

**Kent Denver School and St. Mary’s Academy**

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**Background Guide**

**Beginner Security Council**

**Topic 1: International Security Leaks, Wiretapping, and Privacy Rights**

**Topic 2: Political Asylum**

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**General Overview of Council:**

The Security Council is an essential body of the United Nations tasked with the obligation to maintain international peace and security. As one of the six major organs, it is integral to the preservation of amity and goodwill in the international community. The United Nations Security Council has the ability to investigate, mediate, and make recommendations to parties and states involved in a conflict. It is also the sole UN body that can implement peacekeeping operations, establish sanctions or other punishments, and authorize the use of military action.

The United Nations Security Council contains 15 nation-state members – 5 permanent states (Russia, China, US, UK, and France) and 10 elected, rotating states with two-year terms. The 5 permanent members have the ability to veto any resolution the Council discusses on the floor, completely nullifying it from consideration. The 10 rotating nations serve to create a global perspective and represent all factions in order to come to the most efficient, comprehensible solution to any issue debated. The current Security Council is comprised of delegations from the following countries: Argentina, Australia, Azerbaijan, Guatemala, Luxembourg, Morocco, Pakistan, Rwanda, South Korea, Togo, The United States, The United Kingdom, France, Russia, and China.

In addition to the 15 members, observing non-voting countries are invited to attend Security Council meetings and present their views on certain issues. These nations are typically those intimately involved with the conflict at hand. For the purpose of this Beginner Security Council, Germany, Ecuador, and Amnesty International will be attending as non-voting observers in order to debate the international security leaks. It is imperative that nations involved are represented in order to reach an agreement on policies and regulation of surveillance.

**Topic 1: International Security Leaks, Wiretapping, and Privacy Rights**

Wiretapping and surveillance are prevalent issues that have sparked heated international debate and incited nations to either denounce or defend recent actions. Issues regarding wire-tapping and surveillance have also brought to light the dilemma of privacy rights. Modern technology and social media sites have become indispensable for mass communication and freedom of speech, making the issue of privacy rights even more complicated. Nations have the ability to discreetly monitor other governments, leaders, bodies, and citizens due to the range of modern technology and media. The effects of wiretapping and surveillance impact many Security Council members, because many are either implementing these actions or have fallen victim to them. This pressing international issue must be debated, and a consensus must be reached. The goal of this Security Council is tocreate international policy regarding surveillance and the right to privacy. Delegates ought to consider the regulation of new technologies to protect national and personal sovereignty, as well as the fact that nations are spying not only on other nations, but also on their own civilians. The Security Council should also discuss and respond to the wire-tapping of the United Nations by the National Security Agency.

**History and Background Information**

The fight for privacy rights has been an ongoing conflict on the international stage for the past decade, but it has become especially prevalent in the past couple of years. Perhaps the catalyst for leaks regarding privacy and surveillance is the not-for-profit media organization WikiLeaks. Launched in 2007, its goal is to leak material and publish “evidence of the truth.” So far it has leaked top-secret military documents, intelligence strategies, and many more claims that involve governments. WikiLeaks works on the basis of freedom of speech and media publishing, derived from the Universal Declaration of Human Rights (WikiLeaks). Specifically, Article 19 states, “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers” (UNDHR). WikiLeaks believes that freedom of speech promotes transparency and checks a government’s power to minimize corruption. However, many argue - including the United States government - that the organization is breaching international security and potentially putting people and nations at risk, especially if the leaks make the international community aware of covert affairs. WikiLeaks is still releasing these leaks, causing political mayhem for the United States and other actors. Highly protected technology is being used to leak information, which brings up the issue of privacy rights and freedom in the media and online. The issue of censorship is controversial in the Security Council, but must be addressed, as it is very relevant to the surveillance and wire-tapping issue.

        After the WikiLeaks crisis, another national security “leaker” made an international impact: Edward Snowden. In June of 2013, Snowden leaked information through *The Guardian* newspaper that the National Security Agency (NSA) was collecting the telephone records of US Verizon customers. The next day, *The Washington Post* published details of an Internet surveillance program called PRISM. It is a current and ongoing program that the NSA uses to gain access to private communications of users of nine big Internet services: Microsoft, Yahoo, Google, PalTalk, AOL, Skype, YouTube, Apple, and Facebook. It allows officials to collect data including the content of search histories, emails, file transfers, and live chats. Access to these services is governed by Section 702 of the Foreign Intelligence Surveillance Act (enacted in 2008), which allows for surveillance for protective purposes. These Internet giants are aware of and have agreed to be a part of PRISM. Google chief architect Yonatan Zunger wrote that the only time Google “reveals information about users are when we receive lawful, specific orders about individuals.” Facebook, on the other hand, is denying the fact that it is involved; CEO Mark Zuckerberg called the program “outrageous” and stated, “Facebook is not and has never been part of any program to give the U.S. or any other government direct access to our servers.” (“Here’s Everything We Need to Know About PRISM to Date”). A source stated that PRISM is a very formalized legal process that companies are obliged to follow. US citizens are worried that these actions are not morally justified and infringe upon their personal privacy.

Snowden also revealed that the NSA is not only spying on its own citizens, but also on other nations; it has been reported that the US has collected intelligence on leaders from France, Spain, Mexico, Brazil, Spain, South Korea, Japan, Germany, and many more. German Chancellor Angela Merkel’s phone has been bugged for the past decade, and President Obama responded that he was unaware of this occurring (“Tap of Merkel Provides Peek at Vast Spy Net”). The United States claims that it wants to prevent the next terrorist attack and is only taking preventative action. Not only has Snowden disclosed information about wiretapping other nations and top leaders, but he also revealed in the German news magazine, *Der Spiegel*, that the NSA secretly monitored the United Nation’s internal video conferencing system last year. These leaks have sparked international debate regarding surveillance policies and privacy rights due to the breadth of modern technology.

**Present Situation**

        Online sources are leaking information almost weekly now about surveillance methods, and a growing number of nations and leaders are becoming involved. Russia has granted Edward Snowden asylum for one year, and the United States is eager to incarcerate and try him for compromising national security. Likewise, nations are eager to find a solution to this crisis, as no one knows what will be leaked next. Modern technologies and social media sites have also become a prevalent issue due to the fact that they are the means of sharing this top-secret information. Issues regarding privacy rights and freedom of speech spark debate about the use of modern technology and social media sites. Recently a US federal judge ruled the NSA’s recent actions unconstitutional, hoping to begin efforts to mitigate surveillance programs. The NSA still has legal authority based on Section 215 of the Patriot Act regarding the collection of metadata; however, more Americans can sue to have their data removed from the collection programs if the ruling stands. The NSA director Keith Alexander stated that programs including PRISM have prevented more than 50 terrorist attacks, although Congress believes the number is closer to 12 or 13. Until this ruling, many other judges believed that the NSA’s data collection is legal under the Patriot Act. (“5 Questions About the NSA Court Ruling”).

**Timeline and Prevalent Data/Information:**

·      June 5, 2013: *The Guardian* publishes its first exclusive based on Snowden’s leak, revealing a secret court order showing that the US government forced the telephone company, Verizon, to hand over the phone records of millions of Americans. It reports that the NSA can make use of the information without a warrant.

·      June 6, 2013: *The Guardian*discloses information about a government program, PRISM, which gives the NSA “direct access” to data held by Google, Facebook, Apple, and other US internet giants. The tech companies deny that they have allowed this.

·      June 8, 2013: Snowden leaks about the existence of Boundless Informant, an NSA tool that allows the agency to record and analyze where its data comes from. The NSA assured Congress that it cannot keep track of all the surveillance it performs on American communications.

·      June 12, 2013: In Hong Kong, Snowden discloses information that the NSA has been hacking into Hong Kong and Chinese computers since 2009

·      June 16, 2013: *The Guardian*reports that GCHQ (Government Communications Headquarters, a British intelligence agency) intercepted foreign politicians’ communications at the 2009 G20 summit. GCHQ also has access to the network of cables that carry the world’s phone calls and Internet traffic and is processing streams of sensitive personal information and shares it with the NSA.

·      June 23, 2013: As Snowden leaves Hong Kong for Russia, WikiLeaks informs the international community that it is assisting and supporting Snowden. WikiLeaks revealed that Snowden applied for asylum in 20 countries, including France, Germany, Ireland, China, and Cuba.

·      July 31: *The Guardian* reveals another NSA program, XKeyScore, which is the “widest reaching” system for developing intelligence from the Internet.

·      August 1, 2013: It is leaked that the NSA has secretly funded GCHQ (£100 million) to secure access to and influence over its programs. They have worked together to develop techniques that allow mass gathering and analysis of Internet traffic. The GCHQ wants to be able to “exploit any phone, anywhere, any time”, and is also working with the NSA to develop cyber warfare capabilities. The two agencies have a very close relationship in the field of intelligence.

·      August 25, 2013: *Der Spiegel* leaks that last summer the NSA had access to the video conferencing system used at the United Nations headquarters in New York. The NSA claimed that China was also spying on the UN and wanted to analyze the data China was wiretapping. The NSA also has a global operating network called “Special Collection Service” in more than 80 embassies and consulates, often without the host country’s knowledge.

·      October, 2013**:** It is revealed that the NSA has been wiretapping German chancellor Angela Merkel’s personal cell phone since 2002.

·      October 29, 2013: *The Wall Street Journal* revealed that the NSA wiretapped over 60 million Spanish phone calls with the help of French and Spanish intelligence services.

**UN Action**

The United Nations has not taken much action on the issue of national security leaks and privacy rights. In fact, there has been no resolution passed on privacy in the UN for 25 years, and the international community is in dire need of a solution. Recently, however, Brazil and Germany presented a draft resolution to the General Assembly’s Third Committee that called for the protection and promotion of privacy “in the context of domestic and extraterritorial surveillance…including on a mass scale.”  It also called for the end of excessive electronic surveillance. However, in order to appease the United States and the United Kingdom, the resolution could be greatly weakened. Human rights groups such as Human Rights Watch and Amnesty International strongly urged the General Assembly to pass the resolution. The “Five Eyes” surveillance alliance (the United States, Canada, New Zealand, Australia, and the United Kingdom) want to weaken the language of the resolution to ensure it does no harm to their own surveillance practices. This draft resolution was approved, despite U.S. opposition, named, “the right to privacy in the digital age” (UN Draft Resolution). It calls upon member states to review their procedures, practices, and legislation on the surveillance of communications, and their interception and collection of personal data, including mass surveillance. It is the first UN document to establish privacy rights and human rights in the digital sphere. This draft resolution will be voted on shortly.

**Key Actors/Positions**

The United States

Mass surveillance greatly increased with the Patriot Act after the September 11attacks under the Bush administration. President Barack Obama has claimed that he was unaware that the NSA has been collecting intelligence on world leaders, including Angela Merkel. The international community is unsure if this is true or not, as some argue that he was fully briefed shortly after his first inauguration in early 2009. Now, Obama is trying to crack down on security leakers. He charged Snowden with theft of government property and two counts of disclosing information under the Espionage Act, which could get him 30 years in prison (“NSA Revelations”). The United States believes that surveillance is justified, as “everyone does it,” and it helps protect its citizens against terrorist attacks. Leaking top-secret information puts national security at risk. However, Obama is trying to tell the public that the government is not spying on everyone, but only on individuals that pose a threat to security. The United States should try to maintain peace and rebuild ties with nations, but also promote counterterrorism efforts.

Russia

In August, Russia granted Snowden asylum for one year on the contingency that he stops harming the United States. He now has a job there with a website company. After asylum was granted, Obama withdrew from a bilateral summit with Putin. Russia has used Snowden to portray itself as a protector of human rights and try to assuage criticism from the international community about controversies regarding Russia’s image. President Vladimir Putin does not want to harm U.S.-Russian ties, but he does not support the idea of the NSA spying on other entities, including Russia. Despite Russia’s refusal to hand over Snowden, Putin has voiced sympathy for the United States’ desire to prosecute him. However, with the news that the NSA was spying on Russia, Putin now wants to increase its own intelligence capability and cyber security (“Russia Learned ‘nothing new’ from Snowden Leaks”).

China

China has had a controversial history in surveillance and hacking. Its government is very secretive, and President Xi Jinping has denied the fact that this is going on. However, CNN reported that China has hacked the computers of major international corporations to gain business secrets and information. China also uses its hacking abilities as a very potent and dangerous military tactic. With the recent Snowden leaks, the international community is ignoring this issue with China, allowing for it to continue. Snowden claims that China has none of the documents he has leaked; however, nations are still worried. Many Chinese Internet users have hailed Snowden as a hero, as they know first-hand the feeling of being spied on by their own government. On the other hand, the Chinese government deeply condemns the content of the recent security leaks. The Chinese Communist Party stated that the U.S. has gone from a “model of human rights to a manipulator of internet rights.” The party believes that the U.S. is contradictory, as it has always criticized China for its actions. China believes that surveillance is justified, as it will prevent the leakage of private data. It wishes to strengthen its control over the Internet due to the recent leaks (“How Edward Snowden Escalated Cyber War with China”).

Amnesty International

Amnesty International, a global human rights group, has strongly urged the US not to prosecute anyone who discloses data. It questions the U.S. authorities’ respect for the right to privacy; Deputy Executive Director Frank Jannuzi stated, “The sweeping nature of the records allegedly sought by the government and the systems it has reportedly accessed raises red flags about privacy.” Amnesty International does not believe that counterterrorism efforts justify surveillance and argues that it is a major violation of human and personal rights. Recently, Amnesty International suspected its communications were under surveillance by the NSA and GCHQ and is now taking legal action against the British government for its involvement. (“Amnesty International Is Suing the British Government”).

**Statements by Country Leaders**

·      June 7, 2013: Obama defends PRISM and Boundless Informant, saying that they are overseen by the courts and by Congress. He insists that there is a balance between security and privacy: “You can’t have 100% security, and also then have 100% privacy and zero inconvenience.”

·      July 3, 2013: UN Secretary Ban Ki-moon says that Snowden misused his rights to digital access and created problems greater than the public benefit of disclosure.

·      July 5, 2013: *The Washington Post* writes that Snowden should be prevented “from leaking information that harms efforts to fight terrorism and conduct legitimate intelligence operations.”

·      China: the foreign ministry said, “We believe the United States should pay attention to the international community’s concerns and demands and give the international community the necessary explanation,” regarding the Snowden leaks.

·      Germany: Chancellor Angela Merkel stated that the reports of Americans spying on her and other leaders had “severely shaken” relationships between the United States and European nations. She told Obama that eavesdropping among friends “is never acceptable.”

**Key Questions to Consider**

1.     How should the Security Council respond to the wire-tapping of the UN?

2.     How should the international community regulate new technologies and media to protect sovereignty, or should it at all? Is this violating the UN Declaration of Human Rights?

3.     How do nations handle the fact that countries are spying not only on other countries and leaders, but also on their own people, and therefore potentially violating the UNDHR?

4.     What constitutes breaching national and personal sovereignty?  Are these national security leaks infringing to protect the people’s rights? Or are they in fact putting people in harm’s way and disrupting practices to prevent terrorist attacks?

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**Topic 2: Political Asylum**

**Intro**

Asylum can be defined in many ways depending on the situation. For this simulation we will be discussing *only* the asylum of those who have committed political crimes and are now seeking territorial and extraterritorial asylum. Due to the intimate relationship between asylum and extradition, extradition will also be discussed. The goal of the council will be to provide a comprehensive agreement on when to grant political asylum or when to extradite an individual as well as how to best handle situations in which dissidents seek asylum within embassies of foreign nations. Discussion of semi-related topics such as the inviolability of warships will not be entertained.

**History and Overview of Topic**

To begin with, we must first define what asylum is and clarify how and why people seek it. In general, asylum refers to protection against persecution. There are two main types of asylum we will be discussing, *territorial asylum* and *extraterritorial asylum*. Territorial asylum is asylum granted to an individual in the territory of the state that is granting the asylum. This, of course, requires the individual seeking territorial asylum to already be in the country from whom he or she is requesting asylum. However, it is worth noting that it is actually possible to seek and be granted territorial asylum before arriving in the country that grants territorial asylum. For example, Edward Snowden sought territorial asylum in Ecuador from Moscow’s airport, prior to actually arriving in Ecuador. Rarely is territorial asylum challenged but it often does cause resentment and political tensions between nations. The International Court of Justice has stated the granting territorial asylum is a normal exercise of territorial sovereignty.

Territorial asylum is directly related to the practice of *extradition*. Extradition is the process by which one state returns a person to another state for trial over a crime committed in the requesting state and punishable by the laws of the requesting state. This includes those who are charged with a crime but not tried, those who have been tried and convicted but escaped custody, and those convicted in absentia. There is no international law requiring nations to extradite those taking refuge in their countries. Traditionally, those seeking refuge are not extradited, with the exception of those who have committed political offenses, a loose term that has yet to be officially defined (“Asylum”). In general, political offenses include war crimes, genocide, and crimes against humanity, but states ultimately can choose not to extradite someone.

The other type of asylum we will be discussing is extraterritorial asylum, also known as diplomatic asylum. Extraterritorial asylum is asylum provided in places under the control of a protective state, such as war ships. Furthermore, extraterritorial asylum is granted within the territory of a nation from which protection is sought. This, however, does not mean the person will have the ability to leave his safe location under the protection of the “host” country.  Moreover, many countries do not even recognize extraterritorial asylum. In the case of embassies, persons who seek refuge within them are not actually being protected by exterritorial asylum, but rather the rule of inviolability set out in the 1961 Vienna Convention on Diplomatic Relations, which states that local police and security forces are not permitted to enter an embassy unless they have the express permission of the ambassador ("An Ecuadorean history of the world; Ecuador and Julian Assange").

Article 14 of the UNDHR states that everyone has the right to seek and to enjoy in other countries asylum from persecution, but this does not mean everyone has the right to asylum. It is the right of a state to grant asylum, but it is not the right of an individual to be granted asylum by any state. While individuals seeking asylum within embassies are wrong to assume that the embassy can grant them extraterritorial asylum, the embassy is obliged to consider whether there is a real risk to the life of the person if he were handed over to local authorities; if so, the embassy could be held accountable for the potential harm of the individual.

**Famous Political Asylum Incidents**

Julian Assange is the founder of WikiLeaks. He is currently living the Ecuadorian Embassy in the UK after attempting to fight a ruling by Britain’s Supreme Court that would have extradited him to Sweden to face charges of sexual assault. Some have viewed this as simply a muse to then further extradite him to the United States where he would be tried for releasing sensitive information to the public. He has not been able to leave the Ecuadorian Embassy despite the fact he has been granted political asylum by Ecuador. This is because the United Kingdom refuses to grant him safe passage out of the country so that he may fly to the Latin American country ("Profile: WikiLeaks founder Julian Assange").

Edward Snowden’s asylum hunt is perhaps one of the most talked about topics of 2013. Edward Snowden was formally charged by the United States government with theft of government property, unauthorized communication of national defense information, and willful communication of classified communications intelligence. He originally flew to Hong Kong, but after the United States filed charges he flew to Moscow because the US does not have an extradition treaty with the Russia, unlike Hong Kong. He intended to seek asylum in Ecuador from Moscow. Although, he was granted asylum in at least 3 countries, he has been unable to leave Russia, as several nations have threatened to close their airspace to planes suspected of carrying Edward Snowden ("Bolivia, Venezuela and Nicaragua offer Snowden asylum"). After living in the airport for over 2 months he was granted temporary asylum in Russia, which will expire next July, and the international community will be forced to reface his case ("NSA spy leaks: Edward Snowden leaves Moscow airport").

Another embassy related incident is that of Chen Guangcheng, who sought refuge in the US Embassy in China in May of 2012. He stated that his family had been threatened and he wanted to leave the country. He was protected in the US Embassy not because he was granted extraterritorial asylum, but rather by the Law of Inviolability. The longest case ever of a dissident hiding in an embassy is that of Cardinal Jozef Mindszenty, who spent 15 years in the US Embassy in Budapest from 1956 to 1971 ("Who, What, Why: Is it legal to hide in an embassy?").

**Summary/ Bloc Positions**

\* Please note these are generalizations and actual stances on asylum will very from country to country.

Latin America

Support by Latin America for whistleblowers is growing due to a growing anti-US intervention sentiment. In recent years, especially after WikiLeaks released evidence that the IMF and the World Bank were working together with the CIA in order to destabilize Ecuador’s economy, Latin America has been trying to limit US intervention in home affairs. It therefore supports those who alert the international community of US international intervention (Ayala). In support of political asylum, the Caracas Convention on Diplomatic Asylum was drafted in 1954, but it was ratified by only 14 of the 34 members of the Organization of American States (OAS). Interestingly, in Latin America, if a country containing a dissident does not order the dissident to leave the country, the country granting the dissident asylum cannot require a safe passage of the individual. Of all the regions, Latin America has defined political asylum the most thoroughly.

Russia and China

Neither Russia nor China currently has an extradition treaty with the United States; however, Hong Kong, a region of China, does have an extradition treaty with the United States. In the past, the US has requested extradition from other countries with or without extradition treaties.

The United States

In cases of those seeking political asylum within the United States, the US requires an extradition request be submitted if a nation is seeking the extradition of a specific individual. The US reserves the right to refuse the request of extradition of a certain individual, as do all nations. In general, the United States does grant political asylum fairly liberally. The US is generally skeptical about political asylum but openly offers humanitarian asylum.

The United Kingdom

In the UK, the Diplomatic and Consular Premises Act (1987) suggests that diplomatic missions may lose their inviolability under certain circumstances. This could play a role in the safety of dissidents hiding in foreign embassies (Värk).

Europe

There is no European Union policy on extradition or political asylum; therefore, policy on these issues will vary from country to country. The EU does have a unified policy on human rights, which helps contribute to forming such policies. It is, however, worth noting that within the Schengen Area of Europe goods and people are allowed to move freely within the member nations without passport or immigration controls.

Africa

 African nations in general have been plagued by categorical attacks on foreign embassies such as the bombings of the American Embassies in Tanzania and Kenya in 1998. In relation to extradition, African nations in particular must consider the repercussions of creating extradition treaties, which might require the extradition of those living within their borders.

**Objectives/ Questions to Consider**

- How should political asylum be defined?

- How should international law regarding political asylum be reformed?

- How should asylum laws address those living/taking refuge in embassies?

- When does political asylum trump expedition laws, and if so in what cases specifically?

- What should be done about those who have been granted political asylum in a foreign country but are currently unable to obtain it due to a lack of secure transportation (consider the case of Julian Assange)?

- How does a country’s sovereignty factor into asylum?

**Relevant Documents**

- 1961 Vienna Convention on Diplomatic Relations

- 1954 Caracas Convention on Diplomatic Asylum

- Treaties between nations such as the extradition treaty between Hong Kong and the United States

- List of countries with extradition treaties with the United States:

<http://www.state.gov/documents/organization/71600.pdf>

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