



# Human Rights Council

MACMUN 2018 | HRC Background Guide



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*“We live in a complex world. The United Nations cannot succeed alone. Partnership must continue to be at the heart of our strategy. We should have the humility to acknowledge the essential role of other actors, while maintaining full awareness of our unique convening power.”*  
– UN Secretary General António Guterres

# Committee Overview

## *Mandate and Function of the Committee*

Succeeding the United Nations Commission on Human Rights, the United Nations Human Rights Council (HRC) consists of 47 Member States.<sup>1</sup> Since coming into existence in March 2006, the HRC has become well-known for responding to emergent human rights situations through special sessions; taking appropriate measures by organizing bodies of inquiry or dispatching fact-finding missions to determine accountability for extreme international human rights and humanitarian law violations; and adopting over 456 resolutions to date in response to human rights transgressions.<sup>2,3</sup>

Under resolution 60/251, which created the HRC in March 2006, the United Nations General Assembly (UNGA) listed the functions and powers of the HRC to include:

1. The universal promotion and protection of human rights and fundamental freedoms for all, without any distinction, fairly and equitably.
2. The appropriate response to incidences of human rights violations, including gross and systematic violations, and the development of recommendations to better implement solutions on the ground.<sup>4</sup>

As a means to guide its work, the HRC adopted its “institution-building” package in 2007, highlighting certain procedures to achieve and ensure respect for human rights for all worldwide.<sup>5</sup> Two of its mechanisms are the Universal Periodic Review (UPR), which “serves to assess the human rights situations in all United Nations Member States,” and the UN Special Procedures, which is composed of “special representatives, independent experts and working groups that monitor, examine, advise and publicly report on thematic issues or human rights situations in specific countries.”<sup>6</sup>

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<sup>1</sup> “United Nations Human Rights Council,” *Office of the United Nations High Commissioner for Human Rights*, accessed December 27, 2017, [www.ohchr.org/en/hrbodies/hrc/pages/hrcindex.aspx](http://www.ohchr.org/en/hrbodies/hrc/pages/hrcindex.aspx).

<sup>2</sup> Ibid.

<sup>3</sup> “The 20th Anniversary of OHCHR – 20 human rights achievements,” *Office of the United Nations High Commissioner for Human Rights*, accessed December 27, 2017, [www.ohchr.org/EN/NewsEvents/OHCHR20\\_Backup/Pages/Achievements.aspx](http://www.ohchr.org/EN/NewsEvents/OHCHR20_Backup/Pages/Achievements.aspx).

<sup>4</sup> “International Legal Protection of Human Rights in Armed Conflict,” *Office of the United Nations High Commissioner for Human Rights*, 2011, [www.ohchr.org/Documents/Publications/HR\\_in\\_armed\\_conflict.pdf](http://www.ohchr.org/Documents/Publications/HR_in_armed_conflict.pdf).

<sup>5</sup> “Human Rights Council,” *Office of the United Nations High Commissioner for Human Rights*, February, 2017, [www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session34/Documents/HRC\\_booklet\\_En.pdf](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session34/Documents/HRC_booklet_En.pdf).

<sup>6</sup> Ibid.

In particular, the UPR systematically reviews the human rights records of all 193 UN Member States once every four and a half years on an alternating set schedule for all countries. It is designed specifically to ensure that all nations are treated equally when their human rights situations are assessed.<sup>7</sup> A mechanism of accountability, it provides each Member State with the opportunity to highlight the actions it has taken to improve the human rights conditions for its citizens, as well as to face the challenges and constraints it continues to experience. Since becoming functional in 2008, the UPR has had 100% participation by all 193 UN Member States.<sup>8</sup> Roughly 42 States are reviewed annually, which receive on average 150 recommendations each. Additionally, around 75% of all of these recommendations are usually supported by the nations, with the reviewed countries reporting on the measures taken to address them. Currently, no other universal mechanism similar to the UPR exists.

Annually, the HRC holds at least three regular sessions in March, June and September at the UN Office in Geneva, totalling a minimum of ten weeks.<sup>9</sup> In the case of extreme human rights violations and emergencies, the HRC can also be called into a special session should this be supported by one-third of the Member States. 26 special sessions were held within the first ten years of the HRC's existence.<sup>10</sup>

All Member States are elected for three-year terms by the UNGA, with one-third of the Members being renewed each year, via a simple majority vote conducted through a secret ballot. Council membership is based on equitable geographical distribution according to the following division: African States — 13 seats; Asia-Pacific States — 13 seats; Latin America and Caribbean States — 8 seats; Western European and other States — 7 seats; and Eastern European States — 6 seats.<sup>11</sup> A president and four vice-presidents, representing each of the five regional groups, are elected for one year to form the Bureau, which proposes the agenda, helps to coordinate the Council's programmatic cycle, and is generally responsible for organizing and hosting meetings.<sup>12</sup> Additionally, other parties, such as non-Member States, intergovernmental organizations, national human rights institutions, and non-governmental organizations (NGOs), are often also active participants in the Council.

The HRC can adopt texts with or without a recorded vote. For a draft text to be passed by a vote, it is required to receive a majority support from Member States, who are the only members of the Council with the ability to vote. The decision to adopt and ratify a resolution, however, does not

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<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Office of the United Nations High Commissioner for Human Rights, "United Nations Human Rights Council."

<sup>10</sup> Office of the United Nations High Commissioner for Human Rights, "Human Rights Council."

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

make it legally binding. In its first 10 years, the HRC has adopted over 1300 texts regarding a myriad of thematic and country-specific human rights concerns.<sup>13</sup>

### ***Recent Activity and Significant Resolutions***

From June 13 to July 1, 2016, the first universal session of the HRC was held, with the involvement and presence of all 193 UN Member States.<sup>14</sup> Its 36th session was held in September 2017 in Geneva, during which Member States addressed several thematic human rights topics, such as migrant children, the rights of Indigenous peoples, conscientious objection to military service, and the administration of justice, as well as other specific and current human rights concerns in nations such as Yemen, Myanmar, Syria, Sudan, and the Democratic Republic of the Congo.<sup>15</sup> Overall, throughout the three week-session, the HRC listened to 17 independent experts and groups, two commissions of inquiries on Burundi and Syria, and a fact-finding mission on Myanmar. A total of 90 comprehensive reports were presented on 35 thematic and 40 country-specific human rights situations, with crises highlighted on Syria, Yemen, Burundi, and the Democratic Republic of the Congo.<sup>16</sup>

By the conclusion of the 36th session, the HRC adopted 33 resolutions, 20 of them by consensus, in addition to the outcomes of the UPR for 14 Member States.<sup>17</sup> Among these resolutions was the decision by the HRC to extend the mandate of the Commission of Inquiry on Burundi for another year. The HRC requested the Office of the High Commissioner for Human Rights (OHCHR) to immediately send a team of three experts to work alongside the Burundian authorities and other stakeholders to attain the information needed to ensure that human rights violators are held accountable by the Burundian judicial authorities.<sup>18,19</sup> This was in response to widespread and serious human rights violations, mostly against opponents of the government, that have been occurring in Burundi since April 2015. It also extended the mandate of the independent fact-finding mission on Myanmar in order to “establish the facts and circumstances of the alleged

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<sup>13</sup> Ibid.

<sup>14</sup> “United Nations Human Rights Council Tenth Anniversary 2006-2016,” *Office of the United Nations High Commissioner for Human Rights*, accessed December 27, 2017, <http://www.ohchr.org/EN/HRBodies/HRC/pages/hrcat10.aspx>.

<sup>15</sup> “Human rights council concludes thirty-sixth session after adopting 33 resolutions and a presidential statement,” *The United Nations Office at Geneva*, September 29, 2017, [www.unog.ch/unog/website/news\\_media.nsf/\(httpNewsByYear\\_en\)/342FC716B688DB76C12581AA006F2C25?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/342FC716B688DB76C12581AA006F2C25?OpenDocument)

<sup>16</sup> Ibid.

<sup>17</sup> “UN Human Rights Council wraps current session, adopts texts on Myanmar, Yemen, Burundi,” *United Nations*, September 29, 2017, [www.un.org/apps/news/story.asp?NewsID=57778#.Wj8KiVQ-eCQ](http://www.un.org/apps/news/story.asp?NewsID=57778#.Wj8KiVQ-eCQ).

<sup>18</sup> Ibid.

<sup>19</sup> The United Nations Office, “Human rights council concludes thirty-sixth session after adopting 33 resolutions and a presidential statement.”

recent human rights violations by military and security forces.”<sup>20</sup> Similarly, the HRC also adopted a resolution against Yemen, denouncing continuous human rights and international humanitarian law violations, including those involving the recruitment, use, and exploitation of children by various parties.<sup>21</sup> In regards to Syria, the HRC has agreed to convene a high-level panel discussion on human rights violations at the 37th session, specifically focusing on attacks against children, including destruction of institutions such as schools and hospitals, and the denial of humanitarian access.<sup>22</sup>

### ***Simulation Style***

During the HRC sessions, the role of the Bureau will be fulfilled by two designated Chairs, who will be responsible for maintaining the course of debate in accordance with the National Model UN rules and procedures. The Chairs will open and close each meeting, recognize any points or motions on the floor, set the agenda, manage the list of speakers, and facilitate the discussion. In addition, the Chairs are given the final rule on any disputed points, and will declare when motions are to be voted on by the body. It is also the decision of the Chairs to pass any draft resolution to be introduced for debate.

Two pages will be present during the meetings to pass notes between delegates. Pages will be screening notes to ensure appropriate content and maintain a professional environment.

### ***Composition of the Committee***

The HRC will consist of a double delegation of 40 Member States represented by a total of 80 delegates. Delegates are expected to research the committee topics, submit a position paper, and be prepared to debate in accordance with their country’s global stance and foreign policy. Additionally, depending on the flow of the meetings, hypothetical crises may also be presented to the committee, during which the delegates will be expected to draft resolutions under strict time constraints.

### ***Sample Timeline***

9:30-9:40 – Roll Call

9:40-9:55 – Setting the Agenda

9:55-12:30 – Debate on the Agenda Topic and Motions

12:30-1:30 – Lunch

1:30-4:00 – Debate on the Agenda Topic, Motions, and Draft Resolutions

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<sup>20</sup> Ibid.

<sup>21</sup> United Nations, “UN Human Rights Council wraps current session, adopts texts on Myanmar, Yemen, Burundi.”

<sup>22</sup> The United Nations Office, “Human rights council concludes thirty-sixth session after adopting 33 resolutions and a presidential statement.”

4:00-4:30 – Voting on the Draft Resolutions

4:30 – Closure/Adjournment of Debate

### ***Forming Resolutions***

Resolutions represent the consolidated opinions of the committee and act as proposed comprehensive solutions to the issues at hand. They are a final result of the discussions and negotiations regarding the topics and detail recommended courses of action. A resolution is first considered a draft resolution prior to being voted on by the committee. During the course of debate, delegates may work individually or collaborate with others to write a draft resolution. The delegates writing the resolution are considered its “sponsors” and must recruit a certain number of delegates as “signatories” in order for their resolution to be introduced by the Chairs to the committee. Signatories are members who wish to bring the resolution to debate; they do not have to support the document. Once brought to debate, amendments can be made until the final resolution is voted on by the committee.

### ***Position Papers***

The position paper is a detailed essay of a country’s policies and position on the topics that are going to be discussed in the HRC. The creation of the position paper is an important task because it will help you, the delegate, to organize your thoughts and ideas about MACMUN topics so that you can successfully engage with the rest of the committee. Additionally, the position papers will be judged by the conference hosts, and the writer of the top position paper in each committee will be recognized at the conference award ceremony. Please note that to be considered for any award at MACMUN 2018, you must submit a position paper.

Your goals are to research your assigned country in depth, to examine the stance they take on the given topics, and to summarize this information in one position paper. The length should not exceed two pages in total, single-spaced.

A strong MACMUN position paper should include the following:

1. How your country is affected by the issues.
2. Your country’s policies with respect to the issues.
3. Quotations from your country’s leaders about the topics.
4. Actions that your country has taken with regard to the issues.
5. What your country believes should be done to address the issues.
6. What your country would like to accomplish in the committee’s resolution.
7. Description of your relationship with other countries as it relates to the issues at hand.

Important Notes:

- Include your name, assigned country, and committee
- Please do not include illustrations, diagrams, decorations, national symbols, watermarks, or page borders
- Include citations and a reference page, making sure to use a standardized citation style of your choice consistently, giving due credit to the sources used in research (the reference page is not included in the page limit)

The deadline to submit your position paper is ***January 30th, 2018 at 11:59PM***; submissions should be emailed to [usgcommittees@macmun.org](mailto:usgcommittees@macmun.org).

# Topic #1: Religious Discrimination and Freedom of Expression

*“We will not enjoy security without development, we will not enjoy development without security, and we will not enjoy either without respect for human rights.”*  
- Kofi Annan, former United Nations Secretary-General<sup>23</sup>

## *Introduction*

A key human rights issue under much discussion and contention right now concerns one's freedom for religious practice. It is considered an inherent right as long as the practice of a specific religion does not harm other parties by any means. This is ultimately entrenched within the freedom of thought and expression, whereby an individual has the capability to describe and define their thoughts by any means that they see fit. However, an eventual contradiction can be developed from this point, in that the rights associated with freedom of belief may be in direct opposition to the rights associated with the freedom of opinion and expression.<sup>24</sup>

As such, we can arrive at an impasse, since individuals who express direct scorn for particular religious practices are arguably utilizing the same rights as the individuals who practice the religion in the first place. There is a primary question that inherently demands a rationalization of this conflicting viewpoint: how can we guarantee one's freedom of religion or belief while at the same time indirectly support religious discrimination posing as freedom of expression?

This line of thinking requires serious discussion on the extent to which specific rights associated with freedom of expression and thought can be classified in the same vein as rights regarding freedom of religion or belief. In particular, the hypocrisy in this train of thought must be examined in order to ensure that no one party has their rights infringed upon in the pursuit of preventing the discrimination of religion or belief practices. But this brings to discussion methods to actually enforce religious freedoms and maintain balance between how the rights associated with these freedoms are applied.

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<sup>23</sup> "Quotes on Human Rights." United Nations Population Fund. Accessed January 04, 2018. <http://www.unfpa.org/resources/quotes-human-rights>.

<sup>24</sup> "Freedoms of religion and of expression: "Twin rights" in fighting incitement to hatred." United Nations Human Rights: Office of the High Commissioner. Accessed January 03, 2018. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17188&LangID=E>.

## *History and Background*

### *United Nations Commission on Human Rights and the Special Rapporteur on Freedom of Religion or Belief*

The original United Nations Commission on Human Rights first adopted resolution 1986/20, leading to the formation of a “Special Rapporteur on religious intolerance.” By the year 2000, this body became the “Special Rapporteur on freedom of Religion or Belief,” being welcomed by General Assembly resolution 55/97.<sup>25</sup> This body is currently mandated by Human Rights Council (HRC) resolution 6/36, which generalizes the requirements of the rapporteur to primarily promote and protect the rights of freedom of religion or belief, and identify existing and emerging obstacles to the enjoyment of this freedom.<sup>25</sup>

Based on this, the rapporteur works to primarily transmit urgent appeals and letters of allegation to problem areas or bodies in cases where an infringement of the rights of freedom of religion and belief have taken place.<sup>26</sup> However, can we say that this measure is enough to ensure that appropriate measures are applied to accurately determine the extent of possible religious discrimination? Due to the large breadth with which discrimination of religion and belief pervades our current society, in multiple avenues, it is clear that more substantial mechanisms are required.

### *Definitions of the Right to Freedom of Thought and Religion*

It is vital to first clarify the exact wording of these two interconnected concepts in order to better identify the problem areas that can lead to conflicting understandings of these rights’ meanings and the situations to which they apply.

The definitions of these rights are enshrined within Articles 18 and 27 of the International Covenant on Civil and Political Rights:<sup>27</sup>

#### Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

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<sup>25</sup> "Special Rapporteur on freedom of religion or belief." United Nations Human Rights: Office of the High Commissioner. Accessed January 03, 2018. <http://www.ohchr.org/EN/Issues/FreedomReligion/Pages/FreedomReligionIndex.aspx>.

<sup>26</sup> “Rapporteur’s Digest on Freedom of Religion or Belief.” United Nations Human Rights: Office of the High Commissioner. Accessed January 03, 2018. <http://www.ohchr.org/Documents/Issues/Religion/RapporteursDigestFreedomReligionBelief.pdf>.

<sup>27</sup> "Definitions of the right to freedom of thought and religion." Claiming Human Rights. Accessed January 03, 2018. [http://www.claiminghumanrights.org/thought\\_religion\\_definition.html](http://www.claiminghumanrights.org/thought_religion_definition.html).

2. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

### Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

## ***Bloc Analysis***

### *Current Perspectives and Situations*

As indicated by the articles above, religious freedom and freedom of thought are defined based on the existence of possible public safety hazards that could arise in the form of religious discrimination defended as the expression of personal thought. Inherently, the present contradiction within the second point of Article 18 lies within religious discrimination that may pervade non-violent protest. At the same time, however, violence is ever apparent within such religious discrimination voiced as expression of thought. United States Secretary of State Rex Tillerson stated, "Many governments around the world used discriminatory laws to deny their citizens freedom or religion," prefacing a report which describes several cases of international abuse of the above rights.<sup>28</sup> In particular, highlighted within this report were several prevalent cases from the last few years, such as China continuing to physically abuse, detain, arrest, torture and imprison Tibetan Buddhists, Christians and other religious minorities, in clear violation of Article 27.<sup>28</sup> In addition, similar ideas formed the foundation of Christian persecution within Muslim-dominated areas of Kenya, despite the Christian majority in the country. In this area, Christians are subject to violent attacks by Islamic militants, propagating further adversity throughout the country in the face of limited protections for persecuted citizens.<sup>29</sup>

### *Persecution of Ahmadiyya Muslims in Algeria*

The arrest of Mohamed Fali, president of the Algeria Ahmadiyya community, in August 2017 is another example of the disregard of the mandate set about by the HRC, specific to Article 27. Specific to this case, scores of Ahmadis have been prosecuted since June 2016, with some being imprisoned for up to six months simply based on the threat that they represent to the majority Sunni Muslim faith. Despite the fact that Algeria had ratified the International Covenant on Civil and Political Rights, authorities continue to confiscate religious books and documents about the Ahmadiyya faith, among other items. The most clear connection of this case to the hypocrisy of religious discrimination and freedom of thought is demonstrated by Algeria's constitution, which

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<sup>28</sup> Gaouette, Nicole, and Laura Koran. "US slams China, Turkey, Saudi Arabia for religious repression." CNN. August 15, 2017. Accessed January 03, 2018. <http://www.cnn.com/2017/08/15/politics/religious-freedom-report-state-department-china-saudi/index.html>.

<sup>29</sup> "Christian Persecution in Kenya." Open Doors USA. Accessed January 03, 2018. <https://www.opendoorsusa.org/christian-persecution/world-watch-list/kenya/>.

guarantees freedom of religion under the technicality that the freedom is “exercised in respect of the law.”<sup>30</sup> It is with this technicality that high-ranking government officials are able to condemn Ahmadis for allegedly being involved in plots to destabilize the country, thereby indirectly encouraging hatred against the religion and those who choose to follow it while hiding behind their exercise of their freedom of expression.<sup>31</sup> Some perspectives state that most Ahmadis were convicted and arrested for violating right to assembly laws, but defenders of these individuals argue that they have been persecuted simply for their faith.<sup>32</sup> Again, this directly contradicts with the ability of individuals to practice their own religion in the face of others expressing their own rights concerning freedom of expression and thought. The clear concern here is the maintenance of each sets of rights without causing undue overuse and unjustified actions to take place.

### Religious Conflict within Myanmar

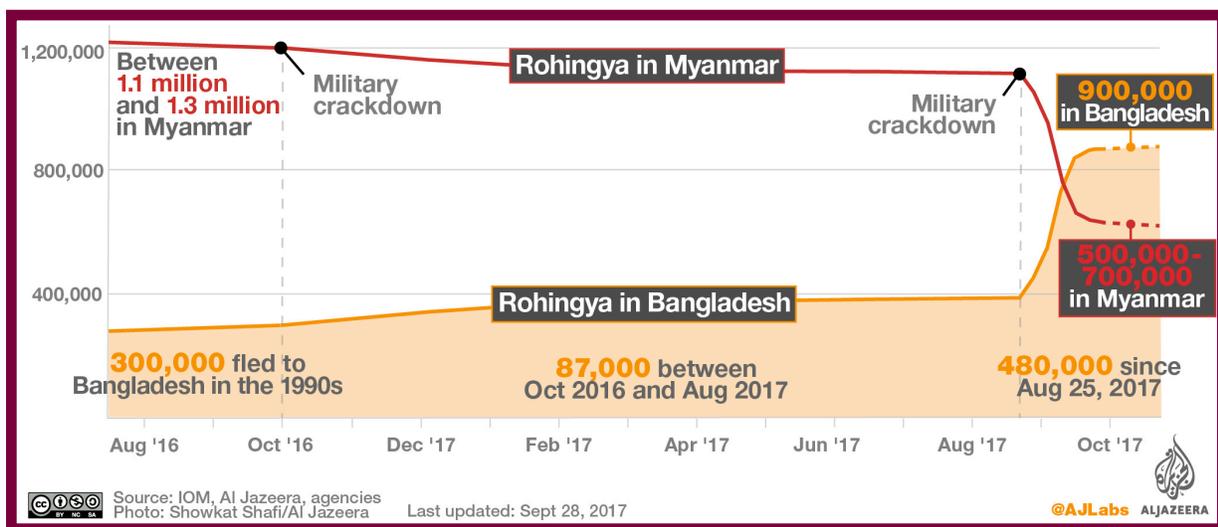


Figure 1: How Myanmar expelled the majority of its Rohingya population to Bangladesh.

Myanmar has been a site of escalating conflicts between Buddhist and Rohingya Muslim communities, where at least 146 000 persons have been displaced since the first riots began in June 2012.<sup>33</sup> From this point, the conflicts have further escalated due to notable recent events, with over 40 Rohingya men, women and children killed in Rakhine state in violence that flared after accusations emerged that Rohingyas had killed a Rakhine policeman in January 2014.

<sup>30</sup> "Algeria: Stop Persecuting a Religious Minority." Human Rights Watch. September 14, 2017. Accessed January 03, 2018. <https://www.hrw.org/news/2017/09/04/algeria-stop-persecuting-religious-minority>.

<sup>31</sup> Ahmad, Usman. "In Persecution of Ahmadis, Evidence of Growing Religious Intolerance in Algeria." The Wire. September 14, 2017. Accessed January 03, 2018. <https://thewire.in/177554/persecution-ahmadis-evidence-growing-religious-intolerance-algeria/>.

<sup>32</sup> Belalloufi, Amal. "Algeria's Ahmadis, an 'Israeli plot,' forced to worship behind closed doors." The Times of Israel. August 25, 2017. Accessed January 03, 2018. <https://www.timesofisrael.com/algerias-ahmadis-forced-to-worship-behind-closed-doors/>.

<sup>33</sup> Schissler, Matt, Matthew J. Walton, and Phyu Phyu Thi. "The Roots of Religious Conflict in Myanmar." The Diplomat. August 06, 2015. Accessed January 03, 2018. <https://thediplomat.com/2015/08/the-roots-of-religious-conflict-in-myanmar/>.

Within this set of conflicts, research conducted across six regions in Myanmar showed a false portrayal of Muslims as an existential threat to which Buddhism is vulnerable and in need of protection from.<sup>34</sup> The general populace of Myanmar deems the Rohingya Muslim populations to be a source of fear and as such exercises its rights to express their distaste with the continued Rohingya Muslim presence within the country. However, these expressions often lead to violent protests in direct conflict with Articles 18 and 27, with atrocities being committed by the Myanmar forces such as indiscriminate killings, enforced disappearances, and forms of sexual violence.<sup>35</sup> At the root core of such horrific acts comes an opposition of two main ideas: can individuals still freely express their distaste for a particular religion while pursuing non-violent measures, and when are the freedoms of expression and religion and belief outweighed between each other?

## *Conclusion*

There is a clear contradiction between the rights associated with freedoms of expression and the rights associated with the freedoms of religion and belief. Despite the fact that these rights are very much intertwined, the previous examples describe situations in which a clear misuse of the freedom of expression rights has occurred to produce circumstances in which persecuted individuals are no longer able to freely practice their own religions and beliefs. The goal of the committee will be to develop appropriate measures to restrict such misuse of the freedom of expression and thought while simultaneously ensuring that individuals are not limited in the extent to which they can voice their concerns. The overarching discussion must also account for and encourage the development of measures that will allow for enhanced protections regarding the rights associated with free expression and practice of a chosen religion and belief system worldwide.

## *Focus Questions*

1. Can individuals still freely express their distaste for a particular religion to be practiced at the onset while pursuing non-violent measures?
2. When are the freedoms of expression and religion outweighed between each other?
3. What other measures can be applied and undertaken in order to ensure future protection of freedom of expression?
4. What are the consequences of continued negligence regarding conflicting ideas surrounding the freedoms of expression and thought and freedom of religion or belief?
5. What measures can be applied and undertaken to ensure the prevention of exploited rights regarding the freedom to express thought?

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<sup>34</sup> "Why is there communal violence in Myanmar?" BBC News. July 03, 2014. Accessed January 03, 2018. <http://www.bbc.com/news/world-asia-18395788>.

<sup>35</sup> Kreibich, Mirco, Johanna Goetz, and Alice Muthoni Murage. "Myanmar's Religious and Ethnic Conflicts: no end in sight." Heinrich Böll Foundation. May 24, 2017. Accessed January 03, 2018. <https://www.boell.de/en/2017/05/24/myanmars-religious-and-ethnic-conflicts-no-end-sight>.

# Topic #2: Protection of Civilians in Armed Conflict

*“Every day, we at the United Nations see the human toll of an absence of regulations or lax controls on the arms trade. We see it in the suffering of civilian populations trapped by armed conflict or pervasive crime. We see it in the killing and wounding of civilians — including children, the most vulnerable of all.”*  
- Ban Ki-moon, former United Nations Secretary-General<sup>36</sup>

## **Introduction**

A strong interdependence exists between armed conflict and human rights violations.<sup>37</sup> When people are denied the right to basic necessities of life, the resulting social unrest often escalates to violent conflicts. On the other hand, armed conflict leads to the breakdown of civic society and its institutions, which can subsequently undermine a broad range of human rights for vulnerable groups of people. Although various international institutions exist to maintain compliance with the human rights code of conduct, conflicts can sometimes rise to a point at which international law has little influence.<sup>38</sup> This has become increasingly problematic because while the number of international wars between states has declined, the number of wars fought within nations has been steadily rising. In these internal conflicts, the four crimes outlined under international humanitarian law — war crimes, crimes against humanity, ethnic cleansing, and genocide—have become central to warfare.

Such changes in armed conflict have had an adverse impact on civilians. Civilian lives may be lost or harmed, either accidentally or intentionally, due to ongoing arms warfare. They may also experience assaults on dignity, which often includes sexual or ethnic violence. Such aggression is often a means of using innocent civilians to pressurize opposing parties or to cause a general rise in fear. As such, an awareness of the interconnected relationship between armed conflict and human rights violations is key to ensuring the protection and promotion of universal human rights for all.

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<sup>36</sup> Ban Ki-moon, “Remarks to the Conference on the Arms Trade Treaty Secretary-General,” *United Nations*, 3 July 2012, [www.un.org/sg/en/content/sg/speeches/2012-07-03/remarks-conference-arms-trade-treaty](http://www.un.org/sg/en/content/sg/speeches/2012-07-03/remarks-conference-arms-trade-treaty).

<sup>37</sup> Michelle Maiese, “Human Rights Violations,” *Beyond Intractability*, July 2003, [www.beyondintractability.org/essay/human\\_rights\\_violations%20](http://www.beyondintractability.org/essay/human_rights_violations%20).

<sup>38</sup> Ibid.

## *History and Background*

### *International Humanitarian Law*

To aptly address the collapse of law and order in nations mired in armed conflict, the concept of international law was enacted as central to the preservation of humanity and the maintenance of civilization.<sup>39,40</sup> This ideology goes as far back as 1648 to the Peace of Westphalia, which emerged in an effort to deal with religious conflicts among various states at that time and set the precedent for the “sovereignty equality of states.”<sup>41,42</sup> Rules regarding the conduct of war, called *jus in bello*, were consequently developed, and are codified in the Geneva Conventions of the 19th and 20th centuries. In particular, the Fourth Geneva Convention, adopted in 1949, was the first legal framework developed to address the protection of civilians in warfare, the international community’s response to the brutal loss of life encountered in World War II.<sup>43,44</sup>

Independent of treaty law, customary international humanitarian law (IHL) is an unwritten body of rules, applicable to both international and internal conflicts, that governs a nation’s conduct during armed conflict. Rule 149 of customary IHL states, “A State is responsible for violations of international humanitarian law attributable to it, including:

1. Violations committed by its organs, including its armed forces;
2. Violations committed by persons or entities it empowered to exercise elements of governmental authority;
3. Violations committed by persons or groups acting in fact on its instructions, or under its direction or control; and
4. Violations committed by private persons or groups which it acknowledges and adopts as its own conduct.”<sup>45,46</sup>

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<sup>39</sup> Ibid.

<sup>40</sup> Eric Brahm, “International Law,” *Beyond Intractability*, September, 2003, [www.beyondintractability.org/essay/international-law](http://www.beyondintractability.org/essay/international-law).

<sup>41</sup> Ibid.

<sup>42</sup> “International Human Rights in Armed Conflicts,” *Democratic Progress Institute*, accessed December 27, 2017, [www.democraticprogress.org/wp-content/uploads/2014/12/Legal-Factsheet-IHR-in-Conflict.pdf](http://www.democraticprogress.org/wp-content/uploads/2014/12/Legal-Factsheet-IHR-in-Conflict.pdf).

<sup>43</sup> Maiese, “Human Rights Violations.”

<sup>44</sup> “Civilians protected under international humanitarian law,” *International Committee of the Red Cross*, October 29, 2010, [www.icrc.org/eng/war-and-law/protected-persons/civilians/overview-civilians-protected.htm](http://www.icrc.org/eng/war-and-law/protected-persons/civilians/overview-civilians-protected.htm).

<sup>45</sup> Democratic Progress Institute, “International Human Rights in Armed Conflicts.”

<sup>46</sup> *IHL Database - Customary IHL*, International Committee of the Red Cross, accessed December 27, 2017, [ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_cha\\_chapter42\\_rule149](http://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter42_rule149).

Customary IHL places restrictions on all parties involved and, more importantly, emphasizes the humane treatment of all civilians.<sup>47</sup> This involves the prohibition of discrimination, torture and other violations of personal dignity, the entitlement to a fair trial for those subject to arrest, and the provision for the appropriate protection of vulnerable groups.

### *Shortcomings of International Law*

While the Geneva Conventions, along with the complementary 1977 Additional Protocols, are considered universally binding under customary international law and clearly establish the standards for the treatment of civilians in armed conflict, their implementation in reality is complex and not always fully followed. As a result, civilians have continued to suffer appallingly in almost every armed conflict.

Although the primary duty to uphold IHL falls on states, IHL continues to lack an enforcement mechanism, and is ignored for various reasons.<sup>48</sup> Sometimes the powerful do not wish to have their power undermined by an external institution, and often specific nations consider most of international law as a tool wielded by the Western nations and developed to govern their conduct without their input.<sup>49</sup> Therefore, it remains an important goal of IHL to limit the unrestrained power of the state.

### *Current Situations*

A variety of factors, from globalization to improved weapons technology, have enabled civilian harm to reach unprecedented levels in the 20th century and beyond. The term “war crime” refers to a violation of the rules of *jus in bello* by any individual, and includes the act of taking hostages, firing on undefended and neutral institutions like schools and hospitals, and the pillaging of property.<sup>50</sup> Such war crimes are quite common, and have resulted in diverse and widespread acts of violence against civilians.

### *Acts of Violence Against Civilians*

#### *Sexual Violence*

In many instances of armed conflict, there have been cases of women and girls being raped by soldiers or forced into prostitution.<sup>51</sup> Sexual assault, including mutilation, humiliation, and

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<sup>47</sup> “Human Rights and Armed Conflict,” *Icelandic Human Rights Centre*, accessed December 27, 2017, [www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/human-rights-in-relation-to-other-topics/human-rights-and-armed-conflict](http://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/human-rights-in-relation-to-other-topics/human-rights-and-armed-conflict).

<sup>48</sup> Brahm, “International Law.”

<sup>49</sup> Maiese, “Human Rights Violations.”

<sup>50</sup> *Ibid.*

<sup>51</sup> “Civilians protected under international humanitarian law.”

forced pregnancy, is quite common. Such crimes are often motivated by the archaic belief that “women are the ‘spoils’ of war to which soldiers are entitled,” or used as a means of destroying community pride.<sup>52</sup>

### *Torture*

Physical torture consists of mutilation, beatings, and electric shocks to various parts of the body. Psychological torture includes acts involving the deprivation of food, water, and/or sleep or forceful standing for extended periods of time, and constant torment by excessively high-level noise.<sup>53</sup>

### *Enforced Disappearances*

According to international law, an enforced disappearance involves the denial of one’s liberty through secret abduction, followed by a refusal by the guilty party to acknowledge this act or reveal the individual’s location.<sup>54</sup> As such, these acts are considered illegal under international law, and are prohibited. Countless individuals detained worldwide in conflict-affected areas are subject to these disappearances annually, often at the hands of government forces.

### *Ethnic Cleansing*

The phenomenon of distinct ethnic populations co-existing in the same regions can often beget tensions, where one group often aims to seek dominance over another through forceful means. Although ethnic cleansing is not recognized as an independent crime under international law, it is often one of the root causes of armed conflicts.<sup>55</sup> Acts of ethnic cleansing include murder, torture, extrajudicial executions, and arbitrary arrest and detention.

### *Oppression*

Considered forms of political oppression, arbitrary arrests or imprisonment are often used to deal with individuals who either pose a threat to those in power or who do not share their political views.<sup>56</sup> These may be public figures who have criticized the party in power, or those of different ethnicities, races, or religious backgrounds. Discrimination is often the underlying reasoning behind violence against and oppression of civilians in areas of armed conflict.

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<sup>52</sup> Ibid.

<sup>53</sup> Maiese, “Human Rights Violations.”

<sup>54</sup> Ibid.

<sup>55</sup> “Ethnic Cleansing,” *United Nations*, United Nations Office on Genocide Prevention and the Responsibility to Protect, accessed December 27, 2017, [www.un.org/en/genocideprevention/ethnic-cleansing.html](http://www.un.org/en/genocideprevention/ethnic-cleansing.html)

<sup>56</sup> “International Human Rights in Armed Conflicts.”

## Bloc Analysis

### South Sudan<sup>57,58</sup>

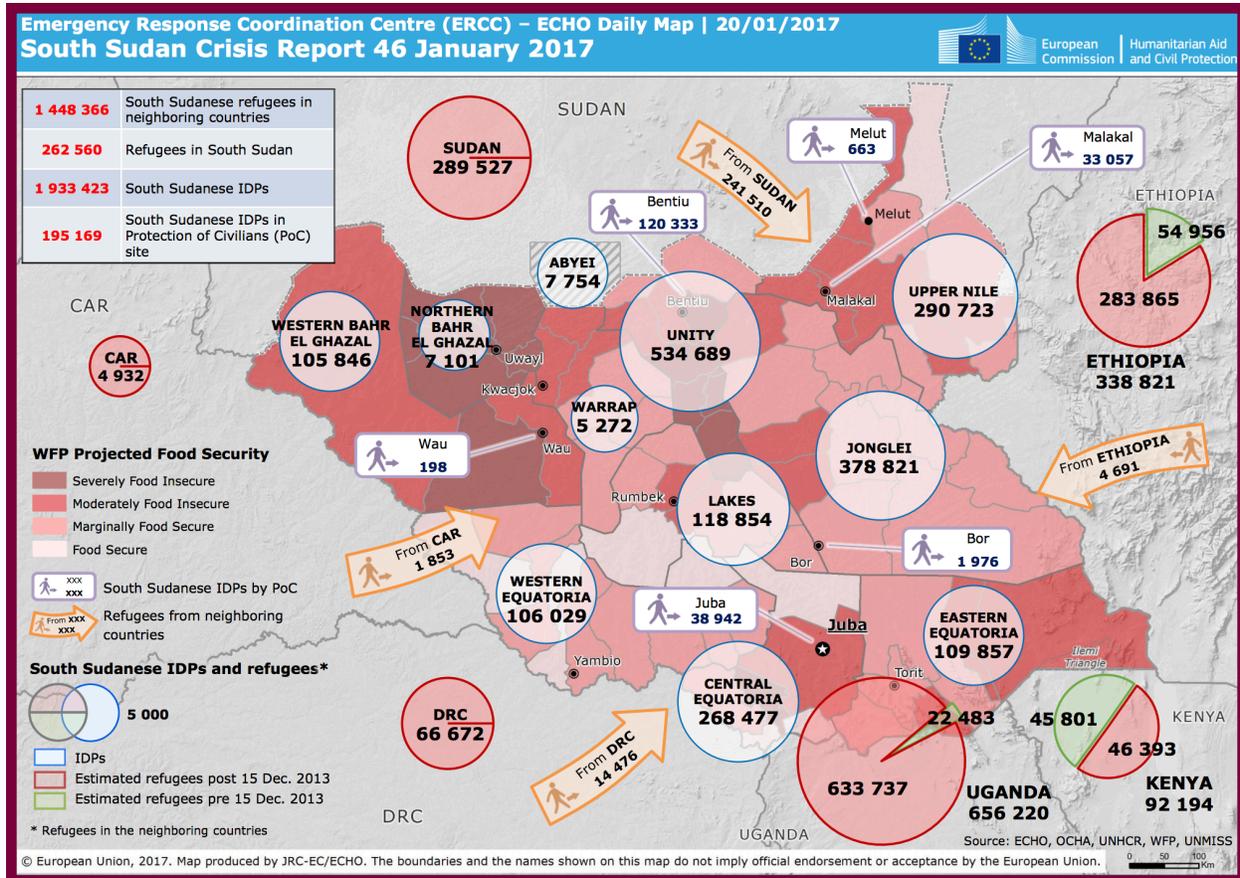


Figure 2: Map detailing many of the effects that South Sudan’s civil war has had on its civilians, as of January 2017.

Since December 2013, an ongoing civil war between the Sudan People’s Liberation Army (SPLA) forces and rebels have resulted in one common casualty—the civilians. There are countless documented cases of abuses and deaths, arbitrary arrests and detentions, torture, and forced disappearances and mass displacement, along with rape and sexual assault of women and young girls. Many of these are suspected to be acts perpetrated by government forces.

There is also a lack of accountability. Despite official investigations ordered by the President into alleged crimes and human rights violations committed in 2016 by soldiers throughout South

<sup>57</sup> “South Sudan: New Abuse of Civilians by Both Sides,” *Human Rights Watch*, November 22, 2016, [www.hrw.org/news/2016/11/22/south-sudan-new-abuse-civilians-both-sides](http://www.hrw.org/news/2016/11/22/south-sudan-new-abuse-civilians-both-sides).

<sup>58</sup> “South Sudan: Events of 2016,” *Human Rights Watch*, accessed December 27, 2017, [www.hrw.org/world-report/2017/country-chapters/south-sudan](http://www.hrw.org/world-report/2017/country-chapters/south-sudan)

Sudan, the government has kept such reports private and has rarely implemented their recommendations, conducted further investigations, or convicted perpetrators in civilian courts.

### *Iraq*<sup>59,60</sup>

In May 2017, reports of allegations of torture, rape and murder of civilians by government forces liberating the city of Mosul led the Iraqi interior minister to call for an official investigation. Other investigations have previously accused these troops of detaining and extrajudicially executing Mosul men. Previously, in May 2016, Prime Minister Haider al-Abadi stated that the government would act to protect civilians during the operation to retake Fallujah from the Islamic State of Iraq and Syria (ISIS). Despite such claims, over the next two weeks, there were recorded cases of executions, beatings, and enforced disappearances by government forces. According to local officials, as of mid-November 2016, there were still at least 600 men and boys missing. Others are believed to have been executed or killed by torture under the custody of the Hezbollah Brigade, a group within the government-affiliated Popular Mobilization Forces (PMF).

### *India*<sup>61,62</sup>

Since the conflict between Pakistan and India began in Kashmir, serious human rights violations have occurred against civilians. The Indian government has been accused of covering up the roles of high-ranking military and police officers in civilian deaths, disappearances, torture, and sexual violence in the Himalayan region of Kashmir. A report identifying over 900 individual perpetrators of human rights abuses between 1990 to 2014 in Kashmir recorded the extrajudicial murders of 1,080 people and enforced disappearances of 172 people, as well as cases of torture and sexual violence.

The greatest mechanism of government power is India's Armed Forces Special Powers Act (AFSPA), which ultimately gives soldiers the power to kill, arrest, search and detail with impunity. Since its enactment in 1958, it has protected India's armed forces from prosecution and punishment for human rights violations against Indian civilians in "disturbed areas" such as Kashmir. Despite calls for its repeal and some progress made by the Supreme Court of India, soldiers continue to have immunity from prosecution when deployed in areas of internal conflict.

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<sup>59</sup> Bethan McKernan, "Iraq investigating claims of civilian abuse by soldiers in Mosul," *The Independent*, May 25, 2017, [www.independent.co.uk/news/world/middle-east/iraq-mosul-civilian-abuse-soldiers-fight-isis-der-spigel-torture-knives-rape-hanging-e-a7755566.html](http://www.independent.co.uk/news/world/middle-east/iraq-mosul-civilian-abuse-soldiers-fight-isis-der-spigel-torture-knives-rape-hanging-e-a7755566.html).

<sup>60</sup> "Iraq: Events of 2016," *Human Rights Watch*, accessed December 27, 2017, <https://www.hrw.org/world-report/2017/country-chapters/iraq>

<sup>61</sup> "End Abuses by the Indian Military," *The New York Times*, July 24, 2015, [www.nytimes.com/2015/07/25/opinion/end-abuses-by-the-indian-military.html](http://www.nytimes.com/2015/07/25/opinion/end-abuses-by-the-indian-military.html).

<sup>62</sup> "India: Events of 2016," *Human Rights Watch*, accessed December 27, 2017, <https://www.hrw.org/world-report/2017/country-chapters/india>

### *Myanmar (Burma)*<sup>63,64</sup>

Since a new Burmese government took office in March 2006, fighting between the government armed forces and ethnic rebel groups has increased. Since November 2016, the Myanmar Army has been responsible for extrajudicial killings, torture, sexual violence, and destruction of property. Its soldiers have also been implicated in the use of anti-personnel landmines and forced recruitment, including of children. Muslim minorities in Burma—the millions of ethnic Rohingya, in particular—also continuously face systemic human rights violations.

Such crimes are facilitated by an almost complete absence of accountability measures. Under the 2008 constitution, the military retains autonomy from civilian oversight and extensive power over the government and national security. It also has an effective veto over any constitutional amendments, and is authorized to assume power in case of a national state of emergency. As such, human rights violations will continue to occur unabatedly unless accountability measures are implemented and enforced.

### *Syria*<sup>65</sup>

A roaring humanitarian crisis, Syria's internal conflict has resulted in over 6.1 million internally displaced people and 4.8 million refugees currently abroad. Syrian and Russian airstrikes have targeted civilians and civic institutions, including homes, markets, schools, and hospitals, using dangerous weaponry, such as wide-area explosives and barrel bombs. Arbitrary detention, ill-treatment, torture, and forced disappearances by Syrian government forces are also widespread and occur "within a climate of impunity." There were reportedly 12,679 deaths of individuals in custody due to government detention between March 2011 and June 2016. Additionally, between 2012 and 2016, Syrian government forces used at least 13 types of internationally banned cluster munitions—explosive weapons which fail to distinguish between fighters and civilians and thus threaten a large loss of innocent life—in more than 400 attacks on opposition-held areas.

## ***Conclusion***

The evolving nature of conflict and warfare continues to bring dire consequences to the most vulnerable groups in areas of armed conflict — the civilians. There is also no consensus around the role of external humanitarian intervention during internal armed conflicts. While some argue that states must handle the situation themselves, others believe that the role of the international community becomes necessary when the government's capacity to handle the situation is either

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<sup>63</sup> "Burma: Events of 2016," *Human Rights Watch*, accessed December 27, 2017, <https://www.hrw.org/world-report/2017/country-chapters/burma>

<sup>64</sup> "All the Civilians Suffer: Conflict, Displacement and Abuse in Northern Myanmar," *Amnesty International USA*, June 14, 2017, [www.amnestyusa.org/reports/civilians-suffer-conflict-displacement-abuse-northern-myanmar/](http://www.amnestyusa.org/reports/civilians-suffer-conflict-displacement-abuse-northern-myanmar/).

<sup>65</sup> "Syria: Events of 2016." *Human Rights Watch*, accessed December 27, 2017, <https://www.hrw.org/world-report/2017/country-chapters/syria>

limited or its intention to protect civilians is questionable.<sup>66</sup> Proponents of the latter posit that “if, through its atrocious actions, a state destroys the lives and rights of its citizens, it temporarily forfeits its claims to legitimacy and sovereignty.”<sup>67</sup> It must then fall on outside nations and governments to take the steps needed to protect human rights and preserve life.

To ultimately address human rights violations, an understanding of the underlying causes must be gained. Oppression, discrimination, and other denials of human rights often arise from complex political, social, and economic concerns. As such, these root causes must be exposed before human rights can be protected and innocent lives can be spared.

### *Focus Questions*

1. Should the responsibility of dealing with the protection of civilians in armed conflicts fall to the sovereignty of the nation in question, even though the government itself may be corrupt, or should the international community have the right to interfere, possibly against the nation’s wishes, in order to preserve human rights for all?
2. What are the moral consequences of using violence to end human rights violations?
3. What are the priorities in addressing human rights violations in conflict-affected countries?
4. How can accountability be ensured to aid in the peace-building and development processes?

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<sup>66</sup> Maiese, “Human Rights Violations.”

<sup>67</sup> Ibid.

## Topic #3: LGBTQ Adoption Rights

*"We can and must learn to abandon hate. We can and must teach celebration of diverse gender identities and of consensual intimacy – of love – instead, and to love better those who are learning – even as they develop their identities and learn about love."*

*- Kate Gilmore, Deputy High Commissioner<sup>68</sup>*

### **Introduction**

The last decade has seen a sharp increase in the number of LGBTQ couples forming their own families through adoption, foster care, artificial insemination and other means. It is estimated that there are six to fourteen million children living with at least one gay parent in the United States alone.<sup>69</sup> However, problems regarding foster care with LGBTQ families are still prevalent, whereby a parent's sexual orientation can still be used to deny custody, adoption, visitation and foster care. This is exemplified by the 1993 Virginia case of Sharon Bottoms, whose 2-year-old son was transferred to his maternal grandmother simply due to Bottoms' sexual orientation.<sup>69</sup> The issues from this example mainly center around skepticism regarding the capabilities of and morality of allowing LGBTQ individuals to act in a parental capacity. It thus remains very difficult to pursue international adoption as an openly LGBTQ couple or even as a single open LGBTQ person due to the fact that many countries are extremely prejudiced against such individuals.<sup>70</sup>

Based on these rising conflicting issues, appropriate measures must be applied in order to ensure that the rights of all are being maintained and that cultural bias against specific persons looking to adopt, due to their sexual orientation, does not become a barrier. Rather, the sole specification that needs be applied concerning adoption should be the suitability of the potential adopter to act in a parental capacity, without considering their sexual orientation in the matter. This issue must be combated alongside the inherent discrimination against LGBTQ individuals in certain countries internationally and the extent to which it affects child care and childrearing on a global perspective.

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<sup>68</sup> "Statement by Kate Gilmore, Deputy High Commissioner, at the International Ministerial Meeting on Education Sector Response to Violence based on Sexual Orientation and Gender Identity/Expression." United Nations Human Rights: Office of the High Commissioner. Accessed January 04, 2018. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19973&LangID=E>.

<sup>69</sup> "Overview of Lesbian and Gay Parenting, Adoption and Foster Care." American Civil Liberties Union. Accessed January 03, 2018. <https://www.aclu.org/fact-sheet/overview-lesbian-and-gay-parenting-adoption-and-foster-care>.

<sup>70</sup> "Adoption Options Overview." Human Rights Campaign. Accessed January 03, 2018. <https://www.hrc.org/resources/adoption-options-overview>.

## *Current Situations and Background*

In order to accurately understand the conflicting themes present within the concept of LGBTQ individual adoption rights, it is first necessary to consider the current biases towards LGBTQ persons themselves globally. Biases towards these individuals are still rampant throughout large areas of the international world, despite continued efforts to promote inclusion and remove stigmatization and discrimination.

### *Turkey*

Primarily, countries opposed to the inclusivity of LGBTQ persons as part of general society cite cultural expectations and values as the reasoning for continued discrimination. In November 2017, Turkish President Recep Tayyip Erdogan criticized the inclusion of LGBTQ people on a neighbourhood committee.<sup>71</sup> This was seen as a clear attack on the affected parties as subsequent actions taken by the Ankara governor banned all LGBTQ events in the province indefinitely.<sup>71</sup>



Figure 3:  
A photo taken at the London Pride Parade on June 25, 2016, with activists expressing solidarity with Turkey's LGBTQ community.

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<sup>71</sup> Dittrich, Boris. "Turkey Squelching LGBT Events." Human Rights Watch. December 01, 2017. Accessed January 03, 2018. <https://www.hrw.org/news/2017/12/01/turkey-squelching-lgbt-events>.

The extent of these restrictions represents an infringement upon and violation of the fundamental rights of these individuals as enshrined by the European Convention on Human Rights (ECHR). This is despite the fact that the Committee of Ministers of the Council of Europe, including the Turkish foreign affairs minister, adopted recommendations that “member states should take appropriate measures at national, regional and local levels to ensure that the right to freedom of peaceful assembly can be effectively enjoyed, without discrimination on grounds of sexual orientation or gender identity.”<sup>71</sup> However, regardless of the adoption of these principles on the international level, a lack of enforcement due to clear cultural biases against LGBTQ individuals at the ground level prevents any real measures to be applied, creating an unfair dichotomy within the present climate.

### *Uganda*

Some countries demonstrate cultural biases towards LGBTQ individuals through long-standing criminal codes, which are still enforced to this day. In January 2014, Ugandan President Yoweri Museveni signed into law the Anti-Homosexuality Act, which functioned to criminalize the “promotion of homosexuality,” leading to arrests, evictions, firings and hate crimes against LGBTQ people throughout the country.<sup>72</sup> The enactment of this law was in direct violation of free assembly rights, and it allowed for the closure of a human rights workshop organized by LGBTQ activists simply by claiming that the workshop participants were “promoting” or “inciting” same-sex acts.<sup>72</sup> The clear bias towards these individuals prevents any type of appropriate discourse in the current climate aimed towards encouraging the inclusion and protection of individual freedoms. Similar events have also been recently exemplified by the Ugandan police’s routine violations of free expression and assembly rights, in particular concerning individuals who criticize the government or who voice divergent views. This has resulted in the shutting down of all LGBTQ Pride events in Uganda and in the promotion of statements claiming that “no gay gathering and promotion can be allowed in Uganda.”<sup>72</sup>

### *Japan*

Issues concerning LGBTQ rights are not only apparent in countries that openly oppose their continued presence, but also within countries that have championed LGBTQ rights. Recently, Japan took positive steps to improve the rights of LGBTQ individuals, such as the updated 2017 Basic Policy for the Prevention of Bullying, which mandates that schools must prevent the bullying of students based on their sexual orientation or gender identity by “promot[ing] proper understanding of teachers on...sexual orientation/gender identity as well as mak[ing] sure to inform on the school’s necessary measures regarding this matter.”<sup>73</sup> However, despite this major stride forward, transgender people in Japan who seek legal gender change must appeal to a

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<sup>72</sup> "Uganda: Police Raid Queer Kampala Film Festival." Human Rights Watch. December 15, 2017. Accessed January 03, 2018. <https://www.hrw.org/news/2017/12/15/uganda-police-raid-queer-kampala-film-festival>.

<sup>73</sup> "Japan: Anti-Bullying Policy to Protect LGBT Students." Human Rights Watch. March 24, 2017. Accessed January 03, 2018. <https://www.hrw.org/news/2017/03/24/japan-anti-bullying-policy-protect-lgbt-students>.

family court under Law 111 of 2003, which still makes use of a discriminatory procedure, requiring a psychiatric evaluation for single applicants without children under 20, in order to receive a diagnosis of “Gender Identity Disorder” (GID), and subsequently be sterilized.<sup>74</sup> The law itself requires the use of forced sterilization, a practice that has been condemned by various health and rights organizations internationally.<sup>74</sup> The main issue being drawn here is the fact that in order for transgender individuals to be publicly accepted regarding their chosen gender, they must submit to unwanted sterilizations, making this a clear human rights violation.<sup>74</sup>

### *Generalized Themes Regarding LGBTQ Rights*

The examples discussed previously function to clearly demonstrate the multifaceted nature of the issue regarding LGBTQ adoptions rights, in that not only must the adoption issues be covered, but that they themselves are dependent on the views regarding LGBTQ individuals set in place by a country. As such, in order to consider the enactment of policies concerning LGBTQ adoption rights, latent biases towards LGBTQ individuals present internationally have to be addressed. A country that has continuous bias towards LGBTQ persons in some way so as to violate the basic human rights of these individuals will not be likely to make use of policy concerning their capacity to adopt children and form a family.

## ***Bloc Analysis***

### *Analysis of LGBTQ Persons as Capable Parents*

A primary argument against the allowance of LGBTQ persons as potential child adopters is the suggestion that they would make ill-suited parents and, by extension, be unable to provide an appropriate familial environment for children to develop. Despite this claim, a study by Anderssen et. al (2002) showed that children raised by either lesbian or gay parents did not systematically differ from children raised by heterosexual parents in outcomes concerning emotional functioning, sexual preference, stigmatization, gender role behaviour, behavioural adjustment, gender identity, and cognitive functioning.<sup>75</sup> In addition, the study further showed that children raised by either lesbian mothers or gay men did not experience adverse outcomes compared with other children, as commonly believed due to cultural bias.<sup>75</sup> However, stigmatization against LGBTQ couples and their pre-supposed capabilities as parents can be linked to the age group of censused populations. Analysis of attitudes concerning lesbian and gay parenting, specifically among elderly adults, revealed a more positive evaluation for heterosexual and lesbian parents, while a more negative attitude concerning parenting capabilities and child

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<sup>74</sup> Doi, Kanae, and Kyle Knight. "Japan Forces Sterilization on Transgender People." Human Rights Watch. November 29, 2017. Accessed January 03, 2018. <https://www.hrw.org/news/2017/11/29/japan-forces-sterilization-transgender-people>.

<sup>75</sup> Anderssen, Norman, Christine Amlie, and Erling Andre Ytteroy. "Outcomes for children with lesbian or gay parents. A review of studies from 1978 to 2000." *Scandinavian Journal of Psychology* 43, no. 4 (September 2002): 335-51. doi: 10.1111/1467-9450.00302.

outcomes was associated with gay male parent couples.<sup>76</sup> In general, it was demonstrated that a higher degree of negative attitudes towards lesbian and gay parents were driven by older age groups, right-wing conservatism, and internalized sexual stigma.<sup>76</sup>

The results of studies such as these convey that issues concerning the adoption rights of LGBTQ persons is more deeply entrenched within the cultural norms of a society, irrespective of the country. Depending on the atmosphere that a population is exposed to, attitudes towards LGBTQ parenting can change drastically. For example, adoption laws have the potential to be extremely contradictory in the United States. In states such as South Dakota, adoption agencies are freely allowed to refuse to place children with families that violate the agency's religious beliefs<sup>77</sup>. However, other states such as Maryland and Massachusetts have prohibitions concerning sexual orientation discrimination at adoption agencies. As such, there is a need to consider how changing settings influence the extent to which the rights of LGBTQ persons are respected, and whether any violations to these rights are occurring solely due to cultural influence and pre-existing stigmatization. Dependent on the region of consideration, the attitudes of population toward the capabilities of LGBTQ persons as parents will inevitably change; however, the attitudes themselves must be defined and removed of any generalization to create clear understanding of a country's stance regarding this issue.

## ***Conclusion***

In order to appropriately set standards of LGBTQ adoption rights, the rights of LGBTQ persons must first be further discussed as they relate to the outcomes of children placed within LGBTQ families. The most important factor that this body must account for is the benefits that children may receive depending on the type of family that they are placed with. Therefore, a discussion of this issue must account for the cultural influences of regions internationally that directly impact the process by which LGBTQ persons are able to exercise their right to adopt and start a family.

## ***Research Questions***

1. How can better measures be defined to assess capabilities of a possible candidate as a parent, irrespective of sexual orientation bias?
2. To what extent do current perspectives and bias against LGBTQ individuals internationally affect the capacity for child adoption?
3. How can we combat long-standing criminal codes persecuting LGBTQ individuals within countries as they relate to individual rights and by extension the ability for persons to form families?

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<sup>76</sup> Baiocco, Roberto, Nicola Nardelli, Lina Pezzuti, and Vittorio Lingiardi. "Attitudes of Italian Heterosexual Older Adults Towards Lesbian and Gay Parenting." *Sexuality Research and Social Policy* 10, no. 4 (December 14, 2013): 285-92. doi:10.1007/s13178-013-0129-2.

<sup>77</sup> Harris, Elizabeth A. "Same-Sex Parents Still Face Legal Complications." *The New York Times*. June 20, 2017. Accessed January 03, 2018. <https://www.nytimes.com/2017/06/20/us/gay-pride-lgbtq-same-sex-parents.html>.