



SRMUN ATLANTA 2020

Understanding and Combating Global Multidimensional Poverty and Inequality

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Greetings Delegates,

Welcome to the Virtual SRMUN Atlanta 2020 and the General Assembly First Committee (GA First) on Disarmament and International Security (DISEC). My name is Austen Brennan, and I will be serving as your Director. This will be my third conference as a SRMUN staff member. Previously, I served as the Director for the Security Council in SRMUN Atlanta 2019, and as the Assistant Director for the League of Arab States in SRMUN Atlanta 2018. I am currently a US Foreign Policy and National Security Master's candidate at the American University School of International Service and hold a Bachelor's of Science in Homeland Security, with a minor in Political Science from Campbell University. Our committee's Assistant Director will be Jordan Manley, and it's her second time as a staff member. Jordan previously served as an Assistant Director of the General Assembly Plenary at SRMUN Atlanta 2018. Jordan is a Master's candidate at University of North Carolina, Charlotte, where she is studying Business Management.

DISEC's mission is to work toward global disarmament, address threats to peace, and confront challenges to international security. Currently, DISEC is a plenary size committee, where all 193 UN Member States can participate in the body's work. The DISEC works toward its goals by structuring the committee into three distinctive stages: general debate, thematic discussions, and action on drafts.

By focusing on the mission of DISEC and the SRMUN Atlanta 2020 theme of "*Understanding and Combating Multidimensional poverty and Inequality*," we have developed the following topics for the delegates to discuss come conference:

- I. Reaffirming and Developing the Use of the Outer Space Treaty in an Age of New Technologies and Emerging Threats
- II. Acting to Limit the Harmful Effects of Mercenaries and Private Military Contractors

The background guide provides a strong introduction to the committee and the topics and should be utilized as a foundation for the delegate's independent research. However, the guide should only serve as a starting point for delegates, as it is a surface level analysis of each topic. Delegates are expected to go beyond the background guide and engage in deep research on the topics, as well as their Member States' position on said topics. The position papers for the committee should reflect the complexity of these issues as well as their implications on the international community as a whole. Delegations are expected to submit a position paper and be prepared for a vigorous discussion at the conference. Position papers should be no longer than two pages in length (single spaced) and demonstrate your Member State's position, policies and recommendations on each of the two topics. For more detailed information about formatting and how to write position papers, delegates can visit srmun.org. All position papers **MUST be submitted no later than Friday, October 2, 2020, by 11:59pm EST** via the SRMUN website in order to be eligible for Outstanding Position Paper Awards.

Jordan and I are enthusiastic about serving as your dais for DISEC. We wish you all the best of luck in your conference preparation and look forward to working with you in the near future. Please feel free to contact our Deputy Director-General Mike Engelhardt, Jordan, or myself if you have any questions while preparing for the conference.

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History of the General Assembly First Committee

In the aftermath of the Second World War, the global community was at a turning point. Politically, economically, and socially the world was in an upheaval. The ineffectiveness of the League of Nations, the United Nations (UN) predecessor, to establish a forum for political dialogue between the different facets of the international community led to division and violence.¹ To stabilize the international system, and to prevent such devastation from occurring again, the international community came together to form the beginnings of what would become the UN.

In forming the UN, the international community took note of documents such as the Atlantic Charter of October 14, 1941 and forums such as the Tehran Conference of November 1943.² On October 24, 1945, the UN Charter was created.³ In the Charter, six principal organs were defined, distributing the work of the international forum.⁴ The most broad-based of these organs was the General Assembly (GA). The GA equally recognizes all Member States of the UN with the authority to discuss any question pertaining to the duties of the organization.⁵ The GA may also make recommendations to the UN Security Council and controls the organization's budget.⁶

In order to tackle the myriad of social, political, and economic issues of the international community and to fulfil the purposes of the UN's Charter, the GA is divided into six standing committees.⁷ The Disarmament and International Security Committee (First Committee, or DISEC), was established for the purpose of assessing threats to global security.⁸ This purpose extends to dealing with questions and issues that relate to the distribution and production of weapons of mass destruction, the elimination of arms proliferation, technological advancements as a risk to global security, and reducing circumstances where violent outbreaks might occur.⁹ Though DISEC's main goal is to promote global peace and security, DISEC does not have the ability to pass resolutions that authorize interventions.¹⁰ This right is reserved for the Security Council.¹¹

Early focus of DISEC resolutions centered on armament stockpiling and the implications of technologically advanced weaponry. Key documents of DISEC's early sessions include, but are not limited to, A/S-10/4, A/S-12/6, and A/S-15/6.¹² Resolution A/S-10/4 was adopted in June 1978, and it discusses the end of the Disarmament Decade and moving forward to halt the practice of stockpiling weapons.¹³ Resolution A/S-10/4 also solidifies the commitment of Member States to the UN to use disarmament as a tool to further social development.¹⁴ In DISEC's 12th special session in July 1982, A/S-12/6 was passed for the purpose of implementing the Comprehensive Program of Disarmament, which would create collateral measures to reduce nuclear weapon development, reduce the stockpiling of arms, and increase measures in place for international security.¹⁵ An Ad Hoc Committee was also created during this session, consisting of a Chairman, 13 Vice-Chairmen, and a Rapporteur to oversee and implement recommendations made in regards to the Comprehensive Program of Disarmament.¹⁶ In its 15th Session,

¹ "History of the United Nations," The United Nations, <https://www.un.org/en/sections/history/history-united-nations/>, (Accessed: April 1, 2020).

² "History of the United Nations"

³ "History of the United Nations"

⁴ "History of the United Nations"

⁵ "General Assembly of the United Nations," The United Nations, <https://www.un.org/en/ga/about/background.shtml>, (Accessed: April 1, 2020).

⁶ "General Assembly of the United Nations"

⁷ "General Assembly of the United Nations"

⁸ "General Assembly of the United Nations".

⁹ "Disarmament and International Security (First Committee)," United Nations, <https://www.un.org/en/ga/first/>, (Accessed: April 1, 2020).

¹⁰ "Disarmament and International Security (First Committee)"

¹¹ "Disarmament and International Security (First Committee)"

¹² "Disarmament and International Security (First Committee)"

¹³ United Nations General Assembly, Resolution S-10/2, *Final Document of the Tenth Special Session of the General Assembly*, A/S-10/2, June 30, 1978, <https://undocs.org/en/A/S-10/4>, (Accessed: April 1, 2020).

¹⁴ United Nations General Assembly, Resolution S-10/2.

¹⁵ United Nations General Assembly, Resolution S-12/6, *Resolutions and Decisions adopted by the General Assembly During its Twelfth Special Session*, July 10, 1982, <https://undocs.org/en/A/S-12/6> (Accessed: April 1, 2020).

¹⁶ United Nations General Assembly, Resolution S-12/6, *Resolutions and Decisions adopted by the General Assembly During its Twelfth Special Session*, July 10, 1982, <https://undocs.org/en/A/S-12/6> (Accessed: April 1, 2020).

held May–June 1988, A/S-15/6 was adopted to update and review decisions made in the 10th and 12th sessions and to further expand upon them based on new information presented at the International Disarmament Conference.¹⁷

Other key documents from recent years include resolutions that were put forth by DISEC and then later adopted by the GA. During the 64th General Session (2009), the GA adopted a slate of 48 resolutions (A/RES/64/22 – A/RES/64/70) passed by DISEC.¹⁸ These resolutions dealt with issues such as, but not limited to: combating the illicit trade of small arms, prevention of an arms race in space, creating more transparency in military expenditures, and the use of technology as a tool in modern-day warfare.¹⁹ These documents set precedent for the issues DISEC discusses today.

In the past, DISEC has come under criticism for ineffectual and stagnated resolutions to dynamic and ever-changing problems.²⁰ However, in recent years DISEC has begun to rectify this issue by staying ahead of international issues. In its 67th session (2012), DISEC adopted resolutions calling Member States to actively contribute to a global solution for combatting human trafficking and removing the danger of nuclear war through disarmament through A/67/L.62, which was later adopted by the General Assembly as A/RES/67/39.²¹ Another example of relevant DISEC proposals include resolutions passed in its 72nd and 73rd sessions (2017 and 2018) to work jointly with the General Assembly’s Special Political and Decolonization Committee (Fourth Committee) on challenges to space security and sustainability, which can be seen in the report A/72/27.²² Most recently DISEC has proposed a treaty on the prohibition of nuclear weapons in Latin America and the Caribbean that which can be seen in A/RES/74/2723, as well as, approved practical measures to prevent an arms race in outer space, which can be found in A/RES/74/35.²³

¹⁷ United Nations General Assembly, Resolution S-15/6, *Resolutions and Decisions adopted by the General Assembly During its Fifteenth Special Session*, June 25, 1988, <https://undocs.org/en/A/S-15/6> (Accessed: April 1, 2020).

¹⁸ “Resolutions adopted by the General Assembly at its 64th session.” General Assembly of the United Nations. United Nations. <https://research.un.org/en/docs/ga/quick/regular/64> (Accessed: April 1, 2020).

¹⁹ “Resolutions adopted by the General Assembly at its 64th session.”

²⁰ “Amid Growing Humanitarian Toll From Spread of Conventional Weapons, Delegates in First Committee Shar Strategies for Combating Illegal Arms Sales,” United Nations, October 25, 2018, <https://www.un.org/press/en/2018/gadis3610.doc.htm>.

²¹ United Nations General Assembly, Resolution A/RES/67/39, *High-Level Meeting of the General Assembly on Nuclear Disarmament*, December 3, 2012. <https://undocs.org/en/A/RES/67/39> (Accessed: April 1, 2020).

²² United Nations General Assembly, Resolution A/RES/74/27, *Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco)*, December 12, 2019, <https://undocs.org/en/A/RES/74/27>.

²³ United Nations General Assembly, Resolution A/RES/74/35, *Role of science and technology in the context of international security and disarmament*, December 12, 2019, <https://undocs.org/en/A/RES/74/35>.

I. Reaffirming and Developing the Outer Space Treaty in an Age of New Technologies and Emerging Threats

Introduction

In 1967, the world's major powers agreed to keep outer space free of weapons of mass destruction (WMD) and open to peaceful exploration.²⁴ For more than half a century, the *Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies* (hereafter: "Outer Space Treaty" or "the Treaty") has governed the way Member States make use of outer space and enjoy the benefits it provides human society.²⁵ Since its entrance into force with 89 signatories, 20 additional Member States have acceded to the Outer Space Treaty, giving it a total of 109 States Parties. The most recent Member State to accede was Slovenia in 2019.²⁶ Over the course of its governance, new technologies have broadened access to space for more Member States, as well as to non-governmental actors interested in its exploration and commercialization.²⁷ With these new technologies and opportunities come challenges that may stretch the bounds of peaceful cooperation and exploration, and could lead to conflict both in outer space and on Earth.²⁸ Beyond military conflict, the increasing activity of private enterprise in outer space makes clear that the Outer Space Treaty, which was designed with Member State-interaction in mind, needs to be clarified or updated to address how private companies and Non-Governmental Organizations (NGOs) are acting and will act in outer space.²⁹

History

The Space Race between the United States of America (USA) and Union of Soviet Socialist Republics (USSR) is widely regarded as the progenitor of the Outer Space Treaty.³⁰ The launch of *Sputnik I* in 1957 marked the beginning of the Space Race.³¹ Both Member States began using their advancing Intercontinental Ballistic Missile (ICBM) programs to launch satellites and manned astronautical missions, with the first Soviet and first American astronauts entering space just weeks apart in 1961.³² The Space Race would culminate in 1969, just two years after the passage of the Outer Space Treaty, with the USA landing on the Moon, and the USSR scuttling its own plans for a manned lunar mission.³³

Between 1959 and 1962, the USA and other Western Member States made several proposals to secure the peaceful exploration and use of outer space.³⁴ Those proposals gained little traction, however, as the USSR hoped to link space and other disarmament proposals together with a plan to limit or deactivate USA military bases that housed short-range nuclear missiles near its territory.³⁵ By 1963, however, following the passage of the Limited Test Ban Treaty, the USSR had changed course and now welcomed separate talks on the disarmament of outer space.³⁶

²⁴ "Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies," The Outer Space Treaty (United Nations Office of Outer Space Affairs), accessed April 27, 2020, <https://unoosa.org/oosa/en/ourwork/spacelaw/treaties/introouterspacetreaty.html>.

²⁵ Jill Stuart, "The Outer Space Treaty Has Been Remarkably Successful – But Is It Fit for the Modern Age?," The Conversation, May 18, 2019, <https://theconversation.com/the-outer-space-treaty-has-been-remarkably-successful-but-is-it-fit-for-the-modern-age-71381>.

²⁶ "Disarmament Treaties Database: Outer Space Treaty," United Nations Office of Disarmament Affairs (United Nations), accessed April 27, 2020, http://disarmament.un.org/treaties/t/outer_space.

²⁷ Jason Krause, "The Outer Space Treaty Turns 50. Can It Survive a New Space Race?," ABA Journal (American Bar Association, April 1, 2017), https://www.abajournal.com/magazine/article/outer_space_treaty.

²⁸ Michael Le Page, "India Tests Anti-Satellite Missile by Destroying One of Its Satellites," New Scientist, March 27, 2019, <https://www.newscientist.com/article/2197903-india-tests-anti-satellite-missile-by-destroying-one-of-its-satellites/>.

²⁹ Jason Krause, "The Outer Space Treaty Turns 50. Can It Survive a New Space Race?," ABA Journal (American Bar Association, April 1, 2017), https://www.abajournal.com/magazine/article/outer_space_treaty.

³⁰ Krause, "The Outer Space Treaty Turns 50. Can It Survive a New Space Race?"

³¹ Elizabeth Howell, "Sputnik: The Space Race's Opening Shot," Space.com (Future US Inc., August 22, 2018), <https://www.space.com/17563-sputnik.html>.

³² Howell, "Sputnik: The Space Race's Opening Shot."

³³ Howell, "Sputnik: The Space Race's Opening Shot."

³⁴ "Outer Space Treaty," U.S. Department of State (U.S. Department of State), accessed April 27, 2020, <https://2009-2017.state.gov/t/isn/5181.htm>.

³⁵ "Outer Space Treaty," U.S. Department of State.

³⁶ "Outer Space Treaty," U.S. Department of State.

During same year, the United Nations General Assembly (UNGA) adopted A/RES/1884(XVIII), calling for all Member States to refrain from placing weapons of mass destruction in orbit or on celestial bodies. A/RES/1884(XVIII) was the first major step taken toward a codification of the peaceful status of outer space.³⁷ Three years later, the USA and USSR each submitted a draft treaty and began discussions, with each side proposing its version of the agreement in June.³⁸ By December 1966, the two parties had worked out their differences and submitted the finished treaty to the UNGA, where it was adopted by acclamation as A/RES/2222(XXI).³⁹ The Outer Space Treaty entered into force on October 10, 1967.⁴⁰

The peaceful use of outer space continued to be an international issue after the adoption of the Outer Space Treaty. Because the Outer Space Treaty's mention of prohibited weapon types is limited only to WMDs (and nuclear weapons are the only weapon class specifically mentioned in this category), concern continued to exist over attempts to militarize outer space.⁴¹ Specifically, the Cold War produced a new arms race that paralleled the ballistic missile development which led to the Outer Space Treaty in the 1960s. In the 1980s, the USA began scientific work on developing space-based weapons that it hoped to use to shoot down ICBMs launched from the USSR.⁴² This program, known as the Strategic Defense Initiative (colloquially, "SDI" or "Star Wars"), could have greatly upset the strategic nuclear balance and undermined the tacit framework of Mutually Assured Destruction that had developed over the course of the Cold War.⁴³ While the USA maintained SDI was a defensive program, USSR leadership worried that the space-based weapons-system would lower the USA's threshold for a nuclear strike.

The development of SDI led the USSR to begin work on its own space-based anti-ballistic missile systems. Beginning in 1985, the Skif-DM laser weapon was intended to be the USSR's answer to the SDI.⁴⁴ The project ultimately came to a halt in 1987 when a model launched into space to demonstrate the weapon's functionality failed and de-orbited.⁴⁵ Despite this failure and ultimate abandonment of the Skif-DM's development, the project and the various diplomatic efforts by the USSR to eliminate and prohibit space-based weapons show that even after the Outer Space Treaty outlawed WMD in outer space, other weaponry not explicitly prohibited by the Treaty—including so-called 'defensive' weaponry—and its potential presence there caused significant international issues.⁴⁶

Current Situation

Created in 1950, the Committee on the Peaceful Uses of Outer Space is the primary body overseeing the Outer Space Treaty's implementation today. Each year, the Committee issues a major report related to the current situation and status of space exploration, as well as the future of outer space usage by Member States.⁴⁷ The reports cover a variety of topics important to the peaceful use and exploration of outer space, including equitable access to research and the status of the major international outer space agreements. The 2019 Committee Report underscored two primary challenges to the Outer Space Treaty and its principles of peaceful international usage of space: militarization and the rise of the commercial sector.⁴⁸

³⁷ United Nations General Assembly, Resolution 1884, *Question of general and complete disarmament*, A/RES/1884(XVIII), October 17, 1963, <http://www.un-documents.net/a18r1884.htm>

³⁸ "Outer Space Treaty," U.S. Department of State (U.S. Department of State), accessed April 27, 2020, <https://2009-2017.state.gov/t/isn/5181.htm>.

³⁹ United Nations General Assembly, Resolution 2222, *Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies*, A/RES/2222(XXI), December 19, 1966, [https://undocs.org/en/A/RES/2222\(XXI\)](https://undocs.org/en/A/RES/2222(XXI))

⁴⁰ "Outer Space Treaty," U.S. Department of State (U.S. Department of State), accessed April 27, 2020, <https://2009-2017.state.gov/t/isn/5181.htm>.

⁴¹ The United Nations Office for Outer Space Affairs, *International Space Law: United Nations Instruments*, (Vienna: United Nations, 2017), https://www.unoosa.org/res/oosadoc/data/documents/2017/stspace/stspace61rev_2_0_html/V1605998-ENGLISH.pdf.

⁴² David E. Hoffman, *The Dead Hand: The Untold Story of the Cold War Arms Race and its Dangerous Legacy*, (New York, Anchor Books, 2011), p. 162.

⁴³ Hoffman, *The Dead Hand*, pp. 162, 237.

⁴⁴ Hoffman, *The Dead Hand*, pp. 286-288.

⁴⁵ Hoffman, *The Dead Hand*, pp. 286-288.

⁴⁶ Hoffman, *The Dead Hand*, pp. 162, 237, 286-288 367.

⁴⁷ Documents and Resolutions (United Nations Office of Outer Space Affairs), accessed April 27, 2020, <https://www.unoosa.org/oosa/documents-and-resolutions/search.aspx>.

⁴⁸ United Nations Committee on the Peaceful Uses of Outer Space, *Report of the Committee*, A/74/20.

The Outer Space Treaty has formed the basis for international law regarding space and celestial bodies for more than half a century.⁴⁹ During that time, technological advances have made it more difficult to hold to the Treaty's directive that space exploration and use "shall be carried out for the benefit and in the interests of all countries," and that Member State activities shall be carried out "in the interest of maintaining international peace and security."⁵⁰ The Outer Space Treaty limits the use and stationing of WMD in outer space, but this prohibition omits non-WMD and overlooks new technologies that could spark conflict in space and on Earth.⁵¹ In the 21st Century, non-WMD systems threaten global peace and militarize space in contravention of the Treaty's fundamental aspirations.⁵²

Of primary concern is the general preparation of Member States for war in outer space.⁵³ In 2015, the Russian Federation (Russia) reactivated its Russian Space Forces, a component of the Russian Aerospace Forces. In the same year, the People's Republic of China (hereafter, China) created the People's Liberation Army Strategic Support Force with a focus on outer space and cyberspace engagements.⁵⁴ Additionally, in 2019 the USA created the United States Space Force as the sixth branch of its armed forces.⁵⁵ As Member States prepare to fight in outer space, these actions strain the ability of current legal agreements to hold them to the principles of peaceful coexistence and cooperation.⁵⁶

The development of military branches dedicated to warfighting in space parallels a new arms race that includes the USA, Russia, and China, but is also seeing increasing involvement from other Member States.⁵⁷ Anti-satellite weaponry ("ASAT") has been under development in various forms since the 1950s, when the USA's armed forces began testing nuclear-tipped missiles designed to destroy satellites using electromagnetic pulses.⁵⁸ After the adoption of the Outer Space Treaty, programs shifted away from nuclear weapons into laser weaponry and kinetic kill vehicles, which are designed to destroy an object via direct impact.⁵⁹ At present, the USA, Russia, China, and the Republic of India (India) have successfully tested anti-satellite missiles by shooting down orbiting satellites (each Member State has shot down a satellite that it previously placed in orbit; ASAT missiles have not yet been used by one Member State against another).⁶⁰ In addition, these Member States are continuing to develop more advanced ASAT weaponry, including laser and space-based systems.⁶¹ With the increasing importance of satellites to civilization, these weapons, not expressly prohibited by the Outer Space Treaty, pose a risk of heightened conflict in outer space.⁶²

⁴⁹ Jill Stuart, "The Outer Space Treaty Has Been Remarkably Successful – But Is It Fit for the Modern Age?," The Conversation, May 18, 2019, <https://theconversation.com/the-outer-space-treaty-has-been-remarkably-successful-but-is-it-fit-for-the-modern-age-71381>.

⁵⁰ The United Nations Office for Outer Space Affairs, *International Space Law: United Nations Instruments*, (Vienna: United Nations, 2017), https://www.unoosa.org/res/oosadoc/data/documents/2017/stspace/stspace61rev_2_0_html/V1605998-ENGLISH.pdf, p. 4.

⁵¹ Jason Krause, "The Outer Space Treaty Turns 50. Can It Survive a New Space Race?," ABA Journal (American Bar Association, April 1, 2017), https://www.abajournal.com/magazine/article/outer_space_treaty.

⁵² The United Nations Office for Outer Space Affairs, *International Space Law: United Nations Instruments*, (Vienna: United Nations, 2017), https://www.unoosa.org/res/oosadoc/data/documents/2017/stspace/stspace61rev_2_0_html/V1605998-ENGLISH.pdf, p. 4.

⁵³ United Nations Committee on the Peaceful Uses of Outer Space, *Report of the Committee*, A/74/20, p. 11.

⁵⁴ Rehm, "What is the United States Space Force?"

⁵⁵ United States Space Force, "About U.S. Space Force," <https://www.spaceforce.mil/About-Us/About-Space-Force>.

⁵⁶ Rehm, "What is the United States Space Force?"

⁵⁷ Michael Le Page, "India Tests Anti-Satellite Missile by Destroying One of Its Satellites," New Scientist, March 27, 2019, <https://www.newscientist.com/article/2197903-india-tests-anti-satellite-missile-by-destroying-one-of-its-satellites/>.

⁵⁸ "A History of Anti-Satellite Programs," Union of Concerned Scientists, March 1, 2012, <https://www.ucsusa.org/resources/history-anti-satellite-programs>.

⁵⁹ "A History of Anti-Satellite Programs," Union of Concerned Scientists.

⁶⁰ "A History of Anti-Satellite Programs," Union of Concerned Scientists.; Michael Le Page, "India Tests Anti-Satellite Missile by Destroying One of Its Satellites," New Scientist, March 27, 2019, <https://www.newscientist.com/article/2197903-india-tests-anti-satellite-missile-by-destroying-one-of-its-satellites/>.

⁶¹ "A History of Anti-Satellite Programs," Union of Concerned Scientists, March 1, 2012, <https://www.ucsusa.org/resources/history-anti-satellite-programs>.

⁶² Idrees Ali, Joey Roulette, "Russia carried out anti-satellite missile test: U.S. military," (Reuters, April 15, 2020), <https://www.reuters.com/article/us-usa-russia-space-idUSKCN21X3HB>.

Militarization is not the only issue that continues to strain the Outer Space Treaty. The commercial sector has become increasingly involved, hoping to commodify various aspects of space use and exploration.⁶³ The space industry, which was nonexistent in 1966, is now worth more than USD 320 Billion and is increasingly including private sector companies.⁶⁴ In May 2020, the USA launched its first manned mission from its own soil in nearly ten years with its astronauts traveling in a rocket built by SpaceX, a private company.⁶⁵ In addition to manned spaceflights, private entities are also responsible for launching dozens, and soon hundreds, of satellites into Earth's orbit.⁶⁶ Plans to create worldwide broadband infrastructure by SpaceX and other companies will result in thousands more commercial satellites orbiting the Earth.⁶⁷ The advent of new technologies and increased private sector involvement gives rise to several issues that will require proactive steps by the international community to address.⁶⁸

Article I of the Treaty states that outer space, including the Moon and other celestial bodies, "shall be the province of all mankind," while Article II expressly prohibits the appropriation of any aspect of outer space by national governments.⁶⁹ In recent years, however, concern has grown that private, commercial space activity may pose a challenge to Article II's injunction and the principles outlined in Article I.⁷⁰ Specifically, some Member States and the Committee on the Peaceful Uses of Outer Space are concerned that as commercial business grows, competition over resources in outer space may create conflicts and international security issues that risk national appropriation, or even appropriative claims by non-state actors.⁷¹ These concerns are validated by national legislation passed in some Member States, such as the USA's SPACE Act of 2015, which permits the commercial exploitation of the Moon and other celestial bodies by private interests.⁷² Though the law disclaims any national appropriation in the actions of private companies, the law assumes that commercial exploitation is legal, a notion that is not at present supported by the Outer Space Treaty, the Liability Convention, or the Registration Convention, all of which view the actions coming from within a Member State's territory as being actions of the Member State.⁷³

Actions Taken By The United Nations

While the Outer Space Treaty is the primary legal document governing the use and exploration of outer space, it is not alone. Three other major agreements were adopted by the UNGA in the years following the Treaty's passage.⁷⁴ The *Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space* (entered into force December 1968) calls on Member States to attempt to rescue astronauts in distress, return them to the Member State from which they launched, and to assist in the recovery of "space objects that return to Earth outside the territory of the launching State."⁷⁵ In 1972, the *Convention on International Liability for*

⁶³ Jill Stuart, "The Outer Space Treaty Has Been Remarkably Successful – But Is It Fit for the Modern Age?"

⁶⁴ Krause, "The Outer Space Treaty Turns 50. Can It Survive a New Space Race?"

⁶⁵ Michael Sheetz, "How NASA and SpaceX Plan to Launch Astronauts in May despite a Pandemic," CNBC (CNBC, April 3, 2020), <https://www.cnbc.com/2020/04/03/nasa-spacex-to-launch-astronauts-in-may-despite-coronavirus-pandemic.html>.

⁶⁶ "UCS Satellite Database," Union of Concerned Scientists (Union of Concerned Scientists, September 30, 2019), <https://www.ucsusa.org/resources/satellite-database>.

⁶⁷ Mack, Eric. "SpaceX and Starlink Are Changing the Night Sky: Here's Everything You Need to Know." CNET, February 14, 2020. <https://www.cnet.com/news/spacex-starlink-satellite-launches-changing-night-sky/>.

⁶⁸ United Nations Committee on the Peaceful Uses of Outer Space, *Report of the Committee*, A/74/20, p. 11.

⁶⁹ The United Nations Office for Outer Space Affairs, *International Space Law: United Nations Instruments*, (Vienna: United Nations, 2017), https://www.unoosa.org/res/oosadoc/data/documents/2017/stspace/stspace61rev_2_0_html/V1605998-ENGLISH.pdf, p. 4.

⁷⁰ United Nations Committee on the Peaceful Uses of Outer Space, *Report of the Committee*, A/74/20, p. 6.

⁷¹ United Nations Committee on the Peaceful Uses of Outer Space, *Report of the Committee*, A/74/20, p. 6.

⁷² Jason Krause, "The Outer Space Treaty Turns 50. Can It Survive a New Space Race?," ABA Journal (American Bar Association, April 1, 2017), https://www.abajournal.com/magazine/article/outer_space_treaty.

⁷³ The United Nations Office for Outer Space Affairs, *International Space Law: United Nations Instruments*, (Vienna: United Nations, 2017), https://www.unoosa.org/res/oosadoc/data/documents/2017/stspace/stspace61rev_2_0_html/V1605998-ENGLISH.pdf, pp. 3-30.

⁷⁴ *International Space Law: United Nations Instruments*.

⁷⁵ "Rescue Agreement," (United Nations Office of Outer Space Affairs), accessed April 27, 2020, <https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/introrescueagreement.html>.

Damage Caused by Space Objects entered into force, adopted by the UNGA as Resolution 2777(XXVI).^{76,77} This agreement expanded on the liability regime imposed by the Outer Space Treaty, stating that launching Member States shall be held “absolutely liable to pay compensation for damage caused by its space objects on the surface of the Earth or to aircraft, and liable for damage due to its faults in space.”⁷⁸ The Convention also provides for procedures for the settlement of claims for damages.⁷⁹ The Liability Convention has only been used once: in 1978, the USSR’s Kosmos 954 nuclear-powered satellite broke apart over Canada, scattering radioactive debris and resulting in an extensive cleanup effort.⁸⁰ The Canadian government filed a claim against the USSR under the Convention, and settled in 1981 for CAD 3 Million, which equals to USD 8.8 Million in 2020 rates.⁸¹

The final major agreement is the *Convention on Registration of Objects Launched into Outer Space*.⁸² Entering into force in September of 1976, the Registration Convention, “expanded the scope of the United Nations Register of Objects Launched into Outer Space that had been established by Resolution 1721B (XVI) of December 1961 and addressed issues relating to States Parties responsibilities concerning their space objects.”⁸³ The United Nations Register of Objects Launched into Outer Space, created by the Convention, is still updated today.⁸⁴ According to the United Nations Office of Outer Space Affairs, 86 percent of all “satellites, probes, landers, crewed spacecraft and space station flight elements launched into Earth orbit or beyond” have been submitted to the Register.⁸⁵

In addition to the primary treaties and guidelines, the UNGA has adopted resolutions to supplement and provide further guidance on outer space activities and exploration.⁸⁶ These resolutions attempt to clarify terms and concepts in the Outer Space Treaty, Liability Convention, and Registration Convention.⁸⁷ The increased presence of private business and non-governmental organizations in outer space makes the most recent of these supporting resolutions critical to the continued safe, peaceful, and equitable exploration of the domain. A/RES/68/74 (2013) recommends Member States with significant private space exploration industries be proactive in developing national legislation to permit the pursuit of recourse for damages that bring liability upon the Member State’s government under the Outer Space Treaty and Liability Convention.⁸⁸ Specifically, A/RES/68/74 posits the imposition in national legislation of insurance requirements. Since Member States are liable under international law to provide compensation regardless of whether the damage was caused by the Member State or a private entity, these insurance policies are designed to allow governments to recover compensation from those private entities.⁸⁹

Alongside the resolutions and agreements on general principles for the use of outer space, the UN has created more detailed regulatory structures and oversight bodies for specific areas of space exploration and use.⁹⁰ Of these, the

⁷⁶ United Nations General Assembly, Resolution 2777(XXVI), Convention on International Liability for Damage Caused by Space Object, A/RES/2777(XXVI), [https://undocs.org/pdf?symbol=en/A/RES/2777\(XXVI\)](https://undocs.org/pdf?symbol=en/A/RES/2777(XXVI))

⁷⁷ “Rescue Agreement,” (United Nations Office of Outer Space Affairs), accessed April 27, 2020, <https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/introrescueagreement.html>.

⁷⁸ Liability Convention (United Nations Office of Outer Space Affairs), accessed April 27, 2020, <https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/introliability-convention.html>.

⁷⁹ Liability Convention (United Nations Office of Outer Space Affairs), accessed April 27, 2020, <https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/introliability-convention.html>.

⁸⁰ “Settlement of Claim between Canada and the Union of Soviet Socialist Republics for Damage Caused by ‘Cosmos 954’,” Japan Aerospace Exploration Agency, https://www.jaxa.jp/library/space_law/chapter_3/3-2-2-1_e.html.

⁸¹ “Settlement of Claim between Canada and the Union of Soviet Socialist Republics for Damage Caused by ‘Cosmos 954’,” Japan Aerospace Exploration Agency, https://www.jaxa.jp/library/space_law/chapter_3/3-2-2-1_e.html.

⁸² Registration Convention (United Nations Office of Outer Space Affairs), accessed April 27, 2020, <https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/introregistration-convention.html>.

⁸³ Registration Convention (United Nations Office of Outer Space Affairs), accessed April 27, 2020, <https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/introregistration-convention.html>.

⁸⁴ United Nations Register of Objects Launched into Outer Space, UNOOSA, May 27, 2020, <https://www.unoosa.org/oosa/en/spaceobjectregister/index.html>.

⁸⁵ United Nations Register of Objects Launched into Outer Space, UNOOSA, May 27, 2020, <https://www.unoosa.org/oosa/en/spaceobjectregister/index.html>.

⁸⁶ *International Space Law: United Nations Instruments*, pp. 73-86.

⁸⁷ *International Space Law: United Nations Instruments*, pp. 73-86.

⁸⁸ *International Space Law: United Nations Instruments*, pp. 83-86.

⁸⁹ *International Space Law: United Nations Instruments*, pp. 85-86.

⁹⁰ The United Nations Office for Outer Space Affairs, *International Space Law: United Nations Instruments*, (Vienna: United Nations, 2017), https://www.unoosa.org/res/oosadoc/data/documents/2017/stspace/stspace61rev_2_0_html/V1605998-ENGLISH.pdf.

two most important for modern space exploration are the Space Debris Mitigation Guidelines and the Safety Framework for Nuclear Power Source Applications in Outer Space, both of which were endorsed by the Committee on the Peaceful Uses of Outer Space and adopted by the UNGA in 2007 and 2009 respectively.⁹¹ The Space Debris Mitigation Guidelines are not legally binding, but create a set of “high-level qualitative guidelines” and best practices for nations engaged in space exploration and use.⁹² Noting that collisions are expected to be a major source of space debris in the future, the guidelines posit seven major ways Member States can reduce risk in their space programs, including suggestions on spacecraft design that will curtail the release of debris during their operations, limiting the intentional destruction of spacecraft, and avoiding accidental collisions.⁹³

Some missions in outer space, especially those requiring extreme range and longevity, necessitate the incredibly high endurance of nuclear power sources.⁹⁴ Adopted in 2009, the non-binding Safety Framework for Nuclear Power Source Applications in Outer Space created guidelines on when and how these power sources should be designed and used, with the stated goal of protecting the biosphere of Earth from accidents involving nuclear power sources in space.⁹⁵ While space missions using nuclear power sources have been limited to unmanned craft at present, future ones, including manned interplanetary travel, may require them to reach distances from the Sun that make solar power impractical.⁹⁶ The Safety Framework specifies that nuclear power sources should only be used when necessary for the performance of a space mission to reduce the likelihood of a nuclear emergency.⁹⁷ The document also establishes technical guidance for the design of nuclear power sources and the spacecraft that make use of them, and provides recommendations on emergency preparedness for Member State governments and space agencies.⁹⁸

Conclusion

As the world ventures deeper into the Space Age, international law must keep pace and anticipate what is on the horizon. International leadership and cooperation among Member States is needed to ensure the continued peaceful use and exploration of outer space. An improved legal framework must be developed that can forestall the rise of conflict and militarization in outer space by reaffirming the principles of the Outer Space Treaty and addressing policy areas that are vague or left uncovered. At the national level, Member States must reaffirm their commitment to abiding by the Outer Space Treaty’s principles, and enact national legislation to ensure that commercial and other private interests do not run afoul of the treaty’s principles in their efforts to explore and utilize the domain.

Committee Directive

Maintaining the peaceful use and exploration of outer space will require a multidimensional approach by Member States that includes collaboration of the type displayed in formulating the agreements that have governed space activity for half-a-century. Some questions to consider, then, include: Should the Outer Space Treaty limit the use of weaponry beyond WMD? Could the resurgent militarization of outer space lead other Member States to attempt their own anti-satellite weapons programs? How should Member States think about national legislation regarding their expanding commercial space sectors? What other implications does the growth of commercialized space flight have for the usage of outer space and other celestial bodies? It is this committee’s directive to review and establish recommendations to advance this goal, in hopes of extending the peaceful use and exploration of outer space for all its Member States.

⁹¹ *International Space Law: United Nations Instruments*, pp. 89, 94.

⁹² *International Space Law: United Nations Instruments*, p. 90.

⁹³ *International Space Law: United Nations Instruments*, pp. 90-92.; “The Kessler Effect and how to stop it,” European Space Agency, accessed May 29, 2020, https://www.esa.int/Enabling_Support/Space_Engineering_Technology/The_Kessler_Effect_and_how_to_stop_it.

⁹⁴ *International Space Law: United Nations Instruments*, p. 94.

⁹⁵ The United Nations Office for Outer Space Affairs, *International Space Law: United Nations Instruments*, (Vienna: United Nations, 2017), https://www.unoosa.org/res/oosadoc/data/documents/2017/stspace/stspace61rev_2_0_html/V1605998-ENGLISH.pdf, p. 97.

⁹⁶ “The History of Nuclear Power in Space,” Energy.gov (United States Department of Energy, June 9, 2015), accessed May 29, 2020, <https://www.energy.gov/articles/history-nuclear-power-space>.

⁹⁷ *International Space Law: United Nations Instruments*, p. 99.

⁹⁸ *International Space Law: United Nations Instruments*, pp. 99-103.

II. Acting to Limit the Harmful Effects of Mercenaries and Private Military Contractors

Introduction

In 1998, then-United Nations (UN) Secretary-General Kofi Annan stated, “[T]he world may not yet be ready to privatize peace.”⁹⁹ Today, substantial numbers of Private Military Contractors (PMCs) are active around the world.¹⁰⁰ PMCs are private companies or individuals that provide a variety of services including armed combat, security service, personal protection, strategic planning, logistical support, and technical assistance for financial gain.¹⁰¹ With diverse missions, motives, and end goals, PMCs have exploded in popularity, especially in conflicts taking place in the Middle East.¹⁰² PMCs are classified as non-military combatants (NMCs), alongside mercenaries. The latter have been active throughout history and have evolved over the years from organized crime to various criminal activities that undermine rule of law and violate human rights.¹⁰³ These NMCs have been, and are, currently embroiled in numerous conflicts around the world.¹⁰⁴ With ambiguous international legislation and lack of oversight, it can be difficult to ensure that NMCs are abiding by international standards or prosecute members that break these laws. The unregulated use of mercenaries and PMCs can destabilize regions, harm the rule of law, and threaten international security.¹⁰⁵

History

Mercenaries are defined as professional soldiers that are hired to serve in a foreign army.¹⁰⁶ The first known use of mercenaries was in the 13th Century BCE in Egypt, and they have continued to find employment ever since, despite being outlawed by Article 47 of the Protocol Additional to the Geneva Conventions of 1949.¹⁰⁷ In addition, mercenaries have been designated per an addendum of the Geneva Conventions as unlawful combatants and thus not entitled to the Conventions’ protections.¹⁰⁸ While some researchers argue mercenaries could be classified as civilians, they are not provided with the same rights as soldiers.¹⁰⁹ Instead, the modern era has seen the rise of

⁹⁹ K. Annan. “Intervention.” *Ditchley Foundation Lecture 35*, 26 June 1998. www.ditchley.co.uk/page/173/lecture-xxv.htm

¹⁰⁰ “Mercenaries, Private Military Contractors Can Destabilize Rule of Law, Expert Tells Third Committee, amid Calls to End Racism, Respect Migrant Rights.” United Nations: Meetings Coverage and Press Releases. United Nations, October 30, 2018. <https://www.un.org/press/en/2018/gashc4246.doc.htm>.

¹⁰¹ Singer, Peter W. “Outsourcing War.”

¹⁰² Singer, Peter Warren. *Can't win with 'em, can't go to war without 'em: Private military contractors and counterinsurgency*. Washington, DC: Brookings Institution, 2007.

¹⁰³ “Mercenary Activities Undermine Rule of Law, Perpetuate Impunity, Secretary-General Stresses during Security Council Debate.” United Nations. February 4, 2019. <https://www.un.org/press/en/2019/sgsm19452.doc.htm>

¹⁰⁴ Singer, Peter W. “Outsourcing War.” Brookings. Brookings Institute, July 28, 2016. <https://www.brookings.edu/articles/outsourcing-war/>.

¹⁰⁵ “Mercenaries, Private Military Contractors Can Destabilize Rule of Law, Expert Tells Third Committee, amid Calls to End Racism, Respect Migrant Rights.”

¹⁰⁶ “Mercenary.” Merriam-Webster. Merriam-Webster. Accessed April 24, 2020. <https://www.merriam-webster.com/dictionary/mercenary>.

¹⁰⁷ Healy, Mark; New Kingdom Egypt; (ISBN 1-85532-208-0)

¹⁰⁸ International Committee of the Red Cross. “Commentary of 1987 Mercenaries.” Treaties, States parties, and Commentaries - Additional Protocol (I) to the Geneva Conventions, 1977 - 47 - Mercenaries - Commentary of 1987. Accessed April 21, 2020. <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/1a13044f3bbb5b8ec12563fb0066f226/ffc84b7639b26f93c12563cd00434156>.

¹⁰⁹ International Committee of the Red Cross. “Commentary of 1987 Mercenaries.” Treaties, States parties, and Commentaries - Additional Protocol (I) to the Geneva Conventions, 1977 - 47 - Mercenaries - Commentary of 1987.

PMCs.¹¹⁰ While similar in concept to mercenaries, PMCs operate under legal corporate structures and have expanded their portfolios to include tasks beyond mere front-line fighting.

The first corporate ventures expressly selling military services arose out of the increasing technological complexity of the Cold War. While they initially sought out contracts from sovereign military authorities, they expanded their base to include multinational corporations, and subsequently structured as corporate entities to limit their liability.¹¹¹ PMCs began to expand in size and function in ensuing decades as a result of three historical trends. The end of the Cold War caused many countries to downsize their armed forces and sell off surplus military equipment, thereby making them available to PMCs. This downsizing was reinforced by national movements toward privatization, opening previous public services to market competition.¹¹² At the same time, intrastate conflict began to increase while interstate conflict decreased, as fragile and newly independent states struggled to maintain security.¹¹³ Interventions in these regional conflicts required specialized and flexible, impermanent responses, for which standard Western troop operations were poorly suited.¹¹⁴ The combination of these factors allowed PMCs to establish themselves as viable and legitimate commercial ventures. Since the 1990s, Western states have regularly used PMCs to promote foreign policy.

Since the turn of the 21st Century, PMCs have taken an increasingly prominent role in military conflicts, with Blackwater among the most visible examples: in 2006, the company's presence in Iraq numbered more than 10,000 men.¹¹⁵ Originally hired to supplement the United States (US) of America's security forces in Baghdad, Blackwater contractors came under fire in 2007 for violating international law by killing 14 unarmed Iraqi civilians while escorting a US State Department convoy.¹¹⁶ While the Blackwater contractors claimed they came under attack and fired back in self-defense, Iraqi authorities and witnesses claim the security personnel opened fire unprovoked.¹¹⁷ The company faced both domestic and international condemnation for their actions, and four contractors involved in the incident would go on to be prosecuted in both Iraqi and American courts.^{118, 119} In 2014, the contractors were found to be legally and financially liable and received extensive prison sentences.¹²⁰ Underscoring the amorphous nature of PMCs, Blackwater founder Erik Prince would restructure and rename the company, and has since founded other ventures that contract with other Member State governments.¹²¹

¹¹⁰ Salzman, Zoe. "Private military contractors and the taint of a mercenary reputation." *NYUJ Int'l L. & Pol.* 40 (2007): 853.; What is a Private Military Company or PMC? Web article cites Ortiz, Carlos. *Regulating Private Military Companies: States and the Expanding Business of Commercial Security Provision*, (New York, Palgrave Macmillan, 2004, p. 206.)

¹¹¹ Baum, Joel AC. "Outsourcing War: The Evolution of the Private Military Industry after the Cold War." http://chaire-eppp.org/files_chaire/10_14_2009_TCE_paper.pdf

¹¹² del Prado, José L. Gomez. "The Privatization of War: Mercenaries, Private Military and Security Companies (PMSC)" *Global Research*, April 9, 2016. <https://www.globalresearch.ca/the-privatization-of-war-mercenaries-private-military-and-security-companies-pmsc/21826>.

¹¹³ Baum, Joel AC. "Outsourcing War: The Evolution of the Private Military Industry after the Cold War." http://chaire-eppp.org/files_chaire/10_14_2009_TCE_paper.pdf

¹¹⁴ Baum, Joel AC. "Outsourcing War: The Evolution of the Private Military Industry after the Cold War."

¹¹⁵ Singer, P. W. The Dark Truth about Blackwater.

¹¹⁶ Singer, P. W. The Dark Truth about Blackwater.

¹¹⁷ del Prado, José L. Gomez. "Impact on Human Rights of Private Military and Security Companies' Activities." *Global Research*, April 9, 2016. <https://www.globalresearch.ca/impact-on-human-rights-of-private-military-and-security-companies-activities/10523>.

¹¹⁸ Brannen, Kate (July 1, 2014). "Blackwater's Descendants Are Doing Just Fine". *Foreign Policy*.

¹¹⁹ Lucas, Ryan. "4 Insights About Blackwater Founder Erik Prince." NPR. NPR, August 31, 2017. <https://www.npr.org/2017/08/31/547546931/4-things-to-know-about-erik-prince>.

¹²⁰ Lucas, Ryan. "4 Insights About Blackwater Founder Erik Prince." NPR. NPR, August 31, 2017.

¹²¹ "Xinjiang: Ex-Blackwater chief's security firm linked to China training centre," *BBC*, https://www.bbc.com/news/world-asia-china-47089665?intlink_from_url=&.

While numerous private military groups have operated during the Syrian Civil War, at the forefront has been a private contractor known as the Wagner Group with ties to the government of the Russian Federation (Russia).¹²² Over the course of the Syrian Civil War, the Wagner Group has been involved in multiple conflicts on the behalf of the Syrian government and has attacked military personnel of Member States present in the region, further destabilizing an already volatile situation.¹²³ While its motives remain unclear, in February 2018, pro-Syrian government forces along with Wagner Group contractors engaged in a coordinated attack on a Conoco oil refinery in the Deir-al-Zour province, which was being guarded by the Syrian Democratic Forces (SDF) and US Special Operations Forces personnel.¹²⁴ The hours-long engagement, responded to by US airstrikes, saw between 200 and 300 pro-regime forces killed and more wounded, while the US/SDF side sustained only one casualty: a wounded Syrian fighter.¹²⁵ The Wagner Group has been accused of violating international laws, including an extrajudicial execution of a captured ISIL militant.¹²⁶ Because of the group's anonymous nature, they have yet to be held accountable for their actions.

Actions Taken by the United Nations

Over the past five decades, the UN has taken actions to limit the harmful effects of mercenaries and PMCs in three different categories: oversight, reporting, and regulating.¹²⁷ The *International Convention Against the Recruitment, Use, Financing, and Training of Mercenaries* was adopted by the General Assembly as A/RES44/34 in December 1989 and entered into force in 2001.¹²⁸ As of February 2019, only 36 Member States have acceded to the Convention, which legally defines mercenaries and promotes extradition of suspected violators.¹²⁹ The Convention has garnered limited support from Member States because of its perceived weak legal impact and concerns for the lack of accountability and prosecution of PMC companies, the contractors themselves, and those responsible for their actions.¹³⁰ Weak international leadership has been also blamed, as none of the UN Security Council's permanent five Member States, all frequent employers of PMCs, is a party to the Convention.¹³¹

In 1987, the UNGA appointed a Special Rapporteur on the use of mercenaries to examine their role in international human rights violations.¹³² It was expanded in 2005 by the United Nations Commission on Human Rights'

¹²² Neil Hauer, (2019, October 6). The Rise and Fall of a Russian Mercenary Army. Retrieved from <https://foreignpolicy.com/2019/10/06/rise-fall-russian-private-army-wagner-syrian-civil-war/>.

¹²³ Stewart, P. (2018, February 8). US dismisses fears of wider war after deadly Syria clashes. Retrieved from <https://uk.reuters.com/article/uk-mideast-crisis-usa-syria/u-s-dismisses-fears-of-wider-war-after-deadly-syria-clashes-idUKKBN1FR3BD>.

¹²⁴ Thomas Gibbons-Neff, "How a 4-Hour Battle Between Russian Mercenaries and U.S. Commandos Unfolded in Syria," *The New York Times*, May 24, 2018, <https://www.nytimes.com/2018/05/24/world/middleeast/american-commandos-russian-mercenaries-syria.html>.

¹²⁵ Thomas Gibbons-Neff, "How a 4-Hour Battle Between Russian Mercenaries and U.S. Commandos Unfolded in Syria."

¹²⁶ McLoughlin, Paul. "Syrian Man Filmed Being Bludgeoned with Hammer Blows by 'Russian Mercenaries'." alaraby. The New Arab, July 1, 2017. <https://english.alaraby.co.uk/english/blog/2017/7/1/syrian-man-bludgeoned-with-hammer-by-russian-mercenaries>.

¹²⁷ Scheimer, Michael. "Separating Private Military Companies From Illegal Mercenaries in International Law: Proposing an International Convention for Legitimate Military and Security Support the Reflects Customary International Law.": 621-622.

¹²⁸ United Nations, *International Convention Against the Recruitment, Use, Financing, and Training of Mercenaries*, vol. 2163, <https://treaties.un.org/doc/Publication/MTDSG/Volume%20II/Chapter%20XVIII/XVIII-6.en.pdf>.

¹²⁹ United Nations, *International Convention Against the Recruitment, Use, Financing, and Training of Mercenaries*.

¹³⁰ Kinsey, Christopher. "International Law and the Control of Mercenaries and Private Military Companies." *Cultures & Conflicts*. Centre d'études sur les conflits, June 26, 2008. <https://journals.openedition.org/conflits/11502>.

¹³¹ United Nations, *International Convention Against the Recruitment, Use, Financing, and Training of Mercenaries*

¹³² Gomez del Prado, José L. "Private Military and Security Companies and the UN Working Group on the Use of Mercenaries." *Journal of Conflict & Security Law* 13, no. 3 (2008): 429-450.

E/CN.4/RES/2005/2 to a group of five independent experts, which monitors the role and use of mercenaries and private militaries and created the “United Nations Working Group on the use of mercenaries as means of violating human rights and impeding the exercise of the rights of peoples to self-determination.”¹³³ In May 2011, the UN Working Group language for a convention on private military and security companies.¹³⁴ Over discussion of the human rights violations committed by mercenaries, many Member States emphasized the necessity of accountability and the role of the International Criminal Court (ICC).¹³⁵ In 2018, it was determined that private military and security companies fall under the purview of the UN mandate and Member States were encouraged to collaboratively work on regulations for these companies.¹³⁶

In February 2019, UN Secretary-General António Guterres reported to the Security Council about the harmful nature of mercenaries in Africa in undermining the UN’s efforts to develop stability on the continent.¹³⁷ Exploiting the transitional status of many African Member States, mercenaries exacerbate the conflict within these Member States; as Secretary-General Guterres stated, “Mercenary activities undermine the rule of law and perpetuate impunity... (and) abet illegal and inequitable exploitation of a country’s natural resources.”¹³⁸ In the latest report provided by the Working Group to the 74th session of the UNGA in July 2019, such conclusions were further repeated and expanded to also include violations of gender based human rights.¹³⁹ This report highlighted and encouraged the obligation of Member States, PMCs, clients, and stakeholders to increase accountability and work towards adapting to gender differences and protect human rights in such a male-dominated industry with a record of discrimination and gender-based violence.¹⁴⁰ Ultimately, the report recommended Member States uphold their responsibility to protect human rights by first collecting data on gender abuse by PMCs, and stated that, it is, “imperative on States to strengthen the legal and regulatory framework governing private military and security companies and embed strong human rights safeguards.”¹⁴¹

¹³³ United Nations Office of the High Commissioner for Human Rights, Resolution 2005/2, *The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*, E/CN.4/RES/2005/2, April 7, 2005, <https://www.refworld.org/docid/45377c39c.html>.

¹³⁴ United Nations, *International Convention Against the Recruitment, Use, Financing, and Training of Mercenaries*. December 4, 1989.

¹³⁵ “Eleventh Open Debate on Protection of Civilians in Armed Conflict: 10 May 2011.” IRCtoP. International Coalition for the Responsibility to Protect. Accessed May 23, 2020. <http://www.responsibilitytoprotect.org/index.php/component/content/article/35-r2pcs-topics/5185--eleventh-open-debate-on-protection-of-civilians-in-armed-conflict-10-may-2011>.

¹³⁶ United Nations. “Mercenaries, Private Military Contractors Can Destabilize Rule of Law, Expert Tells Third Committee, amid Calls to End Racism, Respect Migrant Rights | Meetings Coverage and Press Releases.” United Nations. United Nations, October 30, 2018. <https://www.un.org/press/en/2018/gashc4246.doc.htm>.

¹³⁷ “Mercenary Activities Undermine Rule of Law, Perpetuate Impunity, Secretary-General Stresses during Security Council Debate.” United Nations. United Nations, February 4, 2019. <https://www.un.org/press/en/2019/sgsm19452.doc.htm>.

¹³⁸ “Mercenary Activities Undermine Rule of Law, Perpetuate Impunity, Secretary-General Stresses during Security Council Debate.” United Nations.

¹³⁹ United Nations General Assembly, *Report of the Working Group on the Use of Mercenaries as a Means of Violating Human Rights and Impeding the Exercise of the Right of Peoples to Self-Determination: The Gendered Human Rights Impacts of Private Military and Security Companies*, A/74/244, July 29, 2019, https://www.un.org/en/ga/search/view_doc.asp?symbol=A/74/244

¹⁴⁰ United Nations General Assembly, *Report of the Working Group on the Use of Mercenaries as a Means of Violating Human Rights and Impeding the Exercise of the Right of Peoples to Self-Determination: The Gendered Human Rights Impacts of Private Military and Security Companies*.

¹⁴¹ United Nations General Assembly, *Report of the Working Group on the Use of Mercenaries as a Means of Violating Human Rights and Impeding the Exercise of the Right of Peoples to Self-Determination: The Gendered Human Rights Impacts of Private Military and Security Companies*, p. 22.

Despite their actions to limit PMCs, the UN has also regularly employed the use of these organizations to support its peacekeeping operations through logistical, structural, and advisory support.¹⁴² UN Member States also often contribute to UN operations through Member State-funded contingencies. One of these PMCs, Paramount Group, even has specialized peacekeeping packages that include equipment, training, and logistics.¹⁴³ Furthermore, the UN utilizes PMCs for security purposes in humanitarian missions.¹⁴⁴ The UN's efforts in the Republic of Sudan and the Federal Republic of Somalia involved one of the earliest operating PMCs, Defence Systems Limited (DSL), which assisted with providing security personnel to the United Nations Children's Fund (UNICEF).¹⁴⁵ The World Food Programme is one of the UN bodies that repeatedly calls on PMCs and has also been protected by DSL in the Republic of Angola during its ongoing mission.¹⁴⁶ PMCs were a significant security addition to the UN peacekeeping operations in Bosnia in 1992, contributing nearly 2,000 personnel.¹⁴⁷

Current Situation

While there are acknowledged advantages to using PMCs, the lack of regulation and myriad of legal loopholes available to these companies and groups can devastate critical regions of the world.¹⁴⁸ National legislation is limited, and attempts at international action to constrain these groups have largely stalled, owing to an unwillingness to clearly define the boundaries of acceptable private military activity.¹⁴⁹ The *International Convention against the Recruitment, Use, Financing and Training of Mercenaries* may define "mercenaries" in Article I, but disagreement between Member States concerning the Convention's limitations pulls international focus from the far more pervasive concept of PMCs.¹⁵⁰ This paucity of accountability and enforcement mechanisms constrains effective prosecutions of abuses against international laws and human rights, and allows for the continued growth of what can at times amount to nothing short of private armies.¹⁵¹ Today, PMCs are part of a USD 100 Billion per year industry and are engaged in a multitude of missions on all six inhabited continents.¹⁵² They remain active in over 50 Member States across the globe.¹⁵³ Their missions can be non-combat related, such as providing logistical recommendations or bodyguard services for private companies in hostile areas.¹⁵⁴ PMCs can also participate actively in combat as they have in Iraq and Syria, with potentially grave consequences for human rights and international law.¹⁵⁵

While the Geneva Convention and additional international treaties create a body of law surrounding armed conflict and the use of armed forces by Member States, no such framework exists for private military activities.¹⁵⁶ Few Member States have outright banned all activities conducted by mercenaries or PMCs, although South Africa has banned mercenary activity in entirety, provides a more expansive definition apart from Article 47, and regulates

¹⁴² Østensen, Åse Gilje. *UN Use of Private Military and Security Companies: Practices and Policies*. Vol. 3. Ubiquity Press, 2011, p. 13

¹⁴³ Østensen, Åse Gilje. *UN Use of Private Military and Security Companies: Practices and Policies*, p. 12.

¹⁴⁴ Østensen, Åse Gilje. *UN Use of Private Military and Security Companies: Practices and Policies*, p. 12.

¹⁴⁵ Østensen, Åse Gilje. *UN Use of Private Military and Security Companies: Practices and Policies*, p. 15.

¹⁴⁶ Østensen, Åse Gilje. *UN Use of Private Military and Security Companies: Practices and Policies*, p. 14.

¹⁴⁷ Østensen, Åse Gilje. *UN Use of Private Military and Security Companies: Practices and Policies*, p. 16.

¹⁴⁸ Østensen, Åse Gilje. *UN Use of Private Military and Security Companies: Practices and Policies*, p. 12-16.

¹⁴⁹ Kinsey, Christopher. "International Law and the Control of Mercenaries and Private Military Companies."

¹⁵⁰ International Convention against the Recruitment, Use, Financing and Training of Mercenaries General Assembly resolution 44/34," Audiovisual Library of International Law, <https://legal.un.org/avl/ha/icruftm/icruftm.html>.

¹⁵¹ Kinsey, Christopher. "International Law and the Control of Mercenaries and Private Military Companies." *Cultures & Conflicts*. Centre d'études sur les conflits, June 26, 2008. <https://journals.openedition.org/conflits/11502>.

¹⁵² Yeoman, Barry. "Soldiers of Good Fortune." *Mother Jones*, May 1, 2003. <https://www.motherjones.com/politics/2003/05/soldiers-good-fortune/>; Singer, "Outsourcing War."

¹⁵³ Singer, "Outsourcing War."

¹⁵⁴ Barnes, David M. *The ethics of military privatization: The US armed contractor phenomenon*. Taylor & Francis, 2016.

¹⁵⁵ Salzman, Zoe. "Private military contractors and the taint of a mercenary reputation." *NYUJ Int'l L. & Pol.* 40 (2007): 853.

¹⁵⁶ International Committee of the Red Cross, *Protocols Additional to the Geneva Conventions of 12 August 1949*, June 8, 1977.

foreign military activities through consent of the South African government.¹⁵⁷ In contrast, US domestic law allows the US to prosecute American nationals working for PMCs, but its jurisdiction does not explicitly apply to foreigners working for US companies.¹⁵⁸

This patchwork of laws, both national and international, lacks clear jurisdiction or the appliance of direct responsibility.¹⁵⁹ As private corporations and individuals, PMCs' obligation to international laws or regulations is limited in scope. With small operational changes, PMCs can escape the definition of "mercenaries," giving them room to function in a legal gray area. This allows states that have nominally banned mercenaries to freely use PMCs, and creates legal ambiguity in terms of what is considered lawful conduct under existing international conventions.¹⁶⁰ It can also inhibit the future formation of international law on the subject, as Member States create national laws surrounding multinational corporations (MNCs) suited to their purposes. In addition, limited international oversight of PMCs allows them to dissolve their corporations or relocate to another Member State to escape legal punishment or trial for their violations of human rights, and national or international laws.¹⁶¹ After Blackwater contractors were found guilty in the trials for the Nisour Square Massacre in Iraq, for example, the company rebranded to Xe Services in 2009, and once again renamed as Academi in 2011, and continues to provide services to Member States including the People's Republic of China (China).¹⁶² In addition, Blackwater's founder, Erik Prince, went on to establish Frontier Services Group (FSG), another PMC which signed a deal in February 2019 to train soldiers for China.¹⁶³ Lack of international cooperation to support the safe and regulated use of PMCs and mercenaries further contributes to their harmful actions.¹⁶⁴ Without bilateral, regional, and international support, PMCs and mercenaries will continue to violate guidelines and measures in place to protect the rights of individuals within Member States.¹⁶⁵

Conclusion

International law regulating mercenaries and PMCs must be further developed and implemented with the full involvement of Member States to limit the harmful effects of these groups.¹⁶⁶ International leadership is needed to set standards and targets at national and global levels to protect human rights, ensure oversight, and strengthen existing international legal frameworks.¹⁶⁷ Governments must continue to recognize their primary responsibility to protect their citizens from violations by PMCs and mercenaries.¹⁶⁸ The main issue with PMCs and mercenaries today is the lack of regulation and oversight resulting from limited participation by Member States in current treaties and consistency in regulations.¹⁶⁹ These groups have the ability to operate across sovereign borders and violate

¹⁵⁷ Michael Scheimer, "Separating Private Military Companies from Illegal Mercenaries in International Law: Proposing an International Convention for Legitimate Military and Security Support the Reflects Customary International Law," *American University International Law Review* 24, no. 3 (2009): 619-620.

¹⁵⁸ Michael Scheimer, "Separating Private Military Companies From Illegal Mercenaries in International Law," 619-620.

¹⁵⁹ Kinsey, Christopher. "International Law and the Control of Mercenaries and Private Military Companies."

¹⁶⁰ Michael Scheimer, "Separating Private Military Companies From Illegal Mercenaries in International Law," 623-638.

¹⁶¹ White, Nigel D., and Sorcha MacLeod. "EU Operations and Private Military Contractors: Issues of Corporate and Institutional Responsibility." *European Journal of International Law* 19, no. 5 (2008): 965-988.

¹⁶² Sullivan, Eileen. "Blackwater Security Contractor Found Guilty, Again in Deadly 2007 Iraq Shooting."

¹⁶³ "Xinjiang: Ex-Blackwater chief's security firm linked to China training centre," *BBC*, https://www.bbc.com/news/world-asia-china-47089665?intlink_from_url=&.

¹⁶⁴ Mercenary Activities Undermine Rule of Law, Perpetuate Impunity, Secretary-General Stresses during Security Council Debate." United Nations

¹⁶⁵ "Mercenary Activities Undermine Rule of Law, Perpetuate Impunity, Secretary-General Stresses during Security Council Debate." United Nations

¹⁶⁶ "National Regulatory Frameworks on PMSCs." OHCHR.

¹⁶⁷ "National Regulatory Frameworks on PMSCs." OHCHR

¹⁶⁸ "National Regulatory Frameworks on PMSCs." OHCHR

¹⁶⁹ "National Regulatory Frameworks on PMSCs." OHCHR

international laws without being swiftly brought to justice.¹⁷⁰ These groups can form and disperse quickly, making them harder to track and hold accountable.¹⁷¹ Because of the anonymity surrounding the industry, it is hard to track who mercenaries and PMCs are working for or the aims of their clients.¹⁷² Until proper oversight and regulation are achieved, these groups will continue to be a problem for the international community.¹⁷³ Without effective regulation and international collaboration, Member States will remain vulnerable to the exploitation by PMCs and mercenaries.¹⁷⁴

Committee Directive

Several difficult questions must be answered in the pursuit of limiting the harmful effects of mercenaries and PMCs. Member States should examine the relationship between government and UN use of PMCs and mercenaries. What legal frameworks can be created or expanded that effectively regulate PMCs and mercenaries while respecting the sovereignty of Member States? Should liability be expanded to individuals? How should the UN limit the harmful effects of these organizations? Should the body increase oversight, reporting, regulation, or a mixture of all three? Member States have aided and used the services of PMCs and mercenaries to support their own military and security concerns. As some PMCs provide logistical support for Member State efforts, it will be important for Member States to determine the distinction between PMCs that violate existing and future legal frameworks and those organizations that comply with national and international laws. It is this committee's directive to review and establish recommendations that will advance this goal, in hopes of limiting the harmful effects of mercenaries and PMCs for all Member States.

¹⁷⁰ "Mercenary Activities Undermine Rule of Law, Perpetuate Impunity, Secretary-General Stresses during Security Council Debate." United Nations.

¹⁷¹ "Mercenary Activities Undermine Rule of Law, Perpetuate Impunity, Secretary-General Stresses during Security Council Debate." United Nations.

¹⁷² "Mercenary Activities Undermine Rule of Law, Perpetuate Impunity, Secretary-General Stresses during Security Council Debate." United Nations.

¹⁷³ "Mercenary Activities Undermine Rule of Law, Perpetuate Impunity, Secretary-General Stresses during Security Council Debate." United Nations.

¹⁷⁴ "Mercenary Activities Undermine Rule of Law, Perpetuate Impunity, Secretary-General Stresses during Security Council Debate." United Nations.

Annotated Bibliography

Topic I: Reaffirming and Developing the Outer Space Treaty in an Age of New Technologies and Emerging Threats

General Assembly Resolution 2222, 2222 (XXI). *Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies*. . A/RES/2222, December 19, 1966, <https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/outerspacetreaty.html>.

The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, otherwise known as the Outer Space Treaty, is a resolution that was adopted by the GA in 1966. It created the guidelines for maintaining peace in outer space that have been in practice for over 50 years. It is important to have the actual resolution to refer to when drafting a position paper or background guide. The guidelines in this resolution are the ones still used today to mitigate conflict for Outer space legality violations. This is the most important international space agreement, as it laid the foundation for all others after it.

“War on the Final Frontier: Can Twentieth-Century Space Law Combat Twenty-First-Century Warfare?” Biddle Law Library. 2017. <https://www.law.upenn.edu/live/files/7836-fordwarfnlfrnthstjrnlintrnlawpdf>

“War on the Final Frontier: Can Twentieth-Century Space Law Combat Twenty-First Century Warfare?” is a 37-page report on the emerging threats and issues in Outer Space. This is an excellent academic report that highlights important topics of discussion and provides additional research sources. It addresses the possibility of another international arms race, the threat of antisatellite weaponry, and the potential risks posed with the Outer Space Treaty’s ambiguous articles. There is also a detailed section of the history of Space treaties.

“How an International Treaty Signed Fifty Years Ago Became the Backbone for Space Law.” The Verge. January 2017. <https://www.theverge.com/2017/1/27/14398492/outer-space-treaty-50-anniversary-exploration-guidelines>

The informative web article, appropriately titled “How an International Treaty Signed Fifty Years Ago Became the Backbone for Space Law,” covers important issues that are arising in Outer Space as we move further into the twenty-first century. It offers commentary and criticisms from Henry Hertzfeld, a research professor for space policy from George Washington University. It explains various sections within the Outer Space Treaty, such as ownership of the moon, planetary protection, and how the UN holds Member States responsible for their space actions. The article offers insight into issues that have emerged with the modern age (twenty-first century). This will give delegates insights into the current issues and loopholes regarding the Outer Space Treaty. The unbiased viewpoint and rational criticisms read easily and raise important topics.

“Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and other Celestial Bodies (Outer Space Treaty).” Nuclear Threat Initiative (NTI). January 2019. <https://www.nti.org/learn/treaties-and-regimes/treaty-principles-governing-activities-states-exploration-and-use-outer-space-including-moon-and-other-celestial-bodies-outer-space-treaty/>

The Nuclear Threat Initiative (NTI) is a government organization whose mission is to “protect lives, the environment, and the quality of life.” This article is especially helpful and unique because it operates both as a research hub and details the evolution/history of Outer Space Law in chronological order, dating back to 1993. The more recent information from 2015-2018 will be helpful for delegates to identify changes that have occurred since the signing. It also offers exterior links to the UNOOSA subcommittee annual sessions in Vienna.

“The Outer Space Race Turns 50. Can it Survive a New Space Race?” American Bar Association (ABA) Journal. April 2017. https://www.abajournal.com/magazine/article/outer_space_treaty

This web journal addresses an emerging problem in Outer Space – the privatization of space travel. While the purpose of the Outer Space Treaty has guidelines that restrict ownership of any space entities and what can occur while out in space, it does not restrict companies from the privatization of space travel. This includes the many billionaires funding tourism-like space trips. The web journal raises a threat that has been posed for a long time but is becoming more pressing in the 21st century: surveillance by satellite in space. It also highlights how the Outer Space Treaty deems Member States responsible for every action its citizens and nongovernmental organizations (NGOs) engage above Earth. This creates an increased need for supervision and gives space participants the responsibility of acting as representatives of their nation.

Topic II: Acting to Limit the Harmful Effects of Mercenaries, Militias, and Private Military Contractors

“PMSC’s & the UN,” Global Policy Forum, <https://www.globalpolicy.org/pmscs/50225-pmscs-a-the-un.html>

This article gives a clear and concise introduction of mercenaries and private military contractors (PMCs) in the United Nations (UN). It gives a brief history of the UN and PMCs, which highlights that the use of militias and mercenaries has been deployed for a long time. The article addresses the directives and goals that PMCs and mercenaries seek from the UN. The challenges faced during peacekeeping is also briefly covered in the article.

United Nations General Assembly, Resolution 74/138, *Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*, A/RES/74/138, December 18, 2019, <https://undocs.org/en/A/RES/74/138>

The UN General Assembly (GA) recently passed a resolution that provides information and explains the current directives and challenges the UN faces today. The resolution highlights the condemnation of Militias and Mercenaries in specific situations. This resolution is especially useful because it calls upon Member States to make national registry mechanisms for licensing and employing private military contractors and mercenaries. This aids in tracking the amount of private security corporations available for contract, as well as encourages reporting the nature and reasoning of the employment. It goes on further to request Member States participate in fair and public trials for legal matters involving mercenaries. The resolution advocates for Member States to abide by regulations and stipulations put forth by the Human Rights Council (HRC).

“Impacts on Human Rights of Private Military and Security Companies’ Activities,” Global Research. October 2018, <https://www.globalresearch.ca/impact-on-human-rights-of-private-military-and-security-companies-activities/10523>

“Impacts on Human Rights of Private Military and Security Companies’ Activities” is a web article that calls attention to the expansion of contracting private military and security companies within the last two decades. It highlights the skills and services offered by PMSCs. One of the most important topics covered in the article is the mass employment of civilians in developed and underdeveloped countries. The increased demand of PMSCs is also mentioned. The article expands on the increasing issue of what powers fall unto the private sector, and what powers and responsibilities are designated to the public sector. The article further goes into the risks and threats imposed on humanitarian efforts by PMSCs.

“The Role of Private Military and Security Companies in Modern Warfare: Impacts on Human Rights,” The Brown Journal of World Affairs, Global Research, August 11, 2012, <http://www.globalresearch.ca/the-role-of-private-military-and-security-companies-in-modernwarfare/32307>

This is one of the many important articles that cover the human rights violations committed by PMSCs in the modern age. The web journal addresses the ongoing fight internationally on regulations and rules. It briefly covers some of the history of PMSCs, and also details the modern roles and reasons mercenaries and private militias are employed. The authors highlight that roles previously belonging to the public sectors of protection have increasingly moved over to the private sector.

"Mercenaries, Private Military and Security Companies and International Law," UN. UN Working Group on the Use of Mercenaries. By Jose L. Gomez. N.p., n.d. Web. 29 Apr. 2015.

https://media.law.wisc.edu/s/c_360/kxzdvgomez_del_prado_paper.doc

This UN publication from the Working Group assigned the task of collecting and analyzing data and reports on PMSCs. It again differentiates between PMSCs and mercenaries, citing that the demand of PMSCs has emerged with the decline of mercenaries. The report further brings attention to the blurred distribution of powers and responsibilities between the public services sector and the private commercial sector. This source is especially helpful in explaining the essential functions, roles, history of, problems with, and suggested resolutions regarding PMSCs using clear and simple wording. This will help delegates navigate through text heavy and diplomatic jargon in other articles with ease and concise understanding.