COMMITTEE GUIDE

SPECPOL

SPECIAL POLITICAL AND DECOLONIZATION COMMITTEE

Mariana Monsalve Orozco & Miguel Ochoa Ramírez

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Presidents' Letter

"When states decide to use force to deal with broader threats to international peace and security, there is no substitute for the unique legitimacy provided by the United Nations"

Koffi Annan

Dear delegates,

It's an honour for us, Mariana Monsalve and Miguel Ochoa, to welcome you to the XX version of CCBMUN and to the Special Political and Decolonization Committee. It's an immense privilege being the ones able to preside over this committee, and to try to emulate the profound and crucial discussions that truly happen around the world. We hope that this experience of embodying influential nations in one of the six commissions of the United Nations General Assembly, will not only enrich you with new knowledge and conflict-solving abilities, but will enable you to create a new perspective of our reality today.

We aspire for this Model United Nations to contribute to a better understanding of current issues, and hopefully spark a wave of curiosity on how to be the ones that create meaningful changes in this difficult situation. As many others have said before us, our main goal with this event is to inspire you to at least for a couple of days fight for a better future.

We, to the best of our abilities, will strive to provide you with the greatest assistance and guidance needed to bring to life the space where you will be able to debate, discuss, investigate, and negotiate. However, the true core of this activity is you, the delegates. We expect all of you to give the best of yourselves and to properly prepare, engage with the material, and faithfully represent your delegations. We hope to give you the tools to make the best of these committee days, but ultimately it is our responsibility to build and shape the best experience possible during the course of CCBMUN.

With this in mind, we invite you to get involved completely with your role in the committee. In this opportunity, you will have the possibility to participate in one of the most influential organs in the international landscape, capable of making important decisions to the issues it discusses. Therefore, the main goal of developing diplomatic solutions and maintaining international security and peace is achievable, and on this occasion, you are the ones with the chance to do so.

Yours sincerely,

Mariana Monsalve Orozco and Miguel Ochoa Ramírez
SPECPOL Presidents

Simulation Topic: *Territorial disputes in the Antarctic*

I. History/Context

The southern hemisphere of the planet is one of the most remote parts of the world and its temperatures are some of the lowest. The exploration and process of population of the Antarctic was a task that could barely be done until the 20th Century, therefore there was no native population, making the continent an exceptionally odd case in international law. To avoid conflicts over this area, the Antarctic Treaty and Antarctic Treaty System were created. The Antarctic Treaty diminishes the potential for conflict over sovereignty and, while it is in force, it will prevent any new territorial claims.

The Antarctic Treaty entered into force in 1961 and has since been acceded to by many other nations. Through this agreement, the countries active in Antarctica meet yearly to discuss issues as diverse as scientific cooperation, measures to protect the environment, and operational issues. They are bound to take decisions by consensus, and have all made the commitment that Antarctica should not become the scene or object of international discord.

There were seven original signatory countries in the Antarctic Treaty: Argentina, Australia, France, Chile, New Zealand, Norway, and the United Kingdom – with territorial claims in Antarctica; some of them overlap. Some Treaty Parties do not recognize territorial claims and others maintain that they reserve the right to make a claim.

The Antarctic Treaty comprises only 14 Articles, but it established a number of significant global precedents. The Treaty required that Antarctica "be used for peaceful purposes only" and prohibited the establishment of military bases, testing of weapons, and military manoeuvres on the continent. It was also the first international treaty to prohibit nuclear explosions and the disposal of nuclear waste. Furthermore, heralding the success of the International Geophysical Year, the Treaty guaranteed "freedom of scientific investigation", established that scientific research plans and personnel be exchanged, and "scientific observations and results be made freely available".

It is also relevant to note that there are other Antarctic treaties that come into action in the zone and are relevant to the regulation of the practices of countries. For instance, the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) which looks after the correct use of the resources of Antarctica and as a whole they all make the "Antarctic System".

Territorial claims based on theories of claimant states

Between 1908 and 1940, seven states advanced territorial claims in Antarctica. Although the claimed territories have different extensions, each one has a triangular shape with its base on the 60th South parallel and its apex at the South Pole. The territories claimed by Argentina, Chile, and Great Britain overlap to some extent. This overlap has been a source of dispute among the three countries on numerous occasions. Nonetheless, all of the territorial claims do not even cover the entire continent; a large triangle on the side of the Pacific Ocean, between 90° and 1500 West longitude, is not claimed.

II. Current Situation

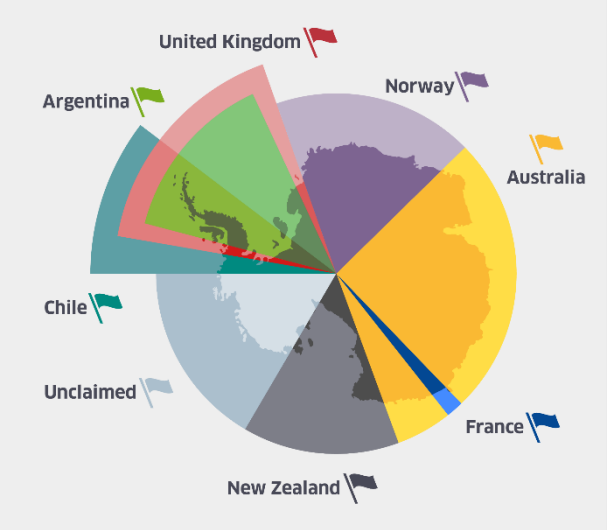
Even though the development of the treaty has led to decades of peace and scientific development, there are still a lot of undebated areas, such as the appliance and use of exclusive economic zones (EEZ's) for the distribution and classification of the land and resources, as well as the use of the unclaimed land. In addition, the implication of having just a few selected countries in a multilateral agreement for the administration of the whole continent, leaving other nations behind, has arisen as a problem.

Use and distribution of the Antarctic

There are five different types of territory within this circle: land, internal waters, territorial seas, exclusive economic zones, and international waters. Internal waters are bodies of water adjacent to land, such as bays or rivers. Territorial seas are seas that extend for up to 12

nautical miles beyond land. EEZs are seas that extend 200 nautical miles from land where a sovereign state can exercise exclusive rights to marine resources. International waters are seas subject to customary international law rather than sovereign jurisdiction.

Currently 7 countries hold sovereignty claims over the Antarctic, several of them over the same zones, regardless of their lack of proximity to the continent. In the case of Chile, Argentina and the United Kingdom, these disputes could cause a future conflict that should be prevented, as it threatens international security.



(Figure 1: territorial claims of the Antarctic)

There is a part of the Antarctic that haven't been claimed by any countries and is considered terra nullius (nobody's land).

One of the issues regarding the Antarctic Treaty is Article IV, paragraph 2, which covers all possible claims to sovereign rights that are connected with territorial jurisdiction. It is questionable, for instance, whether it can be applied to the sovereign rights of coastal states recognized after the entry into force of the Antarctic Treaty in 1959, such as the rights in the Exclusive Economic Zones (EEZ). In other words, article IV, paragraph 2, forbids new claims or the enlargement of existing claims. Is the claim to the EEZ, then, among the forbidden claims? Some of the states claiming territorial sovereignty in Antarctica (claimant states) and a

number of distinguished scholars hold that the EEZ is not forbidden and can be proclaimed.

The numerous ambiguities regarding sovereign rights and legal concepts applied throughout the Antarctic system can be easily taken advantage of in order to acquire more territory. One of the most controversial ambiguities can be found in the article IV paragraph 2 of the Antarctic Treaty:

“2. Nothing in this Convention and no acts or activities taking place while the present Convention is in force shall:

(a) constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in the Antarctic Treaty area or create any rights of sovereignty in the Antarctic Treaty area;

(b) be interpreted as a renunciation or diminution by any Contracting Party of, or as prejudicing, any right or claim or basis of claim to exercise coastal state jurisdiction under international law within the area to which this Convention applies;”

First, although article IV of CCAMLR freezes not only the claims to territorial sovereignty, but also claims "to any right or claim or basis of claim to exercise coastal state jurisdiction," the language of the article represents a compromise between claimant and non-claimant states. As a result of this "bifocal approach," the phrase "coastal state jurisdiction" can be interpreted in two different ways. It can be interpreted as meaning coastal jurisdiction around all the coasts of Antarctica, as claimant states desire, or as coastal jurisdiction around only a few islands of undisputed sovereignty, as non-claimant states wish. The ambiguity of the term "coastal state jurisdiction" thus renders the effect of CCAMLR on territorial claims unclear.

Furthermore, neither the Antarctic treaty nor the CCAMLR state in an explicit way how would maritime rights such as the EEZ and the territorial sea will be granted to each claimant state.

It is unclear whether the provisions of the United Nations Convention on the Law of Sea

(UNCLOS), which regulates all territorial delimitation in international waters, will apply. The Antarctic Treaty System specifies that no further claims should be advanced, however it does not clarify if those claims relate to the continental territory exclusively, or if they extend to maritime zones or islands. UNCLOS explains in its article 55: *"the exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention";* nevertheless, the agreement of the Antarctic does not mention any kind of maritime right.

Additionally, there is confusion as to what bodies of law, the UNCLOS or the Antarctic System, will govern the rights to direct use and exploitation of resources in the continent. While the UNCLOS allows the exclusive exploitation of natural resources found in the EEZs of each country, the Antarctic system prioritizes environmental protection. This unclarity over which provisions should be applied is also reflected on the lack of specification of the Antarctic system on the distribution of islands surrounding the continent and their administration. Finally, there is no explanation over the use of living resources or there is no relevant decision-making powers or subsidiary commissions for the settlement of disputes, thus claimant states could still claim a set of residual rights and powers without repercussions.

This all leads to the discussion on territorial claims and the potential importance of a regime of mineral resources in Antarctica. The Contracting Parties to the Antarctic Treaty have engaged in long negotiations over a minerals regime. For the time being, the exploitation of Antarctic mineral resources has no commercial value; the quantity and the quality of the resources are scarcely known, but it is possible that the exploitation of these resources will acquire great importance in the future. Thus, the agreement that is trying to be reached today may be of tremendous importance to future generations. This new solution should establish once and for all a system of lawful appropriation of natural resources such as oil, coal and metals among nations.

III. Key points of the debate

- Validity, international support and legitimacy of the Antarctic Treaty
- Past claims and application of the Treaty
- Territorial distribution
- Inclusion of new countries into the Treaty
- Management of the remaining terra nullius in the Antarctic

IV. Guiding questions

1. Does your country have territorial claims over the Antarctic?
2. What is your country's position over the unclaimed land in the Antarctic zone?
3. Regarding the time and validity of the treaty, what is your country's proposal to extend or the Antarctic Treaty?
4. Does your country consider that the Treaty should be changed in any way? If so, please describe what changes should be made.
5. Does your country agree with the idea of mining rights on the continent in the future? If so, how would these rights be distributed between countries?

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Topic 1: *Application of "Responsibility to Protect" in internal conflicts*

I. History/Context

The concept of Responsibility to Protect or R2P has widely been accepted as a principle of international law. It was conceived in order to address gross human rights violations in sovereign states and as a tool to prevent and react when these situations present themselves. The norm arose after the failure of the international community to halt mass atrocity crimes committed in Rwanda in 1994 and in former Yugoslavia in 1999. Nonetheless, this pattern of human rights abuses had been present during the whole 20th Century. Governments would use military force against their own population with the excuse of internal security and they would oppose any outside interference, citing state sovereignty. Therefore, the international community began to develop the concept of R2P, which went through multiple modifications.

(Figure 2: R2P Monitor that provides background on populations at risk of mass atrocities around the world. *see* https://www.globalr2p.org/publications/r2p-monitor-issue-62-1-september-2022/)

International Commission on Intervention and State Sovereignty (ICISS)

In December 2001, the ICISS launched a report entitled 'The Responsibility to Protect'. It focused on presenting R2P as the responsibility to react, the responsibility to prevent, and the responsibility to rebuild. The responsibility to prevent a conflict was established as the core principle - states should eliminate the root causes of the conflict such as inequality and political instability, and the more immediate causes like rebellion or protest. The ICISS recognized three conditions for successful prevention: early warning; awareness of possible measures to attenuate the situation; and the political will to take action. It further recommended a variety of political, economic, legal, and diplomatic preventive measures that included consultation with the UN Secretary General, peaceful strategies to resolve disputes like arbitration or negotiation, and positive or negative inducements.

When preventive measures fail, the responsibility to react comes into action. It encompasses both non-military and military actions, although the latter must only be used as the last resource. Non-military strategies may be arms embargoes, the cessation of military cooperation, economic sanctions, or any measure stipulated by Article 41 of the UN Charter. On the other hand, for military intervention, the ICISS listed six 'precautionary principles', namely: just cause, right authority, right intention, last resort, proportionality and reasonable prospects.

Just cause is present when states commit gross human rights violations, as explained above; the international community would have a just cause to intervene. On the issue of right authority there is still some debate over who can legally intervene extraterritorially with R2P, but the ICISS stated that *"there is no better or more appropriate body than the Security Council (SC) to deal with military intervention issues for human protection purposes".* (Evans and Sahnoun, 2002). Right intention and last resort mean that the intervention's only objective must be to halt the abuses being committed, and that such intervention needs to be the last remaining option to resolve the conflict. Additionally, military action must be proportional in terms of duration, scale, and intensity. The use of force needs to be limited to the minimum magnitude necessary to achieve the objective. Finally, the intervention should have a high prospect of success, ensuring that inaction would be worse than intervention.

Lastly, the third element of R2P, the responsibility to rebuild, addresses the importance of post-conflict reconstruction, which may include establishing a functioning judicial system (or strengthening other government institutions), building measures, or the promoting of sustainable development and good governance. The ICISS also explained the need for a defined mandate for each intervention. (Franziska-Carolin Kring, 2020)

World Summit Outcome document

Four years after the ICISS' report, at the 2005 World Summit, almost all UN member states officially legitimized and agreed on a more restricted version of R2P. Paragraph 138 specified that the scope of R2P would only be present for the protection of populations of the international crimes of genocide, war crimes, ethnic cleansing and crimes against humanity. Additionally, it stated the responsibility of states to prevent such crimes and the necessity to help other states to exercise their responsibility and support the United Nations in its efforts to ensure compliance with the principle. On the other hand, paragraph 139 stipulates that *"the international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations"*. Also, it indicates that collective action could be taken *"in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations"*. (A/RES/60/1 [2005])

This definition, although affirming the responsibility of states and the international community, narrowed down the scope of R2P, which claimed responsibility for 'large-scale loss of life or large-scale ethnic cleansing in the ICISS report, to only in cases of four crimes:

a. War crimes. In broad terms war crimes, in international law, constitute a serious violation of the laws or customs of war as defined by international customary law and international treaties.

b. Genocide. The Convention on the Prevention and Punishment of the Crime of Genocide stipulates:

"In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

i. Killing members of the group;
ii. Causing serious bodily or mental harm to members of the group;
iii. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
iv. Imposing measures intended to prevent births within the group;
v. Forcibly transferring children of the group to another group."

c. Crimes against humanity. They refer to specific crimes committed in the context of a large-scale attack targeting civilians, regardless of their nationality. These crimes are defined by the Rome Statute.

d. Ethnic cleansing. "[A] purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas." (S/1994/674)

Furthermore, the document makes reference to both prevention and action, but it leaves out any specifications for rebuilding. Thus, it is clear that further work was necessary to clarify the guidelines on the implementation of the principle.

Annual reports of the Secretary General

In 2009, UN Secretary-General Ban Ki-moon published the first report on the implementation of R2P. In it, it was explained the development of a three-pillar strategy and there were some recommendations on potential measures in order to ensure their correct compliance. The three pillars are:

1. Every state has the Responsibility to Protect its populations from four mass atrocity crimes: genocide, war crimes, crimes against humanity, and ethnic cleansing.

2. The wider international community has the responsibility to encourage and assist individual states in meeting that responsibility.

3. If a state is manifestly failing to protect its populations, the international community must be prepared to take appropriate collective action, in a timely and decisive manner and in accordance with the UN Charter. (A/63/677)

Since then, there have been reports about the role of regional and sub-regional arrangements and state responsibility and prevention, to barriers to mobilizing collective action.

II. Current Situation

R2P has become a core principle related to humanitarian crises, being a recurrent tool of the United Nations to hold states accountable for their breaches of international law. It has been mentioned multiple times in Security Council resolutions, to name a few examples, Resolution 1975 on Côte d'Ivoire, Resolution 2085 on Mali, Resolution 2109 on South Sudan, Resolution 2149 on the Central African Republic, and Resolution 2385 on Somalia. All of them reference conflicts in developing countries. However, the most relevant case to examine the action of states through R2P is the conflict in Libya. The following paragraphs will explain the application of R2P in the situation, the responses of the international community, and how the debate around effectiveness and possible reform looks nowadays.

Libya's military operation

In 2011, the regime of Muammar Gaddafi began attacking Libyan peaceful protestors in the capital Tripoli, as they were participating in the wider political movement of the Arab Spring. The SC took immediate action and on the 28 of February passed Resolution 1970, which

alluded to R2P. The Council mandated non-military reactive measures as proposed by the ICISS, which included arms embargoes on the country, and travel bans on targeted individuals, and it referred the situation to the prosecutor of the International Criminal Court (ICC) (S/RES/1970). When these initial measures failed to pressure Libyan authorities into complying with the principle of protecting their population and with the threat of a potential assault on the eastern city of Benghazi, the SC passed Resolution 1973 on 17 March. It authorised 'all necessary measures … to protect civilians and civilian populated areas under threat of attack' (military action under Chapter VII of the Charter). Nonetheless, the resolution explicitly 'exclud[ed] a foreign occupation force of any form on any part of Libyan territory' and reaffirmed its respect for Libyan sovereignty. (S/RES/1973)

(Figure 3: Victims of conflict)

Consequently, NATO began bombing military positions all over the country and alongside other Gulf states supported rebel forces, but they heeded the UN mandate and did not deploy ground troops. Although both strategies prevented a mass slaughter, it aided to the strengthening of armed insurgents within the country that, after the UN operation, became engaged in a civil war with government forces, whose effects can still be felt today. It wasn't until April that interventionist leaders of the US, UK and France began advocating for regime change. They stated that they did not have a UN mandate 'to remove Qaddafi by force' but that it was 'impossible to imagine a future for Libya with Qaddafi in power'. By October, Western-backed rebels had captured Gaddafi and apparently executed him. Nevertheless, the UN did not develop an efficient and detailed plan for peacebuilding, leaving the country under grave political and social instability. (McMillan & Mickler, 2013)

International community's response

Several states responded negatively to the NATO mission, especially the BRICS (Brazil, Russia, India, China, and South Africa) countries. Criticism pointed out that peace negotiations had been halted as military operations began and that NATO refused to share information with the rest of the Council. Furthermore, states argued that the operation had exceeded resolution 1973's mandate of 'ensuring protection to civilians' by engaging in open warfare, including through the transfer of arms to rebel groups, a violation of the arms embargo. They also argued that regime change was not part of R2P's mandate, that it consisted of a clear violation of external sovereignty, and that the overall use of military means did more harm than good, leaving Libya to deal with a full-fledged civil war.

The bad image that the criticism of the NATO operation gave to R2P directly reinforced the suspicions of those questioning the concept. This reflected on the SC's inaction during the Syrian humanitarian crisis, where opponents of R2P voted against resolutions - alongside the vetoes of China and Russia - aimed at condemning the systematic attacks of the government of Bashar al-Assad to civilians protesting against the government. As Ramesh Thakur remarked, '[…] the Libyan operation proved particularly controversial among the emerging powers, and the price of exceeding the mandate there has been paid by Syrians.' Furthermore, the controversy has hindered other attempts of applying R2P in internal conflicts. (Franziska-Carolin Kring, 2020)

(Figure 4: UN troops, Deutshe Welle, 2020)

The RwP proposal

The international debate surrounding the implementation of R2P, rather than an attempt to delegitimize the concept, focused on the practical issues when looking to assure smooth international (normative) implementation. States have increasingly recognized the flaws in the approach taken during Libya's conflict and have tried to bring nuance to the discourse. One clear example was the paper presented by Brazilian diplomats at the 2011 General Assembly: "Responsibility while Protecting: Elements for the Development and Promotion of a Concept".

This proposal was composed of three main ideas as explained by Marcos Tourinho, Oliver Stuenkel & Sarah Brockmeie: "*first, the paper emphasised the need to further improve the use of preventive and noncoercive measures in the implementation of R2P. [...] Second, it emphasised the need to establish more specific criteria for the authorisation of coercive intervention under R2P. [...] Third, the proponents of RwP were concerned with the lack of practical (not formal) authority of the Security Council in managing crises once the use of force has been delegated to third parties. To address this issue, the proposal called for greater normative and institutional accountability of those intervening under the delegated authority of the UN Security Council."* ("Responsibility While Protecting": Reforming R2P Implementation, 2016). The paper sought to advance the idea of establishing "parameters" and "guidelines" in order to implement R2P. Below, the proposals will be further explained.

Prevention and Non-coercive Measures

Even though prevention measures are already addressed in R2P related documents, it is now clear that they are increasingly difficult to implement at a local level. Many states are worried about the protection of sovereignty and avoiding excessive oversight, or investigation by foreign intelligence services. With the purpose of alleviating such concerns, closer collaboration with other international and UN institutions might be the key. Foreign aids or targeted sanctions have both worked as ways of convincing governments to commit to peace negotiations, those measures could come from the UN and regional organizations alike. Additionally, working with the ICC could help with processes of accountability over crimes, as SPECPOL is the organ dedicated to supervised peacekeeping operations, developing

connections between R2P implementation and peacekeeping would certainly be useful, and in some cases, assistance could be provided by the Peacebuilding Commission.

Criteria

Despite the fact that criteria for the application of R2P exist (specific crimes that must be committed) many states argue that due to the long-lasting consequences of military intervention there must be a more rigorous standard for evaluating which situations call upon military action. Moreover, stricter criteria, beyond the one proposed by the ICISS could establish a higher threshold for the legitimate use of force and parameters of how much is appropriate, and would appease states worried about the potential power abuse of military means in vulnerable nations. Unfortunately, many powerful states have rejected this idea altogether, arguing that it would impractically restrict strategic military actions. There have not been any formal proposals of how to improve the criteria of R2P by any state, however, American political scientist Robert A. Pape suggests a "pragmatic standard", involving:

(1) an ongoing campaign of mass homicide sponsored by the local government in which thousands have died and thousands more are likely to die;
(2) a viable plan for intervention with reasonable estimates of casualties not significantly higher than in peacetime operations and near zero for the intervening forces during the main phase of the operation; and
(3) a workable strategy for creating lasting local security, so that saving lives in the short term does not lead to open-ended chaos in which many more are killed in the long term.

Monitoring and Accountability

RwP sought to ensure transparency of operations authorities by Chapter VII and the accountability of the measures of those forces to whom the SC gives permission to use force. It advocated for efficient mechanisms to *"monitor and assess the manner in which resolutions are interpreted and implemented"*. One option could be the Military Staff Committee, whose responsibility, as stated in Article 45, is to plan and oversee military operations authorized by the Council. Nevertheless, historically military powers have refused to make use of these

organisms in order to avoid supervision over their operations. However, there has been an increased use of Sanctions Committees, who are responsible for overseeing UN sanctions regimes, establishing independent enquiry commissions, monitoring teams and panels of experts. These mechanisms may help the international community to have a constant update on the military missions and their success. (Brazil, 2011)

There is still a long way to go regarding the improvement of the application of Responsibility to Protect. SPECPOL has an important role in advocating against any military occupation of vulnerable states under conflict and can easily focus on special policies and peacekeeping strategies. Delegates on the commission must revise the former implementations of R2P and advocate for a better and improved version of it, being faithful to their foreign policy. Current R2P debates lack discussions around peacebuilding and the importance of political reconstruction after a military intervention. States must address the obstacles present for a correct interpretation of R2P and may advance possible reform. Finally, the unique context of developing countries must inform the plans of future R2P missions, taking into account the economic, social and political instability of such states.

III. Key points of the debate

1. Failures of previous applications of R2P (especially Libya)
2. Institutions and organizations that could help R2P operations
3. Developing new criteria and accountability mechanisms
4. Possible reforms of the concept in a practical manner
5. Ways to improve preventive measures
6. Ways to improve reaction strategies, both military and non-military
7. Ways to improve the rebuilding processes

IV. Guiding questions

1. Has your country been a victim of a foreign military intervention justified by the need for humanitarian intervention or for R2P?

2. Has your country approved or been an active party of a military humanitarian intervention in foreign countries?
3. Does your delegation believe that R2P has been successfully and legally applied in countries under conflict? If not, why not?
4. Does your delegation consider that sovereignty and territorial integrity are principles conditional on the state's compliance with their legal obligation of protecting its citizens?
5. Does your delegation believe that countries should abstain from intervening in non-international conflicts to preserve sovereignty?

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Topic 2: *Involvement of belligerent groups in the Western Sahara conflict*

I. History/Context

Western Sahara is an extensive desert at the Atlantic-coastal area of northwest Africa. It is composed of the geographic regions of Río de Oro (Gold River), which occupies the southern two-thirds of the country; and Saguia el-Hamra, which consists of the northern third. It is bounded by the Atlantic Ocean on the west and northwest, by Morocco on the north, by Algeria for a few miles in the northeast, and by Mauritania on the east and south.

In the 19th Century it officially became a Spanish colony inhabited by Muslim tribes, and by 1934 it had been declared a province. In the 1950's, Spain and France gave up their colonial holdings, granting independence to countries such as Morocco. Looking for territorial expansion, in 1957 Morocco claimed Western Sahara as part of its territory. As a consequence, both nations referred the case to the UN in order to settle the dispute. Later, at Bu Craa in the northern portion of the country, huge phosphate deposits were discovered in 1963, making the province a potential economic valuable prize for any country that could firmly establish possession of it. In 1965, the UN finally called for independence for all nations and created seven resolutions by the General Assembly regarding the matters on Western Sahara and the right to self-determination.

It was not until 1973 that the Popular Front for the Liberation of Saguia el-Hamra and Río de Oro, or Polisario Front for short, was finally founded. This indigenous Sahrawi independence movement was to be the representative of the indigenous people of Western Sahara nationally and internationally. The Polisario Front was then recognised by the United Nations as a primary international actor, giving it the status of belligerent group. The difference between a simple insurgency or armed organization which looks to exert political change and a group with the status of belligerency relies on structure, operations and aims of the organization. A belligerent group must possess a political organization (i.e. a chain of command, political purpose for their use of force, symbols, flags, uniforms etc), they must be

able to hold and administrate territory on their own and their military operations must follow International Humanitarian Law (IHL) and they must fulfil such regulations in good faith.

(Figure 5: Polisario Front Symbols, Sahara Press Service, 2019)

This last condition refers to the compliance of IHL or the "Law of War", stated in the four Geneva conventions and the two additional Protocols. Belligerent groups are able to follow the primary responsibilities of states during times of conflict, therefore, they receive a particular international legal status that grants them rights, responsibilities and immunities (in the context of armed conflict and the Geneva Conventions). Furthermore, belligerent organizations can be parties in a treaty (to redact, sign and ratify) and can participate in various diplomatic activities traditionally reserved for states. Currently, the only belligerent group in the world is the Polisario Front, and its special legal status under international law can directly affect how the conflict may be solved.

(Figure 6: Polisario Front, Sahara Press Service, 2019))

In 1975 a series of agreements were made unilaterally by Spain, Morocco and Mauritania in which Spain gave away their colonial holdings to the nations, based on the principles of decolonization and self-determination with the proposal of a referendum for the people. However, Western Sahara's opinion was never mentioned in the accords and soon the country was occupied by troops from both countries.

With these actions, the countries violated the declaration made by the International Court of Justice (ICJ) in 1975 which stated that none of the countries had territorial sovereignty over Western Sahara. As such, it was established by the UN office for legal affairs that no colonizing power could give territorial sovereignty to another country. Thus, the United Nations invalidated the recognition of the Madrid accords. In 1976 the United Nations recognized the Polisario Front as the only legitimate representative of the Sahrawi, officially establishing the Sahrawi Arab Democratic Republic (SADR) as an independent state.

In order to withdraw from the occupied region, Mauritania signed a peace treaty with the Polisario Front in 1979, recognizing the SADR. After these actions, Morocco annexed the territory given by Spain. In order to hold territory and establish a defensive position, the Moroccan army built a heavily mined and patrolled berm that has an extension of 2700 kilometres, making it one of the largest military infrastructures in the world.

(Figure 7: The berm that divides the country, The Trumpet, 2018)

In 1991, the Secretary General of the UN proposed a ceasefire that would be established in which parties would settle a plan that had to be executed. Regardless of the hostilities still present in certain areas, the Security Council accepted the proposal, deploying military observers as well as creating a subsidiary organ called MINURSO (United Nations Mission for the Referendum in Western Sahara), creating military agreements between each side. The first agreement divided the Western Sahara into 5 areas of control in order to regulate military activities in each one of them, respecting and granting peace among each contracting party. Other agreements settled demining activities and the status of each group.

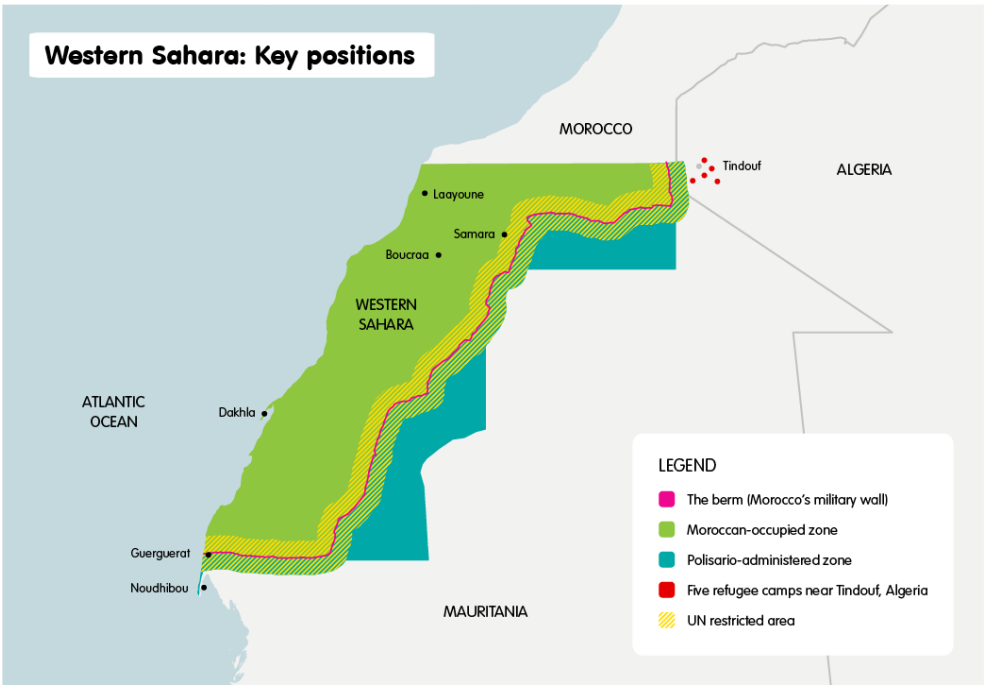
By the time of the cease-fire, Morocco had asserted its control over more than two-thirds of Western Sahara in its western part along the Atlantic Ocean. The United Nations promised a referendum on the status of the territory, including the options of independence, autonomy, or integration with Morocco. The referendum was to be organized and conducted by the UN Mission for the Referendum in Western Sahara (MINURSO), but it has yet to take place. The planned referendum has been repeatedly delayed due to a dispute between Morocco and the Polisario Front over who is eligible to vote on the status of the territory.

In 2020, the official declaration of the ceasefire was made by the Polisario Front after 29 years of conflict. Even though Morocco has said it will follow the established terms of the ceasefire, it is possible that there is a collapse of the agreements, reigniting a conflict that has been inactive for decades. The leader of the Polisario Front, Ibrahim Ghali, signed a decree announcing that the Polisario Front would no longer abide by the agreements in case of a violation by Morocco.

II. Current Situation

Over the past two years, the conflict has escalated, mainly due to the repartition and territory control over the region. Although there was a ceasefire, no ultimate solution has been successfully applied. This is a problem, especially taking into account that the Sahrawi people

hold significant legitimacy and administrate 25% of the area, while the rest is controlled by Morocco.



(Figure 8: Map and divisions of Western Sahara, ecfr.com, 2022)

Tensions escalated when Sarawhi protesters blocked Moroccan roads of high economic importance, which were controlled by the UN. United Nations peacekeepers monitored the zone, while the protestants blocked most of the trucks that traveled through the roads. Each side took defensive positions along the berm (military wall).

UN Secretary-General Antonio Guterres ramped up efforts to try to get Morocco and pro-independence supporters in disputed Western Sahara to step back from a renewed flare-up of fighting, warning that the clashes could rupture a nearly 30-year cease-fire and have “grave consequences.” In recent days, Guterres and other UN officials have been working diplomatically and been involved in “multiple initiatives to avoid an escalation”.

On the other hand, the Moroccan military launched an operation in the UN-patrolled Guerguerat border zone to clear a key road it said had been blockaded for weeks by supporters of the pro-independence Polisario Front. A Polisario envoy accused the Moroccan

military of firing at innocent protesters and said that led to clashes between Moroccan and Polisario forces. The envoy urged the United Nations to intervene.

Even though each side had different claims over what happened, the Moroccan side declaring that there was no confrontation, the SADR declared the ceasefire over and declared war bombarding key objectives of the Moroccan military. The war is still ongoing.

There are also a series of factors that will affect the future of Western Sahara. Historically, the influence of foreign powers has meant a huge role for national and international development. For instance, in 2020 the Trump administration recognized Western Sahara as Moroccan sovereign territory. This led to increased tensions in the North African Region, as other countries still play part in the conflict, including Mauritania, Algeria and Morocco. Equally, all this could have a huge impact on the already struggling international economy, as most of the exporting goods that come from Africa to Spain and to the European Union pass through Morocco and neighbouring countries.

The humanitarian situation resulting from the conflict is still relevant to the committee's interest. The mission of the UN and SPECPOL does not exclusively work towards stability and peace, as it seeks to guarantee the wellbeing of the few remaining Sahrawi population. The central issue with Western Sahara's population is its rapid decline, knowing that according to UN statistics, 40 percent of the residents have left to other countries including Algeria, Mauritania and Morocco. This can be a threatening situation to the demography and traditions of the country, which is a crucial topic in SPECPOL and its goal of sustainable decolonization. No effective and long-lasting proposals have been made to counter the high risk of the native population, and its possible disappearance. Furthermore, refugee camps available are scarce, have poor life conditions, allow the spread of illness, and lack sanitary systems.

The economic situation of the country is not considered one of the best either. Even though it has been proved that there are exploitable natural resources, the state does not have the capacity to exploit them. Western Sahara as a country still in formation and formalization, is

heavily dependent on the income derived from foreign export revenue (rental of the natural resources in the territory) instead of using effective development strategies. Moreover, the country's phosphate mines and other resources do not support the economy by themselves, as most of the economic activity in the whole country (nearly 70%) comes from fishing in the coastlines, which are controlled by Morocco. In consequence the Polisario Front is left with just a fraction of the desert with no resources and almost no access to water.

(Figure 9: Protests in Western Sahara, Qantara.de, 2019)

III. Key points of the debate

- The validity of the Madrid Accords regarding international law
- Historical and religious independence, as a topic for self-determination of the Sahrawi people.
- Violation of the ceasefire and punishment over war crimes to the Sahrawi people
- New conflict ceasefire and resolution to a peace agreement
- Creation of a fair and possible referendum over the sovereignty of Western Sahara
- Administration of the territory
- Creation of a new and stable government for the people
- Regime change application

IV. Guiding questions

1. What are the requirements for a former terrorist organization or political group to be considered a belligerent group?
2. Does your country recognize the Polisario Front as a belligerent group or as a terrorist organization?

3. Did your country sign or recognize the Madrid Accords as a decolonization method regarding the territorial claims of Morocco over the Western Sahara?
4. Does your delegation consider that Western Sahara should be given independent status following the principles of self-determination?
5. Does your country consider that the past referendums are legitimate? And if so, should another one be made by the United Nations and international organizations as a mediatory method?

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