

**SRI LANKA
MODEL UNITED NATIONS**



UNHRC

STUDY GUIDE

United Nations Human Rights Council

With the passing of resolution A/RES/60/251, the United Nations Human Rights Council (UNHRC) was introduced as a subsidiary organ of the United Nations. Responsible for the strengthening and protection of human rights across the globe, the UNHRC looks into a number of important rights, such as the freedom of association and assembly, freedom of expression, freedom of belief and religion, women rights, LGBT rights as well as the rights of racial and ethnic minorities. In addition, the council also receives thematic and country specific reports through special procedures, as well as from the office of the High Commissioner of Human Rights. From introducing the Universal Declaration of Human Rights in 1948, a range of distinguished international documents, including the International Covenant on Civil and Political rights, the International Covenant on Economic, Social and Cultural Rights, as well as the International Bill of Human Rights, recognizes the importance of upholding the principles of the UNHRC. With a total number of 47 members, out of which includes, 13 African, 13 Asian, 6 East European, 8 Latin American and the Caribbean, as well as, 7 Western European and Other Group (WEOG) countries, each nation hold their respective seat for a term of 3 years and may go on to occupy their seat for a second term.

Powers and shortcomings

When looking at the strengths of the UNHRC, it is understood that the committee is efficient in its operations with counterpart authorities, responsible in its iterative planning as well as local planning, and is also a committee that recognizes the importance of maintaining general sensitivity when delegating. In short, there is little to compare the quality of UNHRC's local resource management system and its capacity to gather information and plan for community basic need provision. While its core strength is, its individual commitment and professional capacity of its field staff, this is also the very weakness of the organization. The reason for this is because, though the committee is successful in building relationships with the local community, they have struggled to involve those who could help in an institutional capacity. In addition, the UNHCR has proved to be an excellent quick response unit, as it is an international fire brigade of personal and professional courage and integrity.

Although this contributes towards securing citizens, and establishing preconditions of development, it does not generate a development process. However, regardless of the UNHRC's shortcomings, the organization continues to uphold its mission towards the protection of all human rights of each person, and is determined to help empower people to realize their rights, as well as, assist those responsible for upholding such rights in ensuring that they are implemented.

The Agenda

- Practice Debate Topic: Human rights infringements with regards to all forms of retributive justice.
- Conference Topic: Assessing the Impact of Electronic Surveillance on Human rights.

Practice Debate Topic: Human rights infringements with regards to all forms of retributive justice.

Introduction:

According to 'Encyclopedia Britannica', retributive justice is the response of one's criminal behavior that focuses on the punishment of lawbreakers and the compensation of victims. In other words, the punishment given to an offender is given according to one's wrong doing, thereby providing a fair sentence that is proportionate to the amount of harm caused by the offense. While forms of retributive justice differs from country to country, in general, retribution doesn't involve individuals who are intellectually disabled or suffers from mental illness, and also, does not apply to crimes committed by a child under 18. The purpose of doing this act is to firstly, bring justice to the victims affected by the crime, secondly, to prevent others from taking the law to their own hands and execute it, as well as, thirdly, to help society understand what is wrong and the consequences that one will have to face after. It is however important to note, that punishment can only be imposed if *Actus reus* (a guilty act) and *Mens rea* (a guilty state of mind) is presented in the crime done by the individual. Despite this, in the current world, there have been numerous acts done by the government that has violated one's rights. Not only are people now convicted due to political reasons, but also suffers from heavier sentences than the committed offense. In addition, the imprisonment and abuse of children detained in certain countries, and the treatment of the mentally ill, are some examples of the rights violated today.

Delegates are not to only focus on instances where the offender is charged guilty without sufficient evidence, but also look in to instances where the offender is violated of his/her rights while facing their term of punishment.

History, past actions and the context at present:

Although retribution didn't appear as a form of legal justice until the 1980s, the concept of retribution existed in various cultures and religions, including the ancient laws, 'eye for an eye' and the law of 'measure for measure'. In the past, most felonies were punishable by either the death penalty, through exile or shunning. Although, the above punishment methods do not apply to juvenile offenders in theory, in practice, children below 18 have, and are still being executed mercilessly. In most cases, children are not even given the opportunity to present their own point of view, hence, resulting in the violation of one's right to live. Thereafter, the United Nations *Convention on the Rights of the Child* was implemented, thereby forbidding capital punishment, while a child also obtained the right to receive a legal representative for judicial disputes, and also, has the right to present his/her view point at trial. All signatories of this convention were to take appropriate legislative, administrative, social and educational measures focusing on the protection of children from all forms of physical and mental violence. The *International Covenant on Civil and Political Rights* (ICCPR), which exclusively focuses on the rights of a child was later implemented. However, in the modern world, countries such as Iran, changed its laws relating to juveniles, to girls aged 9 and boys aged 15, to be fully responsible for their crimes, therefore punishing children from a very young age.

Another form of retributive justice that is practiced even today is Capital punishment. While this is considered as the worst violation of human rights that inflicts not only physical, but also psychological torture, due to political reasons, race and ethnic racism, as well as, other forms of hypocrisy, wrongful executions of innocent persons take place. Moreover, those facing death penalty are sometimes not given the freedom to appeal to a court of higher jurisdiction. Although the UNHRC states, '*where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering*', there has been cases where even that right is not granted. There are also instances where individuals go through physical abuse, before being executed. It should be noted, irrespective of whether a person is innocent or guilty, each individual in the world should be able to carry out their respective rights.

Today, there are instances where the judicial system of certain countries fail to recognize intellectually disabled people. As a result, instead of being put to a mental rehabilitation center, the mental condition of such an individual would only stress out that person more. Hence, each government needs to follow a set procedure to clarify the mental condition of a person during the trial, as early as possible.

The non-elite class is also regularly discriminated during times of being granted bail, or when the two parties agree to settle. Rather than fixing a sum that a person is able to afford, the rich and the poor classes are given the same high fee which the poor obviously cannot afford.

In terms of those imprisoned, human rights infringements include, discrimination done by guards, women who are sexually abused, availability of basic needs and health care etc. Segregation has also become a form of psychological trauma, as when inmates break a rule in the prison or upsets a guard, they will be put in to a dark room and would be kept like that alone, for a long period of time. A common problem faced by those who come out after finishing their time in prison, is the difficulty of fitting in with the community. Due to society's negative perception on felons, many are reluctant to offer them job opportunities. As a result, since they cannot find a legitimate job, they are forced to go back to their old ways. Hence, actions must be taken to help such individuals receive a good job and income.

In conclusion, the above facts underline few of the existing infringements of one's rights in terms of justice. As a large population in the world face ill treatment, now, more than ever, we must look into solve the issues of retributive justice.

What rights are we talking about?

Right for life - adults and children alike

Right to appeal

Right for a fair trial

What is expected from the delegates?

Delegates are expected to focus on providing solutions in all spheres. The following area must be covered (but should not be limited) in your research, discussion and when drafting resolutions.

- Ensuring those facing death penalty receive a fair trial
- Political imprisonments
- Discrimination faced by prison guards
- Ensuring one's right to seek health care
- Finding job opportunities for those who leave prison
- Finding alternative punishment methods instead of capital punishment for those less than 18 years
- Ensuring minimum suffering is inflicted wherever capital punishment occurs
- Ensuring proper treatment for those facing mental disorders
- Treatment of pregnant women
- Women vulnerable to custodial sexual abuse
- Addressing issues arising as a result of segregation
- Ensuring all prisoners receive basic accommodation (a bed for each person, food, water etc)

For further reading:

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

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/DeathPenalty.aspx>

<https://www.britannica.com/topic/retributive-justice>

https://www.ohchr.org/Documents/Issues/IPeoples/EMRIP/Session7/A-HRC-EMRIP-2014-3_en.pdf

Conference Topic: Assessing the Impact of Electronic Surveillance on Human rights.

Introduction

Electronic surveillance can be defined as the monitoring of an individual in a home, a workplace or even in a public place through the use of digital devices. Whether it's monitoring someone's movement through the use of CCTVs, or using a spy ware system, wiretapping a conversation or hacking the webcam of a laptop are just few of the many infringements of one's human rights that take place anywhere in the world today.

By now surveillance has been developed to a point where one can be monitored via a computer or the closest electronic device that we possess; "a mobile phone". This is typically done through e-mail tracking, internet surveillance, and remote PC surveillance methods. The means of surveillance are expanding by the day.

This can be mainly discussed under three main categories,

1. Surveillance by the State
2. Intelligence Gathering and Espionage by Private Organizations
3. Hacking and Invasion of Privacy by Individuals

Surveillance is used by governments for Intelligence Gathering, Prevention and Investigation of crime. It is also used by criminal organisations to plan and commit crimes, such as robbery and kidnapping and by businesses for corporate espionage. Apart from the aforementioned parties there are other highly trained individuals capable of hacking and gathering personal information which are used for blackmailing and other forms of criminal activity.

The concept of Mass Surveillance refers to the surveillance of a significant portion of a population by certain governments. Unregulated sharing of this intelligence can contribute to or facilitate serious human rights abuses, such as unlawful arrest or detention, or torture and violation of individual privacy and sometimes leading to serious restrictions in the freedom of expression of the citizens.

Certain bodies in power tend to share this sensitive information with other governmental and non-governmental parties. Sharing surveillance intelligence greatly exacerbates the interference with personal privacy. It might not just be your own government that holds sensitive information about you, but potentially many other governments all over the world.

Mass surveillance has often been cited as necessary to fight terrorism, prevent crime and social unrest, protect national security, and control the population but on the contrary it has equally often been used for violating privacy rights, limiting civil and political rights and freedoms.

The fear of exposure arising from mass surveillance has resulted in numerous individuals not taking part in productive social discourse thereby reducing the input they would've given if it weren't for the surveillance by the state.

It has come to a point where anyone who uses a smartphone or a computer in the world is exposed to surveillance.

History, past actions and Context at Present

In December 2013, the United Nations General Assembly adopted resolution 68/167, which expressed deep concern at the negative impact that surveillance and interception of communications may have on human rights. The General Assembly affirmed that the rights held by people offline must also be protected online, and it called upon all States to respect and protect the right to privacy in digital communication. The General Assembly called on all States to review their procedures, practices and legislation related to communications surveillance, interception and collection of personal data and emphasized the need for States to ensure the full and effective implementation of their obligations under international human rights law.

In 2013, the practice of mass surveillance by world governments was called into question after Edward Snowden's 2013 global surveillance disclosure. Reporting based on documents Snowden leaked to various media outlets triggered a debate about civil liberties and the right to privacy in the Digital Age. Mass surveillance is considered a global issue.

Another criticism is that increasing mass surveillance could lead to the development of a Surveillance State or an Electronic Police State where civil liberties are infringed or political dissent is undermined by COINTELPRO-like programs. Such a state could be referred to as a totalitarian state.

Even though it is not the most recent Counter Intelligence Program was a very good example for State Surveillance. Counter Intelligence Program (COINTELPRO) was a series of covert, and at times illegal, projects conducted by the United States Federal Bureau of Investigation (FBI) aimed at surveilling, infiltrating, discrediting, and disrupting domestic political organizations.

The act of surveillance creates an insecure space for every individual in the society which in turn harms many civil liberties including Freedom of Expression.

For example try to place yourself in a country like the United States of America,

“Maybe you are an immigrant yourself, documented or not. Or maybe some of your family is. Or maybe you have friends or coworkers who are. How likely are you to get involved if you know that your interest and concern can be gathered and used by government and corporate actors? What if the issue you are interested in is pro- or anti-gun control, anti-police violence or in support of the police? Does that make a difference?

Maybe the issue doesn't matter, and you would never be afraid to be identified and tracked based on your political or social interests. But even if you are so fearless, you probably know someone who has more to lose, and thus more to fear, from their personal, sexual, or political beliefs being exposed.”

In April 2015, the Human Rights Council adopted resolution 28/16 at its twenty-eighth session, deciding to appoint for a period of three years a Special Rapporteur on the right to privacy. The resolution directed the Special Rapporteur, amongst other responsibilities, to report on alleged violations of the right to privacy including in connection with the challenges arising from new technologies. States were called upon to cooperate fully and assist the Special Rapporteur.

What rights are we talking about?

Right to Privacy

Freedom of Expression

Cyber Security

Protection against cyber bullying

What is expected from the delegates?

Right to Privacy

- Delegates are required to explore practical methods to strengthen online privacy.
- Taking measures to ensure the protection of privacy on an online platform.
- Demarcating the extent to which Right to Privacy can be exercised.
- Introducing restrictions & mechanisms to regulate the use of Private Data gathered by Tech Giants.
- Rules and regulations governing cyber bullying.

Freedom of Expression on Social Media Platforms

- Introducing a set of viable rules to govern online freedom of expression.
- Protection against online hate speech, discrimination.

Further Reading

<https://www.ohchr.org/en/issues/digitalage/pages/digitalageindex.aspx>

https://www.schneier.com/blog/archives/2018/11/how_surveillanc_1.html

<https://www.britannica.com/technology/electronic-eavesdropping>