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**Human Rights Council
Background Guide**

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Committee Overview

The Human Rights Council (HRC) is „responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human right violations and making recommendations on them“.¹ It provides a multilateral forum to address all human rights issues, especially violations of human rights and humanitarian law, and makes recommendations to improve the human rights situation.

The HRC consist of 47 members, based on a geographical distribution according to the following regional breakdown: 13 from Africa, 13 from Asia, eight from Latin America and the Caribbean, seven from the Western European and Others Group and six from Eastern Europe.² The UN General Assembly elects them for three years by a simple majority vote. Every year, one-third of the Members are renewed.³ Aside from the Council Members, non-Member States, inter-governmental organizations, national human rights institutions, and non-governmental organizations (NGOs) are welcomed to the sessions of the HRC and can contribute to them as observers⁴.

Technical, substantive as well as administrative support is provided by the Office of the High Commissioner for Human Rights (OHCHR), which was established in 1993 to coordinate human rights efforts across all UN departments and agencies.⁵ The OHCHR replaced the old Center for Human Rights, which was originally created to oversee the UN’s human rights program following the adoption of the UDHR in 1948.⁶

The HRCs predecessor was the Commission on Human Rights (CHR), established in 1946, even before the adoption of the Universal Declaration of Human Rights (UDHR).⁷ Increasing criticism of a “politicization” of the CHR led to its loss in credibility, damaging both the UN’s reputation as well as its human rights work.⁸ Finally, reform efforts led to the creation of the HRC in 2006 through resolution 60/251 of the General Assembly, replacing the CHR.⁹

The Council began its work in June 2006¹⁰ and adopted its „Institution Building“-package one year later with resolution 5/1,¹¹ setting up its main procedures and mechanisms.¹² The HRC is located in Geneva, Switzerland and meets for regular sessions in March, June and September for

¹ UN OHCHR, *The 20th Anniversary of OHCHR – 20 human rights achievements*, 2016.

² UN OHCHR, *Info Booklet*, 2017, p. 3.

³ UN OHCHR, *Welcome to the Human Rights Council*, 2017.

⁴ UN OHCHR, *Info Booklet*, 2017, p. 3-4.

⁵ OHCHR, *Info Booklet*, 2017, p. 3.

⁶ UN OHCHR, *Who we are: Brief History*, 2017.

⁷ UN OHCHR, *Who we are: Brief History*, 2017.

⁸ UN DPI, *General Assembly Establishes New Human Rights Council by vote of 170 in Favour to 4 Against, with 3 Abstentions (GA/10449)*, 2006

⁹ UN General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

¹⁰ UN OHCHR, *Who we are: Brief History*, 2017.

¹¹ UN HRC, *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)*, 2007.

¹² UN OHCHR, *Info Booklet*, 2017, p. 1.



a minimum period of 10 weeks per year.¹³ Furthermore, it held 26 special sessions during the first ten years of its existence. In these special sessions the Council comes together to address urgent human rights violations.¹⁴

The Human Rights Council has several instruments and subsidiary bodies at its disposition, namely the Universal Periodic Review mechanism (UPR), the Special Procedures, the Complaint Procedure and the Advisory Committee.¹⁵ Through the UPR, each Member State of the UN submits to a periodic assessment of how well it fulfilled its human rights obligations.¹⁶ Through the Special Procedures, the HRC enables independent parties to report, monitor, and advise on country-specific or thematic issues for it.¹⁷ They are one of the most powerful tools for investigation that the HRC possesses.

In light of the numerous challenges faced by the HRC as the main UN body responsible for the protection and promotion of human rights all over the globe, delegates must use all tools and frameworks available to them to devise solutions to the problems at hand.

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¹³ UN OHCHR, *Sessions 2017*.

¹⁴ UN OHCHR, *Info Booklet*, 2017, p. 3.

¹⁵ UN OHCHR, *Info Booklet*, 2017, p. 1.

¹⁶ UN OHCHR, *Universal Periodic Review*, 2017.

¹⁷ UN OHCHR, *Special Procedures of the Human Rights Council*, 2017.



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1. The effects of corruption on the enjoyment of human rights

Introduction

In recent years, corruption has increasingly been identified as a stand-alone issue and a significant challenge to international human rights efforts. Depending on the context in which it takes place, corruption can potentially impact all human rights – civil, political, social, cultural, as well as the right to development. “As corruption manifests itself in many ways and occurs in a multitude of contexts, it is nearly impossible to identify all of the human rights that can be violated by [it].”¹⁸

Corruption can hinder the just allocation and full use of a state’s resources to achieve the realization of rights for all its citizens, thereby infringing upon its human rights obligations under the *International Covenant on Economic, Social and Cultural Rights*.¹⁹ It can create discrimination between those that possess the means to influence authorities for access to public services, and those that do not, affecting already disadvantaged groups even further.²⁰ Corruption can also affect civil and political rights: when public officials fail to fulfill their tasks with the interests of society in mind, the public loses trust in state authority, which can lead to a loss of legitimacy and a weakening of democratic institutions.²¹ This is most directly visible when it comes to corruption in the funding of political parties or electoral fraud. The effect of corruption is particularly dire when it takes place in the rule of law system: corrupt judges, lawyers, prosecutors, police officers or investigators hinder the implementation of existing legal frameworks and infringe upon the right to equality before the law and the right to a fair trial, weakening the very structures that are supposed to protect human rights and fight corruption.²² Finally, corruption is often a necessary pre-condition for other human rights violations, such as terrorist attacks, torture or sexual exploitation.²³

However, human rights are also an essential tool in fighting corruption: key principles of human rights also represent some of the most important aspects in successful anti-corruption efforts. Like in human rights efforts, it is important to treat corruption as a systemic issue, rather than a problem of individuals: effective institutions, appropriate laws, good governance reforms and an involvement of all stakeholders is needed to fight corruption at its root.²⁴ This necessitates a lengthy process of profound societal changes (institutions, laws and culture), which can and should be built on human rights principles such as an independent judiciary, freedom of

¹⁸ UN HRC, *Final report of the Human Rights Council Advisory Committee on the issue of the negative impact of corruption on the enjoyment of human rights (A/HRC/28/73)*, 2015, p. 6.

¹⁹ UN OHCHR, *Human Rights and anti-corruption*, n.d.

²⁰ Ibid.

²¹ UN HRC, *A/HRC/28/73 (2015)*, p. 8.

²² UN OHCHR, *Human Rights and anti-corruption*, n.d.

²³ UN HRC, *A/HRC/28/73 (2015)*, p. 10.

²⁴ UN OHCHR, *Human Rights and anti-corruption*, n.d.



expression and press, and transparency and accountability in the political system, all of which are necessary for a successful anti-corruption strategy.²⁵

International and Regional Framework

The *International Bill of Human Rights*, consisting of the *Universal Declaration of Human Rights* (UDHR) (1948),²⁶ the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966)²⁷ and the *International Covenant on Civil and Political Rights* (ICCPR) (1966),²⁸ represents the fundament for all human rights, many of which have been shown to be affected by corruption. Notably, art. 2 of the ICESCR obliges states to realize the contained rights “to the maximum of its available resources”, making every diversion of state resources through corruption a human rights violation in and of itself.²⁹

More specific than these fundamental treaties, the *United Nations Convention against Corruption* (UNCAC) (2003)³⁰ is the first and to this date only legally binding, universal anti-corruption agreement.³¹ It requires states to implement several anti-corruption measures focused on five areas: prevention, law enforcement, international cooperation, asset recovery, and technical assistance and information exchange.³² Other anti-corruption conventions, either regional or focused on specific forms of corruption, include for example the *Inter-American Convention against Corruption* (IACAC) (1996), the *African Union Convention on Preventing and Combating Corruption* (2003), and the *OECD Anti-Bribery Convention* (1997).³³

*The Guiding Principles on Business and Human Rights*³⁴, endorsed by the HRC in 2011, constitute an authoritative global framework for managing risks to human rights arising from business activities. While they do not explicitly draw a link between business, human rights and corruption, the *Guiding Principles* imply that states have the duty to ensure that corruption does not interfere with their obligations to protect against corporate-related human rights abuses.³⁵

Role of the International System

“United Nations human rights mechanisms are increasingly mindful of the negative impact of corruption on the enjoyment of human rights and consequently of the importance of effective

²⁵ Ibid.

²⁶ UN General Assembly (GA), *Universal Declaration of Human Rights* (A/RES/217(III)), 1948.

²⁷ UN GA, *International Covenant on Economic, Social and Cultural Rights* (A/RES/2200 (XXI)), 1966.

²⁸ UN GA, *International Covenant on Civil and Political Rights* (A/RES/2200 (XXI)), 1966.

²⁹ UN HRC, A/HRC/28/73 (2015), p. 8.

³⁰ UN GA, *United Nations Convention against Corruption* (A/RES/58/4), 2003.

³¹ UNODC, *UNODC's Action against Corruption and Economic Crime*, n.d.

³² Ibid.

³³ Organization of American States, *Inter-American Convention against Corruption*, 1996; African Union, *African Union Convention on Preventing and Combating Corruption* (UNTS I-50008), 2003; OECD, *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, 1997.

³⁴ UN HRC, *The Guiding Principles on Business and Human Rights* (A/HRC/17/31), 2011.

³⁵ UN HRC, A/HRC/28/73 (2015), p. 5.



anti-corruption measures.”³⁶ Early efforts in this direction included the appointment of a comprehensive study on corruption and its impact on the full enjoyment of human rights by the former Sub-Commission of Human Rights in 2003, as well as several seminars and conferences on good governance, anti-corruption and human rights (E/CN.4/2005/97, A/HRC/4/71) and even an OHCHR booklet on the topic (HR/PUB/07/4).³⁷

On a slightly different note, the Council also repeatedly considered the issue of the negative impact of the non-repatriation of funds of illicit origin (among them corruption) to the countries of origin on the enjoyment of human rights in its resolutions 17/23, 19/38 and 22/12 and in a study by the High Commissioner for Human Rights (A/HRC/19/42).³⁸

Further recognition of the problem (e.g. in a cross regional statement by 134 states at the 20th HRC session in 2012 and a panel discussion on the topic in 2013 (A/HRC/23/26)) resulted in resolution 23/9, in which the Council requested its expert Advisory Committee to submit a research-based report on the issue of the negative impact of corruption on the enjoyment of human rights, and to make recommendations on how the Council and its subsidiary bodies should consider this issue.³⁹ The final report was adopted in resolution 28/73, giving a comprehensive summary of the many connections between corruption and the enjoyment of human rights, classifying different kinds of corruption and outlining the advantages of a human rights-based approach to corruption.⁴⁰

Beside the HRC and the OHCHR, the United Nations Office on Drugs and Crime (UNODC) plays an important role in UN anti-corruption efforts, as it is the body which originally initiated talks on the convention and continues to work closely with the conventions Conference of the States Parties (COSP) in providing technical assistance in various corruption-related thematic areas.⁴¹ Furthermore, the United Nations Development Programme (UNDP) has made anti-corruption efforts concerning the economic impact of corruption, e.g. by providing programme countries with policy support in anti-corruption matters through the Global Anti-Corruption Initiative (GAIN).⁴²

A Human Rights-based approach to anti-corruption

While traditional efforts deal with corruption mainly from a criminal perspective, focusing primarily on prosecution and the criminalization of corruption-related offences, the final report

³⁶ OHCHR, *Human Rights and anti-corruption*, n.d.

³⁷ Ibid.

³⁸ Ibid.

³⁹ UN HRC, *A/HRC/28/73 (2015)*, p. 3.

⁴⁰ UN HRC, *A/HRC/28/73 (2015)*.

⁴¹ UNODC, *UNODC's Action against Corruption and Economic Crime*, n.d.

⁴² UNDP, *Anti-corruption*, n.d.



by the HRC Advisory Committee (A/HRC/28/73) outlined the advantages a specific human rights-based approach to anti-corruption could hold.⁴³

Contrary to a criminal approach, where the position of those affected by corruption is not always very strong in criminal proceedings, a human rights-based approach puts the victim of corruption in the focus, by highlighting negative impacts of corruption on individuals, groups and society at large. It also helps focusing on structural problems, whereas the criminal approach is, by its nature, concentrated on a single offence. A human rights perspective also reveals the ultimate responsibility of states to not only abstain from corruption themselves, but to actively and preventively fight corruption by non-state actors. Finally, there are many parallels between the main anti-corruption principles and the scope of human rights: strengthening human rights, especially political and civil rights (e.g. freedom of expression, freedom of press, principle of non-discrimination) is a valuable instrument in fighting corruption.⁴⁴

Conclusion and Further Research

“Let us be clear. Corruption kills. The money stolen through corruption every year is enough to feed the world’s hungry 80 times over.”⁴⁵ These were the words of then United Nations High Commissioner for Human Rights, Navi Pillay, and they still hold true today. For a long time, corruption has been overlooked as a serious impediment to the enjoyment of human rights due to its varied appearance and its impact that is difficult to grasp. Over the past years however, this has changed, as both the threat to and potential of human rights has been recognized. “The core human rights principles of transparency, accountability, non-discrimination and meaningful participation, when upheld and implemented, are the most effective means to fight corruption.”⁴⁶

When further researching this topic, delegates should keep in mind the following questions: How can human rights institutions and anti-corruption institutions cooperate substantively and structurally/organizationally? How can disadvantaged groups (e.g. prisoners, indigenous people, minorities, women, children, persons with disabilities, people living in poorness) be protected against the effects of corruption? How can journalists, whistle-blowers or activists be protected from unlawful prosecution or harassment? How can civil society and the private sector affect institutional reform? How can societies’ awareness be raised to the negative impacts of corruption?

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⁴³ UN HRC, *A/HRC/28/73* (2015), pp. 24-34.

⁴⁴ Ibid.

⁴⁵ Navi Pillay, High Commissioner for Human Rights, *Opening statement at the Panel on “the negative impact of corruption on human rights” (A/HRC/23/26)*, 2013.

⁴⁶ UN OHCHR, *Human Rights and anti-corruption*, n.d.



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2. Human Rights of Refugees

Introduction

With 22.5 million refugees worldwide, the number of refugees is the highest since the end of the Second World War.⁴⁷ As recognized by UN Member States in the *New York Declaration*, refugees hold the same human rights as all other individuals do and are entitled to enjoy them.⁴⁸ However, as an especially vulnerable group of migrants⁴⁹, refugees face two threats: grave violations of human rights which actually cause them to flee their homes, and persisting violations of minimum human rights while being asylum seekers or having acquired the status of a 'refugee'.⁵⁰ These violations include extremely restricted access to prospective host states, the refusal of legal aid or access to courts, deportations to the home state, detentions, (sexual) assaults and xenophobic attacks as well as human trafficking/ slavery (as recently monitored in Libya), including being forced to fight in militias.⁵¹

International and Regional Framework

Basis of the international refugee protection regime are the *Convention relating to the Status of Refugees* (1951)⁵² and its *Protocol* (1967)⁵³ as well as the *International Bill of Human Rights*, consisting of the *Universal Declaration of Human Rights* (UDHR) (1948),⁵⁴ the *International Covenant on Civil and Political Rights* (ICCPR) (1966),⁵⁵ and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966).⁵⁶ Most recent milestone is the *New York Declaration for Refugees and Migrants* (2016), which calls upon a *Global Compact on Refugees* (GCR).

The Convention relating to the Status of Refugees and its Protocol

The 1951 Convention articulates the basic rights of refugees and sets minimum standards for their treatment.⁵⁷ This includes the duty of states to not send refugees into states where they are in danger of being persecuted (Art. 33, non-refoulement).

Art. 1 of the Convention defines a refugee as a person who

“owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling, [...] to return to it.”

⁴⁷ UNHCR, *Forced displacement worldwide at its highest in decades*, 2017.

⁴⁸ UN General Assembly, *New York Declaration for Refugees and Migrants* (A/RES/71/1), 2016.

⁴⁹ UNHCR, *The New York Declaration for Refugees and Migrants. Answers to Frequently Asked Questions*, n.d., p. 3.

⁵⁰ OHCHR, *Fact Sheet No. 20, Human Rights and Refugees*, 1992, p. 2.

⁵¹ *Ibid.* p. 9-11.

⁵² United Nations, *Treaty Series*, vol.189, No. 2545 (1951), 1954.

⁵³ UN General Assembly (GA), *Protocol relating to the Status of Refugees* (A/RES/2198(XXI)), 1967.

⁵⁴ UN GA, *Universal Declaration of Human Rights* (A/RES/217(III)), 1948.

⁵⁵ UN GA, *International Covenant on Civil and Political Rights* (A/RES/2200 (XXI)), 1966.

⁵⁶ UN GA, *International Covenant on Economic, Social and Cultural Rights* (A/RES/2200 (XXI)), 1966.

⁵⁷ OHCHR, *Fact Sheet No. 20, Human Rights and Refugees*, 1992, p. 4.



This definition initially referred to refugees who fled in the course and aftermath of the Second World War; the 1967 Protocol discarded this restriction and rendered the definition universal. It is still restrictive in its scope: neither internally displaced persons (IDPs) qualify as refugees nor do migrants who fled across borders due to poverty or disasters. Those who do not fall under the definition are mostly not entitled to enjoy protection and may be seen as irregular migrants.⁵⁸ However, national legislation and regional frameworks can give a broader refugee definition than the Convention does,⁵⁹ e.g. the *Convention Governing Specific Aspects of Refugee Problems in Africa (1969)*.⁶⁰

International Human Rights Bill

The UDHR as basis of international human rights law has inspired international customary law and legally binding treaties, amongst them the ICCPR and the ICESCR.⁶¹ Their scope encompasses all human beings, not just refugees. The ICCPR guarantees civil rights such as equal treatment by courts, protection from arbitrary detention and non-discrimination. The ICESCR differs in its scope: While the ICCPR commits signatory states “to respect and to ensure” the rights and urges them to implement those in their national legislation (Art. 2), the ICESCR asks a state to fulfil the rights “to the maximum of its available resources” (Art. 2). The ICESCR’s rights include the right to work, the right to food and shelter and the right to education.

New York Declaration and Global Compact on Refugees

In September 2016, the General Assembly unanimously adopted the *New York Declaration* which aims to enhance refugee and migrant protection and to enable a more effective, international response to mass movements. The Member States commit to “ensure full respect of [refugees’ and migrants’] human rights and fundamental freedoms” (paragraph 22). *The Comprehensive Refugee Response Framework (CRRF)*, on which the Member States agreed in the New York Declaration, goes beyond the usual humanitarian scope of refugee aid. It includes states’ commitments to better share responsibility with burdened host states, to support communities and refugees more sustainably and predictably and to find new ways of legal entrance into third states, e.g. by further supporting the UNHCR Resettlement Programme.⁶² The Declaration calls upon UNHCR to draft a Global Compact on Refugees and to present it to the General Assembly this year. Main aim of the GCR is “to provide a more equitable and predictable responsibility-sharing arrangement among countries of origin, transit and destination to address large movements of refugees”⁶³.

The GCR will consist of the CRRF and a Programme of Action which gives indicators on measuring the implementation of the CRRF. The Framework is currently tested in different refugee situations within six states. The lessons learned from those cases will be included in the

⁵⁸ Kaelin, *Klimafluechtlinge oder Katastrophenvertriebene?*, 2017, p. 212.

⁵⁹ Ibid. p. 211.

⁶⁰ Organisation of African Unity, *Convention Governing Specific Aspects of Refugee Problems in Africa (CAB/LEG/24.3)*, 1969.

⁶¹ United Nations, *The Foundation of International Human Rights Law*, n.d..

⁶² UNHCR, *The New York Declaration for Refugees and Migrants. Answers to Frequently Asked Questions*, n.d., p.

2.

⁶³ Ibid. p. 4.



draft GCR.⁶⁴ The Framework does not aim to provide new legal norms but rather to more effectively implement those norms arising from the 1951 Convention and its Protocol.⁶⁵

An issue discussed at UNHCR-hosted talks concerning the GCR in November 2017 was how to ensure a voluntary and dignified repatriation of refugees. Although all Member States agreed that repatriation has to be voluntary and in dignity, it has to be further elaborated how such a process can be ensured and measured.⁶⁶

Role of the International System

UNHCR is the refugee agency of the UN; its tasks are refugee protection in terms of humanitarian aid (shelter, sanitation, healthcare) and in terms of providing refugees with opportunities to enjoy their right to seek asylum in a host state, to return home or to resettle.⁶⁷ A growing number of crises in which UNHCR works are long-lasting and / or forgotten so that humanitarian / refugee aid is chronically underfunded, which may lead to less enjoyment of human rights by refugees. The High Commissioner for Refugees regularly reports to the General Assembly Third Committee which adopts resolutions on human rights issues.

The HRC in the past focused on the human rights of IDPs⁶⁸ and on migrants in general, rarely referring to 'refugees' but often including them into its term of a 'migrant'. In its most recent resolution on the human rights of migrants (2016), the HRC reaffirmed the need and the duty of states to "promote and protect effectively the human rights and fundamental freedoms of all migrants, regardless of their migration status"⁶⁹ (paragraph 1), encouraged states to ratify important conventions in this regard and to implement the *Recommended Principles and Guidelines on Human Rights at International Borders*⁷⁰; it also decided to hold a dialogue on "The human rights of migrants in the context of large movements" which took place in March 2017. The participants of the dialogue referred to the newly adopted New York Declaration as a commitment to the protection and promotion of the human rights of migrants. Most of them agreed that there are still too many violations of migrants' human rights and were concerned about rising levels of xenophobia and discrimination.⁷¹

The Human Rights Committee monitors the states' efforts in implementing the ICCPR while the ICESCR implementation is observed by the Committee on Economic, Social and Cultural Rights.

Conclusion and Further Research

In legal terms, refugees may be one of the most protected migrant groups; however, they are also the most vulnerable, and legal rights do not necessarily mirror the reality of refugee protection,

⁶⁴ UNHCR, *The New York Declaration for Refugees and Migrants. Answers to Frequently Asked Questions*, n.d., p. 4.

⁶⁵ Ibid. p. 4-5.

⁶⁶ UNHCR, *Towards a Global Compact on Refugees*, 2017, p. 4.

⁶⁷ UNHCR, *What We Do*, 2017.

⁶⁸ OHCHR, *Resolutions of the Human Rights Council, previous Commission on Human Rights, and the General Assembly on internally displaced persons*, 2017.

⁶⁹ UN HRC, *Protection of the human rights of migrants: strengthening the promotion and protection of the human rights of migrants, including in large movements (A/HRC/RES/32/14)*, 2016.

⁷⁰ OHCHR, *Recommended Principles and Guidelines on Human Rights at International Borders (A/69/CRP.1)*, 2014.

⁷¹ OHCHR, *Human Rights Council Enhanced interactive dialogue on the human rights of migrants in the context of large movements*, 2017.



with states restricting access to their territories. Xenophobia and discrimination hit refugees the hardest in burdened host states and communities. In the effort to calm citizens, governments may try to expulse refugees into transit states with lower human rights standards or may even want to deport them into their country of origin which may still be in an unstable situation. With the development of a GCR, a huge step towards a more effective refugee response has been taken. The Human Rights Council can now give recommendations to ensure that the Compact fully endorses the protection of refugees' human rights.

Delegates may consider the following questions: How could the GCR effectively monitor the human rights situation of refugees? How can Member States prevent the outbreak of xenophobia caused by a (perceived) mass influx of refugees? How can be ensured that repatriation of refugees really is voluntary and dignified? How can Member States ensure the protection of refugees' rights during long-lasting and/or forgotten crises?

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3. Human Rights Violations and Abuses against Rohingya Muslims and Other Minorities in Myanmar

Introduction

With numerous ethnic and religious groups living within its territory, Myanmar is considered Asia's most ethnically diverse country. An estimated 90% of the population are Buddhists, whilst four per cent are Muslims and Christians and under two per cent are Hindus.⁷² The Rohingya Muslims represent the largest percentage of Muslims in Myanmar, identifying themselves as a distinct ethnic group that speaks its own language and practices its own culture.⁷³ According to the United Nations (UN), the Rohingya, mainly living in Rakhine State, are considered the world's most persecuted minority group. Besides other Myanmar Muslim minorities, Rohingya are not recognized under the *Citizenship Act* passed in 1982, which only acknowledges eight major *national ethnic groups*. As a result, it is very difficult for Rohingya Muslims and other ethnic minorities to obtain citizenship, as they do not fall under the state's jurisdiction and are consequently not protected by the state.⁷⁴

In all parts of their lives, Rohingya and other Muslim minority groups are facing severe restrictions to their freedom of movement: they are confined to their villages or displacement camps and segregated from other communities. Access to their livelihoods, to health care (including life-saving treatment), food security and education are greatly restricted.⁷⁵ Since 2012, religious intolerance and anti-Muslim sentiment repeatedly escalated into fighting between the Myanmar army and Rohingya militants. Recently, in 2017, coordinated attacks launched by Rohingya armed groups were answered by the Myanmar military with a brutal campaign of violence leading to the displacement of tens of thousands of people and forcing at least 600,000 to flee to Bangladesh.⁷⁶

International and Regional Framework

Myanmar's human rights obligations are grounded in both treaty and customary law.⁷⁷ Myanmar is a party to several integral human rights treaties such as the *Convention on the Rights of the Child* (1989)⁷⁸, the *Convention on the Rights of Persons with Disabilities* (2006)⁷⁹ or the *Convention on the Elimination of All Forms of Discrimination against Women* (1979)⁸⁰. In addition, it is signatory to the *International Covenant on Economic, Social and Cultural Rights*

⁷² UN HRC, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar (A/HRC/32/18)*, 2016, p. 2.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Amnesty International, *Myanmar 2016/2017*, 2017.

⁷⁶ Amnesty International, *"Caged without a roof". Apartheid in Myanmar's Rakhine State*, 2017.

⁷⁷ UN HRC, *(A/HRC/32/18)*, 2016, p. 4f.

⁷⁸ UN GA, *Convention on the Rights of the Child (A/RES/44/25)*, 1989.

⁷⁹ UN GA, *Convention on the Rights of Persons with Disabilities (A/RES/61/106)*, 2006.

⁸⁰ UN GA, *Convention on the Elimination of All Forms of Discrimination against Women (A/RES/34/180)*, 1979.



(1966)⁸¹, but not to the *International Covenant on Civil and Political Rights* (1966)⁸². “The obligations under these treaties are complemented by customary international law,⁸³ describing a number of rights stated in the *Universal Declaration of Human Rights* (UDHR).⁸⁴

As a UN Member State and an actor in the international system, Myanmar is bound to customary international human rights law.⁸⁵ As non-discrimination is central to the promotion and protection of the rights of minorities, the UN further adopted the *Declaration on the Rights of Persons belonging to National or Ethnic, Religious or Linguistic Minorities* (1992)⁸⁶, underlining the importance of non-discrimination and reinforcing the right of minorities to exercise their religion, language, and culture. Although not legally binding, the declaration follows the UN’s rationale that human rights apply to “everyone under a state’s jurisdiction”.⁸⁷ The 2008 Myanmar Constitution offers some protection to recognized “national races“, requesting the Government to assist in developing their culture, promoting socioeconomic development as well as solidarity and respect among them. Many rights, however, are reserved for “citizens“ only,⁸⁸ meaning that members of ethnic minorities who are not recognized under the 1982 Citizenship Act are not under the state’s protection, even though international human rights law requires the state to respect, protect and fulfill the human rights of all individuals under its control.⁸⁹

Role of the International System

In a special session on 5 December 2017, the UN Human Rights Council (HRC) adopted its resolution S-27/1 on the “Situation of human rights of Rohingya Muslims and other minorities in Myanmar“, condemning “alleged systematic and gross violations of human rights“ against them.⁹⁰ In addition, in its resolutions 29/21 on the “Situation of Rohingya Muslims and other minorities in Myanmar“⁹¹ and 31/24 on the “Situation of human rights in Myanmar“, UN HRC has called for Myanmar to integrate every minority group into society and stop discriminating against them.⁹²

Besides UN HRC, the UN General Assembly most recently noted in its resolution 70/233 on the “Situation of human rights in Myanmar“ concerns regarding the discrimination against minorities in Myanmar.⁹³ In the Special Rapporteur’s 2016 report on the “Situation of human rights in Myanmar“ (A/HRC/31/71)⁹⁴ and High Commissioner's report on the “Situation of human rights

⁸¹ UN GA, *International Covenant on Economic, Social and Cultural Rights* (A/RES/2200 (XXI)), 1966.

⁸² UN GA, *International Covenant on Civil and Political Rights* (A/RES/2200 (XXI)), 1966.

⁸³ UN HRC, (A/HRC/32/18), 2016, p. 5.

⁸⁴ UN GA, *Universal Declaration of Human Rights* (A/RES/217 (III)), 1948.

⁸⁵ National Model United Nations, *Human Rights Council Background Guide 2017*, p. 41.

⁸⁶ UN GA, *Declaration on the Rights of Persons belonging to National or Ethnic, Religious or Linguistic Minorities* (A/RES/47/135), 1992.

⁸⁷ NMUN: *Human Rights Council Background Guide 2017*, p. 41f.

⁸⁸ UN HRC, (A/HRC/32/18), 2016, p. 5.

⁸⁹ NMUN: *Human Rights Council Background Guide 2017*, p. 42.

⁹⁰ UN HRC, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar* (A/HRC/RES/S-27/1), 2017.

⁹¹ UN HRC, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar* (A/HRC/29/21), 2015.

⁹² UN HRC, *Situation of human rights in Myanmar* (A/HRC/31/24), 2016.

⁹³ UN GA, *Situation of human rights in Myanmar* (A/RES/70/233), 2015.

⁹⁴ UN HRC, *Situation of human rights in Myanmar* (A/HRC/31/71), 2016.



of Rohingya Muslims and other minorities in Myanmar“, focus is placed on recommendations for the Myanmar government to strengthen the rule of law and promote human rights.⁹⁵ Besides that, the Office of the UN High Commissioner for Human Rights (OHCHR) has been trying to establish a fully mandated Myanmar country office, which is an essential instrument to cooperate with the host government whilst allowing OHCHR’s staff to communicate with local authorities.⁹⁶ Beside the UN, non-governmental organizations such as Human Rights Watch and Amnesty International are closely monitoring and reporting on human rights developments in Myanmar.⁹⁷

Political and Civil Rights

Marked by anti-Muslim rhetoric, hundreds of thousands of ethnic Rohingya and other Muslim voters and candidates were excluded from the 2015 general elections.⁹⁸ In February 2015, the previous Government announced the expiry of “temporary identity certificates“, held by stateless persons across the country, including Rohingya and other Muslim minority groups, confirming their legal residence in Myanmar. Due to its expiry, hundreds of thousands of stateless persons in Rakhine have no valid individual identity document confirming their legal residence and are therefore stateless.⁹⁹

In addition, the 2014 amended *Political Parties Registration Law* prevents “residents without full citizenship from forming political parties or contesting elections“, effectively restricting political participation by Rohingya.¹⁰⁰ Due to the government’s long use of violence and displacement, Rohingya have faced particularly harsh restrictions, including limits on family size (two-child limit) as well as the ability and right to marry.¹⁰¹ These restrictions are not only discriminatory but also do not comply with the provisions as laid out in article 29 (2) of the UDHR and are therefore against international human rights law.¹⁰²

Right to Health and Education

Due to the outbreak of violence between Rakhine Buddhists and Rohingya Muslims in 2012, Rohingya and other Muslim minorities have experienced forced displacement increasingly restricting their right to health and education.¹⁰³

Rakhine State faces the lowest rate of literacy in Myanmar, while the lack of education opportunities and access to adequate education affects all its inhabitants.¹⁰⁴ Since 2012, Rohingya children are not allowed to visit public schools anymore.¹⁰⁵ Furthermore, non-citizens, including Rohingya, are excluded from studying subject areas such as medicine, economics or engineering,

⁹⁵ UN HRC, (A/HRC/32/18), 2016.

⁹⁶ NMUN, *Human Rights Council Background Guide 2017*, p. 42f.

⁹⁷ *Ibid.*, p. 43.

⁹⁸ Freedom House: *Freedom in the World 2016: Myanmar*, 2016.

⁹⁹ UN HRC, (A/HRC/32/18), 2016, p. 11.

¹⁰⁰ Freedom House, *Freedom in the World 2016: Myanmar (2016)*, 2016.

¹⁰¹ *Ibid.*

¹⁰² NMUN, *Human Rights Council Background Guide 2017*, p. 43.

¹⁰³ UN HRC, (A/HRC/32/18), 2016, p. 12.

¹⁰⁴ *Ibid.*, p. 10.

¹⁰⁵ Amnesty International, *Myanmar 2016/2017*, 2017.



as university applicants are required to be Myanmar citizens.¹⁰⁶ For the denial of their right of health, two factors can be considered responsible: Rakhine State faces extreme poverty resulting in understaffed and under-developed health facilities along with discrimination against Muslims within existing health facilities. In camps for displaced persons, access to education is often facilitated by humanitarian organizations. However, outside these camps, discriminatory practices do hinder children from being taught in their mother tongue.¹⁰⁷

Across Rakhine State, the availability, accessibility and quality of health facilities, goods and services are extremely poor, therefore resulting in delays in treatment, the escalation of preventable diseases and poor overall health outcomes. Moreover, discriminatory barriers such as restrictions on the freedom of movement for Rohingya and other Muslim communities have a severe impact on their access to emergency and life-saving care. Costly and time-consuming travel authorizations and checkpoint controls may lead to serious and life-threatening delays in emergency situations.¹⁰⁸

Conclusion and Further Research

The situation of the Rohingya and other Muslim minorities is of utmost concern. For decades, they have faced discrimination, violence and exclusion, preventing them from fully enjoying their human rights and fundamental freedoms. The internationally criticized 1982 Citizenship Act can be considered the basis of this discrimination. Due to existing restrictions against their freedom of movement, it remains extremely difficult for the Rohingya minority to fully realize their right to education and health.¹⁰⁹ It is therefore essential that the government takes comprehensive legal and policy measures addressing the root causes of all human rights violations and abuses whilst preventing their recurrence to promote accountability in the interest of justice and protection of human rights of all Myanmar citizens.¹¹⁰

When further researching the topic, delegates should focus on existing legal human rights frameworks and norms of international law that are already in place. How can the UN support the Rohingya community in granting human rights to every individual? What measures can be taken to make sure children of Myanmar Muslim minorities have proper access to education? What can be done to ensure free access to health facilities? How can HRC-NGO cooperation be strengthened to ease reporting on human rights violations? How can the HRC ensure Myanmar fully supports OHCHR with the establishment of a national country office? What would the benefits of a country office be?

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¹⁰⁶ UN HRC, (A/HRC/32/18), 2016, p. 10.

¹⁰⁷ NMUN, *Human Rights Council Background Guide 2017*, p. 44f.

¹⁰⁸ UN HRC, (A/HRC/32/18), 2016, p. 10.

¹⁰⁹ NMUN, *Human Rights Council Background Guide 2017*, p. 45.

¹¹⁰ UN HRC, (A/HRC/32/18), 2016, p. 15.



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