



CUIMUN XXIII

Study Guide

UNHRC



STUDY GUIDE

CONTENTS

I.	Welcome Letter from the Chairs	p.3
II.	Introduction to the Committee	p.4
III.	Topic A: Corporate accountability and responsibility for the protection of Human rights: implementing Guiding Principles on Business and Human Rights	p.5
	a. Introduction to the Topic	
	b. Timeline of events	p.6
	c. Discussion	p.6
	d. Bloc Positions	p.10
	e. Conclusion – Key issues	p.11
	f. Bibliography	p.11
IV.	Topic B [Insert your Topic]:	
	a. Introduction to the Topic	p. 13
	b. Discussion	p. 13
	c. Bloc Positions	p. 19
	d. Conclusion – Key issues	p. 19

WELCOME LETTER

Dear Delegates,

Welcome to the United Nations Human Rights Council! We are all excited to welcome you to what we believe will be an amazing conference. Cambridge is an amazing town with a lot of history, and its conference as well is naturally one of Europe's premier conferences. So regardless of what you study, where you study or what your political alignments are, prepare to shed your beliefs and become Ambassadors to one of the United Nation's most interesting and diverse committees.

As a dais, we all have risen from quiet and unassuming delegates to chairs and even Secretaries-General of some of the UK's most attended and senior conferences. But we are all still here because we appreciate and admire the power that MUN has. And for some of us, we keep delaying 'our retireMUNt'. Our experience and longevity means that we have seen a lot of delegates and conferences. So please feel free to say hi, ask questions and even ask for a dance at socials. We will answer your questions and do all that we can to make this weekend an amazing one, but we can only do this if we work together.

A few tips: read the Rules of Procedure, read up on your country's position, understand the committee, but above all, come excited and prepared to have an amazing time!

Yours,

Afolabi, Vaishnavi and Karolina

INTRODUCTION TO THE COMMITTEE

The United Nations Human Rights Council (UNHRC) is an inter-governmental body within the United Nations that is made up of 47 states and is responsible for the protection and promotion of human rights worldwide. Founded in 2006, UNHRC deals with a wide variety of topics which impact human rights on a global scale. UNHRC was created by the General Assembly under resolution 60/251 to replace the United Nations Commission on Human Rights.

From LGBT rights to freedom of expression and the rights of racial and ethnic minorities, the UNHRC has strived to improve the situation of human rights worldwide by abiding by the UN Charter and the Universal Declaration of Human Rights. Members are elected to the Council to serve a three-year term, while no member is allowed to serve more than two consecutive terms.

TOPIC A: -

Corporate Accountability and Responsibility for the Protection of Human Rights: Implementing Guiding Principles on Business and Human Rights

Introduction

As a result of globalization, businesses have become international and nowadays-transnational companies seem to rule the world's economy. Out of the 100 largest economies in the world, 51 are corporations and only 49 are states. Consider for example Wal-Mart, which has an annual revenue that exceeds GDP of all but 27 top states in the World.¹

This reality brings progress, new job opportunities, technological and economic advancement to the poorest regions of the world, but at the same time it poses a challenge to the observance and respect of human rights across borders. It is difficult to protect Human Rights from violations from non-state actors, privately owned companies that operate around the world, in different legal systems.

In order to adapt to the changing reality of the international business, in 2011 the UN Human Rights Council adopted the Guiding Principles on Business and Human Rights (hereafter UNGP) presented to the forum by Professor John Ruggie after 6 months of an extensive research. The UNGP consist of a set of 31 principles based on the three-pillar structure of Protect, Respect and Remedy. The UNGP act as benchmarks for States and stakeholders to ensure business and corporate respect for human rights and guidelines on assessing the potential risk of an adverse effect on human rights.

The High Commissioner for Human Rights described the UNGP as 'both a new and clear benchmark and an important milestone in the evolving understanding of human rights in our societies... Clarity about the baseline expectations of business with regard to human rights is a first important step towards developing appropriate and effective responses to such problems.'²

Unfortunately, despite covering possible legal implications of violation of Human Rights in business included in domestic and international law, the Guiding Principles are themselves not a binding document.

Protecting human rights is not an opt-in/opt-out and even though everyone is obliged to not only 'not harm' but to actively respect and promote observance of Human rights, in the globalised world, this is difficult to monitor without a legally binding framework. In general, international human rights treaties do not normally impose direct legal obligations on business enterprises; legal

¹ Robert C. Blitt "Beyond Ruggie's Guiding Principles on Business and Human Rights: Charting an Embrasive Approach to Corporate Human Rights Compliance" (2012) 48 Tex Int'l L J 33 at 36

² Navanethem Pillay, "The corporate responsibility to respect: a human rights milestone", *International Labour and Social Policy Review* (2009).

liability and enforcement depends mainly on the national law and that leads to impunity of many multinational corporations that violate human rights to maximize their profit.

Question arises here: How could the UNGP could serve as a platform for more legally-binding, sustainable measures, and how to ensure effective adherence to the principles in the long run and across the globe?

Timeline

1984 Bhopal tragedy

1993 The German government funds the Rugmark initiative, a consumer-based effort to promote rugs produced without using child's labour

1996 The British government presses charges against BP for funding death squads in Colombia

1996 No Sweat initiative is launched, an educational forum for the fashion industry, there has been no follow up though

1997 The FLO International (Fairtrade International) is created

2002 The Fairtrade Certification Mark is launched

2006 Toxic waste dumped by the multinational oil trade, Trafigura, at the coast of the city of Abidjan, Côte d'Ivoire with around 100.000 people seeking medical assistance afterwards

2008 John Ruggie presents the 'Protect Respect and Remedy' Framework.

2008 Oil Spills in Bodo Creek in Nigeria due to the actions of petroleum company Shell. Bodo community was paid £55,000,000 as compensation in 2014

June 2011 The United Nations Human Rights Council endorses the Guiding Principles on Business and Human Rights presented to it by the Special Representative of the United Nations Secretary-General, Professor John Ruggie.

2013 The UK as a first country sets out an action plan to implement UNGPs.

2014 Launch of the Corporate Human Rights Benchmark

March 2015 The UK passes the Modern Slavery Bill

Discussion

How enterprises violate human rights?

Globalisation and multinational enterprises can definitely be of benefit in the developing World by pushing for progress and development. At the same time though, enterprises often use legal gaps and inconsistencies in to avoid repercussions for clear violations of human rights.

As mentioned in the introduction, multinational enterprises are not obliged by International treaties to respect human rights. This is due to their legal status: under the Rome Statute of International Criminal Court, the primary subjects of international law are States with international corporations

holding limited standing.³ Additionally, under the [Alien Tort Statute](#) corporations are only legally accountable for human rights violations under the municipal law of the Nation in which the violation is alleged to have occurred or the company is based.

Developing countries, which are often sites of factories and manufactories for multinational corporations, often have ineffective, old and poor legal systems. Exploiting this situation makes many violations of human rights go unnoticed, with governments turning a blind eye what in turn leads to devastating effect on people and communities.

Examples of violations of human rights in business

Enterprises can be involved in violations of human rights directly and indirectly. Human Rights violations can happen through direct activities of the company which is the case in the following examples:

- Racial discrimination by a restaurant in its treatment of customers,
- Paying below the minimum wage or not paying for overtime,
- Compelling workers to take shifts on an election day under threat of losing job,
- Exposure of factory workers to hazardous working conditions without adequate safety equipment,
- Land grabs and forced displacements of entire communities,
- Being the sole or main source of pollution in a community's environment (drinking water, air, land), which is especially detrimental for indigenous or rural communities that closely link their life to the land they inhabit.

Enterprises may also **contribute** to the adverse impact through their own activities, like in the following cases:

- Provide data about customers to the Government that uses the data to track and prosecute political dissidents,
- Targeting high-sugar foods and drinks at children thus fostering child obesity,
- Changing product requirements for suppliers in the very last minute, thus forcing the suppliers to breach labor standards in order to meet the deadline and deliver.

Finally, multinational corporations may neither cause nor contribute to the impact, but be involved because the impact is caused by an entity with which it has a business relationship *and* is linked to its own operations, products or services. (i.e. Governments).

- Providing loans to an enterprise for business activities that break human rights laws,
- Facilitating investments and business advancements for the company that violates human rights and national laws,
- Embroidery on a retail company's clothing products being subcontracted by an enterprise that uses slave or child labour.

³ Dapo Akande "International Organizations" in Evans, MD (ed) *International Law* (3rd ed, Oxford, Oxford, 2010) at 256

These last examples of business impact on human rights shows complicity of state Governments in the abuses performed by multinational enterprises. Even if the multinational enterprise cannot be legally obliged to respect human rights as outlined in international laws, governments, by supporting and involving with corporations that disrespect human rights, become equally guilty.

The response to human rights violations from governments of both home and hosting countries of multinational enterprises is varied, hugely depending on corruption, capacity and efficacy of legal framework and status of the multinational enterprise as an investor. Host countries are in most instances developing countries, holding poor human rights protection record and aiming at economic development therefore they offer the companies attractive conditions to invite foreign investment, thus often ignoring irresponsible practices.

Case studies of human rights violations in business

The abuses of human rights happen in businesses of all sectors and all around the globe. The developing countries and the extractive sector, however, are particularly vulnerable, as there is a highly competitive field with companies racing for mining valuable mineral resources. Below you will find short case studies presenting human rights violations by multinational enterprises.

- **Slavery in the Thai fishing industry:** Human trafficking and forced labor in Thai fishing industry of 7 billion \$ enslaves men, women and children in the Greater Mekong Sub region. Seafarers endure brutal treatment including physical and mental abuse, excessive and inhumane working hours, sleep and food deprivation, forced use of drugs, confinement. Overfishing in the Gulf of Thailand and the Andaman Sea causes the vessels to operate far from the shore and in order to reduce expenditure on fuel, some fishermen must remain at sea for years. Poor registration and licensing of sea vessels impedes monitoring.
- **Trade in conflict minerals in Africa:** Conflict minerals are materials that are extracted and sold to support financially armed groups. In Democratic Republic of Congo and Central African Republic his refers to four minerals: Gold and 3Ts: tungsten, tin and tantalum. These are commonly used in consumer electronics, jewelry and cars and they are smelted by companies to further down the supply chain of companies like Apple, Motorola, Tiffany & Co. This is an example of corporate contribution to violations on human rights.
- **Bhopal tragedy, India:** formerly the City of lakes, site of the greatest industrial disaster. In 1984 toxic gas leak killed 20.000 people and poisoned half a million. Survivors were pressing charges against Union Carbide and Dow companies which were backed by the governments of India and the US. The struggle lasted 20 years.
- **Unocal Corp violations in Burma:** In 1996 Burmese people filed suit against Unocal under Alien Tort Statute for various human rights violations including forced labour, wrongful death, false imprisonment, assault, intentional infliction of emotional distress and negligence during the construction of the Yadana gas pipeline project in Myanmar.

Criticism of UNGP

Despite UNGP being a framework for improvement and change, they have received much criticism since they were adopted in 2011. International Federation for Human rights criticizes UNGP for failing to recognize the responsibility of states for the actions of their companies abroad and pointed out that UNGP are not comprehensive enough to resolve the problem of legal imbalance whereby victims of irresponsible business practices are often denied justice, fair trial and remedy. Corporate wrongdoing is rarely investigated and UNGP only advice best practice, while still holding the orthodox view considering states as the primary actors in the protection of human rights. UNGP can serve as a basis for customary international law, however they lack legal power to enforce legal obligation.

Therefore as well, there is much discussion about corporate responsibility and corporate accountability, with the former being a voluntary willingness to contribute to the protection of human rights, which are expressed in, for example, Corporate Codes of Conduct of many multinational enterprises. More demand should be put on the accountability over responsibility as relying solely on voluntary approaches fails to identify, remedy and eradicate problems and does not bring improvement.

Another issue raised by UNGP and responsible business practice is the need to consider and probably the competitive disadvantage of the endorsing companies versus those not recognizing and not following the recommendations of UNGP.

There have also been multiple recommendations for more thorough training with regards to human rights: Many businesses enterprises would benefit from external expert resources that can support and assist their efforts to respect human rights.

Other actions in the field

There have been other actions in the field taken that could be further used by UN bodies to improve UNGPs.

The International Bill of Human Rights and the core ILO conventions provide basic reference for businesses in the realm of human rights and explain how their own activities may affect them and how to assess, prevent and remedy any adverse impact.

Amnesty International promotes a program based on prevention, accountability, remedy and protection of rights beyond borders. It calls all businesses to provide due diligence, provide accessible remedy for victims and impose laws operating across borders, relating to international investment, trade and taxation that will protect corporate interests and human rights. It also draws on the potential of the multinational enterprises to promote protection and respect of human rights.

The Corporate Human Rights Benchmark releases yearly ranking of 98 world's largest publicly traded companies from at least 3 risk sectors on human rights performance.

BLOC POSITIONS

BRICS countries, including Brazil, Russia, India, China and South Africa, have adhered to most human rights and corporate responsibilities. However most of these countries have also had individual issues with workers' rights and effective labour rights management. Most of these countries deal with large populations and these have led to private and public organisations being able to shirk human rights and workers laws. However there are growing workers' rights laws in these countries that are beginning to act on these tendencies by larger organisations.

Europe

European business is regulated by the OECD Guidelines for Multinational Enterprises and EU regulations requiring companies to perform due diligence to ensure they resource minerals in a responsible manner.

"States have the duty to protect human rights. Enterprises should, within the framework of internationally recognised human rights, the international human rights obligations of the countries in which they operate as well as relevant domestic laws and regulations:

1. Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.
 2. Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.
 3. Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts.
 4. Have a policy commitment to respect human rights.
 5. Carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts.
 6. Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts."
- *OECD Guidelines for Multinational Enterprises* (2011), Section IV

Those regulations mirror the three pillars of UNGP and also necessitate and authorise the creation of National Contact points where individuals can present their issues.

US

The USA has had its own share of problems in relation to human rights violation in private sectors. In 2014, it was revealed that immigrant detainees were being used as staff at the detention centres where they are held. Run by private companies, these centres were paying the detainees cum staff 13 cents an hour. In the same year, Human Rights Watch raised concerns over kids under the age of 18 working on tobacco farms in what they described as "horrific working conditions".

In both the above cases, Article 23, Clause 1 of the Universal Declaration of Human Rights was violated, which focuses on just and favourable conditions of work. US laws doesn't specify a minimum age for kids to start working on a small plant granted they have parental permission. Human Rights Watch tried to engage 10 tobacco companies in order to raise concerns about

child labour especially given the dangerous conditions on the farms. Only a few companies had explicit child labour policies in place.

In September 2014, President Obama announced that the Government was planning to develop a National Action Plan on Responsible Business Conduct. The aim of such a plan was to achieve responsible business conduct, which would be consistent with UN Guiding Principles on Business and Human Rights and also the OECD Guidelines on Multinational Enterprises.

UK

MPs want British companies with factories overseas to be brought into court if found abusing their workforce, proof of which has been the Action Plan on Business and Human Rights, 4th September 2013. Companies such as Unilever and BP have also endorsed the UNGP.

Bibliography

Global Issues: Corporations and Human Rights

<http://www.globalissues.org/article/51/corporations-and-human-rights>

Guiding Principles on Business and Human Rights

http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

An Interpretative Guide to Corporate Responsibility to Respect Human Rights

http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf

Corporate Accountability for Human Rights Abuses

https://www.fidh.org/IMG/pdf/corporate_accountability_guide_version_web.pdf

A Resource Guide to Corporate Human Rights Reporting:

<https://www.globalreporting.org/resourcelibrary/A-Resource-Guide-to-Corporate-Human-Rights-Reporting.pdf>

[Business & Human Rights Resource Centre](https://www.business-humanrights.org/en)

[https://business-humanrights.org/en](https://www.business-humanrights.org/en)

<https://www.theguardian.com/sustainable-business/2014/sep/09/human-rights-violations-increase-corporate-responsibility>

OECD Guidelines for Multinational Enterprises

<http://mneguidelines.oecd.org/guidelines/>

Amnesty International: Corporate Accountability

<https://www.amnesty.org/en/what-we-do/corporate-accountability/>

Corporate Human Rights Violators

<https://globalexchange.org/campaigns/corporate-human-rights-violators/>

Bhopal Tragedy:

<https://medium.com/@AmnestyOnline/bhopals-30-year-fight-for-justice-d5d410c03e1e>

Thai Fishing:

<https://www.globalslaveryindex.org/country/thailand/>

Planet Earth: A Corporate World

<https://www.tni.org/en/article/planet-earth-corporate-world>

<https://www.tni.org/en/briefing/state-power-2014>

Tobacco's Hidden Children

<https://www.hrw.org/report/2014/05/13/tobaccos-hidden-children/hazardous-child-labor-united-states-tobacco-farming>

Using Jailed Migrants as a Pool of Cheap Labor

https://www.nytimes.com/2014/05/25/us/using-jailed-migrants-as-a-pool-of-cheap-labor.html?_r=0

US Govt. hold final consultation for National Action Plan on business & human rights – submission & commentary

<https://business-humanrights.org/en/us-govt-holds-final-consultation-for-national-action-plan-on-business-human-rights-submissions-commentary>

TOPIC B:-

Investigating the Gay Concentration Camps in Chechnya

Introduction

The concepts of homosexuality, rights awarded to people who identify as homosexual and the link with religion, morality and law remain an ongoing battle and discussion all around the world. Perception towards homosexuality has evolved over time but still exhibits a stark contrast around the globe. Many people in Africa and Asia view homosexuality as a foreign and more precisely, a Western concept. It would be immature to conclude that such views towards homosexuality don't exist in Europe or the Americas. However, despite the many cultural, linguistic and geographical differences that exist in the world, the notion of heteronormativity seems to be deeply entrenched throughout. 68% of the world population would be upset if their child were in love with someone of the same sex⁴.

When the debate moves on to traditional values vs. western attitudes, 48% of respondent from Russia viewed homosexuality as a western phenomenon. To understand this attitude, one can look at the laws and social context around homosexuality in Russia. Situated in Europe, where most countries seem to have made some progress in achieving homosexual or LGBTQ rights, Russia seems to lead the way in the opposite direction. For the purpose of this study guide, we take a closer look at gay rights in Chechnya, a federal subject of Russia.

Chechnya and LGBT Rights.

In 1996, President Aslan Maskhadov adopted Sharia Law into the judicial practice of the Chechen Republic. Through this revised civil code, a number of articles emerged that approved caning as a form of punishment. Anal sexual intercourse between man and woman or man and man ("consensual sodomy"), indecent behavior, conducts insulting public morality and demonstrations insulting public morality all called for corporal punishment in this revised code. If sentenced to death, then execution methods such as stoning and decapitation was also recognized⁵.

For years, Chechen law enforcement has been notorious for persecuting gay males. This builds on the decade long history of Kadyrov's war on his opponents to root out Islamist insurgency in the region through abduction, torture and extrajudicial executions. In recent years, the Chechen police have been instructed to monitor and conduct raids on those who stray away from Sufi Islam, leading to unofficial detentions. Kadyrov's orders, in practice, can be seen as the only law in the Chechen republic.

Although Chechnya returned to direct Russian rule in 2000, the situation did not improve there, bringing us to the revelation seen in 2017.

⁴ The IGLA-RIWI 2016 Global Attitudes Survey on LGBTI People in Partnership with Logo.

⁵ Amnesty International, *Torture in Russia: This Man-made Hell*, 1 April 1997, EUR/46/04/97

Chechnya: 2017 Anti-Gay Purge

In March 2017, reports started surfacing about suspected gay men becoming a target of an anti-gay campaign in Chechnya, supposedly carried out by senior officials. The Russian newspaper *Novaya Gazeta* claimed that more than 100 men have been detained tortured and some even died following their ordeal⁶. Others were allowed to return to their families but were exposed as gay to their relatives, in order to encourage honor killings, since homosexuality is still seen as a stain on family honor.

To this day, Chechen authorities have repeatedly dismissed these allegations. Alvi Karimov, a spokesperson for Kadyrov, tried to discredit the allegations by claiming that gay people don't exist in Chechnya and hence there is no possibility of anyone being rounded up for being gay. He further added that if such people existed, then their relatives would have 'already sent them somewhere from where there is no returning'⁷.

Russian federal authorities had also initially dismissed the allegations put forward by media outlets but following the growing international attention given to these allegations, an official inquiry was launched with Russian President Vladimir Putin promising to hold talks with the prosecutor general and interior minister about the reports.

Many victims may have fears about coming forward, which leads to a possibility of the anti-gay purge being completely dismissed as a rumor. To tackle this, a leading LGBT rights group in Russia opened a hotline to provide support and evacuation-related assistance to those who find themselves in danger or living under threat. According to Human Rights Watch, 75 individuals targeted during the purge contacted the organization, out of which 52 had been held in unlawful detention centers. The Russian newspaper *Novaya Gazeta* claims that there are as many as six unofficial detention centers and many high-level officials participated in the mistreatment of the imprisoned individuals during the purge.

Many released men fled Chechnya after realizing that compromising information about them was in the cellphones of captured men. For many who fled, their families were approached by the police and asked hostile questions, with an indication of possible harm to the families themselves⁸.

Case Summaries by Human Rights Watch (all names provided are pseudonyms)

- **Khasan (20 years old):** Like many other victims, Khasan was lured through online dating sites. After meeting the person for a date somewhere on the outskirts of the city, he realized he was in trouble when 3 security officials in black uniform surrounded him, kicked him out of the car, stripped him naked and filmed him. They demanded a large sum of money from him to keep his homosexual identity a secret from his family.

⁶ The Guardian: "Chechen police round up more than 100 suspected gay men", April 2017

⁷ The Guardian: "Chechens tell of prison beatings and electric shocks in anti-gay purge", April 2017

⁸ Hrworg, "They have long arms and they can find me" (Human Rights Watch, 26 May 2017)

<<https://www.hrw.org/report/2017/05/26/they-have-long-arms-and-they-can-find-me/anti-gay-purge-local-authorities-russias>>

- **Zurab (32 years old):** Zurab was approached by a police officer in early March for questioning and taken to a detention center in Grozny, where he found 2 of his gay acquaintances. He claims he was subjected to electric shocks and was deprived of food for an entire week. However, he was given water in order to perform his Muslim rituals.
- **Aslan (38 years old):** Aslan was stopped and picked up from a police checkpoint without any explanation. He was also kept in Grozny in a law enforcement unit, made to strip naked and was filmed. According to Aslan, an officer who sort of knew him recognized his frail health and helped him to escape. From there, Aslan went into hiding and contact the LGBT hotline number.

The Kremlin Influence

Many individuals and organizations have linked this anti-gay purge to the regular violation of human rights practiced by Chechen authorities and to the influence and blessing of the Kremlin. Although Russia legalized same-sex sexual activity in private in 1993, there is a lack of protection since there are no laws prohibiting discrimination towards the gay community. In 2013, Russian lawmakers passed what is now well known as the ‘gay propaganda law’, which essentially is a handful of amendments to the ‘Protection of children from information harmful to their health and development’. The amendments restrict the teaching of any non-traditional sexual relationships among minors and classify it as a criminal offence. This would also cover online and offline media outlets. Furthermore, in 2014, LGBTQI+ couples were banned from adopting⁹.

Russia’s approach to the LGBT communities and its issues has shaped or influenced legislations across its border in places other than Chechnya. An example of this would be Kyrgyzstan, which is introducing criminalization of propaganda of non-traditional relationships, pretty similar to its Russian counterpart. Countries such as Belarus, Ukraine and Moldova have considered similar legislations¹⁰.

Dmitry Peskov, a spokesperson for President Putin, defended the Kremlin by stating it had no previous knowledge of the situation in Chechnya but law enforcement authorities will look into the media reports. Tatyana Moskalkova, Russia’s ombudsperson, encouraged alleged victims to come forward to law enforcement agencies. However, since many victims did not directly approach the government out of fear, Moskalkova dismissed the allegations and news reports as fake and a provocation. According to Human Rights Watch, this fear of coming forward stems from the fact that the Chechen authorities have retaliated in the past whenever local residents file complaints, especially individuals flee to Russian regions. Following a meeting between Putin and Kadyrov, Peskov noted that if there were a crime or violation of law, there would have been police reports. Without any personal complaints, there was no reason for the Kremlin to distrust the head of the Chechen Republic.

⁹ Hrworg, 'Russia: Anti-LGBT law tool for discrimination' (Human Rights Watch, 29 June 2014)
<<https://www.hrw.org/news/2014/06/29/russia-anti-lgbt-law-tool-discrimination>>

¹⁰ Ifexorg, 'The human impact of Russia's gay propaganda law ' (IFEX, 2 March 2017)
<https://www.ifex.org/russia/2017/03/02/gay-propaganda-law/?sg_sessionid=1500916530_59762b32eb5f01.19956860&__sgtarget=-1&__sgbrwsrid=b8cb23729aaf14a547744532df07a71a#sgbody-2935285>

International and Domestic Framework

As mentioned earlier, Chechnya is a federal subject of Russia. Therefore it is important to look at the various International treaties that Russia has ratified and the domestic frameworks it needs to uphold.

International Law/Treaty	Description and Obligation
<u>European Convention on Human Rights (ECHR)</u>	<ul style="list-style-type: none"> • Article 2 focuses on the state’s responsibility to protect Right to Life. This would mean prohibition on unlawful taking of life and preventing unlawful threat or killings. • Article 3 concerns prohibition of torture. It puts obligations on state to protect from inhuman or degrading treatment or punishment. • Article 5 and 6 talk about liberty, security and fair trial. According to Article 5, everyone who is arrested should be informed of the reasons behind it. Article 6 stresses the importance of having a fair hearing within a reasonable time frame by an independent and impartial tribunal.
<u>International Covenant on Civil and Political Rights (ICCPR)</u>	<ul style="list-style-type: none"> • Article 6 deals with Right to Life. Under Article 6 (1) – “no one shall be arbitrarily deprived of his life.” • Article 7 prohibits anyone being subjected to torture, cruel, inhuman or degrading treatment or punishment. It also adds that without free consent, one cannot be exposed to medical or scientific experimentation. • Article 9 upholds everyone’s right to liberty and security. No one shall be subjected to arbitrary arrest, shall be informed of the reasons of his arrest and be brought before a judge and be entitled to a fair trial. <p>The Human Rights Committee in the past has found that if states are fail to protect its people from violence based on sexual orientation, then it is in violation of its obligation under this article.¹¹</p>

¹¹ Human Rights Committee, Concluding Observations: El Salvador, CCPR/Co/78/SLV, July 22, 2003.

<p><u>Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</u></p>	<ul style="list-style-type: none"> • Article 1 (1) deals with the definition of ‘torture’ as any act which inflicts intentional physical or mental suffering and pain on a person for the purpose of obtaining a confession or for third party reasons. • Article 2 places absolute responsibility on the state to prevent act of tortures. Article 2(3) prevents invoking an order from a superior officer as a justification. • Article 11 imposes duty on the state to have a systematic review of all arrests, treatment of detainees that are in any territory under its jurisdiction. • Article 13 prompts states to quickly address and impartially examine any complain of torture alleged by an individual.
--	--

Domestic Framework	Description/Obligation
<p>Russian Criminal Code</p>	<ul style="list-style-type: none"> • Article 105 specifies Murder as a criminal offence. If the Murder is of someone who was in a ‘helpless state’ or committed maliciously or committed with especial cruelty or in accordance to any of the reasons stated under Article 105 (2), then it is punishable by deprivation of liberty for up to 20 years or by death. • Article 110 talks about incitement to suicide, which is recognised when an individual commits or attempts to commit suicide due to threats or cruel treatment or systematic denigration of their human dignity.

Criminal Procedure Code of the Russian Federation	<ul style="list-style-type: none"> • Article 9 states that during court proceedings, any act that might degrade the dignity of the participant or create a threat to his life shall be prohibited. • Article 10 restricts detainment to 48 hours (pending court decision).
---	--

Criticism

In 2013, three gay activists brought forward a case against the Russian Federation in the European Court of Human Rights. The 3 activists were campaigning against the “gay propaganda law” when they were found guilty of administrative offences. The court found the Russian government guilty of several violations, emphasizing that the law has been arbitrary in its application and encouraged public homophobia¹².

In 2012, the UN Committee against Torture raised concerns over multiple reports regarding ill treatment of detainees. It pointed out that Article 117 of the Russian Criminal Code has rarely been used in practice and does not reflect all elements of the definition of torture as given in Article 1 of the Convention Against Torture. Article 1 includes involvement of a public official and the state has failed to carry out prompt investigations against allegations of public officials inflicting or participating in torture. The committee also raised concerns about the abduction of Aleksandr Bastrykin, deputy editor of *Novaya Gazeta* in June 2012, which was allegedly arranged by the head of the Investigative Committee, set up by the state.

Focusing on the Chechen Republic, the committee called out the ongoing reports of human rights abuses by public officials in the republic and failure on behalf of the Russian Federation to investigate into these claims. It urged Russia to work on cooperation of local officials with investigations and that anyone who fails to do so should be charged with penalties¹³.

Bloc Positions/ International Reaction

EUROPE

- Germany
Angela Merkel, the Chancellor of Germany, during her visit to Russia in May 2017, urged Vladimir Putin to ensure protection of the LGBT community. Raising concerns about the negative reports regarding treatment of the LGBT community in Chechnya, Merkel called for greater freedom of assembly and for Putin to utilize his influence¹⁴.

¹² Bayev and Others v Russia (Application nos.67667/09, 44092/12, 56717/12)

¹³ UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Concluding observations on the fifth periodic report of the Russian Federation, adopted by the Committee at its forty-ninth session (October 29 – November 23, 2012), CAT/C/RUS/CO/5, December 11, 2012.

¹⁴ The Guardian: Merkel presses Putin over anti-gay purge in Chechnya, May 2017.

Same-sex partnerships have been legal in Germany since 2001 and in June 2017, legislation was passed to give same-sex couples full marital and adoption rights. Germany has also started giving special humanitarian visas to homosexual people from Chechen if they can prove they are in serious danger.

- United Kingdom

In June 2017, the UK celebrated 50 years since it had partially decriminalized homosexuality in 1967 through the Sexual Offences Act. In 2013, acts between consenting adults was decriminalized across the UK, however, Northern Ireland is the only part of UK where same-sex couples are not allowed to wed.

Following the reports of anti-gay purge in Chechnya, Theresa May, Prime Minister of the UK, called the acts “barbaric” and “deeply troubling”. She also said that UK officials in Moscow had raised concerns at a senior level with the Russian Ministry of Foreign Affairs¹⁵.

- France

French president Emmanuel Macron expressed to Putin during his visit to France that LGBT people need to be protected and their rights need to be ensured, reflecting and emphasizing the importance of minorities in France¹⁶.

All laws relating to sodomy in France were repealed in 1791. In 2013, France legalized same-sex marriage.

- Lithuania

In May 2017, foreign minister of Lithuania called upon EU member states to follow their example and open doors to Chechen gays and grant them visas¹⁷. While Lithuania legally recognizes same-sex activities, gay marriage and civil same-sex partnership are not yet legalized.

- Note:

The foreign ministers of France, Germany, UK, Netherlands and Sweden have sent a joint letter to the foreign minister of Russia stating the urgency required to ensure an effective investigation into the “horrendous” allegations. The five EU countries also asked Moscow to ensure that Chechen authorities stop repression of victims¹⁸.

AMERICAS

- Canada

The government of Canada has deplored the acts of violence, urging Russia to fulfill its international obligations and thoroughly investigate all reports concerning human rights.

¹⁵ The Independent: Theresa May condemns Chechen persecution of gay men as “utterly barbaric”, May 2017.

¹⁶ CNN: French president calls on Putin to protect gay Chechens.

¹⁷ Foreignpolicy.com: Lithuania opens door to gay Chechens fleeing persecution, while U.S. slams it shut, May 2017

¹⁸ UAWIRE: Five EU countries call on Moscow to protect homosexuals in Chechnya, May 2017

violations¹⁹. In 2005, Canada legalized same-sex marriage nationwide. There is a nationwide prohibition on discrimination based on sexual orientation and gender identity and same-sex adoptions are also legal in all provinces.

- United States of America

The U.S. state department condemned the persecution based on sexual orientation. Nikki Haley, the US ambassador to the UN, called on the Chechen authorities to investigate the allegations, hold everyone involved accountable and take steps to prevent further abuse²⁰. There have been reports that the U.S. government has denied around 40 gay Chechen individuals visas who are hiding around Russia in fear.

In June 2015, a U.S. Supreme Court ruling led to marriage between same-sex couples being legalized nationwide. However, in the absence of any federal law regarding discrimination, protection from discrimination based on sexual orientation differs from state to state.

ASIA

- China

Laws in China define marriage as a union between a man and a woman. China doesn't have any policies or laws regarding sexual orientation minorities or that focuses on prohibition on discrimination based on sexual orientation. Until 2001, homosexuality was still considered as a psychiatric disorder.

A study by United Nations Development Program in 2016 showed that families in China have a low degree of acceptance for sexual and gender minorities²¹. In 2016, China voted against a resolution in the U.N. Human Rights Council to appoint an independent investigator to protect homosexual individuals from violence around the world.

- India

Under section 377 of the Indian Penal Code, same-sex activity is illegal in India and punishable by law. There is no law allowing marriage or partnership between same-sex couples. The Delhi High Court decriminalized section 377 in 2009. However, the Supreme Court of India overturned this decision in December 2013.

- Bangladesh

Similar to India and China, same-sex marriage or activities are not supported or recognized by Bangladeshi laws. Homosexuality is a punishable offence by law with the punishment going up to life imprisonment.

- Indonesia

Indonesia has no specific law for that criminalizes private homosexual acts and neither does it have a sodomy law. However, there are no laws to prevent discrimination against

¹⁹ Government of Canada, "Canada calls persecution of LGBTQ2 people in Chechnya reprehensible," April 15, 2017

²⁰ Hrworg, "'They have long arms and they can find me'" (Human Rights Watch, 26 May 2017)

<<https://www.hrw.org/report/2017/05/26/they-have-long-arms-and-they-can-find-me/anti-gay-purge-local-authorities-russias>>

²¹ United Nations Development Program: Being LGBTI in China

LGBT community. Same-sex marriage is not legal.

In 2016, the Human Rights Watch held the Indonesian government responsible for disseminating false statements about the LGBT community, leading to harassment and violence against the group. Censorship directives were issued to ban broadcasts that portrayed LGBT lives as “normal”²².

AFRICA

- **Congo**

Same-sex activities are not criminalized in Congo and therefore are legal. However like many countries discussed before, there is no legal protection based on sexual orientation. Same-sex marriage, adoption and right to change gender are all illegal in Congo.

34 out of 55 African states have outlawed homosexuality on religious, socio-cultural and legal concerns. There are growing agitations and movements on the continent to try and encourage governments and politicians to support same-sex legislation.

Bibliography

Global Attitude Survey on LGBTI People

http://ilga.org/downloads/07_THE_ILGA_RIWI_2016_GLOBAL_ATTITUDES_SURVEY_ON_LGBTI_PEOPLE.pdf

Torture in Russia: This Man-made Hell

<http://www.refworld.org/docid/3ae6a9dbc.html>

Chechen Police Round Up more than 100 Suspected Gay Men

<https://www.theguardian.com/world/2017/apr/02/chechen-police-rounded-up-100-gay-men-report-russian-newspaper-chechnya>

Chechens tell of prison beatings and electric shocks in anti-gay purge

<https://www.theguardian.com/world/2017/apr/13/they-called-us-animals-chechens-prison-beatings-electric-shocks-anti-gay-purge>

They Have Long Arms and They Can Find Me

<https://www.hrw.org/report/2017/05/26/they-have-long-arms-and-they-can-find-me/anti-gay-purge-local-authorities-russias>

Russia: Anti-LGBT Law Tool for Discrimination

<https://www.hrw.org/news/2014/06/29/russia-anti-lgbt-law-tool-discrimination>

The Human Impact of Russia’s Gay Propaganda Law

https://www.ifex.org/russia/2017/03/02/gay-propaganda-law/?sg_sessionid=1500916530_59762b32eb5f01.19956860&_sgtarget=-

²² hrw.org, Indonesia: ‘LGBT Crisis’ Exposed Official Bias (August 10, 2016)

[1&_sgbrwsrid=b8cb23729aaf14a547744532df07a71a#sgbody-2935285](https://www.google.co.uk/url?sa=t&rect=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwiBhvpAuJDWAhXDKFAKHWxQAKwQFggoMAA&url=http%3A%2F%2Fdocstore.ohchr.org%2FSelfServices%2FFilesHandler.ashx%3Fenc%3D6QkG1d%252FPPRiCAqhKb7yhsi9Z0yFv%252FrhNOe5I%252FcmYER%252F4glXHzgVjsoVZPxemp%252FcnIQsbsdE%252FByBOhNM4JTx55MjCGmo1eHGoYN9wIrkuaGvpVn20NC7HXKoqwEfeqAyN5&usg=AFOjCNEXgkd0RiSLcRdDCnHSpjqQK4T6hA)

UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Concluding observations on the fifth periodic report of the Russian Federation, adopted by the Committee at its forty-ninth session

<https://www.google.co.uk/url?sa=t&rect=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwiBhvpAuJDWAhXDKFAKHWxQAKwQFggoMAA&url=http%3A%2F%2Fdocstore.ohchr.org%2FSelfServices%2FFilesHandler.ashx%3Fenc%3D6QkG1d%252FPPRiCAqhKb7yhsi9Z0yFv%252FrhNOe5I%252FcmYER%252F4glXHzgVjsoVZPxemp%252FcnIQsbsdE%252FByBOhNM4JTx55MjCGmo1eHGoYN9wIrkuaGvpVn20NC7HXKoqwEfeqAyN5&usg=AFOjCNEXgkd0RiSLcRdDCnHSpjqQK4T6hA>

Merkel presses Putin over anti-gay purge in Chechnya

<https://www.theguardian.com/world/2017/may/02/angela-merkel-vladimir-putin-russia-investigate-lgbt-torture-claims-chechnya>

Theresa May condemns Chechen persecution of gay men as “utterly barbaric”

<http://www.independent.co.uk/news/world/europe/theresa-may-chechnya-gay-men-chechen-torture-detain-camps-barbaric-russia-region-a7728641.html>

French president calls on Putin to protect gay Chechens

<http://edition.cnn.com/2017/05/29/europe/macron-putin-russia/index.html>

Lithuania opens door to gay Chechens fleeing persecution

<http://foreignpolicy.com/2017/05/18/lithuania-opens-door-to-gay-chechens-fleeing-persecution-while-u-s-slams-it-shut-lgbt-lgbti-rights-russia-persecution-asylum-refugee/>

Five EU countries call on Moscow to protect homosexuals in Chechnya

<https://uawire.org/news/five-eu-countries-called-on-moscow-to-protect-gays-in-chechnya>

Canada calls persecution of LGBTQ people in Chechnya reprehensible

https://www.canada.ca/en/global-affairs/news/2017/04/canada_calls_persecutionoflgbtq2peopleinchechnyareprehensible.html

United Nations Development Program: Being LGBTI in China

http://www.cn.undp.org/content/china/en/home/library/democratic_governance/being-lgbt-in-china.html

Indonesia’s LGBT Crisis

<https://www.hrw.org/news/2016/08/10/indonesia-lgbt-crisis-exposed-official-bias>