

NALSAR University of Law

**Introduction to Safety and
Security**

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agenda



What is Safety?

What is Security?

Various schools of Security studies

Use of Force

Self-Defence

Collective Security

What is Safety?

- The term safety is used to refer to the condition of being protected from the aspects that are likely to cause harm.
- The term safety can be used to refer to the state at which one has the control of the risk causing aspects hence protecting himself or herself against risk that is fully unintended.

What is Security?

- The term security is broadly used to refer to the protection of individuals, organizations, and assets against external threats and criminal activities that can be directed to such entities hence rendering them inactive.
- It is important to note that security is highly focused on the deliberate actions that are geared towards inflicting harm to an individual, organization, or even assets.

Difference between Safety and Security

- Definition Aspect
- Emotional Aspect
- External Vs Internal
- Deliberate and Unintended
- Coverage

Evolution of Concept of Security

- Before World War-II, the concept is studied in/as war studies.
- After 1945, distinctive literature is developed and the concept of security and security studies evolved.
- During Cold war, security is mostly in the ambit of military agenda and questions surrounding Nuclear weapons, and ideology threats.
- From 1970s, the nuclear relationship between superpowers matured and the original breadth carried by the term security, re-emerged. This new scope made way to the emergence of Economic and Environmental Security.
- In 1990s, this scope is further widened. Concepts of Societal (or Identity) Security, Human Security, food Security, Space Security and other forms emerged.

Definition of Security

- Walter Lippmann (1944) views security as the capability of a country to protect its core values, both in terms that a state need not sacrifice core values in avoiding war and can maintain them by winning war.
- Wolfers argues that different nations also have different expectations of security. Not only is there a difference between forbearance of threats, but different nations also face different levels of threats because of their unique geographical, economic, ecological, and political environment.
- Richard Ullman (1983) has suggested that a decrease in vulnerability is security.

- Barry Buzan (2000) asserts that security is about freedom from threat and ability of states to maintain independent identity and their functional integrity against forces of change, which they see as hostile while its bottom line is survival.
- Adrian Hyde-Price (2001) describes how some academics argue it cannot be defined in any “objective” way, and that any problem can become a security issue once it has been securitized by policymakers.
- Hyde-Price then points out, this makes the security field entirely reactive to what policy makers deem a security threat, removing any independent analytical value.
- Roland Paris (2001) says “a ‘security threat’ connotes some type of menace to survival”
- Sola Ogunsanwo says "Security is more than military security or security from external attacks".

Assumptions underlying in the idea of Security -

Security -

- in (or of) what
- From what
- For what
- By what means

Theoretical Approaches

Broadly classified, there are two schools of thoughts in security studies.

1. Traditional
2. Non – Traditional/Critical studies

Traditional School of thought

- Traditional School of Thought favours the maintenance of the Cold War conception of security.
- This school of thought defines security in this sense to mean safety from danger and from external attack or infiltration.
- Traditional security paradigm is a realist construct of security in which the referent object is the state. It equates security with peace and prevention of conflict through military means i.e. deterrence policies, non-offensive defence and the like. This is why Walt defines security as a study of threat, use, and control of military force.
- It explores the situations that make use of force more likely, the ways the use of force affects individuals, states, societies and the specific policies that states employ in order to prevent or engage in war.

Realist Approach

- There are different kinds of realism; these include classical realism that was dominant until the first decades of the twentieth century, whereas modern realism rose in 1939 and was dominant until 1979, and neo-realism began in 1979.
- In Realism referent object of security is the state
- The Realism school deals with macro issues such as political and militaristic ones in a context where security and power, measured in terms of military capabilities and are the driving forces in the international system.
- Security, then, means national security. Other goals are secondary.
- According to realist approach, states cannot trust others but themselves in term of security issues.

Liberalism

- Liberalists accept the assumption that states operate in an anarchic environment and behave in a self-interested manner, but they hold that international politics does not need to be inherently conflict ridden and violent. States can rely on mutual cooperation to tackle global issues.
- Liberalists identify nation states as the most important actors in the international system, but they give considerable attention to others actors, such as intergovernmental organizations (IGOs) non-governmental organizations (NGOs), transnational corporations, interest groups and others.
- As the Liberal political thinking developed, the more traditional notion of national security began to include in its agenda non-military aspects. States are still the main referent object, but other dimensions and spheres started to be taken into account. And most importantly, individuals began to become the centre of interest.

Constructivism

- Constructivism has become an increasingly prominent theoretical approach to international relations since its emergence in the 1980s.
- Constructivism, a term first elaborated by Nicholas Onuf in his groundbreaking book "World of Our Making" in 1989, is a broad theoretical approach to the study of international relations that has been applied to a range of issues, from political economy to international organization and security.
- From a Constructivist perspective then, security is expected to be achieved only once the “perception and fears of security threats, challenges, vulnerabilities and risks are allayed and overcome”
- The perception of security threats, risks and dangers will depend on the beliefs, culture, traditions, interests, and worldviews of the analyst.
- The meaning of security would then be socially constructed.

Non-Traditional School of thought

- This school attempts to widen and deepen the definition of security.
- It argues that other issues like environment, political, economic and social threats endangers the lives and properties of individual rather than the concentration on the survival of the state.
- It does implies that a predominantly military definition does not appreciate the fact that the greatest threat to state survival may not be military but environmental, health, political, social and economic.
- Security in this sense is human emancipation oriented. It means that people/citizens must be liberated from those challenges, difficulties and constraints that may prevent them from carrying out what freely they would choose to do which includes epidemics, poverty, oppression, poor education, crises and so on.

Critical Theory

- 'Critical theory' does engage with present problems but without losing sight of the historical processes that have produced them, and proposes alternatives that are 'feasible transformations of the existing world'.
- 'traditional' and 'critical' approaches differ most notably in their treatment of the state. Traditional security studies views the world from a state-centric (if not statist) perspective. In contrast, critical security scholars have argued that states are a means and not the ends of security policy, and hence they should be de-centred in scholarly studies as well as in policy practice.

The Aberystwyth School of critical security studies and Copenhagen School of Critical Security Studies

- Students of critical security studies do not ‘securitize’ issues, but ‘politicize security’. They do this to reveal the political and constitutive character of security thinking and to point to ‘men’s and women’s experiences of threat’ so as to be able to decentre the military and state-focused threats that dominate traditional security agendas.
- Copenhagen School calls for ‘desecuritization’ out of a fear that those issues that are labelled as ‘security’ concerns will be captured by state elites and addressed through the application of zero-sum military and/or police practices, which may not necessarily help address human insecurities.

Securitization or Copenhagen School

- It is an approach broadly consistent with constructivist thought that tries to bridge traditional and critical security studies by understanding security as a ‘speech act’.
- The Copenhagen School argued that security threats are created when (usually elite) actors label something a security threat and relevant audiences accept this designation. Under the right conditions, therefore, speaking security makes something a security issue, and this has particular political consequences. For these scholars, securitization is the process by which issues become part of the security agenda, and so analysts should study this process.

Post-structuralism

- Poststructuralist analyses of war, peace, security, insecurity, terrorism, militarism etc. have flourished over the last 15 years or so.
- ‘Poststructuralism’ is a loosely defined umbrella term used to group together various scholars who are contributing to new strands of critical research on war and security, in emerging (and overlapping) subdisciplines such as critical security studies, critical military studies, critical terrorism studies, popular culture and world politics, feminist security studies, and international political sociology, as well as queer and postcolonial/subaltern studies.

Use of Force

Article 2(4) UN Charter:

- ‘All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.’

What does the modern notion of force comprise?

- Political and Economic Force?
- Physical Non-Armed Force?
- Armed Force (Friendly Relations Declaration, GA Res. 2625 (XXV), 24 October 1970)
- Indirect Force?
- Cyber Operations?

Use of Force

- Incursion into the territory of another state?
- Acts that kill or injure persons?
- Cross frontier expulsion of populations?
- Supplying arms and training to rebels?
- Cyber-attack on the London stock market?
- Stuxnet?

Exceptions of Use of Force

There are 2 exceptions to the Use of Force which are prohibited under Article-2(4) of UN Charter

1. Collective Security (with/with out security Council authorisation)
2. Self-defence (Individual or collective)

Other Than the above two exceptions, there are other scenarios where Use of force may be permitted

1. In Humanitarian Intervention/R2P
2. Protection of Nationals abroad
3. wars of National Liberation
4. State of Necessity
5. Hot Pursuit

Collective Security-meaning

- Collective Security is a device of crisis management which postulates a commitment on the part of all the nations to collectively meet an aggression that may be committed by any state against another.
- Collective security stands for meeting any war or aggression by the creation of a global preponderance of power of all nations against the aggression.
- Collective Security is also regarded as a deterrent against aggression in so far as it lays down that the collective power of all nations will be used to repel aggression or war against any state.
- It is based on the principle, 'Aggression against any one member of the international community is an aggression against international peace and security. As such it has to be met by the collective efforts of all the nations'.

Nature of Collective Security

Collective Security stands for preserving security through collective actions. Its two key elements are:

1. Security is the chief goal of all the nations.
2. The term 'collective', as a part of the concept of collective security, refers to the method by which security is to be defended in the event of any war or aggression against the security of any nation.

'One for All and All for One'

Collective Security and UN

- Collective Security has been laid down in Chapter-VII "Action with respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression". (Article-39-51)

Article 39 UN Charter

- 'The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.'

Article 42 UN Charter

- ‘Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.’
- Article 27(3) – authorisation is subject to P5 veto

Examples/Instances of Use of CS by UN

- Korean Crisis (1950)
- Suez Crisis (1956)
- Hungarian crisis of 1956

(during the period 1956-90 Collective Security system under the United Nations failed to work successfully in securing international peace and security because of several factors)

- Lebanon crisis, the Iran-Iraq War – failed
- Iraqi act of aggression - Gulf War - 1990-1991
- Kosovo - 1999 - Not approved
- Afghanistan's Al Qaeda's terrorist regime - 2001
- war against Iraq - 2003 - Not approved

Self-Defence

Article 51 UN Charter:

- ‘Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.
- Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

Meaning

- Self-defence is a lawful reaction to the ‘armed attack’ against the territorial integrity of a state, which also diminishes its political independence (acts forbidden in Article 2(4) UN Charter).
- By executing the right to use force in self-defence, states are conducting a unilateral act.
- The traditional meaning of the right to self-defence originates from the Caroline case; these principles were accepted by the British Government at the time and formed a part of customary international law.

The Caroline Case

- This case sets out a customary international law definition of the right to self-defence.
- The US Secretary of State, Daniel Webster, emphasised that for the self-defence to be lawful in international law, the British Government must prove the:
 - necessity of self-defence, instant, overwhelming, leaving no choice of means and no moment for deliberation
 - and that assuming such a necessity existed at the time:
 - the act justified by the necessity of self-defence, must be limited by that necessity, and kept clearly within it.

Criteria for Self-defence

In order to lawfully exercise the right to self-defence,

- a state must be able to demonstrate that it has been a victim of an armed attack.
- Nevertheless, not all attacks will constitute an armed attack for the purposes of Article 51:
- only the most grave forms of attack will qualify

Furthermore, the ICJ held in the Nicaragua Case (Merits) that ‘self-defence would warrant only measures which are proportional to the armed attack and necessary to respond to it’ (para. 176).

Scope of Self-defence under Art-51

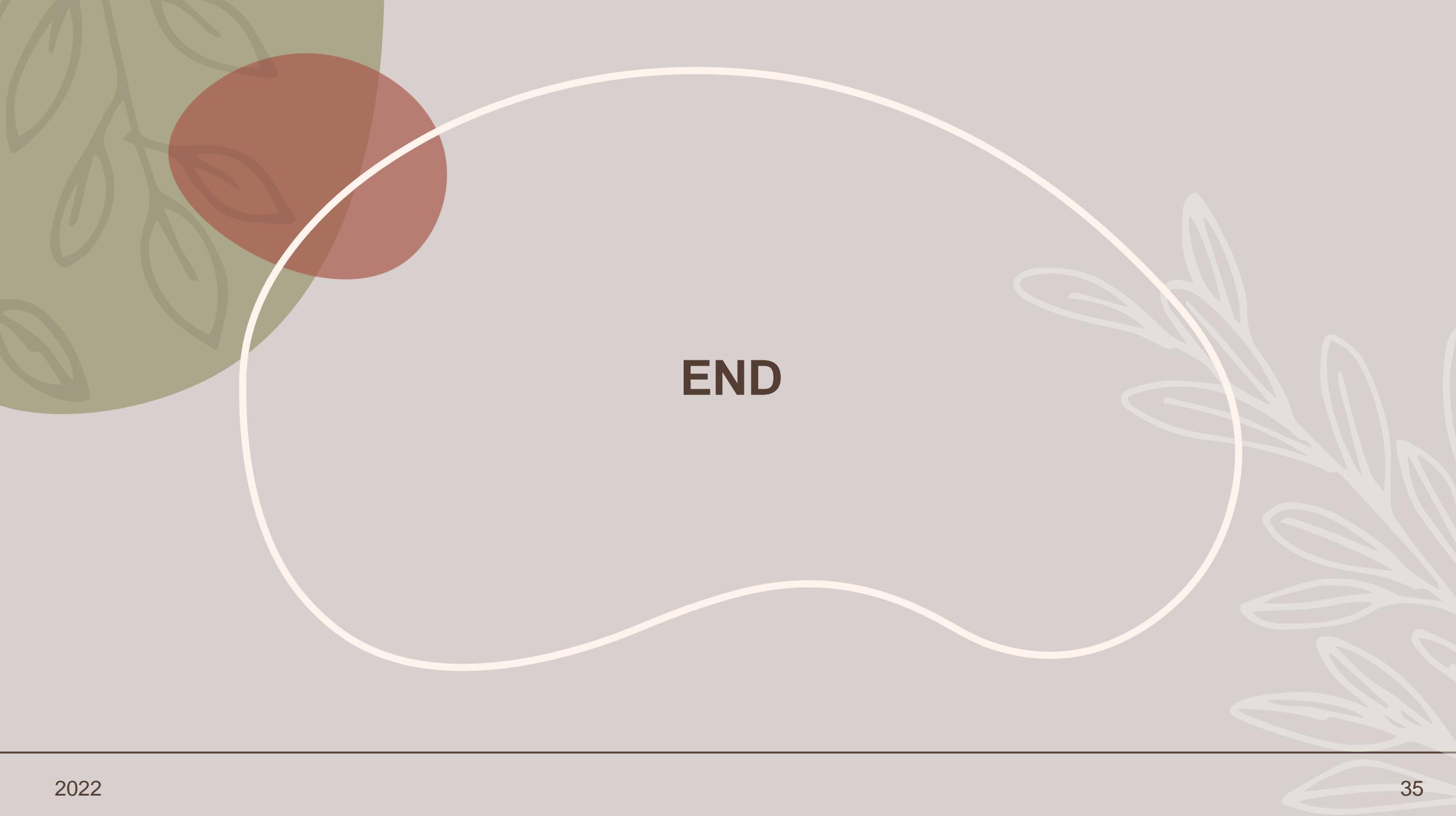
- Take action in SD until SC does and must report to SC.
- Armed attack must have occurred (Dinstein v dissenting opinion of Judge Schwebel in the Nicaragua (Merits) Case)
- Article 51: refers to 'inherent' therefore engages a customary right.

Custom:

- Instant and overwhelming – requirement of necessity, proportionality and reasonableness
- 'imminent attack' might be permitted by custom but this is often a misreading of the significance of the Caroline incident and its definition akin more to an 'actual' armed attack.
- The prohibition constitutes customary law that is not extinguished by the UN Charter rules: see Nicaragua, Oil Platforms and Nuclear Weapons.

Pre-emptive Self-defence

- doctrine of pre-emptive self-defence assumes the right to use force without international authorisation in order to prevent the development of a possible future attack by another state.
- The USA's National Security Strategy (US Government, 2002) used the term of pre-emptive self-defence, particularly with reference to terrorist attacks.
- The idea is extremely controversial, as it goes against the core principles of international law regulating the use of force.



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