

# SOCHUM Background Guide

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## From Your Chair

Hello delegates! It is my pleasure to serve as your chair for this DUMUNC's Social Cultural and Humanitarian Committee. In case you have not seen my bio on the DUMUNC website, I am a sophomore majoring in biology and global health. I also work as an EMT for Duke Emergency Medical Services, am a resident assistant, and help run our collegiate MUN conference, DISCon. My hobbies also include running and ceramics. For this committee session, I have chosen two topics that I hope you will find both interesting and challenging: privacy and the rights of prisoners. Both topics are ones that I feel are especially pertinent today, with growing concerns over digital espionage and recent arguments over the treatment of prisoners—such as those at the Guantanamo Bay detention center controlled by the United States. I look forward to seeing you in February!

## Introduction to SOCHUM

The Third Committee of the United Nations General Assembly, (also known as the Social, Humanitarian, and Cultural Committee or SOCHUM), focuses on questions of fundamental human rights. It is one of the original six committees established by the United Nations Charter. As the name might imply, the committee is responsible for any social, cultural, or humanitarian issues that the General Assembly might wish to address. The committee was founded in 1948 following the signing of the Universal Declaration on Human Rights, and throughout its history has sought to establish, promote, and defend fundamental human rights.

In pursuit of this mission, SOCHUM often works with other UN and international organizations. Specifically, the committee often works with the UN High Commissioner for Refugees (UNHCR), the UN Development Program (UNDP), the UN Children's Fund (UNICEF), and the UN Human Rights Council (OHCHR). Throughout committee, I encourage you to consider how UN and non-UN organizations might play an important role in the issues we are considering.

## A Quick Note About This Guide

This background guide will give you a brief overview of both committee topics, including relevant background information, relevant prior international action, key problems, bloc positions, key questions, and additional reading. Since this is a committee designed for those new to Model UN, I have elected not to overwhelm you with endless footnotes or endnotes in this guide, as students new to MUN oftentimes get distracted by certain sources and miss the broader picture. Sources that I believe would be constructive for

debate are listed under additional reading for each topic. Any other sources should be easily found online. If you have any trouble, feel free to email me. While this guide covers a lot of aspects of both topics, there are many things that I do not mention. Feel free to do your own research and broaden debate, but treat this background guide as exactly what it is—a guide. Do not stray to far from the marked path!

### **A Quick Note About Position Papers – Please Read!**

Please note that these requirements differ from the general guidelines on the DUMUNC website! For your position paper, please limit your response to two pages, single spaced, 12 point font (one page for each topic). Please ensure that the names of both delegates (unless you are a single delegate) appear at the top of the page, along with your school name.

For each topic, you do not need to reiterate the background of the topic—I wrote the background guide so I am more than familiar enough with it to read your papers. Instead, focus on your nation’s history with each topic, and what views your nation holds towards each topic. Additionally, please discuss any potential solutions that you may be proposing in committee, so that I have an idea of where the committee might be going. Additionally, please have a brief statement about which topic your delegation would prefer to discuss first and why. Feel free to use bullet points where appropriate, but please use proper grammar and language throughout.

For submission, please bring a printed copy of your paper to the first committee session, and also email a .pdf or .doc version to [ian.jaffe@duke.edu](mailto:ian.jaffe@duke.edu) by the beginning of the first session with the heading “DUMUNC SOCHUM [Delegation Name] Position Paper.” Please email me separately if you have any questions!

### **A Quick Note About Committee**

Throughout committee, it is crucial that delegates focus on following country policy (hint: your position paper should be your guide during debate). Misrepresenting your nation’s views on a particular topic in order to join a working paper is extremely noticeable, and will not be looked upon favorably. Your dais has researched both topics of debate extensively, so do not try to fool us!

Additionally, since this is a General Assembly committee designed for students new to Model UN, I will be fairly strict with parliamentary procedure. Please give me feedback at any time if you feel the dais being too strict (or not strict enough)—but I will not guarantee any changes will be made. Going along with this, I will be allowing suspension of formal debate only when I feel it would be constructive, so please do not ask for an unmoderated caucus every twenty minutes!

# Topic 1: Privacy in the Age of Terrorism

## Introduction

Article 12 of the Universal Declaration of human Rights (UNDHR) outlines the right of an individual to privacy. Privacy, particularly data privacy, is a growing concern on the international level, as more and more national governments are violating the privacy of individuals for national security purposes. Additionally, many private companies are now responsible for the personal data of millions of individuals, but data privacy laws differ greatly between states. Although the UN has continued to support an individual's right to privacy, rapid changes over the past few years with the growing digitization of personal data have thrown a wrench in the system that remains unaddressed.

## Statement of the Problem

In addition to the UNDHR, the UN reiterated the right of an individual to privacy in the International Covenant on Civil and Political Rights in 1966. However, the right to privacy was not really tested on the international level until the 2013 "Snowden Scandal," in which Edward Snowden revealed that the United States National Security Agency was monitoring millions of phone lines and thousands of websites, social networks, and computer networks, without cause. In reaction, SOCHUM adopted The Right to Privacy in the Digital Age, which supported an individual's right to privacy despite the growing availability of personal information in digital forms. In general, international agreements (especially the UNDHR) state that the individual is entitled to privacy, and that infringement of this cannot be arbitrary. However, this creates multiple problems.

First, it is unclear exactly what an arbitrary intrusion might be. Second, many nations argue that surveillance is essential for preserving their national security interests, and that monitoring the communications of millions is reasonable if it helps preserve security. Third, it is unclear exactly what privacy means in the digital age. What type of information should be private? What should be public? And what should nations be able to decide? After the advent of the telephone, privacy was breached using wiretaps. Since then, each new advance in technology has been followed by an advance in privacy breaching; as technology becomes more advanced, the amount of information that is private seems to decrease. Governments in particular are usually the party breaching privacy, but corporations and private citizens (especially through hacking) have breached privacy as well on many occasions.

## Relevant International Action

**The Right to Privacy in the Digital Age** – SOCHUM passed this resolution in 2014, which affirmed the importance of privacy in the modern digital age. The resolution sought to address some of the loopholes in the laws of sovereign nations that allow for breaches of privacy. However, this action is largely regarded as being ineffective.

**United Declaration of Human Rights** – Article 12 is the basis for the human right to privacy. This declaration was adopted in 1948 by the General Assembly, and specifically states that “no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

**International Covenant on Civil and Political Rights** – Adopted by the General Assembly in 1966, reiterating many of the rights in the UNDHR, as well as in other international documents. Article 17 specifically grants the right to privacy, again focusing on the idea of arbitrary interference.

**Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data** – Adopted by the European Council in 1980, and entered into full force in 1985. It is a binding treaty, and forbids the processing of personal private data without proper legal safeguards. Additional international work expanded the convention in 2001, although many national laws exceed the requirements of the convention.

### **Key Problems**

**Lack of National Laws** – Many nations are unable to keep up with technological advances, so certain types of privacy are not explicitly guaranteed throughout much of the world. For example, email is largely unregulated throughout much of the world. Additionally, many types of surveillance are not explicitly regulated or forbidden.

**Lack of Enforcement** – Even when there are laws, they are oftentimes difficult to enforce, as government agencies and companies easily find loopholes in the law. For example, many nations protect the rights of citizens to not be surveyed without cause, but this protection is not extended to foreigners. Without international bodies regulating this right, it is unlikely anything will change.

**Where Does National Security End?** – Since international law forbids the “arbitrary” invasion of privacy, it is clear that an allowance is made for legitimate national security problems. However, the line of where legitimate national security concerns end and an invasion of privacy begins is ill-defined on the international level. The same is usually true on the national level.

**Companies are Required to Maintain Records** – Many nations require private companies to keep records of private transactions and communications, so that investigators can retrieve the data if necessary. While not inherently a breach of privacy, this is a risky practice that creates the potential for massive breaches of private data.

**Freedom of Speech** – Many nations have laws making certain kinds of speech illegal, which gives them grounds for invading privacy in order to identify the perpetrators of illegal speech. Internationally, this may be problematic since it provides an opportunity for the oppression of citizens and/or the abuse of foreigners.

## **Bloc Positions**

**The European Union** – The EU is notorious on the international stage for having some of the strictest privacy standards in the world. For example, some EU members consider any piece of information about an individual to be private information that must be protected. However, the topic of surveillance has not been addressed substantially at the EU level.

**Asia, South and Central America, and Africa** – Data privacy views vary greatly in these regions, particularly depending on government type. Authoritarian governance structures are notorious for heavy surveillance while many nations support privacy initiatives. In general, states that do have privacy protections struggle to enforce them, or lag behind technology developments when writing legislation.

**The Middle East** – The Middle East is known for heavy monitoring of communications and the internet, and is known in particular for politically-motivated restrictions on communication. Generally, surveillance in Middle Eastern nations is indiscriminate.

**The “Five Eyes” Alliance** – Australia, Canada, the US, the UK, and New Zealand created this alliance in 1948, pledging not to spy on each other. However, the bloc is strongly in favor of mass surveillance, and has largely prevented many international organizations from taking a hard stance on mass surveillance.

## **Key Questions – To Guide Your Research**

- What kind of data should be private? What kind of data should the general public have access to? Governments?
- How can we weigh individual privacy with national security concerns? At what point does surveillance become an invasion?
- Why has little action been taking so far? What are the preventing factors?
- How can international action be taken in a way that is adaptable and fluid as technology develops and private data changes? What kind of private data did not exist 50 years ago?
- What domestic laws does your country have regarding data privacy? To what extent does your nation enforce said laws? What nations share similar laws?
- How has your state responded to recent international actions?
- What kinds of international actions might be effective? What are the potential factors that might prevent such an action?
- What organizations or companies have a vested interest in action on this topic? Who might suffer?

## **Additional Readings**

- **Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression**  
<http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/OpinionIndex.aspx>

- **The right to privacy in the digital age**  
[http://www.un.org/ga/search/view\\_doc.asp?symbol=A/C.3/69/L.26/Rev.1](http://www.un.org/ga/search/view_doc.asp?symbol=A/C.3/69/L.26/Rev.1)
- **Special Rapporteur on the Right to Privacy**  
<http://www.ohchr.org/EN/Issues/Privacy/SR/Pages/SRPrivacyIndex.aspx>
- **Universal Declaration on Human Rights**  
<http://www.ohchr.org/EN/UDHR/Pages/Introduction.aspx>
- **International Covenant on Civil and Political Rights**  
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>
- **Vienna Declaration and Programme of Action**  
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx>
- **Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data** <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/108>

# Topic 2: Rights of Prisoners

## Introduction

Throughout its history, SOCHUM has operated under the principles of the Universal Declaration of Human Rights (UNDHR). Included in these rights is the principle that all humans (including prisoners) have equal rights. Prisoners, as a population, are often overlooked by the international community, as they are not seen as deserving of international protections. A notable exception to this is prisoners-of-war, and other conflict-associated prisoners, which have considerable protections afforded to them by the Geneva Conventions and their Additional Protocols.

## Statement of the Problem

In 1984, the General Assembly ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter referred to as the Convention against Torture). Since 1984, 155 sovereign nations have ratified the treaty. However, multiple international watchdog organizations (namely Amnesty International and Human Rights Watch) continue to report high levels of torture and inhumane treatment of prisoners around the world. In a four-year period, Amnesty International received reports of torture and abuse in 141 nations. While torture has a relatively narrow definition (“any act by which severe pain or suffering... is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed” per the Convention against Torture), inhumane treatment includes a lack of access to healthcare, poor living conditions, restrictions on cultural practices, and more.

Prisoners are already defined as a vulnerable population by many organizations, which means that they must have additional protections for their human rights. In addition, prisoners are oftentimes a part of an additional vulnerable population, making them especially vulnerable. These populations include children, prisoners with mental illness or disability, and foreigners. These populations currently have no additional protections on an international scale (even though most nations have a vested interest in protecting foreign prisoners, for example).

## Relevant International Action

**Geneva Conventions** – The Geneva Conventions are generally considered to be some of the strongest international prisoner’s rights legislation ever adopted. However, their scope of application is extremely narrow, applying only in the case of armed conflict. As a result, it is prisoners that do not fall under the scope of the Geneva Conventions that are vulnerable today. However, the Geneva Conventions serve as a model of what international protections might look like, and offer an example to strive for with international human rights protections.

**Convention on Torture** – The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is the most relevant piece of international law that currently applies to prisoners not governed by the Geneva Conventions. However, the protections discussed in this convention do not address inhumane treatment that is not defined as torture. Additionally, the convention is hardly enforced, although it is technically binding. The convention did establish the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which visits incarceration sites and can provide support for nations trying to abide by the convention.

**Basic Principles for the Treatment of Prisoners** – In 1990, the General Assembly adopted this resolution, which reiterates that all prisoners maintain the rights outlined in the UNDHR—with the exception of rights that are incompatible with incarceration. It also specifically states that nations should try to eliminate solitary confinement as a punishment, or at the very least restrict its use. The resolution does not try to eliminate solitary confinement entirely, acknowledging that it can have legitimate uses under certain circumstances.

**Standard Minimum Rules for the Treatment of Prisoners** – Adopted in 1955 by the First UN Congress on the Prevention of Crime and the Treatment of Offenders. SMRs outline the basic minimum for how prisoners should be treated in order to preserve basic dignity and human rights. The International Penal and Penitentiary Commission contributed significantly to the development of SMRs. SMRs are broken down into two parts: general rules and “special category” rules, which cover special populations and seeks to address potential loopholes in the general rules. SMRs have been continuously updated since adoption, although many areas of concern are still not addressed.

**UN Model Agreement on the Transfer of Foreign Prisoners and Recommendations on the Treatment of Foreign Prisoners** – Adopted by the Seventh UN Congress on the Prevention of Crimes and the Treatment of Offenders in 1985, the Model Agreement is an outline of what a bilateral or multilateral foreign prisoner agreement might look like. The Model Agreement is unfortunately broad and thus has almost never been used. International travel has made foreign prisoners an increasing problem, yet many nations have no standing agreement about how to deal with foreign prisoners. Additionally, bilateral communication is often poor when it comes to prisoners, allowing many to “fall through the gap.” Of particular note is the fact that most governments treat foreign prisoners more harshly than domestic prisoners.

**United Declaration of Human Rights Article V**– Article V of the UNDHR was adopted by the General Assembly in 1984, and ensures that no person will be subjected to torture or cruel treatment. However, many nations do not follow this article, as Amnesty International and Human Rights Watch have reported.



## **Key Problems**

**Lack of Accountability** – The majority of international action on the rights of prisoners is non-binding, and even action that is binding is hardly ever enforced. The vast majority of nations have been reported as perpetrators of human rights violations for prisoners.

**Foreign Prisoners** – Other than the Model Agreement, the treatment of foreign prisoners is not regulated on the international stage. Foreign prisoners are regulated typically via bilateral agreements, and sometimes multilateral agreements, which create numerous gaps where foreign prisoners are not governed by any agreement at all. Additionally, a lack of communication often allows for the abuse of prisoners to go unchecked.

**Torture** – Many nations still torture prisoners, whether intentionally or unintentionally. Despite considerable international agreement that this is an untenable practice, there is little international enforcement, and torture practices continue unabated.

**Vulnerable Populations** – Women, children, the mentally ill, and other vulnerable populations are typically not addressed on the international level when it comes to the treatment of prisoners. As a result, these populations have repeatedly had their human rights violated while incarcerated.

**Living Conditions** – Overcrowding, access to health care and health products, and other living condition issues have rarely been addressed on the international level. Labor camps are also an important component of this issue, as labor camps may be considered inhumane by some parties.

## **Bloc Positions**

For this topic, bloc positions are difficult to define, as nations' treatment of prisoners and their views on improving the treatment of prisoners tend to not follow a specific regional ideology. Most nations agree with the ideology of past UN actions, but tend to not want to allocate time or money to following the UN's leadership. However, objections over the United States' Guantanamo Bay internment camp have sparked some international outrage, specifically from the Middle East and African Union blocs.

The AU has also established Special Rapporteur on Prisons and Conditions of Detention in Africa, representing some of the only bloc-level international action in recent history.

Due to the lack of bloc alignment on this issue, state-level research is key; I implore you to look at your nation's prior actions, and to seriously think about what your nation would want to do on an international level and why. Consider whether your state would even want to discuss this topic in the first place!

## Key Questions – To Guide Your Research

- Has your state ratified or signed previous UN actions? Why or why not?
- What is your state's history with violating the human rights of prisoners? Has significant action been taken to change/improve?
- In general, what does your nation believe prisoners deserve? What percentage of your nation is imprisoned?
- What kinds of policies does your nation have on the national level regarding the treatment of prisoners? How well are these policies enforced? What kinds of incidents have occurred in the past? What kinds of incidents have occurred more recently?
- What kinds of solutions might be effective on the international level? How might a solution be enforced? Militarily? Financially?
- Many states agree ideologically on the UN's standards concerning human rights and the rights of prisoners. So why are the rights of prisoners still widely ignored? What is preventing current international agreements from working?

## Additional Readings

- **The Universal Declaration of Human Rights** <http://www.un.org/en/universal-declaration-human-rights/>
- **Basic Principles for the Treatment of Prisoners** <http://www.ohchr.org/EN/ProfessionalInterest/Pages/BasicPrinciplesTreatmentOfPrisoners.aspx>
- **UN Model Agreement on the Transfer of Foreign Prisoners and Recommendations on the Treatment of Foreign Prisoners** <http://www.prisonwatch.org/assets/un-model-agreement-on-the-transfer-of-foreign-prisoners-and-recommendations-on-the-treatment-of-foreign-prisoners.pdf>
- **The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** <http://www.ohchr.org/Documents/ProfessionalInterest/cat.pdf>
- **A Summary of United Nations Agreements on Human Rights** <http://www.hrweb.org/legal/undocs.html>
- **Human Rights and Prisons: Manual on Human Rights Training for Prison Officials** <http://www.ohchr.org/Documents/Publications/training11en.pdf>
- **Amnesty International** <http://www.amnestyusa.org/our-work/issues/prisoners-and-people-at-risk>
- **Human Rights Watch Country Pages** <http://www.hrw.org/regions>