



HUMAN RIGHTS COUNCIL BACKGROUND GUIDE 2013

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Additional Contributions By: Mark Edwards



NATIONAL MODEL UNITED NATIONS

nmun.org



17 - 21 March - Conference A
24 - 28 March - Conference B

POSITION PAPER INSTRUCTIONS

Two copies of each position paper should be sent via e-mail by 1 MARCH 2013

1. TO COMMITTEE STAFF

A file of the position paper (.doc or .pdf) for each assigned committee should be sent to the committee e-mail address listed here. Mail papers by 1 March to the e-mail address listed for your particular venue. Delegates should carbon copy (cc:) themselves as confirmation of receipt. Please use the committee name, your assignment, Conference A or B, and delegation/school name in both the e-mail subject line and in the filename (example: GA1st_Cuba_ConfA_MarsCollege).

2. TO DIRECTOR-GENERAL

- Each delegation should send one set of all position papers for each assignment to the e-mail designated for their venue: positionpapers.nya@nmun.org or positionpapers.nyb@nmun.org. This set (held by each Director-General) will serve as a back-up copy in case individual committee directors cannot open attachments.

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

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

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

Please use the committee name, your assignment, Conference A or B, and delegation/school name in both the e-mail subject line and in the filename (example: GA1st_Cuba_Conf A_Mars College).

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General Assembly Fourth Committee	ga4.nya@nmun.org
Special Committee on Peacekeeping Operations	c34.nya@nmun.org
ECOSOC Plenary	ecosoc.nya@nmun.org
Commission on the Status of Women	csw.nya@nmun.org
Commission on Crime Prevention and Criminal Justice	ccpcj.nya@nmun.org
Economic Commission for Africa	eca.nya@nmun.org
Economic and Social Commission for Western Asia	escwa.nya@nmun.org
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United Nations Development Programme	undp.nya@nmun.org
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Committee on the Exercise of the Inalienable Rights of the Palestinian People	ceirpp.nya@nmun.org
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Security Council B	scb.nya@nmun.org
Security Council C	scc.nya@nmun.org
International Atomic Energy Agency	iaea.nya@nmun.org

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General Assembly Fourth Committee	ga4.nyb@nmun.org
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Commission on the Status of Women	csw.nyb@nmun.org
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OTHER USEFUL CONTACTS

Entire Set of Delegation Position Papers	positionpapers.nya@nmun.org
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Dear Delegates,

Welcome to the 2013 National Model United Nations Conference. As part of the volunteer staff for the Human Rights Council, we are aiming to facilitate your educational experience at the conference in New York. This year's Directors are Amanda Wong (Conference A), and Pauline Rybka (Conference B). Lisa Leffingwell (Conference A) and Clara Demon (Conference B) will be serving as your Assistant Directors. Amanda Wong graduated from Simon Fraser University in 2008 with a major in Political Science and is currently working on her Master of Science in Environmental Management at the Centre for Development, Environment and Policy. This is her second year as part of the NMUN staff. Pauline Rybka has studied political sciences at the University of Bonn and Sciences Po Paris and is currently pursuing a Master's degree in International and Diplomatic Studies at the University of Economics, Prague. This is her third year on staff. Lisa Leffingwell graduated from the University of Hawaii at Hilo with a Bachelor in Anthropology and an International Studies certificate. 2013 marks her first year on staff. Clara Demon, student of a Bi-diplôme between Sciences Po Lille, France, and the University of Kent, Canterbury, United Kingdom, is on her final year of a Bachelor of Arts in Politics and International Relations. Her main research interests include humanitarian intervention, foreign policy and strategic issues. Having served on staff at NMUN Europe, this marks her first year with the New York conference.

This year's topics under discussion for the Human Rights Council are:

1. Strengthening Human Rights of Returnees and Internally Displaced Persons (IDPs) in Conflict-Ridden Regions
2. Access to Safe Drinking Water as a Fundamental Human Right
3. Deterring Discrimination and Violence Against Persons with Disabilities

The Human Rights Council is an inter-governmental body within the United Nations and its purpose is to promote and protect human rights and to address human rights violations and to make appropriate recommendations. We look forward to seeing your recommendations to the issues that will be debated through your working papers and resolutions.

This background guide will give you an overview of the topics at hand and the work of the Committee; nevertheless, it should only serve as an introduction to your research and preparation for the Conference. The references listed for each topic provides you a good starting point for your own research, but we highly encourage you to deepen your knowledge further, especially considering your country's position. Each delegation is requested to submit a position paper which reflects your research on the topics. Please take note of the NMUN policies on the [website](#) and in the [delegate preparation guide](#) regarding [plagiarism](#), [codes of conduct/dress code/sexual harassment](#), [awards philosophy/evaluation method](#), etc. Adherence to these guidelines is mandatory.

If you have any questions regarding your preparation for the committee and the Conference itself, please feel free to contact any of the substantive staff of the Human Rights Council or the Under-Secretaries-General for the Human Rights and Humanitarian Affairs, Roger Tseng (Conference A) and Sasha Sleiman (Conference B). We wish you all the best in your preparation for the Conference and look forward to seeing you in March.

Conference A
Amanda Wong
Director

Lisa Leffingwell
Assistant Director

Conference B
Pauline Rybka
Director

Clara Demon
Assistant Director



Message from the Directors-General Regarding Position Papers for the 2013 NMUN Conference

For NMUN-New York 2013, each delegation submits one position paper for each assigned committee. A delegate's role as a Member State, Observer State, Non-Governmental Organization, etc. should affect the way a position paper is written. To understand these differences, please refer to the [Delegate Preparation Guide](#).

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

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

Delegation's position papers may be given an award as recognition of outstanding pre-Conference preparation. In order to be considered for a Position Paper Award, however, delegations must have met the formal requirements listed below and be of high substantive standard, using adequate language and showing in-depth research. While we encourage innovative proposals, we would like to remind delegates to stay within the mandate of their respective committee and keep a neutral and respectful tone. Similarly to the minus point-policy implemented at the conference to discourage disruptive behavior, position papers that use offensive language may entail negative grading when being considered for awards. Please refer to the sample paper following this message for a visual example of what your work should look like at its completion. The following format specifications are **required** for all papers:

- All papers must be typed and formatted according to the example in the Background Guides
- Length must **not** exceed two single-sided pages (one double-sided paper, if printed)
- Font must be Times New Roman sized between 10 pt. and 12 pt.
- Margins must be set at one inch for the whole paper
- Country/NGO name, school name and committee name must be clearly labeled on the first page,
- National symbols (headers, flags, etc.) are deemed inappropriate for NMUN position papers
- Agenda topics must be clearly labeled in separate sections

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

1. **A file of the position paper** (.doc or .pdf format required) **for each assigned committee** should be sent to the committee email address listed in the Background Guide. These e-mail addresses will be active after November 15, 2012. Delegates should carbon copy (cc:) themselves as confirmation of receipt.
2. Each delegation should also send **one set of all position papers** to the e-mail designated for their venue, Conference A: positionpapers.nya@nmun.org or Conference B: positionpapers.nyb@nmun.org. This set will serve as a back-up copy in case individual committee directors cannot open attachments. These copies will also be made available in Home Government during the week of the NMUN Conference.

Each of the above listed tasks needs to be completed no later than **March 1, 2013 (GMT-5)**.

Please use the committee name, your assignment, Conference A or B, and delegation/school name in both the e-mail subject line and in the filename (example: GA1st_Cuba_ConfA_Mars College).

A matrix of received papers will be posted online for delegations to check prior to the Conference. If you need to make other arrangements for submission, please contact Hannah Birkenkötter, Director-General (Conference A), or Nicholas Warino, Director-General (Conference B), at dirgen@nmun.org. There is an option for delegations to submit physical copies via regular mail if needed.

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

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

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

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

Sincerely,

Conference A
Hannah Birkenkötter
Director-General
hannah@nmun.org

Conference B
Nicholas Warino
Director-General
nick@nmun.org

**Delegation from
The United Mexican States**

**Represented by
(Name of College)**

Position Paper for the General Assembly Plenary

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

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

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

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

In the 1990s, comprehensive economic sanctions found several applications with very mixed results, which made a critical reassessment indispensable. The United Mexican States fully supported and actively participated in the “Stockholm Process” that focused on increasing the effectiveness in the implementation of targeted sanctions. As sanctions and especially economic sanctions, pose a tool for action “between words and war” they must be regarded as a mean of last resort before war and fulfill highest requirements for their legitimate use. The United Mexican States and their partners of the “Group of Friends of the U.N. Reform” have already addressed and formulated recommendations for that take former criticism into account. Regarding the design of economic sanctions it is indispensable for the success to have the constant support by all member states and public opinion, which is to a large degree dependent on the humanitarian effects of economic sanctions. Sanctions must be tailor-made, designed to effectively target the government, while sparing to the largest degree possible the civil population. Sanction regimes must be constantly monitored and evaluated to enable the world-community to adjust their actions to the needs of the unforeseeably changing situation. Additionally, the United Mexican States propose to increase communication between the existing sanction committees and thus their effectiveness by convening regular meetings of the chairs of the sanction committees on questions of common interest.

II. Democracy and Human Rights in Post-Conflict Regions

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

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

based on cooperation with international organizations. The Inter American Commission of Human Rights is one of the bodies, Mexico is participating, working on the promotion of Human Rights in the Americas. Furthermore, the Inter-American Court of Human Rights is the regional judicial institution for the application and interpretation of the *American Convention of Human Rights*.

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

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

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

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

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

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

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

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

Committee History

“It should be emphasized that respect for human rights is not only the foundation of peace, freedom and justice, as the preamble of the Universal Declaration states, it is also an essential condition for sustainable economic development”¹

Origins of Human Rights Institutions

Respect for human rights has always been a priority of the United Nations (UN) as this respect further ensures peace, security and economic development.² Human rights rely on the notion of dignity of a human being.³ The Human Rights Council (HRC) is the final result of a growing trend of internationalization of human rights that spanned the 20th century. The League of Nations first highlighted the importance of human rights in Article 23 of its Covenant.⁴ In 1945, the creation of the UN was built on the previous experience of the League of Nations and made this legacy substantial, both in the goals and structure of the UN.⁵ The monstrous human rights abuses that took place during the Second World War served as a catalyst for the work of the San Francisco Conference to reduce “man’s inhumanity.”⁶ The *Charter of the UN* would have to find a way to promote individuals’ rights according to its Article 1(3) stating that the United Nations aim at “encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”, while its Article 2 highlights the respect for domestic jurisdiction.⁷

Towards Conventional Protection

In 1946, the Commission on Human Rights was established by the Economic and Social Council (ECOSOC) to promote and protect fundamental human rights, in accordance with Article 68 of the *UN Charter*.⁸ An International Bill of Human Rights, composed of the 1948 *Universal Declaration of Human Rights* (UDHR) and the two 1966 Human Rights Covenants (the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights) would help to achieve legally binding human rights obligations.⁹ Described as the “Magna Carta of the civil, political, economic, social and cultural rights to which everyone is equally entitled,” the Declaration became the hallmark document and initiated dialogue on the international level on other aspects of human rights: gender equality, racial discrimination, refugee rights, and political and cultural rights.¹⁰ Other major human rights treaties include the *Convention against Torture* (CAT) adopted in 1975; and the *Convention for the Elimination of all forms of Discrimination Against Women* (CEDAW) adopted in 1979.

Over the next few decades, the United Nations Commission on Human Rights witnessed an burgeoning of concerns over individual rights caused by the decolonization process, the campaign for gender equality, and the civil rights movements, but also by the horrible repetition of abuses committed earlier in the century.¹¹ The UN organized the second Global Conference on Human Rights in June 1993 in Vienna, after a first conference had taken place in Tehran in 1968. It recommended the creation of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and led to the reiteration of the indivisibility and interdependence of human rights.¹² The *Final Declaration of the Second World Conference on Human Rights* states that “[a]ll human rights are universal,

¹ Ayala Lasso, *Human Rights in the United Nations: the Achievements So Far and Challenges Ahead*, 1996.

² Ayala Lasso, *Human Rights in the United Nations: the Achievements So Far and Challenges Ahead*, 1996.

³ Gomez Isa, *International Protection of Human Rights*, 2006, p. 19; Kennedy, *The Parliament of Man: the past, present and future of the United Nations*, 2006, p. 177.

⁴ Gomez Isa, *International Protection of Human Rights*, 2006, p. 26.

⁵ Ryan, *The United Nations and International politics*, 2000, p. 7.

⁶ Gomez Isa, *International Protection of Human Rights*, 2006, p. 26.

⁷ Kennedy, *The Parliament of Man: the past, present and future of the United Nations*, 2006, p. 178.

⁸ United Nations General Assembly, *Charter of the United Nations*, 1945.

⁹ Oraa Oraa, *The Universal Declaration of Human Rights*, 2006, p. 73.

¹⁰ Kennedy, *The Parliament of Man: the past, present and future of the United Nations*, 2006, p. 179; Ayala Lasso, *Human Rights in the United Nations: the Achievements So Far and Challenges Ahead*, 1996.

¹¹ Kennedy, *The Parliament of Man: the past, present and future of the United Nations*, 2006, p. 185.

¹² Kennedy, *The Parliament of Man: the past, present and future of the United Nations*, 2006, p. 192; Gomez Isa, *International Protection of Human Rights*, 2006, p. 34.

indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.”¹³

The post-Cold War period witnessed new problems due to the realignment of global politics and the UN was forced to adapt its human rights discourse.¹⁴ The 1990s saw an increase of gross violations of human rights in authoritarian regimes or in fractured states such as the former Yugoslavia, Rwanda, or Somalia.¹⁵ During this period, academics and statesmen posited that human rights emanated not only from human nature but also from the geopolitical evolution of the world.¹⁶ It gathers for example the right to development, to peace, to the environment, and to humanitarian assistance.¹⁷

From the Commission to the Council

Events unfolding at the end of the 20th century brought back the doubts about the UN’s capacity and credibility to protect human rights due to the inability of the Commission on Human Rights to act on violations.¹⁸ This credibility crisis lies foremost in the failure of some peacekeeping operations in the 1990s that led the world to note the slaughter that took place in Srebrenica, or the inability of the forces to protect civilians in Somalia during Operation Restore Hope.¹⁹ According to Kofi Annan, former UN Secretary-General and author of the report *In Larger Freedom*, the Commission, suffering from a credibility deficit, needed to be replaced by a smaller but more powerful Human Rights Council that would be more efficient and would consolidate the international human rights regime, by having a more authoritative position.²⁰ This decision was confirmed by the adoption of the General Assembly resolution A/RES/60/251 on March 15, 2006, which established the HRC.²¹

The Human Rights Council Functions and Mechanisms

The HRC has specific functions and procedures that enable it to play a significant role in addressing human rights abuses. As a subsidiary body of the General Assembly, it is composed of 47 Member States, each of whom is elected by a two-third majority for a three-year, once-renewable term.²² Membership is based on a geographical balance.²³ Thirteen seats are granted to African and Asian states, eight to Latin American and Caribbean states, seven to Western Europe and six to Eastern Europe.²⁴ To receive full membership, Member States shall prove that they contribute to the promotion and protection of human rights.²⁵ Indeed, they can be punished by suspension for the violation of human rights, according to paragraph 8 of resolution A/RES/60/251.²⁶ The Council has three scheduled sessions but can meet in a special session whenever it is requested by a Member State and supported by a third of the full body.²⁷

In resolution HRC/RES/5/1, the Council focuses on three main tasks: standard-setting, monitoring and implementing international human rights.²⁸ The Advisory Committee provides advice and expertise on situations brought to the attention of the Council by individuals and organizations through the Complaint Procedure.²⁹ The Special Procedures enable the Human Rights Council to address specific country situations on some 36 matters.³⁰ However,

¹³ Gomez Isa, *International Protection of Human Rights*, 2006, p. 34.

¹⁴ Weiss & Sam, *The Oxford handbook on the United Nations*, 2007, p. 3-4.

¹⁵ Kennedy, *The Parliament of Man: the past, present and future of the United Nations*, 2006, p. 199.

¹⁶ Gomez Isa, *International Protection of Human Rights*, 2006, p. 35.

¹⁷ Gomez Isa, *International Protection of Human Rights*, 2006, p. 35.

¹⁸ Annan, *In Larger Freedom: Decision Time at the UN*, 2005, p. 71.

¹⁹ Ikenberry, *A weaker world*, 2005, p. 30.

²⁰ Upton, *The Human Rights Council: First Impressions and Future Challenges*, 2007, p. 29.

²¹ United Nations Human Rights Council, *Background Information on the Human Rights Council*.

²² United Nations Human Rights Council, *Background Information on the Human Rights Council*.

²³ United Nations Human Rights Council, *Background Information on the Human Rights Council*.

²⁴ Upton, *The Human Rights Council: First Impressions and Future Challenges*, 2007, p. 29; United Nations Human Rights Council, *Background Information on the Human Rights Council*.

²⁵ Upton, *The Human Rights Council: First Impressions and Future Challenges*, 2007, p. 29.

²⁶ Upton, *The Human Rights Council: First Impressions and Future Challenges*, 2007, p. 31.

²⁷ Upton, *The Human Rights Council: First Impressions and Future Challenges*, 2007, p. 34.

²⁸ United Nations Human Rights Council, *Background Information on the Human Rights Council*

²⁹ United Nations Human Rights Council, *Background Information on the Human Rights Council*

³⁰ United Nations Human Rights Council, *Special Procedures*.

the key innovation is the Universal Periodic Review, which represents an assessment of human rights records of all the UN Member States once every four years.³¹ It is a state-driven process, which highlights again that in the field of human rights, states' compliance is essential.³² Through this unique mechanism, Member States are reminded of their responsibility to improve the protection and promotion of human rights.³³

Conclusion: Perspective for the future

There has been a considerable progress in the respect and promotion of human rights on the national and international levels.³⁴ The HRC and its Universal Periodic Review mechanism led to a reinforcement of reporting and data collection.³⁵ To go further regarding the punishment of violations of human rights, some advocate the setting up of a World Court of Human Rights.³⁶ But the establishment of such an institution would mean that human rights are universally understood, which is still subject to debate. The end of the 21st session in July 2012 promised a lot of hope and optimism for the next session and debate within the Human Rights Council.

³¹ United Nations Human Rights Council, *Universal Periodic Review*.

³² Weiss & Daws, *The Oxford handbook on the United Nations*, 2007, p. 4.

³³ United Nations Human Rights Council, *Universal Periodic Review*.

³⁴ Kennedy, *The Parliament of Man: the past, present and future of the United Nations*, 2006, p. 203.

³⁵ Kennedy, *The Parliament of Man: the past, present and future of the United Nations*, 2006, p. 197.

³⁶ Novak, *The Need for a World Court of Human Rights*, 2007, p. 255.

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- Ayala Lasso, J. (1996). Human Rights in the United Nations: the Achievements So Far and Challenges Ahead. *International Journal of Peace Studies Volume 1 (2)*. Retrieved on July 30, 2012 from:
http://www.gmu.edu/programs/icar/ijps/vol1_2/Human.htm
This article written by the former United Nations High Commissioner for Human Rights provides a good knowledge of the historical approach to human rights, the reason why human rights are the foundation to peace, security and economic development. It would help delegates understand how important human rights respect is and how more than 60 years of history have proved its efficiency, but also how the road ahead is still full of obstacles to overcome.
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The author retraces the first step toward the creation of an international organization, since the "Enlightenment" century and Kant ideas. The book highlights the weaknesses of the League of Nations, whose failure led to the creation of the UN. Still, the author does not forget to mention the future challenge of what tends to be "the Parliament of Man". Part 2, Chapter 6 "Advancing International Human Rights" will provide delegates with a good historical approach of the awareness of human rights abuses and the actions undertaken to prevent them.
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The Universal Declaration of Human Rights is of fundamental importance to understand the ambition of the United Nations to set international standards. Those standards are then taken as targets for the entire actions of its committee focusing on Human Rights such as the Human Rights Council and other treaty bodies dedicated to the respect of the Convention they are coming from.
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This article draws a perfect summary of the first steps made by the Council from 2006, and the future challenges expected by the international community. Upton manages to explain the mechanisms of the Human Rights Council inherited from the Commission and the new procedures set up to facilitate human rights promotion and protection in the twenty-first century.

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I. Strengthening Human Rights of Returnees and Internally Displaced Persons (IDPs) in Conflict-Ridden Regions

“While forced displacement is a humanitarian crisis, it also has significant developmental impacts affecting human and social capital, economic growth, poverty reduction efforts, and environmental sustainability. Forced displacement has an important bearing on meeting the MDGs [Millennium Development Goals], since displaced populations tend to be the poorest and often experience particularly difficult access to basic services.”³⁷

Introduction

With ongoing armed conflict in several regions of the world, there are thousands of people that have to leave their homes and communities every day; in doing so, they are also escaping from the threat of war, rape, or famine.³⁸ Many try to escape these threats by crossing national borders and seeking asylum, thereby receiving support from national and international organizations, non-governmental organizations (NGOs), and the media.³⁹ Often, however, people escape their local regions and move within their country – they are therefore called Internally Displaced Persons (IDPs) – and although they face the same challenges as refugees, they do not have the same legal rights as refugees and do not receive the same level of support and attention and are therefore particularly vulnerable to human rights abuses.⁴⁰ Another group that faces these problems during and after conflict are returnees. Returnees are former refugees who return to their country of origin and try to reintegrate into their community.⁴¹ As these groups of individuals have either never crossed a national border or returned to their home country, they qualify as citizens of another state and it is therefore difficult for them to get support from international instruments or standards, which were designed for refugees.⁴² Their needs and rights have not been established in the international legal framework and it is therefore necessary to create specific instruments and documents to strengthen and protect the human rights of returnees and IDPs.⁴³

Defining IDPs

Statistics on IDPs began to be collected in 1982 and at that time, 1.2 million IDPs were identified in 11 different countries.⁴⁴ This number increased dramatically in the 1990s and by 2006 there were an estimated 25 million IDPs in more than 50 countries.⁴⁵ This dramatic increase shows the need for international standards in order to protect IDPs; concerns over their vulnerability led the UN Commission on Human Rights, a former functional commission of the ECOSOC replaced in 2006 by the Human Rights Council (HRC), to ask former Representative of the Secretary-General on IDPs, Francis Deng, to develop a framework for IDPs.⁴⁶ Supported by a team of international legal experts, in 1998 he presented the "Guiding Principles on Internal Displacement" to the Commission.⁴⁷ According to those principles, IDPs are:

“...persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.”⁴⁸

³⁷ Harild/Christensen, *The Development Challenge of Finding Durable Solutions for Refugees and Internally Displaced Persons*, 2011.

³⁸ Office of the High Commissioner for Human Rights, *Questions and Answers about IDPs*.

³⁹ Office of the High Commissioner for Human Rights, *Questions and Answers about IDPs*.

⁴⁰ United Nations General Assembly (2008, March 6), *Resolution A/RES/62/153 (2008)*.

⁴¹ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 204.

⁴² Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 206.

⁴³ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 206.

⁴⁴ Internal Displacement Monitoring Center. *Guiding Principles on Internal Displacement*.

⁴⁵ Internal Displacement Monitoring Center. *Internal Displacement. Global Overview of Trends in 2006*, 2006, p. 6.

⁴⁶ Internal Displacement Monitoring Center, *The Definition of an Internally Displaced Person (IDP)*, 2011.

⁴⁷ Internal Displacement Monitoring Center, *The Definition of an Internally Displaced Person (IDP)*, 2011.

⁴⁸ Office of the High Commissioner of Human Rights, *Guiding Principles on Internal Displacement*, 2004, p. 1.

This definition highlights two elements, namely the involuntary character of movement and the fact that such movement takes place within national borders.⁴⁹ Concerning international law, the legal situation of refugees and IDPs differ from each other.⁵⁰ Although IDPs receive the same legal protection of international human rights law and international humanitarian law, they do not benefit from the protection mechanisms of international refugee law since they have never crossed an international border. This makes them particularly vulnerable to human rights abuses and neglect.⁵¹ However, they do receive support from the Special Rapporteur of the Secretary-General on the Human Rights of IDPs who acts as a global advocate for IDPs.⁵² The current Special Rapporteur is Dr. Chaloka Beyani, who regularly reports to the General Assembly and to the Human Rights Council and also conducts dialogues with governments and other actors about the rights and the needs of IDPs.⁵³ Further activities include ensuring that the Guiding Principles on Internal Displacement are complied with, taking action with governments and other actors on specific situations of internal displacement, also by making country visits, and finally to sponsor national and regional seminars on issues related to internal displacement.⁵⁴

Defining Returnees

The term “returnee” is used by the international community for a person that has been a refugee, but that has recently returned to his or her country of origin.⁵⁵ In order to be identified as a returnee, a person therefore has to have a prior refugee status.⁵⁶ When a refugee makes the decision to return to his or her home country, this is usually because the threat that caused him or her to leave has been resolved or at least diminished, or the situation of the country in which the individual became a refugee has become worse than the one in the country of origin and it would be safer to return home.⁵⁷ In some cases, refugees are even forced to return by the host government or other factors, even though this is against international law.⁵⁸ Like the term IDP, the term returnee is a descriptive one – but not a legal designation - which acknowledges the fact that returning refugees are in need of support and assistance, and protection over a certain period of time until they have re-integrated into their communities.⁵⁹ It is impossible to define this period of time in which a person can be identified as a returnee, since this will be different in each specific situation.⁶⁰ A current example for the challenges that returnees have to face is South Sudan. The country gained its independence on July 9, 2011; however, there are still several key issues to be resolved and one of them is to support the thousands of returnees to come home.⁶¹ Between October 2011 and May 2012, more than 387,000 people originating from South Sudan crossed the border from the north.⁶² Another 500,000 people who have been living in the north for the last 30 years may choose or be forced to return to the south.⁶³ Furthermore, in May 2011, the Sudanese government gave notice that ethnic South Sudanese should either formally obtain their citizenship in the north or leave imminently, which prompted even more people to cross the border.⁶⁴ Most returnees face many challenges during their journey back home due to heat exhaustion and the increased risk of epidemic

⁴⁹ Internal Displacement Monitoring Center. *Guiding Principles on Internal Displacement*, n.d.

⁵⁰ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Refugees and/or Internally Displaced Persons Living in Camps*, 2001, p. 168.

⁵¹ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Refugees and/or Internally Displaced Persons Living in Camps*, 2001, p. 168.

⁵² United Nations High Commissioner for Refugees, *Handbook for the Protection of Internally Displaced Persons*, 2006, p. 27.

⁵³ United Nations High Commissioner for Refugees, *Handbook for the Protection of Internally Displaced Persons*, 2006, p. 27.

⁵⁴ United Nations High Commissioner for Refugees, *Handbook for the Protection of Internally Displaced Persons*, 2006, p. 27.

⁵⁵ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 205.

⁵⁶ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 205.

⁵⁷ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 205.

⁵⁸ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 205.

⁵⁹ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 205.

⁶⁰ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 205.

⁶¹ United Nations High Commissioner for Refugees, *2012 UNHCR country operations profile - South Sudan*, 2012.

⁶² British Red Cross, *South Sudan Red Cross responds to returnee crisis*, 2012.

⁶³ British Red Cross, *South Sudan Red Cross responds to returnee crisis*, 2012.

⁶⁴ British Red Cross, *South Sudan Red Cross responds to returnee crisis*, 2012.

diseases, such as measles, diarrhea, and HIV.⁶⁵ Furthermore, once they arrive in South Sudan, it is difficult for them to find adequate housing as well as access to food, sanitation, educational facilities, and health care since these resources are already limited in the country.⁶⁶ Being in its fledgling state, the South Sudanese government is currently not able to provide these basic services to its citizens, which puts even more pressure on the returnees.⁶⁷

Challenges of Returnees and IDPs

Returnees and IDPs are both vulnerable to violations of their civil, political, economic, social, and cultural rights.⁶⁸ The causes for these violations may be different in each case. However, one can identify three fundamental challenges that both returnees and IDPs usually have to face.⁶⁹ The first of these three is discrimination based on membership of a group.⁷⁰ One reason for returnees and IDPs for fleeing their homes often is that they belong to a particular religious or ethnic minority.⁷¹ As such, they might experience discrimination by the population or by the authorities of the new community they moved to or returned back to such as restricted freedom of movement, arbitrary arrests, etc.⁷² The second challenge is the displacement from the community of origin.⁷³ Being forced to leave one's community means not only losing property, but also status, employment, and family members, which puts IDPs and returnees in a vulnerable position.⁷⁴ Because of their displacement, they might have problems providing certain documents and therefore to assert certain rights such as free health care or employment.⁷⁵ Furthermore, returnees and IDPs may face discrimination by the local population because they do not want or are unable to share local resources as a large displaced or returning population can be challenging to available food, housing, or jobs.⁷⁶ The third challenge IDPs and returnees have to face is the return and reintegration process.⁷⁷ Both groups can encounter serious difficulties during and after their way back to their place of origin which include traveling through war zones, recovering occupied or stolen property, or tracing lost family members.⁷⁸ This puts them in an especially vulnerable situation, which requires a specific human rights response.⁷⁹ One country where those challenges become particularly visible is Uganda where, since the 2006 ceasefire agreement between the government and the Lord's Resistance Army, almost 1.8 million IDPs and refugees have returned to their regions of origin or resettled in new communities.⁸⁰ However, the recovery and development process in areas of return has not been sufficient so far as IDPs and returnees had to face continuing difficulties concerning access to basic services and rebuilding their houses.⁸¹ Basic services such as sanitation, health care, and education have already been limited

⁶⁵ British Red Cross, *South Sudan Red Cross responds to returnee crisis*, 2012.

⁶⁶ British Red Cross, *South Sudan Red Cross responds to returnee crisis*, 2012.

⁶⁷ British Red Cross, *South Sudan Red Cross responds to returnee crisis*, 2012.

⁶⁸ Weiss Fagen, *Refugees and IDPs after Conflict. Why They Do Not Go Home*, 2011, p. 2.

⁶⁹ Weiss Fagen, *Refugees and IDPs after Conflict. Why They Do Not Go Home*, 2011, p. 2.

⁷⁰ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 206.

⁷¹ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 206.

⁷² Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 206.

⁷³ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 206.

⁷⁴ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 206.

⁷⁵ Enstwisle, *The end of the road? A review of UNHCR's role in the return and reintegration of internally displaced persons*, 2010, p. 23.

⁷⁶ Enstwisle, *The end of the road? A review of UNHCR's role in the return and reintegration of internally displaced persons*, 2010, p. 23.

⁷⁷ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 206.

⁷⁸ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 206.

⁷⁹ Office of the High Commissioner for Human Rights, *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*, 2001, p. 206.

⁸⁰ Internal Displacement Monitoring Center, *Uganda: Need to focus on returnees and remaining IDPs in transition to development*, 2012, p. 1.

⁸¹ Internal Displacement Monitoring Center, *Uganda: Need to focus on returnees and remaining IDPs in transition to development*, 2012, p. 1.

for those who have stayed and the return of the refugees and IDPs has put more pressure on the situation.⁸² In several areas of northern Uganda, only about 30% of the population has access to water and sanitation and several IDPs have returned to the camps in which they were living during displacement in order to be able to access these basic services.⁸³ Furthermore, the return process has been hindered by land conflicts which in several cases led to violence and secondary displacement.⁸⁴ About 65% of land disputes occurred on land which was abandoned by IDPs.⁸⁵ In some cases, even when the returnees were able to regain their land, they had to face displacement again when their land was incorporated within national parks by the government, which happened for example to the returnees of the Amuru village who eventually had to return to their former IDP camp.⁸⁶

Especially Vulnerable Groups within Returnees and IDPs

Although all returnees and IDPs are vulnerable to human rights violations, there are certain groups that need special protection from abuse.⁸⁷ One of the most vulnerable groups is women and girls who are at risk of sexual and gender-based violence in most internal displacement situations.⁸⁸ Sexual and gender-based violence, which can include rape, forced impregnation, forced abortion, trafficking, and sexual slavery, is one of the most pervasive violations of the rights of women during armed conflict and displacement; while men and boys can also be victims, women and girls are the most affected.⁸⁹ Displaced women and girls are often exposed to sexual and gender-based violence in order to obtain basic resources such as food, water, and fuel for themselves and their families.⁹⁰ In many cases, displaced women do not report the incidents to medical or humanitarian organizations, but nevertheless cases of sexual violence have been reported among IDP communities in several countries, particularly in the Democratic Republic of Congo, Sudan, Colombia, Nepal, the Philippines, Iraq, Chad, Uganda, CAR, Somalia, Myanmar, India, Liberia, Kenya, Côte d'Ivoire, and the Russian Federation.⁹¹ The Guiding Principles on Internal Displacement explicitly request governments to provide protection for women and girls from gender-specific violence and to ensure their rights to equal access to services and participation in assistance programs.⁹² The Human Rights Council developed and carries out several initiatives, such as medical and psycho-social assistance, legal assistance, and income-generating activities.⁹³ Furthermore, a 2006 study by the International Medical Corps on the mental health of displaced women in South Darfur found that almost one-third of displaced women surveyed suffered from a major depressive disorder, and the HRC in cooperation with other institutions such as the International Red Cross or the International Organization for Migration responded by initiating several counseling projects which have proven to be very demanded among IDP women.⁹⁴

Another group that is extremely vulnerable within IDPs are children.⁹⁵ Today, there are almost 14 million internally displaced children in the world who are often separated from their families and who therefore face an increased risk of forced labor, forced marriage, sexual exploitation, human trafficking, or forced recruitment into armed groups.⁹⁶ Displaced children also often do not have access to education and health care because of the destruction of schools

⁸² Internal Displacement Monitoring Center, *Uganda: Need to focus on returnees and remaining IDPs in transition to development*, 2012, p. 5.

⁸³ Internal Displacement Monitoring Center, *Uganda: Need to focus on returnees and remaining IDPs in transition to development*, 2012, p. 5.

⁸⁴ Internal Displacement Monitoring Center, *Uganda: Need to focus on returnees and remaining IDPs in transition to development*, 2012, p. 5.

⁸⁵ Internal Displacement Monitoring Center, *Uganda: Need to focus on returnees and remaining IDPs in transition to development*, 2012, p. 5.

⁸⁶ Internal Displacement Monitoring Center, *Uganda: Need to focus on returnees and remaining IDPs in transition to development*, 2012, p. 5.

⁸⁷ Internal Displacement Monitoring Center, *Internally Displaced Women*, n.d.

⁸⁸ Internal Displacement Monitoring Center, *Internally Displaced Women*, n.d.

⁸⁹ Internal Displacement Monitoring Center, *Internally Displaced Women*, n.d.

⁹⁰ United Nations High Commissioner of Refugees, *Sexual and Gender-based Violence against Refugees, Returnees, and Internally Displaced Persons. Guidelines for Prevention and Response*, 2003, p. 9.

⁹¹ United Nations High Commissioner of Refugees, *Sexual and Gender-based Violence against Refugees, Returnees, and Internally Displaced Persons. Guidelines for Prevention and Response*, 2003, p. 9.

⁹² Internal Displacement Monitoring Center, *Internally Displaced Women*, n.d.

⁹³ Internal Displacement Monitoring Center, *Internally Displaced Women*, n.d.

⁹⁴ Internal Displacement Monitoring Center, *Internally Displaced Women*, n.d.

⁹⁵ Internal Displacement Monitoring Center, *Internally Displaced Children*, n.d.

⁹⁶ Internal Displacement Monitoring Center, *Internally Displaced Children*, n.d.

and hospitals.⁹⁷ Although the main responsibility for the protection of displaced children rests on national government, as laid out in both humanitarian law governing conflict situations and in the *Convention on the Rights of the Child* and its *Optional Protocol on Children in Armed Conflict*, in most cases national governments have not been able to provide sufficient assistance and protection for internally displaced children.⁹⁸ Therefore, in many cases the help and support of the United Nations Children's Fund (UNICEF), the Office of the Special Representative of the UN Secretary-General for Children and Armed Conflict, and other child protection groups is required to ensure adequate protection.⁹⁹

Within the groups of returnees, it is especially the elderly that are most vulnerable.¹⁰⁰ In order to return back to their homes, returnees often have to walk long distances while carrying all of their belongings, sometimes under extreme weather conditions and with little food or water.¹⁰¹ These conditions are especially difficult for the elderly and they are at an increased risk of violence, exploitation and they face the threat of being left behind.¹⁰² Furthermore, they might lose their traditional role within their community and they might have to act as a primary caregiver for their grandchildren, if their parents have left them behind.¹⁰³ While there are often specific projects that attend to the needs of other vulnerable IDP and returnee groups such as women and children, very few programs exist for the elderly.¹⁰⁴ In Sri Lanka, for example, it is estimated that although the war has ended in May 2009, there are still more than 30,000 internally displaced people over the age of 60, many of whom show signs of trauma or isolation.¹⁰⁵ Those without extended family support often struggle with poverty, malnutrition, and no adequate access to health care.¹⁰⁶ The development and rehabilitation work in Sri Lanka includes hardly any programs that are especially designed for the elderly.¹⁰⁷

Case Study: Iraq

In Iraq, there have been several periods of major displacement over the last decade.¹⁰⁸ Up to 2003, people were displaced by campaigns of the Iraqi government under Saddam Hussein. After that, between 2003 and 2005, people were forced to leave their communities because of the fighting that followed the country's invasion; and furthermore, from 2006 sectarian violence between Sunni and Shi'a militias led to 1.6 million new IDPs.¹⁰⁹ Therefore, people in Iraq have been internally displaced in the past decade due to different causes, in different regions, and during different periods.¹¹⁰ When the security situation in the country started to improve in 2008, IDPs started to return to their home communities and although 800,000 former IDPs returned, the majority was still displaced by the end of 2011.¹¹¹ The new government, which was established in 2011, created a plan to address this displacement situation, but the focus is on incentives to return and includes little recognition of the IDPs wishes to integrate locally.¹¹² This plan has not been very effective: The government quadrupled financial incentives to returning IDPs in 2011, which led to 170,000 IDPs returning home, but about 80% of IDPs stated in 2011 that they would rather stay in the place where they acquired refugee status rather than to return because they already had integrated into the local community to some extent and would face a lack of housing and no social networks in their

⁹⁷ Internal Displacement, *Internally Displaced Children*, p. 70.

⁹⁸ Internal Displacement, *Internally Displaced Children*, p. 71.

⁹⁹ Internal Displacement, *Internally Displaced Children*, p. 71.

¹⁰⁰ International Organization for Migration, *IOM Brussels' Guidelines on Return and Reintegration of Vulnerable Cases, with special emphasis on medical cases*, 2007, p. 2.

¹⁰¹ Internal Displacement Monitoring Center, *The Neglected Generation. The Impact of Displacement on older people*, 2012, p. 5.

¹⁰² Internal Displacement Monitoring Center, *The Neglected Generation. The Impact of Displacement on older people*, 2012, p. 5.

¹⁰³ United Nations Human Rights Council, *Handbook for the Protection of Internally Displaced Persons*, 2007, p. 13.

¹⁰⁴ Integrated Regional Information Networks, *Sri Lanka: Older returnees face isolation, poverty*, 2011.

¹⁰⁵ Integrated Regional Information Networks, *Sri Lanka: Older returnees face isolation, poverty*, 2011.

¹⁰⁶ Integrated Regional Information Networks, *Sri Lanka: Older returnees face isolation, poverty*, 2011.

¹⁰⁷ Integrated Regional Information Networks, *Sri Lanka: Older returnees face isolation, poverty*, 2011.

¹⁰⁸ Fawcett/Tanner, *The Internally Displaced People of Iraq*, 2002, p. 2.

¹⁰⁹ Internal Displacement Monitoring Center, *Iraq: Response still centered on return despite increasing IDP demands for local integration*, 2011.

¹¹⁰ Fawcett/Tanner, *The Internally Displaced People of Iraq*, 2002, p. 2.

¹¹¹ Internal Displacement Monitoring Center, *Iraq: Response still centered on return despite increasing IDP demands for local integration*, 2011.

¹¹² Internal Displacement Monitoring Center, *Iraq: Response still centered on return despite increasing IDP demands for local integration*, 2011.

old region.¹¹³ It is yet to be seen if the government manages to provide better return mechanisms to IDPs and to support their demands for local integration.¹¹⁴

Conclusion

The human rights situation of IDPs and returnees in conflict-ridden regions remains vulnerable and their rights are being repeatedly violated. It is therefore of utmost importance to strengthen and improve their human rights and to insist that the existing frameworks such as the Guiding Principles on Internal Displacement are being followed and enforced, but also that new documents and standards are created. The main areas on which such new legal frameworks should focus are the discrimination based upon membership of a group, the displacement from the community of origin and the return and reintegration process. To prepare for discussion on this topic, there are a number of questions to consider. Are the existing frameworks regarding IDPs and returnees sufficient? How could they be improved, updated and expanded? Is a legally binding framework that applies specifically to IDPs and returnees necessary? What frameworks could be created at the regional, national, and international level to ensure that IDPs and returnees have access to all basic services? What are the key areas which need to be addressed to improve the situation of IDPs and returnees? How can the HRC continue to support the most vulnerable groups among the IDPs and returnees?

¹¹³ Internal Displacement Monitoring Center, *Iraq: Response still centered on return despite increasing IDP demands for local integration*, 2011.

¹¹⁴ Internal Displacement Monitoring Center, *Iraq: Response still centered on return despite increasing IDP demands for local integration*, 2011.

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This paper gives an overview over the background of the UNHCR and its involvement with IDPs and discusses its role and its achievements. The author also analyzes the challenges the UNHCR has to face during its commitment and introduces potential solutions to address them. It also presents six comprehensive case studies (Colombia, Georgia, Pakistan, Southern Sudan, Sri Lanka and Uganda) in which those challenges and possible solutions are further analyzed.

Internal Displacement Monitoring Center (2011). *The Definition of an Internally Displaced Person (IDP)*. Retrieved on August 12, 2012, from: <http://www.internal-displacement.org/8025708F004D404D/%28httpPages%29/CC32D8C34EF93C88802570F800517610?OpenDocument>

The Internal Displacement Monitoring Center (IDMC) website is especially helpful for a general overview on what IDPs are and why they are particularly vulnerable. It provides definitions and guiding principles and also focuses on special groups of IDPs that need particular attention such as women and children. Furthermore, it has published several reports that present durable solutions for the situation of returnees and IDPs and gives many country examples.

Internal Displacement Monitoring Center (2012). *Uganda: Need to focus on returnees and remaining IDPs in transition to Development*. Retrieved October 1, 2012 from: [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/9FB09D064C776572C1257A0800352A30/\\$file/uganda-overview-may2012.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/9FB09D064C776572C1257A0800352A30/$file/uganda-overview-may2012.pdf)

This report focuses on Uganda, but it will nevertheless be helpful for all delegates, because it presents a wide range of solutions that could maybe adapted to other countries or that could serve as inspiration for further solutions. It focuses on the main issues of IDPs and returnees, access to basic services and land issues and also summarizes the national and international actions that have been undertaken to address the challenges they have to face. The report furthermore lists a lot of sources that delegates could use as research.

Internal Displacement Monitoring Center (2012). *The Neglected Generation. The Impact of Displacement on older people*. Retrieved August 12, 2012 from: [http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/E2875D44941FD9B4C1257A21002EC242/\\$file/help-age-idmc-the-neglected-generation-june2012.pdf](http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/E2875D44941FD9B4C1257A21002EC242/$file/help-age-idmc-the-neglected-generation-june2012.pdf)

This report focuses on the problems and risks elderly IDPs have to face during their displacement. The report finds that the main challenges of protecting the human rights of elderly IDPs include getting access to older persons that are left behind when other more able-bodied IDPs flee, providing appropriate health care, reuniting them with their families, and ensuring social support and income.

Internal Displacement Monitoring Center. (2012). *Internal displacement in Africa: A development challenge. Exploring development initiatives to alleviate internal displacement caused by conflict, violence and natural disasters*. Retrieved on August 12, 2012 from: [http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/CF58226E548B5FB8C1257A1B002F5020/\\$file/internal-displacement-in-africa-development-challenge-2012.pdf](http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/CF58226E548B5FB8C1257A1B002F5020/$file/internal-displacement-in-africa-development-challenge-2012.pdf)

Although this report focuses on IDPs in Africa, it will be very helpful for delegates since more than one third of all IDPs worldwide live in Africa and it is therefore the region with the highest number of IDPs and they actually outnumber refugees by five to one. The report gives a detailed explanation for all the different reasons and causes for displacement and introduces many proposals on what different kind of actions could be taken to improve the situations of IDPs. Furthermore, it provides delegates with several useful case studies.

International Organization for Migration (n.d.). *Internally Displaced Persons*. Retrieved August 12, 2012, from: <http://www.iom.int/jahia/Jahia/about-migration/developing-migration-policy/migration-displacement/internally-displaced-persons>

Delegates could use this short article as an introduction to the topic. It explains briefly what IDPs are, gives a definition, and summarizes important points about IDPs that delegates can use to do further research. It also addresses the issue of international and national responsibility and provides further links to other helpful articles on both IDPs and returnees.

Office of the High Commissioner for Human Rights (2001). *Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons*. Retrieved on August 12, 2012, from: <http://www.ohchr.org/Documents/Publications/training7Introen.pdf>

In this Training Manual, especially chapter XI “Monitoring and Protecting the Human Rights of Returnees and Internally Displaced Persons” will be helpful for the delegates. It not only explains why the protection of the human rights of those groups of people are so important, but also presents different approaches on how the United Nations can respond to the challenges returnees and IDPs have to face. This chapter discusses in particular the protection of human rights during displacement or settlement in a non-camp situation, and during the process of returning home.

United Nations High Commissioner of Refugees. (2003). *Sexual and Gender-based Violence against Refugees, Returnees, and Internally Displaced Persons. Guidelines for Prevention and Response*. Retrieved on September 3, 2012 from: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3edcd0661&page=search>

These guidelines focus on IDP and returnee women who are often the most vulnerable and who are at a high risk of becoming a victim of gender-based violence. The guidelines offer practical advice on how to create strategies and activities in order to prevent and to respond to sexual violence. Furthermore, they give useful information on basic health, legal frameworks, and security and security and human rights issues concerning displaced and returning women.

United Nations Human Rights Council (2007). *Handbook for the Protection of Internally Displaced Persons*. Retrieved on October 2, 2012 from: <http://www.unhcr.org/4c2355229.pdf>

This handbook will provide delegates with very comprehensive information on IDPs. It is divided into six parts and while all chapters are interconnected, they can also stand by themselves as self-contained modules. Especially parts I and VI will be very helpful for delegates. Part I describes core concepts, approaches, and humanitarian principles for the protection of IDPs and part VI focuses on durable solutions in order to improve their situation.

Weiss Fagen, P. (2011). *Refugees and IDPs after Conflict. Why they do not go home*. Washington, D.C.: United States Institute of Peace.

This report about refugees and IDPs focuses on the challenges that those two groups face after conflict. The author points out, that refugees and IDPs are often brought back home without considering the political, economic, and physical changes that might have taken place in the place of origin. Returnees are expected to rebuild their lives in completely different circumstances than they have lived before. Therefore, the author suggests greater flexibility in finding solutions for returnees and IDPs and more investment in different forms of reintegration of these two groups.

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Internal Displacement Monitoring Center. (2011). *Iraq: Response still centered on return despite increasing IDP demands for local integration*. Retrieved September 4, 2012 from: <http://www.internal-displacement.org/8025708F004CE90B/%28httpCountries%29/718916EEB6743EEF802570A7004CB9B9?OpenDocument>

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II. Access to Safe Drinking Water as a Fundamental Human Right

“Pure water is the world’s first and foremost medicine.” (Slovakian Proverb)

Introduction

Water plays an essential part of human life: we can go days without food but less than a day without water.¹¹⁵ While the international community has committed itself to improving access to safe drinking water worldwide through the Millennium Development Goals (MDGs), to date, there are still 783 million people, or 11% of the world’s population, who do not have access to safe drinking water.¹¹⁶ Furthermore, those who have access to safe drinking water may have to travel long distances to acquire it, with such duties often falling on women and girls.¹¹⁷ The United Nations (UN) and non-governmental organizations (NGOs) have worked steadfastly to get countries to understand that access to safe drinking water is a fundamental human right, and as such has obligations and responsibilities required for Member States.

Significance of Water as a Fundamental Human Right

UN Secretary-General Ban Ki-moon, acknowledging the work of the UN General Assembly (GA), once said, “Water and sanitation as a human right provides additional political impetus towards the ultimate goal of providing everyone with access to these vital services.”¹¹⁸ The Annual Report of the Secretary-General to the GA, regarding progress towards the MDGs, further states that “a human rights framework enriches policy implementation by enabling effective participation by all stakeholders in decision-making and improving accountability and governance.”¹¹⁹ The main feature of this approach is the accountability that it brings, which requires State Parties to have adequate laws, policies, institutions, administrative procedures and practices, and mechanisms of redress.¹²⁰ A rights-based approach can produce more sustainable solutions because its focus is on what communities and individuals require, understand, and can manage.¹²¹

Water as a fundamental human right is also part and parcel to other international human rights obligations which states must meet. As mentioned in the *Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation*, which will be discussed further, the independent expert Catarina de Albuquerque identifies the right to water as linked to other social rights, including the rights to health, physical security, gender equality, and adequate living standards.¹²² The next section, *International Framework*, will seek to narrate the transition of the right to water from being part of a broader human right on health to being its own human right.

International Framework

The right to health has been recognized as a fundamental human right for many years.¹²³ As early as 1946, the *Constitution of the World Health Organization* (WHO) recognized that “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.”¹²⁴ The *Universal Declaration of Human Rights*, adopted in 1948, guarantees everyone “the right to a standard of living adequate for the health and well-being of himself and of his

¹¹⁵ Encyclopedia Britannica, *Human Body and Water*, 2005.

¹¹⁶ United Nations Partners on MDGs, *Target 7.C*.

¹¹⁷ World Health Organization/United Nations Children’s Fund, *Joint Monitoring Programme for Water Supply and Sanitation Report 2012*, foreword.

¹¹⁸ World Health Organization/United Nations Children’s Fund, *Joint Monitoring Programme for Water Supply and Sanitation Report 2012*, foreword.

¹¹⁹ United Nations General Assembly, *Accelerating Progress towards the Millennium Development Goals: Options for Sustaining and Inclusive Growth and Issues for Advancing the United Nations Development Agenda Beyond 2015*, 2011, Art. 43.

¹²⁰ United Nations Office of the High Commissioner for Human Rights, *Frequently Asked Questions on a Human-Rights Based Approach to Development Cooperation*, 2006, p.15.

¹²¹ World Health Organization, *The Right to Water*, 2003, p.10.

¹²² United Nations Human Rights Council, *A/HRC/RES/24/12*.

¹²³ World Health Organization, *Constitution of the World Health Organization*, 1946.

¹²⁴ World Health Organization, *Constitution of the World Health Organization*, 1946.

family.”¹²⁵ Similarly, the 1966 *International Covenant on Economic, Social and Cultural Rights* (ICESCR) provides for a right “to the enjoyment of the highest attainable standard of physical and mental health” in its Article 12.¹²⁶

In 1977, the first UN Water Conference, held at Mar del Plata, Argentina, produced the *Mar del Plata Action Plan*, which emphasized that all persons had the right to access to enough drinking water to satisfy their basic needs.¹²⁷ While only 120 countries attended the 1977 UN Water Conference, attendance had increased at the 1992 UN Conference on Environment and Development, which produced the *Agenda 21* action plan.¹²⁸ In 1994, the Programme of Action that came out of the International Conference on Population and Development stated that all people had the right to an adequate standard of living, including water.¹²⁹ Water was recognized again as part of an adequate standard of living in the Habitat Agenda from the UN Conference on Human Settlements (Habitat II) in 1996.¹³⁰

The right to water was further recognized as part of the rights to health and an adequate standard of living with respect to women and children. Under Article 14 of the *Convention on the Elimination of All Forms of Discrimination against Women*, States Parties have a responsibility to ensure women’s right “to adequate living conditions, particularly in relation to housing, sanitation, electricity, and water supply, transport, and communications.”¹³¹ In the *Convention on the Rights of the Child*, under Article 24, States Parties have a responsibility to ensure a child’s right “to the enjoyment of the highest attainable standard of health,” with respect to the issue of water, State Parties must readily provide clean drinking water and food to combat disease and malnutrition.¹³²

In 2000, the UN highlighted the issue of access to safe drinking water in the *Millennium Declaration*, and Member States committed “by the year 2015, to halve the proportion of people who are unable to reach or to afford safe drinking water.”¹³³ This became Target 7.C of the MDGs.¹³⁴ According to the *Millennium Development Goals Report 2012*, “the work is not done yet...at the current pace, 605 million people will still lack coverage in 2015.”¹³⁵ Progress has been made “in four of nine developing regions, [with] 90% or more of the population now [using] an improved drinking water source.”¹³⁶ The problem of coverage still remains; access to potable water still remains “low in Oceania and Sub-Saharan Africa, neither of which is on track to meet the MDG drinking water target by 2015..”¹³⁷

In January 2003, the Committee on Economic, Social and Cultural Rights (CESCR), an expert body responsible for monitoring the implementation of and compliance with the ICESCR, took a major step in making access to safe drinking water recognized as a fundamental human right when it adopted *General Comment No. 15: The Right to Water*.¹³⁸ *General Comment No. 15* emphasizes water as part of an adequate standard of living and the right to health under the ICESCR and as a limited resource.¹³⁹ According to the comment, “the human right to water entitles everyone to sufficient, safe, acceptable, physically accessible, and affordable water for personal and domestic uses.”¹⁴⁰ The right to water “clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival,” and “the right should

¹²⁵ United Nations General Assembly, *The Universal Declaration of Human Rights*, 1948, Art. 25.

¹²⁶ United Nations General Assembly, *International Covenant on Economic, Social, and Cultural Rights*, 1966, Art.12.

¹²⁷ United Nations Office of the High Commissioner for Human Rights, *The Right to Water – Fact Sheet Number 35*, 2010, p. 1.

¹²⁸ Biswas, *United Nations Water Conference Action Plan: Implementation Over the Past Decade*, 1988.

¹²⁹ United Nations Office of the High Commissioner for Human Rights, *The Right to Water – Fact Sheet Number 35*, 2010, p. 1.

¹³⁰ United Nations Office of the High Commissioner for Human Rights, *The Right to Water – Fact Sheet Number 35*, 2010, p. 1.

¹³¹ United Nations Office of the High Commissioner for Human Rights, *Convention on the Elimination of All Forms of Discrimination against Women*, 1979, Art. 14.

¹³² United Nations Office of the High Commissioner for Human Rights, *Convention on the Rights of the Child*, 1990, Art. 24.

¹³³ United Nations General Assembly, *Millennium Declaration A/RES/55/2*, 2000, Issue 19.

¹³⁴ United Nations Partners on MDGs, *Target 7.C*.

¹³⁵ United Nations Department of Economic and Social Affairs, *The Millennium Development Goals Report 2012*, p.52.

¹³⁶ United Nations Department of Economic and Social Affairs, *The Millennium Development Goals Report 2012*, p.52.

¹³⁷ United Nations Department of Economic and Social Affairs, *The Millennium Development Goals Report 2012*, p.52.

¹³⁸ United Nations Committee on Economic, Social and Cultural Rights, *General Comment No. 15*, 2003.

¹³⁹ United Nations General Assembly, *International Covenant on Economic, Social and Cultural Rights, A/RES/2200A (XXI)*, 1966, Art. 11.

¹⁴⁰ Committee on Economic, Social and Cultural Rights, *General Comment Number 15: Right to Water*, 2003, par. 1.

also be seen in conjunction with other rights enshrined in the *International Bill of Human Rights*, foremost amongst them the right to life and human dignity.”¹⁴¹

The Human Rights Council and the Right to Water

The Human Rights Council (HRC) has discussed the topic of human rights and access to safe drinking water on numerous occasions. In resolution A/HRC/RES/7/22, the body called for a study by an independent expert on the issue of human rights obligations related to access to safe drinking water.¹⁴² The *Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation (A/HRC/12/24)* was subsequently tabled to the HRC in its 12th session.¹⁴³ The rights-based approach that is espoused by the Secretary-General is clearly reflected in this report.¹⁴⁴ In regards to the right to water, the independent expert identifies *General Comment No. 15* as the legal basis to oblige states to provide sufficient potable water supply and to extend sanitation services to all parts of their territories, taking into account needs of women and children and of the urban or rural landscape.¹⁴⁵ The report recommends, in addition to complying with all international instruments regarding the right to water, that national governments eliminate discrimination as a result of wealth, sex, or location via legislation and to include access to water and sanitation in any aspect of community planning.¹⁴⁶

In 2011, the HRC adopted resolution A/HRC/RES/12/12, calling for replacing the Independent Expert by a Special Rapporteur to help with “the full realization of the human right to safe drinking water.”¹⁴⁷ The Special Rapporteur’s mandate was established to examine the crucial issues with regards to access to water and provide recommendations to stakeholders on the national and international levels.¹⁴⁸ Later that year, the HRC, in resolution A/HRC/RES/18/1, called on Member States to take up their responsibility “to ensure the full realization of all human rights, and must take steps, nationally and through international assistance and cooperation, especially economic and technical, to the maximum of the available resources, to achieve progressively the full realization of the right to safe drinking water.”¹⁴⁹

Recent Progress on Access to Safe Drinking Water

As of 2010, it is claimed that the world has reached the MDG target of sustainable access to safe drinking water.¹⁵⁰ UN Secretary-General Ban Ki-moon said that this achievement is a testament to all “who saw the target not as a dream, but as a vital step towards improving health and well-being.”¹⁵¹ Although this is a great achievement, there are still 780 million people without access to an improved drinking water source.¹⁵² This number is made up of many rural dwellers and the poor, and the burden of this most often falls on girls and women.¹⁵³ The MDGs have proven to be an asset to this process but they are only a starting point and huge disparities still exist. Although,

¹⁴¹ Committee on Economic, Social and Cultural Rights, *General Comment Number 15: Right to Water*, 2003, par. 2-3.

¹⁴² United Nations Human Rights Council, *Human Rights and Access to Safe Drinking Water and Sanitation, A/HRC/RES/7/22*, 2008, Art. 2.

¹⁴³ United Nations Independent Expert on the Right of Access to Safe Drinking Water, *Report of the independent expert, A/HRC/12/24*, 2009.

¹⁴⁴ United Nations Independent Expert on the Right of Access to Safe Drinking Water, *Report of the independent expert, A/HRC/12/24*, 2009.

¹⁴⁵ United Nations Independent Expert on the Right of Access to Safe Drinking Water, *Report of the independent expert, A/HRC/12/24*, 2009.

¹⁴⁶ United Nations Independent Expert on the Right of Access to Safe Drinking Water, *Report of the independent expert, A/HRC/12/24*, 2009.

¹⁴⁷ United Nations Human Rights Council, *The Human Right to Safe Drinking Water and Sanitation, A/HRC/RES/16/2*, 2011, Art. 5.

¹⁴⁸ United Nations Office of the High Commissioner for Human Rights, *Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation*, Introduction.

¹⁴⁹ United Nations Human Rights Council, *The Human Right to Safe Drinking Water and Sanitation, A/HRC/RES/18/1*, 2011, Art. 1, & 5-8.

¹⁵⁰ World Health Organization/United Nations Children’s Fund, *Millennium Development Goal drinking water target met*, 2012.

¹⁵¹ World Health Organization/United Nations Children’s Fund, *Joint Monitoring Programme for Water Supply and Sanitation Report 2012*, foreword.

¹⁵² World Health Organization/United Nations Children’s Fund, *Joint Monitoring Programme for Water Supply and Sanitation Report 2012*, foreword.

¹⁵³ World Health Organization/United Nations Children’s Fund, *Joint Monitoring Programme for Water Supply and Sanitation Report 2012*, foreword.

improvement has been made in Latin America and the Caribbean, Northern Africa, and large parts of Asia at 90%, the improvements for sub-Saharan Africa are only 61%.¹⁵⁴ The developing world witnesses increases of 86% but the 'least developed' countries have only improved by 63%.¹⁵⁵ There are also disparities between the rich and the poor, and those living in rural and urban areas, within countries.¹⁵⁶

As stated in the *UN-Water Global Analysis and Assessment of Sanitation and Drinking-Water (GLAAS) 2012*, countries have been making substantive political commitments to water, sanitation, and hygiene (WASH) and have increased funding allocations, leadership, and coordination amongst agencies.¹⁵⁷ Many have established transparent WASH service provision targets and supporting policies and have made progress in the monitoring of these targets; yet accountability could be improved and many countries do not include consumers in the planning process or have regular review processes.¹⁵⁸ Of the surveyed countries, 70% are falling short on the drinking water portion of their own national WASH commitments.¹⁵⁹ The report also found that there is insufficient funding for operation and maintenance of existing infrastructure, which undermines the sustainability and funds are disproportionately used for extending services in urban areas, even in countries where the funds are needed more in rural areas.¹⁶⁰ In terms of human capital, the report found that in many cases there is insufficient staff in place to operate and maintain drinking water infrastructure. This lack of "supply-side technicians and skilled labour" impedes sustainability.¹⁶¹ The strides that the world has made with the MDGs will then be for not and the world will see "slippage," a loss of the progress that has been achieved.¹⁶²

While the Human Rights Council has dealt with the Right to Water for several years now, other UN bodies are only slowly adapting a rights-based approach. The General Assembly achieved a major breakthrough in 2010, when it adopted resolution 64/292 with 122 votes in favor, none against and 41 abstentions.¹⁶³ Building on the previous work of the Human Rights Council, the General Assembly explicitly recognized the right to water as a human right and called upon states to provide financial resources, capacity-building and technology transfer in order to scale up efforts to provide safe drinking water access.¹⁶⁴ This resolution has so far been unique at the General Assembly which hears annual reports on the progress made in realizing the right to water, but has not adopted any substantive decisions since its 2010 resolution.

Remaining Challenges in Implementing the Right to Water

Implementing economic and social rights – challenges within general human rights law

The Right to Water as seen by the Committee on Economic, Social and Cultural Rights as well as the Human Rights Council, the General Assembly and many Member States, is part of economic and social rights. Article 2 of the ICESCR provides that each state party "undertakes to take steps...to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant."¹⁶⁵ The notion of "progressive realization" has led to many difficulties in implementing economic and social rights, as it is relatively vague and leaves open the question as to what specific actions are to be undertaken by states.¹⁶⁶ The CESCR tried to answer this question through its General Comment No. 9, where it put an emphasis on the justiciability of economic and social rights, i.e. the possibility for individuals to seek a judicial remedy in case of a violation of economic, social and cultural rights.¹⁶⁷ Yet, this leaves the question as to what concrete measures are

¹⁵⁴ World Health Organization/United Nations Children's Fund, *Joint Monitoring Programme for Water Supply and Sanitation Report 2012*, p. 4.

¹⁵⁵ World Health Organization/United Nations Children's Fund, *Joint Monitoring Programme for Water Supply and Sanitation Report 2012*, p. 4.

¹⁵⁶ World Health Organization/United Nations Children's Fund, *Joint Monitoring Programme for Water Supply and Sanitation Report 2012*, p. 4.

¹⁵⁷ World Health Organization, *UN-Water Global Analysis and Assessment of Sanitation and Drinking Water Report 2012*, p. 2-3.

¹⁵⁸ World Health Organization, *UN-Water Global Analysis and Assessment of Sanitation and Drinking Water Report 2012*, p. 2-3.

¹⁵⁹ World Health Organization, *UN-Water Global Analysis and Assessment of Sanitation and Drinking Water Report 2012*, p. 2-3.

¹⁶⁰ World Health Organization, *UN-Water Global Analysis and Assessment of Sanitation and Drinking Water Report 2012*, p. 2-3.

¹⁶¹ World Health Organization, *UN-Water Global Analysis and Assessment of Sanitation and Drinking Water Report 2012*, p. 2-3.

¹⁶² World Health Organization, *UN-Water Global Analysis and Assessment of Sanitation and Drinking Water Report 2012*, p. 1.

¹⁶³ United Nations Dag Hammarskjöld Library, *Voting record to Meeting A/64/PV.108*, 2010.

¹⁶⁴ United Nations General Assembly, *Resolution 64/292 on the human right to water and sanitation – A/Res/64/292*, 2010.

¹⁶⁵ United Nations General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 1966, Art. 2.

¹⁶⁶ Shaw, *International Law*, 2003, p. 187.

¹⁶⁷ United Nations Committee on Economic, Social and Cultural Rights, *General Comment No. 9*, 1998.

necessary open. The Office of the High Commissioner for Human Rights argues that states are subject to three types of obligations, namely obligations to respect, protect and fulfil.¹⁶⁸ The obligation to respect means that states are not to interfere with available water resources; the obligation to protect pertains to protection of public water sources from private actors; and finally, the obligation to fulfil indicates that states have to undertake active measures to create access to water where it is not readily available.¹⁶⁹ Whether the obligation to protect or the obligation to fulfil is stronger depends largely on the organizing system chosen by each state: when private actors are involved in the water distribution service, there is a stronger focus on the obligation to protect with a duty for states to monitor the water distribution and to ensure that the private actor does not exclude those in need.¹⁷⁰

Integrating stigmata into the post-2015 development agenda

Next to the exact scope of obligations states owe under the right to water, another open question relates to access to safe drinking water in the development context. As the 2015-mark for achieving the MDGs is drawing closer, the post-2015 development agenda is getting into the focus of Member States and UN officials alike. In her latest report to the General Assembly, the Special Rapporteur on the human right to safe drinking water and sanitation specifically focuses on integrating an equality and non-discrimination perspective into any post-2015 goals and targets.¹⁷¹ The Special Rapporteur argued that inequality was one of the major holdbacks for achieving several of the MDGs and that a clear equality perspective needed to be integrated in any future development goals.¹⁷² This is a view shared by other UN agencies, for example by UN Women with regard to gender inequality, which was found to be a major obstacle to achieving progress in development issues.¹⁷³ A paradigm shift towards more equality entails that special attention needs to be paid to groups already disadvantaged or stigmatized, such as women, children, elderly people, the poor or other minorities facing discrimination.¹⁷⁴ The problem of lacking equality is not confined to developing or least developed countries: the Special Rapporteur's country visit to the United States of America revealed that while the vast majority of American citizens enjoyed regular and safe access to drinking water and sanitation facilities, the ones that were still facing challenges were disproportionately often members of already disadvantaged groups such as Black, Latino, American Indian or homeless.¹⁷⁵ It is due to the universality of inequality that a large majority of UN agencies agree that ensuring equality and non-discrimination must be at the heart of any future discourse on development; and elimination of inequalities has been called the "litmus test for human progress in the 21st century."¹⁷⁶

Case Studies: Democratic reform and judicial action in Argentina and Botswana

Democratic Reforms in Argentina

Since transitioning into a democratic government in the 1980s, Argentina has ratified six international human rights treaties.¹⁷⁷ These treaties include the ICCPR, the ICESCR, the CEDAW, and the *Convention on the Rights of the Child*, all of which uphold the right to water from various socioeconomic aspects.¹⁷⁸ As part of its constitutional reform, which culminated in the Constitution of 1994, these international instruments were translated into national legislation; the right to water was thus recognized and respected as part of supreme Argentine law.¹⁷⁹ In addition to these international instruments, the Constitution of 1994 itself also upholds to right to water. Article 41, which

¹⁶⁸ United Nations Office of the High Commissioner for Human Rights, *The Right to Water - Factsheet No 35*, 2010, p. 27.

¹⁶⁹ United Nations Office of the High Commissioner for Human Rights, *The Right to Water - Factsheet No 35*, 2010, p. 27.

¹⁷⁰ United Nations Independent Expert on the Right of Access to Safe Drinking Water, *Report of the independent expert*, A/HRC/15/31, 2010, p. 8

¹⁷¹ United Nations Special Rapporteur on the human right to safe drinking water, *Report to the General Assembly – A/67/270*, 2012.

¹⁷² United Nations Special Rapporteur on the human right to safe drinking water, *Report to the General Assembly – A/67/270*, 2012, p. 10.

¹⁷³ UN Women, *2011-2012 Progress of the World's Women – In Pursuit of Justice*, 2011.

¹⁷⁴ United Nations Special Rapporteur on the human right to safe drinking water, *Report to the General Assembly – A/67/270*, 2012, p. 10.

¹⁷⁵ United Nations Special Rapporteur on the human right to safe drinking water, *Report on the Mission to the United States of America – A/HRC/18/33/Add.4*, 2012, p. 17.

¹⁷⁶ United Nations System Task Team on the Post-2015 UN Development Agenda, *Addressing inequalities: The heart of the post-2015 agenda and the future we want for all*, 2012, p.16.

¹⁷⁷ The Right to Water and Sanitation, *The Right to Water in Argentina*, 2003.

¹⁷⁸ The Right to Water and Sanitation, *The Right to Water in Argentina*, 2003.

¹⁷⁹ The Right to Water and Sanitation, *The Right to Water in Argentina*, 2003.

protects the right to a healthy environment, explicitly states that “[t]he authorities will provide... the rational use of natural resources.”¹⁸⁰ The federal Public Works Secretariat, through its Water Subsecretariat, conducts Argentina’s water policies, enacts its regulatory framework in terms of handling water resources, and coordinates the activities and policies of subnational and international stakeholders.¹⁸¹ As natural resources falls under provincial jurisdiction, each province must also respect Argentina’s international obligations vis-à-vis right to water; this has led to differing approaches to the right to water. For example, the province of Chubut has an extensive water regime in its provincial charter, while the province of Santiago del Estero refers to the right to water from an economic perspective.¹⁸²

Enforcement of these rights has translated to it being a crime to poison or adulterate fresh waters.¹⁸³ The consequence includes three to ten years of imprisonment for the act and 10 to 25 years of imprisonment if the action results in a death.¹⁸⁴ There are also various regulations linked to water resources at the national level.¹⁸⁵ Because provinces retain the domain of the water resources, provincial constitutions have also had to reform to incorporate the right to healthy environments and water as a natural resource requiring protection.¹⁸⁶ Privatization has also had an effect on water policy in Argentina. Until democratic reforms in the 1990s, the Obras Sanitarias de la Nación (OSN) was the national monopoly in charge of water supply and sanitation.¹⁸⁷ Deregulation of the Argentine economy saw the participation of Aguas Argentinas S.A. in the supply of fresh water and sewage maintenance by operating in parallel to OSN.¹⁸⁸ While Argentina has outpaced its Latin American neighbors in privatization, the water industry has yet to witness to increase in coverage and efficiency that privatization is theorized to bring.¹⁸⁹ The judicial system has been reluctant to interfere with this lack of progress, citing that the right of access to water, being an implicit right guaranteed by the Constitution of 1994, did not need further elaboration beyond the cases that the courts have heard.¹⁹⁰

Court Action to ensure Access to Water in Botswana

This case study shows how a human rights-based approach and the possibility of litigation ensuing from such an approach directly affects the situation of some people previously denied access to water. At the same time, it evidences how already marginalized groups, in this case indigenous people, often suffer most from a denial of their rights. The indigenous community of the Basarwa traditionally lives in lands that now form the Central Kalahari Game Reserve in Botswana. In 1997, 2002 and 2005, the Basarwa faced a series of forced evictions from the Central Kalahari Game Reserve.¹⁹¹ While the Botswana High Court had declared their evictions to be unconstitutional in a 2006 judgment, an initial application to a High Court Judge to regain access to a borehole that had been lost during the 2002 eviction was rejected in 2010, with the judge arguing that no obligation to provide essential services was owed by the government.¹⁹² Although residing lawfully in the reserve, the Basarwa found themselves in a situation where they were unable to access any water for personal hygiene or other uses, which brought about serious health consequences.¹⁹³ In January 2011, the appeal court overruled the high court’s decision.¹⁹⁴ The appeal court argued that even without a specific right to water, anyone rightfully occupying land was entitled to drill or access boreholes in accordance with the country’s Water Act.¹⁹⁵ In addition, it directly referenced General Comment No. 15 as well as the General Assembly and Human Rights Council resolutions on the right to water, stating that a denial of access to water can amount to degrading treatment, which is against the country’s Constitution.¹⁹⁶ The human rights perspective was thus crucial in the Botswana court system backing the Basarwa indigenous community.

¹⁸⁰ The Right to Water and Sanitation, *The Right to Water in Argentina*, 2003.

¹⁸¹ The Right to Water and Sanitation, *The Right to Water in Argentina*, 2003.

¹⁸² The Right to Water and Sanitation, *The Right to Water in Argentina*, 2003.

¹⁸³ The Right to Water and Sanitation, *The Right to Water in Argentina*, 2003.

¹⁸⁴ The Right to Water and Sanitation, *The Right to Water in Argentina*, 2003.

¹⁸⁵ The Right to Water and Sanitation, *The Right to Water in Argentina*, 2003.

¹⁸⁶ The Right to Water and Sanitation, *The Right to Water in Argentina*, 2003.

¹⁸⁷ The Right to Water and Sanitation, *The Right to Water in Argentina*, 2003.

¹⁸⁸ The Right to Water and Sanitation, *The Right to Water in Argentina*, 2003.

¹⁸⁹ The Right to Water and Sanitation, *The Right to Water in Argentina*, 2003.

¹⁹⁰ The Right to Water and Sanitation, *The Right to Water in Argentina*, 2003.

¹⁹¹ Minority Rights Group International, *Botswana appeal court gives Bushmen access to water in Kalahari desert*, 2011.

¹⁹² All Africa News, *Botswana: Court Bars Community’s Access to Water*, 2010.

¹⁹³ World Health Organization, *UN-Water Global Analysis and Assessment of Sanitation and Drinking Water Report 2012*, p. 45.

¹⁹⁴ Minority Rights Group International, *Botswana appeal court gives Bushmen access to water in Kalahari desert*, 2011.

¹⁹⁵ World Health Organization, *UN-Water Global Analysis and Assessment of Sanitation and Drinking Water Report 2012*, p. 45.

¹⁹⁶ World Health Organization, *UN-Water Global Analysis and Assessment of Sanitation and Drinking Water Report 2012*, p. 45.

Conclusion

Many important steps have been taken in furthering access to safe drinking water as a fundamental human right. It is now recognized as a human right in the UN Human Rights Council and General Assembly as well as with many Member States. The right to safe drinking water is progressively being incorporated into state constitutions as a human right. The human rights perspective means both freedoms and entitlements for all of humankind; access to safe drinking water is no longer a charity or commodity, but a right. This perspective leads to State Parties' obligations and responsibilities. Many Member States today have embraced this responsibility but universal access to safe drinking water is a process that takes some time and dedication. One of these challenges is inequality in access to water. Like with many other economic and social rights, it is not entirely clear which obligations a state owes to its citizens, to the detriment of already vulnerable and marginalized groups of society.

How can Member States improve on this process of universal access to safe drinking water? Which steps need to be undertaken concretely to fully realize access to safe drinking water and sanitation? How can an equality and non-discrimination perspective be integrated into existing approaches to ensuring access to safe and clean drinking water? What can be done to facilitate governmental transparency and accountability? What can the UN and its agencies do to help with harmonization and collaboration among national agencies, donors, and NGOs? How can stakeholder participation be improved? How can the voice of the stakeholders be balanced with that of the experts? Are there best practices on legislative and/or judicial action? How can the human rights perspective be incorporated more with the UN, and with local and state governments and legislature, to further universal access to safe drinking water?

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The Rights to Water and Sanitation (2003). *The Right to Water in Argentina*. Retrieved November 11, 2012 from: http://www.righttowater.info/wp-content/uploads/argentina_CS.pdf.

This is a comprehensive case study on how the Argentina government, through legislative, executive, and judicial reforms, has incorporated the right of access to water into its political system. The right of access to water was first respected through the accession of numerous international instruments in the late 1980s; other constitutional reforms have subsequently made this right more explicit. The case study also summarizes numerous judicial cases heard in the Argentine courts, many of which established a body of case law in the country. In addition to understanding how Argentina has incorporated the right of access to water, delegates should familiarize themselves with how their respective governments enact international law, the degree to which international law is incorporated in national legislation, and the extent to which case law and international law are intertwined.

United Nations Committee on Economic, Social and Cultural Rights. (2003). *General Comment Number 15: The Right to Water*. Retrieved August 28, 2012 from: <http://www.unhcr.org/refworld/docid/4538838d11.html>

This is one of the most important documents for the right to water. It helps the delegates to understand the legal bases for the right to water. It explains, specifically, what the right to water means and for whom. It gives very specific State, legal, international, regional, and core obligations. It also covers what to be done in cases of violation. This document is at the core of the subject of access to safe water as a fundamental human right.

United Nations Department of Economic and Social Affairs. (2012). *The Millennium Development Goals Report 2012*. Retrieved August 6, 2012 from: http://www.un.org/millenniumgoals/pdf/MDG_Report_2012.pdf

This report shows the progress to date that has been made towards the MDGs, with special consideration for goal number 7. Delegates should pay special attention to the target “halve, by 2015, the proportion of the population without sustainable access to safe drinking water and basic sanitation.” Specific percentages for specific regions and the differences in those percentages from 1990 to 2010 are shown in this section. Comparison charts are also included showing the differences of access to safe water for rural areas and cities, and poorer or richer peoples. There is also a chart showing the distribution of who bears the burden of collecting safe drinking water. It is also important to look at the second part of that goal, being sanitation. The charts included show what progress has been made in regards to sanitation and how far we still have to reaching our goal. This report helps with a better understanding of where we are in reaching the MDGs.

United Nations General Assembly. (2010). *Report of the Special Rapporteur on the human right of safe drinking water and sanitation, A/66/255*. Retrieved August 15, 2012 from:

<http://www.un.org/Docs/journal/asp/ws.asp?m=A/66/255>

This report takes a very close look at the resources involved in the human right to safe drinking water. It covers many aspects, such as, inadequate funding, targeting resources effectively, choosing appropriate technologies, fragmentation, transparency, and raising awareness. This report is important in helping the delegates to understand what is being focused on now in the United Nations and what suggestions are already being made for States.

United Nations General Assembly. (2010). *Resolution A/RES/64/292*. Retrieved August 8, 2012 from:

<http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/64/292>

This resolution, entitled “The Human Right to Water and Sanitation,” was adopted by the General Assembly with no votes against it. It recalls the many resolutions, in both the General Assembly and the Human Rights Council, which have led up to considering the right to water as a basic human right. This document “Recognizes the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights.” It is a great starting point for delegates to research where we are now in this issue.

United Nations General Assembly. (2010). *Report of the independent expert on the issue of human rights obligations related to the access to safe drinking water and sanitation, Catarina de Albuquerque, A/65/254*. Retrieved August 15, 2012 from: <http://www.un.org/Docs/journal/asp/ws.asp?m=A/65/254>

This is a very important report in understanding the history and promise of the Millennium Development Goals, especially Goal number 7. The report stresses the contribution that human rights standards and principles can have on achieving the MDGs, especially access to safe drinking water. It goes further with how the human rights perspective can help fill the gaps in the MDGs. This report will be a good starting point for delegates to understand the human rights perspective of access to safe drinking water.

United Nations Human Rights Council. (2011). *Resolution A/HRC/RES/18/1*. Retrieved August 8, 2012 from: <http://www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/RES/18/1>

This resolution, entitled "The Human Right to Safe Drinking Water and Sanitation," was adopted in the Human Rights Council by consensus. It takes the General Assembly Resolution A/Res/64/292 further, outlining steps and responsibilities of States in this matter. It welcomes the work of the Special Rapporteur on this topic. This resolution stresses the importance of "a human rights-based approach" in the matter of access to safe drinking water and sanitation. This resolution will help the delegate to understand what is being looked at now in the Human Rights Council on this subject.

United Nations Human Rights Council. (2011). *Resolution A/HRC/RES/16/2*. Retrieved August 29, 2012 from: <http://www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/RES/16/2>

This resolution updates what has been done in the UN and regionally in regards to the access to safe water. It stands out because it concentrates on the instructions to the Special Rapporteur with regards to his/her study of the issue. It shows specific instructions and goals for him/her to fulfill their mandate. This will help the delegates in understanding the Special Rapporteurs yearly reports.

United Nations Human Rights Council. (2010). *Resolution A/HRC/RES/15/9*. Retrieved August 15, 2012 from: <http://www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/RES/15/9>

This resolution reaffirms the last few resolutions but takes the obligations in regards to access to safe drinking water and sanitation a step further. It is more specific about State obligations but also gives more detail about non-state provider obligations. It is important in the study for the delegates to understand what obligations that HRC has already set out for States and non-state providers.

United Nations Human Rights Council. (2009). *Resolution A/HRC/RES/12/8*. Retrieved August 29, 2012 from: <http://www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/RES/12/8>

This resolution, entitled "Human Rights and access to safe drinking water and sanitation," shows the delegate what has been done so far in the UN and on the regional level to further this subject. This resolution was one of the first to call upon States with specific obligations regarding access to water and sanitation. This was also the first mention of the independent expert's first annual report (A/HRC/12/24), which is also important for the delegates to research.

United Nations Human Rights Council. (2009). *Report of the independent expert on the issue of human rights obligations related to the access to safe drinking water and sanitation, Catarina de Albuquerque, A/HRC/12/24*. Retrieved August 29, 2012 from: <http://www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/12/24>

This is the first report, referred to in Resolution A/HRC/12/8, by the independent expert, Catarina de Albuquerque, on the matter of human rights obligations related to access to safe water. It is important for the delegates to understand the starting point of when the spotlight was put on this issue. Although, it is a report to the HRC on Sanitation, it shows how the right to water ties in with sanitation.

United Nations Human Rights Council. (2008). *Resolution A/HRC/RES/7/22*. Retrieved August 29, 2012 from: <http://www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/RES/7/22>

This resolution, entitled "Human Rights and access to safe drinking water and sanitation," was at the start of the UN recognizing that access to safe drinking water and sanitation are a human

right. It emphasizes the use of international human rights law instruments and State obligations in relation to access to safe drinking water. This was the beginning of the independent expert study on the issue of human rights obligations related to safe drinking water and sanitation. This resolution will help the delegates understand how the process was started in the HRC.

United Nations Office of the High Commissioner for Human Rights. (2010). *The Right to Water – Fact Sheet No. 35*. Retrieved August 3, 2012 from: <http://www.ohchr.org/Documents/Publications/FactSheet35en.pdf>

This Fact Sheet will be very helpful to the delegates because it covers many facets of the issue of the right to water. It touches on four main aspects as: What the right to water means as an international human rights law, how this would affect specific groups of peoples, what obligation it creates for States and responsible others, and monitoring and holding States accountable. This fact sheet presents good suggestions that the delegates can expand on.

United Nations Office of the High Commissioner for Human Rights. (N.D.) *An Open Letter from Special Procedures Mandate-holders of the Human Rights Council to States Negotiating the Outcome Document of the Rio+20 Summit*. Retrieved August 6, 2012 from:

<http://www.ohchr.org/Documents/HRBodies/SP/Rio+20OpenLetterSPSignatures.pdf>

This letter stresses the importance of accountability mechanisms to ensure implementation of agreed international human rights norms and standards. It encourages that Rio+20 be grounded in a global commitment in human rights. It gives many practical suggestions that the delegates can expand on. The delegate should research the referenced Background notes, especially “The Human Right to Water and Sanitation for All” and the Basic Facts on the Universal Periodic Review (UPR) as part of the Human Rights Council. This information is important in getting the background and what is being suggested now on the topic.

World Health Organization. (2012). *UN-Water Global Annual Assessment of Sanitation and Drinking Water (GLAAS) 2012 Report: the Challenge of Extending and Sustaining Services*. Retrieved September 1, 2012 from: http://whqlibdoc.who.int/publications/2012/9789241503365_eng.pdf

This report is very important to the delegates’ research because it has dated analysis and assessment of where States are today in adopting policies, also planning, coordinating, and financing these policies for expanded access to safe drinking water. It includes the components of the “enabling environment,” which are: documenting government policy and institutional frameworks; the volume, sources and targeting of investment; the sufficiency of human resources; priorities and gaps with respect to external assistance; and the influence of these factors on performance.

World Health Organization. (2003). *The Right to Water*. Retrieved August 15, 2012 from:

http://www2.ohchr/english/water/docs/Right_to_Water.pdf

This report is essential for the delegates in order to understand access to safe water as a human right. It defines water as a human right and goes into detail about the UN’s General Comment 15 on the right to water. It gives the delegates good insight on who is affected and what the government’s obligation are when access to water is considered a human right. This is where the delegates should start on this subject.

World Health Organization/United Nations Children’s Fund Joint Monitoring Programme for Water Supply and Sanitation. (2012). *Progress on Drinking Water and Sanitation: 2012 Update*. Retrieved September 1, 2012 from: http://www.wssinfo.org/filadmin/user_upload/resources/JMP-report-2012.pdf

This report is instrumental in gathering where the world stands today on the MDG for drinking water and sanitation. This report has up-to-date statistic by countries and regions. It shows what has been achieved, some of the problems that are being faced, and what can be done in the future. This is an important report for the delegates’ research.

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III. Deterring Discrimination and Violence Against People with Disabilities

Introduction

Almost everyone will be temporarily or permanently impaired at some point in his or her life, making disability a complex part of the human experience.¹⁹⁷ The World Health Organization (WHO) defines disability to be:

“...impairments, activity limitations, and participation restrictions. An impairment is a problem in body function or structure; an activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations.”¹⁹⁸

15% of the global population lives with some form of a disability and this is an increase from 10% in the 1970s according to a study conducted by WHO.¹⁹⁹ Furthermore, vulnerable populations are more likely to have a disability.²⁰⁰ Due to the diversity of disability, there are varying needs for people with disabilities.²⁰¹ Further to this, the specific experiences for people with disabilities also range in the areas of health conditions, personal factors, and environmental factors.²⁰²

Discrimination and violence against people with disabilities can occur in different ways, “ranging from invidious discrimination, such as the denial of educational opportunities, to more subtle forms of discrimination, such as segregation and isolation because of the imposition of physical and social barriers.”²⁰³ In addition “violence can involve physical force with the purpose of damaging, violating, harming, or inflicting injury on a person” and emotional or mental harm.²⁰⁴

Intended action or not, discrimination and violence can lead to challenges for people with disabilities, including barriers associated with inadequate standards and policies, negative attitudes, lack of provision of services, problems with service delivery, inadequate funding, lack of accessibility, lack of consultation and involvement, and lack of data and evidence.²⁰⁵ These barriers can lead to poorer health outcomes, lower education achievements, less economic participation, higher rates of poverty, increased dependency, and lower participation in civil society.²⁰⁶ Regardless of the region, such results can impact the overall standard of living for people with disabilities.²⁰⁷

International Framework and UN Action

The human rights for people with disabilities have been recognized through international law and resolutions since the founding of the UN; other international bodies have also reaffirmed the rights of people with disabilities. The *Charter of the United Nations*, under Article 55, recognizes the “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”²⁰⁸ In 1948, the adoption of the *Universal Declaration of Human Rights* laid the foundation for a comprehensive human rights framework, and the rights of individuals with disabilities need to be seen against this backdrop.²⁰⁹ However, disabilities were not explicitly addressed until much later. Adopted in 1982 by the United Nations General Assembly (UNGA), the *World Programme of Action Concerning Disabled Persons* urges Member States to promote the rights of persons with disabilities and “encourages Governments and the non-governmental community to examine key social and economic policy issues related to the equalization of opportunities for persons with disabilities, in

¹⁹⁷ World Health Organization, *World Report on Disability*, 2011.

¹⁹⁸ World Health Organization, *Disability*, 2012.

¹⁹⁹ World Health Organization, *World Report on Disability*, 2011.

²⁰⁰ World Health Organization, *World Report on Disability*, 2011.

²⁰¹ World Health Organization, *Disability*, 2012.

²⁰² World Health Organization, *World Report on Disability*, 2011.

²⁰³ United Nations Enable, *Overview of International Legal Frameworks*

²⁰⁴ Disabled World, *Disability Discrimination Information*, 2012.

²⁰⁵ World Health Organization, *World Report on Disability*, 2011.

²⁰⁶ World Health Organization, *World Report on Disability*, 2011.

²⁰⁷ World Health Organization, *World Report on Disability*, 2011.

²⁰⁸ United Nations, *Charter of the United Nations*, 1946.

²⁰⁹ United Nations Enable, *Human Rights and Persons with Disabilities*, 2012.

particular, (a) accessibility, (b) social services and social safety nets and (c) employment and sustainable livelihoods.”²¹⁰

In terms of labor laws, the International Labour Organization (ILO) adopted the *Vocational Rehabilitation and Employment (Disabled Persons) Convention* in 1983.²¹¹ The Convention is binding on states who have ratified it and encourages the development of a national strategy on vocational training for people with disabilities.²¹² In 1993, the UNGA adopted the *Standard Rules on the Equalization of Opportunities for Persons with Disabilities*, which encourage Member States to take action and provide equal opportunities for persons with disabilities.²¹³ Also in 1993, the UNGA adopted the *Vienna Declaration and Programme of Action (VDPA)*; reaffirmed under Part II, paragraph 63 of the VDPA are the rights of people with disabilities including in the areas of life and welfare, education, work and living independently and that discrimination would be a violation of rights.²¹⁴

The World Health Assembly adopted an internationally accepted standard to measuring health and disability in May 2001.²¹⁵ The *International Classification of Functioning, Disability and Health (ICF)* was endorsed by all 191 Member States of the WHO of that time and is now used by WHO to measure health and disability of individuals.²¹⁶ The *Convention on the Rights of Persons with Disabilities (CRPD)* and its Optional Protocol were passed in 2006 with an aim to “promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.”²¹⁷ The Convention and Optional Protocol had the highest number of signatories in history on its opening day with 82 signatories for the Convention and 44 signatories for the Optional Protocol.²¹⁸ Article 16 of the CRPD imposes on states the responsibility to “take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.”²¹⁹ Monitoring of the CRPD is through the Committee on the Rights of Persons with Disabilities.²²⁰ All states that have ratified the CRPD, which entered into force in 2008, are subject to review by the Committee.²²¹

In 2006, the United Nations Chief Executive Board established the Inter-Agency Support Group (IASG) in order to improve implementation of the *Convention on the Rights of Persons with Disabilities*.²²² Since rights for people with disabilities have an impact on various international organizations, the ISAG helps to bring together UN specialized agencies, funds, and programs to work collaboratively.²²³ The ISAG’s membership includes specialized agencies, the Human Rights Council (HRC), and the UNGA.²²⁴

Regional intergovernmental organizations have adopted their own respective instruments to encourage the rights of persons with disabilities. The decade 2010-2020 marks the ten-year *European Disability Strategy*, aimed at making the lives of those living with disabilities simpler and included strategies such as the greater inclusiveness of persons with disabilities in higher education.²²⁵ Similar work has been seen in Africa through the *African Decade of Persons with Disabilities* from 2000 to 2009, and the strategy has now been extended to 2019.²²⁶ The strategy has seen the

²¹⁰ United Nations General Assembly, *World Programme of Action concerning Disabled Person (A/37.51)*, 3 December 1982.

²¹¹ International Labour Organization, *ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and Recommendation (No. 168)*, 2012.

²¹² International Labour Organization, *ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and Recommendation (No. 168)*, 2012.

²¹³ United Nations General Assembly, *The Standard Rules on the Equalization of Opportunities for Persons with Disabilities (A/48/96)*, 20, December 1993.

²¹⁴ United Nations General Assembly, *Vienna Declaration and Programme of Action (A/48/121)*, 1993.

²¹⁵ World Health Organization, *International Classification of Functioning, Disability and Health (ICF)*, 2012.

²¹⁶ World Health Organization, *International Classification of Functioning, Disability and Health (ICF)*, 2012.

²¹⁷ United Nations, *United Nations Convention on the Rights of Persons with Disabilities*, 2006.

²¹⁸ United Nations Enable, *Convention on the Rights of Persons with Disabilities*, 2012.

²¹⁹ United Nations, *United Nations Convention on the Rights of Persons with Disabilities*, 2006.

²²⁰ United Nations, *Human Rights. Committee on the Rights of Persons with Disabilities*, 2012.

²²¹ United Nations, *United Nations Convention on the Rights of Persons with Disabilities*, 2006, Art. 34-36.

²²² Inter Agency Support Group to the CRPD, *International Disability Alliance*, 2012.

²²³ Inter Agency Support Group to the CRPD, *International Disability Alliance*, 2012.

²²⁴ Inter Agency Support Group to the CRPD, *International Disability Alliance*, 2012.

²²⁵ European Union, *EU Disability Strategy 2010-20*, 2012.

²²⁶ African Union, *The Secretariat of the African Decade of Persons with Disabilities*, 2012.

development of a voice for people with disabilities and the development of a campaign on disability and HIV/AIDS.²²⁷ In Asia, the Economic and Social Commission for Asia and the Pacific had the *Asian and Pacific Decade of Disabled Persons* from 1993 to 2002, which has subsequently been extended twice with the latest commitment ending in 2022.²²⁸ The focus of action included public awareness, accessibility and communication, education and training and employment.²²⁹ Action has also been taken at the national level. To cite some examples, the United States passed the *Americans with Disabilities Act* in 1990.²³⁰ In 1995, the United Kingdom passed the *Disability Discrimination Act* in 1995 that was succeeded by the *Equality Act 2010*.²³¹ In 2002, Pakistan passed the *National Policy for Persons with Disabilities*.²³²

Human Rights Council

The HRC has supported the rights of people with disabilities through various studies, UN status reports, and projects with governments and non-governmental organizations.²³³ One such initiative is the United Nations Voluntary Fund on Disability, which provides grants to civil society organizations to implement the CRPD.²³⁴ The grants help to support programs that help to build awareness of disability issues, permit the exchange of information, promote disability in development agendas, and to build capacity for stakeholders.²³⁵ In working with NGOs, the HRC can provide technical advice on the compliance of domestic laws with human rights standards, providing support with monitoring programs, sponsorship of construction projects that support quality of life for people with disabilities, and by providing training to regarding international and domestic laws and policies in the area of disability and human rights.²³⁶ Such an initiative was for example seen in Uganda.²³⁷ The Human Rights Council has also adopted several resolutions on various aspects of the lives of persons with disabilities, the latest being resolution 19/11 adopted on March 22, 2012, which urged states parties to the CPRD to take measures, including legislation, to abolish discrimination against persons with disabilities.²³⁸

Challenges and Barriers for Persons with Disabilities

As noted earlier, discrimination and violence can lead to inadequate standards and policies, negative attitudes, lack of provision of services, problems with service delivery, inadequate funding, lack of accessibility, lack of consultation and involvement, and lack of data and evidence.²³⁹ This can translate to impacts on daily tasks, employment, education, and health care delivery.²⁴⁰ Disability is also linked directly with poverty in that disability may increase the risk of poverty, and poverty may increase the risk of disability.²⁴¹ Since communities are often built around an abled-normative society, which “treats non-disabled individuals as the standard of ‘normal living,’” private and public services are often built to serve standard people and thereby excluding people with disabilities.²⁴²

Women with disabilities are faced with gender issues in addition to their disability. Unequal gender traditions,

“such as practices of son preference, female genital mutilation/cutting (FGM/C), discriminatory feeding practices, child marriage, dowry, the tradition of dedicating girls and women to a god or goddess who become temple prostitutes, the ethnic practice of forcing women to become

²²⁷ The African Campaign on Disability and HIV/AIDS, *Background of the Campaign*, 2011.

²²⁸ United Nations Economic and Social Commission for Asia and the Pacific, *ESCAP governments proclaim a new Asian and Pacific Decade of Persons with Disabilities*, 2012-2022, 2012.

²²⁹ United Nations Economic and Social Commission for Asia and the Pacific, *The Agenda for Action of the Decade – Overview*, 1997.

²³⁰ United States Department of Justice, *Americans with Disabilities Act*, 1990.

²³¹ United Kingdom Legislation, *Equality Act 2010*, 2010.

²³² World Bank, *National Policy for Persons with Disabilities*, 2002.

²³³ United Nations Human Rights Council, *Working with the United Nations Human Rights Programme*, 2008.

²³⁴ United Nations Human Rights Council, *Working with the United Nations Human Rights Programme*, 2008.

²³⁵ United Nations Human Rights Council, *Working with the United Nations Human Rights Programme*, 2008.

²³⁶ United Nations Human Rights Council, *Working with the United Nations Human Rights Programme*, 2008.

²³⁷ United Nations Human Rights Council, *Working with the United Nations Human Rights Programme*, 2008.

²³⁸ United Nations Human Rights Council, *Resolution 19/11 on the Rights of persons with disabilities: participation in political and public life*, 2012.

²³⁹ World Health Organization, *World Report on Disability*, 2011.

²⁴⁰ World Health Organization, *World Report on Disability*, 2011.

²⁴¹ World Health Organization, *World Report on Disability*, 2011.

²⁴² Disabled World, *Disability Discrimination Information*, 2012.

prostitutes, the devaluing of a woman's education, unequal inheritance rights and lack of freedom of choice in marriage plague all women and girls including women and girls with disabilities."²⁴³

In general, women with disabilities are less likely to obtain primary or secondary education and are prone to violent environments and abuse.²⁴⁴ For example, 48% of women with disabilities in Canada have not completed secondary school, compared to 28% of women without disabilities.²⁴⁵ The United Nations Educational, Scientific, and Cultural Organization (UNESCO) also argues that a disproportionate number of girls with disabilities are absent from schooling.²⁴⁶ In terms of violence, the United Nations Population Fund (UNFPA) estimates that people with disabilities are three times more likely to be victims of physical and sexual abuse and rape.²⁴⁷ Violence against women can lead to disabilities and disabilities can be exasperated if violence is involved.²⁴⁸ These findings have been reinforced through a recent study commissioned by the HRC. The *Thematic study on the issue of violence against women and girls and disability* highlights the challenges faced by women and girls with disabilities and associated recommendations to address violence issues.²⁴⁹ In the study, one of the underlying factors for discrimination remains to be discriminatory practices and stereotypical perceptions.²⁵⁰

In terms of education, children with disabilities are less likely to attend school, which reduces the opportunities to find employment later in their lives.²⁵¹ Bullying is another issue within the education system. As reported by the Archives of Pediatrics and Adolescent Medicine, "roughly half of adolescents with autism, intellectual disability, speech impairments and learning disabilities are bullied at school."²⁵² Despite statistics that show children with disabilities are more likely to be bullied, "there exists a dearth of both research and policy focusing on eliminating the bullying of students with disabilities" even in developed countries such as the United States.²⁵³

Statistically, people with disabilities are more likely to be unemployed or underemployed.²⁵⁴ One study by the National Organization on Disability found that "that 59 percent of 1,800 working-age study participants with no obvious functional impairments were working full- or part-time, compared to only 21 percent of similarly situated disabled workers."²⁵⁵ In Europe, 52% of all people with a severe disability do not participate in the labor market.²⁵⁶ In addition, people with disabilities face discrimination at the hiring phase and are mainly hired through temporary job agencies to minimize risks for employers.²⁵⁷

Opportunities

Stigma and discrimination can be reduced through personal contact and marketing.²⁵⁸ Public awareness is a key component to reducing the social stigma associated with disability.²⁵⁹ Moving forward, most of the Millennium Development Goals (MDGs) are linked in some way to the issue of disability.²⁶⁰ Goal 8 is the development of a global partnership for development speaks directly to the principles of the CRPD. Harmonization efforts and sharing experiences are both important in the elimination of discrimination and violence towards people with disabilities.²⁶¹

²⁴³ De Alwis, Rangita de Silva, *Disability Rights, Gender, and Development: A Resource Tool for Action*, 2008.

²⁴⁴ World Bank, *Disability - Millennium Development Goals (MDGs) and Persons with Disabilities*, 2010.

²⁴⁵ Statistics Canada, *Women in Canada: A Gender-based statistical report*, 2006.

²⁴⁶ De Alwis, Rangita de Silva, *Disability Rights, Gender, and Development: A Resource Tool for Action*, 2008.

²⁴⁷ De Alwis, Rangita de Silva, *Disability Rights, Gender, and Development: A Resource Tool for Action*, 2008.

²⁴⁸ De Alwis, Rangita de Silva, *Disability Rights, Gender, and Development: A Resource Tool for Action*, 2008.

²⁴⁹ United Nations Human Rights Council, *Thematic study on the issue of violence against women and girls and disability*, 2012.

²⁵⁰ United Nations Human Rights Council, *Thematic study on the issue of violence against women and girls and disability*, 2012.

²⁵¹ World Health Organization, *World Report on Disability*, 2011.

²⁵² Diamant, *Teens with disabilities face high rates of bullying*, 2012.

²⁵³ National Council on Disability, *Briefing Paper "Bullying and Students with Disabilities"*, 2011.

²⁵⁴ World Health Organization, *World Report on Disability*, 2011.

²⁵⁵ McCarthy Weisberg Cummings, *Disabled Workers Still Face Discrimination in the Workplace*, 2010.

²⁵⁶ International Labour Organization, *Disability Discrimination at Work*, 2011.

²⁵⁷ International Labour Organization, *Disability Discrimination at Work*, 2011.

²⁵⁸ World Health Organization, *World Report on Disability*, 2011.

²⁵⁹ World Health Organization, *World Report on Disability*, 2011.

²⁶⁰ World Bank, *Disability - Millennium Development Goals and Persons with Disabilities*, 2010.

²⁶¹ World Bank, *Disability - Millennium Development Goals and Persons with Disabilities*, 2010.

Another key component to deterring discrimination and violence is the full integration of people with disabilities into society. In the area of education for people with disabilities, UNESCO has pushed for inclusive education through the *Salamanca Statement on Inclusive Education*. Inclusive education means

“that all children should learn together, wherever possible, regardless of any difficulties or differences they may have... [and there] should be a continuum of support and services to match the continuum of special needs encountered in every school.”²⁶²

Greater inclusion of people with disabilities helps to restructure the cultures, policies, and practices in order to respond to the diversity of students whereas segregation reinforces discrimination against those with disabilities.²⁶³ Furthermore, education gives children with disabilities the skills to join the workforce and thereby preventing poverty.²⁶⁴ In addition, UNESCO advocates for information and communication technologies that can also help to integrate people with disabilities.²⁶⁵ Having an inclusive society will ensure that all persons are able to participate as productive members of society.²⁶⁶

Lastly, tackling the issue of discrimination that excludes persons with disabilities from daily life is an important step in deterring discrimination and violence.²⁶⁷ Clear and enforceable law would be required that acknowledges the need of positive accommodations towards disability.²⁶⁸ Environments without enforceable laws can lead to societies that denigrate, devalue, and thus oppress those with disabilities, while privileging those without disabilities.²⁶⁹

Case Study - India

India has taken steps to create a comprehensive strategy for people with disabilities.²⁷⁰ People with disabilities comprise 6% of the Indian population.²⁷¹ Social segregation as a result of castes, tribes, backward classes, minorities, and other vulnerable groups further complicates the situation for people with disabilities.²⁷² For example, 80% of people belonging to a scheduled caste community live in rural areas, which often lack the proper social support especially for people with disabilities.²⁷³

In its strategy, the Indian government recognizes the importance of integration of people with disabilities into society through the development of legislations and policies and by working with organizations, employers, and citizens.²⁷⁴ Under Section 57 of the *Persons with Disabilities Act*, the Office of the Chief Commissioner for Persons with Disabilities under the Ministry of Justice was established in 1995.²⁷⁵ The Act lists

“... facilities that persons with different types of disabilities would be entitled to and the responsibilities and obligations which are placed on the Government of India, State Governments, local bodies and establishments in this behalf. It broadly includes measures for prevention and early detection of disabilities, education, employment, social security, research and manpower development, barrier-free access and preferences and facilities that are available to such persons

²⁶² United Nations Educational, Scientific, and Cultural Organization, *The Salamanca Statement and Framework for Action on Special Needs Education*, 1994.

²⁶³ Department for International Development, *Guidance Note: Education for Children with Disabilities – Improving Access and Quality*, 2011.

²⁶⁴ Department for International Development, *Guidance Note: Education for Children with Disabilities – Improving Access and Quality*, 2011.

²⁶⁵ United Nations Educational, Scientific, and Cultural Organization, *Access for People with Disabilities*, 2012.

²⁶⁶ United Nations Educational, Scientific, and Cultural Organization, *Access for People with Disabilities*, 2012.

²⁶⁷ Quinn and Degener, *Human Rights and Disability: The current use and future potential of United Nations human rights instruments in the context of disability*, 2002.

²⁶⁸ Quinn and Degener, *Human Rights and Disability: The current use and future potential of United Nations human rights instruments in the context of disability*, 2002.

²⁶⁹ Disabled World, *Disability Discrimination Information*, 2012.

²⁷⁰ Government of India, *Empowerment for the Differently Abled*, 2012.

²⁷¹ Government of India, *Empowerment for the Differently Abled*, 2012.

²⁷² Planning Commission, *Eleventh Scheduled Five year Plan*, 2007.

²⁷³ Planning Commission, *Eleventh Scheduled Five year Plan*, 2007.

²⁷⁴ Government of India, *Empowerment for the Differently Abled*, 2012.

²⁷⁵ Office of The Chief Commissioner for Persons with Disabilities, *Our Office*, 1996

and the action which needs to be taken to avoid any discrimination against persons with disabilities.”²⁷⁶

The Indian government subsequently adopted the National Policy for Persons with Disabilities in 2006 and signed and ratified the CRPD in 2007.²⁷⁷ In its *Eleventh Scheduled Five Year Plan (2007-2012)*, the plan referred to the Indian Constitution, which stipulates, “no citizens shall, on the grounds only of caste or race, be subjected to any disability and restrictions.”²⁷⁸

Various actions have resulted from the integration of the Act and the National Policy. With the goal of helping people with disabilities to overcome barriers and allow them to lead a normal and self-reliant life, the government has taken a multifaceted approach including “providing aids and appliances, scholarships, awards and monetary benefits to reservations in government jobs and incentives for private employers to promote employment of such persons.”²⁷⁹

The Government of India is currently taking steps to amend their 1995 National Policy for Persons with Disabilities. Proposed amendments concern the inclusion of autism as a form of disability, ensuring an inclusive educational system, emphasis on disability prevention, affirmative action for people with disabilities and the introduction of a disability pension.²⁸⁰

Conclusion

The recognition of rights for people with disabilities has been enshrined in binding and non-binding resolutions, legislations, and policies at the national, regional, and international levels. Though these rights are widely recognized by governments, discrimination and violence towards people with disabilities is still prevalent. People with disabilities face natural challenges as a result of their situation but their experiences are also contingent on their surroundings. As such, violence and discrimination can deeply impact such experiences. In considering the barriers and opportunities associated with the discrimination and violence of people with disabilities, how can human rights for people with disabilities be adapted to deter discrimination and violence? What is the role of the Human Rights Council in this situation and what actions can be taken?

²⁷⁶ Government of India, *Empowerment for the Differently Abled*, 2012.

²⁷⁷ Government of India, *Empowerment for the Differently Abled*, 2012.

²⁷⁸ Planning Commission, *Eleventh Scheduled Five year Plan*, 2007.

²⁷⁹ Government of India, *Empowerment for the Differently Abled*, 2012.

²⁸⁰ Government of India, *Empowerment for the Differently Abled*, 2012.

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De Alwis, Rangita de Silva. (2008). *Disability Rights, Gender, and Development: A Resource Tool for Action*. Wellesley Centers for Woman. Retrieved on June 2, 2012 from:

<http://www.un.org/disabilities/documents/Publication/UNWCW%20MANUAL.pdf>

This report was jointly produced by the Wellesley Centers for Women, the UN Department of Economic and Social Affairs, and the UNFPA; the Wellesley Centers for Women is an advocacy organization of Wellesley College. The report focuses on the relationship between women with disabilities and the associated impacts. There are a number of areas covered in the report including education, employment, and violence with concrete examples and references to relevant international agreements. This is a highly recommended source for delegates.

Disability Rights Fund. *Disability Rights Fund: Building community capacity to achieve the human rights of all persons with disabilities*. (2012). Retrieved on August 30, 2012 from: <http://www.disabilityrightsfund.org/node/1>

The Disability Rights Fund supports people with disabilities in the Global South, Middle East, North Africa, and Eastern Europe in advocating rights under CRPD. This source has a wide variety of information regarding disabilities especially in those regions including specific country information. The organization also provides numerous reports on how to include people with disabilities in various facets of life, how to do advocacy, and how to tackle socioeconomic issues, such as gender bias and poverty, in the context of the promotion of rights for people with disabilities.

Disabled World. *Disability Discrimination Information*. Retrieved on August 10, 2012 from <http://www.disabled-world.com/disability/discrimination/>

This is a site that links to individual cases of discrimination of people with disabilities. The links are mainly to cases in the United States, but it gives links to other countries' laws against disability discrimination and resources to look at. Delegates are encouraged to visit this Web site to familiarize themselves with the laws against disability discrimination of their respective countries. The cases that are highlighted on the Web site are those that have made international headlines and have initiated a change to the status quo, which make them worthy case studies.

Government of India. (2012). *Empowerment for the Differently Abled*. Retrieved on September 5, 2012 from: http://india.gov.in/spotlight/spotlight_archive.php?id=59.

This sources shows the efforts taken by India in the integration of people with disabilities. In addition to the legislation, the Web site also shows strategies that have been used in India. This has included the revision of legislations to include autism as a disability, setting up funding, and the inclusion of affirmative action. Delegates will find this useful in understanding how a developing country has tackled the issue.

International Labour Organization. (2011), *Disability Discrimination at Work*. Retrieved on August 10, 2012 from: http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_decl_fs_87_en.pdf.

This piece gives the definition of disability from the point of view of the International Labour Office (ILO) and how it applies to the workplace. There are a number of facts and figures that are important to the disability. Delegates will find this information useful in understanding the barriers faced in the workplace and the role that international labor laws play in reducing discrimination.

Quinn and Degener, (2002). *Human Rights and Disability: The current use and future potential of United Nations human rights instruments in the context of disability*. United Nations. Retrieved on September 4, 2012 from: <http://www.ohchr.org/Documents/Publications/HRDisabilityen.pdf>.

This article provides a comprehensive discussion on the issue of people with disabilities at the international level. In addition to discussing the issue of disability at large, the paper focuses on the issues associated with human rights. This paper may provide insight to delegates on potential resolutions.

United Nations. (2008). *Convention on the Rights of Persons with Disabilities*. Retrieved on August 9, 2012 from <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>.

This Convention entered into force in 2008 and is the governing document to protect those with disabilities. The document will guide delegates in understanding how the international community has approached rights for persons with disabilities. Rights for people with disabilities have been grounded, or at the very minimum alluded to, in various instruments, such as the University Declaration on Human Rights. However, this convention is important to the extent that until 2008, the international community had lacked a comprehensive document which can support and initiate overhaul changes to national legislation on the rights of people with disabilities. The body overseeing the implementation of the convention is the Committee on the Rights of Persons with Disabilities, an expert body to which State Parties must report. Delegates may find these country reports useful in their research.

World Bank. (2010). *Disability – Millennium Development Goals (MDGs) and Persons with Disabilities*. Retrieved on August 30, 2012 from:

<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTSOCIALPROTECTION/EXTDISABILITY/0,,contntMDK:20785950~menuPK:3265756~pagePK:210058~piPK:210062~theSitePK:282699,00.html>

The source discusses the link between the MDGs and disability. The World Bank provides a comprehensive summary of actions that can be taken to in the inclusion of people with disabilities. As the MDGs are meant to be completed by 2015, examining its progress relative to people with disabilities would be an important consideration for resolutions on the topic. Delegates are invited to also visit the sources cited in this summary to gather more in-depth information on how each Goal is related to disability.

World Health Organization. (2012). *International Classification of Functioning, Disability and Health (ICF)*. Retrieved on August 30, 2012 from: <http://www.who.int/classifications/icf/en/>.

This document is the globally accepted standard in defining disability. The classification discusses the various types of disabilities, the ability for disabilities to advance over time and dysfunctions associated with disabilities. Delegates should use this as the base document in understanding disability.

World Health Organization. (2012). *Disability*. Retrieved on June 2, 2012 from: <http://www.who.int/topics/disabilities/en/>.

The World Health Organization has conducted various studies and reports regarding persons with disabilities. The WHO was one of the first organizations to develop a widely accepted definition of disability. The WHO examines the impacts of disability at a global scale including impacts on persons from developed and developing countries. Delegates should use this source as a starting point for their research.

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Rules of Procedure Human Rights Council

Introduction

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

I. SESSIONS

Rule 1 - Dates of convening and adjournment

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

Rule 2 - Place of sessions

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

II. AGENDA

Rule 3 - Provisional agenda

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

Rule 4 - Adoption of the agenda

The agenda provided by the Director-General shall be considered adopted as of the beginning of the session. The order of the agenda items shall be determined by a majority vote of those present and voting.

The vote described in this rule is a procedural vote and, as such, observers are permitted to cast a vote. For purposes of this rule, those present and voting means those Member States and observers, in attendance at the meeting during which this motion comes to a vote. Should the Council not reach a decision by conclusion of the first night's meeting, the agenda will be automatically set in the order in which it was first communicated.

Rule 5 - Revision of the agenda

During a session, the Council may revise the agenda by adding, deleting, deferring or amending items. Only important and urgent items shall be added to the agenda during a session. Debate on the inclusion of an item in the agenda shall be limited to three speakers in favor of, and three against, the inclusion. Additional items of an important and urgent character, proposed for inclusion in the agenda less than thirty days before the opening of a session, may be placed on the agenda if the Council so decides by a two-thirds majority of the members present and voting. No additional item may, unless the Council decides otherwise by a two-thirds majority of the members present and voting, be considered until the Secretariat has reported on the question concerned.

For purposes of this rule, the determination of an item of an important and urgent character is subject to the discretion of the Director-General, or his or her designate, and any such determination is final. If an item is determined to be of such a character, then it requires a two-thirds vote of the Council to be placed on the agenda. The votes described in this rule are substantive votes, and, as such, observers are not permitted to cast a vote. For purposes of this rule, —the members present and voting — means members (not including observers) in attendance at the session during which this motion comes to vote.

Rule 6 - Explanatory memorandum

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

III. SECRETARIAT

Rule 7 - Duties of the Secretary-General

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

Rule 8 - Duties of the Secretariat

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

Rule 9 - Statements by the Secretariat

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

Rule 10 - Selection of the President

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

Rule 11 - Replacement of the President

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

IV. LANGUAGE

Rule 12 - Official and working language

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

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

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

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

V. CONDUCT OF BUSINESS

Rule 14 - Quorum

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

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

Rule 15 - General powers of the President

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

Included in these enumerated powers is the President's power to assign speaking times for all speeches incidental to motions and amendment. Further, the President is to use her/his discretion, upon the advice and at the consent of the Secretariat, to determine whether to entertain a particular motion based on the philosophy and principles of the NMUN. Such discretion should be used on a limited basis and only under circumstances where it is necessary to advance the educational mission of the Conference and is limited to entertaining motions.

Rule 16 – Authority of the Council

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

Rule 17 – Voting rights on procedural matters

Unless otherwise stated, all votes pertaining to the conduct of business shall require a majority of the members present and voting in order to pass.

For purposes of this rule, the members present and voting mean those members (including observers) in attendance at the meeting during which this rule is applied. Note that observers may vote on all procedural votes; they may, however, not vote on substantive matters (see Chapter VI). There is no possibility to abstain on procedural votes.

Rule 18 - Points of order

During the discussion of any matter, a representative may rise to a point of order, and the point of order shall be immediately decided by the President in accordance with the rules of procedure. A representative may appeal against the ruling of the President. The appeal shall be immediately put to the vote, and the President's ruling shall stand unless overruled by a majority of the members present and voting. A representative rising to a point of order may not speak on the substance of the matter under discussion.

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

Rule 19 - Speeches

No representative may address the Council without having previously obtained the permission of the President. The President shall call upon speakers in the order in which they signify their desire to speak. The President may call a speaker to order if his remarks are not relevant to the subject under discussion.

In line with the philosophy and principles of the NMUN, in furtherance of its educational mission, and for the purpose of facilitating debate, the Secretariat will set a time limit for all speeches which may be amended by the President at his/her discretion. Consequently, motions to alter the speaker's time will not be entertained by the President.

Rule 20 - Closing of list of speakers

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

The decision to announce the list of speakers is within the discretion of the President and should not be the subject

of a motion by the Council. A motion to close the speakers list is within the purview of the Council and the President should not act on her/his own motion.

Rule 21 - Right of reply

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

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

Rule 22 - Suspension of the meeting

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

Rule 23 - Adjournment of the meeting

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

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

Rule 24 - Adjournment of debate

During the discussion of any matter, a representative may move the adjournment of the debate on the item under discussion. Two representatives may speak in favor of, and two against, the motion, after which the motion shall be immediately put to the vote. The President may limit the time to be allowed to speakers under this rule.

Rule 25 - Closure of debate

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

Rule 26 - Order of motions

Subject to rule 18, the motions indicated below shall have precedence in the following order over all proposals or other motions before the meeting:

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

Rule 27 - Proposals and amendments

Proposals and amendments shall normally be submitted in writing to the Secretariat. Any proposal or amendment that relates to the substance of any matter under discussion shall require the signature of twenty percent of the members of the Council [sponsors]. The Secretariat may, at its discretion, approve the proposal or amendment for circulation among the delegations. As a general rule, no proposal shall be put to the vote at any meeting of the Council unless copies of it have been circulated to all delegations. The President may, however, permit the

discussion and consideration of amendments or of motions as to procedure, even though such amendments and motions have not been circulated. If the sponsors agree to the adoption of a proposed amendment, the proposal shall be modified accordingly and no vote shall be taken on the proposed amendment. A document modified in this manner shall be considered as the proposal pending before the Council for all purposes, including subsequent amendments.

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

Rule 28 - Withdrawal of motions

A motion may be withdrawn by its proposer at any time before voting has commenced, provided that the motion has not been amended. A motion thus withdrawn may be reintroduced by any member.

Rule 29 - Reconsideration of a topic

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

VI. VOTING

Rule 30 - Voting rights

Each member of the Council shall have one vote.

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

Rule 31 - Request for a vote

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

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

Rule 32 - Majority required

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

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

Rule 33 - Method of voting

1. The Council shall normally vote by a show of placards, except that a representative may request a roll call, which shall be taken in the English alphabetical order of the names of the members, beginning with the member whose name is randomly selected by the President. The name of each member shall be called in any roll call, and one of its representatives shall reply "yes," "no," "abstention," or "pass."

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

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

Rule 34 - Explanations of vote

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

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

Rule 35 - Conduct during voting

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

For purposes of this rule, there shall be no communication amongst delegates, and if any delegate leaves the Council room during voting procedure, they will not be allowed back into the room until the Council has convened voting procedure.

Rule 36 - Division of proposals and amendments

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

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

Rule 37 - Amendments

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

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

Rule 38 - Voting on amendments

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the amendment furthest removed in substance from the original proposal shall be voted on first and then the amendment next furthest removed there from, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted on.

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

Rule 39 - Order of voting on proposals

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

Rule 40 - The President shall not vote

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

VII. CREDENTIALS

Rule 41 - Credentials

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

Rule 42 - Authority of the General Assembly

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

VII. PARTICIPATION OF NON-MEMBERS OF THE COUNCIL

Rule 43 - Participation of non-Member States

The Council shall invite any Member of the United Nations that is not a member of the Council and any other State, to participate in its deliberations on any matter of particular concern to that State.

A commission or sessional body of the Council shall invite any State that is not one of its own members to participate in its deliberations on any matter of particular concern to that State. A State thus invited shall not have the right to vote, but may submit proposals which may be put to the vote on request of any member of the body concerned.

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

Rule 45 - Participation of national liberation movements

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

Rule 46 - Participation of and consultation with specialized agencies

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

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

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