
The Thirtieth Annual

Virginia Model United Nations Conference

Presents...

United Nations Human Rights Council

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Dear Delegates,

Welcome to the 30th annual Virginia Model United Nations conference! I am very excited for this year’s simulation of the U.N. Human Rights Council and can’t wait to meet all of you!

My name is Nikhi Kasibhotla and I will be your chair at this year’s VAMUN. I’m a third year foreign affairs and chemistry double major at the University of Virginia. I’m originally from Fairfax, Virginia and I’ve participated in Model UN since middle school. This is my second time chairing for VAMUN in addition to having chaired for our college conference this past year. I’ve enjoyed every part of researching and putting together this background guide for you and have always had a great interest in issues pertaining to human rights. I hope you find these topics to be challenging and interesting to address and I encourage you to do additional research on your countries, the Human Rights Council, and on the topics. Being well prepared for the Council will serve you well in the conference and will hopefully make it a fun experience!

I look forward to meeting you in November but please feel free to email me with any questions you may have along the way!

Sincerely,
Nikhi

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Introduction

In this session of the UN Human Rights Council, member nations (or delegates) are required to properly represent his or her nation's views on the issues of electoral violence and police brutality and accountability. As a reminder, it is important to consider not only your individual nation's opinion on the topics at hand, but the history of the issues within your nation and any possible steps, resolutions, and/or mistakes your country has made to aid in the progression or eradication of the issues. Strive to look beyond the efforts of your nation and find any mistakes and/or successes made by other members. These will prove to be very useful tools for your success in UNHRC.

The U.N. Human Rights Council is an inter-governmental body within the United Nations which addresses human rights issues around the world. The HRC is a recent restructured version of the previous Commission on Human Rights in attempts to improve their previous standards.

Your topics will be the issues of electoral violence (Case study: Sri Lanka) and police brutality and accountability (Case studies: India, China). Be aware that while I may have provided case studies in the background guide, the topics are not limited

to these nations. Don't be concerned if your nation isn't one of the nations mentioned as many, if not most, nations have faced some level of electoral violence and/or police brutality. These issues are universal and must be addressed because of the level at which they stunt human rights and impede on simple democratic processes such as political freedom and law/order. Therefore, work to find both case specific and universal solutions, long term and short-term, and most importantly, creative and effective solutions which have not (or rarely) been utilized.

Human Rights Council

An inter-governmental body within the United Nations, the U.N. Human Rights Council was created by the UN General Assembly on March 15th 2006 as the successor to the Commission on Human Rights. The main purpose of the UNHRC is to address and attempt to resolve issues of human rights violations occurring around the world. The principle of universal human rights was first formally recognized under the Universal Declaration on Human Rights in 1948.¹ Additionally, some other very

¹ "United Nations Human Rights." *Office of the High Commissioner for Human Rights*. United Nations,

important changes occurred as a result of the 2006 restructuring to the Human Rights Council.

Generally, the U.N. Human Rights Council consists of 47 member nations, with each member serving a three year term (for at most 2 consecutive terms) before rotating out of the Council. The seats are distributed among regional groups with 13 seats for Africa and Asia, 6 seats for Eastern Europe, 8 for Latin America and the Caribbean, and 7 for Western Europe and others. The members of the newly created council are obligated to protect and promote human rights.

One of the very important elements of the UNHRC is the Universal Periodic Review. The Universal Periodic Review is a mechanism by which the Council assesses the human rights situations in all 192 UN member states every four years. The UPR is a state-driven process. The review is conducted by UNHRC members, with each country having the ability to review, assess, and recommend changes to another U.N. member nation's human rights situation. Every state is obligated to disclose the actions it has taken to improve human rights

in its nation and possible setbacks due to the fact that they themselves conduct reviews of other nations. The UPR is the first such review, at least on a global platform, and therefore aims to remind nations of their responsibility to implement strategies to improve human rights and fundamental freedoms.²

However, there is another view of the UPR. This is embodied in the UN Watch Review. The UN Watch is a Geneva-based NGO whose mission is to monitor the performance of the United Nations according to its own charter. The NGO played a large role in combating human rights abuses and was praised by former UN Secretary General Kofi Annan for its contribution to human rights. The UN Watch is a critic of the UNHRC, stating that many of the UNHRC members have poor human rights records. These beliefs were voiced the UN Watch Review of the most recent UPR report, titled "Mutual Praise Society", which showed that out of the 55 countries examined, including the 47 UNHRC members, only 19 had at least average human rights scores. 32 out of the 55 countries "acted as a mutual praise

2010. Web. 27 Jul 2010.
<<http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights>

² "The Human Rights Council." *UN Human Rights Council*. United Nations, 2010. Web. 27 Jul 2010.
<<http://www2.ohchr.org/english/bodies/hrcouncil/>>.

society, misusing the process in order to legitimize human rights abusers, instead of holding them accountable."³

Of the 19 countries marked with positive scores, only Canada was ranked as ‘very constructive’ and continued to rigorously address the countries with specific human rights issues. Therefore, it was the only nation to uphold the UPR’s purpose of reminding nations of their human rights responsibilities. Of the countries who were rated as constructive were: France, Germany, Mexico, Netherlands, Slovenia, Switzerland, U.K., and the U.S. These nations, while highlighting their own human rights successes, failed to show much strength in holding those ‘weaker’ nations accountable. The UN Watch and many other NGOs claim that this is a result of maintaining ‘friendly diplomatic relations.’ Those countries recognized for having made positive but weak contributions include: Argentina, Bosnia, Brazil, Chile, Italy, Japan, Slovakia, South Korea, and Zambia. The following nations’ contributions to the Review were marked as either detrimental or

very detrimental: Bolivia, Ghana, Russia, South Africa, Uruguay; Angola, Egypt, Jordan, India, Iran, Madagascar, Malaysia, Mauritius, Nicaragua, Saudi Arabia, and Senegal. The countries that seem to praise and encourage practices which violate human rights, according to UN Watch, were: Azerbaijan, Bahrain, Bangladesh, China, Cuba, Djibouti, Indonesia, Libya, Nigeria, North Korea, Pakistan, Philippines, Qatar, Syria, Sudan, and Zimbabwe. The UN Watch stated that many countries responded in a politicized manner during the review, often siding with bloc countries or their usual allies.³

It is important to remember that while the UN Watch is a very established NGO, the results of their review are subject to a certain amount of bias. The reason for providing you with this data is to acknowledge the fact that often the creation of bureaucratic structures, reviews, and processes comes with its own setbacks. Take reviews such as these (UN Watch “Mutual Praise Society”:

<http://www.unwatch.org/atf/cf/{6DEB65DA-BE5B-4CAE-8056-8BF0BEDF4D17}/Mutual%20Praise%20Society.pdf>) and the information provided about each review under UNHRC’s UPR Sessions: <http://www.ohchr.org/EN/HRBodies/UPR/Pages>

³ "Mutual Praise Society: Country scorecard and evaluation of the UPR system of the U.N. Human Rights Council." *U.N. Watch*. U.N. Watch, 06 Feb 2009. Web. 27 Jul 2010. <<http://www.unwatch.org/atf/cf/%7B6DEB65DA-BE5B-4CAE-8056-8BF0BEDF4D17%7D/Mutual%20Praise%20Society.pdf>>.

[/UPRSessions.aspx](#), to come up with a comprehensive idea of human rights violations and responsibilities of each member nation, particularly the nation you are representing.

Topic 1: Electoral Violence

Introduction

Of the two topics we will be addressing in the Human Rights Council, the topic of electoral conflict and violence is by far the more challenging. The term electoral violence is itself self-explanatory and broad. It addresses the various types of violence which may take place before, during, and after elections. Threats, assassinations, assaults, intimidation, and fights which may impede in a possible voter's ability to cast a ballot or even cause a forced change in opinion about political candidates all qualify as examples of electoral violence. In the past decade there have been marks of various unfair electoral processes- for example, the elections which have taken place in Iran, Iraq, Afghanistan, Sri Lanka, Sub-Saharan Africa, and many other conflict ridden societies. There has been much research done on the topics of political conflict and resolution, electoral processes in conflict nations, and how to promote peaceful

solutions. It will be beneficial for you to do research on these topics in addition to your research on electoral violence. Feel free to contact me along the way if you still have any concerns or questions about this topic after reading this guide and conducting your research.

The issue of electoral violence falls into the jurisdiction of many UN General Assembly and specialized agencies. This includes the UN Human Rights Council as well as the Special Political and Decolonization Committee and the Social, Cultural, and Humanitarian Committee. In a broad sense, this issue falls underneath the UN and the principle of the rule of law.⁴ "Establishing respect for the rule of law is fundamental to achieving a durable peace in the aftermath of conflict."⁴ The case of Sri Lanka is one example of where a post-civil war nation is faced with multiple discrepancies in its rule of law. According to the Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies:

"For the United Nations, the rule of law refers to a principle of

⁴ "United Nations and the Rule of Law." *United Nations*. United Nations, n.d. Web. 27 Jul 2010. <<http://www.un.org/en/ruleoflaw/index.shtml>>

governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency."⁵

As a committee, it will be important for us to address these issues of equality, accountability, and fairness when it comes to controlling electoral violence, in addition to understanding the distinct histories of each case study, the major reasons for electoral conflict, and how to reduce this conflict itself- not just focusing on how to conduct fair elections.

According to page 5, Clause 11 of the "Report of the Secretary-General on

Peace-building in the immediate aftermath of conflict" the first post-conflict elections often will not exercise full political freedom due to the lack of a stable political order. As a result, national authorities are appointed who may not be completely representative of the population and often some "national actors maybe be implicated in past human rights abuses."⁶

In the following history and case study of the issue you will find that many post-conflict nations are faced with similar problems. The issue of national authorities being appointed who do not represent large minority groups (such as the Tamil minority in Sri Lanka) is another factor of electoral violence. The lack of political consensus becomes a major factor of post conflict nations and the ensuing political violence.⁶ This will be an important question that must be addressed in the Human Rights Council. While it does not fall under your complete jurisdiction to address peace-building mechanisms, you should address the issue of how and who to hold accountable for creating the political unrest, which results in the fear and intimidation of voters.

⁵ *Ibid.*

⁶ "Report of the Secretary-General on peacebuilding in the immediate aftermath of conflict." *United Nations Rule of Law*. United Nations, 11 Jun 2009. Web. 27 Jul 2010. <http://www.unrol.org/files/pbf_090611_sg.pdf>.

Main issues in electoral violence:

1. Voter intimidation
2. Voter fraud/buying
3. Pre, during, and post-election violence
4. Privacy of voters
5. Military or civilian coups in which the post-election government is overthrown
6. Lack of UN involvement- UN no longer provides electoral monitoring services – this responsibility has been given to other non-profits, regional organizations, which raises concern about lack of uniformity in electoral monitoring, without universally followed techniques for electoral monitoring-can the international community fairly critique and change affected nations?

“(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”⁷

This declaration of the right for genuine, free, and fair elections makes it very apparent that violence which affects voters is a violation of the Universal Declaration on Human Rights.

A major issue then becomes education about the right to free and fair elections. The citizens of many conflict-ridden nations are unaware of or less worried about the right to vote freely and

History

Article 21 of the Universal Declaration on Human Rights states that:

⁷ "The Universal Declaration of Human Rights." *United Nations*. United Nations, 10 Dec 1948. Web. 27 Jul 2010. <<http://www.un.org/en/documents/udhr/index.shtml#a21>>.

without fear or violence, especially in the grand scheme of issues such as poverty, lack of food, water, and shelter which already continue to plague them. As a result, one important feature of your research should involve what sort of steps can/should be taken to raise this awareness. Lack of UN involvement has resulted in the involvement of various NGOs and other regional organizations, each with their own plans on how and when to address education and awareness about fair electoral processes.

When addressing awareness it is important to wholly define electoral violence and its stages. One challenge is that organizations define and map electoral violence in various ways. One such example comes from the International Foundation for Electoral Systems (IFES), an international NGO focused on the improvement of electoral processes in many post-conflict nations. According to the IFES, electoral conflict and violence can occur at 5 intervals in an election chronology:

1. Identity conflict can occur during the registration process when refugees or other conflict-forced migrants cannot establish or re-establish their officially recognized identities.

2. Campaign conflict can occur as rivals seek to disrupt the opponents' campaigns, intimidate voters and candidates, and use threats and violence to influence participation in the voting.

3. Balloting conflict can occur on Election Day when rivalries are played out at the polling station.

4. Results conflict can occur with disputes over election results and the inability of judicial mechanisms to resolve disputes a fair, timely, and transparent manner.

5. Representation conflict can occur when elections are organized as “zero sum” events and “losers” are left out of participation in governance.⁸

In this same report, Sri Lanka was found to be one of 14 countries of conflict with unfair and ‘not free’ elections and had political rivals in conflict with each other for political gain.⁹ When looking at other cases of electoral violence and political instability (ie. Pakistan, Bangladesh), one concern is that a failure to conduct a free and fair

⁸ "IFES paper: Electoral Conflict and Violence- a strategy for study and prevention." *United Nations Public Administration Network*. International Foundation for Electoral Systems, Jan 2002. Web. 27 Jul 2010. <<http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN019255.pdf>>.pg.4

⁹ Ibid pg.5

election could pre-empt a democratic transition and result in a history of violence and instability.¹⁰ According to IFES one effective solution in the past has been the utilization of certain security instruments including international military forces, international civilian police, and local security forces. As delegates, consider the extent to which this is necessary in every nation thought to have partly free or not free elections. Does your country support the idea of international security forces to secure the freedom of another nation's voters? What possible legislation could the HRC enact? Is a comprehensive solution needed which attack all aspects of the election process-from registration to post-election time- or should each be addressed individually?

Case study: Sri Lanka

Background:

Since gaining political independence from the British Empire in 1948 and changing its name from Ceylon to Sri Lanka in 1972, the Democratic Socialist Republic of Sri Lanka faced many problems due to the existence of ethnic conflicts between the

Sinhalese majority and Tamil minority.¹⁰

The Tamils originally immigrated for southern India and consist of 10-15% of the Sri Lankan population. The Sinhalese are native to the island and are a majority at around 75%.¹¹ While the Tamil minority remains predominantly in North and East Sri Lanka, the Sinhalese majority resides in the rest of the island-including the capital of Colombo.

Sri Lankan Electoral System:

The Sri Lankan Constitution establishes a democratic republic of Sri Lanka with a government that is a mix of the presidential and parliamentary systems. The President presides over the 225 unicameral parliament. The Sri Lankan electorate contains a mix of various ethnic groups. The Sinhalese majority, the Tamil minority, and also a small Muslim minority are the three largest, along with a few other groups. The main political parties of Sri Lanka are also based off of such ethnic divides. The two dominant parties are: the United National Party

¹⁰ "CIA World Factbook: Sri Lanka." *Central Intelligence Agency*. CIA, 24 Jun 2010. Web. 27 Jul 2010. <<https://www.cia.gov/library/publications/the-world-factbook/geos/ce.html>>.

¹¹ "A Brief History of the Tamil Tigers." *TIME*. TIME in partnership with CNN, 04 Jan 2009. Web. 27 Jul 2010. <<http://www.time.com/time/world/article/0,8599,1869501,00.html>>.

(UNP), a center-right and conservative party, and the Sri Lanka Freedom Party (SLFP), a democratic socialist and Sinhalese nationalist party. Both parties consist mainly of Sinhalese. Nationally, the Sinhalese parties dominate whereas the regional politics of Tamil majority regions of northern and eastern Sri Lanka are dominated by Tamil parties. In hopes of fixing the electoral divide, the 17th amendment of the Sri Lankan Constitution replaced the office of the Commissioner on Elections with an independent Election Commission. This shift was made to avoid electoral corruption but despite such changes, the electoral divide remains in the nation with Sinhalese predominantly taking most of the seats in Parliament.

Electoral Violence: during and post-conflict

The following are two notable elections during which an elevated amount of electoral violence occurred. While it is not important for you to remember the history of the Sri Lankan government, the Civil War, the details of these elections are provided in order for you to draw ideas and solutions from previous situations of electoral violence.

October 2000 General Parliamentary Elections:

The elections were called by President Chandrika Kumaratunga, from the People's Alliance party, for the 24th of October, 2000. 70 people were killed during the campaign and 6 were killed on election day.¹³ During the first 5 weeks of campaigning around 61 people were killed and a record of 1,727 cases of election-related violence was reported in the weeks following. There were "complaints of malpractice from central Sri Lanka" and "gunmen were reported to have stormed a polling station."¹²

December 2001 General Parliamentary Elections:

According to the Institute of Peace and Conflict Studies (IPCS), a prominent and independent South Asian think tank, "in Sri Lanka, violence has become the normal element in all political processes."¹³

However, the 2001 elections were unprecedented in the amount of electoral violence which took place.

¹² "Shadow over Sri Lankan poll." *BBC News*. BBC, 10 Oct 2000. Web. 27 Jul 2010. <http://news.bbc.co.uk/2/hi/south_asia/963337.stm>.

¹³ Manoharan, N. "Sri Lankan Parliamentary Elections- III Electoral Violence: The Roots2001." *Institute of Peace and Conflict Studies*. IPCS, n.d. Web. 27 Jul 2010. <<http://www.ipcs.org/article/sri-lanka/sri-lankan-parliamentary-elections-2001-iii-electoral-violence-the-roots-667.html>>.

“Between October 20 and December 14 there were 2362 major incidents of violence including 56 deaths, 112 cases of attempted murder, 29 abductions, 51 lootings and 215 acts of arson. This averages 43 incidents per day.”¹³

Further Case studies:

1. Sub-Saharan Africa: Many African countries face high levels of corruption and electoral violence, the US Institute of Peace conducted a review, found here: <http://www.usip.org/files/resources/PB13Electoral%20Violence.pdf>
2. Other electoral violence cases of Iran, Iraq, Afghanistan, many nations in Africa, etc.

Additional Sources:

In addition to the following sources, the sources I have used in writing this background guide will be very helpful in your research.

United Nations

1. Resolution 64/155-UN recommendations/further

actions on electoral assistance:

<http://www.un.org/Depts/dpa/ead/Resolutions/Strengthen/A%20RES%2064%20155.pdf>

2. UN’s Electoral Assistance Division: <http://www.un.org/Depts/dpa/ead/>
3. Private and public organizations signed the “Declaration of Principles for International Election Observation” (which should provide substantial ideas for resolutions): <http://www.cartercenter.org/documents/2231.pdf>
4. UNCHR issues: <http://www.ohchr.org/EN/Issues/Pages/ListofIssues.aspx>
5. Inter-Parliamentary Union (Geneva) “Declaration on Criteria for Free and Fair Elections”: <http://www.ipu.org/cnl-e/154-free.htm>

6. UN and Rule of Law:
<http://www.un.org/en/ruleoflaw/index.shtml>

7. UNCHR and Good Governance:
<http://www2.ohchr.org/english/issues/development/governance/index.htm>

Non-governmental organizations

(NGOs):

1. International Foundation for Electoral Systems (IFES):

<http://www.ifes.org/>

2. Center for Monitoring Election Violence (CMEV):

<http://cmev.wordpress.com/>

3. People's Action for Free and Fair Elections (PAFFREL):

<http://www.paffrel.lk/>

4. Institute of Peace and Conflict Studies:

<http://www.ipcs.org/article/sri-lanka/sri-lanka-parliamentary-elections-2001-iii-electoral-violence-the-roots-667.html>

Questions to Address and Possible Solutions:

Questions to consider:

1. Begin your research within the website for the Human Rights Council and the United Nations itself- the genesis of our topic (electoral violence) comes from one of the universal rights-the right to free and fair elections-you will find MANY resolutions which cover this topic.

2. How should electoral violence be approached? Through independent organizations? National governments? International bodies (esp. when in the case of conflict nations who have governments which may not accurately represent its population)?

3. How and who to hold accountable for creating political unrest which results in fear and intimidation of voters?

4. Your nation's view on electoral violence: bloc/regional opinions- consider the regions your nations belong to-are they consistent with their regional

allies' opinions? The following may be some divisions you find:

- a. Europe + United States
 - b. Middle East
 - c. South Asia
 - d. East Asia
 - e. South East Asia
 - f. Based on types of governments
 - g. Allies/adversaries
5. How can regional/international organizations sometimes be biased in the election monitoring they offer?
6. Which nations in the Human Rights Council conduct free and fair elections? Which nations don't? How can those nations be convinced to conduct electoral monitoring?
7. What should electoral monitoring be defined as in the HRC?
8. Given the "main issues in electoral violence" mentioned in the introduction to the topic, what solutions are possible for that list of issues,

based off of your nation's experience?

9. Most importantly, accountability- who should be held accountable for electoral disturbances?
- a. How should they be held accountable (international law or within their nations)?
 - b. When should the national governments or international communities address the issue of accountability? Should laws/punishments be uniform or different per nation?
 - c. Can they be held accountable in the International Criminal Court (ICC)?

Topic 2: Police Brutality and Accountability

The issue of police brutality is a long standing and ever present human rights concern. Police officers

are required to serve the public good in order to maintain good governance and public order. They are required to use their logic and judgment in every situation in order to work for the betterment of the society they are serving. But “while the authority to use such force is not a problem, its proper application is.”¹⁴ As such, police brutality is defined as any practice that degrades citizen status, restricts freedom, and/or harasses members of the public.

Public perception of the police is a very integral part of the overall effectiveness of law enforcement. The image of law enforcement officials can be tainted by any negative conduct imposed on an individual or group. The rapid spread of news through newer media outlets can even cause the smallest offence of an officer to gain an angry and proactive audience. Furthermore, a negative outlook on a police agency can cause the loss of community

cooperation in law enforcement- which is an integral part of maintaining order and bringing people to justice. For example, according to a short documentary created by the Human Rights Watch summarizing police brutality in India, the organization claimed that the following four issues were of the most concern in most nations:

- 1) Illegal and arbitrary detention
- 2) Failure to investigate crimes
- 3) Custodial torture
- 4) Extrajudicial execution

In addition to:

- 5) Racial/ethnic/sexual discrimination by police
- 6) Lack of documentation

Illegal and arbitrary detention

Throughout the continent of Asia, arbitrary detention is not an exception “but rather an endemic practice.”¹⁵ The practice of illegal and arbitrary detention creates a climate of fear and serves as “a

¹⁴ Liqun, Cao Ph.D. "Curbing Police Brutality: What Works? ." *National Criminal Justice Reference Service*. Department of Justice, 09 Feb 2002. Web. 28 Jul 2010. <<http://www.ncjrs.gov/pdffiles1/nij/grants/192518.pdf>> .pg.5

¹⁵ "Overview of the practices of arbitrary detention in Asia." *Human Rights Correspondence School*. Human Rights School, 2010. Web. 28 Jul 2010. <<http://www.hrschool.org/doc/mainfile.php/leson62/223/>> .

gateway violation that enables a chain of abuses including torture and forced disappearance.”^{15,16}

Case Study: Bangladesh

“Mr Sohrab Hossain was illegally arrested on 7 January 2010, along with two other persons, Mr Hamidur Rahman and Mr Selim Morol. The two men were allegedly involved in several criminal cases, whereas no warrant had been issued against Mr Hossain. He was repeatedly tortured during arrest and while in police custody with sticks, fists and boots, and his valuables were taken. The next day, the police fabricated a pending robbery case against him. At the time of reporting this case, Hossain had been detained for more than 65 days without being brought before a court, which is a clear violation of the Code of Criminal Procedure (1898). Furthermore, not knowing the reasons for his arrest and detention, Sohrab’s relatives were forced to pay bribes to the police in order to access a copy of the First Information Report (FIR), as well as to provide him with food and pay for his transportation to jail”¹⁶

¹⁶“Bangladesh-urgent appeals.” *Asian Human Rights Commission*. Asian Human Rights Commission, 22 Mar 2010. Web. 28 Jul 2010. <<http://www.ahrchk.net/ua/mainfile.php/2010/3397/>>.

According to Amnesty International, “thousands of people were arrested ahead of planned rallies by opposition parties, and thousands more were detained on suspicion” during elections.¹⁷ Families of the detained weren’t informed of the arrests and many were held without charge, bail, or trails for weeks.¹⁷

It is apparent through the case of Bangladesh that arbitrary detention causes the residents of a nation to lose faith in their law enforcement- despite countless efforts made by the U.N. Arbitrary detention is prominent in nations even more developed than Bangladesh, including India, Pakistan, and China.

Failure to investigate crimes

One chief cause of the 5 issues stated above is the failure to investigate crimes.¹⁵ This failure also can result in the loss of public trust in law enforcement, an increase in unaccounted violence, and further

degradation of the system. Solutions the UN Watch organization has sought in India include the increase in investigation resources and training, bolstering of internal discipline through education, establishing responsibility of supervising officials, and the creation of Police supervising boards on a regional basis.¹⁸ See the footnoted link for more ideas on solutions, and consider whether your nation has ever implemented solutions or whether there are better ideas.

¹⁷ "Bangladesh-Amnesty International Report 2007." *Amnesty International*. Amnesty International, 2007. Web. 28 Jul 2010. <<http://www.amnesty.org/en/region/bangladesh/report-2007>>.

¹⁸ "India-Broken System." *Human Rights Watch*. Human Rights Watch, 04 Aug 2009. Web. 28 Jul 2010. <<http://www.hrw.org/en/node/84624/section/9>>.

Case study: United Kingdom

In the United Kingdom, one of the most industrialized and socially developed nations in the world, “out of 5.2 million crimes reported to police around 1.7 million went uninvestigated last year [2008]” which constitutes to a 32 percent rate of ignored cases. “out of 93,558 burglaries in London, 53,711 were not investigated, out of 313,351 theft and handling offences, 238,836 offences were not investigated... 15 percent violent offences were left out”.

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Custodial Torture

Custodial torture in the context of police accountability is defined as the use of violence against detained individuals for no purpose at all, for the purpose of drawing information regard the case, and/or an exaggeration on the use of self-defense by the law enforcement official. In many nations, especially in India, custodial torture is seen as an unavoidable portion of investigation. The notion is that

extreme pressure on those detained will result in a more truthful resolution. While there are countless individual reports of custodial torture these are often not recorded and/or official.¹⁹ The UN Watch has blamed lack of resources, equipment, and training for the crudity of investigation in India. In many of these states, the institutions to stop custodial torture are in place-such as money for proper training, scientific equipment, and tracking of reports-but the problem remains in those who defy these institutions. It is important for the council to address how to unify and improve these institutions and, yet again, who to hold accountable.

Case study: India

The Indian Social Institute compiled the following human rights documentation from Jan-Dec 2009 with major cases of custodial torture in India:
http://www.isidelhi.org.in/hrnews/HR_THEMATIC_ISSUES/Police/Police-2009.pdf

¹⁹ Leach, Ben, and John Fagan. "Police fail to investigate one third of crimes." *Telegraph.co.uk*. Telegraph.co.uk, 21 Nov 2009. Web. 28 Jul 2010. <<http://www.telegraph.co.uk/news/uknews/law-and-order/6623745/Police-fail-to-investigate-one-third-of-crimes.html>>.

Extrajudicial executions

The UN Human Rights Council released Resolution A/HRC/14/24 on 28 May 2010. According to this report, “extrajudicial executions by members of a state’s police force have been an issue of concern in nearly all countries visited by the Special Rapporteur” (see page 4 of Report).²⁰ The Report states that “unlawful police killings are not confined to countries in particular regions, with particular political systems or lower levels of prosperity. The most common occur due to excessive use of force in law enforcement operations, including during attempts to arrest suspected criminals, crowd or riot control, and purported “shoot outs”.¹⁹ The reasons vary from personal monetary gain, personal beliefs, in context of poorly planned and unlawful policing policies (ie. engaging in heavily militarized operations without adequate safeguards or

community support). International law requires “that investigations are effective” and that there shall be thorough, prompt, and impartial investigation of all cases.¹⁹ The UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions provides guidance on these matters. Your research should include looking into these documents and finding solutions which match your nation’s policies on police accountability. This document provides a detailed account of the United Nation’s attempt to lessen police brutality.

[http://www.extrajudicialexecutions.org/application/media/14%20HRC%20Police%20Oversight%20Report%20\(A.HRC.14.24.Add8\).pdf](http://www.extrajudicialexecutions.org/application/media/14%20HRC%20Police%20Oversight%20Report%20(A.HRC.14.24.Add8).pdf)

International Law

The International Criminal Court (ICC), governed by the Rome Statute, is the “first permanent, treaty based, international criminal court established to help end impunity for the perpetrators of the most serious crimes of concern-it is not part of the UN system but its seat is in The

²⁰ "Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston." *Extrajudicialexecutions.org*. United Nations General Assembly, 28 May 2010. Web. 28 Jul 2010. <[http://www.extrajudicialexecutions.org/application/media/14%20HRC%20Police%20Oversight%20Report%20\(A.HRC.14.24.Add8\).pdf](http://www.extrajudicialexecutions.org/application/media/14%20HRC%20Police%20Oversight%20Report%20(A.HRC.14.24.Add8).pdf)>.

Hague.²¹ But the Rome Statute, which created the ICC, was only signed by 12 of the G20 states, the ones who didn't sign include: China, India, Indonesia, Russia, Turkey, and the USA.²² Currently there are 111 member states and the ICC can only exercise jurisdiction on those nations or if the accused crime took place in those states.

The International Court of Justice (ICJ) is the principal judicial organ of the UN.²³ Unlike the ICC, ICJ is a part of the United Nations. The ICJ functions to settle legal disputes submitted by nations and to act as an advisor on legal questions asked by international organizations, agencies, and members of the United Nations. The ICC has global jurisdiction in that it may address and resolve global legal issues and persecute those involved in

genocide, war crimes, human rights violations, and crime of aggression. It is primarily used to prosecute individuals who breach human rights and humanitarian laws. While all 192 UN members are parties of the Court, some nations, such as the United States, participate on a case-by-case basis. The ICJ cannot include individuals, corporation, parts of states, NGOs, UN organizations, and other groups under its contentious cases-proceedings to settle a dispute.²⁴

As a result, while addressing the issue of police brutality and accountability in the Council you will have the ability to decide whether cases can be brought to either the ICJ or ICC on the basis of individual or state parties. My suggestion is that you research the degree accountability you believe a nation should face in this issue and proceed from that point.

Other Issues include:

- Lack of community cooperation
- Long work hours for officers, shortage of officers,

²¹"International Criminal Court-about the Court." *International Criminal Court*. ICC-CPI, n.d. Web. 28 Jul 2010. <<http://www.icc-cpi.int/Menus/ICC/About+the+Court/>>.

²² "International Justice without Borders." *Amnesty International Report 2010*. Amnesty International, 2010. Web. 28 Jul 2010. <<http://thereport.amnesty.org/key-issues/accountability>>.

²³ "International Court of Justice-the Court." *International Court of Justice*. ICJ, 2010. Web. 28 Jul 2010. <<http://www.icj-cij.org/court/index.php?p1=1&PHPSESSID=523569a0dd35dd0d47d94036eec42564>>.

ineffective processes for filing cases (not properly executed)

- Police modernization- computerized systems of monitoring
- A judicial system and government that tolerates torture
- Lack of police education
- lack of change in management for law enforcement and creation of review processes
- Sexual and racial discrimination committed by police

Questions to Consider

- 1) How can international law be used to address police accountability?
- 2) Can/Should the International Criminal Court (ICC) or the International Court of Justice (ICJ) be used to bring law enforcement officials and/or states to trial- in what cases should the ICC/ICJ intervene? And which court

should can/should play a role?

- 3) How can police accountability occur on a regional level as well as a state/nationwide level?
- 4) What past actions taken by the United Nations have been effective/ineffective?
- 5) What measures has your nation taken in order to address this issue of police brutality and accountability?
- 6) Should each of the aforementioned issues be addressed on one comprehensive resolution or separately?
- 7) How can/should entire nations be held accountable for being permissive on this issue?
- 8) How can NGOs, regional organizations etc. be used in this instance?
- 9) Should the UN Police play a role in this?
- 10) How do the opinions of your particular nation differ from others on this issue?

Additional Sources

The sources I used in my research (found in the Bibliography and footnotes) will be very helpful for you in your research-in addition to these:

- 1) Amnesty International:
<http://thereport.amnesty.org/k ey-issues/accountability>
- 2) Police Accountability in the Commonwealth of South Asia:
http://www.humanrightsinitiative.org/publications/police/f ederal_forces_democratic_nations_police_acctability_in_c w_south_asia.pdf
- 3) UN Police Magazine:
http://www.un.org/en/peacekeeping/sites/police/pdf/UNPolice_mag.pdf
- 4) Human Rights Watch-India video:
<http://www.hrw.org/en/video/2009/08/03/protect-serve-police-brutality-india>
- 5) Human Rights Watch-Police Brutality reports:
<http://www.hrw.org/legacy/reports/reports98/police/>
- 6) Dept. of Justice-Curbing Police Brutality (paper):
<http://www.ncjrs.gov/pdffiles1/nij/grants/192518.pdf>
- 7) Police Brutality and Abuse in the U.S.:
http://www.ushrnetwork.org/files/ushrn/images/linkfiles/CE RD/9_Police%20Brutality.pdf
- 8) Human Rights Watch-recommendations:
<http://www.hrw.org/en/node/84624/section/9>
- 9) UN Report:
[http://www.extrajudicialexecutions.org/application/media/14%20HRC%20Police%20Oversight%20Report%20\(A.HRC.14.24.Add8\).pdf](http://www.extrajudicialexecutions.org/application/media/14%20HRC%20Police%20Oversight%20Report%20(A.HRC.14.24.Add8).pdf)
- 10) Search the UN website for more links on resolutions and previous actions taken on this issues, and search your nation's government websites and media outlets for other ideas

Closing Remarks

Good luck with your research! I hope you find this background guide to be a good

starting point for your research, please feel free to email me with any questions or concerns you may have.

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<<http://www.icj-cij.org/court/index.php?p1=1&PHPSESSID=523569a0dd35dd0d47d94036eec42564>>.

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