

Background Guide



United Nations Legal Committee

LIMUN XXXII

Chair: Alex Varghese

Secretary: Dylan Trammell

Letter from Chair

Welcome Delegates,

My name is Alex Varghese and I am honored to be your chair at LIMUN XXXII. A little about me before we dive right in. I am a senior of the LIMUN Travelling Team with 3 years of experience participating in conferences in the SouthEast. I participated in Lincoln Douglas Debate and that is where I found my fascination of morality and its application in daily life. Afterschool, you can usually find me running around the school or at the AUM trails for XC/Track. Now let's dive right in.

The Legal Committee is the 6th Committee of the United Nations General Assembly. Essentially, this is the committee that has the jurisdiction over the codification of international laws. It is the Committee that is the "primary forum for the consideration of legal questions in the General Assembly". As such, much of what we will discuss would consider not only the practical application of international law, but also the morality of the said laws. That is the intent by which I choose my topics: International Targeted Killings using Lethal Autonomous Weapons, Extrajudicial Executions, and Reservation to Treaties. Is a country justified in attacking another country's citizen if that citizen is a threat as is the case with the United States and terrorist actors all over the world? Is a country justified in bypassing their own legal measures to kill a citizen if it is for the greater good as is the case with the Philippines and the current measures against the drug wars? If a nation promises to act in accordance with a treaty, is it obligated to follow the treaty to the letter or with exceptions? To clarify on the last one, if you make a promise to a friend, would you look for a loophole or exception to the promise to take advantage of the friend's trust in you?

If you made it after the first paragraph of legal terminology, congratulations there several pages more to go. But, more seriously, I look forward to seeing your thoughts on pressing issues within the international community and hope to show you why such rules cannot be just black or white, but filled with multiple moral gray areas. If you need any assistance with the topics or position papers, you can email me at alexvarghese2014@gmail.com and I will get back to as soon as I can.

Alex Varghese
Chair of Legal
LIMUN XXXII

Position Papers and Awards

Each delegate seeking consideration for awards at LIMUN must submit a position paper on each of the topics on Wednesday night, January 24th. These papers should consist of brief background information on the topic, a summary of the nation's stance on the issue, and an overview of the delegate's ideas for resolving the issue. The position paper should not be a resolution, but rather a general statement of the nation's stance regarding the topic at hand.

Position papers should include a header with the country name, committee name, and topic. They should be typed in 12 pt font, single spaced, and approximately one-half page long per topic. **DELEGATES MUST SUBMIT A POSITION PAPER TO BE CONSIDERED FOR AWARDS.** Good luck!

An outline of a paper may be as follows:

- A. Background to the Issue
 - a. History of a Conflict
 - b. Previous Attempts at Resolution
- B. Nation's Stance on the Issue
 - a. Prior Action by the Nation
 - b. Country's Current Stance
- C. Ideas for Solution
 - a. How to enact the particular solution
 - b. Difference from the status quo

*Please bring a physical copy to me on Wednesday night, January 24th. An email sent to alexvarghese2014@gmail.com would be much appreciated.

Overview of Legal Committee

The Legal Committee of the United Nations was founded to review and subject international laws under both moral and practical scrutiny. As such the Committee is able to draft new legislature and provide progressive interpretations for existing literature as member states see fit. In addition to this responsibility, the Committee also seeks to recommend the implementation of International Law into National Law and International Treatise.

Given the Legal Committee's tremendous impact on international law, Delegates are expected to look back to the past and forward into the future to formulate international legislation that would benefit humanity and ensure that justice continues to shine in our world. Saying that, Don't Mess Up. Or Do. The Choice is Yours.

International Targeted Killings using Lethal Autonomous Weapons

“Any plausible allegation of killing of or serious injury to civilians triggers the obligation to investigate. This is an obligation that is imposed by international human rights law and international humanitarian law on States using drones as well as on States on whose territory such technology is used. ” ” - United Nations Special Rapporteurs

Throughout centuries, war has always forced society to develop new technologies to gain an edge over opponents. It can be seen as humans relied on the atlatl and mace to hunt, progressing to the sword and the bow to kill; eventually, becoming the guns and weapons we are familiar with today. Recently, developed nations and their allies have been making strides toward lethal autonomous weapons, or “any weapons system that can select and attack targets without any human intervention¹”. As of right now, there are human operators overseeing these unmanned operations. However, as technologically progresses, these weapons could be given more freedom to act on their own. The pace set by recent developments in unmanned warfare demands that the international community consider the legal, humanitarian, and ethical implications of these weapons.

One such use of LAWs are the international targeted killings by unmanned aerial vehicle (drone) strikes. In the past, drones were used as reconnaissance instruments. Now armed with attacking capabilities, including the ability to deviate from set path as an object of interest arises. Nations with drones have developed a great power; however we must ask, have they also adopted the great responsibility that comes with this power. In 2002, the United States launched a drone strike against Osama bin Laden in Afghanistan; the drone missed and killed several civilians.

Nearly a decade later the technology still continues to harass and kill: the United States declares that 4,400 people have died due to drone strikes. The United Nations estimates that the numbers are higher than reported.

The United States cannot alone shoulder the burden of drone programs around the world: 9 countries have used drones in combat including the US, UK, Pakistan, Iraq, Nigeria, Iran, Turkey, Azerbaijan, and Israel, 26 countries have lately started developing their own programs, China have become top sellers of drones and India is one of the biggest buyers².

The advocates of Drone Strikes say the use of drone strikes are warranted by the principle of self-defense. The United States targets Al-Qaeda and Nigeria targets the Boko-Haram with

¹ “International Humanitarian Law and the Challenges of Contemporary Armed Conflicts.” *Comité Internacional De La Cruz Roja*, 1, 2 Aug. 2017, www.icrc.org/en/document/international-humanitarian-law-and-challenges-contemporary-armed-conflicts.

² “Who Has What: Countries Developing Armed Drones.” *New America*, www.newamerica.org/in-depth/world-of-drones/4-who-has-what-countries-developing-armed-drones/.

various degrees of success³. However, vocal critics of the programs such as Pakistan, Yemen, and Afghanistan argue that drone attacks in their country reduce the people's trust in government, reduce national sovereignty, and is a threat to human life. All are concerns that the Legal Committee ought to put through moral scrutiny and practical sense. **To what degree can a state justify drone strikes as self-defense? What degree should state sovereignty be respected? What are acceptable international behaviours? What laws should govern drone strikes to minimize the loss of human life?** The nations of the world are highly divided in the use of Drone Strikes. It is up to the delegates of the Legal Committee to balance these views, interpret International Codes and if necessary, created new legislation to ensure that drones are used in a responsible manner.

³ "All of These Countries Now Have Armed Drones." *Fortune*, Fortune, fortune.com/2016/02/12/these-countries-have-armed-drones/.

Suggested Resources

<https://www.newamerica.org/in-depth/world-of-drones/4-who-has-what-countries-developing-armed-drones/>

<https://www2.nycbar.org/pdf/report/uploads/20072625-TheLegalityofTargetedInternationalKillingsbyUS-LaunchedDrones.pdf>

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>

https://www.jstor.org/stable/24585870?seq=1#page_scan_tab_contents

http://harvardnsj.org/wp-content/uploads/2015/01/Vol-1_Blum-Heymann_Final.pdf

<https://www.fcni.org/updates/understanding-drones-43>

<http://vanderbiltpoliticalreview.com/americas-drone-strike-program-needs-greater-transparency/>

<https://internetofthingsagenda.techtarget.com/definition/drone>

Extrajudicial Executions

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

- Article 6 of International Covenant on Civil and Political Rights

“Gun them [drug dealers] down. Give no mercy.” The quote by Indonesian President Jokowi echoes many sentiments by politicians attempting to reduce crime in their cities. The University of Melbourne states that Indonesian police have killed approximately 49 suspected drug dealers through the first six months of 2017⁴. Filipino President Duterte warns drug dealers “... I’d kill you. I’ll dump all of you into Manila Bay, and fatten all the fish there.” However, this mentality has been shown to be incredibly dangerous as many of the gangs endorsed by these politicians are unwilling to differentiate between innocents and criminals. The Davao Gang, a vigilante gang based on Davao City with alleged relations with Duterte, during 1998-2015 has killed 132 children and 476 young adults which was 50% of its total kills⁵. However, recent events like Rodrigo Duterte’s election The Philippine National Police estimates 7,025 drug-related killings between 2016 and 2017 with the Official Commission of Human Rights estimating much more deaths than reported⁶.

Amnesty International defines extrajudicial executions as “an unlawful and deliberate killing carried out by the order of a government or with its complicity⁷.” This act is a direct violation of Article 10 UN Declaration of Human Rights in which “Everyone has the right to life, liberty, and security”.

The Philippines and Indonesia are not the only countries that have extrajudicial killings. Nearly every country has used extrajudicial executions; some have used it to suppress political dissentions, others use it to further their own economic goals, and others use it as a way to reduce crime. Another extreme use of extrajudicial executions is to create the impression that the state policies are doing something to better the status quo rather than just killing innocent people. By bypassing their country’s legal system, politicians degrade the country’s credibility and relation between the public, creating a scared state more likely to descend further down to anarchy.

Furthermore, Saudi Arabia shocked the world with its “rogue” mission to kill journalist Jamal Khashoggi. While it is not certain that the death was directly ordered by Saudi Arabia’s sovereign, Head Prince Mohammad bin Salman, it happened inside the Saudi Consulate of

⁴ “World Report 2018 Book .” *World Report 2018*, Humans Rights Watch, www.hrw.org/world-report/2018.

⁵ “The Victims of the Davao Death Squad: Consolidated Report 1998-2015.” *CBCP News*, www.cbcnews.com/cbcnews/?p=76531.

⁶ “World Report 2018 Book .” *World Report 2018*, Humans Rights Watch, www.hrw.org/world-report/2018.

⁷ “Terms in International Justice.” Amnesty International, https://www.amnestyusa.org/files/pdfs/ij_intllawdefinitions.pdf

Turkey and orchestrated by officials high enough to represent the state. As such, it is classified as an extrajudicial execution⁸. The complex situation has seen Saudi Arabia refusing the extradition requests by Turkey.

As the very act of extrajudicial executions not only violates the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, but also the public's trust in their respective government, **the Legal Committee should review the reasons such acts take place as well as possible solutions to preventing extrajudicial executions.** In order to do so the Committee must consider the questions: **Under what circumstance are killings by the state permissible? How to determine if the execution is politically motivated, and if it is how should political tolerance be achieved?** Additionally, in the case of Khashoggi, **delegates are expected to provide a possible set of measures that could be enacted when an execution takes place internationally.**

⁸ "UN: Killing of Khashoggi Was an Extrajudicial Execution." *Evening Standard*, 26 Oct. 2018, www.standard.co.uk/news/world/jamal-khashoggi-death-un-official-says-killing-of-journalist-was-an-extrajudicial-execution-a3972601.html.

Suggested Resources

<https://www.amnesty.org/download/Documents/188000/act330051993en.pdf>

<https://www.hrw.org/tag/extrajudicial-killings#>

<https://www.cfr.org/interview/human-rights-and-dutertes-war-drugs>

<http://chr.gov.ph/statement-of-the-commission-on-human-rights-on-the-sws-survey-on-peoples-perception-of-the-extrajudicial-killing-situation-in-the-country/>

<https://www.fidh.org/en/issues/human-rights-defenders/philippines-extrajudicial-killings-and-attacks-against-human-rights>

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20388>

https://www.mcgill.ca/humanrights/files/humanrights/ihri_wps_v5_n06_agnello.pdf

Reservations to Treaties

“They enlarged the domains of commerce by treaties with all nations, upon the great principle of equal justice to all nations, and special favors to none.” - Robert Toombs, former US Senator

Codified by the Vienna Convention on the Law of Treaties, a reservation is “a unilateral statement... made by a state, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that state.” Out of all the 116 international treaties that have been ratified by the United Nations, 90 of these have passed with multiple countries making reservations. This is understandable as one must understand that the complexities of the issues the Legal Committee will not allow a “one size fits all solution”. Despite the well intentioned tool, the use of reservations turns problematic as conflicts arise and these reservations must be consulted and reconsidered in order to find a solution to the problem at hand.

The methods and the criteria to making a reservation is unclear. The large number of treaties made with reservations have invoked many to criticize the very action. If a state has any objections to the treaty through reservations, the treaty must consider these reservations. These reservations, some proponents state, are ways for countries to gain certain privileges through political maneuvering, creating future legal conflicts. However, the Vienna Convention on the Law of the Treaties Article 19 states that there are only three cases to prohibit a treaty:“(a) the reservation is prohibited by the treaty; (b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or (c) the reservation is incompatible with the object and purpose of the treaty.” Case B means that the treaty has a list of permissible reservations already made and any proposed reservation not on the treaty would be denied. Case C is the lesser used reservation. A prime example is any reservation on the right of life and prohibition of torture would be struck down in a human rights convention. This method of prohibiting reservations could be used as a potential solution to the excessive use of reservations as treaties would have to explicitly define their objectives. Reservations would then be valid if deemed that any source of conflict between the reservation and the objectives are nonexistent. Another potential solution would be to outlaw resolutions entirely. Naturally, this would create controversy and may see a major reduction in the number of treaties and solutions to world solutions pass. As the such the Legal Committee is directed to consider **What could be considered as an excessive use of reservations? What is the proper method and the necessary criteria to making a reservation? What is the impact the reduction of reservations would have on the treaties passed (could a reduction of reservations lead to more substantive debate as countries further solidify their positions)?**.

Suggested Resources

http://legal.un.org/docs/?path=../ilc/texts/instruments/english/draft_articles/1_8_2011.pdf&lang=EF

http://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=_en

http://legal.un.org/ilc/guide/1_8.shtml

<https://www.amnesty.org/download/Documents/84000/ior400322005en.pdf>

http://www.law.harvard.edu/faculty/rgoodman/pdfs/GoodmanHuman_RightsTreaties_Invalid_Reservations.pdf

<https://treaties.un.org/doc/source/training/regional/2009/13-17October-2009/reservations-declarations-answers.pdf>