HISTORY OF THE COMMITTEE ON DISARMAMENT AND INTERNATIONAL SECURITY

In October 1945, after several rounds of negotiation in San Francisco, the United Nations was formally set up. France, the United States, the United Kingdom, the Republic of China, and the Soviet Union were the primary signatories with another 46 countries attending the debate.

As a part of its structure, the General Assembly consists of several commissions and committees, which allow the over 190 members states to deliberate over crucial issues of current global affairs. The committee, to which you are a delegate, is called the Disarmament and International Security Committee (hereafter, referred to as DISEC). As one of the six principal committees of the General Assembly, DISEC is also known as the First Committee.

The Fist Committee focuses mostly on matters that deal with conflict prevention, disarmament and international security. Ratified by nearly 190 members of the General Assembly, the Treaty of the Non-Proliferation of Nuclear Weapons (NPT) is perhaps one of the most well-known and important resolutions concerning the reduction and limitation of arms.\(^1\) In effect since 1970, the NPT resolution continually aims to reduce the spread of nuclear technology while increasing collaboration on the peaceful use of nuclear technology as an energy source for civilian, not military, consumption. The NPT is one of the best demonstrations of how the First Committee can have a lasting effect on global security policy.

What makes the DISEC’s work so timely and interesting is the fact that all resolutions emerging from the General Assembly are not legally binding and therefore cannot be subject to any legal action. Hence, even if the General Assembly overwhelming passes a resolution, it is no guarantee that any action will be implemented. Indeed, because at the end of the day, nations interests sometimes affects voting behavior at the GA, some members states may simply disregard part or all of a resolution.

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Even if member states do not sign on to a resolution or fail to uphold the spirit of that agreement, resolutions serve the purpose of setting the tone on pressing global issues and bringing threats to security to the fore. Article 10 of the Charter grants General Assembly committees, including the Disarmament and International Security Committee, the right to “discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter” and subsequently pass resolutions that recommend actions. 2 A resolution requires a simple majority to pass.

Considering the nature of the First Committee’s work on global security and conflict issues, it is your responsibility as a member of your country’s delegation to decide upon and then deliberate on one of following two topics. Topic A deals with the controversial topic of targeted killing, a practice that both conventional forces and non-conventional, i.e. terrorist organizations, have turned to more often in recent years. Topic B is focused on enforced disappearance, which deals with the arrest, abduction or holding of an individual without access to proper legal recourse or representation.

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Historically, targeted killing is not a new or novel phenomenon. In place of all-out war between two states, policies to neutralize or lessen the likelihood of war by removing certain players from the field have been a part of security policy for millennia.

The 21st century appears to be the century in which large-scale conventional wars will become less frequent with armies and non-state belligerent actors opting more towards target killings. This development is clearly linked to the global war on terror led by the United States and its allies as a result of the events of 11 September 2011. Both in involvement first in Afghanistan, then later in Iraq and now in places like Pakistan and the Horn of Africa, the United States and its allied have increasingly recognized the benefits of using targeted strikes to either subdue or neutralize small, hidden terrorist cells or hamper the movement of arms and weaponry that could used against their forces. Since global terrorism is itself a form of targeted killing, it begs the question if Western applications of targeted killing, as carried out by the United States, Israel and other states, is not exacerbating the use of this practice and therefore contributing to rise of global terror. Moreover, the dependence on technology has in many cases led to civilian injury and death, rather than targeting and removing enemy forces.

Supporters of the preemptive use of force claim that targeted killing, such as using unmanned drones armed with tactical weaponry, is a better alternative to conventional warfare since governments cannot always be responsible for non-state actors active on their territory. For this side of the debate, targeted killing cannot be conflated with assassination, since target killings serve as a form of self-defense against a potential aggressor seeking to inflict damage on a given state. The United States, in particular the Department of Homeland Security, has been the most vocal supporter of this practice and justifies its efficacy based on the US Constitution, which states that:
the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.\footnote{“Public Law 107–40: Authorization for Use of Military Force” (115 STAT. 224; 18 September 2001) United States Congress. \url{http://www.gpo.gov/fdsys/pkg/PLAW-107publ40/pdf/PLAW-107publ40.pdf}}

The opposite side of the debate claims that, in the absence of an act of war or similar declaration, covert targeted killings represents a breach of international law and disrespect the territorial sovereignty of states. Additionally, the American Civil Liberties Union questions the geographical discrepancy between the battlefield and the locations of targeted killing and the damage on the rule of law that targeted killing can cause, while international human rights law limits the use of lethal force to a battlefield unless such force is necessary to dispel a dangerous situation and all nonlethal means have been exhausted.\footnote{Michael W. Lewis, “Drones and the Boundaries of the Battlefield.” Texas International Law Journal. Vol. 47, No. 2. 300. \url{http://www.tilj.org/content/journal/47/num2/Lewis293.pdf}}

**PROPOSED SOLUTIONS**

The debate surrounding target killings is an extremely timely one. Both sides of the debate have convincing arguments. In this section, we will review some possible solutions that your delegation can consider and include in your committee debates and ultimately in your final resolution.

**Are Targeted Killings Nothing More the Political Assassinations?**

One approach may claim that target killings are nothing more than politically motivated assassinations. Recall that the introduction of the United Nations Charter establishes a priority of the Charter for its signatories; the Charter essentially trumps any other treaties that states may agree to. The right to self-defense is captured in the Charter and does in fact justify certain measures taken when an armed attack has occurred or there is evidence of an immanent strike.
The rights to self-defense via preemptive strikes are more in the realm of international law and not the United Nations Charter. Although the Statute of the International Court of Justice states that both international conventions and international custom are legitimate sources of international law it appears that the Charter would take precedence simply because that was agreed upon. Yet, the question at hand is not whether any preemption is legitimate.\(^5\) Is therefore the act of targeted killing protected under international law's interpretations of self-defense and preemption? Critics of this explanation would like to see hard evidence or some form of information on suspects give up their protection under the Geneva Conventions, when they become the target of, for example, a drone or missile strike. Moreover, even if upheld by international law, are targeted killings incompatible with the United Nations Charter? Does your delegation believe that there should be an international body that approves of or somehow oversees the use of targeted killings? Should the United Nations establish some governing agency or body to monitor the use of this practice?

**Bloc Positions**

Like most hotly debated global issues, the subject of targeted killing has brought together countries that are in favor of its usage or criticize its practice. Regardless of where states fall on this issue, those nations most vocal for or against the targeted killings tend to be those most affected by militarized conflict, international terrorism and other forms of armed insurgency. When drawing up a resolution, those delegations from countries outside of the debate or unaffected by targeted killings would have to take a stance based on objectivity and principle.

Pakistan, Afghanistan, Iraq and the Palestinian Authority

Any cursory review of world news from these regions of the world will reveal a vibrant debate, if not position of criticism and even outrage, on the usage of drone strikes as a form of targeted killing. Countries, such as Yemen, Pakistan, Iraq, and Afghanistan together with the Palestinian Territories in recent years have been frequently the sites of targeted killing, carried out primarily by the United States and Israel. Since these countries are largely considered to either by the neutral ground for international terrorism or

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directly involved in training and supporting various terrorist movements and therefore the staging arena for targeted drone strikes, this groups tends to argue against the use of targeted killings as a violation of sovereignty.

Israel & the United States
On the other side of the debate are Israel and the United States. In its recent incursion into Gaza, Israel has a clear policy of using targeted killing as a counterterrorism measure, focusing on the Palestinian Territories and terrorist cells of Hamas. At the same time, Israel has made claims to defend itself against a possible strike by the Islamic Republic of Iran through the use of targeted strikes. Unquestionably, this policy decision is the result of both political geography and the decades long struggle between Israel and various regional actors, state and non-state that do not support Israeli statehood. The United States, as another serious proponent of targeted killing, largely supports Israel on this matter and enjoys reciprocal support from Tel Aviv.

The European Union
Targeted killings as a strategic military policy have appeared increasingly on the radars of several key members of the European Union. In August 2012, German Defense Minister Thomas de Maiziere advocated that not only should Germany expand their drone program. Similarly, the United Kingdom has expressed its commitment to greater use of drone programs.

Questions for a Resolution

- Does your delegation consider targeted killing an act of aggression that violates international law and the UN Charter’s limitations to the use of force?
- Are there instances when targeted killing is an act of self-defense?
- If targeted killing is regarded as self-defense under UN Charter Article 51, should states seek out some form of authorization, i.e. from the General Assembly or the UN Security Council, for targeted killings?
- Does the secretive nature of intelligence gathering that goes into most examples of targeted killing undermine its justification?
- Which putative mechanisms should be in place for bringing states that injure civilians in targeted killing scenarios to accountability?
- How can DISEC cooperate with NGOs and civil society groups to protect civilian populations from the adverse or unforeseen effects of targeted killings?
TOPIC B:
ENFORCED DISAPPEARANCES

Since the global war on terrorism began in the wake of the 9/11 attacks, the practice of special rendition and other forms of arrest that lead to interrogation and possible torture at undisclosed sites throughout the world has challenged legal scholars, human rights activists, terrorism experts and governments participant or affect by such arrest practices.

How do we best define the practice of enforced disappearances? For this, we turn to an international agreement on criminal code: the Rome Statute of the International Criminal Court. Article 7 of the Rome Statute defines it as “the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.” Under this legal interpretation, such enforced disappearances can be considered a political act beyond the reach of the law and potentially violates various legal and human rights codes. What if this practice is undertaken on a grand scale, involving many detention sites supported by state institutions? Can we prescribe to that a quality of human rights violation? Like many international documents on human rights, no signatory to the Rome Statute may adopt a policy that stands in contradiction to the spirit of the agreement.

Despite legal barriers to such behavior, there is a large volume of evidence demonstrating clear links to the systematic use of enforced disappearance, thereby making the practice a form of violation against human rights law. In the past decade, the United States has been considered the leader in enforced disappearances and has received therefore the vast major of criticism from international bodies. Another county that have been suspected of arresting individuals without due legal recourse is China with its treatment of political dissidents. According to Human Rights Watch, the Chinese government has been increasingly active in silencing individuals that are publicly opposing governmental policies.

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Enforced Disappearance and the International Community

Since the inception of the United Nations in the post-war period, there are two major global agreements that seek to define the rule of human rights and humane treatment of detained individuals. These two documents should be helpful for your delegations in understanding the legal history behind enforced disappearances.

European Convention on Human Rights

The Council of Europe implemented the European Convention on the Protection of Human Rights and Fundamental Freedoms in 1953. Among other topics, the "European Convention on Human Rights" sets forth a number of fundamental rights and freedoms (right to life, prohibition of torture, prohibition of slavery and forced labor, right to liberty and security, right to a fair trial, no punishment without law, right to respect for private and family life, freedom of thought, conscience and religion, freedom of expression, freedom of assembly and association, right to marry, right to an effective remedy, prohibition of discrimination). However, what concerns enforced disappearance, the Convention’s Article 3 states that “no one shall be subjected to torture or to inhuman or degrading treatment or punishment.” The extradition or rendition of individuals to states where they may face torture is also considered unlawful.

United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

In 1984, building on the foundations set up by the European Convention, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter simply the UN Convention) provided an operating definition of “torture.” It banned so-called “refoulement” and defined

torture as:

Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.\(^\text{11}\)

Even if an act does not in the first instance fall under general definitions of torture, the treatment can still be captured by the UN Convention Article 16, which states that an act may still amount to cruel, inhuman or degrading treatment or punishment.\(^\text{12}\)

**BLOC POSITIONS**

There are several possible regional bloc arrangements of states that seem to convene around common interpretations on targeted killings. While states will naturally tend regional organizations, like African Union and the Organization of American States (OAS) in Latin America, the more relevant alliances are based on shared political interest.

The United States, United Kingdom, Egypt, and Pakistan

Since the beginning of the global war on terror, the United States and Britain have used enforced disappearance. Based on numerous cases of enforced disappearance, the two states have extraordinarily rendered detainees to Egypt and Pakistan where the detainees have either been rendered to local authorities or interrogated by the United States or United Kingdom.\(^\text{13}\) Aside from accepting prisoners from the US and the UK, Egypt and Pakistan have also been know to engage in enforced disappearance against their own political opponents.\(^\text{14}\) The fact that these four countries have collaborated on rendition as a form of counter-terrorism suggests


\(^{12}\) http://untreaty.un.org/cod/avl/ha/catcidtp/catcidtp.html

\(^{13}\) Democracy Now, “Discovered Files Show U.S., Britain Had Extensive Ties with Gaddafi Regime on Rendition, Torture.” www.democracynow.org/2011/9/7/discovered_files_show_us_britain_had

that they share similar opinions on the practice.

**Colombia, Mexico, Iran, and Syria**

Since the drug wars of the 1980s, violent conflict in Colombia has caused the disappearance of some 28,000 individuals, mostly attributable to to guerrilla warfare. However, since drug-related violence has subsided in many parts of Colombia, moving northward to Mexico, it is believe that some 5,000 people have disappeared in Mexico. Unlike Mexican enforced disappearances, where such kidnappings tend to be more indiscriminate than political, Iran appears to be specifically targeting those who speak out against the regime. Dissidents, youth protesters, intellectuals and others that protest against governmental policies and religious minorities are frequently targeted for enforced disappearance.\(^\text{15}\) As with most conflicts, the one raging in Syria has claimed hundreds of individuals who have disappeared. The Assad government engages in enforced disappearances as a type of suppression against pro-democracy insurgents and political dissidents and can be hence categorized as politically motivated.

**Germany, Sweden, and Italy**

All three countries have been the sites of CIA-administered rendition sites. Public protest has led all three countries to criticize the practice. All three are now seeking for ways to stop the practice.

**Asian States**

In several Asian states, particularly those under authoritarian, single-party rule, China, Sri Lanka and Burma make up a group of some of the more active countries that use enforced disappearance. In Human Rights Watch’s World Report 2012, the chapter on China asserts that the Chinese government is using enforced disappearance to detain, and thus effectively silence, political objectors.\(^\text{16}\) It is also alleged that India relies on enforced disappearance as a counterinsurgency mechanism in the unstable Punjab region. The fact that the major political powers in the Asian continent are engaging in enforced disappearance as a political instrument against insurgency and political dissent suggests a possible bloc.

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Questions for a Resolution

• Do you believe that DISEC can act at the monitor for acts of extraordinary rendition?
• How can DISEC cooperate with non-state actors, such as NGOs, corporations and the media, to prevent enforced disappearances?
• How should states that continually violate the prohibition on enforced disappearance be dealt with? What sanctions would you like to see?
• What measures can be taken to support international agencies that monitor enforced disappearance?