

## Letter from the dais:

Dear Delegates, Welcome to MUNIC TEN. The event looks to be one that promises an excellent standard of debate and we, as your chairs, expect no less from you. We hope you are looking forward to the event as much as we are.

The agendas we have selected for debate this year reflects one of the most pressing challenges that this world currently faces and we expect you to prepare accordingly. As you read this research guide however, treat it as exactly that: a guide. This document is intended to help you research; it is not intended to be the sum of those efforts.

Some advice delegates; research is your key to success here. There is no matter how you sugarcoat it, there is just no alternative to simple hard work. Furthermore, the use of international law and political conventions to back up your arguments will especially be appreciated. Most importantly, prepare so that you can enjoy yourself throughout these four days and have memories to cherish. We very much look forward to meeting you at the conference.

Best wishes,

Dais UNSC.

## **Topic Area A:**

### **International Intervention in Separatist Movements**

Throughout history, we have witnessed that as population of the world began to increase from a handful of humans to small village communities, to kingdoms and then to large nation states; dissent has existed throughout the whole period. In fact, dissent is the reason why society divided into communities and eventually nation states. With democracy becoming the orthodox system of government in the vast majority of countries, it gave people sufficient rights of freedom of speech, and as such, a right to express dissent. But while some dissent may be acceptable as part of the normal discourse of society; it is often the case that some dissents may come to form large scale movements that may be a cause of concern for the national sovereignty of countries. Such large scale dissents may be seen as forms of “separatist movements”. This is a vague classification of such movements but is useful in understanding the very basic idea of “separatism”.

#### **Essential Principles:**

##### **1) Self Determination:**

The principle of self-determination is an essential concept which requires a deep understanding in order for this topic to be debatable. This concept asserts that peoples of a state or country have the legal right to decide their own destiny in the international order. It expresses the concept the peoples of a country OWN that country by deciding their own fate through the process of, for example, elections and voting. Self-determination thus rejects colonialism, and with it, the idea that a state other than that of

the peoples in question has the authority to decide the fate of those peoples. This is because accepting this idea would suggest that a government of some other state has a higher claim to the territory and fate of that state of the peoples being called into question.

The concept has a prestigious legal position; original only part of Customary International Law, it has extended to treaty law. For example, the International Covenant on Civil and Political Rights protects self-determination as a right of "all peoples". Similarly, articles 1 and 55 of the UN charter proclaim the purpose of the UN to uphold "equal rights and self-determination".

## 2) Sovereignty of Nations:

Sovereignty of nations is the supreme, absolute, and uncontrollable power by which an independent state is governed and from which all specific political powers are derived; the intentional independence of a state, combined with the right and power of regulating its internal affairs without foreign interference.

It is thus the power a state possesses to do everything necessary to govern itself, such as making, executing, and applying laws; imposing and collecting taxes; making war and peace; and forming treaties or engaging in commerce with foreign nations. Like self-determination, this concept is also a clear rejection of colonialism. It rejects the idea that any other state has a higher claim over the territory and political authority of any state that may be called into question.

Such a view is propounded by the UN charter in article 2(1) that calls for "sovereign equality of all its Members". Sovereign equality thus suggests that all member nations of the UN are, by law, equal in their sovereignty. This means that, in terms of national sovereignty, there is no difference between the United States of America and, say, Haiti or Zimbabwe; even though both countries are poles apart socially and economically- nonetheless, when it comes to sovereignty, they are both equal nations.

## What is Separatism?

Separatism is often defined as the advocacy of a state of cultural, ethnic, tribal, religious, racial, governmental, or gender separation from the larger group. Separatist movements are often accompanied by violation of human rights and international law. Separatist groups do not feel fully represented or even disadvantaged and repressed by leading authorities in the territory they are living. While this is often aimed at full political secession, separatist groups may also seek solely greater autonomy and thus recognition as independent entity within their nations.

Separatists often express desire to separate/secede because they feel oppressed or discriminated against by the larger group, or it might be to create greater unity or self-sufficiency among those in the group. Separatism groups can use different methods to achieve their goals; including, but not limited to demonstrations, cultural independence, separate political parties, territorial claims, with both non-violent and violent means.

## Motivations and reasons for Separatist movements:

There are several motivations for any separatist movements. Often they will be a combination of all defined below and sometimes may be one factor or a combination of two or three factors. One such motivation could be resistance to oppression, such as denigration of a people's language, culture or religion. Such was the case in the Soviet Union where Chechens launched a separatist movement for an independent nation of Chechnya. The reason for this movement was the systematic racism and destruction of Chechen culture by Joseph Stalin who blamed them for cooperation with the Nazis and started deporting them.

Other motivations include the demand for economic and political equality from one group that does not share power and privilege in an egalitarian manner. Such an example was recently seen in the Scottish referendum. Prior to that, several separatist groups in Scotland called for independence believing that Scotland would be more prosperous if they could take responsibility by moving all Government Powers to Scotland and having a government of their choice. Other motivations may include protection from ethnic cleansing (such as the movements in the states of Yugoslavia) and economic motivations that ask for a lower divide among the rich and the poor. The discussion of such motivations is necessary in the committee to bring clarity to the debate.

## **The real debate: the conflict between self-determination and sovereignty of nations**

The concepts of self-determination and sovereignty have been discussed above in detail. However, in this particular agenda, there is a clear conflict between the two. If self-determination implies that a people may decide their future without interference from foreign bodies, then this means that if a people of a country organize a separatist movement wishing to form a separate state, then by the principle of self-determination, they have every right to do so because “they are choosing their own fate”.

Yet at the same time, if such wide discretion is given to the people, then the sovereignty of nations is severely affected. If every reasonably strong group of people is able to form a movement and ask for a separate state, that does not leave sovereignty intact as the state would always be under threat of breaking into different territories. This leaves us with the century long debate of whether individual rights or the interests of the state are worth protecting more. This is the whole crux of the debate. Delegates must argue and decide which of these concepts is worth more to the international order and what circumstances might justify preserving one over the other- will there be a general policy of choosing one to be supreme over the other? Or an individual analysis of each case upon its merits?

Although no country has a strict stance upon this prioritization, so it is left to the delegates to choose which side of the argument they will support. Nonetheless, as a general classification,

more interventionist countries (and these are usually those that were once colonial powers!) will generally tilt more towards preserving the right of self-determination over sovereignty. This is clearly evidenced by Western countries supporting separatist rebels in several countries and even in their own cases, allowing a wide discretion to people by way of referendums such as that of in Scotland, Catalonia and the case of Brexit would give us a general viewpoint of such countries. In contrast, countries that have already gone through colonialism would rather protect state sovereignty due to the fragile nature of the political landscape that does not make referendums and other peaceful mechanisms possible. There are clear examples of this in the crushing of the Kurdistan movement in Turkey and the clear state opposition to separatists in Khyber Pakhtunkhwa and Balochistan, Pakistan.

## What justifies intervention in a separatist movement?

Unlike one might imagine, a secession including building up an entirely individual state is only the very last step of a separatism movement. Gaining autonomous rights either in specific areas or in overall policy and administration has proven to be a satisfying step in many examples. However, most of these conflicts do not touch the international community and their policymaking, as they can be solved peacefully inside the respective state. In the following we will therefore focus on movements and conflicts which affect the international community due to their border-crossing nature, their violent methods, or their degree of destabilization.

What legal and political imperatives, then, justify an international intervention in a separatist movement? This is a particularly difficult question to answer within the merits of this guide. It is your job, as delegates, to find a sufficient answer to this. But generally, it is important to understand what criteria must the international community set in order for the UN to intervene in such movements. Should there be an objective criteria that should be applied to any given separatist movement in any given country, that if the criteria is met, the UN would be justified in interfering; or should there be a more subjective standard that would require an analysis by the UN of any such situation when it is called upon by that country or any other country to do so, and if the analysis justifies intervention, the UN may do so. This question is left to the delegates to decide.

## **The bigger issue: Should individual states unilaterally be allowed to interfere?**

In most cases, it will be fairly easy to decide any criterion whether the international community together, that is, the UN should interfere in such movements or not. But a much bigger issue is that of individual countries deciding to intervene in a separatist movement when they may feel that their state interests are to be in some way affected by the movement. This was clear in the case of Russia intervening in the Crimean secession movement. Russia used military force in Ukraine and took over the Crimean peninsula and thus directly aided pro-Russian separatists and held a referendum for the secession of Crimea from Ukraine. Similarly, Western intervention in such movements is also evident through funding of Anti-Assad rebels in Syria and those of Kurds in various areas of Middle East shows how problematic and concerning these unilateral actions of such states may be.

Not only is a criterion for such unilateral interventions necessary, but it is also necessary for delegates to debate the legality and political implications of such actions. The development of a criterion is left to the delegates; however, this guide will explore the legal and political limits to unilateral interventions. At its very basic, article 2(4) of the UN charter prohibits the “threat or use of force against the territorial integrity or political independence of any state”. Thus, whether separatist movement or not, the UN charter prohibits interference with the political independence of any state. Both the examples of Russia and that of USA, may thus be seen to be in violation of it. Let it also be noted that the UN charter comes under the domain of treaty law, and is thus fully binding.

Several other legal instruments may be referred to. Principles III and IV of the Helsinki Accords prohibits the making of another state’s territory the “object of military occupation” or “the threat [of it]”. The accords clearly state that “no such occupation or acquisition will be recognized as legal”. Principle III of the accords recognizes the frontiers of nations as “inviolable” which suggests that under no circumstances is an intervention or occupation permissible.

This, however, is the general rule. International law allows for exceptions to these rules. Chapter VII of the UN Charter sets out these exceptions. In the event of a threat to international peace and security, the Security Council may take military action (Article 42). The Charter also guarantees the right to individual or collective self-defence (Article 51). Article 51 is especially significant here. It gives every state the “inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.” The question of “armed attack” can be problematic because most states have construed rebels and separatism movements as at least threats of “armed attacks”. For example, Russia has considered Anti-Assad rebels as threats to Russian sovereignty and claim that such movements coming to power would create probabilities of armed attacks against Russia, and thus, justify intervention in Syria under a pre-emptive strike.

But an even better legal defense is the concept of “intervention by invitation”. This is the concept that a state may intervene in the matters of other states if it has been invited by the government of that country to do so. This has serious political implications. If intervention by invitation is to be recognized, this means that any government that is facing a threat from separatists, no matter how small, may call upon allied countries to crush such movements if it is incapable to do so. Intervention by invitation is essentially a legal concept in Customary law (this means it is not written anywhere as law, but by centuries of state practice, it has become law by “custom”); however, the International Court of Justice has confirmed and applied the general rule that intervention is ‘allowable at the request of the government’ in the case of *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda)* (at paras 42–53).

Whatever conclusion that delegates may arrive at must necessarily resolve the problem of unilateral intervention in separatist movements of different countries. You are being given a wide discretion as to whether you want to completely ban unilateral intervention, allow some part of it with certain criterions, or fully allow it. Understand that this is a wide discretion, and so you are expected to be highly responsible in dealing with it!



### Questions a resolution must answer:

- 1) Under what criteria do ethnic/religious/racial minorities have right to self-determination/separation?
- 2) To what extent do separatist movements disadvantage the rest of the people living inside a state with separatist movements?
- 3) To what extent should the international community have right to intervene in separatist movements/ attempts of self-determination to prevent potential conflict and eliminate negative consequences?
- 4) how do we recognise and measure fundamental discrimination and underrepresentation of a people by a government or state?
- 5) Which concept, between self-determination and sovereignty, is worth preserving more? In what circumstances may one be preferred over the other?
- 6) What steps can the UNSC take to eliminate unilateral state interventions?
- 7) What are indicators or criteria for measuring a people's integration and representation?

## Topic Area B: The use of Private Military Contractors/Companies in Armed Conflict.

### Background:

As compulsory military conscription increasingly falls out of fashion within today's world, the role of Private Military Companies (PMCs) in current conflicts is becoming ever more crucial. What are the advantages and pitfalls of the mercenary forces provided by private companies? Questions of democratic accountability and potential conflicts of interest are certainly pertinent, but on the other hand it could be argued that the model of conscription armies is no longer viable. How much

privatization can international conflicts sustain, and what effect do Private Military Companies have on the stabilization of conflict zones?

As wars change, so do the armies which fight them. Global conflicts are moving away from the massive total wars of the nineteenth and twentieth centuries and are shifting further towards the asymmetrical conflicts of the contemporary world. The conventional, conscripted national armies, which fought the Napoleonic Wars, and the First and Second World Wars are no longer a viable solution to today's security challenges. These forces have been replaced with small, highly trained professional all-volunteer militaries as well as their privatized counterparts: PMCs.

PMCs are companies which provide military related services to member states, humanitarian agencies, companies and individuals around the world. This can vary from training and logistics to soldiers and post-conflict reconstruction. PMCs have grown hugely in the last three decades and it is known that the United States hired over 160,000 civilian contractors during the Iraq war alone. One of the issues which PMCs bring is that, unlike national and international military services, PMCs fall outside of the jurisdiction of national and international legal frameworks due to their cross-border nature.

Many PMCs are involved in paramilitary services; even engaging in combat missions. Indeed, in Iraq, organisations such as Blackwater (now known as Academi), Titan and CACI have been implicated in some of the worst human rights abuses: from the torture of prisoners at the infamous Abu Ghraib prison to the murder of 17 Iraqis. PMCs benefit financially from instability and war, with current estimates putting the PMC market at over \$218 billion per year.

Additionally, there are different types of these organisations. Firstly, there are private military companies - these are corporate entities which provide offensive services designed to have a direct military impact in a given scenario who are generally contracted by governments. On the other hand, private security companies are corporate entities which provide defensive services to protect individuals and property. They are usually hired by multinational companies, humanitarian agencies and individuals in regions of conflict or instability.

## **Previous regulation of PMCs:**

Though former Secretary General Kofi Annan personally offered a blanket condemnation of the use of PMCs, the UN does have two official sets of suggested, non-binding regulations for PMCs to sign

on to. The Montreux Documents (A/63/467-S/2008/636) and The International Code of Conduct for Private Security Service Providers (ICoC) provide basic guidelines for the use of PMCs in conflict zones. The preamble of the ICoC explains that the document outlines "human rights based principles for the responsible provision of private security services. These include rules for the use of force, prohibitions on torture, human trafficking and other human rights abuses, and specific commitments regarding the management and governance of companies, including how they vet personnel and subcontractors, manage weapons and handle grievances internally" (The Law Library of Congress). Essentially, this agreement attempts to apply to PMCs the core of international law pertaining to regular military forces.

Despite the positive intentions of previous legislation, one of the issues which makes the topic of PMCs so pertinent to today's conflicts is the complete lack of enforcement of these aforementioned documents. No significant binding resolutions have been adopted which specifically deal with the employment of private security forces. This is partially due to the influence of security companies in influential governments' policy-making apparatuses, but also because the tools at the disposal of the Security Council which are able to make resolutions binding (intervention, sanctions, etc.) are entirely ineffective against non-state entities.

A major grievance of opponents of PMCs concerns companies' lack of loyalty and predictability within this system. Simply put, PMCs act as any other corporation would: they pursue strategies which will maximize profit. In the arms trade world, this has often lead to the military-industrial complex lobbying governments for aggressive foreign policies in order to stoke the fires of the conflicts which offer the companies sustenance. Thus, a significant conflict-of-interest is created between governments existing in a liberal international order whose actions tend towards conflict resolution versus the companies which provide them the material implements for security whose interests are aided by increased conflict and instability.

There are two perspectives on PMCs and related policy which are necessary to consider in any agreement on the topic drafted by the international community: states and NGOs. Any given state's perspective on PMCs will depend entirely on whether or not that state is financially capable of employing them. Underdeveloped states are often the some of the more vocal opponents of laissez-faire (Liberal Economic/Free market trade) PMC regulation, mostly because such companies' services are far too expensive to be of use to these governments. Poorer states' internal functions are often left at the whims of wealthy interests in the rich world's military-industrial complexes and security establishments. Rich nations' opinions generally depend on each government's policies concerning the use of force and interventionism.

The primary issue governments raise with the continued use of PMCs is one of state sovereignty. PMCs, by their privatized nature, degrade the sanctity of the state's monopoly on the use of force. This concept has been central to Western standards of the nation-state since its first discussion in seventeenth century France during the rule of Louis XIV. A 2004 German Bundestag document claims that PMCs' increased employment will lead to "a fundamental shift" in the relationship between militaries and governments which will cause "a hollowing-out of the state" (The Threat of Private Military Companies, [GlobalResearch.ca](http://GlobalResearch.ca)).

## **PMCs: Mercenaries or a new corporate entity?**

One of the main debates in International Relations and International law, is whether PMCs, with all their characteristics in mind, fall under the definition of mercenaries; or are a completely separate entity that requires new legislation.

In political jargon, a mercenary is essentially anyone that is hired to take part in a conflict for money or material benefits. However, the legal definition is much more complex and is contained in Article 47 of the Additional Protocol I to the Geneva Convention (*Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts [Protocol I]*, 8 June 1977).

Article 47 states that: *A mercenary is any person who:*

- a) is specially recruited locally or abroad in order to fight in an armed conflict;*
- b) does, in fact, take a direct part in the hostilities;*
- c) is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a Party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party;*
- d) is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict;*
- e) is not a member of the armed forces of a Party to the conflict; and*
- f) Has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.*

Although at first sight, the criterion does not seem problematic and quite simple; but there lies a great inherent problem. The International Committee of Red Cross has concluded that these entire

six criteria must exist simultaneously ([https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule108](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule108)). So the burden of proof is beyond reasonable doubt, where all elements must be proved. Delegates must evaluate the usefulness of this law and debate to what extent this may be amended. Alternatively, if delegates recognize PMCs to be a separate entity, perhaps they could consider the creation of new legislation to cater to it?

## Accountability of PMCs:

The accountability of PMC activities in armed conflicts should also be analyzed. It mainly concentrates on the following issues. At first place, it focuses on the issue against whom responsibilities may lie, either against the PMCs or against the hiring or home state of the PMCs and their personnel. Then, it analyses the kind of responsibility – civil, criminal or both – that may arise and how far PMCs and their personnel are subjects of international law, in order to be adjudicated before international courts and tribunals.

The issue is further complicated by the fact many UN Peacekeeping operations have relied on PMCs for a broad range of operations, such as the UN operations in Kosovo in 2000. For many years, supporters of PMCs have argued whether they can play an important role during UN

Peacekeeping or peace enforcement operations. Since PMCs are more effective, flexible and more quickly deployed, they can definitely bolster UN Peacekeeping operations. Thus, PMCs have played an important role in combat, while the UN has depended upon especially since their personnel often becomes a common target in conflict zones.

## Questions a Resolution Must Answer

How can the advantages of PMCs be maintained whilst curtailing their disadvantages?

How is national sovereignty affected by PMCs?

How can the accountability and transparency of PMCs be ensured when they act contrary to humanitarian law?

In which ways should the companies be held accountable? Who should be accountable for their actions?

How can the UNSC promote the creation of an international framework to regulate the actions of PMCs? Is there a need for new legislation? Or an amendment of the previous?