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## HUMAN RIGHTS COUNCIL BACKGROUND GUIDE 2018

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# NATIONAL MODEL UNITED NATIONS



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Dear Delegates,

Welcome to the 2018 National Model United Nations New York Conference (NMUN•NY)! We are pleased to welcome you to the Human Rights Council (HRC). This year's staff are: Directors Robert Cahill (Conference A) and Collin King (Conference B), and Assistant Directors Carolin Huber (Conference A) and Shelsy Mireles (Conference B). Robert completed his B.S. in International Business, Marketing and Management from the University of Montana. He is an IT Consultant with Softchoice. Collin completed his B.A. in Government from New Mexico State University. He is an assistant store manager with Barnes & Noble College. Carolin studied Business Administration and Political Science and is now pursuing an M.A. in Democracy Science at the University of Regensburg, Germany. She is currently a Research Assistant at the Chair of International and Transatlantic Relations. Shelsy is currently studying at the University of Houston pursuing a degree in Supply Chain Management. She is particularly interested in the sustainable consumption and production of goods and services with the particular focus on businesses and the ecology of oceans.

The topics under discussion for the Human Rights Council are:

1. Reinforcing Businesses' Responsibility to Protect Human Rights
2. Effects of Terrorism on the Enjoyment of All Human Rights
3. The Right to Privacy in the Digital Age

The Human Rights Council plays a unique role as the primary intergovernmental body within the United Nations system responsible for the promotion and protection of human rights as they are defined within the Charter of the United Nations. HRC plays a critical role in the monitoring and implementation of the Universal Declaration of Human Rights and other human rights instruments. It is a subsidiary body of the General Assembly and possesses a comprehensive mandate that allows it to take proactive measures to address and provide recommendations on all human rights violations.

This Background Guide serves as an introduction to the topics for this committee. However, it is not intended to replace individual research. We encourage you to explore your Member State's policies in depth and use the Annotated Bibliography and Bibliography to further your knowledge on these topics. In preparation for the Conference, each delegation will submit a [Position Paper](#) by 11:59 p.m. (Eastern) on 1 March 2018 in accordance with the guidelines in the [NMUN Position Paper Guide](#).

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

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

In addition, please review the mandatory [NMUN Conduct Expectations](#) on the NMUN website. They include the Conference dress code and other expectations of all attendees. We want to emphasize that any instances of sexual harassment or discrimination based on race, gender, sexual orientation, national origin, religion, age, or disability will not be tolerated.

If you have any questions concerning your preparation for the committee or the Conference itself, please contact the Under-Secretaries-General for the Human Rights and Humanitarian Affairs Department, Dieyun Song (Conference A) and Dominika Ziemczonek (Conference B), at [usg.hr\\_ha@nmun.org](mailto:usg.hr_ha@nmun.org).

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

## Conference A

Robert Cahill, Director  
Carolin Huber, Assistant Director

## Conference B

Colin King, Director  
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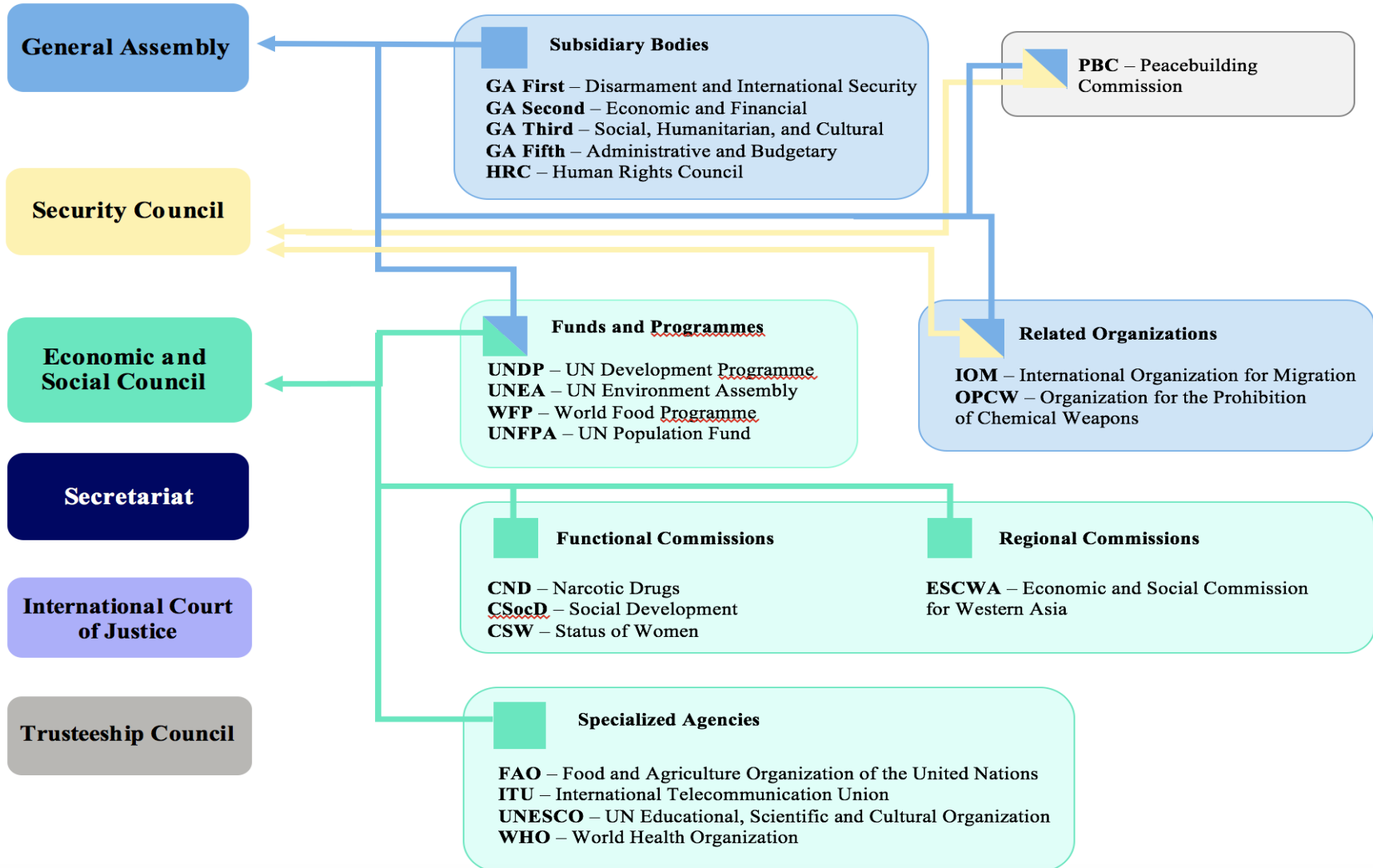
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## United Nations System at NMUN•NY

This diagram illustrates the UN system simulated at NMUN•NY and demonstrates the reportage and relationships between entities. Examine the diagram alongside the Committee Overview to gain a clear picture of the committee's position, purpose, and powers within the UN system.





## Abbreviations

<b>ACHR</b>	<i>American Convention on Human Rights</i>
<b>ALA</b>	American Library Association
<b>BSR</b>	Business for Social Responsibility
<b>CDT</b>	Center for Democracy and Technology
<b>CEDAW</b>	<i>Convention on the Elimination of All Forms of Discrimination against Women</i>
<b>CHR</b>	Commission on Human Rights
<b>COP</b>	Conference of the Parties
<b>CRC</b>	<i>Convention on the Rights of the Child</i>
<b>CSA</b>	Cloud Security Alliance
<b>CSO</b>	Civil Society Organization
<b>CSR</b>	Corporate Social Responsibility
<b>CTC</b>	Counter-Terrorism Committee
<b>CTSD</b>	Commission for Science and Technology for Development
<b>DIHR</b>	Danish Institute for Human Rights
<b>ECA</b>	United Nations Economic Commission for Africa
<b>ECHR</b>	<i>European Convention on Human Rights</i>
<b>ECOSOC</b>	Economic and Social Council
<b>EU</b>	European Union
<b>FTF</b>	Foreign terrorist fighters
<b>GCTS</b>	Global Counter-Terrorism Strategy
<b>GDP</b>	Gross domestic product
<b>GNI</b>	Global Network Initiative
<b>HRC</b>	Human Rights Council
<b>HRI</b>	Human Rights Internet
<b>HRIA</b>	Human Rights Impact Assessment
<b>HRW</b>	Human Rights Watch
<b>ICAR</b>	International Corporate Accountability Roundtable
<b>ICCPR</b>	<i>International Covenant on Civil and Political Rights</i>
<b>ICESCR</b>	<i>International Covenant on Economic, Social and Cultural Rights</i>
<b>IDP</b>	Internally displaced person
<b>IEF</b>	Internet Education Foundation
<b>ILO</b>	International Labour Organization
<b>ISO</b>	International Organization for Standardization
<b>ITU</b>	International Telecommunication Union
<b>MENA</b>	Middle East and North Africa
<b>NAP</b>	National action plan
<b>NGO</b>	Non-governmental organization
<b>NHRI</b>	National Human Rights Institutions
<b>OASIS</b>	Organization for the Advancement of Structured Information Standards
<b>OAU</b>	Organization of African Unity
<b>OEIGWG</b>	Open-Ended Intergovernmental Working Group
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>PIPEDA</b>	Personal Information Protection and Electronic Document Act
<b>SDG</b>	Sustainable Development Goal
<b>TNC</b>	Transnational corporation
<b>UDHR</b>	<i>Universal Declaration of Human Rights</i>
<b>UN</b>	United Nations
<b>UN-Women</b>	United Nations Entity for Gender Equality and the Empowerment of Women
<b>UNA</b>	United Nations Associations
<b>UNCTAD</b>	United Nations Conference on Trade and Development
<b>UNDG</b>	United Nations Development Group



<b>UNDP</b>	United Nations Development Programme
<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organization
<b>UNFCCC</b>	<i>United Nations Framework Convention on Climate Change</i>
<b>UNIDO</b>	United Nations Industrial Development Organization
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>UPR</b>	Universal Periodic Review
<b>WFUNA</b>	World Federation of United Nations Associations
<b>WSIS</b>	World Society on the Information Society



## Committee Overview

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

### **Introduction**

The Human Rights Council (HRC) is the main organ of the United Nations (UN) “responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and making recommendations on them.”<sup>2</sup> Its duty entails responding to urgent human rights situations by addressing issues regarding accountability and liability for violations of international human rights and humanitarian law.<sup>3</sup> HRC has a global scope, working to promote and protect all human rights; HRC currently focuses on several regions in Africa, Latin America, and the Middle East, with special attention placed on the ongoing conflict in Syria.<sup>4</sup>

Since the adoption of the *Universal Declaration of Human Rights* (UDHR) in 1948, the human rights agenda has expanded greatly.<sup>5</sup> To facilitate the implementation of the UDHR, the UN Secretariat established a UN department responsible for overseeing its human rights program.<sup>6</sup> This department, known as the Center for Human Rights, expanded its reach in the 1980s and moved from New York to Geneva.<sup>7</sup> In 1993, at the World Conference on Human Rights, Member States created the Office of the UN High Commissioner for Human Rights (OHCHR) with the responsibility of coordinating the human rights agenda across all intergovernmental agencies and departments within the UN.<sup>8</sup> OHCHR is responsible for the substantive, logistical, and administrative needs of all UN human rights mechanisms, including core treaty-based bodies, thematic working groups, and the HRC.<sup>9</sup>

As international human rights law has evolved, specialized agencies within the UN system have also emerged due to the urgent need to respond to human rights violations.<sup>10</sup> Among these was the Commission on Human Rights (CHR), which was an intergovernmental organization of the UN established in 1946 to address human rights challenges and concerns.<sup>11</sup> Over time, the CHR met increasing criticism from the international community for “excessive politicization.”<sup>12</sup> Persistent controversy led to the CHR’s loss of credibility, which severely damaged the UN’s reputation and work in human rights.<sup>13</sup> Reform efforts culminated in the creation of the HRC in 2006.<sup>14</sup> Pursuant to resolution 60/251, the General Assembly “decide[d] to establish the Human Rights Council, based in Geneva, in replacement of the [CHR].”<sup>15</sup> The HRC had in essence the same responsibilities as CHR, but possessed an enhanced scope of action under its new mandate.<sup>16</sup> As stipulated by the General Assembly, the HRC submitted to a five-year review in 2011.<sup>17</sup> All areas of the HRC were subject to scrutiny and critical assessment to ensure mechanisms and frameworks were streamlined and efficient.<sup>18</sup> The review identified only minor areas for

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<sup>1</sup> UN OHCHR, *United Nations Human Rights Council*, 2017.

<sup>2</sup> UN OHCHR, *The 20<sup>th</sup> Anniversary of OHCHR – 20 human rights achievements*, 2016.

<sup>3</sup> *Ibid.*

<sup>4</sup> UN OHCHR, *31<sup>st</sup> regular session of the Human Rights Council (29 February to 24 March 2016)*, 2016; Universal Rights Group, *Report on the 32nd Session of the Human Rights Council*, 2016.

<sup>5</sup> Trindade, *Universal Declaration of Human Rights*, 1948.

<sup>6</sup> UN OHCHR, *Who we are: Brief History*, 2017.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> UN OHCHR, *The Human Rights Council and the role of the Office of the High Commissioner for Human Rights*, 2017.

<sup>10</sup> UN OHCHR, *Who we are: Brief History*, 2017.

<sup>11</sup> *Ibid.*

<sup>12</sup> UN DPI, *General Assembly Establishes New Human Rights Council by vote of 170 in Favour to 4 Against, with 3 Abstentions (GA/10449)*, 2006.

<sup>13</sup> UN General Assembly, *In Larger Freedom: Towards Development, Security and Human Rights for All: Report of the Secretary-General (A/59/2005)*, 2005, p. 45.

<sup>14</sup> Spohr, *United Nations Human Rights Council: Between Institution-Building Phase and Review of Status*, 2010, pp. 174-175.

<sup>15</sup> UN General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

<sup>16</sup> *Ibid.*

<sup>17</sup> UN General Assembly, *Review of the Human Rights Council*.

<sup>18</sup> UN DPI, *Five Years after Creation, General Assembly Maintains Human Rights Council as Subsidiary Body, Concluding Review of Work, Functioning (GA/11101)*, 2011.

improvement; the HRC's "strong and largely well-functioning" nature led to its preservation as a subsidiary body of the General Assembly without significant changes to its structure or operations.<sup>19</sup>

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

Through a majority vote, the General Assembly elects the HRC's 47 Member States, which serve for a period of three years; these elections are staggered so that only one third of the seats are elected at a single time, creating continuity on the HRC.<sup>20</sup> The 47 Member States are distributed in regional groups: 13 from Africa, 13 from Asia, six from Eastern Europe, eight from Latin America and the Caribbean, and seven from the Western European and Others Group.<sup>21</sup> New members were elected in October 2017 during the General Assembly's 72<sup>nd</sup> session.<sup>22</sup> The Member States elected to the HRC as of 1 January 2018 are: Afghanistan, Angola, Australia, Chile, Democratic Republic of the Congo, Mexico, Nepal, Nigeria, Pakistan, Peru, Senegal, Slovakia, Spain, and Ukraine; Qatar was re-elected for another term.<sup>23</sup> The General Assembly Third Committee, which is responsible for evaluating questions related to human rights, considers the annual reports of the HRC and works closely with the HRC's Special Procedures mandate holders.<sup>24</sup>

Each year in March, June, and September, the HRC holds regular sessions to discuss issues under its purview.<sup>25</sup> Combined, these sessions last a minimum of 10 weeks, and at any time, one third of the HRC's Member States can request a special session "to address human rights violations and emergencies [related to human rights]."<sup>26</sup> There have been a total of 26 special sessions, the last of which was held in December 2016, focused on the human rights situation in South Sudan.<sup>27</sup> Each annual series of regular sessions is referred to as a "cycle."<sup>28</sup> At the start of each annual meeting, Member States elect a President and four Vice Presidents that make up the Bureau, which is responsible for all issues relating to the organization and procedures of the HRC and for leading the cycle.<sup>29</sup> The President is responsible for convening and chairing organizational meetings and regular sessions, as well as proposing candidates to serve as Special Procedures mandate holders.<sup>30</sup> The current President is Joaquin Alexander Maza Martelli, a Permanent Representative to the UN from El Salvador.<sup>31</sup> The Vice Presidents are Amr Ahmed Ramadan, Mouayed Saleh, Shalva Tsiskarashvili, and Valentin Zellweger from Egypt, Iraq, Georgia, and Switzerland, respectively.<sup>32</sup>

### ***Partnerships***

The HRC strengthens its efforts in upholding human rights by forming partnerships with non-governmental organizations (NGOs), National Human Rights Institutions (NHRIs), and other civil society actors.<sup>33</sup> Partnerships facilitate many of the HRC's initiatives, including specific programs or frameworks targeting groups deprived of their access to fundamental human rights and freedoms.<sup>34</sup> NGOs that have received Economic and Social Council (ECOSOC) consultative status and NHRIs can directly address HRC during discussions and debates and inform it of

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<sup>19</sup> UN DPI, *Five Years after Creation, General Assembly Maintains Human Rights Council as Subsidiary Body, Concluding Review of Work, Functioning (GA/11101)*, 2011.

<sup>20</sup> UN OHCHR, *Welcome to the Human Rights Council*, 2017.

<sup>21</sup> UN DPI, *General Assembly, by Secret Ballot, Elects 15 Member States to Serve Three-Year Terms on Human Rights Council*, 2017.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> UN General Assembly, *General Assembly of the United Nations: Social, Humanitarian & Cultural - Third Committee*.

<sup>25</sup> UN OHCHR, *Sessions*, 2017.

<sup>26</sup> *Ibid.*

<sup>27</sup> UN OHCHR, *26th special session of the Human Rights Council on the human rights situation in South Sudan*, 2016.

<sup>28</sup> UN OHCHR, *Sessions*, 2017.

<sup>29</sup> UN HRC, *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)*, 2007.

<sup>30</sup> UN OHCHR, *Special Procedures of the Human Rights Council*, 2017.

<sup>31</sup> UN OHCHR, *President of the 11<sup>th</sup> Cycle*, 2017.

<sup>32</sup> UN OHCHR, *Officers of the Human Rights Council's Eleventh Cycle (2016)*, 2017.

<sup>33</sup> UN OHCHR, *NGO and NHRI Information*, 2017.

<sup>34</sup> *Ibid.*



situations occurring in their home states.<sup>35</sup> Groups and NGOs that have not achieved ECOSOC consultative status can also provide written documents on a Member State as part of the Universal Periodic Review (UPR) Process.<sup>36</sup>

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

The HRC possesses a unique and comprehensive mandate outlined in General Assembly resolution 60/251 of 2006 on the “Human Rights Council” and guided by the principles of “universality, impartiality, objectivity and non-selectivity, constructive international dialogue, and cooperation.”<sup>37</sup> The General Assembly mandates the HRC to promote universal respect for human rights and fundamental freedoms; to address and provide recommendations on all, and particularly grave and systematic violations of human rights; and to promote an effective system of coordination within the UN system with respect to human rights issues.<sup>38</sup> Further, the General Assembly designated the HRC as a forum for debate and dialogue on all human rights issues, including addressing violations and responding to emergencies, promoting cooperation and education on human rights, reviewing Member States’ history and performance, and preventing abuses from occurring.<sup>39</sup>

Also crucial in informing the mandate and work of the HRC is the *International Bill of Human Rights*, which encompasses the UDHR, the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966), and the *International Covenant on Civil and Political Rights* (ICCPR) (1966) with its two Optional Protocols.<sup>40</sup> These documents are the pillars that guide the HRC in its recommendations by outlining the fundamental obligations and commitments of Member States in international human rights law.<sup>41</sup> Additionally, the *2030 Agenda for Sustainable Development* (2015) and the 17 Sustainable Development Goals (SDGs) guide the work of the HRC.<sup>42</sup>

In 2007, the HRC adopted resolution 5/1 on “institution-building,” which established mechanisms and structures to guide its program of work, rules of procedure, and other operational functions.<sup>43</sup> The resolution also established the format for the Special Procedures, the UPR, and the Complaint Procedure, which comprise the main powers of the HRC.<sup>44</sup> Special Procedures are mechanisms that enable independent parties to report, monitor, and advise on country-specific or thematic situations for the HRC.<sup>45</sup> Each investigation has a mandate and a mandate holder, who is typically a Special Rapporteur, an independent expert, or a working group, to carry out the investigation.<sup>46</sup> Special Procedures are empowered to undertake country or field visits, with the support of OHCHR, and to bring specific cases and concerns to the attention of Member States.<sup>47</sup> They can send communications detailing accusations of violations or abuses of human rights, engage in advocacy efforts, and offer technical assistance when possible.<sup>48</sup>

The UPR is one of the most important functions of the HRC.<sup>49</sup> Through the HRC, each Member State of the UN submits to a periodic review to assess the fulfillment of its human rights obligations.<sup>50</sup> The full cycle of the UPR process takes around four years and includes several steps.<sup>51</sup> The first and currently only process of its kind, the UPR is unique in both its approach and its universality.<sup>52</sup> At the preparation stage, information is gathered that will form the basis of the review, including national reports from the state under review, stakeholder submissions, and

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<sup>35</sup> UN OHCHR, *NGO and NHRI Information*, 2017.

<sup>36</sup> *Ibid.*

<sup>37</sup> UN OHCHR, *The Human Rights Council and the role of the Office of the High Commissioner for Human Rights*; UN General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

<sup>38</sup> UN General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

<sup>39</sup> UN OHCHR, *The Human Rights Council and the role of the Office of the High Commissioner for Human Rights*.

<sup>40</sup> UN OHCHR, *Fact Sheet No.2 (Rev.1), The International Bill of Human Rights*, 1996.

<sup>41</sup> UN OHCHR, *Human Rights: A Basic Handbook for UN Staff*.

<sup>42</sup> UN General Assembly, *Transforming our world: The 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015.

<sup>43</sup> UN OHCHR, *Working with the United Nations Human Rights Programme: A Handbook for Civil Society*, 2008, p. 75.

<sup>44</sup> *Ibid.*

<sup>45</sup> UN OHCHR, *Special Procedures of the Human Rights Council*, 2017.

<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*

<sup>49</sup> UN OHCHR, *Universal Periodic Review*, 2017.

<sup>50</sup> UN OHCHR, *Working with the United Nations Human Rights Programme: A Handbook for Civil Society*, 2008, p. 80.

<sup>51</sup> *Ibid.*

<sup>52</sup> UN OHCHR, *Universal Periodic Review*, 2017.

information prepared by OHCHR.<sup>53</sup> At the review stage, documents are presented at the regular sessions of the Working Group on the UPR, which is composed of all 47 Member States of the HRC.<sup>54</sup> At the adoption and considerations stage, each Member State provides comments and the state under review can offer reservations on specific issues.<sup>55</sup> Finally, during the follow-up stage, each state under review demonstrates how effectively it has acted upon the recommendations received.<sup>56</sup> The UPR has entered its third cycle (2017-2021) and will proceed with reviewing national reports for 42 Member States this year.<sup>57</sup>

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

In the United Nations Human Rights Appeal 2017, the High Commissioner unveiled the OHCHR thematic emphasis for 2017: “Stand Up for Someone’s Rights.”<sup>58</sup> This appeal establishes five aspirational and practical goals for individuals, and it aims to support these goals with a corresponding set of investments by OHCHR.<sup>59</sup> The five goals for individuals call on global citizens to be informed, to inform others, to speak out, to defend, and call on leaders to defend others’ human rights.<sup>60</sup> The document aligns the work of the OHCHR with the 2030 Agenda, describing it as a tool for “rights-full” change and sustainable development that leaves no one behind.<sup>61</sup> In order to support the 2030 Agenda and the five individual goals, the OHCHR strives to: improve early warning systems and early action; “protect and expand civil society space;” improve and defend peaceful coexistence; protect “people on the move and count[er] xenophobia.”<sup>62</sup>

The 34<sup>th</sup> regular session of the HRC took place between 27 February 2017 and 24 March 2017; members adopted 41 resolutions, 11 decisions, and one statement from the president.<sup>63</sup> The HRC continued high-level panel discussions on human rights mainstreaming and the importance of human rights in peacebuilding and dialogue.<sup>64</sup> The HRC also addressed the right to privacy in the digital age with resolution 34/7.<sup>65</sup> The document reaffirms *the Vienna Declaration and Programme of Action*, adopted 25 years ago on 25 June 2018.<sup>66</sup> Resolution 34/7 acknowledges the power and transformative nature of the Internet and extends the rights individuals have offline into their online presence, specifically the right to privacy.<sup>67</sup> The HRC also adopted resolution 34/8 during this session to examine and evaluate the effect of terrorism on the enjoyment of all human rights.<sup>68</sup> The HRC focused on the multiple threats posed by acts of terror on the enjoyment of human rights, which includes effects as varied as loss of life to reduction in economic development.<sup>69</sup> The HRC made clear that the impact of terrorism reaches far beyond immediate victims and noted that while efforts to combat terrorists are critical, these efforts must be pursued in a way that does not violate the human rights of any global citizen.<sup>70</sup>

The 35<sup>th</sup> regular session of the HRC was held between 6 June 2017 and 23 June 2017; at this meeting the HRC adopted 35 resolutions, one decision, and one statement from the president.<sup>71</sup> During this meeting, the HRC focused on addressing the protection of human rights for the most vulnerable members of society, particularly women and children; the need to accelerate access to education for the girl child; the elimination of violence and discrimination

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<sup>53</sup> UN OHCHR, *Working with the United Nations Human Rights Programme: A Handbook for Civil Society*, 2008, p. 80.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> UN OHCHR, *Universal Periodic Review*, 2017.

<sup>58</sup> UN OHCHR, *United Nations Human Rights Appeal 2017*, 2017.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

<sup>63</sup> UN OHCHR, *34<sup>th</sup> regular session of the Human Rights Council (27 February to 24 March 2017)*, 2017.

<sup>64</sup> UN HRC, *Report of the Human Rights Council on its thirty-fourth session (A/HRC/34/2)*, 2017.

<sup>65</sup> UN HRC, *The right to privacy in the digital age (A/HRC/RES/34/7)*, 2017.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> UN HRC, *Effects of terrorism on the enjoyment of all human rights (A/HRC/RES/34/8)*, 2017.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> UN OHCHR, *35<sup>th</sup> session of the Human Rights Council (6 June to 23 June 2017)*, 2017.

against women; and combating and eliminating human trafficking.<sup>72</sup> The HRC appointed a new Special Rapporteur to support the rights of individuals and families affected by leprosy.<sup>73</sup> This special rapporteur will serve the HRC for three years, working to eliminate discrimination against those affected by leprosy and following up with Member States to ensure that those affected can attain and enjoy their human rights.<sup>74</sup> The HRC adopted resolution 35/17, which on the “global compact for safe, orderly, and regular migration;” this approach particularly emphasizes the regularity of human migration and calls upon all Member States to protect the rights of migrants “regardless of their status.”<sup>75</sup> This resolution creates a robust set of principles for properly handling migration and the protection of the human rights of all migrants.<sup>76</sup>

During the intersessional period, the HRC will be hosting a panel discussion on local government and the protection of human rights; this panel will occur on 4 September 2017.<sup>77</sup> The panel will focus on: identifying methods for local governments to promote and support human rights, identifying challenges and best practices for local governments, examining the roles and priorities of local government officials, and evaluating the findings of the Advisory Committee on the role of local government.<sup>78</sup>

### **Conclusion**

The HRC addresses human rights on global, regional, and national levels by endeavoring to ensure all Member States safeguard the fundamental freedoms and rights articulated by international law.<sup>79</sup> As the HRC looks forward to 2018, it adopted resolution 35/1 laying out plans to commemorate the seventieth anniversary of the *Universal Declaration of Human Rights* and the twenty-fifth anniversary of the *Vienna Declaration and Programme of Action*.<sup>80</sup> The resolution establishes a commemorative high-level panel discussion that will occur during the 37<sup>th</sup> session of the HRC.<sup>81</sup> In addition to the high-level panel, the HRC calls upon all Member States and International Organizations to use the anniversary year to promote, support, and implement human rights protections, particularly as laid out by both the *Universal Declaration of Human Rights*, and later by the *Vienna Declaration and Programme of Action*.<sup>82</sup>

### **Annotated Bibliography**

Office of the United Nations High Commissioner for Human Rights. (n.d.). *Human Rights: A Basic Handbook for UN Staff*. Retrieved 17 August 2017 from: <http://www.ohchr.org/Documents/Publications/HRhandbooken.pdf>

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

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<sup>72</sup> Ibid.

<sup>73</sup> UN HRC, *Elimination of discrimination against persons affected by leprosy and their family members (A/HRC/RES/35/9)*, 2017.

<sup>74</sup> Ibid.

<sup>75</sup> UN HRC, *Protection of the human rights of migrants: the global compact for safe, orderly and regular migration (A/HRC/RES/35/17)*, 2017.

<sup>76</sup> Ibid.

<sup>77</sup> UN OHCHR, *Intersessional panel discussion on the role of local government in the promotion and protection of human rights*, 2017.

<sup>78</sup> Ibid.

<sup>79</sup> UN HRC, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar: Report of the United Nations High Commissioner for Human Rights (A/HRC/32/18)*, 2016; OHCHR, *Working with the United Nations Human Rights Programme: A Handbook for Civil Society*, 2008, p. 75.

<sup>80</sup> UN HRC, *Seventieth anniversary of the Universal Declaration of Human Rights and twenty-fifth anniversary of the Vienna Declaration and Programme of Action*, 2017.

<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

Office of the United Nations High Commissioner for Human Rights. (2008). *Working with the United Nations Human Rights Programme: A Handbook for Civil Society*. Retrieved 17 August 2017 from: [http://www.ohchr.org/en/AboutUs/CivilSociety/Documents/Handbook\\_en.pdf](http://www.ohchr.org/en/AboutUs/CivilSociety/Documents/Handbook_en.pdf)

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

Office of the United Nations High Commissioner for Human Rights. (2017). *35th session of the Human Rights Council (6-23 June 2017)* [Website]. Retrieved 17 August 2017 from:

<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session35/Pages/35RegularSession.aspx>

*This website provides delegates with access to all reports resulting from the 35<sup>th</sup> session of the HRC, including all country-specific reports. It also includes progress reports on a wide variety of topics, such as the Periodic Review of various Member States, an assessment of business and human rights, and the human rights of internally displaced persons. This page provides an excellent starting point for delegates researching new topics in the area of human rights, a comprehensive list of all topics covered during the 35<sup>th</sup> session, and the most updated information on the work of the HRC.*

United Nations, Human Rights Council, Fifth session. (2007). *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)* [Resolution]. Retrieved 17 August 2017 from:

<http://www.refworld.org/docid/4ae9acbbd.html>

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

United Nations, Human Rights Council, Thirty-fourth session. (2017). *Effects of terrorism on the enjoyment of all human rights (A/HRC/RES/34/8)* [Resolution]. Retrieved 28 August 2017 from: <http://undocs.org/A/HRC/RES/34/8>

*This document updates the work of the HRC on human rights, particularly as they are affected and impacted by terrorism. The document not only addresses the direct effect of terrorism on the loss of human rights but also the impact of counter-terror activities and the threat they pose to human rights. This document is necessary for delegates to begin understanding the HRC's current actions on terrorism. In particular, document addresses the many victims of terrorism, from those directly impacted by attacks, to individuals that suffer economically from the loss of tourism. The HRC also supports the efforts of Member States to combat and eliminate terror threats, while ensuring that in the process all individuals maintain access to and enjoyment of all of their human rights.*

United Nations, Human Rights Council, Thirty-fourth session. (2017). *The right to privacy in the digital age (A/HRC/RES/34/7)* [Resolution]. Retrieved 18 July 2017 from: <http://undocs.org/A/HRC/RES/34/7>

*This resolution adopted by the HRC assesses the current barriers and challenges to realizing the right to privacy, particularly in the digital and mobile age. This document presents foundational information for delegates to begin understanding the work done by the HRC on privacy in regards to technology governance and protections. This document examines the simultaneous opportunities provided by the digital age and the Internet and weighs these opportunities with the risks they pose to human rights. Specifically, the use of meta data is examined as a critical component to ensure the achievement of Agenda 2030; however, the large-scale collection of data also poses privacy and human rights risks to individuals.*

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## I. Reinforcing Businesses' Responsibility to Protect Human Rights

### *Introduction*

According to the International Labour Organization (ILO), 24.9 million people are forced into labor.<sup>83</sup> 16 million individuals face exploitation through the private sector.<sup>84</sup> Since 2008, human rights violations, often connected to the business sector, have increased globally by 70%.<sup>85</sup> In 2011, the United Nations (UN) Human Rights Council (HRC) emphasized in resolution 17/4, entitled “human rights and transnational corporations and other business enterprises,” that human rights protection must be ensured within the business sector.<sup>86</sup> According to the *Guidelines on Cooperation between the United Nations and the Business Sector*, the business sector encompasses “for-profit and commercial enterprises or business” as well as “business associations and coalitions, such as corporate philanthropic foundations.”<sup>87</sup> The business sector is responsible for workers’ safety, fair treatment, and preventing adverse human rights impacts.<sup>88</sup> The UN Industrial Development Organization (UNIDO) defines Corporate Social Responsibility (CSR) as “integrat[ing] social and environmental concerns in...business operations and interactions with...stakeholders.”<sup>89</sup> Businesses are a vital partner of the UN for addressing issues on economic and social development, environmental protection, and human rights.<sup>90</sup> The UN system, especially the HRC, has placed the protection of human rights and accountability measures for the business sector as a top priority, and achieving human rights protection in the business sector is vital for the fulfillment of the Sustainable Development Goals (SDGs).<sup>91</sup> Human rights protection by businesses will help promote SDG 3, “ensure healthy lives and promote well-being for all at all ages;” SDG 5, “achieve gender equality and empower all women;” and SDG 8, “promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.”<sup>92</sup>

### *International and Regional Framework*

The international community has covered human rights and their importance in the business sector in numerous international documents.<sup>93</sup> The *Universal Declaration of Human Rights* (UDHR) (1948) is a milestone document advocating for the protection of human rights.<sup>94</sup> Article 23 of the UDHR promotes the security of employees and access to work.<sup>95</sup> Article 24 of the UDHR advocates for employees’ appropriate working times.<sup>96</sup> In accordance with the UDHR, the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966) recognizes the right to fair work in ensuring political and economic freedoms.<sup>97</sup> Moreover, the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) (1979) is a core document that emphasizes equality between men and women.<sup>98</sup> Article 11 of CEDAW outlines the need for non-discriminatory policies for women in the work environment, security, and equal treatment at the workplace.<sup>99</sup> Adopted in 2015, the *Paris Agreement*, which resulted from the 21st Conference of the Parties (COP) to the *United Nations Framework Convention on Climate Change* (UNFCCC), outlines the need for climate policies to protect human rights in order to achieve sustainable

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<sup>83</sup> ILO, *Forced labour, modern slavery and human trafficking*, 2017.

<sup>84</sup> Ibid.

<sup>85</sup> Croser, *Human rights violations have increased 70% since 2008 globally*, 2014.

<sup>86</sup> UN HRC, *Human rights and transnational corporations and other business enterprises (A/HRC/RES/17/4)*, 2011, p. 1.

<sup>87</sup> UNGC, *Guidelines on Cooperation between the United Nations and the Business Sector*, 2009, p. 2.

<sup>88</sup> UN OHCHR, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, 2011, pp. 13-14.

<sup>89</sup> UNGC & Bertelsmann Stiftung, *The Role of Governments in Promoting Corporate Responsibility and Private Sector Engagement in Development*, 2010, p. 9; UNIDO, *What is CSR?*, 2017.

<sup>90</sup> UNGC, *The United Nations and the Private Sector: A Framework for Action*, 2008, p. 1.

<sup>91</sup> Ibid.

<sup>92</sup> UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015, pp. 4, 14.

<sup>93</sup> UN OHCHR, *Business and Human Rights*, 2017; UN OHCHR, *Frequently Asked Questions About the Guiding Principles on Business and Human Rights*, 2014, pp. 3-5.

<sup>94</sup> UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948, pp. 1-2.

<sup>95</sup> Ibid., p. 6.

<sup>96</sup> Ibid.

<sup>97</sup> UN General Assembly, *International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1966, p. 50.

<sup>98</sup> UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women (A/RES/34/180)*, 1979, pp. 193-194.

<sup>99</sup> Ibid., pp. 195-196.



development.<sup>100</sup> Businesses have a significant influence on the *Paris Agreement* by protecting the environment.<sup>101</sup> Reducing pollution will help contribute to local populations' health and will enhance the achievement of the SDGs.<sup>102</sup> The ILO is a specialized agency which establishes dialogue between governments and the business sector to help improve working conditions and policies.<sup>103</sup> In 1998, the ILO adopted the *ILO Declaration on Fundamental Principles and Rights at Work*, which seeks to eliminate child labor, discrimination, and highlights the “freedom of association” and “the right to collective bargaining.”<sup>104</sup> Additionally, in 2011, the Office of the UN High Commissioner for Human Rights (OHCHR) published the *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, which is the first framework to provide global standards on the incorporation of human rights in the business sector and was endorsed in HRC resolution 17/4.<sup>105</sup> The Framework has three pillars, which include CSR, Member State proficiencies in human rights protection, and the improvement of access to remedies.<sup>106</sup>

In 2015, the UN General Assembly adopted the *2030 Agenda for Sustainable Development*.<sup>107</sup> The 17 SDGs within the 2030 Agenda provide a framework for eradicating poverty, combating inequalities, ensuring human rights, and protecting the environment.<sup>108</sup> To achieve the 2030 Agenda, the business sector plays an important role because corruption, poor working conditions, and ineffective laws hinder sustainable development; protecting human rights is essential to sustainable development.<sup>109</sup> Reviewing company operations is a way to promote SDG 8, “decent work and economic growth,” which closely intertwines with the protection of human rights in the business sector.<sup>110</sup> Reinforcing business responsibility in protecting human rights will also promote gender equality outlined in Goal 5: “achieve gender equality and empower all women and girls,” and Goal 3, “ensure healthy lives and promote well-being for all at all ages.”<sup>111</sup>

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

In 2005, the UN Commission on Human Rights, the predecessor to the HRC, requested a special representative to provide information and working material on human rights issues in the business sector, as well as to draft and implement the *Guiding Principles on Business and Human Rights*.<sup>112</sup> In 2011, HRC resolution 17/4 established a Working Group to address the “issue of human rights and transnational corporations and other business enterprises.”<sup>113</sup> The Working Group established the Forum on Business and Human Rights, which meets yearly to share information on and facilitate the implementation of the *Guiding Principles on Business and Human Rights*.<sup>114</sup> Additionally, the Working Group provides guidance on implementing national action plans and serves as a platform for regional dialogue.<sup>115</sup> In HRC resolution 32/10 (2016) on “Business and human rights: improving accountability and access to remedy,” the HRC recognizes policies to improve accountability and access to remedies.<sup>116</sup> The HRC

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<sup>100</sup> Human Rights & Climate Change Working Group, *UNFCCC*, 2017.

<sup>101</sup> UNGC, *United Nations Global Compact 2018 Toolbox*, 2017, p. 7.

<sup>102</sup> *Ibid.*

<sup>103</sup> ILO, *About the ILO*, 2017.

<sup>104</sup> ILO, *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up*, 1998, p. 1.

<sup>105</sup> UN OHCHR, *Business and Human Rights*, 2017; UN OHCHR, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, 2011, p. 1; UN OHCHR, *The Corporate Responsibility to Respect Human Rights*, 2012, p. 1.

<sup>106</sup> UN OHCHR, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, 2011, p. 1.

<sup>107</sup> UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015, p. 1.

<sup>108</sup> *Ibid.*

<sup>109</sup> *Ibid.*, p. 4.

<sup>110</sup> Global Reporting Initiative et al., *SDG Compass: The guide for business action on the SDGs*, 2015, p. 12.

<sup>111</sup> UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015, pp. 4, 14.

<sup>112</sup> UN OHCHR, *Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises*, 2017.

<sup>113</sup> UN HRC, *Human rights and transnational corporations and other business enterprises (A/HRC/RES/17/4)*, 2011, p. 2.

<sup>114</sup> *Ibid.*, pp. 2-3; UN OHCHR, *Business and Human Rights*, 2017.

<sup>115</sup> UN HRC, *Business and human rights: Mandate of the Working Group on the issue of human rights and transnational corporations and other business enterprises (A/HRC/RES/35/7)*, 2017, p. 2.

<sup>116</sup> UN HRC, *Business and human rights: improving accountability and access to remedy (A/HRC/RES/32/10)*, 2016, p. 1.

calls for further actions in achieving the Guiding Principles, strengthening international cooperation and regional initiatives.<sup>117</sup> In 2017, the HRC adopted resolution 35/7, which emphasized the “Working Group on the issue of human rights for transnational corporations and business enterprises,” and extended the duration of the Working Group for three more years to continue international dialogues and cooperation.<sup>118</sup>

In its 71st session, the General Assembly discussed the “enhancement of international cooperation in the field of human rights,” which emphasizes the need to establish national and international dialogues.<sup>119</sup> Consequently, General Assembly resolution 71/197 (2016), “globalization and its impacts on the full enjoyment of human rights,” states that globalization and human rights protection are linked on international and regional levels.<sup>120</sup> It also calls for analyzing obstacles of globalization to human rights.<sup>121</sup> The UN Economic and Social Council (ECOSOC) invited the business sector to address responsibility within least developed countries in its resolution 2017/28 (2017), in order to achieve global sustainable development.<sup>122</sup> In ECOSOC resolution 2017/9 (2017), entitled “Mainstreaming a gender perspective into all policies and programmes in the United Nations system,” ECOSOC calls for actions in the areas of gender mainstreaming policies.<sup>123</sup> As “women and girls are disproportionately affected by forced labour,” ECOSOC outlines an important point that needs to be recognized for human rights protection.<sup>124</sup>

Next to the HRC and other UN entities, the UN Entity for Gender Equality and the Empowerment of Women (UN-Women) works towards the achievement of decent work and improving employment policies for all women.<sup>125</sup> In cooperation with the UN Global Compact, UN-Women introduced in 2017 the *Women’s Empowerment Principles*, which advocate for the equal treatment of women and men, promote education and livelihoods, and call for community initiatives and advocacy.<sup>126</sup> As the integration of women in the economy is crucial for sustainable development, the business sector plays an important role in advancing gender equality and the empowerment of women.<sup>127</sup> The UN Global Compact, a global voluntary initiative for CSR, aims towards the commitment of the business sector to incorporate labor standards, environmental protection, human rights, and anti-corruption actions within their efforts.<sup>128</sup> The ten principles outlined in the UN Global Compact – also focusing on human and labor rights – are a framework for sustainable business.<sup>129</sup> The UN Global Compact focuses on anti-corruption and environmental measures.<sup>130</sup> Proving a value-based approach, the UN Global Compact provides guidelines on how to conduct responsible business.<sup>131</sup> The UN Global Compact counts 13,000 participants for both the business and non-business sector.<sup>132</sup> The Open-Ended Intergovernmental Working Group (OEIGWG) on transnational corporations (TNCs) and other business enterprises has a specialized focus compared to the generalist approach of the UN Global Compact.<sup>133</sup> It serves as entity to address the issue of TNCs and works on a legally-binding measure to hold TNCs accountable for their actions.<sup>134</sup> The HRC works together with the OEIGWG to access information the Working Group provides on the special cases of TNCs.<sup>135</sup>

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<sup>117</sup> UN HRC, *Business and human rights: improving accountability and access to remedy (A/HRC/RES/32/10)*, 2016, pp. 2-4.

<sup>118</sup> UN HRC, *Business and human rights: Mandate of the Working Group on the issue of human rights and transnational corporations and other business enterprises (A/HRC/RES/35/7)*, 2017, p. 2.

<sup>119</sup> UN General Assembly, *Enhancement of international cooperation in the field of human rights (A/RES/71/194)*, 2016, pp. 1-2.

<sup>120</sup> UN General Assembly, *Globalization and its impact on the full enjoyment of all human rights (A/RES/71/197)*, 2016, p. 2.

<sup>121</sup> *Ibid.*, p. 3.

<sup>122</sup> UN ECOSOC, *Programme of Action for the Least Developed Countries for the Decade 2011–2020 (E/RES/2017/28)*, 2017, p. 2.

<sup>123</sup> UN ECOSOC, *Mainstreaming a gender perspective into all policies and programmes in the United Nations (E/RES/2017/9)*, 2017, pp. 1-2.

<sup>124</sup> ILO, *Forced labour, modern slavery and human trafficking*, 2017.

<sup>125</sup> UN-Women, *Employment and Migration*, 2017.

<sup>126</sup> UN-Women, *Women’s Empowerment Principles*, 2017.

<sup>127</sup> *Ibid.*

<sup>128</sup> UNGC, *The Ten Principles of the UN Global Compact*, 2017; UN OHCHR, *Business and Human Rights*, 2017.

<sup>129</sup> UNGC, *The Ten Principles of the UN Global Compact*, 2017.

<sup>130</sup> UNGC, *Our Participants*, 2017.

<sup>131</sup> *Ibid.*

<sup>132</sup> *Ibid.*

<sup>133</sup> Business & Human Rights Resource Centre, *How to hold TNC’s accountable for human rights violations?*, 2017.

<sup>134</sup> *Ibid.*

<sup>135</sup> *Ibid.*

To implement the aforementioned guidelines and framework, regional dialogues are needed.<sup>136</sup> Supported by the UN Development Programme (UNDP), the Economic Commission for Africa (ECA), and the UN Global Compact, the 2014 African Regional Forum on Business and Human Rights served as a multi-stakeholder platform to discuss the *Guiding Principles on Business and Human Rights*.<sup>137</sup> The forum promoted issues such as access to remedy and national action plans (NAPs), which serves as a basis to strengthening the protection of human rights in the business sector on a national level.<sup>138</sup>

CSOs address the issue of human rights in business in various ways.<sup>139</sup> The International Corporate Accountability Roundtable (ICAR), a civil society organization (CSO) composed of human rights groups, and the Danish Institute for Human Rights (DIHR), have developed a *Toolkit for the Development, Implementation and Review of State Commitments to Business and Human Rights Frameworks*.<sup>140</sup> The toolkit contains three major policies and calls for Member States' efforts in implementing the three components.<sup>141</sup> The three major components focus on a first assessment of the status quo in the specific country.<sup>142</sup> Secondly, it provides specific criteria on each case to develop a NAP, and third, involves the monitoring of efforts made.<sup>143</sup> Colombia, Denmark, France, Spain, the United States, and various other Member States have developed NAPs that include human rights in the business sector.<sup>144</sup> Implementing NAPs varies for each Member State; however, NAPs promote transparency, coordination, and cooperation on business and human rights for stakeholders and governments.<sup>145</sup> ICAR provides a roundtable for roughly 40 members such as the Interfaith Center in Corporate Responsibility, Amnesty International, and Human Rights Watch, to help promote initiatives on business practices in human rights-related issues.<sup>146</sup> In 2012, ICAR participated in launching the *Human Rights Due Diligence: the Role of States*, addressing the questions of Member State use of due diligence to make the business sector respect human rights.<sup>147</sup>

### ***Businesses' Responsibility to Protect Human Rights***

Human rights violations in the business sector range from lack of safety, non-payment, non-freedom of association, health issues, to gender discrimination.<sup>148</sup> Detecting the major industries at risk is difficult due to missing data in the field of business activities.<sup>149</sup> Nestlé USA is accused of violating labor rights through wage dumping and its support for child labor on cocoa farms in Côte d'Ivoire.<sup>150</sup> Around 109,000 children were reported to be working on cocoa farms Nestlé owns.<sup>151</sup> In 2013, 1,134 workers were killed in a collapsing factory in Bangladesh that was operated by H&M.<sup>152</sup> Without having proper safety regulations, the employees were exposed to severe dangers.<sup>153</sup>

To reinforce business responsibilities, a focus on international law is important, especially when questions of extraterritorial jurisdiction appear.<sup>154</sup> Access to remedy needs to be reinforced further within the business sector.<sup>155</sup> In HRC resolution 32/10, the Council emphasizes that international cooperation will be a major driver to enhance

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<sup>136</sup> UN OHCHR, *State national action plans*, 2017.

<sup>137</sup> UN OHCHR, *African Regional Forum on Business and Human Rights, 16-18 September 2014*, 2017.

<sup>138</sup> *Ibid.*

<sup>139</sup> CIVICUS, *2017 State of Civil Society Report: Executive Summary*, 2017, p. 4.

<sup>140</sup> UN OHCHR, *State national action plans*, 2017.

<sup>141</sup> ICAR, *National Action Plans on Business and Human Rights: A Toolkit for the Development, Implementation and Review of State Commitments to Business and Human Rights Frameworks*, 2017.

<sup>142</sup> *Ibid.*

<sup>143</sup> *Ibid.*

<sup>144</sup> UN OHCHR, *State national action plans*, 2017.

<sup>145</sup> UNGC, *Guidance for Global Compact Local Networks on National Action Plans on Business and Human Rights*, 2017, p. 1.

<sup>146</sup> ICAR, *Members*, 2017.

<sup>147</sup> ICAR, *Past Projects*, 2017.

<sup>148</sup> Clean Clothes Campaign, *Labour Rights Violations*, 2014.

<sup>149</sup> Junk, *Why do we know so little about corporate human rights abuses?*, *HuffPost: The Blog*, 2016.

<sup>150</sup> Clarke, *Child Labour on Nestlé farms: Chocolate giant's problems continue*, *The Guardian*, 2015.

<sup>151</sup> *Ibid.*

<sup>152</sup> Clean Clothes Campaign et al., *Three Years After Rana Plaza, H&M Factories Still Not Safe*, 2016.

<sup>153</sup> *Ibid.*

<sup>154</sup> Ruggie, *Business and Human Rights*, p. 170.

<sup>155</sup> UN OHCHR, *Statement by the Working Group Chairperson to the 35<sup>th</sup> session of the Human Rights Council*, 2017.

the access to remedy.<sup>156</sup> Member States need to link domestic laws with the business sector to improve accountability measures.<sup>157</sup> Human rights institutions, state institutions, and judicial institutions need to foster dialogue on how to achieve consistent legal standards.<sup>158</sup> It is important to consider different cultural and social norms when cooperating on an international level.<sup>159</sup> The UN Global Compact and the Guiding Principles need to be translated into practical solutions, with a legal and a social focus.<sup>160</sup> Approaching the Guiding Principles and the UN Global Compact through different regional perspectives will make them a stronger framework within the business sector.<sup>161</sup> The HRC can serve as a platform for establishing dialogue between the business sector, NGOs, the UN, and other actors involved in the Guiding Principles and the UN Global Compact.<sup>162</sup> HRC resolution 17/4 also calls for a gender-focused approach within the Working Group's efforts to achieve the Guiding Principles.<sup>163</sup> By including gender approaches into NAPs developed by governments, women and girls can be more fully protected within the business sector.<sup>164</sup> Another related area is data collection and monitoring.<sup>165</sup> The HRC has emphasized the need for businesses to share data linked to human rights on a public level to reinforce their accountability.<sup>166</sup> With combining these actions, the business sector can be a major driver in promoting the SDGs.<sup>167</sup>

### ***Transnational Corporations***

A TNC is an enterprise “comprising entities in more than one country which operate under a system of decision-making that permits coherent policies and a common strategy.”<sup>168</sup> Approximately one quarter of the world's productive assets, which are worth \$5 trillion, are owned and controlled by the 300 largest TNCs, and their total annual sales are even larger than the gross domestic product (GDP) of most countries.<sup>169</sup> The increased role of TNCs in the globalized world also causes negative effects.<sup>170</sup> TNCs often operate on the costs of cheap labor and raw materials, especially in developing countries.<sup>171</sup> Without clearly enforced international law standards, TNCs operate in a legal gray area concerning the environment and human rights.<sup>172</sup> Within the OEIGWG on TNCs and other enterprises, there is an ongoing discussion on TNCs and accountability.<sup>173</sup> The OEIGWG was mandated by the HRC in 2014 to work out legally-binding standards for TNCs.<sup>174</sup> The gravest violations of TNCs can be split up into three categories.<sup>175</sup> First, TNCs may support corrupt regimes, like as was seen in a lawsuit against Shell in 2009.<sup>176</sup> Secondly, TNCs may violate international environmental laws resulting in health problems and death for local populations, which happened to Shell and was accused for water pollution in Nigeria.<sup>177</sup> Thirdly, TNCs may not respect workers' rights fully.<sup>178</sup> Wage dumping and a lack of safety are major concerns with TNCs in relation to human rights.<sup>179</sup> The company Thor Chemicals Holdings Ltd. produced chemicals in South Africa without having proper safety arrangements.<sup>180</sup> The production led to the death of three workers and the poisoning of employees.<sup>181</sup>

<sup>156</sup> UN HRC, *Business and human rights: improving accountability and access to remedy (A/HRC/RES/32/10)*, 2016, p. 2.

<sup>157</sup> *Ibid.*, p. 3.

<sup>158</sup> UN HRC, *Business and human rights: improving accountability and access to remedy (A/HRC/RES/32/10)*, 2016, pp. 3-4.

<sup>159</sup> UN General Assembly, *Enhancement of international cooperation in the field of human rights (A/RES/71/194)*, 2016, p. 2.

<sup>160</sup> UN OHCHR, *Statement by the Working Group Chairperson to the 35<sup>th</sup> session of the Human Rights Council*, 2017.

<sup>161</sup> BSR, *Telia Company: Human Rights Impact Assessments*, 2017.

<sup>162</sup> UN HRC, *Business and human rights: improving accountability and access to remedy (A/HRC/RES/32/10)*, 2016, pp. 2-3.

<sup>163</sup> UN HRC, *Human rights and transnational corporations and other business enterprises (A/HRC/RES/17/4)*, 2011, p. 3.

<sup>164</sup> UN OHCHR, *Statement by the Working Group Chairperson to the 35<sup>th</sup> session of the Human Rights Council*, 2017.

<sup>165</sup> *Ibid.*

<sup>166</sup> UN HRC, *Business and human rights: improving accountability and access to remedy (A/HRC/RES/32/10)*, 2016, p. 3.

<sup>167</sup> UNGC, *Making Global Goals Local Business: A New Era for Responsible Business*, 2009, p. 14.

<sup>168</sup> UNCTAD, *Transnational Corporations Statistics*, 2017.

<sup>169</sup> Sing & Geer, *A Brief History of Transnational Corporations*, 2000.

<sup>170</sup> BBC, *Globalisation*, 2017, p. 5.

<sup>171</sup> *Ibid.*

<sup>172</sup> Weilert, *Taming the Untamable? Transnational Corporations in United Nations Law and Practice*, 2010, p. 447.

<sup>173</sup> Business & Human Rights Resource Centre, *How to hold TNC's accountable for human rights violations?*, 2017.

<sup>174</sup> *Ibid.*

<sup>175</sup> Weilert, *Taming the Untamable? Transnational Corporations in United Nations Law and Practice*, 2010, p. 451.

<sup>176</sup> *Ibid.*

<sup>177</sup> *Ibid.*, p. 452.

<sup>178</sup> *Ibid.*, p. 453.

<sup>179</sup> Weilert, *Taming the Untamable? Transnational Corporations in United Nations Law and Practice*, 2010, p. 453.

<sup>180</sup> *Ibid.*

<sup>181</sup> *Ibid.*

However, TNCs can positively impact economies by serving employees and improving infrastructure, goods, and new technologies.<sup>182</sup> To reinforce the human rights approaches by TNCs, there is a need for international monitoring.<sup>183</sup> The UN Global Compact, for instance, works as a network in which TNCs can show their support for human rights protection.<sup>184</sup> Nonetheless, the UN Global Compact is only a voluntary initiative and TNCs are not legally bound by it.<sup>185</sup>

### *Case Studies*

The nonprofit organization Business for Social Responsibility (BSR) was the major driver for the Telia Company to include human rights approaches within their divestment and new investments.<sup>186</sup> The Telia Company is a telecommunications company located in Stockholm and operates in 16 different countries.<sup>187</sup> Telia needed a Human Rights Impact Assessment (HRIA) to divest their Eurasian Subsidiaries and invest in Europe.<sup>188</sup> BSR helped identify and assess the human rights impacts of Telia's business practices by conducting research, visiting the countries, and prioritizing human rights.<sup>189</sup> Furthermore, BSR focused on how to integrate human rights into the companies' overall strategies.<sup>190</sup> An important finding was that the UN Guiding Principles needed to be transferred to different markets and industries.<sup>191</sup> The work of BSR shows how collaboration between the business sector and the non-business sector looks like when addressing human rights protections.<sup>192</sup> Secondly, it emphasizes how the business sector can reinforce human rights protection.<sup>193</sup> Furthermore, this case study shows how the Guiding Principles can be implemented.<sup>194</sup>

Furthermore, in 2017, the Working Group on business and human rights conducted a country visit in Mexico to monitor human rights progress in the business sector.<sup>195</sup> Mexico is confronted with high poverty and inequality rates.<sup>196</sup> Workers face a lack of security and low wages, and 2.5 million child laborers are working in Mexico.<sup>197</sup> The employment rate for women compared to men is 33.5% lower, and there is a large pay gap up, with up to 18.3% difference.<sup>198</sup> The Working Group visited different companies in the country to examine human rights cases.<sup>199</sup> The Working Group concluded that open dialogue between the business sector and affected groups needs to be strengthened as well as raising awareness of the Guiding Principles.<sup>200</sup> The Working Group noted that Mexico was willing to work on a NAP to address this, and that mechanisms for human rights protection would be beneficial, including the inclusion of human rights policies into value chains.<sup>201</sup> CSR focused on human rights, human rights legislation, and the emphasis of business responsibility.<sup>202</sup> By drawing attention to human rights challenges within

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<sup>182</sup> Weilert, *Taming the Untamable? Transnational Corporations in United Nations Law and Practice*, 2010, pp. 447-448.

<sup>183</sup> Chambers et al., *Responsibilities of transnational corporations and related business enterprises with regard to human rights*, p. 12.

<sup>184</sup> Weilert, *Taming the Untamable? Transnational Corporations in United Nations Law and Practice*, 2010, p. 469.

<sup>185</sup> *Ibid.*

<sup>186</sup> BSR, *Telia Company: Human Rights Impact Assessments*, 2017.

<sup>187</sup> Telia Company, *About the Company*, 2017.

<sup>188</sup> BSR, *Telia Company: Human Rights Impact Assessments*, 2017.

<sup>189</sup> *Ibid.*

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

<sup>191</sup> *Ibid.*

<sup>192</sup> *Ibid.*

<sup>193</sup> *Ibid.*

<sup>194</sup> *Ibid.*

<sup>195</sup> UN OHCHR, *Mexico: UN experts urge Government and business to engage deeply with people affected by development projects*, 2016.

<sup>196</sup> UN OHCHR, *Statement at the end of visit to Mexico by the United Nations Working Group on Business and Human Rights Mexico City, 7 September 2016*, 2016.

<sup>197</sup> *Ibid.*

<sup>198</sup> *Ibid.*

<sup>199</sup> *Ibid.*

<sup>200</sup> *Ibid.*

<sup>201</sup> *Ibid.*

<sup>202</sup> *Ibid.*

companies, awareness can be raised through international dialogue.<sup>203</sup> Governments can be supported by providing information, bringing involved actors together, developing a NAP, and reinforcing business responsibilities.<sup>204</sup>

### **Conclusion**

According to ILO's *World Employment Social Outlook 2017* report, progress in achieving ethical work has stalled.<sup>205</sup> The Guiding Principles need to be further employed within the international community, and it is important for the UN, the business sector, and civil society to address the reinforcement of businesses' responsibility to protect human rights.<sup>206</sup> The Guiding Principles should be incorporated for specific actors and real-time information-sharing needs to be established between each Member State.<sup>207</sup> Going forward, the past efforts need to be further developed to ensure human rights protection within globalization, privatization, and domestic deregulation.<sup>208</sup> Addressing human rights protection within the business sector and using sustainable business opportunities will help Member States fulfill and achieve the SDGs.<sup>209</sup>

### **Further Research**

When researching the topic at hand, delegates should consider the following questions: What are the most effective HRC policies for reinforcing businesses' responsibility in relation to human rights? Which mechanisms need to be improved to foster monitoring human rights in business? How can businesses be further encouraged and motivated to protect human rights? How can the incorporation of TNCs in the international protection of human rights be addressed? Which legal areas of protection need to be reinforced? How does gender connect to the topic of protecting human rights? How can vulnerable groups be protected within the business sector? How can monitoring of the implementation of the Guiding Principles be improved?

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*The World Employment and Social Outlooks 2017 Report is a useful source for delegates to get a better understanding of the current worldwide employment situation, the economic situation, structural challenges, and social trends. With an in-depth understanding of the current world employment and social outlook, it is easier for delegates to understand the background situation of transnational corporations and the growing reach of business enterprises. With this background knowledge, delegates can evaluate human rights approaches in the business sector with a world employment overview.*

Office of the United Nations High Commissioner for Human Rights. (2011). *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* [Report]. Retrieved 30 August 2017 from: [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

*This framework provides a detailed analysis of the Guiding Principles on Business and Human Rights that have been endorsed by the HRC in 2011. It outlines the three principles on which the framework is based and splits them up in foundational and operational principles. Additionally, the document provides commentaries related to each principle, which further eases the understanding of the three principles. Therefore, the document is a valuable source for delegates who want to understand the Guiding Principles, which serve as an international framework to human rights approaches in the business sector.*

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<sup>203</sup> Ibid.

<sup>204</sup> Ibid.

<sup>205</sup> ILO, *World Employment and Social Outlooks: Trends 2017*, 2017, p. 6.

<sup>206</sup> UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015, p. 4; Ruggie, *Business and Human Rights*, p. 170.

<sup>207</sup> Ruggie, *Business and Human Rights*, p. 170.

<sup>208</sup> Ibid., p. 168.

<sup>209</sup> UNGC, *Making Global Goals Local Business: A New Era for Responsible Business*, 2009, p. 3.

Office of the United Nations High Commissioner for Human Rights. (2012). *The Corporate Responsibility to Respect Human Rights* [Background Note]. Retrieved 19 July 2017 from: [http://www.ohchr.org/Documents/Publications/HR.PUB.12.2\\_En.pdf](http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf)

*The Corporate Responsibility to Respect Human Rights note is a useful resource for delegates to foster their understanding of the Guiding Principles on Business and Human Rights. It explains the United Nations “Protect, Respect and Remedy” Framework and the Guiding Principles. The purpose of the document is to provide additional background information on the Guiding Principles by explaining each principle and the concepts behind it. It helps delegates get a full understanding of the meaning and intent of the Guiding Principles. The guide is structured in three sections. The first section provides key concepts of the Guiding Principles, and the second and third sections focus on the substance and interpretation of the Guiding Principles. In addition, it also shows the need to further develop implementations measures and is therefore a starting point for delegates to come up with innovative approaches.*

Office of the United Nations High Commissioner for Human Rights. (2014). *Frequently Asked Questions About the Guiding Principles on Business and Human Rights* [Background Note]. Retrieved 30 August 2017 from: [http://www.ohchr.org/Documents/Publications/FAQ\\_PrinciplesBusinessHR.pdf](http://www.ohchr.org/Documents/Publications/FAQ_PrinciplesBusinessHR.pdf)

*This publication answers frequently outlined questions regarding the Guiding Principles on Business and Human Rights. It explains what human rights are, the legal background of the Guiding Principles, and includes the special needs of vulnerable groups. The document also introduces the tasks of the Forum on Business and Human Rights and answers basic questions on the different 31 principles concerning their definition, scope, and development. Delegates will find this a useful resource in researching the topic at hand, providing them a structured overview of the Guiding Principles and their connection with human rights and the business sector.*

Office of the United Nations High Commissioner for Human Rights. (2017). *Business and Human Rights* [Website]. Retrieved 19 July 2017 from: <http://www.ohchr.org/EN/Issues/Business/Pages/BusinessIndex.aspx>

*The UN Office of the High Commissioner for Human Rights (OHCHR) Business and Human Rights website is a starting point for delegates’ research and help delegates gain a first understanding of the topic. The material provided by OHCHR includes press releases, resolutions, reports, forum session, and regional backgrounds. Delegates can expand their research by using information on the Working Group on the issue of human rights and transnational corporations and other businesses. This website is particularly useful for delegates to understand the objectives and core approaches to the topic.*

United Nations Global Compact. (2009). *Guidelines on Cooperation between the United Nations and the Business Sector* [Background Note]. Retrieved 30 August 2017 from: <http://www.un.org/en/ethics/pdf/Guidelines-on-Cooperation-with-the-Business-Sector.pdf>

*This document provides a synopsis of the relationship between the UN and the business sector. The guidelines contain a definition of the business sector in Chapter II. To have a definition of the business sector will help delegates to define their field of research. Additionally, the ten principles of the UN Global Compact can be found in the document. Delegates will find this source useful as they start researching the topic at hand, as it links major issues related to the topic and defines the involved actors.*

United Nations Global Compact. (2017). *Making Global Goals Local Business: A New Era for Responsible Business* [Report]. Retrieved 19 July 2017 from: [https://www.unglobalcompact.org/docs/about\\_the\\_gc/MakingGlobalGoalsLocalsBusiness2017.pdf](https://www.unglobalcompact.org/docs/about_the_gc/MakingGlobalGoalsLocalsBusiness2017.pdf)

*While frameworks and guidelines are mostly developed for a more general approach on an international level, implementation often happens at the national level. Thus, it is important for delegates to transfer international guidelines and frameworks at a national level. This source shows delegates how national action plans are conceived in the field of business. It first outlines the megatrends in today’s business landscape, links business to the SDGs, and provides a toolbox for human rights approaches in the business sector. The toolbox provides resources on the SDGs such as a SDG compass and a SDG industry matrix. This tool provides guidelines for the business sector in incorporating sustainable business.*

United Nations Global Compact. (2017). *The Ten Principles of the UN Global Compact* [Website]. Retrieved 30 August 2017 from: <https://www.unglobalcompact.org/what-is-gc/mission/principles>

*The UN Global Compact is addressing the relation between business and human rights. It outlines the need for a human rights-based approach within the business sector. As the HRC has shaped the implementation of human rights principles, delegates will get a profound understanding of how the committee is working with partner institutions and other UN agencies. By analyzing the core principles, delegates will get a better understanding of HRC's work, the commitment of business actors, as well as of the scope of action. With this knowledge, delegates can evaluate the legal and social areas which need to be reinforced to ensure human rights protection in the business sector.*

United Nations Global Compact. (2017). *United Nations Global Compact 2018 Toolbox* [Background Note]. Retrieved 19 July 2017 from: [https://www.unglobalcompact.org/docs/publications/2018\\_Toolbox.pdf](https://www.unglobalcompact.org/docs/publications/2018_Toolbox.pdf)

*The 2018 Toolbox by the UN Global Compact connects the business sector, sustainable development, and the achievement of the SDGs. The UN Global Compact has developed a portfolio of Action Platforms to link the SDGs and the business sector. The Action Platforms are based on the Guiding Principles and include civil society, governments, and UN partners. The Action Platforms include issues such as SDG reporting, financial innovation, health issues, inclusion, and decent work in global supply chains, which are explained in detail. However, not all of them are launched yet. Therefore, the document provides an example of recent innovative work in the field of sustainable business. Delegates will find this source useful as they research innovative ways to reinforce businesses' human rights responsibilities.*

United Nations, Human Rights Council. (2011). *Human rights and transnational corporations and other business enterprises (A/HRC/RES/17/4)* [Resolution]. Retrieved 19 July 2017 from: <http://undocs.org/A/HRC/RES/17/4>

*In HRC resolution 17/4, the HRC stresses the responsibility of transnational corporations and other business enterprises to respect human rights. The HRC created a Working Group on the issue of human rights and transnational corporations and other business enterprises in this resolution. The resolution outlines the work areas and duties of the Working Group. The Working Group serves as a platform to develop and exchange good practices on putting the Guiding Principles into action. It also serves as a forum for dialogue and works together with Member States. This resolution provides context for the topic, as well as outlines the importance of the HRC's work.*

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## II. Effects of Terrorism on the Enjoyment of All Human Rights

### *Introduction*

In 2015, 274 known terrorist groups were active, and more than 90% of terrorist attacks occurred in states experiencing some level of political unrest or violent conflict.<sup>210</sup> Member States with fewer protections for human rights tend to also suffer from higher levels of terrorism.<sup>211</sup> Terrorist acts compromise human rights by undermining civil and socioeconomic liberties; these rights are largely affected by the direct consequences of terrorism and the psychological effects they pose on human beings.<sup>212</sup> In 2017, the United Nations (UN) Human Rights Council (HRC) expressed in resolution 34/8 that terrorist acts restrict the enjoyment of social, cultural, and economic freedoms, and harm the dignity of civil societies and democratic states.<sup>213</sup> As the primary UN body mandated to promote and protect human rights, the HRC has a crucial mission to prevent human rights abuses globally and offer recommendations to inhibit and eliminate human rights violations.<sup>214</sup> The Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism has described international terrorism as the single largest roadblock to the UN's goals of addressing peace and security while advancing human rights.<sup>215</sup> UN General Assembly resolution 49/60, adopted in 1994, defined terrorism as acts intended to instill fear in the lives of individuals irrespective of the motivations and circumstances.<sup>216</sup> Though a single accepted definition of terrorism does not exist, it is imperative to recognize the impact that terrorism has on the enjoyment of all human rights.<sup>217</sup>

Although acts of terror were previously seen as committed by isolated individuals, the rise of global interconnectivity, electronic databases, complex communication technologies, and distributed networks allow terrorists to organize and execute acts across national borders that are difficult to trace and prevent.<sup>218</sup> These technological advances provide a platform which facilitates the spread of terrorism and impacts not only those directly affected by a terrorist act, but also individuals dispersed around the globe subjected to various investigative techniques that limit or eliminate their human rights in the fight against terrorism.<sup>219</sup> Although the number of deaths caused by terrorist groups decreased by 10% in 2016 for the first time since 2010, terrorist organizations continue expanding their presence geographically.<sup>220</sup> Terrorism causes a ripple effect on societies and impedes not only the enjoyment of human rights presently, but also compromises the rights of future generations.<sup>221</sup> In many instances, actions taken to combat and prevent acts of terror can themselves result in violations of human rights, including commissioning “torture, inhuman or degrading punishment, or serious violations of the rights to a fair trial.”<sup>222</sup> While some Member States are more heavily impacted than others, no state is wholly excluded from the destructive outcomes of terrorism, violent extremism, or transnational organized crime networks.<sup>223</sup> Eradicating sources of violent extremism and terrorism, such as weak governance, prolonged and unresolved religious and ethnic conflicts, and rule of law violations, may make environments less conducive to the growth and development of terrorism in

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<sup>210</sup> Institute for Economics and Peace, *Global Terrorism Index 2016: Measuring and Understanding the Impact of Terrorism*, 2017, p. 5.

<sup>211</sup> *Ibid.*, p. 70.

<sup>212</sup> UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, p. 1.

<sup>213</sup> UN HRC, *Effects of terrorism on the enjoyment of all human rights (A/HRC/RES/34/8)*, 2017, p. 2.

<sup>214</sup> UN OHCHR, *About the HRC*, 2017.

<sup>215</sup> UN HRC, *Report on the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/34/61)*, 2017, p. 4.

<sup>216</sup> UN General Assembly, *Measures to eliminate international terrorism (A/RES/49/60)*, 1995, p. 4.

<sup>217</sup> UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, p. 7.

<sup>218</sup> NATO, *Transforming the Alliance*, 2002.

<sup>219</sup> UN HRC, *Report on the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/34/61)*, 2017, p. 4.

<sup>220</sup> Institute for Economics and Peace, *Global Terrorism Index 2016: Measuring and Understanding the Impact of Terrorism*, 2017, p. 2.

<sup>221</sup> UN High-Level Panel on Threats, Challenges and Change, *A more secure world: Our shared responsibility*, 2004, p. 27.

<sup>222</sup> UNODC, *Kenya Training Manual on Human Rights and Criminal Justice Responses to Terrorism*, 2016, p. 3.

<sup>223</sup> UN General Assembly, *Plan of action to prevent violent extremism: Report of the Secretary-General (A/70/674)*, 2015, p. 1.

these areas.<sup>224</sup> Promoting and protecting human rights, in accordance with humanitarian law, is pivotal to restoring peace and security in the fight against terrorism.<sup>225</sup>

### ***International and Regional Framework***

International and regional communities have established numerous frameworks for international action that situate the protection of human rights within the context of terrorism and counter-terrorism.<sup>226</sup> The *International Bill of Human Rights*, which is comprised of the *Universal Declaration of Human Rights* (UDHR) (1948), the *International Covenant on Civil and Political Rights* (ICCPR) (1996), with its two optional protocols, and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966), lay the groundwork of human rights principles for this topic.<sup>227</sup> The UDHR represents an effort by the international community to outline the most fundamental rights with the goal of preserving human dignity and promoting human rights.<sup>228</sup> In Article 1, the UDHR states that all individuals are born with equal rights and dignity; it also notes in Article 22 that members of society are entitled to full realization of their rights.<sup>229</sup> Under Article 3, all persons have the right to “life, liberty and security.”<sup>230</sup> The ICCPR outlines Member States’ commitment to respecting civil and political rights, especially the rights to life, freedom of religion, and fair judicial proceedings.<sup>231</sup> Article 9 of the ICCPR describes the human rights to liberty and security, including the right to be free from unlawful arrest, and Article 20 prohibits racial or religious hatred, discrimination, and violence towards others.<sup>232</sup> The ICESCR defines the responsibilities of Member States in regards to the right to self-determination, an individual’s right to general welfare, and the right to access adequate labor and educational opportunities.<sup>233</sup> Such rights, particularly the right to self-determination, the right to education, and especially the right to life, are severely threatened by terrorism.<sup>234</sup>

The Office of the UN High Commissioner for Human Rights (OHCHR) considers nine documents and their optional protocols central to addressing specific concerns on human rights issues.<sup>235</sup> Of these, the *Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Punishment*, adopted in 1975 by the General Assembly, restricts the use of torture by representatives of state governments.<sup>236</sup> The Declaration notes that states have an obligation to prevent the use of torture and may not use anything resulting from torture as evidence against a suspect in legal proceedings.<sup>237</sup> The Declaration defines torture as an act perpetrated by a public official that causes “severe pain or suffering, whether physical or mental,” in efforts to obtain information or to castigate an individual for an act they did or are suspected of.<sup>238</sup> *The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984) specifies that all Member States should ensure that acts of torture, as defined by the convention, are considered criminal law violations.<sup>239</sup> Additionally, it urges each Member State to impose legislative, executive, and judicial measures to prevent torture within its boundaries, including acts committed by terrorist groups.<sup>240</sup>

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<sup>224</sup> UN General Assembly, *The United Nations global counter-terrorism strategy review (A/RES/70/291)*, 2016, p. 1.

<sup>225</sup> UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, p. 14.

<sup>226</sup> UN OHCHR, *The core international human rights instruments and their monitoring bodies*, 2017.

<sup>227</sup> UN OHCHR, *The International Bill of Human Rights: Factsheet no. 2 (Rev.1)*.

<sup>228</sup> UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948.

<sup>229</sup> *Ibid.*

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

<sup>231</sup> UN General Assembly, *International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1966.

<sup>232</sup> *Ibid.*

<sup>233</sup> UN General Assembly, *International Covenant on Economic, Social and Cultural Rights (A/RES/2200 (XXI))*, 1966.

<sup>234</sup> *Ibid.*

<sup>235</sup> OHCHR, *The core international human rights instruments and their monitoring bodies*, 2017.

<sup>236</sup> UN General Assembly, *Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/RES/3452 (XXX))*, 1975; UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Optional Protocol (A/RES/57/199)*, 2003.

<sup>237</sup> *Ibid.*

<sup>238</sup> *Ibid.*

<sup>239</sup> UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/RES/39/46)*, 1984.

<sup>240</sup> *Ibid.*

*Transforming our World: the 2030 Agenda for Sustainable Development* (2015), adopted by the General Assembly, urges Member States to cooperate to ensure full respect for human rights; strengthen the values of peace, security, and justice; and encourage global citizenship.<sup>241</sup> Sustainable Development Goal (SDG) 16 stresses the importance of strong judicial institutions to further promote and protect human rights, and the pivotal role of strong institutions in countering terrorism and preventing human rights violations.<sup>242</sup>

Regional organizations, such as the Organization of African Unity (OAU) also play an important role in promoting and protecting human rights; in 1999, the OAU adopted the *Convention on the Prevention and Combatting of Terrorism*, which highlighted the importance of nurturing tolerance and upholding moral values in the fight against terrorism.<sup>243</sup> The document acknowledges that terrorism destabilizes countries, impairing the enjoyment of basic human rights, and the Convention endorses “inter-regional partnerships and judicial support to carry out investigations, criminal prosecutions and repatriation proceedings in regards to terrorist acts.”<sup>244</sup> The *Arab Convention on the Suppression of Terrorism*, adopted in 1998 by the League of Arab States, advocates for the protection of human rights and establishes anticipatory measures to defeat terrorism, including inhibiting the planning, organizing, and execution of terrorist acts, as well as measures to suppress terrorism through effective prosecution and regional cooperation.<sup>245</sup>

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

Protecting and promoting human rights requires constant cooperation from international and regional bodies, and with the added challenge of combating terrorism, the need to protect and promote human rights increases significantly.<sup>246</sup> Information-sharing and capacity-building initiatives from Member States are central to reducing and eliminating the threats of terrorism.<sup>247</sup> In resolution 2178 (2014), the Security Council highlighted the importance of addressing violent extremism posed by foreign terrorist fighters (FTF) by upholding international and humanitarian law, and hindering the establishment of terror groups by accelerating the exchange of operational information.<sup>248</sup> The former Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, Ben Emmerson, stated that combating terrorism ultimately requires both increased public official transparency regarding gross human rights violations as well as increased collaboration between Member States and civil society at both regional and international levels.<sup>249</sup>

In 2017, the “Panel discussion on the implementation of United Nations Declaration of Human Rights Education and Training: Good Practices and Challenges” held by the HRC, addressed confronting discrimination and preventing violent extremism through education.<sup>250</sup> In addition, the UN Deputy High Commissioner for Human Rights further emphasized the impact that human rights education has on upholding the values of respect and justice while protecting and promoting human rights.<sup>251</sup> General Assembly resolution 60/288 (2006) established the UN Global Counter-Terrorism Strategy (GCTS), which identifies four pillars essential to combating terrorism through a concrete Plan of Action.<sup>252</sup> The pillars include ideas within them such as identifying the root causes of terrorism;

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<sup>241</sup> UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015.

<sup>242</sup> UN DESA DSD, *Sustainable Development Goal 16*, 2017.

<sup>243</sup> OAU, *Treaty on Cooperation among the States Members of the Commonwealth of Independent States in Combatting Terrorism*, 1999, p. 1.

<sup>244</sup> *Ibid.*

<sup>245</sup> LAS, *The Arab Convention on the Suppression of Terrorism*, 1998.

<sup>246</sup> UN Security Council CTC, *International, regional and sub regional cooperation*, 2017.

<sup>247</sup> UN Security Council, *Foreign Terrorist Fighters, (S/RES/2178 (2014))*, 2014, p. 2.

<sup>248</sup> *Ibid.*

<sup>249</sup> UN HRC, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson: Framework Principles for securing the accountability of public officials for gross or systematic human rights violations committed in the context of State counter-terrorism initiatives (A/HRC/22/52)*, 2013, p. 7.

<sup>250</sup> UN HRC, *Panel discussion on the implementation of the United Nations Declaration on Human Rights Education and Training: good practices and challenges: Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General (A/HRC/35/6)*, 2017, p. 2.

<sup>251</sup> *Ibid.*

<sup>252</sup> UN General Assembly, *The United Nations Global Counter-terrorism Strategy (A/RES/60/288)*, 2006.

enacting measures to combat terrorism; building the capacity of Member States; increasing the capacity of the UN's work; and ensuring respect for the rule of law and all human beings while fighting terrorism.<sup>253</sup>

In 2005, the Commission on Human Rights (CHR), the precursor to the HRC, appointed the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism to investigate alleged human rights violations and provide Member States with guidance on protecting human rights while countering terrorism.<sup>254</sup> The Special Rapporteur was also mandated to determine best practices on solutions to the issue through collaboration with other relevant special rapporteurs and independent experts.<sup>255</sup> Additionally, the Special Rapporteur acknowledged that the right to life is “non-deplorable” as outlined in the ICCPR, and implored the international community to create a normative framework that outlines and protects the rights of victims of terrorism.<sup>256</sup> To this end, the UN Office on Drugs and Crime (UNODC) published the *Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework*.<sup>257</sup> The report, collaboratively drafted in 2015 by Member States, UN bodies, civil society, and other relevant actors, recommends establishing and enhancing jurisprudence to reinforce international obligations on the treatment of suspects and responsibilities to survivors.<sup>258</sup>

Since its creation in 2006, the HRC has adopted numerous resolutions which address terrorism in the context of human rights.<sup>259</sup> Resolution 34/8 recognizes the importance of strengthening intercultural understanding for conflict resolution and to stimulate respect for the rights acknowledge in the UDHR.<sup>260</sup> Also adopted in 2017, resolution 35/2 on “The right to education: follow up to Human Rights Council resolution 8/4” acknowledges the disruptive effect conflict and crisis have on the full realization of educational rights and encourages Member States to protect educational institutions and provide inclusive education for victims of conflict.<sup>261</sup>

Building on Security Council resolution 1373, which created the Counter-Terrorism Committee (CTC), Security Council resolution 1624 (2005) gave the CTC the mandate of enhancing the ability of Member States to inhibit terrorism domestically and internationally.<sup>262</sup> The CTC emphasizes the importance of combating the spread of violent extremism as a means of preventing terrorism and protecting human rights; in particular, the committee stresses the importance of establishing “dialogue, inclusion and the [promotion] of understanding.”<sup>263</sup> Additionally, the CTC highlights the important role of women in countering terrorism and violent extremism, as women are often well poised to take preventative measures against the spread of violent extremism within their communities.<sup>264</sup> Further, Security Council resolution 2242, adopted in 2015, urges Member States and UN bodies to integrate women in developing counter-terrorism strategies through leadership initiatives and public empowerment.<sup>265</sup>

The UN recognizes the importance of collaborating with non-governmental organizations (NGOs) in the fight against terrorism.<sup>266</sup> NGOs such as Human Rights Watch (HRW) and the World Federation of United Nations Associations (WFUNA) have contributed valuable knowledge for the defence of human rights and the protection of the rule of law through democratic engagement.<sup>267</sup> Human Rights Watch conducts global investigations, documents human rights violations, raises awareness on pressing issues, and works to bring justice to victims of these crimes.<sup>268</sup>

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<sup>253</sup> UN General Assembly, *Plan of action to prevent violent extremism: Report of the Secretary-General (A/70/674)*, 2015, p. 1.

<sup>254</sup> UN CHR, *Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, (E/CN.4/RES/2005/08), 2005, p. 4.

<sup>255</sup> *Ibid.*

<sup>256</sup> UN HRC, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson: Framework principles for securing the human rights of victims of terrorism (A/HRC/20/14)*, 2012, p. 4.

<sup>257</sup> UNODC, *Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework*, 2015, p. 3.

<sup>258</sup> *Ibid.*

<sup>259</sup> UN OHCHR, *Documents and Resolutions*, 2017.

<sup>260</sup> UN HRC, *Effects of terrorism on the enjoyment of all human rights*, (A/HRC/RES/34/8), 2017, p. 2.

<sup>261</sup> UN HRC, *The right to education: follow-up to Human Rights Council resolution 8/4 (A/HRC/RES/35/2)*, 2017.

<sup>262</sup> UN Security Council CTC, *Counter-Terrorism Committee*, 2017.

<sup>263</sup> UN Security Council CTC, *Countering violent extremism*, 2017.

<sup>264</sup> UN Security Council CTC, *Role of women in countering terrorism and violent extremism*, 2017.

<sup>265</sup> UN Security Council, *Women in Peace and Security (S/RES/2242 (2015))*, 2015, p. 1.

<sup>266</sup> UN OHCHR, *Civil society space and the united nations human rights system*, 2014, p. 2.

<sup>267</sup> Office for Democratic Institutions and Human Rights, *The Role of Civil Society in Preventing Terrorism*, 2007.

<sup>268</sup> HRW, *2017 World Report: Events of 2016*, 2017.



HRW and the HRC also collaborate to deliver country-specific reports and advance compliance of the rule of law.<sup>269</sup> WFUNA represents membership of more than 100 UN associations and works to support and augment the work of the UN by collaborating with global citizens and promoting human rights through various programs, including the Civil Society in Action for Human Rights initiative and the United Nations Associations (UNA) Youth Human Rights Training.<sup>270</sup>

### ***The Impact of Terror Incidents on Human Rights***

As outlined by OHCHR, effectively combating terrorism requires Member States to comply with international human rights and humanitarian law.<sup>271</sup> Counter-terrorism agencies that repeatedly violate the rule of law often incite the rise of terrorism.<sup>272</sup> Terrorism directly threatens one's right to life and often violates the right to the peace and security of persons.<sup>273</sup> If endangered, the loss of the right to life renders all other human rights meaningless.<sup>274</sup> Victims of terrorism frequently become targets on the basis of their race, religious beliefs, or other similar characteristics enshrined for protection in numerous human rights conventions.<sup>275</sup> Terrorist acts are often a consequence of political injustice, social disorder, and lack of government accountability.<sup>276</sup> These environments are conducive to terrorism and give rise to terrorist groups and recruitment, resulting in offenses such as systematic torture, rape, gender-based violence, religious and ethnic cleansing and genocide, and mass disappearances.<sup>277</sup> Member States without strong institutions may be unable to curtail the spread of these groups, due to lack of cohesive governance, capacity, infrastructure, and funding.<sup>278</sup> The widespread incidence of terrorism further undermines democratic institutions, destabilizes governments, spreads fear among societies, insults human dignity, and impedes the enjoyment of all human rights.<sup>279</sup>

Perhaps the most critical long-term consequence that terrorism poses on the enjoyment of human rights is the cyclical threat to social and economic development.<sup>280</sup> Socioeconomic development and the promotion of human rights are largely dependent on the presence of good governance policies and fair justice systems; therefore, weakening judicial processes and the rule of law indirectly restricts rights and freedoms of individuals and contributes to an environment conducive to terrorism.<sup>281</sup> Lack of economic opportunities and weak economic growth also support the growth of terrorist organizations through the recruitment of unemployed individuals.<sup>282</sup> Attacks orchestrated by terrorist organizations intentionally target civilians with a mission to inflict political or religious views, destroy social peace, and impart a state of perpetual fear.<sup>283</sup>

In 2015, Boko Haram, a terrorist group predominately based in Nigeria, forced the displacement of approximately two million individuals.<sup>284</sup> This situation has limited people's access to basic rights like shelter, healthcare, security, and food.<sup>285</sup> Terrorist attacks often destroy lands used for food production, affecting consumers, producers, and communities, as well as disrupting the flow of goods and the storage of provisions.<sup>286</sup> These events not only restrict

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<sup>269</sup> HRW, *Human Rights Council*, 2017.

<sup>270</sup> WFUNA, *WFUNA and Human Rights*, 2017.

<sup>271</sup> UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, p. 2.

<sup>272</sup> *Ibid.*, p. 14.

<sup>273</sup> UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948; UN HRC, *Effects of terrorism on the enjoyment of all human rights (A/HRC/RES/34/8)*, 2017.

<sup>274</sup> UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948.

<sup>275</sup> UN HRC, *Effects of terrorism on the enjoyment of all human rights (A/HRC/RES/34/8)*, 2017, p. 3.

<sup>276</sup> *The Global Regime for Terrorism*, CFR, 2011.

<sup>277</sup> *Ibid.*; UN OHCHR, *Human Rights Council holds panel discussion on the effects of terrorism on the enjoyment by all persons of human rights*, 2015.

<sup>278</sup> *The Global Regime for Terrorism*, CFR, 2011.

<sup>279</sup> UN HRC, *Effects of terrorism on the enjoyment of all human rights (A/HRC/RES/34/8)*, 2017, p. 2.

<sup>280</sup> UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, p. 7.

<sup>281</sup> UNODC, *Weak rule of law and lack of good governance a major threat to development, says UNODC Executive Director*, 2013.

<sup>282</sup> UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, p. 7.

<sup>283</sup> HRW, *No to Terrorism, Yes to Human Rights*, 2016.

<sup>284</sup> UN HRC, *Effects of terrorism on the enjoyment of all human rights (A/HRC/RES/34/8)*, 2017, p. 2.

<sup>285</sup> HRW, *Nigeria: events of 2015*, 2016.

<sup>286</sup> FAO, *Conflict and food insecurity*, 2012.

the right to peace, but also lead to further injustices and violations in creating internally displaced persons (IDPs) or refugees.<sup>287</sup> In 2017, the World Food Programme determined that 4.7 million people in the Borno, Adamawa, and Yobe states of Nigeria were food insecure as a result of the looting caused by Boko Haram.<sup>288</sup>

### ***Preserving the Rule of Law While Countering Terrorism***

Governments are legally bound to uphold human rights law in all situations, including under terrorist threat; however, measures taken by Member States to prevent and combat terrorism often result in rule of law violations.<sup>289</sup> While these measures may seem necessary, violating human rights for counter-terrorism purposes can contribute to the same culture of lawlessness.<sup>290</sup> Policies designed to address and combat terrorism should always implement and strengthen the rule of law, as mentioned in Security Council resolution 1566 (2004).<sup>291</sup> Prior to the 11 September 2001 terrorist attacks, 51 countries had specific counter-terrorism laws.<sup>292</sup> As of 2012, more than 140 countries had modified or enacted counter-terrorism laws.<sup>293</sup> However, characteristics such as religion, race, and nationality may result in individuals becoming subject to unlawful search and seizure, arrest, or torture, despite these being protected categories in the UDHR, among other human rights conventions.<sup>294</sup>

Between 2007 and 2011, more than half a million individuals with no known association to terrorist organizations and no criminal record were detained and searched, violating Article 9 of the UDHR, which prohibits arbitrary arrest and detention.<sup>295</sup> In July of 2017, Amnesty International investigated tactics employed by law enforcement agencies while prosecuting victims accused of associating with Boko Haram, often without evidence.<sup>296</sup> The investigation uncovered that, on average, individuals spent 32 weeks detained and were subject to torture, illegitimate detention, and imposed disappearances; detentions also resulted in many deaths, whether due to mistreatment or through extrajudicial executions.<sup>297</sup> In order to protect and promote human rights, strengthening institutions and establishing the rule of law is essential.<sup>298</sup> Entrenching and reinforcing protections for terror suspects and re-examining anti-terrorism legislation may help Member States meet their human rights obligations.<sup>299</sup> While derogations and restrictions of certain human rights are permitting in these circumstances, ensuring that these are proportional, necessary, and legal, is paramount.<sup>300</sup> Sharing critical information and legal expertise between Member States may help support efforts to ensure anti-terrorism efforts are compliant with human rights law.<sup>301</sup>

### ***Case Study: Limits on Education***

Article 28 of the *Convention on the Rights of the Child* (CRC) (1989) affirms that the right to primary education should be available to all children.<sup>302</sup> In addition, Article 32 states that the economic exploitation of a child, defined

<sup>287</sup> Open Briefing, *Monthly intelligence briefing on the Boko Haram insurgency*, 2017.

<sup>288</sup> *Ibid.*

<sup>289</sup> HRW, *No to Terrorism, Yes to Human Rights*, 2016; UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, p. 14.

<sup>290</sup> HRW, *No to Terrorism, Yes to Human Rights*, 2016.

<sup>291</sup> UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, p. 14; UN Security Council, *Threats to international peace and security caused by terrorist acts (S/RES/1566 (2004))*, 2004.

<sup>292</sup> HRW, *In the name of security*, 2012.

<sup>293</sup> *Ibid.*

<sup>294</sup> UN HRC, *Effects of terrorism on the enjoyment of all human rights (A/HRC/RES/34/8)*, 2017, p. 3; UN OHCHR, *Human Rights Council holds panel discussion on the effects of terrorism on the enjoyment by all persons of human rights*, 2015.

<sup>295</sup> HRW, *In the name of security*, 2012.

<sup>296</sup> Amnesty International, *Cameroon's secret torture chambers: human rights violations and war crimes in the fight against Boko Haram*, 2017, p. 6.

<sup>297</sup> *Ibid.*

<sup>298</sup> UN General Assembly, *Panel discussion on the implementation of the United Nations Declaration on Human Rights Education and Training: good practices and challenges*, 2017, p. 2.

<sup>299</sup> UN General Assembly President, *Statement on Combatting Anti-Muslim Discrimination and Hatred; Message of H.E. Peter Thomson, President of the 71st Session of the General Assembly, delivered by H.E. Ioannis Vrailas, Special Adviser on Political Issues, at the High-level Forum on Combating Anti-Muslim Discrimination and Hatred*, 2017.

<sup>300</sup> UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, pp. 17-25.

<sup>301</sup> *Ibid.*

<sup>302</sup> UN General Assembly, *Convention on the Rights of the Child (A/RES/44/25)*, 1989.

as taking unfair advantage of an individual to induce a benefit for the perpetrator, largely interferes with a child's education.<sup>303</sup> Education is "an empowerment right;" education not only drives social and economic growth, but helps to reduce poverty and promote other human rights.<sup>304</sup> It is also considered the best financial investment of a country in its populace, as education can provide individuals with socioeconomic opportunities, peace and security, and empower individuals to positively contribute to their country.<sup>305</sup> Children represent opportunities to create future social and economic prosperity, but when challenged with conflict and terror, their ability to contribute is limited.<sup>306</sup> Around the world, more than 120 million children cannot attend school.<sup>307</sup> According to a 2015 UN Educational, Scientific and Cultural Organization (UNESCO) report, doubling the number of people that achieve secondary education reduces conflict by half.<sup>308</sup>

In many cases, limits on educational opportunities are intentional rather than incidental as a way to keep the population without other opportunities and as a way for terrorism groups to conduct "re-education."<sup>309</sup> Conflicts in the Middle East and North Africa (MENA) region, largely a result of increased terrorist group activity, as well as ethnic, political, and religious tensions, have restricted access to education for more than 13 million children.<sup>310</sup> In 2013, the escalation of ethnic conflicts in South Sudan facilitated the influx of militant groups.<sup>311</sup> This has led to the torture and abuse of civilians, displaced more than 2 million people, and recruited more than 16,000 children to engage in active fighting.<sup>312</sup> Children left without opportunities for meaningful educational development are often kidnapped, trafficked, or forced to perform various acts unwillingly.<sup>313</sup> Terrorist organizations' recruitment bases expand as adolescents and children who lack opportunities for educational and professional development resort to joining terrorist groups.<sup>314</sup> In other cases, children join terrorist organizations to escape poverty, as a means to protect their families, or to find a sense of belonging.<sup>315</sup>

### **Conclusion**

The HRC's mandate to preserve and protect human rights is made increasingly difficult in the aftermath of terrorist acts, which threaten the integrity of human beings and often damage their psychological well-being.<sup>316</sup> The HRC's role in combating and preventing terrorism is manifold, to both protect the human rights of those who experience terrorism, and also as measures taken by Member States to counter terrorism often violate human rights, specifically, the right to be free from arbitrary detention and the right against torture or unlawful punishment.<sup>317</sup> Effective and sustainable counter-terrorism policies and actions require active involvement from civil society, government leaders, and NGOs in preventing violent extremism while ensuring basic human rights.<sup>318</sup> The most effective realization of human rights protection entails understanding the environments conducive to terrorism and complying with humanitarian and human rights law while prosecuting terrorists.<sup>319</sup>

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<sup>303</sup> UN General Assembly, *Convention on the Rights of the Child (A/RES/44/25)*, 1989.

<sup>304</sup> UN OHCHR, *Special rapporteur on the right to education*, 2017.

<sup>305</sup> *Ibid.*

<sup>306</sup> UN DPI, *In Iraq, UN Youth Envoy says Young People are 'most valuable force we have to shape the future'*, 2017.

<sup>307</sup> HRW, *The education deficit*, 2016.

<sup>308</sup> UNESCO, *Education for all: Global Monitoring Report*, 2015, p. 1.

<sup>309</sup> Gilsinan, *Terrorist Attacks on Schools Have Soared in the Past 10 Years*, *The Atlantic*, 2014.

<sup>310</sup> ILO, *World Report on Child Labor*, 2015, p. 5.

<sup>311</sup> HRW, *South Sudan: Terrifying lives of child soldiers*, 2015.

<sup>312</sup> *Ibid.*

<sup>313</sup> HRW, *No place for children*, 2012.

<sup>314</sup> UN Global Education First Initiative, *Can Education prevent violent extremism*, 2016.

<sup>315</sup> Office of the Special Representative of the Secretary-General for Children and Armed Conflict, *Child recruitment and use*.

<sup>316</sup> UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, p. 1.

<sup>317</sup> UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948; UN HRC, *Effects of terrorism on the enjoyment of all human rights (A/HRC/RES/34/8)*, 2017; UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, p. 14.

<sup>318</sup> SMART, *The effectiveness of counter-terrorism strategies*, 2006.

<sup>319</sup> *Ibid.*

### **Further Research**

In conducting further research, delegates should recall the mandate of the HRC to promote and protect human rights, and provide recommendations to eliminate human rights violations, with a particular focus on human rights violations as a result of counter-terrorism policy. While exploring the topic, delegates may consider the following questions: What are best practices regarding measures to counter terrorism? How can human rights be strengthened and protected in the prosecution of terrorists or persons accused of involvement with terrorist organizations? What other methods can be used in confronting terrorism without placing human rights in danger? How can the international community contribute to establishing universal definitions for terrorism and counter-terrorism? How can Member States further protect the rights of children, particularly their right to education in the midst of terrorism? What measures can be taken to reduce discriminatory practices against specific ethnic and religious groups?

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*The World Report, published by Human Rights Watch (HRW), contains valuable data from investigations conducted by HRW on human rights issues in over 90 countries. In regards to terrorism, the report discusses the role of foreign terrorist fighters (FTFs) and the need for greater oversight while prosecuting detainees to ensure their rights are protected. The report contains examples of human rights violations due both to terrorism and counter-terrorism efforts and will allow delegates to explore concrete examples regarding this complex topic.*

Institute for Economics and Peace. (2016). *Global Terrorism Index 2016: Measuring and Understanding the Impact of Terrorism*. Retrieved 15 August 2017 from: <http://economicsandpeace.org/wp-content/uploads/2016/11/Global-Terrorism-Index-2016.2.pdf>

*The Global Terrorism Index, published by the Institute for Economics and Peace, contains useful information on terrorist attacks and activity trends globally. It provides insight detailing the probability of attacks in different countries. Most importantly, it depicts correlations between increases in terrorist activities and other metrics such as human rights violations in the contexts of political unrest and lack of economic opportunity. By reading this source, delegates will obtain an overview of the global situation regarding terrorism and will become familiar with terrorist trends and events in detail.*

Office for Security and Co-operation in Europe. (2007). *The Role of Civil Society in Preventing Terrorism*. Retrieved 17 August 2017 from: <http://www.osce.org/odihr/25142?download=true>

*This document from the Organization for Security and Co-operation in Europe describes the importance of international collaboration in the fight against terrorism, as well as the importance of upholding the rule of law and protecting human rights. It outlines the influence that civil society can have in combating terrorism, advises communities on measures to take regarding the issue, and outlines critical legal instruments and current challenges in enforcing and upholding them. This resource will be beneficial as delegates seek innovative solutions to address human rights in the context of terrorism.*

Office of the United Nations High Commissioner for Human Rights. (2008). *Human Rights, Terrorism and Counter-Terrorism: Factsheet No. 32*. Retrieved 15 August 2017 from: <http://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf>

*This factsheet contains information on the broader scope of terrorism as well as specific challenges, including a section on the right to a fair trial, the right to economic and social rights, and the essence of protecting human rights. The factsheet also contextualizes terrorism and its impacts within broader international legal frameworks, which helps clarify binding obligations on Member States as well as terrorism groups. Delegates will find this guide essential as it methodically approaches and addresses the complexity of the topic.*

Office of the United Nations High Commissioner for Human Rights. (2014). *Civil society space and the United Nations human rights system* [Report]. Retrieved 19 August 2017 from: [http://www.ohchr.org/Documents/AboutUs/CivilSociety/CS\\_space\\_UNHRSystem\\_Guide.pdf](http://www.ohchr.org/Documents/AboutUs/CivilSociety/CS_space_UNHRSystem_Guide.pdf)

*This guide gives an overview of the role of civil society and other entities engaged in human rights work, and provides recommendations on measures that they can take to promote and protect human rights. In addition, the guide highlights the importance of increasing tolerance and ensuring non-discrimination to “[widen] the democratic space” to globally safeguard human rights. The report highlights challenges encountered in regards to the role of non-governmental organizations (NGOs) in protecting human rights in light of terrorism, such as the impact of travel bans or extra-legal harassment on NGOs continuing their work. The guide will introduce the contributions of NGOs in protecting human rights and provide delegates with specific information on the opportunities and challenges that NGOs face in this work.*

United Nations, General Assembly, Twenty-first session. (1966). *International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*. Adopted on the report of the Third Committee. Retrieved 15 August 2017 from: [http://undocs.org/A/RES/2200\(XXI\)](http://undocs.org/A/RES/2200(XXI))

*The Covenant establishes a foundation for civil and political rights that all individuals are granted at birth. Delegates will be able to better comprehend the liberties protected under the Covenant and notice human rights violations that may be perpetrated by governments in the course of counter-terrorism operations. This should serve as a guideline for all proposals and recommendations put forth; delegates should keep in mind its contents throughout their research and in drafting their proposals to ensure they meet Member States’ minimum obligations.*

United Nations, General Assembly, Sixtieth session. (2006). *The United Nations Global Counter-Terrorism Strategy (A/RES/60/288)*. Retrieved 14 August 2017 from: <http://undocs.org/A/RES/60/288>

*The Global Counter-Terrorism Strategy, adopted by the General Assembly, puts forth a plan of action to combat terrorism. This document details the four pillars to address terrorism, beginning with understanding the factors conducive to terrorism, in an attempt to prevent human rights violations before occurring. Addressing one pillar before proceeding to the next assists the global community in combating terrorism with a holistic and systematic approach. After reading this resolution, delegates will better understand foundational international efforts and be guided by this understanding while conducting investigations.*

United Nations, General Assembly, Seventieth session. (2015). *Plan of action to prevent violent extremism: Report of the Secretary-General (A/70/674)*. Retrieved 15 August 2017 from: <http://undocs.org/A/70/674>

*This report discusses the plan of action to prevent violent extremism. Finding preemptive solutions to the problem of terrorism is imperative to ensuring progress. In addition, the report discusses the impact of terrorism on peace and security and fundamental rights, highlighting the need for humanitarian action. Delegates will find this resource helpful as it outlines some key recommendations and will lead delegates to further their individual research.*

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

*This resolution adopted by the HRC reaffirms its commitment to defeating terrorism while complying with international human rights law, strengthening states’ capacity to uphold the rule of law, and increasing public awareness and education on the topic. The document accentuates the importance of human rights as outlined in the UDHR, notably Article 3, and further delineates the impact of terrorism on specific rights, such as socioeconomic, political, and civil rights. Delegates will find this resolution fundamental in understanding the work of the committee on this topic, as it discusses the progress of the body and makes suggestions to continue fighting terrorism.*

United Nations, Security Council, 5053rd meeting. (2004). *Threats to international peace and security caused by terrorist acts (S/RES/1566 (2004))* [Resolution]. Retrieved 15 August 2017 from: [http://undocs.org/S/RES/1566\(2004\)](http://undocs.org/S/RES/1566(2004))

*The Security Council adopted this resolution in 2004, asking for increased cooperation from the international community in addressing violent extremism. Denying safe haven to terrorists and*



*restricting the flow of funds is imperative to combating terrorist acts and therefore essential to protecting and promoting human rights. Specifically, the resolution highlights that terrorism impairs socioeconomic rights and threatens peace and security. Various other Security Council resolutions are mentioned, which also address the impact of terrorism on human life and the rule of law and which delegates may find useful in conducting further research.*

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

#### *Introduction*

In the last three decades, big data and information and communication technology (ICT) have continuously evolved for ease of access and speed for individuals around the world.<sup>320</sup> Big data and ICT have a fundamental role for innovation and economic growth.<sup>321</sup> By 2025, information technology will add between \$4 trillion to \$11 trillion dollars gross domestic product (GDP) per year.<sup>322</sup> In 2011, senior United Nation (UN) officials highlighted that freedom of expression and privacy are needed in the digital era, as the freedom to express oneself and have privacy are the bases for democracy.<sup>323</sup> According to the UN Human Rights Council (HRC), privacy is defined as:

[T]he presumption that individuals should have an area of autonomous development, interaction and liberty, a “private sphere” with or without interaction with others, free from State intervention and from excessive unsolicited intervention by other uninvited individuals. The right to privacy is also the ability of individuals to determine who holds information about them and how is that information used.<sup>324</sup>

Digital technology poses a potential damage and risk to the right to privacy and the freedom of expression.<sup>325</sup> As ICT continues to develop, it is necessary to also strengthen and develop privacy.<sup>326</sup> With guidance from the UN International Telecommunication Union (ITU), technology and the right to privacy can help Member States reach the 17 goals and 169 targets of the UN Sustainable Development Goals (SDGs).<sup>327</sup> In particular, SDG 17, “revitalizing the global partnership for sustainable development,” promotes partnerships between Member States, the private sector, and civil society, with subtopics focusing on the right to self-determination, development, and the right to privacy.<sup>328</sup> As Member States continue to work towards the SDGs, it is becoming more significant to understand the values on data protection and the right to privacy.<sup>329</sup> Member States must ensure the right to privacy and how big data is stored.<sup>330</sup> As the HRC is the UN’s expert agency on human rights issues, it is important for the Council to look at how to further protect the right to privacy in the digital age.<sup>331</sup>

#### *International and Regional Framework*

Recognized both internationally and regionally, the right to privacy is “unequivocally recognized as a fundamental human right.”<sup>332</sup> Within the *Universal Declaration of Human Rights* (UDHR) (1948), the *International Covenant on Civil and Political Rights* (ICCPR) (1966), the *Convention on the Rights of the Child* (CRC) (1989), and the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (1990), the right to privacy is protected and secured for the purpose to defend individual basic human rights.<sup>333</sup> Article 12 of the UDHR states no one should have interference with one’s privacy.<sup>334</sup> Under Article 19 of the ICCPR, every individual has the right to freedom of opinion and expression.<sup>335</sup> Article 19 also states every

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<sup>320</sup> UN ESCWA, *Digital Future of the Arab Region*, 2017.

<sup>321</sup> *Ibid.*

<sup>322</sup> Annunziata, How Digital Industry Can Solve the Sustainable Development Goals, *Medium*, 2016.

<sup>323</sup> UN DPI, *Press freedom more relevant than ever in digital era, UN stresses*, 2011.

<sup>324</sup> UN HRC, *Report of the Special Rapporteur on the Promotion and Protection of the right to Freedom of Opinion and Expression, Frank La Rue (A/HRC/23/40)*, 2013, pp. 6-7.

<sup>325</sup> *Ibid.*, p. 8.

<sup>326</sup> UN ESCWA, *Digital Future of the Arab Region*, 2017.

<sup>327</sup> DIAL, *Making Better Use of Technology to meet the SDGs*, 2017.

<sup>328</sup> UN DESA, *Goal 5 Achieve Gender Equality and Empower all Women and Girls*, 2016, p. 16.

<sup>329</sup> Wandel et al., *Finding the Balance: Right to Privacy and the Drive to Innovate in the UN*, 2017.

<sup>330</sup> UNDG, *Data Privacy, Ethics and Protection: Guidance Note on Big Data for Achievement of the 2030 Agenda*, 2017.

<sup>331</sup> UN OHCHR, *Special Procedures of the Human Rights Council*, 2017.

<sup>332</sup> UN HRC, *Report of the Special Rapporteur on the Promotion and Protection of the right to Freedom of Opinion and Expression, Frank La Rue (A/HRC/23/40)*, 2013, p. 6.

<sup>333</sup> *Ibid.*

<sup>334</sup> Mendel et al., *Global Survey on Internet Privacy and Freedom of Expression*, 2012, p. 52.

<sup>335</sup> UN General Assembly, *International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1966.

individual has the right to seek and receive “information and ideas of all kinds.”<sup>336</sup> In the CRC, Article 16 affirms that every child has the right to privacy and it is unlawful to attack his or her reputation.<sup>337</sup> Article 40 of this convention further states the individual’s right to privacy should be respected at all stages of adolescence.<sup>338</sup> In the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, Article 14 acknowledges no migrant individual nor family member shall have unlawful obstruction with privacy or unlawful attacks to one’s reputation.<sup>339</sup>

The first UN event to discuss information technology, privacy, security, and human rights was the World Summit on the Information Society (WSIS).<sup>340</sup> Several WSIS meetings have been held, with WSIS focusing on the role of ICTs, privacy, security, and Internet governance in 2005, with the creation of the *Tunis Agenda for the Information Society*.<sup>341</sup> The Agenda reaffirms to protect privacy and freedom of expression defined in UDHR, and the Agenda asks Member States to respect the privacy of personal information.<sup>342</sup> In May 2015, over 18,000 stakeholders attended the WSIS Forum.<sup>343</sup> In collaboration with ITU, many UN agencies such as the UN Educational, Scientific and Cultural Organization (UNESCO), UN Development Programme (UNDP), and UN Conference on Trade and Development (UNCTAD) co-organized the Forum.<sup>344</sup> The Forum organized stakeholders to network, educate, and discuss WSIS engagement.<sup>345</sup> To help contribute to the SDGs, the 2017 WSIS asked Member States to implement WSIS Action Line C9 media, which means to protect the freedom of expression and privacy on the Internet.<sup>346</sup>

On 25 September 2015, the UN General Assembly adopted the SDGs in resolution 70/1, entitled “Transforming Our World: The 2030 Agenda for Sustainable Development.”<sup>347</sup> These goals outline actions to end poverty, protect the planet, and emphasize that every individual has the right towards peace and prosperity.<sup>348</sup> In particular, SDGs 16 and 17 specifically highlight the right to privacy.<sup>349</sup> For example, Goal 16 of the SDGs connections to the right to information and to express oneself online or offline.<sup>350</sup> Goal 17 of the SDGs is to apply, reinforce, and restore a global partnership for the SDG with the idea that individuals have the right to self-determination, development, and to privacy.<sup>351</sup> Goal 17 and the right to privacy also directly relates to the UDHR Article 12 and ICCPR Article 17.<sup>352</sup>

As for the regional framework, the *American Convention on Human Rights* (ACHR) (1969) and the *European Convention on Human Rights* (ECHR) (1970) highlighted the need to protect the right of privacy.<sup>353</sup> Under ACHR, individuals have the right to know what information the government and private entities have on individuals, and can access the data and modify, correct, or remove the data.<sup>354</sup> The ECHR categorizes interference with private communication, medical treatment, and withholding access to information as breaching the right to privacy, and may be controlled by public officials.<sup>355</sup> It remains a challenge for Member States to implement both frameworks

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<sup>336</sup> UN General Assembly, *International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1966.

<sup>337</sup> UN General Assembly, *Convention on the Rights of the Child (A/RES/44/25)*, 1989.

<sup>338</sup> *Ibid.*

<sup>339</sup> UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (A/RES/45/158)*, 1990.

<sup>340</sup> International Society, *Understanding the WSIS+10 Review Process*, 2015.

<sup>341</sup> *Ibid.*

<sup>342</sup> UN WSIS, *Tunis Agenda for the Information Society*, 2005.

<sup>343</sup> UN WSIS, *Outcomes*, 2015.

<sup>344</sup> *Ibid.*

<sup>345</sup> *Ibid.*

<sup>346</sup> UN WSIS, *Action Line C9. Media: Strengthening Privacy, Encryption and Source Protection for Media Freedom and Internet Development*, 2017.

<sup>347</sup> UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015, p. 1.

<sup>348</sup> UNDP, *Sustainable Development Goals*, 2017.

<sup>349</sup> Wandel et al., *Finding the Balance: Right to Privacy and the Drive to Innovate in the UN*, 2017.

<sup>350</sup> UN DPI, *Goal 16: Right to Press Freedom and Information*, 2017.

<sup>351</sup> UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015.

<sup>352</sup> IPPF, *Sustainable Development Goals and Human Rights*, 2016, p. 8.

<sup>353</sup> UN HRC, *Report of the Special Rapporteur on the Promotion and Protection of the right to Freedom of Opinion and Expression, Frank La Rue (A/HRC/23/40)*, 2013, p. 6.

<sup>354</sup> Mendel et al., *Global Survey on Internet Privacy and Freedom of Expression*, 2012, p. 54.

<sup>355</sup> *Ibid.*

with the lack of frameworks to follow.<sup>356</sup> It is also a challenge on what information can be considered private or public interest with the development of information technology and search engines.<sup>357</sup>

### *Role of the International System*

The HRC is one of the UN organizations which focuses on the right to privacy in the digital age.<sup>358</sup> In December 2014, the HRC published a report of the Office of the UN High Commissioner for Human Rights (OHCHR) on an HRC panel about privacy rights and technology.<sup>359</sup> The overview themes include discussions of surveillance, personal data, transparency and accountability, and sharing best practices.<sup>360</sup> In April 2015, the HRC adopted resolution 28/16 on the topic of “The Right to Privacy in the Digital Age.”<sup>361</sup> Within the resolution, the HRC is to “remain actively seized” and to clarify standards, principles, and best practices to protect privacy.<sup>362</sup> Following the adoption of the resolution, the HRC appointed a Special Rapporteur on the right to privacy for three years, and is to review the privacy, freedom of expression, and other human rights for digital technology to help develop best practices for the private sector and governments.<sup>363</sup> The tasks of the Special Rapporteur include providing recommendations to promote privacy rising from new technologies, identifying obstacles to the right to privacy, reporting violations on the right to privacy set by the UDHR and ICCPR, and submitting annual reports to the HRC and General Assembly.<sup>364</sup> In November 2016, the Special Rapporteur submitted a report to the HRC on the right to privacy.<sup>365</sup> Some of the thematic assessments include privacy across cultures; security, surveillance, and cyberpeace; genetics and privacy; and dignity and reputation for privacy.<sup>366</sup> The Special Rapporteur also included a ten-point action plan to protect privacy, including defining the right to privacy; creating ongoing dialogue; promoting national and regional developments plans; and harnessing the influence of civil society.<sup>367</sup> In February 2017, the Special Rapporteur submitted another report on the right to privacy in the digital age.<sup>368</sup>

In March 2017, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to the HRC and the UN General Assembly submitted a report that addresses the private sector’s responsibility in digital technology, and evaluates Member States’ obligation to protect and promote the right to privacy and freedom of expression online.<sup>369</sup> In the report, it states that the private sector shares responsibilities with Member States on due diligence, safeguards by design, mitigating strategies, transparency, and effective remedies; for Member States, the responsibilities include upholding international human rights standards, protecting individuals from unnecessary intrusion, and taking necessary steps for appropriate action on any abuse to the right to privacy.<sup>370</sup> The report recalls previous resolutions that protect privacy and freedom of expression, and asks companies to continue to respect common human rights.<sup>371</sup> Additionally, the report reviews the Internet and telecommunications blackouts, local and national government access to end user data, remaining neutral in digital technology, and more on the human rights responsibilities of digital access and protection.<sup>372</sup>

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<sup>356</sup> UN HRC, *Report of the Special Rapporteur on the Promotion and Protection of the right to Freedom of Opinion and Expression, Frank La Rue (A/HRC/23/40)*, 2013, p. 6.

<sup>357</sup> Mendel et al., *Global Survey on Internet Privacy and Freedom of Expression*, 2012, p. 32.

<sup>358</sup> UN OHCHR, *Special Procedures of the Human Rights Council*, 2017.

<sup>359</sup> UN HRC, *Summary of the Human Rights Council panel discussion on the Right to Privacy in the Digital Age (A/HRC/28/39)*, 2014, p. 1.

<sup>360</sup> *Ibid.*, pp. 1, 3, 8, 9.

<sup>361</sup> UN HRC, *The Right to Privacy in the Digital Age (A/HRC/RES/28/16)*, 2015, p. 1.

<sup>362</sup> *Ibid.*, p. 2.

<sup>363</sup> *Ibid.*

<sup>364</sup> *Ibid.*

<sup>365</sup> UN HRC, *Report of the Special Rapporteur on the Right to Privacy (A/HRC/31/64)*, 2016, p. 1.

<sup>366</sup> *Ibid.*, p. 5.

<sup>367</sup> *Ibid.*, p. 18.

<sup>368</sup> UN OHCHR, *Special Rapporteur on the Right to Privacy*, 2017.

<sup>369</sup> UN HRC, *Report of the Special rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression (A/HRC/35/22)*, 2017, p. 1.

<sup>370</sup> *Ibid.*, p. 13.

<sup>371</sup> *Ibid.*, p. 15.

<sup>372</sup> UN HRC, *The Right to Privacy in the Digital Age: Report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/27/37)*, 2017, p. 6.

In December 2013, the UN General Assembly adopted resolution 68/187, entitled “The Right to Privacy in the Digital Age.”<sup>373</sup> The resolution asks Member States to continue the work in protecting the privacy in digital communication and reviewing related legislation to increase transparency and accountability.<sup>374</sup> The Commission on Science and Technology for Development (CSTD) is under the Economic and Social Council (ECOSOC), and the CSTD released a report on their 18th session in May 2015.<sup>375</sup> It reported on the success Member States have made with ICTs and highlighted the *Implementing World Summit on the Information Society Outcomes: a Ten-Year Review*, which illustrated the importance of the right to privacy in relation to personal data.<sup>376</sup> Additionally, the participants at the session drew attention to the ethical and moral rights to guard freedom of expression and privacy rights.<sup>377</sup>

ITU is a specific agency for ICT in the UN.<sup>378</sup> The agency develops technical principles on technology and work towards improving ICT worldwide.<sup>379</sup> With over one billion households having access to technology, ITU has made positive strides towards standards for technology services, global resources, and developing communications worldwide.<sup>380</sup> As technology develops, privacy is a significant concern worldwide.<sup>381</sup> ITU recognizes the importance of addressing privacy internationally and creating frameworks to help the international community stay compliant.<sup>382</sup> In March 2012, ITU developed best practices in protecting privacy that include: secure telecommunications, secure framework for cloud services, and secure platforms for virtual networks.<sup>383</sup> Besides ITU, non-governmental organizations (NGOs) such as the International Organization for Standardization (ISO), Organization for the Advancement of Structured Information Standards (OASIS), and Cloud Security Alliance (CSA) have started to develop standards for digital privacy.<sup>384</sup>

Other UN organizations are working to protect individuals’ rights, health, and privacy through the SDGs, as well.<sup>385</sup> During the Ebola crisis, UN agencies and NGOs, such as Develop Africa and World Vision, gathered cell phone usage data to identify moving patterns in order to track where Ebola was travelling, to assist with the Ebola crisis.<sup>386</sup> However, one of the challenges was the lack of clarity on the ethics behind data gathering and usage.<sup>387</sup> The UN Development Group (UNDG), with the support from UN Global Pulse, was assigned to increase transparency and present raw data collected.<sup>388</sup> With specialists that cover legal and political policy, UN agencies built a guide entitled *Data Privacy, Ethics and Protection: Guidance Note on Big Data for Achievement of the 2030 Agenda*.<sup>389</sup> The guide included main objectives such as basic principles on big data usage in the achievement of the SDGs; risk management with human rights violations led by big data; and the establishment of guidelines for the private sector’s data collection.<sup>390</sup>

As an example of regional efforts, European organizations have focused on implementing strategies to protect the rule of law, democracy, and human rights online.<sup>391</sup> The Council of Europe Convention on Data protection gathered 46 Member States to share common data protection principles and further enhance personal data collection.<sup>392</sup> Some

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<sup>373</sup> UN General Assembly, *The Right to Privacy in the Digital Age (A/RES/68/167)*, 2014.

<sup>374</sup> *Ibid.*

<sup>375</sup> UN CTSD, *Commission on Science and Technology for Development (E/2015/31)*, 2015, p. 1.

<sup>376</sup> *Ibid.*, pp. 12, 40.

<sup>377</sup> *Ibid.*, p. 41.

<sup>378</sup> UN ITU, *About International Telecommunication Union*, 2017.

<sup>379</sup> *Ibid.*

<sup>380</sup> *Ibid.*

<sup>381</sup> UN ITU, *Privacy in Cloud Computing*, 2017.

<sup>382</sup> *Ibid.*

<sup>383</sup> *Ibid.*, p. 14.

<sup>384</sup> *Ibid.*, p. 15.

<sup>385</sup> Wandel et al., *Finding the Balance: Right to Privacy and the Drive to Innovate in the UN*, 2017.

<sup>386</sup> *Ibid.*

<sup>387</sup> *Ibid.*

<sup>388</sup> *Ibid.*

<sup>389</sup> *Ibid.*

<sup>390</sup> *Ibid.*

<sup>391</sup> UNCTAD, *Submissions from entities in the United Nations system and elsewhere on their efforts in 2013 to implement the outcome of the WSIS*, 2014, p. 1.

<sup>392</sup> *Ibid.*

of the issues discussed were: Internet freedom, protecting privacy, and personal data online.<sup>393</sup> The European Commission convened in 2012 to reform new rules on data protection and privacy.<sup>394</sup> In September 2013, the Council of Europe organized a dialogue between Member States to further talk about the right to privacy online, and the Council also created a forum in 2013 to raise awareness of the right to privacy and data protection.<sup>395</sup> Starting in May 2018, the European Council will enforce regulations on the control over personal data and privacy.<sup>396</sup> Personal data can only be collected legally, and organizations who collect the information shall protect the right to privacy under European Union (EU) law.<sup>397</sup> The new rules will give individuals control over personal information, the right to privacy, and the right to complain about any misuse.<sup>398</sup> For the right to privacy in the digital age, the European Commission produced the ICT Sector Guide on Implementing the *UN Guiding Principles on Business and Human Rights*.<sup>399</sup>

### ***Technology and the Right to Privacy***

Over 50% of the global population will have access to the Internet by the end of 2017.<sup>400</sup> The Internet has been and continues to be a tool to help exercise freedom of expression and bring public awareness on human right abuses.<sup>401</sup> However, as technology has made positive effects on human rights, governments and the private sector have the ability to monitor citizens, censor content, and even track individual communications.<sup>402</sup> Further, lawyers, journalists, and citizens who try to defend privacy as a human right often receive harassment.<sup>403</sup> Citizens' right to privacy has changed because of technology, and the lack of transparency in the government and private sectors can be of concern for an individual's privacy.<sup>404</sup>

### ***Member States and the Right to Privacy***

The expansion of the Internet has brought a new perspective to privacy and rights.<sup>405</sup> In particular, there is a lack of clarity on respecting universal human rights and the right to privacy in a digital context.<sup>406</sup> Governments have the ability to monitor individuals, censor speeches, block information, and even track communications.<sup>407</sup> It is an obligation for Member States to both defend and acknowledge personal privacy.<sup>408</sup> Different Member States have varying laws in regards to digital access and the right to privacy.<sup>409</sup> In 2015, the United States' Federal Trade Commission issued recommendations on conducting security tests on a regular basis to monitor companies' technological infrastructure and advising individuals their personal privacy rights on any technological device.<sup>410</sup> Canada passed the Personal Information Protection and Electronic Document Act (PIPEDA) in 2000, which defines how companies should protect individuals' personal information.<sup>411</sup> PIPEDA demands corporations to limit data collection, allow individuals access the personal digital information, and allow individuals to file personal complaints.<sup>412</sup> In some Member States, there are less-defined laws and rules for digital and data privacy.<sup>413</sup> With a

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<sup>393</sup> Ibid.

<sup>394</sup> European Commission, *Protection of Personal Data*, 2017.

<sup>395</sup> UNCTAD, *Submissions from entities in the United Nations system and elsewhere on their efforts in 2013 to implement the outcome of the WSIS*, 2014, p. 2.

<sup>396</sup> European Commission, *Protection of Personal Data*, 2017.

<sup>397</sup> Ibid.

<sup>398</sup> Ibid.

<sup>399</sup> UN HRC, *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression (A/HRC/32/38)*, 2016, p. 10.

<sup>400</sup> Statista, *Online Privacy - Statistics & Facts*, 2017.

<sup>401</sup> HRW, *Bold Step on Privacy and Digital Rights*, 2015.

<sup>402</sup> Ibid.

<sup>403</sup> Ibid.

<sup>404</sup> Ibid.

<sup>405</sup> Ibid.

<sup>406</sup> UNDG, *Data Privacy, Ethics and Protection: Guidance Note on Big Data for Achievement of the 2030 Agenda*, 2017.

<sup>407</sup> HRW, *Bold Step on Privacy and Digital Rights*, 2015.

<sup>408</sup> UNDG, *Data Privacy, Ethics and Protection: Guidance Note on Big Data for Achievement of the 2030 Agenda*, 2017.

<sup>409</sup> Talbott, *Privacy Laws: How the US, EU and others protect IoT data (or don't)*, *ZDNet*, 2016.

<sup>410</sup> Ibid.

<sup>411</sup> Ibid.

<sup>412</sup> Ibid.

<sup>413</sup> Ibid.

lack of laws, corporations are able to move digital data and collect personal information more easily, which can impede privacy.<sup>414</sup>

Member States such as Brazil, Germany, Mexico, Norway, and Switzerland met in February 2014 to understand how the right to privacy is implemented in civil society and through regional partners.<sup>415</sup> These Member States focused on how to ensure that the protection of the right to privacy is kept and evaluated on how any surveillance may hinder an individual's right.<sup>416</sup> Member States concluded to review national laws regarding digital privacy and adopt legislation that protects the right to privacy regarding telecommunication, the Internet, and data storage.<sup>417</sup> Currently, there is often a lack of transparency between Member States and individuals, and Member States need to protect the right to privacy for individuals.<sup>418</sup> The best way to support the right to privacy is to pay attention to who is collecting the data, who can access the digital data, and how long the digital data can be stored for.<sup>419</sup>

### *The Private Sector and Protecting Privacy*

Facebook, Google, and many more Internet organizations have spread the awareness of human rights around the world by broadcasting the newest information, allowing individuals to communicate and research, and educating users on what is going on throughout the international community.<sup>420</sup> As an example on the right to privacy, in the Google versus Spain case, the European Court ruled that every European citizen has the right to ask search engines to remove any links that have private information.<sup>421</sup> Google had asked the courts if search engines have the same rules as other media companies, such as newspapers, television, and radio.<sup>422</sup> The court decided that the laws on privacy for media applies to search engines, and the right to privacy outweighs the financial interest and the public access to the information.<sup>423</sup> As technology continues to evolve, it is critical to protect the right to privacy for citizens.<sup>424</sup> Several human right defenders face threats and harassment because of the review of personal information and surveillance on groups or individuals.<sup>425</sup> In the private and government sectors, data collection is a substantial issue for human rights.<sup>426</sup>

As governments and companies have the obligation to protect and respect the privacy of individuals, companies like Apple are taking a new approach to privacy.<sup>427</sup> Apple cannot collect any personal data from an individual's device, and the company cannot distinguish and specify the activity of any one individual.<sup>428</sup> Privacy specialists believe Apple's privacy initiative may force companies to adopt new standards on privacy.<sup>429</sup> Companies like Google have followed Apple's approach, but as with most new technology, implementation takes time.<sup>430</sup>

Currently, the private sector varies on what personal information they retain from individuals.<sup>431</sup> Companies like Facebook can monitor individuals' connections, communications, and personal interests; Google knows which websites people are going to; and Microsoft knows the operating system of most computers.<sup>432</sup> Depending on the global location, the way companies monitor and collect information fluctuates.<sup>433</sup> The private sector has the potential to play a substantial role when it comes to privacy and freedom of expression, and one of the roles is to protect basic

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<sup>414</sup> Ibid.

<sup>415</sup> Geneva Academy, *The Right to Privacy in the Digital Age: Meeting Report*, 2014, p. 1.

<sup>416</sup> Ibid.

<sup>417</sup> Ibid., p. 3.

<sup>418</sup> Ibid., p. 4.

<sup>419</sup> Ibid.

<sup>420</sup> HRW, *Bold Step on Privacy and Digital Rights*, 2015.

<sup>421</sup> EPIC, *The Right to Be Forgotten (Google V. Spain)*, 2017.

<sup>422</sup> Ibid.

<sup>423</sup> Ibid.

<sup>424</sup> HRW, *Bold Step on Privacy and Digital Rights*, 2015.

<sup>425</sup> Ibid.

<sup>426</sup> Ibid.

<sup>427</sup> Simonite, *Apple's New Privacy Technology May Pressure Competitors to Better Protect Our Data*, 2016.

<sup>428</sup> Ibid.

<sup>429</sup> Ibid.

<sup>430</sup> Ibid.

<sup>431</sup> HRW, *Bold Step on Privacy and Digital Rights*, 2015.

<sup>432</sup> Hachman, *The Price of Free: How Apple, Facebook, Microsoft and Google Sell you to Advertisers*, *PCWorld*, 2015.

<sup>433</sup> HRW, *Bold Step on Privacy and Digital Rights*, 2015.



human rights.<sup>434</sup> Whether it is telecommunication, social media, software, or search companies, the private sector can help support freedom of speech and the right to privacy.<sup>435</sup> It is important for Member States and the private sector to review privacy policies and laws when it comes to digital communication and personal data collection.<sup>436</sup> It is also important to identify any threats to privacy and develop best practices for global surveillance.<sup>437</sup>

#### *Civil Society and the Right to Privacy*

The Global Network Initiative (GNI) brings civil society organizations (CSOs), regional partners, and companies together to find a common idea on how to further protect privacy online and the freedom of expression.<sup>438</sup> Human Rights Internet (HRI), Human Rights Watch (HRW), and Internet Education Foundation (IEF) are a few CSOs working towards Internet privacy and promoting the right to privacy.<sup>439</sup> HRI is an organization that educates officials and the private sector on human rights issues and digital privacy.<sup>440</sup> HRW works towards the right to privacy online and protecting human rights by investigating violations and encouraging governments to honor human rights law.<sup>441</sup> IEF focuses on informing policymakers on digital privacy and promoting the right to privacy online.<sup>442</sup>

Other CSOs and organizations such as the American Library Association (ALA), Amnesty International, and the Center for Democracy and Technology (CDT) are working towards protecting the right to privacy.<sup>443</sup> Created in 1967, ALA looks at training, publications, support, and raising awareness on privacy laws and other academic rights.<sup>444</sup> ALA provides updated information on any new issues pertaining to collection policies, Internet filtering, and any censorship towards individuals.<sup>445</sup> Amnesty International collaborates with other CSOs to help fight against human rights abuses.<sup>446</sup> CDT focuses specifically on global human rights online and helps deliver innovative ideas to empower individuals.<sup>447</sup> CDT also works to protect the privacy of Internet users and promote legal actions on governmental surveillance.<sup>448</sup>

#### **Conclusion**

In numerous ways, the right to privacy is an extended right to the freedom of speech and other basic human rights.<sup>449</sup> Research and proposals that address the right to privacy need better mechanisms and tools to protect individuals and their rights.<sup>450</sup> The scope of the right to privacy is a collaborative effort between UN agencies, Member States, NGOs, and the private sector.<sup>451</sup> As technology continues to develop, international rules and laws should continue to advance and maintain the basic human rights every individual is promised to have.<sup>452</sup> Going forward, for the right to privacy in the digital age, it is important to understand the effect it has on the SDGs, UN organizations, agencies, and every individual.

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<sup>434</sup> Article 19, *UN Watchdog calls on Tech Sector to Protect and Promote Free expression*, 2016.

<sup>435</sup> *Ibid.*

<sup>436</sup> *Ibid.*

<sup>437</sup> HRW, *Bold Step on Privacy and Digital Rights*, 2015.

<sup>438</sup> Geneva Academy, *The Right to Privacy in the Digital Age: Meeting Report*, 2014, p. 12.

<sup>439</sup> IFLA, *About IFLA*, 2017.

<sup>440</sup> *Ibid.*

<sup>441</sup> *Ibid.*

<sup>442</sup> IEF, *About Our Work*, 2017.

<sup>443</sup> IFLA, *About IFLA*, 2017.

<sup>444</sup> ALA, *Office for Intellectual Freedom*, 2017.

<sup>445</sup> *Ibid.*

<sup>446</sup> Amnesty International, *What We Do*, 2017.

<sup>447</sup> CDT, *About CDT*, 2017.

<sup>448</sup> *Ibid.*

<sup>449</sup> Mendel et al., *Global Survey on Internet Privacy and Freedom of Expression*, 2012, p. 88.

<sup>450</sup> Wandel et al., *Finding the Balance: Right to Privacy and the Drive to Innovate in the UN*, 2017.

<sup>451</sup> *Ibid.*

<sup>452</sup> UN HRC, *The Right to Privacy in the Digital Age (A/HRC/RES/28/16)*, 2016, pp. 1-2.

### **Further Research**

As Member States review the right to privacy in the digital age, delegates should consider their own policies, as well as the following: What is the difference between the right to privacy and freedom of expression? What have local and regional actors done in regard to privacy, and what more can be done? What is the partnership between the HRC and their Member State? What is their Member State doing in regard to the right of privacy as the UN moves towards achieving the SDGs and working towards technology innovation and privacy? How can HRC engage with other UN organizations and the private sector to develop guidelines on privacy? How can the HRC collaborate with CSOs to ensure the right to privacy is protected?

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*This news article is interesting for delegates to read, as it reviews what the UN Special Rapporteur has done on the right to privacy. The source cross-references the mandate of the Special Rapporteur, the expansion of technology through international borders, and the lack of clarity on what is considered private and freedom of speech. It goes further into a review of Member States' obligation to protect human rights, and also the ability to monitor and censor content for individuals. As delegates start preparing their working papers, this link can give them some insights on what has been done thus far and some of the clarity needed to protect the right to privacy.*

Mendel, T., et al. (2012). *Global Survey on Internet Privacy and Freedom of Expression* [Report]. United Nations Educational, Scientific and Cultural Organization. Retrieved 16 August 2017 from: <http://unesdoc.unesco.org/images/0021/002182/218273e.pdf>

*When it comes to finding the relationship on the right of privacy and freedom of expression on the Internet, this report from the UN Educational, Scientific and Cultural Organization (UNESCO) points out how close and similar both are. The report describes the legal right to privacy based on countries and regions, and also the challenges of protecting personal data and some initiatives to protect individuals online. By understanding how other Member States view digital privacy, delegates may find this source a great reference to review different cases to look at for privacy and some of the outcomes.*

Simonite, T. (2016, August 3). Apple's New Privacy Technology May Pressure Competitors to Better Protect our Data. *MIT Technology Review*. Retrieved 19 July 2017 from: <https://www.technologyreview.com/s/602046/apples-new-privacy-technology-may-pressure-competitors-to-better-protect-our-data/>

*As delegates start preparing and reviewing the topic of digital privacy, this resource provides some good ideas and thoughts for privacy and large corporations. When it comes to privacy in the digital era, Apple has been leading the charge on privacy for individuals and businesses. Recently Apple has gone through legal issues when it comes to right of privacy, and this source draws conclusions and ideas delegates can view and expand upon in their own research. Besides focusing on just one company, this link also ties together what other larger corporations have done to protect privacy. This source can serve as a tool for delegates to understand how organizations address digital privacy.*

Office of the United Nations High Commissioner for Human Rights. (2017). *Special Rapporteur on the Right to Privacy* [Website]. Retrieved 20 August 2017 from: <http://www.ohchr.org/EN/Issues/Privacy/SR/Pages/SRPrivacyIndex.aspx>

*It is important to understand and review the mandate of the Special Rapporteur on the right to privacy. The website provides working criteria and objectives such as submitting annual reports, integrating gender perspectives, and participating in international conferences. Delegates can use this as a resource to review the latest news on the right to privacy and find external documents that review the right to privacy.*

United Nations Development Group. (2017). *Data Privacy, Ethics and Protection: Guidance Note on Big Data for Achievement of the 2030 Agenda*. Retrieved 14 August 2017 from: <https://undg.org/wp-content/uploads/2017/03/UNDG-Big-Data-Guidance-Note.pdf>

*The report by the UN Development Group (UNDG) is a useful reference for delegates to review when it comes to the Sustainable Development Goals (SDGs) and the right to privacy. The report addresses the need to achieve SDGs, and how delegates can use big data to achieve the goals set by Member States. Though the data gathered can help achieve the goals, it is important for the delegates to understand the ethics and policies on obtaining certain data. It is also important to understand how beneficial some of the data collected can be to achieve the SDGs.*

United Nations, Human Rights Council. (2014). *Summary of the Human Rights Council panel discussion on the Right to Privacy in the Digital Age: Report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/28/39)*. Retrieved 20 July 2017 from: <http://undocs.org/A/HRC/28/39>

*The report opens with remarks from the Deputy High Commissioner for Human Rights on how technologies have evolved and how the concern of privacy for individuals has escalated with surveillance, putting the right to freedom of expression in danger. Delegates can examine Member States' obligations to protect individuals based on common human rights. As delegates prepare their working papers, this report would be a good document to help them review what safeguards are needed or have been put into place, the role of the private sector, and the transparency needed to protect the right to privacy.*

United Nations, Human Rights Council. (2015). *The Right to Privacy in the Digital Age (A/HRC/RES/28/16) [Resolution]*. Retrieved 18 August 2017 from: <http://undocs.org/A/HRC/RES/28/16>

*The right to privacy in the digital era is a topic that the Human Rights Council (HRC) discusses and makes recommendations on. This resolution recalls previous resolutions related to the topic, and delegates can review what further action may be done to discuss on digital privacy. Besides, the resolution particularly draws attention to the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) in regards to protection and privacy. Member States are called upon to reaffirm the right to privacy, freedom of expression, and this may be a great tool for delegates in expanding their working papers.*

United Nations, Human Rights Council. (2016). *Report of the Special Rapporteur on the Right to Privacy (A/HRC/31/64)*. Retrieved 19 August 2017 from: <http://undocs.org/A/HRC/31/64>

*This 2016 report from the Special Rapporteur on the right to privacy describes his three-year work plan, his targets, initiatives, and mandate. The Special Rapporteur reviews the work needed to see the committee, and discusses how he wants to review the right to privacy between Member States. Some of the work of the Special Rapporteur includes country monitoring, assessing thematic studies, and building bridges for policies to protect the right to privacy. He also draws out a 10-point action to plan to help implement the right to privacy.*

United Nations, Human Rights Council. (2017). *The Right to Privacy in the Digital Age: Report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/27/37)*. Retrieved 19 July 2017 from: <http://undocs.org/A/HRC/27/37>

*This report from the Office of the UN High Commissioner for Human Rights (OHCHR) is a great start and overview on the rights to privacy in regards to technology. Delegates may gain a better understanding on the previous work done by OHCHR and some of the issues related to the right to privacy by reading this source. The report breaks the topic down further by the international framework, reports, and discussions on this topic. Additionally, the role of businesses for privacy is clearly defined in this report, as well as who is protected under such law, and what can be considered arbitrary or unlawful.*

Wandel, J., et al. (2017, April 28). *Finding the Balance: Right to Privacy and the Drive to Innovate in the UN* [Blog Post]. United Nations Development Group. Retrieved 14 August 2017 from: [https://undg.org/silofighters\\_blog/finding-the-balance-right-to-privacy-and-the-drive-to-innovate-in-the-un/?type=silofighters](https://undg.org/silofighters_blog/finding-the-balance-right-to-privacy-and-the-drive-to-innovate-in-the-un/?type=silofighters)

*When it comes to the right to privacy and technology innovation, it is important for delegates to see the correlation with each other. This source compares the right to privacy, SDGs, and*



*technology innovation. The link lays out specific incidents where big data helped Member States with health crises. Delegates can discover the balance between the information gathered from technology and how delegates need to be aware on the privacy laws to require and keep information. The post also provides other sources for delegate research on how digital privacy is a concern on multiple levels.*

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