Study Guide

UNSC

CCBMUN XII

Do more than just watch!

CCB

Colegio Colombo Británico

Table of Contents

1. Welcoming Letter

Honorable Delegates,

“More than ever before in human history, we share a common destiny. We con master it only if we face it together” -Kofi Annan

These wise and clear words were presented by the Secretary General of the United Nations the 15th of December of 1999, weeks before the upcoming of a new millennium. This statement came after a decade of turmoil for the international community. The Ruandan and Yugoslav genocides, the fall of the USSR, conflicts in Nagorno-Karabakh, Chechenia and other former Republics, the first Afghan civil war, the Persian Gulf War, among other disputes that threathened international peace and stability. Such a political climate inspired Kofi Annan to spread a message of hope for the future, but most importantly, a cry for action for the world to acknowledge the need for cooperation if it was to successfully prevent the development of a new century of war, despair, inequality, tension and conflict. The leaders of the moment did not know of the catastrophic events that would permeate the 2000¨s and the subsequent decades, and the immediate consequences of their innaction, as multiple of the conflicts we witness today: the Taliban takeover, the Ukrainian war, and even the 9/11 attacks with their Iraqi and Afghan invasions, were influenced by, or direct consequences of those disputes lived through the 1990s.

The current panorama of international relations might seem doomed or gloomy if seen under this light of retrospection. We keep trying to avoid that too well known phenomenon of ‘history repeating itself’ without any visible improvement or following Annan's words. Nonetheless, in conversations about the unfixable nature of our countries or the impossibility of peace, we tend to leave behind the key element that may significantly enable us to exert change: awareness. It is only when we truly research, question, learn and comprehend the anatomy of a conflict or any social, economic or political problem, that we are capable of seeking viable solutions based on good-faith and mutual understanding. Hence, we Salome Diez and Maria Jose Ceballos believe that the

exercise of Model United Nations helps students from all backgrounds to participate in that search for a better tomorrow. The space that CCBMUN XII, and in this occasion its Security Council provides, is not only for individual, academic, and social growth, but for the possibility to *"do more than just watch"*, in a world that deeply requires it.

We encourage you to take this opportunity and unleash its full potential. Allow yourself to research, debate, ask, negotiate and exchange ideas that will expand your knowledge and skills. Join us in this three- day journey that hopefully will add value to your life experiences.

Sincerely,

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2. Introduction to the Committee.

2.1 History

In the aftermath of the Second World War, the international community decided to create the United Nations (UN), an international organization with the main goal of maintaining international peace and security, and taking effective collective measures to prevent and remove threats to peace. The UN Charter is the UN's governing document, drafted by 50 states in the San Francisco Conference, from April 25 to June 26, 1945, and later signed by 51 nations. The document established the six main organs of the organization, the Secretariat, the General Assembly, the Security Council, the Economic and Social Council, the International Court of Justice, and the Trusteeship Council. The UN Charter came into force on October 24, 1945, after being ratified by China, France, the Soviet Union, the United Kingdom, the United States and by a majority of other signatories. The first session of the Security Council was held on January 17, 1946, at Church House, Westminster, London. Since then, the Council's permanent residence was

relocated to the United Nations¨ Headquarters in New York City.

The Security Council not only has the primary purpose of preserving international peace and security, but it also contributes to the development of friendly relations between member states, and it creates a place to effectively cooperate in solving conflicts among nations. The Council, as stated in article 39 of the UN Charter: *"shall determine the existence of any threat to the peace, breach of the peace, or act of aggression*[1] *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."* Such decisions are agreed to be accepted and be carried out by the member states in accordance with the Charter[2]. This means that the Security Council has the authority to bind all members of the organization, and the members are obliged to follow the measures agreed upon in the Council's resolutions.

The Council consists of fifteen members, five permanent and ten non-permanent members. All members are granted one vote. Originally the 5 permanent states were the United States, the Union of Soviet Socialist Republics, the United Kingdom, the French Republic, and the Republic of China. Later the Republic of China would be replaced at the UN by the People's Republic of China on October 25, 1971, and the Soviet Union would be replaced by the Russian Federation on December 24, 1991. These five nations have veto power over any Council's resolution. The ten non-permanent members are elected for a two-year period, with no consecutive re-election, and are chosen considering geographical distribution. There are 3 representatives from African countries, two from Latin America, two from Asia, two from Western Europe, and one from Eastern Europe.

All decisions on procedural or non-substantial matters need a minimum of nine affirmative votes to pass. The veto power is not applicable in these cases. However, in

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[1] Threat to peace: originally perceived exclusively to inter-state conflicts, but the idea has expanded to include internal situations, violations of human rights and international humanitarian law, terrorism, climate change and the proliferation of weapons of mass destruction among others.
Breach of peace: less expansive term referring to specific acts that pose a significant threat to international peace and security.
Act of aggression: the term must be understood by the definition established in resolution 3314 of the General Assembly of 1974. *See* A/RES/29/3314 - Definition of Aggression - UN Documents: Gathering a body of global agreements (un-documents.net)

[2] *Article 25: The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.*

decisions regarding substantial matters (resolutions), nine affirmative votes are required, including the concurring votes[3] of the five permanent members. Any member of the United Nations who is not a member of the Security Council can be invited to participate in discussions about a situation brought to the Council that especially affects that delegation, although it will not have the possibility to vote. If a member is a party to the dispute in an issue being discussed in the Council, it shall abstain from voting (Article 27 [3]). Finally, if the Security Council is unable to ensure the maintenance of international peace and security because of the exercise of the veto power of the permanent members in a decision of vital importance, members of the council may request, applying the General Assembly resolution 377(V) (United for peace), for the referral of the issue to the General Assembly so it can make the necessary recommendations.[4]

2.2 Powers

The UNSC has three sets of powers according to the Charter:

- Adjustment or settlement powers (Chapter VI)
- Enforcement powers (Chapter VII); and
- Regional arrangement powers (Chapter VIII)

Adjustment or settlement powers:

The Council, to peacefully resolve international disputes or situations that in principle do not pose a threat to peace yet, can take a number of non-coercive measures to settle the dispute. The SC can call upon the parties to a dispute to settle their dispute through *"negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice"* (Article 33 [2]). Also, the Council may investigate any dispute that might endanger international peace and security, and it can establish fact-finding missions and commissions of inquiry to fulfill such purposes. If the efforts mentioned in Article 33 fail to settle the conflict, the SC shall intervene recommending appropriate procedures, methods or terms of settlement, or referring the dispute to the International Court of Justice (ICJ), if necessary.

[3] Abstention, non-participation, absence, or a vote in favor are considered as concurring.
[4] *See* https://ask.un.org/faq/177134 *and* A/RES/377%20(V) - E - A/RES/377%20(V) -Desktop (undocs.org)

Enforcement powers:

When measures taken under Chapter VI result unsuccessful, the Security Council can take more assertive action under Article 39 by making non-binding recommendations or binding provisional decisions[5] on which process to follow, like issuing ceasefire directives that can help prevent an escalation of the conflict, or dispatching military observers - or a peacekeeping force - to help reduce tensions. In addition, the Council may decide for enforcement measures not involving the use of force, like complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations. On the contrary, it may authorize the use of force by air, sea, or land.

Regional arrangement powers:

Chapter VIII allows regional arrangements or agencies to deal with matters related to the maintenance of international peace and security. If the arrangements and their activities comply with the Purposes and Principles of the UN, the matter addressed is deemed local and adequate for regional action. For an arrangement to be done, the SC needs to give authorization before undertaking any action and is kept fully informed of their activities.

The Security Council has the possibility of establishing subsidiary organs as it deems necessary for the performance of its functions. They include Ad Hoc committees on sanctions, counterterrorism, and nuclear, biological, and chemical weapons, International Criminal Tribunals for Rwanda and the former Yugoslavia, Military Staff Committee and Peacekeeping Operations and Political Missions[6].

[5] To understand when Security Council's decisions are binding the ICJ said, in Legal Consequences for States of the Continued Presence of South Africa in Namibia case (1971), that *"the language of a resolution of the Security Council should be carefully analyzed before a conclusion can be made as to its binding effect... the question whether they have in fact been exercised (powers of Article 25) is to be determined in each case, having regard to the terms of the resolution to be interpreted, the discussions leading to it, the Charter provisions invoked "*.

[6] For more information on subsidiary bodies, *see* Subsidiary Organs Branch | United Nations Security Council

3. Topic I: Violation of International Humanitarian Law and Human Rights Law during non-international armed conflicts

3.1 Introduction

Limiting and avoiding human suffering, as well as seeking to protect its integrity and dignity during international and non-international armed conflicts, has made necessary the existence of international bodies of law such as International Humanitarian Law and Human Rights Law.

First of all, to understand how these two laws are applicable during non-international armed conflict, we need to comprehend their meaning. According to Article 3 of the Geneva Conventions,[7] non-international armed conflicts are armed conflicts in which one or more non-State armed groups are involved. Depending on the situation, hostilities may occur between governmental armed forces and non-State armed groups, or between such groups only. As the four Geneva Conventions have universally been ratified now, the requirement that the armed conflict must occur in the territory of one of the High Contracting Parties[8] has lost its importance in practice. Indeed, any armed conflict between governmental armed forces and armed groups or between such groups cannot but take place on the territory of one of the Parties to the Convention[9] (ICRC, 1949).

Two requirements are necessary for such situations to be classified as non-international armed conflicts:

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7. The Geneva Conventions and their Additional Protocols form the core of international humanitarian law, which regulates the conduct of armed conflict and seeks to limit its effects. They protect people not taking part in hostilities and those who are no longer doing so. See more: https://www.icrc.org/en/doc/assets/files/publications/icrc-002-0173.pdf

8. High Contracting Parties is generally preferred to State or government , which could cause problems of legal recognition in the case of certain armed conflicts, since international humanitarian law remains applicable even in situations in which one or more parties to a conflict may not be represented among the States party to the Conventions.

9. In order to become a party to the Convention and the Optional Protocol, a State must demonstrate, through a concrete act, its willingness to undertake the legal rights and obligations contained in these two instruments. In other words, it must express its consent to be bound by the Convention and the Optional Protocol.

- The hostilities must reach a minimum level of intensity. This may be the case, for example, when the hostilities are of a collective character, or when the government is obliged to use military force against the insurgents, instead of mere police forces.

- Non-governmental groups involved in the conflict must be considered as "parties to the conflict", meaning that they possess organized armed forces. This implies, for instance, that these forces have to be under a certain command structure and have the capacity to sustain military operations.

Unlike this definition, International armed conflicts are confrontations involving two or more states, and wars of liberation, regardless of whether a declaration of war has been made or whether the parties involved recognize that there is a state of war.

During these two types of conflicts, both International Humanitarian Law (IHL) and International Human Rights Law (IHRL) strive to protect the lives, health and dignity of individuals, albeit from a different perspective.

Firstly, the IHL “is a set of international rules, established by treaty or custom, which are specifically intended to solve humanitarian problems directly arising from international or non-international armed conflicts. It protects persons and property that are, or may be, affected by an armed conflict and limits the rights of the parties to a conflict to use methods and means of warfare of their choice” (ICRC, 2003).

The IHL main treaty sources applicable in international armed conflicts are the four Geneva Conventions of 1949, and their Additional Protocol I of 1977. The main treaty sources applicable in non international armed conflict are Article 3 common to the Geneva Conventions, and the Additional Protocol II of 1977. Moreover, part of International Humanitarian Law is set out in the United Nations Charter.

On the other hand, Human Rights Law, “is a set of international rules, established by treaty or custom, on the basis of which individuals and groups can expect and/or claim certain behavior or benefits from governments. Human rights are inherent entitlements which belong to every person as a consequence of being human” (ICRC, 2003). Numerous non-treaty based

principles and guidelines ("*soft law*[10]") also belong to the body of international human rights standards.

TheIHRL main treaty sources are the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights (1966), as well as Conventions on Genocide (1948), Racial Discrimination (1965), Discrimination Against Women (1979), Torture (1984) and Rights of the Child (1989). The main regional instruments are the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950), the American Declaration of the Rights and Duties of Man (1948), the Convention on Human Rights (1969), and the African Charter on Human and Peoples' Rights (1981).

It is important to take into account that IHL is applicable in times of armed conflict, whether international or non-international. On the contrary, IHRL applies at all times, both in peacetime and in situations of armed conflict. However, some IHRL treaties permit governments to derogate certain rights in situations of public emergency threatening the life of the nation. The suspension of human rights is authorized by regional and international agreements in cases of internal commotion, war situations, or in cases of internal violence. Nevertheless, there are certain rights that have been defined and recognized as not subject to suspension. This is a set of human rights that have been grouped into a category known as the basic rights of the human person. These are the rights that make up the so-called irreducible core of human rights (*hard core group*). These rights must be guaranteed and respected during states of emergency, including situations of internal or international war. Among them are the right to life, prohibition of torture or cruel, inhuman or degrading treatment or punishment, prohibition of slavery and servitude, and the prohibition of retroactive criminal laws.

Derogations must, however, be proportional to the crisis at hand, must not be introduced on a discriminatory basis, and must not contravene other rules of International Law[11] – including rules of IHL.

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10 The term soft law is used to denote agreements, principles and declarations that are not legally binding. Soft law instruments are predominantly found in the international sphere. UN General Assembly resolutions are an example of soft law (ECCHR).

11. *See* Glossary

On the contrary, IHL norms by definition do not admit restrictions or suspensions; therefore, they do not even authorize the state to attempt a unilateral interpretation regarding a possible suspension or restriction.

3.2 Historical Background

Human rights and IHL have different origins. Human rights were conceived in the internal order of the states. They appeared recognized in national legal systems, even with constitutional status. Human rights turn out to be a matter governed and implemented primarily by each state. After the Second World War, the international community experienced the need to control in the international arena those who, in principle, should guarantee the effective application of human rights within their own jurisdictions. On repeated occasions it was the state itself that, having to ensure and protect the rights and guarantees of individuals recognized in its domestic jurisdiction[12], ended up being the systematic violator of those rights.

The evolution of human rights, both domestically and internationally, was and is related to political-philosophical positions that have given rise to the development of conflicting ideologies regarding the true content and scope of rights subject to proper state protection and adequate international control.

The international human rights movement was strengthened when the United Nations General Assembly adopted the Universal Declaration of Human Rights[13] (UDHR) on December 10, 1948. Drafted as *a common standard of achievement for all peoples and nations*, the Declaration for the first time in human history spells out basic civil, political, economic, social and cultural rights that all human beings should enjoy. It has been widely accepted over time as the fundamental norms of human rights that everyone should respect and protect.

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12. The concept of domestic jurisdiction signifies an area of internal State authority that is beyond the reach of international law. However, an immediate difficulty with the concept is the determination of its boundaries.

13. Document of human rights proclaimed by the United Nations General Assembly as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected. It has inspired the adoption of more than seventy human rights treaties, applied today on a permanent basis at global and regional levels. (UDHR, 1948). See more: https://www.un.org/en/about-us/universal-declaration-of-human-rights

However, as the UDHR is a declaration, states are not required to comply with it. That is why, over the years (thanks to the UDHR's influence), a series of international human rights treaties, guidelines, principles and other instruments —that contribute to human rights understanding, implementation and development, have been adopted since 1945. They have conferred legal form on inherent human rights and developed the body of International Human Rights. Some of them are the International Covenant on Civil and Political Rights and its two Optional Protocols, and the International Covenant on Economic, Social and Cultural Rights (which are called the International Bill of Human Rights[14]). Due to the binding nature of treaties and customs, states are required to both guarantee and respect the rights contained there.

International human rights law lays down obligations where States are bound to respect, protect and fulfill HRs. By becoming parties to international treaties, States assume obligations and duties under international law to respect, protect and fulfill human rights. The obligation to respect means that States must refrain from interfering with, or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfill means that States must take positive action to facilitate the enjoyment of basic human rights.

Through ratification of international human rights treaties, and due to the necessity to establish the rule of law at the national and international levels, governments undertake to put into place domestic measures and legislation compatible with their treaty obligations and duties, adopting constitutions and other laws which formally protect basic human rights. Besides, other instruments have been adopted at the regional level reflecting the particular human rights concerns of the region and providing for specific mechanisms of protection.

Where domestic legal proceedings fail to address human rights abuses, mechanisms and procedures for individual complaints or communications are available at the regional and international levels, to help ensure that international human rights standards are indeed respected, implemented, and enforced at the local level. Additionally, the due fulfillment of

14. The International Bill of Human Rights is a powerful statement of your rights and should persuade all Governments to respect your rights. For the two Covenants to become binding in your country, your Government must ratify them. This means your Government must expressly agree to abide by them (UN).

the international obligations of the state is supervised by the international organs of protection. Nonetheless, they do not have the capacity to replace it in these functions.

Conversely, the IHL burst into relations between states during the second part of the 19th century, as a response prompted by the international community to the horrors of war. In this sense, the IHL was born and developed as a non-politicized movement, distancing itself from the currents of political thought in general. The need to limit the unnecessary suffering of wounded and sick combatants on the battlefield was the initial link in a chain of protection factors designed to specific categories of individuals affected by armed conflict. The incorporation of new categories of victims of conflicts imposed a constant evolution in terms of expanding the scope of personal application of IHL. First, protection was established for the wounded and sick on the battlefield, followed by the shipwrecked protection. This was followed by measures to protect prisoners of war facing traumatic experiences during the Second World War. Finally, the regulation of the due protection of the civilian population affected by armed conflicts was brought up. Today there are new specific categories of protected persons, just as certain groups of vulnerable persons (women, children) are protected within IHL during armed conflict.

This set of rules related to the protection of victims of armed conflicts came to be known at first as the Law of Geneva[15]. This right was traditionally recognized as International Humanitarian Law.

From the end of the last century, the customary rules regarding the means and methods of warfare began to be codified. This set of rules regarding the specific limits imposed on belligerent states[16] as to how to wage war, became known as the Law of The Hague[17].

At present, the Law of The Hague has merged with the Law of Geneva, therefore when we refer to International Humanitarian Law, we refer to the set of norms intended to give protection to the victims of armed conflicts, and the norms that restrict the use of force by states by regulating the methods and means of waging war. The two legal systems converged

15. See Glossary

16. Belligerency is the condition of being in fact engaged in war. So, a nation is deemed belligerent even when resorting to war in order to withstand or punish an aggressor.

17. See Glossary

within the framework of the Additional Protocols to the Geneva Conventions of 1949, approved on June 8, 1977, since they are two sets of rules that complete each other and that, for convenience, we label them under two different names. It would be a mistake to attribute a clearly differentiated legal scope to them.

IHL establishes the obligation of states to respect and ensure respect for its norms (Art. 1 common to the four Geneva Conventions of 1949). The legal relationship that is generated conventionally links the states to each other. Each state party to the Geneva Conventions of 1949 undertakes to respect and make the other state parties respect the full validity of its normative statements. In practice, states have been reluctant to express their intention to challenge IHL violating states. In this sense, the position assumed by third states with respect to armed conflicts has generally been to promote the prevention of new or repeated violations.

These two laws (IHL and IHRL) arose separately in history. However, it is from the 1968 Tehran Conference on Human Rights[18] that we began to speak of human rights in armed conflicts. This trend is consolidated in repeated Declarations of the UN General Assembly.

Thus, during an armed conflict, certain human rights may be suspended, and others may not. As stated above, the irreducible core of human rights cannot be suspended under any circumstances because they correspond to rights guaranteed conventionally as enforceable rights during both internal and international armed conflicts, due to express rules of IHL (*articles*[19]).

While IHL and IHRL have historically had a separate development, recent treaties include provisions from both bodies of law. Examples are the Convention on the Rights of the Child, its Optional Protocol on the Participation of Children in Armed Conflict, and the Rome Statute of the International Criminal Court.

One of the measures adopted throughout history to encourage the fulfillment of these laws was the final Declaration of the United Nations Conference on Human Rights (Vienna 1993),

18. It was an International Conference on Human Rights which occurred on the 20-year anniversary of the adoption of the Universal Declaration of Human Rights. It was convened to assess progress in the HR implementation.

19. Art. 3 common to the four Geneva Conventions of 1949, art. 75 of Protocol I and articles 4 to 6 of Protocol II.

urging States to coordinate efforts to ensure the observance of human rights during armed conflicts.

3.3 Current Situation

International Human Rights Law and International Humanitarian Law (IHL) have in common that both are part of International Law. That is, they have their own principles and characteristics within an integrated system of rules. This implies that, despite their particularities, within each subsystem the norms are created by the same mechanisms or sources, both conventional[20] and customary[21].

Both human rights and IHL are regulated by international law, and they essentially tend to limit or restrict the powers of the state that constitute its sovereignty[22]. These limits to state sovereignty focus on the necessary protection of the individual against arbitrary acts of the state that undermine the rights of individuals, or inflict unnecessary suffering on them. The convergence and complementarity of human rights and IHL is then concentrated on a shared interest through their specific regulations, related ultimately to the protection of the individual in all circumstances.

There regulations are, in turn, a series of principles and characteristics of each legal system that determine a differentiated identity for each system, and consequently support the necessary independence of its structures.Nonetheless, the norms of IHL, as well as those related to the protection of human rights, may coincide in terms of their content. For this reason, those basic rights that make up the irreducible core of human rights have also been recognized as an essential part of IHL applicable to armed conflicts.

Additionally, in this context it can be affirmed that, in practice, IHL and International Human Rights Law are complementary because IHL is directly operative from the beginning of an armed conflict, and its observance tends to prevent unnecessary suffering; while the proper observance of human rights in the face of violations of those same rights in situations

20. *See* Glossary

21. *See* Glossary

22. *See* Glossary

of armed conflict, primarily tends to fulfill a remedial function. Although both systems are based on preventive and restorative functions, the pre-eminence of one or the other function complements each other in those areas where there is in fact a clear regulatory overlap.

Accordingly, it is possible to deduce that, in spite of the fact that each system has been developed through separate legal structures, within clearly distinguishable fields of validity and application and with its own schemes related to both its international controls and its internal implementations, there is a convergence in the interests and objectives pursued by both systems in terms of ensuring the due protection of all individuals in all circumstances.

This convergence, in fact, has caused normative reiterations that appear reflected in the specific content of norms of one and the other right. This reiteration of content makes it possible to meet the objectives pursued from different implementation schemes imposed by IHL and International Human Rights Law. The duplication of the content of IHL and human rights norms is, to a certain extent, a reassurance regarding the potential observance of the due protection of the individual during armed conflicts, which potentially qualify as evolutions of both legal systems.

In addition, a gradual shift in the law of armed conflict has taken place, with an emphasis on the protection of those who find themselves victims of conflict as both IHL and IHRL have a shared philosophical underpinning, sharing the common humanist ideas of dignity and integrity at their core. For this reason, it is said IHRL and IHL are not two separate realms of law, but rather two expressions of the same *corpus juris*[23], that grows in a continuous exercise of reciprocal nourishment. Even the ICRC delegate at the International Conference on Human Rights in Tehran in 1968 noted,

> *"[the laws of war are] ... based on certain of the fundamental rights proclaimed in the UDHR – respect for the human person, protection against torture and against cruel, inhuman or degrading punishments or treatment ... the UDHR and the Geneva Conventions are both derived from one and the same ideal, which humanity pursues increasingly in spite of passions and political strife and which it must not despair of*

23. *See* Glossary

attaining – namely, that of freeing human beings and nations from the suffering of which they are often at once the authors and the victims".

Indeed, it has been argued that the rapid growth of the human rights culture opened the door to what has been defined as an '*age of rights*', where the traditional separation between IHL and IHRL are fading away.

However, this separation has not been removed yet. Even though it seems that the best way to ensure the protection of those victims of non-international armed conflicts is to use both bodies of law so that they complement and strengthen each other, there are some legal loopholes in these laws when applying them into non-international armed conflict and in some cases there is mutual incompatibility. The cause of these controversies are shown below.

It is important to take in to account that the IHRL is a body of international law which states consent to be bound by and, *de jure*[24], and it binds only states (excluding non-state armed groups[25]). This means that it focuses on a 'vertical relationship' between the state and the individuals that are within their national jurisdictions. On the contrary, in the IHL, the legal relationship is seen as a 'horizontal relationship'. This indicates that the relationship considers both states and non-state armed groups, recognising non-state groups' responsibilities, *de facto*[26], if they control areas of territory. Although this is the general rule, there are IHL rules that bind the state to its own nationals. (See Art. 3 common to the four Geneva Conventions of 1949).

Regarding this, it is crucial to understand the commitment that non-state groups in the conflict have regarding the compliance with these laws. In IHL, members of non-state armed groups are protected by several provisions provided by Additional Protocol II concerning

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24. *See* Glossary

25 Under international humanitarian law, members of non-state armed groups paradoxically belong to the category of civilians. But they lose most of the protection attached to this status—at least the protection against direct attack—while they directly participate in hostilities. However, the non-recognition of the combatant status does not release non-state armed groups from respecting IHL as parties to the conflict. Moreover, this does not deprive them from certain protections provided by IHL for persons hors de combat.

26. *See* Glossary

civilians and persons hors de combat[27]. However, as the status of Parties to the conflict applies without distinction to States and non-state actors involved in the conflict (GCIV art.3; APII art.1), non-state armed groups must respect at a minimum the guarantees provided by Common Article 3, and the rules provided by Additional Protocol II. Besides, International jurisprudence has also recognized that customary international humanitarian law prescribes that all individuals involved in an armed conflict must comply with humanitarian law rules, whether those individuals act on behalf of a State or a non-State actor, and whether or not they have consented to be bound by these rules (Special Court for Sierra Leone, Prosecutor v. Sam Hinga Norman , 31 May 2004, para.22). There is a mistaken belief that non-state armed groups are unwilling to respect IHL because they did not participate in its codification, and because this law was drafted by States against which they are in conflict. Nonetheless, this idea does not take into account the diversity and heterogeneity of those groups and their often very prosaic preoccupations. Similarly, in IHRL, despite the fact that it is considered that the states are the ones obliged to respect human rights due to their link to treaties and others, it is widely admitted that non-state armed groups are also bound by certain obligations under international human rights law in situations of internal disturbances or tensions or armed conflicts. Those obligations stem from the fact that non-state armed groups remain subject to the law of the State where they are operating. Domestic law remains applicable to parts of the territory, and to the population placed under the authority of non-state armed groups who de facto assume administrative obligations vis-à-vis this population.

As for the subjects protected by both laws, it should be noted that human rights are applied without discrimination, while IHL protects certain categories of individuals classified as victims or potential victims of armed conflicts. IHL, however, accepts the principle of non-discrimination in terms of the protection of those who qualify as victims.

Likewise, the application of these laws differs due to cultural relativism, so that there is a differentiated regulation of the same right within the internal legal systems of the states. This referential framework of various internal applications of the same right is unknown within the scope of IHL. IHL does not register any antecedents related to a potential diversity of internal implementations based on respect for cultural particularities. However, in international

27. A person hors de combat is: (a) anyone who is in the power of an adverse party; (b) anyone who is defenseless because of unconsciousness, shipwreck, wounds or sickness; or (c) anyone who clearly expresses an intention to surrender; provided he or she abstains from any hostile act and does not attempt to escape (ICRC).

human rights law there is acceptance of a tolerable cultural relativism regarding the operation of human rights within the internal law of the state. This has given rise to repeated questions. For example, the right to the free development of personality will not be perceived and applied in the same way in the United Arab Emirates as in the United Kingdom. Therefore, this could generate tensions between countries.

Regarding the responsibility of a state for the violation of the international human rights law, in general, the affected individual may, after exhausting domestic remedies, claim before an international or regional instance the termination of the violation and the satisfaction due to their violated rights. The international control bodies for the observance of human rights will try to return to the status quo ante, and will eventually demand reparation. In IHL, the responsibility for non-observance of its rules always falls within the scope of state powers. The presence of the protecting powers or the International Committee of the Red Cross[28] are related to the power to control the strict application of the norms, rather than to determine the degree of responsibility of the violating state. Nonetheless, the responsibility of the state for violations of both IHL and human rights does not exclude the responsibility of individuals.

Human rights were developed as internal law, and then internationalized, unlike IHL, which from the mid-nineteenth century emerged as part of international law that inexorably needed to be internalized - that is, to be incorporated as internal law of the states for the purposes of its implementation and enforcement (especially in terms of sanctions for serious violations of IHL). The phenomenon mentioned above can cause a problematic situation in both bodies of law. Talking about IHRL, as the internationalization of regulations of human rights determined a break with the *principle of non-intervention*[29] in matters of exclusive domestic jurisdiction, systematic violations of human rights within a state could involve a breach or threat to both regional and international peace. Furthermore, regarding IHL, its application in (Non-International Armed Conflicts) NIACs has been a relatively recent and controversial phenomenon, as it entails the use of international conventions to place restrictions on the relationship between a state and its own citizens, a matter that had previously been considered solely under domestic jurisdiction. The adoption of the 1949

28. “Is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance” (ICRC).

29. See Glossary

Geneva Conventions highlighted the necessity to provide protection specifically for civilians affected by internal conflicts, previously seen as outside the realm of international protection.

It is important to mention that an IHL framework is, in effect, less protective for civilians than a law enforcement framework which includes IHRL. This is due to its nature as a legal body designed for extreme situations that should be limited in time frame. The application of IHL will, with regards to certain provisions, contradict the states obligations under IHRL. The core components of IHL (proportionality, distinction and the protection of civilians) will now be discussed.

The principle of proportionality has different connotations between IHL and IHRL. It is acknowledged that, despite domestic and international protection mechanisms, civilians will be affected by warfare. When assessing the levels of collateral damage in IHL, the principle of proportionality assumes that an attack is unlawful only if, after taking feasible precautions with a view to avoiding, or at least minimizing, civilian casualties, the expected loss to civilians would be excessive in relation to the direct and concrete military advantage anticipated from the attack. The acceptance of this principle under IHL and its absence from IHRL exposes the radically different underlying the assumptions of these two systems. While the principle of proportionality purports to protect civilians to the maximum of its capacity, in reality, this principle allows the legal and justified wounding and killing of civilians to achieve military targets. The International Committee of the Red Cross (ICRC) study on customary IHL of 2007, claims that the principle is an accepted norm of customary international law, and thus applies in situations of NIAC.

Another important component in the IHL is the principle of distinction. Under this principle, all subjects involved in the armed conflict must be categorized distinctively, as IHL protects according to the type of person. The principle of distinction alongside that of proportionality prohibits indiscriminate, as well as disproportionate attacks. In international armed conflicts, subjects fall into three categories, combatants[30], civilians[31] and *civilians*

30. All members of the armed forces of a party to the conflict are combatants, except medical and religious personnel (Volume II, Chapter 1, Geneva Conventions). They are the subjects with the right to engage in hostilities and they can be targeted at any time.

31. Civilians are persons who are not members of the armed forces. The civilian population comprises all persons who are civilians. (Volume II, Chapter 1, Geneva Conventions).

taking a direct part in hostilities[32]. In NIACs there is no combatant status, the only relevant distinction is between civilians who take an active part in hostilities, and those who do not. Civilians taking an active part in hostilities may only be targeted for such time as they take direct part in hostilities. This means that those fighting for the belligerent group in opposition to the state may be criminally prosecuted for doing so, but may not be targeted at times when they are not directly taking part in hostilities as stated above. Additionally, it is not clear in state practice whether non-state armed forces are treated as civilians or not. Indeed, this highlights the potential difficulties in adhering to a purely legalistic interpretation of NIACs.

Regarding the application of IHL in international armed conflicts, it is well known that the IHL has within its purposes identifying some groups of civilians who require special protection, as well as others out of service (disarmed or wounded). Civilians under the power of enemy forces — prisoners of war[33]– must be treated humanely in all circumstances (without any adverse distinction), guaranteeing a fair trial in the case of prosecution (affording all essential judicial guarantees), among other obligations. However, it is unclear whether these provisions actually offer increased protection or whether, in theory, they are no longer needed in situations of NIAC where IHRL already places constraints on the use of force against a state's citizens.

In examining the protection offered to civilians by IHL, a balance must be struck between normative, prescriptive standards and reality. Despite acknowledging the importance of protecting civilians, in war contexts, these principles are often ignored. Indeed, experts worry about the permissive character of IHL, which may make states more willing to adopt the IHL model to alleviate their responsibilities under the IHRL as IHRL contains more advanced procedural safeguards for the protection of individual rights than IHL.

Regarding the scope of some and other norms, there are situations that would be outside the scope of application of both human rights and IHL. The regulation gaps that take place due to the lack of rules for new situations (related to armed conflicts) of potential risk, reveal

32. Civilians are protected against attack, unless and for such time as they take a direct part in hostilities. Just then, they became lawful targets.

33. Contrary to members of national liberation movements in international armed conflicts, members of non-state armed groups operating in non-international armed conflicts cannot enjoy the prisoner of war status if they are captured (GC III art.4)

a void that requires proper treatment by states both domestically and internationally. At present, the efforts tending towards an effective complementarity of both systems is still an eminently academic concern.

For example, IHRL has, as a primary principle, the *right to life*[34], while IHL allows killing in specific circumstances. The legitimate use of force against a person merely because of their status is a clear anathema to IHRL. Indeed, the whole point of combatancy as a legal concept is that combatants do not have the right to life. IHRL prohibits the use of force in all circumstances other than regarded as absolutely necessary when used to contain an imminent threat to life from the person against whom it is used, leaving no time for deliberation or choice of other means. Article 2 of the International Covenant on Civil and Political Rights (ICCPR) protects the right to life at all times, other than during a time of public emergency as detailed in Article 4. Whilst IHRL ensures that respect for the individual and his well-being is protected as far as this is compatible with public order, IHL balances this protection, in time of war, with military requirements and objectives. The acceptability of civilian casualties as collateral damage, and the authority the state is given to sacrifice civilians in order to achieve a military objective is unique to IHL, indicating the gap between legal rhetoric and reality with regard to the killing of civilians. Indeed, the genuine disparity between IHL and law enforcement lies in the legitimacy for the state to use force. The conflicting aims of these two branches of international law appear incompatible, especially given the debate over whether human rights can ever be respected in armed conflict at all.

However, as stated before, members of non-state armed groups have no combatant status (but civilian status), so there would be no right to kill them. For this reason, the ICRC clarified in 2010 that civilians lose protection against direct attack for the duration of each specific act amounting to direct participation in hostilities, whereas members of organized armed groups belonging to a non-State party to an armed conflict cease to be civilians and lose protection against direct attack, for as long as they assume their continuous combat function.

Here comes another substantial problem as according to IHL in NIACs, parties to the conflict are obliged not to inflict harm on their adversaries that is out of proportion to the

34. Art 3 of the UDHR: "Everyone has the right to life, liberty and security of person".

objective of warfare (in this situation, the IHL's rules on distinction between military and civilian objectives[35] may clarify when attacks constitute legal killings or arbitrary killings[36]). It is well known that in international conflicts it is easier to comply with the rules of IHL since it is between states. However, in internal conflicts, it is almost impossible for the states to ensure that armed groups comply with these obligations, and do not commit extrajudicial killings, knowing that these groups are not concerned with the compliance of these two bodies of law.

Throughout the twentieth century, there have been efforts trying to solve these types of problems where both laws do not converge or where there are gaps regarding their application. In order to solve that separation between both laws, the ICJ stated, some rights may be exclusively matters of IHL; others may be exclusively matters of IHRL; yet others may be matters of both these branches of international law. In order to answer the question it needs to take into consideration both these branches of international law, namely IHRL and as lex specialis, IHL.

In international law, as there is no clear hierarchy of norms, when two bodies of law relate to the same area, one is considered the *lex generalis*[37] and the other *lex specialis*[38]. IHRL applies at all times and in all territories so is thus the lex generalis. IHL only applies in the specific and unique circumstances of conflict, so it can be interpreted as the lex specialis.

As IHL treaty law on NIACs is comparatively sparse, comprising just Chapter 3 of the Geneva Conventions and its Protocol II, IHRL must assist in the regulation of conduct during conflicts. The most adequate conception of the principle of lex specialis is to see it as a tool of interpretation among different rules that interrelate in a relation of complementarity. Therefore, although the principle of lex specialis assumes that one body of law will be

35. Attacks may only be directed against military objectives. Attacks must not be directed against civilian objects. Military objectives are objects that, by their nature, location, purpose, or use, make an effective contribution to military action, and whose total or partial destruction, capture, or neutralization offers a definite military advantage (API Art. 52, Rule 8 of the 2005 ICRC customary IHL study).

36. Without respect for the right to life, no other human right can be upheld. Extrajudicial, summary or arbitrary executions – meaning the deliberate killing of individuals outside of any legal framework - are a violation of this most fundamental right.

37. See Glossary

38. See Glossary

superior to another in specific circumstances, this does not always have to be the case. Consequently, the whole set of IHL rules is not always lex specialis and does not automatically replace IHRL in contexts of conflict; the determination of the applicable provisions must be made on a more carefully analyzed case-by-case basis. That is why, each right must be considered independently and within the specific context of the NIAC in order to decide which body of law offers the most effective protection.

Therefore, visible both theoretically and through state practice, the complementarity between the two bodies of law means that if the state, within which the NIAC is taking place, has consented to be bound by IHRL, this continues to apply in situations of peace and conflict, and IHL will be considered the lex specialis, applicable solely when a norm conflict arises in a conflict situation.

Global jurisprudence has thus acknowledged the necessity to take the two bodies of law, IHL and IHRL, into account when addressing the protection of civilians. It should never be an either/or choice, as IHRL prevails as the lex generalis at all times, and should complement and inform decisions made under the guidance of the lex specials, IHL. Principles from both bodies of law should thus be taken to ensure the maximum protection of the right enshrined in IHRL during conflicts.

3.4 QARMAS

- Should the applications of international humanitarian law in NIACs be reformulated and become more specific according to different internal conflicts?
- What are the consequences of applying the *lex specialis derogat lex generali* principle in this context?
- What are those gaps that neither of these two laws manage to cover? And how can these two laws be modified or expanded to avoid loopholes in the law?
- As IHRL only binds States, how can illegal actors be made to comply with IHRL?
- Due to the risks involved in people belonging to non-state armed actors having civilian status, should combatant status exist for NIACs? What positive and negative effects can there be?
- What effects does the application of cultural relativism have on IHRL?

- What are the implications of the non-existence of prisoner of war status for those belonging to armed groups outside the law?
- Taking into account the great differences and contradictions between these two bodies of law, should they be unified?
- Is legitimate defense considered a way to become a civilian taking a direct part in hostilities?
- In conflicts, the passage from legal killings to arbitrary killings is not very understandable. How can the number of deaths that are legal according to a military objective be better defined?

3.5 Recommendations from the Chair

We hope that you as delegates identify those problems and controversies that arise around the application of the International Humanitarian Law and Human Right Law during non-international armed conflicts. For this, it is necessary that you take into account the differences between the two bodies of law already shown in the current situation, and expose before the committee the difficulties regarding their application, and those legal gaps that neither of these two laws cover.

It is important that you analyze several of these gaps, and find the possibility of covering them. For example, should there be the status of combatant in the NIACs, and what would be its consequences. Also, consider how non-state armed actors can be forced to be more closely linked to compliance with these bodies of law.

There is an obvious need for coordination and systematization that allows, rather than solving the problems of regulatory overlap, contemplating those situations not covered by one or another system, or those other situations in which the exercise of an inordinate margin of discretion by part of the state. In this sense, as delegates, you must seek mechanisms that allow the extension and scope of the achievements or normative advances within a legal scheme, which penetrate the other system in order to consolidate the due protection of all persons affected by the use of the armed force.

Moreover, the problem of gaps in law regarding situations arising from internal violence, internal commotions or states of exception, has begun to have a response in certain and determined attitudes assumed by the states from their repeated practices aimed at the generation of customary norms. Nonetheless, there need to be more actions regarding this situation.

3.6 Glossary

De Jure: De Jure describes practices that are legally recognized by the state, regardless of the practice existing in reality or not. De jure standards are standards according to law. These are basically endorsed by a formal standards organization. The organization ratifies each standard through its official procedures and approves it.

De Facto: De Facto describes practices that exist in reality in the rule of any Government or Law, even though they are not officially recognized by laws. This is called factual recognition, this means that it is a temporary and provisional recognition which can be withdrawn.

International Law: "International law defines the legal responsibilities of States in their conduct with each other, and their treatment of individuals within State boundaries. International law's domain encompasses a wide range of issues of international concern, such as human rights, disarmament, international crime, refugees, migration, problems of nationality, the treatment of prisoners, the use of force, and the conduct of war, among others. International law also regulates the global commons, such as the environment and sustainable development, international waters, outer space, global communications and world trade" (UN).

Law of Geneva: "It is a body of law that mainly deals with the protection of the victims of armed conflicts who are in the power of a party, i.e., non-combatants and those who no longer take part in hostilities. This body of law underwent systematic codification in the city of Geneva beginning in 1864 with the adoption of the First Geneva Convention on the wounded and sick" (ICRC, 2001).

Law of the Hague: "It is a body of law mainly dealing with rules of conduct of hostilities and establishing limitations or prohibitions of specific means and methods of warfare. The term derives its name from the Hague Conventions of 1899 and 1907" (ICRC, 2001).

Customary Law: Customary international law is one component of international law. In Article 38 of the Statute of the International Court of Justice, it can be found that customary law is considered to be one of the sources of international law just like treaty law. Customary law refers to international obligations arising from established international practices, as opposed to obligations arising from formal written conventions and treaties. (Legal Information Institute, 2021) It is created and sustained by consistent, widespread, and representative state practice, accompanied by a belief that states are legally bound by the norm (opinio juris). To change or modify said law, a new norm (or a new interpretation of a norm) must be equally supported by consistent and widespread practice and accompanied by opinio juris. An example of customary law is the granting of immunity for visiting heads of state and diplomats.

Conventional Law: Conventional international law is derived from International conventions, and may take any form that the contracting parties agree upon. These contracting parties, however, may not violate the rules of international law.

Sovereignty: Under international law, "it is a power and right, recognized or effectively asserted in respect of a defined part of the globe, to govern in respect of that part to the exclusion of nations or states or peoples occupying other parts of the globe".

Principles of sovereignty under international law: It is a fundamental principle of international law in which a state can generally control all activities within territory over which it has sovereignty. Outside of this territory, a state is generally restricted to controlling activities of its citizens and vessels or planes registered in its territory.

Principle of non-intervention: The principle of non-intervention involves the right of every sovereign State to conduct its affairs without outside interference. "In international law, the principle of non-intervention includes, but is not limited to, the prohibition of the threat or use of force against the territorial integrity or political independence of any state (Article 2.4 of the Charter). The principle of non-intervention in the internal affairs of States also signifies

that a State should not otherwise intervene in a dictatorial way in the internal affairs of other States" (Sir Michael Wood).

Lex Specialis: "This Latin term is derived from the legal maxim in the interpretation of laws, both in domestic and international law: 'lex specialis derogat legi generali'. This essentially means that more specific rules will prevail over more general rules.
The term is frequently used in describing the relationship between international humanitarian law and international human rights law" (ICRC).

Lex Generalis: General rule, with respect to a more specific rule.

3.7 Supporting Links

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4. Topic II: Conflict in Cameroon

4.1 Introduction

For years there has been a conflict in the central African country of Cameroon; it is what we call today the Anglophone[39] crisis. This is a problem in the Anglophone regions (Northwest and Southwest) of Cameroon that began in October 2016 with protests by teachers and lawyers who claimed cultural distinction and independence from the Francophone[40] regions of Cameroon.

Leclerc, J. (2018). Civil War in Cameroon: Consequence of an Unfinished Decolonization. [Fotografía]. Flickr. https://trendsresearch.org/wp-content/uploads/2021/08/g2-212x300.gif

39. Is consisting of or belonging to an English-speaking population especially in a country where two or more languages are spoken.

40. Is of, having, or belonging to a population using French as its first or sometimes second language.

The actions carried out by the separatists against the government have been justified with the feeling of exclusion experienced by Anglophones in the country, which has been further reinforced by the infrastructural underdevelopment in their region, and insufficient representation in the administration and in high government positions. For separatists, the specificities linked to their history are not taken into consideration in the institutions of the Republic, and in the sub-regional institutions in Central Africa. The strong presence of French-speaking officials within an Anglo-Saxon Education, and the legal sub-system as well , contribute considerably to discrediting the administration among the population.

For this reason, the protests made in the beginning escalated into an armed insurrection at the end of 2017. Now, this has degenerated into a civil war and is steadily worsening. The conflict has killed at least 1,850 people since September 2017, and has now spread to the Francophone West and Littoral regions. It has had a substantial social and humanitarian impact in the Anglophone regions: "most schools have been closed for the last two years; more than 170 villages have been destroyed; 530,000 people have been internally displaced and 35,000 have sought refuge in neighboring Nigeria" (UNHCR, 2019). The conflict has also devastated the local economy, which accounts for about one fifth of the country's GDP.

It is in this deleterious context that the ideology of self-determination[41], even independence– fostered by leaders scattered throughout the administration, the diaspora and civil society organizations— is increasingly growing.

Difficult internal and regional dynamics have contributed significantly to the humanitarian challenges in Cameroon. Since the conflict started, there has been a long-standing political and economic discrimination by the francophone authorities against the minority anglophone population. Neither the government, nor the separatists have demonstrated a genuine willingness to compromise.

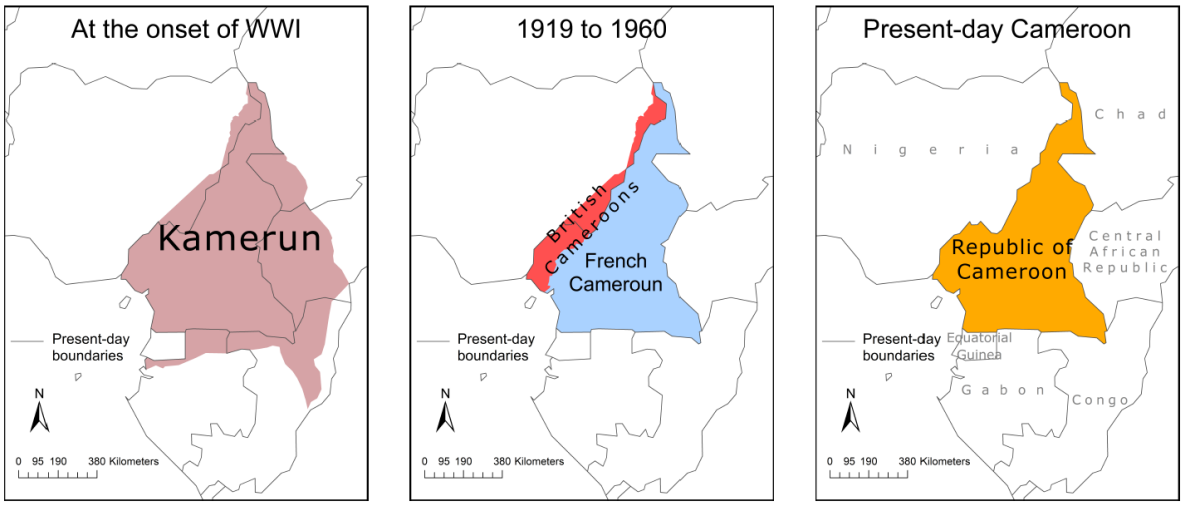
While the government and the separatists maintain their irreconcilable positions, more and more members of the international community and the civil society are calling for dialogue between both parties to cease hostilities, and get to an agreement.

41. See Glossary

4.2 Historical Background

The State of Cameroon was created in 1884 under the German protectorate, which was the result of the Berlin conference on the partition of Africa. Located in Central Africa in the Gulf of Guinea, Cameroon was one of the largest African settlements at the end of the 19th century, with a surface area of almost 750,000 square kilometers.

First, from 1901 to 1909, the city of Buea was Cameroon's capital and then, due to the volcanic eruption of Mount Cameroon, it was moved to Yaoundé, the current capital. After World War I, Germany was forced by the League of Nations[42] to renounce its overseas territories. Thereafter, France administered the eastern part of Cameroon and Britain the western part, following the condominium agreed by the two powers on the annexation of the territory in 1916.



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42. Known as the "predecessor of the United Nations", the League of Nations (1920 – 1946) was an intergovernmental organization with the aim "to promote international cooperation and to achieve international peace and security " (UN Geneva).

This situation endured through the Second World War, until the French-administered part of the country became independent in 1960, followed by the British-administered areas in the following year. The new Cameroon federation was admitted to the United Nations on the basis that its national borders, like those of the other African colonies, gained independence during that period.

During the colonial period, France and Britain maintained different systems: local communities were granted certain autonomous powers in British colonies, while the French metropolis practiced the same system of direct rule as in other French colonies. Besides, Western Cameroon, under British supervision, was made up of two entities: Northern Cameroon and Southern Cameroon.

However, it is important to take into account that when Nigeria and Eastern Cameroon became independent in 1960, Western Cameroon remained under British administration. That is why, the British and the United Nations were willing to bring independence to West Cameroon by attaching it either to Nigeria or to East Cameroon. This approach was contrary to international policies on the independence of African states; in this case, the accession to independence of states according to the borders resulting from the Berlin Conference of November 1884. For this reason, the UN organized a plebiscite on February 11, 1961 where the northern zone voted to attach to Nigeria, while the southern zone chose to unify with eastern Cameroon. The plebiscite results began the long process, still unfinished, of finding national unity within the legacy of a two-speed colonial past.

Between June and August 1961, conferences in the cities of Bamenda, Foumban and Yaoundé in Cameroon were held to reunify the two states, combine administrative and operational components, and write a constitution. A celebration of the independence and reunification of the country took place on October 1, 1961 in Tiko, a city in Southern (Western) Cameroon. This event allowed the authorities of Eastern Cameroon to stage an imposing show of military force, effectively occupying the whole of Southern Cameroon.

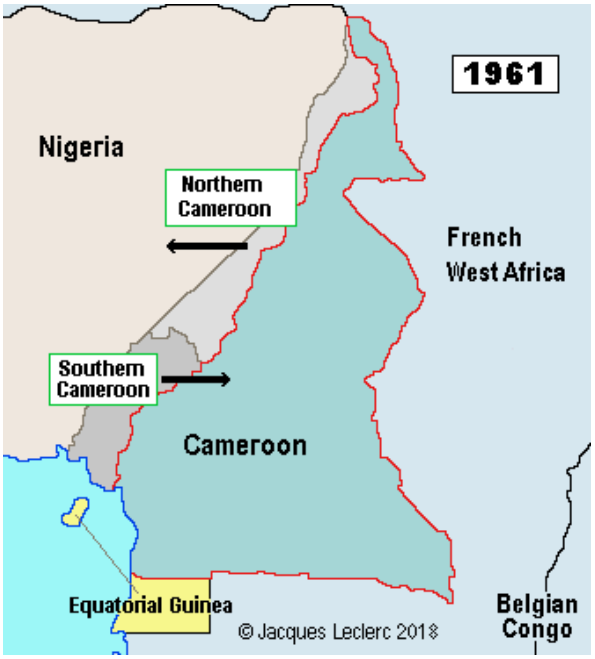
Host. (2021).Civil War and Humanitarian crisis in Cameroon. [Fotografía]. Flickr. *https://scholarscircle.org/wp-content/uploads/2021/06/Cameroon-AnglophoneRegion.jpg*

Quickly, the coexistence between the two regions deteriorated due to divergent visions and apparent antagonisms between the leaders of the federated states, as well as flagrant bids for hegemony and assimilation on the part of the French-speaking leaders. Some Anglophone leaders urged changes to the constitution. A crisis of confidence resulted in tensions, exclusionary measures, and a lack of unity and national cohesion.

The state attempted to fix its problems by changing its constitutional structure, becoming first the United Republic of Cameroon in 1972, and then the Republic of Cameroon in 1984, on the basis of increased power and prerogatives for the executive. The concentration of power by the leadership corrupted democracy, due to infrequent consensual rotation of those at the head of the state. With Cameroon being subject to recurrent economic crises, increased tensions between the Cameroon government and the English-speaking minority grew from the impoverishment of the population, a lack of community autonomy, and separatism.

Consequently, the effects of the long standing conflict between the government of Cameroon and its English-speaking population, present since 1961, are still alive currently. Due to consequences of the unitification of both region, violence, destruction, assassinations and terror now pervade the daily lives of the people of Southern Cameroon.

4.3 Current Situation



Leclerc, J. (2018).English-French bilingualism. [Fotografia]. Flickr. *https://www.uottawa.ca/calc/sites/www.uottawa.ca.calc/files/cameroon-1961-engl_0.gif*

Following the peaceful demonstration by lawyers and teachers of the Anglo-Saxon subsystem on November 19, 2016 in the English-speaking city of Bamenda, there were mass arrests by the soldiers of the Cameroonian army. Since then, under the leadership of civil society and diaspora actors, there has been a strategic and highly amplified coordination of civil disobedience through social media in locked-down English-speaking regions. These media allow protesters to counter repression and sustain their fight against the constraints imposed by the government.

Due to this disobedience, the government continued to focus on captures and has cut off web communications systems in all English-speaking regions. These measures have worsened the situation, bringing up a deeper disintegration of the social fabric of the country . Due to the complaints made by the pioneers of separatist movement of the government's anti-separatist measures and the authority's commitment to decrease the population's aspirations of secession, the government made a few concessions. Yaounde encouraged an increased enrollment of English-speaking understudy judges and clerks, the extraordinary enlisting of more than 1500 bilingual instructors, the creation of resources of medication and

designing in Anglo-Saxon colleges, the creation of a commission in charge of bilingualism and multiculturalism, the reestablishment of the web, and the discharge of a various nonconformists in return for the lifting of the bar forced by the pioneers of gracious society in this zone.

However, this wasn't enough to satisfy the separatists' necessities. On October 1st 2017, the leaders of the protest proclaimed the independence of Southern Cameroon and renamed it the Federal Republic of Ambazonia. This was supposedly the culmination of the crisis.

DW. (2021). From peaceful protests to war: The evolution of Cameroon's Anglophone conflict. [Fotografia]. Flickr. https://static.dw.com/image/59374074_7.png

Nonetheless, the situation in the country remains unfortunate, with continued arrests, armed repression and the emergence of several armed militias called the Ambazonia Defense Forces[43] that have targeted the regular army. This insurgency has been worsened by the emergence of terrorism by Boko Haram[44] since 2013, which has grown in the region of the Far North, and compounded the post-electoral crisis of 2018[45].

43. The Ambazonia Defense Forces is a separatist militant organization that fights for an independent anglophone state in Cameroon.

44. It is an Islamic fundamentalist terrorist group that believes politics in northern Nigeria has been seized by a group of corrupt, false Muslims. For this reason, it wants to wage a war against them

45. Initially planned to take place in February 2018, the presidential elections were postponed twice for organizational and financial reasons. When they were finally going to happen in October of that same year, armed groups from the south-west threatened to prevent the voting from taking place. This made the government respond aggressively, causing thousands of

The conflict in the Anglophone regions of Cameroon is deadlocked. There is no dialogue between Yaoundé and the separatists, who are both refusing to give ground: the government is counting on a military victory and refuses to discuss the form of the state; the separatists demand independence. Twenty months of clashes have killed 1,850, displaced 530,000 and led tens of thousands to seek refuge abroad, but the government and the separatists are sticking to their irreconcilable positions. Meanwhile, moderates and federalists, who enjoy majority support, are unable to organize. The latter are calling for talks to hammer out the practical details of independence in the presence of an international mediator.

The consequences of this civil war have been horrific. More than 1,000 soldiers and more than 6,000 civilians have been killed, often with a great deal of cruelty and barbarity. The exodus of refugees has been massive, both inside the country and beyond its borders. According to the United Nations High Commissioner for Refugees[46], 45,000 Cameroonians have gone into exile in Nigeria; 4/5 of them being women and children whose schooling has been severely compromised (as a result of a *'no school' policy* pursued by the separatists, depriving kids from their right to education, and making them vulnerable to recruitment by armed groups). Within the conflict regions, more than 75,000 people have been displaced, with dozens of traditional chiefs, business leaders, senior officials and administrative clerks being abducted and massacred. There have also been reports of torture, rape, sexual exploitation and the destruction of property, including schools, in anglophone areas. In short, about 737,000 Cameroonians have been forced to flee their homes, including 439,000 people in the South West and 298,000 people in the North West, often due to villages being targeted, burnt and looted.

According to statistics (UNHCR, 2021), Cameroon now has the 6th largest displaced population in the world, three million people are food insecure, and more than 1.5 million people need emergency health assistance.

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hundreds to seek refugee and even, to be internally displaced. This situation accounts for the 2018 presidential election turnout of just 5.36% and 15.94% of voters in the North-West and South-West Regions respectively. After this, there were critics and political tensions added to the security impasse after the 2018 election, which saw President Paul Biya win another seven-year term (OCHA, 2020).

46. Is a global organization dedicated to saving lives, protecting rights and building a better future for refugees, forcibly displaced communities and stateless people (UNHCR).

Besides, this conflict has not only affected security and safety within the country. A detailed study by the Groupement Inter-patronal du Cameroun (GICAM[47]) of 2018 reveals the economic damage: a loss of earnings amounting to 269 billion CFA ; an immediate loss of 6 billion CFA in tax revenue for the State in terms of the advance payments of corporate tax; and job losses in the formal sector of agro-industrial companies estimated at 8,000 jobs, in addition to the 6,400 jobs lost on agro-industrial work sites due to the civil war. Other indicators show the sharp deterioration of the country's financial situation: a significant drop in export earnings. As a result, the unemployment rate in agriculture is up by 23% and the overall economic performance of the country in 2020 indicated by a contraction of -1.5% over the course of the year.

Moreover, insecurity in Cameroon is unfortunately not limited to the Northwest and Southwest regions. It also continues to plague the northern regions where local people are suffering from the endemic assaults of the Boko Haram group.

The Security Situation

Apart from the chaos generated by the government and the separatists regarding the country's security , Boko Haram has also incited insecurity, with a death toll of 3,100 people from 2014 to 2019.

There has been the creation of seven armed militias present on the ground, ranging between 2,000 and 4,000 combatants. They recruit mainly from the Anglophone community, but also among the security forces, and include dozens of Nigerian mercenaries, who generally bring their own weapons and ammunition and are deployed as trainers or combatants. Dozens of Cameroonian police officers and soldiers, mostly officers, and retired or discharged soldiers have also joined the militias. Most militias have female combatants, some of whom are local leaders.

In 2018, the militias gradually took control of some rural and urban peripheral areas. Since September 2018, they have had to adapt their deployments to security force offensives but,

47. Is the most representative organization of the private sector in Cameroon.

despite suffering losses, they retain a position of strength in most of these areas, maintaining roadblocks and security checkpoints. They have even managed to organize attacks on towns such as Buea (Southwest) and Bamenda (Northwest), which suffered about twenty attacks in 2018. Many of the weapons used were seized from security forces, while others were acquired in Nigeria from paramilitary or criminal groups in the Delta.

Initially funded almost exclusively by the diaspora, the militias have become more autonomous. Last year, they carried out many more kidnappings for ransom, extorted shopkeepers and certain sectors of the population, and imposed taxes on companies. This relative financial independence allows them to cut themselves free from political organizations in the diaspora. Ignoring orders to respect the rights of civilians, they commit abuses, and they are gradually alienating the residents. As the population becomes less cooperative, the regime has resorted to greater violence to ensure obedience.

Since mid-2018, the conflict in Anglophone regions has spread to Cameroon's Francophone regions, increasing the risk of intercommunal conflict. About twenty attacks, including arson, have taken place in the Francophone West and Littoral regions.

The Humanitarian, Social and Economic Impact

As stated above, the conflict in the Anglophone regions is causing a major humanitarian crisis, with hundreds of thousands internally displaced people (IDPs), and tens of thousands of refugees in Nigeria, mostly women and children.

Humanitarian assistance to IDPs is insufficient to meet needs, according to the UN. This is due to under-funding, difficult access, and security risks. Cameroon's authorities initially obstructed international humanitarian assistance and opposed the presence of UN and humanitarian NGOs[48] in affected areas. In July 2018, the government reacted to increased UN pressure for access to Anglophone regions by announcing its own Humanitarian Response Plan. International aid is focused on Anglophone regions, where three quarters of IDPs are living. Only a few of the displaced regions are receiving assistance, even from NGOs.

48. Non-governmental organizations.

Refugees began to pour into Nigeria at the end of 2017. They are mainly in the care of the UN High Commission for Refugees, the Nigerian government, local authorities, and local and international NGOs. Yet support is limited because Nigeria is itself dealing with millions of people displaced by the country's multiple security and humanitarian crises.

The conflict has also had repercussions for the education system. Since 2017, the separatists have demanded the closure of schools and threatened or burned down establishments that have remained open. The majority of children in the Anglophone regions have not been to school for two or three years; unwanted pregnancies are increasing among young women; many families are pressuring their children into working. Even if the conflict were to end now, it would be difficult for these children to go back to school.

Continuous conflict risks have caused an even more serious problem: a whole generation of children were brought up to hate Cameroon, and they could form the backbone of future armed groups. At some IDP reception sites, children are re-educated about the history of Ambazonia, the name given by the separatists to their self-proclaimed state. Among the refugees in Nigeria, there is strong support for the separatists and the armed militias.

The conflict has had devastating effects on the economy of the Anglophone regions and the entire country. Major state-owned companies, such as the Cameroon Development Corporation (CDC) and Pamol, which employ tens of thousands of people in the Anglophone regions, are experiencing serious problems.

Measures

It is known that both parties to the conflict have made inadequate decisions (government and separatists).The government forces have killed scores of civilians, torched hundreds of homes, and used torture and incommunicado detention with near total impunity. In the same way, armed separatists have assaulted and kidnapped dozens of people, including students and teachers, amid increasing attacks and growing calls for secession of the North-West and South-West regions.

For this reason, The UN Security Council held a meeting organized by the Dominican Republic, Germany, the UK and the US, focusing on the humanitarian situation in Cameroon for the first time on May 13, 2019. Despite the United Nations Secretary General's call for an

immediate ceasefire in response to the Covid-19 pandemic, the fighting continued to degrade the social fabric in the North-west and South-West regions.

In the meeting, the Cameroonian government gave all the guarantees to the international community of its capacity to manage this conflict. Nevertheless, it has been shown that the military option chosen by the authorities seems to be leading to a bogging down of violence. Even when France, China and Russia in the UN Security Council (SC) support the idea that the Cameroonian government is able to resolve this conflict without foreign intervention, the escalation of violence continues to gain traction and demonstrates the inability of the government to resolve this conflict. This position of some of the permanent member countries of the SC explains the almost total disinterest and insufficient help of the international community in the conflict, which has been raging for the past five years.

As a result, some recommended a heuristic approach, with the aim of producing a dialectic analysis to support the advocacy of a viable and sustainable solution to the resolution of an armed conflict that has been largely ignored by the global community (OCHA, 2019).

Local initiatives to promote dialogue are emerging. In July 2018, Anglophone religious leaders announced a plan to hold an Anglophone General Conference as a first step toward an inclusive national dialogue. Separatists seemed to be open to the idea on the condition that it prepares the way for a referendum on self-determination that would give the choice between federalism and independence. Faced with opposition from the government, the conference organizers have already postponed it twice: from August to November 2018 and then to March 2019, nonethelessit still has not taken place.

That being the case, new solutions need to be implemented . These measures can be broken down into three main objectives:

- The immediate establishment of a ceasefire;
- the immediate release of all prisoners detained due to the crisis in the Anglophone area;
- investigation and actions taken over security forces members alleged to have carried out killings and destruction of property, and also to armed separatist groups and leaders responsible for serious abuses;

- and the opening of an inclusive and effective political dialogue involving all actors to discuss the full range of issues, including the State's composition and consensual reforms of the electoral system to establish a legitimate national government. As the Yaoundé regime has been static since 1982, there is an urgent need to ensure the rotation of power through legitimate and transparent processes as the ultimate solution for lasting peace in Cameroon, as well as the renewal of the executive branch which could help the country to recover from the ongoing war.

Experts suggest that the best option is to organize a dialogue between the three parties (government, federalist and separatist representatives) in the presence of an international mediator, to discuss federalism or genuine decentralization that would grant autonomy and adequate funding to the regions and that would guarantee respect for the specific features of the Anglophone judicial and education systems.

To clear the path to talks, all parties must make concessions in order to establish a minimum degree of trust and reverse the spiral of violence. To encourage this, international actors should help in the cooperation process, as well as the International Criminal Court[49] should open preliminary examinations into abuses committed by both sides. Finally, an international campaign to promote peaceful solutions should also be conducted.

Once there is trust among the parties, dialogue should take place outside the country. Several countries and international institutions and organizations have offered to mediate since the start of the conflict. Besides, during this process, international actors, especially the U.S, Switzerland, the Vatican, the UN, the EU and the AU should continue to encourage the government to dialogue, and offer funding and support for the talks as well as for victims of abuses, the reconstruction of Anglophone regions, the return of refugees and internally displaced persons and the disarmament and demobilization of former combatants..

The purpose of the talks should be that both sides must explore compromising solutions aimed at a level of regional autonomy, somewhere between the secession desired by the separatists and the fake decentralization proposed by Yaoundé.

49. The International Criminal Court (ICC) investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression. It is governed by an international treaty called the Rome Statute.

However, both the government and the separatists are strong in their position as both parties think they are having success in what they are doing. For instance, the government remains hopeful that military action to stop the conflict is the best option.

For this reason, the international community must immediately seek answers and improve their help in this situation. The armed conflict, which has an international dimension, must be resolved at the international level. The involvement of international actors such as Germany, France, the United Kingdom, the UN–which are historical actors in the conquest, colonization and decolonization of Cameroon and today have become the main economic, strategic and diplomatic partners of the country as well as the African Union and Security Commission (in the resolution of conflicts in Africa) —.might search for lasting peaceful solutions which are urgent, given that they are, in one way or another, involved in the current conflict's stalemate.

4.4 QARMAS

- Should the separation of territories according to culture be accepted, or should greater inclusion measures be adopted for the reunification of cultures in the same territory?
- Is self-determination a valid reason for Anglophones to get independent? And if so, how would it apply in this case?
- According to the internal laws and the constitution of Cameroon, could the Right of Secession be a viable solution to the crisis in Cameroon?
- Regarding the consequences of the crisis, should the Anglophone conflict be considered a situation of international or internal concern?
- Is the interference of countries of the international community in the conflict in Cameroon considered a violation of sovereignty?
- Should a legal framework for decentralization be developed to grant certain autonomy to the Anglophone regions?
- What kind of human rights have been violated during the development of the conflict?
- What measures should be taken in other regions to help refugees from Cameroon?

4.5 Recommendations from the Chair

The chair recommends analyzing the different aspects that this situation brings about, such as the causes of the development of the conflict and how these can be solved, the consequences that a conflict as big as a civil war has in the international panorama, and the possible proposals that can solve this crisis. It is important to explore the advantages and disadvantages that different solutions to this conflict may have for each of the actors involved.

Further, we want you to examine the chance to carry out a ceasefire, how it could be done, and who would be in charge of supervising it. Remember that in this specific case you can make use of subsidiary bodies, and ask for the collaboration of regional organizations.

Likewise, it is crucial to identify the urgency to solve this conflict depending on the effects and impacts it can have in neighboring countries such as Nigeria or even in the International community.

Remember that your objective as members of the Security Council is to raise awareness of the situation and to consider practical steps to be taken for an effective humanitarian response, including with regard to the protection of civilians, particularly of the most vulnerable populations, and respect for International Humanitarian Law.

4.6 Glossary

Self-determination: *"*denotes the legal right of people to decide their own destiny in the international order. Self-determination is a core principle of international law, arising from customary international law, but also recognized as a general principle of law, and enshrined in a number of international treaties. For instance, self-determination is protected in the United Nations Charter and the International Covenant on Civil and Political Rights as a right of all peoples" (LII).

Mediation: "is a method for the peaceful settlement of international disputes involving the participation of a third party with the aim of helping the parties to the dispute agree to a solution" (Oxford Public International Law, 2010).

Forced displacement: "Forced displacement occurs when individuals and communities have been forced or obliged to flee or to leave their homes or places of habitual residence as a result of or in order to avoid the effects of events or situations such as armed conflict, generalized violence, human rights abuses, natural or man-made disasters, and/or development projects" (UNHCR).

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5. Country List

I. Dominion of Canada
II. Dominican Republic
III. Federal Republic of Germany
IV. Federal Republic of Nigeria
V. French Republic
VI. People's Republic of China
VII. Republic of Cameroon
VIII. Republic of Chad
IX. Republic of Ghana
X. Republic of Poland
XI. Republic of South Africa
XII. Russian Federation
XIII. Swiss Confederation
XIV. United States of America
XV. United Kingdom of Great Britain and Northern Ireland

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