

Letter:

Respected delegates,

We would like to apologize for the delay in publishing the background guide.

Kindly note that background guide (BG) cannot be used as a verified source for quoting facts and figures. BG only gives a brief introduction to the agenda and all the delegates are expected to use verified sources to back their facts up.

While ruling on point of order, there are two types of “sources of information” that are defined by the conventional rules of procedure:

**Valid source:** Your country’s local news paper, BBC (for European bloc), Al Jazeera (for Middle Eastern bloc)

**Valid and binding source:** Reuters, UN reports, UN resolutions

The real use of the above information will be reiterated during the committee sessions and so it's completely fine if most of you didn't understand the point of mentioning the given information.

All the delegates are expected to come down with individual research.

Please have fun during the conference but please don't forget your ultimate aim to come down is to debate and learn something new and so we sincerely hope you all are up for that as well.

Looking forward to see you real soon.

Regards,

Executive Board,

Apex Council.

About the committee:

Mandate of the United Nations Security Council and Legality In accordance with Chapter V of the Charter of the United Nations, the powers and functions of the Security Council defined in Article 24, 25 and 26, the United Nations confers the UNSC's primary responsibility to be the maintenance of international peace and security and allows the Council to act on its behalf whilst performing the aforementioned functions. Binding the council to work within the boundaries of the Purposes and Principles of the United Nations, Chapters VI, VII, VIII and XII of the Charter shed light on the specific powers bestowed on the Council. Under Article 39, Chapter VII, which states, "The Security Council shall

determine the existence of any threat to the peace, breach of the peace or act of aggression...", the council has exclusive powers to recognize aggressors and the following article, Article 40, calls upon the involved parties to comply with "provisional measures". Article 41 authorizes the Council to take measures not involving the use of armed forces (i.e.: trade sanctions, embargoes, etc) whereas the succeeding article, Article 42, clearly states, "Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security...". Hence, these articles comprised within Chapter VII of the UN Charter provide guidance to the Council, on it's working and probable course of action during an international conflict (that fits the given criteria). Legal positivists argue that an individual (and individuals comprising of or representing a state) has a moral duty to obey the law. But what is the law? According to Article 38(I) of the Statute of the International Court of Justice, international norms are legally binding if they are incorporated in "a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states; b. international custom, as evidence of a general practice accepted as law...". Although this Statute is technically only binding on the International court of Justice, it is widely accepted as the authoritative statement of the sources of international law.

### **Timeline of relevant events:**

#### **2004-2012**

2004: Abu Musab al Zarqawi establishes al Qaeda in Iraq (AQI).

June 7, 2006: Zarqawi is killed in a U.S. strike. Abu Ayyub al Masri takes his place.

Oct. 15, 2006: al Masri announces the establishment of the Islamic State in Iraq (ISI), with Abu Omar al Baghdadi as its leader.

2007: Following the surge of U.S. troops in Iraq, ISI is driven from Baghdad into Diyala, Salahideen, and Mosul. The organization retains only a fraction of its leaders, cells, and capabilities, which are concentrated in Mosul.

2008: ISI membership is strongly diminished. By early 2008, 2,400 ISI members had been killed and 8,800 were captured, out of a previous membership of 15,000. The flow of foreign fighters into Iraq decreases from 120 per month to five or six per month by 2009.

2009: Iraqi Prime Minister Maliki targets Sunni leaders, increasing sectarian tensions. Support for ISI begins to increase in Sunni tribal areas, and ISI claims responsibility for suicide attacks that killed hundreds in Baghdad.

April 2010: Abu Bakr al Baghdadi becomes the leader of ISI after a joint U.S.-Iraqi operations kills Abu Omar al Baghdadi and Abu Ayyub al Masri.

July 2011: Abu Bakr al Baghdadi sends operatives to Syria. One of them, Abu Muhammad al Julani, becomes the leader of the Nusra Front in January 2012.

July 2012-July 2013: ISI launches its “Breaking the Walls” campaign. It carries out 24 bombings and eight prison breaks, freeing jihadists who had participated in AQI attacks in 2006 and 2007.

### **2013**

March 4: Raqqa falls to the Syrian opposition, and secular opposition groups, the Nusra Front, and ISI are all operating in Raqqa. ISI begins moving military assets to consolidate control and break into new battle fronts in Syria.

April 11: Baghdadi moves from Iraq to Syria, and claims that the Islamic State in Iraq (ISI) merged with the Nusra Front in Syria to become “The Islamic State in Iraq and Syria.” But Julani rejects the alliance and declares allegiance to al Qaeda.

July 21: ISIS launches the “Soldier’s Harvest” campaign to diminish Iraqi security forces and capture territory.

August: ISIS begins attacking rebel groups including Liwa al Tawhid, Ahrar al Sham, and the Nusra Front in Raqqa and Aleppo.

Dec. 30: ISIS militants in Iraq take control of Fallujah and parts of Ramadi.

### **2014**

January: ISIS takes over Raqqa and declares it the capital of the ISIS emirate.

Feb. 3: Al Qaeda officially cuts ties with ISIS.

June 10: ISIS takes over Mosul, launching its largest offensive to date. Militants kill at least 600 Shiite inmates from the Badoush prison during the attack.

June 11: ISIS militants take over Tikrit.

June 12: Iran deploys forces to fight ISIS in Iraq, and helps Iraqi troops regain control of most of Tikrit.

June 18: Iraq asks the United States to conduct airstrikes against ISIS.

July 17: ISIS storms the Shaer gas field and kills 270 people.

June 21: ISIS seizes the strategic border crossing between Syria’s Deir Ezzor province and Iraq, as well as three other Iraqi towns.

June 29: ISIS announces the establishment of a caliphate and rebrands itself as the “Islamic State.”

Aug. 2-3: ISIS conquers Kurdish towns of Sinjar and Zumar, forcing thousands of Yazidi civilians to flee their homes.

Aug. 3: ISIS takes control of the Mosul Dam.

Aug. 7: President Obama announces the beginning of air strikes against ISIS in Iraq to defend Yazidi citizens stranded in Sinjar.

Aug. 19: ISIS kills American journalist James Foley.

Aug. 24: ISIS militants seize Taqba airbase in Raqqa, Syria. ISIS now controls the entire Raqqa province.

Sept. 2: ISIS releases a video depicting beheading of journalist Steven Sotloff.

Sept. 13: ISIS posts video of the execution of British aid worker David Haines.

Sept. 19-22: ISIS advances on the Syrian border town of Kobani and thousands of refugees flee into Turkey.

Sept. 22: ISIS spokesman Abu Muhammad al Adnani calls for attacks on citizens of the United States, France and other countries involved in the coalition to destroy the group.

Sept. 23: The United States launches its first air strikes against ISIS in Syria.

Sept. 24: Militants aligned with ISIS behead a French tourist, Hervé Gourdel, in Algeria.

Sept. 27: The United States begins air strikes on Kobani.

Oct. 3: Majlis Shura Shabab al Islam, or the Islamic Youth Shura Council, claims the Libyan city of Derna for ISIS.

Oct. 3: ISIS releases a video showing the beheading of British aid worker Alan Henning. CNN

Oct. 7-8: The United States significantly ramps up airstrikes in and around Kobani to counter ISIS advances.

Oct. 15: The Pentagon names the campaign against ISIS "Operation Inherent Resolve."

Nov. 2: Leaders from ISIS and its jihadist rival, Jabhat al Nusra, meet in Atareb to discuss joining forces. No formal merger or cooperation between the groups is established, but ISIS reportedly sent fighters to help the Nusra Front's assault on Harakat Hazm, a Western-backed moderate rebel group. Military Times

Dec. 16: A gunman allegedly acting on ISIS's behalf seizes 17 hostages in a cafe in Sydney, Australia.

Dec. 30: ISIS takes responsibility for a suicide attack during a funeral north of Baghdad that killed 16 people and wounded 34 others.

## **2015**

Jan. 7: Two gunmen, Saïd and Chérif Kouachi, attack the offices of French satirical newspaper Charlie Hebdo in Paris, killing 11 people. A third assailant, Amedy Coulibaly, carried out a synchronized attack on a kosher supermarket, taking hostages and killing four people. Coulibaly reportedly declared allegiance to the Islamic State.

Jan. 26: Kurdish fighters, with the help of U.S. and coalition airstrikes, force out ISIS militants from the Syrian border town of Kobani after a four-month battle.

Jan. 28: Militants allied with ISIS claim responsibility for an armed assault on a luxury hotel in the Tripoli, Libya that killed at least eight people.

Feb. 4: ISIS releases a video of Jordanian military pilot Moaz al Kasasbeh being burned alive.

Feb. 15 – 16: Libyan militants allied to ISIS release a video showing the beheading of 21 Egyptian Christians, who had been kidnapped on January 12. Egypt launches airstrikes in Libya in retaliation.

Feb. 25 - 26: ISIS militants abduct at least 200 Assyrian Christians in northeastern Syria. The U.S.-led coalition launches airstrikes in the same area.

March 18: ISIS claims responsibility for an attack on the Bardo museum in Tunis, which killed 22 people.

March 20: ISIS-linked militants bomb two mosques in Sanaa, Yemen, killing 137 people.

April 5: ISIS militants seize the Palestinian refugee camp of Yarmouk in Damascus where more than 18,000 people reside.

April 8: ISIS releases more than 200 captive Yazidis, most of whom had been held captive in northwestern Iraq since mid-2014.

April 19: ISIS posts a video showing militants from its Libyan branch executing dozens of Ethiopian Christians.

May 17: ISIS take overs Ramadi, Iraq.

May 20: ISIS seizes the ancient Syrian city of Palmyra.

May 21: ISIS militants take full control of Sirte, Libya – Muammar Qaddafi's hometown.

May 22: ISIS claims responsibility for the suicide attacks on a Shiite mosque in eastern Saudi Arabia, which killed 21 people and injured more than 100.

May 29: ISIS claims responsibility for a second suicide bombing at a Shiite mosque in eastern Saudi Arabia that killed 4 people.

June 17: ISIS's Yemeni branch claims responsibility for a series of car bombings in the Yemeni capital that killed at least 30 people.

June 17: Kurdish fighters expel ISIS from the strategic Syrian town of Tal Abyad on the Turkish border.

June 22: Kurdish forces take full control of Ain Issa, a military base, from ISIS militias.

June 26: ISIS fighters kill at least 145 civilians in an attack on Kobani, Syria. The same day, ISIS-linked militants attacked a Shiite mosque in Kuwait, killing 27 people and injuring more than 200.

June 27: ISIS claims responsibility an attack on a Tunisian resort in Sousse, where 38 people were killed and 39 were wounded - most of them foreigners.

July 1: ISIS fighters carry out simultaneous assaults on military checkpoints in Egypt's northern Sinai Peninsula, killing dozens of soldiers.

July 20: A suicide bomber with links to ISIS strikes a cultural center in Suruç – a Turkish border town near Kobani - killing at least 30 people.

Aug. 6: ISIS claims responsibility for a suicide bombing on a Saudi Arabian mosque that killed at least 15 people, including 12 members of Saudi police force, in Asir province, near the south-western border with Yemen.

Aug. 12: ISIS releases 22 Assyrian Christians of the dozens abducted from villages in northeastern Syria earlier in 2015.

Sept. 3: ISIS's Yemeni affiliate kills 20 people in two bombings in Sanaa.

Sept. 24: ISIS claims responsibility for two bombings at a Yemeni mosque run by the Houthis – a Shiite rebel group that seized Sanaa in September 2014. The attack killed at least 25 people.

Sept. 29-Oct. 3: Gunmen linked to ISIS kill an Italian aid worker and veterinarian in Dhaka, Bangladesh. On October 3, ISIS claimed responsibility for killing a Japanese man in northern Bangladesh.

Sept. 30: Russia begins airstrikes in Syria. It claims to target ISIS, but U.S. officials allege that many of the strikes target civilians and Western-backed rebel groups.

Oct. 6: ISIS kills at least 25 people in a series of car bombings in Yemen's two largest cities, Aden and Sanaa.

Oct. 9: ISIS makes significant gains in northwestern Syria, seizing six villages near Aleppo.

Oct. 10-12: Turkish Prime Minister, Ahmed Davutoglu, blames ISIS for the attack at a peace rally in Ankara that left at least 95 people dead.

Oct. 15: Iraqi forces recapture the Baiji refinery, the largest oil refinery in the country, from ISIS.

Oct. 16: ISIS-linked militants from Bahrain claim responsibility for killing five Shiite worshipers in the eastern Saudi city of Saihat.

Oct. 22: A member of a U.S. special operations force is killed during an ISIS hostage rescue mission in northern Iraq - the first American to die in ground combat with ISIS. Twenty ISIS fighters are killed during the mission, and six more are detained.

Oct. 31: Sinai Province, Egypt's ISIS affiliate, claims responsibility for bombing a Russian passenger plane over the Sinai Peninsula, killing all 224 on board.

Nov. 12: ISIS claims responsibility for suicide attacks in Beirut that killed 40 people.

Nov. 13: Kurdish forces seize Sinjar, Iraq from ISIS.

Nov. 13: ISIS carries out a series of coordinated attacks in Paris, killing 130 people.

Nov. 15: France ramps up its airstrikes on ISIS targets in Raqqa, Syria.

Nov. 27: ISIS-linked militants carry out an attack on a Shiite mosque in Bangladesh, killing a cleric and wounding three other people.

Dec. 1: Defense Secretary Ashton Carter announces that U.S. special operations forces would be sent to Iraq to support Iraqi and Kurdish fighters and launch targeted operations in Syria.

Dec. 2: A married couple allegedly inspired by ISIS kills 14 people in San Bernardino, California.

Dec. 10: U.S. officials announce that airstrikes killed ISIS finance minister Abu Saleh and two other senior leaders in Tal Afar, Iraq.

Dec. 27: Iraqi military forces seize Ramadi from ISIS.

## **2016**

Jan. 12: A suicide bomber with links to ISIS kills 10 people and injured 15 others - many of them German tourists - in Istanbul's Sultanahmet Square.

Jan. 14: ISIS claims responsibility for an attack in Jakarta, Indonesia, that killed at least two people and injured 19 others.

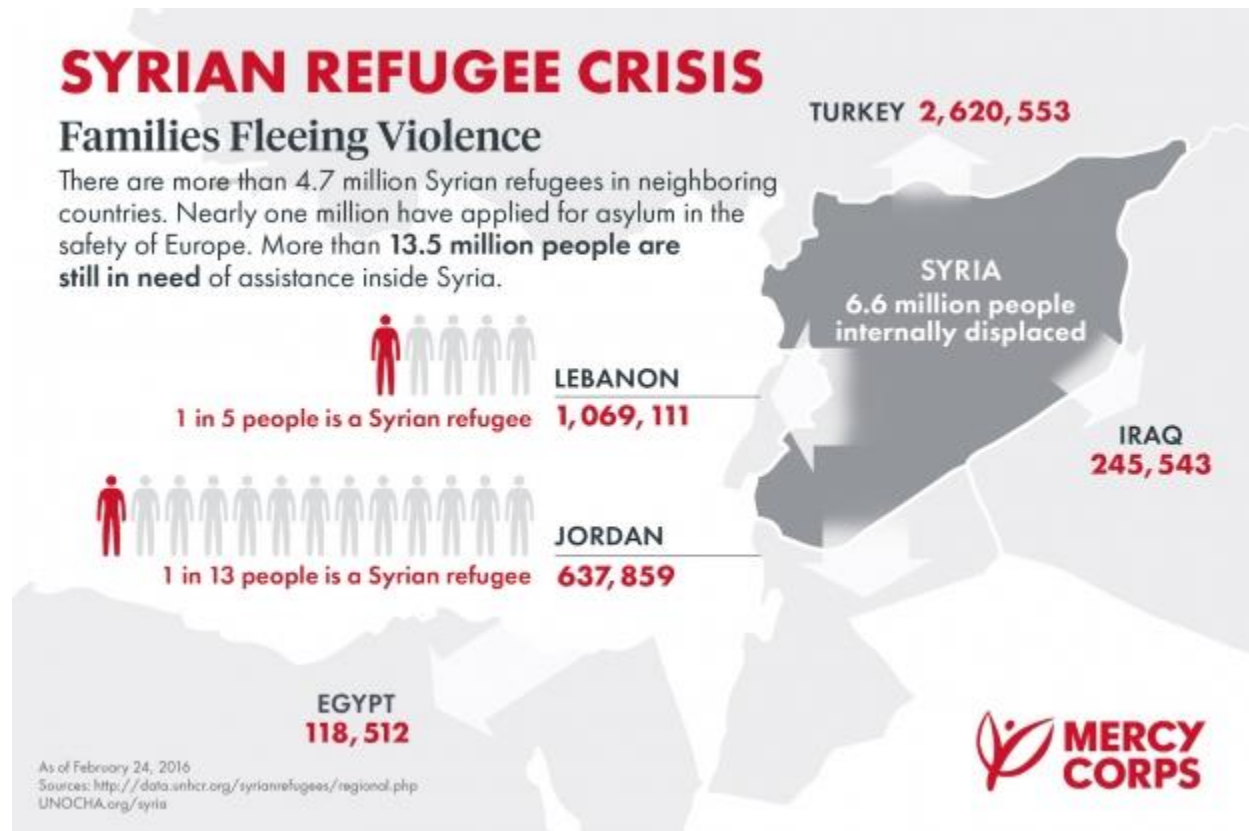
March 18: Salah Abdeslam, the most wanted suspect in the Paris attacks, is arrested in Brussels.

March 19: A suicide bomber kills five people and injures dozens of others in Istanbul. The Turkish Interior Ministry announces that the perpetrator had links to ISIS.

March 22: Three explosions at the Zaventem airport and a metro station in Brussels kill at least 30 people and injure dozens of others. ISIS claims responsibility for the attacks.

April 11: Iraqi forces seize the town of Hit, which had been under ISIS control since October 2014. The same day, ISIS recaptured Rai, a Syrian town on the Turkish border, from the Free Syrian Army.

Quick facts about Syria:



#### When did the crisis start?

Anti-government demonstrations began in March of 2011, part of the Arab Spring. But the peaceful protests quickly escalated after the government's violent crackdown, and rebels began fighting back against the regime.

By July, army defectors had loosely organized the Free Syrian Army and many civilian Syrians took up arms to join the opposition. Divisions between secular and Islamist fighters, and between ethnic groups, continue to complicate the politics of the conflict.

#### What is happening to Syrians caught in the war?

Almost five years after it began, the full-blown civil war has killed over 220,000 people, half of whom are believed to be civilians. Bombings are destroying crowded cities and horrific human rights violations are widespread. Basic necessities like food and medical care are sparse.

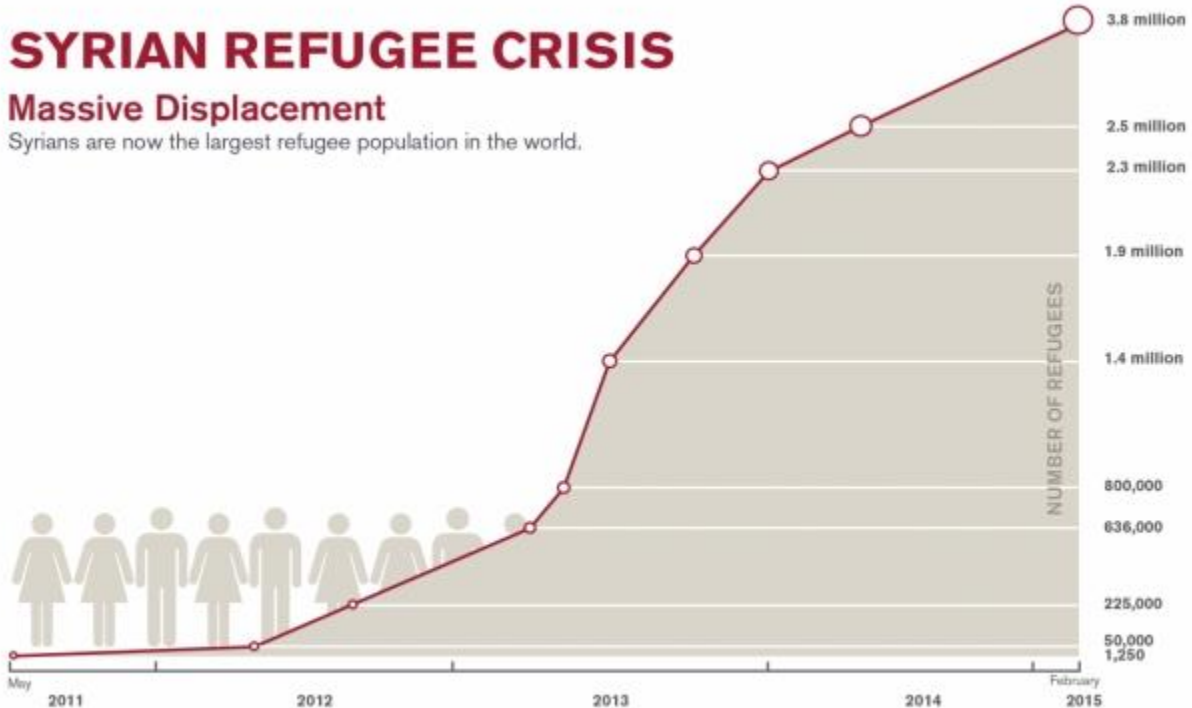
The U.N. estimates that 6.6 million people are internally displaced. When you also consider refugees, more than half of the country's pre-war population of 23 million is in need of urgent humanitarian assistance, whether they still remain in the country or have escaped across the borders.



## SYRIAN REFUGEE CRISIS

### Massive Displacement

Syrians are now the largest refugee population in the world.



 MercyCorps

## SYRIAN REFUGEE CRISIS

### Children Caught in War

 MercyCorps



More than 50% of Syrian refugees are children who've lost everything.



**Quick facts about Iraq & the Kurds:**

After throwing its support behind Iraq's Prime Minister Nouri al-Maliki for years, the U.S. has broken away from the embattled leader it says failed to form an inclusive government, stoking unrest. Maliki is trying to cling to power and take a third term as prime minister. He has challenged the country's new president — an ethnic Kurd named Fouad Masoum who said he is dedicated to forming "a broader-based government" — and the move did not go over well with the United States. The Obama administration on Monday simultaneously expressed full support for Massoum and warned the longtime leader, Maliki, not to meddle.

Sunni militants under the black banners of ISIS have been rampaging through Iraq for months, waging a bloody campaign to establish an Islamic State covering a broad swath of territory straddling the Iraq-Syria border.

While the militants' rapid-fire advance has always been a concern to the West, the U.S. only became directly involved last week as fighters closed in on the strategic northern city of Erbil. Shortly after reports emerged of the rebels' encroachment towards Erbil — and the hundreds of refugees trapped on a mountaintop there — President Barack Obama made the call to intervene.

Why does Erbil matter?

Iraqi refugees, fleeing the threat of religious persecution at the hands of ISIS, have fled to Erbil in droves. The city of 1.5 million has taken in more than 4,000 members of the ancient Yazidi sect alone.

But beyond acting as a refuge, Erbil also plays a major strategic role for any U.S. operation in Iraq. The U.S. maintains a consulate within the city, as well as 800 military personnel who arrived in Iraq earlier this year to help with security. The city also serves as the capital of Iraq's semi-autonomous Kurdish region. Throughout the U.S. involvement in the region, the Kurds have become a major ally and a stabilizing force among the divided ethno-religious factions in Iraq.

Who are the Kurds and how do they fit in?

Since the start of the ISIS campaign, Kurdish forces, known as the peshmerga, have been the most effective at battling the militants. While many members of Iraq's own security forces fled in the face of an ISIS advance — ditching their weapons, uniforms and command posts as they ran — the Peshmerga helped regain control of key cities and have put up a strong fight. The relationship between the Kurds and Baghdad, however, has long been contentious.

Why do the Kurds need support?

Iraq's security forces have proven no match for ISIS, and Kurdish forces have been outgunned by heavily armed ISIS militants from the get-go. The militants are believed to possess heavy artillery, armored vehicles and even U.S.-made weapons. ISIS has amassed its arsenal in a variety of ways — some weapons bought with extortion-racket money, others seized or picked up when Iraqi forces fled their post, and others still picked up from years of fighting in Syria and moved across the porous border.

Important reports w.r.t responses from international blocs

USA: <http://www.infowars.com/hundreds-reported-killed-after-u-s-bombs-isis-position-in-iraq/>

UK:

British PM David Cameron has told Britain it has a moral and military duty to attack Islamic State in Syria, saying the move will enhance and not hinder a fledgling diplomatic process.

Cameron insisted that a military effort was only part of the solution, but said Britain did have an additional and unique military contribution to make due to its precision bombing capability.

The prime minister also insisted ground forces did exist with which western forces could work, claiming the majority of the 70,000 non-extremist forces cited by his intelligence advisers were led by the Free Syrian Army.

He added that there were a further 25,000 extremist forces with which the west could not work. Cameron accepted that some of the troops with which the west would work were far from perfect.

The prime minister has been persistently challenged on the 70,000 figure, and at one point he admitted there were not enough ground troops, and not all of them were in the right place. But he insisted that was not a reason to abandon efforts to tackle Isis, including striking its command and communication hub.

#### France:

France is pulling out all the stops as François Hollande scrambles to fulfil his ambitious pledge to build a global military coalition to defeat Islamic State following the Paris attacks.

The French president has won public approval and international backing for his handling of the crisis so far. His poll ratings are up by eight points to 33%. Foreign leaders have lined up to express solidarity. In a flurry of hastily arranged mini-summits this week, Hollande will seek to turn expressions of support into concerted, sharp-end action before the rare moment of unity passes.

His prospects for success are mixed. The leaders of the US, Russia, Germany and Britain – whom Hollande will meet separately over four days – agree unreservedly about the necessity of eradicating Isis.

#### Russia:

Russia supports Syrian President Bashar Assad's forces and will back anti-Assad rebels as long as they are fighting Islamic State, President Vladimir Putin told Germany's Bild, countering claims that Moscow only backs the regime rather than hitting jihadists.

"We support both Assad's army and the armed opposition," Putin said in a lengthy recent interview to the newspaper, now published in full. "Some of them have publicly declared this, others prefer to remain silent, but the work is ongoing."

According to the president, "This is hundreds, thousands of armed people fighting Islamic State [IS, previously ISIS/ISIL]."

"We are coordinating our joint operations with them and support their offensives by airstrikes in various sections of the front line," Putin said.

#### China:

Beijing insists it will abide by the United Nations (UN) in the region, hints of an action were backed up when it spoke strongly about a coordinated response to the rising terrorist threat.

Speaking of the Syrian crisis China's foreign minister Wang Yi said at the UN Security Council session in

New York: "The world cannot afford to stand by and look on with folded arms, but must also not arbitrarily interfere."

He added that nations should stand united against "violent extremist ideology". China has also shown solidarity with Syria, joining Russia in vetoing UN proposals against Bashar al-Assad, which are likely to prevent him being referred by the council to the International Criminal Court.

The latest actions at the UN conference have come amid reports, citing key military sources, Chinese warships have made their way to Syrian shores through the Suez Canal.

It was said China's J-15 warplanes would launch from an aircraft carrier for attacks on ISIS.

Arab League:

The Arab League agreed to take urgent measures to combat extremists like the Islamic State of Iraq and Syria as one of its suicide bombers killed 16 people at a meeting of Sunni tribal fighters and security troops in Iraq.

The resolution, issued after late-night meetings of Arab foreign ministers a day earlier during the Arab League summit in Cairo, doesn't explicitly back American military action against the group. But the resolution, issued as a separate statement from a comprehensive one dealing with Arab affairs, reflected a new sense of urgency among the 22-member states to challenge the militant group that has seized large swaths of territories in Iraq and Syria. The resolution calls for immediate measures to combat the group on the political, defense, security and legal levels. It didn't elaborate.

The resolution also backed the United Nations resolution issued last month that imposed sanctions on a number of the group's fighters and called on countries to adopt measures to combat terrorism. The council resolution was adopted under Chapter 7 of the U.N. Charter, meaning it can be militarily enforced.

#### **Violations of important international policies & countereffective measures taken by nations:**

In 2010 the ECHR found that the stop and search procedures used by the UK police pursuant to the Terrorism Act 2000 were illegal because they did not require the police to have grounds for suspicion before using them. The ECHR found that this was open to abuse and constituted a breach of an individual's right to private and family life. Many rules and laws introduced to combat terrorism have been challenged under human rights law. The measures needed to protect the UK against the threat of terrorism are considered to be much greater than those required to combat ordinary crime and there have been concerns from many sectors of society that this has been used as an excuse to take away long-held rights and freedoms.

**France** suffered deadly attacks in January and November 2015, the latter prompting a nationwide state of emergency reinforced and extended by parliament until the end of February 2016. Government powers to conduct searches without a warrant and to place people under house arrest without a judicial approval undermine the rights to liberty, freedom of movement and freedoms of expression and association. The government failed to pursue necessary reforms to counter abusive identity checks, including ethnic profiling. Migrant Roma living in informal camps are forcibly evicted. Reports of Islamophobic and anti-Semitic attacks increased. Migrants and asylum seekers in Calais face police abuse. Counterterrorism measures introduced in November 2014 infringe disproportionately the rights to free movement and to free expression. Further new legislation from July 2015 gives the government sweeping powers for digital surveillance without adequate safeguards against abuse.

Human Rights Watch documented that cluster munitions were used on at least 20 occasions since Syria and **Russia** began their joint offensive on September 30. Human Rights Watch collected detailed information about attacks in nine locations that have killed at least 35 civilians, including five women and 17 children, and injured dozens. Two attacks hit camps for the displaced. For the other attacks, Human Rights Watch obtained visual confirmation of the cluster munition used and a second source confirmed the attack. The cluster munitions used in Syria recently that Human Rights Watch was able to confirm were manufactured in the former Soviet Union or Russia. The military offensive that the Russian and Syrian government forces opened against armed groups opposed to the government on September 30, 2015, has included extensive use of cluster munitions – inherently indiscriminate and internationally banned weapons.

The use violates United Nations resolution 2139 of February 22, 2014, which demanded that all parties involved in Syria end “indiscriminate employment of weapons in populated areas,” Human Rights Watch said.

Even in the face of the rapidly growing death toll in Syria and evidence in August 2013 that the Syrian government used chemical weapons against civilians, **Beijing** has continued to object to any significant Security Council measures to increase pressure on the Assad regime and abusive rebel groups. It has opposed referral of the situation to the International Criminal Court (ICC) and an arms embargo against forces that commit widespread human rights or laws of war violations. **China** has also slowed down Security Council-driven efforts to deliver desperately needed humanitarian assistance across the border to rebel controlled areas in northern Syria.

### **Questions a resolution must answer:**

1. Is it possible to tackle all Middle East’s non-state military actors in the same manner, or is the current approach of case by case basis the best one?
2. Is it desirable to negotiate with non-state military actors, or would this mean that their existence as a non-state entity is recognized? Is their adherence to the current state model a fair approach? Should they be incorporated in the formal ranks of state government, or would it eventually lead to internal sabotage or coup d’états?
3. Are the current methods of military use of force against non-state military actors being effective? Should they continue to be used this way or should it be rethink or even thought of together with some other strategy?
4. Is it possible to contain or solve the current problems involving Al-Qaeda, Hezbollah and Hamas? Is there any resolution in relation to military non state actors that might help solve the current problems involving Al-Qaeda, Hezbollah and Hamas?
5. How is it possible to tackle these rooted non-state military actors here discussed together with the new problems arising from the Syrian and Iraqi Wars, especially now with the Islamic State rising in these territories?

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## **INTRODUCTION:**

The South China Sea (SCS) is a semi-enclosed sea in the Pacific Ocean covering 3,500,000 square kilometers with nine independent states and Taiwan sharing its coasts. With more than a half of the world's merchant fleet sailed through its waters each year, rich fishing ground and large amounts of gas and oil reserves, the SCS has unsurprisingly become an epicenter of territorial disputes. Given the considerable economic and strategic advantages of the region, these disputes emerged due to the countries' overlapping claims over the continental shelves, islands, islets, reefs, and the Exclusive Economic Zones (EEZs) with the two major archipelagos – the Paracel and the Spratly Islands – in particular.

The territorial dispute over South China Sea is certainly not new, but is definitely renewed by oceanographic discoveries, and the subsequent increase in International interest – both due to China's strategic rivalry with the America, and America's strategic support of the ASEAN countries in the dispute. On an introductory note, it can be said that the dispute is between the claims of ASEAN states and China, but the underlying interests of these nations complicate the dispute – making it, despite recent diplomatic efforts one of the most structurally irresolvable territorial disputes. Situated at the crossroads of Europe, West Asia and India on one side, and Japan and China on the other, together with abundant wealth of natural resources, the South China Sea is also of vital commercial and strategic significance to the states of the regions.

Countries openly involved in these unrelenting disputes are: Vietnam, The People's Republic of China, Brunei, Malaysia, the Philippines, Indonesia, Cambodia and the Republic of China (Taiwan). However, they are not the only ones; most of the world's leading economies, including the United States of America, India, Japan, the Republic of Korea and the European Union also concern themselves with the topic. It is precisely due to the involvement of stakeholders from all around the globe, attracted by the immense deposits of natural resources and the region's strategic position with regard to the potential energy scarcity in the future, that this matter is subject to international attention and concern.

## **REASONS FOR DISPUTE**

### **Oil and Economic Resources:**

In Vietnam, soaring food prices, weakening confidence in the currency and stagnating job market are forcing the government to develop energy sources in the South China Sea to improve its economic performance and shore up its legitimacy. Already highly dependent on South China Sea oil for revenue and energy, the government in 2007 embarked on its "Maritime Strategy to 2020" aimed at increasing the share of the maritime economy from 48 per cent of its GDP in 2005 to 55 per cent in 2020. A key component of the plan is offshore oil and gas. Since then, Vietnam has stepped up its pursuit for new energy sources in the South China Sea.

The South China Sea's energy resources are also an economic lifeline for the Philippines, which faces its own economic problems. A net importer of oil, the Philippines regards the South China Sea's potential reserves as vital to its energy security. The contested Reed Bank, where Chinese patrol boats maneuvered to expel a Philippine seismic vessel in March 2011, is believed to contain large reserves of natural gas. Some observers in Manila characterize the President Aquino's government desire to distinguish between disputed and non-disputed areas as an attempt to defend the country's claim to Reed Bank, the Spratly Islands as a whole and all its resources. In China's view, these developments forced Beijing to more assertively defend its claims, as it too seeks to accelerate its exploitation of South China Sea energy resources. A Chinese analyst described the cable cutting incidents between Chinese vessels and Vietnam's oil survey ships in May and June 2011 as Beijing's response to Hanoi's increasing "unilateral" economic development in disputed areas. So far, China has not yet drilled in areas further from its southern coastline due mainly to technical considerations. However, the Chinese land and resources ministry identified the South China Sea as one of its ten strategic energy zones in 2005; and public oil companies are preparing for offshore exploration and drilling.

Some Chinese scholars have also suggested that more active energy exploration would bolster China's claims and protect its interests. Yet China has not objected to all moves by South East Asian states to develop energy resources within disputed territory. Although it claims many Malaysian natural gas fields located offshore of Sarawak, it has not challenged their exploitation so far. Neither did it comment on reports that Brunei and Malaysia had reached an agreement on



the joint development of energy resources in a disputed area claimed by both countries that also falls within the nine-dashed line. This reflects the different ways in which China treats the different claimants. China recently became the second largest net oil importer in the world behind the United States and the world's largest global energy consumer. Gas imports have also risen in recent years, and China became a net natural gas importer for the first time in almost two decades in 2007. EIA forecasts that China's oil and natural gas consumption will continue to grow in coming years, putting additional pressure on the Chinese government to seek out new supplies to meet domestic demand. Japan is the third largest net importer of crude oil behind the United States and China, as well as the world's largest importer of liquefied natural gas (LNG), owing to few domestic energy resources. Although EIA projects oil consumption in Japan to decline in coming years, Japan will continue to rely heavily on imports to meet consumption needs. Therefore, both China and Japan are interested in extracting hydrocarbon resources from the East China Sea to help meet domestic demand.

### **Fisheries:**

Disputes between China, Vietnam and the Philippines over fishing in contested waters are another potential trigger for conflict. Fishing boats from these countries are venturing further afield as stocks in their respective waters become depleted, worsening a trend of harassment, confiscation of catch and equipment, detention, and mistreatment of fishermen. Fisheries resources are of significant economic importance, but they also provide a pretext for increased civilian patrols in the South China Sea and rally nationalist sentiment.

While China is the largest consumer and exporter of fish in the world, the fishing industry is even more crucial to Vietnam. Seafood was its second biggest foreign exchange earner in 2010, accounting for 7 per cent of its \$71.6 billion of exports.

The fishing catch of Vietnam also provides close to half of the total protein intake of a significant portion of the population. But in coastal and inland areas, stocks have significantly declined due to over fishing and environmentally harmful techniques. These problems are leading the government to encourage fishing fleets to go further offshore into the South China Sea to reduce the pressure on closer fishing grounds. Vietnamese fishermen now increasingly sail beyond the Exclusive Economic Zone (EEZ) into the waters off the resource-abundant Paracel Islands. This puts them into more frequent contact with Chinese law enforcement vessels that patrol the islands occupied by China. Similarly, run-ins between Philippine and Chinese vessels are also on the rise. Philippine policymakers appear more concerned about the political stakes involved in defending their fishermen's access to the South China Sea than about the fishing industry's economic significance. The industry accounts for less than 5 per cent of GDP, but employs close to one and a half million people. The annual catch, however, has been declining since the 1990s. In the waters off Palawan, where stocks remain plentiful, Philippine authorities regularly intercept Vietnamese and Chinese fishermen. During the Scarborough Shoal

standoff, the Aquino government denounced environmental degradation and violation of the country's fisheries code, seeking to demonstrate its efforts to enforce Philippine laws in its maritime zones. China, for its part, also encourages its fishermen to sail further afield. In addition to patrolling disputed waters, Chinese authorities offer fishermen incentives such as upgrading and equipping their boats with satellite navigation systems. These allow them to range even farther from home and immediately inform Chinese law enforcement forces in the event of confrontation. Beijing also issued an annual fishing ban over portions of the South China Sea, including some of the areas Vietnam and the Philippines consider to be in their EEZs. Both countries object to the ban.

### **Militarization:**

Many South East Asian nations buoyed both by GDP growth in the previous decade and lobbying by arms companies, are expanding their militaries in response to China's position on the South China Sea issue and its military modernization. While increased military power is likely to raise the threshold for, as well as cost of, armed conflict, it could also embolden countries to be more proactive in their territorial claims, making skirmishes harder to resolve.

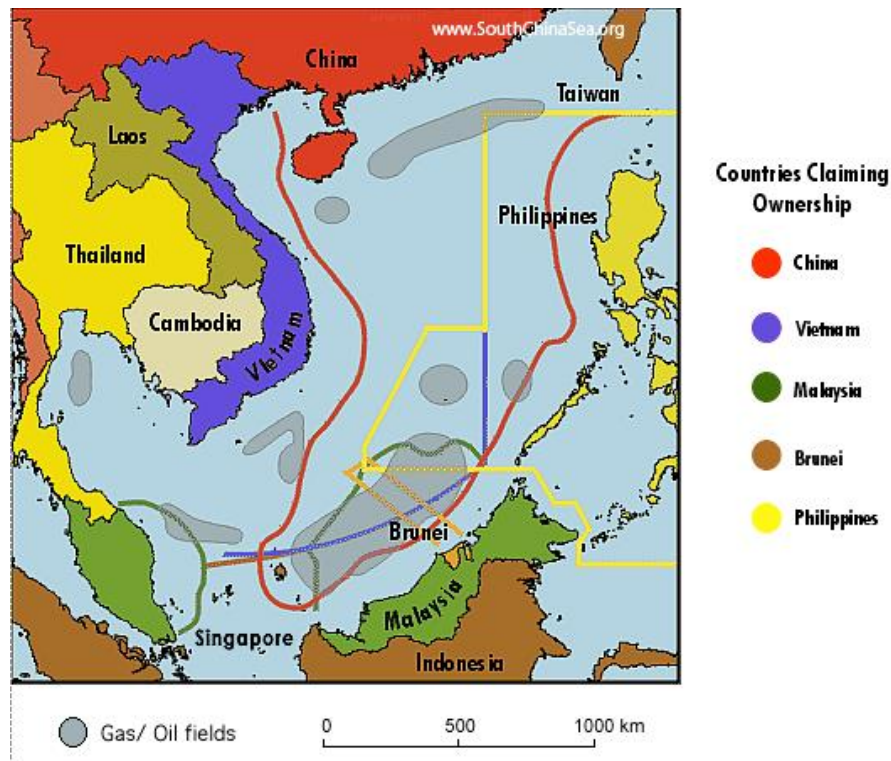
There is a risk that in seeking to flex their military muscle, claimant states will engage in brinkmanship that could lead to unintentional escalation. Vietnam and Malaysia are leading regional military buildup. Their growing defense budgets have resulted in contracts with Russia, India and other countries for more advanced and costly items such as Kilo class submarines and Sukhoi Su-30 fighter aircraft.

They are also developing their domestic defense industries. Vietnam is implementing its own anti-access/area denial strategy, including the launch of its first indigenously built gunship. The Philippines lags behind its neighbors but President Aquino is committed to improving the armed forces, particularly the navy and air force. In addition to nearly doubling the defense budget to \$2.4 billion in 2011, he has embarked on a military modernization program that will cost almost \$1 billion by the time he leaves office in 2016. His government relies on the U.S. to assist with these purchases, and two Hamilton-class cutters from the U.S. coast guard have already been sold at minimal cost to the Philippines. The administration has also discussed buying F-16 fighter jets from the U.S., and Washington has also offered to deploy spy planes and provide real time access to surveillance.

There is growing interest in submarines from the various claimant states but such equipment fundamentally alters the regional security equation. Their clandestine nature allows them to be deployed undetected for surveillance missions inside other countries' territorial waters. Yet their utility in the South China Sea is questionable. The region's topography limits the space in which submarines can navigate, which increases the likelihood of run-ins as rival claimants deploy submarines to the same areas. This could result in a collision or armed clash should surface ships and other units try to force a submarine out of their territory.

Naval vessels may be drawn into disputes more frequently as countries have limited options for responding with force on the sea. Maritime law enforcement units in both Vietnam and the Philippines are poorly equipped and understaffed, and sometimes rely on their navy to enforce maritime laws. Recognizing the need to improve their ability to safeguard coastlines and maritime zones, some South East Asian countries are also beginning to modernize their coast guard and maritime law enforcement forces. Compared with China's powerful and expanding agencies, other claimant countries' coast guard and civilian agencies are small and ill-equipped. Vietnam's Marine Police, for example, only became independent of the military in 2008, and has only about 1,000 personnel. The Philippine coast guard lacks ocean-going capacity and is comprised of a small fleet of patrol boats, although other countries, notably Japan and the U.S., have respectively provided patrol vessels and funding for a radar system.

Despite their paramilitary and civilian nature, coast guard and other maritime law enforcement vessels may stoke, rather than diminish, tensions. Because each country believes their territorial claims to be indisputable, governments are having their maritime law enforcement agencies aggressively assert jurisdiction in disputed areas. This brings them into regular contact with civilian vessels and other paramilitaries. The involvement of paramilitary vessels lowers the threshold for confrontation. As they operate under more relaxed rules of engagement than the navy, they have more often been involved in aggressive actions such as ramming or cutting cables and fishing nets on other boats. Moreover, when facing law enforcement rather than military ships, fishermen and other civilian vessels may be more likely to resist or try to escape, particularly as coast guard and law enforcement are generally less armed than naval vessels. As these units expand, such incidents could become more frequent and serious



### **BOUNDARIES AND TERRITORIES INVOLVED:**

The disputes involve both maritime boundaries and islands. There are several disputes, each of which involved a different collection of countries:

1. The nine-dash line area claimed by the Republic of China, later People's Republic of China which covers most of the South China sea and overlaps Exclusive Economic Zone claims of Brunei, Indonesia, Malaysia, the Philippines, Taiwan, and Vietnam. Singapore has reiterated that it is not a claimant state in the South China Sea dispute and therefore allows Singapore to play a neutral role in being a constructive conduit for dialogue among the claimant states.
2. Maritime boundary along the Vietnamese coast between Brunei, Cambodia, China, Malaysia, the Philippines, Taiwan, and Vietnam.
3. Maritime boundary north of Borneo between Brunei, China, Malaysia, Philippines, Taiwan, and Vietnam.
4. Islands in the South China Sea, including the Paracels Islands, the Pratas Islands, Scarborough Shoal and the Islands between Brunei, China, Malaysia, the Philippines, Taiwan, and Vietnam.
5. Maritime boundary in the waters north of the Natuna Islands between Cambodia, China, Indonesia, Malaysia, Taiwan, and Vietnam.
6. Maritime boundary off the coast of Palawan and Luzon between Brunei, China, Malaysia, the Philippines, Taiwan, and Vietnam.
7. Maritime boundary, land territory, and the islands of Sabah, including Ambalat, between Indonesia, Malaysia, and the Philippines.

8. Maritime boundary and islands in the Luzon Strait between the China, the Philippines, and Taiwan.
9. Maritime boundary and islands in the Pedra Branca (and Middle Rocks) between Singapore and Malaysia.

## **TERRITORIAL CLAIMS OF ALL PARTIES TO DISPUTE**

### **Peoples' Republic of China:**

China claims “indisputable sovereignty” over both the Spratly and Paracel islands and maritime rights over related waters in the South China Sea based on a map drawn by the Kuomintang (KMT) government in 1947 to show the country’s historical waters. The map, with an eleven dashed line enclosing most of the sea and later reduced to a nine-dashed line, indicates historical claim to the islands and other geographical features in the South China Sea based on survey expeditions, fishing activities and naval patrols dating as far back as the 15th century. It has been repeatedly used to justify these claims since the founding of the People’s Republic of China (PRC). As a contemporary basis for its territorial claims, Beijing uses an August 1951 statement by Chinese Premier Zhou Enlai, in which he asserted sovereignty over the island groups. In 1958, China released a statement linking for the first time its territorial claims over the Spratlys and Paracels to maritime rights in the surrounding waters. In 2009, China submitted a note verbale to the UN Commission on the Limits of the Continental Shelf, which declared that it has jurisdiction over waters surrounding islands in the South China Sea. However, while China bases its maritime claims on its land sovereignty, many of these land features would likely not meet qualifications set by UNCLOS to serve as a base for EEZs and continental shelves. The submission of the nine-dashed line map to the UN and the use of the term “relevant waters” sparked concern among claimants that Beijing sought exclusive right to natural resources in the whole area within the line. While many Chinese scholars and commentators claim that the entire region within the line is Chinese territorial waters, some officials in Beijing recognize that this interpretation is inconsistent with UNCLOS and prefer to claim only the islands within the line and their adjacent waters.

### **Republic of China:**

Taiwan bases the extent and legitimacy of its claims in the South China Sea on the U-shaped line developed under the KMT government in 1947. It officially declared sovereignty over the majority of the South China Sea in 1993, and reiterated the breadth of this claim in a June 2011 foreign ministry statement: “The Nansha Islands (Spratly), Shisha Islands (Paracels), Chungsha Islands (Macclesfield) and Tungsha Islands (Pratas), as well as their surrounding waters, seabeds and subsoil, are all an inherent part of the territory of the Republic of China (Taiwan).” The

government was also the first to establish a physical presence on the Spratlys after the Japanese withdrawal at the end of World War II. Following the Taiwanese interior ministry's effort to draft baselines and demarcate its territorial sea and EEZ between 1989 and 1990, the foreign ministry declared Taiwan's territorial claims over the Tungsha (Pratas), Shisha (Paracels), Nansha (Spratlys) and Chungsha (Macclesfield) islands on 16 July 1991. Taipei reaffirmed this claim in 1991 and 1992 at the Indonesian workshops on the South China Sea. It officially declared sovereignty over the majority of the South China Sea in 1993, when the Taiwan legislature (Legislative Yuan) adopted the "Policy Guidelines for the South China Sea", reasserting its claim – all features within the U-line and the whole area as its "historic waters". On 10 February 1999, Taipei took a step forward to clarify the basis of its territorial sea claims by defining and publicising baselines around its land territory and internal waters, which included the Tungsha (Pratas Island and Reef) and the Chungsha (Macclesfield Bank) in the northern part of the South China Sea. Taipei stated that the baselines for the Spratlys would be drawn later. The government reiterated the breadth of this claim in its June 2011 foreign ministry statement. When cross-strait relations and domestic politics were in favor of shared economic interests, Taiwan and Beijing promoted territorial claims on behalf of China as a whole. Despite claiming territorial sovereignty over the entire South China Sea, Taiwan only occupies the Pratas Islands and Itu Aba Island (Taiping Island in Chinese), the largest in the Spratlys and with the most facilities among the occupied islands

### **Vietnam:**

The area that Hanoi claims in the South China Sea includes all of both the Spratly and Paracel island chains, bigger than any other claimants' claims except that of China and Taiwan. Key foreign ministry statements and two authoritative White Papers from 1979 and 1982 outlined claims to all features of both island chains and offer four main historical arguments. A joint submission to the UN Commission on the Limits of the Continental Shelf (CLCS) with Malaysia in May 2009 defined 200-nautical mile EEZ limits derived from the mainland. However, Vietnam has never specified the extent of maritime or territorial claims stemming from the disputed islands. Vietnam provides several justifications for its sovereignty claims. First, Vietnam claims to have been the first country to discover and name the Spratly islands, evidenced by their appearance in Vietnamese maps and books as early as the beginning of the 19th century. Second, it asserts its historical claims to the Paracels are supported by France's repeated statements in the early 1930s asserting sovereignty over the islands. The Vietnamese navy replaced French occupying forces following the Indochina war, until China seized control of the Paracels in 1974. Third, Vietnam maintains that Japan's renunciation of all South China Sea islands in the San Francisco Treaty did not specifically return the territories to China. Finally, control and administration of the Spratlys have continued unbroken through the Nguyen Dynasty, the French colonial government and the Republic of Vietnam.

### **Philippines:**

The Philippines claims over 50 features in the Spratlys and occupies nine of them, where its military presence is second only to that of Vietnam. The area, which Manila calls the Kalayaan Islands Group, was first claimed in 1956 by a Filipino citizen, Tomas Cloma. In 1974, he transferred the deed to the government of President Ferdinand Marcos who declared them as part of Philippine territory in a 1978 presidential decree. In 2009, the congress passed legislation to revise the baselines to comply with international law. The act claims the Kalayaan Islands Group and Scarborough Shoal (also claimed by China and Taiwan), which are beyond the Philippines' archipelagic baselines, under the "regime of islands" doctrine in UNCLOS. The same year, Malaysia and Vietnam made a joint submission to the UN Commission on the Limits of the Continental Shelf regarding their claims to southern parts of the South China Sea. The Philippines protested but refrained from submitting its own demands at that time but reserved the right to do so later. Note: Philippines renamed South China Sea to the West Philippine Sea.

### **Malaysia:**

Malaysia claims islands and features in the southern Spratlys, and it has occupied five of them since 2009. Among these occupied features is the Swallow Reef (Terumbu Layang-Layang), which has a military installation, airstrip and diving resort. Malaysia's claims originate from a 1979 map often referred to as the Peta Baru, or new map, which set out its continental shelf claim off Sabah and Sarawak states. Kuala Lumpur further clarified its claims in 2009 with a Vietnam-Malaysia joint submission to the Commission on the Limits of the Continental Shelf, though it has never specified the extent of maritime territory it claims from the islands itself. The Philippines, Taiwan, Vietnam, Brunei and China have all objected to Malaysia's demands, and the Philippines and Vietnam currently occupy islands claimed by Kuala Lumpur.

### **Brunei:**

Based on UNCLOS, Brunei claims only two features in the Spratly Islands, submerged formations called Louisa Reef and Riflemen Bank, and extends its EEZ around the feature and well into the southern section of the South China Sea. Brunei's maritime and territorial claim directly overlaps with Malaysia's, and extends into those of China, Taiwan, Vietnam and the Philippines. Brunei is the only claimant that does not occupy any of the islands and does not have a military presence in the South China Sea.

### **Other actors:**

As mentioned before, the dispute has drawn the attention of many other countries who are not directly concerned with it, most notably the United States with its "Pacific Shift", with which the superpower shifted its attention from the Western Hemisphere to the Eastern one, Asia. China has often been seen as a challenge to the Americans, and the Obama administration has fully recognised this by intensifying US involvement in the region. Although the shift includes building better relations with China, it is also concerned with strengthening other Asian countries

against the more assertive attitude of the latter in regional politics. American military presence in Asia has always been strong, and the Americans have not been hesitant to remind China of that. 17 A ring of American allies, consisting of South Korea, Japan, the Philippines and Taiwan, surround the Asian seas, and the US seems to be re-affirming its commitment to protect its allies. 18 Important to remember however that the U.S would greatly lose if the disputes over resources in the South China Sea were to escalate, due to its strong trade relationship with China and the Asian-Pacific countries. Japan has its own reasons for being very interested in the South China Sea dispute. The Japanese have had a long history in the area, occupying large parts of the sea itself during the Second World War. More important, however, is the Japanese dispute with the Chinese in the East China Sea, over the Senkaku/Diaoyu Islands. The said new Chinese assertiveness also stroked home in that dispute, and Japan is looking for allies in its controversy with its big neighbour. 19 Japan is growing more and more worried about China's behavior in the region, it is working hard to strengthen its own positions in the East China Sea, while engaging in diplomatic attempts to weaken China's position. A resolution in the South China Sea is extremely important to Japan; China's behavior in the Japanese dispute would be greatly affected by it. Thus, Japan will continue to champion international law and challenge China's claim, hopefully with new allies.

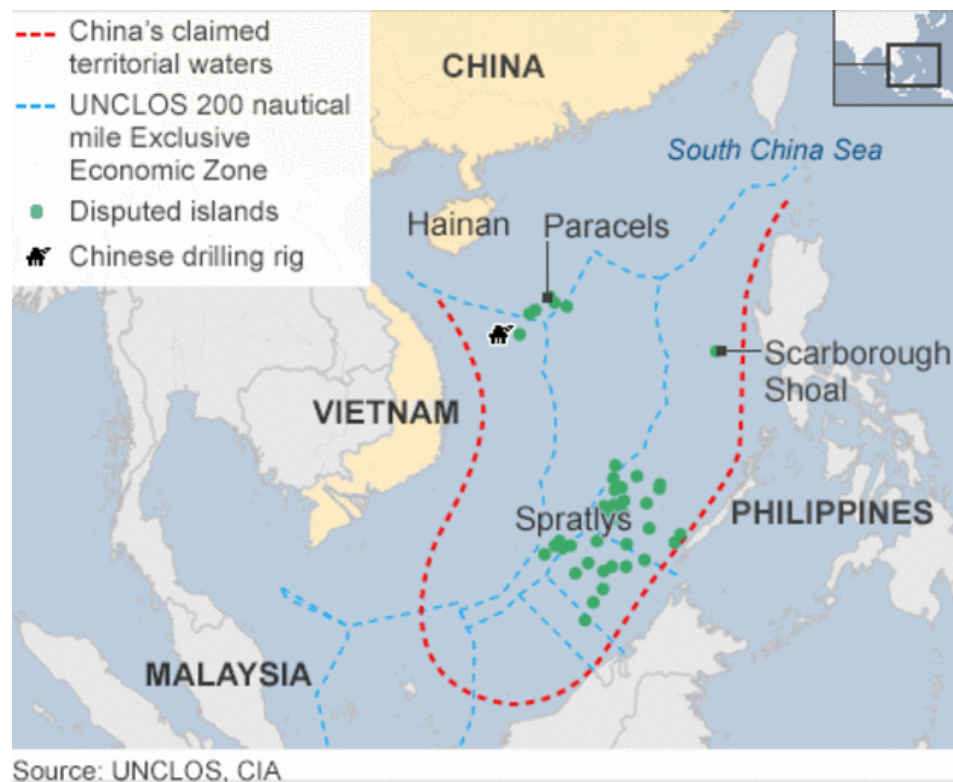
Russian and Indian involvement in the region and in the dispute has been more nuanced. India does have its own territorial disputes with the People's Republic, but it is also determined to continue to engage in good relations with them, as with the other Asian states. India has been careful in picking either side, it will, almost certainly, not support any claim that is not based on international law. India has supported the Philippines in their maritime claims, and it is working with the Vietnamese in their research for oil. Russian involvement in the South Asian region finds its roots in the Cold War. Russia is one of the oldest partners of Vietnam, and their reciprocal ties have recently been strengthened with military deals and pledges of support. Russia neighbors China in the South, and the relationship has witnessed good and bad times. In any case, the Russians seem to have chosen to support Vietnam and ignore Chinese criticism. This move may also be explained by the improvement of the relationship between Vietnam and the US, with Russia surely not being willing to allow to be supplanted by the old archenemy, as Vietnam's champion against China. Russia's role in the conflict, however, is still relatively low-key, and a clearer stance on the issue has not yet been taken by Moscow

An example of the on-going tensions between the Republic of China and Vietnam arising from the deployment of the oil rig to waters near the disputed Paracel Islands in South China Sea, also referred to as Haiyang Shiyou 981 standoff could be taken into consideration. The installation of the oil rig made by the Chinese state-owned China National Offshore Oil Corporation was described by the US as "provocative" and "aggressive" and resulted in Vietnamese protests and efforts to prevent the oil platform from establishing a fixed point. The problem was mainly invoked as the China's oil rig was installed in the Vietnam's exclusive economic zone. The territorial dispute occurs not only near the Paracel Islands between the Republic of China and Vietnam but also in Spratly Islands and the majority of the territory in South China Sea that



involves the Republic of China and some of its South East Asian neighbors – Vietnam, the Philippines, Malaysia, Taiwan and Brunei. That is due to the asserted China's claim of the territorial waters inside the "nine-dash line" which covers 80% of the South China Sea. In 2001, China and ASEAN signed an agreement of the code of conduct between disputing countries, in which they agreed neither side would make a unilateral move without consulting and negotiations with the other parties, which in the current situation may be considered default on.

Vietnam, after the China's oil rig installation confronted the China's oil platform with 29 ships in attempt to prevent the oil rig from establishing a fixed point to make any oil drill operations. The republic of China deployed about 120 vessels including 6 warships, 40 coast guard ships, more than 30 transport ships, tugboats, and used water cannons, fire to drive the Vietnamese ships away and one of the Vietnamese fishing boat was rammed by the Chinese vessel as a response to the Vietnam's confrontation. These vessels were formed in groups to dislodge the Vietnamese vessels from nearing the oil rig's location. Also, Chinese fishing boats have been reinforced with a large pear-shaped device in their prows which adds force when they ram smaller boats. The U.S. Senate protests China's provocative act in Vietnam's exclusive economic zone. The back and forth conflict in the sea caused arise of numbers of protests in Vietnam and in the Vietnamese communities internationally around the world. In Vietnam, the protests began relatively peacefully in Binh Duong province near Ho Chi Minh City, but smaller groups of men later ran into foreign-owned factories, began looting and burning them as the factories were language-wise related. These were mostly factories owned by companies from Taiwan but also, South Korea. The more peaceful protests were organized globally by Vietnamese communities in locations such as Slovakia, Canada, France, Germany, Poland, and so on.



## **KEY CONCEPTS**

### **Exclusive Economic Zone (EEZ):**

The “Exclusive Economic Zone” is a concept adopted at the Third United Nations Conference on the Law of the Sea (1982) whereby a coastal state assumes jurisdiction and has sovereign rights over all the economic resources of the sea, seabed and subsoil extending up to 200 nautical miles from the coast.<sup>19</sup> Source: [www.securefisheries.org](http://www.securefisheries.org) United Nations Convention on the Law of the Sea (UNCLOS) International agreement defining the rights and responsibilities of nations with respect to their use of the world's oceans, establishing guidelines for businesses, the environment, and the management of natural marine resources. The treaty addresses a number of topics including navigational rights, economic rights, and pollution of the seas, conservation of marine life, scientific exploration, piracy, and more.

### **Association of Southeast Asian Nations (ASEAN):**

ASEAN is a regional international organization aiming to encourage and maintain the economic growth, social progress and culture development of its members, as well as to promote peace and stability in the Southeast Asian region. It was established on 8 August 1967 in Bangkok. The ten members of ASEAN include: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam.

### **Cairo Declaration, Potsdam Declaration and San Francisco Treaty:**

The Cairo Declaration of 27 November 1943 (issued by the US, UK and the Nationalist China) and the Potsdam Declaration of 26 July 1945 (proclamation of the Japanese surrender) are international documents addressing the status of the territories that has been occupied by Japan during the WWII. They gave no explicit indication of the sovereignty of the Paracel or Spratly Islands. While in the San Francisco Treaty (also known as the Peace Treaty), signed on 8 September 1951, Japan renounced all its right, title and claim to the Paracel and Spratly Islands, their status remained further unresolved.

### **The nine-dash line area:**

The nine-dash line refers to the demarcation line used initially by the government of the Republic of China and subsequently also by the government of the People's Republic of China, for their claims of the major part of the South China Sea. The contested area in the SCS demarcated by the nine-dash line includes the Paracel Islands, the Spratly Islands, and various other areas including the Pratas Islands, the Macclesfield Bank and the Scarborough Shoal. Beijing has never properly explained where its claim to sovereignty over the area stems from,

apart from the nine-dash line itself. Western legal scholars are persistently undermining its legitimacy with regard to the international law.

### **Code of Conduct:**

The People's Republic of China and the AESAN members signed the Declaration on the Conduct of Parties in the South China Sea on 4 November 2002. The parties to this Declaration promised to resolve their territorial and jurisdictional dispute by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations.

### **TIMELINE:**

## **INTERNATIONAL LAW WITH RESPECT TO CLAIMS**

Is it important to note that all such maritime territorial disputes fall under the aegis of United Nations Convention on the Law of the Seas (UNCLOS). In international law, apart from the International Court of Justice (ICJ), the UNCLOS itself provides several provisions regarding claims and dispute resolutions with respect to the same.

### **Treaty Law:**

As compared to the other bases for territorial claims, the treaty justification is more legal in nature—that is, it is less emotionally persuasive than an historical claim might be. Nevertheless, claims based on treaty law are particularly persuasive at the ICJ because Article 38 of the ICJ Statute obligates the court to consider treaties. Moreover, through treaties parties agree to relinquish their historical or other claims to the property subject to the treaty. Thus, it is no surprise that treaties (unless defective) are binding on the parties that have ratified them.

### **Geography:**

Geographical justifications for territorial boundaries are neither novel nor uncommon. Mountain ranges, rivers, oceans, and other bodies of water and physical formations have perennially separated political entities. Natural borders create a clear dividing line between two states, offer a buffer of security (or at least the appearance thereof), often do not require active patrolling by border guards, and historically have been more difficult to dispute than borders less easily identifiable by a physical landmark.

**Economic:**

Economic justifications for territorial claims assert that the territory in question is “necessary to the viability or development of the state.” For example, the territory may be necessary to facilitate internal and international transportation routes for goods (including pipelines, roads, railways, and ports), to exploit raw materials, to cultivate land, and the like. Similarly, states may desire the territory to attract foreign investment, which requires the existence of land, sea, and aerial passages.

**Culture:**

Cultural justifications are based on the “ethnic nation” argument, which underlies any justification for drawing a border in a specific place because of a common language, religion, kinship, or other cultural characteristic that defines the group of people living in a particular territory. At the core of the cultural claim is a sense of belonging, but the characteristic creating this belonging varies by group and region. In modern Western history, language has been the chief unifier, whereas in the Middle East religion has played that role. Language has also been used as a distinguishing characteristic that has enabled ruling classes to emerge to the detriment of minority groups. In a territorial claim based on culture, the claimant state contends that because of shared pasts, the inhabitants of the disputed territory share the “same national background and aspirations” as the inhabitants of the claimant state.

**Effective Control:**

A claim based on effective control is one in which a group claims certain land because the group has “uncontested administration of the land and its resident population.” Many scholars believe that under international law, effective control is the shibboleth—indeed, the sine qua non—of a strong territorial claim. Under property law generally, possession is a large factor in the determination of a property right. Professor Andrew Burghardt acknowledges that the principal questions surrounding any such claim are twofold: (1) what constitutes an abandonment of the land by the last governing entity, and (2) what constitutes administration of the land. The status of abandonment as a precondition to effective control is highly debatable. Norman Hill would require that the land be terra nullius—a “territory not belonging to any particular country.” Previously, only discovered land was terra nullius; now, the term encompasses land over which no state exercises sovereign control. Another scholar defines abandonment as a “failure to maintain a minimum degree of sovereign activity.” When the rightful sovereign acquiesces in the control of territory by the infringing sovereign, the requirement of abandonment is inapplicable altogether. This is the legal doctrine of acquisition by acquiescence, generally accepted by

common lawyers and rejected by civil lawyers. In many ways, it is analogous to the common law principle of title by adverse possession

### **History:**

Historical claims to territory are based on historical priority (first possession) or duration (length of possession). Although effective control (possession) presents the strongest claim under property law, historical claims create an underlying entitlement to territory, regardless of whether a state has actual or constructive possession of the land at the time of the claim. Thus, historical claims tend to be most common, compared to the other claims discussed here. A claim of historic right is bolstered by the passage of time; when the encroached state does not act to counter the claimant's right, it is deemed to have acquiesced in that right and is stopped from rejecting the title for lack of consent. Claims based on historical priority are most closely related to claims based on historic title because such titles are generally derived from first-in-time claims to land.

### **Uti Possidetis:**

a principle used to define postcolonial boundaries in Latin America, Asia, and Africa, is a doctrine under which newly independent states inherit the pre-independence administrative boundaries set by the former colonial power. The doctrine posits that title to the colonial territory devolves to the local authorities and prevails over any competing claim based on occupation. Thus, Uti Possidetis is predicated on a rejection of self-determination and assumes that internal, administrative boundaries are functionally equivalent to international boundaries. Commentators criticize Uti Possidetis because administrative colonial borders were almost always vaguely drawn and did not correspond to the inhabitant populations. Consequently, these commentators argue, reliance on Uti Possidetis has led to many border disputes.

### **Elitism:**

Elitist claims to territory contend that a "particular minority has the right or duty to control certain territories." Conquerors—who, historically, made such claims most frequently—often shaped them in terms of divine rights to rule certain territory. Such claims have become rarer over time because they "run counter to the democratic ideal." Nevertheless, elitist claims have a modern and public incarnation in arguments for territory based on superior technological ability—a particular group claims control over a territory by virtue of having the capacity to develop the land's potential most fully. Such claims are consistent with a labor theory of property law, which grants property rights to the person (or entity) investing labor in the land, thereby making it productive. But for the capable person's labor or technological ability, the territory's resources and potential would not be tapped.

### **Ideology:**

Ideological justifications resemble claims of a “special mission” based in “[u]nique identification with the land” and having inherent “exclusivist overtones.” Thus, ideological justifications for territorial claims are more appropriately termed ideologically imperialist. Chief examples of this claim are the Crusades, the Ottoman Turks’ eastern advance, anti-colonialism, and social justice, among others. The anti-colonial ideological justification, which argues that colonial borders are per se inappropriate delimiters of territory for moral or legal reasons, is essentially the antithesis of an uti possidetis claim.

## **PAST INTERNATIONAL ACTION**

### **UN INVOLVEMENT AND RELEVANT DOCUMENTS**

It is to be noted that the UNSC has itself not addressed the issue of South China Sea in the detail that it requires. However, there are several relevant UN documents which are relevant and important while deciding claims as well as maintaining peace building measures in the South China Sea.

1. United Nations Convention on the Law of the Seas, 10 December 1982 (UNCLOS)
2. Oceans and the law of the sea, 5 April 2012 (A/RES/66/231)
3. Oceans and the law of the sea adopted in November 2012, 29 January 2013 (A/RES/67/5)
4. Implementation of the Declaration of the Indian Ocean as a Zone of Peace, 9 December 2013 (A/RES/68/24)
5. Oceans and the law of the sea, 27 February 2014 (A/RES/68/70)

### **FURTHER READING:**

[https://en.wikipedia.org/wiki/Territorial\\_disputes\\_in\\_the\\_South\\_China\\_Sea](https://en.wikipedia.org/wiki/Territorial_disputes_in_the_South_China_Sea)

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