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**The Antarctic exception. Sovereignty and the Antarctic Treaty
governance**

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RESUMO

Esta tese propõe discutir as implicações de uma soberania indefinida para a governança antártica. A Antártica emergiu na sociedade internacional por meio da expansão de suas instituições primárias para a região. Atividades foqueiras e baleeiras configuraram as primeiras práticas e identidades, seguidas por expedições científicas e de exploração. Conhecer e controlar esta região garantiam não só liderança comercial às nações envolvidas, mas também o fortalecimento de seus imaginários nacionais no início do século XX. Assim, soberania territorial foram reivindicadas por Argentina, Austrália, Chile, França, Nova Zelândia, Noruega e Reino Unido, porém sem mútuo reconhecimento. Este impasse passou, então, a fundamentar a política antártica. Os reclamantes buscaram demonstrar sua autoridade por diversas formas, uma vez que eram antagonizados não só por reivindicações rivais, mas também pela União Soviética e pelos Estados Unidos, potenciais reclamantes que não reconhecem soberania sem ocupação efetiva; mas que resguardam seus próprios direitos para uma futura reivindicação. A impossibilidade de se chegar a um acordo foi resolvida por meio da suspensão das discussões sobre soberania, o que na prática manteve o controle de reclamantes e potenciais reclamantes sobre a tomada de decisões. A cultura diplomática do Tratado Antártico constituiu um sistema social que preservou a configuração original de poder através do consenso, da lenta transformação institucional e da participação limitada de outros atores. Por outro lado, por não demandarem uma definição de soberania, pesquisa científica e proteção ambiental foram alçadas como princípios antárticos, legitimando perante a sociedade internacional um Tratado que vem assegurando a paz na região. Pesquisa científica e proteção ambiental também preservaram o protagonismo dos reivindicadores e potenciais reivindicadores no processo decisório, uma vez que experiência e expertise são considerados essenciais em uma região definida como excepcional. Dado que soberania e territorialidade não poderiam ter sua localização normativa de forma similar à sociedade internacional, a Antártica foi definida como um lugar excepcional, demandando um arranjo governamental particular onde reclamantes e potenciais reclamantes pudessem atuar como autoridade final na região. Uma soberania formalmente indefinida pelo Tratado configura uma sociedade internacional regional estruturada excepcionalmente, de maneira a preservar seu arranjo original de autoridade.

Palavras-chave: Antártica. Soberania. Sociedade internacional regional. Governança.

ABSTRACT

This thesis discusses the undefined condition of sovereignty in Antarctica and its implications for the governance of the region. Antarctica emerged into international society with the expansion of its primary institutions in the nineteenth century. Sealing and whaling were the first practices and identities to develop, followed by exploration and scientific expeditions to the continent. Knowing and controlling the Antarctic region promised not only commercial supremacy at the beginning of the twentieth century, but also the reinforcement of national desires for imperial greatness. Sovereignty claims were stated by Argentina, Australia, Chile, France, New Zealand, Norway and the United Kingdom, but not mutually recognised. This conundrum established the foundation of Antarctic politics until the present day. Claimants have pursued to demonstrate authority in any way possible, and have been confronted not only by rivals' overlapping claims but also by the Soviet Union and the United States, potential claimants who did not recognise sovereignty without effective occupation, but who did save their own rights to make claims in the future. The impossibility to reach a common agreement was solved by instituting a permanent non-solution: the Antarctic Treaty established a governance where claimants and potential claimants maintained control over decision-making. Its diplomatic culture constituted a social system which preserved the original power-configuration through consensus, slow institutional transformation and limited participation from other actors. As fields of activity that did not define sovereignty, scientific research and environmental protection were raised as Antarctic principles. They have legitimised the Treaty to international society, as peace has been maintained in the region. However, as the main decision-makers, claimants and potential claimants have reassured their leading roles by their scientific and environmental performance, as experience and expertise are seen to be indispensable qualities for those engaging in a region as exceptional as Antarctica. Since sovereignty and territoriality were not subject to norm localisation in the same way as that found in international society, Antarctica was defined as an exceptional place, demanding an exceptional governance framework for claimants and potential claimants as the ultimate authority in the region. By explicitly making sovereignty an undefined article, the Treaty configures a regional international society made exceptional in order to preserve its original authority.

Keywords: Antarctica. Sovereignty. Regional international society. Governance.

INTRODUCTION

General awareness about Antarctica tends to build an image of distance, strangeness, inhospitable environment and, for those more familiar with Antarctic matters, a region environmentally protected and dedicated to scientific research. This image might not be wrong, but what is most intriguing about these impressions is how such a large region in our planet passes almost unnoticed not only to the general public but also to many experts and decision-makers. The amount of studies and analysis dedicated to Antarctica do not correspond to the size, impact and potentialities this region can offer. We do not talk only in terms of the natural sciences; surely, the impact of Antarctica on meteorological, geophysical, oceanography and biological global systems, for instance, has been one of the biggest motivations for scientific research and environmental protection in the region. However, an equally important impact which has, in fact, enabled the conduct of scientific activities and environmental protection in the region has scarcely been addressed. The Antarctic Treaty governance represents one of the most *sui generis* arrangement in international politics which has almost been ignored by political scientists and International Relations' academics.

Curiosity was the first motivation for the beginning of this research: Who resides there? What kind of activities are undertaken? And who regulates the activities? All these questions were raised by an attempt to understand what happens in Antarctica and what leads to this common unawareness of the place. In a reversed logic, the first approach to Antarctica came with a field work in the region. In 2012, through the Brazilian Antarctic Programme, interviews were conducted at the Chilean Station of Eduardo Frei Montalva and at the Russian Station of Bellingshausen, providing the first hints for the answers to the former questions. Scientific research and logistics proved to be the paramount activities in place, therefore those who live and work in Antarctica tend to be scientists and support personnel (despite of a folkloric vision that "nobody is there"). Subsequently, the second question was answered. Stations were installations from Antarctic Treaty Parties to host their national scientific researches. Observing their routine activities, it was clear that these were regulated in terms of places authorised to go, distance restrictions to fauna and flora, and reports addressed to national authorities regarding who was there, what was conducted and how impact was remediated. Therefore, the third question was also answered: the Antarctic Treaty regulates actors and practices undertaken in Antarctica.

This field work did not only offer these basic conclusions but it also fostered new questions. In the Chilean station, Antarctica was part of the territorial map of the state. In fact, Antarctica was considered as an extension of the Magallanes Province. Whilst in the Russian station, personnel were concerned with our visit because they had not been notified. Therefore, a deeper issue was actually immersed in all ordinary activities and conducts from personnel and scientists in the region: sovereignty. And this has become the core of this present work. How does sovereignty take place in Antarctica? Is a station the national territory of its flag-state? Can anyone, regardless of his/her nationality, visit any Antarctic station? These questions required more systematic research.

Antarctica is presented as a region of the planet located below the parallel 60°S, whose sovereignty is not defined and whose activities are decided and monitored by the Antarctic Treaty, an agreement established in 1959 and in operation since 1961. Undefined sovereignty was the foundation of the Antarctic Treaty, as preserving sovereignty claims whilst not recognising them was the way found to conduct activities in the region without conflict. Antarctica gathers seven sovereignty claims: Argentina, Australia, Chile, France, New Zealand, Norway and the United Kingdom claim territories since the beginning of the twentieth century and they have not agreed to waive their rights so far. On the other hand, the Russian Federation and the United States do not claim territories in Antarctica and do not recognise any either. However, they have saved their right to do so in the future. So how has a Treaty been able to manage the governance of a region of undefined sovereignty? This is our research question. We did not find comparable cases to Antarctica, which makes the region a unique case study. Attempts to define the region as global commons have failed because, different from the high seas or space, Antarctica presents current sovereignty claims which have found different ways to be demonstrated since they were established. Therefore, Antarctic governance presents a *sui generis* arrangement to manage a region where authority cannot be defined in order to keep regional and international society's security.

Our research question was approached by different avenues. Our main goal was to use theoretical and methodological perspectives to provide the information we needed to emphasise and analyse, advancing our argument. Therefore, an historical analysis was adopted, as the history of Antarctica and of the establishment of its sovereignty practices was fundamental in helping to grasp how a governance based on an undefined sovereignty was constituted in such

terms. Likewise, the operation of the Antarctic Treaty in terms of actors and practices were also very important to understand the social dynamics of a region of such exceptional conditions. In this case, we needed a sociological approach to understand the dynamics between Antarctic actors and the institutions they created to govern their behaviour in the region. Therefore, the English School of International Relations along with the theory of structuration and social constructivism have proven to be very helpful choices. We have mainly relied on Hedley Bull (1977) for the constitution of international society, and Adam Watson (1984) and Richard Little (2013) for addressing its expansion. Primary institutions, especially sovereignty, were based on Robert Jackson (1999), Alan James (1999) and Kalevi Jaako Holsti (2004). Barry Buzan's (2004) works supported us with the critical view of the English School, offering different options through which we could explore international society's expansion to Antarctica and how sovereignty and territoriality have their norms redefined in the region. Buzan's work also directed us towards regional studies in the English School. The works of Ales Karmazin (2014) and Costa-Buranelli (2014) supported an approach of Antarctica as a regional international society, which also helped us to identify limitations on current interpretations on the Antarctic Treaty as an international regime. Sociologically, Anthony Giddens (1984) and Alexander Wendt (1999) helped to provide a perspective in structuration theory. The Antarctic Treaty as a social system is understood as the place where Antarctic practices and identities are produced and reproduced in terms of norm localisation and decision-making. Wendt's identification of enmity, rivalry and friendship roles in actors' interactions provided us with not only a glimpse of how Antarctic actors have perceived each other, but also a perspective of norm internalisation, which is also present in Buzan's English School. Therefore, our historical and sociological theoretical choices are compatible to each other.

One of our biggest challenges in this work was the balance between an International Relations (IR) and an Antarctic audience. Concepts and terms which are currently tackled by an IR public, for Antarctic academics have been easily misunderstood. Likewise, facts considered common sense by those familiar with Antarctic literature, for an IR audience, are a novelty. Therefore, we have tried to do a detailed review of Antarctic history and a systematic analysis of the Antarctic Treaty's operation, whilst defining and using only the theoretical concepts which are helpful for our analyses. Therefore, IR audiences would be briefed enough about a considerable unknown subject and Antarctic audiences would not be lost in extensive theoretical debates which are not part of the analyses presented. Another challenge was how to demonstrate that sovereignty could still be a fundamental element to Antarctic governance, without allowing for

our suspicion to bias our analysis. In order to solve this question, our work pursued reliable sources where we could demonstrate that sovereignty as a component of Antarctic politics cannot be ignored. The Antarctic Treaty Secretariat organise the Antarctic Treaty Database, where all meetings, papers and agreements are available for consultation. And, so far, there has not been any longitudinal analysis for these data. Current analytical works present a limited timeframe and this has encouraged us to try to encompass as most years as possible in our own analyses. Therefore, the Antarctic Treaty statistics presented in this work are from our own labour on the database, and which, indeed, corroborated our impression that claimants and potential claimants have had a dominant role in Antarctic politics since the establishment of the Treaty.

However, data statistical analyses could also lead to misleading conclusions. Hence, observations of the 37th Antarctic Treaty Consultative Meeting, in 2014, have assisted us to develop an accurate perception about what we should shed light on in the Antarctic Database. With the support of the work of Dittmer and McConnell (2016), we explored the diplomatic culture established by the Treaty, interpreting it in terms of place and procedure, the rationale of its preservation. Therefore, we never wanted to restrain ourselves to a unique methodological approach. To the same extent that we provide descriptive statistics to illustrate the operation of the Antarctic Treaty, we have also explored the constructed character of sovereignty and territoriality. For instance, we have used the works of Biersteker and Weber (1996) and Murphy (1996) to understand how sovereignty and territoriality have been present in Antarctica, whilst maintaining awareness that its practices and identities have been shaped through different avenues. And once aware of how Antarctica presented particular features, forming an exception to what we observe in international society, we looked for works which addressed sovereignty and exceptionality as the phenomenon. Schmitt (1934) offered us a perception of how the exception can take place by a sovereign decision, as decisions are not necessarily supported by norms. Antarctica was defined as exceptional by claimants and potential claimants, inaugurating a political creation through the Treaty where sovereignty can be formally considered undefined, but practically deployed through other means. We are aware of how theoretical perspectives are much deeper and intricate than that which we are showing here. However, we are not focusing on the theory; we want to understand sovereignty in Antarctica. Therefore, in our analysis, we focused on the approaches which can aid our interpretation, answer our questions, create more avenues for exploration, but always advance the studies of Antarctic governance.

Our first chapter addresses the expansion of international society to Antarctica and the establishment of the Antarctic Treaty. The formation and consolidation of international society took place with the establishment of its primary institutions: sovereignty, territoriality, balance of power, diplomacy, trade, nationalism, (in)equality of people and (more recently) environmental stewardship defined practices and identities in international society, and delimited its membership. Antarctica emerged with the expansion of international society as trade, nationalism and balance of power primary institutions defined the first identities and practices in the region. Sealing, whaling and exploring expeditions during the nineteenth and the twentieth century marked the beginning of Antarctic history and fostered the claim of sovereignty territories by those who wanted to control the region for a prominent position not only in sealing and whaling industries, but also in nationalistic disputes among great powers. Sovereignty claims in Antarctica became the benchmark for an intensification of activities in the region. However, Antarctica's exceptional environment prevented the completion of sovereignty and territoriality expansion in the region. Sovereignty claims were not recognised, because permanent settlement and administration were not feasible, leading to a questioning of Antarctic effective occupation.

The non-recognition of sovereignty claims led claimants and potential claimants to search for alternative ways to demonstrate authority to competitors, which intensified a conflictive atmosphere. Forms of banal nationalism were performed by claimant states whilst other actors such as Japan, Belgium, South Africa and the Soviet Union started to demonstrate interest in the region, which increased animosities. The United States, at that point, had demonstrated a dubious policy for the region: they did not recognise any sovereignty claims based on the lack of effective occupation evidence; and, at the same time, they performed state acts to prepare for their potential one. The Soviet Union and the United States, due to their historic engagement in Antarctica and their interest to determine its future, reserved their rights to make sovereignty claims. The difficulties involved in conducting activities in such a disputed region was also due to it being a largely unknown region. Claimants and potential claimants realised that Antarctica demanded more scientific research to be known and controlled, whilst science configured a "non-political" activity, offering an important mean to demonstrate authority without generating conflicts where no one would be able to guarantee a favourable denouement. Hence, the Escudero Declaration in 1948 and the International Geophysical Year in 1957-58 proposed

the suspension of sovereignty discussions for the conduction of free scientific research, providing a trial for a non-conflictive engagement in the region.

The suspension of sovereignty claims meant that sovereignty and territoriality primary institutions, as they are defined in international society, could not take place in Antarctica. Their norm localisation needed to be adapted in the region, reconciling it with international society's principles, such as independence of states, peace maintenance, honouring of agreements and respect of property rights. Therefore, the temporary experience of the IGY was agreed to be continued and found an Antarctic governance. The Antarctic Treaty was established to maintain peace in Antarctica without solving its sovereignty question, which has been Antarctic reality for the last sixty years. Thus, our second chapter provides an overview about how the Antarctic Treaty has operated under this exceptional condition. For this chapter, the Antarctic Treaty database provided us with a diachronic perspective of politics in the region. Descriptive statistics helped us to demonstrate that the presence of the sovereignty question in Antarctic decision-making was not a reminiscence nor a "wishful-thinking", but actually a portrait of the governance of the region. The mechanics of the Antarctic Treaty present how a diplomatic culture has been constituted in order to translate the Antarctic exceptionality into procedures and codes of conduct.

The operation of the Antarctic Treaty has preserved claimant and potential claimants as the ultimate authority in this governance arrangement. Consultative Meetings provided the spatiality for decision-making, where its frequency and structure characterised a framework designed to preserve Antarctica's status quo. For many years the Treaty only took place biannually and a secretariat was only agreed in 2001. The concern among original signatories, especially claimant states, was that a bureaucratisation, in terms of an international organisation, would lead to their loss of control over decision-making. Keeping procedures informal and flexible has been a constant, so the Treaty would suffer less modifications. The pace of its institutional transformation is another indicative. The Treaty's decision-making is organised in propositions and agreements decided in Consultative Meetings which must be consensual to be adopted. Consensus assured parties that no alliance could exclude a singular member's will. However, consensus also helped to prevent controversies from occurring, which meant issues which demanded regulation by the Treaty and implied a sovereignty definition could be postponed or simply ignored. Therefore, Antarctic diplomatic culture translated into

its spatiality and procedures was based on the preservation of its status quo, resulting into a more informal, controlled and slower governance.

The Antarctic Treaty has been able to preserve its original power-configuration because its main decision-makers have always been claimant and potential claimant states. Through the Treaty, original signers have delimited their scope of action and established criteria for its membership. Although any member state of the United Nations could sign the Treaty, participation was restricted to those able to demonstrate “substantive scientific activity” in the region. Thus, claimants and potential claimants relied once more in science to preserve their authority: they were the most experienced actors who were already engaged in scientific terms in the region since the IGY; whereas newcomers needed to introduce themselves to the region, relying inevitably on the expertise and experience of original signers, and committing themselves to a non-controversial arrangement. Therefore, demonstration of substantive scientific research legitimised the Treaty. But membership increased. When the Treaty started to negotiate side-conventions for dealing with resource management (a controversial issue), interest increased in the Treaty as much as pressures for its opening. In 1977, Poland was granted participation, although its signature dates from 1961.

During the 1980s, the Treaty’s membership escalated, so different roles were created so as to accommodate new participants. Criticism about the exclusivism of the Treaty denounced its “colonial legacy” and challenged to take the Antarctic question to the United Nations. The concern for an uncontrolled membership has always guided parties to keep the United Nations away. Therefore, adjustments were perceived as inevitable. Consultative Parties were granted the prerogative of decision-making, based on their “substantive scientific activity in the region”. On the other hand, non-Consultative Parties were members allowed to participate in a restricted manner, but not to decide. Observers referred to specific Antarctic organisations which support the Treaty in its decision-making whilst experts from United Nations’ agencies and non-governmental organisations needed to be invited to attend the meetings. Like non-Consultative Parties, experts have restricted participation and no prerogative for decisions. Therefore, the Consultative Parties role could be understood as an adaptation from the Treaty to keep its decision-making restricted, but no longer exclusive for claimants and potential claimants. However, the figures of agreements achieved in Consultative Meetings and the level of engagement in Antarctica tell us a different story.

Agreements and parties have composed a social system in Antarctica where practices are produced and reproduced through the operation of the Antarctic Treaty. However, not all parties can be considered agents of Antarctic governance: claimants and potential claimants overwhelm the proposition of agreements, the financial contribution to the Treaty, the physical presence and conduct of activities in the region, the productivity in scientific research and the environmental protection regulation in Antarctica. Their deployment of rules and resources detach them from the rest of Consultative Parties, configuring not a formal, but a real control in decision-making. Even the consensus procedure does not change this outline: for making a consensus, their real authority gathers support from friend and convinces rivals; whilst if a consensus is achieved for the sake of the Treaty, different interpretations of the mandatory character of agreements prolongs their commencement. Claimants and potential claimants' authority is only challenged by other claimants and potential claimants. In that case, avoiding the issue has been the safest choice adopted.

Once the Antarctic Treaty functioned operationally according to an exceptional condition of undefined sovereignty, international society had to assimilate this arrangement according to its own principles. Hence, the third chapter discusses how international society has comprehended the Antarctic Treaty governance, analysing how current interpretations have not been able to grasp the sovereignty issue. At its first moment, the Antarctic Treaty searched for its acceptance from international society through the adoption of the latter's principles into its main text. International society's preservation, independence of states, peace maintenance, limitation in the use of violence, honouring of agreements and respect of property rights are reflected in the Antarctic Treaty. And for achieving these principles, the Antarctic Treaty established its own. Scientific cooperation and environmental protection were raised as the main guidance for Antarctic practices, as their uncontroversial feature not only gathered internal agreement, but also legitimised the Treaty for external audiences. Instead of being perceived as only a sovereignty suspender, the Treaty defined scientific research and environmental protection as the main orientation for Antarctic practices, delivering possibilities of engagement in the region which did not threaten its security. Therefore, engagement with the Antarctic Treaty has dominated analyses. Literature has sought to explain why the Treaty was formed and how parties and outside actors have complied to it for so many years. Regime theory has been the favoured approach.

According to a regime theory interpretation, the Antarctic Treaty was formed because Antarctic governance was perceived as a common concern that interested actors wanted to be addressed. Still according to this rationale, the Treaty has been maintained due to its ability to continuously provide a satisfying solution for Antarctica according to the actors involved. As such, the Antarctic Treaty is composed of principles, norms, rules and procedures created and followed by those actors to address their common issue: Antarctic governance. Particularly, the regime analyses here presented have some variations among each other in terms of: the role ascribed to great powers for the formation and continuation of the Treaty; the relative stability of the Treaty, which offered an innovative legal arrangement when it suspended sovereignty; the strong institutionalisation of the Treaty, due to its expressive normative and structural modifications; and how Antarctica, as a global commons, has been managed by a complex of legal regimes internalised by actors and understood as the most appropriate way to achieve their interests in the region. Despite of these variations, these analyses share a common positive perspective about the Treaty in terms of its capacity of maintaining peace in the region and overcoming challenges to its legitimacy. This positive approach has led us to identify two main problems: none of these analyses offered a critical perspective about the Treaty; and none has addressed the implications of an undefined sovereignty for the governance of the region.

Critical perspectives about the Antarctic Treaty has focused only on a colonialism reminiscence in Antarctic practices; and on how sovereignty claims should be addressed in the future for the sake of peace in the region. Post-colonial analyses identified that claimant states still perform in similar terms to the times before the Treaty was signed. Science and environment protection would be used as power-control devices by claiming states to maintain their influence over their claimed territories. However, the implications of an undefined sovereignty for Antarctic governance itself is not addressed by this perspective. Likewise, debates have also taken place about the continuation or non-continuation of sovereignty claims. Whilst some see that Antarctica should be considered as part of a global commons and sovereignty rights should be waived, others identify a risk in changing a model that has so far been considered successful to maintain peace in the region. Once more, this debate takes for granted the implications of a region of undefined sovereignty, regardless of the future of sovereignty claims there. We believe that this silence about a regional governance of undefined sovereignty in Antarctic analyses is due to their lack of theoretical clarification.

Regime theory has different approaches in International Relations which are not related by Antarctic analyses. Neoliberalism focuses on regimes as facilitators of cooperation, providing information of and expectation for someone's behaviour. States, as rational actors, invest in regimes as the coordination of their actions prevents sub-optimal outcomes in a given issue-area. On the other hand, neorealism focuses on how power and the distribution of capabilities determine the formation of a regime. A hegemon can enforce a regime, reinforcing power configurations or changing them. Therefore, cooperation only occurs based on states' perceptions of their relative gains. And cognitivist approaches represent a different understanding of international regimes. Different from neoliberalism and neorealism, states are not considered as the only actor nor are they defined by rational and self-interested behaviour. Regimes are formed by states' capacities of learning, as they search for specific knowledge to deal with a common concern. Therefore, preferences are formed by states' experiences in learning to cooperate. In other variations of cognitivism, states do not search for knowledge based on a rational choice. They learn to cooperate based on the internalisation of rules and on a self-understanding of themselves. Institutionalisation dilutes the egoism of states, and legitimates the respect towards each other's interests.

Neoliberalism, neorealism and cognitivism are all present in Antarctic regime analyses, but not explicitly. Imprecisions regarding the primacy of actors, the definition of international context, and theoretical assumptions in general, together with the general avoidance in addressing sovereignty in Antarctica, establish the limits of this theoretical approach. Regime theory proves to be very useful to grasp the dynamics of legitimacy and compliance of the Antarctic Treaty; however, all analyses here share a perception of an "undefined" or "unsolved" sovereignty. A primary institution which is fundamental for the constitution of international society and which is central for Antarctic politics, is not properly grasped by Antarctic regime literature. As international regimes are considered secondary institutions – which means that they are created and operated upon primary institutions from international society – analyses about sovereignty and territoriality cannot, in fact, be tackled by this approach. Therefore, considering that international society has expanded to the region, the differences identified between their sovereignty and territoriality practices lead us to identify Antarctica as a regional international society. Different from trade, balance of power, nationalism, equality of people, diplomacy and environmental stewardship, sovereignty and territoriality could not constitute practices and identities in Antarctica in similar terms to international society. The sovereignty suspension established by the Treaty did not annul these primary institutions in Antarctica; in

fact, those who agreed the Treaty altered sovereignty and territoriality norm localisation so that they could continue to exert authority in the region without jeopardising international society's principles.

Hence, the fourth chapter discusses how Antarctica was constituted as a regional international society based on an agreement about its exceptionality. Considering different interpretations of sovereignty, external independence and internal ultimate authority within a territorial unit encompass the constituting character of this primary institution. Sovereignty cannot be detached from the idea of territoriality, as authority and independence must take place in some delimitation, which they constitute. Therefore, sovereignty emerged with the consolidation of international society, becoming its main principle. Authority sources gradually shifted from Christendom and the Holy Roman Empire to kings. The accomplishment of internal ultimate source of authority came with the settlement of territorial borders, as political control became easier to be exercised. On the other hand, external independence was a process with several comings and goings, as expansionist endeavours from political units challenged others' independence. The Peace of Westphalia, the Congress of Vienna, the League of Nations and the United Nations were progressive counteractions to sovereignty disruptions, as the foundation of international society was the sharing of external independence as a common value to be defended. Territoriality as a primary institution, on the other hand, emerged and consolidated the state as international society's territorial ideal in a much more gradual and constant process. Being a sovereign state was defined as the membership to international society and delimited those recognised as similar and those perceived as alien. Hence, as conquest also remained to be an approved practice to acquire territory within international society, colonialism served international society states to strengthen their internal authority and assure their external independence, especially with the emergence of nationalism as its main source of legitimacy.

Antarctica grew into international society as it expanded. Sealing and whaling first brought trade and balance of power to constitute Antarctic practices and identities. Exploration and scientific expeditions subsequently brought nationalism, as demonstrating expertise to explore the region reinforced the idea of strength and resilience of the nation states involved. In addition, knowing the region also meant controlling commercial strategic points, which supported competitive standing in the whaling industry. Controlling strategic points demanded recognised authority assurance over them. Therefore, sovereignty and territoriality were

brought with sovereignty claims through the beginning of the twentieth century. As effective occupation was not possible, sovereignty constituted practices of banal nationalism in the region with actions such as flag plantings, establishment of post offices, naming of geographic points, among others. The main goal was demonstrating authority to other claimants. Tensions grew as claims were gradually being extended in size, more nation states were becoming engaged, and claims were not being recognised. The overlapping between Argentina, Chile and the United Kingdom, and the involvement of the Soviet Union, corroborated the conundrum. If sovereignty and territoriality were about to be consummated, a conflict was inevitable.

Based on an activity which does not require a sovereignty definition, the Antarctic Treaty turned permanent a temporary suspension of sovereignty discussions in the region. Scientific research, and subsequently environmental protection, became the avenue for engagement in Antarctica, as they provided knowledge and control about an unknown region which needed to be preserved from any “misuse”. Therefore, sovereignty and territoriality just had their norm localisations modified, as scientific research was used as the criterion for membership and granting of Consultative status; whilst environmental protection determined how activities should be conducted in the region. In fact, those who had their authority and prestige raised by such terms are exactly those who established the Treaty and overwhelmed its decision-making hitherto. Experience and expertise are still strong assets which guarantee that newcomers must abide by the governance arrangement already in place, legitimising those who control its decision-making. Territoriality has also taken place in similar terms. Facilities, such as stations and refuges, were established for the conduction of scientific research, delimiting a restricted national authority in Antarctica as they are inspected by the Antarctic Treaty. Their location follows the interests of claimant or potential claimant state, preserving the same power geography at the moment of the Treaty’s creation: claimants’ stations are located in their respective claimed territory; potential claimants’ stations are located in all Antarctic sectors; and the other Consultative Parties’ stations are located near the closest gateway and in the proximities of a potential collaborator already in place. Special protected and managed areas are also important territorial practices in Antarctica. Those who succeed in establishing a special area reinforce their authority, as they are able to determine places with restricted access, define codes of conduct to be followed by all, and coordinate activities. Hence, sovereignty and territoriality had their norm localisation modified by the Antarctic Treaty, as an ultimate authority in a delimited territory is hard to be identified. However, as the Antarctic Treaty is

independent of external rule, it acts as the ultimate authority for the practices and identities in Antarctica, and a territorial organisation of the region has taken place.

An undefined sovereignty in Antarctica justified by its exceptional features are just formal. If sovereignty is that which decides, those who controlled the decision-making of the Antarctic Treaty continued to exert their authority and territorialism. As a decision does not need to be preceded by a norm, claimant and potential claimants established a Treaty which has enabled the continuation of their authority exercised by other means. The operation of the Antarctic Treaty configures an arrangement in which a diplomatic culture of informality, controlled participation and slow institutional modification preserve its original power-configuration. The exceptionality of Antarctica was created by the original signers of the Antarctic Treaty, establishing a governance that supports not only the Antarctic's environmental preservation, but also its political one. As such, we concluded that Antarctica configures a regional international society defined by its exceptionality, as sovereignty and territoriality primary institutions had to find alternative ways for constituting identities and practices in the region. These alternative means have been provided by the Antarctic Treaty, establishing a governance which is externally independent and internally exerted by claimant and potential claimant states.

This conclusion is not safe from criticism, but it points to a promising and unexplored direction. Immersing into a perspective which has been ignored by Antarctic and International Relations literature felt challenging (and sometimes quite frightening). Making statements throughout the work felt almost daring. But the historical registers, the Antarctic Treaty database, the uncountable discussions with Antarctic stakeholders and the field observations from Consultative Meetings were very important in directing us on this sovereignty track. We hope that this work opens new possibilities for Antarctic governance research. Studies about new sovereignty practices; about regional international societies based on the idea of exceptionality; studies which explore the relationship between claimants and potential claimants and how each one addressed their rivals for maintaining the primacy of their authority; or how international regimes could be maintained on such an odd foundation, are just some examples of several stimulating paths that we hope to see explored and developed. Considering that Antarctica offers such a rich field for theory application, and that this particular case provides such a nuanced arena of study, we like to think that this work has just opened a door.

CONCLUSION

This work has fundamentally proposed to explain how an obscurity of sovereignty has defined Antarctic governance. We are aware that governance can take place without government; and when it does, alternative definitions were made available for cases where state sovereignty was not applicable. The sovereignty principle refers to the internal ultimate authority and external independence of a delimited territory. The consolidation of international society enabled the emergence of the sovereignty principle, which in turn constituted international society's identities and practices. Along with sovereignty, the nation state became the territorial ideal for organising international society's social forms. Hence, sovereignty and territoriality were expanded throughout international society, but not all places that were reached were able to be constituted under such terms. Places without sovereignty have been defined according to the principles of *res nullius*, *res communis* or common heritage of mankind, once managing their ultimate authority and independence became a challenge. Whilst *res nullius* means territories without ownership but open to sovereignty claims, *res communis* refers to places where appropriation is not possible, demanding an open access regime. In this case, the benefits from the territory's resource exploitation would belong to the flag-state conducting the activities. However, in areas defined as common heritage of mankind, activities undertaken must be restricted to peaceful purposes and benefits must be shared with all peoples. Therefore, these different principles were important to address cases which could raise potential conflict with international society principles, especially in respect of property rights, which lie at the foundation of sovereignty. But this was not the case in Antarctica.

Sovereignty and territoriality are considered formally undefined in Antarctica. Thus, national territory, *res nullius*, *res communis* or common heritage of mankind are principles not applied to the region, which has provided the foundation of our research question. How can a region be governed by a Treaty without a defined sovereignty? What kind of practices are, then, undertaken? What kind of actors are engaged? Throughout this work, we have tried to demonstrate that sovereignty and territoriality, through their practices and identities, have been present in Antarctica since the first claims, at the beginning of the twentieth century. And they have never stopped. Different arrangements to dodge the demand for effective occupation, banal nationalism performances, scientific research engagement, and year-round stations have all paved the way for claimant states to demonstrate authority and organise the territory. But

nothing compares to the establishment of the Antarctic Treaty: through the suspension of sovereignty discussions – or, in other words, through the impossibility to localise sovereignty and territoriality norms in standard terms – the Antarctic Treaty has just enabled claimants and potential claimants to continue the deployment of their authority on other terms.

The operation of the Antarctic Treaty has configured a diplomatic culture which preserves its original power-configuration. Argentina, Australia, Chile, France, New Zealand, Norway, the Russian Federation, the United Kingdom and the United States have maintained themselves as the main agents in Antarctica, as they dominate the deployment of resources and rules in Antarctic practices, configuring their protagonist role in the region. They are the parties who are most financially engaged, funding the Secretariat at higher levels (regardless of their relative economic power) and conducting activities, such as inspections, which demand technical and financial investment from involved parties. They are the most politically engaged as well. They are the biggest proponents of working papers, which comprise the exclusive procedure to have issues of interest addressed by the Treaty. They also dominate the proposition and participation in intersessional contact groups, the stage where working papers are prepared and adjusted for their presentation in meetings, increasing their chance of generating resolutions, decisions or measures, which are the Treaty's structuring devices. They are the parties most present in Antarctica. Claimants and potential claimants have the highest number of facilities which are located (not by coincidence) in their claimed territories or across all Antarctic sectors when they have just saved their rights for a potential claim.

Raised as principles of the Antarctic Treaty due to their uncontroversial nature, scientific research and environmental protection are also dominated by claimants and potential claimants' practices. Antarctic scientific publications reflect the final product of research conducted in the region, and claimants and potential claimants have been the most productive since 1970. Leadership in science is one of the greatest assets for an Antarctic actor: it not only affords knowledge about the region (which automatically means more control over it), but it also affords prestige to the actors. Since the Escudero Declaration and the IGY 1957-58, science has enabled engagement in Antarctica without demanding a definition of its sovereignty status, while demanding from newcomers a substantive investment to conduct activities in such an inhospitable environment. Therefore, reliance on those more experienced, and already established in the region, has legitimised the governance arrangement and the authority of those who lead Antarctic science. The commitment and legitimacy provided by science as an

Antarctic principle led to the adoption of “substantive scientific activities” in the region as a membership criterion and, later, as a requisite for acceding to Consultative status.

Environmental protection has also been dominated by claimants and potential claimants. They are the most engaged in addressing environmental issues in Consultative Meetings, which means that they are those who regulate environmental practices in Antarctica. They are also those who most often propose special areas in Antarctica. Antarctic Special Protected Areas are one of the main practices of territoriality in the region, defining an area based on its special character in terms of scientific value or environmental vulnerability, for instance. Those who achieve an ASPA agreement establish its code of conduct and management plan, determining others’ practices (which is a demonstration of authority). Similar terms are also found in Antarctic Special Managed Areas. Much rarer than ASPAs, an ASMA refers to a coordination among close National Antarctic Programmes if their activities in a specific region are generating impact or affecting each other’s performances. It is preferred that ASMAs are proposed jointly by several parties due to their coordinated nature; however, half of them are managed by a single actor, which creates a strong precedent of authority and territoriality in the region.

Environmental protection, like scientific research, became an important asset for Antarctic Treaty parties for several reasons. First, it restricted resource management, which automatically avoids activities that might demand a sovereignty definition. Second, environmental protection became a qualifier for any activity in Antarctica, as they need to be adjusted to reduce their impact. Consequently, the cost increment for abiding by environmental protection requirements demands investment and expertise from parties, which excludes those not so politically engaged or not capable of being economically invested in the region. And third, environmental protection reinforces the preservationist spirit in Antarctica, which favours a Treaty continuously dedicated to preserving its sovereignty non-definition. Therefore, scientific research and environmental protection principles reinforce claimants and potential claimants’ positions, in the same way that these actors qualify these principles into the main guidance for the regions’ practices.

Claimants and potential claimants’ protagonist role has been enabled by Antarctic Treaty diplomatic culture. Based on a self-reinforcing social system, the Antarctic Treaty, through Consultative Meetings, has translated its preservationist spirit into rules and procedures, which

reinforce its original power-configuration. Frequency and structure of meetings were designed to maintain an informal and decentralised atmosphere in Antarctic decision-making, which has preserved the framework from major modifications. Changing from biannual to yearly meetings in 1991, frequency was modified not only to enable parties to have enough time to approve agreements, but also to slow down the pace of presentation of demands, negotiations and, eventually, reaching decisions. This change of frequency took place due to the extra demands brought about by the Environmental Protocol, and the assurance that the Treaty was consolidated enough to deal with more pressure. Likewise, the establishment of a secretariat was discussed since the first years of the Treaty's operation. However, a decision was only reached in 2001. The concern among parties was that the bureaucratisation of the Treaty could constitute a new actor to compete and outdo existing actors' conduct in Antarctica. Resting the source of ultimate authority on parties – or, in other words, on claimants and potential claimants – has always been paramount.

Consensus has always been an important procedure in Antarctic diplomatic culture, perhaps even the core constituent of its decision-making. Based on the principle of controversy avoidance, consensus was formally adopted to avoid the formation of alliances among parties. But this procedure has also proved to be a useful instrument in maintaining a slow pace in institutional modifications. The need for complete agreement on any decision has avoided the approval of controversial issues which implies a sovereignty definition for its regulation. Therefore, consensus has protected the Treaty from change. Likewise, when a disputed approval was inevitable – due to pressure from claimants and potential claimants or due to the urgency of the issue – multiple interpretations of the mandatory character of a recommendation allowed parties to still dodge those issues which they do not agree on, but which they could not avoid addressing. Bearing in mind a very slow system of adoption, the change in 1995 from recommendations to measures, decisions and resolutions allowed for quicker adoption of those agreements considered procedural and non-controversial. Recommendations could offer a hortatory interpretation if the focus was on the language, but a mandatory one if the focus was on the legal instrument. Therefore, decisions were defined to be exclusively related to the Treaty's operational procedures, being adopted immediately after being agreed, whilst resolutions were of a hortatory nature. Only those measures which do not relate to the approval of ASMAs or ASPAs management plans need to be ratified by all the parties present when they were agreed.

When issues were too controversial and risky for Antarctica's formal undefined sovereignty, side agreements were developed. The Antarctic Treaty does not present significant modifications in its institutional framework. The most significant one was the Environmental Protocol (agreed in 1991 and in force since 1998), which consolidated a preservationist orientation in Antarctic practices and moved the Treaty away from mineral resource exploitation. Environmental concerns have been present in the Treaty since its first years of operation. Identified in similar terms to scientific research, the concern of the Antarctic Treaty's decision-makers was the legitimization of the Treaty in international society. Therefore, investing in uncontroversial activities was the avenue to preserve the political achievements of the Treaty. The 1964 Agreed Measures for the Conservation of Antarctic Fauna and Flora were discussed since the first ATCM (1961) and provided the first environmental protection framework in the region. As the only controversy was found in the regulation or not of sealing in pack ice (which was kept outside this agreement), the measures format enabled the incorporation of this regulation into the Antarctic Treaty. For controversial issues, addressment was handled by the development of side conventions, which were established under the aegis of the Treaty, but were distant enough to gather more actors and deal with more complicated issues without jeopardising the main agreement.

The Convention for the Conservation of Antarctic Seals (CCAS), agreed in 1972, provided the first addressment of resource management in Antarctica. The convention regulated the exploitation and conservation of Antarctic seals, a point left out of the 1964 Agreed Measures. The Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR), agreed in 1980, represented the second resource management addressment by the Treaty. Fishing in the Southern Ocean became an important point of discussion, and its overlap with the United Nations Convention on the Law of the Seas (UNCLOS) was another concern for parties. CCAMLR developed as an autonomous institution, with several members who are not signers of the Treaty, and with an exclusive scientific body to advise on issues relating to conservation and exploitation of marine resources. The robust development of CCAMLR turned the convention in one of the Antarctic Treaty's observers, informing the meeting about resource management activity in the Southern Ocean. Whilst the last convention related to resource management was agreed, it was not adopted by the Antarctic Treaty. The Convention on the Regulation of Antarctic Mineral Resource Activities (CRAMRA), agreed in 1988 (but never entered into force), was one of the biggest challenges faced by claimants and potential claimants. The regulation on mineral resource activities in the Antarctic attracted many actors

who wanted to be part of negotiations; it also attracted much criticism, especially from environmental non-governmental organisations, advocating for the protection of the region and warning of the risks involved in such activities. The risk of loss of control was real, especially when nations from the Non-Aligned Movement, led by Malaysia, denounced the exclusivism of Antarctic governance and pushed for the addressment of the Antarctic question by the General Assembly of the United Nations, a more representative forum.

CRAMRA represented a turning point for Antarctic governance. The pressure for more participation and the fear of United Nations involvement led the Treaty to establish new roles and open up its operation to international society. Consultative Parties were defined as those who demonstrated substantive scientific activity in the region, which came with decision-making prerogatives; non-Consultative Parties were those who signed the Treaty, but had restricted participation and no decision-making prerogative. Observers represented the category which formalised the advisory role of SCAR, CCAMLR and COMNAP, enabling unrestricted participation for these bodies, but no decision-making prerogative either. Experts configured the remaining actors, comprising mainly non-governmental organisations, specialised agencies and bodies from the United Nations that, like non-Consultative Parties, have restricted participation and no decision-making prerogative. But in contrast to non-Consultative Parties, experts must be invited to each meeting they wish to attend. Therefore, pressures fostered by CRAMRA negotiations resulted in a controlled opening up of the Antarctic Treaty, so claimants and potential claimants could continue to exert authority and perform territorialism practices without disruption. Participation was restricted as papers which were normally introduced to meetings for addressment or just for information sharing were directed towards the different roles established. Working papers, which must be presented for discussion, pave the way for the establishment of agreements (by consensus). Therefore, only Consultative Parties and observers can present this modality, which means that any issue relies on them to be properly addressed by the meeting. On the other hand, information papers, which are not required to be presented, aim just to share information among parties. Therefore, they do not result in an agreement and, for this reason, they can be introduced by any actor, representing the only avenue of participation for non-Consultative Parties and experts. Therefore, the impressive growth in the number of parties and Consultative Parties did not alter the power-configuration of the Antarctic Treaty.

Another important outcome from CRAMRA's negotiations was its agreement followed by its withdrawal. Non-aligned nations co-opted the environmental discourse to oppose not only the convention, but also Antarctic Treaty governance itself, a point explored by post-colonial analysis of Antarctica. Once Australia and France announced their refusal to ratify the convention due to their environmental concerns, an agreement founded on environmental protection was negotiated in record time. Since the establishment of the Environment Protocol, the number of memberships and of Consultative status being granted has dropped off. Not only were expectations on revenues from mineral exploration buried, but also engagement in Antarctica became more demanding in both technical and financial terms. Therefore, Antarctic diplomatic culture constituted a social system that produced and reproduced practices and identities in Antarctica through the deployment of resources and rules by claimants and potential claimants. The Antarctic Treaty's operation reinforces their leadership by norming the region's practices and constituting roles through a preservationist rationale. It fosters scientific research and environmental protection as the main practices and avoids controversy through consensus procedures, the dubious mandatory character of agreements and by the establishment of side conventions. The consequence is a slow pace in institutional modification, preserving the Treaty's status quo at each moment Antarctic practices are produced and reproduced. The operation of the Treaty also counts on a controlled participation, which opens up Antarctica to engagement, but restricts access by newcomers to decision-making through requirements of experience and expertise. Therefore, claimants and potential claimants have continuously enabled and exerted their authority in Antarctica, both before and after the establishment of the Antarctic Treaty.

Resting Antarctica's ultimate authority source on claimant and potential claimants was the solution found to reconcile the region with international society's principles. The preservation of international society, the independence of states, the maintenance of peace, the limits in the use of violence, the honouring of agreements and the respect to property rights could not be ignored in the region. Since the first discoveries at the end of eighteenth century, international society has developed a special relationship with the region. Sealing and whaling, followed by exploring and scientific expeditions have configured Antarctica as the stage that great powers used to consolidate their nationalism and reaffirm their relative power to each other. As conquest was a practice condemned within international society, acquisition of territories and populations around the world were employed. The borders of international society were defined between those who were able to constitute themselves by the sovereignty principle and the

territorial ideal of sovereignty state and those who were not. In this context, Antarctica was perceived as a territory to be controlled outside international society.

When primary institutions expanded, Antarctic practices and identities were constituted by trade, nationalism, balance of power, sovereignty, territoriality, diplomacy, equality of peoples and environmental stewardship. However, problems emerged when sovereignty and territoriality expansion entered into conflict with international society's principles: sovereignty claims were not recognised whilst attempts to organise Antarctic territory were made. Agreements could not be honoured, property rights could not be respected, peace could not be maintained nor could the region be considered independent if sovereignty and territoriality were not constituting identities and practices in the region. Antarctica belonged and did not belong to its claimers. And as long as they could perceive each other as friends or rivals, international societies principles would be assured in this region. However, with the end of the Second World War and the biggest expansion of international society, Antarctica presented a conundrum to all. How can a claim be recognised if the territory is not fully administered? Claims were valid because the region, mainly as a continent, presented the properties of acquisition and delimitation of its territory. And with technological progress, the first year-round stations were established in the 1950s, making an effective occupation much more feasible and sovereignty and territoriality in Antarctica impossible if international society's principles were taken into account.

The Antarctic Treaty established a non-solution to the sovereignty problem. Literature debates, so far, have focused on if this non-solution would be able to endure or not, instead of investigating what it means. Antarctic analyses based on regime theory have gone the furthest in investigating the political dynamics within the Antarctic Treaty and its relationship to international society. The reasons why the Treaty was formed and the compliance it generated to maintain have been the focus of these perspectives. Detailing how great powers have been fundamental actors to form a regime; how an issue should be politicised enough to converge different interests into its addressment; how normative and structural changes must keep actors' behaviour adjusted to a regime's principles, so its legitimacy and compliance are not harmed; or how cooperation and legitimacy can only be generated by the internalisation of a regime's principles, norms, rules and procedures as the best addressment for a common issue; all these perspectives offer important explanations for Antarctic Treaty maintenance and legitimacy in international society. But none has addressed the sovereignty question. In an international

regime, sovereignty and territoriality are taken for granted. However, in Antarctica this a condition which founds the region and differentiates it from any other in international society.

Certainly, the feasibility of Antarctic Treaty governance depends on its relationship with international society. So, the denouement offered by the Treaty could not be in contradiction with principles or practices and identities constituted by primary institutions of international society, which made claimants and potential claimants opt for turning the region into an exception. An exception, because nothing in Antarctica has a counterpart anywhere else in the world. A region which did not have original human settlements, a region where only experience and expertise enable its effective occupation, a region whose sovereignty is claimed by nation states which have resisted waiving their rights, a region whose environment demands scientific research to be known, a region that hosts a governance arrangement which is unique, as it is founded on a formal non-definition. In deciding its exceptionality, claimants and potential claimants maintained their own aspirations, turning Antarctica into a regional international society whose social system, run by the Antarctic Treaty, has produced and reproduced through practices and identities, their authority in the region. So, is this non-definition a fallacy? On some terms it is. As long as it is clear that sovereignty and territoriality take place in the region, this non-definition is just a way of expressing that their norms needed to be differently located, so they could constitute the region.

Territoriality constitutes Antarctic practices and identities. The region's external limit is established below the parallel 60°S, where the Treaty's decisions have primacy. This external independence comes with the recognition by international society that Antarctic Treaty decisions govern the region and being outside the United Nations system is indicative of this condition. Internally, stations and protected areas are also defined by the Treaty. Therefore, territorial organisation has taken place, following the principles, rules and codes of conduct established by the Treaty itself. Equally, sovereignty has also been constituting the region. Authority rests on Antarctic Treaty decision-making, designed to preserve its original power-configuration, which is composed of claimant and potential claimant states. Hence, sovereignty and territoriality primary institutions have just found other means – although exceptional ones – to keep constituting Antarctica in international society.

This research has provided a different approach to understand what Antarctica means. We still need to explore sovereignty in Antarctica further, especially what these different trajectories

mean for the ordinary practices and identities constituted by this primary institution. How claimants and potential claimants articulate with each other in decision-making is another promising research avenue. Cooperation and co-optation of other Consultative Parties as a strategy for resource and rule deployment could offer very interesting insights about the Treaty's governance as well. Investigating Chinese growth in Antarctica is also very promising. China has been constituting its Antarctic engagement on similar terms to potential claimants, which could cause significant disruption to a governance based on the preservation of its power-configuration. Comparing the "exceptionalisation" of Antarctic regional international society with other regional international societies might provide important theoretical tests for the English School. The possibilities are plenty, and we hope that this work has merely provided a starting point. Our goal – beyond focusing on a fundamental and underexplored element of Antarctic governance – was also to demonstrate how Antarctica can offer many possibilities to explore theoretical concepts and approaches, which we expect to see in International Relations debates soon.

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