139</sup> Creating sanctions towards countries with human trafficking issues only adds to the problem by increasing hostility and leaving less room for open dialogue to solve the problem.<sup>140</sup>

### ***Case Study: South Asia***

#### *South Asia*

A study done by the ILO estimated that 9.5 million victims were trafficked and forced into labor in 2005.<sup>141</sup> Within South Asia, not all countries have any relevant anti-trafficking legislation.<sup>142</sup> Procedures towards combatting human trafficking are done by governments in South Asia based on domestic laws; this is because most legislation in the region is embedded in the criminal justice system with identifiable crimes and consequences.<sup>143</sup> Domestic laws tend

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<sup>127</sup> UNODC, *UNOTC and its Protocols*.

<sup>128</sup> UNODC, *UNOTC and its Protocols*.

<sup>129</sup> UNODC, *UNOTC and its Protocols*.

<sup>130</sup> UNODC, *UNOTC and its Protocols*.

<sup>131</sup> OSCE, *Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice*, 2011.

<sup>132</sup> OSCE, *Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice*, 2011.

<sup>133</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011 p.2.

<sup>134</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011 p. 2.

<sup>135</sup> Feingold, *Human Trafficking*, 2005, p. 27.

<sup>136</sup> Feingold, *Human Trafficking*, 2005, p. 27.

<sup>137</sup> Feingold, *Human Trafficking*, 2005, p. 28.

<sup>138</sup> Feingold, *Human Trafficking*, 2005, p. 30.

<sup>139</sup> Feingold, *Human Trafficking*, 2005, p. 30.

<sup>140</sup> Feingold, *Human Trafficking*, 2005, p. 30.

<sup>141</sup> Feingold, *Human Trafficking*, 2005, p.26.

<sup>142</sup> Emmers, Barcham, and Thomas, *Institutional Arrangements to Counter Human Trafficking in the Asia Pacific*, p.492.

<sup>143</sup> Feingold, *Human Trafficking*, 2005, p. 26.

to carry more weight because international law is considered too broad.<sup>144</sup> Particularly in the region, strong domestic laws assist more with cross-border cases than the international conventions that have been ratified and put into place.<sup>145</sup> Nonetheless, the governments of Pakistan, Nepal, Sri Lanka, and India ratified the United Nations Convention against Transnational Organized Crime (UNTOC) and its three Protocols; “the ratification would allow the three Contracting Parties to have comprehensive global instruments in the fight against transnational organized crime, the promotion of international cooperation to effectively prevent and combat transnational crime.”<sup>146</sup> Bangladesh remains a country of origin and transit for the trafficking of men, women, and children.<sup>147</sup> While there are actions to protect children, they are continually being smuggled between Bangladesh and India.<sup>148</sup> In 2000, steps were taken to strengthen these acts of protection with the creation of the Police Monitoring Cell for Combating Trafficking in Women and Children in the Bangladesh Police headquarters.<sup>149</sup> This team consists of “15 police officers, a 12-member police anti-trafficking investigative unit, and an inter-ministerial committee on human trafficking chaired by the Home Minister.”<sup>150</sup> Trafficking occurs between Bangladesh and India due to searches for employment between the two countries.<sup>151</sup> Furthermore, thousands of Bangladeshi men and women migrate willingly to other countries such as Saudi Arabia, Bahrain, Kuwait, the United Arab Emirates, Qatar, Iraq, and Malaysia.<sup>152</sup> Once there, many are forced to work for little to no wages and face physical and sexual abuse.<sup>153</sup> While the Constitution of India prohibits trafficking, the country tends to be a popular transition and destination country for human trafficking, primarily for commercial sexual exploitation and for marriage.<sup>154</sup> Many girls from northeast India go elsewhere with promises of employment but are then forced into prostitution and forced marriages.<sup>155</sup> Brides are in high demand in states such as Haryana due to sex selective abortions.<sup>156</sup> India’s Immoral Traffic Prevention Act of 1956 is the only legislation specifically addressing the issue of human trafficking, but it is currently in the process of being amended.<sup>157</sup> The country of Nepal is also considered a country of origin for human trafficking.<sup>158</sup> Nepali girls are often destined to work in brothels in South Asia and the Middle East.<sup>159</sup> Most victims are exploited through unpaid wages or being paid lower than agreed upon.<sup>160</sup> Passports are usually withheld and many suffer physical and sexual abuse.<sup>161</sup> Some exploitation has even constituted entire families being forced into labor or sexual conduct because traffickers have forwarded loans and want rapid payments.<sup>162</sup> While Nepal would like to lessen the work and monetary flow going to India, it remains difficult due to lack of educational opportunities and jobs available in the country.<sup>163</sup> Since the monarchy system is abolished, Nepal currently has an interim Constitution in place and there are efforts to create legislation that addresses trafficking in all forms.<sup>164</sup>

### *Southeast Asia*

Since the 1990s, cross-border migration has increased between Laos and Thailand with the gradual liberalization of the Lao society.<sup>165</sup> This increase is due to labor migration; the ILO reported that 6.9% of the total Lao population migrated from Laos, and of that, 80.5% went to Thailand.<sup>166</sup> Of those who migrate to Thailand, approximately half send remittances back to their families in Laos.<sup>167</sup> Combating human trafficking constitutes a globalized process that

<sup>144</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 2.

<sup>145</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p.10

<sup>146</sup> UNODC, *India: Significance of the UNTOC to address human trafficking*, 2011.

<sup>147</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p.10.

<sup>148</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p.10.

<sup>149</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p.10.

<sup>150</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p.10.

<sup>151</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p.10.

<sup>152</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p.10.

<sup>153</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p.26.

<sup>154</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 26.

<sup>155</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 26.

<sup>156</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 26.

<sup>157</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 27.

<sup>158</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 44.

<sup>159</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 44.

<sup>160</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 44.

<sup>161</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 44.

<sup>162</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 44.

<sup>163</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 44.

<sup>164</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 45.

<sup>165</sup> Molland, *The Perfect Business: Human Trafficking and Lao-Thai Cross Border Migration*, 2010, p. 837.

<sup>166</sup> Molland, *The Perfect Business: Human Trafficking and Lao-Thai Cross Border Migration*, 2010, p. 837.

<sup>167</sup> Molland, *The Perfect Business: Human Trafficking and Lao-Thai Cross Border Migration*, 2010, p. 838.

renders insight as to how migration manifests in local and regional settings.<sup>168</sup> The constant migration between the two countries happens mostly from Nong Kai, Thailand and Vientiane, Laos.<sup>169</sup> This occurs between the two regions largely due to the sex industry; Nong Kai and Vientiane are first points of habitation in their respective countries.<sup>170</sup> The sex industry in Thailand is sustained by the fact that sex workers, many of which are from Nong Kai, earn commissions by recruiting from their local communities.<sup>171</sup>

UNICEF reports that 100,000 children are trafficked each year in Indonesia, but it is difficult to gain credible figures.<sup>172</sup> This is due to the fact that governments are not trying to address the issue, and thus it becomes difficult to report cases that simply slip through the cracks.<sup>173</sup> Another large source of trafficking is the domestic child sex tourism; companies that promise visitors local children and women as sex slaves.<sup>174</sup> In addition, there have been raids and investigations on fraudulent labor recruiting agencies, but the only legal action taken has been suspension of their licenses.<sup>175</sup> Due to other turmoil within the countries, human trafficking issues remain neglected.<sup>176</sup> A National Task Force on Human Trafficking has been set up in partnership with the IOM to support and protect victims.<sup>177</sup> While the Indonesian Parliament has passed the *Convention Preventing and Combating Trafficking in Women and Children Prostitution Act* in 2005, it has not yet come into full effect.<sup>178</sup>

In December of 1997, the Association of Southeast Asian Nations (ASEAN) adopted the *Declaration on Transnational Crime*, which represented the first act of cooperation in the fight against trafficking from a regional standpoint.<sup>179</sup> Additionally, the creation of the ASEAN Ministerial Meeting on Transnational Crime (AMMTC) allows the interior ministries of Member States to meet once every two years to address issues resulting from organized crime.<sup>180</sup> In 1999, the AMMTC adopted the *ASEAN Plan of Action to Combat Transnational Crime*; this allowed an exchange of information, cooperation law enforcement, legal training, and capacity-building.<sup>181</sup> Within the AMMTC, the senior officials created a work program with specific action against human trafficking by focusing on information transparency, law enforcement, and training.<sup>182</sup> In 2002, a seminar by the Asia-Europe Meeting (ASEM) entitled “Promoting Gender Equality to Combat Trafficking in Women and Children” gathered a set of recommendations that covered: “policy cooperation and coordination, preventive measures, legal frameworks, law enforcement and justice, and the protection, assistance, and support for trafficked persons.”<sup>183</sup> From the meeting, came a large set of recommendations that included policy cooperation and coordination, preventive measures, legal frameworks, law enforcement and justice, and the protection, assistance and support for trafficked persons.<sup>184</sup>

## Conclusion

Because human trafficking is a transnational practice, it remains difficult to fully combat the issue without intergovernmental assistance. Despite the tool kits that inform governments on human trafficking, more needs to be done with domestic law in terms of exploitation. Delegates should focus on what Member States have or are currently enacting within their domestic policies that effect human trafficking. Why are certain Member States unwilling to enforce international policies? What measures and incentives could be enacted in order to link domestic and international laws? Despite the agreement on a definition on human trafficking, there is no concerted effort to eradicate human trafficking. What are the ways to unify efforts to combat human trafficking within and between Member States? What kind of solutions or policies could be of use to enhance existing policies?

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<sup>168</sup> Molland, *The Perfect Business: Human Trafficking and Lao-Thai Cross Border Migration*, 2010, p. 832.

<sup>169</sup> Molland, *The Perfect Business: Human Trafficking and Lao-Thai Cross Border Migration*, 2010, p. 839.

<sup>170</sup> Molland, *The Perfect Business: Human Trafficking and Lao-Thai Cross Border Migration*, 2010, p. 839.

<sup>171</sup> Molland, *The Perfect Business: Human Trafficking and Lao-Thai Cross Border Migration*, 2010, p. 843.

<sup>172</sup> Lindquist, *Public Culture*, 2010, p. 225.

<sup>173</sup> Lindquist, *Public Culture*, 2010, p. 232.

<sup>174</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 58.

<sup>175</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 58.

<sup>176</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 58.

<sup>177</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 58.

<sup>178</sup> Thomas, *Responses to human trafficking in Bangladesh, India, Nepal and Sri Lanka*, 2011, p. 58.

<sup>179</sup> Emmers, Barcham and Thomas, *Institutional Arrangements to Counter Human Trafficking in the Asia Pacific*, p. 495.

<sup>180</sup> Emmers, Barcham and Thomas, *Institutional Arrangements to Counter Human Trafficking in the Asia Pacific*, p. 495.

<sup>181</sup> Emmers, Barcham and Thomas, *Institutional Arrangements to Counter Human Trafficking in the Asia Pacific*, p. 496.

<sup>182</sup> Emmers, Barcham and Thomas, *Institutional Arrangements to Counter Human Trafficking in the Asia Pacific*, p. 496.

<sup>183</sup> Emmers, Barcham and Thomas, *Institutional Arrangements to Counter Human Trafficking in the Asia Pacific*, p. 502.

<sup>184</sup> Emmers, Barcham and Thomas, *Institutional Arrangements to Counter Human Trafficking in the Asia Pacific*, p. 502.

## Annotated Bibliography

### *I. Combating Human Trafficking*

Emmers, R., B. Grenner-Barcham, and N. Thomas. (2006). Institutional arrangements to counter human trafficking in the Asian Pacific. *Contemporary Southeast Asia*, 28 (3): 490-511.

*Because of the increase in human trafficking across the borders of Asia, the purpose of the article is to analyze the efficiency of the unilateral interregional efforts. He focuses on the ASEAN Regional Forum that includes the Asia-Europe meetings and the Bali Process. In addition it discusses the "push" and "pull" demand of trafficking and the domestic efforts to combat trafficking, which is still an emerging and changing process. Finally, the ASEAN and PIF programs are addressed; these programs are geared towards combating trafficking through exchange of information, training and institutional capacity.*

Feingold, D. (2005). Human Trafficking. *Foreign Policy*, 150: 26-32.

*Feingold brings to light common issues about human trafficking while going into the root of the problems. He addresses issues of border tightening, sanctions, and legalizing prostitution within human rights. By addressing issues backed by research from the ILO, he further supports the supply and demand of trafficking.*

Human Trafficking Organization. (2011). *U.S. Department of State releases 11th annual Trafficking in Persons Report*. Retrieved August 26, 2011, from <http://www.humantrafficking.org/updates/876>

*From the Human Trafficking Organization, which acts as a centralizing hub for human rights resources provides the list from the United States on Trafficking Persons Report. This is a comprehensive list of what the United States deemed as countries that have made global progress as well as those that are lacking progress in combating human trafficking. It is published annually so that other countries stay abreast of the issue. In addition, it provides publications from global resources addressing human trafficking issues and what actions are being domestically in each country.*

Office of the High Commissioner on Human Rights. (n.d.). *International human rights law*. Retrieved September 12, 2011, from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx>

*The Office of the High Commissioner for Human Rights gives a background history of human rights and what UN policies have been enacted, and the international treaties were created. It also gives the history of the International Bill of Human Rights. A branch from the UN, the OHCHR provides publications and resources about human trafficking. In addition, this Web site provides a comprehensive list of treaty-based and charter-based bodies of the UN that pertain to human rights.*

United Nations Office on Drugs and Crime (2010). *Smuggling of migrants into, through and from North Africa*.

Retrieved September 12, 2011, from [http://www.unodc.org/documents/human-trafficking/Migrant\\_smuggling\\_in\\_North\\_Africa\\_June\\_2010\\_ebook\\_E\\_09-87293.pdf](http://www.unodc.org/documents/human-trafficking/Migrant_smuggling_in_North_Africa_June_2010_ebook_E_09-87293.pdf)

*Published by the UNODC, Monzini addresses the trafficking routes taken between Northern Africa and Europe. He quantifies irregular migration and smuggling of migrants, migrant smuggling routes as well as profiling smugglers and their targets. Each of those topics provided come with data from Monzini. Within each of those topics, he goes into detail about smuggling via land or by sea because those are the two most common within the region.*

United Nations Convention Against Transnational Organized Crime and its Protocols. Retrieved August 29, 2011 from <http://www.unodc.org/unodc/en/treaties/CTOC/index.html>

*A branch from the UN geared to combat trafficking; the Web page offers the entire history of the creation of the UNODC. Directly from the UNODC, are the protocols that are used to combat trafficking of men, women, and children. It provides published works dealing with what is currently being done by the UNODC as well as interviews and various articles. The site includes working groups established by the Conference of the Parties, full text of the Convention and its Protocols, status of ratifications and General Assembly Resolutions.*

United Nations Office on Drugs and Crime. (2011). *UNODC on human trafficking and migrant smuggling*. Retrieved August 30, 2011, from <http://www.unodc.org/unodc/en/human-trafficking/index.html?ref=menuside>  
*The UNODC provides a brief overview of the organization and the initiatives that have been done to fight trafficking. It stays up to date with current publications of ongoing actions towards a resolution. It provides further Web pages on prevention, protection, and prosecution, the three major steps that are taken to stop trafficking. Each of those Web pages provides information real life people giving experiences and how it can be addressed.*

United Nations Global Initiative Fighting human Trafficking. (n.d.). *About UN.GIFT*. Retrieved September 3, 2011, from <http://www.ungift.org/knowledgehub/en/about/index.html>  
*The UN Global Initiative to Fight Trafficking was created to fight trafficking; the site provides the history of UN.GIFT, its mission statement and what how it functions. Additionally, it yields as a resource to what initiatives are being done in each country. With its newsletter, it provides campaigns, seminars on combating trafficking, and other topics pertaining to trafficking.*

United Nations Office on Drugs and Crime (2011). *Significance of the United Nations Convention against Transnational Organized Crime (UNTOC) to address human trafficking*. Retrieved September 1, 2011, from <http://www.unodc.org/southasia/en/frontpage/2011/june/significance-of-the-untoc-to-address-human-trafficking-interview-with-mr-g-k-pillai.html>  
*Based off an interview with Mr. Pillai, a representative for the Republic of India, this source discusses the basics of human rights and how the UNTOC is addresses the problem of human trafficking. He discusses the ratification of the convention by India as well as human trafficking within India. He provides recommendations to the Indian government on how to address human trafficking from a state and regional aspect.*

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*Sponsored by the UNODC, the author gives an in-depth analysis of the Southeast Asian region. He expands into the history of Bangladesh, India, Nepal, and Sri Lanka. As he analyzes each country, he gives details of past policies and current actions taken by aforementioned countries in order to provide policies. The authors try to provide resolution onto how international and domestic laws need to be adjusted so that countries have the proper policies, tools and resources to combat trafficking.*

### **III. Transnational Organized Crime**

#### ***Introduction***

The very term of “transnational organized crime” has more than 150 definitions, depending on the country and/or international agency or institution.<sup>185</sup> In 1975, the United Nations (UN) defined transnational organized crime as “the large-scale and complex criminal activity carried on by groups of persons [...] for the enrichment of those participating and at the expense of the community and its members.”<sup>186</sup> The definition also states, “it is frequently accomplished through ruthless disregard of any law, including offences against the person, and frequently in connection with political corruption.”<sup>187</sup> This definition was later updated in 1990 as follows:

“The term organized crime usually refers to large-scale and complex criminal activities carried out by tightly or loosely organized associations and aimed at the establishment, supply and exploitation of illegal markets at the expense of society. Such operations are generally carried out with a

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<sup>185</sup> Organized Crime Research, *Organized Crime defined*, 2011.

<sup>186</sup> Organized Crime Research, *Organized Crime defined*, 2011.

<sup>187</sup> Organized Crime Research, *Organized Crime defined*, 2011.



ruthless disregard of the law, and often involve offences against the person, including threats, intimidation and physical violence. (United Nations 1990, 5)<sup>188</sup>

Throughout the history of the institution, transnational organized crime has been considered an important issue, therefore, the UN system has developed several resources in order to fight its negative effects.<sup>189</sup> The main tool developed by the UN system remains to this day the UN Convention against Transnational Organized Crime.<sup>190</sup> Based on this Convention, a number of initiatives were taken to further the fight against this practice and develop a coherent approach among Member States and international organizations.<sup>191</sup>

### ***United Nations Convention against Transnational Organized Crime***

#### *History and context of the United Nations Convention against Transnational Organized Crime*

In 2000, the UN decided to tackle the issue of transnational organized crime by creating a legal tool to be applied by its Member States. The Convention against Transnational Organized Crime was adopted during the Palermo conference in December 2000.<sup>192</sup> The Convention entered into force September 29, 2003, having been signed by 147 Member States and now counting with 164 as parties to the Convention.<sup>193</sup>

The Convention is the result of a process that started during the 44<sup>th</sup> session of the General Assembly in 1989 with the adoption of *A/RES/44/71*.<sup>194</sup> In this resolution, the General Assembly, based on the report of the Third Committee expressed a serious concern on the increase of organized crime in many parts of the world.<sup>195</sup> The General Assembly requested that the Committee on Crime Prevention and Control, the predecessor of the Commission on Crime Prevention and Criminal Justice, to consider “way[s] of strengthening international co-operation in combating organized crime, taking due account of the opinions of Governments, international organizations and non-governmental organizations.”<sup>196</sup> This resolution led to the 1994 Naples Political Declaration and Global Action Plan against Organized Transnational Crime annexed to resolution 49/159.<sup>197</sup> This declaration, in its second part, served as the foundation for what would become the Convention against Transnational Organized Crime since it contained a global action plan dedicated to the control and prevention of organized crime.<sup>198</sup> The action plan encompasses dispositions regarding national legislation, international cooperation at the investigative, prosecutorial and judicial levels, modalities and guidelines for international cooperation and prevention and control of money laundering and control of the proceeds of crime as well as dispositions for the follow-up and implementation of these measures.<sup>199</sup>

In 1998, with the adoption of *Resolution 53/111* on December 9, the General Assembly created an ad hoc committee “for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration, as appropriate, of international instruments addressing trafficking in women and children, combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transporting of migrants, including by sea.”<sup>200</sup> The establishment of this committee eventually led to the adoption in 2000 of *A/RES/55/25*.<sup>201</sup> The resolution officially adopted the UN Convention against Transnational Organized Crime.<sup>202</sup>

<sup>188</sup> Organized Crime Research, *Organized Crime defined*, 2011.

<sup>189</sup> United Nations Office on Drugs and Crime, *Organized Crime*, 2011.

<sup>190</sup> United Nations General Assembly, *A/RES/55/25: United Nations Convention against Transnational Organized Crime*, 2001, page 4 - Annex 1.

<sup>191</sup> United Nations Office on Drugs and Crime, *Organized Crime*, 2011.

<sup>192</sup> United Nations Office on Drugs and Crime, *Convention on Transnational Organized Crime*, 2011.

<sup>193</sup> United Nations Treaty Collection, *United Nations Convention against Transnational Organized Crime*, 2011.

<sup>194</sup> United Nations General Assembly, *International co-operation in combating organized crime*, 1989.

<sup>195</sup> United Nations General Assembly, *International co-operation in combating organized crime*, 1989.

<sup>196</sup> United Nations General Assembly, *International co-operation in combating organized crime*, 1989.

<sup>197</sup> United Nations General Assembly, *Naples Political Declaration and Global Action Plan against Organized Transnational Crime (A/RES/49/159)*, 1995.

<sup>198</sup> United Nations General Assembly *Naples Political Declaration and Global Action Plan against Organized Transnational Crime (A/RES/49/159)*, 1995.

<sup>199</sup> United Nations General Assembly, *Report Of The World Ministerial Conference On Organized Transnational Crime A/49/748*, 1994, paragraph 5.

<sup>200</sup> United Nations General Assembly, *Transnational organized crime (A/RES/53/111)*, 1999.

<sup>201</sup> United Nations General Assembly, *United Nations Convention against Transnational Organized Crime (A/RES/55/25)*, 2001.

<sup>202</sup> United Nations General Assembly, *United Nations Convention against Transnational Organized Crime (A/RES/55/25)*, 2001, p. 4 - Annex 1.

### *The three additional protocols*

To complement the Convention, three protocols were added.<sup>203</sup> They help specify definitions and legal measures pertaining to transnational organized crime in the specific areas of trafficking in persons, smuggling of migrants and illicit manufacturing of and trafficking in firearms.<sup>204</sup> These specific aspects of Transnational Organized Crime were specifically addressed in the *Resolution 53/111* when it created the ad hoc committee in charge of the creation of the Convention.<sup>205</sup>

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children gives precise definitions of the concepts of “trafficking in person” and “exploitation.”<sup>206</sup> It is mainly aimed at the protection of the victims of such crimes as defined in article 5 of the protocol.<sup>207</sup> One section of the document is dedicated to the cooperation and information exchange between states.<sup>208</sup> This part of the protocol addresses the information and training exchange aspect of an efficient prevention policy in encouraging “law enforcement, immigration or other relevant authorities of States” to cooperate in various cases.<sup>209</sup> Such measures are reinforced in article 11, paragraph 6 of the protocol, where it encourages State Parties to “consider strengthening cooperation among border control agencies by, *inter alia*, establishing and maintaining direct channels of communication.”<sup>210</sup>

The Protocol against the Smuggling of Migrants by Land, Sea and Air, defines the smuggling of migrants as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.”<sup>211</sup> In addition to this definition, it covers the areas of traveling documents fraud and illegal entry, henceforth recognizing such practices as part of transnational organized criminal activities.<sup>212</sup> Although it applies to all means of transportation used in the cases of smuggling of migrants, section II of the protocol deals extensively with the growing issue of “Smuggling of migrants by sea.”<sup>213</sup> As it was the case with the previous protocol, the emphasis is put on international cooperation, communication and information exchange as a mean to combat such practices and prevent criminal behavior in that regard.<sup>214</sup>

The last protocol to be adopted as part of the Convention was the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.<sup>215</sup> It was added to the original text by the General Assembly resolution 55/255 in May 2001 and entered into force 3 July 2005.<sup>216</sup> In order to address the topic entirely, the protocol goes in much details when it comes to regulations regarding record-keeping, making of

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<sup>203</sup> United Nations Office on Drugs and Crime, *Convention on Transnational Organized Crime*, 2011.

<sup>204</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 41, 53 and 71

<sup>205</sup> United Nations General Assembly, *Transnational organized crime A/RES/53/111*, 1999.

<sup>206</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 42 – article 3(a).

<sup>207</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 42 – article 2; United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 43 – article 5.

<sup>208</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 45 – Section III.

<sup>209</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 46 – article 10.

<sup>210</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 47 – article 11.

<sup>211</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 54 – article 6.

<sup>212</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 54 – article 6.

<sup>213</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 56 – Section II.

<sup>214</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 59 – Section III.

<sup>215</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 71.

<sup>216</sup> United Nations General Assembly, *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (A/RES/55/255)*, 2001.

firearms, their deactivation and transportation among other measures.<sup>217</sup> Being consistent with the spirit of the Convention and of the two other protocols, this addition also insists on cooperation and communication among State Parties in order to implement its provisions.<sup>218</sup>

The Convention includes dispositions for the review of its implementation in Articles 32 and 33.<sup>219</sup> Since the entry into force of the Convention, five conferences of the parties were held in Vienna in the past seven years.<sup>220</sup> During these conferences, several Working Groups were established in order to achieve the goals set by the Convention. While one of these groups specifically focuses on the Review of the Implementation of the Organized Crime Convention and the Protocols Thereto and another one deals with technical assistance, four others tackle the issues of smuggling of migrants, firearms, trafficking in persons and international cooperation.<sup>221</sup> The Working Groups on Firearms and Smuggling of Migrants were the last to be established during the fifth session of the Conference of the Parties to the Convention in 2010.<sup>222</sup>

During this Conference, a high-level panel examined the question of new and emerging forms of crime.<sup>223</sup> The panel was assembled at the request of the General Assembly in resolution 64/179.<sup>224</sup> During this segment of the Conference, members of the high-level segment acknowledged the evolution of organized crime into “a business of macroeconomic proportions.”<sup>225</sup> The panel recognized that this evolution of organized led to an expansion of the activities of criminal to include “cybercrime, trafficking in cultural property, piracy, trafficking in natural resources, trafficking in counterfeit medicines and trafficking in organs.”<sup>226</sup> Throughout the discussions, the need to develop new legislative and operational responses to these new forms of crime has been expressed, as well as the need to adapt the existing tools.<sup>227</sup>

#### *Money laundering and Transnational Organized Crime*

While the Convention and the attached protocol are mainly dealing with the core issues regarding Transnational Organized Crime, there are other connected criminal activities that can be addressed when studying such a broad topic. One that is very prominent is the issue of money laundering for it is through money laundering that organized criminals finance the rest of their activities.<sup>228</sup> The Convention in article 2 (e) defines the “proceeds of crime” as “any property derived from or obtained, directly or indirectly, through the commission of an offence.”<sup>229</sup> The UN Office on Drugs and Crime (UNODC) defines money laundering as “the method by which criminals disguise the illegal origins of their wealth and protect their asset bases, so as to avoid the suspicion of law enforcement agencies

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<sup>217</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 74 – Section II.

<sup>218</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 77 – articles 12-14.

<sup>219</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 34 to 35 – articles 32 and 33.

<sup>220</sup> United Nations Office on Drugs and Crime, *Conference of the Parties to the United Nations Convention against Transnational Organized Crime and the Protocols Thereto*, 2011.

<sup>221</sup> United Nations Office on Drugs and Crime, *Working Groups established by the Conference of the Parties*, 2011.

<sup>222</sup> Conference of the Parties to the United Nations Convention against Transnational Organized Crime, *Report of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime on its fifth session, held in Vienna from 18 to 22 October 2010*, 2010, p. 17.

<sup>223</sup> Conference of the Parties to the United Nations Convention against Transnational Organized Crime, *Report of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime on its fifth session, held in Vienna from 18 to 22 October 2010*, 2010, p. 48.

<sup>224</sup> United Nations General Assembly, *Strengthening the United Nations Crime Prevention and Criminal Justice Programme, in particular its technical cooperation capacity (A/RES/64/179)*, 2010.

<sup>225</sup> Conference of the Parties to the United Nations Convention against Transnational Organized Crime, *Report of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime on its fifth session, held in Vienna from 18 to 22 October 2010*, 2010, p. 50.

<sup>226</sup> Conference of the Parties to the United Nations Convention against Transnational Organized Crime, *Report of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime on its fifth session, held in Vienna from 18 to 22 October 2010*, 2010, p. 50.

<sup>227</sup> Conference of the Parties to the United Nations Convention against Transnational Organized Crime, *Report of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime on its fifth session, held in Vienna from 18 to 22 October 2010*, 2010, p. 50.

<sup>228</sup> United Nations Office on Drugs and Crime, *UNODC on money-laundering and countering the financing of terrorism*, 2011.

<sup>229</sup> United Nations Office on Drugs and Crime, *United Nations Convention against Transnational Organized Crime and the protocols thereto*, 2004, p. 5 – article 2(b).

and prevent leaving a trail of incriminating evidence.”<sup>230</sup> The UNODC established in 1997 the Global Programme against Money-Laundering, Proceeds of Crime and the Financing of Terrorism (GPML) in response to the mandate given to the organization by the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.<sup>231</sup> This program’s objective is to “to strengthen the ability of Member States to fight money-laundering and to assist them in depriving persons of the proceeds of their criminal activity.”<sup>232</sup> At first limited to the crimes related to drugs, the mandate of the GPML was extended to all serious crimes one year after its creation, in 1998, by the General Assembly Special Session (UNGASS) Political Declaration and Action Plan against Money-laundering.<sup>233</sup> The UNGASS recognized that “the problem of laundering of money derived from illicit trafficking in narcotic drugs and psychotropic substances, as well as from other serious crimes.”<sup>234</sup> UNODC now states five main objectives of the GPML and focuses on giving assistance to the states by providing all the necessary tools.<sup>235</sup>

This program is part of a larger body of conventions that form a general framework in the fight against Transnational Organized Crime and money laundering. The International Convention for the Suppression of the Financing of Terrorism was adopted in 1999.<sup>236</sup> One year later, the General Assembly adopted the UN Convention against Corruption.<sup>237</sup>

In 1987, the G7 established the Financial Aid Task Force (FATF) as an intergovernmental organization aimed at fighting money laundering.<sup>238</sup> The backbone of the work of this organization is contained in the 40 + 9 recommendations of the FATF.<sup>239</sup> The first forty recommendations were developed in 1990 and later updated in 1996 and 2003.<sup>240</sup> While the first edition of these recommendations were presented as a flexible framework for countries to use in the establishment of their own policies and regulations, many countries have endorsed them quite literally and integrated them in their own legislations.<sup>241</sup> In addition to the recommendations made on the general crime of money laundering, the FATF added 8 recommendations on Terrorist Financing in 2001 and an additional ninth recommendation in 2004.<sup>242</sup>

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<sup>230</sup> United Nations Office on Drugs and Crime, *Introduction to money-laundering*, 2011.

<sup>231</sup> United Nations Office on Drugs and Crime, *Global Programme against Money-Laundering, Proceeds of Crime and the Financing of Terrorism*, 1997.

United Nations General Assembly, *Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*, 1988.

<sup>232</sup> United Nations Office on Drugs and Crime, *Global Programme against Money-Laundering, Proceeds of Crime and the Financing of Terrorism*, 1997.

<sup>233</sup> United Nations General Assembly Twentieth Special Session, *Political Declaration and Action Plan against Money Laundering*, 1998.

<sup>234</sup> United Nations General Assembly Twentieth Special Session, *Political Declaration and Action Plan against Money Laundering*, 1998.

<sup>235</sup> United Nations Office on Drugs and Crime, *Objectives of the Global Programme against Money-Laundering, Proceeds of Crime and the Financing of Terrorism*, 2011.

<sup>236</sup> United Nations General Assembly, *International Convention for the Suppression of the Financing of Terrorism (A/RES/54/109)*, 2000.

<sup>237</sup> United Nations General Assembly, *United Nations Convention against Corruption (A/RES/58/4)*, 2000.

<sup>238</sup> Financial Aid Task Force, *Financial Action Task Force (FATF)*, 2011.

<sup>239</sup> Financial Aid Task Force, *The 40 recommendations*, 2010.

<sup>240</sup> Financial Aid Task Force, *The 40 recommendations*, 2010.

<sup>241</sup> Financial Aid Task Force, *The 40 recommendations*, 2010.

<sup>242</sup> Financial Aid Task Force, *IX Special Recommendations*, 2010.

## ***Tackling Organized Crime – United Nations initiatives***

### *United Nations Office on Drugs and Crime*

The UN Office on Drugs and Crime (UNODC) was founded in 1997 and is the result of a merger between the UN Drug Control Programme and the Centre for International Crime Prevention.<sup>243</sup> The UNODC has, since its creation, expanded its mandate far beyond its two core missions (drug control and crime prevention) and is now active in topics dealing with alternative development, HIV and AIDS and Piracy.<sup>244</sup> For the main part of its work, the UNODC provides assistance to Member States in their fight against illicit drugs, crime and terrorism.<sup>245</sup> The Office mainly works by offering programs and legal tools and assisting other UN bodies. For example, it assists Commission on Narcotic Drugs and the International Narcotic Control Board in the implementation of the legal framework for drug trafficking.<sup>246</sup> Among these programs, we can mention the assessment program developed by the Office.<sup>247</sup> As of today, two assessments of the situation of organized crime have been made in West Africa in 2005 and Central Asia.<sup>248</sup> UNODC has made a point of dealing with its various mandates by working directly in the field.<sup>249</sup> It operates in 150 countries and has offices in 25 locations around the world.<sup>250</sup>

### *United Nations Crime Congresses*

In 2010, the 12<sup>th</sup> session of the UN Crime Congress was held in Salvador, Brazil.<sup>251</sup> The crime congresses have been held by the UN every five years since 1955 and have seen their attendance increase on a regular basis culminating at 2000 delegates at the last session.<sup>252</sup> These congresses are not exclusively reserved to delegates from Member States but are also opened to experts, NGOs and scholars among others.<sup>253</sup> The theme for the last session was “Comprehensive strategies for global challenges: crime prevention and criminal justice systems and their development in a changing world.”<sup>254</sup> In the general preparation of those events, regional preparatory meetings are organized.<sup>255</sup> The participants to the congress are separated in the regional blocks of Latin American and Caribbean, Western Asia, Asia and Pacific and Africa.<sup>256</sup> Each block prepared a report regarding the provisional agenda of the Congress.<sup>257</sup>

The outcome of this session of the last Congress was the Salvador Declaration.<sup>258</sup> The declaration was focused on the importance of adapting the response to organized crime in a changing world.<sup>259</sup> While the tools and legislation must be adapted to new forms of organized crime, especially cyber crime, participants reminded the international

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<sup>243</sup> United Nations General Assembly, *Renewing the United Nations: A program for reform (A/51/950)*, 1997, p. 49.

<sup>244</sup> United Nations Office on Drugs and Crime, *United Nations Office on Drugs and Crime*, 2011.

<sup>245</sup> United Nations Office on Drugs and Crime, *About UNODC*, 2011.

<sup>246</sup> United Nations Office on Drugs and Crime, *Legal Framework for Drug Trafficking*, 2011.

<sup>247</sup> United Nations Office on Drugs and Crime, *Organized crime assessments*, 2011.

<sup>248</sup> United Nations Office on Drugs and Crime, *Transnational Organized Crime in the West African Region*, 2005; United Nations Office on Drugs and Crime, *An Assessment of Transnational Organized Crime in Central Asia*, 2007.

<sup>249</sup> United Nations Office on Drugs and Crime, *About UNODC*, 2011.

<sup>250</sup> United Nations Office on Drugs and Crime, *Field Offices*, 2011.

<sup>251</sup> United Nations, *United Nations Congress on Crime Prevention and Criminal Justice*, 2010.

<sup>252</sup> United Nations, *United Nations Congress on Crime Prevention and Criminal Justice – About the Congress*, 2010.

<sup>253</sup> United Nations, *United Nations Congress on Crime Prevention and Criminal Justice – About the Congress*, 2010.

<sup>254</sup> United Nations, *United Nations Congress on Crime Prevention and Criminal Justice – About the Congress*, 2010.

<sup>255</sup> United Nations, *United Nations Congress on Crime Prevention and Criminal Justice – About the Congress*, 2010.

<sup>256</sup> United Nations Office on Drugs and Crime, *Regional Preparatory Meetings for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice*, 2010.

<sup>257</sup> United Nations Office on Drugs and Crime, *Report of the Latin American and Caribbean Regional Preparatory Meeting for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, held in San José from 25 to 27 May 2009*, 2009; United Nations Office on Drugs and Crime, *Report of the Western Asian Regional Preparatory Meeting for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, held in Doha from 1 to 3 June 2009*, 2009; United Nations Office on Drugs and Crime, *Report of the Asian and Pacific Regional Preparatory Meeting for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, held in Bangkok from 1 to 3 July 2009*, 2009; United Nations Office on Drugs and Crime, *Report of the African Regional Preparatory Meeting for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, held in Nairobi from 8 to 10 September 2009*, 2009.

<sup>258</sup> United Nations Office on Drugs and Crime, *Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World*, 2011.

<sup>259</sup> United Nations Office on Drugs and Crime, *Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World*, 2011, article 14.

community of the importance of respecting human rights.<sup>260</sup> In an effort to promote adherence to the various treaties related to organized crime, the congress also asked that the Member States that haven't yet done so to ratify or accede to UN Convention against Corruption, UN Convention against Transnational Organized Crime and the Protocols thereto and the international instruments against terrorism, including its financing in general.<sup>261</sup>

#### *International Money Laundering Information Network*

The International Money Laundering Information Network (IMoLIN) is a web-based initiative dedicated to help governments in their fight against money laundering.<sup>262</sup> The main interest of this network resides in the database of legislation and regulations on the matter throughout the world. It was established in 1998 and has the particularity of being a partnership between the UN and other international organizations involved in anti-money-laundering.<sup>263</sup>

#### **Conclusion**

The topic of Transnational Organized Crime and its treatment by the UN system appears to be as complex as Organized Crime itself: multifaceted and with ramifications that go far beyond simple words. When looking at it from the perspective of the General Assembly Third Committee, the questions of implementation and efficiency of the tools and legal instruments available must be asked. While the UN continues to promote greater cooperation amongst Member States in order to make progress, it remains difficult to find common grounds and ways to harmonize the actions of all Member States. The UN Convention against Transnational Organized Crime and the additional protocols attached to it are only eight years old but already the steps toward a better implementation of its dispositions have been great. The work of the Conference of the parties to the Convention with the creation of Working Groups proves that the topic remains actively discussed and that a true will for progress exists. While considering the question of the implementation of the Convention or other tools of the UN system, delegates will have to think about the future in order to find new and original approaches on the issue. The Salvador Declaration, when calling for a greater adaptability of the States, has encouraged the reflection on new solutions and has taken in account new forms of organized crime such as cyber-crime. In this light, the conclusions of the final report of the fifth session of the Conference of Parties to the convention should be taken in account when considering the future of the implementation of the convention.

## **Annotated Bibliography**

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*The last Conference of Parties to the United Nations Convention against Transnational Organized Crime took place in Vienna in October 2010. The final report comprises all the decisions and discussions around the agenda set at the beginning of the summit. Special emphasis should be brought to the discussions and results of the high-level panel convened in accordance to the decision of the General Assembly. This panel raised the question of new forms of crime and how to deal with them within the framework established by the United Nations' system.*

Financial Action Task Force. (2011). *Financial Action Task Force (FATF)*. Retrieved October 7, 2011 from <http://www.fatf-gafi.org>

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<sup>260</sup> United Nations Office on Drugs and Crime, *Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World*, 2011, article 2.

<sup>261</sup> United Nations Office on Drugs and Crime, *Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World*, 2011, articles 17-19.

<sup>262</sup> United Nations on Drugs and Crime, *International Money-Laundering Information Network (IMoLIN)/Anti-Money-Laundering International Database (AMLID)*, 2011.

<sup>263</sup> United Nations on Drugs and Crime, *International Money-Laundering Information Network (IMoLIN)/Anti-Money-Laundering International Database (AMLID)*, 2011.



*The Financial Action Task Force was established by the G7 in 1989. With its 21 years of existence, this intergovernmental organization has established solid standards in the field of countering money laundering. In addition to the 40 + 9 recommendations that constitute the main directives of the Task Force, programs and initiatives such as the Mutual Evaluations of the members constitute interesting interesting initiatives and great evaluation tools for the members.*

International Money Laundering Information Network. (2011). *International Money Laundering Information Network*. Retrieved September 20, 2011 from <http://www.imolin.org/imolin/en/index.html>

*The website of the International Money Laundering Information Network provides information on all the legal instruments put in place to combat this international crime. The network also lists all the policies and regulations established by each country. This source of research can help delegates in their attempt at envisioning the efforts in that sector on both the local and international level.*

Organized Crime Research. (2011). *Organized Crime Research*, Retrieved September 20, 2011 from <http://www.organized-crime.de/index.html>

*A vast source of research on organized crime, this website provides a lot of resources on the subject. One of the main highlights is the collection of the definitions classified by country and organization. Journal articles, book reviews are also available. Delegates will also find a more theoretical approach of the topic.*

United Nations General Assembly. (2001). *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime(A/RES/55/255)* . Retrieved September 20, 2011 from <http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/55/255>

*This additional protocol to the Convention against Transnational Organized Crime was approved by the General Assembly after the main text and is therefore adopted in a separate resolution. The documents, however, are now presented as a single body and work together to create the main framework of the United Nations in the fight against Transnational Organized Crime.*

United Nations General Assembly. (2001). *United Nations Convention against Transnational Organized Crime (A/RES/55/25)*. Retrieved August 12, 2011 from <http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/55/25>

*The principal United Nations document adopted on Transnational Organized Crime, the Convention is the foundation of a big part of the UN efforts in the domain. The original document presented here does not contain the additional Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, adopted in a subsequent resolution of the General Assembly.*

United Nations Office on Drugs and Crime. (2011). *Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World*. Retrieved September 20, 2011 from [http://www.unodc.org/documents/crime-congress/12th-Crime-Congress/Documents/Salvador\\_Declaration/Salvador\\_Declaration\\_E.pdf](http://www.unodc.org/documents/crime-congress/12th-Crime-Congress/Documents/Salvador_Declaration/Salvador_Declaration_E.pdf)

*The Salvador declaration is the last outcome of the Crime Congress of the United Nations Office on Drugs and Crime. This declaration is a testimony and an affirmation of will towards greater international cooperation in the fight against organized crime. The text also reaffirms that while the eradication of organized crime is of the utmost importance, the protection of human rights must play in a role in the decisions made on the matter. While designing their own approach, delegates should consider these issues and integrate them to the best of their abilities.*

United Nations Office on Drugs and Crime. (2011). *United Nations Congress on Crime Prevention and Criminal Justice*. Retrieved from September 20, 2011 from <http://www.unodc.org/unodc/en/crime-congress/crime-congresses.html>

*Started in 1955 and held every 5 years, the United Nations Congress on Crime Prevention and Criminal Justice is said to be the oldest recurring conference held within the UN system. It has the particularity of accepting participation not only from the representatives of Member States but also the participation of experts, NGOs and scholars. This particular source also provides the UN webcast of the Congress as well as an easy access to all the data and documents produced prior to and during the summit.*

United Nations Office on Drugs and Crime. (2011). *United Nations Office on Drugs and Crime*. Retrieved September 20, 2011 from <http://www.unodc.org>

*The website of the UNODC is the primary source of research of this topic. Since the Office plays a central role in the organization of the UN system when dealing with Transnational Organized Crime, it gives access to all the programs and documents needed to get a better understanding of the topic. While the research material presented in this guide provides a broad view on the matter, delegates must use the additional information available to develop their own original ideas on the matter.*

United Nations Treaty Collection. (2011). *United Nations Treaty Collection*. Retrieved September 20, 2011 from <http://treaties.un.org/home.aspx>

*The United Nations Treaty Collection's website is the primary tool of research to verify the status of ratification or accession of a treaty or convention in the United Nations system. Delegates can use the database to obtain the official texts and also to verify whether or not their country is party to a convention relevant to the committee. In addition, this resource should be used to deepen the preparatory work prior to the conference.*

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## **Rules of Procedure General Assembly Third Committee**

### ***Introduction***

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

### **I. SESSIONS**

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

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

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

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

### **II. AGENDA**

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

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

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

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

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

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

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

*As the General Assembly Plenary determines the agenda for its Committees, this rule is applicable only to the Plenary body. Since NMUN 2011 will simulate the Plenary only on its last day, the agenda approved by the Secretariat is set. Items cannot be amended or added to the agenda by any of the Committees of the Assembly. For purposes of this rule, the determination of an item of an “important and urgent character” is subject to the discretion of the Secretariat, and any such determination is final. If an item is determined to be of such a character, then it requires a two-thirds vote of the Assembly to be placed on the agenda. It will, however, not be considered by the Assembly until a committee has reported on the question, or a second two-thirds vote is successful to keep the*

*Plenary body seized of the matter. The votes described in this rule are substantive vote, and, as such, observers are not permitted to cast a vote. For purposes of this rule, "the members present and voting" means those members (not including observers) in attendance at the session during which this motion comes to vote.*

**Rule 6 - Explanatory memorandum**

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

III. SECRETARIAT

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

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

**Rule 8 - Duties of the Secretariat**

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

**Rule 9 - Statements by the Secretariat**

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

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

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

IV. LANGUAGE

**Rule 12 - Official and working language**

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

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

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

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

V. CONDUCT OF BUSINESS

**Rule 14 - Quorum**

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

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

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

In addition to exercising the powers conferred upon him or her elsewhere by these rules, the President shall declare

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

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

#### **Rule 16**

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

#### **Rule 17 - Points of order**

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

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

#### **Rule 18**

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

#### **Rule 19 - Speeches**

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

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

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

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

*The decision to announce the list of speakers is within the discretion of the President and should not be the subject of a motion by the Committee. A motion to close the speakers' list is within the purview of the Committee and the*



*President should not act on her/his own motion.*

**Rule 21 - Right of reply**

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

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

**Rule 22 - Suspension of the meeting**

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

**Rule 23 - Adjournment of the meeting**

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

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

**Rule 24 - Adjournment of debate**

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

**Rule 25 - Closure of debate**

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

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

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

**Rule 27 - Proposals and amendments**

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

taken on the proposed amendment. A document modified in this manner shall be considered as the proposal pending before the Committee for all purposes, including subsequent amendments.

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

**Rule 28 - Withdrawal of motions**

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

**Rule 29 - Reconsideration of a topic**

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

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

## VI. VOTING

**Rule 30 - Voting rights**

Each member of the Committee shall have one vote.

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

**Rule 31 - Request for a vote**

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

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

**Rule 32 - Majority required**

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

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

**Rule 33 - Method of voting**

1. The Committee shall normally vote by a show of placards, except that a representative may request a roll

call, which shall be taken in the English alphabetical order of the names of the members, beginning with the member whose name is randomly selected by the President. The name of each present member shall be called in any roll call, and one of its representatives shall reply "yes," "no," "abstention," or "pass."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the amendment furthest removed in substance from the original proposal shall be voted on first and then the amendment next furthest removed there from, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment,

the latter shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted on.

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

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

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

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

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

## VII. CREDENTIALS

**Rule 41 - Credentials**

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

**Rule 42**

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

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

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

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

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

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

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

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

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

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

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