



UNITED NATIONS
HUMAN RIGHTS COUNCIL

*Implementing Comprehensive Legislation to
Prevent Abuse and Torture with a Special
Focus on Sharia Laws in Asia*

Letter From the EB

Greetings Delegates,

We welcome you to the United Nations Human Rights Council at CENMUN with our agenda set as 'Implementing Comprehensive Legislation to Prevent Abuse and Torture with a Special Focus on Sharia Laws in Asia'.

A council is defined by its delegates more than by its executive board. You must, therefore, be prepared to participate in a truly rewarding experience. Apart from research on the agenda, delegates should be aware of their country's historical background and its current situation in global politics and international relations. Delegates should come into the committee with a clear foreign policy as the representatives of the governments of their countries.

We are unaware of your individual credentials/experience with Model United Nations, however, no matter what that may amount to, it is a given that there can be no productive simulation in the absence of substantial research. There are multiple approaches to preparing for a simulation such as this and we shall not dictate to you which of these you must adopt, that is upon you to decide, however, we can assert with confidence that the commonality among all these approaches is that research constitutes their first step.

So once the research process is initiated it needs to be coupled with proactive attempts to understand the information so gathered. Application of the information acquired through research always requires understanding. There is no particular point at which research concludes and analysis thereof begins, these are two intermittent processes which may continue till the last minute of the simulation.

Besides research, both on the agenda and the mandate of the committee the participants are required to have a firm grasp of diplomatic conduct. Diplomatic conduct can be general and country-specific, what constitutes general diplomatic conduct (which includes language, gestures and any other kind of expression) can be gauged from the definition of the term diplomacy.

There is no precise definition of the term but an appraisal of various definitions shall help formulate a reasonably accurate notion thereof.

Country-specific diplomatic conduct can be determined by a study of past actions of your country (country allotted of which a participant is called the delegate of) in the international fora. Speeches, statements, voting records, instances of walk-outs, boycotting of meetings et cetera can contribute to building an understanding of the same, apart from these sources, video recordings of these sessions and meetings can greatly help this understanding. It is expected of all participants to conduct themselves impeccably, the concept of MUNs wasn't created simply to get to students to talk about things diplomats would usually talk about, but to also hone their conduct, reasoning, logic, negotiation and lobbying skills, all of which can collectively be referred to as 'soft skills'.

Diplomatic conduct harmoniously links speech and body language, it is the bridge between verbal and nonverbal communication thereby making it an important criterion for us to assess your performance and effectiveness. Manipulation of procedure in the committee to gain extra floor time or to stall the statement/comment/speech of another delegate or to cause disruption thereof shall not be tolerated. In order to ensure that the procedure is not misused, it is necessary for delegates to be aware of the procedure of the Committee. The same shall be briefly explained subsequently in this document.

Having stated the above, it is now prudent to explain the purpose and nature of the background guide summarily. The background guide is a preliminary research brief pertaining to the committee and the agenda. It is NOT meant to provide participants with exhaustive information. The primary purpose of a background guide is to ensure that all participants are on a level playing field, thus it ensures that every participant possesses a modicum of information from which further information can be drawn.

It serves as a base upon which research is built. Nothing in the background guide has any evidentiary value, it can never be used as conclusive proof in the committee. It is necessary for delegates to dig deeper from where the background guide leaves them.

Research may commence well before the background guide is released, delegates are free to read up on the agenda which has been made public and formulate a structure of research. It is not important for your structure to match the one that the background guide presents as long as you have a solid understanding of what you are going to be discussing in the committee.

That being said, we wish you the best of preparations and hope that this simulation shall mutually benefit all those involved in it. We hope we can learn from you and impart our knowledge to you in the process. For any doubts that you may have, you may contact any member of the executive board.

We wish you all the best!

Regards.

Chairperson: Mr. Sushen Singh

Vice-Chairperson: Mr. Dhruv Maniyar

1. Introduction

The protection of human dignity is at the heart of all human rights frameworks, and one of the most pressing concerns facing the international community is the prevention of torture and abuse. Torture, defined under international law as an intentional act causing severe pain or suffering for purposes such as punishment, intimidation, or obtaining information, is unequivocally condemned in all its forms. Despite this, many states continue to face challenges in implementing comprehensive legislation to prevent such practices, particularly in regions where religious law, such as Sharia, coexists or is integrated into the legal system.

The objective of this background guide is to provide delegates with a thorough understanding of the issues surrounding the prevention of abuse and torture within the context of Sharia law in Asia and the Middle East. It explores how Sharia law is applied in different countries, how international human rights standards like the United Nations Convention Against Torture (UNCAT) intersect with religious principles, and the legal, political, and cultural challenges that arise in these regions.

The Role of the UNHRC:

The United Nations Human Rights Council (UNHRC) is tasked with promoting and protecting human rights around the world. This includes monitoring member states' compliance with international human rights treaties such as the UNCAT, the Universal Declaration of Human Rights (UDHR), and the International Covenant on Civil and Political Rights (ICCPR). One of the Council's key responsibilities is ensuring that all forms of torture and abuse are eradicated through comprehensive legal frameworks.

Scope of the Agenda:

This committee will focus on the complexities of implementing anti-torture laws in countries that adhere to Sharia law, particularly in Asia and the Middle East. The goal is to explore how countries can balance their religious legal traditions with their international obligations to prevent torture and uphold human rights.

2. Background and Context

Definitions:

Torture: As defined in Article 1 of the United Nations Convention Against Torture (UNCAT), torture refers to "any act by which severe pain or suffering, whether physical or mental, 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."

Abuse: Refers to cruel, inhuman, or degrading treatment or punishment that may not meet the legal definition of torture but still constitutes a violation of fundamental human rights.

Historical Overview:

Torture and abusive practices have been documented throughout history in many regions, including Asia and the Middle East. Historically, torture has been used as a means of extracting confessions, punishing individuals for perceived wrongdoing, and maintaining political control. In many Sharia-based legal systems, corporal punishment such as flogging, amputation, and stoning has been used for centuries. These practices, which are considered lawful in certain interpretations of Sharia, present significant challenges when viewed through the lens of international human rights standards.

Sharia Law and Its Role in Legal Systems:

Sharia law, derived from the Qur'an, the Hadith (the sayings and actions of the Prophet Muhammad), and centuries of Islamic jurisprudence, governs many aspects of life in Muslim-majority countries. In some countries, Sharia functions alongside civil law, while in others it forms the primary legal framework. There are several types of punishment under Sharia law:

- Hudud: Fixed punishments for specific crimes such as theft (amputation) and adultery (stoning).
- Qisas: Retribution in kind, often referred to as "an eye for an eye." This is applied in cases of bodily harm or murder.
- Ta'zir: Discretionary punishments left to the judgment of a judge, which allows for greater flexibility.

While Sharia law prioritizes justice, dignity, and moral rectitude, some interpretations and applications of its punishments have come under international scrutiny as potential violations of human rights, particularly when they involve physical harm or public humiliation.

3. International Legal Frameworks

United Nations Convention Against Torture (UNCAT):

The UNCAT is the primary international instrument focused on the prevention of torture. Countries that have ratified this treaty are required to take all necessary steps to prevent torture, prosecute perpetrators, and provide reparations to victims. Article 2 of the UNCAT states that "no exceptional circumstances whatsoever...may be invoked as a justification of torture."

International Covenant on Civil and Political Rights (ICCPR):

The ICCPR is a key human rights treaty that provides a wide range of protections, including the right to be free from torture and cruel, inhuman, or degrading treatment (Article 7). Countries in both Asia and the Middle East that have ratified the ICCPR are legally bound to uphold these protections, regardless of their domestic legal systems.

Universal Declaration of Human Rights (UDHR):

The UDHR, while not legally binding, serves as a moral and legal compass for human rights globally. Article 5 of the UDHR states that "no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment."

Arab Charter on Human Rights:

Adopted by the League of Arab States, this regional charter includes provisions prohibiting torture. However, its implementation varies across the region, and the charter's compatibility with international standards remains a subject of debate.

4. Sharia Law and Human Rights

Interpretations of Sharia and Its Impact on Human Rights:

Sharia law, like any legal framework, is subject to interpretation. While some conservative interpretations emphasize the application of fixed punishments (Hudud), other schools of thought advocate for more flexible approaches that emphasize the broader principles of justice, compassion, and human dignity. These more reformist interpretations can align closely with international human rights standards.

Key Sharia Principles Related to Human Dignity:

- Maqasid al-Sharia: The objectives of Sharia include the protection of life, property, intellect, religion, and dignity. When viewed through this lens, many scholars argue that harsh punishments that degrade human dignity or cause excessive suffering are contrary to the true spirit of Islam.
- Ijtihad (Independent Reasoning): In many cases, Islamic jurisprudence allows for reinterpretation of Sharia law in light of changing circumstances. This flexibility is often cited as a way to reconcile Sharia with modern human rights norms.

5. Regional Focus: Asia and the Middle East

Asia-

In several Asian countries, Sharia law coexists with civil law, leading to varying applications of Islamic principles in the legal system.

Pakistan:

Legal System: Pakistan operates a dual legal system where Sharia law is applied in personal and criminal matters alongside a British-derived common law system. The Hudood Ordinances of 1979 introduced Sharia punishments for crimes such as theft and adultery.

Torture and Abuse: Although Pakistan has ratified the UNCAT, reports of torture by law enforcement and in prisons remain common. The coexistence of Hudud

punishments and civil law has led to complex legal challenges in aligning the country's legal system with international human rights norms.

Indonesia:

- Aceh Province: Aceh is the only province in Indonesia where Sharia law is applied fully. Punishments such as caning for theft, adultery, and alcohol consumption have drawn international criticism.
- Legal Reforms: Indonesia ratified the UNCAT in 1998 and has taken steps to reduce torture, though the application of Sharia in Aceh continues to raise concerns.

Malaysia:

- Sharia Courts: Malaysia operates parallel civil and Sharia courts. Sharia courts handle personal and family matters for Muslims, and in some states, they also adjudicate criminal cases involving Sharia-based offenses.
- Challenges in Human Rights Compliance: While Malaysia has ratified international human rights conventions, there are ongoing concerns about the use of corporal punishment under Sharia law.

Middle East-

The Middle East presents a particularly complex challenge for human rights advocates, as Sharia law forms the basis of the legal system in many countries.

Saudi Arabia:

- Sharia-Based Legal System: Saudi Arabia's legal system is based entirely on Sharia law, particularly following the Hanbali school of Sunni jurisprudence. Hudud punishments, such as amputation for theft, are still legally sanctioned.
- Reforms and Controversies: In 2020, Saudi Arabia made headlines for abolishing flogging as a form of punishment, replacing it with prison terms or fines. However, the use of other corporal punishments remains.

Iran:

- Legal System: Iran's legal system is a combination of Sharia and civil law. Hudud punishments such as stoning for adultery and amputations for theft are still in practice.

- Challenges: Iran's judiciary faces significant international criticism for the use of torture, particularly in the detention of political dissidents.

United Arab Emirates (UAE):

- Mixed Legal System: The UAE incorporates Sharia into its criminal and civil legal frameworks. While the country has ratified the UNCAT, there are ongoing concerns about the treatment of detainees, particularly political prisoners.

6. Challenges and Controversies

Legal Pluralism:

The coexistence of Sharia and civil law creates inconsistencies in how anti-torture laws are applied. In countries where Sharia is applied strictly, Hudud punishments may conflict with international human rights standards, leading to difficulties in enforcing comprehensive anti-torture legislation.

Political Obstacles:

In many Middle Eastern and Asian countries, authoritarian governments use torture as a tool of political repression. Despite ratifying international treaties, these states often fail to enforce anti-torture laws, especially in politically sensitive cases.

Religious and Cultural Resistance:

Efforts to reform Sharia-based legal systems are often met with resistance from religious authorities and conservative populations. In some countries, attempts to align legal frameworks with international human rights standards are viewed as external interference, which can slow or reverse progress.

7. Key Considerations for Debate

Balancing Human Rights with Cultural and Religious Values:

Delegates must consider how to ensure that human rights, particularly the prohibition of torture, are respected while acknowledging the importance of religious and cultural values. How can Sharia law be interpreted in a way that upholds human dignity and international standards?

Judicial Reform:

What steps can be taken to strengthen judicial independence in countries where Sharia law is applied? How can judicial oversight mechanisms ensure that anti-torture laws are enforced?

Training Law Enforcement:

How can countries ensure that law enforcement officials are trained to prevent torture and comply with international standards? What role can cultural sensitivity play in these training programs?

International Collaboration:

What strategies can the international community employ to support Middle Eastern and Asian countries in reforming their legal systems? How can international pressure be balanced with respect for sovereignty and religious autonomy?

8. Conclusion

The challenge of implementing comprehensive legislation to prevent torture in countries that apply Sharia law is complex, involving religious, legal, cultural, and political dimensions. The key to success lies in finding a balance between respecting religious traditions and ensuring that international human rights standards are upheld. Delegates should aim to develop solutions that are both pragmatic and respectful of the cultural contexts in which they are applied.

How to Research?

Following is a suggested pattern for researching (if required):

1. Researching and understanding the United Nations and the Committee/Council being simulated – Its Mandate, including understanding historical work done on the agenda.
2. Research on the allotted country. Understanding its polity, economy, culture, history etc.
3. Comprehending the Foreign Policy of the allotted country. It includes understanding the ideology and principles adopted by the country on the agenda. It further includes studying past actions taken by the country on the agenda and other related issues – specifically analyzing their causes and consequences.
4. Reading the background guide thoroughly.
5. Researching further upon the agenda using the footnotes and links given in the guide and from other sources such as academic papers, institutional reports, national reports, news articles, blogs etc.
6. Understanding policies adopted by different blocs of countries (example: NATO, EU etc.) and major countries involved in the agenda. Including their position, ideology and adopted past actions.
7. Characterising the agenda into sub-topics and preparing speeches and statements on them. It is the same as preparing topics for the moderated caucuses and their content.
8. Preparing a list of possible solutions and actions the UNSC can adopt on the issue as per your country's policies.
9. Assemble proof/evidence for any important piece of information/allegation you are going to use in committee
10. Keeping your research updated using various news sources, especially news websites given in the proof/evidence section. Note: This is not by any means an exhaustive list. It is only indicative of what all can be done by delegates to refine their research.

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Proofs/Evidences accepted in Committee

Evidence or proof is from the following sources will be accepted as credible in the committee:

1. News Sources

a. **REUTERS** – Any Reuters' article which clearly makes mention of the fact stated or is in contradiction of the fact being stated by another delegate in council can be used to substantiate arguments in the committee.

(<http://www.reuters.com/>)

b. **State-operated News Agencies** – These reports can be used in the support of or against the State that owns the News Agency. These reports, if credible or substantial enough, can be used in support of or against any country as such but in that situation, they can be denied by any other country in the council. Some examples are

i. RIA Novosti (Russia) <http://en.rian.ru/>

ii. IRNA (Iran) <http://www.irna.ir/ENIndex.htm>

iii. Xinhua News Agency and CCTV (P.R. China) <http://cctvnews.cntv.cn/>

2. **Government Reports**: These reports can be used in a similar way as the State Operated News Agencies reports and can, in all circumstances, be denied by another country. However, a nuance is that a report that is being denied by a certain country can still be accepted by the Executive Board as credible information. Some examples are,

a. Government Websites like the State Department of the United States of America

<http://www.state.gov/index.htm> or

the Ministry of Defense of the Russian Federation

<http://www.eng.mil.ru/en/index.htm>

i. Ministry of Foreign Affairs of various nations like India (<http://www.mea.gov.in/>) or

People's Republic of China (<http://www.fmprc.gov.cn/eng/>).

ii. Permanent Representatives to the United Nations Reports
<http://www.un.org/en/members/> (Click on any country to get the website of the Office of its Permanent Representative.)

iii. Multilateral Organizations like the NATO

(<http://www.nato.int/cps/en/natolive/index.htm>), ASEAN
(<http://www.aseansec.org/>),
OPEC (http://www.opec.org/opec_web/en/), etc.

3. **UN Reports:** All UN Reports are considered credible information or evidence for the

Executive Board of the UNGA – 1 (DISEC).

a. UN Bodies like the UNSC (<http://www.un.org/Docs/sc/>) or UNGA
(<http://www.un.org/en/ga/>).

b. UN Affiliated bodies like the International Atomic Energy Agency (<http://www.iaea.org/>), World Bank (<http://www.worldbank.org/>), International Monetary Fund (<http://www.imf.org/external/index.htm>), International Committee of the Red Cross (<http://www.icrc.org/eng/index.jsp>), etc.

c. Treaty Based Bodies like the Antarctic Treaty System
(<http://www.ats.aq/e/ats.htm>),
the International Criminal Court (<http://www.icc-cpi.int/Menu/ICC>)

NOTE: Under no circumstances will sources like Wikipedia

(<http://www.wikipedia.org/>), Amnesty International (<http://www.amnesty.org/>), Human Rights Watch

(<http://www.hrw.org/>) or newspapers like the Guardian
(<http://www.guardian.co.uk/>),

Times of India (<http://timesofindia.indiatimes.com/>), etc. be accepted as PROOF/EVIDENCE. But they can be used for better understanding of any issue or even be brought up in debate if the information given in such sources is in line with the beliefs of a Government.