

# **BITS MUN – 2014**

THE UNITED NATIONS HUMAN  
RIGHTS COUNCIL

## **BACKGROUND GUIDE**

### **AGENDA**

REVIEWING THE UNITED NATIONS  
FACT FINDING MISSIONS WITH  
SPECIAL EMPHASIS ON THE  
UNIVERSAL PERIODIC REVIEW

## **LETTER FROM THE EXECUTIVE BOARD**

Dear delegates,

Welcome to the simulation of the United Nations Human Rights Council (UNHRC) at BITS, Hyderabad MUN – 2014. It gives us immense pleasure in welcoming you all to join us for three whole days of intensive debate, discussion and deliberation.

What follows in this particular guide will be a concept note about the given agenda. Given the unconventional nature of this Agenda the structure of this background guide may vary from a usual MUN guide. The Agenda has raised a lot of doubts in the minds of the applicants and this guide has been prepared to address the same to the best of our capacities. So kindly go through this guide completely for a better understanding of the given agenda.

At the end of the day, this IS an MUN conference where you will be representing an entire nation in the capacity of an international diplomat. Understand your roles and responsibilities, stick to your country's foreign policy and remember, you can NEVER have too much of research. This is an extremely relevant issue that has been selected and having a clear understanding about the different areas for discussion will definitely give you an edge in the committee.

There will be a lot of importance given to RoP in our committee. Having said that, don't busy yourselves with researching about the RoP – all those visits to the UNA-USA MUN preparation website are not as important as researching about the Agenda itself. As members of the Executive Board we will do the needful and fulfil our duties and responsibilities of ensuring that RoP is

communicated to you all and we will take care of moderating the committee to the best that we can.

To all the first timers out there ... Don't panic. Keep calm and speak up in committee. Do not get intimidated by those "experienced/ seasoned MUN-ers" in the council. Every delegate makes mistakes. (We're talking about serious blatant blunders!) So rest assured. The Executive Board has got your back! Once you research well about the Agenda and your nation and the role you have to play with respect to the Agenda, your confidence levels will pique automatically. So all the very best with your research!

Lastly, don't MUN for just the award. Research well, be diplomatic, stick to your foreign policy and treat your fellow delegates with respect (READ IN CAPSLOCK) and the awards will happen automatically. Feel free to contact any of the EB members with your queries and clarifications. We would be more than happy to help. Good luck! Looking forward to meeting you all!

Cheers!

~ The Executive Board, UNHRC – BITS MUN 2014.

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**NOTE:**

Do note that this guide is merely a background guide which will give an overview of this agenda. You cannot use this guide as an official document for validation during the conference. However, you can use this guide as a starting point for further research with respect to your country, the agenda and our committee.

Please note that only news articles, facts and figures from the following sources shall be accepted as valid proof in our committee:

1. UNHRC and OHCHR official reports, journals, newsletters and articles, etc;
2. UN official reports and documents and
3. Reuters reports.

Before we move on to the Concept Note, it is very important for the delegates to understand that we will NOT be undertaking the UPR itself. We will be reviewing the UN Fact Finding Missions with emphasis on the Universal Periodic Review (UPR)

This concept note will try to facilitate better understanding of both the UNFFM and the UPR and hopefully provide more guidance and direction to the delegates for further research.

## **COMMITTEE DESCRIPTION:-**

The United Nations Human Rights Council was set up a replacement to the UNCHR in 2006 to protect human rights across the world. It works as intergovernmental organisation with 47 member states and meets a number of times each year to deal with eminent situations. These meetings are not only limited to discussion, the UNHRC also offers support to improve the human rights situation in different countries.

The framework of the UNHRC is similar to that of the former commission on human rights. Independent rapporteurs are appointed and election of member countries is for a 3 year term. Criteria for selection is the state's commitment to betterment of human rights and requires a 2/3 majority. The HRC, being a subsidiary organ of the UN, reports directly to the General Assembly.

In 2007, the UNHRC adopted the Institution-Building Package which consisted of the following elements:-

- Universal Periodic Review (UPR)
- Advisory Committee
- Complaint Procedure

## **THE UNIVERSAL PERIODIC REVIEW:-**

*The Universal Periodic Review "has great potential to promote and protect human rights in the darkest corners of the world."* – Ban Ki-moon, UN Secretary-General

Created on 15<sup>th</sup> march 2006, along with the HRC, the UPR is a process which reviews the human rights situation of all the countries. Although it comes under the working of the HRC, the UPR is not only limited to the members of the HRC, but to all the 193 member countries of the UN. Since A review of 48 countries was done in the first cycle (42 every year from the second cycle), a country is reviewed every 4 years.

The review takes place in Geneva, Switzerland at the UN headquarters and is done by a Working group consisting of all the UN member states and chaired by the President. During the 3.5 hour session, the SuR presents it's national reports on the human rights situation in their country. It also responds to the questions asked by states in writing ten days before the review. States are entitled to ask questions and give recommendations and the SuR responds to these and ultimately gives a final conclusion at the end of the review. NGO's and NHRI's are also allowed to passively participate however they cannot take the floor.

The First review of country is succeeded by the follow-up period which is the most essential phase of the process. It is during this time that a SuR decides which recommendations it is going to follow and implements them. Although a member state is under no compulsion to follow any advice given, it's progress during the follow-up period is going to be under the scrutiny of the Working Group in the next review. An addendum with it's response to each recommendation has to be submitted. This period is what determines the strength and credibility of the UPR process.

### What determines the Human rights obligations to be addressed?

- The Charter of the United Nations
- The Universal Declaration of Human Rights
- Human Rights instruments to which the State is party (human rights treaties ratified by the State concerned)
- Voluntary pledges and commitments made by the State (including those undertaken when presenting the candidature for election to the Human Rights Council)
- Applicable international humanitarian law

### Three main documents are used to conduct the review of the State:

- A National Report of 20 pages prepared by the State concerned on the human rights situation in the country;
- A compilation of ten pages prepared by the Office of the High Commissioner on Human Rights (OHCHR) containing information from treaty bodies, special procedures and UN agencies such as UNDP and UNICEF;
- A summary of ten pages prepared by the OHCHR containing information from the civil society.

### TRIOKA

The troika is a group of three countries who serve as rapporteurs, selected randomly by draw of lots among member states. Each SuR has a different Troika. Once a state is selected it is up to it to nominate its delegates or experts. A state might be excluded from the troika if the SuR requests or if the



state has a biased view in a situation. The main role of the troika is to prepare and present the report of the Working Group and to relay questions to the SuR.

### **THE UNITED NATIONS FACT FINDING MISSION:-**

The Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security sets out principles for the acquisition of detailed knowledge by the United Nations about the factual circumstances of any dispute or situation that might threaten the maintenance of international peace and security.

On 9 December 1988, the General Assembly requested the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization to consider proposals concerning fact-finding activities by the United Nations. As a result of discussions at its 1989, 1990 and 1991 sessions, the Special Committee submitted a draft Declaration to the General Assembly for consideration and adoption. On 9 December 1991, the General Assembly, by resolution 46/59, adopted, without a vote, the Declaration, the text of which was annexed to the resolution.

The Declaration consists of five parts, which focus on

- The relevance of fact-finding activities to the functions of the United Nations;
- The role of competent United Nations organs to undertake fact-finding missions;
- The role of the State within which the fact-finding mission is intended to take place;



- The role of the Secretary-General to monitor the state of international peace and security; and
- The lack of prejudice of a fact-finding mission towards other procedures of fact-finding and towards the Charter.

The UN must rely on timely and accurate information and knowledge of all relevant facts when exercising its functions in relation to the maintenance of international peace and security. It requires an early warning system which is capable of identifying situations that could arise into a conflict. Besides collecting information through publicly available channels, the deployment of the UNFFMs has proven to be quite useful in defusing the ongoing conflicts or disputes. However, the UNFFM is not without any criticism. The United Nations is a vast organization whose multiple processes bring about the Fact Finding Missions. Some of these practices are established by norms, the others by practice, but many of the processed are ad-hoc. Assessing the establishment, methods, goals and outcomes of these fact finding missions therefore becomes a matter of great concern as any fact finding mission depends on a lot of factors like the organ/body that establishes it, the mandate given to it, the subject matter and scope, degree of political support, etc.

**It is highly pertinent for the delegates to read and understand the A/RES/46/59 – 67<sup>th</sup> Plenary Meeting, 9<sup>th</sup> December 1991 – Declaration on Fact Finding by the UN in the Field of Maintenance of International Peace and Security.**

**<http://www.un.org/documents/ga/res/46/a46r059.htm>**

One can observe the repeated usage of the terms, “International Peace” and “Security” throughout the Declaration. Fact finding missions may be undertaken by the UNSC, the UNGA and the Secretary General, in the context of their respective responsibilities.

So, the question may arise, **“What do we, as the UNHRC have to do with this Agenda?”**

While international peace and security require the stability provided by the system of International Law, it can at the same time be endangered by massive violations of human rights. On the other hand, Human Rights can only be enjoyed in times of peace and the universal enforcement of Human Rights. As the UNHRC, we will be required to focus on massive Human Rights violations which are not being addressed effectively by the UNSC or any of its Fact Finding Missions. It is this set of facts, information and knowledge that contribute towards the Universal Periodic Review undertaken by the UNHRC, which makes us one of the biggest stakeholders with respect to the UN Fact Finding Missions. We will look at the human rights dimensions of international peace and security and review the exiting framework for undertaking the UNFFMs with a special emphasis on the UPR.

Today some of the most serious threats to international peace and security are conflicts that arise from within a State itself. Although they are situations of internal violence, they tend to spill across borders thereby endangering the peace, security and stability of the other States. The human rights abuses prevalent in such areas are some of the most atrocious in the world and many a time the lack of reliable and accurate information about the ground situation of that particular area of conflict because of the lack of co-operation from the governments, regional bodies, etc. acts as a major hindrance to the UN itself in

diffusing a particular dispute. The UNFFM is no exception. We, as the UNHRC are required to understand and recognize the fact that human rights violations are frequently the root causes of conflict and humanitarian crises. The human rights programme is performing a crucial role not only in the UN early warning systems like the UNFFM, but also in post conflict reconstruction and establishing peace and stability. This makes our given agenda all the more pertinent under the mandate of the UNHRC.

Therefore, a thorough analysis of the entire structure of the UNFFM is expected to be undertaken by the delegates in light of the recent issues that have created international turmoil. The Declaration which prescribes the procedures is structured into five major parts that deal with the following topics:

- Common principles for FFM by the UN
- Pre-requisites for a decision to send fact-finding missions
- Actual conduct of the FFM
- Possible use of other information gathering capabilities
- Escape clauses

On many occasions the United Nations has discussed the FFMs in the context of both its utility as a means for the peaceful settlement of disputes and its role in verifying the execution of international agreement and treaties. However, the practical relevance of FFM has become more evident only recently. Therefore, a clear understanding and analysis of the various UNFFM reports and subsequent Special Rapporteur reports are required to be undertaken by the delegates in order to come up with fruitful discussions and debate. (For example: The Goldstone report.)

### **Questions to be addressed:-**

1. How effective are the UNFFMs in diffusing disputes and conflicts?
2. What are the various limitations faced by any UNFFM? (Elucidating through case studies, is advised)
3. How efficient has the UN been in addressing human rights violations through the UNFFM?
4. How can the UN ensure complete co-operation from all the stakeholders involved to undertake a FFM?
5. How does the UNFFM contribute towards the UPR and how can it be improved?
6. How to make the UNFFM more impactful in resolving humanitarian crises?

### **References:-**

<http://www.ohchr.org/en/hrbodies/upr/pages/BasicFacts.aspx>

<http://www.upr-info.org/en/upr-process/what-is-it>

[http://legal.un.org/avl/ha/ga\\_46-59/ga\\_46-59.html](http://legal.un.org/avl/ha/ga_46-59/ga_46-59.html)

<http://www.geneva-academy.ch/docs/news/HR-council-inquiry-conference-brief.pdf>

<http://www.un.org/rights/HRToday/hrconfl.htm>

### **Suggested Reading:-**

(The information contained in these documents and links cannot be used as proof in committee. The following links have been enlisted merely to provide different perspectives about the given agenda)

[http://law.wustl.edu/harris/documents/p\\_35\\_Bassiouni.pdf](http://law.wustl.edu/harris/documents/p_35_Bassiouni.pdf)

<http://www1.umn.edu/humanrts/monitoring/chapter18.html>

<http://kirra.austlii.edu.au/au/journals/AUYrBkIntLaw/1970/5.txt/cgi-bin/download.cgi/download/au/journals/AUYrBkIntLaw/1970/5.pdf>

### **Further reading:-**

(A few examples of the UNFFMs)

1. International Fact-Finding Mission on Israeli Settlements in the Occupied Palestinian Territory
2. The United Nations Fact Finding Mission on the Gaza Conflict – The Goldstone Report