

CHAPTER ONE

INTRODUCTION

A. Background of Research

A summit between the leaders of the United States and North Korea, Donald Trump and Kim Jong-Un, was held recently in February in Hanoi, Vietnam. The summit was the second United States-North Korea summit after the first summit that was held back in June 2018 in Singapore. The leaders are in for talks on nuclear disarmament.¹

Several talks have been done by the United States and the international community to negotiate with North Korea regarding its nuclear and missile development and the export of nuclear missile technology.² Despite of these efforts, numerous reports saying that Kim's administration continues to advance its nuclear and ballistic missile program with the ongoing rockets, warheads, and fissile production.³ These reports put North Korea as a nuclear threat to the global nuclear nonproliferation regime.

¹ BBC, 2019, "Kim-Trump Summit: North Korean Leader Talks Up Denuclearisation", BBC, taken from <https://www.bbc.com/news/world-asia-47395226>, accessed on March 5th, 2019 at 8 pm.

² Alicia Sanders-Zakre, 2019, "Chronology of U.S-North Korean Nuclear and Missile Diplomacy", Arms Control Association, taken from <https://www.armscontrol.org/factsheets/dprkchron>, accessed on March 5th, 2019 at 9:35 pm.

³ Nyshka Chandran, 2019, "What Trump can — and can't — Offer Kim will Define the Success of the Upcoming US-North Korea Summit", CNBC, taken from <https://www.cnbc.com/2019/02/07/second-us-north-korea-summit-what-to-expect.html>, accessed on March 5th, 2019 at 10 pm.

All diplomatic efforts done by the United States and the international community was for denuclearization in North Korea when North Korea intended to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons 1968 (NPT). The International Atomic Energy Agency (IAEA) was allowing North Korea to draw out its obligation to be inspected thoroughly by IAEA within 18 months after signing and ratifying the NPT.⁴ IAEA role in carrying out an inspection did not start until 1992, and yet during that time, North Korea had illicitly separated plutonium. When IAEA requested an inspection of two nuclear waste sites, North Korea refused and submitted their withdrawal from the NPT.

It was in 1993 when things culminated the crisis when IAEA announced that North Korea has been in non-compliance with its obligation under the NPT and in response to the announcement, North Korea withdrew from IAEA. Sanctions were imposed on North Korea, and in response, they threatened war, and the United States strengthen its military forces in South Korea.⁵

Tensions between North Korea and the United States and advocates of NPT until mid-1994 that eased with the Agreed Framework concluded by the U.S and North Korea, which froze North Korea's plutonium-based nuclear power program.⁶ In 2002, reports said that North Korea was doing a second,

⁴ Henry D. Sokolski, 2010, *Reviewing the Nuclear Nonproliferation Treaty*, Pennsylvania, Strategic Studies Institute, U.S. Army War College, p. 420.

⁵ Barry Buzan and Wæver O, 2003. *Regions and Powers the Structure of International Security*, Cambridge, Cambridge and New York: Cambridge University Press, p. 139.

⁶ Joseph Cirincione, 2002, *Deadly Arsenals: Tracking Weapons of Mass Destruction*, Washington D.C, Carnegie Endowment for International Peace, p. 239.

uranium-based nuclear program which triggered the Agreed Framework crumbling and culminating North Korea withdrawal from the NPT.⁷

International community questioned the legality of this action and the justification of North Korea reason to withdraw from the NPT as it is considered as a step that was not legitimate by the world community.⁸ Even though North Korea withdrawal was within the legal stipulation under Article X of NPT, its withdrawal from the NPT do not change the fact that North Korea had committed a breach toward its obligations under the NPT by operating its uranium-enrichment program when the NPT was in force and its withdrawal was far from “good faith”⁹ principle of international law criteria.

Upon its withdrawal from the NPT, North Korea stated that it does not have any intention on making nuclear weapons and their activities will be confined to energy power production and other peaceful purposes.¹⁰ However, in 2005, North Korea officially stated that it has nuclear weapons and have conducted nuclear test clarifying their action as part of regular military train for self-defense. It is a clear cut that North Korea withdrawal from NPT was to get away from their obligation.

⁷ Wade L. Huntley, 2006, “Rebel without a Cause: North Korea, Iran and the NPT”, *International Affairs*, Vol. 82, No. 4, London, The Royal Institute of International Affairs, p. 724.

⁸ George Bunn and Roland Timerbaev, 2005, “The Right to Withdraw From the Nuclear Non-proliferation Treaty (NPT): The Views of Two NPT Negotiators”, *Yaderny Kontrol*, Vol. 10, No. 1-2, Russia, PIR Center, p. 23.

⁹ Black’s Law Dictionary 701 (7th ed. 1999) has defined good faith as “A state of mind consisting in (1) honesty in belief or purpose, (2) faithfulness to one’s duty or obligation, (3) observance of reasonable commercial standards of fair dealing in a given trade or business, or (4) absence of intent to defraud or to seek unconscionable advantage”.

¹⁰ International Atomic Energy Agency, 2003, IAEA Board of Governors resolution GOV/2003/3, taken from <http://www.iaea.org/worldatom/press/p-release/2003/med-advise-004.html>, accessed on March 7th, 2019 at 3 pm.

These series of reasoning that it may be concluded that the arguments given out by North Korea in justifying its withdrawal from NPT are difficult to conciliate with the application of the extraordinary events clause contained in Article X. The academic debate on the legitimacy of North Korea withdrawal from NPT was whether its withdrawal is legitimate under international law. Based on the background above, the author considers analyzing the proliferation of nuclear weapons in North Korea from an international law perspective.

B. Problem Formulation

Based on the research background above, the author formulates one question to be answered, namely:

How is the international law perspective on the issue of the proliferation of nuclear weapons in North Korea?

C. Objective of Research

The objective of this research is to understand the international law perspective on the proliferation of nuclear weapons in North Korea.

D. Benefits of Research

There are some benefits of this research, namely:

1. Theoretical Aspect

This research gives benefits to know deeply about the perspective of international law regarding the proliferation of nuclear weapons.

2. Practical Aspect

This research provides a better understanding of nuclear weapons under international law for those who engaged with the proliferation of nuclear weapons such as government, lecturers, students and party involved in the proliferation of nuclear weapons.

E. Overview of the Chapter

The research consists of five chapters, namely: Chapter One Introduction, Chapter Two Literature Review, Chapter Three Research Method, Chapter Four Finding and Discussion, Chapter Five Conclusion and Suggestion.

Chapter One: In this chapter, the author elaborates general matter, such as Background, Research Question, Research Objective, Research Benefits, and Overview of The Chapter. The background provides the latest event of nuclear non-proliferation effort and diplomatic effort done by the international community towards North Korea and a brief history of nuclear proliferation in North Korea. The author also addresses the research problem, which will be discussed in the next chapter.

Chapter Two: Literature Review, the chapter discusses related library reviews and theoretical framework regarding Proliferation of Nuclear, Treaty on Non-Proliferation of Nuclear (NPT), and International Atomic Energy Agency (IAEA).

Chapter Three: The chapter elaborated research method which is used in the research. The discussion started from the type of research, legal materials, method of collecting data, and method of data analysis. Type of the research is

normative legal research. The research applies statute and case approaches. The data were collected from some literatures consisting of primary legal material, secondary legal material, and tertiary legal material. Furthermore, the data were taken through library research and analyzed systematically by using a qualitative and descriptive method.

Chapter Four: Finding and Analysis, the chapter elaborates the finding and discusses the international law perspectives on the issues of nuclear weapons proliferation in North Korea.

Chapter Five: Conclusion, in the chapter, the author summarizes the finding and discussion then concludes the international law perspective on the issues of nuclear weapons proliferation in North Korea. Then suggestions are given for the future implementation in dealing with cases related to the proliferation of nuclear weapons.