



## **VIT CHENNAI MODEL UNITED NATIONS 2017**

### **STUDY GUIDE**



**UNITED NATIONS HUMAN RIGHTS COUNCIL**

**“Discussing Affirmative Action for Human Right  
Violations due to NATO-led Interventions”**

## **Letter from the Executive Board**

Dear Delegates,

On behalf of the Organizing Committee of VITCMUN 2017, we'd like to welcome you to this simulation of the UNHRC. Irrespective of your experience in the MUN circuit, we hope this study guide is a comprehensive document that aids in your preparation and helps in your understanding of the expectations that we as the executive board have of the committee.

The significance of this UNHRC session lies in the fact that this session deals with a specific topic. One that has rattled society since the west's war against terror. Sadly though it is something that has been brought to the forefront rather recently but is gaining momentum by virtue of it being publicized on a global scale.

On the one hand you have countries taking strides in the positive direction to eliminate this problem but you also have countries that are not just hindering progress but are in fact taking several steps backward and making it impossible for any sort of global solution to the problem. The lack of accountability has been brought into question by several nations, but to no avail since the countries involved in the interventions have refused to comment or take any action to ameliorate the situation

This study guide will not just provide you with the basis for your research: it will also act as a guideline about what topics we look forward to being raised and discussed in council in detail. Do expect a few surprises right before committee begins.

We look forward to your presence at this council and wish you all the best! Should you have any queries do contact us and we shall revert to you at our earliest!

May the force be with you.

Regards,  
Executive Board  
UNHRC

**Note:**

Do note that this guide is merely a background guide which will give an overview of this agenda. You cannot use this guide as an official document for validation during the conference. However, you can use this guide as a starting point for further research with respect to your country, the agenda and our Please note that only news articles, facts and figures from the following sources shall be accepted as valid proof in our committee:

1. UN official reports, journals, newsletters and articles, etc;
2. Reuters Reports

## **Council description**

The Human Rights Council is an inter-governmental body within the United Nations system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year. It meets at the UN Office at Geneva. The Council is made up of 47 United Nations Member States which are elected by the UN General Assembly. The Human Rights Council replaced the former United Nations Commission on Human Rights.

The Council was created by the United Nations General Assembly on 15 March 2006 by resolution 60/251. Its first session took place from 19 to 30 June 2006.

One year later, the Council adopted its "Institution-building package" to guide its work and set up its procedures and mechanisms. Among them were the Universal Periodic Review mechanism which serves to assess the human rights situations in all United Nations Member States, the Advisory Committee which serves as the Council's "think tank" providing it with expertise and advice on thematic human rights issues and the Complaint Procedure which allows individuals and organizations to bring human rights violations to the attention of the Council.

The Human Rights Council also works with the UN Special Procedures established by the former Commission on Human Rights and now assumed by the Council. These are made up of special rapporteurs, special representatives, independent experts and working groups that monitor, examine, advise and publicly report on thematic issues or human rights situations in specific

The best place to find further information about anything related to the council and its working (including, but most definitely not limited to this)

<http://www.ohchr.org/en/hrbodies/hrc/pages/hrcindex.aspx>

## **About the agenda**

The last few years in the global demographic of politics, have offered little solace to those hoping to hear positive news from any part of the globe. In a time with artillery, being in the most advanced stage it has ever been in, one would expect that countries would exercise caution before resorting to the use of such destructive weapons.

Widespread chaos, death, violence, cruelty, torture, displacement, loss of livelihood, these are few of the plethora of problems that have plagued the globe. Added to this the presence of unstable governments concentrated in one of the most volatile regions, the perfect recipe for global destruction is arrived at.

In response to global criticism regarding lack of responsibility of “well developed nations” with respect to not providing assistance to nations struggling to set up a fully functioning government, one of the biggest military conglomerates felt that the best way to fight the growing rebellions in the MENA region was to deploy troops and fight fire with fire, quite literally. Although the motive behind this action could be justified on some level, the way in which these actions were carried out came into question when the world media reported from the ground on the atrocities that were taking place in Libya and Afghanistan.

More often than not, images of people hiding from NATO personnel, villages and settlements being bombed and innocent lives being lost flooded the internet and thus the true nature of the intervention was brought to light. Most countries involved in this battle, had a standard response to the question – “Can such loss of civilian lives be justified?”

Collateral damage became the safest resort that any country could quote for engaging in military action in civilian populated regions, so naturally the real question became “What is too much damage?”

Unlike other forums, which have extensively discussed the problems and the issues that occurred in these regions, this simulation of the UNHRC focuses on a more practical question. “What next?”

Following the EU's argument regarding the wave of refugees appearing at their borders, one might assume that these people ended up at the borders through absolutely no fault of these nations. A very brief understanding of what transpired before these interventions, sheds some light on the validity of this claim.

Before the 2011 wave of US-European engineered uprisings across the Middle East and North Africa (MENA) transformed into Western military interventions, geopolitical analysts warned that overthrowing the governments in nations like Libya and Syria, and Western interventions in nations like Mali and the Ivory Coast, would lead to predictable regional chaos that would manifest itself in both expanding terrorism across the European and MENA region, as well as a flood of refugees from destabilized, war-racked nations.

Libya in particular, was singled out as a nation, if destabilized, would transform into a springboard for refugees not only fleeing chaos in Libya itself, but fleeing a variety of socioeconomic and military threats across the continent. Libya has served for decades as a safe haven for African refugees due to its relative stability and economic prosperity as well as the Libyan government's policy of accepting and integrating African refugees within the Libyan population.

The logical conclusion that one would arrive at, at the end of this all is "Because of NATO's 2011 military intervention and the disintegration of Libya as a functioning nation state, refugees who would have otherwise settled in Libya are now left with no choice but to continue onward to Europe."

This impact of these interventions is not just restricted to refugees, it extends to everything from autocratic regimes to lack of basic resources. Initially the criticism regarding lack of responsibility, ended up being a very valid allegation about the lack of accountability. Especially with several countries pulling out their troops from these regions, the situation can only deteriorate further.

Until that accountability is properly and proportionately placed, and the root of the crisis addressed, it will only linger and cause further damage to regional and global security.

## **Affirmative action**

The most widely accepted definition of affirmative action is one of “positive discrimination”. Personally, those two words next to each other makes it seem like an oxymoron, because nothing positive can possibly come out of discrimination. However when one looks at the context in which the word is used, a better understanding is achieved.

Before we move on to the understanding of the, lets clear up one of the most fundamental misconceptions about affirmative action. Affirmative action is not JUST about reservations. In general anything that promotes the progress of a group that has been disadvantaged in the past could be considered to be affirmative action.

Affirmative action comprises of any incentive/special privileges to a specific group that has been disadvantaged in the past due to unfavourable conditions meted out to them. It acts as a tool to attempt to give them opportunities more favourably due to the fact that the same opportunities were denied to them in the past by virtue of them being a part of a different group. Common examples of affirmative action include the appointing of women in positions of power, or the special treatments that African Americans enjoy in the United States.

So naturally, once the definition is understood 2 questions arise

1. How is affirmative action applicable in this case, since it is not just 1 group but the entire country as a whole which is affected as a result of the intervention?
2. Affirmative action is usually the responsibility of the government. In these cases, is that really a feasible option?

The reason that it is not just one particular group that is at a disadvantage here is because the entire country has taken the brunt of the intervention with pretty much everything destroyed. Affirmative action is applicable only when there are resources to be provided. When the presence of these resources come into question, naturally it becomes a question of generating the aforementioned resources in the first place.

The second question is one of accountability. Given that the governments of these countries are largely unstable owing to the volatility of the situation, the onus does not fall upon the heads of state. Rather, it becomes the responsibility of the countries that led to such a situation. Hence accountability of the NATO nations comes into play.

The flow of events, helps in a better understanding of this concept of accountability.



Since accountability has been established, the question becomes what exactly are these “special provisions” that these countries can provide which would account for some level of reparations for their acts in these countries.

On a primary scale, the immediate relief to the people affected as a result of these interventions, needs to be considered. The most common form of primary support to war torn regions would be provision and sanctioning of aid by international bodies. The major problem with this, remains the proper utilisation of this aid since the lack of a national regulatory body results in a questionable distribution of funds. Ultimately, the root cause for these 2 reasons can be traced back to the fact that these interventions, despite achieving their main goal of eradicating the perceived rebellion in the region, was pulled back before ensuring that there was a proper transition of power with institutions to restore normalcy were set up.

Thus an obvious lack of resources as a result of the interventions have to be combated. Monetary aid aside, there has to be collective action from the international community and that is what the executive board expects to be discussed during the course of the 3 days. In addition to this, the need for reparations is apparent. Reparations could be in the form of monetary support, easier policies, relaxed laws and anything that could potentially help these countries in distress compete in an increasingly challenging world, with the disadvantage of having undergone a war which went beyond their control.



## **NATO led interventions**

Now that we have defined what affirmative action can imply in the context of nations that have been subjected to military interventions by the NATO, let us go further into the bases for which such action needs to be taken. The NATO has always been seen as a harbinger of peace and stability in the international community, but the harsh reality is that its actions have often bordered on the lines of western hegemony that the misuse of power and lack of accountability has to be addressed. The importance of discussing such an agenda in the Human Rights Council can be validated by clearly documenting the actions of the NATO in the past and providing a case study of one such event namely, the NATO led intervention in Libya.

### **Skepticism of the international community:**

More recently, with respect to the current geopolitics, there is an increasing tendency by western powers to resort to military intervention as a solution to take immediate action against human rights violations. The irony in the above statement is a clear indication of skepticism with respect to the legality and validity of this strategy to promote peace in the international community. To add to this element of skepticism, very often there are numerous allegations that these western nations are putting up a facade of being the guardians of peace, whilst furthering their vested interests be it, political monopoly or securing a stable supply of oil. The ideology of western member nations is reflective in the principles of the NATO and that is a cause of concern while addressing the basis of NATO led interventions.

However, the distrust does not end here. With the advent of forced regime changes, under the broad umbrella that is the "War against terror", these initiatives have led to more anti-western sentiments and an overall feeling of discontentment with NATO undertakings.

### **Legality of these interventions:**

The legality of NATO military interventions has been questioned many a time by the international community and particularly so with respect to the 1999 Kosovo incident. On March 23rd 1999, the NATO proceeded with a 3 month bombing campaign, against the existing Federal Republic of Yugoslavia (FRY), in an attempt to prevent the ethnic cleansing of the residing

Albanians in the region by the autocratic regime. Here we introduce the concept of *Humanitarian intervention*. Humanitarian intervention refers to 'the use of force across state borders by a state or a **group of states** who aim to prevent or end widespread violation of the fundamental human rights of individuals without the permission of the state in whose territory the force is applied'. The reference to a group of states is particularly relevant in the case of the NATO, and also because the NATO **did not** have the backing of the United Nations Security Council for the Yugoslavian bombings.

So now the question that arises is how this humanitarian intervention can be termed legal according to standards of the international law. Here, we note that the NATO justified its actions under Article 4 of its charter which allows for military action provided all members provide consent. However, under Article 53 of the UN Charter, no enforcement by regional arrangements (read: NATO) can take place without the authorization of the Security Council.

On a more global perspective, this ambiguity associated with the application of international law is far more complex than one isolated incident that is Kosovo. For instance, application of UN Charter Article 2(4) prohibits usage of violence and acts as a cornerstone to abide by. However, there are certain exceptions such as, Article 51 for self defense, where the Security Council can take all measures deemed necessary including violence, and Article 5 of the NATO charter of collective self defense.

Another question to ponder over, is if the concept of *internationalized armed conflicts* (which include non-international armed conflicts which result in foreign intervention), is addressed under the umbrella that is the International humanitarian law (IHL). Such is the haziness in application of international law to military interventions.

Thus to conclude, on a legal stand point, NATO led interventions have raised several concerns, but the existing framework of international law can bring these undertakings under its ambit.

Thus, instead of questioning the legality of the basis for a military intervention, **we need to question if the objective of these initiatives has been truly achieved at the end of it**. Is there a sense of accountability on the part of the NATO, is there really peace and stability in these regions post-intervention?

**Ensuring affirmative action:**

To further dwell on the thoroughness of NATO led military interventions, we shall now proceed with a case study of the NATO led intervention in Libya, to analyze the impact it has had on the political and economic scenario in the state.

## **CASE STUDY: LIBYA 2011**

### **Before NATO:**

Muammar Gaddafi was the leader of the country of Libya from 1969 to 2011. When he came into power in 1967, Gaddafi inherited one of the poorest nations in the continent of Africa. However, at his hands, the fate of the country he was about to rule was going to change. Libya, from being one of the poorest nations in the African continent would see a drastic rise to become the wealthiest nation.

Gaddafi established the Jamahiriya (meaning, “state of the masses”), in 1969. This marked the history of Libya. Jamahiriya was a direct democracy political system directed at the facilitation of the development of Libya and its people. Gaddafi then stepped down from power nominally in 1977. He still remained the unofficial “Brother Leader” until 2011. Under this political framework Libya and its fundamentals saw the most meteoric rise in its history, and in the days to come. Libya’s literacy rate rose to 90%. Jamahiriya introduced welfare systems allowing access to free healthcare, free education and financial assistance for housing. The Great Manmade River was built to allow free access to fresh water across large parts of the country.

Libya recorded an astonishing figure of the highest life-expectancy on the entire continent of Africa. The number of citizens below the poverty line in Libya was way lesser than that of Netherlands, a country with one of the most habitable environment. Libya, under the reign of Gaddafi not only flourished in the wealth aspect but also became the most humane nation to dwell in. Libya had wiped out illiteracy and homelessness, provided financial support for university scholarship and employment, and became a debt-free country. Libya was growing. It was evident from the fact that Libya’s Human Development Index in 2010 was the highest in Africa and greater than Saudi Arabia.

Owing its wealth primarily to the massive number of oil reserves, Libya in a steadfast manner achieved stability. Revenues generated from the petroleum sector, which contributed to all the export earnings, and over half of the GDP of Libya, favoured and uplifted the downtrodden economy. Provided its minimal population, and gifted with significant revenues from the oil reserves, Libya achieved the highest nominal per capita GDP in Africa. In a span of ten years,

from the year 2000 to 2010, Libya recorded a growth rate estimated 10.6% growth of the GDP. Such feats were not to last for the civil war in Libya came in as a big hurdle in the ways of development and betterment. The Civil War came in with the perils of contraction of the economy and the increase in the Human Rights Violation in Libya.

### **Civil war:**

**February 15, 2011.** Benghazi, Libya's second largest city witnesses uprisings. Anti governments protests. Uprisings of a similar nature is witnessed in Tunisia and Egypt. The arrests of government critics, including a criminal advocate representing the families the families of nearly a thousand and two hundred prisoners who were killed at Tripoli's Abu Salem prison in 1996, triggered the protests.

The government's approach to deal with the situation was deemed aggressive. The forces arrested and attacked peaceful protestors in the city of Benghazi, as well as other eastern cities. Excessive forces were exercised when the uprising seemed to corrupt even the western cities of Tripoli, Misrata, Zawiya, Zuwara and Zintan. The government used live fire, and arrested several hundreds of peaceful protestors. Several others involved in the antigovernment protests were reported to have disappeared without a trace. Such lethal actions of the government was monitored and documented by the Human Rights Watch.

**March 17, 2011.** Benghazi. The military forces headed by Gaddafi closed in on the city. The UN Security Council passed Resolution 1973, thereby imposing a no-fly zone over the country. UNSC in the resolution also authorized the use of "all necessary measures" to protect civilians. The occupation forces were exempted from use. The NATO expanded to give air support for anti-Gaddafi forces. The operation was called **Operation Unified Protector**. Operation Unified Protector had a mandate to protect the Libyan civilian.

Indirectly, they would prevent the Government forces from retaking Benghazi and Eastern Libya. Various governments including that of United Arab Emirates, Qatar and France confirmed indulgence by providing arms and training to the anti-government protestors/fighters. In a release, Qatar mentioned to have deployed hundreds of the country's troops on ground.

### **Operation Unified Protector:**

**March 22, 2011.** The day saw United Nation's direct involvement. In a call to NATO, the UN stated the prevention of supply of "arms and related materials" to Libya. NATO responded affirmatively by agreeing to launch an operation to enforce the arms embargo against the country. The operation took effect from the next day itself when the NATO ships began retreating from the Mediterranean hence cutting off the flow of weapons and troops to Libya. Strict measures were taken by the NATO maritime assets to stop and search and vessel suspected of bearing arms, or related materials, or mercenaries to or from Libya.

**March 24, 2011.** NATO agreed upon UNSCR 1973, thereby enforcing a 'no-fly zone' over Libya. According to the terms of the resolution, no flights were permitted into the Libyan Airspace, protecting heavily populated areas from air-strikes. The allowance was provided only to the flights used for humanitarian and aid purposes.

**March 31, 2011.** The International Military effort was taken over by the Alliance. They took sole command and control. Military actions and steps to protect civilians and civilian populated areas by the NATO air and sea assets. The Alliance was in close consultation with the United Nation, the League of Arab States, as well as other International partners in the situation.

### **Violation of Human Rights:**

**August 9, 2011.** Village of Majer near Zliten. The killings of 85 civilians in air strikes by NATO were claimed by the Government of Libya. A NATO spokesman in his statement said that they were targeting four buildings in which nine vehicles were destroyed and that government claim "was not corroborated by available factual information at the site". Three days of national mourning was declared by the Libyan government. Reporters saw at least 30 dead bodies registered in hospital, including the bodies of at least two young children. The Libyan government claimed that the bodies of others killed in the airstrikes were taken to other hospitals.

Quoting the Russian U.N. Ambassador Vitaly Churkin "given the fact that initially we were led to believe by NATO leaders there are zero civilian casualties of their bombing campaign." He claimed that council-mandated investigation of NATO involvement in the Libyan Civil War is

essential. Russia's statement and claims for an investigation were rendered as 'a distraction' by the United States and France.

## **Possible Solutions:**

Thus, going back to our previous question of accountability, how responsible have NATO member nations been in their quest to bring peace in the international community? The post-intervention state of each of these nations tell us explicitly that there is a necessity to bring about a change in the way these undertakings take place.

Primarily, there are two fundamental questions we need to answer :

1) Should there be a provision to alleviate the situation in these countries that have already seen large scale instances of human rights violations because of these interventions ?

2) How do we ensure that these NATO member nations are held accountable for their actions of the past and in the future, that are acceptable under international law?

The answers to these form the crux of the agenda- How does the concept of Affirmative action apply in these contexts? How do we ensure *positive discrimination* in the case of affected states? This brings us to the concept of reparations which are replenishments to inflicted loss to a victim, with respect to jurisprudence. As the executive board, we encourage you to understand the implications of affirmative action and how it can apply in the case of NATO led interventions and look for suitable ways to ensure reparations to affected states.



## **Links for your perusal:**

<http://www.globalresearch.ca/frances-self-inflicted-refugee-crisis-the-result-of-nato-led-wars/5570183>

<http://www.history.com/topics/cold-war/formation-of-nato-and-warsaw-pact>

[http://www.nato.int/cps/en/natohq/official\\_texts\\_17120.htm](http://www.nato.int/cps/en/natohq/official_texts_17120.htm)

[http://www.nato.int/cps/en/natohq/topics\\_52060.htm](http://www.nato.int/cps/en/natohq/topics_52060.htm)

[http://www.univie.ac.at/intlaw/wordpress/pdf/60\\_kosovo.pdf](http://www.univie.ac.at/intlaw/wordpress/pdf/60_kosovo.pdf)

<http://www.worldpolicy.org/blog/2012/06/13/rethinking-western-intervention-and-human-rights>