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FACULTY OF LAW, UNIVERSITY OF LJUBLJANA

STUDY GUIDE

SECURITY COUNCIL

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1 TOPIC ONE: ADDRESSING THREATS OF NON-STATE ACTORS

1.1 Introduction

1. The topic of non-State actors is one of the core issues and debates in contemporary international political life. With the emergence of non-state actors as viable actors of considerable power in domestic and international politics, the question of their threat to states, regions, and alliances of states comes naturally. This field rose to prominence when the issue of terrorism became an international concern in 2001, after the attack on September 11th. It was one of the biggest terrorist attacks in history, but its significance lies in its response and the series of events that, in part, changed the international system and international law, and its subjects. Non-state actors, as threats, gained significant power, recognition, and significance in international politics. That does not mean, however, that non-state actors were not a part of the international system or that they bore no significance whatsoever. They were also discussed in the ICJ *Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)* which will be addressed below.
2. With the international system (or to an extent, international society) rapidly changing, not only in its content and issues but also in form, several new (or newly relevant) actors in the international sphere, with their new international legal personality, have emerged in the process. However, the international system and its perceptions are still state-centric, within the paradigm of international political realism. That is why we will first look at non-state actors in relation to states as actors. We will discuss their legal personality and theoretical definitions, the state–non–state dichotomy and the characteristics of the various relationships that may emerge between the two. Moreover, we will outline the basic forms of non-state actors, as basic knowledge to be used to comprehend and critically assess the remainder of the study guide. Secondly, we will shed light on the historical background of non-state actors, as actors in themselves and

as actors as threats. Thirdly, we will discuss what it means to be a threat, to be an issue of security and the phenomenon of securitisation, to extend our understanding of non-state actors as threats beyond just terrorist groups being characterized as such. Here, we will discuss non-state actors in conflicts and the perception of non-terrorist non-state actors as threats (West-East dichotomy).

3. As our fifth part, we will discuss how the (potential) threats non-state actors pose are mitigated. We will tackle this through the prism of the number of actors (in essence states) that are involved in the mitigation and addressing of the threat. The four scopes will be unilateral actions, regional and plurilateral, and multilateral. The plurilateral and multilateral will in many instances involve international organisations that sometimes serve only as a forum for decision-making, and sometimes as (to an extent) autonomous actors, paramount of which is the UN. Lastly, we will make a conclusion on the topic, the basic takeaways for a fruitful debate, followed by questions to consider and questions a resolution should answer.

1.2 Introduction of some basic terms and concepts

UN – United Nations

NSAs – Non-state Actors, actors other than states and not comprised of states

NGO – Non-Governmental Organisation

INGO – International non-Governmental Organisation

UNOCT – United Nations Office of Counter-Terrorism

ISIL – Islamic State of Iraq and Levant, an Islamic militant organisation, which at a time controlled considerable territory

PKK – Kurdistan Workers Party

1.3 Actors, state v. non-state dichotomy

4. In order to properly understand the core concept of our topic, the non-state actor, we first need to grasp the concept against which it is formed: the state as we know and understand it today. As such they cannot efficiently be analysed outside the same characteristics and parameters we use to analyse a state. That is why we will first conduct an analysis of the state in terms of its accepted definition and legal status and then analyse non-state actors in the same manner. This will give us a uniform approach to tackling the issue of the threat of non-state actors.
5. The states and the concept of a state and its historical genesis will not be discussed here, only mentioned when needed. Encyclopaedia Britannica defines the state as follows: “State, political organisation of society, or the body politic, or, more narrowly, the institutions of government ... the state consists, most broadly, of the agreement of the individuals on the means whereby disputes are settled in the form of laws.”¹ So a few basic, common sense criteria are mentioned, such as grouping or collective of individuals, an agreement of some sort, and some type of normative legal framework. States can also be defined by their types of political institutions and systems, or by a prevalent ideology inside a polity, reflected in internal and external politics and relations, and its functionality, e.g. failed state, puppet state, etc.
6. After the Congress of Westphalia of 1648, and later, after the American and French revolutions, the (nation) State as we know it took shape, and with it, the process of globalisation. This provided a need for a uniform understanding of the individual actors in the international system. As such, the understanding came about by itself and was, as such, a part of customary law until the Montevideo Convention on the Rights and Duties of States, signed in 1933, which codified the criteria for statehood. The criteria, sometimes referred to as the *Montevideo criteria* or the declarative theory of statehood, outlines four such criteria to be fulfilled simultaneously: a permanent population, a defined territory, a government, and a capacity to enter into relations with other States. With that, the declaration grants any such actor international legal personality as a

¹ Britannica, “State”, *Encyclopaedia Britannica*, <https://www.britannica.com/topic/state-sovereign-political-entity> (accessed July 29, 2023).

State. In Article seven, the Convention also mentions tacit recognition, which is the result of any action that would imply the intention of recognition. This will be important later when analysing the relations between States and non-state actors.

7. In academic literature, there is a recognized multiplicity of definitions of non-state actors, some even directly contradicting each other. For the purposes of this study guide, we will be following the definition by Longley, since it recognizes the tacit dichotomy of State and non-state: “Non-state actors are groups that while not affiliated with, directed by, or funded by any government, can exercise significant control over them.”² Right away, we should point out some deficiencies of this definition, in order to better grasp the concept. Firstly, non-state actors can be funded by governments, openly or otherwise. And since non-governmental organisations, mentioned frequently in Longley’s work, are in some States financed directly by the States, this contradicts his own definition. Secondly, no legal definition or status, in terms of domestic or international law, is mentioned, but this is perhaps by design, since they vary widely, which we will point out later on. A second definition is broader and encompasses different examples of non-state actors, by Andrew Clapham: “The concept of non-State actors is generally understood as including any entity that is not actually a State, often used to refer to armed groups, terrorists, civil society, religious groups, or corporations.”³
8. When we look at States and NSAs side by side, the dichotomy is rather clear. Looking at the *Montevideo criteria*, there is seldom an NSA that can fulfil all of the criteria at a given time. Hence, NSAs are not of the same legal status as States, which poses an issue when conducting State-NSA relations, be they bilateral or multilateral. However, as we will see in the coming sections, NSAs can fulfil some of the criteria, and in a few cases, actually fulfil all of them. When perceiving them as a threat, this discrepancy in legal personality is much more obvious. As such, NSAs have no universally recognized legal status or personality. The main issue with this is that with legal personality the actor recognized receives rights, but also obligations. However, with the shift of international law from

² Longley Robert, "What Are Non-state Actors?", *ThoughtCo*, <https://www.thoughtco.com/non-state-actors-5443123> (accessed July 30, 2023).

³ Clapham Andrew, “Non-state Actors”, *Post-Conflict Peacebuilding*, (Oxford University Press: 2009), 200–212.

States as the primary actors to the individual, the status of NSAs is receiving its due attention.

9. As stated in the definition of NSAs by Clapham, they can vary widely in form. They can be armed groups, terrorists, civil society, religious groups, or corporations. If we try to offer a more comprehensive list of the types and forms of NSAs, we can start with the most evidently international of them all, and best financed, multinational companies. They have the capacity to drastically alter a single State's politics through economy, and as such, their capacity to be characterized as a threat is high. NGOs and their international analogues, INGOs, are another type of NSA. Their defining characteristic is that they do not associate with any government, but rather act in a certain issue area. Civil movements, such as the Solidarnosc movement in Poland or the Arab Spring are also contentious issues because they go directly against politics and States, and as such are more often than not characterized as a threat. Religious movements, powerful individuals and other actors that do not fall under the definition of a State fall under the category of NSAs.⁴
10. The relations between NSAs and States can be systematically analysed if we look at the basic attitude of a State (or States) towards an NSA. Looking at them in a reverse direction, the attitudes of NSAs towards States could tell us more about NSAs. But seeing as we are tackling this issue from the perspective of the United Nations Security Council (hereinafter: the UNSC), the first way will be more enlightening. The attitudes of States could be boiled down to two distinct directions: enmity and amity. If a State is neutral towards a NSA, it falls into the amity category, because it is not actively trying to engage with it. If a State is amiable towards a NSA, it could financially support it, be it in a systematic fashion (as is the case of NGOs), engage with it to help themselves and the NSA, or just allow it to operate, be it within their own territory, or outside it. The issue of the territory of activity is also a topic we will discuss later on, because it can give a NSA substantial power if they exert certain influence over a territory and its inhabitants, in any capacity. In case that a State is treating a NSA, or NSAs as a threat, it can do so in a number of ways. It can restrict the NSA from conducting any activities on the State's own

⁴ Longley Robert, "*What Are Non-state Actors?*".

territory, it can cut any funding to the NSA, or to individuals and organisations connected to it. In an event that the State is treating the NSA as an immediate threat, as is the case with terrorist organisations, it can form alliances and pursue multilateral modes of tackling the threat, sometimes to the point of military action. Such action against NSAs is a highly contentious issue in international law, one which we will tackle in a later section.

1.4 Historical background of non-State actors as threats

11. Since the Congress of Westphalia of 1648, which is hailed as the birthplace of the State-centric international order which we know today (which is a gross reductionism, but it is helpful for our analytical purposes), non-State actors have been a permanent staple of the international system. Religion and religious denominations, other than the ruler's own, were seen as a threat, but we should keep in mind that religion was an integral part of the State.⁵ Hence, we cannot treat religion and religious movements as non-State actors until much later, after the French Revolution. This event has sparked a transformation of the State to a nation-state⁶, which envisioned secularism as a core principle of the State. Since then, religions and religious movements have joined the classification of NSAs. But non-State actors were seen as threats, even as late as the 17th century, with the killings and expulsions of certain groups, which was done almost exclusively on a religious basis. We can conclude that States were always wary of NSAs, at least in part, because they always challenge a part of the State and society's norms and ideas, and by extension the State's legitimacy. They did not command much international attention, they were almost always restricted to one State. With the process of internationalisation and globalisation, as the world became increasingly interconnected through new communication and transportation technologies, the NSAs became more global. But it also meant that they would be recognised as a threat

⁵ With the exception of a few splinters of religious denominations, such as the Huguenots in France.

⁶ Roter Petra, "Managing the 'Minority Problem' in Post-Cold War Europe Within the Framework of a Multilayered Regime for the Protection of National Minorities", *European Yearbook of Minority Issues*, Volume 1, (Kluwer Law International: 2003), 85- 129.

globally, or at least by groups of States. This is exactly what happened with the terrorist attacks after the Second World War.

12. NSAs began gaining international attention in the 20th and the 21st centuries, after global governance on a plethora of issues started including NSAs as a part of the deliberative and decision-making processes.⁷ But perhaps more importantly, they started receiving recognition as threats with the rise of global terrorist organisations and their actions, such as the Munich terrorist attack and, most notably, the attacks on the Twin Towers in 2001.

13. This sparked a truly international discussion about international terrorism, which was most visible in the Euro-Atlantic sphere. Terrorist organisations that command most of the international attention are the ones that are international in scope or powerful in certain regions. Organisations such as Al-Qaeda, ISIL⁸, and regional organisations, such as Boko Haram, Hamas, Hezbollah, and the PKK are the most known for their terrorist activities. ISIL, for example, wished to cross the line from NSA towards a State. It did so by naming itself as a State and produced and distributed a number of State-like symbols to exert more power externally, and to gain legitimacy. Their existence in itself is not the point of contention in the international community, or at least not the main one. It is, however, in cases when they have open State aspirations and secessionist tendencies, with which they undermine the State's legitimacy. They are, however, still NSAs. The main question regarding such organisations is the question of how to address them when they pose a threat. More specifically, when they engage in terrorist activities in a State, the question is, whether it is appropriate to engage in military offensive action against such NSAs, within the sovereign territory of another State. In light of this, it would be prudent to discuss a precedent made in the case of *USA v. Nicaragua* (1986)⁹, which laid out the conditions in which such actions would be acceptable.

14. For such military action to be internationally acceptable and legal, it would have to fall under the auspices of Article 51 of the Charter of the United Nations of 1945. This Article

⁷ Falkner Robert, "Global governance — the rise of non-state actors", EEA Technical report, Number 4 (Luxembourg: Publications Office of the European Union, 2011).

⁸ Anfinson Aaron, "The Treachery of Images: Visualising "Statehood" as a Tactic for the Legitimation of Non-state Actors", *Terrorism and Political Violence*, Volume 33, 4 (2019), 720-742.

⁹ International Court of Justice. Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), 20002009.

defines that the acts of self-defence are internationally legal and cannot be infringed upon, but should be reported to the SC without hesitation. But as the ICJ implied in its advisory opinion, *The Wall*¹⁰, the State has the right of self-defence only in cases of State-on-State aggression. It reiterated this opinion in the *USA v. Nicaragua*¹¹ (1986) case, stating that the State cannot exercise this right unless the armed groups, conducting the attacks, are under the effective control of a foreign State. Unilateral actions against acts of terror were internationally disliked, as is shown in the attitudes of the international community and the UNSC. However, after 2001, the attitude has shifted significantly. International law has since then somewhat shifted and has offered some arguments where the use of force indeed could be exercised against acts of terror and NSAs.¹²

15. The first argument against this stance came in the dissenting opinion of Judge Higgins in the *Wall case*. He argued that the majority opinion is, however adherent to the word of international law, in fact completely inoperative and unusable. In 2001, this view proved to be somewhat correct when the UNSC, through Resolution 1373, gave legitimacy to Operation *Enduring Freedom*¹³, in which the U.S. invaded Afghanistan in its war on terror. *Enduring Freedom*¹⁴ The argument can be summed up by the wording of the resolution itself, which States: “States are directed to take the necessary steps to prevent the commission of terrorist acts”.¹⁵ This authorised the State to use military force to fight against terrorist threats abroad, which conversely are autonomous NSAs, outside the effective control of any State.
16. The second argument stipulates that *The Wall* majority opinion holds, meaning that self-defence is acceptable only in an event of attacks by another State, while at the same time stipulating to make the effective control test adopted in *Nicaragua*¹⁶ less rigorous.

¹⁰ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ GL No. 131.

¹¹ International Court of Justice. Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), 20002009.

¹² James Crawford, *Brownlie’s Principles of Public International Law* (Oxford: Oxford University Press, 2019), 742.

¹³ *Ibid.*, 746.

¹⁴ United Nations Security Council (UNSC) Res 1373 (28 September 2001) UN Doc S/RES/1373.

¹⁵ James Crawford, *Brownlie’s Principles of Public International Law* (Oxford: Oxford University Press, 2019), 742.

¹⁶ International Court of Justice. Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), 20002009.

This would in fact mean that if we take the case of Afghanistan, the State would be offering the availability of its territory, offering a safe haven on its territory, from which the terrorist groups operate and conduct their attacks. Another issue here would be the issue of active complicity (actively providing any resources and aid), which only reinforces the argument that self-defence is allowed against the threat of NSAs.¹⁷

17. The last argument in favour of self-defence against NSAs again employs the effective control test, where the result of no effective control could reinforce the argument. This is the case where a State does not have effective control over its territory. These so-called failed States allow the activities of terrorist NSAs to operate because they have limited or no authority over the territory on which these activities are conducted. This argument opens up the possibility for self-defence of another State in the territory of a failed State. However, this also requires that the government of the failed State agrees with the military actions and partakes in it¹⁸, reinforcing the argument that the international system and legal system are in fact State-centric.

18. The three arguments outlined above suggest that NSAs are gaining international legal recognition and actual political power, in the sense of them being a perceived or actual threat to a single country or a group of States. But NSAs did not only gain power and influence as terrorist organisations. Since the end of the Cold War, the 1990s, in the international political arena NSAs were playing an increasingly important role. They are at some point become drivers of global movements and changes, having a global voice, with authority of a State. However, their power should not be underestimated or overestimated. The power of NSAs will be discussed in a later section.

1.5 Securitisation as a phenomenon

19. In preceding sections, we discussed NSAs and their definitions, legal personalities and types. Moreover, we briefly touched on the historical development of the topic of NSAs as threats, looking into the future. In this section, we will discuss the other part of our topic - the threat itself. In this section we will inspect what is a threat, how can NSAs be

¹⁷ James Crawford, *Brownlie's Principles of Public International Law* (Oxford: Oxford University Press, 2019) 742.

¹⁸ *Ibid.*

treated as a threat, why would they be treated as such, and how does the process look like. These topics will be tackled with the same methodology as before, using the State-non-State dichotomy, because it carries the most explanatory capacity. We will finish off this section with a side-by-side inspection of how a certain type of NSA (the NGO) is seen by different political cultures, namely the Western, American-centric, and the Eastern, meaning the Russian Federation, the People's Republic of China, and their perceived anti-American bloc.

20. We will look at NSAs as a threat from the perspective of the *theory of securitisation*. Championed by Barry Buzan and Ole Waever, this theory tries to explain relations between different actors in international relations. Namely, relations relating to security perceptions in State-on-State relations, State-on-non-State relations, and regional and global relations. In its simplest theoretical form, it has two parts that are integrated into the process of securitisation.¹⁹ An actor securitizes another actor. This effectively means that it makes another actor an issue of its own security, most often as a threat to some form of its own security, be it military, economic, political, or other. The most important thing to keep in mind is that this is a perception. The securitizing actor starts perceiving another actor as a threat. Whether the actor is indeed a threat is important in itself, but not the most important thing. If the perception of a threat is there, it entails a countereffect of the actor, perceiving itself with enmity towards the securitizing actor. Securitisation as a decision by an actor (State) can be earnest, meaning it really perceives another actor as a threat, or it can be done to mask other, bigger interests, and is done as a tool. But once again, the outcome is almost the same.
21. However, the process can also be reversed in a process called *desecuritisation*. In this process, the securitizing actor stops to regard another actor as an issue of its own security, as a threat, and instead, either focuses on other actors or develops friendly relations with them. This is important to keep in mind, because in order to mitigate the threat of a NSA, the final step of the solution is for *desecuritisation* to occur. However, this oftentimes proves to be the toughest step for the States and NSAs involved, especially in cases of terrorism and armed responses to it. States can act in securitizing

¹⁹ Barry Buzan and Ole Wæver, "*Regions and Powers: The Structure of International Security*" (Cambridge University Press, 2013).

terms towards NSAs, either operating inside their own territory or outside it. However, securitisation can be very subtle, it can show itself through exerting a certain opinion or attitude towards such groups. In the subsequent paragraphs, we will look at the case study of how attitudes towards a type of NSA, the (I)NGO, differ between Western and Eastern political thought. Namely, we will look at the P5 members of the UNSC, the USA, the UK and the French Republic on one side, and the Russian Federation and the People's Republic of China on the other.

22. As they are subject to lower standards of accountability and transparency, INGOs are less trusted by international actors. As they are not equal to States from a legal perspective, this raises questions about their (in)accountability and susceptibility to sanctions and potential destructiveness towards individuals as a result.²⁰ Thus, lower standards of accountability can lead to less transparency for both: the countries in which they operate, and for the donors, who can be either States or individuals²¹. Moreover, despite the UN requiring certain mechanisms for INGOs to achieve accountability and transparency²². it is also the case that some countries (which are also a major source of funding for INGOs) are more trusting of INGOs than others. This can have wide-ranging implications, as seen in the case of the UNSC, where China and Russia are sceptical of INGOs, while other UNSC members are supportive of them.²³ The fact that the lack of accountability of INGOs can be detrimental to the people they serve is highlighted by Elvin Shava²⁴ who examined the accountability of INGOs in relation to their success and failures in alleviating hunger and poverty in Zimbabwe. He argues that the failure of INGOs to operate has been due to poor oversight and a lack of support from local authorities, which has led to under-utilisation of resources and partial hostility of the authorities towards such organisations, despite the fact that INGOs have long lobbied in

²⁰ Shava Elvin, "Accountability of non-governmental organisations in poverty alleviation programmes", *Africa insight*, Volume 49, 1, (2019) 122-136.

²¹ Keating Vincent Charles, "NGOs, trust, and the accountability agenda", *British Journal of Politics & International Relations*, volume 19, 1, (2017) 134-151.

²² Mowell Barry. "Patterns of Development Issues and Proportional Representation in UN-Affiliated NGOs Related to the Millennium Development Goals and the Monterrey Consensus", *Journal of Global South Studies*, volume 35, 2, (2018), 359-389.

²³ Bektas Mehmet Halil Mustafa, "Critical Evaluation of Promoting Participation of NGOs in the UN Security Council", *International Journal of Social Inquiry*, Volume 11, 1 (2018), 43-60.

²⁴ Shava Elvin, "Accountability of non-governmental organisations".

international governmental organisations, on behalf of developing countries, such as Amnesty International at the UN.²⁵ This attitude of the State towards INGOs is a consequence of the very perception of such organisations as "agents of Western imperialism hiding under the mask of development aid".²⁶ This is confirmed by Porter²⁷ who argues that "it is clear that many developing countries have a perception of INGOs, which are mostly based in developed countries and run by individuals from developed countries, as hostile to their own interests".

23. A solution to this problem is provided by Andrej Lukšič²⁸ who argues that for NGOs to be successful and transparent, they need to have the possibility of State funding and participation, which is not seen in the case of Zimbabwe. In developed countries, however, trust in accountability and transparency is linked to the apparent similarities between the operations of humanitarian NGOs and various terrorist groups.²⁹ They are mainly linked by the same geographical areas of operation and groups of people, who are the addressees of the activities of both groups. NGOs are supposed to help these people, while terrorist organisations are looking for potential members there in addition to the apparent help to the civilian population they may claim to provide³⁰. This is also supposed to be the reason why a competitive relationship between NGOs and terrorist groups has developed. Omi Hodwitz's research has shown that this reasoning is incorrect, as the results showed minimal interaction between NGOs and terrorist groups.³¹
24. NGOs can be successful or unsuccessful in their work due to the varying degrees of trust placed in them by States and international governmental organisations. The performance of INGOs in the international community has recently become even more evident, as the apparent accountability of INGOs has increased, due to the partial

²⁵ Amnesty International, "Question of the violation of human rights and fundamental freedoms", United Nations Digital Library, <https://digitallibrary.un.org/record/84634>, (accessed July 30, 2023).

²⁶ Shava Elvin, "Accountability of non-governmental organisations".

²⁷ Porter Roger, "Efficiency, Equity and Legitimacy: The Multilateral Trading System at the Millenium", (Washington, DC: Brookings, 2001).

²⁸ Lukšič Andrej, "Okoljske nevladne organizacije v Sloveniji: prve portretne poteze", Teorija in Praksa, Volume 35, 5, (1998), 877-894.

²⁹ Hodwitz Omi, "NGO Interventions: influences on terrorist activity", Behavioral Sciences of Terrorism & Political Aggression, Volume 10, 1, (2018) 1-26.

³⁰ Ibid.

³¹ Ibid.

withdrawal of the State from social action. As Banyan³² puts it, "NGOs play a central role in maintaining a healthy and inclusive environment for citizens around the world". NGOs have made great strides in promoting human rights in cooperation with the United Nations, with Amnesty International and its representatives co-writing the Convention on the Elimination of Torture³³ and the Convention on the Rights of the Child³⁴, thus winning international praise. The success of INGOs has also been evidenced by surveys, showing that between 2001 and 2011, INGOs provided more accurate and credible data on human rights, the environment and health.³⁵ However, in addition to successes, INGOs have also experienced setbacks, sliding their reputation into disrepute. In the case of the *Arab Spring*, the failure of INGOs is evident, as they were unsuccessful in detecting human rights violations across North Africa and the Middle East and in acting to address the aforementioned problem after 2011 (the Arab Spring and the fall of dictatorial regimes).³⁶ Experts' opinions on the success and failure of INGOs are divided, with some believing that INGOs are effective due to their partial funding from private donations, as this allows them to advocate for a broader social cause through the partial professionalisation of their work.³⁷ However, some critics argue that it is precisely private and public (micro-donation) funding that is the source of partial inefficiency, as INGOs are left to compete for funding and donations and thus fail to maximise their effectiveness.³⁸ In addition, the international community has recently become partially suspicious of INGOs, as they are subject to almost zero accountability standards or limited legislation, which some analysts argue is inconsistent³⁹.

³² Banyan, "Strategic Research and Political Communication for NGOs: Initiating Policy Change", (Germany: SAGE Publications India Pvt, 2009).

³³ United Nations General Assembly Resolution 39/46, 10 December, 1984, available at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_39_46.pdf.

³⁴ United Nations General Assembly Resolution 44/25, 20 November, 1989, available at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_44_25.pdf.

³⁵ Bektas Mehmet Halil Mustafa, "Critical Evaluation of Promoting Participation of NGOs", (Turkey: 2019).

³⁶ Kaliudis George, "Non-Governmental Organisations: Mostly a Force for Good", International Journal on World Peace, Volume 34, 1, (2017) 82-112.

³⁷ Ibid.

³⁸ Bektas Mehmet Halil Mustafa, "Critical Evaluation of Promoting Participation of NGOs".

³⁹ Shava Elvin, "Accountability of non-governmental organisations" (South Africa: Africa Institute of South Africa, 2019).

25. There are differences in trust between States and international governmental organisations towards INGOs, due to concerns about transparency and accountability, as INGOs are not subject to the same legal obligations as other actors in the international community. These differences in trust can, however, have a decisive impact on the success or failure of INGOs. Research shows that trust in INGOs has recently been declining, which has a negative impact on their performance. It would be prudent to explore ways to improve trust in INGOs, since, the INGOs play a decisive role in preventing large numbers of deaths, especially in developing countries through humanitarian activities.
26. If we sum it up, the differences in the attitudes towards (I)NGOs are the result of their own characteristics, but also the result of the perception of them as being a vessel of interests of a State's opposing States, as it is with INGOs who are seen as carriers of western imperialism. This is good to keep in mind, as it can point to the causes of why some NSAs are seen as threats. If we can point out why they are perceived as such, the States can work on mitigating the adverse effects of NGOs (or the perception of them, however there is seldom a State willing to admit it hides their interests behind a securitizing perception). Moreover, this short case study, can be applied,, towards any other type of NSA that is not inherently violent, be it multinational companies, religious or social movements.

1.6 Addressing the threats by non-State actors

27. States address and mitigate the threat by NSAs in a variety of different ways. We can divide the actions into three distinct categories, by the number of States actively involved in the actions. This provides a useful framework, limiting our research focus on the capacities of different actors and their geographic limitations. The latter, however, is less pronounced, given the international nature of the NSAs and the almost unlimited geographical capacities of States.

1.6.1 Unilateral (internal or external action)

28. Unilateral actions are actions which a State undertakes by itself and on its own terms (seemingly limited by international legal obligations). Such actions can be discussed and coordinated with other States and allies. They are, however, undertaken only by one State. They can be divided into two categories: intelligence and counterintelligence activities, and direct activities (sometimes with the use of lethal force). Intelligence and counterintelligence activities are conducted by the services of a given State to procure and analyse information regarding (in our case) the NSAs (individuals and/or organisations), which are designated as threats. That information can then relate to direct activities. Those can range from sanctions of any kind, from assassinations (as was the case with the assassination of Osama bin Laden) to any kind of extensive military operations (as was the case with Operation *Enduring Freedom*).

1.6.2 Bilateral and regional

29. When it comes to bilateral and regional actions to address the threat of NSAs, the classification could be done in a similar fashion to the one in the case of unilateral actions. The most prevalent action is one of information sharing and strategic cooperation, followed by military and law enforcement cooperation. Information sharing is carried out in a lot of regional instances, such as the NATO alliance, the Five Eyes alliance⁴⁰, and to a lesser extent, in ASEAN. As for the military and law enforcement cooperation, the most obvious example is the activation of NATO Article 5 by the USA in the aftermath of the 9/11 attacks, which is also the first and only time this article was invoked by any member of the alliance. Another example of such cooperation is the operations carried out by the G5 Sahel countries to combat terrorism in the Sahel. This cooperation was only partly successful⁴¹.

⁴⁰ Privacy International, "Five Eyes", *Privacy International*, <https://privacyinternational.org/learn/five-eyes>, (accessed on July 31, 2023).

⁴¹ Security Council Report, "G5 Sahel Joint Force: Briefing and Consultations", *Security Council Report*, <https://www.securitycouncilreport.org/whatsinblue/2023/05/g5-sahel-joint-force-briefing-and-consultations.php>, (accessed on July 30, 2023).

1.6.3 Multilateral (and/or global, institutions, documents, etc.)

30. Multilateral actions are actions undertaken by a considerable number of States. Colloquially, when something is regarded as multilateral, it is discussed in a global organisation or a forum, such as the UN. Multilateral actions are much broader in scope, ranging from sanctions, military cooperation and action sponsored by the UNSC to conventions and documents and the establishment of special bodies, such as the UNOCT. The UNSC can approve and instruct UN Member States to impose sanctions on NSAs if they deem it appropriate. Considering that the attitudes towards NSAs as threats can vary, this seldom happens. When it comes to international legal documents, the UN Member States can adopt such conventions. The most recent one tackling the issue of terrorism is the International Convention for the Suppression of the Financing of Terrorism.. According to the website of the UN Office of Counter Terrorism , the Convention: "leads and coordinates an all-of-UN approach to prevent and counter terrorism and violent extremism."⁴² This is a positive direction for multilateral cooperation on such issues, as it is the UN's best bet to ensure an all-encompassing and integrative approach to issues of (international) terrorism.

1.7 Conclusion

31. The question of the threat by NSAs is one of the permanent items on the daily agenda of international politics. As such, States are always under a threat of attack by terrorist groups or non-violent NSAs, which can also be securitized. We should not forget that threats come in many forms, not just violent ones. To this end, we should not limit ourselves only to terrorist NSAs, but rather to all NSAs that can be securitized, in order to develop a comprehensive framework for addressing the threats in all of their forms. The threat posed by non-State actors continues to be a dynamic and persistent problem in the connected world of today. In order to combat this threat, it is necessary to have a comprehensive knowledge of the State vs. non-State dichotomy that is supported by a strategic framework that incorporates both independent State action and cooperative

⁴² UNOCT, "About us", *United Nations Office on Counter Terrorism*, <https://www.un.org/counterterrorism/about>, (accessed on July 30, 2023).

international efforts. As such, the United Nations Security Council can provide a *primum movens* for a more comprehensive multilateral framework of addressing the threat by non-State actors.

1.8 Further Reading

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2. Barry Buzan and Ole Wæver, *Regions and Powers: The Structure of International Security* (Cambridge University Press, 2013).
3. UNOCT website <https://www.un.org/counterterrorism/>
4. What are NSAs: <https://www.thoughtco.com/non-state-actors-5443123>
5. Other relevant items in the bibliography

1.9 Issues to Consider/Questions to Address

The delegates should consider the following issues when preparing for the debates:

1. What is the attitude of your State towards NSAs and what is the State's historical experience with such entities?
2. What is your State's experience with terrorism and addressing any and all threats posed by NSAs?
3. What is your State's position on terrorism and terrorist groups (in the context of global power politics and political groupings and alliances)?
4. How can your State contribute to multilateral solutions for the threats by NSAs?

The delegates should address the following questions in their position papers and the potential resolution:

1. What is the current State of the international legal framework for addressing the threat by NSAs?
2. What are the issues of non-violent NSAs and how are they addressed?
3. How can the issue of the lack of accountability of INGOs be mitigated?

4. How is the issue of international companies tackled, are they a threat, and can the UNSC do anything to combat this?
5. What are the biggest obstacles to combating the threat by NSAs?
6. How are different NSAs classified and how can that be improved?
7. Are there any good practices around the globe and how can UN Member States incorporate them into the existing framework?
8. What are the steps the UNSC can take at the moment to address the threat by NSAs?

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2 TOPIC TWO: SITUATION ON KOREAN PENINSULA

2.1 Brief introduction

32. The Korean peninsula has historically been a territory desired by every neighbouring nation, be it China, Japan, the U.S.S.R and indirectly the United States. Due to its unique geographical position and completely opposite political regimes during the Cold War, it was a crucial strategic hub for Western and Eastern bloc respectively and for the whole duration of the Cold War, South Korea served as one of the United States crucial military strongholds.
33. After the Cold War ended, South Korea, heavily influenced by the United States, embraced western values, political systems, emphasis on fundamental human rights and capitalism, while North Korea was plunged into an economic crisis and remains one of few communist countries, plagued by poverty of the general population, forced labour, disregard for basic human rights and high degree of isolation from the outside world, while brandishing and threatening with nuclear missile assaults.⁴³
34. The United Nations heavily influenced the Korean peninsula as it led the retaliatory assault on North Korea during the Korean War, while the United Nations Security Council (hereinafter: UNSC) frequently adopted resolutions condemning the North Korean nuclear missile program.
35. In 2023, the tensions on the Korean peninsula keep rising, mostly due to the fact that North Korea is being driven into a corner by ever increasing sanctions, imposed by the international community, including the sanctions by the UNSC for every nuclear threat made by North Korea.
36. Thus it falls on the UNSC to determine the way the international community approaches this very volatile region in these conflict-ridden times.

⁴³ Human rights watch World Report 2023, "North Korea Events of 2022", *Human rights watch World Report 2023*, Available at: <https://www.hrw.org/world-report/2023/country-chapters/north-korea> (accessed August 1, 2023).

2.2 Historic overview/origins of conflict

2.2.1 The Japanese rule over Korea

37. Following Japan's victory in the Russo-Japanese War⁴⁴ in 1905, Japan was granted undisputed supremacy in Korea, in accordance with the Treaty of Portsmouth.⁴⁵ Five years later, in 1910, following the disbandment of the Korean army, Japan annexed Korea and thus started the 35 year long Japanese rule over Korea.

38. During those years, Japan attempted to completely assimilate Korea to Japan, depriving Koreans of basic human rights and freedoms, i.e. freedom of expression, assembly and even freedom of education, as the Japan's appointed government changed the schooling system to prioritize Japanese language and history, while subjects focusing on Korean language and Korean history were excluded from the curriculum. Many land owners, especially farmers, had their land arbitrarily expropriated and were forced to migrate to Japan in an attempt to find jobs.⁴⁶

39. The arduous Japanese rule ended with Japan's surrender in August 1945 that marked the end of World War II, however the peace on the Korean peninsula was of temporary nature.

2.2.2 The Division of Korea

40. During World War II, the United States, the United Kingdom and People's Republic of China (hereinafter: China) pledged independence for Korea »*in due course*« in The Cairo Declaration, issued on 1 December 1943.⁴⁷ Two years later, the first proposal regarding the Korean issue was made by the United States, proposing a four-power trusteeship for

⁴⁴ Encyclopaedia Britannica, "Russo-Japanese War", Russo-Japanese history, *Encyclopaedia Britannica*, Available at: <https://www.britannica.com/event/Russo-Japanese-War> (accessed August 1, 2023).

⁴⁵ Treaty of Portsmouth, Available at: <https://portsmouthpeacetreaty.org/process/peace/TreatyText.pdf> (accessed August 1 2023).

⁴⁶ Encyclopaedia Britannica, "Korea under Japanese rule", *Encyclopaedia Britannica*, Available at: <https://www.britannica.com/place/Korea/Korea-under-Japanese-rule> (accessed on: August 1, 2023).

⁴⁷ The Cairo declaration, Available at: <https://s3.documentcloud.org/documents/1341677/cairo-declaration-1943.pdf> (accessed on: August 1, 2023).

Korea, consisting of the three signatories to The Cairo Declaration and the U.S.S.R. However, this proposal never came to fruition due to already increasing tensions between the United States and the United Kingdom on one side, and the U.S.S.R. on the other. The tensions continued through the Potsdam Conference in July 1945, where an agreement that the U.S.S.R. shall support the independence of Korea was reached and included in the Potsdam Declaration⁴⁸, recalling The Cairo Declaration.

41. The horizontal division of Korea into the northern and southern territory is a result of the General Order No. 1⁴⁹, following Japan's surrender on 1 August 1945⁵⁰; Japanese forces north of latitude 38° N (hereinafter: 38th Parallel) were to surrender to the U.S.S.R., while those south of the 38th parallel were to surrender to the United States. When the American forces landed in Korea on 8 September and started to receive Japanese surrender in Seoul, the U.S.S.R. forces, having already completed the surrender process, were already sealing off the 38th Parallel, thus physically dividing the Korean peninsula.

⁴⁸ The Potsdam declaration text, Available at: <http://www1.udel.edu/History-old/figal/hist371/assets/pdfs/potsdam.pdf> (accessed on August 1 2023).

⁴⁹ Directive by President Truman to the Supreme Commander for the Allied Powers in Japan (MacArthur), Available at: <https://history.state.gov/historicaldocuments/frus1945v07/d390> (accessed on August 1, 2023).

⁵⁰ Encyclopaedia Britannica, "Division of Korea", *Encyclopaedia Britannica*, Available at: <https://www.britannica.com/place/Korea/Division-of-Korea> (accessed on August 1, 2023).



Image 1: 38th parallel⁵¹

42. The end of Japanese rule and its political regime resulted in political and systemic instability in both newly founded zones of Korea.
43. In the north, the U.S.S.R. quickly introduced a communist-controlled government through the People's Executive Committee of South Hamgyŏng on 25 August, establishing control without a military government. On 14 October 1945, communist leader Kim Il-Sung was introduced to the northern Koreans as a national hero, quickly followed by his election as the first Secretary of the North Korean Central Bureau of the Communist Party. Although the governing body underwent a few changes, quickly followed by the establishing of a legislative body named the Supreme People's Assembly, Kim Il-Sung retained and strengthened his leadership position, thus beginning the still-ruling Kim dynasty.
44. Koreans in the south were quick to first establish a Committee for the Preparation of Korean Independence, which proclaimed the People's Republic of Korea on 6 September 1945. However, the United States refused to recognize the Republic, as the

⁵¹ Joy Ellen Yoon, "DPRK Opens Opportunity for Peace Amidst the 70 Year-Long Korean War", *Joyellenyoon*, June 23 2020, Available at: <https://www.joyellenyoon.com/blog/2020/6/23/dprk-seeks-peace-as-the-korean-war-remains-unresolved-for-70-years> (accessed on August 1, 2023).

General Order No. 1 stipulated that the military government was the only government in Korea. In October 1946, following the Korean violent opposition to the planned four-power trusteeship (the United States, the U.S.S.R. and the United Kingdom), the military government created an Interim Legislative Assembly, where half of the members were elected by the people and half were appointed by the military government.

45. Two separate republics were established in 1948, after two failed attempts of the international community to unify Korea: the first was the aforementioned four-power trusteeship, where the United States and the U.S.S.R. failed to reach an agreement that would facilitate an agreement; the second was contingent on the realization of Resolution no. 112 of the United Nations (hereinafter: UN) General Assembly.⁵² However, the U.S.S.R. prevented the UN Temporary Commission on Korea from entering the northern zone to observe elections, thus North Korea and South Korea respectively established their own governing bodies, drafted, ratified and adopted constitutions and selected their own names. In the north, the Democratic People's Republic of Korea was proclaimed with the capital P'yŏngyang and Kim Il-Sung being appointed premier. Contrary to the northern zone, the general elections in the south were held under the observation by the UN Temporary Commission on Korea. The elections and subsequent establishment of governing and legislative bodies ended with the inauguration of the Republic of Korea, with Seoul as the capital and Syngman Rhee elected as president, thus ending the military government.

2.2.3 The Korean War (1950 – 1953)

46. As soon as the 38th parallel was sealed off, the rate of military development of the respective sides was vastly different. In 1946 North Korea established the North Korean Army, heavily supported and trained by U.S.S.R. forces. In 1949, the U.S.S.R. and North Korea concluded a reciprocal-aid agreement, furthermore developing North Korean forces and providing them with heavy military equipment. By June 1950, the Korean People's Army (previously titled North Korean Army) headcount reached 135.000

⁵² A/RES/112(II)A-B; Available at: <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/038/19/PDF/NR003819.pdf?OpenElement> (accessed on August 1, 2023).

military personnel, including a tank brigade. On the contrary, by 1950, South Korea had a force of 98.000, brandishing small arms only. Therefore, when North Korea launched a full-scale invasion of South Korea, the military power balance was heavily tipped in favour of North Korea.⁵³

47. The Korean War can be divided into two distinct conflicts: The first was a rather short invasion attempt by North Korea on 25 June 1950, which was quickly halted due to UN intervention and ended in late September 1950, when UN forces have successfully pushed back North Korean forces above the 38th parallel, and with the return of Seoul the Republic of Korea's status was in essence restituted to the time before the invasion.⁵⁴ The second conflict emerged as the UN forces passed the 38th parallel on 1 October 1950, despite a stern warning from China that in case the conflict continues north of the 38th parallel, Chinese forces will enter the conflict to support North Korea. The passing of the 38th parallel triggered an almost 4 years long war between North Korea, China and the U.S.S.R. on the northern side and South Korea, UN forces, the United States, the United Kingdom and others on the southern side. The southern forces were eventually pushed back by predominantly Chinese forces, until a stalemate occurred around the 38th parallel, lasting from July 1951 to July 1953.

⁵³ Encyclopaedia Britannica, Korean War, *Encyclopaedia Britannica*, Available at: <https://www.britannica.com/event/Korean-War> (accessed on August 1, 2023).

⁵⁴ Stephen L.Y. Gammons, "The Korean war: The UN Offensive", *Unknown publisher*, Available at: <https://www.govinfo.gov/content/pkg/GOVPUB-D114-PURL-gpo126577/pdf/GOVPUB-D114-PURL-gpo126577.pdf>

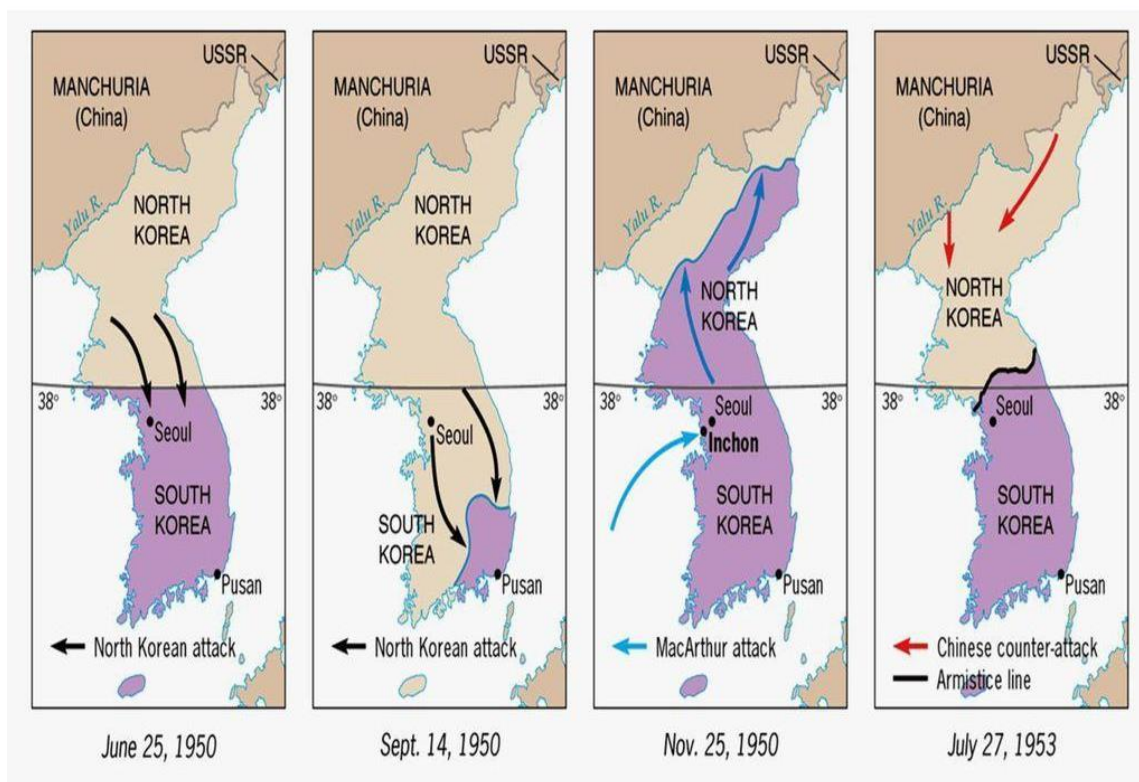


Image 2: Phases of Korean war⁵⁵

48. As the stalemate began, 10 July 1951 marked the start of the lengthy armistice negotiations, while the US-led UN forces and mainly Chinese forces kept exchanging artillery fire. Interestingly, one of the major sources of conflict during the negotiations was the question of prisoner-of-war repatriation, mainly due to the fact that many of the northern soldiers refused to be repatriated back.⁵⁶ Only after Stalin's death on 5 March 1953, the subsequent power struggle in Soviet leadership forced the U.S.S.R. to cease their support to China's efforts in Korea. Drastically weakened, China could not continue with the offensive and thus the Korean Armistice Agreement was signed by all the participating States except South Korea. The nature of the agreement is that of a military document noting a ceasefire agreement between nations and must not be confused

⁵⁵ Source: https://player.slideplayer.com/91/15129790/slides/slide_4.jpg.

⁵⁶ Stokesbury, James L., "A Short History of the Korean War", (New York: Harper Perennial, 1990).

with a formal peace treaty, which was never signed. The main element of the Korean Armistice Agreement was the establishment of the Korean Demilitarized Zone (hereinafter: **DMZ**), a 250 km long and 4 km wide border barrier, dividing countries of North Korea and South Korea, which remains the most militarized border in the world.



Image 3: Map of Korean Demilitarized zone⁵⁷

49. During the Cold War, North Korea and South Korea signed defence treaties with their allied Cold War superpowers; North Korea and China signed the Sino-North Korean Treaty of Friendship, Co-operation, and Mutual Assistance and a mutual defence treaty with the U.S.S.R., while South Korea and the United States signed the Mutual Defence Treaty on 1 October 1953. Throughout the Cold War the tensions between both Koreas kept rising, but never escalated into another war due to the nuclear threat from the United States and the U.S.S.R. respectively.

⁵⁷ Source: https://en.wikipedia.org/wiki/Korean_Demilitarized_Zone#/media/File:Korea_DMZ.svg.

50. As the Cold War came to an end, United States influenced South Korea started to prosper economically, while North Korea lost the support of the U.S.S.R. and fell into a severe economic crisis that continues to plague North Korea even in 2023. Simultaneously, North Korea heavily invested in the development of nuclear technology, especially nuclear weapons, which pushed it further into international isolation.

2.3 The state of the Korean Peninsula in the 21st Century

2.3.1 Relations between the DPRK and the Republic of Korea

2.3.1.1 The Sunshine Policy

51. The Sunshine Policy was the policy of South Korea towards North Korea from 1998 until its formal abandonment in 2007.⁵⁸ The formal name of the policy was the "Comprehensive Engagement Policy towards North Korea", and it was first announced by the 15th South Korean President, Kim Dae-Jung, in 1998.

52. The Sunshine Policy was centred around three basic principles:

- No armed provocation by the North will be tolerated,
- The South will not attempt to absorb the North in any way,
- The South actively seeks cooperation.

53. Especially the third principle showed the unprecedented willingness of South Korea to cooperate with North Korea, resulting in a few temporarily fruitful joint projects, for example, the construction of a special administrative industrial region in North Korea, where both North and South Koreans were employed and worked together.

54. However, South Korean willingness to cooperate never yielded long-term results and was *de facto* abandoned in 2001 as it was denounced by the United States in the light of the terrorist attack on 11 September 2001.

55. The Sunshine Policy presented a brief ray of hope that the relationship between North and South Korea could be repaired, however, time proved the opposite, as North Korea's

⁵⁸ Jesse Min, "The Sunshine Policy of South Korea", *Stanford University*, March 13, 2017, Available at: <http://large.stanford.edu/courses/2017/ph241/min2/> (accessed on: August 1, 2023).

constant nuclear threats pushed the Korean peninsula into a constant state of conflict and threats, especially since the United States continued with generous military support of South Korea.

56. The tensions between the DPRK and the Republic of Korea continue in 2023, despite a few attempts seeking a diplomatic breakthrough.

2.3.2 Foreign Actors

2.3.2.1 USA

2.3.2.1.1 Brief historical overview

57. The United States of America became heavily involved in matters of the Korean peninsula shortly after the end of World War II and its influence over South Korea never ceased. United States military forces headed the aforementioned UN counter-offensive involvement in the Korean War. Following the Korean Armistice Agreement and the start of the Cold War, the United States continued to heavily invest in its military presence in South Korea, especially since it allowed them to exert immense pressure on the Eastern bloc through the constant deployment of nuclear weapons at their »front door« since 1958, peaking in number at around 950 warheads in 1967. The U.S. withdrew its last nuclear weapons from South Korea in December 1991.

58. The United States further increased its involvement on the Korean peninsula due to the rapid nuclear development of North Korea. The initial relationship between the United States and the DPRK appeared promising as both parties signed the Agreed Framework between the United States of America and the Democratic People's Republic of Korea on 21 October 1994⁵⁹, with the objective of replacing the North Korean reactor program with light water reactors, which are more nuclear proliferation resistant. The agreement was, nevertheless, never implemented and broke down in 2003.

⁵⁹International Atomic Energy Agency, "Agreed framework of 21 October 1994 between the United States of America and the Democratic People's Republic of Korea", *International Atomic Energy Agency*, Available at: <https://www.iaea.org/sites/default/files/publications/documents/infcircs/1994/infcirc457.pdf> (accessed on August 1, 2023).

59. In the 21st century, the United States continues to be North Korea's main adversary, exchanging threats of nuclear warfare and imposing strict economic sanctions. Former United States president Bush even declared North Korea to be a part of the » axis of evil.«

2.3.2.1.2 Recent diplomatic volatility

60. In 2017, under the Trump Administration, the United States – North Korean relations tensed up even more, as the United States President Donald Trump abandoned the policy of strategic patience, announcing that North Korean nuclear threats »will be met with fire, fury and frankly power, the likes of which the world has never seen before«. Following stricter sanctions, the relationship between both countries drastically improved as Donald Trump and Kim Jong Un met at the 2018 North Korea – United States Singapore Summit. The presidents met on two additional occasions, yet no fruitful agreements were achieved, at least regarding the nuclear threats.

2.3.2.2 The Soviet Union/Russia

2.3.2.2.1 Historic overview and effects of USSR dissolution

61. In 1948, the U.S.S.R. was the first nation to recognize North Korea as the only legitimate authority on the Korean peninsula. During the Korean War, the U.S.S.R. supported the North Korean army, providing training, weapons and political support. The support lasted until the dissolution of the U.S.S.R. when the new Russian government decided to support South Korea instead. Russian adversity towards North Korea continued through the first North Korean nuclear tests, coming to an end in 2012 when diplomatic relations between the countries started to improve, especially when Russia decided to write off 90% of North Korea's historic debt to Russia of almost 11 billion US dollars. The relations once again improved when North Korea openly supported the Russian invasion of Ukraine in February 2022, even being the second country to recognize the independence of the Donetsk and Luhansk People's Republics. Currently, Russia and North Korea are

looking into further collaboration, as Russia is considering employing North Korean workers to develop infrastructure in the far eastern end of Russia.⁶⁰

2.3.2.3 China

62. China has mostly been an ally of North Korea, especially since the Korean War. The relationship with North Korea started to show cracks once China started to oppose the North Korean nuclear weapons program and supported the 2017 sanctions adopted in UN Security Council resolutions. This prompted a fast decline in the China-North Korea diplomatic relationship, as North Korean media started to attack China, while in response, China halted imports of coal to North Korea for one year. After the volatile year of 2017, the supportive relationship between the countries has never been restored to the past extent.

2.3.2.4 The UN

2.3.2.4.1 Overview of involvement

63. The UN has been closely involved in matters on the Korean peninsula almost since its creation on 24 October 1945, while the UN leadership of the counter-offensive in the Korean War represents the peak of UN involvement on the peninsula.

2.3.2.4.2 Security Council Resolutions

64. The UNSC has adopted 21 resolutions concerning North Korea, the first five being related to the Korean War, one recommending both North and South Korea for UN membership, while the other 15 resolutions concerned and sanctioned the North Korean nuclear and missile program.

⁶⁰ Artyom Lukin, "Russia and North Korea: Moving Toward Alliance 2.0?", *38 North*, September 27 2022, Available at: <https://www.38north.org/2022/09/russia-and-north-korea-moving-toward-alliance-2-0/> (accessed on August 1, 2023).

2.3.2.4.3 Resolutions of greater importance

65. In the first set of UNSC resolutions regarding the Korean War, the first three resolutions directly impacted the conflict and resolution of the war. With resolution no. S/RES/82 the UNSC declared North Korea's invasion of South Korea as a »breach of peace.« It was passed on 25 June 1950 and ratified by nine votes, while the U.S.S.R. was absent. Two days later, on 27 June 1950, in light of North Korea's non-compliance with the previous Resolution, the UNSC passed Resolution no. S/RES/83, which recommended UN member States to provide assistance to South Korea. It was ratified by seven votes, Yugoslavia voting against, while the U.S.S.R. was absent. Finally, on 7 July 1950, UNSC passed Resolution no. S/RES/84, establishing a unified command led by the United States in order to coordinate war efforts aiding South Korea, declaring North Korea's invasion of South Korea a threat to international security and peace. The Resolution was ratified by seven votes, Egypt, India and Yugoslavia abstaining, and with the U.S.S.R. absent.
66. The second, larger set of 15 Resolutions, addresses the development and testing done by North Korea's nuclear and missile programme. There are five resolutions of greater importance, which outline the stance that the UNSC took in light of North Korea's nuclear development. Following North Korea's withdrawal from the Nuclear Non-Proliferation Treaty (see below), the UNSC passed Resolution no. S7RES/825 on 11 May 1993, urging North Korea to abide by international obligations stemming from the Treaty. The Resolution was adopted by 13 votes, with China and Pakistan abstaining. The rest of the resolutions were unanimously adopted. Due to North Korea's 2006 launch of ballistic missiles, the UNSC adopted Resolution no. S/RES/1695 on 15 July 2006, imposing sanctions on North Korea. A few months later, on 14 October 2006, in light of North Korea's 2006 nuclear test, the UNSC adopted Resolution no. S/RES/1718, imposing further sanctions and setting up the UNSC Committee on North Korea. On 2 March 2016, the UNSC adopted Resolution no. S/RES/2207, imposing even further sanctions as a reaction to North Korea's 2016 nuclear and missile test. New sanctions included inspection of all cargo, passing to and from North Korea, a prohibition of all weapons trade with North Korea and the expulsion of certain North Korean diplomats.

67. Finally, on 11 September 2017, adopting Resolution no. S/RES/2375, the UNSC strengthened oil sanctions against North Korea to sanction another, sixth nuclear test.

2.3.3 Nuclear threats

2.3.3.1 The Treaty on the Non-Proliferation of Nuclear Weapons

68. The Treaty on the Non-Proliferation of Nuclear Weapons or Non-Proliferation Treaty (hereinafter: NPT)⁶¹ is according to the International Atomic Energy Agency (hereinafter: IAEA): “*The centrepiece of global efforts to prevent the spread of nuclear weapons, to promote cooperation in the peaceful uses of nuclear energy, and to further the goal of nuclear disarmament and general and complete disarmament.*” The NPT represents the only binding commitment in the form of a multilateral treaty to the goal of disarmament by the nuclear-weapon States. Opened for signature in 1968, the NPT entered into force in 1970. On 11 May 1995, the NPT was extended indefinitely. A total of 191 States have joined the NPT, including five nuclear-weapon States.⁶² The NPT also established safeguards to verify compliance with the Treaty through inspections conducted by the IAEA, thus promoting cooperation between both nuclear and non-nuclear nations.

69. North Korea ratified the NPT in 1985, however just eight years later, in early 1993, following the IAEA conclusion that, based on North Korea’s initial declaration regarding their nuclear weapons programme, non-proliferation was incomplete. Following North Korea’s refusal of the special inspection, North Korea withdrew from NPT, although the withdrawal was suspended before it *de iure* took effect.⁶³ Despite the efforts of the international community, in the end North Korea withdrew from the NPT in 2003. Since

⁶¹ NPT text, Available at: <https://www.un.org/en/conf/npt/2015/pdf/text%20of%20the%20treaty.pdf> (accessed on August 1, 2023).

⁶² United Nations Office for Disarmament Affairs, “Treaty on the Non-Proliferation of Nuclear Weapons (NPT)”, *United Nations Office for Disarmament Affairs*, Available at: <https://disarmament.unoda.org/wmd/nuclear/npt/#:~:text=The%20NPT%20is%20a%20landmark,and%20general%20and%20complete%20disarmament> (accessed on August 1, 2023).

⁶³ IAEA, Fact Sheet on DPRK Nuclear Safeguards, *IAEA*, Available at: <https://www.iaea.org/newscenter/focus/dprk/fact-sheet-on-dprk-nuclear-safeguards> (accessed on August 1, 2023).

then, North Korea has been called upon by the international community to once again ratify and act in accordance with NPT.

2.3.3.2 North Korean nuclear weapons development and tests

70. Research and development of nuclear technology in North Korea began soon after the end of the Korean War, as the U.S.S.R. and North Korea signed a nuclear cooperation agreement in 1959, followed by the opening and development of the Yongbyon Nuclear Scientific Research Center in 1962, where North Korea started developing technology to produce fuel for nuclear reactors. In 1992, North Korea showed the first signs of cooperation in accordance with the NPT, allowing an inspection of the Yongbyon nuclear facility by the IAEA. The inspection found several inconsistencies with the NPT, especially in regard to the extent of weapons-grade plutonium production.
71. Despite its participation in the Six-party talks (see below), North Korea continued with nuclear weapons development, which culminated in the first nuclear test on 9 October 2006, as a direct response to the »United States hostile policy.«⁶⁴ In response, the UNSC adopted the aforementioned Resolution no. S/RES/1718. As the third phase of the fifth round of the Six-party talks ended with an agreement, the nuclear development in North Korea was halted and the Yongbyon reactor was shut down, as confirmed by the IAEA inspectors. The international diplomatic relations with North Korea were steadily improving, mostly due to North Korean transparency in regards to their nuclear programme.
72. However, on 14 April 2009, all the progress that had been made was rendered void after the UN denounced North Korea's launch of the Kwangmyŏngsŏng-2 satellite, suspecting the launch as being a test of a new missile type. North Korea responded by immediate withdrawal from the Six-party talks, expelling IAEA nuclear inspectors and resuming its nuclear weapons program, resulting in the second nuclear test on 15 May 2009.
73. In 2012, North Korea successfully launched the Kwangmyŏngsŏng-3 Unit 2 satellite, becoming the 10th country in the world capable of putting satellites in orbit. Fearing the

⁶⁴ BBC News, "N Korea 'to conduct nuclear test'", *BBC News*, October 3 2006, Available at: <http://news.bbc.co.uk/2/hi/asia-pacific/5402018.stm> (accessed on August 1, 2023).

implications of an intercontinental ballistic missile, in conjunction with the North Korean third nuclear device test on 12 February 2013 and threats of »final destruction« of South Korea during a UN conference on disarmament on 19 February 2013⁶⁵, the UNSC unanimously tightened sanctions on North Korea, while the United States and Japan drastically increased their military presence in South Korea. The 2013 Korean crisis lasted until 30 April 2013, when the United States and Japan withdrew most of their forces after North Korea warned all foreign companies and tourists in South Korea to evacuate, stating that the two nations were on the verge of nuclear war.⁶⁶

74. North Korea continued to test and develop missiles with increasing range and nuclear devices with increasing power, claiming that they have developed and tested a hydrogen bomb on 6 January 2016, which was their fourth nuclear test. On 9 September of the same year, North Korea conducted its fifth nuclear test with the largest explosion to date.

2.3.3.3 The Six-party talks

75. Following North Korea's withdrawal from NPT, the following six participating states held a series of meetings in Beijing: China, Japan, North Korea, South Korea, Russia and the United States. The aim of the talks was to find a peaceful resolution to the increasing concerns regarding the North Korean nuclear weapons program. There were six main points of the talks:

1. A security guarantee for North Korea in light of, especially stemming from the US, open international hostility,
2. Construction of light water reactors to reduce the proliferation of nuclear technology,

⁶⁵ BBC News, "North Korea threatens "final destruction" of South Korea", *BBC News*, February 19 2013, Available at: <https://www.bbc.com/news/world-asia-21510479> (accessed on August 1, 2023).

⁶⁶ CBC News, "North Korea urges foreigners to leave South Korea", *CBC News*, April 9 2013, Available at: <https://www.cbc.ca/news/world/north-korea-urges-foreigners-to-leave-south-korea-1.1314913> (accessed on August 1, 2023).

3. Peaceful use of nuclear energy,
4. Establishment of normal diplomatic relations,
5. Reduction of financial and trade restrictions, and
6. Verifiable and irreversible disarmament.⁶⁷

76. The initial talks yielded little result. More fruitful was the third phase of the fifth round of talks which was held from 8 February 2007 to 13 February 2007, where North Korea agreed to, in return for emergency energy assistance by the other five parties, shut down and seal the Yongbyon nuclear facility, including the reprocessing facility, and invite back IAEA personnel to conduct all necessary monitoring and verifications.

77. The Six-party talks were discontinued when North Korea pulled out of the talks on 14 April 2009, following the UNSC , issued on 13 April 2009⁶⁸, which condemned the North Korean failed satellite launch. At the same time, North Korea expelled all nuclear inspectors from the country.

2.3.3.4 Cyberterrorism

78. At the start of the 2010s, North Korea apparently started to utilize cyber and electronic warfare. The attacks were performed by the Lazarus Group, a criminal organization with strong links to North Korea, prompting the United States Federal Bureau of Investigation (FBI) to call them a »state-sponsored hacking organization.«

79. The first and most notable attack was back in 2014, a cyberattack on Sony, as a response to the screening of the film *The Interview*, a satirical comedy portraying North Korea's

⁶⁷Arms Control Association, “The Six-Party Talks at a Glance”, *Arms Control Association*, January 2022, Available at: <https://www.armscontrol.org/factsheets/6partytalks> (accessed on August 1, 2023).

⁶⁸ Fahren Haq, “Highlights of the noon

Briefing”, *UN*, April 13 2009, Available at: <https://www.un.org/sg/en/content/highlight/2009-04-13.html> (accessed on August 1, 2023).

leader Kim Jong Un as a manic dictator. The hack made public the majority of Sony Pictures' data, including confidential emails, and employee's personal data.⁶⁹

80. The Sony Pictures hack was followed by the 2016 Bangladesh Bank hack, where the North Korean hackers attempted to steal almost a billion US dollars. They managed to acquire just 81 Million US dollars, as one employee spotted a mistyped transaction title.⁷⁰

81. The Lazarus Group continues their attacks, while not much can be done in counter-measures. The group's prowess in cyber-warfare poses a great threat not only to large international corporations but also to smaller States with few Internet Service Providers (ISP), for example, South Korea.

2.3.4 Sanctions against North Korea

82. Ever since the first nuclear test in 2006, both international bodies and individual states have imposed sanctions of mostly economic nature.

2.3.4.1 UNSC sanctions

83. The UNSC has gradually tightened up sanctions on North Korea with each subsequent nuclear test. Current sanctions include an arms embargo, a ban on coal, iron, zinc, copper, silver, nickel, lead, food, machinery and electrical equipment, and limiting crude oil and refined petroleum products. Financial sanctions include excluding North Korea from the international financial system, with the only permissible transactions being those for livelihood purposes. UN members are also authorized to seize and inspect any vessel in their territorial waters found to be illicitly providing oil or other prohibited products to the Democratic People's Republic of Korea.

⁶⁹Ellen Nakashima, "U.S. attributes cyberattack on Sony to North Korea", *Washington Post*, December 19 2014, Available at: https://www.washingtonpost.com/world/national-security/us-attributes-sony-attack-to-north-korea/2014/12/19/fc3aec60-8790-11e4-a702-fa31ff4ae98e_story.html (accessed on August 1, 2023).

⁷⁰ Geoff White, "The Lazarus heist: How North Korea almost pulled off a billion-dollar hack", *BBC News*, June 21 2021, Available at: <https://www.bbc.com/news/stories-57520169> (accessed on August 1, 2023).

2.3.4.2 EU Sanctions⁷¹

84. Similar to the UNSC, the EU started imposing sanctions on North Korea in 2006. EU sanctions include: an embargo on arms and related material, an embargo on certain goods and technology, including all dual-use goods, a prohibition of procurement from the DPRK of arms, related material and certain other goods and technology, a ban on provision and acceptance of certain services, a ban on trade in gold, precious metals and diamonds with the Government of the DPRK, a prohibition of procurement from the DPRK of gold, titanium ore, vanadium ore and certain minerals and a prohibition of procurement from the DPRK of coal, iron and iron ore.

2.3.4.3 Individual Nations

2.3.4.3.1 The United States

85. In addition to UN sanctions, the United States has adopted the harshest sanctions on North Korea out of all the individual nations. These sanctions are mostly aimed towards entities that have a positive relation with North Korea, that, for example, contribute to North Korea's nuclear program, metals trade, arms trade and human rights abuses.⁷²

2.3.4.3.2 Russia

86. Russia has mostly implemented the sanctions included in the UNSC Resolutions, especially in the trade and economic field.

2.3.4.3.3 China

87. China has banned exports of some petroleum products and imports of textiles from North Korea.

⁷¹ European Commission, "Restrictive measures (sanctions) in force", *European Commission*, July 7 2016, Available at: https://eeas.europa.eu/archives/docs/cfsp/sanctions/docs/measures_en.pdf (accessed on August 1, 2023).

⁷² PUBLIC LAW 114-122, February 18 2016, Available at: <https://www.govinfo.gov/content/pkg/PLAW-114publ122/pdf/PLAW-114publ122.pdf> (accessed on August 1, 2023).

2.4 Issues to address

88. Firstly, given the historical ineffectiveness of sanctions adopted in UNSC Resolutions, consider **a new, different pack of sanctions to achieve the desired goal of ending the North Korean nuclear weapons program.** Considering the pace of advancements in North Korean nuclear technology, to what degree can UNSC sanctions affect North Korea?
89. Alternatively, consider the view of United States Director of National Intelligence James Clapper, who expressed that »persuading North Korea to abandon its nuclear program is probably a lost cause, as to North Korea, the nuclear program is their »ticket to survival« and any discussions about ending their nuclear ambition would be a »non-starter.«« In lieu of this view, **is it reasonable to expect North Korea to give away their one and only bargaining chip, guaranteeing them security from foreign influence?**
90. Thirdly, North Koreans suffer from excessive famine, poor living conditions and human rights violations on a daily basis, while the leaders of North Korea live a very opulent life. While international sanctions target North Korea as an entity, consider **who is actually impacted by economic and trade sanctions, and if and how the UNSC can afford to consider and address human rights issues in North Korea.**

2.5 Further reading

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