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INSTITUTIONAL ISOMORPHISM AND THE PERSISTENCE OF THE PRESENT INTERNATIONAL ORDER

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Abstract

International orders reflect the settled arrangements that define relations between states in certain moments in history. Order breaks down when the adopted set of organizational principles that define roles and the terms of those relations cease to operate. International organizations are a central feature of the current order and an important source of legitimacy. This article extracts a set of ideas derived from the new sociological institutionalism literature in organizational analysis and sets out an argument showing their possible implications for the present order. I argue that there are certain organizational features related to institutional isomorphism that may well support the persistence and maintenance of the current international order. The argument is based on the homogeneity of practices and arrangements found in different institutions and organizations. The persistence of those practices and their reproduction in structures are to some extent self-sustaining and may provide additional support to the idea that the current American-led international order may last longer than is often thought while allowing for changes in the distribution of power.

Keywords

International Organization; New Institutionalism; Institutional Isomorphism; Organizational Field; International Order

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Introduction

The current international order¹ is considered to be changing. There are power shifts taking place and the question regarding the nature of that change is a crucial one. Critically, it matters whether the power transitions that are taking place will lead to a bipolar order, or even to a multipolar one. But, in addition, it will be important to see whether there will be major changes in the operating nature of that order, or whether it will retain many of its main features, namely with respect to the role and importance of international organizations.²

Taking stock of the importance that international organizations and other institutions have had in the creation and maintenance of the current international order, the main argument presented here is that there is also a set of ideas that arises from sociology that may help sustain it. There are a number of organizational features pertaining to organizational theory related to institutional isomorphism, in particular, that should be drawn attention to given that they are likely to have an important influence regarding the way that international organizations operate and which, as a result, may provide significant support to the persistence of the current international order. These ideas follow from work related to the new institutionalism³ in organization theory and sociology - the new sociological institutionalism.

This approach rejects rational-actor models and considers institutions as independent variables in alternative to the more conventional approaches that take institutions as the consequence of motives and actions based simply on rational behaviour (Powell and DiMaggio, 1991). The new sociological institutionalism is the most influential theory in recent decades that studies matters related to institutional development. It is based on

¹ International order is considered to be the set of norms, rules and arrangement between states that guide the interactions between them, and, in particular, how major powers interact between them and with other states (see, for example, Ikenberry, 2001, 2014).

² International organizations are defined here, essentially, as organizations that have representatives from three or more states supporting a permanent secretariat and that are assigned to perform certain tasks in order to achieve certain defined and common objectives. Defined in this sense, it only encompasses international governmental organizations. However, although the focus of the analysis is centred on those, much of what is argued here in this article also applies to other international organizations, namely, nongovernmental organizations. On this matter, see for instance, Archer (2014).

³ As noted by Powell and DiMaggio (1991: 1): "there are many 'new institutionalisms'". Here, I will be concerned with the New Institutionalism in organizational studies and sociology. Its characteristics will become clearer as I proceed.



arguments that differ quite significantly from the more common line of research concerning the role and importance of international organizations, most notably in the creation and maintenance of the current international order within liberal institutional theory and regime theory. It is, nevertheless, complementary to it.

The remainder of the article unfolds as follows: In the first section, I present a brief analysis of the current international order with a view to characterizing the overall context of the main argument. Here, in addition to a number of general considerations about the nature and stability of the present order – while also contextualizing some of the power shifts that are taking place, most notably with the rise of China – I review the importance that international organizations have had in that order until now. The second section lays out a number of considerations on the nature of international organizations, drawing attention to their organizing principles and elements as bureaucracies. Here, I point out some of the most important features of international organizations as bureaucracies from an organizational theory viewpoint in order to highlight their importance and relevance in international politics. In this section, I also discuss the importance of power in the context of international organizations. In the next section, I illustrate some of the most well-known approaches that can be applied when studying organizations, in order to contextualize the perspective that I will follow in presenting my main argument. Some of the differences between these perspectives are also highlighted. The following section presents the main arguments on institutional isomorphism based on the work of Meyer and Rowan (1977), and DiMaggio and Powell (1983), given that they are essential to the main argument. After that, I argue that the mechanisms identified as sources of isomorphism, and indeed of some homogenization resulting from institutional isomorphism, are likely to play an important role in the maintenance of the current international order. The article ends with a conclusion of the main arguments.

The enduring stability of the current international order

A great deal has been written in the international relations literature about the role of international organizations and other institutions in the present international order, most notably, how they have been an essential part of the current order since the end of World War II. One very important attribute has been to provide collective legitimacy. The latter is very important, given that “Legitimacy is a property of a rule or rulemaking institution which itself exerts a pull toward compliance on those addressed normatively because those addressed believe that the rule or institutions has come into being and operates in accordance with generally accepted principles of right process” (Franck, 1990: 24). International orders reflect the settled arrangements that define relations between states in certain moments in history. Order breaks down when the adopted set of organizational principles that define roles and the terms of those relations cease to operate. Agreed-upon rules and institutions limit state power, and international organizations are a central feature of the current order as well as an important source of legitimacy (Ikenberry, 1998/99, 2001, 2014).

Since the collapse of the Soviet Union, the United States has enjoyed unparalleled power in the international system, with a level of power preponderance that no other state has matched in modern history. For that reason, this order is characterized as unipolar. Time will tell if, and when, we will return to a different kind of order, bipolar, as was the case during the cold war or to a multipolar one as many predicted would occur soon after the



end of the Soviet Union. However, so far this has not happened. It does, however, seem likely that the United States and China will continue to be the two greatest powers in the international system in the coming decades as China's economy continues to grow at a fast pace, possibly even surpassing the United States on a number of fronts and despite still lagging very significantly in terms of military power.⁴

It will be crucial to watch how the relationship between these two countries, notwithstanding others, will unfold. Largely, it will also be about the relationship between China and the liberal Western order that emerged after World War II through the leadership of the United States (Ikenberry, 2013). China still seems quite far away from becoming the first power, or superpower, in the world.⁵ It does not seem to wish to lead the world in a missionary way either. Nevertheless, China will want to push its interests forward and that will probably mean that world power will be shared between the United States and China at some point in time. In this context, there is a possibility that these countries succeed in finding ways to manage their differences and will be able to develop the prospects for political, economic and security cooperation leading to peace and stability in the international system. Furthermore, while China will likely want to reform parts of the postwar international rules-based order overtime in order to better suit its interest, this may occur without major changes in the way it operates.

Nevertheless, the possibility of conflict in the future exists if rivalries are not contained. The diplomacy of Beijing has sometimes been considered challenging, somewhat disturbing and often disrupting on several occasions (Christensen, 2011; Shambaugh, 2011). There is also some scepticism on what concerns the relationship between powerful states and international organizations. In addition, powerful states also often bend many of the international organizations norms to their will. Notwithstanding, membership of these organizations and adherence to the norms that they embody can be used as a way to demonstrate power and gain advantage. China will continue to try to limit and set boundaries on the United States power and international organizations can be effective institutions for that purpose.

All said, this order has also been relatively stable despite some significant shifts in the global distribution of power that seem hard to deny and are still taking place.⁶ This stability seems due to a number of institutional factors, namely, a number of "constitutional characteristics" (Ikenberry, winter 1998/1999: 45) that mitigate the existing differences in power between states and their implications, thereby reducing the need for states to balance. With its rules and norms, institutions are therefore a major component of the international order, exhibiting what Ikenberry (winter 1998/1999: 46) calls "increasing returns" characteristics. That may be considered relevant in the sense that the more they become a part of the present international order, the more they help maintain it and make it more difficult to overturn it. Furthermore, the current liberal international order can be organized in different ways. It has evolved over time and can

⁴ Military power is a crucial element here, notably in terms of polarity. The considerable difference still existing between the United States and China on this front is, from my perspective, considered essential for characterizing the international system as unipolar.

⁵ It remains to be seen if it ever will.

⁶ As one anonymous referee pointed out to me, examples such as the creation of the Asian Infrastructure Investment Bank – that is somewhat considered as a competitor of the World Bank – can be seen as resulting from the inability of the latter to allow changes in the distribution of power. My argument differs in the sense that I regard that situation as one possible circumstance of adjustment within the international order to allow for changes in the distribution of power and maintain its main features and characteristics. See also footnote 12 below.



continue to evolve (Ikenberry, 2009). It can be more or less tied to the existing norms and institutions, it can be more or less open, and more or less rule-based or institutionalized.

The nature of international organizations

Irrespective of the issue that one considers in world politics, being it conflict, economic or financial matters, humanitarian issues, environmental concerns, or any other, one is bound to find international organizations involved. Their function is much more than just executing international agreements between states. They shape the global international order and, particularly since World War II, they are central to order building and its maintenance. They often make authoritative decisions that have global reach. In many situations, international organizations act as facilitators of policy coordination, as mechanisms for managing and legitimizing the solutions to problems that managed otherwise by independent states in an interdependent world, would simply remain unsolved.

In essence, international organizations are bureaucracies, which continue to be the privileged framework for organizing work in a complex world (Weber, 1947; Weber, Roth and Wittich, 1978). Bureaucracies are considered to be the most efficient system of organization and the most effective way to rationalize processes in the current world, given some of the features that are associated with it, namely spheres of competence defined within a division of labour with some form of hierarchy. In addition, the necessary work and the pursuit of the defined objectives are carried out according to rules and operating procedures, and irrespective of the people working there in a particular moment, that is, they are impersonal. They allow an organization to respond more effectively and predictably to demands. As such, bureaucracies are sets of rules that define complex social tasks within a certain division of labour in the pursuit of certain objectives.

Bureaucracies also affect the behaviour of others actors within the international system, such as countries and other bureaucracies (Krasner, 1983; Keohane, 1984). They also define and create rules that have an impact on the social world. Such an example would be the case of the International Monetary Fund (IMF), in the sense of creating rules for managing balance-of-payments problems, or activities in the sense of institutionalized procedures for solving specific problems or accomplishing certain tasks. Not least important, bureaucratic culture tends to guide action, although it does not determine it, in the sense that bureaucrats tend to share a similar view of the world because those bureaucracies influence their interests and shape their views (Campbell, 1998; Immergut, 1987; Swidler, 1986).

Another crucial theme related to international organizations is power.⁷ Much can be said about power and international organizations and, in that respect, it is important to distinguish power in international organizations from the power of those organizations. More specifically, one can think of power within organizations in the sense of the capacity and the ability that members of those organizations have in the creation and functioning of those organizations. The same can be said in terms of negotiating ability and agenda-setting capability. However, here I wish to focus on the power of organizations. That is,

⁷ For a good discussion on power and international organizations see, for instance, Barkin (2013).



the idea that these international organizations have independent power and one that is non-military. That power can also be expressed in terms of influence within those organizations, namely through agenda setting and the creation of procedures. An example would be the United Nations, concerning international peace and security. This power arises from moral authority, which provides the specific organization with legitimacy to act in a depoliticized manner and from an impartial standpoint. However, it can also be used to push forward certain particular political positions and agendas.

The other source of power in international organizations is the production and control of information. Often, this authoritative power is related to the ability to make use of "epistemic communities" (Haas, 1992: 3), which allows organizations to present themselves as depoliticized and to emphasize an objective point of view with regard to knowledge. Again, a good example of this would be the IMF with respect to some claim regarding monetary policy prescriptions, but many other organizations can also provide similar examples. It is because bureaucrats possess information that others do not or, alternatively, because they can influence what information other actors should collect and reveal that they can increase their control over outcomes. In addition, bureaucratic power can include the ability to transform information into knowledge, giving it meaning, which can also have an effect in shaping social reality. All this provides a way of establishing rules and norms that international organizations wish to spread as models of good and adequate behaviour (Finnemore, 1996; Katzenstein, 1996; Legro, 1997). One of the functions of international organizations is considered to be the creation, spreading and enforcement of values and norms that are supposed to define what constitutes the acceptable and legitimate state behaviour.

Different approaches to study international organizations

Traditionally, international organizations have been studied from an institutional perspective (Kratochwil and Ruggie, 1986). From this perspective, which is a static one and does not allow understanding many of the changes that occur in these institutions, the way to proceed is generally through the study of their formal structures, organizing principles and hierarchies, which enables understanding what a specific organization can and cannot do. For instance, it would be impossible to understand the actions and politics of the United Nations without knowing how the veto power of the five permanent members of the Security Council works. The same can be said for the lending procedures of the IMF or the World Bank without being familiar with voting procedures. In addition, it is important to take into consideration that these organizations have both administrative employees and political appointees. A key distinction should be made here, given that the primary loyalty of the former is towards the organization and its goals whereas the primary loyalty of the latter is towards their respective governments. This has important implications for international governmental organizations.

Funcionalist and neofuncionalist approaches attempt to deal with the fact that international organizations change and evolve over time as new demands appear and become more international fuelled by increased cooperation. The difference between the former and the latter is that the latter also attempts to account for political demands and integration processes in addition to technical ones (Barkin, 2013: 29-40). Some funcionalist perspectives consider that international organizations exist due to the functions they perform, in the sense that states create them to try and overcome



problems and difficulties that otherwise would not be possible, or simply too costly. Their attention tends to focus on issues related to transaction costs, incomplete information and other barriers that states try to overcome, but, in essence, they do not account for a more independent role by international organizations, one that allows the creation of independent agendas.

Notwithstanding, it is worth noting that functionalist analysis also leaves open other important dimensions that have become increasingly important over the recent years, and particularly in the current international environment and with the current U.S. administration. Most notably, a number of international organizations, such as the United Nations, the World Trade Organization, and the UNESCO, among others, have become a battleground for states to operate in order to safeguard their interests within world politics, reflecting the power shifts that are occurring.⁸ Although there is a risk of this situation endangering the maintenance of the current international order in time, particularly if it persists, it does not undermine the correctness of my main argument.

The predominant approach for analysing international organizations in the international politics' realm is, in all probability, regime analysis.⁹ According to this approach, international organizations are considered to be formal structures that "can be defined as sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations" (Krasner, 1983: 2). As such, they also often lead to the creation of institutions, and some of which are international organizations that promote cooperation (Krasner, 1983; Keohane, 1984; Young, 1982, 1986). Some authors even argue that a regime always exists when there is a regular pattern of behaviour that is sustainable for a significant length of time (Puchala and Hopkins, 1982). In this sense, regimes and behaviour are closely linked. In turn, this may help maintain the current order. However, a crucial idea in this approach is that international organizations have no agency. Their role is the usual image of international organizations seen as instruments that states use to achieve their own goals (Archer, 2014: 117).

Significantly, and differently from what is generally considered in regime theory, several international relations authors, some of whom with a constructivist leaning, have disputed the value of the rational actor's approach to the study of institutions. They tend to adopt a more process-oriented perspective, whereby institutions constitute actors (states) but also constrain them, and which leads policy-makers to take into consideration norms and rules in their decision-making processes (Ruggie, 1982; Kratochwil and Ruggie, 1986; Krasner 1988; Keohane, 1988). From their perspective, international organizations promote norm dissemination because of the focus on trying to generate consensus through multilateralism. According to Acharya (2006: 113) "Without multilateralism, the norms of sovereignty would not have become so prominent a feature of the post-war international order". Operating according to international norms leads to norm dissemination, where a norm can be identified as "a standard of appropriate behaviour for actors with a given identity" (Finnemore and Sikkink, 1998: 891). Furthermore, it facilitates domestic approval for action like "international rules and norms can affect national policy choices by operating through the domestic political process (Cortell and Davis, 1996: 471). Moreover, norms matter and they have a real

⁸ I am grateful to one of the anonymous referees for pointing this out to me.

⁹ International regimes are generally considered to be multilateral agreements based on the notion that international cooperation is possible and occurs.



and relevant impact on the way states behave. This occurs either through 'regulative' effects, in the sense that they induce states to behave in a certain way, or in a 'constitutive' way, which means that they influence the preferences and interests of states (Glanville, 2016: 186-187). Others argue that under certain restrictive conditions of the failure of individual actions by states to secure Pareto-optimal outcomes, international regimes may play an important role in the international system, despite its anarchic nature (Stein, 1982; Jervis, 1982).

Notwithstanding the relevance of the different approaches to organizational analysis, the focus here takes a different perspective, most notably from what is generally considered in the positive theory of institutions in general. The argument here is more of a sociological nature and does not necessarily follow a rational approach perspective.¹⁰ It is based on the new institutionalism literature in organizational analysis that considers the homogeneity of practices and arrangements found in different institutions and organizations. The persistence of those practices and their reproduction in structures are, to a certain extent, self-sustaining. Nevertheless, most significantly, it also allows for changes in the distribution of power within the international order.

This different approach is based on arguments of a particular type of new institutionalism, whereby normal organizational structures reflect technical demands and resource dependencies, but which are also shaped by institutional forces that include rational myths, knowledge legitimated through the educational system, by the professions, and the law. Organizations are deeply embedded in social and political environments. In addition, these organizational practices and structures also reflect, or are responses to, rules, beliefs, and conventions built into the wider environment. This perspective has a clear sociological flavour that distinguishes it from the remaining ones.

Much of this is also related to the work of Bourdieu (1977, 1980, 1984) and Bourdieu and Wacquant (1992), which follows a reflexive epistemology and a relational ontology that builds on the notion of 'habitus' and fields. Bourdieu's concept of *habitus* consists of a system of dispositions that originate in social structures but that are so deeply internalized by actors that they generate behaviour even after the original structural conditions have changed (Swartz, 1997, particularly p. 101). Bourdieu's notions of fields¹¹ and *symbolic capital* deepen our understanding of the network not only as a system of knowledge flows – an instrument or means – but also as an important phenomenon in its own right. The core idea here is that there are processes within organization theory that are pertinent to the realm of international institutions/organizations. These processes may be industrywide, national or international in scope. It can also be considered that this perspective shares common ground with the work of Wendt (1987, 1999).

The mechanisms of institutional isomorphism and homogenization

The central argument of the new sociological institutionalism lies on the processes of institutional homogenization (Lawrence and Suddaby, 2006; Tempel and Walgenbach, 2007). This follows, particularly, from the seminal contribution by Meyer and Rowan (1977) and DiMaggio and Powell (1983). Meyer and Rowan argue that many formal

¹⁰ On this subject, see Powell and DiMaggio (1991, specially the introduction).

¹¹ That is, networks or social arenas within which struggles occur for scarce resources.



organizational structures come about as reflections of rational rules, with institutional rules functioning as myths that organizations incorporate in their structure and mode of operating, thereby also gaining legitimacy and stability. These authors argue that in order to achieve legitimacy, organizations tend to construct stories about their actions and activities. These stories are used as forms of symbolic reassurance to appease influential people or the public in general. The focus of DiMaggio and Powell (1983) is on processes of institutional homogenization, as well as similarity of practices and arrangements in institutions. In essence, they developed the former theme further. Noting the remarkable similarity of organizations in contemporary industrialized societies, they question why organizations tend to become so similar to each other. Their central argument is that organizations tend to incorporate practices, rules and procedures that have been institutionalized and, in establishing how this process occurs, they highlight coercive, mimetic, and normative processes of reproduction that lead to the isomorphic organizational structures that generate increased legitimacy. Rather than because of competition, or objectives connected to greater efficiency, organizations attempt to obtain legitimacy in their environments in response to institutional pressures. This homogeneity of practices leads to a constant and repetitive *modus operandis* in organized life that may not be easily explained by a rational-actor approach.

According to DiMaggio and Powell (1983: 150): "Coercive isomorphism results from both formal and informal pressures exerted on organizations by other organizations upon which they are dependent and by cultural expectations in the society within which organizations function". As such, coercive factors may also involve political pressures and the force of the state, and, in some cases, even provide regulatory oversight and control, namely through defining measures and procedures that need to be implemented by the actors within those regulated industries. However, they can also arise from cultural expectations. In the case of international organizations, one can also think of isomorphism resulting from more subtle and indirect processes.

A second source of institutional isomorphism is mimesis (DiMaggio and Powell, 1983: 151). This mechanism works in the sense that actors are pulled towards certain types of organizational models, and often times of work and behaviour, as they find those solutions to be attractive to the problems they face, or favourable in terms of advancement and recognition. This imitation of institutional templates legitimated in the organizations' field often makes up for a lack of rationality of the decision and, last but not least, becomes a safeguard in the case of failure, as one is able to demonstrate having done "what should have been done" or acted "according to correct procedures". This mimetic isomorphism can be seen as a response to uncertainty and as a source of legitimation (DiMaggio and Powell, 1983: 155; Kalev et al, 2006; Meyer and Jepperson, 2000; Meyer and Rowan, 1977; Powell and DiMaggio, 1991).

There is also isomorphism that results from normative factors that stem from the influence of the professions and the role of education, many of them with great authority and influence, as well as mimetic forces drawn on habitual and taken-for-granted responses to circumstances of uncertainty. For instance, universities and other professional training institutions diffuse standards across national boundaries and often become "best practices" in any given profession. As such, they "are important centres for the development of organizational norms among professional managers and their staff" (DiMaggio and Powell, 1983: 152). Moreover, they function as developers of common practices and ways of thinking, thereby favouring professionals in organizations



at various levels to become alike in background, education and orientation. In many organizations, notably international governmental organizations, there is often an informal filtering in hiring. A similar situation occurs throughout career progression that also favours isomorphism. In this context, Kontinen and Onali (2017) provide a good example of normative institutional isomorphism involving nongovernmental organizations (NGOs).

The three mechanisms pointed above may not be easy to distinguish from each other empirically. They are separate but can, and most likely do, operate simultaneously, with their results not being easily identifiable.¹² That issue needs not detain us here. More relevant is the notion that in order to survive, organizations need to convince the environment in which they operate that they are legitimate and that, as a result, they deserve to exist. Organizations have a need to perpetuate these symbolic and ceremonial activities about their activities. They become part of the environment, that is, they become institutionalized. No doubt, international organizations are not immune to these influences, given that their respective bureaucracies also play a determinant role in the way they operate. In addition, some of these processes are also likely to influence political representatives in these organizations and the policies of the single states. The persistence of those practices in these international (governmental) organizations and taken-for-granted ways of proceeding in terms of behaviour and attitudes favours a reproduction of structures that provides additional support to the maintenance of the current international order.

Conclusion

New institutionalism has become a leading approach within organizational analysis, particularly among north-american organizational sociologists. The main idea is that organizations need to gain legitimacy in order to survive and, as a result, they tend to create myths about themselves, often through symbolic and ceremonial activities. Those become institutionalized and deeply embedded in social and political environments.

We are witnessing power transitions within the international system and it is not yet obvious how this will affect the present international order, not least to what extent. However, despite those power transitions, the fundamental nature of the current international order needs not to change dramatically or, seen from a different perspective, may change at a much slower pace. Many arguments from a liberal institutionalist perspective have argued precisely that. However, in addition to that, the argument presented here is that there are institutional processes and mechanisms that have been studied in organizational theory within the New Institutional Theory that may well provide additional support to the idea of an enduring order. These processes tend to impact organizations in general and irrespective of the area of activity and socio-political context, and, as such, they are likely to influence international organizations as well. The end result may well be that they are likely to play a role in the maintenance of the current

¹² For instance, the Asian Infrastructure Investment Bank surely displays elements of isomorphism with the World Bank of both mimetic and normative factors at work, albeit not necessarily easy to identify. This would result from the adoption of similar organizational structures, rules and rituals, as many of the existing features in one organization are present in the other in terms of acting "according to correct and best procedures".



international order which, consequently, may last longer than is often thought, while accommodating some of the shifts in power that are taking place.

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JÜRGEN HABERMAS AND THE DEMOCRATIZATION OF WORLD POLITICS

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Abstract

This article consists of a review of Jürgen Habermas's discussions of the dilemma posed by human global interdependence to the possibility of democratic politics. According to Habermas, since the Second World War, and in a process that has become only more pervasive since the end of the Cold War, human societies have been brought into increasingly tighter and more complex political, social and economic networks of interdependence that have ultimately undermined the capacity of state-based democratic publics to have some degree of influence over their conditions of existence. From a critical international theory perspective, Habermas's argument highlights the fundamental contemporary challenge faced by the social sciences in general, and International Relations (IR) in particular. From that perspective, the fundamental task of IR is not only to explain world politics, but also to orientate social and political practice towards an expansion of democratic control over them. The purpose of this article is to show how Habermas's work makes a fundamental contribution to improve that critical orientating role of IR. The article connects Habermas's more recent political writings on the European Union (EU) and the United Nations (UN) with his earlier work on the development of a theory of social evolution. In doing so, it shows how Habermas's work can constitute the basis for an approach to the study of world politics that both understands how the present dilemma between global complexity and democracy came to be the defining feature of the present stage of human development, and that discloses the immanent potential gathered by modernity for a radical expansion of democratic politics to the level of world politics.

Keywords

International Relations; Critical international theory; Democracy; Power; Capitalism; European Union

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JÜRGEN HABERMAS AND THE DEMOCRATIZATION OF WORLD POLITICS

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Introduction

Throughout his vast career, Jürgen Habermas has been engaged in the development of a theory of social evolution that captures the dynamics of human historical development. In this context, Habermas came to characterise the history of the species as a long-term collective learning process in two interrelated fields; that of moral-practical knowledge and that of technical-instrumental knowledge (Habermas, 1987). While the former refers to learning at the level of collective norms that regulate social life, the latter refers predominantly to learning in the areas necessary to the material reproduction of social life, namely the control of non-human nature through productive activities. Habermas's argument is that, throughout history, different stages of development of moral-practical knowledge have been embodied in human societies' social norms and background shared moral understandings (what Habermas refers to as the 'lifeworld'), while different stages of technical-instrumental knowledge have been embodied in the economy and related spheres, such as bureaucratic and technical administrations (what Habermas refers to as the 'system'). Habermas's argument is that as human societies develop and become more complex, there is a rising tension between lifeworld and system. If, on the one hand, moral-practical learning creates the possibility to exercise greater democratic control over social life, on the other hand, social complexity creates pressures towards greater systemic autonomy, with bureaucratic and economic social sectors assuming dynamics of their own that escape democratic politics (Habermas, 1987).

In the last 20 years, Habermas (1996; 2001; 2012) came to argue that modernity faces a fundamental 'systemic problem' that, with the global interweaving and interdependence of humanity brought about by globalization processes, now encompasses the whole world. A core feature of this problem is how, with the integration of national economies in a global capitalist market, and especially with the radical liberalization of financial markets since the end of the gold standard in 1971, there has been a dramatic increase in the autonomy of systemic contexts in relation to democratic publics that have remained state-bound (Habermas, 2001). This has undermined the balance between democracy and systemic autonomy that had been achieved within welfare states since the end of the Second World War. It is also the source of the contemporary resurgence of ethno-nationalist movements calling for a reinforcement of state sovereignty as a

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supposed solution to the unplanned harmful social consequences of a global capitalist system that is out of control (Haro, 2017). However, to Habermas, a return to the state is an illusory escape from the problem. Rather, his argument is that it is necessary to develop a new 'principle of organisation' for world politics; one capable of expanding social adaptive capacity to the developmental challenges posed by growing global interdependence (Habermas, 2012).

In this context, Habermas has been mainly concerned with identifying the cognitive potential, available in modern worldviews and consciousness structures, for the development of such a principle of world political organisation that changes the prevalent balance between state-based democratic constituencies and global autonomous systems. In particular, Habermas is interested in understanding how the process of democratisation of social life, already initiated at the level of welfare democratic states, can be extended to world politics in a manner that reinforces human collective and conscious control over the systemic character of inter-state relations and the global capitalist economy.

Habermas's arguments in this regard are analysed in the following four sections. First, the article addresses Habermas's observations on how human global interweaving undermines the degree of democratic control that citizens of democratic welfare states are capable of exercising over their conditions of existence. Second, it considers Habermas's argument that a reconstruction of Kant's project for perpetual peace is required as an orientating framework regarding how the global web of humanity can be organised in a manner that guarantees a greater degree of collective and conscious control over its future development. Third, it analyses the connection between this argument and Habermas's more recent writings on the European Union, and on the decoupling between democracy and state power that can occur in its context. And fourth, the article addresses how Habermas's analysis of the EU informs his boulder proposal for a reform of the United Nations and associated radical democratization of world politics.

Global interdependence and democracy

Since 1971, with the end of the gold standard and subsequent radical liberalization of financial markets, the systemic dynamics of capitalism were unleashed from the boundary conditions established by national democratic publics and became capable of developing out of their own accord in conditions of greater autonomy. The capacity to freely move capital across the webs of the world economy meant that, increasingly, important areas of society were submitted to relations on the basis of money as the main means of social integration (Habermas, 2001: 78). This permitted multinational companies to withhold investment in certain states or social areas, blocking the access to important sources of revenue through taxation, unless states underwent reforms to make their internal conditions more adequate to the needs and interests of capitalist corporations. States have thus become increasingly compelled to compete with each other in making themselves more attractive to global business interests, namely, through the privatisation of areas such as health and education, the reduction of workers' salaries and benefits, the extension of working hours, and a combination of increased taxes for citizens with a reduction of corporate taxes (Habermas, 2001: 79).

Under these conditions, welfare states' social security systems, designed to alleviate the negative effects of capitalist development, became overburdened with rising



unemployment and a shorter taxation basis. Increasingly, then, welfare states became a channel for the systematisation of national lifeworlds by global systemic imperatives and lost the capacity to guarantee democratic control over capitalist dynamics. Accompanying the growing intricacy of global economic networks, there also emerged unplanned chains of interlocking political decisions and outcomes that, when combined with the way that cultural and political identities are reshaped and rekindled by such processes, have made many local and regional sub-state actors question the legitimacy of the nation-state as a representative and accountable centre of power (Habermas, 1973; Habermas, 2006; Held, 1995: 136). The process of globalisation has thus 'enmeshed' nation-states in the dependencies of an increasingly interconnected world society whose systemic contexts 'effortlessly bypass territorial boundaries' (Habermas, 2006: 175; see also: Walker, 1988).

One of the answers to this situation has been the hegemonic behaviour exhibited by the United States (US) in the last two decades. Recent attempts by the superpower to use its military, technological and economic superiority to create a global order compatible with its 'religiously coloured notions of good and evil' constitute an expression of the historical possibility for the emergence of an 'imperial answer' to the challenge of regulating global interdependence (Habermas, 2006: 149). However, according to Habermas, the most likely outcome of the continued pursuit of such a strategy, given the inevitable resistance on the part of other great powers, such as Russia and China, is the emergence of a 'Schmittian' world order, characterized by the 'alarming prospect of competition among hemispheres' (Habermas, 2006: 148). Such a global order would, in effect, undermine the possibility of collective control over the process of globalisation, as the unplanned dynamics arising out of great power competition would push people and states into patterns of interaction not intended by any of them, and with potentially harmful implications for all the participants.

Instead, Habermas (2012) proposes an alternative 'principle of organisation' for world politics in the form of an extension, to the level of international society, of the long-term process of democratisation of social life that has hitherto been confined to the intra-state level. The democratic-legal taming of state power that has been occurring within welfare states needs to be carried further, in the form of a democratisation of the international system of states, that pacifies relations between states and controls their anarchic competition for power. Furthermore, such pacification would create the conditions for the establishment of new supranational procedures and institutions, as well as new forms of solidarity between people, on the basis of which a higher degree of conscious and collective control might come to be exercised over the dynamics of the global economic system.

In this context, Kant's project for perpetual peace is suggested as the most compelling alternative to the hegemonic proposal. However, it is also found to be in need of 'reconstruction' in light of Habermas's own research into long-term processes of legal pacification of state power.

The political constitution of world society

Kant's project is built on the awareness of the internal connection between peace and freedom (Kant, 2015; Habermas, 2006: 175). Only under conditions of international peace can human beings exercise a sufficient degree of control over inter-state relations



that guarantees they are capable of freely self-determining their conditions of existence and not be dragged by the unplanned dynamics of inter-state competition and conflict. Both the pacification and the greater control of inter-state relations can be achieved, in Kant's view, through the establishment of a code of law regulating all possible dimensions of human interdependence (Kant, 1991). Respectively, civil law regulating relations between citizens within a state; international law regulating relations between states; and cosmopolitan law regulating relations between states and human beings in their quality of world citizens.

In Habermas's interpretation, (though there are others, see: Kleingeld, 2012; Mikalsen, 2011) Kant considers that such a code of law requires the constitution of a world federation of republican states with coercive powers to ensure its compliance. An understanding that Habermas contests by noticing how the actual historical development of international law since Kant's time leads to a different conclusion. Namely, that there is an important difference between the development of legal control over state power within states, and legal control over state power in the relations between states (Habermas, 2006: 122). The former implies a process in which an already existent monopoly over the means of legitimate violence comes to be circumscribed in its operation by civil laws that, concomitantly, depend on that same monopoly to guarantee their compliance. In the latter case, there is no supranational monopoly over the means of legitimate violence to ensure the application of international law. Rather, international law is developed and guaranteed on the basis of the expectation of self-restraint on the part of states. Hence, the development of international law 'runs counter' to the development of civil law, given that the main challenge at the level of international relations is how to make international law effective, and not how to tame and legitimize the power of an already existent monopoly over the means of legitimate violence (Habermas, 2006: 172). At the international level thus occurs what Habermas (2006: 134) refers to as a 'decoupling' of law and state power, which does not occur at the intra-state level.

If taken into account, this 'decoupling' shows that Kant's model of a 'democratic federal state writ large – the global state of nations or world republic – is the wrong one' (Habermas, 2006: 134). It is wrong not only because it understands the pacification of world politics as a reproduction of the process that already took place at the intra-state level, but also because it envisions that the monopoly over the means of legitimate violence and international law remain fused in a single institution, the world federation of states. Instead, an analysis of the actual historical development of international law reveals a decoupling between state power and law, which opens up the possibility for an alternative to Kant's world federation (see: Beardsworth, 2011: 32).

According to Habermas, this alternative is found in the possibility of a 'decentred world society', as a 'multilevel' global order that lacks the character of a state, but ensures collective democratic control over the dynamics of both the inter-state and the global economic systems (Habermas, 2006: 136). This multilevel world society implies not only the constitution of the three levels of law envisioned by Kant – respectively, the civil, the international and the cosmopolitan – but also the creation of three levels of decision-making. First, the supranational level of a world organization which is responsible for the clearly circumscribed tasks of securing peace and protecting human rights without, however assuming the state-like character of a world federation of states. Second, the transnational level in which great powers and continental unions of states address



economic, social and ecological problems within the framework of permanent conferences. And third, the national level in which each state's lifeworld, expressed in their respective public spheres, can reacquire democratic control over national state power and the globally-connected national economy, given their integration in the multilevel world society (Habermas, 2006: 136). By stressing the plurality of legal orders in a politically constituted world society, Habermas effectively rejects the notion that law should form a unitary and hierarchical normative system, instead envisioning the coordination of legal orders to be guaranteed not by a vertical chain of authority, but rather by the performance of deliberative processes of consensualization of norms at different levels of decision-making.

Habermas (2006: 136) notes that, at the present historical juncture, only 'natural great powers', such as the USA, Russia or China, have the necessary resources to operate at the transnational level and establish continental regimes regulating economic, social and environmental policies in their respective areas of the globe. Consequently, in order to further give shape to this politically constituted world society, states in the various 'world regions have to unite to form continental regimes on the model of the European Union' (Habermas, 2006: 136). With this proposal for the political constitution world society, Habermas intends to show that a 'world republic' is not the only institutional form that the Kantian project can assume, nor is it the most adequate orientating device for how to pursue the pacification and democratization of world politics, given the cognitive potential gathered by world historical development (Beardsworth, 2011: 32)

The next two sections address in greater detail Habermas's reflections on the transnational and the supranational levels of his envisioned multilevel world society by focusing, first, on his discussion of the European Union and, afterwards, on his proposals for the reform of the United Nations.

The European model

Habermas's most elaborate proposal for the political constitution of world society is found in the compilation of texts entitled *The Crisis of the European Union: A Response* (2012). There, he argues that, under conditions of global interdependence, human beings can only attain a greater degree of democratic control over the global systemic dynamics that threaten them with environmental, economic and social disruption via the constitution of continental unions of states responsible for the regulation and coordination of policies in their respective areas of the globe.

The European Union (EU) is the longest surviving effort at extending the pacification of social life initiated within states to the international level. This effort has been developed in order to not only pacify the inter-state relations of a continent 'drenched in blood' but also to develop decision-making and steering capacities that enable European states to collectively exercise a greater degree of control over the dynamics of the international and economic systems that affect the continent as a whole and ignore state borders (Habermas, 2012: 28). An essential aspect of this process has been the development of European law regulating state behaviour without, however, the constitution of a European monopoly over the means of legitimate violence. The innovations coming into being in the EU can thus, in time, serve as a reference for other, less integrated, regional institutions (Habermas, 2001). In particular, the fact that European law is obeyed and has its own constituency independently of domestic law and state power sets a



'precedent' for regional and global politics, effectively posing a new relation between law and power. This new relation is argued to provide a new 'model' for political organisation at the regional and global levels (Habermas, 2012, see also: Beardsworth, 2001: 98).

However, Habermas also notes that the democratization process in the context of the EU is far from finished. One of the main challenges is the fact that European economic integration has not been matched by the creation of democratic political institutions capable of regulating the common market. The EU's continued reliance on economic interdependence driven by business interests as the main integrative and pacifying force on the continent is 'no longer acceptable' without a concomitant effort to match the logic of market efficiency with the democratization of European political institutions (Habermas, 2012, Verovšek, 2012: 369). Decision-making processes at the level of the EU thus continue to be predominantly shaped by relations of power between states that escape the influence of national public spheres, while producing decisions that have a profound effect on the conditions of existence of the populations of each state. Hence, European law, while enabling the self-regulation of the European system of states, frequently lacks legitimacy in the eyes of European citizens given how it is not constituted by deliberative processes of consensualization between all those who stand to be affected by it (see: Linklater, 2007; Fraser, 2007). The present character of the EU is thus better described as form of 'executive federalism', in which the European Council, composed of representatives of each state, enacts measures that are implemented at the national level through governmental majorities that disempower national parliaments and escape the control of deliberative national publics (Habermas, 2012: 28). As such, national governments and bureaucratic administrations can use European institutions to escape the regulation of national public spheres and recover a degree of systemic autonomy from the normative constraints of national lifeworlds.

Habermas thus sees the EU as a highly contradictory social formation. On the one hand, it has contributed to the pacification of European inter-state relations and to the development of European institutions with the capacity to extend legal and democratic control over systemic forces that have bypassed national boundaries. But, on the other hand, these same institutions reinforce the autonomy of state power vis-à-vis national lifeworlds and diminish the level of collective democratic control that people are capable of exercising over their lives, becoming a 'kind of post-democratic, bureaucratic rule' (Habermas, 2012: 52). The EU is a 'paradox' to the extent that it shows marked tendencies for a deepening of its democratic deficit while also gathering the potential to serve as a vehicle for the extension of democratic governance beyond the nation-state and thus for the development of democratic boundaries on the 'socially corrosive' impacts of globalisation (Habermas, 2001; Grewal, 2001).

The EU stands at a crossroads in Habermas's assessment. On the one hand, it faces the danger of a deepening of its democratic deficit by becoming a conveyor belt for the transformation of national lifeworlds according to the systemic pressures of state bureaucracies and capitalist interests. On the other hand, the historical development of European institutions and the legal pacification of the continent constitutes a 'novel' event in world politics that gathers the immanent potential for extending democratic decision-making to the transnational level of world society. Such an extension would permit the constitution of a European 'transnational democracy' that further approximates an 'ideal communication community' (Habermas, 2012: 52).



The main difficulty facing the democratization of the EU, Habermas observes, is that, except for the European Parliament, democratic institutions of decision-making continue tied to the state level. In this context, some have argued that the democratization of the EU is impossible given the absence of a common 'demos' beyond European nation-states, a collective European identity that creates bonds of solidarity between European citizens and makes them a single constitutional subject (Dahl, 1999). The 'no demos' thesis can, however, be contested in light of Habermas's theory of social evolution that notes that while the 'nation' has served as the basis for political community at the state level, it has done so only to the extent that it was the historical solution to the tension inherent in the identity of modern citizens. A tension between their universal moral character, which is 'better suited to world citizens', and the reality of the fragmentation of world politics between different nation-states (Habermas, 1979: 115). As such, inherent in the moral orientations of modernity is already present the cognitive potential to overcome the 'nation' as the main principle of organisation for political communities (Habermas, 2006: 76).

In modern, universalistic worldviews and consciousness structures lies the potential for the validity and legitimacy of social norms to derive less from being grounded in ethno-nationalist identities than in universal principles that have been constituted via deliberative processes of consensualization involving all those who stand to be affected by them. This deliberative character of the validity and legitimacy of law implies its decoupling from the background of shared national traditions. Decision-making processes concerning common problems can thus be informed by 'principles of justice' rather than in terms of the 'fate of the nation', given how people's 'emotional fixation' can move from the ethno-national community to the deliberatively constituted law (Habermas, 2006: 77-78). Increasingly, 'civic solidarity' can be defined not by belonging to a common nation-state, but instead by a common allegiance to deliberatively achieved constitutional principles embodied in law. From that perspective, it becomes possible to conceive of an 'enlargement' of civic solidarity and of the boundaries of political community to encompass non-nationals and outsiders as rightful members of a transnational dialogic community of co-legislators who are bound by their affectability by common norms, rather than by shared cultural orientations or political aspirations (Linklater, 1998: 85; 2017). Habermas calls this transnational civic solidarity 'constitutional patriotism' (Habermas, 2006: 53; Habermas, 2006b: 118).

Constitutional patriotism expresses a possible new principle of organisation for welfare states and world politics that permits the expansion of civic solidarity beyond the frontiers of the 'nation'. It points to the possible emergence of a European-wide civic solidarity that binds together in a 'post-national constellation' people from different states through a shared allegiance to the principles of European law, which they collectively recognise as legitimate and valid *if* these principles derive from deliberative processes of decision-making involving all those who stand to be affected by them. The cognitive potential for the development of European transnational democracy is thus already present in the modern worldviews and consciousness structures of the citizens of modern European welfare states.

In fact, according to Habermas, the partial actualization of this cognitive potential of modern world views can already be observed in the growing decoupling of European law from state power. The Lisbon treaty is an expression of this process when, in the absence of a European monopoly over the means of legitimate violence, derives the legitimacy of



European law from constitutional principles that have been constituted by the EU's 'dual constitutional subject', which is defined as the national peoples (represented by their states) and the citizens of the European Union (Habermas, 2012: 37). In Habermas's view, the Lisbon treaty thus confirms *de jure* what the EU has historically denied *de facto*; i.e. that the legitimacy of European law can only be secured if it derives from democratic deliberative processes of decision-making involving both the citizens and the member-states of the Union. Consequently, the present decoupling of European law from state power on which the EU is structured, as well as the validity of European law, can only be maintained if the Union actualises the ideal of the political constitutionalization of world society at the transnational level and makes the 'dual constitutional subject' of the Union an institutional reality (see: McCormick, 2007).

The institutional apparatus for the actualization of the 'dual constitutional subject' is already in place, in the form of European citizenship and institutions such as the European Parliament and the European Council. What is required is that these institutions embody the cognitive potential gathered in modern worldviews and consciousness structures by establishing a European-wide democratic 'two-track' decision-making process. One that enables individuals, both in their quality of European citizens, and of citizens of their respective national states, to participate – respectively in the Parliament and the Council – in the constitution of European law (Habermas, 2012: 28). This scenario implies that the 'same persons' will embody these two roles in 'personal union' and adopt 'different justice perspectives' depending on which of the two decision-making tracks is involved. What counts as a 'public' interest in deliberative processes that they undertake as citizens of a state, changes into a 'particularistic' interest in deliberative processes that they undertake as European citizens. (Habermas, 2012: 37). This tension arises from the dual character of the decision-making process and has important consequences for the democratic character of the European Union.

On the one hand, it ensures that European law actually possesses democratic validity and can secure its compelling power to regulate inter-state relations, even in the absence of a European monopoly over the means of legitimate violence. Furthermore, it also extends the level of democratic control that European citizens are capable of exercising over the systemic contexts affecting the European continent – be it those of inter-state relations or those of the capitalist market. On the other hand, the fact that the dual constitutional subject of the EU is composed not only by European citizens, but also by the states of the Union, means that European law cannot be superimposed on national constitutional laws. Each state is capable of safeguarding its own internal legal and normative framework, by ensuring that European law must satisfy the standards of civil liberties that have already been historically achieved at the state level. Hence, European law embodies both the 'universal' orientations of European citizens and protects the 'difference' of the several cultural biotypes of each one of the national peoples of the Union (Habermas, 2012: 40).

The transformation of the European Union into a transnational democratic association of states and citizens would contribute to the actualisation of the new principle of organisation of world politics which is immanent in modern worldviews and consciousness structures. It would be a 'further step' in the political constitution of world society and in the democratization of world politics by permitting deliberative publics to acquire a greater degree of collective and conscious control over the systemic dynamics of inter-



state and global economic relations, which have escaped their control within welfare states (Linklater, 1998: 167; Linklater, 2011).

However, Habermas is well-aware that any such developments in the European Union are necessarily intertwined with wider dynamics of the international system and global capitalism and that the democratization of the transnational EU level can only be successful if framed in the wider democratization of world politics. The next section thus turns to how Habermas's reflections on the EU are complemented by his work on the potential for the political constitutionalization of the supranational level of human interdependence. Namely, it considers his proposal for a reform of the United Nations as a condition for the expansion of democratic control over the global inter-state and capitalist systems that presently undermine human beings' capacity to self-determine their conditions of existence.

The cosmopolitan condition

The goal of expanding democratic legal control over systemic contexts beyond national borders derives its impetus from a 'paralysing constellation' in world politics. The globalisation of human interdependence has 'exhausted' the capacity of states to answer to the problems posed by the global systemic forces of inter-state competition and capitalism that have developed beyond the control of even the most powerful states or unions of states (Habermas, 2012: 54). Hence, transnational efforts at democratic legal regulation, such as those of the European Union, must be complemented by the further democratization of world politics. Namely, via a reform of the United Nations that democratizes its role in the legal definition of the boundary conditions for the operation of inter-state relations and capitalist markets.

According to Habermas (2006: 137), the democratic reform of the UN demands a transition to a 'cosmopolitan condition' in world politics, characterized by the 'substitution' of international law by cosmopolitan law. Unlike current international law, cosmopolitan law would be the result of decision-making processes involving not only states, but also world citizens in their quality of constitutional subjects of the world organisation. The UN would thus have to institutionally embody the two innovations that Habermas sees as immanent in the transnational level of the EU. On the one hand, it would have to ensure the compliance of member states with cosmopolitan law even though the monopoly over the means of legitimate violence would remain at state level. On the other hand, it would have to institutionally embody a 'dual constitutional subject', composed of world citizens and national peoples; represented by their respective states, or by other representative entities, such as NGO's, in the case of sub-state or stateless peoples (Habermas, 2012: 54).

While the first of these two conditions can already be discerned in the institutional framework of the United Nations, the actualisation of the second element requires the attribution, to every single human being on the planet, of the status of world citizen, and the constitution, parallel with the General Assembly, of a 'world parliament' composed by their elected representatives (Habermas, 2012: 58; see parallels between Habermas's proposal for world citizenship and those made by Apel (2007) who, however, lacks Habermas' level of engagement with the institutional changes that might be required to actualize forms of world/cosmopolitan citizenship). The world parliament would not transform the United Nations into a world republic, but it would reinforce the democratic



legitimacy of cosmopolitan law by making world citizens, alongside with states, one of its constitutional subjects. In other words, in the same manner of what would take place in an EU transformed into a transnational democracy, cosmopolitan law would not superimpose itself on national constitutional law or ethno-national conceptions of the good life. Member-states, as the second constitution-founding subjects, would be able to protect their internal orders from cosmopolitan law that did not meet their standards of civil liberties (Habermas, 2012: 58). Furthermore, since the world organisation is not a world federation of states and does not possess a supranational monopoly over the means of legitimate violence, it would have to rely on 'national monopolists' for the fulfilment of its tasks, including those envisioning the implementation of coercive measures in order to reinstate compliance with cosmopolitan law. The need for the world organisation to rely on member-states in this manner not only confirms the decoupling between law and state power that characterizes the political constitution of world society, but also ensures the protection of the autonomy of states through the maintenance of the monopoly over the means of legitimate violence at the state level (Habermas, 2012: 61). In this manner, the democratization of world politics envisaged by Habermas would effectively 'wed together' the Kantian ideal of equal membership of a universal kingdom of ends with the Marxian project of dismantling systems of domination and exclusion that undermine human autonomy by promoting new relations between universality and difference (Linklater, 1998).

Essential in this regard, according to Habermas, is that the world organisation restrict itself to the tasks of maintaining peace and protecting human rights, leaving decision-making processes related to economic, social or ecological problems to the transnational level of world society. The restriction of the UN to this narrow set of core functions derives from the argument that issues related to economic, social or ecological problems, while expressing a 'shared abstract interest' of all human beings, necessarily imply answers that relate to particular conceptions of the 'good life' (Habermas, 2012: 63). These are issues whose answers involve the self-affirmation of particular cultural and political identities and, as such, while admitting of consensualization between people who share common cultural characteristics as part of their collective history and belonging to a particular region of the globe, are not liable to truly universal answers arising from global processes of consensualization between world citizens. Consequently, these issues should be dealt with at the transnational level, where continental unions of states in the same cultural areas can potentially come closer to common agreements on preferable 'ways of life' (Habermas, 2012: 63). However, the same judgement does not apply to issues of world peace and human rights. In Habermas's (2012: 64) assessment, these issues express an *a priori* general interest shared by the world population, 'beyond all political-cultural divisions', in the avoidance of violence and in the expression of solidarity with 'everything that has a human face'. These issues have an inherently universal character, to the extent that shared human vulnerability to war and violence is a common feature of the species (see: Linklater, 2011). As such, their discussion is liable to produce truly universal answers, arrived at through global processes of consensualization of norms involving world citizens and all the states into which humankind is divided. The world organisation must thus restrict itself to those issues that admit of universally shared human interest.

According to Habermas, the universal, species-wide, character of the core functions of the UN also means that the world organisation has different legitimacy requirements than



the transnational level of continental unions. Given that 'negative duties to refrain from unjustifiable human rights violations and wars of aggression are rooted in the core moral content of all the major world religions and in the cultures they have shaped', global civic solidarity amongst world citizens can be based on these shared convictions and does not require a deeper collective commitment to a common conception of the 'good life', as occurs at the transnational level (Habermas, 2012: 65). Consequently, the democratic assessment of the deliberative decision-making processes of the world parliament can be based only on the 'expression of the, in essence morally justified, "yes" or "no" to the supranational application of presumptively shared moral principles and norms' (Habermas, 2012: 65). So, while the legitimacy of law at the transnational European level demands not only a dual constitutional subject but also the permanent consideration of transnational issues in a European public sphere, the weaker legitimacy requirements of cosmopolitan law do not demand the formation of a permanent global public sphere. They simply require the thematic and temporally circumscribed constitution of a global public 'sparked intermittently by this or that major event without achieving structural permanence' (Habermas, 2012: 62).

Conclusion

Habermas's reflections on the possibility of democratization of world politics provide an important starting point to discuss how to deal with the erosion of the capacity of state-bound democratic publics to control the social processes that bind them together at the global scale. In Habermas's assessment, the answer to this erosion demands a new principle of organisation for world politics. One whose actualization lies immanent in the cognitive potential that has been gathered in modern consciousness structures by the long-term process of human development. According to Habermas, the cognitive potential of modernity implies the possibility of a decoupling between democracy and state power, on the basis of which the political constitution of world society can occur in a manner that would re-establish the balance between democratic politics and the systemic imperatives of global capital and inter-state relations. Habermas's theory of social evolution thus provides a highly compelling approach to a critically-committed IR that seeks to fulfil its role as a means of orientation that is adequate to deal with the challenges posed by the complexity of human global interdependence. In other words, an IR that seeks to constitute itself as an orientating framework that can help people both acquire a better understanding of themselves and of their present historical context and identify what sort of international institutional innovations are required to actualize the immanent potential of modernity for a further expansion of human beings' capacity to self-determine their conditions of existence.

Habermas's proposals, however, constitute only a starting point for the development of such an IR. Further work needs to be done, especially in better connecting Habermas's philosophical-theoretical proposals with more concrete historical-sociological analyses of world politics. For example, it is debatable whether Habermas's restriction of the tasks of the world organization to those of the maintenance of peace and human rights – under the argument that these tasks, unlike those related to economic, social and ecological problems, are more universal and less bound with particular conceptions of the good life – is completely tenable. The historical record shows that matters such as the maintenance of peace and human rights are as politicized and caught up with particular



conceptions of the good life as those related to economic, social and ecological problems. Sufficient evidence of this can be found in the numerous debates in the Security Council surrounding the legitimacy of international interventions in the name of the maintenance of peace or in recent debates about whether human rights, as currently conceived, are truly universal, or if their content is still expressive of a phase of predominance of Western powers in international society (see: Sun, 2016; Qi, 2005; Regilme, 2018). Furthermore, recent developments in world politics have seen international organizations at the transnational level, such as the European Union or the African Union, assuming, or with the intention of assuming, a greater role at the level of the maintenance of peace and security in their respective areas of the globe (see: Joshua and Olanrewaju, 2017; Nováki, 2018). And finally, it is highly debatable whether problems that arise with economic, social and ecological interdependence can be adequately dealt with purely at the level of transnational continental unions, or whether these issues, especially in the context of increasingly out-of-control capitalist globalization and global climate change processes, do not require also at least some degree of global coordination; a coordination that would necessarily have to take place at the level of Habermas's envisioned world organization.

As such, Habermas's critical approach to world politics needs to be further developed, namely through a deeper engagement with the historical-sociological study of world politics in order to disclose the actual existing immanent potentials for the development of the type of 'cosmopolitan vision' Habermas is seeking to nurture (see: Beck, 2006). Recent developments in critical international theory appear to be moving in this direction, either calling for the need for greater historical-sociological engagement (Schmide, 2018, Devetak, 2018), or seeking to develop it themselves (Linklater, 2016). It is up to contemporary and future scholars to complete this task and understand if, and how, Habermas's ethical vision for the future of world politics might be actualized.

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THE RELEVANCE OF HUMAN RIGHTS COUNCIL SPECIAL SESSIONS: THE PROTECTION OF THE CIVILIAN POPULATION IN CURRENT INTERNAL ARMED CONFLICTS

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Abstract

This article focuses on the analysis of the first decade (2006-2016) of the Human Rights Council (HRC) work. We analyze particularly the relevance of the HRC special sessions in what concerns to the protection of civilians in current non-international armed conflicts (NIAC). The HRC, that replaced the Commission on Human Rights, was established by the United Nations General Assembly (UNGA) Resolution 60/251 adopted on 15 March 2006. This institutional reshaping intended to transform the HRC into an action-oriented body, in an attempt to give a more effective and rapid response to global human rights (HR) protection challenges.

Following the 2004 Report of the High-Level Panel on Threats, Challenges and Change, the United Nations General-Secretary Kofi Annan drew attention to the fact that a decisive moment for the United Nations (UN) had begun. Kofi Annan highlighted in particular the need to fulfill the aspirations established in the United Nations Charter (UNC), and emphasized in general terms the challenges facing HR protection, particularizing the protection of the civilian population given the complexity of our days armed conflicts. Therefore the HRC appears in this line of institutional restructuring.

The special sessions are one of the working methods of the HRC which allows the consideration of gross HR violations that need attention and require an urgent decision-making. The author argues that the analysis of these sessions is particularly relevant, because it allows us, on the one hand to examine which situations were analyzed, and on the other hand the different positions regarding this decision-making method that has not always proved consensual. I also argue that this decision-making procedure reflects some opportunities and faces challenges in trying to deal with the different perspectives of the actors within the HRC.

Keywords

Human Rights Council; Special Sessions; Protection; Civilian Population; Internal Armed Conflicts

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THE RELEVANCE OF HUMAN RIGHTS COUNCIL SPECIAL SESSIONS: THE PROTECTION OF THE CIVILIAN POPULATION IN CURRENT INTERNAL ARMED CONFLICTS¹

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Introduction

The HRC was established by the UNGA Resolution A/RES/60/251 adopted on 15 March 2006 replacing the Commission on Human Rights. The Commission had been criticized for being a highly politicized body (Sheeran and Rodley, 2013: 745), in which countries were seeking seats to avoid the discussion of their HR internal situation, and the approval of measures such as the appointment of fact-finding missions, commissions of inquiry or even the adoption of sanctions, by which the mission that gave rise to it “the protection of the victims of HR abuses” became a protective shield for the offenders (Lauren, 2007: 307).

It is therefore not surprising that when talking about the need for more comprehensive reforms in the UN system, special attention was devoted to replacing the Commission on Human Rights and to the importance of HR for collective security (Lauren, 2007: 330-331), as discussed after the World Summit, in the report of the High-Level Panel on Threats, Challenges and Change entitled “A more secure world: our shared responsibility”, as well as in the report of the United Nations Secretary-General (UNSG) Kofi Annan “In larger freedom: towards development, security and human rights for all”.

On this issue Cox (2010: 95) emphasized the fact that the UNSG, the UN High-Level Panel, and a growing number of Member States have lobbied in such a way that the Commission began to be seen by many as a problematic institution that needed to be replaced. As the World Summit in 2005 demonstrated, the idea of replacing the Commission on Human Rights took over the UN, leading to a constant pressure to replace this body that States may have perceived as a reputation cost if they did not support a new institution. The HRC was therefore established in this sense as an action-oriented body as set out in Resolution 60/251. Its status was also elevated to a subsidiary body of the UNGA, which gave to this body greater powers of action and a higher autonomy as advocated by the UNSG.

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From a constructivist point of view, the negotiation process and the establishment of the HRC itself denote the influence that agents can have on the structure of the United Nations (Ruggie, 1998; Wendt, 1995). Since we are dealing with an intergovernmental process the role of the UNSG, the role of the Experts appointed by the SGNU and the position of the Member States responsible for the decision-making were central in the whole process.

Among the working methods of the HRC is the holding of special sessions which take place whenever 1/3 of the Member States consider that there is a flagrant situation of HR abuses that require attention and an urgent decision-making (A/RES/60/251: 4). This method was sought as a way to counteract the political blockade that had begun to discredit the work of the Commission, which allows us to infer about the importance of these sessions for the protection of HR.

The convening of these sessions was also made more flexible compared to what happened in the Commission. Besides analyzing the situation in specific countries, it is also possible to hold sessions on topics on the field of HR (thematic sessions). Another innovation was the reduction of the number of States needed to convene these sessions, which allows urgent issues to be discussed in the HRC more easily (ICRC, 2008: 490). All these innovations were aimed to respond quickly to HR urgent needs.

Special Sessions

Between 2006 and 2016, the first decade of the HRC work, which can be considered as a milestone for the analysis of its performance, in which all expectations were put into the work of this new body, were held 26² special sessions. This reveals on the one hand, the greater capacity of performance and analysis of the HRC and, on the other hand, the greater facility of convening these sessions. These sessions will be analyzed from the point of view of their contribution to the protection of civilians in NIAC, taking into account the initiative of their convocation, the contributions and positions for the decision-making and the final result of the session in order to infer about the fulfillment of these expectations.

Sudan

The first case in the ambit of our analysis to be taken before the HRC was the HR situation in Sudan. This was the HRC fourth special session convened by Finland (A/HRC/S-4/1). The session was supported by States from the various continents including Cuba, Russia, China, India and Ecuador, which show greater susceptibility to interference in States internal affairs. This could lead to a good prognosis for the HRC work. Nevertheless this session had the opposition from the State concerned, Sudan that however participated in the session, as did all States whose internal situation was analyzed. The States position indicates, on the one hand, the acceptance of the competence of international bodies in which States decide to participate, in this case, the HRC, and on the other hand, their attempt to influence the decision-making of these bodies.

² 7 of these sessions referred to the Israel-Palestine conflict characterized by the UN as an international conflict (TIJ, 2004: 7-8). The 7th, 10th and 13th sessions do not refer to armed conflict situations.



The information presented by the Independent Experts, the HRC Special Rapporteurs and by the UN Special Representatives is essential in these sessions and in general terms to the HRC decision-making. They are responsible for presenting concrete information on each situation whose credibility or veracity is difficult to challenge, since the functions of these experts are part of a mandate given to them in the framework of the UN system and, as such, accepted by the UN Member States. This is a fundamental component of the HRC work. As an intergovernmental political body the independence of these Experts from Member States is crucial in the analysis of HR situations. Although cooperation is the essential engine of this interaction, the work and independence of these Experts allows them to persuade States to change their positions and perceptions regarding the various issues as analyzed by Constructivism, and in our case, in what concerns to the protection of the civilian population³.

The seriousness of the HR situation in Sudan, in particular, the offenses and abuses against civilians, had come to the attention of the Commission, but without great practical results. At the meeting, the representative of the Commission of Inquiry on Darfur, the UNSG Special Adviser on the Prevention of Genocide, the UNSG and the United Nations High Commissioner for Human Rights (UNHCHR) emphasized the attacks on civilians who were sometimes instigated by the government itself. The UNHCHR specifically enumerated these HR and International Humanitarian Law (IHL) violations (torture and other cruel, inhuman or degrading treatments; sexual violence and other abuses; the displacement of civilians; the looting of civilian property; the obstruction of humanitarian assistance; the threats of murder; the impediment to the return of internally displaced persons (IDPs); arbitrary arrests and detentions).

In line with these reports, Finland, the promoter of the session, introduced the draft resolution A/HRC/S-4/L.1 in which concern was expressed regarding the humanitarian and HR situation in Darfur and a call was made on the end of HR and IHL violations (A/HRC/S-4/L.1: 1-2). Alternatively, Algeria, on behalf of the African Group (AG), presented the draft resolutions A/HRC/S-4/L.2 and A/HRC/S-4/L.3. These proposals did not contain any recognition of HR and IHL violations despite the information given by the Independent Experts and Finland's proposal. In this session as a result of the divergent positions of Member States was approved the Decision S-4/101 adopted without a vote. In this Decision, in general terms, the HRC Member States expressed their concern about the humanitarian and HR situation in Darfur and decided to send a High-Level Mission to assess the HR situation and the needs of the country in this regard (A/HRC/S-4/5: 3).

The AG's position indicates the lack of support for a strong and condemnatory action on the situation in Darfur, which reveals at this early stage of the HRC's work a reluctance of most States in adopting measures which could have internal implications particularly at the criminal responsibility level. However the seriousness of the situation proven by the information presented led to the appointment of a fact-finding mission, demonstrating the importance of the Experts reports on the situation and the pressure on the need to continue to monitor the humanitarian and HR situation in Sudan. The focus on the protection of civilians in Sudan and the pressure to achieve an improvement

³ By civilians, as provided for in Article 50 of the I Additional Protocol to the Geneva Conventions (GC), we mean persons who are not members of the armed forces; the civilian population comprises all persons who are civilians. Some practice adds the condition that civilians are persons who do not participate in hostilities (ICRC, 2005).



of the situation on the ground led to the analysis of the situation in regular sessions, in which support from the govern and the AG was obtained.

South Sudan

Albania, Paraguay, the United Kingdom and the United States of America (USA) requested a session about the HR situation in South Sudan, the HRC 26th special session (A/HRC/S-26/1). This session had an interregional support, except from Venezuela and South Sudan. Nevertheless South Sudan was willing to cooperate, reserving however its sovereign right to take appropriate measures in a timely manner. This position reveals that sovereignty remains an unavoidable point in international relations, although we may regard cooperation as a counterweight to this situation in the sense analyzed by Wendt (1995). According to this author the interaction in social structures (in which we can include the HRC) can shape the identities and interests of the actors that seek also legitimacy and international recognition.

We should begin by highlighting the independence of South Sudan from the State of Sudan in 2011 and that despite the HR and IHL violations reported since 2006, as we discussed on the special session on Sudan, no special session on the situation was requested, being the regular forums considered sufficient to monitor the situation.

In the session the UNHCHR referred to HR violations in the country such as abductions, arbitrary arrests and forced displacement and violations of civil and political rights (freedom of movement, expression and opinion). The HR Commission in South Sudan has denounced these offenses, including infractions against children, highlighting the process of ethnic cleansing in the country also mentioned by the UNSG Special Adviser on the Prevention of Genocide. The imminence of hunger; the reduction of civil society groups and the increasing number of refugees and IDPs were also mentioned. For its part, the Chair of the Coordination Committee of HRC Special Procedures (CCSP) referred in particular to the sexual and gender-based violence used as a tool for ethnic cleansing and also to the attacks on civilian infrastructures and sites; forced recruitment of children; enforced disappearances; torture and ill-treatment and extrajudicial executions.

Taking the initiative of the decision-making the USA introduced the draft resolution A/HRC/S-26/L.1 which was adopted without a vote in Resolution S-26/1 (A/HRC/S-26/2: 9). This shows the support of the AG in this late stage of HRC work regarding the need of ensuring the protection of civilians. This Resolution included references to the infractions against civilians as mentioned by the Experts. It also included the issue of the accountability of offenders and the government's responsibility to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity (A/HRC/S-26/L.1: 2-4). The project also noted the importance of providing timely assistance and protection to survivors of sexual and gender-based violence, taking into account the needs of people with disabilities and referred to the restrictions on HR and fundamental freedoms (A/HRC/S-26/L.1: 3). These references clearly link IHL to the safeguards of International Human Rights Law (IHRL) in protecting civilians, a significant step in the protection of civilians compared to the restrictive Decision approved in the fourth special session.



Myanmar

The HR situation in Myanmar was examined at the initiative of Slovenia on the HRC fifth special session (A/HRC/S-5/1). However this session was not supported by Myanmar, Russia and India. This situation demonstrates that States don't like to be targeted directly in a specific session that blames them for failures in HR protection, but which can be achieved under the new HRC working rules, which highlights the significance of the structures in which States participate.

Regarding Myanmar, the Special Rapporteur on Myanmar warned about the violent repression of peaceful demonstrations by security forces and the restrictions on the media. Among the blatant violations were summary executions; restrictions on the freedom of religion and expression; torture and ill-treatment; lack of independence of judges and lawyers, as well as arbitrary arrests and detentions. The infractions were reinforced by the information provided by the UNHCHR.

These reports were included in the draft resolution A/HRC/S-5/L.1 submitted by Portugal on behalf of the European Union (EU) adopted without vote in the Resolution S-5/1 (A/HRC/S-5/2: 8). It was consensual to include besides the protection of the life and the physical integrity of civilians, the need to respect HR and fundamental freedoms such as peaceful political activities, guaranteeing also the freedom of peaceful assembly and association and the freedom of opinion and expression, including for free and independent media, and to ensure unhindered access to media information in Myanmar (A/HRC/S-5/L.1: 1-2). In spite of the initial reluctance cooperation was obtained for the resolution's approval as well as the consensus of Myanmar, Russia and India, evidencing the costs of reputation of States, due to the reports of the Experts and the mandate given to the HRC in which they agree to participate.

Democratic Republic of the Congo (DRC)

France had the initiative on the analysis of the HR situation in the DRC (A/HRC/S-8/1). This was the HRC 8th special session.

In what concerns to HR violations the UNHCHR has reported in the country the occurrence of summary or arbitrary executions; widespread abductions; looting and sexual violence and abuses, including against IDPs, women and children. In this regard, as the facilitator of the session, France presented, on behalf of the EU, the draft resolution A/HRC/S-8/L.1, but after long discussions on the proposal A/HRC/S-8/L.2/Rev.2 submitted by Egypt on behalf of the AG and the consensus reached, withdrew the draft. This allowed Resolution S-8/1 to be adopted without a vote in order to secure a consensus regarding the protection of civilians.

The initial proposal presented by Egypt A/HRC/S-8/L.2 was drafted in general terms, without reference to acts of infraction. The pressure made by the promoters of the draft resolution L.1 achieved consensus on the inclusion of the reference to offenses committed in Kivu against civilians, in particular sexual violence, child militia recruitment and the need for accountability for HR and IHL violations (A/HRC/S-8/L.2/Rev.1: 2). This achievement proves the relevance of the actors identities in the HRC structure and the mutual influence of these actors in the HRC work. The importance given to humanitarian assistance (food, water, medicines and shelter) and to the free movement of people and



goods were also mentioned, going beyond the protection of the physical integrity and dignity of civilians, increasingly consensual among States.

Sri Lanka

The HR situation in Sri Lanka was assessed at the HRC 11th special session on the initiative of Germany (A/HRC/S-11/I). This session was supported mostly by the Western European and Other States Group, with resistance from the countries of other continents and from Sri Lanka. This opposition was based on the argument that this was an internal situation of fight against terrorism.

The UNHCHR seeking to achieve progress in the protection of civilians has reported the existence of HR and IHL violations in the country (killings; forced displacement; destruction of property and livelihoods; lack of food, water and medical assistance and lack of independence of national institutions). It also referred to the importance of assisting the victims of violence that should have access to justice and remedies.

However, given the opposition to the session and in order to influence the final decision, Sri Lanka presented the draft resolution A/HRC/S-11/L.1. In this proposal only the offenses of the Tamil Tigers Eelam were mentioned. In the first amendment to the draft resolution that resulted in Resolution S-11/1 (A/HRC/S-11/2: 10), there was an attempt to reach consensus, given the refusal to accept Germany's proposal and some progress was made. To the protection of civilians was added the responsibility of the State to provide protection and humanitarian assistance (water, sanitation, food, medical care) and the obligation to respect IHRL and IHL. There was evidence that the protection of civilians was still insufficiently guaranteed by this proposal, and therefore this Resolution did not count with the support of the States that promoted the session. A main argument to this opposition was the fact that the infractions committed by the government were not included in the Resolution.

Ivory Coast

The 14th special session about the HR situation in Ivory Coast was requested by Nigeria (on behalf of the AG) and the USA (A/HRC/S-14/1: 4-5). The AG's position had been of cooperation within the HRC. This Group tried to solve or manage the HR problems on the Continent also through a decision-making position.

The Deputy High Commissioner for Human Rights reiterated, on behalf of the UNHCHR, the concern about HR violations in the country (repression of public meetings and demonstrations; harassment and intimidation; arrest and arbitrary detentions; torture; enforced disappearances; extrajudicial killings; forced displacements; violations of the freedoms of information, expression and the freedom of movement) which hindered the provision of humanitarian services and assistance.

Following the initiative to convene the meeting Nigeria, on behalf of the AG, introduced the draft resolution A/HRC/S-14/L.1. This proposal was adopted consensually in Resolution S-14/1 (A/HRC/S-14/1: 6-7). On the Ivory Coast HR situation, HR and IHL violations committed by all parties to the conflict were considered as reported by the Special Representative, including against fundamental rights and freedoms such as the freedom of information and expression. The impact of the conflict on the provision of



humanitarian assistance, including the socio-economic impact on the population was another important issue. The protection level granted by the Resolution goes beyond the protection that would be conferred under IHL according to common Article 3 to the GC (the only one accepted by all States in NIAC), specifying also the rights of IDPs and refugees, including civil, political, economic and social rights that guarantee the well-being and subsistence of the population. These rights are increasingly consensual as evidenced in previous sessions.

Libya

The HR situation in Libya that had come under consideration at the UN was also taken into account on the initiative of Hungary on behalf of the EU at the HRC 15th special session (A/HRC/S-15/1: 6).

On the protection of civilians, UNHCHR and the CCSP have warned about the violent repression against peaceful protestors with mass killings; arbitrary arrests and detentions; torture of protestors; blockages to residential areas; impediment to medical and humanitarian assistance; use of foreign combatants (mercenaries) and violations of the fundamental rights and freedoms of the population.

On the initiative of the promoter of the session was presented draft resolution A/HRC/S-15/L.1, project that was adopted without a vote in Resolution S-15/I (A/HRC/S-15/I: 10-11). The draft resolution contained an explicit reference to offenses against civilians according to the information submitted by the Experts, including on fundamental rights and freedoms violations (A/HRC/S-15/L.1: 1-2). Although there was no reference to socio-economic rights unlike we have seen on Ivory Coast's Resolution, or to the use of mercenaries. Given the seriousness of the situation it was decided to establish a Commission of Inquiry to investigate IHL violations in Libya in order to ensure accountability (A/HRC/S-15/L.1: 2). On Libya we find a consensual that could not be reached on Syria.

Syria

In the same vein of other UN bodies that analyzed the HR situation in Syria as soon as the conflict triggered, the HRC on the initiative of the USA analyzed this situation at its 16th special session (A/HRC/S-16/2: 5). This was the first of several extraordinary sessions on Syria in order to contribute to the resolution or management of the internal situation in the country, particularly important due to the blockade on the UN Security Council (Gowan and Pinheiro, 2014). This lack of consensus did not occur in the analysis of the Libyan conflict as we have seen.

The special session, as it will be evident in all the meetings convened, was not supported by Syria. Syria considered that its internal situation was an emergency situation/maintenance of public order, so it did not require the HRC's attention. This position was supported by Russia, China, Cuba, Venezuela, Ecuador, Pakistan and Nicaragua.

At the session, the Independent Experts did not take a stand on the classification of the conflict, which could undermine decision-making. They focused on the protection of civilians in terms of the HR and fundamental freedoms considered applicable to all



situations, including in emergency situations. Therefore, the UNHCHR among the offenses considered the use of live fire against peaceful protestors; the practices of detention and enforced disappearances; torture and ill-treatment; restrictions to freedoms of expression, assembly and association; persecution and intimidation; attacks against medical personnel, facilities and patients; attacks on densely populated areas; impediment of food delivery and assistance to the wounded and blockade of public services such as electricity and the transportation system, which could amount to crimes against humanity. The Special Rapporteur on the Right to Food on behalf of the HRC mandate holders also considered that reparations and compensations should be provided to victims and their families.

Taking the initiative in decision-making, the USA presented draft resolution A/HRC/S-16/L.1 approved in a non-consensual way in Resolution S-16/1. In the draft resolution it was reaffirmed the obligation of States to protect the fundamental rights and freedoms of civilians (A/HRC/S-16/L.1: 1) in line with the contribution of the Experts, indicating once again the importance of these Experts in considering the protection of civilians through the reporting of violations. However, socio-economic rights such as food and health care were not mentioned explicitly, alluding only to the right to social justice.

A second session on Syria which corresponded to HRC 17th special session was requested by Poland on behalf of the EU (A/HRC/S-17/1). This session had already interregional support, including from Arab countries, but maintained the same opposition block.

Similarly to the previous session, UNHCHR and the Special Rapporteur on Torture on behalf of the HRC mandate-holders did not take a position on the classification of the conflict. The protection of civilians was considered under HR and fundamental freedoms as provided by IHRL as reported at the 16th special session. These infractions were now also confirmed by the mission sent to Syria.

In order to boost decision-making, Poland the promoter of the session on behalf of the EU presented the draft resolution A/HRC/S-17/L.1 also approved in a non-consensual way in Resolution S-17/1. The project referred to the reports of the Experts, and to the report of the fact-finding mission on Syria which revealed the violations committed by the Syrian authorities that could amount to crimes against humanity. In this resolution States urged also the Syrian authorities to guarantee humanitarian and medical assistance (A/HRC/S-17/L.1: 1-3). It was also decided to send a commission of inquiry appointed by the HRC President to investigate alleged IHRL violations, including crimes against humanity, in order to identify those responsible (A/HRC/S-17/L.1: 3). This appointment denotes the strengthening of HRC competence in dealing with the infractions against civilians whose offenders should be held responsible. It was also decided to transmit the reports of this commission to the UNGA that should transmit them to relevant bodies. These decisions reinforced the warning about the seriousness of the violations committed against civilians and sleeked also a positioning by the main UN bodies.

Once again Poland on behalf of the EU requested a meeting on Syria in the light of the report submitted by the Commission of Inquiry. This report was discussed at the HRC 18th special session (A/HRC/S-18/2: 6). This session had greater interregional support than the previous ones but maintained the same opposition block.

The Commission of Inquiry reported, as did the UNHCHR in the previous sessions, the HR and fundamental freedoms infractions against civilians in the country. Between these



violations were the killings, including of children; torture and ill-treatment; rape and other forms of sexual violence; imprisonment or other forms of deprivation of liberty; enforced disappearances; blockages of residential areas with obstruction of access to water, food and other basic services; destruction of property and civil infrastructures; violations of children's rights (including the right to education); restrictions to the freedom of movement; use of hospitals as torture centers for injured demonstrators; impediments to the provision of medical care and restrictions on civil and political rights such as the freedom of expression and the rights to peaceful assembly or demonstration, infractions that required a strong decision-making from the HRC.

In this regard Poland the promoter of the session on behalf of the EU presented in the meeting the draft resolution A/HRC/S-18/L.1 approved in Resolution S-18/1, but as the previous ones in a non-consensual way (A/HRC/S-18/2: 8-9). This proposal referred to HR and fundamental freedoms violations according to the reports of the Experts, emphasizing once again the importance of delivering humanitarian assistance; to the voluntary return of refugees and IDPs and concern was also expressed about the lack of accountability (A/HRC/S-18/L.1: 1-3). In the amendment to the draft resolution it was added the reference to the importance of fulfilling the civil, political, economic, social and cultural rights of the population, which demonstrates a greater consensus on this issue. The UN bodies were also requested to take action based on the Resolution (A/HRC/S-18/L.1/Rev.1: 2-4). This reference denotes the increasing pressure on the UN main bodies on the need to protect civilians.

A new session was requested by the representatives of Denmark, Kuwait, Qatar, Saudi Arabia, Turkey, the EU and the USA regarding the deterioration of the HR situation in Syria and the recent killings in El-Houleh, this would be the HRC 19th special session (A/HRC/S-19/1). This session had even more extensive support, highlighting the pressure on the need to solve the situation.

The Experts participating in the session, the UNHCHR and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on behalf of the HRC mandate holders referred, as in the previous sessions, to the protection of civilians in accordance with IHRL, which included the protection of HR and fundamental freedoms on the basis of the report of the Commission of Inquiry A/HRC/19/69.

Following these reports for the first time on the initiative of an Arab country, Qatar, was presented the draft resolution A/HRC/S-19/L.1 also approved in a non-consensual way in Resolution S-19/1 (A/HRC/S-19/2: 8). The proposal referred within the violations against civilians to the use of heavy artillery against residential areas and to physical abuses, specifying attacks on women and children, and violations of HR and fundamental freedoms (A/HRC/S-19/L.1:1-2), with no reference to economic and social rights unlike the previous ones. In the amendment to the draft resolution A/HRC/S-19/L.1/Rev.1 the UNHCHR statement was also recalled. In this statement the UNHCHR drew attention to the fact that the atrocities committed in Syria could amount to crimes against humanity, including its appeal to the UN Security Council to refer the situation to the International Criminal Court. This reference highlights the importance of the Independent Experts reports in decision-making given the prolonged severity of the situation which required the accountability of offenders. In the draft resolution it was also asked to the Commission of Inquiry to conduct an investigation on El-Houleh in order to identify those responsible (A/HRC/S-19/L.1:2), which reinforces the importance attached to accountability as a means of combating impunity.



The HR situation in Syria was subsequently examined at the HRC 25th special session requested by the United Kingdom due to the attacks in Aleppo (A/HRC/S-25/I).

As participants in the session the UNHCHR, the CCSP and the Commission of Inquiry reported offenses against civilians in line with the previous session's reports. The protection of civilians was made under IHRL, which includes all HR and fundamental freedoms, but by 2016 there was already an explicit reference to IHL, which means that a consensus was reached on the qualification of the situation as an "armed conflict".

Following the initiative of the session, the United Kingdom presented the draft resolution A/HRC/S-25/L.1 approved once again in a non-consensual way in Resolution S-25/1 (A/HRC/S-25/2: 7-10). In this Resolution reference was made to IHRL and IHL violations committed by all parties to the conflict, including sexual and gender-based violence, also practiced against children. Reference was also made to the destruction of civilian infrastructures (schools and medical facilities) in Aleppo; attacks on civilians; removal of items from humanitarian convoys; deliberate interruptions of water supply; indiscriminate use of arms; use of starvation of civilians as a method of combat and the siege of populated areas (A/HRC/S-25/L.1: 1-3), without reference to economic and social rights, revealing some reluctance towards this category of rights. The Commission of Inquiry was also requested to conduct an inquiry into the events in Aleppo in order to make the offenders accountable (A/HRC/S-25/L.1: 3-4), being again the fight against impunity one of the main ways considered to dissuade the infractions.

Central African Republic (CAR)

On the initiative of Ethiopia on behalf of the AG it was requested a session on the HR situation in CAR, this was the HRC 20th special session (A/HRC/S-20/1). This session had a broad interregional support, including from the CAR. The country concerned was also aware of the risk of genocide due to the ethnic and religious dimension of the crisis in the CAR, which demonstrates the importance that States attach to cooperation through the work of international institutions.

The UNHCHR and the CCSP referred as offenses in the country to summary or extrajudicial executions based on religion; acts of sexual and gender-based violence; enforced disappearances; torture; mutilations; ill-treatment; imprisonment and arbitrary detention; looting and the destruction of property, in particular of religious buildings and the use of child-soldiers, infractions which led to a large number of refugees and IDPs.

Following these reports Ethiopia on behalf of the AG presented the draft resolution A/HRC/S-20/L.1 consensually approved in Resolution S-20/1 (A/HRC/S-20/2). In this project Member States considered the HR and fundamental freedoms violations and abuses as mentioned by the Experts (A/HRC/S-20/L.1: 1-2), but once again without reference to economic and social rights, a topic that still reveals some reticence's.

Iraq

Iraq has requested a session (22nd special session) on the HR situation in the country in the light of the abuses committed by the so-called Islamic State, the Levant and associated groups (A/HRC/S-22/4). This session had broad interregional support, including from Russia and China contrary to what happened in the session about the HR



situation in Sri Lanka, an important fact if we take into account that both situations deal with HR infractions in the fight against terrorism.

The UNHCHR has mentioned IHRL and IHL violations practiced by these groups against civilians (sexual violence; kidnappings; torture; persecution based on ethnicity, religion or sectarian affiliation; infractions to cultural and religious rights understood as identity rights; use of child-soldiers; destruction of infrastructures and livelihoods; impediment to humanitarian assistance; acts of harassment and intimidation and impediments to leave the places of combat safely). They also mentioned IHRL and IHL violations practiced by Iraqi forces and armed groups against these terrorist groups.

Assuming the initiative of the decision-making process, France supported by Iraq presented the draft resolution A/HRC/S-22/L.1, consensually approved in Resolution S-22/I (A/HRC/S-22/4: 9). In this project were highlighted the HR and IHL violations committed by terrorist groups that could amount to war crimes and crimes against humanity as reported by the UNHCHR. It was also consensual the need to protect and provide assistance to civilians; protect civilian infrastructures; promote and protect all HR and fundamental freedoms; investigate the alleged abuses and promote the return of IDPs (A/HRC/S-22/L.1: 1-3). In this Resolution the protection of civilians agreed interconnected IHRL and IHL, including the obligation to guarantee the livelihoods of the population, but without reference to the violations committed by the government, a situation that had been criticized in the session on Sri Lanka.

Boko Haram

The activities of the terrorist group Boko Haram, which had consequences in Cameroon, Chad, Niger and Nigeria, were brought before the HRC by Algeria on behalf of the AG at its 23rd special session (A/HRC/S-23/1).

At the session the UNHCHR referred to the ethnic and sectarian offenses committed by Boko Haram (killings, abductions, sexual slavery, forced recruitment, looting and destruction of villages and towns) which led to a high number of IDPs and refugees who needed humanitarian and psychological assistance. There have also been reports of serious IHRL and IHL violations committed by Nigerian and other forces in reaction to this group's activities. In the same way the CCSP also recalled the need to respect HR and fundamental freedoms (judicial guarantees, freedom of thought, conscience and religion and the decision of each person to return to its own country).

Dealing once again with a situation in the African Continent Algeria on behalf of the AG presented the draft resolution A/HRC/S-23/L.1 consensually approved in Resolution S-23/1 (A/HRC/S-23/2: 9). It was consensual the reference to IHRL and IHL atrocities and abuses committed by the terrorist organization against civilians in line with the reports of the Experts. HR and fundamental freedoms infractions were also mentioned, and concern was also expressed on the situation of IDPs and refugees (A/HRC/S-23/L.1: 3). But once again no mention was made to the violations committed by States in the fight against terrorism like in Iraq and Sri Lanka, and to the economic and social rights as guarantees of the population.



Burundi

The seriousness of the HR situation prompted the USA to request a session on Burundi which would be the HRC 24th special session (A/HRC/S-24/I). This session had the support of Burundi also due to the awareness of the ethnic dimension of the conflict as happened with CAR.

At the session the UNHCHR, the Special Representative on the Prevention of Genocide and the CCSP, listed HR violations based on political and ethnic affiliation (extrajudicial executions; arbitrary arrests and detentions; enforced disappearances; beatings; looting, blockades of neighborhoods; torture; intimidation and the lack of livelihoods).

Following these reports the USA presented the draft resolution A/HRC/S-24/L.1 consensually approved in Resolution S-24/I (A/HRC/S-24/2: 9-10). In this session the promotion and protection of HR and fundamental freedoms was reaffirmed (A/HRC/S-24/L.1: 1) as mentioned by the Experts, with States requesting also the UNHCHR to organize and dispatch to the country a mission composed of independent experts (A/HRC/S-24/L.1: 5). This decision emphasizes once again the significance of the fight against impunity in the HRC work.

Conclusions

From the cases analyzed, we highlight the initiative of the Western European and Other States Group in convening most of the sessions. This pro-activity is in line with the defense of a greater capacity of the HRC to deal with gross HR violations. There was also an assumption by the AG of the issues in Africa that generate greater international consensus, unlike the situations in other regions as evidenced by the lack of consensus on Sri Lanka and Syria closer to the borders of great powers.

Notwithstanding the difficulties in framing current conflicts into the so-called classical categories (NIAC, international conflict, disturbances or internal tensions), there is an acceptance of the interrelation between IHL and IHRL in the protection of civilians as proposed by the Independent Experts. This complementarity, in addition to the minimum protection in NIAC conferred by common Article 3 to the GC, the only one agreed upon by all States, covers HR and fundamental freedoms with an emphasis on civil and political rights (freedom of opinion, expression, peaceful assembly, movement, religion or belief and the exercise of peaceful activities including political ones). The protection of civilian infrastructures and goods; the prohibition of all cruel, inhuman or degrading treatments or punishments, in which is included the sexual violence, abuse and assault; the prohibition of the use of child-soldiers; the obligation to provide the necessary livelihoods to the population even if through humanitarian assistance (food, water, health care, shelter), with emphasis on the part of the population considered most vulnerable refugees, IDPs, women and children are also guarantees agreed in the resolutions, in which all include the accountability of offenders.

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AGENDA-SETTING AND FRAMING IN FOREIGN POLICY: THE CASE OF RUSSIAN AND UKRAINIAN TELEVISED COVERAGE OF THE CRIMEA CASE

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Abstract

This article seeks to explore the role Russian and Ukrainian conventional media played as agenda-setters and producers of subjective framings within the context of the Crimean crisis, exploring at the same time the relationship between state and media and the impact of media representations on national public opinions. The analysis shows that agenda-setting and framing at the level of states' policies have a fundamental role in decision-shaping and perception-building, highlighting that the manipulation of information through narrative-construction is a powerful tool at the service of politics. This study contributes to validate the idea that media can be perceived as key influencers of the public agenda as they emerge as the most relevant agents in mediatizing politics, becoming hence a functional *gatekeeper* that might either facilitate the official discourse or instead obstruct it.

Keywords

Agenda-setting; framing; foreign policy; Russia; Crimea

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AGENDA-SETTING AND FRAMING IN FOREIGN POLICY: THE CASE OF RUSSIAN AND UKRAINIAN TELEVISED COVERAGE OF THE CRIMEA CASE

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Introduction

In the context of both decision-making processes and foreign policy management, particularly at times of crisis, the media have a crucial role in the treatment and interpretation of information (Gilboa, 2002) as among the discursive actors society entails, the media are the most efficient in the dissemination of a specific narrative (Kuusik, 2010). Agenda-setting (Shaw, 1979; McCombs and Shaw, 1993; Traquina, 1995) and framing theories (Gofman, 1974) assist in explaining the power of media to determine the current agenda in every moment, i.e. the power to shape what should be discussed and what should be dismissed, as well as the power to validate a particular vision about an issue or an actor. Media are, hence, not just an information channel, but rather an active “communication network” (Naveh, 2002: 3) where specific understandings and representations of actors, intentions and events are (re)produced, either intentionally or unintentionally, affecting media’s coverage, decision-makers’ political decisions, and public opinion’s preferences.

While most studies point to the recurrent politicization of the media (Craig, 1976; Herman, 2003; Herman and Chomsky, 1988; Eilders, 2002; Kishan and Freedman, 2003), particularly in times of political crisis, fewer analyses look at how – from a *processual* illustrative perspective² – the process of mediatisation of politics takes place. In this way, this article looks at how framing is conducted, i.e. how media-related choices are made and framed, and how they evolve. Using agenda-setting and framing applied to foreign policy as theoretical and analytical approaches, this article analyses the role of media in contexts of crisis through the study of the stiffening of relations between Russia and Ukraine from 2013 to 2015, with the Russian annexation/re-integration³ of the peninsula in March 2014 marking the height of tension. This study maps and critically analyses media discourse comparing the different readings and interpretations of the Crimean crisis as portrayed by Russian and Ukrainian televised media (TV). According to

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² “Processual illustrative perspective” means highlighting specific processes by means of concrete examples.

³ The choice between “annexation” or “re-integration” of Crimea depends on specific interpretations of political or mediatic actors. The wording sheds light on distinct narratives, intentions and course of events. The Russians use the word “re-integration”, framing the issue as Crimea’s right to “self-determination”; Ukrainians frame the issue as a violation of Ukrainian territorial integrity and sovereignty.



opinion polls from 2014, most of the Russian and Ukrainian population receive information mainly from traditional media (KIIS, 2014a; Levada Centre, 2014a).

Aiming to understand what image of the crisis was transmitted in these countries, this study analysed the news of the national television channels in Russia and Ukraine. This allows a better understanding about local coverage of the events, bringing additional information to the Western-based accounts that were privileged at the time. Moreover, most of the studies published on media coverage of the events in Ukraine focused on the use of social networks, leaving more traditional means, such as television, understudied (eg. Onuch, 2015a, 2015b; Surzhko-Harned and Zahuranec, 2017). For the analysis, a one-month time span – from February 24 to March 23, 2014 – was selected. Nevertheless, intending to demonstrate that the Crimea question has appeared in Russian media agenda in the period of *EuroMaidan*, the article also analysed several Russian broadcasts from December 2013 and January 2014. For the analysis of media discourse and its evolution during the Crimea's events, a sample of ten news reports from the four channels registering broader audience (two Ukrainian – *1+1* and *Inter*, and two Russians – *1TV* and *Rossiya*) was selected. For methodological purposes, this study analysed the news from the night broadcasts once they have a deeper focus on the conflict issues and cover a broader audience.

In the process of selecting the channels, two main criteria guided the choice: the most significant share of visualisations in the year 2014; and the close relationship of the channels with state authorities or financial elites. Within the Russian TV channels, we chose *Perviy Nacionalniy (1TV)* and *Rossiya*, both state-owned. In the case of Ukraine, two public channels were chosen, governed by two Ukrainian oligarchs, *1+1* of Ihor Kolomoyskyi and *Inter* of Dmytro Firtash, with *1+1* having an audience that primarily speaks Ukrainian, whereas *Inter* broadcasted in Russian language, directing information towards the Russian speaking population. We also looked for the opinion polls in both countries with the aim to understand public opinion during Crimean events which was – as agenda-setting and framing theories allow us to understand – greatly informed by broadcasted media representations. This selection of news-feeds, in combination with opinion polls, allows us to understand how the process of mediatisation of politics became evident in the Crimean case.

Structure-wise, this article is divided into four main parts. The first one maps and explores the theoretical and analytical framework which informs the study. The second part presents media landscapes in both countries – Russia and Ukraine – in order to better understand the media contexts in which specific narratives on the Crimean Crisis are produced and disseminated. The third one explores the different representations and interpretations that are promoted and disseminated across both countries and respective public opinion. Finally, the fourth part discusses collected data taking into account the theoretical and analytical frameworks, exploring as well how audiences engaged with representations conveyed in the media.

Betwixt and between: from agenda-setting and framing to policy-making

Amidst the different elements that influence the lenses upon which we perceive the world and (re)act towards it, discourse is a fundamental one. By providing a specific logic of representation based on a system of thought (Foucault, 1994 [1970]), discourse allows



to (re)construct approaches to reality, create narratives and labels which set the boundaries within which a specific topic, event or actor will be considered ([Ibidem]; Hall, 1997).

Among discursive actors, the media are central and efficient in diffusing certain narratives framed in certain discourses (Kuusik, 2010), affecting the representation of reality with implications in public opinion, particularly regarding the attribution of meaning. In this way, it is possible to understand the news as participants in the process of construction of the world and the creation of meaning (Weber, 2010; Robinson, 2002). This dynamic gains expression in two particularly relevant moments: the definition of the agenda (McCombs and Shaw, 1972) and the way media frame events and actors in this agenda. Crosscutting and on the basis of both these processes lie gatekeeping dynamics (Shoemaker et al., 2013).

According to the agenda-setting theory (McCombs and Shaw, 1972), it is the topics and events selected by the media that set the agenda in societies. The more attention news stories give to specific issues, the more likely it is that public opinion will perceive those issues as important (Shaw, 1979). However, the media end up not necessarily just merely setting the agenda, but also telling audiences how they should think about it since media stories are filtered through frames that are established by particular (subjective) news media command chains (McCombs and Shaw, 1993). How something is presented to media's audience ("the frame") influences the choices people make about how to interpret and react upon that information and towards the reality it describes (Gofman, 1974). At the basis of agenda-setting, framing theory and practice is the theory of gatekeeping coined by Lewin (1943). By deciding which stories are told and which ones are kept out, the gatekeeper decides and hence controls which information and narratives may enter both public knowledge and public opinion realms. This has consequences regarding the validation of specific policies addressing the events, issues or actors of those stories (Hovland et al., 1953; Shoemaker and Reese, 2014). In scenarios of tension the weight of information and narratives that the media produce is such that many authors assume the media as an actor in the conflict or as an agent for peace (Rahman, 2014). By selecting information, repeating specific words and using certain cultural symbols the media influence the perception of the audience regarding a specific situation and the actors involved (Entman, 1993, 2004).

All three theories (agenda-setting, framing and gatekeeping) are useful for understanding the communication dynamics and subsequent political effects within matured democratic contexts, as well as within less democratic, hybrid or even authoritarian regimes. In fact, although these processes might be increasingly more complex within democratic contexts as more actors, agendas and unexpectedness is at play, they are key to explain communication processes as well as hegemonic and counter-hegemonic forces in all political regimes. The following sections apply these theoretical models to the case of Ukraine shedding light on the interconnections between media, audiences and politics.



The media landscape in Russia and Ukraine

According to data from the *World Press Freedom Index* 2017, Russia sits in the 148th place out of 178 states in the world (RSF, 2017).⁴ Despite similarities to Soviet times, today's media "neo-Soviet model" (Oates, 2007) is less monolithic concerning structure, more selective regarding censorship, prefers propaganda to direct control, and places emphasis on legal and economic methods to eliminate independent voices (Snegovaya, 2014). Currently, the state does not control the entire media market but controls the one that allows to reinforce its positive image in the society and legitimise its actions in the conversations between citizens (Arutunyan, 2009). Regarding printed press and internet, although the Kremlin has less influence in these sectors (Dunn, 2014), "the most popular titles support Kremlin policy, and several influential dailies have been bought by companies with close links to the Kremlin" (BBC, 2017). As for TV, which "is the most powerful sector of the Russian media industry (...) [,] the main national networks are either run directly by the state or owned by companies with close links to the Kremlin" (BBC, 2017). The channels *1TV* and *Rossiya* have the biggest reach regarding audience rates, with 14,5% and 13,2%, respectively (Oshkalo, 2015) and are both controlled by the state. Since the Ukrainian crisis, Russian state media are said to have intensified the pro-Kremlin and nationalistic tone of their broadcasts, "pumping out a regular diet of adulation for Mr Putin, nationalistic pathos, fierce rejection of Western influence and attacks on the Kremlin's enemies" (BBC, 2017). An ex-officer of the All-Russia State Television and Radio Broadcasting Company (VGTRK) in an interview to the Russian newspaper "Colta" (s.d.) described how the media agenda was constructed and influenced by the Kremlin during the Ukrainian crisis:

Each week the board of directors met in the Kremlin to get the plan informing what should be diffused and how the information should be presented. (...) On Ukraine instructions clearly pointed to wide coverage, including complete reporting on Crimea, and news from Kiev and Donetsk. After the referendum, the channel got as an 'additional task' from the Kremlin to broadcast on a daily basis coverage of Crimea's development, from science to handicrafts, and how the population life is joyful with the return home. No one discussed the framing for the news, nor the need to present other perspectives not so satisfied with the status quo. (Interview with ex-officer VGTRK, Colta, s.d. a)

Ukraine sits in the 102nd place out of 178 states in the *World Press Freedom Index* (RSF, 2017). Conversely to Russia, most Ukrainian media outlets have private owners (Rozvadovskyy, 2010), mainly from the most prominent financial groups. For these groups, media are a way of influencing politics and a tool to protect their financial and commercial interests (Dutsyk, 2015: 10). Even though in 2014 the media were forced to make public information on their owners, the property structures are still opaque (RSF, 2016). However, it is acknowledged that most of the media sector is controlled by a small

⁴ See also Khvostunova (2013).



group of businessmen with interests in politics, economics and other areas, namely Dmytro Firtash and Serhiy Lyovochkin (*Inter*), Ihor Kolomoyskyi (*1+1*), Victor Pinchuk (*StarLightMedia*) and Rinat Akhmetov (*Ukraine*).

Table 1 - Independent media in transit ratings and averaged scores. 1 corresponds to "Most Independent" and 7 corresponds to "Least independent"

	1999-2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
RUSSIA	4.75	5.25	5.50	5.50	5.75	6.00	6.00	6.25	6.25	6.25	6.25	6.25	6.25	6.25	6.25	6.50	6.50	6.50	6.5
UKRAINE	5.00	5.25	5.50	5.50	5.50	4.75	3.75	3.75	3.50	3.50	3.50	3.75	4.00	4.00	4.25	4.00	4.00	4.00	4.25

Source: Freedom House, 2018⁵

All significant shareholders have personal and political interests that continuously adjust to political conditions and which are reflected in the editorial policy of the media (Dutsyk, 2015). The permanent wars between oligarchs as Ihor Kolomoyskyi and Dmytro Firtash are visible on the news coverage in their channels. This justified the choice of channels such as *Inter* and *1+1* for the analysis of the news transmitted in the crisis period in Ukraine. Besides, during the protests in central Kiev, the channels interpreted the events differently. Like Russia, Ukrainian TV is the primary source of daily news for most of the Ukrainian population (KIIS, 2014a).

The group *1+1* was one of the few Ukrainian channels that defended a pro-Maidan position and supported demonstrators. During EuroMaidan events this channel actively gave voice to the Maidan leaders and representatives of the manifestations. In 2012 when the country started to prepare for greater integration with the European Union (EU), the channel considered changes in Ukrainian foreign policy and positioned itself as "the company with European values which creates content that changes the way of people thinking about the world and themselves" (*1 +1*). According to the director-general of *1+1*, "[o]ur owner shares the same values that we defend" (Mediasat, 2014), showing clear linkages between the content of the media agendas and its owner's orientation. The owner of *1+1* looked at Maidan as an opportunity for the redistribution of powers in the spheres of influence of Ukrainian politics that allowed him to escape from the "shadow" and dependency of the established powers in the country (Vasil Interview, 2016).

The final point that demonstrates the interest of Kolomoyskyi in the fall of the Yanukovych regime during EuroMaidan events was his appointment as President of the Regional Administration of the Dnipropetrovsk city by the new Ukrainian government in March 2014 with the aim of ending separatism in Eastern Ukraine and providing support to the Ukrainian military. The principal assets of the oligarch were in this region and were

⁵ "Independent media: Addresses the current state of press freedom, including libel laws, harassment of journalists, and editorial independence; the emergence of a financially viable private press; and internet access for private citizens" (Freedom House, 2018).



under high risk of destabilisation. He was thus able to influence the situation and protect his business (Kononczuk, 2015).

Regarding the *Inter* channel, the orientation of the Ukrainian crisis' coverage changed entirely in several moments – at times even contradicting itself. In July 2013 the channel actively promoted European integration, whereas from October onwards, and in line with the country's politics, it promoted the idea that no one in the EU wanted the integration of Ukraine and that the country should maintain friendly relations with Russia. One of the owners of the channel, Sergiy Leovochkin, was head of President Yanukovych's administration until January 2014 and supported the government position. However, after the former Ukrainian president fled from the country, *Inter* channel, which from the beginning of the EuroMaidan protests called the demonstrators "radicals ruled by extremists", changed the discourse and started to call them "Ukrainian people and citizens". Besides, the channel started to strongly criticise the former Ukrainian authorities who were previously considered as defenders of the regime and order in the country. Under the Yanukovych regime, Firtash (*Inter* channel's owner) was among the oligarchs whose assets increased during this period of governance. Firtash is also seen as a businessman who had connections with Russia, engaged in selling Russian gas in cooperation with Gazprom, Ukraine and the EU for many years (Kononczuk, 2015).

In the media: (re)presentations and (re)interpretations of Crimea

The referendum that took place in Ukraine on March 16, 2014 (Putin, 2014),⁶ was the culmination of a series of tensions, both in Ukrainian politics and regarding the involvement of external actors, namely Russia and western powers. The context of increasing tension and political differences soon escalated to violence, which has persisted till today, echoing also the profound division Ukraine had been facing and highlighting the lack of a cohesive national identity.

The demonstrations in the centre of Kiev were very much present in the agendas of Russian and Ukrainian TV news, but the events were broadcasted in distinct ways. The subjective appropriation of reality in the media became critical with the rise in tension. From the very beginning of the protests at Independence Square, Russian coverage of Crimea was taking place. The special correspondents from *1TV* and *Rossiya* in the period between January and February highlighted that the support of Yanukovych to the population in that area reflected the desire for Crimea to keep and deepen its ties with Russia, which was clearly under threat with the anti-government protests taking place. From December 2013 the main Russian TV channels started talking about the possibility of a division of Ukraine and the consequent separation of Crimea. Moreover, the representation of Crimea in the media agenda as a special issue in the face of the crisis in Ukraine was tailored to broadcast an image of the protesters of *Maidan* as "the other" (Mezhygirsky, 2014). The news programme *Vremya* clearly showed this trend:

⁶ For more details on the referendum and the events leading to it and following it, see for example Sakwa (2015), Katchanovski (2015), Averde (2016), Freire (2017).



Ukraine is currently divided into two parts. One seeks to overthrow the government and wishes for integration with the European Union, whereas the other prefers to preserve stability. (1TV, 04.12.2013)

In this same line, Vesty stated that "the crisis is getting deeper and it is becoming clearer that Ukraine is divided by regional borders" (Rossiya, 12.12.2013).

With the aggravation of the *EuroMaidan* protests, the Russian channels started to talk openly about the fact that the *Maidan* events would lead to the division of Ukraine. In Ukraine, *Inter* followed the same broadcasting line. In this tense period, the Russian channels made it clear that Ukraine was facing chaos and the country was splitting up, and highlighting that only the intervention of Russia could at least keep a part of the country united. When the former Ukrainian president fled from Ukraine, Crimea became one of the main topics in Russian TV (Mezhygirsky, 2014). From the end of February, the Russian channels reported with all certainty about the separation of Crimea shortly, though not yet talking about "self-determination". The turning point was the decision by the new government in Kiev regarding the abolition of the law on the regional status of the Russian language. Briefly after, Russian deputies started to discuss how to protect the rights of the Russian population in Crimea. The Russian media started to broadcast the message that the inhabitants of Crimea were under threat, stating that

the approved law leads to the destruction of the rights of the Russian language population, to the abandonment of the rights regarding the native language, to the destruction of the right to an independent history. (Rossiya, 26.02.2014)

The news became focused on the need to safeguard Russian minorities or those speaking the Russian language from "Ukrainian fascists". The same narrative was used by the Kremlin to justify its actions in Crimea and was broadcasted by all state-owned media outlets (Dougherty, 2014: 4). However, the Ukrainian channel *1+1* reported the situation from a different perspective, defining the protesters against the new regime in Kiev as "pro-Russian activists" and "separatists". In this way, *1+1* in its broadcasts was pointing to the fact that the new government in Crimea was under Russian influence, which was illegal according to Ukrainian law, referring to "the entering of the region in separatist hysteria" (*1+1*, 25.02.2014). The other Ukrainian channel, *Inter*, which previously supported Yanukovych's regime, broadcasted only one news piece with the information that "Russia will issue the passports of Crimea inhabitants", including a statement by a Duma deputy about Crimea's 're-integration' in Russia (*Inter*, 25.02.2014). Considering the uncertainty in the Ukrainian political situation and the close relationship of the previous government with Russia, at the beginning of Crimean events *Inter* was broadcasting a more neutral discourse.

On February 26, in Simferopol, two demonstrations took place, one mainly composed by Tatars, insisting that Crimea should be kept within Ukraine, and other mainly led by ethnic Russians, with leader Sergiy Aksenov demanding the independence of Crimea and asking for Russian support (Expert, 2014). The Russian channels opted for broadcasting the demands of the second group.



Demonstrations in Crimea gather millions of people. At the Supreme Council building, the Russian flag was raised. People state they want protection against the imposed will of Kiev and demand the organisation of a referendum about the region's status. (1TV, 26.02.2014)

On these protests, 1+1 broadcasted opinions from both sides, however, it introduced information regarding the "unknown instigators of violence".

Close to Parliament Tatars and local Maidanivci⁷ got together. Also, those supporting Russian forces joined. Between them is the police. Suddenly, among the crowd, unknown people show up provoking both sides, demanding that both Ukrainian and Russian flags are removed. (1+1, 26.02.2014)

Inter also mentioned the defenders of Ukraine territoriality and those that want Crimea's separation from Ukraine but called the organisers of the protests "Russian activists" (*Inter*, 26.02.2014). In the Russian news, there was information about the massive support of Ukrainian Military Forces to Crimea, with military forces joining the Crimeans against the central government in Kiev. The Ukrainian channels did not doubt that in Crimea a big scale Russian military operation was in course and that there was increasingly lack of trust in the region about the new central government in Kiev.

The airport in Simferopol is under the control of camouflaged men. The soldiers admitted they are Russian. However, in the Crimean parliament, it is stated that these are voluntary self-defence units. (1+1, 28.02.2014)

However, on the Russian side, the channels broadcasted official statements about the Russian position of non-interference in Ukrainian matters and that there was no evidence regarding the involvement of Russian military in Crimea. There was nevertheless clear support to Sergiy Aksenov, who became the new prime minister of Crimea. According to Russian sources, he had the required power to "stop the waves of disorder and provocation arising from the *Maidan*" in the region. The swift organisation of the referendum on Crimea's autonomy initially foreseen for May 25, 2014, that because of the "complex situation of the conflict which is beyond reasonable" was anticipated, was actively supported by the Russian channels (*Rossiia*, 1.03.2014). When on March 1, the Russian Federation Council adopted a decision on the mobilization of Russian armed forces in Ukrainian territory, the Russian channels interpreted the decision as necessary to protect the inhabitants of the autonomous region from violence (*1TV*, 1.03.2014;

⁷ *Maidanivci* – participants and supporters of opposition protests in Ukraine by the end of 2013-2014.



Rossiia, 1.03.2014). However, such decision was considered by both Ukrainian channels as a "military invasion of Ukraine" (*1+1*, 1.03.2014; *Inter*, 1.03.2014).

On March 6, one more extraordinary session of the Supreme Council of Crimea took place, which decided the referendum should take place ten days earlier. The anticipation of the ballot was broadcasted as a natural consequence of the nationalist movement at *Maidan* that "Ukraine is only for the Ukrainians" (*Rossiia*, 6.03.2014). The Ukrainian channels contested the decision stating it was illegal and under the pressure of Russian guns, representing an attack on the country's sovereignty. Moreover, the channels affirmed that the new governing authorities in Crimea were preparing falsified results of the referendum, referring to the Tatar community vote which would be disregarded (*Inter*, 6.03.2014; *1+1*, 6.03.2014). Nevertheless, *Inter* also showed the opinions of Crimean inhabitants in favour of the referendum and their re-integration in Russia. At the same time, TV journalists stopped referring to the population of Crimea as part of the Ukrainian people, and started calling them "compatriots in Ukraine", "inhabitants of Crimea" or "Russian speakers". Those that arrived in power in Kiev continued to be called "banderas", "nazis" and "fascists".

In this way, the main idea broadcasted was that Russia should safeguard all Ukrainians that spoke the Russian language from the powers ruling the country. Regarding Ukrainian channels, mainly the news broadcasted by *1+1* journalists spoke openly about the presence of Russian soldiers and even started to call them "invaders" and "occupiers" of the region, with Russian being considered the "aggressor", while the voluntary self-defence forces in Crimea were directly linked to the Kremlin. At this time, *Inter* opted for a different narrative, and it was the only channel to do so since journalists describing events in Crimea refrained from mentioning the presence of Russian military, though in February this was openly mentioned. This turn in course was mainly linked to the new political situation in the country after Yanukovych was gone, particularly in the face of the close connections between the channel's owner and the former president.

The most turbulent day became March 16 – the referendum day. In Ukrainian media there was a negative feeling about the referendum, insisting on its illegality, highlighting its ten days' preparation, and stating results would be falsified since the list of voters included people with Russian citizenship and individuals that had passed away, and did not list all Ukrainian inhabitants (*Inter*, 16.03.2016). That same day, *1+1* opened its news broadcast in the following way:

The referendum is artificial and under Russian guns. The voting is not internationally recognised, not recognised by the authorities in Kiev, and also not recognised by part of the peninsula's inhabitants [...] The illegitimate prime-minister Aksenov decided the destiny of Crimea before the opening of the votes, tweeting that Crimea is going to be part of Russia. (1+1, 16.03.2014)

The Russian media reported the referendum as taking place according to democratic principles and international standards. Both Russian channels mentioned that international observers from 23 different countries monitored the process, and *Rossiia* broadcasted a comment by a Serbian representative, supporting the ballot. Voting



reports referred to people queuing to vote before the opening of the poll stations, showing how the referendum constituted a dream of the population. It was also stated that there was a high participation of the population in the vote, including from Tatars (1TV, 16.03.2014; *Rossiia*, 16.03.2014).

When results were published, the Russian media became euphoric, showing how the Crimean inhabitants and the Russian population gathered to celebrate "the return home", which, accordingly, "was expected for twenty-three years" (*Rossiia*, 23.03.2014). The 're-integration' of Crimea in Russia was considered as the only possible scenario where the referendum became the pacific option, saving lives and assuring the right to "self-determination". Also, it was stated that "if the west is not happy with the results that does not mean they are illegitimate" (1TV, 17.03.2014). The bottom-line of Russian media agenda after the referendum is well-summarised in the expression "Crimea is ours!". Also, media actively promoted the idea that the "victory in Crimea became possible only because Russia is governed by Vladimir Putin" (*Rossiia*, 23.03.2014).

Table 2 - Main media comments on the referendum

RUSSIAN CHANNELS	UKRAINIAN CHANNELS
Recognition of the referendum and its results as legitimate. The process complied with international rules.	Referendum was illegitimate and violated international and Ukrainian legislation.
Russian authorities confirm results.	Ukrainian government does not recognise results.
Tatars included in the voting lists.	Tatar population against the referendum and not included in the voting lists.
High voting participation, including among the Tatar population.	Low participation in the vote. Russian citizens voted, and the lists included names of individuals that had already passed away.
The Russian military from the stationed Black Sea Fleet did not interfere in the process.	The Russian 'military invasion' influenced the decisions made by the Crimean Parliament.
Western politicians tried to impede the historic referendum.	Western politicians understand the referendum threatens borders stability in Europe.
The airport and other infrastructures blockades were necessary to prevent the mobilisation of forces from Kiev to the peninsula, especially those that sought to impede the referendum about the status of the region.	Separatists took over power in Crimea, occupied the airport and military facilities.
Massive amount of Ukrainian military that joined the Crimean governing position.	No significant support from Ukrainian military to the separatists, Russian media fabricated those facts.
Reintegration/Reincorporation of Crimea/Return home.	Annexation of Crimea.

The Ukrainian channels, after the referendum, supported the official view of the government in Kiev: the referendum did not comply with democratic principles nor with international law. Three main ideas/narratives were made clear: first, a part of Ukraine "was stolen"; second, Crimea was now under Russian government responsibility; and third, annexation was temporary, and that at some point Crimea would be again part of Ukraine. The referendum was described by both Ukrainian channels as an illegal act of occupation of part of the territory of a sovereign state. 1+1 went further to compare the annexation of Crimea to the annexation of territories by the fascist regimes that led to the Second World War. The EU was described as an ally of Ukraine in seeking to



revert Russian aggression. This coincidence in narrative is interesting in face of the different reporting styles of the Ukrainian channels.

What do these contradictory reports tell us about framing and agenda-setting?

With the fall of Yanukovich's regime and the formation of the new government in Kiev, media attention refocused on Crimea. Most broadcasts in Ukrainian media about the peninsula had a negative tone, whereas in Russia the coverage highlighted the positive consequences of "Crimea's reintegration" into Russia. In Russian media, the tone only changed when referring to the new government in Kiev, with coverage being critical about it. The only framing that was neutral in all news was related to the referendum date, including its anticipation to March 16. The abolition of the law on regional languages was covered by the Ukrainian news briefly, just mentioning the decision (neutral). In the Russian news, this was broadcasted as a threat to the Russophone population and a violation of human rights, requiring an intervention to safeguard the "rights of compatriots". Demonstrations taking place were described as pacifist and for the autonomy of the region. However, in Ukraine, these same demonstrations were described as being promoted by 'pro-Russians' and 'separatists' with the support of the Kremlin, with the goal to destabilise the situation in that area and advance with the division of the country.

The framing 'referendum' was another issue treated differently in Ukrainian and Russian media. In Russia, the referendum was described as representing the willingness of the people to return to Russia and correct a mistake from history. It was stressed the democratic nature of the act and its legitimacy, including international monitoring of the voting. The results were always framed in the people's willingness to be part of Russia. Quite on a different tone, the Ukrainian media underlined the illegitimate character of the vote and how the referendum violated international law. There were no words of support for the act, underlining how results were falsified and thus not recognising or validating the results announced.

Broadly put, the negative tone coming from Russian media is directed at the Ukrainian authorities described as 'fascist' and having taken over power through an illegitimate *coup d'état*. The negative tone coming from Ukrainian media was directly connected to issues of sovereignty and the violation of the territorial integrity of the country with Russian military manoeuvres and the change in power in Crimea being described as an invasion by separatists and takeover of power under the Russian flag and command.

However, what is most noticeable is the change within Ukrainian coverage of the events, as the two channels with time became closer in their reporting tone. Whereas *Inter* at the time of the EuroMaidan protests broadcasted in a more Russian-friendly way, after the change in power in Ukraine and the political shifts this implied, changed the approach and became more critical of Russia. This is also reinforced by the opinion polls as analysed in the next section, and that also followed this same trend of great diversion at the beginning of the events, but increasingly united in the narrative with time.

In a nutshell, the analysis of the coverage of Crimea shows that despite addressing the same topic, the focus of the broadcasting diverged, not only between Ukraine and Russia (which was expected), but also within Ukraine itself, which was unexpected given the



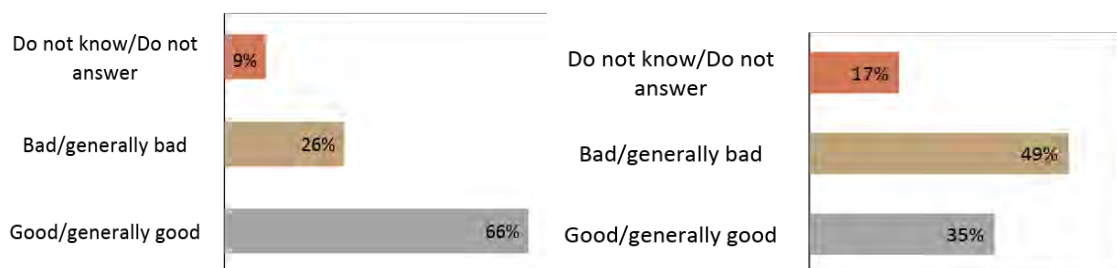
channel's alignment with the Russian position). There was also an increase in the amount of time dedicated to Crimea, to the exception of the period when the Winter Olympic Games in Sochi (Russia) took place when the topic 'Ukraine' almost disappeared from the media agenda in Russia. Nevertheless, most of the broadcasted time during this period was dedicated to Crimea, with use of symbols and strong language, leaving clear the relevance of the issue for both countries and how it is so differently presented in Ukraine and Russia, and mostly serving political purposes.

Opinion polls and media influence over opinion-shaping

All analysed channels had a powerful impact on the entry of specific issues and perceptions about the Ukrainian crisis on the public agenda. The public agenda can be characterised as the hierarchy of issues during a determined period and is usually mediated by the public opinion polls about a particular event (Dearing & Rogers, 1996: 40-41).

According to data from the Levada Centre in Russia, the polls that were conducted among the Russian population show the number of Russians who followed the developments in Ukraine since December 2013 had tripled in 2014 (Levada, 2014). In early January 2014 the opinion polls conducted about "Overall, what is your current perception about Ukraine?" pointed to a favourable opinion with 66% perceiving Ukraine as "good/generally good" and 26% expressing their perception of the country as "bad/generally bad" (Levada, 2014a). After four months a new poll was conducted but the results changed: the "good/generally good" answer was chosen only by 35% of the respondents, whereas the perception of Ukraine as "bad/generally bad" increased to 49% (Levada, 2014b).

Chart 1 - Russian overall perception about Ukraine (%)



When the Yanukovich regime failed, and the new government came to power, 37% of Russians agreed that power in Ukraine was captured by the radical nationalists, 36% of respondents believed that in Ukraine there was no a single government at that time. 62% stated that Ukraine was in anarchy and had no legitimate government, 15% supported Yanukovych as the legitimate president of the country (Levada, 2014c).

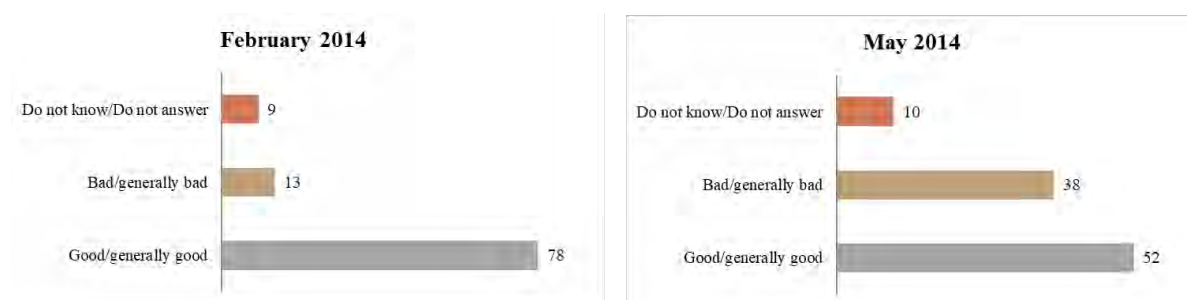


The poll after the referendum in Crimea shows that 88% of the respondents were in favour of the Crimean referendum result, which led to positive emotions related to feelings of justice, country pride and joy. 62% of the Russian population recognised the need to protect Russian minorities from Ukrainian radical nationalists and 38% favoured restoring historical justice. Responsibility for deteriorating relations between Russia and Ukraine was attributed by 37% of Russians to Western countries and by 35% to the non-constructive policy of the Ukrainian authorities. Only 8% of respondents agreed that the Crimean accession was in effect an annexation (Levada, 2014c). During the post-Soviet time in Russia, the public agenda always presented the conviction that Crimea should be returned, 84% believed that the region was unfairly given to Ukraine (*ibidem*). Therefore, all the events in Ukraine were perceived by the Russian population as the restoration of the high and robust Russian power, protector of its population (Gudkov, 2015).

The Ukrainian opinion polls provided by the International Sociological Centre of Kiev between January and February 2014 showed that the Ukrainians' opinions about the EuroMaidan protests had split almost equally. The number of respondents who supported the protests was 47%, while those who did not support 46% (KIIS, 2014a). These results could be bound with a different representation of EuroMaidan events by Ukrainian channels, where *1+1* was pro-Maidan, and *Inter* was pro-Yanukovich regime. However, during the Crimean events, the channels aligned their positions and the Ukrainian perception about Russia considerably changed.

With the increase in tension, and in particular after Russia's annexation, relations and perceptions deteriorated. In February 2014 a positive attitude towards Russia was gathered among 78% of the respondents; and negative attitudes totalled only 13% of the respondents (KIIS, 2014b). In comparison to the February poll, by May 2014 there was a decrease of 52% regarding the positive attitude towards Russia, and inversely the negative tone increased, in fact, it almost tripled, reaching 38%. This inversion in perceptions is justified by the course of events and the overall deterioration of relations between Russia and Ukraine (KIIS, 2014c).

Chart 2. Ukrainian overall perception about Russia (%)



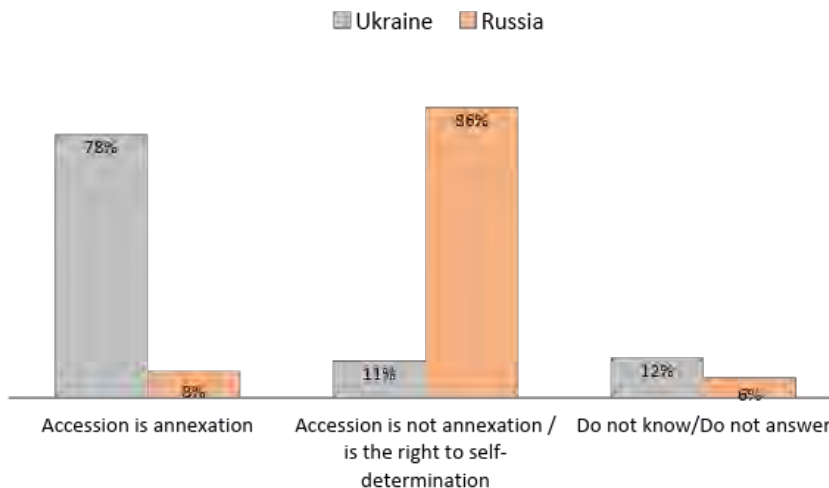
Regarding Crimea, 78% of the Ukrainian respondents agreed it was an act of 'annexation', 11% disagreed and 12% did not answer (KIIS, 2015). Differently, 86% of the Russian respondents perceived accession of Crimea as the realisation of the right of people to self-determination, and just 8% agreed it was an act of 'annexation'.

When looking at these opinion polls and the broadcasting in Russian and Ukrainian media, we can clearly see a parallel evolution in tendencies. Somehow the results of the opinion polls coincide with the information broadcasted and how it was conveying a political



message – the media from both countries replicated the official discourse of the respective governments, not really bringing to debate different perspectives over the events.

Chart 3. Accession of Crimea to Russia (%)



Interestingly, the pro-Russian channel in Ukraine at first replicated Russian-support, but with time shifted the narrative to align with the Ukrainian main political discourse. With the beginning of pro-Russian demonstrations and the active measures approved by the Russian authorities, such as authorising the entry of Russian military in Crimea, the Ukrainian media agenda (*1+1* e *Inter*) aligned their positions, with Russia becoming broadcasted as the external aggressor that threatens the territorial integrity of Ukraine, leading to an increase of Ukrainian willingness to get closer to the EU.

Conclusion

This article sought to compare the Russian and Ukrainian television media agendas in the period of the Crimean crisis, with the objective of understanding the local point of view about the events; the role of media as agenda-setters and producers of subjective framings in context of inter-state conflict; the relationship between state authorities and media; and the impact that media have on public opinion shaping in this particular matter.

In both countries – Russia and Ukraine –, media face an unfavourable situation in terms of their capacity to act independently, facing constant pressure from state authorities or from the financial groups sustaining them. In the case of Russia this results from the fact that the television media system continues to follow the “neo-Soviet model”, while in the case of Ukraine, the channels follow the interests of their owners because they cannot survive without the financial support of the oligarchs. This has clearly affected the broadcasting agenda and framing options, revealing an increasingly politicised media discourse.



Despite analysing the same events, the media broadcasts were quite different, in terms of the narratives and their interpretation, influencing and shaping contradictory understandings and perceptions in the two countries. In the case of Ukraine, the information that was transmitted by channel *1+1* was distinct from the facts provided by the *Inter* channel: when the *1+1* presented clear anti-Russian discourse, the *Inter* channel chose more careful narratives to characterise the events in Crimea. By selecting certain aspects to be broadcasted, rendering some events more visible than others, and by defining and interpreting events, the media ended up as political actors, conveying the political message of the respective governments and economic elites, even if at times changing the narrative. Moreover, as the privileged means of informing the population, and thus with great potential for influencing and shaping policy opinion, the media undoubtedly contributed to moulding national identity in both countries and to feed opinions legitimising and de-legitimising state authorities and decisions. This article concludes that the media discourse contributed to shape and form public opinion concerning the Crimean reintegration/annexation by presenting specific facts, omitting events, reinterpreting discourses, and reflecting the very own interests of both sides political and economic elites. The analysis made shows the shift in relations between the two countries with the course of events, highlighting the change in narrative also within Ukrainian media, and how this was reflected also in public opinion polls. The crystallisation of perspectives in political interests became clear, as well as the role of the media in constructing a 'certain' reality.

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1+1 (2014) - TSN

24.02 <https://www.youtube.com/watch?v=XcCwju8KrDk>
25.02 <https://www.youtube.com/watch?v=d1MFTxSsl1s>
26.02 <https://www.youtube.com/watch?v=DRb9Nv1aAS0>
27.02 https://www.youtube.com/watch?v=bLkcvumqv_4
28.02 <https://www.youtube.com/watch?v=zK1Ca748xAg>
1.03 <https://www.youtube.com/watch?v=b6UDesMzQ9s>
6.03 https://www.youtube.com/watch?v=6fRvoQJ2_hk
16.03 <https://www.youtube.com/watch?v=p9rLpbpRHWs>
18.03 https://www.youtube.com/watch?v=F0CR0_9xFRY
23.03 <https://www.youtube.com/watch?v=zugsrDHEe2s>

Inter (2014) - Podrobnosti

24.02 <http://podrobnosti.ua/news-release-list/2014/2/24/20/0/>
25.02 <http://podrobnosti.ua/news-release-list/2014/2/25/20/0/>
26.02 <http://podrobnosti.ua/news-release-list/2014/2/26/20/0/>
27.02 <http://podrobnosti.ua/news-release-list/2014/2/27/20/0/>
01.03 <http://podrobnosti.ua/news-release-list/2014/3/1/20/0/>
06.03 <http://podrobnosti.ua/news-release-list/2014/3/6/20/0/>
10.03 <http://podrobnosti.ua/news-release-list/2014/3/10/20/0/>
16.03 <http://podrobnosti.ua/news-release-list/2014/3/16/20/0/>
18.03 <http://podrobnosti.ua/news-release-list/2014/3/18/20/0/>
23.03 <http://podrobnosti.ua/news-release-list/2014/3/23/20/0/>

1TV (2013) - Vremya

04.12 <http://www.1tv.ru/news/2013/12/04/>

Rossiia (2013) - Vesty

12.12 https://russia.tv/video/show/brand_id/5402/episode_id/939149/

1TV (2014) - Vremya

26. 01 <http://www.1tv.ru/news/2014/01/26/>
25.02 <http://www.1tv.ru/news/2014/02/25/>
26.02 <http://www.1tv.ru/news/2014/02/26/>
28.02 <http://www.1tv.ru/news/2014/02/28/>
01.03 <http://www.1tv.ru/news/2014/03/01/>
07.03 <http://www.1tv.ru/news/2014/03/07/>



16.03 <http://www.1tv.ru/news/2014/03/16/>

17.03 <http://www.1tv.ru/news/2014/03/17/>

23.03 <http://www.1tv.ru/news/2014/03/23/>

Rossiia (2014) - Vesty

24.02 <http://tv-novosti.ru/date/2014-02-24/rossiya/17-00>

26.02 https://russia.tv/video/show/brand_id/5402/episode_id/970186/

28.02

https://russia.tv/video/show/brand_id/5402/episode_id/970741/video_id/976060/

02.03 <https://www.youtube.com/watch?v=sIqnkd-EkeY>

06.03 https://russia.tv/video/show/brand_id/5402/episode_id/972264/

10.03 <https://www.youtube.com/watch?v=pOn0t4QQvAc>

16.03 <https://www.youtube.com/watch?v=a5Ym9VmHUiA>

18.03 <http://tv-news-online.com/vechernie-novosti-bolshie-vesti-na-telekanale-rossiya-18-03-2015/>

23.03 https://russia.tv/video/show/brand_id/5206/episode_id/976156/

Televised news selected for this study

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24.02 <https://www.youtube.com/watch?v=XcCwju8KrDk>

25.02 <https://www.youtube.com/watch?v=d1MFTxSsl1s>

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27.02 <http://podrobnosti.ua/news-release-list/2014/2/27/20/0/>

01.03 <http://podrobnosti.ua/news-release-list/2014/3/1/20/0/>

06.03 <http://podrobnosti.ua/news-release-list/2014/3/6/20/0/>

10.03 <http://podrobnosti.ua/news-release-list/2014/3/10/20/0/>



16.03 <http://podrobnosti.ua/news-release-list/2014/3/16/20/0/>

18.03 <http://podrobnosti.ua/news-release-list/2014/3/18/20/0/>

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28.02 <http://www.1tv.ru/news/2014/02/28/>

01.03 <http://www.1tv.ru/news/2014/03/01/>

07.03 <http://www.1tv.ru/news/2014/03/07/>

16.03 <http://www.1tv.ru/news/2014/03/16/>

17.03 <http://www.1tv.ru/news/2014/03/17/>

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THE ADEQUACY OF THE INTERNATIONAL COOPERATION MEANS FOR COMBATING CYBERCRIME AND WAYS TO MODERNIZE IT

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Abstract

The era of scientific and technological development has witnessed an extensive use of Internet and electronic devices in various aspects of life. This widespread use has increased security risks, privacy and cyberattacks that threaten both individuals and States. This kind of crime is difficult to prevent as a result of the constant digital technological advances and globalization.

There is a growing concern among States and government agencies that such intrusions could critically affect the security and the economics of any State. Combating this kind of crime requires international cooperation. Therefore, many States have called for the need to define cybercrime and to hold conventions to adopt effective legal framework to combat and restrict the progress of cybercrime worldwide.

This study concluded that cooperative mechanisms are needed to coordinate and unify joint efforts and to modernize means of combating cybercrime using the latest techniques. In addition, it is necessary to upgrade existing mechanisms and develop other methods to achieve various aspects of cooperation.

Keywords

Cybercrime, international security cooperation, countering organized transnational crime, criminal organized crime, modernizing means to counter cybercrime.

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Introduction

In an increasingly globalized and electronic world, the extent of computer-related crime within and across countries is affecting a huge sector of national and international society. Nowadays, many private and local sectors are using the networks to attain their objectives, whether they are social, economic, financial, or political activities. These practices have encouraged the appearance of cybercrime.

Cybercrime is a crime that involves the use of digital technologies to commit an offence, using computing and communication technologies to pursue illegal activity. These activities involve attacking information centers and data systems, theft, online transaction fraud, Internet sale fraud and conducting Internet malicious activities, such as viruses, worms and third-party abuse like phishing and email scams. Additionally, it may pose a serious threat to governments and their confidential information by accessing their security systems and data.

Therefore, to combat cybercrime, governments should use modern scientific means and joint international strategic planning through formal cooperation at all levels, considering the general security interest above all others and the need to overcome the differences they face, such as the principle of sovereignty, since this principle is a fundamental issue that stands in the way of this needed international cooperation.

International judicial cooperation is the fundamental base to combat a crime in its various dimensions, such as international information terrorism, cybercrime and other offenses committed by criminal organizations or legal persons. Thus, countries should seek to create a legal base that enhances joint international cooperation against cybercrime and sets enforceable laws.

To address this issue, we need to clarify the current mechanisms used to fight cybercrime, consider ways of improvement and suggest solutions. The researcher has divided this paper into two topics. The first deals with the aspects of international cooperation to combat transnational organized crime. The second topic examines ways to modernize mechanisms for international cooperation in combating crime.



I. The First Topic: the aspects of international cooperation in combating transnational organized crime

Cybercrime is still a modern concept as it is associated with contemporary technology innovations (the World Wide Web and the Internet). It is defined as any criminal activity that takes place on or over the medium of computers or Internet or other technology recognized by the Information Technology Acts. It is committed by technically skilled criminals to achieve their illegal intentions.

The United Nations defined cybercrime¹ at the Tenth Congress on Crime Prevention and Treatment of Offenders in Vienna in 2000 as: any crime that can be committed by a computer system, a computer network or over the medium of computers, and that includes, in principle, all crimes that can be committed in an electronic environment². Electronic crimes are also divided into several types, for example, crimes that are committed against individuals, properties and governments. It can also be defined as a crime that knows no boundaries.

Cybercrime aims to access confidential information illegally in order to steal, delete or change the data stored in institutions and government agencies. It also accesses personal data to blackmail individuals, as well as for moral and political objectives³. Therefore, States have been interested in the concept of cybercrime and in achieving the capacity to address transnational crime, making efforts to fill the legal gap that criminal organizations have penetrated⁴.

Generally, mutual legal assistance in criminal matters is an effective mechanism to deal with crimes because of its profound impact on criminal proceedings and its role in reconciling the right of the State to exercise its criminal jurisdiction within its territorial boundaries and its right to penalty⁵.

This research illustrates, in section I, the role of the United Nations in combating cybercrime and, in section II, the role of the Budapest Convention in addressing cybercrime.

Section I. The role of the United Nations in combating cybercrime.

The United Nations International and regional conventions, as well as the Arab treaties, have played a significant role in confronting international crime in general⁶, such as the Tokyo Convention on Offenses and Certain Other Acts Committed on Board Aircraft of 14 September 1963 and the Hague Convention for the Suppression of Unlawful Seizure of Aircraft of 16 December 1970⁷.

¹ Zuhair, Haj Tahir, *Mechanisms of Crime Prevention and Control*, Master of Criminal Law, Faculty of Law, University of Algiers, Algiers, 2013, p. 95.

² Halabi, Khalid Ayad, *Investigation of Computer and Internet Crimes*, Dar Al-Thaqafa, Jordan, 2011, p.11.

³ Journal of Information Technology, Department of Information Systems, Jordan, 2015.

⁴ Al-Qahtani, Faleh Muflih, 2008, *Role of International Cooperation in Combating Overseas Drug Trafficking*, Master Thesis, Naif Security University, p. 12.

⁵ Surour, Ahmed Fathi, 1993, mediator in the Code of Criminal Procedure, Modern Printing House, Egypt, p. 82.

⁶ Al-Shawabkeh, Mohammed Amin, *Computer and Internet Crimes*, Jordan, Dar Al-Thaqafa for Publishing and Distribution, 2004, pp. 140-144.

⁷ See Articles 22, 23, 24, 30, 31.33 of the Arab Convention against Cybercrime of 2010, amended in 2014.



The United Nations Organization has a direct role on improving the image of international cooperation in its various manifestations by signing international treaties and conventions that foster the cooperation of States among themselves to combat crime. *Article 17*⁸, entitled "Mutual legal assistance", is the most important source of international criminal cooperation in this area. Article 1 specifies the scope of cooperation to provide the requested State the greatest amount of mutual assistance in investigations and trial proceedings.

Article 2 covers rules of witness testimony, the hearing of persons, assisting in the investigation, the communication of authentic documents and records and the provision of certified copies, including bank records, financial records or corporate or business records⁹. A model treaty on mutual assistance in criminal matters was prepared based on United Nations standards and norms in crime prevention and criminal justice. It was adopted by General Assembly resolution 45/1117 of 14 December 1990 and implemented by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders¹⁰. The preamble to the Model Treaty states the desire to uphold the objectives of justice, to restore social stability to criminals and to promote the interests of victims of crime (article 1, paragraph 1).

In order to achieve the required results of legal cooperation, the Group of Experts on the strategy for combating organized crime requested that the principle of dual criminality should be abandoned as a condition for mutual assistance. They called for flexibility and speed in the exchange of all available assistance. States should coordinate their efforts to counter transnational criminal organizations and strip them of the proceeds of crime in the event of a conviction, since they have an effective impact on organized crime. This was confirmed by the European Union in 1994 in its call for combating crime to be eliminated from its sources through activating judicial cooperation.

The United Nations Declaration on Crime and Public Security as a fundamental document for cooperation against organized crime stated in article 1 that: "Member States shall protect the security and well-being of their citizens and other persons within their jurisdiction by effective national measures against transnational crime, including organized crime, illicit trafficking, organized trafficking in persons, crimes of terrorism and laundering of the proceeds of serious crimes, and undertake to cooperate together in those efforts." Article 2 of the United Nations Declaration on Crime and Public Security states: "Member States shall promote bilateral, multilateral, regional and global cooperation and assistance in the implementation of laws, including, as appropriate, mutual legal assistance arrangements, or otherwise responsible, and to ensure that they are prosecuted, to ensure effective cooperation between law enforcement authorities and other competent authorities"¹¹.

Generally, cooperation and coordination are the main pillars in crime prevention, which does not stand in the State of origin but extends to other countries. Thus, the international community has confirmed the importance of legal assistance by stating

⁸ Suleiman, Mohammed Ibrahim Mustafa, 2006, *Terrorism and Organized Crime*, Dar Al Talai, Egypt, p. 103.

⁹ Bassiouni, Mohamed Sherif, 2004, *Transnational Organized Crime*, F I, Dar al-Shorouk, Egypt, p. 45.

¹⁰ Waly, Ali, 1981, echoes of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, *Journal of Justice*, No. 27, issued by the Ministry of Justice, Abu Dhabi, p. 146.

¹¹ United Nations Documents of the General Assembly, 1995, 51st Session, United Nations Declaration on Crime and Security, p. 2.



different legal means to impose joint laws enhancing crime prevention, for example, judicial delegation and foreign judgments.

A. Judicial Delegation

Judicial delegation results from the duties or commitments imposed by public international law on the United Nations¹², under which judicial authorities are required to take a specific action, to conduct investigations in the interest of the competent judicial authority of the requesting States taking into account respect for universally recognized human rights and freedoms. In return, the requesting State undertakes to recognize reciprocity and respect for the legal consequences of the requested State¹³.

In accordance with article 6 of the Convention on Declarations and Jurisdictions, judicial delegation means that: Each State bound by this convention shall request any State to initiate in its territory any judicial proceedings relating to a case under consideration in accordance with articles 7 and 8. The aim of the judicial delegation is to transfer procedures in criminal matters to counter developments in criminal phenomena and to overcome difficulties and obstacles to the conduct of criminal proceedings on extraterritorial issues, where judicial delegation exists in national laws, international conventions and in the principle of reciprocity.

B. Foreign Judgments

One of the concepts that must be overcome in order to support international cooperation is the non-applicability of foreign judgment, on the grounds that criminal justice is in fact a manifestation of the sovereignty of the state and its right to punish¹⁴. However, it should not be limited to the negative consequences of a foreign criminal judgment on the inadmissibility of a person being tried twice. Criminal jurisprudence calls for the need for precedence to prevent the impunity of perpetrators and ensure the requirements of justice. In accordance with the spent efforts, several international conventions decided to implement judicial decisions¹⁵, including criminal provisions, such as the one in 1952 among members of the European Community, and to oblige States Parties to implement criminal and other provisions unless one of the specific cases fails to implement it. The same statement is made in article 3 of the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. The Convention on the Suppression of Transnational Organized Crime has focused on mutual assistance as a major means of cooperation to confront criminal organizations that conduct various forms of criminality of an international character. Article 6 states that States Parties must help and coordinate themselves to carry out actions regarding any of the offenses covered by the provisions of the convention, including the collection of evidence, guarantees for the protection of witnesses and the transfer of proceedings. The draft Convention submitted by Poland in its tenth article emphasized that States should cooperate with each other and be flexible

¹² Sugheer, Jamil Abdel Baki, *Procedural Aspects of Internet Related Crimes*, Dar al-Nahda, Egypt, 2001, p. 83.

¹³ Al-Harouni, Hazem, 1988, "International Judicial Appeal", *National Journal*, 3rd issue, p. 21.

¹⁴ Al-Laqli, Mahmoud Mustafa, 1991, *Judicial Links*, University Library House, Egypt, p. 132.

¹⁵ Al-Ghareeb, Muhammed Eid, 1988, *Penal Code*, General Section, General Theory of Crime, II, Dar Al-Alam, Lebanon, p. 199.



and expeditious in the exchange of legal assistance¹⁶, in accordance with their national procedural laws concerning investigation, evidence collection, prosecution and the conduct of judicial proceedings. In the second paragraph of the same article, reference was made to the provision of legal assistance in the area of information covered by bank secrecy.

Article 14 of the International Convention against Transnational Organized Crime also ensures the need to document legal assistance in various areas, "investigations, follow-up, judicial proceedings" when any of the offenses covered by its provisions are concerned. The same article identifies the cases and how to apply for legal assistance, including the assets of relevant documents and records, and bank or financial records, corporate records, disclosure of proceeds of crime, property, tools or other objects derived from criminal activities, or to trace their impact to obtain the evidence necessary to charge the perpetrators¹⁷.

To overcome and simplify the legal hindrances to the absence of a bilateral or multilateral treaty governing mutual legal assistance between requesting and requested States, the Convention against Organized Crime was considered as a legal basis for the exchange of assistance so that it would not be possible to fall under the double criminality requirement (Paragraph 6) or banking secrecy (Paragraph 5). For the purposes of this Convention, the offenses covered by the provisions of financial crimes, political offenses or humanitarian motives are not considered (Paragraph 17 of the same Article), which reflects the desire of the international criminal policy-makers to deal with this crime that threatens the whole international community.

The strategy formulated by the Naples Declaration against Organized Crime ensured the recognition of national judgments in view of the significance of the criminal record when deciding criminal cases¹⁸, as it indicates the seriousness of the perpetrator and the appropriate punishment commensurate with the seriousness of the crime. This Declaration pledged that the foreign judgment of the original crime would have the authority to prosecute the partner, especially since the majority of criminal legislation did not define a special law on organized crime that placed the activity of a partner in crime at the same level of the activity carried out by members of the criminal organization. This is the reason why the Italian judiciary has decided to hold the external partner accountable for the crimes committed by the members of the criminal group.

The international dimension of cybercrime has made it compulsory for the international community to find more appropriate means to fight it according to its nature, narrowing the legal gaps that the perpetrators have exploited to evade punishment and to spread their activities to different regions of the world. The ideal criminal policy will not achieve the desired purpose unless all have homogeneous criminal, preventive and executive measures. To that effect, a number of mechanisms of a technical and administrative nature have been adopted to take advantage of the technological advances and knowledge of the source of information. This will be explained by the presentation of two forms of technical cooperation, as follows:

¹⁶ Basha Faizah, Younus, 2001, organized crime under international conventions and national laws, Dar al-Nahda al-Arabiya, Egypt, p. 221.

¹⁷ See Proceedings of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders 1985, p. 42.

¹⁸ Bassiouni, Mohamed Sherif, *Op. Cit*, P. 97.



Firstly: Information Exchange

It is well-known that the modern era is witnessing technological evolution, especially in the field of information, which has forced the international community to give the exchange of information the greatest importance as a means to fight crime in general and cybercrime in particular. It provides reliable and confidential information to support law enforcement agencies in all fields, including the activity of criminal organizations and sources of funds.

Therefore, the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders suggested the development of a systematic exchange of information as a key element of the International Plan of Action for the Prevention and Control of Crime and recommended that the United Nations should establish an information base to inform States Parties of global trends in crime¹⁹. Thus, cooperation in matters of information crime should support the use of information exchange systems among Member States and the provision of bilateral and multilateral technical assistance to Member States, using training on law enforcement and the international criminal justice treaty.

The centralization of information should not hinder the dissemination and exchange of information among States after it has been collected, studied and dealt with in a way that enables them to be used at the investigative and trial stage, to facilitate pursuing suspects, whether individuals or bodies. That was confirmed by the European Union's Schengen Agreement through the creation of an integrated system for the exchange of information.

Hence, information prevention is an essential element, a basic base to combat information crime, and a way to ensure the creation of an effective counterfeiting system. On this basis, drafts of the Convention against Organized Crime regarding information exchange has proved to be a preventive mechanism for combating this crime. Article 1, paragraph 2 of the draft framework convention declares that State Parties shall facilitate the exchange of information on all aspects of the criminal activity of persons involved in organized crime.

Secondly: Exchange of expertise and technical assistance

To achieve integration with the general trend of computerization of criminal justice operations, and to develop and analyze information in a manner that serves the objectives of modern criminal policy to combat crime in general, some procedures should be taken into consideration. These include exchanging administrative elements, enhancing the capacity of justice agencies, analyzing and disseminating available data on crime and the innovative, traditional and non-traditional mechanisms used to combat crime. Moreover, emphasis should be placed on new methods, such as technical cooperation support and the provision of extensive advisory services to cover all areas, like the concealment of funds, to counter money laundering and to deprive criminal organizations of the proceeds of crime. This is because preventive policy will remain

¹⁹ Qarzan Mustafa, International Politicians for Combating Cyber Crime, published research on the legal organization of the Internet and cybercrime, University of Xi'an Ashour, University of Djelfa, 2009, p. 7.



inadequate unless it controls all elements of the alleged criminal behavior. Bilateral and multilateral technical assistance can be provided to Member States by implementing international exchange programs on law enforcement training and international criminal justice treaties. In this case, the legislative authorities of any State must amend the Criminal Procedure Code to legitimize them to be consistent with the nature of the crime in its various new dimensions. In order to achieve this, a special law must be created to cover all legal, substantive or procedural aspects, without being bound by the general rules that may sometimes prevent criminal justice from achieving its purposes²⁰.

Section II: The role of the Budapest Convention in the fight against information crime.

The Budapest Convention was signed in late 2001. It aimed at combating cybercrimes by harmonizing laws and providing a framework for international cooperation among States Parties to the treaty. It also illustrated the international collaboration mechanisms in terms of controlling cybercrime. More than 30 states ratified the convention in 2001²¹ to restrict illegal electronic accounts and the abuse of information networks. *Although the Budapest Convention is a European-originated treaty, it has an international character.* It was ratified by non-members of the Council of Europe, such as Canada, Japan, South Africa, and the USA because it is open and allows the accession of other countries other than those from the European Community (according to article 48 of the Budapest Convention)²².

After examining the 48 articles of the convention, the researcher found that it confirms the need to take legislative measures to combat computer crimes through several procedures and recommendations. The Convention was therefore considered a major reference to subsequent conventions and domestic laws of some States²³.

The Budapest Convention focuses on three basic elements: The first is the importance of substantive legislative measures. The second element is the importance of procedural legislation appropriate to the nature of the crime. The third is the importance of international and regional co-operation in the field of cybercrime. All these elements are referred to in four sections.

The authors of this treaty have identified the general framework of these crimes to be illegal access to data systems, misuse of accounts and information fraud. The treaty, thus, specified conditions to identify these actions legally.

Finally, it can be said that the Budapest Convention respects human rights and prevents their exposure to crimes committed through the Internet, and it does not conflict with the Universal Declaration of Human Rights.

The Budapest Convention established new measures to combat cybercrime. These are based on the following important principles: The obligation of States Parties to the Convention to adopt legislation and other measures if necessary in accordance with their

²⁰ Al-Laqli, Mahmoud Mustafa, Op cit, p. 123.

²¹ Arian, Mohamed Ali, *Computer Crimes*, New University House, Alexandria University, Egypt, 2011, p. 25.

²² Zuhair, Haj Tahir, *Mechanisms of Crime Prevention and Control*, Master of Criminal Law, Faculty of Law, University of Algiers, Algiers, 2013, p. 102.

²³ Attia, Tareq Ibrahim, *Information Security - The Legal System of Information Protection*, New University House, Egypt, 2009, p. 343.



domestic law and legal framework by establishing special criminal powers and procedures.

The Budapest Convention stipulated some new criminal procedures to combat cybercrime, as follows:

- ⇒ To ensure the expeditious preservation of stored data - this procedure is contained in Articles 16 and 17 of the Convention, and is intended to preserve, store and protect the foregoing information from anything that may corrupt it or damage its quality²⁴.
- ⇒ To preserve and collect participants' information: this action is aimed at criminal investigation to determine the identity of the computing crime perpetrator.
- ⇒ To search and seize stored computer data: It is provided for in Article 19 of the Convention and is intended to search and access the data after obtaining official permission for inspection by its competent authorities²⁵. Article 31 regarding the search for data stipulates that additional procedural provisions must be in place to ensure access to the data to be used as evidence.
- ⇒ Eavesdropping: a new procedure in the framework of the procedural control of information crime.
- ⇒ International cooperation: to activate the previous procedures, article 23 stipulated that parties shall co-operate internationally to the widest possible extent²⁶.
- ⇒ To decrease the challenges facing information exchange and evidence at international levels.

The Budapest convention has a binding structure, as Article 2 specified that each Party shall adopt such legislative and other measures as may be necessary to establish criminal offences under its domestic law, when committed intentionally.

Accordingly, the Budapest Convention is considered the basis of an international agreement that represents a unified vision on technical or cybercrime, as it creates legislative procedures to handle criminal acts. Thus, in this century, it is not acceptable to deal with cybercrimes using traditional mechanisms that cannot be adapted.

II. The Second Topic: ways to modernize the mechanisms and methods of international cooperation in combating cybercrime

There is no doubt that improving the employee level of performance is a requirement of any professional development in general, and in the field of law enforcement particularly. This is because any employee may be exposed to financial temptations from criminal organizations to *facilitate* their illegal work. This was stipulated in the Caracas Declaration of the Sixth Conference, which confirmed the need to improve the conditions of employees and raise their educational and technical level in the administration of the

²⁴ Omar Abul-Fotouh Abdel-Azim Hamami, *Criminal Protection of Electronic Information*, Dar Al-Nahda Al-Arabiya, Egypt, p. 314.

²⁵ Hilali Abdullah Ahmed, *Budapest Convention on Combating Cyber Crime*, Dar al-Nahda al-Arabiya, Egypt, 2011, p. 192.

²⁶ Hilali Abdullah, *Op. Cit*, p. 298.



criminal justice system so that they can carry out their duties away from personal interests. Article 10 of the Caracas Declaration entitled "Training on law enforcement" of the draft Convention on the Suppression of Transnational Organized Crime stipulates that: "Each State Party shall, to the extent it may be necessary, initiate, develop or improve specific training programs for its law enforcement personnel, including prosecutors, investigating magistrates and customs personnel, and other personnel charged with the prevention, detection and control of the offences covered by this Convention".

Accordingly, it can be said that the process of modernizing the international cooperation mechanisms in criminal law begins with a first step that aims at developing national laws in a more comprehensive and flexible way that correspond to international legislation of combating systematic crime. On the other hand, it is necessary to formulate an integrated theory that would benefit from technological development in evidence-gathering and information-sharing procedures to address criminal organizations that operate in a scientifically informed manner to disperse and discard evidence. Judicial cooperation should also be developed at its various stages, including the implementation of sentences. Therefore, it is necessary to identify the position of the executive policy established by the parties and review the role of the bodies based on the implementation of specialized laws and quality thereof²⁷.

It is obvious that cybercrime is a challenge for national, regional and international criminal justice agencies alike, because they lack mechanisms and methods that can address the nature of this crime, which can easily change because of the flexibility of its structures, the precision of the organizations involved and the close cooperation among their members. As a result of these challenges, the Luxembourg Summit approved to establish Europol as a central office for criminal police in the EU under the Maastricht Convention. The Europol Agreement was signed in Brussels on June 26, 1995 by ambassadors of 15 EU Member States and aims at ensuring maximum cooperation, sharing and exchanging information in all fields as well as facilitating communication among Member States by establishing focal points and assigning one port for all related services²⁸. The European Union has also authorized the Europol Commission to include national authorities in their planned policy to combat organized crime, prepare procedures in the field of police, customs and judicial investigations and to work with their authorities as an integrated unit. One of its most crucial powers is to permit Member States to intervene in the investigations they have initiated and to attend the investigation sessions on organized crime. The Europol is authorized to analyze information related to organized crime and its criminal practices in its various forms, including those related to criminal organizations of the Mafia type, such as the Sicilian, Japanese, Korean, and Russian ones, and investigate their economic and commercial penetration²⁹.

The European Union still recommends the expansion of Europol's jurisdiction and is establishing a communication point between it and third-world countries, including Jordan, to ensure the adoption of a unified counter-terrorism policy against various forms of organized crime, including cybercrime. This is in addition to coordinating police

²⁷ Basha Faizah, Younus, *Op cit*, p. 285.

²⁸ Ghattas, Iskandar, *Without a Year Publication*, Arab Symposium on International Judicial Cooperation in the Criminal Field in the Arab World, Dar Al-Qalam, Lebanon, p. 22.

²⁹ Al-Basha, Faizah, Younus, *Op. Cit*, p. 354.



operations, documenting the exchange of information and directing the ongoing communication to develop judicial cooperation.

Therefore, all countries should adopt a unified policy to reduce the security deficiencies in dealing with organized crime in its various forms, especially cybercrimes. This should be done through the establishment of a coordinated program, developing more efficient mechanisms and purging criminal justice agencies during all stages of the proceedings, which begins with the collection of evidence and ends with prosecution.

Today, security and judicial cooperation has become one of the most significant elements of national and regional strategies that unify the practical procedures of the executive bodies and work towards close co-operation among members.

Third-world countries are missing this kind of cooperation and we will show real examples of this type of assistance (the Schengen Agreement, the Maastricht Agreement and the Amsterdam Agreement), as follows:

A. The Schengen Agreement:

The Schengen Agreement was signed in 1985 with the aim of deepening cooperation among the countries of the European Union in various fields, including harmonization of legislation, judicial cooperation, elimination of border controls, and achieving more freedom and security. In 1990, the Supplementary Protocol included 142 articles. In the third chapter, it referred to police and security cooperation. The regulation ratified an information system, known as SIS³⁰.

The system provides information about individuals and objects through border control. The SIS system allows the justice agencies of the States Parties to freely move from one State to another in the territory of the European Community to monitor and investigate serious crimes³¹. The agreement established a special media system for the publication of all orders issued for the inspection of persons or vehicles on the basis of computers or other means of communication, so that the border police can work together and strengthen official cooperation in joint border crossing points.

B. Maastricht Agreement:

This agreement was concluded in 1992 in order to fill the judicial vacuum and address organized crime. It grants the States Parties to the agreement a mechanism for security cooperation. Article 1 of the Agreement stated that: it was concluded for the purpose of achieving the objectives of the European Union and matters of common concern, especially the freedom of the movement of persons and laws governing the crossing of borders, monitoring border crossing, immigration system, conditions of illegal residence, international fraud, and strengthen judicial cooperation in civil and criminal matters. Furthermore, it concerns the cooperation of customs department and police to ensure

³⁰ Nabhan, Mohamed Farouk, 1992, *Towards a unified Arab strategy to combat organized crime*, University House, Jordan, p. 194.

³¹ Darwish, Abdel Kareem, without a Year of publish, *Transnational Organized Crime*, Al-Ma'aref Establishment, Egypt, p. 123.



prevention of terrorism and other forms of serious crimes with an international dimension³².

C. The Amsterdam Convention

In 1997, the European Union implemented Maastricht's mechanisms for the protection of security and the establishment of justice and freedom. This agreement was signed on October 2, 1997. Article 1 confirmed the informal cooperation between the police and judicial bodies to confront terrorist and transnational crimes. On April 12, 1996, a meeting of the Ministers of the Interior, Justice and Finance of the Member States was held to formulate operational mechanisms recommending the increase in the effectiveness of the counter-crime measures. The agreed points reflected the authorities' concern about the effects of cybercrime. In order to improve the cooperation between police agencies, INTERPOL was entrusted with the achievement of the objectives set by this meeting. These objectives are as follows:

1. To ensure the joint assistance and development of the criminal police authorities in a broader context and within the framework of the laws of the various States in favor of the protection of human rights.
2. To establish centers that can effectively contribute to preventing and deterring violations of common laws, and develop these centers without interfering in any political, military or religious-racist activity to impose laws, regardless of it being an exchange of information, investigation, prosecution or use of technology and organization³³.
3. Interpol to play a key role in the exchange of information and in warning banks and financial institutions against suspicious transactions. Therefore, mechanisms to address crime and criminal organizations and their activities have been organized.
4. Interpol was established in January 1990 as the General Secretary of Organized Crime and has been entrusted with overseeing international policy on combating this crime by providing Member States with various information on criminal organizations, money laundering and suspects, whether individuals or bodies, and examining all problems and difficulties facing the control mechanisms. Furthermore, Interpol prepares studies on economic projects, on groups of persons who contribute to illegal activities, so as to establish criminal justice and enable employees to benefit from scientific development and the adoption of a unified plan. It assists developing national laws on a more inclusive and flexible approach in order to understand the specificity of this crime, removing obstacles to international cooperation and facilitating communication regarding the coordination of work. This is the first step³⁴.

The second step is to encourage States to establish and operate a joint data bank on organized crime and its members and to collect information on convicted persons,

³² Al-Janabihi, *Muneer and Mamdouh*, 2006, Internet Crimes, University Dar Al Feker, Egypt, p. 29.

³³ Kheilaf, Mohamed Said, *Op. Cit*, p. 71.

³⁴ Basha, winner of Yunus, *Op. Cit*, p. 213.



ensuring that legal files are as protected as they are in domestic and international law³⁵. Each State Party shall take important and effective measures. We propose some examples in this regard, as follows:

- i. Appointment of a central authority that communicates directly with the central authorities of the other States Parties to provide the support and assistance provided for in this Convention, including directing and receiving requests for support and assistance.
- ii. To establish communication channels between its specialist authorities, departments and services to facilitate safe and rapid exchange of information on all aspects mentioned in these conventions. In addition, the draft Convention focused on cooperation during the gathering of inferences and investigation about:
 - a. Identifying persons suspected of having committed, and contributing to, the offenses covered by the Convention and their places of concentration and activity.
 - b. Identifying the movement of funds and property derived from the perpetration of any organized crime to ensure the effectiveness and rapidity of the proceedings. Creating joint teams is recommended to monitor the tracking of funds in each State Party to ensure the protection of the security of persons and operations.

The parties must recognize and understand that the cooperation process does not affect the sovereignty of the State whose territory was crossed to follow-up suspects or targeted funds and that they should take practical measures to ensure that their security services cooperate to monitor and detect material transfers. As previously explained, this is intended to be updated³⁶.

The available audited database facilitates the cooperation of law enforcement authorities in exchanging data and detecting persons fleeing justice, as well as in exposing the methods that criminal organizations resort to recruit persons for trafficking purposes. In order to achieve the intended objectives, the following should be ensured:

- A. Monitoring compliance of States Parties in the implementation of institutional arrangements and procedures established under the Convention. Developing mechanisms consistent with the development of scientific and technological knowledge.
- B. Facilitating the exchange of information to counter transnational organized crime.
- C. Assessing the scope of progress in achieving the objectives of the Convention and making recommendations on issues necessary for the implementation of the Convention and for the mobilization of financial resources³⁷.

Accordingly, we conclude that the executive policy of the draft international conventions against crime and complementary protocols aims to strengthen cooperation among the criminal justice agencies and urges States to establish a common information center

³⁵ Athena, Imad, *Op. Cit*, p. 106.

³⁶ Commission on Crime Prevention and Criminal Justice, sixth session, draft United Nations Framework Convention against Organized Crime, p. 21.

³⁷ Commission on Crime Prevention and Criminal Justice, sixth session, draft resolution IV against corruption and bribery in commercial and financial transactions, p.78



benefiting from the latest information and communication technologies, run by highly competent persons. In addition, it proposes following-up criminal activities and investigating perpetrators to ensure a serious contribution according to model standards.

Furthermore, those involved should report on the challenges and factors that inhibit the implementation of the plans and programs they are working on. They also can request more information about criminal activities occurring within their territory and communicate their experiences through prevention and control measures.

In all cases, the Commission on Crime Prevention and Criminal Justice of the United Nations should make suggestions and general recommendations based on the information it receives from any party and transmit them to the States concerned. Article 20, entitled "Collecting and sharing information on organized crime" of the United Nations Convention against Crime states:

*"The Secretary undertakes, with the assistance of the United Nations Crime and Justice Research Institute and other organizations of the United Nations Crime Prevention and Criminal Justice Program, to collect and analyze public information and special research results on organized crime, and to prepare studies of global trends in organized crime and policies and measures to prevent and combat organized crime"*³⁸.

Accordingly, it can be said that the role played by the United Nations in the past in the implementation of the International Convention against Crime has turned it into a mere positive spectator who observes and make suggestions. Therefore, the international organization should enhance coordination between the involved agencies, to select the best mechanisms to combat organized crimes, and to establish a network of liaison officers to facilitate cooperation between States Parties. It should assist developing countries in the exchange of information and in bringing the views of local legislators closer to this point.

In this regard, the Commission on Crime Prevention and Criminal Justice stipulates that: Each State Party shall establish a domestic regulatory system to control the activity of financial institutions within the jurisdiction of that State with a view to deterring money-laundering, as follows:

1. Issuing licenses for these institutions and conducting periodic inspections of their activities.
2. Eliminating bank secrecy laws that may impede the operation of money laundering monitoring programs in States Parties.
3. The institutions shall prepare clear and complete records of accounts and keep transactions in them or through them for at least five years and ensure that such records are available to the specialized authorities for use in criminal investigations and prosecutions in investigations.

³⁸ Athena, Imad, *Op. Cit*, 88. & Commission on Crime Prevention and Criminal Justice, eighth session, proposed program of work in the area of crime prevention and criminal justice.



4. Ensuring that the information held by such institutions on the identity of customers and account holders is available to law enforcement authorities and the parties concerned. The States Parties shall notify all financial institutions of the opening of anonymous accounts or accounts under false names.
5. Obliging those institutions to report suspicious or unusual transactions.

The Jordan experience constitutes an example of combating cybercrime. Jordan issued the Electronic Crimes Act of 2015, which was amended in 2018 to add new forms of cybercrime and to tighten penalties for perpetrators. It also issued the Prevention and Combating Terrorism Act of 2006, but this law did not explicitly criminalize cyberterrorism. Additionally, the State security crimes are flexible enough to accommodate cyberterrorism. But after amendments made by the Jordanian legislator to the law in 2014³⁹, it was considered prohibited terrorist acts.

The Jordanian law listed, in the text of Article 3, paragraph e, the use of the information system, the information network or any means of publication or media, or the establishment of a website to facilitate the commission of terrorist acts or to support a group or organization or an association that carries out terrorist acts, promotes its ideas or finances, or carries out any act that would expose the Jordanians or their property to the risk of acts of hostility or retaliation against them.

It is obvious that the Electronic Crimes Act of 2018 and the Jordanian Anti-Terrorism Act of 2014 referred to cybercrime in a general manner. Still, the national will works towards the development of specialized bodies and cadres that cooperate with the international criminal justice agencies to combat cybercrime, because national justice alone is not enough to combat these crimes. No regional bodies have been established to document the relationship with counterparts. This is done through an understanding between state governments and within the framework of criminal legality.

Conclusion

This study dealt with the adequacy of the international cooperation means for combating cybercrime and ways to modernize it. It is one of the most serious crimes of the modern era, and this is due to the continuous development of information technology and the electronic devices and networks that facilitate its progress. Thus, the study aimed to shed light on this problem and try to find solutions to confront it. It tried to clarify what the international and national community is doing to keep abreast of the rapid developments of information crimes and the modernization of mechanisms and methods of international security cooperation in order to combat cybercrime through participation in international agreements and conferences. However, the activation of this cooperation remains controversial because of the spread of the crime and its development at all international levels, which raises questions about the success of the current international mechanisms to combat transnational organized crime, the ways in which they are used and the obstacles that limit their effectiveness. This requires the development of specialized bodies to monitor the organized crime phenomenon and authority coordination.

³⁹ Jordan Prevention of Terrorism Act No. 18 of 2014.



Results

- Efforts to combat cybercrimes are not commensurate with the size of the means and techniques possessed by criminal organizations.
- The divergence of political and legal systems would lead to a failure in the mechanisms of international cooperation to combat cybercrime.
- The current international and regional conventions to combat cybercrime are inadequate and completely ineffective.
- The response to cybercrime follows a non-uniform policy among countries.

Recommendations

- 1) Establishing specialized agencies to confront cybercrime with the support of the United Nations to formulate an integrated theory that responds to technological development and ensures modernized cooperation mechanisms.
- 2) Filling the legislative gap in the digital environment magazines with the issuance of explanatory legislation notes, especially in the field of electronic crime, encompassing the substantive and procedural rules.
- 3) Reviewing the curriculum and the need to include IT and networks information, to recognize their advantages and risks.
- 4) Compelling Internet service providers to allocate part of their budget to awareness and guidance, how to use the Internet safely and support civil society initiatives in this direction.
- 5) Scientific planning to combat information crime and the need for countries to adopt a unified policy to address this crime. International convergence is the only way to confront cybercrime and address organized crime.
- 6) Expanding Arab cooperation in the field of combating cybercrime, like the Budapest Convention.
- 7) Updating the security organization by all scientific and technical means in order to detect and follow-up crimes, through the formation of a specialized unit to follow-up developments and put forward ways to combat them.

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A FAIR GLOBAL CARBON BUDGET FOR LEAST DEVELOPED COUNTRIES (LDCS)

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Abstract

Climate change is a phenomenon recognised, monitored and researched by broad sectors of the scientific community, being one of the great challenges of the 21st century. Within this vast and transdisciplinary theme, this work discusses how the least developed countries (LDCs) can position themselves in front of the hegemonic discourse spread by the countries of the core in climate negotiations, especially in relation to the mitigation of greenhouse gases. The inductive method was adopted from a case study and information was collected from primary and secondary sources. Based on the understanding of historical emissions, climate justice and global carbon budget, it is debated here whether LDCs should actually consent to everyone's responsibilities even if they differ, since they have urgent needs to improve their development indexes, especially in terms of GDP and IDH. It is argued that the LDCs – whose historical contribution of emissions is around 0.4% of the total – should claim an increase in the share of the global carbon budget for economic and social development purposes.

Keywords

Climate Change; Historical Emissions; Global Carbon Budget; Climate Justice; Least Developed Countries (LDCs)

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A FAIR GLOBAL CARBON BUDGET FOR LEAST DEVELOPED COUNTRIES (LDCS)¹

Gustavo Furini

Introduction

Environmental issues have been the subject of debate internationally for more than four decades by the members of the United Nations (UN), with particular emphasis on the architecture for climate change negotiations initiated at the United Nations Conference on Environment and Development (UNCED) in 1992, also known as Rio de Janeiro Earth Summit (Bueno & Pascual, 2016). This emphasis is mainly due to the scientific evidence of the Intergovernmental Panel on Climate Change (IPCC), which points to a gradual increase in the concentration of greenhouse gases in the atmosphere since the second half of the 19th century (2013). The observation confirms that phenomena arising from climate change are already occurring, to a greater or lesser extent, across the globe with potential impact on the economies and societies of all regions (*ibidem*). Based on the predictions and facts already observed, there is a possibility of tragedies with global dimensions occurring in the future, which postulate climate change as one of the great challenges of the 21st century (Soromenho-Marques, 2012). This is because, as one of the main consequences, the alteration of the climate system has the power to increase social disparities due to the intensification of poverty, hunger, forced human mobility, diseases, gender inequalities and greater difficulty to access natural resources. These factors ultimately limit development especially in the poorest countries, which are the most vulnerable to climate change (IPCC, 2013).

Most of the scientific community and countries part of the United Nations Framework Convention on Climate Change (UNFCCC) consider that the intensive use of fossil fuels, especially by the pioneers of the industrial revolution in Europe and the United States, is the main factor for global warming (Jönsson *et al.*, 2012). Because of this asymmetry between rich and poor nations in terms of contributions to greenhouse gas accumulation over time, discussions within the UNFCCC have used the historical factor as a criterion for defining the principle of common but differentiated responsibilities (Shue, 2015). From this point of view, developing countries have never had formal emission reduction targets, but the failure of the developed countries to meet the targets for the first (2005-2012) and the second (2013-2020) periods of the Kyoto Protocol² indicated the need for

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² During the first commitment period, industrialised countries listed in Annex B of the Kyoto Protocol committed themselves to reducing emissions by an average of 5% in relation to 1990 levels. At the Conference of the Parties (COP), held in Doha, in December 2012, the Protocol was extended to a second commitment period, from 2013 to 2020, in which developed countries committed to reducing emissions by at least 18% below 1990 levels (UNFCCC, 2018).



broader collaboration amongst nations (Bueno & Pascual, 2016). For the Paris Agreement to be signed by the end of 2015, among many other formalities, all UNFCCC member states had to submit their reduction aspirations for the 2020-2030 period – the Intended Nationally Determined Contributions (INDCs) – in order to limit global warming to a maximum of 2 degrees Celsius by the end of the century (Dion & Laurent, 2015). Although the INDCs are based on voluntary emission reduction commitments, the Paris Agreement is innovative in proposing a new arrangement in climate negotiations at the international level, as it is supported by most of UNFCCC member states to meet mitigation targets (Salinas, 2018; Bueno, 2017).

The Conferences of the Parties (COP) – international rounds in which all the UNFCCC member states participated – are not restricted to technical discussion based on scientific data, whose contribution is essential to move the negotiations forwards (Dion & Laurent, 2015). These meetings reach their peak when the dialogues reach the political level, despite the lack of space to discuss social parameters such as those defended by climate justice (*ibidem*), which goes beyond the distribution of goods or environmental permits amongst nations. For the countries of the South, climate justice is imperative to avoid the permanent process of uneven development (Fischer, 2015) and it seeks to counter the hegemonic policies and measures imposed on the countries of the periphery by the countries of the core (Bond & Dorsey, 2010).

Negotiations in multilateral organisations promise to reduce uncertainty and increase the predictability of future events. However, as a matter of course, conditions and decisions are imposed by hegemonic nations (Shadlen, 2003). As already mentioned, at the UNFCCC, multilateral talks to address and define possible gas mitigation frameworks take historical responsibility into account, but there is intense discussion to try to reformulate such a view, either from cuts based on the per capita factor – proposed by the developing countries – or on the current profile of total emissions as rich countries want (Parks & Roberts, 2008).

Historical responsibility represents the “polluter pays” principle. Although it protects those who least polluted – at least in theory – on the other hand, it did not penalise those who historically most emitted greenhouse gases. The per capita approach advocates the equalitarian principle that everyone should have equal rights to global public goods, including atmospheric stability (Randalls, 2011). But as part of the industries have been shifted from the centre to the periphery in recent decades (Wallerstein, 2004), this approach must be used carefully as the per capita contribution of the Southern countries (Shue, 2015) have been increasing. This caution regarding the migration of industries, especially with the advancement of globalisation in the 21st century, is reinforced by the discourse of rich countries defending current total emissions as a single parameter for reduction.

The different perceptions about climate justice are constructed and perceived to a large extent by the highly unequal positions that the countries occupy in the global hierarchy, materialised by their economic and political power (Randalls, 2011). The fundamental political issue of the current negotiations is around who should make cuts and who can continue to emit, considering that the stock of greenhouse gases accumulated in the atmosphere is largely the responsibility of rich and industrialised countries (Parks & Roberts, 2008). The notion of a global carbon budget, in which part of the quota has already been used over time and another is committed to meeting the objectives of international climate agreements, is fundamental to the debate on climate change.



Data on greenhouse gas emissions clearly demonstrate the dissonance between emissions over time between rich and poor countries, as well as increasing participation in emissions from developing countries, especially those that have undergone the last industrialisation process, such as the BASIC³ countries. It is a challenge for developing nations to address the issue of climate change domestically, as the attention of these governments is still focused on ensuring better economic and social conditions for their people. The discourse that all countries must take action to curb emissions, including those that have serious difficulties in guaranteeing basic conditions and rights to their population – such as the Least Developed Countries (LDCs)⁴ – does not seem feasible, at least in the short term.

Thus, the guiding question of this essay is: *What stance should the LDCs countries adopt in relation to the global carbon budget and under what justification?* It was based on a (i) bibliographic review of books, publications, journals and scientific magazines and the (ii) collection, sampling, systematisation and analysis of qualitative and quantitative official⁵ data available on the world computer network for the elaboration of graphs and figures. In addition to this introduction, this essay has three sections to approach theoretical frameworks involving: global carbon budget, historical responsibilities and climate justice. The end contains discussion on climate justice for LDCs and final considerations.

Climate change and the global carbon budget

The consensus in the scientific community is that human activities interfere in the energy balance of the planet as a result of the continuous and increasing greenhouse gas emissions, and the global warming process is evidenced by the analysis of data collected in the atmosphere, earth, ocean and ecosphere (IPCC, 2013). From the analysis of data collected in several stations scattered around the planet, it is possible to verify the variation in the temperature of the terrestrial and oceanic surfaces and, as a consequence of the increase in global average temperature, there are higher rates of: melting glaciers and polar caps, rising sea levels and acidification, rising heat waves and areas prone to desertification, greater intensity and constancy of extreme weather events (*ibidem*).

Since the 1990s, UNFCCC efforts have been focused on mitigating greenhouse gas emissions in order to meet the UNFCCC's ultimate goal of stabilising atmospheric concentrations of these gases to prevent human actions from interfering in a dangerous way in the climate system (Matthews *et al.*, 2012). As a result of climate modelling research, developed with the intention of estimating emission reduction efforts to meet emission targets, the idea that future scenarios should be evaluated based on a global carbon budget was developed (Collins *et al.* 2013 *apud* Gignac & Matthews, 2015; IPCC, 2013). Such budget was structured from the understanding that changes in climate are directly related to cumulative carbon emissions over time, i.e. by the sum of historical emissions with current and future emissions (Matthews *et al.*, 2012). In this way, it is

³ Brasil, South Africa, India and China.

⁴ Designation given by the United Nations to the group of low-income countries that face severe structural impediments to sustainable development and are highly vulnerable to economic and environmental shocks due to low human capital. Accessed on September 10th, 2018. Available at <https://www.un.org/development/desa/dpad/least-developed-country-category.html>.

⁵ Source of primary data: The World Bank, UNFCCC e United Nations Development Programme (UNDP).



possible to determine the global temperature by relating it to the quantity of cumulative emissions produced in a given period (Gignac & Matthews, 2015). In order to limit global warming to a maximum of 2°C by 2100, a global carbon budget of around 1,000 PgC⁶ or 1,000 Gt should be considered, but by 2011 about half of this budget was already committed (IPCC, 2013).

The global carbon budget given by greenhouse gas accumulation presents itself as an alternative to plan and negotiate the climate agenda (Matthews *et al.*, 2012). After the agreement amongst the scientific community regarding the quantities and who are the responsible for cumulative emissions, the next step is to agree on mitigation efforts based on the division of the global carbon budget (Gignac & Matthews, 2015). The criteria for future emissions sharing are not yet defined, but there are some proposals founded on three pillars: current emissions data, historical emissions and per capita division (*ibidem*). Criteria based on historical and per capita emissions safeguard developing countries, which include the LDCs, whilst decisions based on current emissions will further protect the interests of rich countries, bearing in mind that much of the global industry has been – and still continues to be – displaced from the core to the periphery.

Historical responsibilities

Due to their physicochemical characteristics, greenhouse gases have a long residence time in the atmosphere and, therefore, they take hundreds of years until they are naturally dissipated (IPCC, 2013). Taking this into account, a central issue in the discussions on climate change is whether nations that have polluted in the past should be held accountable for emissions that are still in the atmosphere and then bear the costs of future mitigation actions (Hayner & Weisbach, 2016). What is at stake is equity when sharing the responsibility for emissions, or historical responsibility, which is the moral and legal responsibility for past emissions. This is a fundamental discussion, although some governments try to advocate the contrary (Shue, 2015).

There is heated debate amongst those who understand that historical emissions should be framed as misappropriation of a common good – in this case, the atmosphere and thus precepts of climate justice should be applied. On the other hand, others refute the theory of appropriation, arguing that in the past there was no awareness of the potential damage caused. Consequently, there was no bad intention (Schüssler, 2011) on the grounds of “excusable ignorance” of the acts (Bell, 2011). This last trend argues that the principles of distributive or corrective justice should not be used in climate negotiations to try to solve problems of unfair distribution of wealth, and the market should be in charge of this task (Bernstein, 2016). On the other hand, climate justice seeks to counteract the policies formulated by the Northern countries for not believing the market promises to solve the problem, as its only concern is to maintain the status quo of hegemony and centre-periphery relations (Fischer, 2015; Bond & Dorsey, 2010).

Even though polluter countries did not intend to harm the environment, both present and future generations benefit from previous actions taken by their nation, since this is a continuous entity of which individuals are a part (Shue, 2015). A nation has “continuing structures and institutions; past, present, and future members are primary beneficiaries

⁶ According to IPCC's table, 1P (Peta) = 10¹⁵. Accessed on September 20th, 2018. Available at <http://www.ipcc.ch/ipccreports/tar/wg3/index.php?idp=477>.



of these on-going national formations and practices” (Shue, 2015: 14). The fact that a citizen is born in a rich and industrialised nation makes their life potentially healthier and full of opportunities and choices, unlike those born in a poor and non-industrialised nation whose individuals experience various privations that directly affect their freedoms of choice (Sen, 2001).

Due to the bonus obtained by pioneering industrialisation, justice related to the burden of current and future greenhouse gas mitigation costs should be based on three principles: (i) unequal burdens, (ii) greater ability to pay and (iii) guaranteed minimum (Shue, 2014: 13-14). The first principle considers that whilst some parties have gained an unfair advantage over others in the past – by imposing environmental costs without prior consent – those who have been unilaterally placed at a disadvantage have the right to demand responsibilities to be measured, in the future, according to the previous unjust advantage, so that fairness can be restored. The second one, greater ability to pay, relates to richer countries, given their greater financial conditions they must give more. Finally, the guaranteed minimum refers to the human factor as when some people do not have access to the basic conditions for a decent life and, on the other hand, some have much more than enough, it is unfair not to guarantee everyone at least an adequate minimum – although some will still have more than others (*ibidem*).

Focus on climate justice

It is important to emphasise that the discourse of the hegemonic trend that defends the rich countries usually prevails (Shadlen, 2003). Thus, with regard to climate change, usually the countries of the centre try to evade any responsibility for past emissions based on the argument of “excusable ignorance” of the acts. To do so, they argue that only a little more than three decades ago the first discoveries were made about the harmful effects of man-made greenhouse gases on the atmosphere (Bell, 2011). However, the apology for ignorance of the risks claimed by the Northern countries is questionable.

It is questionable because the knowledge and studies on the effects of anthropic interference on the climate were being already investigated by Svante Arrhenius in the late 19th century (Rodhe *et al.*, 1997). The Swedish scientist was the first to establish a quantitative link between changes in CO₂ concentration caused by industrialisation and the possible impacts on the climate. And in April 1896 he published a paper in a British philosophical magazine with the results obtained at the time (Uppenbrink, 1996). In addition, since the 1950s, just after the Second World War, a sophisticated CO₂ measuring station on the island of Mauna Loa, in Hawaii, was used to continually collect, register and monitor data related to changes in concentration of gases in the atmosphere (NOAA).⁷ There is also a study on the ice cores collected on the Antarctic from the 1960s, which demonstrates the tendency of a sharp increase in CO₂ levels from the propagation of industrial activity in the Northern countries in the 19th century (Lüthi *et al.*, 2008).

Climate justice emerges as a movement of political and social claim from the unfolding of environmental justice and the understanding that the impacts of climate change

⁷ The National Oceanic and Atmospheric Administration (NOAA) is the scientific agency of the USA in charge of monitoring the oceans and atmosphere conditions. Accessed on September 15th, 2018. Available at <https://www.esrl.noaa.gov/gmd/obop/mlo/>.



unequally affect different social groups, with the economically least privileged being the most vulnerable (Newell & Mulvaney, 2013). The climate issue was able to bring together actors with or without a history of action related to environmental issues given their global scope, and climate justice has its main stage of protest precisely in the international sphere (Milanez & Fonseca, 2011). In addition, the lack of the global elite's ability to solve the major environmental, social and economic biases – the tripod of sustainable development, according to the Brundtland Report of 1987 – generated a demand for the incorporation of other elements and dimensions to climate justice, such as: ethics, moral, philosophy, ideology, strategies and tactics (Bond, 2011).

The term climate justice, or even distributive justice, entered the UNFCCC discussions through the effort made by the Southern countries based on the different historical responsibilities (Fischer, 2015), since they have a high degree of social, economic and environmental vulnerability as well as a limited capacity to adapt to climate impacts (IPCC, 2013). Amongst the political and ideological positions of climate justice, the one that advocates greater participation in the global carbon budget for peripheral countries stand out, taking into account their urgent need for development (Fischer, 2015; Bond, 2011).

Climate justice to LDCs

The LDCs⁸ is a specific group of low-income developing countries which have a number of structural impediments to economic growth and social development, requiring special measures to address challenges faced (UN-DESA, 2018). Currently, the LDCs account for about one billion people, but contributed with only 0.4% of the total volume of gases accumulated in the atmosphere over the last five decades⁹ (Figure 1), whilst high-income¹⁰ countries contributed with more than half of the emissions in the same period. Thus, based on historical emissions (Randalls, 2011; Bond & Dorsey, 2010) and assumptions about climate justice (Fischer, 2015; Bond, 2011), the LCDs seem to have the legitimate right to claim a substantive increase in their participation in the global carbon budget (BASIC Experts, 2011). If we analyse the period between 1850 and 2000, the discrepancy between emissions from Northern and Southern countries is even more abysmal, since it is estimated that during this period 79% of global emissions were released into the atmosphere by rich countries (*ibidem*).

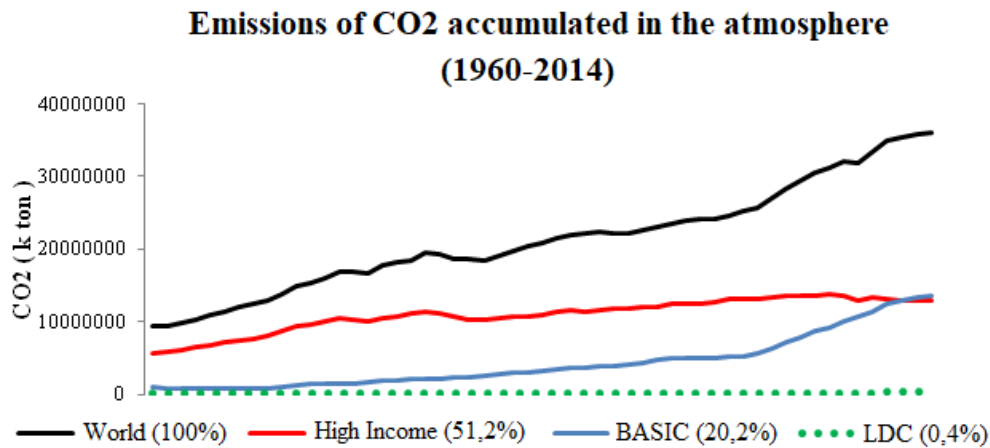
⁸ The 47 countries of the LDC group are: Afghanistan, Angola, Bangladesh, Benin, Burkina Faso, Burundi, Bhutan, Cambodia, Chad, Comoros, Djibouti, Eritrea, Ethiopia, Gambia, Guinea, Guinea Bissau, Haiti, Yemen, Solomon Islands, Kiribati, Laos, Lesotho, Liberia, Mozambique, Madagascar, Malawi, Mali, Mauritania, Myanmar, Nepal, Niger, Central African Republic, Democratic Republic of the Congo, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, Somalia, Sudan, South Sudan, Timor-Leste, Togo, Tuvalu, Uganda, Tanzania, Vanuatu and Zambia. Accessed on December 9th, 2018. Available at <https://www.un.org/development/desa/dpad/least-developed-country-category/LDCs-at-a-glance.html>.

⁹ Data available at <https://data.worldbank.org/indicator/EN.ATM.GHGT.KT.CE>. Accessed on August 15th, 2018.

¹⁰ The group of 78 countries classified by the World Bank as "high income" have an annual per capita income of more than 12,236 USD and are mostly represented by rich countries of North America and Europe.



Figure 1. Cumulative CO₂ emissions – totals and percentage values (1960-2014)



Source: Elaborated by the author from World Bank data.

On the grounds that everyone deserves a decent life (Shue, 2014) – even though by increasing emissions at first – the LCDs should reinforce the call for greater participation in the global carbon budget involving current and future emissions. From the perspective of global sustainability, it is true that emissions should be reduced by humanity as a whole (BASIC Experts, 2011), and the countries of the core should bear the greatest costs due to historical ecological debt (Parks & Roberts, 2008).

Considering that LDCs have a historical tendency to emit only 0.4% of total greenhouse gases, if they increase their emissions by 10 times, for example, the rest of the world would have to reduce its emissions to 46% of the current total. Therefore, global emissions would reduce by half. It seems legitimate, under the precepts of climate justice, that the countries of the core reduce their emissions to such an extent that LDCs could emit more and thus be able to improve their Gross Domestic Product (GDP) and Human Development Index (HDI). It is not about giving the LDCs the right to pollute, but fairly sharing the global carbon budget (Pan & Chen, 2010).

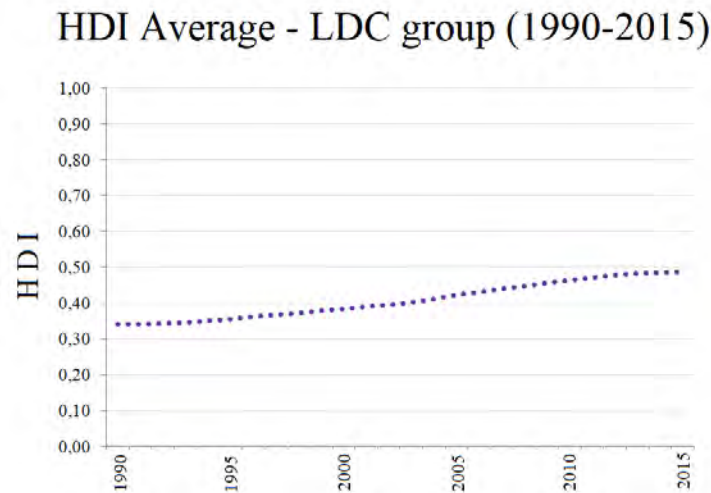
Regarding future reductions, some developing countries – especially those part of the BASIC – indicate that they will negotiate some share due to the upward trend from the 1990s (BASIC Experts, 2011). However, it should be noted that most of the emissions are related to the migration of industries from the core to the periphery (Parks & Roberts, 2008). It is also worth mentioning that the BASIC has presented a propositional stance in the UNFCCC rounds, demonstrating that its members aim to play a leading role in climate negotiations (Hallding *et al.*, 2013). Nevertheless, within the group of developing countries, the BASIC has more abilities than LDCs in several aspects, including economic capacity.

For climate justice and with a focus on greater participation in the global carbon budget for the LDCs, its member states should continue to pursue economic and social development as a priority goal rather than investing meagre resources in mitigation actions, at least for now. The participation of all, even if in a differentiated and voluntary way, does not seem to be justifiable considering the urgent need to improve the basic



living conditions of these countries' populations. Low HDI values in the LDCs – historically always below 0.5 on an optimal scale with 1 – reinforce this need (Figure 2).¹¹

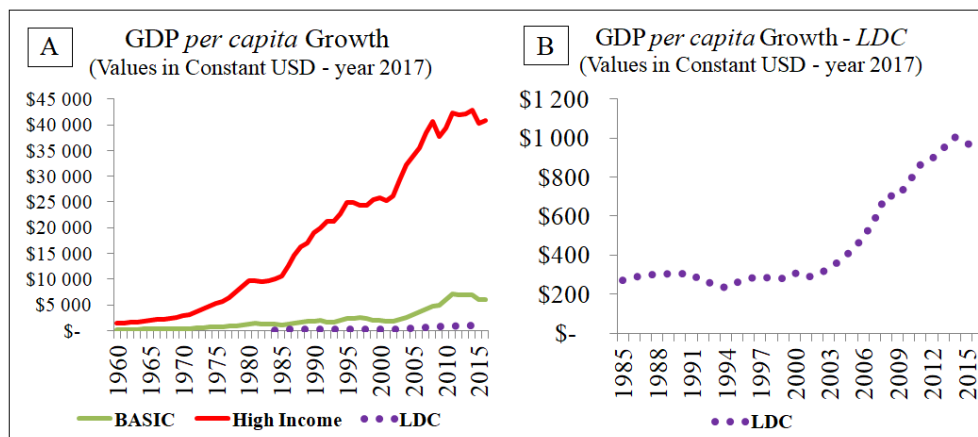
Figure 2. Evolution of the average HDI of the LDCs (1990-2015).



Source: Elaborated by the author from the UNDP data.

In addition to the HDI, LDCs need to increase their GDP levels in order to foster public investments and reduce social gaps. To give an idea of the discrepancy between GDP values in the international scenario, the average per capita GDP of LDCs represented only 3% of the average values obtained in high-income countries over the last three decades (Figure 3).¹²

Figure 3. A) Average per capita GDP of high-income countries, the BASIC (1960-2016) and LDCs (1985-2016). B) Per capita GDP of LDCs (1985-2016).



Source: Elaborated by the author from World Bank data.

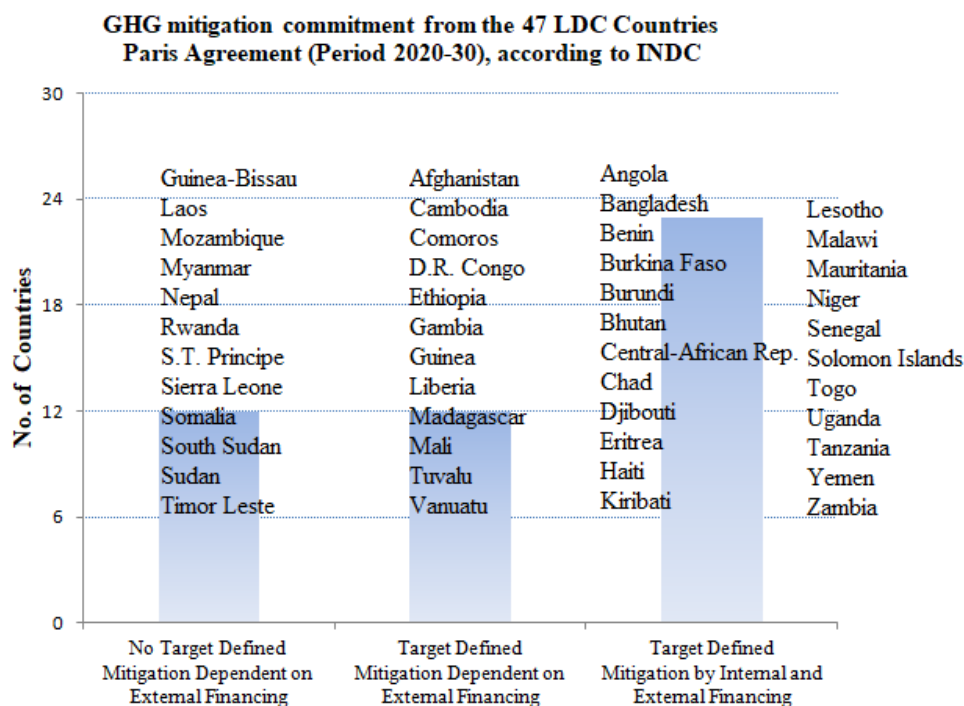
¹¹ Data available at: <http://hdr.undp.org/en/content/human-development-index-hdi>. Accessed on August 25th, 2018.

¹² Data available at: <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD>. Access in August 20th, 2018.



A transition to a low-carbon economy requires investments that peripheral countries cannot make at the moment, so any action that need to use new technologies should be funded by core countries. In 2015, during the preparations for the Paris Agreement, all countries had to submit their reduction intentions for the 2020-2030 period to the UNFCCC, including the LDCs (Figure 4). Although all member states part of the LDCs need external support for mitigation measures, it does not seem reasonable for 23 countries – about half of them – to fit into the hegemonic discourse of the North and to accept sharing responsibilities by investing part of the narrow and committed public budget in mitigation actions to combat the climate crisis originated by countries of the centre¹³.

Figure 4. Intended nationally determined contributions (INDCs) in the scope of the UNFCCC.



Source: Elaborated and systematised by the author based on the analysis of the LDCs by the INDCs.

The data presented in Figure 4 show that developing countries are concerned and committed to sustainability due to their vulnerability to climate nuances. Multilateralism almost always has a high price for the periphery (Shadlen, 2003) and the eternal dependence makes these countries accept any promise of aid. Periphery countries should not position themselves in such a way as to sacrifice their sovereignty by committing themselves to the decisions of multilateral institutions, whilst the countries of the centre do not even do their part (*ibidem*). This reality also seems opportunely applicable to the

¹³ Data available at: <https://www4.unfccc.int/sites/submissions/INDC/Submission%20Pages/submissions.aspx>. Access in August 1st, 2018.



UNFCCC, as peripheral countries, by accepting the hegemonic discourse, seem to fulfil their role as extras when expressing good intentions to help solve a problem that they did not cause. Not to mention that it is precisely the poor countries that are most vulnerable to the impacts of climate change (IPCC, 2013).

In response to the challenges posed by climate change, even though rich countries have committed themselves to establishing a climate fund within the UNFCCC, it does not seem to be working as expected. During the 2009 and 2010 Conference of Parties (COP), held in Copenhagen and Cancun, Northern countries formally agreed to jointly mobilise around 100 billion USD per year by 2020. To this end, the Green Climate Fund (GCF) has been created, which is an initiative to help developing countries mitigate and adapt to climate change.¹⁴ However, the donations made are far from the promised amount. According to GCF official data ¹⁵ from 2010 to 2017 just over 10% of what had been promised for a single year was collected.

Final considerations

As the atmosphere is a public natural resource of all humanity (Salinas, 2018; Randalls, 2011), unequal allocation of the global carbon budget cannot be a means to restrict the development of peripheral countries (Teng *et al.*, 2011). The gases accumulated in the atmosphere, mostly released by developed countries, led to global warming and nothing fairer than the centre taking responsibility for it (Mesík, 2016). Instead of consenting to the hegemonic discourse of everyone's commitment to mitigation right now, peripheral countries need to ensure, in the first instance, better living conditions for their population. From the perspective of climate justice, the imposition of unfair logics on the periphery should be ignored by the LDCs, who should require developed countries to adopt less-polluting models urgently to resolve the climate crisis generated by the core countries.

This essay considers that, during the global carbon budget negotiations, LDCs should demand a multi-fold increase in their quota, since their contribution over almost six decades – from 1960 to the present – is only 0.4% of the total generated and accumulated in the atmosphere. LDCs should abandon the consent stance of the hegemonic discourse of the UNFCCC negotiations and not take mitigation actions in the short and medium term. It is true that global emissions need to be reduced as a whole, but it seems to us that it is not the time yet for LDCs to help pay that bill. This is because the increase in the share of the global carbon budget will help the LDCs to start the much needed economic and social development, since traditional technologies are still economically more viable, even though they are carbon-intensive. To demand these countries to use clean technologies for social and economic development seem to be out of common sense and impossible in practice.

It is also argued here that LDCs, when having a broad participation in the global carbon budget, share their quota among their members. That is, due to the group's heterogeneity, if any country needs to emit more gas than expected, bilateral or multilateral partnerships between its members are recommended. In addition, South-South partnerships with other peripheral or semi-peripheral countries are welcome to

¹⁴ Accessed on September 15th, 2018. Available at <https://www.greenclimate.fund>

¹⁵ Accessed on September 15th, 2018. Available at https://www.greenclimate.fund/documents/20182/24868/Status_of_Pledges.pdf



avoid perpetuating the process of dependency. Nonetheless, it is obviously interesting for sustainable development purposes if rich countries are willing to install cleaner technologies in the LDCs member states from fully funded, subsidised and paid investments from the North. Agreements in which the host country is contractually obligated to bear part of the investments and also to pay high interest by the centre should be avoided.

In addition, the LDCs should not be seduced by the hegemonic discourse of the centre and allow their part of the global carbon budget to be compromised through the export of emissions from the centre to the periphery by establishing polluting factories. This centre-periphery migration movement of greenhouse gases, under the pretext of generating jobs, income and local development, has been very common in the relationship with the semi-periphery, which eventually became the world-system factory locomotive. Clean industries can be exported, provided they are installed in compliance with environmental standards, paying decent wages and generating revenue to the receiving country from the full payment of taxes. The pioneers of these technologies must be the rich ones who, whilst developing and lowering their cost, can then foster their use in the poorest countries of the planet.

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THE ROLE OF POLITICS AND INSTITUTIONAL ENVIRONMENT ON ENTREPRENEURSHIP: EMPIRICAL EVIDENCE FROM MOZAMBIQUE

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Abstract

This work investigates the relationship between the political and institutional environment and the development of entrepreneurship in Mozambique. Taking a literature review approach and using collected empirical data from interviewing 10 individuals playing different roles with impact on county's entrepreneurial landscape, results support existing theory and suggest that this African country still has a long way to go in what relates governmental action to entrepreneurial development.

Keywords

State, Policy, Entrepreneurship, Mozambique, Africa

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THE ROLE OF POLITICS AND INSTITUTIONAL ENVIRONMENT ON ENTREPRENEURSHIP: EMPIRICAL EVIDENCE FROM MOZAMBIQUE

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Introduction

The role played by the State, local authorities, governments, institutions, and public policies on entrepreneurship development has long been investigated by scholars of different fields within social sciences.

In the case of Africa, the importance of understanding this topic is of key importance because of the tested relationship between entrepreneurship and economic growth in the continent (e.g. Adusei, 2016) and the low level of economic development in many African countries.

Some of the key elements that relate the 'State' action with entrepreneurship are the institutional environment provided by governments, where bureaucracy plays a dramatic role, but also the start-up cost, the (lack of) transparency of public fee schedules, the (lack of) investment on human capital, the (lack of) coordination between governmental policy-makers and policy-implementing public servants, and the suspicion /fear politicians feel about entrepreneurs, among other factors.

The purpose of this work is to empirically explore the key relationships identified in existing literature in one of the least developed countries in Africa, thus contributing to increase the knowledge on both entrepreneurship and State role in Mozambique.

1. Entrepreneurship and politics in Africa

1.1. Entrepreneurship, economic development, and public policy

Governments all over the world have been using entrepreneurship development as an answer to one of the most challenging economic issues of any democratic regime: unemployment (e.g. Mehari & Belay, 2017). Because of that, economists have been extensively testing the relationship between entrepreneurship and economic growth which has created a strong base to inform governments and policy makers about what they could and should do about it. In a very provocative paper, Shane (2009), points out two very important elements for reasoning on this subject:

- (i) countries with most entrepreneurs as a percentage of the population are poor countries, not rich countries; and
- (ii) only a tiny percentage of all start-ups, the so called 'gazelles', do actually have a significant impact on job and wealth creation. Let us address these two tested



hypotheses. A striking economic evidence is that when people get more educated and their salaries increase, the opportunity cost of leaving the labor market increase and the motivation to run the risk of starting a new venture decrease. When unemployment goes up, many people are pushed to start a business either because they have no other way of making a living or because governments offer them incentives and benefits to do so. This leads to a significant increase in entrepreneurial activity in the market based on unfit entrepreneurs with small potential of generating profitable job-creating businesses and a tremendous diversion of financial resources that could be used to develop effective entrepreneurship through appropriate instruments, such as venture capital funds.

Further interesting economic research on entrepreneurship can be found in Mthanti & Ojah (2017). Entrepreneurial orientation is important for economic growth, not simply entrepreneurial activity. Governments must choose, in priority, to pull both entrepreneurial-oriented ventures and entrepreneurial-oriented incumbents. It is reminded the existence of significant research supporting policy and institutional causes for Africa's poverty but few studies address the real impact of entrepreneurship on this issue.

Naudé (2013) had already made the point that policy must focus on pulling entrepreneurial ability instead of entrepreneurial activity. 'Improving the quality of entrepreneurial ability means not only improving the skills and education of entrepreneurs, their human capital, but focusing on the innovative abilities of entrepreneurs. It is innovative entrepreneurship that is most desirable for growth. Innovation policy ought therefore to be a central focus of entrepreneurship promotion in developing countries as it is in advanced economies. Entrepreneurs in developing countries have a much greater propensity for innovation than is often recognized in the literature or by policy-makers'.

Although it takes some time before innovation policies and capital investment produce relevant impact on economic growth in Africa, training, skill acquisition, knowledge sharing, ease of access to capital, infrastructure development particularly in telecommunication, and others leading to patent increase, all these factors favor overcoming this challenge (Ojeaga, 2015).

The link between innovative entrepreneurship and access to education, and expenditure on training was also confirmed by Robson et al (2009). Surprisingly, this research reveals that older ventures are more innovative than younger ventures and better-established markets are also more likely to foster innovation than new markets, stressing the importance of institutional variables for opportunity-driven entrepreneurship.

Schillo et al (2016) also confirms the importance of institutional variables to entrepreneurship. Among the four dimensions considered, regulation weights less than normative, cognitive, and conducive dimensions.

Other interesting economic research (Islam, 2015) found out that entrepreneurial activity and government size are negatively correlated, which seems to be an interesting proxy about the way many African governments perceive entrepreneurship.



Juma et al (2017) summarized the role of government (and public agencies) on entrepreneurship: to facilitate (or block) entrepreneurial development by means of legal infrastructure, human capital development, and providing funding facilities.

Difficult access to capital, inconsistent governmental regulation, and unavailability of business locations are referred by Kiss et al (2012) as issues where government could contribute positively in countries such as Kenya or Ghana. In low developed countries with significant institutional deficiencies, entrepreneurs don't count on government to overcome venture obstacles.

When studying public governance and economic-related effects, Asongu & Nwachukwu (2016) highlight three broad concepts:

- (i) political (voice and accountability, and political stability /no violence),
- (ii) economic (government effectiveness and regulation quality), and
- (iii) institutional (corruption-control and rule of law).

The conceptual model of fostering serial entrepreneurial development of Amankwah-Amoah (2018) place government as an exogenous factor, impacting at two levels:

- (i) government policy (regulatory constraints); and
- (ii) governmental barriers.

Taking the case-study of Ghana, the author mentions that the 30-year period following the independence attained in 1957 was characterized by active policies to suppress entrepreneurship because entrepreneurs were often seen as 'potential political threats'. Therefore, a foreign investment policy of Western multinationals was fostered. After that, there was a shift towards a friendly regulatory environment for small businesses and indigenous entrepreneurs but this was not exactly backed by appropriate governmental support, financial resources, and real favorable regulatory conditions. This investigation reports little public support to develop managerial capabilities and entrepreneurial skills until early this century. As a result, confidence was not built by local firms and capabilities to attract investor attention were not developed. Institutions treat entrepreneurial ventures with the suspicion of having 'foreign owners', and entrepreneurs of being 'corrupt', 'fraudsters' and 'cheaters'. Public sector bureaucracy is an additional issue. Combined, these factors decrease the odds of reaching a positive entrepreneurial activity. It is suggested that government designs policies to destigmatize entrepreneurial failure among indigenous business owners and promote rebounds. Corroboration of public investments in 'human capital development', 'good governance', and 'infrastructural development for technology and innovation' is also provided.

It is important to accentuate that foreign investment will not produce the desired outcome in Africa if it does not increase indigenous entrepreneurship (Mota & Moreira, 2017). Hence the importance to combine policies to both attract external and internal entrepreneurs and business people.

McDade & Spring (2005) provide additional evidence on the distress of African governments about the development of African ventures, limiting their possibilities of growth. 'Government leaders were suspicious that a strong private sector comprised of their own citizens might threaten their own powers and privileges'. Consequently, after



all these years, Africans still own less than one third of large industrial companies in the continent. The new generation of African entrepreneurs demand 'business-friendly laws and regulations, government policies, and programs', look for dialoguing with policymakers but reject 'government patronage'.

Still working upon Ghana's data, Hilson et al (2017), in the framework of artisanal and small-scale mining entrepreneurship, identified three key areas of public policy concern:

- (i) licensing;
- (ii) policy apparatus; and
- (iii) funding.

On the same stream of thought, Amankwah-Amoah et al (2018a) posit the critical importance of government for purposes of technology adoption in Africa through 'promoting national identification', 'societal involvement', and 'improving educational infrastructures'. Policy lacuna has been identified as the region's critical gap in supporting technology development. Choices must be made about the trajectories of innovation to be pursued supported by state-driven initiatives. On the other hand, Amankwah-Amoah et al (2018b) highlight some institutional constraints to technology-driven entrepreneurship. Although democracy became more widespread in Africa recently, severe government intervention is banal with excessive public employment and socialism legacy in many countries. This led to go backwards in terms of entrepreneurial orientation when compared to late colonial days and even before that. Classic over-bureaucracy and 'red tape' problems are remembered. Lack or even absence of intellectual property is another weakness of most African entrepreneurs. The example of renewable energy development is provided as an opportunity to entrepreneurial development in Africa given massive infrastructural deficiencies and current monopoly inefficiencies.

Institutions have a significant impact on firm behavior and consequent competitiveness. Barasa et al (2017) mention the role on environmental uncertainty and transaction costs but also on the way businesses coordinate with each other. Another significant hint of this research is the description of institutional quality, which includes:

- (i) the process of governmental appointment, controlling, and change;
- (ii) the ability to generate and carry-on strong policies; and
- (iii) the way they relate with citizens and firms. When compared to other regions of the world, Sub-Saharan Africa performs worse in the enforcement of the rule of law, regulatory quality, level of corruption, and government effectiveness. Good institutional functioning is mandatory for entrepreneurship and innovation.

Another stream of thought, developed by Brixiova (2010) and Brixiová et al (2015) and reflecting the work of the African Development Bank, stress the importance of clearing the way for firm creation, decreasing taxes and cutting incorporation costs. Based on the evidence that these countries have significant budgetary limitations, policy selectivity and sequencing is of utmost importance. Subsidies to start up entrepreneurial ventures, and support to entrepreneurship training programs are identified as important policies to stimulate entrepreneurship.



In what matters innovation, for example, Cunningham (2015) identified that one of the major shortcomings of African countries is the information transmission between those who adopt policies, typically top government officers, and those who must implement those, mainly public servants. Public sector support is reported to be weak based on individual judgement that those entrepreneurs potentially benefiting from governmental support are privileged when compared to the general population because they were eligible for support based on a superior skill-set, including previous access to education.

When it comes to assess the way businesses can be informed about their regulatory environment, Geginat & Saltane (2016) report that in Africa this is very opaque. In the Sub-Saharan region, only 4 out of 46 countries provide decent and stable information about fee schedules in the following four categories:

- (i) business incorporation;
- (ii) building permits;
- (iii) electricity connection; and
- (iv) property registration.

One of the reasons for this institutional weakness in Africa relates to one specific particularity of the historical legacy: before colonialism, there was up to 10,000 different states and autonomous groups in Africa generating cultural distance, community dispersion, and lack of common purpose. On the other hand, recent international integration of many of these states led them to develop budgetary and fiscal controlling systems in line with every international compliance requirements (George et al, 2016).

Some good examples of positive governmental impact on African entrepreneurial development are also reported in the literature. M-Pesa, a case of 'ex ante investment with ex post justification', available in several countries, is a paradigmatic example of good institutional entrepreneurship (Kshetri, 2016).

1.2. Politics and policymaking in Mozambique

Mozambique is one of the least developed countries in the world (LDCs) and ranks very poorly in the main international indicators of development, like the Human Development Index, and in every investment climate /doing business reports.

'This is related to poor access to finance, perceived prevalence of corruption, inefficient government bureaucracy, inadequate infrastructures, and the education level of the workforce' according to Libombo & Dinis (2015). Like in many African countries, governmental action on entrepreneurship has been oriented to reduce economic exclusion rather than to capability building. Probably because of that, entrepreneurs remain a negatively-perceived professional group in terms of social status.

In such environments, entrepreneurial ventures 'tend to respond to increased bureaucracy by fortifying their political engagement with bureaucrats and by accentuating their political influence over bureaucracy-related policy making' (Luo & Junkunc, 2008).

In terms of political regime, Mozambique is, in formal terms, a democracy. It has been classified as an 'electoral autocracy' by Lührmann et al (2018) ever since the end of the civil war in late 1992. The ruling party since 1975, FRELIMO, is then 'the party'.



In what matters entrepreneurship, government has been increasing references to the importance of that variable to policymaking and to the broad economic agenda. Some of the current government measures that aimed at impacting entrepreneurial potential are:

The 2nd government's top priority, according to the 2015-2019 five-year plan, is 'to develop human and social capital'. Within that priority, the strategic goal #1 is 'to promote an inclusive educational system, effective and efficient, which guarantees the acquisition of required capabilities in terms of abilities, management and attitudes that answer the needs of human development'. Within that strategic goal, the priority action l) is 'to establish programs and synergies with higher, technical, professional, research, and technological education institutions that contribute to stimulate innovation and entrepreneurship'.

The 3rd government's top priority, according to the same 2015-2019 five-year plan is 'to promote job creation and increase productivity and competitiveness'. Within that priority, the strategic goal #1 is 'to increase production and productivity in all sectors of economic activity, especially in agriculture'. Within that strategic goal, the priority action i) is 'to consolidate and expand poles of research and dissemination of technologies and innovation for communities, and the priority action n) is 'to promote funding for innovation and research projects addressing socio-economic development challenges'.

2. Empirical study

2.1. Data samples and research methods

The goal of this study is to investigate the impact of government on entrepreneurship in Mozambique. Using the perspective of five different actors, selected according to their theoretical relevance to the subject:

- (i) governmental policy-maker – 1 individual;
- (ii) public servant policy-implementer – 1 individual;
- (iii) funding provider – 1 individual;
- (iv) expert – 1 individual;
- (v) entrepreneur – 6 individuals; a field study in the country was designed for this purpose alone.

The research is of qualitative nature. This sample has no statistical relevance on the population and no inferential conclusions are to be taken.

Actors from categories (i), (ii), (iii) and (iv) are from Maputo-City province, three men, one woman. Actors from category (v) are from the following provinces: Maputo-City, Maputo-Province, Sofala, Tete, Niassa, and Nampula, one per location, four men, two women.

Interviewees were identified through double-checked personal referral and were duly briefed about the aims, scope, and process of the investigation. They were initially contacted by e-mail and after confirming availability for the research they were re-contacted, this time through mobile phone call. Further contacts were established through WhatsApp or Skype messaging facilities. Anonymity was demanded by all



participants and was guaranteed through the form of a print-out signed non-disclosure agreement entitled 'Statement of Ethical Conduct Under Commitment of Honor'.

All interviews were face-to-face conducted in Portuguese language and were audio-recorded in the interviewer's smart phone device. They took place in the capital town of Maputo, between the 17th and the 23rd of May, 2018, at the preferred location of each interviewee, either the interviewee professional or business office or the interviewer hotel room.

An open-question approach was employed although a basic script of 12 topics was used to conduct the discussion. Accuracy and memory-related notes were taken from each interview. The longest interview took 03h17m and the shortest 00h48m. The average interviewing time was 02h04m. It was agreed that, if in doubt, interviewees would be later re-contacted for punctual clarifications.

Data was then treated using interview content analysis. Each interview was subject to repeated hearings during the 24th of May, 2018, the first day after concluding the data collection, to make sure the right meaning of each discussion was captured and key sections were subject to written transcription. Two interviewees were re-contacted on the 25th of May, 2018 through FaceTime live call, for miscellaneous clarification.

2.2. Data exploration and findings

All interviews observed the following chaining: first topic discussed was the policymaking process itself, and how it takes place in the country; second, the discussion about institutional constraints in the process of designing policies, such as bureaucracy, and ease to capital access; third topic, the type of judgment about and perceived threats arising from the entrepreneurs.

(i) Interview with the governmental policy-maker – 1 individual

The person in question had held a top position in the government of Mozambique in the past.

Policymaking was described as a sense-making exercise subject to somebody's initiative. There are different agendas guiding this process, not necessarily contradictory between them. In most subjects, different bodies have a convergent opinion and the discussion is more about who is the process owner rather than who is the idea owner.

The only exception are initiatives channeled through international institutions or the 'international community'. In this case, an official position or orientation needs first to be issued by the President with formal support from the party.

Entrepreneurship or entrepreneurial development is one of the topics that has been subject to constant recommendations from international institutions such as the World Bank and the African Development Bank.

The phenomenon seems not to be seen as a critical tool to foster development. The problem is that most politicians clearly separate 'entrepreneur' from 'businessman', the former being the undifferentiated 'poor citizen' and the second being 'the middle to upper class educated person' with real possibilities to thrive his way up to success. Many if not most of these individuals have low to middle (local) political influence.



About bureaucracy and the general doing business concerns, there is a strong influence of the party to not dismantle the administrative structure of corporate-related issues. When asked about the reasons behind that, our interviewee replied that 'given the public wages range, one may speculate that many low-level public-servants make a living out of bureaucracy'. The same does not apply to official fee schedules. 'In Mozambique, you may lose your job if you cheat on that. Everybody knows the fees and tariffs for every public service'.

Access to capital is a major problem to entrepreneurship in the country. Interest rates have been too high for too long but the Central Bank is doing a good job about it. Financial system is efficient and credible.

Are entrepreneurs perceived as a threat to political power? 'No, but nobody is interested in making your life easier in this country. If you succeed, you will be controlled and you will share your gains...'

(ii) Interview with the public servant policy-implementer – 1 individual

This interviewee is a board member or equivalent in a public institution with direct responsibilities on small businesses / entrepreneurship.

The process of policy-implementation was reviewed. It was mentioned that in most cases there is no formal transmission of information or goals. Information is received through published legislation. If significant inquiries arise from below hierarchical people, formal explanations are sent to the relevant minister's cabinet. If misinterpretations occur, usually it is because of ignorance or inability. There is no tradition or room for disobedience or boycott. Even less for sabotage. 'In some public departments of this country one can sometimes observe passivity or indifference. Have you heard the saying? The State pretends to pay us wages and we pretend to work hard...'

Entrepreneurship is a fashion concept, a buzzword. Nobody really believes in it but everybody keeps on mentioning its virtues. Government is willing to display some measures to animate the poor. Many are just looking for opening their 'barraquinha' (a very small shop) and get rid of a very bad paid job. But with no significant expectations or ambition. Why is that? Because people are conscious of their 'despreparo' (lack of skills), nothing else.

About bureaucracy, the idea is that there is nothing anybody can do about it. At the same time, for most people, it is not a real barrier. It is just a time-consuming challenge, some kind of natural selection test. The exception? Foreigners. In that case, bureaucracy could be used to discourage some unwanted strangers to make money in Mozambique or to keep them in an illegal / informal situation. In extreme cases, filed applications simply disappear, as many times as they are done, and there is never closure for certain demands.

As for the fee schedules, if they are not clear is because they were not defined and/or approved. The ordinary public servant would not play games with this type of thing. It is just too dangerous and people have already lost their jobs because of that.

In terms of funding facilities, they are very expensive and difficult to access given the requirements and the low credibility of most companies' accounts. Government could do more about it by reducing interest rates to entrepreneurial programs.



Entrepreneurship is not something politicians want to avoid. It is simply something that is deemed to be neutral to their agendas. Therefore, they do not really commit to that, unless some type of real interest is perceived.

(iii) Interview with the funding provider – 1 individual

The person interviewed in this group was a senior executive of a leading financial institution responsible for funding decisions to entrepreneurial ventures.

The discussion begun with the way policymaking occurs in the country, especially in what relates to entrepreneurship. From this person's perspective, policymaking in Mozambique 'is no better or worse than in any other African country I have worked before'. From a pure formal perspective, the bill-passing process seems to be comparable to European countries'. It is difficult to understand though how some issues reach the top of the political agenda and others do not. International institutions play a significant role in this country, especially in subjects like poverty alleviation, HIV combat, etc. Entrepreneurship is identified as part of fighting poverty targets.

Public servants are very low educated and skilled. They do not seem to be capable of simply understanding the laws and regulations. Consequently, they are basically unable to put things in motion. In most cases, programs will only go live after the Minister himself/herself mediatizes it or engages into in loco visitation.

Bureaucracy is about defending the 'pequenos poderes' (power of the small). Eventually, there is always a way of resolving these constraints. For example, for financial institutions bureaucracy is 'a necessary evil' because information integrity and paper records are simply not reliable in this country.

Governments in Africa do not like entrepreneurship no more than any other thing that they do not fully control. Opportunity-driven entrepreneurship is nearly inexistent in Mozambique because there is no innovation /knowledge base in the country. Even incubation has no real meaning. It is a shame the absence of real science and technology programs from either international or national initiative. The last domestic call in this field was actually to finance public universities, not to foster innovation...

About the financing conditions to entrepreneurship, they are very challenging and most entrepreneurs can not grab any relevant chunk of capital. Most companies have no controlling systems in place and their accounts are 'a complete fiction'. The inexistence of venture capital funds reveal a void of investment opportunities.

Finally, fee schedules is a non-issue.

(iv) Interview with the expert – 1 individual

The expert identified is a very experienced and highly educated individual who works both as a business and government consultant and as a private university lecturer.

Policymaking is a complicated process. It deals with far too many people: the party, the council of ministers, different governmental cabinets, the president, tons of consultants and advisors, parliamentary reps, just to mention the most relevant. Bottom-line? It is not an effective process and important decisions are taken last minute usually under significant international pressure.



The chain of command works also very poorly. First, because ministers themselves do not always know exactly the details about 'their' bills and, second, because many of the public servants reporting to them, highly ranked, are insufficiently skilled and educated to implement tough programs. Additionally, many of them are not fully empowered vis-à-vis their subordinates who were appointed by a higher officer.

Bureaucracy is impossible to detonate in this country. For many people, their salary is a tiny percentage of what they make with bureaucracy-related bribery. Some of them do not actually do any of the tasks outlined in their job description. They use it as a way of making illegal money.

Government has no real strategy for entrepreneurship. It is not such a relevant matter. Not even incubation, one of the easiest things to do, has expression. Maybe the moment some real entrepreneurial ventures start to succeed, not just the 'barraquinhas', government will start considering entrepreneurship as a real thing. Another important thought on this topic is the role played by the party's youth. They disregard entrepreneurship and look only for political opportunities. If only they would change their mindset towards business venturing...

Access to capital is a tremendous concern. Ventures are too small and have no bargaining power over banks. Business angels are not significant because of trust issues. Microcredit works well for micro-entrepreneurs.

On the fee schedules, apart from very limited exceptions, there are no reasons for concern. Nevertheless, in local /regional public departments one can expect to be played on that issue. On the other hand, public services with significant money transaction have been subject to innovative measures: fee bank-deposit prior to the conclusion of the transaction, and, more recently, the use of automatic paying machines.

(v) Interviews with the entrepreneurs – six individuals

As mentioned earlier, actors from this category are from the following provinces: Maputo-City, Maputo-Province, Sofala, Tete, Niassa, and Nampula, one per location, four men, two women, medium qualified, operating in the following economic activities: agriculture, food trading, hospitality, restauration, business services, and bakery. The goal was obviously to have a national representation of entrepreneurial experiences to assess also context sensitivity.

About policymaking, none of the entrepreneurs expressed strong feelings on that. The two from Maputo-City and Maputo-Province seemed to follow politics closer than the others. The four entrepreneurs from central and northern regions mentioned that policymaking had no significant relevance for their business activities although they all acknowledge that government is a key actor for the economic development of the country.

About the public agencies in charge of supporting entrepreneurship, all six entrepreneurs had no hesitation in classifying them as 'nearly useless' or simply 'bureaucratic desks'. Because they do not identify a clear entrepreneurial policy, they struggle to evaluate its direction. None of them had done any research about any existing program. The word-of-mouth seems to be the most effective tool to make awareness of public support. Public servants working in those agencies are also seen as 'functionaries' not adding any specific



value. One quoted example was the application to a public incubator in the region of Maputo. The application could not be completed due to missing documents. But no follow-up or any kind of help were made available. For the four entrepreneurs in the Center and North, no public incubation facilities were available at the start up stage.

Bureaucracy is the key issue for all six entrepreneurs, especially for the four in central and norther side of the country. It starts with the incorporation and goes on and on with every single administrative interaction. 'It is slow and expensive and adds no value. Servants are always fishing for bribery and even though things do not get done in due time'.

Capital limitations are a concern to all six entrepreneurs. Interest rates make money inaccessible for borrowing. Microcredit is the only viable option but amounts are too small to develop the business in a reasonable time-frame. Private equity, venture capital, and business angels seem to be strange concepts to these interviewees.

Government does not fear entrepreneurship. It simply does not care about it. Entrepreneurship in Mozambique means informal economy, 'barraquinhas', and poverty alleviation. Anything other than that is pure business, not entrepreneurship.

Conclusion

This research supports the basic theoretical assumptions outlined in the literature review.

For example, Juma et al (2017) hypothesis that the positive role of government on entrepreneurship takes place by facilitating legal infrastructure and providing funding facilities was mentioned by all interviewees.

The ideas behind Shane (2009) and Mthanti & Ojah (2017) about the importance of entrepreneurial meaningfulness and entrepreneurial orientation are also confirmed by these interviews, both explicitly and implicitly.

Naudé (2013) conclusions about policy focusing on pulling entrepreneurial ability instead of entrepreneurial activity receive also confirmation from this investigation.

Schillo et al (2016) importance of institutional variables to entrepreneurship is referred by all respondents but, curiously, by absence of clear policy, entrepreneurs cannot see it.

Kiss et al (2012) references on difficult access to capital, inconsistent governmental regulation, and unavailability of business locations are also explicitly referred by all interviewees.

Amankwah-Amoah (2018) evidence that entrepreneurs are 'potential political threats' in Ghana is not confirmed in Mozambique. One may speculate that the low level of entrepreneurial sophistication may account for that perception.

Mota & Moreira (2017) proposition about the importance of governments attracting both external and internal entrepreneurs receives negative support from this study. In Mozambique, according to one of the interviews, foreigners are not especially welcomed. Of course, this may be an issue for entrepreneurial development but more evidence is required to support thorough conclusions.



McDade & Spring (2005) conclusions about the new generation of African entrepreneurs demanding 'business-friendly laws and regulations, government policies, and programs', and dialoguing governments is not supported either in this study. Again, the lack of a real opportunity-driven entrepreneurial base may explain this type of response.

Finally, we must stress the limited character of this research based on ten interviews. Future directions for this research include enlarging the scope of the literature review and increasing the number of interviewees and their territorial representation, including rural versus urban and male versus female entrepreneurship.

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THE INVESTMENT OF SPANISH COMPANIES IN LATIN AMERICA, PATTERNS AND DETERMINING FEATURES

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Abstract

The objective of this paper is to analyse the recent evolution of Spain's Foreign Direct Investment in Latin America and the internationalization patterns of Spanish companies in these countries. To this end, statistics on investment flows have been studied and the main work of the authors in the business field have been reviewed. As a result, investment interest in Latin America has not decreased despite the crisis that began in 2008, due to its dynamism, the growth of its middle classes and the need to improve basic infrastructure. The interest in Latin America for the opportunities these countries offer to address third markets and improve competitive capacity is also noteworthy..

Keywords

Foreign investment; Companies; Spain; Latin America

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THE INVESTMENT OF SPANISH COMPANIES IN LATIN AMERICA, PATTERNS AND DETERMINING FEATURES^{1 2}

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Introduction

The globalization phenomenon has been driven by the progressive liberalization of capital movements on a world scale, leading to a remarkable dynamism in the flows and stock of foreign direct investment (FDI) in the last three decades, Fouquin and Hugot (2016).

In 2016, according to data from the United Nations Conference on Trade and Development (UNCTAD), (2017), the world stock of FDI amounted to 26,7 billion dollars, representing 35,5% of the world GDP, compared to the 2,2 billion dollars of 1990 (10,1% of the world GDP).

Spanish companies have participated in this growth in a very active way. Between 1993 and 2016³, the flows of Spain's gross FDI abroad totalled 691.000 million euros, an annual average of 28.790 million euros. As a result, in 2015 the Spanish economy maintained a stock of investment abroad exceeding 433.000 million euros.

Spain's investment profile in global markets has varied substantially according to the national and international situation, with the period 2003-2007 being the most dynamic, with annual average flows close to 50.000 million euros. Since then, investments abroad have been characterized by a more moderate evolutionary profile.

In order to analyse the patterns of business internationalization towards Latin American countries, the evolution of Spanish FDI in Latin America is examined first, and then the main patterns of the internationalization processes in these destinations are presented.

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² This work originated in the interest to know what the investment trajectory of Spanish companies in Latin America in the 21st century has been, in order to know its dynamics and the potential impact of the crisis that started in Spain in 2008 on the aggregate investment behaviour of the country. The article combines research with reflection on this subject. This research is part of the activities conducted in collaboration between the Nebrija Santander Global Chair in the internationalization of companies and the Complutense University of Madrid.

³ Data obtained from Spain's Registry of Foreign Investments [Registro de Inversiones Exteriores](#). (Ministry of Industry, Trade and Tourism).



1. Spanish investment in Latin America: characteristics and evolution

Latin America has gradually become the second priority destination of the investing efforts of Spanish companies abroad, after the group of developed countries⁴ (in particular, the European Union). Specifically, in 2015, 28,8% of Spain's FDI stock was concentrated in the Latin American region, as shown in Table 1.

Table 1. Stock of Spanish gross FDI abroad: investment position (millions of euros)

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Developed countries	230 661,91	229 139,39	229 932,86	251 448,58	250 357,26	270 043,22	254 364,90	291 254,62	317 090,70
Emerging countries	80 929,77	98 713,28	106 889,53	132 112,67	144 185,10	145 641,32	144 924,74	145 532,58	138 419,85
Africa	3 788,06	9 782,11	3 583,56	4 142,76	4 161,80	4 214,88	3 859,96	4 273,64	4 019,70
Asia and Oceania	5 178,65	7 369,55	9 061,78	12 995,26	15 681,25	16 258,28	12 989,28	11 418,26	8 834,87
Latin America	71 408,42	80 839,15	93 445,48	113 914,12	123 159,58	123 800,90	126 596,17	129 138,66	124 796,46
Russia	554,64	722,47	798,71	1 060,53	1 182,47	1 367,26	1 479,33	702,02	768,82
Rest of the world	-19 652,10	-17 480,27	-18 833,79	-21 090,21	-20 371,63	-24 529,31	-22 149,08	-20 040,82	-22 485,01
TOTAL	291 939,58	310 372,40	317 988,60	362 471,04	374 170,73	391 155,23	377 140,56	416 746,38	433 025,54

Note: the negative sign in terms of stock means losses associated with the investments.

Source: Ministry of Industry, Trade and Tourism.

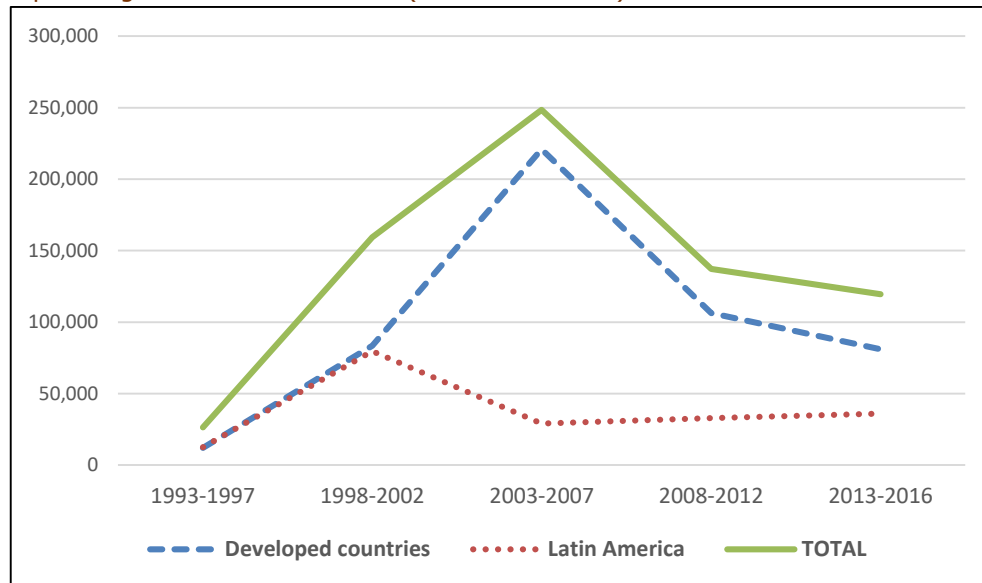
The Spanish investment trajectory, however, has been unequal over time, as can be seen in Chart

Chart 1. The nineties were characterized by the leading role of Latin America among destinations, with some FDI flows directed to this area higher than those sent to developed countries (9.590 million euros compared to 7.001 million euros in the annual average between 1993 and 2000). Behind this dynamic were the liberalization and privatization processes in certain sectors in Latin America, the attractiveness of the size of its markets, the incipient international vocation of the large Spanish companies and, of course, the existence of strong cultural links.

⁴ According to the United Nations' criterion of country classification in economic terms: <http://unctadstat.unctad.org/EN/Classifications.html>



Chart 1. Spanish gross FDI flows abroad (millions of euros)



Source: Ministry of Industry, Trade and Tourism.

In the early stages of the 21st century, there was a turning point, with a gradual loss of the relative strength of Spanish FDI in Latin America, although this area remained in the second position as an investment destination, as shown in Table 2. The progress in the process of economic and monetary integration within the European Union, together with certain instabilities and uncertainties in the world scenario, to a large extent may explain this behaviour.

Table 2. Spanish gross FDI flows abroad (millions of euros)

	1993-1997	1998-2002	2003-2007	2008-2012	2013-2016	Total 1993-2016
Developed countries	12 089,9	83 542,9	221 034,3	106 210,9	81 068,7	503 946,7
Emerging countries	6 737,4	80 936,8	33 103,7	45 514,3	41 781,4	208 073,5
Africa	190,7	1 272,7	3 726,5	2 224,1	629,3	8 043,3
Asia and Oceania	150,8	2 140,6	2 513,6	5 477,8	2 659,3	12 942,0
Latin America	12 504,1	79 707,6	29 004,6	32 975,8	35 945,3	190 137,4
Russia	28,8	73,5	854,9	639,3	339,3	1 935,7
Rest of the world	7 653,7	-5 195,8	-5 548,5	-14 521,3	-3 440,4	-21 052,3
TOTAL	26 481,0	159 283,9	248 589,5	137 204,0	119 409,7	690 968,0

Note: the negative sign in ends of flow reveals divestment dynamics.

Source: Ministry of Industry, Trade and Tourism.



However, in the 2013-2016 period, Spanish FDI in Latin America increased again, in contrast to its downward trend in other areas⁵, reaching an annual average flow of around 8.986 million euros (higher than 5.801 million euros and the 6.595 million euros recorded in the annual average in the 2003-2007 and 2008-2012 periods, respectively). This recovery also took place in a context of sustained reduction of the flows of foreign investment from the rest of the world to Latin America (of 16% in 2016), as indicated by UNCTAD (2017). Thus, even in this scenario, the Spanish companies trusted the economy of the area, by consolidating and increasing their presence in a sustained manner.

This is an adequate response of the companies to the important economic results obtained from their investment operations in the area. In fact, as Table 3 shows, the results obtained by Spanish companies linked to their investments in the area were about 15.000 million euros in 2015. On the other hand, investments in developed countries were also prominent in terms of results, totalling 28,872.3 million euros in that year.

Table 3. Results of Spanish gross FDI abroad (millions of euros)

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Developed countries	38 333,62	6 847,92	12 694,34	25 238,85	25 964,88	22 945,12	23 422,64	24 164,59	28 872,31
Emerging countries	18 927,84	32 793,33	27 385,17	32 650,87	39 617,89	38 857,56	34 834,51	35 147,36	34 642,34
Africa	1 077,65	3 334,30	597,45	715,99	481,43	842,54	710,92	617,86	487,76
Asia and Oceania	8 263,94	1 085,67	1 175,41	1 417,37	1 438,08	1 807,28	1 213,28	1 041,98	313,65
Latin America	9 632,95	9 657,85	11 791,23	16 821,80	18 459,39	15 488,03	14 391,44	17 089,11	15 086,51
Russia	-46,70	-212,33	-44,41	176,03	107,80	233,01	148,01	-65,24	70,71
Rest of the world	-9 675,93	-20 788,01	-16 025,89	-15 393,70	-20 876,71	-22 987,97	-22 116,21	-20 496,25	-22 820,63
Total	47 585,53	18 853,24	24 053,62	42 496,02	44 706,06	38 814,71	36 140,94	38 815,70	40 694,02

Note: the negative sign in terms of stock means losses associated with the investments.

Source: Ministry of Industry, Trade and Tourism.

The higher nominal value of Spanish investments in Latin America was accompanied by a growing number of companies established there, as the information in Table 4 and Chart 2 shows. In 2013, 2.619 Spanish companies had investments in Latin America, which represents an increase of 27,3% compared to 2007, higher than that experienced by the number of Spanish companies located in developed countries and around the world (increases of 14,6% and 23,9%, respectively).

The geographical concentration is the dominant trend in Spain's investing relations in Latin America, with the group formed by Brazil, Mexico, Venezuela, Chile and Argentina being the undisputed protagonist. These five countries concentrated 87,3% of the stock

⁵ It should be noted that Spain's decrease in aggregate investment figures abroad does not mean that the investment does not remain positive. On the contrary, during the years of economic crisis, the gross investment of Spanish companies abroad continued to grow, albeit at a more moderate pace than in the previous period, of intense boom. So did the net investment, although in a more limited way. The effect of the economic crisis was felt in the increase in divestment, especially from medium and large companies, which needed to obtain funds to rebalance their sheets and sold shares in their foreign subsidiaries.



of Spanish FDI in Latin America in 2015. The interpretation is similar if the analysis is made in terms of the average flows sent to the area since 1993: these five countries totalled more than 85% of Spain's FDI flow to Latin America in the 1993-2014 period. During the crisis period, specifically from 2007 to 2014, the stock of Spain's FDI in Brazil and Venezuela grew very considerably, almost doubling; the same applied in the case of Chile, although to a lesser extent. The stock of Spanish FDI in Mexico remained unchanged and, on the other hand, in Argentina it decreased, as underlined by Álvarez, Myro and Vega (2016)⁶.

From the point of view of the number of companies present in the different Latin American countries in 2013 (last available year), again Mexico (523 Spanish investment companies), Brazil (432), Argentina (359) and Chile (313) stood out as the most relevant focal points for Spanish business.

In terms of comparison with the other areas, Latin America has also experienced a notable increase in the number of Spanish investment companies. The advance since 2007 of the Spanish investment fabric there has been the highest in absolute terms, despite the fact that Spanish investments in developed countries continue to maintain their relative importance. This dynamic is probably the result of greater investment propensity in recent years towards less mature destinations for the Spanish companies (both from the rest of the world and from emerging countries, especially Latin America), in line with the intense process of internationalization of the business fabric since 2008.

Table 4. Spanish investment companies abroad (number)

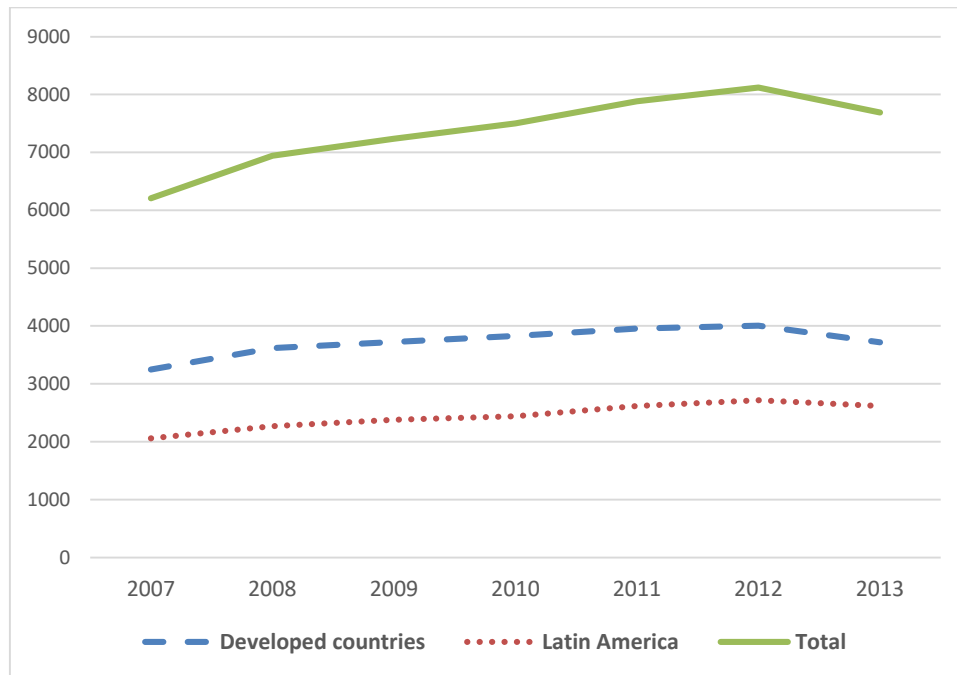
	2007	2008	2009	2010	2011	2012	2013
Developed countries	3 245	3 619	3 724	3 827	3 954	4 006	3 718
Emerging countries	2 493	2 776	2 898	3 025	3 260	3 419	3 273
Africa	229	258	254	274	293	308	294
Asia & Oceania	180	224	234	273	306	352	316
Latin America	2 057	2 271	2 378	2 441	2 615	2 716	2 619
Russia	27	23	32	37	46	43	44
Rest of the World	467	546	612	649	672	699	698
Total	6 205	6 941	7 234	7 501	7 886	8 124	7 689

Source: Ministry of Industry, Trade and Tourism.

⁶ One should keep in mind that the evolution of the stock is not only a consequence of the net investment, but also of changes in the value of the shares and changes in the exchange rate.



Chart 2. Spanish investment companies abroad (number)



Source: Ministry of Industry, Trade and Tourism.

In addition to this quantitative approach, it is interesting to analyse the relative importance of Spanish investment in each Latin American country, as per information provided in Table 5. In this sense, the stock of Spanish FDI accounted for 83,3% of the total world FDI received by Venezuela in 2015, 13,1% of that received by Bolivia, 9,8% by Ecuador, 8,3% by Brazil, 7,6% by Argentina, and 7,5% by Chile. Spanish FDI has, therefore, played a very important role in the productive structure of certain Latin American economies during the second decade of the 21st century.

Table 5. Spain's investment position in Latin America - main investment countries - Year 2015

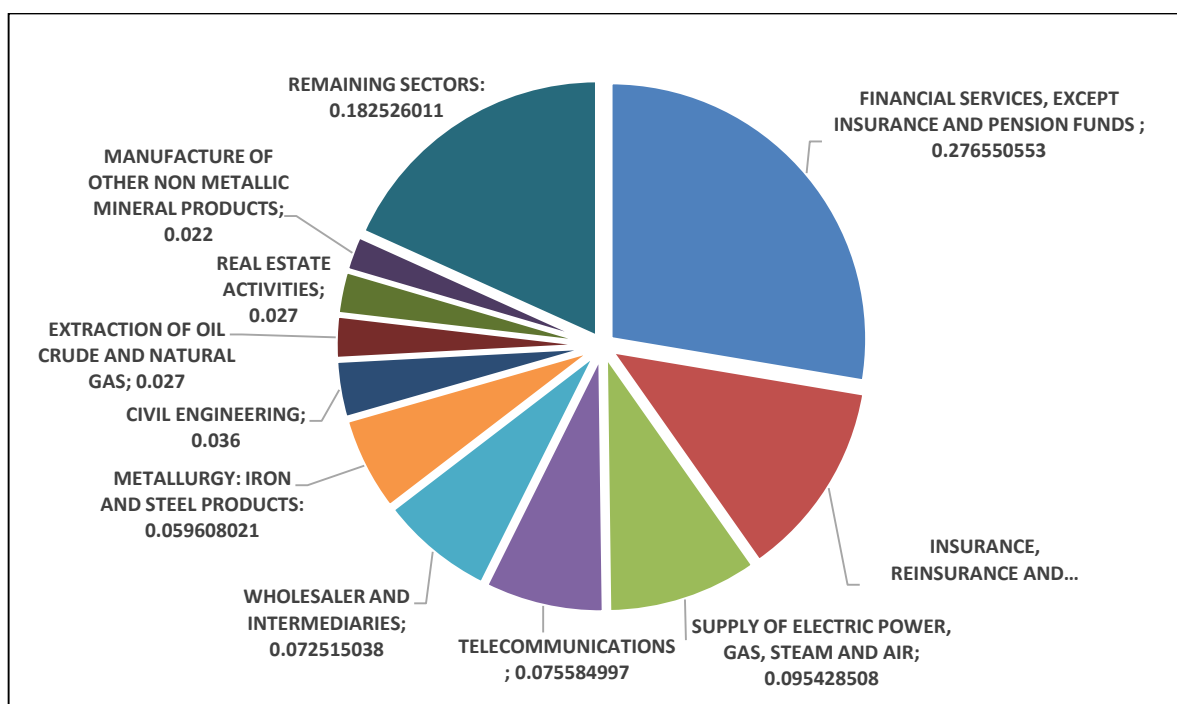
	Spanish FDI stock (mill. eur)	% total Spanish FID in Latin America	% of FDI stock received from the country
ARGENTINA	5 824,6	4,7%	7,6%
BOLIVIA	1 375,7	1,1%	13,1%
BRAZIL	35 138,0	28,2%	8,3%
CHILE	15 031,9	12,0%	7,5%
COLOMBIA	3 969,5	3,2%	3,0%
COSTA RICA	468,7	0,4%	1,7%
ECUADOR	1 387,2	1,1%	9,8%
EL SALVADOR	104,0	0,1%	1,3%
GUATEMALA	317,2	0,3%	2,7%
GUIANA	22,9	0,0%	0,9%
HONDURAS	35,6	0,0%	0,3%
MEXICO	31 662,5	25,4%	6,9%
NICARAGUA	17,6	0,0%	0,2%
PANAMA	1 783,3	1,4%	5,0%
PARAGUAY	237,5	0,2%	6,0%
PERU	3 543,6	2,8%	4,6%
DOMINICAN REPUBLIC	926,2	0,7%	3,4%
URUGUAY	1 279,8	1,0%	6,5%
VENEZUELA	21 313,9	17,1%	83,3%
TOTAL LATIN AMERICA	124 796,5	100,0%	8,0%

Source: Ministry of Industry, Trade and Tourism and UNCTAD (2017).



From the sectors' point of view, as shown in Chart 3, the Spanish FDI in Latin America has been directed mainly to financial and insurance activities (40,3% of the total stock invested in the area in 2015), with an increase of the interest of Spanish investors in this sector since 2007 (when it represented 26,4% of the Spanish FDI stock in Latin America). It also highlights Spain's investing presence in the supply of electricity, gas and others, (9,5%) and telecommunications (7,6%), although in both cases the share of all Spanish investments in the area declined. (14,3% and 19,6% in 2007, respectively).

Chart 3. Stock of Spanish FDI in Latin America by main branches of activity at the destination - Year 2015



Source: Ministry of Industry, Trade and Tourism

In terms of profitability, contained in Table 6, investments directed towards financial and insurance activities have been the most lucrative, concentrating 55,2% of the total results of Spanish FDI in Latin America in 2015. Conversely, other activities did not obtain positive results, although in general their relevance to Spain's accumulated investment stock in the area was limited in relative terms.

By geographical areas, Spanish investments in financial and insurance activities have been located mostly in Mexico and Brazil; regarding information and communications, in Brazil; in the manufacturing industries, Brazil and Mexico; and in the energy supplies of Chile and Brazil, as indicated by Cerón et al. (2014).



Table 6. Stock and results of Spanish FDI in Latin America. Main sectors of destination

Sector of investment destination	Total % of Spanish FDI in Latin America		Total % of Spanish FID results in Latin America	
	2007	2015	2007	2015
64 FINANCIAL SERVICES, EXCEP. INSUR AND PENSION FUNDS	24,29%	27,66%	40,02%	46,14%
65 INSURANCE, REINSURANCE. PENSION FUNDS, EXCEPT S. SECURITY	2,12%	12,60%	2,20%	9,08%
35 SUPPLY OF ELECTRICAL ENERGY, GAS, STEAM AND AIR	14,25%	9,54%	11,35%	8,11%
TELECOMMUNICATIONS	19,58%	7,56%	12,13%	3,11%
46 MAJOR AND INTERMEDIATE TRADE, TRADE, EXC. M. VEHICLES	2,16%	7,25%	1,45%	0,09%
24 METALLURGY; IRON, STEEL PRODUCTS PRODUCTION	2,34%	5,96%	3,66%	-2,64%
42 CIVIL ENGINEERING	1,72%	3,62%	1,72%	0,66%
06 EXTRACTION OF OIL CRUDE AND NATURAL GAS	8,63%	2,70%	9,91%	0,00%
68 REAL ESTATE ACTIVITIES	0,37%	2,67%	-0,04%	17,53%
23 MANUFACTURE OF OTHER N-METALLIC MINERAL PRODUCTS	3,90%	2,18%	4,86%	3,21%
52 STORAGE AND ACTIVITIES ASSOCIATED WITH TRANSPORT	2,38%	1,96%	1,72%	2,65%
55 ACCOMMODATION SERVICES	3,00%	1,69%	-0,15%	-1,96%
20 CHEMICAL INDUSTRY	1,31%	1,68%	2,08%	4,99%
41 BUILDING CONSTRUCTION	1,40%	1,35%	1,32%	-0,52%
66 AUXILIARY ACTIVITIES TO THE FINANCIAL SERVICES	0,59%	1,22%	0,90%	1,85%
47 RETAIL TRADE, EXCEPT MOTOR VEHICLES	1,05%	0,96%	0,87%	0,37%
43 SPECIALIZED CONSTRUCTION ACTIVITIES	0,92%	0,63%	1,01%	0,32%
10 FOOD INDUSTRY	0,33%	0,60%	0,23%	0,44%
REMAINING SECTORS	9,68%	8,16%	4,77%	6,55%

Source: Ministry of Industry, Trade and Tourism.

2. Business patterns: main features, determinants and strategies

Several analyses have been carried out on the determinants of Spanish investments abroad, especially by Ramírez, Delgado and Espitia (2004), Ramírez, Delgado and Espitia (2006), Gordo and Tello (2008), Martínez Martín (2011), Martí, Alguacil and Orts (2013), Fariñas and Martín Marcos (2013). These studies highlight the role of the attractiveness of market location, with a distinction between developed and developing countries and, within them, Latin America. A comprehensive synthesis of these studies can be found in Myro (2014a) and Myro (2014b).

Their conclusions indicate that Spanish companies with greater advantages regarding size, profitability and productivity have led the rapid process accessing foreign markets through export and FDI. Larger companies, with their own technological assets, brand and more extensive export experience, have channeled their preferences to less developed markets that are larger, have growth possibilities and better surrounding markets, where they can expect higher benefits from their competitive advantages. Large companies have directed their investments to a greater number of countries and have reached the most distant and unknown markets.



It should be noted that in this process, Latin America has played a very prominent role. At present, almost one third of the FDI stock of Spanish companies abroad is located in Latin American countries and has been the most important destination in the recent investment boom by Spanish companies abroad. Thus, in the first biennium of heavy investments by Spanish companies abroad (1999-2000) in Latin America, over 56.000 million euros were invested there, which accounted for 61% of total Spanish FDI abroad and for 98,8% of the amount targeted to emerging market destinations. The protagonists of these investments were the large companies. Chile and Argentina, and to a lesser extent Mexico, were the first countries where the Spanish presence stood out.

Regarding the main determinants and strategies followed by Spanish companies in Latin America, this paper summarizes the results of the studies conducted by the Nebrija Santander Global Chair in the internationalization of companies⁷.

On this basis, the main reasons for Spanish companies to establish themselves in Latin American countries were related to the potential of the latter's domestic markets (both in terms of size and economic dynamism). In particular, the growth of the middle classes, with the basic services they demand, and the need to improve their infrastructure opened up numerous business opportunities.

The factors associated with legal security and macroeconomic stability, aspects in which many Latin American countries have improved since the beginning of the 21st century, were also relevant, as in the rest of destinations, for Spanish companies to settle in Latin America.

In this sense, according to the study carried out by Solana (2017) on the location of Spanish companies abroad, the factors that determine their choice of location the most are related to the quest for company greater efficiency through internationalization, as well as having a secure institutional political framework and an appropriate business environment. In Latin America, these factors are very important, but in differential terms we can see that Latin America was the destination where, for Spanish companies, the factors associated with size and market potential stood out as the most relevant in these decisions.

On the other hand, cultural proximity has been a crucial aspect in the relevance of Latin America for the investments made by Spanish companies abroad. Having a common language has facilitated this process, especially for smaller companies. However, the studies show that, on numerous occasions, proximity is confused with cultural identity, which is a potential source of conflicts and problems.

Within Latin America, there are very diverse economic and political situations, which explain why the entry processes in these markets are very different. However, in most of them it has been usual, especially among the smaller companies, to resort to the figure of the local partner, at least in the first years of the development of their activity, and to the establishment of subsidiaries or acquisition of companies, instead of using more complex formulas, such as joint ventures, which have traditionally been less common.

On numerous occasions, Spanish businessmen have reached an agreement with a local partner, which has allowed them to get to know local singularities better and more quickly and facilitated relations with different agents and institutions, although sometimes these

⁷ Available on the website of the [Cátedra Global Nebrija Santander en Internacionalización de empresas](#).



agreements have caused problems over time. For this reason, companies highlight the importance of evaluating with great care and time the profile of the local partner and their long-term business commitment.

Most of these investment operations have been financed by the companies' own resources. The implantation operations in other countries require a lot of maturation time and it is necessary to take up the existing sunk costs. That is why it is necessary to reduce, as far as possible, the financial costs.

Another significant aspect of the Spanish companies' internationalization strategies in Latin America is the fairly widespread use of mixed and local structures in the organization of the different areas or departments of companies, in which, as the years go by, local personnel prevail over Spanish expatriates.

Regarding the main obstacles encountered by Spanish companies in their establishment process in Latin America, those related to the bureaucratic procedures or to the functioning of the corresponding Public Administration, the strong competition or the high economic power of certain local business groups, or the difficulty in finding qualified personnel for certain activities stand out. Undoubtedly, these are issues that can be very different in each country, and require a process of prior information and knowledge that can lead to tensions, delays or even suspend the FDI operation. Therefore, it is very important that all companies understand these obstacles and internalize them in their study strategy to settle in a Latin American country.

On the other hand, the results obtained by the majority of Spanish companies in Latin America have been satisfactory. The vast majority point out that thanks to their investments in Latin America, they have increased their sales, profits and market share. However, the most highlighted aspects by Spanish businessmen are the long-term component of these investments, with clear benefits in terms of improving business reputation and better future business prospects. For these companies, their presence in Latin America has increased their growth potential and the possibilities arising from using certain countries there as a platform for expansion to third markets. In particular, the interest in reaching strategic agreements between Spanish and Latin American companies for joint access to other markets is beginning to emerge, an aspect of special relevance to enter dynamic markets such as the Asian.

In short, Spanish companies in Latin America highlight their interest to stay in the area, their desire to be rooted in Latin American society and their firm commitment to its culture and customs.

Finally, it is worth noting the existence of efficient support institutions and appropriate commercial policies as relevant aspects of the Spanish companies' internationalization process in Latin America, especially for smaller companies.

Conclusion

Latin America has been a priority destination for Spanish companies since the end of the 20th century. In fact, in spite of the moderation during the years of economic crisis experienced in Spain between the end of the last decade and the middle of the current one, and of the gloomy perspectives of the UNCTAD for the area, since 2010 the Spanish presence has experienced remarkable growth, both regarding investment volume and



the number of companies located there. Latin America continues to be a priority destination for the investments of Spanish companies, attesting their commitment to the development of this continent.

Recent Spanish FDI is significant in Latin America (with a particular presence in Brazil, Mexico, Venezuela, Chile, and Argentina) and in certain economic sectors. Some weaknesses of the Spanish FDI were related to their excessive concentration at sector, business and geographical levels.

From the point of view of the patterns and motivations for the establishment of Spanish companies in Latin America, one can see the attractiveness that these markets offer due to their dynamism, driven by the growth of the middle classes and the needs to improve their basic infrastructure. In addition, all this is driven by the relevance of cultural proximity to undertake investments there. It is also important to highlight the firm commitment to permanence and integration of Spanish companies in the context of the country in Latin America where they are located.

Spanish FDI in Latin America is characterized by its higher relative performance compared with that obtained in other parts of the world, something recognized and valued by companies. At the same time, Spanish companies have acquired an intangible knowledge and international experience that allow them to expand to other markets and improve their competitive capacity.

Faced with certain obstacles, Spanish companies interested in productive investment in Latin America must gather prior information and knowledge, contact partners at destination, and get closer to the support institutions and entities present in these countries, which can provide assistance and help with the bureaucracy.

Regarding future research, it would be interesting to analyze the divestment dynamics that could be occurring in some destinations, as the negative results of the investment stock show. For this purpose, the FDI sector dimension could be further studied, as well as the influence seen in other countries regarding the reversion of industrial relocation processes, with the possible return of foreign investment to the country of origin (linked to the influence of Industry 4.0).

Ultimately, the intense cultural and economic links between Latin America and Spain open up numerous opportunities for collaboration between companies from both areas to face the challenges of globalization and access to other markets, figuring as a priority in the political agendas of the governments on both sides of the Atlantic.

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INTERNATIONAL MOBILITY OF A COMMUNITY OF STUDENTS FROM THE UNIVERSIDADE DO ALGARVE

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Abstract

This study compiles data on the mobility of a group of Portuguese public higher education students. It aims to understand how these young people are seeing their professional future and the hypothesis of international labour and academic mobility in a period of economic and social crisis. Based on data from a survey applied to 425 students of the Universidade do Algarve in 2016, their predisposition for mobility is analysed according to their professional perspectives, demographic characteristics and language skills. The results show that most of the respondents (69.6%) consider the possibility of working abroad and that this intention is motivated by the disbelief of reaching, in Portugal, work that provides stability and security, good remuneration conditions and social prestige. The possibility of an international academic experience, considered by 60.7% of the students, is not associated with the benevolent self-assessment of language skills. However, in the case of labour mobility, it was seen that this predisposition is greater amongst those who express greater confidence in their English skills.

Keywords

International mobility; students; Universidade do Algarve; economic crisis; Portugal

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INTERNATIONAL MOBILITY OF A COMMUNITY OF STUDENTS FROM THE UNIVERSIDADE DO ALGARVE¹

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1. The economic and financial crisis of 2008 and the international mobility of Portuguese university students

At the beginning of the first decade of the 21st century, when the Portuguese pondered the issue of emigration in Portugal, the most probable conclusion was that this type of migratory movement had reached its peak in the 1950s and 1960s, and that in the beginning of the 21st century the focus of attention would be precisely the opposite movement: immigration. In fact, as Jorge Malheiros points out, between the beginning of the 1990s and the middle of the 2000s, for both the political class and the academia, Portuguese emigration had become almost invisible regarding migratory phenomena (2011: 133). It was because Portugal benefited from the status of an economically prosperous and stable country, where immigration² was more aspired than emigration.

However, the crisis of 2008 changed this situation. In 2016, when this study was carried out, Portugal was still experiencing the effects. In fact, the bankruptcy of the investment bank Lehman Brothers on September 15, 2008, triggered the domino effect that led to the collapse of the speculative bubble in the real estate market, boosted by the huge increase in bank credit and the creation and application of new financial instruments. As a consequence, the credit suspension caused a sharp crash in industrial production and international trade. In Portugal, these effects along with austerity policies – rising taxes, prices, freezing of wages, etc. from 2010 have led to the erosion of employment opportunities for all, with particularly harmful impacts on the youth, which corresponds to the ones who were starting professional paths (see Carneiro, Portugal & Varejão, 2014).

Between 2008 and 2013, the general unemployment rate in Portugal almost doubled, from 7.6% to 16.2% (see Table 1), whilst in the age group “under the age of 25 years” it changed from 16.7% to 38.1%. In 2016, the year when this study was conducted, the same database estimated that the youth unemployment rate (under 25 years’ old) was

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² About the immigration movement to Portugal, see J.M. Malheiros & A. Esteves (2013). *Diagnóstico da população imigrante em Portugal: Desafios e potencialidades*. Lisboa: Alto Comissariado para a Imigração e Diálogo Intercultural.



28.0%. Therefore, there was a decrease compared to previous years, as it happened in the euro area, where the unemployment rate changed from 22.2%, in 2015, to 20.7%, in 2016.

Table 1. Unemployment rate in Portugal: Total and by age group (%)

Years	Age Groups			
	Total	<25	25-54	55-64
2004	6.6	15.4	6.0	5.5
2005	7.6	16.2	7.2	6.1
2006	7.6	16.5	7.3	6.3
2007	8.0	16.7	7.8	6.5
2008	7.6	16.7	7.2	6.6
2009	9.4	20.3	9.2	7.6
2010	10.8	22.8	10.7	8.9
2011	12.7	30.2	11.9	10.8
2012	15.5	37.9	14.7	12.7
2013	16.2	38.1	15.5	13.7
2014	13.9	34.8	12.7	13.5
2015	12.4	32.0	11.2	12.4
2016	11.1	28.0	10.0	11.6

Source: Pordata (last update in March 22, 2017).

Even when the general unemployment rate decreases, the youth unemployment remains high, in addition to the fact that most employment opportunities for young people correspond mainly to temporary jobs (Silva & Abrantes, 2017: 1336). The investigations that analysed the Portuguese employability and the youth pointed out that, in addition to the high unemployment rates, there are increasing wage inequalities (Carmo, Cantante & Alves, 2014) and much precariousness (Alves, Singer, Baptista & Carmo, 2011). This latest study by the *Observatório das Desigualdades* (Observatory of Inequalities) also noted that precariousness is not confined to the labour issue and affects the multiple dimensions and sectors of the social life of the youth.

Within this national context, between 2010 and 2016, around 96,000 Portuguese emigrated each year – the peak was registered in 2014, with the departure of 134,624 Portuguese citizens.³ According to data collected on the website of the *Observatório da Emigração* (Observatory of Emigration), which cited data from the United Nations, in 2015 the percentage of Portuguese emigrants living in Europe was 62%, whilst in 1990 it was 53%. Besides this sudden and high number of emigrants, it should be noted, as Jorge Malheiros points out, that this migrant movement is distinct from that of the 1960s and 1970s: (i) Europe is a diverse emigration space, since it is an area of free

³ See "Estimates of the total Portuguese emigrants, 2000-2015" at the Observatory of Emigration. Accessed on July 18, 2017.



movement and (ii) “a substantial part of this emigration takes on a temporary and not a definitive logic, which is also favoured by the possibilities of free movement” (2011: 135).

As already mentioned, this investigation took place in 2016, the eighth year of the greatest financial crisis since the Great Depression of 1929. The country was experiencing economic crisis and the consequences of austerity measures imposed by the triad of the International Monetary Fund, European Central Bank and European Commission. All these factors have had serious implications on the lives and life prospects of many young Portuguese graduates: discouragement, job insecurity and unemployment (Cairns, 2015: 10; Cairns, 2017: 340).

There are several studies that registered the impact of the economic crisis on the lives of young Europeans at the beginning of the 21st century (see Cairns, 2017; Papadopoulos, 2014; Dietrich, 2013; Aassve, Cottini & Vitali, 2013; Bell & Blanchflower, 2011; Scarpetta, Sonnet & Manfredi, 2010). During the economic crisis, the overall unemployment rate in Europe increased by 3.3% between 2007 and 2013, whilst the youth unemployment increased further, reaching 7.3% in the 20-24 age group and 5.1 % for those between 25-29 years of age (see OECD, 2013). That is, on the Old Continent the percentage of young people (20-24 years) unemployed reached levels higher than double the overall percentage of unemployment. This trend has been observed in several European countries, such as the Republic of Ireland, Greece, Cyprus, Spain. Germany was the only exception as its youth unemployment rate (20-24 years) decreased by 3.3% between 2007 and 2012 (i.e. from 9.8% to 6.5%) (see OECD, 2013). Despite the differential impact of the crisis, previous studies show that international labour mobility after graduation is one of the most frequent options in the vast majority of countries, even though it is transitory.

Mobility is understood here as the geographical movement between borders, for countries other than the one of origin, with a minimum stay of two weeks (Kmiotek-Meier, Carignani & Vysotskaya, 2019: 32). At this point, it is also crucial to distinct between “mobility” and “emigration” as there has been a change in terminology in recent years and the first term is preferable to the second, according to King, Lulle, Morosanu and Williams (2016: 8). This change is due to the fact that mobility is a politically more neutral term whereas emigration has a long past and is seen in many countries as a threat (King & Lulle, 2016: 30-31). Thus, emigration implies a displacement to a country where one stays for longer periods of time – sometimes even permanently – whilst mobility is characterised by a more transient movement. Engbersen and Snel (2013) suggest the term “liquid migration” to refer to this type of intra-frontier displacement in European Union, which currently has various forms: work trips, academic/professional internships, study programs, exchanges of various type, among others. King, Lulle, Morosanu and Williams (2016: 9) observed a tendency in Europe for the use of the term “mobility” when describing movements between European countries – since it is more suitable for the motto of “freedom of movement” – and the use of “emigration” to indicate displacements outside the European area.

At this point, it is also worth clarifying the term “youth”. Like the other age categories – childhood, middle age or old age – youth is a socially and culturally constructed category and not a concept defined chronologically, and there is no unanimity about it. In other words, youth/young is a plastic, contextual, situational and, above all, a



relational concept as it is defined in relation to – or to the transition between – another age category (King, Lulle, Morosanu & Williams, 2016: 9).

According to Pordata⁴ data, the highest rate of youth mobility was registered in 2012, including people in the 15-19, 20-24 and 25-29 age groups. Amongst them, the highest number corresponds to the 25-29 age group, and there is a decreasing trend from 2012 onwards (see Table 2).

Table 2. Portuguese mobility numbers by age group (2008-2015)

	Total	15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65+
2008	20.357	1.251	4.393	5.377	3.124	1.512	868	237	7	0	0	0
2009	16.899	1.039	3.649	4.465	2.593	1.256	720	196	6	0	0	0
2010	23.760	1.460	5.127	6.276	3.644	1.765	1.013	277	8	0	0	0
2011	43.998	3.277	6.237	6.097	5.075	3.952	3.044	3.032	1.520	611	118	553
2012	51.958	4.378	10.563	11.022	7.184	5.383	3.753	3.505	1.579	990	248	510
2013	53.786	2,775	9.722	8.917	6.303	5.821	5.499	4.898	3.047	1.774	942	1.827
2014	49.572	2.661	8.776	8.122	5.596	5.250	5.159	4.588	3.040	1.723	964	1.776
2015	40.377	2.705	7.266	8.146	5.601	4.189	3.652	3.147	1.878	1.048	290	356

Source: Pordata (last update in October 28, 2016).

In the book *Return to the future: The new emigration and the Portuguese society*, researchers identify two trends: one of those moving to other European countries (the youngest and the less educated) and those moving outside Europe (the less young and more skilled). The same study shows that, generally, Angola, Mozambique, Brazil and the United Kingdom are the destination for the most qualified individuals, and that in 2015 the United Kingdom was the country where most Portuguese emigrated: 32,300 (see Observatory of Emigration). On the other hand, the flow to Angola and Mozambique is more appealing to less-young professionals and is closely associated with transfers of employees from Portuguese companies. The book also denies that Portugal has lost half a million people to emigration since the beginning of the crisis, as the media sometimes affirms (see Santos, 2016). In fact, although the INE counts 485,128 displacements between 2011 and 2014, many of them last less than one year – between 2011 and 2016, this type of movement rose from 56% to 63%. Despite this aspect as well as the return of some of those who had left, the truth is that during the financial and economic crisis an unprecedented number of recent graduates leaving Portugal was observed. It was in this context and before this evidence that this study was carried out.

The article is structured into four sections. In this first one, which also corresponds to the introduction, the European and Portuguese context during the economic and financial crisis in relation to the unemployment and emigration number was generally presented, since it was during this period that the survey was applied. In addition, the main studies that analysed the effects of the economic crisis on European youth were

⁴ Data verified according to the numbers made available by the *Instituto Nacional de Estatística* (INE) – the National Statistical Institute of Portugal.



introduced and the concepts of mobility and youth were defined. In the second section, the objectives of the study, research design, data collection instrument, process and context of the survey application are described. Subsequently, the results are presented. In the last section, the main conclusions and limitations of this study are highlighted as well as the possibilities of future investigations.

2. Methodology

2.1. Study objectives

This study intends to analyse the perceptions of the students of the School of Management, Hospitality and Tourism of the Universidade do Algarve (ESGHT-UAlg) regarding their professional future and perspectives on international mobility. This school was chosen because it is the one with the highest number of students at this public university (approximately 2,000 students). Thus, the study objectives are:

- ⇒ to analyse the professional perspectives, both in general terms and in relation to the national labour market, and to identify in what aspects they differ;
- ⇒ to examine the relationship between the various professional aspects considered and the predisposition for international labour mobility;
- ⇒ to characterise the predisposition for international mobility, both labour and academic, according to demographic characteristics and language skills.

2.2. Research design

This research was based on an *ex post facto* and descriptive design, using a probing survey as a method of collecting primary data. The fourteen questions included in the questionnaire, resulting from bibliographic research and consultation of similar studies, are grouped into four sections: professional perspectives; international mobility (labour and academic); language skills and demographic characteristics (age, gender, course, year).

Regarding professional perspectives, two Likert-type scales are used to assess both the importance that respondents generally attribute to certain aspects of working life (1 - not important to 5 - extremely important) and to the perspective of having a future work in Portugal (1 - very bad to 5 - very good). The aspects considered are: employment opportunities; stability and security; remuneration conditions; possibility of career ladder; good relationship with colleagues and superiors; flexible hours; work that safeguards health and well-being; work with social prestige.

In the section on international mobility, respondents indicated if they have studied or considered studying abroad (international academic mobility) as well as if they have considered the possibility of working abroad (international labour mobility). If so, they had to rank their three preferred countries; and, if not, they had to indicate the influence that the recent terrorist attacks in European cities could have on this decision (none, a little, much). They were also asked to: identify family members with emigration experience (current or past); associate a word with "emigration"; and express their level of agreement with the statement "Two years from now the crisis will



have ended and the employment situation in Portugal will be better than today”, (1 - strongly disagree to 5 - completely agree).

In relation to language skills, respondents were asked to indicate the number of failures to curricular units of languages and the classification obtained in those they concluded.

They should also self-assess their knowledge of English, German and Spanish (insufficient, sufficient, good or excellent) and indicate an English language certification exam.

2.3. Data collection and sample characterisation

As already mentioned, the target population was the students of the ESGHT-UAAlg. This institution is located in Faro, the capital of the province of Algarve: the southernmost province of Portugal and the most touristic region of the country. The university, one of the fourteen Portuguese public universities, was created in 1979 and brings together two pre-existing institutions: the Universidade do Algarve (University of Algarve) and the Instituto Politécnico de Faro (Faro Polytechnic Institute).

The questionnaire was applied to a non-probabilistic sample of convenience to 425 students from the three years of the ESGHT-UAAlg (Management, Tourism, Marketing and Hotel Management) degrees (see Table 3). The application was carried out in a classroom situation in two different moments: in January and June, 2016. The collected data were individually verified and analysed through the SPSS vs. 23 program.

Table 3. Distribution of students by degree and year of undergraduate degree

Course	Total		Students / Year		
	Number of students	% Students	1st	2nd	3rd
Management	143	33.6	33.3%	26.92%	44.71%
Tourism	121	28.5	31.43%	33.08%	14.12%
Marketing	72	16.9	13.81%	21.54%	17.65%
Hotel Management	89	20.9	21.43%	18.46%	23.53%

3. Results presentation⁵

3.1. Characterisation of the respondents

The average age of the students surveyed was 22 years, with no significant differences between the various courses (Table 4). For the first years, the average age for all courses is 21 years old; and for the second, it is 22 years old in Management and Tourism and 21 in Marketing and Hotel Management. There is no significant differences in both cases (Kruskall-Wallis tests with $p = 0.51$ and 0.50 , respectively).

⁵ All tests presented are performed with a significance level of 5%.



Table 4. Average age per course

Course	Average age	Kruskall-Wallis	
		χ^2	p
Management	22	6.13	0.11
Tourism	22		
Marketing	21		
Hotel Management	21		

Regarding the third years, the students of Management have an average age above the global average and significantly higher than the ones of Tourism and Hotel Management (Table 5).

Table 5. Average age for 3rd year

Course (3rd year) ($\bar{X}=24$)	Average age	Kruskall-Wallis		Fisher's LSD
		χ^2	p	
Management	25	9.96	0.02	Gestão \neq Tur; GH
Tourism	22			
Marketing	24			
Hotel Management	23			

Although weak (V of Cramer = 0.2), there is an association between the gender of the students and the course attended (Chi-square = 17.68; $p = 0.001$), especially for Management as it is the only one to present a majority of male students. All the courses are mostly attended by female students, with the highest percentage in Tourism (see Table 6).

Table 6. Distribution of students by degree and gender

Course	Gender	%
Management	Female	45.5%
	Male	54.5%
Tourism	Female	69.2%
	Male	30.8%
Marketing	Female	65.3%
	Male	34.7%
Hotel Management	Female	52.8%
	Male	47.2%



3.2. Professional perspective and predisposition for international labour mobility

In relation to their future professional life, the factors most valued by students – both in general terms and in each course – are employment opportunities and the possibility of career ladder, followed by stability and security, and fourthly the remuneration conditions. The same aspects, when evaluated from the perspective of professional life in Portugal, present significantly lower values. Amongst them, the best-classified ones are related to the good relationship with colleagues/superiors and the safeguard of health and well-being (Table 7).

Table 7. Valorisation of professional aspects

Perspective of future professional life	Average Values		Test t paired samples	
	General (4.41)	Portugal (3.24)	t	p
Employment opportunities	4.54	3.19	25.30	0.00
Stability and security	4.29	3.30	17.44	0.00
Remuneration conditions	4.21	2.97	20.49	0.00
Possibility of career ladder	4.43	3.13	23.12	0.00
Good relationship with colleagues and superiors	4.19	3.70	10.93	0.00
Flexible hours	3.69	3.17	10.61	0.00
Safeguard of health and well-being	4.17	3.49	13.68	0.00
Social prestige	3.30	2.96	6.99	0.00

When evaluated from the perspective of the professional future, none of these aspects are associated with the predisposition for international labour mobility as well as in relation to a professional future in Portugal. In this perspective, there is a dependence between this predisposition and the evaluation of the aspects "Stability and security", "Remuneration conditions" and "Social prestige" (respectively: $X^2 = 10.81$, $p = 0.03$; $X^2 = 14.64$, $p = 0.06$; $X^2 = 12.95$, $p = 0.01$). The lower the rating the respondents attribute to them, the greater the percentage of those who say they consider working abroad.

Although there is no association between the possibility of mobility and the gender of the students, it was found that – contrary to the results found by Cairns (2017), in which only 35% of Portuguese students say they want to leave the country – the majority (69.6%) of our respondents consider this possibility, which is observed for both girls (66.8%) and boys (73.2%). In Cairns's study (2017: 342), female students are the ones who most consider international mobility (57% versus 43%).

The predisposition for international labour mobility, according to the students' ages, is higher in the younger students (Table 8).



Table 8. Labour mobility by age

Age range ($X^2=8.73$; $p=0.00$)	Possibility of working abroad	
	Yes	No
< 25 years old	71.7%	28.3%
\geq 25 years old	51%	49%

(% by line)

More specifically, those between the ages of 20 and 24 have a more expressive predisposition. According to the Organisation for Economic Co-operation and Development – OECD (2013), this age group suffered the greatest worsening in the unemployment rate between 2007 and 2013 (Table 9).

Table 9. Labour mobility by age group

Age range ($X^2=9.80$; $p=0.02$)	Possibility of working abroad	
	Yes	No
< 20 years old	69.7%	30.3%
20-24 years old	74.8%	25.2%
25-29 years old	51.9%	48.1%
> 29 years old	50%	50%

(% by line)

Although in all courses most students indicate that they consider working abroad, the application of the Chi-square test indicates that these variables are not independent. Even though the association between them is weak (Cramer's $V = 0.23$), it can be concluded that Management students have a lower predisposition for an international work experience, since they are the ones who register a less expressive majority (Table 10). This situation may not be unrelated to the fact that this is the course of the ESGHT, that has the lowest level of unemployment (5.5%), according to data from the Directorate-General of Education and Science (2016).

Table 10. Job mobility per course

Course ($X^2=22.30$; $p=0.00$)	Possibility of working abroad	
	Yes	No
Management	56.7%	43.3%
Tourism	80.2%	19.8%
Marketing	64.8%	35.2%
Hotel Management	79.5%	20.5%

(% by line)

Both for these courses and all the students surveyed, the preferential countries are the United Kingdom (32.8%), the United States (12.3%) and Germany (10.6%), countries not so strongly affected by the economic crisis of 2008 – similar to what Cairns (2017: 344) observed. Compared to these countries and according to the typology presented



by Hemming, Schlimbach, Tilmann, Nienaber, Roman and Skrobanek (2019: 49), Portugal is classified as a “beneficiary of mobility”, presenting a reduced capacity to produce human capital⁶ but largely benefiting from the development of this capital in young people who experience mobility.

Confronting the results with those reported by Cairns (2017: 343), it was found that our respondents, when asked about the country of preferential destination, seem to give less importance to the fact that English is spoken there (54.0%), a much inferior value than what the author indicated (87%).

One of the questions in the questionnaire required students to freely associate a word with the word “emigration”. All the words indicated by the students are positive: “opportunity” (22.6%), “work” (8.4%) and “better life” (8.1%), which can be understood as a sign of an optimistic attitude towards the perspective of leaving Portugal.

From the 128 (30.1%) students who do not consider working abroad, the majority are female (62.5%), under 25 years old (81.3%), and most of them attend (47.7%) the Management course. Concern over recent terrorist attacks is not a relevant factor for this option because the overwhelming majority (82%) say that this factor has little or no influence.

When asked about their agreement with the statement “Two years from now the crisis will have ended and the employment situation in Portugal will be better than today”, it was found that only 17% of students believe that the crisis and unemployment situation will be resolved in the near future – a result lower than the 21.6% obtained by Lobo, Ferreira and Rowland (2015) – for residents in Portugal above 15 years old.

3.3. Predisposition for international academic mobility

The area of Migration Studies deals with the analysis of the cross-border circulation of young people who attended or have recently attended higher education. Within this area, there is the field of research on International Student Mobility (ISM), which analyses the displacement of young people, either to study at a foreign university or to undertake an internship outside their country. In general, this mobility is due to European mobility programs such as Erasmus of the European Commission (see Gonzalez, Mesanza & Mariel, 2011; and Oborune, 2013, for example). Another focus of ISM research is those students who choose to study abroad for longer periods of time than European agency programs allow. In these cases, students rely on the help of their parents and/or the nearest family, or travel on their own, as they often choose to work before studying abroad (see, for example, Altbach & Knight, 2007; and Smith, Rérat & Sage, 2014).

According to the International Organisation for Migration (2018) report, students’ international academic mobility increased globally from around 3.9 million in 2011 to 4.8 million in 2017.

In this study, the majority (60.67%) of the students interviewed consider the possibility of studying abroad, and the same was verified in each of the courses. In spite of the

⁶ Hemming, Schlimbach, Tilmann, Nienaber, Roman and Skrobanek (2019: 46) define human capital as a set of skills that contribute to labour productivity and in which individuals can invest.



weak association (Cramér's $V = 0.16$), the Chi-square test indicates, however, that the predisposition to study abroad is not independent from the course. It was verified that Management students, along with the ones from the highest age group (Table 12), are those who are less likely to have an international student experience (Table 11).

Table 11. Student mobility per course

Courses ($X^2=11.00$; $p=0.01$)	Possibility of studying abroad	
	Yes	No
Management	50.7%	49.3%
Tourism	61.0%	39.0%
Marketing	68.6%	31.4%
Hotel Management	70.1%	29.9%

(% by line)

Table 12. Student mobility by age

Age range ($X^2=6.10$; $p=0.01$)	Possibility of studying abroad	
	Yes	No
< 25 years old	63.1%	36.9%
≥ 25 years old	45,1%	54.9%

(% by line)

Despite the weak association ($\Phi = 0.25$), the majority (68.5%) of students who consider the possibility of working abroad also consider the possibility of studying abroad (Table 13).

Table 13. Student/Professional mobility

Working abroad ($X^2=24.91$; $p=0.00$)	Studying abroad	
	Yes	No
Yes	68.5%	31.5%
No	42.5%	57.5%

(% by line)

3.4. International mobility and languages

With regard to students' self-assessment of their language skills, the majority (70.5%) of them have a "good" and "excellent" level only in English; whilst 44.3% and 3.6% in Spanish and German respectively (Table 14).



Table 14. Self-assessment of English, German and Spanish skills

Self-assessment of language skills	English	German	Spanish
Insufficient	5%	78.2%	13.8%
Sufficient	24.5%	18.2%	41.9%
Good	48.0%	3.6%	34.8%
Excellent	22.5%	0.0%	9.5%

(% by column)

Analysing the self-assessments of each language by course, it can be observed, for English and German, an association, although weak, between these two variables (contingency coefficient, respectively, of 0.23 and 0.37). In the case of English language, most of the evaluations are “good”, with a greater percentage of “good” and “excellent” in the courses of Hotel Management and Tourism (Table 15).

Table 15. Self-assessment of English skills by course

Course	Self-assessment of <u>English</u> skills			
	Insufficient	Sufficient	Good	Excellent
Management	6.3%	33.8%	47.2%	12.7%
Tourism	6.7%	17.6%	46.2%	29.4%
Marketing	2.8%	25.0%	43.1%	29.2%
Hotel Management	2.3%	18.2%	55.7%	23.9%

(% by line)

There was no “excellent” evaluation for German language, and the majority was classified as insufficient. Once again, it is in the courses mentioned above that the best results were found (Table 16).

Table 16. Self-assessment of German skills by course

Course	Self-assessment of <u>German</u> skills		
	Insufficient	Sufficient	Good
Management	92.1%	5.7%	2.1%
Tourism	59.7%	31.9%	8.4%
Marketing	95.8%	2.8%	1.4%
Hotel Management	67.0%	31.8%	1.1%

(% by line)



Regarding failures in language disciplines, the majority (79.4%) of the students surveyed, both in global terms (Table 17) and in each of the courses (Table 18), never failed.

Table 17. Failures in Curricular Language Modules

Curricular Units of Languages	
Never failed	79.4%
Failed one	10.6%
Failed twice	5%
Failed more than twice	5%

(% by column)

Although the association between the course and the number of failures (Coef Contingency = 0.29) is weak, the application of the Chi-square test indicates that the variables are not independent, which leads us to conclude, based on the contingency table below (Table 18), which is in the courses of Tourism and Hotel Management that there is a greater frequency of two or more disapprovals.

Table 18. Failures in Languages by Course

Course ($X^2=17.73$; $p=0.04$)	Situation regarding language disciplines			
	Never failed	Failed one	Failed twice	Failed more than twice
Management	89.9%	7.2%	1.4%	1.4%
Tourism	74.5%	12.7%	7.3%	5.5%
Marketing	87.5%	9.4%	0.0%	3.1%
Hotel Management	62.8%	14.0%	11.6%	11.6%

(% by line)

The overwhelming majority (91%) of students declared that they have never taken an English language certification exam. Although this certificate is independent of the course attended ($X^2 = 4.29$, $p = 0.23$), the percentage of certificate amongst Hotel Management students is higher (Table 19).

Table 19. English Language Certifications

Courses	English language certificate	
	No	Yes
Management	92.1%	7.9%
Tourism	92.4%	7.6%
Marketing	93.1%	6.9%
Hotel Management	85.4%	14.6%

(% by line)



When analysing the relationship between the predisposition for international labour mobility and languages, an association, although weak ($\Phi = 0.18$), was identified only for the self-assessment of English language. There is a greater predisposition for this experience amongst students who best assessed their knowledge in this language (Table 20).

Table 20. Job mobility / Self-assessment of English

Self-assessment of English ($X^2=24.44$; $p=0.00$)	Possibility of working abroad	
	Yes	No
Insufficient-Sufficient	52.4	47.6
Good-Excellent	76.8	23.2

(% by line)

With respect to international student mobility, there was no association between the predisposition to study abroad and the students' confidence in their language skills for any of the languages considered (English: $X^2 = 4.13$, $p = 0.25$; German: $X^2 = 0.09$, $p = 0.96$; Spanish: $X^2 = 1.34$, $p = 0.72$).

Conclusions

The job aspects most valued by the students surveyed, both in global terms and in each of the courses, are "job opportunities" and "possibility of career ladder", followed by "stability and security", and, only in the fourth place, by "remuneration conditions".

The same aspects, when evaluated from the perspective of a professional future in Portugal, present significantly lower values. Amongst them, the most highly rated are "good relationship with colleagues/superiors" and "health and well-being". However, these are not amongst the most important aspects for the respondents.

Although all aspects of the national labour market are worse classified, only the low expectations regarding "stability and security", "remuneration conditions" and "social prestige" influence the predisposition for international labour mobility.

Contrary to the results found by Cairns (2017), the majority (69.6%) of the students stated that they considered working abroad, which is observed for both female (66.8%) and male (73.2% %). This predisposition is higher in those between the ages of 20 and 24, precisely the age group that, according to the OECD (2013), experienced the greatest worsening in the unemployment rate between 2007 and 2013. From the preferential destinations, most of them (54%) are English-speaking, with the UK in first place. It should be remembered this English is the only language with a majority (70.5%) of "good" and "excellent" assessments.

The main words associated with the term "emigration" have a positive connotation ("opportunity", "work", "better life"). Taking into account that the words we choose



illuminate the view we have of a certain reality, it is possible to conclude that, for the students interviewed, the mobility perspective is fundamentally positive and promising of almost everything a youngster wants when they finish a degree: an opportunity to find a job that gives them a better life.

When questioned about the evolution of employment in Portugal, the same optimism was not manifested. Only 17% of respondents have a positive perspective for the next two years – a result lower than the 21.6% obtained by Lobo, Ferreira and Rowland (2015) – for residents in Portugal over 15 years old.

For those students who do not consider working abroad (30.1%), the concern about the recent terrorist attacks is not a relevant factor, since the overwhelming majority (82%) said that this is a factor with little or no influence in the decision.

As well as in relation to labour mobility, most of the students (60.67%) consider the possibility of studying abroad. Older students (25 or over 25 years old) and the ones on the Management course have a lower craving for this kind of student experience. Although weak, there is an association between these two types of mobility. The majority (68.5%) of students considering international professional experience also consider the possibility of studying abroad. On the other hand, the predisposition to an international academic experience has no relation to the students' language skills. In relation to labour mobility, this predisposition is greater amongst students who express greater confidence in their English skills.

Even though most of our respondents demonstrate a predisposition for international labour and academic mobility, according to Kmiotek-Meier, Carignani and Vysotskaya (2019: 32), many young Europeans are still reluctant to engage in this type of experience whether for academic or professional purposes. In the European context, mobility can be understood as a tool to overcome inequalities and to guarantee the European Union's social and territorial cohesion objectives (Hemming, Schlimbach, Tilmann, Nienaber, Roman & Skrobanek, 2019: 45). However, some authors point out that, on the contrary, mobility contributes potentially to the maintenance of inequalities, since individuals who move out are often in a position of disadvantage due, for example, to the devaluation of their academic competences (Bilecen & Van Mol, 2017: 1246).

In spite of the essentially exploratory and descriptive nature of this study, we believe that it can contribute to a better knowledge of the professional expectations of university students and their perspectives of international mobility.

Given the non-probabilistic nature of the sample used, the study presents limitations regarding the results, which should not be extrapolated outside the context under analysis. The extension of the study to other units of education, and using random sampling, would allow a general interpretation of all Portuguese university students. The second limitation is the use of cross-sectional data, which makes it impossible to analyse the evolution of the variables considered. Given its dynamic nature and the changes that have taken place in the national socio-economic context, it would be interesting to deepen the research from a longitudinal perspective.

This research does however allow us to offer data that can serve as a starting point for studies in which the relationship between the international professional and/or academic mobility and the knowledge/domain of foreign languages is evaluated.



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Notes

CROSS-BORDER COOPERATION IN THE GALICIA-NORTHERN PORTUGAL EUROREGION^{1 2}

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Foreword

After centuries of mistrust and rivalry, territorial cooperation relations – and, specifically, cross-border cooperation – between Portugal and Spain are nowadays characterised by an increasing dynamism. Indeed, since the second half of the 1970s, we have watched a gradual evolution and consolidation of such relations. The creation of Eurocities, Euroregions, Working Communities and European Groupings of Territorial Cooperation in the Cross-border Area of Spain and Portugal³ clearly illustrates such vitality.

According to Araújo and Varela (2014: 807), 'territorial cooperation emerges as a political objective to promote development and cohesion at the local, regional, national or even transnational levels'. In this context, the Galicia-Northern Portugal Euroregion stands out due to its 'institutional longevity' (Araújo and Varela, 2014: 805), thus deserving a deeper reflection. Some authors even go as far as mentioning that 'the joint territory

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³ The Cross-border Area of Spain and Portugal covers 37 NUT III (Nomenclature of Territorial Units for Statistics) in both sides of the border.



composed by Galicia and the Northern Region is [probably] the best defined cross-border area in Europe' (Pardellas and Padín, 2017: 32).

Located in the northwest of the Iberian Peninsula, the Galicia-Northern Portugal Euroregion includes Portugal's Northern Region (composed of the Alto Minho, Cávado, Ave, Alto Tâmega, Tâmega e Sousa, Terras de Trás-os-Montes, Douro and Porto's Metropolitan Area NUT IIIs) and the Autonomous Community of Galicia (composed of the Pontevedra, Ourense, Corunha and Lugo provinces), stretching over an area of 51 thousand sq km.

According to Cancela (2013: 89-90), besides the tangible elements (such as bridge building and the revamping of communication routes), the rapprochement of Northern Portugal and Galicia bears a huge intangible heritage, namely the creation of a context that promoted the cooperation between several political, administrative and socio-economic players, in an attempt to found a socially and economically attractive and cohesive territory and to reduce its peripheral character (in relation to the main political and economic centres) – thus giving rise to a true Euroregion.

In Medeiros' conception (2010: 6), an 'Euroregion' can be defined as

a region or subregion, usually with an area under 200,000 sq km, which spreads beyond the borders that separate one or more European countries, and that: (i) is currently the target of a common development strategy, with permanent and reinforced intervention characteristics, and with a significant participation and collaboration of several players at the local and regional levels, specially from civil society. [...] (ii) the barrier effect, in all its dimensions, is considerably limited, allowing for intense cross-border flows that help to structure the territory and promote positive socio-economic effects in both sides of the border; (iii) the sharing of social and cultural facilities is a reality; (iv) there's an intense and networked cooperation between the main research hubs, urban centres and cross-border business entities.

As stressed by Varela et al. (2015: 82-83), with the participation of subnational players in international relations

there's a new space generated in parallel to the formal, centralised diplomatic spaces, generating a network which is formal, but also peripheral and paradiplomatic, in which interdependencies and cooperation feed themselves, multiplying and, in some cases, producing impact through successive cross-border, interregional and territorial cooperation initiatives.

Thereby, the adoption of the 'paradiplomacy' concept points to the 'study of the external relationship of social players distinct from the centralised powers of the national states'



(Curto *et al.* 2014: 115). Consequently, beyond the contextualisation and characterisation of the cooperation between the Northern Region and Galicia, we also want to understand if the Galicia-Northern Portugal Euroregion presents itself as a relevant player in this non-governmental diplomacy.

Thus, first we will clarify the elements that motivated cooperation between Northern Portugal and Galicia; secondly, we'll identify the stages in the institutionalization of the cross-border cooperation between the two regions; next, we'll highlight the strategic areas of cooperation, as well as the projects and initiatives implemented in the Euroregion; later, we'll assess the cooperation between the Northern Region and Galicia, foreseeing some of the future challenges; finally, we'll try to find if we can speak of a paradiplomacy in the Galicia-Northern Portugal Euroregion.

Elements that motivated cooperation between Northern Portugal and Galicia

Historically, the coexistence and exchanges between Northern Portugal and Galicia have benefited from the geographical contiguity and the cultural and linguistic affinities (Cancela, 2010: 152). Furthermore, as stated by Trillo and Lois (2011: 129), 'the demand of benefits through wage differences, housing prices, soil, raw materials, manufactured products or leisure activities explain the daily or frequent cross-border movements, which can only occur on border areas'. Nevertheless, there are other political and institutional elements that favour such cooperation.

The democratic transition in Portugal and Spain in the second half of the 1970s decisively influenced the reshaping of their external policies, which boosted cross-border cooperation between the two states. Indeed, in 1977 both countries signed the *Treaty of Friendship and Cooperation between Portugal and Spain*, aiming to 'strengthen the existing friendship and solidarity bonds between the two countries'. It stated that the reinforcement of cooperation between the Iberian states and the prosecution of good neighbourhood practices would contribute to international peace and security, as well as to the 'harmonious development of the relationships which derive from the shared historical and cultural heritage'. It thus attempted to encourage mutually beneficial economic relations – specifically in industrial sectors, trade, mining, agriculture, fishery, transportation and tourism –, to develop new areas of cooperation and to 'promote the protection and rational exploitation of the shared natural resources' (Articles 3, 4 and 7).

It's equally important to mention the decentralization of the Spanish state (after the passing of the 1978 Constitution), which led to the establishment of autonomous communities. In fact, Galicia is, since 1981, an Autonomous Community whose political powers derive from its Statute of Autonomy. It has its own political institutions – a Parliament, a Regional Government and a President – and its territory is divided into provinces and municipalities.

On the other hand, Pardellas and Padín defend that (2017: 12) 'the process of European integration constituted an inflexion point in border history', starting with the lifting of the borders and the integration in the European single market (which allows the free movement of persons, goods, services and capital). Portugal and Spain joined the then called European Economic Community in 1986 and in 1988 and 1990, respectively, ratified the 1980 *European Outline Convention on Transfrontier Co-operation between*



Territorial Communities or Authorities, according to which the signatory states committed to 'facilitate and foster transfrontier co-operation between territorial communities or authorities within its jurisdiction' (Article 1). Consequently, cross-border cooperation is defined as

any concerted action designed to reinforce and foster neighbourly relations between territorial communities or authorities within the jurisdiction of two or more Contracting Parties and the conclusion of any agreement and arrangement necessary for this purpose (Article 2).

Furthermore, the European Union's cohesion policy – whose main objective is to reduce the economic, social and territorial disparities between regions (Article 174 of the *Treaty on the Functioning of the European Union*) – has strengthened regional cooperation, namely as regards cross-border cooperation. In this context, INTERREG stands out. This community initiative consists of an array of programmes financed by the European Regional Development Fund, which aim to promote the cooperation between European Union regions. Started in 1989, it's currently undergoing its fifth programming period (2014-2020)⁴.

Stages in the institutionalization of cross-border cooperation between Galicia and Northern Portugal

Using Cancela's systematisation (2010), we can distinguish two stages in the institutionalization of cooperation between the Northern Region and Galicia: an informal stage, between 1981 and 1991, and a formal one, which the author places between 1991 and 2008, but which can be extended until the present day. In this way, the informal stage was characterized by preliminary contacts between the Government of Galicia and the North Regional Coordination and Development Commission (CCDR-N) – the two main players and stimulators of the cooperation processes –, culminating in the Technical Seminars between Galicia and Northern Portugal (1988 and 1990). Starting with the 2nd Technical Seminars, the need was determined to establish a framework that favoured the continuity, coherence and increase of cross-border cooperation, framed in a structured work programme at the functional and institutional levels (CTGNP, 2019).

Thus started the formal stage of cooperation. Indeed, in October 1991 the President of the Government of Galicia, Manuel Fraga Iribarne, and the President of the CCDR-N, Luís Braga da Cruz, signed the *Agreement Establishing the Working Community Galicia-Northern Region of Portugal*. This Agreement recognised that 'cross-border cooperation is one of the most effective ways of securing the proximity of the border populations, of overcoming the challenges the whole border faces and of boosting development in the

⁴ In the context of INTERREG V-A Spain-Portugal (POCTEP) 2014-2020, the territorial cooperation strategy between the two states is based on the following thematic objectives: to reinforce research and technological development; to improve the competitiveness of small and medium-sized enterprises; to promote the adaptation to climate change and risk prevention and management; to preserve and protect the environment and to promote efficient use of the resources; and to strengthen the institutional capacity.



border areas'. To this end, the creation of the Working Community Galicia-Northern Portugal (CTGNP) aimed to reinforce the good neighbourly relations, 'with the triple aim of contributing to the development of both regions, to the European integration and to improve the situation of border populations'. Thus, through the action of Sectoral Commissions, the Working Community would favour economic and rural development; transportation, communications and tourism; culture, education and innovation; agriculture and cattle breeding; the environment and regional planning.

In 2006 this Agreement was adapted to include the provisions of the *Convention entered between the Portuguese Republic and the Kingdom of Spain on Cross-border Cooperation between Territorial Bodies and Entities (Valencia Convention)*, signed in 2002. This Convention aims to 'legally promote and regulate cross-border cooperation between the Portuguese territorial bodies and the Spanish territorial entities' (Chapter I, Article 1). Thereby, in 2006 the *Convention on Transfrontier Cooperation between the North Regional Coordination and Development Commission of Portugal and the Government of Galicia* was signed. This Convention has since ruled the functioning of the CTGNP. According to the terms of the Convention (Chapter I, Article 3), the actions of the CTGNP should focus on the following areas of cooperation: economic development; transportation and communications; agriculture, environment, natural resources and regional planning; fishery; health and social affairs; local development; regional and local government; education, training and employment; scientific research and universities; culture, heritage and tourism.

Also in 2006, aiming to remove the obstacles to territorial cooperation, the European Union introduced tools of territorial cooperation with legal status – the European Groupings of Territorial Cooperation⁵. In this context, in 2008 the European Grouping of Territorial Cooperation Galicia-Northern Portugal (GNP-AECT) was created through the *European Territorial Cooperation Agreement between the Xunta de Galicia and the North Regional Coordination and Development Commission* – opening a new historical stage in cross-border cooperation between Northern Portugal and Galicia, referred to as 'second generation' cooperation (Cancela, 2010: 155).

According to Cancela (2010: 151), such cooperation presumes 'the deepening and institutionalization of cooperation and the renewal of the political compromise of the Government of Galicia and CCDR-N with this joint undertaking'. The GNP-AECT was established in 2010 and aims to facilitate and promote territorial cooperation between Galicia and Northern Portugal in several fields of work, generating an ever more integrated euro-regional area. Thereby, the GNP-AECT declares as its main objectives: to foster and simplify cross-border relations; to expand the territorial and corporate competitiveness; to promote the transfer of skills, know-how and innovation; to develop access to basic transportation systems; to strengthen social and institutional cohesion in the Euroregion; to ensure sustainable development; to rationalize the cross-border resources, promoting its shared use. In the end, it's an agent entrusted with establishing communication, investment and convergence bridges between institutions, companies and citizens on both sides of the border (GNP-AECT, 2019).

⁵ Regulation (EC) No. 1082/2006.



Consequently, there are currently two institutional tools in the space of euro-regional cooperation: the CTGNP, acting as a political and strategical entity, and the GNP-AECT, which works as a *de facto* performer of cooperation projects (Cancela, 2013: 97).

Strategic areas of cooperation, projects and initiatives

Regarding the measures consolidating the relations between Northern Portugal and Galicia, we see that the GNP-AECT implements an annual plan of activities, and is currently executing the Joint Investment Plan (PIC) for 2014-2020 (Table 1).

Table 1 - Joint Investment Plan of the Galicia-Northern Portugal Euroregion 2014-2020, with its activity areas and strategic priorities

Areas	Strategic priorities
Research and transfer of know-how	Consolidation and potentiation of research hubs; Potentiation of the transfer of results to the productive sector.
Competitiveness and employment	Attraction of productive investment; Promoting the Euroregion's economic internationalisation.
Environmental quality and heritage	Enhancement and protection of the natural and cultural heritage; Enhancement of the polycentric urban system; Promoting the efficiency of environmental resources.
Institutional capacity building, fostering citizenship	Promotion of cross-border cooperation between public authorities as an effective tool to improve the quality of life of citizens.

Source: own elaboration based in data from the PIC.

The PIC prescribed the design of an euro-regional Smart Strategy of Specialisation, which was achieved in 2015 with the adoption of the Cross-border Smart Strategy of Specialisation Galicia-Northern Portugal (RIS3T). The RIS3T is part of the new European Union's Cohesion Policy 2014-2020, which promotes economic development through support for research and innovation, aiming for the competitive economic specialisation of each region. To this end, the RIS3T Galicia-Northern Portugal specifies six strategic fields of cooperation: i) exploitation of biomass and sea energies; ii) improving the competitiveness of the agri-food and biotech industries; iii) strengthening the competitiveness of the industrial sector (industry 4.0); iv) fostering the competitiveness of the mobility industries; v) modernization of the touristic and creative industries, including the use of ICT; vi) development of advanced solutions for a healthy lifestyle and active aging.

Assessment of the cooperation between Northern Portugal and Galicia and future challenges

Based on a series of interviews with representatives of the CCDR-N and the GNP-AECT, we can say that the global impact of the Galicia-Northern Portugal Euroregion is extremely positive.



However, regarding the perception of the Euroregion by the border population, the CCDR-N and GNP-AECT representatives recognise that there are difficulties in conveying the results of the actions undertaken. However, that does not hinder an active participation of the Euroregion population in the initiatives and programmes launched by the GNP-AECT. Summing things up, we can say that 'the citizens are strongly in favour of the Euroregion', more so when we think about cities such as Valença and Tui – separated by only 3 km –, where the populations live their daily lives on both sides of the border.

Regarding the assessment of the global impact of the actions undertaken, we verify that this has been predominantly of a qualitative nature (mostly interviews). According to the CCDR-N and GNP-AECT representatives, the assessment is hindered because there are several policies converging on the same territory, making it difficult to isolate the results of each (and, therefore, of the tools of cross-border cooperation). According to the respondents, it's urgent to delineate assessment indicators for the territorial impact of a cross-border nature, aiming to select the programmes that matter the most for the territory, assess their effects and reformulate them (if needed).

Finally, regarding future challenges, we come to the conclusion that the main weakness of the cooperation between the Northern Region and Galicia is institutional in nature, stemming from the skills imbalance between the Autonomous Community of Galicia – whose government has a political mandate and that has the autonomy and budget to implement policies – and the Northern Region – where the CCDR-N represents the central government (it's not a legal entity *per se*), and thus doesn't have the autonomy for a broader political intervention. This means that many issues related to cross-border cooperation must be discussed directly with the Portuguese Government, which may constitute a disadvantage, in the sense that there is a greater distance in Lisbon regarding the specifics of cooperation between the Northern Region and Galicia.

Conclusion: can we speak of a paradiplomacy in the Galicia-Northern Portugal Euroregion?

Regarding the coordination of the external relations of the Northern Region with the priorities of the portuguese foreign affairs (defined by the central government), and based on the interviews, we came to the conclusion that two paradoxical dynamics coexist:

- i) There's a dependency towards the central government, resulting from the lack of autonomy of the CCDR-N. However, 'certain experiences that are real in the areas that endure the border impact are not immediately visible, in whatever ways, to the people, entities and bodies that have a centralised view – there is a huge distance'. The interviewee thus concludes that 'the regionalisation may be defensible at several levels, but from the perspective of the resolution of issues of a cross-border nature it is an obvious element'. In her opinion, it would facilitate a symmetric dialogue between the Northern Region and Galicia, as well as the implementation of actions that have already been designed and budgeted, but which execution has been facing obstacles.
- ii) There's an explicit will for autonomy in the prosecution of the cooperation relations in the Euroregion. In the words of the CCDR-N representative, 'many of the actions we undertake end up describing demands, wishes and intentions felt in the territory, for instance at the municipalities level, or at the NUT IIIs level, and not so much top



down'. At the internationalization level, the Euroregion is part of networks that 'don't follow a centralised logic'. The interviewee further adds that such actions are dictated by the recognition of the 'importance these actions have in the scope of our own Euroregion, in an autonomous way, according to our interests and what we perceive as an aim [...] to project the region, even if subject to the institutional constraints we may face'.

Summing up, we can conclude that the dynamics and vitality which characterise the cross-border cooperation processes in the Galicia-Northern Portugal Euroregion do not translate into a real non-governmental diplomacy, or paradiplomacy. In fact, even if at some European forums for regions the Northern Region and Galicia present themselves as the Euroregion, acting in a concerted manner, this does not mean that the Euroregion constitutes a unitary player or an autonomous agent of internationalization. On the contrary, the international position of the Euroregion is still dependent on the external policies of the portuguese and spanish states.

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Critical Review

Sá, Tiago Moreira de; Soller, Diana (2018). *Donald Trump: O Método no Caos*. Alfragide: Publicações Dom Quixote, 227 pages

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A tale as old as time: A jacksonian in the White House

The American election of 2016 was mined with various atypical events. The first and most important was the victory of a candidate with outlandish promises and with a career which has nothing to do with politics but with business. Rather different from his opposition: the democrat candidate Hillary Clinton, whose politics was always the heart of her career, Donald Trump from the Republicans, a business man and self-made man had populist promises and difficult to make them happen – for instance building a wall in the Mexican border and make them pay for it.

It was with amazement that the US itself and the world received Trump victory in November of 2016. How had a demagog reached the White House? How the US, the land of freedom, let something like this happen? These were examples of the questions that insuflated the streets, the media and the voters. Instant testimonies of insiders – and in just a few months – hit the shelves. As the provocative FIRE AND FURY by Michael Wolff or even A HIGHER LOYALTY by James Comey ex FBI director fired by the president himself, Donald Trump. What was missing in the State of Art was understanding the figure Donald Trump and his actions – that many view as random and without foundation – and his political view, furthermore important than describe his *marvelous ventures* in DC. It is, in this context, and filling the gap, that *Donald Trump: O Método no Caos* by Tiago Moreira de Sá – Phd in History of the International Relations and specialist in US policy – and Diana Soller – Phd in International Studies and Fullbright scholarship – had been written. This book joins the tendency of explaining Trump's phenomena, while trying to keep an impartial and without a prejudice vision about it based on America's own social movements. One of the first Portuguese's books to be written about this theme and one of the most important for the national and international State of Art.



Trump's arrival

In order to understand Trump's rise, the book is divided in four chapters: The first one tries to comprehend: Why Trump?, while being spatially and temporally contextualized. The following chapters try to interpret it through an international relations vision while confronting it with its own limitations and regional dynamics.

The authors start by asking three key questions that will lead the entire book. They are the following:

How is Donald Trump – who questions the national foundation history – widely accepted by the American electorate?

How was it possible to deviled Trump's figure by the media and the electorate instead of trying to understand why?

How is it possible to be astonished by calling his victory "unforeseeable"?

Following these questions, the authors will start by meeting the bias created by the media and by the society, while discussing them. The main book's thesis focuses on the possibility of considering Trump as an expectable and methodical candidate. Only then it is possible to determine that there were conjectural and structural conditions to his election.

If some claim that the US does not have a president as reference for the free world and an essential nation for themes like multilateralism and international organizations anymore, *Donald Trump: O Método no Caos* starts by determining when did the US have started to be seen like that and how it was not always this way. Furthermore, it tries to comprehend the jacksonian populism, which is theoretically supported by Donald Trump, by emphasizing questions like the crisis's context, which is always defined – identitarian, social and economic – combined with tales of a glorious past that never existed. Patent exposure, as the authors refer to it, in the inaugural speech of presidency's acceptance as well as the dominance of Trump's rhetoric, *make America great again*. Besides that, in the first chapter, the authors highlight once again how the American society is founded on a civic mythology – as it is as well referred by other authors like Adam Smith in *National Identity* – however they focus this topic when it is combined with the jacksonian principles (honor, equality, individualism, financial spirit, courage and perseverance, nationalism and the inferiority complex). This fact allows us to foresee some of the rhetoric of the actual president of the United States, by either the individualism or the overlapping of the economical or financial side relatively to the humanitarian causes. This way, the authors propose to comprehend Trump not only through the significant part of the population whose follows the jacksonian principles but as well through the folk community.

For Moreira de Sá and Soller the folk community is the core for Trump's victory. This community had the reasons to welcome the republican candidate with open arms – were the reasons: geographic isolation, poor purchasing power and social repression. Donald Trump was the uppermost self-made man, a true American. Someone who the ideals were stole by the Obama Administration, that started to use the state as an interventionist figure and prioritized social issues and the minorities.

Donald Trump: O Método no Caos argues also that the crisis in the republican party was propitious to a candidate like Trump. The "inexistence of a coherent narrative" post



Ronald Reagan, the George W. Bush's legacy and Obama's victory left the Republican Party shattered and without an aim, with the dilemma of condone with Trump and "bite the bullet" or "report the president as a fake republican" these are the reasons that the authors point out for Trump's emerge inside his party and from the various candidates.

According to Moreira de Sá and Soller these were the motives, so Trump was able to have electoral success in 2016, i.e, the re-trend of folk, political crisis, economic and identarian.

Trump and the international dynamics

In the area of foreign policy and relations with the other countries, the authors choose to split in two parts: On the one hand, the theory for Trump's vision and on the other hand, an analysis of Trump clashing with Europe, Asia and the Middle East.

They start emphasizing what media were preaching, the Trump Administration would be unpredictable. With that, and as something essential to deconstruct Trump's thinking, the authors point out the motive of this perception. The instability of the staff of the White House and the roll of dismissals of the Trump Administration plus the set of President's ideas, create the impression of a lack of ideologic aim. Which the authors indorse to be not true.

Regarding the foreign policy Moreira de Sá and Soller defend that Trump has been stepping aside from Obama's international strategy and has been trying to create something new, underlining that the classic strategies were outdated, a jacksonian foreign policy. This jacksonian realism with a "pessimist, protectionist" tendency and with the flag of economic efficiency leads to a pragmatic vision of the relations the US-World. That vision, according to the authors, made the world saw a radical change in the US which abandon some of the principles by which they were a symbol (internationalism, liberalism, democratic obligations in the world).

Furthermore, carve 4 points in which Trump as its Foreign Policy shaped: 1) It must bring economic-social advantages to the US; 2) Make the US a Commercial Republic again; 3) Face China and Russia; 4) Isolation from the Axis of Evil, Iran and North Korea.

After the analysis of the objectives of Trump Administration, as well as its jacksonian policy, Moreira de Sá and Soller defend that Trump is a revisionist president. For the current president the US decay started as the US intervened in the in international order in the 1940s. Make the "America First" a banner of his policy, essential to understanding his persona and to style a policy for his Administration. To sum up, the US don't resign their position in the world, just transfer it from another political realm.

Conclusion

O Método no Caos is out-of-the-box, since it has a comprehensive reading and theory base which provides to Trump and his Administration a framework. The historic framework gives a possibility to draw a plan of what had leaded to the election of a candidate which had populist and jacksonians traits but also offers a wide vision of how the American society has received this phenomenon.



Of what concerns its silences, one can highlight the lack of: Trump and NAFTA partners relation, specifically the question of Mexico and Canada. And also, the regional dynamics which he would change – or try to – in North America, particularly in the southern border of the US with Mexico. Could also have been a mention to the relation US- Latin America as a whole, since the Cuba's issue is still on the table after the progress with Obama Administration. And also, to the relation with South America as economic partner or even the drug war on Colombia, in which the US have a vital role.

To sum up, an elemental book to understand one of the biggest events of the American politics in the second decade of 21th Century, within bounds in theory and a pragmatic vision of the world.

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