

# 6th Legal

*Advanced  
General  
Assembly*



**TOPICS:** Sovereign Immunity, The Legality of Violating Sovereignty to Address State-Sponsored Terrorism

**CHAIRS:** Aleena Parikh, Drew Spencer

*LAIMUN XXVIII*

*December 3-4*

# LAIMUN XXVIII

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**LAIMUN XXVIII**

*December 3-4*

## Letter from the Secretaries-General

Dear Delegates,

On behalf of our entire staff, it is our pleasure to welcome you to Session XXVIII of the Los Angeles Invitational Model United Nations (LAIMUN) conference. LAIMUN XXVIII will take place on Saturday, December 3 and Sunday, December 4 of 2022 at the Mira Costa High School (MCHS) campus.

Our staff, composed of over 100 MCHS students, has been working tirelessly to make your debate experience the best it can be. You will find your dais members to be knowledgeable about the issues being debated and MUN procedure. We pride ourselves in hosting a conference that is educational and engaging, and we hope you take advantage of that as you prepare and debate.

At LAIMUN, we value thorough research and preparation. We ask that delegates write position papers following [these directions](#). The deadline to submit position papers to be considered for Committee and Research Awards is Friday, November 25 at 11:59 PM PT. The deadline to submit to be considered for Committee Awards is Thursday, December 1 at 11:59 PM PT.

We also encourage all delegates to read the [LAIMUN Rules of Procedure](#) for conference-specific information and as a reminder of points and motions that can be made during committee.

Feel free to reach out to our staff with any questions or concerns you may have. Delegates can find their chairs' contact information next to their committee profile and the Secretariat's email addresses on the staff page. Any member of the LAIMUN staff will be happy to assist you.

We look forward to seeing you in December!

Sincerely,

Allyssa Lessinger and Brady Stephens  
Secretaries-General, LAIMUN XXVIII  
[secretarygeneral@mchsmun.org](mailto:secretarygeneral@mchsmun.org)



## Introduction to the USG

Hi Delegates! My name is Tucker and I'm the Under-Secretary General of General Assembly committees. This is my fourth year in the Mira Costa Model UN program and I am ecstatic to welcome you all to LAIMUN XXVIII.

I'm so excited to see various diplomatic strategies in committee regarding the pressing issues we encounter on a global scale. Our chairs will hold the delegates to high standards of research, diplomacy, speeches, and solutions.

At LAIMUN, we have a strict no pre-written resolutions policy—resolutions can only be worked on at your chair's discretion. Please verify that your work is authentic to ensure all delegates experience a fair and accurate simulation of a United Nations conference.

The Mira Costa Model UN program has provided me with incredible opportunities and lasting memories; I hope that LAIMUN XXVIII will be a memorable experience for you as well! Mira Costa MUN provides a profound opportunity for delegates to gain knowledge, confidence, speaking skills, and most importantly, a new understanding of international relations and current events. All LAIMUN XXVIII staff have worked hard to provide the best experience for everyone in attendance and we wish you the best of luck throughout your preparation!

If you have any questions or concerns, please don't hesitate to reach out to [GA@mchsmun.org](mailto:GA@mchsmun.org) or other members of the Secretariat. I can't wait to see you in December!

Regards,

Allyssa Lessinger and Brady Stephens  
Secretaries-General

Tucker Gauss  
Under-Secretary General

## Introduction to the Dias

Hello delegates!

My name is Aleena Parikh and I will be one of your chairs for 6th Legal Advanced! I am a senior at Costa and have been a part of the MUN program since freshman year. I have gone to many different local and travel conferences in MUN and last year I chaired OCHA Novice at LAIMUN.

Being a part of MUN has been an eye-opening experience that has allowed me to learn more about significant global topics. It has also further shaped me to become a better speaker and writer. I have debated on a range of topics from biological terrorism to female empowerment. Each of these topics has been extremely interesting and exciting to learn about.

Outside of MUN, I play both beach and indoor volleyball. The club volleyball team that I play for is called Surfside and I am a setter on the team. I love hanging out with friends, going to the beach, and binge watching Netflix in my free time. My favorite Netflix shows are Grey's Anatomy and Jane the Virgin. I also love traveling with my family and friends to new places. I hope in the future to be able to travel to every country in the world! Furthermore, I enjoy paddle boarding and hiking with my sister. I also love watching college football and am a huge USC sports fan.

I am so excited to be your chair for 6th Legal Advanced and hear everyone's unique solutions to the issues at hand. Both topics are extremely important in regards to international affairs and each country's intricate solutions will be crucial for debate. I look forward to the

upcoming conference and I wish you all the best of luck. Please feel free to reach out to our committee email if you have any questions or concerns.

Sincerely,

Aleena Parikh

Hello Delegates!

My name is Drew Spencer and I am super pumped to be your co-chair here at LAIMUN for 6th Legal Advanced. I am a junior now at Costa and I have been in the MUN program for 3 years. I have attended conferences such as BMUN, Surf City, and SOCOMUN in the past, and I'm very excited to be chairing this committee. Outside of MUN I run track here at Costa and I won Bay League Frosh/Soph long jump with a 20 foot PR. I also enjoy going to the beach with friends, biking, listening to music, basketball, the Caniac Combo at Raising Cane's (extra Texas Toast instead of the Coleslaw), movies, and watching the Angels lose. In case you are interested, my favorite artists are Kid Cudi, Kendrick Lamar, and JPEGMAFIA and my favorite movies are *Star Wars: Revenge of the Sith*, *Se7en*, *Cars*, and *Inception*.

In committee I would love to see crafty, applicable, and realistic solutions from each and every one of you. Make sure to address the subtopics and other issues that are mentioned in the synopsis. Also, make debate fun! You guys determine whether debate is long, boring, and dry or fun, lively, and entertaining. Feel free to experiment with fun hooks, dubious solution names, and jokes throughout your speeches. Believe me, we are all more likely to listen when you start with a shocking statistic, a bizarre reference, or a clever but appropriate joke. Make sure to have some fun with it, as long as everything stays professional. I look forward to meeting you all come December!

Best,

Drew Spencer

## Committee Description

The Sixth Legal, otherwise known as Sixth Committee, is the primary committee that focuses on legal questions of the General Assembly. This committee focuses on the international law itself and one should expect debate to be centered on legislation towards a certain cause. In addition, the Sixth Legal is often used to allow bodies to report to the United Nations, including the International Law Commission, United Nations Commission on International Trade Law, and the Special Committee on the Charter of the United Nations. The Sixth Committee is essential for international law to prosper and treaties and regulations to be negotiated.

Creating comprehensive solutions regarding the treatment of prisoners must be a top priority for the international community. Around the world, prisoners are consistently denied their basic human rights both in developed and developing countries. Furthermore, women and persecuted groups often face worse punishment and treatment than majority groups in prison, and there are few effective pieces of legislation to protect prisoners around the world. In this committee delegates must be able to not only understand the issues on the surface, but be able to identify and account for their underlying reasons when drafting resolutions.

With phones, tablets, and other electronic devices seeing an exponential growth in the last few decades, the possible over-surveillance by governments has been a hotly debated topic. One side argues that they act as a defense mechanism against dangerous persons while others retort that they're an infringement upon our personal privacy. However, there have been cases of countries abusing their surveillance technologies and government authority, resulting in accusations of human rights violations. Therefore, the existing international guidelines and



potential updates/new legal frameworks are elements to be deliberated by the delegates of Sixth Legal.

## Topic A: Sovereign Immunity

### I. Background

Sovereign immunity is a doctrine of established international law, where a country or nation-state cannot be brought before the courts of another sovereign body without their express permission.<sup>1</sup> Under this principle, a sovereign nation is excused from the reach of foreign courts. It is a tenant of international law that a sovereign country cannot exercise control over another sovereign state because both are considered coequal.

The concept of sovereign immunity in international law makes a country free from interference by another nation through the concepts of jurisdictional and enforcement immunity. Jurisdictional immunity restricts the reach of a nation's courts against a foreign State, and enforcement immunity restricts the seizure of a foreign State's property.

The body of laws surrounding sovereign immunity primarily stems from national legislation of individual states, and the cases decided in their legal system. This is primarily because the exceptions to sovereign immunity are determined on a country-by-country basis. As such, the law surrounding sovereign immunity is primarily established as a matter of common law and decided through case law.

The International Court of Justice (ICJ) is limited in its ability to resolve sovereign immunity issues because the ICJ is not a court of general jurisdiction. Its authority is limited to

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<sup>1</sup> Yang, Xiaodong. "Sovereign Immunity." *Oxford Bibliographies Online Datasets*, 2012, <https://doi.org/10.1093/obo/9780199796953-0018>. Sovereign immunity laws are primarily judge-made and decided upon through judicial opinion. These laws tend to be common law based and country specific.

cases where both parties mutually agree to have their disputes heard. This consent must occur first when both parties agree to the ICJ jurisdiction. As one can imagine, this occurs in very rare circumstances, which makes the laws of sovereign immunity primarily regional, judge-made laws.

Practically, this makes sovereign immunity a critical part of the nationwide laws of countries. In nearly all cases, it is based on a principle of sovereign equality of a nation, which prohibits a state from imposing its laws and jurisdictional reach on another. This concept is often represented by the adage "par in parem non habet imperium," which means an equal has no right over another equal. Sovereign immunity protects a nation-state actor in the following manners:

1. *Immunity from judgment*

Immunity from judgment or a lawsuit is necessary and vital from a country's perspective because, as a matter of international doctrine, it would be improper for one nation's court to assert jurisdiction over another. Immunity can only be waived by the mutual consent and agreement of both states.

2. *Immunity from execution*

A country also has the right to immunity from execution, which prevents government officials from confiscating another country's property to fulfill the injunctions of creditors or award damages. However, this immunity can be waived by a state on separate occasions. The United States Supreme Court recognized this principle in its landmark 1812 decision in *Schooner Exchange v McFadden*. Since then, state immunity was codified as part of the widespread tradition across the United States and most western European states.

The doctrine of sovereign equality of nation-states requires that countries are treated equally. This precept has had a significant impact on the field of transnational litigation in matters such as jurisdiction and sovereign immunity. As that compass has waned with growing exceptions to sovereign immunity, threats to the respectful association of nations for their mutual benefit have grown; this has resulted in the establishment of new principles to reformatify comity values.

## **II. UN Involvement**

The U.N. General Assembly enacted the U.N. Convention on Jurisdictional Immunities of States and Their Property on December 2, 2004.<sup>2</sup> The General Assembly emphasized the criticality of uniformity in the law of jurisdictional immunities between states. The Convention opened for signature from January 17, 2005, through January 17, 2007. To date, 28 countries have signed the Convention; notably, the United States has not signed and instead has codified its position in The Foreign Sovereign Immunities Act of 1976 (FSIA).

The U.N. Convention on Jurisdictional Immunities of States and Their Property establishes a presupposition of immunity, as reinforced by tenets of established international law. Article 2 puts forth the characterization of "(1) the State and its various organs of government; (ii) constituent units of a federal State or political subdivisions of the State, which are entitled to perform acts in the exercise of sovereign authority, and are acting in that capacity; (iii) agencies or instrumentalities of the State or other entities, to the extent that they are entitled to perform

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<sup>2</sup> *United Nations Convention on Jurisdictional Immunities of States and Their Property*. United Nations, 2004, [https://legal.un.org/ilc/texts/instruments/english/conventions/4\\_1\\_2004.pdf](https://legal.un.org/ilc/texts/instruments/english/conventions/4_1_2004.pdf). The Convention adopts a restrictive doctrine of immunity.

and are actually performing acts in the exercise of sovereign authority of the State." Article 4 of the Convention, titled "Non-retroactivity of the present Convention," establishes that "the present Convention shall not apply to any question of jurisdictional immunities of States or their property arising in a proceeding instituted against a State before a court of another State prior to the entry into force of the present Convention for the States concerned." Article 10 continues that commercial transactions shall not trigger state immunity. Article 14 specifies an exception for intellectual and industrial property, expressing that states shall not initiate immunity for matters relating to the findings of intellectual property rights. Article 21 establishes classifications of property. These classifications include military property, bank accounts, property to be used for diplomatic missions, cultural property, and that property to be used for scientific purposes. Unlike other state rules, such as the U.S. Foreign Sovereign Immunities Act (FSIA), the Convention has no exception to immunity for expropriation. Moreover, the Convention has no exceptions for state-sponsored terrorism. This has potentially limited the U.N.'s ability to condemn bad actors.

### **III. Topics to Consider**

There are several examples of exceptions to the sovereign immunity doctrine where a state cannot or should not be able to invoke immunity. Many nations, including the United States, have identified common exceptions to a state's claim to sovereign immunity. Five of the most common exceptions include: (1) the commercial activity exception, (2) the non-commercial torts exception, (3) human rights violations exception, (4) the waiver exception, and (5) the terrorism exception.

### *1. The Commercial Activity Exception*

The "commercial activity" exception to foreign sovereign immunity provides the basis for most lawsuits against sovereigns and their instruments and agents. Under this exception, plaintiffs are known to bring suits for claims relating to breach of contract, bonds, banking investments, and debts.

As one of the most common exceptions, foreign entities and nations have been brought to lawsuits under this exception for a broad array of actions, including encouraging investment prospects abroad, failing to be transparent about product defects and safety concerns, and becoming explicitly involved in fraudulent undertakings. Commercial activity lawsuits for contract breach are also quite prevalent, including, for example, selling valuable art, health care contracts, and other commercial agreements for services and products.

### *2. The Non-Commercial Torts Exception*

The second commonly invoked exception to immunity is the "non-commercial torts" exception. This exception denies a state its claims to immunity protection in circumstances where financial damages are claimed for death, personal injury, or loss of property. In the United States, this exception is often invoked with specific domestic torts that were caused by a foreign state. Other nations have identified similar tort exceptions for traffic accidents caused by their embassy employees and other common torts.

### *3. Human Rights Violations Exception*

Though narrow in scope, a common exception to sovereign immunity is those government actors accused of committing torture, genocide, or enslavement. Such a denial

would be consistent with the developments that have marked international law since World War II. Recent history in Rwanda, Sudan, and Iraq have shown that the world has little tolerance for despots that commit human rights violations.

#### *4. The Waiver Exception*

The waiver exception to foreign sovereign immunity is triggered when a country affirmatively waives its immunity rights. The waiver exception occurs in any litigation where a nation has waived its immunity via direct communication or by implication. For a waiver to qualify, it must be unambiguous and evident.

Explicit waivers are usually found in contracts, although in some cases, foreign states have also waived their immunity in international agreements or through authorized declarations. Courts generally construe these explicit waivers narrowly, in keeping with their cautious approach to the waiver exception as a whole.

#### *5. The Terrorism Exception*

A fifth exception, often invoked by plaintiffs' lawyers but rarely subjected to an adversarial defense, is the "terrorism exception." Under these provisions, states lose their immunity in cases where plaintiffs seek damages for death or personal injury induced by torture, the extrajudicial taking of a life, aircraft sabotage, hostage-taking, or the offering of aid to commit such actions. Several countries have adopted this exception to immunity in their domestic statutes.

Cases under the terrorism exception have been litigated differently than other sovereign immunity suits. Most western democracies, for instance, do not show latitude with nations that

endorse state sponsors of terrorism. For instance, on July 27, 2022 the U.S. Senate's Resolution 623, called on the U.S. Secretary of State to denote Russia as a state sponsor of terrorism. Such a declaration might cause Russia to lose sovereign immunity protection in U.S. cases.

#### **IV. Case Study**

Russia violated Article 2(4) of the UN Charter, which forbids using force against any country's territorial boundaries or political autonomy. Russia's acts have provoked the European Union, the United Kingdom, and the United States to levy monetary sanctions, such as freezing assets and severing Russian banks from the SWIFT international payments network.

The recent Russia-Ukraine conflict has triggered several questions about the ability of aggressor nations to claim immunity from litigation. For example, as Ukrainians begin to file suits against Russia in its national courts or in the other jurisdictions outside of Ukraine, Moscow will likely claim immunity against these foreign courts. Moscow will undoubtedly argue that it has complete immunity even if the Russian army perpetrates criminal offenses in Ukraine.

Moreover, governments that are empathetic to Ukraine have been using sanctions to freeze and seize Russian assets. Some nations have been entertaining the redistribution of these assets to support the Ukrainian people. In this circumstance, pressure is increasing for western countries to impound Russian assets and deploy them for the advantage of the Ukrainian people. In the US, Congressmen Malinowski (D) and Wilson (R) introduced a bill in early 2022 that would grant in the president the power to confiscate property worth over US\$5 million from those linked to 'corruption, human rights violations, Russian malign influence, or conflicts in Ukraine', with a view to those assets, then being used to rebuild Ukraine.



No doubt, as civil and criminal trials emerge, Ukraine has taken the position that Russia's immunities are not absolute, and national courts should deny Russia immunity in lawsuits for damages in armed aggression in Ukraine. The courts of Italy, Greece, and South Korea have already denied immunity to WWII aggressors, Germany and Japan. Ukraine has already taken a similar path in suits against the Russian aggressor. Recently, the courts of Ukraine have made most of the decisions to deny sovereign immunity to Russia. So far, at least 83 decisions and rulings on claims against Russia for compensation for armed aggression in Ukraine have resulted in Ukrainian courts seizing Russian property and denying it immunity.

For example, the Holiiv District Court of Kyiv awarded a Ukrainian citizen payment for injury induced by the illegal occupation of Donbas. The core of the decision argued that Russia, as an aggressor state, has no privilege to judicial immunity in Ukraine. The Ukrainian Supreme Court has also affirmed this position. However, we should appreciate that such court decisions in Italy, Greece, South Korea, and Ukraine are now common rather the exception. However, Russian armed aggression against Ukraine may modify the procedures of states and national courts to sovereign immunities.

Recently, the Ukrainian Supreme Court has upheld orders granting recognition and enforcement of a UN Commission on International Trade Law award against Russia for the confiscation of property in the annexed Crimea region. The claimant investors managed to convince the court that Russia had waived its sovereign immunity from lawsuits by agreeing to arbitration in its bilateral investment treaty (BIT). The Supreme Court found no public policy or international law grounds to deny judicial enforcement of the case, noting that the public policy

of the Ukrainian jurisdiction must be applied. Foreseeing that similar investment treaty awards could appear in the Supreme Court's docket, it reserved room for the opinion that enforcement of awards against the national interests of a sovereign nation, may fall within the public policy exception.

The Ukrainian Supreme Court also recently upheld provisional measures of protection in favor of the claimant investors. However, the Supreme Court ruled that these interim measures should be sustained only with respect to investments owned by Russia, rather than Russian assets owned in conjunction with other private parties. It remains to be seen how the Russian ownership stakes will be separated from other investors, but it is a landmark decision that impacts Russia's Sovereign Immunity.

## V. Guiding Questions

1. What impact has the issue of Sovereign Immunity had on your country?
2. What legislation, regulations, or solutions has your country enacted to address its position on Sovereign Immunity?
3. How has your country supported or not supported international conventions on Sovereign Immunity?
4. What are some solutions where your country might solve Sovereign Immunity disagreements?
5. What exceptions to Sovereign Immunity does your country recognize?
6. How has your country's legal system supported the collaboration with other countries on the defining of Sovereign Immunity exceptions?

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## Topic B: The Legality of Violating Sovereignty to Address State-Sponsored Terrorism

### I. Background

State-sponsored terrorism is when a government uses scare or terror tactics in an attempt to enforce law or control the population. This usually happens when strong governments abuse their undisputed hold to power and force their policies upon their citizens in harmful ways. State-sponsored terrorism is also when governments repress its citizens and their freedoms systemically.<sup>3</sup>

Historically, state-sponsored terrorism has been best exemplified by the Nazis, Italian Fascists, and Soviets. The Nazis had a state-sponsored secret police force called the Gestapo, which called immediately to Hitler and would hunt down Jewish people and other “unwanted” groups. Benito Mussolini had the Blackshirts, a secret police force that helped the newly established Fascist party establish their policies quickly. Joseph Stalin’s NKVD carried out the brutal political and social repression that the USSR oversaw in the mid 20th century. These secret police forces that were backed by the government best exemplified state-sponsored terrorism in the 20th century.

In the present, State-sponsored terrorism has been very prominent in Middle Eastern countries. Countries in the Middle East like Syria have funded terrorist groups such as jihadists, which is seen as an illegal practice in almost every country. The jihadists are violent reformers

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<sup>3</sup> “State Sponsored Terrorism.” *Revolutionary Sudan*, BRILL, 2003, pp. 130–149.

who seek to restore God's order to earth.<sup>4</sup> Their funding in Syria has resulted in violent showings enforcing the government's will. Saddam Hussein utilized chemical weapons on the Saudi Kurdish population to show his force and brutally enforce his policies. These attacks were in the late 1980's, but took place in a relatively modern political environment. These more modern examples highlight how state-sponsored terrorism persists as a relevant and dangerous global issue.

To address state sponsored terrorism, strong international action is required, but many countries dispute potential international resolutions as a violation of sovereignty. Sovereignty as a concept has been around since the 1530s, but was truly first seen in Europe in 1648 as a result of the Peace of Westphalia. Countries have been able to hide illegal and inhumane operations under the veil of sovereignty since the concept itself was created. A prime example of this is the current situation in Xinjiang, China regarding the internment camps and mistreatment of Uyghur Muslims. The minority Uyghurs have had human rights stripped away from them in these camps but next to nothing can be done about it. This is because China denies all allegations that the so called re-education camps are anything more than a place where Uyghurs are educated on the topic of religious radicalization and terrorism. No outside country can send aid or attempt to stop the Chinese government as it would be in direct violation of their rights as a sovereign nation.<sup>5</sup>

The ICC said they would not prosecute China due to sovereignty issues stacked on top of them

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<sup>4</sup> BBC News. "What Is Jihadism?" *BBC*, BBC News, 11 Dec. 2014, <https://www.bbc.com/news/world-middle-east-30411519>.

<sup>5</sup> Lyons, Kate. "The World Knows What Is Happening to the Uighurs. Why Has It Been so Slow to Act?" *The Guardian*, *The Guardian*, 27 July 2019, <https://amp.theguardian.com/world/2019/jul/27/the-world-knows-what-is-happening-to-the-uighurs-why-has-it-been-so-slow-to-act>.



not being a member of the ICC itself.<sup>6</sup> Violating sovereignty to provide humanitarian aid to oppressed or endangered groups is a double edged sword, as while some believe it is important to always be involved, others may rightfully feel that they can handle the situations and provide the aid themselves .

Due to the importance placed upon the preservation of state sovereignty, outside nations and organizations are often unable to address state-sponsored terrorism in order to avoid infringing upon the principle of self-governance and state autonomy. . When aid is refused to the victims of state-sponsored terrorism because of sovereign rights, the issue becomes more severe as the people suffering are denied any hope that their situation will eventually be quelled. This leads to a perpetual cycle of human suffering in countries where state-sponsored terrorism occurs.

Sovereignty has only been violated in extreme cases in recent history. The UN and other international organizations will only take action to address genocide, war crimes, ethnic cleansing, or crimes against humanity. For instance, NATO intervened in Bosnia and Herzegovina in 1995 during the Bosnian ethnic cleansing and the UN evacuated foreigners and Tutsi people in Rwanda during the Rwandan Genocide in 1994.<sup>7</sup> International sovereignty can only legally be violated by the United Nations or other international bodies when very extreme and heinous crimes are committed, and because of its very loose definition, state-sponsored terrorism has gone on in countries with international bodies being able to take very little

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<sup>6</sup> Hernández, Javier C. “I.C.c. Won’t Investigate China’s Detention of Muslims.” *The New York Times*, The New York Times, 15 Dec. 2020, <https://www.nytimes.com/2020/12/15/world/asia/icc-china-uighur-muslim.html>.

<sup>7</sup> *Www.Un.Org*, <https://www.un.org/en/preventgenocide/rwanda/historical-background.shtml>. Accessed 18 June 2022.

meaningful action. When an issue is not identified as one of genocide, war crimes, ethnic cleansing, or crimes against humanity, international bodies are not allowed to provide aid or other forms of assistance as the host country will say it is in direct violation of their rights as a sovereign nation. This has empowered national governments to control and mistreat their populations for quite some time.

International sovereignty has never been violated in the context of state-sponsored terrorism. Since it is not recognized as constituting one of the four issues where international bodies have intervened in the past, it often goes unpunished. This legal circumstance empowers government officials who facilitate state sponsored terrorism, many of whom are corrupt and impose their authority in oppressive and violent ways. State-sponsored terrorism is not only dangerous by itself, but it can also lead to events that would fall under the four categories that sovereignty has been violated for in need of intervention. The Rohingyas have been mistreated for nearly 5 years by the Myanmar military on governmental orders, with most countries calling it genocide and attack on humanity. While aid has been provided by non-UN bodies, experts are still calling for the UN to formally recognize the genocide and act accordingly.<sup>8</sup> However, due to all these blind spots, the Myanmar Military has continued to purge and forcefully relocate the Rohingyas. A terror inducing group above the law can inflict damage upon citizens, infrastructure, and other aspects that allow society to function. They can also lead to systemic oppression, the purging of minority groups, and the exodus of citizens seeking refuge in other

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<sup>8</sup> “UN Expert Calls for Action against Myanmar Military on Anniversary of Atrocities against Rohingya.” *OHCHR*, <https://www.ohchr.org/en/press-releases/2022/08/un-expert-calls-action-against-myanmar-military-anniversary-atrocities>. Accessed 31 Aug. 2022.

countries. Overall, state-sponsored terrorism has proven to be harmful in the past and present and intervention without regard to sovereignty may be necessary in the eyes of some countries.

## **II. UN Involvement**

The United Nations has not been involved in any cases of violating sovereignty to address state-sponsored terrorism specifically; however, there are measures in place set by the UN and rules that they can enforce in the event of it. Aggressive measures to address state sponsored terrorism, invading a country or sending forces to stop state-sponsored terrorism, are not allowed under international law. Nonetheless, the UN has been able to intervene in other situations such as Bosnia in 1999.

The United Nations has generally “allowed” secret police forces and other governmentally backed terrorist organizations, but this is because they legally cannot intervene without concrete proof and support from global superpowers. Article 2 of the UN charter says that the UN is based on the principle of sovereignty.<sup>9</sup> This makes it difficult for intervention in any situation as the situation has to blatantly be accepted and defined as one where the UN can intervene. The UN has intervened in the past in situations like the Bosnian Genocide in 1999, but it is extremely rare for a situation to be so harmful and publicized that it is possible for them to do so. These situations are usually heavily involved with the P5 Security Council nations (China, Russia, United States, United Kingdom, and France) or their close allies, and their veto power allows them to nullify any UN actions which undermine their internal operations. Therefore, despite the P5 nations often facilitating the exploitation of people, violation of human rights, or

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<sup>9</sup> *Www.Un.Org*, <https://www.un.org/en/about-us/un-charter/chapter-1>. Accessed 18 June 2022.

obscene war crimes, their actions are usually unpunished. Currently, China and Russia have vetoed Security Council resolutions regarding the Xinjiang internment camps and the invasion of Ukraine, respectively. These two factors make it near impossible for legislation to be passed in regards to entering a country's borders without their direct consent, and it makes it extremely difficult to provide aid to those suffering and in need of it.

However, Article 1 of the UN Charter, which states that the UN's main goals are to maintain peace and security, can be used as an argument against the UN maintaining a docile stance and not violating sovereignty.<sup>10</sup> In the perspective of some nations, the UN should enforce Article 1 more by violating sovereignty, while others argue that peace comes only when a country is free to act how they please. In a battle of priority, the UN's laws primarily respect individual nation's sovereignty over human lives and general well being. As a result, state-sponsored terrorist groups are allowed to exist freely and enforce their respective government's policy cruelly.

### **III. Topics to Consider**

There are a few common factors that have universally contributed to the rise of state-sponsored terrorism as well as the use of the cover of sovereignty to allow state-sponsored terrorist groups to operate. 4 of these include government corruption, poor economic or social conditions, non-binding legislation, and threats by surrounding countries.

#### *1. Government Corruption*

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<sup>10</sup> *Www.Un.Org*, <https://www.un.org/en/about-us/un-charter/chapter-1>. Accessed 18 June 2022.

There are a multitude of reasons a government would succumb to funding a terrorist organization and the cost of its citizen's well-beings. Many governments feel threatened by terrorist groups and feel as if they have to compromise, whereas others align with them due to ideological similarities. This would help the government keep their power and lead to their law and what they think is right being enforced much more effectively. An example of corruption contributing to the rise of state-sponsored terrorist groups or contemporary secret police forces is the Chinese Communist Party and their 610 Office<sup>11</sup>, a government agency that is notorious for censorship, manipulation, and the persecution of minority groups. The 610 Office enforces the policy of the CCP and is also backed by the CCP, which would make them a state-sponsored terrorist group by definition.

While corruption is only the fraudulent practices a government has, it often leads to the government not treating any or all of its citizens fairly or adequately. Nationalistic governments have used state-sponsored terrorist groups to purge their respective countries of minority ethnic groups. The Uyghurs in Xinjiang and the Rohingians in Myanmar demonstrate how these bodies are used at the expense of minority groups. These governments are usually heavily religiously or nationalistically influenced, which would give motive for these governments to punish those who do not align with the basis of their law.

A just government would not exploit their rights as a sovereign nation to sponsor terrorist groups. This is why it is often a result of corrupt decisions that cause state-sponsored terrorism. In order to keep the population from revolting or releasing their experiences to the public, a

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<sup>11</sup>“The 610 Office, Created on June 10, 1999, Still Plays a Critical Role in Persecuting Falun Gong.” *Minghui.Org*, <https://en.minghui.org/html/articles/2020/6/11/185476.html>. Accessed 18 June 2022.

government would have to censor or attempt to censor any news within its borders and downplay the issue to international bodies like the UN. After doing this, they can easily reject any outside inspection or intervention and continue with their practices. In Türkiye, the Kurds are still being killed, disappeared, or forced to migrate due to their ethnic differences. Little can be done about this however due to blurred lines in international law and lack of inspection into the issue.<sup>12</sup> It is a flawed system, best exemplified by the Iranian government funding Hamas and Hezbollah instead of using the money to better their country, that continues to be exploited by equally corrupt governments around the world.<sup>13</sup>

## 2. *Poor Economic or Social Conditions*

Poor economic or social conditions also cause state-sponsored terrorism. Economically unstable countries tend to have weaker governments due to a lack of development, education, and control over their population and therefore would be more reliant on a state-sponsored terrorist group to enforce policy and keep the people in line. This is shown in groups like the aforementioned 610 Office. China is by no means an underdeveloped or poor country, but their massive population size and land area led to the government enlisting the 610 office in order to ensure there is no threat to their power. Poor economies and social well being are almost always a result of a weak and corrupt central government with weakly enforced policies, and corruption is also a huge factor on why state-sponsored terrorist groups exist.

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<sup>12</sup> Zaman, Amberin. “No Respite for Kurds as Turkey’s Security Forces Ramp up Repression.” *Al-Monitor: Independent, Trusted Coverage of the Middle East*, 29 June 2022, <https://www.al-monitor.com/originals/2022/06/no-respite-kurds-turkeys-security-forces-ramp-repression>.

<sup>13</sup> “How Iran Fuels Hamas Terrorism.” *The Washington Institute*, <https://www.washingtoninstitute.org/policy-analysis/how-iran-fuels-hamas-terrorism>. Accessed 31 Aug. 2022.

Poor social well being is equally as important to why a government would turn to state-sponsored terrorism as a bad economy is. If the general population is unhappy with a government's policy or rule and they are unable to overthrow it, the leader is likely corrupt and would use a secret police force to quell the tensions on the streets. Best exemplified by the Soviet Union in the Eastern Bloc, who throughout its existence used groups like KGB to put down any calls for reformation. The oppressive implementation of their policy and massive landmass led to many in the Eastern Bloc calling for reform, and by using the secret police the Soviet government was able to maintain power. Also, governments who don't care for the safety of its civilians are likely more focused on staying in power, and funding a terrorist group will help them achieve that goal. The social unrest of a population is equally as important to the rise of state-sponsored terrorism as the economic instability.

### *3. Weak Legislation*

A government does not have a strong influence or reputation with its population will turn to alternative ways of enforcing their policy, such as state-sponsored terrorism. One of the main reasons why governments will adopt a terrorist organization is to enforce their policies harsher or more effectively. The weak legislation differs from the social or economic parts of the issue because while those focus more on the popularity of a government or its economic structure, the weak legislation issue stems from what does not happen or what is not enforced.

Weak governments that have little to no influence over their populations, combined with corrupt decision making at the helm, leads to a perfect formula for working with a terrorist group to fix that. Effectively training and buffing a terrorist group to enforce policy and act upon the

will of the state would be a great way for a government who deals with civilian unrest and uprising on the daily to quell its population by force rather than meeting their needs, which is much easier. This is often how state-sponsored terrorist groups become prevalent, but the issue is that governments can become dependent on them to maintain social and political order.

#### 4. *Threats by Surrounding Countries*

The last thing a nation wants is to be taken over and invaded by one of its neighbors. If a country feels threatened by its surroundings, and feels that they are not ready to face off against any threats from the outside, they may enlist a terrorist group to help “strengthen” the state. Not only can a terrorist group enforce the will of the government, they can also be a threat militarily to any outside country trying to invade. ISIS is allied with the Iranian and Syrian governments and helped them launch an offensive of Mosul and Tikrit in 2014.<sup>14</sup> The utilization of a state sponsored terrorist group in an invasion would be a very appealing idea to a government who is under threat from its neighbors.

These governments would also hide their state-sponsored group under the cover of sovereignty in order to keep their new troops from being shut down. If a powerful country felt threatened by a public state-sponsored terrorist group, it would call upon the UN or other legislative bodies in order to put an end to it. If the government uses its rights as a sovereign nation to avoid investigation, it makes it near impossible for any of these organizations to do anything. This would then allow the state-sponsored terrorist group to not only enforce law harshly, but also be a threat to other countries in a case of war.

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<sup>14</sup> October. “Timeline: The Rise, Spread, and Fall of the Islamic State.” *Wilson Center*, <https://www.wilsoncenter.org/article/timeline-the-rise-spread-and-fall-the-islamic-state>. Accessed 18 June 2022.



#### IV. Case Study

The United States deemed Cuba as a state-sponsor of terrorism in January of 2021. The Cuban government reportedly had been sponsoring acts of international terrorism and provided a safe haven for terrorist groups.<sup>15</sup> They are the most recently identified country as a state-sponsor of terrorism.

The Cuban government has notoriously housed murders, terrorists, and other groups that are harmful to society for decades. The Cuban government has received a lot of criticism from its neighboring countries for being heavy on censorship, making it very hard to leave the country, and being ineffective at increasing the quality of life in their country. This leads to many of its residents enduring a perpetual poverty cycle and poor living conditions, with little hope for the future. Because of these situations, the government would likely house and sponsor terrorists in order to increase their domestic authority and intimidate foreign rivals. Cuba and the United States have historically had hostile relations ever since Fidel Castro and Che Guevara overthrew the government and established a communist regime during the Cold War. It is likely that part of the decision to sponsor terrorist individuals and groups was to make the United States and their neighboring countries respect them as a foreign power in the times past the Cold War tensions.

In response to Cuba's designation as a safe haven for terrorist, the U.S. government placed sanctions and other forms of punishment on Cuba. While countries can still trade with Cuba, The United States has stopped offering assistance, banned the sales of weapons to Cuba, and are also imposing controls on the export of dual use items. These sanctions are the United

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<sup>15</sup> "U.S. Announces Designation of Cuba as a State Sponsor of Terrorism." *United States Department of State*, 11 Jan. 2021, <https://2017-2021.state.gov/u-s-announces-designation-of-cuba-as-a-state-sponsor-of-terrorism/index.htm>

States's attempt to steer Cuba away from sponsoring terrorists and housing them in their country, posing a threat to them and other nations.

Sanctions are the most effective way of stopping state-sponsored terrorism as rules with sovereignty and sovereign immunity make it impossible to do anything more serious. While sanctions are seen as controversial by many, they are a much better alternative to war or other forms of violence. If the rules to intervene when a country is doing something that is objectively bad like housing terrorists were stronger, the problem could be solved much easier. However, despite all of the evidence against Cuba, nothing can be done with international bodies until international law is changed accordingly and hopefully in ways that can be agreed upon by all. Terrorists will continue to flock to Cuba as a safe haven and their presence can not only threaten Cuban citizens, but also U.S., Jamaican, Haitian, Dominican, and possibly even Mexican citizens.

The United States has also restricted travel and other forms of interacting with Cuba until they begin to cooperate with the counterterrorism measures. Although the sanctions, travel ban, and other forms of restriction are all in place, the Cuban government continues to support terrorism within its own borders. This puts them on a list with only three other countries: Syria, Iran, and North Korea

While the Biden administration is making moves to remove Cuba from this designation and improve relations between the United States and Cuba, it has not been a top priority for him. This has led to any possible state-sponsored terrorist groups and individuals living on the island to remain there with little to no repercussion. The decision for the United States, specifically Donald Trump, to designate Cuba as a state-sponsor of terrorism was highly controversial and is

seen by the Biden Administration to be an unjust attack on Cuba and not a truthful accusation. Truth or not, as it stands Cuba is a designated sponsor of terrorism and houses American fugitives, and has utilized its rights as a sovereign state to not allow any international intervention. In order to either confirm Cuba's status as the truth or prove their innocence, the international perimeters must be altered in some way.

#### **V. Guiding Questions**

1. Would your country support a possible expansion to the existing rules of violating sovereignty (genocide, war crimes, ethnic cleansing, or crimes against humanity) to include less extreme examples such as state-sponsored terrorism?
2. What are the issues at the root of state-sponsored terrorism? What factors contribute to a government's decision to support terrorist organizations?
3. Does your country's government sponsor a terrorist group? If so, for what reason and what is their purpose? If not, how does your country's government enforce the law peacefully and effectively?
4. How have populations around the world been affected by state-sponsored terrorism and what can be done to aid them?

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