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# SOBRE O UFRGSMUN

UFRGSMUN: O periódico acadêmico do UFRGS Model United Nations é ligado ao UFRGSMUN, um Projeto de Extensão da Universidade Federal do Rio Grande do Sul e busca, através do estudo de temas internacionais contemporâneos, contribuir com a produção acadêmica no campo das Relações Internacionais, do Direito Internacional e das áreas relacionadas. O periódico publica artigos originais em Inglês e em Português em temáticas relacionadas à paz e segurança, aos direitos humanos, à economia mundial, ao direito internacional, à integração regional e à defesa nacional. O público-alvo das publicações consiste em estudantes de graduação ou já graduados. Todas as contribuições ao periódico são objetos de cuidadosa revisão científica por alunos pós-graduandos, visando contribuir e se engajar da melhor forma possível no debate sobre os tópicos mais importantes da agenda internacional.

## ABOUT UFRGSMUN

UFRGSMUN: UFRGS Model United Nations Journal is an academic vehicle, linked to UFRGSMUN, an Extension Project of the Universidade Federal do Rio Grande do Sul. It aims to contribute to the production in the fields of International Relations and International Law, as well as related areas, through the study of pressing topics in the international agenda. The journal publishes original articles in English and in Portuguese, about issues related to peace and security, human rights, world economy, international law, regional integration and defense. The journal's target audience are undergraduate and graduate students. All of the contributions to the journal are subject of careful scientific revision by postgraduate students. The journal seeks to promote and engage in the debate of such important topics.

  
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# EDITORIAL

Em 2015, o UFRGSMUN chega na sua 13<sup>a</sup> edição, tendo ocorrido anualmente desde 2003. A cada nova edição, o evento busca congregar correntes de pesquisa do curso de Relações Internacionais, temas importantes da agenda internacional e discussões relevantes para o público brasileiro. Não é uma tarefa fácil. Todavia, o crescente número de inscritos no projeto demonstra que tem sido feito com certo sucesso. Com recorde de vagas preenchidas em 2014 e novamente em 2015, o UFRGSMUN já atingiu a sua maturidade institucional, sendo reconhecido nacionalmente como um modelo de excelência - tanto acadêmica, quanto na sua organização. Isso não seria possível sem o apoio de parceiros, patrocinadores, apoiadores e de uma equipe de 60 alunos que trabalha arduamente durante um ano para que o evento aconteça. Além disso, destaca-se o auxílio da Faculdade de Ciências Econômicas e das Pró-Reitorias de Extensão e de Pesquisa na consolidação do projeto.

É preciso reconhecer que se o UFRGSMUN existe nos modelos de hoje, é pelos recursos - materiais e imateriais - fornecidos pelo Governo Federal à UFRGS. Desse modo, é preciso que o UFRGSMUN se adapte às mudanças no Brasil e que se democratize, acompanhando as transformações do Ensino Superior brasileiro. Por isso, em 2014 tivemos o nosso primeiro comitê em português, a ZOPACAS, debatendo questões de segurança no Atlântico Sul. Em 2015, ampliou-se esse número para 2 comitês: a COSIPLAN tratando sobre projetos de infraestrutura no continente sul-americano e o Comitê de Paz e Segurança da União Africana sobre grupos não-estatais no norte da África e a questão da Líbia. Os temas desses comitês não foram escolhidos ao acaso: são essenciais para a política internacional e, principalmente, para o projeto de desenvolvimento que vem sendo construído no Brasil.

Além disso, em 2015 o UFRGSMUN criou uma Campanha Feminista, por igualdade de gênero: no evento, nas organizações internacionais, na construção do pensamento das relações internacionais e na atuação na política internacional. O mundo só será mais justo quando incluirmos as minorias nas nossas discussões: sejam as mulheres, a comunidade LGBT, a população negra,

dentre tantos outros que precisam de maior visibilidade, participação e reconhecimento.

Apesar de ser uma simulação de órgãos das Nações Unidas, o UFRGSMUN não trabalha sob a utopia de uma paz perpétua. Desde a sua concepção, o motor principal do projeto tem sido promover a discussão sobre as mudanças no Sistema Internacional e para isso é necessário compreender como funcionam os mecanismos e instituições que possuímos para realizar a mudança no mundo. Em busca de um mundo mais justo, precisamos enxergar as falhas e fracassos da ONU desde a sua criação, as limitações e possibilidades dos fóruns regionais.

Para ultrapassar os constrangimentos existentes, é preciso transcender enquanto indivíduo: inspire change and be greater than yourself. O motto de 2015 é um convite: a perceber que a grandeza existe em todos nós e ela é visível quando nos unimos para além das nossas demandas pessoais e consideramos a sociedade e a soberania do nosso país, qualquer que seja ele. Os nove comitês da XIII edição foram pensados tendo isso em mente e, chamando os delegados e delegadas a levarem seus aprendizados para construir um Brasil soberano, ativo e altivo, bem como um mundo com menos desigualdades. Seja discutindo uma jurisdição para crimes contra a humanidade, pensando como a mídia influencia a política, debatendo as intervenções da Europa, EUA e Rússia no Oriente Médio e África, como a pobreza fomenta o terrorismo, como a integração física e econômica pode auxiliar o desenvolvimento interno e conjunto, e como a projeção, civil ou militar, para o espaço é uma nova fronteira a ser alcançada.

Assim, é com grande satisfação que apresentamos este Guia de Estudos, concebido e escrito pelos alunos envolvidos com o projeto. Fruto de densa pesquisa, sua qualidade revela o engajamento e a seriedade com que os temas são tratados. Como um periódico científico, pretende-se que estes artigos sejam utilizados para além do UFRGSMUN, como fonte de pesquisa atualizada sobre importantes temas da agenda internacional contemporânea. Escrito por estudantes do Sul Global, constitui uma contribuição singular para o debate global.

Num ano em que o Brasil passa por dificuldades políticas e econômicas, é de se notar que o projeto do UFRGSMUN conseguiu enfrentar todos os desa-

fios e construir, mais uma vez, com a comunidade acadêmica e com a sociedade, uma nova edição. O aprendizado de se trabalhar sob dificuldades, embora mais complicado e incerto, constrói entre os envolvidos um senso maior ainda de solidariedade e responsabilidade. A UFRGS, como universidade pública, tem o compromisso de manter sua qualidade e serviços sob qualquer adversidade, e assim seus diversos órgãos continuam oferecendo o suporte necessário para que o UFRGSMUN tenha continuidade e crescimento.

Assim, saudamos todos os envolvidos com este projeto e desejamos boa leitura, bons estudos e mais uma edição repleta de resultados e grandes realizações.

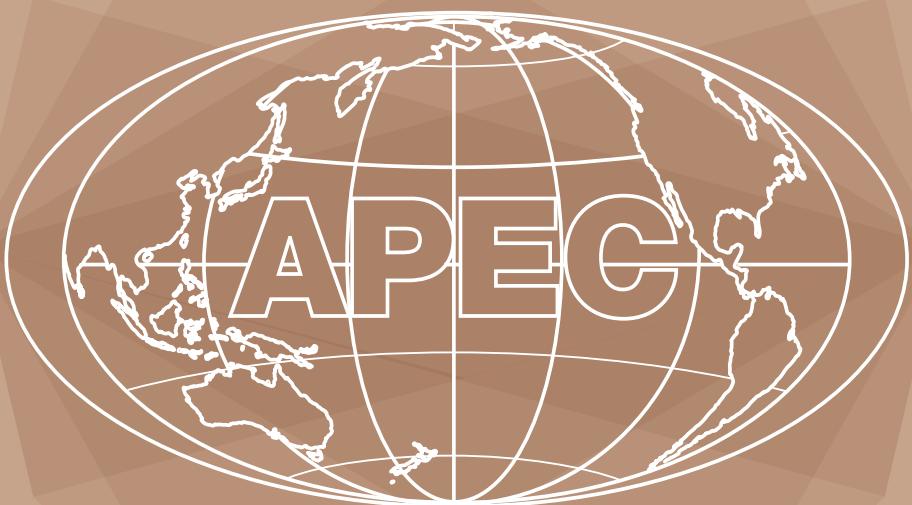
**André Reis da Silva**

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**Júlia Oliveira Rosa**

Secretária-Geral do UFRGSMUN 2015





ASIA-PACIFIC  
ECONOMIC  
COOPERATION

# FREE TRADE AGREEMENTS IN THE ASIA-PACIFIC REGION

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## ABSTRACT

The current and potential Free-Trade Agreements embracing the Asia-Pacific Region constitutes what is commonly called this region's "noodle bow" of standards, rules of origin, obligations and other elements of a Free Trade Agreement (FTA). Once trade and investment in the area becomes more complicated, the existence of overlapping and maybe competing potential agreements brings with it a dense net of political implications. Moreover, especially considering that the world's two biggest economies are involved, as well as fast-growing and exporting countries, the economical ties embraced by it are globally important. The foreign policies of all countries comprised by the Asia-Pacific Region are highly constrained by worries about FTAs and its consequences, such as new regulations for intellectual property and global supply and value chains.

## 1 HISTORICAL BACKGROUND

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As it is widely accepted that the political and economic spheres are mutually influenced, it wouldn't be incorrect to assert that the history of trade in the Asia-Pacific is deeply connected to the political events that took place throughout the region's history and vice versa. Although only recently the attention on this dynamic region of the world economy has grown, it has been a relevant part of the global trade since early Modern Age. It is important, then, to understand some of the main events and features that somehow influenced APEC's economies, as well as the relations among each of its members.

## 1.1 A BRIEF HISTORY OF TRADE IN THE ASIA-PACIFIC REGION

Some archeologist have found evidences that trade on the South China Sea dates back to the Iron Age (500 B.C. to 500 A.D.) or even before that (Hung, et al. 2007). Throughout centuries, the Chinese, Japanese and Malay sailed the western coast of the Pacific Rim<sup>6</sup> trading products. In contrast, the oceanic islands were completely isolated from trade flows with the Pacific Rim and seldom traded with each other (McNeill 1998). Most of what is known as East and Southeast Asia was part of the tributary system centered in imperial China, which differs deeply from the Western concept of sovereign states. In this system, tributary states would recognize diplomatically the Chinese Empire, while engaging in commercial partnerships with the regional center. Basically for this reason, Japan was a tributary state of China before the Takugawa shogunate<sup>7</sup> (Kawakatsu 1994).

Before the modern period, the peoples of East and Southeast Asia had little contact with the West. However, relations indeed existed, and they were mainly enabled by the terrestrial and maritime Silk Roads, which connected China to Europe through either Central Asia or the Indian Ocean. That would change gradually, starting from the 16th century, when the conditions for the European maritime expansion were created, and the rise of commercial capitalism began. The European naval powers progressively extended their reach in the Far East by maritime routes, getting first to the Strait of Malacca, then to South China Sea, to

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<sup>6</sup> The Pacific Rim geographical concept consists on the coastlines around the Pacific Ocean. In this article, we refer to the political concept, meaning the countries that hold such coastlines.

<sup>7</sup> The shogunate was a political design of Japan that existed until 1868, controlled for the Tokugawa family for the last two centuries. The shogun was a superior military commander that had national authority and actually ruled the country in the place of the emperor and the daimyo (regional warlords) had regional authority over their han (domains). The emperor was the ultimate source of political sanction for the shogun, though he did not take part in most of the country's administration (Hall 1973).

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Oceania and eventually Japan and the East China Sea (Senise 2008).

**Image 1:** The Pacific Rim



Whereas the Portuguese, the Dutch, the French and the British successfully reached the Pacific Ocean going east, the Spanish went westward. In 1521, the explorer Ferdinand Magellan crossed the Pacific Ocean leading a Spanish fleet and arrived in Guam, setting the cornerstone for the connections between the American continent and Asia. This event paved the way for the Spanish establishment in the Philippines, more specifically in Manila, which was founded in 1571 and thenceforth served as an entreport for the merchants' ships crossing the Pacific Ocean, the hub of the Asia-American connection<sup>8</sup> (Flynn e Giráldez 1995).

In the 1570s, the Ming dynasty replaced a paper-based monetary system for a completely silver-based one, meaning that all trade and taxes inside the Chinese tributary system were to be paid in silver. As China's population accounted for a quarter of the world's population, this change had an enormous effect on the world trade of the precious metal. In the late 16th century, the value of silver in gold in China was twice its value in the rest of the world, enabling a very profitable opportunity of arbitrage<sup>9</sup>. The Europeans merchants did not miss this chance, neither did the Japanese, China's primary source of silver. As Flynn and Giráldez (1995) explain, the center of global trade at early Modern Age was the trade of

<sup>8</sup> In the view of Flynn and Giráldez (1995), this year marks the birth of actual global trade, when all four major continents were direct or indirectly connected through shipping routes, due to the direct link between America and Asia.

<sup>9</sup> Arbitrage consists on buying some currency for a price somewhere and then selling it for a bigger price elsewhere.

Spanish-American silver to China – the first great commercial route across the Pacific Rim – in which the Europeans played the role of middlemen.

In the context of the disputes for the shogunate, the Tokugawa made an alliance with the Japanese merchants. Thus, the profits from the silver exports to China funded the campaigns against the other Japanese warlords (daimyo), granting the shogunate to the Tokugawa. Unlike the Spanish, the Japanese invested their profits heavily on agricultural and urban infrastructure, leading to the development of a commercial capitalism with “Asian roots” (Flynn e Giráldez 1995). The rise of the Tokugawa Shogun marked Japan’s political consolidation, and the subsequent new economic conditions allowed Japan to leave the Chinese rule and follow an isolationist policy (Kawakatsu 1994).

Compared to the 19th century, the relations between East Asia and Western nations (as well as the trade flow) in the previous centuries was modest, not only because of the distance and technical difficulties, but also because of the overly different cultural norms, which sometimes hampered their trade (Senise 2008). After the Industrial Revolution, however, the power relation between Asian and European nations changed quite dramatically. While the technological advances (like new cannons, steamships and ever larger railway systems) spread in the North Atlantic and the near East – Ottoman Empire, Sweden and Russia – , none of the new technology was introduced in the economic life of the East Asian countries. This created a gap between the industrialized nations and the non-industrialized ones that had never existed before (Hobsbawm 1988). As a result, the European powers, led by Great Britain, confronted East Asia with highly qualified weaponry and strength, which could not be matched by Asian forces.

In the end of the 18th century, the Chinese Empire under the Qing dynasty reached the limits of the Russian and British Empires in Asia and controlled all access lines to China and the commercial routes (Senise 2008). The foreigners’ access to Chinese ports was very strict. In order to ensure their interests in the Chinese market, the British disseminated the use of Indian opium as a narcotic, making millions of Chinese addicted to the drug. This evolved into a serious confrontation between the Qing and the British, the First Opium War (1839- 1842). Defeated, the Chinese were forced to sign the Nanjing Treaty, the first unequal treaty<sup>10</sup> of many to come.

Among its clauses, the treaty provided for the opening of five ports to foreign trade, the concession of Hong Kong – the best deep-sea anchorage spot in the

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10 The unequal treaties concept refers to a series of treaties signed by China and other Asian nations with world powers in the era of imperialism - from the mid-19th century to World War I (1914-1918). The name is due to the despairing situation in which the Asian governments signed those treaties and the consequential asymmetric provisions.

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region –, a most-favored-nation clause<sup>11</sup> and the extraterritoriality<sup>12</sup> principle to the British Crown. The French and the United States soon sought the same privileges. The United States signed in 1844 the Wanghia Treaty, with similar clauses, aside by the fact that they agreed not to smuggle opium or any other product and - probably in exchange – received broader rights. After the Second Opium War (1856-1860), the Qing signed two more treaties with the British and their allies, besides another one that was signed with the Russians, after they annexed the Amur province.

The last decades of the 19th century saw an imperialist/colonial dispute between European powers, Japan and the U.S. that only worsened the plight of Chinese and Southeast Asian peoples. After the example of China, Siam (Thailand) did not resist against the Western powers and promptly signed free trade treaties and remained an independent realm. Burma and Indo-China, however, became British and French colonies, respectively, and so did the rest of Southeast Asian territories. Although it is argued that the colonial period enhanced the Southeast Asia's economy – the growth of per capita GNP could have been equal to the industrial nations' in the turn of the 20th century –, this growth happened mostly in primary goods production. After World War I, the scientific advances in Europe reduced the need for primary goods, causing the fall of commodities' prices worldwide and affecting directly Southeast Asia (Frost 1997).

In February 1850, Karl Marx (1850) stated that the discovery of the Californian gold mines would have more impact on the world than the discovery of America itself. Although this implication can be argued, this discovery triggered the population of the West of North America, adding to the Manifest Destiny's aspirations of settling the land from the Atlantic to the Pacific Ocean and furthering the conquest of the states of California, Oregon and Washington. Over the decades, that would make the United States of America a Pacific country, besides an Atlantic one, and the American decision-makers eventually realized it (Cumings 2009). In the last years, Washington has been reaffirming the status of the U.S. as a Pacific power in several speeches, which is a part of the shift of the American foreign policy toward the Asia-Pacific Region (The White House 2013).

The right to trade laid on the heart of the American Revolution and inspired U.S. foreign policy in the following centuries<sup>13</sup>. The continental expansion west-

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<sup>11</sup> The most-favored-nation clause is very common in trade-related agreements. It provides that all nations must have access to the economic privileges given by one state to a third.

<sup>12</sup> The right of extraterritoriality assures that a foreign national who commits an infraction in a signatory country is tried according to the home nation's laws and courts.

<sup>13</sup> Hamilton described foreign policy as "the freedom of American citizens, American goods and American ships to travel wherever they wish in the world in the interest of peaceful trade"

wards, along with the growing expansion of the American industry, only increased the country's commercial interests in the Asia-Pacific region. Furthermore, even isolationist politicians had to resign to the fact that the United States had need of larger markets, and this implied the need for increasing participation in world politics. Washington condemned the Chinese prohibition of opium imports, for instance, always emphasizing the *right* to trade, although it did not defend actual *free trade* and practiced high import taxes (Pike 2010).

In 1852, Commodore Perry, a distinct American naval official, crossed the Pacific with the firm objective of opening the restrictive Japan, intending to establish with Japan an economic relation similar to the one established with China. Unlike his predecessors, Perry frightened the Japanese with the steaming black ships he leaded. He was received without any sympathy but delivered a presidential letter demanding the opening of Japanese ports to American ships. It was clear for the Japanese that if the answer was negative Japan would face consequences similar to those suffered by China, when confronted by the United Kingdom. This event provoked a tumult in Japan's political scene, but when Perry got back to Japan, the gates were open (Hall 1973).

In 1854 was signed the Kanagawa Treaty, that provided for the opening of Shimoda and Hakodate to American ships for supplies and a most-favored-nation clause, among others (Hall 1973). Four years later, a new treaty was signed, known nowadays as Ansei Treaty or Harris Treaty. It had 14 provisions, among which were the freedom to trade in six ports, including Shimoda and Hakodate, agreed tariffs on the imports and no taxes in the internal trade of American products, in addition to the principle of extraterritoriality (Harris Treaty 1858). In the course of a year, Japan signed similar treaties with four other powers.

The effects of Perry's incursion in Japan was not restricted to the commercial sphere. When Perry gave the Tokugawa administrators an ultimatum, it represented an inevitable extern pressure on Japan. Amidst internal political chaos, the Tokugawa shogunate proved unable to deal with the external pressures and hence the emperor – a traditional figure of Japanese politics precedent to the Tokugawa shogunate – became an axe of political reunification of the country, so that Japan could be strong to face the external threat. The reform of Japanese politics was axiomatic, and it took the form of the restoration of the emperor's power, known as the Meiji Restoration, completed in 1868 after a very turbulent process marked by rebellions, like the Satsuma Rebellion (1877) (Hall 1973).

In the economic field, the opening of the Japanese markets did not create competition between Japanese and Western products, because they were not

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(Hamilton apud Pike 2010, p. 31).

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similar, but between Japanese and other Asian goods. During the years of restrict trade, Japan had developed the production of many articles it used to bring from mainland Asia, like cotton, tea and rice. When Japanese ports were reopened, these products soon flowed into the country at lower prices. The Japanese then refrained from the production of many raw goods and focused investments on the industrial processes related to them, adopting an industrialization policy following the Meiji Restoration. One common example is the cotton-related industry developed in Japan after the Western intervention and the Meiji Restoration. The result was cheaper final products than the Asian competitors could offer. The inevitable consequence of these phenomena was the fast process of industrialization lived by Japan and its ascendance to the group of industrialized – and thus powerful – countries (Kawakatsu 1994). In the course of the last half of the 19th century, Japan developed from an isolated nation assaulted by Western powers to an imperialist power itself, ambitioning lands in the East Asia region.

Besides Japan, since the beginning of the 19th century, American presence had been growing in East and Southeast Asia. Throughout the century, the U.S. had expanded their influence in Hawaii, mostly via American missionaries, until it annexed Hawaii in July 1898, after heated internal debates (Pike 2010). Thenceforth, American annexation of small countries and territories moved on especially to the Caribbean islands, as a revival of the Monroe Doctrine, but also to the Pacific. In the same year of 1898, the Cuban Revolution against Spanish rule turned American attention to European empires. Due to important economic interests in Cuba, American sympathy laid by the rebels side and the US declared war against Spain (Pike 2010). A week later, a naval fleet anchored in the Japanese port of Nagasaki surprised Spain by attacking its possessions in the Pacific and destroying its fleet in Manila. Besides formal and informal acquisitions in the Caribbean, the Spanish-American War earned the Americans the Wake and Guam islands, right in the way to Manila, and the whole Philippine Archipelago. Whitelaw Reid saw the strategic value of the new possessions, besides the obvious commercial value for the articulation with China's market:

To extend now the authority of the United States over the great Philippine Archipelago is to fence in the China Sea and secure an almost equally commanding position on the other side of the Pacific—doubling our control of it and of the fabulous trade the Twentieth Century will see it bear. (Reid 1900, p. 42).

As Pike (2010, 33) states, “[f]or the ‘imperialists’ in Congress, the conquest of the Philippines was just the beginning of America’s economic domination of Asia.” Nevertheless, Americans were in constant debate over whether to follow an

expansionist policy like the Europeans, to build a new order, an “American” way of imperialism, or whether they refrained from international perturbations. This lack of decision culminated in a lack of greater action; therefore, according to Cumings (2009, 151) until the late 1930s “the United States was not really a Pacific power”.

Empire or not, the U.S. acted against other imperialist powers in Asia and America, since colonial possessions meant closed markets, and held the vision that U.S.’ products could – and should – compete with any other (Cumings 2009). Between the years of 1899 and 1900, the American Secretary of State John Hay created the Open Doors Policy, defending the equal opportunity to trade in China amongst all countries and the respect for territorial unity of China. The goal was that the U.S. could seize the commercial privileges held by other powers encroached in China, like Japan, Russia, Great Britain and France (U.S. Department of State n.d.). As Cumings (2009) argues, the United States wanted China to be strong enough to assure some degree of stability but at the same time it should not be so strong as to be able to confront the foreign powers and close its market.

The Open Doors Policy became an official American foreign policy to China through the first half of the 20th century. Nevertheless, the powers did not let go of most of their privileges, and China’s territorial and administrative unity was not possible until 1949, when the Communist Party eventually seized the power over the Chinese government, administration and economy. The most relevant point to retain from the Open Doors Policy is the mark of a new paradigm, that replaced European realist power politics for American universal values of democracy and freedom, including free trade (Cumings 2009). During the 1922 Washington Naval Conference, the U.S. tried to make the Open Doors Policy international law, and thus nine countries signed a treaty on the sovereignty and territorial integrity of China, known as the Nine Power Agreement. Japan was one of the signatories – along with the U.S., the British Empire, the Republic of China under the rule of the Guomindang, the Nationalist Party, and other countries –, even though after a decade it invaded China (Schulzinger 1990).

As Paine (2012) points out, in the first half of the 20th century, while both Russia and China went through long and bloody civil wars in their state-building process until political unity and industrialization were reached, Japan prospered as an industrial country. The status of Japan as an imperial power became evident by its victories in both Sino-Japanese war (1894-1895) and the Russo-Japanese War (1904-1905), when Japan conquered Taiwan and Korea from China. By that time, Japan had replaced China as the dominant regional power.

In the 1922 Naval Conference, Japan was granted the position of third larg-

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est fleet in the world<sup>14</sup>, only behind Great Britain and the United States, which had fleets in both Atlantic and Pacific Oceans, while Japanese fleets only sailed the Pacific. Notwithstanding, this Conference actually meant a way to establish Japanese naval fleet on a lower level, comparing to U.K.'s and U.S.' ones. This would definitely influence Japan capacity to become a Pacific naval power, constraining its maneuver margin on this ocean (Paine 2012).

Moreover, because of its lack of natural resources, Japan was extremely dependent – as it still is – on trade, especially concerning fuels and mining products. This dependence only deepened with the crash of the stock market of New York in 1929 and the following Great Depression, a period marked by growing protectionism in Western countries. In China, a key market to Japanese economy, the government also raised import tariffs as means of raising its revenues, both to survive the economic crisis and to pay the costs of the ongoing campaigns against warlords and Communists. According to its policy towards China's independence from other imperial powers and its alignment with the Guomindang, the United States supported China's raising taxes. Japan saw its economy threatened by these movements worldwide. Another menace to their economy was communism, a latent threat that came both from inside China and from the northern Chinese border (Paine 2012).

Those are pointed as the main reasons for the invasion of Manchuria by the Japanese army in 1931, called the First Manchurian Incident by East Asians, which was justified by a bombing of the Japanese-owned railway in the region (Paine 2012). Adding to justifications, Japan had more than three hundred cases against China for violations of previously signed treaties and others issues<sup>15</sup>. Furthermore, the Chinese Nationalists had made the nationalization of the South Manchurian Railway Company a foreign policy principle. Besides official treaty violations, Chinese economic defiance came from the people, who refused to buy Japanese products<sup>16</sup>. All these issues added to a feeling of international disdain<sup>17</sup>,

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<sup>14</sup> In the Conference it was agreed that US, Great Britain, Japan, France and Italy must keep a ratio between their naval tonnage of 5:5:3:1.67:1.67, respectively (Schulzinger 1990)

<sup>15</sup> The accusations included illegal taxes, import-substitution schemes that threatened Japanese businesses, restrictions on the residence of Japanese nationals and anti-Japanese propaganda. The Chinese construction of competing railway lines in Manchuria was particularly condemned. The Nationalist government answered Japanese claims alleging the principle of sovereignty and denied the legitimacy of treaties signed by the previous Chinese governments (Paine 2012).

<sup>16</sup> Between the years of 1908 and 1931, there were eleven boycotts to Japanese imports, during 3 to 13 months (Paine 2012).

<sup>17</sup> Besides the results of the naval Conference mentioned above, other Western actions in the 1920s dissatisfied Japan. Great Britain did not renew its alliance with Tokyo, and the U.S., for example, imposed restrictions on Japanese immigration to the country (Schulzinger 1990).

which only strengthened the aggressive nationalism that rose amid the Japanese military and society.

Following the invasion of Manchuria, the Kanto Army pursued the conquest of the rest of North China. The Japanese practiced the smuggling of cheap goods into China, so that the local Chinese businesses would go bankrupt and could be bought by the Japanese, also aiming that the customs revenues to the Nationalist government would decline abruptly, weakening the Chinese rule in the regions to be attacked. Chiang Kai-Shek, Chinese nationalist leader, was unsure whether to confront the Chinese communist rebels or the Japanese army. In 1937, it decided for the latter, and so the multiple “incidents” became an official war: the Second Sino-Japanese War (1937-1945).

Japan attacks furthered southwards, affecting also the European concessions in China; in response, some powers involved contributed to Chinese forces. From late 1941 to 1942, Japan attacked Pearl Harbor and other territories in the Pacific, like Burma, and the Second Sino-Japanese War turned into the Pacific theater of World War II. Japan justified its aggressions in East and Southeast Asia proclaiming the idea of the Greater East Asia Co-Prosperity Sphere, which consisted on an area larger than East Asia led by Japan aiming better economic conditions and total independence from Western rule (Kim 2008). The Allies, particularly the U.S., joined the Chinese struggles against Japanese aggression. In order to fulfill Japanese economic necessities – especially after 1942, when Japan's access to American markets were closed – some Japanese encroachments went through a process of industrialization under the monopoly of the Japanese zaibatsu - Taiwan, Manchuria and Korea in particular (Paine 2012).

Following World War II, the Chinese Communist Party (CCP) grew stronger and eventually found its way to the power. Since 1949, China went through a period of relative reclusion in the world economy, having the Soviet Union and other revolutionary countries as its main economic partners. This would change after the rise of the regional tensions during the 1960s in Asia, which motivated the breach of the Sino-Soviet diplomatic ties, and the later opening of the Chinese economy.

## 1.2 THE POST-WAR PERIOD IN THE ASIA-PACIFIC REGION AND THE EMERGENT IDEA OF AN ASIA-PACIFIC COMMUNITY

The end of the Second World War created a whole new international environment, establishing new relationships, institutions, hopes and challenges throughout the continents. Meanwhile, the Asia-Pacific region could not have

been left out of these new changes and developments.

According to Michael Yahuda (1996), it was the advent of the Cold War in the late 1940s and early 1950s that brought about a junction in the Asia-Pacific between the international, regional and local dimensions of politics and economics. This trend has been manifested in the Korean War, started in June 1950, which effectively integrated the Asia-Pacific into the Cold War system that had first emerged in Europe.

The immediate aftermath of the Second World War was shaped by the understandings reached at the Yalta Conference<sup>18</sup>, which reflected the realities of American maritime hegemony in the Pacific and the Soviet dominance of the landmass of Northeast Asia. Consequently, the region was divided into spheres of interest. The United States exercised predominance in the Pacific Ocean, including Philippines<sup>19</sup>, Okinawa and Japan (Yahuda 1996). As a way to maintain its predominance, The United States built great commercial relations with these countries (Evans 1994). These relations include China which, especially in the Vietnam War occasion, firmed great relationships with the U.S. with economic and political interests (Visentini 2013). Also, from this moment on, the US began to regard Japan not only as a country that had to be encouraged to develop along liberal lines, but also as one that had to undergo reconstruction as a potential ally and as a source of stability in Northeast Asia (Yahuda 1996).

Looking back to the 1960s, it is easy to see the substantial changes that the peoples of Asia-Pacific have been through in the past decades. Starting from an area of economic depression, the Asia-Pacific, more specifically East Asia, has become one of the powerhouses of global economic growth, rivaling the traditional economic centers of North America and Europe (Evans 1994). The extraordinary performance of the Japanese economy, which was the first to take off and remains the strongest in East Asia, is well known. However, others have been catching up with vengeance. For example, the Association of Southeast Asian

<sup>18</sup> The Yalta Conference, sometimes called the Crimea Conference and codenamed the Argonaut Conference, held February 4–11, 1945, was the World War II meeting of the heads of government of the United States, the United Kingdom and the Soviet Union, represented by President Franklin D. Roosevelt, Prime Minister Winston Churchill and Premier Joseph Stalin, respectively, for the purpose of discussing Europe's post-war reorganization. The conference convened in the Livadia Palace near Yalta in Crimea.

<sup>19</sup> The United States contributed to the economic rehabilitation of the Philippines, but at the same time it insisted upon a trade act that benefited American agrarian and manufacturing interests. In March 1947 it was agreed that huge American bases would be installed on Filipino territory. By 1949, the communist-led Huks had turned to armed struggle against the corrupt ruling elite. This led to greater American military aid and to relative success in containing the insurgency. In January 1950, the American secretary of state, Dean Acheson, declared the Philippines to be part of America's strategic defense perimeter in the Pacific.

Nations (ASEAN) economies grew almost 7 percent over the past five years, with their output almost doubling in the last decade; meanwhile, the strongest individual performer over recent years in the region has been China, with annual growth of 12 to 13 percent from 1990 until 2010 (Evan 1994, Economist 2014). Most of this great performance of China was enabled by the economic reforms adopted by Deng Xiaoping since the late 1970s.

This new tide of the Asia-Pacific Region was basically characterized by real economic growth; by an increase of security, for both individuals and States; and, most importantly, by the emergence of a sense of shared interests, values and perceptions (Evans 1994). Consequently, these developments produced the beginning of a sense of common identity and purposes throughout the Pacific Rim. Even so, that common identity had been evident in particular regional sub-groups like ASEAN, but not in the region as a whole. ASEAN, or the Association of Southeast Asia Nations, is a political and economic organization of ten Southeast Asian countries, first formed on 8 August 1967 by Indonesia, Malaysia, Philippines, Singapore and Thailand. Lately, Brunei, Myanmar, Cambodia, Laos and Vietnam joined the group. The organization basically aims to foster economic growth, social progress and sociocultural evolution among its members, protection of regional peace and stability, and opportunities for member countries to discuss differences peacefully. The creation of ASEAN was also motivated by a fear of the communism, besides this thirst for economic development (Bernard Eccleston 1998).

The birth of the new idea of such a community dates back to 1965, when the Japanese Professor Kyoshi Kojima was proposing a Pacific Free Trade Area involving, initially, Japan, United States, Canada, Australia and New Zealand (Evans 1994). However, ideas of an OECD<sup>20</sup>-style body for the Asia-Pacific Region were only discussed with the formation of ASEAN itself, in 1967, what brought up the commitment of a sub-regional cooperation and development. And last, we have the Pacific Basin Economic Council (PBEC) that was, basically, an influential independent business association founded by Weldon B Gibson in 1967 with the objective of facilitating business in the Asia-Pacific Region (Yahuda 1996).

The establishment of the ASEAN dialogue in 1984, in which Australia was the first external dialogue partner, substantially strengthened inter-governmental

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<sup>20</sup> The Organization for Economic Co-operation and Development (OECD) is an international economic organization of 34 countries, founded in 1961 to stimulate economic progress and world trade. It is a forum of countries describing themselves as committed to democracy and the market economy, providing a platform to compare policy experiences, seeking answers to common problems, identify good practices and coordinate domestic and international policies of its members (OECD, <http://www.oecd.org/> 1961).

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consultations in the region. In the 1980s the pace quickened considerably, with a number of new suggestions being made by regional statesman. The specific idea to establish what is known nowadays as the Asia Pacific Economic Cooperation (APEC) forum was launched by Australian Prime Minister Bob Hawke, during a speech in Seoul in January 1989. It has to be said that the evolution from the prime ministerial speech in Seoul to a ministerial-level organization was not automatic: it required a fair degree of juggling to balance, on the one hand, the interests of Japan and the United States in being major players in the process; and, on the other hand, the concerns of ASEAN not to be subsumed, and institutionally overwhelmed, in a wider regional process. There is no doubt that APEC has now become the region's preeminent economic forum, with a growing list of aspirants for membership. Having that said, there is still a great deal of ignorance and uncertainty – both within and outside the region, and particularly in the business sector – concerning what are APEC's real significance and objectives (Yahuda 1996).

The beginning of an idea of community during the Cold War evolved and resulted in some particular treaties and agreements in order to enhance this new commitment. Already in the 1990s, we can see a trend toward regionalization, which will culminate in some other agreements.

The North American Free Trade Agreement (NAFTA) is one of these agreements cited above. Signed by Canada, Mexico and the United States, it basically creates a trilateral rules-based trade bloc, in order to enhance the commitment and the commerce between these nations. The agreement gained force on January 1st, 1994, when it was signed (Representative 2014).

ASEAN, as another important player of the Asia-Pacific region, also brought its own Free Trade Agreement. Known as AFTA (ASEAN Free Trade Area), is a trade bloc agreement supporting local manufacturing in all ASEAN countries. The AFTA agreement was signed on 20th January 1992 in Singapore. When it was originally signed, ASEAN had only six members (Brunei, Indonesia, Malaysia, Philippines, Singapore and Thailand). Nowadays, it comprises ten countries, Vietnam, Laos, Myanmar and Cambodia joined the bloc throughout the years. The basic goals of the AFTA seek to increase ASEAN's competitive edge as production base in the world market through the elimination of tariff and non-tariff barriers and; consequently, the attraction of more Foreign Direct Investments (FDIs) to the ASEAN countries.

As another outstanding agreement, The Pacific Alliance is key to understand the commercial system of the Asia-Pacific Region. The alliance is basically a Latin American trade bloc, with some features of further integration. It currently has

four member states (Chile, Colombia, Mexico and Peru) and its basic aim is to reduce trade barriers between this countries. Nowadays, the Pacific Alliance has begun several other projects for regional integration, including visa-free travel, a common stock exchange and joint embassies in several countries (Press 2012).

## 2 STATEMENT OF THE ISSUE

### 2.1 THE CURRENT FREE TRADE AGREEMENTS UNDER DISCUSSION IN THE ASIA-PACIFIC REGION

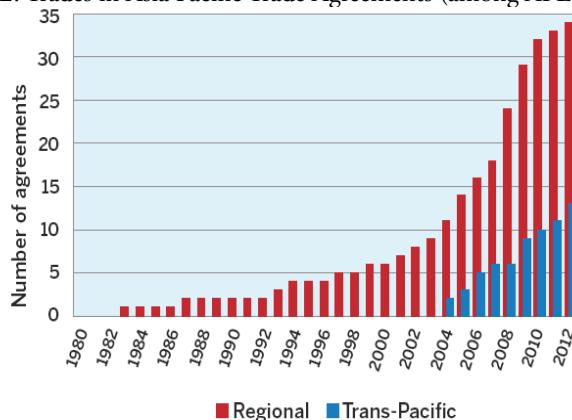
The Asia-Pacific Region is one of greater international value not only for the big economies it comprises, but also because of its impressively and growing intra-region trade. Assuming this situation, this region's countries have firmed a plethora of Free Trade Agreements (FTA) in bilateral and multilateral ways, with the means of earning the maximum benefits from its trade. In the attempt of unifying the great number of FTA, as well as getting more benefits from trade, two propositions of mega-FTA have prevailed: the U.S.-headed Trans-Pacific Partnership (TPP) and the ASEAN-based Regional Comprehensive Economic Partnership (RCEP). Being somewhat overlapped, but having, not only in its members, but also in its core potential rules, relevant differences, scholars have been discussing which will be the most fruitful and successful path to the regional integration. In this context, the recent revival of the willing to conform a Free Trade Area of the Asia Pacific (FTAAP) integrates the debate of which path can bring the region to it, or if it must pass through TPP or RCEP at all. Bearing all this in mind, this session aims to cover these two main FTAs under discussion and the possibility of a FTAAP.

#### 2.1.1 PROSPECTS OF REGIONAL INTEGRATION IN THE ASIA-PACIFIC: THE TRANS-PACIFIC PARTNERSHIP (TPP) AND THE REGIONAL COMPREHENSIVE ECONOMIC PARTNERSHIP (RCEP)

The Asia-Pacific is one of the main protagonists when talking about regional integration. It is the main locus of trade and growth in the world, and the development of multiple FTAs is a logical consequence of it. Moreover, three main features justify the proliferation of FTAs: the region's scale, its dynamic adaptation to world development – e.g. the formation of global production chains – and the growing willingness of countries in the region to connect with each other

(Petri, Plummer and Zhai 2014), which can be added with the need to regulate its increasing economic activity (Dai 2014). Nevertheless, the proliferation of FTAs is a very recent trend, considering that efforts on this aim have commenced in the beginning of the 2000s, while initiatives for integration in other regions of the globe have started at least ten years before. The region is a latecomer in the context of trade agreements, but it has been catching up really fast, as showed in the image below.

**Image 2:** Trades in Asia Pacific Trade Agreements (among APEC members)



Source: United Nations ESCAP database apud Petri, Plummer and Zhai (2014)

It is important to notice that the economies of the region were already pretty integrated before the emergence of FTA or regional agreements among them; that is, “under the global trade regime” (Drysdale 2014, 1). Asian economies have developed its export-led nature though unilateral measures and gradual liberalization, integrating the globalization process mainly through global supply chains. In this context, APEC played an important role in coordinating unilateral liberalization, as the Chinese process before its accession to the World Trade Organization in 2001. The process of integrating the world economy and liberalization built the foundations for the beginning of integration and cooperation processes in the region (Drysdale 2014), which culminated in today’s myriad of FTAs.

Because of the great number of FTAs existing in Asia, it has become popularized to characterize the region as a “Noodle Bowl”, as a metaphor of the overlapping characteristics of the FTAs<sup>21</sup>. Due to this situation, the same product may be “subject to different tariffs, tariff reduction trajectories and ROOs [Rules of

21 It refers to Bhagwati’s (1995) term “Spaghetti Bowl”.

Origin] for obtaining preferences" (Kawai and Wignaraja 2009, 6). This may increase the costs for enterprises, specially small and medium ones, because of the multiplication of labelling and certification needs (to obtain FTA advantages), which difficult and often disuades this action – consequently, a lot of enterprises do not use FTAs' preferential treatments (The Economist 2009). One of the main problems involved is the high diversity of Rules of Origin (ROOs), the procedures that determine if a product is originated from a member state and, then, if it is eligible for preferential treatment. Among RCEP members, for example, there are currently 22 ROOs in order, with a lot of product-specific rules, adding complexity and costs for business in general. While RCEP faces this difficulty, the TPP's members committed in 2011 to have a single set of ROOs; however, there are some disagreements, mainly inside the US, where some labor unions ask for more strict ROOs for certain kinds of goods (Tran and Heal 2014).

It is in this context that the TPP and RCEP propositions, which are now dominating the field of regional integration debates, must be analyzed. Both strategies are designated to boost trade liberalization and growth, to solve the current "Noodle Bowl" problem and to be a possible pathway to a future FTAAP. All together, TPP's members represented approximately 40% of world's GDP, 11,3% of world's population and 25,8% of world's trade, while RCEP's numbers are 48,3%, 29,2% and 28,3%, respectively (Urata 2014). Moreover, both strategies carry the possibility of being a framework of rules of procedure and patterns of trade that can form the basis for a global trade regime, given not only the outstanding size of these potential new blocs, but also the influence the countries comprised by them have in the rest of the world (Drysdale 2014). However, each of them has its own particularities, which shall be further treated.

The TPP is a comprehensive and ambitious strategy of agreement that involves twelve economies of the Asia-Pacific region. It evolved from the P4 agreement launched in 2005, by Singapore, Brunei, Chile and New Zealand, gaining more strength when the United States deposited its interest on it from 2009 onwards, highly possibly as a reaction to the World Financial Crisis, once TPP provided a significant opportunity for recuperation. Negotiations of TPP started in 2010; after that, Mexico, Canada and Japan integrated the process. Nowadays, it involves the following countries: the P4 ones, the US, Australia, Peru, Vietnam, Malaysia, Mexico, Canada and Japan (Urata 2014). Membership is open to any APEC economy; until now, new memberships were subjected to consensus, and the country willing to enter must have achieved some requirements, important for facilitating further negotiations. Moreover, new members cannot change agreements already established, what diminishes its potential to influence the final set

of rules (D.K. Elms 2014).

This way by which TPP was formed – with members entering during the negotiation process – have actually benefited those countries who pursue more deep and specific commitments, as the U.S.. This is due to the fact that the larger the agreement – especially if it includes reluctant members, as China would be, for example –, the lower is the possibility to reach common grounds, being more likely to reach just shallow cooperation (Dai 2014).

Regarding its potential rules and objectives, it is commonly agreed that TPP may be way more ambitious than RCEP, specially concerning the level of tariff and non-tariff removals (Tran & Heal 2014; Kawasaki 2014; Wignaraja 2014)<sup>22</sup>. Its rules might even surpass current WTO provisions in several areas, as market access, good and services liberalization (pursuing a 100% liberalization ratio); labor and environmental standards; intellectual property rights (protecting property for extended time); government procurement (pursuing liberalization of it among member countries); international investment; advanced internet freedom; among others(Tran & Heal 2014, Contreras 2014). Amidst its objectives, becoming a “twenty-first century agreement” has to do with its ambitious aims, as well as its underlying will of becoming paradigmatic to future FTAs, helping them to establish globally accepted trade and investment standards. This may be one of the key objectives for the US (Contreras 2014). The complexity of its negotiations are mainly because of the degree of deepeness it seeks and of the diversity of its members in terms of interests and levels of development. Table 1 summarizes some negotiations’ disagreements. Having this in mind, and also the fact that TPP’s envision its conclusion by a single undertaking of the rules, rather than a sequential manner, it is understandable why the TPP has already lost its first time horizons for the conclusion of the treaty. The high degree of disagreements concerning some areas, specially about U.S.’ high demands in some points, put it on doubt its prospects of being concluded. Moreover, the TPP negotiations had been occurring under closed sections, and only through some leaks of information it has been possible to get to know about what is really being discussed and proposed. This is even more controversial and difficult to accept if its considered that there are evidencies suggesting that the TPP would give more benefits to big corporation than other deals have already done so far. This situation make it difficult for the internal insitutions and the public opinion, even in the U.S., to agree with what could be the signing of “black cheque” to big corporations.

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<sup>22</sup> However, it must be noted that some exceptions may be allowed, as it was for Japanese agriculture and automobile sectors, whose protection was a pretty important condition for its entering in TPP (D. K. Elms 2014).

**Table 1:** Contentious Issues in TPP Negotiations as of June 2014

Areas	Economies most involved	Issues
Market access	US vs. JPN	The US claims that Japan's tariffs on agricultural products should be substantially reduced. Japan claims that auto tariffs in the US should be eliminated.
Intellectual property rights	US (JPN) vs. MAS & VIE	The US claims that data for pharmaceutical products and copyrights (for novels, movies, music, etc.) should be protected for a long period, while Malaysia and others claim that such protection should be for a short period.
Competition policy	US (AUS, JPN) vs. MAS, VIE, BRU	The US claims that policies that favor SOEs (such as subsidies) should be abolished to establish a level playing field against private firms, while Malaysia and others argue against such a claim.
Government procurement	SIN (US, JPN) vs. MAS, VIE, BRU	Singapore and others argue that government procurement should be opened to foreign firms, while Malaysia and others are reluctant.
Investment	US (JPN) vs. AUS (NZL, MAS)	The US and others argue that an investor-state dispute settlement (ISDS) system should be introduced, while Australia and others are against it.
Environment	US (CAN, JPN) vs. VIE, MAS	The US and others argue that environmental standards for firm activity should be improved, while Vietnam and others are reluctant.

Note: AUS=Australia, BRU=Brunei, JPN=Japan, MAS=Malaysia, NZL=New Zealand, SIN=Singapore, US=United States, VIE=Vietnam.

Source: Kawai (2014).

Among the disagreement highlighted in the Table 1, particularly controversial is TPP's potential investor protection rules. The most meaningful attacks to TPP's structure is about its possible Investor-State Dispute mechanism, which may favor much more the multinationals and limit a lot of government's ability to take actions of public interest<sup>23</sup>. Non-Tariff measures are another main area of discussion. The TPP has meaningful commitments about it, but given the variations on member level of development – such as between the U.S. and the Vietnam – achieving a common ground may be difficult (Tran and Heal 2014).

For its turn, RCEP is a more recent initiative. Deriving essentially from ASEAN+1 treaties, its negotiations started in 2013, and involved 16 members: the

<sup>23</sup> According to Ikenson (2014), the Investor-State Dispute Settlement (ISDS) gives disproportionate benefits and special legal advantages to multinationals (MNCs), in its aim to reduce their risks in international markets. For example, it exceeds "national treatment obligations" - a principle of nondiscrimination of foreign firms -, because it gives legal privileges to MNCs that are not available for domestic enterprises in its own market. Furthermore, it gives plenty of space for creative interpretations of what is "fair and equitable treatment" that can favor even more the MNCs.

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10 ASEAN countries, plus China, Japan, Australia, New Zealand, South Korea and India. Since then, no other members entered negotiations. An important feature of RCEP is the fact that most of the members (notably ASEAN and China) integrate the greatest world supply chains; that is, a huge FTA among them would have great potential of increasing the efficiency and scale of these chains, as well as turning the region even more attractive to multinational investments. RCEP's issues coverage are less extensive, comparing to TPP, as well as the deepness of its commitment, hitherto, appears to be more modest (Urata 2014).

The RCEP is a deal with great potential to become the representation of Asian's community, mainly because of its gradual and consensual process, which enables its members to adapt, each in its own rhythm, to the requisitions to a comprehensive FTA. One distinguished characteristic of RCEP is its objective of equitative growth among its members, which is not touched in TPP's main aims. It is reflected on its goals, as it aims to recognize the different levels of development and to provide development assistance to the least-developed members. This is not just a good initiative per se, but also because it can make it easier for these economies to accept the RCEP final results, as well as it paves the way for future accessions of less competitive economies (Wignaraja 2014). That is, on the contrary of what may be happening on TPP negotiations, the RCEP can provide an arena of negotiation where even small and under-developed countries can put its demands under discussion, once the principles of ASEAN – as equal sovereignty for all members and the pursuit of cooperation – must govern all the process.

Considering that most members of ASEAN already have agreements with each other, it must be noted that

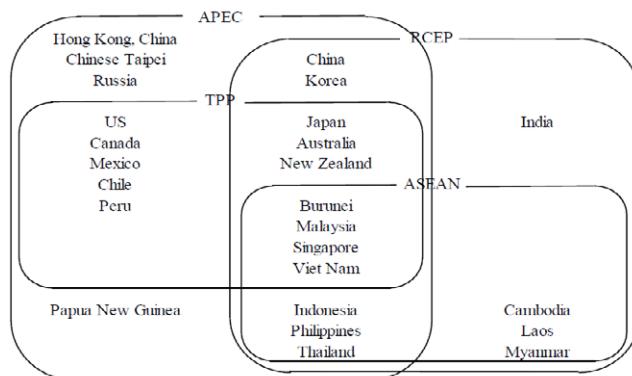
The larger gains from RCEP derive mainly from assumptions of increased trade amongst the large ASEAN+6 partners, i.e. Japan, China and India, because there is no agreement at present involving all three of these countries, rather than from greater trade with the ASEAN economies (Tran and Heal 2014, 4).

The possibility of a deal between Japan, China and India is not only important because of its economic consequences, but also because of its political impact. That is, the RCEP really offers an opportunity of a big and comprehensive deal, among large Asian economies – as the three quoted above – that can actually be opened to small and developing economies through its gradual and less ambitious process. That is its main difference from the TPP, once more fragile countries may find very difficult to accept its standards, which could put their economies under risks and could in fact deem their development process.

Moreover, the RCEP is less ambitious than the TPP, and as tariffs are higher

among members right now, the benefits from tariff reduction are supposed to be larger. However, it “will likely contain more exemption for sensitive products and services” (Tran and Heal 2014, 4). This characteristic is mainly due to the great number of least-developed countries embraced in RCEP negotiations, and because of its commitment with providing them space to develop and discuss their own demands. Furthermore, it includes India, one of the countries with less liberalization ratio and that has not manifested so much willingness on increasing it. Concerning Non-Tariff Measures (NTMs) removals, RCEP has some commitments about it, but if it follows as the ASEAN’s commitments, it has little chance to succeed (Tran and Heal 2014). In general, RCEP’s provisions might not go so much further than WTO’s and already established ASEAN+1 in areas of services, investment and trade on goods liberalization. As RCEP pursue flexibility – the possibility that the agreement can be accomplished in a sequential manner, rather than in a single undertaking (Wu and Mealy 2012) – and beneficial treatment for less developed economies, the deal may have less disagreements and be easily concluded. However, here is the risk that it turns into something largely redundant, advancing little on the current level of liberalization. This is one of RCEP’s most important challenges. Moreover, another obstacle is to unify those agreements, once all ASEAN+1 treaties and bilateral FTAs have different templates, specially concerning the ROOs, as already commented (Kawasaki 2014). Still, the RCEP actually has the potential to be a great and deep agreement, and also “a new paradigm in the international trade system” (Das and Jagtiani 2014, 32), if it follows correctly more outrageous objectives and try to supercede the rules that already exist under ASEAN+1 FTAs; for example, it would be important to try to reduce the exemptions permitted in some reasonable term, but only if respecting its aim of prioritizing the development of the nations involved. The most important achievements to be reached are:

conclude with a positive outcome of tariff elimination coverage of 95 per cent; have a common market access schedule and comprehensive coverage of WTO-plus issues (such as deeper cooperation in investment [...]); focus on domestic structural reforms; and give consideration to private sector interests and ‘behind the border’ integration measures such road connectivity, port services bottlenecks and customs delays [...] (Das and Jagtiani 2014, 31).

**Image 3:** The Asia-Pacific Integration Framework

Source: Kawasaki (2014).

Concerning the possibility of conclusion of any of these treaties, the costs of non-participation are especially high, mainly because of trade diversion effects<sup>24</sup>, as well as the fact that the gains from NTMs reduction for third economies may exist, but will not be significant, according to studies simulations (Kawasaki 2014). Then, the option between entering or not in a treaty is more complex than just considering if its standards and structure benefits one's economy. According to Dai (2014), there are two main scenarios involving this choice, when referring to the dilemma countries left out from the TPP face. First, a country may see absolute gains from entering in the treaty, even though it would have been better to have integrated it before, as it would have the chance to influence the rule-making process. Second, the deal is not good at all for the country (e.g. a country with a less competitive industry), as no absolute gains come from entering it. However, the establishment of a mega trade deal changes the status quo; that is, the situation before the treaty was definitely better for this country, but if it is impossible to have it, the country may enter the deal anyway, because staying out of it may entail even worse results. The conclusion is that once the deal is concluded, any country in the region that has been left out of the negotiations may be forced to enter it<sup>25</sup>.

24 Trade diversion effects were first defined by Viner (1950) and are related to the fact that when two or more economies eliminate tariffs through a FTA, they may reduce or stop trade with sometimes more efficient non-members states, preferring (because there is no barrier) to trade with treaty members. The global net gains are defined by the difference between the efficiency earned by trade among member states (trade creation) and what is lost by deviating trade from outside the treaty, with countries that are more efficient in producing certain kind of products (trade diversion).

25 The main reason underlying this situation is that "powerful countries can effectively 'go it

Moreover, Dai (2014) affirms that regionalism in East Asia is said to be pretty fragmented, because, according to empirical studies, it lacks cohesion in institutional building of trade and financial policies. This situation paves the way for the emergence of any new treaty that can deal effectively with the challenge of “glueing” the region with institutional strength. In the end, there is a relevant vacuum expected to be fulfilled, and once its done, the author’s argument proves that it would be hard to avoid it to encompass all the region. This prediction is made for the future of the TPP. However, it is possible that the fact the TPP is not nowadays a fully accepted agreement – which is demonstrated by the hardness of finding agreement over its high standards – can defy such affirmative. Moreover, to be comprehensive and, then, have this effect of attracting all countries to it, TPP must achieve a lot of under-developed countries that, for now, do not appear to be willing to accept its demands – mainly U.S.’ ones. Either way, Dai’s argument may be valid for any comprehensive agreement that encompasses the majority of the nations in the region. For example, the Chinese proposition of a FTAAP that can be a more agreeable deal may represent this situation, if it succeeds reaching a great number of countries of the region.

While the most positive gains from Asia-Pacific FTAs come from studies that consider the conclusion of an agreement that comprises China and the U.S., the prospects for the Chinese entry in the TPP, the most debated possibility, seems to be highly unlikely in the near and medium terms. There are some areas where an agreement would be very difficult to reach, as intellectual property protection (the main disagreement is about how much time the protection period should last); government procurement; state-owned enterprise (SOE) governance (while the TPP requires the government does not own more than 20% of a SOE, in China, despite it is in reform, this share goes from 50% to 80%); investment disputes; among others. Furthermore, given the congressional process of the U.S. and Japan, even if China met all the requirements and asked to join the TPP – which, must be stressed, is not in the Chinese interests – it would be impossible to happen in less than two or three years (Jianping 2014). For the Chinese, entering in TPP as it is right now is not a reasonable move. Besides the reform needs, political relations also adds further complexity to this situation.

Despite its dense economic interdependence, China and the U.S. are said to have been recently competing in the Asia-Pacific, not only for markets, but also for influence and potential allies, once the region is strategically important

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alone’ to establish an institution that benefits some and hurts others, giving no regards to those who would have preferred the status quo without the new institution. Those who are hurt cannot undo the institution.” (Dai 2014, 7).

for both nations. Today the Asia-Pacific region figures as the “new global economic driving force” and centers all the important trends, from geopolitical and military to economic ones (Swielande 2012, 75). Putting in practice what Hillary Clinton has called the “America’s Pacific Century” in 2011, the U.S. has been clearly engaging for more presence in the region, which is manifested as a strategic “pivot”. Economic expansion, defense concerns and assuring freedom of navigation are the main features of its interests. The U.S. has as its main allies in the region Japan, South Korea, Australia and some ASEAN countries – that for itself already represents a priority in the U.S. contemporary foreign policy –, such as the Philippines, Singapore and, more recently, Vietnam (Swielande 2012). With them, the U.S. tries to assure those interests, what intrinsically involve counter-balancing China, once “[t]he pivot is taking place in the context of deepening Chinese regional relationships.” (Majid 2012, 22).

For its part, China is geographically constrained to expand its influence in the region, especially given security issues and its dependence on international trade. Chinese recent approximation with South Korea is a relevant factor altering the status quo of the region. Their recently agreed FTA, certainly has huge political and economic results that increases Chinese leverage in the region. Moreover, its more traditional ties with Southeast Asia also pose serious constraints to the U.S. pivot. That is, if in fact China and the U.S. compete in the region, and as they have different economic objectives in participating in FTAs, much dialogue and trust building must be made before they can integrate the same agreement, if this would be possible at all. This bilateral relationship is of utmost importance for determining the future of a potential FTAAP.

## 2.1.2 PATHWAYS TO THE FREE TRADE AREA OF THE ASIA PACIFIC (FTAAP): AN ULTIMATE GOAL OR A THIRD ALTERNATIVE?

The last APEC reunion in 2014, in Beijing, has thrown back to the table, mainly by Chinese initiative, the possibility of a FTAAP, which has been the ultimate goal of APEC’s members<sup>26</sup> since 1994. The benefits of a potential FTAAP are said to be huge by the majority of studies, especially because of the number of countries involved (all the 21 APEC members), and also because of the participation of the three biggest economies in the world: the U.S., China and Japan.

<sup>26</sup> Actually, the FTAAP idea has its origins in an APEC summit in Bogor, Indonesia, which happened in 1994. By that time, leaders had agreed to achieve free trade in the region up to 2010 for developed economies and 2020 for developing ones. In 2006 and 2010, FTAAP was again subject of APEC’s meetings. The 2014 meeting “has reinvigorated the prospects for a future deal” (Tran and Heal 2014, 2).

Moreover, if the FTAAP is able to make obsolete all other FTAs of the region, the gains of trade system simplification, as of its standards, ROOs and general rules, could also be very significant.

**Table 2:** Economic Size of TPP, RCEP and FTAAP

	TPP	RCEP	FTAAP
<b>Number of economies involved</b>	12	16	21
<b>Aggregate share of world GDP (%)</b>	38	29	58
<b>Aggregate share of world exports (%)</b>	24	30	46

Source: Schott (2014) and ESCAP calculations based on APEC statistics apud Tran and Heal (2014).

In the FTAAP roadmap established in 2014, it was agreed that the FTAAP might emerge from the existing FTA agreements in discussion, the TPP and RCEP<sup>27</sup>. There is plenty of debate about which pathway would be the most probable and adequate to achieve an FTAAP. Thenceforth some alternatives will be analyzed.

Some authors (Tran and Heal 2014; Petri, Plummer and Zhai 2014) analyze the possibility of an expansion of either TPP or RCEP. In the first case, it is commonly stated that TPP have the “first-mover” advantage, as well as deeper template in terms of liberalization, which would facilitate further benefits from a FTAAP. Moreover, TPP is declared open to new members and has already accepted three of them after the beginning of negotiations. According to Tran and Heal (2014, 8), “APEC economies could gradually join the TPP when ready to do so via a process analogous to WTO accession”. Furthermore, the possibility that the TPP would become a “living agreement”, that is, an agreement opened for permanent and regular discussions about its provisions, would prevent it from being obsolete (D. K. Elms 2014) and also would allow it to adapt to new demands when converging to a FTAAP. However, the main obstacle in this alternative would be Chinese entry, which is essential to build an Asian-Pacific Free Trade Area, but is constrained by some important factors, as stressed in the last section. Moreover, due to its high standards, the accession of other APEC economies, especially the less developed ones, would also be seriously hampered.

The possibility of a RCEP expansion is also treated, but it is sometimes considered less probable (Tran and Heal 2014; Petri, Plummer and Zhai 2014).

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<sup>27</sup> One important question that cannot be ignored is that there are three APEC economies that are in neither of the potential agreements: Russia, Chinese Taipei and Honk Kong. Furthermore, RCEP includes four economies that do not integrate APEC: India, Cambodia, Laos and Myanmar (Schott 2014).

## ASIA-PACIFIC ECONOMIC COOPERATION

That is because of its potential lower standards, which would difficult the entry of developed economies, and also because of the fact that its openness to new members is not so pronounced as TPP's, once, hitherto, only countries which have FTA with ASEAN are participating of the negotiations. However, RCEP offers, as said before, an opportunity of constructing an agreement that actually benefits and gives voice to all of its members, even the small ones.

A hybrid pathway, also called the "umbrella agreement" would be an alternative if the first possibilities fail – that is, if RCEP does not evolve to deeper commitments, if TPP members cannot achieve a common ground on its difficult negotiations, or even if China does not enter in TPP. This alternative would consist in bringing together TPP and RCEP member and uniting the greater commitments of the former (that would just apply to its members) with the softer approach of the latter, giving potential new members the choice to opt between them, while FTAAP would bind each of them to some obligations and provide the benefits of trade facilitation. Therefore, it would be a multi-tiered system. Obviously, the expectation would be that all economies in the end converged to greater standards, but each in its own pace (Petri, Plummer and Zhai 2014; Schott 2014).

Finally, Urata (2014) makes a new approach of a possible pathway to the FTAAP, the "Two-Stage Approach". It focuses on the fact that these agreements are complementary, but should not merge; they should instead constitute two stages in the way to get to an Asia-Pacific Free Trade Area. Developing economies should first integrate RCEP, until they grow enough to be able to accept TPP standards. In the author's words:

[t]he RCEP, with its emphasis on equitable and sustainable economic development through economic cooperation, may begin with shallow integration – limited issue coverage and relatively low levels of trade liberalization – but gradually achieve deeper integration. [...] The TPP, on the other hand, will establish a rule-based, free and open business environment by achieving high-level trade and investment liberalization and by setting up high level rules on competition, intellectual property rights, government procurement, and other areas. The TPP aims to develop into a FTAAP, which may eventually turn into the WTO mark II, or global economic rule (Urata 2014, 128).

There are two meaningful suggestions for making FTAAP more feasible. First, to foster China-US dialogue under APEC coordination, once their actions are the most crucial for achieving this final goal. Secong, TPP and RCEP could develop clauses of "mutual accession", that would represent "commitments to consider expe-

ditiously applications from each other's members. They could also identify future windows for enlargement" (Petri, Plummer and Zhai 2014, 88).

China, the main pusher of FTAAP discussion in the last APEC meeting, has special interests on it, mainly due to its concerns with the probability of a concluded TPP. One possible hypothesis for Chinese behavior on pushing the FTAAP is explained by Dai (2014). China is stuck in an important dilemma.

Not joining TPP could mean economic losses and losing the chance to help shaping important new patterns of trade and investment. Meanwhile, entering it may be very tricky, considering the need for reforms and the TPP's ideologically different principles. Actually, entering it is not considered a reasonable path to continue to follow Chinese aims of development. One possible alternative, then, would be to reinforce East Asian existing regional institutions<sup>28</sup>, through launching initiatives where it can be a leader and influence greatly in the rule-making. In this context that China brings back the FTAAP discussion to APEC's meeting, as well as puts forward its plans to build the Asia Infrastructure Investment Bank (AIIB), a possible way to foster regional financial institutions and to exercise leadership on it. In this scenario, it is for the US that a dilemma appears: it can eases its demands on TPP or invest a great deal on a new deal, as the Chinese proposed FTAAP, or in the contrary it may accept the risk of staying out of Asia-Pacific FTAs (as RCEP) in the case that disagreements on TPP persist. Therefore, the future of Asia-Pacific integration depends not only on the developing of the negotiations of TPP and RCEP, but also on the region's evolving institutions, especially when it involves Chinese leadership.

## 2.2 CASE STUDIES

### 2.2.1 INTELLECTUAL PROPERTY IN THE ASIA-PACIFIC REGION

During the last years, countries of the world have been searching for development and economic growth. Innovation and technological progress are special tools for these objectives, considering that new products and processes are always emerging and enterprises need to keep up with that evolution. This is why intellectual property (IP henceforth) regulations are so important to discuss, especially regarding Free Trade Agreements, since those regulations may interfere in commerce and in the relations between countries.

Intellectual property can be defined as "a form of knowledge or intel-

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<sup>28</sup> As before stated, according to Dai (2014), it is the weakness of East Asia regional institutions that creates a vacuum that gives TPP the opportunity to cease it and rewrite the "rules of the game".

lectual activity embodied in various manners in the production and marketing of goods and services of an industrial, scientific, literary or artistic nature" (Wattanapruttipaisan 2004, 2). Once registered, the creators – individuals or enterprises - own an IP asset, which guarantees the protections of the goods and services by several rights and for a determined period of time. This way, others are not allowed to use these creations without authorization, usually associated to the payment of royalties to the creators. Furthermore, the development of more IP assets for a company can also improve the private investment for researches. IP is normally divided into two categories: industrial property and artistic and literary property. Industrial property is what comprises the creations that relate to industrial production, such as patents, trademarks, industrial designs and geographical indications, whereas artistic and literary property involves copyrights. Besides, IP has become a great indicator of a company's competitiveness and the origin of various disputes between countries in the Asia-Pacific region (Wattanapruttipaisan 2004).

Analyzing the evolution of international regulations for IP is a form to understand the current regulations and how countries have been dealing with the issue. In 1883, the Paris Convention on the Protection of Industrial Property was signed, one of the first treaties concerning IP. It established a Union, in which every member would have the same status and rights to protect their industrial property. Eleven countries started the Union and, today, there are 174 members, representing one of the most adopted treaties in the world. After that, there was the Madrid Agreement Concerning the International Registration of Marks (1891), which created the Madrid System. This system is used nowadays to facilitate the registration of trademarks worldwide, in a way that enterprises do not need to register in each individual country, but in the international system. In 1970, the Patent Cooperation Treaty was signed, with the objective to unify the patent filling procedures and protect the inventions of the contracting countries. The PCT does not grant international patents, but it can facilitate the fillings in regional and national levels. It was only in 1994, with the Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPS), that the regulations on IP gained importance in the trade issues. The TRIPS agreement is the most respected regulating system because it has an innovation: the dispute settlement mechanism. It is part of the General Agreement on Tariffs and Trade and administered by the World Trade Organization. Besides those treaties, there is the World Intellectual Property Organization (WIPO). It was created in 1967, as one of the United Nations specialized agencies, and is now the main institution for IP regulations and treaties (WIPO, International Treaties and Conventions

on Intellectual Property 2004).

The IP importance usually relates to development. Developed countries tend to insist in greater IP regulations, so that their creations cannot be copied by the not so developed ones. Their enterprises want protection for their subsidiaries in developing countries and want to guarantee their rights. Besides, with protection, their products are sold with higher prizes, providing more profit for the entrepreneurs. On the other hand, the developing countries that introduce more severe regulations won't have the option of technological learning by imitation and the products will be more expensive, such as medicines and agricultural inputs. Their domestic production would also be affected by the introduction of several foreign products (CIPR 2002).

As noted, there is an understanding that IP regulations are good for developed countries and might damage developing ones. Since the TRIPS agreement, the trade regulations are linked to the IP regulations, creating some sort of obligation to developing countries to participate, because they were interested in the global trade regulations. During the negotiations for this agreement, a group was created, the Group of 14<sup>29</sup>, which consisted in developing countries coming together in order to secure their development interests by considering the different levels of development between the members of WTO. One of the biggest issues was the relation of IP with public health and how developing countries would guarantee their citizens with health support if the medications are so expensive. This group was very important for the existing regulations, but not as successful as it could have been (Chon 2006).

When it comes to development, countries from APEC have large disparities. There are several stages of economic growth and levels of openness to IP stronger laws. Some countries from East Asia have been able to develop great information technologies and have set themselves as important players in the global economy. The problem, however, is that this development only reflects in small parts of the populations, keeping others apart. It is important to consider the Asia Pacific region as heterogenic - a group of countries with huge differences in development and technological knowledge - when discussing the introduction of IP regulation in trade agreements (Cardoza and Liang 2008).

Negotiations of FTAs usually include the IP subject. In the Asia Pacific region, the United States have a vast number of FTAs and is always using them as an instrument to impose their wishes related to IP regulations. The pressures also come from the European countries that, together with the U.S., have been

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<sup>29</sup> Group of developing countries formed by Argentina, Brazil, Chile, China, Colombia, Cuba, Egypt, India, Nigeria, Pakistan, Peru, Tanzania, Uruguay and Zimbabwe.

successful in changing various regulations in the Asian developing countries. Furthermore, the TRIPS agreement has showed how some of the Asian economies were able to improve their regulations, such as Malaysia, Singapore and Thailand, and others are still struggling with the changes, like Indonesia and the Philippines. South Korea, for example, experienced several changes in its laws by North-American pressure, which only damaged the Korean industries, whose innovation capacity was not yet developed. On the other hand, Japan identified the development in its industries and their ability to compete in a global level, and established stronger IP regulations. Therefore, it is perceived that when a country is already moving forward in its technological development, IP laws start gaining importance for its industries (La Croix 1995).

As for the current situation of IP in the region, China has become the country with the highest number of patent filings, resulted from its rapid economic growth. It accounts for more than a quarter of the world's filings. In second, there are the United States, followed by Japan and the Republic of Korea (WIPO, World Intellectual Property Indicators 2014). The following image shows the world ranking for IP filings for all the countries of APEC:

**Image 4:** Ranking of IP filing Activities

## Ranking of IP Filing Activities

Overview of total (resident and abroad) IP filing activity by origin, 2013

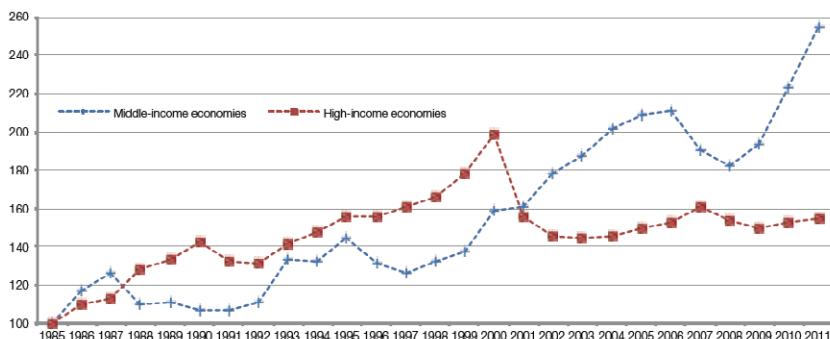
Origin	Patents	Marks	Designs
China	1	1	1
United States of America	2	2	6
Japan	3	5	7
Republic of Korea	4	10	3
Russian Federation	9	6	21
Canada	12	15	25
Australia	18	16	17
Singapore	28	34	39
New Zealand	31	40	40
Mexico	39	17	32
Thailand	40	29	24
China, Hong Kong SAR	41	25	22
Chile	48	28	71
Indonesia	50	22	27
Viet Nam	54	26	36
Philippines	65	44	44
Peru <sup>(b)</sup>	88	43	75

Source: WIPO statistics database (2014).

The majority of patent filings is controlled by these four countries, along with the European Union. China is also the leader in other forms of IP filings, such as trademarks and design, illustrated by the image above (WIPO 2014). When we cross the data for number of filings and development, we can see that developed countries have had a decline in their trademarks filings, while developing economies have showed rising numbers. This reflects the idea that, during the last ten or fifteen years, the evolution in technology in developing countries has provided them with more innovation, increasing the need to publicity and to discuss IP regulations (WIPO 2013). The evolution of filings can be seen by the image 5.

The discussions related to IP laws have been strong between countries from APEC. China and U.S. have had huge disputes on the relating subject, since they are always disputing trade related aspects. China has only entered the WTO in 2001, which means that the country only started to implement the laws in the later years (La Croix 1995). Besides, IP regulations are usually included in FTAs, and the Asia-Pacific region bursts with bilateral and multilateral trade agreements. Therefore, it is important to understand the disputes between the countries in IP issues.

**Image 5:** Trademarks and GDP



Source: WIPO statistics database (2013).

## 2.2.1.1 THE IP DISPUTES BETWEEN THE APEC MEMBERS

The United States is the country with the highest number of disputes relating to IP with APEC members. It has disputes in the WTO dispute settlement with Japan, Canada and China. Moreover, there is also bilateral disputes and the

series of disputes generated by the North-American proposal of a trade agreement in the Pacific region, the TPP, which included several points of IP regulations and concerned the developing countries involved.

The first case in the WTO dispute settlement involving the TRIPS agreement was initiated by the United States. It complained that the Japanese copyright regime for sound recordings was not consistent with the provisions of the agreement. Both countries managed to negotiate and arrived in a mutual decision one year after (WTO 2010). Another dispute was the one between the U.S. and Canada, that started by the American government who entered with a complaint on the dispute settlement of WTO, relating to the TRIPS agreement. United States were complaining that the Canada's Patent Act did not follow the rules established by the TRIPS. The length of the patent protections was under the minimum of twenty years decided by the WTO agreement. Canada had to change its regulations and implement the twenty year protection (WTO 2010).

The case between the U.S. and China arose before the TRIPS agreement. The U.S. have threatened China with sanctions, trade wars and the opposition to its entrance in the WTO. China only entered the organization in 2001 after accepting a huge number of conditions demanded by the European countries and the U.S. Both countries signed a bilateral agreement in 1979, which represents the beginning of western IP regulations in China. After China started to be part of most of the important treaties relating to the subject, IP regulations are still affecting the relations between the two powers (Yu 2001). The Chinese economic development has created the environment in which the country can focus on IP regulations for its own enterprises, consolidating its place as the leader of filings in the world. In 2007, the United States entered with a complaint in the WTO dispute settlement to China, relating to the criminal procedures for intellectual property infringements. Other economies from APEC have requested to join the consultations, such as Japan, Mexico, Chinese Taipei, Australia, Canada, Korea and Thailand. The decision was that China was not in conformity with the provisions of the TRIPS agreement and would have to change its regulations accordingly (WTO 2010). This is a discussion that continues to happen in WTO, if China is actually following the laws of global IP regimes. It has clearly based its development in weaker rules for this subject, and being a part of the WTO requires adoption of all the provisions.

Another issue between countries from APEC is the case of Australian laws on tobacco packages that restrict trademarks and geographical indications in the products. Indonesia was the complainant and counted with Canada, China, Japan, Korea, Malaysia, Mexico, New Zealand, Philippines, Russia, Chinese

Taipei, Thailand, United States, Peru, Singapore and Chile as third parties. This shows how these Australian measures affect almost all other countries in the region and how IP regulations can be important for trade relations. The case does not have a decision by the dispute settlement and is still in course (WTO 2014).

Japan and the United States are the two biggest participants in the TPP. The agreements usually signed in Asia do not involve IP regulations, whereas the north-American agreements tend to address these issues. The US intention with the TPP is to go beyond the rules from the TRIPS agreement and pressure the developing countries from the region to adopt stronger laws that would benefit the north-American products. The proposal focuses on on-line infringements for copyrights, protecting mainly the side of the producer and reflecting the imbalance in the US proposal (Flynn, et al. 2012). This imbalance can be seen when it proposes a period of seventy years for the protection of copyrights, as it is already the case in Singapore, Australia, Chile and Peru, when countries like Mexico protect for one hundred years. Most economies in the region have protection times of fifty years and are not so willing to change. The proposal also addresses patent and data protection, imposing the US position on every controversial aspect and eliminating the flexibilities proposed by the TRIPS agreement. The US protects information for new pharmaceutical products for a period of five years – as well as Vietnam, New Zealand, Australia and Malaysia –, while it forces regulations to consider ten years (Kawai 2014). It is a way to secure a much stronger regulation on IP subjects. This has created a disagreement with the developing countries of the region, since these measures would affect directly their development and ability to provide affordable medication (Flynn, et al. 2012). The implementation of IP regulations in FTAs always results in discussions related to the capacity of developing countries to improve their technological development and to ensure the public services to its citizens. For the developed countries, especially the US, which is always trying to impose stronger regulations, it is only a matter of protecting their enterprises.

## 2.2 GLOBAL SUPPLY AND VALUE CHAINS IN THE ASIA-PACIFIC REGION

As well as intellectual property, global supply and value chains are of main importance to discuss when it comes to development and economic growth. The production systems within the global economy are integrated, linked and interdependent in high levels through those chains. Concerning FTAs, their importance is highlighted: since the production of goods is affected by the way supply and value chains are organized – in this case, inside the Asia-Pacific region – and,

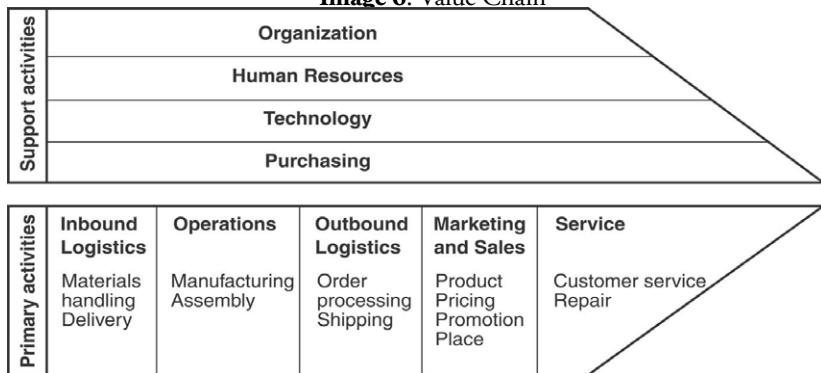
therefore, the costs and profits of these operations, countries may use them to reach their goals in terms of economic development.

To better understand what these chains are, it is important to bear in mind two concepts: the one of supply chains and the one of value chains. The first one can be defined as a set of services and distribution options that performs the functions of acquisition of materials, further transformation of them into intermediate and, then, finished products, and the distributions of these to customers (Ganeshan and Harrison 1995, Rodrigue 2013). For its turn, the concept of value chains can be defined as composed of primary activities (such as inbound logistics, outbound logistics, operations, service, marketing and sales) and support activities (such as human resource management, infrastructure, procurement and technology development), with both working together and aiming to supply value to customers and beget profits for the organization (Porter 1990). Therefore, both concepts are complementary tools, with the flows of products and services being enabled by the integrated supply chain processes and demand and cash flows from costumers being generated by the value chain. (CSCMP, et al. 2013).

The emergence of supply and value chains in the Asia-Pacific region began in the 1970's, when a new industrial standard, led by Japan, spread through the country and, later, with its internationalization, to the Asian region, overlaying the hitherto prevailing standard, which was led by the United States. This new standard endorsed the vertical disintegration – i.e. the purchase of commodities, intermediate goods, especially parts and components and services to companies (or outsourcing) – which led to the reduction of costs and protectionist barriers and a revolution in information and knowledge transmission through the modularization<sup>30</sup> of the productive processes. This episode is known as the “Flying Geese” and, nowadays, supply and value chains in the Asia-Pacific region are deeply connected not only inside the countries, but also between them (Alvares, Baumann and Wholers 2010).

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30 “Modularization is a method of manufacturing products from combinations of various components under a standardized interface without the need for adjustments so as to eliminate mutual incompatibility between the components. It provides advantages as low cost and stable quality” Fonte bibliográfica inválida especificada..

**Image 6:** Value Chain

Source: InSemble (1995).

The usage of the concepts of supply and value chains has been expanded since they have been applied, in a broader sense, to explain these value chains that cross the countries' boundaries, namely, the ones that have different steps of value addition to the final product in different countries – the global value chains, which aims to increase efficiency, lower costs of production and enhance competitiveness (APEC 2014). These goals are targeted by APEC since its creation<sup>31</sup>, in 1989, and the institution has tried to achieve them by using the concept of trade facilitation as the main driving force, mainly in the 1990's<sup>32</sup>: it "refers to the simplification and rationalization of customs and other administrative procedures that hinder, delay or increase the cost of moving goods across international borders" (APEC 2007, 1).

The growth experienced by the APEC member states and the emergence of the already mentioned global and regional supply and value chains in the region enhanced the necessity of maintaining the improvement of trade facilitation by reducing costs and turning trade simpler. For those reasons, in 1994, the Bogor Goals were announced by APEC Leaders in a meeting in Bogor, Indonesia, expressing the commitment of member economies to the goal of open trade and investment. As a consequence, the first Trade Facilitation Action Plan (TFAP I) was created as an attempt to better focus and coordinate the actions aiming

<sup>31</sup> Since APEC's inception, the economies of the member states have reduced tariffs from 16.9% in 1989 to 5.8% in 2010 (APEC 2012).

<sup>32</sup> "Trade facilitation has taken on added importance since the early 1990's due to the increasing globalization of the world economy, which has accompanied the reduction of trade barriers. The dramatic increase of both the volume and complexity in world trade means that it is necessary to keep trading procedures simple, predictable and transparent to allow commerce to flow as freely as possible" (APEC 2007).

the Bogor Goals: it proposed for the member economies to achieve a reduction in trade transaction costs by 5% between 2002 and 2006, which was accomplished. In 2005, in order to continue the gains resulted by FTAP I, the second Trade Facilitation Action Plan (TFAP II) was launched for a further 5% reduction between 2007 and 2010, which was also accomplished (APEC 2007, APEC 2012).

From 2010 forward, APEC began moving beyond the matters of the TFAPs, namely the reduction of transaction costs, and started to include trade logistic issues in the trade facilitation arena, aiming an expansion of its trade facilitation work (APEC 2013), which resulted in the creation of the Supply-Chain Connectivity Framework Action Plan (SCFAP), to be fulfilled by the end of 2015<sup>33</sup>. The main goal of the SCFAP is to improve trade logistics and connectivity (i.e. infrastructure in supply and value chains) by turning them more efficient (less costly and faster), more reliable (less variable and less risky), safer and greener. For those reasons, moving offshore supply chain's business functions or activities (such as product development and/or new product introduction, demand planning and/or forecasting, supply chain planning and sales and operations planning, strategic sourcing and/or supplier development) to reach APEC's objectives has been a trend in the last years and it is estimated that over 50% of them were moved offshore between 2010 and 2012 (APEC 2014).

Nevertheless, there are issues that hinder SCFAP's goal of reaching its fulfillment: (1) there is a lack of knowledge and know-how on managing supply chains across borders; (2) there is an equal problem on how to make transportation, logistics and supply chain across borders to interact in an effective value chain; and, finally, (3) there is a need to improve supply chain performance (APEC 2013). Moreover, there are eight supply chain chokepoints that, if removed, may turn faster, less expensive, easier and more secure intra-APEC trade. They are listed in the following table:

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33 APEC has set as target to improve supply chain performance by 10% (i.e. improving the flow of goods and services within the APEC region in terms of reduced time, cost and uncertainty) by 2015 (APEC 2012).

**Table 3:** The 8 Chokepoints of Supply Chains of APEC member economies

Transparency	Lack of transparency and awareness of the full scope of regulatory issues affecting logistics (leading economy in the matter: United States).
Infrastructure	Inefficiency of inadequate transport infrastructure and cross-border physical linkages as roads and bridges (leading economy in the matter: Australia)
Clearance	Inefficient clearance of goods at customs and lack of coordination among border agencies (leading economy in the matter: Japan).
Standards/Regulations	Variations in cross-border standards and regulations for movement of goods, services and business travelers (leading economy in the matter: Australia).
Logistics	Lack of capacity of local and regional logistics sub-providers (leading economy in the matter: People's Republic of China).
Documentation	Burdensome customs documentation and other procedures (leading economy in the matter: South Korea).
Nodal Connectivity	Underdeveloped multimodal transport capabilities and inefficient air, land and multimodal connectivity (leading economy in the matter: Singapore).
Transit	Lack of regional cross-border customs-transit arrangements (leading economy in the matter: Chile).

Source: APEC (2012) and APEC (2013).

The solution of these eight chokepoints may have to take into account the interests of each member economy and its public and private actors, since suggestions to solve them can benefit just a few, mainly the mature economies, at the expense of the fast-growing economies of the region. It is also important to stress the influence political matters have on international trade flows, hence, supply and value chains. This can be noticed in recent events in the Asia-Pacific region: the disputes over clusters of islands between China, Japan and South Korea in its

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surrounding waters led to several episodes in the last years in which the countries cut off supplies of commodities or intermediate products vital to supply chains within the region as retaliation measures to each other (Telegraph 2010).

A first example of the influence supply and value chains have over a country's economy is the People's Republic of China: since it joined the World Trade Organization, in 2001, the country began to integrate in the global supply and value chains, especially in industries focused on knowledge-intensive products. This process allowed continental China to expand the set of participant countries on its supply and value chains, such as Australia, Russia and the ASEAN countries. Benefits as rapid expansion of domestic production for exports and increase in the degree of comparative advantages in knowledge-intensive industries, along with other comparative advantages were also noticed (World Bank 2015). Notwithstanding, the country should remain vigilant on its moves towards the Spratly islands in Southeast Asia, as well as with the military presence of the United States in the region, which may serve as threats to intra-APEC trade and, therefore, further development of supply and value chains.

Finally, a second example is the growing participation of the ASEAN countries in the regional and global supply and value chains: within the region, which has continental China and India as main economic forces, the exports from member economies to these two countries almost tripled from 2000 to 2010 (5.3% to 15% of total exports, in reason of the growing demand of commodities, which benefits countries as Indonesia, Thailand and Malaysia). Also, South-South trade cooperation is to be enhanced, allowing a growth of demand for solutions provided by supply and value chains, which may address the needs of distinct industries (Cottrill and Singh 2011). If ASEAN countries, as well as the APEC member economies, are to benefit further on the global shift in economic power from west to east and to reach, in a near future, the conclusion of a FTA within the scope of the bloc, they must act towards the realization of the APEC goals and develop world class supply and value chains facilities, directly influencing a better global trade facilitation and the necessary heightening of confidence between themselves (APEC 2013).

## 3 PREVIOUS INTERNATIONAL ACTIONS

It is important to notice that some measures have already been taken in order to discuss FTAs in the Asia-Pacific Region as a whole, as well as many other measures that are currently in progress. In this section, some examples of previous international actions concerning global value chains and intellectual property are presented.

### 3.1 VALUE AND SUPPLY CHAINS

As previously mentioned, the debate on regional economic agreements and its potential improvement of supply chains casts many different issues, from infrastructural weaknesses to the convergence of customs policies. This section will holistically present connectivity, trade and investment facilitation measures already agreed by the APEC member economies.

#### 3.1.1 WTO

The set of agreements establishing the World Trade Organization (WTO) in 1994 ruled many aspects that somehow affected international trade, fostering a worldwide movement of trade liberalization. Some key points concerning supply and value chains were addressed in the General Agreement on Tariffs and Trade 1994 (GATT) and others, such as the Trade-Related Investment Measures (TRIMs) and the General Agreement on Trade in Services (GATS). Thus, as the member economies acceded to the WTO, they compromised to take part in world trade liberalization. However, despite reduction of tariff and non-tariff barriers to trade, not much was agreed upon facilitating trade and investment. In 2012, the former director-general of the organization stated in an international meeting that the growth of global and regional value chains raises the need to reconsider how to address trade-related issues (WTO 2012). He further argued that

[I]n making the most of the growth, diversification, employment and developmental opportunities arising from participation in global value chains, it is essential to look beyond traditional trade policies, important as these are. We need to think more broadly about the impact of an array of policies. Investment policy is crucial, for example. The same is true for policies associated with technology, innovation and intellectual property. Beyond that, the longer-term success of countries in fostering economic prosperity in an increasingly internationalized global economy will be influenced by factors more remote from trade, such as education and the existence of social safety nets (WTO 2012).

This diagnosis put forth issues related to Global Value Chains (GVCs) in the negotiating table of the unresolved Doha Round. In 2013, WTO members reached by consensus the Trade Facilitation Agreement (TFA), also known as the 2013 Bali Agreement, considered one of the little successful outcomes of the Doha Round (Hoekman 2014). It included provisions for making the flow and clearance of goods faster, enhancing the previously existing articles of GATT, and

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provisions for customs cooperation (WTO 2014). The TFA also contained an unexampled section acknowledging the special circumstances faced by developing and least-developed countries concerning institutional capacities and their need of external support. According to the TFA, these groups of countries have the possibility of not only compromising to the implementation of the agreement's provisions according to their capacity to do so, but also declaring which provisions can only be met if the country receives assistance and support from more developed countries in the area. In order to ensure that countries will receive the assistance necessary to reach the agreement's benefits, the WTO created the Trade Facilitation Agreement Facility in 2014. This measure is considered vital to the full implementation of the new Agreement by all members and is part of WTO's Post-Bali work program (WTO 2015).

Notwithstanding, although the Protocol of Amendment incorporating the TFA into the WTO regulations was to be adopted before July 31, 2014 only five economies have accepted it, four of them APEC members, namely Hong Kong (China), Singapore, the U.S., and Malaysia. The main reason for the delay is that a group of countries led by India fears the possible threat it poses to food-security programs, since agriculture goods are included on the list of goods whose trade should be liberalized and facilitated (Hoekman 2014).

### 3.1.2 APEC

The Bali Agreement and the Post-Bali agenda have only added to a movement already taking place among APEC members. The subject of global value chains and the measures to improve them is widely discussed in APEC's meetings, since GVCs and supply chain connectivity are keys to the realization of the FTAAP, APEC's main goal. As previously mentioned, the member economies' perception of the benefits of larger participation in GVC led to many actions under APEC's scope, especially the declaration of the Bogor Goals, the TFAPs and SCFAP. Currently, member economies' officials have been working on a study on the achievement of such goals, whose final version will be delivered in 2016.

In August 2014, the APEC Alliance for Supply Chain Connectivity (A2C2), a forum open to participation of interested stakeholders, experts from APEC economies, companies, industry associations, multilateral institutions and non-governmental organizations held its first meeting in Beijing. In APEC's 2014 Ministerial Meeting, the ministers directly addressed the value chains/supply chains issues in 12 different paragraphs. Concerning GVCs, the ministers endorsed the APEC Strategic Blueprint for Promoting Global Value Chain Development

and Cooperation (henceforth Strategic Blueprint) as a mechanism to strengthen mutual economic cooperation within the global value chain network. Moreover, they supported the initiative on Promoting Small and Medium-sized Enterprises' (SMEs) Integration into Global Value Chains in Major Industries and noted the importance of GVCs in job creation. The completion of the APEC Policy Support Unit (PSU) study on Comprehensive Analysis on Enhanced Resiliency of Cross-Border Value Chains was also mentioned (APEC 2014).

Regarding supply chain connectivity, the ministers welcomed the Capacity Building Plan, which is supposed to guide APEC members' work to reach the goal of improving supply chain performance in ten percent by 2015, to deploy the resources in the Supply Chain Connectivity Sub-Fund<sup>34</sup> and to help developing countries overcome obstacles on the matter and implement the WTO's TFA. They also endorsed the APEC Initiative on Asia-Pacific Model E-port Network and the Terms of Reference of the Asia-Pacific Model E-port Network (APMEN) and agreed to establish the APEC Cooperation Network on Green Supply Chain<sup>35</sup> (APEC 2014).

By the end of 2014, APEC Leaders' Declaration took up the matters mentioned above, reiterated the necessity of achieving the Bogor Goals by 2020 and stated the relevance of WTO's Bali Agreement. The APEC Leaders additionally endorsed the Beijing Roadmap for APEC's Contribution to the Realization of the Free Trade Area of Asia-Pacific, which aims to enhance information sharing and capacity building. The Roadmap paved the way for the Collective Strategic Study on Issues to the Realization of the FTAAP, which shall be concluded by the end of 2016. Furthermore, the APEC Leaders summarized the discussions involving GVCs and produced the Strategic Blueprint, annexed to the Declaration. The member economies agreed on: (i) addressing trade and investment issues that impact GVCs; (ii) cooperating on improving statistics related to GVCs; (iii) realizing the critical role of trade in service within GVCs; (iv) enabling developing economies to better participate in GVCs; (v) assisting SMEs to benefit from GVCs; (vi) improving the investment climate for GVCs Development; (vii) adopting effective trade facilitation measures; (viii) enhancing resiliency of GVCs; (ix) encouraging public-private partnerships for GVCs; and (x) strengthening col-

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<sup>34</sup> The 'Supply Chain Connectivity' is one of the six Sub-Funds of the APEC Support Fund (ASF), consisted on voluntary donations from member economies, whose objective is to support developing economies to overcome specific obstacles they face in enhancing supply chain performance.

<sup>35</sup> It aims to "strengthen the capacity building and information sharing on green supply chain and to promote green supply chain cooperation among APEC economies and stakeholders, and to contribute to the green development of the region" (APEC, Annex B - APEC Strategic Blueprint for Promoting Global Value Chains Development and Cooperation, 2014).

laboration with other stakeholders on GVCs (APEC 2014).

Following the instructions in the 2014 Ministerial Declaration and the 2014 Leaders' Declaration, the APEC's Committee on Trade and Investment (CTI) established the Strategic Framework on Measurement of APEC Trade in-Value Added under GVCs, as well as an Action Plan to promote it. This Framework aims to produce a wide study on trade in-value added within APEC region, in collaboration with OECD/WTO mechanisms with similar goals. By 2018, the construction of an APEC Trade in Value-Added database shall be complete (APEC 2014).

More recently, in May 2015, took place the APEC Ministers Responsible for Trade (MRT) Meeting, which adopted the APEC 2015 theme of "Building Inclusive Economies, Building a Better World" and focused discussions on the inclusion of micro, small and medium enterprises (MSMEs) in global value chains. MRT reiterated the Post-Bali WTO's Program and APEC's Bogor Goals besides other initiatives taken by APEC on trade and investment liberalization and facilitation crucial to the improvement of GVCs. The ministers recognized that too often MSMEs are left behind in the process of GVC growth. For this reason, the MRT Meeting adopted the Boracay Action Agenda to Globalize MSMEs, a plan consisted on measures to simplify and to reduce the costs of international trade soin a way that such enterprises can participate in GVCs (APEC 2015).

### 3.1.3 TPP

As TPP negotiations have been secretly discussed, the last actions related to the partnership cannot be properly listed. However, recent leaks of drafts for TPP chapters allow us to address some questions related to GVCs and supply chains. Most of TPP harsh disciplines discussed in section 2.1 favor cheaper and more efficient supply chains (even though no agreement has been reached on institutional arrangements necessary to the realization of this goal, such as the unification of rules of origin). However, civil society organizations often criticize the lack of compensatory measures related to national state's autonomy and social and environmental issues. In the U.S., the potential offshoring of jobs is seen as a terrible threat to the North-American society (Public Citizen n.d.).

Moreover, one of the most questioned matters of TPP is the chapter on investment, which establishes investor-state dispute (ISDS) settlement provisions. In this chapter, foreign companies and investors are given the same or even superior rights than domestic companies and States. Since most part of the GVC is generated by transnational enterprises and their subsidiaries, through foreign

direct investment (FDI), the ISDS is directly related to the existence of GVCs. TPP's harsh disciplines and the ISDS might be seen as the means to protect value chains amid TPP members from national measures that may somehow disfavor FDI. Notwithstanding, for this very reason, the dispute settlement mechanism could undermine countries sovereignty, since any of these national measures could be set aside by the action of international corporations (Public Citizen n.d.).

### 3.1.4 ASEAN AND THE RCEP

The issue of connectivity has been a key point in ASEAN dialogues. In the end of 2010, ASEAN published a Master Plan on ASEAN Connectivity, aiming the improvement of the region's physical, institutional and people-to-people connectivity in order to facilitate the implementation of the ASEAN Community by 2015. The ASEAN connectivity projects rely strongly on official development assistance of Dialogue Partners, as Japan and China, and on support from other international institutions, particularly the Asian Development Bank. Recently, some analysts have pointed out the potential role the Chinese-led Asian Infrastructure Investment Bank (AIIB), the Silk Road Fund and other Chinese investments can play in capacity building and connectivity enhancement in Southeast Asia (Pitlo III 2015).

As mentioned in section 2.1, RCEP, as an outcome of overlapping FTAs among ASEAN+6 countries, carries provisions that are clearer than TPP's. Current designs for the RCEP focus on tariffs reduction, but disciplines on services, investment and government procurement, for example, are relatively weak. According to Sally (2014), this could lead to the agglomeration of "the 'noodle-bowl' of FTAs among members rather than ironing out distortions among them". He further adds that if this becomes true, "RCEP will create little new trade and investment, and cause extra complications for global supply chains. But negotiations still have some way to go" (Sally 2014). Nonetheless, negotiations on RCEP could lead to a trade agreement better suited for a GVC environment, and hence to the promotion of growth and development in the region, with special opportunities for MSMEs (D. Elms 2015).

## 3.2 INTELLECTUAL PROPERTY RIGHTS

Intellectual property rights (IPRs) protection is a basic key factor to promote foreign trade and investment, as well as for boosting economic development. Following the recognition of this fact, the IPR have been included in some

agendas of forums of the world in order to achieve investments and boost economies. Again, as an important place of trade in the world, the Asia Pacific Region couldn't be left out of the discussions. This section will present what has been discussed and agreed by the APEC member economies regarding the Intellectual Property Rights (IPRs).

### 3.2.1 APEC

The IPR were included in the 1995 Osaka Action Agenda – APEC's strategic roadmap to achieve free and open trade and investment in the region. Thereafter, in 1996, the Committee on Trade and Investment (CTI) established the Intellectual Property Rights Get-Together (IPR-GT). The goal was to enhance and ensure adequate and effective protection, through administrative, legislative and enforcement mechanisms of intellectual property rights in the Asia-Pacific region based on the principles of the World Trade Organization's Agreement on Trade-Related Aspects of the Intellectual Property Rights (TRIPS Agreement) and other related agreements. After that, in 1997, the CTI made the IPR-GT an official APEC group with explicit terms of reference, and renamed in the Intellectual Property Rights Experts' Group (IPEG) (APEC 2014). The IPEG recommended to (APEC n.d.) (APEC n.d.):

1. Deepen the dialogue on intellectual property policy;
2. Survey and exchange information on the status of IPR protection and administrative systems;
3. Study measures for the effective enforcement of the IPR;
4. Fully implement the TRIPS Agreement;
5. Facilitate technical cooperation to help economies implement TRIPS.

Nowadays, the IPEG has been especially active in providing IP capacity building programs; for instance, a seminar entitled Trading Ideas 2009: the Future of IP in the Asia Pacific was held in conjunction with the 29th IPEG meeting in Singapore in July 2009. This event aimed at building the capacity of small and medium enterprises to commercialize their IP. In Honolulu, Hawaii, a workshop on Effective Practices in the Border Enforcement of Intellectual Property Rights was held on 2009. The workshop demonstrated how economies could develop a successful border enforcement regime. The discussion was rounded by the TRIPS border measure obligations, public policy concerns, case studies, risk assessment and ex-officio actions, and the APEC Model Guidelines (APEC 2014).

The APEC project “Enhancing of APEC Capacity Building for Intellectual Property Protection and Utilization: Training for Trainers” was held in Sanya,

China, in 2010. Twenty-two trainers from different APEC member economies attended to the session. Participants exchanged knowledge of different approaches and best practices of intellectual property training in APEC economies. A comparative analysis of the existing capacity building and IP training programs has also been developed. A follow-up workshop from Russia on “Training for Trainers on Intellectual Property Issues: Management and Commercialization” is currently being organized as well (APEC 2014).

The 33th IPEG meeting was proceeded by a joint “ACT-IPEG Workshop on Investigating and Prosecuting Corruption and Illicit Trade: Stemming the Flows of Counterfeits and Dismantling Illicit Networks”, organized in September 2011 in San Francisco, United States. This event was a follow-up workshop to one that was held in Washington D.C. on counterfeit medicines, in March 2011, and an IPEG Seminar “From Research to Reality: IP Commercialization and Policy” held in September 2010 in Sendai, Japan (APEC 2014).

### 3.2.2 WTO AND TRIPS

As the main regulator of world trade, the WTO is deeply concerned about the IPR issues. Proof of this is the WTO’s Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), negotiated in the 1986-1994 Uruguay Round, which introduced intellectual property rules into the multilateral trading system for the first time (WTO n.d.).

The extension of protection and enforcement of the IPR vary around the world. Therefore, as intellectual property became more important in trade, these differences of IPR around the world became a source of tension in international economic relations. New internationally agreed trade rules for intellectual property rights have been seen as a way to introduce more order and predictability, and to settle disputes more systematically. The Uruguay Round achieved that purpose. The WTO’s TRIPS Agreement is an attempt to narrow the gaps in the way these rights are protected around the world, and to bring them under common international rules (WTO n.d.). The agreement covers five broad issues (WTO, TRIPS 2001):

1. How basic principles of the trading system and other international intellectual property agreements should be applied;
2. How to give adequate protection to intellectual property rights;
3. How countries should enforce those rights adequately in their own territories;
4. How to settle disputes on intellectual property between members of the WTO;

5. Special transition arrangements during the period when the new system is being introduced.

From this moment on, these questions have been intensively discussed within the WTO's forums. Consequently, many controversial problems have been brought to discussion. Public health, for instance, is one of them. The 2001 Doha Declaration on TRIPS and Public health was a political statement affirming that intellectual property protection and public health objective must not contradict each other: "We agree that the TRIPS agreement does not and should not prevent member from taking measures to protect public health" (WTO, TRIPS 2001). It gave governments the confidence to use the flexibilities available in the TRIPS agreement (WTO n.d.).

Therefore, an important result of the 2001 declaration is closer work between the World Health Organization, World Intellectual Property Organization and World Trade Organization. Nowadays, these three IOs have been focused both on access to medicines and incentives for research and development, so that new medical technologies become available. This has shown the fact that intellectual property is the only part of the picture. Ensuring that poorer patients be able to access medicines and other health products involves proper "rational" use of the products, affordable prices, properly health systems, suitable financing, and carefully selecting strategies for procuring the products (WTO n.d.).

### 3.2.3 ASEAN

ASEAN, as an important player of the Asia-Pacific region, is also deeply concerned about Intellectual Property Rights and its enforcement. The ASEAN Working Group of Intellectual Property Cooperation (AWGIPC) is the sectorial group responsible for IP issues in the region. It is composed by the IP offices of the ASEAN member States. The AWGIPC was established in 1996, pursuant to the ASEAN Framework Agreement on Intellectual Property Cooperation, which was signed by ASEAN Member States in Bangkok, Thailand, in 1995. Nowadays, the work of the AWGIPC is based on the ASEAN IPR Action Plan 2011-2015. This action plan identifies five strategic goals that will contribute to the collective transformation of ASEAN into a competitive region with the use of IP (ASEAN n.d.). The strategic goals are (ASEAN n.d.):

1. A balanced IP system that takes into account the varying levels of development of Member States and differences in institution capacity of national IP Offices to enable them to deliver timely, quality, and accessible IP services to promote the region as being

- conducive to the needs of users and generators of IP.
2. Developed national or regional legal and policy infrastructures that address evolving demands of the IP landscape and AMSs participate in global IP system at the appropriate time.
  3. The interests of the region are advanced through systematic promotion for IP creation, awareness, and utilization to ensure that IP becomes a tool for innovation and development; support for the transfer of technology to promote access to knowledge; and with considerations for the preservation and protection of indigenous products and services and the works of their creative people in the region.
  4. Active regional participation in the international IP community and with closer relationships with dialogue partners and institutions to develop the capacity of Member States and to address the needs of stakeholders in the region.
  5. Intensified cooperation among AMs and increased level of collaboration among them to enhance human and institutional capacity of IP Offices in the region.

Thus, the target for the AWGIPC is to transform ASEAN into an innovative and competitive region through usage of IP for their nationals and ensuring that the region remains an active player in the international IP community. The protection of intellectual property rights stimulates creativity and innovation, which fosters progress in industries and leads to national development (ASEAN n.d.). As decreed by the AWGIPC (ASEAN n.d.), intellectual property policy can serve as a powerful stimulus to:

1. Cultural, intellectual and artistic creativity and their commercialization.
2. The efficient adoption and adaptation of more advanced technologies.
3. Continuous learning to meet the ever-rising threshold of performance expectations

Through the AWGIPC, ASEAN has made concerted efforts since 1996 to improve the regional framework of policies and institutions relating to intellectual property. More recently, the 30th AWGIPC Meeting deliberated on the ASEAN IPR Action Plan 2012-2015 and carried out consultations with ASEAN Dialogue Partners and Organizations, namely ASEAN-China; ASEAN-European Patent Office, ASEAN-EU; ASEAN-JPO; ASEAN-USPTO and ASEAN-WIPO. During this meeting, the AMS-IPOs and Japan Patent Office (JPO) adopted the ASEAN Intellectual Property Offices-JPO Action Plan 2012-2013 (ASEAN n.d.).

ASEAN-Japan Heads of Intellectual Property Offices (IPOs) and JPO signed a Memorandum of Cooperation (MOC) on Industrial Property between

the ASEAN Member States (AMS) IPOs and the JPO on July 11, 2012. Malaysia was represented by Dato' Azizan Mohamad Sidin, Director General of Intellectual Property Corporation of Malaysia. Also part of this meeting is the third Meeting of the ASEAN-China Heads of Intellectual Property Offices (IPOs) which discussed areas of cooperation under the ASEAN-China Work Programme 2012-2013. The meeting focused on Database on Traditional Chinese Medicines (TCM) as one of the important areas of cooperation (ASEAN n.d.).

Although much has been discussed about global value chains and supply chains connectivity as well as intellectual property rights, and despite some measures already taken by the international community, many discrepancies remain among APEC member economies. While establishing the standards that will guide international trade in the Asia-Pacific region, they shall meet further agreements concerning these specific issues. In this regard, the 2015 APEC Meetings can be very fruitful to the advancement of international trade regimes across the Pacific Ocean.

## 4 BLOC POSITIONS

**China** is in a central position in the topic discussed. Besides its own characteristics – being a big economy in terms of trade and GDP -, it is also a very relevant member of one of the main potential blocs (the RCEP) and it was the main voice calling for relaunching efforts for a FTAAP in the 2014 APEC meeting. Moreover, the fact that it is not present in the TPP is commonly said to be the biggest obstacle for the TPP to become FTAAP eventually, which gives the country a great bargaining power (Tran and Heal 2014). However, China has important stakes in risk: some of its main trade partners are in TPP; besides that, TPP countries may be more interesting destinations for investment if the agreement is concluded. Meanwhile, RCEP is just in the beginning of the negotiations. The possibility of being out of the biggest FTA in the Asia-Pacific region – if TPP gets concluded after all – could be even more harmful than engaging it and at least trying to shape some of its rules, since its bargaining power is huge (Dai 2014). Nevertheless, it would involve definitely accepting many crucial points of Chinese domestic economy, as State Owned Enterprises. Therefore, China may focus on its priorities: approaching its Asian neighbors through FTA with Korea and Japan and the RCEP (Jianping 2014; Hufbauer 2013). It may also have to advance its own initiatives, as propositions for the AIIB or for the relaunching of FTAAP – rather independently from TPP, although it has already declared TPP's relevance and the

possibility of joining it. If China is a leader in the APEC negotiations, it may circumvent the need of accepting TPP high standards, by reaching FTAAP by other means. Concerning intellectual property rights, although being the number one in patents production's rankings, China still puts itself in the position of an emergent country, pursuing standard and relatively low protection to intellectual property – differing from the tougher propositions of developed countries (Jianping 2014), mainly because it is imperative to a country under the development process to have access to new technologies and medicines. It is marked, then, by subsequent violations of TRIPS' measures after its WTO accession in 2001 (Lane 2013). Regarding its supply chains issues, China's main problems are with its own logistics capability.

The **United States** are extremely concerned about the subject in discussion, especially because it involves its central mean of approaching Asia, the TPP, which has been operationalizing the concept of the US "pivot" to Asia in its economic aspect (Swielande 2012). The TPP is central in current US foreign policy and its interest to develop high quality rules and reshape international standards of trade – what the country has tried to do with the Transatlantic Trade and Investment Partnership (TTIP) as well. Moreover, TPP countries are great trade partners of the US and promoting free trade and investment with them would largely benefit the country economically – even more if it evolves to a FTAAP. The US pursues higher standards than the WTO – right now stuck in endless negotiations – provides. The main areas of concern are, among others, the intellectual property rights and protection to foreign enterprises. It pursues higher standards in the IP, usually called the TRIPS Plus, while pushes for mechanisms of Investor-State Dispute Settlement that must largely benefit US investors from the risks of investing in emerging countries (Kawai 2014; Ikenson 2014). Moreover, the US has important internal issues that must be taken into account when discussing TPP. For instance, Japanese agricultural (mainly beef, pork, wheat and, in a small extent, dairy products), service and automobile markets' liberalization is an important condition to the US Congress easing approval of TPP (Hufbauer 2013; Kawai 2014). Concerning supply chains, the US main problem to be addressed regards transparency and awareness of regulatory issues affecting logistics in trade.

**Japan** is in a special position in the debate, considering that it is a negotiating member of both TPP and RCEP. This gives the country great bargaining power, once it can simultaneously negotiate gains in both discussions. Japan's participation in both propositions is part of Prime Minister Abe's "Abenomics" policy, which emphasizes the need to restore economic growth in Japan. Liberalization and entering in FTA are a core part of this policy, and either of the treaties can bring large economic benefits to Japan (Mulgan 2013). Its situation urges for new

market opportunities, once right now it is falling behind Korea and other competitors – e.g. in the US market (National Economic Interests n.d.). Both initiatives face internal controversies, more in the TPP case, since farmers oppose to it, while the greater concerns for the RCEP are Japanese relations with China (National Economic Interests n.d.). While in RCEP no adjustment had yet been necessary, entering in TPP implicates on tough negotiations. The most important issue is about Japanese agricultural markets - namely rice, beef and pork, dairy products and sugar. Japan protects these markets with high tariffs, and this is the most important problem with the US. Automobile market's non-tariff measures are also a claim from the US, while the Japanese claim for US liberalization of tariffs of its own automobile sector (Kawai 2014; Cooper and Manyin 2013). Concerning intellectual property, Japan is commonly perceived as in the block of developed nations, that is, defending high protection; however, the US still pushes for harsher measures in Japanese internal laws, as of increasing its general time period of protection from 50 to 70 years, as well as increasing its efforts to reduce piracy in the internet (Palmedo 2013). Regarding the supply chains, Japan's main issue to be treated is its inefficient clearance of goods at customs and lack of coordination among its border agencies.

The **Republic of Korea** is involved in RCEP negotiations and was invited to enter the TPP in 2010. Since then, the country has been following the negotiation process from the outside, but closely. Therefore, Korea has certainly huge interests in the topic discussed. While it has been a traditional ally to the United States, relations with China have been improved recently, and this may put the country in a difficult position during the debate, but also with great bargaining power. As its economy is highly dependent on trade, South Korea is always benefited by free trade arrangements; however, as it already has a FTA with the US, the main benefits would come from establishing free trade with China and Japan. Its main priority right now is the China-Korea FTA and the China-Korea-Japan FTA. A potential entry in TPP has among its advantages to Korea the potential protection to its emerging high technology industries (National Economic Interests n.d.). However, entering in such agreement demands cautious analysis, which certainly involves considering China's position on the matter, once entering in TPP could disturb their relations. Moreover, it is important to state that Korea has a FTA network that covers 60% of the global economy, and is in negotiations and pre-negotiations phases with a myriad of countries, which can reach 90% of its trade (Hess 2013). This has to do with its policy of establishing a comprehensive net of bilateral FTAs. Regarding intellectual property, Korean internal legislation is less harsh than what the US pushes for: in the KORUS FTA they agreed in strong

protective measures that went beyond WTO TRIPS requirements, e.g. a minimum of 70 years of protection for copyrights (Williams, et al. 2014). Regarding its chokepoints on supply chains, Korea's main issue is with burdensome customs documentation and other procedures.

The **Russian Federation** is in a difficult path in this discussion, once it is not part of any negotiation process of FTA; then, it should pursue its interests harshly in APEC, once it is the arena where the country can be taken into account. As a member of APEC, the country is an automatic candidate for the FTAAP, which can bring huge economic benefits to Russia. The country should push it to be concluded as soon as possible, but until then Russia may suffer from trade diversion effects from the other two mega-trade deals. However, entering in FTA requires big internal reforms, as service and investment liberalization, which may be politically difficult for Russians to accept. Therefore, the potential gains may be weighted with the necessary concessions during APEC meetings, in order to achieve a FTA that is favorable to Russia (National Economic Interests n.d.). Moreover, due to the current Ukraine crisis and the US's trade embargo against Russia, the US may have problems in accepting Russia in a FTA in the near future, which may be an important obstacle (Devonshire-Ellis 2014). Regarding intellectual property measures, Russia has a poor IP protection historic, which has allowed its companies to copy patented technology and copyrighted material. However, Russia has just entered the WTO (2011), which means that it has just accepted the standard of the TRIPS agreement. Notwithstanding, the following IP legislation is rarer in transition economies, as China and Russia, than in other nations (Lane 2013). It is a point where Russia can bargain with in order to achieve gains on prospecting the needed inward FDI and an increase on trade (Lane 2013), even though Russia might oppose any steps that go way beyond property legislation agreed in WTO.

**Taiwan**, as Russia, is not part of any mega-FTA in discussion in the Asia-Pacific region. As it is an important pole of manufactured products in the global supply chains, as well as its ports are important trade hubs, Taiwan has great interests in boosting trade in the Asia-Pacific region. It has already manifested its high concern in following with great attention FTAAP negotiations, since its conclusion may represent great gains to Taiwan. Furthermore, Taiwan's Prime Minister Jiang Yi-huah has required Taiwanese agencies to make efforts that are necessary to integrate TPP and RCEP negotiations (Taiwan Embassy 2014). It seems extremely necessary that Taiwan integrates the emerging FTA not only because of its trade dependence, its role in global supply chains and the need to follow competitors (such as Korea), but also because of the potential these FTAs have to reshape the future patterns of trade, in a context of a slowed down WTO. However, among the

challenges preventing Taiwan to enter in TPP, is the position of China; although Taiwan has not manifested it yet, the country does not want to harm its relations with one of its main trade partners. Moreover, internal lobbies for services (such as banking, insurance and professional services) and agriculture oppose the ending of protectionist measures that would come from entering in the TPP, for instance (Stephens 2014). The country wants to avoid the trade diversion effects that will derive from the conclusion of these agreements without Taiwan. The likelihood of losses is greater if it is excluded from RCEP, since Taiwan has stronger commercial ties with East Asian economies (Kawasaki 2014). Concerning intellectual property, Taiwan has been advancing strongly in the last decades in order to provide a safe environment to innovations and inventions. It has progressed mainly in the fields the US had pointed out that should be addressed – under its “Special 301 Watch list”, that should set sanctions against countries that did not follow IP rights -, such as the need to establish an IP court (Intellectual Property Court 2009).

**Hong Kong**, as Russia and Taiwan, is not part of the negotiation process of neither RCEP nor TPP. As Taiwan, Hong Kong is a global trade hub for global supply chains. Movements to achieve FTAAP – of which the country may be considered a member - are to be taken, as they would boost trade in the region in a large scale. Indeed, Hong Kong might benefit of any FTA that is concluded in the region. Its own enterprises could benefit from trade and investment facilitation, which would consolidate it as an important destination for foreign enterprises that want to establish their main offices and coordinate investment in Asia, as well as its role as re-exporter, considering Hong Kong’s strategic position and the quality of its trade facilities. The benefits will certainly depend on the comprehensiveness of the treaty, and, of course, if Hong Kong ultimately will be part of them (Poon 2013); if not, it will likely suffer from trade diversion effects. Moreover, as its economy is really tied to China, China’s presence in the treaty is also a matter of concern. RCEP seems, then, an interesting alternative, as China is present and as Hong Kong has great commercial ties with ASEAN countries. A FTA between Hong Kong and ASEAN is now being negotiated, what may be crucial for this matter. Furthermore, its role as a gateway to China may also be important (Low 2014). In the intellectual property sphere, Hong Kong, as having a separated legal system from China, has been regarded as a model of IP protection to Asian countries, once it diminished IP-related crimes to a bare minimum and nowadays has robust protection. It is noticeable that important reforms have acted as a reaction to US threats through the “Special 301 Watch list” (Civil Service Bureau n.d.; Wong and Work 2014).

**Singapore** is the country with the highest number of FTAs in ASEAN, mak-

ing it a strong supporter of these agreements. Its economy depends immensely on its trade; therefore, the country uses several bilateral FTAs, not only the ones with ASEAN, to guarantee best relations and concessions. The country is also one of the P-4, which started the negotiations for the TPP with the United States (Ministry of Foreign Affairs n.d.). The city is an example on IP regulations, ranked as second in the world and top on Asia for IP protection. It also has a high number of patent applications (Spruson & Ferguson 2014). Regarding supply chains, Singapore has issues to be solved concerning air, land and multimodal connectivity and transport capability. Furthermore, it aims to protect the capital invested internationally and facilitate its mobility.

**Indonesia** and **Malaysia** are two countries with a strong tradition of FTAs, having covered a huge part of their trade with free trade agreements. Both are ASEAN members and support the regional trade agreements, especially the RCEP, hoping to increase their investment levels. Malaysia also believes that FTAs are the best way to guarantee liberalization in commerce (Ing 2015, Ministry of International Trade and Industry 2015). Comparing to the other members of ASEAN, both countries have been growing their patent applications. However, Malaysia is doing better than Indonesia in improving its intellectual property regulations (Spruson & Ferguson 2014). Furthermore, both are gaining importance in global and regional supply chains. Malaysia by its electronics production and Indonesia benefiting from its commodities exports.

**Thailand** has been combining efforts to improve free trade and one of the paths is through FTAs. During 2014, the country had some difficulty in establishing FTAs because of the internal political situation, but is now working towards that goal again. The country has bilateral agreements with European Union, United States, Japan, Australia, New Zealand, Peru, China and Chile, with negotiations being held with India and Pakistan (Oxford 2014). As a member of ASEAN, it also benefits from the FTAs from the association. Moreover, the country became more important for global supply chains, because of the growing demand for commodities, even though it is the largest industrial producer in ASEAN. Regarding IP rules, Thailand is one of the few countries that use the TRIPS flexibilities in order to guarantee access to affordable medicines and can serve as an example to other developing countries (Oh 2009).

The government of the **Philippines** considers FTAs as a form of complementing multilateral relations, mainly the WTO rules. It is a great encourager of FTAs in ASEAN, but is still cautious in bilateral negotiations. The Philippines have a bilateral trade agreement with Japan, which is important because it goes beyond normal regulations for FTAs, concerning deeper issues. The country is negotiating

agreements with European Union, Pakistan and United States, its current biggest trade partner, followed by Japan. Considering its relations with the region, an East Asia FTA would be logical and natural for the Philippines to participate (Medalla and Mantaring 2009). It has also left the US Watch List for countries that do not protect intellectual property rights effectively (Spruson & Ferguson 2014).

As much of the members of ASEAN, **Brunei Darussalam** supports a FTA between ASEAN and China, which would improve the potential of increasing efficiency and scale of supply chains. As a small country with high GDP, it could have more benefits with liberalization. It also defends the control over the processes of production in supply chain, especially the ones focused on food goods. It is still reluctant over some requirements shown in some FTAs proposals, such as the TPP, regarding government procurement. Concerning intellectual property regulations, the country is trying to improve its policies, but is still lacking enforcement agencies (Skodon n.d., B. G. Oxford 2011). As another member of ASEAN and supporter of FTAs, **Vietnam** has passed through a period of focused relations with the US, followed by a period of efforts towards regional integration in ASEAN. The country has FTAs with US, Japan, Chile, European Union, South Korea, and Russia and is part of negotiations to TPP (Vu 2013). It has been dealing with international pressures over its intellectual property system, since it does not have very strong laws and has a market in growth with potential to import foreign products (Spruson & Ferguson 2014) – besides being an important country for global supply chains.

**Australia** and **New Zealand**, as two examples within the TPP, both disagree, as well as many others, with the introduction of an Investor-State Dispute mechanism in the agreement, which would protect private investors and multinationals at the expense of public investments. Australia goes further on defending governmental actions in the market by advocating the abolishment of subsidies (Kawai 2014). However, the country faces a dispute against many of its APEC colleagues concerning intellectual property in tobacco packages (WTO 2014), as well as internal issues to be solved concerning infrastructure and regulations in order to improve supply and value chain mechanisms (APEC, The 2013 Interim Assessment for Supply Chain Connectivity Framework Action Plan 2013). New Zealand, for its turn, disagrees with the length of IP restrictions that the USA is defending and holds concern with the goals to be achieved by the end of 2015 within the RCEP. The country also focuses on the security of its supply and value chains, with special attention to the ones aimed at food exports (Eyob e Tetteh 2012). **Papua New Guinea** has only one bilateral FTA with Australia, with whom trade relations are extremely important for the country's economy. It focuses on

multilateral agreements with the small islands in the Pacific region, which also have importance for the Papuan exports (Asian Development Bank n.d.). The country has a very new IP system still in development and has a very small rate of filings (Spruson & Ferguson 2014).

The establishment of environmental standards for firm activity is an issue addressed within the TPP and defended by many countries, with **Canada** as one of the leading supporters (Canadians 2015). The country, on the other hand, is pressured by the Australian government to grant TPP countries the same trade advantages that were granted in talks to the European Union in their Comprehensive Economic and Trade Agreement (CETA), which is still to be signed (Blanchfield 2015). Another stressing point for Canada concerns the IP regulations inside NAFTA: the country should commit to standards of protection that are stronger in some cases than the ones in TRIPS and, if there is difficulty in smaller proportions, proposals of deeper regulations on IP within APEC would be hard to be fulfilled (Maskus 2000). Lastly, Canada works towards further development of its supply and value chains of services and manufactured products, which have many of its inputs derived of other countries (OECD, Global Value Chains (GVCs): Canada 2009).

Latin American countries, such as **Chile**, **Mexico** and **Peru**, have shared identical thoughts when it comes to discussing IP regulations: the three agree that the United States is suggesting too extensive and deep standards. When it comes to the TPP discussions, Mexico sees it as a mechanism to further develop its role in the global supply chains and diversify its exports (Mexico 2015). On the contrary, Chile and Peru have faced inside pressure of their congresses concerning the implications of the agreement to their countries. It has been stated in these spheres that the TPP would go far beyond what has already been negotiated in previous agreements (mainly for Chile, that has FTAs with all the TPP member states) and that, from the economic and commercial costs and benefits point of view, the balance for both countries would be negative (Furche 2013; Boehner 2013). Concerning global supply and value chains, Chile still has to work on solving the transit chokepoint problems (APEC, The 2013 Interim Assessment for Supply Chain Connectivity Framework Action Plan 2013) and Peru works towards fostering development of their own GVC connections, mainly the ones of agricultural industries (Humphrey and Memedovic 2006).

## 5 QUESTIONS TO PONDER

1. How can megaregional free trade agreements contribute to international economy and to APEC Members' economies?
2. What are the main difficulties for the implementation of megaregional FTAs in the Asia-Pacific?
3. How to conciliate the visions between the APEC members, considering the different levels of development between them?
4. Would a future FTAAP be similar to RCEP's provision or would it follow the principals of the TPP?
5. How can IP regulations benefit countries in different levels of development and implementation in order to improve development in the region? Are the existing regulations acting in favor of all countries?
6. How can global value chains stimulate growth and development? Do differences in countries' levels of development affect the way GVCs act in domestic economies?
7. How can FTAs include IP and GVC aspects aiming for the whole region's economic development?

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COMBINED JOINT  
TASK FORCE OPERATION  
INHERENT RESOLVE

# COMBINED JOINT TASK FORCE: OPERATION INHERENT RESOLVE

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## ABSTRACT

The terrorist group known as ISIS has, since 2014, advanced through considerable terrain in Iraq and Syria, consolidating its territorial power in these regions in a unique manner, differently from other previous jihadist groups. Born from the civil war in Syria and the unresolved politic-sectarian crisis in Iraq, the collapse of state authority in these two countries has allowed ISIS to bring a new kind of menace to the Middle East region – one that threatens the very existence of the modern state regional order. Within the context of Middle Eastern regional players' different interests, the U.S. has summoned a coalition of the willing to initiate an airstrikes campaign – named as Operation Inherent Resolve (OIR) – against ISIS targets in order to degrade and ultimately destroy the terrorist group. Therefore, such operation has the current objective of facing ISIS and drawing effective operational plans to infringe enough damage to the terror organization.

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## 1. INTRODUCTION

The Middle East is currently facing the expansion of the terrorist group known as ISIS<sup>1</sup>. Born from the civil wars in Iraq and Syria, such group has named itself a new caliphate, establishing a kind of governorate in territories it now dominates in Syria and Iraq. Both countries, therefore, are facing a new threat—a terrorist organization in control of a considerable territory—that might spread even further in the region. Due to the weaknesses involving not only the Iraqi government but also the civil war in Syria, instability is a real threat to the whole Middle East.

Facing the group's growth, the United States created an international coalition to fight ISIS in September 2014. The strategy went further than only supporting local forces, and it has encompassed airstrikes in Iraq and Syria in order to jeopardize ISIS and other terrorist groups capacities and to help ground allied actors to regain territory. Nevertheless, the situation is not simple at all, since it involves a wide range of different countries and organizations, whose interests are multiple, fighting the same enemy in both countries, therefore creating two distinct political situations. Thus, the strategy to defeat ISIS is not simply a military question, but a very complicated political game that, unless checked, might spread over the regional borders.

## 2 HISTORICAL BACKGROUND: THE SITUATION IN IRAQ AND SYRIA

### 2.1. IRAQ

The territory of Iraq—former Mesopotamia—, known as the cradle of the civilization, has always been disputed by several conquerors throughout the centuries. Iraq rests between the Tigris and Euphrates rivers, where the first empires have developed, and where many contributions to humankind were advanced, such as writing, science and literature (Tripp 2002). Despite having shown prosperity in the course of the centuries, Iraq has faced growing instability from its independence—in 1932—onwards, mostly because of its oil fields. It holds

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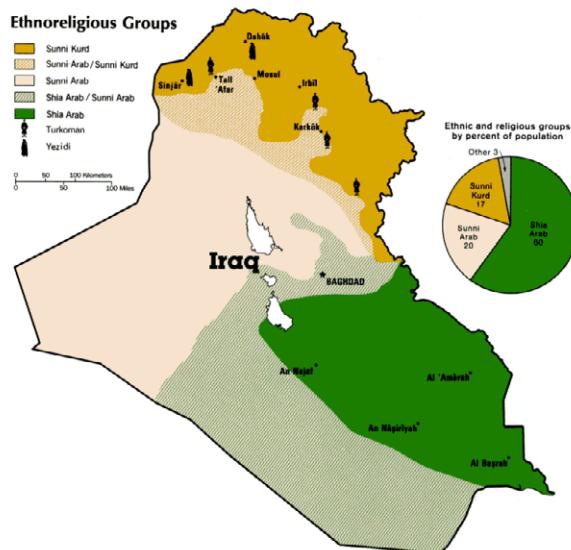
<sup>1</sup> Islamic State of Iraq and ash-Sham, also known as Islamic State of Iraq and Syria, Islamic State of Iraq and the Levant (ISIL), or simply Islamic State (IS). In Arabic, the group is known as ad-Dawlah al-Islāmiyah fil-Irāq wash-Shām or Daesh.

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nowadays the fifth position within the major international oil reserves. The country established itself, however, as one of the major components of the regional balance of power in the Middle East due to its economic and military capacities. It has borders with Syria, Iran, Turkey, Jordan and Saudi Arabia, and it also is a passageway from Syria to the Persian Gulf and from the East to the West (Marr 2011).

Iraq is divided between many ethnoreligious groups within its population. The predominant ones are the Shia (60%, mainly located in the East, near the border with Iran) and Sunni (37%, split between Arabs [20%], more towards the West, and Kurds [17%], located in the North), as seen on Image 1 below.

**Image 1:** Iraq's ethnoreligious distribution



Source: The Global State 2015

Between 1979 and 2003, Saddam Hussein's government marked a period of nationalism and secularism for Iraq. Leader of the Iraqi Ba'ath Party, Hussein implanted a personalist regime that, at least until 1991, brought development to the country. However, the leader entered in a few wars that showed poor results (versus Iran) and have put him against the international community (invasion of Kuwait), which ended up strangling Iraq through economic sanctions. In addition, Hussein, a Sunni, has marginalized during his rule the Shia population, the

majority in the country, as well as the Kurds in the north<sup>2</sup> (Bandeira 2013).

### 2.1.1. THE IRAQ WAR (2003)

In 2003, shortly after 9/11, Western countries started to oppose to non-state military actors in the Middle East, classifying them mostly as terrorists. Within this context, President George W. Bush launched his freedom agenda, based on the Bush Doctrine<sup>3</sup>, and accused Saddam Hussein of possessing nuclear, chemical and biological weapons, besides supporting terrorism worldwide. The plan was to invade Iraq, capture Hussein, and free the country from chemical weapons and from the terrorist threat, since all of these factors were, allegedly, a threat to the U.S.'s peace and stability. However, it is important to say that none of Bush's claims had any type of proof, even though Bush has supposedly made his decision based on U.S. Intelligence reports that showed strong evidences that Iraq had armed itself with chemical weapons (Bandeira 2013, Podhoretz 2005).

Iraq was, nevertheless, invaded and Hussein's government was overthrown. From that point on, the United States had to rebuild the Iraqi State so that some type of democracy could be established according to the freedom agenda, even though the Pentagon had no plan whatsoever for the country's stabilization (Cordesman 2006). The U.S. created a provisional administration to govern Iraq, the Coalition Provisional Authority (CPA), which outlawed the Ba'ath Party and refused to work with any of its members, even the more experienced and capable ones, putting Shias into power and dissolving the Iraqi Army, predominantly Sunni. These decisions left many capable men suddenly unemployed, besides creating sectarianism and marginalization of much of the Sunni people (Bandeira 2013).

The Dawa Party (Shia) rose to power, as Nouri al-Maliki became the elected Prime Minister. Maliki, an exiled Shia who had plotted to overthrow Saddam Hussein's regime, came into office aiming to change the power dynamics in Iraq in order to undermine Ba'ath's influence (Ajbaili 2014).

### 2.1.2. IRAQ'S CIVIL WAR (2006-2008)

The aforementioned Sunni marginalization led to the creation of many in-

<sup>2</sup> Iraqi Kurdistan is a federal region in the North of Iraq. It has its own President and Parliament. The Kurds share a different culture than the one from the rest of Iraq.

<sup>3</sup> The Bush Doctrine was President George W. Bush's array of foreign policy principles, such as fighting terrorist groups, attacking enemies overseas, and advancing liberty and hope worldwide (Bush 2010). Robert Jervis (2003) also cites the importance of the country's domestic regime and the use of preventive wars by the U.S. as a way of guaranteeing peace and stability worldwide.

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surgent groups that started to rebel against the new government, particularly the al-Qaeda in Iraq (AQI), an anti-Shia group whose creation was mainly permitted by the U.S. invasion. This group, originated in the context of a failure in the reconstruction of Iraq and the exclusion of a part of its society, wanted to consolidate its forces in the west of Iraq's territory, in the Anbar province, by convincing the Sunni people to rise against the Iraqi Shia government (Cordesman 2006).

After attacks against many Shia shrines in early 2006 by the AQI as a means to retaliate the Shias and the U.S. troops, a wave of unprecedented violence was set off. It caused a great number of civilian deaths and marked the apex of Iraq's invasion and also a peak of sectarianism in the country: the Civil War. The Shia population in Iraq saw what was happening not as the Sunni reacting against the government oppressing them, but as an attempt to reestablish the old Sunni domination (Cockburn 2015).

The AQI, however, suffered a widespread backlash when the Sunni Awakening was formed — a U.S.-backed group of moderate Sunni people in Anbar province not in favor of al-Qaeda, willing to end both the Civil War and the clashes between Sunni and Shia. It was promised by the Iraqi government that the Awakening members would be incorporated in the government and in the armed forces (Nordland 2009). In addition, the United States started sending even more troops to contain the Civil War and to deal with the strengthening of the militias, which became known as the Surge. These measures gradually started working, and the country faced relative stability until the U.S. withdrawal in 2011 (International Crisis Group 2008).

### 2.1.3. THE U.S. WITHDRAWAL AND MALIKI'S GOVERNMENT

By 2010, agreements between the United States and the government of Iraq regarding the American presence in the country still had not been reached, mainly because Baghdad did not want to grant immunity to U.S. soldiers. This, alongside U.S.'s failures on the ground in stabilizing the country and the high costs of the war and the number of casualties, caused President Barack Obama to announce the U.S. withdrawal from Iraq in October 11, 2011 (Bandeira 2013).

Notwithstanding, the United States withdrew most of its troops, leaving Iraq in the middle of a hibernated but unresolved sectarian turmoil. The Shia Prime Minister — Maliki, reelected in 2010 — in spite of claiming loyalty towards the U.S., shared close ties with Iran, a U.S. enemy that benefited from Iraq's de-ba'athification. Iran started to keep strong economic and diplomatic relations with Iraq as well as nurturing many allied figures inside the country (Heydarian 2012).

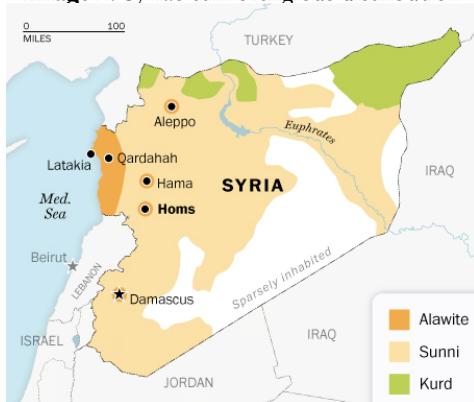
Maliki, from the U.S. withdrawal onwards, centralized power on himself, repressed political dissidents, mainly Sunni, did not keep his promise to them, and even intensified the sectarianism. The Sunni anger against Iraqi government started to rise again (Al-Ali 2014; Burke 2014). Therefore, Maliki's former promises of union between all religious sects began to crumble, and the Prime Minister lost virtually all support he once had (Bandeira 2013).

## 2.2. SYRIA

The Syrian territory, bordering Turkey, Iraq, Jordan, Israel and Lebanon, is a land that has been occupied by several civilizations through history. In the twentieth century, after the First World War, Syria became a French mandate, and the posterior French withdrawal left Syria amidst a series of military coups. In 1970, Hafiz al-Assad, a member of the socialist and reformist Ba'ath Party and the minority Alawi sect (even though Assad regime is a secular one), seized power in a bloodless coup and brought political stability to the country. Following the death of President al-Assad, his son, Bashar al-Assad, became Syria's President, bringing economic growth and relative stability to Syria (CIA 2015). In 2007, a referendum to Bashar al-Assad's re-election for another seven-year term was set, and the President supposedly got 97.6% of the electors' approval, in a demonstration of the President's legitimacy (Aji 2007).

Syria's most predominant ethnoreligious groups are the Sunni (about 74%, mostly spread throughout the country), which includes the Kurd population of 9%, located next to the borders with Iraq and Turkey; and the Alawi (about 13%), a Syrian branch of Shia (CIA 2015).

**Image 2:** Syria's ethnoreligious distribution



Source: The Washington Post 2015.

### 2.2.1. THE SYRIAN UPRISING AND CIVIL WAR

As a result of the Arab Spring, which erupted around 2011 in the Middle East, the Syrian government also started being pressured by protesters. The escalation of manifestations seeking democracy and an end to political imprisonments made the government respond with repressive measures, violence and torture (Bandeira 2013). That made the protesters claim for a full regime change, and also the international community to condemn the Syrian government. Later on, Syrian government's forces supposedly started using chemical weapons to contain the conflict. The United States, supporting Assad's opposition, was aiming to get a justification to intervene in the Syrian conflict (Bandeira 2013).

As stated by Visentini and Roberto (2015), the Syrian conflict is related to the power balance in the Middle East, involving the so-called Resistance Axis in one side and the U.S. and its allies on the other side. The Resistance Axis, a group of countries and non-state military actors, namely Iran, Syria, Lebanese Hezbollah and Palestinian Hamas, is opposed to the U.S. goal to expand its influence in the region. Washington's regional allies, namely Saudi Arabia, Israel, Egypt and Jordan, on the other hand, support such aim. According to the authors, the Syrian conflict was used as a proxy war<sup>4</sup> by these opposing fields in order to defend their own goals. Saudi Arabia and Qatar — due to Riyadh having a major dispute against Tehran for predominance in the Middle East — have given economic aid to the insurgent groups against Assad's regime so that Iran's liaisons and areas of influence could be harmed. The conflict, then, would have become a way for other nations to get their interests carried out.

Saudi Arabia, alongside the United States, France, the United Kingdom and other Western countries, have supported, since the beginning of the conflict, the forces that were fighting against Assad by sending them financial and material aid (Bandeira 2013). The Arab monarchies supposedly lent their assistance to secularist insurgent groups such as the Free Syrian Army (FSA), but the armaments were sent mainly to jihadist warlords and groups such as Jabhat al-Nusra (JAN), a Syrian branch of al-Qaeda (Bandeira 2013). In addition, problems regarding Turkey-Syria borders, which have proven to be very porous and uncontrolled by the Turkish, started to aggravate since thousands of jihadists have been able to reach Syria (Soguel 2015). As the former uprisings on behalf of democratic values degenerated into an opposition fracture and a humanitarian disaster, as thousands of civilians died in Syria and as jihadists forces began to rise, the Western consen-

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<sup>4</sup> A proxy war is a conflict that results when opposing powers use third parties as substitutes for fighting each other directly.

sus started to fall apart (Kissinger 2014).

## 2.3. THE RISE OF ISIS

According to Patrick Cockburn (2015), the rise of ISIS was mainly a result of the events that happened in Iraq in the last decade and in Syria in the past few years. Its formation was caused by Iraq's ill-managed sectarian conflict, since they are the former al-Qaeda in Iraq. However, the rise of Jabhat al-Nusra in Syria is also crucial to understand ISIS, since ISIS/AQI were the founders of JAN and the ones that put this group in action in Syrian territory. They eventually split up because of a growing process of independence of Jabaht al-Nusra. However, a great amount of the armaments that were sent to Assad's jihadist opposition has been able to pass to the hands of the Islamic State due to the cooperation between AQI and JAN. Also, the propagation of Wahhabism, a fundamentalist version of Islam that imposes sharia law, preaching the subjugation of women and the persecution of Shia and non-Muslims, was somewhat promoted by Saudi Arabia this last decade in many countries, influencing many jihadists from ISIS to join in the fight (Cockburn 2015).

As stated by Cockburn (2015), the U.S., Europe, and their regional allies in Turkey, Saudi Arabia, Qatar, Kuwait and United Arab States created the conditions for the rise of ISIS. They kept the war going on Syria, though it was unlikely from 2012 on that Assad would fall, as Russia, Iran and Hezbollah were backing his government.

In 2014, Abu Bakr al-Baghdadi, ISIS' leader, claimed the organization to be a worldwide caliphate, seeking to restore Abu al-Abbas' caliphate<sup>5</sup> in the Middle East. He also called upon all Muslims to pledge subservience to him, the khalifa. According to al-Baghdadi, all modern institutions, including states, are irrelevant and must be subordinated to the caliphate (Wood 2014). This has led other fundamentalist groups throughout the world to support ISIS: the al-Qaeda branch in the Arab Peninsula (AQAP) and the Nigerian militants of Boko Haram have already pledged alliance to the caliphate, aside from other groups in Egypt and Libya (Fox 2015). On the other hand, al-Qaeda's leader publicly stated that the

<sup>5</sup> A caliphate is a form of Muslim government led by a Caliph, a person considered successor to prophet Mohammed and leader of the entire Musim community. Abu al-Abbas was the first leader of the Abbasi caliphate, one of the most important caliphates in Islamic history, which was implanted in the 8th century.

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group disavowed ISIS (Tran 2014).

Al-Baghdadi has reorganized the Islamic State from within since he took over. He has implanted a complex body of bureaucracy that encompasses military commands and intelligence, making his demands and goals more feasible. He has also created a financial system, wherewith al-Baghdadi can tax the conquered populations and export oil from fields under ISIS' control, enabling the funding of the running costs of the state-building process (Hashim 2015).

Since its rise, ISIS has completely changed the shape of the Middle Eastern balance of power. The extremist and fanatic group, located between the two countries' boundaries, has won over territories and achieved unexpected victories against Iraqi, Syrian and Kurdish forces. Its fast rise made many historically opponent countries, such as the U.S. and Iran unite against ISIS. However, the group is still far from being subjugated.

ISIS, much bigger and far better organized than Osama bin Laden's al-Qaeda in terms of military and intelligence, has shocked the world showing videos of the organization executing Western journalists, what has also been a call to arms for many ISIS sympathizers across the world (Cockburn 2015). In addition to the discredit to Iraqi Dawa Party government, ISIS militants have been able to convince people of their cause, providing food, water, security and sewage (Dreazen 2014).

Territories run by ISIS have been expanding on and on. The Islamic State already controls an area of the same size of Jordan, and a population larger than five million people (Cockburn 2015). In early 2013, ISIS took control over Raqqa, a Syrian city, slaughtering the Alawite minority and establishing the capital to their caliphate. One year later, the city of Fallujah, located within a distance of 65 kilometers from Baghdad, was taken in central Iraq. Not only has the Islamic State conquered a great amount of land in the Middle East, but it has also put an end to the former boundaries in the region that existed since the Sykes-Picot Agreement of 1916. ISIS has also shown quick expansions and impressive mobility between their bases in two different countries.

In June 2014, ISIS fighters began an attack on Mosul, the second largest city in Iraq, in the Anbar province. Four days later, the city fell. Astonishingly, the 1,300 men that ISIS sent were able to take over the city against the nominal 60,000 from the Iraqi federal forces. In truth, the Iraqi army was so incapable, out of morale and discipline and corrupted — a big part of the soldiers were not even in Mosul despite being paid for that —, and the Iraqi government so discredited, that taking over Mosul was not as difficult as the ISIS officials originally thought

(Cockburn 2015).

Suddenly, the West began to understand that ISIS was representing a real threat to the Middle East. Despite still not being strong enough to conquer Baghdad, the peril was imminent. For ISIS, seizing Baghdad, one of the great Arab capitals of the world, would give credibility to its claim to be founding a new caliphate. The conquest of Mosul was the most symbolic victory for the jihadists until then (Cockburn 2015).

Also in June 2014, ISIS started advancing to both Sunni cities of Tikrit and Baiji in Iraq — the latter being the biggest oil refinery in the Iraqi territory and a major strategic spot in the country. The two cities surrendered without a fight. ISIS took control of the refinery and set the local prisoners free. The Iraqi government made a counteroffensive and was able to retake the city in November 2014 (Naharnet 2014).

In August 2014, ISIS marched and sieged to the Kurdish city of Erbil. The group was already fighting in two fronts — Iraq and Syria —, but was also able to reach the Iraqi Kurdistan. After sending drones and surveillance flights to gather intelligence on ISIS targets, the U.S. Air Force started bombing the Islamic State both in Iraq and in Syria as a response. On 10th September 2014, President Barack Obama made a public speech, vowing to “degrade and destroy” ISIS, and highlighting the importance of forming an international coalition to contain the group, even though no long-term plan has been presented by the West so far beyond the airstrikes. Shortly after, the coalition, formally known as Combined Joint Task Force — Operation Inherent Resolve was formed. Whilst Iraq formally asked the United States to launch airstrikes on ISIS inside their territory (Shankar 2014), the Syrian government had known about the U.S.-led campaign before it started but did not have details about how it would happen (The Huffington Post 2015).

In September 2014, ISIS besieged the Syrian-Kurdish city of Kobane, next to the 820 kilometers border with Turkey. The U.S. coalition bombed the city and sent modern armaments, such as antitank weapons, to the Peshmerga, the Kurdish army, since the Iraqi army is prohibited to enter Kurdistan<sup>6</sup>, an autonomous region of Iraq (Karouny and Hogg 2014). After months of battle and hundreds of deaths, the Kurdish forces, with the help of Western airstrikes and weapons, were able to retake Kobane in January 2015, inflicting one important defeat to the Islamic State. In May 2015, in spite of the Western efforts, the Islamic State took over the city of Ramadi, the main supply route from Aleppo to Baghdad, and

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<sup>6</sup> The Kurds were also able to opportunistically use the crisis to expand and become more independent, securing territories they have always claimed, both in Iraq and in Syria.

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capital to Iraq's biggest province, Anbar (Russia Times 2015).

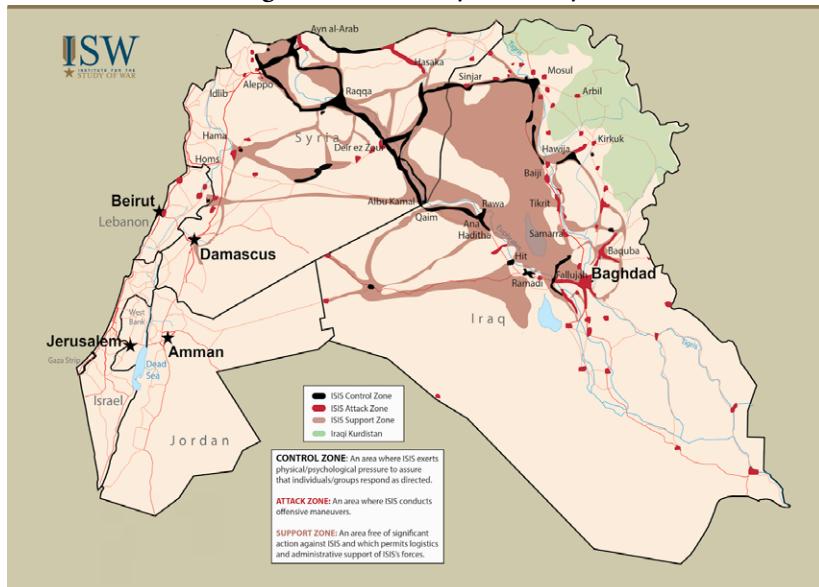
Facing the rise of a common enemy to many countries, the United States is finding it necessary to assume a more cooperative approach alongside enemy regimes such as Iran and Syria's Assad (Abrahms 2014). With the Islamic State virtually surrounding Baghdad and the Kurds constantly clashing with the Iraqi central government, it remains difficult for Iraq to hold its territorial integrity. If preventing ISIS to conquer other cities is already a challenge, taking back the ones already in their control may be even more difficult.

### 2.4. THE PRESENCE AND REACH OF ISIS

#### 2.4.1. TERRITORY

The success of ISIS' warfare is considerably related to the Syrian and Iraqi physical terrains. At the current time, ISIS fights a ground war on three types of landscape: deserts, cities and suburban areas (McFate 2015). Image 3 represents the actual ISIS' territorial arrangement.

**Image 3:** ISIS Sanctuary (as of May 2015)



Source: ISW 2015a.

The deserts dominated by ISIS in northern and western Iraq form a vast maneuvering area with access to many Iraqi cities along the Tigris and Euphrates rivers. ISIS uses the terrain features to move off Iraq's main roads at various distances from Baghdad to plan and coordinate attacks. Furthermore, the exploitation of deserts also enables ISIS to establish links among adjacent fronts, without coming into unwanted contact with the Iraqi Security Forces (McFate 2015).

ISIS began to take possession of cities in January 2014, when it seized Falujah, signaling its increasing capabilities. Five months later, ISIS took control of cities such as Mosul and Tikrit, among other towns in Iraq and Syria (Ntrepid 2015). These offensives helped ISIS to accomplish its intentions in areas far from Baghdad, where it faced Iraqi Security Forces on one front only. Due to the complete access ISIS had to the desert, and the possibility to reinforce its ongoing urban operations from there, Mosul was especially vulnerable to isolation from Baghdad long before its fall to ISIS in June 2014 (McFate 2015).

In late months of 2013, ISIS established a number of fighting positions throughout Iraqi territory, at multiple distances from Baghdad. ISIS maximized its advantages in the geographic disparity of its elements in northern, eastern, and western Iraq and started to design phased campaigns which would allow it to function as mutually supportive fighting forces. ISIS' mobility advantage in Iraq lasted between 2013 and 2014; however, as of May 2015, ISIS' freedom of movement has likely been disrupted due to coalition airstrikes and Iraqi ground counter-offensives. Therefore, one may claim that ISIS' operations on different fronts are now more isolated, and ISIS has had less mobility advantage as it used to have previously. Even so, unrestricted desert mobility is a longstanding advantage of ISIS and it will likely maximize again if airstrikes stop before ISIS has been defeated (McFate 2015).

Regarding the projection zone in Syria, its western geography is otherwise less maneuverable by ISIS' desert forces — which creates a disparity between how ISIS conceptualizes and organizes the fights in both Iraqi and Syrian fronts. The Syrian desert contains mountains that separate the western region of the country from the open desert areas bordering Iraq. In eastern Syria (see Image 4), ISIS has acted like in the rest of the Jazeera desert that runs across Iraq and Syria, especially after the Syrian regime lost control of most of Deir ez-Zour province in December 2012 and Raqqqa in early 2013. The Jazeera is a region where ISIS has a dense control; it is likely using the desert east of Homs and Hama (close to northern Lebanon — see Image 4) as a maneuvering corridor in 2015 — it connects Syria's central corridor east of the M5 highway to ISIS' stronghold in Raqqqa. Furthermore, ISIS' access to interior deserts — such as eastern Qalamoun, around

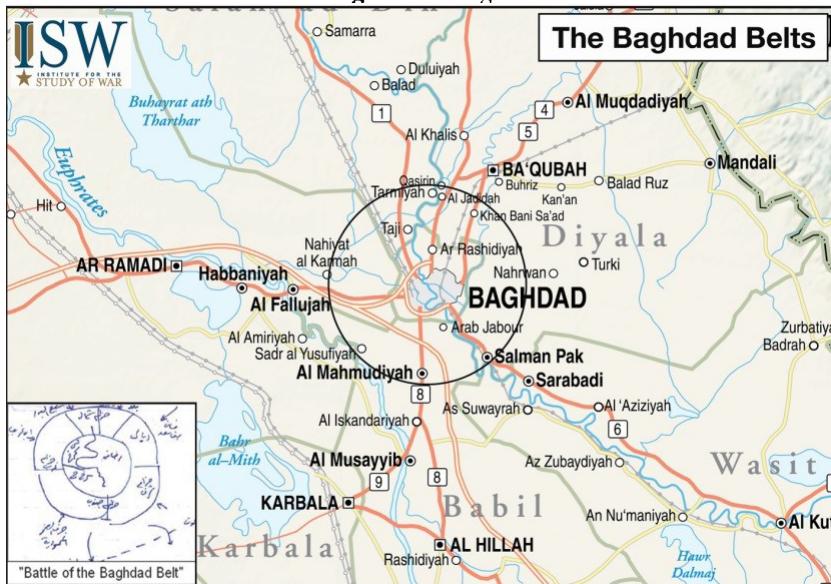
## COMBINED JOINT TASK FORCE

Damascus — is constrained; however, ISIS likely uses them as a stage in support of its urban and suburban positions (McFate 2015).

In this context, it is important to highlight that no anti-ISIS forces are well positioned to get rid off ISIS from the Jazeera desert. While Syrian forces are likely to prioritize their campaigns in western Syria — which make ISIS freer in the Syrian east —, on the other hand, Iraqi forces are likely to prioritize the campaign for Iraqi interior — an exception being the attempts to reclaim Mosul. Syrian and Iraqi Kurds fight for controlling their already patrolled area, looking for autonomy and not opposing to ISIS' projection in other regions — excepting Mosul (McFate 2015).

ISIS uses not only deserts for their operations — it is also specialized in activities in urban areas. Probably AQI retained urban support networks inside Mosul after battle in 2008; this way, it was easier for ISIS to claim the city in June 2014. In Iraq, ISIS also established support networks within disenfranchised Sunni communities. Such infiltration allows ISIS to position itself close to urban targets in order to conduct more lethal terror campaigns. In Syria, ISIS is not the most powerful military force among anti-Assad forces in all places; however, it retains positions inside neighborhoods in Damascus (McFate 2015). ISIS is also present in Hajar al-Aswad and in the Yarmouk refugee camp, both close the capital. In the first days of April, ISIS captured about 90% of the Yarmouk Palestinian refugee camp, in southern Damascus. It had previously a presence in al-Hajar al-Aswad just south of the camp, but it was not considered in that moment as a dominant force in the capital area. It is possible to affirm that the advance into Yarmouk camp represents the strongest ISIS encroachment into southern Syria so far (White & Tabler 2015). Infiltrating into these locations may be useful both to prepare offensives and to escape U.S.-led coalition airstrikes in the Jazeera Desert and counter-attacks by the Syrian Kurds in northern Syria (McFate 2015).

In relation to Baghdad, ISIS wove a surrounding network of suburban roads which connected towns around the Iraqi capital — such ring of roads around Baghdad, as represented in Image 4, is referenced as “the Baghdad Belts”. Used for the defense of Baghdad into an offensive concept, they were originally an artifact of AQI’s campaign design. Currently, the system of belts represents to ISIS a way to organize a battle plan around a principal city using dispersed units, informal tactics, and freedom of maneuver to compromise the main defenses of a conventional enemy. It is also possible that ISIS may adapt its belts framework to major Syrian cities surrounded by large suburban areas, such as Aleppo and Damascus (McFate 2015).

**Image 4: The Baghdad Belts**

Source: McFate 2015.

Since August 2014, ISIS has been contained and its borders have been relatively retracted. That means ISIS is no longer able to act freely between approximately 25-30% of the locations where it previously operated – such areas extend from 13,000 to 17,000 km<sup>2</sup>, especially in Iraq. However, it is important bearing in mind that such estimates are mutable, because of daily changes on the battlefield. The ISIS's region of influence in Syria has remained relatively constant and unchanged, on the other hand (U.S. Department of Defense 2015).

The advance ISIS has reached in the territories of Iraq and Syria also concerns its neighboring states. Such countries have already been suffering from instability due to the large influx of Iraqi and Syrian refugees, who flee from ISIS's repression and violence everyday. Moreover, threats have also been identified beyond the Middle East, in Libya – where attacks were carried out under the ISIS flag – and in Nigeria – where Boko Haram has pledged allegiance to Abu Bakr al-Baghdadi (European Parliament 2015).

#### 2.4.2. ORGANIZATION

In order to manage the caliphate, Baghddadi has appointed a cadre of advi-

## COMBINED JOINT TASK FORCE

sors, ministers and military commanders. This way, ISIS is run by a sophisticated hierarchy of commanders, each one with specific issue areas of responsibility. Moreover, to better administer ISIS' territorial possessions, he has two deputies immediately under himself, one for Syria and another for Iraq — each province has its own governor responsible for the administration of the region, down in the hierarchy. Still, Abu Bakr al-Baghdadi is advised by a cabinet staffed with ministers — those of which have clearly demarcated roles, salaries and delegated powers (Clarion Project 2015).

There are specific ministries related to treasury, transport, security and prisoners, and a minister in charge of looking after the needs of foreign jihadi fighters. All logistics and technicalities of war are managed by a specialized 'war office'. A great part of the cabinet and lots of higher level commanders served as high-ranking officers in Saddam Hussein's military and many others have high level technical expertise. There are indications that ISIS holds about 1,000 medium to top level field commanders — salaries of such commanders range between US\$300-US\$2000/month (Clarion Project 2015).

To effectively govern the controlled areas, ISIS builds institutions and infrastructure in addition to their military campaigns in its territories, since, in order to establish a state, ISIS has to gain the acquiescence of the governed, at least to a certain extent (Clarion Project 2015). The levels of sophistication of ISIS' governance programs vary depending on the level of control over each region. ISIS tends to make substantial investments in developing lasting institutions where it maintains greater dominance (Caris & Reynolds 2014). Since the northeastern Syrian city of Raqqa was conquered, ISIS has established it as a capital de facto and it runs healthcare, education and keeps public order over there — it tries to set these kind of services everywhere, but it is most entrenched in Raqqa (Clarion Project 2015).

Furthermore, ISIS has also been creating Sharia institutes, which are the most common institutions within its territory. The purpose of such institutes is to teach people about Islamic dogmas — there are also institutions directed to women only. Regarding children's education, school curriculum is focused on the Islamic sciences (study of the Quran, for example) rather than secular subjects such as physics or mathematics. It is important to highlight, however, that ISIS sees itself not as a terrorist organization indoctrinating children, but as a real sovereign state educating its citizens (Caris & Reynolds 2014).

Another major component of ISIS' caliphate vision is the institution of Islamic law as the sole source of authority within the state. ISIS operates courts, based on sharia law. With that, the considered good Islamic manners according to the extremist interpretation of Quran are required — gender segregation is

enforced and women must wear the burqa in public, for example (Clarion Project 2015). Through a harsh judicial system, ISIS also practices serious forms of punishment (known as hudud), which are reserved for the most egregious offenses under Islamic law (Caris & Reynolds 2014). The Hisbah, how the “morality police” is called, patrols the streets of ISIS in order to ensure that sharia law is being followed — punishments for transgressions of sharia law include flogging, amputation and death (Clarion Project 2015).

It is possible to affirm that these acts are also part of an intimidation strategy aimed at pacifying the areas ISIS controls. By showing extreme violence to enemies, ISIS utilizes the propaganda value of fear with the conquered people. Furthermore, this tactic also includes the gruesome videos of it carrying out mass and individual murders — all replicated online, utilizing social media in order to ensure maximum visibility (Clarion Project 2015).

In order to maintain all this organization system, ISIS also maintains multiple offices of recruitment for military service. These offices of recruitment welcome any Muslim in the world who wants to enter the ISIS’ army. The potential candidates have to go through different phases of “sharia and military preparation” before being sent to the battlefield. In addition to these offices, ISIS also maintains training camps dedicated for children (Caris & Reynolds 2014).

#### 2.4.3. FINANCING

It is possible to affirm that ISIS is currently the most well-funded terrorist group in the world, being richer than several small countries (Washington Institute 2015). Unlike Al-Qaeda or other groups, ISIS has been financially self-sufficient for about eight years as a terrorist and insurgent group, before claiming its status as a caliphate (Levitt 2014).

It is estimated that ISIS’ oil income accounts for around \$3 million per day, giving it a total value of assets between \$1.3 and \$2 billion (Dilanian 2015, Chulov 2014). Such income is immensely necessary to ISIS, considering that it helps supply and maintain equipment, provide salaries for fighters, manage civilian infrastructure and administration, expand its propaganda campaign, and bribe tribal leaders (Levitt 2014). Moreover, ISIS’ oil production was estimated as being around 80,000 barrels per day, going \$40 per barrel on the black market (Barrett 2014). In order to supply domestic demand, ISIS transports crude oil into neighboring countries, refines it into low quality gasoline at makeshift refineries and takes it back to urban centers for resale within its territory. Furthermore, ISIS also sells oil to foreign customers in Turkey, Kurdistan, and Jordan (Levitt 2014). ISIS

## COMBINED JOINT TASK FORCE

has tapped into pre-existing black market routes (dated back to 1990s) and smuggling networks (dated to Saddam-era) for selling extracted crude oil to smugglers, and then transport the oil outside of conflict zones. ISIS has used for that a variety of means: tanker trucks, vans, jerry cans carried by mules, makeshift pipes, and even rafts when crossing rivers (Levitt 2014).

Moreover, for nearly a decade, AQI has benefited from donations by deep pocket donors; today, although they still exist, donations are only one relatively small source of financing for ISIS (Financial Action Task Force 2015). Even so, there is evidence that ISIS has accumulated as much as \$40 million or more over the last two years from donors in the oil-rich nations of Saudi Arabia, Qatar and Kuwait. While Qatar and Kuwait remain problematic jurisdictions, Saudi Arabia and the United Arab Emirates have made significant strides in combating terror finance within their countries (Levitt 2014).

In addition to illicit oil sale and donations, ISIS has also been financially self-sufficient through its criminal activity enterprises. Currently, ISIS is involved in a wide array of criminal activities, such as livestock stealing, foreign passports sales, taxing minorities, extortion, kidnappings of civilians for ransom payments, among others. ISIS has also robbed banks, the Central Bank of Mosul included (Levitt 2014). Furthermore, a great amount of “taxes” is levied on companies and individuals. The second-largest revenue stream to ISIS — after illicit oil sales — is selling historical artifacts in the black market. More than a third of Iraq’s 12,000 archaeological sites are under ISIS control, and many of these items — dating back to 9,000 BCE — are smuggled into Europe via Turkey, Iran, and Syria (Levitt 2014).

It is still possible to affirm that about 20% of ISIS revenue comes from kidnapping ransom payments — France has probably paid \$18 million for four of its captured journalists in April 2014, for example (Levitt 2014). ISIS has been kidnapping hundreds of individuals, including local Iraqis, Syrians and members of ethnic minorities, as well as Westerners, and East Asians — while ISIS does extract ransom payments from some of them, it brutally murders others in order to send a political message to the world (FATF 2015). Estimates indicate that kidnapped Yazidi women and girls forced into marriage or sex slavery range from 2,500 to 4,000 (Watson 2014). Women are frequently sold at a low price, however, often as low as \$10, mainly to attract more ISIS recruits who would buy them<sup>7</sup> (Keating 2014).

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<sup>7</sup> According to United Nations investigators, about 2,500 women and children have been enslaved by ISIS — they are specially captured from Christian and Yazidi groups (Keating 2014).

## 2.5. THE RESISTANCE AGAINST ISIS

The rise of ISIS in Syria and Iraq led to regional responses in both countries, with a range of different actors all willing to contain the radical group's spreading. Such movements have been set in motion, in fact, prior to the U.S.-led coalition's assembling and represent a variety of interest on the ground.

In Syria, the fight against ISIS is headed mainly by Bashar al-Assad's army together with Hezbollah fighters, with the support of Iran and other Shia militias as well. On the other hand, rebel groups, mainly the FSA, are also engaged against the Islamic State, as well as the northern Syrian Kurds, represented by the People's Protection Units (YPG), the armed wing of the Syrian Kurdish party, the Democratic Union Party (PYD). Besides their common enemy, the Free Syrian Army and the YPG have been fighting al-Assad's army and its allies since, at least, 2011, and their enmity persists. Clashes have also occurred between FSA and YPG.

In its turn, in Iraq, the forces combating ISIS are mainly consisted by the Iraqi army, headed by Prime Minister Haider al-Abadi's government in Baghdad, the Shia militias assembled and supported by Iran as well as the many Shia volunteers called upon by the Iraqi Ayatollah Ali al-Sistani, and the Kurdish Peshmerga in the northern territories. Nonetheless, tensions between the Kurds and the central government in Baghdad also persists, despite the common threat of ISIS.

Therefore, as it can be seen, the forces spread throughout the Syrian and Iraqi theaters that are currently combating ISIS are not necessarily aligned with the interests of the U.S. and the other members of Operation Inherent Resolve's coalition. If, on one hand, the coalition members, in general, support the Iraqi government and its army, on the other hand, they have vehemently opposed the Syrian government of Bashar al-Assad since 2011. Also, there is general support by the coalition members in relation to the Kurdish Peshmerga in Iraq and the FSA in Syria, but high suspicions remains towards the Shia militias supported by Iran in Iraq and the Hezbollah fighters in Syria. This way, the coalition has to maneuver carefully between the two operational theaters since, albeit the common battle against ISIS, it will have to be weighted to which extent collaboration with hostile actors would be useful or tolerated.

### 2.5.1. FORCES IN THE SYRIAN TERRITORY

#### 2.5.1.1. BASHAR AL-ASSAD'S FORCES AND HEZBOLLAH

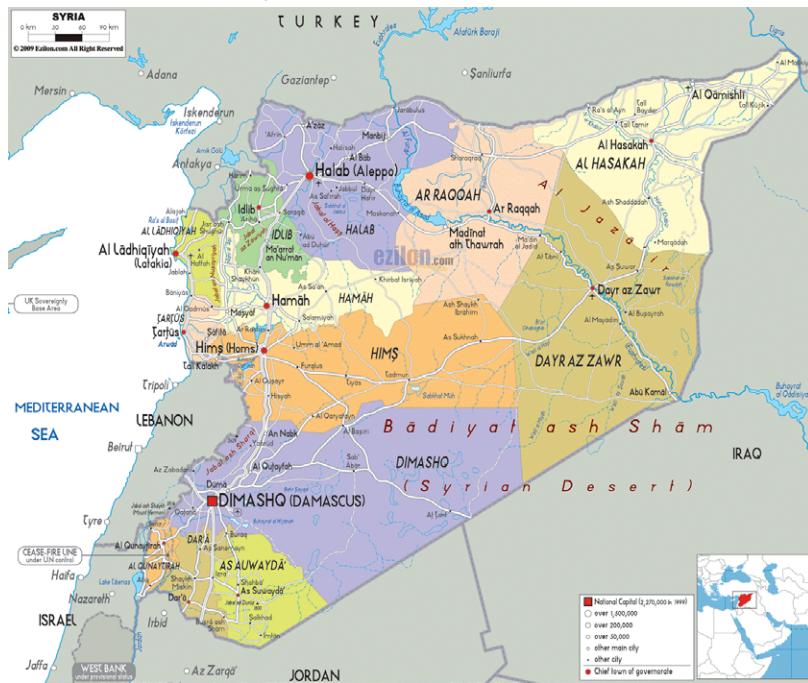
Bashar al-Assad's regime main forces on the ground consist of the Syrian

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Arab Army (SAA) and the Syrian Arab Air Force (SAAF). The SAA is considered as one of the strongest and largest forces of the region, even though its main equipment is aged and/or outdated, originated from the Soviet era — 1970s or prior (IHS Jane's 2015c). Furthermore, due to the current insurgency that the regime faces, since 2011, the SAA is overstretched through multiple fronts.

Besides the confrontation of the regime against the FSA in the capital Damascus, the SAA have many other fronts of combat. They consist of: i) the **city of Aleppo**, in the province of Halab (Aleppo), in the north, where SAA confronts the FSA in one side and ISIS on the other; ii) **al-Hasakah province** in the northeast, where FSA controls only the province capital, al-Hasakah city, being surrounded by ISIS as well as the YPG; iii) **the province of Dayr az Zawr**, where the regime holds also the capital city while it is surrounded by ISIS; iv) the central **Homs province**, where the government faces ISIS forces on its central territory and FSA rebels against the capital city of Homs; and v) the southwestern **Dar'a province**, where al-Assad clashes with the FSA (IHS Jane's 2015c).

**Image 5:** Syrian political map - provinces



Source: Ezilon n.d.

According to IHS Jane's (2015c, 3),

The SAA receives operational assistance and support from Iraq, Iran, and the Lebanese Hezbollah. It is estimated there are 2,000-5,000 Iraqi Shia militias and 1,000-1,500 Iranian Revolutionary Guard Corps-Quds Force (IRGC) fighting in tandem with the SAA as well as providing training. Likewise, Hezbollah has provided advice and logistical support to the Syrian government and is also said to have protected supply lines as well as monitored rebel positions near the border between Syria-Lebanon.

The SAA forces have declined from a total of 325,000 in 2011 to a lower level of 178,000 in 2014, even though the remaining troops are loyal and combat-tested with more than two years of recent fighting at least. In regard to SAA's tanks, they have taken heavy losses, with an estimated of, at least, 1,000-1,800 T-55, T-62, and T-72 lost, which happened mainly due to SAA's prior strategy of sending tanks into urban areas without infantry support (IHS Jane's 2015c).

Currently, the Syrian army has shifted from a doctrine that relied on heavy weapons, artillery and air force to clear rebel areas, towards relying on smaller units, as well as Hezbollah fighters and IRGC soldiers, to clear urban areas — a lighter infantry approach (Kozak 2015). If they are not able to advance, the Syrian government forces moves toward a siege and bombing campaign in order to force civilian displacement of the area. Furthermore, Bashar al-Assad has coined a new strategy of having “an army in all corners” of Syria. This means that the regime has tried to have at least an outpost in each part of the Syrian territory, a movement guided by al-Assad’s objective to be present through a united and contiguous state in order to preserve his position through a negotiated political solution (Kozak 2015).

Such posture may be seen in his attempts to portray the regime as a fighter against a transnational threat of terrorists, framing itself as the only viable alternative to a failed jihadist Syrian state. Nonetheless, such strategy of having remote, and sometimes isolated, outposts through Syria is risky: They do not necessarily translate into the ability to project force into its surroundings, and they might, as well, be overrun by an enemy’s large scale, concerted offensive (Kozak 2015).

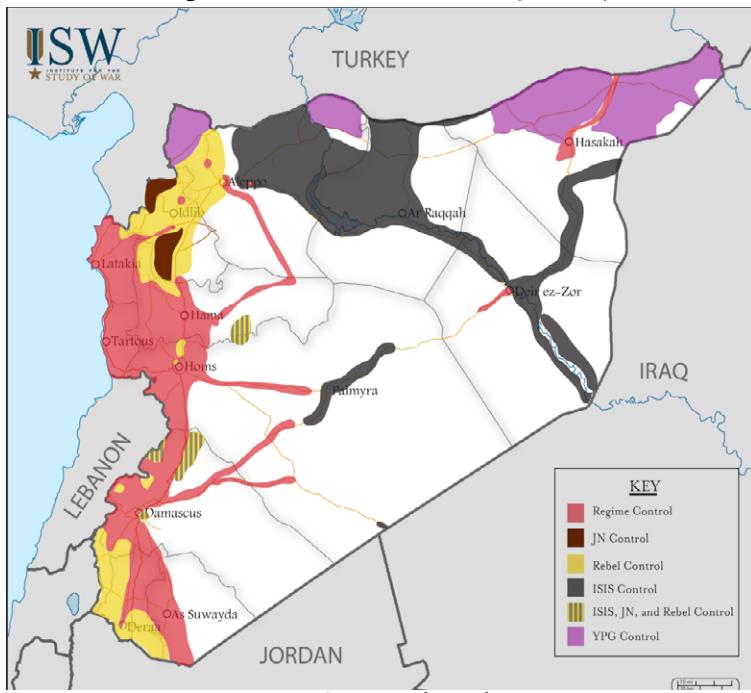
The Syrian Arab Air Force (SAAF) consists of a substantial number of combat aircrafts, such as Su-24, Su-22, MiG-25, MiG-23, MiG-21 and MiG-29. The SAAF has also been engaged in the internal conflict since the beginning, targeting the FSA and other opposition groups. It has suffered further losses of aircrafts and helicopters, with some of the air force installations being controlled by rebel forces at some periods — and even by the Islamic State (IHS Jane's 2015d). The SAAF main military air bases are located in the provinces of Idlib (Abu al-Duhur),

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Homs (Al-Qusayr, Shayrat), Hama (Hamah), Aleppo (Jirah, Kwers, Menag), and Damascus (Mezzeh) (IHS Jane's 2015d).

In relation to the regimes' air defense systems, it possesses nearly 200 active surface-to-air missile (SAM) batteries and early warning (EW) radars<sup>8</sup> — an important factor that made Western countries unwilling to take any military action against Syria. The SAM systems consist of Soviet-era S-75 (SA-2), S-125 (SA-3), S-200VE (SA-5) and the EW complexes rely on the P-12/18 radar systems (IHS Jane's, 2015d). Even though the rebels have taken several sites since 2012, the majority of Syria's air defense system remain intact, since most assets are deployed in areas still controlled by the government (the Mediterranean coastal plain, the region between Aleppo and Homs, around Damascus, and the southwestern border near the Israeli-controlled Golan Heights).

**Image 6: ISIS' control of terrain in Syria, May 2015**



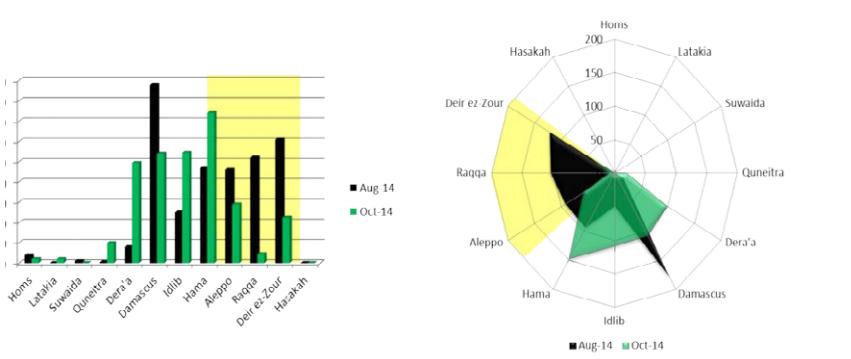
Source: Ezilon n.d.

<sup>8</sup> Early Warning (EW) radars deliver “an early notification of the launch or approach of unknown weapons or weapons carriers” (Defense 2014, 81). Therefore, they alert for incoming intruders as early as possible, giving enough time for the defense systems to operate.

The regime of Bashar al-Assad has also coordinated Hezbollah fighters against the armed opposition and the jihadist groups. The Lebanese group fully took part of the conflict in Syria from early 2013 onwards when they leaded a ground assault on the city of al-Qusayr, in the Homs province, near the border with Lebanon, against the FSA. From then on, Hezbollah supposedly maintains from 4,000 to 5,000 fighters on rotation in Damascus, Qalamoun, Homs, Idlib, Hama, Latakia, Aleppo and Southern Syria (Der'a). Al-Assad's forces also received strong support of Iran, even though since the fall of Mosul in Iraq, on June, 2014, Tehran has redirected its attention from Syria to Iraq (Kozak 2015).

It is estimated that between 3,000 to 4,000 foreign Shia fighters from Iraq, Lebanon and Afghanistan have gone to Syria to fight on behalf of the regime through the support of the Iranian Revolutionary Guards. The Iranian Revolutionary Guards supposedly operates in Damascus and Der'a, as well as in Aleppo — and the same is said about Afghan Shia militias, which came from the Hazara community (Kozak 2015). Moreover, some air defenses systems (Buk-2M and Pantsir-S1), ballistic missiles (Scud-D, Scud-C and Fateh-110) and artillery rockets (Fajr) were reportedly being transferred to the Lebanese Hezbollah by the Syrian regime, which led to several attacks of Israeli aircrafts on Syrian military bases since early 2012 (IHS Jane's 2015d).

**Image 7:** Syrian regime airstrikes by province



Source: Kozak 2015.

After the Operation Inherent Resolve airstrikes began in Syria, al-Assad's regime has taken the opportunity to pass a huge part of the burden of fighting ISIS to the coalition. Therefore, as it can be seen in Image 7, the regime could increase its own airstrikes against its opposition in other places, reallocating its bombings towards other provinces, such as Dar'a, Idlib and Hama (Kozak 2015).

## COMBINED JOINT TASK FORCE

## 2.5.1.2. THE FREE SYRIAN ARMY AND THE KURDISH YPG

The first and main rebel military group against Bashar al-Assad's government was the Free Syrian Army, established by former colonel of the Air Force, Riyad al-Asad, composed of defectors from the armed forces and from new recruits of the civilian population. Since the end of 2011, the FSA began operating under the Syrian National Council political opposition umbrella group and, in the end of 2012, it joined other militant groups to form the Syrian Higher Military Council, amidst the growing assertiveness of jihadist groups. It then became the official Syrian opposition movement's armed wing. Control of the FSA was assumed by Brigadier General Selim Idriss in the end of 2012, being subsequently succeeded as chief of staff by Brigadier General Abdul-Ilah al-Bashir al-Noeimi in February 2014 (IHS Jane's 2014).

Such umbrella of groups were the so-called moderate rebels. Nonetheless, it became known for its lack of a unified command and a unity of purpose. This resulted in grim outcomes for the group such as innumerable defeats to Islamic extremist groups and also the SAA (IHS Jane's 2015c). Such decline in relation to the jihadists became evident since late 2012, when their assertiveness and capabilities begun to ascend. From then on, many fighters from FSA have defected and its international support has also been reduced. In 2013, the frequency and intensity of FSA attacks declined sharply to only sporadic assaults, primarily in Damascus, Der'a and Aleppo. Currently it has been left with small strongholds in the north and in the south, as well as small pockets around Homs and Damascus, but its attacks are routed mainly in Aleppo and, sometimes, Der'a (IHS Jane's 2014).

The first clashes between FSA and the jihadist groups in late 2012 also involved the Kurdish militia People's Protection Units (YPG), the armed wing of the Syrian Kurdish Democratic Union Party (PYD). The YPG forces clashed directly with the FSA on one front, mainly at Aleppo and al-Hasakah, and with ISIS on the other. Reconciliation came to the forefront between the FSA and YPG on September 2014, when both groups conducted joint operations against the Islamic State during its military assault towards Kobane. It is uncertain for how long they will continue to cooperate. YPG has also cooperated with the SAA during the siege of Kobane, nonetheless this does not mean that the group will accept al-Assad's regime as a legitimate government (IHS Jane's 2015c).

In relation to the weaponry held by the FSA, small-arms and other direct fire infantry weapons are believed to be the main type used by the group. According to IHS Jane's (2014, 13), "FSA fighters are typically equipped with AK-series assault rifles [...] which have been looted extensively from Syrian military stockpiles.

Individual units typically also have access to rocket-propelled grenade launchers (RPGs)<sup>9</sup>. The military group has also reportedly captured T-62 main battle tanks as well as some surface-to-air missiles, including man-portable air defense systems (MANPADS)<sup>10</sup> (IHS Jane's 2014).

Finally, regarding the international funding to the FSA, IHS Jane's (2014, 16) states that

the combination of the FSA's own declining capabilities over the course of 2013-2014, and the parallel shift in international focus from toppling President Bashar al-Assad to countering the spread of the Islamic State, has prompted a significant decline in international support for the FSA.

This shortage of funding has led the FSA to suspend fighters' wages, which has resulted in many defections. Furthermore, many of the Operation Inherent Resolve coalition's airstrikes in Syrian territory have been made without prior contact to the FSA, pointing to its marginalization in the operational theater of war. Therefore, despite all FSA efforts, the Islamic State is the current largest singular threat to the SAA.

## 2.5.2. FORCES IN THE IRAQI TERRITORY

### 2.5.2.1. THE IRAQI STATE FORCES

The current Iraqi Army (IA) was founded in 2003, after the ousting of Saddam-era previous military organizations by the U.S.-led Coalition Provisional Authority. It has been trained and mentored by the U.S., but since its withdrawal from Iraq in 2011, the IA operates with independence. According to IHS Jane's (2015a), the army consists primarily of light infantry and it has only one mechanized brigade, which received a delivery of 140 M1A1 Abrams main battle tanks in 2010.

With the rise of ISIS in Iraq, the IA saw many of its military divisions' commands disintegrate in the provinces of Anbar, Nineveh and Salehedinne, with a huge of number of soldiers' defections. Since then, the government in Baghdad

<sup>9</sup> Rocket-propelled grenades are anti-tank weapon that can be fired from the shoulder, which fires rockets equipped with an explosive warhead, usually targeting main battle tanks. It is important to notice that this kind of explosive device does not damage tanks with harder armor, differently from other more advanced MANPATS (Man-Portable Anti-Tank System).

<sup>10</sup> MANPADs (Man-Portable Air-Defense System) are also weapons that can be fired from the shoulder, but they are equipped with surface-to-air missiles, thus being targeted at low-flying aircraft, such as helicopters.

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has failed in mounting an effective counter offensive to retake its lost territory, even though operations had already started from June 2014 onwards (IHS Jane's 2015a).

In relation to the Iraqi Air Force, it was also founded after the Saddam-era structure was disbanded in 2003. Nonetheless, the Air Force has lagged behind in terms of development in relation to the Army due to the higher rates of investment required (IHS Jane's 2015b). Its missions, therefore, consist mostly of support for ground forces, infrastructure surveillance and logistics. With the exception of 12 Su-25s that Russia has provided in July/September 2014, after the request of the Iraqi government, and the Army's Mi-35s, the Air Force's air-to-ground attack capabilities are limited in range, endurance, and firepower. F-16s are expected to be delivered to the Iraqi Air Force and the United Arab Emirates has also ordered a number of Brazilian Embraer EMB-314 Super Tucano, a light strike aircraft they possess, to be given to Baghdad (IHS Jane's 2015b). Air Force's military bases are located in the provinces of Salehedinne (Al-Sahra/Tikrit, Balad), Ta'mim (Kirkuk), Baghdad (Baghdad) and Dhi-Qar (Tallil) (IHS Jane's 2015b).

With the collapse of army units in northern Iraq, nearly 40,000 Shia volunteers have responded to Iraqi Grand Ayatollah Ali al-Sistani's callings on all those capable to join the fight against ISIS. The government had no other option other than to rely upon such militias. Furthermore, the Kurdish Peshmerga forces in northern Iraq have also been deployed in areas such as Kirkuk, in the Ta'mim province, giving effective control of the city to the Kurdistan Regional Government (KRG) in Erbil. Other disputed areas between Baghdad and Erbil in the Nineveh and Diyala are also under increased Peshmerga occupation (IHS Jane's 2015a).

The Iraqi government has further requested an international military intervention in the form of airstrikes as a response to the security crisis in order to help push back ISIS. Operation Inherent Resolve has then been formed and it started to act in Iraq, as well as in Syria later on. It is important to note that in the Iraqi territory the coalition forces are not targeting oil refineries. In Syria, on the other hand, at least 12 refineries held by ISIS have already been damaged by airstrikes — assuring that they will not be used; neither by the Islamic State nor by Assad (IHS Jane's 2015a).

**Image 8:** Iraqi political map — provinces

Source: Global Security n.d.

The Iraqi government has further requested an international military intervention in the form of airstrikes as a response to the security crisis in order to help push back ISIS. Operation Inherent Resolve has then been formed and it started to act in Iraq, as well as in Syria later on. It is important to note that in the Iraqi territory the coalition forces are not targeting oil refineries. However, in Syria at least 12 refineries held by ISIS have already been damaged by airstrikes — assuring that they will not be used; neither by the Islamic State nor by Assad (IHS Jane's 2015a).

Baghdad became dependent on other forces that are not its own due to the collapse of IA and the weakness of the Iraqi government's effort to reach the Sunni population. In fact, according to IHS Jane's (2015a), the first big defeat of ISIS in Iraq came in late August 2014 after a combined force of Iraqi security forces, Kurdish Peshmerga and Shia militias, such as the Badr Corps and Kataib

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Hezbollah, freed the Shia city of Amerli in the Salehedinne province. While these ground troops entered the two-month-sieged town, the coalition airstrikes helped targeting Islamic State supply routes and combat vehicles. The same combination of Shia militias and U.S. airstrikes have also helped to retake the city of Tikrit in March 2015.

**Image 9: ISIS' control of terrain in Iraq, May 2015**



Source: Centanni 2015.

Combat has spread through many fronts in Iraq. Currently, the main ones consist of: (i) Anbar province, mainly around Fallujah and Ramadi, both taken by ISIS, involving Shia militias, the IA and the coalition's airstrikes; (ii) Salehedinne province, around the city and refinery of Baiji, Iraq's biggest, also near the border with Ta'mim province, involving ISIS, the Kurdish Peshmerga and Shia militias; and (iii) the contention of ISIS assaults near Baghdad and/or at Diyala province, both by Shia militias, the IA and the coalition.

### 2.5.2.2. SHIA MILITIAS AND THE KURDISH PESHMERGA

The Shia militias fighting alongside the Baghdad government are one of the main forces currently fighting ISIS in Iraq. In fact, according to Dehghanpisheh (2014, 2), such militias “have become the most powerful military force in Iraq since the collapse of the national army in June [2014]”. Beyond the 40,000 Shia volunteers that answered Iraqi Grand Ayatollah Ali al-Sistani’s callings to join the fight against ISIS, there are three main groups, all backed by Iran, acting in Iraq: the Badr Organization, Kataib Hezbollah and Asaib Ahl al-Haq.

All militias have political wings and they are funded, armed and trained with the help of Iran’s Quds force, the Iranian Revolutionary Guards’ branch responsible for dealing with foreign groups outside Iran. They all follow the Lebanese Hezbollah model. The three are coordinated by the Quds Force commander, Qassem Soleimani, who has already helped in many victories against ISIS. He has reportedly visited Iraq several times, bringing together weapons, electronic interception devices and drones (Dehghanpisheh 2014).

The Badr Organization is composed of 10,000 to 15,000 fighters (Dehghanpisheh 2014), headed by Hadi al-Amri, and it was originally called Badr Brigades by the time of its foundation in 1982, when it acted as a military wing of an Iranian-backed Iraqi Shia political party. Amri has fought together with Iran’s Revolutionary Guard against Saddam’s army in the 1980s during the Iran-Iraq war. After the 2003 deposition of Saddam, he has won a seat in parliament and has acted as Maliki’s Minister of Transportation in his second term. Kataib Hezbollah, whose leader is Abu Mahdi al-Mohandes, is composed of nearly 3,000 fighters (Dehghanpisheh 2014). It is known for the attacks it has committed against American forces during the U.S. occupation in Iraq — thus being considered as a terrorist group by Washington. Mohandes has been working with Iran’s Revolutionary Guards since 1983 and it has lived in exile in Iran until 2003, when he came back and was elected to parliament. He was reportedly serving as a channel of message exchange between Baghdad and Tehran and was one of the responsible for organizing the thousands Shia volunteers called by Ali al-Sistani. Finally, the Asaib Ahl al-Haq group, headed by Qais Khazali, consists of up to 10,000 fighters (Dehghanpisheh 2014) and it was a former part of the Shia paramilitary force called Mahdi Army between 2004 and 2006. Such group has also been known for the various attacks committed against U.S. and Iraqi security forces (Dehghanpisheh 2014).

The Iraqi Kurdish Peshmerga, in turn, are also acting in the northern territory of Iraq in the fight against ISIS. They are the military wing of the political par-

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ties in control of the Kurdistan Regional Government (KRG), whose recognized boundaries are the provinces of Dohuk, Erbil, Suleimaniyah, and the northern parts of Diyala and Salehedinne. Nonetheless, each of the two parties in the KRG has its own loyal part of Peshmerga, which, in fact, resulted in a weakened joint position in face of ISIS. The Kurdish political party in power at Erbil is the Kurdistan Democratic Party (KDP), faced by the opposition of the Patriotic Union of Kurdistan (PUK) party (Ali 2014).

Such weakness resulted in initial defeats on the part of Peshmerga, differently from the YPG Kurdish forces in Syria, who had always had better results. In fact, the Syrian YPG had to come to the rescue of the Iraqi Peshmerga and help in its war efforts. This resulted in modifications in the Kurdish political landscape, since the Syrian YPG is a branch of the Turkish Kurdistan Worker's Party (PKK), who conflicted directly with the KDP in Iraq. Therefore, the battle against ISIS joined the two opposing wings of Kurdish parties — even though it is uncertain until when such common ground will remain (Dalay 2015).

After the first initial waves of ISIS attacks, which found a weaker Peshmerga than what was imagined, the Operation Inherent Resolve's airstrikes and the YPG forces helped to turn the tide of the conflict and to hold ISIS' advance. From then on, the Iraqi Kurds have also received support by Iran and even the central Baghdad government has relatively allowed the sending of weapons to the Peshmerga, a development it has previously objected. This combination of concerted efforts resulted in an advance of the own Peshmerga to territorial positions it did not control before — a movement seen with distrust by Baghdad (Berman 2015).

According to Berman (2015), the Peshmerga have primarily light arms, such as AK-47s and Soviet machine guns, often mounted on unarmored jeeps, and very few anti-tank capabilities, such as American TOW missiles<sup>11</sup> and RPG-7s. Their artillery mainly consists of Soviet-era howitzers and small mortars<sup>12</sup>. From August 2014 onwards, the moment of the first ISIS assault on the Iraqi Kurdistan, western countries hurried in providing more weapons and ammunition for the Peshmerga, such as rifles, pistols and grenades. Night-vision equipment, mine detection systems, helmets, body armor, communications gear and light vehicles have also been sent as non-lethal foreign aid. Military advisors from the U.S., UK, France and Italy too have been sent to train the Kurdish fighters. Nonethe-

<sup>11</sup> TOW (Tube-launched, Optically tracked, Wire-guided) missiles are anti-tank guided missiles (Defense 2014).

<sup>12</sup> Mortars are artillery weapons designed to fire explosive projectiles bombs (the mortar) at low velocities, short-range and in a high-arching trajectory. The howitzers, on the other hand, are cannons that combines characteristics of both mortars and guns, delivering projectiles usually with medium velocities and having a tube length of 20 to 30 calibers (Defense 2014, 120).

less, even with all such efforts, Iran is still the Peshmerga's primary artillery provider, with daily shipments to the Kurds, consisting mainly of BM-14 and BM-21 truck-mounted rocket launchers (Berman 2015).

Western military aid, however, is still being limited due to the mistrust existent between Baghdad and Erbil, since the central government is wary that these weapons could one day be used against the federal forces; and the West, especially the U.S., is committed to a unified federal Iraq. Moreover, another reason for aid constraint is the fact that a high influx of weapons to the Kurds may fuel a future civil war between the political parties, or even that such equipment may fall into ISIS hands (Berman 2015).

### 3. OPERATION INHERENT RESOLVE

#### 3.1. OVERVIEW

The first airstrike conducted by the U.S. against ISIS took place on August 2014, near Baghdad. It was approved by President Barack Obama as a first step of a planned expanded fight against the terrorist group. The targeted attacks continued for a month; then, on September 10, the President announced a broader strategy to "degrade and ultimately destroy the terrorist group known as ISIL" (The White House 2014). The plan, to be carried out with the support of its western and non-western allies, contains nine lines of action: supporting effective governance in Iraq; denying ISIL safe haven; building partner capacity; enhancing intelligence collection on ISIS; disrupting ISIS's finances; exposing ISIS's true nature; disrupting the flow of foreign terrorist fighters; protecting the homeland; and humanitarian support. In the weeks following the Presidential announce, more than 60 international partners have joined the coalition to support a broad diplomatic, economic, and military response to ISIS (Lead Inspector General for Overseas Contingency Operations 2015).

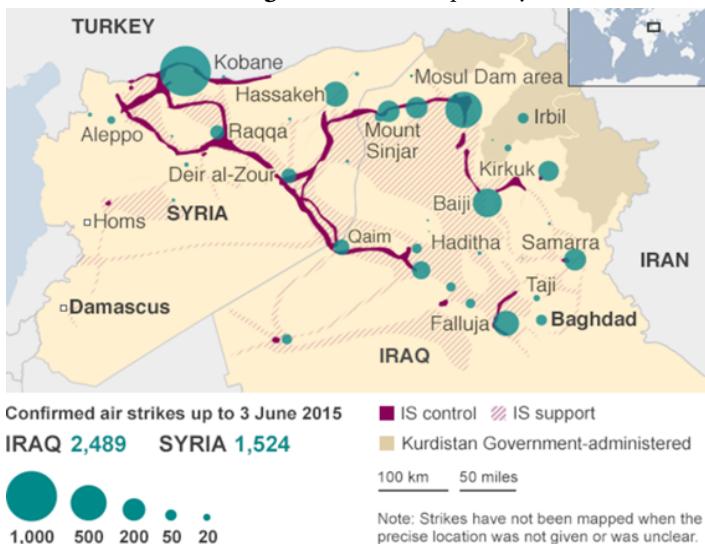
In order to accomplish the aforementioned objectives, the President issued two main military lines of action. First, the U.S.-led allied forces will conduct a systematic campaign of airstrikes against ISIS and other selected targets. These airstrikes are directed to strategic locations, such as buildings, fighting positions, supplying lines, oil facilities, or any other target that could contribute to weaken ISIS. Second, the U.S. and its allies will increase their support to selected forces fighting the group on the ground. This way, the U.S. has been sending troops to assess and train Iraqi and Kurdish security forces. It does not mean that the U.S.

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will engage in another ground war in Iraq, since the American ground forces will not be employed in combat missions (The White House 2014).

In October 15, 2014, the U.S. Central Command (CENTCOM) announced that the U.S. led military operations against ISIS had been named Operation Inherent Resolve (OIR). The OIR nomenclature applied retroactively to all military airstrikes that had been conducted against the group in Iraq and Syria (United States Central Command 2014). A couple days later, the Secretary of Defense designated OIR an Overseas Contingency Operation (OCO). In November 2014, President Barack Obama submitted to Congress a \$5.6 billion OCO budget amendment for Fiscal Year 2015 to fund OIR and additional U.S. programs to support regional stabilization (Lead Inspector General for Overseas Contingency Operations 2015, 2). For the Fiscal Year of 2016, \$8.8 billion in OCO funding have been requested specifically for OIR or the counter-ISIS strategy (Lead Inspector General for Overseas Contingency Operations 2015, 3).

The main purpose of OIR is supporting defensive and offensive military operations by Iraqi military and Kurdish forces and weakening ISIS' ability to support its operations in Iraq from its bases inside Syria (Katzman, et al. 2015). As stated above, the airstrikes are the coalition's main weapon to jeopardize ISIS capabilities. The coalition forces have used combat aircraft, armed unmanned aerial vehicles (UAVs), and sea-launched cruise missiles to conduct more than two thousand strikes in Iraq since August 2014, and in Syria since September 2014. (Katzman, et al. 2015). The partner nations conducting airstrikes in Syria, besides the U.S., are Bahrain, Canada, Jordan, Saudi Arabia, the UAE and Qatar. Western and other non-Middle Eastern allies of the United States, such as Australia, Belgium, Denmark, France, Netherlands and the United Kingdom, are conducting airstrikes only in Iraq (U.S. Department of Defense 2015). Until June 3rd, 2,835 airstrikes have been conducted in Iraq and 1,463 in Syria. In Image 10, it is possible to see where the main areas of coalition action are located.

**Image 10: OIR in Iraq and Syria**

Source: BBC 2015.

In Iraq, the national government approves the operations. However, in Syria the situation is very different. President Obama has already declared that the United States will not coordinate its actions in Syria with the Assad regime, nor does it seem to be the intention of the Syrian government. Here lies the most central point for criticism concerning the U.S. approach on the Middle East: the strategy suffers from a basic contradiction in not confronting the regime of Bashar Al-Assad. President Obama has stated that U.S. engagement in Syria will remain focused “narrowly” on assisting Syrians in combatting the Islamic State, while continuing “to look for opportunities” to support a political resolution to Syria’s conflict (Katzman, et al. 2015). At the same time, it lacks effective partners who can advance against ISIS-held territory on the ground. “These critics assert that achieving stated Administration objectives requires U.S. or other ground combat troops and expansion of the mission to include pressuring Assad to accept a political solution” (Katzman, et al. 2015).

### 3.2. MILITARY CAPABILITIES OF THE COALITION

A Combined Joint Task Force is an ad hoc coalition of armed forces of two or more nations. In this case, the international coalition brings more than

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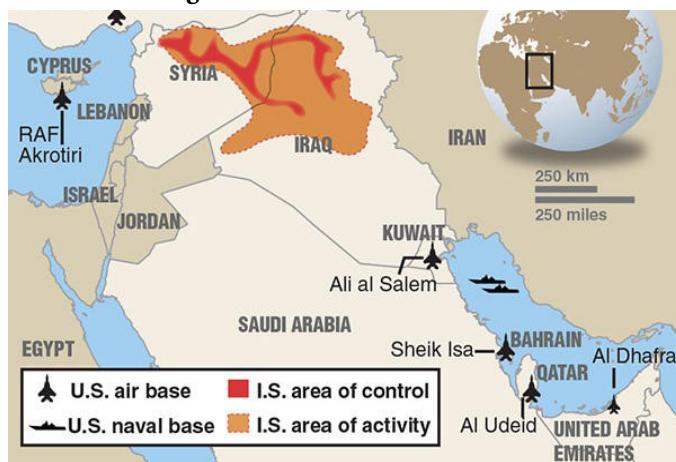
60 countries to join efforts in order to combat the terrorist threat posed by ISIS. Seven allied countries that represent some of the main powers fighting ISIS (U.S., UK, France, Australia Canada, Jordan and Saudi Arabia) have been selected to represent the coalition, and their military capabilities to fight ISIS are listed below.

### 3.2.1. UNITED STATES

The United States Central Command (CENTCOM) is responsible for leading the military campaign to deny ISIS safe haven, including airstrikes, and building the capacity of Iraq's security forces and moderate Syrian opposition fighters (Lead Inspector General for Overseas Contingency Operations 2015). President Obama has authorized the deployment of approximately 3,100 U.S. military personnel to Iraq for advising Iraqi forces, gathering intelligence on the Islamic State, and securing U.S. personnel and facilities (Katzman, et al. 2015).

US Air Force assets being used to strike ISIS targets are located at bases outside of Iraq, including Al Udeid Air Base in Qatar, Ali al Salem Air Base in Kuwait, and Al Dhafra Air Base in the United Arab Emirates (UAE), as shown in Image 11. Strike missions are being conducted by F-15s, F-16s, and B-1Bs, as well as F-22s (IHS Jane's 2015). Also, CENTCOM has allocated some capabilities specifically to OIR as presented by the Military Balance (IISS 2015): 1,400 personnel; 01 infantry division headquarter; 01 marine company; 01 company of attack helicopters with AH-64D Apache; MQ-1B Predator (attack drone). In mid-October 2014, the USAF deployed 12 A-10A Warthog ground-attack aircraft to the CENTCOM, along with 300 support personnel (IHS Jane's 2015).

It is important to note that much information is classified. There is a possibility that the Command is utilizing bases in Cyprus, Turkey, Bahrain, the UAE and Saudi Arabia to launch the attacks. Furthermore, CENTCOM can reallocate any military means available if approved.

**Image 11:** US bases in the Middle East

Source: SBS 2014.

### 3.2.2. UNITED KINGDOM

The United Kingdom first operated in Iraq by humanitarian supply drops to Yazidi refugees in August and the delivery of arms to Kurdish Peshmerga forces in Northern Iraq by RAF Hercules transport aircraft, as well in reconnaissance missions using the RC-135 Rivet Joint (electronic intelligence)<sup>13</sup> and Tornado. UK airstrikes against ISIS in Iraq, by RAF Tornados flying from Cyprus, began after the murder of British and U.S. hostages, a formal request for assistance by the Iraqi government and British parliamentary assent (IISS 2015). In Syria, the United Kingdom takes part in reconnaissance missions, using its Reaper UAVs and Rivet Joint aircraft. The air campaign conducted by London is named Operation Shader. The UK uses bases in Cyprus, Iraq, Kuwait and Qatar for the operation. Below, the United Kingdom assets for Operation Shader, as presented by the Military Balance (IISS 2015): in Cyprus, 01 Fighter Ground Attack Squadron with 08 Tornado GR4; 01 Voyager KC3<sup>14</sup>; 01 C-130J Hercules; 04 CH-47D Chinook HC4; 02 Airborne Early Warning & Control E-3D Sentry; 02 ASTOR. In Iraq: 12 Training Team. In Kuwait: 40 Training Team; MQ-9A Reaper. In Qatar: 01 RC-135V Rivet Joint.

<sup>13</sup> The aircraft is used to gather signal intelligence and to support operations with real-time on-scene information.

<sup>14</sup> Aerial refuelling tanker aircraft.

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### 3.2.3. FRANCE

France was the first European state to engage in military action in Iraq supporting the fight against ISIS, flying intelligence, surveillance and reconnaissance and strike missions with nine Rafale combat aircraft, plus in-flight refueling tankers from the permanent French base in the United Arab Emirates (IISS 2015). The French air campaign against ISIS is named Operation Chammal. Early this year, France has deployed its aircraft carrier, Charles de Gaulle, to fight against ISIS in Iraq alongside the U.S.. Flying from the French carrier are 12 Dassault Rafale M multi role fighters, nine Dassault Super Étendards and one E-2 Hawkeye (Hest 2015). In total, French air assets in the strikes against ISIS now include the aircraft sailing along on the Charles de Gaulle and six Armée de l'Air Dassault Rafales, six Mirage 2000Ds, one C-135FR air-to-air and one Atlantique 2 maritime patrol aircraft (Hest 2015).

### 3.2.4. AUSTRALIA

Operation Okra is the Australian Defence Force's (ADF) contribution to the international effort to combat ISIS threat in Iraq. About 900 ADF personnel have been deployed to the Middle East in support of Operation Okra. These personnel make up the Air Task Group (400 personnel), the Special Operations Task Group (200 personnel) and Task Group Taji (300 personnel) (Australian Government 2015). Also, Australia has deployed the following military means to the United Arab Emirates, where Operation Okra is based: 01 Fighter Ground Attack Detachment with 06 F/A-18A Super Hornet; 01 E-7A Wedgetail used for intelligence, surveillance and reconnaissance missions; 01 KC-30A (IISS 2015).

### 3.2.5. CANADA

Canada joined the coalition by the end of 2014. Its air campaign is named Operation Impact, and it conducts airstrikes in Syria and Iraq. Assets and personnel include six CF-18 Hornets, CC-150T Polaris refueling aircraft and two CP-140 Aurora surveillance aircraft were dispatched on Operation Impact in October 2014; the operation is based in Kuwait (IISS 2015). The first Canadian airstrike took place on November 2, 2014, targeting construction equipment near Fallujah, a militant stronghold about 71 kilometers west of Baghdad (CBC News 2014). Also, Canada has sent 70 training team personnel to assist the preparation of Iraqi security forces.

### 3.2.6. JORDAN

Jordan joined the U.S.-led military coalition against ISIS in September 2014, first attacking sites located only inside the Syrian borders. In December 24, ISIS captured a Jordanian fighter pilot, Lieutenant Muath Al-Kasasbeh. Rumors of his murder by the group spread up until February 4, when ISIS released a video where the pilot was burned alive. On that same day, the Jordanian government announced, in retaliation, the expansion of the airstrikes to Iraq as part as the new operation to fight ISIS, “Operation Martyr Muath” (I24 News 2015). The operation is conducted by the Royal Jordanian Air Force (RJAF), mainly through its fighter ground attack aircraft. The RJAF ground attack force is equipped with two squadrons with F-16AM/BM Fighting Falcon and one squadron with F-5E/F Tiger II (IISS 2015).

### 3.2.7. SAUDI ARABIA

The Kingdom of Saudi Arabia is part of the international coalition since September 2014. It has sent warplanes to strike ISIS targets in Syria and agreed to host efforts to train moderate Syrian rebels to fight ISIS (Fantz 2015). Saudi Arabia has the best-equipped armed forces in the Gulf region, and its Air Force can employ varied aircraft in its campaign against ISIS. The Royal Saudi Air Force (RSAF) possess a large force of ground attack fighters: two squadron with F-15S Eagle, three squadron with Tornado IDS and Tornado GR1A, and two squadron with multi-role Eurofighter Typhoon. It also can engage in intelligence, surveillance and reconnaissance missions with its Airborne Early Warning & Control aircraft E-3A Sentry and Saab 2000 Erieye, besides many other tanker and transportation aircrafts (IISS 2015). However, Saudi Arabia is now dividing its efforts as it leads simultaneously another coalition involved in the Yemeni situation.

## 3.3. MILITARY CAPACITIES OF ISIS

ISIS personnel numbers up to 35,000 core and associated fighters. It relies highly on the flow of foreign fighters, since foreign jihadists from over 80 countries compose one third of its personnel. The troops are highly motivated and the group has a cadre of effective military commanders. “Some of these are former Sunni and al-Qaeda insurgents. In Iraq, others were drawn from Saddam’s officer corps; and in Syria, from a mix of local and foreign commanders, including Chechens, Saudis and North Africans” (IISS 2015, 304-305). ISIS has developed

a guerrilla strategy for its attacks on Iraqi security forces and Sunni resistant, employing bombings, assassinations, but also:

[...] assembling more conventional forces, including effective ‘flying columns’ of fighters in pick-up trucks, armed with heavy machine guns and other direct-fire weapons. It uses mortars and artillery to bombard enemy positions for a day or more, undermining the morale of its opponents; small mobile units then deploy to swarm and seize bases and towns by capitalizing on surprise and panic. Suicide bombers are used to breach obstacles and destroy checkpoints before close assault. These tactics have made ISIS able to disperse and regroup quickly, rendering it less vulnerable to Iraq’s limited air capabilities and conventional counterattacks (IISS 2015, 305).

The most common source of weapons used against U.S. and other Coalition forces in Iraq is the former Saddam Hussein’s weapon stockpiles. ISIS now possesses scores of Iraqi military equipment originally provided by the United States, from Humvees and cargo vehicles to small arms, including SA-7 and Stinger surface-to-air missiles (Fox News 2014). ISIS is reported to have captured T-54/55, T-72, and M1 Abrams main battle tanks, M1113, M1114 and M1117 armored cars, Kornet anti-tank weapons (IISS 2015) and at least one Scud missile. In June 2014, ISIS took control of the Mosul Airport, and possibly sized UH-60 Black-hawk helicopters and cargo planes, but is very unlikely that the group may employ them (Lake, Jamie and Visser 2014). There is no consensus on ISIS’ military capacities, and they are in constant change. Nevertheless, it is necessary to highlight that, even with the capabilities aforementioned, ISIS will not necessarily have the training, spare parts or ammunition to operate this equipment on a routine basis (IISS 2015).

### 3.4. INTELLIGENCE OPERATIONS

According to Johnson (2008), most professionals in the United States Intelligence Community define intelligence in two broad senses. The first one is that of information or data from around the world that is collected — via clandestine or overt methods —, processed, thoroughly analyzed and then disseminated to a final consumer<sup>15</sup>. This is the “strategic” approach of intelligence, the one that focuses on information that caters to a policymaker who will then be able to formulate decisions based on his or her assessment of the received product. On the

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<sup>15</sup> The perpetual process of planning, collection, processing, analysis and dissemination is commonly referred to as the Intelligence Cycle. It is under these general guidelines that most intelligence services function and perform their tasks enabling national security.

other hand, there is the “tactical” approach to intelligence, which is essentially the same as the aforementioned, but with the additional factor that it strictly partakes to “events and conditions on specific battlefields or theaters of war, what military commanders refer to as ‘situational awareness’” (Johnson 2008, 1). In other words, this type of intelligence activity, also known as Defense Intelligence, has the warfighter as the primary target of its support.

Nevertheless, it is necessary to mention that intelligence by itself cannot win a war (Marques 2015). Clausewitz’s Theory of War recognizes that information in the form of intelligence can indeed provide a valuable edge to the combatant and, therefore, reduce friction. However, his theory emphasizes the primacy of command as the main gear towards achieving military goals, not the collection and analysis of intelligence. Thus, intelligence makes itself useful in the battlefield by reducing uncertainties about the enemy at hand (Marques 2015). It is a secondary tool that aids the decision-making process. It assesses capacities and intentions, which can enable commanders to trace the best possible plans. That is to say, states are not required to have excelling defense intelligence services to win a war. However, they can surely attain a decisive advantage over their adversaries by having this asset on their side.

In this interim, Coalition Forces and their allies are fortunate enough to possess some of the most formidable defense intelligence services in the world, namely under the leadership of the United States of America. Their access to top-notch technology and ISR<sup>16</sup> systems enables these forces to be in the forefront of intelligence collection capabilities on the battlefield. Also on their side is a team of highly trained analysts, who underwent rigorous professionalization with the advent of the Global War on Terrorism, and are theoretically prepared to provide early warnings and avoid failures at all costs (Lead Inspector General for Overseas Contingency Operations 2015, 31). With these assets, Coalition Forces are expected to utilize intelligence as a strategic enabler to attain their operational objectives against the threat of ISIS on the ground with more precision, accuracy and timeliness<sup>17</sup>.

That being said, it is not as simple and straightforward for professionals to

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16 ISR (intelligence, surveillance and reconnaissance) is the continuous and coordinated effort to monitor activities on the ground and, therefore, support operations. ISR systems include all sorts of technical novelties, from multi-purpose satellites to unmanned aerial vehicles, but can also include collection from simpler, more traditional means, such as aircrafts or human sources.

17 The pressure for better intelligence on ISIS’ activities is quite real, mainly after the heavy criticism that U.S. intelligence has recently underwent regarding this issue. Critics mention that CIA and the intelligence offices of military services have failed on predicting the rise of the terrorist group and have continued to do so by not knowing enough about its status to be properly able to foresee its next steps (Ignatius 2015).

plan ahead intelligence operations and serve the commander's needs. They must have several variables in mind and carefully weight them down before proceeding with military action (Kringen 2014). On the strategic sphere, the tragedy of September 11 is an ever-present shadow that reminds how intelligence failures can be devastating for a nation. This also spills over to the tactical and operational side on task forces abroad, where mistakes can be equally harmful to combatants and local populations. Long-thought calculations that put all factors involved into consideration are therefore more than an obligation to operational commanders (Kringen 2014).

### 3.4.1. INTELLIGENCE COLLECTION

Intelligence can be collected by numerous means, each with its own advantages and disadvantages. Means of intelligence collection are mainly divided into two broad categories: *human intelligence* (HUMINT) and *technical intelligence* (TECHINT). Human intelligence or espionage is the most traditional form of spying, provided by human assets. Contrary to what popular culture suggests, it largely involves sending professionals called case officers (CO)<sup>18</sup> to foreign ground for the attempt of recruiting spies from these locations<sup>19</sup>. Ideally, a deployed CO will have as his or her job recruiting and administrating a web of spies (Wippl and D'Andrea 2010).

Undercover COs must find the best candidates for being spies. These can be disgruntled defectors, secret informants, captured prisoners, refugees, escapees, exiles, wartime occupied populations, political opponents and many more. After careful psychological evaluation, assessing weaknesses and strengths, the candidate can be approached and receive an offer to be hired as an agent after properly convinced — either by good disposition from the candidate or more forceful methods to ensure compliance, such as blackmailing. From the moment the candidate becomes an agent, he or she will regularly meet with the CO to exchange information in a secure way (United States 2011, Wippl and D'Andrea 2010).

It comes with no surprise that there are several risks involved in HUMINT. COs will sometimes obtain false and deceptive information from their sources,

<sup>18</sup> To avoid confusion, case officers are not the spies themselves. A person that is recruited by a case officer is a spy him or herself. Only on a small percentage of occasions will a CO do the job of a spy, like stealing documents or watching their surroundings.

<sup>19</sup> COs often do not use nationals to conduct HUMINT and recruit foreigners instead because of how easier it is for them to obtain sensible information or infiltrate organizations due to affiliations in language, culture, tradition, appearance and so on. This is especially true when it comes to infiltrating terrorist organizations like ISIS.

who are prone to lying or simply passing along the wrongful version of what they believe is true. An agent's penetration on a target organization often takes a very long time to develop and mature as well, being susceptible to weak assessments in the meantime. Sources and methods of HUMINT are therefore fragile, and must be dealt with extreme caution and care. On the upside, HUMINT provides direct access to a targeted organization, enabling deception and influencing when rightly done. It is the most direct way of getting to know what the adversary is thinking, speaking or planning. Lastly, it is one of the easiest ways of penetrating organizations with low communications ("low signature") with the outside world, such as terrorist groups (Wippl and D'Andrea 2010).

On the other end of the collection specter, there is *technical intelligence*, which, not surprisingly, relies on technology to be performed. Technical means of gathering intelligence mainly encompass three categories. Firstly, there is *signals intelligence* (SIGINT). This activity consists on the interception and exploitation of data transmissions, being it speech or text, such as electronic communications, or other forms of transmission, like radar signals. Technicians can perform SIGINT by rudimentary means of wiretapping to highly complex methods of electronic interception utilizing sophisticated hardware and software<sup>20</sup>. As practically all sorts of intelligence products, signals are not always prone to straightforward interpretation. They can be written or spoken on an unknown language, encrypted by seemingly unbreakable codes, or simply lost among a sea of useless information (commonly referred as "noise") (United States 2011).

Next, there is *imagery intelligence* (IMINT). This refers to information that is collected in the form of pictures or footages by surveillance and reconnaissance systems. Devices that capture these images can range from satellites, to aircrafts, to UAVs. Their finished product are usually images from a determinate target seen from above, at the highest resolution available (United States 2011). In the case of the Task Force, considering that, as aforementioned, the coalition possesses the top ISR systems in the world, the quality of these photos and videos are among the best that can be captured or recorded. Even so, there are many complications with IMINT to be taken into consideration.

The best way to exemplify this is by displaying the controversies that surround drone strikes conducted by two members of the Task Force: the U.S. and the UK. On the past decade, civil society entities have heavily criticized both countries for the numerous accidental civilian deaths that resulted from the tar-

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<sup>20</sup> SIGINT is particularly valuable on a world where even terrorists organizations such as ISIS increasingly have to rely on electronic data transmission to establish communications, which makes them susceptible to interception, albeit not sufficiently naïve as to not attempt to mask their messages.

geted killing operations of terrorist groups on Afghanistan, Pakistan, Yemen and Somalia. They point out how imagery from drones, albeit all the high-end technology imbued to them, have no way of providing controllers pinpoint accuracy on selected enemy targets (Ronconi, Batista and Merola 2014). This is directly correlated to the limitations of IMINT, as images captured from a single angle, such as the case of those captured from UAVs, cannot give out a completely clear panorama of what is being targeted, leaving room for multiple interpretations and therefore mistakes to happen<sup>21</sup>.

The third form of technical collection is *measurements and signatures intelligence* (MASINT). It focuses on analyzing quantitative and qualitative traits of the physical attributes of targets in order to provide measurements and signatures. It is an incredibly technical discipline that requires rigorous expertise and is further subdivided into more specific categories such as nuclear, acoustic, biological, electromagnetic, etc. In simple terms, MASINT collects and analyzes what is “left behind” by targets, identifying the complex nature of “trails” and subsequently quantifying samples (United States 2011). While MASINT can be useful on the strategic level when it comes to global counterproliferation efforts and such, it is quite valuable on the battlefield too when it comes to detecting recent movements of an adversary battalion or its lines of supply, for example (Richelson 2001).

Aside from the two broad collection categories, also a third collection discipline has exponentially developed and acquired more space within intelligence services in the past years. It is the field of *open source intelligence* (OSINT), a personal favorite to the advocates of the ever-expanding possibilities of the Digital Era. OSINT relates to the analysis of all sorts of data and information that is not collected clandestinely, but from sources that are publicly available in the print, digital or spoken form – mass media, public data, grey literature<sup>22</sup>, online resources, etc (United States 2011). It has been historically devaluated by those who only saw secret and clandestine information as truly useful, but it has seen a dramatic shift in its favor in the last decades with the advent of the Internet and the increased access to information that this made possible (Pallaris 2008).

Much like intelligence professionals will often fail to see the relevance of a balanced approach to OSINT — which is recognizing the complementarity of overt and covert information in the production of intelligence — on the spec-

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<sup>21</sup> Still, IMINT is the main form of intelligence utilized by Task Force members to seek out terrorist head leaderships in the Middle East. Even when we consider that information on targeted killing operations is strictly confidential, it is logically implied that OIR will choose to neutralize these key individuals by means of calculated airstrikes – which could entail all the aforementioned setbacks.

<sup>22</sup> Hard-to-find published material with small or limited distribution.

trum of strategy, commanders will rarely give the importance that it deserves for operational support (Hulnick 2012). It is important to highlight that globalization has brought a reality where there is an increasing merge between the open source environment and the classified domain, as more and more people around the globe are instantly connected and exchanging information (Pallaris 2008). Terrorist organizations are present on the digital domain as well and they will sometimes let out valuable information, if only there is someone ready to capture the message. Albeit the susceptibility that OSINT has to inaccuracy of information, overlooking this collection discipline might not be the wisest choice for a commander (Hulnick 2012).

### 3.4.2. INTELLIGENCE ANALYSIS

Once collection has been sorted, decision-makers must also have in mind that the process of analysis — which involves transforming collected information into a finalized intelligence product<sup>23</sup> — has its own factors to be taken into consideration. Intelligence analysis is a growing discipline that only recently saw significant efforts towards professionalization, mainly geared by the recognition of institutionalized failures that led to the permission of the September 11 attacks. That being said, it does not yet have rigid, strict guidelines for its conduction (Bruce and George 2014). Nonetheless, several studies have already displayed what the main factors that ultimately result on mistakes within intelligence services. Most of them partake to the intelligence support of strategy, but some of the lessons apply to tactical and operational support too (Kringen 2014).

First, there is the tendency on solely relying on one collection discipline for intelligence production. As thoroughly exposed in the previous section, each one of them has its uniqueness and particular strength, but they also have their inherent limitations, either by technological or human constraints. For that reason, analysis ideally derives from “all-source” collection, which attempts to take the most advantage as possible from all collection disciplines and ensure the accuracy of a finished product by shedding light into the “bigger picture” (Bruce and George 2014). Next, there is the difficult task of constantly attempting to tackle the cognitive bias that an analyst may have. This refers to regular conditions of the

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<sup>23</sup> This is where analysts will gather raw data and attempt to “connect the dots” to form good intelligence products. Intelligence professionals engaged with OIR are currently working their way towards having some of these dots connected in order to address pressing concerns that policymakers and military commanders may have on the strategic and tactical levels alike. They will try to answer urgent questions such as “who is buying oil from ISIS right now?”, “where is al-Baghdadi hiding?” or “how and when will ISIS strike next in Syria or Iraq?”

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human mind that will sometimes hamper the clear, unbiased production of intelligence, such as group-thinking, mirror-imaging or clientism<sup>24</sup> (Bruce and George 2014). In the case of the Task Force, this should be watered down by the presence of intelligence officials from multiple backgrounds and nationalities, should they work together to resolve the issues at hand.

We then stumble upon the issue of the political neutrality of analysis. Ideally, intelligence, as a bureaucracy whose function is providing the necessary support for policymakers and commanders, should never prescribe policy, being completely unpartisan to any issue at hand. However, intelligence does not always manage to stay free of political influence, especially when there is a lot at stake, which leads to distortions in analysis that will work to fit into a certain political view (Bruce and George 2014). Such was the case of the invasion of Iraq based on the mistaken assumption of the existence of weapons of mass destruction in Saddam Hussein's possession, and, if not properly handled, could easily lead to hasty decisions surrounding the threat of ISIS.

The last issue worth mentioning is the one that concerns the reluctance to share intelligence. When analyzing the failures that preceded 9/11, congressional commissions found that the U.S. Intelligence Community as a whole had practically all the information necessary to stop the attacks from happening. However, information was so compartmentalized and agencies – notably the CIA and the FBI – were so unwilling to cooperate with each other that their intelligence analysis capabilities were nullified (Kean and Hamilton 2004). This pointed out to the pressing importance of establishing a “need to share” culture, as opposed to the traditional “need to know” (Bruce and George 2014). When we talk about international coalitions, this could certainly be paralleled to a country’s reluctance to share precious information with its allies and regional partners.

### 3.4.3. COVERT ACTION

Although not commonly, there are times in which intelligence services will not exclusively assume the passive role of providing support to final consumers, but rather take the proactive stance of conducting secret operations by itself after being commanded to do so. In covert action (CA), intelligence will attempt to

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<sup>24</sup> Evidently, cognitive biases will not always be the sole responsible factors for mistakes in analysis. In many cases, intelligence failures will derive from the simple lack of critical thinking that an analyst may have because of a variety of aspects, but most frequently due to insufficient training in the discipline of analysis. This happens more often with professionals in intelligence services that do not have years of tradition in analysis (which is not the case of the United States, the United Kingdom and France, for example), but it is not limited to them.

influence what happens within another state or organization without revealing the origins of said influence. Notwithstanding, there are many types of CA – most of which are employed with similar means to HUMINT, relying frequently on human assets. Covert economic, political and paramilitary action, as, for example, disrupting trade, influence elections and providing weapons to non-state actors<sup>25</sup>, usually apply to state targets. There are far more controversial type of CA aims against terrorist groups like ISIS and at times other countries as well. Denominated “wet operations”, they involve assassinations, assisting coup d'états, fostering sedition and subversion, conducting covert propaganda and so on (Godson 2000).

Wet operations can be very useful in counterterrorism missions, as proven in the past by French and Israeli intelligence successes in Africa and the Middle East. Intelligence services can find ways to penetrate and harass terrorist cells from within by “tampering with their communications, sabotaging their operations and sowing discord among members” (Godson 2000, 182). Nevertheless, considering the risks involved in covert action, both physical and political, and the upkeep of maintaining plausible deniability, policymakers and commanders do not easily deploy officers for these operations. CA involves a carefully calculated decision by policymakers and commanders (not by intelligence professionals themselves) as to the collateral damages it might bring to foreign populations or operatives on one hand and the benefits it can result to domestic populations and national or international security on the other.

#### 4. THE POLITICAL SITUATION OF THE MIDDLE EAST

Finally, in order to fully understand the complexities behind the battle against ISIS, it is necessary to point out the current political context of the Middle East region. According to Gause III (2014), the best analytical framework to understand Middle Eastern politics and conflicts today is as a new cold war between Iran and Saudi Arabia. Such regional dispute would materialize in the internal disputes of other states through the use of military “proxies” — groups supported

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<sup>25</sup> That the West has been clandestinely providing material and tactical support to non-state actors in Iraq and the Levant – even under heavy criticism from developing nations – is no well-guarded secret. These paramilitary operations, that were first limited to destabilizing the Assad regime in Syria by aiding the FSA, then started gearing themselves more towards countering the presence of ISIS by helping Kurdish forces (IHS Jane's 2014). It is important to highlight that these operations are not limited to the Task Force members, as Iran's Quds forces actively support Shia militias in the region (Dehghanpisheh 2014).

by either Tehran or Riyadh, diplomatically and militarily.

This is especially the case of Syria. The country is one of the main allies of Iran and is fundamental to the strategy that Tehran had been developing in the Middle East region in the 2000s. Mohns and Bank (2012, 25) call such strategy as the Resistance Axis, and state that:

From the mid- to late 2000s, Middle East regional politics had been characterized by a polarization between pro-Western status quo powers — mainly Egypt, Saudi Arabia and Jordan — and an anti-Western resistance camp made up of the Islamic Republic of Iran and Syria as well as the Lebanese Hezbollah and the Palestinian Hamas.

Therefore, Syria and the Lebanese Hezbollah have been part of the Iranian strategy, mainly after the U.S. has put its own troops in Iraq and Afghanistan, ringing the alarm in Tehran that it would be increasingly surrounded. Thus, the Iran-Syria-Hezbollah partnership widened Tehran's security perimeter to the Levant. In this perspective, Syria, especially, "constitutes a 'forward operating' post, a strategic buffer, and a means of projecting power and influence into the Levant" (Chubin 2012, 30). Hezbollah is also a keystone of Tehran's strategy and a strategic asset against Israel due to the group's possibility of retaliation against Tel Aviv, therefore being a part of Iran's forward defense.

Saudi Arabia, in turn, leading the pro-Western status quo Arab camp, saw the opportunity to weaken Iran and its allies since the beginning of the manifestations in Syria. Riyadh and its allies started to fuel the Syrian rebels with weapons, training and financing in order to strike down the geographical center of the Resistance Axis — Damascus — and to substitute al-Assad's regime for another one more favorable to the petro monarchies' interests (Visentini and Roberto 2015).

Nonetheless, Saudi Arabia, since the 1980s, was used to support radical and jihadists groups through the spread of its puritanical brand of Islam, Wahhabism, the kingdom's official religious sect. This is exactly what gave birth to the mujahideen in Afghanistan, later regrouped and renamed as Al-Qaeda in the 1990s. This way, through the continuous fueling of money and weapons to Islamic groups in Syria that were rapidly turning into a radical opposition to Assad's regime, Saudi Arabia has contributed to the rise of terrorist cells in detriment of the moderated opposition, the FSA (Cockburn 2014).

It is in this context that Al-Qaeda in Iraq could settle Al-Nusra in Syria and benefit from the continuous inflow of material support from the Gulf, later rebranding itself as ISIS and conquering enormous chunks of territory in Syria and Iraq. This way, the Islamic State carries with it part of the regional rivalry's bitter legacy between the two opposite camps in the Middle East — a strategic com-

petition that is still not resolved and which will also impact Operation Inherent Resolve's decisions and actions.

## 5. BLOC POSITIONS

### 5.1. UNITED STATES OF AMERICA

The United States sees the rise of ISIS as a threat not only to the Middle East region, but also to homeland security. Therefore, the U.S. is the main force in the coalition fighting ISIS, with growing investments in the Operation Inherent Resolve. It has been engaged in airstrikes in both Iraq and Syria. Meanwhile, the U.S. are focused on supporting the Iraqi Ground Forces fighting ISIS as a way to capacitate the Iraqi government while also avoiding the deployment of boots on the ground (U.S. Department of Defense 2015).

**Lieutenant General James L. Terry**, Combined Joint Task Force – Operation Inherent Resolve Commander (CJTF-OIR), runs the meeting as the chair, while coordinating and commanding the combined efforts to fight ISIS from all the members of the coalition.

**General Lloyd Austin**, U.S. Central Command (CENTCOM) Commander, is the lead U.S. officer with respect to U.S. military operations against ISIS and other terrorist groups in Iraq and Syria.

**Major General Paul Funk**, Coalition Joint Forces Land Component Command Commander, is in charge of providing coalition ground troops as well as training Iraqi ground troops.

**Ashton Carter**, Minister of Defense of the U.S., has the role of representing the political interests of the U.S.A in the coalition's operation, also taking into consideration the country's political and diplomatic necessities. He is in charge of contacting the President, if necessary.

**Rear Admiral Brett Heimbigner**, Commanding Officer of the Joint Intelligence Center, Central Command (JICCENT), is responsible for providing support to the Commander of U.S.CENTCOM by leading military intelligence collection, analysis, and targeting operations.

### 5.2. UNITED KINGDOM

For the United Kingdom, the rise of ISIS is not only hazardous to the integrity of its close allies in the Middle East. Its transnational reach has been proven

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by tragic incidents all over the world, and the UK is not willing to stand idle while the extremist group exerts its domination further into the West. Nevertheless, the British government recognizes the complexity of the situation in Iraq and the Levant region, knowing that the current alliances being formed in the Middle East now are key to the Task Force's success (Cockburn 2015).

The Right Honorable **Michael Fallon**, Secretary of State for Defense of the United Kingdom — has overall responsibility for the business of the department providing strategic direction on policy, operations, acquisition and personnel matters, including: operational strategy; defense planning, program and resource allocation; defense exports policy; among other responsibilities.

**General Sir Nicholas Houghton**, Chief of the United Kingdom Defense Staff and Commander of the Operation Shader — is the professional head of the Armed Forces and principal military adviser to the Secretary of State for Defense and the government. He leads UK defense, setting military strategies and is responsible for the conduct of current operations, as strategic commander.

**Vice Admiral Alan Richards**, Agency Executive of Defense Intelligence (DI), an integral part of the UK's Ministry of Defense, has the role of pushing forward all-source intelligence collection and analysis efforts in order to provide support to British military operations.

### 5.3. FRANCE

Of all member-states of NATO, France is perhaps one of the most envisioned countries for terrorist attacks by ISIS-affiliated terrorists. As a result, the French government not only feels compelled to intervene in the Middle East in order to curb the expansion of the radical group against its interests in the region, but it also does so by its perceived obligation to protect its own national security and population. It follows that France has attained an increasingly adamant position against the Islamic State, aiming to wipe out the terrorist group completely (Cockburn 2015).

**Jean-Yves Le Drian**, Minister of Defense of France — is responsible for execution of military policy and for the control of military operations, also taking into consideration the country's political and diplomatic necessities. He is in charge of contacting the President, if necessary.

**Rear Admiral Antoine Beaussant**, admiral commander of the naval maritime zone in the Indian Ocean (ALINDIEN), he is the operational commander of Opération Chammal — the French military mission in the fight against ISIS. He is in charge of setting the military strategies and is responsible for the conduct

of current operations.

**General Christophe Gomart**, Head of the Directorate of Military Intelligence (DRM) — a directorate of France's Ministry of Defense —, is the chief responsible for France's military intelligence collection, analysis, and dissemination efforts for the French Armed Forces and their operations.

#### 5.4. SAUDI ARABIA

The kingdom of Saudi Arabia sees in ISIS a threat against its own existence since they proclaim to be the true version of Islam, besides vowing to overthrow the Arab regimes allied to the West. Furthermore, due to the kingdom Wahhabi credentials, ISIS transnational message may resonate on Saudi citizens. Nonetheless, besides this fear, Riyadh is dreaded by the possibility of Shia power, headed by Iran, getting more consolidate in Syria and Iraq. Therefore, the House of Saud needs to halt ISIS spread without giving ground to the Shia power (Friedman 2015).

**Prince Mohammad bin Salman al-Saud**, Minister of Defense of Saudi Arabia, has the role of representing Saudi political interests, also taking in consideration the political necessities and all the diplomacy related between Saudi Arabia's interests and the coalition's operations. He is also responsible for contacting Saudi Arabia's king, in case of necessity.

**Lt. General Mohammed bin Ahmed Alsha'lan**, Chief of Air Staff of the Royal Saudi Air Force, is responsible for managing the military operations of the Royal Saudi Air Force inside the coalition's missions.

#### 5.5. JORDAN

The kingdom of Jordan has a similar position in relation to ISIS as Saudi Arabia. Being a country with close relations to the West and also Israel, it fears having its legitimacy questioned by ISIS. Furthermore, it is located near the reach of ISIS forces, sensing the threat that may cross its borders. Nonetheless, Amman is also concerned about the reach of Iranian power, keeping in mind that efforts to contain ISIS must be concerned with not giving ground to Iran and its allies (Friedman 2015).

**Abdullah Ensour**, Prime Minister and Minister of Defense of Jordan, has the role of representing Jordanian political interests, also taking in consideration the political necessities and all the diplomacy related between Saudi interests and the coalition's operations. He is also responsible for contacting the Jordanian king,

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in the case of necessity.

**Major General Mansour al-Jobour**, Chief of Air Staff of the Royal Jordanian Air Force, is responsible for managing the military operations of the Royal Jordanian Air Force inside the coalition's missions.

### 5.6. AUSTRALIA

Through Operation OKRA, the Australian Defense Force has participated in international efforts to counter ISIS's terrorist threats. The entry of Australia in the fight against ISIS was due to the US government's formal request for the Australian contribution to the international coalition. To Australia, ISIS threatens not only people in the Middle East, but in the whole world. In addition, Australia also shows concern for at least 60 Australians who have joined ISIS or other terrorist groups and more than 100 other nationals who have been supporting the organization (Prime Minister of Australia 2014).

**Rear Admiral Trevor Jones**, Commander of the Operation OKRA — is a senior officer in the Royal Australian Navy (RAN), formerly serving as Deputy Chief of Navy from 2011 to 2013 and Head Military Strategic Commitments since April 2013.

### 5.7. CANADA

Since ISIS actions created the necessity of an international community's response, Canada launched its own military mission and further expanded it through the approval of its House of Commons. Alleging self-defense reasons, Canada sees ISIS as a terrorist threat to its country. Furthermore, it also seeks to deepen its relations with its allies, mainly the United States (The National Post 2015).

**Thomas J. Lawson**, Chief of the Defense Staff of the Canadian Armed Forces and Commander of Operation Impact, is in charge of conducting the command, control and administration of the forces, as well as having responsibility for military strategy, plans, and requirements.

## 6. GENERAL OPERATIONAL OBJECTIVES

**1.** To conduct an airstrike campaign aiming regain Iraqi and Syrian cities from the control of ISIS while support legitimate ground forces also confronting

the group;

2. To come out with a strategy to interrupt the revenues of ISIS and its main forms of financing;
3. To create an operation targeting the head leaderships of ISIS.

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CONSELHO  
SUL-AMERICANO DE  
INFRAESTRUTURA E  
PLANEJAMENTO

# A REFORMULAÇÃO DOS EIXOS DA IIRSA

THE REFORMULATION OF THE AXES OF IIRSA

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## RESUMO

A Iniciativa para a Integração de Infraestrutura Regional Sul-Americana (IIRSA) foi criada em 2000 na I Reunião dos Chefes de Estado da América do Sul. Como um de seus pilares, a Iniciativa prevê a formação de Eixos de Integração e Desenvolvimento (EID) na região. Os Eixos de Integração e Desenvolvimento são faixas de território que abarcam quase toda a região, subdividindo-a em porções menores e ditando a lógica de organização dos projetos e a formação almejada de cadeias logísticas. Entretanto, apesar de a Iniciativa ter uma série de objetivos que transcendem os econômicos, a forma como os Eixos da IIRSA foram planejados sugere a priorização de corredores de exportação, não de comércio intrarregional, assim como formados apenas na direção Leste-Oeste e não Norte-Sul. O modelo de financiamento e a forma como os Eixos foram estruturados permitem dizer que a IIRSA é baseada na lógica do “regionalismo aberto” e que ela se preocupa mais com os fluxos de comércio do que com as outras esferas que a integração infraestrutural pode estimular. Desse modo, considerando que as discussões e propostas de Eixos foram feitas na primeira etapa de implantação e aperfeiçoamento da IIRSA (final de 2000 ao final de 2003) e que desde 2008 a IIRSA foi incorporada como fórum técnico do Conselho de Infraestrutura e Planejamento (COSIPLAN) da UNASUL, o presente artigo promove uma discussão acerca da abordagem de integração infraestrutural promovida pela UNASUL e da abordagem adotada à época da elaboração destes pela IIRSA.

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Os Eixos da IIRSA, incorporados pelo COSIPLAN na sua criação, seguem sendo uma metodologia eficaz para a organização da agenda de projetos proposta dentro do comitê, pois são conceitos inovadores que transcendem conceitos restritos como os de corredores de transporte ou redes de infraestrutura e que, em teoria, proporcionariam uma integração estruturante (com positivos efeitos socioeconômicos e desenvolvimentistas) de acordo com os princípios e objetivos da UNASUL. (IIRSA 2012) (Jaeger 2014) Contudo, a atual orientação dos Eixos não gera o produto esperado. Assim, considerando que as discussões e propostas de Eixos foram feitas na primeira etapa de implantação e aperfeiçoamento da IIRSA (final de 2000 a final de 2003) e tendo em mente que a abordagem de integração promovida pela UNASUL é diferente da abordagem adotada à época da elaboração destes pela IIRSA, imagina-se se fazer necessária uma reformulação destes EIDs.

## 1 ANTECEDENTES HISTÓRICOS

Foi no contexto da primeira onda de regionalismos<sup>1</sup> que iniciativas amplas para a integração da América Latina ganharam força. Embora projetos de integração latino-americanos já fossem pensados desde o século XIX com a ideia de Pan-Americanismo e com os trabalhos de Simón Bolívar, até o surgimento da primeira onda, poucos resultados concretos foram obtidos. Foi, então, entre os anos 1950 e 1960, que surgiram iniciativas mais expressivas que culminaram com a assinatura de tratados multilaterais e até mesmo com a criação de organizações que visavam, de fato, à integração latino-americana. Nesse contexto, é criada, em 1960, a Associação Latino-Americana de Livre-Comércio (ALALC) (Padula 2011).

A primeira iniciativa multilateral para a integração física da América do Sul<sup>2</sup> surge ao final da década de 1960. Naquele momento, os militares começavam a

1 A chamada “primeira onda de regionalismos” surgiu ao final da Segunda Guerra Mundial e se estendeu até meados dos anos 1970. Em termos de Segurança, esta onda foi caracterizada pela utilização, por parte das duas superpotências da Guerra Fria, da integração regional como ferramenta de contenção uma da outra. Já sob a perspectiva econômica, esta onda foi marcada por princípios desenvolvimentistas, o que a caracterizou como uma onda de “regionalismo fechado” (Herz e Hoffmann 2004). Isso se deveu a atuação, principalmente, de países periféricos, os quais, inspirados por trabalhos de instituições como CEPAL e UNCTAD, adotaram medidas como o processo de substituição de importações e industrialização conjunta dos países da região (Padula 2011).

2 O caráter da primeira onda de regionalismos (que incitava os países subdesenvolvidos a se unirem e a buscarem formas de desenvolvimento conjuntas) fez com que as discussões a respeito da integração regional, naquela época, priorizassem a ideia de integração latino-americana, e não sul-americana, embora, aqui, se constate que a primeira iniciativa concreta para a integração física da região tenha surgido no âmbito da América do Sul (Paloschi 2011).

ascender ao poder na América do Sul, tanto por meio de golpes de Estado quanto por conquista de maior influência nos espaços de formulação de políticas públicas e de tomada de decisão. Segundo Paloschi (2011), foi desse modo que a crescente influência e participação dos militares na atuação do Estado possibilitou o retorno e a expansão do pensamento geopolítico, fomentado especialmente pela Escola Superior de Guerra (ESG), tal forma que a compreensão da necessidade de integração física ganhou espaço entre os governos sul-americanos. Logo, em 1967 ocorreu, em Buenos Aires, a I Reunião de Chanceleres dos Países da Bacia do Prata, que culminou com a assinatura do primeiro tratado multilateral a respeito da integração física da América do Sul: o Tratado da Bacia do Prata, de abril de 1969 (Paloschi 2011). O tratado não só compreendia cooperação em transportes, energia e comunicações, mas também abrangia aspectos produtivos dos Estados, pregando a complementação econômica e industrial, principalmente nas regiões de fronteira.

Ainda em 1969, mais um arranjo de cooperação para a integração física foi estabelecido. Um mês após a assinatura do Tratado da Bacia do Prata, foi assinado, por Bolívia, Chile, Colômbia, Equador e Peru, o Pacto Andino, uma iniciativa que pretendia ser uma alternativa andina à ALALC, que pouco avançara em quase 10 anos de existência. O Pacto Andino previa a utilização da Corporação Andina de Fomento (CAF), estabelecida em 1966, para estimular a ampliação e modernização da infraestrutura, melhorando assim a logística regional, de modo a avançar nos processos de liberalização comercial e de complementação industrial destes países (Paloschi 2011).

Entretanto, apesar de iniciativas promissoras para a integração regional, o que se pode observar foi um mínimo avanço na integração - especialmente física - na América do Sul durante o período. De acordo com Silva (2013), uma das razões pelas quais a integração não prosperou foi econômica: a heterogeneidade no desenvolvimento das indústrias nacionais e as políticas Estado-desenvolvimentistas - inspiradas na teoria cepalina - reproduziam assimetrias econômicas que impediam os países de avançarem em direção a uma integração mais institucionalizada. Ademais, as mesmas políticas Estado-desenvolvimentistas faziam com que os investimentos públicos fossem prioritariamente destinados à integração nacional (em detrimento da regional), ao mesmo tempo em que os investimentos privados também não seguiam a lógica da integração, mas sim continuavam a se concentrar em regiões que correspondiam à lógica dos interesses dos investidores estrangeiros, os quais buscavam exclusivamente regiões seletas, onde se conseguiam maiores margens de lucro (Teixeira e Desiderá Neto 2014). Similarmente, outra variável que não colaborou com a execução dos projetos de integração re-

gional foi política, pois havia desconfiança entre os governos ditatoriais da região<sup>3</sup>, assim como também havia resistências das burguesias nacionais em relação à integração sul-americana (Silva 2013).

Da mesma forma, o cenário internacional, no início dos anos 1970, começou a se apresentar desfavorável à integração física sul-americana. Devido às crises do petróleo, as taxas de juros internacionais se elevaram e as dívidas contraídas para financiar o desenvolvimento dos países sul-americanos aumentaram drasticamente (Teixeira e Desiderá Neto 2014). Além disso, houve aumento do déficit comercial para os países importadores de petróleo. Assim, as fontes de financiamento externo dos países latino-americanos se esgotaram, e a capacidade dos governos de patrocinar a industrialização foi arruinada. Nesse ínterim, os Estados Unidos da América romperam unilateralmente o acordo de Bretton Woods, o que fragilizou ainda mais as economias em desenvolvimento, e a campanha de promoção de princípios neoliberais ganhou força internacionalmente. Foi nesse contexto, em meados dos anos 1980, que a primeira onda de regionalismo chegou a seu fim na América do Sul. Para Paloschi:

A crise econômica que se abateu sobre a América Latina após os dois choques dos preços do petróleo na década de 1970 produziu mudanças estruturais tanto no pensamento econômico como na relação entre os países sul-americanos. (Paloschi 2011, 35)

Outrossim, entre a década de 1980 e início da década de 1990, a maior parte dos Estados da América do Sul começa seu processo de redemocratização. Numa conjuntura internacional de fim da bipolaridade e de intensificação do processo de globalização (comercial, produtiva e financeira), os novos governos - agora, além de democráticos, dependentes de empréstimos de instituições financeiras internacionais, como o Fundo Monetário Internacional (FMI) - aderem às medidas de austeridade indicadas por estas instituições e, na sequência, adotam o modelo neoliberal (Teixeira e Desiderá Neto 2014).

Paradoxalmente, a mesma crise econômica que impossibilitou as iniciativas para a integração regional sul-americana fez com que os países da região se reaproximassem politicamente, buscando um enfrentamento similar para tal crise. A reaproximação entre os países fica especialmente evidente na relação entre Brasil e Argentina, os quais ao assinar a Declaração de Iguaçu, em 1985, declararam que “a integração latino-americana precisava de um impulso renovado para que a região reforçasse seu poder de negociação na política global e [...] superasse a crise da dívida” (Teixeira e Desiderá Neto 2014, 25). De acordo com Paloschi:

<sup>3</sup> Teixeira (2014) afirma ter havido uma abordagem militarista nas relações entre os países da América do Sul durante a década de 1970.

Ao fim da década de 1980, portanto, a convergência do processo de transição democrática, a transformação produtiva com vistas a superar o atraso tecnológico e a crise financeira das economias nacionais associaram-se a uma situação de fato envolvendo as sociedades da região para resultar na integração institucional da década seguinte (Paloschi 2011, 39).

Surgia, então, na América do Sul, um novo tipo de regionalismo. Esse novo paradigma para a integração regional latino-americana foi denominado pela CE-PAL de regionalismo aberto e pelo Banco Interamericano de Desenvolvimento (BID) de novo regionalismo. Esse novo regionalismo estava inserido dentro da perspectiva neoliberal e tinha como foco questões econômico-comerciais. Segundo Padula (2011, 146), esse regionalismo pregava que “os fluxos de comércio (aumentos das exportações e importações, via especialização em vantagens comparativas estáticas) e de investimentos levariam ao desenvolvimento dos países e da região como um todo”. Desse modo, dever-se-ia promover uma liberalização econômica entre países de um bloco regional, de modo que, na medida em que fossem se desenvolvendo, os permitiria “realizar sua abertura comercial completa para o mundo e [...] se inserir no comércio internacional da era da globalização” (Teixeira e Desiderá Neto 2014, 30). Em suma, a liberalização intrarregional seria seguida por um processo de liberalização interregional que culminaria com o livre-comércio global (Teixeira e Desiderá Neto 2014, 30).

A resultante desta nova concepção de regionalismo foi a reforma de arranjos regionais já existentes – como a ALALC, que virou ALADI (Associação Latino-Americana para o Desenvolvimento da Integração) em 1980; e o Pacto Andino, que foi renomeado para Comunidade Andina em 1996 – e o surgimento de novos arranjos, como é o caso do Mercado Comum do Sul (MERCOSUL), criado em 1991 (Silva 2013).

No que se refere à infraestrutura, Padula (2011), afirma que foi durante esse período de adoção do modelo neoliberal “que o comércio intrarregional aumentou e os gargalos de infraestrutura passaram a ser reconhecidos pelos governos e pelo setor privado” (Padula 2011, 156). Tais gargalos foram acentuados pelo fracasso da iniciativa privada em compensar a queda das inversões públicas (oriunda da crise da dívida externa da década de 1980) em infraestrutura. Dessa forma, o que se observou durante o período de vigência desse novo regionalismo foi uma ampliação da atenção destinada à integração infraestrutural latino-americana. Embora projetos de integração física não tenham sido criados, foram elaborados importantes “estudos de identificação das condições e potencialidades dos países sul-americanos” quanto à infraestrutura (Paloschi 2011, 45).

## 1.1 ORIGEM DA IIRSA

O século XXI começou na América Latina sem uma visão clara acerca dos meios de se alcançar a integração regional, nem dos fins desta conquista (Silva 2013). De acordo com Teixeira e Desiderá Neto (2014), essa indefinição sobre qual modelo de integração adotar “está relacionada à insatisfação com os resultados pífios em termos de crescimento, emprego e de inclusão social das políticas liberais dos anos 1990, diante das sucessivas crises e da instabilidade financeira internacional que abalou os países da região” (Teixeira e Desiderá Neto 2014, 31). Ao final dos anos 90, o modelo neoliberal estava desgastado e desacreditado na maior parte dos Estados latino-americanos e dos governos progressistas.

Nesse momento, o Brasil, empregando certos princípios liberais, mas também fazendo uso de alguns princípios do modelo desenvolvimentista de integração, “retomou a ideia de América do Sul como referência regional imediata” (Silva 2013, 18). A partir de então, fixa-se a prioridade brasileira de integração do continente sul-americano (excluindo das iniciativas regionais a América Central, na qual os Estados Unidos da América exercia grande influência) e sob a qual seriam construídas as seguintes ações para a integração regional.

Assim, em agosto de 2000, em meio às comemorações de 500 anos da chegada de Pedro Álvares Cabral ao Brasil, ocorreu em Brasília a I Reunião de Presidentes da América do Sul, convocada pelo então presidente Fernando Henrique Cardoso. Este, que foi o primeiro encontro de todos os 12 chefes e chefas de Estado da América do Sul, foi realizado, de acordo com Paloschi:

“em meio à percepção, encampada pelo Brasil, de que se fazia necessário inaugurar novo foro para a discussão dos problemas próprios da América do Sul. Tal necessidade não era uma questão de sobrevivência ou resposta a um problema comum, mas, sim, a expressão do desejo de avançar na formação de uma dinâmica interna de concertação política” (Paloschi 2011, 57).

O resultado deste encontro foi a Declaração de Brasília que, dentre muitos temas, como democracia, tráfico internacional de drogas e crime organizado transnacional, incluía a modernização da infraestrutura regional (IIRSA 2012). Nesse sentido, foi lançado o projeto político para a Iniciativa para Integração de Infraestrutura Regional Sul-Americana (IIRSA), visando à “modernização da infraestrutura regional e ações específicas para estimular a integração e desenvolvimento de regiões isoladas” (Padula 2011, 159-160). Ainda no lançamento do projeto da IIRSA, estabeleceu-se um cronograma para o início dos trabalhos de criação desta instituição, de modo que, em dezembro do mesmo ano, houve

uma reunião ministerial em Montevidéu na qual estiveram presentes ministros de Transporte, Energia e Comunicação dos doze Estados sul-americanos (IIRSA 2011). Nesta reunião, se instituíram os princípios da IIRSA, quais sejam: regionalismo aberto; Eixos de Integração e Desenvolvimento (EID); sustentabilidade econômica, social, ambiental e político-institucional; aumento do valor agregado da produção; tecnologias da informação; convergência normativa; e coordenação público-privada (IIRSA 2011). Ademais, foram instituídos como objetivos da IIRSA, segundo Padula (2011):

- (1) impulsionar projetos novos e ampliar existentes de infraestrutura, segundo determinados critérios e princípios estabelecidos, e
- (2) identificar fórmulas inovadoras de apoio financeiro de maneira a estimular a participação de investidores privados e a mobilizar todos os recursos possíveis (Padula 2011, 160).

A criação da IIRSA, embora uma iniciativa dos Estados sul-americanos, foi capitaneada por instituições financeiras multilaterais (Padula 2011). Estas instituições – BID, CAF e FONPLATA (Fundo Financeiro para Desenvolvimento da Bacia do Prata) – foram responsáveis pela elaboração do chamado “Plano de Ação”, apresentado no I Encontro de Presidentes e que, ao ser amplamente aceito pelos chefes e chefas de Estado, pautou as orientações posteriores da IIRSA (Padula 2011). São estas instituições financeiras multilaterais – tradicionalmente influenciadas por outras instituições financeiras internacionais e pelo setor privado – que dão base à estrutura institucional da IIRSA e compõem o Comitê de Coordenação Técnica (CCT) (Jaeger 2014). O CCT é o órgão responsável por coordenar os trabalhos e os grupos técnicos (GTEs), que por sua vez são responsáveis por executar os trabalhos (Padula 2011). Além destas unidades, a IIRSA ainda é composta por um Comitê de Direção Executiva (CDE), o qual é formado por ministros de infraestrutura e planejamento e ao qual cabe estipular as diretrizes e prioridades na ação da Iniciativa (Padula 2011). Por fim, a IIRSA conta com as Coordenações Nacionais (CsNs), que são responsáveis por coordenar a atividade de cada país dentro da instituição, bem como organizar a participação de setores não-governamentais na construção das ações da IIRSA.

**Imagen 1:** Estrutura interna da IIRSA

Fonte: (Padula 2011)

## 1.2 ORIGEM DOS EIXOS DE INTEGRAÇÃO E DESENVOLVIMENTO

A origem do conceito de Eixos de Integração e Desenvolvimento (EIDs) se encontra em um estudo brasileiro realizado na década de 1990. Tal estudo, elaborado em 1997 sob comando de Eliezer Batista<sup>4</sup>, constituiu um método de estruturação de políticas públicas para o Brasil denominado “Macroeixos de Desenvolvimento”<sup>5</sup>. Dentro deste estudo, havia um recorte regional, ao qual Eliezer batizou de “Cinturões de Desenvolvimento”. Tais Cinturões seriam conjuntos de projetos de infraestrutura conectados por eixos de logística que transportam bens e serviços básicos. Assim, “o principal objetivo estabelecido para os Cinturões foi atender às forças e oportunidades de mercado a fim de atrair investimentos políticos e privados complementares” (Silva 2013, 35), de modo que representavam uma nova forma de planejamento de projetos de infraestrutura para a região.

Tendo este conceito em vista, o BID apresentou, na I Reunião dos Presidentes da América do Sul, um Plano de Ação, elaborado com contribuição do CAF, com sugestões e propostas para a integração sul-americana. Uma das propostas era a utilização dos Cinturões de Desenvolvimento para a promoção da integração física da América do Sul. O documento, além de renomear os Cinturões para

<sup>4</sup> Engenheiro civil brasileiro, ocupou a presidência da Companhia Vale do Rio Doce duas vezes e foi Ministro de Minas e Energias no governo João Goulart (1961-1964).

<sup>5</sup> A pesquisa teve apoio institucional e financeiro dos seguintes organismos: “Business Council for Sustainable Development - LatinAmerica (BCSD-LA); Corporação Andina de Fomento; Companhia Vale do Rio Doce (CVRD); Bank of America e Companhia Auxiliar de Empresas de Mineração (CAEMI)” (Silva 2013, 35).

“Eixos de Integração e Desenvolvimento”, argumentou a utilização da concepção de EID da seguinte forma:

[...] o conceito de EID supera outros conceitos previamente utilizados, tais como corredores de transporte ou redes de infraestrutura. Na medida em que a infraestrutura passa a ser concebida como um elemento de integração física que catalisa o desenvolvimento econômico, social e ambiental das áreas que atravessa, o EID constitui uma ferramenta de grande importância para articular a organização do território (BID 2000 apud IIRSA 2011, 64).

É a partir desse momento que a noção de EID é incorporada à IIRSA, se tornando um de seus princípios básicos hodiernamente. A iniciativa define os EIDs como “faixas de territórios multinacionais nas quais se concentram espaços naturais, assentamentos humanos, zonas produtivas e fluxos comerciais” (IIRSA 2010 apud Jaeger 2014, 41). Na IIRSA, os EIDs foram estabelecidos a partir de seis critérios, sendo eles os seguintes: (i) abrangência geográfica de países e regiões; (ii) reconhecimento dos fluxos existentes; (iii) identificação dos fluxos potenciais; (iv) investimento nas áreas de influência dos EIDs; (v) interesse e possível participação do setor privado; e, por fim, (vi) sustentabilidade social e ambiental (IIRSA 2011). A partir destes critérios, elegeram-se os dez EIDs, expostos na figura abaixo, que conduziriam as ações da IIRSA.

**Imagen 2:** Os Eixos de Desenvolvimento e Integração da IIRSA



Fonte: GeoSUR s.d.

Embora tenha constituído a primeira iniciativa consolidada de integração infraestrutural na América do Sul, a IIRSA foi alvo de críticas de diversos setores que não concordavam com seus preceitos. Tais críticas demandaram uma readequação da Iniciativa, o que será abordado a seguir.

## 2 APRESENTAÇÃO DO PROBLEMA

### 2.1 QUESTIONAMENTOS À EFICIÊNCIA DA IIRSA COMO PROJETO DE INTEGRAÇÃO INFRAESTRUTURAL SUL-AMERICANA

Há de se considerar que a IIRSA constituiu o primeiro projeto ambicioso de articulação infraestrutural no âmbito da América do Sul. No entanto, desde sua criação e talvez suscitado pela própria contraposição entre os diferentes modelos de regionalismo), sofreu críticas em relação a seus objetivos, mecanismos e princípios. Citamos como primeiro exemplo as críticas à própria participação de instituições multilaterais, como as citadas previamente no Comitê de Coordenação Técnica da Iniciativa. De acordo com Couto (2006):

Por um lado, estas delegações dos governos às instituições multilaterais buscavam aproveitar a maior agilidade e flexibilidade destas agências, driblando restrições orçamentárias e legais dos Estados, o que possibilitou o avanço e a continuidade do projeto, mesmo com mudança de governos, malgrado inexistas algum grau de institucionalidade regional. Por outro lado, delegava-se demasiada influência a estas agências, que oscilam entre decisões estritamente técnicas e seus interesses próprios na região, concorrendo por projetos, onde se destaca a influência estadunidense sobre o BID (Couto 2006 apud Padula 2011, 164).

Além disso, os projetos e investimentos eram eleitos principalmente por sua capacidade de atrair investimentos, delegando a segundo plano a constituição de uma forma ordenada, eficiente, dinâmica e indutora de transformação na infraestrutura de integração e nas atividades produtivas (Padula 2011). Neste sentido, muitos advogam que as iniciativas estruturais sul-americanas precisariam de maior participação do Estado, que deveria ter controle sobre a eleição e direcionamento de projetos estratégicos. Segundo Souza (2013), seria necessário que “o Estado passe a tutelar áreas deprimidas economicamente, a fim de que os investimentos não sejam totalmente direcionados às áreas economicamente dinâmicas, ou seja, espaços seletivizados pelo capital” (Souza 2013, 88).

Outra forte crítica à Iniciativa relaciona-se com a visão de muitos de que, inserida no modelo de regionalismo aberto, a IIRSA era totalmente “voltada para fora”, ou seja, objetivava principalmente integrar a região ao exterior antes de integrar os países sul-americanos entre si<sup>6</sup>. A própria concepção dos EIDs insere-se numa lógica de corredores de exportação, buscando prioritariamente a inserção dos países nos fluxos extrarregionais, o que é perceptível no desenho destes Eixos (imagem 2). Todos estão voltados para a costa e os eixos bioceânicos são predominantes no sentido leste-oeste, sendo os dois eixos da costa do Pacífico (Andino e Andino do Sul) e o Eixo da Hidrovia Paraná-Paraguai os únicos articuladores no sentido Norte-Sul (Padula 2011). Dessa forma, os EIDs em certa medida reforçariam as disparidades e o perfil de regionalismo aberto. Os EIDs ainda foram criticados por considerarem apenas as barreiras físicas que separam os espaços, quando deveriam também considerar fatores socioeconômicos (Couto 2013). No sentido de consideração errônea de espaços, cabe ressaltar a discrepância entre os próprios EIDs, por exemplo: só o Eixo Amazonas e o Eixo Andino abrangem áreas territoriais correspondentes a 50,5% e 54,4% da América do Sul, respectivamente, dando mais ênfase à abrangência em detrimento do planejamento (Souza 2013).

Importa ainda analisar a subdivisão existente nos projetos agrupados em EIDs: estes são divididos em grupos de projetos dentro dos próprios EIDs, resultando num total de 47 grupos distribuídos pelas dez faixas. Cada um destes grupos possui um conjunto de projetos e um projeto âncora<sup>7</sup>, sendo este conjunto composto por projetos sinérgicos que associam investimentos, atividades, aspectos ambientais e sociais e efeitos. No entanto, surge a crítica de que esta concepção se distancia da noção de grandes projetos estruturantes<sup>8</sup>, que cruzariam e conectariam o maior número possível de territórios, tornando o planejamento centralizado, em contraste com a descentralização presente na Iniciativa (Padula 2011). Além disso, a ampla gama de projetos da IIRSA seria sinal da própria falta de visão estratégica da região, representando uma soma de visões nacionais superpostas (Padula 2014).

6 “No Comunicado de Brasília (parágrafo 33, disponível em [www.irsa.org](http://www.irsa.org)), os Presidentes acordaram que o processo de integração regional, como um processo de formação de um espaço econômico ampliado, se apresentaria dentro dos princípios do ‘regionalismo aberto’. Neste sentido, a integração se daria no sentido de reforçar a posição dos países da região no aprofundamento da ALCA, nas negociações com a União Europeia e na OMC (Organização Mundial do Comércio), entre outras, no marco extrarregional e, especialmente, na integração das economias ao fluxo de comércio internacional” (Padula 2011,165)

7 O projeto âncora consiste no projeto considerado como prioritário dentre o grupo de projetos do eixo, sendo identificado como capaz de superar gargalos ou impulsionar os demais investimentos (Padula 2011,171).

8 Projetos que geram sequências de investimentos: i) os grandes projetos estruturantes – demandantes de recursos vultosos –, como grandes gasodutos, ferrovias e hidrovias que cruzam o maior número de países, assim como grandes refinarias; e ii) os projetos direcionados a localidades subdesenvolvidas que apresentam enorme potencial, em que economias externas serão geradas e impulsionarão mais atividades (Padula 2014,309).

Os questionamentos existiram também quanto à Agenda de Implementação Consensuada 2005-2010 (AIC), criada entre 2003 e 2004 – ou seja, logo após a definição dos Eixos – visando ordenar a Carteira de Projetos da IIRSA (IIRSA 2010). A Agenda continha 31 projetos de curto prazo, sendo considerados prioritários e de grande impacto para a integração infraestrutural sul-americana. O valor total da Agenda seria de aproximadamente sete bilhões de dólares, o que na época representava 0,3% do PIB da região. Este valor seria muito pequeno para o período previsto e a importância da implementação da Agenda<sup>9</sup>. Além disso, os projetos considerados pela AIC não apresentaram grandes inovações. Dos 28 projetos da área de transportes, por exemplo, 24 eram rodoviários, 2 ferroviários e 2 hidroviários – persistindo no modal de transporte tradicional e mantendo o aproveitamento escasso dos modais alternativos, nos quais a região possui grande potencial. Ainda, apenas dois projetos eram regionais, enquanto 16 eram nacionais, 12 binacionais e 1 trinacional. Chama atenção também o fato de que a Amazônia não aparecia conectada a nenhum dos principais centros da América do Sul; o Eixo do Escudo das Guianas<sup>10</sup> também recebeu pouca atenção quando, na verdade, merecia especial destaque, porque a área abrange regiões estratégicas, como a faixa petrolífera da Bacia do Orinoco (Venezuela) e parte da Amazônia. Nos resta ainda considerar que, até o final de 2010, dez dos trinta e um projetos prioritários ainda não haviam sido iniciados, dezenove estavam sendo executados e apenas dois haviam sido concluídos (Padula 2011; Padula 2014).

Enquanto inicialmente as críticas se davam mais no âmbito acadêmico, a III Reunião de Presidentes da América do Sul (realizada em Cuzco no ano de 2004 – mesma reunião que formou a Comunidade Sul-Americana de Nações [CASA]) marca o momento em que começam a surgir os questionamentos de âmbito político. Na Declaração de Cuzco, resultante da reunião, os presidentes pedem por um “enfoque de ‘desenvolvimento territorial’ sustentável do espaço geoeconômico, além do planejamento territorial de infraestrutura” (Padula 2011:170).

<sup>9</sup> Costa (2011) propõe no mínimo 6% do PIB regional para a construção de infraestrutura.

<sup>10</sup> O Eixo abrange o arco norte do Brasil, o oriente da Venezuela, a Guiana e o Suriname.

**Imagen 3:** Agenda de Implementação Consensualizada 2005-2010 (IIRSA)

Fonte: IIRSA 2012.

No entanto, o passo mais relevante se dá a partir da criação da União de Nações Sul-Americanas (UNASUL), no ano de 2008, visando aprimorar o projeto da CASA e consolidar a integração regional. A estruturação do organismo acontece em 2009, com a criação de 12 conselhos setoriais que correspondem aos temas tidos como prioritários pela União. Entre estes está o Conselho Sul-Americano de Infraestrutura e Planejamento (COSIPLAN), que visa dar novo fôlego à integração infraestrutural no subcontinente.

## 2.2 INCORPORAÇÃO DA IIRSA PELO COSIPLAN

Conforme previamente citado, a IIRSA foi incorporada como órgão técnico do COSIPLAN, enquanto este passou a assumir as funções do antigo Comitê de Direção Executiva (CDE)<sup>11</sup>. O COSIPLAN propõe-se a dar continuidade aos tra-

<sup>11</sup> Integrado pelos ministros de infraestrutura e planejamento e responsável por definir as estratégias e aprovar os planos de ação no âmbito da IIRSA.

balhos da IIRSA ao mesmo tempo em que busca promover alterações e melhorias, como será apresentado nesta seção do trabalho.

Uma destas alterações está na responsabilidade pela condução da integração regional infraestrutural. Enquanto no âmbito da IIRSA os governos da região tinham pouca participação no processo, no âmbito do COSIPLAN (e da UNASUL em geral) estes são os principais agentes. Este fato atribui um caráter político-estratégico para a integração infraestrutural e para a seleção e execução de projetos. Além disso, a partir do respaldo e da atuação política dos governos é possível que a capacidade de atração de recursos para financiamento seja maior. Finalmente, essa participação pode facilitar o consenso e atrair mais atores para a construção da integração de infraestrutura na América do Sul (Padula 2014).

Em termos de projetos, o COSIPLAN baseou-se no Portfólio da IIRSA e na AIC para montar seu portfólio e sua Agenda Prioritária de Projetos de Integração (API). No entanto, para responder às críticas e às demandas de melhorias direcionadas às propostas do IIRSA, o Conselho precisa promover algumas alterações. De acordo com o Ministério das Relações Exteriores do Brasil (MRE):

Caberá ao COSIPLAN, então, redefinir a matriz de projetos e priorizar aqueles mais emblemáticos para fortalecimento e a integração da infraestrutura regional, bem como buscar efetivas fontes de financiamento público às obras necessárias na região (Brasil 2010,2).

Enquanto o portfólio da IIRSA contava com 524 projetos estimados em 96,11 bilhões de dólares, o portfólio montado pelo COSIPLAN incorpora 531 projetos – muitos deles herdados da própria IIRSA – estimados em 116,12 bilhões de dólares (Iirs 2011). Cabe lembrar que a ampliação em números dos projetos e dos recursos financeiros não significa que já se tenha obtido sucesso no sentido de dar ao processo um maior teor político-estratégico. Mantem-se a crítica de que a grande variedade de projetos ainda é acompanhada de pouco planejamento no que se refere à IIRSA.

No entanto, estabelecendo-se uma comparação entre a Agenda Prioritária do COSIPLAN (API) e da IIRSA (AIC), é notável que a adoção critérios de seleção e de um agrupamento dos projetos resultaram numa maior abrangência territorial, embora a ênfase continue sendo em uma integração voltada para fora. O COSIPLAN avança muito nesta questão: trabalha com um agrupamento de projetos estruturantes em substituição à dispersão tão criticada no âmbito da IIRSA. Dessa forma, o órgão garante certa coesão lógica e sinergia na sequência de financiamentos e investimentos. A API conta – a exemplo da AIC – com 31 projetos estruturados (Tabela 1) (Iirs 2011). Em termos dos modais de transportes, houve um avanço nos projetos ferroviários, que aumentaram de dois para quatro e foram

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incorporados aos corredores bioceânicos; no entanto, segue a ênfase no modal rodoviário. Alguns vazios permaneceram, principalmente em se tratando do Eixo do Escudo das Guianas, que ainda não recebeu seu devido valor (Padula 2014).

O COSIPLAN também manteve os EIDs e propôs a ampliação do seu conceito, incluindo temas como assimetrias, desenvolvimento sustentável e desenvolvimento endógeno. A manutenção da lógica dos EIDs acarreta em críticas para o Conselho. Para Padula (2014), por exemplo, este não considera a melhoria de metodologias para criação e seleção de projetos, ainda não havendo, desta forma, uma visão de planejamento regional da infraestrutura para a região.

**Tabela 1:** Projetos da API (milhões de dólares)

#	EID	NOME PROJETO API	PAÍSES ENVOLVIDOS	VALOR
1	AMA	EIXO VIÁRIO PAITA - TARAPOTO - YURIMAGUAS, PORTOS, CENTROS LOGÍSTICOS E HIDROVIAS	PE	USD 568,9
2	AMA	EIXO VIÁRIO CALLAO - LA OROYA - PUCALLPA, PORTOS, CENTROS LOGÍSTICOS E HIDROVIAS	PE	USD 2.529,4
3	AMA	ACESSO NORORIENTAL AO RIO AMAZONAS	BR / CO / EQ / PE	USD 105,5
4	AND	CORREDOR RODOVIÁRIO CARACAS - BOGOTÁ - BUENAVENTURA / QUITO	CO / EQ / VE	USD 3.350,0
5	AND	INTERCONEXÃO FRONTEIRIÇA COLÔMBIA - EQUADOR	CO / EQ	USD 223,6
6	AND	SISTEMA DE CONECTIVIDADE DE PASSOS DE FRONTEIRA COLÔMBIA - VENEZUELA	CO / VE	USD 5,0
7	AND	CENTRO BINACIONAL DE ATENDIMENTO DE FRONTEIRA (CEBAF) DESAGUADERO	BO / PE	USD 4,0
8	AND	RODOVIA DO SOL: MELHORIA E RECUPERAÇÃO DO TRECHO SULLANA - AGUAS VERDES (INCLUI VIA DE DESVIO DE TUMBES)	PE	USD 90,3
9	CAP	CONSTRUÇÃO DA PONTE BINACIONAL SALVADOR MAZZA - YACUBA E CENTRO DE FRONTEIRA	AR / BO	USD 23,0
10	CAP	CONEXÃO OESTE ARGENTINA - BOLÍVIA	AR / BO	USD 227,0
11	CAP	CORREDOR FERROVIÁRIO BIOCEÂNICO PARANAGUÁ - ANTOFAGASTA	AR / BR / CH / PA	USD 944,6
12	CAP	CONEXÃO VIÁRIA FOZ - CIUDAD DEL ESTE - ASUNCIÓN - CLORINDA	AR / BR / PA	USD 316,0
13	CAP	LINHA DE TRANSMISÃO 500 KV (ITAIPU - ASUNCIÓN - YACYRETA)	PA	USD 255,0
14	GUI	RECUPERAÇÃO DA RODOVIA CARACAS - MANAUS	BR / VE	USD 480,0
15	GUI	RODOVIA BOA VISTA - BONFIM - LETHEM - LINDEN - GEORGETOWN	BR / GU	USD 250,0
16	GUI	RODOVIAS DE CONEXÃO ENTRE VENEZUELA (CIDADE GUIANA) - GUIANA (GEORGETOWN) - SURINAME (SOUTH DRAIN - APIURA - ZANDERU - MOENGO - ALBINA), INCLUINDO A CONSTRUÇÃO DA PONTE SOBRE O RIO CORENTINE	GU / SU / VE	USD 300,8
17	HPP	MELHORIA DA NAVEGABILIDADE DOS RIOS DA BACIA DO PRATA	AR / BO / BR / PA / UR	USD 854,8
18	HPP	INTERCONEXÃO FERROVIÁRIA PARAGUAI - ARGENTINA - URUGUAI	AR / PA / UR	USD 268,0
19	HPP	RECUPERAÇÃO DO RAMAL FERROVIÁRIO CHAMBERLAIN - FRAY BENTOS	UR	USD 100,0
20	HPP	CIRCUNVALAÇÃO VIÁRIA DE NUEVA PALMIRA E SISTEMA DE ACESSOS TERRESTRES AO PORTO	UR	USD 8,0
21	IOC	AEROPORTO DISTRIBUIDOR DE CARGA E PASSAGEIROS PARA AMÉRICA DO SUL (HUB AEROPORTO INTERNACIONAL VIRU-VIRU, SANTA CRUZ)	BO	USD 20,0
22	IOC	MELHORIA DA CONECTIVIDADE VIÁRIA NO EIXO INTEROCEÂNICO CENTRAL	BO / BR	USD 383,0
23	IOC	PASSO DE FRONTEIRA INFANTE RIVAROLA - CAÑADA ORURO	BO / PA	USD 2,0
24	IOC	CORREDOR FERROVIÁRIO BIOCEÂNICO CENTRAL (TRECHO BOLIVIANO)	BO	USD 6,7
25	MCC	GASODUTO DO NORDESTE ARGENTINO	AR / BO	USD 1.000,0
26	MCC	CONSTRUÇÃO DA PONTE INTERNACIONAL JAGUARÃO - RIO BRANCO	BR / UR	USD 65,0
27	MCC	TRANSPORTE MULTIMODAL NO SISTEMA LAGUNA MERÍN E LAGOA DOS PATOS	BR / UR	USD 100,0
28	MCC	CORREDOR FERROVIÁRIO MONTEVIDÉU - CACEQUÍ	BR / UR	USD 196,0
29	MCC	OTIMIZAÇÃO DO SISTEMA DO PASSO DE FRONTEIRA CRISTO REDENTOR	AR / CH	USD 7,0
30	MCC	TÚNEL BINACIONAL AGUA NEGRA	AR / CH	USD 850,0
31	PBB	CONEXÃO PORTO VELHO - LITORAL PERUANO	BR / PE	USD 119,0
TOTAL				USD 13.652,7

Fonte: IIRSA 2011.

Vale ainda recordar que houve uma separação entre a integração infraestrutural e a integração energética, ficando esta última sob encargo do Conselho Energético Sul-Americano. Faz-se necessária a sinergia e a comunicação entre ambos os Conselhos para avançar na integração infraestrutural e energética regional, dois setores intimamente conectados.

Finalmente, importa observar se o processo de integração infraestrutural sob responsabilidade do COSIPLAN implicará uma mudança na concepção de integração de infraestrutura e na sua visão estratégica, até então contextualizada nos preceitos do regionalismo aberto, conforme apresentado anteriormente. A incorporação da IIRSA à UNASUL, embora favoreça uma maior participação dos governos, por exemplo, não garante que esta participação seja efetiva. Além disso, muitos atores seguem atuando sob a lógica da IIRSA e, portanto, sob concepções divergentes das adotadas pelo COSIPLAN, dificultando o consenso e a consolidação do processo de integração infraestrutural. Segundo Padula (2014), os países da costa do Pacífico (Chile, Colômbia e Peru), por exemplo, com pequenas economias voltadas às exportações de commodities e sem poder contar com o mercado ou o plano regional para a sua industrialização, seguem defendendo a linha do regionalismo aberto. No entanto, países como a Venezuela demonstram insatisfação com este tipo de regionalismo (e com as propostas da própria IIRSA). Deve-se atentar, portanto, se o COSIPLAN servirá meramente como um foro de discussão onde diferentes visões e objetivos se contrapõem, sem que isso gere resultados práticos, ou se tornará a própria discussão útil e eficaz para a integração física da América do Sul.

## 2.3 CONTRAPOSITION DOS TIPOS DE REGIONALISMO

Para aprofundar o debate sobre a reformulação dos Eixos de Integração e Desenvolvimento, é importante que se tenha clareza da visão de integração dominante na IIRSA, bem como das concepções que a contrapõem. Segundo Padula (2011), a grande questão que surge com a incorporação da IIRSA pelo COSIPLAN é se haverá ou não uma mudança no entendimento de integração de infraestrutura regional.

Como abordado anteriormente, o COSIPLAN herdou, em grande parte, a orientação pelo regionalismo aberto da IIRSA. As premissas do regionalismo aberto apregoam que a integração seria um meio de garantir mais segurança aos países num mundo cada vez mais globalizado e competitivo, e favorecer sua luta por um mercado mundial mais livre e transparente. Assim, para esse modelo, os EIDs devem ser planejados sob um viés geoconômico, preponderando sua estru-

turação como corredores de exportação e como facilitadores do comércio interno.

Apesar dos EIDs da IIRSA ainda se orientarem pelas premissas do regionalismo aberto, concepções de integração pós-liberais tem aparecido nos debates acadêmicos sobre integração e também em relatórios de organizações como a CEPAL e a OCDE. Muitos países têm proposto que o COSIPLAN se oriente por um projeto de integração com um cunho político-social, pautado por uma visão estratégica da região. Especialmente no início dos anos 2000, quando a crise da desvalorização cambial prejudicou várias economias emergentes, entre elas Brasil e Argentina, o questionamento sobre o papel do Estado na economia e as consequências da liberalização dos fluxos de comércio entre os países da região e o resto do mundo começou a ascender (CEPAL 2007).

A concepção de integração político-estratégica, como convencionaremos chamar aqui o modelo que polarizaria com o regionalismo aberto, conforme a definição de Padula (2011), concebe a integração sob um marco desenvolvimentista e realista. Esse modelo propõe que os grandes processos estruturantes para a integração da infraestrutura regional não podem estar submetidos à viabilidade mercadológica, mas devem ser pensados em relação a sua importância estratégica e socioeconómica. Uma das proposições da integração político-estratégica é de que os projetos de ligação para fora estejam conectados com os projetos de integração para dentro. Ou seja, esse modelo pontua a necessidade de conectar obras facilitadoras do transporte e da comunicação externos com ligações intra-regionais. Em geral, os debates sobre modelos de integração viável permeiam tanto assertivas do regionalismo aberto quanto da integração político-estratégica, e as posições ou propostas assumem uma forma mais híbrida. (Padula 2011).

**Tabela 2:** Concepções de integração de infraestrutura (quadro síntese)

Linha de Concepção	Neoliberal	Desenvolvimentista e Realista
Forma de integração	Regionalismo Aberto (fragmentada e geoeconómica)	Inserção político-estratégica (geopolítica e estruturante)
1. Concepção geográfica de integração de transportes.	“Eixos de integração e desenvolvimento”; “Corredores de exportação”; Geoeconómica.	Conexões de espaços/eixos de tráfego e estratégicos, prioridade aos corredores de integração, articulação Norte-Sul e Leste-Oeste, Geopolítica.

2. Integração energética.	Harmonizar mercados e fomentar investimento privado.	Autonomia (autossuficiência), complementaridade e interdependência energética regional.
3. Objetivos econômicos e comerciais	Fluxos de comércio e investimento: forças de mercado e eficiência alocativa.	Industrialização conjunta, geração de emprego e renda. Comércio e produção estratégica. Reduzir vulnerabilidade externa.
4. Planejamento e decisões	Decisões descentralizadas e flexibilidade	Decisões centralizadas e planejadas, sem excluir as iniciativas descentralizadas.
5. Reflexos da forma de planejamento	Projetos desconexos e dispersos, voltados para fora.	Organicidade e sinergias entre projetos, interconectando e articulando a região.
6. Forma de financiamento	Agências multilaterais e capital privado (PPPs), papel do Estado reduzido (restrição orçamentária).	Fundos regionais de desenvolvimento e infraestrutura, sistema de créditos recíprocos, Estados/Tesouros Nacionais; com participação desejável, sinérgica e coordenada das agências multilaterais de capital privado.

Fonte: Padula 2011, 205

É importante compreender que, hoje em dia, os dois modelos supracitados são defendidos dentro da UNASUL, e não há consenso sobre qual orientação deve ser seguida. Enquanto o regionalismo aberto segue sendo a concepção dominante, a integração político-estratégica tem sido debatida, mas não a ponto de alterar a estruturação da IIRSA. Há, inclusive, a defesa de que a integração da América do Sul, desde os anos 2000, não se estrutura mais sob a lógica comercial, uma vez que a integração física e energética incorporada aos EIDs representaria um modelo de integração moderna. Ainda, segundo Jaeger (2014), a ascensão de governos com características mais progressistas, como Venezuela, Brasil, Equador, Bolívia e Argentina, e a substituição do modelo de economia aberta em vários países da América do Sul por políticas mais próximas ao neodesenvolvimentismo, pode redirecionar o processo de integração regional (Saraiva 2010).

Todavia, Padula (2011) alerta que apesar de premissas do modelo de integração político-estratégica terem ganhado espaço, isso não significa que ele de

fato esteja se estruturando ou vá se consolidar. Já que a maior integração política e ligação física entre os países ainda pode se estabelecer sob a lógica competitiva de exportação de commodities, e não da industrialização conjunta. Além disso os projetos energéticos podem estar atrelados à lógica de mercado, e não de complementaridade ou inclusão social. O autor defende, ainda, que a ampliação do escopo ou das dimensões da integração da América do Sul, e até mesmo sua institucionalização, não são garantia de um encaminhamento para desenvolvimento conjunto e recíproco, nem de resolução de questões sociais e de projeção política internacional.

Para que se avance de fato nas políticas de integração, é preciso que o COSIPLAN discuta também o modelo de desenvolvimento ensejado pelos membros da UNASUL. A execução dos projetos tem de se dar paralelamente à consolidação de uma identidade de bloco e à estruturação de um modelo de inserção internacional conjunta sob o viés político, econômico e social.

## 2.4 PROPOSTAS DE REFORMULAÇÃO DA IIRSA

A incorporação da IIRSA pelo COSIPLAN, como explanado anteriormente, significa não só uma tentativa de reestruturação da Iniciativa, mas também um interesse crescente no seu caráter político-estratégico. Resta agora saber como se dará essa reestruturação, se sob concepções neoliberais ou desenvolvimentistas e realistas. Desse modo, para melhor avaliar a evolução deste cenário, cabe trazer aqui o andamento da IIRSA e possíveis proposições para sua reformulação.

Segundo relatório do BID (2008), a IIRSA não obteve resultados expressivos e tampouco alcançou seus objetivos. Ela executou projetos de conexão com baixo impacto regional e não promoveu alternativas inovadoras de financiamento privado ou estatal. Sua agenda prioritária não foi cumprida, mesmo que tenha havido uma concentração nos projetos mais passíveis de concretização. Há a constatação de que a IIRSA se concentrou em projetos de matriz rodoviária, sem priorizar projetos energéticos ou hidroviários, de cabotagem e ferroviários.

Além disso, cabe ressaltar que os EIDs têm se estruturado pela sua capacidade de se conectar para fora, sem priorizar ou mesmo contabilizar eficazmente a importância dos projetos de integração para dentro. Num continente com ocupação predominantemente costeira, a integração interna é essencial para a viabilização de uma integração produtiva. O Eixo Interoceânico Central (EIC) - um grande projeto de obras de transportes para interconectar os oceanos Atlântico e Pacífico, através de um corredor multimodal que passa por Brasil, Bolívia, Chile, Peru e Paraguai, e tem previsão de conclusão em 2018 - é um dos dez projetos prioritários dos EIDs

(Jaeger 2014). Todavia, ainda não se tem presente nos EIDs uma proposição estruturada de conexão norte-sul. Na perspectiva de inserção competitiva da região nos mercados globais em um contexto de desregulamentação e abertura comercial e financeira do regionalismo aberto, a construção de “conexões para fora” colocam de lado qualquer perspectiva de inserção e integração autônoma em prol do desenvolvimento econômico e social, da resolução de assimetrias e da crescente interdependência regional. A IIRSA trabalha nesse sentido (Padula 2011, p. 207).

Dadas essas constatações sobre o andamento da IIRSA, cabe então ressaltar alguns pontos a serem levados em conta quanto à sua reformulação. O primeiro ponto é uma contraposição ao argumento de que créditos concedidos à infraestrutura elevam endividamento público dos países da região, e que esses recursos poderiam ser direcionados a outras áreas de interesse, como a social, através de investimentos em saúde, educação e moradia. Investir em infraestrutura impacta positivamente na produção, no emprego e na renda e gera ganhos que se espalham por toda a economia. O investimento em infraestrutura só pode ser considerado de fato um gasto caso não promova o desenvolvimento e a autonomia dos países, e isso só pode ocorrer sob a lógica do regionalismo aberto (Padula 2011).

Cabe ressaltar que o valor mobilizado de investimentos na IIRSA tem participação de mais de 60% dos tesouros nacionais. Entretanto, a Iniciativa é capitaneada por interesses privados e pela lógica mercadológica. Conforme Padula (2011) ressalta, para se levar à frente um projeto de integração física e energética que de fato promova um desenvolvimento sob bases autônomas dos países sul-americanos, a condução desse processo pelos Estados é imprescindível, pois eles teriam a capacidade e a estratégia de coordená-lo. O autor traz então, como condição à reformulação da IIRSA, a capacidade de implementação dos governos em relação a projetos com ampla aceitação pela sociedade, e postula que essa condição fundamental foi prejudicada quando muitos dos Estados perderam, em função de resultados não favoráveis e de reformas neoliberais, a capacidade infraestrutural e o controle de variáveis político-econômicas fundamentais.

Sean Burges (2005) demonstra através de dados empíricos que não existem incentivos econômicos ou demandas domésticas no interior dos Estados da região suficientes para um êxito na integração econômica. Aponta, porém a possibilidade destes processos receberem impulsos de outro tipo, como vantagens nas áreas de segurança e de energia. Destaca também a importância que o Brasil exerce o papel de *paymaster*<sup>12</sup> absorvendo os custos da integração e provendo o coletivo de bens públicos necessário para o sucesso de um processo de integração (Sean Burges 2005 apud Saraiva 2010, 5).

12 Estado principal disposto a aceitar uma parcela maior dos custos financeiros, institucionais e políticos da integração” (MATTI, 1999 apud MARIANO, 2007).

Para se levar a cabo as reformulações necessárias ao funcionamento pleno da IIRSA, deve-se compreender que os grandes projetos estruturantes para integração de infraestrutura regional (energia, comunicações, transportes) não podem estar submetidos à contabilidade de custos, nem à capacidade de atrair investimentos ou interesse privado (Padula,2011). Um projeto multidimensional de integração, que comporta ganhos políticos, sociais e econômicos para a região exige um financiamento autônomo e o comprometimento das bases com sua execução. Do ponto de vista macroeconômico, só os Estados são capazes de arcar com a parte maior dessa reformulação, uma vez que os interesses privados estão sujeitos a oscilações e não tem o mesmo comprometimento que os Estados com o modelo de desenvolvimento assim estruturado.

A reformulação dos EIDs da IIRSA passa pela necessidade de incluir nos debates do Cosiplan as concepções de integração. A partir disso, é possível estabelecer um plano claro do modelo de integração que a organização vai, de fato, buscar consolidar por meio da execução de seus projetos.

### 3 AÇÕES INTERNACIONAIS PRÉVIAS

Conforme previamente citado, a discussão a nível político e institucional acerca da reformulação dos eixos criados no âmbito da IIRSA ainda é muito incipiente. Desse modo, ações diretas para reformular ou modificar os EIDs são quase inexistentes; até o presente, o passo mais significativo nesse sentido foram alterações nos conceitos dos EIDs a partir do estabelecimento do COSIPLAN, conforme será esclarecido nessa seção.

#### 3.1 ALTERAÇÕES CONCEITUAIS EM RELAÇÃO AOS EIXOS DE INTEGRAÇÃO E DESENVOLVIMENTO (EID)

Embora tenha mantido os EIDs criados no âmbito da IIRSA, o COSIPLAN ampliou seu conceito ao incluir temas fundamentais para o êxito da integração regional sul-americana, como tratamento de assimetrias entre os Estados e desenvolvimento sustentável e endógeno. Além disso, a partir do COSIPLAN, há o esclarecimento dos critérios de seleção dos projetos de infraestrutura regional. Estes critérios foram classificados conforme a lista a seguir (Cosiplan 2011, 18)

*Critério 1:* O projeto deve pertencer à carteira de projetos do Cosiplan, ser prioridade na ação governamental e contar com compromisso de realização (através de previsão de alocação de recursos,

legislação aprovada, orçamento, etc.).

*Critério 2:* O projeto conta com estudos de viabilidade ou o país tem recursos alocados no orçamento para iniciar a execução do mesmo.

*Critério 3:* O projeto consolida redes de conectividade com alcance regional, existindo sinergias transfronteiriças.

*Critério 4:* Há oportunidade ou necessidade de desenvolvimento de um programa de ações complementares para a prestação efetiva de serviços e o desenvolvimento sustentável do território, segundo as características e modalidades de cada projeto

Segundo Scheibe (2013), passam então a ser priorizados os projetos que contam com maior apoio político nacional, além de projetos com perspectiva de conclusão no curto prazo. Os dois primeiros critérios apresentados objetivam incorporar projetos mais avançados e com maiores perspectivas de financiamento, havendo, desta forma, mais possibilidades de serem executados no prazo estabelecido pela agenda do comitê. Isso não significa que projetos ainda em fases preliminares não possam ser incorporados à agenda do COSIPLAN; estes podem ser incluídos se possuírem recursos orçamentários destinados à execução de estudos de viabilidade e se forem prioridade para os governos (Cosiplan 2011). Quanto ao quarto e último critério, ele engloba aspectos econômicos, sociais e ambientais considerando impactos sobre o desenvolvimento dos territórios abrangidos pelos projetos.

Segundo Padula (2015), os critérios de seleção e o agrupamento de projetos impactaram na projeção de uma construção infraestrutural de maior abrangência regional, embora sua natureza se mantenha voltada “para fora” (corredor de exportação). Além disso, os projetos ferroviários vêm ganhando importância em número e em grandeza, visto que passaram a fazer parte de corredores bioceânicos. Neste sentido, a criação do Grupo de Trabalho sobre Integração Ferroviária contribui para a maior importância que este modal vem ganhando na infraestrutura regional de transportes, constituindo uma lenta evolução em relação ao padrão de priorização quase que exclusiva do modal rodoviário.

## 4. POSICIONAMENTO DOS PAÍSES

Dentre os países da UNASUL, o **Brasil** assume uma posição de destaque. O país pode ser visto como uma potência regional, o que faz dele o maior interessado em liderar as discussões que concernem à integração do subcontinente. Para compreender o posicionamento brasileiro no COSIPLAN, é preciso primeiramente considerar que os investimentos em infraestrutura regional podem variar

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muito, uma vez que se relacionam à ação governamental, e que esta depende não só das mudanças no contexto internacional, mas, sobretudo, do contexto doméstico, do jogo de forças políticas, econômicas e sociais existentes no interior do Estado (Mariano 2014). Segundo Hirst (2006), desde o governo Lula, o Brasil vem assumindo uma política externa independente e progressista, atrelada à percepção do Estado como indutor do desenvolvimento. Essa postura alterou a forma de conceber a integração regional e a relação com os vizinhos, sem se desconectar das iniciativas de estreitamento de relações com outras potências médias, como África do Sul e Índia, além de potências mundiais, como China e Rússia (Hirst 2006 apud Mariano 2014). Até o momento, os investimentos brasileiros na integração não têm contribuído de fato para a promoção de uma transformação regional, dado que boa parte deles ainda se dá de maneira “mercado-cêntrica”, não visando à redução de assimetrias. Apesar disso, o Brasil comprehende a importância de uma integração político-estratégica, principalmente porque ela se conecta diretamente ao seu desenvolvimento e à sua projeção internacional. Para que esse modelo se consolide, segundo Mariano (2014), é necessário que a liderança brasileira se disponha a repactuar a integração na América do Sul, procurando definir as competências dos órgãos e das estruturas de integração, dando funcionalidade aos diferentes acordos regionais e coordenando as diferentes visões sobre o que deve ser realizado.

A **Argentina** é também um país central para a UNASUL. Apesar de passar por um período de instabilidades econômicas, o país continua sendo uma das maiores economias do subcontinente, além de um importante parceiro para o Brasil e um dos países mais industrializados da América do Sul. A Argentina reconhece a importância da integração, principalmente como promotora da redução de assimetrias entre os países, e destaca a importância da UNASUL como um fórum capaz de promover a integração político-estratégica. Todavia, há uma preocupação latente em relação ao êxito da UNASUL em consolidar suas proposições estruturais (Sigal 2014). O país já se mostrou receoso com uma possível hegemonia brasileira no referido bloco, apreensão que vem diminuindo à medida que as relações entre os dois países têm se estreitado, uma vez que ambos têm reconhecido a importância estratégica de consolidar sua parceria para se afirmarem como países-chave na região (Sigal 2014). Nas reuniões dos Grupos de Trabalho do COSIPLAN, a Argentina tem reforçado seu compromisso em aprofundar o processo de planificação e execução dos Eixos de Integração e Desenvolvimento, assim como de consolidar o COSIPLAN como uma instância político-estratégica da UNASUL.

A **Venezuela**, que possui uma economia basicamente exportadora de *com-*

*modities*, tem a sua ocupação demográfica e sua infraestrutura econômica concentradas ao norte do país (faixa litorânea). Essa característica venezuelana se deve aos dois seguintes fatores: (1) às reservas de combustíveis fósseis do país se encontrarem majoritariamente nessa região e (2) à proximidade ao oceano, o que facilita a exportação de tais produtos. Tal concentração de infraestrutura na região litorânea reflete a forte dependência do país pela exportação de petróleo e derivados, bem como retrata a baixa diversificação produtiva da Venezuela. Embora a dependência venezuelana da exportação de commodities tenha se intensificado nos governos de Hugo Chávez, foi a partir de sua ascensão que o país voltou seus olhos para a América do Sul. Uma das razões para o novo olhar estratégico da Venezuela sobre a região é a percepção de que a integração infraestrutural, buscada por entidades como o COSIPLAN, beneficiaria o país. A partir de projetos de cooperação infraestrutural como este, a Venezuela conseguiria desenvolver a infraestrutura econômica no restante de seu território - que não a faixa litorânea -, um primeiro passo para a diversificação produtiva e o desenvolvimento social homogêneo do país. Portanto, ao já possuir uma infraestrutura voltada à exportação, é do interesse da Venezuela promover uma reformulação dos eixos da IIRSA de modo que o interior regional receba prioridade, promovendo o desenvolvimento a partir de dentro do continente (Barros, Padula e Severo 2011). Sendo assim, o país é favorável à priorização de uma integração infraestrutural norte-sul em detrimento da integração leste-oeste da América do Sul.

Já **Chile, Peru e Colômbia**, países da costa do Pacífico, assumem interesses e estratégias semelhantes entre si. Os governos e elites destes países buscam atingir o crescimento econômico através de estratégias liberais e da exportação de commodities. Além disso, sua posição geográfica os possibilita assumir um papel de intermediação entre a entrada de manufaturas do Pacífico e a saída de commodities da América do Sul, fazendo com que sirvam como plataforma comercial e provedores de serviços logísticos – e que por vezes disputem entre si o protagonismo neste papel (Padula 2014). Considerando este contexto, os três países seguem defendendo a lógica do regionalismo aberto e do projeto da IIRSA, estando satisfeitos com a lógica “voltada para fora” que marcou a constituição dos EIDs e tendo grande interesse na construção de eixos bioceânicos e corredores de exportação (Padula 2011). A conjuntura internacional é propícia para seus interesses, tendo em vista que é crescente a importância da vertente oceânica do Pacífico, tanto em âmbito regional quanto global, devido ao destaque ascendente das economias asiáticas (principalmente da China), bem como a maior articulação daquelas economias com a região do Pacífico. Portanto, os interesses dos três países convergem com interesses estrangeiros, como dos chineses, indianos,

japoneses, sul-coreanos e estadunidenses (dentre outros) - principalmente no que concerne ao acesso a matérias-primas da região. A Colômbia constitui o principal aliado dos EUA na América do Sul – o que é reiterado especialmente através do Plano Colômbia, que permite aos EUA utilizar bases militares colombianas voltadas principalmente para a Amazônia e para a fronteira com a Venezuela (Padula 2014). Este fato por diversas vezes já acirrou as tensões entre o país e os demais vizinhos sul-americanos.

Além disso, os interesses dos países andinos em relação ao interior da região se dão principalmente através do estabelecimento de conexões de transporte eficientes com os países do Mercosul, visando superar as barreiras naturais, conquistar maior mobilidade, acesso aos demais mercados regionais e aos portos da vertente atlântica. O Equador, assim como Chile, Colômbia e Peru, exerce o papel de receptor de manufaturas vindas do Pacífico e de encaminhador dos produtos primários produzidos dentro do continente. Contudo, diferentemente dos países citados acima, o Equador não tem tão forte aceitação como plataforma de exportação e, por conseguinte, não prevalece no país a visão de regionalismo aberto. Desde a eleição de Rafael Correa, o Equador se aproximou mais dos países sul-americanos e ampliou a percepção de que a integração com os países do continente é fundamental para o desenvolvimento equatoriano (Duarte 2012). Desse modo, o país é favorável a uma reformulação dos eixos da IIRSA que proporcione maior destaque à promoção da infraestrutura no interior do continente. Contudo, é de interesse equatoriano que os eixos que interligam os oceanos e, principalmente, aqueles que melhoraram a logística de comércio internacional via Equador sejam mantidos.

Para o Paraguai, por possuir uma pequena economia aberta e sustentada pela exportação de *commodities* e por não dispor de saída para o mar, faz-se essencial o desenvolvimento de infraestrutura que conecte oceano Atlântico e oceano Pacífico ao interior do continente. Fica evidente, portanto, a relevância que eixos como o Interoceânico Central e o de Capricórnio têm para a economia do país, a qual depende do desenvolvimento de infraestrutura nessas regiões para a melhoria de sua competitividade internacional (Caballero 2012). Entretanto, o Paraguai não tem intento de ser apenas “uma ponte” dentro de uma grande via de comunicação entre os dois oceanos. O país enxerga na integração física não só um instrumento de incremento do comércio exterior do país, mas uma oportunidade de melhorar a qualidade de vida da população local e de reduzir assimetrias para com seus vizinhos (Caballero 2012). Dessa forma, o Paraguai acredita ser necessário maior enfoque na construção de infraestrutura no interior, a fim de promover o desenvolvimento a partir de dentro do continente, mas não lhe interessa que uma

possível criação de novos eixos deva ser feita em detrimento dos eixos já existentes.

Localizada estrategicamente no centro da América do Sul, a **Bolívia** tem uma grande importância no processo de integração infraestrutural sul-americano. Seu território contempla parte da Cordilheira dos Andes, que divide o continente a leste e a oeste, e as bacias do Rio da Prata e Amazonas, condicionantes da divisão norte-sul (Severo 2012). Constituída por um Estado plurinacional, a Bolívia é um país multiétnico, no qual a população indígena tem grande representatividade. Por essa formação, não há um consenso no país sobre a agenda de implementação de projetos de infraestrutura, uma vez que organizações comunitárias e povos indígenas se opõem à construção de algumas hidrelétricas ou rodovias que cruzem seus territórios. Há alegações no país de que a UNASUL seria um fórum de projeção brasileira, e não de fato um organismo promotor da integração e da redução de assimetrias regionais. Apesar disso, o país tem cooperado na Unasul para a implementação dos projetos que passam por seu território (Martínez 2013), tendo em vista também a reivindicação do atual governo de que o país volte a ter uma saída para o Oceano Pacífico, perdida para o Chile no século XIX.

A economia do **Uruguai**, assim como a maioria dos países sul-americanos, é uma economia baseada na exportação de commodities. Todavia, o país não vê na UNASUL o espaço apropriado para a promoção de seu comércio exterior. Para o país, o espaço pertinente para isso é o MERCOSUL (Batalla 2014). Dessa forma, o Uruguai percebe na Unasul e, mais especificamente, no COSIPLAN a oportunidade de alcançar o desenvolvimento de outros setores do país. Através dos processos de integração infraestrutural, principalmente no setor energético, o Uruguai vê a oportunidade de desenvolver outros setores de produção de bens com maior valor agregado (Batalla 2014). Sendo assim, o Uruguai é favorável à reformulação dos eixos da IIRSA de modo que o interior do continente receba mais investimentos propícios para o desenvolvimento “de dentro para fora”.

A **Guiana** e o **Suriname** constituem os países menos povoados da América do Sul, estando ainda pouco conectados à região. Ambos possuem potenciais produtivos nos setores mineral e energético, mas carecem de infraestrutura de transportes e energia (Visentini 2008). Embora tradicionalmente cooperem com EUA, Europa e os países caribenhos, têm demonstrado interesse na integração com seus vizinhos terrestres da América do Sul. A principal estratégia do Suriname para integrar-se a região é através de projetos que lhe dêem acesso ao Brasil, Venezuela, Guiana e Guiana Francesa, além de buscar estabelecer acordos bilaterais com os demais vizinhos (Roach 2014). Já a Guiana espera que a Unasul a permita superar seu isolamento na região, pretendendo ter papel ativo no processo de integração e apostando na integração comercial e energética (Osorio 2010). Deve-

se atentar se a integração infraestrutural sul-americana não constituiria uma possível solução para os litígios fronteiriços Guiana-Venezuela, Guiana-Suriname e Suriname-Guiana Francesa que, se não vislumbram grandes tensões, também não possuem previsão de solução jurídica em curto prazo.

## 5 QUESTÕES PARA DISCUSSÃO

**1.** A formulação dos Eixos da IIRSA deve ser orientada, prioritariamente, sob as premissas do Regionalismo Aberto ou da Integração Político-Estratégica?

**2.** Quais argumentos podem reforçar a concepção de que os Eixos da IIRSA devem se orientar prioritariamente para promover uma integração “norte-sul”, e não somente “leste-oeste”? Considere já que a maioria dos países da Unasul são exportadores de commodities e a melhoria na infraestrutura voltada para escoamento de produtos para exportação é vital para suas economias.

**3.** No âmbito de uma discussão sobre a alteração dos EIDs formulados pela IIRSA, qual seria a melhor opção: reformular os Eixos existentes ou incorporar novas opções a Agenda Prioritária?

**4.** Caso se opte pela reformulação dos EIDs, como conciliar essa reformulação com os projetos já em andamento? Como redistribuir estes projetos dentro dos novos EIDs?

**5.** Caso se opte pela incorporação de novos projetos à Agenda Prioritária como se organizariam estes projetos de modo que sejam financeiramente viáveis tendo em mente o já extenso número de projetos abarcados pelo Cosiplan?

**6.** Até que ponto é viável aceitar um financiamento externo da infraestrutura regional sul-americana? Que negociações poderiam ser feitas para garantir que os interesses regionais sejam garantidos na construção de infraestrutura no subcontinente?

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# A CONSTRUÇÃO DO EIXO HIDROVIÁRIO SUL- AMERICANO

BUILDING A SOUTH AMERICAN WATERWAY AXIS

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## RESUMO

O transporte hidroviário apresenta ampla vantagem de custos e eficiência energética em comparação com os modais ferroviário e rodoviário. Além de ser significativamente menos poluente, a existência de uma ampla rede hidroviária exerce um impacto importante na competitividade internacional da economia de um país. A América do Sul, apesar de possuir grande potencial hidroviário, ainda não o explora adequadamente. Com exceção do reduzido trânsito de cargas existentes na Bacia do Paraná e na Bacia Amazônica, o modal hidroviário ainda é escasso no interior do subcontinente. Dada a vasta base hidrográfica que possui, a insuficiente utilização de suas águas internas é um enorme desperdício para a América do Sul. Dentre as cinco principais bacias do subcontinente, as três maiores - Bacia

Amazônica, Bacia do Rio da Prata e Bacia do Orinoco conectam os territórios e as economias dos países da região. A estruturação de um Eixo Hidroviário SulAmericanoo que interligue essas três bacias pode contribuir muito para o aprofundamento de uma unidade territorial. Se conduzida com foco no fortalecimento da região, e não apenas na atração de investimento externo, a integração física permitirá a emancipação de populações periféricas e a circulação de bens e serviços essenciais ao desenvolvimento da indústria regional. Fortalecer o comércio intraindústria, e não somente facilitar o escoamento de commodities e a importação de manufaturas, deve ser prioritário na fundamentação do projeto do Eixo Hidroviário SulAmericanoo a ser desenvolvido pelo Cosiplan.

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## 1. HISTÓRICO

O processo de colonização pelos quais passaram os países da América do Sul trouxe fortes impactos para a dinâmica de integração regional atual. O fato da colonização não estar centrada na interiorização do desenvolvimento, mas no povoamento de regiões estratégicas para a exploração dos recursos naturais, impossibilitou a criação de uma ampla rede de comunicações entre os núcleos existentes. Devido à falta de infraestrutura de transportes, as vias marítimas e fluviais se tornaram de fundamental importância para o escoamento da produção sul-americana para as potências europeias, e a posse de pontos estratégicos ao longo dos cursos dos rios e bacias hidrográficas virou motivo de grandes disputas territoriais entre os países da região. O século XIX foi um período de grandes instabilidades na América do Sul, marcado pela ascensão desses conflitos decorrentes do processo de consolidação territorial dos Estados. As constantes disputas regionais não permitiram que a integração sul-americana fosse colocada em pauta, o que só aconteceu a partir da segunda metade do século XX. A presente seção trata com maiores detalhes os processos descritos acima, enfatizando a importância das águas para a configuração territorial atual e o processo de integração regional na América do Sul.

### 1.1 O MODELO DE COLONIZAÇÃO SUL-AMÉRICA NO E A EMERGÊNCIA DOS MODAIS

Vários fatores determinaram a evolução na estrutura demográfica e a dispersão do povoamento no subcontinente sul-americano. Na América portuguesa, em um primeiro momento, houve a colonização da extensão da costa brasileira recebida por Portugal no Tratado de Tordesilhas, o que era necessário para a ocupação e defesa eficientes do território que lhe pertencia. Em um segundo momento, agora em direção ao interior, o surgimento do bandeirantismo predador de índios, bem como a descoberta e a exploração das minas de metais preciosos foram fundamentais para a fixação de núcleos definitivos no interior do subcontinente (Prado Jr. 2012, 35). Na região da Bacia Amazônica, foram as missões católicas que cumpriram com o papel de interiorização, sustentadas na exploração dos produtos naturais da Floresta Amazônica (Goes 1991). Os espanhóis, por sua vez, fixaram-se nos altiplanos andinos, onde a presença de metais preciosos e de densas populações indígenas, fornecedoras de mão de obra abundante e de fácil cooptação, determinaram a interiorização espanhola pelo coração do continente

(Prado Jr. 2012, 36-37). Os padres jesuítas espanhóis, à procura da conquista religiosa, deixaram as minas do planalto andino e fixaram-se na vertente oriental e baixada subjacente dos Andes, em uma linha ininterrupta de missões jesuíticas, traçada do rio da Prata ao Amazonas pelo interior do continente (Bandeira 1998).

A formação dos Estados na América do Sul, devido ao seu processo de colonização, foi fortemente marcada pela influência das comunicações e dos transportes. As grandes distâncias e os obstáculos geográficos são as causas fundamentais da difícil interação entre as diversas regiões do subcontinente, o que imprime um ritmo lento e retardado às relações das colônias. As vias de comunicação dentro do subcontinente se deram, em um primeiro momento, na direção do litoral para o interior, através das buscas por especiarias e metais preciosos; no momento seguinte, se estabeleceram no sentido oposto, dado que os núcleos já constituídos no interior procuravam uma saída rápida para o mar (Prado Jr. 2012, 251). As vias penetradoras, por mais que conectassem os diferentes núcleos de povoamento do subcontinente, não excluíam o caráter fragmentário da povoação, cujos núcleos litorâneos e interioranos levavam uma vida mais ou menos à parte. Esses núcleos se articulavam entre si a princípio unicamente pela via marítima, mas à medida que a penetração se aprofundava, os rios passaram a exercer um papel crucial como fator de convergência das linhas penetradoras, devido ao fato da orientação do relevo, principal influência das marchas de povoamento, se aproximar nos encontros das bacias hidrográficas. Como disse Caio Prado (2012, 254)

Não entrarei nos pormenores de cada um desses sistemas [de comunicação], o essencial é a característica principal que escolhem: por água, seja de baías, estuários, rios. As vias terrestres que nela se articulam são subsidiárias e não se destinam senão a procurá-la. Ela faz de eixo, e serve de escoadouro geral do sistema. É, aliás, a facilidade do transporte por água uma das causas principais que fixaram aí o povoamento.

A partir do processo de interiorização do território, emergiu a necessidade de se desenvolver meios de transporte eficientes, capazes de deslocar as mercadorias até os portos e centros urbanos. Os obstáculos geográficos e a falta de infraestrutura adequada de transportes terrestres resultaram no encarecimento da produção e no desestímulo das regiões produtoras no interior do subcontinente. Desse modo, ainda no fim do século XVIII, a ideia de utilizar o potencial dos rios para conectar as diversas regiões da América do Sul ganhou força. Os rios surgiram como importante alternativa para o barateamento dos custos de transporte; entretanto, muitos desses rios não eram navegáveis, o que obstaculizou a utilização das hidrovias (Jaeger 2014b). Visando superar tais empecilhos geográficos, em 1799, foi idealizado o projeto da “Grande Hidrovia”, que integraria o subcontinente sul-americano de

norte a sul, ligando as bacias do Prata, do Amazonas e do Orinoco (Jaeger 2014b). No entanto, o projeto não saiu do papel.

## 1.2 O PROCESSO DE CONSOLIDAÇÃO DOS ESTADOS E AS DISPUTAS FRONTEIRIÇAS

Mesmo nas décadas que seguiram os movimentos de independência, os Estados sul-americanos ainda estiveram atrelados às potências do Norte, de modo que, até a década de 1960, a integração entre os países do subcontinente continuou seguindo uma lógica extrarregional (Paloschi 2011). O principal objetivo da construção de um sistema de infraestrutura na região era, portanto, garantir uma posição estratégica voltada ao comércio com as potências estrangeiras.

Com exceção das ferrovias que ligavam as áreas de extração de minérios aos portos para facilitar o escoamento da produção, não existia outra forma de comunicação entre os países que não a fluvial e marítima. A existência de precária integração física entre as diferentes regiões fazia da navegação uma das formas mais eficientes e rápidas de locomoção, comunicação e comércio. A percepção da fundamental importância das águas para o escoamento da produção e dos recursos explorados no Novo Mundo fez emergir numerosas disputas pelo controle dos cursos dos rios e demais pontos estratégicos, iniciadas ainda no período colonial (Paloschi 2011). Tal percepção, somada à ausência de demarcações claras de fronteiras, serviu de plano de fundo para os conflitos de soberania subsequentes; a região da Bacia do Rio da Prata foi um dos grandes alvos dessas tensões.

As principais conflagrações que marcaram as relações dos países sul-americanos no período foram duas – ambas exemplos de que divergências acerca da demarcação de fronteiras produziam intensas discussões de soberania. A primeira delas, a Guerra do Paraguai (1864-1870), teve início em 1864 resultante da disputa pela posse de pontos estratégicos na região. O confronto entre a Tríplice Aliança (Argentina, Brasil e Uruguai) e o Paraguai revelou a tensão entre projetos nacionais ambiciosos na Bacia do Prata (Werneck da Silva e Gonçalvez 2009). A segunda é a Guerra do Pacífico (1879-1883), um conflito pela posse de terras entre a Bolívia, o Peru e o Chile, também crucial para a formação territorial da região. A Guerra, que teve como causa o aumento da importância econômica que o Deserto do Atacama e os seus recursos minerais adquiriram em meados do século XIX, resultou na perda do acesso ao mar pela Bolívia e na anexação chilena de parte dos territórios boliviano e peruano (Jaeger e Prates 2014).

Além das guerras decorrentes dos conflitos de interesses internos, por muitas vezes as potências estrangeiras também colocavam as nações sul-americanas umas

contra as outras, como ocorreu no caso da Guerra do Chaco (1932-1935). Segundo Paloschi (2011, 17), o conflito travado entre a Bolívia e o Paraguai foi resultado do interesse de petrolíferas estadunidenses e holandesas nas jazidas teoricamente existentes na região do Chaco, que pressionaram as autoridades locais até que o conflito entre os vizinhos se tornasse inevitável. Argentina e Brasil participaram indiretamente como mediadores do conflito, ambos fortemente interessados em expandir sua área de influência na Bacia Platina.

A resolução dos principais litígios de fronteira travados, principalmente, durante o século XIX marcou a consolidação dos Estados nacionais sul-americanos e o início de uma nova fase nas relações platinas. Até a consolidação efetiva dos Estados, iniciativas de integração física com os demais países da região não eram os objetivos que permeavam suas políticas externas. Somente na década de 1870, cerca de um século após a idealização da Grande Hidrovia, o presidente argentino Sarmiento voltou a planejar a construção do projeto que propunha integrar o interior do subcontinente (Gioia 1987). Contudo, justamente nesse período, o desenvolvimento da mercantilização econômica exigiu uma revolução nos transportes. A necessidade de maior competitividade confrontou o transporte fluvial com o ferroviário: enquanto o primeiro requeria técnicas avançadas para a época, o segundo ganhava força com as novas tecnologias advindas da Revolução Industrial (Jaeger 2014b). Por conseguinte, a ideia de integração hidroviária saiu novamente de pauta, mas não em definitivo.

### 1.3 A INDUSTRIALIZAÇÃO COMO PROPULSORA DA INTEGRAÇÃO FÍSICA REGIONAL

A transição do século XIX para o XX na América Latina tem como uma de suas características principais o aumento do interesse estadunidense no desenvolvimento da infraestrutura da região, o que pode ser evidenciado na construção do Canal do Panamá e nos investimentos na Estrada de Ferro Madeira-Mamoré (Canaveze 2008 apud Jaeger e Prates 2014). Com os impactos da Crise de 1929 e da Segunda Guerra Mundial houve um aumento no sentimento de insegurança na América do Sul, o que incentivou a criação de um sistema de consultas e interlocuções entre os países. Nesse contexto, em 1947, foi criada a Organização dos Estados Americanos (OEA), que respondeu à ausência de um mecanismo institucional que envolvesse todos os países do continente, fazendo frente às potenciais ameaças estrangeiras. A instituição, entretanto, permaneceu por décadas subordinada aos objetivos estadunidenses no que tangia às relações internacionais da América Latina (Paloschi 2011, 19). Contudo, ao passo que a integração

hemisférica desejada pelos Estados Unidos começou a ser vista com desconfiança pelos países sul-americanos, estes se mostraram abertos a uma maior aproximação com os países da região e à assinatura de compromissos exclusivamente regionais (Villela 1984).

A consolidação da ideia de integração sul-americana tem início, portanto, em meados do século XX, com o surgimento do pensamento cepalino, o qual guia o ideário desenvolvimentista regional até a década de 1980 (Almeida 2006). A década de 1960 foi um período de severa dificuldade para a economia dos países latino-americanos: finda a euforia do pós-guerra, a América Latina estava novamente endividada e submetida às receitas dos organismos econômicos internacionais. Percebendo os vínculos diretos entre atraso econômico e subversão política, a Comissão Econômica para a América Latina e Caribe (CEPAL) propunha, em 1959 – ano exato da Revolução Cubana –, “a integração como parte fundamental da industrialização da América Latina, sendo esta a premissa básica da superação da condição de subdesenvolvimento” (Paloschi 2011, 22). Influenciada pelo processo de integração europeu, iniciado em 1951 com a criação da Comunidade Europeia do Carvão e do Aço, e apesar de não contar com as mesmas condições favoráveis à integração, a América Latina esforçou-se em institucionalizar relações econômicas.

O resultado desse movimento integracionista foi a assinatura, em 1960, do Tratado de Montevidéu, que resultou na criação da Associação Latino-Americana de Livre Comércio (ALALC). Segundo Paloschi (2011, 22), entretanto, “não há, entre os 65 artigos do Tratado de Montevidéu, qualquer menção à integração física entre os países, mas fundamentalmente especificações técnicas quanto ao avanço da liberalização comercial”. A ausência da busca pela integração física da região representava grandes limitações ao incremento da integração comercial na América do Sul. Visto que o processo de industrialização, por muitas vezes, se viu obstaculizado pela precariedade infraestrutural da região, os governantes se viram obrigados a incluir o incremento das comunicações internas como tarefa prioritária (Paloschi 2011).

Diversas iniciativas, apesar de não coordenadas de forma unificada, buscaram reverter essa situação. Em 1969, Argentina, Bolívia, Brasil, Paraguai e Uruguai firmaram o Tratado da Bacia do Prata, o primeiro acordo multilateral a tratar expressamente da integração física na América do Sul. A questão hidroviária recebeu importante destaque: o Tratado não só regulamentou a navegação na Bacia do Prata, como envolveu a construção de portos e hidrovias na extensão dos rios e ressaltou a importância da preservação ambiental e da complementação econômica e industrial (Paloschi 2011, 26). Motivados pela assinatura do Tratado da Bacia

do Prata, outros esforços foram empregados no desenvolvimento de infraestrutura hidroviária. Em 1973, o deputado brasileiro Vasco Neto retomou a ideia de interligar as três principais bacias hidrográficas do subcontinente e apresentou seu projeto ao poder Executivo (Gioia 1987). Entre 1979 e 1981, dois irmãos venezuelanos, Constantino e Paul Georgescu, saíram em expedição, adentrando as três bacias, e percorreram cerca de 40 mil quilômetros de bote para provar a viabilidade técnica de se realizar o projeto. O presidente peruano Fernando Balaunde Terry também empreendeu esforços com o mesmo propósito em 1981. Ademais, no mesmo ano, a Conferência do Clube de Roma patrocinou um estudo aprofundado a favor do projeto (Gioia 1987).

Foi, portanto, especialmente no fim da década de 1960 que a integração infraestrutural sul-americana começou a entrar de fato nas pautas de política externa dos Estados. Nesse momento, a infraestrutura apareceu como a base para um objetivo muito mais amplo de desenvolvimento e projeção internacional da região (Villela 1984). Como resultado da assinatura do Tratado da Bacia do Prata, uma série de acordos bilaterais de integração entre os países sul-americanos promoveram a construção de rodovias e ferrovias que possibilitaram – não suficientemente – uma maior integração física do subcontinente.

No entanto, com o fim da Guerra Fria e a ascensão do neoliberalismo, a integração sul-americana assumiu novos propósitos: consolidar o processo de abertura econômica, incrementar a parceria com os Estados Unidos e superar o modelo de industrialização pelo de substituição de importações, estabelecendo uma parceria regional profundamente comercial (Ribeiro e Kfuri 2010 apud Jaeger e Prates 2014). Consequentemente, as últimas décadas do século XX presenciaram uma queda profunda de investimentos públicos em obras na região e o desenvolvimento da integração infraestrutural sofreu grande contração.

Deve-se ressaltar, por fim, que essa primeira fase do desenvolvimento infraestrutural da América do Sul privilegiou a construção de malhas rodoviárias e ferroviárias. Isso ocorreu porque, segundo André da Paz (2011, 32),

As redes de integração física e de transportes da América do Sul são marcadas tanto pela herança histórica de economias agrário-exportadoras como pela modernização e formas de articulação das economias nacionais nos últimos cinquenta anos. Assim, formaram-se verdadeiros aglomerados em torno dos polos urbanos dos principais portos de exportação, como Buenos Aires e São Paulo-Santos, que irradiaram estradas e ferrovias em direção aos locais de produção.

Embora diversas iniciativas também tenham sido tomadas para a implantação de malhas hidroviárias, as mesmas não estiveram no centro desse planejamento. As bacias hidrográficas passaram a ser vistas antes como um potencial gerador

de energia do que como vias de comunicação e transporte. A assinatura do Tratado da Bacia do Prata é um importante exemplo disso, visto que abriu o debate sobre o aproveitamento dos recursos hídricos da região platina. Percebendo o vasto potencial de geração energética do caudaloso Rio Paraná, Brasil e Paraguai firmaram, em 1973, o tratado que deu origem à empresa Itaipu Binacional (Paloschi 2011, 28). A nova hidrelétrica, mais que suprir as necessidades energéticas de ambos os países, também cumpriu importante papel na resolução do conflito fronteiriço entre eles. As hidrovias passaram a ganhar maior importância na atual conjuntura.

#### 1.4 A INTEGRAÇÃO INFRAESTRUTURAL SUL-AMERICANA NO SÉ-CULO XXI

A integração infraestrutural dos Estados sul-americanos seguiu uma trajetória marcada por deficiências em planejamento e ações regionais conjuntas. Segundo Barat (1978, 5), “tal falta de planejamento integrado no setor acarretou em desperdícios sistemáticos de recursos em investimentos de viabilidade duvidosa”. Esse cenário de desgaste só começou a ser revertido efetivamente a partir dos anos 2000, com a ascensão de governos que promoveram a revisão das políticas econômicas, resultando em grande incremento para o projeto integrationista (Jaeger e Prates 2014). A partir de então, a América do Sul passou a priorizar um modelo de desenvolvimento regional equitativo, cujas características principais seriam a redução das assimetrias e a maior preocupação com a integração física e social dos países.

Aproveitando o cenário favorável, é necessário que a América do Sul emprenda esforços no sentido de explorar o potencial integral da região, que não vem sendo aproveitado por precariedade de infraestrutura. Múltiplos modais podem ser empregados quando se busca a integração física do subcontinente. As hidrovias, porém, merecem especial destaque devido à importância estratégica que possuem desde o início da colonização sul-americana e, principalmente, ao grande e pouco explorado potencial para a realização desse objetivo.

## 2. APRESENTAÇÃO DO PROBLEMA

Apesar de representar apenas 12% da superfície terrestre, a extensão dos rios sul-americanos chega a um quarto do valor mundial, e o volume de água presente nos rios alcança cerca da metade das águas fluviais do mundo (Costa 2011, 37). Existem cinco bacias hidrográficas no subcontinente: Bacia Amazônica, Bacio do

rio da Prata, Bacia do Orinoco, Bacia do rio São Francisco e Bacia do rio Magdalena. Entretanto, como as duas últimas se localizam completamente dentro dos territórios brasileiro e colombiano, respectivamente, trataremos apenas das três primeiras bacias nesta seção.

Desde a idealização do projeto da Grande Hidrovia, estuda-se a possibilidade de construção de um Eixo Hidroviário na América do Sul. Tal Eixo se concretizaria através da integração das Bacias Amazônica, do rio Orinoco e do rio da Prata, constituindo um amplo sistema hidroviário no interior do subcontinente, que ligaria a Ciudad Guayana, na Venezuela, à cidade de Buenos Aires, na Argentina. O projeto estima percorrer 10.100 km de rios, sendo que, destes, 6.800 km já são navegáveis por barcas de 6m de calado (Costa 1999 apud Jaeger 2014, 11). A imagem 1 mostra as três bacias que formariam o Eixo e sua extensão hidrográfica.

**Imagen 1:** Principais Bacias Hidrográficas e o potencial para a Integração Regional no continente Sul-Americano



Fonte: Oliveira 2013, 4.

## 2.1 MODAIS DE TRANSPORTE E DESENVOLVIMENTO SOCIO-ECONÔMICO

Inicialmente, a discussão acerca da construção de um Eixo Hidroviário de proporções subcontinentais perpassa a relação entre os custos envolvidos no

transporte de mercadorias e pessoas e o desenvolvimento socioeconômico do território envolvido. Questões geopolíticas e estratégicas também estão em pauta e serão abordadas adiante. Primeiramente, cabe comparar as vantagens do modal hidroviário frente a outros modais, bem como fazer uma breve referência a experiências de outros países.

O meio de transporte sobre o qual a matriz de um país está assentada guarda importante relação com o consumo de combustível, a poluição ambiental, o gasto decorrente em infraestrutura e, obviamente, os custos de frete. O Quadro 1 sintetiza a comparação entre os três modais de transporte principais em relação às variáveis citadas.

**Tabela 1:** Comparação da Eficiência Energética dos Meios de Transporte

Meio de Transporte	Combustível consumido*	Emissões de CO2	Custo do Km de infraestrutura	Custo médio do frete por T/Km útil
<b>Rodoviário</b>	15 litros	219g	US\$440mil	US\$ 32,00
<b>Ferroviário</b>	6 litros	104g	US\$1,4milhão	US\$ 16,00
<b>Hidroviário</b>	4 litros	72g	US\$34mil	US\$ 8,00

\*transporte de uma tonelada por 1000 Km

Fonte: Oliveira 2012, 95.

Pode-se perceber que a eficiência energética de uma hidrovia é muito alta se comparada aos outros modais. A capacidade de carga média por Hp (T/Hp) de uma hidrovia é de 5 toneladas por Hp, sendo que no modal ferroviário é de 0,75, e no rodoviário é de 0,17 (Oliveira 2012, 94). Assim, uma matriz de transporte menos concentrada no modal rodoviário - o menos eficiente - representaria relevante ganho em termos de eficiência energética.

Historicamente, o modal de transporte predominante em um país é determinante para o desenvolvimento nacional, a competitividade econômica e mesmo a vitória em conflitos bélicos. O exemplo histórico mais significativo é o caso da

hidrovia Mississipi-Missouri nos Estados Unidos. Este país conta com a maior rede de hidrovias naturais do mundo, a qual se localiza sobre a planície fértil do país, o meio-oeste americano. O complexo das bacias dos rios Mississipi e Missouri deságua em mares abertos como o Golfo do México e do Caribe. Isso permitiu que as outras regiões do país fossem abastecidas com grãos e matérias-primas para a indústria, enquanto as zonas industriais no Norte-Nordeste já se localizavam próximas do litoral e dos Grandes Lagos, de onde então exportavam seus produtos (Friedman 2012, 234-235; Oliveira 2012, 40). A vasta rede hidrográfica conferiria eficiência e competitividade à economia do país, antes que o modal ferroviário ganhasse mais importância na integração da costa leste à costa oeste. Dessa forma, os Estados Unidos lograram, desde o início de sua industrialização, utilizar um meio de transporte barato que garantiu menores custos ao escoamento de sua produção, facilitando a construção de cadeias produtivas em larga escala, além da interiorização do desenvolvimento nacional. Também importa lembrar que a eficiência de seu sistema hidroviário permitiu aos Estados Unidos a consolidação de sua bioceanidade, fazendo dos EUA um Estado-região ou Estado-continente, com acesso simultâneo aos oceanos Pacífico e Atlântico, através do Canal do Panamá.

Se pensarmos em outro país de proporções semelhantes às estadunidenses, como a Rússia/União Soviética, veremos que esta nunca teve uma vantagem parecida. As bacias hidrográficas russas não coincidem com as planícies férteis do país e o rio Volga, maior rio da Europa e que concentra em seu vale importante parte da indústria russa, deságua no Mar Cáspio, um mar fechado. Ou seja, mesmo tendo um território rico em recursos e uma ampla bacia hidrográfica, a Rússia não obteve de seus rios os efeitos dinâmicos que o sistema Mississipi-Missouri trouxe aos EUA.

Uma das experiências mais antigas em termos de engenharia hidráulica foi a construção do Canal Pequim-Hangzhou, o “Grande Canal” da China. O canal foi construído entre os séculos V a.C e VII d.C., sendo posteriormente ampliado e aperfeiçoado. Hoje ele tem quase 1.800 km de extensão e possibilita a integração entre o Nordeste e o Sudeste da China (Lino, Carrasco e Costa 2013, 30). A Europa, por sua vez, conta com uma das hidrovias mais trafegadas do mundo, o canal Meno-Danúbio, que conecta o mar do Norte ao mar Negro. O projeto do canal data do século VIII, com Carlos Magno, mas só foi concretizado recentemente, em 1992, já sob o processo de integração europeu. Embora a Europa seja conhecida pela eficiência de seu sistema ferroviário, associado à Revolução Industrial no século XIX, a construção de canais também fez parte de um conjunto de novos empreendimentos infraestruturais que veio combinado com o industrial-

ismo. Na Inglaterra, país pioneiro da produção manufatureira, houve um surto na construção de canais entre 1770 e 1830, ligando as minas de carvão do interior do país às indústrias da cidade de Manchester, por um custo dois terços inferior ao transporte por tração animal. Com a falta de investimentos em hidrovias e a competitividade do sistema de transportes dos países continentais europeus, o modal ferroviário acabaria sendo privilegiado na Inglaterra, em detrimento do modal hidroviário (Lino, Carrasco e Costa 2013, 35).

Confrontando esses dados com a baixa utilização das hidrovias na América do Sul, há de se perguntar o porquê de um desenvolvimento tão aquém de seu potencial. Parte da resposta pode ser encontrada na forma incompleta como se deu a construção dos Estados-nacionais no subcontinente. Em raros casos foi desenvolvida uma estrutura de planejamento central eficiente que conseguisse se sobrepor aos interesses regionais ou imediatistas de certos grupos dentro dos países e planejar uma estrutura unificada de transportes. Mesmo no Brasil, país por onde passa a maior parte dos rios caudalosos sul-americanos e o único da América do Sul a ter atingido uma industrialização quase completa durante o século XX, privilegiou-se o automóvel e, em decorrência disso, o modal rodoviário. Nota-se que a política de planejamento de um país não ocorre de forma descolada e independente dos interesses econômicos internos ou externos ao país, do lobby das indústrias automobilísticas ou de certa tendência ao estímulo de consumo de petróleo (Accioly, 1979 apud Lino, Carrasco e Costa 2013, 66).

Uma explicação alternativa diz respeito ao momento no qual se deu um maior salto em termos de desenvolvimento industrial, urbano e socioeconômico na América do Sul. O século XX foi o auge da era rodoviária e, especialmente nesses países, não havia justificativas do ponto de vista social, político ou econômico para melhorar ou expandir o modal hidroviário e ferroviário, resultando na hegemonia das rodovias. Especificamente falando, não existia nesses países um mercado interno consolidado que desse sustentação econômica e factibilidade para a existência de companhias ferroviárias ou de navegação em escala nacional. Ao contrário da experiência de países de desenvolvimento anterior ao sul-americano, o baixo nível de renda, a excessiva concentração dessa renda e um reduzido mercado interno tiveram como consequência uma pequena densidade de tráfego por unidade de área, tornando o modal rodoviário o mais atrativo entre as opções existentes (Galvão 1997).

## 2.2 O POTENCIAL INTEGRADOR DO EIXO HIDROVIÁRIO SUL-AMERICANO

A despeito dos dados apresentados sobre a importância das hidrovias, a América do Sul não é uma região que utiliza devidamente seu potencial. Como mencionado, um potencial Eixo Hidroviário seria a integração das Bacias Amazônica, do rio Orinoco e do rio da Prata. O Mapa 2 mostra os principais rios que integrariam o Eixo.

**Imagen 2:** Rios integradores do Eixo Hidroviário Sul-Americano



Fonte: Peru, 2015

O rio Orinoco nasce na Venezuela e é o terceiro mais caudaloso do planeta. Em se tratando da integração da Venezuela com a Colômbia, o projeto Orinoco-Apure (PROA) pretende estabelecer um eixo de desenvolvimento através de um sistema de transporte multimodal (Costa 2011, 42). Entretanto, é o rio Meta o

mais relevante para a integração entre os dois países, visto que boa parte de seu trajeto é navegável. Nesse sentido, há um projeto de integração Orinoco-Meta, além da construção de uma via multimodal ligando a região de Amacuro, no Mar do Caribe venezuelano, com Buenaventura, no litoral do Pacífico da Colômbia (Costa 2011, 43). Quanto à integração da Bacia do Orinoco com a Amazônica, já existe uma conexão através de um pequeno rio, o Casiquire. Esse é um afluente do rio Orinoco e o único no mundo que faz a integração natural de duas bacias, ligando o Orinoco ao rio Negro. Entretanto, a navegabilidade do rio é difícil, devido a muitas pedras e corredeiras, o que ainda demanda intervenções de engenharia hidráulica, eclusas e canais (Barros, Padula e Severo 2011, 36). Nesse sentido, há uma gama de projetos previstos para o Eixo Andino na Agenda de Projetos Prioritários de Integração do COSIPLAN.

A região Norte-Nordeste do Brasil e a região Sul da Venezuela, onde se daria a conexão Orinoco-Amazônicas, são as menos povoadas e com menor nível de desenvolvimento de seus países, mesmo que guardem um imensurável potencial de crescimento. Segundo Jaeger (2014a, 11), a articulação entre a Zona Franca de Manaus e a faixa petrolífera do Orinoco é promissora. O governo venezuelano conta com uma série de projetos nos setores de ferro-aço, alumínio, petroquímica, agroindústria, mineração, construção civil e fertilizantes (Jaeger 2014a, 11). Essa articulação poderia garantir à Venezuela um amplo mercado de consumo para os produtos da região de Guayana, agregando valor à sua produção, ainda dominada por bens primários, e criando com o Norte do Brasil uma relação virtuosa de expansão industrial (Barros, Padula, e Severo 2011, 36).

Quanto à integração física entre as duas regiões citadas, é interessante ressaltar que nem mesmo existem voos diretos de uma à outra, sendo necessária uma escala em São Paulo, levando um mínimo de 12 horas, ou no Panamá, levando ao menos 7 horas (Barros, Padula, e Severo 2011, 37). Assim, duas regiões tão próximas e com um potencial tão rico de integração ainda se mantêm, paradoxalmente, muito distantes uma da outra. Especificamente quanto à Amazônia, Kerr Oliveira (2013) conclui que a industrialização de produtos típicos da região seria a melhor forma de promover o desenvolvimento da área de forma sustentável e a geração de uma “nova economia”, centrada na alta tecnologia, em transportes mais limpos e de menor custo, promovendo o emprego e a renda da população local (Oliveira 2013, 180).

No caso da integração da Bacia Amazônica à Platina, também haveria necessidade de obras de engenharia hidráulica e de uma rede de eclusas<sup>1</sup> e canais. Nesse

<sup>1</sup> Uma eclusa é uma obra de engenharia hidráulica que visa a permitir que embarcações naveguem em rios onde existem grandes desniveis d'água, como barragens, corredeiras e quedas d'água. Dessa

sentido, a construção das usinas hidrelétricas de Jirau e Santo Antônio, ambas no Rio Madeira, estão em andamento, no estado brasileiro de Rondônia (Jaeger 2014b, 66). Ademais, o projeto “Complexo do Rio Madeira” prevê a construção de outras duas hidrelétricas (Guajará e Cachuerza Esperanza), visando interiorizar o desenvolvimento sul-americano. Vabilizando a navegabilidade do rio Madeira, ele permitirá o acesso hidroviário a cidades com portos fluviais no Mato Grosso, Bolívia e Peru (Fernandes 2005 apud Jaeger 2014b, 66). Além disso, convém citar a Hidrovía Paraguai-Paraná (HPP). A HPP incluiu-se nos projetos da IIRSA desde 2005 e percorre um trajeto de 3.442 quilômetros desde Cáceres, no Mato Grosso, até Nova Palmira, no Uruguai (Jaeger 2014b, 66):

A HPP [Hidrovía Paraguai-Paraná], via natural naveável, encerra importante significado histórico, econômico e diplomático. Constitui o eixo fluvial longitudinal mais extenso da América do Sul, banha vasto e rico território, tanto do ponto de vista ambiental quanto de desenvolvimento econômico-social, no centro do continente. Seu papel como opção de escoamento natural de cargas dos países ribeirinhos em direção aos mercados regionais e internacionais tem sido resgatado não apenas em função de seu interesse econômico, mas também como instrumento de integração regional (Zugaib 2006, 17 apud Jaeger 2014b, 66).

Entretanto, é importante ressaltar que a ausência de uma clausa na hidrelétrica de Itaipu não permite a plena conexão na chamada hidrovía do Mercosul, que permitiria interligar as hidrovias do Tietê-Paraná e do Paraguai-Paraná, potencializando a comunicação entre Paraguai, Argentina, Uruguai, Brasil e Bolívia (Brasil 2013, 20). Ademais, importa destacar que a experiência hidroviária de outros países permite inferir que alguns elementos são essenciais ao bom funcionamento de um sistema hidroviário: a manutenção regular das hidrovias; a carga em volume e regularidade adequadas para o transporte em barcaças; uma estrutura pública de suporte a este modo de transporte; e uma estrutura de transporte bem articulada, segura e padronizada (Brasil 2013, 11). Nesse sentido, cabe frisar que, embora hidrovias requeiram intervenções de engenharia muito menores se comparadas às rodovias e ferrovias, tampouco existem sem algumas condições básicas: requisitos de balizamento e sinalização, serviços regulares de dragagem, cartas de navegação atualizadas e infraestrutura portuária e de transbordo intermodal de cargas, já que hidrovias necessitam, quase sempre, de interconexões com modais terrestres (Lino, Carrasco e Costa 2013, 29).

Além disso, a integração hidroviária na América do Sul pode gerar favorável interiorização e redistribuição populacional, formando um corredor de desen-

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forma, elas funcionam como uma espécie de elevador ou degrau hidráulico.

volvimento:

Um “corredor de desenvolvimento” pode ser definido como uma faixa contínua com algumas dezenas de quilômetros de largura, estabelecida em torno de uma via de transporte principal – hidrovia, ferrovia ou rodovia – e acompanhada por redes de transmissão de energia, dutos para o transporte de petróleo ou gás, redes de comunicação e outros tipos de infraestrutura (Lino, Carrasco e Costa 2013, 42-43).

A existência de infraestrutura viabiliza a instalação de indústrias, criando com elas um ciclo virtuoso de retroalimentação: se por um lado o corredor torna-se uma força motriz para toda a região, atraindo novos empreendimentos econômicos, estes demandam mais investimentos infraestruturais, modernizando e tornando mais eficiente a infraestrutura disponível (Lino, Carrasco e Costa 2013, 43). Dessa forma, a revolução em termos de ocupação de espaços, expansão da presença do Estado e barateamento dos transportes, materializada na forma de hidrovias, viabilizaria a formação de novos polos econômicos. Cidades assentadas na inovação tecnológica e em indústrias de alta tecnologia, planejadas com o que existe de mais moderno em termos de urbanismo, poderiam se tornar o padrão de povoamento do interior do subcontinente sul-americano. Esse processo também auxiliaria a controlar o crescimento de grandes regiões metropolitanas e as tensões sociais e a violência urbana daí advindas (Lino, Carrasco e Costa 2013, 47).

## 2.3 AMBIENTALISMO E TRANSPORTE HIDROVIÁRIO

A construção de hidrovias, especialmente em ambientes pouco povoados e relativamente intocados pela sociedade industrial, produz impactos ambientais. Dentro da visão ambientalista mais radical, o Estado-nação é incapaz de gerenciar devidamente a crise ambiental, pois esta é um problema global. Assim, delega-se às Organizações Não Governamentais e à sociedade civil-global o monitoramento, a gestão e o protagonismo sobre a decisão da utilização de recursos naturais (Jaeger 2014, 23). Todavia, o problema central na abordagem “desterritorializada” das questões socioambientais é que ela implica em certo niilismo quanto a qualquer ação de promoção de desenvolvimento. Dessa forma, o ambientalismo e o ativismo de ONGs convertem-se na oposição a obras de grande porte, negando o potencial que têm para a promoção do desenvolvimento socioeconômico (Jaeger 2014, 23). Entretanto, as questões ambientais guardam estreita relação com o subdesenvolvimento existente nesses países:

É notável que grande parte dos verdadeiros problemas ambientais

decorre da falta de desenvolvimento. Três quartos do desmatamento mundial se destinam à obtenção de lenha, o recuso energético mais primitivo usado pela humanidade (CARRASCO, 2003). As queimadas constituem a forma mais rudimentar de preparação de terrenos para a agricultura. A falta de saneamento básico é uma das principais causas de poluição dos cursos d'água nos países subdesenvolvidos. (Jaeger 2014, 23).

O caso da Hidrovia Paraguai-Paraná é emblemático nesse sentido. Depois da assinatura do acordo entre Brasil, Argentina, Paraguai, Uruguai e Bolívia, ainda em 1992, o projeto recebeu intensa crítica de ONGs quanto a seu impacto ambiental. Os maiores danos seriam referentes à fauna e à flora do Pantanal Matogrossense, o qual seria teoricamente “secado” pela hidrovia. Depois de uma campanha midiática promovida pelo Fundo Mundial para a Natureza (WWF), em 1994, foi criada a Coalizão Rios Vivos, que congrega variadas ONGs opositoras ao projeto. Esse movimento teve relativo impacto na opinião pública brasileira e internacional, e mesmo no Ministério Público, resultando em liminares a partir de 1998, proibindo qualquer obra na hidrovia e inclusive as dragagens regulares, essenciais à manutenção do tráfego. O ambientalismo também tem motivado o licenciamento ambiental separado de eclusas e barragens de uma mesma obra. Assim, uma grande hidrelétrica pode vir a ser construída sem uma eclusa correspondente. Dessa forma, a geração de energia acaba significando um obstáculo ao uso do rio como hidrovia. É este o caso da usina hidrelétrica de Santo Antônio, integrante do Complexo do Rio Madeira. Caso a eclusa não seja construída, inviabiliza-se a hidrovia na parte superior do rio, a montante de Porto Velho (Lino, Carrasco e Costa 2013).

## 2.4 A GEOPOLÍTICA DA INTEGRAÇÃO

Embora os benefícios mais salientes da construção de um amplo complexo hidroviário na América do Sul sejam econômicos, cabe discutir sua significância estratégica e geopolítica, assim como as implicações para a formulação das políticas de defesa dos países membros. Desse modo, importa retomar análises geopolíticas “clássicas” sobre a região sul-americana e sua influência atual.

Dois dos maiores teóricos geopolíticos mundiais, Alfred Thayer Mahan e Halford John Mackinder, possuem abordagens distintas quanto à construção de poder e influência regional e global. O primeiro estabeleceu que o poder de uma grande potência estivesse assentado sobre sua capacidade de controlar rios e mares e, por consequência, o fluxo do comércio mundial (Mahan 1894). Por isso também sustenta a importância da relação entre marinha mercante e indústria naval, com as

quais um país poderia construir uma marinha de guerra. Além disso, Mahan trata de alguns conceitos aplicáveis à América do Sul e que, combinados, poderiam contribuir para a construção de um vasto poder marítimo: insularidade, extensão do litoral e condição bioceânica. Embora essas características possam representar altos custos, como a necessidade de defender um amplo litoral ou travar uma guerra em duas frentes no caso de condição bioceânica, elas poderiam se tornar vantagens se devidamente administradas e aliadas a uma força naval condizente (Oliveira 2013, 2). A América do Sul apresenta o potencial de obter as três condições geográficas citadas, especialmente se levarmos em conta o Eixo Hidroviário, que integraria a região de uma forma nunca vista, principalmente se a integração infraestrutural for acompanhada pela econômica e político-institucional.

Outro teórico relevante na literatura sobre o tema é Halford Mackinder, que criou o conceito de *Heartland*<sup>2</sup> e tem sua obra centrada no poder terrestre. Mackinder reconhecia a predominância de potências marítimas ao longo da história, mas acreditava que os novos meios de transporte, como ferrovias e depois rodovias, e novos meios de comunicação, como telegrafia e depois telefonia, possibilitariam que potências terrestres alcançassem certa equiparação com as potências marítimas (Mackinder 1904; Oliveira 2013, 2). No que tange à aplicação dessa abordagem à geopolítica sul-americana, é possível estabelecer uma relação entre o conceito de *Heartland* e o interior do subcontinente, que é justamente a região menos povoada, menos desenvolvida e com menor presença de instituições estatais. Assim, como sintetiza Kerr de Oliveira (2013):

[...] Mario Travassos viria a defender que estava na Bolívia o centro estratégico das dinâmicas geopolíticas [do] continente Sul-Americano, especialmente porque naquele país estão as nascentes dos principais rios que fluem para os Andes e para as bacias Amazônica e Platina. Posteriormente, o Gen. Golbery do Couto e Silva denominaria a região envolvendo o Mato Grosso, assim como a maior parte da Bolívia e do Paraguai como a “área de soldadura” continental, devido ao seu potencial para interligar as diversas regiões da América do Sul. Por fim, para o Gen. Meira Mattos seria a Pan-Amazônia a região que poderia servir de vertebrador para integrar a infraestrutura logística das diferentes regiões do continente sul-americano. (Oliveira 2013, 3).

Sem nos prendermos a uma delimitação exata, podemos inferir que a área encoberta pelo proposto Eixo Hidroviário Sul-Americano corresponde à região

<sup>2</sup> Este conceito corresponderia a uma ampla região no interior do continente, distante do acesso direto de potências marítimas e rico em recursos naturais, com o potencial de ser integrado através dos novos meios de transporte e comunicação. (Mackinder 1904; Oliveira 2013, 2).

que permitiria conectar todo o subcontinente, como proposto pelos autores citados. Dessa forma, em adição aos ganhos em termos de custos de produção que o Eixo traria para os países sul-americanos, encontra-se a importância em termos de defesa e segurança que um projeto dessa envergadura teria sobre a capacidade dos Estados exercerem efetiva soberania sobre seus territórios. Assim, nessa região reside uma importância estratégica ímpar e de alta relevância também em caso de conflitos armados intrarregionais ou de invasões externas<sup>3</sup>.

Ainda nesse sentido, é importante ressaltar que o planejamento infraestrutural e o COSIPLAN podem ter uma relação sinérgica com o Conselho de Defesa Sul-Americano e o Conselho de Energia Sul-Americano, visto que as áreas das quais tratam são sobrepostas. Especificamente, o Eixo Hidroviário não trata apenas da construção de canais e escusas que viabilizem hidrovias, mas deve ser acompanhado do planejamento referente ao aproveitamento hidrelétrico dos rios e de seu impacto geoestratégico. Enfim, o Eixo Hidroviário tem o potencial de ser o vertebrador não apenas de uma nova matriz de transportes e cadeias produtivas de escala regional de baixo custo, mas também o embrião de uma forma compartilhada de governança sobre os rios e o território de toda a região.

### 3. AÇÕES INTERNACIONAIS PRÉVIAS

O projeto do Eixo Hidroviário Sul-Americano é apenas um projeto potencial, ou seja, embora a Agenda de Projetos Prioritários do COSIPLAN preveja obras relacionadas à implementação de hidrovias em separado, não existe uma proposta de planejamento unificado para interligar as três bacias transnacionais do continente. Entretanto, já houve propostas semelhantes no passado que, embora não tenham avançado, cabem ser lembradas. O projeto concreto mais remoto nesse sentido foi apresentado por Eduardo José de Moraes, engenheiro militar, ainda no período imperial brasileiro, em 1869, sugerindo a interligação da Bacia do Prata com a do Amazonas. O presidente argentino Domingo Faustino Sarmiento também havia proposto, ainda no século XIX, a conexão das bacias do Prata, Amazonas e Orinoco. Posteriormente, o deputado argentino Gabriel del Mad em 1948 e o brasileiro Vasco Azevedo Neto em 1973 apresentaram, em suas respectivas câmaras de deputados, um projeto com a mesma ideia. O projeto

<sup>3</sup> Sobre a importância da região em questão para a defesa da América do Sul em caso de invasão externa, e especificamente sobre defesa em camadas e linhas interiores, consultar Oliveira, L. K., Cepik, M. e Brites, P. V. (2013). “O Pré-Sal e a Segurança do Atlântico Sul: a Defesa em Camadas e o papel da Integração Sul-Americana”. Seminário Brasileiro em Estudos Estratégicos Internacionais, SEBREEI. 21-23/05/2013. UFRGS, Porto Alegre, Brasil.

também já foi defendido pela União Sul-Americana de Engenheiros, pelo Secretário Geral do Comitê dos Países da Bacia do Prata, Julio Fossati, e teve um estudo promovido pela Conferência do Clube de Roma, feito por Jose Curiel Rodriguez, em 1981 (C. J. Gioia 1987, 245). A Corporação Andina de Fomento, por sua vez, produziu um minucioso estudo intitulado “Los ríos nos unen – Integración Fluvial Suramericana” (CAF 1998), mapeando as bacias hidrográficas do subcontinente e especificando as necessidades para que um “Eixo Fluvial Norte-Sul” fosse consolidado. A IIRSA, inclusive, tinha no eixo Orinoco-Amazonas-Prata uma de suas referências para planejamento. Esse marco foi, como se sabe, abandonado posteriormente.

Dessa forma, percebe-se que o projeto é relativamente conhecido em ambientes acadêmicos e técnicos, mas ainda não foi seriamente levado a cabo por nenhuma instituição capaz de mobilizar os recursos necessários à sua implementação, nem elaborar um plano que contemple a parte técnica e econômica do projeto, ou seja, seu financiamento e viabilização política. Por isso, nesta seção nos cabe analisar dois aspectos sobre o Eixo Hidroviário Sul-Americano: a abordagem do direito internacional e dos acordos sobre o tema, que na verdade possuem um corte bastante político no que se refere ao uso de águas internacionais; e os projetos existentes de hidrovias previstos pela IIRSA e pelo COSIPLAN.

### 3.1. TRATADOS RELATIVOS AO USO DAS BACIAS HIDROCRÁFICAS

Por muitas décadas, a Bacia do Prata foi o vértice da cooperação e dos conflitos regionais, o que demonstra a importância do uso dos rios internacionais para a integração sul-americana, considerando que foi justamente a soberania sobre as águas que aproximou e distanciou os países que hoje compõem o Mercosul. Como sintetiza Zugaib (2006):

Não restam dúvidas de que a unidade regional dependeria, a partir da abertura proporcionada pelo Acordo Tripartite, da consolidação do entendimento entre o Brasil e a Argentina, que começava a delinear-se no âmbito do Tratado da Bacia do Prata, transformado durante anos em fórum de mediação de suas controvérsias. O desenvolvimento integrado da Bacia passaria, portanto, a constituir autêntico desafio geopolítico e as bases para efetiva aliança regional que viria sobrepor-se no futuro às desavenças do passado, ao levar os países da área a unirem esforços para evitar dependência externa. A proposta brasileira de revalorização da Hidrovia Paraguai-Paraná foi o primeiro passo nessa direção, antecedendo a criação do próprio Mercosul, sua expressão máxima (Zugaib 2006, 130).

Assim, o Acordo Tripartite embasou a aproximação entre Brasil e Argentina, superando décadas de rivalidade centrada no uso dos rios da Bacia do Prata. O Tratado de Cooperação Amazônica, embora motivado pelos intentos de internacionalização da Amazônia na década de 1970, trouxe uma ideia semelhante quanto ao desenvolvimento integrado e a legitimidade de soberania dos Estados-Partes sobre os rios da região e a proteção ambiental da Amazônia. Considerando que tais países estavam sendo criticados como incapazes de proteger a região amazônica, o tratado, assinado em 1978, buscou reconhecer a natureza transfronteiriça da região, mas colocando na coordenação entre os membros a forma de resolução de problemas e a garantia de sua preservação.

### 3.2 PROJETOS INFRAESTRUTURAIS PRÉVIOS

A Agenda de Projetos de Integração (API), desenvolvida em 2011, prevê obras relacionadas a hidrovias no Eixo da Hidrovia Paraguai-Paraná e no Eixo do Amazonas. Quanto ao Eixo da Hidrovia Paraguai-Paraná, os projetos estão relacionados à melhoria da naveabilidade da Bacia do Prata, favorecendo Argentina, Bolívia, Brasil, Paraguai e Uruguai. Os outros projetos dentro desse Eixo propõem-se a conectar completamente Paraguai, Uruguai e Argentina por ferrovias e a reabilitar duas conexões no Uruguai, que se articulam com a Hidrovia Paraguai-Paraná (IIRSA 2011, 47). No que tange ao Eixo do Amazonas:

A API impacta no desenvolvimento dos quatro países do Eixo (Brasil, Colômbia, Equador e Peru) e, em termos gerais, a Agenda articula várias hidrovias (Huallaga, Maranhão, Morona, Ucayali e Putumayo) que conectam a bacia do Rio Amazonas com zonas importantes de litoral, serra e floresta no Peru, Equador e Colômbia. Na Agenda há projetos viários, portuários e fluviais que poderiam potencializar quatro corredores bimodais que conectam terminais marítimos no Pacífico com hidrovias alimentadoras da Bacia do Amazonas (IIRSA 2011, 26).

Além disso, na Cúpula da Unasul de 2014, que deu um novo impulso à integração regional, foi aprovada uma série de iniciativas no setor, dentre elas projetos prioritários de integração infraestrutural. Estes incluem: o corredor Caracas-Bogotá; o acesso nordeste ao Rio Amazonas; o corredor ferroviário bioceânico entre Antofagasta (Chile) e Paranaguá (Brasil); a rota de conexão entre Venezuela, Guiana e Suriname; o melhoramento da naveabilidade nos rios da Bacia do Prata; a conexão rodoviária Foz do Iguaçu-Ciudad del Este-Assunção-Clorinda; e a interconexão ferroviária entre Argentina, Paraguai e Uruguai (IIRSA 2015).

## 4. POSICIONAMENTO DOS PAÍSES

Essa seção busca analisar como os países se posicionam quanto à questão das águas na América do Sul e, principalmente, de que forma suas iniciativas e sua geografia podem favorecer a implementação desse tipo de modal e o desenvolvimento da integração física regional. Ao buscar entender a política externa dos países para a América do Sul no que concerne a essa questão, entretanto, é necessário ir além do que será apresentado aqui e entender, primeiramente, quais são as políticas de Estado e de Governo regentes em determinado país, além do tamanho de sua disposição em tornar concretos todos esses projetos.

A **Argentina** tem sido uma pioneira na região quanto à questão do uso das águas, através da gestão e da utilização da Bacia do Rio da Prata para transportes e atividades comerciais, o que acabou inclusive se tornando uma política de Estado do país. Ainda no século XIX, o Presidente Sarmiento já havia pensado em unir as três bacias para facilitar o comércio da região (Gioia, The Great Waterways project of South America 1987). Agora, o projeto de integração volta à pauta exterior do país. Através da Lei de Portos 24.093, a Argentina estimula e ressalta a necessidade de construção de uma infraestrutura legal para dragagem e marcação da Hidrovia Paraguai-Paraná, uma das mais importantes vias fluviais da bacia platina. Entretanto, para que se dê avanço às obras necessárias, o país precisa contar também com o apoio do Paraguai, do Brasil e da Bolívia na preparação deste rio internacional comum para a navegação.

O eixo **Peru-Brasil-Bolívia** é, também, um eixo de grande potencialidade de desenvolvimento na região. Os três países descritos abaixo fazem parte das principais bacias do subcontinente e veem a integração física da região como uma importante geradora de benefícios às suas economias.

O **Brasil** é um dos países que mais direcionou e ainda direciona recursos políticos e financeiros para promover a integração infraestrutural na região (Cervo 2008, 3). Nos últimos anos, o governo brasileiro tem buscado alavancar investimentos em infraestrutura em parceria com o setor privado, os quais ainda estão em andamento. Embora o modal hidroviário não seja o prioritário a receber tais investimentos, já há projetos nesse sentido. Em 2013, foi concluído o Plano Hidroviário Estratégico, o qual estabelece como objetivo transportar 120 milhões de toneladas de carga por meio do transporte hidroviário interior em 2031, ou seja, multiplicar por quatro ou cinco vezes a atual capacidade (Brasil 2013, 35). Também existe, por parte do agronegócio brasileiro, profundo interesse na melhoria dos sistemas de transporte que conectem os estados produtores no interior do país aos portos do litoral. Apesar de o modal ferroviário ter recebido, até o momento,

mais atenção do que o hidroviário, espera-se que o Eixo Hidroviário Sul-Americano ganhe crescente espaço na agenda brasileira. Desse modo, é possível dizer que o Brasil deve ter um papel marcadamente proativo na discussão, usando de sua tradição diplomática para trazer todas as partes a um consenso, que leve a um projeto unificado e viável de integração hidroviária. Entretanto, importa destacar que, embora o país demonstre ter ambições de liderança e mesmo de potência regional, tal projeto encontra-se desgastado tanto interna quanto externamente. Do ponto de vista interno, notou-se o declínio da diplomacia presidencial no primeiro mandato de Dilma Rousseff (Cornetet 2014, 119). Ademais, há relativa incerteza quanto à continuidade do financiamento de obras infraestruturais na região pelo Banco Nacional do Desenvolvimento Econômico e Social (BNDES), dada atual conjuntura econômica do país (BNDES 2015). O BNDES é particularmente relevante porque é uma ferramenta central na internacionalização de empresas brasileiras e no financiamento de longo prazo das empreiteiras do país. Externamente, mantém-se a vulnerabilidade do Brasil a críticas de que sua atuação seja rotulada como imperialista ou subimperialista. Essas críticas advêm especialmente de projetos infraestruturais potencialmente polêmicos e também da desnacionalização em outras economias da região gerada pela expansão de empresas brasileiras no subcontinente (Alves 2014, 148).

Na **Bolívia**, foi num momento de surgimento de movimentos integracionistas e antineoliberais que o então presidente, Evo Morales, assumiu o governo do país – ideologias estas que caracterizam o direcionamento da política externa adotada por seu governo. Por possuir o menor PIB da Comunidade Andina e apresentar os menores níveis de intercâmbio com os demais países, a Bolívia por muito tempo foi deixada em segundo plano na dinâmica projetada para essa região estratégica do subcontinente. O território boliviano, entretanto, faz parte de duas das principais bacias hidrográficas da região e é peça-chave para a construção de um Eixo Interoceânico Central (Scheibe 2013), por esse motivo o país não pode ser descartado durante as negociações. O sistema fluvial de transporte, principalmente a Hidrovia Paraguai-Paraná, é um importante meio alternativo para o escoamento marítimo da produção, e que depende de parte do território da Bolívia para ser instaurado por completo. Entretanto, a perda de acesso ao mar – ocorrida na Guerra do Pacífico (1879-1883), resultante da anexação chilena de parte dos territórios boliviano e peruano (Jaeger e Prates 2014) – faz com que o desenvolvimento econômico e a construção de um centro de decisão econômica dependam fortemente dos limites impostos pela logística nacional. Ademais, deve-se ressaltar a importância estratégica do território boliviano, considerado o heartland do subcontinente, visto que a localização geográfica do país é fundamental para a

segurança de toda a América do Sul.

Já no **Peru**, com o crescimento da interligação leste-oeste, o país ganha cada vez mais importância no processo de integração física sul-americana, principalmente no que tange ao potencial de conexão interoceânica do subcontinente. Na última década, além da construção de portos, o país também avançou bastante no estudo técnico de rios importantes para a integração física da região, como os rios Huallaga, Maranhão e Amazonas. A construção de infraestrutura física entre os países surge para o Peru como um fator que poderá trazer importantes ganhos de produtividade e inclusão social e, especialmente, um melhor posicionamento do Peru na Orla do Pacífico (Gadea 2012).

A **Colômbia**, por sua vez, é integrante da Aliança do Pacífico, grupo que é, por vezes, considerado antagônico ao Mercosul e mais próximo dos interesses dos EUA. Ademais, o conflito armado com o movimento de guerrilha das Forças Armadas Revolucionárias de Colômbia – Ejército Del Pueblo (FARC – EP) constitui um condicionante fundamental da política interna e externa colombiana (Lammerhirt, Closs e Marques 2014, 119). A questão agrária, a economia da droga e a militarização decorrente deste longo conflito influenciam a relação da Colômbia com seus vizinhos, visto que o país recebe ajuda militar americana para o combate às drogas, o que desagrada os outros Estados com que faz fronteira, especialmente a Venezuela (Cepik, Brancher e Granda 2012, 23). Se por um lado a gravidade do conflito requer cooperação regional para sua resolução, como faz a UNASUL, também gera atritos e atrasa projetos infraestruturais que possam passar pelo território colombiano. Ao mesmo tempo, a Colômbia possui seus próprios projetos de uso do modal hidroviário. Como falado anteriormente, existe uma bacia hidrográfica de tamanho relevante na Colômbia, o rio Magdalena, embora não seja uma bacia transnacional. O país deseja criar um Corredor Bimodal Cafeeiro articulando a região andina da Colômbia à Hidrovía do Rio Magdalena, que ainda precisa ser viabilizada. É interessante notar que esse projeto prescinde de integração com a Venezuela, ou seja, é um projeto puramente colombiano. Além disso, no início do ano de 2015 foi proposta, pelo presidente colombiano Juan Manuel Santos, a criação do “Corredor Ambiental Triple A”: andino, amazônico e atlântico. Esse corredor passaria pelo território de Colômbia, Venezuela e Brasil e teria objetivos de preservação ambiental e indígena. Entretanto, a proposta tem sofrido críticas quanto à sua real necessidade, vasta expansão e verdadeiros intentos, visto que o projeto inicial partiu de uma ONG britânica (Colômbia 2015). Assim, embora a Colômbia não se oponha frontalmente aos planos de integração existentes, ela mantém-se cética diante da possibilidade de engajar-se em planos que sejam contrários aos interesses dos Estados Unidos, ou que impliquem na cooperação

com o governo venezuelano. Assim, espera-se que a posição colombiana demonstre certa ambivalência no debate.

O **Equador** também é ator fundamental no processo de construção do Eixo Hidroviário Sul-americano, visto que o seu território se encontra dentro dos limites da Bacia Amazônica, uma das três principais bacias do projeto. Na última década, ainda em meio da onda de ascensão de candidatos de esquerda ou centro-esquerda na América do Sul, Rafael Correa foi eleito presidente do Equador seguindo esses mesmos princípios. A partir desse momento, após anos de governos neoliberais, a política externa do país se voltou mais para dentro e em apoio à integração regional. A entrada do Equador na UNASUL e a consequente aproximação do país com os países vizinhos garante ao país um maior poder de barganha frente aos seus principais parceiros comerciais (EUA) (Maximowski 2014); o que também ocorre com o Uruguai e o Paraguai, devido às posições desfavoráveis que ocupam nas assimétricas relações intra-Mercosul.

Dos doze Estados Sul-americanos, apenas três não possuem conexões diretas com as Bacias Amazônica, Platina e do Orinoco. O **Chile** é um dos países que, juntamente com a Guiana e o Suriname, não possui rios diretamente integrados a nenhuma das três bacias hidrográficas em destaque, concedendo especial importância ao transporte marítimo. Entretanto, a costa e os portos do país possuem conexão com os rios desses sistemas através de outros modais, como ferrovias e rodovias (Gioia, The Great Waterways project of South America 1987). Como Estado-membro da Parceria Trans-Pacífico (TPP), o Chile ainda possui grande interesse em dar continuidade a um modelo de integração que esteja voltado à exportação, e seu foco de comércio é, cada vez mais, direcionado para o Pacífico. A construção de infraestrutura que favoreça o escoamento da produção para fora da região será sempre defendida pelas políticas do Estado (Padula 2011) – a integração interna do subcontinente por si só não está entre as diretrizes prioritárias de sua política externa.

O papel da **Guiana** entra em foco principalmente em se tratando do eixo do Escudo Guianense – um projeto de extrema importância, também, para o Brasil e a Venezuela, dado que ele abre espaço para a articulação de regiões de baixo desenvolvimento nos dois países. O eixo abarca, além da integridade do território da Guiana, o Suriname, a região oriental da Venezuela e o arco Norte do Brasil. O eixo do Escudo Guianense é composto por uma série de projetos que buscam integrar fisicamente as regiões em questão. Dentre esses projetos, dois merecem especial importância para a Guiana. O primeiro é a proposta de construção de um corredor de exportação entre Suriname, Guiana e Venezuela, que ignora o contencioso fronteiriço e demais questões geopolíticas existentes entre a Guiana e a Ven-

ezuela, visando somente à facilitação dos fluxos entre os três países. O segundo é um projeto que busca ligar o porto de Georgetown aos estados brasileiros do Amazonas e Roraima, facilitando o deslocamento e o escoamento de mercadorias entre os países (Barros, Padula e Severo 2011). Juntamente com o Suriname, a Guiana também é um dos centros da “Ilha das Guianas”, maior ilha marítimo-fluvial do planeta – demarcada pelos rios Amazonas e Orinoco e naturalmente conectada entre eles através dos rios Negro e Cassiquiare –, cuja deficiente integração de infraestrutura dificulta o comércio e a criação de cadeias produtivas na região (Barros 2015). A integração da América do Sul sempre se apresentou como prioridade ao governo do país, principalmente no que tange a questões energéticas e comerciais (Osorio 2010). A partir de 2015, entretanto, com a saída do Partido Progressista do Povo – no poder desde 1992 – e a eleição de David Granger, é preciso certificar se o novo presidente seguirá a mesma linha de política externa dos governantes anteriores, ou se seguirá em uma nova direção.

O **Suriname** foi o último país da América do Sul a se tornar independente de sua antiga metrópole, a Holanda, no contexto de ascensão do Terceiro Mundismo, durante a Guerra Fria. O sistema partidário do Suriname possui fortes contornos étnicos e ainda sofre influência dos militares, personificada na pessoa de Dési Bouterse, ex-ditador e atual presidente do país (Visentini 2010, 32). Dentro da Agenda de Projetos Prioritários do COSIPLAN, o Suriname enquadra-se no plano da Rodovia Venezuela–Guiana–Suriname, incluindo a ponte sobre o rio Corentine, a qual visa a unir o Suriname à Guiana. O país também deseja dragar o rio Suriname de modo a aumentar sua capacidade de carga e de facilitar a conexão dos centros industriais de Paramaribo e Paranam com o Oceano Atlântico. Também existem planos de criação de um ambicioso complexo de exploração de bauxita na parte ocidental do país, o qual dependeria da construção de uma hidrelétrica no rio Kabalebo, da construção de um porto estratégico na cidade de Apoera, assim como a dragagem do rio Corantine (Weitzner 2008, 1). O projeto perpassa questões de sustentabilidade ambiental, direitos de comunidades indígenas e interesses empresariais estrangeiros. Embora o comportamento do presidente Dési Bouterse possa ser considerado errático, espera-se que o Suriname busque ampliar sua inserção na política sul-americana, que inclui relativa aproximação com o capital venezuelano e manutenção da reivindicação territorial com a Guiana, ao mesmo tempo em que o próprio presidente é visto como tendo vínculos com o narcotráfico no país, o que pode gerar atritos com os vizinhos (Griffith 2011).

Quanto ao **Paraguai**, este é um expoente fundamental na formação de um eixo hidroviário. É em seu território que está situado um dos principais rios do projeto, o Rio Paraguai, que ao ser conectado ao Rio Paraná (no Brasil) formará

uma importante alternativa hidroviária para o transporte de cargas entre os países que a compõe. Um dos poucos países do subcontinente sem acesso ao mar, o Paraguai percebe a importância fundamental que a construção de um Eixo Hidroviário pode trazer para sua economia e seu desenvolvimento, visto que a construção de uma infraestrutura legal facilitará tanto a entrada quanto a saída de mercadorias em seu território, reduzindo os custos de seus produtos no mercado regional (Scheibe 2013).

Apesar de seu pequeno tamanho, o **Uruguai** tem uma política externa ativa e focada na América do Sul, forte defensora de sua integração. Os projetos envolvidos no Eixo da Hidrovia Paraguai-Paraná, o qual engloba o Uruguai, preveem investimentos na melhoria e ampliação de ferrovias, navegabilidade de rios e portos, tornando o Uruguai um ponto estratégico para a entrada e saída de um futuro Eixo Hidroviário Sul-Americano (IIRSA 2011). Além disso, o Uruguai assinou com a Bolívia um acordo sobre a construção de um porto de águas profundas no departamento uruguai de Rocha, parcialmente financiado pelo Fundo de Convergência Estrutural do Mercosul (Focem). Segundo o antigo presidente do país, José Alberto Mujica, esse porto pode dar ao Paraguai e à Bolívia uma saída para o mar (Luigi e Ansani 2015). O Uruguai também mantém com o Brasil um projeto bimodal de hidrovia e ferrovia que ligaria o estado brasileiro de São Paulo à cidade uruguai de Montevidéu, através da Lagoa Mirim. Em suma, a política externa do Uruguai deve continuar bastante dinâmica, advogando pelos anseios sul-americanos de autonomia e desenvolvimento integrado.

A **Venezuela**, por sua vez, a partir do governo de Hugo Chávez, passou a conceder maior importância para os países Sul-americanos em sua política externa, o que foi reforçado pela inserção do país no Mercosul. Hoje, o país tem especial interesse no desenvolvimento do potencial hidroviário da bacia do Orinoco, resultado do grande potencial agrícola e industrial de sua região Sul e dos recursos energéticos e projetos que envolvem a região petrolífera do Orinoco. A articulação de cadeias produtivas, que seria resultado da integração do eixo Amazônia-Orinoco, poderia garantir à Venezuela um aumento considerável do mercado consumidor da região da Guayana, permitindo que o país se desenvolvesse como economia de escala, obtendo grandes benefícios comerciais. Entretanto, o rio Orinoco ainda apresenta limitações para o transporte de cargas entre Ciudad Guayana e o Norte do Brasil em algumas épocas do ano, o que requer grande planejamento e investimento por parte do país (Barros, Padula e Severo 2011).

## 5 QUESTÕES PARA DISCUSSÃO

1. De que forma os modais de transporte impactam o desenvolvimento socioeconômico da América do Sul? Que influência exercem sobre os custos de transporte e a responsabilidade ambiental?
2. Qual potencial de desenvolvimento socioeconômico pode resultar da implementação do projeto do Eixo Hidroviário Sul-American?
3. Que medidas os países membros podem tomar para alavancar o uso de seus rios como meio de transporte?
4. Que interesses regionais e extrarregionais favorecem e obstaculizam a implementação do Eixo Hidroviário
5. De que forma a construção de um Eixo Hidroviário Sul-American se relaciona com a soberania, a defesa e a segurança dos países da região?

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CONSELHO DE PAZ  
E SEGURANÇA DA  
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# ATORES MILITARES NÃO ESTATAIS NO SAARA-SAHEL

NON STATE MILITARY ACTORS IN THE SAARA-SAHEL

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## RESUMO

Um dos principais desafios enfrentados pelos Estados africanos é a atividade de atores militares não estatais, e em vista a porosidade das fronteiras do continente, a tendência à internacionalização de conflitos originalmente domésticos. A caracterização do Saara-Sahel como o segundo front da Guerra Global ao Terror após os ataques de 11/09/2001, assim como as crises internas de países-chave, como Nigéria, Mali e Líbia, colocaram a região em evidência sob a ótica securitária, por vezes servindo como justificativa para a criação de iniciativas extrarregionais de combate ao terrorismo. O objetivo deste artigo é compreender a atuação de grupos armados não estatais no Saara-Sahel e seus desdobramentos para a dinâmica política e social da região, levando em conta especialmente a ascensão do Boko Haram, de grupos ligados à etnia Tuaregue, e do Al Qaeda no Magreb Islâmico (AQMI). Além disso, são apresentados os mecanismos extrarregionais de contraterrorismo, bem como as iniciativas e interesses dos atuais membros do Conselho de Paz e Segurança da União Africana, e os desafios postos à União Africana para a resolução de problemas regionais.

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# 1 HISTÓRICO

## 1.1 ATORES MILITARES NÃO ESTATAIS: UM CONCEITO

Um dos principais desafios enfrentados pelos Estados africanos após o fim da dominação colonial é a atividade de grupos armados não estatais. A preocupação maior é o efeito da atuação desses grupos sobre a capacidade desses Estados em prover condições de vida para suas populações, tendo em vista necessidades de segurança, representação política e bem-estar (Okumu e Ikelegbe 2010). As questões securitárias na região do Saara-Sahel, especialmente na última década, não fogem desse contexto, tornando-se necessária a introdução do conceito de atores militares não estatais, bem como de suas formas de atuação e fontes de financiamento.

Apesar de não haver consenso sobre a definição de atores militares não estatais, para fins desta análise será adotado o conceito de Schneckener (2006, 25, tradução nossa), segundo o qual “[atores militares não estatais] estão dispostos e são capazes de usar a violência para perseguir seus objetivos; e não são integrados em instituições estatais formais, como exércitos regulares”. Para deslegitimá-los, é comum a associação desses grupos não estatais com o terrorismo, associação muitas vezes carregada de juízo de valor e sempre conveniente para o interesse político daquele que faz o discurso (Roberto e Melos 2014). No entanto, a expressão “ator militar não estatal” é um conceito guarda-chuva, abarcando vários tipos de grupos, inclusive terroristas, com variados objetivos, ideologias e formas de atuação. É importante perceber que podem existir vários padrões de relação entre o Estado e grupos não estatais, não somente de oposição, sejam eles de substituição ou coexistência ao monopólio da violência, e de suporte ou deposição do regime (Engels 2010).

De acordo com Schneckener (2006), os atores militares não estatais podem ser classificados em:

- (a) **grupos insurgentes**, também chamados de rebeldes, que buscam essencialmente a alteração do status quo através da libertação de uma nação ou de uma classe social/étnica, seja contra o domínio colonial, pela queda do regime de governo, seja pela separação territorial;
- (b) **grupos de milícia**, que agem com o suporte de um governo ou com a sua aquiescência, mantendo relativa autonomia e sendo empregados, geralmente, para a manutenção do status quo, reprimindo grupos rebeldes ou intimidando dissidentes e opositores;
- (c) **grupos terroristas**, por sua vez, utilizam-se da violência psicológica para atingir

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objetivos alegadamente políticos, sejam eles revolucionários, nacionalistas, religiosos etc., sem discriminar alvos. Esses grupos, que por vezes compõem redes transnacionais de terrorismo, são atores militarmente mais fracos, lançando mão da violência psicológica para desestabilizar o inimigo através de práticas como sequestro, sabotagem, assassinato, ataques suicidas e carros-bomba;

- (d) **grupos criminosos com objetivos econômicos**, que incluem tráfico internacional, roubo, fraude e extorsão, mas não deixam de lado os meios políticos para corromper agentes estatais para a perpetuação de suas atividades ilícitas, ou seja, pela manutenção do status quo;
- (e) há, ainda, os **chefes tribais**, considerados líderes legítimos da população local, que podem comandar grupos armados para dissuasão e autodefesa e para a confrontação de rivais internos;
- (f) **mercenários** também têm interesses econômicos, atuando ao lado de unidades combatentes em guerras civis ou guerras interestatais, podendo ser identificados em qualquer lado dos conflitos.

É importante notar que, enquanto na teoria existem tipos idealizados de atores militares não estatais, na prática os grupos podem utilizar táticas ou fontes de financiamento características de outra categoria (Schnecker 2006). Portanto, é preciso ter em mente que a linha divisória entre esses grupos é difusa, sendo necessária cautela para a análise caso a caso. Apesar disso, algo comum a todos os tipos de grupos armados não estatais é a forma de guerra que praticam: a guerra irregular (Roberto e Melos 2014), que pode ser definida como,

[...] todo conflito conduzido por uma força que não dispõe de organização militar formal e, sobretudo, de legitimidade jurídica institucional. Ou seja, é a guerra travada por uma força não regular (Visacro 2009, 13 apud Ferreira 2012, 15).

No continente africano, os atores militares não estatais se constituem, ascendem e se mantêm de diversas maneiras. Em geral, os grupos armados afirmam defender os interesses de setores específicos, frequentemente pouco integrados ao resto da sociedade, mal representados democraticamente e com pouco acesso à distribuição da renda nacional. Para tanto, esses grupos utilizam-se de laços culturais, ideologias e da religião para assegurar o apoio logístico e moral da população, recrutar novos membros e garantir recursos. A relação entre forças de segurança oficiais e grupos não estatais também pode promover o surgimento de grupos armados. Facções dissidentes de exércitos nacionais, por um lado, e a experiência de antigos combatentes oficiais para o treinamento de unidades, por outro, comumente estão na origem desses atores (Engels 2010).

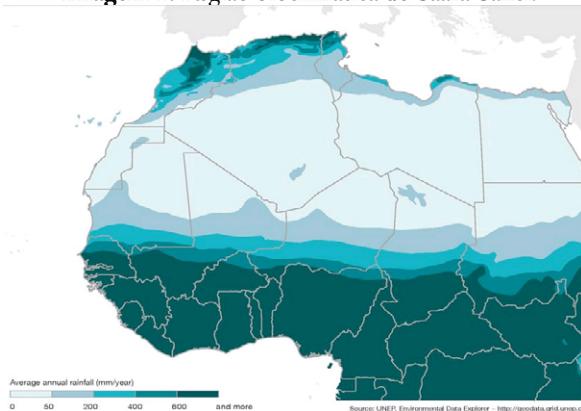
## 1.2 ATORES MILITARES NÃO ESTATAIS NO SAARA-SAHEL

### 1.2.1 O SAARA SAHEL

Primeiramente, é preciso definir e caracterizar as regiões do Saara e do Sahel. A grande região do Saara abarca os territórios de Argélia, Chade, Egito, Líbia, Mali, Mauritânia, Marrocos, Níger, Sudão e Tunísia, varrendo todo norte da África desde o oceano Atlântico até o Mar Vermelho e totalizando 09 milhões de km<sup>2</sup>. Apesar de toda a região ser de clima árido, a parte central é a que recebe menos precipitações, sendo uma das regiões com as temperaturas mais altas e com maior amplitude térmica do mundo (Berrahmouni e Burgess 2015). De clima semiárido, a faixa de transição entre o deserto do Saara, ao norte, e a região de savanas, ao sul, é denominada Sahel (do árabe sáhil, que significa costa), cobrindo parte dos territórios do Senegal, Mauritânia, Mali, Burkina Faso, Argélia, Níger, Nigéria, Sudão e Eritréia (Magin 2015).

Usualmente, as duas regiões são identificados pelo volume de precipitação recebida, como ilustrado na Figura 1; a faixa mais clara demarca o deserto do Saara, enquanto a faixa intermediária ao sul, um pouco mais escura, representa o Sahel, onde já é possível praticar atividades agrícola-pastoris. Contudo, mesmo com a separação bioclimática, o Saara e o Sahel passaram a ser tratados como uma “entidade geopolítica”, por conta da transnacionalização de atividades terroristas na região a partir do início do século XXI (Retallé 2014, 19). Aos olhos do Ocidente, o Saara-Sahel se mostra importante por ser exportador de boa parte do petróleo africano, bem como por ser próximo da Europa, tornando a instabilidade na região ameaçadora aos interesses europeus.

**Imagem 1:** Região bioclimática do Saara-Sahel.



Fonte: OECD/SWAC 2014.

O processo de desertificação do Saara central impossibilitou o sedentarismo no local, fazendo com que os povos caucasoides<sup>1</sup> se deslocassem para o norte e nordeste do Saara, e os negros para o Sahel. No entanto, através do nomadismo e do comércio trans-saariano, algumas populações se mantiveram na região, essencialmente os líbio-berberes (Pereira 2007). Na era pré-colonial, detinha poder na região aquele que exercesse soberania sobre os homens e controlasse as rotas comerciais, ou, pelo menos, mantivesse um bom relacionamento com os seus controladores (Marques 2008). O nomadismo da população, a mobilidade das rotas, que mudavam de acordo com o aparecimento e desaparecimento de oásis<sup>2</sup>, e as fronteiras territoriais difusas confrontavam-se com a divisão artificial do território implementada pela colonização. A dominação estrangeira, dessa forma, trouxe uma contradição para a tradicional organização social do Saara-Sahel, prejudicando principalmente os povos do deserto (Retaillé 2014).

A saber, boa parte da região foi colonizada pelos franceses, com exceção da Líbia e da Nigéria, dominadas por italianos e britânicos, respectivamente. Quase todos os países do império colonial francês na região obtiveram sua independência negociada com a metrópole, no ano de 1960, com exceção da Argélia. Naquele país, a repressão dos movimentos independentistas provocou uma guerra civil entre grupos insurgentes e as forças francesas, que resultou na morte de 500 mil a um milhão de pessoas em 1962 (Maglia 2013). Após a independência das colônias francesas na África, o domínio da França sobre o continente passou a ser indireto, constituindo-se a *Françafrique*<sup>3</sup> (Sena 2012).

A formação dos novos Estados independentes está, de alguma forma, associada à origem dos atores militares não estatais da região. O acirramento da disputa pelo poder interno, a porosidade das fronteiras e a marginalização de parcela da população são problemas ainda não resolvidos por boa parte dos países do Saara-Sahel. Para a compreensão dos atuais desafios securitários da região, o foco das próximas subseções será a apresentação das raízes históricas de seus principais grupos armados não estatais, quais sejam os grupos de tuaregues, o Boko Haram e o Al Qaeda no Magreb Islâmico (AQMI).

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1 O vale do rio Níger e a bacia do lago Chade foram destinos dessas migrações, locais onde a agricultura foi desenvolvida e civilizações foram erguidas, como os Impérios de Gana, Mali e Songhai, no primeiro, e o Império de Kanem, no segundo.

2 As inúmeras rotas do deserto constituiam vastas redes de trocas, possível pelo intermédio de assentamentos estabelecidos em oásis, pontos de cruzamento de rotas onde se formaram sociedades.

3 Sistema de manutenção das ex-colônias como extensão do território francês, através da cooptação das elites, da influência econômica e da presença militar nesses países, perceptível até os dias de hoje (Sena 2012).

## 1.2.2 TUAREGUES

Descendentes dos líbios-berberes e majoritariamente muçulmanos, os tuaregues são conhecidos como o povo do deserto, habitantes da região do Saara desde o século XIV, e hoje espalhados pela Argélia, Burkina Faso, Líbia, Níger, Nigéria e Mali (Maglia 2013). No nordeste do Níger e no norte do Mali, em particular, as reivindicações da minoria tuaregue por maior participação política, desenvolvimento econômico e acesso a bens públicos levaram ao conflito com as forças militares desses países desde a descolonização (Zoubir 2012, Lohmann 2011).

No caso do Mali, terceiro maior exportador de ouro na África e um dos países mais pobres do mundo, o controle das terras está na raiz das reclamações dos tuaregues, que compõem 1,7% da população do país (Abdalla 2009). Após a descolonização, o governo de Bamako praticou reformas agrárias que prejudicaram o modo de vida nômade-pastoril da população do Norte, além de destituir do poder líderes tribais, enfraquecendo sua coesão social e provocando a primeira rebelião tuaregue, em 1963. Os rebeldes, pouco organizados e sem meios de combate modernos, foram violentamente reprimidos pelas forças estatais em 1964, o que provocou a fuga de tuaregues para países fronteiriços, inclusive para a Líbia, onde passaram a fazer parte das Forças Armadas de Muammar al Kadafi e a trabalhar em outros setores do país. Apesar dos acordos de paz assinados posteriormente, as hostilidades nunca cessaram (Maglia 2013, Lohmann 2011, Abdalla 2009Ibid).

Nos anos de 1970 e 1980, os territórios habitados por tuaregues no Mali e no Níger passaram por crises ambientais devido a severas secas, que recrudesceram o processo de desertificação do terreno e dificultaram o acesso a água potável, exaurindo as terras férteis e reduzindo a oferta de alimentos (Maglia 2013, Abdalla 2009). As secas, além de aumentarem a tensão social, intensificaram o fluxo de emigração, principalmente para a Líbia<sup>4</sup>. Nesse contexto, sentindo-se excluídos também do acesso à ajuda humanitária interna e internacional, os tuaregues iniciaram sua segunda grande rebelião no Mali e no Níger, no início da década de 1990. Após meses de confrontações entre os insurgentes e as forças governamentais repressoras, foi assinado um cessar-fogo em 1991, em Tamanrasset, na Argélia, acordando a descentralização do poder e o esforço para o desenvolvimento do Norte do Mali. No entanto, as hostilidades continuaram por parte de alguns grupos rebeldes, se encerrando somente em 1996, com a deposição das armas dos

<sup>4</sup> Além da possibilidade de melhores condições de vida, os tuaregues imigrantes foram atraídos para a Líbia pelo apoio que recebiam de Kadafi, o qual integrava os jovens em sua Legião Islâmica e lhes dava treinamento militar, ou seja, lhes conferia cidadania.

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rebeldes (Maglia 2013, Lohmann 2011, Abdalla 2009).

Desde 2006, no entanto, a insatisfação da população fez com que as hostilidades entre insurgentes tuaregues e forças governamentais novamente escalassem no Mali e no Níger, aumentando a instabilidade na região. A queda de Kadaffi agravou a situação e reforçou as linhas de combatentes rebeldes, uma vez que muitas das unidades tuaregues do exército líbio retornaram para seus países de origem, dessa vez bem armadas e treinadas (Estrada e Mattos 2013). Com isso, formaram-se grupos mais bem organizados, como o Movimento pela Justiça (MNJ), criado em 2007 no norte do Níger, que reivindica maior desenvolvimento econômico da região e melhor distribuição da renda da extração de urânio (Abdalla 2009).

No caso do Mali, o grupo mais notório é o Movimento Nacional pela Libertação do Azauade (MNLA), organização que luta desde 2011 pela independência do Norte do Mali, tornando-se um dos principais atores da crise que levou à queda do regime no ano seguinte, com a ocupação de Kidal, Timbuktu e Gao (Maglia 2013). É importante notar a posição de mediação assumida pela Argélia em todos esses conflitos, claramente preocupada em evitar o transbordamento do conflito para dentro de seu território, habitado por tuaregues no sul (Zoubir 2012).

### 1.2.3 AL-QAEDA NO MAGREBE ISLÂMICO (AQMI)

O surgimento da Al Qaeda no Magreb Islâmico (AQMI) está vinculado à tentativa de abertura democrática iniciada em fins da década de 1980 e à subsequente disputa pelo poder na Argélia. Governado pelo militarismo da Frente Nacional de Libertação (FNL) desde sua sangrenta independência, o país promoveu eleições legítimas e multipartidárias no início da década de 1990, tendo como resultado a vitória da Frente de Salvação Islâmica (FIS), aliança de vários grupos islâmicos, nas eleições municipais de 1991 e, em primeiro turno, das eleições gerais de 1992. O resultado não agradou aos líderes políticos, o que gerou uma intervenção militar em 1992, culminando na abdicação do presidente e na dissolução do parlamento sob a autoridade do exército argelino (Maglia 2013).

As eleições foram canceladas, o estado de emergência foi declarado, e a FIS foi posta na clandestinidade. A aliança acabou se fragmentando em vários grupos, como o Grupo Islâmico Armado (GIA), de orientação radical e influenciado pelas estratégias *mujahideens*<sup>5</sup> que voltavam da guerra no Afeganistão, e o moderado

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<sup>5</sup> Grupo de insurgentes muçulmanos, de origem multinacional, que resistiram à invasão soviética ao Afeganistão a partir de 1979.

Exército Islâmico da Salvação (AIS) (George e Ylonen 2010). Iniciou-se a guerra civil entre forças governamentais e os opositores islâmicos, que praticaram

[...] campanhas de terror de grande escala, matando milhares de pessoas, incluindo estrangeiros, jornalistas e mulheres, queimando escolas, prédios industriais, e explodindo pontes, estradas de ferro e redes de energia (Botha 2008, 33, tradução nossa).

No entanto, a tática de não discriminar alvos e praticar massacres fez com que o GIA perdesse boa parte de seu apoio popular.

A guerra civil na Argélia teve maior intensidade entre 1995 e 1998, terminando, em 2002, com a rendição do AIS e a derrota do GIA, e com baixas que variam entre 100 e 200 mil mortos (Maglia 2013). Porém, o término do conflito não significou o fim dos grupos armados no país. Dissidente do GIA, a facção chamada Grupo Salafista pela Pregação e Combate (GSPC), que condenava a violência contra civis e concentrava seus ataques a representações do Estado, herdou parte da estrutura de comando da GIA e, mais importante, sua rede internacional de células terroristas, incluindo na Europa (Botha 2008). O fracasso na deposição do regime fez com que o GSPC adotasse a ideologia da jihad global, reorientando seu principal objetivo para a implantação de um Estado islâmico na região (Maglia 2013, George e Ylonen 2010).

Em 2006, o GSPC declarou sua adesão à rede Al Qaeda, mudando seu nome para Al Qaeda no Magreb Islâmico (AQMI), chamando atenção da comunidade internacional, principalmente dos Estados Unidos. Antes mesmo da declaração oficial, a Al Qaeda já possuía acesso a redes de contato da GSPC na Europa, bem como treinava seus membros em campos no Afeganistão até 2001 (Botha 2008). A tática do grupo passou a incluir ataques suicidas, seleção indiscriminada de alvos e disseminação de vídeos de propaganda entre a população tuaregue na região (Maglia 2013, George e Ylonen 2010).

De certa forma, a internacionalização do grupo reflete seu fracasso na tentativa de deposição do regime, bem como a falta de apoio da população local e seu enfraquecimento ao longo dos anos (Botha 2008). Apesar de não representar um grande desafio para a manutenção do regime argelino, o grupo ainda permanece como uma ameaça para a região, tendo se tornado referencial para grupos jihadistas do Magreb e um dos principais alvos de iniciativas regionais e extrarregionais de combate ao terrorismo (Maglia 2013, Botha 2008).

### 1.2.3 BOKO HARAM

Nas últimas décadas, a Nigéria vem enfrentando graves problemas de

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segurança que ameaçam também as regiões do lago Chade, da África Subsaariana e do Sahel. Apesar da intensificação do extremismo na última década, a ascensão de insurgências islâmicas no norte do país data do período colonial, ressurgindo durante o processo de formação do Estado independente e se estendendo até os dias de hoje (Sodipo 2013).

Referência para o islamismo militante até hoje, o Califado de Sokoto, fundado no início do século XIX no norte da Nigéria e em parte do Níger, obteve grande apoio popular, principalmente por sua resistência ao imperialismo britânico e seu objetivo de implantar a lei *sharia* na região (Østebø 2012, Sodipo 2013). Posteriormente, a Revolução Iraniana de 1979 serviu como fonte de inspiração para grupos extremistas no norte da Nigéria, sendo o principal deles o Maitatsine. O movimento, que surgiu em Kano e espalhou-se por outros estados do norte do país, incitou a população mais pobre contra não cristãos e a elite muçulmana, provocando o confronto com forças de segurança no verão de 1980 e a morte de 4.177 pessoas (Isa 2010).

Nesse contexto, o Boko Haram foi fundado em 2002 pelo clérigo Mohammed Yusuf na cidade de Maiduguri (Chothia 2015). A palavra *Boko* é derivada da inglesa *book*, fazendo referência à habilidade de ler e escrever no estilo educacional ocidental, diferentemente do estilo islâmico e árabe que já existia no norte da Nigéria, o qual foi substituído pelo colonialismo europeu (Isa 2010). A forma indireta de domínio britânico, através de protetorados governados por minorias da população local, expressou-se na Nigéria através da educação da elite nigeriana sob a forma secular. Dessa forma, a falta de capacidade do governo, a desigualdade, as injustiças e a corrupção foram diretamente associadas ao secularismo e aos dirigentes, até mesmo aos muçulmanos, que receberam educação ocidental (chamados de *yan boko*). Segundo a lógica dos integrantes do grupo a origem divina da educação islâmica seria incorruptível, sendo ela a solução para os problemas da Nigéria. Adicionada a palavra *haram* ao seu nome, que significa “proibição” na língua hausa, o Boko Haram utiliza o estandarte da “proibição da educação ocidental” como meio de mobilização de jovens marginalizados contra um sistema dominado por aqueles que receberam uma educação diferenciada e controlam o Estado, com o objetivo de restaurar a pureza e a divindade do Islã (Isa 2010 Ibid.).

Yusuf passou a estabelecer e a controlar a rede de células do grupo nas maiores cidades do norte da Nigéria, além de apoiar candidatos em eleições para cargos públicos. A repressão das forças policiais, a insatisfação popular e o carisma do líder fizeram com que, entre 2003 e 2009, o grupo conseguisse mobilizar milhares de pessoas em várias cidades do norte, possibilitando operações de ataque

a símbolos do Estado, como delegacias, e assassinatos políticos (Isa 2010, Servant 2012). A escalada dos violentos confrontos culminou na morte de Yusuf em 2009, num confrontamento que deixou cerca de 700 mortos e 5 mil deslocados em cinco dias na cidade de Maiduguri (Isa 2010, 313). Apesar das forças governamentais terem declarado o fim do grupo, o Boko Haram ressurgiu sob a liderança de Abubakar Shekau, reiniciando uma série de atentados, inclusive na capital do país, Abuja. Seu ressurgimento, com uma nova e mais sangrenta onda de radicalização, fez com que o grupo perdesse parte do apoio da população local ao ter como alvo escolas, universidades, igrejas, mesquitas, bares, vilas inteiras e mesmo o prédio da ONU em Abuja, atacado por um carro-bomba em agosto de 2011, e deixando pelo menos 20 mortos (Chothia 2015).

Em maio 2013, o ex-presidente Goodluck Jonathan declarou estado de emergência nos estados de Yobe, Borno e Adamawa, mas a tentativa de intensificar a contrainsurgência rendeu poucos frutos. Tendo à sua disposição milhares de combatentes, o grupo se beneficia da ineficiência dos serviços de inteligência do país, que, por muitas vezes, subestimou a capacidade e a resiliência do Boko Haram. Além disso, a repressão com o uso abusivo da força militar é vista por muitos como uma campanha genocida contra o norte do país, de maioria islâmica, aumentando o descontentamento da população com o antigo governo central, percepção agravada por conta da origem sulista do ex-presidente (ISS 2014b). Devido à porosidade das fronteiras da África Ocidental, o grupo consegue realizar sequestros, assassinatos e recrutamento nos países vizinhos da Nigéria, como no Chade, Níger e Camarões, ameaçando também as populações desses países e aumentando o patrulhamento das fronteiras da região (Menner 2014).

## 2 APRESENTAÇÃO DO PROBLEMA

### 2.1 DA QUEDA DE KADAFFI À ASCENSÃO DE GRUPOS MILITARES NÃO ESTATAIS NO SAARA-SAHEL

Em abril de 2014, o Boko Haram sequestrou 276 meninas de uma escola no vilarejo de Chibok, na Nigéria, as quais seriam utilizadas como escravas性uais pelos militantes do grupo. Estima-se que, desde o início 2014, mais de 2.000 mulheres tenham sido vítimas do Boko Haram, sem mencionar os ataques a civis e instalações estatais na Nigéria e em países fronteiriços, como Níger e Camarões (Al Jazeera 2015). O grupo, que iniciou uma campanha militar para instaurar a sharia no norte da Nigéria, teria se aliado ao Estado Islâmico, em 2015, levando a

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cabo o projeto de criação de um califado islâmico que se estenderia até o oeste da África (BBC 2015). O Boko Haram é apenas um dos grupos militares não estatais que vêm atuando na região do Saara-Sahel nos últimos anos.

Os principais grupos atuantes na região são o Boko Haram, baseado na Nigéria, a Al Qaeda no Magreb Islâmico (AQMI), que obteve acesso a milhares de armas que, provavelmente, se originaram das antigas provisões de Kadaffi, o MUJAO e o Ansar Dine<sup>6</sup>. Segundo Alexander (2015), os ataques terroristas em 2014 foram 25% maiores do que os episódios ocorridos em 2013, totalizando 289 atentados terroristas, o maior índice registrado na região na última década, e um aumento de mais 800% nos ataques perpetrados desde o 11/09 nos EUA. De acordo com relatório da União Africana,

A situação no Sahel é marcada pelo aumento dos ataques terroristas, tráfico de todos os tipos, prevalência de crime trans-fronteiriço, existência de campos de refugiados e pessoas deslocadas suscetíveis a serem infiltrados por grupos terroristas, e a existência de refúgios, centros de apoio logístico e de treinamento para terroristas. A relação entre terrorismo, tráfico de drogas e crime trans-fronteiriço fornece aos terroristas armados e aos grupos criminosos a capacidade de regeneração (African Union 2014b, 3, tradução nossa).

O recrudescimento das atividades terroristas está intimamente relacionado com dois problemas regionais: a situação na Líbia após o levante que derrubou Kadaffi do poder, em 2011 – e que contou com o aval do Conselho de Segurança das Nações Unidas que, com a resolução 1973, aprovou a intervenção militar multinacional, em 19 de março de 2011 –, e a incapacidade que boa parte dos Estados da região tem em prover segurança e elementos básicos para a população, principalmente nas regiões mais afastadas dos centros econômicos<sup>7</sup>. Essa falha institucional dos Estados e, por extensão, a natureza porosa das fronteiras, facilita o controle de rotas de comércio e de tráfico pelos grupos radicais (Aning, Okyere e Abdallah 2012), os quais contam, em suas bases, com pessoas provenientes de diversos países e cujos objetivos não se limitam às fronteiras de um único país (Penna Filho 2014). Estes problemas potencializam os já existentes canais de

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<sup>6</sup> O Ansar Dine é um grupo de caráter local, com presença no norte do Mali e composto eminentemente por tuaregues Ifoghas e árabes Berabiche. Seu objetivo é, principalmente, implementar a sharia em todo o Mali. O MUJAO, por sua vez, é um grupo também localizado no norte do Mali, mas que não se limita à região local, incorporando também estrangeiros da região do Sahel e do norte da África. É um dos grupos com postura mais hostil em relação ao MNLA, tendo como objetivo levar a jihad para toda a África Ocidental (BBC 2013, Welsh 2013).

<sup>7</sup> A região do Saara-Sahel é também afetada por intensas crises ambientais, havendo secas constantes e falta de alimentos, principalmente em Burkina Faso, Chade, Mali, Mauritânia, Níger e na Nigéria (Aning, Okyere e Abdallah 2012).

radicalização presentes na região, como, por exemplo, o caso dos tuaregues no norte do Mali. Os grupos étnicos nômades que antes lutavam ao lado de Kadaffi estão retornando para seus países “bem armados e municiados com as ‘sobras’ da campanha na Líbia” (Penna Filho 2014 Ibid., 47), causando temor por onde passam e sendo inseridos nos grupos terroristas com os quais têm contato (Aning, Okyere e Abdallah 2012)<sup>8</sup>. Enquanto alguns relatórios atestam a provável conexão entre os grupos operantes na região, principalmente em torno da rede Al Qaeda (African Union 2014b, Alexander 2015), essa questão parece, ainda, questionável (Penna Filho 2014).

Embora as principais cidades no norte do Mali venham sendo liberadas desde maio de 2013, em um esforço da ONU através da AFISMA<sup>9</sup> e da operação francesa Serval, a situação atual ainda é caracterizada pela persistência de incidentes securitários por parte desses grupos em três principais regiões do norte: Gao, Kidal e Timbuktu (African Union 2014b), sendo que, no início de 2015, houve ataques a civis e a forças governamentais e da ONU (Alexander 2015). É importante destacar que, depois do golpe de Estado no Mali, que retirou Ahmadou Touré do poder,

Cerca de 200.000 refugiados se retiraram do Mali nos últimos dois meses, em busca de comida, abrigo e refúgio nos países vizinhos. Essa situação tem impactado negativamente o Níger e a Mauritânia, uma vez que a deterioração da situação securitária forçou cerca de 15.000 cidadãos malineses a se manterem longe de cidades conflituosas, como Ménaka e Anderamboucane, em direção a Tillabéri, no oeste do Níger, uma área que já sofre de escassez crônica de comida e escassez aguda de água, de acordo com o Comitê Internacional da Cruz Vermelha (Aning, Okyere e Abdallah 2012, 6, tradução nossa).

Atualmente o que mais tem chamado a atenção para o Mali não é tanto a problemática envolvendo os tuaregues, mas sim a presença crescente de grupos islâmicos radicais atuando entre o sul da Argélia e o norte do país, como, por exemplo, o Ansar Dine e o MUJAO. O Ansar Dine – acusado de ter ligações com a AQMI – tem cometido diversos ataques a civis em partes dessa região, sendo seu objetivo impor a sharia no Mali, em detrimento da enorme influência ocidental francesa (Penna Filho 2014). O MUJAO, por sua vez, está em plena atividade no

8 O MNLA, por exemplo, “agora tem acesso a milhares de armas, incluindo equipamento anti-tanque e anti-aéreo” (Aning, Okyere e Abdallah 2012, 02, tradução nossa).

9 A Missão de Apoio Internacional liderada por africanos no Mali – AFISMA (no inglês, African-led International Support Mission to Mali), foi uma missão militar organizada pela ECOWAS com o objetivo de dar suporte ao governo do Mali no conflito com os rebeldes no norte do país, em 2013. A missão foi autorizada pela resolução 2085 do Conselho de Segurança.

país, onde tem perpetrado ataques contra a MINUSMA<sup>10</sup> e a infraestrutura local. Também tem atuado no sul da Argélia e expandido suas atividades para o Níger, onde, em maio de 2013, realizou dois ataques coordenados a uma base militar nigerina, em Agadez, e a uma mina de urânio em Arlit, a qual é controlada pela companhia francesa Areva (Alexander 2015). As atividades desses dois grupos são recorrentemente associadas aos tuaregues, em um claro esforço de deslegitimar as demandas político-econômicas deste movimento.

A Argélia apresenta desafios securitários vinculados, principalmente, às atividades da AQMI no sudoeste do país, onde este e outros grupos se envolvem no tráfico transfronteiriço de drogas e de armas. O Níger registrou quatro ataques terroristas em 2014. Um dos problemas atuais deste país é a atuação do Boko Haram mais ao sul, onde, além do uso do terror, há recrutamento de jovens, e um crescente problema dos mais de 40.000 refugiados nigerianos. O Chade e a Mauritânia, embora tenham presenciado uma redução dos ataques terroristas, continuam suscetíveis a ataques, principalmente pelo Boko Haram e pela AQMI, respectivamente, por conta de sua localização geográfica (Alexander 2015).

## 2.2 O TERRORISMO E O SAARA-SAHEL

Depois dos atentados contra os EUA, em 11 de setembro de 2001, a problemática concernente aos grupos terroristas tem sido frequentemente associada ao Islã, não sendo diferente também no Saara-Sahel. Entretanto, como destaca Visentini (2012a, 93), é importante atentarmos para o conceito de terrorismo e sua utilização política, uma vez que este “tem sido objeto de manipulação, para justificar uma nova agenda internacional. O terrorismo não constitui um fenômeno novo na história e ressurge em épocas de crise”. Desse modo, convém analisar a temática do terrorismo e de sua possível utilização como ferramenta política para a consecução de interesses no Saara-Sahel. É importante, nesse sentido, “dissociar o terrorismo de uma questão moral, ou no seu tratamento como subproduto do fundamentalismo islâmico, como propagado pelos diversos meios de comunicação” (Maglia 2013, 12).

De acordo com Fred Halliday (2002), não existe uma teoria ou consenso

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<sup>10</sup> A MINUSMA (Missão das Nações Unidas de Estabilização Multidimensional Integrada no Mali) surgiu em 25 de abril de 2013, a partir da resolução 2100 do Conselho de Segurança das Nações Unidas, a qual transferia a autoridade da AFISMA para esta nova missão, por conta da deterioração na situação securitária no Mali, mesmo depois das operações militares da França e da AFISMA (United Nations 2015). O objetivo da MINUSMA é constituir uma força mais capacitada, embora ainda se esforce para chegar perto do seu tamanho autorizado, que seria de 12.640 pessoas. De acordo com Reeve e Pelter (2014), a operação é, também, bastante dependente de tropas francesas.

sobre a definição de terrorismo, assim como não existe uma causa comum ou uma explicação psicológica generalizada para o uso do terror. Para o autor, existem dois principais entendimentos de terrorismo: o que é proveniente “desde baixo” e diz respeito a atos individuais de terror, por atores não governamentais, e o uso do terror “desde cima”, isto é, pelos governos, geralmente usado contra sua própria população ou grupos minoritários. Neste sentido, Halliday aponta a existência de quatro grandes aspectos que permeiam o conceito de terrorismo, descritos na sequência.

O primeiro diz respeito ao terror dos governos, ou então, o “terrorismo desde cima”, que abarca a maior parte dos atos terroristas, numa relação de desigualdade entre quem tem poder contra quem não tem poder, seja dentro do próprio território dos Estados ou transnacionalmente. Existe, em segundo lugar, o terrorismo internacional, vinculado aos “atos de violência que são isolados, separados da situação de um país em guerra e direcionados para causar terror por si só, antes de buscar contribuir para um conflito maior” (Halliday 2002, 73). O problema desse termo é que ele abre espaço para que haja a defesa da existência de uma estrutura terrorista internacional que teria apoio de alguns Estados nacionais, o que, para o autor, seria um mito.

A terceira visão sobre terrorismo diz respeito a atos violentos em conflitos ou guerras civis, os quais seriam perpetrados por grupos com os quais o interlocutor não se identifica. Esse termo é usualmente utilizado para deslegitimar ações conduzidas em nome de movimentos de autodeterminação. O quarto e último elemento é o terrorismo enquanto

Uma ansiedade globalizada e pretexto, um grande temor do final do século XX. Aqui o terrorismo é uma preocupação pública, refletida e promovida como uma questão estatal, como tema de seminários em universidades, como tema de alarme e alarmismo [...]. Neste sentido, a questão do terrorismo tem sido inflada para cobrir muitos outros fenômenos e para justificar e direcionar ações políticas [...]. Então, o grau de seleção envolvido, focando em um único aspecto da violência e ignorando outros constitui ‘terrorismo’ enquanto ideologia, como uma série de valores políticos, uma série de programas políticos que se relacionam de certa forma com a realidade, mas claramente servem outras funções sociais também (Halliday 2002, 75, tradução nossa).

Outro ponto importante abordado por Fred Halliday é a associação de terrorismo com ações de grupos religiosos, especialmente o Islã. De acordo com o autor, é necessário fazer uma diferenciação e levar em consideração: 1) que o uso da violência por grupos que evocam a defesa de uma religião não é restrito ao

islamismo, mas se faz presente também no cristianismo, no judaísmo, no budismo, etc.; 2) não se deve procurar as causas de violência em textos religiosos, porque em todas as religiões é possível fazer uma instrumentalização política da religião; e 3) o uso político da associação do conceito de terrorismo com o islamismo para deslegitimar as ações e os programas de determinados grupos políticos, como geralmente acontece em relação à Palestina (Halliday 2002, 78-79)<sup>11</sup>. Portanto, é essencial compreender que,

O terrorismo não é um problema específico do “Oriente Médio” ou do “Islamismo”, sendo que essa ideologia e instrumento pode se desenvolver em países ricos e pobres, independente de região ou cultura, da mesma forma, como parte de um modelo de engajamento político transnacional. Ademais, o autor [Fred Halliday] aponta que o terrorismo é um fenômeno político e moral distinto, claramente interconectado com questões de revoltas e oposição à opressão, referido como táticas militares que fazem parte de desafios políticos e militares, desenhadas para forçar o inimigo a submeter-se, com a combinação de intimidação e morte (Maglia 2013, 17).

Dentro das Nações Unidas, a discussão a respeito do uso do terror é motivo para divergências entre os países, por conta das consequências e da subjetividade no uso desse termo. Alguns dos principais desafios são o de dissociar o uso do terror de lutas legítimas, como é o caso dos processos de autodeterminação e das lutas de libertação, e a resistência de alguns Estados em concordar com uma definição que também leve em consideração o uso do terror por governos (Setty 2011, 10). Uma das ações mais importantes nesse aspecto foi a adoção da Resolução 1373 do Conselho de Segurança das Nações Unidas, após os atentados de 11/09, a qual exige que os Estados-membros combatam o terrorismo em diversos meios, trabalhem cooperativamente, compartilhando informações de temas securitários e as reportando ao Comitê de Contraterrorismo, estabelecido para supervisionar os designios da resolução. Todavia, esse documento não definiu um conceito de terrorismo capaz de orientar as ações dos Estados ao combatê-lo, afora o fato de que não havia qualquer obrigação em salvaguardar os direitos humanos e o estado de direito<sup>12</sup>.

Desse modo, o Conselho de Segurança tem aprovado resoluções sobre terrorismo sem, necessariamente, definir os parâmetros do próprio conceito, ou

11 Destaca o autor que, no que diz respeito ao Islã, especificamente, o Alcorão dá legitimidade para a guerra em autodefesa, e há uma distinção entre jihad (legítima), ghazu (invasão) e ‘adwan (agressão) (Halliday 2002, 80).

12 Na época, diversos países, como EUA e países europeus, trataram de designar seus próprios conceitos de terrorismo na sua legislação interna (Setty 2011).

incluindo definições generalizadas que seriam enquadradas na rubrica de atividade terrorista. A resolução 1566 seria, de acordo com Setty (2011), mais um exemplo disso. Adotada em 2004, a resolução afirma que:

Atos criminosos, incluindo aqueles contra civis, cometidos com a intenção de causar a morte ou ferir, ou a tomada de reféns, com o objetivo de causar um estado de terror no público em geral ou em um grupo de pessoas ou pessoas em particular, intimidar uma população ou compelir um governo ou organização internacional a praticar ou abster-se de qualquer ato, que constituam ofensas dentro do escopo e como definido nas convenções internacionais e protocolos relativos ao terrorismo, não são justificáveis sob nenhuma circunstância por consideração de ordem política, filosófica, ideológica, racial, étnica, religiosa, ou de outra natureza, e exorta todos os Estados a prevenirem tais atos e, se não puderem evitar, que assegurem que tais atos sejam punidos através de sanções consistentes com sua natureza grave (United Nations 2004, 2, tradução nossa).

De acordo com o Protocolo para a Convenção da Organização da União Africana sobre Prevenção e Combate ao Terrorismo, adotado na Terceira Sessão Ordinária da Assembleia Geral da União Africana, em 08 de julho de 2004, os atos terroristas são todos os meios dispostos nos artigos 01 e 03 daquela Convenção. Nesse sentido, conforme os documentos, a União Africana entende como atos terroristas

(a) qualquer ato que seja uma violação das leis criminais de um Estado-membro e que possa pôr em perigo a vida, integridade física ou liberdade, ou causar lesões graves ou morte a qualquer pessoa, independentemente do número, ou grupo de pessoas ou causar dano a propriedade pública ou privada, recursos naturais, herança ambiental ou cultural e que é calculado ou destinado a: (i) intimidar, atemorizar, forçar, coagir ou induzir qualquer governo, entidade, instituição, público em geral ou qualquer segmento deste, de fazer ou deixar de fazer qualquer ato, ou de adotar ou abandonar um ponto de vista particular, ou para agir de acordo com certos princípios; ou (ii) interromper qualquer serviço público, o fornecimento de qualquer serviço essencial ao público ou criar uma emergência pública; ou (iii) criar um estado de insurreição generalizado em um Estado; (b) qualquer promoção, contribuição, comando, ajuda, incitação, estímulo, tentativa, ameaça, conspiração, organização, ou contratação de qualquer pessoa, com o objetivo de cometer qualquer ato referido no parágrafo (a) (i) ao (iii) (African Union 1999, 207, tradução nossa).

O artigo 03 dessa mesma Convenção, por outro lado, reafirma uma preocupação dos Estados africanos em dissociar os atos terroristas das demandas

de autodeterminação dos povos e das lutas coloniais, especialmente em um continente assolado por intervenções externas. Nesse sentido, afirma que:

[...] O esforço de luta travado pelos povos, de acordo com os princípios do Direito Internacional a respeito de sua liberação ou autodeterminação, incluindo a luta armada contra o colonialismo, ocupação, agregação e dominação por forças estrangeiras não devem ser considerados atos terroristas (African Union 1999, 207, tradução nossa).

### 2.3 UM BALANÇO DAS MEDIDAS CONTRATERORISMO: DA INICIATIVA PANSHEL À FORÇA TAREFA CONJUNTA MULTINACIONAL CONTRA O BOKO HARAM

De acordo com Fred Halliday (2002), a principal consequência do terrorismo é que ele reforça os processos de repressão, especialmente o terrorismo “desde cima” perpetrado pelos Estados. Nesse sentido, é importante avaliar os processos de estabilização na região e, principalmente, as medidas de contraterrorismo desenvolvidas por países não africanos, como Estados Unidos e França. Portanto, esta seção busca fazer um balanço dessas medidas e avaliar o ciclo de repressão-radicalização observado no Saara-Sahel.

As medidas de contraterrorismo na região se intensificaram a partir de janeiro de 2013, embora as bases para essas ações remetam a episódios anteriores, como, por exemplo, os atentados de 11/09 nos EUA, a guerra civil da Argélia, na década de 1990, e os esforços em conter Kadaffi na década de 1980 (Reeve e Pelter 2014). Mais recentemente, o retorno dessas medidas se deu a partir da Iniciativa Panshel (no original em inglês, Pan Sahel Initiative), proposta em 2002 pelos Estados Unidos, cujo objetivo era fornecer apoio militar para controle de fronteiras no Mali, Níger, Mauritânia e Chade (Mundy 2010, 1). Como evidenciam Reeve e Pelter (2014, 20, tradução nossa), a Iniciativa PanSahel tem sido importante instrumento para a consecução dos interesses dos EUA na região,

[...] O esforço de luta travado pelos povos, de acordo com os princípios do Direito Internacional a respeito de sua liberação ou autodeterminação, incluindo a luta armada contra o colonialismo, ocupação, agregação e dominação por forças estrangeiras não devem ser considerados atos terroristas (African Union 1999, 207, tradução nossa).

Em 2005, os Estados Unidos reformularam a Iniciativa Panshel e criaram a Parceria Transaariana de Contraterrorismo (TSCTP, Trans-Sahara

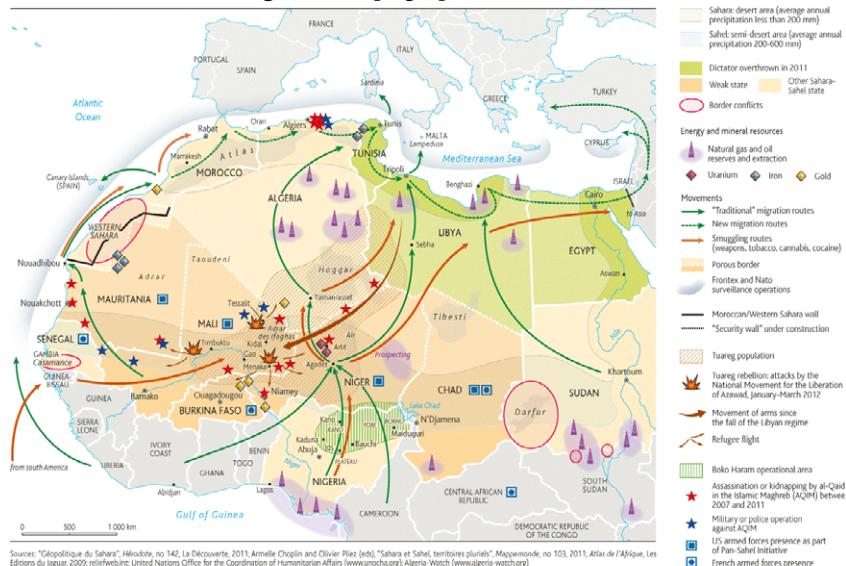
Counterterrorism Partnership, no original em inglês). A Parceria prevê uma resposta regional ao terrorismo através de programas de assistência, que abarcam ações tanto no âmbito militar quanto na esfera da governança e democracia (Mundy 2010, 1). A TSCTP se tornou o principal programa de contraterrorismo dos EUA na região, o qual, além de reforçar as relações bilaterais desses países com os EUA, também permite que as forças estadunidenses tenham acesso a facilidades infraestruturais e porções de território ao longo do Saara-Sahel (Reeve e Pelter 2014).

A principal justificativa do governo dos Estados Unidos para a inclusão do norte da África na Guerra Global ao Terror foi a suposta existência de células terroristas ao longo dos vastos territórios não governados do deserto do Saara, que conecta países como, por exemplo, Mauritânia, Mali, Burkina Faso, Níger, Argélia, Tunísia, Chade e Líbia. De acordo com o governo dos EUA, haveria uma confluência de problemas securitários em direção à região, tais como, o “(1) transbordamento do conflito armado na Argélia, nos anos 1990, (2) o deslocamento de ‘jihadistas’ do Afeganistão, logo após a invasão dos EUA em 2001” (Mundy 2010, 2, tradução nossa), desdobrando-se na formação de um verdadeiro arco de instabilidade, que se estenderia desde o Atlântico até o Mar Vermelho, chegando ao Oriente Médio e à Ásia. A administração Bush desenvolveu a teoria de que os grupos terroristas que se deslocaram do Afeganistão teriam se espalhado, primeiramente, pelo chifre da África, dirigindo-se, posteriormente, ao Sahel, onde se uniram a movimentos radicais islâmicos já existentes (Roberto 2013).

A veracidade dessas informações é bastante questionada, principalmente quanto à capacidade de atuação desses grupos e se ela ofereceria um desafio securitário que legitimasse sua inclusão junto à Guerra Global ao Terror, ou então até que ponto essa ameaça não seria produto de manipulação para consecução de interesses extrarregionais na região (Mundy 2010, Rekawek 2014). De acordo com Mundy (2010), parece haver uma coincidência geográfica entre as medidas securitárias dos EUA e o fato de haver na região algumas das mais importantes reservas energéticas do planeta, como, por exemplo, na Argélia, na Líbia, na Nigéria e no Golfo da Guiné, além do fato de esta ser uma região estratégica para a União Europeia e para a China. Ainda nesse sentido, Schmidt (2013, 213) argumenta que a apelação é confusa, uma vez que esses grupos islâmicos incluem diversos movimentos, organizações, células e indivíduos, os quais têm, em sua maioria, uma origem local e desvinculada dos acontecimentos de 11/09.

## CONSELHO DE PAZ E SECURANÇA DA UNIÃO AFRICANA

**Imagen 2:** Mapa geopolítica do Saara-Sahel.



Fonte: Rekacewicz 2012.

De acordo com Jeremy Keenan (2013), a Guerra Global ao Terror no norte da África e a sua vinculação aos grupos islâmicos existentes na região teriam sido manobras dos EUA para se instalar na região, criando a ilusão da existência de células terroristas, a partir de laços entre os EUA e governos ditatoriais no norte da África. Assim, afirma o autor que, “a operação El Para [na Argélia] se enquadrou na longa história dos EUA de dar suporte a Estados terroristas (e ditadores) e criar incidentes falsos para justificar a intervenção militar” (Keenan 2013, 5, tradução nossa). Os motivos de a Argélia apoiar os EUA no lançamento das medidas contraterroristas dizem respeito à situação em que o país se encontrava na época, logo após a guerra civil pela qual o país passara nos anos 1990 e a desestabilização interna dela decorrente. Nesse sentido, os ataques de 11/09 permitiram que a Argélia se aliasse aos EUA e, assim, conseguisse incrementar suas capacidades de defesa e voltar a ter um espaço no cenário internacional. As motivações dos EUA, por outro lado, foram mais globais, relacionadas ao aumento da importância estratégica da África e ao acesso aos recursos energéticos. Assim, ainda segundo Keenan (2013, 11, tradução nossa):

Em 1998, a dependência dos EUA em fornecimento externo de petróleo ultrapassou o nível psicologicamente crítico de 50%, e em

2000 se tornou um importante tema eleitoral, uma vez que George W. Bush prometeu tornar a segurança energética uma das principais prioridades de seu governo [...] O chamado Relatório Cheney, definiu a direção da subsequente política norte-americana para a África, identificando o continente, especialmente a África Ocidental, como uma nova e importante fonte para as importações de petróleo dos EUA [...] O 09/11 abriu a oportunidade para que Bush escolhesse uma estrutura militar, a GWOT [do inglês, Guerra Global ao Terror], para assegurar seu acesso ao petróleo africano [...] O terrorismo que a administração Bush e seus aliados regionais, notavelmente a Argélia, fabricaram para justificar o lançamento de uma fronte Saara-Saheliana na GWOT se centrou no sequestro de 32 turistas Europeus pelo El Para e sua subsequente fuga através do Sahel.

Em relação aos grupos terroristas na região, é importante destacar, como afirma Penna Filho (2014, 48), que estes grupos não buscam implementar uma Jihad global, mas sim, que seus projetos de resistência fundamentam-se em governos não democráticos, os quais não atendem às demandas da população. Desse modo, o discurso de uma “afriganização”<sup>13</sup>(Rekawek 2014) é falso e deve ser visto a partir de um contexto maior de interesses extrarregionais e regionais, no qual, na verdade, esse reconhecimento da região como a nova fronteira do terrorismo dá muitas credenciais e legitimidade a grupos como Boko Haram ou AQMI. Portanto, fica evidente que,

O aumento e exagero da ameaça terrorista levaram a envolver todos os problemas políticos da região sob a ótica da luta contra o terror. Isso fez com que diversos conflitos de ordem local, como as demandas Tuaregues contra sua baixa representação e participação política, fossem vistas como ameaças, exacerbando tensões que foram respondidas com maior violência, como as revoltas no Níger e no Mali em 2007 e 2008 (SCHMIDT, 2013). Por fim, cabe ressaltar que os impactos trazidos à população mais pobre causou um crescimento no sentimento antiamericano e diversos civis passaram de fato a fazer parte de movimentos islâmicos radicais, tornando o terrorismo na região algo que Keenan (2009; 2013) chamou de “profecia autorrealizável” (Roberto 2013, 4).

Reeve e Pelter (2014) também corroboram essa posição. De acordo com os autores, há uma estreita relação, na Guerra ao Terror no Norte da África, entre os EUA e governos não democráticos, que acabaram fortalecendo suas forças de

13 De acordo com Rekawek (2014, 19), o conceito de “afriganização” remete à percepção de que todos os eventos envolvendo ataques armados na região do Sahel são decorrentes do terrorismo jihadista global, em referência à Guerra ao Terror lançada pelos EUA no Afeganistão, após os ataques de 11/09.

segurança. Isso fica evidente ao percebermos que, dos quatro países cujas forças militares os EUA sob os auspícios da Iniciativa Pansahel, “três deles (Mauritânia em 2008, Níger em 2010, Mali em 2012) tiveram governos democraticamente eleitos derrubados posteriormente e o quarto (Chade em 2006), adentrou numa breve guerra civil” (Reeve e Pelter 2014, 27). Na esteira do processo de militarização do combate ao terrorismo na região levado a cabo pelos EUA, foi criado o Comando dos Estados Unidos para a África (AFRICOM), em 2007. A organização tem atuado fortemente na contenção do terrorismo, com foco especial no AQMI e, sob os auspícios da operação Enduring Freedom Trans Sahara, no âmbito da qual os EUA têm cooperado em questões militares com países como Argélia, Burkina Faso, Chade, Mali, Mauritânia, Marrocos, Níger, Nigéria, Senegal, e Tunísia. Importa destacar que, diversas vezes, essas parceiras envolvem cessão de comando operacional pelos países africanos para o AFRICOM (Deen 2013, 7).

Os outros processos de intervenção militar na região foram a Operação Serval, conduzida pela França, no Mali, em janeiro de 2013, e a MINUSMA, operação de paz da ONU que teve início em 2013 também no Mali. A Operação Serval foi lançada em 11 de janeiro de 2013, em resposta à crise no Mali e a pedido do governo de transição, tendo como objetivos: conter a ofensiva dos grupos terroristas, assegurar a segurança em Bamako, a fim de proteger os cidadãos franceses, e preservar a integridade territorial do Mali (Gnanguênon 2014). Utilizando bases em países vizinhos – como, por exemplo, sua base em Ouagadougou, em Burkina Faso, em Abidjan, na Costa do Marfim, e em N'Djamena, no Chade –, a França pôde deslocar suas forças e equipamentos rapidamente. Entretanto, em janeiro de 2014, o país anunciou uma reorientação de sua presença no Saara-Sahel, criando a Operação Barkhane, a qual incorporaria as operações existentes: Serval (Mali), Epervier (Chade) e Licorne (Costa do Marfim), incluindo oficialmente o G5 Sahel nessas atividades, isto é, a Mauritânia, Burkina Faso, o Mali, o Níger e o Chade. A operação Barkhane foi lançada em julho de 2014 e seu objetivo é

Manter uma presença indefinida de 3.000 combatentes franceses nos cinco Estados do Sahel, sendo 1.000 somente no Mali. As forças serão apoiadas por seis caças (baseados em N'Djamena), aviões de reabastecimento, 10 aviões de transporte, 20 helicópteros e 200 veículos blindados, distribuídos por mais de uma dúzia de bases militares. A reabertura ou o reforço de uma série de bases no norte do Níger e no Chade sugere que o objetivo do deslocamento é não só procurar e destruir grupos jihadistas em áreas remotas, mas também estender o escopo de projeção da França e suas forças aliadas em direção ao sul da Líbia, provavelmente o espaço menos governado em todo o Saara e conhecido refúgio para a AQMI, Ansar al-Shari'a e outros grupos radicais contra o ocidente (Reeve e Pelter 2014, 10, tradução nossa).

A Operação Serval foi capaz de repelir a ofensiva jihadista no centro do Mali e expulsar esses grupos dos principais centros populacionais do país, abrindo espaço para que a AFISMA deslocasse forças para assegurar o centro do país e alguns dos territórios reconquistados. Entretanto, o que importa destacar é que a presença militar francesa e da ONU ao longo dos territórios ao norte de Mali não significou a restauração da presença do Estado nem as garantias de paz em todas essas áreas. Além disso, o uso de forças convencionais contra as forças terroristas – que usam táticas não convencionais e de guerra assimétrica – fez com que a operação apenas deslocasse o problema jihadista do Mali para os territórios vizinhos, principalmente o Níger, onde os rebeldes puderam se reagrupar outra vez (Reeve e Pelter 2014). A Operação Barkhane, por outro lado, deve ser compreendida como uma demonstração da “política de defesa francesa, assim como a necessidade do país em manter sua influência na África através do reforço de suas capacidades militares operacionais” (Gnanguénon 2014).

Em razão do recrudescimento das atividades dos grupos militares não estatais, a União Africana está desenvolvendo dois projetos de contratarrorismo e apoio às forças armadas dos países para lutar contra a ameaça desses grupos: o Processo de Nouakchott e o desenvolvimento de uma Força Multinacional de combate ao Boko Haram. O Processo de Nouakchott envolve 11 países: Argélia, Burkina Faso, Costa do Marfim, Guiné, Líbia, Mali, Mauritânia, Níger, Nigéria, Senegal e Chade, e prevê a cooperação em segurança e a operacionalização de uma Arquitetura de Paz e Segurança Africana na Região do Saara-Sahel, a fim de superar os desafios securitários compartilhados por esses países. A Declaração de Nouakchott prevê encontros regulares entre os chefes de inteligência e segurança dos países mencionados, com o intuito de compartilhar informações na luta contra o terrorismo e o crime organizado e a necessidade de programas de construção de capacidades (African Union 2014a).

Por outro lado, em 25 de maio de 2015 a União Africana inaugurou a sede operacional da Força Tarefa Conjunta Multinacional para combater o Boko Haram, em N'Djamena, no Chade (Mbella 2015). Essa força está sendo promovida pela Nigéria, Níger, Chade, Camarões e Benin. Ela deverá contar com 8.700 soldados, os quais “estariam autorizados a exercer ‘direito de perseguição’ em solo nigeriano” (Théroux-Bénoni 2015, tradução nossa). Embora recente, essa iniciativa pode servir como importante plataforma para a cooperação regional e o combate de problemas securitários comuns.

Para compreender a conjuntura securitária no Saara-Sahel atualmente, é necessário avaliar o papel das estruturas estatais e das instituições, observando o processo de radicalização que ocorre na região e, assim, desconstruir a conexão

direta que usualmente é feita do terrorismo com o Islã. Nesse sentido, Caroline Ifeka (2010, 32, tradução nossa) destaca que:

A principal causa do crescimento da militância jovem mobilizando-se em torno das etnias e do reformismo islâmico é a falha da classe no poder em ‘compartilhar’ os ‘dividendos da democracia’ – por exemplo, rendimentos [...] de recursos estratégicos, como petróleo, gás natural, ouro, bauxita, urânio, água – de acordo com expectativas de clientes subalternos.

Aline Leboeuf (2014) também corrobora essa visão. De acordo com a autora, muitas das pessoas engajadas em movimentos com caráter identitário étnico ou religioso geralmente têm suas bases em comunidades rurais, a partir das quais demandam seus direitos sobre terra, água e distribuição de recursos que o Estado não é capaz de prover. Mesmo assim, é importante pontuar que isso não significa que todos esses Estados estejam destinados a desenvolver células de futuros grupos terroristas (Ifeka 2010). A degradação do ambiente político-social pode ser identificada por falhas em qualquer uma das funções básicas do Estado, quais sejam prover segurança, bem-estar e ordem pública (Schneckener 2006).

O Estado deve ser capaz de centralizar a coleta de impostos, proporcionar serviços públicos e manter um sistema político que garanta a participação de todos os grupos étnicos e sociais, a legitimidade da tomada de decisões e a accountability da administração pública (Schneckener 2006)<sup>14</sup>. Segundo a definição weberiana, o exercício dessas funções depende do monopólio legítimo do uso da violência, que, ao ser rompido, faz o Estado perder sua característica intrínseca, perdendo também parte de sua soberania e tendo ameaçada sua condição de Estado no Sistema Internacional (Roberto e Melos 2014). A ação de atores não estatais pode representar um desafio para a capacidade estatal em todos os sentidos apresentados, muitas vezes a ponto de esses atores exercerem o papel do Estado junto a populações locais, ao proverem o mínimo de segurança e bem-estar (Schneckener 2006).

As consequências que podem resultar de uma situação [em que o Estado é incapaz de prover segurança e dar suporte ao desenvolvimento de sua população] foram dramaticamente ilustradas no Mali, em 2012, quando as forças estatais se mostraram incapazes de proteger

<sup>14</sup> No que diz respeito ao Boko Haram, Penna Filho (2014, 51) destaca que “a estrutura política, econômica e social nigeriana acaba favorecendo a insurgência de grupos [...] porque o país, apesar de contar com um Produto Interno Bruto expressivo e ser um grande produtor de petróleo [...] apresenta um quadro generalizado de corrupção, desigualdade social e disparidades regionais expressivas. O fator étnico, embora não decisivo, e o religioso, ajudam a compor a complexidade do quadro local, haja vista que existe no país uma divisão regional em termos de crença religiosa, com a maioria da população na região Norte e Nordeste professando o islã”.

o norte do país contra os separatistas tuaregues (MNLA) e grupos jihadistas (Ansar Dine, AQMI, MUJAO) [...] A falha do Estado malinês em proteger sua população e sustentar a lei e a ordem estava relacionada tanto a questões de capacidades (e a falha na cooperação militar com outros países, especialmente França e EUA, no sentido de fortalecer seu aparelho militar) como a questões políticas, visto que pode ter ocorrido a formação de um conluio e alguma forma de acordo informal entre algumas das elites de Bamako e jihadistas [...] O que é certo é que, de fato, a AQMI buscou estabelecer uma base no norte do Mali no início dos anos 2000 [...], sem qualquer grande resistência de Bamako, que adotou uma postura bastante conciliadora em relação ao grupo jihadista. Para a população malinesa, o Estado – ou melhor, o regime – carecia de legitimidade por completo: não proveu segurança e frustrou as oportunidades de desenvolvimento (Leboeuf 2014, 46, tradução nossa).

Um dos maiores problemas das operações externas tende a ser a exacerbção de problemas regionais e nacionais específicos e, principalmente, o aumento da radicalização. Levando em consideração os aspectos mencionados, parece evidente que, ao privilegiar uma abordagem militar para a resolução dos problemas na região, tanto EUA quanto França têm criado uma situação de aumento da radicalização desses grupos e de seu escopo de atuação, envolto no ciclo vicioso repressão-radicalização.

Assim, de acordo com Duque Estrada e Mattos (2013), a utilização da repressão por governos autoritários – como, por exemplo, Argélia, Egito, Líbia, Marrocos e Tunísia – contra grupos de oposição, serviu como motor para a sua radicalização. Impossibilitados de participarem dos processos institucionais do Estado, tais grupos “[acabaram] ou recorrendo a uma abordagem anti-sistêmica, reunindo-se em movimentos islâmicos genuinamente de oposição e ilegais [...] ou então emigrando para a Europa, atitude considerada [...] como forma de radicalização” (Duque Estrada e Preusser de Mattos 2013, 10). Portanto, é importante problematizar as medidas securitárias adotadas por atores extrarregionais para combater o terrorismo. Na maioria das vezes, os processos de intervenção externos ocorreram sem uma consulta prévia aos países africanos, sendo que a busca por sua participação veio, geralmente, em segundo plano (Penna Filho 2014).

### 3 AÇÕES INTERNACIONAIS PRÉVIAS

#### 3.1 UNIÃO AFRICANA (UA)

Ainda sob a estrutura da antiga Organização da Unidade Africana<sup>15</sup>, os

15 Organização regional criada em 1963 com o intuito de fortalecer a união política do continente

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esforços continentais de contraterrorismo têm como marco inicial a adoção da Resolução sobre o Fortalecimento da Cooperação e Coordenação entre os Estados Africanos em 1992, com a qual a organização reconhece a necessidade da luta conjunta contra os fenômenos do extremismo e do terrorismo (African Union 2014c). A Resolução é base para a Convenção sobre a Prevenção e Combate ao Terrorismo, de 1999, que requer a criminalização do terrorismo nas leis nacionais dos Estados-membros. A Convenção também define áreas de cooperação entre os países do continente, “estabelecendo a jurisdição estatal sobre atos terroristas, e provendo estrutura legal para extradição [de suspeitos de terrorismo], investigações extraterritoriais e assistência legal mútua” (African Union 2014c, tradução nossa).

Já sob a estrutura da União Africana, foi desenvolvido o Plano de Ação de Prevenção e Combate ao Terrorismo em 2002. O Plano “adota medidas de contraterrorismo [...] em áreas como o policiamento e controle de fronteiras, medidas legislativas e judiciais, financiamento do terrorismo e troca de informação” (African Union 2014c). Do Plano também resultou a instalação do Centro Africano de Estudo e Pesquisa sobre Terrorismo (ACSRT), estabelecido em Algiers no ano de 2004, com a função de centralizar e compartilhar informações sobre grupos terroristas, bem como “colaborar com parceiros regionais e internacionais para a coordenação de esforços de contraterrorismo no continente” (African Union 2014d, tradução nossa).

Ainda em 2004, foi adicionada, em forma de protocolo, a Declaração de Dakar Contra o Terrorismo à Convenção adotada em 1999. O protocolo adicionado com a Declaração de Dakar

[...] reconhece a crescente ameaça do terrorismo no continente e as crescentes ligações entre terrorismo, tráfico de drogas, crimes organizados transnacionais, lavagem de dinheiro e a proliferação ilícita de armas de pequeno porte (African Union 2014c, tradução nossa).

Além do desenvolvimento da estrutura multilateral, são de suma importância a atualização e equalização dos modelos jurídicos dos Estados africanos. Nesse sentido, em 2011, foi apresentado o Modelo Africano de Lei Contra o Terrorismo por uma comissão especial da UA, com o objetivo de fortalecer e atualizar a legislação nacional dos Estados-membros da organização (African Union 2014c).

Por fim, merece grande destaque a Estratégia da União Africana para a Região do Sahel, adotada em fevereiro de 2014, que está sendo implementada pela Missão da União Africana para o Mali e Sahel (MISAHEL)<sup>16</sup>. Para a efetividade

e consolidar a independência africana frente às antigas metrópoles europeias.

16 A MISAHEL, estabelecida pela UA em agosto de 2013, tem o mandato de auxiliar o pro-

da iniciativa, porém, são fundamentais a cooperação e a coordenação de esforços, principalmente com as Comunidades Econômicas Regionais e instituições de financiamento africanas (African Union 2014d).

A Estratégia se fundamenta em três pilares: a) governança; b) segurança; e c) desenvolvimento. Dentre as medidas propostas para melhorar a governança na região, estão iniciativas de descentralização administrativa dos Estados, de consolidação de instituições democráticas, bem como de integração de comunidades nômades e de promoção da coesão nacional através de líderes religiosos e tradicionais. Para enfrentar os desafios securitários, a Estratégia prevê a ação interagências de inteligência e de segurança, a construção de confiança mútua entre os países, e a cooperação técnica com outras organizações e instituições atuantes na região. Para o desenvolvimento sócio-econômico do Sahara-Sahel, a UA recomenda a construção de infraestrutura integrada, a integração sócio-econômica de jovens e mulheres, através de programas como o Serviço Cívico para o Desenvolvimento (SCAD), assim como a implementação de projetos de desenvolvimento agrícola e de mitigação dos impactos da desertificação do Sahel (African Union 2014c)<sup>17</sup>.

### 3.2 COMUNIDADE ECONÔMICA DOS ESTADOS DA ÁFRICA OCIDENTAL (ECOWAS)

Um dos principais organismos sub-regionais do Saara-Sahel, a ECOWAS adotou em 2008 a Estrutura de Prevenção de Conflito (ECPF), tendo como preocupação central integrar as instituições internas da organização e promover a cooperação entre os Estados-membros e entidades externas para a manutenção da paz e da segurança na região (Kabia 2011). Em linhas gerais, a ECPF advoga uma postura pró-ativa dos Estados-membros e da sociedade civil, colocando-os como os atores principais do esforço de manutenção e estabelecimento da paz (ECOWAS 2008).

Também em 2008, a ECOWAS adotou a Declaração Política e o Plano Regional de Combate ao Tráfico Ilícito de Drogas, Crime Organizado e Abuso de Drogas. A Declaração recomenda aos governos dos Estados-membros a priorização

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cesso de transição e recuperação do Mali pós-crise, bem como apoiar os países do Sahel em seus desafios de segurança, governança e desenvolvimento (ISS 2014a).

17 Este programa objetiva a integração de jovens na estrutura socioeconómica de seus países, contribuindo para a estabilidade interna e o desenvolvimento nacional. A proposta do programa é oferecer treinamento profissional em áreas como carpintaria, construção e elétrica, capacitando os participantes para atuação no setor público e privado (African Union 2014b).

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do controle do tráfico de drogas para a estabilidade da região, bem como o fortalecimento das legislações e planos nacionais de combate ao crime organizado. Além disso, requisita a intensificação dos programas de assistência financeira e técnica do Escritório das Nações Unidas para Drogas e Crime (UNODC), bem como sua cooperação para a implementação do Plano Regional (United Nations 2015d).

Por sua vez, o Plano de Ação Regional (2008-2013) derivado da Declaração envolve cinco áreas temáticas, quais sejam: a) mobilização política para a alocação de recursos suficientes para a prevenção e combate ao tráfico ilícito de drogas; b) garantia da aplicação da lei e promoção da cooperação regional contra o crime organizado e tráfico de drogas; c) adequação dos aparatos legais e administrativos de justiça criminal; d) enfrentamento e prevenção do abuso de drogas e problemas de saúde associados; e) desenvolvimento de bases de dados confiáveis sobre o crime organizado e tráfico de drogas (United Nations 2015e).

Em 2013, a Autoridade dos Chefes de Estado e de Governo da ECOWAS adotou a Declaração Política de Posicionamento Comum Contra o Terrorismo, reconhecendo a necessidade de coordenação dos esforços nacionais para o combate do fenômeno. O principal desdobramento da Declaração é a Estratégia de Contraterrorismo e Plano de Implementação da ECOWAS, com os objetivos de operacionalizar os instrumentos existentes de contraterrorismo e coordenar os esforços regionais, continentais e internacionais para erradicar e prevenir a ameaça terrorista no Oeste da África. Juntas, a Declaração e a Estratégia configuraram a primeira iniciativa da ECOWAS para lidar especificamente com o terrorismo, definindo normas e princípios gerais, bem como a condenação do financiamento e da propagação ideológica de atividades terroristas (Ewi 2013).

### 3.3 ORGANIZAÇÃO DAS NAÇÕES UNIDAS (ONU)

Adotada pela Assembleia Geral em 2006, a Estratégia Global das Nações Unidas de Contraterrorismo é o marco institucional da Organização neste tema. Em linhas gerais, os pilares da Estratégia Global consistem em: a) construir a capacidade estatal de prevenção e combate a ameaças terroristas; b) criar condições que evitem a difusão do terrorismo; c) fortalecer o papel das Nações Unidas no combate ao terrorismo; d) garantir o respeito pelos direitos humanos como princípio das ações contraterroristas (United Nations 2006). Para auxiliar os Estados-membros na consecução desses objetivos, a Força Tarefa de Implementação do Contraterrorismo (CTIFT), composta por 34 entidades internacionais, organiza grupos de trabalho e workshops “em áreas onde a cooperação entre os

atores do Sistema das Nações Unidas pode agregar valor para a implementação da Estratégia” (United Nations 2015b).

Acerca da situação no Saara-Sahel, em 2013 foi adotada pelo Conselho de Segurança a Estratégia das Nações Unidas Integrada para o Sahel, abarcando os países do Oeste, do Norte e do Centro da África, com ênfase especial para Burkina Faso, Chade, Níger, Mauritânia e Mali (United Nations 2013). A Estratégia para o Sahel está fundada em três pilares: a) governança, que visa à construção de capacidade estatal para o provimento de serviços públicos, bem como a inclusão política de populações marginalizadas; b) segurança, com o objetivo de melhorar o controle das vastas e porosas fronteiras da região, restringindo o transbordamento de atividades ilícitas e também criando condições para o desenvolvimento de atividades econômicas legítimas; e c) resiliência, dando ênfase para a segurança alimentar das populações em áreas de risco, bem como “construindo a capacidade para a resiliência de longo prazo” (United Nations 2015a, tradução nossa).

### 3.4 UNIÃO EUROPEIA (UE)

A UE foi um dos primeiros atores extrarregionais a tomar a iniciativa de implementar uma estratégia de segurança e desenvolvimento socioeconômico para o Sahel (ISS 2014b). A Estratégia para Segurança e Desenvolvimento do Sahel, adotada em 2011, abrange Mauritânia, Mali, Níger, Burkina Faso e Chade, tendo como centro os três primeiros países (Pichon 2015). O objetivo principal dessa iniciativa é combater as causas principais da extrema pobreza na região, criando condições para o desenvolvimento humano através de quatro linhas gerais de ação, quais sejam: a) desenvolvimento, boa governança e resolução de conflitos internos; b) ação política e diplomática; c) segurança e governo da lei; e d) combate e prevenção do extremismo e radicalização. Dentre as medidas específicas, destaca-se a implementação de missões de treinamento das forças armadas dos países da região, como no Mali e no Níger (Pichon 2015).

Para a consecução da Estratégia, a UE dispunha de €650 milhões, no momento de sua implementação, levantados através do Fundo Europeu de Desenvolvimento (EDF) e do Instrumento para Estabilidade (IsF). Entre 2014 e 2020, a Comissão da UE espera mobilizar €5 bilhões para apoiar o desenvolvimento das capacidades dos Estados abrangidos no plano (Pichon 2015).

## 4 POSICIONAMENTO DOS PAÍSES

Mesmo tendo sido um dos maiores críticos quanto à criação do AFRICOM,

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a **África do Sul** mantém uma postura colaborativa em relação a essa organização, sendo que o porto de Simon's Town é utilizado para operações estadunidenses (Deen 2013). Um continente estabilizado, além disso, é importante para o país, visto constituir importante mercado para seus produtos. Em 2003, o país coordenou uma missão da União Africana no Burundi, mas, de modo geral, é cético quanto à eficácia de intervenções externas para resolução de conflitos (Marthoz 2013). A África do Sul, que em 2004 adotou o Ato de Proteção da Democracia Constitucional contra Atividades Terroristas e Correlatas, a fim de prevenir e combater atividades terroristas, tem mostrado pouco interesse em cooperar com os EUA em questões relacionadas ao contraterrorismo (United States of America 2013).

Importante aliada dos EUA na região, a **Argélia** busca se estabelecer como uma potência regional e evitar interferência internacional nos seus problemas. O país, que passou por uma intensa guerra civil nos anos 1990, procura manter-se afastado de medidas regionais que visem à utilização da força, embora o país continue fazendo uso dela dentro de suas fronteiras. No que diz respeito às crises no Mali e na Líbia, por exemplo, o país parece ter organizado negociações que incluíssem diferentes partes e posições, o que teria gerado uma situação de discussões improdutivas e sem tomada efetiva de decisão. Existem rumores de que o serviço de inteligência argelino mantenha relações com a AQMI, num esforço de manter a região desestabilizada e manter suas relações com os EUA, cuja parceria com a Argélia na luta contra o terrorismo foi renovada, em 2011, pelo Presidente Obama (Porter 2015).

Após guerra civil, entre 1993 e 2005, o **Burundi** passa por processo de reconstrução, tentativa de conciliação interna e reassentamento de ex-refugiados. Apesar de não ser ameaçado por grupos armados, o país vive momento de crise política depois de uma fracassada tentativa de golpe de Estado, em maio de 2015, seguida por uma violenta repressão do governo e pela fuga em massa da população para a Tanzânia, a República Democrática do Congo e Ruanda (All Africa 2015a). O atual presidente do Burundi, Pierre Nkurunziza, tenta garantir seu terceiro mandato consecutivo, violando os acordos de paz que terminaram a guerra civil em 2006 (All Africa 2015b). Participante da TSCTP, o Burundi recebe treinamento militar e financiamento dos Estados Unidos para o combate ao terrorismo. Nos últimos anos, o país tem realizado operações conjuntas de combate ao terrorismo com seus vizinhos, além de participar ativamente da AMISOM (United States of America 2013).

O **Chade** é um importante parceiro dos EUA na luta contra o terrorismo, sendo também membro da TSCTP. O combate ao terrorismo é uma prioridade

para o atual governo, especialmente a contenção de ameaças terroristas ao longo da região do Sahel. O país, que recebeu treinamento técnico-militar dos EUA, contribuiu com 2.000 soldados na Missão da ONU para o Mali (MINUSMA) (United States of America 2013). A França está envolvida em uma operação no país (Epervier) e possui uma base em N'Djamena, a qual prevê a presença de blindados, aviões de combate, helicópteros, meios de informação e infantaria. Além disso, a Operação Barkhane tem sua base na capital chadiana, N'Djamena, além de diversos equipamentos de combate e apoio para sua força aérea e terrestre (Reeve e Pelter 2014).

A **Etiópia** é afetada pela atuação do grupo Al-Shabaab na Somália, em seu entorno regional. O país, que é parte da coalizão de forças da União Africana AMISOM desde 2013, cujo objetivo é combater as ações desse grupo na Somália, vê a situação instável nesse país como uma ameaça a sua própria segurança, o que o faz manter uma presença militar defensiva ao longo da fronteira somali. O país também se preocupa com grupos internos, como é o caso da Frente de Libertação Nacional de Ogaden (ONLF), da Frente de Libertação de Oromo (OLF) e do Ginbot 7 (Moore 2014, United States of America 2013).

Apesar de não sofrer de ameaças terroristas, a **Gâmbia** tem empreendido esforços para combater a lavagem de dinheiro, o financiamento do terrorismo e outros crimes financeiros em seu território e na África Ocidental (Kargbo, 2014).

Mais recentemente, a **Guiné** tem pautado sua política externa a partir de uma aproximação com a França. Importante fonte de minérios, sendo detentor de 1/3 das reservas mundiais de bauxita – e fonte de 24% das importações estadunidenses da matéria-prima – de importantes reservas de minérios de ferro e diamante, e de ser o terceiro maior produtor de ouro na região, o país apresenta uma relação de afastamento em relação a qualquer tentativa de intervenção externa (Visentini 2012b). Importante mencionar que o país tem uma relação de cooperação militar estreita com os EUA, a qual é caracterizada pela presença de técnicos civis e militares para treinamento das forças armadas do país (Arieff 2012).

Já a **Guiné Equatorial** se mostra preocupada com a emergência do grupo Boko Haram, enxergando a situação na região nordeste da Nigéria e as atividades do grupo no Camarões como ameaçadoras. A preocupação reflete a intenção de evitar incidentes como o ataque ao palácio presidencial em Malabo, em 2009, e atribuído ao Movimento pela Emancipação do Delta do Níger (MEND) (Jean-Matthew 2015)<sup>18</sup>.

18 Grupo armado que atua no Delta do rio Níger, atacando áreas de exploração de petróleo, entre outras, com o objetivo de destruir a capacidade de exploração do governo e controlar os poços de petróleo do Delta.

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A **Líbia** é um dos principais interessados no tema de grupos armados não estatais. Desde a queda do regime de Muahammer al Kadafí, a iminente falência do Estado líbio agrava a situação securitária do Saara-Sahel, fazendo de seu território lugar propício para o exercício de atividades terroristas e criminosas, e provocando a instabilidade de toda a região. Especialmente relevante geopoliticamente para o cenário internacional – diga-se Estados Unidos e Europa – por suas reservas de petróleo, o país passa por um delicado processo de reconstrução desde o encerramento da intervenção militar da OTAN em 2011. No entanto, a existência de dois governos, a ascensão de rebeldes e a presença do Estado Islâmico na Líbia dificultam a conquista da estabilidade no país (Roberto 2015).

**Moçambique** viveu 16 anos de guerra civil, até ser assinado, em 1992, o acordo de paz entre os grupos armados Resistência Nacional de Moçambique (RENAMO) e a Frente de Libertação de Moçambique (FRELIMO). Desde 2013, porém, houve o ressurgimento da violência entre as forças de segurança do país e o braço armado do RENAMO, principalmente na província de Sofala. No presente momento, os moçambicanos estão preocupados em estabelecer um novo acordo de paz entre as duas facções, a fim de evitar a escalada da violência no país.

Assim como Gâmbia, a **Namíbia** implementou sua Política de Contraterrorismo e Financiamento do Terrorismo (CTFTP), com o objetivo de articular suas instituições domésticas para esse fim (Pisani 2012).

As iniciativas de contraterrorismo são uma prioridade do governo do **Níger**, país que é membro da TSCTP e que tem importantes relações de cooperação com os EUA e a União Europeia no que diz respeito à luta contra o terrorismo e o crime organizado. As tensões históricas entre o Estado e os tuaregues fizeram com que houvesse uma maior abertura para a radicalização. O país enviou mais de 600 soldados para intervir no Mali e aumentou sua contribuição para mais de 800 soldados para as atividades da MINUSMA que vieram na sequência. O Níger também tem lutado contra as ações do Boko Haram no sul do país, na fronteira com a Nigéria, e contra as ações da AQMI (United States of America 2013). Além disso, a França possui uma base militar em Niamey, que é compartilhada com os EUA desde 2013, onde dispõe de forças especiais, aviões de combate e meios de informação (Reeve e Pelter 2014).

Maior economia africana, a **Nigéria** é atualmente o maior produtor de petróleo no continente e um dos principais exportadores para os Estados Unidos. O país foi um dos maiores críticos da criação do AFRICOM e vê com cautela o crescimento das organizações militares não estatais no seu entorno (Deen 2013). A Nigéria, que tem uma postura de liderança regional, tem tido dificuldades em lidar com as ameaças impostas pelo grupo Boko Haram, as quais se dilatam e

transbordam para os vizinhos, especialmente o Marrocos e o Níger, mas, ao mesmo tempo, evita a interferência externa em seus problemas domésticos. Como afirma Penna Filho (2014) o país é bem estruturado e possui os recursos necessários para lidar com a ameaça de grupos militares não estatais, faltando apenas um melhor uso dos recursos públicos e combate à corrupção. O país também é membro da TSCP e auxiliou com forças terrestres e suporte logístico no esforço da ECOWAS no Mali (United States of America 2013).

Relativamente livre de ataques terroristas ou insurgências, desde 2012 a **Tanzânia** tem experimentado esporádicos e pouco organizados ataques de militantes islamitas contra igrejas e pontos turísticos. A preocupação maior do país, porém, é com a possibilidade de transbordamento das atividades do Al-Shaabab, que atua no chifre da África, e de grupos terroristas no Quênia, tendo em vista as fronteiras porosas da região (LeSage 2014). Apesar de não sofrer com grandes ameaças, a Tanzânia participa da Iniciativa de Contraterrorismo Transaariana (TSCTP) e de iniciativas da Comunidade da África Oriental, bem como da Missão das Nações Unidas na República Democrática do Congo (MONUSCO), mostrando-se comprometida com a estabilidade na região.

Desde sua independência, **Uganda** enfrenta graves problemas de segurança, tendo em vista as várias insurgências contra o governo no norte do país desde 1986 (United States of America 2004). Muitas delas foram derrotadas ou anistiadas, mas o Exército de Resistência do Senhor (LRA) e a Frente Democrática Aliada (ADF) continuam ativos, inclusive nos vizinhos Sudão do Sul, República Democrática do Congo e República Centroafricana. O LRA, historicamente apoiado pelo Sudão, comete atrocidades contra a população, provocando uma crise humanitária na região, com o objetivo de governar Uganda com base nos Dez Mandamentos da Bíblia (Munyuwa 2012). Com o envolvimento de parceiros e a aplicação de medidas domésticas, Uganda conseguiu reduzir boa parte da ameaça do LRA, mas ainda se esforça para erradicar o extremismo. Exemplos de iniciativas bem-sucedidas no combate ao LRA são a criação da Força Tarefa Conjunta Antiterrorismo (JAT), a cooperação regional da Comunidade da África Oriental (EAC) sob a liderança da UA, e a adoção de leis de anistia (Munyuwa 2012) . É notável, ainda, o esforço empregado pelo país no combate ao Al-Shaabab, através de sua participação na Missão da União Africana na Somália (AMISOM). Desde 2007, Uganda já forneceu quatro comandantes e 12 batalhões para a Missão, que hoje conta com mais de seis mil soldados ugandenses (African Union 2015a).

## 5 QUESTÕES PARA DISCUSSÃO

1. Quais são as medidas adotadas pela União Africana para a resolução dos problemas securitários regionais? Elas têm sido eficazes, ou deveria haver um maior protagonismo dessa organização?
2. Como a atividade de grupos armados não estatais se relaciona com os interesses de potências extrarregionais na região?
3. O uso indiscriminado do termo “terrorismo” e as associações políticas, culturais e religiosas decorrentes afetam a forma com a qual o problema dos grupos militares não estatais no Saara-Sahel é abordado?
4. Qual é a relação entre a origem desses grupos e a capacidade estatal dos países envolvidos com as ações dos grupos militares não estatais? Esses países têm adotado medidas para combater as origens desses problemas?
5. As intervenções militares realizadas na região se mostraram positivas para o controle do problema?

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CONSELHO DE PAZ  
E SEGURANÇA DA  
UNIÃO AFRICANA

# A SITUAÇÃO NA LÍBIA

THE SITUATION IN LIBYA

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## RESUMO

O presente guia de estudos debate a atual situação na Líbia, com o objetivo de compreender quais as possíveis medidas a serem tomadas pelo Conselho de Paz e Segurança da União Africana. Após a derrubada de Muammar Kadaffi, em 2011, o país viveu uma série de instabilidades políticas e securitárias, que culminaram, em 2014, na chamada Segunda Guerra Civil Líbia. Os principais elementos dessa são a ausência de um Estado central capaz de administrar o território e sem monopólio da força, a existência de uma série de grupos armados, a existência de dois corpos políticos e legislativos diferentes que reivindicam a administração legítima da Líbia - um sediado em Trípoli, capital do país, e outro sediado em Tobruk - e a recente ascenção do Estado Islâmico no país. Ademais, busca-se analisar qual o papel não apenas do CPSUA na questão, mas também de países africanos, árabes e de potências extrarregionais.

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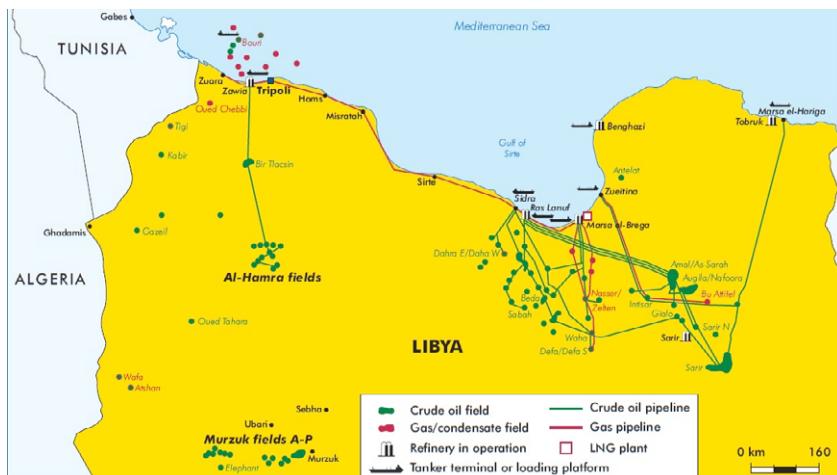
<sup>2</sup> Marília é aluna do último ano de Relações Internacionais da UFRGS e diretora do CPSUA.

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## 1 HISTÓRICO

Quarto país da África em território, a Líbia possui 60% de sua superfície coberta pelo deserto do Saara, e 90% do país apresenta um clima desértico ou semidesértico. Em resposta às condições climáticas adversas, a população líbia se concentrou na costa, banhada pelo mar Mediterrâneo e pelo Golfo de Sidra, de modo que cerca de 90% dos cidadãos se encontram nessa região. Dessa maneira, a maior parte das pessoas vive na parte oeste do país, em uma de suas três províncias, a Tripolitânia. Ademais, é importante destacar que a Líbia detém a maior reserva de petróleo do continente africano e a quarta maior reserva mundial (EIA 2014). Esse petróleo encontra-se majoritariamente nas províncias da Tripolitânia e da Cirenaica (a leste do país) – a maior reserva do país está localizada no Golfo de Sirte no Mar Mediterrâneo, entre as duas províncias (Roberto 2015). Por fim, em Fezzan, ao sul, encontra-se uma minoria populacional, formada basicamente em berberes e tuaregues.

**Imagen 1:** Principais campos de petróleo e gás natural e a infraestrutura de energia na Líbia



Fonte: Crude Oil Peak, 2015.

**Imagem 2:** As principais províncias líbias

Fonte: VoltaireNet.

## 1.1 DO IMPÉRIO TURCO-OTOMANO AO FIM DA MONARQUIA LÍBIA

A construção do Estado-Nação líbio tem sido tumultuada desde seus primórdios. A passagem de sucessivos povos e impérios estrangeiros, como gregos, romanos, bizantinos, árabes, turcos-otomanos e italianos, que dominaram, em diferentes épocas, o território e a população local, não contribuiu para a criação de uma identidade nacional entre o povo líbio, ou para a formação de uma consciência de pertencimento a uma mesma nação (González 2011). Separado em três regiões muito distintas entre si, o território líbio viu sua primeira tentativa de unificação ocorrer sob a dominação do Império Turco Otomano a partir do século XVI, sendo esse o maior legado dos otomanos para a região (Vandewalle 2006). Ainda assim, a separação e a autonomia entre as províncias eram marcantes, o que é fator estruturante da política do que viria a ser a Líbia até hoje.

O grande distanciamento entre a Tripolitânia, a Cirenaica e Fezzan eram reflexo da falta de interação econômica prévia entre elas – e de incentivos para isso –, além de uma geografia humana e física completamente diversa. Não só distâncias enormes (a exemplo dos 483km de deserto que separam a Tripolitânia da Cirenaica), contribuíram para mantê-las separadas, mas também as formações históricas distintas, com a Tripolitânia tendo forte influência da antiga ocupação romana, a Cirenaica ainda sentindo os reflexos da colonização grega, e Fezzan como uma província ainda pequena e seminômade (Vandewalle 2006). Estes fatos acabavam por orientar tanto suas organizações internas, quanto suas relações

externas de maneira muito distinta<sup>1</sup>.

Ainda durante a ocupação otomana, o islã começa a criar raízes em uma das províncias líbias. O movimento Sanusi<sup>2</sup>, como é conhecido, instalou na Cirenaica certa governança, trazendo ainda mais autonomia e um sentimento de identificação de valores comuns entre a população para a região. Nascia nesse período uma das forças políticas mais fortes da história do país. Em um primeiro momento, os Sanusi lutaram contra as diversas tentativas de dominação francesa na região, que buscavam incorporá-la aos seus domínios na África Equatorial (Vandewalle 2006). Aos poucos o movimento foi se espalhando por Fezzan e por algumas tribos da Tripolitânia, o que resultou em um levante contra a ocupação turca. Nas palavras de Simons e Benn (2003), ao referirem-se à chegada dos italianos,

“(...) os árabes líbios ainda não estavam com o comando da sua própria terra. Na verdade eles foram forçados a confrontar ainda outra ocupação colonial, a mais devastadora de todas, antes da Líbia poder emergir como uma nação independente” (Simons e Benn 2003, 3)

Em um período em que as potências coloniais europeias estavam competindo por ganhos comerciais e estratégicos, não garantir territórios na costa Mediterrânea da África poderia significar para a Itália perder o seu espaço (Simons e Benn 2003). Assim, no ano de 1911, os italianos declararam guerra à Líbia e ocuparam as zonas litorâneas do país. Entretanto, ao tentar adentrar o território, encontraram forte resistência, principalmente por parte do movimento Sanusi na Cirenaica (Boahen 2010).

Resistência essa que acabou por unir populações autóctones com os próprios turcos, marcando a importância da religião para o movimento, na medida em que o povo líbio preferia manter-se leal aos legisladores e administradores muçulmanos a ceder ao domínio cristão (Simons e Benn 2003). Mesmo com a assinatura do Tratado de Lausanne, que oficializava a retirada dos turco-otomanos da região, em 1912, a resistência se manteve. Foi somente em 1931, através da combinação de operações armadas com campos de concentração – onde se cometiveram verdadeiros genocídios (Simons e Benn 2003) –, que os italianos conseguiram pôr

1 A Tripolitânia possuía uma tradição cultural e economia largamente orientadas para o Magreb, região com a qual compartilhava a história romana. A Cirenaica, por sua vez, como resultado da colonização grega, tinha seus os equivalentes, em grande parte, nos países a leste de suas fronteiras ainda indefinidas. Fezzan, por fim, apesar do comércio de caravanas, interagia esmagadoramente com a África subsaariana (Vandewalle 2006).

2 Movimento liderado pela família Sanusi que, inspirado por ideias do islã, fomentaram a religião na Cirenaica e criaram um movimento de resistência aos turcos, que se manteve também contra os italianos nos anos seguintes (Simons e Benn 2003).

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fim à resistência autóctone (BBC News 2015). O último país do norte da África finalmente se rendera à colonização europeia (Vandewalle 2006)

Visando futuramente anexar o território à “Grande Itália”, os italianos unificam, em 1934, as províncias, e dão o nome pelo qual se conhece hoje a região: Líbia (Visentini 2012). Em 1939, já sob comando de Benito Mussolini, a Itália declara a Líbia como parte integral do reino italiano, sendo considerada a sua nona região (Simons e Benn 2003). A Segunda Guerra Mundial trouxe novas perspectivas para um país que buscava livrar-se da intervenção europeia. Vendo na derrota do Eixo<sup>3</sup> uma possível brecha para a independência, as forças de resistência líbias, comandadas pelo líder Sanusi Sayyid Idris, apoiam e lutam ao lado dos Aliados quando o Norte da África se torna também teatro de operações da guerra (Mazrui 2010; Fachal 2013).

Quando, em 1942, os Aliados conseguem expulsar o Eixo da região, a Líbia é dividida entre as potências. Cirenaica e Tripolitânia passam a ser controladas pela Inglaterra, enquanto Fezzan fica sob comando francês (Mazrui 2010; Simons e Benn 2003). Mais uma vez, criava-se um distanciamento entre as províncias líbias, diminuindo as perspectivas de independência de uma Líbia unificada (Simons e Benn 2003). Os diferentes níveis de evolução política entre elas eram marcantes: por um lado, uma Cirenaica governada pelos Sanusi, que, com a confiança recebida pelos ingleses após o apoio na guerra, estabelecem uma espécie de autogoverno na região (Vandewalle 2006); por outro, a Tripolitânia, que não possuía nenhum líder local efetivo, e Fezzan, região pela qual a França demonstrava forte interesse, cogitando, inclusive, separá-la das demais e anexá-la à África Equatorial Francesa (Simons e Benn 2003).

A divisão do território entre Inglaterra e França provocou protestos dos Aliados, principalmente da União Soviética, que desejava, no mínimo, uma administração comum pela aliança. Sem chegar a um acordo, a questão foi submetida, em 1948, à recém-criada Organização das Nações Unidas. Nessa época, não só franceses e ingleses já se encontravam instalados no país, mas também os Estados Unidos, dotados de uma base aérea localizada perto de Trípoli. Todos eles possuíam interesses, principalmente em instalar ali bases militares, e não pretendiam abandoná-los (Mazrui 2010). No entanto, em dezembro de 1951, a Líbia passou a ser não só o último território colonizado pelos europeus, mas também o primeiro país do Norte da África a declarar sua independência perante a comunidade internacional (Fachal 2013). O Reino Unido da Líbia surgia como uma monarquia federativa, caracterizada pela grande autonomia de cada uma das três províncias. Foi então nomeado rei, pelas potências ocidentais, o líder Sanusi,

<sup>3</sup> Países: Alemanha, Japão e Itália.

Muhammad Idris lo al-Sanusi, como única real liderança da região (Visentini 2012).

Nas palavras de Vandewalle (2006),

“(...) em certo sentido, a Líbia era um estado acidental: criado por - e sob o comando de - grandes interesses de poder (grandes potências) e acordado entre as províncias locais, que temem outras alternativas” (Vandewalle 2006, p.40).

Dessa maneira, um governo simpático aos interesses ocidentais autorizou que se mantivessem os interesses franceses, ingleses e estadunidenses, a exemplo das bases militares e aéreas, além da abertura econômica para capitais estrangeiros (Mazrui 2010; Simons e Benn 2003). Entre 1951 e 1963, a monarquia não logrou criar uma unidade nacional. Por um lado, o povo líbio continuou se identificando através de laços tribais e regionais, ou, em um sentido mais amplo, por laços islâmicos. Por outro, o forte federalismo vigente, com cada uma das províncias apresentando um parlamento responsável pelo seu próprio orçamento e pela execução de suas leis, acabava por não criar ideologias unificadoras, na medida em que distanciava ainda mais as províncias (Vandewalle 2006).

Com a descoberta de vastas reservas de petróleo, alguns aspectos importantes mudaram no país. No âmbito econômico, a Líbia deixou de ser um dos países mais pobres do Norte da África para se tornar um dos mais ricos do continente em termos de PIB per capita, ainda que muito dependente de um só produto. No âmbito político, a necessidade de gerir os recursos provenientes do petróleo tornou imprescindível uma maior integração econômica do território, de modo que, em 1963, o rei Idris al-Sanusi transformou a Líbia em um reino unitário (Vandewalle 2006). A década de 1960 trouxe ao país uma onda de nacionalismo árabe que, inspirada pelo líder egípcio Gamal Abdel Nasser<sup>4</sup>, espalhou-se pelo Norte da África. Somado a isso, a corrupção, a má distribuição da renda petrolífera e a exclusão da população da vida política faziam crescer um descontentamento político e social entre a população (Visentini 2012). Desenhava-se aqui o fim da monarquia líbia.

## 1.2 O GOVERNO DE KADDAFI: DA ASCENSÃO À DERRUBADA

Foi durante uma viagem de Idris, em 1969, que oficiais militares, dirigidos

<sup>4</sup> Gamal Abdel Nasser foi um líder político muito importante para o Egito, do qual foi presidente desde 1954 até a sua morte, em 1970. Nasser promoveu, durante o seu governo, fortes políticas terceiro-mundistas e, principalmente, nacionalistas, fomentando o movimento pan-arabista contra a dominação Ocidental (Boahen 2010).

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por Muammar el-Kaddafi, tomaram o poder. Instaura-se, então, a República Socialista Árabe, sob o comando do líder da revolução. Inspirado pelas ideias do socialismo árabe, do islã e do pan-arabismo de Nasser, o novo regime revolucionou a situação política, social e econômica da Líbia, mudando praticamente todos os aspectos da vida do país (Mazrui 2010). Rejeitando o sistema político e econômico ocidental, Kaddafi elabora o seu “Livro Verde”, desenvolvendo uma filosofia política própria: a Terceira Teoria Universal (Fachal 2013). Em linhas gerais, o líder líbio propunha uma alternativa ao capitalismo e ao comunismo, mostrando um caminho para o que ele entendia como a democracia popular de fato, uma vez que via a democracia representativa ocidental como uma farsa (Mazrui 2010). De acordo com a sua teoria, o “único meio de democracia popular” seria através dos congressos populares (*Jamahiriah*)<sup>5</sup> que criou, por meio dos quais o povo seria administrado pelo próprio povo (Al-Gaddafi 2012).

Seus projetos políticos começam a ser executados em 1973, quando o líder põe em curso a Revolução Popular, pautada pelas ideias defendidas no seu Livro Verde. Contudo, em 1979, Kaddafi cria a Autoridade Revolucionária, na medida em que percebe que, como a população em geral se mantinha alheia à vida política, o sistema anterior simplesmente não funcionava. Nesse novo sistema, o poder popular passava a ser constrangido pelo segundo tipo de administração criada, o poder revolucionário, estruturado através de Comitês Revolucionários e centralizado em Kaddafi. As áreas-chave do Estado passavam a ser controladas por estes comitês: a polícia, o exército, a política externa, o orçamento e o setor petrolífero (Vandewalle 2006).

No que concerne às relações exteriores da Líbia, logo no início de seu governo, Kaddafi já começa a tomar medidas que desagradam às potências ocidentais. Em 1970, ordena o fechamento das bases aéreas britânicas e estadunidenses, além de nacionalizar propriedades italianas (BBC News 2015). Ademais, no começo do mesmo ano, o líder líbio estabelece campos de treinamento para grupos armados no país, dando asilo a procurados por terrorismo pelos Estados Unidos e suprindo com armamentos alguns grupos que se engajavam no que Kaddafi acreditava ser uma luta “contra a opressão, a exploração e o colonialismo” (Simons e Benn 2003, 124).

No ano de 1986, após o atentado à “La Belle Discothèque”<sup>6</sup> em Berlim, as tensões entre a Líbia e o Ocidente chegam ao seu apogeu. Ao afirmar a existência

<sup>5</sup> Mecanismos através dos quais a população passaria a decidir diretamente o futuro político do país, organizando-se em comitês e elegendo representantes que fariam parte dos congressos, para o qual o Governo Central do país se dirigiria em suas decisões (Al-Gaddafi 2012)

<sup>6</sup> Em 5 de abril de 1986, ocorreu um bombardeio na boate “La Belle Discothèque”, a qual era frequentada por soldados norte-americanos. Foram 230 pessoas atingidas, entre mortos e feridos.

de uma ligação entre o ataque e o governo líbio, Washington, sob comando de Ronald Reagan, responde com bombardeios a Trípoli e a Bengazi, as principais cidades do país. Para contribuir para a deterioração das relações, somam-se ao episódio de Berlim, o atentado de Lockerbie<sup>7</sup>, em 1988, e a teoria, defendida pelo governo estadunidense, de que a Líbia estaria tentando desenvolver artefatos químicos de destruição em massa (Simons e Benn 2003). O fato de o governo líbio se recusar a entregar para julgamento os dois suspeitos pelo atentado de Lockerbie fez com que as Nações Unidas aprovassem a imposição de sanções contra o país, em 1992. Este último golpe foi muito maior do que o sofrido pelos líbios com as sanções estadunidenses anteriores, pois trazia consequências econômicas mais difíceis de superar (Vandewalle 2006).

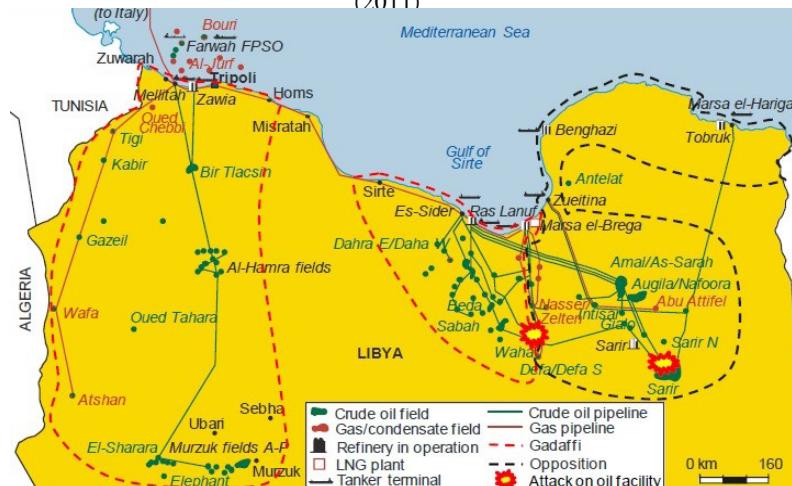
Na segunda metade dos anos 1990, Kaddafi decide tentar melhorar as relações com o Ocidente, buscando deixar para trás a identidade de “pária” no sistema internacional. Em 1999, entrega os suspeitos do atentado para julgamento, e, no mesmo ano, as sanções da ONU são suspensas, além de haver a restauração das relações diplomáticas da Líbia com países como o Reino Unido (BBC News 2015). No fim da mesma década, inicia-se uma maior abertura do país para o resto do mundo, que se concretizou de fato nos primeiros anos do século seguinte (Simons e Benn 2003).

A primeira década dos anos 2000 foi marcada por ações que abriam caminho para a normalização das relações internacionais da Líbia. Além de, ao longo do período, fazer compensações às famílias das vítimas dos atentados de Lockerbie, os quais confessou participação no ano de 2003, o país decidiu abandonar os programas para desenvolvimento de armas de destruição em massa (Vandewalle 2006). Isso resultou na revogação total das sanções das Nações Unidas e, alguns anos depois, na restauração total das relações diplomáticas com os Estados Unidos. O auge da evolução das relações com os Estados Unidos se deu em 2008, com uma visita histórica da Secretária de Estado do governo Bush, Condoleezza Rice, à Líbia (BBC News 2015).

Em fevereiro de 2011, como resposta à prisão de um agente de direitos humanos líbio, violentos protestos se iniciam na cidade de Bengazi e rapidamente se espalham pelo país. As manifestações populares da “Primavera Árabe”, iniciadas na Tunísia e no Egito, se estenderam também à Líbia (Fachal 2013), formando-se quase que concomitantemente aos movimentos um levante armado contra Kaddafi. O governo, em resposta, empreendeu uma repressão brutal, o que fez com que logo a situação escalasse para um conflito civil entre as forças insurgentes e as forças leais ao governo (Chivvis, Martini 2014; Visentini 2012).

<sup>7</sup> Atentado que atingiu o voo 103 da Pan Am que partia, em 21 de dezembro, de Londres para Nova Iorque. Foram 270 pessoas mortas (Simons e Benn 2003).

**Imagen 3:** Os campos de petróleo líbios e as linhas de batalha contra os rebeldes (2011)



Fonte: Crude Oil Peak, 2011.

Em março do mesmo ano, o Conselho de Segurança da ONU, evocando o princípio de “responsabilidade de proteger”<sup>8</sup> ao alegar que a população civil sofria forte repressão por parte do governo, votou por sanções e aprovou a resolução 1973, que autorizava a criação de uma zona de exclusão aérea sobre o país, com o objetivo de interromper o conflito. Vale notar que a resolução foi aprovada com o apoio da Liga Árabe e a contragosto da União Africana, que, com a exceção da África do Sul, era contra a intervenção estrangeira no conflito. Cabe também ressaltar que essa resolução foi votada com cinco abstenções, a saber, do Brasil, da Índia, da China, da Rússia e da Alemanha (Campbell 2013).

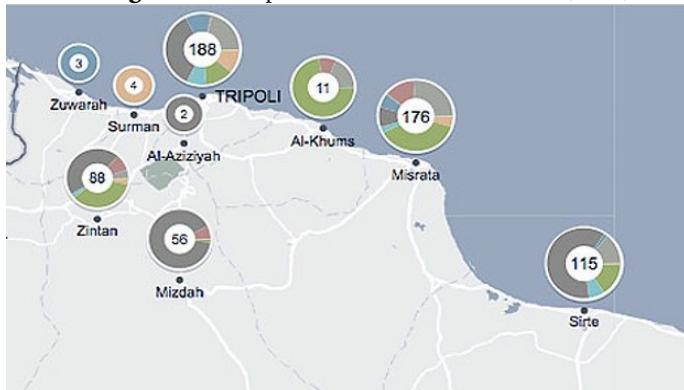
A fim de unir os esforços individuais das grandes potências em relação ao conflito, a Organização do Tratado do Atlântico Norte (OTAN) assume, então, o comando das operações. Extrapolando as diretrizes da resolução, é formada uma coalizão<sup>9</sup> de europeus e Monarquias do Golfo que dá início a uma intervenção militar a favor dos rebeldes (Visentini 2012). Coalizão essa que, ao invés de proteger os civis, como era sua justificativa, acabou por tomar parte no conflito,

8 Princípio segundo o qual os Estados aceitariam a responsabilidade de proteger suas populações de atentados aos direitos humanos, além de se comprometerem a ajudar um ao outro nesta tarefa. Porém, caso a comunidade internacional entenda que um Estado não foi efetivo em evitá-los, é responsabilidade de a mesma agir na proteção dos civis em questão (ONU, 2005).

9 Coalizão formada por Reino Unido, França, Itália, Espanha, Bélgica, Dinamarca, Noruega, Grécia, Holanda, Emirados Árabes Unidos, Qatar, Canadá e Estados Unidos.

buscando derrubar o regime de Kadaffi. Ainda em julho de 2011, os rebeldes declararam a tomada de poder através do Conselho Nacional de Transição (CNT). O novo governo é considerado legítimo pelas Nações Unidas e, inclusive, pela União Africana, em setembro do mesmo ano. Já no mês de outubro, com grande ajuda da França, os rebeldes capturaram e matam Kadaffi. O governo de transição declara a “liberdade” da Líbia e anuncia a chamada de eleições, que ocorreriam em oito meses, criando um plano para a transição de poder (Chivvis e Martini 2014).

**Imagen 4:** Principais alvos da OTAN na Líbia (2011)



Fonte: The Guardian, 2011.

Analisando a história líbia, pode-se compreender o fato de que a revolta contra Kadaffi tenha se iniciado no Leste do país. Após o golpe de 1969, o líder moveu toda a estrutura de Estado da Cirenaica para Trípoli e passou a reprimir forças regionais, buscando forjar a unidade nacional. Contudo, essa rivalidade não superada entre Leste e Oeste piorou a situação política após a queda do presidente. Em janeiro de 2012, estouraram revoltas em Bengâazi em sinal de descontentamento com a natureza das mudanças do novo governo (BBC News 2015). O Conselho tinha anunciado que seus planos consistiam em alojar 60 assentos na Assembleia Nacional para o Leste e 100 para o Oeste, visto que a segunda região era mais populosa. Como resultado, oficiais do Conselho do Leste, conhecidos como Conselho Barqa, decidiram buscar um restabelecimento da autonomia da região, declarando-se governo interino da Cirenaica e chamando a população a boicotar as eleições parlamentares (Chivvis e Martini 2014).

Em julho de 2012, é eleito o Congresso Geral Nacional (CGN) e, em outubro do mesmo ano, o CGN elege Ali Zeidan, um liberal e líder da oposição durante a guerra civil, como Primeiro Ministro da Líbia. Em Setembro do mesmo ano, o Embaixador dos Estados Unidos e mais três pessoas são mortas

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quando militantes islâmicos atacam o consulado do país em Benghazi. No ano seguinte, em maio, é criada uma nova lei que bane oficiais da era Kaddafi dos cargos públicos oficiais (BBC News 2015). Quanto à rivalidade Leste-Oeste, em agosto de 2013, apesar das tentativas do governo central de conciliação, milícias começam a bloquear os terminais de exportação de petróleo do país (BBC News 2015; Bandeira 2013). Isso porque à população da Cirenaica não agradava o fato de que as decisões energéticas eram tomadas em Trípoli, na medida em que a maior parte das reservas está situada no Leste. Essa tomada de controle das estruturas petrolíferas na Cirenaica e a ameaça da criação de um Estado autônomo dentro da Líbia afeta o país não só politicamente, mas também economicamente (Chivvis e Martini 2014).

Ademais, para completar o quadro de instabilidade, os líderes políticos líbios têm estado em constante ameaça de ataque rebelde, a exemplo do sequestro do Primeiro Ministro Ali Zeidan em outubro de 2013. A falta de segurança devido à situação frágil que se instaurou na Líbia após a queda de Kaddafi tornou a situação muito difícil para o governo atual, além de abrirem espaço para a expansão de grupos criminosos e jihadistas não só no país, mas em toda a região. Essa falha na segurança se originou principalmente nos baixos esforços que foram feitos para desarmar e desmobilizar as milícias rebeldes no pós-guerra tanto por parte do governo, quanto por parte das forças internacionais. O principal problema do Estado líbio é que, nesse período de instabilidade interna, o governo ainda não conseguiu restabelecer o funcionamento das instituições ou assegurar o monopólio da violência (elemento básico do Estado moderno), tornando-o fraco e vulnerável, de modo que o conflito tende a se estender indefinidamente (Chivvis, Martini 2014).

## 2 APRESENTAÇÃO DO PROBLEMA

### 2.1 A SEGUNDA GUERRA CIVIL E A CRISE POLÍTICA E MILITAR

Após a derrubada do Primeiro Ministro Ali Zeidan, em março de 2014, e a ascensão de al-Thinni, começa na Líbia um período de grande instabilidade política e securitária. Como já foi descrito acima, o atual cenário é de ausência de uma estrutura estatal capaz de exercer o monopólio da violência ou de garantir o funcionamento das instituições na integridade territorial (Cachalia 2004). A existência de uma grande quantidade de grupos armados não vinculados ao governo de al-Thinni é um exemplo da profunda crise securitária do país. Em maio

de 2014, seria lançada, pelo General Khalifa Haftar, a Operação Dignidade, com o objetivo de eliminar as forças jihadistas no país. A Operação é o marco inicial do que muitos especialistas chamam de Segunda Guerra Civil Líbia. Em oposição à Operação Dignidade, é lançada, em junho do mesmo ano, a Fajr Libya – em português, Operação Amanhecer – por forças jihadistas com diferentes graus de moderação. Concomitantemente, o país vive uma crise política, com a existência de dois governos formais, com aparatos jurídicos e institucionais próprios, mas carentes de legitimidade e capacidade de exercício de autoridade.

No dia 11 de março de 2014, o Congresso Nacional Geral (CNG) demitiu o então Primeiro-Ministro, Ali Zeidan, após um navio petrolífero rebelde romper o bloqueio naval líbio. Depois de mostrar-se enfraquecido na luta contra os grupos jihadistas que atacavam Trípoli, Zeidan foi substituído por Abdallah al-Thinni (Laessing e Bosalum 2014). Al-Thinni assume o CNG com a responsabilidade de terminar de escrever a Constituição. Vale notar que o CNG é composto, majoritariamente, por partidos de cunho islâmico (Roberto 2015).

Haftar foi Chefe do Estado Maior das Forças Armadas da Líbia até fins da década de 1980. Mais tarde, juntou-se aos opositores do regime de Muammar Kadaffi. Após a queda de Kadaffi, o general Haftar voltou a ocupar cargos nas Forças Armadas da Líbia. Junto com diversas outras milícias, Haftar e o denominado Exército Nacional Líbio (LNA, na sigla em inglês) tinham como objetivo com a Operação, inicialmente, a retomada de Benghazi do controle de milícias jihadistas e, posteriormente, exigir a eleição de um novo parlamento que não fosse controlado por partidos islâmicos (Africa Confidential 2014b). Haftar e os atores que constroem a Operação Dignidade são as principais forças seculares da Líbia contemporânea e seu objetivo maior era a derrocada da “ameaça jihadista” como um todo (Roberto 2015). Dentre as principais milícias que uniram-se à Operação liderada por Haftar, destacam-se a al-Qaqa e a al-Sawaiq. Ambas hoje exercem papel de defesa das instituições de que são partidárias e são originárias da região de Zintan, no oeste do país (BBC 2014). Zintan, cidade situada perto de Trípoli, é uma das maiores cidades da Líbia e foi palco de origem de uma série de milícias que ajudaram na derrubada de Muammar Kadaffi.

A cidade de Benghazi, na Cirenaica, nas últimas décadas, tornou-se palco para a proliferação de uma série de grupos jihadistas. Segundo Bandeira (2013), a cidade sempre foi um dos principais centros do islamismo radical salafista. Além disso, ali se concentra uma grande quantidade de líbios que foram participar da Jihad no Iraque e, posteriormente, regressaram para combater o regime de Kadaffi (Bandeira 2013). Ademais, é importante mencionar a importância da influência e da ingerência da al-Qaeda na região. Dentre os principais grupos jihadistas

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atuantes na área, destacam-se a Ansar al-Sharia, a Brigada dos Mártires e o Escudo Líbio.

O grupo Ansar al-Sharia tem origem no levante contra a administração de Muammar Kadaffi de 2011. Oficialmente formado em 2012, a Ansar al-Sharia é composta pela junção de outros rebeldes do leste líbio, como a Brigada Abu Obayda bin al-Jarah, a Brigada Malik e a Brigada 17 de Fevereiro, milícia cuja base está posicionada em Benghazi e é uma das mais bem armadas do país (BBC 2014). A Ansar al-Sharia ganhou maior proeminência após ter assumido a autoria do assassinato do embaixador estadunidense na Líbia, Christopher Stevens. Ainda que o grupo negue ter ligações ou relações com a al-Qaeda, grande parte dos analistas o descreve como a principal facção líbia relacionada, treinada e financiada pela al-Qaeda (Irshaid 2014). Hoje, a Ansar al-Sharia é uma das forças mais poderosas na localidade de Benghazi (Africa Confidential 2014b) e, até 2015, foi comandada pelo Mohamed al-Zahawi, morto em combate.

Em 16 de maio, o LNA iniciou o ataque às milícias islâmicas em Benghazi com aviões e veículos blindados. Alguns dias depois, as forças de Haftar avançam sobre Trípoli, visando à derrubada do CNG. Nesse momento, Haftar e seu exército já contavam com apoio de oficiais das Forças Armadas líbias, da Aliança das Forças Nacionais (National Forces Alliance, em inglês), segunda maior força secular do país, entre diversos outros grupos (Africa Confidential 2014b). Ademais, crescia o apoio popular de Haftar e da Operação Dignidade em Trípoli. Inicialmente, com apoio da Irmandade Muçulmana<sup>10</sup> e outras milícias (fundamentalmente da cidade de Misrata), o CNG declarou que as manobras do general Haftar constituíam um golpe de Estado. Posteriormente, em junho, frente à insustentabilidade da situação, chegou-se ao acordo de que al-Thinni seguiria como Primeiro Ministro, mas novas eleições para o Parlamento seriam convocadas (Roberto 2015). Assim, o CNG seria substituído pelo Congresso (HoR, na sigla em inglês), instituição na qual os partidos islâmicos perderiam força em relação à instituição anterior. Segundo Roberto (2015 p.4), “o general que iniciou a Operação Dignidade contra as forças islâmicas consegue as novas eleições, mas ao custo de uma polarização drástica na sociedade, em confronto aberto com as milícias islâmicas”.

O cenário era de embates em Trípoli e Benghazi, as duas principais cidades do país, enquanto em Misrata estava organizada uma outra frente jihadista. A cidade de Misrata, localizada na Tripolitânia, concentra outro grupo de forças significativo de combate ao governo de al-Thinni. Ali estão presentes mais de 200

<sup>10</sup> Organização islâmica criada em 1928, no Egito, por Hassan al-Banna, em um momento em que a comunidade muçulmana vivia fase de fragmentação e declínio. A organização se expandiu e hoje atua em mais de 50 países, com o objetivo de integrar a comunidade muçulmana do mundo e implementar regimes de cunho islâmico, em alternativa a regimes seculares.

milícias, sob o nome de União dos Revolucionários de Misrata (Misratan Union of Revolutionaries, em inglês), que concentram cerca de 40 mil homens (BBC 2014). É importante destacar a relação de diversas milícias e a presença na região da Irmandade Muçulmana Líbia.

Nesse contexto, diversos grupos jihadistas começam uma contraofensiva em relação à Operação Dignidade e ao governo de Trípoli. A principal materialização da contraofensiva foi a Fajr Libya, lançada em 13 de junho. A Operação é comandada, fundamentalmente, por grupos jihadistas de Misrata. Sua principal liderança é Salah Badi, ex-integrante do CNG (Africa Confidential 2014d). Também faz parte da operação o grupo conhecido como Escudo Líbio (LSF, na sigla em inglês). O LSF foi criado, em 2012, pela então administração líbia com o objetivo de ser um “guarda-chuva” para milícias que emergiram durante o período de derrubada de Kadaffi e integrá-las em uma força nacional (Terrorism Research & Analysis Consortium 2015). Após os eventos descritos acima e com a polarização entre o CNG e o HoR, o LSF virou-se contra o governo de Tobruk, a leste de Benghazi, na Cirenaica, e passou a integrar a Operação Amanhecer.

Com as forças de Haftar operando principalmente em Benghazi em meados de julho de 2014, as forças jihadistas centralizam seus esforços de contra-ataque na capital do país (Africa Confidential 2014c). Em julho, começa a batalha pelo Aeroporto Internacional de Trípoli, o mais importante do país, que viria a ser dominado, no dia 23 de agosto, por milícias integrantes do Fajr Libya, após a derrota das milícias advindas de Zintani, aliadas a Haftar. Danificado, o aeroporto foi colocado fora de serviço. Após a tomada da área, os grupos que lideraram a Fajr Libya anunciaram que iriam reviver o antigo Parlamento – o CNG – em Trípoli. Sob o comando de Omar al-Hasi, que é declarado Primeiro Ministro, em agosto de 2014, é anunciada a existência de um segundo governo na Líbia. Passam a existir, portanto, dois governos no país: a House of Representatives, comandada por al-Thinni e com suporte da Operação Dignidade, de Haftar, e com caráter majoritariamente secular; e o CNG, sob o comando de Omar al-Hasi, com caráter islâmico e militarmente apoiado pela Fajr Libya.

Os três principais campos de petróleo do país - al-Sidra, Ras Lanuf e Brega - viraram cenário de batalhas, nas quais as duas facções disputam o domínio do recurso energético. Janeiro de 2015 vivenciou uma nova e profunda onda de violência. No dia 22, combatentes ligados ao General Haftar assumiram o controle de uma filial do Banco Central Líbio, onde estima-se que há cerca de 100 bilhões de dólares em reservas monetárias e em ouro (ISS Africa 2015). Em termos de reconhecimento, segue a controvérsia e o debate entre legitimidade e poder de facto. Enquanto o governo de Tobruk é internacionalmente reconhecido

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por grande parte dos países e por importantes instituições, como a Organização dos Países Exportadores de Petróleo (OPEP), em 6 de novembro, a Suprema Corte Líbia, sediada em Trípoli, declarou inconstitucional a eleição da House of Representatives (Africa Confidential 2014a).

Outra questão central para a instabilidade líbia contemporânea é o manejo dos recursos financeiros e petrolíferos. Até dezembro de 2014, o Banco Central Líbio e a Libyan Investment Authority and National Oil Corporation (NOC) estabeleceram uma espécie de independência em relação aos dois governos, com o objetivo de manterem-se em funcionamento (Africa Confidential 2014a). Enquanto o governo de al-Thinni tem o reconhecimento da OPEP e mais capacidade de negociar internacionalmente e, consequentemente, de explorar os recursos petrolíferos do país, a administração de al-Hassi tem controle de alguns pontos de infraestrutura estratégicos para exploração de gás e petróleo, como o principal gasoduto em direção à Itália. Além disso, o Fajr Libya tem atuado no sentido de tentar ocupar e conquistar poços de petróleo, principalmente aqueles mais próximos às bases de Haftar. Exemplo disso foi a ocupação, por parte de milícias de Misrata, dos poços de Bahi e Mabruk, a 300 milhas a leste de Trípoli (Africa Confidential 2015). Por outro lado, outro importante oleoduto do país, na cidade de Zawiya, junto com o terminal e a refinaria da cidade, estão sob posse de milícias de Zintani, além de a facção da HoR ter o controle sobre a Bacia de Sirte (Africa Confidential 2015), onde está concentrado cerca de 80% do petróleo líbio (Bandeira 2013).

O Banco Central Líbio (BCL) tem tentado adotar uma política independente das duas administrações do país e, por isso, é uma das poucas instituições que se mantém ativa (Africa Confidential 2015). Entretanto, em 2015, o BCL tem fornecido às milícias quantidades significativas de dinheiro, que são usadas, inclusive para pagar o salário dos combatentes. Afinal, muitos combatentes hoje estão em facções armadas justamente porque as milícias são as únicas atividades econômicas viáveis no país. A situação econômica líbia é grave: estima-se que as reservas do BCL estejam acabando, e o país, apesar da abundância de petróleo, enfrenta crises de escassez de eletricidade, combustível, água e alimentos básicos (Africa Confidential 2015). Outra instituição que segue relativamente independente dos dois governos e em funcionamento é a empresa petrolífera nacional, National Oil Corporation (NOC). Junto com o tráfico humano<sup>11</sup> e a “economia das milícias”, a produção e a exportação de petróleo é uma das principais atividades econômicas do país atualmente (The New York

11 Segundo The New York Times (2015), somente em janeiro de 2015 cerca de 3500 imigrantes cruzaram o Mar Mediterrâneo em direção à Europa via Líbia.

Times 2015). Entretanto, a empresa já sinaliza que está perdendo grande parte dos seus técnicos em função das migrações causadas pela guerra, o que compromete seu funcionamento.

Em março de 2014, o Conselho de Segurança das Nações Unidas aprovou, com a Resolução 2144, a United Nations Support Mission in Libya (UNSMIL)<sup>12</sup>. Além disso, desde o início da crise, houve diversas tentativas de negociações de paz entre as partes. Apesar das recentes declarações de Bernardino León, representante especial da ONU para a UNSMIL, de que o rascunho do acordo de paz está quase pronto, as negociações de paz não tiveram efeitos significativos até agora. Em março, lideranças das duas facções encontraram-se no Marrocos, sob a égide da ONU, para negociações. Entretanto, enquanto as negociações ocorriam, a violência escalava em Trípoli após o lançamento de ofensiva militar por parte do general Haftar (Aljazeera 2015). Em fins de março, a ONU divulgou um plano com 6 pontos para acabar com a crise líbia. Dentre eles, encontram-se a necessidade de um governo unitário, ou seja, reunindo os diversos grupos do país, de uma constituição e de um governo de transição para, posteriormente, o acontecimento de eleições (World Affairs Journal 2015). Em abril, as negociações foram retomadas na Argélia e, posteriormente, em Genebra. Contudo, em fins de abril, lideranças do Fajr Libya lançaram declarações recusando-se a continuar as negociações. Além disso, após ataques do ISIS [ver seção seguinte], membros do HoR também mostraram-se temerários a participar, o que mostra mais um ponto frágil no processo de negociação.

Somente no ano de 2014, morreram cerca de 3 mil pessoas na Líbia por causa da guerra, enquanto cerca de 400 mil pessoas estão deslocadas de suas casas (United Nations Security Council 2015). Sem o processo de desarmamento após a derrubada de Muammar Kadafí e com um elevado grau de polarização, o país hoje vive o cenário de uma segunda guerra civil. A violência passa por um novo processo de escalada com a chegada de um novo ator no país: o Estado Islâmico.

## 2.2 A CHEGADA DO ESTADO ISLÂMICO (ISIS) À LÍBIA

O Estado Islâmico é um grupo fundamentalista sunita, que surgiu no Iraque em resposta à ocupação estadunidense no país, iniciada em 2003 (Simionato e Maraschin 2014), sendo visto como uma das principais consequências da Guerra Global ao Terror (Allison 2014). O grupo segue a linha ideológica da doutrina sunita salafista, tendo como objetivo “limpar” o mundo islâmico, ou seja, todo

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12 Para mais informações, ver seção seguinte.

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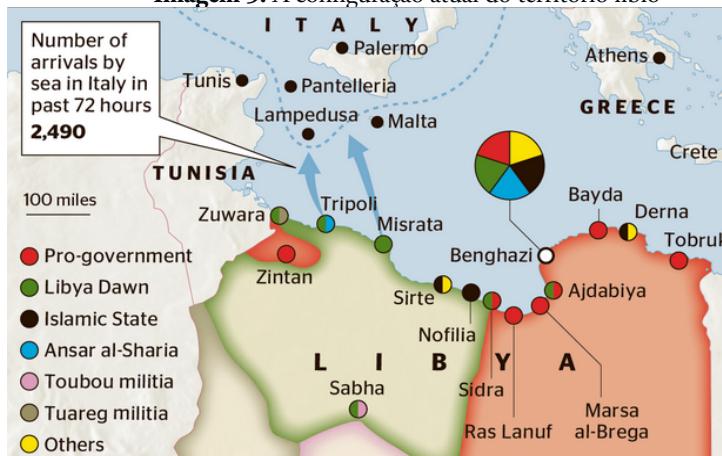
a região do Grande Oriente Médio<sup>13</sup>, da ameaça ocidental, instaurando regimes legitimamente islamistas, tendo como fim a dissolução das fronteiras nacionais modernas e a congregação dos povos islâmicos em uma só nação (Cockburn 2015).

No começo de sua formação, o grupo era diretamente ligado à al Qaeda, sendo, inclusive, conhecido como “al Qaeda no Iraque” (AQI). Ambos os grupos, possuem origem no movimento saudita Wahhabita, “a versão fundamentalista e com características retrógradas do século XIX do islã” (Cockburn 2015, 5, tradução nossa). Em fevereiro de 2014, no entanto, a organização originária do Estado Islâmico renegou quaisquer conexões que fossem feitas com o grupo iraquiano, repudiando as ações de violência brutal empregadas contra a população de territórios sob controle da al Qaeda (Allison 2014). O ISIS, por sua vez, aproveitando-se de seu momento de fortalecimento enquanto organização e “energizado pela chegada de recrutas estrangeiros” (Allison 2014, 2), conquistou o controle sobre grande parte do território sírio e, mais tarde, estendeu seu domínio dentro do Iraque para as áreas do norte do país, estabelecendo um califado (IHS Jane's 2014).

Segundo Cockburn (2015), “o ISIS é o filho da guerra” (Cockburn 2015, 8), na medida em que as ações dos EUA e de alguns países europeus, unidos a seus aliados regionais - a saber, Arábia Saudita, Catar, Emirados Árabes Unidos (EAU) e Kuwait -, criaram as condições necessárias para o surgimento do grupo. Essas condições se deram não somente pelas operações travadas no território iraquiano e pela instauração de políticas sectárias por parte do ex-Primeiro-Ministro iraquiano, Nouri al-Maliki, mas também pela desestabilização da Síria e pela extensão do conflito ali por mais tempo que o necessário, mesmo após já ter ficado claro que o regime de Assad não cairia.

Em outubro de 2014, o grupo chegou até a Líbia quando forças radicais islâmicas em Derna, cidade próxima a Tobruk, declararam a instauração de um califado, parte do Estado Islâmico. O mais novo califado, liderado por Abu Bakr al-Baghdadi , representa o primeiro território ligado ao grupo jihadista fora da área do Iraque e da Síria. A atitude foi bem recebida pela liderança do ISIS, que convocou a todos os partidários líbios para que se unissem à iniciativa (Cruickshank, et al, 2014). Na disputa de poder entre os dois parlamentos, o califado líbio rejeita ambas as administrações e tem empreendido ataques contra Tobruk e Trípoli, além das instalações petrolíferas do Golfo de Sidra (Roberto 2015).

13 O Grande Oriente Médio é uma região que compreende os países do Norte da África de origem árabe, os países da porção ocidental da Ásia, o tradicional Oriente Médio, e países islâmicos da Ásia Central, a saber: Cazaquistão, Quirguistão, Tadjiquistão, Turcomenistão, Uzbequistão e Afeganistão (Visentini 2014).

**Imagem 5:** A configuração atual do território líbio

Fonte: The Times of London.

No entanto, para entender a chegada do Estado Islâmico à Líbia, é preciso detalhar um pouco melhor o cenário anterior a esse fato. Desde as revoltas de 2011, que culminaram com a morte de Kaddafi e a intervenção da OTAN no país, diversos grupos rebeldes de cunho jihadista surgiram na Líbia (Bandeira 2013). Nesse sentido, um dos principais grupos do levante de 2011 foi o Grupo de Combate Islâmico Líbio (Al-Jama'a al-Islamiyyah al-Muqatilah bi-Libya - GCIL), presente no país desde o início da década de 1990, onde chegaram após a jihad empreendida contra os soviéticos no Afeganistão, sendo um dos braços da al Qaeda que surgiram após o conflito da década de 1980. O grupo já tinha, inclusive, realizado uma tentativa de golpe contra Kaddafi, ainda na década de 1990, logo após sua chegada ao país, encabeçando um levante nas cidades de Bengazi e Darnah. Já aqui, destaca-se o objetivo da organização de restaurar um Califado Islâmico no país, restabelecendo o sistema de leis (Sharia) criado pelo profeta Maomé no Corão, o livro sagrado dos muçumanos (Bandeira 2013).

Além do GCIL, outros tantos grupos radicais salafistas já se encontravam no país, por volta de 2009, vindos através das fronteiras com o Mali e o Egito principalmente, ou libertados das prisões líbias por determinação do governo central, através de um programa de reabilitação de muçumanos radicais. Ao contrário do que Kaddafi pensava, contudo, esses jihadistas soltos não se voltaram contra a al-Qaeda, mas começaram a armar um grande levante para derrubar seu regime. Essas milícias foram, por sua vez, em boa parte, armadas e treinadas

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por forças estrangeiras e financiadas pela Arábia Saudita e o Qatar para alcançar um objetivo que não era apenas de seu interesse (Bandeira 2013, 258). Além disso, a própria al Qaeda nutria objetivos particulares com a queda de Kaddafi na Líbia, tendo enviado jihadistas veteranos para o país para lutarem contra as forças do governo, por acreditarem que Kaddafi não seguia os verdadeiros princípios islâmicos, afastando o país da “dignidade da religião”.

Ademais, é ainda importante ter em mente um outro lado da ligação entre a situação atual da Líbia com a crise no Iraque. Documentos produzidos pela inteligência militar estadunidense revelaram que, alguns anos antes de surgirem os levantes na Líbia, por volta de 2007, cerca de 19% dos 600 jihadistas estrangeiros que lutavam no Iraque eram originários de cidades líbias. A Líbia foi, dessa forma, o segundo país que mais contribuiu com insurgentes para o conflito do Iraque, um número significativamente alto em relação ao total da população. Alguns desses jihadistas eram membros do GCIL, tendo, já nessa época, surgido controvérsias acerca de sua unificação com a Al Qaeda ao mesmo tempo em que optavam por fornecer suporte logístico ao braço iraquiano da organização, para que pudessem retornar à Líbia e auxiliar no processo de derrubada do regime de Kaddafi (Bandeira 2013).

A escalada de violência no país é preocupante com a instauração de um califado do Estado Islâmico, na medida em que a situação já se encontra deveras caótica com o conflito entre os governos Tobruk e Trípoli (Africa Confidential 2015). Fontes afirmam que o braço do ISIS em Derna já conta com 800 militantes e opera cerca de 6 campos de treinamento na periferia da cidade, controlando os tribunais e a administração central por completo, inclusive escolas e as transmissões de rádio locais. A cidade é alvo fácil dos grupos extremistas islâmicos desde a era Kaddafi, quando foi marginalizada. Foi berço de boa parte dos jihadistas que foram lutar ao lado da al Qaeda e do ISIS no Iraque na década de 2000 (Cruickshank, et al, 2014).

A vertente líbia do Estado Islâmico já fez suas demonstrações públicas de terror, a exemplo de sua matriz: três ativistas contrários ao grupo terrorista foram mortos decapitados, em Derna, no início de Novembro de 2014. Além disso, o grupo vem-se expandindo para oeste, ao longo da costa mediterrânea, firmando presença em al Bayda, Benghazi - onde já há um grupo islâmico jihadista, o Ansar al Sharia -, Sirte, Al-Khums e, inclusive, Trípoli. Atentados suicidas com bombas tem sido empreendidos em algumas dessas cidades, e sua autoria vem sendo atribuída a essa ramificação do Estado Islâmico na Líbia (Cruickshank, et al, 2014).

## 2.3 ATORES EXTERNOS NA CRISE LÍBIA

### 2.3.1 A ATUAÇÃO DE PAÍSES ÁRABES NA CRISE: DUAS PERSPECTIVAS

Com o acirramento das tensões na Líbia e com o surgimento de um Califado, ligado ao grupo Estado Islâmico, países como Egito, Emirados Árabes Unidos (EAU) e Arábia Saudita têm atuado mais ativamente no conflito interno, lançando investidas militares sobre as milícias islâmicas no país, que eles temem estarem ligadas ao grupo Irmandade Muçulmana. Para tal, esses países apoiam, de forma geral, o governo localizado em Tobruk. Assim, desde 2014, eles vêm buscando, através de estratégias diplomáticas, políticas e de ataques armados, reverter a situação na Líbia que ameaça sua autoridade dentro da comunidade de Estados árabes. Forças especiais conjuntas do Egito e dos EAU já destruíram uma fortaleza jihadista, localizada próximo à cidade de Derna, local onde havia sido declarado um califado ligado ao grupo terrorista do Iraque e da Síria. As investidas, entretanto, não se mostraram frutíferas e, pelo contrário, têm contribuído para fortalecer as milícias fundamentalistas, tendo em vista o domínio rapidamente adquirido sobre o principal aeroporto do país, situado em Trípoli por parte de grupos radicais enraizados na região (Kirkpatrick, e Schmitt 2014).

Por outro lado, a Turquia vem demonstrando um processo gradativo de afastamento em relação ao grupo dos países muçumanos, principalmente no que diz respeito ao combate a grupos terroristas na região, gerando seu isolamento político<sup>14</sup>. Nesse sentido, um episódio determinante para o desenrolar da questão foi o apoio declarado, em maio de 2014, ao então Primeiro Ministro líbio, Ahmed Maiteeq, cujo suporte político era garantido pela Irmandade Muçulmana. Dessa forma, o governo turco vem sendo rechaçado pela comunidade árabe - e também pelo governo líbio de Tobruk - por patrocinar milícias fundamentalistas que estão agindo no país. Esse fato gerou a retirada do corpo diplomático turco de Benghazi, assim como de cidadãos turcos que estavam na Líbia, na medida em que grupos armados ligados ao General Haftar declararam guerra a qualquer organização extremista islâmica, inclusive a Irmandade Muçulmana, ameaçando diretamente os turcos por darem suporte a essas milícias (Idiz 2014). Seguindo essa mesma linha, o Catar tem se posicionando de forma semelhante à Turquia, gerando desconfianças por parte dos demais países árabes (Wehrey 2014).

É interessante notar que todos esses países - EAU, Catar, Egito e Turquia - são, além de membros de uma coalizão, liderada pelos EUA para impedir o avanço

<sup>14</sup> O afastamento do governo turco em relação ao mundo islâmico teve início com as revoltas da Primavera Árabe, em 2011, devido à sua reação muito ligada aos interesses ocidentais (Pomeroy 2011).

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do Estado Islâmico para além do Iraque e da Síria, signatários de um recente acordo que proíbe ações militares externas no conflito na Líbia (Wehrey 2014). Nesse sentido, inclusive, o Egito tem-se mostrado inclinado a apoiar o governo de Haftar, contanto que não haja mais avanços de grupos jihadistas em direção às suas fronteiras a oeste (Africa Confidential 2015). O governo egípcio tem justificado suas ações exatamente pela grande proximidade com o território líbio: milhares de cidadãos egípcios vivem e trabalham na região da fronteira, encontrando-se em situação de significativa vulnerabilidade em relação à escalada de violência no país vizinho (The New York Times 2015).

### 2.3.2 A VISÃO OCIDENTAL FRENTE À CONJUNTURA LÍBIA

A despeito do envolvimento direto na crise que culminou na morte de Kaddafi, em 2011 (Bandeira 2013), Estados Unidos e Reino Unido têm-se mantido distantes da situação atual, evitando declarar apoio a um dos lados do conflito civil. Muito dessa nova postura está diretamente ligado ao fato de que, em ambos os países, as eleições para chefe de governo se aproximam com o fim dos mandatos de Obama nos EUA, em novembro de 2016, e Cameron no Reino Unido (Africa Confidential 2015) - reeleito no início de maio do mesmo ano. É importante, a partir desse ponto, ter em mente o quanto desgastante seria um novo engajamento no mundo árabe, tendo em vista todas as consequências que vieram à tona no Iraque e na Síria com a ascensão do Estado Islâmico. Principalmente para os EUA, é preciso ter muita cautela antes de travar uma nova batalha econômica e militarmente custosa tão próxima às eleições no país, que decidirão o destino do Partido Democrata na Casa Branca.

Desde a instauração do Califado ligado ao Estado Islâmico na Líbia, o governo estadunidense vem intensificando suas operações de vigilância sobre o território líbio, utilizando de seus drones e aviões de vigilância eletrônica - baseados na Itália - com voos constantes (The Guardian 2014). Washington tem, inclusive, se posicionado de maneira contrária aos ataques aéreos empreendidos por forças do Egito e dos Emirados Árabes Unidos às posições do grupo jihadista na Líbia. Os ataques lançados servem, até mesmo, para demonstrar o declínio da influência e do poder dos EUA na região, os quais, desde a queda do regime de Kaddafi, não têm conseguido exercer seu papel de liderança do desenrolar da situação no país (BBC 2014). Por outro lado, o governo estadunidense vem se preocupando também em eliminar quaisquer levantamentos que possam surgir acerca de sua responsabilidade na situação que perpassa a Líbia desde a morte de Kaddafi, em 2011 (Russia Today 2014).

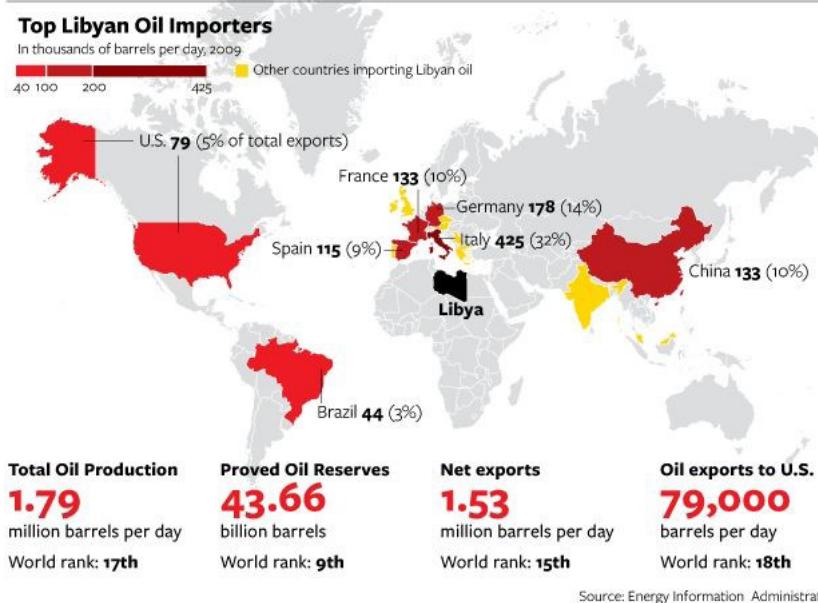
No Reino Unido, as críticas internas apontam para o provável erro em se ter optado pela retirada de forças do território líbio. Para grande parte dos diplomatas ingleses, o país falhou ao abrir mão das intervenções diretas, deixando piorar a situação na Líbia. O novo desdobramento da crise com a chegada massiva de imigrantes fugidos do conflito civil, que se instalou na Líbia desde 2011, tem levantado cada vez mais essa discussão da responsabilidade e do papel que o governo britânico deveria ter assumido (The Guardian 2015). A discussão suscita pontos importantes de debate, na medida em que revela um Reino Unido capaz de assumir sua culpa pelo cenário que está se desenhando na Líbia, diferentemente dos EUA, que se recusam a assumir os créditos negativos pelo caos líbio. Talvez ainda mais interessante, principalmente em termos de autonomia africana em crises, seja observar o exato ponto em que o governo britânico admite falhar, ou seja, não assume-se aqui o erro pela intervenção de 2011, que iniciou a crise e deu origem à conjuntura atual, mas cobra-se uma postura mais ativa, de interposição efetiva para solucionar a situação presente que se desenha na Líbia (United Kingdom 2015).

Por sua vez, França e Itália temem que o avanço do ISIS alcance a Europa pelo Mediterrâneo, da mesma forma como estão fazendo os imigrantes que fogem da Líbia por mar. O governo italiano, inclusive, já manifestou seu pedido por intervenção por parte das forças da OTAN (Vinograd 2015). A migração é um dos pontos mais tradicionais das relações entre África e Europa. Nesse sentido, um encontro, em Bruxelas em Abril de 2015, reuniu líderes da União Africana e da União Europeia para discutir a questão do forte fluxo migratório que tem acontecido desde as revoluções da Primavera Árabe, em 2011. O objetivo da reunião é travar a chegada de imigrantes ilegais, vindos principalmente do Norte da África, na Europa. Devido à grande proximidade, a Itália acaba aparecendo como destino prioritário desses africanos, mais ainda aqueles vindos da Líbia. O Conselho de Paz e Segurança, por seu turno, buscou, em seus encontros, discutir as causas socioeconômicas da imigração para, então, procurar respostas de curto prazo para solucionar o problema. Entre as medidas discutidas estão a cooperação em matéria de fronteiras, gerenciamento dos fluxos migratórios e proteção desses imigrantes dentro e fora do continente africano (ISS Africa 2015).

Aqui é importante destacar a dependência da União Europeia em relação ao petróleo líbio, totalizando cerca de 75% do destino final das exportações do produto em 2011, ano de início dos levantes populares. Desde então, contudo, uma série de problemas têm impedido a exploração, e consequentemente a exportação, desse petróleo. Já no ano de 2011, houve uma queda bastante significativa na produção (EIA 2014), devido à tomada de instalações petrolíferas

por rebeldes – apoiados por forças britânicas e francesas (Bandeira 2013). Em 2012, experimentou-se uma pequena recuperação que, ainda assim, não foi capaz de se igualar à produção anterior ao início do conflito civil. Os anos de 2013 e 2014 vão retomar os baixíssimos índices de 2011, tornando a situação deveras preocupante, em especial para os italianos que importam 30% do petróleo líbio (EIA 2014).

**Imagen 6:** Os principais destinos das exportações de petróleo líbio



Fonte: EIA.

A França, particularmente, tem agido, como de costume, de forma bastante distinta de seus aliados tradicionais, Estados Unidos e Reino Unido, buscando meios para justificar uma intervenção mais direta no conflito (al-Gamaty 2015). A verdade é que em se tratando de questões que envolvam a dinâmica do continente africano, a França sempre se posiciona de maneira distinta, na tentativa de resguardar sua influência na região. Segundo Guma al-Gamaty (2015), líder do Partido Mudança (al-Taghyeer) criado após o fim do regime de Kaddafi, em entrevista para a Aljazeera, afirmou que políticos franceses, à época dos atentados ao Jornal Charlie Hebdo, em Paris, em janeiro de 2015, tentaram vincular o fato a jihadistas líbios como forma de fundamentar uma investida militar no país africano, dividindo a posição ocidental frente à crise.

### 3 AÇÕES INTERNACIONAIS PRÉVIAS

Apesar de um significativo esforço em ajudar os rebeldes líbios a deporem Kadaffi, as forças da OTAN – em proveito da ação deliberada pela Resolução 1973 do CSNU – falharam em prover assistência suficiente para que a Líbia pudesse se recuperar após o fim do conflito (Chivis e Martini 2014; IHS Jane's 2015). Contrastando com os casos anteriores de intervenção da OTAN, pouco tem sido feito no sentido de tentar estabilizar o país. Isso porque, imediatamente após a queda do antigo presidente líbio, observa-se um período de relativa estabilização do conflito, o que apontava para uma aceitação da população quanto à transição para a paz, de modo que os atores internacionais não estavam certos sobre a necessidade de atuação intensa pós-crise. Como o desenrolar dos fatos mostra, a paz não se concretizou e criou-se um grande vazio de segurança, o que foi aproveitado por grupos jihadistas em todo o país(Chivis e Martini 2014).

Atualmente, como já mencionado, milícias armadas exercem um controle de larga escala nas áreas em que estão operando, no Leste do país. Desse modo, a ajuda internacional mantém-se essencial, assim como a necessidade de que o Congresso Geral Nacional consiga afirmar a sua autoridade, o que não parece plausível no presente momento, visto que não possui força nem legitimidade para fazê-lo (IHS Jane's 2015). Poucas iniciativas foram tomadas no sentido de não desestabilizar o país ainda mais, como a remoção das sanções<sup>15</sup> anteriormente impostas, por EUA e União Europeia, aos contratos contratos com as Forças Armadas líbias, para permitir que as autoridades do país pudesse reconstruir o exército que foi destruído durante a Guerra Civil. Além disso, promessas de assistência para treinar o novo exército foram feitas por parte de França, Itália, Turquia, Reino Unido e Estados Unidos, mas muito pouco progresso foi obtido até agora (IHS Jane's 2015).

#### 3.1 A ORGANIZAÇÃO DAS NAÇÕES UNIDAS

As iniciativas da Organização das Nações Unidas frente ao conflito líbio iniciaram-se através das Resoluções do seu Conselho de Segurança. Primeiramente, foi aprovada a Resolução 1970 (2011) que, junto aos claros interesses políticos, mostrava o rechaço da comunidade internacional às violações aos direitos humanos em território líbio. Logo em seguida, foi aprovada a Resolução 1973 (2011), que estabeleceu uma zona de exclusão aérea sobre o país com objetivo de interromper

<sup>15</sup> Sanções adotadas em fevereiro 2011, estabelecendo o congelamento de bens da família Kadaffi no território europeu e um embargo armamentista.

o conflito (Lobato 2012). Buscando ajudar o governo de transição do país no seu esforço pós-conflito, foi aprovada, em 2011, uma nova Resolução, de número 2009, instaurando uma Missão de Apoio para a Líbia (ONU 2011).

Os objetivos dessa nova missão (Missão de Apoio das Nações Unidas na Líbia) podem ser resumidos em quatro pontos principais. Primeiramente, como prioridade imediata, ela visa a (i) assegurar a transição para a democracia, facilitando um diálogo nacional e os processos políticos de eleição e redação de uma nova Constituição para o país. Junto a isso, ela objetiva (ii) promover o Estado de Direito e monitorar e proteger os direitos humanos, ao mesmo tempo em que (iii) promove um controle de armas e materiais “inseguros”<sup>16</sup>, para evitar a sua proliferação. Por fim, visa a (iv) criar uma capacidade de governança no país, fornecendo apoio ao governo local e todas as suas instituições, com o objetivo de melhorar a prestação de serviços, a transparência e a coordenação do governo subsequente (ONU 2014).

Percebendo a necessidade de complemento à missão para a Líbia, o Conselho de Segurança das Nações Unidas, em 27 de agosto de 2014, adotou a Resolução 2174, na qual foram exortadas todas as partes a concordar com um cessar-fogo imediato, condenando o uso da violência contra civis e apelando para que os responsáveis fossem responsabilizados. Além disso, impeliu todas as partes a se envolverem em um diálogo político a fim de ajudar a restaurar a estabilidade e forjar um consenso em torno dos próximos passos na transição da Líbia. Por fim, buscando aumentar as chances de o governo líbio conseguir lidar com a situação, foi adotada uma nova Resolução, em março de 2015, de número 2214. No novo documento, o órgão convida o Comitê de Sanções instituído nos termos da Resolução 1970 (2011) a considerar pedidos de transferência ou fornecimento de armas para as Forças Armadas líbias, com o objetivo de ajudá-las a combater as forças do Estado Islâmico e seus apoiadores (União Africana 2015).

### 3.2 LIGA ÁRABE

As relações entre a Líbia de Kadaffi e a Liga Árabe<sup>17</sup> vinham em um progressivo afastamento desde a segunda metade da década de 1990. A inércia dos governos quanto à questão árabe-istraelense, a passividade desses mesmos países perante a intervenção estadunidense na região e a falta de atitude perante as

16 Não especificadas no site oficial da missão.

17 Seus membros são: Líbano, Egito, Iraque, Síria, Jordânia, Arábia Saudita, representantes dos árabes palestinos, Sudão, Líbia, Tunísia, Marrocos, Kuwait, Argélia, Iêmen, Bahrein, Qatar, Omã, Emirados Árabes Unidos, Mauritânia, Somália e Djibuti. Em janeiro de 2003 a Eritréia entrou como observador.

sanções internacionais à Líbia em 1992 (Chivis e Martini 2014) fizeram com que o antigo líder líbio se voltasse para a África, a qual ele via como uma área para a projeção de poder líbio e para a implementação de novos projetos econômicos e políticos no âmbito regional (Vandewalle 2006). De acordo com Kadaffi, nenhum grande líder do mundo árabe interveio tão decididamente para defender e tirar a Líbia do isolamento diplomático quanto Nelson Mandela e outros líderes africanos (Campbell 2013).

Além disso, alguns países da Liga Árabe que também faziam parte do Conselho de Cooperação do Golfo<sup>18</sup>, principalmente os aliados tradicionais do Ocidente, como Catar e Estados Árabes Unidos (EAU), possuíam algumas divergências em relação aos valores ideológicos e políticos de Kadaffi, a exemplo da diferença de posições quanto às relações com o Ocidente. Em março de 2011, essa organização denunciava o regime líbio como ilegítimo e pedia para que a Liga Árabe tomasse alguma atitude para pôr fim ao conflito. Partiu do Catar a iniciativa de aprovar, a nível da Liga Árabe, a solicitação por uma zona de exclusão aérea às Nações Unidas para proteger os civis líbios (Campbell 2013).

Com a extração da Resolução 1973, a organização passou a condenar os ataques feitos pela OTAN ainda no ano de 2011. Amr Moussa, diplomata egípcio, então líder da Liga, se posicionou claramente contrário às ações da OTAN, que estavam sendo responsáveis pela morte de civis, incluindo crianças (Traynor 2011). Contudo, Catar e Emirados Árabes Unidos<sup>19</sup> juntaram-se aos países ocidentais e passaram a fornecer apoio político e militar considerável para os rebeldes (Beckford 2011). Atualmente, com o acirramento das tensões e a grande duração da guerra civil no país, a Liga tem buscado pôr fim o mais rápido possível ao conflito. A instituição salienta a necessidade de dar suporte ao governo líbio legítimo para isolar e conter os terroristas, além de chamar a comunidade internacional para fazer o que for necessário para levar o processo de paz adiante (Panapress 2014). Ademais, o surgimento de um califado ligado ao Estado Islâmico fez com que países árabes como o Egito, os Emirados Árabes Unidos e a Arábia Saudita passassem a atuar mais intensa e diretamente no conflito, buscando reverter à situação líbia (Kirkpatrick, Schmitt 2014).

Além dessas ações, e somando-se a crescente participação da Liga Árabe nas reuniões sediadas nos vizinhos da Líbia, estão sendo tomadas uma série de outras medidas por parte da organização para ajudar na rápida resolução da crise líbia.

18 Organização de integração econômica, criada em 1981, que reúne seis estados do Golfo Pérsico: Omã, Emirados Árabes Unidos, Arábia Saudita, Qatar, Bahrein e Kuwait.

19 Ambos os países são membros da Iniciativa de Cooperação de Istambul, um fórum de diálogo, criado pela OTAN em 2004, para aproximar-lá de alguns aliados do Oriente Médio. Além dos EAU e do Catar, estão presentes também o Bahrein e o Kuwait.

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A situação é regularmente discutida durante as reuniões de seus órgãos políticos além de ter sido mandado ao país um enviado especial, Nasser Al Qudwa, que tem feito amplas consultas com as partes interessadas da Líbia, buscando instaurar um diálogo para que seja possível o fim do conflito (União Africana 2015).

### 3.3 A UNIÃO AFRICANA

As relações entre a União Africana (UA) e a Líbia foram, desde a sua criação, muito fortes. Além de a instituição ter sido criada com incentivo e ajuda de Kadaffi em 2002, o país líbio era um dos cinco países que a ancoravam, junto com Argélia, Egito, Nigéria e África do Sul, de onde vinha 75% do seu orçamento (Campbell 2013). O entusiasmo do antigo líder líbio com a possibilidade da união do continente africano era notório e levou a África a tentar buscar um lugar mais seu e uma voz mais ativa no cenário internacional (Lundin 2012).

Desde o início do conflito, a UA optou por buscar uma solução africana, como defende um dos princípios que rege a organização, e também política para o conflito líbio, tentando lançar as bases para negociações entre as partes (Campbell 2013). De acordo com o Presidente da instituição à época, o gabonês Jean Ping, qualquer solução para o problema deveria basear-se nas aspirações legítimas do povo líbio pela democracia, boa governança e respeito aos direitos humanos (Ping 2011). O objetivo primordial era evitar a guerra, buscando criar instituições transnacionais inclusivas que governariam o país até as próximas eleições – o que implicava a abdicação de Kadaffi (Ping 2011).

Agindo nesse sentido, o Conselho de Paz e Segurança da União Africana desenvolveu um roteiro para resolver a crise líbia, que girava em torno da cessação das hostilidades, da cooperação entre as partes na questão humanitária, da proteção dos civis estrangeiros (sobretudo africanos) e da criação de um governo de transição consensual e inclusivo. Além disso, para que fosse acompanhada a aplicação desse roteiro, foi criado um Comitê ad hoc de Alto Nível (Ping 2011). Vale ressaltar que a União Africana não apoiou a medida estabelecida pela Resolução 1973 da ONU e teve seu projeto atrapalhado ao ter que adiar o embarque da sua equipe para negociações devido à zona de exclusão aérea (Lundin 2012). Quanto à aprovação da resolução por parte de Nigéria e África do Sul, Lundin (2012) afirma que:

“Tudo indica que tanto a África do Sul como a Nigéria acharam ser essa uma oportunidade para mostrarem-se como países “confiáveis” aos olhos dos membros permanentes do Conselho de Segurança, uma vez que pleiteiam um lugar permanente, como representante da África nesse Conselho, o que aconteceria supostamente como resultado de uma reforma da ONU” (Lundin 2012, 204).

Contudo, os esforços dos países africanos não surtiram efeito ao encontrar forte resistência das potências ocidentais em estabelecer negociações de paz: a OTAN não estava interessada em negociar. Os principais meios de comunicação da organização e do Catar passaram a desconsiderar a opinião da União Africana, defendendo que, por ser de criação do líder líbio, esta não poderia estar neutra no conflito, ignorando os seus esforços diplomáticos (Campbell 2013).

Por esse motivo, a União Africana tem tomado uma série de medidas recentemente, unindo esforços não só com as Nações Unidas, mas também com a Liga Árabe e, principalmente, com os países vizinhos à Líbia. Uma das medidas tomadas foi a escolha de um Enviado Especial da União Africana para a Líbia, o qual faria consultas com as partes nacionais interessadas no conflito, buscando estabelecer algum diálogo, e, a partir disso, apresentar um relatório abrangente sobre a situação, incluindo recomendações concretas sobre as formas e meios para aumentar o apoio da UA à estabilização do país e à rápida conclusão da transição em curso. Somado a isso, no relatório de maio de 2014, foi oficializada a criação de comitês regionais para tratar de questões políticas e de segurança líbias, coordenados por Egito e Argélia, respectivamente (União Africana 2014). Ambos os países têm um papel essencial na região e temem que os radicais líbios, incluindo os filiados ao grupo Estado Islâmico, passem a ameaçar e atacar os países vizinhos, como já ocorreu com a execução de vinte egípcios no Norte da Líbia em fevereiro de 2015 (Folha de São Paulo 2015). Por fim, buscando apoiar os esforços dos vizinhos líbios em estabilizar a região, foi operacionalizado um Grupo Internacional de Contato para a Líbia (ICG-L), em estreita cooperação com as Nações Unidas, para garantir um envolvimento internacional coordenado perante a situação do país (União Africana 2015).

## 4 POSICIONAMENTO DOS PAÍSES

Apesar das constantes declarações contrárias à possibilidade de estabelecimento de uma nova intervenção militar ocidental na Líbia por parte da União Africana, o **Chade** tem se posicionado favoravelmente a uma nova operação militar desde a nova escalada da crise no país (Cachalia 2014). O país tem uma política externa ligada à política de Guerra ao Terror dos Estados Unidos, sendo um membro do TSCTP, além de ser um dos mais importantes aliados franceses na região. Exemplo disso é a existência da base francesa no país, além de N'Djamena ser um dos pilares da Operação Barkhane<sup>20</sup>, cristalização da política francesa na

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20 Para mais informações, ver tópico A.

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região (Tisseron 2015). Além disso, o Chade tem um forte interesse na situação na Líbia em função do efeito de transbordamento da instabilidade que a crise líbia pode ter. Ademais, as relações do Chade com a Líbia são marcadas por um histórico de turbulência em função da existência da disputa territorial pela Faixa de Aouzou, além do histórico de intervenção da política externa líbia no Chade sob a administração de Muammar Kadaffi (Roberto 2015).

Em uma linha similar, o **Níger** também tem defendido uma nova intervenção militar ocidental para resolver a crise líbia. O país é um dos principais aliados dos Estados Unidos na Guerra ao Terror e um dos principais aliados franceses, principalmente para a articulação da Operação Barkhane (Tisseron 2015). Dentro desta operação, cabe apontar a importância da base militar Manama, cedida à França, localizada no Norte do Níger, próxima à fronteira com a Líbia, de onde é possível que Paris monitore a situação no deserto do sul do país.

Diferentemente, a **Argélia** tem advogado uma solução política e negociada entre os dois governos líbios. O Estado argelino é um dos grandes pesos diplomáticos da região para a resolução do conflito. A estratégia argelina na crise líbia tem sido posicionar-se contrariamente a uma nova intervenção ocidental e tentar trazer uma nova legitimidade ao Estado líbio, contando, até agora, com uma neutralidade entre os dois governos (Bousquet 2015). Para tanto, o país tem sediado em Argel as tratativas de paz a fim de formar um governo de união nacional. Ademais, a Argélia tem negociado com setores islâmicos não-radicalis e tem usado seu serviço de inteligência para obter informações e conter o avanço do Estado Islâmico na região (Bousquet 2015).

Apesar da tradição da política externa da **Nigéria** ser o alinhamento com Estados africanos, em 2011 o país posicionou-se favoravelmente à resolução 1973 do Conselho de Segurança das Nações Unidas que previu a zona de exclusão aérea sobre a Líbia e, posteriormente, reconheceu os rebeldes líbios enquanto porta-vozes legítimos, em detrimento do governo de Muammar Kadaffi. Hoje o país tem um grande interesse em resolver a crise líbia para evitar um maior transbordamento da instabilidade em direção à região do Saara/Sahel e para evitar um aumento na influência do ISIS no país – grupo ao qual o Boko Haram declarou alinhamento. Em 2015, Muhhamadu Buhari foi eleito presidente da Nigéria, e apostou-se em uma mudança significativa na política externa do país.

Recentemente, Yoweri Museveni, atual presidente de **Uganda**, lançou uma série de declarações criticando a atuação dos países ocidentais na Líbia desde 2011. Segundo o presidente, o maior erro na administração da crise líbia foi o Conselho de Segurança das Nações Unidas ter ignorado as vozes africanas no debate (The Insider Uganda 2015). Ademais, Museveni reiterou a necessidade de a crise na

Líbia ser resolvida regionalmente e recomendou a criação de uma African Capacity for Immediate Response to Crisis (ACIRC), uma iniciativa africana que proveria uma intervenção militar rápida como resposta para evitar uma maior instabilidade (The Insider Uganda 2015).

A **Etiópia** tem vivenciado um período de boom econômico, chegando a alcançar uma média de 10% de crescimento do PIB na última década. O país é uma das vozes mais relevantes para o debate acerca da resolução de conflitos africanos. Além disso, o país tem especial interesse na resolução da crise na Líbia após a decapitação de 30 cristãos etíopes em território líbio por parte da ISIS e com a possibilidade de o grupo terrorista al-Shabab se fortificar com a instabilidade na região. Por fim, cabe destacar que a Etiópia tem um histórico de conflitos com a Irmandade Muçulmana (Østebø e Shemsedin 2015).

O governo da **Líbia** sediado em Tobruk é aquele que conta com um maior reconhecimento internacional, inclusive dentro da União Africana. O governo, coordenado por Abdullah al-Thani, identifica-se como secular e afirma que hoje luta para reunificar o país e combater o terrorismo – o qual estaria presente tanto nas regiões ao norte e ao sul do país. Ou seja, a administração de al-Thani hoje busca combater tanto os setores islâmicos ligados à Irmandade Muçulmana quanto ao ISIS. O governo rechaça veementemente qualquer intervenção extrarregional.

Durante a crise de 2011, a **África do Sul** votou juntamente com as potências ocidentais, aprovando a Resolução 1973 que permitia a criação de uma zona de exclusão aérea sobre a Líbia. No entanto, mudou sua postura quando os ataques comandados pela OTAN iniciaram, violando os acordos efetuados anteriormente. A África do Sul volta-se, então, para a União Africana, defendendo o princípio de soluções africanas para problemas africanos, repelindo as ações empreendidas contra o governo Kadaffi (Habib 2013).

A **Tanzânia** vem sofrendo com o aumento de ataques encabeçados por grupos islâmicos dentro de seu território contra alvos cristãos. O que preocupa o governo local é a possibilidade de rápida escalada dessas ondas de violência, seguindo o exemplo do vizinho **Quênia** (LeSage 2014). Além disso, a Tanzânia não tem um posicionamento forte contrário a ações de potências extrarregionais ou de empresas militares privadas no continente africano para resoluções de crises e conflitos armados. Acredita, assim, na necessidade das missões de paz da ONU e da União Africana como ferramenta essencial para a promoção de estabilidade no continente, tendo contribuído, inclusive, com tropas em diversas situações, como na operação das Nações Unidas em Darfur e no Líbano e da União Africana na Somália (Kiishweko 2015).

O presidente de **Guiné Equatorial** já deixou claro seu temor pela ascensão

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de grupos terroristas no continente africano. A proximidade com a Nigéria tem trazido preocupação para o governo local acerca da expansão do grupo Boko Haram (Jean-Matthew 2015). Por seu turno, o **Burundi** tem demonstrado uma postura de combate ao terrorismo aliada aos interesses ocidentais no continente africano, contando, para isso, com uma célula especializada composta por elementos da polícia, militares e do serviço de inteligência local. Cabe também destacar a relação direta, estabelecida pelo governo do Burundi, entre grupos terroristas e grupos mulçumanos, por acreditar que esses últimos representam uma ameaça potencial à segurança do continente (US Department of State 2013).

No âmbito da Comunidade para o Desenvolvimento da África Austral (SADC), a **Namíbia** é um dos principais Estados da região Sul a investir em medidas de combate ao terrorismo (Pisani 2012). No entanto, o país vem se posicionando fortemente contra intervenções extrarregionais no continente africano, ainda mais quando há desrespeito às resoluções definidas na esfera da União Africana. Em 2011, a organização defendeu, em decisão do Conselho de Paz e Segurança, prezar pela integridade do território líbio, proibindo ações externas que pudessem interferir no desenrolar da crise entre governo e população. Nesse sentido, a Namíbia condenou a Resolução 1973 das Nações Unidas, entendendo-a como afronta ao diálogo firmado entre os países do continente (Ministry of Foreign Affairs 2011). Da mesma forma, o governo de **Moçambique** tem se posicionado de forma fortemente contrária à presença de potências estrangeiras no continente africano, principalmente na resolução de conflitos locais.

A **Guiné**, uma ex-colônia francesa independente em 1958, também sofreu recentemente com mudanças políticas importantes, quando uma junta militar assumiu o poder após a morte do presidente Lansana Conté, no cargo desde 1984. A população, entretanto, rejeitou o governo militar, indo às ruas para manifestações pacíficas que foram violentamente reprimidas, provocando o isolamento internacional do país, de forma semelhante ao que aconteceria na Líbia, em 2011. Após as eleições de 2010, que contaram com o acompanhamento de organismos internacionais para monitorar sua transparência, o cenário político tem-se mantido estável no país. Além disso, a Guiné mantém laços muito próximos com os EUA, que intervêm constantemente em assuntos guineenses, sob pretexto de evitar novos focos de instabilidade, não apresentando, assim, uma postura contrária à presença de forças estrangeiras para a solução de problemas locais (Arieff 2012).

A **Gâmbia** tem sido um aliado norteamericano em sua doutrina de combate ao terrorismo, tendo o governo já declarado seu repúdio ao extremismo religioso em todas as esferas (Embassy of United States in Banjul 2015). Em janeiro deste

ano, no entanto, o palácio do Presidente, Yahya Jammeh, sofreu um ataque terrorista que o governo entendeu como uma ação executada por um grupo a mando de potências estrangeiras, citando EUA, Alemanha e Reino Unido como potenciais culpados (Aljazeera 2015). Além disso, é importante ressaltar que, tradicionalmente, o país manteve fortes laços diplomáticos com o governo de Kadaffi, tendo havido diversas visitas entre os chefes de Estado (Jawneh 2009). Contudo, com a crise de 2011, o presidente gambiano fez um apelo, surpreendendo toda a comunidade internacional, defendendo a renúncia de Kadaffi ao poder na Líbia (Mahjar-Barducci 2011).

## 5 QUESTÕES PARA DISCUSSÃO

**1.** Quais são os principais impactos que a crise na Líbia pode gerar para o processo de construção da União Africana como uma organização regional realmente forte e capaz de solucionar as crises no continente?

**2.** Como o Conselho de Paz e Segurança da União Africana tem atuado na resolução dessa crise e como ela enxerga a atuação das potências extrarregionais na Líbia?

**3.** A chegada do Estado Islâmico à Líbia pode representar uma escalada de violência pela região do Norte da África? Como a União Africana tem encarado essa possibilidade?

**4.** Como as potências regionais têm se posicionado no conflito? Existe apoio declarado a alguma das partes?

**5.** As últimas chances de diálogo abertas entre as partes conflitantes podem demonstrar um caminho para a solução da crise no país? Como as potências ocidentais têm encarado essas possibilidades de diálogo? Há apoio da União Africana e do Conselho de Paz e Segurança da União Africana?

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## CONSELHO DE PAZ E SEGURANÇA DA UNIÃO AFRICANA



DISARMAMENT &  
INTERNATIONAL SECURITY  
COMMITTEE

# MISSILE DEFENSE SYSTEMS

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## ABSTRACT

This paper deals with Missile Defense Systems' debate and their political effects, covering structures that combine air-to-surface missiles (SAMs), radars, computer, command and control stations. The project of an anti-missile defensive shield dates back to the Soviet-American Cold War rivalry. However, nowadays, these capabilities have spread throughout the world, encompassing also regional powers and their strategic environment. These systems have been placed everywhere, causing impacts in several spheres. Reportedly, their installation purposes are strictly defensive. Nevertheless, given their technical features, these systems can be also responsible for affecting others countries' most reliable strategic defense: their capacity to retaliate against foreign aggression. Therefore, these "defensive" weapons can be converted into offensive tools, and so they may degrade international stability: in one way, by nullifying the diplomatic means, which are in part resulted by the reciprocal vulnerabilities; and, in the other way, generating insecurity and uncertainty in eventual crises, due to preemptive incentives. The debate generates complex situations, and questions must be addressed, such as to clarify the border between national security and international instability. Thus, the relevance of this topic rests not only on the higher political spheres, but also on the conduct of military, economic and social interaction throughout the globe.

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Although it cannot be characterized as peaceful, the modern interstate system have not yet witness another major war between great powers since the World War II. Indeed, the creation of the United Nations (UN) and the institutions-based governance are responsible in large part for the greater stability in the international system (IS). In this sense, although most of the authors (neorealism-oriented) recognize the predominantly anarchic nature of the IS, institutions have an undeniably role in preventing the clash between great powers.

In this context of gradual institutionalization of the IS, some questions still holds a high sensitivity between countries. Perhaps the most prominent issue is related to conventional and nuclear military capabilities. The mere fact that the countries own and develop such capabilities, forces analysts to keep an eye on the realistic approach to International Relations (IR). Hereby, the claim that States' main purpose is related to their own safety is perhaps incontestable.

Therefore, international institutional framework has the challenge of keeping stability in an anarchy context, where each state seeks to create the necessary capacities to preserve its own existence. Hence, it is common to see discussions about nuclear or long-range missiles proliferation. More rarely are the topics related to "defensive" capabilities, as the missile defense systems, even they been capable, in certain configurations, to cause further instability to the IS than offensive systems.

Questions regarding the anti-ballistic missile defense systems, accordingly, must be treated seriously by the international community, particularly when we consider the destabilizing potential that they have since the Cold War. As will be seen later, many scholars believe that the nuclear stalemate of the Cold War prevented the direct clash between U.S. and USSR, and still remaining nowadays as an important stability factor in the IR (Lieber and Press 2006; Piccoli 2012; Martins and Cepik 2014). Then, in order to maintain stability, on the offensive hand, is essential to prevent the uncontrolled increase in nuclear-capable missiles or related. On the defensive hand, however, the international community must address the missile defense systems and the threshold which they threaten the security of other countries – through the elimination of their deterrence capacity –, and therefore the system stability

## 1 HISTORICAL BACKGROUND

The project of an anti-missile defensive shield dates back to the Cold War period, being necessary to look at its first initiatives for better understanding the actual systems around the world. At that time, both superpowers, the United

States of America (U.S.) and the Soviet Union (USSR), were deeply involved in an arms race, developing projects and new technologies to overcome one another. In this sense, it is important to comprehend the first Anti-Ballistic Missiles projects designed by both sides, the treaties that followed this projects and the maintenance of mutual vulnerabilities. After that, it is necessary to discuss the Strategic Defense Initiative of the Reagan Administration and its unwinding, the beginning of the American initiatives towards the end of the mutual vulnerabilities.

Since the end of the World War II, the Americans have been dedicating their time on projects of antimissile defense systems. It happened after the Germans launched V-1 and V-2 missiles – the world's first ballistic missile – over Great Britain and the Allied forces in France. This fact caused a big impact in the U.S.: they immediately started with researches in defensive countermeasures. In the following years, the Soviet development of nuclear weapons and long-range heavy aircraft, led the United States efforts to the creation of systems capable of striking Soviet bombers. This explains the development by the US Army of the Nike surface-to-air system<sup>1</sup> during the 1950's (Burns 2010).

In the next decade, however, as the Cold War unfolded, the U.S.' perceived threat changed from bombers to missiles and both U.S. Army and Air Force started to develop plans for anti-ballistic-missile defense (Berhow and Taylor 2005; MDA 2013). The growing threat of an expansionist Soviet Union<sup>2</sup>, that had been developing long-range missiles, as the Intercontinental Ballistic Missiles (ICBMs), stimulated the development of Anti-Ballistic Missiles (ABM) capabilities in America<sup>3</sup> (MDA 2013). The Nike-Zeus nuclear-capable interceptor, a result of the former Army's program Nike, was the first system of this kind. Although it proved its ability of hitting Soviet ICBMs, it was substituted due to problems in its radar systems, in the early 1960's, by the improved Nike-X program<sup>4</sup> (Berhow

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1 This system was deployed in 1953 during the Eisenhower Administration in U.S. cities and airfields to provide protection from Soviet bombers. The Nike-Ajax system was of short range and used liquid fuel, while the Nike-Hercules, an improvement of the previous, used solid fuel and had a larger range (Burns 2010).

2 The Soviet Union announced a successful test flight of an SS-16 ICBM in August 1957, and on October of the same year the Soviets launched Sputnik, the world's first artificial satellite (MDA 2013).

3 The arms race with USSR also stimulated the production of ICBMs in the U.S. For example, in 1959 and 1961 the Atlas D and Atlas E ICBM became operational. In 1962, Atlas F and Titan I became also operational and in 1963 came the Minuteman I developed throughout the Cold War (Berhow and Taylor 2005).

4 According to MDA (2013), the key components of the Nike-X ABM system included advanced phased array radars that could detect and track a large number of objects simultaneously; a new nuclear armed, high-acceleration, terminal defense missile called the Sprint; and the longer-range Nike Zeus interceptor, which was modified and renamed Spartan, for high altitude targets (MDA 2013).

and Taylor 2005).

However, with the beginning of the Lyndon Johnson administration in 1963, the president and the Secretary of Defense Robert McNamara, defended a different approach to deal with the Soviet missile threat. The American ABM systems like Nike Zeus weren't proving its effectiveness and the U.S. intelligence reports affirmed that Soviets systems would be operational already by 1966 (MDA 2013). So fearing such threat, both of them, the President and the Secretary of Defense,

believed the best way to counter the deployment of a Soviet ABM system was through an arms control agreement or by overcoming it with offensive weapons. They resisted calls from members of the Joint Chiefs of Staff and members of Congress to match the Soviets and deploy the Nike-X ABM system, which they believed would have fueled a new and expensive arms race, until a different potential ballistic missile threat emerged (MDA 2013, 9).

Yet in 1967, the failure of the talks with the Soviets about an arms control agreement and China's detonation of its first hydrogen bomb led McNamara to announce the reinvestment of funds for deploying a thin-line ABM system based on the Nike-X program. Designed to deal with China less threatening missiles, this system was renamed Sentinel, protecting mainly the urban areas (MDA 2013, Burns 2010).

Nevertheless, the election of a Republican president, Richard Nixon, in 1969, changed ABM landscape: while deploying an antimissile system, Nixon has resumed ABM programs' negotiations with the Soviet Union. In addition, he has reoriented the defense systems from urban areas to the Minuteman ICBM storing sites, and renamed the system Safeguard (MDA 2013). Also in the early 1970's, both superpowers would come to table to negotiate, resulting in the Strategic Arms Limitation Talks (SALT) and the Antiballistic Missile Treaty in 1972 (ABM Treaty). The ABM treaty, signed by American President Nixon and Soviet leader Brezhnev, defined that each side would be entitled to two ABM sites, one near the national capital and one at an ICBM field – with no more than 100 ABM interceptor launchers each (Burns 2010, Pifer 2012)<sup>5</sup>.

Another important part of the ABM Treaty is the Article V that states

<sup>5</sup> According to Berhow and Taylor (2005), the immediate result of the ABM Treaty for the U.S. was the limitation of the Army Safeguard ABM system to just one site near Grand Forks, North Dakota. By the Treaty each superpower could have two sites, but a later Protocol in 1974 defined that each would be allowed to stay with only one site with 100 interceptors. By that time, Soviet ABM main system consisted of the A-35 installed to protect Moscow from an American attack (Burns 2010).

“Each Party undertakes not to develop, to test, or to deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based”. This part represents the concerns of that time regarding the future technologies that could be developed and the restrictions they should have. Other relevant part states that

the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion...and agreement (Burns 2010, 27).

It is important to bear in mind that the ABM Treaty represented a compromise of both superpower with the protection of the deterrence system (Burns 2010). According to Freedman (2003, apud Martins and Cepik, 2014), the concept structured by the Treaty recognized the maintenance of reciprocal vulnerabilities as the only element capable of assuring international balance, since any pretension of winning a nuclear war would be unreal. None of them would be able to launch a first-strike and completely blockade a second-strike from the other because the limitation on ABMs numbers. This form of deterrence – Mutual Assured Destruction (MAD) – lasted in the 1970s and through the 1980s (Berhow and Taylor 2005).

A significant change in the scenery of the ABM Treaty, however, happened when American President Ronald Reagan took office in 1981. He “desired a strategic alternative to the national security policy of nuclear deterrence and mutual assured destruction that left America defenseless against Soviet missile attacks” (MDA 2013, 12). At the same time, he was being advised by the Joint Chiefs of Staff to pursue a national security strategy with an increase emphasis on strategic defense (MDA 2013). All these factors led to the announcement, in 1983, of a major new program, the Strategic Defensive Initiative (SDI). Soon it became widely identified as “Star Wars”, in a reference of the science fiction film (MDA 2013).

The SDI managed an expanded missile defense program that should combine the existing projects of the different governmental agencies (MDA 2013). The SDI program included technologies such as “ground-based interceptor missiles with ‘hit-to-kill’ capabilities, that is, they would destroy an incoming ballistic missile warhead by directly colliding with it (... )” (Pifer 2012, 6). It also included space-based systems, like sensors and interceptors<sup>6</sup>. According to Pifer (2012,

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<sup>6</sup> Brilliant Pebbles was a space-based interceptor composed by many small autonomous parts. It was a hit-to-kill interceptor, a technology that destroys the missile by coalition (MDA 2013).

6) “many of these technologies appeared to be potential violations of the ABM Treaty”. Furthermore, “systems based on ‘other physical principles’, such as lasers, were subject to discussion under terms of the treaty” (Pifer 2012, 6).

Reagan’s SDI had also the objective of exploring technologies that could destroy Soviet ICBMs in the boost phase<sup>7</sup>, probably being “capable of defeating most of the warheads that the Soviets could launch in a retaliatory strike” (Pifer 2012). However, this projects were clearly a violation of the dispositions of the ABM Treaty, and giving it further developments would require “altering or possibly withdrawing from the ABM Treaty” (MDA 2013, 14). By that time the Soviets showed several concerns about the SDI, claiming that the program could be able to defeat most of the warheads that they would launch in a retaliatory strike (second-strike) (Pifer 2012). In other words, the Soviets would lose their second-strike capability, meaning that the U.S. was achieving nuclear primacy<sup>8</sup>. However, in the years of 1986/87 “Soviet scientists had concluded that the U.S. program faced large technological challenges and would not pose a serious threat to their strategic missile force for many years or decades” (Pifer 2012, 6). Furthermore, by that same decade, the Cold War has ended, and with the Berlin Wall’s fall, the U.S. reviewed the program.

The revision made in the 1990s, during the George H. W. Bush administration, recommended a reorientation of the SDI to develop capabilities against limited attacks and to protect U.S. - and Allies - overseas forces against short and medium-range ballistic missiles (MDA 2013). The new system, called Global Protection Against Limited Strikes (GPALS), was announced in 1991. According to MDA (2013, 14), “GPALS was an integrated architecture with three components: a global, space-based system of Brilliant Pebbles interceptors; a force of ground- and sea-based theater missile defenses; and a limited, ground-based national missile defense element.”

The trend toward theater missiles<sup>9</sup> continued during the next administration

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7 The SDI dedicated a particular attention to technologies that could destroy ICBMs during the boost phase. This is the phase before the numerous reentry vehicles (warheads) could separate, so if they could successfully destroy missiles in this period, U.S. defenses would not have to cope with the smaller and dispersed warheads. This is also the phase when the missiles’ engines were still burning and provided a bright and very visible target, far easier to see and track than a warhead (Pifer 2012).

8 According to Lieber and Press (2006, 8) the term “nuclear primacy” describes the situation in which one country has the military means to destroy its adversary’s nuclear retaliatory capabilities in a disarming strike. Accordingly, the country who holds this rare capability has less incentive to cooperate and to act through peaceful means, since it cannot be deterred with nuclear retaliation.

9 The theater defense missiles are capable of dealing with ballistic missiles of short and medium-range that could threaten the U.S. forces on the battlefield - the theater of military operations (Pifer 2012). According to (Burns 2010), the objective of the Clinton administration was to negotiate

of the Democrat President Clinton. He was concerned with the compliance of the ABM Treaty, therefore, the GPALS were separated into two different components and the Brilliant Pebbles program ended. In 1993, the President also changed the name of the Strategic Defensive Initiative Organization (SDIO) to Ballistic Missile Defense Organization (BMDO)<sup>10</sup>. However, by the second term of the Clinton Administration, a Congress led by Republicans overshadowed the Theater Missile Defense and pressured the President to adopt the National Missile Defense (NDM) Act of 1999 (MDA 2013). It was known also as the Public Law 106-38 and stated that

It is the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate) with funding subject to the annual authorization of appropriations and the annual appropriation of funds for National Missile Defense (United States of America 1999).

Although the President signed the NMD Act and searched for alternatives to install the system, he announced that would let this decision to the next administration. His resolution was due to a series of missile defense test failures and a wave of controversies over deploying a NMD system that included debate on altering or withdrawing from the ABM Treaty, once it contravened it (MDA 2013). In the following years of 2000s, the next Presidency would make a very important choice and take a big step towards the Anti-Missile Shield deployment.

## 2 STATEMENT OF THE ISSUE

### 2.1 UNITED STATES' NATIONAL MISSILE DEFENSE (NMD)

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amendments to the ABM Treaty with USSR so that a theater missile defense system could be tested and deployed without violating the pact. The agreement came only in 1997, and allowed the deployment of non-strategic defense missiles of and specific class (with velocity of five kilometers per second). (Burns 2010)

<sup>10</sup> According to MDA (2013, 15), “The Theater Missile Defense portion of BMDO encompassed several Army, Navy and Air Force programs. These included improvements in the Army’s PATRIOT missile, known as PATRIOT Advanced Capability-3, or PAC-3; and a new Army missile initially known as the Theater High Altitude Area Defense, or THAAD. Also included were the Air Force’s Airborne Laser project; and the lower-tier Navy Area Defense and upper-tier Navy Theater Wide programs, both of which were based upon significant modifications to the shipborne Aegis air defense system and Standard Missile (SM) interceptor.”

## 2.1.1 THE BUSH YEARS

In early 2001, George W. Bush took over the U.S. presidency and brought to his administration a strong commitment to deploying a missile-defense system in the shortest possible time (Burns 2010). In order to accomplish that, one of the first measures of the President was to send a notification to Russia on December 13th, 2001, indicating the U.S. intention to withdraw from the ABM Treaty, which became effective six months later (MDA 2013). In doing so, there would be no more legal restriction to development of a missile defense shield.

Another important measure that could influence the international system was taken in the next year, 2002, when President Bush issued a statement announcing a National Missile Defense Initiative, directing the Secretary of Defense the responsible for developing the initial elements of a strategic missile defense system by 2004. Under the Bush's leadership, Defense Secretary Donald H. Rumsfeld and the director of BMDO, General Ronald T. Kadish, reoriented the missile defense program. They envisioned an integrated and layered defense that would be capable of attacking warheads and missiles in all phases of flight – boost, midcourse and terminal<sup>11</sup> – as well as provide global defenses against missiles of all ranges. In view of these changes, in that same year, Rumsfeld issued a memorandum changing the name of BMDO to Missile Defense Agency (MDA).

In this sense, the American deployment scheduled to take place in 2004 included 20 long-range ground-based midcourse defense (GMD) interceptors and 20 sea-based interceptors positioned on three vessels (Burns 2010). Among those ones, 16 GMD interceptors were placed in Alaska, where work had begun on six missile silos in June 2002, and four were located at Vandenberg Air Force Base in California. Besides that, an unspecified number of Patriot PAC-3s and the sea-based interceptors would be deployed to protect against short and medium range ballistic missiles<sup>12</sup> (Burns 2010). At the same time, the Bush administration started planning for a European missile defense site to intercept ballistic missiles

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11 As states before, the boost phase is the earliest segment of the missile trajectory, when rocket boosters are providing the momentum that will carry warheads to their targets. This phase is followed by the ascent phase, which is the segment of the trajectory after boosters have cut off, but before the payload has separated into warheads, decoys and counter measures. After that, there is the midcourse phase, the longest portion of the trajectory, during which warheads coast through space before reentering the atmosphere. Lastly, there are the descent phase, the initial state of reentry, and the terminal phase, the end of the trajectory, brief stage within the atmosphere immediately prior to detonation on target (Thompson 2009).

12 There were many disagreements inside the U.S. Senate about it. Not everyone agreed with the rushed deployment schedule, especially since it was acknowledged that the majority of the tests with system components had been less than satisfactory (Burns 2010)

launched from the Middle East (Burns 2010).

It is important to highlight the context in which these measures were stated, especially after the attacks of 9/11. This event gave rise to two initiatives that were responsible for the reinvigoration of the SDI – now renamed NMD – during the government of George W. Bush. The first initiative was the “Global Strike”, based on the idea of ballistic missiles on land or submarines to destroy terrorist cells. This initiative was fundamental in enhancing American budgetary allocations that sustained research and development common to ballistic missiles and anti-aircraft during the years that followed (Piccoli 2012). However, it was the second initiative that gave the definitive boost to the U.S. to adopt such measures: the thesis of the “Axis of Evil”. This was represented by Iraq<sup>13</sup>, North Korea and Iran, countries that, according to the U.S. and some of its allies, as the United Kingdom, could make use of ballistic missiles in support of international terrorism (Piccoli 2012).

America’s concern with North Korea’s ambitious program for developing ballistic and nuclear weapons predated the arrival of Bush’s administration. Especially in the late 1990, when talks with North Korea about the end its missile programs resulted in little progress (Burns 2010). However, during the Bush administration some factors reinforced this concern. In 2002, Washington charged that North Korean officials acknowledge the existence of a covert nuclear program in violation of the Agreed Framework<sup>14</sup>. In the next year, North Korea pulled out of the Non-Proliferation Treaty and the country formally declared that they were pursuing a nuclear weapons capability. Some years later, in 2006, North Korea launched several short and medium range missile and a long-range Taepo Dong-2 (TD-2) ballistic missile that could travel around 4,300 kilometers (Department of Defense 2010).

According to the U.S. and some allies, Iran also presented a significant regional missile threat. By 2004, Iran had made considerable progress in achieving self-sufficiency in medium-range ballistic missile production (Department of Defense 2010). In 2006, Tehran announced it had tested an improved version of the Shahab-3, with a range of 2.000 kilometers, and that Iran has the ability to mass-produce these missiles (Department of Defense 2010). Two years after that, Iran tested a space launch missile involving a two-stage rocket, named Safir, that was believed to employ a Shahab-3 for the initial stage and an indigenously designed and developed propulsion system for the second stage (Burns 2010).

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<sup>13</sup> It was believed that Iraq stocked weapons of mass destruction, which resulted in the American invasion of the country in 2003.

<sup>14</sup> The Agreed Framework was the first of a series of bilateral missile discussions took place in 1996, which Washington officials urging North Korea to join the voluntary International Missile Technology Control Regime to regulate sales of ballistic missile and its technology (Burns 2010).

These both scenarios resulted in instability in the region and it prompted the United States and its allies to condemn the tests made by North Korea and Iran (Burns 2010). On the other hand, the proposal of expansion the missile defense system to Europe resulted in negative reactions of some European countries. In general, some of them had opposed U.S. withdrawal from the ABM Treaty and they were critical of Bush's initial plans for a missile defense system. Many have claimed that the expansion of the system to Europe could turn the region into an easy target for terrorist groups and, especially, it could damage European relations with Middle East (Piccoli 2012).

However, the international concern in front of some threat from Middle East increased when the U.S. National Intelligence Estimate concluded that, by 2015, North Korea would possess an ICBM able to target on the American mainland – as will be discussed in the next section, this estimate was wrong. Faced with this situation, George W. Bush chose to go ahead with expanding its antimissile system, moving closer to implementing a “Third Site”<sup>15</sup> for missile defense in Europe. The initial plan intended to encompass a ground-based interceptor (GBI) anti-missile system in Poland and a radar installation in the Czech Republic (Giles and Monaghan 2014). In doing so, the Bush administration set off formal negotiations with both countries in early 2007. Deployment of the Third Site system was scheduled to begin in 2011 and to be completed by 2013 at a total cost of 4 billion USD (Burns 2010).

**Image 1:** Ground-Based U.S. missile defense locations



Source: BBC News, 2009 apud Piccoli, 2012.

<sup>15</sup> The European locations were referred to as the “Third Site”, following the first two major U.S. missile defense installations in Alaska and in California (Burns 2010).

## DISARMAMENT AND INTERNATIONAL SECURITY COMMITTEE

In face of that, Russia regarded the proposed U.S. interceptors as potentially offensive, once the missile defenses sites in Poland and in the Czech Republic were too close to its territory (Burns 2010). With this in mind, Russian President, Vladimir Putin, proposed a few solutions to the Pentagon. The first was establishing a missile defense radar site at the existing Qabala early warning radar station in Azerbaijan. Russia believed that proposal was better for a missile defense from both countries, once at that location, missile defenses could cover all of Europe, however a radar at Azerbaijan would not be able to track Russian missile launches. Putin also proposed locating the U.S missile defense systems in Turkey, Iraq or even on sea-based platforms, as well as involving other countries through the NATO-Russia Council, established in 2002 (Burns 2010). Nonetheless, the Bush officials were determined at the proposed missile defenses sites in both countries.

As well as Russia, China also rejected the American plans. Indeed, as early as the Clinton presidency, Beijing officials had showed concern about an American BMD system combined with its ICBMs. They believed that the system being employed to threaten mainland China if disagreements arose over the status of Taiwan (Department of Defense 2010). China's fear was further aroused when U.S. announced its initial Nuclear Posture Review, which argued that the country should be ready to employ nuclear weapons against China because of its ongoing modernization of nuclear and non-nuclear forces (Department of Defense 2010).

The U.S. has always believed that China has developing advanced ballistic missile capabilities that can threaten its neighbors, as well as anti-ship ballistic missile (ASBM) capabilities that can attempt to target naval forces in the region. Moreover, China continues to develop new SRBMs, MRBMs and IRBMs. The U.S. believes that such modernization will be capable of reaching not just Taiwan, but also U.S. and allied military installations in the region (Department of Defense 2010). In front of that, the Pentagon declared in 2008 that China has the most active ballistic missile program in the world (Burns 2010).

The MDA had spent five years in discussions with Poland and the Czech Republic without any concrete results. In doing so, during 2007 and 2008, U.S. Congress began calling for a new approach to missile defense in Europe. Ellen Tauscher, Democratic Congresswoman, focused attention on the need to defend against the existing threat of short and medium range missile from countries mentioned before (Burns 2010). With the support of Congress, Tauscher has proposed some changes in the European missile system, as well stated by Burns (2010, 93)

Tauscher pointed out the capabilities of the mobile, shorter-range U.S. missile defense systems, such as the Navy's Aegis BMD

system<sup>16</sup>, and the Army's THAAD and Patriot systems, and worked to shift funding to such systems and away from the fixed ground-based missile system designed to defeat ICBMs. Significantly, Tauscher also declared that missile defenses in Europe should not be bilateral arrangements, but should be under the umbrella of NATO (Burns 2010, 93).

## 2.1.2 THE OBAMA YEARS

Upon taking office in 2008, Barack Obama brought to his presidency a new posture towards the NMD (Piccoli 2012). The Obama administration revised the George W. Bush plan for missile defense in Europe and early into his first terms, in 2009, he cancelled the plans to station a radar facility in the Czech Republic and ground-based interceptors in Poland (Cimbala 2012). In the same year, on September 17th, Obama announced a new plan for missile defense, creating the European Phased Adaptive Approach (EPAA) (MDA 2013).

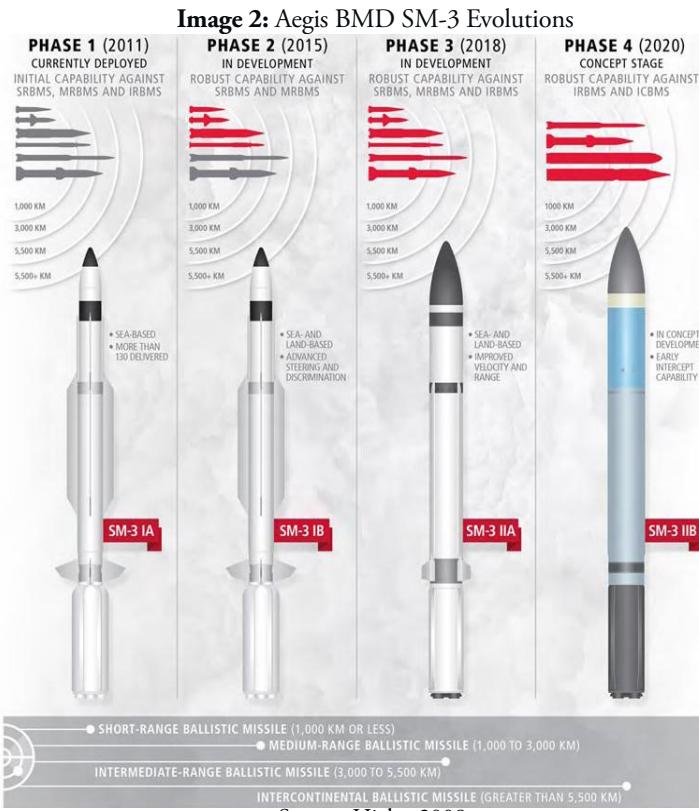
The new approach deploys U.S. upper tier sea-based and land-based missile in Europe in four phases to supplement NATO lower tier systems as short and longer-range missile threats from Middle East proliferate (Giles and Monaghan 2014). Both North Korea and Iran had accelerated the process of developing short and medium range ballistic missiles. In August 2008, Iran launched its Safir Space Launch Vehicle (SLV) and, in the next year, the country would tried to use the Safir-2 SLV to place the domestically produced Omid satellite in orbit (Department of Defense 2010). Also in 2009, North Korea conducted new flight tests of the TD-2 (Department of Defense 2010). These factors only compound international concerns, especially from U.S and its allies, about the intent of North Korean and Iran ballistic missile programs.

On the other hand, as Giles and Monaghan (2014, 19) stated "the missile defense program moving forward will adapt to the ever increasing ballistic missile threat capability but still be able to protect the U.S. forces abroad and NATO allies". The plan of Obama administration was to replace the idea of a land-based defense by the use of Aegis systems aboard cruisers of Ticonderoga class and destroyers of Arleigh Burke class (Piccoli 2012). However, in the later phases, the system was to be based also on land as "Aegis Ashore" (MDA 2013).

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<sup>16</sup> The Aegis system offers the ability to provide surveillance and tracking of ballistic missile and also offers an upper-tier missile defense capability in the form of the SM-3 Block IA interceptor (Department of Defense 2010).

## DISARMAMENT AND INTERNATIONAL SECURITY COMMITTEE



Source: Hicks, 2008.

As mentioned before and illustrated in image 2, the new approach consists of four phases, in which the defense system would be improved, as follows (Department of Defense 2010; Giles and Monaghan 2014):

a) **Phase I** (2011 time frame): existing missile defense systems will be deployed to defend against short and medium range ballistic missile. Yet, this phase will focus on the protection of portions of southern Europe by utilizing and early warning radar established in Turkey and BMD-capable Aegis cruisers complete with the SM-3 Block IA medium-range.

b) **Phase II** (2015 time frame): involves establishment of a land-based SM-3 site in Romania, besides American capabilities will be enhanced by the fielding of a more advanced interceptor, the SM-3 Block IB, able to engage short and medium range ballistic missile and additional sensors.

c) **Phase III** (2018 time frame): involves the improvement with the second

and last land-based SM-3 site located in northern Europe, besides the interceptor will be once more upgraded to the SM-3 Block IIA at sea and land-based sites.

**d) Phase IV** (2020 time frame): involves one more upgraded in the interceptors to the SM-3 IIB, this additional capability would be able to destroy a potential ICBM launched from the Middle East against U.S.

However, in March 2013, the United States announced the cancellation of the Phase IV, claiming that the technology required has not been yet developed (Department of Defense 2010). On the other hand, Chuck Hagel, former Secretary of Defense, announced the decision to reinstate 14 ground-based interceptors – which it reduced in Obama's first term – in Alaska and in California by the year 2017 (MDA 2013). Since then, the U.S. has been working closely with NATO allies. It is important to emphasize that during the Lisbon Summit in 2010, the members of the organization decided that the development of a shield missile would happen under the umbrella of NATO. In other words, NATO would also be responsible for the financing of the system (Piccoli 2012).

In 2013, the United States announced intentions for extending missile defense plans into Asia through the deployment of an additional AN/TPY-2 forward-based radar in Japan. At least, the administration would continue to move forward with an environmental study of missile defense system's efficiency (MDA 2013).

## 2.2 THE DEBATE ON THE THEATER MISSILE DEFENSE (TMD)

The other side of the studies on missile defense is regarding the Theater Missile Defense (TMD)<sup>17</sup>. As seen, the National Missile Defense aims to protect one country against Intercontinental Ballistic Missiles (ICBMs), which are capable of devastating large areas of the affected country. TMD, in turn, is intended to protect smaller areas<sup>18</sup> against short and medium range ballistic missiles, whose

<sup>17</sup> According to Wei-chin Lee (2001, 110) "The emerging interest in TMD is partially motivated by the 1991 Gulf War when Israel and Saudi Arabia faced Saddam Hussein's Scud missile attacks. The Patriot air defense system, which then was designed more to shoot down aircraft than missiles, was deployed to defend against Iraqi Scuds. Although its technical effectiveness during the Gulf War has been a subject of debate, its political symbolism was propagated by live news coverage, and it offered Israel a justification to resist public pressure for retaliatory strikes against Iraq".

<sup>18</sup> "TMD systems are generally divided into two categories: the lower-tier and upper-tier systems, with an interception altitude of 40 kilometers (km) marking the threshold boundary between them. A complete TMD system would combine both upper-tier and lower-tier elements. Lower-tier defense systems are designed for smaller defended area ("footprint") roughly within a radius of 50 to 60 km of where the interceptor missiles, such as the Patriot Advanced Capability Level-2 (PAC-2), and Patriot Advanced Capability Level-3 (PAC-3) are deployed. Upper-tier defense systems, designed to cover larger defended areas, include the ship-based Navy Theater-Wide Defense (NTWD), land-

## DISARMAMENT AND INTERNATIONAL SECURITY COMMITTEE

mid-course and reentry speed are significantly lower<sup>19</sup> (Wilkening 2004). Accordingly, TMD's effects over the international balance are often ignored, since the main factor of great powers' nuclear deterrence are the ICBMs<sup>20</sup>, whether launched from the ground or from nuclear submarines. When they are not ignored, especially in the aforementioned case of the planned U.S. system for Europe (PAC-3), it is because they are part of a larger network of systems – in that case, U.S.' National Missile Defense (Riqiang 2013).

In this sense, if the TMD does not directly threaten the balance between the major powers, since their exploitation by some country does not generate directly the nuclear primacy, why it must be addressed? The answer to this question lies in a more restricted level of analysis of international relations. The TMD relates directly to the regional balance because it serves as National Missile Defense to several countries: either because they have a small territory, being fully covered by TMD systems, or because the country is geographically close to its major rivals (Wilkening 2004). In this sense, TMD is part of a nebulous category of analysis: in some cases, being classified as strictly defensive – as when used in protection against rockets and missiles fired by an allegedly terrorist organization (Hezbollah-Israel case) – but it can also be labeled as offensive – when employed in order to cease the mutual vulnerabilities on the regional level. Therefore, according to Wu Riqiang (2013, 19) “[the] problem about tactical BMD [TMD] is that some tactical BMD [TMD] systems might have strategic capability or some tactical BMD [TMD] assets might be used for strategic purposes”.

Then, much of what is discussed about the NMD and U.S.–Russia/U.S.–China's relations can also be applied to the TMD and the relationship between regional powers and those that are emerging. As an example, one can highlight a very wide range of pairs, such as Israel–Iran, Saudi Arabia–Iran, Saudi Arabia–

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based Theater High Altitude Area Defense (THAAD) systems, and other boost-phase intercepting systems. As an improved version of PAC-2, PAC-3 is equipped with a new extended-range interceptor technology (Erint) hit-to-kill interceptor designed to hit targets at around 30 km in altitude. By contrast, an upper-tier system like THAAD is designed intercept missile warheads at a range of 40–150 km, with a defended area of several hundred kilometers in diameter. The deployment of a system like THAAD requires modern phased-array X-band radar with a long-range detection capability of up to 500 km and the technological capability of distinctly separating decoys from actual warheads” (Lee 2001, 110).

19 The following definition is according to the U.S.' Department of Defense (2014). Classification by range: Intercontinental Ballistic Missile (ICBM) – over 5500 kilometers; Intermediate-Range Ballistic Missile (IRBM) – 3000 to 5500 kilometers; Medium-Range Ballistic Missile (MRBM) – 1000 to 3000 kilometers; and Short-Range Ballistic missile (SRBM) – up to 1000 kilometers. Classification by the average re-entry speed: ICBM – 7 km/s; IRBM – 5 km/s; MRBM – 3 km/s; and SRBM – 2 km/s.

20 Due simply to the fact that the great powers (United States, China and Russia) are geographically far apart, outside the coverage of short and medium-range missiles

Israel, Israel-Syria, Turkey-Iran, China-Japan, China-Taiwan, South Korea-North Korea, Japan-North Korea, India-Pakistan, China-India, among others. The number of possibilities is almost infinite, whereas ballistic missiles of short and medium range are relatively easy to purchase, or even develop. Therefore, TMD systems, as well as ballistic missiles and other delivery systems generally discussed in the context of international and inter-regional relations, should be subject of discussion, especially when it comes to missile defense systems. In this sense, then it will be presented an overview about the TMD around the globe and its relevance to the balance of regional relations.

## 2.2.1 THEATER MISSILE DEFENSE IN ASIA

In Asia, TMDs' debate is central to understand the regional balance. An exemplary case is that of China and Taiwan. In their relationship, for example, theater defense systems have a crucial role since the Third Strait Crisis (1995-1996), when China fired ballistic missiles in the waters surrounding Taiwan after the country rehearse a more independent posture. In response, Taiwan started strengthening its ties with the United States, including acquiring TMD systems for protection against Chinese ballistic missiles in order to support their independent status. In this case, as seen above, TMD mirrors NMD, generating dangerous responses in many ways by the Chinese government, either increasing considerably its amount of short and medium-range missiles or through diplomatic pressure to prevent Taiwan to carry out acquisitions (Lee 2001; Riqiang 2013).

In this sense, the question is whether the TMD in Taiwan will improve the cross-strait relations, or will have the opposite effect, leading to a poorest situation. On one side, supporters of TMD claim that its configuration is strictly defensive, "and should be viewed as a safety net limiting Chinese missile damage and thus deterring China from aggressive action. It is intended to be non-provocative and reactive only" (Lee 2001, 116). On the other hand,

Such a development could potentially give Taiwan the capability to decide its own fate, including possibly declaring independence, without fearing Chinese missile attacks. Thus, this very dimension of TMD—its political impact—can transform its defensive character because Taiwanese deployment of TMD has the potential to generate a spiral of threat perception between China and Taiwan. This picture emerges clearly when one considers strategic game theory. Because an effective offensive capability can be weakened by an adversary's deployment of defensive capabilities—and because such defensive capabilities can be weakened by the first state's improvement of its offensive capabilities—it is axiomatic that both

states would be encouraged to engage in an arms race, either for self-help/self-protection (in a state of anarchy) or for the potential use of military means for political ends. Aggravated by misperception, miscalculation, and hostility, this situation can easily evolve into a vicious cycle of competition and confrontation, aptly described by John Hertz as the “security dilemma.” The ironic result is that an attempt to boost Taiwanese security by deploying TMD would necessarily decrease China’s security. In turn, China would be prompted to upgrade its military capability to regain its relative superiority—thereby ultimately degrading Taiwanese security (Lee 2001, 116).

China, furthermore, has another similar situation with Japan. Like Taiwan, the latter intrinsically cooperates with the United States and is an organic part within the U.S.’ NMD project. Japan has some naval vessels equipped with the Aegis system and participates actively in the development of the latest version of the SM-3 missile (the Block IV shown in the image 2). As the U.S.’ TMD is under the umbrella of its NMD, Japan has also TMD systems, such as the PAC-3 (Monten and Provost 2005). This structure allegedly aims to protect against possible North Korean missiles, however, China fears that they might be used to nullify their deterrent power against Japan, since their historic rivalry (Monten and Provost 2005). In that case, China would become helpless and with no retaliatory capability in face of any offensive action against its territory – both have long territorial disputes in the region.

Another relevant case in Asia is the India-Pakistan relationship. The great asymmetry in conventional forces between them leads Pakistan to take a more assertive nuclear doctrine, since this would be the only way to maintain symmetric relations with the rival (Jaspal 2014). However, with the pursuit for a missile defense system by India, Pakistan fears to lose its nuclear retaliatory capability. Analysts claims it might generate an increasing instability in the relationship between both, since Pakistan could lower their thresholds for the use of nuclear weapons, as their perception of threat has increased. Zafar Jaspal (2014, 127) highlights that “it allows India to use its superior military muscle, which in turn obliges Pakistan to modernize its nuclear posture to deter conventional attack. Pakistan’s nuclear deterrence posture in turn switches from deterrence to nuclear war-fighting.” On the other hand, India claims that its missile defense is not motivated to harm Pakistan’s deterrence, but to protect themselves against the growing proliferation of ballistic missiles in the region. Asia is home to one third of all the world’s ballistic missiles: these, Syria, Iran, Saudi Arabia and China were among the countries feared by India (Pant 2005).

## 2.2.2 THEATER MISSILE DEFENSE IN THE MIDDLE EAST

Similarly, the Middle East is another region that coexists with the growing proliferation of ballistic missiles and weapons of mass destruction. As noted earlier, Iran is often at the center of the missile defense controversy, being a common target especially by the U.S. and Europe (Burns 2010). However, at the regional level, there is an even more intense dispute between short/medium-range missiles and TMD systems. In fact, the whole concept of TMD has been developed from the American experience in the first Gulf War in 1991, when the PAC-2 missiles were used to protect the Allied troops and Israel from Saddam Hussein rockets/missiles (Lee 2001). Since then, the regional powers have been acquiring more TMD systems, almost exclusively U.S.-made. Israel is a distinct case because, which have received U.S. technology in the past and today is able to develops its own antiballistic system, allegedly to match the rockets of non-state military groups, such as Hamas and Hezbollah, but also those from Iran.

The power correlation in the region is directly influenced by the ability to defend its territory against ballistic missiles from the neighborhood. In 1982, for example, Israel attacked Iraq's nuclear centrifuges, accusing Saddam Hussein of seeking to develop weapons of mass destruction. Iran got the message and since then tries to acquire anti-aircraft capabilities to neutralize the Israeli apparatus. However, it was not until the end of the embargo on Iran in April 2015 that Russia authorized the sale of its anti-aircraft system S-300, which, in its most advanced version, has ABM capacity. In this sense, Iran is building its missile shield just as Israel, Saudi Arabia and the Gulf countries. The controversial issue is the motivation of these shields: while one side accuses the other of exploiting the shield to be able to act more freely (and aggressively) in relation to its neighbors, the other justifies the ABM systems as the only way to safeguard its population against Middle East's growing threats.

## 2.3 THE BIGGER PICTURE ON NATIONAL MISSILE DEFENSE AND THEATER MISSILE DEFENSE

Therefore, while the debate on U.S.' National Missile Defense is often present in multilateral forums and international media, mainly regarding the Sino-Russian strategic stability, the theater Missile Defenses often are widely accepted as inherently stabilizing (Lee 2001). However, as noted above, for most countries, the debate on the feasibility and the need for TMD is no less problematic and controversial than the NMD in the United States.

In this sense, the link between TMD and NMD seems to go beyond the operational level, as in U.S.' case, where since the Bush Jr. administration a concept of a single layered defense is adopted. It is a double way relationship, where the systemic level (NMD) affects and is affected by the level of regional relations (TMD). In this sense, it seems to be difficult to isolate the international balance and NMD's debate from the regional balance and TMD, since a local war has the potential to affect the global balance (J. M. Martins 2008). Even though, in practice, some separation between them seems to be necessary. Otherwise, any missile defense would be unfeasible, since they would be seen as inherently destabilizing. In this case, the politics among nations would always be conflicting, leading the major powers to oppose any anti-missile system (Riqiang 2013).

This is the scenario apparently in vogue since U.S.' unilateral withdrawal from the ABM Treaty of 1970 in 2001 (Steff 2013). At the great powers level, the reaction was similar. Diplomatically, Russia maintained its opposition against the system, claiming that there is no assurance that it would not be used against them (Khoo and Steff 2014). China, in turn, maintained a more passive stance toward the United States, but was emphatic in expressing their concerns in relation to a joint missile defense between U.S., Japan and Taiwan. The result, according to the Chinese, it would be a growing aggressiveness by the last two with China (Khoo and Steff 2014). Moreover, both Russia<sup>21</sup> and China<sup>22</sup> seem to have adopted

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21 "Russia is to replace half its nuclear arsenal by 2015, upgrade all nuclear systems by 2020 and initiate research into low-yield nuclear weapons. [...] One of the most significant new missiles deployed was the roadmobile Topol-M (SS-27) ICBM. It represented a qualitative advance over its predecessors, adding a Maneuvrable Re-entry Vehicle (MARV) capability, increasing its capacity to evade US BMD systems. A MARV Sea-Launched Ballistic Missile, the Bulava, equipped with BMD countermeasures was deployed into service in June 2012. A more advanced version of the Bulava, equipped with Multiple Independently Targetable Reentry Vehicle (MIRV) missiles and electronic BMD jammers, known as the Liner, was also successfully tested in 2011 and is set to be deployed in the near future. [...] The doctrine [of 2010] raised the threshold for using nuclear weapons; outlined a proactive agenda that emphasized the role of international law; rejected unipolarity and American primacy; and emphasized Russia's right to intervene regionally on behalf of Russian peoples and Russian interests. Although the doctrine declared nuclear and large-scale conventional war unlikely, US BMD was again identified as a vital threat to Russia. Indicating its ongoing balancing efforts, Russia activated its S-400 strategic air defense system in Kaliningrad on 6 April 2012, and has threatened to deploy new short-range "Iskander" mobile missiles to Belarus and Kaliningrad by the end of 2012" (Khoo and Steff 2014, 20-21).

22 "[r]esearch has intensified on improvements to China's long-standing road-mobile ICBM, the DF-41, which can contain up to 10 warheads, giving China the ability to increase the annual growth rate of missiles capable of hitting America from double to triple digits. The DF-41 is China's first MIRV-capable missile and equipped with improved countermeasures to penetrate US BMD systems. In August 2012, China reportedly tested a fourth new MIRVed submarine-launched ICBM, the JL-2. Deployment of BMD countermeasures has become a significant element of China's nuclear balancing effort. [...] The second prong of China's hard balancing response to US BMD has involved changes

an internal balancing posture (Waltz 1959), increasing the deployment of new nuclear and conventional systems with BMD countermeasures, while adapting its nuclear doctrine in order to be more flexible and capable of responding the new threats (Khoo and Steff 2014; Martins and Cepik 2014).

From the information presented above, one can see the outlines of the two spectrum of the debate. In summary, we have identified two clear positions taken here as extremes, characterizing completely no country's foreign and security policy, but being identified in most of their posture. The specific position of each country will be dealt with ahead; here we will see shortly the debate from a purest and distanced perspective.

On the one hand, it is argued that the growing proliferation of ballistic missiles, alongside with the crescent terrorist threats and the emergence of countries less aligned to the UN values, have brought greater insecurity in the international system, endangering international institutions and our nations (Heinrichs 2012). The best solution to avoid this situation, in this sense, would be to develop military means capable of overrule such offensive capabilities in order to provide direct protection and discourage the development of these systems (Thompson 2009; IFPA 2009; Heinrichs 2012). From this perspective, the difference between NMD and TMD is just a matter of scale, both being part of an integrated system to ensure the impregnability of a particular country and the international peace (IFPA 2009).

In turn, the other side defends a more particular approach, analyzing each case individually. It is considered unreal the argument that a global missile shield would create more security and international stability. From this perspective, the opposite would occur: with the end of deterrent capabilities, an arms race would be generated, causing strong instability in the international system (Lee 2001; Lieber and Press 2006; Jaspal 2014; Khoo and Steff 2014; Martins and Cepik 2014). Therefore, it would be essential the separation between NMD and TMD, not only in scale, but also in functionality and purpose (Sauer 2012). From this definition, the countries could develop anti-ballistic systems actually with defensive purposes, without generating insecurity in the international community (Riqiang 2013).

As seen in the last sections, both sides have relevant arguments, with theoretical and empirical grounds. Both have great tactical and operational

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to its military doctrine. At the same time, while China has held a policy of No First Use (NFU) since its acquisition of a nuclear capability in 1964, its endorsement no longer appears to be unqualified. Recent research has documented instances of Chinese officials signaling that China's long-held NFU policy could be altered and/or the threshold for a nuclear response lowered during a regional crisis" (Khoo and Steff 2014, 23-24).

differences, although, paradoxically, aiming the same end: the stability of the international system. In this sense, the challenge is to conciliate both views around some questions. Which extent to the BMDs would be harmful to stability? How important is to differentiate NMDs and TMDs? What is the correct balance between national defense and regional/global stability? Is the debate relevant to the countries' decision-making process or the security dilemma (the self-help situation) will remain an imperative in foreign and security policy? Is the maintenance of reciprocal vulnerabilities sufficient for stability? These are all questions that permeate the debate on ballistic missile defense systems and their answers seem increasingly relevant to contemporary international relations.

### 3 PREVIOUS INTERNATIONAL ACTION

#### 3.1 PREVIOUS INTERNATIONAL BILATERAL ACTIONS

The first international actions made towards disarmament and the control of production of missiles or anti-missile ballistic systems were bilateral. As mentioned before, the production of such systems began during the Cold War and together came the efforts for containment of its development and production. Both superpowers at that time, the Soviet Union and United States, were the responsible for those first developments and treaties.

The most important of them, already explained, is the Treaty on the Limitation of Anti-Ballistic Missile Systems (ABM Treaty). The ABM was signed in 1972 and had the objective of reducing the production and deployment of such systems in the U.S. and also in the Soviet Union, limiting the amount of sites and missiles permitted for each superpower. This Treaty also ensured the maintenance of mutual vulnerabilities between the countries, avoiding the possibility of nuclear primacy from one of the superpowers. Therefore, it's possible to affirm that both superpowers were compromised with the deterrence system and with the stability of the International System (Burns 2010).

At the same time, with the negotiations of the ABM Treaty, the Strategic Arms Limitation Talks (SALT I) was taking place. The SALT I pact had the specific objective of "freeze" the production of Intercontinental Ballistic Missiles (ICBMs) to its current numbers of 1972, the same year of the signing of the ABM Treaty. This was also a bilateral initiative from the Cold War and was expected to diminish the production and deployment of long-range ballistic missiles (Burns 2010). Although, according to Burns (2010), it failed to reduce either country's

ballistic missile arsenal. The continuation of this initiative occurred with the SALT II, another round of negotiations between USSR and U.S. that lasted until 1979. SALT II aimed mainly on the reduction of MIRV warheads, but was unable to achieve results in this sense (Burns 2010). The SALTs gave rise to the Strategic Arms Reduction Treaty (START) I and START II, in 1991 and 1993, respectively, both between the same parties and with the objective of nuclear weapons reduction.

In April of 2010, the START I gave place to the Treaty between the United States of America and the Russian Federation on Measures for further Reduction and Limitation of Strategic Offensive Arms, known as New START. This Treaty limits the deployment of strategic warheads in 1.550 for each country, encouraging them to reach this number no later than seven years after the New Start entry into force - in 2011. In order to implement the treaties obligations, both countries established the Bilateral Consultative Commission, which should meet at least twice a year. However, due to the international adverse situation, the Treaty hasn't been respected in the last and current years and both countries even have raised their aggregate numbers of strategic offensive weapons. (NTI 2015b).

### 3.2 PREVIOUS INTERNATIONAL ACTIONS OF THE UNITED NATIONS

The Disarmament and International Security Committee (DISEC) has made several efforts towards disarmament and nonproliferation in the last years. Nevertheless, the resolutions already approved by the General Assembly, based on the reports of the DISEC, have focused mainly in issues like nuclear and mass destruction weapons, mines and arms trade. The efforts regarding the strategic or theater ballistic missiles or the defensive missile systems have few discussions and are included in different ways in the existing resolutions.

Since the last years of the 1990s, the General Assembly has passed resolutions that welcomed the bilateral efforts of the Soviet Union/Russia and the United States – to reduce strategic offensive arms. In the year of 2000, the United Nations General Assembly (UNGA) approved a resolution that included in its first topic: Preservation of and compliance with the Treaty on the Limitation of Anti-Ballistic Missile Systems. This resolution called on each of the States Parties to preserve and strengthen the ABM Treaty through full and strict compliance to it (UNGA 2000). It also considers the inviolability of the Treaty, the strongest interest of the international community (UNGA 2000). An important part of this resolution is the one that follows

3. Calls upon the parties to the Treaty, in accordance with their

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obligations under the Treaty, to limit the deployment of anti-ballistic missile systems and refrain from the deployment of anti-ballistic missile systems for the defence of the territory of their country and not to provide a base for such a defence, and not to transfer to other States or deploy outside their national territory anti-ballistic missile systems or their components limited by the Treaty (UNGA 2000, online).

This issue has been present in the UNGA resolutions until 2002, so it remained being considered the cornerstone in maintaining global strategic stability and world peace and in promoting further strategic nuclear arms reductions (NTI 2014b). From this year until 2005 the resolutions of the Assembly took into account mainly issues such as nuclear weapons and weapons of mass destruction, nuclear testing, nuclear-weapon-free-zones, terrorism, outer space militarization, etc.

The UNGA has also endorsed other initiatives on disarmament, such as The Hague Code of Conduct against Ballistic Missile Proliferation (HCOC). The HCOC was adopted in 2002 at an international conference held on The Hague. It is the first multilateral code in the area of disarmament and is aimed to diminish ballistic missile proliferation worldwide. The Code is a political initiative, an agreement amongst several States on how they should conduct their trade in missiles. The States are encouraged by the HCOC to take transparency measures regarding the research, producing and testing of such weapons (NTI 2014a). Since 2004, the resolutions of the UNGA started to include a topic welcoming the dispositions of the Code, inviting the non-signatory states to join it and encouraging efforts of this kind to deal with ballistic missiles proliferation (UNGA 2004).

It is also important to mention that the topic "Missiles" in the Resolutions of the General Assembly appeared as a suggestion of agenda - for further discussions and studies - even before the 2000's. However, this discussion has been postponed for several years and has been included inside bigger topics, such as "other matters of disarmament", "other weapons of mass destruction" or even in the resolutions about the HCOC, without receiving specific treatment. Therefore, the topic about missile defense systems has appeared in the DISEC agenda not in a priority or specific way. The main efforts until now turn around the recognition of other multilateral debates on the matter.

## 4 BLOC POSITIONS

Concerned about terrorism and the proliferation of mass destruction

weapons, countries such as **Australia**, **Israel** and **Sweden** have narrowed their relations with NATO and agree on the need for a shield of missile defense system. Australia, for example, has been for decades contributing to U.S. monitoring of ballistic missile activity through a ground station (Davies and Lyon 2014). Besides that, since last year both governments have been working together to position more warships and aircraft in Australia in order to defend its territory from Chinese threat. Israel also has advanced the development of its defense system. Called Israel Iron Dome Missile and already in operation, this system added a new element to the conflict between Israel and Palestine (Tory 2012). Israeli officials are claiming that the shield is destroying 90 percent of missile and rockets that have been fired into southern of the country. Currently, five Iron Dome systems are deployed in Israel, most of them are located in the south, near Gaza, and each operates with a 45-mile radius (Tory 2012).

As seen before, concerned that the systems would help the United States military and allies extend its radar sensor capabilities deeper into their territories and compromise their own strategic deterrent, **China** and **Russia** strongly condemn the deployment of anti-ballistic assets near their borders (Yoon 2015, Kazianis 2015). Both countries claimed that the global missile shield has, in fact, an aggressive guidance, since it is based in the end of the mutual vulnerabilities that kept the peace in the heavily nuclearized world of Cold War (Martins and Cepik 2014). China, for example, in response to rumors of an American TMD' system deployment in South Korea, warned Seoul that such move would endanger their bilateral relationship and threaten regional peace and stability (Yoon 2015). Another illustrative case is from Russia, which notified Denmark that Danish warships might become targets for Russian nuclear missiles if the country decided to join the NATO missile defense shield (Sputnik 2015a). Soon after, Moscow also had a similar reaction when Ukraine showed its openness to host NATO's missile defense systems. The Kremlin spokesman acknowledged this move as posing a serious threat to the Russian Federation, forcing the country to adopt the required countermeasures (Associated Press 2015).

Being the target of almost every national missile defense in the world, the **Democratic People's Republic of Korea (DPRK)** holds a strong position on missile defense matters. North Korea's growing arsenal of short and medium-range missiles, in addition with long-range missiles' and chemical weapons' allegations, raises concerns on its neighbors, leading them to pressure Pyongyang in all fronts: diplomatically and economically, mainly through international sanctions, and militarily, both with retaliatory capabilities and with missile defenses. DPRK, by its turn, claims that the ongoing establishment of missile defense system, especially

those space-based, “was nothing but the extension of the confrontation policy of the cold war era, with the main purpose of gaining military hegemony, while creating an arms race on outer space. (UNGA 2013, online)” Pyongyang also states that these systems are justified on the false pretext of its non-existent ballistic missile threat, where even peaceful launches had been tagged as intimidating and belligerent, while other countries are not treated with the same logic (UNGA 2013).

However, the group has some of its members as living-part of the debate, as seen in the case of Iran. Some are more pragmatic. For example, **Egypt** has been increasingly close to Moscow, being the second country after Venezuela to buy the Russian S-300VM (World Bulletin 2014). However, Cairo also keeps strong ties, historically, with the United States in matters of military supply – Egypt has several Patriot PAC-3 U.S.-made batteries – and, more recently, with Israel, who is planning air-defense drills with Egypt and Jordan (Williams 2014).

**Iran** is in the center of the debate over missile defense. Western’s allegations about the growing Iranian capabilities on missile technologies threatening Europe and the United States are promptly denied by Tehran, who claims that its developments aims just to mirror Israeli and Saudi’s strike systems (Cordesman 2012). Indeed, the country just closed a deal for acquiring Russian surface-to-air missiles, which serves as Theater Missile Defenses (Heritage 2015). Ironically, this move led to great criticism by western countries and by regional actors (Sputnik 2015b), like Israel and other Gulf nations, since it might nullify their strike capabilities with, for the first time, systems classified as defensive by them (Associated Press 2013). Diplomatically, in the 18th Meeting of the General Assembly’s First Committee in 2013, the Iranian representative stated that Tehran is concerned especially about the weaponization of space under the pretext of missile defense systems, since those actions jeopardize international community’s efforts to strengthening disarmament and international security (UNGA 2013). In addition, according to Iran, “hosting an anti-missile system was an attempt to gain ‘supremacy over other nuclear-weapon States’. That would not add to the security of host countries or the country operating the system; it would trigger an arms race” (UNGA 2013, online).

On the other hand, the **Gulf Cooperation Council** adopts a worried position on missile and nuclear proliferation in the Middle East, especially in relation with Iran. Accordingly, the member-states seeks cooperation with the United States on a wide range of matters concerning missile defense, consisting in greater information and intelligence sharing, interoperability, additional foreign military sales on both a bilateral and cooperative basis, and joint operational

planning (Karako 2015). Indeed, the U.S.-GCC Strategic Cooperation Forum regularly reaffirmed its intent to work toward “a Gulf-wide, interoperable missile defense architecture” (Department of State 2015, online). While the common framework is not real, several countries have been buying and deploying defenses independently. Saudi Arabia, UAE, Kuwait, and Qatar, for example, have spent billions on Theater Missile Defense systems – the U.S.-made PATRIOT and THAAD (Karako 2015). In 2014, the United States took the unprecedented step of allowing foreign military trades with the GCC as an organization, like NATO and the African Union, allowing members to pool their resources and operations (The White House 2015).

**Japan** is a key Pacific ally of the United States, and both governments are trading the possibility to deploy a Terminal High Altitude Area Defense (THAAD) system and a ground-based version of the Standard Missile-3 interceptors mounted on Aegis destroyers (Japan Times 2014). Japan is also already the site of one American X-band radar, officially known as the AN/TPY-2, which is a central element for identifying ballistic missiles and coordinating a defense by interceptors (Johnson and Shanker 2012). Besides that, Tokyo dispatched four MIM-104 Patriot surface-to-air (SAM) missiles to Japan’s southern border, while another three were placed near the capital (Johnson and Shanker 2012). Japan’s intention is to create a four-stage anti-missile shield (Japan Times 2014). Chinese government is worried that this system has been aimed against its country, but Japan affirms that the country is just improving its ability to defend itself from surprise attack by North Korea. Another country worried about the possible North Korean missile attack is Republic of Korea. In 2006, the country announced that it would create an indigenous missile defense system, the Korean Air and Missile Defense System (KAMD). The systems included in the U.S. and Japan’s missile shield are the Patriot Pac-3 missile defense system, Terminal High Altitude Area Defense system (THAAD), Aegis cruisers equipped with Standard Missile-3 (SM-3) and early warning radars (Montague 2014). A last country that could be included in this group is India, which has also been developing a missile defense system. The Indian government has placed two missile-tracking radars in the capital city of New Delhi, the first part of a planned effort to give the city a nuclear missile shield. The planned program, expected to be operational by 2016, would see New Delhi joining the ranks of cities like Beijing, Washington, London and Tel Aviv that already have missile shields (Tejas 2015).

Since the summit in Lisbon in 2010, the missile shield, which has its origin in the United States, is being built and financed within the **NATO** umbrella. At this summit, they also decided that the scope of the current Active Layered

Theatre Ballistic Missile Defense (ALTBMD) program's command, control and communication capabilities should be expanded beyond the capability to protect forces to also include NATO European populations and territory (Nato Reviews 2014). The U.S. European Phased Adaptive Approach (EPAA) and other possible national contributions were welcomed as a valuable national contribution to the missile defense NATO architecture (Nato Reviews 2014). During its 2012 Chicago Summit, NATO leaders declared that the missile defense system has been tested and installed at in Ramstein, Germany, while others allies provide sensors and interceptors to connect to the system (NATO 2012). Besides that, americans ships with anti-missile interceptors in the Mediterranean Sea and a Turkey-based radar system have been put under NATO command in the German base. That infuriated Russia, which believed the program was intended to counter Moscow's intercontinental ballistic missiles and undermine its nuclear deterrent (Associated Press 2012). However, the Western defense alliance insists the role of the planned shield is a defensive response to external threats, and is in no way directed against Russia or China. On the other hand, some countries members of Union European and also member of the NATO, such as Germany and Hungary. They have been worried about the measures taken by the bloc, because them could result in an unnecessary provocation of Moscow and them could turn the region into an easy target for terrorist groups and, especially, such measures could damage European relations with Middle East (Piccoli 2012).

An interesting group in the missile defense debate is the **Non-Aligned Movement (NAM)**. In spite of being a diverse and heterogenic range of counties, the NAM core values can be identified in the topic. In 2014, **Indonesia** gave a statement on behalf of the group reiterating NAM's concerns regarding the abrogation of the ABM (Anti-Ballistic Missile) Treaty (NTI 2015). The statement was consonant with NAM's 14th General Summit Final Document, which condemned the adoption of national missile defense systems, since they could led to an arms race (NTI 2015). As a diverse group, the NAM encompass countries that are located distant from the instability centers, like **Cuba, Argentina, Brazil** and **South Africa** that often try to conciliate the visions between national security and international stability, attempting to develop institutional tools on national and theater missile defense to build trust among the parties emerged in regional insecurity.

The efforts to clarify the distinction between the theater missile defenses systems against limited threats from terrorists or rogue states and those systems that have affects over the nuclear or conventional balance are also one of **Pakistan's** goals. As seen before, the Pakistani position is severely affected by the Indian

capabilities, which could nullify its deterrence power over Delhi. Accordingly, the country considers the national missile defense systems' proliferation as highly destabilizing, since it would force the development of more furtive and advanced missiles by its forces, generating an arms race in the region (Sohail 2014).

Accordingly, **Venezuela** and **Syria** have also been in the middle of polemics in the last years, since both are seen as threats to, respectively, the United States and its regional South America' allies, and to Israel. These allegations are due to the short-to-medium-range ballistic missile capabilities owned by the two countries. However, recently, when they tried to acquire missile defenses themselves, the criticism was even higher (Associated Press 2013). Venezuela, indeed, has managed to buy the Russian-made S-300VM, the same theater missile defense Iran just bought, however, the Syrians have saw the same air-defense acquisitions from Russia been canceled after western pressures over Moscow (Binnie 2014, Army-Technology 2015). These systems might empower Assad's defense of Syrian airspace, preventing any unauthorized operation from air (through missiles or aircrafts) in its territory (Associated Press 2013).

Upon taking office in 2010, Victor Yanukovych and European Union has been negotiated a possible **Ukraine**'s entry into the bloc. However, this turned out not solidified, especially by Russian pressures, since Ukraine is historically part of its sphere of influence. The withdrawal of the signature with the European Union in late 2013 resulted in protests on Maidan square, dividing the population between those in favor of entry into the bloc and those who were against it and in favor of Russia. This scenario resulted in a civil war that lasted until the present day. The main Russian concerns is that Ukraine's entry into the European Union serve as a gateway also for NATO, which could result in the expansion of the missile shield to Russian borders, representing a clear threat to the second Russian attack capability. Currently, relations between Russia and Ukraine are not going well, mainly by the Ukrainian government considers that Moscow is supplying the rebels from the east in the civil war, which is approaching Kiev, the EU and NATO increasingly. In a similar situation, **Georgia**, which is also a country that historically is part of the Russian sphere of influence, has also been discussing the possibility of the country's entry into NATO, which worries Russia even more (Sputnik 2014).

## 5 QUESTIONS TO PONDER

1. Does the usual separation between offensive and defensive strategic weapons

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totally satisfy the reality of the international security debate? How can the development of shield missile systems affect the international system?

**2.** Are there some Ballistic Missile Defenses that could be harmful to international stability? Should there be regulations to the development of missile defense systems?

**3.** How important is to differentiate National Missile Defense and Theater Missile Defense?

**4.** What is the correct balance between national defense and regional/global stability? Is the debate relevant to countries' decision-making process or the security dilemma (the self-help situation) will remain an imperative in foreign and security policy?

**5.** How can the UN, DISEC and the international community act to prevent surprise attacks? What are alternative options for preventing these attacks?

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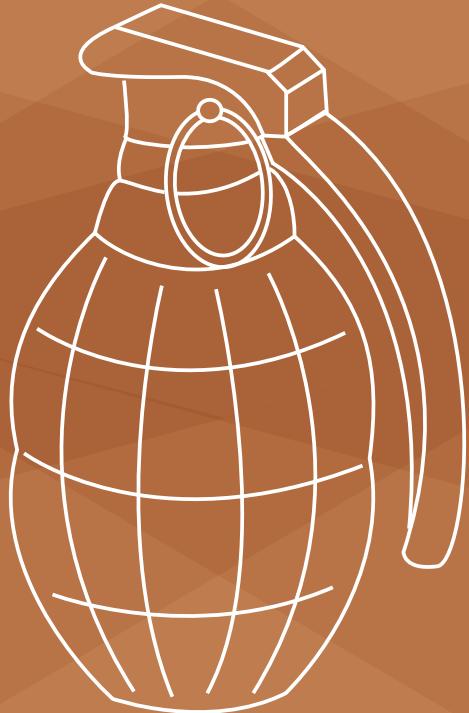
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# PREVENTION AGAINST AN ARMS RACE IN OUTER SPACE

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## ABSTRACT

The Outer Space has a great importance nowadays, and it is no longer possible to our society exist without it. Although it does not have a State that owns it, few countries have the capabilities to use and control technologies that involve the Outer Space. The United States and the Soviet Union had disputed it during the Cold War, what gives these two countries a great importance in this subject, altogether with China. Nevertheless, all countries depend on this sphere, and most countries defends that this should be a peaceful environment. However, some military activities, such as surveillance and intelligence gathering, use the Outer Space. The discussion arrives to the point of militarization versus weaponization of the Outer Space, in an attempt to establish regulations to the spatial activities. What can be concluded is the necessity of this discussion, in order to prevent an arms race in Outer Space.

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# 1 HISTORICAL BACKGROUND

## 1.1 FIRST STEPS TO OUTER SPACE: POST WORLD WAR II

Right after the end of World War II (1945), the winning superpowers entered a period of tension. Although a World War III never really came to existence, the Cold War between the United States and the Soviet Union (USSR) represented a possible real war scenario. The second half of the 20th century, thus, was a time of mutual threats on the use of force, and of technological and military competition in a bipolar world order (Hobsbawm 1995). This technological competition involved an odyssey to discover new means to develop, allocate and use weaponry. As a consequence, countries spent almost 50 years trying to make space a new war realm, first on a quest to reach it, then to establish a permanent presence, and finally, to use it as a part of their Grand Strategies<sup>1</sup>. Both superpowers tended to emphasize the economic and technological progress space exploration could bring. Nevertheless, the security approach advanced without embarrassment. In the end, even though it is configured as a new frontier where non-military areas can be exploited and developed, space should be seen as another instrument in the struggle for power and influence in the global system (Sheehan 2007).

The story of the Space Race begins in the after-war period, when there was a growing need to develop equipment's capable of detecting other countries activities. By the 1950's, United States' space programs, for instance, were restricted to reconnaissance and surveillance activities, such as the WS-119L Air Force program, that utilized high altitude balloons to fly over the Soviet territory (Bohem, et al. 2001). With the division of Germany between the Western and the Communist blocks, however, each of them incorporated the vigorous rocket programs<sup>2</sup> developed during the Nazi's regime (Wasser 2005). North Americans utilized these rocket technologies to begin their strategic use of space and take a step forward. That happened with project RAND, in 1946, that was an effort to design spaceships for the rockets to launch into orbit.

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1 Grand Strategy is a concept that involves a notion of synergy between foreign, defense, security, industrial and other types of policies that States might elaborate in a given period of time creating, therefore, a broad scope on the long-term objectives a country has in the international system (Cepik and Machado 2011).

2 Operation Paperclip (1949-1990), for example, was an operation that incorporated ex-nazi scientists into Allied research programs. Their objective was to select "rare minds" that were part of the Axis and could develop armaments, so it would not fall into Soviet hands. The main technologies incorporated were rockets like the V2, used later to put American satellites into outer space (Jacobsen 2014).

In that sense, rocket related technologies such as Long Distance Deliver and Infrared Early Warning Systems<sup>3</sup> were a big concern in national laboratories of both blocks. However, for relative long time, American space technology researchers considered it a secondary issue of national security (Bohem, et al. 2001), since Boeing-29 planes remained the main bomb delivery arrangements until their ruin against the soviet Mig-15 planes during the Korean War in 1951 (McGill 2011). Meanwhile, in the USSR scientists spent a decade (1945-1955) also developing rocket technologies to enable the use of long-range weapons. They finally managed to create the ICBMs as vehicles to deliver nuclear weapons on American territory, giving them an advantage relative to their nemesis (Hall and Shayler 2001).

The development of this knowledge on rocket machinery was the hallmark of the beginning of Mutual Assured Destruction period, given that both sides of the Cold War conflict could deliver bombs intercontinentally, but also knew the risks of utilizing nuclear weapons first, making a war less probable to happen (Nucler Files 2015). Nevertheless, it also allowed countries to take objects into the High Earth Orbit. The successful launch of Sputnik I, mankind's first artificial satellite in outer space, in 1957 by the Soviet Union, made the U.S. Government, under Eisenhower Administration, review the national space policy, making it a priority for the next few years. Between 1957 and 1960, it was transformed on a major enterprise with both Congressional and popular support (Bohem, et al. 2001).

## 1.2 SPACE RACE AFTER SPUTNIK I

After the launch of Sputnik I, space became a reachable area. The posterior period was marked by the attempts of both superpowers to either send manned vehicles to space, or to conquer the moon. Lyndon Johnson, in 1957 Senate Majority Leader and Leader of the opposition against Eisenhower, was the main articulator of the requests that urged for a bigger governmental consideration of the consequences that Sputnik I could bring. He saw this issue as a key matter on U.S. survival, referring to Space Control as the key to controlling the world (Wasser 2005).

The U.S. Army was, then, responsible for the first successful American satellite launch into outer space, using the Army Ballistic Missile Agency's Jupiter Rocket, in 1957 (Bohem, et al. 2001). However, to take efforts to a new level and

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<sup>3</sup> Ballistic Missile Early Warning Systems (BMEWS) is a technology that became operational in 1959, and that is used to track Intercontinental Ballistic Missiles and space objects detecting its routes and notify their status (Global Security 2015).

pair up to their nemesis recent achievement, in 1958, the Eisenhower administration felt necessary the creation of a special agency, focused on space exploration with scientific and civil purposes. Later that year, the National Aeronautics and Space Administration (NASA) was born, and its mission was simple: develop a human space exploration program (Launius 2005).

As the moon also showed itself to be an aspect of Outer Space with potential influence on States military behavior, it was not kept aside from space strategy. Thus, considering the possibility that the natural satellite could serve as a military rocket base, that could provide “unequal advantage” for the State that claimed it for itself by making “rain sure and massive destruction”, former American General Homer A. Boushey stated:

[...] their potential military implication is immense. Manned platforms in outer space or missile ramps upon the moon would give the controlling nation a seemingly overwhelming advantage from which to dictate (Wasser 2005).

Whereas the North Americans were capable of reaching the moon with NASA's Apollo 11, in 1969, thanks to a new rocket technology, the USSR started to focus on orbiting satellites systems, mainly for military support. In 1971, they managed to put their first space station into orbit, the Salyut 1 (CIA 2013). As a response, in the same year, Nixon made an unexpected and drastic change in North American space program. First, the president saw no encouragement to perform new manned missions out of the low orbit, since the moon was already at their reach. Second, the Apollo program was to be shutdown, in favor of the new Space Shuttle program for reusable satellite launcher (Callahan 2014). Thus, their policy could be condensed on the allocation and development of surveillance satellites, such as the KH-8 and KH-9, to compensate the other side greatest number of “birds” (Dunningan 2003).

Throughout the 1980s, the Space Race and the Cold War itself reached a critical moment. Ronald Reagan, U.S. President, developed a program to research the possibility of a space-based defense program, later called the Strategic Defense Initiative (SDI, also known as Star Wars). His aim was to, this time, actively use Outer Space as a mean for war and eliminate the threat posed by Soviet nuclear ballistic missiles. He envisioned the creation of Space and Ground Based Sensors and Missile Interceptors, Space Based Kinetic Kill Vehicles and Direct Energy – beam and laser – weapons (Global Security 2015). On the other side, USSR had already started to research on space-based weapons long before Reagan's SDI. Their intent, however, was not to intercept Ballistic Missiles, but to disable north-American defense system –before it even existed. They invested in a laser “cannon”

project called Skif, and in an orbiting missile launching craft, called Kaskad, that could take down other satellites like those that would be used in the U.S. missile interception program (Day and Kennedy III 2010).

The SDI was later abandoned due to budget issues and both international and national pressures. It created, nevertheless, the bases for the potential use of space as a realm for missile interception equipment and weapons in general, an idea later cropped out in George W. Bush's administration, though with a broader scope of action (Global Security 2015). The Soviet Union, in a state of evident decay, responded to the initiative in an unexpected way: Gorbachev, knowing that the USSR could not match the American program, and that trying to would show its growing technological and economic limitations, made a last effort to show the peaceful purposes of their space plans through propaganda (Sheehan 2007). Their attempt to demoralize the U.S. space exploration failed, and among other factors, contributed to the fall of the Soviet Union, in 1991.

### 1.3 A NEW WORLD ORDER: EMERGING SPACE PROGRAMS

The beginning of the 21st century came to know not only new forms of making war, but also new types of threats to the international stability, such as terrorist cells and fast-growing economies. Outer Space, however, remains a key aspect of States' security agendas. The increasing number of countries seeking to uncover its potential uses, alongside with the always-advancing technologies on this matter make offensive space capabilities be closer than ever, and Outer Space may effectively become a war arena in the next decades (MacDonald 2008).

In 1989, the USSR, under Gorbachev's administration, engaged itself in a concession policy in the Middle East, ending the called 'Arc of Crisis' and leaving the correlation of forces in favor of Western powers. In this context, the U.S. invaded Iraq in a Security Council supported operation, justified on the defense of Kuwait's national sovereignty. The Gulf War was a mean for the north-Americans to put into practice its new 'medium intensity conflicts' strategy destined to eliminate the military and economic capabilities of regional medium powers (Visentini 2012). Space weapons made its debut in this war's Operation Desert Storm: it was the first time the U.S. used satellites outside of training missions, with the Global Positioning System (GPS) and navigation systems assisting troops of the coalition in major land campaigns. Space based technology, since then, became essential for armies' arsenals; GPS technology is now prominent in both civilian and military activities, from weapons systems to individual warfighters guidance battling abroad (Dissinger 2008).

The Kosovo (1998) and Iraq (2003) war, just like the Gulf War, showed the growing importance of space interface and high resolution images in contemporary warfare, not only in the operational scale (involving, thus, the civil economy) but also in the tactical scale (the military campaigns themselves). While during the Gulf War the United States used around 52 military satellites, this number doubled for the Iraq invasion in 2003. Their troops had 90% of communications services, 95% of their surveillance information and 100% of their positioning and navigation status coming from satellites (Cepik and Machado 2011).

On the other hand, despite the intense technological developments of the Soviet Union Era, when its Space Program was even capable to overcome the American at some points, the Russian Federation goes through a struggle to come up with new plans for space design and weapons for nearly two decades. Its technologies are mainly little incremented copies of old soviet rockets and apparels, such as the Angara, that is now being reproduced in the new Soyuz-5 design. Besides, the recent effort to reconsider the Federal Space Program before 2016 had some financial restrictions due to the economic sanctions to Putin's administration (Bodner 2015). Thus, the country's plans to develop Soyuz-5, bring back the Energia Rocket or build a new space station – derived from the Russian Segment of the International Space Station – are not viable in the current situation. The problem is that Russian space planning is a copy of Soviet initiatives, but without the same old social structure where they could select the finest minds and provide abundant resources; mostly because they are not being able to adapt its primary state concerns with the gradual dominium of space by commercial companies (Bodner 2015).

Finally, it is important to highlight the Chinese space program, which had a recent unprecedented impact on other countries' space militarization strategies. China's massive economic growth followed by a market liberalization permitted the accumulation of resources (both financial and natural) and the achievement of high technology means in a very short period. When China saw itself threatened by the Nuclear power of the U.S. and was abandoned by the former technological cooperation it had with USSR, the Chinese had to independently trace the guidelines for its development of capacities in space matters (Cepik and Machado 2011). In 2007, China launched a missile into space, successfully destroying one of its old communication satellites. This changed the whole perspective of countries (mostly of the U.S.) on security thinking, because now another country proved able to shoot down Low Orbit (LEO) satellites on which the military heavily depends. In 2008, the United States responded by launching a modified missile-defense interceptor, which also destroyed one of their unused satellites.

This means that both countries face a dilemma on using or not these capabilities, and that a new Mutual Dissuasion scenario is possible (MacDonald 2008).

This discussion extends to the point where most countries now depend on space technologies, being for defense matters or commercial and civil ones. Although three countries represent the immense majority of ICBM's possessions and satellites control, pretty much all the UN members are somehow connected to the space assets. We have historically gone from satellites use in surveillance programs, passing through the fear of mass destruction raining from the moon, to the idealized space-based weapons and defense apparatus to finally reach the technologies that allowed us to destroy the objects we ourselves spent decades to put into the Earth's orbit. The paradox of the militarization of space represents a main issue on the contemporary world system, and it can either maintain the status quo, or represent the beginning of a new major instability among superpowers.

## 2 STATEMENT OF THE ISSUE

The Outer Space has been used for a short time in the history of humankind. Even though, the discussion about the utilization of this new sphere has started, and some definitions need to be made in order to prevent an arms race in Outer Space. Some concepts, however, must be clear before this discussion.

### 2.1 DEFINITION, IMPORTANCE AND USES OF THE OUTER SPACE AND SPACE ASSETS

The Outer Space is defined as all the space above 100 kilometers of the sea surface, in other words, the space above the Kármán Line. Above this point, due to environmental conditions of the atmosphere, an aircraft cannot be sustained and can only achieve an orbital velocity (Cepik 2015). The Outer Space is not a friendly environment for humans, but is used by them, through satellites, for many purposes.

Outer Space has transformed the way people live, and it is no longer possible to live without space-based infrastructures. The Outer Space is necessary for many sectors of the economy, such as agriculture, shipping, aviation and finances (Center for Security Studies 2015). Besides that, space-based infrastructures are also needed for monitoring weather conditions, long distance communications and military activities, such as surveillance, reconnaissance and electronic intelligence (Dunningan 2003, Cepik 2015).

The exploration of the Outer Space resulted in the developing of a new field

of study and scientific research, which bequeathed the society important technologies like batteries, photo cameras and food conservation (Ribeiro 2007, Cepik 2015). In addition, the exploration of the Outer Space created a new industry that brings development and social welfare to countries that invest in this new sector, through technological spillover (Space Foundation 2013).

All the activities mentioned above converted the Outer Space in a vital area, and are possible due to devices developed by men and launched into Outer Space for different purposes – the satellites (Cepik 2015).

## 2.1.1 SPACE ASSETS: SATELLITES, ORBITS AND LAUNCH RESOURCES

Before the discussion about the use of the Outer Space, it is important to understand some key concepts for the operation of human activities in the Outer Space. The first and most important are satellites. They can be used for many different purposes, and each type of satellite fulfills a function. The main types of satellites are:

- (i) **Communication satellites**, used for civil and military long distance communications;
- (ii) **Navigation satellites**, used for orientation and navigation in the ocean and in the earth, and weapon guidance;
- (iii) **Observation satellites**, used for reconnaissance and gathering intelligence;
- (iv) **Remote sensing satellites**, used for monitoring the agriculture and natural resources; and
- (v) **Weather satellites**, used for monitoring weather conditions and gathering data for the weather forecasts.

According to its function, each satellite orbits in a determined trajectory. There are four main types of orbits, with specific characteristics favorable for specific types of satellites. The main types of orbits, which are demonstrated in Image 1, are:

- (i) Low Earth Orbit (LEO): It is the closest orbit to the earth, with an orbital height lower than 2,000 kilometers. The LEO is favorable for satellites of observation and reconnaissance;
- (ii) Medium Earth Orbit (MEO): This orbit extends between an orbital height of 2,000 kilometers to an orbital height of 20,000 kilometers. The MEO is favorable for navigation satellites, such as the American Global Position System (GPS) and the Russian GLONASS;
- (iii) Highly Elliptical Orbit (HEO): In this orbit, the satellites are positioned,

most of the time, in a single region of the globe. The HEO extends between an orbital height of 500 kilometers to an orbital height of 35,000 kilometers, and is favorable for communications satellites; and

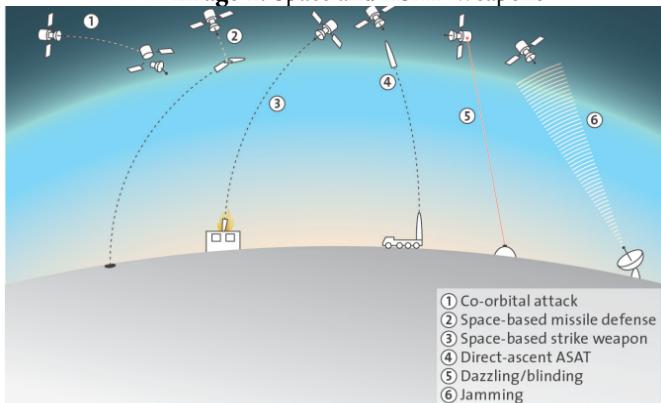
(iv) Geostationary Earth Orbit (GEO): In this orbit, the satellites are always in a fixed position, in an orbital height of 36,000 kilometers. The GEO is favorable for communications satellites (Cepik 2015).

Besides the type, orbit and quantity of satellites, there are other important assets for the use of the Outer Space, such as launch vehicles, launch sites and ground control stations. It is important to pay attention to the launch vehicles, which are used for launching satellites into Outer Space, but can also be used for launching missiles. This potential dual use (civil-military) can create problems and be considered threats to other countries' national security (Maogoto and Freeland 2007b, Cepik 2015). Finally, it is important to address that for a real operational use of the Outer Space, the country must have the ability to maintain satellite and ground-based communications systems, in order to benefit from all possibilities that the Outer Space offer (Ávila, Martins and Cepik 2009).

### 2.1.2 THE MILITARY USES OF THE OUTER SPACE

After understanding the basic principles about the Outer Space, we can now enter the discussion about military resources in Outer Space. As we saw, the Outer Space is used by the military in order to assure communications, get information and guide weapons. The utilization of satellites for military proposes can be classified in two types: passive and active. The passive use of satellites means support the military action, and it is divided in (i) communications; (ii) geodetic information; (iii) meteorology; (iv) navigation and positioning – that include the weapon guidance; and (v) reconnaissance. The active use of satellites converts them into weapons and it is divided in (i) anti-satellite weapons systems and (ii) ballistic missile defense (Sheehan 2007).

It is important to pay attention to the anti-satellite weapons (ASAT), for its capability to destroy satellites, taking the surveillance and reconnaissance ability of a country (Ávila, Martins and Cepik 2009). The project of the ASAT can be divided in two mains categories: (i) "Soft Kill", which would cause temporary losses; and (ii) "Hard Kill", which would cause permanent damage (Cepik and Machado 2011). The Image 1 illustrates the types of ASAT weapons.

**Image 1: Space and ASAT Weapons**

Source: CSS 2015, 66

### 2.1.3 SPACE DEBRIS

Another concept that must be clear in the discussion about the utilization of Outer Space is “space debris”. Space debris are objects that are in the orbit of the earth that have no practical use. Usually they are old satellites, leftover remnants of rocket boosters and fragments of satellites that have been destroyed. These space debris are a result of decades of ill-regulated activities in Outer Space, and can cause problems: a high-velocity impact with them can degrade or destroy a spacecraft, and some orbits could become unusable because of the concentration of space debris. (Klein 2006, Center for Security Studies 2015)

## 2.2 FORGING AN OUTER SPACE POWER THEORY

Bearing in mind that men have been using the Outer Space for less than a hundred years, it is usual to lean on Sea and Air Power Theories to forge a Space Power Theory, even though there is no consensus about such theory.

Giulio Douhet developed the Air Power Theory in his book “The Command of the Air”. According to Douhet, the Air Power overlap the ground and sea powers, and in the future all battles would be decided in the air. The winner would be the one that could attack the fundamental industries and roads of the enemy, reaching the economical centers. Besides that, the Douhet’s theory was the base for the developing of the strategical bombing, which had the intention of hitting civil targets, unsettling the moral of the people and generating paralysis through terror. Later, this would be known as the doctrine of Shock and Awe

(Costa 2014). In the beginning it was thought that the Outer Space and the air should be consider as a unique sphere of war, because both generates similar products for the users (satellites and aircrafts), but the critics of this idea would say that the Outer Space and the air are totally different, due to different environment characteristics (Cepik 2015).

There are two main theoretical of the Sea Power Theory: Alfred Mahan and Julian Corbett. Mahan developed the Theory of the Navy Power, which explicit the centrality of the sea in history, and defends the concentration of forces to win the war, in the battles. His theory was adapted to the Outer Space by Everett Dolman, in his book "Astropolitik". Dolman defended the importance of the dominance of strategic locations, such as the low atmospheric layer, geostationary orbits, Hohmann transfer orbits and Lagrange points – L4 and L5 (between earth and the moon). He affirms that the States must occupy or control these strategic locations in the Outer Space in order to assure its interests, just as Mahan said about the sea (Cepik 2015). Another similar point in Mahan's and Dolman's theories is that both authors identify the sea and the Outer Space, respectively, as fundamental to win a war.

Julian Corbett developed the theory of the Command of the Sea, in which the State should control the Sea Lines of Communication to obtain advantages over the enemy. John Klein adapted the Corbett theory to the Outer Space in his book "Space Warfare". Klein would affirm that any disturb in the Outer Space will have economical, diplomatic and military consequences, thus the Outer Space affect the correlation of power between States. Klein affirms that a State must combine all spheres to win a war, and the Outer Space do not define it. The theories of Corbett and Klein are similar, just like Corbett talks about the importance of the Sea Lines of Communication, so does Klein about the Celestial Lines of Communication<sup>4</sup>. Both, in their environment, are fundamental for the State to assure its economic, diplomatic and military interests. Klein affirms that the objective of every State in the space warfare is defend its Celestial Lines of Communication and affect the enemy ones. However, a problem may occur in the Outer Space, just like in the sea: the Lines of Communication may be shared by both States, which difficult the action (Klein 2006, Cepik 2015).

Based on these previous theories, it was developed the theory of the Command of the Space. Cepik and Machado (2011, 114) affirm that The Command of the Space is "the capacity of a country, by itself, to ensure its access to and use of space in peace and war, without the possibility of other country deny it". The

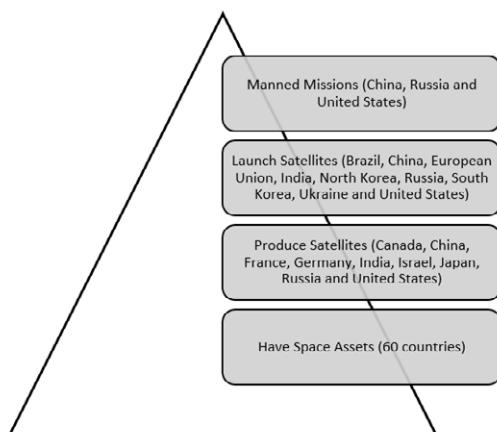
<sup>4</sup> Celestial Lines of Communication (CLC) are routes on the Outer Space where are transported materials and information.

Command of the Space could be practiced in three different ways: (i) Presence, by the technological leadership and number of space assets, thus, it would be seen as a reference; (ii) Coercion, by the implicit or explicit threat of using the force; and (iii) Force, by potential hostiles actions (Klein 2006).

The Outer Space is a determinant sphere for the International Relations, for its importance in economics and politics. It determines the interaction between the countries, weighing between cooperation and competition. Therefore, the interaction with interests in Outer Space acquires contours of a Security Dilemma: States consider the space assets as important power capabilities and invest in it, which can be seen as a threat to other States. Thereby, the command of space is decisive for the configuration of the international order (Cepik 2011, 2015).

Since it is a very recent concept, it is difficult to determine which countries do have the command of space. However, the number of States that really use the Outer Space is very limited. Therefore, countries can be grouped in a technological pyramid (Image 2) according to its capabilities. In the base are the countries that have space assets, which are about 60 countries. Above them are the countries that produce satellites (Canada, China, France, Germany, India, Israel, Japan, Russia and United States). Above them are the countries with own ability to launch satellites (Brazil, China, European Union, India, North Korea, Russia, South Korea, Ukraine and United States). In the top of the pyramid are the countries that could accomplish complete manned missions in Outer Space – China, Russia and United States (Cepik 2015).

**Image 2:** Space Technological Pyramid



Source: Cepik, 2015

## 2.3 WEAPONIZATION VS. MILITARIZATION OF OUTER SPACE

The starting point of the difference between weaponization and militarization is that the Outer Space has been “militarized” since the earliest communications satellites were launched into orbit (Estabrooks 2003). Militaries around the world rely on space assets for C4ISR (command, control, communications, computers, intelligence, surveillance and reconnaissance) purposes. Besides that, the emphasis of researchers on defense accepts military uses as a “peaceful purpose”, even when it is not particularly peaceful (Estabrooks 2003).

Another point to consider is the use of satellites to assist military operations. This is very different from the fight-testing and deployment of platforms specifically designed to kill satellites in space. By all means, these military activities would constitute space weaponization by any reasonable definition. Krepon and Clary (2003) also claim that space actors view the distinction between militarization and weaponization as vital, even if the precise crossover point remains a contentious subject.

In addition to this debate, Sarah Estabrooks (2003b, 2) states that

Although space is heavily militarized, it is not yet weaponized. Space “weaponization” is generally understood to refer to the placement in orbit of space-based devices that have a destructive capacity. Therefore, while satellites may be used for aggressive measures, such as GPS navigation of fighter jets or precision guided missile delivery, satellites themselves have no destructive capacity and their support of military operations would not be considered weaponization.

A conceptualization that complements Estabrooks’ thoughts derives from a study made by the Association Aéronautique et Astronautique de France (2008). According to this group of researchers, the concept of “militarized” outer space has been replaced by that of “weaponized”:

The expression “weaponization of space” defines the process which results in the deployment of weapons in space which may then become a theatre of conflict, a battlefield, through the use of weapons aimed at destroying targets either in orbit or on the Earth’s surface. As already said, the arming of space constitutes a destabilizing factor for international relations (Association Aéronautique et Astronautique de France 2008, 62).

Also, according to David DeFrieze (2014), the concerns over weaponization involve the potentially destructive nature of space weapons. He states that it is impossible to define what constitutes a space weapon, and controlling an arms race based on definitions of what constitutes a weapon is doomed to failure with the

exception of those clearly posing a substantial risk to humanity, such as nuclear and other weapons of mass destruction. The author finishes his argument defending the attempt to regulate and control the destructive behavior of nations rather than attempting to limit their technology – the main issue must be how countries use their technology.

Another way of seeing the issue depends on a state national security interest, where the interpretation of what is weaponization/militarization may vary - these definitions shows us how intricate is the reference to what can be deployed into space-orbits. Addressing North American national security interests, the United States uses space for military and commercial purposes far more than any other country. Also, their space policy acknowledges that the space assurance, unlike space dominance, holds the promise that the weaponization of Outer Space can be avoided (Krepon and Clary 2003).

The Pentagon has affirmed that there are no U.S. “force application” assets now operating in space, and there are no reported weapons in space orbited by other nations. The absence of flight tests and deployments of instruments of space warfare affirm that we have not yet crossed critical thresholds associated with the weaponization of space (Krepon and Clary 2003). Furthermore, it is recognized that definitions of what is a weapon in outer space must rely on the purpose for its use. In this sense, it is better to look for what interests are set to be protected and find means to protect those interests rather than to choose to assault others (DeFrieze 2014).

## 2.4 WAR IN OUTER SPACE: IS THAT POSSIBLE?

The debate on the possibility of a war in Outer Space is controversial. According to James Dunningan (2003), space war will occur when there is a war involving the nations that use space. However, as we know, many wars occurred involving nations that have some sort of space assets. History showed us that all grounds had some sort of conflict (air, land and sea), and in space it will not be different. Military satellites are increasingly the minority in space. At the same time, many more of the civilian satellites perform the same functions (reconnaissance and communications) as military ones (Dunningan 2003). Therefore, it does not necessarily follow that weaponization will continue to be avoided in a new era of asymmetric warfare (Krepon and Clary 2003).

David DeFrieze is emphatic in stating that we will never completely prevent countries from engaging in war. However, he also states that we can support peaceful measures to prevent escalation of conflicts and provide deterrence against

aggressive or irresponsible behavior. The author says that contemporary international agreements do not offer means of addressing claims for destructive activity, relying heavily on diplomacy. He points out the need of a committee to provide a credible, knowledgeable, and equitable forum for regulating, monitoring, and adjudicating claims and disputes relating to the damage caused by objects launched into space, whether they are designed for destruction or not (DeFrieze 2014).

The Vision for 2020 document published by U.S. Space Command in 1997 was one clear indication of U.S. intentions for space weaponization (Estabrooks 2003). In the 21st century, the U.S. is preparing its doctrine to establish “space superiority”, where they emphasize the need for “innovation within the armed forces [which] will rest on experimentation with new approaches to warfare, strengthening joint operations, exploiting U.S. intelligence advantages, and taking full advantages of science and technology” (Maogoto and Freeland 2007a, 1094).

Dunningan (2003) emphasizes that a country can affect an enemy communication by destroying its satellites or jam/blind them. Space warfare is now seen primarily as a mean of denying information support and command and control. The prevention of space conflict may depend on the recognition of mutual vulnerability in space, and the internalization of a sense of shared interest in avoiding worst-case outcomes (Center for Security Studies 2015).

Michael Haas, political scientist and researcher from the Center for Security Studies, analyses several trends that point in the direction of an increased risk over the next ten to twenty years of terrestrial conflict that may involve attacks on space systems, including the use of kinetic ASAT weaponry (Center for Security Studies 2015). Haas affirms that these trends are primarily the results of the re-emergence of sustained strategic rivalries among some great and medium-sized powers including the U.S. and China in East Asia, the U.S. and Russia in Eurasia, and potentially the China – India – Pakistan triangle in South Asia. Except Pakistan, all of these states have already demonstrated a basic anti-satellite capability, and the U.S. and China in particular are integrating space warfare scenarios into their military planning (Center for Security Studies 2015).

War in Outer Space would probably result in massive environmental damage – especially space debris and the increased probability of satellite chocks. Depending on the number and position of satellites destroyed, the utilization of affected orbital slots could be severely injured. In a worst-case scenario, these orbits could become virtually unusable for extended periods, as most of the debris would remain in place for decades or even centuries, with serious implications for both commercial and military users (Center for Security Studies 2015).

Another important issue to be considered in the context of a space war is the

necessity to regulate international actions towards space. In this sense, a dichotomy is built: to prevent a war in Outer Space, the regulation is needed. However, this same regulation may create barriers for the deployment of new space assets from countries developing it in the 21st century. According to Leloglu and Kocaoğlan (2008), the number of countries that benefit from space industry is still very restrict, and these countries need to cooperate and create regional space programs in order to join the group of countries that are benefited from this sector.

A problem that comes with the fact that just a few countries have the means to access space and develop scientific research and industry in the field is that the adoption of any regulatory framework would probably create barriers for these countries enter the space sector, by their limited technical and financial resources. It would be more difficult for them to fulfill the new standards of conduct in exploring space related activities (United Nations Institute for Disarmament Research 2015). It is true that cooperation in space will assure that it will be used for the well of humankind (Krepon and Clary 2003).

Finally, Michael Haas (2015) says strategic interaction along the ‘final frontier’ is set to enter a period of considerable danger. Adding to that, Dunningan (2003) made some prospects for the future, saying that a war in space will be largely a robot war, in a truly automated battlefield. It is not possible to make 100% prospects of what could happen; however, Alvin M. Saperstein (2002) says that the alternative to space war is to set a passive defense of space assets together with a treaty guaranteeing a space sanctuary (no weaponization of space). Although an overwhelming majority of countries at the United Nations has expressed support for a treaty to prevent an arms race in outer space (PAROS), only this treaty would not be enough. There would always be fear of secret weaponization on space by the opponent (Saperstein 2002).

## 2.5 CASE STUDIES

### 2.5.1 INDIA

India's first efforts in Outer Space began with clear objectives of social improvement, leading security and military matters in second place. Prime Minister Jawaharlal Nehru believed in the power of science to bring development, leading to India's first projects developed with help of space assets. Those projects were developed aiming to diffuse agricultural knowledge into rural India, where plagues have devastated several plantations. Using broadcast signals, educational programs were transmitted to communities, combining factors to propagate knowledge

through television educational programs. These projects had high popular approval, achieving great goals in the community (Sheehan 2007).

The creation of the civilian space agency, Indian Space and Research Organization (ISRO) happened in 1969. Right after, the government established the Space Commission, with the mission to examine the development and the application of science and special technologies, envisioning national development (Sheehan 2007). ISRO and other Indian research institutions had a tough time, after nuclear tests of 1974 and 1998, facing sanctions of all sorts that barred outside technologies. Meanwhile, it is remarkable that space institutions faced these sanctions in such a positive way, creating alternatives and low cost projects to develop domestic technology using small budgets.

In this context, India was the 6th country to launch, with success, a satellite with its own launch vehicle. Also, according to Sobia Paracha (2013), the country has put in place the largest system of remote sensing satellites in the world: the Indian Remote Sensing Satellite (IRSS) series. It has also developed one of the largest communication satellite systems in the world: the Indian National Satellite (INSAT) series, with 10 satellites in operation, verifying the Asia Pacific region. Before the transition in space policy to a more military orientation, India was using its communication satellites for command and control of its forces, and meteorological satellites for weather conditions in battlefield and military operations (Paracha 2013).

Among other things, the Indian space program has helped the country to establish its diplomatic and political position in South Asia, making it strategically superior to Pakistan and a credible competitor to China (Paracha 2013). In 2008, India launched Chandrayaan-1 – its first successful launch to the Moon. It verified the existence of water in the natural satellite, serving as a practical opportunity to ensure the possibility of developing complex projects. In 2014, the country successfully launched its Mars Orbiter Mission, becoming the first Asian country to reach such achievement. These conquests were important contributions of India in the current Asian space race, becoming a symbol of the dissuasion capacities of the country – its launch vehicles are the base for their ballistic missiles, and Indian strategists admit to measure security efforts related to threats of China.

The Indian space program is increasingly militarized. A clear policy shift in this direction has taken place since 2007, after China's ASAT tests. The transformation is happening because of international cooperation, especially in the civilian domain. In order to get foreign support, India projects the civilian image of its space program by arguing that there are bureaucratic and organizational barriers between civil and military programs that control internal diversion. At the same

time, there exists evidence of civilian technology acquired through foreign sources being diverted for military use (Paracha 2013).

## 2.5.2 EUROPEAN SPACE AGENCY

The European Space Agency (ESA) officially started in 1975, in the middle of the Cold War, as the European countries did not want to stay behind in the space race. In fact, many European countries already was investing in space assets, and the ESA was created to promote cooperation among them in space research and development of space assets and to coordinate these efforts in order to benefit all member States (Pasco 2011, Cepik 2015).

It is important to notice that not all European countries participate of the ESA: There are 22 member States – Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxemburg, Netherlands, Norway, Poland, Portugal, Romania, Spain, Sweden, Switzerland and United Kingdom. Bulgaria, Latvia and Slovenia are ‘European Cooperating States’ and Canada has signed a cooperation agreement with ESA (ESA 2015). All these countries contribute in the funding of the Agency, according to its GDP. In 2014, the main contributors were Germany, France, Italy, United Kingdom and Belgium (Cepik 2015).

The year of 2007 can be considered a mark in ESA’s history, as the European Space Policy was published. In this document, the ESA clarifies the Agency intentions in outer space. The resolution emphasizes the importance of space programs in the development and independence of Europe and its people, and affirms that the member States could use civil space assets like Galileo (the European satellite navigation system) for defense matters (ESA 2007).

The European Space Agency has many projects and research programs. The main project of the ESA is the Copernicus, an Earth observation project. After that, there is the Galileo, a navigation project like the United States’ GPS. The main targets of research of the ESA are the monitoring of polar activities, providing images of natural resources and providing information to emergency services (Cepik 2015). The Agency does not have satellites for military purposes; however, there are assets that may be for dual use (Union of Concerned Scientists 2015).

In comparison with other space agencies, the European Space Agency is an important player in outer space. The Agency has its own launch sites and have already send manned missions into space. However, the ESA can be prejudiced by an intrinsic characteristic: the diffuse decision power - the agency is not attached to a unique State like the other important space agencies, or to the European Union (Cepik 2015).

### 2.5.3 JAPAN

Japan's efforts into space began in 1955, with the launch of the "Pencil" rocket. However, it was only in the 1960's that the country's space policies and organizations took shape. In the beginning of that decade, the National Space Activities Council (NSAC) was set as an advisory committee to the Prime Minister, listing a series of principles of Japan's space activities: "autonomy", "international cooperation", "peaceful purposes" and "openness to the public". The Space Activities Commission (SAC) replaced this committee, in 1968 (Watanabe 2013).

Over the following years, Japan's Space Program became engaged in international cooperative efforts, joining forces with NASA and ESA, in 1985 and 1986. Next great accomplishments were related to successful launches, like H-II rocket, in 1994, and its indigenous rocket H-IIA, redesigned to reliability and minimize costs (Watanabe 2013). In 2003, Japan begun its space efforts in space security, launching the series of Information Gathering Satellites (IGS). It is important to address public and private efforts to indigenize space technology in Japan, which lead to the militarization of its space assets. Furthermore, according to Hirotaka Watanabe, in the past decade, Japan found difficulties in managing both peaceful purposes and open-ness to the public, together with its autonomy and international cooperation in space.

Restricting to national securities interests, Japan is an important space player in Asia. According to National Asia Research Associate, Saadia Pekkanen,

Japan has the latest rocket and satellite capabilities for both civilian and military uses. It has independent capabilities for solid- and liquid-fuel rockets and a wide spectrum of advanced satellites that can be reconfigured for military uses. Japan has conducted manned space activities and space science missions and is now planning human spaceflight. Importantly, its developments on all fronts have taken place in plain sight of the public and under constitutional mandates stressing the peaceful uses of space (Wilkinson 2011).

Finally, there are two crucial documents to understand shifts about Japanese efforts in space: Basic Space Law of 2008 and Basic Plan for Space Policy of 2009. These documents focus on new diplomatic and security challenges, trying to answer three questions: 1) how to enhance national security utilizing space; 2) how to promote space diplomacy; and 3) how to reform the space-related administrative organizations (Watanabe 2013).

## 2.5.3 CHINA

The Chinese Space Program started in 1956 with the establishment of the Fifth Academy, linked to the Chinese National Defense Ministry, responsible for developing the program. All the first developments of the Chinese capabilities in Outer Space were military ones. Just in the 1980s, some parts of the program were transferred to civilian control. Even though, nowadays 75% of the Chinese space assets are military controlled (Cepik 2015).

China launched its first rocket in 1960, and five years later, the country started the efforts to build its first satellite. In 1970, a launching vehicle was developed, and it was capable of launching the first Chinese satellite. In the 1980s, the Chinese Space Program passed thought a reorientation, focusing in the civil and commercial sectors over the defense one. There were massive investments on launching capabilities, and China started to offer launching services to other countries, thought the China Great Wall Industry Corporation. In 2003, China could send its first manned mission into space. In 2007, the country was successful in testing an ASAT, destroying an old Chinese satellite. In 2011, the Beidou, a position satellite system like the United States' GPS, become operational for clients in China (Cepik 2015, Sheehan 2007).

The Chinese government, concerning the Chinese Space Program, affirms that the development of the space industry has a strategic importance for the country and that the space program contributes to national development goals (Sheehan 2007). The Program is fundamental for China, and the government stresses the welfare that it brings to the population. According to the 2006 Chinese white paper, the space program is “a strategic way to enhance its economic, scientific, technological and national defense strength, as well as a cohesive force for the unity of the Chinese people.” (Cheng 2011, 450). In international forums, the Chinese position regarding the use of space is toward the pacific use of this sphere (Cepik and Machado 2011). According to Sheehan (2007, 167) “China’s preference is for space to be maintained as a weapons-free sanctuary supportive of its overall development policies.”

China has one of the most important space programs of the world, and according to Cepik (2015) the Chinese program is the most ambitious and active space program nowadays. The country possess four launching sites and all types of satellites. Moreover, China invests in the production of micro and nano satellites, having the larger industrial park in this sector (Cepik 2015). In conclusion, China is a very important player in the space, and the national development of the country is very attached to the development of its space program.

### 3 PREVIOUS INTERNATIONAL ACTIONS

Given its increasing importance, Outer Space has become an arena for institutional development in the international system through disputes and rule definitions (Cepik 2015). In this sense, the discussion on the uses of the Outer Space is made mainly in a multilateral level, even if bilateral agreements are commonly used. Aiming to prevent an arms race in Outer Space, states ratified treaties and conversations on delicate issues, as anti-ballistic missiles and technologies that depend on space assets.

Most of these agreements took place in the context of the Cold War, as part of the stabilization of the International System of the Great Powers (Cepik 2015). In this context, the Committee on the Peaceful Uses of Outer Space was established as a permanent body through the resolution 1472 (XIV) at the General Assembly, in the 14th session that took place in 1958. It started with only 24 members, and nowadays, it has 77 members (UNOOSA 2015). This committee is a forum for the development of international space law and since its inception; it has concluded five international legal instruments and five sets of legal principles governing space-related activities.

In its scope of action, the committee consider three main issues. The first is to maintain close contact with governmental and non-governmental organizations concerned with Outer Space matters. Second, to provide for the exchange of such information relating to Outer Space activities as Governments may supply on a voluntary basis, supplementing, but not duplicating, existing technical and scientific exchanges. Third, to assist in the study of measures for the promotion of international cooperation in Outer Space activities. According to UNOOSA (2015), there are five main treaties related to space:

1) **The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies** (the “Outer Space Treaty”), adopted by the General Assembly in its resolution 2222 (XXI), opened for signature on 27 January 1967, entered into force on 10 October 1967;

2) **The Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space** (the “Rescue Agreement”), adopted by the General Assembly in its resolution 2345 (XXII), opened for signature on 22 April 1968, entered into force on 3 December 1968;

3) **The Convention on International Liability for Damage Caused by Space Objects** (the “Liability Convention”), adopted by the General Assembly in its resolution 2777 (XXVI), opened for signature on 29 March 1972, entered into

force on 1 September 1972;

4) **The Convention on Registration of Objects Launched into Outer Space** (the “Registration Convention”), adopted by the General Assembly in its resolution 3235 (XXIX), opened for signature on 14 January 1975, entered into force on 15 September 1976;

5) **The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies** (the “Moon Agreement”), adopted by the General Assembly in its resolution 34/68, opened for signature on 18 December 1979, entered into force on 11 July 1984.

The international legal principles in those five treaties provide for many issues. Some of them are: non-appropriation of Outer Space by any country, gun control, freedom of exploration, liability for damage caused by space objects, safety and rescue of spacecraft and astronauts, prevention of interference with harmful substances in space activities and in the environment, notification and registration of space activities, scientific research and exploitation of natural resources in Outer Space and the settlement of disputes. Each one of the treaties give great importance to the notion that the domain of Outer Space, the activities carried out there and all that can bring benefits should be paid to improving the well-being of all countries and of humanity, and each includes development of elements of a common idea of promoting international cooperation in activities in outer space (Cepik 2015, UNOOSA 2015).

Other actions taken by states are agreements. The Strategic Arms Limitation Talks (SALT) where two rounds of conversations between the Soviet Union and the United States on arms control. The SALT I, from November 1969 to May 1972, determined the first agreements limiting and placing restrictions on some most important weapons of both countries. In the Treaty on the Limitation of Anti-Ballistic Missile Systems, countries are directed to the end of an emerging competition defensive systems that threatened stimulate the offensive competition to reach higher levels. Already the Interim Agreement on certain measures related to Strategic Arms Limitation offensive, the two nations took the first steps to verify the rivalry of its most powerful nuclear weapons on land and underwater (DOS USA 2015).

The SALT II, begun in November 1972, aiming to replace the interim agreement for a long-term treaty providing higher limits to the strategic offensive weapons systems. Also aimed to provide an equal number of strategic nuclear delivery vehicles to both countries to begin a process to reduce these vehicles, imposing restrictions on qualitative developments you could threaten the future stability. In the ABM Treaty (Anti-Ballistic Missile), ratified in 1972, the United

States and Soviet Union agreed not to install anti-ballistic missiles, except under very limited conditions laid down in the treaty. Each party also pledged not to “develop, test or deploy ABM systems or components based at sea, in space, in the air or on mobile bases on land” (FAS 2015).

The Missile Technology Control Regime (MTCR) is an informal and voluntary association, established in April 1987 by Canada, France, Germany, Italy, Japan, Britain and the United States in order to contain the spread unmanned systems capable of carrying nuclear weapons delivery systems that specifically can carry a minimum load of 500 kg, at least 300km. The Strategic Arms Reduction Treaty (START-1) was an agreement signed bilaterally between the US and Soviet Union on 31 July 1991 on the reduction and limitation of strategic offensive weapons use. START-1 limits the number of strategic delivery vehicles and nuclear warheads, halving the nuclear arming of 6,000 to 12,000 (Baylis 2006).

The START-2, ratified in 2000, complements the START-1, trying to establish other limits on strategic nuclear weapons to each party. In addition to the reduction of weapons from 6,000 to 3,000-3,500, its treaties delimit the use of supported technologies in space assets, especially regarding the launch vehicles, which can transform into rockets missiles (NTI n.d.).

## 4 BLOC POSITIONS

The **United States of America** is one of the greatest players in space. The country has satellites for civil, commercial, governmental and military purposes. These space assets are used for communication, observation, technology development and navigation (Union of Concerned Scientists 2015, International Institute for Strategic Studies 2015). The country worries about the regulation of activities in outer space, and has the objective of guarantee its national interests and security in space, keeping its stability. The United States defends that the outer space must be a peaceful environment; however, nothing should hinder the right to national and homeland security of the country (Department of Defense USA 2011). The government believes that an international regulation for the use of space is possible, but not before the definition of important concepts, like ‘space weapons’. Moreover, the United States will not give up on its right to defeat space threats (Gertz 2014).

**Canada** has space capabilities, such as satellites for communications, observation and technology development. These assets are for civil, commercial, governmental and military uses (Union of Concerned Scientists 2015, International

Institute for Strategic Studies 2015). The country has a Space Agency since 1989, and it emphasizes the importance of the space in the development of technology. Canada also believes in the cooperation in the use of space, being a great partner of the European Space Agency (Canadian Space Agency 2015). Moreover, the country considers the developing of the national space industry as crucial for the Canadian sovereignty, security and prosperity (Canadian Space Agency 2014).

Another great player in the space sector is the **Federal Republic of Germany**; it has satellites of communications, observation and technology development. These are for civil, commercial, governmental and military uses. (Union of Concerned Scientists 2015, International Institute for Strategic Studies 2015). The ‘German Aerospace Center’ (DLR) is the national space agency, responsible for the German activities in the space sector and cooperation with the European Space Agency (DLR 2015). The German position regarding the use of space highlights the importance of space activities that focus on benefit humankind. The main concerns of the country is to assure the national space industry and international legal frameworks for the utilization of space (Federal Ministry for Economics Affairs and Energy 2010).

**France** also has a strong space program and has several satellites in orbit. These are for communication, observation and technology development, used for commercial, governmental and military purposes (Union of Concerned Scientists 2015, (International Institute for Strategic Studies 2015). The ‘Centre National d’Études Spatiales’ (CNES) is the French space agency, responsible for guarantee France’s independent access to space (CNES 2015). The country is a great partner of the European Space Agency, and believes in the regional development of the space sector (Embassy of France in London 2013). Moreover, the French government supports the non-weaponization of the space, claiming it should be a peaceful environment (Estabrooks 2004).

The **United Kingdom of Great Britain and Northern Ireland** has satellites for communication, observation and technology development purposes, used by civil, commercial, governmental and military actors (Union of Concerned Scientists 2015, International Institute for Strategic Studies 2015). The UK Space Agency is the national organization responsible for the UK Space Policy. This policy highlights that the United Kingdom must assure the British space interests, encouraging academic and industrial space sectors and promoting a safe and secure space environment (HM Government 2014).

Just like the United Kingdom, the **Spain** also has satellites for communication, observation and technology development, used for civil, commercial, governmental and military proposes (Union of Concerned Scientists 2015, Interna-

tional Institute for Strategic Studies 2015). Spain has a space agency, the ‘National Institute of Aerospace Technology’ (INTA), responsible for the Spanish activities in the space sector. The country highlights the importance of regional cooperation in space activities, and enhance the European Space Agency actions (National Institute for Aerospace Technology 2009).

**The People’s Republic of China** is one of the most important countries in the space sector. It has several satellites, with many functions: communication, observation, technology development, and navigation. China’s space assets are for civil, commercial, governmental and military uses (Union of Concerned Scientists 2015, International Institute for Strategic Studies 2015). China has a space agency, the ‘China National Space Administration’ (CNSA), and the government defends a peaceful use of the outer space, focusing in the developing of the Chinese society, and all humankind. China also highlights the importance of regional cooperation in the development and use of space (China National Space Administration 2003).

**The Democratic People’s Republic of Korea** does not have space assets (Union of Concerned Scientists 2015, International Institute for Strategic Studies 2015). However, the country has a Space Agency, the National Aerospace Development Administration, and there has been a satellite launching in 2012, for observation proposes. The government claims its space activities have peaceful intentions, and, just like China, seeks the developing of the country (Talmadge 2015, The Guardian 2015).

The **Republic of Korea** has satellites for commercial, governmental and military uses. These are for communication, observation and technology development (Union of Concerned Scientists 2015). The country has a space agency, the Korea Aerospace Research Institute (KARI), and it has invested in the space sector in order to become one of the major space powers (Kang 2015). The Republic of Korea highlights the importance of international discussions and regulations regarding the use of space, and defends the peaceful use of this sphere, aiming the national security and development (Republic of Korea 2005).

Another important Asian actor in the space is **Japan**. It has satellites for civil, commercial and governmental use, which fit communication, observation, technology development and navigation purposes (Union of Concerned Scientists 2015, International Institute for Strategic Studies 2015). The ‘Japan Aerospace Exploration Agency’ (JAXA) is the national space agency. The country first priority in the space topic is to assure its national defense, and then the industrial development. Japan defends that the space should not hold aggressive asserts, and that international rules for the use of space must be established (Sawako 2009).

**Australia** is developing its space capacities, it has actually one satellite for communications, with dual use (commercial and military) (Union of Concerned Scientists 2015, International Institute for Strategic Studies 2015). According to the Australia's Satellite Utilization Policy (2013), the country highlights the importance of the space access to ensure national security, economic, environmental and social well-being. Even thought, Australia believes that the use of space must be done based on international rules, in order to guarantee a peaceful environment. The country also emphasizes the importance of cooperation in the use of space (Commonwealth of Australia 2013).

**The United Arab Emirates** has satellites for commercial, governmental and military purposes, for communication and observation (Union of Concerned Scientists 2015, International Institute for Strategic Studies 2015). The country has a space agency, the 'UAE Space Agency', and enhance the space industry as an important contributor to the economy and society developments. The United Arab Emirates also emphasizes the international cooperation for the development of the space sector (UAE Space Agency 2015).

Both **Kuwait** and **Qatar** do not have space assets or national space agencies (Union of Concerned Scientists 2015, International Institute for Strategic Studies 2015). Both countries do not have national space policies, but Kuwait defends the necessity of establishing an international accord to prevent the placement of any kind of weapons in space (Kuwait News Agency 2013). Qatar does not have an official position, but the country has a private organization, so called Qatar Foundation, which announced the establishment of an astronomy and space center (Varghese 2013).

**The Kingdom of Bahrain** also does not have space assets (Union of Concerned Scientists 2015, International Institute for Strategic Studies 2015). The first steps in the space sector were made in 2014, with the inauguration of the National Space Science Agency (Geospatial World 2014). The country does not have a clear position on the topic, but it is a great ally of the United States, just like Qatar.

Developing countries usually fall behind on the space race. However, this does not happen exclusively due to technological factors, but it also involves the international balance of power. **Republic of India** is one of these countries that started with space programs seeking to develop the country economy and agricultural capacities, but was never able to aim for the militarized spectrum (Paracha 2013). Despite historical international constrains, recently, the country was able to successfully execute an ICBM launch, which opened a window for the possible development of Anti-Satellite weapons in the future. However, government

officials guarantee that India's space program purposes currently remain pacific and that their technology is mainly for defensive matters (Space War 2012). In general, the majority of its space assets are under government control, and only a few are for declared military finalities, given that India already ratified the Outer Space Treaty (United Nations 2002).

**Islamic Republic of Pakistan** started with a great advantage over its neighbors on space matters. Its space program began by successfully launching rockets and satellites into space before the 21st century. Like many developing countries, it suffered from internal problems that ended up restraining its capability to develop such technologies for some years. Only recently, Pakistan was able to cooperate with China to launch an official communication satellite, and to restart its planning on the development of a remote sensing satellite. The country's space program purposes are mainly for socio-economic and humanitarian development, through agricultural and environmental monitoring (SUPARCO s.d.). Therefore, the country signed and ratified the OST, since it is concerned of the threats the weaponization could bring to its newborn assets (United Nations 2002).

**Republic of Indonesia** is a country with non-consolidated space capacities as well. Their first launch occurred in the 70's, with two communication satellites that were fabricated in the US. Nevertheless, the country started in 2005 its autonomous space capacities development program, achieving another launch in 2007, with a micro satellite that still operates today. There are two more assets being planned now, with a parallel program for the development of human resources and training along with international and regional partners, such as China, Korea, Japan and India (Fitrianingsih 2012). Regarding the weaponization of space, Indonesia declared in 2013 during an ASEAN summit, alongside Russia, that the country will bend every effort necessary to prevent that space become an arena for military confrontation and weapons deployment (RBTH Asia 2013).

Another country that suffers from a delay on the use of space but is currently compensating this capabilities gap is **South Africa**. The country's interest in space began very restrict and archaic, with little perspective. The apartheid regime, however, looked for the development on the use of space. Nevertheless, the US made one more victim of its international pressure and ended every government aspirations on the area. It only came to life again in the recent democracy years, when the SA government started to seek partnerships to develop space technologies, mainly with foreign space tech companies (Gottschalk 2010). Nothing points to a clear interest on the military use of space, and this supposition is reinforced by the country's agreement with most of the basic International Law treaties on the use of space, including the OST (United Nations 2002).

The **State of Israel** began its space related activities through the engagement of an academic community composed by scientists and engineers in the 60's. Years later, the government established its Space Agency emphasizing on the construction of space infrastructure and equipment, culminating on the launch of their first Satellite in 1988. Since that point, activities started to involve also defense matters and reached a consolidation point. The main distinctive characteristic of Israel's space program is its cutting-edge technology, with a present focus on LEO High-Resolution Image Satellites. Perspectives point for the use of such technologies for economic and commercial finalities, but also aiming on the possible contributions for their military capabilities (Ben Israel e Kaplan s.d.). The country, however, ratified the Outer Space Treaty (United Nations 2002).

The **Kingdom of Saudi Arabia** has plans for space exploration that are somewhat ambitious. Since the founding of the King's Space Agency, the main objective has been the development of science and technologies. They seek to become a regional leader in such activities, developing technologies for commerce and geographical observation (KACST 2014). Their latest space asset was launched in order to initiate a collaboration with NASA and Stanford, becoming the first Saudi satellite with capabilities that can serve multi strategic functions, and establishing a possible partnership for the future. Saudi Arabia have neither evidence of a support on the militarization of space, nor perspective on the development of weaponized assets (KACST 2008). Therefore, the country believes in and has already ratified the Outer Space Treaty (United Nations 2002).

**Republic of Turkey** is an essential and traditional state inside of NATO's main strategy. Therefore, it did not face the same severe restrictions on its space planning like other medium powers. However, the country is engaging in a quest to develop new partnerships, in both civil and military means in order to increment its capabilities. The country presents growing interest in sending manned missions to space, cooperating with China in this aspect (Space War 2013). The country is also a signatory of the Outer Space Treaty (United Nations 2002).

**Islamic Republic of Iran**, on the other hand, has an autonomous space program developed during the decades of national embargo. There is an historical fear on the threat posed by the possible use of nuclear weapons by the country. However, Iran's government guarantees that all research done inside its space facility is for peaceful purposes and have no military role. Its rocket and satellite technology, developed inside the country's borders, are mainly for commercial and weather monitoring functions. The only exception pointed out by the local government involves the development of technologies that would allow Iran to control its borders and monitor the possible western movement on its neighbor

countries (Dareini 2012). Iran holds the position of signatory on the Outer Space Treaty (United Nations 2002).

**The Republic of Lebanon**, in contrast to many other countries, has a space program of little expression. It started in the 60's as a premature academic rocket research program, but ended up developing capabilities that were astonishing in comparison to other Middle East states, and even to USSR and the US. After successful launches, the military's became involved to try a major national space project. However, plans were down the drain when the region started to get unstable at later decades. Nowadays, its space program is of pitiful expression and has no capacity to perform or support the use of weapons in outer space (Hooper 2013).

Although in a desolating civil war for the past 4 years, the government of **Syria** decided to start its own space agency. It is not clear, until the present moment, what are the objectives that the government seek to achieve, but official declarations point out to the exclusive research and scientific nature of the program. There are still no satellites or other spacecrafts that hold the country's flag and estimates are that the space program will remain small for the years to come (Toor 2014). Syria is also a signatory of the Outer Space Treaty (United Nations 2002).

**Arab Republic of Egypt** is another newbie on the development and use of space technologies. It has one satellite orbiting the earth, and plans to launch a second one before 2017. The project involves only civil use satellites, specifically remote sensing assets that are planned to be developed through bilateral cooperation. Since it is on its early stages, it does not seem to be a main concern of the Egyptian government to create weapons for the use in space. In addition, the weaponization could put at risk their technologies achieved so far (SUPACRO s.d.). Egypt is also a signatory of the Outer Space Treaty, putting itself against the nuclear use and the offensive use involving space technology (United Nations 2002).

One other country that is still a long way from the developed economies in space matters is **Nigeria**, with a space program a little more than a decade old. The satellite program originated from a partnership with both UK ad China, for technological support. Yet, since the beginning, the country dedicates the space assets mainly to economic and governmental purposes, so it can follow up and aid the Nigerian growth. The only military intended purpose for it is the possible defensive use it can have, based on surveillance and monitoring, against militias in the country (Oladipo 2013). Nigeria currently have a 5 satellite quota and is also one of the few African countries that have already signed and is a party of the Outer Space Treaty, representing the possibility to use this technology in favor of state growth (United Nations 2002).

As Latin America suffered from the purposeful marginalization on technological affairs in order to maintain its dependency, countries of the region are starting a late development on their space programs. The **Bolivarian Republic of Venezuela**, for instance, started space researches in the 21st Century and currently owns only two satellites, granted by a new partnership with China. Their use is focused on communications and geographical research, in order to give economic support to remote communities (Magan 2013). The country does not seem to have short-term space militarization aspirations, and is also a signatory of the Outer Space Treaty (United Nations 2002). In the same way, **Cuba** was left aside from the economic connections of the western world. Although the unseen progression so far, and the unclear ambitions, the country has a concrete plan for creating a space center with Russian partnership (Sweeney 2008). It has no satellites on earth's orbit, and has already signed the Outer Space Treaty (United Nations 2002).

In South America, the autonomy ideal is also very clear. The Union de Naciones Suramericanas (UNASUR), urges for a multilateral cooperation in the region in order to, collectively, elaborate a space agency that could unite their efforts and achievements along with cost reductions. Contrary to other countries in the subcontinent, **Brazil** is pushing its space program mostly on its own. The main plan involves developing and launching a satellite for communication and defense purposes, to monitor the country's borders and naval units. Seen that the access to space is a requirement to the status of great power, it seeks to accomplish independently this ambition, and does not consider a short-term weaponization plan (Sanchez 2012). **Argentina** has a space program that is also far from achieving its maturity. It still depends on other countries launch capabilities to put its assets into orbit, counting on both regional and extra-regional partners, such as Brazil and Russia. Therefore, it does not see the weaponization of space as an aspect of immediate interest, and even condemns the security threats that Chile's space program represent to the region (Sanchez 2008). Both countries are signatories of the Outer Space Treaty (United Nations 2002).

In 2006, a representative of the **Russian Federation** argued that if all states observe a prohibition on space weaponization, there would be no arms race. The country also supports establishing an obligation of no use or threat of use of force against space objects (Reaching Critical Will 2015). In addition, Russia has tactical military communication, reconnaissance, target designation and navigation satellites – all strategic space assets, but it does not mean that the country is in favor of the militarization of space. In June 2015, the state successfully launched a military satellite into space. However, it failed to enter the International Space

Station (PRESSTV 2015).

In 2014, **Ukraine** voted against the Russian resolution on “no first placement of weapons in outer space”, which emphasizes the prevention of an arms race in space and that “other measures could contribute to ensuring that weapons were not placed in outer space” (United Nations 2014). Also, in the context of Ukrainian crisis, Russia has suspended cooperation with the country over joint space commercial program, said a representative of the federal space agency Roscosmos. “The project for the launch of Dnepr carrier rockets has been suspended. The prospects of this program will be determined later” (Space Daily 2015).

Caucasian country, **Georgia**, was one of the states that voted against a Russian draft resolution on banning arms race in outer space (NTI 2015). The state acted as an important agent of the Soviet Union during the Cold War period, mainly on the manufacturing of aerial and space materials. The technologies and capabilities developed contribute to the importance that the country has nowadays: it designed the first Space Reflector ever launched. This object is multi-functional, serving for either communication or specialized military purposes, enabling support for the western strategy (Global Security s.d.).

The **Republic of Poland** ratified the Outer Space Treaty in 1968. The country launched its first satellite in 2012, using ESA's rocket. The main objective of this space asset is to monitor space debris and other objects orbiting Earth including the International Space Station (Radio Poland 2012). Also, an intention to develop military satellite communications part of its force modernization (SIGNAL 2008).

The **Czech Republic** is part of the European Space Agency (ESA). Despite cooperation inside this institution, that allows them to participate in joint researches, the government plans to initiate a National Space Programme. Government says this could help the country dive right in scientific and technical development attempts regarding space, despite economic constraints (Prague Post 2014). **Hungary** was the first country to sign a Plan for European Cooperating State (PECS) in November 2003 (Space Daily 2004). The country space agency is not consolidated, but this year (2015), the government achieved the status of permanent member on the ESA. This, politicians believe, could help improve the competitiveness of their industry. Both countries signed the OST, but neither have the conditions to think of weaponized systems in a short-term perspective (Daily News Hungary 2015).

**Romania** does not have its own spatial assets. However, the President of the Romanian Space Agency stated that the country is “benefiting from the international co-operation in the peaceful uses of outer space and is making, according to

her resources, her contribution to this co-operation. We are determined to guide the space activities in which we participate towards practical applications" (United Nations n.d.).

Scandinavian countries are ESA members and all three of them (**Denmark**, **Norway** and **Sweden**) ratified the Outer Space Treaty. A Danish representative, speaking on behalf of the EU, confirmed the commitment to pursue a space weapons ban through the Conference on Disarmament, in 2002 (Estabrooks 2003). According to UCS (2015), Denmark own three satellites – two for technology development and one for earth observation. Norway own five communication satellites and Sweden own two, one for communications and the other one for earth observation.

## 5 QUESTIONS TO PONDER

1. If satellites can be used against another country's space asset, should they be considered for potential military use?
2. Can a country's space defense program be considered a possible military act?
3. Who should enforce the demilitarization of space and regulate the strategic uses of every country in the different types of orbits?
4. What are space weapons and what are the boundaries, if they exist, of outer space?
5. How can the outer space be a peaceful environment?

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## DISARMAMENT AND INTERNATIONAL SECURITY COMMITTEE



INTERNATIONAL  
PRESS COMMITTEE

# INTERNATIONAL PRESS COMMITTEE

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## ABSTRACT

This paper purpose is to introduce the proceedings of UFRGSMUN's International Press Committee to those who applied as journalists at our United Nations' simulations. The readers will be informed about the journalism's field of action in an international event as a UN conference, as much as the types of publications that will circulate at our event and the materials available to produce them. They will be presented to the guidelines of the world's top news vehicles in order to learn how to fit the facts in many different points of view. As our Model United Nations intends to be faithful to a real UN conference, the journalistic body should know how to behave gracefully, managing to do their reporting job according to a high posture.

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## 1 PURPOSES

Information is essential to a society's democratic development. The main scope of any media is to deliver the information of some event to the public in order to present the situation. Usually, in conferences as important as the United Nations, the only way to do this mediation is through the news and reports provided by the press. This journalistic body does not belong to the UN: it is composed by journalists from all around the world representing many press agencies; and they are present there to cover the discussions by collecting and sharing the information. Therefore, the press is not subjected to any other committee or their willing, and can't be censored by any country or even by the UN itself.

It is impossible for media vehicles to be totally impartial on their reports. The reporter always has some sort of connection with his or her beliefs, political position, agency policies or country position – which is the reason why there are many different impressions about one situation. It would be unrealistic to think that the publications, the opinion and the behavior of journalists in such events would not affect the general public. That is why there are many different vehicles in the IPC: to share as much different views as possible about a fact.

Understanding that, UFRGSMUN created its own International Press Committee (IPC) where its main objective is to provide a real experience about the effects of the press in such important worldwide conferences. Those who chose to subscribe to this committee will be dealing directly with journalism, and should be faithful to the idea of providing clear information to the public, considering the background history about the activities happening in the simulations, also trying to fit this content in some type of approach that each editorial policy requires. At the same time, the other delegates, participating in different committees, will be challenged to deal with the repercussions of their decisions being spread to the event media – correspondingly to this, what is informed to a journalist cannot have its disclosure forbidden, unless previously accorded (what is called, by the international media, as off the record). The committees are responsible for what they tell the media, as the Press Committee is responsible for the veracity of what is being broadcasted.

During the conference, the delegates of IPC will have different ways of approach, to make the event as real as possible, by interviewing the delegates, taking pictures and making use of social media. Each delegate will be assigned to one of the eight other committees to report the discussion and, eventually, other facts that may influence the conference itself. When presenting these reports, they should choose one or two editorial policies that fits better to the position of the

country they are writing about [view 4]. The reports can be made using text, photography or video, and the responsible journalist should debate the best platform to deliver each information with the IPC board. Besides covering the simulation, the journalist may be asked to help the chairs to make a fictitious news or “crisis” in order to contribute to the delegate’s debate and keep their discussion in its path.

Those reports and “crisis” should be sent to the IPC editorial board, compound by its directors, as soon as possible, in order to be printed. The news will pass by a quick revision, as they would in any real newspaper. Its content will not only be revised in order to correct grammar or typographical errors, but also to identify if the content fits the editorial policy intended. It is not up to the directors of IPC or the directors of the committee simulated to agree with the way the news was written, yet, it is their job to certify if the contents are faithful to the ideals of the press the journalist chose to simulate.

Besides the reports, closer to the coffee breaks, that happens at 4pm, the delegates will be asked to have prepared a small abstract about that day in the committees in order to be filmed as daily briefings [see 2.6].

## 2 RESOURCES

### 2.1 REPORTS

News reports are the work instrument of any journalist. They are the most common format of sharing information and should bring the most recent facts to the general public. The IPC will be working with reports, whose public should mainly be the delegates of the committee the journalists are covering, even though they are not restricted to such delegates. The publication of those reports will be made immediately after written and revised by the editorial board, in order to keep the flow of information continuous. The editors of IPC should place a header on each news given to them, so the readers will know in which newspaper those reports would be published, accordingly with the editorial choices that were made to write the report. In order to do so, each journalist must prepare its news based in one editorial policy [see 4], which can change along the sessions, indicating it at the report sent to the editorial board.

### 2.2 PRESS RELEASES

Press releases are articles sent by institutions or agencies in order to provide information to the media. In UFRGSMUN, we will consider the material given

to the journalists by the chairs of the committees as press releases. As said before, chairs usually create “crisis” in order to contribute to the debate. These “crisis” should be received by the journalists as a press release and rewritten to adapt its content to a press vehicle with a journalistic goal. After written, the report, which will be based in the release, should be approved not only by the editorial board of IPC, but also by the chairs of the committee, they are responsible for.

## 2.3 PHOTOS

Although photojournalism will not be the main format to UFRGSMUN press, it is highly improbable that such events would not be covered using pictures. Journalists may use their own equipment (smartphones, tablets, iPods, compact cameras, DSLR cameras, disposable cameras), even if they are not professional, to keep track of the simulations. Gadgets connected to the internet will be able to share content via Instagram and Twitter.

It is important to know what to photograph. There should not be more than one or two shots of the whole room for a day, unless something exceptional happens. An outstanding delegate could be the subject of a picture, so is a delegate who receives some news about its country, or even a very fierce discussion. At social media websites, like Twitter and Instagram, we usually keep things lighter: something fun a delegate did, or maybe someone who is not paying much attention to the discussions. Make things simple, you should not use any filters or frames, but always pair the image with a caption.

If the photograph is covering one very important fact, it should be sent to the editorial board for it to be printed with a report. On the other hand, if the picture is only updating an already printed news, or just covering ordinary facts, they should be published only on Twitter [see 2.5].

## 2.4 INTERVIEWS

Interviews are one of the many forms of investigation. We highly encourage the journalists of IPC to perform many interviews with the delegates before writing the reports. Those interviews, however, should not disturb the debates and discussion of the simulations. We must remember that the journalist is a guest on those discussions and should not interrupt it. This way, interviews must be realized outside the conference rooms, at the end or the beginning of a session, or even when he/she is at the halls.

Journalists, sometimes, may be called by a delegate to perform an inter-

view. This is very common on all political areas, and it is a way to create important relationships with the delegates. However, journalists should be aware of the intentions of the information given to them. Some press conferences may happen where all the journalists on IPC may be called. At a press conference, a journalist should not only be alert to whom is speaking, but also collect past information to formulate complex, smart questions to the delegates. Depending on the editorial policy, the journalist may have chosen to represent, their questions can lead to one or other conclusion, so it is important to decide for which vehicle the journalist will write for before performing any interview.

We must remember that many of the UN sessions are closed to the public and even to the journalists. As someone seeking information, the IPC delegates could wait for the session to open or for someone to leave it. If some other delegate gives you a declaration at the halls, or are simply discussing facts with a colleague, you can use that to produce a report, always respecting the source and their wish to remain anonymous or not.

## 2.5 SOCIAL MEDIA

The International Press Committee will be responsible for a Twitter and an Instagram account. The journalists of IPC, as well as the editorial board, will be given access to those accounts, from where delegates of all committees could rely on to get information of what is happening in the simulations faster than with a report, for example. The delegates of IPC should focus on updating stories about the committee they are covering, but they can also publish news of the event in general. Outside news should not be featured in this tool, and the tweets, differently from the reports, will not be guided by any editorial policy.

In order to keep the readers interested, many journals and news sources use social media as a space of creativity and entertainment, and for the Press Committee that is what these two features should be. The delegates of other committees love to find themselves as the center of the attention, but also our posts are often used to start arguments inside the committees. One must be careful to not seek favoritism, but also keep things light, leaving the great political discussions for the reports, where we can analyze more deeply a situation.

It is important to remember that tweets and captions can't be edited after posted, so it is very important that the delegates use those tools carefully. Delegates may not exclude or modify other delegate's tweets and pictures, and the editorial board would not modify any tweet content. If a post somehow does not follow the rules or offend, affront or insult a delegate, a staff member or any person or brand

related to the event is allowed to immediately delete it through the editorial board.

## 2.6 DAILY BRIEFINGS

It is usual at political conferences that lasts more than a day that the press be responsible for making daily briefings about how are the discussions going. Thinking about that, the IPC journalists should be prepared to provide information about the most important facts of a day until four in the afternoon (4:00 pm), which is the time of our coffee break.

These briefings will be filmed as a “stand up” where each journalist explain to the general public the main events of the sessions of that day and the evening before. Understanding that each journalist will be responsible for covering one committee, they should prepare a short text about the simulations they are accompanying and be ready to film starting from two hours before the coffee break, which will be about two in the afternoon (2:00 pm).

Later, these videos will be available at our many social media platforms and can be presented at the sessions if it is a wish of the delegates of certain committee.

## 3 GUIDELINES

It is a field of “production and circulation of senses” (Benetti 2008, 107). When producing news, journalism affects reality since it reproduces a past event using one of many available points of view. Thus, it is not impartial or just a mirror of reality, since it takes part on changing the way an event is told to people. Telling a history using certain kinds of words or focusing on certain details instead of others are choices that demonstrate reality comprehensions. With that said, we will analyze how news are made, its characteristics and particularities.

### 3.1 NEWS VALUES

News values are criteria used by journalists in order to list what should be reported and what should not. They operate a selection and construction of what is selected(Bourdieu apud Traquina 2002, 186) – in other words, they demonstrate and interfere in a given event. They are fundamental to understanding news production and the choices that editors and other journalists face when deciding which piece of information is news while another is not. They are the basis from which the journalist will select the occurrences, which should be transformed in

news. On the other hand, construction news values operate at the “backstage”, suggesting “what should be stressed, what should be omitted, what should be priority in this construction” (Traquina 2002, 186-187).

The news’ values, according to Traquina (2002) are: **Prominence**: meaning that occurrences featuring well-known individuals or institutions are more newsworthy than occurrences with some other person; **Proximity**: considering that a news vehicle is geographic based, the occurrences more close to their readers will be news, while if the same fact occurs in other country it may not; **Impact**: the number of people whose lives will be influenced must be taken in consideration; **Novelty**: the journalistic word is interested by what is rare or what happens for the first time; **Timeliness**: as the proximity, the more recent events are more newsworthy. Sometimes, a recent discovery of something that happened a long time ago is considered news too; **Notability**: is the quality of being visible is a value which guides journalists, what can be best pictured by the public is notable and is a news value; **The bizarre**: more than rare, the unusual, unorthodox, or unexpected attracts attention; **Conflict**: controversy and open clashes are newsworthy, inviting attention on their own, almost regardless of what the conflict is over; and **death**: according to Traquina (2002), death is a key-news value, since it breaks life normality. And, a priori, where there is rupture, there are news.

### 3.2 NEWS LEAD

In journalism, what is known as “lead” is, usually, the first paragraph of a reporting. It is wrote considering that not every reader will be able to read the entire report, and so, it should feature the most important information of the news. Usually, it can be constructed by answering simple questions as “what?” “who?”, “where?” “how?” and “why?”. Sometimes, not every aspect is essential to the information and should be left to explain along the text. More elaborated context, as such previously information about a subject or consequences that a decision could bring, can be addressed on other paragraphs. When you write the lead, you must expect that a reader with not so much information about the subject will be able to understand what happened by just reading the first paragraph or your text. If they do so, they may find themselves interested and read the rest of the reporting.

### 3.3 STRUCTURE

When talking about printed news, many newspapers have their writer’s guides in order to maintain a pattern. At UFRGSMUN, we will not ask you to fit

your text into previously thought boxes, but we hope to present a simple structure that you can base your writing if you are not used to this.

As we explained previously, the most important aspect of a news is usually presented at the beginning of your text, but also should be featured in your title. The title is an important aspect that should be independent of the text, meaning that you should not use it as a first line. Misleading titles break the information flow and are often used to manipulate the news. When the essential information is not on the title this causes confusion on the reader and incredibility. You should also remember that a title is a powerful feature to present the point of view of a news vehicle [see item four].

There are no news without the title and the lead, and only after that you should approach the more specific details. At the UFRGSMUN, we expect the reports to be brief, but meaningful. In longer reports featured in magazines, for example, is possible to make comparisons, bring historical context and similar situations, however, the texts you will produce at our model should be more than half a page and, still, should bring brief context.

## 4 EDITORIAL POLICIES

In order to participate in UFRGSMUN International Press Committee you will be asked to choose where to publish your reports in one or more big communications companies. Each one of those has its own editorial guidelines and interests, and will be more or less inclined to cover different subjects of our United Nations committees. We selected different newspapers, channels and agencies that you will possibly be simulating. The more you know about these vehicles, the easier will be for you to know which report will fit better their interests. Here we briefly explain how the news you will make should be edited, based on the official guidelines provided by these companies, as also the profile of the readers or viewers the news usually made for.

### 4.1 THE NEW YORK TIMES

One of the main newspapers of the United States, The Times was founded in New York in 1851 with the name “The New York Daily Times” and would have the title we know in 1857. At its launch, the purpose of the journal was written: “we shall be ‘Conservative’, in all cases where we think Conservatism essential to

the public good;—and we shall be Radical in everything which may seem to us to require radical treatment and radical reform. We do not believe that ‘everything’ in Society is either exactly right or exactly wrong;—what is good we desire to preserve and improve;—what is evil, to exterminate, or reform” (Machine 2014).

The New York Times is considered a liberal newspaper, which openly defends the same-sex marriage and gun control, for example (Okerent 2004). The paper had positioned itself against Bush politics and the Iraq war and has a project to get proximate to their Russian readers, what is notable after a publication of a letter written by Vladimir Putin, giving Russia’s point of view about Syria (Putin 2013).

## 4.2 CNN

Cable News Network (CNN), a subsidiary of Time Warner Inc., was television’s first 24-hour all-news service, created in 1980 in the United States. With headquarters located in Atlanta – Georgia, the company matured and expanded along with the cable industry itself, maintaining a loyal following by offering what the major networks at the time did not: full, continuous coverage of all news events, both large and small, increasing attention to scandals and other dramatic events. As of February 2015, CNN is available to approximately 96,289,000 cable, satellite and telco television households (82.7% of households with at least one television set) in the United States. CNN International makes its global coverage in over 200 countries and territories.

Endeavoring to accommodate its worldwide audience, CNN adopted a policy of banning such exclusionary words and phrases as “foreign” and “here at home” from its newscasts. Although the channel has been subject of allegation of liberal bias in the United States, having made harsh critiques towards the Republican Party and the Bush administration, this situation changed a little after 9/11 with the Afghanistan and Iraq Wars. The Executive Vice President and General Manager of CNN International at the time, Rena Golden, said, “it wasn’t a matter of government pressure but a reluctance to criticize anything in a war that was obviously supported by the vast majority of the people”<sup>6</sup>, about the self-censorship that most of the American media was accused after changing the approach on Bush.

## 4.3 BBC

The British Broadcasting Corporation, founded in 1922, is the oldest and

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<sup>6</sup> Interview to Press Gazette, August 2002.

biggest broadcaster in the world. Created under a Royal Charter<sup>7</sup>, its main goal was to spread the British culture, reinforcing the motto “Nation shall speak peace unto Nation”. It is maintained, mainly, by an annual television license fee, which is charged to all British households, companies, and organizations using any type of equipment to receive, or record live television broadcasts. It offers five radio networks in Britain, ranging from popular music to news and information services, as well as national television channels and international online news. By the early 21st century, the service broadcast in more than 40 languages to roughly 120 million people worldwide.

Under its charter, the BBC may not advertise or broadcast sponsored programs. On paper, it is required to refrain from broadcasting any opinion of its own on current affairs and matters of public policy and to be impartial in its treatment of controversy. Nevertheless, the majority of accusations received are the critics of bias against the center-right politics and the Conservative Party, and their journalists have handled with a positive view complicated issues such as immigration and the legalization of drugs.

#### 4.4 FOLHA DE SÃO PAULO

Created in 1960, Folha de São Paulo came from a fusion of three primary “Folhas” launched in 1921. Considered a modern newspaper by its technology in printing, they characterize their journalistic style as critical, non-partisan and pluralistic, with the purpose to expose the news by different point of views. However, it is known that they have a centre-right wing approach when it comes to politics and others polemical subjects.

#### 4.5 EL CLARÍN

El Clarín is the largest Argentina’s newspaper. Created in 1945, it was first published with a national approach. Clarín group also owns radio stations and television channels, including ARTEAR producer and broadcaster of various TV channels, one with the biggest audience in the country. El Clarín is known for disputes with current President Cristina Kirchner, who is trying to implement media regulation law projects, and for its right-wing approach when it comes to social and political issues.

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<sup>7</sup> It is a formal document issued by a monarch as letters patent, granting a right or power to an individual or a body corporate.

## 4.6 THE HUFFINGTON POST

Founded in 2005 by American activist Arianna Huffington, The Huffington Post is a network created initially to provide a liberal counterpart to the Drudge Report, a conservative news-and-commentary website. The website is free to users and generates revenue from advertising, featuring blogs from more than 1,600 unpaid bloggers drawn from the worlds of politics, entertainment, and academia. The website has content-sharing partnerships with TMZ.com, People, Rolling Stone, Variety, and Yahoo!, among other content providers. Bought in 2011 by AOL, transformed into the Huffington Post Media Group, expanded beyond the United States, having launching editions in Canada, UK, France, Spain, Italy, Germany, Japan, Greece, Brazil, India, Korea and Tunisia. Focusing also on themes as women issues, gay rights, black voices and minorities, the company released Huffington, a weekly digital magazine that offer subscribers exclusive feature-length articles supplemented by video clips, infographics, and other multimedia. In 2012 launched HuffPost Live, an online network that rejected typical television programming formats and encouraged viewer participation.

## 4.7 LE MONDE DIPLOMATIQUE

Created in 1944 thanks to the efforts of General Charles de Gaulle, who wanted France to have a big and internationally respected newspaper, the newspaper was first designated to diplomatic circles and international organizations, but after gaining autonomy, its critical position became a world reference in the contribution to the critique of one thought and the construction of new paradigms. Le Monde has become the largest journal in France.

Considered a middle-left wing journal, Le Monde usually covers Africa and Middle West issues, since France still has a cultural influence among countries of those regions. Still, it openly criticizes neoliberal globalization and its writing has the ultimate goal of bringing the analysis and reflection of the facts than the news itself (Diplomatique 2014).

## 4.8 PREMIUM TIMES

Premium Times is a Nigerian online newspaper. It was founded in 2011 in order to help the country to be a more consolidated democracy – as the founders believe media is a fundamental part of that –, respecting and enriching cultural practices and human rights. Its proposal is to be analytic and reflective, not sub-

missive to any occidental view but precisely advocating for people in Nigeria and addressing their interests. It is a highly politically engaged media organization, and right now, their official Twitter account asks to end Boko Haram, saying “Premium Times demands that the Nigerian government act to stop the Boko Haram carnage”.

#### 4.9 XINHUA

This Chinese online news provider was created in 1997 with the purpose to set a good image of China abroad and report news from all around the world. Xinhuanet, established in 2000, is most often the first to report China's major breaking news events (Xinhuanet 2010). The journal is the state press agency related to the Communist Party and due to this fact, the paper publishes some news in a diplomatic writing. Some news from Xinhua are published in another government media, People's Daily, which is known by an authoritative character that is not seen in Xinhua releases. In this context, the term “authoritative” refers only to commentary that speaks for People's Daily as an institution and, by extension, for the People's Communist Party Central Committee (Godwin and Miller 2013).

#### 4.10 AL JAZEERA

Created in 1996 by the Royal Qatar family, the channel mixed Pan-Arabism, Islamic feelings and a liberal perspective and was a very important vehicle in the democratization of the Middle East. Embracing the slogan “the opinion and the other opinion”, the paper intends to show both sides of the event, although the same sentence has lead them into controversy regarding the accusations in reflecting Qatar's interests in political and economic issues (Daher 2011)

Al Jazeera is the most popular Arabic television channel an independent television company supporting the people of the region in their struggle. One example of that is the Arab Spring, which lead Egypt cut their transmission in the country. Yet, some countries accuse the channel of promoting Arab propaganda and supporting region groups as Al-Qaeda (Week 2011). However, the channel main goal is to emphasizing news from the developing world, without an Anglo-American world-view (Samuel-azran 2010).

#### 4.11 SPUTNIK INTERNATIONAL

Sputnik International News is a state agency launched on November 2014

by the dissolution of the previously news agency RIA Novosti and the radio station Voice of Russia. The Russian president Vladimir Putin signed a decree that transferred all RIA Novosti proprieties to a company called Rossiya Segodnya, which would be responsible to provide coverage of Russian state policy and public life in the federation. Dmitry Kiselyov, current head of the new media conglomeration is known as to be ultraconservative.

With the former agency having had some issues with Russia's politics, it is expected that Sputnik, targeting foreign countries, to strongly defend the independent politics and national interests of Russia, showing the world the Russian truth, using modern language and new technologies. Today, Spunitik radio broadcasting operates in 34 countries, with 30 languages as so as its web multimedia content.

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# CRIMES AGAINST HUMANITY

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## ABSTRACT

Despite being one of the core crimes in the field of international law, crime against humanity is still a controversial concept. It is the only core crime under the jurisdiction of the major international criminal tribunals established to date that has not yet been addressed by a global treaty – war crimes have been codified by the means of the “grave breaches” of the 1949 Geneva Conventions and genocide gained its own Convention in 1948. No such comparable instrument exists concerning crimes against humanity, thus there is no requirement for the States to prevent and punish said conduct and to cooperate among themselves to achieve these ends. The perpetration of such crimes remains an atrocious reality in a number of hostilities worldwide. The evident lack in the framework of international humanitarian law, international criminal law and international human rights law could only be met by the establishment of a global convention on crimes against humanity.

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# 1 HISTORICAL BACKGROUND

## 1.1 NUREMBERG TRIALS

The concept “crimes against humanity” was formally born at the end of the Second World War (Geras 2011). During this period the Allied Nations - United States of America, Great Britain, Soviet Union and France - noticed that some of the most atrocious acts committed by the Germans were not prohibited by international law. Until there, the laws of war only proscribed violations involving the adversary or the enemy, while the Germans perpetrated inhuman acts against their own citizens (Cassese 2005).

With strong pressure from the US, the Allies decided that it would be more fruitful to put the major war criminals on trial rather than execute them (Cassese 2005). For this reason, on November 20 of 1945, the trials of leading German officials before the International Military Tribunal (IMT) were open in Nuremberg, Germany, where each Ally participated with a judge and a prosecution team (Museum 2014).

The London Charter, the constitutive document of the Nuremberg IMT signed by the Allied Powers on August 8 1945, gave the Tribunal jurisdiction over three crimes, namely, war crimes, crimes against peace and crimes against humanity (Geras 2011). Article 6 (c) of the Nuremberg Charter defined crimes against humanity for the first time, as follows:

Crimes Against Humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated (Allied Nuremberg Charter, 1945).

The aforementioned article provided the basis for the Control Council Law No. 10, another legal instrument of the same period utilized to continue prosecution of crimes committed by lower level German forces. These prosecutions were undertaken by the Allied powers in German local courts inside their respective zones of occupation (Geras 2011). Article II 1 (c) of Control Council No. 10 it reads as follows:

Crimes against humanity: atrocities and offences, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape or other inhumane acts committed

against any civilian population, or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated (Allied Control Council Law No. 10, 1945).

On the notion of crimes against humanity during the trial of the major Nazi war criminals, the Chief Prosecutor, Sir Hartley Shaw cross referred directly to the teachings of Grotius' (Geras 2011). He argued that, although 'it is for the state to decide how it shall treat its own nationals', some issues in international law are outside the realm of the will of the state. This would ensure that individuals are not deprived from the protection of mankind when the state curtails his or her rights<sup>1</sup> (Nuremberg 1947).

Some argue that Crimes against Humanity in the Nuremberg Charter is born out of the Martens Clause (Geras 2011). This clause, which was incorporated into the 1899 Hague Convention II (Ticehusrt 1997), aimed at offering a minimum protection to individuals in armed conflict in the absence of a specific applicable rule of international law. The main merit of the clause is that it approached the problem of the humanitarian laws for the first time not as a moral issue but from a positivist perspective (Cassese 2000). The Martens Clause provides a link between positive norms of international law relating to armed conflicts and natural law through the dictates of the public conscience (Ticehusrt 1997).

A significant feature of the Nuremberg definition was the requirement that crimes against humanity take place "in execution of or in connection with any crime within the jurisdiction of the Tribunal" (Clark 2010). This means that the prosecution had to prove a connection of acts listed as crimes against humanity to the conspiracy to wage aggressive war rather than a freestanding desire to exterminate certain groups (Geras 2011). This was upheld by the Nuremberg Tribunal's jurisprudence. In conclusion, in its inception crimes against humanity were not an altogether free-standing and independent offence.

Some argue that, since the drafters of the London Charter were not engaged in a codification exercise (Clark 2010), definition of crimes against humanity contained in this Charter is not appropriate. Hannah Arendt<sup>2</sup>, for example, wrote that the judges at Nuremberg had left this new crime in a "tantalizing state of ambiguity" (Geras 2011). Albeit its undeniable historical importance, the London Charter, and hence its definition of crimes against humanity, were not binding on

<sup>1</sup> Trial of the Major War Criminals before the International Military Tribunal. Nuremberg, 14 November 1945-1 October 1946, International Military Tribunal Nuremberg, 1947, Vol. 19, pp. 471-2.

<sup>2</sup> Hannah Arendt. Eichmann in Jerusalem: A Report on the Banality of Evil. Penguin Books: London, 1977. Pg. 257.

states as a general treaty. This somewhat changed with the adoption of Resolution 95 (I), the United Nations General Assembly (UNGA) adopted on December 11, 1946, when the General Assembly reaffirmed the principles of international law recognized by the Nuremberg Tribunal Charter and the Judgment of the Tribunal (Clark 2011). Although still non-binding on states, this Resolution somewhat elevates the status of the London Charter in general international law.

On November 1947 the General Assembly established the International Law Commission (ILC) and, on the same day, another resolution was adopted in which the ILC was directed to formulate the principles of International Law recognized in the Charter of the Nuremberg Tribunal and in the judgment of the Tribunal and prepare a draft code of offences against the peace and security of mankind (Brownlie, 2012). In Principle VI, a part of the initial ILC's work on the matter, crimes against humanity were defined, as

murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connection with any crime against peace or any war crime (ILC 1950).

In conclusion, one can affirm that the Nuremberg trial had an enormous influence in the international humanitarian law. Although restricted to the conflict in Germany and connected to the commission of other crimes within that Tribunal's jurisdiction, the definition provided in the London Charter and the outcome of the judgment jumpstarted open discussions regarding crimes committed by the state against their own civilians. It started the movement that until today seeks codification in order to better protect mankind from this category of crime.

## 1.2 CRIMES AGAINST HUMANITY IN IMTFE, ICTY AND ICTR'S JURISDICTION

The judgments held at Nuremberg, within the scope of the International Military Tribunal, were indeed of great importance for the development of international criminal law. It could not have been any different: never before it was possible to hold individuals who committed serious violations accountable for their actions outside the traditional domestic level (Sadat 2011).

Because of its groundbreaking feature and of the worldwide impact of its awards, the Nuremberg Tribunal's natural fate was to become a source of jurisprudential reference. Unfortunately, the Holocaust was not the last human tragedy

and grave breaches of Human Rights continued to take place largely in human history; trials were also conducted in the International Military Tribunal for the Far East to deal with serious crimes committed in Asia by the Japanese regime during the Second World War.

A long period after this, tribunals were created to deal with individuals involved in the Yugoslav Wars (1991-2001) and the Rwandan Genocide (1994). Besides the fact that they were created ex post facto and had primacy over national courts, the ICTY and the ICTR were the post-IMT starting point for usage of the concept crimes against humanity in a context of global repercussion; both tribunals continued the practice, exercised for the first time in Nuremberg, of promoting the prosecution of individuals accused of crimes under international law.

Proceedings before these tribunals, as previously mentioned, are conducted against individuals, not states. There are investigations, charges are brought by the tribunals' respective Prosecutors against certain individuals believed to be guilty of crime within the respective tribunals' jurisdiction, and a criminal trial is carried out. The accused can be considered guilty or not guilty.

In order to identify similarities and differences among these international criminal tribunals' jurisdiction over and interpretation of crimes against humanity, a few interesting aspects are discussed below.

### 1.2.1 INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST (IMTFE)

Unlike the Nuremberg Tribunal, the International Military Tribunal for the Far East (IMTFE), broadly known as Tokyo Tribunal, was not a product of an international agreement between the Allies, which perhaps compromised its legitimacy. Indeed, it was quite the opposite: the Tokyo Tribunal was a proclamation of General Douglas MacArthur, the Supreme Commander of the Allied Powers, as a result to the end of the Second World War and the Declaration of Potsdam<sup>3</sup>. Even though nowadays it may seem extremely unlikely to imagine unilateral acts of the sort, this was not the reality of the half of XX century.

It is not a surprise, though, that the context of its foundation was the same as the Nuremberg's one, which was the judgment of perpetrators of heinous crimes in the period of the IIWW. In fact, they were implemented only a few months apart and the trials at Tokyo lasted three times more than those in Germany.

Due to the same environment of what can be sustained as being a victor's

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<sup>3</sup> The document was signed in July 26th 1945 and, combined to the Instrument of Surrender of Japan from September 2nd 1945, it allowed the Allied Parties to establish a court to make it possible that "justice shall be meted out to all war criminals including those who have visited cruelties upon our prisoners" (IMTFE 1946, preamble).

justice (May 2005), the formal characteristics of both IMTTFE and IMT are quite the same, even though the latter is less disapproved than the former, due to its instauration in a slightly more democratic manner. Their Charts are alike and, specially, they hold a very similar definition of crimes against humanity. There are two slight differences between IMT Charter's article 6 and IMTTFE Charter's article 5(3). In the later, a semicolon was substituted by a comma in the text, which required from a crime against humanity to have nexus to another one within the court's jurisdiction. In addition, the crime of persecution on religious grounds was withdrawn from the list, since it was not as relevant in this specific conflict in Asia (Sadat 2011).

The IMTTFE Charter article 5(3) reads as follows:

Article 5

3. Crimes against Humanity:

Namely, murder, extermination, enslavement, deportation, and other inhumane acts committed before or during the war, or persecutions on political or racial grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated. Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any person in execution of such plan (IMTTFE 1946).

It is curious that, although possible, no one has been charged - and therefore convicted – with Crimes Against Humanity in this Court (Sadat 2011). Consequently, one cannot look to the IMTTFE's jurisprudence to help understand crimes against humanity.

## 1.2.2 INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (ICTY)

The International Criminal Tribunal for the Former Yugoslavia (ICTY), based in the Hague, Netherlands, although no longer charging more individuals, is still finishing pending cases (ICTY 2015). Unlike the two courts discussed before, the ICTY is not a military tribunal, nor was it established by the end of the Second World War; instead, it was created as a response to the atrocities committed against civilian population during the Balkans War (May 2005).

Nonetheless, it drew inspiration from the Nuremberg Principles<sup>4</sup>. Crimes

<sup>4</sup> In 1950, the UN General Assembly passed the Resolution 177 (II), paragraph (a), prepared by ILC, which objective was summarize the principles of international law recognized in the

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against humanity are under ICTY's rationae materiae jurisdiction and, although the definition does not match the one made in 1945, it is similar thereto. In verbis:

## ICTY Statute

## Article 5

## Crimes against humanity

The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population:

- (a) murder;
- (b) extermination;
- (c) enslavement;
- (d) deportation;
- (e) imprisonment;
- (f) torture;
- (g) rape;
- (h) persecutions on political, racial and religious grounds;
- (i) other inhumane acts (ICTY 1993).

Either ICTY and IMT were not created by a treaty, but by a UN Security Council Resolution. Their similarity, though, are not limited to this instrument, but results from the UN Secretary-General's serious concern that crimes addressed by the ICTY jurisdiction would have to be also recognized as grave breaches under customary international law (Sadat 2011). This was so because the tribunal was created after the facts and there were the willing of not compromising the core principle *nulla poena sine lege*.

The most important modification posed in ICTY Statute in relation to its World War II predecessors is the requirement that the violations be committed during armed conflict<sup>5</sup>. In addition, the term civilian population is put explicitly, and the crimes of rape, enslavement and torture are included as *actus reus*. The most interesting difference between Nuremberg and the ICTY, however, is of a more practical nature; unlike Nuremberg, where the first to be prosecuted were Nazi leaders (Bassiouni 2011), in the Hague the first charges were brought against the so called "minor players". This was due to the difficulty of capturing the ones who gave orders, since, by the establishment of ICTY, the war was still going on (May 2005).

Concerning the very first case presented by the prosecution, against Dusko Tadic, it is adequate to make some notes. The defendant, considered a minor

Charter of the Nuremberg Tribunal and in the judgment of the Tribunal.

<sup>5</sup> Later on, the jurisprudence started not to consider this aspect anymore, due to the difficulty of putting apart the war and peace context by the improving of hostilities.

actor, sustained during his trial that ICTY lacked jurisdiction over the case because the conflict was of a non-international character, which raised issues as to the applicability of international humanitarian law and the criminalization of breaches thereof. He argued that ignoring this would mean a violation not only of the Statute itself, but also of international customary law, in which the Tribunal's jurisdiction is founded (Shelton 2004).

The response given by the Appeals Chamber enabled not only the functioning of the ICTY in Tadic and future cases, but also the establishment of International Criminal Court itself. It was said that the jurisprudence since 1945 has evolved to permit the prosecution not only crimes against humanity not connected to international conflicts but that happened in peace time. The impact of this decision in the international arena was such that Tadic Case would be used later for the advocates of universal jurisdiction (Shelton 2004).

### 1.2.3 INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (ICTR)

International Criminal Tribunal for Rwanda (ICTR) was set in November 8th 1994 (Geras 2011) as a response from UN Security Council to the internal conflict between Hutus and Tutsis that led to the genocide. Contrasting to the suffering in southern Europe during the Yugoslav Wars, there was nothing like an independence war taking place in Rwanda. Given such distinct context, ICTR Statute had a correspondingly distinct definition of crime against humanity.

The ICTR Statute suppressed the “armed conflict” requirement present ICTY’s. Instead, the context required to prosecute was a massacre on ethnic basis. The main particularity is the presence of the expression “systematic attack against any civilian population” and the lack of a reference to formal hostilities (Geras 2011). The text reads as follows:

ICTR Statute

Article 3

Crimes against humanity

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for the following crimes when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation;
- (e) Imprisonment;
- (f) Torture;

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- (g) Rape;
- (h) Persecutions on political, (ICTR 1994) racial and religious grounds;
- (i) Other inhumane acts

Analyzing the several differences the concepts of crimes against humanity and the successes and failures in different jurisdictions is helpful to decide how to proceed. Indeed, this exercise was conducted when drafting the International Criminal Court's Statute, which has its own definition of crimes against humanity, explored in the next section.

### 1.3 ROME STATUTE

The Rome Statute of the International Criminal Court was adopted on July 17th, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome Conference). In accordance with its own article 126, it only entered into force on July 1st, 2002. The statute instituted the International Criminal Court (ICC) versing, among other subjects, on the court's structure, functions and jurisdiction.

It is not widely known that the first proposal for a permanent international criminal court was made in 1872 by Gustav Moynier, one of the founders and longtime president of the International Committee of the Red Cross. At that time, he faced many of the same problems which confronted the drafters of statute during the Rome Conference. One of his main concerns was that national judges lacked the detachment needed to fairly judge offences committed in times of wars in which their own countries were involved (Hall, 1998).

Given the so called Nuremberg Promise that someday there would be effective mechanisms to hold all individuals accountable for the most serious crimes under international law, it was generally expected that a permanent court for the prosecution of international crimes would be established. However, there was no such early proposal.

In 1948 the United Nations General Assembly approved the Convention for the Prevention and Punishment of the Crime of Genocide (Genocide Convention). In doing so, it requested that the ILC analyzed the convenience and possibility of the establishment of an international judicial organ for the prosecution of the crime of genocide (UNGA 1948). A draft statute for such court was delivered by the appointed special committee in 1950. It was mainly due to political reasons that the matter was never brought forward. Concerning legal aspects, the General Assembly decided to postpone until there was a definition of the

crime of aggression and the Code of Offences was complete (UNGA 1954). In turn, the Code was put aside. There was a general reluctance towards the establishment of a permanent international court, and, during the Cold War, the matter was placed in lower priority while the attention was turned to the development of more effective means of inter-State cooperation in the national prosecution of crimes.

It was only in 1989 that the creation of a permanent international criminal court was again discussed; Trinidad and Tobago proposed that this be put back on the agenda of the United Nations. Ironically the State made the petition to secure the prosecution of international drug offences, which is not under ICC jurisdiction today. Therein, the General Assembly requested that the ILC draft a statute for such court. The Commission promptly proceeded to present the final text in 1994 (ILC 1994).

The draft statute gave the ICC jurisdiction over more crimes than it has now. Since it was submitted under a favorable conjuncture, after only a year there was enough support to set up a Preparatory Committee<sup>6</sup>. A significant group of States was supportive of a new court emerging, and agreement was reached to hold a conference in Rome in the summer of 1998 to finalize and conclude the treaty. Evidently, the draft statute produced by the Preparatory Committee served as base for the deliberations at the Rome Conference (UN Doc. A/CONE.183/13).

When drafting the section on crimes against humanity of the Rome Statute, there was considerable confusion and great variation in the delegates' views due to the historic inconstancy of its definition. Indeed, the challenges to the drafters were enormous in comparison with genocide, for which a well-accepted and overall static concept existed since the 1948 Genocide Convention. A new definition of crimes against humanity had to be crafted from the ever-fragile basis of international customary law; defining it was as much an exercise of progressive development as it was of codification (Schabas, 2010).

Crimes against humanity were recognized under the statute in its Article 5, which lists the crimes under ICC jurisdiction. Under this provision, "only the most serious crimes of concern to the international community as a whole" (Rome Statute 1998, art. 5.1) were to be put before the ICC. Article 7 defines crimes against humanity for the purposes of the ICC; this definition differs from previous ones not only since it was not imposed by victors, as was the case of Nuremberg and Tokyo Charters, neither by the Security Council, which was

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<sup>6</sup> The ad hoc Committee on the Establishment of an International Criminal Court, assembled by GA Res. 49/53, conducted two sessions in 1995. It produced a report (UNGAOR A/50/22) which contains the preliminary discussions on the major features of the court.

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the case of the Statutes of Yugoslavia and Rwanda Tribunals (Defining “Crimes Against Humanity” at the Rome Conference, 1999). The article reads as follows:

Article 7 Crimes against humanity

1. For the purpose of this Statute, “crime against humanity” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

2. For the purpose of paragraph 1:

- (a) “Attack directed against any civilian population” means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;
- (b) “Extermination” includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;
- (c) “Enslavement” means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
- (d) “Deportation or forcible transfer of population” means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;

- (e) “Torture” means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
  - (f) “Forced pregnancy” means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;
  - (g) “Persecution” means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;
  - (h) “The crime of apartheid” means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;
  - (i) “Enforced disappearance of persons” means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.
3. For the purpose of this Statute, it is understood that the term “gender” refers to the two sexes, male and female, within the context of society. The term “gender” does not indicate any meaning different from the above. (Rome Statute, 1998)

Article 7 is, to date, the most extensive and detailed definition of crimes against humanity. Although considered a welcome step by the international community on the task of defining crimes against humanity (Bassiouni, 2011), the Rome Statute, as inherent to any treaty, applies only to State Parties. It cannot be said that Article 7 is customary international law in its entirety; the statute features 113 State Parties, and less than fifteen of those implemented legislation on this topic (*Ibid.*).

Article 7 was the result of diplomatic negotiations based on the text presented to the Diplomatic Conference by the Preparatory Committee (Bassiouni, 2005), which might be the reason why it lacks clarity: it was construed on the basis of “constructive ambiguity”<sup>7</sup>, as often is the case with documents negotiated

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<sup>7</sup> In a political or diplomatic context, the deliberate use of ambiguous language on a sensitive issue in order to advance some political purpose. The term is widely attributed to Henry Kissinger.

by diplomats, leaving the judges room to decide the terms' content. The judges themselves, however, are appointed via a political process, and thus sometimes ill-equipped to deal with the complexity of a criminal trial dealing with mass atrocities (Bassiouni, 2011). The adoption of the Elements of Crimes, which aid the Court in interpreting the statute and further developed the definition of crimes against humanity in the Rome Statute, aims at reducing the scope of uncertainty faced by judges (*Ibid.*). Though that is why it is commonly said within the United Nations that the jury is unsure on how the judges of the ICC will deal with Article 7.

Important considerations in relation to paragraph 1 of this definition of crimes against humanity include: (i) the absence of a requirement of a nexus to armed conflict, (ii) the existence of a requirement of a state or organizational policy, (iii) the absence of a requirement of a discriminatory motive, (iv) the "widespread or systematic attack" criterion, and (vi) the element of mens rea (Defining "Crimes Against Humanity" at the Rome Conference, 1999). Concerning first aspect, since the ICC statute makes no mention of nexus to armed conflict, under the ICC crimes against humanity may occur not only in situations of armed conflict, but also in times of peace or civil strife. This is due to the fact that the majority of the delegations present at the conference understood that if such limitation were imposed on the concept it would most of times fall under within the definition of "war crimes" (*Ibid.*).

Since the International Military Tribunal's decision on *France et al v. Goering et al* it has been understood that "crimes against international law are committed by men and not by abstract entities" (1946). However, the famous pronouncement may mislead to interpreting that State's role is irrelevant in the discussion of crimes against international law. Any such presumption has been mitigated later with the adoption of the text of the Elements of Crimes:

"Attack directed against a civilian population" in these context elements is understood to mean a course of conduct involving the multiple commission of acts referred to in article 7, paragraph 1, of the Statute against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack. (...) It is understood that "policy to commit such attack" requires that the State or organization actively promote or encourage such an attack against a civilian population. (2002)

The ICC jurisprudence on the matter has established that the requirement of an organizational policy is justified as means of ensuring that an attack "even if carried out over a large geographical area or directed against a large number of victims, must still be thoroughly organized and follow a pattern". (2008)

The Rome Statute differs from previous regulations insofar as it does not require a “discriminatory motive”. This “discriminatory motive” requirement appeared in the Nuremberg Charter and was incorporated in the drafting of the ICTR statute. Nonetheless, the dominant view is that it is only relevant for the crime of persecution. Virtually, even when the ICTY adopted such criterion, the Trial Chamber argued that this requirement did not seem to be founded in any relevant legal instrument<sup>8</sup>. The delegates in charge of drafting the Rome Statute came to the conclusion that a discriminatory motive is not an element necessary to every crime against humanity since its imposition could in fact result in the exclusion of some of the most serious violations from the jurisdiction of the Court.

Although *mens rea* is a fundamental element of any crime, since *actus non facit reum nisi mens sit rea*<sup>9</sup>, there is difficulty in applying elements of criminal liability to State sponsored action. However, the matter of State responsibility will be treated in the section 2.5. The definition of crimes against humanity in the Rome Statute corroborates with the fact that the accused, while not necessarily responsible, must at least be aware of the attack. In fact, the obligation to prosecution to prove the mental element of crime has been long seen as the “golden tread” of criminal law. Actually, it’s the connection of the requisite of mens rea with widespread or systematic attack is what features what would be an otherwise ordinary crime as a crime against humanity (Robinson 1999).

## 1.4 CRIMES AGAINST HUMANITY IN ICC'S JURISDICTION

Genocide is a crime extraordinarily difficult to prove, so it is unsurprising that only three charges of genocide were brought against individuals before the International Criminal Court (ICC) in its nearly fifteen years of existence. Crimes against humanity are not easy to prove, but their scope of application is broader. It is an international criminal offense that can be used, for example, to cover situations in which genocide cannot be proved, situations taking place during peacetime and situations involving acts such as, but not limited to, sexual violence and enforced disappearance of persons. Not surprisingly then, as stated by Mrs. Leila Sadat, appointed Special Adviser on Crimes Against Humanity to the International Criminal Court Prosecutor since 2013, “one would expect crimes

<sup>8</sup> Prosecutor v.Tadic, Opinion and Judgment, No. IT-94-1-T, para. 652 (May 7 1997), excerpted in 36 ILM 908, 944 (1997), paras. 943-44.

<sup>9</sup> The maxim can be generally translated as “an act is not necessarily a guilty act unless the accused has the necessary state of mind required for that offence” (Oxford Reference).

against humanity to emerge as a crucial tool at the ICC” (Sadat 2013, 355).

If one looks at the ICC’s activity so far, it will effortlessly confirm the trend summarized by Mrs. Sadat. The OTP presented charges of crimes against humanity in all seven situations pending before the Court<sup>10</sup>. In three of these situations, namely Kenya, Cote D’Ivoire and Libya, due to the inexistence of armed conflict or infeasibility of alleging genocide, crimes against humanity actually constituted the sole basis upon which the ICC can have jurisdiction *rationae materiae* (Sadat 2013).

When it comes to understand ICC’s interpretation of Article 7 of the Rome Statute, two decisions are worth of a more thoroughly analysis: (i) Pre-Trial Chamber I decision on confirmation of charges against Germain Katanga and Ngudjolo Chui and (ii) Pre-Trial Chamber II decision on the Prosecutor’s request to open an investigation regarding the situation in Kenya (Situation in Kenya 2010).

The first major ICC decision on the application of Article 7 was Katanga’s confirmation of charges on September 2008, from now on referred to as *Katanga*. In *Katanga*, the ICC relied heavily on the jurisprudence of the *ad hoc* tribunals – mainly ICTY and ICTR -, with two major points worthy of comment.

First, the Pre-Trial Chamber I seemed to cumulate the elements *widespread and systematic* and *organizational policy* to configure attacks as *crime against humanity*, a reading that deviates from a strict interpretation of Article 7’s wording. The Pre-Trial Chamber I decision implies that an attack must be both widespread, systematic, and conducted in furtherance of a common policy, as follows:

§ 396. Accordingly, *in the context of a widespread attack*, the requirement of an organisational policy pursuant to article 7(2) (a) of the Statute ensures that the attack, even if carried out over a large geographical area or directed against a large number of victims, must still be *thoroughly organised* and follow a *regular pattern*. It must also be conducted in furtherance of a common policy involving public or private resources (The Prosecutor v. Germain Katanga... 2008, 126) [italics added]

Secondly, as pointed by Mrs. Sadat, Pre-Trial Chamber I’s decision “tangentially addressed the meaning of *civilian population*” (Sadat 2011, 360), a concept that was left undefined by the Rome Statute, for the purpose of Article 7. In the decision’s *obiter dictum*, it was held that:

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<sup>10</sup> Situation in Uganda; Situation in the Democratic Republic of the Congo; Situation in Darfur, Sudan; Situation in the Central African Republic; Situation in the Republic of Kenya; Situation in Libya; Situation in Côte d’Ivoire; Situation in Mali and Situation in the Central African Republic II. On these later two situations (Mali and CAR II) the OTP has not presented charges yet.

§ 399. The drafters in Rome also left the exact meaning of the term “any civilian population” undefined. However, the Chamber observes that, as opposed to war crimes which are provided for in article 8 of the Statute, the term “civilian population” within the meaning of article 7 of the Statute affords rights and protections to “any civilian population” regardless of their nationality, ethnicity or other distinguishing feature (*The Prosecutor v. Germain Katanga...* 2008, 127).

Almost two years later, Pre-Trial Chamber II issued a decision on the Prosecutor’s request to open an investigation regarding the situation in Kenya; many scholars consider this decision to be the most significant ICC contribution to the debate on *crimes against humanity* (Kress 2010; Sadat 2011). In this decision, from now on referred as *Kenya*, there was a vivid discussion between Judge Hans-Peter Kaul and the majority – formed by Judge Ekaterina Trendafilova, Presiding Judge, and Judge Cuno Tarfusser - on the understanding of the *policy element* required in Article 7(2)(a).

For recollection, the aforementioned article reads as follows:

7(2)(a) For the purpose of paragraph 1: “Attack directed against any civilian population” means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, *pursuant to or in furtherance of a State or organizational policy to commit such attack* (Rome Statute 1998) [italics added].

In spite of ICC being a relatively young tribunal, considering its jurisprudence is of paramount importance for developing the law on crimes against humanity. The example above mentioned, of disagreement on the understanding of policy requirement to configure attacks as crime against humanity, is one of the great questions that must be addressed by an international framework on crimes against humanity.

## 1.5 CRIMES AGAINST HUMANITY IN NATIONAL LEGISLATIONS

After World War II, there were a few notorious national prosecutions for crimes against humanity in Germany, Austria, France, Israel, Italy, Canada and Argentina (Bassiouni 2011).

According to M. Cherif Bassiouni, by 2011 fifty-five States had legislation criminalizing crimes against humanity (2011, 660). Most of these legislations were developed post-2002.

In Bassiouni’s view, there are two categories of States whose legislation covers crimes against humanity: the first includes States whose legislation has a criminal

offense such as ‘crimes against humanity’ that includes acts “deemed part of crimes against humanity under customary international law” (2011, 660). The second category is made of States that have ratified the Rome Statute and “enacted a law to that effect, but have not adopted specific national legislation” (2011, 660). Consequently, States within this second category can surrender persons charged with crimes against humanity to the ICC, but cannot prosecute them by themselves, since the crimes under ICC jurisdiction are not nationally defined and enforceable.

## 2. STATEMENT OF THE ISSUE

A global convention on crimes against humanity is often referred to as a key missing piece in the current framework of international law. The ILC recently included the topic on its programme, and it is working to present the draft articles of a global treaty on crimes against humanity.

### 2.1 NECESSITY OF A CONVENTION

International conventions are the most significant sources of international law in the present day, although evidently they not the only ones listed in article 38 of the International Court of Justice (ICJ) Statute (Shaw, 2008). In relation to sources of international criminal law for the purposes of the ICC, the main authority is article 21 of the Rome Statute.

In order to better understand the issue concerning the impending need for a Convention on crimes against humanity, one must refer to the role and nature of international written agreements. The most acknowledged definition of treaty is found in the 1969 Vienna Convention on the Law of Treaties, which entered into force in 1980. Thus, treaty may be defined as “an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation”. The vagueness of the concept is fairly intentional given the numerous shapes a convention can present. Moreover, this is the reason why treaties are not considered as such due to their content – since almost everything<sup>11</sup> can be object of an agreement –, but actually due to their

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<sup>11</sup> The exception to validate this rule are the compromises known as the gentlemen agreements, which are intrinsically connected to a declaration of intentions emerging from the statist himself or herself (Rezek 2005).

form. Accordingly, a treaty *must* be presented in written form.

Crimes against humanity are the only crimes of the three core crimes which make up the jurisdiction of international criminal tribunals that is not the subject of a global treaty that requires States to prevent and punish such conduct and to cooperate among themselves toward those ends. The period which many historians call total war of the 20th century culminated with the institution of the United Nations and called for the adoption of treaties to prevent the atrocities occurred during the World War II. It was under this framework that war crimes were codified by the means of the “grave breaches” of the 1949 Geneva Conventions and the crime of genocide gained its own convention in 1948.

Yet, crimes against humanity may be more rampant than both war crimes and genocide, since they may transpire in situations not involving armed conflict and not requiring the specific intent to destroy a protected group. One must also stress that there are conventions on the prevention, punishment and inter-State cooperation for far less appalling offences. Still, currently numerous atrocities occur and, more often than not, there will be no applicable treaty addressing inter-State cooperation (*Belgium v. Senegal* 2012).

The most important current codification of crimes against humanity is, undoubtedly, the Article 7 of the Rome Statute. Still, as a definition, it is overly broad and it possesses three major faults. First, the Statute does not impose the direct obligation for its State Parties to criminalize such offenses within their internal systems. Additionally, more than half the world’s population are citizens of countries which are not members of the ICC. Thus, a global treaty on crimes against humanity would define the crimes in a way to extend the rule of law and implant a uniform definition of crimes against humanity into the law of the States (Stanton 2011).

Nevertheless, the main question is whether an international convention on crimes against humanity would have any practical role in the prevention and prosecution of these crimes. It is clear 1948 Genocide Convention lacked the means to prevent genocide and to date it is seldom invoked by prosecution. Its drafters failed to establish new institutions to enforce it. For instance, its Article VI provides that persons charged with genocide maybe tried “by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties, which shall have accepted its jurisdiction”. However, this court was only created in 1998, which is the ICC itself.

Aiming at a universal treaty would be significant insofar as it helps build a network of international cooperation in a way that the ICC Statute by itself cannot. In extending the reach of the rule of law beyond the ICC and the ad hoc

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tribunals, a global convention would implant a sound definition of crimes against humanity into internal law systems all over the globe and enable a worldwide body of national case law to develop on this matter. A convention in itself would, as treaty law has already succeeded in respect of other offences, allow inter-State cooperation on prevention, investigation, prosecution and extradition for such crimes (Stanton 2011). As precisely states the ILC's Special Rapporteur for this topic:

“Such a convention could help to stigmatize such egregious conduct, could draw further attention to the need for its prevention and punishment and could help to adopt and harmonize national laws relating to such conduct, thereby opening the door to more effective inter-State cooperation on prevention, investigation, prosecution and extradition for such crimes” (ILC 2015)

Thereby, a global convention with respect of crimes against humanity may be a key missing piece in the matter of further development of international humanitarian law, international criminal law and international human rights law. The main objective of such a treaty would be to chastise this conducts, drawing the attention of the international community in order encourage countries to harmonize national law in such way (U.N Doc. A/CN.4/680).

### 2.2. DEFINITION OF CRIMES AGAINST HUMANITY

Over the past century, the definition of crimes against humanity has been the subject of many different formulations. Nowadays, the most accepted is based on constructions built in the *Nuremberg* and *Tokyo Charters*, the *Nuremberg Principles*, the 1954 draft *Code of Offences against Peace and Security of Mankind*, the 1993 *Statute of the International Tribunal for the Former Yugoslavia*, the 1994 *Statute of the International Criminal Tribunal for Rwanda*, the 1994 draft *Statute for an International Criminal Court*, of the International Law Commission, and the Commission's 1996 draft *Code of Crimes against the Peace and Security of Mankind* (ILC 2015). This more used and recognized definition is the one present in the article 7 of the Rome Statute, in which there is an exhaustive list on acts to be consider inside this category of crimes:

1. For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:
  - (a) Murder;
  - (b) Extermination;

- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

2. For the purpose of paragraph 1:

- (a) 'Attack directed against any civilian population' means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;
- (b) 'Extermination' includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;
- (c) 'Enslavement' means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
- (d) 'Deportation or forcible transfer of population' means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;
- (e) 'Torture' means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
- (f) 'Forced pregnancy' means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;
- (g) 'Persecution' means the intentional and severe deprivation of

fundamental rights contrary to international law by reason of the identity of the group or collectivity;

(h) 'The crime of apartheid' means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;

(i) 'Enforced disappearance of persons' means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

3. For the purpose of this Statute, it is understood that the term 'gender' refers to the two sexes, male and female, within the context of society. The term 'gender' does not indicate any meaning different from the above. (Rome Statute, 1998).

Although some disagreements may exist regarding whether the definition brought by Article 7 of the Rome Statute reflects customary international law or what constitutes the best interpretations of some of its aspects, it was crafted with the agreement between 122 States parties of the statute, and it continues to be the definition more widely accepted by states (ILC 2015).

A single individual can be liable for this category of crime if he or she commits one or more inhumane acts, since there is no requirement that the perpetrator be a ringleader or architect of a broader campaign (Cryer, et al. 2010).

## 2.2.1. REQUIREMENTS

Therefore, for one of the acts listed in article 7 to be considered a crime against humanity, there are some requirements to be filled that will be explained below.

### 2.2.1.1. WIDESPREAD OR SYSTEMATIC ATTACK

This concept emerged in the 1990s as the accepted formulation of one of the contextual elements of crimes against humanity (Cryer, et al. 2010). It appeared for the first time in the Statute of the International Criminal Tribunal for Rwanda (ILC 2015), and establishes that inhumane acts – such as murder, torture, rape, sexual slavery – must be part of a widespread or systematic attack in order to constitute crimes against humanity (Cryer, et al. 2010).

When the Rome Statute was drafted, some States articulated the opinion that the “widespread” and “systematic” elements should be *conjunctive requirements*, and that both conditions should be fulfilled when establishing the execution of the crime. Their argument was based on the need to avoid that spontaneous waves of widespread, but unrelated, crimes be characterized as crimes against humanity (ILC 2015). A compromise was reached in this debate, by specifying a definition of “attack” under Article 7 which contains a policy element (see below).

The case law of the International Criminal Court has confirmed (International Criminal Court, 2010) that the widespread or systematic test is disjunctive. This means that the prosecutor only needs to satisfy one of the elements, i.e. the attack must be widespread *or* systematic; the “attack” requirement needs to be present (ILC 2015). Consequently, the acts can be either widespread or systematic, but an attack, and thus a policy to conduct such acts, must exist (Cryer, et al. 2010).

The term “widespread” has been defined in various ways (Cryer, et al. 2010), but usually connotes the “large-scale nature of the attack and the number of victims”, as defined by the Trial Chamber of the International Tribunal for the Former Yugoslavia in *Prosecutor v. Kunarac* (Tribunal Chamber of International Tribunal for the Former Yugoslavia, 2001). As the case shows, the main point of this requirement is the multiplicity of victims, which excludes isolated acts of violence (ILC 2015); murders directed against individual victims by persons acting on their own volition rather than as part of a broader initiative cannot be considered a widespread act. On the contrary, a single act occurred within the context of a broader campaign, even if committed by an individual perpetrator, will meet the “widespread” requirement (ILC 2015).

Yet, “widespread” may also be denote a geographical dimension, when the attack occurs in different locations, as established by the ICC Pre-Trial Chamber in *Prosecutor v. Ntaganda* (International Criminal Court, 2012). Similarly to other cases before the ICC, in *Ntaganda* the Chamber established that there was sufficient evidence to consider that an attack was “widespread” on the basis of reports of attacks in different locations in a large scale geographical area. Nevertheless, this criterion does not require an outsized geographical space, since the attack can be in a small geographical area, against a large number of civilians (ILC 2015).

The term “systematic” can also be defined in many ways. The most recent cases converge insofar as they refer to an organized nature of the acts of violence and the improbability of their random occurrence (Cryer, et al. 2010). Again in *Prosecutor v. Ntaganda*, Pre-Trial Chamber II considered the attack systematic since the perpetrators employed similar means and methods to attack the different locations:

“they approached the targets simultaneously, in large number, and from different directions, they attack villages with heavy weapons, and systematically chased the population by similar methods, hunting house by house and into the bushes, burning all properties and looting” (International Criminal Court, 2012).

Meeting these criteria of widespread and systematic nature elevate crimes that could be under national jurisdiction to international jurisdiction (Cryer, et al. 2010).

#### 2.2.1.2. ATTACK “DIRECTED AGAINST ANY CIVILIAN POPULATION”

The term “attack” in relation to crimes against humanity is not used in the same manner as in the case of war crimes. For the purposes of crimes against humanity, an attack refers to the wider course of the conduct of which the prohibited acts of the accused form a part; it is not necessary for armed forces to be involved (Cryer, et al. 2010).

The International Tribunal for the Former Yugoslavia established in *Prosecutor v. Kunarac* that the terms “directed against” mean that the civilian population must be the main target of the attack, and not just incidental victims (Trial Chamber of the International Tribunal for the Former Yugoslavia, 2001). Moreover, as codified in Additional Protocol I to the Geneva Conventions, the presence of individuals “who do not come within the definition of civilians” within the civilian population does not deprive the population of its civilian character (ILC 2015).

In conclusion, according to ICTY case law (Trial Chamber of the International Tribunal for the Former Yugoslavia, 2001), any particularly victim shall be targeted because of she or he is a member of the civilian population, and not because of her or his individual characteristics (ILC 2015).

#### 2.2.1.3. “POLICY” ELEMENT

Article 7 of the Rome Statute includes a requirement that crimes against humanity be committed pursuant to a *State or organizational policy*<sup>12</sup>. As pointed by Mettraux, “it has been debated for some time in the literature whether or not the definition of crimes against humanity includes an element of policy” (2011, 142).

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<sup>12</sup> It is interesting to note that the ICTY Statute did not have a policy requirement for crimes against humanity.

Of all elements of the definition of crimes against humanity, the so-called policy requirement is the most controversial. Sadat already summarized the core of the problem surrounding the policy requirement debate:

“This element has appeared as one of many possible criteria do be used to *distinguish crimes against humanity from ordinary crimes* in discussions of crimes against humanity during the meetings of the ICC Preparatory Committee in 1996” (Sadat 2011, 352).

Said differently, the policy requirement is perceived as the element that unites otherwise unrelated inhumane acts, distinguishing crimes against humanity – inhumane acts committed *pursuant to a State or organizational policy* - from ordinary crimes. Consequently, it is not difficult to see that the policy requirement was conceived as a threshold to the jurisdiction of the ICC.

Discussing this issue implies discussing what the requirement of “policy” is supposed to mean. Insofar, this expression does not seem to have sufficiently clear contours and, as an element that forms part of the very definition of crimes against humanity, ambiguity in it shall lead to serious implications over, for instance, evidentiary procedure (Mettraux 2011). Mettraux points out that many consider this requirement similar to the Anglo-Saxon concept of “conspiracy”, i.e. a sort of agreement, plan or practice. In its first major decision on the application of Article 7, ICC explicitly referred to ICTY’s opinion on *Blaskic*, and noted that a plan or policy to commit an attack could be *inferred* from a “series of events” (*The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* 2008).

When addressing the “pros” and “cons” of having a policy element within the definition of crimes against humanity, Mettreaux (2011) summarized some of the “pros” as following: (i) it better reflects the historical reality, once crimes against humanity have usually been committed as part of a state-based policy; (ii) without the policy element, isolated or domestic crimes could qualify as crimes against humanity, and (iii) the perpetrators of crimes against humanity are not mere executioners, they usually play a policy or organizational role.

On the other hand, the cons arguments could be that (i) the concept of policy is too uncertain to be applied in a criminal context, (ii) the requirement may be used to shield nationals or officials, that a State does not want or can prosecute, from prosecution, i.e. it could be used opportunistically and create serious jurisdictional impediments, and (iii) it makes a return to the idea of collective responsibility.

If one accepts that there is a policy requirement to the definition of crimes against humanity, it must then face the question of *whose policy*. ICC Statute speaks of State or organizational policy. Some scholars, as Mr. Bassiouni, sustain

that only a State policy – state actors or groups capable of using the power and resources of government - can fulfill the requirement (Bassiouni 2011). On the other hand, in *Katanga*, the ICC read State and organizational disjunctively by majority, Judge Hans-Peter Kaul being outvoted. Such slightly distinction has, as other slightly distinctions in Law, important consequences on the reasoning of what is the defining criteria a group must hold to commit an “attack directed against any civilian population” that can possibly fulfill the policy threshold to be considered a crime against humanity.

Reading State and organizational policy disjunctively means that a group’s organization need not be state-like to fulfill the policy requirement as conceived in article 7(2)(a) of the Rome Statute. In the referred case, the majority’s decision held, *in verbis*:

90. With regard to the term “organizational”, the Chamber notes that the Statute is unclear as to the criteria pursuant to which a group may qualify as “organization” for the purposes of article 7(2) (a) of the Statute. Whereas some have argued that only State-like organizations may qualify, the Chamber opines that the formal nature of a group and the level of its organization should not be the defining criterion. Instead, as others have convincingly put forward, a distinction should be drawn on whether a group has the capability to perform acts which infringe on basic human values. (*The Prosecutor v. Germain Katanga*, 2008, para. 90).

Judge Hans-Peter Kaul dissented, arguing precisely the opposite:

51. I read the provision such that the juxtaposition of the notions “State” and ‘organization’ in article 7(2)(a) of the Statute are an indication that even though the constitutive elements of statehood need not be established those ‘organizations’ should partake of some characteristics of a State. Those characteristics eventually turn the private ‘organization’ into an entity which may act like a State or has quasi-State abilities. These characteristics could involve the following: (a) a collectivity of persons; (b) which was established and acts for a common purpose; (c) over a prolonged period of time; (d) which is under responsible command or adopted a certain degree of hierarchical structure, including, as a minimum, some kind of policy level; (e) with the capacity to impose the policy on its members and to sanction them; and (f) which has the capacity and means available to attack any civilian population on a large scale.

52. In contrast, I believe that non-state actors which do not reach the level described above are not able to carry out a policy of this nature, such as groups of organized crime, a mob, groups of (armed) civilians or criminal gangs. They would generally fall outside the scope of article 7(2)(a) of the Statute (*The Prosecutor v. Germain Katanga*, 2008).

## 2.2.2. THE "GENDER" PROBLEM IN THE GENDER-BASED CRIMES AGAINST HUMANITY

The term “gender crimes” may refer to incidents of violence targeting or affecting women either disproportionately or exclusively, for the simple reason they are women, or it may refer to violence against women that is rooted in or, also, serves to perpetuate socially-constructed gender roles or the power discrepancy between men and women (Moshan 1998). In this context, the inclusion of gender-motivated crimes in the ICC’s definition of crimes against humanity, in article 7(3), was indispensable to give emphasis to women’s wartime experiences and injuries, albeit insufficient to ensure gender justice.

First, the term “gender” is often used as a synonym for “women” inside the United Nations. Indeed, the article 7(3)’s definition of the term acknowledges the social construction of gender and the accompanying roles, behaviors, activities and attributes assigned to women and men, girls and boys (International Criminal Court 2014). Although the recognition of sexual violence committed against women in the context of international crimes is extremely important and revolutionary, it only represents part of the understanding of gender.

The conception of gender, as linked only to woman, has been criticized by feminist theorists (Sadat 2011). Some feminist theorists claim that gender is a “set of relations”, and not an individual attribute, while others argue that only the feminine gender is marked – the “universal person and the masculine gender are conflated” –, following Simone de Beauvoir in her book *The Second Sex* (Butler 1990). But, since the gender is not the same as sex, the international criminal tribunals have been collapsing gender into sex, understanding the gender analysis of international crimes in a simplistic way as an analysis of sexual crimes (Sadat 2011).

Despite the fact that there is not a single concept of gender accepted, the term is widely understood as the social construction concept of “maleness” and “femaleness”, that can vary between cultures and over time (Sadat 2011). The United Nations Office of the Special Adviser on Gender Issues (“OSAGI”) addressed this as follows:

“social attributes and opportunities associated with being male and female and the relationships between women and men and girls and boys, [...]. Gender determines what is expected, allowed and valued in a women or a man in a given context.” (UN Office of the Special Adviser on Gender Issues and Advancement of Women, 2015)

Some say that international tribunals prosecuting crimes years after a con-

flict or event, taking care of the differing variables, shall take measures do understand the construction of gender as it was understood by the relevant culture at the time and in the place of the events in question. Gender is an understanding entrenched in a specific time, it means that the way gender is constructed is not static or inherent (Sadat 2011).

For this reason, there are some critics to the definition contained in article 7 of the Rome Statute and, also, to the inclusion of a definition of the term in treaties codifying crimes against humanity (Sadat 2011). Even though article 7(3) settled that “it is understood that the term ‘gender’ refers to the two sexes, male and female, within the context of society” (Rome Statute 1998), it fails in its definition of gender, while it links only to the sex. Also, it doesn’t mention the issue that the understanding of gender it is not static.

Another critic of this article is the list of gender-based crimes only linked to sexual violence. Some authors, such as Leila Sadat (2011) defend that a “crimes against humanity treaty should also list acts that may or may not contain sexual aspects”, such as gender-based persecution, enforced sterilization, forced aborting, forced marriage.

## 2.3 OBLIGATION TO PREVENT CRIMES AGAINST HUMANITY

It is an understatement that the main focus of the majority of treaties which address efforts to criminalize conducts is on the persecution of the perpetrators for once the crime is committed, in order to punish them accordingly. Although, some may also contain, to certain extent, an obligation to prevent the crime incumbent upon states. Such assessment may be addressed broadly in a single article or may be encompassed in several articles which convey the same end in conjunction. (U.N. Doc. A/CN.4/680).

### 2.3.1. THE GENERAL OBLIGATION TO PREVENT

At its most general level, the obligation to prevent simply requires that State parties take the necessary actions to prevent the crime; the remainder treaty will follow with specific articles focused on the matter of the punishment of individuals. This general obligation to prevent manifests itself in two forms. Firstly, it imposes over States the obligation not “to commit such acts through their own organs, or persons over whom they have such firm control that their conduct is attributable to the State concerned under international law” (Bosnia & Herzegovina v. Serbia & Montenegro 2007). Secondly, States are through those treaties obliged to “to

employ the means at their disposal (...) to prevent persons or groups not directly under their authority from committing" these acts (*Ibid.*). For the latter, states are truly expected to conduct policies that "influence effectively the action of persons likely to commit, or already committing".

The International Court of Justice understands that a breach of the general obligation to prevent is not an international crime of states, but a breach of international law which generates international responsibility (*Ibid.*). The Court's assessment is consistent with the International Law Commission's previous views, as exposed in the ILC Articles on State Responsibility (U. N. Doc. A/53/10). In its commentary's to the aforementioned articles, the Commission affirms that "Where crimes against international law are committed by State officials, it will often be the case that the State itself is responsible for the acts in question or for failure to prevent or punish them" (U.N. Doc A/56/10).

### 2.3.2. SPECIFIC MEASURES FOR PREVENTION

There are some conventions which pursue the obligation to prevent internationally wrongful acts in through specific measures devised to hinder the offence from occurring. A treaty may impose many concrete obligations of the most varied nature. Usually, for the most atrocious offences such obligations are accompanied by a further imposition dictating that no exceptional circumstances may be invoked in justification of the violation. This general statement stresses the non-derogable nature of the obligation not to commit said violation. (U.N. Doc. A/CN.4/680).

Evidently, the specific measures will depend on the particular crime at issue as well as the context and potential risks to any State party arising from their commission. Yet, generally, this obligation will normally bind the State to:

- (a) adopt national laws, institutions and policies necessary to establish awareness of the criminality of the act and to promote early detection of any risk of its commission;
- (b) continually to keep those laws and policies under review and as necessary improve them;
- (c) pursue initiatives that educate governmental officials as to the State's obligations under the convention;
- (d) develop training programmes for police, military, militia and other relevant personnel as necessary to help prevent the commission of crimes against humanity; and
- (e) once the proscribed act is committed, fulfil in good faith other obligations within the convention that require the State party to investigate and either prosecute or extradite offenders, since doing so serves,

in part, to deter future acts by others. Such measures, of course, may already be in place for most States, since the underlying wrongful acts associated with crimes against humanity (murder, torture, etc.) are already proscribed in most national legal systems. (U.N. Doc. A/CN.4/680).

### 2.3.3. NON-DEROGATION PROVISION

As previously noted, and applicable to both general and specific obligations on prevention, a further provision stating that no exceptional circumstances may be invoked as justification to an offence may follow. Particularly, such general assessment is found in treaties which address most serious crimes. Most often, it is placed at the outset of these conventions, thus it has the advantage of endorsing that the obligation not to commit the offence is of non-derogable nature (U.N. Doc. A/CN.4/680).

The background for the non-derogation provision hails from several human rights conventions which allowed states to derogate from their obligations under specific situations; under these conventions, a State could either limit or derogate certain rights under specific situations, but a core set of rights did not permit derogations or limitations (Danelius 1998). The Convention against Torture carries such provision of underogability in its Article 2(2). The subsequent Article, 2(3), establishes that orders given by a superior officer cannot be invoked as a justification to the crime of torture. For a comparable provision to be applicable to crimes against humanity it must first be settled whether this crime constitutes in itself an offence under criminal law.

## 2.4 OBLIGATION TO PUNISH CRIMES AGAINST HUMANITY

Criminalizing harmful conducts, either at the national or international level, aims to prevent such conducts from happening by means of general deterrence. And, as said by Bassiouni, “general deterrence is only as effective as the likelihood of prosecution and punishment” (Bassiouni 2011, 269).

Many international treaties entrench clauses of obligation to punish. The Genocide Convention, for instance, establish in its article IV that “persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individual”. Similarly, Geneva Conventions<sup>13</sup> and their 1977 Additional Protocols

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<sup>13</sup> Geneva Convention I, article 49; Geneva Convention II, article 50; Geneva Convention III,

prescribe universal jurisdiction and an *aut dedere aut judicare* obligation when it comes to “grave breaches”. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment – that recently was object of analysis by the ICJ in the case *Senegal v Belgium* – also include an *aut dedere aut judicare* provision.

The operational details that make possible the punishment of an international crime comprise a variety of aspects, such as national legislation and international cooperation. Due to its special relevance to the effectiveness of a convention on crimes against humanity, the section below details this later aspect.

## 2.5 INTER-STATE COOPERATION

The Rome Statute focuses on the relationship of States to the ICC, but not on the relationship between States themselves. Neither the Rome Statute deal with inter-State cooperation on prosecution and punishment of crimes against humanity neither does any other existing multilateral convention (ILC 2015). Consequently, at this time due to a normative gap there is no international obligation – *i.e.* no provision for State Responsibility – to nationally prosecute or extradite alleged offenders of crimes against humanity to another State, or to provide legal assistance in prosecutions conducted by another State.

One of the main tasks of a specialized convention on crimes against humanity is “open the door to more effective inter-State cooperation on prevention, investigation, prosecution and extradition for such crimes” (ILC 2015, 7). In order to do so,

“[...] the convention could require robust inter-State cooperation by the parties for investigation, prosecution and punishment of the offence, including through the provision of mutual legal assistance and extradition. The convention could also impose an *aut dedere aut judicare* obligation when an alleged offender is present in territory under a State party’s jurisdiction” (ILC 2015, 7).

### 2.5.1 AUT DEDERE AUT JUDICARE

The Latin formula *aut dedere aut judicare* is used to designate the alternative or coexistent obligation concerning the treatment of an alleged offender present in a State’s territory (Olson 2011). A State subject to the *aut dedere aut judicare* obligation must prosecute if it does not extradite, or extradite if it does not pros-

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article 129; Geneva Convention IV, article 146.

ecute (Bassiouni and Wise 1995)<sup>14</sup>. The acknowledgment of this obligation's role in supporting international cooperation is centuries old:

The role the obligation to extradite or prosecute plays in supporting international cooperation to fight impunity has been recognized at least since the time of Hugo Grotius, who postulated the principle of *aut dedere aut puniri* (either extradite or punish): "When appealed to, a State should either punish the guilty person as he deserves, or it should entrust him to the discretion of the party making the appeal (ILC 2014, 2).

The terminology has moved from *punishment to prosecution* to better reflect the possibility that an alleged offender may be found not guilty (Bassiouni 2011). The idea underlying the *aut dedere aut judicare* obligation, however, remains very much the same since Grotius first wrote about it. If the draft articles present an *aut dedere aut judicare* provision, States shall have an obligation to prosecute alleged offenders of crimes against humanity present in territory under its jurisdiction and/or to extradite them to a third State willing and able to do so.

In the recent case *Questions relating to the obligation to prosecute or extradite (Belgium v. Senegal)*, ICJ ruled on the interpretation of the *aut dedere aut judicare* provision of Torture Convention's article 7, to which both Belgium and Senegal were parties. Belgium argued that Senegal had refused to grant its request for extradition of Mr. Hissène Habré, former President of the Republic of Chad, and alternatively requested Senegal to prosecute Mr. Habré. The Court decided that Senegal should submit "without delay the "Hisséne Habré case" to its competent authorities for the purpose of prosecution" or, failing that, "extradite Mr. Habré to Belgium without further ado" (Obligation to Prosecute or Extradite 2012, ¶ 118).

One can debate whether the obligation to extradite or prosecute is customary international law, but neither the ICJ has not ruled on this matter yet, neither the ILC came with this conclusion on its final report on *The obligation to extradite or prosecute (aut dedere aut judicare)* (ILC 2014). Practically speaking, given the debate on the customary nature of this obligation, the ILC shall decide whether the draft articles could impose – *i.e.*, contain an explicit provision on – an *aut dedere aut judicare* obligation.

In the modern regulation of armed conflicts, the obligation to extradite or prosecute seems well established. The 1949 Geneva Conventions, in their Common Articles on repression of Grave Breaches, includes a provision of this kind. The Genocide Convention's article 1 states an obligation to punish (Bassiouni 2011).

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<sup>14</sup> For further information on the topic *aut dedere aut judicare*, consult the International Law Commission Study Guide of UFRGSMUN 2013, available at <[http://www.ufrgs.br/ufrgsmun/2013/?page\\_id=1387](http://www.ufrgs.br/ufrgsmun/2013/?page_id=1387)>.

Likewise, the 1948 UN Torture Convention contains, in its article 7, an obligation that if the State Party does not extradite the alleged offender, it shall submit the case to its competent authorities for the purpose of prosecution.

As explained in ILC's final report on *The obligation to extradite or prosecute (aut dedere aut judicare)*, provisions containing the obligation to extradite or prosecute vary in their formulation, contention and scope, specially "in terms of the conditions imposed on States with respect to extradition and prosecution and the relationship between these two courses of action" (ILC 2014, 13).

Traditionally, clauses on the obligation to extradite or prosecute fall into one of these categories:

- (a) those clauses pursuant to which the obligation to prosecute is only triggered by a refusal to surrender the alleged offender following a request for extradition; and (b) those imposing an obligation to prosecute *ipso facto* when the alleged offender is present in the territory of the State, which the latter may be liberated from by granting extradition (ILC 2014, 13).

The language of a convention may choose one of this course of actions – what, at the end of the day, means to choose "whether *aut dedere aut judicare* imposes alternative or coexistent duties" (Olson 2011, 327). If no general preference between *dedere* or *judicare* is established, there may be specific situations in which one is preferable to another. In the latter case, there are some factors – such as, but not limited to, where was the impact of the offence felt, the nationality and residence of the accused, which jurisdiction has the greatest interest in prosecuting – that may be considered in determining whether there is a primary obligation to prosecute or to extradite (Olson 2011).

When it comes to *extradition*, one of the two prongs of the *aut dedere aut judicare* obligation, one of the greatest obstacle to the effective implementation of it is that "without a specific bilateral extradition treaty pertaining to the specific extraditable offense, most States cannot extradite" (Olson 2011, 330). Furthermore, the grounds for refusal to extradition must also be considered in seeking for possible solutions. As summarized by Olson, "political offenses usually constitute mandatory grounds for refusal of extradition" (2011, 332). Also the imposition of certain penalties, such as the death penalty, and the alleged offender being a national of the requested State may be grounds for a State refuse to extradite.<sup>15</sup>

Prosecution, that is the second prong of the *aut dedere aut judicare* obliga-

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<sup>15</sup> As pointed by Olson (2011), particularly in civil law countries the refusal to extradite its own nationals is a widespread constitutional provision.

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tion, will be addressed in the following section on its implication over inter-State cooperation by means of requirements of mutual legal assistance.

### 2.5.2 MUTUAL LEGAL ASSISTANCE

"If a State is to prosecute effectively, it is likely to need judicial assistance, particularly if the crime was not committed on its territory" (Olson 2011, 336). Traditionally, judicial assistance between States begin through *rogatory letters*. Through a rogatory letter, one State can request another to hear a witness, collect or share evidence, freeze assets etc. This process, however, is usually inefficient and time-consuming.

As successful cooperation between States is key to enforcement of the convention, it is expected the draft articles establish the basis to guarantee an effective mutual legal assistance between States. The UN Model Treaty on Mutual Legal Assistance may be of use, as it has provisions on designation of central authorities, content and execution of requests, protection of confidentiality, obtaining of evidence, availability of persons in custody to give evidence or to assist in investigations, proceeds of crime, among others (UN 1990). Additionally, treaties as the UN Convention Against Corruption and the UN Convention Against Transnational Organized Crime, both of which include detailed provisions on mutual legal assistance, may also offer some guidance on the matter.

Perhaps the most challenging aspect of inter-State legal cooperation is the admissibility of foreign-obtained evidence in judicial proceedings. Olson points out that usually the law of evidence to be applied is the law of the forum State (Olson 2011, 339); it is possible to choose between this approach or one that admits the validity of evidence obtained by another State, even when the legal standards and proceedings do not conform to those of the forum State.

## 2.6 CRIMES AGAINST HUMANITY AND STATE RESPONSIBILITY

As previously noted, IMT's decision on *France et al v. Goering et al* has established that crimes against international law are committed by people (see section 1.3). Accordingly, the international responsibility of States concerns its own matter within international law, least to say it is not dependent upon the legal responsibility of an individual<sup>16</sup>.

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<sup>16</sup> International responsibility of States constitutes in itself a matter of international law. It was a topic in the programme of work of the International Law Commission for almost fifty years (1954 -2001). Their work culminated on the Draft Articles on Responsibility of States for Internationally Wrongful Acts. The document was adopted on the Commission's fifty-third session and

Nonetheless, recently the question of State responsibility for international crimes was dealt with directly by the ICJ in the Bosnian Genocide case<sup>17</sup>. The Court analyzed both the “effective control” test set out in its *Nicaragua v. United States* case and the “overall control” test enunciated by the International Criminal Tribunal for the former Yugoslavia in the *Tadić* case. Both these tests assert when the actions of non-state groups can be attributable to a state.

The ICJ understands that the “effective control” test coincides with the standards required by the ILC in the Article 8 of the Articles on State Responsibility<sup>18</sup>, which according to the Court reflects international customary law<sup>19</sup>. This dispositive attributes to a State the conduct by persons or groups acting ‘on the instructions’, or ‘under the direction’, or ‘under the control’ of a State. The Commentary on the Articles clarifies that these three criteria are disjunctive, not cumulative<sup>20</sup>. Thereafter, the Court establishes that effective control is exercised when a group is under complete dependence on a State<sup>21</sup>. Thus, when these requisites are met, the persons, groups or entities can be considered *de facto* organs of the State, and the State will be responsible for their actions.

When the ICTY devised the “overall control” test, it was not concerned with a matter of State responsibility, but with the classification of the conflict in Bosnia as national or non-international, which has implications over the law applicable to

submitted to the General Assembly as part of the report covering the work of that session (U. N. Doc. A/56/10). The report, which also contains commentaries on the draft articles, appears in the Yearbook of the International Law Commission, 2001, vol. II, Part Two.

17 Even though, the Court decided that neither of these tests were applicable to this specific case.

18 Article 8 states that “The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct” (ILC, 2001)

19 “[...] the applicable rule, which is one of customary law of international responsibility, is laid down in Article 8 of the ILC Articles on State Responsibility [...]” (*Bosnia and Herzegovina v. Serbia and Montenegro*, 2007)

20 “In the text of article 8, the three terms “instructions”, “direction” and “control” are disjunctive; it is sufficient to establish any one of them. At the same time, it is made clear that the instructions, direction or control must relate to the conduct which is said to have amounted to an internationally wrongful act” (ILC, 2001)

21 “[...] according to the Court’s jurisprudence, persons, groups of persons or entities may, for purposes of international responsibility, be equated with State organs even if that status does not follow from internal law, provided that in fact the persons, groups or entities act in “complete dependence” on the State, of which they are ultimately merely the instrument. In such a case, it is appropriate to look beyond legal status alone, in order to grasp the reality of the relationship between the person taking action, and the State to which he is so closely attached as to appear to be nothing more than its agent: any other solution would allow States to escape their inter-national responsibility by choosing to act through persons or entities whose supposed independence would be purely fictitious.” (*Bosnia and Herzegovina v. Serbia and Montenegro*, 2007)

Tadic's case. To some extent the Tribunal was establishing a criterion for indirect State intervention in a non-international armed conflict.

The Appeals Chamber grounds its attribution on the Article 8 of the Draft on State responsibility as provisionally adopted by the ILC in 1998<sup>22</sup>. It finds that "the requirement of international law for the attribution to States of acts performed by private individuals is that the State exercises control over the individuals. The degree of control may, however, vary according to the factual circumstances of each case" (*Prosecutor v. Tadic*, 1999). Moreover, the Tribunal decided that it ought to be demonstrated that "the State issued specific instructions concerning the commission of the breach in order to prove [...] that the individual acted as a *de facto* State agent. [...] [or to] show that the State has publicly given retroactive approval to the action of that individual." (*Ibid.*). However, the ICTY understands that solely a generic authority over the individual is not sufficient to attribute international responsibility to the State. Furthermore, the ICC seconds the "overall control" test for the purpose of classification of conflicts (*Prosecutor v. Lubanga* 2007).

This question of acknowledging State responsibility becomes especially intricate in relation to crimes against humanity when it concerns conceptual matters such as the requirement of a State or organizational policy and the element of *mens rea*. It remains that intention is required to commit a crime against humanity. A main concern in attribution criminal responsibility to States is the understanding which arises from the IMT decision in *France el al v. Goering et al.* Thus, applying the mental element to States, which is indispensable for the imputation of criminal liability, has become a tortuous task.

Ultimately, the requirement of a State or organizational policy can be analyzed in relation to both the "effective control" and the "overall control" test. Consolidated international jurisprudence attributes international criminal responsibility to a States when a person or a group is acting its *de facto* organ. Accordingly, "It is understood that "policy to commit such attack" requires that the State or organization actively promote or encourage such an attack against a civilian population." (ICC 2002), it raises the question whether crimes against humanity, in themselves, do not in fact indirectly hold states liable.

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<sup>22</sup> The text of Article 8 as provisionally adopted by the ILC Drafting Committee in 1998 provides: "The conduct of a person or group of persons shall be considered an act of the State under international law if the person or group of persons was in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct"

### 3. PREVIOUS WORK BY THE ILC

Since World War II, a few efforts were taken to forge an international convention on crimes against humanity – unfortunately without success. Differently than genocide and war crimes, that have been codified through the Genocide Convention and the 1949 Geneva Conventions respectively, crimes against humanity persisted as a crime mainly under customary international law.

It is worth to mention that the United National General Assembly asked the International Law Commission to produce a “Draft Code of Crimes Against the Peace and Security of Mankind” (Draft Code) in 1947 (General Assembly Res 177 (II) 1947), a broader category in which crimes against humanity would be included. It took fifty years to the ILC to conclude the Draft Code and, by the time it was done, in 1996, the definition of crimes against humanity was very close to the Nuremberg formulation (Clark 2011).

It reads as follows:

A crime against humanity means any of the following acts, when committed in a systematic manner or on a large scale and instigated or directed by a Government or by any organization or group:

- (a) murder;
- (b) extermination;
- (c) torture;
- (d) enslavement;
- (e) persecution on political, racial, religious or ethnic grounds;
- (f) institutionalized discrimination on racial, ethnic or religious grounds involving
- the violation of fundamental human rights and freedoms and resulting in seriously
- disadvantaging a part of the population;
- (g) arbitrary deportation or forcible transfer of population;
- (h) arbitrary imprisonment;
- (i) forced disappearance of persons;
- (j) rape, enforced prostitution and other forms of sexual abuse;
- (k) other inhumane acts which severely damage physical or mental
- integrity, health or human dignity, such as mutilation and severe
- bodily harm.

The Draft Code of Crimes Against the Peace and Security of Mankind never came into force. Nonetheless, Clark (2011) points out that the set of acts included in the Draft Code had a significant influence on the Rome Statute.

Bassiouni summarizes the reasons that lie behind the ILC earlier unsuccessful approach to codify crimes against humanity:

“[...] But the uncertainty with which the drafters proceeded, and their vacillation, evidences how politically sensitive the ILC has become. Of greater significance is the fact that the main problems with the definition of CAH and the identification of its elements have still not been resolved, while there is still no specialized international convention” (Bassiouni 2011, 183).

Because crimes against humanity is the only core crime under the jurisdiction of the major international criminal tribunals established to date that has not yet been addressed by a global treaty, the ILC decided to include the topic “Crimes against humanity” in its programme of work at its sixty-sixth session in 2014. Insofar, only the First Report of the Special Rapporteur has been published. The report addresses the potential benefits of developing draft articles, draws a general background with respect to the concept of crimes against humanity and proposes two draft articles (ILC 2015).

## 4 QUESTIONS TO PONDER

The ILC Members, when approaching the topic crimes against humanity on its different developments with the purpose to adopt draft articles, are asked to consider the following questions during the debates:

- 1.** Why is a convention on crimes against humanity needed?
- 2.** How to define the offence of “crimes against humanity” for purposes of the Convention?
- 3.** How to require the Parties to criminalize the offence in their national legislation?
- 4.** How to require robust inter-State cooperation by the Parties for investigation, prosecution, and punishment of the offence?
- 5.** How to impose an *aut dedere aut judicare* obligation when an alleged offender is present in a Party’s territory?
- 6.** What if the State has an obligation to extradite and the national law of the requested State prohibits extradition (*eg*, of its nationals)?

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# DISCUSSING CONFLICT IN A GENDERED PERSPECTIVE: WOMEN AND THE REFORM OF THE INTERNATIONAL SECURITY SECTOR

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## ABSTRACT

It is safe to assure that the nature of warfare has changed over time; the fact that women suffer an inordinate amount of impact from it, however, remains. It is already known that the best way of ceasing violence against women is to include them in strategic and politic decisions related to warfare, as well as in every portion of the States' Security Sectors. Why, then, do women have their legitimacy questioned when they try to access the arena of security implementation and decision making? Gender essentialism – the portrayal of women as perpetual victims with the annulment of their agency - is one of the main issues that affect the security sector today and why a reform is needed. Meanwhile, states are still reluctant to address gender inequality - non-state and oppositions movements are the ones seen debating the subject, rather than the established governments. The discussion of the questions proposed and of a Gendered Security Sector Reform is of utmost importance for women's rights and for a better and more inclusive world, in and out of conflict.

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## 1 HISTORICAL BACKGROUND

Security sector reform (SSR) is a recent trend in security politics and post-conflict reconstruction. In both global contexts as well as national and regional spheres, SSR encompasses assessment, monitoring and evaluation of social, political and economical rehabilitation processes, transitional justice and security policy. SSR has been particularly focused on the institutions responsible for these processes, from academia and civil society organizations to governmental institutions and international actors (Bastick and Whitman 2013).

In this section, we describe the ways in which security sector reform has been critiqued and shaped by gender studies and feminism. Thus, we outline the academic bosom in which SSR was fostered (critical security theories) and how it was primarily integrated with gender studies and feminist scholarship.

### 1.1 CRITICAL SECURITY THEORIES

The field of international relations has witnessed a broadening of what is understood by security since the decade of 1990, after the Cold War. Due to processes such as the emergence of regional armed conflicts – which have acquired an ethnical character, switching from interstate to intrastate – and globalization, the security concept has not been seen as exclusively related to the welfare of the state, as it was until then. The individual, which was a marginalized concern in the face of striving for national security, became the center of the debate for critical security theories.

With the dawn of the twenty-first century, debates on security embraced alternative agendas comprising, besides traditional military concerns, also non-militaristic security issues<sup>1</sup>. In 1994, as a milestone of this shift, an UNDP report put forth a new definition of security as 'freedom from want and freedom from fear' (UNDP 1994). The movement was welcomed by critical security theories for its non-state centric perspective. Specifically, feminist security scholars saw in the so-called 'human security paradigm' a window of opportunity to put forth questions regarding the male dominance in the field, which is traditionally translated in terms of national security policy and interstate conflict (Hendricks 2011).

Post-realistic theories of security are not always critical<sup>2</sup> when it comes to the

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<sup>1</sup> Non-military affairs are those related to political, economic, environmental and societal areas.

<sup>2</sup> Here we use a Foucaultian notion of 'criticism', which does not necessarily imply pointing wrong or misconstrued analyses of phenomena, but rather questioning the elements of that analysis that (not) interpreted as fixed assumptions (Foucault 1988).

analysis of or-thodox security discourse. In fact, they frequently unintentionally legitimize that discourse by using implicit assumptions in realist theory as skeletal data in their own analyses (Derian 1993). Although the focus of the critical security push was generally for people-centered conceptions of security, a classist approach was still being left outside of the most popular debates. For feminist IR theories, this meant that the notion of the individual as a pre-analytical subject was, as it had been with realist theories, futile to a gendered debate on security. Secondly, even if a substantial shift from interstate to intrastate violations were to occur, it would still be under the traditional male-dominated field of security policy, production of knowledge and overall traditional power structures (Sjoberg 2010).

Nevertheless, arguably the most severe criticism on mainstream security theory surpasses the possibility of reformation. It is an empirical fact that, behaving in realist logic, states will jeopardize the protection and safety of their own constituents for the benefit of their own security. For instance, a sensitive breaking point for critical security studies was the turmoil following the 9/11 attacks and its consequences for the developed West tightening of “homeland security agendas” as prioritized security strategy (Hendricks 2011). Consequently, the civilian abuse triggered by this modus operandi is indisputable. It follows that the human security paradigm is often essentially irreconcilable with stances which privileges the well-being of the state as the means to achieving, paradoxically, the well-being of its peoples (Blanchard 2003; Sylvester 2010).

## 1.2 GENDER STUDIES AND SECURITY

Critical interpretations of social discrepancies between the sexes (in the Western world) date back to the nineteenth century at latest, iconically represented by the demand for universal suffrage and, more broadly, the first wave of feminist movements. Gender studies, however, is a much more recent (1970s-1980s) and integrated field through which these analyses are made. Associated with notions fostered by the second and third waves of feminist movements, this primarily academic critique focuses on the implications of sexist cultural values and discursive constructions on socio-ties under the patriarchal rule - *i.e.* all numerously representative peoples today and throughout history.

Although still largely restricted to specific, hegemonic loci of production of knowledge, gender studies was born a vastly interdisciplinary field. The drive to understand and identify contradictions within patriarchal social, cultural and political structures permeates from humanities and social sciences to natural sci-

ences. Our analysis here focuses especially on such vices in the context of security theory and policy at global and regional levels.

### 1.2.1. DEFINING GENDER

Women, both as political groups and as individuals, have historically been left outside of the political debate, especially in the securitarian sphere. But what are ‘women’ and what do they represent in terms of a social class and as a concept? Plainly put, ‘woman’ is the gender normatively associated with the female human body. Accordingly, gender encompasses all social and cultural significations attributed to a sexed body. Performing the female gender (being a woman) is reproducing and expressing characteristics culturally associated with the female human body (Butler 1990; Scott 1986). These differences that constitute the concept of gender depend on changing norms and expectations of what it means to be male or female in a certain social context (Deleanty e Steele 2009).

In this sense, gender is roughly understood as the socio-cultural interpretation of the biological sex. Sex in its turn is the physiological distinctions between female and male bodies, and also has a clear discursive dimension. But this ontological relation between gender and sex posits a blurred idea that the first is an ‘artificial’ reading of the latter, which, in this optic, would be the ‘natural’ aspect of the male/female, man/woman binary. It must be noted, however, that even this seemingly ‘natural’ typology is the resulting conception of a sexist binary which is not pre-discursive. The very act of differentiating individuals through this reproductive logic - the male/female biological binary - is the product of a cultural discourse. Ultimately, this would mean that the notion of ‘sexual differences’ is also ‘artificial’, even through a biological approach (Butler 1998; Scott 1986).

The social construction of the female (sex) as associated to weakness and passiveness (gender) was what reinforced a hierarchical image of how gendered social relations were meant to be, especially when it comes to security (Peterson e Runyan 1993). During times of war, in a mythical way, men are viewed as “warriors” that need to protect “defenseless women” (Elshtain 1987). Thus, it is understood that both theory and practice of security “have been – and continue to be – almost exclusively male domains” (Tickner 1992, 28).

### 1.2.2 WOMEN AND WAR

The debate of the role of women in war is essential to understanding gender in security. War has always been an extremely masculinized field, which has usual-

ly been explained by men's supposedly "natural" ability for bellicosity. However, according to Steans (2006,48) "(...) women's innate peacefulness is as mythical as men's natural proclivity towards violence".

Even though the number of women taking part in military and other security areas has increased, there continues to be a strong resistance by society to accept women's participation in war. The justifications for excluding women from combat roles were incoherently conservative, such as that women's maternal instincts make them unable to kill, that their presence in battle would disturb men or that it would provoke men's sexual instincts (Steans 2006).

This supposed necessity of sustaining war as an exclusive male domain was based on culturally constructed notions of sex. Gender is a "system of meaning", a set of cultural institutions and practices that constitute the standards of masculinity and femininity. As mentioned by Delehanty and Steele (2009, 529), gender "(...) hierarchy is 'naturalized' and reinforced via political institutions that are supposed to 'protect' 'weaker' members of society". War as an institution relies on gendered images and so does the security sector. In order to deconstruct women's subjugated image, the empowering of women is crucial. And what IR feminists have been trying to do is essentially this: deconstruct women's subordination, aiming at gender emancipation (Sjoberg e Martin 2010).

### 1.2.3 FEMINISMS AND SECURITY STUDIES

There has always been much miscommunication between the feminist security scholarship and the mainstream security scholarship (Sjoberg e Martin 2010). Despite that, it has been proven that there is a notable global concern about gender issues, best exemplified by the adoption, by the United Nations Security Council, of the Resolution 1325 on "Women, Peace and Security" (Sjoberg e Martin 2010)<sup>3</sup>. The Resolution, that was approved fifteen years ago, highlighted the interdependence of post-conflict security, peacebuilding and gender equality (Bastick 2008).

International relations and feminist theory are contemporaries: both were developed in the twentieth century, in the context of a war-torn world (Blanchard 2003). In spite of that, according to Eric Blanchard and his study about gender and international relations, the field has only recently made a place for feminist analyses. When it comes to security studies, the professor has affirmed that

"security discourses are typically part of the elite world of masculine

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<sup>3</sup> The UNSC Resolution 1325 can be fully read on: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/720/18/PDF/N0072018.pdf?OpenElement>

high politics. [...] [They] conduct the business of states, and too often war [...] with an atmosphere seemingly devoid of women and an interest in issues of concern to women" (Blanchard 2003, 2).

For feminists, international politics was such a thoroughly masculinized sphere that women's voices were considered inauthentic. According to Blanchard, though, from this moment on, "feminist voices must be heard if the international system is to achieve a more comprehensive security" (Blanchard 2003, 2).

*Liberal feminism* believed that removing legal obstacles that prevent women from enjoying the same opportunities as men on a global scale was the effective way to reach gender equality (Sjoberg e Martin 2010, 19), empowering women and making them able to take part in security processes. *Positivist feminism* argued that to understand women's subordination must hierarchies and their effects on a deeper level be investigated (Sjoberg e Martin 2010, 20), making us able to understand gender implications on foreign policy matters, especially in international security issues. *Critical feminists* analyzed the world as divided into different categories that interact on different levels, aiming to understand the functioning of the world and how to change it (Sjoberg e Martin 2010, 20), and then deepening this study in order to relate gender to international subjects, such as security. *Feminist constructivism* focuses on the discursive dynamics that produce a political conjecture and how this conjecture, in turn, produces discourse (Sjoberg e Martin 2010, 18). Lastly, *feminist post-structuralism* emphasizes the relationship between knowledge and power; noting that tradition-ally men dominate the sphere of learning and intelligence and that linguistic dichotomies privilege men against women, it is through the deconstruction of this hierarchical language that poststructuralist feminists believe we can lessen the hierarchy in our reality and conquer gender emancipation (Sjoberg e Martin 2010, 18).

#### 1.2.4 THE CONTRIBUTIONS OF FEMINISM TO SECURITY STUDIES

Regardless of the usual scarcity of feminist work, either in security theory and in practice, there were a few feminist concerns that prevailed and contributed to the improvement of security studies. If gender is indeed relevant, there has to be a conversation between feminism and security studies, since this miscommunication between both scholars led to a lack of recognition of feminist work in the field (Sjoberg e Martin 2010).

Thus, one of the main contributions of feminism to the security studies is that it revealed that women actually exist. Our society does not have many women playing important roles in national and international political scenarios: less than

ten percent of the heads' of state are women (Sjoberg e Martin 2010), which gives us a false idea of a relative inexistence of women in global politics.

Feminists explored gendered images and discourses and showed how they affected international security studies and policies. The discourse of security was historically extremely sexualized, especially in the war sphere - which was grounded in inherited constructed expectations of gender roles -, and “(...) cultural images of male and female are rooted, at least in part, in just war discourse” (Elshtain 1987, 96).

Feminism critiqued discourses about women's security, arguing that its threats included domestic violence, rape, poverty and subordination, besides traditional war. They also deconstructed the link between women and peace – this false relation reinforced women's subordination and exclusion from security processes. It demonstrated that gender influenced state's security-seeking behavior, as well, and showed how gender subordination was a constitutive element of international security.

Finally, feminists proved the importance of women to the maintenance of the state. They showed how governments used women as instruments of foreign policy – an example was that conquering nations imposed their sexual demands on colonized women, which was very common in war times, being significant to security studies. Moreover, they demonstrated that the idea of marriage must exist in order to maintain state security. Since the construction of identity by the citizens was critical to the legitimacy of the state, and once women's identity had often been tied to their husband, feminists said that the institution of marriage was an important component of public security order (Sjoberg e Martin 2010).

### 1.3 SECURITY SECTOR REFORM: THE ISSUE OF GENDER

Acknowledging the historical gender inequality and its negative consequences to security studies, Security Sector Reform, over all, brings us the opportunity to create more inclusive security institutions. For security services to be fairly representative of its citizens, they must include women as well as men (Bastick 2008).

The Security Sector affected men and women in different ways, given their distinct roles during war, peacebuilding and post conflict reconstruction. The massive amount of power security forces owned could lead to all forms of human rights violation, wastage of public money and poor quality of security (Anderlini e Conaway 2004). The sexual abuse of women was also extremely common during times of conflict in states where the security services were powerful – in addition to conventional weapons, rape both as genocide and as terrorism has already been

used in several conflicts (Sjoberg e Martin 2010).

The two main objectives of Security Sector Reforms are to promote effective provisions for security and to strengthen efficient civilian oversight (Hänggi 2004). In the short term, the reform is needed so as to ensure that the sector will gain credibility in the civilians view. In the long term the reform is important in order to assure civilian control over military and security and to make sure that civilians can play an effective role in the Security Sector - (Anderlini e Conaway 2004). Integrating gender in SSR processes is a key condition to achieve a sustainable reform through a legitimate process. The core values for SSR are to be people-centered, locally-owned and based on democratic norms and human rights principles. Anchoring the reform in the values of human security ensures that it addresses the needs of the entire population, that is, the needs of women and girls as well. Thereunto, as explained by Megan Bastick in her work about integrating gender in post-conflict SSR, "A process cannot be people-centered if the needs of half the people are not represented, or democratic if half the population has no voice in it" (Bastick 2008, 7).

Notwithstanding, Security Sector Reforms were normally planned, agreed and implemented only by men, since they were normally part of the personnel responsible for the state's government and women were rarely in decision making points (Bastick 2008). For this reason, considering gender issues, integrating women into SSR means guaranteeing a democratic and legitimate process, deconstructing gendered images of male and women and their role in the security sphere, and, primarily, working towards the empowering of women.

## 2 STATEMENT OF THE ISSUE

The gender lens is indispensable to any matter when dealing with the lives of individuals in a sexually hierarchized society. Vulnerable or otherwise, we are all affected by the dominance-oppression dynamics embedded in all relations and interactions circumscribed to a patriarchal reality. When it comes to the inability of securitarian institutions to provide for the well-being and safety of those who legitimize them, this kind of nuanced scrutiny is imperative. A violated society entails that something went wrong in the state's quest for protecting it from "external anarchy". When *specific* kinds of violence are *especially* aimed at *specific* social groups - female, black, young, Kurd, transgender, Hindu, Hispanic - it signifies that this violence is not blind or unbiased and, therefore, neither should be those attempting to eradicate it.

It is broadly recognized that women's voices are frequently faint and inconsequential, but in security politics they are almost inaudible. The subject has been indisputably related to force, chill, rationality, firmness - all things masculine. It is evident that, as a result, the position that women take in international security politics is subsidiary. The same goes to attitudes and behaviors culturally associated with 'femininity' (Tickner 1988; 1992; Salahub & Nerland 2010<sup>4</sup>). Women are commonly placed in a quota for utopian pacifiers, with a voice too shrill and an attitude too motherly to be taken seriously as an important source of conflict-resolving insight.

In the rare occasions when women relevantly occupy positions of power within decision-making organs in national and international security, they often do so while portraying masculine features and rationale. In such cases, they are not praised as an example of the diversity of gender expression in women, countering the essentialistic linkage between women and 'femininity'. Rather, they are portrayed as extraordinary members of the female group, with regard given not to their qualities or social position as women, but to their exceptional objectivity, coolness, and overall 'masculine' standpoint (Blanchard 2003). Maruska (2010) uses the example of vigorous heads of state such as queens Elizabeth and Victoria, Margaret Thatcher and Angela Merkel and draws attention to how they are viewed as clear-minded exceptions in the eyes of security politics, coming to be called "Queen Warriors", as if being a "warrior" was what distinguished them from other women in power ("queens") or women in general. This illustrates not only a commonplace dissociation of women from war, but the aforementioned positive correlation between security politics and truculence.

The silencing of women as actors in the security sector, however, is not the only way in which gender relations are tuned out. Security Sector Reform is also funneled to a gendered perspective when it comes to tackling insecurity of women and other socially vulnerable groups by placing it as a priority on the security agenda (Mackenzie 2009; Shepherd 2010; Sjoberg 2010; Sylvester, 2010; Tickner 2001).

Moreover, the trivially appealing stigma of women as victims poses yet another problem when combined with the male dominance over SSR. The security

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<sup>4</sup> The cited paper (meta)illustrates this point perfectly. The authors exemplify the frequent dismissal of gender in SSR with the 2007 *Handbook on Security System Reform* issued by the Development Assistance Committee (DAC) of the Organization for Economic Co-operation and Development (OECD). They point out that the book was issued without a single chapter putting SSR under a gender lens, being silently appended in 2009 with one chapter about the issue, without republication. Ironically, this point is made in the only paper that mentions the gender perspective on SSR, out of twenty articles in a publication entitled "The Future of SSR" (Sedra 2010, 263).

of this social stratum is generally dependent on the same group to which the perpetrators of their insecurity belong (i.e. ‘masculine’ men). Women should have autonomy and power over their own security and lives (Salahub & Nerland 2010, 266). Even if the masculinized universe of security were to regard the specific insecurities of women as an issue of utmost importance, the outcome would still be paradoxical. Women’s lack of agency over their own lives would still be dependent on masculine authority, rationale and actors, conserving women as objects of a male-dominated subject (Bastick 2008). On this account, reforming security as to embrace women and ‘feminine’ attitude is indispensable for proper representation, legitimization and accountability of the security sector.

Creating the space in which women can fully participate in their security, including defining security for themselves and their communities, as well as providing that security to others through participation in the institutions responsible, is fundamental to the principles of democratic and rights-based SSR, and to the effective provision of meaningful security. (Salahub & Nerland 2010, 266)

This parallel between security politics and the protection of these individuals is, furthermore, one that defies traditional concepts of security, which focus on protecting domestic order from the international “anarchic” system (Sjoberg & Marin 2007, 9). Counter-hegemonic conceptions of security is one of the foundations of gendered analysis in the field and, consequently, feminist security studies.

## 2.1 GENDER AND SECURITY

Feminist security theory is a relatively new realm of security studies in international relations. The field arose from critiques already being fostered in critical security studies in the late 1980s-early 1990s. Especially challenging realist and neorealist approaches to security, feminists began permeating the debate by analyzing the logics in which it was thought and operated, to questioning the very concept of security employed by traditional scholarship. Much like realist scholarship, feminist security studies are a multifaceted umbrella of theories and praxis. Notwithstanding visibly variant understandings on gender and security politics, there are clear common grounds among them (Blanchard 2003; Elshtain 1990; Hansen 2000; Sjoberg 2010; Tickner 1992; 1997), which are further outlined in this section.

Traditional security theory has been recurrently criticized by feminist theorists for its inefficiency to tackle the roots and the mechanisms through which conflict arises and develops. It is argued that, especially after the end of the Cold

War, hegemonic notions of security, which focus on inter-state conflict, were insufficient to manage such issues, mainly considering the increasingly intra-state character of bellicose disputes (Hendricks 2011; Tickner 1992; Zalewski 2015).

These ontological, epistemological and methodological insurgencies aim not only at expanding - or, in a more pragmatic drift, demasculinizing - the stances from which security is perceived, but also at addressing security in such a way that focuses on the voices and well-being of women, non-binary and gender-fluid persons. Therefore, in feminist security theory, reformation lies in questioning and redefining, initially, from where theory and policy comes and how its birthplace shapes securitarian practice, and further to where it goes, how individuals are affected and, particularly, how important women's "security" is for security politics (Hansen 2015; Blanchard 2003).

### 2.1.1 THE CONCEPT OF SECURITY IN FEMINIST SECURITY THEORY

For this more extensive consideration to occur, the dominant concept of security had to be deconstructed. Realist and neorealist scholarship in IR focused on a militaristic and state-centric concept of security, which "emanated from a masculine bias"<sup>5</sup> (Romaniuk 2009, 143). According to this assumption, states behave in a power-seeking manner as a means to promote security, which is primarily threatened by unruly extra-territorial forces. With the end of the Cold War and the emergence of internal ethnopolitical violence, as well as economic and ecological hazard, critical security scholars began questioning the value of such outwardly focused concepts to the (inward) protection of human lives, ultimately developing alternative definitions of security (Campbell 1992; Krause and Williams 1996; Blanchard 2003). This new security paradigm undertook the incorporation of a more meticulous approach, envisioning the individual as the arena of realization of "security" and widening the agents and instruments accountable for it (Hendricks 2011).

Attempting to address structural violence<sup>6</sup>, the 'human security paradigm' (UNDP 1994) outlined the concept as "freedom from want" and "freedom from fear" (Galtung 1969, 172). Although it was embraced by policy makers and various institutions, the logics in which it was interpreted often placed Western states and agents ("development donors") in a condescending condition in relation to the "receiving" post-conflict or even simply developing countries (Hendricks

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<sup>5</sup> As self-evidently illustrated by Waltz's (1959) classical title "*Man, State and War*".

<sup>6</sup> "The violence done to people when their basic needs are not met" (Sjoberg & Martin 2007, 10).

2011). This indulgently hierarchical relationship is deeply problematic, but seems not to have been considerably addressed by the literature on SSR.

The shift from state security to individual security was a substantial step for guaranteeing security for women, but feminist theorists found it ineffective in this attempt. A concept of “human security” can be easily blinded by the prospects of a human experience of safety. The multiplicity of these experiences are exemplified by feminism when it acknowledges the radically discrepant position women occupy in society. Naturally, this is just one way in which human groups are distinguished, which is why feminist views do not intend to be exhaustive, but claim that relations be seen through a gendered standpoint as one of its many critical eyes. Thus, this humanistic concept of security is insufficient in its effort to tackle the insecurity of women as insecurity of the individual (Tickner 1992; 1997; 2001).

A gendered concept of human or individual security (considerably as opposed to that of ‘international security’) is especially important in the SSR debate<sup>7</sup> when the particular soil that post-conflict contexts fertilize is taken into consideration. This specific atmosphere of violence that arises during and after armed conflict has remarkable gendered implications, as pointed out by Bastick (2008, 152)

“Sexual and domestic violence continues and increases in the post-conflict period, fueled by the availability of weapons, trauma among male family members, and lack of jobs, shelter and basic services.”

Thus, SSR must be developed not only with reconciliatory purposes, projecting the aftermath through the experience of preceding hardship, but with eyes on ongoing healing processes as affected by their own particular brutality (Bastick 2008; Rehn & Sirleaf 2002).

## 2.1.2. WHO “WEARS THE PANTS” IN SECURITY POLITICS?

As previously mentioned and illustrated, security politics was established in such a way as to allow for the status quo to replicate itself in yet another power and authority crest. This was done so in two well-defined, but cyclical, orders. Firstly, men take up most of the securitarian space and are the ones whose words echo in it. Security politics is a substantially ‘masculine’ environment in the sense that it is generally made up and thus represented by individuals of the male sex and gender. The second impulse for this cycle is the masculine rationale and atmosphere under which security politics operates, making it an environment that is also morally masculine. The cycle of male supremacy over the field, thereby, is structured as to

<sup>7</sup> For practical as well as politico-ideological reasons, “the gendered perspective” will hereinafter be presumably implied when Security Sector Reform is mentioned in this chapter.

enable security politics to be chiefly shaped by men, yielding a male-oriented ethics, which in its turn fosters an ambience especially welcoming for men, bringing them in and completing and restarting the cycle.

This anatomy of security politics is not inherently bad for being one that privileges men and the ‘masculine’. However, as the cycle operates in two correlated fronts, its direct consequences are also two-fold. Firstly, it creates a powerful medium for exclusion of not only women, but anyone with less - or non-hegemonic<sup>8</sup>- masculine attitudes, which is in itself an ethical conflict. This segregation is also one of the components of the second by-product of the ‘male recycling’ in security studies and praxis, by which behavior and mindsets viewed as feminine are checked at the door. It follows that this representational deficit is also a problem in a strictly practical sense. It is functionally disadvantageous to ignore a whole set of perspectives and *modi operandi* as it narrows possibilities and alternatives for the realization of the securitarian agenda, leading to a pattern of seemingly inescapable failures and unsuccessful operations.

That is what the “pants wearing” paradox illustrates. The securitarian scene is substantially dominated by men, those in control or “wearing the pants”. All the while, it demands that its agents operate according to masculine features and deal with issues from a masculine standpoint. That is to say that for anyone to be taken into consideration in security politics, they must portray characteristics associated with men and ‘masculinity’ - here represented by pants<sup>9</sup>. Men wear “the pants”, because men wear pants. In other words, the securitarian sphere is dominated by men because it is organically male-oriented, and vice-versa<sup>10</sup>.

This structural loop of masculinity cannot, therefore, be expected to spontaneously metamorphose into a plural and inclusive - and, consequently, more efficient - discipline. The possibilities for disturbing this chain and including individuals socially and culturally depicted as ‘feminine’ will be further discussed in this chapter.

## 2.2. WOMEN AS TARGETED VICTIMS

Belligerent conflict has different effects on men and women. What could be

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<sup>8</sup> The concept of hegemonic masculinity is described by Connell & Messerschmitt (2005) as variating models (or ideals) of being a male man in different societies, which not only doesn't necessarily describe the characteristics of men in these societies, but illustrates men as an exaggeration of these characteristics.

<sup>9</sup> As opposed to “skirts”, the metaphorical equivalent to ‘feminine’ behavioral and operational characteristics.

<sup>10</sup> As put by Delehanty and Seale (2009, 527) “those who produce the discourse also have the power to make it ‘true’”.

a powerful statement is, in reality, simply verifiable in almost every war-zone depicted in history. Since a strict division of men and women often characterizes combat zones, when military forces, mostly comprised of men, leave for battle, the civilian population left behind consists, in turn, necessarily of women, children and the elderly (Skjelsbaek 2011). Thus, when the purpose of warfare is to target the civilian population, women often constitute the prime target.

Despite the recognition of the vulnerable situation of women, it is mandatory for the success of a debate on the Security Sector Reform that women are not portrayed exclusively as victims. As stated by Cora Weiss, President of the Hague Appeal for Peace and UN Representative of the International Peace Bureau:

“The point of UNSCR 1325 is not to make war safer for women, or turn women into war heroes, but to give women their rightful place in contributing to the ideal end state which is the absence of war.”  
(Potter-Prentice 2013, 80).

With a critical interpretation of the notion of women as mere sufferers of violence, identifying and preventing their targeting in conflict becomes an important part of the discussion on gender, women and the security sector, but not its sole focus. Targeting, in turn, occurs often in different forms. Non-extensively, it is possible to consider three main approaches to the subject: sexual violence, social vulnerability and the racial approach.

## 2.2.1 SEXUAL VIOLENCE

The understanding of sexual violence as a wartime weapon and crime is fairly recent. Before the establishment of the International Criminal Tribunals for the former Yugoslavia (1993), and for Rwanda (1994), the topic was not part of the agenda on international security. Previously, few had wanted to look into the mechanisms which created perpetrators or dealt with their punishment, even though the knowledge of wartime rape was widespread. Association of femininity and victimization was so naturalized — wars or no wars — that few laws had anything to say about it. The topic was, and in many stances still is, a taboo.

Fortunately, the advance of feminist scholarship into the sphere of the security studies has brought sexual violence into light as a form of dominance and control, aimed at maintaining patriarchy and the subordination of women within this social order. The reasoning is straightforward: in belligerent contexts, pre-existing gender relations become accentuated. If women are perceived as men's possession in times of peace, they will be perceived as such even more acutely in times of war (Skjelsbaek 2011).

Other identities such as ethnicity, religious belonging and political affiliation are also seen as interacting with the gender identity, putting some women at greater risk than others. Thus, the understanding of patriarchy became more complex, because it was no longer seen as simply man having power over women, but as men belonging to the most powerful ethnic, religious or political groups (Skjelsbaek 2011).

In Serbia, attention was brought to the frequency and severity of wartime rape, characterizing it as a form of genocide and torture. Plans allegedly written by Serbian army officers mentioned the raping of women and children as an efficient tool in the process of ethnic cleansing of Muslims in Bosnia and Herzegovina. In Latin America, attempts to crush oppositional elements of the civilian population singled out women on the basis of their affiliations and individual political activities (Slojberg e Martin 2007). Ultimately, the notion of what was considered sexual violence was expanded to include, in addition to rape, forced prostitution – the “drafting” of women to provide sex to soldiers - or marriage, genital mutilation and forced nakedness (Bastick 2008).

## 2.2.2 SOCIAL VULNERABILITY

The concept of social vulnerability emerged and is usually linked to the discourse on natural hazards and disasters. It refers to the inability of people to withstand adverse impacts from multiple stressors to which they are exposed. In environments of conflict, however, actors within the civilian protection network have never agreed on how to define “vulnerability” (Carpenter 2013).

In the Geneva Conventions<sup>11</sup>, vulnerability is related to physical characteristics that can make an individual less able to withstand attack and escape from harm. Women are often considered inherently vulnerable due to physical reasons, when, arguably, that is not always the case. Excluding the factor of age, only women who are pregnant or lactating possess vulnerabilities stemming from their biological sex (Carpenter 2013). The generalization of the whole group “women” as vulnerable contributes to the victimization and portrayal of women as beings without agency.

To others, however, vulnerability is socially induced regardless of physical characteristics, and some groups are made more vulnerable than others based on their capability to access resources, the roles with which they are expected to comply or their geographic location. In that case, women can be vulnerable apart from

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11 The Geneva Conventions and their Additional Protocols form the core of international humanitarian law, which regulates the conduct of armed conflict and seeks to limit its effects (ICRC, 2010).

age or motherliness (Moser & Clark 2001). Often finding themselves as heads of household “when the men go to war”, women can be displaced and have difficulty acquiring basics that are customarily distributed through male heads of families. Moreover, they can be expected to surrender their norm of living and to submit to rules established by those who are, purposely or not, ignorant of their culture, besides suffering the risk of physical attacks (Carpenter 2013).

### 2.2.3 RACIAL APPROACH

As mentioned in this section, some women can be at a greater risk in combat zones due to their ethnicity. In order to develop the racial approach, one has to consider the vision countries known as colonizing powers have perpetuated in their colonies. Traditionally, the object of analysis is the Western countries. These nations have historically created cultural and racial stereotypes based purely on their beliefs, often viewing colonial territories as inferior, with less civilized cultures (Slojberg e Martin 2007).

Prejudiced perceptions that are ingrained in a cultural mindset are almost always transferred to the doctrine or minds of those who end up serving in the army, in police forces or even integrating militias. When mixed with the already mentioned visions on gender, they become an even bigger minefield. Even though the security sector environment is mostly comprised by men, it is important to highlight that these wrong perceptions can also reach the few women present in the decision arena. Having applied the theory to them, postcolonial feminists noted that, regularly, women present in the arena could become very biased in their perception of the emancipation needs and wants of other women (Skjelsbaek 2011).

Just as feminists assert that society exists with knowledge primarily set forth by men, it is possible to find fault in the knowledge solely based on the experiences of privileged Western women (Slojberg e Martin 2007). The struggle to include women in all processes related to the security sector has become even more inclusive as a way to fight stereotypes, such as the vision of women from undeveloped or developing countries as poor, undereducated, victimized and lacking in agency. The fight on gender subordination will not be exhaustive until based on the relation of gender, race and culture.

## 2.3 THE ROLE OF WOMEN AS ACTORS IN THE SECURITY SECTOR

For purposes of research, it is broadly recognized that the security sector is

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comprised of three main branches: groups with the authority and instruments to use force (military and police forces); institutions that monitor and manage the sector (government ministries, parliaments or the civil society); and the structures responsible for legislative application (the judiciary, prisons and human right commissions). Years after the adoption of Resolution 1325, women are still a minority in all three areas (Anderlini & Conaway 2004).

### 2.3.1 THE SPACE OF WOMEN IN THE SECURITY SECTOR

For purposes of research, it is broadly recognized that the security sector is comprised of three main branches: groups with the authority and instruments to use force (military and police forces); institutions that monitor and manage the sector (government ministries, parliaments or the civil society); and the structures responsible for legislative application (the judiciary, prisons and human right commissions). Years after the adoption of Resolution 1325, women are still a minority in all three areas (Anderlini & Conaway 2004).

In the military sector, some countries tend to have more favorable statistics on the participation of women when analyzed individually. Not surprisingly, countries that have just gone through conflict, like South Africa and Sierra Leone, have larger female participation in the army and/or police forces, respectively 29% and 15%. The increase in numbers is due to the fact that changes in gender roles are likely to happen during armed conflicts, when women often join armed groups or take other responsibilities to ensure their family's safety. When conflict is over, a new recognition of the contributions women make to security can arise (Bastick 2008).

However, the same cannot be seen in peacekeeping missions sponsored by the UN. In January 2007, the UN's first all-female peacekeeping contingent, made up of 103 Indian policewomen, was deployed in Liberia. Even though the effects of the mission were very positive, the feat has not yet been repeated. In October 2011, women comprised only 3,6% of military experts, 2,6% of troops and 9% of police in all missions (Bastick 2008).

In the institutions responsible for the management of the security sector, the growth of women's participation is also present, but not satisfactory. In January 2008, women ministers in 185 countries held 1022 portfolios. Only six of these were portfolios for defense and veteran affairs (IPU 2008). Two foci related to this information must be addressed: firstly, that there are, still, not enough women participating in politics and, secondly, that the women who participate are not given positions related to the Security Sector.

Another issue is that, too often, security policies are implemented in a manner that excludes civil society input, and, currently, women's organizations are one of the main mechanisms by which women can voice their security-related concerns. In the next section, we will see that, beyond that, these organizations can also be very important security providers.

The increase in women's participation is but the beginning of the fight for gender equality in the security sector. When women achieve a position of leadership within the area, other problems arise. Women leaders are often required, disproportionately, to be role models (Potter Prentice 2013). Frequently, it is expected of them to make more impressive progress in the issues they attend to, precisely because they're women. Catherine Ashton, Angela Merkel, Hillary Clinton, Michelle Bachelet and others have all suffered from unfair misogynistic judgment of their capacities.

In the military sector, in turn, female police officers are sometimes expected to do little more than cook lunch for male police officers. Even if they are allocated to functions pertinent to their actual job as police officers, women tend to remain in special response and investigation units related to sexual violence (Potter Prentice 2013). Despite undoubtedly recognizing the importance of said units, some critiques suggest that this is a new form of sidelining women, keeping them involved in "women's issues" and still not allowing them to participate on other security affairs.

### 2.3.2 THE EFFECTIVENESS OF WOMEN IN THE SECURITY SECTOR

Despite the troubling data shared in the last section, women are slowly conquering their space and right to an opinion within the Security Sector. Furthermore, the effectiveness of having women in the differing branches related to security has been proven by distinct studies. From the ability to use identity roles such as mother/daughter/wife to influence events, as seen in the monitoring of ceasefire arrangements by the Manipuri Mothers<sup>12</sup> in India; to the highlighting of different perspectives on peace process issues, as seen in the participation of El Salvadorian female ex-combatants in the DDR (Disarmament, Demobilization, Reintegration) programme of 1992. Women have had important roles in solving various conflicts in the past century (Potter Prentice 2013).

Women's organizations are in the center of most accomplishments regarding

<sup>12</sup> The Manipuri Mothers were mothers of the Meetei ethnic group, which constitutes 27% of the population of Manipur, a state in northeastern India. The group monitored ceasefire arrangements in northeast India/Manipur when an armed conflict began between the government and the ethnic minorities in 2004 (Potter Prentice, 2013).

security achieved in recent years. Fighting the blockage in their access to the decision arena, these groups have provided a range of services to victims of violence and war, such as shelter, legal advice, medical and psychological assistance (Bastick 2008). While offering aid in important steps to reintegration, the organizations are often recipients of information about local-level security threats, having precious insights in the security initiatives necessary to detain them. Moreover, they also have an acute understanding of the needs of post-conflict civil society, standing in an ideal position to make recommendations to the governing capacities and forming bridges between local communities and security policymakers, strengthening local ownership (Valasek 2008).

This happened in Liberia, for example, after the end of the 1989-2003 civil wars. Women's groups that, throughout the conflict, worked for peace, continued to work for the reconstruction and reconciliation of women's rights after the conflict. The organizations urged that women should be full partners in the creation of the National Security Policy and of the Defense Strategy. They also made several concrete recommendations as to how the process could be more responsive to gender issues - such as a penal reform that addressed the needs of male, female and youth prisoners; and the inclusion of trauma counseling in the training of security forces. Their demand led to the formation of a Women and Children's unit in the Liberian prisons, the training on gender and gender-based violence of prison officers, and the adoption of a 20 per cent quota for women's inclusion in the military (Bastick 2008).

Besides providing information, women have also been responsible for the increase in inclusivity beyond that of gender in several post-conflict processes. In Afghanistan, the presence of women supported from below the inclusion of other minorities, such as the Uzbeks, in the 2003 Loya Jirga<sup>13</sup>, where a new Afghan Constitution was drafted. Research has shown that inclusive processes, besides being more credible, have a majorly higher success rate than their counterparts (Potter Prentice 2013).

Women's ability to communicate and network with segments of society that may be off-limits to others is another important factor. Possessing better communications skills than their male counterparts makes women officers better equipped to institute a community-policing model, earning cooperation and trust. Research demonstrates that women officers also use less physical force, are less likely to use

<sup>13</sup> A Jirga is an assembly of leaders that make decisions by consensus and according to the teachings of Islam. A Loya Jirga is a special type of Jirga that is mainly organized for choosing a new head of state in case of sudden death, adopting a new constitution, or to settle national or regional issues such as war. In Afghanistan, Loya Jirgas have been reportedly organized since at least the early 18th century (TIME, 2013).

that force in excess and are better at defusing potentially violent confrontations with citizens (Bastick 2008).

The capacity to prioritize peace-making over power-sharing is another example of an area in which women have fared well. Be it in Northern Ireland, in 1996, or in the Arab Spring countries, in 2011, women's groups have effectively managed to organize for peace across party lines.

## 2.4 FEMINIZING/DEMASCULINIZING SSR

'Masculinity' has been historically shaped as to portray agency traits that are promptly related to 'public values' and their consequent administration (Delehanty & Steele 2009, 528). In a supposedly complementary binary perspective, an atmosphere has been established as to standardize the public/private polarity in gendered categorization. While masculinity is related to agency in the public sphere (rationality, leadership assertiveness, autonomy, practicality), femininity is left with the mastery of the home, emotions, interpersonal relationships, even sensuality - layers of the scope of private life (Steans 2003). This socially imprinted labor division of genders, based on an arbitrary appointment of personality traits, sustains a system that privileges men as the political protagonists and delegates women to the domestic realm (MacKenzie 2010).

For instance, in ontological security theory, by which states behaviors are analyzed as having a Self-identity, attention has been called, through intersections with feminist theory, upon the fact that states present a male self, that is, behave in traditionally masculine orientation and logics (Delehanty & Steele 2009; Wadley 2010). Thus, for the demasculinization of the security sector, a broader effort must also be directed toward the demasculinization of the state as a whole.

### 2.4.1. ESSENTIALISM AND UNIVERSALISM

There are two socio-cultural axioms that demand critical examination if we are to understand how the exercise of power operates within gender discourses in security studies and politics. As hitherto indicated, it is conventionally understood that each gender (of only two) comes with a rigid 'toolkit' of abilities that are - favorably - supposed to complement each other. Moreover, these 'toolkits' are arranged in the social psyche according to a specific conception of what it is to perform each of these genders. This understanding about the inherent qualities of women and men is based on a westernized set of values and frame of reference. Thus, being a person with a female biology traditionally limits the individual not

only to a notion of ‘womanhood’ but to *the* Western notion of womanhood. These two categorical limitations to the female individual are, respectively, what the literature refers to as ‘gender essentialism’ and ‘universalism’ (Fellmeth 2000; Hobson 2007; Jacob 2008; Quareshi 2012).

According to an essentialistic notion of gender, men are to be objective, fierce, assertive, cutting edge; while women are portrayed as pacifistic, communicative, nurturing, subtle, delicate. One is skillful in all the ways the other is not, and considering a specific set of skills that are demanded in security politics, one of these toolkits is more invaluable than the other, which through an essentialistic optics will tell us that men, with their specific personality apparatus, are the ones whose tools are a better fit for securitarian ventures (Jacob 2008).

In this sense, even in the absence of an excluding masculine power structure, if the most effective ways of dealing with security actually did demand an unemotional, straightforward, militaristic approach, the prevalent essentialistic cloud around the gender binary would suggest a crushing preference for men in the field. This acutely realistic scenario is most problematic when considering that security, even as seen as the ‘security of the state’, is a matter that affects women, men and other forms of counter-hegemonic gender expressions, bringing us back to a much discussed representational failure (Fellmeth 2000). Thus, for the foreclosing pattern of the security sector to be broken, gender essentialism, or the groundless belief that women or men are inherently anything must be overcome.

Another controversial facet of essentialist and universalist approaches to women’s experiences is its insensitivity to their disparities through race, class, sexual orientation, religion etc. Black and post-colonial feminisms show especial concern with this homogenization, indicating that most conceptions about being a woman are actually expressions of being a white woman in the developed West. Essentialism even within feminist theory is a recurring criticism that black feminism bestows upon whitened ideas of womanhood. As illustrated by Harris:

“Essentialism in feminist theory has two characteristics that ensure that black women’s voices will be ignored. First, in the pursuit of the essential feminine, Woman leached of all color and irrelevant social circumstance, issues of race are bracketed as belonging to a separate and distinct discourse - a process which leaves black women’s selves fragmented beyond recognition. Second, feminist essentialists find that in removing issues of “race” they have actually only managed to remove black, women - meaning that white women now stand as the epitome of Woman” (Harris 1990, 552).

Post-colonial feminism particularly argues that Western feminist scholarship is embedded in its discursive dominance over the descriptions of experiences of

women. As such, its attempts at describing the experiences of ‘third world women’ in itself produces a silencing homogenization of these experiences (Mohanty 1984).

#### 2.4.2 ASSESSING QUEERNESS IN THE SECURITY SECTOR

The main literature on the topic is still attached to a dual conception of gender, and further as an exteriorization of the biological sex - either male or female. Considering that the gender binary is the established form of gender expression today, it is indispensable to look at it through the socially performed man-woman model. However, the dismissal of counter-hegemonic or ‘queer’ representations of the sexed body (Butler 1999) which extrapolate the traditional man-woman binary is yet another issue to be tackled. Shepherd critically observes this invisibility by stating:

“The marginalization of queer sexualities in security, economic/development and state-building policy, whether by omission or by design, both affects and demonstrates whose participation is considered legitimate, whose interests are represented and, ultimately, whose modes of being in the world are deemed to be of value.”  
(Shepherd 2010, 148)

Accordingly, the issue of representation can go beyond the absence of a social group in a decision-making sphere. It gets even more troublesome when it reveals the recognition deficit that deems individuals not only as unfit for certain roles - as is the case for women in security - but as inadequate as a state of being. In this sense, policies that address “men-women-and-children” leave a whole spectrum of groups outside of its belt of protection, ignoring and most worrisome loading the weight of a violence these individuals already carry for defying gender norms (Shepherd 2010, 154).

#### 2.5 TOWARD GENDER EQUALITY: GENDER MAINSTREAMING AND SPECIALIZATION.

As recommended by scholars and policy makers in the field of SSR and taking into account all that has been hitherto discussed, two main fronts of action are identified as means to ensure full representation of women - at least in a first restructuring movement - in the security sector. Firstly, through a practice known as ‘gender mainstreaming’, the gender perspective must become a given when any policy is discussed. That is to say that, in studying and implementing measures to ensure the security of individuals and even of states, special consideration must always be given to the social differences between men, women and queer sexualities and gender expressions, striving to avoid homogenizing the experience of insecurity

through disparate social strata. The ultimate goal here is to make the gendered implications of any plan of action as hardwired to security strategies as is the case, for example, of resource allocation or economic repercussions (Aolain 2009; Bastick & Torres 2010; Jacob 2008).

It is clear that gender mainstreaming requires a long term commitment of security-related institutions, from the legislative, judiciary, oversight organizations to police and military forces, regardless of the plan of action adopted. However, Hudson (2009) points to a bifurcation in mainstreaming theory and practice. According to a more instantaneous approach, which the author calls ‘integrative gender mainstreaming’, women are to permeate in existing institutions with a long established (super)structure, which due to socio-cultural phenomena described above reproduce traditional masculine stances on state, security, peace-building, development and post-conflict rehabilitation. This reformist stance suggests that, firstly, integrating women and gender discourse to security politics increases its legitimacy before independent organizations and society as a whole, and especially counts on women’s organizations to cast oversight over state policing on human and international security (Hendricks 2011).

Criticism to this strategy focuses on its shyly adjusting intentions of balancing gender representation and points to an ineffectiveness in actually changing gender relations from its roots. Accordingly, Hudson (2009, 42) stresses that

“gender mainstreaming may offer greater visibility for women in the political sphere, but if women’s participation remains confined to liberal individualist ideology which is not representative of women’s experiences at the grassroots level, gender relations stay untransformed”

Moreover, these subtle reformations are further criticized by feminist scholarship for its universalistic pretension, considering it is generally imported from Western security sector frameworks without assessing the problems embedded in their structures (Aolain 2009, 1083). Further, it is likely to tune out the discrepant modes of gender relations in the West from those, for example, in post-conflict African nations.

“[...]an important conclusion drawn here is that the reformist mode of security sector reform contains an explicit modeling on western security sector organizations with a compelling blind-spot about the gender distortions inherent in these institutions and their subsequent export to other states” (Aolain 2009, 1072).

The alternative approach to gender mainstreaming would be what Hudson (2009) calls an “agenda-setting approach”, through which security frameworks and rationale are to be completely rethought and thus rebuilt in a gendered perspec-

tive that doesn't simply stabilize gender balance, but that alters gender relations in security politics. This revolutionary approach is funded on the idea that the sole inclusion of female actors, gendered lenses and – what is perceived as – 'feminine' attitudes are insufficient to tackle the representation gap between male and other genders in policy-making, since the institutions and mechanisms which they would permeate are already structured in male and state-centric logics. Thus, an integrative approach would shade the current system but leave it organically unchanged (Hendricks 2011).

Finally, taking exceptional examples of women who exceed expectations of influence in the field has been recurrently noted as inefficient in transforming the situation of women as a whole in the security sector (Zalewski 2015, 7). As Levy puts it "if you're the exception that proves the rule [...], you haven't made any progress", the rule here being that women and femininity are disproportionately undervalued in the security politics stage. The fact that the female voice must be coded in masculine undertones to be equitably contemplated in the securitarian sphere translates as the masculinized hegemony in security studies and practice (Hansen 2000; Shepherd 2015; Sjoberg & Martin 2007; Tickner 1997; 1999).

### 3. PREVIOUS INTERNATIONAL ACTIONS

Considering the juvenescence of the field of Security Sector Reform and the discernible blooming of gender issues in international politics both as dating around the end of the Cold War, international attention to the topic is still shy of a binding framework (Neuwirth 2002). The cornerstone for women's human rights in the international arena is over 30 years younger than Universal Declaration of Human Rights. As such, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979 is the formalization of the inception of an effort directed towards bringing 'women' and their experiences into the historically male-centered concept of 'human'.

Informally known as the "women's bill of rights", the CEDAW puts women in the center of the human rights debate as subject to specific forms of protection. Although the Convention abides to the same universalistic standpoint that traditionally directs international human rights theory and practice, it has been said (albeit mainly by Western authors) to have noteworthy qualities when considering diversity in women's social identities and experiences. To Baldez (2011) one of CEDAW's main exploits is identifying a common-ground in women's generally multitudinous political interests: a struggle against gender-based discrimination.

As the first binding legal instrument to address the need to ensure full participation of women in politics as well as to tackle women's human rights violations as a specific matter of insecurity in the international arena, the CEDAW made way to gendered perspectives of security politics, particularly under the UN umbrella. Although criticism to the Convention and related documents has been recurrent in topics ranging from gender essentialism to the tool's practical reach, its symbolic importance is unparalleled (Bastick & Torres 2010; Defeis 2011; Parpart, Rai & Staudt 2002).

In 1993, undertaking CEDAW's disregard for gender-specific violence, the UN Declaration on the Elimination of Violence Against Women (DEVAW) sought to fill such gaps. The DEVAW defines violence against women as

"any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life" (UNGA 1993, art. 1).

Its universalistic approach, as with the CEDAW, was deemed inoperable by several legislations, seeing as ratifying states are bound to a positive effort towards ending gender-based violence and "should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to" it (Defeis 2011; UNGA 1993, art. 4).

The mobilization for women's rights and space in the political arena that started circa 1975, culminated in the 1995 Beijing Declaration and Platform for Action (PFA), a formal outcome of the debates held at the Fourth World Women's Conference. The Beijing PFA translated a much more diverse range of interests relating to gender relations and experiences of "womanhood" throughout the globe, permeating North-South and West-East divides. Going beyond CEDAW's main concerns about women as especially vulnerable subjects to human rights violations, the PFA focused on a much broader agenda, significantly addressing questions of "participation in relation to inequalities of power and decision-making between women and men at all levels" (Kabeer 2005, 8).

In this spirit, it was agreed by all governments involved in the Conference that a minimum quota of 30% would be established for women in decision-making positions. However, taking the UN system as an illustrative sample, this goal is not yet tangible. From 1992 through 2011, less than 4 per cent of signatories to peace agreements were women and as of 2014, only one percent of spending in SSR was being allocated in the promotion of "initiatives that *consider* gender equality to be a significant objective" (UN Women 2012, 2; UNSC 2014)

The Beijing PFA, however utopian, lodged the groundswell of principles un-

der which it was established. In the security sector these have translated, firstly, into the indispensability of expressive participation of women in decision- and policy-making processes as the means to achieve peace, security and human dignity; and, secondly, by placing equality between women and men and, thus, freedom from discrimination as questions of utmost importance for the promotion of human rights as a whole (ITGN 2012).

It was under these principles that UN Security Council Resolution 1325 on Women and Peace and Security was unanimously voted into enactment in 2000. The document aims at mainstreaming gender in all peace- and state-building operations by placing women and gendered perspectives as key features of conflict resolution and post-conflict reconstruction.

Fostered under the UN system and through the heads and hands of the Non-Governmental Organization Working Group on Women, Peace and Security (NGO WG), the text and context of the resolution advocate for (neo-)liberal discourses on ‘women’ as well as security and peace-building. Recurrently criticized for its presumptuous ‘universality’, the document adopts a notion of development that poses conflict-recovering and industrialized (“donor”) countries at distinctive hierarchical levels (Shepherd 2008).

“Following a conventional narrative of development, the motif of peace (state) building is visible as a process of maturation, where “zones of conflict” are assisted by the “international community” to integrate into global mechanisms of production and consumption thereby securing not only the conflicts in question but also the reproduction of a neo-liberal world order. [...] The productive power of UNSCR 1325 and associated frameworks for action to discipline political authority reproduces the international as a domain of peace that owns the necessary knowledge to “develop” domestic societies bounded within the confines of the territorial state.” (Shepherd 2008, 399)

As a paradigmatic tool for feminism and security politics, the document poses an unprecedented move toward integrating women and gender in the securitarian sphere. Illustratively, it was the first time the UNSC officially addressed the question of gender representation in international security and conflict. Bell and O'Rourke (2010) analyzed, both quantitatively and qualitatively, a comprehensive database of peace agreements signed during the period of 1990 through 2010 and their (absence of) reproduction of the guidelines put forward by UNSCR 1325. They found that only 16 per cent of these accords specifically mentioned women, although recognizing a shy increase in these mentions post Resolution 1325. However symbolic the document may be, even before a practical analysis is made, research suggest a modest impact of the resolution for women in peace and security (Bell & O'Rourke 2010).

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Between 2008 and 2009, a series of Security Council Resolutions which underpinned Resolution 1325 were adopted, each with its specific concerns. Resolution 1820 of 2008 supports provisions for protection of women against sexual violence in armed conflict, developing the concept of sexual violence as a weapon of war (UNSC 2008). It also touches on the subject of women's voices in peace and conflict dialogues. The subsequent document, UNSCR 1888 explores the same subject but in a more effect-oriented manner. It goes on to urge the implementation of actions to deal with sexual violence particularly in bellicose contexts (UNSC 2009). The last of the series, Resolution 1889 also emphasizes the political and practical aspects of UNSCR 1325 by making provisions for measures that would allow women to take up due space in international security politics and peace-building efforts (UNSC 2009b). Thus, these last resolutions serve as tools to materialize the previous couple into the realms of tangibility for women everywhere (UN 2010).

The material effectiveness with which these actions touch the topic of gender in post-conflict societies is still noticeably shy. The reasons for this range from deeply-rooted social mechanisms of inequality and exclusion to governmental priority tendencies in the direction of resources toward state-building and peace-keeping. Therefore, international action thus far must be acknowledged as but the seed from which long-term commitment toward gender mainstreaming in the security sector should grow. That is if the international community commits itself to seek idyllically equitable and yet richly diverse societies in which gender relations - if still present as a social phenomenon at all - do not serve discourses of subjugation and oppression that limit possibilities of fulfillment of a dignified and peaceful human existence.

## 4 BLOC POSITIONS

The presence of women in the Armed Forces of **Argentina** is recent: the country only authorized their participation in the Army in 1997, in the Air Force in 2001, and in the Navy in 2002 (Taringa 2014). Nowadays, though, the female participation in the field has increased considerably: women now represent 15 per cent of the Argentinean Military (Argentina 2014). Argentina recognizes the high importance of Security Sector Reform processes, having established gender offices in each area of the military, implemented the "Report on the Integration of Women in the Armed Forces" and created the "Consejo de Políticas de Género para la Defensa" (Council of Gender Policies for Defense) (Ministerio de Defensa 2010). Thus, they have become a regional reference when it comes to gender policies in Armed Forces, which promoted their empowerment and participation in all levels of Peacekeeping Operations, as defended by UNSC Resolution 1325. Argentina believes that this

resolution, along with Resolution 2151 about women's equal and effective participation and full involvement in all stages of the security sector reform process are key terms to the promotion of an effective SSR (Peace Women 2014).

The Constitution of the **Bolivarian Republic of Venezuela** states in its preamble that this is a country "without any discrimination or subordination"; women in Venezuela are seen as indispensable for the effective development of the society. This role of women was made clear during Hugo Chavez's presidential rule, when a SSR was implemented, achieving full inclusion of Venezuelan women in the Bolivarian National Armed Forces (FANB) and in all the military academies, where 26% of new graduates are women. Carmen Melendez, first female Admiral of Venezuela, states that this inclusion was made without any kind of discrimination, and that within ten years, the country will have a women's participation rate of 50% or more in the FANB (RNV 2012). All four components of FANB – the Air Force, the Army, the Navy and the National Guard – have already fully included women and promoted gender equality. (Ministerio del Poder Popular para la Comunicación y la Formulación 2010).

The female presence in the Armed Forces of **Brazil** has been growing considerably, even though it is still a very masculinized field, since women's participation in the Brazilian military has only been allowed since 1980. Nowadays, female forces are almost 7% of the country's total, which adds up to more than 22.000 women in the field – (Portal Brasil 2014). The Brazilian Navy was the first Force in the country to accept female participation, 33 years ago, and is also the only one that has a female officer-general. The Air Force is the one that concentrates most women in the military field: during the last 10 years, female presence in this force has increased over 150% (Agência Força Aérea 2012). The presence of women in the Army has been expanding too, especially due to the Federal Law number 12.705, sanctioned in 2012 by President Dilma Rousseff – the first female president of the country (Portal Brasil 2014). Even so, compared to the female population of Brazil, and taking into consideration that this is the most developed and powerful country in Latin America, a Security Sector Reform is clearly needed in Brazil. The Brazilian government states that there has to be done more to ensure that women are active participants in peace agreements and in the negotiation, design and implementation of post-conflict and peacebuilding arrangements, through the empowerment of women, via an effective SSR (Brazil 2014).

**Chile** states that Security Sector Reform processes must be inclusive, ensuring the participation of women both in policy discussion and formulation and in its subsequent implementation (Permanent Mission of Chile to the United Nations 2014). Since 1995 women have participated in the Chilean military, although with

very restricted and limited roles until 2003, when they conquered the same rights as their male counterparts, having no disadvantages at any level (The Washington Times 2004). The transformation of Chile's military was championed by Michelle Bachelet, who was then the first Chilean female Defense Minister and is now president of the country for the second time. In 2005, Chile was already considered a model in Latin America for this matter: 15% of its soldiers, 1 in 5 new Army officers in training and 1 in 3 students in military aviation colleges were already women (Ross 2005). After the UN Security Council approved Resolution 1325, Chile developed Action Plans to ensure its implementation, becoming the 10th country in the world to generate a second-stage document on women, peace, and security. Also since then female Chilean Soldiers have been playing key roles in United Nations peacekeeping missions (Pelcastre 2015).

**Mexico**'s Security Sector is itself fragile and its weakness increases daily, especially due to the internal armed conflict involving the militarization of drug cartels. Besides that, Mexico's SS is a very masculinized field, which makes a Reform process in the country even more necessary. In that order, Resolution 1325 is, according to Mexico, the key to a more female inclusive reform, and that is why this country has been pushing forward a review of its legal framework to ensure the country is in line with the document. However, the Resolution itself is ineffective, which makes it important to the international community to approve measures similar to the UNSC Resolution 2122 (2013), that complements Resolution 1325, aiming to strengthen women's role in all stages of conflict prevention, resolution and recovery (Mexico 2013). In this purpose, at an internal level, Mexico has been educating its armed forces on women's rights, has proposed an initiative to the legislature aimed at ensuring women's equitable representation in the Chamber of Deputies and the Senate, and is striving to increase the number of women on the lists of candidates for high-level posts (Mexico 2014). For the Mexican government it is crucial not only that women take part in the processes of reform of the security and justice systems but that they are also full participants in those systems once they are reformed, and for this to happen, a Security Sector Reform must be implemented (Mexico 2013).

Women have gradually been incorporated in the **United States of America**'s Military throughout its history. Nowadays they represent about 15% of the active-duty force. That number comprises about 74,000 women in the Army, 53,000 in the Navy, 62,000 in the Air Force and 14,000 in the Marine Corps. The country partially allows female participation in combat roles: enlisted women made up 2.7% of the military's front-line units. Women were barred from the infantry, but were allowed to serve on gun crews, air crews and in seamanship specialties (CNN 2013). There is still a lot more for women to conquer in the North-American Armed Forces.

es, which is why SSR is still extremely important in this country, one of the most influential of the world when it comes to security and military power. Furthermore, the United States is one of the few countries in the world that has not ratified the CEDAW yet – United Nations Convention on the Elimination of all Forms of Discrimination Against Women, ratified by 187 countries –. North America's position towards the subjects is not uniform: some people claim that Ratifying CEDAW would affirm the United States as a leader in promoting equality for women everywhere; otherwise the ones against the ratification defend that CEDAW is contrary to America's constitutional system, that it is ineffective and that it would deny American women's freedom (Bamrah 2014) (Wright 2010). President Obama has showed that, in theory, he is very friendly to CEDAW, but has not made any efforts to ratify it; Secretary of State Hilary Clinton has also clearly said that CEDAW should be ratified by the U.S. – as the number one runner for next presidential elections, there are a few chances for CEDAW to be ratified in a short future (Lowen 2015).

The **United Kingdom** is one of the biggest defenders of SSR processes around the world. Nowadays the State allows women to join the British Armed Forces in all roles, including combat roles such as fighter pilots, except those whose primary duty is to close with and kill the enemy (Fisher 2013). SSR will continue to be implemented in the country: UK's Defence Secretary has stated that plans on allowing women to hold combat roles in British Army by 2016. Affirming that women can fight just as effectively as men, Defence Secretary Michael Fallon has declared himself against the restriction of women to entry into any branch of the armed forces, and commits to direct his efforts to reform the SS in this matter (Weaver 2014).

**Germany** is one of the few countries in the world that allow women to participate in every position in the Armed Forces, including all types of front-line combat positions (Fisher 2013). Women first joined German combat units in the year of 2001, and since then the SSR process in the country has continued, increasing the number of women in combat positions. Even so, female soldiers represent only nearly 10% of the total, which is a very low number for a country that allows women to be in every branch of the Military (Dowling 2012). According to recent surveys of the Federal Ministry of Defence, which aimed to investigate how well women are integrated in the army, only 57.3 percent of women serving in the German Armed Forces say they would choose their job again, and only 34.6 percent said they would recommend this path to a female friend. This is because many women still find integration difficult and the working environment hostile (Marx 2014). The German Army, for example, has only one female general; this made the country's Defence Minister, Ursula von der Leyen, declare that the army must introduce quotas to boost the number of female officers. Von der Leyen also wishes to make the armed

forces more appealing to women in the next years, which proves that, even though the country has made several improvements in the Armed Forces lately, there still has to be done a lot more, and the SSR German process must go on (Huggler 2015).

**France** is also one of the few countries in the world that allows women to be in front-line combat positions (Fisher 2013). The country has the highest proportions of female military personnel in Europe: women are 11% of the Army, 13% of the Navy, 21% of the Air Force and 50% of the Medical Corps, representing around 15% of all service personnel in the combined branches of the French Military (Ministère de la Défense 2011). France states that SSR has to respond to the security needs of the society as a whole, including women, which should be encouraged to take an active part in decision-making at all levels of SSR, ensuring that women are equally represented in both civilian and military forces (Ministère des Affaires Étrangères; Ministère de la Défense 2008). Even so, women still face difficulties in being fully integrated to the Military, such as aggression and sexual violence, which made French Defence Minister, Jean-Yves Le Drian, announce ten measures to combat sexual aggression in the armed forces. Situations such as that still represent obstacles to full integration of women in the Armed Forces; this means that SSR process in the country still has to be better implemented for women to enjoy gender equality in the French Military (Lichfield 2014).

In **Spain**, the first women joined the army in 1941; after that, female participation in the Spanish Military has gradually increased. In 1989, Act 17/1989 extended the incorporation of women to all corps and grades in all three armed services, although there were a few specific regulations and limitations for that. Ten years later, Act 17/1999 removed every sex distinctions in posting, achieving full integration of women in Spain's Armed Forces. Today, women in Spain can join all corps and grades, including combat roles, and carve out a professional career, technically just like a man (Rodríguez 2013). Despite that, after 25 years of integration in the military force, women are still being discriminated, and the number of female recruits in the armed forces has remained stable at around 12 percent (Hierro e González 2013). Also, there are still some units where women are underrepresented and even some which no woman has yet joined. A conclusion that can be drawn is that, even though Spanish Armed Forces have been opened to incorporate women, SSR is still needed to guarantee full female incorporation and extinguish gender inequality in the Spanish Military (Hierro e González 2013).

Since it began its transition to democracy and recovery from a decade of conflicts, **Serbia** has made considerable efforts to reform its security sector. Although gender mainstreaming was initially not recognized as a part of SSR, some positive developments on this matter occurred in 2002, when the police force started to

recruit more women. In 2007, The Belgrade Fund for Political Excellence initiated a project to increase the visibility of women in the security sector and strengthen their engagement in its reform, with an emphasis on the implementation of UNSC Resolution 132 (SIPRI 2008). In 2009 and 2010, Serbia adopted basic gender mainstreaming policies, such as the National Strategy on the Improvement of the Position of Women and the Promotion of Gender Equality, and the National Action Plan (NAP) to implement UNSC Resolution 1325; these policies stated that women are not only victims of war and violence, but they can also be participants of the conflict and negotiators in peace agreements, and an emphasis was given on participation and inclusion of women in decision-making in the security sector. Serbia's national gender mechanisms at the executive level consist of the Gender Equality Council – an advisory body tasked to monitor and improve gender mainstreaming within the Government's line ministries –, and the Gender Equality Directorate – responsible for the coordination of gender policies within the executive (Stajonovic & Quesada 2010).

At present, the security institutions of **Bosnia and Herzegovina** base their practices on a legislation that, apart from proclaiming non-discrimination in general, does not address gender-specific issues such as sexual harassment, gender-based discrimination, and employment quotas on the institutional level. The country's first gender equality institution, the Gender Centre of the Federation of Bosnia and Herzegovina, began its work at the end of 2000, and was followed by the Law on Gender Equality (which deals with gender discrimination and was approved in 2003) and by the Agency for Gender Equality (2004). Bosnia and Herzegovina has also been the first country in the Balkans to adopt an Action Plan on Implementation of UNSC Resolution 1325, doing so in July 2010 and renewing it for the period of 2014-2017. Furthermore, the Law on Service in the Armed Forces of Bosnia and Herzegovina states specifically in Article 28 that any discrimination on the ground of sex or other aspects of identity must be avoided in the recruitment process. Nevertheless, by 2011, out of 536 women employed with the country's Armed Forces, 55 (5.8%) were officers, 124 were non-commissioned officers, 199 were soldiers, and 158 were civil servants. Despite the country's efforts, women are still marginalized, having little access to power or to the forums where policies are created and decisions and reforms are made (Bosnia & Herzegovina 2013).

Between 2005 and 2007, **Hungary** raised the participation of women in its armed forces from 4.3 per cent to around 17.56 per cent, achieving the second highest rate of female participation amongst NATO countries. Since the approval of the Hungarian Military Service Law (1996), combat positions have been opened to women, and women are allowed to occupy all positions within the armed forces. The Law also stated equal rights for men and women, specified that the eligibility

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requirements for employment must be the same for both sexes, and guaranteed non-discriminatory promotion based on professional skills, experience, performance, and service time. Additionally, in 2003, the country established a Committee on Women of the Hungarian Defense Forces, with the purpose of ensuring equal opportunities for men and women in the defense forces through research, analysis and policy recommendations. Members of the Committee are assigned by the leadership of the Ministry of Defense and the Hungarian Defense Forces, and represent all the female personnel serving in organizations and units of the Hungarian Defense Forces. Lastly, in 2005, Hungary created a team for the Program on Equal Opportunities for Women and Men, designed to prospective members of the EU. Today, Hungarian women work and train together with their male counter-parts, and are subject to the same chain of command, standards of performance and discipline; servicewomen are entitled to maternity leave, and changes have also been made to include gender issues, such as sexual exploitation and abuse, and culturally-specific information about women (DCAF 2009; Krizsan & Pap 2005).

In the last 15 years, **Turkey** has been slowly changing its legislation and making initiatives to allow and encourage women's participation in all spheres of the state. The Civil Code has been changed in order to equalize the treatment of women, opening opportunities for them in many sectors, including the ones related to security. However, the alterations in legislation still face a gap in their translation to practical ways. Female political representation and decision-making is still scarce, and the participation of women in peace-building only happens by means of NGOs (Keskin 1997; Murphy & Vibe 2013).

Even though the situation in the **Russian Federation** has been improving in the last years, the country has still a big gap between male and female leadership and representation: for example, women currently take only 6% of the political seats. In 2013, there were around 29,000 women serving the Russian Armed Forces, but only 3.5 percent of them served in command posts; the remainder functioned in posts such as staff workers, medical and financial specialists, or in the communications troops. Moreover, there were around 900 female officers that had completed training in the military faculties of civilian institutions of higher education, 8,300 women who served as warrant officers, and approximately 19,000 women serving on contracts as soldiers and sergeants. However, the numbers of women serving in the Armed Forces is in decline since 2007. Furthermore, opinion polls carried out in 2013 suggested that many young women would like to join the military, but Russian society appeared to oppose any move to extend the draft to include women: figures from the Levada Center suggested only 4 percent of Russians believed that service in the Armed Forces should be obligatory for women (Russia Beyond the Headlines 2013; The Jamestown Foundation 2013).

**China** expresses the importance of gender equality and the empowerment

of women, reiterating their unique role in the areas of peace and security (China 2015). The country states how crucial it is to facilitate women's full participation in decision-making and in processes of prevention and resolution of conflicts. According to the Chinese government, women should play active roles in mediation and negotiation, always seeking solutions to conflicts. Moreover, they play essential peacekeeping roles and are indispensable for the implementation of peacebuilding processes (China 2013). Nevertheless China does not agree with female participation in the military for combat roles: the country only allows women soldiers to serve in traditional female roles or in military support positions. Nowadays, women only comprise about 7.5% of the People's Liberation Army (PLA), and the Chinese government does not have any intentions to change this scenario with any kind of intensive SSR. It is unlikely that women will be incorporated into the Chinese armed forces in larger numbers or with expanded roles - at least not until they have achieved greater equality in other areas of life, or if there happens to be a national crisis that creates a shortage of men qualified for military service (Li 1994).

When **Japan**'s Armed Forces, known as Japan Self-Defence Forces, were originally formed, women were recruited exclusively for nursing services. SSR has been implemented since then: by the year of 1991, more than 6,000 women were in the Military, occupying all service areas except those requiring direct exposure to combat. Two years ago, for the first time, female officers were allowed to be in the frontline, commanding two naval destroyers (Spitzer 2013), which shows that, even though the process of SSR in the country has been slow, it is actually effecting change. Japan intends to ensure women's participation and the incorporation of female perspectives into every phase of conflict prevention, conflict settlement and peacebuilding (Japan 2013).

Women officers have served in **India**'s armed forces for 88 years – most of them being in the nursing and medical branches until now. But after all these years, the number of female military officers remains next to 5,4% of the country's total. The biggest issue is that women are only hired under what are called "short service commissions" that last ten years (Mallapur 2015). The debate about granting permanent commissions to all non-combat and combat branches has been going slowly: India's government states that they do not subscribe to the view that women should form part of the military component, since women becoming a part of military culture would serve no useful purpose. The government reiterates, though, that women can play an important role in policing functions: India was the first State to successfully deploy an all-women police force as part of United Nations peacekeeping operations in Liberia. The country stands for the equal participation of women in power structures, occupying positions of influence, and for full involvement in all efforts to prevent and resolve conflicts as essential to the maintenance and promo-

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tion of peace and security (India 2014).

**Indonesia**'s government reinforces the country's goal to make gender equality and the empowerment of women, and its commitment to ensuring women's participation at all levels of conflict prevention, conflict resolution and peacebuilding (Indonesia 2013). Since 1992, Indonesian Armed Forces have formed small all-female corps: the Women's Army Corps, the Navy Women's Corps, the Air Force Women's Corps, and the Women's Corps of the Police. However, according to one of the highest representatives of the Military, these units are expected "not to forget their female nature" – they are assigned to administrative roles, teaching foreign languages and working on improving health and social conditions of armed forces members, but are not allowed to join the combat services (Timur 2011). In Indonesia there are also certain limitations for women in terms of gaining an education, such as enrolling at Military Academies. Furthermore to join the Military or National Police - and even to marry military officers -, women are obligated to take virginity tests, which have been considered primitive, invasive, unscientific and discriminatory by the Human Rights Watch (McDermott 2015). Even though, Indonesia's top military commander has defended the practice, arguing that there's no other way to measure female morality (Neuman 2015).

Women have played important roles in **Vietnam**'s history, serving as warriors and nurses and taking leadership positions aiming at redefining female's reality in the country, especially after the Vietnam War – lately Vietnamese women have enjoyed increased representation in policy-making and legislative processes and in senior leadership positions (UNGA 2014). They have played a significant role in defending Vietnam during the Indochina Wars, being enlisted in both the North Vietnamese Army and the Viet Cong Guerrilla insurgent force in the South. The Vietnamese Government states that lately Vietnamese women have enjoyed increased representation in policy-making and legislative processes and in senior leadership positions (UNGA 2014). The country has established several national programs toward gender equality, such as the National Strategy for Gender Equality (2011-2020), the National Program for Gender Equality (2011-2015) and the Gender Equality Law, enacted in 2006 (Viet Nam 2012). They also defend enhancing female participation in peacebuilding and increasing their involvement in all stages of peace processes. Even so, the country does not subscribe to any debates of SSR in terms of allowing women to take combat roles (Vietnam 2010).

**Pakistan** has already implemented SSR in 1947, after the country's establishment. Since then, women have been serving in the Military, being known as "The Women in the Pakistan Armed Forces". Currently there are more than 4,000 women serving in the Military, most of them in areas such as the military logistics, staff development and senior administrative officers, but the country has also partially allowed women to be in combat roles, which is the case of the female fighter

pilots of the PAF, permitted to fly combat aircrafts (Mallapur 2015). The country reinforces that women are not merely victims of conflicts, but are the most potent agents of change in situations of armed conflicts: their involvement in peacebuilding can make a real difference in efforts to contain conflict, and they can play crucial roles at every stage of conflict resolution, such as peace negotiation, peacebuilding, peacekeeping and in transitional justice systems (Pakistan 2014).

**Timor-Leste**'s government affirms that women have a valuable contribution in the areas of politics and peacebuilding, and has been making efforts to extinguish gender inequality – an example is the plebiscite to increase female participation in election processes: in 2012, women's representation in the Parliament increased from 29% to almost 40% (Timor-Leste 2012). Nonetheless, the country does not seem to be making any other bigger effort when it comes to SSR; after women participation was allowed in the Armed Forces of Timor-Leste, in the year of 2001, only few women have joined it – in 2010 only 7% of new recruits were female, and this number has not suffered considerable changes since then (UNMIT 2006).

Women's Organizations like the Afghan Women Network (AWN) are responsible for most of the recent achievements seen in **Afghanistan**. The organizations promote laws, policies and programs that favor and improve women's rights. Recently, parliamentary quotas have been established seeking an increase in the participation of women in politics and a Ministry of Women's Affairs was created. However, while female members of Parliament are often invited to meetings to talk about the situation of women, topics like public finance, security or terrorism are rarely discussed (DCAF 2011). In 2010, Afghanistan's army got its first female officers in decades, when 29 women graduated in a class of new recruits from the Afghan National Army (ANA).

In the **Islamic State of Iran** the current status of women is also non-favorable, especially when regarded to political positions and representativeness. Although, in the last 30 years, there was a growth of 350% in the number of women in the parliament, and an increase in women's seats in the Islamic Consultative Assembly from 0.86% to 3.14%, the numbers are still relatively low even for the region. The country, in addition, lacks on any legislation that allows women to take a decision-making position in politics, and also doesn't have actual incentives for female military and peace-building operations (Shojaei, Samsu & Asayeseh 2010; Iran 2012).

Currently, not only has **Iraq** faced issues on protecting women during armed conflicts, but also it has been one of the countries with less female representation in the region. During the last government (2010–2014), the country had only one female state minister, out of 33 ministers; there is also a quota for women of 25% in Iraq's parliament, although these women are not allowed to participate in negotiations between political parties and on national security issues. Therefore, although there are indeed Iraqi women in the military, there is still no female representatives

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in a decision-making level, authorized of making security-related decisions (The Institute for Inclusive Security 2014; WPP 2015).

**Israel** is one of the few countries that has legislation related to the participation of women in the security sector. In late 2004, two members of Knesset (Israel's Parliament), in collaboration with women's organizations, campaigned for amendments to the 1956 Equal Representation of Women law. Those amendments consisted of the inclusion of women – in teams appointed by the Parliament – in the making and managing of domestic, foreign and security policies, besides the conduction of peace negotiations. Creating the law, however, is only the beginning of a long process, and its implementation has to be monitored. Moreover, the integration of women into the armed forces has constituted one of the government's main strategies for gender equality. However, while women make up 33 per cent of officers in the lower ranks, and 21 per cent of Captains and Majors, they still occupy only 3 per cent of the most senior ranks (DCAF, 2011).

**Qatar** has also been engaged in increasing women participation in the security sector, especially regarding the prevention of conflicts and peace-building. In the last years, the country has been engaged in creating initiatives that enabling women to play their full role in parliamentary and political fields, assuring political representation and leadership roles to women in public sectors. Laws aiming to protect women during armed conflicts and special measures of protection from gender-based violence in war have also been recently implemented (Qatar 2013; UNSC 2014).

In the Middle East and Arabic region, the **United Arab Emirates** has been ranked as one of the main leaders in gender equality nowadays. Since the beginning of the 21st century, a series of public and private sector initiatives has been made in order to increase and strength-en women's roles in business, in the military and in the government. On the security matter, UAE opened its first military college for women in 2014, the Khawla bint Al Azwar Military School. The opening of the school has as an objective the substantial increase of women in the military sector in the next decade. The country already counts with several women in leader-ship positions, filling two-thirds of the public sector posts, and a percentage of 30% in senior and decision-making positions (Fyfe 2013; UAE 2014).

Currently, in the Central African Republic, due to a set of violent acts, women are not having the chance to be truly represented or protected politically and militarily. Even before the conflicts, the country did not have any quotas for female representativeness, having a low number of female politicians – only 13% of the seats were held by women in 2012 (World Bank 2015; Musau 2015).

**Liberia** has created a Women's NGO Secretariat to coordinate women's organizations in the country. The organizations main goals are ensuring that women are able to participate equally in the Liberian society, and also benefit equally from decision-making processes at all levels. With over 50 members, the Secretariat has

been active in SSR initiatives and is a member of the Global Network of Women Peacebuilders (SSR Resource Center 2014). In the country since 2003, the United Nations Mission in Liberia (UNMIL) has been an aid to the reform of the Liberian National Police (LNP), especially where it involves women. A 20 per cent quota for women's inclusion in the police and armed forces was set and a Female Recruitment Programme created. The Programme selects women to attend classes to receive their high school diplomas in return for a number of years of service in the LNP (DCAF 2011).

In **Nigeria**, female representation has been a major issue. While the country has more than 60% of its population comprised of women, less than 20% of the political offices are held by them. Nigerian female politicians are also hardly allowed to participate in international and security decisions; and even if they are included, they are not in a position of leadership. Positive news is that the number of women participating in peace-building operations is rising within the country. However, the tentative numbers are still far away from the efforts shown in other countries in the region (Esidene & Abdul 2013; The Guardian 2015).

**Rwanda** is the number 1 country in the world with most of its political system made of women representatives – 64% of the seats in the country are held by women. This female leadership cannot be only seen in politics, but also in all sectors of the society – the Rwandese army has a significant number of women on it, and peace-building operations are usually leaded by women. The importance of these facts reflects on the reality of the country: Rwanda has been one of the fastest countries to recover from war and genocide in the African continent (New Security Beat 2014; Tafirenyka 2015).

Currently, **Sierra Leone** is one of the countries with the lowest female representative-ness in politics – in the 2007 elections, only 16 of the 124 members of the parliament were women. As for leadership positions, there were only 2 (out of 24) female ministers. The number of women seated in the local political councils is higher, but still not high enough. Since 2002, peace-building operations have made women more aware of the need of political representation, especially after the war. However, the political and party system in the country are still not very open to female politicians (The Guardian 2012; Castillejo 2009).

In 1994, **South Africa** underwent a transition from authoritarian to democratic rule; in this vastly changed environment, emerged a notion that defense had to fundamentally change to align itself with the new reality of the country. Women made significant contributions to this defense reform process in South Africa. As a result, since 1994, affirmative action was instituted as a policy, equal opportunity programs were established, the right of women to serve in all ranks and positions, including combat roles, was affirmed, and a policy directive which called for a “non-sexist, and non-discriminatory institutional culture” for the new armed forces

was adopted. The South African Department of Defense stated its commitment to over-come gender discrimination and increase representation, and the Ministry of Defense created mechanisms that helped gender integration, such as the Gender Focal Point, the Gender Forum, and the Gender Sensitization Programs to raise awareness and understanding of gender policies. In addition, the Deputy Defense Minister annually hosted the “Women at the Peace Table”, a gathering of women in the armed forces and in civil society to explore and address peace and security issues. Within the Defense Forces, policies that focused on increased recruitment and promotion of women to all levels and in every structure, joint and equal training for both men and women, and gender education and training were implemented. As a result of these measures and mechanisms, in 2006 women made up 23.8 per cent of the Defense Forces and 11.6 per cent of its top management structure, and 22.8 per cent of the Ministry of Defense’s employees were women. It is also important to notice that South Africa was one of the nations with most female representatives in the first decade of the 21st century – however, these numbers have been decreasing in the last years: for a country that once had 55% of women premiers, the current 22% is considerably lower (DCAF 2009).

In **Zimbabwe** the growth of women representation can also be easily seen – in the last elections, in 2013, 35% of the elected politicians were women. The results presented a huge difference from the previous elections, in 2008, when only 17% of the elected were women. The change was possible because the country adopted the system of quotas in its Constitution, which now states that at least 30% of the seats must be filled with female representatives. However, the discussion of the roles of women in the security sector and war is somewhat tabooed since the Liberation War that occurred over 30 years ago. Not much has been written about female combatants’ experiences in the war or about their treatment, since rape is an especially sensitive topic. However, it is known that female combatants that returned from the war faced a society that did not welcome the freedoms they had known. At home, they found men and in-laws ready to label them murderers or prostitutes, while their male comrades were deemed “heroes.” The debate about these issues is extremely important to the advancement of women in the security sector (IDASA 2010; UN Women 2013).

## 5 QUESTIONS TO PONDER

1. How important is women’s “security” for security politics?
2. How is it possible to increase the presence of women in the securitarian arena?
3. Are participation quotas for women the solution?

4. What are the major threats to the security of women today?
5. What are the practical solutions for the much centered in theory debate on gender and security?

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# URBAN DEVELOPMENT: CONSEQUENCES TO THE RIGHT TO ADEQUATE HOUSING

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## ABSTRACT

As Global South face steady economic growth and the world becomes ever more urban, human condition (and so, human rights) cannot be decontextualized from urban condition. Historically, city development has marginalized the most socially fragile groups – and nowadays' projects are no exception. Symbolizing economic growth and attraction of investments for international appeal, urban development projects (UDPs) have displaced millions of people, whether by forced evictions or economic exclusion, degrading their access to jobs, sanitation and public services, in general. Internationally agreed basic housing rights have been largely violated, in both developed and developing countries, despite continuous efforts by United Nation's agencies and growing media attention to the topic. Capitalizing on the plethora of different experiences and challenges, new approaches for enhancing urban conditions and, at the same time, advancing adequate housing rights are a common task for the members of the Human Right's Council.

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## 1 HISTORICAL BACKGROUND

Urban form is a direct outcome of the ways in which different societies are organized. In an unequal world, therefore, it is not surprising that cities should also be unequal (Gilbert and Gugler 1982, 11).

Nowadays, 54 percent of the global population lives in urban settlements, a trend that tends to expand: by 2045, the number of people living in cities will reach 6 billion, increasing in 2 billion the number of urban residents (World Bank 2015). The pace of urban growth is especially fast in developing countries of the Global South: a recent report by the United Nations estimates that by 2030, the Global South will concentrate as much as 81 percent of the world's urban population. It is clear that the urban condition is progressively becoming a synonym to the human condition (Archer, *The City: The Basics* 2013).

Most cities have undergone a rapid and vertiginous growth that led to substantial changes to the urban landscape. Modern and audacious urban projects have taken place as expressions of this unforeseen growth – often providing cities with job opportunities, investments and wealth. The aspects of such mass urbanization – among which the urban development projects (UDPs) –, though, have somewhat had a degrading impact on basic human rights, particularly those linked to housing conditions (Human Rights Advocates 2012).

### 1.1 URBAN DEVELOPMENT IN A WORLD SYSTEM

Once most of humankind stopped being predominantly hunters and gatherers, cities have become part of the world. The Western urbanization may be understood as part of the transformations set by the European agricultural and commercial revolution during the so-called Renaissance. This period – from 1250 onwards – was a turning point when it comes to the nature of city development. Cities began to erupt on a regular basis first throughout Europe and then in the non-Western world due to European exploration and domination. The evolution and expansion of cities after the Renaissance, unlike earlier cities, was more a consequence of changes in the economic life of countries than of religious or political reasons. The Western imperialism, after 1492, forged a world system of economic development centered in Europe, and cities around the world were either developed or reoriented in order to facilitate the functioning of this system as a whole (Archer, *The City: The Basics* 2013).

Contemporary city life, both in Global South and North, respectively Pe-

riphery and Center of the system, reflects this historical dissemination of Western economic dominance. Indeed, Manuel Castells argues, the economies of cities in the Global South remain in a neocolonial relationship with the still Western-dominated world system, which continues to inhibit their development even after imperial relations have ceased to exist (Castells 1977). Nonetheless, globalization processes have permitted many southern cities to prosper and undergo economic transformation, particularly through investments from Center that flow into Periphery, such as Brazil, India, China and South Africa. Manufacturing enterprises, as well as professional services, have increasingly off-shored their activities as an outcome of global competition, providing the major peripheral urban centers with facilities that once could only be found in developed countries. Accordingly, many urban problems that rise nowadays are more associated with a city-based global culture, rather than with North-South disparities, as major cities around the world are becoming progressively alike in their built and social environments (Archer, *The City: The Basics* 2013).

## 1.2 CREAT DEVELOPMENT PLANS

It has never been more imperative for cities to express the values and signs that constitute their personality as in the present days of global economic competition. Image creation is one of the processes fostered by an entrepreneurial alliance forged between progressive politicians and local elites to address the effects of globalization. It relies on the enhancement of local features that make the cities stand out among competitors by revitalizing strategic areas with perceived economic significance. Among the tools used to increase the cities visibility and at the same time provide the financial resources necessary for urban regeneration are the beautification processes and the hosting of mega-events (Silvestre, *The Social Impacts of Mega-Events: Towards a Framework* 2008).

### 1.2.1 HAUSSMANNISM AND CITY IMAGE

Beautification process dates back, at least, to Haussmann's renovation of Paris, the milestone of this sort of urban renovation. The Haussmannization of Paris took place during the time of Napoleon III, under the direction of Georges-Eugène Haussmann, who completely remodeled Paris between 1853 and 1870 in order to better meet the growing social and environmental needs of the industrializing city. Previously to that moment, the city's infrastructure remained in the unplanned arrangement of earlier times and had been overwhelmed by an

ever-growing population, which rendered Paris overpopulated, congested, filthy, and crime and disease ridden. Haussmann created a modern street network – the grand boulevard fashion – that crisscrossed the city, making it easier for the military and police to access the entire city to enforce social order, particularly in overpopulated slum areas (Benevolo 1980). In addition, Haussmann's plans included the construction of parks and squares, the annexation of the suburbs surrounding Paris, and the construction of new sewers, fountains and aqueducts. His gigantic building projects, though, were blamed for the subsequent social disruption: thousands of families and businesses had to be relocated when their buildings were demolished for the construction of the new boulevards. Haussmann was also blamed for the dramatic increase in rents, as the amount of housing available for low-income families was systematically reduced, forcing low-income Parisians to move from the center to the outer neighborhoods of the city, where rents were lower (Moncan, *Le Paris d'Haussmann* 2009).

Indeed, the aspects of Haussmannism provided a longstanding and emulated paradigm for modern city planning throughout the world. In the mid-twentieth century, for instance, Haussmann inspired Robert Moses, who proposed and partially implemented an ambitious restructuring of New York City's civil service system. The manipulation of the built environment has consolidated the environmental determinism, under the erroneous but widespread belief that city problems are the result of city ambiance and arrangement instead of how cities are developed and by whom. City planning then centered on the creation of parks, new civic architecture and symbolic buildings and other built amenities in order to render cities beautiful and more pleasing to the eye. The attention of planners is, therefore, drawn away from the true cases of city problems as their focus is put singularly on the built environment as the means to improve city life and to create a better image of the entire city – mostly to attract and maintain city elites and businesses (Archer, *The City: The Basics* 2013).

In the contemporary times, and as never before, cities need to appear to be innovative, stimulating, creative and safe to live, to visit and also to consume. In this context, the urban entrepreneurship involves a certain type of interurban competition, in which every city and region aims to have advantage in relation to the others. As a consequence, there is a proliferation of management practices that seek to promote speculative projects to attract capital with emphasis on tourism, production and consumption of cultural and sporting events (Harvey 2007).

Governments compete with each other “in the hopes of ‘remaking’ their cities by creating new transportation, communication, transport, tourist, and sporting infrastructure, increasing tourism, providing temporary jobs, and marketing

the city or country to attract global capital” (Gaffney 2010, 26). The process of bidding illustrates the international inter-urban competition for investment, recognition, and business that characterizes the modern urban policy: until 1992, the number of bidding cities to host one of the most prestigious sporting mega-event, the Olympic Games, remained below twelve. However, the Games of 2004 received forty-eight bids (Chalkley and Essex, Urban Development Through Hosting International Events: a History of the Olympic Games 1999).

## 1.2.2. URBAN BOOSTERISM AND THE HOSTING OF MEGA-EVENTS

Mechanisms employed to “estheticize” and reshape an attractive urban landscape have become multifunctional in recent years due to tourism, culture, entertainment and sports-led projects. They have the potential to boost the city’s positioning as a consumption-oriented economic space. The physical expression of these initiatives can be observed in renovated symbolic buildings, redeveloped waterfront areas, cultural quarters, shopping and entertainment complexes, sports facilities, iconic landmarks, and mixed-use areas of office towers, residential blocks and retailing facilities (Beioley 2002) (Judd and Fainstein 1999). Particularly in the scenario of mega-events, such projects have been adopted and executed in a vertiginous way and in a relatively short-time period.

Mega-events, also referred to as “hallmark” or “landmark” events, are large-scale events intended to renew investment in host cities by projecting a positive image of the city (Ritchie, Assessing the Impact of Hallmark Events: Conceptual and Research Issues 1984). These events are usually cultural and sports-related, like the international Expo, the European City of Culture, sports World Cups, racing Grand Prix, and foremost, the Olympic Games. British sociologist Maurice Roche has laid out the critical characteristics that define mega-events:

Mega-events (large scale leisure and tourism events such as Olympic Games and World Fairs) are short-term events with long-term consequences for the cities that stage them. They are associated with the creation of infrastructure and event facilities often carrying long-term debts and always requiring long-term use programming. In addition, if successful, they project a new (or renewed) and perhaps persistent and positive image and identity for the host city through national and international media, particularly TV, coverage. This is usually assumed to have long-term positive consequences in terms of tourism, industrial relocation, and inward investments (Roche 1994, 1-2).

Mega-events are progressively used as a form of revitalizing depressed post-

industrial city centers. As cities moved towards a service-based economy, a new approach towards guaranteeing their role and influence in a globalized world has been necessary. The most plausible explanations for the increasing popularity of mega-events situate them within the ambiance of inter-city competition for capital in a postmodern, global marketplace (Silvestre, *The Social Impacts of Mega-Events: Towards a Framework* 2008). The increasing number of cities from different economic spectrums bidding for mega-events corroborates their prominence in the urban agenda. Moreover, it demonstrates the bidding city adherence “to a set of (globally defined) competitive rules” (Cochrane, Peck and Tickell, *Manchester Plays Games: Exploring the Local Politics of Globalisation* 1996).

Nonetheless, the planning complexity and great urban intervention associated with the preparation for a mega-event is correlated with substantial costs for the host community. In addition, as Cox (1996, 7) argues, hallmark events have a “repeated tendency to show the bad sides of the cities, as well as having a range of negative effects” that, as Chalkey and Essex (1999, 391) expose, “might overshadow or marginalize the needs of local people”.

### 1.3. IMPACT ON ADEQUATE HOUSING

Every time city land was utilized for the construction of a new boulevard, memorial square or park, civic building in the process of beautification, or to give space to a hallmark event, housing the ever-growing numbers of low-income people gradually became a quite challenging task. Furthermore, based on the principle that planners should guarantee the “highest and best use” of land, policymakers are expected to facilitate the development of any given parcel of land at its highest exchange value, maximizing profits to the owner. The exchange value of land is mainly determined by its location. Central locations generally yield higher land values, and land values tend to increase incrementally (Angotti 1999). As a result, slum-dwellers, who are often set in strategic areas for the real estate market, are forced, directly or indirectly, to displace.

At first , private volunteering attempted to ameliorate this situation as philanthropists built up early versions of public housing, and health workers attempted to provide professional assistance to slum-dwellers. However, the growing magnitude of the problem in most industrialized cities, aggravated by the aforementioned rises in land values, soon rendered these efforts insufficient and extra-local government agencies were forced to step in to address such an alarming public problem (Archer, *The City: The Basics* 2013). For this reason, providing adequate housing for the urban masses has ultimately turned into a major concern

to modern city planning. In Europe, nowadays, a great part of such housing is constructed and managed through public spending and management. Particularly in the post-World War II scenario, the devastation prompted the necessity of housing reconstruction on a massive scale, what justifies the more uniform physical appearance that the former European slum neighborhoods took on (Archer, *The City: The Basics* 2013).

The case of sporting mega-events particularly illustrates the “highest and best use” of land metaphor, because local authorities are interested in the financial returns and recognition that the Games will bring to the host nation. Thus, they facilitate even more the development of any parcel at its highest exchange value, usually by international companies that are willing to invest large sum of money to build mega-projects in places considered strategic to generate the maximum profit (Andranovich, Burbank and Heying 2001). Interventions in the urban landscape derived from new venues and their related infrastructure, notwithstanding, intrinsically involve displacement, which may assume the forms of forced evictions or the so-called process of gentrification (Silvestre, *The Social Impacts of Mega-Events: Towards a Framework* 2008), issues that will be addressed in more detail in the next section.

One striking example was the Barcelona Olympic Village – constructed for the 1992 Games – in the Poblenou district. A former obsolete industrial site was revitalized and transformed in a middle- and upper-class neighborhood. Former working-class residents and prosperous small business were evicted and forced to migrate to other locations. The occupation of the new residences brought about an increase of almost 50% in the population of the district. This economic opportunity attracted businesses to serve the new residents – i.e. shops, restaurants, entertainment complexes, and offices—amounting to a gentrification process. Adjacent areas were also affected by the increasing speculation in rent and real-estate prices and the rise in the local cost of living, forcing residents to relocate (Silvestre, *The Social Impacts of Mega-Events: Towards a Framework* 2008). During the seven-year period prior to the Olympics, housing prices in the city rose in more than 250%, while 59,000 people left the city (Ferran, *The economy of the 1992 Barcelona Olympic Games* 1993).

A notable constraint on tackling housing problems is that the people who are often most impacted by mega-events are the least able to form community groups and protect their interests. In the case of Rio de Janeiro, the way local authorities are dealing with the existence of lower class and informal settlements in areas of interest to the economic agents that are producing the facilities that will host the Olympics in 2016 is the appropriation of their land (Ribeiro and

Santos Junior 2013). The construction of the Olympic Stadium in a working-class neighborhood in the city, for instance, was marked by community disturbance and public neglect. Neither detailed information on the planned works and possible implications, nor assistance for reallocation, were provided to local residents (Silvestre, *The Social Impacts of Mega-Events: Towards a Framework* 2008).

## 2 STATEMENT OF THE ISSUE

### 2.1 INTERNATIONAL CITY PROJECTION THROUGH URBAN DEVELOPMENT PROJECTS

The process of economic liberalization and globalization, boosted since the 1980's, has been met by concomitant pluralization of international affairs. In this sense, not only do national governments seek strategies of insertion on the world economy, but also do its subnational unities, such as provinces and cities. Local and regional authorities have put great effort in forging a regional and/or global image to attract investments and promote economic growth. In this sense,

Repositioning the city on the map of the competitive landscape mean[s] reimagining and recreating urban space, not just in the eyes of the master planners and city fathers and mothers, but primarily for the outsider, the investor, developer, businesswoman or –man, or the money-packed tourist (Swyngedouw, Moulaert and Rodriguez, *Neoliberal Urbanization in Europe: Large-Scale Urban Development Projects and the New Urban Policy* 2002, 545-46).

Since then, urban policy has focused on rebuilding the cities towards an international projection. This has been achieved through “large-scale and emblematic projects”, which promise not only a new visually recognizable icon to the city, but also multiplier effects by fostering the private investments that follow these projects. As Swyngedouw, Moulaert and Rodriguez (2002) affirm

These projects are the material expression of a developmental logic that views megaprojects and place-marketing as means for generating future growth and for waging a competitive struggle to attract investment capital

In the list of possibilities are: building museums, technology complexes, exhibition parks, business centers, revitalizing degraded areas such as docklands, or even entire neighborhoods – whatever architects and urban planners can think of. Actual examples of these are plenty: Puerto Madero in Buenos Aires, the Guggen-

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heim museum in Bilbao, the revitalization of East London for the 2012 Olympic Games and the 1998 World Expo in Lisbon.

Hosting large mega-events has been one special way of achieving that. Sporting events, mainly, pose the opportunity to implement a variety of these urban development projects. For instance, besides sports facilities, to the 2008 Olympic Games in Beijing, China, US\$ 1.1 billion dollars were invested in transportation and infrastructure: extending the city subway and light rail system, constructing 318 kilometers of city streets and a brand new international airport. Historical areas and landmarks were refurbished and a great effort was put into environmental improvements, including 640 kilometers of sewage pipe (Sands, *The 2008 Olympics' Impact on China 2008*) (UN Human Rights Council 2008).

Surely these urban development projects (UDPs) can bring great benefits to the city's economy and society. Still, some economic and social groups are far more negatively affected by execution of large-scale UDPs. When construction does not happen on empty spaces, it generally occurs where land costs the less: it is in degraded areas and neighborhoods of the town, where the most disadvantaged and vulnerable groups often find their living. It is the very logic of revitalization and beautification. Nonetheless, it usually comes at the price of displacement, evictions and demolition of dwellings.

The alleged economic benefits [...] are not spread evenly throughout the local population. Instead, old disparities appear to be exacerbated as the processes of regeneration and beautification of the city usually focus on areas mostly populated by poor and vulnerable group (UN Human Rights Council 2009, 6).

Thus, the right to adequate housing is oftentimes threatened or disrespected by the execution of UDPs. Forced and unlawful evictions are the most publically known and discussed violations of the aforementioned right, but gentrification and reduction in the availability of social and low-cost housing can be included. In addition, due to the interdependence, indivisibility and interrelations of all human rights, the violation of the right to adequate housing seldom comes alone.

In the light of this situation, one must understand what constitutes the right to adequate housing and what are the State responsibilities regarding the assurance of the full enjoyment of this right by its citizens to coordinate international action towards the end of violations. The next section focuses on this objective.

### 2.2 THE RIGHT TO ADEQUATE HOUSING

The matter of adequate housing has been discussed on the United Nations

under the framework of the International Covenant on Economic, Social and Cultural Rights of 1966. The Committee of the latter (CESCR) has been responsible for monitoring the application of the Covenant, having issued general comments on housing and correlated subjects, such as forced evictions. These general comments, although not bidding, create guidance to the signatory States on their obligations under the treaty. Much of the definition of the right to adequate housing presented in this section can be found in these documents<sup>1</sup>.

The aforementioned Covenant, on its article 11, recognizes “[...] the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and **housing** [...]” (United Nations 1966, our emphasis). So, even though the text includes the right to an adequate housing as a consequence of the general right to an adequate standard of living, the complex aspects of what consists in an adequate housing enabled the constitution of it as a topic apart.

In General Comment No. 4 (CESCR 1991, 2), the committee states that the housing “should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity”. Therefore, the matter of guaranteeing the minimal conditions of housing, especially for socially vulnerable groups, in the event of great urban development must address a variety of points. Essentially, it demands “adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost” (United Nations General Assembly 1988, 2).

Although recognizing the influence of “social, economic, cultural, climatic, ecological and other factors” on the definition of the adequacy of a housing, the CESCR (1991) identified the common aspects to characterize it as such. It requires:

**a. legal security of tenure:** whether it is legal ownership, rental accommodation, emergency housing, occupation of land and property, or any other kind of tenure, “(...) all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.” (UN Committee on Economic, Social and Cultural Rights (CESCR) 1991);

**b. availability of services, materials, facilities and infrastructure:** “sustainable access to natural and common resources, safe drinking water, energy for

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<sup>1</sup> The Office of the United Nations’ High Commissioner for Human Rights, along with other United Nations partner, has published a series of Fact Sheets focused on matters of economic, social and cultural rights. Check fact sheet nº 2, The Right to Adequate Housing, for an UN-produced synthesis on the subject.

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cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services" (UN Committee on Economic, Social and Cultural Rights (CESCR) 1991) must be guaranteed to each and every person;

**c. affordability:** the costs of guaranteeing minimal adequate conditions of housing shall not threaten or compromise the attainment and satisfaction of other basic needs. The Committee even affirms the duty of State parties of establishing "housing subsidies for those unable to obtain affordable housing" (UN Committee on Economic, Social and Cultural Rights (CESCR) 1991)

**d. habitability:** a housing must provide protection "from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors"; fundamentally, there is a link between adequate housing and better health conditions.

**e. accessibility:** access must be universal and take into consideration special needs of disadvantaged groups, such as "the elderly, the children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas (...)".

**f. proper location:** access to employment conditions, healthcare, education and public services must be taken into account. Location of one's house can be a great complicator to personal development and to the full enjoyment of other basic rights.

**g. cultural adequacy:** the way housing is designed must not impede the expression of cultural identities. This point might be especially important to people whose religious and cultural habits reflect on their housing physical models.

The right to adequate housing must be understood in interconnection with and interdependence to other rights. For instance, improper housing may affect one's health conditions, possibilities of employment, access to education.

## 2.3 STATE RESPONSIBILITIES

Under article 2 (1) for the International Covenant on Economic, Social and Cultural Rights, all State parties have the duty to, "to the maximum of its available resources", progressively realize in full the rights recognized in the Covenant. Recognizing that a range of State parties may have resources constraints that largely impedes the attainment of these rights, articles 11 and 23 of the Covenant highlight the "essential importance of international cooperation". Article 3 calls upon the need of gender equality in the enjoyment of the assured rights, while article 2 prohibits "discrimination of any kind as to race, colour, sex, language, religion,

political or other opinion, national or social origin, property, birth or other status” (United Nations 1966).

These obligations are of immediate effect and are feasible to any State, inasmuch as “(...) many of the measures required to promote the right to housing would only require the abstention by the Government from certain practices and a commitment to facilitating ‘self-help’ by affected groups.” (UN Committee on Economic, Social and Cultural Rights (CESCR) 1991, 4). Likewise, positive discrimination is recommended on housing policies and legislation, giving priority to the social groups in most need. Also of immediate effect is the obligation of monitoring the situation with respect of housing, providing reports to the Committee that demonstrate that whatever necessary steps are being taken.

Most importantly, the Committee is clear when it states that, to achieve the full realization of the right to adequate housing, the formulation of a national housing strategy will “almost invariably” be required (UN Committee on Economic, Social and Cultural Rights (CESCR) 1991). Accordingly to the Global Shelter Strategy (United Nations General Assembly 1988), it “defines the objectives for the development of shelter conditions, identifies the resources available to meet these goals and the most cost-effective way of using them and sets out the responsibilities and time frame for the implementation of the necessary measures”. As to the economic model that this strategy takes, it may have “whatever mix of public and private sector measures considered appropriate.” (UN Committee on Economic, Social and Cultural Rights (CESCR) 1991, 5). The responsibility of a government to assure adequate housing conditions to all its citizens do not imply the responsibility of public financing and investment on housing.

One imperative point that ought to be stressed is that a national housing strategy has to “(...) reflect extensive genuine consultation with and participation by, all of those affected, including the homeless, the inadequately housed and their representatives.” (UN Committee on Economic, Social and Cultural Rights (CESCR) 1991, 6). The implementation of urban development projects has been often accompanied by complaint of the lack of consultation with the affected communities by the authorities, which are commonly the poor and socially excluded. In the absence of dialogue and efforts to minimally attend these people needs, forced evictions are the common measure to “open way to development”, regularly with little to no compensation. Albeit displacement is not unlawful per se, the manner development projects are implemented may violate international commitments.

## 2.4 VIOLATIONS OF THE RIGHT TO ADEQUATE HOUSING

The violation of the right of the adequate housing may happen in a variety of ways, either through more direct, explicit (and even violent) manners, or more subtle, indirect ones. Forced evictions are one example, happening in large scale and gaining much attention from media, especially in the beforewards of the Olympic Games and the Soccer World Cups. The deriving gentrification, nonetheless, can lead to violations on the right to adequate housing through economic means.

### 2.4.1 FORCED EVICTIONS

The CESCR (1997, 2) defines “forced eviction”, on General Comment n° 7, as “(...) the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection”. As aforementioned, evictions are not contrary to international law per se, rather it can be the way it is conducted. States parties are, thus, required to adopt a national legal basis against forced evictions, one which “(a) provide(s) the greatest possible security of tenure to occupiers of houses and land, (b) conform(s) to the Covenant and (c) [is] designed to control strictly the circumstances under which evictions may be carried out” (UN Committee on Economic, Social and Cultural Rights (CESCR) 1997) and that applies all agents under the authority of the State, as well as private persons and bodies.

Before the execution of large scale UDPs involving evictions and demolitions of dwellings, authorities are expected to explore “all feasible alternatives [...] in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force.” (UN Committee on Economic, Social and Cultural Rights (CESCR) 1997, 4) and assure legal assistance, as well as compensations for any property, both personal and real, to any person affected. When proceeding with evictions, authorities must guarantee the following procedural protections beyond the already cited: “adequate and reasonable notice for all affected persons prior to the scheduled date of eviction”; “especially where groups of people are involved, government officials or their representatives to be present during an eviction”; “all persons carrying out the eviction to be properly identified”; “evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise”, among others (UN Committee on Economic, Social and Cultural Rights (CESCR) 1997, 4).

It ought to be stressed that forced evictions are recurrent in both developed and developing countries, and that State obligations regarding the right to adequate housing “is not qualified by considerations relating to its available resources.” (UN Committee on Economic, Social and Cultural Rights (CESCR) 1997, 3). The United Nations estimates that over 1 billion people are inadequately housed (UN Committee on Economic, Social and Cultural Rights (CESCR) 1991). The 2009’s Report of the Special Rapporteur on adequate housing and the impact of major international sports events brings examples of evicts due to the construction of sporting venues: 15% of the population of Seoul was evicted in the preparation for the 1998 Olympic Games; 35,000 families evicted from public lands for the 2010 Commonwealth Games held in New Delhi; and residents forced to leave to Olympic districts by force of the Compulsory Purchase Order issued in preparation to the 2012 Olympic Games in London.

#### 2.4.2 GENTRIFICATION

Regeneration processes of degraded areas and neighborhood are often followed by rising prices of property and rental, leading to displacement due to incapability of the original residents of affording the higher cost of living. While high-income earners move to the area, former inhabitants find themselves obliged to move to other areas, often further than and as degraded as the neighborhood they used to live in. Thus, the greater housing stock concentrates on the higher income levels, with social and low-cost housing. For instance, 1,400 low-cost housing units in Vancouver were lost due to real estate speculation generated by the 2010 Winter Olympic Games, and in London the price of the properties surrounding Olympic sites were increased up to 4.6 per cent, while the general trend to the rest of the city was a down of 0.2 per cent (UN Human Rights Council 2008).

Even though these displacements are the result of an economic dynamics where private, more than public sector, has a greater influence, the aforementioned obligations of the States regarding the right of adequate housing still have to be satisfied. According to the CESCR (1991, 3), “In accordance with the principle of affordability, tenants should be protected by appropriate means against unreasonable rent levels or rent increases”. Furthermore, the availability of services, materials, facilities and infrastructure and the location are the fundamental aspects of the right of the displaced persons that most probably will be in jeopardy. Through regulation of real state practices and/or proper relocation of the displaced people to other dwelling that meet the standards of the right of

adequate housing, the negative effects of gentrification might be reduced. In any-way, whether by force of evictions or gentrification, should the affected individuals become homeless; and through all possible means, should all human rights be protected from further violations.

### 3 PREVIOUS INTERNATIONAL ACTIONS

The right to adequate housing is enshrined in the 1948 Universal Declaration of Human Rights' article 25, which states that "Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, *including* food, clothing, housing and medical care and necessary social services (...)" (United Nations General Assembly 1948, emphasis ours). Besides the Declaration and the International Covenant of Economic and Social Rights, the right to adequate housing<sup>2</sup> has abundant other legal sources under international law. The Declaration on Social Progress and Development enunciates that "Social progress and development shall aim at the continuous raising of the material and spiritual standards of living of all members of society, with respect for and in compliance with human rights and fundamental freedoms, through the attainment of the following main goals: [...] (f) The provision for all, particularly persons in low-income groups and large families, of adequate housing and community services." (UN General Assembly 1969, emphasis ours). Also, under the article 8 (1) of the Declaration on the Right To Development (1986), "States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, *inter alia*, equality of opportunity for all in their access to basic resources, education, health services, food, *housing*, employment and the fair distribution of income." (UN General Assembly 1986, emphasis ours).

Mentions to the right to housing on other human rights documents, aimed at specific social groups' needs, include the International Convention Relating to the Status of Refugees (1951), the International Convention on The Elimination of All Forms of Racial Discrimination (1965), the Declaration on the Rights of Disabled Persons (1975), the International Convention on the Elimination of All Forms of Discrimination Against Women (1979), the International Convention on the Rights of the Child (1989) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990). Therefore, as stated on point 13 of the

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<sup>2</sup> Sometimes referred to as adequate shelter.

Global Strategy for Shelter to the Year 2000, “The right to adequate housing is universally recognized by the community of nations. [...] All nations without exception, have some form of obligation in the shelter sector [...] [and] All citizens of all States, poor as they may be, have the right to expect their Governments to be concerned about their shelter needs” (UN General Assembly 1988).

In fact, the right to housing has been an intensively discussed topic throughout the years in a variety of UN committees besides the Human Rights Council, including the General Assembly, the Economic and Social Council, the Governing Council of the Human Settlements Program<sup>3</sup>, the Sub-Commission on the Promotion and Protection of Human Rights<sup>4</sup> and the Commission on the Status of Women. Reflecting the multiple possible perspectives of the subject and the necessity of understanding the right to housing in relation to other human rights, the resolutions approved by these organs approach the specific needs and situations of women, children, the youth, indigenous people, people with disabilities, refugees and others. One common feature of these resolutions is the frequent stress given to the necessity of attaining special attention to those who are the most affected ones by violations of human rights and the inclusion of them, or organizations representing them, on the decision making process of housing policy and on all levels of government responsible for this issue.

The Governing Council of the United Nations Human Settlements Programme (UN Habitat), for instance, in article 4, invited “Governments and other partners to assist in capacity-building by providing resources to young people and their organizations, in order to promote inclusiveness, responsiveness and transparency in local governance and community development, and to enable young people to participate in international, national and local activities related to sustainable environmental and human settlements development.” (2005). The UN Commission on Human Settlements, having devoted much work to the matter of human settlements, premises its approach to housing rights on, among others, “(c) the need for an emphasis on people’s housing processes” (1994). This means that people, rather than governments or the commercial housing sector , are the main stakeholders in the housing policy and that there must be “an effective utilization of existing capacity within informal settlements to carry the housing process forward and recognize the appropriateness and effectiveness of handing the housing process back to the people” . (UN Comission on Human Settlements 1995).

Specifically about housing rights of those caught in the middle of a war, the

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<sup>3</sup> Formerly Commission on Human Settlements.

<sup>4</sup> Formerly Sub-Comission on Prevention of Discrimination.

Commission on Human Settlement declared that “no human being, irrespective of race, colour, creed or caste, shall be ejected from his lawful home or land by any foreign Government or as a result of foreign intervention” (1983).

The works of the many UN agencies related to the right to housing have been especially attentive to the gender perspective, often recalling the way women are disproportionately affected by violations of human rights and urging governments to integrate them to the planning and development of housing policies at all levels of government in their resolutions. Due to the fact that the marginalization of women in society and the denial of the full enjoyment of their human rights have cultural roots, the former Commission on Human Rights “Encourages Governments to support the transformation of customs and traditions that discriminate against women and deny women security of tenure and equal ownership of, access to, and control over land and equal rights to own property and to adequate housing” (2000).

The Vancouver Declaration on Human Settlements and Action Plan, formulated in the occasion of the United Nations Conference on Human Settlements (Habitat), established a series of guidelines for action. It was defined as government’s responsibility the preparation of spatial strategy plans, understood as part of a larger development strategy that encompasses “policies on industrialization, agriculture, social welfare, and environmental and cultural preservation” (UN Conference on Human Settlements 1976). Differently from the more recent approaches, these commitments were mostly State-centered and reflected an overall economic paradigm of much more reliance on public sector<sup>5</sup>. 1987 was proclaimed the International Year of Shelter for the Homeless (UN General Assembly 1982); and in 1988, the General Assembly established the Global Strategy for Shelter to the Year 2000, urging governments to develop national and sub-national strategies for housing according to the defined guidelines in the resolution. The Global Strategy focus are national public policies, accordingly defining that international cooperation should aim to “enhance and support national capabilities to develop and implement national action components of the Global Strategy for Shelter to the Year 2000.” (UN General Assembly 1988).

In June 1996, the Second United Nations Conference on Human Settlements (Habitat II), held in Istanbul, Turkey, defined a series of commitments and recommendations, known as Habitat Agenda. This time, the document pro-

<sup>5</sup> Resolution 15/10 of the Commission on Human Settlements (1995), Priorities for national action to provide housing for all, explicitly recognizes “the effects of the changing economic, social and political conditions, trends and policies in the past two decades which have moved from a focus on public-sector interventions to an enabling approach, and the impacts of those changes on the implementation of housing policies”.

vided a much wider series guideline, involving also the private sector and organizations of the civil society. On their part, governments were expected to take actions to promote, protect and ensure the right to adequate housing, including respecting the principle of non-discrimination, providing legal security of tenure for all, monitoring housing conditions, formulating housing policies in consultation with the affected population and “adopting policies aimed at making housing habitable, affordable and accessible, including for those who are unable to secure adequate housing through their own means” (UN Conference on Human Settlements (Habitat II) 1996). Among these policies are: provision of subsidies and rental to the poor, expanding the supply of affordable housing and “Promoting sustainable spatial development patterns and transportation systems that improve accessibility of goods, services, amenities and work” (UN Conference on Human Settlements (Habitat II) 1996).

In 2000, the Commission on Human Rights appointed a Special Rapporteur on the Right to Adequate Housing. Since then, the mandate of the rapporteur has been renewed every three years and annual reports have focused, among others, on discrimination, forced evictions, homelessness, and the impact of globalization, and of mega-events on the realization of the right to adequate housing . This decision reveals the importance of raising the topic in the United Nations Human Rights Council, as it represents one of the few times an specific right was object of such an attention.

At the regional level, mentions to the right to adequate housing are present at human rights instruments of a variety of European organs<sup>6</sup> and the Organization of American States. The Resolution on Shelter for the Homeless in the European Community, under paragraph 4 and 6, “Calls for clear priority to be given to legal rules concerning the implementation of the right to adequate housing” and “Asks that the right to a home should be guaranteed by legislation, that Member States should recognize it as a fundamental right and that no person or family should be evicted without being rehoused” (European Parliament 1987). Article 31 (k) of the Charter of the Organization of American States asserts that “[...] the Member States agree to dedicate every effort to achieve the following goals: [...] (k) Adequate housing for all sectors of the population.” (1948); while in the Additional Protocol to the American Convention on Human Rights on Economic, Social and Cultural Rights, article 11 states “Everyone shall have the

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<sup>6</sup> The right to housing can be derived from human rights instruments such as the European Convention on Human Rights and Fundamental Freedoms (1950) and its Protocols No. 1 and 4, the European Social Charter and its Additional Protocol, the European Convention on the Legal Status of Migrant Workers, the Community Charter of Fundamental Social Rights and in documents of the Conference on Security and Cooperation in Europe.

right to live in a healthy environment and to have access to basic public services." (Organization of American States 1999).

## 4 BLOC POSITIONS

**Iraq's** and **Afghanistan's** strategies have been mainly conceived to address huge housing deficits that followed years of hiatus in supply and massive population movements deriving the recent wars they were engaged in. The new government in Iraq has recently developed a new housing policy in which a range of housing typologies are supported, including provision of public housing in the form of high-rise apartment blocks (UN-Habitat 2011). During the two and a half decades of conflict in Afghanistan, approximately six million people were forced to flee as refugees to neighboring countries. Nowadays, as returnees arrive, and the development of housing proceeds at a slow pace, the housing shortage is expected to continue to grow (World Bank 2008). Alleviating such a severe shortage requires concerted actions by the government, the private sector, donors, and stakeholders. To date, the World Bank has provided a total of over \$3.07 billion for development and emergency reconstruction projects, and five budget support operations in the country (World Bank 2015).

The eight years of war with Iraq caused the **Islamic Republic of Iran** to face a massive destruction of houses and infrastructure in border areas, the impact of which is still a concern. In addition, demand for housing is steadily growing as an outcome of population increase. The right to suitable housing is ensured in article 31 of the Iranian Constitution. The Government's program for the housing sector immediately after the Islamic Revolution of 1979 was, to a large extent, based in public land ownership. Under this framework, three main pieces of legislation passed: the Urban Wasteland Ownership Law (1979); the Urban Land Law (1982); and the New Urban Land Law (1987) (UN Economic and Social Council 2006). Current housing policies focus mainly on State participation in the construction sector, with finance directed by the Central Bank through credit allocation and subsidies. Land subsidies amount to three per cent of the country's GDP. However, most of the land distributed to households and cooperatives remains undeveloped due to the lack of sufficient resources to provide basic services (UN-Habitat 2011).

Housing has been a matter of great concern of the Israeli governments since the foundation of the State in 1948, as hundreds of thousands of immigrants and refugees needed to be adequately absorbed. Throughout four decades, the public sector was active in providing housing to its citizens or indirectly support-

ing home ownership with subsidized credit and investments on infrastructure. Nonetheless, since the 1990s, state involvement has strongly diminished and inequality risen. Since then, housing affordability has become a critical question to many Israelis, with prices soaring and motivating public demonstrations in 2011. Furthermore, public policies have failed to grant access to housing to the most disadvantaged ethnic groups of Israeli society. In fact, housing rights are a very sensitive topic concerning the **State of Israel**, as it has been in the center of one of its most internationally criticized actions in relation to the Occupied Palestinian Territories: the building of Jewish settlements, mostly at the expense of evictions in Palestinian owned land. A variety of UN organs, the Humans Rights Council included, have strongly criticized the expansion of Israeli settlements in Palestine, which not only represents a gross violation of humanitarian law, but also the fulfillment of the right to adequate housing of some at the expense of the violation of others' (UN Human Rights Council 2012).

Oil revenues have given the **United Arab Emirates** one of the highest incomes per capita in the world. Combined with a desire for rapid development, which rendered Emirati cities, such as Dubai and Abu Dhabi, a modern and lavish skyline, urban policies resulted in the building of huge numbers of low-cost houses and their offering to citizens sometimes at no cost (Salim 2004). This has been done through direct building programs, mainly through approved contractors, with hugely discounted or entirely free allocation, and interest free loans. (Al-Mansoori 1997). Similarly, **Qatar** presents an ongoing construction boom in heavily populated areas such as Najma, Al Mansoura and Doha Jadeed. Differently from UAE, however, this was only added to a serious shortage of housing that currently strikes the country and affects in particular middle-class families. Sudden demolition of old buildings has put many long-time residents of these areas in a difficult situation as they scramble to find alternative housing. In addition, the high number of city dwellers that was driven out by the demand for construction and service workers ahead of the 2022 World Cup had only emphasized the need for more mid-range residential units in the interim (Gulf Times 2013).

In **Turkey**, the Mass Housing Law (1981) defines the fundamental principles that give direction to address the housing problem in the country. It determines the tasks of the National Housing Development Administration of Turkey (TOKI), the public entity that is responsible for increasing housing supply for the low-to-middle income population, who are not able to own a housing unit within the existing market conditions (UN-Habitat 2011) (Turkey 2012).

In November 2010, a report published by UN-Habitat (the United Na-

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tions Human Settlements Program) confirmed that Africa is the fastest urbanizing continent in the world and that by 2030 its population will be 50 percent urban. Despite a relatively late urbanization compared to other regions, several African countries have recently had to face huge urban problems due to the vertiginous growth that some of its largest cities have gone through. By 2010, Africa had a slum population of 200 million people, which corresponds to 62% of its urban population (UN-Habitat 2010).

**Nigeria**, for instance, has in Lagos – its most populous city – a prominent example of this pattern of urbanization. Over two-thirds of the population of Lagos live in informal settlements or slums scattered around the city. Measures at both federal and state levels have been taken to handle issues concerning housing for the urban poor, such as the Fourth National Development Plan (1984-1985) and the UN-backed Master Plan for Metropolitan Lagos (1980-2000) that called for the provision of housing units for low-income households in Lagos. The persistence of the housing problem, though, led the state government to look for new sorts of intervention, including the establishment of the Lagos Metropolitan Development and Governance Project (Abosede 2006). Despite all these efforts, the concrete achievements in terms of “providing adequate housing” for the urban poor in Lagos and in Nigeria as a whole remain “essentially minimal” (Ademiluyi 2010).

In **Zimbabwe**, providing housing has been one of the most critical issues of government social policy especially after independence in 1980, although financial institutions are responsible for promoting a great part of housing development projects. Noteworthy, however, is the role of housing cooperatives in the country. The Zimbabwe National Association of Housing Cooperatives (ZINAHCO), the main organization in the sector, provided the bulk of housing units that were constructed in Zimbabwe during the past decade (CAHF 2014).

The October 1990 war in **Rwanda**, with the subsequent amount of displaced people, followed by the 1994 genocide against Tutsi aroused massive destruction of country's houses and infrastructure. Such a worrying situation led the government to implement policies to address emergency situations, which included the construction of numerous housing units between 1995 and 2001. More than 265,000 houses were built under resettlement programs, mainly in the so-called regrouping settlement centers “imidugudu” (Republic of Rwanda 2009). Since then, Rwandan authorities have manifested their regard to housing matters through programs such as the Strategic Framework Vision 2020, the National Urban Housing Policy and other aligned development strategies, namely the Economic Development and Poverty Reduction Strategy (EDPRS)

(Republic of Rwanda 2015).

The civil war in **Sierra Leone** (from 1991 to 2002) left a great part of the population destitute and destroyed close to 350,000 dwellings. Since 2002, however, Sierra Leone has made considerable strides towards development. Nowadays, 75 percent of households are owner-occupiers and 19 percent are renters (CAHF 2014). Housing conditions, nonetheless, remain extremely inadequate. The legislative framework for housing and regional/urban planning is weak and there are no standardized building regulations (UN-Habitat 2014).

Akin to Sierra Leone, **Liberia** has been recovering from the lingering effects of its civil wars, primarily due to the national Poverty Reduction Strategy. Housing stock, though, is still insufficient in the country, and the poor state of housing has contributed substantially to the rapid spread of the Ebola virus last year. The Liberian government has currently an ambitious program of transforming the country into a middle-income one by the year 2030, known as the Agenda for Transformation (AFT). Such goal, which lays emphasis on housing, has reinforced the capacity of the National Housing Authority (NHA) – a state-owned institution that provides housing at a relative scale. In response, the NHA has developed a national plan (2013-2017) that includes interventions regarding housing development finance, housing development policies and strategies, and town and city planning (CAHF 2014).

**Central African Republic's** housing policy statement and housing strategy were adopted in 2008, with the end of a brutal 10-year civil war. Since then, two important decisions have been made: the signing into law of the creation of the Central African Housing Bank and the creation of the Central African Housing Promotion Agency (Central African Republic 2008). Unfortunately, all of these plans were compromised with the outbreak of violence that followed the March 2013 Coup d'État.

Subsequently to the historic election of Mandela in 1994, successive governments in **South Africa** have focused on implementing policies to “combat the spatial manifestations of apartheid”, especially by regarding provisions of housing for the urban poor (Bollens 1998, 741). Within the last fifteen years in particular, South Africa’s housing strategies have fostered a combination of private, public and community initiatives wherein the state, rather than taking a central role on direct housing provision, has focused on the maximization of market and community involvement (Goodlad 1996). This trend was translated into the national housing policy dubbed “Breaking New Ground” (BNG), whose aim is to fulfill the government’s plan to promote the development of “sustainable human settlements” in South Africa (South Africa 2012). Sadly, forceful evictions of the

urban poor from slums have also been among the policy options to address the housing crisis in South Africa. In Cape Town, for instance, in order to construct rental housing for the 2010 FIFA World Cup in South Africa, 20,000 people were evicted from an informal settlement and relocated to areas outside of the city (Newton 2009).

The housing sector in the **People's Republic of China** has gone under great changes in the last decades, following the trends of market liberalization that boosted Chinese economy growth. The focus on privatization of the housing sector of the last two decades, although having successfully raised house ownership from 20% in 1980 to 70% in 2010, was accompanied by growing inequality among social classes, with a sharp increase in housing prices and loss of affordable housing to urban renewal (Huang 2012). As under China's property law, urban land is state owned, lack of security of tenure has been an especially severe problem in the implementation of urban development plans. From 1993 to 2003, 2.5 million people were evicted and 40 million square meters of housing destroyed only on the city of Shanghai (UN Human Settlements Programme 2007). Inadequate housing is an even more severe problem among the illegal migrants in industrial urban areas, as most times they have no access to housing subsidies and other public assistance allowed (Huang 2012).

Since 1985, the Supreme Court of the **Republic of India** recognizes the right to adequate housing as constitutional obligation of the state, as part of the all-encompassing Right to Life under Article 21. A series of judgements by the Court set a jurisprudence against forced evictions and in favor of the rights of minorities (Kothari 2002). The Executive power has also put great effort in the matter of housing, with National Housing Policies being adopted and renewed since 1994, attaining to internationally accorded principles and putting "special emphasis on vulnerable sections of society such as Scheduled Castes/Scheduled Tribes, Backward Classes, Minorities and the urban poor" (Government of India 2007). Still, the right to adequate housing is widely violated in the country, with millions of people living in-humane conditions: "the housing shortage is estimated to be 24.7 million. [...] urban areas in our country are also characterized by severe shortage of basic services like potable water, well laid out drainage system, sewerage network, sanitation facilities, electricity, roads and appropriate solid waste disposal." (Government of India 2007, 1)

The **Republic of Indonesia** is another typical case of populous developing country, with steady economic growth but struggling with high poverty rates and booming urbanization – in fact, the country has the fastest rate of growth of urban population in Asia (World Bank 2012). The government has commit-

ted itself to the realization of the right to adequate housing through establishing goals, focused on low-income households, in the National Development Plans. Historically, the Indonesian government has provided public housing on just a small scale, although it has much experience in slum-upgrading programs, which date to the 1960s. In sum, the informal sector has been the main responsible for building and maintaining households, known as kampungs, while the public sector invested in improving the conditions of these communities (UN Human Rights Council 2013). It lacks, though, central planning, essential to a sustainable growth of the cities, especially considering adequate infrastructure. Security of tenure is also another important issue to kampungs, as 50% of all land parcels in Jakarta, for instance, do not have registration (World Bank 2011, 21), leaving these families susceptible to forced evictions. On its report of the mission to the country, the Special Rapporteur demonstrated worrisome that housing policy has been mostly targeted at middle-class households, instead of at the most poor (UN Human Rights Council 2013).

While the majority of the population in the **Islamic Republic of Pakistan** is rural (64% in 2013), its rapidly urbanizing, with the transition to a mostly urban society, is to be made until 2030. Urban policy is absent in the country, and so does national housing strategies. Less than a third of the 80,000 new housing units built every year are supplied by the legal economy (Alexander and Jacobsen 2002). Still, housing credit and subsidized infrastructure to affluent the middle-class-targeted is abundant (Siddiqui 2014). One internationally recognized example, nonetheless, is Sindh Province government that, from 1980 onward in the Orangi slum of Karachi, implemented a highly successful “incremental housing” model. It counted on the informal sector and “one million low-income inhabitants, on a spirited self-help basis, improved their schools, housing, and health-care access, and even built a sewage system at one fifth the cost projected by civil agencies” (Alexander and Jacobsen 2002).

Being a mostly rural country, in the **Socialist Republic of Vietnam** violations of the right to housing usually involve land grab for development project, such as infrastructure, hotels, shopping centers etc. According to Vietnamese laws, land belong to the people and is managed by the state, which issues land-use rights certificates and can, under reasons of public interest, forcibly retrieve the land. Even though the national legislation demands notification with appropriate time and compensations, in practice, security of tenure is highly problematic and forced evictions are abundant. Women, especially widows, face denial of access to land by the authorities, violating the principles of gender equality and non-discrimination (Vietnam Committee on Human Rights; International Fed-

eration for Human Rights 2014). Furthermore, economic liberalization, housing sector included, has unequally distributed its benefits, increasing the social gap. Growing inequality along with insufficient planning has led to misbalanced growth, in which there are no appropriate infrastructure to secure adequate housing standards for all.

The **State of Japan** has one of the most advanced legislations assuring security of tenure. Reports of evictions carried unlawfully, without proper financial reparation are scarce. In fact, critics point that private and public development projects are overly affected by these laws, characterizing them as “weak” in granting “the state’s ability to relocate landowners with fair market compensation” (Japan Today 2010). Still, the country does not go without bad records on housing rights. Homelessness<sup>7</sup> has increased and became a social problem since the 1990s, with economic stagnation following the 1997 Asian financial crisis (Okamoto, et al. 2004). Since then, the expulsion of homeless people has become frequent, especially from places such as public parks, and the entourages of facilities hosting major international events, such as the Aichi Expo, the World Athletic Games and the upcoming 2020 Summer Olympics (UN Human Settlements Programme 2007).

The **Democratic Republic of Timor-Leste** is a severe case of massive housing rights violations during conflict. Three years before its independence from Indonesia, in 2002, a UN-backed referendum rejected further autonomy in favor of full self-determination and a campaign of terror was unleashed by militia groups and factions of the Indonesian military in response. 67,500 houses – or 40% of all national stock – were destroyed and thousands of others were abandoned, most of them being taken by other displaced people (Bugalski 2010). The displacement of 450,000 people created a great pressure on the supply and prices of houses, especially on the capital Dilli, prompting the creation of large refugee camps (Srinivas and Bell 2015). The Constitution, promulgated in 2002, enshrined the right of everyone to a house of adequate conditions. Later, a strong political crisis, in 2006, led to a security vacuum that allowed those whose houses were taken in 1999 to seek revenge: 150,000 people lost shelter in two years (Bugalski 2010). Resettlement of the internally displaced, reconstruction of the damaged houses and expansion of housing stock, and the resolution of property disputes are key steps to solve housing problems in the country, still unachieved due to the feebleness of State institutions (Bugalski 2010).

One of the current major concerns in the ambiance of the European Union is the housing crisis: the affordability of housing has deteriorated as house prices

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<sup>7</sup> In Japan, the homeless are also referred to as rough sleepers.

have raised faster than average earnings. The **United Kingdom** faced, between 2002 and 2007, a rise of 90% in house prices, one of the sharpest rates in the Euro zone, making homeownership unaffordable for a large segment of the population (Chamberlin 2009). In 2012, London hosted the Olympic Games, whose most of infrastructure was built in the eastern and poorest region of the city, known as the East End. Although urban boosterism was brought about, the Olympics is the latest and greatest property development opportunity in a process of gentrification that is redesigning the East End, driving out the area's traditional populations and undermining their right to adequate housing. Notable advances have been performed in terms of housing policies, however. The British government recently launched the Help to Buy scheme, a package that envisages to stimulate the housing market and the economy through Government guarantees for equity, providing beneficiaries with equity loans and mortgage guarantees (UN General Assembly 2013).

**France** boasts a developed social housing system (the so-called "*Habitations à loyer modéré*" or "HLM") that provides subsidized assistance for low-income and poor people. A recently adopted law on the justiciable right to housing aims to give people the right to seek legal redress before an administrative tribunal, where their right to housing has been avoided by public authorities. It can require the State to offer the claimant adequate housing, within certain categories of need (Council of Europe 2008). Similarly, **Germany** has a legal apparatus capable of providing highly responsive housing supply, significant rental controls, and tight credit regulations. Because renting is the dominant housing choice in the country, the political system is highly sensitive to tenants' rights and perceived threats to the status quo typically receive prominent media attention and political responses (Macro Business 2011).

Important events in **Spain**, such as the 1992 Olympic Games, as well as tourism and secondary houses, have deeply proved to fuel speculation in land with impact in the prices of housing in cities like Barcelona, Seville and some coastal municipalities. The right to a "decent and adequate housing" is recognized in article 47 of the Spanish Constitution. Among developed countries, though, Spain has experienced one of the highest increases in housing prices in recent years (UN General Assembly 2008). The economic crisis in the country, with over 5 million unemployed, hit homeowners particularly hard. Whether in terms of renting or purchasing houses, affordability is a major problem faced by a large proportion of the population that is paying a high percentage of their income on mortgages. In addition, the country seriously lacks public housing: the current housing programs do not address the needs of the bottom 20-25% of

the population (UN Human Rights 2006).

In what concerns homeless people, **Hungary** has recently been involved in controversy due to the amendment to the Hungarian Fundamental Law that came into force in 2013 and criminalizes homelessness. The additional amendments to the Constitution recognize the right to adequate housing and firms the commitment to provide access to housing for every homeless person. Notwithstanding, according to the former UN Special Rapporteur on Adequate Housing, Raquel Rolnik, the particular provision that authorizes national and municipal legislation to outlaw sleeping in public spaces, for instance, is contrary to Hungarian international human rights obligations of equality and non-discrimination (UN Human Rights 2013).

Under the common intent to put an end to the protracted refugee situation that followed the 1991-1995 conflicts on the former Yugoslavia, **Serbia** and **Bosnia and Herzegovina** took the challenge of consolidating, along with Croatia and Montenegro, a Western Balkans “Regional Housing Program” (RHP). The housing solutions available include construction of apartment buildings, pre-fabricated houses and provision of building materials for the renovation of existing houses (European Commission 2013).

In the **Russian Federation**, ownership and management of houses have been transferred from public monopoly to private sector after the housing reforms of the 1990s, in the transition to market economy. Today, housing-related problems receive great attention on Russian media and housing is the subject of one of the four national priority programs (Vihavainen 2009), demonstrating how the Government and civil society are engaged in this matter. One persistent problem from the Soviet era, nonetheless, is the physical inadequacy of housing in terms of space, with the existence of overcrowded areas (Burdyak 2015). Nowadays, the lack of maintenance of the housing stock is one of the main causes of inadequate conditions: in 2004, 11% of Russian housings were in need of urgent renovation (UN Economic Comission for Europe 2004). As in other former socialist countries, the privatization of housing has faced greater disparities in economic social conditions.

Modern housing policy in the **United States** began during the Depression, with the National Housing Act of 1934, which created the Federal Housing Administration (FHA) to underwrite and insure mortgages and provide security to lenders in case of default (UN General Assembly 2010). However, financial reforms undertook since mid 1980's allowed a progressive financialization of the housing market in the US, leading to the sub-prime crises in 2008. In its aftermath, the crisis that broke out in the country's housing market has had severe

consequences on housing affordability both within North America and across the globe. Since then, unaffordability is reaching unprecedented levels in the US and became a serious social and economic issue (UN-Habitat 2011). Although indirectly, homeowners in the United States are subsidized by tax relief. The federal government spends USD 4.7 billion per year in tax credits for building and rehabilitation of affordable housing<sup>8</sup>, but it has made little progress in stemming the reduction of low-cost rentals from the national housing stock. In addition, assistance to very low-income households reaches only about one quarter of eligible renters (UN-Habitat 2011).

**Brazil** has been drawing international attention due to both the 2014 World Cup and the upcoming 2016 Olympic Games in Rio de Janeiro. The preparation for these large-scale events has led to major social impacts. According to the Swiss-based NGO, Terre des Hommes, some 170,000 people lost their homes due to the building or renovation of stadiums, roads, airports and other infrastructure projects for the World Cup (BBC 2014). In Rio, the building projects for tournaments and Olympics are suggested to be a pretext for “social cleansing”, as tens of thousands of slum dwellers have been already driven out to the city periphery (The Guardian 2013). Despite the gentrification process and the forced evictions that took place to make way for such great urban development plans, Brazilian housing policy proved to be quite ambitious in recent years. In the first quarter of 2009, the Government launched the so-called *“Minha Casa, Minha Vida”*, a housing program aimed at reducing the number of informal settlements through subsidized credit for either low-income population and the construction sector. As from early 2014, more than 1.5 million Brazilian families benefited from the program and were granted homeownership (Brazil 2014).

**Chile** is a prominent example of long-term subsidies programs’ use in expanding housing opportunities to low-income households. The Chilean program, launched in 1977, allocated capital subsidies to households according to income and a number of criteria such as level of savings and membership of certain subgroups (i.e. single mothers). The program also limited the invasion of land and extended basic infrastructure to a larger percentage of the population, what contributed to reduce the country’s housing deficit and the proportion of urban slums (UN-Habitat 2011). In the same way – but with less robust success –, **Argentina** implemented mortgage-backed securities as a means of raising

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<sup>8</sup> In contrast to the Brazilian “Minha Casa, Minha Vida” or the Mexican INFONAVIT, through the “housing choice vouchers program” the beneficiary is free to choose any housing that meets the requirements of the program and is not limited to units located in subsidized housing projects.

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housing finance capital. Some Argentinean programs, such as the Neighborhood Improvement Program (PROMEBA) and Rosario Habitat, share the goal of providing legal title to households in low-income settlements along with supporting infrastructure improvements and initiatives to promote healthier living conditions and youth education (UN-Habitat 2011).

Federal policies – particularly from the National Workers’ Housing Fund Institute (INFONAVIT) – in **Mexico** in recent decades have both facilitated and encouraged the development of mass-produced homes throughout the country on inexpensive, peri-urban land far from job opportunities, city centers and urban services. Mexican rapid urban expansion that resulted from such policies, facing these distortions, had ultimately to be readdressed by authorities (OECD 2015). In 2013, Mexico announced a new approach to housing and urban policy, calling for a more explicit qualitative focus on housing and the urban environment. The National Housing Policy 2013-2018 aims to “provide a suitable environment for the development of a decent life”, with a strategy of “transition toward a smart, sustainable development model to ensure decent housing for Mexicans” (Mexico 2013).

A chronic shortage of suitable housing is one of the greatest challenges that **Venezuela** faces nowadays. The vertiginous urbanization in the country was largely a result of the 1970s oil boom, and led to a sprawling and chaotic network of slums in Venezuelan major cities. In order to uphold every citizen’s right to adequate housing, far-reaching strategies were adopted in recent years, including a set of laws and concessions that seek to democratize the access to urban land, namely land titles, land rights for indigenous communities, the Urban Land Law (2009), and the Law of Land and Development (2001) (Venezuela 2013).

## 5. QUESTIONS TO PONDER

**1.** Are there legal hiatuses when it comes to the definition of the right to an adequate housing itself and to the formal obligations of states in providing secure tenure for their citizens?

**2.** What is the diagnosis for the inability of the previously mentioned international legal instruments to achieve its own agreed terms related to the right to adequate housing?

**3.** In the light of all previous efforts of the international community and the overall failure in securing the universal enjoyment of the right to adequate housing, what is within reach of the United Nations Human Rights Council to resolve

in order to implement what it has already determined?

4. Can large Urban Development Projects conciliate its goals of attracting international attention and capital and the advancement of the right to adequate housing? What lessons the already implemented UDPs teach the Council about conciliating both?

5. What is the role of national housing security programs and to what extent do they achieve the goal of guaranteeing access to adequate housing? How can the United Nations Human Rights Council supervise and ultimately foster such local policies?

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# THE SITUATION IN UKRAINE

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## ABSTRACT

In 2013, as a result of the decision to postpone the signing of Ukraine's Association Agreement with the European Union, thousands of people gathered at Maidan, in Kiev, to protest against the central Government. After weeks of confrontation between the militants and the State forces, president Yanukovich was ousted, and new protests emerged, this time by pro-Government demonstrators who considered the deposition a coup. In this context, Crimea held a referendum declaring itself independent from Ukraine and joined Russia, and the Eastern portion of the country, mostly pro-Russian, also began to demand its independence. A major armed confrontation developed between the Government and pro-Kiev militias, on one side, and the militias of Donetsk and Luhansk, on the other, raising concern among the region. Russia was accused of supporting the separatists and the European Union and the United States were accused of intervening in the internal affairs of Ukraine. Since the beginning of the crisis, several cease-fire accords have been signed; peace, however, did not last, and an increase in offensives in the near future is expected.

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## 1 HISTORICAL BACKGROUND

The meaning of the word “Ukraine”, “borderland”, tells us a lot about the history and the significance of this territory. The region, a crossroad of different cultures, is of great importance mainly due to its geostrategic position (linkage between Asia and Europe) and its fertile lands, factors that contributed to subject the territory to rough disputes between powers such as Russia, Austria, Turkey and Poland. This history of conquest and clashes and the consequent multiplicity of cultures, religions and interests exerting influence over the population explain why Ukrainians found it so hard to establish a common identity and achieve sovereignty. In other words, Ukraine’s history is a succession of conflicts and tensions between the East, the West and, in between, a multicultural people that seeks to form a nation.

### 1.1 THE KIEVAN RUS AND THE RUSSIAN EMPIRE

The Great Principality of Kiev – also known as Kievan Rus – was the first great Slavic nation, being the common origin of Russia, Ukraine and Belarus, and exerting influence in the formation of Eastern Europe as a whole. The Rus originated in 882, under Prince Oleg, but the rule over the territory was dispersed until Volodymir (980-1015), consolidated control over the people that there inhabited, and adopted Orthodox Christianity (Encyclopedia of Ukraine 2001). In the period, Kiev was the most important Slavic city, a prominent commercial and cultural center. From 1054 on, succession disputes engendered the decay of the Rus, culminating in the 1240 Tatar pillage of Kiev that dissolved the Principality and consolidated the dominance of the Golden Horde<sup>1</sup> in the region (Defense Language Institute 2013).

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<sup>1</sup> Westernmost division of the Mongol Empire.

### Image 1: The Kievan Rus (1220-1240)



Source: Wikimedia Commons, 2010.

In 1648 the Cossacks rose against the Polish authority and declared a Hetmanate<sup>2</sup> under the leadership of Orthodox Bohdan Khmelnytsky. With the Pereyaslav Treaty of 1654, the Hetmanate requested Moscow's help against Poland, though preserving its autonomy. Moscow and Poland fought until 1667, when under the Andrusovo Treaty, an agreement envisaged to impede Ottoman advance in the region, they divided Ukraine into the Polish-ruled West Bank and the Russian-ruled East Dnieper Bank, and put Kiev under Muscovite control (Encyclopedia of Ukraine 2001).

The Muscovite emperor Peter the Great, in an attempt to regain access to the Swedish-controlled Baltic Sea, declared war on Sweden in 1700, thus starting the Great Northern War. The Cossacks, fearing loss of autonomy in case of Russian victory, let the Swedish troops enter their territory. After several setbacks, Russia turned the situation on its favor in a combat in the

<sup>2</sup> Ukrainian Cossack semi-autonomous state that lasted until 1782. It became one of the most important agricultural suppliers of Eastern Europe (Encyclopedia of Ukraine 2001).

Dnieper East Bank; the Battle of Poltava (1709), as it became known, marked the Russian ascension in European politics. The war ended with the Treaty of Nystadt (1721) and the Russian Empire was declared (Potemkin 1966).

Under the rule of Catherine II, the empire expanded. Putting an end to Cossack autonomy, Catherine established control over their lands, imposing Russian serfdom and repressing the Ukrainian culture<sup>3</sup>. In 1795, with the partition of Poland between Russia, Austria and Prussia, Catherine also took control of the Dnieper West Bank, thus ruling over 80% of the current Ukrainian territory. Furthermore, defeating Turkey in 1774, the empire granted control over the Ukrainian Black Sea coast: Russia was able to maintain a fleet in the Black Sea and, in 1783, annexed Crimea, creating Sevastopol and the port of Odessa (Reid 2000). The Russian presence in the Black Sea, however, worried Britain and France, as the access to warm waters increased Russia's capacity to project naval power and challenged the colonial primacy of the two countries. Hence, when Russia annihilated the Turkish fleet in 1853, a coalition formed by Britain, France, Austria and Sardinia attacked the empire of Nicholas I, initiating the Crimea War. After the yearlong siege of Sevastopol, Russia resigned and had to limit its naval presence in the region (The Economist 2014).

Mirroring similar developments in the rest of Europe, a significant Ukrainian nationalist movement emerged in the city of Lviv<sup>4</sup>, in Austrian-ruled Galicia, calling for autonomy within the Habsburg Empire. Despite being rapidly defeated, the movement inspired modern Ukrainian nationalism (Encyclopedia of Ukraine 2001). The following period was of great modernization of Russia's economy, fostering a sensible development of industry, notably in the Donbas (the formerly called East Bank). However, the rapid grow of the Russian population generated frequent hungers and a rising dissatisfaction that would lead to revolutionary movements in the 20th century.

<sup>3</sup> Catherine claimed that she restored a "rightful inheritance", recalling the Russian origins in the Kievan Rus (Reid 2000).

<sup>4</sup> Under Austrian control until 1918 and Polish control until 1939, when was dominated by the USSR, Lviv is traditionally the cultural center of Western Ukraine. It is also an important Catholic pole in Ukraine, as the Austrian and Polish domination left a deep influence in this Galician city (Reid 2001).

## 1.2 THE FIRST WORLD WAR AND THE RISE OF THE SOVIET UNION

Russia's participation in World War I came with great costs, but was decisive to the Allies. In June 1916, Russia launched the Brusilov Offensive, in which its forces dismantled the Austrian army in the eastern part of the latter's Empire. The battles granted Russia the control of the territories of Bukovina and Eastern Galicia, where locals mainly supported the Austrian forces<sup>5</sup>. The operation also obliged the Germans to relocate some troops from the West Front, thus giving the French resistance some relief. Despite being a military success, the operation exhausted Russian material and human resources, consuming almost a million and a half lives and worsening the social crisis in Russia, which culminated in the fall of tsarism and its replacement for the Kerensky-led provisional government in 1917 (Liddel Hart, 1970).

Russia would only leave the war when the Bolsheviks, led by Lenin, rose to power (Arostegui et al 2001). At the same time, Ukrainian movements, divided between pro-Soviet (in the East), pro-German (in the West), and nationalist groups, were trying to consolidate a sovereign State. Thus, both Russian and Ukrainian delegations, in separate, signed peace treaties with the Central Powers. Amid the Civil War (1917-1922) and the foreign interventions in Russia, Poland, supported by France, invaded West Ukraine and Russia, which successfully counter-offended. In 1921, Russia and Poland agreed on the Peace of Riga, which divided Belarus and Ukraine between the parties (Encyclopedia of Ukraine 2001).

One important issue that surpassed the constitution of the Soviet Union was its nationalities policy, a guideline based on the notion that "while in Western Europe purely national States are born, in the East, multinational States are born with the leadership of a developed nation, to which the lesser ones would be political and economical submitted" (Buonicore 2015); in sum, each Soviet State should be "nationalist in form, socialist in content" (Roberts 2011). As a response to this policy, Woodrow Wilson presented his "14 points" that, putting self-determination above the survival of the political entity, could undermine the territorial integrity of the multicultural USSR's (Fischer 1967). While the latter influenced autonomous (as in Central Ukraine) and pro-Western (as in

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<sup>5</sup> In the West, Ukrainians traditionally tend to be "pro-German" (Reid 2001).

Western Ukraine) nationalist movements in Eastern Europe, the former stimulated the pro-Russian nationalism.

In 1922 the USSR was founded, encompassing the Ukrainian, Transcaucasian and Byelorussian Socialist Republics, under the leadership of Moscow. Lenin's New Economic Policy benefited Ukraine with the installation of several industries<sup>6</sup> and, with the rise of Stalin and his Five-Year Plans, the industrializing measures and investments in technology were intensified (Arostegui et al 2001, Gracheva 2011). On the other hand, due to this process and the collectivization of agriculture, food shortages became common, as in the Ukrainian famine of 1932-33<sup>7</sup> (Hopper 2015).

### 1.3 THE GREAT PATRIOTIC WAR AND THE COLD WAR

Isolated by the West, Stalin had to reach a defense agreement with the Nazis; known as the Ribbentrop-Molotov Pact, the accord allowed the USSR to conquer eastern Poland, northern Romania and the Baltic States (Visentini and Pereira 2013). However, Hitler attacked the Soviet territory in 1941 and started what the Soviets call the Great Patriotic War. After failures in seizing Leningrad and Stalingrad, Hitler launched his last big offensive in the East front. The battle took place near Kursk, in the Donbas, and enabled the Soviet offensive towards the west, when the URSS finally reached Berlin. It is important to note that, in Western Ukraine and in the Baltic states, the Nazis received support from the local population, as they were perceived as liberators that would put an end to Polish and Russian authority in the region (Barber and Harrison 2006).

With the rise of bipolarity in the post-war and with Truman's Doctrine of Containment<sup>8</sup>, the Western and Soviet blocs organized in antagonizing military alliances, the North Atlantic Treaty Organization (NATO) and the Warsaw Pact, respectively (Vizentini 1990). Despite the American superiority, the USSR managed to consolidate an influence zone over Central and Eastern Europe and,

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<sup>6</sup> Ukraine was already an important agricultural center of the USSR, then becoming an industrial zone.

<sup>7</sup> Also known as Holodomor by Ukrainians, which means "death by hunger", the famine consumed millions of lives and some consider it a premeditated action by Stalin to punish Ukrainian nationalists who resisted the collectivization (UN Human Rights Council 2015).

<sup>8</sup> This doctrine was deeply influenced by George Kennan's Long Telegram, when the U.S. diplomat in Moscow writes about the need to counter Soviet expansionism (Kissinger 1994).

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through a new Five-Years plan, Stalin enabled the USSR to compete with the capitalist bloc – however, once again the modernization efforts came with huge social costs (Michelena 1977).

After Stalin's death in 1953, there was a sensible reorientation in Soviet politics. Khrushchev, the new leader, proposed a "pacific coexistence" between capitalism and socialism (Reis Filho, 2000). In 1954, he transferred Crimea from Russia to Ukraine, in order to celebrate the 300th anniversary of the Pereyaslav Treaty; his reasons for that, however, are not perfectly understood – the most accepted explanation is the one that says that this was a means to grant support for the regime among the Ukrainian people, heavily affected by the industrialization process and Stalin's purges (Keating 2014; Taubman 2006). The Donbas' industry was deeply involved in the impressive technological advances of the period, mostly in the military and aerospace sectors (Holloway 2006).

From late 1970's on, the USSR started showing signs of economical and political exhaustion. Thus, between mid 1980's and early 1990's the Soviet apparatus was completely dismantled by the reforms conducted by Mikhail Gorbachev, and, in December 1991, the USSR came to an end, originating 15 new States<sup>9</sup>, including Ukraine and the Russian Federation, presided by Boris Yeltsin (Vizentini 1996).

**Image 2:** Territorial evolution of Ukraine in the Soviet era



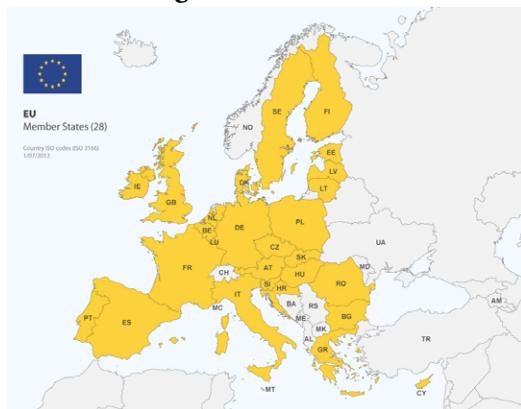
Source: Wikimedia Commons, 2011.

<sup>9</sup> They are: Russia, Ukraine, Belarus, Moldova, Latvia, Lithuania, Estonia, Armenia, Georgia, Azerbaijan, Kazakhstan, Uzbekistan, Turkmenistan, Kyrgyzstan and Tajikistan.

## 1.4 THE POST-COLD WAR AND UKRAINE'S POLITICS AFTER INDEPENDENCE (1991-2004)

With the end of bipolarity, the U.S. sought to consolidate its dominant position through the constant improvement of its military capabilities, preemptive interventions and the resuming of its anti-missile program (Pecequilo 2012). Moreover, NATO and the newborn European Union expanded towards the ex-Soviet States and, between 1999 and 2007, both had approved the membership of Poland, Czech Republic, Hungary, Bulgaria, Estonia, Lithuania, Latvia, Romania, Slovakia and Slovenia (Mearsheimer 2014). However, since Putin's second term – which began in 2004 – Russia started to contest Western dominance, as demonstrated in the tough stances Russia maintained on the question of Chechnya, after being humiliated with the bombing of Yugoslavia. This new posture was made possible by the gradual recovery of Russia's military capabilities and by the overcoming of the Russian diplomatic isolation, with the strengthening of its "Eastern vector"<sup>10</sup> (Pautasso 2014).

**Image 3:** EU Member States



Source: Eucontrol, 2015.

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<sup>10</sup> Among developments in this sense was 5th generation fighters and the anti-aircraft missile system S-300, besides the reestablishment of the naval fleet in Tartus and Crimea and the installation of Iskander missiles in Kaliningrad, as a response to the proposals of missile defense systems in Europe (Pautasso 2014).

**Image 4:** NATO member states

Source: The Economist, 2013.

With the dismembering of the USSR, Ukraine became for the first time a de jure and de facto sovereign State. The country's political scenario was characterized by widespread corruption and by the strong influence of regional "clans", linked to the central government, which controlled most of the Ukrainian media, undermining the freedom of speech (Alt 2015). Regarding productive capabilities, Ukraine inherited from the USSR the majority of pipelines that supplied Europe with Russian gas, and the huge industrial complex of the Donbas Basin, encompassing military, power generation, chemistry, machinery, gas, metalworking and spacecraft industries. However, independent Ukraine did not manage to keep its industry dynamic and output fell drastically along the decade, as the production was fueled by the demands of bipolar competition during the Cold War (CIA World Factbook 2015). Ukraine's president in 1991, Leonid Kravchuk, had to deal with a grave economic crisis caused by internal divisions and the radical transition to a market economy<sup>11</sup> (Carnegie Endowment 2012). Due to his inability to undertake effective reforms to tackle the crisis, Kravchuk lost popularity and was replaced in the 1994 elections by the former Prime Minister Leonid Kuchma, a candidate massively supported by the Eastern population.

<sup>11</sup> Between 1991 and 1994, Ukraine's GDP fell by a half. Moreover, the country suffered with hyperinflation and the deficit represented 14.4% of the GDP (Carnegie Endowment 2012).

Elected as a moderate pro-Russian candidate, Kuchma declared a “multi-vector policy”, under which he would seek to improve relations with the west in order to gain leverage over Russia, at the same time maintaining good relations with Moscow (Kuzio 2012). In mid-1990’s, Ukraine signed agreements such as the Partnership for Peace (1995) and the Charter on a Distinctive Partnership (1997), which envisioned a possible admission in the EU and initiated cooperation with NATO (Hatton 2010). Kiev also received financial aid from the U.S. and suffered influence of American organizations like the National Endowment for Democracy (Mearsheimer 2014). This new approach increased Western power in Ukrainian politics, although it remained weaker than Russian influence.

After Kuchma was accused of involvement in the death of opposition journalist Heorhiy Gongadze, and after his government sold radar systems to embargoed Iraq, the EU and the U.S. dropped their attempts of approaching Ukraine, stimulating an Ukrainian “disillusionment” with the West (Kuzio 2012). The consequence of this new context was the improvement in Russo-Ukrainian relations. Since the Soviet dissolution, contacts with Moscow were tense, due to the situation of Crimea and the naval fleet in the Black Sea – although Yeltsin did not make any efforts to retrieve the peninsula, its status became more complicated as its majorly Russian population intensified claims for autonomy in face of the Ukrainian government. The region received a special status in 1992 and, in 1997, it was agreed that the Black Sea Fleet would be partitioned between Kiev and Moscow and that the base of Sevastopol would be leased to Russia (Hatton 2010).

In this context of Kuchma’s growing unpopularity and campaigns for his impeachment, central banker Viktor Yushchenko emerged as an influent opposition leader and was nominated Prime Minister in 1999 (Eke 2002). Yushchenko became very popular as Ukraine’s economy started to quickly show conspicuous improvement after his economic reforms, and his alliance with oligarch Yulia Tymoshenko gave him a more prominent political position. However, due to pressures from traditional elites and fearing Yushchenko’s growing influence, Kuchma ousted him of power in 2001. Yushchenko then took the leadership of opposition bloc Our Ukraine (also known as the Orange Bloc), from that moment on consolidating his image as a pro-Western opposition leader and paving the way for his candidacy in the presidential elections of 2004

(Karatnycky 2005).

## 2 STATEMENT OF THE ISSUE

### 2.1 THE ORANGE REVOLUTION AND YUSHCHENKO'S SHIFT TO THE WEST

In November 2004, Ukrainians went to the polls to choose their new President. As the results came out, the Central Election Commission announced that Yanukovych, a candidate backed by Kuchma and by the Russians, had beaten the challenger Yushchenko, the candidate with a reformist platform and a European orientation. International observers, such as the European Network of Election Monitoring Organizations (ENEMO) and the OSCE Monitoring Mission, however, questioned the vote count, accusing the Government of having manipulated the outcome of the electoral process. Stimulated by the reports of fraud, the Ukrainian population gathered at the Independence Square to protest. Among the factors that contributed to create a favorable environment for this political mobilization were the growth of the middle class in urban centers and the increased dissemination of information about corruption in the country. In addition, Ukraine witnessed the development of an incisive civil society with a strong opposing position, led by its unsatisfied elite, and supported by the U.S., Europe, the National Endowment for Democracy and philanthropists (Karatnycky 2005).

As the days passed, the protests and the international pressure gained strength and volume, causing the Supreme Court of Ukraine to invalidate the outcome of the polls. Yushchenko, who on the first day of demonstrations had declared himself President, negotiated new elections with the Rada (the Parliament) in exchange for constitutional modifications. The Parliament then approved adjustments to the electoral law and amended the Constitution, reducing the powers of the President and turning Ukraine into a semi-presidential Republic. After new elections held in late December, Yushchenko became the President. The majority of his votes came from the Western, Northwestern and center regions of the country, while Yanukovych won most of the votes in the Eastern and southern portions of the territory (Karatnycky 2005). These

differences in political positions among the regions were the result of substantial historical and developmental differences: while the West was predominantly agricultural and had greater cultural identification with Europe, due to recent domination by Poland and Austria, the East was industrialized and was the region where most Ukrainians who considered themselves ethnic Russians lived, due to its close ties with the Russian territory.

The Orange Revolution was not only a movement with internal repercussions, also embodying a competition to decide the geopolitical orientations of Ukraine. Yushchenko had based his candidacy on his desire to lead the country to a European Choice – his victory represented a shift to the West, once it put in power a pro-Western reformist President, supported by an Orange Coalition of parties with the same objectives (Kuzio 2008). In line with general expectations, Yushchenko's first foreign policy measure was to announce the end of the multi-vectorial policy and focus entirely on the Euro-Atlantic integration through NATO and the European Union (Kuzio 2006). His initial goals were to achieve international recognition of Ukraine as a market economy, to gain support for the country's candidacy for the WTO and to establish with the European Union a Partnership and Cooperation Agreement (Hatton 2010). During this period, Ukrainian relations with Russia hit a new low.

The European Union did not respond immediately to Yushchenko's aspirations of integration, in large part because the bloc was dealing with a constitutional crisis and suffering from increasing fatigue after approving the memberships of ten new countries. Still, EU sought to give Kiev a clear European perspective, showing that there would be, in the future, possibility for integration (Karatnycky 2005). Thus, the bloc included Ukraine in the European Neighborhood Policy (ENP), which had the goal of promoting prosperity and stability in Europe through the creation of a circle of allied countries surrounding the member-States. Through the ENP, in 2005, the European Union offered Ukraine better conditions of trade and financial assistance, facilities in obtaining visas and projects of security cooperation (Wolczuc 2005). Unlike the European Union, which kept its approach in the rhetorical level, NATO was willing to engage actively in the Ukrainian integration. The Organization embraced the new foreign policy perspective of Kiev, and elevated the country, in 2005, to an Intensified Dialogue on Membership, the previous step to a direct integration plan (Hatton 2010).

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Moscow, in face of EU's and NATO's expansion in the direction of the former Soviet republics, sought more assertive actions to ensure that Ukraine remained under its sphere of influence (Almeida 2008). In 2006, a few months before the Ukrainian parliamentary elections, Russia increased the price it charged Kiev for natural gas exports, later cutting entirely the supply (Cruz and Machado 2012). This move was an attempt to increase support for Yanukovych's Party of Regions in the election process, and it was part of the pipeline politics, a strategy in which Moscow used its control over hydrocarbons to achieve political objectives in other countries (Wilson 2009). The Russian pressure added to the President's disagreements with Prime Minister Yulia Tymoshenko led Yushchenko to reject the formation of a pro-reform Orange Coalition in the polls, resulting in the establishment of a pro-Russian "anti-crisis" Parliament under the leadership of Yanukovych (Hatton 2010). It is important to notice that the impacts of the pipeline politics were not restricted to the Ukrainian Parliament: with the gas shortages, Kiev retained for its own consumption part of the gas directed to Europe, spreading repercussions of its disputes with Russia throughout the whole continent. With the signature of new agreements, the gas flow was normalized and a reduction in Russian gas prices for Ukraine was settled. The crisis, nevertheless, reinforced the notion among Europeans and Russians that it was necessary to diversify hydrocarbons' sources and transport routes (Almeida 2008).

The relationship with Moscow was tensed even further in the context of the Russian intervention in Georgia in 2008, after the prospects of this country joining NATO. Because Kiev and Tbilisi had a close relationship and had adopted similar pro-western postures, Yuschenko assumed a position contrary to the Russian actions, going so far as to sell armaments to Georgia, ruled at that time by Mikheil Saakashvili (Cruz and Machado 2012). The situation worsened when the Ukrainian President approved a decree demanding that the Russian Black Sea fleet indicated its itinerary when it left Crimea, and refused to renew Russia's permission for the use of the Sevastopol port, which expired in 2017. During the crisis in the Caucasus, the weak and uncoordinated action of both NATO and the EU to respond to the Russian offensive demonstrated that these blocs were not willing to confront Moscow in its surroundings. Given that at that time European countries were seeking to repair their relationship with Russia, any attempt to integrate Russian neighbors into Euro-Atlantic

structures was seen as a factor that could stress the contacts. This circumstance represented the closing of the possibilities of Ukraine joining NATO or the European Union at any time soon (Hatton 2010). Even when EU and Ukraine began discussing in 2008 the establishment of an Association Agreement (AA), the highest level of agreement that the bloc can have with a non-Member State, plans for long-term integration were not in order. These discussions were, still, used as a bargain instrument with Russia (Kropatcheva 2014).

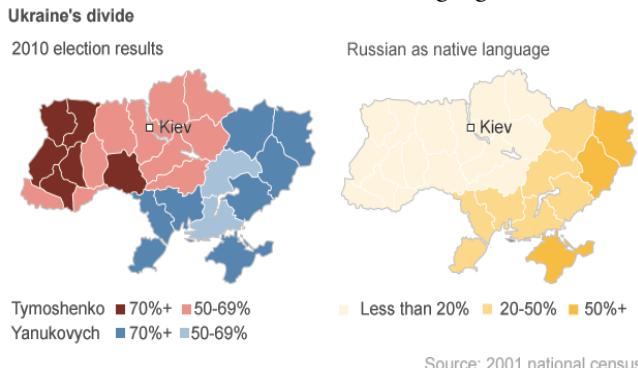
In 2009, motivated by disagreements over the State energy company Naftogaz's debt with Gazprom<sup>12</sup>, Russia cut off Ukraine's gas supply again. This new crisis was the way Moscow found to show EU that Kiev was not a reliable economic partner, in hopes of hindering the understandings initiated with the dialogues on the AA (Hatton 2010). Several European States began to suffer shortages in gas supplies and started pressing for a solution to the deadlock. After a few weeks, Tymoshenko signed an agreement with the Russian President Vladimir Putin, fixing the conditions for trade and transport of gas for a period of ten years. The most criticized provision of the agreement was the definition of a fixed amount for Naftogaz's purchases of Russian gas that exceeded the Ukrainian internal consumption needs (Cruz and Machado 2012).

In September of the same year, the President of the United States, Barack Obama, presented a proposal to create a European Missile Defense System, which was meant to complement NATO's defense system, protecting its members against a ballistic missile attack by hostile countries. The role that would be assigned to Ukraine in the project was linked to three factors: the Ukrainian interest, the completion of a concrete proposal on the part of NATO and the Russian opposition (Sinovets 2011). This initiative disturbed Moscow and brought a new concern to Russian strategic calculations, once the possible installation of anti-missile defense in the Ukrainian territory would disable Russian second-strike capabilities.

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12 Gazprom is the largest Russian energy company. Controlled by the Kremlin, the company operates gas and oil pipeline systems, produces and explores gas and oil, and transports hydrocarbons in the Russian Federation and European countries.

**Image 5:** 2010 election results and percentage of the ukrainian population who uses russian as a native language.



Source: 2001 national census

Source: BBC, 2013.

In 2010, Yushchenko's mandate came to an end. During his tenure, he was unable to deliver all the reforms he had proposed, due to the new Constitution that removed some of the presidential prerogatives and due to the non-adoption of initiatives that would decrease the power of the oligarchs. This failure, together with the effects of the economic and financial crisis of 2008, which generated a 15% drop in the country's GDP, culminated in widespread dissatisfaction with the Government (Christie, Baev and Golovko 2011). The Orange coalition was shattered in two, Our Ukraine, comprised of pro-Yushchenko factions, and UDAR (Ukrainian Democratic Alliance for Reform), a bloc that backed Tymoshenko, weakening the President's political support base (Hatton 2010). This context of internal and international prospects led Yanukovych, this time by democratic means, to the Presidency in 2010.

## 2.2 YANUKOVYCH'S RISE TO THE POWER AND THE RETURN TO THE MULTI-VECTOR POLICY

Because Yanukovych received support from the Russians during his entire political career, and because he assumed openly pro-Russian positions in the past (Karatnycky 2005), the general assumption was that the new president would direct Ukraine's foreign policy to Moscow. The first two measures of the Government seemed to endorse this belief: Yanukovych signed the Kharkiv

Agreements, also known as “gas for fleet”, through which Russia’s fleet had its license to remain in Sevastopol renewed until 2042, in exchange for a 30% discount on Ukrainian purchases of Russian gas. In addition, the Rada approved a law On the Foundations of Domestic and Foreign Policy, establishing a position of neutrality and non-alignment to security blocs such as NATO (Glebov 2011). It is important to note that those assertive policies undertaken by Yanukovych were only made possible after Ukraine reinstated the Constitution of 1996, returning to a presidential regime.

However, while Yanukovych had clear intentions of instituting a foreign policy that brought Kiev closer to Russia, the new President did not wish to abandon the connections established by the previous Government with the European Union. As his goal was to ensure Ukraine’s autonomy and to transform the country into a “bridge between the East and the West”, the president intensified the policy of balancing between the West and Russia, returning to the multi-vectorial policy of Kuchma. The three pillars of foreign policy of the period were the European integration, the strategic balance between major partners and the denuclearization and demilitarization (Cruz and Machado 2012).

To counteract the European expansion, Moscow sought to present its own model of integration for the former soviet republics, highlighting Ukraine as an essential part of the project (Kropatcheva 2014). Both the EU and Russia were more assertively pursuing their different projects of regionalism, which were seen by them as mutually exclusive. In 2010, Russia, along with Belarus and Kazakhstan, announced the creation of a Customs Union, which implemented a common system of tariffs. To draw Kiev for the Union, the Russian Government stated that it would be willing to reduce the gas prices, and stressed that the project would benefit Ukraine in economic and industrial sectors. Nonetheless, Ukraine rejected membership in the bloc, not wanting to close the door to a possible free trade agreement with the EU (Kropatcheva 2014).

In 2011, Tymoshenko was arrested on charges of having exceeded her power as Prime Minister when she commanded the signature of a disadvantageous agreement between Naftogaz and Russia in 2009 (Cruz and Machado 2012). Her arrest was just one of the many convictions that were carried out against opposition politicians. This situation was widely criticized by the European Union, and the bloc decided to condition the signing of any agreement with Kiev to the improvement of the country’s democratic situation. It was estab-

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lished that in 2013, at the Eastern Partnership (EaP) Summit, EU and Ukraine would sign the Association Agreement and the Deep and Comprehensive Free Trade Agreement (DCFTA); until that moment, EU would allocate around 470 million euros in Ukraine for programs related to governance and democracy, for reforms that could facilitate the consolidation of the agreements and for sustainable development. In addition, Ukraine would receive loans from the European Bank for Reconstruction and Development and the European Investment Bank (Kropatcheva 2014).

In response to the European policy, Russia increased its economic and political pressure over Ukraine. Russian Deputy Prime Minister Dmitry Rogozin, for example, explained that the EU's conditions in the AA and DCFTA would be "burdensome" for Ukraine, causing disruptions in Russia's cooperation with the country's traditional manufacturing and industrial sectors. According to Moscow, if Kiev was included in a Free Trade area with EU, Russia would need to control exports from Ukraine more strictly, in order not to allow European exports, under the cover of Ukrainian products, to get to Russian territory under a cheaper customs regime. In summer 2013, Russia used a stricter customs regulation that led to a stop of exports of Ukrainian products to Russia for several days. The Kremlin also used incentives such as a possible reduction in the price of the gas exported to Ukraine, the renegotiation of Naftogaz's debt and loan offers to try to persuade Yanukovych not to sign the agreements (Kropatcheva 2014)

## 2.3 THE EUROMAIDAN AND THE CRIMEAN CRISIS

In November 2013, President Yanukovych suspended the preparations for the signature of the Association Agreement and of the Comprehensive Free Trade Agreement with the European Union. The decision, according to the Government, was motivated by the need to consolidate economic ties with Russia and to better analyze the alternative agreement on trade and production proposed by that country. The EU and the Ukrainian opposition reacted negatively to the announcement, accusing the President of using the negotiations as a bargain between Moscow and Brussels and claiming that Russia was putting pressure on Kiev, mainly through exports of natural gas (Voice of Russia 2013; RFERL 2013).

Yanukovych's decision to postpone the agreement with EU highlighted the delicate position of the country: Russia was Ukraine's most important trading partner, accounting for around one-third of the country's imports and exports, Ukraine's industrial sector, concentrated on the eastern part of the territory, was heavily dependent on Russian energy supplies, and Russian businesses had acquired direct ownership of large chunks of Ukraine's economy. The European Union was no less important for Kiev, accounting for the highest investment rates in the country and increasing its importance in Ukrainian capital and consumer goods imports over the years. In addition, the bloc was an important ally for the improvement of Ukrainian position in international financial institutions (Fontaneli et al 2014).

Thousands of people who supported the European option, in protest against the administration's course of action, occupied the Maidan (Independence Square) in the capital Kiev, demanding the resignation of several government figures, including the President himself, and the release of Tymoshenko from prison (BBC 2013). As the protests reached the greatest magnitude since the Orange Revolution, the pressure on the Government grew. The Parliament tried to adopt a decree banning the protests, but the population continued to fill the streets. Several clashes occurred when the police tried to disperse the protesters using violence (USA Today 2013).

In an attempt to take control over the situation, the Government approved an anti-protest legislation, which banned unsanctioned gatherings and imposed multiple limitations on mass demonstrations, the media, and the Internet. While western countries considered that these laws restricted the right to peacefully protest and exercise the freedom of speech, constrained independent media and inhibited the operation of NGOs, Kiev hit back, affirming that the bills "[...] [were] aimed at implementing a number of norms that already exist[ed] in the laws of a lot of European countries, m[et] commonly recognized democratic standards and international practices and [were] compatible with the commitments within the OSCE framework" (Reuters 2014a; RT 2014e). The effects of these regulations were almost nil, and the clashes between demonstrators and police resulted in the deaths of more than 80 civilians, with both sides accusing each other of using unidentified snipers to open fire against the population (CSIS 2015). With the aggravation of the conditions, Yanukovych rescheduled the 2014 elections for May and determined the reinstitution of the Constitution

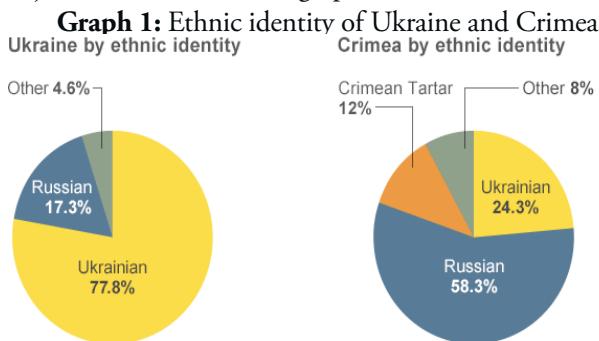
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of 2004, which limited the presidential powers (RT 2014a). However, the protesters, mostly those belonging to the ultranationalist group Right Sector (or Pravy Sector), whose members formed a “self-defense” group, proved unwilling to accept less than the immediate ousting of the President (The Washington Post 2014a). Yanukovych fled Kiev and Turchynov, speaker of the Ukrainian Parliament, became the acting president until the elections. Several parliamentarians from the East also left their posts and sought refuge in other cities.

The atmosphere in Kiev somehow soothed, while violent clashes occurred between supporters of the former President and supporters of the new administration in cities like Odessa, one of the most important deep-water ports of Europe (The Guardian 2014a). In Crimea, in the cities of Simferopol and Sevastopol, demonstrators seized Government buildings, demanding more autonomy for the region and the establishment of stronger ties with Russia; the regional Government of the peninsula then began to prepare a local referendum to determine the extension of Crimean self-govern prerogatives. On February 22, the parliamentarians who remained in the Rada (most of them representatives from the western oblasts, from the nationalist parties UDAR and Svoboda) officially ousted President Yanukovych, and Tymoshenko was released from prison (Trend 2014). Stating that the Government in Kiev was not legitimate, the Crimean regional Parliament voted for the separation of the peninsula from Ukraine and for its integration to Russia, setting up a referendum to consult the population about the decision. Both the Ukrainian Government and the European Union considered the decision illegal, while the Kremlin supported the Crimean initiative for what it considered self-determination and started revising the national legislation concerning the annexation of new territories (CSIS 2015).

In the meantime, unidentified troops, which called themselves self-defense squads, occupied public structures in Crimea. Kiev accused the Russians of being responsible for the unidentified military men and of conducting an armed invasion in Ukrainian territory, but the Kremlin denied any involvement (The New York Times 2014a; The Washington Post 2014b). Disapproving of the Russian posture regarding the developments in the situation in Ukraine, Western Governments adopted a set of sanctions against Moscow. In addition, the U.S. increased its military presence in the Baltic, in Poland, in Romania and in the Red Sea, while Russia employed forces on its border with Ukraine and

came to occupy a natural gas facility near the village of Strilkove, in the coast of the Azov Sea (Aljazeera 2014a; The Telegraph 2014a).



Note: Some totals may not add up due to rounding

Source: 2001 Ukraine census

Source: BBC, 2014.

On March 16, the day of the regional poll, 96% of the voters responded “Yes” to the integration of the Crimean Republic to the Russian territory (RT 2014b). While the U.S., EU and Ukraine reaffirmed the illegality of the decision and defended the Ukrainian territorial integrity, the Crimean Parliament officially declared its independence of Ukraine and requested the integration of the territory to the Russian Federation (BBC 2014a). Russia responded promptly, signing a Treaty of Integration with Crimea on March 18, and beginning the next day to occupy militarily the peninsula (Sputnik News 2014a). The Kremlin responded the critics by stating once again that Crimea had the right to self-determination and affirming that the West was trying to bend the rules it applied to Kosovo in 2008 (RT 2014f). Ukraine subsequently declared its intention to leave the Commonwealth of Independent States and signed an agreement with the European Union, while further sanctions were imposed on Russia (AP 2014; BBC 2014b). Russia recurred once again to the pipeline politics, threatening to cut Ukrainian gas supplies if Kiev did not pay its debts with Gazprom; As 40% of all European gas imports came from Russia, and since 70% of the Russian gas exported to Europe flowed through Ukrainian territory, uncertainties over energy provisions added up to the overall crisis.

The disturbance spread further across the country, reaching the eastern region, where a significant part of the population was self-identified as ethnic

Russian. The pro-Russian demonstrators in the Donbas<sup>13</sup>, mainly in the cities of Donetsk and Kharkiv, rallied against what they considered a coup-imposed government and demanded, as Crimea did, a referendum to determine the future of the region (Sputnik News 2014b; RT 2014c). Those protestors, mostly deserted soldiers, veterans and civilians of Ukrainian nationality and Russian ethnicity, teamed up to form dozens of armed militias, and occupied government and security forces' buildings. Among the main groups that emerged were the Donbas People's Militia, in Donetsk, and the Army of the South East, in Luhansk. Later on, the Cossack Terek Wolf Stonia unit, Chechens, Ossetians, Armenians, and combatants from other nationalities joined their fight (The Guardian 2014c).

Following this new development, NATO and Western countries implied that the presence of a Russian military contingent on the border with Ukraine could be an indication of a possible intervention intended to establish a land corridor to Crimea and to secure and support the whole rebel territory, reaching as far as Transnistria<sup>14</sup>, a separatist region located in Moldova, along the border with Ukraine; Russia defended itself, affirming that those contingents were simply taking part in a previously scheduled military exercise (The Washington Post 2014c; CNN 2014). Seeking to counter and punish Russian actions, Western countries excluded Russia from the G8. Nonetheless, these measures did not impact Kremlin's approach – considering the integration of Crimea a fait accompli, the Russians decided to withdraw from several bilateral agreements with Kiev, among which were those versing on the presence of Russian troops in the Black Sea and in the Ukrainian territory (Official Internet Resources of the President of Russia 2014).

In a new attempt respond to the question of Crimea and the presence of Russian troops on the Ukrainian border, NATO decided to suspend all cooperation with Moscow, at the same time announcing the beginning of joint military exercises with the Ukrainian army and the increase in the number of troops stationed in Poland (CSIS 2015). According to Russia, those measures constituted a violation of the Rome Declaration and the Fundamental Act of the NATO-

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13 Donbas is a geographical and cultural region that corresponds to the Eastern and South-Eastern portions of Ukraine.

14 The region of Transnistria declared itself independent from Moldova in 1990, with the assistance of Russian and Cossacks military. Since then, the region has taken a pro-Russian stance and struggles to obtain recognition of its independence.

Russian Council, which stated that “there must be no excessive permanent military presence on the territories of the Eastern European states” (RFERL 2014).

## 2.4 THE BATTLES IN DONBAS AND MINSK I

On April 7, pro-Russian activists from the Donbas People’s Militia, who had taken control over some cities in the East, declared the independence of the People’s Republic of Donetsk, while new violent demonstrations took place in Luhansk, Kharkiv and Odessa. The Ukrainian Government engaged in “anti-terrorist” operations against the armed protesters, but the rebels continued to expand their territorial control. Defense battalions were established at the regional level; however, as the Ukrainian army did not have enough capabilities to fight the rebel forces (the size of the combat-ready force was of only 6.000 troops), the Rada signed a decree authorizing the creation of civilian paramilitary forces (Gorenburg 2014). Battalions such as Donbas, Aidar, Azov and Dnipro, funded by private donations from wealthy oligarchs, together with the already existent Right-Sector, then bolstered the fighting forces in the southeast, helping to control the advance of the separatists. Most of these paramilitary groups were of ultranationalist ideology and were formed by Ukrainian far-right and neo-nazi activists, by pro-west protestors, and by citizens of European countries. It is important to notice that while these groups fought alongside the central government, they were not directly controlled by Kiev (Puglisi 2015).

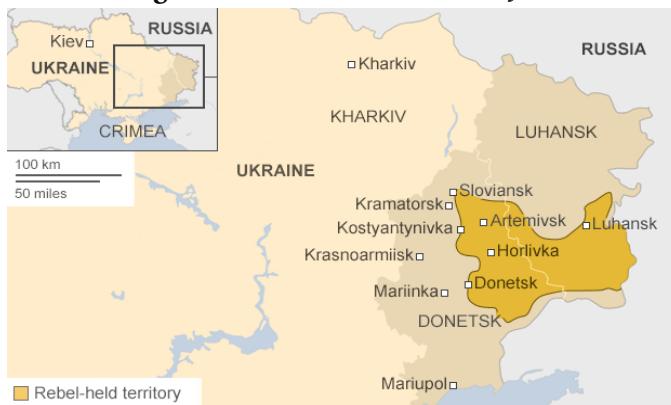
In May, Donetsk held a referendum, in which 89% of the voters supported the declaration of independence, and formalized its request for integration with Russia, while Luhansk declared its independence and the Army of the Southeast pledged alliance to the new State (CSIS 2015). Moscow was not as assertive as it had been in Crimea, only expressing respect to referendums. As reports of Ukrainian authorities alleged that the Russians were permitting the entry of troops, tanks and supplies to the militias in Eastern Ukraine through the common border, Kiev and Western Governments again accused Russia of destabilizing the region, encouraging separatist tensions, and intervening militarily (NBC News 2014; NATO Allied Command Operations 2014). In face of the intense wariness of its allies, especially Poland, motivated by the supposed Russian aggression, NATO decided to increase its military contingent in all Eastern Europe (Reuters 2014b). Russia denied the allegations, stating that the

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Kremlin was keeping distance from the crisis and accusing western countries of directly interfering in the internal matters of Ukraine (RT 2014g).

On May 25, Petro Poroshenko, a businessman of pro-European tendencies, was elected President of Ukraine. Only 45% of the population went to the polls, since the voting procedures were blocked or barred in several areas of Donbas. According to Poroshenko, the first steps of the new presidential office would be focused on “stopping the war, putting an end to this chaos and bringing peace to a united Ukraine” (The Guardian 2014b). As part of his stabilization plans, the new president announced a unilateral ceasefire, ordering Government forces to retract and offering the rebels amnesty for those who surrendered (NPR 2014). The Government also developed a peace project comprised of 15 steps, including the creation of a buffer zone on the border with Russia, the disarmament of mercenaries, and the elaboration of projects for the decentralization of power. The rebels agreed to honor the ceasefire proposed by the President, but the truce was violated only a few days after, when eastern forces downed a military helicopter (CSIS 2015).

**Image 6:** Rebel held territories as of Jun 11, 2014



Source BBC, 2014.

In the end of June, the Ukrainian President signed the Association Agreement with the European Union, establishing free trade between the parties and bringing Ukraine closer to membership with the bloc (The New York Times 2014b). The Government soon began to develop projects of economic and political reforms to adapt the administration and the economy to European

standards. Afterwards, relations with Russia became even more delicate: beyond asserting that Kiev would face serious consequences due to the signature of the agreement, Moscow accused the Ukrainian forces of killing a Russian citizen in one of the attacks in Donetsk, stating that, in the event of further provocations, “Russia reserved the right to take all measures [...] to protect its territory and provide the safety of its citizens” (RT 2014d). Russia employed soldiers, tanks, armored vehicles, warplanes, and military helicopters supplemented by self-propelled artillery and multiple rocket launchers on the border with Ukraine and began its own campaign of sanctions against the EU and the United States. After this, the rebels intensified their attacks and advances (CSIS 2015).

In September, after a meeting in Minsk, Belarus, with representatives of Ukraine and separatist forces, Poroshenko announced the establishment of a new ceasefire (Press office of the President of Ukraine 2014). The agreement defined that the Government of Ukraine would grant the regions of Donetsk and Luhansk a privileged status of greater political autonomy, and the rebels, in return, would cease their separatist pressures. The ceasefire suffered constant setbacks, not being recognized by groups such as the Azov Battalion and the Aidar Battalion (pro-Kiev), and collapsing completely when the pro-Russian militias of Donetsk and Luhansk, now joined under the name of United Armed Forces of Novorossiya (UAFN), attacked Ukrainian positions in Mariupol (Aljazeera 2014c). After this expansion of the fronts of conflict, a set of peacekeeping drills led by the U.S. and other NATO allies, known as exercise Rapid Trident, began near the city of Lviv in western Ukraine, while Moscow stated that these activities could cause further turmoil in the country and accused the western countries of arming and supporting the Ukrainian battalions (CSIS 2015).

Representatives of Russia, Ukraine, Novorossiyan forces and the Organization for Security and Cooperation in Europe (OSCE) met again in Minsk for a new round of talks in an attempt to complement the previous ceasefire. During the meeting, Kiev and Moscow agreed with pro-Russian separatists to create a 30-kilometer buffer zone and to move artillery 15 kilometers far from the front line on both sides (Reuters 2014). After these arrangements, the Ukrainian army and rebel forces undertook measures to remove their armaments off the delimited regions, but the clashes continued, reaching new violent proportions (CSIS 2015). Alexander Zakharchenko, the self-proclaimed Prime Minister of the self-proclaimed People’s Republic of Donetsk, stated

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that the UAFN would cease its observation of the ceasefire with the Ukrainian military, with the ultimate goal of taking towns such as Slavyansk, Kramatorsk, and Mariupol (Aljazeera 2014b). Ukraine Defense Minister Stepan Poltorak said Kiev was preparing for a new round of fighting in response to the alleged “increased activity” by Russia and pro-Moscow rebels across the Donbas (Yahoo News 2014).

**Image 7:** Rebel held territories as of Sep 09, 2014



Source: BBC, 2014.

New points of conflict arose when the newly elected pro-western Ukrainian Parliament voted in favor of revoking the non-aligned status of Ukraine, a symbolic action towards closer ties with NATO. The Organization spokesman in Brussels stated that the “door is open and Ukraine will become a member of NATO if it so requests and fulfills the standards and adheres to the necessary principles” (Business Insider 2014). The Kremlin had previously stated that Russia needed a “hundred-percent guarantee” that Ukraine would never be allowed to join NATO. The expansion of NATO’s membership towards Russia’s borders was a major security concern for Moscow, influencing in the unfolding crisis in Ukraine (Sputnik News 2014c).

In early November, Ukrainian Minister of Defense Stepan Poltorak ordered territorial defense battalions and pro-Kiev militias to be absorbed into the formal structures of the Ministry, so that the conflict could be best managed by the central Government (Sputnik News 2014d). The vast majority of the battalions made their activities official and began receiving greater support from

Kiev, although their financing remained murky. The Right-Sector, by its turn, refused to even register with the central government – the group fought against the eastern separatists, but adopted a stance against Kiev since March, when one of its leaders was killed by Ukraine State Security Forces In December, these battalions blocked humanitarian aid from reaching rebel-held areas of eastern Ukraine (The Telegraph 2014b; Vox 2015b).

## 2.5 MINSK II

The year of 2015 started with a military buildup in the eastern territories and with low prospects for the maintenance of the ceasefire due to a new UAFN offensive in Mariupol. Western analysts argued that Mariupol was a key strategic objective for any Russian and rebel strategies meant to establish a land-bridge between Russia and the annexed Crimean peninsula, once again indirectly accusing Russia of supporting the separatists (Bloomberg 2015). Due to the deterioration situation, the Ukrainian Government declared a State of emergency in the regions of Donetsk and Luhansk (Reuters 2015).

**Image 8:** Rebel held territories as of Jan 23, 2015.



Source: BBC, 2015.

In February, the leaders of Russia, Ukraine, Germany and France met again for a new round of talks in Minsk, signing a new ceasefire. The agreement dictated the restoration of control over the Donbas to the Ukrainian central Government, which in turn should undertake a constitutional reform

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that would give the separatist regions a special status. Among other measures addressed by the agreement were the withdrawal of heavy weaponry from the front and the expulsion of foreign armed groups and militias from the country (BBC 2015a).

**Image 9:** Minsk Buffer Zones



Fonte: BBC, 2015.

After a period of continued attacks and clashes in the East, the Ukrainian army and pro-Russian forces began withdrawing their heavy weapons from the region (BBC 2015b). During this process of implementing the cease-fire, Russia and Kiev both stated the possibility of withdrawing weapons of less than 100 mm caliber from the front line, an extension of the determinations of the Minsk agreements. In addition, Poroshenko declared his willingness to hold a referendum on the political decentralization of Ukraine (RT 2015a; CSIS 2015). However, in a short period of time, new accusations of violations of the agreement emerged: while the rebels claimed that the central Government was not transferring social payments to the regions affected by the conflict and was breaching the truce, the Ukrainian army accused the rebels of carrying out new attacks with heavy artillery (Ukraine Today 2015).

A new series of statements and actions worsened the situation. The Ukrainian Prime Minister, Yatsenyuk, announced that Kiev will sign with

NATO a set of agreements on cooperation in “control, communications, intelligence and surveillance” under NATO’s Partnership for Peace program (TASS 2015). Just a few days later, France’s intelligence chief questioned NATO’s claims that Russia had tried and has been trying to invade Ukraine (RT 2015b). Later, Gazprom’s CEO declared that after 2019 the contracts on gas transport with Ukraine will not be renewed, and Russia will redirect the energy flow to Europe to the Turkish Stream pipeline (RT 2015c). President Putin also issued a statement reaffirming that Russians are not involved in the conflict, criticizing the U.S. for trying to impose its interests in Ukraine, and accusing Kiev of establishing a total blockade over Donbas (BBC 2015c). Finally, on 17 April, 300 U.S. troops arrived in Ukraine to train national forces under Operation Fearless Guardian. For the Kremlin, this represented a new factor of instability for the conflict, demonstrating Washington’s interests in undermining the Minsk agreements (CSIS 2015).

In May, the European Union agreed to implement Ukraine’s Association Agreement in 2016, despite Russian requests for its postponement. In addition, NATO carried out military exercises in the Baltic countries and both NATO and the EU began to draw up a plan to develop complimentary strategies for the defense of their members, in response to what they consider an aggressive Russian posture in the crisis. Likewise, the Rada voted on the cancellation of five security agreements with Moscow, in response to the alleged Russian support for the rebellions in the southeast of the country (LA Times 2015; CSIS 2015). The Kremlin considered these actions a new act of defiance and further evidence of the lack of interest of Western countries and Kiev in the creation of a favorable environment for the stability of the Minsk agreements.

The clashes between rebels and Kiev persisted over the months, with an expansion of the battlefield, especially to the cities of Maryinka and Krasnohorivka, near Donetsk, and the OSCE monitoring team highlighted the generalized concerns of an upcoming offensive in the summer. Western countries again accused the Russians of massing troops and weaponry, including mobile rocket launchers, tanks and artillery, at a makeshift base near the border with Ukraine, while the Russians reaffirmed that there was no connection between these military movements and the Ukrainian crisis (CSIS 2015). Almost simultaneously, Lithuania, Estonia and Latvia signed a memorandum for the joint acquisition of medium-range air defense systems (Reuters 2015b).

Currently, the main conflict in Ukraine occurs between the government forces and the rebels, and foreign powers, such as Russia and the Western countries, accuse one another of trying to influence the crisis and undermining the ceasefire, either by military means or through political and diplomatic pressures. Moreover, the estimated 30 pro-Kiev battalions operating in the East increase uncertainties, as those groups adopt a more aggressive posture against the separatists and since they are not under full control of the central government. While the Azov and other volunteer battalions might a potent and reliable force on the battlefield against the rebels, they also might pose a threat to the Ukrainian government when the conflict in the east is over: the strength and autonomy of these groups in the East can give them the conditions to take advantage of the power vacuum in the region and create warlordism systems; in addition, many of the members of the Azov and Aidar Battalions believe it is necessary to establish a “stronger” Government in Kiev to “unite the nation” (The Guardian 2014d; Vox 2015a).

Because it opposes different demands and interests, the situation in Ukraine requests complex efforts from the international community so that the parties can reach a lasting peace. Previous ceasefire attempts have failed, not being able to satisfactorily combine the existing demands, and until today the descalation of the situation was not achieved.

### 3 PREVIOUS INTERNATIONAL ACTION

Since the beginning of the Ukrainian crisis, and especially after the emergence of separatist impulses in the southeast, the international community sought to act to avoid the escalation of the situation and to find a solution for this conflict. The main measures taken were multilateral peace plans and meetings and debates in the UN committees. In order to fully understand those initiatives, it is necessary to refer to agreements made in the 20th century, which are now used as basis for speeches and resolutions.

The first historical precedent that must be considered is the resolution 2625 (XXV), adopted by the UN General Assembly in 1970. This resolution put into effect the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States, which stated among its

principles that States should refrain from the threat and the use of force in international relations and should not intervene in other country's domestic affairs, and reinforced the right of self-determination of peoples, as presented in the UN Charter (UN 1970).

Five years later, in 1975, the Final Act of the Conference for Security and Cooperation in Europe, also known as the Helsinki Final Act was approved. Signed by 33 European countries, the United States and Canada, the agreement created the Organization for Security and Cooperation in Europe (OSCE) and stipulated ten key principles that should guide the relationship between the States. According to the text, the signatory countries should refrain from use of force and should consider the borders of other signatories inviolable, respecting their territorial integrity and abstaining from militarily occupying their territories. In addition, the States agreed not to intervene in any way in the external and internal matters of another signatory country (Conference on Security and Co-operation in Europe Final Act 1975).

A few years later, in 1991, the former Soviet republics signed the Alma-Ata Declaration, extinguishing the Union of Soviet Socialist Republics and establishing the Commonwealth of Independent States. Among the agreement determinations were the elimination of all Ukrainian and Belarusian nuclear weapons, the recognition of and respect for the State sovereignty and self-determination, the principles of equality and non-interference in internal affairs, the renunciation of the threat and use of force among member-states, and the notion of territorial integrity and inviolability of existing borders (The Alma-Ata Declaration 1991).

Finally, in 1994, Russia, the United States and the United Kingdom signed the Budapest Memorandum. In exchange for Ukraine handing over its nuclear weapons – which had stayed in the country's territory after the dissolution of the USSR –, and Kiev's compliance to the Treaty on Non-Proliferation, those three great powers guaranteed they would not use force against the territorial integrity and political independence of Ukraine, Belarus and Kazakhstan (The Budapest Memorandum 1994).

After these considerations, we can now analyze the previous actions undertaken by the international community since the beginning of the current crisis, in November of 2013. In 2014, a day before the Crimean referendum on its possible separation from Ukraine, an emergency meeting of the Security Council

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was convoked. The draft resolution presented on that occasion referred to the UN Charter, the Resolution 2625 (XXV) of 1970, the Helsinki Accords of 1975 and the Alma-Ata Declaration of 1991, among other documents, to establish the illegality of military intervention and a territorial conquest in Ukraine, and stipulated that the referendum which was to be held in Crimea was invalid, since it had not been authorized by the Ukrainian central Government. Of the 15 Council members, only China abstained and Russia vetoed the resolution (UN 2014a).

On the following day, Crimea approved its separation from Ukraine, being subsequently integrated into Russian territory. In response, on March 27, the UN General Assembly adopted a resolution that followed the same lines of the resolution proposed in the Security Council, reaffirming the commitment to the sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally recognized borders and establishing that the Crimean referendum had no validity, and therefore cannot be used as the basis for changes in the status of the peninsula and of the city of Sevastopol (UN 2014b). 100 members voted in favor, 11 voted against and 58 abstained.

The conflict did not deescalate, and pro-Russian separatists took control over several buildings and government offices in the eastern oblasts (provinces). Gathering in what became known as Geneva Talks in April 2014, the United States, the European Union, Russia and Ukraine agreed that all sides should refrain from any violence, all illegal armed groups should be disarmed and all illegally occupied sites should be released. The countries at this meeting also established that Kiev should work on an inclusive, transparent and accountable constitutional process, which should include the immediate establishment of a broad national dialogue, with outreach to all of Ukraine's regions and political constituencies, and allow the consideration of public comments and proposed amendments (Text of Joint Diplomatic Statement on Ukraine 2014).

The results were almost null and the situation continued to escalate, especially after president Poroshenko signed the Association Agreement with the European Union. Thus, representatives from Kiev and pro-Russian forces, under the supervision of a Trilateral Contact Group composed of representatives from Kiev, Moscow and the OSCE, gathered in Belarus in September and approved the Minsk I agreement. Among its resolutions were the decentralization of power through the establishment of a law granting special status

for Donetsk and Luhansk, the provision of humanitarian aid, the removal of illegal military groups, military equipment and mercenaries from Ukraine and the conduction of early local elections in the separatist oblasts (Kyiv Post 2014). That cease-fire did not have a permanent result, collapsing in September after a rebel led offensive on the city of Mariupol.

Another cease-fire was approved in February 2015, after the leaders of Ukraine, France, Russia and Germany settled on measures to ease the tensions in the East. The Minsk II agreement determined the immediate ceasefire between the parties, the pullout of all heavy weapons by both sides, creating a security zone from 50 to 140 km (varying with the caliber of the artillery), the withdrawal of all foreign armed formations, military equipment, and mercenaries, and restoration of Ukrainian government's full control over the state border in the conflict zone. Other measures, of political order, were the establishment of a constitutional reform in Ukraine with focus on decentralization, and the approval of a permanent legislation on the special status of Donetsk and Luhansk, both of which should come into effect by the end of 2015. Finally, the agreement also referred to humanitarian aid, amnesty to those involved in the conflict and the release of prisoners and hostages (Minsk Agreement on Ukraine Crisis 2015).

## 4 BLOC POSITIONS

The Ukrainian crisis involves and threatens core interests of the **Russian Federation**, which explains its will to resist to Western pressure. For the Russians, the Ukrainian crisis is the product of a new western “containment policy”, represented by the enlargement of NATO and of the European Union, as was the Georgian War of 2008. Moscow fears that a Western dominance in Ukraine (one of its last remaining allies in the region), could pave the way for the installation of a missile-defense system in the European continent, in Poland and the Czech Republic (Pautasso 2014, Mearsheimer 2014). Thus, the pro-democracy and even ultranationalist movements that arose after Yanukovitch's decision to postpone the agreement with the EU were seen by the Russians merely as a Western tool to establish a Russian-hostile government in Ukraine under liberal values (Mearsheimer 2014). In a statement that clarifies Russia's stance on the issue, Prime Minister Medvedev said that Russia “would adopt as though a posi-

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tion as possible [...] and defend our national interests" (CSIS 2015).

In Russia's view, the integration of Crimea "ha[d] elements of historical justice" since the region is formed mostly by Russian-ethnic population and since it followed a legitimate referendum, in which 96% of the Crimeans affirmed their will to be part of the Russian territory (NPR 2015, Kremlin 2014). The Russian representative to the UN, Mr. Churkin, affirmed that "the enjoyment of the right of self-determination through a separation from an existing State [...] applied when future coexistence within a single State becomes impossible" and that Crimea's conformance with Ukraine became unachievable after the "legal vacuum" that followed the unconstitutional "armed coup" in Kiev (RT 2014h). Moscow also draws attention to the fact that Crimea had already held two referendums, in 1991 and 1994: in the first, 94% of the voters agreed with the reestablishment of the Crimean Autonomous Soviet Socialist Republic; in the second, more than 77% of the voters casted yes for greater autonomy within Ukraine and for dual Russian and Ukrainian citizenship for Crimeans (Global Times, 2014). In what refers to the separatists Ukrainian oblasts of Donetsk and Luhansk, Russia denies involvement but respects their fight for more autonomy within Ukraine, as these populations also held referendums (The Independent 2014).

Many of these issues have already been addressed during the Minsk talks and resulted in the Minsk I and II agreements. However, Russia insists that the Ukrainian government is not fulfilling its compromises, as frequently there are reports of the presence of official forces' heavy weapons in the frontline (Sputnik News 2015a). The presence of foreign military advisors in the country, from the U.S. and the UK, also represents a breach of the agreements, as they called for foreign forces to remain out of the region (Press TV 2015). Moreover, Moscow criticizes the fact that the Ukrainian government still did not lift the economic blockade of the separatist regions nor granted them a special status, considering them "occupied" by Russia (RT 2015d, Press TV 2015). Thus, the Kremlin urges the full compliance with the Minsk agreements and calls for Western countries to recognize that Poroshenko's government is not currently doing so (RT 2015d, MFA of Russia 2015). Moreover, Russian officials say that their country cannot do much to enforce the Minsk agreements because it is not a participant in the conflict (The New York Times 2015b).

The **People's Republic of China** welcomes all efforts to mediate the

Ukrainian crisis and reaffirms that the solution to this situation has to be a political one. In March, Chinese Premier Li Keqiang stated that “China respects and supports Ukraine’s sovereignty and territorial integrity and hopes the Ukrainian issue can be settled through dialogue”, and Beijing plans to maintain a friendly cooperation with Ukraine (China Daily 2015, The Independent 2015a). China supports the Russian approach to the situation, although it does not share Moscow’s view of self-determination as it could be used against the Chinese integrity, if applied to separatists regions such as Xinjiang and Tibet (The New York Times 2014c). Nonetheless, China is very critic of the Western stance during the crisis: Beijing believes that western countries are not showing respect to Russian security concerns, and affirms that the root reason of the crisis is the “game” between the EU and the U.S. and Russia. In that sense, China calls for the West to abandon its “zero-sum mentality” (The Independent 2015a).

China strongly opposes the sanctions imposed by the European Union and U.S. to Russia, as “[they] may lead to new and more complicated factors” and interactions (Reuters 2014c); as Beijing and Moscow have close economic ties and are strategic partners, the weakening of the Russian economy also affects Chinese interests (Harvard International Review 2015). In order to counter the negative effects of the sanctions, Russia and China signed a US\$ 400 billion commercial deal and even conducted joint military drills in the Mediterranean Sea (Bloomberg 2014a, Deutsche Welle 2015a).

**The United States of America** is deeply concerned with Russia’s stance on the situation, and considers the aggressive posture of this country to be the main cause of the crisis. President Obama blames Russia’s “incursion” for the escalation of aggression, but, despite pressures from the Congress and some from the Secretary of Defense Ash Carter to deploy arms to Ukraine, limited until now the support given to Ukraine to the financial scope (The Guardian 2015a, Deutsche Welle 2015b, The New York Times 2015c). In this sense, the U.S. not only strongly endorses the financial aid given to Ukraine by the EU and the IMF, but also already spent huge amounts of resources in financial and humanitarian aid to Poroshenko’s government (RT 2015e, Sputnik News 2015b). The U.S. also sent around 300 paratroopers to train Kiev’s National Guard, answering to the Ukrainian government’s demand for more military support (Newsweek 2015a, Reuters 2015c). Nonetheless, the U.S. also increased its military presence in Eastern Europe, conducting military drills in Poland, Lithuania and

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Latvia, where it already had hundreds of troops settled since early 2014 (Daily Mail 2015, The Washington Times 2015).

The American sanctions against Russia started right after the integration of Crimea to the Russian territory, and increased throughout 2014 (U.S. Department of State 2014). A year later, the Department of State seemed to maintain the same stance: according to spokesperson Jen Psaki, “sanctions related to Crimea will remain in place as long as the occupation continues” (Forbes 2015). During John Kerry’s trip to Russia in May, however, tensions seemed to low as the secretary said that the U.S. is ready to repeal sanctions if the Minsk agreements were fully implemented by Russia (The Telegraph 2015a).

The U.S. thus urges for the enforcement of the cease-fire agreed in Minsk, which is being breached “daily” in Ukraine, mostly by separatists (Voice of America 2015). The U.S. also calls for the Russian government to stop all kind of military participation in the Donbass conflict, as well as to end any kind of military presence in Ukraine. In this sense, a U.S. Army Commander claimed in March that there were around 12,000 Russian troops in Ukrainian territory (The Independent 2015b). The US believes that the fulfillment of the Minsk agreements are the best way to achieve stability and, despite condemning Russia’s actions on the issue, already proved that some easing of the tensions can be reached through dialogue (The Telegraph 2015a).

The **United Kingdom** shares the American view of the situation and supports the negotiations headed by France and Germany. Answering the critics about UK’s relatively modest role in the Ukrainian crisis, Foreign Secretary Phillip Hammond said that the Germans were in a best position to lead the negotiations and that “the UK has always led the fight in the EU for tougher sanctions” (Deutsche Welle 2015c, The Guardian 2015b). In March, the United Kingdom sent military advisers to Ukraine to train the troops fighting separatists in medicine and defensive tactics and supplied the country with an additional humanitarian aid of 15 million pounds (BBC 2015d, CNN 2015b). London defends that the sanctions against Russia should be maintained until the Minsk agreements are fully respected and, in the case of non-compliance or of new Russian aggressions, it affirms that it is prepared to take sanctions against Russia to a “whole different level”, as stated by PM David Cameron (The Telegraph 2015b). The UK does not have immediate plans to aid Ukraine with weapons and lethal assistance, but is “not ruling anything out for the future”

(Reuters 2015d).

**France**, alongside Germany, has been leading European Union's negotiations with Russia and Ukraine and, despite some differences regarding the suspension of the delivering of French Mistral-class warships to Moscow, Hollande has maintained cordial relations with Putin. The French-German initiative to hold the Minsk II talks can be seen as a response to growing pressures for a more effective and even military action towards the situation, especially from Americans and Eastern Europeans (The New York Times 2015c). However, Paris opposes an eventual Ukrainian NATO membership and the deploying of lethal aid to the Ukrainian government, also ruling out the possibility of launching a UN peacekeeping mission in Eastern Ukraine as proposed by the Ukrainian government, since the OSCE's mission is already working in the region (Sputnik News 2015c, TASS 2015b). France does not support the deploying of new sanctions against Russia and shares the general position of EU member countries of conditioning the lifting of the existing sanctions to the fulfillment of the Minsk agreements (Reuters 2015e). Hollande described the cease-fire violations of May as "unacceptable", and said that they risk flaring the conflict again (TASS 2015c). For France the top priority is the implementation of the Minsk agreements, as they provide the only framework available so far for achieving peace (UN 2015a).

**Spain** supports a common European stance in the issue, approving the German-French leadership in the negotiations. In March, the Spanish foreign ministry José Margallo defended the permanence of the sanctions until there is a full compliance with the Minsk agreements (El Diario 2015). Nonetheless, as Spain has been one of the countries that suffered the most with the mutual sanctions imposed between the EU and Russia, Madrid does not defend new sanctions, affirming that the existent ones are already showing results (RBTH 2015). Spain is against the supply of lethal aid to the Ukrainian government and attempts to maintain cordial relations with Russia despite the tensions; even so, Spain does not recognize the referendums held by the separatists in the Donbas and Crimea and urges Russia for the respect of Ukraine's sovereignty and the international law (La Vanguardia 2015).

**Lithuania** has been holding one of the toughest positions on the issue among the EU countries, showing great concerns about its own security and territorial integrity. President Dalia Grybauskaite affirmed that "the Kremlin is

testing Europe and would push ahead if not halted” and that, while the West is considering lethal-aid to Ukraine, Russia is already delivering heavy weapons to the separatists (The Wall Street Journal 2015). The president also heavily criticized the Minsk agreements, calling them weak and considering them just a “partial solution”, as they do not provide any framework regarding the control of borders (The New York Times 2015d). In that sense, Lithuania urges the West to use “all means necessary” to help Ukraine and it is already giving all types of military support possible to Poroshenko’s government (Ministry of National Defence Republic of Lithuania 2015). Lithuania is in the process of constituting a joint brigade with Ukraine and Poland and a national rapid-reaction force, in addition to reintroducing conscription (TASS 2015d, The New York Times 2014d, Newsweek 2015b). Moreover, NATO is considering the deployment of a permanent ground force in the Baltic States, following an official request sent by those countries in May (The Washington Times 2015).

Although **Jordan** considers Russia’s actions a violation of Ukrainian sovereignty, the kingdom has been showing a moderate posture on the issue. Amman calls for a “serious and effective dialogue” between Russia and Ukraine and for the respect of Ukrainian sovereignty, including over Crimea, and recalls the principle of non-interference in internal affairs (Xinhua 2014, UN 2014c). In this sense, Jordan praised the efforts spent by the UN and the OSCE on the issue (UN 2014d). While Jordan shares deep ties with the West and is one of its most important allies in the Middle East, the kingdom still enjoys good relations with both Ukraine and Russia – Amman reached an agreement with Moscow that envisages the installation of a nuclear plant in the North of its territory (Reuters 2015f).

Soon after the beginning of the crisis, **New Zealand** affirmed its support for the EU and the U.S. handling of the issue and condemned Russia’s actions. Wellington responded to Moscow imposing a travel-ban on individuals involved in the crisis and freezing negotiations with Russia regarding a free-trade agreement (Worldview 2014). On the other hand, Russia’s countersanctions also indirectly damaged New Zealand’s economy (The New Zealand Herald 2014). New Zealand’s representative in the UN, Carolyn Schwalger, supported OSCE’s role in the matter and called for the Security Council to remain seized of the matter in order to enforce the Minsk agreements. Also, she urged Russia to pressure the separatists groups to comply with what has been agreed (UN 2015a).

**Malaysia** has shown great concern for the situation in Eastern Ukraine, especially after the downing of Malaysian airliner MH17 that killed 298 people, including 44 Malaysians (Malaysia Permanent Mission to the UN 2015). In this sense, Kuala Lumpur praises the acting of the OSCE on the matter, highlighting its assistance in the recovery of the MH16 debris (UN 2015a). Malaysia, which maintains good relations with both Ukraine and Russia, calls for a peaceful solution to the crisis and its de-escalation, affirming that the safety of the Ukrainian people must be the top priority.

The **Bolivarian Republic of Venezuela** strongly supports Russia on the matter, considering the current Ukrainian government to be the result of a coup imposed by ultra-nationalists backed by NATO and the U.S. (Bloomberg 2014b). When on visit to Russia in last January, Maduro stated that he supported the Russian people and that “Venezuela will always stand with Russia” (La Nación 2015). The mutual relations between the two countries have gone warmer as both suffer serious economic difficulties worsened by the sanctions imposed by the U.S. and the low international oil-crude prices. Moreover, Maduro stated publicly that Venezuela is willing to cooperate closely with Russia within the Security Council in order to “contribute to international justice and world peace, while defending the dignity of our own people” (Sputnik News 2015d).

**Chile** has been holding a moderate stance on the issue and hopes the crisis can be solved through dialogue and diplomacy. Chile supported the UN General Assembly resolution of March 2014 that considered the referendum held in Crimea as illegitimate (La Tercera 2014). On the other hand, Chilean Foreign Minister Herald Muñoz recently declared himself against the sanctions deployed by the EU and the U.S., claiming that they are illegitimate as they were held unilaterally (Sputnik News 2015e). Santiago maintains good relations with both Ukraine and Russia and hopes the issue can be solved diplomatically. In this sense, Chile urged respect for the “rule of law, sovereignty and territorial integrity of Ukraine”, as well as for the human rights of the minorities (UN 2015b).

Since the end of the civil war in 2002, **Angola** has been developing a foreign policy focused on multilateralism, sharing bilateral cooperation with countries such as China, the U.S. and Russia (Ministério das Relações Exteriores 2015). Angola's relations with Russia have an historic importance that has had

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implications until today, as Moscow was a great supporter of the Angolan fight for independence. About the conflicts in Maryinka in June, the Angolan representative to the UN expressed his concerns about the reescalation of the conflict and called for the enforcement of the Minsk agreements, noting that the threat or use of force is not a means to end the conflict. Finally, Angola praises the role the OSCE has been playing in the crisis (UN 2015b).

**Chad** traditionally enjoys very close relations with France, its former colonizer, and the U.S., although relations China intensified in the last years (Africa in World Politics 2014). Mahamat Cherif, Chadian representative to the UN, reaffirmed in June that the solution to the crisis was political, and showed great concerns about developments in the conflict near Maryinka. On the other hand, he highlighted that the Minsk agreements already showed sensible improvements in the situation in Eastern Ukraine, thus urging for their fulfillment (UN 2015b).

**Nigeria** strongly believes that the solution to the crisis must be a political one. In this sense, the country considers that military solutions must be avoided, as they are untenable by the moment. Abuja affirms that a deep dialogue between the parties is necessary to achieve peace, including with the separatists, who must have their claims listened and respected (UN 2015b). However, this should be done with the utmost respect for the Ukrainian territorial integrity. Nigeria's representative highlighted in June the fragility of the situation in Eastern Ukraine, and called for the enforcement of the Minsk agreements as they were designed to prompt stability in the region (UN 2015b).

## 5 QUESTIONS TO PONDER

1. Which is the best way to provide national reconciliation between the Eastern Oblasts and Kiev? How this might be ensured? How can further problems in such relation be avoided in the medium term future?
2. What concrete measures the Security Council can adopt to stabilize the situation in Ukraine?
3. How can the Security Council prevent the flow of weapons and money to the hands of the militias?
4. How is it possible to conciliate the diverse goals and interests of the major regional players in Ukraine?

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## UNITED NATIONS SECURITY COUNCIL



# THE SITUATION IN YEMEN

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## ABSTRACT

This study guide aims to embrace the most important issues regarding the present situation in Yemen, in order to provide a basis for understanding and debate over the topic. To do so, this paper is divided into five sections. The Historical Background will explain Yemen's historical formation, the roots of the North-South divide, its colonial past, as well as the trajectory of both states during the second half of 20th century. This session ends with an overview of the major problems in recently-unified Yemen as well as a description of Arab-Spring-related events in 2011. The Statement of the Issue will concentrate in describing the country's most influential political factions which are parties of the current conflict. Later, it will provide a description of the events from the fall of Hadi's government onwards, including the highlights of the civil war and the subsequent intervention led by Saudi Arabia. The Previous International Action session shall list the actions taken and the International and Regional sphere to deal with the situation in Yemen, as well as analyzing UNSC approved resolutions and related documents. The Bloc Positions will concentrate on the UNSC members' interests and arguments used in debates regarding the situation in Yemen. At the end, the Question to Ponder shall provide five main questions that may guide the debate.

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## 1 HISTORICAL BACKGROUND

Examining Yemen's history is critical to understand its current crisis. Its history has been marked by several foreign invasions that encountered strong resistance, which led the country to be called "Turks' graveyard" and the "Vietnam" of both Egypt and the Ottoman Empire.

### 1.1 ORIGINS OF YEMEN'S DIVIDE

Before the Islamic conquest, many kingdoms and City-States occupied the region. The occupiers lived mainly of the spice trade, especially myrrh and incense, with nearby civilizations. The most notable were the kingdoms of Minean, Sabean, Himyarite, Qataban and Hadhramawt. With the decline of trade after the fourth century, the kingdoms declined and the area became isolated from the world (Etheredge 2011).

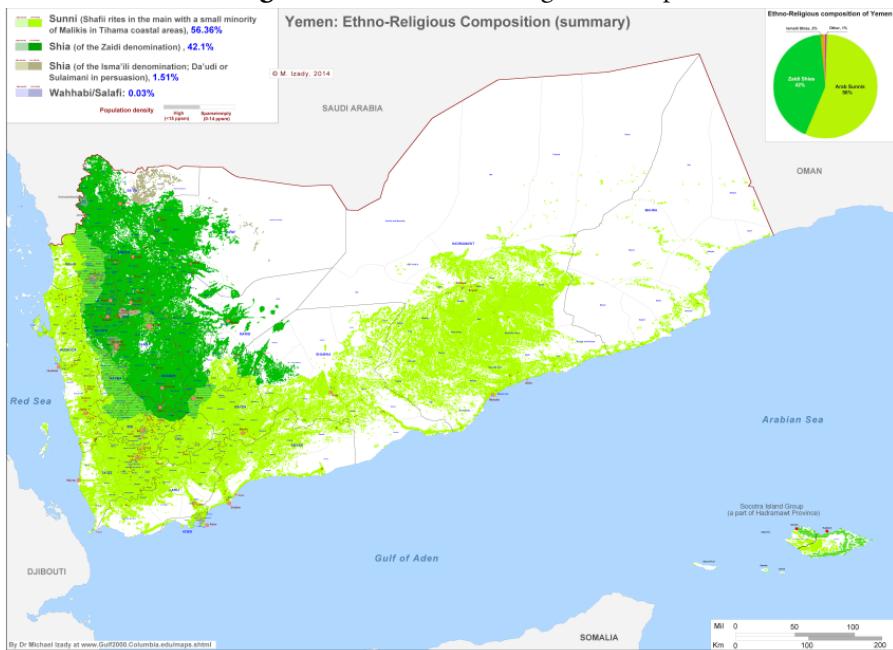
The birth of Islam in the seventh century and its subsequent expansion quickly reached Yemen, which became a prominent provider of soldiers for the caliphate (Burrowes 1995). Two centuries later, the Zaydis, a Shiite Islamic<sup>1</sup> sect that believes that Zayd ibn Ali is the legitimate successor of the Prophet, established themselves in the mountainous region in north Yemen. The sect ruled such area until 1962, putting it under the Imam's authority, a religious and political leader. Although the Imans rule has ended, the Zayd sect still has a strong influence on politics, representing about forty percent of the population and predominating in the army (Auchterlonie and Smith 1998). In the twelfth century, most of the Southern population, especially Aden, adopted the Sunni Shafi sect. This North-South religious divide is still present in the current Yemeni society, with both sects dividing the country geographically in half (Burrowes 1995).

The Southern and coastal regions of Yemen lived a period of great prosperity from the fifteenth to the seventeenth century, especially due to the spices and coffee trade and its strategic location. In order to avoid the presence of foreign

<sup>1</sup> There are two main sects in Islam: the Shia and the Sunni. This division came from a political dispute in the early days of Islam. Roughly, the former believes that the religious leader must be a descendant of the Prophet, and their laws are based directly on Koran. The latter follows the laws of the Koran and the Sunnah. Zaydis are part of the Shiite sect, but are considered closer to the Sunni practice than to others Shiites.

powers in the region - namely Portugal - the Ottomans invaded Yemen in 1538 (first conquering Aden), taking both North and South. However, the invasion's high costs caused their withdrawal in 1635 (Auchterlonie and Smith 1998). After the victory over the Ottomans, the Zaidys managed to consolidate their power in both North and South until the nineteenth century. In the eighteenth century, however, the Southern tribes gradually separated from the North (Burrowes 1995, Kour 2005).

**Image 1:** Yemen's Ethnic-Religious Composition



Source: Izady 2013.

In 1839, the British conquered Aden and put it under British India's jurisdiction until 1937, as they were looking for a midway port on the route to India and to ensure their presence in the Red Sea and the Persian Gulf (Etheredge 2011). In the decades following the occupation, the British signed a series of treaties with the "Nine Tribes" in the vicinity of Aden, due to the growing threat from foreign powers (especially the Ottomans) and from the tribes in Aden's hinterland. These agreements ensured the protection by the British

against other powers without interfering in internal tribal affairs, consolidating an informal system called the “Protectorate of Aden”. This period increased the differentiation between “city” and “tribes”, as the settlers took a series of measures to isolate Aden from the region, ultimately launching the basis for the posterior Southern separatism. The port city gained further prominence with the opening of the Suez Canal (1869), which connects the Red Sea to the Indian Ocean (Willis 2004).

In 1849, the Ottoman Empire invaded Northern Yemen again, and the occupation lasted until its own dissolution at the end of World War I, in 1918. The main reason to occupy Yemen once more was to establish a buffer zone between the British and the important city of Mecca (Farah 2002). After a few disputes in the Ottoman and British ruled territories, both parties negotiated its demarcation in 1902-1905, setting the borders that were maintained until the unification of the two Yemens in 1990 (Willis 2004, Auchterlonie and Smith 1998).

After the First World War and the consequent dissolution of the Ottoman Empire, the Imam declared North Yemen's independence. In 1934, a rising Saudi Arabia won a border war against North Yemen, and took the territories of Asir, Jizan and Najran in the later peace treaty. Fred Halliday (2005) argues that such conquest:

laid the basis for a Saudi-Yemen conflict, and much Yemeni resentment, that was to last for decades. Only in June 2000, at a summit between Prince Abdullah and President Al-Abdullah [Saleh], was a comprehensive agreement on this frontier, the longest undelineated one in the world, reached. That very night all Saudi aid to the Yemeni opposition was stopped, and various media activities associated with them, and based in London, abruptly interrupted (Halliday 2005, 178).

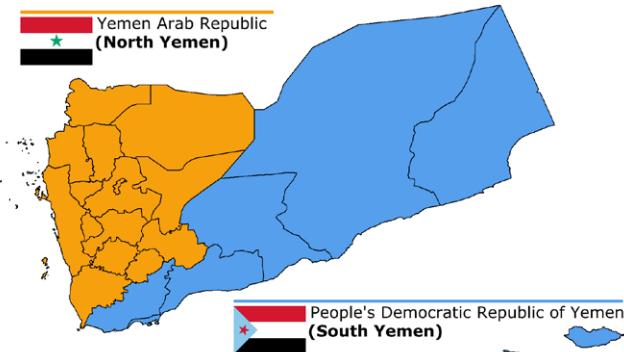
In the South, Aden became an official British colony in 1937, no longer staying under the Indian colonial government jurisdiction. This administrative change was followed by a larger allocation of British troops and the opening of a British Petroleum refinery, which resulted in an economic boom, turning the port into one of the busiest in the world (Burrowes 1995). In 1959, England, trying to stem the growing Arab nationalism in the region (mostly from Egypt), included the tribes of the Protectorate of Aden into a Federation, to which the city of Aden was added in 1963 (Auchterlonie and Smith 1998).

## 1.2 THE "TWO YEMENS" AND THE UNIFICATION PROCESS

The 1960s saw both regions experiencing a period of crisis: the North involved in a long and bloody civil war and the South struggled for independence from the British. According to Halliday (1990, 8), four main factors led to the growth of the independence movement: “colonial policy and its changes, socio-economic development, the growth of Arab nationalism, and the 1962 revolution in North Yemen”. After three years of an intense conflict of guerrilla warfare and terrorism, the British evacuated from Yemen in 1967. The pro-independence militias, notably the National Liberation Front (NLF), established a new state, the People’s Republic of South Yemen (Brown 1984).

Meanwhile, a seven-year-long civil war took place in North Yemen, after a republican coup that followed the Imam’s death in 1962. The conflict opposed monarchists, supported by Saudi Arabia, Israel and the UK, and the republicans, backed by Nasser’s Egypt and the Soviet Union. President Abdullah al-Sallal attempted to establish a republic based on the Egyptian formula, and therefore the war was framed by the struggle for regional influence between Egypt (pan-Arabism and republicanism) and Saudi Arabia (conservative monarchy). Additionally, Yemen’s strategic location was of vital importance for both countries: the first sought an ally at the exit of the Suez Canal, and the Saudis wanted to prevent the emergence of a strong country on the perimeter that could spread republicanism in its sphere of influence (Ferris 2015).

Since the beginning, Egyptian military were deployed to the country, and as the conflict escalated, its numbers rose to around 70,000 troops. As the losses amounted to about 10,000 men, the high political and economic costs for the country led to a withdrawal, especially after the defeat in the war with Israel in 1967 (Ferris 2015). Ultimately, Sallal was overthrown from the republican movement’s leadership, and a coalition between Republicans and Monarchs - which excluded the Imam - was created after a peace negotiation process. It was the birth of the Yemen Arab Republic (YAR) (Brown 1984).

**Image 2:** North and South Yemen prior to unification

Source: Wikimedia Commons 2011.

The two recently born countries then took different paths. In the People's Republic of South Yemen, an internal coup led NFL's left wing to assume the government. In 1970, the country changed its name to People's Democratic Republic of Yemen (PDRY), assuming a policy embracing socialism and aligning to the socialist bloc, particularly to the USSR (Halliday 1990). The Soviets then established a maintenance base for ships near Aden, important due to the vital commercial and logistical sea routes from the Red Sea to the Indian Ocean. The PDRY also played an important political role in the region, by financing guerrillas in neighboring countries (including in the YAR) and harboring foreign revolutionaries (Halliday 1990).

Despite some progress after the economy's nationalization and other socializing reforms, the country remained poor and dependent on foreign aid (mostly from the USSR) and income from migrants. The economy suffered a severe blow on the occasion of the closing of the Suez Canal in 1967, amid the Six Days War. Two violent political crises subsequently shook South Yemen. In 1978, a single party model was adopted and the NFL was converted into the Yemen Socialist Party. An intraparty struggle in 1986 led to a self-destruction and virtual decapitation of YSP's leadership, causing the emergence of Ali Salim al-Beidh as the new leader (Halliday 1990, Burrowes 1995). This chain of events that deeply destabilized the country paved the way for future unification with the North.

The contrasting scenario of relative economic development and political stability in the North further deepened such trend. As the North started opening its economy, an exodus of workforce (mainly to Saudi Arabia) took place, as well as the arrival of many foreign experts to help in the modernization of its economy. After a series of political crisis, in 1974, 1977 and 1978, Ali Abdullah Saleh took power and stabilized the country. Formal democracy was introduced in 1982, and oil began to be exported in 1987. The economic development and political stability in the YAR and economic and political crisis in the PDRY facilitated the process of unification in 1990 (Auchterlonie and Smith 1998).

The unity was in question since the independence of the South, as both countries oscillated between war and cooperation. In 1972 and 1979, border skirmishes between the two Yemens were followed by the signature of political declarations with intentions to unify the countries. After a short crisis due to petroleum extraction in the border, the leaders of the two Yemens agreed to initiate the process of unification in 1989-1990 (Burrowes 1995).

The Republic of Yemen became formally a multiparty democracy with Ali Abdullah Saleh (former Yemen Arab Republic's President) as the President and with Ali Salem al Beidh (former Leader of Yemen Socialist Party) as the Vice-President. From the beginning, the new country was shaken by a crisis. In 1991, as a response to the Yemeni support to Iraq in the Gulf War, Saudi Arabia expelled 800,000 Yemenites from its territory, creating a new mass of unemployed and reducing a major source of income of the Yemeni economy. Although the unification achieved some success in democratization, the armies of former PDRY and YAR were still not unified, and some factions of society, like the Muslim community and the former Southern elite, still opposed the unification (Burrowes 1995).

In 1993, although belonging to different political parties, Saleh and Beidh run for President and Vice-president respectively, and they won the general elections, but the former's party won the majority in legislative elections. In 1994, vice-president Ali Salem al Beidh, claiming an economic and political discrimination of the South, isolated himself in Aden and proclaimed the independence of the Democratic Republic of Yemen (South Yemen). This led to a short civil war, won by the North, that once again unified Yemen. In 1997, new elections were held, leading to a major victory of the President's party, General People's Congress (60%), and Al-Islah (20%), an Islamic party

(Burrowes 1995).

By 2005, the economy was not growing enough to keep up with the growing population, exacerbating social problems (Etheredge 2011). According to Visentini (2014), President Saleh ruled his country through buying loyalty from tribes, distributing favors and allying with local oligarchies, as the country faced problems like unemployment, declining oil revenues, water scarcity and population high growth rates. Furthermore, three problems concerned the government even before the Arab Spring: Houthis' insurgency, Southern separatism and the Al-Qaeda (Visentini 2014)<sup>2</sup>.

The first started as an armed conflict in 2004, when the Zaydi Leader Husayn al-Houthi and his followers chanted anti-US and anti-Israel slogans in pacific protests. The government took violent actions to stop the protests, which were responded with more violence by the Houthis. The group leader was considered a threat and was killed by the government in 2004. From then to 2010, there were several fights between the government and the Houthis. With the increasing violence, more and more tribes from the North started to call themselves "Houthis" (Salmoni, Loidolt and Wells 2010).

The second problem was Southern separatism. This movement gained force once again in 2007, although it remained mostly pacific. The people of the South claim that they were put aside in the country's politics (Visentini 2014). Although only a fifth of Yemen's population lives in the South, it accounts for more than 80 percent of the oil exports and for most of the country's sources of revenue, due to the Aden-located refinery and its port (Al-Batati 2014).

The question regarding Al-Qaeda gained importance in 2000, after the terrorist attack on USS Cole<sup>3</sup>, at Aden harbor. Furthermore, the 9/11 attacks led the United States to seek cooperation with President Saleh against the growing terrorism threat inside the country, notably in the Eastern region. The United States provided men and resources, and launched several drone strikes in Yemen since 2002. However, Al-Qaeda from Yemen and Saudi Arabia managed to organize and consolidate itself as the Al-Qaeda in the Arabian Peninsula (AQAP) in 2009, quickly becoming the group's most active branch (Visentini 2014).

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<sup>2</sup> These three questions are furthered below. For further information, check the Statement of the Issue's "Local factions, political groups and divisions" subsection.

<sup>3</sup> On October, 2000, the USS Cole destroyer was refueling at Aden's port when suicide terrorists exploded a small boat next to it, killing 17 US citizens and injuring many others (CNN Library 2014).

## 1.3 THE ARAB SPRING AND THE COLLAPSE OF SALEH'S GOVERNMENT

The wave of protests known as the Arab Spring reached Yemen in 2011. Early protests were peaceful and directed against corruption and asking for more democracy, better living conditions, and the resignation of President Saleh, which had been ruling the country for 33 years. The government fiercely repressed the protests, killing 45 protesters in March, which further mobilized the people of Yemen (Naylor 2015). This led to an escalation of violence, with several tribal leaders and army deserters joining the opposition forces. The US and Saudi Arabia, former allies of Saleh, supported the movement to remove him from power, as the costs of maintaining support towards him became too high (Visentini 2014).

After many clashes between loyalists and opposition forces, Saleh negotiated his resignation with the Gulf Cooperation Council<sup>4</sup>. However, Saleh stepped back in three occasions, until the escalation of the conflict led to a direct attack on the presidential palace, seriously injuring the President. The president went to Saudi Arabia for medical treatment. In his absence, Vice-President Abd Rabbuh Mansur Al-Hadi took power, although he was unable to control the deteriorating situation. The instability in the country also exacerbated previous problems, as the Houthis insurgency, Al-Qaeda (which expanded its area of influence and operation) and internal tribal struggles (Visentini 2014).

In September Saleh returned to the country, finally signing resigning his resignation from power two months later. Hadi ascended to power, holding the responsibility to promote new elections. The opposition, mainly the Joint Meeting Parties<sup>5</sup>, was divided and could not compete with the situation. Elections were held in early 2012 with Hadi as the only candidate, winning the “dispute” and assuming the Presidency of the Republic of Yemen (Visentini 2014).

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<sup>4</sup> The Gulf Cooperation Council was established in 1981 and has Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates as members. It has as its main goal the economic, social and security integration of its members.

<sup>5</sup> The Joint Meeting Parties was formed in 2002 in an attempt to challenge the GPC in Yemen politics. It is formed by the alliance of five opposition groups, including the Yemeni Socialist Party (YSP) and Islah, which is the strongest member (Crisis Group 2011).

## 2 STATEMENT OF THE ISSUE

Even though Abed-Rabbo Mansou Hadi was Saleh's vice-president for 17 years, he was still an unknown figure for most of Yemeni population by the time he was elected in 2012. Not only the people's trust would he have to gain, but also the armed forces', which were still suspicious about this new leadership and remained in part loyal to the former President. Acknowledging that it would be hard to control a country so affected by the widespread protests of the Arab Spring and legitimate its government inside the country, Hadi focused on gathering international support and, most importantly, financial assistance. His speeches in the United Nations in late 2012 addressed the importance of the fight against terrorism, represented in Yemen by one of Al Qaeda's most powerful branches, Al Qaeda in the Arabian Peninsula (Rosen 2015, Zimmerman 2014).

In January 2014, the country held the National Dialogue Conference, a forum in which all the existing political groups and factions, some of which were usually marginalized by the political elite, agreed to get together and discuss key systemic issues to the "post-Saleh Yemen". The result was the conclusion of a large agreement containing more than one thousand recommendations that foresaw the draft of a new constitution and a referendum on that constitution for 2015. Once the constitution was accepted by the referendum, the agreement predicted that new elections were to happen within nine months (J.H.-R. 2014, Rosen 2015, Zimmerman 2014). However, the result did not please everyone: the final document also stated that Yemen would move toward the adoption of a federalized system. The question of how to divide Yemen in federalized regions raised new discontent, since it has been long an issue of disagreement between Yemeni Southerners and Northerners. President Hadi formed a 22-membered committee – the Regions Defining Committee – to further discuss this issue, and on February 10, the committee voted for a six-region division: four in the North and two in the South. The Southerners rejected the decision, for a division of the Southern territory could hamper their independence ambitions; the Northerners were also not satisfied, since the division left all gas and oil reserves to the Southerners (Mudallali 2015, Zimmerman 2014, Al-Hassani 2014).

Therefore, it was not hard to foresee that the rise of a new President would have very little effect on Yemen's most contentious issues. The impossibility to

reach an agreement between the North and the South fostered tensions and made it easier for extremist groups to gain power in those regions: the Shiite Houthis and the separatists, respectively. The difficulty to gain legitimacy among the armed forces would also prove to be a problem, and the necessity to fight terrorism would definitely not be limited to speech rhetoric, with AQAP gaining more and more power in a country devastated by socioeconomic inequalities and political instability. All of those issues put together exploded in the chaotic situation we see Yemen is facing today.

## 2.1 LOCAL FACTIONS, POLITICAL GROUPS AND DIVISIONS

Grasping the Yemeni crisis directly involves understanding who the groups involved in its current situation are and in what consists their main objectives. The country has to face several diverging interests from distinct political groups and factions, namely the Houthis, the Southern separatists, Al Qaeda in the Arabian Peninsula (AQAP) and the government forces. Parts that can also increase the troubles are the ones that remain loyal to former President Ali-Abdullah Saleh, especially inside the army.

The international press usually calls **the Houthis** a “Shiite Muslim rebel group” or “Shiite militia” – probably in an attempt to make a direct connection with Shiites in Iran. They are, however, members from the Zaydi branch of Shia Islam, which make them a minority not only among Yemen’s mostly Sunni population, but also inside Shia Islam. They hold different beliefs not only from the Sunnis, but also from Shiites in Iran as well, for example: one of the basic premises of the Houthi movement is that people have a religious obligation to rise up against an unjust ruler, a very different vision from other Sunni and Shia schools of thought. These ones would rather prefer to avoid the chaos that can come from insurrection (The Week 2015, Basu 2015, Barrabi 2015, Rayman 2015, Rosen 2015).

The Houthi Movement started in the nineties in the Saada governorate in the North of Yemen. They began as a youth-oriented religious group of studies that preached for the revival of traditional Zaydism, making reunions under the name of Al-Shabaab al-Mu’minin, or “The Believing Youth Forum”. There are few official sources about their evolution to become the political group they are today, but some of them allege that this first group has gone through some divergences, and the “Houthi” nomenclature that is uses today is after

Hussein Badr al-Din al-Houthi, their founder. In the 2000s, they started to also use the name “Ansar Allah”, the “Partisans of God”. It is also known that they had support from former-President Saleh during their emergence, for he believed they were a counter-weight group to growing militant Sunni Islamism (Al Batati, Who are the Houthis in Yemen? 2015, Jane 2015, Schmitz 2015).

In 2003, however, Hussein al-Houthi organized protests against US invasion on Iraq, also criticizing Saleh’s government for its support to the US War on Terror. After that, the Houthis no longer enjoyed the benefits of President Saleh’s sympathy, and, in 2004, the first war against the government erupted. The reason were the protests in a mosque in Sana'a, an act that Saleh considered a challenge to his authority. He sent his forces to the province, and Hussein was killed. That was the first time the Houthis turned to arms, what they alleged to be on grounds of self-defense. The Houthis continued rebelling against the government with their new leader, Abd al-Malik al-Houthi, and since 2004, they fought six wars. In 2010, part of them signed a ceasefire. Ansar Allah gained many followers by exploiting people’s resentments against the regime, which made the movement gather supporters that would not necessarily help the revival of the Zaydism, but who were willing to fight against an autocratic and oppressive ruler (Al Batati, Who are the Houthis in Yemen? 2015, Basu 2015, Jane 2015, Schmitz 2015).

Since the first attacks against Saleh’s administration, the Yemeni government has been accusing the Houthis of receiving financial and military aid from Iran. The international press often calls the group as an “Iran-backed” militia, due to the apparent “Shiite affinity”, but both Tehran and Ansar Allah deny the connection. In 2013, a vessel suspected of sending arms illegally to Yemen was intercepted, and officials found Iranian conventional weapons and explosives inside. Yemeni and US authorities believed the ship was meant to reach the Houthis. Even if few proofs exist of this alliance, analysts believe that supporting Ansar Allah would be part of the Iranian strategy of undermining Saudi influence in Yemen. The Yemeni government also accuses the Houthis of being backed by Libya, as well as by Hezbollah, the Lebanese Shiite Muslim militia – an organization strongly supported by Iran. In November 2014, commanders from Hezbollah arrived in Sana'a alleging that the reason of their presence was to help the Houthi with training for armed clashes in the region of Marib. This connection with the Iranian-backed Lebanese group could be

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a proof of the connection between the Houthis and Iran as well (Ellis and Thompson 2015, Balanche 2014, Jane 2015, Zimmerman 2014, Barrabi 2015). However, despite the fact that Iran provides supplies and weapons to the Houthi Movement, there is evidence that Tehran has no control over Houthi behavior, as they are domestic actors, with decades-old interests in the Yemeni balance of power (The Economist 2015 ).

As Yemen is one of the countries with most firearms per capita in the world, there is plenty of availability of assault rifles such as AK-47s by legal and non-legal means to groups such as the Houthis. However, they are also equipped with RPGs, mortars, heavy machine guns and a variety of weaponry. It has also historically stolen Army's military hardware, including T-54 and T-55 main battle tanks, as well as surface-to-air missiles (SAMs) (IHS Jane's 2015).

Another root of conflict can be found in the **Southern Secessionist Movement**. As aforementioned, the Southern population has never been truly satisfied with the 1990 unification. Since then, they fear a government commanded by the North, and the divergences between both parts had already led to civil war, in 1994. The defeating of the South left profound marks and an eternal resentment. They claim to have been historically marginalized politically and economically by the North and excluded by government services and development projects. They have been denied an equal share of the oil revenues, even though 80% of the production in the country take place in the South. Aden's fisheries, ports and refineries are a center of economic activity, making the South responsible for the majority of Yemen's wealth. One of their major demands is the redistribution of wealth from Sana'a to the South. The economic and political grievances summed up with national identity issues gave birth to seven parties that share the common desire to build an independent Southern nation. Their coalition is known by the name "al-Hirak", although that is a loose definition for such a fragile coalition among diverse guerrilla and militant factions (Day 2010, Visentini 2012, IISS 2014, Zimmerman 2014, Al Batati 2014, Mudallali 2015).

This separatist movement had an apex in 2007, when former soldiers who had been compulsorily retired from the Southern Army after the civil war started rallying in Aden, demanding equal salaries to the soldiers in the North. President Saleh refused to hold talks and demanded his forces to suppress the protests, killing hundreds of people, which led such groups to engage in

protests during the Arab Spring events that deposed him. When Hadi, himself a Southerner, assumed the presidency, he offered an official apology for the civil war and compensations for civil and military servants who lost their jobs after the unification. He also has encouraged pro-separatism leaderships to join the transitional talks, but with the besieging of Sana'a and his government collapse, such approaching was short-lived, in fact encouraging its claims to overthrow the government and recreate a southern state. However, the Southerners have so far lacked a charismatic centralizing leader and better equipment, as well as the level of centralization of the Houthis: they are ruled by several leaders and divided in many factions due to internal divergences (Al Batati 2014, Reardon 2014). The latest events in Yemen may indicate a possibility to unify the Southern leaderships in one single and strong voice, as it can be stated by the strong anti-Houthi sentiment in the cities and by some calls for independence made by some of the Southern leaders: Nasser al-Nuba<sup>6</sup>, for example, affirmed they will no longer take orders from Sana'a (MacDonald 2015). Nonetheless, for now, there have been only sparse military operations, such as RPG attacks against government forces or the Houthis conducted by southern separatists.

The Northern Houthis and the Southern Secessionist Movement, as well as the divergences between them, however, are not the only things the Yemeni government has to deal with: the **Al Qaeda in the Arabian Peninsula** is also increasing its influence in the territory. AQAP was formed in 2009 by Saudi and Yemeni Sunni militants of the international network of Al Qaeda, being considered its most active and dangerous branch. It already claimed the authority of attacks against several regional and Western targets, notably the attacks to Charlie Hebdo<sup>7</sup> in January 2015. The US State Department estimated in 2014 that AQAP had a number close to one thousand members (Guéhenno 2015, Council on Foreign Relations 2015). It is possible that one of their most significant sources of funding comes from donors in Saudi Arabia that also fund other Sunni terrorist groups.

According to AQAP's propaganda, its primary goals are consistent with the principles of militant jihad of purging the Muslim countries of Western

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<sup>6</sup> Former military general and one of the founders of al-Hirak (MacDonald 2015).

<sup>7</sup> On 7th January, two Islamist terrorists self-identified with AQAP and equipped with machine guns promoted an assault on the French satirical weekly newspaper Charlie Hebdo, in Paris, killing 11 and injuring an equal number, and killing six more as the police persecuted them. The attack was reportedly motivated by the frequent publication of Muslim-offensive contempt.

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influence and replacing secular regimes with ones that observe the Sharia law to establish an Islamic caliphate. They include overthrowing the Yemeni regime, killing Western nationals and allies – notably members of Saudi royal family – and attacking US homeland (Council on Foreign Relations 2015, Jane 2014). Their presence in Yemen would be probably the first reason to motivate any foreign-led intervention in the country. In the beginning, the Yemeni government suspected that the AQAP and the Houthis held close relations, probably because both groups opposed the regime. These accusations proved to be rumors when AQAP exploded a device targeting a Houthi religious procession. In fact, even though they are still not as strong and influent as the Houthis, the AQAP benefits from the rise of the Houthis to grow, by convincing the groups who oppose them – specially Southerners – that Al Qaeda is the natural ally (Guéhenno 2015, Rayman 2015, Jane 2015). The United States, for example, had total support of President Hadi on conducting air strikes against AQAP targets, which is part of their counterterrorism strategy with target killing campaigns (Mudallali 2015, Council on Foreign Relations 2015). The Al Qaeda in the Arabian Peninsula no longer directly administers areas of the country, but they continue to expand their operations and areas of influence, mainly in Southern and Eastern territories, also operating cells near the capital, Sana'a (Zimmerman 2014).

Finally, it is important to understand that the army in Yemen will also be a source of problems in the ongoing crisis. The armed forces are currently divided as some parts have been kept loyal to former-President Ali Abdullah Saleh, mainly the republican guards. This loyalty is dangerous to President Hadi's administration and Yemen's stability more generally, since he will no longer be able to count on the full efficiency of his army to shield the cities in case of attacks – that can come from the Houthis, from the Southerners, from AQAP or even from the neighboring countries, as Iran or Saudi Arabia. On the other hand, however, this situation is convenient for Mr. Saleh, who expects regaining influence in the country with the weakness and impotence of Hadi. Saleh is also being accused of allying these loyal military units with the Houthis, in an attempt to weaken even faster the current administration and carve him a secure space in the future of Yemeni politics (Les Echos 2015, Ellis and Thompson 2015, Schmitz 2015)

## 2.2 RECENT EVENTS

In August 2014, the leader of the Houthis, Abdulmalek al-Houthi, called for protests against the government. The deteriorating socioeconomic and security conditions of the country contributed to erode the credibility of President Hadi's government, which al-Houthi called corrupt and unable to carry out reforms that could improve people's lives<sup>8</sup>. The demonstrations started on the 18th day of the same month, and soon took over the streets of the capital, Sana'a, and many other cities around the country. The armed Houthi rebels soon arrived in Sana'a and started to set up camps surrounding the city and ministry buildings. They guaranteed that they would not use violence except for self-defense, but protests anti-Houthi and pro-Hadi soon took over the streets as well, leading authorities to worry that the situation could easily become violent. The UN Security Council expressed its concern about the security situation after Houthi's actions and about the effects its deterioration could have in Yemen's political transition (Guéhenno 2015, Security Council Report 2014).

On September 2nd, the President dismissed his cabinet and made a proposal for the Houthis that included their participation on a new government. They refused the proposal, and tensions escalated between them and some armed groups affiliated with the Islamic party Al-Islah<sup>9</sup>. On the 18th, Houthi rebels besieged a Sunni Islamist university in the suburbs of Sana'a, and the fights between the rebels and the military started to become more violent. However, once the fights spread into the city, military action was refrained, and former President Saleh was suspected to be involved in this decision. The Houthis took over the city in the next days, seizing the state-run television station and government buildings (Security Council Report 2014).

Thus, on September 21st, the Peace and National Partnership Agreement was signed. The plan made the parts agree to the appointment of a new government within a month, in order to stop the fighting and to attend Houthi's

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<sup>8</sup> Yemen's socioeconomic indicators place it among the least developed countries in the world: 35% of the population is unemployed – a rate that goes up to 65% among people under 30 years old – and 50% is illiterate – 70% when it comes to women. The revenues from crude oil represent around 70% of the total revenues of the country, and the recent fall off the crude prices worsened the economic collapse of the country (Balanche 2014).

<sup>9</sup> Islah is a Northern-based Islamic opposition party. One of its key figures is the President of Iman University, Sheikh Abdul-Magid al-Zindani, who has been long engaged in the Islamic militancy and had in the past connections to Osama Bin Laden and Al Qaeda (Day 2010).

grievances. It addressed several issues concerning the country's critical situation: it predicted, for example, the reduction by 25% of fuel prices and the formation of an economic committee of qualified experts in order to make binding recommendations to the government, whose responsibility was to alleviate "the burden of the people". Most importantly, the Agreement predicted that the President should appoint political advisers from both Ansar Allah – representing the Houthis – and the Southern Peaceful Movement, as well as a new "neutral" Prime Minister not affiliated to any political party, three days following the agreement's entry into force. The document, based on the outcomes of the aforementioned National Dialogue Conference, was signed by 12 Yemeni parties and groups, including the Houthi representatives, the Peaceful Southern Movement representatives, and the General People's Congress party (GPC) – the party of both Saleh and Hadi, still ruled by the former (Jadaliyya Reports 2014, Al-Moshki 2014, Security Council Report 2014). The Houthis, however, refused to sign an annex of the agreement that demanded the restoration of state authority and control over all the territory, which meant a ceasefire and the withdrawal of the camps on the areas they held. It also stipulated the disarmament of all parties involved in the conflicts and the recovery of all state-owned weapons that were robbed during the events. Though many people saw this refusal as a sign that the Houthis were not ready to set off camp of Sana'a, they themselves considered the agreement a success, even without signing the annex (Al-Moshki 2014).

Nonetheless, the Houthis did not seem willing to fully respect the agreement and quickly violated it by tightening their grip on the capital with the seizing of the First Armored Division's headquarters. They moved the expansion of their territorial control<sup>10</sup> southwards and westwards – into territories with the country's biggest Sunni population and the oil-producing region of Marib<sup>11</sup> (Security Council Report 2014, Guéhenno 2015). The Houthi's advance over the country enhanced fear in the Sunni-majority South that envisions federal autonomy and displeased AQAP, that operates intensely in Marib. The tribes in this region who support President Hadi also consider the Houthis "terrorists" and "invaders" and feared that their increased presence might destabilize this important region (Mudallali 2015). In November, the agreement got even

10 Sada and Hodeida were two other big cities over which they took control (Les Echos 2015).

11 The region produces over 70% of Yemen's oil and gas (Mudallali 2015).

further away from working; the GPC and the Houthi group stated they would not accept the new Prime Minister nominated by Hadi, Khaled Bahah, because they considered that the decision did not fulfill the norms predicted by the Agreement. The GPC considered itself neglected by the President and decided to boycott the new government, calling on all the Party's nominees to reject any post offered. The Houthis also found the formation of the new government disappointing and stressed that it was necessary to meet the Agreement's criterions of integrity and efficacy (KUNA 2014).

The impossibility to find common ground for truly successful agreements contributed to the escalation of tension among all parts and led to even more troubled events right in the beginning of 2015. On January 17th, the Houthi militia kidnapped Ahmad Awad bin Mubarak, the President's chief of staff<sup>12</sup>. He had a long story of disputes with the Houthis: himself a Southerner, Mubarak was the one who proposed the six-region divide that would separate the North from the oil and gas deposits. The Houthis even vetoed his nomination when Hadi chose him for the position (Mudallali 2015). Two days later, the militias attacked the presidential palace, surrounded the Prime Minister's house and defeated the presidential guard, taking their position. The Southern city of Aden closed all of its air, land and sea access, on a sign of support for President Hadi, who is also a Southerner. The next day, al-Houthi made a speech stating that his revolution knew "no limits" and demanding a national partnership with Southern and revolutionary parties, as well as improved security for people in Marib to fight against Al Qaeda. The later demand was seen by many as an attempt to gather sympathy from the tribes in order to control the oil resources, rather than defending the population from AQAP. The UNSC issued a statement supporting President Hadi and condemning the use of violence (Mudallali 2015).

Even so, on January 22th, both the President and the Prime Minister resigned, making an agreement with the Houthis that included the release of Mubarak and the withdrawal of the militias from the presidential palace, the city streets and the government institutions they were surrounding since 2014. In return, Hadi would concede the Houthis the constitutional changes they sought and a wider participation in state institutions (Mudallali 2015, The Economist 2015 ).

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12 Which means he is the director of the President's cabinet (Les Echos 2015).

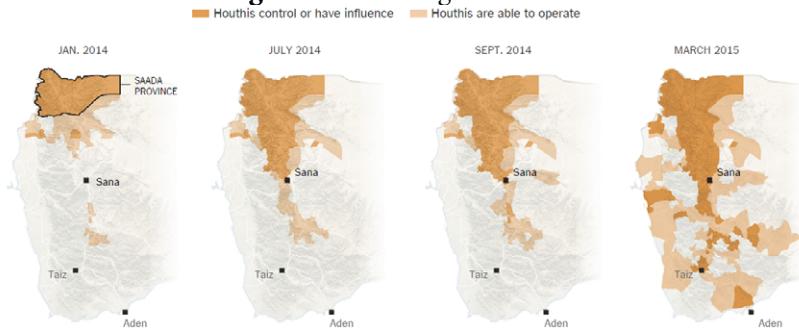
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In February, the Houthis consolidated their move by dissolving the parliament and establishing an interim government (Ghobari 2015). By the end of the month, Hadi escaped the house arrest with the help of his security personnel, and moved to Aden (Becker 2015). In a television address, he declared the illegitimacy of the Houthi government takeover, and claimed his own legitimacy as Yemeni President (AlJazeera 2015, Almasmari and Hanna 2015).

### 2.3 THE ESCALATION OF THE CIVIL WAR AND THE SAUDI-LED INTERVENTION

By the end of March, Houthi rebels, allied with pro-Saleh forces started advancing toward Aden, the last stronghold of Hadi government forces. On March 25th evening, airstrikes against rebel positions in Yemen, conducted by a coalition led by Saudi Arabia, launched a military intervention codenamed Operation Decisive Storm (AlJazeera 2015). The coalition, spearheaded by Saudi Arabia, was composed initially by most GCC members (United Arab Emirates, Kuwait, Qatar and Bahrain) but soon Egypt, Sudan, Morocco, Jordan and Senegal joined the campaign (Reuters 2015). The intervention was held after requests for foreign intervention by the UN Security Council, the Arab League and the Gulf Cooperation Council (GCC) made by President Hadi, who fled to Riyadh when the bombing started (BBCNews 2015, Agence France-Presse 2015).

**Image 3:** Houthi Progression since 2014



Source: The New York Times 2015

The initial phase of hostilities focused mainly on bombing Houthi and pro-Saleh strategic positions such as arms depots, military bases, air-defense assets and airports in Sana'a, Taez and elsewhere. A no-fly zone and a naval blockade were established, as the main objective was to achieve air superiority and ultimately a complete control over Yemeni airspace (Mustafa 2015a). According to the coalition force's spokesman, the next phases would be centered in destroying rebel-controlled axes of ballistic missiles, supply corridors, ammunition stores, military facilities and logistics assets, as well as preventing the Houthis from entering and controlling Aden (A. H. Cordesman 2015, Al Arabyia 2015).

The United States has been providing logistical and intelligence support for the intervention, such as live-feed videos from US surveillance UAVs and aerial refueling for coalition fighter jets (M. Zenko 2015). There is also speculation over the airdropping of weaponry and medical supplies for anti-Houthi militias in Aden, as they were delivered with an advanced system of GPS-guided high-altitude parachutes, a technology available almost exclusively in the US (Stratfor 2015b, 17). The United States has also stopped the freezing of arms sales to Egypt – a prominent member of the coalition, which was in force since October 2013, on the occasion of the military coup that led to Al-Sisi's government (Bennet 2015). Additionally, as the members of the coalition are US allies, most of the military hardware used in the operation was provided in the last years by the US, such as the F-15 and F-16 fighter jets used in the bombing campaign (Mazzetti and Cooper 2015).

From the end of March to the first weeks of April, the war saw a dashing offensive by the Houthi and pro-Saleh forces toward Aden and the Eastern provinces of the country. However, the airstrikes effects and the resistance posed by the coalition-backed pro-Hadi and tribal militias slowly reverted the situation.

In the South, the main goal was to establish control over Aden, a port city which consists in a valuable strategic asset, due to its seaport and airfield that could be used as main supplying corridors for the rebel forces. It is also the core pocket of resistance of pro-Hadi troops, and its fall would have a great symbolic value. After a few days in the beginning of April, rebel troops were controlling most of the city's strategic positions, but its advance reached a stalemate as a fierce resistance by government forces and pro-Hadi militias stopped them, combined with the decisive coalition's air support. Tribal fighters and other militias have started storming the Aden-fighting rebel's flank, in an attempt to cut off their supply lines. As they are becoming increasing isolated, without supplies and reinforcements, and as coalition special forces<sup>13</sup> started infiltrating through the

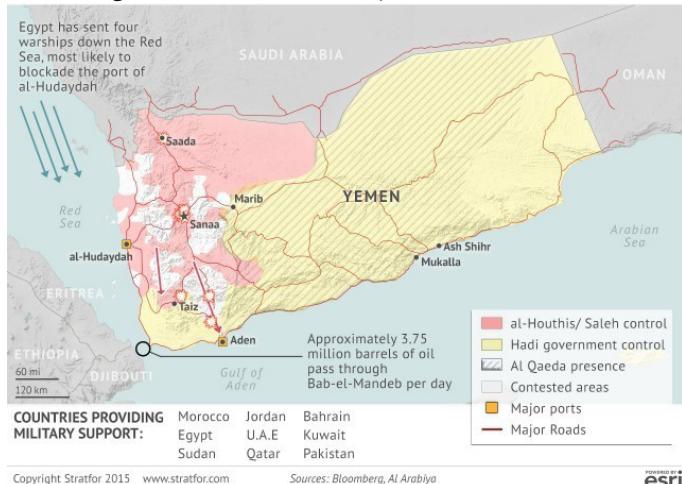
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13 On May 3rd, between 40-50 special forces soldiers arrived in Aden to bolster the efforts of

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port, the situation became increasingly worrying for the rebels (Stratfor 2015b).

**Image 4:** Situation in Yemen by the end of March 2015



Source: Stratfor 2015c.

As their units became gridlocked in Aden, the Houthis continued their progression toward East, specially toward the cities of Marib and Ataq, capital of the Shabwa region, where major Yemeni energy facilities are located. However, as the government's central authority eroded, many tribes started mobilizing their own men to resist the Houthis. In the Eastern Hadramawt region, around 20,000 tribal fighters were raised to fight in coordination with government forces, to repel the Houthi advance. Also, the coalition's menace of close air support, specifically, has discouraged concentrations of armaments and personnel in ground columns, which has slowed the rhythm of advance of Houthi and pro-Saleh forces. Special Forces units from the coalition also have been reportedly operating across the country, assuming advisory roles and helping to identify targets for the airstrikes (Stratfor 2015b).

By mid-April, the situation had stalemated in most of the country: as the air campaign and the tribal resistance had constrained the power projection by rebel troops, it has not been capable of regaining terrain previously conquered by them. The war's first phase of movements slowed down to become a war of attrition. As

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pro-Hadi combatants. A Southern Resistance Movement's spokesman has confirmed them to be coalition forces' special units. Despite the Saudi denial of any involvement of ground troops so far, a video footage showing heavily armed soldiers walking in the streets raised suspicion that it could be Saudi special units or UAE soldiers, as their equipment was not available for regular pro-Hadi fighters.

practically every faction in the war counts heavily on external support for provision of weaponry, ammunition and even food and medical supplies, there has been an increase in Saudi and Iranian attempts to help their respective allies. In attempts to cut off the logistical support to rebels, Saudi air sorties have destroyed Sana'a International Airport, preventing Iranian aircraft to land. However, despite the blockade imposed by Saudi Arabia, Egypt and UAE, a Iranian convoy was located in the waters close to the Oman-Yemen border, prompting the US to dispatch a cruiser and an aircraft carrier to the location (Stratfor 2015b, 7), which led to sporadic moments of raising tensions (Mcleary 2015a, Mcleary 2015b).

On April 21st, the Coalition Forces' spokesman, Saudi Brigadier General Ahmed Asiri, announced the end of Operation Decisive Storm and the beginning of a next phased, called Operation Restoring Hope. Despite the vagueness of this new operation's core aims, it was supposed to consist mainly of humanitarian missions, counter-terror operations and focus on reviving political dialogue (Sputnik 2015, SUSRIS 2015). However, the volume of air sorties has remained high since then, which is explained by the broader Saudi strategy of weakening Houthi's position, in order to force a return to achieve a negotiated solution (Stratfor 2015b, 7). Although the air campaign alone is obviously not decisive to accomplish such aim, it is tied to the decades-long Saudi practice of influencing Yemeni internal actors through political contacts and its patronage system toward tribal leaders and key military and regional leaders (A. H. Cordesman 2015).

The coalition's air campaign is being highly criticized by UN humanitarian-related organs such as the Secretariat's Office for the Coordination of Humanitarian Affairs (OCHA) for its consequences. Preliminary assessments roughly estimate that airstrikes have directly caused more than 1,000 deaths and more than 3,000 wounded people. The number of internally displaced due to the war rose to 300,000 and around 12 million of the total 26 million Yemeni citizens face food insecurity (OCHA 2015). Additionally, around 2,000 to 3,000 Yemeni refugees flee the country to Djibouti and other neighboring countries every day, according to the United Nations High Commissioner for Refugees (Jakes 2015). The naval blockade added to the airstrikes has produced a major fuel shortage that has brought the water supply, telecommunication services, food production and water distribution to a halt, taking Yemen to the edge of an infrastructure collapse (AlJazeera 2015).

By the end of April, there have been frequent Houthi incursions to Saudi Arabia through the Northern Yemeni border, as well as shelling by mortar and Katyusha rocket artillery to the cities of Jizan and Najdan. Saudi Arabia has reportedly been shooting artillery fire toward Marib and Taiz, and has abandoned

border posts and evacuated cities in the border (Stratfor 2015b, 4, AlJazeera 2015). Even though such skirmishes in the border have a small dimension, due to the limited capacity of the Houthi to advance into Saudi territory, a coalition's ground operation to alter the impasse in the civil war has not been ruled out. In fact, Egypt and Saudi Arabia have repeatedly stated that this is an open possibility, and have assembled its rapid deployment forces. Saudi Arabia has reportedly mobilized 150,000 men in its border with Yemen, and Egypt has extended for three months its mandate for deploying troops abroad in the beginning of May (Reuters 2015). The situation appears to have reached a decisive point, as the coalition will have to decide whether to negotiate a solution keeping the current status quo or to deploy a ground incursion.

The current turmoil resulted from the civil war has benefited AQAP, which capitalized on the absence of state authority in most of the country and dramatically expanded its geographical range of operations. The terrorist organization has been deploying a sophisticated military operation since last summer, but as the conflict progressively escalated, it has adapted to the current situation, conducting different kinds of attacks, using improvised explosive devices (IEDs) assassinations and diverse guerrilla tactics toward both government and Houthi targets. However, as the later have advanced to the Eastern territories, AQAP shifted its attention to Houthi targets, turning them into its prior enemy (Zelin and Hoover 2015). By mid-April, it has taken control of an airport, a seaport and an oil-exporting terminal in Mukalla, at Yemen's Southeastern coast, as well as conducting a massive prison break, releasing about three hundred inmates. Although it already possesses strategic positions and assets in other parts of the country, this has been its boldest move so far, as it was the first time it actually assumed the ownership of such critical infrastructure (Laub 2015, Byman and Williams 2015, Stratfor 2015b, 10).

## 2.4 YEMEN IN THE MIDDLE EASTERN STRATEGIC SCENARIO

The question of whether the Northern Shiite Houthis will or will not succeed in taking control over the country is part of the longstanding regional competition between Iran and Saudi Arabia, which has been taking place over the last 30 years. Despite never confronting directly each other, both countries dispute their influence across the region in a species of "regional Cold War". Middle East's destabilization – in course since Iraq's invasion in 2003 – was deepened by the disruption of many governments' central authorities during the Arab Spring. This situation offered fertile ground for external powers to meddle into domestic

disputes, consolidating Tehran-Riyadh dispute's modus operandi of supporting internal political factions in order to influence domestic political systems of fragile states such as Lebanon, Iraq, Syria and now Yemen (Visentini and Roberto 2015).

The Syrian Civil War, from 2011 onwards, became the epicenter of this regional dispute, as the US, Saudi Arabia and other Gulf countries actively supported different groups of rebel forces against the Iran-backed government. The war's spillover effects reached the surrounding countries and weakened the Iranian arch of alliances – labeled as "Resistance Axis" – composed by Lebanon's Hezbollah, Palestine's Hamas and Syria's Ba'ath government itself (Visentini and Roberto 2015).

The rise of the Islamic State (IS), as a result from the effects of the Syrian civil war, led to an implicit cooperation between Iran and the US, due to the shared necessity of containing the IS (Guimarães and Müller 2014). Such trend added to the fact that since 2014, but especially during the first months of 2015, the US-Iranian negotiations over a nuclear deal advanced significantly. As the prospects of a nuclear deal and the establishment of a Washington-Tehran détente arose, traditional US-allies are developing new forms of collective action instead of relying solely on the US. As both the GCC and Arab League are composed mainly by Sunni-majority countries, this rapid deployment force is being interpreted as an alliance directed toward countering Iran (Stavridis 2015, Mustafa 2015a)

Additionally, on March 28th-29th, following the beginning of the military intervention in Yemen, during the Arab League summit in Sharm el-Sheik, member countries' foreign ministers approved the establishment of an Arab Defense Force. Composed of 40,000 men – twice the size of NATO's Response Force –, it will be based on Egypt and commanded by a Saudi general. It shall be composed of ground, naval, air and special operation units. While the fulcrum of the forces shall be composed by Egyptian, Saudi and maybe Sudanese, countries such as Morocco, Jordan and the UAE will also provide men and niche capabilities, such as intelligence and special operation units (Mustafa 2015). While the troops are supposed to be paid by their respective countries, the permanent command structure will be financed by the GCC.

Saudi Arabia took the lead in this new regional configuration by coordinating the collective effort of an expanded version of its traditional main influence area, the Gulf Cooperation Council (Mustafa 2015a). Riyadh also started the bombing campaign simultaneously to the Lausanne P5+1 nuclear negotiations between Washington and Iran. Adding to the regional conditionings, Saudi Arabia has deep-rooted interests in Yemen. It has established, since Yemen's unification, a system of patronage over internal political factions, managing to balance one

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against the other. As demonstrated above, the fall of Saleh started dismantling this fragile balance of power, culminating with the Houthi takeover of Sana'a and subsequent advance southwards (Haykel 2011).

The dashing Houthi expansion toward Aden triggered a prompt response both from Saudi Arabia and Egypt – the leading military powers in the coalition – due to the city's strategic character. The seaport gives access to the Bab el-Mandeb strait, situated between Yemen, Djibouti and Eritrea, therefore connecting the Horn of Africa and the Arabian Peninsula. This strait is not only the entrance for the Red Sea but also its connection to the Indian Ocean (Visentini 2012, Balanche 2014). Through this important chokepoint passes most of the traffic that transits the Suez Canal, as well as through the Egyptian Suez-Mediterranean (SUMED)<sup>14</sup> pipeline. As the Suez Canal control is still one of the most important sources of revenue for the Egyptian government, any destabilization directly affects Egypt's economic security (A. Cordesman 2015b). As most of the Persian Gulf oil exports transit the strait, its daily flow of crude oil and natural gas is an estimated 3.8 million barrels/d in 2013. Such importance is reflected in the prompt rise in oil prices after the coalition's intervention began by the end of March.

The main Saudi goal is preventing the Houthi from taking over Aden. The control of such a pivotal port in the region by what they consider to be an Iranian proxy group would eventually allow Iran to outflank the Gulf and deploying air and naval forces to Yemen, which shares a long and porous border with Saudi Arabia (Stratfor 2015a).

### 3 PREVIOUS INTERNATIONAL ACTION

There have been two main multilateral spheres of discussion and action toward Yemen since the events that resulted in the fall of President Saleh: (i) the global sphere, through the United Nations Security Council itself; and (ii) the regional sphere, in which the GCC plays a leading role and the Arab League, a secondary one. The UNSC has adopted six resolutions regarding the Yemeni situation, while the GCC has been the prominent forum for coordinating a direct international approach by overseeing the transition from Saleh's government to Hadi's and later leading the military intervention, which soon became an Arab League-promoted force (IFES 2011).

<sup>14</sup> The Egyptian Suez-Mediterranean Pipeline (SUMED) connects the Ain Sukhna terminal in the Gulf of Suez to the Mediterranean Sidi Kerir terminal, in Alexandria. It is the only nearby alternative route to the Suez Canal and therefore is essential for transporting oil northwards when the tankers are too large to go through the Canal (EIA 2013).

As the most recent roots of the current situation in Yemen derive from tensions accumulated mainly from the transition process, a brief explanation of the role played by both the GCC and the UNSC in such developments is necessary. In 2011, the political settlement that followed the ten months of protests and clashes between government forces and rival factions was promoted by the GCC with the support from the UNSC's five permanent members plus the European Union. As the negotiations succeeded, both the GPC and the opposition, grouped into the Joint Meeting Parties, signed two agreements: the Gulf Cooperation Council Initiative and the Agreement on the Implementation of the Transitional Process in Yemen in Accordance with the Gulf Cooperation Council Initiative. Such agreements delineated the framework for a two-phased transition process: the first would consist of a presidential election to be held on February 21, 2012, and the second consisted in a broader political, electoral, military and constitutional reform, which has not been completed so far (IFES 2011).

The UNSC soon demonstrated its support for the transition process through the approval of Resolution 2014 (UNSC 2011). In what became a constant in subsequent resolutions adopted by the Council, it stated the view that the signature and implementation of the provision stipulated by the agreements was the only way to achieving an inclusive, peaceful and orderly process of political transition, urging all parties to abide to its provisions. Later UNSC resolutions' centered in attaining to such proceedings, and establishing punishment mechanisms for the individuals and parties that deviated from such guidelines.

After the successful presidential election that legitimated Hadi's ascension to power, Resolution 2051 (UNSC 2012) reiterated the next steps to be taken by Yemen, according to the GCC Initiative and its implementation mechanism. Those steps included the convening of the National Dialogue Conference, the restructuring of the Armed Forces and the constitutional and electoral reform, establishing a deadline for it to be completed in 2014. The United Nations Secretary-General has also appointed Jamal Benomar to act as the UN Secretary-General special envoy to Yemen, aiming to mediate negotiations between the conflicting parties and to provide reports directly to the UN Secretary-General and to UNSC (UNSC 2012).

As demonstrated above, the National Dialogue Conference was held in January 2014. Resolution 2140 (UNSC 2014) was adopted following its conclusion, endorsing the resulting agreement's provisions:

- (a) Obstructing or undermining the successful completion of the political transition, as outlined in the GCC Initiative and Implementation Mechanism Agreement;

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- (b) Impeding the implementation of the outcomes of the final report of the comprehensive National Dialogue Conference through violence, or attacks on essential infrastructure; or
- (c) Planning, directing, or committing acts that violate applicable international human rights law or international humanitarian law, or acts that constitute human rights abuses, in Yemen (UNSC 2014, 6).

The Houthi advance from January 2015 onwards was strongly criticized by UNSC members. Resolution 2201 (UNSC 2015a) urged an immediate suspension of hostilities by all parties and demanded that the Houthis retreat from the government buildings in the capital. It also asked for an acceleration of negotiations to form a new government. A presidential statement was approved by the Council on March 22 reiterating such provisions (UNSC 2015c).

On March 24, a letter from President Hadi was delivered to the President of the Security Council, stating that he had

“requested from the Cooperation Council for the Arab States of the Gulf and the League of Arab States to immediately provide support, by all necessary means and measures, including military intervention, to protect Yemen and its people from the continuing aggression by the Houthis (BBCNews 2015).

Two days later, a letter signed by the representatives of Saudi Arabia, Bahrain, Kuwait, Qatar and the UAE was delivered by the Qatari representative, stating that the signatory countries had decided to answer to the appeal by President Hadi, even through the use of force (UNSC 2015d). On that same day, Operation Decisive Storm began, prompting negotiations over a new UNSC resolution. Three days later, the 26th Arab League Summit resulted in the signing of the Sharm el-Sheik Declaration, expressing support for Operation Decisive Storm as the means of restoring the legitimate Yemeni government against the Houthis (SUSRIS 2015).

The position of GCC members has been represented inside the Security Council by Jordan, which urged for a more assertive stance against the Houthis. It has drafted the document that was approved as Resolution 2216, on April 14th, which established an arms embargo against the Houthi and its allied pro-Saleh forces. It also expanded the sanctions regime designed by Resolution 2140, targeting Houthi leader Abdulmalik al-Houthi and Ahmed Ali Abdullah Saleh, the son of the former president. Russia has proposed an alternative draft, asking for an unrestricted arms embargo, against all parties, the calling for immediate ceasefire, and the proposal of humanitarian truces (UNSC 2015e). Although

the ceasefire demand and the non-selective arms embargo have been rejected vehemently by Jordan, the asking for humanitarian truces was adopted by the Resolution (Security Council Report 2015).

A specific dynamic has developed over discussions regarding Yemen in the UNSC in the last years, which have been drawing a certain amount of criticism. There has been a formidable influence exerted by GCC members, mainly through Jordanian mediation, reaching a point in which the most recent and significant Resolutions, namely 2201 and 2216, were initially drafted by parties in the conflict, as Jordan. Such trend has evolved with the auspices of P5 members: while the UK is the penholder on Yemen, it has only circulated the text among the entire UNSC after previous negotiations between the GCC and the P5. Other non-permanent members, especially Venezuela, have frequently expressed their disapproval of such practices (Security Council Report 2015).

As the negative consequences of the military intervention accumulated, with an absence of any advance toward continuing the transition process, Jordanian proposals have been encountering much less support from other UNSC members (What's In Blue 2015b). One of such proposals was the promotion of the GCC-organized Riyadh Conference, which took place by the end of May. As the Houthis have refused to participate in any dialogue on a non-neutral territory, they have reportedly not having been invited, resulting in an evident failure to reach its aims of providing a roadmap for a peaceful and negotiated transition (What's In Blue 2015c). A more fruitful attempt to initiate peace talks was conducted on Geneva, from June 15th to 19th. Despite reported statements from both sides expressing the desire for a ceasefire followed by a withdrawal, no agreement was reached (What's In Blue 2015d).

The reason for that in the preconditions for negotiating posed by both sides: while the government-in-exile stresses the need for Houthis to implement the withdrawal stipulated by Resolution 2216 (UNSC 2015e), the Houthis demand the talks to be referenced on the Peace and National Partnership Agreement (PNPA), signed on September 21, 2014 between Yemen's major parties following the Houthi takeover of Sana'a. Despite the frequent UNSC statements recognizing the PNPA importance, Hadi and its supporters argue that such document was signed under coercion, therefore not being valid (What's In Blue 2015b).

## 4 BLOC POSITIONS

**The United States of America** is one of UNSC's most directly involved countries in Yemen, having considerable interests at stake in the region. With

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the fall of Hadi's government, the US lost its most collaborative partner in its counterterrorism strategy in the region, as the governments of both Saleh and Hadi provided intelligence, cooperation and bases to drone strikes (Stohl and Dick 2015, Rosen 2015). Before the Houthi advanced, Obama declared that “[t]his strategy of taking out terrorists who threaten us, while supporting partners on the front lines, is one that we have successfully pursued in Yemen and Somalia for years” (Obama 2014). This strategy was based on conducting drone strikes on terrorist targets which reportedly pose threats to US national security and on training and arming Yemeni local forces to degrade AQAP's activities (Zimmerman 2014). The drone strikes conducted by US caused several civilian casualties and were very unpopular among the local population (Raghavan 2012). After the Houthi takeover, the counterterrorist campaign has faced several problems, due to the chaotic situation and the absence of contact and cooperation between the US military and the Houthi leadership, although both have common enemies in AQAP and ISIS. In addition, Washington withdrew the remaining military personnel from Yemen, which have been moved to US bases in Saudi Arabia and Djibouti (Pearson 2015). Although these difficulties, it continues to strike high value targets in Yemen with drones based on military bases in neighboring countries (Rampton 2015), and, by mid-June, killed Nasir al-Wuhayshi, the top AQAP's leadership which was assigned to succeed Zawahiri as the main Al-Qaeda leader, in what has been described as the largest/most important/greatest blow to Al-Qaeda since Osama bin-Laden's death (Deutsche Welle 2015).

In accordance with President Obama's speech at West Point<sup>15</sup>, Washington is actively supporting the GCC-led campaign in Yemen, providing logistical support, weaponry and intelligence, yet with no direct military action. In addition, US military has been supporting the assault by others means, such as search-and-rescue missions and aerial refueling (M. Zenko 2015). Furthermore, US blocked several Iranian ships from reaching Yemen and sent an aircraft carrier to enforce the embargo imposed by the Saudi-led coalition (Parry 2015). The reasons to support this intervention are mainly: the security of Bab Al Mandeb strait, to deter what it perceives as an Iranian presence in Yemen through the support to the Houthi (Khan, Vela and Malek 2015), to defend Saudi Arabia's border, to protect Yemen's legitimate government (M. Zenko 2015). Also, NATO has a strategic partnership, known as the Istanbul Cooperation Initiative (ICI), with some GCC members (Bahrain, Kuwait, Qatar and the United Arab Emirates). This initiative has as

<sup>15</sup> In this speech, Obama stated that the United States would no longer act solely on its own to fight terrorism, but would rather cooperate and effectively support regional partners against regional instabilities and terrorism (Traub 2015).

main goals to fight terrorism and maintain the stability and security of the Gulf region (NATO 2014). Lastly, some analysts say that the United States support to Saudi Arabia was to comfort its traditional ally after the nuclear negotiations with Iran (Parry 2015).

The **United Kingdom** believes that the security and stability of Yemen is the interest of everyone in the international community. Therefore, UK supports the Council's response to the crisis through Resolution 2216, which called for a political solution and imposed sanctions on Houthis' leaders, which, according to the UK government, are the main responsible actors in destabilizing the country. In response to the humanitarian crisis, the United Kingdom increased its aid and urges others countries to do the same (Foreign & Commonwealth Office 2015). After the terrorists attacks in the Yemeni capital, UK, alongside with United States, withdrew its special military forces in Yemen, which were training local forces on counterterrorism and protecting embassy personnel (Pearson 2015).

Although seeing a political solution as the best for the situation, London supports the Saudi-led military intervention in Yemen, on the basis that it has been legitimized by President Abdrabuh Mansour Hadi Mansour's request (Aguilar 2015). According to the Foreign Secretary, United Kingdom supports the assault on Yemen "in every practical way short of engaging in combat" (Foreign & Commonwealth Office 2015). This includes support in infrastructure and maintenance of the British-built aircraft utilized in the campaign (Foster, Loveluck and Mojalli 2015). It is important to remember that the UK keeps providing Saudi Arabia with precision guided weapons, however the British government was assured that the weapons will be used according to international law (Press TV 2015).

**France** shows great concern with the deteriorating situation of Yemen, thus, it was a sponsor of Resolution 2216 (2015), which condemned the unilateral actions by the Houthi rebels that destabilized the country and minored the ongoing political transition. Through the Resolution, Paris seeks to achieve an end to the crisis, the resumption of an inclusive political dialogue, an agreement on the formation of a national unity government and a phased reconstruction of the Yemeni transition process. The country also calls for protection of civilians and the unobstructed access to aid by those (France 2015).

According to France, the menace posed by the Houthis to unity, integrity, stability and sovereignty of Yemen only benefits terrorist groups such as Al-Qaeda and Daesh/ISIS (France 2015). These groups were perceived as a threat to national security of France in two episodes. First, the declaration by an AQAP member that France has surpassed the US as the main enemy of Islam. Second, the group

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also claimed responsibility over the attack on the French magazine Charlie Hebdo in January, provoking a massive popular commotion (Russia Today 2015). In addition, a French national was kidnapped by an yet unknown group in Yemeni territory (O'Grady 2015).

As United Kingdom, France supports the Saudi-led military intervention in Yemen. In fact, in May, President Hollande was the first Western leader to take part in a GCC summit. This enhanced the cooperation between France and the GCC members in a new “strategic partnership”, based on five pillars: political coordination to address regional and global issues; military cooperation; security cooperation to combat terrorism; economic and energy cooperation; and cultural engagement (Aluwaisheg 2015). Also, as a member of NATO, France has a partnership with four members of the GCC to fight terrorism and maintain the security and stability of the Gulf region (NATO 2014). Furthermore, France and Saudi Arabia reached an agreement to boost Saudi Arabia's military capabilities, especially regarding the provision of fighter jets by France (Deutsche Welle 2015).

The **Russian Federation** is against the coalition's military intervention in Yemen, arguing that this action is a direct violation of international law (Barmin 2015). At the same time, Moscow encourages dialogue among the fighting factions in Yemen and supports the official government, to avoid a new failed state and a terrorist heaven in the region (Saunders 2014). Despite recognizing President Hadi as the legitimate government, Russia maintained negotiations with other parties in the conflict, such as the Houthis and the Southern separatist movement, in order to achieve a negotiated solution to the crisis. In spite of that, it has ignored the request for support from the Southern separatist movement, which has asked Russia for support in the attempt to secede from North Yemen, and later refused to grant official recognition to the Houthis as the legitimate Yemeni government, which has been proposed by a Houthi delegation to Moscow, in exchange to economic benefits to Russian companies (Suchkov 2015, Saunders 2014).

Russia proposed a draft resolution demanding humanitarian pauses, calling all parties to end hostilities and for a general arms embargos, not just targeting Houthi leaders (What's In Blue 2015a). It is the UNSC member which has most vehemently condemned the Saudi-led intervention, being the only country to oppose Resolution 2216 (2015) by abstaining to vote it, which was later drafted by Jordan (Voltaire Network 2015). Lastly, the main objective of Russia in the Yemeni crisis is to contain Sunni extremists groups, such as Al-Qaeda (Saunders 2014).

The **People's Republic of China** has major economic interests in the region, since Gulf countries are important economic partners, providing half of its oil

imports and possessing several Chinese companies' investments. Also, the "New Silk Road" passes through the Red Sea, which gives a greater strategic dimension to the region (Bhadrakumar 2015). In Yemen, China has several investments, most in oil industries (Chinese companies are responsible for eight percent of the Yemen's oil production), infrastructure and telecommunications. Furthermore, Beijing has provided millions of dollars to Yemen in humanitarian aid and economic assistance (Rakhmat 2014).

Beijing responded to the crisis evacuating almost 600 nationals and 225 foreign nationals from the port of Aden. The evacuation was undertaken by Chinese naval frigates, which were conducting anti-piracy patrols off the coast of Somalia. It was the first time that China helped to evacuate foreign citizens, and only the second time that China has used warships to evacuate its own citizens - the first one was in Libya, in 2011 (BBC 2015). Also, although condemning its unilateral actions, China negotiated with the Houthis, proposing potential economic development plans committing itself to protect Yemen's national interest (Banco and Masi 2015). Lastly, China believes that the chaos in Yemen represents a threat to the region's peace and stability, thus calls all parties to end hostilities and to achieve a political, inclusive and peaceful solution to the crisis. The government also takes note on humanitarian issues, expressing concern with the difficulties to deliver humanitarian assistance and to evacuate expatriates (Voltaire Network 2015).

**Angola** believes that Houthis' unilateral actions jeopardized the political transition that, despite all problems, was maintaining its course in Yemen, based on the Gulf Cooperation Council Initiative. Also, Angola urges all parties to accept the UN mediation and to abide to the Security Council's Resolutions to put an end to the conflict. Furthermore, Angola seeks a peaceful solution to the crisis and expresses deep concerns with the humanitarian crisis and the rise of terrorist activities in Yemen (Voltaire Network 2015).

As others countries, **Malaysia** is deeply concerned with the humanitarian crisis in Yemen, with most of its civilian population lacking basic needs, such as food, medicine and water (Voltaire Network 2015). Malaysia emphasizes the situation of Yemeni youth, as almost a quarter of the killed in the conflict were children. Also, the recruitment and use of children as a military force, mainly by the Houthis, is unacceptable, and Malaysia calls for a severe response for such international law violations (What's In Blue 2015a). Malaysia believes that the only legitimate path toward a democratic, stable and inclusive Yemen is the one based on the GCC Initiative and Implementation Mechanism, on the National Dialogue Conference and the Peace and National Partnership Agreement, those

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which were jeopardized by Houthis' attacks (Security Council Meeting Coverage 2015). Furthermore, the country praises the efforts of GCC and UNSC members to reach a peaceful and negotiated end to the crisis (Voltaire Network 2015).

In May, a controversy arose when a Saudi newspaper announced that Malaysia was joining the Saudi-led military coalition to intervene in Yemen, with troops already in Riyadh. However, this information was later denied by the government, which said that the troops were there for rescue of its nationals and humanitarian missions (The Malaysian Insider 2015).

As Malaysia, **Spain** is deeply concerned with the humanitarian crisis in Yemen. The country calls all parties involved in the conflict to promote an inclusive solution, with consensus and dialogue as means to reach a democratic and stable political transition in Yemen. Madrid also stresses the need to avoid any military action in the country to prevent an escalation of the conflict and the suffering of Yemeni population (La Moncloa 2015). As many others, the country shows grave concern with the increasing terrorist activity in the region. Furthermore, Spain points out the importance of transparency during negotiations inside the Council, since discussions about the draft resolutions were limited to a few members, excluding non-permanent ones (Voltaire Network 2015). Finally, as the United States, France and the United Kingdom, Spain is a NATO member, thus integrating the ICI with some Gulf countries (NATO 2014).

**Chad**, a close partner of the US and France in the struggle against terrorism, has a prominent role in the fight against terrorism in Africa and has been watching closely the recent events in Yemen (Schmidt 2013). In 2013, it supported with troops the French intervention in Mali and, in early 2015, it sent a brigade to fight Boko Haram in Nigeria and Cameroon (Allison 2015). Additionally, the headquarters of the French-led regional alliance against terrorism called Operation Barkhane is located at its capital, N'Djamena (Larivé 2014). Chad condemns the unilateral use of force against the legitimate government of Yemen, represented by President Hadi, especially by Houthis. Chad seeks cooperation between the international community and the Gulf Cooperation Council to prevent the collapse of Yemen. Furthermore, the country praises the efforts of the GCC to restore the government and peace in Yemen (Voltaire Network 2015). The country also calls all factions to stop military action and restore the political stability in line with the Gulf Cooperation Initiative and its Implementation Mechanism, the National Dialogue Conference outcomes and the Peace and National Partnership Agreement (Security Council Meeting Coverage 2015). Lastly, Chad reinforces all parties' obligations to respect international humanitarian law and to avoid targeting civilians.

**Chile** calls for an immediate cease-fire in the conflict and the release of political leaders under house arrest. The country criticizes the lack of attention given by the international community to the growing levels of deaths among the younger Yemeni population, including the children (Voltaire Network 2015). Also, Chile encourages all parties to avoid unilateral actions and to join talks mediated by the UN (Security Council Meeting Coverage 2015). Finally, joining Spain and others, Chile calls for a more transparent negotiation process in UNSC.

**Lithuania** stresses that the Security Council must call all parties in Yemen to come back to negotiations and to the transition process that was going on before the Houthis' aggressions, since this could save many innocent lives and avoid the escalation of the humanitarian crisis (Lithuania 2015). Lithuania call all sides of the conflict to observe and to comply with the international humanitarian and human rights law, emphasizing that humanitarian aid must be allowed to reach those in need without obstacles. Lithuania believes that the Council's message to the crisis should be that a political solution must be found, that violence is not the answer, and that those who continue the aggressions will be punished with sanctions (Voltaire Network 2015). Lastly, Lithuania is a member of NATO, which have a partnership with Bahrain, Kuwait, Qatar and the United Arab Emirates in the fight against terrorism and to achieve a peaceful and stable situation in the Gulf region (NATO 2014).

**New Zealand** values the Council's message to end the hostilities, to promote a return to dialogue and to an inclusive political process as agreed previously by the GCC initiative and National Dialogue Conference. New Zealand is deeply concerned with the deteriorating humanitarian crisis in Yemen, and reminds all parties from the obligation to comply with international humanitarian and human rights law (New Zealand 2015). New Zealand condemns the unilateral actions by the Houthis, which conducted a coup d'état against the transition process that had been previously endorsed by the Council. The country also stresses the need to focus also on the long term humanitarian, social and economic consequences of the crisis, which has been disregarded. Finally, New Zealand praises the efforts from Jordan, United Kingdom and the Gulf Cooperation Council members on the search for stability and peace in Yemen (Voltaire Network 2015).

**The Bolivarian Republic of Venezuela** sees the Security Council as having the responsibility to encourage a peaceful and negotiated end to the conflict in Yemen. This mediation by the UN should respect Yemen's sovereignty and territorial independence (Telesur 2015). Caracas supported the draft resolution proposed by Russia, claiming for humanitarian pauses and for an arms embargo on all parties (What's In Blue 2015a). Venezuela is apprehensive with rising

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terrorist activities in the region, especially from Al-Qaeda and ISIS, which are taking advantage from the current conflict. Lastly, the country agrees with Spain and Chile about the lack of transparency of negotiations inside the Council (Voltaire Network 2015).

**Nigeria** is deeply concerned by the deteriorating political, security and humanitarian situation in Yemen. The country sees dialogue and negotiation as the only paths to peace and stability in Yemen. Nigeria urges all parties to return to the transition process in line with the Gulf Cooperation Council Initiative and Implementation Mechanism, and by the National Dialogue Conference (Voltaire Network 2015).

**Jordan** has been one of the most active countries in the discussions regarding Yemen. As a GCC pending member and a close ally, it was the introducer of Resolution 2216 (2015) that was initiated by GCC, Resolution which has imposed sanctions on Houthi leaders and demanded that they unconditionally end the use of violence (What's In Blue 2015a). In addition, Jordan joined the Saudi-led military intervention in Yemen with F-16 fighter jets, in support of President Hadi's government , against the Houthis. According to the country, the main reasons to this military engagement were the Arab world's national security and its territorial integrity that was being perceived as violated by Iran in Yemen and other countries, such as Syria, Iraq and Lebanon (Omari 2015). Furthermore, Jordan stresses that a deteriorating political, humanitarian and security situation in Yemen, exacerbated by Houthi's unilateral actions, are a serious threat to neighboring States (Voltaire Network 2015). Lastly, the government urges all parties to join United Nations-brokered negotiations and to restore the political transition process as a means to promote peace and stability in Yemen (Security Council Meeting Coverage 2015).

## 5 QUESTIONS TO PONDER

1. Can Yemen's situation be considered as part of a broader regional dispute or it can be dealt with separately?
2. How can the Security Council avoid an escalation of the war and assure that the transition process can move on?
3. Is it the sanctions regime directed towards Houthi and pro-Saleh leadership an effective manner of containing the escalation of violence and forcing the parties to abide to a peaceful and negotiated political transition?
4. Is the air bombing campaign led by the GCC the best manner to promote

the return of a status quo ante and from thereupon, to continue the political transition process?

5. What can the UNSC prevent and/or remediate the negative humanitarian effects of the coalition airstrikes?

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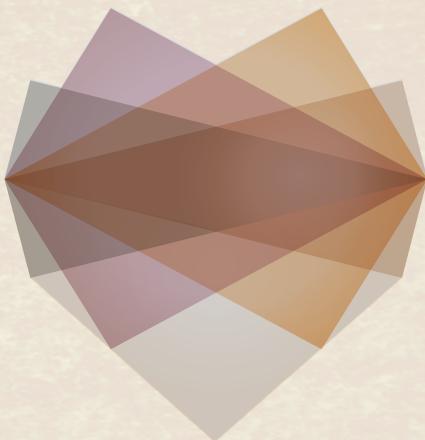
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