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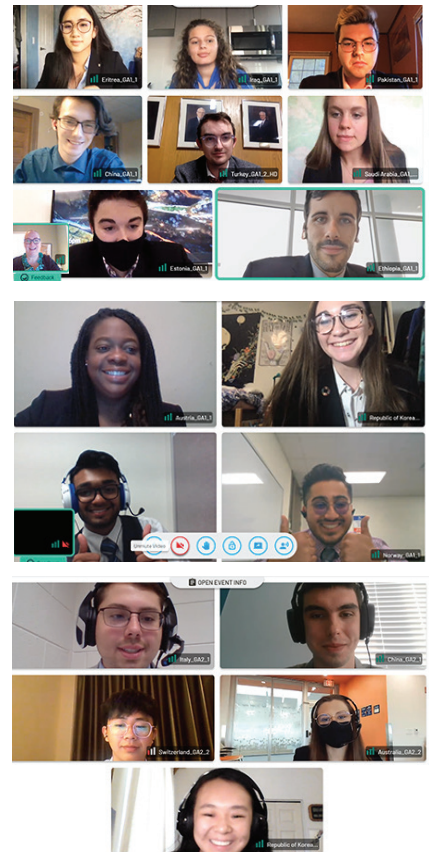
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## General Assembly Third Committee Background Guide 2021

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Alexis Evans, Assistant Director; Adam Wolf, Network Manager-IS



# NATIONAL MODEL UNITED NATIONS



Dear Delegates,

Welcome to the 2021 National Model United Nations Conference in Washington, DC (NMUN•DC)! We are pleased to introduce you to our committee, the General Assembly, Third Committee (GA3). This year's staff is: Director Emma Bott and Assistant Director Alexis Evans. Emma holds a Bachelor of Management from Concordia University of Edmonton and a Juris Doctor from Thompson Rivers University. She is currently working at a law firm in Fort Saskatchewan, Alberta. Alexis holds a Bachelor of Arts in Political Science from the University of California, Berkeley and currently works as an Office Services Clerk at a law firm.

The topics under discussion for GA 3 are:

- I. Eliminating Human Trafficking of Women, Girls and Gender and Sexual Minorities
- II. The Right to Privacy in the Digital Age

The Third Committee of the General Assembly is one of the six main committees of the UN General Assembly. The Third Committee is also referred to as the Social, Humanitarian and Cultural Affairs Committee. The Third Committee provides a forum for all 193 member states of the UN. The focus of the Third Committee is on a variety of broad topics related to human rights. The topics discussed by the Third Committee will provide delegates with an opportunity to explore pressing issues in today's world. In order to facilitate the stimulation of the Third Committee it is vital that delegates understand the mandate and priorities of the committee.

This Background Guide serves as an introduction to the topics for this committee. However, it is not intended to replace individual research. We encourage you to conduct additional research, explore your Member State's policies in-depth, and examine the policies of other Member States to improve your ability to negotiate and reach consensus. In preparation for the conference, each delegation will use their research to draft and submit a [position paper](#). Guidelines are available in the [NMUN Position Paper Guide](#).

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

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

In addition, please review the mandatory [NMUN Conduct Expectations](#) on the NMUN website. They include the conference dress code and other expectations of all attendees. We want to emphasize that any instances of sexual harassment or discrimination based on race, gender, sexual orientation, national origin, religion, age, or disability will not be tolerated. If you have any questions concerning your preparation for the committee or the conference itself, please contact the Under-Secretary-General Emma Ogg at [usgemma.dc@nmun.org](mailto:usgemma.dc@nmun.org) or Secretary-General Courtney Indart at [secgen.dc@nmun.org](mailto:secgen.dc@nmun.org).

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

Sincerely,  
Emma Bott, Director  
Alexis Evans, Assistant Director



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## Committee Overview

### **Introduction**

The United Nations was founded after the Second World War, and with it the General Assembly, which is one of the six principal organs established under the *Charter of the United Nations* (1945).<sup>1</sup> The General Assembly's mandate led it to allocate work to its six committees, each focusing on a specific thematic area.<sup>2</sup> The General Assembly Third Committee is mandated with discussing all matters related to social, humanitarian, and cultural affairs.<sup>3</sup> This mandate was expanded over time, making it the primary forum for human rights issues.<sup>4</sup> In recent years, more than 50% of the committee's resolutions were submitted under the human rights agenda.<sup>5</sup> This makes it the world's largest and most prominent forum for addressing international human rights, such as victims of trafficking, and the implementation of major conventions, such as the *United Nations Convention against Transnational Organized Crime* (2000) and its *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (2000).<sup>6</sup> Moreover, more than 90% of the targets of the Sustainable Development Goals (SDGs) are linked to human rights and labor standards, highlighting the importance of the committee's work in achieving their progress.<sup>7</sup>

### **Governance, Structure, and Membership**

In accordance with the *Charter of the United Nations*, the General Assembly is comprised of 193 Member States, as well as two Observer States; the Holy See and the State of Palestine.<sup>8</sup> All Member States and Observers of the General Assembly can attend sessions of the Third Committee.<sup>9</sup> The work of the committee is additionally supported by non-governmental and intergovernmental observers such as the European Union and the International Criminal Court (ICC).<sup>10</sup> The Third Committee meets annually for eight weeks from October to November after agenda items are allocated in September by the General Assembly Plenary depending on priorities and content.<sup>11</sup> The Secretary-General issues reports for the corresponding agenda items to inform the committee, and is at its disposal to answer questions in an allotted time for clarification.<sup>12</sup>

Each annual session of the Third Committee begins directly with the substantive debate as there is no General Debate beforehand.<sup>13</sup> The customary workflow for each item consists of an interactive dialogue between the Member States and experts, who submit reports and answer questions.<sup>14</sup> The Third Committee recommends draft resolutions to the General Assembly Plenary committee, which adopts draft

<sup>1</sup> *Charter of the United Nations*, 1945, Art. 55-60; UN General Assembly, *Functions and Powers of the General Assembly*, 2019.

<sup>2</sup> *Charter of the United Nations*, 1945; UN General Assembly, *Main Committees*, 2019.

<sup>3</sup> UN General Assembly, *Third Committee*, 2019.

<sup>4</sup> *Ibid.*

<sup>5</sup> Permanent Mission of Switzerland to the United Nations, *The GA Handbook: A Practical Guide to the United Nations General Assembly*, 2017, p. 73.

<sup>6</sup> *Ibid.*; UN General Assembly, *Convention on the Rights of Persons with Disabilities (A/RES/61/106)*, 2006; UN HRC, *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)*, 2007; UN HRC, *Review of the Work and Functioning of the Human Rights Council (A/HRC/RES/16/21)*, 2011.

<sup>7</sup> Danish Institute for Human Rights, *Human Rights and the 2030 Agenda for Sustainable Development*, 2018, p. 9.

<sup>8</sup> UN General Assembly, *Member States*, 2019.

<sup>9</sup> International Service for Human Rights, *Third Committee of the United Nations General Assembly: A Practical Guide for NGOs*, 2017, p. 7.

<sup>10</sup> UN General Assembly, *List of non-Member States, entities and organizations having received a standing invitation to participate as observers in the sessions and the work of the General Assembly (A/INF/72/5)*, 2017.

<sup>11</sup> International Service for Human Rights, *Third Committee of the General Assembly: A Practical Guide for NGOs*, 2017, pp. 7, 11; Permanent Mission of Switzerland to the United Nations, *The GA Handbook: A Practical Guide to the United Nations General Assembly*, 2017, p. 73.

<sup>12</sup> Permanent Mission of Switzerland to the United Nations, *The GA Handbook: A practical guide to the United Nations General Assembly*, 2017, pp. 37-38, 65.

<sup>13</sup> *Ibid.*, p. 74.

<sup>14</sup> *Ibid.*, pp. 73-75.

resolutions through a simple majority vote.<sup>15</sup> In the General Assembly Plenary, documents addressing agenda items that are considered important questions, like those relating to peace and security, the budget, or new members, require a two-thirds majority to pass and these important questions are considered by the Plenary and not the main committees.<sup>16</sup> On each agenda item, the Third Committee can adopt resolutions and decisions by simple majority although approximately 70% of its resolutions were adopted by consensus between the 60<sup>th</sup> and 70<sup>th</sup> session.<sup>17</sup> Each Member State in the General Assembly Third Committee has one vote, which is weighted equally among each Member State.<sup>18</sup> Reports are also submitted to the General Assembly Plenary about the Third Committee's work and recommendations on its decision-making.<sup>19</sup>

The Third Committee has a Secretariat comprised of the Secretary of the Committee, Mr. Ziad Mahmassani, a Deputy Secretary, an Assistant Secretary, and three Assistants.<sup>20</sup> Each year ahead of the session, the committee elects a Bureau with a Chairperson, three Vice-Chairs, and a Rapporteur.<sup>21</sup> The Bureau of the committee assists with opening and closing each meeting, managing the discussions, pronouncing decisions, assisting with drafts and documents, and ensuring compliance with the rules of procedure.<sup>22</sup> The Bureau of the 75<sup>th</sup> session (2020) consists of the Chairperson Katalin Bogyay from Hungary, the Vice-Chair Pilar Eugenio from Argentina, and the Rapporteur Myriam Oehri from Liechtenstein.<sup>23</sup>

Given the large scope of the committee, various experts, special rapporteurs, working groups, regional organizations, and UN entities, such as the UN Volunteers program, are encouraged to participate in an interactive dialogue with the committee and assist in policy implementation.<sup>24</sup> The UN Secretariat assists the Third Committee by delivering substantive and logistical support.<sup>25</sup> The Office of the United Nations High Commissioner for Refugees (UNHCR) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) contribute to the committee's work as the UN focal point for human rights bodies, reports, and other publications.<sup>26</sup> Furthermore, as a subsidiary body of the General Assembly, the UN Human Rights Council (HRC), established in 2006 by General Assembly resolution 60/251, provides an annual report to the Third Committee on its own recent sessions and discussions.<sup>27</sup> Independent

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<sup>15</sup> Ibid, pp. 37-38, p. 62.

<sup>16</sup> *Charter of the United Nations*, 1945, Art. 18; UN General Assembly, *About the General Assembly*, 2019; Permanent Mission of Switzerland to the United Nations, *The GA Handbook: A Practical Guide to the United Nations General Assembly*, 2017, pp. 37-38, 62.

<sup>17</sup> Ibid; International Service for Human Rights, *Third Committee of the General Assembly: A Practical Guide for NGOs*, 2017, p. 30.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid, pp. 37-38, p. 62, 68.

<sup>20</sup> UN General Assembly, *Social, Humanitarian & Cultural Issues (Third Committee): Secretariat*, 2020.

<sup>21</sup> International Service for Human Rights, *Third Committee of the General Assembly: A Practical Guide for NGOs*, 2017, p. 12.

<sup>22</sup> UN General Assembly, *Rules of Procedure of the General Assembly (A/520/Rev.18\*)*, p. 30-31.

<sup>23</sup> UN General Assembly, *Social, Humanitarian & Cultural Issues (Third Committee): Bureau of the 75<sup>th</sup> Session*, 2020.

<sup>24</sup> Permanent Mission of Switzerland to the United Nations, *The GA Handbook: A Practical Guide to the United Nations General Assembly*, 2017, pp. 73-74; UN General Assembly, *Organization of the Work of the Third Committee: Note by the Secretariat (A/C.3/72/L.1)*, 2017; International Service for Human Rights, *Third Committee of the United Nations General Assembly: A Practical Guide for NGOs*, 2017, p. 15.

<sup>25</sup> Permanent Mission of Switzerland to the United Nations, *The GA Handbook: A Practical Guide to the United Nations General Assembly*, 2017

<sup>26</sup> UN OHCHR, *Human Rights – New York: Mainstreaming Human Rights*, 2019; Permanent Mission of Switzerland to the United Nations, *The GA Handbook: A Practical Guide to the United Nations General Assembly*, 2011, pp. 75; International Service for Human Rights, *Third Committee of the United Nations General Assembly: A Practical Guide for NGOs*, 2017, p. 10.

<sup>27</sup> UN General Assembly, *Report of the Human Rights Council (A/72/53)*, 2017; International Service for Human Rights, *Third Committee of the General Assembly: A Practical Guide for NGOs*, 2017, p. 19.

Experts, Special Rapporteurs, and Working Groups may also advise the HRC and engage in interactive dialogues with the committee.<sup>28</sup>

### **Mandate, Functions and Powers**

The Third Committee derives its mandate from a variety of UN documents.<sup>29</sup> Articles 10 to 17 of the *Charter of the United Nations* are the principal guidelines for the substance and scope of all General Assembly committees, whereas Articles 23, 61, 86, and 97 provide the Third Committee with its mandate and the agenda items allocated to it.<sup>30</sup> With regard to the committee's work in the field of human rights, Article 1 of the *Charter of the United Nations* speaks of the promotion of human rights, and has been said to be the foundation of the *Universal Declaration of Human Rights* (UDHR) (1948).<sup>31</sup> The Third Committee used the UDHR as the groundwork to adopt additional and more specific international human rights instruments, including the *International Covenant on Civil and Political Rights* (ICCPR) (1966) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966).<sup>32</sup> These documents, along with the two optional protocols to the ICCPR make up what is known as the *International Bill of Human Rights* and they guide the work of the committee.<sup>33</sup>

The Third Committee does not focus on operative tasks, but on policy recommendations, and primarily works through the initiation of studies and the creation of nonbinding recommendations.<sup>34</sup> Studies are then carried out by relevant bodies, such as OHCHR and the United Nations Office on Drugs and Crime (UNODC).<sup>35</sup> Its work is of normative nature as it does not carry out operations, fieldwork, or tasks called for in the committee's resolutions.<sup>36</sup> Policy recommendations are primarily delegated to the various agencies and offices of the UN Secretariat.<sup>37</sup> For example, for the agenda item on refugees, returnees, and displaced persons, the United Nations High Commissioner for Refugees has prepared a report for the Third Committee's 75<sup>th</sup> session and the Secretary-General submitted a report on Assistance to refugees, returnees and displaced persons in Africa.<sup>38</sup> The Third Committee can also call for conferences to highlight certain issues, with a notable recurring example being the World Conference on Women, originating from the Third Committee resolution 3276 (XXIX) in 1974.<sup>39</sup> Additionally, the Third Committee examines the reports of the Special Procedures of the Human Rights Council.<sup>40</sup> The Special Procedures are produced by independent human rights experts with mandates to report and advise from a thematic or country-specific perspective.<sup>41</sup> For example, in its 74<sup>th</sup> session, the Third Committee heard from the Special Rapporteur on extrajudicial, summary or arbitrary executions, who raised special concern about

<sup>28</sup> Permanent Mission of Switzerland to the United Nations, *The GA Handbook: A Practical Guide to the United Nations General Assembly*, 2017, p. 65.

<sup>29</sup> *Ibid*; *Charter of the United Nations*, 1945, art. 10-17.

<sup>30</sup> *Charter of the United Nations*, 1945, Art. 10-17, 23, 61, 86, 97.

<sup>31</sup> *Ibid*, Art. 1; UN OHCHR, *Fact Sheet No. 2 (Rev.1), The International Bill of Human Rights*, 1966; UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948.

<sup>32</sup> UN OHCHR, *Fact Sheet No. 2 (Rev.1), The International Bill of Human Rights*, 1966; UN General Assembly, *International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1966; UN General Assembly, *International Covenant on Economic, Social and Cultural Rights (A/RES/2200 (XXI))*, 1966.

<sup>33</sup> UN OHCHR, *Fact Sheet No. 2 (Rev.1), The International Bill of Human Rights*, 1966; UN OHCHR, *Universal Human Rights Instruments*, 2019.

<sup>34</sup> UN General Assembly, *Functions and Powers of the General Assembly*, 2019.

<sup>35</sup> UN General Assembly, *Organization of the work of the Third Committee: Note by the Secretariat (A/C.3/72/L.1)*, 2017.

<sup>36</sup> UN General Assembly, *Functions and Powers of the General Assembly*, 2019.

<sup>37</sup> Permanent Mission of Switzerland to the UN, *The GA Handbook: A Practical Guide to the United Nations General Assembly*, 2017, p. 65; UN OHCHR, *Human Rights – New York: Mainstreaming Human Rights*, 2019.

<sup>38</sup> UN General Assembly, *Documents per Agenda Item - 75<sup>th</sup> session*, 2019 (is this year up to date?).

<sup>39</sup> UN General Assembly, *Conference of the International Women's Year (XXIX) (A/RES/29/3276)*, 1974; UN-Women, *World Conferences on Women*, 2019.

<sup>40</sup> UN General Assembly, *Third Committee*, 2020.

<sup>41</sup> OHCHR, *Special Procedures of the Human Rights Council*, 2020.

the killing of activists and journalists such as the Saudi journalist Jamal Khashoggi and urged the United Nations to put in place independent accountability mechanisms to stop such killings.<sup>42</sup>

### **Recent Sessions and Current Priorities**

The Third Committee conducted its 75<sup>th</sup> session in October and November 2020, which was chaired by H.E. Katalin Bogyay, representative of Hungary.<sup>43</sup> The committee adopted a total of 50 draft resolutions and decisions, 31 of which were adopted by consensus while the remaining 19 were decided by a vote.<sup>44</sup> Discussion and debate within the 75<sup>th</sup> session of the General Assembly prominently pertained to social development in relationship to the COVID-19 pandemic.<sup>45</sup> In particular, delegates discussed how the COVID-19 pandemic has impacted the world's most vulnerable communities and left them in harm's way.<sup>46</sup> There was a strong call to ensure that tests, vaccines, and other treatments be made more accessible to all.<sup>47</sup>

Due to the current COVID-19 pandemic, the UN suspended most physical meetings, including the meetings of the General Assembly Third Committee.<sup>48</sup> On 27 March 2020, the General Assembly authorized the President of the General Assembly in *Decision 74/544: Procedure for taking decisions of the General Assembly during the coronavirus disease 2019 (COVID-19) pandemic* to circulate important draft resolutions to all Member States by a silence procedure of at least 72 hours.<sup>49</sup> This means that unless any one Member State objects in writing to the adoption of a draft resolution within the set time limit, the draft resolution should be considered adopted.<sup>50</sup>

General Assembly resolution 75/156 on "Strengthening national and international rapid response to the impact of the coronavirus disease (COVID-19) on women and girls" was one of the cornerstone resolutions of the 75<sup>th</sup> session, originally negotiated in the Third Committee.<sup>51</sup> The resolution itself outlines a series of robust measures to ensure that women and girls are included in the COVID response effort and not left behind in the recovery process.<sup>52</sup> In its provisions, it calls for the universal implementation of the 1995 Beijing Declaration and Platform for Action and outlines a series of measures such as wider distribution of hygiene kits and sanitation products.<sup>53</sup>

In addition to the pandemic, human rights were at the forefront of discussion during the committee's 75<sup>th</sup> session.<sup>54</sup> As in previous years, the debate remained relatively divided between Member States with some arguing that the discussion on human rights is politically charged, threatening the sovereignty of certain Member States.<sup>55</sup> Other Member States however strongly supported the universality of international human rights instruments and ensure they are applied throughout the world.<sup>56</sup> Such documents that reflected this discussion were General Assembly resolutions 75/193, 75/192, 75/191, 75/237 and 75/190, which highlighted the human rights situations in the Syrian Arab Republic, Crimea and Ukraine, Iran, the Democratic People's Republic of Korea, and Myanmar.<sup>57</sup> The Third Committee also

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<sup>42</sup> UN Department of Public Information, *Amid Rising Nationalism, Global Leaders Call for Unity to Tackle Climate Emergency, Poverty, Extremism, at Opening of Seventy-Fourth General Assembly Session*, 2020.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Universal Rights Group, *Report on the 7<sup>th</sup> session of the Third Committee of the General Assembly*, 2020.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> Permanent Mission of France to the United Nations, *COVID-19: The UN is adapting its working methods*, 2020.

<sup>49</sup> UN General Assembly, *Decision number: 74/544: Procedure for taking decisions of the General Assembly during the coronavirus disease 2019 (COVID-19) pandemic*, 2020.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> Universal Rights Group, *Report on the 7<sup>th</sup> session of the Third Committee of the General Assembly*, 2020.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> UN General Assembly, *Resolutions of the 75<sup>th</sup> session*, 2020.

discussed human rights as it pertains to economic and social rights, such as the right to development.<sup>58</sup> This subject was outlined notably in General Assembly resolutions 75/182 on “The right to development” and 75/181 on “Human rights and unilateral coercive measures.”<sup>59</sup>

Many delegations within the Third Committee also expressed strong concern on prejudice and persecution, especially in the form extrajudicial and arbitrary executions.<sup>60</sup> Ms. Agnes Callamard, the Special Rapporteur on extrajudicial, summary or arbitrary executions, submitted a report to the Third Committee outlining mass graves as “an underground map of atrocity.”<sup>61</sup> Her report notes the dozens of mass grave sites found throughout 2020 and expressed concern about gaps in international law as there is no framework on management and investigation of mass graves when they are uncovered.<sup>62</sup>

### **Conclusion**

The Third Committee continues to have a central role in the UN as it provides an overarching forum of discussion for a wide variety of social, humanitarian, and cultural issues, and is the largest representative body for human rights and humanitarian norms.<sup>63</sup> Particularly within the context of the adoption of the SDGs, the Third Committee’s work continues to be integral to improving human rights situations around the world.<sup>64</sup> The General Assembly Third Committee’s 75<sup>th</sup> session reflects the importance of human rights agenda items for the committee.<sup>65</sup> The COVID-19 pandemic and its effect on all aspects of human life will run through the discussions of nearly all agenda items, including the rights of children, of persons with disabilities, indigenous people, and displaced persons.<sup>66</sup> Moreover, the committee will extensively address the human rights situation in specific countries.<sup>67</sup>

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*The Permanent Mission to the United Nations of Switzerland published this handbook as an introductory guidance material for the General Assembly. The handbook is an ideal starting point to understand the General Assembly, gain an overview of its processes, and organizational structure. It gives strongly summarized information and provides context to better understand the functioning of the General Assembly and its committees. Furthermore, delegates should consult this source to not only better understand the General Assembly in its entirety but also to gain more information on the existing rules of procedure, structure of resolutions, and workflow to help familiarizing themselves with the formal structures of the body’s work.*

United Nations, Office of the High Commissioner for Human Rights. (2021). *Universal Human Rights Instruments*. Retrieved 16 February 2021 from:

<https://www.ohchr.org/en/professionalinterest/pages/universalhumanrightsinstruments.aspx>

*This website from the Office of the United Nations High Commissioner for Human Rights provides a good overview of the most important human rights instruments and the bodies that monitor them. It does not only cite sources in regard to human rights in general, but*

<sup>58</sup> Universal Rights Group, *Report on the 7<sup>th</sup> session of the Third Committee of the General Assembly*, 2020.

<sup>59</sup> UN General Assembly, *Human rights and unilateral coercive measures (A/RES/75/181)*, 2020; UN General Assembly, *The right to development (A/RES/75/182)*, 2020.

<sup>60</sup> Universal Rights Group, *Report on the 7<sup>th</sup> session of the Third Committee of the General Assembly*, 2020.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

<sup>63</sup> Permanent Mission of Switzerland to the United Nations, *The GA: A Practical Guide to the United Nations General Assembly*, 2017, p. 73.

<sup>64</sup> Damplo, *Report on the 73rd Session of the Third Committee of the UN General Assembly*, 2018.

<sup>65</sup> UN General Assembly, *Draft Provisional Programme of Work of the Third Committee - 75th session*, 2020.

<sup>66</sup> Ibid.

<sup>67</sup> UN General Assembly, *Documents per Agenda Item -75<sup>th</sup> session*, 2020.



furthermore includes international documents by topic areas, such as the rights of child, rights of persons with disabilities, and the prevention of discrimination. It provides delegates with the ideal overview to begin researching the international human rights regime, its fundamentals, and specific topic areas.

Universal Rights Group. (2020). *Report on the 7<sup>th</sup> session of the Third Committee of the General Assembly*. Retrieved 16 February 2021 from: <https://www.universal-rights.org/universal-rights-group-nyc-2/report-on-the-75th-session-of-the-third-committee-of-the-un-general-assembly/>

*This article by the Universal Rights Group provides a comprehensive overview of all the draft resolutions taken up by the General Assembly Third Committee. It also provides some high-level overview of what was discussed at the 75<sup>th</sup> session of the UN by the General Assembly as a whole. This is a comprehensive source for those seeking a general understanding of what was discussed in the Third Committee, with the details of the negotiations readily available via draft resolutions.*

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## I. Elimination Human Trafficking of Women, Girls, and Sexual and Gender Minorities

### **Introduction**

Human trafficking refers to the “recruitment, transportation, transfer, harboring or receipt of persons” through force, coercion, abduction, fraud, deception, or abuse of power.<sup>68</sup> Sexual and gender minorities are lesbian, gay, bisexual, transgender, and queer people among many other identities.<sup>69</sup> According to the Office of the United Nations (UN) High Commissioner for Human Rights (OHCHR), gender identity is an important part of an individual’s identity, and their gender identity might or might not be aligned to their sex assignment at birth.<sup>70</sup> Human trafficking is a form of forced and irregular migration that often leads to forced labor and sexual exploitation, which impacted 25 million people in 2016 with 51% of those victims being women and 20% being girls.<sup>71</sup> Trafficking in persons is a growing issue, as in 2016 40% more victims were detected than in 2011.<sup>72</sup> In 2018, five of ten victims were adult women while two of the ten victims were girls.<sup>73</sup> The victim profile depends on the intended form of trafficking and how the trafficker plans on exploiting the victim.<sup>74</sup> Trafficking starts in origin countries, where the traffickers take possession of the victims.<sup>75</sup> Victims can then travel through transition countries, and destination countries are their final location, although they do not need to cross international borders to be trafficked.<sup>76</sup> Human trafficking is crime that creates a high profit, as according to the International Labor Organization the industry generated \$150 billion U.S. dollars in 2014.<sup>77</sup> The economic inequality and instability faced by women, girls, and sexual and gender minorities increases their risk for trafficking.<sup>78</sup> The UN realizes that increased vulnerability and rising extreme poverty combined with the COVID-19 pandemic increases the risk for potential trafficking victims.<sup>79</sup>

### **International and Regional Framework**

The international community has applied a gender lens to human trafficking since the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* (1979) and the *Beijing Declaration and Platform for Action* (1995) by highlighting the disproportionate impact of human trafficking on women.<sup>80</sup> CEDAW focuses on gender equality along with ending discrimination against women and ending trafficking and exploitation of women.<sup>81</sup> The *Beijing Declaration and Platform for Action* recognized the role that poverty has in the exploitation of women, and includes human trafficking of women and girls

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<sup>68</sup> UN General Assembly, *United Nations Convention against Transnational Organized Crime: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (A/RES/55/25)*, 2000.

<sup>69</sup> Oxford Handbooks Online, *Sexual and Gender Minorities, Public Health and Ethics*, 2019; O’Malley, J. & Holzinger, A., *The Sustainable Development Goals Sexual and Gender Minorities*, 2018, p. 27.

<sup>70</sup> OHCHR, *Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law*, 2019 p. 5.

<sup>71</sup> OHCHR, *Human rights and trafficking in persons – overview*; African Union, *Khartoum Declaration on AU-Horn of Africa Initiative on Human Trafficking and Smuggling of Migrants*, 2014, p. 1.

<sup>72</sup> UNODC, *Global Report on Trafficking in Persons*, 2018, p. 23.

<sup>73</sup> UNODC, *Global Report on Trafficking in Persons*, 2020, p. 9.

<sup>74</sup> Ibid, p. 12; UNODC, *Global Report on Trafficking in Persons*, 2018, p. 28.

<sup>75</sup> Britannica, *Human Trafficking*, 2021.

<sup>76</sup> Ibid.

<sup>77</sup> UN General Assembly, *Trafficking in women and girls – Report of the Secretary-General (A/75/289)*, 2020, p. 1; ILO, *ILO says forced labour generates annual profits of US\$ 150 billion*, 2014.

<sup>78</sup> UN General Assembly, *Trafficking in women and girls – Report of the Secretary-General (A/75/289)*, 2020, p. 2; UN Women, *Recommendations for addressing women’s human rights in the global compact for safe, orderly and regular migration*, 2017, p. 7; O’Malley, J. & Holzinger, A., *The Sustainable Development Goals Sexual and Gender Minorities*, 2018, p. 27.

<sup>79</sup> UNODC, *Global Report on Trafficking in Persons*, 2020, p. 4.

<sup>80</sup> UN Fourth World Conference on Women, *Beijing Declaration and Platform for Action*, 1995, p. 49; UN General Assembly, *Convention on the Elimination of All Forms of Discrimination of All Forms of Discrimination against Women (A/RES/34/180)*, 1979.

<sup>81</sup> UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women (A/RES/34/180)*, 1979.

as violence against women.<sup>82</sup> Further, the General Assembly adopted the *Convention against Transnational Organized Crime: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (2000), or the Palermo Protocol, which is the basis for modern efforts to combat human trafficking including ensuring survivors are protected and assisted in recovery.<sup>83</sup> Survivors are the focus with assistance and protection, and the conventions' protocol advocates for the criminalization of human trafficking.<sup>84</sup> In 2018, the UN General Assembly adopted resolution 73/146 on Trafficking in Women and Girls, calling on Member States to create policies and undertake preventive actions that are sensitive to gender and age.<sup>85</sup> Also in 2018, the UN adopted the Global Compact for Migration, the first global agreement to take a human rights and gender-based approach to issues of migration, including human trafficking, to mitigate the risks and vulnerabilities in migration.<sup>86</sup>

The General Assembly included human trafficking in the 2030 Agenda for Sustainable Development, or Sustainable Development Goals (SDGs).<sup>87</sup> Target 8.7 of the SDGs is to end human trafficking, along with forced labor and slavery.<sup>88</sup> Target 16.2 is eradicating the exploitation and trafficking of children.<sup>89</sup> The SDGs focus on inclusivity of marginalized and excluded communities, although sexual and gender minorities are not explicitly included.<sup>90</sup> OHCHR has, however, published reports on sexual and gender minorities, and the Human Rights Council (HRC) has adopted several resolutions focusing on the human rights of sexual and gender minorities, as well as protecting them from violence and discrimination.<sup>91</sup> In 2016, the HRC adopted resolution 32/2 which focuses on protection against violence and discrimination based on sexual orientation and gender identity.<sup>92</sup> The 2020 report from the Special Rapporteurs on trafficking in persons, especially women and children focused on action going beyond the Palermo Protocol and focusing on a human rights approach to ending human trafficking.<sup>93</sup>

At a regional level, the African Union adopted the Khartoum Declaration in 2014, which includes technology-sharing and capacity-building.<sup>94</sup> The Regional Conference to Address Human Trafficking and Smuggling in the Horn of Africa was organized by the African Union, the UN High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), and the Government of Sudan to facilitate the creation of a common approach in the area to combat human trafficking.<sup>95</sup> The conference discussed how migration patterns affect human trafficking.<sup>96</sup> The conference also focused on regional and international cooperation to combat trafficking in persons and how protection of survivors is an

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<sup>82</sup> UN Fourth World Conference on Women, *Beijing Declaration and Platform for Action*, 1995, pp. 2-3, 50.

<sup>83</sup> UN General Assembly, *United Nations Convention against Transnational Organized Crime: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (A/RES/55/25)*, 2000; UN General Assembly, *Trafficking in Women and Girls (A/RES/73/146)*, 2018.

<sup>84</sup> UN General Assembly, *United Nations Convention against Transnational Organized Crime: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (A/RES/55/25)*, 2000, pp. 43-5.

<sup>85</sup> UN General Assembly, *Trafficking in Women and Girls (A/RES/73/146)*, 2018, p. 8.

<sup>86</sup> UN Refugees and Migrants, *Global compact for migration*, 2021.

<sup>87</sup> UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015.

<sup>88</sup> IOM, *Migration and the 2030 Agenda: A Guide for Practitioners*, 2018, p. 23.

<sup>89</sup> *Ibid.*, p. 23.

<sup>90</sup> IOM, *Migration and the 2030 Agenda: A Guide for Practitioners*, 2018, p. 20; O'Malley, J. & Holzinger, A., *The Sustainable Development Goals Sexual and Gender Minorities*, 2018, p. 27.

<sup>91</sup> OHCHR, *Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law*, 2019; OHCHR, *United Nations Resolutions – Sexual orientation and gender identity*, 2021.

<sup>92</sup> UN Human Rights Council, *Protection against violence and discrimination based on sexual orientation and gender identity (A/HRC/RES/32/2)*, 2016.

<sup>93</sup> UN General Assembly, *Report of the Special Rapporteur on trafficking in persons especially women and children, Maria Grazia Giammarinaro (A/75/169)*, 2020.

<sup>94</sup> African Union, *Khartoum Declaration on AU-Horn of Africa Initiative on Human Trafficking and Smuggling of Migrants*, 2014, p. 1; UN General Assembly, *Trafficking in women and girls (A/RES/73/146)*, 2018 p. 7.

<sup>95</sup> African Union, *AU convenes a Regional Conference to address Human Trafficking and Smuggling in the Horn of Africa*, 2014.

<sup>96</sup> African Union, *AU Regional Conference on Human Trafficking and smuggling in the Horn of Africa*, 2014.

essential strategy.<sup>97</sup> The European Union adopted a directive in 2011 which focuses on a legal and policy framework which concentrates on survivors in a gender-specific and comprehensive approach.<sup>98</sup> The directive has been applied in Central and Eastern Europe, which have the highest number of reported female victims of human trafficking.<sup>99</sup>

### **Role of the International System**

In addition to their broader work on gender, the Commission on the Status of Women focuses on the rights of women that are survivors of human trafficking, and UN Women works to end violence against women and girls and increasing economic opportunities in order to eliminate trafficking.<sup>100</sup> The Special Rapporteurs of the Human Rights Council publish more specialized reports on human trafficking, focusing on victims that are female and children, and help coordinate UN efforts related to eliminating human trafficking.<sup>101</sup>

In early 2020, the UN Office on Drugs and Crime (UNODC) hosted a meeting of experts on preventing trafficking in women and girls.<sup>102</sup> Additionally, UNODC provides many reports containing data and trends of human trafficking to the UN system.<sup>103</sup> UNODC and the UN Educational, Scientific and Cultural Organizations also work with the World Tourism Organization on public education on human trafficking through a global campaign to raise awareness among travelers about human trafficking.<sup>104</sup> The General Assembly also encourages Member States to develop public awareness campaigns that are targeted to vulnerable groups, traffickers, potential clients, and law enforcement, and promotes the observation of World Day against Trafficking in Persons, with the goal of better protection and promotion of the rights of human trafficking survivors.<sup>105</sup> Non-governmental organizations (NGOs) like Anti-slavery provide public education to business on the harms of human trafficking and how to prevent their supply chains being used for human trafficking.<sup>106</sup> Anti-slavery International also advocates for legal reform on the local, national, and international levels, and presents court cases when Member States are unable to uphold domestic laws.<sup>107</sup>

Since adoption of the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (1985), the General Assembly has largely addressed the issue of human trafficking through compensation and assistance for survivors.<sup>108</sup> However, the General Assembly expanded their focus on the human trafficking of women and girls to include economic drivers and public awareness in 2018.<sup>109</sup> The UN General Assembly also mandated the Inter-Agency Coordination Group against Trafficking in Persons (ICAT) to assist UN agencies in coordinating their work with other international organizations.<sup>110</sup> ICAT works to prevent human trafficking and protect and support survivors with the overall goal of ending

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<sup>97</sup> Ibid.

<sup>98</sup> European Commission – Migration and Home Affairs, *Trafficking in human beings*; European Parliament, *Trafficking in Human Beings from a Gender Perspective Directive 2011/36/EU: European Implementation Assessment*, 2016, p. 1.

<sup>99</sup> Ibid.

<sup>100</sup> UN General Assembly, *Trafficking in women and girls (A/RES/73/146)*, 2018, p. 7.

<sup>101</sup> Ibid, p. 6.

<sup>102</sup> UNODC, *UNODC hosts Expert Group meeting on trafficking in women and girls in the context of global migration*, 2020.

<sup>103</sup> UNODC, *Global Report on Trafficking in Persons*, 2018.

<sup>104</sup> UN General Assembly, *Trafficking in women and girls (A/RES/73/146)*, 2018, p. 9.

<sup>105</sup> Ibid, pp. 7, 9, 12.

<sup>106</sup> Anti-Slavery International, *How we work to end slavery*, 2021.

<sup>107</sup> Ibid.

<sup>108</sup> UN General Assembly, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (A/RES/40/34)*, 1985, p. 2; UN General Assembly, *Trafficking in women and girls (A/RES/73/146)*, 2018.

<sup>109</sup> UN General Assembly, *Trafficking in women and girls (A/RES/73/146)*, 2018, p. 1.

<sup>110</sup> ICAT, *About Us*.

human trafficking.<sup>111</sup> The Secretary-General regularly submits reports to the General Assembly on trafficking of women and girls, including the most recent during the COVID-19 pandemic.<sup>112</sup>

### ***Economic Drivers and Consequences***

Economic insecurity of women, girls and sexual and gender minorities fuels human trafficking by exposing potential victims to traffickers when few other options are available.<sup>113</sup> The General Assembly and the African Union have acknowledged the need to address economic situations that often lead to human trafficking, through education and economic empowerment.<sup>114</sup> The SDGs specifically include Target 8.5 of achieving full and productive employment and work for women to combat human trafficking.<sup>115</sup> Human trafficking can also create cyclical victimization as trafficked persons' economic situations deteriorate once they are trafficked, as they often suffer from wage theft.<sup>116</sup> Canada is one Member State implementing General Assembly recommendations by taking proposals for community-based trauma-informed empowerment projects.<sup>117</sup> Many NGOs also work on providing public education and education curriculum for various ages, like A21, and others work to eliminate human trafficking by eliminating poverty, like Freeset.<sup>118</sup>

The economic insecurity due to the COVID-19 pandemic is increasing the risk for women and girls.<sup>119</sup> The pandemic has created a global recession with high rates of job loss, especially in Member States with economies that are heavily reliant on tourism, travel, hospitality, and entertainment.<sup>120</sup> Women and other groups that are marginalized in the workplace are more likely to lose their jobs, if they had one, which creates higher risk of being victimized by traffickers.<sup>121</sup> UNODC has also highlighted that migrants are at a greater risk to be negatively impacted by pandemic-related economic recession.<sup>122</sup>

Even before the pandemic, sexual and gender minorities often faced discrimination in securing employment, housing, education, and social protection.<sup>123</sup> The struggle to obtain housing is, globally, the largest obstacle for sexual and gender minorities in moving out of poverty.<sup>124</sup> One option to prevent human trafficking is Member State support of research and initiatives to create effective messaging to inform the public of the risks faced by sexual and gender minorities.<sup>125</sup> Developing domestic policies ending the discrimination against these individuals in employment, compensation, and legal systems can also protect them against violence and exploitation, including human trafficking.<sup>126</sup>

### ***Prosecution of Traffickers and Protection of Survivors***

Impunity for traffickers creates incentives for traffickers, as there is a perception of little risk with high financial rewards.<sup>127</sup> Globally, conviction rates are low, meaning there is low risk and expense to the

<sup>111</sup> Ibid.

<sup>112</sup> UN General Assembly, *Trafficking in Women and Girls – Report of the Secretary-General (A/75/289)*, 2020, pp. 1, 13.

<sup>113</sup> IOM, *Migration and the 2030 Agenda: A Guide for Practitioners*, 2018, p. 24; O'Malley, J. & Holzinger, A., *The Sustainable Development Goals Sexual and Gender Minorities*, 2018, p.12.

<sup>114</sup> UN General Assembly, *Trafficking in women and girls (A/RES/73/146)*, 2018, p. 8; African Union, *Khartoum Declaration on AU-Horn of Africa Initiative on Human Trafficking and Smuggling of Migrants*, 2014, p. 2.

<sup>115</sup> IOM, *Migration and the 2030 Agenda: A Guide for Practitioners*, 2018, p. 24.

<sup>116</sup> UN General Assembly, *Trafficking in women and girls – Report of the Secretary-General (A/75/289)*, 2020, p. 5.

<sup>117</sup> Government of Canada, *Government of Canada's Efforts to Combat Human Trafficking*, 2020.

<sup>118</sup> A21, *Our solution*; Freeset, *Who are we*, 2020.

<sup>119</sup> UN General Assembly, *Trafficking in women and girls – Report of the Secretary-General (A/75/289)*, 2020, p. 1.

<sup>120</sup> UNODC, *Global Report on Trafficking in Persons*, 2020, p. 75.

<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

<sup>123</sup> O'Malley, J. & Holzinger, A., *The Sustainable Development Goals Sexual and Gender Minorities*, 2018, p. 12.

<sup>124</sup> Ibid, p. 37.

<sup>125</sup> Ibid, p. 77; UNODC, *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*, 2004, p. 46.

<sup>126</sup> O'Malley, J. & Holzinger, A., *The Sustainable Development Goals Sexual and Gender Minorities*, 2018, p. 37.

<sup>127</sup> UN General Assembly, *Trafficking in women and girls – Report of the Secretary-General (A/75/289)*, 2020, p. 4.

traffickers.<sup>128</sup> The *Convention against Transnational Organized Crime* requires that Member States who ratify the convention criminalize human trafficking and develop policies to prevent trafficking in persons.<sup>129</sup> The Khartoum Declaration recommended that origin, transit, and destination countries improve their capacity to assist in the prosecution efforts of human traffickers.<sup>130</sup> Additionally, according to the IOM, improving the rule of law will allow more survivors to access to the justice system by prosecuting more traffickers, provide proper documentation to migrants, and prevent revictimization.<sup>131</sup> By allowing survivors legal identity, they will be able to access social services and prevent revictimization into trafficking.<sup>132</sup>

Gender-responsive protection techniques assist agencies with early identification of survivors and the ability to refer to appropriate support services.<sup>133</sup> UNODC and the UN Global Initiative to Fight Human Trafficking provides a toolkit for criminal justice practitioners to help them assist human trafficking survivors.<sup>134</sup> For those survivors who have crossed international borders, if they remain stateless, they are also more vulnerable and therefore at risk of revictimization.<sup>135</sup> Efforts combatting organized crime do not generally punish trafficking survivors by using the non-punishment principle, which allows for trafficked individuals to not be detained, charged, or prosecuted for immigration or criminal purposes.<sup>136</sup> This non-punishment principle can be integrated into existing law and policy or be used to develop law, policy, and practices.<sup>137</sup> This principle can also be implemented retroactively by vacating and expunging past criminal records of trafficking survivors.<sup>138</sup> Sexual and gender minorities in migration are subject to higher rates of abuse and exploitation by both other migrants and authorities, and so would benefit from more comprehensive identification techniques and gender-responsive services.<sup>139</sup> For example, training programs for criminal justice actors can assist them in protecting sexual and gender minorities.<sup>140</sup> The specific criminalization of being a sexual and gender minority makes these communities and individuals even more vulnerable to victimization and revictimization, and infringes their human rights.<sup>141</sup>

Survivors of trafficking frequently suffer from long-term economic instability, as well as poor physical and mental health.<sup>142</sup> Compensation for survivors provides financial punishment for the traffickers, as well as help compensate for survivors' financial loss, and fund their physical and mental recovery.<sup>143</sup> In 2010, the UN created the Voluntary Trust Fund for Victims in Persons, Especially Women and Children, and it has raised over 7.8 million U.S. dollars that have been distributed to 90 NGOs.<sup>144</sup> The NGOs have assisted over 3,500 human trafficking survivors by helping them receive legal representation, compensation, or aid packages.<sup>145</sup> Frequently, however, survivors do not receive compensation, or they struggle to access

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<sup>128</sup> Ibid, pp. 4, 11.

<sup>129</sup> UNODC, *The Protocol*.

<sup>130</sup> African Union, *Khartoum Declaration on AU-Horn of Africa Initiative on Human Trafficking and Smuggling of Migrants*, 2014, p. 2.

<sup>131</sup> IOM, *Migration and the 2030 Agenda: A Guide for Practitioners*, 2018, p. 47.

<sup>132</sup> Ibid.

<sup>133</sup> UN Women, *Recommendations for addressing women's human rights in the global compact for safe, orderly and regular migration*, 2017, pp. 5, 11.

<sup>134</sup> UNODC, *Anti-human trafficking manual for criminal justice practitioners*, 2009, p. 8.

<sup>135</sup> UN Women, *Recommendations for addressing women's human rights in the global compact for safe, orderly and regular migration*, 2017, p. 7.

<sup>136</sup> Ibid; UN General Assembly, *Trafficking in women and girls – Report of the Secretary-General (A/75/289)*, 2020, p. 7.

<sup>137</sup> UN General Assembly, *Trafficking in women and girls – Report of the Secretary-General (A/75/289)*, 2020, p. 7.

<sup>138</sup> Ibid.

<sup>139</sup> UN Women, *Recommendations for addressing women's human rights in the global compact for safe, orderly and regular migration*, 2017, pp. 5, 11; O'Malley, J. & Holzinger, A., *The Sustainable Development Goals Sexual and Gender Minorities*, 2018, p. 76.

<sup>140</sup> O'Malley, J. & Holzinger, A., *The Sustainable Development Goals Sexual and Gender Minorities*, 2018, p. 67.

<sup>141</sup> OHCHR, *Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law*, 2019, pp. 44, 48.

<sup>142</sup> UN General Assembly, *Trafficking in women and girls – Report of the Secretary-General (A/75/289)*, 2020, p. 5.

<sup>143</sup> Ibid, p. 15.

<sup>144</sup> UNODC, *An integral component of global efforts to address trafficking in persons*.

<sup>145</sup> Ibid.



compensation due to barriers such as lack of access to information and communication technologies, as well as lack of identification documents.<sup>146</sup>

### **Conclusion**

The economic inequality faced by women, girls, and sexual and gender minorities leaves them at higher risk of trafficking, which can be mitigated through not only focusing on the human trafficking itself but also the underlying conditions of poverty and lack of access.<sup>147</sup> Criminalization of women, girls and sexual and gender minorities who are human trafficking survivors infringes their human rights and can lead to revictimization.<sup>148</sup> According to UNODC, Member States need to support research on human trafficking to gain more information for public awareness, mitigate economic risk factors, prosecute traffickers, and protect victims and survivors.<sup>149</sup> COVID-19 has also created increased economic insecurity which has increased the risk for women, girls, and sexual and gender minorities of being exploited into human trafficking.<sup>150</sup> The pandemic has directed resources and public attention off of the elimination of human trafficking, along with increased risk of becoming trafficking victims due to economic insecurities.<sup>151</sup>

### **Further Research**

While researching this topic further, delegates should consider the following questions: While economic instability and vulnerability are major factors contributing to risk of being trafficked what are other factors contributing to risk of people being trafficked? What are the ongoing effects of the COVID-19 pandemic on human trafficking? How do existing laws and policies within Member States create a risk for certain individuals to be trafficked? Are there certain prevention measures that are more effective than others when considering the issue using a gender lens?

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*This convention is the first major document from the General Assembly on Human Trafficking. The convention focuses on preventing human trafficking, including punishing traffickers and particularly emphasizes the trafficking of women and children. The document focuses on reactive actions to deal with the consequences of human trafficking and punish traffickers to create more consistency among Member States' national legislations. As a foundational document on human trafficking, the convention provides a source for future and current policies. Delegates will find this source helpful as they begin their research to understand the basis of work on human trafficking in the UN system.*

United Nations, General Assembly, Seventy-third session. (2018). *Trafficking in women and girls (A/RES/73/146)*. Adopted on the report of the Third Committee (A/73/582). Retrieved 13 February 2021 from: <https://undocs.org/en/A/RES/73/146>

<sup>146</sup> UN General Assembly, *Trafficking in women and girls – Report of the Secretary-General (A/75/289)*, 2020, p. 5.

<sup>147</sup> Ibid, p. 2; IOM, *Migration and the 2030 Agenda: A Guide for Practitioners*, 2018, p. 24; O'Malley, J. & Holzinger, A., *The Sustainable Development Goals Sexual and Gender Minorities*, 2018, p.12.

<sup>148</sup> UN Women, *Recommendations for addressing women's human rights in the global compact for safe, orderly and regular migration*, 2017, p. 7; UN General Assembly, *Trafficking in women and girls (A/RES/73/146)*, 2018, p. 10.

<sup>149</sup> UNODC, *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*, 2004, p. 46.

<sup>150</sup> UN General Assembly, *Trafficking in women and girls – Report of the Secretary-General (A/75/289)*, 2020, p. 1; UN Women, *Recommendations for addressing women's human rights in the global compact for safe, orderly and regular migration*, 2017, p. 7; O'Malley, J. & Holzinger, A., *The Sustainable Development Goals Sexual and Gender Minorities*, 2018, p. 27.

<sup>151</sup> UN General Assembly, *Trafficking in women and girls – Report of the Secretary-General (A/75/289)*, 2020, pp. 1, 10.

*The resolution takes a more proactive approach to preventing human trafficking and includes an outline of previous frameworks and the key actors in human trafficking. It also calls for gender equality to help eliminate the high rates of women and girls being trafficked. Additionally, the resolution focuses on raising public awareness as a deterrent to human trafficking. This source will provide delegates with a general understanding of where the General Assembly is on the issue of trafficking of women and girls, and what actions it has previously recommended.*

United Nations, General Assembly, Seventy-fifth session (2020). *Trafficking in women and girls – Report of the Secretary-General (A/75/289)*. Retrieved from 13 February 2021 from:

<https://undocs.org/en/A/75/289>

*This report from the Secretary-General highlights activities carried out by Member States and the United Nations system. It focuses on the economic implications of trafficking, including both drivers and consequences, and emphasizes the importance of prosecution of traffickers. The report notes that trafficking survivors generally lack support, protection, and health care. The report also highlights the recent implications of the COVID-19 pandemic on human trafficking. Delegates may find this source helpful as a broad summary of the current, global state of the issue of human trafficking.*

United Nations Office on Drugs and Crime. (2018). *Global Report on Trafficking in Persons*. Retrieved 16 February 2021 from: [https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP\\_2018\\_BOOK\\_web\\_small.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP_2018_BOOK_web_small.pdf)

*This report provides data on human trafficking, including a global overview at the beginning. It also provides information on the increased detection of victims; the increased convictions and still widespread impunity; the victim profile; the forms of exploitation; profiles of the offenders; trafficking flows; and some institutional responses. The report is broken down into regional areas, providing delegates with regional-specific information for their Member State, as well as a more comprehensive understanding of the issue.*

United Nations Office on Drugs and Crimes. (2020). *UNODC hosts Expert Group meeting on trafficking in women and girls in the context of global migration*. Retrieved 12 February 2021:

<https://www.unodc.org/unodc/en/human-trafficking/Webstories2019/expert-group-meeting-on-trafficking-of-women-and-girls-in-the-context-of-global-migration--feeding-into-the-cedaw-general-recommendations.html>

*This source highlights the key actors and documents that are combatting trafficking in women and girls. The document highlights how CEDAW can be used to eliminate human trafficking of women and girls; objectives 9 and 10 of the Global Compact for Safe, Orderly and Regular Migration; and the almost universal ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Delegates should use this source as a starting point for further research and idea formulating, as it provides a good summary of the international framework on human trafficking as well as a recent contextual update.*

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## II. The Right to Privacy in the Digital Age

*“At its best, the digital revolution will empower, connect, inform and save lives. At its worst, it will disempower, disconnect, misinform and cost lives.”<sup>152</sup>*

### **Introduction**

Information and communications technologies (ICT), defined as technological tools and resources used to transmit, store, create, and exchange information, such as the Internet, have the ability to enhance communication and participation in civil, political, economic, social, and cultural life for those individuals who possess access to them.<sup>153</sup> Although there are clear benefits to the interconnectedness that ICT's provide, the United Nations (UN) also recognizes that the widespread use of ICT's and the rapid pace of technological advancement contributes to significant opportunities for governments, companies, and individuals to engage in activities that may violate human rights, especially the right to privacy.<sup>154</sup>

At the start of 2021, there were roughly 4.66 billion Internet users in the world, making up close to 60% of the world's population.<sup>155</sup> As ICT's have become a part of everyday life and increasingly powerful technologies are developed, both state and non-state actors have the ability to surveil, analyze, predict, and manipulate people's behavior.<sup>156</sup> Subsequently, concerns have surfaced surrounding overzealous state surveillance under the guise of national security and business' invasive data collection practices for the sake of profits.<sup>157</sup> Though new and emerging technologies have improved the ability of individuals to protect themselves from privacy violations in the digital sphere, both state and non-state actors have consistently failed to implement security measures to ensure that individuals' right to privacy is protected.<sup>158</sup> According to the Human Rights Council (HRC), to meaningfully address the current gaps within efforts to protect the right to privacy in the digital age, Member States and business enterprises need to engage in a concerted effort to address the challenges and threats to privacy produced by constantly developing technologies.<sup>159</sup>

### **International and Regional Framework**

The right to privacy, first laid out in Article 12 of the *Universal Declaration of Human Rights* (UDHR) and Article 17 of the *International Covenant on Civil and Political Rights*, refers to one's right to “not be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and the right to the protection of the law against such interference.”<sup>160</sup> In 2014, the General Assembly adopted resolution 68/167 regarding “The right to privacy in the digital age,” the first of many UN documents recognizing that the human right to privacy extends beyond the physical world to online and digital spaces.<sup>161</sup> Pursuant to this resolution, the Office of the United Nations High Commissioner for Human Rights (OHCHR) submitted a report acknowledging that the right to privacy is applicable to digital arenas and recognizing the need for Member States and business enterprises to both commit to protecting individual's privacy.<sup>162</sup> General Assembly resolution 73/179 (2019) further extended the definition of the right to privacy to include unlawful or arbitrary surveillance, interception of communications, and collection of personal data, especially when done extraterritorially or on a mass scale, as intrusive acts that violate human rights including the right to privacy.<sup>163</sup> General Assembly

<sup>152</sup> OHCHR, *Human rights in the digital age - Can they make a difference? Keynote speech by Michelle Bachelet, UN High Commissioner for Human Rights*, 2019.

<sup>153</sup> UNESCO Institute of Statistics, *Information and communication technologies (ICT)*, 2021; UN Department of Economic and Social Affairs, *Information and communication technologies (ICTs)*.

<sup>154</sup> UN General Assembly, *The right to privacy in the digital age (A/RES/68/167)*, 2014, p. 1.

<sup>155</sup> DataReportal, *Digital Around the World*, 2021.

<sup>156</sup> UN Human Rights Council, *The right to privacy in the digital age (A/HRC/39/29)*, 2018, p. 2.

<sup>157</sup> *Ibid.*, pp. 4-7.

<sup>158</sup> UN Human Rights Council, *The right to privacy in the digital age (A/HRC/27/37)*, 2014, p. 16.

<sup>159</sup> *Ibid.*

<sup>160</sup> UN General Assembly, *The right to privacy in the digital age (A/RES/68/167)*, 2014, p. 1.

<sup>161</sup> *Ibid.*, p. 2.

<sup>162</sup> UN Human Rights Council, *The right to privacy in the digital age (A/HRC/27/37)*, 2014, p. 16.

<sup>163</sup> UN General Assembly, *The right to privacy in the digital age (A/RES/73/179)*, 2019, p. 3.

resolution 75/176 (2020) subsequently included hacking and the unlawful use of biometric technologies in the list of acts that violate the right to privacy.<sup>164</sup> Aside from providing comprehensive definitions of the right to privacy in the digital age, resolutions 73/179 and 75/176 also recognize a greater need for the promotion and protection of the right to privacy.<sup>165</sup> Each resolution calls on Member States and private businesses to do so through developing and implementing measures that would mitigate potential harm to individuals' privacy.<sup>166</sup>

In 2016, the EU adopted the *General Data Protection Regulation* (GDPR), which established penalties in the form of significant fines for those who violate its privacy and security standards.<sup>167</sup> Under the GDPR, if the data being collected or the person being targeted falls within the EU, penalties can apply to the data collector even if they are outside of the EU.<sup>168</sup> As a result, companies with interests in the European market have been forced to improve their protection of personal data in order to avoid GDPR-related complaints and penalties.<sup>169</sup> The GDPR has also influenced global data privacy legislation outside of the EU, with India and the United States considering data protection provisions comparable to those found in the GDPR, and Brazil adopting legislation similar to that of the GDPR.<sup>170</sup> Elsewhere, the AU has approved the *African Union Convention on Cyber Security and Personal Data Protection*, in which Member States committed to establishing legal frameworks to protect physical data and combat cybercrime.<sup>171</sup> The convention requires ratification by at least fifteen Member States to take effect, but only eight countries have ratified it due to a lack of political will.<sup>172</sup> The international community has expressed mixed opinions on ratifying the convention because of provisions that could lead to government overreach and violations of privacy rights when it comes to the search and seizure of data for "public interest".<sup>173</sup> Some civil society organizations still see benefit to ratification despite the convention's flaws, but others strongly oppose ratifying the convention in its current form.<sup>174</sup> Furthermore, ASEAN recognized the importance of data protection and privacy online in the *Framework on Digital Data Governance*, which called for the harmonization of personal data protection regulations within ASEAN and established an annual ASEAN Data Protection and Privacy Forum to facilitate knowledge sharing.<sup>175</sup> ASEAN has also adopted the *Framework on Personal Data Protection*, which laid out principles of personal data protection around which Member States should create domestic legislation, including consent and notification, security safeguards, and accountability.<sup>176</sup>

### **Role of the International System**

The General Assembly has called upon Member States to take measures to mitigate violations of privacy in digital spaces by adopting appropriate national legislation in line with international human rights laws.<sup>177</sup> The General Assembly has also suggested that business enterprises that collect, store, use, share, and process data are transparent with their users and implement safeguards to protect users' privacy.<sup>178</sup> To that end, the General Assembly established a multi-stakeholder policy dialogue known as the Internet Governance Forum (IGF) in resolution 60/252 (2006).<sup>179</sup> The mandate of the IGF is to discuss

<sup>164</sup> UN General Assembly, *The right to privacy in the digital age (A/RES/75/176)*, 2020, p. 4.

<sup>165</sup> Ibid, p. 3; UN General Assembly, *The right to privacy in the digital age (A/RES/73/179)*, 2019, p. 2.

<sup>166</sup> UN General Assembly, *The right to privacy in the digital age (A/RES/73/179)*, 2019, pp. 5-7; UN General Assembly, *The right to privacy in the digital age (A/RES/75/176)*, 2020, pp. 6-8.

<sup>167</sup> GDPR.EU, *What is the GDPR, the EU's new data protection law?*, 2019.

<sup>168</sup> Ibid.

<sup>169</sup> Li et al., *The Impact of the GDPR on Global Technology Development*, 2019, p. 1.

<sup>170</sup> GDPR.EU, *What is the LGPD? Brazil's version of the GDPR*, 2019.

<sup>171</sup> African Union, *African Union Convention on Cyber Security and Personal Data Protection*, 2014.

<sup>172</sup> African Union, *African Union Convention on Cyber Security and Personal Data Protection: Status List*, 2020; Turianskyi, *Africa and Europe: Cyber Governance Lessons*, Policy Insights, 2020.

<sup>173</sup> Council on Foreign Relations, *The African Union Cybersecurity Convention: A Missed Human Rights Opportunity*, 2015.

<sup>174</sup> Ibid.

<sup>175</sup> ASEAN, *Framework on Digital Data Governance*, 2012, pp. 7-8.

<sup>176</sup> ASEAN, *Framework on Personal Data Protection*, 2016, pp. 3-4.

<sup>177</sup> UN General Assembly, *The right to privacy in the digital age (A/RES/68/167)*, 2014, p. 2.

<sup>178</sup> UN General Assembly, *The right to privacy in the digital age (A/RES/75/176)*, 2020, pp. 7-8.

<sup>179</sup> UN General Assembly, *World Summit on the Information Society (A/RES/60/252)*, 2006, p. 2.

public policy issues related to internet governance, facilitate the exchange of information and best practices, and identify emerging issues, find solutions, and make recommendations accordingly.<sup>180</sup> Furthermore, the Internet Rights and Principles Coalition (IRPC), based at the IGF, is committed to ensuring the protection and promotion of human rights in the online environment.<sup>181</sup> Hence, the IRPC and the IGF published *The Charter of Human Rights and Principles for the Internet*, identifying specific rights of individuals related to privacy and data protection, in addition to providing governments, private companies, and civil society with recommendations to guarantee the realization of these rights.<sup>182</sup>

The Human Rights Council (HRC) addressed the issue of the right to privacy in the digital age by appointing a Special Rapporteur on the right to privacy in 2015.<sup>183</sup> The goal of the Special Rapporteur is to gather relevant information, identify possible obstacles, distinguish best practices, report alleged violations, make recommendations, and submit an annual report to the HRC and the General Assembly.<sup>184</sup> As a result, the Special Rapporteur has submitted several reports relating to technology and privacy violations, including reports on governmental surveillance activities, big data and open data, security and surveillance, the protection and use of health data, and artificial intelligence and privacy.<sup>185</sup> These reports have subsequently been referenced by the General Assembly and the HRC in recommendations to improve privacy protections.<sup>186</sup>

Intergovernmental organizations such as the Organization for Economic Cooperation and Development (OECD) have also addressed the right to privacy in the context of personal data protection.<sup>187</sup> In 2013, the OECD adopted the *Privacy Guidelines* which primarily focused on practical implementation of privacy protection through risk management and an improved ability to work across borders.<sup>188</sup> Non-governmental organizations (NGOs), such as Privacy International, have also addressed how Member State governments and private business enterprises should adjust their operations in order to protect privacy.<sup>189</sup> Privacy International has been effective in pressuring governments to reform invasive surveillance practices and create safeguards, as well as compelling companies to adjust intrusive business models that are dependent on personal data.<sup>190</sup>

## **Common Privacy Violations**

### *Data Collection*

A common understanding regarding data collection is that it should be “adequate, relevant and not excessive in relation to the purposes for which the data are collected and further processed, and the collection shall be undertaken for specific, explicit and legitimate purposes.”<sup>191</sup> In 2018, OHCHR reported trends related to privacy interferences, noting an increased reliance on personal data collection by both governments and private business enterprises.<sup>192</sup> With the rapidly growing number of interconnected devices that individuals wear, carry with them, and install in their homes, Member States and businesses have access to more data and information than ever before.<sup>193</sup> As the amount of available data expands, so does the opportunity for governments and corporations to collect and mishandle data, often without the consent or knowledge of the individuals affected.<sup>194</sup> In response to this concern, the Third Committee

<sup>180</sup> World Summit on the Information Society, *Tunis Agenda for the Information Society*, 2005.

<sup>181</sup> IRPC & UN IGF, *The Charter of Human Rights and Principles for the Internet*, 2014, p. 1.

<sup>182</sup> *Ibid.*, pp. 18-19.

<sup>183</sup> UN Human Rights Council, *The right to privacy in the digital age (A/HRC/RES/28/16)*, 2015.

<sup>184</sup> *Ibid.*, p. 3.

<sup>185</sup> UN OHCHR, *Annual thematic reports of the Special Rapporteur on the right to privacy*, 2021.

<sup>186</sup> UN General Assembly, *The right to privacy in the digital age (A/RES/75/176)*, 2020, p. 2; UN Human Rights Council, *The right to privacy in the digital age (A/HRC/39/29)*, 2018, p. 10.

<sup>187</sup> OECD, *The OECD Privacy Framework*, 2013.

<sup>188</sup> *Ibid.*

<sup>189</sup> Privacy International, *Impact*.

<sup>190</sup> *Ibid.*

<sup>191</sup> UNCTAD, *Data protection regulations and international data flows: Implications for trade and development*, 2016, p. 73.

<sup>192</sup> UN Human Rights Council, *The right to privacy in the digital age (A/HRC/39/29)*, 2018, pp. 4-5.

<sup>193</sup> Privacy International, *Data Protection*.

<sup>194</sup> UN Human Rights Council, *The right to privacy in the digital age (A/HRC/39/29)*, 2018, p. 4.



urged Member States and business enterprises to establish transparency policies that allow for the informed consent of users.<sup>195</sup>

The emergence of biometric technologies such as facial or voice recognition and DNA or fingerprint identification, in conjunction with the development of biometric databases, also raises concerns regarding identity theft and unlawful tracking or monitoring of individuals.<sup>196</sup> Yet, Security Council resolution 2396 (2017) encourages Member States and international organizations to collect and share biometric data to mitigate threats to international peace and security caused by terrorism.<sup>197</sup> Even though the data is supposed to be collected in the interest of international peace and security, the wealth of information that Member States gather and possess on individuals can be alarming, as the data may be misused or stolen.<sup>198</sup> For instance, governments have been known to abuse biometrics-based facial recognition to surveil dissidents, and significant data breaches in recent years have exposed hundreds of millions of people to possible identity theft.<sup>199</sup> Although some identity theft can be reconciled, if one's biometric data is leaked or stolen, the effects are extremely difficult to remedy because biometric data is inextricably linked to one's identity.<sup>200</sup> To protect biometric data from theft, the Third Committee has urged Member States to ensure that digital biometric identity programs are designed with appropriate legal and technical safeguards.<sup>201</sup> NGOs such as Privacy International further recommend the regulation of international sharing of biometric data and independent oversight mechanisms to ensure that the collection and storage of biometric data does not infringe on individuals' right to privacy.<sup>202</sup>

#### *Surveillance and Communications Interception*

Although state surveillance is nothing new, technological advancement has enhanced the ability of governments to partake in surveillance activities.<sup>203</sup> Member States can engage in secret mass collection, storage, and analysis of data retrieved from ICT's.<sup>204</sup> Governments claim that this surveillance is necessary for national security, but some have also used mass surveillance to monitor detractors.<sup>205</sup> For example, the International Network of Civil Liberties Organizations published a report in 2016 which provided evidence of invasive surveillance in ten countries across the Americas, Africa, Asia, Europe, and the Middle East.<sup>206</sup> The report confirms the use of surveillance on activists, journalists, and state critics by Member States such as India, Israel, and Russia, and explains the negative effects such surveillance has on the individuals.<sup>207</sup> Additionally, following the September 11, 2001 attacks in New York, intelligence agencies in the United States were authorized to collect massive amounts of data in secret and without a warrant for the sake of national security until the expiration of the PATRIOT Act in 2020.<sup>208</sup> While some Member States' courts and civil society organizations have made efforts to hinder the abilities of governments to engage in such invasive surveillance tactics, the Third Committee and civil society groups continue to push for Member States to overhaul surveillance practices and establish oversight mechanisms.<sup>209</sup>

<sup>195</sup> UN General Assembly, *The right to privacy in the digital age (A/RES/75/176)*, 2020, pp. 7-8.

<sup>196</sup> UN Human Rights Council, *The right to privacy in the digital age (A/HRC/39/29)*, 2018, p. 5.

<sup>197</sup> UN Security Council, *Threats to international peace and security caused by terrorist acts – foreign terrorist fighters (S/RES/2396 (2017))*, 2017, p. 8.

<sup>198</sup> UN Human Rights Council, *The right to privacy in the digital age (A/HRC/39/29)*, 2018, p. 5.

<sup>199</sup> UN Human Rights Council, *Impact of new technologies on the promotion and protection of human rights in the context of assemblies, including peaceful protests (A/HRC/44/24)*, 2020, p. 7.

<sup>200</sup> UN Human Rights Council, *The right to privacy in the digital age (A/HRC/39/29)*, 2018, p. 5.

<sup>201</sup> UN General Assembly, *The right to privacy in the digital age (A/RES/75/176)*, 2020, p. 7.

<sup>202</sup> Privacy International, *New Report on "The Use of Biometric Data to Identify Terrorists: Best Practice or Risky Business?"*, 2020.

<sup>203</sup> UN Human Rights Council, *The right to privacy in the digital age (A/HRC/RES/42/15)*, 2019, p. 2.

<sup>204</sup> UN Human Rights Council, *The right to privacy in the digital age (A/HRC/39/29)*, 2018, p. 5.

<sup>205</sup> UN Human Rights Council, *Impact of new technologies on the promotion and protection of human rights in the context of assemblies, including peaceful protests (A/HRC/44/24)*, 2020, p. 9.

<sup>206</sup> INCLO, *Surveillance and Democracy: Chilling Tales from Around the World*, 2016.

<sup>207</sup> Ibid.

<sup>208</sup> ACLU, *End Mass Surveillance Under the PATRIOT Act*.

<sup>209</sup> Privacy International, *Communications Surveillance*, 2018; UN General Assembly, *The right to privacy in the digital age (A/RES/75/176)*, 2020, p. 6.

Member States have also begun to utilize offensive intrusion technologies that deploy malware or spyware, allowing for surveillance of everything that appears on the individual's screen in addition to audio and video from the device's microphone and camera.<sup>210</sup> For instance, in 2020, India was accused of attempting to embed spyware on the devices of nine human rights defenders who spoke out against human rights violations in the Member State by sending them emails containing malicious links.<sup>211</sup> The coordinated spyware campaign suggests that the emails were not an attempt by an independent actor to compromise the devices but rather that the government was attempting to monitor the actions and communications of the human rights defenders.<sup>212</sup> According to the HRC and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, this kind of use of offensive intrusion software constitutes such a serious violation of the right to privacy that it is not compatible with human rights law like the UDHR, and thus its use should not be permitted.<sup>213</sup>

### **Contact-Tracing and Surveillance During COVID-19**

As noted by the Special Rapporteur on the right to privacy, the need to prevent the spread of a communicable disease such as COVID-19 is one of the few instances in which the right to privacy is not absolute.<sup>214</sup> While contact-tracing may seem intrusive, it is necessary to prevent or contain a public health crisis like a pandemic, and there is currently no reasonable alternative.<sup>215</sup> However, in order to maintain the right to privacy, the nature and quantity of the personal information collected for contact-tracing must be necessary to prevent further spread of the virus.<sup>216</sup> In order to avoid unnecessary violations of privacy, in a report to the General Assembly, the Special Rapporteur presented an example of proper contact-tracing procedures such as calling or visiting someone who may have been in contact with an infected person rather than gathering information by accessing the individual's smartphone.<sup>217</sup> Still, it was noted that surveillance methods may be exceeding what is necessary for public health.<sup>218</sup> Specifically, the Special Rapporteur has expressed concern over the use of non-consensual surveillance methods, which can be used for purposes other than stopping the spread of COVID-19.<sup>219</sup>

In South Korea, the government adopted data-intensive contact tracing methods, using cell phone location data, CCTV cameras, and tracking credit card usage to create a publicly available map for individuals to see if they may have come into contact with someone with the COVID-19 virus.<sup>220</sup> South Korean health authorities also sent out notifications of confirmed COVID-19 cases, including the infected individual's age, gender, and the places they visited, ultimately leading to the identification and harassment of infected persons.<sup>221</sup> In China, to limit the spread of COVID-19, people provided personal information including their ID number, whether they had been in contact with someone carrying the virus, their symptoms, and their cell phone's location data to an app that would decide whether they were allowed to go anywhere or if they had to quarantine.<sup>222</sup> Although providing one's information to the app was voluntary, local Chinese authorities began to require that people show their status on the app when they would go to the supermarket, enter or exit residential areas, and take the subway.<sup>223</sup> In Israel, the internal security service was authorized to receive, collect, and process technological location data

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<sup>210</sup> UN Human Rights Council, *The right to privacy in the digital age (A/HRC/39/29)*, 2018, p. 6; Privacy International, *Communications Surveillance*, 2018.

<sup>211</sup> Amnesty International, *India: Human Rights Defenders Targeted by a Coordinated Spyware Operation*, 2020.

<sup>212</sup> Ibid.

<sup>213</sup> UN Human Rights Council, *Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (A/HRC/23/40)*, 2013, p. 16.

<sup>214</sup> UN General Assembly, *Right to privacy (A/75/147)*, 2020, p. 5.

<sup>215</sup> Ibid.

<sup>216</sup> Ibid.

<sup>217</sup> Ibid.

<sup>218</sup> UN DPI, *Third Committee Delegates Debate Acceptable Limits to Privacy Rights, Personal Data Use During Pandemic, as Expert Warns Against 'Omni-Present' Surveillance (GA/SHC/4305)*, 2020.

<sup>219</sup> Ibid.

<sup>220</sup> Human Rights Watch, *South Korea: Events of 2020*, 2021.

<sup>221</sup> Ibid.

<sup>222</sup> Human Rights Watch, *China: Fighting COVID-19 With Automated Tyranny*, 2020.

<sup>223</sup> Ibid.

without user consent in order to predict which citizens may have been exposed to COVID-19 and to ensure that those who had been ordered to stay in quarantine were complying.<sup>224</sup>

In response to these emerging privacy issues surrounding COVID-19 and surveillance, the UN Privacy Policy Group, comprised of UN entities like OHCHR, UN Women, and the UN Development Programme, issued a joint statement showing support for the use of data and technology in the COVID-19 response in a way that respects the right to privacy.<sup>225</sup> The UN Privacy Policy Group stressed the importance of UN System Organizations leading by example and committing to collecting and processing data with due regard to international law and privacy principles.<sup>226</sup> The UN also urged Member States to put safeguards into place where new technologies are used for surveillance in response to the pandemic, including purposeful limitations, adequate privacy and data protections, and time limits.<sup>227</sup>

### **Conclusion**

Protecting the right to privacy in the digital age has become more complicated in recent years, especially considering the usefulness of surveillance in combating COVID-19.<sup>228</sup> Considering the 11% increase in the adoption of data protection and privacy legislation from 2015 to 2020, the international community is headed in a positive direction.<sup>229</sup> New data protection legislation in Brazil signifies positive mobility in regards to digital privacy, as does the 10% of Member States who currently have draft legislation on data protection and privacy.<sup>230</sup> Still, implementation of data protection legislation, especially across borders, presents a challenge due to differing levels of political will and capacity.<sup>231</sup> Businesses have also moved to protect the right to privacy, as legislation such as the GDPR has forced multinational corporations to take users privacy into greater consideration or face penalties.<sup>232</sup> Unfortunately, data also points to a rise in cybercrime, scams, and online fraud, which is especially worrying during the COVID-19 pandemic when many have become dependent on ICT's for access to basic goods and services.<sup>233</sup> The Third Committee continues to work on these emerging problems and ensuring the right to privacy in the digital age with the cooperation of Member States and business enterprises, and commitments by all to developing, enacting, enforcing, and complying with comprehensive digital privacy legislation.<sup>234</sup>

### **Further Research**

When researching this topic, delegates should consider conditions conducive to privacy violations in addition to incentives for actors to violate one's privacy. Some questions to consider are: What additional measures can the General Assembly Third Committee take to more effectively protect and promote the right to privacy? Who is most vulnerable to having their right to privacy infringed upon? What are the long-term effects of privacy violations? How can international, regional, and national organizations contribute to protecting the right to privacy? How can Member States and private corporations be incentivized to comply with international law regarding the right to privacy? What specific technologies make it easier for governments and businesses to engage in massive data collection and surveillance?

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<sup>224</sup> Privacy International, *Israel's coronavirus surveillance is an example for others – of what not to do*, 2020; Human Rights Watch, *Mobile Location Data and Covid-19: Q&A*, 2020.

<sup>225</sup> UN Global Pulse, *Joint Statement on Data Protection and Privacy in the COVID-19 Response*, 2020.

<sup>226</sup> *Ibid.*

<sup>227</sup> UN Sustainable Development Group, *COVID-19 and Human Rights: We are all in this together*, 2020, pp. 16-22.

<sup>228</sup> UN General Assembly, *Right to privacy (A/75/147)*, 2020.

<sup>229</sup> UNCTAD, *Data and privacy unprotected in one third of countries, despite progress*, 2020.

<sup>230</sup> *Ibid.*

<sup>231</sup> *Ibid.*

<sup>232</sup> Li et al., *The Impact of the GDPR on Global Technology Development*, 2019, p. 3.

<sup>233</sup> UN Conference on Trade and Development, *Data and privacy unprotected in one third of countries, despite progress*, 2020.

<sup>234</sup> UN General Assembly, *The right to privacy in the digital age (A/RES/75/176)*, 2020.

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<https://www.ohchr.org/Documents/Issues/Opinion/Communications/InternetPrinciplesAndRightsCoalition.pdf>

*The Internet Rights and Principles Dynamic Coalition (IRPC) is an international network of individuals and organizations who work together to uphold human rights in the online environment and promote rights-based principles for internet governance by translating existing human rights norms to the internet, subsequently building awareness and understanding. Thus, the IRPC created this document to provide Member States, businesses, and civil society with a policy-making tool for human rights and the internet. Specifically, principle eight pertaining to right to privacy on the internet may be useful to delegates in grasping what privacy on the internet should look like and how it could be implemented.*

Privacy International. (2018). *Communications Surveillance*. Retrieved 18 April 2021 from:

<https://privacyinternational.org/explainer/1309/communications-surveillance>

*As a non-governmental organization dedicated to promoting the human right to privacy and calling for the adoption and enforcement of the strong data protection safeguards across the world, Privacy International published this resource to educate individuals on the basics of communications surveillance and related issues. As such, this source includes an explanation of communications surveillance, provides examples of actors performing communications surveillance, discusses related international law, and points to recent action on the issue. As communications surveillance is often used in violation of the human right to privacy, this resource will help delegates better understand why communications surveillance presents a threat to the human right to privacy.*

United Nations, General Assembly, Sixty-eighth session. (2014). *The right to privacy in the digital age (A/RES/68/167)*. Adopted on the report of the Third Committee (A/68/456/Add.2). Retrieved 6 February 2021 from: <https://undocs.org/A/RES/68/167>

*This document marked the first UN resolution specifically regarding the right to privacy in the digital age. The resolution recognizes the human right to privacy in online and digital spaces and calls on Member States to take appropriate action to ensure those rights. Additionally, it requests that the UN High Commissioner for Human Rights submit a report concerning the right to privacy in the context of surveillance, collection of personal data, and interception of digital communications. Delegates will find this source useful in developing a base understanding of the human right to privacy and the challenges that technology may create in ensuring that right.*

United Nations, General Assembly, Seventy-fifth session. (2020). *The right to privacy in the digital age (A/RES/75/176)*. Adopted on the report of the Third Committee (A/75/478/Add.2, para. 89). Retrieved 9 February 2021 from: <https://undocs.org/A/RES/75/176>

*As the most recent resolution on the right to privacy in the digital age, this document reaffirms the human right to privacy that individuals should enjoy both online and offline. It calls upon Member States to respect and protect the right to privacy in the context of digital communications, take measures to end current violations, and create the conditions to prevent future violations. Moreover, the resolution asks businesses that handle data to ensure that respect for the right to privacy is embedded in their systems and procedures to mitigate adverse human rights impacts. Delegates may find this document helpful in gaining a better understanding of more recent technological threats to the right to privacy and in understanding the necessary steps in safeguarding the right to privacy in the digital space.*



United Nations, Human Rights Council, Thirty-ninth session. (2018). *The right to privacy in the digital age (A/HRC/39/29)*. Report of the United Nations High Commissioner for Human Rights. Retrieved 10 February 2021 from: <https://undocs.org/A/HRC/39/29>

*This report recognizes the need to address the challenges to the right to privacy that the digital world creates and provides guidance on addressing these challenges. It also includes a fairly comprehensive list of foundational documents relating to the topic, as well as a brief explanation of the documents. Furthermore, the report looks at privacy interferences, the responsibilities of Member States, the responsibility of business enterprises, and remedies to privacy violations. Delegates can review this report in order to gain insight into issues surrounding privacy in relation to data collection and surveillance by both Member States and businesses. This report may also help delegates develop recommendations of their own.*

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