

CHAPTER V.

THE COMMISSION ON HUMAN RIGHTS

INTRODUCTION TO THE COMMISSION ON HUMAN RIGHTS

In keeping with the tradition of presenting a unique simulation of a United Nations body, AMUN 2002 will simulate the Commission on Human Rights (CHR) of the United Nations. Participation will be voluntary and open to one Representative from any delegation attending AMUN. CHR will meet for all four days of the Conference. While the range of subject matter before CHR may seem daunting, significant work on the topics of discussion is nonetheless achievable with thoughtful preparation.

Before delving into the substantive issues, Representatives should understand why this Commission is distinctive. In the tradition of AMUN special simulations, CHR will give participants a diverse, more challenging atmosphere in which to use their skills of diplomacy, research and analysis. The topics to be discussed are detailed, and will require careful preparation prior to conference. In order to fully participate in the simulation, it will be imperative that Representatives have a working knowledge of the structure and mission of the CHR, the relevant policies of the Member State they represent, and an awareness of human rights issues worldwide.

ABOUT CHR

The United Nations Commission on Human Rights is composed of 53 Member States, which meet in Geneva in regular session for six weeks during March and April. Representatives of Member, non-Member and Observer States, as well as those of non-governmental organizations, participate in the regular session. The Commission can also meet outside of its regular session in a special session, on the condition that the majority of the Member States agree. In general, special sessions are called to deal with “urgent and acute human rights situations in the most expeditious way.” During the regular session, the Commission tends to adopt about a hundred resolutions. It is within these sessions that many aspects of human rights pertaining to almost every region and situation are discussed. The Commission is assisted by the Sub-Commission on the Promotion and Protection of Human Rights, several working groups, individual experts, representatives and rapporteurs mandated to report on specific issues.

THE SIMULATION

During the 2002 AMUN Conference the simulation of the Commission on Human Rights will be a special session. As mentioned before, a regular session involves many issues encompassing all regions of the world and discussed in detail over six weeks. For the purposes of facilitating a simulation in four days, the special session will focus on two issues: the rights of refugees and the right to development. The Commission will also present a report, including resolutions, to the Economic and Social Council in the last Council session of the Conference. Also, for the purposes of this simulation, all UN Member States will be considered to have a seat in the special session.

PREPARATION

As a foundation for subsequent research, Representatives should familiarize themselves with not only foundation documents, such as the UN Charter and the Universal Declaration of Human Rights, but also the 2001 Human Development Report and the objectives of the Millennium Summit held in September 2000. Careful review of the provided topic overviews and the related bibliographies will provide some assistance in this regard. It should be noted however that the topic overviews should not serve as the terminal point for research efforts but only as the beginning.

BACKGROUND RESEARCH

THE RIGHTS OF REFUGEES

The situation of the world’s refugees is one of the most complex issues before the international community. The changing nature of human conflict has also changed the manner in which women, men and children find themselves involuntarily forced to flee violent conflicts, political, economic and social persecution, and other forms of psychological and physical endangerment. The problem today has become both

multidimensional and global, creating an even larger need to find preventive and permanent solutions to the refugee situation, especially in the face of the realities surrounding the new security crisis following the horrific events of 11 September 2001.

The 1951 Convention Relating to the Status of Refugees lays the groundwork for refugee rights today. The convention defines the term “refugee” and establishes some of the basic rights of refugees as well as the legal obligations of states. It



also prohibits the forcible return of persons granted refugee status. The 1967 Protocol relating to the Status of Refugees refined the definition by removing geographical and temporal restrictions. Article 33 of the Convention establishes the principle of non-refoulement, which provides the right of a refugee not to be returned to a place where his or her life or freedom is threatened. In 1949, the General Assembly (GA) created the Office of the UN High Commissioner for Refugees (UNHCR). The office was set up as a subsidiary body of the GA in 1951 and was created to protect refugees and to assist governments in repatriating or integrating refugees into the host country society.

The status and nature of the refugee problem has changed in recent decades since the establishment of UNHCR and the subsequent ratification of the 1951 Convention and the 1967 Protocol. In 1951, there were an estimated one million refugees within its mandate, primarily within Continental Europe. Today, the estimate has grown to 21.1 million with an additional 2.5 million cared for by the UN Relief and Works Agency for Palestine refugees in the Near East (UNRWA). The majority of refugee populations are found in Africa or Asia, are women and children, and, unlike in the past, refugee movements increasingly occur in mass exodus. Finally, the causes of mass exodus and the incumbent refugee problems are now multifaceted and often fall outside the definition established in the Convention. Natural and ecological disasters, extreme poverty and other forms of economic hardship, and violations of human rights as well as the new security threats related to international terrorism are often the primary or contributing factors forcing people to flee their country of origin.

The relationship between human rights and the refugee problem is clear. Under many circumstances, human rights violations are the direct cause of mass exodus and prevent the voluntary return of refugees. Minority populations are often singled out during times of ethnic, social or political strife, causing them to flee to neighboring countries or to seek asylum in far away countries in Europe or North America. During these difficult times, refugees often face discrimination and disregard for their basic human rights as guaranteed under the Universal Declaration of Human Rights and can confront restrictive policies that prevent their access to safe territories when they seek asylum. Asylum seekers also can face situations in which they are forcibly returned to areas where their lives, liberty and security are endangered. Often, refugee populations can become embroiled in armed conflict, becoming pawns in a violent confrontation or forcibly recruited to fight for one side or another in civil conflicts. As the nature of armed conflict shifts from interstate to intrastate, the plight of internally displaced peoples has been brought to center stage.

Although refugee issues have always been a major concern to humanitarian organizations, the publicity of the post-11 September refugee crisis has increased the intensity of the debates. There are now over 50 million people globally that have been uprooted from their homes, but only 21.1 million of them are under the protection of the UNHCR. Serious concerns have been raised about the principle of non-refoul-

ment, the tightening of immigration and asylum policies, and arbitrary arrest and detention. In response to recent events and mounting criticism due to an increasing number of states that violate Article 33, UNHCR initiated the "Global Consultations on International Protection" talks to review the 1951 Convention. In December 2001, this group, consisting of governments, Non-Governmental Organizations and experts from 156 states and organizations, met and reaffirmed its commitment to the Convention, but raised several issues including security-related concerns and the importance of sharing refugee burdens equitably between states.

Currently, the regions of most concern regarding refugee populations are the Great Lakes region of Africa, the Balkans, Eastern Africa, the Horn of Africa, and Central Asia. The UNHCR characterizes the situation in Afghanistan as the "world's biggest repatriation and rehabilitation operation," with 3.7 million Afghans outside of their country and an additional 1.5 million internally displaced. The rights of refugees that have been of most concern recently include the principle of non-refoulement, which was violated by many nations following 11 September when they closed their borders for security reasons and refused to accept refugees. In addition, the tightening of immigration and asylum procedures has made it more difficult for refugees to seek safety from persecution. Displaced persons have also been increasingly subject to arbitrary arrest and detention, which violates the 1966 International Covenant on Civil and Political Rights (ICCPR). These violations threaten the rights of refugees guaranteed under the UN Declaration of Human Rights, the ICCPR and the International Covenant on Economic, Social and Cultural Rights.

Special populations of refugees have also received increased attention due to their unique needs. The majority of displaced people are women and children, who require protection against violence and abuse, as well as access to food, shelter, water, health care and education for children. Their needs are being increasingly addressed by the Executive Committee of the UNHCR, which has published guidelines on the protection of both women and children as refugees. These guidelines are intended to protect the rights of women and children as outlined in the 1979 Convention on the Elimination of All Forms of Discrimination Against Women and the 1989 Convention on the Rights of the Child. On 8-10 May 2002 the GA held a special session on children's rights to review developments since the 1990 Summit on Children, which focused on the 25 million globally displaced children.

Within the context of the new security realities, there has been renewed emphasis on the part of the UN High Commissioner for Human Rights (UNHCHR) and UNHCR to ensure that human rights and the rights of refugees are not left out of the equation. In her report to the Commission on Human Rights on 27 February 2002, UNHCHR Mary Robinson underlined this importance by stating that those seeking asylum should not become victims of harsh anti-terrorist policies and reminded nations of their humanitarian obligations related to the protection of refugees, asylum-seekers, returnees and internally displaced peoples as reaffirmed in the Durban Declaration agreed to at the World Conference



against Racism, Racial Discrimination, Xenophobia and Related Intolerance (E/CN.4/2002/18, 27 February 2002). In this context, the key issues surrounding refugee rights are the obligation of states to accept refugees, the sharing of burden by international donors, discrimination and xenophobia following 11 September, and the special needs of women and children. Human rights groups are now paying more attention to the violations of legal obligations and calling for cooperative international agreements to guarantee that the most basic rights are upheld.

Questions to consider from your government's perspective on this issue include:

- What measures should be undertaken to ensure that the rights of refugees are included in the post-11 September security agenda?
- What outcomes from the Global Consultations should be implemented to address security concerns and to ensure that responsibilities for refugees are shared equally among affected nations?
- What can be done to protect the rights of internally displaced people even though their status falls outside the 1951 Convention and the 1967 Protocol?

Bibliography:

"Agency Marks 50th Anniversary, Urges Respect of Refugees." *UN Wire*, 13 December 2000.

"As EU Meet, UN Warns Against Harsh Immigration Policies." *UN Wire*, 20 June 2002.

"Assistant UNHCR Head Outlines Priorities, Challenges." *UN Wire*, 24 July 2002.

"Australia Offers To Pay Refugees To Resettle." *UN Wire*, 30 January 2002.

Cowell, Alan. "Migrants Feel Chill in a Testy Europe." *The New York Times*, 28 April 2002.

Crossette, Barbara. "New Crisis Over Refugees Adrift in Their Own Lands." *The New York Times*, 24 July 2000.

Crossette, Barbara. "UN Studies How Refugees Qualify to Get Assistance." *The New York Times*, 14 January 2000.

"Displaced Nearing Record Levels - Rights Group." *UN Wire*, 24 June 2001.

"Iran Repatriations Begin Despite Insecurity; More." *UN Wire*, 9 April 2002.

Lyll, Sarah. "Fortress Britain to Asylum Seekers." *The New York Times*, 27 April 2002.

Lyll, Sarah. "When Asylum Seekers Knock, Europe Is Deaf." *The New York Times*, 20 June 2002.

MacFarquhar, Neil. "Mideast Turmoil: Homesickness; For Palestinian Refugees, Dream of Return Endures." *The New York Times*, 16 April 2002.

Perlez, Jane. "Deep Fears Behind Australia's Immigration Policy." *The New York Times*, 8 May 2002.

"Refugees Charge Int'l Community With Betrayal." *UN Wire*, 2 February 2000.

"Repatriate Refugees With Caution, NGO Tells UNCHR." *UN Wire*, 25 February 2002.

"Rights Chief Worried About Anti-Terrorism Impact On Refugees." *UN Wire*, 17 October 2001.

Rosenthal, Elizabeth. "China's Release of North Korean Refugees Sidesteps Sensitive Issue." *The New York Times*, 30 June 2001.

Schmemmann, Serge. "Mideast Turmoil: The Aftermath; U.S. Official at Jenin Sees 'Terrible Human Tragedy'." *The New York Times*, 21 April 2002.

Shaw, John. "Australians Rally for Largest Protest Yet Over Refugee Policy." *The New York Times*, 13 February 2002.

"Subcommission Tackles Justice, Terrorism, More." *UN Wire*, 28 July 2002.

"UN Committee Discusses Cooperation With Other Bodies." *UN Wire*, 30 January 2002.

"UN Jenin Report Sparks Controversy; More." *UN Wire*, 1 August 2002.

"UN Welcomes Pro-Refugee Ruling." *UN Wire*, 4 April 2000.

"UNHCR Fails Women Refugees, Rights Group Claims." *UN Wire*, 25 September 2000.

"UNHCR Responds To Critics Of Refugee Return Policy." *UN Wire*, 28 July 2002.

Wines, Michael. "Chechens Tell of Murderous Rampage by Russians." *The New York Times*, 21 April 2002.

UN Documents:

1951 Convention Relating to the Status of Refugees

1966 International Covenant on Civil and Political Rights

1967 Protocol Relating to the Status of Refugees

1979 Convention on the Elimination of All Forms of Discrimination Against Women

1989 Convention on the Rights of the Child

1991 UNHCR guidelines on the Protection of Refugee Women

1994 UNHCR guidelines on Protection and Care of Refugee Children

A/56/168, Internally Displaced Persons

A/Conf.189/PC.1/9, Report of the Expert Seminar on Racism, Refugees, and Multi-Ethnic States

A/Res/49/7, Regional Conference on Assistance to Refugees, Returnees and Displaced Persons in the Great Lakes Region

A/Res/52/132, Human rights and mass exoduses

A/Res/53/128, The rights of the Child

A/Res/54/145, Assistance to unaccompanied refugee minors

A/Res/56/166, Human Rights and Mass Exoduses

E/CN.4/2002/18, Report of the United Nations High Commissioner for Human Rights and Follow-up to the World Conference on Human Rights

E/CN.4/RES/1993/70, Human Rights and Mass Exoduses

E/CN.4/RES/1993/95, Internally Displaced Persons

E/CN.4/RES/1999/56, Situation of Human Rights in the Democratic Republic of the Congo

E/CN.4/RES/2002/56, Internally Displaced Persons

E/CN.4/SUB.2/RES/1996/9, The right to freedom of movement

E/CN.4/SUB.2/RES/1997/31, The right to return

E/CN.4/SUB.2/RES/1998/26, Housing and property restitution in the context of the return of refugees and internally displaced persons

E/CN.4/SUB.2/RES/2000/20, The right to seek and enjoy



asylum
E/CN.4/SUB.2/RES/2001/16, International protection for
refugees and displaced persons

Additional Web Resources:

www.unhcr.ch
www.unhchr.ch/html/intlinst.htm
www.unhcr.ch/pubs/sowr2000/sowr2000toc.htm
www.unhcr.ch/cgi-bin/texis/vtx/global-consultations
www.unhcr.ch/cgi-bin/texis/vtx/afghan
www.unhcr.ch/pubs/fdrs/ga2002/ga2002toc.htm
www.unhcr.ch/children/index.html
www.hrw.org/refugees/
www.hri.ca/children/mig_refIndex.htm

THE RIGHT TO DEVELOPMENT

According to the 2001 Human Development Report, the past 30 years have been rather impressive in human development. Overall, individuals around the world are living longer, are better educated and have higher incomes. More countries have accepted human rights covenants and conventions. Despite this, progress varies significantly between regions and groups of the world.

Throughout the history of the United Nations, human rights and the environment in which to promote such rights have been the cornerstone of many discussions and debates. Within these deliberations, the correlation between development and human rights has been touched upon at several instances. Although the Declaration of Human Rights addressed basic human rights, development was only alluded to and no further elaboration was made.

In 1957, the UN General Assembly (GA) addressed development in Resolution 1161 (XII). This resolution linked the concepts of development and human rights by stating that economic and social development would contribute towards the observance of and respect for human rights. This was the first time in which the correlation between development and human rights was explicitly mentioned. In a sense, the resolution was a commencement of the dialogue that would last for decades in the United Nations. At the International Conference on Human Rights in Tehran from 22 April to 13 May 1968, development issues became a focal point of many discussions. Specifically, the conference explicitly recognized the link between economic and social rights in the context of development and how this interconnection is important to the realization of human rights in the developing world. The main issue that was realized was the necessity for the international community to work for every human person to attain the minimum standard of living to enjoy basic human rights.

Resolution 2542 (XXIV) in 1969 in the GA saw the adoption of the Declaration on Social Progress and Development. The Declaration further recognized the link between social progress, development and human rights and spread awareness of human rights as being a multi-faceted issue. The Commission on Human Rights on 21 February 1977 through resolution 4 (XXXIII) decided to pay special attention to the consideration of obstacles impeding the full realization of

social, economic and cultural rights in developing nations. It also recommended that the Economic and Social Council (ECOSOC) invite the Secretary-General to undertake a study focusing on development in particular. In 1979, the Secretary-General presented the study for consideration by the Commission on Human Rights. The Commission decided that the study should continue.

On 11 March 1981, CHR established a working group composed of 15 governmental representatives appointed by the chairman of the commission (E/CN.4/RES/1981/36). The working group presented a report in 1984 (E/CN.4/1985/11) which enabled the GA to adopt the Declaration on the Right to Development in 1986 through Resolution 41/128. The resolution defined the right to development as “a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits” (A/Res/41/128, 4 December 1986). Within the articles of the resolution development is declared as an inalienable human right. Both individuals and Member States are encouraged to facilitate the process of development at the local, national and international level. As outlined by the Declaration on the Right to Development, these rights include “full sovereignty over natural resources, self-determination, popular participation in development, equality of opportunity and the creation of favorable conditions for the enjoyment of other civil, political, economic, social, and cultural right.”

Ever since the passage of Resolution 41/128, progress has been made on the right to development. The Working Group’s tenth session in 1987 had the goal of preparing a report for proposals per the request of CHR Resolution 1986/16 on 10 March 1986. In 1989, the Working Group’s 12th and final session studied the analytical compilation of responses to report E/CN.4/1987/10 from various governments, UN organs, NGOs and others. They recommended that the implementation of the right to development should focus on particularly vulnerable groups such as women on local and national levels. The Commission on Human Rights in 1989 invited the Secretary-General to organize a global consultation on the right to development (E/CN.4/RES/1989/45). This global consultation occurred on 8-12 January 1990 in Geneva, Switzerland. While reaffirming the rights outlined in Resolution 41/128, the conclusion of these meetings was that development that is solely oriented for economic growth and financial considerations does not in fact promote an environment for human rights. Rather, these models fail to achieve social justice. Therefore, there is no one single correct approach to implementing an economic model of development for every human population because of the differing social, political, and cultural climates throughout the world. Overall, there is a need for the United Nations to lead the implementation of the Declaration and make sure all mechanisms that are established to facilitate development are in fact compatible with the principles of the United Nations.

In 1993, the World Conference on Human Rights held in Vienna dealt extensively with the right to development. It was



within this conference that the Vienna Declaration and Programme of Action was written. The declaration noted that democracy, development and respect for human rights are interdependent and mutually reinforcing. The declaration further stated that, while development facilitates the enjoyment of all human rights, the lack of development should not be used to justify the abridgement of internationally recognized human rights. In 1996, when the mandate ended, the CHR established an Intergovernmental Group of Experts, which met twice and adopted two reports over a two-year period. When its mandate ended, the CHR realized that the Working Group needed to be reestablished, however this time the approach was different. Through Resolution 72, CHR established an open-ended working group and the position of an independent expert on the right to development. Dr. Arjun Sengupta was appointed by the Commission to fulfill this role.

Since its establishment, the open-ended working group has put out one report, while Dr. Sengupta has put out four. Essentially, the role of the working group is to examine progress made in the realization of the right to development, to evaluate information provided by states and NGOs, and to present a sessional report to the CHR. Dr. Sengupta's role, however, is to provide information to further assist the working group. To date, he has submitted four reports. Within these reports he discusses his goal of implementing the right to development in a fashion that is attainable immediately. From these reports, the concept of the "development compact" is discussed. According to Dr. Sengupta, the "development compact" is a way for developing countries to join with volunteer states and international financial institutions to work towards development.

The current work of the Commission on Human Rights falls in line with the goals outlined at the Millennium Summit that took place in September 2000. Major goals include halving extreme hunger and poverty by 2015, achieving universal primary education and gender equity, reducing infant and maternal mortality, reducing the spread of HIV/AIDS, increasing access to clean water and promoting environmental sustainability. Although progress on these goals to date has been mixed, major work during this year is underway to outline policies and programs necessary to achieve these goals. The first conference, the International Conference on Financing for Development, took place in Monterrey, Mexico in March. In August and September, the World Summit for Sustainable Development will take place in Johannesburg, South Africa. Before the summit, four preparatory committee sessions took place worldwide to establish the framework for the conference.

Organizations within the United Nations have also worked toward the goal of furthering development. The United Nations Industrial Development Organization focuses on working with industrial organizations within countries to ensure that there is room for various aspects of development and acts as a negotiator between governments and industrial organizations. The United Nations Development Programme (UNDP) deals exclusively with development and works in conjunction with other UN bodies. In conjunction with the Commission on Human Rights, UNDP has developed the

Human Rights Strengthening Program, to assist Member States in strengthening human rights during the development process. The major areas of focus of this program include: "pro-poor development policies, HIV/AIDS, environment management and energy use, inclusive decentralized governance and governing institutions, and indigenous peoples."

In essence, the three main issues before the Commission on Human Rights with regard to the right to development are good governance, poverty and globalization. Countries will often discuss the correlation between these three factors and how it has affected people in least developed, developing and developed countries. The issue of contention still remaining is which factor takes precedence over the others in creating a comprehensive solution in lieu of the right to development. It remains to be seen whether good governance, the eradication of poverty or mainstreaming globalization first will be the best way to achieve development. Generally speaking, the interplay of issues between good governance and globalization are often construed as a double-edged sword within the context of development.

Given the scope of human rights issues and the enabling environment necessary for their full realization, the Commission on Human Rights continually faces the challenge of implementing effective programs. By examining the history on how the right to development has evolved in the United Nations, it becomes apparent that this issue has many dimensions, including economic, environmental and social. Unfortunately, there is no one all-inclusive solution for implementing development; rather local, regional and national concerns such as the preservation of culture or the levels of economic status within a society make every situation unique.

Questions to consider from your government's perspective on this issue include:

- Does your country accept a "right" to development?
- What steps can be taken in development programs to ensure the human right to development through good governance?
- If poverty is a violation of the human rights of those living in that condition, does this affect how the international community should address issues of poverty?
- How can countries be more quickly mainstreamed into the globalization process while still protecting the people of those countries from the negative effects of globalization?

Bibliography:

- Carl, Traci. "Development Frays Close-Knit Culture." *The Washington Post*, 27 January 2002.
- "Democracy Key to Development, UNDP Says." *UN Wire*, 23 July 2002.
- Farah, Douglas and David B. Ottaway. "World Bank Reassesses Chad Pipeline Deal." *The Washington Post*, 5 December 2000.
- Kahn, Joseph. "Losing Faith: Globalization Proves Disappointing." *The New York Times*, 21 March 2002.
- Kristof, Nicholas D. "World Ills Are Obvious, the Cures Much Less So." *The New York Times*, 18 February 1999.
- "UN Pushes 'Right To Development'." *UN Wire*, 13 April 2000.



UN Documents:

E/CN.4/1957/1161
A/RES/27/2542
E/CN.4/RES/1977/4
E/CN.4/RES/1981/36
E/CN.4/1985/11
A/RES/41/128, 4 Dec 1986, "Declaration on the Right to
Development"
E/CN.4/1986/16
E/CN.4/RES/1989/45
Vienna Declaration and Programme of Action
E/CN.4/RES/1998/72

Additional Web Resources:

www.unhchr.ch
www.amnesty.org/
www.hrw.org/un/
www.unhchr.ch/development/right.html

www.unhchr.ch/html/menu3/b/74.htm
www.unhchr.ch/html/menu2/10/e/wgrtd.htm
www.unrisd.org/index.htm
www.eldis.org/
www.cepr.net/globalization/Scorecard.pdf
www.undp.org/bdp/
poverty.worldbank.org/webguide/category/2
magnet.undp.org/Docs/policy5.html
www.yale.edu/unsy/UNDPhist.htm
www.undp.org/hdr2001/
www.ciesin.org/docs/010-152/010-152.html
[www.hsph.harvard.edu/fxbcenter/FXBC_WP7--
Sengupta.pdf](http://www.hsph.harvard.edu/fxbcenter/FXBC_WP7--Sengupta.pdf)
[web.amnesty.org/802568F7005C4453/0/A6C067F85D75668
D8025691A00726B67?Open](http://web.amnesty.org/802568F7005C4453/0/A6C067F85D75668D8025691A00726B67?Open)
[web.amnesty.org/802568F7005C4453/0/15A4AB43B1ABE
EA480256AE7003C7A96?Open](http://web.amnesty.org/802568F7005C4453/0/15A4AB43B1ABE
EA480256AE7003C7A96?Open)

