

STUDY AND DISCUSSION GUIDE

for

TRANSFORMING THE UNITED NATIONS SYSTEM: DESIGNS FOR A WORKABLE WORLD

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2017

Unit 6: A Credible Human Rights System

(p. 110-128)

Why Is This Important? (p. 110-112)

The American and French Revolutions of the late 18th century set in motion an inexorable process of expansion of human rights. Promotion of human rights was among the original concerns of the UN Charter; and, since its inception, the UN has made enormous strides in advancing the cause of human rights. The Universal Declaration of Human Rights (UDHR), unanimously adopted in 1948, is one of civilization's greatest aspirational documents, and it provided a path to the adoption of other human rights covenants and treaties. The International Criminal Court and various *ad hoc* tribunals were created to deal with perpetrators of genocide, ethnic cleansing, crimes against humanity and war crimes. Human rights commissions and ombudspersons were instituted in many nations. And a multitude of human rights NGOs have been established, many of which have been granted consultative status with the UN. Thus, one may now speak of the existence of a complex global human rights system.

However, this "system" is rudimentary and seriously flawed. In dealing with egregious breaches of human rights, UN performance has often been inadequate. Significant reforms are needed. An enhanced and empowered human rights system is imperative for the future of human civilization.

Key Issues (p. 112-117)

1. Although "human rights" are widely regarded as being universal and indivisible, understandings of what is meant by "human rights" vary profoundly. This is demonstrated by two covenants (see p.112). The International Covenant on Civil and Political Rights was promoted mainly by Western democracies and focused on individual rights. The International Covenant on Economic, Social and Cultural Rights was promoted by the Soviet-led bloc and most of the recently decolonized states in Asia, Africa and the Caribbean and Pacific regions and focused on non-measurable governmental behavior.
2. The proliferation of the human rights bureaucracy has resulted in numerous inefficiencies and substantial waste while failing to stop genocides like the one in Rwanda and major rights violations by many governments.

3. Politically-motivated appointments have allowed inadequate enforcement of standards, a high degree of politicization and frequent arbitrariness of the decision-making process. Hypocrisy is common.
4. Monitoring human rights by individual countries has been neither uniform, comprehensive nor systematic. Periodic reviews, initiated in 2006, have been excessively lenient, bestowing praise on states when little was merited.
5. States have sought membership on the Human Rights Council not to strengthen human rights but to immunize themselves from criticism.

Possible Solutions (p. 117-125)

Human rights decisions should be based on established principles rather than parochial political considerations. Moral influence should flow from the conformity of one's arguments to the spirit and letter of the law and the appeal of those arguments to our shared humanity. The following are recommended:

1. A strengthened Human Rights Council (HRC), which could:
 - a. elevate the HRC from its present subordinate position under the GA to that of a principal organ of the UN;
 - b. elect HRC members as individuals on the basis of their qualifications (*personal integrity, human rights law expertise, and experience in dealing with human rights issues*);
 - c. ensure that the perspectives of all major regions and faith traditions are represented;
 - d. mandate a more equitable gender balance in HRC membership (*since offences against women are, arguably, the most pervasive of all human rights abuses, the perspective of females seems especially important*);
 - e. provide voices for indigenous peoples;
 - f. guarantee political immunity and asylum to delegates for actions taken in the performance of their duties
2. The number of HRC members should be large enough to ensure representation by all major state and regional actors, yet small enough to be efficient. Our book recommends 36 seats, chosen as follows:
 - 1 male and 1 female for each of the 12 regions
 - 1 male and 1 female to represent indigenous peoples
 - Ten seats elected at-large from the 9 multinational regions (*while it is politically desirable to have all regions represented, there are large differences in concern for human rights from one region to*

another. Electing a substantial proportion of seats from a slate of at-large candidates appears warranted.)

3. **A more prominent role for the Office of the High Commissioner for Human Rights, with allocation of greater fiscal and personnel resources**
4. **Enhanced human rights monitoring**
5. **More regular and more detailed reporting on human rights by regional organizations, individual nations and NGOs**
6. **Greater use of legal systems (see Unit 7) to adjudicate human rights disputes**
7. **Increased resort to UN-mandated sanctions against egregious violators of human rights law**
8. **In extreme situations and, as a last resort, application of the use of force in keeping with the “responsibility to protect” (R2P) principle. (R2P will be covered in more detail in Unit 12).**

QUESTIONS:

1. ***Some of the most egregious human rights offenders have served multiple terms on the Human Rights Council, thereby protecting themselves from serious scrutiny. A reformed Council, as our book proposes, would allow all nations, regardless of their human rights record, to be represented on the Council (most by region). Does the book’s proposal provide the needed checks and balances to correct for this systemic weakness? Might some countries with poor human rights records improve as a result of their participation on the Council? If so, how?***
2. ***Do you agree that the HRC should be gender-balanced and have two seats designated for representatives of indigenous peoples? Does the reasoning for having ten “at-large” seats make sense to you? Should other specified populations be represented?***