



Birla Model United Nations Conference 2021

Committee:

UNITED NATIONS HUMAN RIGHTS COUNCIL

Agenda: Protection of civil liberties during political revolutions.

Letter from the Chairperson

Dear Delegates,

I humbly welcome you to the principal organ for strengthening the promotion and protection of human rights across the globe – UNHRC. I am very grateful to serve as the Chairperson at this simulation of the United Nations Human Rights Council at Birla MUN 2021!

Delegates, it's should be a matter of pride for you, that you shall be sitting in one of the 'most powerful committee' of the UN with an equally significant agenda.

We are certainly living in precarious times, with an agenda as interesting as this all of us are definitely going to learn something new about this dynamic and unprecedented crisis.

I hope you have already begun with your basic research regarding the committee and the agenda. Be confident, firm, active and yet polite. We expect all the necessary procedures to be followed and a formal code of conduct to be maintained during the committee. It is to be noted by all that this study guide only provides an insight over the agenda and in no way suffices for the entirety of your research.

I am proud that you have taken this initiative to participate and step up in the boots of a real leader. So, for me, each one of you is My Best Delegate.

Good Luck!

Gaurav Nagar

Chairperson, UNHRC

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Letter from the Vice Chairperson

Greetings Delegates,

Welcome to this simulation of the United Nations Human Rights Council. The agenda for the committee is **“Protection of civil rights during political revolutions.”**

The main aim for this background guide is to provide you with a starting point in your venture to participate in the conference. However, by no means must you consider this as an exhaustive document as it is prepared only to give you a direction and you have absolutely no one to tell you to limit yourself within the sphere of this guide.

You all are expected to use your research and analysis to come up with logical arguments and viable solutions. Even though the conference is online due to the present conditions, the aim is to gain an enriching and an intellectually learning experience, just like an offline conference.

Please note that you might read some opinionated articles in the background guide, those are just to provide you with a perspective. In no way, they represent the Executive Board member's personal opinions. That being said, please feel free to get in touch with me via e-mails in case you have any questions or queries, or if you wish to seek any clarifications.

Aryan Agarwal

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What is UNHRC?

The Human Rights Council is an inter-governmental body within the United Nations system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year. It meets at the UN Office at Geneva.

The Council is made up of 47 United Nations Member States which are elected by the UN General Assembly

The Council was created by the United Nations **General Assembly** on 15 March 2006 by resolution **60/251**. Its first session took place from 19 to 30 June 2006. One year later, the Council adopted its "**Institution-building package**" to guide its work and set up its procedures and mechanisms.

Among them were the **Universal Periodic Review** mechanism which serves to assess the human rights situations in all United Nations Member States, the **Advisory Committee** which serves as the Council's "think tank" providing it with expertise and advice on thematic human rights issues and the **Complaint Procedure** which allows individuals and organizations to bring human rights violations to the attention of the Council.

The Human Rights Council also works with the **UN Special Procedures** established by the former Commission on Human Rights and now assumed by the Council. These are made up of special rapporteurs, special representatives, independent experts and working groups that monitor, examine, advise and publicly report on thematic issues or human rights situations in specific countries.

TOPIC BACKGROUND

The United Nations has strongly endorsed the institutionalisation and promotion of human rights by national governments as a means to ensure societal stability and general welfare. As stipulated in the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights (ICCPR), every individual, irrespective of their identity construction, is entitled to civil and political rights ranging from freedom of expression, the right to vote, and the freedom of religion/belief. Given the widespread ratification of these agreements, the obligations entailed became a part of “customary international law,” meaning it applies universally to all nations (regardless of individual country’s ratification status,) levelling a responsibility upon all nations to ensure that their citizens’ political and civil rights are guaranteed, at minimum, by the standards stipulated in the UDHR and ICCPR.

Given the complexity of reasons (such as cultural norms and need for societal stability) that national governments have provided to justify their restrictions of political and civil rights, we expect delegates to analyse the full spectrum of arguments and the various stakeholders involved to holistically evaluate how we may protect political and civil rights.

WHAT ARE CIVIL AND POLITICAL RIGHTS?

Both political and civil rights are intrinsically related to one another and are dimensions of human rights. Political rights are rights that involve participation within government institutions, such as electing political representatives, running for and holding office, or engaging in political activities. Concurrently, civil rights encompass freedoms and rights such as freedom of speech, thought, and assembly, amongst others - these rights have a specific guarantee that they are supposed to be applied regardless of one’s race, religion, cultural background or political identity, etc.

IMPORTANT LEGALITIES

International Covenant on Civil and Political Rights (ICCPR)

The International Covenant on Civil and Political Rights (ICCPR) is a key international human rights treaty, providing a range of protections for civil and political rights. The ICCPR, together with the Universal Declaration of Human

Rights and the International Covenant on Economic Social and Cultural Rights, are considered the International Bill of Human Rights. The ICCPR obligates countries that have ratified the treaty to protect and preserve basic human rights, such as: the right to life and human dignity; equality before the law; freedom of speech, assembly, and association; religious freedom and privacy; freedom from torture, ill-treatment, and arbitrary detention; gender equality; the right to a fair trial; right family life and family unity; and minority rights. The Covenant compels governments to take administrative, judicial, and legislative measures in order to protect the rights enshrined in the treaty and to provide an effective remedy. The Covenant was adopted by the U.N. General Assembly in 1966 and came into force in 1976. As of December 2018, 172 countries have ratified the Covenant.

Universal Declaration on Human Rights

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages. The UDHR is widely recognized as having inspired, and paved the way for, the adoption of more than seventy human rights treaties, applied today on a permanent basis at global and regional levels (all containing references to it in their preambles).

Customary International Law

Customary international law is not set down in treaties or other documents: it comes from the usual behaviour of states towards each other. A rule is identified on the basis that states usually act in a certain way, and do so out of a sense of obligation. This source of international law has long been accepted – the law of piracy is an example. Customary law is an important source of international law because it binds all nations, and so is not limited in its application, as a treaty is, by reference to who has ratified it or acceded to it.

The elements of custom are:

- uniform and consistent state practice over time; and

- the belief that such practice is obligatory.

To determine whether a principle has gained the status of customary international law, it is necessary to consider whether there is sufficient evidence both of state practice and acceptance of an obligation to act in a certain way. In international customary law there is the concept of *jus cogens*, or 'peremptory norms' of general international law.

These are rules of customary law which are considered so fundamental that they cannot be departed from or set aside by treaty. They can be modified only by a subsequent norm of general international law that has the same character (Article 53, *Vienna Convention on the Law of Treaties 1969*). Examples of *jus cogens* include the principle of self-determination, and prohibitions on slavery, genocide, racial discrimination and the use of force by states.

CHALLENGES TO PROTECTION OF CIVIL AND POLITICAL RIGHTS

Debate over new Rights

Not every social problem must result in the expression of a new human right. Even the existing catalogue is not always met with consensus; states and scholars occasionally challenge the concept and the content of rights from freedom of the press to the right to development. There are legitimate fears that expanding the list will not only create further dissension, but will undermine the very concept of fundamental and inalienable rights by devaluing or trivializing core norms, taking time and energy away from the essential task of implementing and enforcing those rights that are non-derogable and universally accepted. The concern is legitimate and must be taken seriously; at the same time, the list can never be considered closed. It is impossible to predict future threats to human dignity, the foundation of all human rights, although it may be possible to identify current issues and developments that may require reformulated or expanded rights.

Human Rights and Democracy

Considerable human rights efforts have been expended in recent years to establish free elections and to achieve political rights by instituting democratic electoral processes." For the most part, insufficient attention has been paid to protecting human rights once a freely-elected government is in place. The breakdown of order in many of the emerging, so-called democratic states and the overreaching by democratic majorities demonstrate that the concept of

human rights has yet to take hold to create a human rights culture in many regions of the world. People in many countries now have the right to vote freely but that's not enough if governments then trample on basic rights.

Technology and Human Rights

In contrast to issues of democracy and human rights, the problems arising due to technological change may very well necessitate either further elaboration of existing norms or development of new rights. Some of these technological changes raise fundamental issues about the very concept of human identity and questions concerning whether there is or should be a right to genetic integrity, even to species integrity, that limits or prohibits manipulating the very code of human existence and personal identity, even with the informed consent of the individual.

CIVIL RIGHTS VS NATIONAL SECURITY

The balance between state powers and rights of citizens is a symbol of democracy. With the advent of the Internet, exercising free speech, expression, association and assembly have become much easier. It has not only made communication technology affordable but has also given a platform for self-expression, which was otherwise not available through traditional media. However, most countries build contingencies into their national law that allow for governments to take control of communication networks, and block or intercept them under the guise of national emergency or to protect national security. However situations in which a government can exercise this power are often not indicated clearly¹. Over the past few years, 'virtual curfews' or 'network shutdowns' have increased in South Asian countries like India, Pakistan, Bangladesh and Maldives. For example, India saw 23 such shutdowns in 2016 alone. The Bangladesh government had shut down the Internet for about 90 minutes in November 2015³ while Pakistan had suspended mobile phone services in more than 80 cities⁴ for 16 hours as a security measure. Telecom service providers (TSPs) or Internet service providers (ISPs) often bear the responsibility of executing government orders to shutdown communications — whether mobile networks in particular cities/regions or Internet access in general or even a particular messaging application that runs on the Internet.

CASE STUDIES

Hong Kong Protests

The 2019-2020 Hong Kong Protests (also known as the 'Anti-Extradition Bill Movement') were triggered by introducing the "Fugitive Offenders Amendment." This policy would have allowed Hong Kong to extradite criminals to jurisdictions with which it did not necessarily have an extradition agreement, including Mainland China and Taiwan. As Hong Kong was guaranteed its judicial independence under the 1997 Sino-British Joint Declaration, many residents were concerned that this would subject them to China's legal system, infringing on Hong Kong's praised autonomy and effectively curtailing their civil and political liberties guaranteed under the Joint Declaration and the Hong Kong Basic law. The underlying cause for these protests dates back to Hong Kong's colonial past. Hong Kong was under British control until 1997 when it was handed over to China under the 1997 Sino-British Joint Declaration with the explicit guarantee that Hong Kong would retain its systems for 50 years, including enjoying political and civil rights of freedom of expression, assembly, and judicial independence from China. This was enshrined as the "one country, two systems" governance model following the provisions of the Sino-British Joint Declaration. As the stand-off with the government, which started with peaceful mass marches, increasingly descended into violent clashes with police due to law enforcement agencies engaging forcefully, the movement quickly grew to include five significant demands—complete Withdrawal of the Extradition Amendment; Independent inquiry into cases of Police Brutality; releasing of Arrested Protestors; implementation of Universal Suffrage independent of the Chinese influence, and withdrawing characterisation of protests as 'riots', as many believed this caveat to be a desperate attempt to suppress the revolutionary-movement. National Security Law One of the most controversial state practices exercised by the Hong Kong government included enacting the 'National Security Law.' Though Hong Kong was mandated to establish its own security law under the basic law and agreement of 1997, it could not work because of its widespread unpopularity until June 30th, 2020. Though Beijing claims that the new law will reinstate stability in the region, critics claim that it effectively curtails the political and civil freedoms of speech, assembly, and democratically electing one's representatives, protest and freedom of speech.

The National Security Law: Crimes of secession, subversion, terrorism, and collusion with foreign forces are criminalised; for example, given the broad and vague definitions of succession and collusion under the NSL, many critics claim that the arrest of Jimmy Lai (a notable opposition member and owner of a

major news outlet) was unjust and an attempt to suppress dissent and democratic movements. Moreover, the NSL stipulates that damage to public assets will be considered an act of terrorism, thus classifying much of the protestors' former tactics as an act of terrorism (see tactics employed in the standoff in the Hong Kong Polytechnic University). Those found guilty will not be allowed to run for public office. Beijing will establish a new security office in Hong Kong, with its own law enforcement personnel - neither of which would come under the local authority's jurisdiction. This office can send some of the convicted to be tried in mainland China, but Beijing has said it will only have that power over 'exceptional' cases.' Notably, Beijing will control how the law should be interpreted, rather than a Hong Kong judicial or policy body. If the law conflicts with any Hong Kong law, the Beijing law takes priority. Some trials will be held behind closed doors. Regulation of foreign non-governmental organisations and news agencies will be enhanced. As a whole, many observers see the NSL as an attempt to further suppress political and civil liberties, particularly freedom of expression, thought, and media, notably exemplified by the cases of the arrests of the opposition members for organizing a poll under the charges of subversion, and Jimmy Lai for collusion with foreign powers.

The Myanmar Coup

Until 2011, Myanmar had been under military rule for the last five decades. A period of democratic transition led by the National League for Democracy Party (NLD) then ensued when it took over parliament in 2015. After the recent 2020 Myanmar General Elections, the NLD won again a supermajority of the elected seats of parliament. The members had discussions on amending the constitution to remove the military's quota of 25% of seats in the parliament and lift a ban for NLD leader and Myanmar's State Counsellor Aung Sun Suu Kyi (ASSK) to be able to serve as president as both are seen as political rights not being implemented. Claiming voter fraud, the military of Myanmar enacted a coup on February 1, 2021, on the day before the newly elected parliamentarians were to be sworn into office and establish NLD as the majority political entity. ASSK and other leaders of the NLD were detained and a state of emergency was declared for the entire country.

The public outrage towards the coup led to major protests against the military. The main demands of the protests were for a return to democratic rule where the political right to vote and elect their governments would be respected and protected. Following the declaration of a state of emergency, laws constraining

security forces from detaining suspects or searching private property without warrant were suspended, leading to significant violations of political and civil rights. Concurrently, the military allowed the police to indiscriminately shoot, assault and arrest protestors. As of the time of writing, these acts, designed to suppress the right to peaceful assembly, have so far led to the deaths of at least 28 civilians protesting due to the police.

Further Research Links

1. <https://www.youtube.com/watch?v=hjcruzlIBDo>
2. <https://www.youtube.com/watch?v=JXIVhdCEsC0>
3. <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
4. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>
5. <https://www.theguardian.com/global-development/2020/dec/09/covid-used-as-pretext-to-curtail-civil-rights-around-the-world-finds-report>
6. https://histecon.fas.harvard.edu/climate-loss/civil_liber.../index.html
7. <https://voxeu.org/article/civil-liberties-during-covid-19-pandemic>
8. <https://www.ohchr.org/Documents/Issues/EqualParticipation/DraftGuidelines/CarterCenter.pdf>

Questions to Consider

1. In what situations and how do the governments curtail civil and political rights?
2. What are the future challenges to the protection of political and civil rights across the world?
3. How can the nations uphold National Security along with the protection of civil and political rights?
4. How can we improve the current frameworks and the approach of the international community towards protection of political and civil rights?
5. Which regions require immediate attention for the protection of political and civil rights? (Possible Topics for Case Studies)

