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Welcome Letter - “Message from your Chairs”

Dear UNHRC Delegates,

We would like to take the opportunity to welcome all the honorable Delegates of the UNHRC to POLMUN 2017 in Warsaw, Poland. We're glad that you are able to join us and hope that this conference is both rejuvenating and educational.

Before elaborating on the agenda, we cannot stress enough on the importance of conducting your own research upon the topics alongside the Study Guide, which mainly serves the purpose of showing you the direction towards which you should target your preparation. At the same time, though, we would like to underline that we remain at your disposal at all times for any problems or queries that may arise during your preparation.

There are three main pillars, which constitute an exemplary delegate: the respect to diplomatic courtesy, the consistency to state's policy and the faithful implementation of the rules of procedure. As your Chairs, we will be next to you at each stage of the procedure and we are more than eager to help you in achieving your goals, and consequently, the committee's goal, which is the creation of two worth-congratulated resolutions.

Having said all that, we would like to conclude our brief introductory message in the exact same way we began, by welcoming you to the Human Rights Council at PolMUN 2017. We hope that this will be an unforgettable experience for all of us!

We look forward to seeing you soon!

Your Chairs,

Vedant Gupta and Ichiko Elizabeth

Introduction to UNHRC

The United Nations Human Rights Council (UNHRC) was created by the UN General Assembly on March 15, 2006, as a replacement for the UN Commission on Human Rights (UNCHR). The UNCHR had come under criticism for the composition of its membership, with many of its members being countries who themselves had dubious human rights records, with some of these states even going on to chair the commission. There were fears that such countries, by working against resolutions condemning human rights violations, were undermining the workings of the organization on a whole.

Membership to the UNHRC now, is thus reserved for countries that receive the votes of at least 96 of the 191 states of the UN General Assembly. To be elected onto the UNHRC, the General Assembly members “take into account the candidates’ contribution to the promotion and protection of human rights” and additionally consider whether the given candidate country can meet the obligations of Council membership, which includes (a) the upholding of “the highest standards in the promotion and protection of human rights” and (b) to full cooperation with the Council.

The Council has 47 seats, divided among the UN’s five regional groups as follows: 13 from the African Group, 13 from the Asian Group, 6 from the Eastern European Group, 8 from the Latin American and Caribbean Group (GRULAC), and 7 from the Western European and Others Group (WEOG).

The term human rights is defined as being the rights that are inherent to all human beings, whatever their “nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status”. The UNHRC addresses human rights-related situations in all UN member states, including but not limited to, the freedom of association and assembly, freedom of expression, freedom of belief and religion, women’s rights, LGBT rights, and the rights of racial and ethnic minorities. As a vital body for the United Nations Organization, the Human Rights Council is not only responsible for the promotion and protection of the human rights around the world but also is responsible for addressing situations of human rights violations, and finding solutions to issues that involve such violations.

The work of the committee is heavily dependent on the Universal Declaration of Human Rights (UDHR) which outlines the fundamental rights all humans are entitled to. The UDHR is considered to be the cornerstone of international human rights law. The principles first expressed in the Universal Declaration on Human Rights in 1948, has been reiterated in numerous international human rights conventions, declarations, and resolutions.

“All States have ratified at least one, and 80% of States have ratified four or more, of the core human rights treaties, reflecting consent of States which creates legal obligations for them and giving concrete expression to universality. Some fundamental human rights norms enjoy universal protection by customary international law across all boundaries and civilizations.”

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Resolutions of the UNHRC, however, are non-binding. What this essentially means is that resolutions of the UNHRC are merely recommendations, and not laws and hence member states do not have any formal legal obligation to follow them. However, these resolutions act as a point of guidance for countries to formulate their policies on, and reflect the global opinion on issues of importance. In the case of human rights violations, UNHRC resolutions act as recommendations to the members United Nations Security Council, who then take appropriate action.

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, and independent experts and working groups that monitor, examine, advice and publicly report on thematic issues or human rights situations in specific countries.. Special procedures report annually to the Human Rights Council; the majority of the mandates also reports to the General Assembly. Their tasks are defined in the resolutions creating or extending their mandates.

The UNHRC holds regular sessions three times a year, in March, June and September. The UNHRC can decide at any time to hold a special session to address human rights violations and emergencies, at the request of one-third of the member states.

While the UN has tried to put in place sufficient infrastructure to protect human rights on a global scale, the UNHRC has too been hit with a number of criticisms- including the longstanding criticism of the human rights records of its own members, a problem to solve which the very organization was created.

TOPIC A: Child slavery in the 21st century

Introduction – Topic Background

Slavery is still an unfortunately common phenomenon in the 21st century, which impacts million of people living in the world. It is also closely linked to criminal networks including activities such as trafficking and exploitation. This is an issue that is regularly addressed by the United Nations Human Rights Council (UNHRC), and falls under the regular work of the Office of the High Commissioner of Human Rights (OHCHR). The UNHRC mandate is to “promote and protect the enjoyment and full realization, by all people, of all rights, established in the Charter of the United Nations and in International human rights laws and treaties” (OHCHR, 2017)

Modern forms of Slavery have been defined by the mandate of the UNHRC’s Special Rapporteur on Slavery as including “traditional slavery, debt bondage, serfdom, forced labor, children in slavery and slavery-like conditions, sexual slavery, forced and early marriages and servile forms of marriage” (OHCHR, 2017). As one of the most vulnerable groups in society, Children are sometimes subjected to this phenomenon. The enslavement of children under the definition provided above constitutes and infringement of the Declaration of Human Rights and the Convention of the Rights of a Child, making it fall into the direct mandate of the UNHRC to address. The lack of reliable data, poverty, and limited awareness of this issue are a key reason why slave labor, including child labor, is difficult to eliminate and have not yet been eradicated, especially in developing countries. It must also be noted that Child Slavery is not limited to physical labor but also general servitude.

Based on the International Labor Organization No. 138 – Minimum Age Convention 1973, the international standard allows children to work at the age of 13 (and 12 years of age, for temporary work for insufficient developed countries), as long as it does not interfere with education and has a limited daily and weekly working hours, as well as the activities are light. But all forms of work that are hazardous are forbidden before the age of 18 (UNICEF, 2017). Delegates must understand that despite the existence of international standard national government sets the minimum age for employment, the working hours and work conditions. Hence, it can be said that the definition of child labor would vary from one country to another. For example, Latin America and the Caribbean have a ranging minimum set for admission to employment of 12 to 16 years old. In Bolivia for example, it is set to be 12 years, while in Brazil 14 years old and Argentina 16 years old (UNICEF, 2017).

As it is a matter that must be urgently discussed, delegates should consider different forms child slavery in the 21st century including but not limited to illegal child labor¹, forced child marriages, the use of children in armed conflicts, and discuss measures on preventing children from becoming victim of abuse and exploitation. Delegates must also understand that combating modern child slavery may compete with specific national and regional priorities. Therefore, international cooperation and diplomatic talks must take place in order to achieve the aims of this committee through consensus building and drafting of a comprehensive resolution addressing recent developments in the issue.

Child labor

The United Nations Children's Fund (UNICEF) estimated that approximately 150 million children are involved in child labor, of which 70 per cent of work in hazardous conditions – such as working in mines or with chemical and pesticides in agriculture (UNICEF, 2017). As many as 60 million are below the age of 11 (UNICEF, 1997) In least developed countries, one in four children (age 5 to 14) are involved in child labor. Child labor has been specifically defined by three conventions recognized by most UNHRC members:

- (i) ILO convention 138
- (ii) ILO convention 182
- (iii) UNICEF Convention on Rights of the Child

Under the definitions of the above documents, the child labor is only a Human Rights violation if (a) it violate other children's' rights such as right to health, education and relaxation, (b) is classified as sex work under ILO Convention 182 or (c) labor is used as a form of bondage (slave labor). The labor itself, including hazardous working conditions, are not outlawed directly, instead they are outlawed by default through point (a) if evidence can be provided of their relation with negative health outcomes (National Research Council and Institute of Medicine, 1998)

There is evidence fatigue caused by full time labour at this age threatens their physical and mental development, and there is also evidence that it deprives children of education. One recent study found cross-sectional evidence that child labour is positively correlated with premature death, malnutrition, and prevalence of disease (Roggero et al., 2007).

The highest percentage of children aged 5 to 14 years engaged in child labor can be seen in Sub-Saharan Africa, West and Central Africa, and Eastern and Southern Africa. Common forms of child labour violating the above stated conventions includes pornography, prostitution, military, and criminal activity (trafficking, smuggling drugs etc.) (Rea, n.d). According to the ILO, Child labor distribution by branch of economic activity in 2012 is 58.6% for children aged 5-17 years old working in Agriculture, 25.4% in Service (other than domestic work), 7.2% in Industries, 6.9% in Domestic work, and the remaining 1.9% as Not defined (See Appendix 1) (Ilo.org, 2017). The extent to which agricultural work or commodity

¹ Labour in Hazardous conditions, under minimum age, or generally violating Labour Rights

industry labour (mining) is legal under these conventions is not always clear, while domestic and service jobs are legal as long as they are voluntary and they do not interfere with education or health.

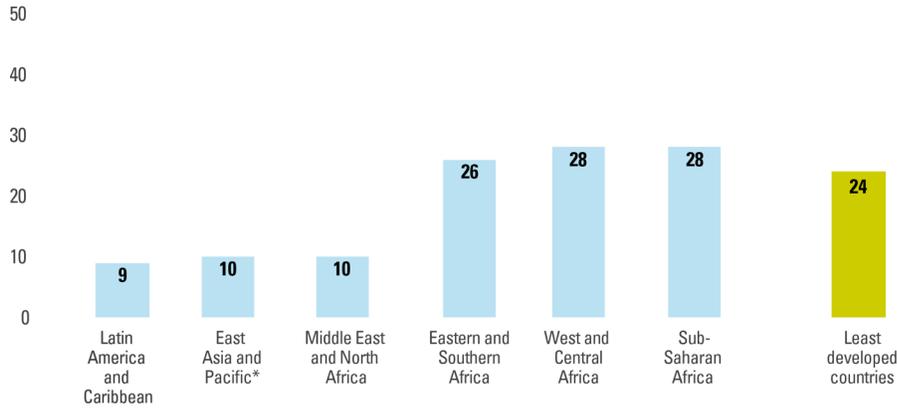


Figure 1 https://data.unicef.org/wp-content/uploads/2015/12/ChPro_ChLabor_23May2016_Fig1_300_69.png

Child labor still exists due to various factors such as poverty, corruption, and weak and inadequate national education systems, as well as local customs and traditions (OECD, 2017). In addition to that, in order for industries to produce cheaper goods, managers may turn a blind eye to child labor or directly embrace it to maximize their profit. According to Maplecrof's Child Labor Index, Eritrea is ranked to be the first on the worst countries for child labor: followed by Somalia, DR Congo, Myanmar, Sudan, Afghanistan and Pakistan (World Atlas, 2017).

In addition to defining illegal forms of child labor, these conventions also obligate member states to introduce domestic policies intended at further restricting child labor. For example, the International Labor Organization (ILO) urges countries to create a national policy regarding minimum age of employment as stated in Article One of the 1973 ILO Convention No.138, "Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labor and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons" (ILO Convention No.138 Minimum Age Convention, 1973, n.d). Furthermore, article 32 of the Convention of the Rights of a Child stated, "The government should protect children from work that is dangerous or might harm their health or their education. ...Children's work should no jeopardize any of their other rights, including the right to education, or the right to relaxation and play."

A primary objective of the Human Right Council to regularly review whether these legal frameworks are sufficient for protecting Human Rights, and address gaps in implementation that result in violations of Human Rights.

Forced Child Marriage

Another important sub-topic of contemporary child slavery that must be highlighted is forced child marriages – considered by many to be a form of slavery. UNICEF defines child marriage as “a formal marriage or informal union before age 18” (UNICEF, 2016), since it is too a violation of human rights (UNICEF, 2017). Even though both genders can become victims, this issue mostly affects girls. By 2050, it is estimated that the number of women married as children will be around 1.2 billion. In developing countries, one in three girls are married before 18 years old. The highest rates of child marriage can be found in Niger (76%), Central African Republic (68%), Chad (68%), Mali (55%), and Bangladesh (52%). In addition to that, the top five countries with the highest absolute numbers of child marriage² are India (26,610,000), Bangladesh (3,931,000), Nigeria (3,306,000), Brazil (2,928,000) and Ethiopia (1,974,000) (Girls Not Brides, 2016).

Forced child marriages are in some cases deeply rooted in traditions and cultures. Some communities identify menstruation as the beginning of womanhood; therefore the next step is to marry someone and to achieve the status as a wife and mother.. This issue is also used as a getaway solution to the family as it secures their economic future. Forced marriages are often used as a way to repay debts, manage disputes, or settle social, economic and political alliances. In other cases, temporary or tourist marriages still occurs in countries such as Egypt, Lebanon, Jordan, Morocco and India. These marriages are often to please the tourists temporarily during their vacation, and in some cases children as young as 11 years old have been reportedly sold into temporary marriages.

Risks of violence, exploitation and abuse are high. Children often abandon their formal education as a result of their marriage and become pregnant at a very young age. Serious health impact that child brides experience include the risk of contracting HIV/AIDS or any other sexually transmittable diseases, and long lasting effects on mental health of the child bride. For example, the HIV rate for adolescent girls between 15 and 19 was higher for married girls (89%) than for unmarried girls (66%)(Girls Not Brides, 2017). GIRLS NOT BRIDES explains the impact of child brides as “Child brides are at greater risk of experiencing dangerous complications in pregnancy, childbirth, contracting HIV/AIDS and suffering domestic violence” (Girls Not Brides, 2017). UNICEF recorded the number of maternal deaths in 2009 to be 70,000 maternal deaths for pregnancy and childbirth for girls at the age of 15-19. This not only deprives the Right of a Child, but it also discriminates the equality between girls and boys.

Until recently, Child Marriages constituted Human Rights violations if they deprived Children of their right to health, education and relaxation – similarly to the case of Child Labour. More recently there has been several General Assembly resolutions that recognize Child Early and Force Marriage (CEFM) as a violation of human rights, such as the resolution

² Women age 20 to 24 years old who were married before they were 18 – UNICEF, State of the World's Children, 2016.

69/156 (2016), which calls for strengthening the efforts to prevent and eliminate the practice and support married girls (Girls Not Brides, 2017).

Recruitment of children as Child soldiers

The UN recognizes a child soldier as an individual “below 18 years of age who is, or who has been, recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, spies or for sexual purposes” (UNICEF, 2007). Child soldier is one of the forms of modern slavery because it incorporates forced physical labor, subjection to war, and sexual exploitation (Project AK-47, 2013). The forced recruitment of children for the use in armed conflict is a form of slavery-like practices as stated in Article 3a in the Worst Forms of Child Labor Convention, 1999 (No.182) (ILO, 1999).

Some unstable regions of Middle East and North Africa (MENA) have used children in violent conflicts including in countries such as Syria, Iraq, Palestine, and Yemen. Children are sometimes used as weapons (suicide bombers), human shields, bomb makers, or informants. A third of combatants in Yemen civil war are children, as reported by UNICEF (UNICEF, 2016). The consequence of joining and being used in armed conflicts is the vulnerability to suffer consequences such as rape, sexual violence, pregnancy, stigma, rejection by families and communities, and ultimately death. Deployment of child soldiers in most cases results in an indirect violation of the Child’s right to education, and the prevalence of Post Traumatic Stress Disorder (PTSD) among such combatants makes it problematic to the Child’.

Article 38 from the Convention of the Rights of the Child does not allow “Children under 15 years to be enforced or recruited to take part in a war or join the armed forces” (UNICEF, 1990). However, the UN General Assembly adopted the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in 2000, in order to protect the children from recruitment and the use of hostilities (Childrenandarmedconflict.un.org, 2017). There are 166 countries that have ratified the Optional Protocol on the involvement of children in armed conflict, however, 18 countries including South Sudan and United Arab Emirates, have neither signed nor ratified the Optional Protocol. 13 UN member states that have signed the Optional protocol but not yet ratified, these countries include Iran, Lebanon, and Myanmar (Childrenandarmedconflict.un.org, 2017).

Within the protocol, there are five commitments that lay out the principles, which protect children in the involvement in armed conflicts. The principles are as follows:

- States will not recruit children under the age of 18 to send them to the battlefield.
- States will not conscript soldiers below the age of 18.

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- States should take all possible measures to prevent such recruitment –including legislation to prohibit and criminalize the recruitment of children under 18 and involve them in hostilities.
- States will demobilize anyone under 18 conscripted or used in hostilities and will provide physical, psychological recovery services and help their social reintegration.
- Armed groups distinct from the armed forces of a country should not, under any circumstances, recruit or use in hostilities anyone under 18 (Childrenandarmedconflict.un.org, 2017).

Previous efforts in creating a dialogue between member states and armed groups have been made by the UN. Through the UNHRC mandate, the delegates should find a diplomatic solution to prevent the involvement of children in conflict zones, especially when recruited with coercion by armed groups. Furthermore, delegates should taken into account, when aiming to protect children from contemporary forms of slavery, that the reintegration of child soldiers in the society should also be an aspect that must be considered. Additionally, in facilitating them to at least primary school providing them with training and individual skills to help them develop their psychological and physical help.

Past International Actions

The International community has long fought and tried to prevent slavery, introducing a number of conventions, working together with a number of International Governmental Organizations, and Non-Governmental Organizations. Below are the lists of the legal adopted instruments:

- 1953 Protocol to the 1926 Slavery Convention
- Protocol of 2014 to the 1930 Convention Concerning Forced and Compulsory Labor - ILO Convention no. 29
- 1956 ILO Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery- Supplementary Convention on Slavery
- 1957 Convention Concerning the Prohibition and Immediate Action for the Abolition of Forced Labor - ILO Convention 105
- ILO's Convention 138 on the Minimum Age Convention – 1973
- 1999 Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor - ILO Convention 182
- UN Convention of the Rights of the Child - 1999
- Declaration of Human Rights 1948
- Convention Preventing Child slavery

Office of the High Commissioner of Human Rights ([OHCHR](#)) [list of NGOs and IGOs that work on contemporary slavery](#)

United Nations Human Rights Council (UNHRC)

The UNHRC has created the Committee on the Rights of the Child (CRC) to monitor the states of implementation of the Convention on the Rights of the Child and the two protocols to the convention, involvement of children in armed conflict and on sale of children, child prostitution and child pornography. A third protocol, communication procedure, was approved by the UN General Assembly on 19th December 2011 and entered into force in April 2014, allowing children to submit complaints if his/her rights are violated in regards to the Convention as well as the two protocols (OHCHR, 2017). This can be done via three main procedures: (more can be found [here](#))

1. Individual communications,
2. State-to state complaints; and
3. Inquiries.

See Appendix 2 for further rights/obligations of children.

UN Voluntary Trust Fund on Contemporary Forms of Slavery

The UN Voluntary Trust Fund on Contemporary Forms of Slavery was established in 1991 by the UN General Assembly (Resolution 46/122) and is now managed by the Office of the United Nations High Commissioner for Human Rights. It is financed by state and other contributions. The Fund has allocated millions of US dollars to more than 500 organizations in 95 countries to support projects delivering humanitarian, legal, psychological and social assistance to victims of slavery (OHCHR, 2014). For instance, the Fund has given financial assistance to the Challenging Heights NGO in Ghana, which operates successfully to free children from slavery (read the story [here](#)).

International Labor Organization (ILO)

The ILO has created several Conventions that urge the ratifying states to suppress and decline the use of forced or compulsory labor. These conventions are Convention no.29 of 1930 - prohibition of forced labor in most of its forms, and Convention no. 105 of 1957, which forbids its use for development. Furthermore, ILO executes an active program of technical assistance to combat child labor, bonded labor, and other unacceptable forms of exploitation (OHCHR, 1991). The ILO also launched a World Day Against Child Labor on the 12th of June 2002, to “highlight the plight of child workers and serve as a catalyst for change.”

International Program on the Elimination of Child Labor (IPEC)

Under the mandate of International Labor organization, IPEC was created in 1992 to eliminate child labor by “strengthening the capacity of countries to deal with the problem and promoting a worldwide movement to combat child labor.” (IPEC). IPEC operates in 88 countries, and is the largest and the biggest single operational program of the ILO. Over the years, its partners including NGOs, media, parliamentarians, government agencies, community-based organizations, universities etc., have increased significantly. Since it began operating in 1992, IPEC has withdrawn and prevented hundreds thousands of children from entering the workforce through several ways, such as “country-based programs which promote policy reform, build institutional capacity and put in place concrete measures to end child labor; and through awareness raising and mobilization intended to change social attitudes and promote ratification and effective implementation of ILO child labor Conventions” (ilo.org, 2017).

United Nations International Children's Emergency Fund (UNICEF)

As a program of the United Nations to give humanitarian assistance, UNICEF has launched numerous campaigns against the enslavement of a children, child labor, forced child marriages and involvement of children in armed conflicts. It works together with governments to build a protective environment for children. In Bangladesh, for example, the victims of child workers were given free stipends to attend school, which were funded by the Bangladesh Garment Manufactures and Exporter Association, UNICEF and ILO (UNICEF). On the other hand, UNICEF also launched a “Children, Not Soldiers” campaign in 2014, to bring more awareness and prevent the use of children in armed conflicts. This campaign was launched in countries concerned such as, Afghanistan, Chad, the Democratic Republic of the Congo, Myanmar, Somalia, South Sudan, Sudan, and Yemen. The success of the campaign brought thousands of child soldiers were released and UNICEF, peacekeeping and political missions, and other UN and NGO partners have assisted them in reintegrating. While Chad prevents and puts an end on recruiting children in its armed forces, the progress in countries such as Somalia, South Sudan and Yemen have reduced slowly (Childrenandarmedconflict.un.org, 2017).

NGOs and Private Sector

Labels such as Fair Trade and GOODWEAVE are to show that the products were produced complied to basic labor standards, and that the farmers are paid accordingly. GOODWEAVE, which used to be RUGMARK, is a label program that was created in the 1990s after the exploitation of child labor in the rug-making industries of Pakistan and India. To eliminate the use of child labor, the products were regularly inspected by independent monitors (Child Labor Public Education Project).

On the issue of Child Marriage, a number of initiatives have been launched to tackle the issue, most notably Girls Not Brides, which is a global partnership that aims to end child marriages in over 90 countries. The group spreads awareness of the issue and analyzes how to end child marriages by working together accordingly to the national laws, governments and programs. Similarly for Child Labor, the NGO Stop Child Labor, an international campaign, seeks to eliminate child labor through the provision of full time education. It has aims such as to challenge and bring an end to, all forms of child labour and to challenge those who would argue for its retention, and to support the global campaign for education which seeks to provide Education For All (EFA).(stop child labor)

Conclusion

The issue of child slavery in forms of child labor, forced child marriages and child soldiers have great impacts on the child's development. Rights of Children continue to be violated on worrying scale. Factors such as extreme poverty and lack of affordable and accessible education are factors in child slavery, as well as lack of awareness and weak implementation of laws against child labor. These different forms of child slavery all endanger the mental and physical health of children when working in the agricultural sector, becoming child brides, or involved in armed conflicts. When discussing about preventing children from becoming victims of abuse and exploitation of child labor, delegates are urged to understand the topic in depth, the factors that encourages the issue to still exist, and the long and short-term consequences it brings to children.

Points to be addressed

1. How can other parties to the appropriate conventions encourage other member states to ratify the conventions?
2. Should there be sanctions for countries that are parties to the convention but do not follow them properly?
3. If your country has encountered a decrease of child slavery, how did your country deal with this issue?
4. Should there be a universal minimum age for employment, in order to tackle child labor? (perhaps the minimum age for admission to employment should be full inline with the international standards set in the ILO Convention No. 138?)
5. What measures should the international community take for those whose childhoods, education and freedom have been taken away in such young age?
6. Is there a better way to raise awareness of child slavery in rural areas? If so, how?
7. How can forced marriages be prevented, as it harms the child psychologically and emotionally?

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8. In regards to traditions and cultures, what are the appropriate measures that can be taken by the international community to prevent child labor and child marriages?
9. What are the steps for governments to ensure all children to have compulsory access to education?

[Further readings](#)

[Child Labor](#)

[Child Labor by UNICEF](#)

[IPEC](#)

[List of Goods Produced by Child Labor](#)

[GIRLS NOT BRIDES](#)

[Ending Child labor by Child Labor Education Project](#)

[List of countries which practices child labor](#)

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Topic B: Freedom of Speech and Expression on the Internet

Introduction

Article 19 of the Universal Declaration of Human Rights states that “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers” (A/RES/3/217). At the time of its writing, in the era of broadcast media, this clause was interpreted to pertain to freedom of expression, orally, in writing, in print, in the form of art or any other media available back then.

However, as we entered the digital age, new forms of communication emerged, and along with them new means of expressing one’s views. This led to new forms of restrictions emerging, with Governments trying to control and filter the spread of information. The internet is a powerful tool, it can be used to spread ideas, to shed light on issues, and to help communicate with each other, among many things, and thus it became increasingly important to protect one’s rights to freedom of speech and expression on the internet.

Background

in the context of growing concerns over what sort of content was permissible on the internet

In 2012, in the context of growing concerns over what sort of content was permissible on the internet, the Human Rights Council (HRC) of the United Nations, adopted a resolution to protect the free speech of individuals on the Internet, Resolution A/HRC/20/L.13, the Promotion, Protection and Enjoyment of Human Rights on the Internet. It

essentially extended the rights of freedom of speech and expression to include the internet and meant that human rights “online”, now would be protected with the same commitment as it would be “offline”.

The extent of an individual’s civil and political rights is outlined in the International Covenant on Civil and Political Rights (ICCPR). Article 19 of the ICCPR, is dedicated to freedom of expression, and it recognizes that governments may restrict freedom of expression when it is necessary in order to protect national security, law and order or other rights of its citizens. However, around the world governments are trying to use this to their advantage, in many countries, national security is defined in “broad, vague ways that make it difficult for individuals to know what speech or opinions are allowed and what may be subject to penalty, they apply restrictions that go well beyond what is necessary to address specific threats, and they fail to justify their restrictions” (Alberto Cerda Silva, 2017). For example, in 2015, China enacted a new national security law, that requires the internet and information systems to be “secure and controllable”, it is said that the law provides foundation for “the management of internet activities on China’s territory and the resisting of activities that undermine China’s cyberspace security”, however the wording of the law is so vague that elements of criticism against the government can be seen as subversion, and as a threat to national security (Agence France-Presse, 2015).

In 2016, the HRC passed another resolution, A/HRC/24/L.20 on “the promotion, protection and enjoyment of human rights on the Internet”. The resolution once again reaffirmed that the rights that

people have offline must also be protected online. States also made a commitment to: looking at and addressing security concerns that may arise in attempting to protect human rights online, ensuring accountability for human rights violations and abuses committed against persons for exercising their human rights and fundamental freedoms on the internet, to refrain from “measures to intentionally prevent or disrupt access to or dissemination of information online”, and to adopt a “human rights based approach” to provide and expand access to the Internet, with particular regard to addressing the gender digital divide (Article19.org, 2017). This resolution was opposed by a significant number of countries including, China, India, the Russian Federation, and Saudi Arabia, among others.

India, is said to have opposed the resolution since it did not go far enough in curbing hate speech online or any content that promoted “racial superiority or hatred, incitement to racial discrimination, xenophobia and related intolerance” (Prakash, 2016). South Africa, also cited the same reason for its opposition to the resolution, stating “the exercise of the right to freedom of opinion and expression is not absolute, and carries with it duties and responsibilities for right-holders” and incitement to hatred is problematic in the context where we are having our domestic debates on racism and the criminalisation thereof” (Van Zyl, 2016).

Key Concepts

Freedom of Privacy: Article 12 of the Universal Declaration of Human Rights defines the right to privacy as one by virtue of which “no one shall be

subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks”. The Special Rapporteur of the OCHCR has in his report reaffirmed that all states must “respect and protect the right to privacy” both online and offline and including in connection with “the challenges arising from new technologies”.

Limitations to Freedom of Speech: Article 19 of the ICCPR, is dedicated to freedom of expression, and it recognizes that governments may restrict freedom of expression when it is necessary in order to protect national security, law and order or other rights of its citizens. While freedom of speech is mostly respected, there are certain limits to free speech in that anything that is said that could potentially harm or is said with the intent to cause harm to people, is generally considered unacceptable.

Key Issues:

While resolution L.20, is a significant step forward it still does not address a large number of issues.

Encryption:

While the resolution takes note of the fact and commits to addressing security concerns that may arise from people trying to exercise their rights to freedom of expression on the internet, it makes no effort to explain how that would be done. In 2015, the OHCHR Special Rapporteur’s report recognized that in some states “individuals may be forced to rely on encryption and anonymity in order to circumvent restrictions and exercise the right to seek, receive and

impart information”, it further mentioned VPNs and TOR browsers as ways by which this maybe done. Then the report states that “encryption and anonymity technologies are specific media through which individuals exercise their freedoms of expression” and hence, since article 19 of the Universal Declaration of Human Rights extends the right to include all media, it would include all encrypted media as well (Human Rights Council, 2015).

The report also stated that restrictions on encryption and anonymity must also meet a “three-part test”: in particular, the Special Rapporteur “stressed that draft laws and policies providing for restrictions on encryption or anonymity should be subject to public comment and only be adopted following a regular – rather than fast track – legislative process. He also emphasised that strong procedural and judicial safeguards should be applied to guarantee the due process rights of any individual whose use of encryption or anonymity is subject to restriction” (Article19.org, 2015). What this essentially seems to mean is that forced decryption should only be done when mandated by a government on a case by case basis.

The report further stated that blanket bans on the individual use of encryption technology disproportionately restrict the right to freedom of expression and that requiring licenses for encryption use, the setting of weak technical standards for encryption, and controlling the import and export of encryption tools were equivalent to a blanket ban and hence a restriction on freedom of expression (Human Rights Council, 2015).

In the years since, there have been numerous challenges to encryption. “Several countries already

limit who can encrypt their communication or the strength of encryption allowed, such as Cuba, Pakistan and India. Others such as Russia, Morocco, Kazakhstan, Pakistan and Colombia, sometimes go as far as banning it altogether” . (Amnesty International USA, 2016).

Role of private Information and Communications Technology (ICT) companies

States often place undue pressure on private companies to control the information that people can share or access, and this was an issue highlighted by the 2016 OHCHR Special Rapporteur’s report. It emphasized on the need for companies to do more to protect and promote freedom of encryption.

One of the biggest issues is that of intermediary liability. Most free speech and expression is practiced over platforms and communications networks owned by private companies on platforms such as Google, Twitter, Facebook. These companies can be held liable for their user’s online activities, and this is one of the key factors that affects innovation and free speech. Around the world, governments put pressure on companies to block users from posting “undesirable content”, and place the companies directly at legal risk for any such content posted by their users and hence force them to self-censor their users through strict community guidelines. These also act as the first line of defence against online activity such as dissent, hate speech etc. This thus creates a sort of by-proxy-censorship on the part of the governments.

In addition to that, there are concerns over the existence of vague laws targeting online content,

which essentially give authorities the freedom to criminalise any expression that they find unsuitable. An example of this is the Computer Fraud and Abuse Act in the USA, which through vague wording, among other provisions, makes it unlawful for an individual to violate the terms and service agreements to websites that they visit. Terms of service agreements tend to be long and dense documents that can be subject to change anytime without users being notified.

One of the biggest concerns is the manner in which companies respond to legal requests for customer data, and the participation of companies in covert surveillance conducted by the State. An important case here is that of Apple vs FBI (2016), where the FBI tried to pressurize Apple into allowing them to decrypt an iPhone. Apple refused on the grounds that assisting FBI to decrypt one iPhone would allow them the knowledge and expertise to decrypt any and all such phones in the future. This is especially noteworthy, as it sheds light on how governments try to create back channels to decryption by working with private companies. Although, the FBI later withdrew the case after a third party helped them unlock the iPhone, FBI was successful in applying to a magistrate judge, Sherri Pym, to issue a court order, mandating Apple to create and provide the requested software under All Writs Act. The court order, called In the Matter of the Search of an Apple iPhone Seized During the Execution of a Search Warrant on a Black Lexus IS300, California License Plate 35KGD203, was filed in the United States District Court for the Central District of California. The use of the All Writs Act to compel Apple to write new software was unprecedented and, according to legal experts, it was likely to prompt "an epic fight pitting privacy against national security". It was also pointed out that the

implications of the legal precedent that would be established by the success of this action against Apple would go far beyond issues of privacy. However, in another similar case in Brooklyn in 2016, where a magistrate judge, Judge Orenstein, ruled in favour of Apple, stating the All Writs Act cannot be used to force a company to modify its products. The legal implications of the above cases are still unclear, but demonstrates the intent of States to force companies to willingly weaken or give out security details of their products.

Net Neutrality and Internet as a human right

Another worrying trend, is that of states failing to protect net neutrality. Net neutrality, is the principle "that Internet service providers should enable access to all content and applications regardless of the source, and without favouring or blocking particular products or websites". However, certain countries such as the USA and India, among others, are discussing policies that would give cable and phone companies the right to block websites or content that they do not like or applications that compete with their own services. This could severely inhibit the freedoms of speech and expressions of people on the internet especially those from vulnerable groups, such as the economically disadvantaged and is a clear violation of the Universal Declaration of Human Rights' promise to protect freedom of expression across all media. Furthermore, in 2012, the UNHRC adopted a resolution that made access to the internet a human right, and this stand was later affirmed in further resolutions adopted in 2014 and 2016. Though the resolution does not specifically address net neutrality, it does condemn the practice of disrupting or preventing internet access. If a user has internet

access, but cannot access it freely or the content that one can access is limited because of internet service providers or governmental restrictions, this can be considered to be at odds with HRC's earlier stand that access to the internet is a human right. The UNHCR must thus clarify its stand on the issue of net neutrality.

Accountability for violations

One of the main issues that the resolution, A/HRC/24/L.20, tried to address was to increase accountability for human rights abuses in cases where an individual was prosecuted or subject to violence for exercising their rights to freedom of speech and expression.

At present, there exists very little accountability for violations of this nature, and the resolution does not go far enough in stating how it would look to increase accountability, but only makes mention that it is something that must be done.

Mass and targeted surveillance, digital attacks, harassment of members of vulnerable groups, and a wide variety of digital opinion and expression had resulted in serious repercussions, including detention, physical attacks, and even killings have occurred.

A new framework for increasing government accountability must be looked at.

Recent Noteworthy Events

Jun 18, 2017: YouTube, announced a set of policies aimed at curbing extremist videos on the platform. For videos that are clearly in violation of its community

guidelines, such as those promoting terrorism, YouTube said it would quickly identify and remove them.

Jun 6, 2017: In the aftermath of a terror attack in London, UK Prime Minister, Theresa May called to "eliminate" safe spaces on the internet and to increase regulation by limiting end to end encryption.

Feb 8, 2017: FBI official: No immediate changes to encryption policy under Trump

January 12, 2017: Human Rights Watch reports of growing restrictions on free speech in India, both online and offline

December 15, 2016: Filmmakers ask Nikon and Canon to sell encrypted cameras

March 3, 2016: In Brazil, Facebook vice president for Latin America Diego Dzodan was jailed on grounds of "non-compliance with court orders" after WhatsApp failed to provide messages demanded by prosecutors in a drug case.

Conclusion

In conclusion, while the UNHRC has continued to reaffirm its belief that the freedom of speech and expression is a right that must be upheld even online, countries including member nations of the UNHRC have taken steps to undermine this right. Taking into account the history of the UNHRC as an organization and the reasons for which it was formed, delegates must tread the line carefully in taking steps to reaffirm the organisation's commitment to upholding this right whilst also allowing discourse and contrasting opinions to emerge in the lead up to a resolution.

Questions a resolution must address:

What steps can be taken to reaffirm the UNHRC's continued commitment towards protecting the individual's right to freedom of expression?

In light of recent events, would the UNHRC still support strengthened encryption? If yes, what steps can the UNHRC take to protect anonymity through strengthened encryption?

What role must private companies play in protecting and promoting freedom of expression?

What mechanisms of accountability should exist for companies that play a role in violating an individual's freedom of expression?

What mechanisms of accountability should exist for states that suppress the right to freedom of expression?

Further Reading

Joint Declaration on Freedom of Expression and Responses to Conflict Situation:
(<https://www.article19.org/resources.php/resource/37951/en/joint-declaration-on-freedom-of-expression-and-responses-to-conflict-situation>)

Intermediary Liability:
(<http://cyberlaw.stanford.edu/focus-areas/intermediary-liability>)

Freedom of Expression on the Internet:
(<https://cyber.harvard.edu/ilaw/Speech/>)

Human Rights Council Thirty-second session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development:
(https://www.article19.org/data/files/Internet_Statement_Adopted.pdf)

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression:
(<http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/OpinionIndex.aspx>)

U.N. Human Rights Council: First Resolution on Internet Free Speech:
(<http://www.loc.gov/law/foreign-news/article/u-n-human-rights-council-first-resolution-on-internet-free-speech/>)

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Universal Declaration of Human Rights.**