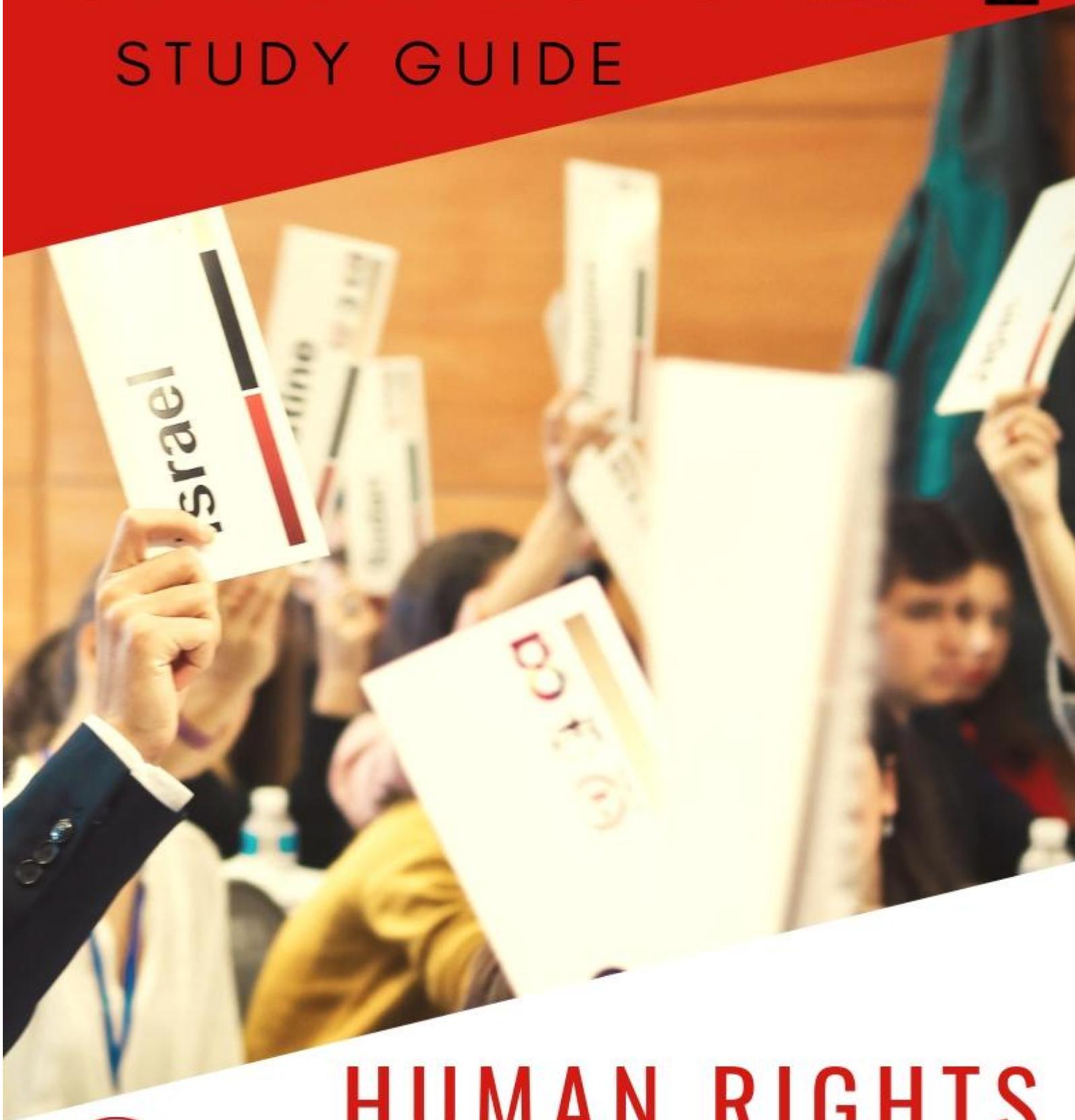


SYMUN 2018

STUDY GUIDE

uc3m



HUMAN RIGHTS



SYMUN



This Study Guide on the topic:

Targeted killings

Has been drafted by:

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Chairs

HR

SYMUN 2018

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I. WELCOME LETTER

Dear delegates,

We welcome you to the United Nations Human Rights Council of SYMUN 2018. First of all, we would like to show our gratitude to have chosen this Committee and this topic. Human Rights is one of the most intrinsic and crucial areas where the United Nations develops its activity. Human Rights define our condition and our society. Because of these reasons the work of the United Nations Human Rights Council, in other words, your work during SYMUN 2018, is determinant for the proper development of our societies and states.

“Targeted killings” is a complex subject. Throughout the present study guide you will read technical terms and you will have to get familiarized with areas of knowledge with which you might not be used to work. However, there is nothing you cannot achieve with dedication and hours of practice. We advise you to read as much information as you can, to raise questions to us whenever you need to, to absorb articles, books and news. The first step to be a competent delegate is to be well informed in order to be able to deeply understand the area you will be debating about.

Bear in mind to maintain the diplomatic position of the state you will be representing, to act with courtesy and with respect towards your fellow delegates, and the most important aspect, to enjoy the experience. As you chairs, we are sure you will do an amazing performance, and we are here to help you in every aspect we are able to.



Without any longer delay, we would like to wish you a pleasant preparation, we are looking forward to meet you all and start working together,

Your chairs,

Anastasia Gontar

Ana Méndez



II. COMPETENCE, FUNCTIONS AND STRUCTURE OF THE COMMITTEE

A. Committee's Competence and Role

The United Nations Human Rights Council (hereinafter "UNHRC" or "the Council") is an inter-governmental body within the framework of the United Nations (UN) created by the United Nations General Assembly on 15 March 2006. It replaced the Commission on Human Rights which had been established in 1946 to undertake the drafting of International Bill of Rights as its initial aim, as well as to promote and protect human rights as its main commitment. Comprised of 47 Member States which are elected for a three-year term, the new organ, UNHRC, is responsible "for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner¹. Its decisions, however, are **not binding** upon any State or UN body, although UNHRC is entitled to make recommendations to the General Assembly by which influencing the directions of improvements made in the sphere.

B. Objectives and functions

Objectives of the Council can be outlined as follows:

- To raise awareness of the human rights issues in the world, provide consultations and technical assistance to Member States, conduct assessment and evaluation of the current trends and challenges;
- To act as a platform for the cooperation between Member States in the field of human rights.

¹ [A/RES/60/251. Human Rights Council, clause 2 – www.un.org \(2006\)](https://www.un.org/press/docs/2006/06-00000.html)



- To improve situations on the ground and encourage Member States to fulfill their human rights obligations.

functions. The main procedure under which the Council operates is called **universal periodic review mechanism**. This is an official highly objective cycle-review of the advancement of human rights in all 193 UN Member States. The outcome of the mechanism is the promotion of transparency of human rights issues and localization thereof as well peer recommendations given to various stakeholders.

Apart from that, the Council is conveyed under so-called **special procedures**, or individual independent human rights experts, who advise on human rights problems thematically; UNHRC holds regular and special sessions operating within a chosen agenda when it considers relevant matters in different forms subsequently adopting resolutions or creating mechanisms for investigation and monitoring. Finally, the Human Rights Council receives complaints alleging patterns of human rights violations, and, if necessary, makes recommendations for actions when a certain claim has been analyzed.

III. TOPIC: TARGETED KILLINGS

A. Definition

Throughout the past few years some states, as a reaction to the terrorist attacks they suffered, developed offensive responses as means of making their territory safer. These attacks were developed mainly against non-state actors such as individuals, terrorist groups and different organizations. The actions countries undertook involved the use



of the military force and in many cases the uses of lethal force². Especially the so-called “targeted killings” increased significantly.

A targeted killing is defined by the United Nations as “the intentional, premeditated and deliberate use of lethal force, by States and other agencies acting under the colour of law or by an organized armed group in an armed conflict against a specific individual who is not in the physical custody of the perpetrator³”.

As we can observe there are some important elements in the definition of “targeted killing”. The attack has:

1. To use the lethal force
2. To be premeditated and deliberate
3. Previously select its individual target
4. Non-physical possession of the target

Also, it is important to bear in mind that the perpetrator of the targeted killing can be a State or an agency acting under the rule of law. According to the UNHRC the methods that have been used in order to commit the targeted killings vary, such as “sniper fire, shooting at close range, missiles from helicopters, gunships, drones, the use of car bombs, or even poison”.

² Matos, H., 2012. Offensive counterterrorism targeted in eliminating terrorist targets: the case of the USA and Israel. *e-journal of international relations*. Available at: http://observare.ual.pt/janus.net/images/stories/PDF/vol3_n2/en/en_vol3_n2_art7.pdf

³ Report of the Special Rapporteur on Extrajudicial, summary or arbitrary executions, Philip Alston; Human Rights Council, May 2010. Available at: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>



Just with taking a glance to the definition of “targeted killing” we can observe its problematic, because it entails the use of lethal force which is forbidden for a State, as we will analyse later, according to International Law.

The relevance or controversy of this topic is whether these actions entail a terrorist attack itself or if on the contrary they are in accordance with the rule of law as a method of self-defence. Throughout this work we are going to try to analyse the main points of debate that “targeted killing” has created over the past few years.

B. Background

Chronologically, the first actor who resorted to targeted killings in their operations was Israel when they used this method to combat terrorism within their state borders in 2000. However, it was the United States policy that gave rise to a wide-spread debate over the legality of targeted killings and their place in international law. Following the U.S.S. Cole bombing in 2000, when Muslim militants associated with the organization al-Qaeda attacked a US naval destroyer, USA undertook a targeted killing of Qaed Senyan al-Harithi in Yemen, the alleged mastermind of the above-mentioned attack⁴.

Critics allege that some targets have been neither combatants in a war zone nor positively identified as al Qaeda or other terrorist leaders⁵. Starting from this point, in 2002, targeted killings have been traditionally performed from air and as the technology develops, so do the

⁴ Davis, Lynn E. and al. (2016). “Clarifying the Rules for Targeted Killings”, Rand Corporation, Available at: http://www.rand.org/pubs/research_reports/RR1610.html

⁵ Rebecca Perlman. “Targeted Killings: Does Drone Warfare Violate International Law” - <https://static1.squarespace.com/static/591218a32994ca7cb2eec4ed/t/592efc573e00beff61db26c9/1496251479844/Targetted+Killings.pdf>



methods of targeted killings. So-called drone ⁶strikes and the lack of transparency in their use have become another issue of a sheer public concern. Drones have been used by many countries including USA, Russia, the United Kingdom, Iran, India and others ^{7 8}to improve the accuracy of targeting and decrease the deployment of human forces. It is also conceivable that non-state armed groups could obtain this technology and use it to their own advantage and create a huge universal threat. . What is more, there are a number of international law regulations that a country should meet in order to prove the legitimacy when resorting to a targeted killing.

C. How it's regulated

Nowadays there is no accord over the law applicable to targeted killings. The three frameworks that can be relevant are human rights law, the laws of war (or international humanitarian law), and the law applicable to the use of inter-state force. In fact, the boundaries between them are extremely blurred and sometimes, when the legality of a particular case is contested, customary law may be applied to define it. Whether or not a specific targeted killing is legal depends on the context in which it is conducted: whether in an armed conflict, outside armed conflict, or in relation to the interstate use of force.

International Humanitarian Law will be relevant when there is a conflict between nations, within one State or in such cases when a conflict between a State and a

⁶ Defined as an unarmed combat aerial vehicle (Author's Note)

⁷ A/HRC/14/24/Add.6, par. 27



terrorist group within its territory “reaches the threshold of an armed conflict⁹”. Within the framework of IHL, a targeted killing is considered lawful when conducted against a “combatant” (or fighter) or in case of a civilian if, according to the Geneva Conventions, this person “directly participates in hostilities¹⁰”. In addition, such killings must be carried out of necessity, the use of force must be proportionate, and all possible efforts must be made to minimize harm or eliminate it.

When the Law of Armed Conflict fails to provide a rule for a specific situation, human rights law norms may fill the legal gaps, however, in keeping with the *lex specialis* principle IHL shall prevail when its norm differs from the corresponding one in HRL.

The **Law of Human Rights** is also used outside military conflicts. Under this legal regime, the justifiability of a killing takes place only when this action is aimed to protect human life and “there is no other means, such as capture or non-lethal incapacitation, of preventing that threat to life (making lethal force necessary¹¹)”. In other words, a targeted killing is carried out in the situation when imprisonment is not reasonably effective or possible. The norms are enshrined in such fundamental legal sources as the International Covenant on Civil and Political Rights and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Finally, the performance of a targeted killing by **one State in the course of a conflict with another** is closely connected with the notion of State's sovereignty. That is the concept of supreme authority of a state within its territory. It will not be violated by a

⁹ Justinas Žilinskas. Targeted Killing under International Humanitarian Law (2008). Available at: <https://mruni.pure.elsevier.com/en/publications/targeted-killing-under-international-humanitarian-law>

¹⁰ Geneva Conventions Common Article 3, AP I, art. 52(1) and (2); AP I, art. 50(1) - <https://www.icrc.org/eng/assets/files/publications/icrc-002-0173.pdf>

¹¹ A/61/311, paras. 33-45



second state if: **a** - the first state has expressed its consent or **b** - the targeting State has a right under international law to use force in self-defence under Article 51 of the UN Charter¹². This rule has created a ground for a long-lasting debate over the legality of the use of targeted killings in anticipatory self-defence and their conformity with the requirements of necessity and proportionality under customary international law. We will elaborate on this issue further in the next section of this Study Guide.

D. Debate – Art. 51

As you all already know, the UN functioning relies in the mandates of the UN Charter. According to it, it is the Security Council the body in charge of analysing threats and breaches of peace and the body that must decide what measures must be taken¹³. Therefore, states cannot decide unilaterally on the use of force. But, if we take a look to article 51, it is permitted to states to use force whenever they suffer an armed attack as they have right to self-defence.

The debate in this case is if a country is allowed to, under their right of self-defence, use lethal force without the permission of the Security Council. A proper question would be to wonder how this self-defence right could harm International Human Rights Law and how the UNHRC could protect it from being violated.

As mentioned in the previous section, the Law of Human Rights allows these actions whenever they are carried out in order to protect human life. But countries would have to justify the danger they are suffering, and how other measures, such as arresting, cannot be undertake¹⁴. However, are states complying with these requirements? are “targeted killings” only being used when there is an imminent threat to life?

¹² UN Charter, art. 2(4)

¹³ UN Charter, art. 39

¹⁴ Ramsdem, Michael; Targeted Killings and International Human Rights Law: the case of Anwar Al-Awki, 2011.



Targeted killings are, as we have been mentioning, a controversial measure that is usually taken in extreme circumstances. Therefore, it might occur that it is not carried out with all the requirements that the UN mandates demands. It is our work, as the UNHRC, to analyse how targeted killings should be performed so as not to damage the Law of Human Rights.

E. Targeted killings and the Law of Human Rights

In order to acknowledge how targeted killings affect human rights, we shall consider the International Covenant on Civil and Political Rights (ICCPR). In the Article 6.1, the ICCPR states, "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life¹⁵". The right to life is the first subjective right in the document, and its sacred meaning is supported by the word "inherent".

States have committed themselves to protect the lives of their citizens and ensure that this fundamental standard is complied with and the right to life is not violated. Such a universal aim cannot be reached if the substance of single provisions depends on national legislation¹⁶.

The universal interpretation of the statement that no person can be deprived of his life arbitrarily suggests that such a deprivation cannot be performed upon someone's sole discretion or unlawfully. Thus, despite its supremacy, the right to life is somehow limited allowing a non-arbitrary killing takes place, although with the case-by-case determination of its nature. Generally speaking, the exceptions to the right of life exclusively apply to persons that give reason for the use of lethal force by their own behaviour¹⁷. That it when the principles of necessity and proportionality take effect.

¹⁵ International Covenant on Civil and Political Rights, adopted by the UN General Assembly on December 16, 1966. Art. 6.1.

¹⁶ Otto, Roland; Targeted Killings and International Law, 2012

¹⁷ Ibid.



During an armed conflict, targeted killings do not violate the law of human rights as long as the targets are combatants because of the above-mentioned *lex specialis* principle. Lawful acts of war are not arbitrary under Article 6 of the Covenant.

As a preventive measure, a targeted killing is absolutely arbitrary action because in this case the deprivation of a person's life may only be a side-effect but not the response towards the threat a person poses, which is one of the main criteria when assessing the lawfulness of a killing. Finally, in the course of the realization of an arrest, the law enforcement personnel may act in self-defence and if necessary resort to a targeted killing ensuring that the principle of proportionality is not violated.

As we see, under no circumstances can targeted killings be justified unless they are governed by IHL or when a person poses an indisputable threat. However, the right to life does not leave room for the killing of innocent persons even if the overall aim is to save life.

F. Morality of a targeted killing

Within the debate on the topic it is impossible to omit the moral side of the subject. After all, even a killing of the most dangerous terrorist will nevertheless cause a death of a human being. This statement of Gross¹⁸ is based on two prerequisites: 1 - such a killing will be considered a preventive measure in order to protect other people's lives, and 2 - the targeted person is the right one. This concept entails a number of difficult questions among which, for instance, how can one be sure that the person is guilty or to what extent can we rely on the correctness and relevancy of the data which proves the guilt? Why do we think we have a license to kill a targeted terrorist while it is illegal to carry out a death penalty without a due judicial process? “

¹⁸ Gross, *Struggle of Democracy*, p. 232



If one rejects the legitimacy of a killing of a member of a terrorist group, one must object to all killing in war, targeted and non-targeted alike¹⁹...". Does that mean that the international community should seek to find the alternatives to killings whatsoever?

IV. QUESTIONS THAT SHOULD BE ADDRESSED IN A RESOLUTION

Throughout the present study guide we have tried to give you a broad framework of how targeted killings have been introduced in the legal and international system. However, it is our work as the UNHRC to analyse targeted killings through the human right's perspective. In this section we are going to pose some questions we would like you to reflect on. Of course, these are not the only questions you must think about or solve. Challenge yourself, think ahead.

- Do targeted killings respect Human Rights? Think about the cases of targeted killings that have taken place and analyse if they comply with the basic Human Rights stated in the International Covenant on Civil and Political Rights.
- Are targeted killings properly regulated in the present international legal system?
- Should targeted killings be more restricted? Think about the requirements states have to comply with in order to carry out a lawful targeted killing.
- Are countries respecting those requirements or are they abusing of their position? Look for information about cases of targeted killings from different countries and reflect about the correctness of the action.
- Should countries be able to act immediately whenever they feel they are being or will be attacked? Think about the pros and cons of this measure.
- Are targeted killings an effective measure to fight terrorism? Is it "fair" to kill?

¹⁹ Statman, 5 Theo. Inq. L. (2004), at 197



We are aware of the difficulty of the questions we are posing in this study guide, but it is necessary to reflect upon them, to create an opinion in order to be able to debate about this topic from the perspective of a specific country.

V. SOURCES OF INFORMATION AND FURTHER READING

We would like to recommend you some specific sources of information. These sources vary from websites to books. Here you will find some useful data about the topic. First we advise you to get familiarized with the UN and its different bodies (in case you are not yet) and then, to start studying "targeted killings". We hope you find these sources interesting.

- Website of the United Nations ([Link](#))
- UN Charter ([Link](#))
- International Covenant on Civil and Political Rights ([Link](#))
- Website of the United Nations Human Rights Council ([Link](#))
- Report of the Special Rapporteur on Extrajudicial, summary or arbitrary executions, Philip Alston; Human Rights Council, May 2010 ([Link](#))

VI. ADDITIONAL INFORMATION AND REMINDERS

Regarding the preparation for this Conference, that should go beyond in this guide, you should prepare a Position Paper that has to be send to the Chair before the Conference starts. In the next section we will explain to you how the position paper should be done.

Moreover, you should read in detail the Rules of Procedure, in order to be able to deeply know the functioning of the protocol of the committee. Also, the Dress code of SYMUN 2018 is as follows:



Delegates attire must be at all moments appropriate to the relevance of the event and the role represented. Therefore, compliance with the so-called Western Business Attire is mandatory.

Female: full suit of blazer, with blouse or dress or formal shoe. No jeans or sneakers are acceptable. Cocktail dresses will not be accepted.

Male: full suit or blazer and formal trousers (no jeans are accepted), shirt, tie or bow-tie, and formal shoes. Again, neither sneakers nor formal wear will be accepted.

Despite the above-mentioned provisions, delegates shall wear, at their discretion, clothes, badges, accessories and typical dresses of the countries they represent, if they are appropriate for the occasion according to the protocol of such countries. Moreover, if you have any doubt or need any information about the Committee, conference or other issues, do not hesitate to contact us, we are here to help you with everything you might need.

VII. POSITION PAPER

A Position Paper is a document which describes the official policy of the country that a delegate is representing on the issue at hand. It is useful to facilitate prior preparation to all delegates and improve the understanding of a country's path. While a Position Paper does not have a specific structure, there is a highly recommended one to follow:

First paragraph: International and local situation on the issue. Country's policy in face of it and national efforts taken by your own country to eradicate the problem.

Second paragraph: Previous and current actions being carried out by the international community (e.g. past UN resolutions, programmes, frameworks, etc.).



Country's position regarding previous and current efforts (i.e. what can be improved?).

Third paragraph: Main ideas and proposals, according to your country's policy, to address the issue.

It is important that you elaborate your Position Paper with clear and concise information about your country's policy, so **an extension of a single page will be more than enough**. Finally, it should be noted that plagiarism will not be accepted. Any figure, statement or fact must be quoted and its source of origin must be clearly indicated.

Sample Position Paper

Committee: Special Political and Decolonization Committee

Country: Libya

Topic: The political situation in Libya

Delegate: (Name)



Since the fall of Muammar Gaddafi in 2011, Libya has been caught up in a political crisis and a competition for national supremacy between different parties, tribes and ethnic groups. Taking into account the limitations of previous attempts to guarantee stability within the country, Libya strongly believes that an equitable representation in the political sphere is the only way to restore its political architecture. In this sense, the Government of National Accord (GNA) publicly supports the composition of a government that guarantees the participation of all parties involved in the power struggle, rather than keep on promoting the confrontation between Libyans. Thereby, Fayez Al-Serraj, Prime Minister of the GNA, states that "in the reconciliation process, no one is excluded (...) we are trying to bring together all Libyan views."



One of the most important steps taken by the international community to assist Libya is the establishment of the UN Support Mission in Libya (UNSMIL) by UNSC resolution 2009, which has the main task of promoting national reconciliation and protect human rights within the country. Moreover, the most recent improvement has been the composition of the GNA with the signing of the Libyan Political Agreement in 2015, an internationally recognised government backed by the United Nations. Despite the mentioned, the lack of support for the GNA inside the country and the ongoing power struggle between previously established governments has led the country into a crisis which now covers from the political field to migration and terrorist issues. Furthermore, one of the main obstacles for peace and stability is the lack of a unified army under the new political body. Likewise, the growing presence of ISIL within the country blurs the political situation in Libya and shifts international attention to the fight against the terrorist organisation only.

To restore peace and stability within the country, Libya proposes: a) calling upon the international community, especially those countries which hold relations with any militia in Libya, to encourage these military and political groups to take part in national peace talks and participate in drafting the permanent constitution of the country, in order to ensure the composition of a new government in which all actors are represented in a balanced manner; b) further inviting regional and sub-regional organisations, especially those in which Libya holds membership such as the Arab League, the Organisation of Islamic Cooperation and the African Union, to work in a coordinated and transparent manner supporting the GNA in its attempt to pacify the situation within the country; and c) asking the United Nations Development Programme to carry out a state-building program in Libya by the provision of policy advice and technical support. Libya calls upon the international community to support the GNA as the legitimate and internationally recognised government and not to encourage the uprising of the different factions in order to face the challenges presented by the issue at hand.



The delegation of the French Republic is confident that this upcoming summit will bear abundant result that will leave all the parties involved satisfied and our world a slightly better places.



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