



## TOPIC AREA A: THE MILITARISATION OF THE ARCTIC

### STATEMENT OF THE PROBLEM

The Arctic region is one of the most highly disputed areas in recent times. As the forces of global warming continue to melt the polar ice caps and uncover lucrative natural resources, Arctic militarization is becoming an increasingly prominent issue. A major challenge to Arctic and global security is the diversity of uncertainties and changes that will shape the future of the Arctic ecosystem in the near future.

As a region extremely sensitive to changes in climate, the Arctic serves as a barometer of global warming. According to the Arctic Climate Impact Assessment, annual average temperatures have risen at almost twice the rate of any other region in the world in the last century. As a result, NASA satellite images indicate that the permanent ice cover of the northern polar ice cap is shrinking at a rate of nine percent per decade. The Ward Hunt Ice Shelf, once the largest in the Arctic region, has begun cracking since 2000, approximately three thousand years after its formation. Moreover, the thawing of the permafrost and Peatland is creating critical positive feedback that will accelerate the rate of warming in the Arctic. By 2100, an average global temperature rise of five and a half degrees is foreseeable. Increasing precipitation, shorter and warmer winters and significant reductions in reflective ice and snow cover are likely to persist for the next few centuries. These trends will contribute to not only rising sea levels, but the warming of the planet as a whole.

Rising Arctic temperatures and shorter winters will affect not only the ecosystem, but also Arctic operations. As warming becomes an increasingly significant trend in the Arctic, natural resource extraction and marine activity is likely to escalate. For instance, both commercial and military maritime activity in the Arctic has steadily increased since the late 20<sup>th</sup> century. The Arctic Marine Shipping Assessment (AMSA), a 2009 Arctic marine activity study conducted by the Arctic Council, found that approximately six thousand ships operated in or around the Arctic region in 2004. Furthermore, in terms of volume of shipping, 2.13 million tons were shipped in 2007, with transportation of hydrocarbons within the Barents and White Seas peaking at 8.5 million tons in 2006.

Although AMSA experts postulate that a rise in shipping in the coming decades will stem mainly from increases in regional transportation in waters close to Norway, such as the Barents, Pechora and Kara Seas, transit in the Northern Sea Route could become more regular by 2025. By 2020, the volume of transport of oil, gas and other natural resources in the Northern Sea Route could increase by approximately 12.8 million tons.

Under present international law, no single country monopolizes the Arctic region. Instead, the international treaty that regulates Arctic territorial claims, the 1982 United Nations Convention on the Law of the Sea (UNCLOS), mandates that each of the five major Arctic countries, the United States, Canada, Russia, Norway and Denmark, possesses an exclusive economic zone of 200 nautical miles adjacent to its Arctic coast, as well as military deployment in the Arctic an extended continental shelf. Yet, the United States and seventeen other nations throughout the world have refused to ratify UNCLOS, which they view as a threat to their national



economic and security interests. Meanwhile, world powers are clamoring to defend and even extend their territorial claims in the region.

This issue poses a threat not only to regional and global security, but also to northern indigenous communities, sustainable development, and environmental stewardship. The rapidly transforming Arctic geography is directly impacting an area of over 13 million km<sup>2</sup>, 21 engendering new issues, including territorial rights, potential trade routes, and environmental protection. Cooperation with the Arctic indigenous populations is critical to preserving biodiversity and human health, as

well as environmental health and global peace.

Confronted with these pressing geopolitical issues and a trend of militarization in the Arctic, the United Nations must address the question of a growing military presence in the Arctic. Should Arctic sovereignty rights continue to be defined by the 1982 UN Convention on the Law of the Sea? Should countries be allowed to maintain a military presence in the Arctic? What types of measures should be implemented to regulate activity in the region? How should Arctic security and environmental health be protected? The committee should aim to address these issues, whether through a multilateral framework for long-term Arctic policy, or through other innovative measures. Without strategic and immediate action, virtually uninhibited militarization could continue to pose a threat to global security.

## **HISTORY OF THE PROBLEM**

### *EARLY TWENTIETH CENTURY AND WORLD WAR I*

The proliferation of military activity in the Arctic region was a fairly recent development, not reaching significant levels until the mid-twentieth century during and following World War II. Prior to the war, the region was a military vacuum, as countries valued it for neither strategic nor economic utility. Since only the northern indigenous populations were able to live in the region, the entire Arctic region tended to be ignored and avoided by the rest of the world. During World War I, several European countries and primarily Russia, began to recognize the twofold military significance of the European Far North. Firstly, the ability of Russia's western allies to operate military activities in the northwestern Russian port cities of Murmansk and Archangel demonstrated the importance of its northwestern most territories and adjacent waters as a gateway to the west, preventing it from becoming isolated from the rest of Europe. Secondly, however, the infiltration of



Anglo- French troops through the northern region into Russia as active supporters of the White counter-revolutionary forces during the Russian Revolution of 1917 manifested the vulnerability of the Far North. Nevertheless, the Arctic remained relatively intact, as the utility of the polar region had yet to be discovered.

## WORLD WAR II

World War II proved to be a turning point in the militarization of the Arctic, as both the Allied and Axis Powers came to perceive the potential for the Arctic to become a key strategic arena for military activity. Several events in World War II cemented this growing acknowledgement of the Arctic as a region of military



relevance, especially with regards to the Soviet White Sea area and the Arctic territories and adjacent waters of Scandinavia. As the Allies were faced with the challenge of blockading the transport of iron ore and other supplies from the north of Sweden to Axis Power Germany, French military strategists suggested that the Allies also station troops at the Finnish port of Petsamo (now the Russian settlement of Pechenga) on the Kola Peninsula to reinforce the Finnish Winter War effort against the Soviet Union and, in turn, also potentially hinder German planning. Though the Allies never implemented the proposal, it serves as just one of many examples of the increasing awareness of the military advantage of invading Soviet territory through the exposed Arctic area.

After Hitler ordered German troops to implement Operation Barbarossa 22 June 1941, invading Soviet territory and breaking the Treaty of Non-Aggression between Germany and the Soviet Union, and the latter transferred

consequently its allegiance from the Axis Powers to the Allies, the same exposure of the Soviet northwest gateway became instrumental to Allied military strategy. Similar to in World War I, the Allies capitalized on the northwestern waterways to ship military supplies from the west to Russia. Of the naval operations in the Arctic, the most crucial were the convoys sent from Iceland and Scotland to Murmansk and Archangel in the Soviet Union.

In retaliation, Germany launched a campaign for the conquest of Murmansk, characterized by heavy losses sustained by Allied naval operations against German naval and air attacks out of northern Norway. Germany



overcame fighting with British and French troops on land, at sea, and in the air around Narvik to invade Norway in 1940. The strategically located Norwegian bases were so effective against the Arctic convoys that they could have served as priority bases for operations against Atlantic shipping as well, had Germany not already occupied even better placed French bases for this purpose. Exploiting these Norwegian bases, German U-boats, aircraft, and surface ships launched critical attacks on both Allied merchant ships and their escorts. German U-boats and surface raiders entered the Arctic Ocean through the North Sea and the Greenland-Iceland-United Kingdom gap, allowing them to attack ships and shore installations as far to the northeast as the Kara Sea. Moreover, German battleships and cruisers inflicted fatal attacks on many of the heaviest British ships waiting to intercept them in the Norwegian fjords, until British warships managed to sink the German capital ship Scharnhorst off the North Cape, and British and Russian carrier- and land-based aircraft and midget submarines operating from Russian bases destroyed the German battleship Tirpitz through repeated attacks. The severe, though unsuccessful, German campaign for the conquest of Murmansk solidified further the integration of the Fenno-Scandinavian Arctic into military operations.

Of further significance was the beginning of the specific use of airpower north of the Arctic Circle. Before World War II, aircraft had rarely had a place in the Arctic Region. This absence of airpower in the Far North changed during World War II, when both Allied and Axis Powers pioneered a limited application of airpower north of the Arctic Circle. Allies built bases for ferrying aircraft from North America to Europe at Goose Bay, Fort Chimo, Churchill, Southampton Island, Baffin Island, Greenland, and Iceland. Moreover, Britain used aircraft based out of Scotland, Iceland, and later Murmansk to defend the Murmansk convoys against air, surface, and submarine attack. On the Axis side, Germany deployed paratroops and air support in the successful invasion of Norway; after capturing Norway, Germany was able to use aircraft based out of Norwegian bases to find and attack the Murmansk convoys.

Along with increased naval and air activity, a notable development in the militarization of the Arctic in World War II was the extension of Arctic operations westward, in particular around Greenland and Iceland. To enter safely the Atlantic to attack the transatlantic convoys, German warships often took advantage of the route north of Iceland and through the Denmark Strait. In response to these German attacks, the United States troops stationed in Greenland, for which the United States assumed responsibility in the early spring of 1941, as well as in Iceland, replacing the less popular British and Canadian troops who had arrived uninvited in May 1940. The United States built several airfields in Greenland and used the existing airfield at Keflavik in Iceland, which all proved to be extremely important to the protection of the Atlantic convoys, the ferrying of new aircraft from North America to Europe, and the repulsion of German attempts to construct observation posts on Greenland's eastern coast.

World War II thus served as the pivotal moment in the evolution of a militarized Arctic. Although the Arctic British wartime poster about coordination between British ships and Soviet planes at Murmansk was still of little economic importance as before the war, aside from the protection of iron and nickel mines in Norway and Finland and cryolite mines at Ivigtut in southern Greenland, it had nevertheless become more prominent on the world stage than ever. The evacuation of Norwegian and Russian inhabitants in Svalbard by the





Canadian army in the operation to disable its coal mines in 1941 was the closest military land operation to the North Pole yet. Military activity in the Arctic would only continue to grow in the coming years.

## *THE COLD WAR*

The Cold War provided a platform for greater militarization of the Arctic. As tensions escalated between the North Atlantic Treaty Organization (NATO) and its allies, led by the United States, and the Warsaw Pact block, led by the Soviet Union, both sides began to turn to the Arctic as one of many regions to station military development programs and operations. Starting just years after the end of World War II in which the United States and the Soviet Union had ultimately fought alongside each other, the Far North soon saw a drastic increase in military activity from both belligerent sides.

In the midst of a nuclear arms race, the relatively secluded Arctic became a central location for the United States and the Soviet to play “cat-and-mouse games” above and beneath the ice, in which each country tried to outmaneuver the other by expanding their own nuclear programs in the Arctic without hindrance from those of the rival country. By the 1950s, international attention paid to the use and defense against nuclear-armed strategic bombers using polar routes was reaching unprecedented heights. To maximize the payload of long-range bombers developed with radii of action of several thousand miles, the United States and the Soviet Union established forward bases along the large circular route over the Arctic, to be used for landing and refueling the bombers. The airspace over the Arctic became a chief route for nuclear-armed bombers. Fears that the Soviet Union would occupy an airfield in the Canadian north as a staging base for air operations emerged in North America, though these concerns were later quashed by the trend of increasing ranges of strategic aircraft and consequent lowering risk-return tradeoffs. Nevertheless, awareness of the military significance of the Arctic increased for all northern countries, including Canada, where consciousness of the Canadian northlands reached peaks in the early 1960s and later in the mid-1970s.

More than ever, military presence and nuclear activity in the Circumpolar North threatened not only international security, but also the surrounding environment and indigenous peoples. In the early 1980s, Johan Galtung, a notable Norwegian sociologist and a pioneer of peace and conflict studies, emphasized the close relationship between the environment and security. Militaries worldwide contributed between 6 and 30 percent of pollution. The Arctic land and seas are particularly susceptible to such pollution, which affects both the natural ecosystem and the indigenous peoples.

The most prominent case of Soviet nuclear activity in the Arctic was that of Novaja Zemlja, an archipelago in the Arctic Ocean in the north of Russia and the extreme northeast of Europe and the only remaining nuclear test site of the Russian Federation.



During the Cold War, Novaya Zemlja was a sensitive nuclear site used by the Soviet Union for up to 132 nuclear tests from 1957 to 1991, with 77 to 86 of them being done in the atmosphere. Its nuclear detonations totaled an explosive energy equivalent of 265 megatons of trinitrotoluene (TNT), compared to only a total of two megatons of explosives used by all belligerent nations in World War II, including the United States' two atomic bombs. Since the Soviet army began building up two nuclear test areas in Novaya Zemlja in the mid-1950s, the indigenous Nenets people, who used to live, fish, and hunt in the area, have been displaced. In 1992, in the wake of the Cold War, Russian President Boris Yeltsin officially designated the area as the official and only nuclear test site of the Russian Federation, destroying the Nenets people's chances of returning to the contaminated region.

Another example of the environmental degradation resulting from Soviet nuclear activity in the Cold War were the 11,000 to 17,000 containers of solid and liquid nuclear waste and up to 21 nuclear reactors of Soviet submarines and icebreakers dumped into the Barents Sea and the Kara Sea to date. The nuclear waste and reactors, including weapons-grade plutonium, threatened and continue to put at risk the area with radioactive contamination and dumped mustard gas causing mass-scale death of marine life in the White Sea. The accidental sinking of the Soviet Komsomolets- (or Mike) class nuclear submarine in the Norwegian Sea in 1989, with a twin nuclear reactor and two warheads of missiles or torpedoes on board, contributed further radioactive contamination, just one of at least 212 major naval accidents between 1945 and 1988 involving nuclear-armed and/or nuclear-powered submarines or warships in the northern seas.

On the other hand, other countries were equally as responsible for nuclear activity in the Arctic. The case of Nitassinan, near Goose Bay in Canadian Labrador, demonstrates the impact of NATO countries on indigenous peoples in the Circumpolar North. Nitassinan was the ancestral homeland of the Innu people, but became an area of low-level flights for military training during the Cold War. Four NATO countries performed thousands of low-level flights above the region at a height of 100 to 250 feet at almost maximum speed. In 1991 alone, 7,700 low-level flights were conducted. The harmful byproducts of the project, including noise, sonic bombs, aircraft emissions, microwaves, risks of accidents and crashes, drove Innu people out of the region and damaged the environment.

The period of détente made nuclear non-proliferation come into vogue in the 1970s. Several de-nuclearization agreements entered into force, including the 1967 Treaty of Tlatelolco covering Latin America; the 1985 Treaty of Rarotonga covering much of the South Pacific, and the 1959 Antarctic Treaty, the 1967 Outer Space Treaty, the 1971 Seabed Treaty and the 1979 Moon Agreement covering yet uninhabited areas. The landmark international treaty, however, was the Treaty on the Non-Proliferation of Nuclear Weapons



(NPT), which entered into force in 1970, starting a trend of nuclear non-proliferation limiting nuclear activity in all parts of the world, including the Arctic.

Article VII of NPT and numerous United Nations resolutions affirmed the right of states to establish nuclear-weapon-free zones within their borders, emphasizing the importance of such zones in a nuclear-free age. In 1975, the United Nations General Assembly delivered a recommendation that nuclear-weapon-free zones be established under following guidelines: "Obligations relating to the establishment of such zones may be assumed either by groups of states, continents, or geographical regions, or by smaller groups of states or even individual countries; NWFZ arrangements must ensure that the zone would be – and remain – effectively free of all nuclear weapons; the initiative to establish a NWFZ must come from within the region, and participation must be voluntary; if a zone is intended to be specifically regional, its effectiveness would be enhanced by the participation of all militarily significant states; NWFZ agreements must include an effective system of verification; arrangements should provide for the peaceful economic and scientific development of state parties; and the treaty establishing the zone should be of unlimited duration."

And in his Murmansk speech on 1 October 1987, Soviet leader Mikhail Gorbachev delineated a six-point program for Arctic cooperation and pledged the Soviet Union's "profound and certain interest in preventing the North of the planet, its polar and sub-polar regions and all northern countries from ever again becoming an arena of war, and in forming there a genuine zone of peace and fruitful cooperation," indicating a promise of reduced Arctic nuclear activity.

However, the reality was that military activity continued to expand well into the 1980s. While the Arctic was a periphery in security and military means in the early years of the Cold War, it became a "maritime war Map of Novaja Zemlja theater" by the 1980s, and with a continued disregard for the effects of this policy of strategic deterrence in the Arctic. What was once a military vacuum prior to World War II and a military flank from the 1950s to 1970s had become a veritable military front in the 1980s. By the late 1980s, the Northern Fleet had become the most modern and powerful of the Soviet fleets, with 66 percent of the Soviet Union's nuclear-powered ballistic-missile-firing submarines (SSBNs), 76 percent of its warheads, and 73 percent of its mega tonnage at its disposal; similar trends were seen for western countries. Even when cooperative initiatives came from the West in the spirit of détente in the 1970s, nearly all were rejected readily by the Soviet Union; even those implemented were done so with great reluctance.

Still, increased international dialogues were pointing the world in the direction of Arctic peace and security. In 1973, the Third United Nations Conference on the Law of the Sea (UNCLOS III) conveyed after six years of preparation in the Committee for the Sea-Bed, proving essential to changing politico-legal conditions in the arctic. As early as in 1975, broad international consensus had been achieved concerning the right of coastal states to establish 200-mile exclusive economic zones (EEZs) and to administer the living and mineral resources in those zones, providing guidelines for northern marine activity. Article 234 dealt specifically with ice-covered areas, clarifying boundary delimitation and dispute resolution for Arctic nations. What remained to be established was a norm of adhering to these international regulations in a diplomatic manner.



## *POST-COLD WAR*

Despite decreases in Arctic armament, the Arctic continued to be an area of great geopolitical and economic strategic importance for the United States, the Russian Federation, and other nations in the post-Cold War era. Several trends in military technology and strategic doctrine redirected attention to the Arctic. The development of long-range, air-launched cruise missiles and long-range strategic bombers by both the United States and the Soviet Union revitalized the trend of “air-breathing” vehicles, spurred by the introduction of cruise missiles and the evolution of more effective ballistic missile defenses.

Furthermore, the culmination of the Cold War helped efforts to develop multilateral institutions and arrangements gain traction. In particular, the Arctic Environmental Protection Strategy (AEPS) and its successor, the Arctic Council, were created following the Cold War. The Arctic Council, first proposed by the Canadian government on 28 November 1990 and created in 1996, has become particularly central to circumpolar cooperation. However, these efforts have created at best an immature and fractured system, rather than a strong multilateral Arctic organization.

There were four promising signs of cooperation in the Arctic, namely political goodwill between the Arctic nations, cooperative behavior between those who operated in the north, and existence of multilateral cooperative institutions, such as AEPS, the Arctic Council, and UNCLOS, and nearly two decades of non-conflict in the region. In terms of political goodwill, all Arctic states have promoted cooperation in their Arctic policies. With regards to cooperative behavior between operators, the American and Canadian Coast Guards share a strong relationship, solidified by the 1988 Arctic Water Cooperation Agreement. Concerning the existence of international cooperative institutions, on top of AEPS, the Arctic Council, and UNCLOS, numerous multilateral treaties have been drawn up and ratified, including the 1992 Declaration on the Denuclearization of Korea, and the 1995 Treaty of Bangkok, covering much of Southeast Asia, the 1996 (enforced in 2009) Treaty of Pelindaba covering Africa, and the 2006 (enforced in 2009) Treaty of Semipaltinsk covering portions of Central Asia. Moreover, the Iluslissat Declaration of 2008 committed the five Arctic coastal states—Russia, the United States, Canada, Denmark, and Norway—to resolve issues through diplomatic channels.

While the acceptance of a shared scientific understanding of the Arctic has been a positive force in Arctic diplomacy, promoting the creation of the Arctic Environmental Protection Strategy and the Arctic Council, these organizations are forbidden from addressing international security issues in their endeavors to improve relations among Arctic States and meet environmental challenges confronting all Arctic States. Likewise, UNCLOS, while a major institution relevant to Arctic diplomacy, contains relatively little substance specific to Arctic policy, though its general provisions encompass many Arctic issues, being largely maritime in nature. Although little military activity and security concerns transitioned largely from traditional security and confrontation to environmental security and cooperation, military tensions in the Arctic lingered years after the Cold War had ended.





## CURRENT SITUATION

Arctic security continues to face threats, some greater than before, and several Arctic issues should be prioritized on the agenda of this body:

### *UNDETERMINED ARCTIC MARITIME BORDERS:*

Despite the creation of Exclusive Economic Zones (EEZs) under UNCLOS, many of the Arctic maritime boundaries remain disputed. Maritime disputes between Canada and the United States in the Beaufort Sea, Canada and Denmark in the Lincoln Sea, and Norway and Russia in the Barents Sea are just some of the conflicts that continue to persist.

While most oil and gas deposits in the Arctic are not located in these disputed areas, future discoveries resulting from further oil and gas exploration could complicate disputes.

### *RENEWED MILITARY BUILD-UP*

Despite the emphasis on cooperation in the Arctic in diplomatic dialogues, most Arctic states are actively working on strengthening their northern capabilities through increases in Arctic forces and manufacturing of new combative weapons, after having reduced their circumpolar forces in the 1990s following the Cold War.

### *IMPLICATIONS ON THE ENVIRONMENT*

Military actions among Arctic nations have yet to embrace a cohesive element of sustainable development. A more comprehensive and environmentally responsible security policy, “environmentally oriented security,” should be considered, especially in light of the impact of global warming on the Arctic environment.

### *RELATIONSHIP WITH NORTHERN INDIGENOUS PEOPLES*

The effects of Arctic military activity on local indigenous peoples have not been sufficiently addressed by nations operating in the region. There are currently approximately 105,000 Inuit people in the polar region: 30,000 in Alaska, 42,000 in Greenland, 30,000 in northern Canada, and 1,500 to 3,000 in Siberia. Several other indigenous groups also live in the Arctic, feeling the effects of the militarization of the Arctic.

The American Public Health Association Task Force on National Arctic Health Science Policy found that as far back as 1983, Inuit and other indigenous peoples living around Alaska are exposed to high levels of fallout



radionuclides, yet have not been studied in essential health and related surveys. Moreover, militarization threatens to undermine the self-determination of indigenous groups. While the direct involvement of the Inuit Circumpolar Council (ICC) created in 1977 and other NGOs in the pursuit of disarmament and peace has been encouraged by the United Nations General Assembly and the United Nations Education, Scientific and Cultural Organization, northern indigenous peoples continue to be overlooked in Arctic military operations and policymaking. Clearer policies and guidelines should be developed, while keeping in mind the needs of the different indigenous groups.

## *CLEARER REGULATIONS ON TYPES AND LEVELS OF MILITARY ACTIVITY ALLOWED IN THE ARCTIC*

The Arctic needs a clearer elucidation for the types of military activity allowed in the Arctic. Moreover, even once the categories of activity are established, the magnitude of these actions should also be addressed. Once both the types and levels of military action in the Arctic are discussed, then a monitoring system should be in place as well, to make sure countries adhere to the created regulations; regulations without enforcement are not a compelling force for good.

## *POLICY FRAMEWORK FOR RESOLVING ARCTIC SECURITY DISPUTES*

Global warming in the last three decades has resulted in a large area formerly covered permanently in ice becoming open water during the summer months. The Arctic Ocean could be ice-free as soon as 2030. As a result, "the Arctic has become a hotbed of territorial disputes as surrounding countries spar for the control of resources... competing claims over Arctic territory are escalating. Recent Wikileaks releases have reaffirmed that Arctic security continues to be threatened by tensions over controlling territory, waters, and natural resource deposits. The Russian Ambassador to NATO wrote that, "The twenty-first century will see a fight for resources, and Russia should not be defeated in this fight." While thus far competition between nations has remained fairly peaceful, security experts have expressed concern that competition could rapidly become militarized. For example, on 18 February 2009, two long-range strategic bombers, Tupolev Ms (NATO designation "Bears") took off from Engels Air force Base near Moscow and flew over the Arctic to the Beaufort Sea on an apparent training mission, coming within 200 kilometers of the Alaska/Yukon border before turning back and returning to base, stirring tensions among Russian, Canadian, and Canadian officials. Future disputes, and potential disputes, will require a clear procedure of resolution.

## *ARMS CONTROL AND DISARMAMENT MEASURES, INCLUDING AN ARCTIC NUCLEAR-WEAPON-FREE-ZONE (ANWZ)*

The reality is that submarines, ships, and nuclear weapons continue to exist in the Arctic. Only nuclear-powered submarines are able to stay submerged long enough to operate in the circumpolar region, which the



United States, Russia, Britain, and France continue to use to patrol the Arctic. For instance, Russia claims to maintain a fleet of ten missile submarines, six Delta IV and four Delta III class, equipped with a total of 160 submarine-launched ballistic missiles carrying 576 nuclear warheads. These submarines, and the rest of the Russian Northern Fleet, continue to be tracked by American, and possibly British and French, fast-attack submarines. The United States itself has 14 Ohio class Trident missile submarines carrying 1,152 nuclear warheads, Britain has four Trident nuclear missile submarines, and France has four nuclear missile submarines carrying 240 nuclear warheads. Addressing the use of these submarines would be crucial to establishing potentially an Arctic Nuclear-Weapon-Free Zone.

An Arctic Nuclear-Weapon-Free Zone has been emphasized as a possibility by the Canadian Pugwash Group in 2007, but three principal challenges to its creation are the routine deployment of ballistic missile-firing submarines by Russia (and resulting tracking by the American and other NATO navies), the location of Russia's largest naval bases being north of the Arctic Circle, and the positions of the United States and Russia as both Arctic States and Nuclear Weapon States (though the United States possesses virtually no nuclear weapons in the Arctic). Should this build-up of arms continue, the prospects of a nuclear-weapon free and demilitarized Arctic could be in jeopardy.

## **RELEVANT UN ACTIONS**

The United Nations has spearheaded only a few treaties and resolutions relevant to Arctic military operations, relying mainly on individual groups of regions creating separate multilateral organizations. The most notable of the United Nations' actions has been the production of the United Nations Convention on the Law of the Sea (UNCLOS). The opening of UNCLOS for signature on 10 December 1982 in Montego Bay, Jamaica marked the end of over 14 years of work integrating contributions from over 150 countries. The Convention delineates a comprehensive regime of law and order in the world's oceans and seas, instituting regulations on the use of the oceans and seabed resources. Its 320 articles and nine annexes regulate all aspects of ocean space, including delimitation, environmental control, economic and commercial activities, and the settlement of disputes relating to ocean matters.

Since the Arctic is a largely marine region, many of UNCLOS's general provisions, as well as Article 234, which is specific to the Arctic region, affect directly northern circumpolar activity. Some of the relevant terms include:

"Article 234: Ice-covered areas. Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zone, where particularly severe climatic conditions and the presence of ice covering such areas for most of the year create obstructions or exceptional hazards to navigation, and pollution of the marine environment could cause major harm to or irreversible disturbance of the ecological balance. Such laws and regulations shall have due regard to navigation and the protection and preservation of the marine environment based on the best available scientific evidence."



“Coastal States exercise sovereignty over their territorial sea which they have the right to establish its breadth up to a limit not to exceed 12 nautical miles; foreign vessels are allowed “innocent passage” through those waters.”

“Ships and aircraft of all countries are allowed “transit passage” through straits used for international navigation; States bordering the straits can regulate navigational and other aspects of passage.”

“Archipelagic States, made up of a group or groups of closely related islands and interconnecting waters, have sovereignty over a sea area enclosed by straight lines drawn between the outermost points of the islands; the waters between the islands are declared archipelagic waters where States may establish sea lanes and air routes in which all other States enjoy the right of archipelagic passage through such designated sea lanes.”

“Coastal States have sovereign rights in a 200-nautical mile exclusive economic zone (EEZ) with respect to natural resources and certain economic activities, and exercise jurisdiction over marine science research and environmental protection.”

“All other States have freedom of navigation and over flight in the EEZ, as well as freedom to lay submarine cables and pipelines.”

“Land-locked and geographically disadvantaged States have the right to participate on an equitable basis in exploitation of an appropriate part of the surplus of the living resources of the EEZ’s of coastal States of the same region or sub-region; highly migratory species of fish and marine mammals are accorded special protection.”

“Coastal States have sovereign rights over the continental shelf (the national area of the seabed) for exploring and exploiting it; the shelf can extend at least 200 nautical miles from the shore, and more under specified circumstances.”

“Coastal States share with the international community part of the revenue derived from exploiting resources from any part of their shelf beyond 200 miles.”

“The Commission on the Limits of the Continental Shelf shall make recommendations to States on the shelf’s outer boundaries when it extends beyond 200 miles.”

“All States enjoy the traditional freedoms of navigation, overflight, scientific research and fishing on the high seas; they are obliged to adopt, or cooperate with other States in adopting, measures to manage and conserve living resources.”



“States are bound to prevent and control marine pollution and are liable for damage caused by violation of their international obligations to combat such pollution.”

“States Parties are obliged to settle by peaceful means their disputes concerning the interpretation or application of the Convention.”

“Disputes can be submitted to the International Tribunal for the Law of the Sea established under the Convention, to the International Court of Justice, or to arbitration. Conciliation is also available and, in certain circumstances, submission to it would be compulsory. The Tribunal has exclusive jurisdiction over deep seabed mining disputes.”

## PROPOSED SOLUTIONS

As elaborated above, the question of the militarization of the Arctic actually contains many subsidiary issues. Disarmament and security in the Arctic have implications on more than just the military: they impact the environment, indigenous peoples, and commercial activity, for example. Prospective solutions should consist of a comprehensive and feasible framework within the purview of DISEC, addressing the gaps in current international policy pertaining to the militarization of Arctic. Since there are various bilateral and multilateral cooperative institutions relating to the Arctic, but few international bodies under the United Nations, a thorough approach to international cooperation on a number of Arctic issues should be delineated. The regime set forth should extend beyond environmental and scientific issues, unlike its predecessors, focusing instead on military issues. The regime should reconcile the military and political perspectives of Arctic affairs with the environmental, scientific, and cultural approaches. The resolution should attempt to overcome the tendency for countries to decouple Arctic issues in order to promote cooperation regarding issues that are not political sensitive, but not regarding the most sensitive and critical issues, such as residual East-West tensions







and developments in military technology (including nuclear arms). The resolution should tackle these underlying motivations for Arctic militarization, as well as any others that delegations may discern, to create a more powerful solution.

In order for delegations to be able to come together to form such a resolution, it is important to establish a mutual understanding of the Arctic as a distinct domain. The Arctic Eight—Canada, Denmark (Greenland), Finland, Iceland, Norway, the Soviet Union, Sweden, and the United States—as well as other nations should all have input in establishing this shared understanding of Arctic issues, especially Arctic militarization, so that all member nations in DISEC may have equal opportunity to contribute potential solutions to the Arctic militarization question.

## QUESTIONS A RESOLUTION MUST ANSWER

How are major players in the Arctic asserting their Arctic claims and interacting with one another?

How are countries without internationally recognized Arctic claims playing a role in the Arctic?

What are currently the greatest threats to Arctic security and sovereignty?

How can the international community best collaborate to regulate the militarization of the Arctic and resolve potential disputes?

To what extent should countries be allowed to maintain a military presence in the Arctic?

Should Arctic sovereignty rights continue to be defined by the 1982 UN Convention on the Law of the Sea?

Should countries revise the 1982 UN Convention on the Law of the Sea and/or create new international law altogether to address the issue of the militarization of the Arctic?

## BLOC POSITIONS

While distinct blocs on the Arctic militarization question are far from fixed, the Cold War precipitated the formation of informal blocs among the Arctic Eight, namely Russia (formerly the Soviet Union), Canada, Denmark, Finland, Norway, Sweden, the United States, and Iceland.

The Arctic Five is an extremely loose alliance of all countries with Arctic territorial claims under UNCLOS. These countries, Russia, the United States, Canada, Denmark, and Norway, articulated their shared interests in protecting their rights to the Arctic, including its possession of seven percent of the world's oil reserves and thirty-three percent of its gas reserves, along with gold, diamonds, and other minerals, at a summit in Lisbon in November 2010.

However, internal division over conflicting territorial claims continues to fragment the bloc. For instance, the United States and Canada cannot reach agreement on the Beaufort Sea (a marginal sea of the Arctic Ocean), while Canada and Denmark have disputed over possession of Hans Island for half a century, and the



United States has argued against Canada's stance that the Northwest Passage should be governed by the entire world, rather than just Canada.

The entrance of the United Kingdom, Germany, France, Spain, Poland, and, more recently, India, Japan, South Korea, Australia, Brazil and China have further reshaped blocs, as these countries have insisted that countries outside of the Arctic Eight deserve rights to operate in the Arctic. For instance, the United Kingdom is not an Arctic state, but is only 100 nautical miles from the Faeroe Islands, which are regarded by the Arctic Council, of which the United Kingdom is an observer, as part of the Arctic, and maintains interests in Arctic resources and access. As a result, the United Kingdom has maintained a military presence of seven boats in the Arctic and will continue to send SSN class submarines to train in the Arctic.

Having become a formidable industrial power in the last half-century, Germany has expanded its military program in the Arctic through its influence in the European Union and its military cooperation with Norway. Germany has participated in a number of joint military operations with Norway and Poland, and has expressed its interest in continuing such partnerships in military activities in the region. For instance, the Institute for International and Security Affairs, which is financed by the German chancellery, is partaking in a research program financed by the Norwegian government, called "Geopolitics of the High North," which is analyzing the roles of Arctic nations and creating proposals for an Arctic strategy. The German defense ministry has stated that its objective in the High North is to address security challenges in the region, such as the threat to control over maritime routes along Europe's northern coastline. As Parliamentary State Secretary in the German Ministry of Defense Thomas Kossendey stated, the Arctic Ocean is "the most profound maritime challenge of the near future" and could cause a "resurgence of territorial disputes." Moreover, German shipping companies seek to use the Northeast Passage along the Northern European and Asian coasts to transport goods between Europe and Asia in the future.

Outside of Europe, China has been a particularly active player in the Arctic in recent times, launching four polar expeditions as of 2010, establishing a polar station on Spitsbergen Island, and sending the Xue Long (or Snow Dragon), the world's largest non-nuclear research icebreaker, within 120 nautical miles of the North Pole, raising concerns among other Arctic contenders, particularly Russia. The rise of other Asian countries, such as Japan and South Korea, indicate that power dynamics in the Arctic, as in the rest of the world, will shift in the near future.

Additionally, other nations, developing and developed, have a significant stake in the development of Arctic policy and activity. With the Arctic becoming an increasingly crucial geopolitical, commercial, and military region for the Arctic Five, the European Union, Asian nations, and NATO, countries worldwide have an incentive to contribute to the global dialogue and policymaking concerning the Arctic to assert their own positions in the Arctic and views on regulations on Arctic militarization. Current developments indicate overwhelmingly that the Arctic will only increase in importance on the world stage in the coming years and decades. Nations both in and outside the region will want to take on an active role in Arctic policymaking if they want to wield influence over the preservation of global security and the regulation of commercial and military activity.



While multinational cooperation on certain expeditions and operations has been common, such as the joint operation between the US icebreaker Healy and the Canadian icebreaker Louis S. St. Laurent to determine the boundary between the US and Canadian extended continental shelves in the Arctic Ocean in 2008, each country has maintained its private military operations. The Arctic Five has, logically enough, been the most active in the region.

## *RUSSIA*

With one-fifth of its territory and waters located in the Arctic, Russia has worked hard to maintain a strong presence, military and otherwise, in the region. The country's Security Council has developed an Arctic strategy involving transferring responsibility of the region under the Federal Security Service and striving to make it Russia's leading resource base by 2016.

Militarization in the Arctic has become a higher priority in recent years for Russia, and has shown little sign of slowing down. In the spring of 2011, Russia's Minister of Defense announced the creation of an Arctic motorized infantry unit on the Kola Peninsula, especially equipped for operating in the region. Ice breaking warships capable of escorting vessels and carrying out military missions would serve as support for ground troops. Infantry brigades reinforcing the aircraft and coast defense ships patrolling the Northern Sea Route have also been established. With the Commander-In- Chief of the Russian Navy, Admiral Vladimir Vysotsky, having voiced concerns over NATO's treatment of the Arctic as part of its zone of interest, when Russia is the only country of the Arctic Five that does not belong to NATO, Russia is adamant in its goal of protecting its Arctic claims.

Russia has much at stake. It possesses an estimated US \$8 trillion worth of energy resources in its Arctic territory alone, at 45 billion barrels of oil and 23 trillion cubic meters of natural gas. In September 2009, Russia adopted a new Arctic strategy, emphasizing the importance of the Arctic to Russia's economy in terms of energy production and maritime transport and its intent to develop the Northern Sea Route as a main transportation link between Europe and Asia and to turn the region into Russia's most economically important region by 2020.

## *UNITED STATES*

Though it has not nearly as much Arctic territory as Russia, the United States has long had a vested geostrategic interest in maintaining a strong Arctic presence. The United States has an extended continental shelf extending over 600 miles north of the Alaskan coast, bounded by the US-Russia boundary and unresolved US-Canada boundary. Since 2001, the United States has been investigating the outer limits of its extended continental shelf. Starting in 2003, the US Coast Guard icebreaker Healy conducted five successful expeditions to define the extended continental shelf in the Arctic Ocean. In 2007, the establishment of a multi-agency ECS Task Force and funding increases reinforce the importance of this study.

Moreover, the United States continues to conduct frequent military operations in the Arctic, as well as lead NATO policy and expeditions in the Far North. One such example was in January 2009, when the George W.



Bush administration issued a Presidential National Security Directive, Directive 66, in relation to the Arctic. As the United States prepares to assume the position of chair of the Arctic Council for a two-year period in the spring of 2015, the United States will continue to take a leading role in principal forums for Arctic cooperation.

## *CANADA*

Canada has worked hard to defend its vast Arctic territorial and water claims, which are second only to Russia.<sup>129</sup> Not only does Canada possess vast oil and gas deposits in the Arctic, but it also has significant mineral deposits, becoming the world's third-largest producer of diamonds in recent years and preparing the development of perhaps the world's largest and purest iron ore deposit in the territory of Nunavut. When the effects of global warming on the potential to navigate through the Northwest Passage from the Baffin Bay to the Lincoln Sea became evident in 2007, Canada sent six patrol boats to the Arctic and began increasing the strength of its Arctic military force tenfold. The country has funded the construction of a deep water port and a navy base in the abandoned town of Nanisivik, and launched the expansion of a military training base in Resolute Bay, and order the construction of new Arctic patrol ships. While the country has no constant military presence in the Arctic, it has been conducting annual drills, Operation Nanook, to train over 900 Canadian troops for emergencies and, as of 2007, has been conducting sovereignty patrols in the Arctic. However, its military operations remain largely focused on economic and sovereignty questions, rather than military imperatives in themselves. Nevertheless, as Canada prepares to take the position of chair of the Arctic Council in 2013 for a two-year span, it is poised to continue to take a leading role in promoting stewardship, while protecting sovereignty, in Arctic affairs.

## *DENMARK*

After obtaining the colony of Greenland as an entity of the Kingdom of Denmark under the 1953 Constitution and adopting a law on self-rule on 21 June 2009, Greenland solidified its control over Greenland's foreign affairs and security policy. As a result, Denmark has been able to secure access to and influence in the Arctic. Denmark has since made partial submissions on the extension of its continental shelf north of the Faeroe Islands outside the 200-nautical mile limit of its exclusive economic zone on 28 April 2009.

## *NORWAY*

Like Russia, Norway is unique in its long-lasting and wide-ranging engagement in the north, both economically and militarily. Norway's High North policy has traditionally focused on three core issues: its tumultuous relationship with Russia (formerly the Soviet Union), its desire to uphold absolute sovereignty in the Svalbard archipelago in accordance with the Svalbard Treaty of 1920, and the protection of national economic interests through the exploitation of marine resources, of which Norway only has approximately 3.3 percent of total Arctic resources, but is nevertheless integral to its potential for economic growth.

The three principal dimensions of Norway's High North policy—foreign, defense, and development policy—are worthy of defining. Firstly, its foreign policy centers on its bilateral relationship with Russia, which has improved in recent years, but continues to leave Norway vulnerable to its much larger, more powerful, and



unpredictable ally. Secondly, in terms of defense policy, Norway has worked hard to maintain a visible military presence in the Arctic, strengthened since its change in administration in 2005. It has coordinated numerous military exercises, such as its biannual Barents Rescue exercises held since 2001 in conjunction with other Nordic countries and Russia. Finally, development policy, both in terms of economic and social development, has been a core pillar of Norway's High North policy since 2005, guided by the three principles of presence, activity, and knowledge. In this way, Norway's integration of military and nonmilitary operations in the Arctic has surpassed that of its fellow Arctic states in many regards.

Although Norway has resolved most of its Arctic maritime boundary delimitation issues, most of which were with Russia, it continues to struggle to settle the Svalbard sovereignty issue, which is contested by Russia, the United Kingdom, Iceland, a number of other countries.

Further research is highly recommended to enhance understanding of the scope and complexity of the question of the militarization of the Arctic. There is a diversity of optimal resources that may be helpful to supplementary research.

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## TOPIC AREA B: CURBING THE THREAT OF NUCLEAR TERRORISM

### INTRODUCTION TO THE TOPIC

The United States ended the Second World War by detonating two nuclear bombs over Hiroshima and Nagasaki, in 1945. The aftermath of the attacks shocked the world as the destruction caused by the nuclear bombs was the most disastrous ever in the history of mankind. Those attacks started a move in the international community to stop such horrific attacks from happening in the future. Nuclear weapons are the most dangerous weapons on earth. A single bomb has the potential to destroy entire cities, kill millions and contaminate air, land and water for many miles around the original blast site for thousands of years. In the event of a major nuclear war, all of civilization is threatened, by the direct effects of the nuclear blasts and the resulting radiation, and by the nuclear winter that could potentially result when enormous clouds of dust are thrown into the atmosphere. Since their effects are so widespread and devastating, nuclear weapons can never really be used in a narrowly targeted way, nor can their use be said to achieve victory in any rational sense. Although nuclear weapons have been used in war only twice, the potential for their use, whether intentional or accidental, by states or by terrorists, remains as long as such weapons continue to exist. This tremendous power makes nuclear weapons an especially frightening technology. It also makes nuclear weapons appealing to terrorists. While many states have struggled for decades to create nuclear weapons, governments are at least subject to the demands of the international community. Countries that have tried to develop a nuclear weapons program face great pressure to disarm. However, terrorist groups are not accountable to the international community. These groups use violence against civilians to instill fear in the populace and have their demands met. A weapon as destructive as a nuclear bomb would give terrorists enormous physical and political power. In a world increasingly plagued by the threat of terrorism, dismantling nuclear weapons and securing nuclear materials is more important than ever. The UN and individual member states must do everything possible to prevent terrorist organizations from acquiring or producing nuclear weapons.

The real problem lies in the fact that the nuclear technology serves a number of useful purposes and its widespread use makes the eradication of this threat a very tricky problem. Interest has been expanding in a broad range of nuclear technologies. The reliance on nuclear power as a source of electricity is already substantial, with well established programs in USA, China, Russia, India and Pakistan among others. Globally the number of operational research reactors and accelerators are increasing on with the passage of time (with over 50 found in Asia alone). Nuclear applications are also playing a strong role in development.





Nuclear and isotopic techniques are being used, inter alias: for medical treatment; to produce higher yielding, disease resistant crops; to manage drinking water supplies; for pest control; to increase industrial productivity; and to help address many other development issues.

## **TIMELINE OF EVENTS**

- 1945 Atom bomb dropped on Hiroshima and Nagasaki
- 1970 Passing of the Nuclear Non-Proliferation Treaty
- 1980 Convention on the Physical Protection of Nuclear Weapons
- 1986 Chernobyl Disaster – Nuclear Accident at Chernobyl Power plant
- 1987 Convention on the Physical Protection of Nuclear Material and Nuclear Facilities
- 1995 Aum Shinrikio attacks in Tokyo
- 2001 Terrorist attack on the World Trade Center sparks the “War on Terror”
- 2002 Osama Bin Laden declares possession of nuclear weapons a “religious duty”
- 2003 North Korea withdraws from NPT
- 2004 Passing of Security Council Resolution 1540
- 2004 Dr.A.Q.Khan (Pakistan) confesses to providing designs and centrifuges to Iran, Libya and North Korea through the black market without the consent of the Government.
- 2005 Presidents Bush and Putin reach an accord on Nuclear Security  
International Convention for the Suppression of Acts of Nuclear Terrorism
- 2006 IAEA reports Iran to the Security Council  
Use of Polonium-210 to poison Alexander Litvinenko in London  
Global Initiative to Combat Nuclear Terrorism UN urges minimizing the use of highly enriched uranium
- 2007 Reporting of 1340 incidents surrounding trafficking of nuclear materials over the span of 15 years



- 2009 UN SC endorsement of the Global Zero initiative
- 2009 Two armed robbers steal 60 pounds of Caesium-137 in Argentina
- 2010 Signing of START treaty
- 2011 First Joint US-Russia assessment of a nuclear threat – Nuclear Threat Initiative

## **FURTHER DISCUSSION**

### *MEANS OF CARRYING OUT ACTS OF NUCLEAR TERRORISM*

There are various ways through which nuclear terrorism can be spread. Some of them are listed below:

#### 1. Radiological Dispersion Bomb (Dirty Bomb)

The most accessible nuclear device for any terrorist group would be a radiological dispersion bomb, or so-called *dirty bomb*, which is created by mixing nuclear waste with conventional explosives. Upon detonation, the explosion would result in radiation that could contaminate land, water and air, rendering the affected area useless for many years. Unfortunately, nuclear waste is not guarded properly in hospitals, universities or nuclear waste dumps, thus terrorists can reach nuclear waste with ease and utilize it.

#### 2. Attack on Nuclear Sites

Terrorists can attack a nuclear site by crashing a plane or using conventional weapons, which could result in massive amounts of radiation being spread in the area. All nuclear facilities such as nuclear plants, nuclear research laboratories and waste disposal sites are vulnerable to such attacks. If such an attack was to cause either a meltdown of the reactor core (similar to the Chernobyl disaster), or a dispersal of the spent fuel waste on the site, extensive casualties could be expected. In such an instance, the power plant would be the source of the radiological contamination and the plane or armament would be the explosive mechanism for spreading lethal radiation over large areas.

#### 3. Obtaining Nuclear Bombs

The possibility of a terrorist organization obtaining an actual nuclear bomb is a concern many countries share. Even a small nuclear bomb can kill hundreds of thousands of people. When assessing terrorists' capability to build nuclear weapons, one must consider the following factors: the type of device and level of



sophistication; the time and expertise available; and the ability to divert fissile nuclear material. These organizations can either create a crude nuclear weapon with their own knowledge, or buy a sophisticated weapon from a government or other sources.

## *NUCLEAR DISARMAMENT – NUCLEAR NON-PROLIFERATION*

It is clear that if there are no nuclear weapons programs it will be impossible to steal nuclear weapons which means that the only option for terrorists who wish to resort to the use of nuclear arsenal is to produce their own nuclear weapons which is much more difficult than acquiring already produced nuclear weaponry.

Nuclear Disarmament refers to the elimination of nuclear weapons and nuclear weapon producing capacity of a nation which would render a state as a Non-Nuclear Weapon State (NNWS). Currently there are only 5 official Nuclear Weapon States (NWS) namely, USA, UK, France, China and Russia or in other words the Permanent 5 members of the UN Security Council. The other three NWS in the world are unofficial and consist of India, Pakistan and North Korea. The reason these states are “unofficial” NWS is due to the fact that they are not party to the Nuclear Non-Proliferation Treaty. Israel is also believed to be a NWS however its current nuclear program is veiled behind a program of opacity. So besides these 8 or 9 nations the rest of the world is devoid of nuclear weapons and are NNWS. However, Iran is also believed to be currently in the process of obtaining nuclear weapons which causes great concern for the international community.

In recent years speculations have grown that, considering the volatility and instability in the regions of some NWS, the threat of nuclear terrorism has grown exponentially. The US in particular has made it no secret that they are extremely worried about the state of Pakistan’s nuclear weapon program and the fact that it may be accessed by terrorists and other non-state actors. Despite the assurances given by the Pakistani government, the discovery of the late Osama Bin Laden’s presence in Abbottabad in recent times has not helped the Pakistani’s case in assuaging the concerns of the international community. The case for other unofficial NWS, like India and North Korea, in maintaining their nuclear weapons programs is becoming weaker as that they haven’t signed the NPT which signals that their intent to stop proliferation of Nuclear Weapons and letting it fall into the wrong hands is weak.

Of course, however, in light of UN commitments to the global eradication of nuclear weapons, such as the goal of global nuclear disarmament by the year 2020, Official Nuclear Weapon States (The P5) must also defend their nuclear weapons programs especially since the only way the prevention of nuclear terrorism can be guaranteed is through the complete and total eradication of nuclear weapons from the face of the earth. Hence it can be seen that the justification of NWS for their nuclear weapons programs will be an important discussion in the context of the debate.



## *A NUCLEAR WORLD – INSECURE AND UNSURE*

Nuclear technology involves the reactions of particles within atoms. The release of these particles during nuclear reactions is called radiation, which has a number of important scientific applications. Radiation has proven to be quite beneficial in many areas, from treating cancer to performing scientific research. Nuclear energy can also generate electricity, which has resulted in a large number of nuclear power plants in the world. As of January 2011, there were 442 nuclear power plants in the world with another 65 under construction. At least 31 countries have nuclear power reactors, and over 70 countries have major facilities with nuclear material in them. Nuclear energy contributes for 13% of the world's energy. Even though IAEA monitors nuclear plants very closely, some governments secretly pursue the creation of nuclear weapons. In addition, terrorist organizations often operate in politically unstable areas, such as some parts of the Middle East and Asia, where governments are not powerful enough to control them. This political instability makes it impossible for the IAEA, or any other international organization, to determine if terrorists are trying to get nuclear weapons.

## *BREACH OF SECURITY*

Even though the IAEA monitors nuclear reactors, the plants used to produce electricity, the vast majority of radiological material is not contained in them. Most facilities that contain dangerous radiological materials, such as hospitals, universities, and other research facilities, are not as secure as they should be. The safety efforts of most companies that own radiological materials focus on preventing accidental exposure to radiation. Often, when the equipment becomes obsolete, it is simply discarded, even though the radiological material is still active. Many radioactive materials, which could be used to create a dirty bomb, such as spent X-ray parts, are simply thrown away and discovered later in scrap yards, vehicles and residential buildings.

Such carelessness with these materials could make them fall into the hands of any person who finds them. Although the IAEA carefully monitors nuclear activity and products, the Agency is only as effective as the government it monitors. In Russia, weapons-grade materials have been stolen in the past, and employees at some of Russia's most powerful nuclear research institutions have tried to sell nuclear materials and technology to terrorists. Pakistan, in particular, poses a threat to nuclear safety. The creator of Pakistan's nuclear weapons program, for example, was found to be operating an extensive black market for nuclear technology. After secretly creating Pakistan's own nuclear arsenal, Dr. Abdul Qadeer Khan began selling nuclear technology and equipment to countries all over the world, including Iran, Libya and North Korea – all unstable governments with histories of aggression. Some experts worry that this technology and equipment might be purchased or stolen by terrorist networks or that Pakistan's military might sell a nuclear weapon on the black market. In late 2007, a multitude of crises within Pakistan brought the threat of Pakistan's nuclear materials falling into the wrong hands back to the forefront. Former President Musharraf acted to bring all of Pakistan's nuclear weapons under the control of one authority, but the instability of Pakistan remains a



concern. These sorts of security gaps have already been exploited. Between 1993 and 2005, the IAEA has learned of over eight hundred reported cases of illegal activity involving radioactive materials. These activities range from “illegal possession and attempted sale and smuggling, to unauthorized disposal of materials and discoveries of lost radiological sources.” In 16 of the cases, the materials being smuggled were nuclear instead of merely radioactive.

Effective and credible national and regional approaches to security are therefore essential not only for nuclear power plants, but also for research reactors, accelerators, and the ubiquitous array of radioactive sources that support these nuclear applications. To optimize the effectiveness of these efforts, it will be important for efforts to be prioritized by focusing on those facilities where the risk is greatest and to maintain a balance between security needs and the many peaceful applications of nuclear technology. For example, the recent increase in the denial of shipments of radioactive material, while driven by perceived security issues, can be a matter of significant humanitarian concern particularly when such shipments involve radio nuclide’s intended for use in medical applications. While we should be strongly focused on ensuring the security of nuclear and other radioactive materials globally, we should equally seek solutions that will ensure the continued delivery of the benefits that these materials and related applications provide. For nuclear installations such as nuclear power plants and fuel cycle facilities, it is also important to understand how safety and security aspects come together in the identification and protection of vulnerabilities. The IAEA has increasingly been asked to provide guidance on how to reconcile the need for transparency, in matters of nuclear and radiation safety, with the need for confidentiality, from a security perspective. Effective risk management requires striking a balance that protects the security of sensitive information while ensuring that safety concerns are addressed in a transparent manner, and that lessons learned, relating to both safety and security, are shared for the benefit of the entire nuclear community.

## *TERRORIST ORGANISATIONS*

As the threat of terrorism spreads throughout the world, the people behind such organizations are likely to seek more destructive and efficient ways of creating chaos. It takes approximately 25 kg of highly enriched uranium (HEU) to produce a large enough yield to detonate a nuclear weapon, what is defined by the IAEA as a significant quantity. Most cases of the IAEA discovering smuggled or illegal transport of HEU or plutonium have only been measurable in grams, with one or two exceptions. This does not mean that there is little danger of a group amassing enough material for a bomb one day. The US Department of Energy has warned “it may even be possible for intruders in a fissile-materials storage facility to use nuclear materials for onsite assembly of an improvised nuclear device in the short time before guards could intervene.”

Al Qaeda, the terrorist group that attacked New York City’s World Trade Centre on September 11, 2001, is a prime example of the global terrorist network described above. As early as 1994, al Qaeda attempted to





purchase uranium, paying \$1.5 million for it; the uranium turned out to be fake. Al Qaeda leader Osama bin Laden described the acquisition of nuclear weapons as a religious duty, and called for the deaths of millions of American citizens.

Russia has a history of being contacted by such groups to provide nuclear information. In October 2000, Raisa Vdovichenko, a Russian Security Council member, told journalists about an issue involving the Taliban, the former leaders of Afghanistan. He said that representatives of the Taliban approached a scientist at, "an institution related to nuclear technologies to go to their country to work there in this field." While that worker did not go, three of his fellow workers left for other countries. It is not known exactly where they went.

Aum Shinrikyo, a Japanese terrorist group famous for using nerve gas to kill 12 commuters on subways in 2005, has also tried to obtain nuclear weapons. Russian and Japanese press have alleged that Aum Shinrikyo recruited scientists at Russian nuclear research facilities and established relationships with top Russian security officials, but these claims have yet to be proven.

## *REALIZING THE DANGERS OF NUCLEAR TERRORISM*

The issue of nuclear terrorism is one that has no boundaries or geographical limitations.

Therefore, it is a very global dilemma and every state has a stake in it. Countries have made some progress in ensuring that nuclear technology does not fall in the wrong hands. Speaking to Heads of States at the Nuclear Security Summit in April 2010, U.S. President Barack Obama warned that the threat of terrorists using a nuclear weapon has risen. President Obama said that already "terrorist networks such as Al-Qaeda have tried to acquire the material for a nuclear weapon." He called on countries to adopt a concrete plan to secure nuclear materials within four years. During the summit, Ukraine and Canada announced plans to give up highly enriched uranium and produce much safer, lower-enriched uranium instead. U.S. Secretary of State Hillary Clinton and Russian Foreign Minister Sergei Lavrov signed an agreement (START Treaty) for the two countries to each dispose of 34,000 metric tons of weapons-grade plutonium on the Munich Security Conference in February 2011. Leaders and top officials attended the Summit from more than 47 countries, the largest hosted by a U.S. president since 1945.

## *THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF ACTS OF NUCLEAR TERRORISM*

The document which has criminalized Nuclear Terrorism and which is of relevance to us is the International Convention for the Suppression of Acts of Nuclear Terrorism (ICSANT) which was approved by the General Assembly through resolution A/RES/59/290, on 13 April 2005. This is a significant document as it is the first anti-terrorism treaty adopted since the 11 September 2001 attacks. The Convention entered in to force on 7th July 2007 and currently forms a part of the framework of international law regulating nuclear terrorism.



The significance of this convention is immense in light of the fact that it was the product of almost 10 years of debate and deliberation by the international community regarding the best possible way to deal with the threat of nuclear terrorism.

Resolution A/RES/64/118 encourages all states to become party to the Conventions on Terrorism and UN Security Council Resolution 1887 unanimously adopted calls for universal adherence to the Convention. On 14th April 2011, Barack Obama calls for the US congress to ratify the Convention “as swiftly as possible.”

*The key provisions of the Convention include:*

- A wider definition (than the Convention on the Protection of Nuclear Materials) on materials and facilities covering both military and peaceful applications.
- The criminalization of planning, threatening, or carrying out acts of nuclear terrorism; it also requires States to criminalize these offences via national legislation and to establish penalties in line with the gravity of such crimes.
- Conditions under which States may establish jurisdiction for offences.
- Guidelines for extradition and other measures of punishment.
- The requirement for states to take all practicable measures to prevent and counter preparations for offences to take place inside or outside of their territories.
- The distinction that the convention does not cover the activities of armed forces during an armed conflict or military exercise.

Some of these provisions are bones of contention for some states which is why a considerable number of states are not yet party to the Convention. One of the controversial points is the definition of nuclear terrorism itself.

As per the International Convention for the Suppression of Acts of Nuclear Terrorism (2005), Nuclear Terrorism is defined as the use or threat of use of nuclear material, nuclear fuel, radioactive products or waste, or any other radioactive substances with toxic, explosive, or other dangerous properties in order to kill or injure persons, damage property or the environment, or to compel persons, states, or international organizations to do or refrain from doing any act.

It goes without saying that an important task for the First Committee will be to identify whether the International Convention for the Suppression of Acts of Nuclear Terrorism sufficiently incorporates the broad meaning of terrorism into its definition of nuclear terrorism. Regarding this matter and other insufficiencies that the Convention might have, it is important to remember that, although like other treaties such as the Non-Proliferation Treaty (NPT), the Convention has been passed but not all the member states of the General Assembly are party to the treaty and as such see room for improvement in the document. One of the



questions that this committee must consider will be whether the Convention portrays a universally acceptable definition of nuclear terrorism.

Moreover the Convention imposes an obligation on State parties to establish the offences within the scope of the Convention as criminal offences under their national laws and to make these offences punishable by appropriate penalties, which take into account their grave nature. Further, the Convention imposes the obligation to establish jurisdiction, territorial as well as extra-territorial, as may be necessary, over the offences set forth in the Convention. Hence the fact that 61 member states of the General Assembly have not ratified the Convention poses a challenge to the global implementation of the Convention as it means that the obligations that the Convention has imposed are not being fulfilled. An important consideration for the committee will be to consider whether the document in its present format is acceptable to all and as such how to get universal sponsorship for the Convention. Being part of international law is not enough. For the Convention to be universally applicable it must be signed by all member states of the General Assembly and must also be ratified by all signatories. If there is dissent on particular areas of the document what changes, if any, should be made?

## **BLOC POSITION**

### ***States Not Party to the ICSANT Convention***

*PAKISTAN, DPRK (NORTH KOREA), IRAN, ALGERIA, ANGOLA, EGYPT, VENEZUELA, SUDAN*

These states are not signatories to the ICSANT. This suggests not only a refusal to be bound by the provisions of the treaty but an outright refusal to accept the premises of the treaty and its key objectives. Being in a unique strategic position, their role will be crucial to the outcome of the resolution and it falls to these countries to shed light on the insufficiencies of the Convention.

### ***States who have not Ratified but are Party to ICSANT***

*USA, FRANCE, SYRIA, CHINA, ROK (SOUTH KOREA), ITALY, MOZAMBIQUE, PHILIPPINES, URUGUAY*

This is the list of countries that have not ratified the Convention yet and do not consider the Convention as applicable in their own national legislature. Most of these nations agree with the convention in spirit and are paving the way for this document to become part of national law. However their non-ratification suggests that it they feel that there is room for further improvement in the treaty.



## ***States who have Ratified and are Party to ICSANT***

*INDIA, RUSSIA, SAUDI ARABIA, JAPAN, CUBA, CHILE, CHINA, ISRAEL, LIBYA, JAPAN, GERMANY, SOUTH AFRICA*

It is fitting that the Russian federation should ratify the convention since it proposed it in the first place. However the ratification to the treaty by these states suggests that there is no provision in the Convention that is unacceptable to them as a whole. The burden seemingly falls on these nations to convince the committee as to the merits of the convention.

## ***Non Proliferation Treaty (Official) NWS***

*CHINA, FRANCE, RUSSIA, UK, USA*

This block contains only those NWS that are signatories of the NPT and are thus liable to its provisions. It is imperative to realize that the main reason for these nations in slowing down denuclearization processes is their exposure to the possibility of an attack by another NWS. Even if this possibility is a remote one, nuclear weapons are still developed and maintained as a part of a deterrent policy against other NWS.

## ***Non-NPT (Unofficial) NWS***

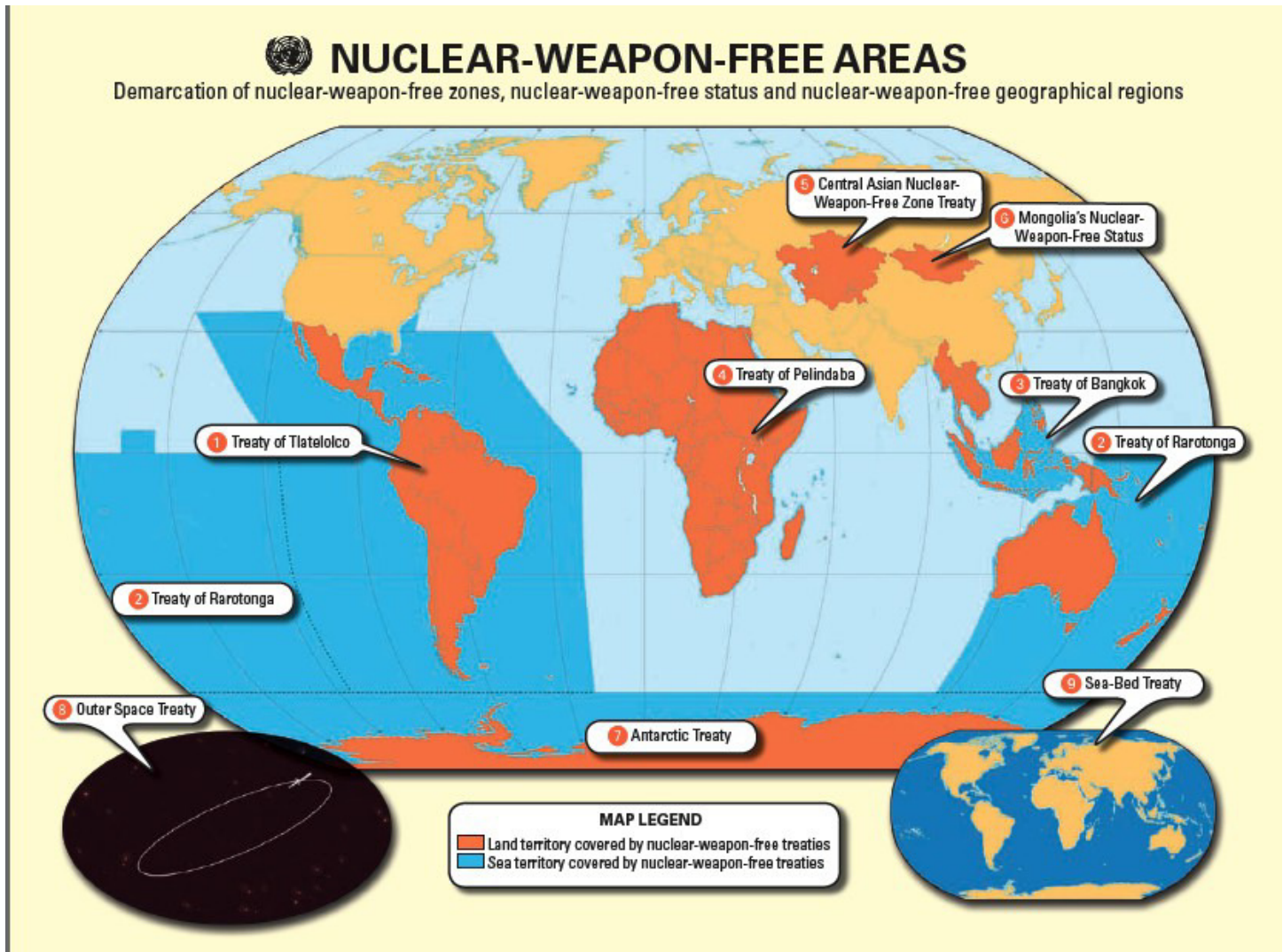
*INDIA, NORTH KOREA, PAKISTAN and possibly ISRAEL*

Both India and Pakistan have never been members of the NPT, yet possess nuclear weaponry. India tested its first nuclear weapon in 1974. Its primary motivation for nuclear armament is a general deterrent as well as an attempt to project India as a regional power. Pakistan, conducted its first nuclear tests in 1998 in response to India's test a few weeks earlier. Pakistan has come under the most scrutiny in recent years for the instability of its regional security network and is most hard pressed to present a sufficient defense for its nuclear weapons program to ensure the international community that its nukes are safe and under the control of the government. North Korea was a member of the NPT but announced its withdrawal in 2003. It conducted its first nuclear test in October 2006. The very fact that it withdrew from the NPT suggests its hard line stance and that the nation will not be convinced easily to denuclearize its program.





The NPT has the more consent from nations than any other arms limitation or disarmament agreement. Since the establishment of the NPT, there have been nine other treaties which have established nuclear weapon-free areas:



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## TOPIC C: DEFINING SOVEREIGNTY IN TIMES OF HUMANITARIAN INTERVENTION

### STATEMENT OF THE PROBLEM

For all the vows that “never again” would there be genocide, the reality has been “yet again”. The legal and political particulars of the term genocide and its application to this or that case can continue to be debated. For accuracy we may need to speak in some cases “only” of ethnic cleansing, mass killings, deadly conflict, humanitarian emergencies, and the like. The reality remains that millions of people have continued to be killed, maimed, raped, displaced and otherwise victimized while the international community has continued too often to do too a little too late. The issue has often been the cornerstone of many international conflicts, and in turn, brings about many wars, controversy and declining political relations.

The most important questions humanitarian intervention raises, are regarding sovereignty. Why and when is sovereignty to be delegated from states to international actors? Who decides? When and where does the United Nations have the right to intervene? Are there certain criteria or conditions which need to be met before the UN can get involved in a conflict or dispute? Are there certain situations in which the UN has no right to get involved? These questions are essential in establishing the legitimacy of the United Nations’ actions. It must be determined under which conditions it is the right or obligation of the United Nations to get involved and take necessary action. Passing a resolution, especially in the Security Council, is in effect a proclamation of the UN’s right to intervene in the situation at hand. When the United Nations was formed in 1945, following the end of the Second World War, far more power and responsibility was given to the Security Council to ensure the peaceful co-operation of nations and the assurance those nations would not resort to violence and war to solve issues. As the power of the Security Council grew and as the council evolved, the rights to intervene also altered. After the Second World War, due to new attention being given to the law of human rights and criminal law, if a country would commit an act that would breach such laws, it would become an international issue and involve the entire international community. The Security Council has fully accepted its role in the prevention of international conflicts and the protection of civilians in nation-states; however the council has struggled to find acceptance for specific politically charged doctrines (the responsibility to Protect Doctrine). In order to prevent unilateral interventions, the Security Council must find its place on the international diplomatic scale, within the boundaries of international law, and find common ground on the principles of intervention.

Ever since the Peace of Westphalia ended Europe’s wars of religion in 1648, the principle of the inviolability of the sovereignty of the nation-state has evolved to become the bedrock principle of international relations. Under the so-called Westphalian system, the nation-state emerged as the basic unit of international relations, sovereign unto itself and expected to respect the sovereignty of other states, be they ruled by people or princes. The supremacy of national sovereignty as a principle, however, clashed with the reality of conflicts among states. Thus systems of collective security like the United Nations emerged both to protect and to circumscribe the exercise of the principle of national sovereignty. In recent years, the principle of national



sovereignty has been limited from another quarter, from the expansion of the doctrine of human rights. Ever since the tragic events in Rwanda and the former Yugoslavia in the early 1990s, there have been efforts to further circumscribe the principle of sovereignty to justify foreign state intervention when genocidal events or massive violations of human rights take place within a country. This enterprise has produced the doctrine of the “responsibility to protect” or “humanitarian intervention.”

The UN Charter of 1945 upholds the Westphalia principles, by stating in article 2(7), that “nothing should authorise intervention in matters essentially within the domestic jurisdiction of any state.” But Chapter VII does entitle the Security Council to take action in cases of a “threat to the peace, breach of the peace or act of aggression”.

Tension between those two principles—sovereignty versus intervention—has been palpable for decades. Some countries stress the enforcement powers laid down by Chapter VII. Others (mostly in the developing world) insist that state sovereignty always trumps, even in humanitarian emergencies.

## What is Intervention?

Intervention can have several meaning in the case of the Security Council’s right to intervene. These can be considered as “actual or threatened military action by a state or group of states, with or without authorization from the Security Council...on the territory of another state or groups of states without permission from that state. A major purpose of the intervention for the intervening state or states is for the protection of individuals or groups of individuals for their own state, where the governing authority of the state or group of states has permitted actual or threatened extreme violations of human rights.” These “violations” include but are not limited to “actual or threatened loss of life on a large scale...use of torture or sexual assault on a large scale, and could result in the actual or potential massive displacement of the population.”

## UN Intervention methods

Since the creation of the United Nations, the organisation has faced conflicts of extreme degrees, and has had a difficult time in finding an appropriate role among declarations of national sovereignty and urgent need for the protection of human rights in specific areas of the world. Due to the excessive amount of civil wars after the disintegration of the Soviet Union, ad hoc criminal tribunals had been established “to clarify and develop international humanitarian and criminal law.” These tribunals had jurisdiction over crimes such as the armed conflicts in Rwanda and Yugoslavia, as they were national armed conflicts. The issues concerning legality does not simply refer to the whether or not it is legal of the Security Council to intervene be it on international or simply regional scale, it also concerns the question of whether or not the United Nations and Security Council hold a legal responsibility to intervene.



## Types of Intervention

Intervention in the form of economic sanctions can be claimed as humanitarian intervention. These sanctions may deal with economic, political or military issues. Other forms of intervention may include economic conditionality; this occurs when a country agrees to aid a nation with money; however the economic aid must be spent in the way in which the giving nations dictate it must be spent. Nations may also intervene within other countries for commercial or scientific reasons; these may be allowed to occur under the pretence of “intelligence gathering” (**GEO**spatial **INT**elligence or **FIN**ancial **INT**elligence). Other methods in which a nation may intervene within another nation is by arming insurgents, providing asylum or bases and even having the president of the nation assassinated. Further actions that may be considered acts of intervention include the assistance of a nation in political elections for example, the government of the assisted nation may claim another country is intervening and is not allowing the normal process of elections to occur, thus making the elections corrupt. The final forms of intervention that are possibly most common are the attempt to stop a civil war within a nation and maintain peace, and the application of sanctions on nations which breach the human rights laws. Putting sanctions on countries for human rights violations, as the Security Council has done several times one so to Syria, aims to stop the human rights’ violations. Quite often the economic and political sanctions are used as a tool by *blocs* to force any member state to abide by its *diktat*.

## HISTORY OF THE PROBLEM

The decade of the 1990’s, in the immediate aftermath of the Cold War, was characterized by frequent military interventions for human protection in Somalia (1992-95), Haiti (1994), Rwanda (1994), East Timor (1999) and Kosovo (1999) to name a few. This Western proclivity for humanitarian interventions witnessed a deliberate retreat into the more urgent national interest driven agendas post-9/11 to combat terrorism. We have also seen greater occurrence and frequency of intra-state conflicts during the last two decades – a trend, barring exceptions, that is expected to persist over the years ahead, and which the West finds tempting to leverage with concepts like ‘humanitarian intervention’ and ‘responsibility to protect’. Instances of military force application in violation of the well founded principles of sovereignty and non-interference in a state’s internal affairs, laid down under Article 2(4) of the United Nations (UN) Charter, continue to raise questions within the international community. More so in some past cases where ‘humanitarian concerns’ were perceived as a façade for the ‘realist’ intentions and motivations of powerful states to employ force, unilaterally or as a ‘coalition of the willing’, in pursuit of national/mutual interests.

On the other hand, the palpable post-Cold War shift in the matrix from state-centrism to human security has tended to alter the contemporary compact between the state and its citizens, with the former now having a far greater ‘responsibility to protect’. The UN General 2 Assembly Declaration of 2005 has not only endorsed this transformation, but has ventured to stipulate that when states fail in this regard or terrorize people, the international community has the mandate ‘to protect by reaching, preventing and rebuilding’. Thus, in terms of the evolving patterns of intervention, there seem to be “two separate but related measures: a narrowly





focused norm on the fundamental unacceptability of genocide, war crimes and crimes against humanity, and a broader norm stressing the importance of the non-use of force to settle disputes internally.

Clearly, the immense complexity of reconciling the contradictory pulls and pressures of humanitarian intervention and imperatives of sovereignty, interposed with national interests of the 'interveners' poses equally daunting challenges to international multilateral institutions and global governmental, security, academic, media and civil society communities to help shape and generate appropriate policy responses.

## **WHY: SOVEREIGNTY AS RESPONSIBILITY NOT JUST RIGHTS**

The traditional conception of sovereignty as rights attributes to states jurisdictional exclusivity within their own borders and grants very limited and narrowly construed bases of legitimacy for other actors, whether another state or an international institution, to intervene in any form in what in their territorial locus are considered domestic affairs. "No agency exists above the individual states," as Robert Art and Robert Jervis write, "with authority and power to make laws and settle disputes." The strong emphasis is on the rights that come with sovereignty, "the complete autonomy of the state to act as it chooses," as Abram and Antonia Handler Chayes put it. More particularly, in a classic dictum from Max Weber, "the state is a human community that successfully claims the monopoly of the legitimate use of physical force within a given territory." Not only is this an absolute conception, it is seen as fixed historically. "The logic of sovereignty is inherent in the nature of the state," wrote the eminent British scholar F. H. Hinsley, "and it has become and is likely to remain the defining principle in the political organization of the world."

Article 2 (7) of the UN Charter often is pointed to as the embodiment of sovereignty as rights: "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state". Those who stress the conception of sovereignty as responsibility do so more as a strictly competing norm than as a balancing one.

The UN Charter, as stressed by ex-UN Secretary-General Kofi Annan, "was issued in the name of 'the peoples', not the governments of the United Nations . . . The Charter protects the sovereignty of peoples. It was never meant as a license for governments to trample on human rights and human dignity. Sovereignty implies responsibility, not just power."

This also comes through in such other provisions of the UN Charter as Article 3, affirming that "everyone has the right to life, liberty and the security of person"; Article 55 that commits the UN to "promote . . . universal respect for, and observance of, human rights and fundamental freedoms"; and Article 56 that pledges all members "to take joint and separate action" toward this end. Even Article 2(7) needs to be qualified, according to ex-Secretary-General Annan, with "the important rider that this principle shall not prejudice the application of enforcement measures under Chapter VII. In other words, even national



sovereignty can be set aside if it stands in the way of the Security Council's overriding duty to preserve international peace and security."

Further affirmations of the responsibilities of sovereignty are manifested in the Genocide Convention, the Universal Declaration of Human Rights and other international covenants that make no distinction as to whether the offender is a foreign invader or one's own government.

The "responsibility to protect", as first developed in 2000-2001 by the International Commission on Intervention and State Sovereignty (ICISS), has been a powerful conception both politically and intellectually.

Its main normative thrust is that individuals must be protected from mass killings and other gross violations of their rights, and that the state that is sovereign over the territory in which they reside has primary but not exclusive responsibility. If the state does not live up to that responsibility, or worse actively violates it, it fails "the minimum content of good international citizenship" and others must take that responsibility on rather than allow peoples to go unprotected: The responsibility to protect its people from killing and other grave harm was the most basic and fundamental of all the responsibilities that sovereignty imposes – and if a state cannot or will not protect its people from such harm, then coercive intervention for human protection purposes, including ultimately military intervention, by others in the international community may be warranted in extreme cases.

To the concern that this ends up opening the way for big powers to go on doing what they want to do, the Commission is careful to distinguish its conception of the responsibility to protect from a "right to intervene." While understanding the historical roots of some such trepidations in colonialism and the Cold War, the Commission is unwilling to allow such arguments to be too easily invoked as rationalizations distracting from its core concern about ethnic cleansings, genocides and other mass killings: "What is at stake here is not making the world safe for big powers, or trampling over the sovereign rights of small ones, but delivering practical protection for ordinary people at risk of their lives, because their states are unwilling or unable to protect them".

Especially if sovereignty is to be less sacrosanct, establishing criteria for justifiable intervention is all the more important. These efforts tap heavily into the just war tradition and while differing in some of their particulars generally stress four factors: just cause, in terms of an "extreme humanitarian emergency" or comparably dire situation and a credible claim that the intervener is acting for these humanitarian motivations more than particularistic self-interest; proportionality of the military means being just enough to achieve the humanitarian objective; strong probability of success including in a net sense of collateral damage, civilian casualties and the proverbial not destroying the village in order to save it; and force as a last resort although with more willingness to set this threshold with anticipatory flexibility as in the ICISS formulation cited above.

These criteria leave obvious room for interpretation and contestation. Thomas Weiss, who served as ICISS Research Director, observes that "the 'just cause threshold' is higher than many would have hoped.



Others still bristled at any sovereignty-abridging justification. The follow-on to the ICISS Report was the 2004-05 Secretary-General's High-Level Panel (HLP) on Threats, Challenges and Change. The HLP Report did endorse the responsibility to protect as an "emerging norm" and did make a strong statement that "the principle of non-intervention in internal affairs cannot be used to protect genocidal acts or other atrocities." And the 2005 UN World Summit did adopt the responsibility to protect norm.

\*The official UN 2005 World Summit Fact Sheet states that there was "clear and unambiguous acceptance by all governments of the collective international responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity." The document mentions the responsibility to protect but as the responsibility of "each individual state", and with the role of the international community no more than to "encourage and help States to exercise this responsibility." And if States don't exercise that responsibility, and international encouragement and help are not enough?

\*It even has come to have its own acronym: "R2P"

## **WHEN: SOVEREIGNTY AS RESPONSIBILITY NOT JUST RIGHTS**

The question of intra-state intervention is difficult enough. Building a case for prospective sovereignty delegation and considering preventive and preemptive interventions is even more difficult.

The 2001 ICISS Report made cautious but nevertheless significant acknowledgment that from a humanitarian perspective military force may need to be something other than an absolute last resort. Military action can be legitimate as an anticipatory measure in response to clear evidence of likely large scale killing. Without this possibility of anticipatory action, the international community would be placed in the morally untenable position of being required to wait until genocide begins, before being able to take action to stop it. Every diplomatic and non-military avenue for the prevention or peaceful resolution of the humanitarian crisis must have been explored. This does not necessarily mean that every such option must literally have been tried and failed: often there will simply not be the time for that process to work itself out. But it does mean that there must be reasonable grounds for believing that, in all the circumstances, if the measure had been attempted it would not have succeeded.

While couched in diplomatic language the thrust was that while force should not become a first resort, its threat or use did need to possibly be an early and not just a last resort. This manifested logic of deterrence strategy as befit this type of conflict. As long as the Milosevics of the world knew that they did not have to worry about external intervention until some late stage of the conflict, they would feel free to exploit their military advantages at least until that late stage drew closer and the external threat became credible. Liberal internationalists also made the force as an early resort argument, as with Stanley Hoffmann who wrote that



“there are situations in which a quick, early use of force may well be the best method, and the only one capable of preventing a further aggravation of the [humanitarian] crisis.”

For if the threshold for intervention is that the bodies already have started to pile up, this is hardly humanitarian – perhaps less inhuman than not acting at all, but that’s not exactly a high standard. The High-Level Panel report carried forward ICISS’ flexibly anticipatory conception of force as a last resort: “Has every non-military option been explored, with reasonable grounds for believing that other measures will not succeed?”

But here too there is much less in the actual 2005 UN World Summit approved policy. In the elaboration of means to be used if state sovereignty is to be abridged, there is no mention of the use of force. Indeed the section explicitly on use of force reads a lot like classical non-interventionism. It urges “further development of proposals for “enhanced rapidly deployable capacities to reinforce peacekeeping operations”, but leaves anything more substantive for the future. It “endorses the creation of an initial operating capability for a standing police capacity,” but here too endorsing is not acting even for that initial capability.

A new Peace building Commission has been created with a mix of preventive and post-conflict reconstruction responsibilities, but defined largely in political and economic terms.

## **WHO DECIDES?: SOVEREIGNTY AS RESPONSIBILITY NOT JUST RIGHTS**

The crucial question here has been how vested humanitarian intervention decisions are in the UN Security Council. The head when Chinese and Russian opposition prevented UNSC action. While not endorsing the U.S.-NATO intervention, ex-Secretary-General Annan did speak out against Security Council inaction when faced with these “crimes against humanity” and thereby “betraying the very ideals that inspired the founding of the United Nations.” For all the invocations of Serbian sovereignty and claims of principle Russia and China made, their positions were based more on their concerns about precedents with Chechnya on the one hand and Taiwan and Tibet on the other in mind.

Kosovo also led to the unusual distinction of the U.S.-NATO intervention being illegal in the sense of not having followed the letter of the UN Charter but legitimate in being consistent with the norms and principles which the Charter embodies.

The ICISS Report recognized that military interventions outside UN auspices “do not --- it would be an understatement to say --- find wide favour.” But it then continued on, with its own ambivalence: “But that may still leave circumstances when the Security Council fails to discharge what this Commission would regard as its responsibility to protect, in a conscience-shocking situation crying out for action. It is a real question in these circumstances where lies the most harm: in the damage to international order if the Security Council is bypassed or in the damage to that order of human beings are slaughtered while the Security Council stands by?”



A study conducted by the Fund for Peace of regional views on humanitarian intervention found a general consensus on the UN as “the preferred authorizing body” but also of “the UN’s limits in both addressing conflicts before they become emergencies and coming to the rescue once a humanitarian crisis is clear.” The balance proposed was that regional and sub-regional organizations “be seen as having legitimacy both to authorize and organize a response with the provision that UN approval be sought, ex post facto if necessary.”

This was an interestingly flexible formulation both in allowing for regional action prior to UN authorization, and only requiring that that authorization be “sought”. This fits with the track record of at least 11 non-UN authorized interventions or peace operations other than Kosovo done on a regional basis, including by the Russia led Commonwealth of Independent States in Georgia-Abkhazia, NATO in Macedonia, France in Cote d’Ivoire, the African Union (AU) in Burundi, the Economic Community of West African States (ECOWAS) in Liberia, and Australia in the Solomon Islands. While none of these cases had the kind of opposition within the UN as did the U.S. invasion of Iraq, some raised greater concerns of decision-making authority and legitimacy than others.

The High-Level Panel retreated a bit from ICISS on the who decides issue, coming down much more unequivocally on the UN Security Council as the sole source of legitimacy for the use of force other than in Article 51 national self defense cases (and these it defined very restrictively): “The task is not to find alternatives to the Security Council as a source of authority but to make the Council work better than it has.”

And so too the full UN summit which caveated that the action be “collective” and “through the Security Council.”

## **INTERVENTIONS**

### **Peacekeeping in Bosnia**

As the Soviet Union collapsed in the 1989-1991 period, countries that were under its control for generations struggled to reclaim their independent identities. Yugoslavia faced a particularly difficult challenge because its integrity as a country was questionable: it functioned as an unstable collection of different and often fractious ethnic groups, including Serbs, Croats, and Bosnian Muslims. The country dissolved into a number of competing parts.

The newly independent countries of Serbia and Croatia fought for territory and influence in the land that separated them, Bosnia-Herzegovina, initiating a brutal war that raged for much of the first half of the 1990s.

In early 1992, the United Nations established a peacekeeping force, the UN Protection Force (UNPROFOR), to provide security for the flows of humanitarian aid that were flowing into Bosnia from the international community. UNPROFOR’s mission was to remain “passive and impartial,” and to “find a middle





way between traditional peacekeeping missions that 'sustain' a peaceful environment and large-scale enforcement operations that use active military force to 'create' such an environment."<sup>120</sup>

At the time the UN became involved, the question of genocide was not a major issue, but yet it was hard for peacekeepers to ignore the atrocities that were occurring once they were on the ground. Skeptics of UN involvement believed that the West, specifically the members of the North Atlantic Treaty Organization (NATO), had been galvanized to action out of guilt, "to assuage Western consciences about the barbarity taking place in a 'European' war."<sup>121</sup> They also cited the increased presence of media in the war zone, and the so-called "CNN effect" by which public opinion was shaped by the shocking images seen on television.<sup>122</sup>

The task of the protective force was complicated by the fact that there was no peace to police.<sup>123</sup> On the contrary, some believe that the UN presence may have exacerbated the conflict, because "the well-intentioned international effort keeps Bosnian society functioning at a level that is just tolerable enough to keep any of the belligerents from negotiating seriously for peace."<sup>124</sup>

The UN tried to take a more active role by establishing "safe zones" under international protection in the capital of Sarajevo, Goradze, Srebrenica, and a few other locations. But Serbian forces overran the safe zone at Srebrenica in 1995, massacring more than 7,500 Muslim men and boys in what many have called "worst atrocity in Europe since World War II."<sup>125</sup> Even the presence of UN forces could not prevent this terrible act of violence from occurring.

The Srebrenica massacre changed the international community's relation to the Bosnia War, and NATO responded by initiating more aggressive military air strikes against Serbian forces around Sarajevo. Hostilities began to wind down at the end of 1995, partially because Serbian leaders had accomplished many of their goals of "ethnic cleansing changed the international community's relation to the Bosnia War, and NATO responded by initiating more aggressive military air strikes against Serbian forces around Sarajevo. Hostilities began to wind down at the end of 1995, partially because Serbian leaders had accomplished many of their goals of "" and because Croatian forces had begun to gain to momentum in a counter-assault.<sup>126</sup>

The UN International Criminal Tribunal for the Former Yugoslavia, which was established in 1993 in the middle of the war, was charged with investigating and prosecuting war crimes and other crimes that had occurred during the conflict. Serbian President Slobodan Milosevic, who had orchestrated many of the war's atrocities, was indicted but died in prison while his trial was still in progress.<sup>127</sup> Over 160 people have been indicted by the tribunal thus far and proceedings are ongoing for an additional 35 people.

The crisis in Bosnia provides an example of a case where the international community attempted to stop wartime violations of human rights in a manner somewhere in between strict peacekeeping and full-blown military intervention. UN efforts in Bosnia were not entirely effective in meeting this objective, partially because they were too late in recognizing the true nature of what was happening and partially because



sufficient resources were not devoted to the task. These lessons would be applied just a few years later in Kosovo.

## **Intervention in Kosovo**

Kosovo was a province of Yugoslavia that traditionally enjoyed a limited form of autonomy during the period of communist domination. The province was located in Serbian territory, but its population consisted of an overwhelming majority of ethnic Albanians (about 1.8 million) from neighboring Albania. In 1989, the Serbian-led government of Yugoslavia terminated Kosovo's autonomy, sparking a resistance movement known as the Kosovo Liberation Army (KLA).

After the cessation of hostilities in Bosnia, the conflict in Kosovo intensified, resulting in hundreds of thousands of refugees leaving the province. The UN Security Council passed a series of resolutions—numbers 1160, 1199, and 1203—addressing the unfolding situation in Kosovo, but UN-sponsored peace negotiations in Rambouillet, France collapsed in March of 1999.

Under Chapter VII, Article 42 of the UN Charter, the provision often cited as justification for humanitarian intervention, the UN Security Council can authorize the use of force when such actions are “necessary to maintain or restore international peace and security.” The Security Council sought to invoke this provision to take a more active role in Kosovo, but Russia and China vetoed the authorization of force.

As a result, NATO decided to intervene without UN sanction and launched a campaign of air strikes against Serbian forces. The action was decisive and successful, and led to the withdrawal of Serbian troops from Kosovo. Since 1999, Kosovo has been administered by the United Nations Interim Administrative Mission in Kosovo (UNMIK). As of June 2012, 93 of 192 United Nations member states have recognized Kosovo as an independent state.

## **Humanitarian Intervention in Perspective**

In the case of Kosovo, a humanitarian intervention was effective in preventing a potential genocide from occurring before it happened. It was reasonable to believe, given Serbia's recent history of ethnic cleansing, that Kosovo's ethnic Albanians were at grave risk. But the complexity of the situation must be understood: intervention was blocked by the UN Security Council, and NATO was forced to act unilaterally.

The implicit rationale for NATO activity was that the Security Council had been derelict in its responsibilities. This dereliction did not change the urgency of the situation or make it any less justifiable to intervene; rather, it shifted the responsibility to other willing parties, just as responsibility shifts to the ICC when national governments refuse to prosecute certain crimes that fall under their jurisdiction (see “The International Criminal Court (ICC)”).



In the end, the mission's success was its own justification. In the eyes of many, this is true for all humanitarian interventions. In the nineteenth century, the British statesman Sir William V. Harcourt argued, "As in the case of revolution, its [intervention's] essence is its illegality and its justification is its success."<sup>132</sup> While this principle may be true, it does not make it any easier for policymakers to judge when intervention is appropriate before undertaking it.

Although the twentieth century saw an increasing number of precedents, such as Congo in 1961 (approved by the UN) and Bangladesh in 1971 (which was roundly condemned) and gradually more widespread acceptance of the notion of humanitarian intervention, most experts believe intervention will remain a rarely employed last resort. Even the success of Kosovo is sobering: "NATO's decision to rely on air strikes rather than ground forces also led many to conclude that major powers remain so intolerant of casualties that humanitarian interventions will remain rare.

Cynics maintain that the primary consideration for countries to intervene will always be the extent to which their own strategic interests are at stake. This explains the reluctance of the West to intervene in African genocides, such as those in Rwanda and Darfur, where few strategic interests are at stake. When the international community wants to intervene, the institutional mechanisms that facilitate interventionist actions through the UN are relatively weak.

The proper scope of humanitarian intervention will remain an important question for the 21st century, as the international community continues to debate proactive ways to prevent the most egregious violations of human rights, particularly in the case of genocide.

## **SUMMARY AND TIMELINE**

An important advancement in the subject of humanitarian intervention is the idea of Responsibility to Protect, or R2P. This principle is outlined in a December 2001 report by the International Commission on Intervention and State Sovereignty (ICISS). After the failure of the international community to successfully intervene in Rwanda, among other places, then UN Secretary General Kofi Annan posed the serious question of how to balance state sovereignty and protection of all peoples from crimes against humanity, such as genocide. The result was the ICISS report, which first mentioned the idea of R2P.

After much debate on the legality and necessity of humanitarian intervention, the commitment to R2P was made at the UN World Summit in 2005. Since then, the current UN Secretary General has continued moving forward in the implementation of R2P. It has three basic pillars:

- "Pillar One stresses that States have the primary responsibility to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.



- Pillar Two addresses the commitment of the international community to provide assistance to States in building capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assist those under stress before crises and conflicts break out.

- Pillar Three focuses on the responsibility of international community to take timely and decisive action to prevent and halt genocide, ethnic cleansing, war crimes and crimes against humanity when a State fails to protect its populations.”

As expected, R2P has a great number of critics as well as proponents. The critics maintain that states will only act only in their own interests, therefore making humanitarian interventions difficult and biased. It remains to be seen how R2P will be implemented and if it can positively affect the future of humanitarian intervention.

## **2001**

The doctrine of the responsibility to protect was first elaborated in 2001 by a group of prominent international human rights leaders comprising the International Commission on Intervention and State Sovereignty. Under their mandate, the Commission sought to undertake the two-fold challenge of reconciling the international community's responsibility to address massive violations of humanitarian norms and ensuring respect for the sovereign rights of nation states.

Led by Gareth Evans, former Foreign Minister of Australia, and Mohamed Sahnoun, Special Advisor to the UN Secretary-General, the Commission issued its report in December 2001. Focusing on the "right of humanitarian intervention", this report examined when, if ever, it is appropriate for states for take coercive - and in particular military - action, against another state for the purpose of protecting populations at risk. In essence, the group concluded that when a group (or groups) of people is suffering from egregious acts of violence resulting from internal war, insurgency, repression or state failure, and the state where these crimes are taking place is unable or unwilling to act to prevent or protect its peoples, the international community has a moral duty to intervene to avert or halt these atrocities from occurring.

## **2004**

The "responsibility to protect" doctrine received renewed emphasis in 2004 when the United Nations Secretary-General Kofi Annan created the High-Level Panel on Threats, Challenges, and Change. The Panel was established to identify major threats facing the international community in the broad field of peace and security and to generate new ideas about policies and institutions aimed at preventing or confronting these challenges.

After a year of deliberations, the panel issued its findings in a report entitled A More Secure World: Our Shared Responsibility, in December 2004. The report provided a new assessment of the numerous challenges



ahead for peaceful interstate relations and made recommendations of the necessary if these challenges are to be met effectively through collective action.

With respect to R2P, the Panel endorsed this "emerging norm", stating that:

"...There is a growing recognition that the issue is not the right to intervene of any State, but the responsibility to protect of every State when it comes to people suffering from avoidable catastrophe" mass murder and rape, ethnic cleansing by forcible expulsion and terror, and deliberate starvation and exposure to disease. And there is a growing acceptance that while sovereign Governments have the primary responsibility to protect their own citizens from such catastrophes, when they are unable or unwilling to do so that responsibility should be taken up by the wider international community" with it spanning a continuum involving prevention, response to violence, if necessary, and rebuilding shattered societies.

We endorse the emerging norm that there is a collective international responsibility to protect, exercisable by the Security Council authorizing military intervention as a last resort, in the event of genocide and other large scale killing, ethnic cleansing or serious violations of international humanitarian law which sovereign Governments have proved powerless or unwilling to prevent." (Report: A More Secure World: Our Shared Responsibility, paras 201 and 203)

## 2005

In September 2005, R2P was once again enlivened, this time with the full support of the international community. At the 60th session of the U.N. General Assembly gathering, 191 heads of state and government representatives unanimously endorsed a resolution supporting the Responsibility to Protect doctrine. This resolution laid the foundations for a new global moral compact between every State and every population on earth. As adopted, atrocity crimes "genocide, crimes against humanity (including ethnic cleansing) and war crimes - were considered a universal concern and therefore were responsibility of the international community.

During the 2005 General Assembly World Summit, world leaders stated:

Each and individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this



context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out. (A/RES/60/1, para. 138 and 139).

## 2006

Following on the momentum of the World Summit endorsement, the U.N. Security Council included in Resolution 1674 (28 April 2006) on the protection of civilians in armed conflict a re-affirmation of R2P. Then in Resolution 1706 (31 August 2006), which sought to provide a peacekeeping mission to Darfur, the Council once again recognized the importance of R2P and re-asserted its commitment to the principles of this doctrine.

## CURRENT SITUATION

Several experts saw the situation in Libya as a test case for the Security Council and its implementation of the R2P doctrine. "The international military intervention (SMH) in Libya is not about bombing for democracy or Muammar Qaddafi's head," says Evans, a principal author of the R2P concept. "Legally, morally, politically, and militarily, it has only one justification: protecting the country's people." R2P proponents also point to regional backing for the no-fly zone from organizations such as the Arab League, the Gulf Cooperation Council, and the Organization of the Islamic Conference, stressing its international legitimacy.

But others recommend caution, saying that without sufficient military commitment, the intervention would do more harm than good. "The trouble is, although we are prepared to 'do something' and pull out the most impressive kit in the U.S. toolbox--military power--we aren't actually willing to get involved at the level required to win (Foreign Policy)," writes Council Foreign Relations's Micah Zenko.

Beyond the operational and political, military intervention also involves legal issues, says CFR's Matthew Waxman. "Humanitarian/military intervention outside of a UN Security Council mandate remains a very highly contested area of international law," he says. And Russia and China have historically been reluctant to support any form of intervention. Besides their longstanding noninterference policy in the internal affairs of other countries, they are "particularly worried that it could create a precedent for the international community to





have a say in how they treat their own, sometimes restive, minority populations," says Stewart M. Patrick, CFR senior fellow and director of the program on international institutions and global governance.

The willingness to use armed force is also inevitably influenced not only by the desperation of the affected population but also by geopolitical factors, including the relevance of the country to the world community, regional stability, and the attitudes of other major players, say experts.

The choice over humanitarian intervention remains equally difficult. At present the world community has limited options for responding to humanitarian crises. UN General Assembly Resolution 46/182 formed guiding principles for the international community's response to humanitarian disasters and was central to the establishment of the office of the UN emergency relief coordinator and the development of the Inter-Agency Standing Committee.

But the General Assembly resolution reiterates that "the sovereignty, territorial integrity, and national unity of States must be fully respected in accordance with the Charter of the United Nations," which makes it difficult to operate in situations where the affected country denies access. In such cases, the role of regional actors and neighbors becomes critical. The Association of Southeast Asian Nations played a very active role in changing the minds of Myanmar's regime to let in international aid after the initial refusal, experts say. But "if our methods short of armed force have no impact and we are not willing to threaten to use military action, there are no good options," says Patrick.

At the same time, Patrick says, forced humanitarian intervention is a difficult choice to make; "The crime that the government is guilty of may be a crime of omission rather than commission, so that the level of culpability appears to be less than a government actively making war against its people, for instance in the case of a genocide."

## **PROPOSED SOLUTIONS AND SUGGESTIONS FOR FURTHER RESEARCH**

We need to do better. We still too often do too little too late to prevent or limit mass killings – too little genuinely humanitarian intervention and too much of "inhumanitarian nonintervention." Three points for now. First, the norm of the responsibility to protect needs to be further strengthened as a legitimate basis for delegating state sovereignty to international actors to intervene in intra-state conflicts that cross the just cause threshold. Given that over 95% of contemporary armed conflicts are intra-state, shifts away from classical non-interventionism are crucial to international peace, security and justice. Those with power have a responsibility to protect the legitimacy of the responsibility to protect. At the same time those who would tightly restrict interventions in the name of broad principles like sovereignty, yet are acting much more out of their own self-interest in being free to be repressive and murderous within their own borders, also need to be stripped of their cover story. As cited earlier from Secretary-General Annan, the UN Charter "was issued in the name of 'the people', not the governments . . . [I]t was never meant as a license for governments to trample on human rights and human dignity."



Second, this topic needs a pre-emptive and even preventive dimension. The risks of using force are not to be discounted, but the risks of not acting need to be weighed against those of acting. Force cannot just be a last resort; it may need to be an early resort. Otherwise we will consign ourselves to continuing to pick up the pieces of societies torn asunder by mass deaths and other devastation and destruction. As hard as conflict prevention is, post-conflict reconstruction is so much harder. One study after another has shown the profound effects these conflicts have on economies, inter-communal relations and virtually all societal institutions. Take a look at Somalia, which as of early 2006 was on its 14th attempt to re-establish central government since 1991. Or Rwanda which more than a decade after the genocide was still in the earliest phases of war crimes judicial and reconciliation processes. Failing states are enough of a problem, failed ones much worse.

Third, on who decides question, the UN Security Council is to be the preferred but not the exclusive source of legitimate authority. The Darfur case again demonstrated the UNSC's limited functionality both in major powers trumping collective commitments with national interests and in other members not exerting anything close to the political will necessary for concerted action. Regional organizations provide a viable intermediate basis with potentially stronger claims to legitimacy than largely unilateral actors or ad hoc coalitions of the willing. This also can be complicated, especially if the Security Council explicitly opposes an action as distinct from not acting. But it is worth bearing in mind ICISS' challenge as to which is worse for the international community, "if the Security Council is bypassed or in the damage to that order of human beings are slaughtered while the Security Council stands by."

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