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Preparation Paper/Study Guide:

Human Rights Council (HRC)

**“Protecting Freedom of Opinion and Expression as a Human
Right in the Age of Digitalization”**

“All victims of human rights abuses should be able to look to the Human Rights Council as a forum and a springboard for action.”

Ban Ki-moon, UN Secretary-General, 12 March 2007, Opening of the 4th Human Rights Council Session

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1 Introduction of the Council

1.1 Description and history of the Council

United Nations Human Rights Council (UNHRC or HRC) is the principal human rights body of the United Nations. It has been established in 2006 by the UN General Assembly on the bases of its predecessor, the UN Commission on Human Rights. Creation of the UNHRC illustrates the importance of human rights in the United Nations system. It is comprised of 47 Member states, which are elected by the UN General Assembly for a three-year term.

With the aim of promoting and securing human rights around the globe, the Council gathers in the UN Office in Geneva three times a year, or "when the need arises", which traditionally means a human rights crisis outbreak. The Council works closely with the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Special Procedures, which is a general term for Special Rapporteurs, Independent Experts and 5-member working groups. The Council deals with both thematic issues and country specific situations, including conflicts.

In 2007 the UNHRC adopted an "Institution-Building package" which created its mechanisms. Based on this package, the UNHRC annually undertakes the "Universal Periodic Review", which monitors the human rights situation in all of the 193 UN Member States.

1.2 List of Countries and Observers represented in the HRC of VIMUN2015

Countries:

Algeria	India	Portugal
Argentina	Indonesia	Qatar
Bangladesh	Ireland	Republic of Korea
Bolivia (Plurinational State of)	Japan	Russian Federation
Brazil	Kenya	Saudi Arabia
China	Latvia	Sierra Leone
Congo	Maldives	South Africa
Cote d'Ivoire	Mexico	The Former Yugoslav
Cuba	Montenegro	Republic of Macedonia
El Salvador	Morocco	United Arab Emirates United
Estonia	Namibia	Kingdom
Ethiopia	Netherlands	United States
France	Nigeria	Venezuela (Bolivarian
Gabon	Pakistan	Republic of)
Ghana	Paraguay	Viet Nam

Observers:

Australia
Canada
Egypt
Iran
Israel
Myanmar
Sweden
Thailand
Amnesty International (AI)
Freedom House
Human Rights Watch (HRW)
International Press Institute
(IPI)
Reporters Without Border

2 Introduction of the Topic

2.1 Definition - Freedom of speech

The list highlighting how fundamental and unavoidable the freedom of speech, of expression of ideas and opinions, and the opportunity for free debates on public affairs dates back from the beginnings of the history of mankind almost ad nauseam.

Freedom of speech is as integral a part of human dignity, as it is understood, as is a leaf on a tree in our terrestrial environment. However, the meaning of a leaf is very different for a tourist, for a farmer, or for a biologist, and its "message" is more distinct from particular points of view or different resolutions of a scientific microscope. Something similar may be recognised if one tries to comprehend in its complexity every detail of the freedom of speech. Doubts are awakened even regarding the proper object of each analysed legal instruction: speech, expression of ideas, debate, communication, opinion, argument, press, media – all these notions are interrelated and related to the regulation and limitation of their freedom.

The rights to freedom of speech, freedom of conscience, and expression of opinion, and the theoretical bases of these rights have, to a greater or lesser degree, occupied thinkers of various eras for a long time. These rights can earn their full, modern meaning only in democratic states. It is no coincidence that, after the disappearance of Greek democracies, they were forgotten for a long time, only to reappear in the context of religious tolerance and, later, to become again the subject of public debate through the ideals of the Enlightenment. The rapid spread and strengthening of modern democracies brought an increased protection of human rights, and, thus, the right to free speech went through a considerable renaissance after World War II.

Now the right to freedom of expression is recognized as a human right under article 19 of the Universal Declaration of Human Rights and recognized in the international human rights law in the International Covenant of Civil and Political Rights (ICCPR).

Article 19

1. *Everyone shall have the right to hold opinions without interference.*
2. *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*
3. *The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*
 - (a) *For respect of the rights or reputations of others;*
 - (b) *For the protection of national security or of public order, or of public health or morals.*

2.2 History of the Topic

Concepts of freedom of speech can be found in early human rights documents. England's Bill of Rights 1689 legally established the constitutional right of "freedom of speech in Parliament" which is still in effect. The Declaration of the Rights of Man and of the Citizen, adopted during the French Revolution in 1789, specifically affirmed freedom of speech as an inalienable right. The Declaration provides for freedom of expression in Article 11, which states that:

The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write, and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by law.

Freedom of speech comes hand in hand with censorship, both being equally ancient phenomenon. Censorship has been used in both Ancient Rome and Ancient China and both considered it to be a valuable tool to shape the morals of a society. Every era had its thinkers, who choose rather to die than renounce their beliefs to the censorship of ruling power. Socrates, Galileo Galilei, Joan of Arc are just few of the best known names.

From 18th century on, countries started to adopt laws granting freedom of expression, reaching an international agreement via UN in The Universal Declaration of Human Rights of 1948. The general trend towards liberty of speech has been dramatically changed with 9/11 events which led to Patriotic Act in the United States of America and moved towards limiting the freedom of speech in the name of security.

2.2.1 Charlie Hebdo

Recent infamous events connected to Charlie Hebdo Magazine are a textbook case of the essential struggle, between freedom of Speech and disrespectful expressions against faith or race of others. In 2006, when first controversy about Muhammad in Charlie Hebdo arose, Jacques Chirac condemned it as provocation and called for respect to people from the magazine. The magazine continued to provoke and the response in form of attacks came repeatedly, culminating in 2015 attack with 12 killed people.

This tragic example illustrates the complexness of the issue and the difficulty governments have, when trying to define, in which areas people are allowed to express without limits, and which areas are too dangerous to be left without them.

2.3 Governmental restrictions

Lately governments have been restricting speech with varying limitations. Common limitations on speech relate to libel, slander, obscenity, pornography, sedition, hate speech, incitement, fighting words, classified information, copyright violation, trade secrets, non-disclosure agreements, right to privacy, right to be forgotten, public security, public order, public nuisance, campaign finance reform and oppression. Whether these limitations can be justified under the harm principle depends upon whether influencing a third party's opinions or actions adversely to the second party constitutes such harm or not.

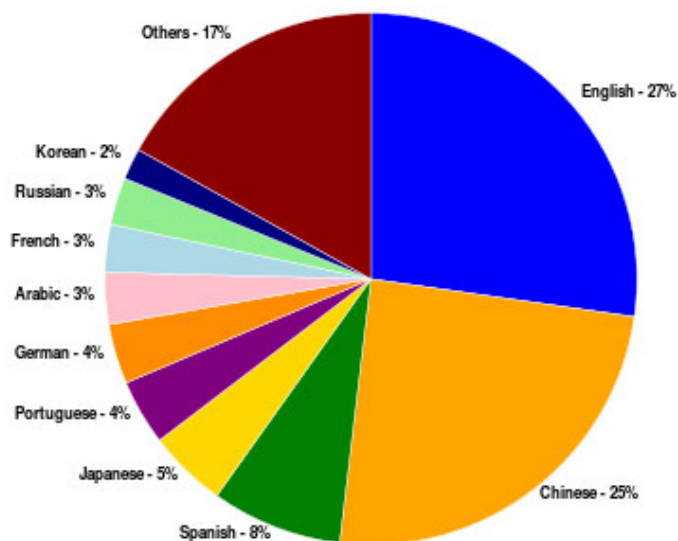
Some governments expanded the range of free speech limitations to prohibit because it is considered offensive to society, special interest groups or individuals. The jurisdictions for limitations often come from religious legal systems.

2.4 Internet and the Freedom of speech

We live in a world today where vast Information and Communications Technology (ICT) infrastructures and extensive flows of information have become natural and unquestioned features of modern life. Rapidly growing online services - everything from social media to E-commerce and virtual collaboration - have come to define our day-to-day lives in ways unimaginable just a decade ago.

Internet users by language. Source: <http://archive-2.mizzima.com/images/NewsPhotos/JUL12/InternetUsersByLanguagePieChart.jpg>

In times of digitization it is not surprising that the innovations of the technological progress provided new



mediums for the freedom of speech. But with the variety of possibilities to spread out one's opinion comes censorship. As Jo Glanville, editor of the Index on Censorship, once said "the Internet has been a revolution for censorship as much as for free speech".

Freedom of information is an extension of freedom of speech where the medium of expression is the Internet. Freedom of information is strongly connected to the right to privacy in the context of the Internet and

information technology. It must not be mistaken for a human right such as the freedom of expression, as it only acts as an extension to this right.

The concept of freedom of information has emerged in response to censorship sponsored by state, monitoring and surveillance of the Internet. Many call for a removal of blocks for a free flow of information – also referred to as “closed societies”. According to Reporters without Borders (RWB) China, Cuba, Iran, Myanmar/Burma, North Korea, Saudi Arabia, Syria, Turkmenistan, Uzbekistan and Vietnam engage in permanent Internet censorship. Many of these countries monitor and limit Internet because they wish to regulate its content and consequently the morals of the society.

As the Internet allows all sorts of information to be distributed in an instant, it is important to remember its negative effects. Beginning with hate speech and child pornography, ending with terrorist groups recruiting new members via websites and social networks, Internet is obviously a world of its own, which cannot be left regulations-free.

Since the Internet is a young and extremely progressive phenomenon, it is rather peculiar to address its regulation in an international united manner. For many countries freedom of the Internet is connected to democracy and thus must be provided in a wide range, on the other hand, for many others shared values and morals are of a higher priority and thus limitation of Internet is a crucial institution for them. Moreover, add security issue to this dichotomy and there will be very little space left for global action.

Following are three examples of countries with high level of influence over the Internet, which are labeled by the Reporters without Borders as “Internet Enemy”.

2.4.1 China

Modern day China stays a very conservative and traditional country, where citizens are limited in their freedom of speech and expression in the name of common good. Article 35 of the current Chinese constitution, written in 1982, stipulates that “Citizens of the PRC have freedom of speech, publication, assembly, association, procession and demonstration.” Though this freedom has limits.

The Chinese government has tried to shut both traditional and new media down to a minimum as it fears a potential subversion of its authority. Its tactics often entail strict media controls using monitoring systems and firewalls, shuttering publications and websites, and jailing dissident journalists, bloggers, and activists.

The system for blocking sites and articles is referred to as “The Great Firewall of China”. It is a mixture of laws and regulations imposed on the Internet. References to democracy, the free Tibet movement, Taiwan as an independent county, the Tiananmen Square Massacre, the 2014 Hong Kong protests, the Arab Spring, certain religious organizations and anything questioning the legitimacy of the Communist Party of China have been reported to be banned from use in public and blocked on the Internet. Web portals including Microsoft's MSN have come under criticism for aiding in these practices, including banning the word democracy from its chat-rooms in China.

Also Google's battle with the Chinese government over Internet censorship, and the Norwegian Nobel Committee's awarding of the 2010 Peace Prize to jailed Chinese activist Liu Xiaobo, have also increased international attention to censorship issues. Currently, social networking sites such as Twitter, Facebook, and Snapchat are banned as a whole and books and foreign films are subject to active censorship.

2.4.2 Cuba

For state security reasons, Internet in Cuba is an outstandingly regulated place. The government explains that the limitations are done in the name of preventing hackers from attacking, as well as preventing the population from accessing harmful material such as pornography and terrorist websites.

According to official Cuban government statistics, some 23% of Cubans are on the Internet. But when the White House announced the President Obama's new approach to Cuba, it railed against the country's “Internet penetration of about 5% - one of the lowest rates in the world”. There is a considerable gap, which represents whether about 2 million Cubans do or don't go online. It's a matter of definition. The Cuban Internet is different from the Internet that most of the rest of the world knows. And on the Cuban version of the Internet, there is no Twitter, no YouTube, few blogs or publications from the United States or elsewhere beyond the boundaries of that island nation. The Cuba-wide web is limited to a national e-mail system, some government-approved Web sites, a Cuban encyclopedia and little else.

2.4.3 Iran

Iran is second only to Israel for the percentage of the population with Internet access in the Middle East, but strict moral values and a watchful eye over its society means that around 27% of all internet sites are blocked.

Iran is investing a lot of effort to improving its technologies for filtering the Internet from websites that present risk to its society. Equally many regulations touch creating websites, which have to be registered with a Ministry. The Government has been under criticism from outside world for heavy restrictions of websites which followed election protests in 2009.

2.5 Past Actions

International action to protect Internet user's rights has been sparse and weak. Obstacles include conflicting interests amongst governments and Internet users as well as a lack of fundamental norms on the matter of what the rights of Internet users should be. In the twentieth session of the United Nations Human Rights Council, states authored a resolution adopted on the 5th of July of 2012 asserting that the same rights, according to the Universal Declaration of Human Rights (UDHR), that humans enjoy "offline" should also be enjoyed "online", including the "promotion, protection and enjoyment of human rights, including the right to freedom of expression, on the Internet". The resolution passed on year after Frank La Rue, the UN Special Rapporteur on freedom of opinion and expression, presented a report to the Council in Geneva arguing that the Universal Declaration of Human Rights guarantees freedom on the Internet under Article 19. Absent from this resolution was the support of Russia, China, Saudi Arabia, Iran and North Korea. This resolution was the first of its kind to affirm "online" rights, but founded upon the longstanding international basis of the UDHR.

Across the globe, multitudes of organizations advocate for Internet rights. One non-governmental organization working on this issue is the Internet Freedom Fellows, a group that aims to bring international leaders and nongovernmental actors together in technological and political hubs across the globe to facilitate conversation on the issue. In addition, the Internet Rights & Principles Coalition has authored multiple versions of a Charter aimed at international policymakers, containing the "10 Rights and Principles for Internet Governance", and participated in EuroDIG, a June 2013 conference for European Dialogue on Internet Governance. These coalitions and conferences cover many issues ranging from access to censorship to political prisoner's rights.

Non-governmental organizations are especially limited, however, when it comes to affecting change in this realm. Many world governments continue to limit Internet rights, contrary to the general wishes of its people and civil society sector, on the premises of security or a lack of belief in pure freedom of expression.

3 Preparation Guide

3.1 How to prepare

Initially, it is crucial that the delegates understand the competences and mode of conduct of the Human Rights Council, for this purpose we encourage delegates to get acquainted with HRC through its website and to go through some of its previously adopted resolutions.

As for the topic research, we propose delegates to start with the basic terms related to Freedom of Opinion, Expression and Speech and consequently research their specifics in the Age of Digitalization, just as we have outlined it in this brief Study Guide. Again the materials from UNHRC website could provide a good starting point, as well as UNESCO materials on Freedoms on the Internet. The delegates shall be reminded that the Study Guide is a brief introduction to the topic and further self-study is expected and necessary as the Chairs expect a high level of knowledge from the delegates. Furthermore delegates should study the official position of represented country, for this purpose we recommend official websites of governments, ministries, presidents/monarchs, transcripts of official speeches etc. Lastly it is also valuable to get familiar with general positions of other countries and search for possible allies

In the Position Papers, the chairs expect delegates to briefly address the position of represented country on the Protection of Freedom of Opinion and Expression, its participation in international agreements and charters related to the topic, its engagement in international initiatives and propositions for possible actions adopted by the Council.

Last but not least it is important to stay updated about the news related to Freedom of Opinion and Expression before the Conference. Should you have any doubts or questions concerning the preparation or the topic, do not hesitate to contact us at hrc.vimun@afa.at.

3.2 Suggested Reading

Documents mentioned in the text

1. The Universal Declaration of Human Rights. United Nations [online]. 1948 [cit. 2015-06-14]. Retrieved from: <http://www.un.org/en/documents/udhr/>
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4. Resolution A/HRC/RES/20/8: The promotion, protection and enjoyment of human rights on the Internet. United Nations Human Rights [online]. 2012 [cit. 2015-06-14]. Retrieved from: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/20/8

Other useful links

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6. Freedom on the Net 2014. Freedom House [online]. 2015 [cit. 2015-06-14]. Retrieved from: https://freedomhouse.org/report/freedom-net/freedom-net-2014#.VX29I_mvHIU
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