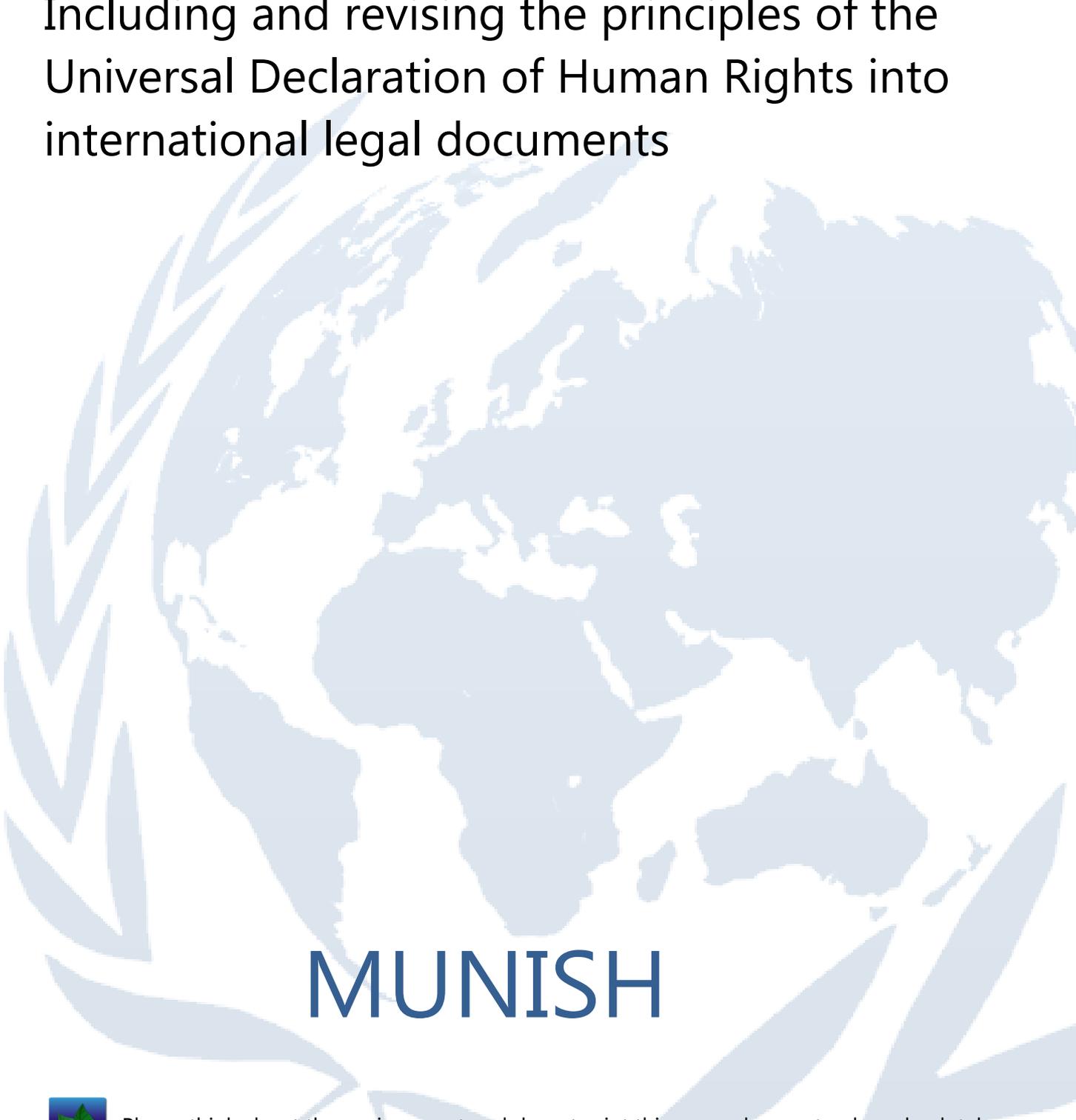# Research Report

General Assembly
Sixth Committee (Legal)

Including and revising the principles of the Universal Declaration of Human Rights into international legal documents

MUNISH

Forum	General Assembly 6th sub commission
Issue:	Including and revising the principles of the Universal Declaration of Human Rights into international legal documents
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Introduction

The Universal Declaration of Human Rights (hence forth UDHR) is seen as one of the most important documents that outline the principles of human dignity, while in fact, the UDHR is not legally binding. It is meant to specify a number of terms that are outlined in the United Nations Charter, which is binding. For that reason, the UDHR has a lack of force when it comes to actual binding decisions that have to be taken.

The UDHR was written directly after World War Two, as a way to describe the rights of every human being, which had not been respected in the War, to prevent anything like the events that happened in that period happening in the future.

The UDHR is still one of the most important documents being used worldwide in politics, because the UDHR is a tool often used for moral purposes; that is: convincing a government of what is morally right, and what they should do.

However, there are scholars and politicians that think that the UDHR should have a greater legal scope because of its enormous international importance in what the basic rights of humans are concerned. But should it? This research report will handle the most important problems that arise from the question of including and revising the principles of the Universal Declaration of Human Rights into international legal documents.

It is important to know that the UDHR is already partly binding. This is because the principles outlined in the UDHR have already been included in several binding decisions and documents, such as national constitutions, but the UDHR is also part of the International Bill of Rights, which was ratified in 1976 by a sufficient amount of members to be regarded as international law.

Definition of Key Terms

International law

International law is a term that refers to the legal principles that states act according to in an international setting. However, there is no such thing as one international law. International law can be divided into several disciplines, but also into different categories. Jus gentium literally means ''rule of people'', which is how governments should behave. It is a form of customary law, which means that it is expected to be abided to by all governments. There is also jus inter gentes, which is the term coined for agreements between nations. International law is rule based on consent, which means that a government can in essence not be forced to follow a certain course of action; a government should consent to it. This is a principle of state sovereignty.

Human rights

Human rights are the set of rights that all humans are entitled to without any exceptions. Human rights cannot be taken away from anyone. That is why they are called unalienable rights. There has been quite some discussion about the rights that all humans are entitled to, but since the UDHR, there has been a better definition of human rights. The ideas of human rights began in during the Enlightenment, and nowadays there are those people who are specialized in the field and suggest additional human rights to be implemented.

Freedom(s)

When speaking of the UDHR, there are rights and freedoms. Although the terms are often used together, they refer to different things. Freedom is a condition that enables a person to behave the way in which he wants to. A right is something a person is entitled to. Therefore, freedom is also a right, while not all rights are freedoms. A common misunderstanding is that freedom means that people can act exactly as they wish. However, freedoms are within certain bounds, which can be the rights of others, or legislation.

Human rights violations

Sadly enough, the fact that human rights exist, does not mean that they are always respected. These acts are called human rights violations. This is a typical example of the difference between legal obligations and reality. There are many member states of the UN that have ratified the International Bill of Rights, and still do not respect human rights.

However, human rights violations are not always done by governments, contrary to popular belief. Human rights can be violated by organizations, or even individuals. Human rights violations are punishable, but not always in the same way. It is of course not the same to sanction an individual for a violation than to sanction a member state of the UN for acts for which they are responsible.

General Overview

For a long time, regimes all over the world used many kinds of intimidation to force their citizens to obey their orders. Such acts were massacres, ethnic purges, or torture. These practices are as old as humankind itself. However, for most of history, these acts were not seen as inhuman by most people, but rather as a necessary part of life.

During the renaissance, and the subsequent Enlightenment, the importance of human rights was gaining recognition amongst scholars, such as Thomas Paine. The ideas of the renaissance (individual freedom, freedom in general, humanism) had a deep influence in the way in which people started thinking not only about themselves, but also the people that governed them. Still, a large influence from the churches and the governments impeded any further action for a long time.

Some people see the French Revolution as the first attempt to introduce human rights in the actual legal framework of a state. The ''declaration of the rights of man and of the citizen'' adopted by the French National Assembly in 1796 was the very first actual constitution, and it contained some very important legal principles behind human rights.

After the French Revolution, there were many movements worldwide that sought similar effects, although they had varying results. The truth is that many of these movements stranded because of political reasons, or personal interests of those involved. However, the idea that all men are created equal was never taken away from human perception.

The events that led up to the UDHR came to a climax, so to speak, when World War Two broke out. In this war, over 50 million people died either as civilian casualties, political prisoners, soldiers in combat, or victims of concentration camps. This was a clear moment when the international community realized that such actions were not to be tolerated any more in the future.

After the Second World War, the UN was set up as a way to prevent any of these events from ever happening again. The UN adopted many resolutions and member states

ratified protocols on how to treat their citizens, amongst which the International Bill of Rights, of which the UDHR is a part together with the two optional protocols.

However, it is important to note that not only the UDHR has been adopted as a way to safeguard human rights. Since the UDHR, there have been ten important treaties that are designed to safeguard the most important human rights; optional additional protocols have also been drafted and ratified by several members.

The most important treaties safeguarding human rights are:

1. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

2. International Bill of Rights

3. International Covenant on Civil and Political Rights (ICCPR)

4. International Covenant on Economic, Social and Cultural Rights (ICESCR)

5. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

6. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

7. Convention on the Rights of the Child (CRC)

8. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)

9. International Convention for the Protection of All Persons from Enforced Disappearance (CPED)

10. Convention on the Rights of Persons with Disabilities (CRPD)

What this long list of treaties and covenants teaches us, is that there are already many documents in international law that are binding for the states party and that there is no immediate need to implement new treaties, seeing as most of the principles of human rights (as outlined in the UDHR) are in place in treaties that are already binding.

This list of treaties also shows the length of the battle for human rights since the UDHR. The first treaty on the list was ratified in 1966, while the last was ratified in 2006. Each treaty additionally has a controlling organ.

Future of the UDHR and other treaties governing human rights

It is unlikely that new treaties will not be made on human rights, due to the evolution of modern life; many developments now and in the future will extend the boundaries of the actions that can be taken by man.

Most likely is that there will be an evolution of the core principles of the UDHR. It is also likely that additional principles have to be added due to the UDHR having been written in the 20th century and not providing in the issues that may arise when new technologies become available.

Therefore, (international) human rights legislation is not static, and constitutions and treaties that are over a century old for example, may not apply to situations at the moment. At some point, all treaties that have been made have to be reviewed in order to reassure their relevance.

Major Parties Involved and Their Views

United Nations High Commissioner on Refugees (UNHCR)

The office of the UNHCR is occupied with overviewing the situation of refugees worldwide. Nowadays, an important group of people that face human rights violations, is comprised of refugees, and it is therefore important that their personal safety is guaranteed by organs such as the UNHCR.

United Nations Human Rights Council

The human rights council is the body of the UN that implements resolutions with ideas of promoting human rights worldwide. The human rights council is important, because it receives reports from all parts of the world informing about the human rights situations.

United Nations (UN)

The UN was founded after the Second World War in an attempt to stop the violence that the world had seen during that war and previous ones. The UN has various subsidiary bodies that govern human rights, and the UN constantly invests in human rights all over the world. The UN is an organ for cooperation and dialogue, and is therefore able to provide a large platform for the implementation of human rights principles as outlined in the UDHR.

Individual Member States

Of course, the freedom of individual member states is greatly reduced when they have to abide to certain legal principles. Although many states have yet not signed and ratified international protocols, there is large pressure from the international community on member states that have not yet signed the protocols, or installed them into their daily practices. Human rights violations are a good indicator for the political stability and peace in a member state. There are some nations that do not abide to these principles, and proper measures are difficult to take against these member states.

International Law Commission

The International Law Commission does not yet play a very significant role in the human rights legislation process. However, it could do so when asked to draft legal outlines for protocols and treaties. The ILC can be used as a tool to implement (binding) treaties for the implementation of human rights

Inter-agency Standing Commission (IASC)

The IASC is an agency that promotes dialogue between agencies that handle humanitarian affairs. The IASC is therefore an organizing body that stimulates cooperation between agencies of the UN, but also between non-UN agencies.

Timeline of Events

This timeline shows the events as they happened after the Second World War. The events before the war are described in the general overview.

Date	Description of event
1945	Foundation of the UN
1946	The Commission on human rights (now the Human rights council) is founded by ECOSOC
1948	UDHR
1965	International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

1966	International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR) together form a basis to further develop the principles as outlined in the UDHR
1968	First World Conference on Human Rights is held in Tehran
1977	Amnesty International wins the Nobel Peace Prize
1994-2005	UN decade of human rights

UN involvement, Relevant Resolutions, Treaties and Events

The UN has played an important role when it comes to human rights. The UN was one of the parties that was involved in the creation of the UDHR, and the UN has the power, and the willingness to fight for the implementation of the principles of the UDHR in international law.

The most important treaties in the field of human rights, that also include references to the UDHR, are:

1. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

2. International Bill of Rights

3. International Covenant on Civil and Political Rights (ICCPR)

4. International Covenant on Economic, Social and Cultural Rights (ICESCR)

5. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

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Evaluation of Previous Attempts to Resolve the Issue

The list of treaties that is mentioned in the section above is a clear example of the previous attempts to solve the issue of introducing the concepts of the UDHR into international legal documents. These documents have been both successful and unsuccessful.

The treaties have been successful in the sense that they have provided binding agreements between nations of how they should and should not behave and act. That on itself shows a political will to reform on a legal basis. That is a positive development, because it shows that governments are willing to promise proper conduct (in theory). The ratification of all these agreements also ensures that there is greater harmonization in the international field of human rights.

The treaties have been moderately unsuccessful in preventing further human rights violations. This is because there is a large difference between the actions that should happen as they are outlined in the treaties and the real course of action that is taken by not only member states, but also organizations, and even individuals.

Possible Solutions

As there is a lack of action against the parties that do not adhere to the standards of human rights as applied in the treaties, the delegates may consider placing evaluation of the human rights situation as a condition for benefits for a state. This is because the principles of the UDHR may be implemented in an international legal document, but if the document is not adhered to, it has little point in using the document.

The delegates may also consider advising that new treaties always contain references to earlier treaties and the UDHR, and thus including the principles of the UDHR in international legal documents. The UDHR may be seen by delegates as a way to specify and define the standards mentioned in the treaty. This way, the UDHR becomes a reference point for all treaties, thus creating more homogeneity in the field of human rights.

Another solution is to review the human rights standards periodically. As mentioned before in the research report, it is important that human rights are kept up to date with the latest developments in technology, science, and culture. Delegates may propose reviewing

the interpretations of the UDHR every [unit of time] so that the interpretations of the UDHR are applicable to a changing world. However, delegates may also opt to add articles to the UDHR when new developments are detected by an organ that may already exist (and be assigned the duty of doing so) or by an organ that is created by the delegates if they feel that current bodies are not sufficiently competent in doing the aforementioned tasks.

The final solution in this issue is to involve the International Law Commission, or to create a sub-organ of it that is charged with providing advice to the makers of treaties in order for the treaties to be of sufficient legal basis in order to be implemented more easily.

Bibliography

"Human Rights Timeline." *Human Rights Timeline*. UDHR, n.d. Web. 26 June 2013. <http://www.udhr.org/history/timeline.htm>.

"IASC - Inter-Agency Standing Committee." *IASC - Inter-Agency Standing Committee*. N.p., n.d. Web. 30 June 2013. <http://www.humanitarianinfo.org/iasc/pageloader.aspx>.

"Other United Nations Bodies." *Other United Nations Bodies*. N.p., n.d. Web. 26 June 2013. <http://www.ohchr.org/EN/HRBodies/Pages/OtherUnitedNationsBodies.aspx>.

"Renaissance." *Wikipedia*. Wikimedia Foundation, 28 June 2013. Web. 30 June 2013. <https://en.wikipedia.org/wiki/Renaissance>.

"Core International Instruments." *Core International Instruments*. N.p., n.d. Web. 30 June 2013. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>.

"International Law." *International Law*. N.p., n.d. Web. 30 June 2013. <http://www.ohchr.org/en/professionalinterest/Pages/InternationalLaw.aspx>.

"Philosophy of Human Rights." *Wikipedia*. Wikimedia Foundation, 17 June 2013. Web. 30 June 2013. <http://en.wikipedia.org/wiki/Philosophy_of_human_rights>.

"International Law." *Wikipedia*. Wikimedia Foundation, 28 June 2013. Web. 30 June 2013. https://en.wikipedia.org/wiki/International_law>.

Appendices

I.   This link gives access to the portal of the United Nations Commissioner on Human Rights (UNCHR). Here, the delegates can access information about

current human rights issues, and human rights situations all around the world: http://www.ohchr.org/EN/Pages/WelcomePage.aspx

II.   This link directs the delegates to the Franklin and Eleanor institute's website about the UDHR: http://www.udhr.org/index.htm

III.   This article, published by the University of Cambridge, is about the Judicial Application of human rights law: http://catdir.loc.gov/catdir/samples/cam034/2003267770.pdf