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## **SOME TRENDS AND PERSPECTIVES ON GLOBALIZATION, ECONOMIC GROWTH, EQUALITY, AND DEVELOPMENT**

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### **Abstract**

The world economy is more complex than it has ever been. This paper looks at some frameworks used for description, analysis, and prediction in the three areas of economic growth, equality, and development, while also highlighting some important past and current trends. The selection of frameworks and trends represents clearly a necessarily brief and subjective choice of the author on the basis of his perception of their "usefulness" for purposes of public and private decision-making.

The paper starts by discussing how economic growth is impacting the classification of the economies of the world. It then looks at how countries' economies can be viewed in terms of ease of doing business, of adaptability to openness and change, and of types of capitalism adopted. In the second section, issues of economic inequality within and between the countries of the world and their citizens are examined. In the third section, the paper looks at development. It starts by briefly discussing the merits of going beyond GDP and of looking at the Human Development Index (HDI) in order to try to measure other forms of progress, such as in health and education. The paper then traces the evolution of development economics and the advice given to policy makers in developing countries, and also examines the role of institutions in development and the controversies surrounding foreign aid. It concludes by looking briefly at additional dimensions of human development such as empowerment and sustainability.

The picture that emerges is one of a world in which decision-makers have to make use in a combined way of a plurality of disciplines to understand the realities confronting them and to design and implement good policies. In so doing, they have to confront the challenges of appropriate sequencing, must very often choose second-best options, and have to make clever use of the lessons learned from countries with very different geographical, political, economic, social, legal, technological, and cultural environments and constraints.

### **Keywords**

Globalization; economic growth; equality; development; decision-making

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## **SOME TRENDS AND PERSPECTIVES ON GLOBALIZATION, ECONOMIC GROWTH, EQUALITY, AND DEVELOPMENT**

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### ***Introduction: Analytical challenges***

The world economy at the beginning of the second decade of the twenty-first century displays very complex features. It shows countless trends and presents many challenges for public and private decision-makers. Moreover, perspectives and frameworks drawn from multiple disciplines aiming at describing, analyzing, and predicting the global economy or specific dimensions of it abound and they can and do often overlap. Further, all too often, for the many variables that analysts look at, causes and effects are most difficult if not impossible to distinguish.

Many are the factors at the basis of this complexity. Certainly, the increase in the number of nation states, reflected in the UN membership growth from 51 in 1945, to 99 in 1960, to 154 in 1980, to the current 193 has augmented the magnitude of data gathering and analysis problems. A larger number of countries means, among other things, that there is a greater difficulty in assessing the quality of the data submitted to international institutions such as the International Monetary Fund (IMF) and this contributes to make comparisons and contrasts more difficult. Moreover, the shift of countries like China and India and those of the former Soviet bloc to free or freer market policies has increased considerably the level of their internal economic activities as well as their economic role in, and interaction with, the rest of the world. Higher levels of interaction among all countries of the world have in turn both been made possible by and promoted huge technological advances in communications and transport. It can therefore be easily argued that goods, capital, and people have never been as mobile as they are now and thus, in many respects, more challenging to follow in their movements. Furthermore, the number of scientists in the world, a sort of proxy for gauging the flows of ideas and product development prospects, has clearly never been higher.

Given that the economies of the world are at this juncture more integrated and interdependent than ever and that their interaction displays ever growing complexity, it is very important to try to find ways to organize our thinking about them.

In the present paper, we shall look at how some key concepts and trends associated to economic growth, equality, and development—discussed in that order—can contribute to our understanding of the world economy. The choice of frameworks is clearly subjective, necessarily limited in its inclusiveness (it is a choice, after all), and informed also to their perceived usefulness for both public and private and decision-makers<sup>1</sup>.

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<sup>1</sup> Given the profound influence that through various channels the two categories of decision-makers exert on each other, I consider their informational and analytical requirements usually rather similar. This is



## Economic growth

### *On GDP and growth*

At the beginning of 2011 it was clear that the gross domestic product (GDP) growth rates of major developed economies were definitely lower than those of many developing countries and economies in transition. This is congruent with a trend observed for several years preceding the Great Recession of 2007-2009 from which the global economy is now emerging<sup>2</sup>. More specifically, at the beginning of the new millennium, the rich countries' share of global GDP on a purchasing power parity (PPP) basis was two-thirds, while by 2010 that percentage had gone down to about a half, with many forecasting it to go down in the next ten years to 40 percent<sup>3</sup>. An economic historian would point out that this reflects largely a major "catching up" by emerging markets<sup>4</sup>. After all, in the 18 centuries preceding 1820, these economies accounted for about 80 percent of world GDP<sup>5</sup>.

Since 1820, from the beginning of the industrial revolution to the wave of globalization that is associated with the gold standard era between 1870 and 1914, to several decades after the reconstruction following World War II, Europe (and the relatively slowly increasing number of what we have come to know as the developed countries, including of course the United States) experienced much higher growth rates than developing countries. This clear economic supremacy, among other things, paved the way to a major shift in thinking that led emerging economies to the espousal of the free market orientation that is known as Washington Consensus<sup>6</sup>.

The recent greater dynamism displayed by emerging markets is captured by a large variety of figures. Here are some examples. First, the increase of 30 percent in the number of the unemployed across the world since 2007 to the current estimated level of 210 million has been accounted for by emerging markets only by a quarter, with the balance of 75 percent taking place in the advanced economies (IMF, 2010: 4). Second, after having recently become the second largest economy in the world and claiming to have built the fastest supercomputer on the planet, China is expected to become in 2011 the largest manufacturer on the planet, overtaking the United States (Franklin, 2010; Hille, 2010). Third, India's growth rates are seen by many as poised to match (and even exceed) China's impressive ones very soon. Fourth, it is anticipated that within the next decade 700 million individuals from emerging markets will enter the

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particularly true in the case of the trends and frameworks discussed in this paper because of their broad nature.

<sup>2</sup> The Business Cycle Committee of the National Bureau of Economic Research considers the recession in the United States to have started in December 2007 and ended in June 2009. See the NBER web site: [www.nber.org](http://www.nber.org)

<sup>3</sup> *The Economist* (2010). GDP comparisons between countries are complicated by the differences between estimates made in terms of nominal values and those made on a PPP-basis, which aim to measure and contrast purchasing powers of different countries.

<sup>4</sup> Antoine van Agtmael (2007) is credited with having created the term "emerging markets".

<sup>5</sup> *The Economist* (2006), echoing work done by Angus Maddison.

<sup>6</sup> Born as a set of economic recipes for Latin America, these principles were soon extended to the rest of the developing world. See infra.



middle class, much to the joy of marketing executives worldwide<sup>7</sup>. Lastly, at the end of 2010, the number of high net worth individuals (HNWIs) in the Asia-Pacific area reached 3.3 million, overtaking the Europeans (3.1 million) for the first time<sup>8</sup>.

### **Emerging markets**

There is no shortage of typologies to classify the economies of the world using their economic growth, realized or potential. We have read of "The West vs. the Rest" or expressions created earlier such as "North-South divide" or developed vs. less developed (or developing) countries or emerging markets or of a first, second, or third world. I anticipate that the fine tuning of these types of classifications, with all its implications, will be an interesting area of debate for the months and years ahead.

In the first place, some discussions with regard to the label "emerging markets" will increasingly take place. First and foremost, there are the BRICs, *i.e.* Brazil, Russia, India, and China. This acronym, originally introduced by Goldman Sachs, has recently been questioned. Some go as far as proposing dropping Russia (with its demographic and corruption problems) in favor, say, of Indonesia, a country with improving social and political institutions, innovative companies, fiscal rectitude, and a 6 percent growth in 2010 (Farzad, 2010; Wooldridge, 2010). In addition to the BRICs, or BRIICs if one adds Indonesia, a distinction can be drawn between those emerging markets which are of the "overlooked" kind and which "can rival the BRICs in terms of prosperity", and those "frontier" markets "that are just beginning to emerge from their chrysalises" (Wooldridge, 2010: 131). In this typology, examples of "overlooked" countries are South Africa, Botswana, Mauritius in Africa to the South of the Equator and to their North, Egypt, Morocco, Tunisia, Libya with their access to that major vehicle of opportunities which is the Mediterranean Sea, a benefit that accrues also to Turkey, which straddles geographically and culturally two different worlds<sup>9</sup>. Saudi Arabia can also arguably be put in this group and so can Mexico, especially if its crime problems are held in check. On the other hand, "frontier markets" are characterized by their being "poorer and riskier than the overlooked ones." (Wooldridge, 2010: 132). In this group one can include countries like Sri Lanka, Bangladesh, and Pakistan in Asia and in Africa Kenya, Nigeria and Ruanda (*ibidem*).

That in these "frontier markets" the foreign investor faces very substantial risks there can be little doubt. Opinions can also shift very rapidly. Vietnam, was viewed as extremely well positioned to take away outsourcing jobs from China in no small measure on account of its young workforce and high literacy levels (Wooldridge, 2010: 132). However, the recent default on a loan of \$600 million by its large state-owned shipbuilding company has led many to pay more attention to the country's budgetary, banking, currency, and overall transparency problems (Nguyen, 2010; The Economist, 2011a).

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<sup>7</sup> Wooldridge (2010:131). On the limitations associated to the concept of middle class in a global context see however Milanovic (2011: 171ff.)

<sup>8</sup> North America, at 3.4 million, is only slightly ahead. HNWI's are defined as those having investable assets of \$1 million or more. See Capgemini and Merrill Lynch World Wealth Report (2011). On the Forbes list, which also attests to the growing numbers of rich individuals from emerging markets, see for instance Rapoport (2011).

<sup>9</sup> There can be little doubt that the events that since December 2010 have taken place in North Africa have shown that the risks associated to the countries in the region may have in general been underestimated.



### **Four-speed world**

Another categorization that is very interesting and worth monitoring in its evolution is one recently proposed by the OECD. It uses as a foundation the framework for analysis originally put forth by James Wolfensohn, a former president of the World Bank, who introduced the concept of a "Four-Speed World" (Wolfensohn, 2007; OECD, 2010: 32ff.)

In this typology, there is on top the group of "affluent" countries, including clearly the US and most of Europe, which for the last fifty years have maintained a firm leadership on the world economy. Most notably, with only 20 percent of the world population, these countries account for approximately 70 to 80 percent of world income<sup>10</sup>. In Wolfensohn's view, these countries would continue to improve their standards of living, while their "economic dominance is being contested by" the second category (Wolfensohn, 2007). In my opinion, nothing symbolizes more the erosion of economic power of the "affluent" group than the growing importance of the Group of Twenty (G-20), although doubts over the newcomers' willingness and ability to accept the burdens that come from global leadership and governance lead many to reasonably question its present and future effectiveness (Castañeda, 2010; Bremmer and Roubini, 2011).

The second tier, which the OECD labels "converging" markets, is a group of poor and middle income nations which have been experiencing rather consistently high growth rates, in general more than twice those of the highest-income group. In this group, which has in general learned how to take advantage of the process of globalization, there are clearly India and China. A third tier is characterized by slower growth rates (still higher than those in the affluent cohort). While in general not receiving international aid, they are labeled by the OECD "struggling", also on account of their irregular growth rates. The fourth group of countries, in the main located in sub-Saharan Africa, is characterized by stagnating or even falling incomes and by being most vulnerable to globalization's vagaries, such as climate change and higher commodities prices. The OECD calls them "poor" and, with their total population reaching a billion, are a great burden and challenge for the rest of the world<sup>11</sup>. They tend to be the countries where the reaching of the Millennium Development Goals (MDGs) is going to be more arduous<sup>12</sup>.

The OECD emphasizes that this four-way classification has largely historical value, being centered on the evolution of the countries from the 1990s to the 2000s, and does not offer assessments of prospects or potentiality of a specific country (OECD, 2010: 32). The OECD has however tried to differentiate among the four categories of countries (affluent, converging, struggling, and poor) in terms of their integration into the global economy by using a well known index developed by Dreher (2006). This index "summarises the different dimensions of integration: the *economic*, which measures economic globalisation in terms of the long-distance flows of goods, capital

<sup>10</sup> OECD (2010: 32). I believe this is an estimate that has to be intended as referring to nominal and not to PPP numbers.

<sup>11</sup> The lists of the four categories of countries can be found in OECD (2010: 170-74).

<sup>12</sup> On the development millennium goals, see *infra*.



and services<sup>13</sup>; the *political*, characterised by diffusion of government policies; and the *social*, expressed as the spread of ideas, information, and people.” (OECD, 2010: 38, emphasis added).

Thus, the OECD (*ibidem*) notices that Dreher’s study, which looked at 123 countries between 1970 and 2000, points to the conclusion that, on average, those countries that globalized more experienced higher growth rates: put it differently, “globalization is good for growth” (Dreher, 2006 : 1105). In applying his methodology to the four-speed world and using data from 2000-7, the OECD states that affluent countries definitely score higher than poor countries in terms of the overall index and the economic sub-index. Instead, the differences for the converging and struggling countries are less clear-cut and even contradictory somewhat for the political and social sub-indices, especially if one adds the poor countries to the mixture. One example renders manifest how tentative and complex this nevertheless important line of inquiry is. Between 1990 and 2000 the share of trade in GDP for sub-Saharan countries went up from 51 to 65 percent, yet during the same period their share of global output went down by a quarter (OECD, 2010: 39). On the whole, the OECD concludes, converging countries seem to have confronted the challenges of integrating in the world economy better than struggling or poor ones<sup>14</sup>.

### **Decoupling**

An issue that is very much connected to those of growth rates and globalization is that of “decoupling”. Casting aside the old and over-worn saying “When the US catches a cold, the rest of the world gets pneumonia”, believers in decoupling think that emerging markets are destined to be less and less dependent on the fortunes of developed markets. Rather than relying on advanced countries as targets for their exports, the emerging markets, so the theory goes, will be as time goes by increasingly able and prone to rely on stronger domestic demand. Accordingly, in a study comparing four recessions taking place in advanced economies in 1974-5, 1980-3, 1991-3, and 2001, it was shown that emerging markets’ economies performed better in the last two (Decressin, Scott, and Topalova, 2010: 13).

It is important to note that there are many studies which maintain that there is growing integration of emerging countries into world trade and capital markets and that this “seems to contradict the decoupling hypothesis” (Decressin, Scott, and Topalova 2010: 15). In reality, and this will continue to be the object of study in the months and years ahead, it is possible to reconcile the apparently contradictory notions that emerging economies are more connected with the advanced economies and yet are also less affected by their recession. One strong possibility is that emerging markets may have become better at macroeconomic management (Decressin, Scott, and Topalova, 2010: 15; Harrison and Sepúlveda, 2011). In the context of the recent crisis, for instance, the accumulation of large foreign exchange reserves in many emerging markets (the result of having learned a painful lesson in the 1998 East Asian Crisis when the sudden exit of

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<sup>13</sup> Incidentally, this reminds me of one useful definition of economic globalization as between-country integration in three markets: commodity, labor, and capital. See Bordo, Taylor and Williamson (2003).

<sup>14</sup> As we shall refer to later, there is an issue of causality vs. correlation between trade and growth here, even though “in practice the question for a given country is not whether to integrate into the global economy, since few have much choice in the matter, but rather how to manage that integration.” (OECD, 2010 :39).



“hot foreign money” caused major havoc), can be seen as having been of great help<sup>15</sup>. Another set of views stresses that, while the South’s GDP has fallen less than the North’s, the social impact has been greater in developing countries, in light of their lower per capita income and the relatively greater importance of poverty in their economies<sup>16</sup>.

### **Doing Business**

Starting from the premise that the enhancement of business activity contributes to economic growth, private and public decision-makers have in recent years paid much attention to a classification developed by the World Bank. In its annual publication *Doing Business*, the World Bank ranks 183 countries along nine areas pertaining to the life cycle of a business (Starting a business; Dealing with licenses; Registering property; Getting credit; Protecting investors; Paying taxes; Trading across borders; Enforcing contracts; and Closing a business)<sup>17</sup>. While impressive, by the Bank’s admission, this is a range of activities in the areas of regulation and rights that is rather limited, since its focus is on how easy or difficult it is for a local entrepreneur to conduct business.

The range of activities monitored does not measure the costs and benefits or regulation from a social point of view. Nor, most assuredly, does *Doing Business* measure all dimensions of interests to investors. Notably, “it does not, for example, measure security, macroeconomic stability, corruption, the labor skills of the population, the underlying strength of institutions or the quality of infrastructure. Nor does it focus on regulations specific to foreign investment”, or on assessing the strength of the financial system or of market regulation (World Bank 2010:13)<sup>18</sup>. And this is exactly the type of broad information and analysis that foreign investors will continue to seek avidly in the future and which many private services will try to continue to provide<sup>19</sup>.

Typology building and the ranking of countries along several dimensions can help identify trends of a shorter duration, whose continuation across time would have to be monitored. For instance, building on the comparisons of business regulation among countries that the World Bank’s *Doing Business* project has undertaken since 2003, the publication’s authors highlight several trends for the year ending in June 2010 (World Bank, 2010: 2-3). First, since the global crisis has brought up the number of insolvencies and debt controversies, sixteen economies, largely in Eastern Europe, Central Asia, and belonging to the high-income OECD group have reformed insolvency policies by improving court and bankruptcy procedures so as to ensure quick reallocation and use of assets and therefore higher recovery rates for creditors. Second, there has been a most distinct improvement in the previous year among the

<sup>15</sup> On the accumulation of foreign exchange reserves by Asian countries see Rajan (2010: 75ff).

<sup>16</sup> Addison, Arndt, and Tarp, (2010) talk about a triple crisis in the areas of finance, climate, and malnutrition/hunger (due to growing food prices). Vitols (2010) also talks about a triple crisis: financial, ecological, and social).

<sup>17</sup> The employment of workers (no longer ranked) and the “getting of electricity” (on its availability), are two additional areas of a company’s life cycle where indicators are developed by the Bank but they are not part of the ranking system described in the text.

<sup>18</sup> For an example of some of the informational and analytical challenges related to foreign direct investment in the European Union, see Ammendola (2008b).

<sup>19</sup> Among the companies providing such information and analytical services there are The Economist Group, the Financial Times Group, Bloomberg, Reuters, Thomson Financial.



economies in East Asia and the Pacific in the area of overall ease of doing business. Third, in Sub-Saharan Africa and the Middle East and North Africa many reforms have been introduced to promote trade, in no small measure because of the regional integration processes going on these areas (e.g. Southern African Customs Union) (World Bank, *ibidem*). Fourth, there has been a noticeable worldwide move toward greater adoption of technology so as to “make it easier to do business, lower transaction costs, and increase transparency” (World Bank, 2010: 3). In this area starting points matter, as the authors of the report indicate (World Bank, 2010: 7). For instance, countries like “Finland and Singapore, with efficient e-government systems in place and strong property rights protections by law, ha[ve] less room for improvement” than countries like Italy where there has been implementation of “several regulatory reforms in areas where results might be seen only in the longer term, such as judiciary or insolvency reforms” (*ibidem*).

Lastly, it has to be noted how treacherous in the analysis of the global economy is the establishment of causality. It was already mentioned earlier the dilemma with regard to growth causing integration or viceversa. In the case of the regulatory environment (measured through both legal scoring indicators and time and motion indicators) and its impact on firms, jobs, and growth, correlation may not mean causation. Concurrent developments such as macroeconomic reforms and/or country-specific factors may play an important role (OECD, 2010: 39; World Bank, 2010: 7).

On the whole, however, in spite of the limitations discussed, the Doing Business criteria represent another set of tools useful to gain insights into the way countries’ economies operate. Interestingly, in *The Aid Trap*, Hubbard and Duggan (2009) apply the framework to the Roman Empire, which in their opinion would have received pretty high marks (Hubbard and Duggan, 2009: 20).

### ***Growth, openness, and change***

The quest for higher growth rates may push countries to become more open. This may, however, come at the price of stability. One interesting analytical construct is Ian Bremmer’s J-curve (Bremmer, 2006). In brief, Bremmer puts on a two-dimensional graph two variables: on the horizontal axis he plots the variable *openness* while on vertical axis he places the variable *stability*. As a country with an authoritarian leadership moves toward greater political and economic openness to the rest of the world, the level of stability decreases and the risk of rebellion against the regime increases<sup>20</sup>. At one point the decline in stability bottoms out and then stability starts to go up again as the benefits of openness set in. It is obviously when openness is associated to decline in stability that the risks of rebellion for the autocratic leadership are greatest.

Bremmer’s model presents significant challenges such as measuring both stability and openness in general as well as with reference to the specific nature of the society under scrutiny, the nature of its government, and their capacity to evolve along a most uncertain timeline of reference. Such challenges are evident with China, an ethnically and religiously diverse country of 1.3 billion with significant and growing desires of

<sup>20</sup> On the relationship between openness to trade and economic growth, Rodrik (2011: 166) attributes the success of South Korea, Taiwan, Indonesia, and Mauritius to their reducing barriers to imports *only after* having built significant manufacturing capabilities. See *infra* on the sequencing of policies.



internal mobility (geographical as well as social and cultural) and a political regime born in a different era that has to adapt to a rapidly integrating world. Nevertheless, I believe the model is useful in terms of contributing to our ability to make sense of the complexity around us<sup>21</sup>.

In a different way, also useful as an explanatory and possibly predictive device is another, older, "J-curve" model developed by James C. Davies which states that when people's expectations diverge too much from what they perceive as their needs in terms of goods, status and power, they can revolt (Davies, 1962)<sup>22</sup>. The advances in telecommunications that have taken place since the Davies theory was first articulated, by making comparisons of living conditions across countries easier to make, can arguably render populations more aware of their plight and thus more inclined to rebel against those who rule them. Clearly, that explains the measures that authoritarian political regimes try to implement to prevent "excessive", unfiltered, exposure to the societies of the West.

### **Types of capitalism**

The victory of capitalism over communism that the fall of the Berlin Wall in 1989 came to symbolize (Baumol, Litan, and Schramm, 2007; Yergin and Stanislaw, 1998; Fukuyama, 1992) was, to a very high degree, the result of a failure by centralized governments to deliver economic growth rates comparable to those achieved by the market economies. But capitalism was not and is not homogeneous or undifferentiated and any student of the world economy and growth has to look at the various forms of it that exist. For instance, for the authors of "Good Capitalism, Bad Capitalism", there are four types of capitalism (Baumol, Litan, and Schramm, 2007: 60-92)<sup>23</sup>.

The first is *state-guided capitalism*, where the state dominates and tries to guide the market by typically picking winners. The authors cite as examples India, China, and most countries in Southeast Asia. The second, *oligarchic capitalism*, differs from the first because of its focus not on growth but on the promotion of the interests of a very small segment of the population, typically the autocrat and his/her family and friends. In the view of the authors, notable examples can be found in much of Latin America, in many states of the former Soviet Union, in many states in Africa, and in most of the Arabic Middle East (once again, the recent turmoil in this region comes to mind). The third type is *big-firm capitalism*, where established giant enterprises carry out the main economic activities. Examples offered by the authors are Continental Europe, Japan, Korea, and parts of other economies, including the United States. The fourth, *entrepreneurial capitalism*, is characterized by the very important role played by small enterprises which are seen as crucial in the introduction of the radical innovations (such as the telegraph, the automobile, the airplane, electricity, the air conditioner) that transform economies and create sudden jumps in productivity. The United States is considered the quintessential example of such a type of capitalism and the authors see

<sup>21</sup> For a brief recent analysis using his framework, see Bremmer (2011).

<sup>22</sup> The J-curve that can be found in textbooks of international economics has to do with the adjustments in the trade balance deriving from changes in the exchange rate.

<sup>23</sup> The literature on capitalism is immense and has evolved across several centuries and has been contributed to by scholars with different disciplinary backgrounds. One of its major subcomponents is "varieties of capitalism" (Hall and Soskice, 2001), to which the typology being discussed, while distinct, belongs.



Ireland, Israel, and the United Kingdom as having or being in the process of abandoning the shepherding role of the state and moving toward a greater emphasis on entrepreneurial activities capable of offering very positive externalities.

Some points need stressing with regard to this four-fold typology. First, the only element that all kinds of capitalism discussed truly share is the recognition of the right of private property ownership. Second, the oligarchic variant of capitalism is nearly always very negative for growth and development and the authors appropriately stress this. Nothing good can come from this variant's very low levels of intra and intergenerational mobility and the waste of human talent associated to it is an economic and social tragedy. Third, one has to note that no country displays just one form of capitalism. For example, the United States displays prominently a blend of big-firm and entrepreneurial capitalism and Continental Europe and Japan have clever and innovative small entrepreneurs. Nor, it needs stressing, are the boundaries among types of capitalism within any country fixed across time. For instance, some could argue that the current US administration is trying to move the country toward more state-guided capitalism. Others would say that China and India are trying to foster more of a "small entrepreneur" culture and that Russia arguably has been moving from oligarchic capitalism to state-guided capitalism while also officially supporting small and medium enterprises<sup>24</sup>. Thus, each country has its own unique blend of three (or may be four if one includes the undesirable oligarchic variant) or two variants of capitalism and such a mix does indeed vary across time.

The challenges associated with the creation and monitoring of effective indicators for these four categories of capitalism attest once again to the complexity of the world economy. One of the central goals of the creators of this typology is the identification of the courses of action that policymakers should pursue to have an innovative economy. Among them: the establishment of an environment in which companies face low barriers of entry and exit (think about Europe's rigid labor markets)<sup>25</sup>; the creation of an effective system of rule of law (with good property and contract rights), a balanced patent system and a system of taxation that is not too burdensome to the entrepreneur; the introduction of disincentives against forms of unproductive entrepreneurship such as criminal behavior, political lobbying, and frivolous litigation (most prominent in the United States); and the fashioning of policies preventing innovative entrepreneurs from turning into rent-seekers who attempt to discourage Schumpeterian disruptive innovations. This latter should be done by maintaining strong antitrust laws and in general a competitive environment, also through the avoidance of trade protectionism (Baumol, Litan, and Schramm, 2007).

The three broad typologies last described (Bremmer, 2006; Davies 1962; Baumol, Litan, and Schramm, 2007) attest to how any analysis of the world economy and the nation states that compose it cannot be conducted ignoring the fact that markets and production exist in political, social, and cultural settings<sup>26</sup>.

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<sup>24</sup> The difficulties for entrepreneurs in Russia are recognized by its top leaders. In this sense Wladimir Putin, quoted by Baumol, Litan, and Schramm, (2007: 76).

<sup>25</sup> Here the use of the criteria and indicators used in *Doing Business* seems most appropriate.

<sup>26</sup> A useful (and natural, I daresay) way of analyzing individual countries broadly is that used by the contributors in Michael Curtis ed. *Western European Politics and Government*. In that work, in the section I wrote (Ammendola, 2003), I looked at Italy's political development (history, society, and culture), its political processes and institutions (elections, political parties, interest groups, the legislature, the



## Equality

### *Inequality in developed economies*

Looking at economic growth in its relationship to its distributional causes and effects is particularly complex. While in times of economic prosperity debates on equality can be relatively subdued (on account of the “a rising tide lifts all boats” factor), economic crises inevitably increase substantially the intensity of discussions.

In the case of the Great Recession of 2007-9, one has to note that it followed a prolonged period of increased gains for top income earners compared to the rest of the population and that it led to high costs to the taxpayer in order to rescue financial institutions (too-important-to-fail) where very well compensated individuals had arguably been “gambling” with the implicit guarantee of public money. If one adds to these elements the slow and unimpressive nature of the recovery process (especially in terms of job creation), it is hard to imagine that distributional issues will not be a growing part of the political, economic, and social discourse in the months and years ahead<sup>27</sup>.

Most controversial among the books that came out during the Great Recession has been Richard Wilkinson and Kate Pickett’s *The Spirit Level* (Wilkinson and Pickett, 2009). The work’s central claim is that egalitarian societies do better in terms of social problems. The authors set out to support this by comparing societies with smaller disparities of income such as the Scandinavian countries and Japan to others such as the United States and Britain. Using a wide range of social indicators and looking at data from 23 of the world richest countries and from the 50 US states, the authors claim that “the countries with the biggest difference between the rich and the poor have ...more violence, higher teenage birth rates, more obesity, lower level of trust, lower levels of child well-being,” their “community life is weaker and more people are in prison”<sup>28</sup>. What better proof that government intervention is needed to redistribute income and even out standards of living? Proponents of social democratic ideas rejoiced.

Since the publication, various critics, typically from the right, have pointed out the limitations of the bivariate analysis that the two co-authors employ (as opposed to a more desirable multivariate analysis) and their ignoring of outliers. They also have accused the authors of neglecting to mention that suicide rates, alcohol consumption, divorce rates, and HIV infection rates are all higher in more egalitarian countries<sup>29</sup>.

The authors have also been accused of neglecting the importance of culture and history, the crucial dimensions of individuality of each country. These criticisms are also often associated to accusations that Wilkinson and Pickett’s arguments tend to underestimate the complexity of society<sup>30</sup>.

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government, the presidency, the public administration, and the legal system), and public policy (I chose economic policy and foreign policy).

<sup>27</sup> The very intense debate in the United States in the Summer of 2011 over the debt ceiling may be viewed as attesting to this.

<sup>28</sup> From their interview to Mukul Devichand, “The Spirit Level: Britain’s new theory of everything” available at <http://www.bbc.co.uk/news/uk-politics-11518509>. For other views, see also Bagehot (2010); The Economist (2009); The Economist (2011b); Coyle (2011).

<sup>29</sup> One of these critics is Saunders (2010).

<sup>30</sup> A rebuttal by Wilkinson and Pickett (2010a) can be found at <http://www.equalitytrust.org.uk>



One point that I found very interesting in one of their rebuttals is that they think that greater inequality increases the need for a large government role in the economy and society because of the need for more police and prisons, together with more health and all manner of social services<sup>31</sup>. This argument also brings to mind the often blurred divide between liberal market economies and coordinated market economies that characterizes the “varieties of capitalism” literature (Hall and Soskice, 2001). At any rate, the discussion on inequality has obviously to be extended beyond the confines of the developed economies.

### ***Inequality in the world economy***

The study of world inequality, not unlike that of economic growth, is very complex because of the difficulties that exist with data collection (of varying quality across time and space) and the many and sophisticated statistical methods that can be applied to their analysis<sup>32</sup>. Further, the fact that inequality (possibly even more than economic growth) lends itself to being delved into by scholars and thinkers from a broad range of disciplines, while enriching it as a subject, also contributes to its complexity<sup>33</sup>.

With regard to measuring inequality, public and private decision-makers make their lives easier by relying mostly on just one indicator which happens to be relatively easy to understand, the Gini coefficient. The Gini coefficient ranges in value between 0 (complete equality—every individual has the same income) and 1 (complete inequality—one individual has all the income). More broadly, among the typologies developed to analyze global equality in an organized fashion, I believe that the one used by Branko Milanovic of the World Bank in his book *The Haves and the Have-Nots* is most useful and linear (Milanovic, 2011). First, there is the inequality that exists among individuals belonging to the same nation. Second, there is the inequality that can be observed when comparing countries. Third, is the inequality that exists among all the citizens in the world (Milanovic 2011). Let us look at each more specifically, keeping in mind that they are all connected with one another<sup>34</sup>.

1. *Inequality among individuals within a nation* is the type that most immediately comes to mind, since it is the kind that we observe most directly. It leads to three clusters of fundamental questions (Milanovic, 2011). What determines it? And, in relationship to growth, is inequality going to increase as a consequence of growth? And what happens to inequality when growth is zero or negative (recession)? A second cluster of questions sees inequality instead as a major independent variable. Thus, moving in the opposite direction of probing:

<sup>31</sup> Wilkinson and Pickett (2010b) This is an argument also usable for the extension of health care to the uninsured so as to prevent the costs to the entire society of having a sizeable percentage of individuals that are more prone to spread infective diseases to other segments of the general population.

<sup>32</sup> See for instance Silber (1999), Lall *et al.* (2007: 135-69), and Cowell (2000). The website of the World Bank ([www.worldbank.org](http://www.worldbank.org)) has an excellent “Inequality around the world” section.

<sup>33</sup> Even specific works on economic equality are clearly influenced by other disciplines. See for instance Sen (1997).

<sup>34</sup> Rodrik (2011), Rajan (2010), Coyle (2011), and Spence (2011) offer insights that can add interesting dimensions to Milanovic’s typology and analysis.



what is the impact of inequality on economic growth? And on governance, on the attraction of foreign investment, on the educational level of the population (Milanovic, 2011: 5) or on its health? A third cluster of questions revolves around ethical issues. Milanovic asks: "Is inequality acceptable only if it raises the absolute incomes of the poor?" And, very cleverly from the point of view of intra and intergenerational mobility: "Should inequality due to one's better family circumstances be treated differently than inequality due to superior work and effort?" (Milanovic, 2011: 5-6).

Just looking at one dimension, education, among the many suggested or implied by such questions for the United States, shows the difficulty of conducting analyses that lead to effective policies. Notably, some think that one of the major sources of inequality in the United States (and, arguably in other countries as well) is the unequal access to education, which creates a major divide between skilled and unskilled workers (Rajan, 2010; Lemieux, 2006). But attempts to improve access to education (including those directed at blacks and Hispanics) have achieved limited results (Rajan, 2010: 31). Further, it has also to be noted that some significant evidence points to the fact that in countries like Britain and the United States the social class of parents plays a bigger role in children's prospects than in more egalitarian countries (Bagehot, 2010).

More generally, to remedy inequality, taxation and redistribution strategies have proven extremely difficult to implement, because of the increasingly polarized nature of Congress (Rajan 2010). Thus, politicians have tried the much less difficult path of making access to credit easier for the lower socio-economic segments of the population, and in so doing they have "created" a class of homeowners who bought houses they could not have otherwise afforded and facilitated a consumption level that was unsustainable (Rajan 2010). The resulting impact through, respectively, securitization and excessive indebtedness became evident with the onset of the recent global recession.

Also interesting to notice in connection with the inequality within a nation is the hypothesis introduced by Simon Kuznets in 1955 (Kuznets, 1955; Milanovic, 2011: 83ff.). Going much beyond Alexis de Tocqueville (Milanovic 2011: 7), Kuznets talked about an inverted U-curve that shows the evolution across time of inequality. As a society moves from agrarian stages, where inequality is low, to industrial stages, increasing urbanization (China comes to mind, of course) combines with industrialization and causes increases in inequality. This is so "both because productivity and incomes in the nonagricultural sector are higher and because in cities themselves there is more income differentiation (more professions, a greater variety of skills)" (Milanovic 2011: 89). Then, Kuznets maintained, because of the rise of mass education and social policies such as social security, unemployment benefits, and welfare some redistribution among classes takes place. The testing of Kuznets' hypothesis has been the subject of hundreds of papers. In general, Milanovic points out, during the Industrial Revolution Western European countries and the United States displayed a pattern conforming to that posited by Kuznets. The United States, for instance, reached the peak in inequality in the 1920s (the expression "roaring twenties" comes to mind) to diminish in the ensuing decades. But, in the last twenty-five years,



we have seen a considerable reversal in the trend of decreasing inequality, not just in the United States but nearly everywhere (Milanovic, 2011: 91).

For the student of globalization, this trend of growing inequality needs to be examined in relationship to the role that trade with emerging markets plays (The Economist, 2008). More specifically, the traditional view of mainstream economists that the impact of trade on income distribution in advanced economies is not major is being seriously reconsidered. The traditional view focused on technological innovation and its favoring skilled workers. More recently, explanations focusing instead on the much smaller wages paid in emerging markets and the downward pressure they exert on wages in the West have become vastly more pervasive (The Economist, 2008; Krugman, 2008; Blinder, 2006; Harrison, McLaren, and McMillan, 2010). While the evidence is still being heavily debated, there can be little doubt that US public opinion, anticipating this turnaround by some distinguished economists, has been convinced for years that globalization hurts workers. This is an issue that inevitably has grown in saliency after the beginning of the recent global crisis and I think will continue to do so.

*2. Inequality among countries in the world, the kind that we tend to notice when we travel or when we watch the news (Milanovic, 2011: x) constitutes the second broad type of inequality in the typology we are examining.*

One of the most interesting issues in this area of inquiry has to do with the contribution that the study of inequality has to offer to our understanding of the economic growth success experienced by developing countries that I mentioned at the beginning of this paper. For instance, using data sets constructed by the late economic historian Angus Maddison, Milanovic draws an interesting comparison between Great Britain and China. While Great Britain's GDP per capita was in 1820 three times that of China, today, in spite of the fact that Great Britain is no longer the richest country in the world and that China has grown at spectacular rates for the past three decades, that difference has doubled to six times. More revealingly still, "the ratio between the richest and the poorest [countries] in the world has increased to more than one hundred to one." (Milanovic, 2011: 100). Therefore, a careful reading of Milanovic adds some needed nuances to the story of the "rise of the rest" described at the beginning of this paper. For instance, in the last two decades of the twentieth century, while Latin America and Eastern Europe stagnated or worse and Africa in general experienced declines in income, the West had respectable growth rates. Thus, in that regard, there was in general what economic historians would characterize as an ongoing "income divergence" between the advanced economies and the rest of the world<sup>35</sup>. However, if one looks at intercountry income differences adjusting for population size, China and more recently also India considerably decrease the global level of intercountry inequality. And this is a development that is globally of a "converging" nature. In this sense, I would add that the fact that the recent global economic crisis has affected much more the West has also reinforced this worldwide trend.

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<sup>35</sup> Milanovic (2011: 100ff.). On various aspects of convergence and divergence see for instance Spence (2011); Lindert and Williamson (2001); Coyle (2011). See also *infra*.



At any rate, differences in per capita income between advanced economies and emerging markets are still very high in absolute terms. Indeed, in spite of the spectacular overall economic growth in recent years in the non-Western countries mentioned earlier, such differences constitute most often a crucial motivation for people to emigrate to the advanced industrial countries. But their arrival raises concerns for their possible downward impact on wages, especially among less skilled workers, and this is one of the main reasons why immigration is regulated significantly (whether efficiently and effectively is another issue) in all industrial countries<sup>36</sup>.

It is not just the movement of people and goods and services that matters for inequality and economic growth. Financial flows matter as well. In a nutshell, contrary to the prediction inherent in classical economic theory that capital should flow from rich to poor countries, in reality what has been happening in the current globalization is the reverse<sup>37</sup>. This so-called "Lucas Paradox", has been explained on various grounds, including sovereign risk and information asymmetries (Alfaro, Kalemli-Ozcan, and Volosovych, 2005). It seems reasonable, however, to think that often several causes may be at work simultaneously and that among them institutional explanations must play a significant role<sup>38</sup>. As one major study points out: "...during the period 1970-2000 low[er] institutional quality [ in poor countries] is the leading explanation for the "Lucas Paradox" (Alfaro , Kalemli-Ozcan, and Volosovych, 2005).

It is also very important to note that the connections among the flow of capital moving across borders, the building up of very large global imbalances (especially if they continue to grow as a percentage of GDP), income distribution, and economic growth will increasingly be the object of heated debates. And it could not be otherwise, given that capital inflows and outflows permit to change the timing and modalities of consumption and investment patterns and thus inevitably impact income distribution both inter and intra-generationally in both creditor and debtor countries<sup>39</sup>.

### 3. *Inequality among all citizens in the world, or global inequality is the third category of inequality proposed by Milanovic (2011) on the basis of the work done by him and his colleagues at the World Bank. It is essentially the sum of the previous two categories which were just mentioned: inequality*

<sup>36</sup> Incidentally, I wish to point out that one of the reasons why in the previous era of globalization (1870 to 1914) barriers to immigration were much lower compared to today, was that immigrants could not benefit from the redistributive benefits of the modern welfare state because they were basically nonexistent. There was just no local constituency of citizens-beneficiaries to oppose the new arrivals.

<sup>37</sup> Instead, in the previous era of globalization the theory applied, with capital flowing from rich to poor countries. Milanovic, (2011: 106).

<sup>38</sup> The concept of "institutions", which appears across this paper in several contexts, has been the object of great study by Douglass C. North, one of the men most associated to institutional theories of economics, who pointed out in his Nobel Prize lecture, that "Institutions... the humanly devised constraints that structure human interaction...are made up of formal constraints (rules, laws, constitutions), informal constraints (norms of behavior, conventions, and self imposed codes of conduct), and their enforcement characteristics. Together they define the incentive structure of societies and specifically economies. Institutions and the technology employed determine the transaction and transformation costs that add up to the costs of production." (North, 1993). North has acknowledged the contribution of Ronald Coase (1960) in making "the crucial connection between institutions, transaction costs, and neoclassical theory." (North, 1993).

<sup>39</sup> In balance of payments terms current account considerations are the other side of the coin of capital account ones. See any major textbook of international economics and Wolf (2010) and Ammendola (1994).



among individuals within a nation and inequality between nations. Milanovic (2011: 149) points out how data for the latter, the between-nations type, can be estimated rather well from the beginning of the nineteenth century and adequately for some ancient societies as in the case of the Roman Empire<sup>40</sup>. In the case of the former, inequality within a single nation, reliable data “are much more recent” (Milanovic, 2011: 149). To measure global inequality, instead, the challenge was to get a data set that encompassed at least 90 percent of the world’s population and income. Milanovic adroitly notes that it was only when household surveys from China, the Soviet Union (thanks to glasnost), and Africa became available since the 1980s that such a data set could be constructed.

With the usual caveats about their definitiveness, one finding seems to me to stand out among several mentioned by Milanovic. Looking at a “typical” developed country, the ratio of the average income of the top 10 percent of the population divided by that of the bottom 10 percent rarely exceeds ten to one. For the global inequality data set just mentioned, the ratio is eighty to one!<sup>41</sup> The world as a whole is thus very unequal and these statistics add a global dimension to the purely “inter-country” motivations to emigrate mentioned earlier.

## **Development**

### ***Going beyond GDP***

The frameworks for analysis and the perspectives presented thus far cast light on several aspects of economic growth and inequality. Explicitly or implicitly, they also point to various other considerations that need to be made and questions that need to be asked to improve our understanding of these phenomena.

Most prominently, I would like to emphasize at this point the limitations that GDP presents as a measure (Samuelson and Nordhaus, 2001; Coyle, 2011; Norberg, 2011).

There is first of all a problem of inclusion. Among the activities which are included in GDP calculation there are ethically questionable (although often necessary) items such as weapons production, tobacco products sales, and spending on prisons. Clearly, these types of activities overstate welfare<sup>42</sup>. More significant still is what does *not* enter in the calculation of GDP. Improvements in the quality of goods, mostly deriving from technological advances (think of computers), are never completely incorporated in the GDP statistics. Further, valuable activities such as parental care, meals preparation,

<sup>40</sup> Thanks also once again to the pioneering work of Angus Maddison. See Maddison (2007: especially 11-68).

<sup>41</sup> Milanovic (2011: 152), who also points out that the Gini coefficient of the global data set mentioned is around 70, vastly greater even than that of most unequal societies like South Africa and Brazil, which are about 60.

<sup>42</sup> In a somewhat similarly misleading way, activities such as those connected to the reconstruction of areas destroyed by the earthquake in Japan will be counted as an increase in GDP, although such reconstruction should not result in a dramatic improvement in the standard of living but simply in a restoration of the status quo ante (unless perhaps the new buildings will be more earthquake-resistant).



laundering, and house cleaning are not usually paid for and therefore are not computed in calculating GDP. Many activities in the underground economy such as work performed by illegal immigrants, bartering of services, gambling, drug dealing, and prostitution are also excluded on purpose because some of "these are by social consensus 'bads' and not 'goods.'" (Samuelson and Nordhaus, 2001: 449)<sup>43</sup>.

GDP presents limitations also in regard to what it is not designed to measure. To remedy this shortcoming, over twenty years ago, in the first Human Development Report (HDR), the United Nations Development Programme (UNDP) offered a new approach which avoided "concentrating on only a few traditional indicators of economic progress (such as gross national product per capita)": human development accounting (UNDP, 2010: vi). It "proposed a systematic examination of a wealth of information about how human beings in each society live and what substantive freedoms they enjoy." (Ibidem). Human development was thus conceptualized already in 1990 "as a process of 'enlarging people's choices', emphasizing the freedom to be healthy, to be educated and to enjoy a decent standard of living." (UNDP, 2010:2).<sup>44</sup> Clearly, the replacement of a single number like GNP or GDP with a multitude of tables would have been unhelpful from the point of view of conciseness and ease of use. Thus, a simple index, the Human Development Index (HDI), was designed as a tool to compete with the GNP or the GDP (Gross National Income, GNI, is currently used) by adding to national income indices of life expectancy and literacy.

Perhaps the most notable finding emerging from an examination of HDI across time is that people on the whole are in better health, more educated, and richer than they were in 1990. The world's HDI has gone up 18 percent since 1990 and 41 percent since 1970. The 2010 HDR adds that "poor countries are catching up with rich countries in the HDI. This convergence, this narrowing of gaps, suggests a far more optimistic picture than a perspective limited to trends in income, where divergence has continued." (UNDP, 2010: 3, emphasis added). This convergence/divergence dichotomy is part of an analysis with many qualifiers. Not all countries have experienced "rapid progress" in the HDI and the slowest improvements have been seen among the countries in Sub-Saharan Africa (deeply affected by the spread of HIV) and the countries of the former USSR (with their higher adult mortality rates) (UNDP, 2010: *ibidem*). Broken down broadly, progress has on the whole been considerable across countries in education, to some degree less in health, and much more variable with regard to income (UNDP, 2010: 25).

That the concept of convergence is most elusive and debatable can be seen by the fact that of the 13 success stories of countries with high growth rates over long periods since 1950 highlighted by the respected Spence Commission on Growth and Development (CGD), only four (China, Indonesia, South Korea and Oman) are included in the list of top 10 movers in HDI from 1970 to 2010 (UNDP, 2010: 28, 29, and 120,

<sup>43</sup> Incidentally, one of the ways to try to measure the size of the underground economy is to look at the amount and growth of currency in circulation. In this sense, the fact that almost three quarters of all the \$100 dollar bills circulate outside the United States attests to the importance of the greenback in this questionable component of the world economy (Eichengreen, 2011: 2). Interestingly, in one view expressed well over a decade ago, the European Union's "decision to issue large notes constitutes an aggressive step towards grabbing a large share of developing country demand for safe foreign currencies." (Rogoff, 1998: 264).

<sup>44</sup> Interestingly, the change in outlook took place at the same time of the collapse of Communism. On human development, the socialist system, and the concept of "agency" (which we discuss later), see Ivanov and Peleah (2010).



note 13; Brady and Spence, 2010). Agreement is instead substantial among the UNDP, the Spence Commission, the World Bank, and several governments of developed countries in noting that even in the presence of similar policy regimes, there is considerable variation in growth outcomes and that there is no general recipe for achieving sustained growth (UNDP, 2010: 21). This view, confirmed by the economic successes of Brazil, China, and India, is better understood if one keeps in mind the evolution of thinking in economic development, to which we now turn and sketch by very broad strokes.

### ***Development economics***

The interplay of broad concepts such as economic growth, equality, human development, and the policies associated to their improvement is an integral part of the study of development economics, which includes poverty and institutions. This field of inquiry, basically the study of the economics of what the World Bank calls middle and low income countries, "has made excellent use of economic theory, econometric methods, sociology, anthropology, political science, biology and demography, and has burgeoned into one of the liveliest areas of research in all the social sciences" (Ray, 2008). Once again, my aim is to identify some key organizing principles and intellectual signposts that emerge from the literature. In this sense, a brief overview of the evolution of thinking on development economics provides a natural way of organizing our ideas.

### ***The Development Consensus***

The end of World War II marked the beginning of an extensive decolonization process which saw the new states gaining independence adhering to several crucial and connected guiding strategies of development (Nayyar, 2008; Birdsall, de la Torre, Caicedo, 2010; Kondonassis, 2011). First, there was a clear effort at limiting the integration in the world economy, born in no small measure from the former colonies' negative experience with depending on the export of raw materials, whose prices in the two preceding decades had been severely affected by the Depression. Second, given the associated shortage in foreign exchange, national production of manufactures became necessary and import substitution industrialization (ISI) became an overriding goal. In order to implement these two strategies, in various ways and degrees several, when not all, of the following tools were used: nationalization of banks and firms, subsidization of infant industries, controls on interest rates and on the granting of credit, price controls, high quotas and tariffs on imports, and central planning<sup>45</sup>. Therefore a third strategy, that of giving a vastly greater role to the state, accompanied the first two. Such a strategy found justification in the early development literature (Rosenstein-Rodan, 1943; Gerschnkron, 1962; Hirschman, 1958; and Rostow, 1959) which did not believe that markets could function properly in developing countries and believed instead that the paramount objective of capital accumulation could be best achieved by the state (Birdsall, de la Torre, and Caicedo, 2010). After all, the reasoning went, it was the state that, in implementing Keynesian policies designed to remedy

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<sup>45</sup> Birdsall, de la Torre, and Caicedo (2010). Therein is also noted that this consensus economic development model was more inward-oriented in Latin America and the Caribbean than in East Asia.



market failures, had brought the West back from the economic abyss of the Depression.

International organizations like the World Bank (a creature of Keynes, after all) also espoused the state-centered approach. Moreover, the rapid economic progress being made by the USSR, which led it, among others, to be perceived to be an equal competitor of the US in the game of gaining influence and allies worldwide or even to be thought of as having the lead in the space race with Washington, bolstered the standing of central planning.

The consensus over the need for state control of the economy, limited internationalization, and industrialization was kept strong also by memories of the subordinate relationship between developed and less-developed-countries (to use the terminology of the time). Such memories were kept very vivid by the intellectual constructs associated to dependency theory (e.g. Gunder Frank, 1967) and to the notion of declining terms of trade for the primary products produced in the "periphery" for the benefits of the consumers of the rich countries at the "center" of the world economy<sup>46</sup>.

This "Development Consensus" held sway from the late 1940s to the early 1970s (Nayyar, 2008). And its popularity was not surprising, since from the mid-1950s to the early 1970s many developing countries experienced, not unlike developed countries, faster growth rates than before. A large part of this growth was accounted by catching up, just as European countries were narrowing the gap with the United States, but with the advantage of coming so much from behind that for developing countries just the simple "adding a little industry and expanding the scope of commercial agriculture made a large difference to their performance." (Yusuf *et al.*, 2009: 10).

The economic orthodoxy connected to the Development Consensus and the techniques (such as input-output tables) associated to it reached a very high standing (Yusuf *et al.*, 2009:11). Further, the creation of the United Nations Conference on Trade and Development (UNCTAD) in 1964 as a counterweight to the West-controlled General Agreement on Tariffs and Trade (GATT) and the formation of the G77 group (currently comprising 131 countries) were felt as attesting to the growing power of developing countries.

Poverty as an issue also gained greater saliency. Inspired by the 1964 declaration of war on poverty by US President Lyndon B. Johnson, the World Bank's President, Robert McNamara (who was part of the Johnson Administration a decade earlier) in 1973 moved the institution toward a decidedly more aggressive stance against poverty, which would lead in 1978 to the publication of the first *World Development Report*. This publication would enhance considerably the visibility of international development issues in the decades ahead, become a central point of reference with its analysis and policy recommendations, and would be a trailblazer for other publications like the aforementioned Human Development Report issued by the UNDP.

Last, in the wake of the quadrupling of oil prices in 1973-74, many developing countries felt that they could organize as producer cartels of other commodities and thus duplicate the successes obtained by OPEC. This sense of power and great

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<sup>46</sup> This is the well known Prebisch-Singer thesis, and the increase in commodity prices that are currently projected for the foreseeable future will most likely lead to rethinking and debates.



economic potential that pervaded many among the leaders in the South, also at the basis of their calling for a New International Economic Order (NIEO), was destined to be short-lived.

### ***The Washington Consensus***

As economic uncertainty and turmoil materialized across the 1970s worldwide, some major rethinking on development took place<sup>47</sup>.

Many started to seriously question the validity of the Kuznets hypothesis, according to which economic growth in the South would at one point lead to declines in inequality, and also to doubt the merit of the Solow growth model's central contention that poor countries' faster growth would make them converge with developed ones (Saad-Filho, 2010: 1).

At around the same time, the two most populous countries in the pro central planning camp, China and India, came to be considered a clear example of everything that could go wrong (Nayyar, 2008). Further, just as it became progressively clearer that organizing effective producer cartels like OPEC was going to be very difficult, the unity of the countries of the South came even more into question on account of the clear materialization of a significant divide in terms of interests between oil-exporting and oil-importing developing nations. Last, but most important, in the advanced economies, with the optimistic faith on the inevitability of economic progress being dented by stagflation and high unemployment, the heretofore dominant Keynesian doctrine gave way to monetarism.

This rethinking in macroeconomic theory and policy reverberated beyond the world of economic experts because of changes in the political arena, where Margaret Thatcher and Ronald Reagan came to power championing an agenda incorporating monetarist ideas that gave back to markets the role of balancing supply and demand and fostering innovativeness and economic growth. Concern over market failures was out, replaced by an emphasis on government failures. Thinking on development could not be unaffected by this paradigm shift toward neoliberalism taking place in the industrial countries.

Years later, John Williamson in 1990 compiled a list of ten policy guidelines for developing markets' economies that reflected this shift in thinking and which became known as the "Washington Consensus" (WC)<sup>48</sup>.

The original ten guidelines are the following:

1. Fiscal discipline
2. Reorientation of public expenditures

<sup>47</sup> Incidentally, but most importantly, one has to note that the economic problems of the 1970s (e.g. stagflation in the West, commodity and financial markets fluctuations, and the overall sense that the economic progress of earlier decades had come to a halt) "in the absence of tested political institutions, accepted modes of political succession, and rules for sharing of power and wealth among the heterogeneous groups" contributed significantly to turn "many of the new nations" into "battlegrounds for rivalries between factions, between elites, and between ethnic groups and tribes" (Yussuf *et al.*, 2009: 14).

<sup>48</sup> There is a lot of disagreement on the use of the expression "Washington Consensus" by the proponents and opponents of the policy list. See for instance Williamson (1999; 2004). On the whole, Williamson takes his distance from a very rigid application of the policy prescriptions. He basically considers himself a compiler rather than a supporter of the whole list. The list that we use here is from Rodrik (2006).



3. Tax reforms
4. Financial liberalization
5. Unified and competitive exchange rates
6. Trade liberalization
7. Openness to Foreign Direct Investment
8. Privatization
9. Deregulation
10. Secure Property Rights

Each one of these items has meant and means something (slightly or significantly) different to different economists or policymakers (Rodrik, 2006; Spence, 2011; Saad-Filho, 2010; Birdsall, de la Torre, and Caicedo, 2010). But in general, taken together, the principles embodied in these policy prescriptions would suggest to everyone a connection with the political, ideological, and economic beliefs of the “Thatcher-Reagan revolutions”. There was also a need to have a counter to “the endless list of policy follies to which poor nations had succumbed” during the Development Consensus and the WC list captured for any competent economist “the obvious truths of the profession: get your macro balances in order, take the state out of business, give markets a free rein. ‘Stabilize, privatize and liberalize’ became the mantra of... technocrats... and the political leaders” they advised (Rodrik, 2006: 973).

Essentially, as it emerges from the 1981 World Development Report, there was a great need for structural adjustment, which had to take place through macroeconomic and microeconomic policies (Yusuf *et al.*, 2009: 28), arguably both aiming at creating an environment more favorable to economic growth. The former, macroeconomic policies, were meant to stabilize the economy, with fiscal policies aiming at lowering demand and exchange rate policies seeking to channel more of the economy’s resources toward exporting. In addition to cutting down domestic and external imbalances, stabilization policies were designed to reduce inflation (Yusuf *et al.*, 2009: 29). The latter, the microeconomic policies, entailed deregulation, privatization of state-owned enterprises, the streamlining of public sector entities and the reduction of public payrolls, and the removal of price controls, all aiming at eliminating distortions to the functioning of the free market (Yusuf *et al.*, *ibidem*).

### ***Evaluating the Washington Consensus***

Any evaluation of these policies can benefit from careful reading of *Economic Growth in the 1990s: Learning from a Decade of Reform*, a study published by the World Bank in 2005 (World Bank, 2005), which focused on the period between the early 1990s, when the Washington Consensus Decalogue had acquired preeminent status among policy advisers, and the date of publication.

To start with, “there were several negative surprises” (World Bank, 2005: 8). For instance, the transition from communist, centrally planned economies to capitalist ones proved to be vastly more difficult than anticipated, with an output collapse of unpredicted depth and duration. While noting that for instance the Czech Republic, Hungary, and Poland (not coincidentally benefiting from the European integration



process, I would point out) were recovering, the report added that “it will take years, and in some cases, decades, for most former Soviet countries to regain their per capita income levels prevailing at the beginning of the transition.” (World Bank, 2005: 8). Further, the report adds, with regard to Sub-Saharan Africa, in spite of good policy reforms, foreign aid, debt relief, improvements in governance, a good external climate, and some modest success stories like Mozambique, Tanzania, and Uganda, no major take-off had taken place. The report also noted how the financial crises of the 1990s were less predictable (using yield spreads) than those in the previous two decades, citing as examples, Mexico in 1994-95, Korea, Malaysia, Thailand, and Indonesia in 1997-98 (which taught many developing countries to build a large foreign exchange reserves buffer, as I noted earlier), Russia and Brazil in 1998, Turkey in 2001, and Argentina in 2001-02 (World Bank, 2005: 8). Last, but not least, there were negative surprises in Latin America, where the region by 1990 had most definitely rejected the Development Consensus logic of the past in favor of macroeconomic stabilization, fiscal rigor, trade liberalization, and privatization (World Bank, *ibidem*)<sup>49</sup>. While major successes were achieved in the fight against inflation since the beginning of the 1990s, the results in terms of growth were disappointing and the decade saw altogether less growth on a GDP per capita basis in comparison to the US than in the period between 1950 and 1980 (Birdsall, de la Torre, and Caicedo, 2010: 3; Rodrik, 2006: 975). Latin America experts had problems understanding exactly what had gone wrong. Regardless, the sense of disenchantment toward the Washington Consensus in the region certainly grew as a consequence of the financial crises in Ecuador (1999-2000), Uruguay (2002), the Dominican Republic (2003), in addition to the one in Argentina that was just mentioned (Birdsall, de la Torre, and Caicedo, 2010).

Along with these negative surprises, as Rodrik (2006) cleverly points out, there was the unexpected progress made on the front of global poverty. Most notably, according to World Bank estimates (Chen and Ravallion, 2004), in 2001 the number of individuals living on \$1 a day was 1.1 billion, down nearly 400 million from twenty years before. To a very large degree this stems from the rapid economic growth achieved by China and India<sup>50</sup>.

In terms of the assessment we are trying to make, Washington Consensus supporters would have some difficulties in attributing the economic successes experienced by the two most populous nations in the world to their policy prescriptions. This is so because the narrative centered on two giants awakening in 1978 (China) and in 1991 (India) from a prolonged slumber to a new sunrise of economic liberalization is extremely simplistic (Nayyar, 2008: 274). It leaves out the period of “near-stagnation” between 1900-50, when China and India were “among the most open and the least regulated economies in the world” (Nayyar, 2008: 274). It underplays the yearly GDP growth rates between 1950 and 1980 for both China (5 percent) and India (3.6 percent) (*ibidem*). And, in citing the extraordinary yearly GDP growth rates of China (9.7 percent) and India (5.8 percent) between 1981 and 2005, the Washington Consensus-

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<sup>49</sup> In finance, liberalization policies were most aggressive, while they were most modest in the tax area, and basically nil in labor markets (Birdsall, de la Torre, and Caicedo, 2010). However complicated the picture is, there seems to be little doubt that the new orthodoxy was adopted widely and was instrumental in showing the region’s worthiness of receiving debt relief through the Brady plan. See Marangos (2009).

<sup>50</sup> See also *supra* in the section on inequality. On the difficulty of counting the world’s poor see Chandy and Gertz (2011) who estimate that by 2015 there will be almost 600 million people living on less than \$1.25 a day.



inspired narrative of economic liberalization and openness to globalization clashes against actual policies of national development (*ibidem*). Notably, informed by gradualism and active strategic (and not passive) integration in the world economy (Nayyar, 2008), these two nations proceeded “with high levels of trade protection, lack of privatization, extensive industrial policies, and lax fiscal and financial policies through the 1990s” (Rodrik, 2006: 975)<sup>51</sup>.

Two additional clusters of concepts contribute further to appreciating the complexity in evaluating analytical approaches to development: institutions and foreign aid.

### **Institutions**

Institutions are important in the study of economics and globalization<sup>52</sup> but the emphasis of the Washington Consensus was on policy changes, not on the institutional conditions needed for them to have lasting and positive effects (Rodrik, 2006).

Things started to change during and after the brief tenure (1997-1999) as chief economist of the World Bank of Joseph Stiglitz, an influential supporter of the “new institutional economics” school (Saad-Filho, 2010). This school of thought moves away from the neoclassical stress on competition and assumed perfection of markets towards “the institutional setting of economic activity, the significance of market imperfections, and the potential outcomes of differences or changes in institutions.” (Saad-Filho, 2010: 3).

A compilation of ten reforms related to institutions, clearly not exhaustive and subject to modifications based on the individual preferences of policy advisers and decision-makers, has been provided by Rodrik (2006: 978): Corporate governance; Anti-corruption; Flexible labor markets; WTO agreements; Financial Codes and Standards; “Prudent” capital account opening; Non-intermediate exchange rate regimes; Independent central banks/inflation targeting; Social safety nets; and Targeted poverty reduction. This list, described by many as a “second-generation” of reforms, combined with the ten original policy prescriptions, has been dubbed “Augmented Washington Consensus” (Rodrik, 2006) or “Post-Washington Consensus” (Saad-Filho, 2010).

This expanded version (20 *items*) tries to remedy problems such as having trade liberalization without proper fiscal institutions to compensate for the lost revenue, capital markets inadequately providing funds to growing sectors, and customs officials who are incompetent or dishonest (Rodrik, 2006). The remedies come through discretionary state intervention “across a much wider range of economic and social policy than the WC.” (Saad-Filho, 2010)<sup>53</sup>.

It is important to point out that it is very difficult to find a link between any specific institutional design and economic growth (Rodrik, 2006; Spence, 2011; World Bank,

<sup>51</sup> This rejection of the application of the Washington Consensus principles to China and India’s actual policies is not very different from the East Asian tigers’ experience of “strategic forms of intervention and unorthodox policies to attain conventional objectives.” (Nayyar, 2008: 273).

<sup>52</sup> Institutions, it bears repeating it, play a key role in all types of analyses on the world economy and have relevance for essentially all topics discussed and mentioned in this paper.

<sup>53</sup> The quest for a new “consensus” is ongoing. For instance one reads about a “Beijing Consensus” (Huang, 2011) or a “BeST (Beijing-Seoul-Tokyo) Consensus” (Lee and Mathews, 2010).



2005; UNDP, 2010; Rodrik ,2011)<sup>54</sup>. Further, “institutional function does not uniquely determine institutional form” as Rodrik points out, offering the example of the Chinese and Russian experiences of the mid-1990s (Rodrik, 2006: 979). The institutional form of Western-style property rights prevailing in Russia should have made, on a prima facie basis, investment inflows therein much more sizeable than in China, where its public ownership system was based on townships and villages. However, what happened was the reverse, most likely on account of investors’ preferring to deal with perhaps less profitable but more secure realities in China than with the uncertainties deriving from poorly protected property rights in Russia, at the complete discretion of untrustworthy local courts (Rodrik, 2006: 979). One should also remember that China started its rapid growth rates in the late 1970s without any changes in property rights or in the trading system and that India’s “transition to high growth in the early 1980s was preceded (or accompanied) by no identifiable institutional changes”; this, together with other national experiences, would seem to point to the limitations of an approach that requires that institutional reforms come temporally before everything else (Rodrik, 2006: 980). This is clearly part of the even broader issue of getting right the “sequencing” of policies, a challenge found in all growth and development strategies, meeting which is leading to an emerging consensus toward the need to experiment and be ready to change course rapidly (Spence, 2011)<sup>55</sup>.

### **Foreign Aid**

The other major cluster of concepts I am going to mention here has to do with foreign aid. Viewed by some as the third pillar of US (but clearly not just US) national security after foreign policy and defense, foreign aid is a central dimension of the debates on development. In looking very quickly at its evolution, it is most important to mention upfront the largest aid program in favor of business ever implemented, the Marshall Plan (Hubbard and Duggan, 2009: 90). The Marshall Plan provided funds to European governments, which in turn lent them to private companies, whose repayments would then be used by governments to restore public infrastructure while enacting other pro-business measures (Hubbard and Duggan, 2009: 90-1)<sup>56</sup> The Plan helped reconstruct Europe and bring it back to solid economic functionality, it gave the United States access to significant markets as well as allies for its defense and foreign policy, it created the basis for US-led multilateralism, and arguably contributed to expanding citizens’ rights on both sides of the Atlantic. Thus, given that foreign aid had been so successful in Europe, why should it not work its magic “everywhere else”? (Moyo, 2009: 13).

The logic followed in granting foreign aid outside Europe was influenced by the need to support leaders (no matter how autocratic) who were on one’s side in the Cold War and

<sup>54</sup> Institutional design such as that seen in recent years in the European Union deserves much attention for the lessons that it can offer to countries contemplating or going through any type of integration process in other regions of the world. See for instance Ammendola (2008a).

<sup>55</sup> On policy analysis in general, see the work of Brewer and deLeon (1983). They view the policy process as going through six phases (Initiation, Estimation, Selection, Implementation, Evaluation, and Termination). I used their model to analyze issues of international finance and taxation of significant importance for public and private decision-makers. See Ammendola (1994).

<sup>56</sup> This is a narrative that runs counter to the typical “mistaken view” that the Marshall Plan distributed free necessities and built back infrastructure. Instead, “to qualify for the plan countries had to enact certain pro-business policies to make sure that their local businesses could use the loans as well.” (Hubbard and Duggan 2009:xi). Here again the importance of well-functioning institutions is clear.



by the Development Consensus outlined earlier. Thus, aid went prominently to fund large infrastructural and industrial projects such as roads, bridges, railroads, dams, power stations, and sewage systems in the main neglecting "the institutional issues involved, such as how the project would be managed, operated and maintained." (Ghani and Lockhart 2009: 89).

Health and education, as we have seen crucial components of the HDI, for a long while were not deemed to provide adequate economic returns (Ghani and Lockhart, *ibidem*). Their elevation in status occurred with the shift toward poverty alleviation supported by Robert McNamara, who also moved the World Bank toward smaller scale agricultural and rural development projects. In spite the World Bank's overtaking the United States in 1973 as the largest donor to developing countries (Moyo, 2010 :17), a prominent critic argues that these "changed priorities" did not get "enough time to gel and be implemented in a comprehensive manner" (Saad-Filho, 2010: 3).

In the 1980s, the surplus funds from the oil exporting countries, particularly the "low absorbers" (those with small populations) found their way via international banks into many developing countries, whose credit risk was probably underestimated because of the overall commodity boom. When interest rates went up as a result of the US move against inflation, the difficulties of meeting interest payments on debt largely based on variable rates led to a major wave of defaults across the South, with the August 1982 Mexican declaration of inability to pay its debt acting as a major trigger. The response to the crisis centered on the restructuring of the debt, which was, as Moyo (2010:19) pointed out, "merely a reincarnation of the aid model... with the Bretton Woods institutions... reclaim[ing] their central positions as chief lenders to emerging economies." Thus, starting in the early 1980s, an increasing number of low-income countries came to benefit from repeated reschedulings on concessional terms (Gunter, 2003: 91-117).

The goal of breaking the cycle of repeated debt terms modifications thus became an ongoing concern. Its importance is highlighted by the fact that by the late 1980s, when the Washington Consensus had taken hold, emerging markets' debt had reached at least \$1trillion (Moyo, 2010: 22). On the positive side for borrowers, it has to be noted, part as a result of creditors' forgiveness and a better interest rates climate, the trend across the 1990s was one of lower interest payments on external debt (World Bank, 2005: 72).

It is also important to note however that borrowing countries' economic growth and their ability to service debt cannot have benefited from the priority given by the World Bank (arguably not unlike other international official financial institutions) to volume lending over the quality of the projects underwritten, at least up to the early 1990s (Ghani and Lockhart, 2010: 96).

It is probably fair to say that by the 1990s all the elements that currently influence the debate on foreign aid (including donor fatigue, the relevance of governance, and the role of celebrities (Moyo, 2010) were intertwined with and often indistinguishable from "a web of relationships between multilateral and bilateral donors, UN agencies, private contractors, and NGOs" (Ghani and Lockhart, 2010 : 97).

No wonder that at present we are confronted with an immense literature on foreign aid which, it bears repeating, is also integral part of the debate on overall development. One extremely useful, albeit necessarily streamlined, way of categorizing foreign aid



along these broad contours is given by the opposite positions held on the subject by those who share Jeffrey Sachs's views on the one hand, and those who partake William Easterly's on the other<sup>57</sup>. Let us look at them.

### ***Development and the pros and cons of aid***

Briefly put, Jeffrey Sachs, a professor at Columbia University and the President of its Earth Institute, is an enthusiastic supporter of aid. For him more of it is better. William Easterly, who teaches at New York University where he is also Co-director of the Development Research Institute, instead, is very skeptical. To him, the track record of foreign aid is unimpressive at best.

Jeffrey Sachs wants to put an end to poverty, especially that affecting "the extreme poor" of the world, the one billion individuals who fight for survival every single day<sup>58</sup>. He believes that many of the poorest countries of the world (most of them in Sub-Saharan Africa) are in a "poverty trap", where all income goes to consumption and nothing is left for savings and where it is nearly impossible to raise significant funds from taxation and to invest in infrastructure. Further, these countries have to live with the burden of massive debt.

Sachs, while acknowledging many of the excesses of the past, downplays the importance of explanations for the current plight of these countries centered on the exploitation by the West (in its colonialist and neocolonialist forms) and on the role played by the Cold War. He believes that economic development is not a zero-sum game and that the real story is instead one of different growth rates (Sachs, 2005: 31).<sup>59</sup> Most importantly, Sachs downplays the role of corruption. Notably, he points out, "relatively well-governed countries in Africa, such as Ghana, Malawi, Mali, and Senegal, failed to prosper, whereas societies in Asia perceived to have extensive corruption, such as Bangladesh, India, Indonesia, and Pakistan, enjoyed rapid economic growth." (Sachs, 2005: 191).

For Africa, in particular, it is the unfavorable interaction of geographic and economic factors such as the lack of navigable rivers leading to the oceans, lack of irrigation, very variable rainfalls, population heavily concentrated in landlocked resource-scarce areas (Collier, 2006), farmers without "access to roads, markets, and fertilizers", and depleted soils that is truly important (Sachs, 2005: 208). Thus, Sachs adds that "[w]ithout transport, telecommunications, clinics, and fertilizers, the hunger-disease-poverty nexus has only deepened." (Sachs, 2005: *ibidem*).

From this poverty trap, the only way out is not through the typical advice offered by the IMF and the World Bank under the influence of the Washington Consensus. Their structural adjustment policies of privatization, deregulation, free markets, and belt

<sup>57</sup> While representative of the overall debate, clearly the opinions of these two scholars on foreign aid are not always entirely shared by people who are in their respective camp. Many differences and nuances exist. However the dichotomy, which encompasses also broader considerations on development economics, is still very helpful as an intellectual organizing device.

<sup>58</sup> Sachs (2005: 18). In general, nations employ different definitions of poverty; international organizations and scholars in the field typically use an income cap of \$1 or \$2 a day, (Spence, 2011: 45).

<sup>59</sup> Of course very high birth rates in poor countries must enter into this analysis and Sachs, while acknowledging the progress made on this front in many countries (e.g. in Bangladesh the fertility rate went from 6.6 in 1975 to just 3.1 in 2000), talks in this sense about a "demographic trap". See Sachs (2005: 64-5).



tightening (which we mentioned supra) impose a burden that is often too heavy for the poorest among the developing countries. Instead, Sachs argues, these policies must be accompanied by "trade reforms in the rich countries, debt cancellation" and, most importantly "increased foreign assistance for investments in basic infrastructure" (Sachs, 2005: 80).

Further, there must be ever stronger support for the eight Millennium Development Goals (MDGs) proclaimed at the United Nations in New York in 2000: Eradicate extreme poverty and hunger; Achieve universal primary education; Promote gender equality and empower women; Reduce child mortality rate; Improve maternal health; Combat HIV/AIDS, malaria, and other diseases; Ensure environmental sustainability; and Develop a global partnership for development<sup>60</sup>. To achieve these goals, Sachs wants the West to adhere to the commitment made by the heads of fifty major nations at Monterrey in Mexico in March 2002 to support the move by all developed countries to bringing the level of official development assistance (ODA) to 0.7 percent of GDP<sup>61</sup>.

William Easterly (2006) is not unsympathetic to the plight of those living in extreme poverty. It is a tragedy, he argues, that children are dying from diseases whose prevention and cure costs incredibly low sums on a per capita basis. For instance, bed nets preventing children from becoming infected with malaria cost only four dollars, he points out. This is a tragedy, Easterly adds, that gets the attention of "visionaries, celebrities, presidents, chancellors of the exchequer, bureaucracies, and even armies" (Easterly, 2006: 4).

But, Easterly maintains, there is another tragedy that besets the world's poor. It has to do with the lack of understanding of why the terrible stories of extreme poverty, disease, and malnutrition are still with us in spite of the \$2.3 trillion spent over the previous five decades. In other words why, in spite of this huge sum spent on aid, "the West... still had not managed to get the four-dollar bed nets to poor families"? (Easterly, 2006, *ibidem*). That is what Easterly feels is the most important task ahead: not stopping foreign aid, but stopping the evidently wrong practices that have been followed by the West thus far. To this effect, Easterly explains, it is crucial to understand the difference between what he calls the "Planners" and the "Searchers".

The Planners for him are people like Jeffrey Sachs who believe in grand designs like the Millennium Project and in the abilities of the United Nations' Office of the Secretary General to coordinate the activities of UN agencies, the World Bank, the IMF, and donors. Easterly finds Planners' "top-down" approach to development, their "big-push" theories (taking a leaf from Rosenstein-Rodan's views on development and Rostow-like concepts like "take-off") , their good intentions without any idea on how to motivate anyone to implement them, their raising expectations without assuming any responsibility to meet them, their determining what needs to be supplied, and their lack of specific knowledge in the field as the factors underlying the overall undeniable failure of aid.

Searchers (like himself), Easterly points out, are vastly more pragmatic. They are not guided by broad global designs but try to figure out what works in the field by trial and error. They know they do not have a priori answers, they take responsibility for their

<sup>60</sup> On the millennium development goals, see for instance <http://www.un.org/millenniumgoals/>

<sup>61</sup> In 2010 only five of the major industrial countries had exceeded the ODA/GNI ratio of 0.7%: Norway, Luxembourg, Sweden, Denmark, and The Netherlands. See <http://webnet.oecd.org/oda2010/>



mistakes, and they are demand and customer driven (Easterly, 2006: 5 ff.). Easterly dismisses the importance of the "poverty trap". For him it is bad government that is to blame for slow growth. Further, Easterly adds, even in a good policy environment there is no evidence that aid really works (Easterly, 2006: 48). What probably works, Easterly says, are small plans, gradual approaches, trial and error, and a focus on individuals and not on governments. This is the analytical "vision" of the Searcher.

### **Other distinctions in the debate**

Outlined this way, these two positions and narratives are the basis for the highlighting of the divisions between those who hold more radical views in what one might characterize as ideological terms.

"To the left" of Jeffrey Sachs one encounters the supporters of pro-poor growth (PPG) strategies (Saad-Filho, 2010; McKinley, 2009). This is a group that in looking at the evolution discussed earlier from Development Consensus to Washington Consensus, and on to Augmented or Post-Washington Consensus, believes that by the late 1990s the majority of development specialists had to concede "that poverty reduction and redistribution were not spontaneous by-products of growth, the correction of macroeconomic imbalances, or improvements in macroeconomic policies and governance. Instead, poverty has to be addressed directly through a dedicated set of economic and social tools" (Saad-Filho, 2011: 8).

Thus, here another conceptual divide materializes (Saad-Filho, 2011: 8; Zepeda, 2011) between those who believe that PPG should focus on economic growth that reduces poverty (Ravallion, 2004; Ravallion and Chen, 2003) and those who believe that this is not enough. The latter (Kakwani, Khandker, and Son, 2004) believe that, going beyond a focus only on absolute poverty, it is necessary instead to think of PPG as centered on increasing the income share of the poor. In other words, the poor must benefit proportionally more than the rest of the population (Zepeda, 2011), a clearly redistributive logic.

The confluence of views over time between the thinkers most readily associated with this divide, Ravallion and Kakwani, means that they now support both faster growth aiming at the absolute improvement in the standard of living of the poor and greater relative improvements in comparison with the non-poor. This is a convergence of the debate that is viewed by some (Saad-Filho, 2010; McKinley, 2009) as a nondesirable de facto abandonment of redistributive aims.

Similarly, one prominent such critic (Saad-Filho, 2010:10) criticizes the approach found in publications such as the World Bank's *Economic Growth in the 1990s* (World Bank, 2005) and the Commission on Growth and Development's *The Growth Report: Strategies for Sustained Growth and Inclusive Development*<sup>62</sup>. These reports "ostensibly avoid offering blueprints for development" (which I would submit is broadly speaking instead a "Planner's preference") "and instead emphasize the virtues of experience, selective reforms, eclecticism, experimentation, the middle ground and

<sup>62</sup> An independent group of policy makers, business leaders, and academics, the Commission's work was supported by the World Bank, the Hewlett Foundation, and the governments of Australia, Netherlands, Sweden, and the United Kingdom. See CGD (2008: 13).



learning by doing" (which seems to me largely a "Searcher's wish list") and, most importantly, give little or no importance to distributional issues (Saad-Filho, 2010: 10).

Inclusive growth (Spence, 2011: 87-88; World Bank, 2009), a concept included in the Commission on Growth Report, is also criticized for its being well within the logic of the Washington Consensus and its Augmented version (Saad-Filho, 2010:17). In the words of World Bank officials while "the pro-poor approach is mainly interested in the welfare of the poor... inclusive growth is concerned with opportunities for the majority of the labor force, poor and middle-class alike" (World Bank, 2009: 1)<sup>63</sup>. Going back to the distinction between absolute and relative difference mentioned earlier (Ravallion, 2004 vs. Kakwani, Khandker, and Son, 2004), inclusive growth is thus congruent with the absolute definition of pro-poor growth. Instead, the relative definition (preferred by those who share Saad-Filho and McKinley's views on the need to focus on inequality and redistribution) is criticized by the World Bank (2009: 3) because it "could lead to sub-optimal outcomes for both poor and non-poor households".

Along the ideological spectrum, "to the right" of William Easterly one finds scholars with an even more skeptical outlook. They share with him the view "that aid has not achieved goals such as promoting rapid economic growth, changes in government economic policy to facilitate markets, or promotion of honest and democratic government." (Lal, 2006). But, while also sharing a great antipathy for the planners, those who hold this view also tend to think that "the aid agencies accountable for specific tasks through rigorous evaluation of outcomes" will not deliver (Lal, 2006), in spite of the better transparency, feedback, and accountability pursued by the likes of Easterly<sup>64</sup>. The aid agencies are essentially unreformable (Lal, 2006; Sorens, 2009; Lal, 2005), part of a large international business in which a significant number of professionals, labeled by Graham Hancock (1989) "The Lords of Poverty" make a good living (Lal, 2006).

Along similar lines, for Dambisa Moyo, foreign aid is downright pernicious for the recipient countries. In her work (Moyo, 2009), which centers on Africa but contains reflections applicable worldwide, she distinguishes between emergency aid, charity-based aid, and systematic aid. While not too enthusiastic about the first two, it is the third type, which involves direct payments from Western governments or from multilateral institutions such as the World Bank to governments of poor countries that deserves the most criticism. This is so also because, in terms of size, direct official aid to governments dwarfs the other two types of aid. Further, systematic aid to governments is all the more important if one adds (as she does) to actual grants official loans given on concessional terms. This is a necessary inclusion, she maintains, because of the blurring of the distinction between grant and concessional loans, engendered by the tendency toward "forgiveness" promoted so very visibly by celebrities (Moyo, 2009).

Some (Vreeland, 2003; Sorens, 2009) point out that those who see the IMF and the World Bank as heavily influenced by the US and the West tend to ignore that the

<sup>63</sup> The terms of this debate reflect a similar discussion on "equality of opportunity versus equality of results" that one finds in the advanced economies and which the economic crisis and its aftermath have brought into greater prominence.

<sup>64</sup> Interestingly, Lal (2006) notes that by the time the typical projects are completed, the officers who were making the loans have moved on, their career benefiting from volume and not quality of projects. This "time lag" reminds me of a pattern observed in the reckless lending to governments by commercial banks' officers at the basis of the Third World Debt Crisis that exploded in the 1980s.



conditions attached to IMF loans are in actuality sought by the recipient countries. This way, their leaders can implement unpopular economic reforms that they want without incurring voters' backlash<sup>65</sup>. To put it briefly, on the whole, this group of thinkers believes that the decisive factor in poor countries' development is not outside assistance but their willingness to "do the right thing" (Lal, 2006), relying on markets and their own improved institutions<sup>66</sup>.

### **Some empirical evidence**

Clearly those who favor more aid and those who want less of it or its elimination find their positions justified by an empirical literature on the effectiveness of aid that arrives at markedly different conclusions.

For instance, Arndt, Jones, and Tarp (2010) state that the overall evidence and their own findings show that eliminating or cutting back dramatically foreign aid would be a mistake since over the long run aid has a positive and significant causal effect on growth. Mekasha and Tarp (2011) maintain that, on the basis of meta-analysis, the effect of aid on growth is positive and significant. Feeny and McGillivray (2011) share the same view and state that a "big push" in foreign aid is not necessarily subject to diminishing returns and "can lead to increases in economic growth and, by implication, reductions in poverty" (*ibidem*: 63).

Doucouliagos and Paldam (2011) instead, in looking at decades of research, point out that "on average, aggregate development aid flows are ineffective in generating growth." (*ibidem*: 403). Chong, Gradstein, and Calderon (2009) confirm that this ineffectiveness exists even when good institutions are present. Further, they add that foreign aid does not seem to ameliorate the quality of democratic institutions and that "by itself does not appear to have a statistically significant effect on inequality and poverty reduction." (*ibidem*: 79). Interestingly, Kalyvitis and Vlachaki (2011) find that there is a negative relation between foreign aid and democracy, which is less strong when aid flows follow economic liberalization. Rajan and Subramanian (2008) find that aid does not increase or decrease economic growth in a significant way, that it does not seem more effective in better geographical or policy environments, and that there is no evidence that certain types of aid are more effective than others. Rajan and Subramanian (2011) also find that aid inflows most likely affect a recipient country's competitiveness in adverse ways through the exchange rate channel because of currency appreciation<sup>67</sup>.

The findings of Garces-Ozanne (2011) are most emblematic of the difficulties of reaching simple conclusions in this area of research. Notably, she states that aid is most likely not a good promoter of economic growth and that human and good economic policies do not seem to have unique and significant effects on the Millennium

<sup>65</sup> This reminds me of the blame placed on EU institutions by national leaders of member states when implementing measures to comply with EU rules.

<sup>66</sup> For instance, Moyo (2009) advocates borrowing in international markets, more trade with the Chinese, more microfinance, more remittances and domestic savings. These should all replace aid, which should come to an end within five years. See also Ammendola (2010).

<sup>67</sup> To those familiar with the literature this is a significant example of "Dutch disease". Another, usually much more important, variant of the disease is associated to the damage done to other types of exports by the currency appreciation stemming from substantial natural resources exports. The damage that a wealth of natural resources can do to economic growth and development is known as "resource curse".



Development Goals. However, she finds that “when human and economic policies are allowed to interact with aid, these become more robust indicators of the effectiveness of aid in helping achieve the MDG” (*ibidem*: 37).

In light of all the things we mentioned so far, the multiplicity of factors to evaluate when designing policies for development is really daunting. The framework for analysis known as “growth diagnostics”, which has in recent years gained increasing popularity, tries to tackle this complexity.

### **Growth diagnostics**

The scholars most closely associated with the “growth diagnostics” approach, Ricardo Hausmann, Dany Rodrik, and Andrés Velasco (HRV, henceforth) point out that policymakers, when “presented with a laundry list of needed reforms” such as those we mentioned earlier when discussing the Washington Consensus and its Augmented Version and arguably those of the earlier Development Consensus, “...have either tried to fix all of the problems at once or started with reforms that were not crucial to their countries’ growth potential” (HRV, 2006: 12). Such reforms have often “gotten in each other’s way, with reform in one area creating unanticipated distortions in another area.” (*Ibidem*)<sup>68</sup>.

Proponents of the growth diagnostics approach maintain, instead, that it is much better to try to identify the major binding constraints, whose removal would permit a “growth spurt.” (Felipe and Usui, 2008: 2). In the framework developed by HRV (2005), a decision tree is used to look at the problem of low levels of private investment and entrepreneurship. HRV (2006: 13) explain that “[i]n a low-income country, economic activity must be constrained by at least one of the following two factors: either the cost of finance is too high, or the private return to investment is too low. If the problem is with low private returns” (HRV use as an example El Salvador), “that in turn must be due either to low economic (social) returns or to a large gap between social and private returns (what we refer to as low private appropriability).” In the case of high cost of finance (HRV use as an example Brazil) the decision tree is also divided in two branches: bad international finance and bad local finance.

Going down from one branch of the decision tree to the next leads the researcher to look at factors of most varied nature such as geography, infrastructure, physical and human capital, institutions, governance (Felipe and Usui, 2008). At each node, the researcher asks “what kind of diagnostic signal the economy would emit if the hypothesized constraint were indeed the binding one” (Rodrik, 2010: 35). Going from branch to branch, one achieves ever greater levels of disaggregation and Rodrik (2006: 984) maintains that the value of going along the many paths associated to diagnostic analysis, even in a “rudimentary” way, “can sometimes reveal important gaps or shortcomings in traditional reform packages”.

The second step in growth diagnostics is to design the policies best suited to relax the constraints (Rodrik, 2010; Rodrik, 2006). One principle stands out: “target the policy response as closely as possible to the source of the distortion.” (Rodrik, 2006: 984).

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<sup>68</sup> This clearly is an issue very often related to sequencing.



For instance, if credit constraints are a major constraint and this results in large bank spreads, promote competition in the banking sector (*ibidem*).

Supporters of growth diagnostics are aware of the difficulties of designing and implementing effective reforms, especially in light of the fact that developing countries confront greater challenges and more constraints than developed nations, that binding constraints change across time, and that policies can interact with one another in an adverse manner. This is in line with the broad consensus mentioned earlier in connection with the evaluation of the 1990s, whereby it is very difficult to find a link between institutional design and/or specific policies on the one hand, and growth on the other. More specifically, the economic policy advice given to public decision makers has to abandon a logic of first-best practices (always worth studying in a theoretical way) in favor of one of second-best real world ones and experimentation, in the awareness that an economic system may not respond to policies in a predictable way (Zagha, Nankani, and Gill, 2006; Rodrik, 2008; Rodrik, 2010).

Growth diagnostics seems at this point to be a very important tool for development practitioners. One criticism directed against it by someone who finds much merit otherwise with the approach, is that it "focuses exclusively on economic growth" (Felipe and Usui, 2008: 7). This is, as we have seen, part of a debate that deals with the limitations of GDP and its change across time not just as a measure of economic activity but more importantly of human well-being and development.

### ***More on human development***

All manners of organizations (governmental and nongovernmental, national and international, for profit and not-for-profit) publish information on the state of many types of human development and often provide indicators and country rankings. Some indicators are inevitably a great source of controversy, deriving for instance from the way they are constructed, measurement problems, or the very objectivity of the issuing entity. We shall continue our earlier brief examination of the UNDP's Human Development Index (HDI) and use it to offer some additional considerations on human development in general.

The need to expand the concept of human development has been felt for a while. For instance, the 2010 Human Development Report, referring to the 1990 HDR, reminds the reader how the latter "emphasized that development is about freedom, both human choice (opportunity freedoms) and a participatory process (process freedoms)." (UNDP, 2010: 12). The distinction, borrowed from Amartya Sen (2002), in other words, separates "the freedoms which give us greater opportunities to achieve those things we value (opportunity freedoms)," from "those that ensure that the process through which things happen is fair (process freedoms)." (Klugman, Rodríguez, and Choi, 2011: 264). Thus, it has been noted that the HDI can at present be characterized as an index of opportunity freedoms and that the authors of the HDR 2010 are aware of the need to consider process freedoms (*ibidem*), which involve empowerment and democratic practices (UNDP, 2010: 23).

The HDR 2010 looks at "empowerment, equity, and sustainability" because they "are among the intrinsic parts of people's freedom to lead lives they have reason to value." (UNDP 2010: 65). The major overall HDR's finding with regard to these three



dimensions is that their relationship with HDI is not on the whole straightforward. In other words, there is an overall lack of correlation between HDI and empowerment and sustainability. With regard to inequality, the pattern shows that it is negatively related to HDI, but even that relationship shows considerable variation. Thus on the whole, “[c]ountries may have a high HDI and be undemocratic, unequitable and unsustainable—just as they may have a low HDI and be relatively democratic, equitable and sustainable.” (UNDP, 2010: 65).

**Empowerment.** Empowerment is a concept for which there is much disagreement in the literature, both in terms of definition and measurement (Klugman, Rodríguez, and Choi, 2011: 264). In the 2010 HDR, following Sen (1985), empowerment is characterized as requiring both agency, “people’s ability to shape their own destinies” and “supportive institutional structures” (here institutions come again to the fore) (UNDP, 2010: 23).

In this context, technology has been a major source of change. By the end of 2010 there were 2 billion internet users worldwide (double the number in 2005), of which 1.2 billion in developing countries<sup>69</sup>. There are still significant differences regionally, with Europe at 65 users per 100 inhabitants, the Americas at 55, CIS at 46, Arab States at 24.9, Asia and Pacific at 21.9, and Africa at 9.6. Interestingly, China is the country with the largest number of Internet users, over 420 million. More impressive still are the data with regard to access to mobile cellular technology. The developing world has increased its share of mobile subscriptions from 53 percent of total mobile subscriptions at the end of 2005 to 73 percent at the end of 2010, with Africa possessing the greatest potential for growth and the advanced economies at present at or near saturation levels. If one adds to these technologies satellite television, people’s ability to make informed choices, gaining voice, and hold governments accountable has definitely increased (UNDP, 2010), as the so-called Arab Spring may attest, even though some (Morozov, 2011) have strong doubts about the Internet’s democratizing impact on account of governmental action and others (Wu, 2010) on account of corporate behavior.

The drafters of the HDR 2010 also point out that globalization’s leading to greater international transmission of issues and concerns can be evinced from one trend among many: the number of international organizations has increased by a factor of five from 1970 to 2010, to an estimated 25,000 (UNDP, 2010: 68).

Distinguishing between democratic and nondemocratic states is also difficult. Regardless, using a “minimalist definition” of democracy, the HDR maintains that on the whole the share of HDI countries which are democracies went from less than a third in the early 1970s to more than 50 percent in 1996, to over sixty percent in 2008 (UNDP, 2010: 68). Two trends stand out: (1) most of the countries with a very high HDI are democracies and (2) of the countries with low HDI none was a democracy in 1990, while now slightly over 30 percent are (*ibidem*). This trend toward greater democratization encompasses a rise in local participatory processes, with a better political inclusion for many identity based movements (e.g. indigenous groups in Latin America and the Caribbean or lower caste groups in India in individual states) (UNDP, 2010: 70). This overall rise in empowerment as a trend needs to be qualified by the

<sup>69</sup> All data on Internet and mobile telephony are from International Telecommunications Union *The World in 2010 Facts and Figures* (available at <http://www.itu.int>).



fact that “democracy embraces an array of institutional arrangements and power configurations—and that autocracies are not monolithic either” and that “reported levels of human rights violations have remained virtually unchanged globally over the past 40 years” (UNDP, 2010: 69, 71)<sup>70</sup>.

**Inequality.** The 2010 HDR Report has recently added one dimension, inequality, to the three HDI original dimensions of income, health, and education. Taking advantage of better data availability than twenty years ago, new indices called Inequality-adjusted HDI, the Gender Equality Index (with findings revealing interesting if negative developments in terms of women’s empowerment in the Caucasus and Central Asia), and the Multidimensional Poverty Index have been developed. The main finding, not on the whole contradicting what we discussed earlier on inequality, and with the usual caveats with regard to data gaps, is that “progress in reducing inequalities around the world has been limited, with some serious reversals. Income inequality is increasing in most countries, except in Latin America and the Caribbean.” (UNDP, 2010: 77).

**Vulnerability and sustainability.** The human development of countries and people is vulnerable when it can decline on account of various risks such as “aggregate shocks or individual accidents.” (UNDP, 2010: 78)<sup>71</sup>. For analytical purposes, it is helpful to note that risks can affect individuals (e.g. loss of a job), communities (e.g. floods or earthquakes), or countries (e.g. financial crises) (UNDP, 2010: 78), where clearly the impact runs the gamut from local to global but the lessons learned are increasingly shared by an ever better connected global community of scholars and practitioners.

Sustainability is a much discussed concept, closely connected to vulnerability. HDR 2010 uses the Brundtland Commission’s definition of sustainable development as “progress that meets the needs of the present without compromising the ability of future generations to meet their own needs” (UNDP, 2010: 78). Neumayer (2010) notices that this definition puts on a same plane intra and inter-generational equity and laments that intra-generational equity issues are usually passed over in most debates on sustainability. Most advocates for the poor would tend to agree with that.

Neumayer also draws an interesting distinction between *weak* sustainability and *strong* sustainability. Supporters of weak sustainability view natural and other forms of capital as basically substitutable and hold that it is the total value of capital stock that should be preserved. Supporters of strong sustainability counter that certain forms of natural capital are nonsubstitutable and that their importance is so great that their decrease cannot be offset “by investment into other forms of capital, such as man-made (manufactured) and human capital” (Neumayer, 2010:4).

<sup>70</sup> One dimension of empowerment that I think is going to be of growing relevance as a field of inquiry (also in light of the importance of the global crisis and its consequences on our lives) is happiness research. Interestingly, the HDR 2010 acknowledges that “happiness... is not fully explained by income or ...by the HDI” but states that it considers “happiness” as “complementing other measures of well-being [and] not as a sole measure.” (p. 22) In terms of its relevance to public policy, thinking on happiness will have to confront and weave together effectively issues such as: problems of definition and measurement (Wilkinson, 2007), the usefulness of surveys on their own and for cross-country comparisons (Kenny, 2011), the problem of too many choices in capitalist societies (Schwartz, 2004) or not (Wilkinson, 2007), the biases of happiness indices compared against the more objective nature of GDP (Norberg, 2010), and the capacity of human beings to adapt to prosperity and adversity (Graham, 2010).

<sup>71</sup> In this context, the distinction between sensitivity and vulnerability drawn by Keohane and Nye in *Power and Interdependence* comes to mind. For them, sensitivity has to do with degrees of responsiveness in the absence of a change in policy, while vulnerability deals with the costs incurred even after changes in policy.



With regard to ensuring environmental sustainability - one of the eight Millennium Development Goals - the United Nations (2011) highlights some interesting trends.<sup>72</sup> Most importantly, emissions of carbon dioxide (CO<sub>2</sub>) have gone from 21.8 billion metric tons (bmts) in 1990 to 30.1 in 2008<sup>73</sup>. More specifically, developing countries' emissions have gone from 6.8 to 16.0 bmts, while developed countries' have gone from 15 down to 13.9 bmts. It is interesting to note that since 1990 emissions per unit of output "have gone down "by more than 36 percent in developed regions and by about 9 percent in developing regions." (United Nations, 2011: 50). Further, in 2008 developing regions emitted 0.58 kilograms of CO<sub>2</sub> per dollar of economic output, while the corresponding emissions of developed regions were 0.38 kilograms (United Nations, *ibidem*). On the other hand, in developing regions in 2008 the per capita CO<sub>2</sub> emissions were only 2.9 metric tons against 11.2 in the developed regions (United Nations, *ibidem*). In the years ahead the debate over individual countries' absolute emissions (with blame placed on developing countries, especially China) and *per capita* emissions (with blame placed on developed countries, especially the United States) will certainly intensify<sup>74</sup>.

Among other trends of significance related to environmental sustainability, there are the following (United Nations, 2010; 2011): the rate of deforestation, while decreasing also because of tree-planting programs, is still worryingly elevated; dramatic decreases have been achieved in the levels of global consumption of ozone-depleting substances since the mid-1980s, clearly a major success for developed and developing countries; progress in the area of reducing biodiversity loss is not satisfactory, with species' decline in terms of both population and range and with the data being relatively more worrisome for developing countries; challenges remain in the areas of fisheries (overfishing, pollution, and loss of habitat) and also with regard to bridging the gap in sanitation between developed and developing countries and rural and urban sanitation; the MDG of halving by 2015 the proportion of the population without sustainable access to safe drinking water will most likely be reached, but concerns over the quality of drinking water in the future loom large.

All these areas are very much related to the state of the world economy since conservation and sustainability policies carry with them economic costs. As a matter of fact, it is in times of economic crisis that, while the use of natural resources may decrease, environmental concerns tend to become less important for policymakers and voters.

## Conclusion

The trends and frameworks presented in this paper confirm the complexity of globalization. Describing, analyzing, and predicting aspects of the world economy such as economic growth, equality, and development, is both necessary and difficult.

<sup>72</sup> The data and trends mentioned here are part of a periodic assessment of the progress being made toward the achievement of the MDGs. See United Nations (2010; 2011)

<sup>73</sup> On the merits of a "carbon tax" versus those of "cap, auction, and trade" see for instance <http://www.thebulletin.org/web-dition/roundtables/carbon-tax-vs-cap-and-trade>

<sup>74</sup> Two indices of sustainability seem to reflect adequately the two opposing positions. The Happy Planet Index, created by the New Economics Foundation considers the ecological footprint of developing countries as "light" and that of developed countries "heavy" (Norberg, 2010). The Environmental Sustainability Index, created by the Center for Environmental Law and Policy at Yale University, basically reaches opposite conclusions (Norberg, 2010).



Effective institutions are difficult to design, causes and effects of behaviors are often hard to distinguish, and decision-makers have to constantly face challenging decisions over the appropriate sequencing of policies. Optimal policies have often to give way to second-best courses of action because of the complex interplay of a myriad of ever changing factors.

Beyond the scope of the present paper, two broad observations need to be made. One, that the complexity is also compounded by the rapidity of change. Opinions on countries' stability and economic prospects can be modified rapidly and the equity and debt instruments issued therein, along with their currencies, can quickly move up and down in value, subject to very sudden markets' reassessments of the relationship between risk and return. Notably, it is this very complexity that should caution us not to expect nearly-inevitable, smooth, and almost automatic continued and rapid increases in income per capita for all, most, or even select developing countries. To achieve growth in a sustainable way, economically and especially environmentally, policymakers will have to be most clever and cooperative with one another, within and without national boundaries.

Further, it has to be noted that the frameworks and trends discussed are among those that will be affected by the lessons that the global financial crisis and its aftermath have taught and will continue teaching leaders in both developed and developing countries. The teaching and learning will flow in both directions, as they will between public and private decision-makers. The ability and, even more importantly, the willingness to truly understand these lessons and cleverly adapt them to different realities will be of great importance in the months and years ahead for the world economy.

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## **TWO DECADES AFTER THE RIO EARTH SUMMIT: SUSTAINABLE DEVELOPMENT *QUO VADIS?***

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### **Abstract**

The world's most influential development agency, the World Bank Group (WBG), is the leading actor in development finance and plays a central role in global efforts to protect the environment. Following the Rio Earth Summit in 1992, the institution was responsible for all investment projects of the *Global Environment Facility* (GEF), which was then newly established to serve as the interim financial mechanism for the United Nations Conventions on Climate Change and Biodiversity. The promise that the GEF would lead to the "greening" of development finance remains largely unfulfilled.

More recently the United Nations Framework Convention on Climate Change appointed the WBG as the interim trustee of the new *Green Climate Fund* which plans to mobilize an estimated US\$ 100 billion per year by 2020.

While the World Bank Group plays this critical role in global environmental efforts, its main business continues to be lending for development. This includes the financing of large-scale infrastructure projects, agribusiness, large dams as well as investments in gas, oil and mining. This regular lending portfolio for development is often at odds with environmental sustainability. For example, despite the growing area of climate finance, support for fossil fuel projects continues to be dominant in the institution's lending for the energy sector. Another climate-related area is the World Bank's pioneering role in advancing REDD+, an initiative designed to reduce the emission of global green house gases by integrating efforts to protect forest areas into global carbon markets. Ultimately, its success will depend on addressing sensitive questions such as land ownership, forest governance and the equitable sharing of benefits. In conclusion the paper considers the underlying corporate culture and the difficulties in reconciling environmental and social sustainability with the institution's supply-side driven focus on meeting lending targets.

### **Keywords**

International Finance; Development and Environment; World Bank; Rio + 20

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## **TWO DECADES AFTER THE RIO EARTH SUMMIT: SUSTAINABLE DEVELOPMENT QUO VADIS?**

**Korinna Horta**

The Rio Earth Summit in 1992, also known the United Nations Conference on Development and Environment (UNCED), promised to inaugurate a new era where economic growth and environmental sustainability would be closely intertwined and mutually reinforcing. The hope was that the 108 heads of state gathered in Rio would launch a new regime of international cooperation to transform our approach to development and protect the world's climate and biodiversity.

As the 20<sup>th</sup> anniversary of UNCED approaches and delegates from all over the world will once again gather in Rio, it is critical to attempt a better understanding of what has been accomplished to date. Here the focus is on the World Bank Group (WBG), the world's most preeminent development institution with a membership of 187 countries and a large bureaucracy running its day-to-day business. The WBG has played a central role over the past two decades in financing efforts intended to promote sustainable development and address global environmental problems such as climate change and the loss of biodiversity.

Following the publication of its seminal report on **"Environment and Development"** in the year of the Rio Conference<sup>1</sup>, the World Bank Group adopted a mission encapsulated in the twin goals of promoting **poverty reduction and sustainable development**. The new mission statement was based on the recognition that fighting poverty is inescapably linked to environmental protection and improved management of natural resources.

Considered to be a global knowledge center, World Bank Group thinking wields considerable influence over other public financial actors in the arena. Institutions, such as the regional development banks and bilateral aid agencies tend to follow its lead. More recently, some of the world's largest private sector banks, the so-called Equator Banks, have committed to adopting the environmental and social Performance Standards of the International Finance Corporation (IFC), the World Bank Group's branch that lends directly to the private sector.

This paper reviews the WBG's commitments to environmental policies and initiatives as the leading global actor in this arena. It briefly considers the institution's role at the center stage of financing for global environmental goals. This is followed by considering the WBG's main business in development finance and a review of the WBG's framework of environmental and social safeguards. The costs of exempting entire areas of lending from scrutiny of their environmental and social impacts are briefly sketched. Given the WBG's growing role in climate finance, the paper then considers lending for investment projects in the energy sector and reviews the opportunities and risks associated with WBG support for REDD+, an initiative designed to reduce greenhouse gas emissions by

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<sup>1</sup> The World Bank (1992). *World Development Report, Development and Environment*. Washington, D.C.



integrating the protection of tropical forests into global carbon markets. Finally, it will consider the underlying corporate culture and the difficulties in reconciling environmental and social sustainability with the institution's supply-side driven focus on meeting lending targets.

## **A Manager of Global Environmental Funds**

Prior to UNCED in 1992 and again now in the context of the United Nations Framework Convention on Climate Change (UNFCCC), the World Bank Group positioned itself as a key institution in environmental finance. It is central to both The *Global Environment Facility* (GEF) and the *Green Climate Fund* (GCF), which were established two decades apart in the early 1990s and in 2010. Both are mechanisms of financial transfers from North to South to meet the challenges of international environmental cooperation.

Two decades ago, as preparations for the Rio Earth Summit were underway, most developed countries were eager to demonstrate their commitment to finance developing country efforts in addressing globally important environmental problems such as climate change and the loss of biodiversity. Most developing countries, on the other hand, saw themselves confronted with too many other needs and did not consider global environmental problems as a major priority. They wanted, however, to make use of environmental preoccupations in countries of the North and the possibility of additional financial transfers to support their own domestic economic and environmental priorities (Fairman, 1996: 69).

Perhaps even more importantly, Northern and Southern governments did not see eye-to-eye on the governance structure of a fund designed to address global environmental problems. Developing country would have preferred to create a new institution with equal voting rights for all state members.

But developed countries in the early 1990s and again in the present decade insisted on using existing institutions to channel environmental finance. Their clear preference was and continues to be the WBG where voting shares are proportional to a country's financial contributions to the institution, which ensures the predominance of developed countries. In anticipation of the Rio Summit, the World Bank's Board of directors passed a resolution in 1991, which established the Global Environment Facility (GEF) and put the G7 countries clearly in the driver's seat in decisions on North-South financial transfers for the environment.

But in view of developing countries misgivings about a structure in which most of them had a very limited voice, the GEF invited the United Nations Development Program (UNDP) and the United Nations Environment Program (UNEP) to join the GEF in a tripartite arrangement. It also innovated by creating a GEF Council in which the representation of developing countries was strengthened and decisions would require a 'double majority', that is a majority of both Northern donor and Southern recipient countries. In practice, however, twice yearly GEF Council meetings and their proceedings moved along by *consensus*. The real power, at least in the GEF's first decade, lay with the WBG. It was the trustee, provided the secretariat and was responsible for all of GEF investment projects making up the bulk of GEF funding, while the UNDP and UNEP were limited to carrying out technical assistance or environmental studies. The GEF bolstered the World Bank's credentials as an environmentally



responsible institution and helped it establish leadership in an area of increasing interest to the public in its main donor countries (Fairman, 1996: 72).

For its entire first decade, the GEF had funding of about US\$ 4 billion, a paltry sum when compared to the demands of developing countries or to the average annual lending of over US\$ 20 billion a year by the World Bank. To rationalize their limitations on funding, donors promoted the GEF as an environmental “Trojan Horse”, a means to integrate or “mainstream” environmental priorities into all activities of the WBG and its two junior partners. Mainstreaming was seen as a way to make the GEF’s small sums go further by “greening” development work more broadly.

But mainstreaming did not take place (Fairman 1996: 82). With GEF funding, the World Bank has tackled the symptoms of selected environmental problems but GEF funds have not contributed to shaping lending in sectors such as energy, forestry and agribusiness that are central to climate and biodiversity protection (Young, 2002: 215; Horta 1998: 3). An official evaluation commissioned by the GEF in 1998 came to the same conclusion. Its one priority recommendation was the need to mainstream global environmental goals into the WBG’s overall lending portfolio by, for example, shifting away from financing conventional power loans to a new role in financing sustainable energy technologies (Garrett et al., 1998: xv).

Both the United Nations Convention on Climate Change and the United Nations Convention on Biodiversity adopted the GEF as their interim financing mechanism in 1992. But the GEF was never directly accountable to the Conventions and despite its early celebrations as being the one concrete outcome from the 1992 Rio conference, its importance has diminished over the past years.

Similar to its initiative in establishing the GEF, the World Bank more recently positioned itself as a major financial actor in the area of climate change. At stake are an estimated US\$ 100 billion per year by 2020 from both public and private sources to assist developing countries in mitigating or adapting to climate change. In anticipation of substantial new money flows, the World Bank launched its Strategic Framework on Development and Climate Change in 2008. It was designed to serve as a model for channeling large-scale financing to developing countries to cover the added cost and risks to development posed by climate change<sup>2</sup>. Once again, the World Bank’s anticipation of donor sentiment seems to have paid off. At the Conference of the Parties (COP) summit on climate change in Cancun in December 2011, the World Bank was appointed to serve as the interim trustee of a new Green Climate Fund (GCF). The exact working modalities of the GCF and the role of the World Bank Group as interim trustee are still to be determined in on-going international negotiations.

Developed country governments continue to consider the World Bank Group to be the institution most suited to managing large scale funding flows with fiscal prudence. How exactly the World Bank as interim trustee of the GCF will transcend traditional donor-recipient relationships and become an instrument of the UNFCCC principle of common but differentiated responsibilities which recognizes the ecological debt of Northern countries to the South is still open to question. An additional open question is the impact of China’s growing role on the WBG’s Board of Directors. While the G 7’s role on this Board is still predominant, China has recently replaced Germany as the third

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<sup>2</sup> The World Bank (2008). *Development and Climate Change – A Strategic Framework for the World Bank Group*. Washington, D.C.



largest shareholder of the institution after the United States and Japan.

Given the post-financial crisis difficult economic situation in the traditional donor countries, the expectation is that public funding from donor governments for the GCF will leverage larger funding contributions from private sources. The use of carbon markets, hedge funds and a variety of other more or less opaque financial instruments will be under consideration in order to meet the US\$ 100 billion per year transfer target by 2020.

While the World Bank's exact role is still being debated and questions of whether GCF funds will be comingled with World Bank lending are yet to be answered, the World Bank will have an influential role both as the interim GCF trustee as well as through its leadership role in development finance. The next sections of this paper will consider in more detail how the World Bank Group addresses environmental concerns in its regular business as the world's most influential lender for development.

### **A Framework of Environmental & Social Safeguards**

*"If the World Bank has been a problem in the past, it can and will be a strong force in finding solutions for the future"*<sup>3</sup> declared then World Bank president Barber B. Conable when he announced the establishment of a top-level Environment Department in 1987. The promise of this new department was that environmental considerations would be integrated into all of the Bank's lending and policy activities. Largely spurred on by public criticism of major World Bank programs, Polonoroeste in Brazil and Transmigration in Indonesia, both of which became emblematic for the destruction of tropical forests and the impoverishment of local populations, the Bank had recognized that it must adopt the environment as its own cause.

At the core of the World Bank's commitment are ten Environmental and Social Safeguards Policies as well as a new Access to Information Policy adopted in 2010, which is based on the presumption that most documents should be made publicly available to enhance transparency and ultimately positive development outcomes<sup>4</sup>.

The Safeguard Policies cover a broad arrange of topics from environmental assessment and involuntary resettlement to indigenous peoples and forests<sup>5</sup>. They were designed to avoid harming people and the environment in Bank supported projects, such as infrastructure development, power plants and large dams. They require consultations with project-affected people when assessing environmental impacts, the incorporation of their views in resettlement plans and the participation of indigenous peoples in the development of plans meant to benefit them.

Unlike its Environmental Strategy, which is voluntary guidance for Bank staff, the Safeguards are mandatory. This means that individuals or communities who feel that

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<sup>3</sup> Address by Barber B. Conable, President of the World Bank Group, to the World Resources Institute, Washington, D.C., May 5, 1987.

<sup>4</sup> For detailed information on access to information, please consult <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTANDOPERATIONS/EXTINFODISCLOSURE/0,,menuPK:64864911~pagePK:4749265~piPK:4749256~theSitePK:5033734,00.html>, Accessed on May 13, 2011.

<sup>5</sup> For a listing of the Safeguard Policies, please see <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTSAFEPOL/0,,menuPK:584441~pagePK:64168427~piPK:64168435~theSitePK:584435,00.html>, Accessed on May 13, 2011.



they are negatively affected by a Bank-financed project can submit complaints to the World Bank's Inspection Panel and press for solutions to their problems whenever Safeguard Policies have not been properly adhered to.

At present the World Bank has embarked on a process to update and consolidate its Safeguard Policy Framework because the current system is considered to be cumbersome and time-consuming. This process is to be concluded by 2012. While updating the policies is inherently a good idea, there is concern among civil society organizations that under the guise of "unclogging the system", there is the risk of undermining the existing regulatory framework instead of strengthening and broadening it.

The International Finance Corporation (IFC), the World Bank's important private sector branch, has a separate Sustainability Policy and Performance Standards for its private sector clients, which just underwent a major review<sup>6</sup>.

Both the Safeguards and the Performance Standards only cover the shrinking area of traditional project finance. In the case of the IFC, for example, 47% of its current lending is now channeled through Financial Intermediaries, which are not subject to the same degree of environmental and social scrutiny. In the case of World Bank public sector finance, an estimated 50% is now dedicated to providing lending for macro level policy reforms and direct budget support to developing country governments. Such lending is exempt from environmental and social impact considerations.

### **The Cost of Exemptions**

The environment is more than a specific sector. It is cross-sectoral since activities at both the project level and at the macro-policy level have impacts on the environment and natural resources. While the World Bank had promised to mainstream the environment by ensuring that environmental concerns be incorporated into the *entire* portfolio of Bank activities<sup>7</sup>, its Environmental and Social Safeguards have only been applicable to specific investment operations.

Structural adjustment lending, which emerged forcefully in the 1980s when a combination of falling commodity prices and growing public sector deficits led to mounting debt service for many countries, is a case in point. The loans were made in exchange for a government's adoption of a standard set of economic policy reforms, which included deregulation, privatization and trade liberalization and became known as the Washington Consensus. All of these economic reform measures have environmental and social implications, which were not adequately assessed and taken into consideration.

One example would be the shrinking of the role of the state in national economies promoted by structural adjustment lending. An unintended consequence was the reduction of national and local capacity to manage environmental problems such as addressing deforestation and water pollution. The potential impacts of this on local livelihoods and public health were not considered (Saprin, 2004).

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<sup>6</sup> For further information, please see <http://www.ifc.org/ifcext/media.nsf/content/SelectedPressRelease?OpenDocument&UNID=0ADE5C1923DC4CF48525788E0071FAAA>, Accessed on May 13, 2011.

<sup>7</sup> The World Bank (1995). *Mainstreaming the Environment*, Washington, D.C.: 3.



A World Bank report in 2000 acknowledged that lending for growth-oriented macro-economic policy reforms had a highly negative impact on national capacity, "The adjustment decades also saw a substantial deterioration in the quality of public institutions, a demoralization of civil servants and a decline in the effectiveness of service delivery in many countries" (The World Bank, 2000:37).

The term *structural adjustment* was replaced in 2004 by the term *development policy lending* which augments the Washington Consensus to include institution-building, a focus on good governance and warnings about the corrosive forces of corruption.

Has this contributed to greater attention to environmental sustainability? Not so, according to the World Bank's own Independent Evaluation Group (IEG). In a seminal report published in 2008, it found that the Bank lacked a systematic environmental sustainability perspective across its policy and financial instruments. It adds that the environment and natural resource management had not been given sufficient priority in Poverty Reduction Strategy Papers and other Bank analytical and/ or lending activities (Independent Evaluation Group, 2008: 5).

The area of trade finance represents an illustrative example of the high environmental and social costs of exempting certain categories of loans from the Safeguards Framework. For example, the WBG's International Finance Corporation has provided trade finance to support corporations that export specific commodities such as palm oil, which is in high demand given the growing role of biofuels in the energy mix of many countries.

The environmental and human rights impacts of this type of investment have become so problematic that World Bank president Zoellick established a moratorium on investments related to palm oil and other commodities grown in large-scale monocultural plantations in 2009. This decision was the result of an audit undertaken by the International Finance Corporation's Ombudsman's office following civil society allegations of massive deforestation and human rights violations linked to IFC support for a trade facility for the Wilmar Group, one of the world's largest plantation companies with vast holding in Indonesia and Malaysia. The audit confirmed serious IFC negligence and violations of environmental and social standards: "*Because commercial pressures dominated IFC's assessment process, the result was that environmental and social due diligence reviews did not occur as required*"<sup>8</sup>.

The moratorium was lifted in April 2011 with the publication of a new World Bank Group Framework and IFC Strategy to guide the institution's future engagement with the global palm oil sector. It promises to support small holders, share benefits with local communities and protect forests and biodiversity<sup>9</sup>. With the expansion of large-scale agribusiness operations in many of the WBG's client countries, these commitments are important. However, what counts is their implementation in practice and this remains to be tested.

## **Difficulties in Implementation: Investment Projects**

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<sup>8</sup> Compliance Advisor Ombudsman (CAO), Audit of IFC's Investments in Wilmar Trading, Audit Report, Washington, D.C., June 19, 2009, p.2

<sup>9</sup> For further information, <http://www.ifc.org/ifcext/agriconsultation.nsf/Content/Home>, Accessed on May 17, 2011.



World Bank Safeguard Policies and IFC Performance Standards do apply to traditional project finance, such as investments in infra-structure development and in oil, gas and mining. In the following we briefly consider investments in the energy sector and support for REDD+ both of which are particularly sensitive to climate change considerations.

## Energy Lending

The World Bank's most recent Annual Reports have highlighted the links between climate change and poverty. Its 2009 report stated that "*Climate Change will most severely affect the poorest peoples and the poorest countries, potentially reversing decades of development achievements.*"<sup>10</sup> Its 2010 Annual Report again emphasizes that climate changes puts the gains in the fight against poverty and the lives and livelihoods of billions of people at risk.

Today addressing climate change has become one of the World Bank Group's banner activities (The World Bank 2008). Donor governments promoted this development by committing an additional US\$ 6.1 billion for World Bank-managed Climate Investment Funds in 2008<sup>11</sup>.

This welcome shift to a focus on climate change would have provided a unique opportunity to overhaul the World Bank Group's portfolio to ensure that all its lending and non-lending activities are consistent with climate protection goals. However, while the institution's new Energy Strategy, which is currently being prepared, contemplates increasing support for energy access for poor people and low-carbon development, the World Bank continues to be a major funder of fossil fuel projects. Lending for coal projects, the most heavily polluting of fossil fuels, has reached record levels in recent years<sup>12</sup>. One of the most controversial recent World Bank investments is the Medupi coal-fired power plant in South Africa, the World Bank's single largest operation in Africa in 2010.

The Medupi power plant is financed through a World Bank loan of US\$ 3.75 billion loan for Eskom Holding, Ltd., South Africa's state-owned utility (The World Bank, 2010: 20). It finances the 4,800 MW coal-fired power plant, one of the largest in the world. It also includes US\$ 200 million for renewable energy, a small fraction of the massive investment.

The Medupi plant will use super-critical coal, which burns coal more efficiently than standard coal-fired power plants. But this does not make it a "low carbon option" and it will lock South Africa into burning coal for decades to come. The Bank itself estimates that at full output Medupi will release 30 million tons of CO<sup>2</sup> per year, although it claims that the net increase in CO<sup>2</sup> emissions will be considerably lower because the project

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<sup>10</sup> The World Bank (2009). *Annual Report 2009*, Washington: 20

<sup>11</sup> World Bank Press Release, September 26, 2008, <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:21916602~pagePK:34370~piPK:34424~theSitePK:4607,00.html>, Accessed on May 19, 2011.

<sup>12</sup> Meinhard-Gibbs, Heike and Bast, Elizabeth (with Kretzman, Steve), World Bank Group Energy Financing – Energy for the Poor?, Oil Change International, Washington, October 2010, available at <http://priceofoil.org/wp-content/uploads/2010/10/ociwbenergyaccessfin.pdf>



will provide energy access to the poor and replace diesel generators, candles and kerosene<sup>13</sup>.

But South African NGOs and the affected people remain unconvinced. They have filed a claim with the World Bank's Inspection Panel stating that the project will cause massive pollution and significantly damage their health, livelihoods and the environment<sup>14</sup>. In addition, they consider the project to be a subsidy to large corporations that will do little to provide energy to local populations. According to Bobby Peek, Director of the NGO GroundWork in South Africa, *"This project is to secure uninterrupted electricity for large corporations, such as smelters and mining houses under secretive special pricing agreements. It is not for the millions of poor people who cannot afford or do not have access to electricity. South Africa does not need this loan"*<sup>15</sup>.

The World Bank's Inspection Panel undertook an initial field visit and found sufficient evidence to justify a full-scale investigation of possible violations of Environmental and Social Safeguards<sup>16</sup>. The investigation is to be concluded in late 2011.

World Bank Group investments in oil, gas and mining have been controversial for many years because of their association with environmental degradation, human rights violations and corruption. In order to address some of these problems, the World Bank commissioned the Extractive Industries Review (EIR) headed by Emil Salim, a former Indonesian environment minister, in 2000. The EIR's mission was to provide a set of recommendations to guide World Bank Group investments in the extractive sector with the goal of ensuring their compatibility with poverty alleviation and sustainable development. The EIR report, published in 2003, recommended an immediate halt to all investments in coal and a gradual phasing out of investments in fossil fuels more broadly. In addition, it called for improved dialogue, respect for human rights, participatory decision-making and sound environmental practices in extractive projects (EIR 2003). But to date fossil fuel lending, including coal, continue to play a dominant role in the WBG's energy portfolio and the EIR's recommendations remain to be implemented.

On a broader scale, the WBG's Independent Evaluation Group (IEG) examined the environmental sustainability of a WBG investment portfolio of US\$ 400 billion covering the years 1990-2007. The evaluation concluded that while attention to the environment had grown over those years, the WBG had not put environmental sustainability considerations into practice when it was lending for large dams, agribusiness, pipelines and other projects (Independent Evaluation Group 2008).

## **Climate Change & Forests: Opportunities & Risks of REDD+**

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<sup>13</sup> The World Bank (2010). *Project Appraisal Document*, Report N° 53425-ZA, Washington, March 19: 49.

<sup>14</sup> The Inspection Panel investigation request is available at [http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/Request\\_for\\_Inspection\\_\(PUBLIC\).pdf](http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/Request_for_Inspection_(PUBLIC).pdf), Accessed on May 23, 2011.

<sup>15</sup> Bank Information Center (2010). *Press Release*, South Africans say 'no' to Eskom coal", Washington, April 6.

<sup>16</sup> Statement by Roberto Lenton, chairman of the Inspection Panel. Available at [http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/Final\\_Elig\\_Rpt\\_for\\_Disclosure.pdf](http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/Final_Elig_Rpt_for_Disclosure.pdf). Accessed on May 23, 2011.



The destruction of tropical forests represents approximately 17% of greenhouse gas emissions generated by human activity. The initial idea behind REDD (**Reduced Emissions from Deforestation and Forest Degradation**).

was that compensating developing countries for slowing their rates of deforestation represented cost-effective and near-term opportunities to stabilize the world's climate. In addition, it would generate other benefits as well, such as the protection of biodiversity and the generation of income for economic development<sup>17</sup>.

Compensating countries for reducing their rates of deforestation from a given baseline (the deforestation that would have happened anyway) ran the risk of providing perverse incentives. Some governments might have decided to accelerate rates of deforestation in their countries in order to qualify for higher compensation payments. To address this problem, REDD has now been expanded to REDD+ which also considers compensation for activities that contribute to forest conservation, sustainable forest management and enhancement of carbon stocks.

REDD+ presents both opportunities and risks. The opportunities are the opening up of political space to address questions of governance, corruption and land rights as well as finding solutions to the underlying causes of deforestation. On the risk side are issues of land speculation, eviction of forest-dependent people, loss of traditional knowledge systems and outright fraud and corruption as vested interests seek to profit from lucrative carbon deals. Furthermore, there is the risk that endemic rent seeking in countries with poor governance systems will lead to REDD+ carbon credits that do not represent genuine reductions in CO<sup>2</sup> emissions (Lohmann, 2009).

The World Bank's Forest Carbon Partnership Facility (FCPF) is the most prominent of REDD+ related initiatives. It came into effect in June 2008 and consists of two parts: a REDD-Readiness Mechanism to prepare countries for REDD, and a Carbon Fund to broker carbon finance transactions<sup>18</sup>. The Carbon Fund, which is scheduled to become fully operational in 2011, will enable countries to participate in global carbon markets. The goal is for countries to sell their Emissions Reductions (ERs) to buyers who find it more cost-effective to purchase ERs than to meet their own emissions reduction targets through technological or other means.

The FCPF has established several criteria that should be included in REDD+ Readiness preparations, including consultations with civil society and indigenous peoples. According to the FCPF Charter, World Bank Environmental and Social Safeguard apply to REDD+ initiatives, although there is ambiguity about whether the Safeguards are already applied at the planning stages or only later during implementation (Forest Carbon Partnership Facility 2011).

The Congo Basin Forest is the second largest after the Amazon and represents one of the regions where the FCPF is pioneering REDD+. One of its client countries is the Democratic Republic of Congo, (DRC) which covers more than half of the Congo Basin forest. DRC provides a critical example of how difficult preparations for REDD+ are in practice. Institutions are weak and not present in large swaths of the country. Questions of land-ownership, resource-use rights and rights to sharing in the benefits of REDD+ payments all remain to be worked out (Horta, 2009).

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<sup>17</sup> Numerous documents on REDD+ are available at the website of the Center for International Forestry Research (CIFOR) at URL <http://www.cifor.cgiar.org>.

<sup>18</sup> Further information on the FCPF's website <http://www.forestcarbonpartnership.org/fcpf/>



DRC's has a very poor record in using the income from its vast wealth in minerals and other natural resources for poverty reduction purposes. Civil society organizations in the region are concerned that shifting cultivation is considered to be a primary driver of deforestation, while industrial-scale logging and mining operations are left out of the equation. The stage may be set for blaming the poor for deforestation while REDD+ benefits accrue to powerful interests.

In DRC as elsewhere, it will be an enormous challenge to ensure that income generated by REDD+ will be shared with the populations living in the forested areas (Sunderlin *et al*, 2008).

The World Bank's own record in DRC's forest sector is not encouraging. In 2007 its Inspection Panel investigated World Bank forest-related investments in DRC. Its investigation report concluded that Bank activities had focused on industrial timber production and had largely ignored environmental and socio-economic issues, including the needs of the approximately 40 million people in DRC who rely on forest resources for their subsistence (The Inspection Panel 2007).

A central problem for the World Bank's FCPF is that its accelerated schedule to assist countries in getting ready for REDD+ and participating in carbon markets is not easily reconcilable with the need for broad participation and the strengthening of national institutions, which require longer-term timeframes.

### **A Corporate Culture at Odds with Sustainability**

As this paper has tried to demonstrate, the WBG's environmental agenda continues to be unfinished. The lack of policy coherence is illustrated by the WBG's growing role in climate finance and its simultaneous financing of large-scale fossil fuel development, which locks developing countries into high greenhouse gas emissions for decades to come.

The World Bank Group's own Independent Evaluation Group (IEG) has documented a static and problematic investment program in the energy sector where incentives are stacked against much needed lending for energy efficiency and renewable energy (IEG 2008: ix). The IEG also has called for much more rigorous environmental and economic assessments of energy investments as well as for the reshaping of the WBG's internal incentive system.

Over the past two decades IEG evaluation reports as well as the findings and recommendations of both internal and external Panels and Commissions, have provided valuable contributions with the goal of improving the environmental sustainability of WBG operations. But the WBG has mainly stuck to a course that has long been subject to serious criticism (IEG, 2008: xxv).

What explains the lack of coherence between official discourse on the environment and actual financing decisions?

The central problem was already identified in 1992 by Willi Wapenhans, a former World Bank Vice-President. He referred to the institutional "culture of (loan) approval" as a critical obstacle to improving loan quality (Wapenhans, 1992). Internal staff incentives are based on moving money and not on actual results in terms of reducing poverty or promoting sustainable development. The lack of attention to actual results has been



documented in numerous internal evaluation reports, which have consistently pointed to serious shortcomings in monitoring and supervision of WBG-supported operations (OED, 2000; OED, 2002; IEG, 2008). But evaluation findings have not led to significant changes.

Former World Bank official Steve Berkman describes the situation in vivid language: "*Obsessed with moving money to further our own careers, we had somehow forgotten our fiduciary responsibilities and just plain old-fashioned logic as we approved loan after loan, enriching the corrupt while ensuring that the poor would remain in poverty*" (Berkman, 2010: 159).

The present geopolitical shifts at the global level with the growing power of China, India, Brazil and other developing country powers are also leading to increasing strength of these countries on the Board of Executive Directors at the World Bank. The growing importance of emerging powers has already led to new trends such as the use of country-systems, *i.e.* the replacement of World Bank Safeguards with environmental and social regulations in the borrowing countries. This could be positive as long as public accountability is built into this system. However, if the country-systems approach impedes the independent monitoring of environmental and social impacts, then it will serve primarily to move large amounts of money with little accountability.

Sustainable development will remain largely elusive as long as the political and economic forces driving unsustainable practices are not addressed. Whether developed country governments or the new powers on the global stage with an important voice at the World Bank will develop the political will to address the root causes of the environmental problems engulfing our planet is an open question.

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## **EUROPE – THE GEOPOLITICS OF DISUNION**

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### **Abstract**

There are forces which, by acting over a long time frame and by remaining almost unaltered, leave traces in societies and nations that make them more or less prone to certain behaviours. These marks include physical geography, which is like the stage of history and exerts a profound influence on it. Europeans today face challenges that result from their own perceptions and different cultural habits forged by centuries or even thousands of years of conflicts brought about by religion, tribal views or linguistic barriers, reinforced by the compartmentalized division of the territory, by the existence, or lack of it, of large waterways, and by the mildness or rigour of the climate.

In fact, the union of Europe, which was often attempted by force, found a new impetus with the end of World War 2, leading to a peaceful construct unprecedented in history. However, as this union expanded and deepened, the aggregating cement that held Europe together has degraded, appearing not to withstand the winds of the crises well. We will only be able to strengthen what unites us when we gain awareness of what divides us.

Portugal, a country which is almost one thousand years old and which has validated itself outside Europe from an early age, is facing yet another crisis for survival. Understanding the possible ways-out beyond the "mist of the days" and the politically correct has now become an exercise of citizenship.

### **Keywords**

Deep forces; geography and politics; the various "Europes"; wealth and poverty of nations

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## EUROPE – THE GEOPOLITICS OF DISUNION

**José Manuel Freire Nogueira**

To many off guard observers, including senior politicians, it seemed that the EU enlargement to the East made possible by the implosion of the Soviet bloc represented the reunion of Geopolitics with the History of Europe. Almost 20 years later, what we see is a multifaceted reality, largely selfish and nationalistic, anchored in ancient roots which, by contrast, seem to be anxious to demonstrate, again, that in the European continent, the encounter of Geopolitics with History does not usually have a happy ending.

In fact, nowadays the future of the European Union seems much darker than it was then. One only needs to read the papers or hear the news to understand that the financial crisis has prompted a resurgence of old selfishness and that the faith of many Europeans in the future of the Union has been shaken,<sup>1</sup> even more so after the “cold shower” that, not so long ago, the rejection by the French and Dutch of an important step towards European integration represented. Nowadays, we also have important fringes of population from some nations in the North and the South questioning the benefits of remaining part of a union that brings, to some, such high costs, and, to others, hard sacrifices. However, there is little to be surprised about.

Indeed, societies are a complex product. If, on the one hand, the causal links are difficult to establish, on the other the wide margin of uncertainty that characterizes all human action can lead in different directions. It seems indisputable that there is a set of circumstances which, acting in the long term, shape them with particular features that without determining their course, make them more or less prone to particular behaviours. They are the *deep forces*, according to the extremely appropriate definition of Pierre Renouvin.<sup>2</sup> Besides those, but not all, considered by Renouvin,<sup>3</sup> other forces he did not taken into account are included here, as the author of this paper believes them to be essential in the framework of this analysis<sup>4</sup>:

They are: History (with its myths, its solidarities, its self-image and its hostilities), “Temperament” (cultural habits, the level of rigidity of society, the attitude to power and adversity), Language (a true oral genome which, like some people argue, helps to structure thinking), Religion (with its codes of conduct, favouring certain behaviours and values, while disfavouring others), infra-national social forms, such as the Clan,

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<sup>1</sup> Among others, there are the many comments made by Ambassador Cutileiro in *Expresso*, particularly in the 14 May 2011 edition, where a vast number of writers gives rein to their pessimism; there is also the declarations made by former Chancellor Kohl when he received the Henry Kissinger prize from the American Academy in Berlin (May 2011), or what José Ignacio Torreblanca, Director of the Madrid Office of the European Council on Foreign Relations wrote in May (in 25-05-11).

<sup>2</sup> Pierre Renouvin (1991). «Les Forces Profondes» in *Introduction à L'Histoire des Relations Internationales*, Paris: Armand Colin, 4th Ed.

<sup>3</sup> Renouvin considered as Deep Forces the geographical factors, demographic conditions, economic and financial forces, the national sentiment, nationalisms, and the pacifist sentiment.

<sup>4</sup> Nogueira, José Manuel Freire (2011). *O Método Geopolítico Alargado – Persistências e Contingências em Portugal e no Mundo*, Lisbon: IESM.



The Tribe and Ethnicity (where societies, even those supposedly more advanced, regress to at times of crisis), to which it seems advantageous to add, besides the relevant data on Human Geography and the key aspects of the situation, the almost unchanged scenario where the lives of societies unfold, that is, Physical Geography, the basis of the geopolitical analysis method.<sup>5</sup>

Europe constitutes an excellent case study.

Having been inhabited for thousands of years by relatively stable peoples whose history is quite well known, it is obvious that its political geography lies in factors that make it different from other regions in the world but which also translate into profound internal differences. .

In effect, the History of Europe is quite turbulent as it is made of regionalisms that consistently resist the imperial dreams which, with some regularity, reappear on its stage. With the exception of the Roman Empire (which just dominated the Mediterranean basin and the temperate parts of Western Europe) or that of the Habsburgs, who exercised a relatively weak power over Central Europe, none of them stayed beyond the ephemeral.

Charlemagne, Charles V, France in the 17th and 18th centuries, Napoleon, Hitler, all of them leaders of continental empires, stumbled at the thirst for national or even regional autonomy that seems to characterize Europeans and that even finds an explanation, among many others, in the thesis of the French Castex on the "Continental disturber I",<sup>6</sup> which foresaw the defeat of the continental hegemonic impulses.

Indeed, it was not in vain that feudalism could persist in Europe for almost one thousand years, or that Germany was divided into more than three hundred political units until its unification in the nineteenth century, and that Italy has only united and consolidated itself as a country in recent times, or that, even now, Europe is the continent with the second largest number of states, despite its small size. It is not in vain also that the modern nation-state was invented by the Europeans, and that this invention was subsequently exported to the rest of the world, as disunity and cantonalism seem to be the historical matrix of the Europeans, with war being one of their most enduring institutions. National (and even regional) hatreds and self-interest resurface when they seemed appeased. This deep force is one that is dangerous to ignore.

This is because Europeans are profoundly different from each other. Their cultural matrix was formed over a long process that emphasized their differences. In the South, the mercy of nature enabled the early flowering of a civilization. In a clear demonstration of the theory of "challenge and response" advanced by Toynbee,<sup>7</sup> Southern Europeans did not have to face wild beasts or the hardships of nature, for which reason the pressure to act as a group was much less than that exerted on

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<sup>5</sup> This has little, if anything, to do with the common meaning of the word Geopolitics, a term that was misappropriated by Henry Kissinger in the seventies – and which he never defined – and which has become a sort of synonymous with the use of power in international relations, creating a terminological confusion that only promotes ignorance. For this, the word strategy, or even its extreme, geostrategy, already existed and still does.

<sup>6</sup> Castex, Raoul (1935). *Théories Stratégiques*, V, Paris.

<sup>7</sup> Toynbee, Arnold (1934.1961). *A Study of History*, 12 volumes, Oxford University Press.



Europeans from the North, where individual survival depended on the strength of the group. Even today, selfish individualism and disorganization are trademarks of the south, whereas discipline and organization dominates in the north.

Portuguese professor Políbio de Almeida (1932-2008), when trying to define the behaviour of the three European major ethnic groups (Slavic, Germanic and Latin), pointed out that the amorphousness typical of the individual German ends when he becomes part of a group. Accordingly, whereas association is the source of fulfilment, for Latin people it becomes the opposite, a cause for suspicion. The individualism of the latter is confused with pride, vanity and a desire to stand out even at the expense of the group he may belong to. Pointing to the geography of southern Europe as a structuring force, Políbio de Almeida went as far as to affirm that the sociability of the Latin people is limited to small groups and is averse to centralized planning.<sup>8</sup>

The work of Dutch social psychologist Hofstede<sup>9</sup> shows similar characteristics, albeit from a different perspective. The "power distance" (which in his view meant the degree of rigidity of society in which the influence of status at birth determines social position, among other things), was, in his opinion, most prevalent in societies where the Roman tradition prevailed, and lower in those where German egalitarianism was deeply rooted.

Events in England seem to be a clear demonstrator of the arguments advanced by the social psychologist. In that part of Europe, the legions called by Emperor Honorius in 402 to defend Rome eventually never returned. The withdrawal, at first believed to be temporary, became a definitive one, leaving the Britons powerless against the incursions of the Saxons and the Angles, who, after the fall of Rome, transformed their raids into migration. The society of the Britons disappeared in a short time, because unlike other parts of the former empire, in Britain there was no assimilation between the Roman-Britons and the new Germanic lords.

The traces of the German order were banished and replaced by a more primitive, yet more egalitarian German society. Hofstede stresses that among the Germans, the power of the chief was subordinate to the assembly of free men. In his view, this was an historical indicator of reduced *power distance*. Much later, in 1215, King John, in conflict with his barons, granted the Magna Carta. As pointed out by Hofstede, this document, considered to be the founder of English liberties, represents the victory of the rights of free men following the old tradition of the Germanic peoples.<sup>10</sup> The small *power distance* thus plunged deeply into the history of England.

The high need "to control uncertainty" (the need to predict and codify everything) common to all Latin peoples and much less present in peoples from the North also derives from the Roman tradition. Hofstede also highlights two other factors: the existence of strong "individualism" in the North (up-frontness in relationships and acceptance that there are winners and losers) as well as high "masculinity" (with the glorification of competition and success, and the severe punishment of offenders), which opposes the "femininity" (which avoids confrontation and humiliation) that is characteristic of societies in the South.

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<sup>8</sup> Almeida, Políbio de (1994). "A casa comum europeia" in *Ensaios de Geopolítica*, Lisboa: ISCSPP: 211-216.

<sup>9</sup> Hofstede, Geert (1980). *Culture's consequences: international differences in work-related values*. London: Sage Publications.

<sup>10</sup> Hofstede, op. cit: 100.



Language is another distinctive feature. Although derived from the major Indo-European group, European languages have come to differ to a greater or lesser extent (as part of a process made deeper by the large migrations of the first millennium) in such a way that each language soon became intelligible even to its closest neighbours, thus leading to the development of a "linguistic cantonalism"<sup>11</sup> that strengthened local identities which, in some cases, joined together as nations at a later stage, often through the imposition of a common language. Hence the growing need for a *lingua franca* for communicating among different groups and which, generally speaking, was only at the reach of the elites, with the own language being used for communicating within their own group.

Such was the role of Latin, French and nowadays clearly that of English which, for the first time, is within reach of a large mass of individuals. Tellingly, it is a European language, but it is as if it was from extra European origin, since the reasons for adopting it are related to the huge power of the United States, where the cultural models, fashions, management criteria, and military power stem from. It must be noted that the same language, when used by the British at a time when they had power similar to that held by Americans today, never played a major international role as an international communication vehicle outside the country.

Religion, in turn, having shaped identities, was also the reason for the largest fractures.

The religious matrix of Europe is undoubtedly Judeo-Christian. After having penetrated Roman society, Christianity only took three centuries to spread through the Mediterranean world and in the areas on the edge of olive and vine producing lands. Indeed, the Catholic rite is closely tied to bread (wheat), wine (grapes) and olive oil (olive trees), which in fact means to a specific geographical area.<sup>12</sup> Its expansion to the north even forced the expansion of vines into Belgium and England, in contradiction with the requirements of their natural vegetations, to meet the needs of celebrating mass. However, as noted by French geographer Albert Demangeon,<sup>13</sup> as transport became cheaper, the cultivation of vineyards soon retreated to areas more suitable to their needs in terms of vegetation and ripening: the sunny south.

Many years later, with the demise of the Middle Ages, Rome's Pope-obeying Christianity faced deep tensions that eventually ended in rupture that approximately followed the ancient northern borders of the Roman Empire, which was a very old and strong line of cultural divide. To the north of this line, in general, the Reformation implemented Protestantism and a distinct way of seeing the world, without obedience to the Roman papacy. This was where a type of society, with much more simple and austere rites unconnected to Mediterranean geography, in a colder and more rigid Europe – how not to think about geography – developed and ended up playing a major role in the world.

Max Weber, rightly or wrongly, even saw the reason for the birth of the capitalist spirit in that separation. According to him, by sanctifying work and daily life instead of

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<sup>11</sup> Even today, local dialects spoken by small groups coexist with the official languages of the states. This is the case, in Portugal, of the *Mirandês*, which is officially recognized.

<sup>12</sup> Chauprade, Aymeric (2003). *Géopolitique, constantes et changements dans l'histoire*, Paris: Ellipses: 298.

<sup>13</sup> Demangeon, Albert (1952). *Problèmes de Géographie Humaine*, Paris: Armand Colin.



waiting for the reward after death, Protestantism, alongside the advancement of science, contributed to the “decriminalization” of profit and to the sanctification of work. He completes his opinion by saying that almost all big businessmen from Germany in his days were Protestant, mainly Calvinists.<sup>14</sup>

In Southeast Europe, a third division, also the result of ancient cultural boundaries stemming from the Great Schism which, following intractable conflict between the Emperor of the East and the Pope and which mirrored the clash between the Greco-Byzantine and the Latin-German worlds, led to the division in 1054, to this day, of the two churches, with the Orthodox Church becoming subordinate to the Patriarch of Constantinople. When Constantinople fell under Turkish rule (1453), the head of orthodoxy moved to Kiev and then to Moscow. Thus, we have at least three or four “Europes”. The role of infra-national forms of organization, even the most basic, is not smaller. The kinship-based clan is a structured basic human group which is both the oldest and the first – when territorialized – to have a proto-geopolitical meaning. In this case, it is inside the clan that the first social relationship between humans and their territories takes place. In other words, it is within the clan that the embryo of geopolitics is generated. Successively grouped into tribes and ethnic groups, clans still exist in a few human societies, as is the case in some parts of Africa or that example well-known in the Western world provided by the famous Scottish clans which, even today, have a surprising degree of cohesion. As for the tribe, it is less cohesive than the clan because it is the result of the junction of several clans. It carried the germ of political cohesion and is rightly considered as such. Indeed, the first political manifestations as we see them today – one people, one head, one territory – coincide with tribal organizations. Tribes eventually became federated into nations. But this was a very long process and the coincidence of national borders with the borders of the states is a relatively recent phenomenon. Inheritance, historical or conquest rights slowly overlapped the “right of peoples to self-determination”, and it was only in the wake of the social and political changes triggered by the French Revolution that the so-called “springtime of peoples” began. Hailed as the primary cause of war (well expressed in several of the famous 14 points of President Wilson<sup>15</sup>), the mismatch between the State and the Nation was severely restricted after the First World War, when the political map of Europe (as elsewhere in the world) was redesigned at international conferences. However, in the contemporary world, many states are not formed by a single nation, let alone by a single ethnic group. It is true that outside Europe, some states – true artificial constructs – are even directly formed by tribes whose only connection is that of a conglomerate.

Indeed, when artificially grouped into states, many ethnic groups cannot resist the social, demographic, political and religious tensions that occur, often independently of human will. History, including contemporary history, is filled with inter-ethnic conflicts. But the deep resistance of primitive forms of human organization is better demonstrated in places where the state proves to be too weak to perform its basic function - failed states - and where societies regress to their more primitive identities,

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<sup>14</sup> Weber, Max (2001). *The Protestant Ethic and the Spirit of Capitalism*, Portuguese translation, Barcarena: Presença (orig. from 1920).

<sup>15</sup> Snell, John L. (1954). "Wilson on Germany and the Fourteen Points", in *The Journal of Modern History*, Vol. 26, No. 4, The University of Chicago Press, Dec.: 364-369.



be them the ethnic group, the tribe or even the clan. The shattering of the former Yugoslavia and, more recently, the events in Libya, are a daunting example for all those who believed in the inexorable march of progress.

Finally comes physical geography and, within it, first, the climatic factors. Historian David Landes spoke at length on this subject.<sup>16</sup> According to him, Europe, particularly its western part, enjoys privileged conditions: the winters are cold enough to prevent the spread of diseases and gently enough to foster a good balance between inhabitants and the environment. Rainfall is distributed throughout the year, creating fertility conditions rarely found elsewhere. It was this same uniform and moderately abundant supply of water, combined with low rates of evaporation, which freed the Europeans from prevailing tyranny, namely the "river civilizations", where the necessary irrigation works generated central and authoritarian powers that Europe has not known.

These exceptional conditions favoured Europeans with good and relatively uniform harvests, combined with large herds and dense forests. This almost unique combination gave rise to sedentary civilizations that raised cattle and which have proven to be bigger and stronger than the rest of the world, in addition to producing natural fertilizer healthier than the one used in Asia, based on human faeces. The powerful European horse was thus able to carry the heavy medieval knight, was supreme in charges, and for many years unbeatable in conventional combat.<sup>17</sup> It was also the strength of European animals that allowed more efficient heavy work and the transport of goods, as well as, at a later stage and with enormous impact, the towing of artillery to the battlefield.

As a result, European had access to a richer diet, growing increasingly stronger and relatively free from the worms that plagued China and India. Accordingly, not only animals but also human beings were stronger. The European domination, which later spread throughout the world, was frequently due to the inequalities of nature.

However, this strength is also the result of other stimuli. Paul Kennedy, the renowned author of "The Rise and Fall of Great Powers" points out that, in the beginning of the sixteenth century, no one would believe that the small states of Western Europe would impose themselves on the major centres of power that existed at the time: Ming China, the Ottoman Empire, the Mongol Empire, Muscovy, and Japan. It was the absence of a single central authority - which Kennedy sees as the happy result of the fall of the Roman Empire and of the compartmentalized geographical features of Europe, where there are no dominating large plains or huge water basins surrounded by fertile lands capable of imposing uniformity of thought - that was responsible for the huge degree of freedom and for the relatively few barriers to change that led to the spiral of scientific and technical progress that led to the supremacy of the West.<sup>18</sup>

With such tools, it is not surprising that during an extended period of time Europe dominated the world. However, the strength of the Europeans turned against them and

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<sup>16</sup> Landes, David S. (2005). *The Wealth and Poverty of Nations – Why are some so rich and others so poor*, Portuguese version Lisbon: Gradiva, 7th Edition (original edition from 1998).

<sup>17</sup> In particular they stopped the Muslim onslaught towards Central Europe – which used light Arabian horses – at the Battle of Poitiers in 732. In 1187, the Muslims had their revenge when the knights of Saladin, mounted on light horses, destroyed at Hattin a force of crusaders mounted on heavy armoured horses that had carried their heavy riders throughout the day under scorching sun.

<sup>18</sup> Kennedy, Paul (1987). *The Rise and Fall of the Great Powers*, Random House, New York: 3-30.



also encouraged their rivalries. Even a cursory look at history shows that the peoples of Europe seem to have never aspired to large unions.

Having looked at the non-geographical and climatic (albeit strongly influenced by physical geography) aspects that seem to lie at the root of this situation, it is time to examine physical geography, whose continuity is everywhere in Europe, as elsewhere in the world, where it continues to act as a *deep force*. It must be pointed out that there are large islands near Europe whose critical mass is enough to generate island nations, with their typical sense of exception and isolation. This applies particularly to Great Britain, which was the seat of maritime power, embodying Europe's superiority while keeping itself on the flank of the continent.

There are also a number of large peninsulas in Europe, and it is known that they tend to become autonomous from mainland<sup>19</sup> or even unite politically.<sup>20</sup> Indeed, all great peninsulas in Europe have long been the home of one or more independent states, the latter being justified by geographical barriers (such as in Scandinavia) or by cultural ones (like the Iberian Peninsula). Opening up to the Atlantic or the Mediterranean, they all have been home to maritime powers and have the typical mentality of these powers which, about 2500 years ago, caught the attention of Greek historian Thucydides<sup>21</sup>, and which differs greatly from the continental mindset that prevails in the centre of Europe.

In the same fashion, the topography of Europe is characterized by the abundance of mountain ranges that either compartmentalize space (this is the case of the Pyrenees, amongst many others) or are zones where mountain people have settled (like in Switzerland). In any case, for thousands of years they have constituted physical barriers hampering easy movement, also facilitating defence and thus impeding the great empires. They also give origin to true "cultural cantons", since the mountain culture tends to differ from the one that usually dominates the plain. Among other reasons, it was this topography that enabled small – sometimes minute – political units to subsist to this day. These are marks that progress will eventually fade away, but that cannot be ignored.

The river basins of Europe also have a role to play, as well demonstrated by German geographers in the first half of the twentieth century. In the absence of a structuring large river like the Nile, the Euphrates, or the Yellow River, Europe's powers and wealth concentrated over several large navigable rivers which allowed the movement of goods at low prices. The Danube has Vienna, the Po has Milan, the Rhine has Amsterdam and Frankfurt, and the Thames has London.<sup>22</sup>

Again, geography separates the North and South of Europe which, with the exception of the Po valley, has no major river that can be used for trade purposes. As a possible consequence, the people of the South, when they developed their own business, they did so from a distance and by sea, disadvantaged by nature, which did not give them the possibility of linking their ports to the interior which otherwise could have happened. Accordingly, northern Europe became more urban, industrialized and technocratic, whereas the South tended to be more rural, agricultural and less

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<sup>19</sup> Ratzel, Friedrich (1987). *La Géographie Politique*, Fayard: 107.

<sup>20</sup> Chauprade, Aymeric, op.cit: 126-153.

<sup>21</sup> Thucydides (2010). *History of the Peloponnesian War*, translated by Raul Rosado Fernandes and Gabriela Granwher, Lisbon: Calouste Gulbenkian Foundation.

<sup>22</sup> Zeihan, Peter (2010). STATFOR, 21 December.



developed in terms of industry. In a world that emphasizes the values of the north, the formerly civilized and refined south has, for now, become a kind of periphery.

Therefore, there are several "Europes" and, within them, a wide range of states which, having withstood the vicissitudes of history, jealously retain their prerogatives as nation-states. There was no lack of ambition to impose unity by force. But even when its military power was overwhelming, it all stumbled upon the defiance of those who insisted on becoming independent.

The last two attempts of a military nature came from Germany, and its own power was so strong that it took extra-European interventions to restore the previous order, or at least something resembling it. Again, in the latest attempt, this time not military oriented, Germany was the one of the key drivers. A little analytical retreat at this point seems appropriate to better understand it.

The Germans, who suffered from large scale "European-type cantonalism" until 1870, started to move towards their own unity with a customs union which, by encouraging common geographical and cultural factors, soon produced the desired results. It was perhaps too successful, inasmuch as, as soon as Germany became the main European power (its population grew 65 percent between 1871 and 1914 and on the eve of World War I, Germany produced twice as much steel as Great Britain ...<sup>23</sup>) and soon denoted hegemonic ambitions.

It was a dream that went wrong, and defeated Germany was forced to sign the humiliating treaty of Versailles in 1919, which was a sore for the country's national pride. The purpose of war, set in September 1914 by Chancellor Bethmann-Hollweg, was to form a customs union extending from France to Poland, keeping Great-Britain and Russia apart from the European continent, which was theorized by Friedrich Nauman (1860-1919) in 1915 in his book *Mitteleuropa*,<sup>24</sup> and failed completely.

When Germany was admitted to the League of Nations in 1926, its pacifist government, which wrestled with profound internal problems and the demons of revanchism, soon proposed (1929) the creation of the United States of Europe through Gustav Stresemann<sup>25</sup>.

Nevertheless, in that same year, the crash of the New York Stock Exchange plunged the world into a full-blown crisis and also silenced the voices of common sense, releasing the demons of nationalism and racism. Ten years later, the world watched the launch of the greatest catastrophe in history. It led not only to another defeat of Germany (again, it took the entire world to overwhelm it) but also to the ruin of Europe and to its decline on the world stage.

Even during the war, German lawyers built what they believed to be a new model of relations among states. It encompassed some of the most permanent and negative matrixes of German ideas. Written by jurist Carl Schmitt (1888-1985), who led the War Institute for Politics and International Law, the project *Treaty between Germany, Italy*

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<sup>23</sup> Desfargues, Philippe Moureau (2003). *Introdução à Geopolítica*, Lisbon: Gradiva: 70-71.

<sup>24</sup> It corresponds to Central Europe. Nevertheless, in addition to anticipating the direct political control of almost the entire region, the concept advocated Germany' economic control up to the Caucasus (including also the Ukraine and the Balkans) and could extend to Bagdad.

<sup>25</sup> Gustav Stresemann (1878-1929), Chancellor in 1923 and Minister of Foreign Affairs of Germany between 1923 and 1929. Nobel Prize winner in 1926 together with his French counterpart Aristide Briand, due to his role in the Treaty of Locarno.



and Japan on the configuration of Large Areas in Europe and Greater East Asia, drew a world that was remarkably different from the one that came to be established by the Declaration of St. Francisco and the principles of Bretton Woods.<sup>26</sup>

The Large Areas were to be articulated in Communities of States under the guidance of a Directing State that reserved the right to impose, within its limitations, its own political conditions. Thus, a less unitary entity than the state, albeit a more cohesive one, would emerge.<sup>27</sup> Under the Directing State of Each Community of States there would be independent states with limited sovereignty. In theory, the adhesion of these States – to which every state geographically located inside the Large Area – would be done on a volunteer basis and conducted by a bilateral treaty between the Directing State and each of the acceding states (article 3). Relations with non-members would be governed by International Law.

In an interesting preview, the Treaty referred to the existence and recognition of International Law, the Domestic Law of States and created a new figure within each Community of States: Community Law. It is clear that the use of this figure by the enemies of the idea of European Community conceals, in fact, the huge difference between the two concepts: the accession to the EEC or to the EU resulted from a volitional act, not from imposition by force, as rightly stressed by Mario Losano.<sup>28</sup>

Despite all the fears that a possible resurgence of Germany caused among its former political adversaries, or maybe because of it, when the new German political autonomy emerged– the Federal Republic of Germany (FRG) – the founders of the Benelux countries, together with France, the FRG and Italy, decided in 1952 to put together the industrial means that traditionally supported military apparatus, creating the European Coal and Steel Community (ECSC), and thus the first European community.

In the same year, the same countries tried to go further and integrate their own military apparatuses and this led to the signing of the Treaty of Paris, creating the second European community – The European Defence Community (EDC) – which never came into being as it was rejected by the French Parliament.

This event strengthened the importance of NATO and, once the North American “shield” was secured, Europe was able to engage in economic development.

In 1958 and through the Treaty of Rome, the six ECSC countries signed the European Economic Community treaty (EEC) which would lead to the creation of a common economic area. In the same year, another means of making war – the atom – was held in common by the EURATOM treaty, and this meant the existence of three European communities. Since then, the ECC continued to widen and deepen.

This was an unparalleled historical construction whose achievements are undeniable and unprecedented in the European continent, and whose assumptions remained unaltered until the political earthquake of 1989. There had never been such prosperity and cooperation among Europeans for so long. It seemed that the inter-state conflict had definitely been put away, the same applying to war.

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<sup>26</sup> It must be pointed out that the difference is formal rather than real. The political-strategic blocks of the Cold War had their Leader State, and many of the weaker members had, *indeed*, limited sovereignty.

<sup>27</sup> Losano, Mario G. (2006). “Il Mondo secondo Hitler”, in *Limes. Rivista italiana di geopolitica*, n. 5: 238.

<sup>28</sup> Losano, Mario, op. cit: 248.



But in 1989 the world changed. As usual, at the time people only spoke about the “dividends of peace” and of radiant tomorrows. The spectacular move back of the Soviet Union covered the profound change that occurred in Europe. In fact, and despite arising old fears in France, the United Kingdom and Russia, the same fears that in 1907 had led to the “Triple Entente”, to the cooperation between France and Russia in the 1930s and the occupation of Germany after 1945 (Mitterrand even nurtured the dream of cooperating with Gorbachev to prevent the reunification of Germany, under the complacent eyes of Mrs. Thatcher<sup>29</sup>), Germany was reunited in the wake of the fall of the Berlin Wall.

In a profoundly altered international context, the European project that had started as a great “Zollverein” (name of the customs union created in 1834 in Germany under the aegis of Prussia and which ultimately facilitated the creation of the Second Reich), albeit with the purpose of “pacifying” Germany and make war unthinkable, was actually transformed into the European Union in Maastricht in 1992.

Europe’s impotence before the Yugoslavian crisis – the cacophony had began right after the unilateral recognition of Slovenia and Croatia by the new reunited Germany – pushed the proponents of the European idea and of the old continent as a global player to new leaps forward. The theoretical advances made in Amsterdam, Helsinki, Nice and finally, in Lisbon, allowed the creation of a facade of a political leadership, a caricature of common foreign policy, as well as a kind of military structure aimed at lesser tasks – the Petersberg tasks.

Compared with the major success of the EEC, the Union’s integration ambitions have not produced brilliant results. By incorporating a broader range of countries – with often quite diverse traditions, cultures, interests, loyalties and hostilities - and by trying to extend its action beyond economic cooperation, the EU, and forgive the simplification made here for analytical purposes, faces two basic dilemmas: either it undertakes the policy agreed by its most powerful members or, due to the wide divergence of a few national and regional interests, it limits itself, as a rule, to govern by consensus, that is, by the lowest common denominator.<sup>30</sup>

Also the method adopted so far in European integration – a “top down” decision that excludes the supposedly unenlightened masses – seems to have reached its limits, as those masses increasingly demand to be heard. However, when consulted, they frequently invalidate the development of European integration, often, it must be stressed, to “punish” their national governments. This does not help matters, rather favouring the re-nationalization of policies and the rebirth of national selfishness. Only the great unifying events appear to be able to revive the faith of the Europeans, but the reality and creativity of the people insist on failing to come up with them.

Rather, the recent financial crisis exposed a number of structural weaknesses and brought to the surface the various “Europes” that underlie the theoretical constructs. Oversimplifying for purposes of analysis ( the reality is too complex and multifaceted to be addressed in an article of this size), basically we are in the presence of a cold, protestant and economically flourishing Northern Europe that, having taken enormous

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<sup>29</sup> Kissinger, Henry (1996). *Diplomacia*, Lisboa: Gradiva: 100-102.

<sup>30</sup> The analogy with the Confederation Helvetica, which cautiously maintains its neutrality, balancing the centrifugal forces that inevitably result from an alignment that displeases one of its language minorities, has come to the mind of many people.



advantages of the single currency, has been refusing solidarity to what it perceives as the chaotic southern countries, which, with the blindness that characterizes those who do not value forecasting and planning<sup>31</sup>, lived in the illusion they were Northern without being so and relinquished their most basic means of production, adopting lifestyles that were not theirs, while squandering a wealth they did not possess.

A third "Europe", even more continental and ingrown, always fearful of Russia (due to the weight of history and the geographical position) lies to the East and tends to yield to German interests, while viewing with concern the growing links between Germany and Russia that raise old historical ghosts, seeming to believe a lot more in the eventual North American protection than in European solidarity and its incipient defence mechanisms.<sup>32</sup>

These fears are not confined to Eastern Europe. Indeed, what is happening on a global level seems to justify these worries. On that aspect, difficulties also seem to favour old selfishness and the return of power politics that are their inevitable consequence. In 1904, Halford Mackinder theorized in a classic text of geopolitical thinking<sup>33</sup> that an alliance between Germany and Russia would create such a combination of power that the maritime powers would find themselves excluded from Eurasia. The United Kingdom and the U.S. fought against this nightmare in World War I, and it is legitimate to assume that it was to stop it from occurring again that the United States intervened in Europe from 1942. NATO, which was geopolitically justified by Mackinder in 1943,<sup>34</sup> served the same purpose again. Currently, in the face of a Russian geopolitical school that aims to rebuild the empire and the rebirth of the "pan-isms",<sup>35</sup> the European have obvious reasons to worry again, especially when the U.S. seems unconcerned with European affairs. How long for?

In this scenario, Europe gets distracted with financial matters and lacks the energy and vision to look after its much battered union. Enlargement is no longer part of the rhetoric and there is the suspected perception that it would bring more problems than benefits, as it could import into the Union fractures and rivalries that could make current problems even more difficult to solve. Accordingly, the old divisions become, again, very clear and rooted, at least in part, in the cultural and geographical factors explained earlier. Even if these are mere perceptions and not concrete realities, the difference is not that big. Is there hope for Europe or will the old ghosts return?

What is happening in Hungary (let us also recall the split of Czechoslovakia), in Finland, Denmark (which unilaterally revoked the Schengen Agreement) and, in a distinct way, in Belgium, gives great cause for caution. Ethnicity and History are being brought back with a vengeance not only by nationalist parties, even in Germany, where the failure of multiculturalism has been proclaimed and German citizenship laws that recall the darkest periods in recent history have been enacted. We must not forget that in 1944, when not even the propaganda could hide the disastrous course of war for Germany, an

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<sup>31</sup> According to Hall's criteria with regard to the organization of time, societies are divided into "monochronic" (where the organization of time is sequential and activities take place according to an organized chronological flow) and "polychronic" (where there is the tendency to carry out several activities simultaneously without prior ordering the sequence). Hall, Edward (1993), *Understanding Cultural Differences - Germans, French and Americans*, Yarmouth: Maine.

<sup>32</sup> Friedman, George (2011). *Visegrad: A new European Military Force*, STRATFOR, 17 Maio.

<sup>33</sup> Mackinder, Halford J. (1904). "The Geographical Pivot of History" in *Geographical Journal* 23.

<sup>34</sup> Mackinder, Halford J. (1943). "The Round World and the winning of peace" in *Foreign Affairs* n.º 2.

<sup>35</sup> Dugin, Alexandr (2010). *The Great War of the Continents*, Antagonista (original from 2005).



article entitled "The end of Europe?" published in the magazine of the German Ministry of Foreign Affairs *Berlin Rom Tokio* stressed that whatever the organization of Europe after the conflict, Germany would remain a Directing State or Guiding State, at the risk of the breakup of Europe.<sup>36</sup>

### Is this what we are seeing?

Both Helmutths (Kohl and Schmidt), who ruled Germany for 24 years, feared that future. Convinced that the leaders after them (and not only in Germany) would forget the war and return to the nationalism of the nineteenth century, they recommended the acceleration of the European integration as a panacea against further disaster. Schmidt went even further: in his view, Germany should never have nuclear weapons, nor belong to the UN Security Council, as the country had shown only too well what it was capable of when given a free rein".<sup>37</sup>

It was not even necessary to wait long. Selfishness did not take time to surface. As early as in 1991, during the first Iraq War, Kohl himself refused to consider a missile attack on Turkey as an attack on NATO,<sup>38</sup> refusing the solidarity that turns strength into an alliance. Shortly afterwards, as mentioned earlier, Germany, without any consultation with its partners, unilaterally recognized the independence of Croatia and Slovenia and adopted a policy that favoured its own economic interests, a situation that was particularly clear in the Balkans. However, candour has its limits, and in May 2010, President Kholer was forced to resign after declaring, in Afghanistan, that the intervention of German armed forces had the purpose of protecting German economic interests.<sup>39</sup>

Indeed, it is very difficult to counter the *deep forces* that may only be evaded with patience and perseverance. This lesson has been frustratingly difficult to learn by those who, by ignoring them, act like children on the beach and build sand castles convinced that they will withstand the force of the tide.

In a continent that invented the nation-state and continues to be carved up into multiple sovereignties,<sup>40</sup> where the selfishness of citizens is expressed democratically and has the force of law, top volunteer unions have a difficult time surviving, although, of course, nothing is impossible. The process of European Integration – whatever form it will end up having - in addition to a mobilizing ideal that goes beyond mere economic issues (a new negative association formed due to the fear of others is obviously never excluded), needs time and can only be attained throughout several generations. It also requires that the basic purposes of the state – ensuring Security and Welfare – may be undertaken in a climate of tranquillity, peaceful coexistence and domestic prosperity.

Clearly, the future of Europe, in purely theoretical terms, has several solutions. Without wishing to make a comprehensive analysis of all possible variants, I shall focus on just three possibilities: the first, which was unthinkable only a few years ago, is the

<sup>36</sup> Losano, Mario, "Il Mondo secondo Hitler", cit: 243-247.

<sup>37</sup> Cutileiro, José (2010). "O Mundo dos Outros – Natal em Março" in *Expresso*, 23 Dezembro.

<sup>38</sup> Huntington, Samuel P. (1999). *The Clash of Civilizations*, Portuguese version Gradiva: Lisbon: 162.

<sup>39</sup> *New York Times-Europe*, 31 May, 2010

<sup>40</sup> The level of cohesion, which is the highest inside the clan, decreases as the social basis expands, and reaches its lowest level among nations, a level where usually the most efficient aggregating cement is the existence of a common enemy.



end of the Union. Whether it takes the form of a return to the nationalist policies of the nineteenth century, or whether it ends up limiting the Union to a club of the richest countries, the tendency for the come back, this time quite openly, of the Directing States<sup>41</sup> will be inevitable. No doubt that the "natural" geopolitical groupings would be favoured by this solution. The question is the fate of the weakest links: reduced to a condition of states with limited sovereignty in the worst style of the vision of Carl Schmitt, they could attempt to get together in natural geopolitical groups, although such a future is unlikely due to the large differences that continue to exist among them. Poverty is a bad counsellor.... Still within the previous scenario, there is also the possibility of seeking external solidarity, something which is believed to be more realistic in the case of states with historical ties outside Europe. The United Kingdom (which is not part of the single currency) is a clear example of that possibility, thanks to its special connection to the U.S. and its traditional policy of separation from continental politics, whose hegemonies it has almost always fought against. A sharp European decline may lead some states of the current Union to tread the paths of the past again.

Another possibility is, of course, the deepening of the Union according to the federal model, surpassing the inter-governmental model that has shown a strong tendency towards the Directing State of group of Directing States, as aimed by the "founding fathers". This solution might allow going beyond the Post-Modern State<sup>42</sup> which, after all, in practice perpetuated the notion that, whereas all states are equal, some are more equal than others. This solution might also provide an answer to the poor solidarity that the various "Europes" have shown to each other and would require at least an economic governance of the Union.

However, there is another alternative, which is strongly provocative but equally promising: I insisted earlier on the strength of infra-national forms of social organization. Not without reason, as they underlie all societies and are present in states that are too big to deal with small things and too small to address large issues, which means that local issues tend to gain strength, albeit in a different form.<sup>43</sup> Maybe because of precisely that, it is necessary to go beyond the nation-state, even the post-modern state, and go back to some form of tribe and localness (in history, recurrences never take the same form), which, in a confusing and tentative way, are emerging without a geopolitical rationale that confers them consistency, at least for now. If, to this, we add the undeniable internal change that European policies caused within the states, the habits of free-movement, the clear dispute among transnational groups for the monopoly of power of states, whether they are financial groups, social or opinion movements, then we may have the fertile melting pot that encourages change.

Could the continent that invented the nation-state also declare its death? Is cooperation possible by consensus of values and culture, as a recent work intended,

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<sup>41</sup> Remember the words of President Cavaco Silva in October 2011 in his speech at the University Institute of Florence.

<sup>42</sup> Concept defended by Robert Cooper, among others, in *The Post-Modern State and the World Order*, Demos, 2000).

<sup>43</sup> Topic addressed by various authors: Among other, see the excellent paper by Ana Margarida Roldão, "Da Europa das Nações à Europa das Regiões" in *Informação Internacional, Análise Económica e Política*, coord. by José Félix Ribeiro, Ministry of Planning, Forecasting and Planning Department, vol I, 2001: 307-335, or Aymeric Chauprade, *Géopolitique...* cit: 810- 833.



albeit with huge gaps, to have been the model that prevailed in ancient Greece?<sup>44</sup> Is peace attainable by simple consensus, by “complex interdependence” (I took the liberty to refer to the ideas of Nye and Keohane<sup>45</sup>) without a strong hegemony project? Or is it that the so-called thinkers of the “realist” school are right and the *deep forces* condition human nature to such an extent that we are doomed to repeating ourselves?

It is important to reflect, albeit briefly, on the role of Portugal in this stage of intertwined interests. Portugal is one of the oldest countries in Europe and indeed, the one with the oldest borders. Never having suffered from secessionist attempts – even when it had more than one political power, they fought for the same central power<sup>46</sup> – it may well be said that it enjoys from an enviable degree of national cohesion, a quality all the more remarkable as it is not based on any marking geographical differentiation (if we exclude its position), but primarily on linguistic and cultural factors. However, this position deserves further thought.

Indeed, it was Portugal’s position that enabled its maritime vocation (although it obviously did not determine it). It is due to its position that Portugal has a more benign climate than most of the Iberian mini-continent and it is also thanks to its position that the country has become, from very early on, a platform for supporting the maritime powers that since then, directly or indirectly, ruled it. As a southern country, although tempered by the strong influence of its Atlantic coastline, Portugal boasts the majority of defects and qualities of the people of the South, including polychronism (associated with the traditional “*desenrascanço*”, that is, the capacity to “pull a macgyver” and always come up with a solution to a problem at the last minute with no advanced planning and no resources).

Ranked by Hofstede among the countries with the greatest “Power Distance”, “Femininity”, “Collectivism” and having also a great need to develop mechanisms for “Control of Uncertainty”<sup>47</sup> which, according to the social psychologist, are rooted in its Roman heritage, during a particular time in history Portugal was able to carry out with notable constancy and determination an expansion that still amazes today, and to build intercultural and inter-ethnic bridges held until the present day.<sup>48</sup>

Persistently poor in natural resources, it lived for centuries out of the exploitation of the resources in its territories outside Europe, and when that possibility came to an end, it soon turned to Europe, in defiance of a tradition of many centuries. As a recent convert, it zealously pursued the objectives of common practices and went further than most European states in dismantling its primary sector, which puts it in a particularly vulnerable position before the crisis faced by the Union.

Historically linked to the sea, over the last decades the country has been run mainly by former emigrants blinded by the European mirage and for whom the sea represented the nostalgia of the Empire. Accordingly, a formerly relatively large merchant and

<sup>44</sup> Low, Polly (2007). *Interstate Relations in Classical Greece: Morality and Power*, Cambridge: Cambridge University Press.

<sup>45</sup> Keohane, Robert and Nye, Joseph (1977). *Power and Interdependence: World Politics in Transition*, Boston, Little, Brown and Company.

<sup>46</sup> Nogueira, José M. Freire (2004). *As guerras Liberais – Uma reflexão Estratégica sobre a História de Portugal*, Lisboa: Cosmos/IDN: 289-290.

<sup>47</sup> [www.tamas.com/samples/.../Hofstede\\_Hall.pdf](http://www.tamas.com/samples/.../Hofstede_Hall.pdf), accessed on 23-09-2011

<sup>48</sup> Particularly stressed by the Brazilian Freyre, Gilberto (2001) *Casa Grande e Senzala*, Lisbon: Livros do Brasil (original from 1933).



fishing fleet associated with the ship building and repair industry disappeared, perhaps for a long time.

Recently, the country seems to have rediscovered the sea. Endowed with a huge EEZ that it wasted and whose rights are in part in the hands of the EU (article 3 of Title I – Domains and Competencies of the Union, Treaty of Lisbon), Portugal advocates the extension of its continental shelf, which, somehow nurturing some megalomania, would multiply the country by 40! However, for the time being, the exploitation of such vast resources is merely rhetoric. Whereas the political statements, conferences and opinion pieces abound, concrete actions are missing.

Mismanaged in general terms, and living from loans (a nineteenth century tradition that came strong into the twentieth century until the *Estado Novo*, and which was taken up by the Third Republic...) the country cannot, actually, dream about independent policies, let alone in an area where the appetites of the “great” of Europe will not fail to manifest. The great ocean where untold riches lie appears intended to becoming a bargaining chip against other vital forms of support, regardless of where they come from.<sup>49</sup>

Indeed, Portugal does not seem to do very well in any of the evolution scenarios proposed. The end of the Union will certainly not be the end of Portugal, but the re-nationalization of some policies will probably lead to association. If such a catastrophic scenario leads to the splintering of the Spanish state, an Iberian federalism might eventually come to the fore and, within it, a state, which at least in name, will be Portugal.<sup>50</sup> But that state will perhaps have its extra-European links intact, in a way that no putative Hispanic nation can match. Can we get round history?

Perhaps the best solution for Portugal is the reinforcement of the European Union via de federal route. I have expressed my strong reservations about this scenario in terms of geopolitical bias, but it is not impossible. A sort of European “Arkansas” (but bringing a huge maritime area and transcontinental affinities with it, and guaranteed the representation of the minorities underlying a federal model) is obviously better than the tiny state<sup>51</sup> which we may be doomed to becoming with the demise of the European project.

Portugal seems to do comparatively better in the third hypothesis. Due to its small size and cohesion, the country would be a natural region with sufficient critical mass in a Europe of regions, perhaps greater than that which Belgium currently has in the Europe of Nations.

Finally, and moving to the reign of utopia, and since it cannot counteract its physical geography, the country could, nevertheless, become an European part of an entity formed by various continents, as indeed the clever Talleyrand advised the count of

<sup>49</sup> For a thorough analysis of the Geopolitics of Portugal see Nogueira, José M. F., *O Método Geopolítico Alargado...* cit, passim.

<sup>50</sup> Ambassador Franco Nogueira foresaw a similar situation in the book in which he said farewell to politics and life, writing that “the failure of the Common Market would, first and foremost, be the *Iberian common market*, that is, a common market between two very unequal partners, one of which, three or four times stronger, would easily dominate the other. It would be the Peninsular Common Market, dominated by the will and the power of the stronger partner, and we all known that economic domination is followed by political domination”. Nogueira, Franco (1993). *Juízo Final*, Barcelos: Livraria Civilização: 39.

<sup>51</sup> According to the definition by Moreira, Adriano (2009). *A Circunstância do Estado Exíguo*, Lisbon: Almedina.



Palmela during the Vienna Conference in 1815 with regard to the future status of Brazil.<sup>52</sup> History is far from over...

This paper asks more questions than provides answers, but finding them with realism, rejecting determinism and thinking out of the box is the responsibility of today's European elites, where the Portuguese ones are included. Failure could cost us all much more than what we can afford to pay.

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<sup>52</sup> Saraiva, hermano (1993). *História de Portugal*, Europa-América: 326-327.



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## **NON-GOVERNMENTAL ORGANIZATIONS IN THE MEDIATION OF VIOLENT INTRA-STATE CONFLICT: THE CONFRONTATION BETWEEN THEORY AND PRACTICE IN THE MOZAMBICAN PEACE PROCESS**

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### **Abstract**

This essay discusses the role of NGOs in the mediation of violent intra-state conflicts. Based on the analysis of the Mozambican peace process, we tried to understand if informal actors and NGOs in particular would be best suited to mediate this type of conflict, as advocated by some. Against this current of thought, the author argues that official diplomacy still remains the most appropriate tool to lead the mediation of violent intra-state conflicts. In cases where multiple resources are used (multi-track), as was the case in Mozambique, formal actors and states, in particular, continued to play a decisive and unavoidable role because they had the resources that were not available to informal players. Informal diplomacy can complement formal diplomacy, but cannot replace it, and will always play a secondary and supporting role.

### **Keywords**

Non-Governmental Organizations; conflict mediation; mediation strategies; Mozambican conflict; Community of San'tEgídio; Track One and a Half Diplomacy; Track One Diplomacy; Track Two Diplomacy; untreatable conflicts

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## **NON-GOVERNMENTAL ORGANIZATIONS IN THE MEDIATION OF VIOLENT INTRA-STATE CONFLICT: THE CONFRONTATION BETWEEN THEORY AND PRACTICE IN THE MOZAMBICAN PEACE PROCESS**

**Carlos Branco**

### **Introduction**

In the past two decades, Non-Governmental Organizations (NGOs) have tried to further their involvement in the field of conflict resolution. Some authors advocate that action should be extended to the whole spectrum of conflict resolution, from prevention to peacebuilding, and include participation in formal mediation processes (Tongerren, 2005; Baharvar, 2001)<sup>1</sup>, what Susan Allen Nan called *Track One and a Half Diplomacy* (T1,5D) and described as the intermediation activities carried out by unofficial actors - including NGOs - with official representatives of a government involved in a conflict, with the aim of promoting its peaceful resolution (Nan, 1999). The mediation of the Mozambican peace process that led to agreements in Rome in October 1992, attended by the Community of Sant'Egidio, is often singled out as an example of what could be the participation of informal actors, and NGOs in particular, in formal mediation processes.

Proponents of NGO participation in formal mediation processes argue that the traditional instruments of negotiation, mediation and conflict management failed in intractable conflicts (Fisher, 1989; Saunders, 1997); traditional diplomacy has major limitations and is not suited to this type of conflict, and therefore the solution lies in the use of informal intermediaries, which are particularly suitable for resolving such conflicts. Our argument is exactly the opposite. We argue that public diplomacy (T1D) still remains the most appropriate way to lead the mediation of violent intra-state conflicts. In cases where multiple resources are used (multitrack), as was the case of Mozambique, the formal actors and states, in particular, continue to play a decisive and unavoidable role because they have resources not available to informal players. Informal diplomacy can complement the formal one, but not replace it.

NGOs' involvement in mediation of the T1, 5D type has been insufficiently studied. This work seeks to contribute to the debate and clarification of the topic, analyzing the validity of the arguments presented by that current of thought. For this purpose, we use the theoretical formulations about mediation and mediation strategies proposed by Touval and Zartman (1985), which we will confront with the analysis of the peace mediation process in Mozambique, as it is repeatedly used as an example of what these organizations can do in mediation.

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<sup>1</sup> In some cases mistakenly called "negotiation". Negotiation is a two party relationship, whereas mediation is a relationship involving at least three parties.



This paper thus has two main objectives: first, try to understand if informal intermediaries and NGOs in particular, regardless of their origin (national or international), are the most appropriate type of mediator to conduct the mediation of violent intra-state conflicts, and, second, in the case of a negative finding, ascertain, in the light of these theoretical formulations, what kind of actor - States and/or International Organizations - may be more appropriate to mediate these conflicts based, in both situations, on the analysis of the Mozambican peace process.

To this end, we start by clarifying what NGOs are, as it is a term with multiple meanings, for which reason it needs to be explained; subsequently, the theoretical postulates that act as a reference for understanding the possibilities (capacities versus limitations) of NGOs, states and international organizations in the field of mediation will be presented: and, finally, we shall revisit the Mozambican peace process, trying to explain the reasons for its success and the behaviour of different actors in the light of the theoretical frameworks presented, which, from our point of view, have a more complex explanation than that offered by the mainstream, which attributes the merit of the mediation to the Community of Sant'Egidio.

### **Non-Governmental Organizations: a Possible Definition**

The importance of NGOs at international level has intensified over the past 20 years, including in what is commonly known as conflict resolution. They have become major partners in the international response to humanitarian emergencies, abuse and violations of human rights, and in the efforts to rebuild and reconcile societies affected by conflicts or natural disasters that prevent normal functioning<sup>2</sup>. In many cases, they work as entities subcontracted by the UN, the EU and governments. The large differences between some of these organizations (interests, organizational and philosophical dynamics, capacities, access to the sources of power and information, economic resources, etc...) have hindered a consensus definition. This is coupled by the fact that the conceptual boundaries are sometimes imprecise. It is not always easy to distinguish, for example, a civic association or a charity from an NGO.

In the UN system, NGO is any voluntary non-profit entity organized at local, national or international level, acting of its own will and directed by people united around a common interest<sup>3</sup>. In fact, NGOs work to support and protect sectors of society neglected by governments or official institutions<sup>4</sup>. Since they are private voluntary organizations, they may also be called that (PVO)<sup>5</sup>. NGOs and PVOs acquire legal personality under the domestic legal regulations (Private Law, and in some cases, Administrative Law) of the state of origin. Although an NGO may have an eminently international vocation, the truth is that its legal existence is conditioned by the

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<sup>2</sup> The UN report on global governance published in 1995 estimated the existence of twenty nine thousand international NGOs (INGO). The number of national NGOs is immeasurably higher.

<sup>3</sup> Still on the definition of NGO see also Gonçalves Pereira and Quadros (2000: 402) and Riquito (2001: 206). The World Bank defines NGOs as "private organizations that pursue activities to relieve suffering, promote the interests of the poor, protect the environment, provide basic social services, or undertake community development" (Operational Directive 14.70). In a broader use, the term NGO can be used to describe a non-profit organization acting independently from governments. NGOs are organizations that typically depend, entirely or in part, on charity or volunteer work.

<sup>4</sup> *Idem*. The adopted definition does not include professional and commercial associations or foundations.

<sup>5</sup> For other definitions of NGO see, for instance, Weiss and Gordenker (1996: 18-21) and Aall (2000: 124).



recognition of a state, and its legal personality in international law is not always clear cut.

With regard to the categorization of NGOs, the proposals advanced by scholars have not been ruled by consensus either. For example, Weiss and Gordenker (1996: 20) found four types of NGOs. The first, which is the most orthodox model, coincides with the one presented earlier; a private organization of citizens separated from governments, but active in social matters, non-profit and transnational in nature. The remaining three types, also called "significant deviations" because they are less autonomous from governments, should therefore be distinguished from what we commonly call NGOs.

The first, the QUANGO, almost non-governmental organizations, have relative autonomy, which decreases depending on their financial dependence on governments. The QUANGO includes organizations contracted by governments that provide specialized services such as, for example, the case of the International Rescue Committee<sup>6</sup>; the second group, called DONG, Donor-Organized Non-Governmental Organizations, is created for very specific and concrete purposes (e.g., demining in Afghanistan and support for women); and finally, the GONGOs, Government-Organized Non-Governmental Organizations, act as true agents of national policies. In the latter case, it is clear that the actions of NGOs act as the extended hand of a State, for which reason it is difficult to consider them as an NGO.

The absence of consensus repeats itself when it comes to adopting a taxonomy. Using the scope of action as a cataloguing criterion<sup>7</sup>, we can consider an NGO to be any organization dedicated to alleviating human suffering, promoting education, health care, economic development, environmental protection, and which monitors compliance with Human Rights, resolution of conflicts, etc., activities that do not end in this list (Aall, Miltenberger & Weiss, 2005: 89). Despite the tremendous variety, we can classify NGOs working in conflict zones in four principal activities: humanitarian assistance, human rights, building civil and democratic society, and conflict resolution. Their mandates and activities extend across the different phases of the life cycle of a conflict, i.e. even before the first signs of violence right through to the consolidation of peace<sup>8</sup>.

We shall focus our attention on NGOs that can be included in the more Orthodox concept, regardless of being organized nationally or internationally. The level at which an NGO is organized is not negligible; it is necessary to pay attention to the implications this may have in mediating a violent conflict. They are entities that are essentially different in terms of resources and knowledge of the societies affected by conflicts, for which reason they require a different treatment. National NGOs stem from

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<sup>6</sup> For further information on the International Rescue Committee please see the following website <http://www.theirc.org>.

<sup>7</sup> As NGOs vary widely regarding their purpose, philosophy, knowledge and scope of activity, it is possible to classify them according to various types, depending on: their main vocation to provide emergency, assistance or development; their religious or secular inspiration; their priority (delivery or participation); or the priority given to the type of activities it supports (public or private).

<sup>8</sup> Still on this subject, Ian Gary, for instance, classifies NGOs both regarding the methods and the scope of activities, considering two categories in both cases. As for the method, we have the hands off, which work behind the scenes, such as providing counselling services, and the hands on, which carry out activities on the ground. As for scope, we have the *ad hoc organizations*, whose mission is to contain the conflict and mitigate its effects; and those with systemic functions to intervene in the process of transforming mentalities and institutions. See GARY, I., "Confrontation, Co-operation or Co-optation: NGO's and the Ghanaian State During Structure Adjustment", in *Review of African Political Economy*, 23 (68), 1996: 149-169.



civil society and have information networks, contacts and knowledge of the society in which they operate and that are very different from large international NGOs. Our study focuses on NGOs that are primarily dedicated to conflict resolution, regardless of whether they develop activities in other areas<sup>9</sup>.

## **Mediation and Mediation Strategies**

Before advancing to present different types of mediators and mediation strategies, we must clarify two crucial issues: first, the meaning of a Track 1 Diplomacy (T1D - formal official mediation) and Track 2 Diplomacy (T2D - informal/unofficial mediation), in order to ascertain whether T1D can be advantageously replaceable by other forms of mediation such as T1, 5D (already explained) or T2D, and if states are replaceable by other NGOs or informal actors in the management of violent conflict<sup>10</sup>; and, secondly, the need to adapt those concepts to intra-state conflicts. In many cases, we cannot talk of governments but only of the leaders of different factions, which often do not hold any office in the hierarchy of the State.

The term Track 1 Diplomacy (TD1) refers to official governmental diplomacy, or "the action technique of a government that primarily is a process whereby the communication made by a government addresses directly the decision making mechanisms of the other government" (Lerche, S., Lerche, C. and Said, A., 1994). It is conducted by the official representatives of a State and involves interaction with the other State (or with the top leaders of the litigant factions). The term Track 2 Diplomacy (T2D) has to do with unofficial interactions, informal contacts between members of adversary groups or nations, and these interactions are aimed at conflict resolution<sup>11</sup>. The T2D is an area that is home to several concepts and terms, such as Interactive Conflict Resolution, Analytical Resolution of Problems workshops, sustained dialogue, and the so-called multilevel peace processes.

Mediation of the T1, 5D types takes place directly between unofficial mediators and top decision makers of the parties, but also with influential elements of society or the group in conflict. With top decision makers, it is direct mediation, consultation and facilitation of the inter-active resolution of problems carried out by unofficial mediators; with the influential citizens of society, the intention is to facilitate the resolution of problems and/or develop confidence-building measures. As we can see, the techniques used in T1, 5D and in T2D are similar and in some cases the same. However, there is a relevant difference that separates the two concepts, which has to do with the nature of the actors involved: in the case of T1, 5D, the lead actors of the parties are key decision-makers, while in T2D they are influential groups in society, or people who are expected to become so.

The theory of conflict resolution establishes various types of mediators and mediation strategies. The multiplicity of actors that can act as mediators is huge, from individuals, government officials, highly prestigious politicians and religious leaders, regional

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<sup>9</sup> Many NGOs working primarily in areas of action other than conflict resolution also claim the right to be involved in that activity.

<sup>10</sup> In the present paper we shall use the conflict management definition proposed by Zartman and which is the elimination of violence and of forms related to violence in dealing with a conflict, allowing the resolution to be made at political level. In other words, to have violent demonstrations replaced by political events, in order to solve, transform and remove the causes of conflict (ZARTMAN, 1997: 11).

<sup>11</sup> FISHER, R.J., 1997: 261.



actors, NGOs and international organizations, *ad hoc* groups, and states, each of them bringing their trading interests, perceptions and resources into the negotiation process (Bercovitch, 1997). The mediation strategy to be adopted by a mediator always reflects those elements, which differ substantially whether it is an individual, states, institutions or organizations<sup>12</sup>. Taking into account the scope of work, we will focus our attention just on the characteristics of formal mediation conducted by States and institutions/organizations - which include regional and international informal organizations and are carried out by the NGOs.

Of the various types of mediation strategies proposed by academics, we adopted the one developed by Zartman and Touval and which considers three behaviour categories, to be considered taken in ascending and gradual form, and which can describe in a comprehensive manner the actions of mediators: communicative, formulative and manipulative (Touval and Zartman, 1985). The adoption of a particular strategy does not mean that they carry out all tasks that it enshrines. Just a few of them are enough. Higher level task strategies typically include low-level strategies.

In **communicative** strategies, the mediator may behave in one or more of the following forms: establish contacts among the parties, earn their trust and confidence, look for ways to put them in contact, identify issues and interests underlying the dispute, and help clarify the situation. In this type of strategy, mediators avoid taking sides, try to empathize with litigants and provide them with important information that they do not possess. They can also transmit messages between the parties, encouraging them to begin a fruitful communication and ensure the interests of all of them are discussed.

**Formulative** strategies are more demanding than communicative ones, both for mediators and the parties. Besides some typical behaviours of communication strategies, formulating mediators can choose the locations of the negotiation rounds, control their pace and formality (the regiment), and control the underlying physical involvement in the negotiations; ensure the privacy of the mediation, suggest procedures, emphasize the common interests of the parties, reduce tensions, and control the times when the meetings should occur. According to this action rationale, the mediator who adopts a formulative strategy should, in the first place, deal with common problems, structure the agenda, help establish the conditions for building an acceptable outcome for the litigants; help them to save face (when applicable), maintain the negotiation process focused on critical issues, not letting it slip into unnecessary secondary quarrels, make proposals and fruitful suggestions, and suggest concessions that litigants may have to do.

At the top of strategies we find the **manipulative** ones, the most demanding of the three for both mediators and the parties. In addition to what has already been mentioned for the two previous strategies, manipulative mediators may still have the responsibility to keep the parties at the negotiating table, exercise their action in order to alter their expectations about the possible terms of an agreement and, at the same time, raise awareness of the cost of the absence of it. The manipulative mediator is also responsible for providing and filtering the information to be given; helping to undo previous commitments, rewarding parties who make the concessions, pressing them to

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<sup>12</sup> A mediation strategy is considered to be a plan, approach or methods that a mediator resorts to in order to resolve a dispute (Kolb, 1983: 24), in Bercovitch, *op. cit.*: 136.



be flexible, promising them resources or threatening to end the negotiation process; offering to verify compliance with the agreements; adding incentives or threatening with punishment, and threatening to withdraw from the mediation.

The choice to adopt a certain behaviour or follow a mediation strategy and not another is not a fluke. It is influenced by specific factors pertaining to the conflict or the mediator. There are many factors that may determine the choice of a strategy. But to be effective, the mediation strategy and the mediator's behaviour must be consistent with their interests and the nature of the conflict (Bercovitch, 1997). According to Bercovitch, practice has shown, for example, that communicative mediation strategies tend to be more effective in low intensity conflicts, while manipulative strategies are more successful in high-intensity conflicts<sup>13</sup>. But on the other hand, to be effective, mediation strategies, as well as reflecting the reality of the conflict, must also mirror the features of the mediator. Manipulative mediators are not those who want to be so, but those who can be so.

Despite the fact that the scientific community has not reached consensus on the most effective mediation strategies - some argue that the communication- facilitation strategies are so (Burton 1969; Kelman 1992) - statistical data indicate that tougher mediation strategies of the formulative-manipulative type (Touval and Zartman 1985) produce better results.

Bercovitch also examined the characteristics of the three classes of mediators: individuals, states and institutions/organizations. Individual mediators represent themselves (academics, former heads of state, prominent figures from international organizations, etc...), and officially they represent nothing; they are not members of a government and do not hold political office. The informal mediation usually begins when the mediators are involved in a conflict on their own initiative. Acting individually, the action of these mediators is based solely on communication strategies and facilitation<sup>14</sup> concerned primarily with the quality of the interaction between the parties and the creation of an enabling environment for the management of the conflict<sup>15</sup>. This type of mediation could be extremely useful to support a future formal mediation, in many cases opening the door to formal talks. The suggestions and ideas that arise in T2D can be brought to the negotiating table of T1D.

When it comes to mediation conducted by states, one must begin by distinguishing between large and small. Due to their small size and apparent lack of power or influence, small states do not represent a threat to the parties and are generally very well positioned to mediate, and they normally wait to be invited to do so. When they intervene, they tend to confine their activities to regional conflicts, and their strategies tend to be, in most cases, strategies based on dialogue and communication. Small states are very useful in this type of mediation<sup>16</sup>.

For the big states, the motivation to mediate is usually different; they use mediation as a vehicle to protect or promote their interests<sup>17</sup>. By offering a wide array of resources, the range of strategies available to them increases, and they can select the ones that suit them, a situation that is not within the reach of small states. They can use a

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<sup>13</sup> *Idem*: 138.

<sup>14</sup> *Ibidem*: 140.

<sup>15</sup> *Ibidem*: 147.

<sup>16</sup> *Ibidem*: 142.

<sup>17</sup> *Ibidem*, Bercovitch quoting Touval: 142.



variety of stimuli (positive or negative), generate and guide the impetus of negotiations towards an agreement; and even alter their motivations, behaviours and expectations. More than any other actors, states are able to gather the necessary resources for the success of a mediation process. They have leverage and use the political and social influence at their disposal to persuade litigants to make concessions and reshape their strategic objectives towards an agreement.

The participation of international and regional organizations in mediation processes has also been subject of study. In 1994, Touval published an article in *Foreign Affairs* about the limitations of the UN in the field of mediation, in which he stated that the mediations conducted by that organization are successful only when the belligerents are exhausted and powers outside the conflicts have no willingness to continue to support their customers, whose usefulness has been exhausted with the end of the Cold War<sup>18</sup>. But Touval goes further and generalizes about the conclusions concerning the behaviour of the UN as a mediator to international organizations, saying that, in general, they have inherent characteristics that make them unable to be effective mediators in complex international disputes<sup>19</sup>.

Touval states that international organizations have great difficulty in carrying out some basic functions required of an effective mediator, due to the absence of significant political leverage over the parties, the lack of credibility of their promises and the negotiation inflexibility resulting from their slow and complex decision-making processes. These limitations are embedded in their DNA and are part of the intrinsic nature of international organizations. And nobody can change this reality.

International organizations mediate solely on the terms of the states they are part of, and only with the material and diplomatic resources they are provided with<sup>20</sup>. Multilateral talks require a consultation and coordination process between the members of these organizations. A mediator must be able to influence belligerents in order to get them to change their positions. It requires, above all, leverage, which is derived from the military and economic resources that the great powers have in abundance, and that regional or international organizations do not have, being at the mercy of the good will of the States that compose them. The UN cannot even use the tools of international financial institutions and trade. In order to do so, it continues to depend on the decisions of the Member States. The problem of lack of resources and leverage also applies to all informal mediators.

Their vulnerabilities are perceived and exploited by the belligerents, who doubt their ability to fulfil both their promises of support and their threats of punishment. Due to decision systems that are peculiar to them, it is very difficult for international organizations to conduct dynamic negotiations, respond quickly, seize opportunities, and have the flexibility to adjust positions and proposals that will enable them to conveniently monitor the course of events. Once they have adopted a mediation strategy, it is not easy to change it so as to respond quickly to changing situations.

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<sup>18</sup> TOUVAL, Saadia (1994). "Why the UN Fails", *Foreign Affairs*, September/October: 44.

<sup>19</sup> *Idem*: 45.

<sup>20</sup> However, this does not mean that international organizations and the UN, in particular, cannot play an important role, especially when their action is coordinated with the efforts of states. There are other reasons, namely to serve as a cushion and thus protect states from damages that may be caused by failed peacemaking processes.



International organizations only adopt measures around which consensus can be built, reflecting the logic of the lowest common denominator<sup>21</sup>.

International organizations are particularly useful as facilitators of communication between the parties, helping a greater understanding of opposing positions and clarifying their concerns, but are not designed for difficult disputes. International organizations do not have the conditions to carry out manipulative mediation strategies.

NGOs do not have the legitimacy of international organizations to mediate, and their behaviour in the mediation of violent conflicts is similar to that of other informal mediators. Using the argument rationale stated before, unlike states, and due to the fact they have very limited resources, NGOs have a very tiny number of strategies at their fingertips, the alternatives being confined to communication and facilitation strategies guided to quality-oriented interaction between the parties and to maintaining an environment conducive to conflict management. The fact that they will now talk to key decision-makers - a T1, 5 procedure - does not change this reality. Like the states, they will hardly have the ability to change the behaviour, expectations and strategic objectives of the parties in conflict.

To achieve this, it was necessary to have a persuasiveness that does not exhaust itself in dialogue and communication. To influence the course of a violent conflict, mediation cannot be limited to generating and sharing information; it has to use more assertive strategies that can alter the way the parties think and interact<sup>22</sup>. On the other hand, we must take into account the environment in which mediation takes place. The management of violent conflict has assumed as an environment of violence and widespread insecurity, not very conducive to interactive conflict resolution or conflict resolution workshops, which is substantially different from the environment that we live in a situation of peacebuilding, violent post-conflict, in a stable security situation more favourable to NGO activities.

The fact that the mediator is a national or international NGO has different meanings. The range of civil society involvement in mediation processes, especially through NGOs emanating from that same society, must be carefully evaluated. It is an appealing idea that falls apart because the violent conflicts that are the focus of this intervention usually occur in pre-modern societies, without an active civil society, or in more developed societies in which civil society organizations have been destroyed by violence, reducing the ability to influence whatever it may be to the smallest possibility<sup>23</sup>. The chance of giving them relief in the midst of a violent conflict is merely a fanciful construction. It is well intentioned but useless, as experience has shown over and over again.

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<sup>21</sup> TOUVAL, Saadia, *op. cit.*: 53.

<sup>22</sup> *Idem*: 146.

<sup>23</sup> The Bosnian conflict is a flagrant example of this situation. The attempt to promote the Muslim secular alternative led by Adil Zulfikarpasic and Muhamed Filipovic, the extremism of the party led by Izetbegovic did not work, and crumbled in the sectarianism that permeated society in the beginning of the 1990s. An identical situation occurred in Somalia at the same time.



## The Mediation of the Conflict in Mozambique: Actors and Strategies

Once the theoretical framework that is necessary for our analysis has been presented, we shall move on to the case study, identifying the actors involved in the mediation, their role and the strategies adopted by each of them. We resorted to the book by Cameron Hume, "Ending Mozambique's War", in which the author makes a detailed chronology of the peace talks and provides crucial clues to our understanding of the role and strategies adopted by the different players<sup>24</sup>.

But before we proceed, we must insert the Mozambican conflict in the historical context and in the international and regional policy framework that existed in the late eighties. Neither super-powers nor neighbouring countries supported the continuation of the war. With the end of the Cold War and, consequently, the end of the links which each of the factions maintained with the great powers, the political and financial support to the war effort came to an end. In 1990, no government in the region was prepared to maintain and support its allies in Mozambique. The regional political situation had become conducive to conflict resolution. Exhausted and without resources, both contenders were aware that they were unable to win the conflict; the situation was at a point that Touval and Zartman called a painful stalemate. It was a situation that was ripe for mediation and, therefore, favourable to the success of mediation.

The choice of mediator was the first obstacle that had to be overcome. The selection would have to fall on someone who enjoyed the trust of both parties. Chissano wanted direct talks without the intervention of mediators, which Dhlakama opposed. For Chissano, the role of external players should be limited to good offices. For his part, Dhlakama wanted Mozambican bishops to act as mediators.

After several mishaps and failed initiatives, with the agreement of the Vatican and the diplomatic and financial support of the Italian Government, the Community of Sant'Egidio hosted the first round of negotiations that took place at its headquarters in Rome in July 1990. This round of negotiations was attended by three entities. In addition to the Sant'Egidio Community, it had the participation of the Mozambican churches and of the Italian Government.

Each party was represented in the group which, at the time still had observer status and was later to become the mediation group: The Community of Sant'Egidio represented by Don Andrea Riccardi and Matteo Zuppa, the Episcopal Conference represented by D. Jaime Goncalves, and the Italian Government, represented by Mario Raffaelli. This group remained unchanged until the end of the talks.

At the end of the first round of negotiations, Ambassador Raffaelli gave an interview to Vatican Radio explaining the roles played by the Governments of Kenya and Zimbabwe, giving them credit for reconciling the positions of the parties which led to direct talks. In practice, these were possible due to the combined action of various actors - the Italian Government, the Community of Sant'Egidio and the Church in Mozambique<sup>25</sup>.

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<sup>24</sup> Hume was number 2 in the hierarchical chain of the U.S. mission to the Vatican at the time peace talks were underway in Rome. In parallel, he was an observer and an active participant in the peace process.

<sup>25</sup> HUME, Cameron (1994). *Ending the Mozambique's War. The Role of Mediation and Good Offices*, Washington, D.C.: United States Institute of Peace: 35.



Failing to agree about the African state to invite as mediator, the parties eventually agreed on the solution of the four observers, who, in practice, had worked as mediators (the mediation would be a collective action).

The mediation solution found enabled overcoming the obstacles placed by both the government and RENAMO. This formulation suited the wishes of the Government, which wanted a mediator who had a minor role and no manipulative ability, and the mediation requirements of RENAMO, i.e., a mediator rather than bilateral negotiations. As neither the Church nor the Community of Sant'Egidio followed a strategy of own mediation, we will examine only the strategy adopted by the mediation group where this NGO was represented. The participation of the Italian government in peace talks must be analyzed separately.

There were many actors who contributed to reach the Peace Agreement signed in Rome on 4 October 1992. In addition to the mediation group consisting of representatives of churches in Mozambique, the Community of Sant'Egidio and the Italian Government, the collaboration of several states must equally be taken into account. The involvement of two particularly active governments, although with different roles, Italy and the U.S., must be highlighted. Further away, but with an equally important role, came Kenya, Zimbabwe, and Malawi. At a later stage in the talks when military matters were discussed, the process was joined by the countries that became observers of the peace process: France, Portugal, and the UK jointly with the U.S. The UN also joined the talks with observer status, but its involvement was more oriented to discuss aspects of the implementation of agreed matters. And finally, Tiny Rowland, an English businessman, chairman of the Lonrho group, who held strong mining interests in Zimbabwe, and who made his jets available to mediators and to the parties for the frequent trips they had to do.

### **The Churches**

Both academics and practitioners have neglected the role of religious elites - Roman and Anglican - in the management of the Mozambican conflict in their analysis. Their involvement dates back to 1984, when the first talks were held between the Government and RENAMO. It was in this context that the Christian Council of Mozambique (CCM) established the "Commission for Peace and Reconciliation" (CPR) in order to explore possible opportunities for dialogue and facilitate communication between the litigants. The CCM continued to act behind the scenes throughout the second half of the decade without, however, achieving great progress.

The willingness expressed by the Kenyan authorities to mediate a possible peace process was used by the CCM to dialogue with RENAMO leaders. The peace initiative promoted by the churches' leaders became public and Chissano mandated the CPR, led by Anglican Bishop D. Dinis Sengulane, to negotiate the conditions of an amnesty with RENAMO leaders. There was the coincidence that the leadership of FRELIMO was mostly Anglican, while the RENAMO leadership was mostly Catholic<sup>26</sup>. The year 1988 marked the beginning of intense diplomatic activity which led to peace in 1992. The ongoing diplomatic activity did not, however, prevent the continuation of the fighting. In early

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<sup>26</sup> HUME, Cameron, *op. cit.*: 27. "... RENAMO sent another message to the Holy See ... explaining that unlike the FRELIMO leadership, many of us,...including our President, are catholic ..."



1989, the Mozambican church leaders - Catholic and Anglican - launched a second initiative to explore existing contacts. Cardinal D. Alexandre dos Santos, Archbishop D. Jaime Gonçalves, Bishop Dinis Sengulane, and Pastor Jeremias Mucache (President of the CCM) met Chissano to persuade him to initiate dialogue with RENAMO<sup>27</sup>.

Chissano agreed that the clergy met with representatives of RENAMO, as long as it took place outside Mozambique, which indeed happened but without tangible results<sup>28</sup>. In 1989, echoing the call of the Mozambican clergy, Pope John Paul II publicly called for national reconciliation. In early 1989, the CCM and the Catholic Archbishop of Maputo met with representatives of the American faction of RENAMO (RENAMO elements residing in the United States), and high dignitaries of the Catholic Church in Mozambique, including D. Jaime Gonçalves, met with Dhlakama without the consent of Chissano.

However, the insistence of religious leaders turned out to have some positive effect. In August 1989, at the request of Chissano, Dhlakama was given, in Nairobi, a document with 12 points, to which Dhlakama replied by giving a 16-point document to be handed to Chissano<sup>29</sup>. Chissano resorted to the good offices of the religious leaders as the way to define the conditions under which he would enter into direct negotiations. Alongside the good offices of other religious leaders, there were initiatives led by the Kenyan and American diplomacies which also aimed to convince the parties to enter into direct negotiations. The commitment of the clergy in bringing peace extended throughout the negotiating period, and the Mozambican churches were always present in the talks through D. Jaime Gonçalves, who was a member of the mediation group.

### ***The Community of Sant'Egidio***

Based on the results obtained thanks to the good offices of the four religious leaders and African governments, among which Kenya, Malawi and Zimbabwe stood out, and by exploring the long-time connections between Archbishop D. Jaime Gonçalves and the Italian Government<sup>30</sup>, in July 1990 the Community of Sant'Egidio promoted the first direct meeting between representatives of FRELIMO and RENAMO in Rome, which became the epicentre of diplomatic activity. Significant steps towards peace were given during the negotiations conducted in October and November 1991: FRELIMO and RENAMO recognized each other and agreed on the future role of the UN; RENAMO's right to exercise party political activity was ratified with the signing of the General Peace Agreement (GPA)<sup>31</sup>.

The Community of Sant'Egidio played an important role in creating the physical conditions for holding the talks. In addition to providing its headquarters and welcoming the delegations of the parties to the talks, it ensured the political, logistical and financial support of the Italian Government needed to carry out the talks. It formed

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<sup>27</sup> *Idem*. There had been an earlier initiative in 1988, promoted by President Arap Moi of Kenya who invited Chissano and Mugabe to a meeting in Nairobi to explore the possibility of negotiations.

<sup>28</sup> *Ibidem*.

<sup>29</sup> *Ibidem*: 28.

<sup>30</sup> D. Gonçalves was the key link that led to the Italian mediation. His friendship with members of the Community of Sant'Egidio went back over 20 years, to the time when he, as a young priest studying in Rome, became close to that religious organization. A few years later, he enlisted the help of the Community to put pressure on the Mozambican government to abdicate its anticlerical stance.

<sup>31</sup> HUME, Cameron, *op. cit.*: 79.



part of the mediation group with two representatives, one of them its president. Using the words of Chester Crocker, the people of Sant'Egidio made history through their initial involvement. Their efforts created a critical mass of facts and a momentum which gave formal decision-makers (T1D) a case to support<sup>32</sup>. However, in terms of negotiations, the involvement of the community was small.

### ***The Mediation Group***

The mediation strategy adopted by the mediation group was of the communicative type. The group helped to maintain the dialogue between the parties and ensured that the relations of hostility and animosity were transformed into relations of cooperation, helping reconciliation through dialogue of the parties. In addition to the good offices given throughout the negotiation process, the mediation group made proposals and helped litigants to find alternatives.

The use of shuttling diplomacy was a recurring practice not only with delegations of the factions in Rome, as elsewhere with the top leaders of the parties, with the aim of agreeing on meeting agendas and on the sequence of issues to be discussed, or to unlock more complex situations which the heads of delegations in Rome had no delegated authority to do. For example, the mediation group went to Malawi in November 1990 to meet Dhlakama in order to unlock the impasse that was preventing the achievement of the cease-fire. In most cases, these actions were complemented by well planned state diplomacy, which proved to be quite effective<sup>33</sup>.

Formulative mediators control the agenda and, accordingly, may alter it, set deadlines and control the pace and formality of the meetings; they can change the number of participants in the talks, bringing more players into the process so as to have more interests represented at the negotiating table. But this was not the case. The booking of meetings and the identification of the matters to be discussed were always made with the consent of the parties.

The low-profile of the mediation conducted by the mediation group had little influence; the group had no power to grant legitimacy to any diplomatic agreement; it had very low capacity to support the implementation process that was being devised<sup>34</sup>. At times and in some respects, the behaviour of the mediation group was close to formulative strategy: the group advised the delegations on technical issues, helping them identify, select and expand possible options<sup>35</sup>.

However, when the flexibility of the parties disappeared and the mediation group lost control of the agenda<sup>36</sup>, it had to use the help of external actors who had greater persuasion powers on the parties, that is, resort to the assistance of one-track diplomacy, especially from the U.S. and Italian governments. The same happened when they had to discuss technical matters, namely of a military nature, which members of the mediation group had no knowledge of.

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<sup>32</sup> *Idem*: xii.

<sup>33</sup> The example advanced by HUME on p. 63 illustrates this complementarity and coordination perfectly.

<sup>34</sup> *Idem*: 95.

<sup>35</sup> *Ibidem*: 73.

<sup>36</sup> *Ibidem*: 62.



## **The States**

The action of the mediation group was closely monitored and supplemented, at all times, by the diplomacy of various states, especially when it came to resolving issues of great complexity or when the parties were more reluctant to reach an agreement. African and Western governments were needed at various stages of the talks, in order to: overcome the impasse between the heads of the delegations based in Rome; talk to the top leaders; create legitimacy and set deadlines; and force the convergence of opinion on issues that otherwise would still be unresolved<sup>37</sup>. According to Chester Crocker, the discreet conduct of official diplomacy was instrumental in the formulation of the sequence of issues to be addressed and in defining the way forward in the field of military and constitutional arrangements<sup>38</sup>.

The Italian diplomacy was at the forefront of these initiatives, as it tirelessly promoted and organized many meetings among the leaders of the factions and ensured the presidency of the Joint Verification Commission (JVC) through its ambassador in Maputo<sup>39</sup>. Italy was also deeply involved in various good offices' initiatives and in shuttle diplomacy, through its ambassador in Maputo, who met several times with Dhlakama and Chissano<sup>40</sup>. In addition, the Italian Government borne much of the expenses, including travel and accommodation of the delegations, and the political coverage of the mediation. In early 1992, the Italian Parliament authorized the government to use up to 1% of its foreign aid budget in favour of the peace process. In addition to its representative in the mediation group, there was direct and effective involvement of the Italian government and diplomacy in the mediation process.

The United States also played a crucial role right from the start of the talks, providing technical advice, encouragement and public support for the peace process. They formed a team of personnel from the State Department to constantly monitor the progress of the talks, and it provided decisive support to the mediation group, particularly to the RENAMO delegation, in technical areas that required the assistance of experts. To help overcome some negotiating difficulties, members of this team, acting in tandem with the mediation group, met separately with delegations to convince them to adopt more flexible positions.

The U.S. involvement was not limited to the team that followed the talks. In moments of impasse, the United States intervened at a "high" level, "advising" the parties, particularly RENAMO, to moderate their positions. The U.S. presence in the negotiations was critical because of the "persuasiveness" they possessed on the litigants, RENAMO in particular. The Italian and American governments, especially the latter, followed a formulative strategy which, in some cases, showed signs of typical manipulation strategy.

From October 1991, the U.S. support to the mediation process became more active, significantly increasing the involvement of its diplomacy in the talks. Both the Secretary

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<sup>37</sup> *Ibidem*: xi.

<sup>38</sup> *Ibidem*.

<sup>39</sup> Apparently, the only one who ignored the instrumental role of Italian diplomacy in support of the talks was the actual Italian Foreign Minister, when, in February 1992, he suggested that Italy also joined the talks as an official observer. HUME, *op. cit.*, p.90.

<sup>40</sup> *Idem*: 127.



of State for African Affairs, Herman Cohen, as his assistant, Jeffrey Davidow, started to meet more often, not only with the leaders of the factions, in parallel diplomacy to that of the mediation group, to "help" them give more rapid and certain steps towards peace, but also with African leaders whose contribution to the peace process could be important. The involvement of U.S. diplomacy was also essential to ensure the presence of the UN in implementing the security agreement, and guarantee the connection with the Security Council.

The collaboration of several neighbouring states with the mediation group was also important. Supplementing its action, they put pressure on Chissano and Dhlakama not to leave the dialogue and to make concrete decisions. Various African statesmen helped the mediation group in the final phase of the talks. Mugabe was perhaps the most important African leader in this task. In September 1992, the mediation group urged Mugabe to help overcome an impasse over negotiations. The delegations in Rome were not able to reach an agreement on the size of the Armed Forces, the reform of police and security services, and how to organize the civil administration in areas controlled by RENAMO. Mugabe arranged a meeting between Dhlakama and Chissano in Botswana, where they agreed to set up a committee to oversee the security services.

When military matters and how to implement them started to be discussed, the Italian Government took an even more prominent role, providing the mediation group with experts to guide and direct the discussion. This forced the introduction of changes in the structure of the talks, namely increasing the size of delegations to include teams of military experts, including those provided by the observer countries (France, Portugal, UK and USA)<sup>41</sup>.

The convenience of involving a hard nucleus of countries that could offer the mediation group and delegations not only technical advice on these issues, but also potentially contribute with military forces to implement the peace agreement, apart from the participation of the UN itself, became evident. With the exception of Italy and the U.S., the behaviour of the remaining state actors was characterized by facilitating contacts, exploring the persuasiveness capacity of certain African leaders on their Mozambican partners.

### ***The United Nations and Other Non-State Actors***

The UN and Tiny Rowland also collaborated in the peace process, but in a very different way. In the list of players who participated in the peace process we must inevitably include the UN, not forgetting, among other particularly important things that it led, the coordination with key governments in the region and the organization of a donor's conference in Maputo. To implement the agreements it was necessary to mobilize the contribution of other actors to a resource pool. Once the peace agreement was signed, it was necessary to implement it, and this was where the role of the UN was crucial.

The procedures of this implementation had to be negotiated with the UN itself. Unlike the mediation group, the UN Secretary-General could now deal with the parties from a strong institutional position, which included permanent detailed rules for the peacekeeping, the management of humanitarian aid programmes, a network of state

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<sup>41</sup> It was in this context that in June 1992, at the 10th round of negotiations, the invitation to France, Portugal, United Kingdom, U.S., and the UN to join the talks with observer status was approved.



donors of money and manpower, and the requirement of approval of the SC<sup>42</sup>. As noted earlier, Tiny Rowland played an important role in providing air transportation to the delegations and Mozambican leaders when and where necessary.

## Conclusions

The analysis of the Mozambican peace process led us to four main conclusions. First, the case study does not empirically demonstrate the thesis that informal intermediaries and NGOs in particular are the most appropriate type of mediator to conduct the mediation of violent intra-state conflicts. The mediation of the Mozambican peace process cannot be considered an action of the T1, 5D type, let alone one of the T2D type<sup>43</sup>. As such, supporting that view has no empirical validity. Reducing the Mozambican peace talks to the role played by the Community of Sant'Egidio is factually incorrect, because it was never a true mediator<sup>44</sup>.

Secondly, the peace mediation was a multi-track process in which the states played a decisive role. We found it to be equally inaccurate to attribute the merit of the peace initiative to the Community of Sant'Egidio and the Vatican, to the detriment of the role played by states, where the Italian and American figured prominently. The collective mediation arrangement adopted, which included representatives of a State, of an NGO and a Church was, undoubtedly, *sui generis*. But due to the limited resources at their disposal, the ability of the mediation group to influence and persuade the factions' litigants was very limited. Whenever there was an impasse whose resolution appeared to be more difficult, the mediation group had to ask for the diplomatic assistance of influential states endowed with the resources they lacked (mainly Italy, the U.S. and Zimbabwe). In practice, what prevailed was the diplomacy of states.

Third, in light of the Mozambican peace process, we found that NGOs and TD2 processes may, in general, complement the action of traditional agents (states and international organizations), but are still far from being able to replace them or even take action on an equal footing. Due to the fact that NGOs lack the legitimacy, capacity or the stability of sovereign states, the latter still continue to play an indispensable and irreplaceable role, which attests the vital importance of formal mediation in the management of violent conflicts.

*Fourth, Mozambique's case has shown the reconciliation potential of the designated sources of social power, including ideological ones, in this case expressed through religion and religious elites (Mann, 1986). This is a topic whose application to conflict resolution has been insufficiently studied and that goes beyond the scope of this work. The Anglican and Catholic elites contributed greatly for the success of the peace talks, as they acted in a concerted way with the leaders of FRELIMO and RENAMO, their religious supporters. Not only was most of the leadership of RENAMO Catholic, as mentioned above, but the leadership of FRELIMO had many Anglican Church followers. If Chissano and Dhlakama had been Muslims, the influence of Christian religious elites*

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<sup>42</sup> *Ibidem*: 139.

<sup>43</sup> Crocker stressed that negotiations of the Mozambican case were in no way a pure example of T2D. *Ibidem*, p. xi.

<sup>44</sup> As mentioned in the text, the Community of Sant'Egidio only contributed with two members to the mediation group, which included one representative of the Mozambican Church and another from the Italian Government.



*on them would have been completely different. In an attempt to act on the success of the Mozambique case - poorly understood and poorly studied - the Community of Sant'Egidio later tried to get involved in mediating the conflict in Kosovo, without any result. It missed a correct interpretation of events in Mozambique.*

We think that the conclusions we have reached after examining the case of Mozambique can be generalized. Unlike championed by many schools of thought, this case empirically confirms our argument and the critical importance of T1D in the management of violent conflicts. In these cases, T2D may support the efforts of diplomacy, but will always play a secondary role and support. T2D and, therefore, the involvement of NGOs, may be particularly important in other life stages of a conflict, for example, during peacebuilding, in supporting reconciliation between estranged groups. One cannot underestimate in any way the role played by these organizations, for example, in humanitarian action or in support given to the reconstruction of war-torn societies, but not in violent conflict mediation. The direct involvement of NGOs in the mediation of violent conflict has not been common, but the few cases they were involved in cannot be considered successes. The number of NGO interventions in this area speaks for itself<sup>45</sup>.

The T1, T2D and 5D concepts are very appealing, but whose usefulness is questionable when applied to the management of violent conflicts. The same can be said with regard to civil society's involvement in mediation of violent conflicts. This is an equally appealing idea that collapses when one considers that violent conflicts tend to occur in pre-modern societies, without an active civil society, or in more developed societies but in which civil society organizations have been destroyed by violence, reducing its potential ability to influence and persuade due to their tiny size.

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<sup>45</sup> Among others, we stress the talks between the Nigerian government and the rebel leaders of Biafra during the 1967-70 conflict, under the auspices of the Quakers; the disastrous experience of the Community of Sant'Egidio in Uganda in the mid 1990s; the coalition of NGOs in mediating a ceasefire in Sudan in the 1970s; the Inter-Religious Council in Sierra Leone; and other NGOs in Abkhazia, South Ossetia and Transnistria.



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## **THE AVIATION INDUSTRY CORPORATION OF CHINA (AVIC) AND THE RESEARCH AND DEVELOPMENT PROGRAMME OF THE J-20\***

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### **Abstract**

China's development of a fifth generation fighter (J-20) was deemed inevitable over a decade ago, materializing a qualitative research and development leap forward in its military aviation industry.

This and other technological leaps were much more pronounced in the last decade and were a result of national support programmes to education, research and technology, of indirect technology transfer processes from the European Union, the United States of America, Ukraine, Israel, Brazil, and Russia and, not least important, of reform and reconversion policies of the defence industry, which started in the early nineties and continued in the first decade of the 21<sup>st</sup> century.

The present article analyzes and expresses some considerations and implications over the research, development and production process of the J-20 fighter.

\* This article does not represent the opinion of the National Defence Institute on the topic, and is the sole responsibility of the author.

### **Keywords**

China: defence industry; aviation industry; national defence; J-20

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## **THE AVIATION INDUSTRY CORPORATION OF CHINA (AVIC) AND THE RESEARCH AND DEVELOPMENT PROGRAMME OF THE J-20**

**Alexandre Carrico**

### **Introduction**

The official photos released on 11 January 2011 of the “first flight” test of the new stealth fighter JXX (J-20) of the People’s Liberation Army Air Force (PLAAF) triggered a variety of analyses and reactions – some more cautions, others more alarmist, among the various establishments and political and military think tanks, both Asian and North American, on the regional strategic implications of the manufacturing and future operation of the J-20.

The timing of the public announcement and the dissemination of the corresponding pictures were not innocent (as nothing is when it has the official seal of the Zhongnanhai), and a direct correlation was made with the visit to Beijing by US Secretary of Defence Robert Gates, which took place between 9 and 12 January<sup>1</sup>.

In fact, the way the entire process was conducted raises some intriguing questions for those who track and monitor not only the official media, such as Chinese websites, blogs and micro-blogs on generic or defence affairs. Through the systematic crossing of that information, which is often scattered and somehow incongruous, it is possible to discern and delineate potential operating mechanisms with regard to the methodology to disseminate the J-20 “test flight” over the Internet, the first pictures of the prototype doing runway tests beginning to appear on 22 December 2010, 3 weeks before the visit of Robert Gates, and the video made available on the actual day of the flight<sup>2</sup>. In terms of the progress of the 5<sup>th</sup> generation fighters testing programme, this occurred much earlier than what most western experts expected.

Regardless of these developments, which came as a surprise only to the less attentive, the manufacturing of 5<sup>th</sup> generation fighter by China was deemed to be inevitable for over a decade, which was further reinforced by recent declarations, such as those made by Lieutenant-General He Weirong<sup>3</sup>, suggesting a high degree of confidence of the People’s Liberation Army (PLA) on the progress made hitherto in this project.

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<sup>1</sup> It is interesting to note that the test flight of the J-20 on 11 January was carried out exactly three years after the first anti-satellite and a year after the first antiballistic missile made by China. According to some Chinese military blogs, China’s future President Xi Jinping (currently Vice-President of the Central Military Commission) and Wu Bangguo (from the Politburo Standing Committee) were in Chengdu on 10 January, but due to bad weather conditions, the test flight was postponed to the following day.

<sup>2</sup> Through website <http://www.56.com>

<sup>3</sup> For example, in November 2009, the Deputy Commander of the People’s Liberation Army Air Force, Lieutenant-General He Weirong, stated in an interview to state television channel CCTV that the forth generation of Chinese fighters (the fifth, in West terms) would soon be entering into the testing phase and could be operational within eight to ten years. (Sweetman, 2011). We understand that being



The remarkable technological leaps undertaken by both the civil<sup>4</sup> and military Chinese aviation industry over the last decade were, to a large extent, the product of national projects supporting the development of education, research and technology (Programme 863<sup>5</sup>, Programme 973<sup>6</sup>, Project 511<sup>7</sup>, and Project 211<sup>8</sup>), in addition to the indirect transfer of technology from Europe (through the purchase of Airbus commercial aircrafts), the US (acquisition of Boeing airplanes), Ukraine (partnership with Antonov), Brazil (planes from Embraer), Israel (the J-10 fighter was developed after the Lavi fighter, which has a lot of North-American technology from the F-16) and Russian (co-production of Su-27 fighters agreements, imports of Su-30 and of Il-76 transport aircrafts) (Tsai, 2003: 158-162), and, not least, the restructuring and conversion of China's defence industry sector (Stratfor, 2011)<sup>9</sup>.

Still, Chinese aeronautical engineers still face huge technological obstacles, particularly in terms of engines, mostly if we consider that most J-10 and J-11 fighters (which are a Chinese version of Su-27 under a co-production licence) are equipped with Lyulka-Saturn AL-31F and AL-31-117S engines, built in Russia.

On the other hand, knowing that *stealth* technology is more difficult to develop in an effective manner, particularly in terms of the heat emissions from engines, which is essential for the non-detection of aircrafts by radar and infra-red sensors, this could become one of the major challenges that engineers from the Chengdu Aircraft Industry Corporation (CAIC) will continue to face.

Despite these difficulties, China's progress in this area has been remarkable, and, together with the Russian model Sukhoi PAK FA or T-50 – which is equally undergoing the testing phase and is expected to become operational between 2015 and 2017, they contribute to China and Russia nurturing the growing pressure of the US industrial complex (through Lockheed Martin, Boeing and Pratt & Whitney) not to buy "merely" F-22 Raptor stealth fighters, but also to strengthen funds for the acquisition of the F-35 (Hartung, 2010).

The present article makes a general analysis of the research process and development of the J-20 fighter, and lists some future challenges on its production.

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*operational means having at least one Regiment equipped with this aircraft and crews who have completed basic training about how to operate it.*

<sup>4</sup> The ARJ21-700, a commercial airplane totally made in China (built by AVIC), is now undergoing the testing stage. Its prototype was shown to the public in November 2010 on the occasion of the Zuhai aeronautical festival and exhibition (Deng, 2011).

<sup>5</sup> This Plan aims to promote the development of new technologies through civilian and military cooperation. It is run by the Ministry of Science and Technology, and comes as the Chinese response to the North-American Strategic Defence Initiative and the EU's Eureka (Feigenbaum, 2003: 160-170).

<sup>6</sup> National Research Programme.

<sup>7</sup> Programme of the Commission of Science, Technology and Industry for National Defence (COCTIDN) for the training and education of researchers for R&D in defence.

<sup>8</sup> Programme of the Ministry of Education aimed at improving the quality of teaching and research in one hundred Chinese universities.

<sup>9</sup> On 24 February 2011, the Chinese Government announced it would invest 227.3 thousand million dollars over the next 5 years in the aviation sector, and that this will include expanding the fleet of commercial aircraft from the current 2600 to 4500 by 2015 (Stratfor, 2011a). On the occasion of the visit of President Dilma Rouseff to Beijing in April 2011, an agreement to buy 35 E190 airplanes from *Embraer* and for the co-production of the Legacy 600 model between *Embraer* and *AVIC* was made (Stratfor, 2011b).



## Considerations on the Research and Development process of the J-20

The research and development (R&D) process of the J-20 (whose official name has not yet been disclosed) began just over two decades ago (1989) at AVIC, specifically in one of its subsidiaries: Chengdu Aircraft Industry Corporation (Fischer, 2011: 54). In 2001, company documents were analyzing the aerodynamic advantages of the configuration of delta fixed wings projected from the base of the bottom side of the fuselage, and not from the lateral side, as presented by the J-20 (Fischer, 2010).

According to some experts, these documents clearly show the similarities with the ill-fated Soviet design of the MiG 1.42, and it is likely that Russia has provided these plans under the existing bilateral military cooperation, despite the fact that Moscow has initially refused to participate in a joint development programme of the MiG 1.42 (Dzouza, 2011a and Tsai, 2003: 171). If this indeed happened, and in order to reassure the most conservative sectors of the Russian military-industrial complex – which are suspicious of the strengthening of this cooperation and wish to protect the competitiveness and added value of state enterprises such as Sukhoi – we can extrapolate a possible justification for the Kremlin's decision to cede the partial plans of the MiG 1.42, because it had already decided to move forward with the development of the more sophisticated Sukhoi T-50. It is also possible that CAIC has had some engineering support from its state rival Shenyang Aircraft Corporation (SAC), which earlier in the decade was also developing a similar project (J-9) and in 2007, due to political reasons, economies of scale and resource management, may have suspended this programme (called 2-03) and transferred its know-how to CAIC, authorizing the beginning of production of the first prototypes<sup>10</sup>. Indeed, SAC has better accrued experience in the design and building of twin-engine fighters, like the J-11 group, (the Chinese version of Su-27), which produces under Russian licence, although it has had problems with regard to the engines, as we shall see later on.

It is believed that the J-20 prototype, whose images of the "first flight" were widely divulged and shown in the media, is the first of a series of prototypes (two have been confirmed, but there must be a third<sup>11</sup>) to be manufactured, and it is possible that the final version for purposes of production will have some significant changes with regard to this first model<sup>12</sup>. It is not credible that the J-20 is a "technology demonstrator" as some commentators have said, given the operational importance that the entry into service of this type of airplane may have in the consolidation of China's strategy of denying U.S. forces access to the maritime areas and airspace over the first group of islands in the Pacific (Thompson, 2011).

The specific technological and avionic characteristics of the J-20 are unknown, although some general points have been disclosed (s.a., 2011a). The fact that one of the prototypes has two FWS-10 engines (in future possibly replaced by the WS-15 engine or equivalent) suggests that it will have a large range (about 1200 km) and a reasonable capacity to transport bombs and missiles, due to its size, as suggested by a few experts who compared the photos that were published against a tank truck parked

<sup>10</sup> Author's deduction following a conversation with a senior officer of the PLA Air Force during a visit to Shenyang in November 2007. Cf. (Fischer, 2011: 54)

<sup>11</sup> According to the "three moves in a chess game" strategy (*Sanbuqi*), which states that 3 prototypes of each model must be built for each of the three R&D cycles: preliminary research; design development, testing, reviewing and finalizing the design; and initial production (Stokes, 2009: 10).

<sup>12</sup> Unlike other prototypes of Chinese fighters, which are painted yellow, J-20 prototypes are painted green.



on the track (Kahotih, 2011). The design of its fuselage seems to indicate a low profile and an electromagnetic and thermal signature before radars. However, the delta-shaped wings of variable geometry and the presence of small fixed-wings at the cockpit junction (canards) – typical of 4th generation models such as Typhoon, Gripen or the Rafale – make it very similar to the Su-42, which favours performance and manoeuvrability at the expense of stealth- for which reason this model does not seem to be the most suitable for this purpose, in addition to the rear of the aircraft, in the area where the engines are located, which also appears to be little stealthy in terms of design.

Despite the presence of canards, the design of this part of the plane seems to indicate some concern with the acquisition of some tactical advantage in case of air combat beyond the visual horizon or ground attack missions, minimizing its detection by anti-aircraft defences (s.a., 2011b). In addition, the fact that it has two supersonic and steerable side intakes, instead of the more traditional and mechanically more complex intake of variable geometry, shows a clear similarity with the U.S. F-35; if we add the shape of the nose of the plane (including the cockpit) and the internal concealment of the weapons systems in the fuselage (typical of the F-22 design), it becomes absolutely evident that there is a clear intention to reduce the signature of the aircraft in the presence of radars.

As for the weapons and avionic systems, the radars and the engines, a reading of websites and specialist magazines reveal possibilities and versions that are too general, which, nonetheless, deserve a brief mention.

For most experts, the Zuhai air show and CIDEX 2010 are a good gauge to assess the development potential of China's aviation and electronics industries in the field of precision missiles, both air-air or air-ground, and the several models exhibited in Zuhai may have a high degree of compatibility with the mission and capacities of the J-20, the same applying to the avionics systems, which have found in the J-10B fighter a good platform for testing and improvement<sup>13</sup>.

With regard to issues involving aerodynamics, the quick and consistent development of China in this area is almost a consensus. For which reason there are no insurmountable obstacles for the J-20. However, there are two areas where such obstacles and difficulties are conspicuous: the one regarding "stealth" composite materials, and engines<sup>14</sup>. Concerning composite materials, it can be said that China is capable of autonomous production of carbon polymers, titanium and other composites which, with modifications, can be used in 5th generation fighters, in part thanks to the commercial partnerships with Airbus and Boeing<sup>15</sup>.

<sup>13</sup> In 2006 a model of the J-20 cockpit was exhibited in Zuhai (Fischer, 2011: 54).

<sup>14</sup> For Richard Aboulafia, an analyst at the *US Teal Group*, there are at least eleven support systems that are essential to operate a fighter plane, of which we shall refer to only seven: good mission planning, high level of preparedness and professionalism of pilots, high level of technical training of the maintenance personnel on the ground, sophisticated weapons systems, advanced electronic and radar systems strengthened by a good command and control system and a reliable system for refuelling during the flight. This author argues that China is only proficient in one: the manufacturing of the frame of the plane, not including the engines. This author is completely mistaken. (Aboulafia, 2011).

<sup>15</sup> The plan to set up COMAC was approved in February 2007 by the National People's Congress, which delegated the start of operations of the company by the end of 2008 to a preparatory committee led by COCTIDN (Cliff *et al*, 2011).



This process started in the nineties by establishing assembly lines of McDonnell Douglas commercial aircraft in Shanghai and through the subsequent technology transfer in exchange for the acquisition of tens of planes from both Boeing and Airbus to strengthen Chinese airlines (Gill e Kim, 1995: 88-89).

Currently, there are a few joint-ventures between AVIC, General Electric and Good Rich to manufacture parts for the new C-919 commercial airplane. The O Harbin Industrial Aviation Group (HIAG) is a supplier of composite materials to the A350 plane of Airbus<sup>16</sup>. AVIC has a partnership with Hexcel and Boeing with respect to the production of the same materials, enhanced by the acquisition of the Austrian composite materials company Fischer Advanced Composite Components in December 2009.

The Shanghai Aircraft Industrial Corporation (SAIC) is responsible for the manufacturing of the entire fuselage in aluminium and lithium for planes of the Bombardier C series, as well as for supplying parts to CESSNA and Boeing. Baoji and Hong Yuan are two of the largest producers of titanium, providing 95% of the needs of the Chinese aviation industry (Andersen, 2008).

Additionally, and given the expansion of the Chinese commercial aviation, the China Commercial Aircraft Company (COMAC) was set up in May 2008, based in Shanghai, with the purpose of competing with Boeing and Airbus on the international market from 2020. It results from a partnership between the State-owned Assets Supervision and Administration Commission of the State Council, the municipality of Shanghai – via the Guosheng Business Group - the Baosteel Group, Aluminum Corporation, Sinochem, and AVIC (Liu, 2008: 16-18).

The latter will inject 1.52 billion dollars by 2015 and will be responsible for the manufacture of engines for the various models – through the Shanghai Aircraft Manufacturing Factory and the Shanghai branch of the First Aircraft Institute – the first of which will be aircraft to be used in regional routes not exceeding 1800 km (ARJ-21) and later for long haul flights commercial aircraft (C-919), in addition to the manufacture of civilian transport helicopters (Perrett, 2010).

The projects of these two planes will add value to the Chinese aviation as they will be the first to force the industry to manage a sophisticated international network of over fifteen suppliers of parts and components. The importance attached to this company is immediately shown in the fact that its chairman and vice-chairman, Zhang Qingmei and Jia Zhuanglong, respectively, were the former director, and deputy director of COCTIDN, and that He Dongfeng (another director) was the manager of Factory 211 of the China Academy of Launch Technology and of the space industry based in Sichuan.

These appointments illustrate the fact that the research and building programme of a long haul commercial airplane has been defined as one of the sixteen priorities listed in the Medium/Long Term (2006-2020) National Programme for Scientific and Technological Development, coupled by the fact that COMAC is under the direct purview of the State Council.

These recent developments and agreements signed by the Chinese government in the context of commercial aviation will certainly lead to a new upgrade in the technological

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<sup>16</sup> By 2016 China will have bought 300 Airbus A320 aircraft which will be fully assembled in the country. The European consortium has established a new joint-venture to produce composite materials for A350XWB in Harbin (Lu, 2007).



spin off that the Chinese aviation industry may achieve, as some of this industry has military applications, particularly with regard to the J-20<sup>17</sup>.

Finally, with regard to the development of propulsion engines, the majority of experts agree that there are problems related to the manufacturing technology of high performance engines, which, despite considerable improvement, still remains the "Achilles' heel" of the Chinese aviation industry.

The video<sup>18</sup> analysis and the several photos of the J-20 test flight clearly indicate that it took off from a shorter distance than the J-10 planes that use the same track, without needing to resort to afterburners, exposing the upgrading of the FWS-10 engines. Eventually the FWS-10G version generates a power similar to that produced by the AL-31 engines manufactured in Russia and which may also have been assembled on the second prototype of the J-20<sup>19</sup>.

It is understandable that the PLA did not want to risk a test flight of its flagship projects – and divulge it publically – without having a reliable engine basis, even with the loss of stealth (in this case most likely FWS-10), as the reliability problems in the engines can only be discovered after they have been installed on planes and flight tested for many hours. Accordingly, it might be interesting to follow the successive charges of the various J-20 prototypes that will be produced, particularly with regard to the engines that will power them: WS-10G, WS-15 or 117S (Russian built and which the CAIC purchased in small numbers in 2007).

In this context, it is interesting to note that the second flight of the J-20 on 17 April 2011 (which coincided with the 60th anniversary of the creation of the Chinese aviation industry) took place in the same military airport in Chengdu, lasted 85 minutes and was part of a series of initial tests designed to gauge the plane in terms of stability, manoeuvrability and performance.

The photos available show that the engines of this model are identical to those used in the first flight in January, which may indicate that either it is the same prototype that flew in January, or that the two prototypes have the same engines, as stated earlier.

However, it seems that China does not wish to depend on other countries in regard to the supply of components for the 5<sup>th</sup> generation of fighters. Considering the recent Russian allegations about the technology reversal concerning the J-11 and J-15, which led to a reduction in the purchase of Su-30MK, it is believed that the Kremlin will no longer authorize the sale of sophisticated engines such as the 117S/Al-41 – which runs on the Su T-50 (s.a., 2011c).

Thus, this is a difficult path, but not necessarily a slow one, until Chinese manufacturers attain the production quality of General Electric, Pratt & Whitney or Rolls Royce, and it may be interesting to see which company will be assigned the production

<sup>17</sup> During his visit to France in November 2010 and to the U.S. in January 2011, Hu Jintao signed agreements for the Chinese commercial aviation sector that totalled 30.4 and 45 billion dollars, respectively (Wang, 2011).

<sup>18</sup> Available at <http://www.educatedearth.net/video.php?id=4518> [18 January 2011].

<sup>19</sup> It should be noted that J-10 and J-11 fighters still depend on Russian built AL-31F engines. The new J-11B which have recently started to be used in two Regiments (one from the Navy and another from the Air Force) are equipped with the new FWS-10<sup>a</sup> engines built by Shenyang Liming (or factory 606), which is known among its Chinese counterparts by the huge technical problems it has faced in the manufacture of engines, both due to quality control reasons and to poor management of projects, which have suffered systematic delays.



of the J-20 engines. At this point there are two likely possibilities: either Shenyang Aeroengine Research Institute (not to be mistaken with the Shenyang Liming) or Xi'an Aeroengine PLC (also known as Factory 410). If the choice falls on the first option, we may be facing a decision based on technical criteria associated with industrial and technical capacity to improve the current engine, as the Institute may benefit from the know-how acquired to transfer it to other engine projects under development, such as the QC-280, WS-10G and WS-10-118.

Choosing the second option may be based on the reliability criteria of Factory 410, which has been mass-producing reliable WS-9 engines for the JH-7 fighter and is responsible for supplying half of the components of the WS-10 engine, bypasses for engines of the Y-20 heavy transport plane, and for the construction of the WS-15 engine (the strongest candidate to equip the J-20), which should soon be ready to be mass-produced. The recent announcement that Factory 410 signed a joint-venture with Nexcelle (of General Electric) to produce the passenger commercial airplane COMAC C-919 may be another asset for the company to improve its project management and quality control mechanisms (s.a., 2011d).

However, one may pose the question why the government does not close down Liming and transfer the entire production to Xi'an Aeroengine PLC or any other manufacturer, for the benefit of deepening the consolidation process of the aviation sector, given that in 2007 the Guizhou Honglin Factory of CAIC acquired the plans of the WS-10 engine and started to build a more "muscled" version. One possible explanation could be the intention to foster competition internally, where other manufacturers with the standard of Liming, such as Guizhou Liyang or Chengfa Group, also co-exist (Factory 420). Another has to do with the negative socio-economic impact that this would bring to the city of Shenyang (the pivot of the Chinese rust belt) and which was quite affected by unemployment in the nineties due to the restructuring of the national steel sector. Only a deeper analysis of the real technical capacities of the potential of both – which goes beyond the scope of this article – will allow a glimpse of possible justifications for continuing, for the time being, this decision of the Council of State.

Within the conglomerate that AVIC is, the J-20 project appears to have catapulted the Chengdu Aircraft Industry Corporation and its Institute 611 to a position of supremacy over the Shenyang Aircraft Corporation and Institute 601, which was coming into position when CAIC won over SAC in the tender for the development and production of the J-10 fighter, as well as the export contracts of the J-7 and the JF-17 (with SAC keeping just the development and production of variants of the J-8, which always had technical problems in the radar subsystems and missiles that only recently have been resolved)<sup>20</sup>.

These projects – most notably the J-10 one – were like an "Apollo Programme" for the Chinese aviation industry, throwing a new and entire generation of engineers (currently just over thirty years of age)<sup>21</sup> into the complexity of the processes of research, development and production of military aircraft, which will be China's R&D backbone over the ext two decades.

<sup>20</sup> It is estimated that each J-10 costs 27.8 million dollars compared to the 18.8 million that F-16 C/D costs. As for the J-20, its costs range from 100 to 120 million versus the cost of 143 million of the F-22 and the 11.1 of the F-35A, and 100 million less than the Su T-50 (Dsouza, 2011b).

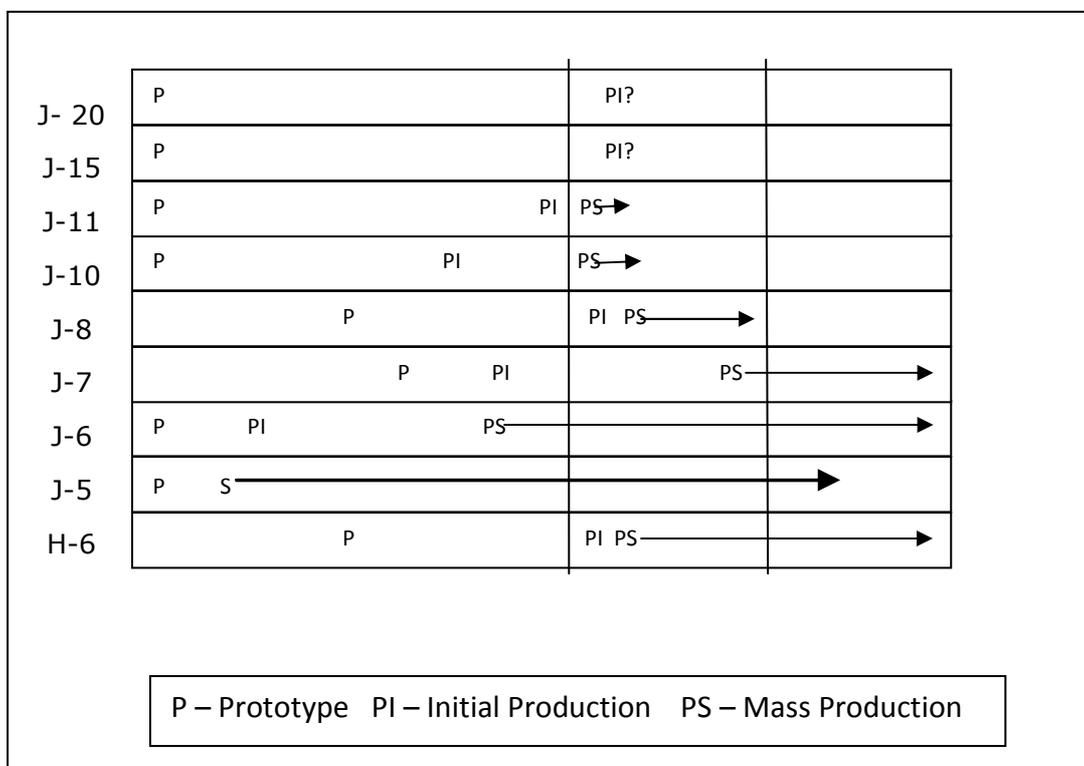
<sup>21</sup> Conversation held in Beijing between the author and a Senior Officer of the PLA Air Force in October 2007.



This accrued experience will be valuable and much more enhanced as these engineers become more mature and gain know-how to solve problems connected to this type of projects. In this light, and for CAIC, the best is yet to come.

However, it is fair to highlight that SAC<sup>22</sup> made a very commendable effort to produce Su-27 from plans supplied by Russia, and in a short time managed to start the production of J-11B and J-11Bs fighters, which caused some surprise among the Russian partners and accusations of technology reversal<sup>23</sup>. In fact, the J-11B has had huge problems in terms of the WS-10A engines manufactured by Shenyang Liming, and there are technical indications that suggest that the production of a larger number of J-11B only began in 2011.

Figure 1 – Research, Development and Production Cycle of Aircraft for the AF of the PLA



However, this may be a future asset, since SAC has been developing and testing the J-15<sup>24</sup> prototype, and its experience in the production of high quality titanium and

<sup>22</sup> Founded in 1951, it was pioneer in the manufacture of Chinese combat aircraft and supported the creation of other companies, such as CAIC. Its great blemish is the lack of innovative capacity, often attested by the tendency to resort to copy-paste or technology reversal.

<sup>23</sup> This technology reversal had previously been carried out with the MiG-21 and applied on the J-7. In fact, we believe that what must be highlighted is the short learning curve that SAC engineers showed in assimilating the design and manufacture of the structural elements of aluminium and titanium aircrafts (You, 1999: 159).

<sup>24</sup> Also known as J-18, it is modelled on the Su-33 and most likely will become operational in 2015 and is allocated to the Varyag aircraft carrier, which is in the final stages of refurbishment in Dalian. At the end of April, it was reported that this model underwent flight testing from an air base in Inner Mongolia (s.a., 2011e).



aluminium alloys used on the J-11 have been, are, and will be essential for the J-20 project.

Still, the disclosure of the J-20 flight has caused some misgivings about the Chinese indigenous capacity to develop this prototype in a relatively short time without resorting to external technical assistance, bearing in mind the references of previous models (Figure 1)<sup>25</sup>.

In fact, some rumours started to circulate, most of which referring to the strong possibility that Beijing had acquired plans and technology by means of industrial and military espionage, but minimizing the fact that the United States have a lot of sensitive and important technological information available through open sources, allowing China to direct its spying activities on to very specific targets (Gorma *et al*, 2011). Suspicion falls on the composite materials used in the fuselage, whose research and development may have been facilitated through the acquisition of parts of the F-117 – namely fuselage with inherent analysis of the coverage and painting technique employed, thermal stealth and engine radiation technology, and analysis of the navigation systems (Fischer, 2010: 35) – brought down by the Serbs in 1999 on the occasion of NATO's campaign and aerial bombing of Kosovo, during which the Chinese Embassy in Belgrade was accidentally bombed. Given the close relations and cooperation between Serbia, China and Russia, it is very likely that many parts of the F-117 were taken to Beijing and to Moscow (Gertz, 2011).

The benefits stemming from the cooperation with Israel regarding the Lavi and the J-10 fighters (Israeli and Chinese designations, respectively) should also not be overlooked, as both fighters are very much based on the F-16 technology, which, even if it did not influence the development of the J-20, may have generated synergies in terms of indigenous know-how.

Finally, the increasingly publicized examples of Chinese cyber-espionage, including the alleged obtaining, by Chinese hackers, of over three terabytes of unclassified information from the U.S. Department of Defence containing information on stealth technology, and the episode ten years ago when they also entered the internal network of a North American military centre located in California specializing in research and development of stealth technology – ironically called China Lake – may also have provided much vital information for the design of the J-20<sup>26</sup>.

## Final considerations

The new methodology adopted by Beijing as part of the restructuring and modernization of its defence industry and, in particular, its aviation, is based on the careful selection of projects considered as priorities, allocating them almost unlimited funds through the Weapons and Equipment Research Fund, the Defence Transversal

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<sup>25</sup> For example, the first F-22 prototype appeared in 1991 (after fifteen years of studies), with the first aircraft being operational in 2003. Estimates on the F-35 point to a decade between the first prototype and the first entry into service, which is understandable, given the fact that it is a vertical take-off stealth fighter.

<sup>26</sup> See the annual reports of the U.S. Defense Security Service entitled *Technology Collection Trends in the U.S. Defense Industry* available at <http://www.dss.smil.mil>. The reports of this Pentagon agency responsible for investigating espionage on U.S., although not referring to the countries that carry out such activities, group them into regions, with China being part of the Northeast Asia region, where the number of detected espionage activities is higher, which implies the preponderance of China.



Technologies Fund (both from DGA), the Innovation Fund of the China Aerospace Corporation and from Programmes 863 and 973 (Stokes, 2009: 11).

However, as the country becomes more prosperous and attains a more sophisticated Industrial and technological capacity, it is highly likely that this strategy will be changed and become more widespread as to its objectives. The military sectors of the electronic, aviation, shipbuilding and space industries currently lead the innovation processes, benefitting from a close cooperation with counterparts in the civil sector, the result of a top-down integration process that started in the late nineties and deepened since 2003.

The available data and the organizational and technological advances made in the last decade and the multiple indicators for measuring technological developments – such as budgets for R&D, private investment, number of registered patents, scientific publications, commercial products, quality of human resources, leadership, organizational flexibility and corporate management – allow us at present to infer the continuation of rapid progress in these sectors of the defence industry over the next decade<sup>27</sup>.

In the more inclusive sector of the aviation industry, these developments enabled China to make a qualitative leap in the context of R&D and in the production of fighter and transport planes, as attested by the J-10, J-11 and, more recently, the J-15 and J-20 prototypes. In the latter case, and however impressive this native evolution may have been, the extremely likely fact that China may have had access to parts of the F-117 shot down in 1999 and to partial plans to manufacture 5th generation fighters from the United States by means of cyber-intrusion, which facilitated and shortened the R&D process of AVIC, must be emphasized.

Also, the agreements for the co-production of the Su-27 planes were an important milestone, as they enabled SAC and, indirectly, CAIC to improve their internal systems for project management and quality. At the same time, it launched a generation of young aeronautical engineers on to crash projects almost requiring on the job training, and whose accrued experience was reflected on the J-10 and will be demonstrated over the next decades in more sophisticated projects, such as the J-15 and J-20.

If we add the priority given to this type of high profile projects in terms of funding, it is very likely that the J-20 will enter service of the PLA AF before 2018 – the year advanced by most experts – which will make a more psychological rather than truly strategic impact at regional level<sup>28</sup>.

However, this may require that countries like Russia and the United States, to start with, followed by India<sup>29</sup>, Japan, and South Korea, to rethink, respectively, both the construction plans and the purchase of 5th generation combat planes such as Su T-50 (or PAK-FA) and F-22, in a new but now “more stealthy” phase of the current regional race to sophisticated weapons, a move that Europe is completely out of (Bitzinger, 2011), and which is not expected to be involved in, despite the liturgy and political

<sup>27</sup> Funds for R &D have increased an average of 25.5% per year since 2006. In 2009, it invested 89.9 billion compared to the 46 billion spent in 2006. At a meeting that brought together more than 300 research institutes of the PLA in April 2011, the R&D priority areas for the 12th Five Year Plan (2011-2015) were approved, where the J-20 is undoubtedly included (Luo, 2011).

<sup>28</sup> For an excellent analysis of this potential strategic impact see Kopp, 2011.

<sup>29</sup> In September 2010, India signed with Russia a memorandum of understanding for the joint development and production of 250 5<sup>th</sup> generation PAK-FA fighters, with initial costs for each of the parties of around 6 thousand million dollars (Shukla, 2010).



rhetoric associated with the discourse of the European Union as a global actor in security and defence in terms of hard security in the Asian region.

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## **THE INTERNATIONAL CRIMINAL COURT REFLECTIONS FOR A STRESS TEST ON ITS FOUNDATIONS**

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### **Abstract**

The constitution of the ICC in 2002 represents the ultimate example of the evolution of international criminal justice. The Court is referred to as a paradigmatic institution of the universalist concept of International Law, which envisages an enhanced international public order and which falls within the broader framework of the dominant liberal construct that currently characterizes both International Law and International Relations. However, the criticisms of universalism, in particular as regards the impositions of global liberal institutions and regulatory standards, are also reflected on the ICC. In particular, it has been met with several essential criticisms, such as its dependence on the Security Council, suggesting political interference in a criminal court, or the fact that until now only issues pertaining to Africa have been submitted to the Court, which in turn leads to suspicion about their selectivity. These are the criticisms that undermine the foundations of the ICC.

At a time when the Court has not yet concluded any trial, and when there is still some scepticism about the success of its mission, knowing what to expect from the ICC in its task of crime preventing and retribution and building peace depends largely on the strength of its theoretical foundations. It is argued that despite the seemingly solid support discourse rooted in universalism, the answers advanced by this theory are not fully satisfactory due largely to the structural weaknesses that characterise it. This article seeks to offer food for thought on the subject and starts by gauging the competence of legal universalism to support "its" ICC with regard to these issues. It then identifies the aspects that can be addressed in within a more complex context, such as critical theory, which may contribute to the development of a discourse that grants the Court greater theoretical sustainability.

### **Keywords**

International Criminal Court; International Law; Universalism; Critical Theory

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## **THE INTERNATIONAL CRIMINAL COURT REFLECTIONS FOR A STRESS TEST ON ITS FOUNDATIONS**

**Mateus Kowalski**

### **1. Introduction**

The implementation of the idea that any person, wherever he/she may be and regardless of official status may be liable for crimes relevant to the entire humanity represents a break with the Westphalian paradigm that presupposes that it is up to each state to do justice to "his" people. Various international criminal courts have been created after the Cold War, such as the *ad hoc* tribunals for the former Yugoslavia and Rwanda, and a permanent criminal court, the International Criminal Court (hereinafter "ICC"). Power is no longer a shield of impunity as before. The leaders involved in conflicts learned to fear international criminal justice as the "sword of Damocles". On the other hand, the creation of international criminal courts, in their various forms, has become a method for consolidating peace in post-conflict situations and a mechanism of restorative justice.

The constitution of the ICC in 2002 represents the ultimate example of the evolution of international criminal justice. The Court is referred to as a paradigmatic institution of the universalist concept of International Law, which envisages an enhanced international public order and which falls within the broader framework of the dominant liberal construct that currently characterizes both International Law and International Relations. As referred by Bogdandy and Dellavalle, «in the global context, the development of this project for a true international public order and a true international law is currently largely based on the fate of the International Criminal Law» (2008: 2). However, the criticisms directed to universalism, namely the imposition of liberal global institutions and regulatory standards, are also reflected on the ICC. These include, in particular, its dependence on the Security Council, suggesting political interference in a criminal court, or the fact that until now only issues pertaining to Africa have been submitted to the Court, which in turn leads to suspicion about their selectivity. These criticisms undermine the foundations of the ICC in the context of universalism.

At a time when the Court has not yet concluded any trial, and when there is still some scepticism about the success of its mission, knowing what to expect from the ICC in its task of crime preventing and retribution and of building peace depends largely on the strength of its theoretical foundations. This is the argument of the present study, which argues that despite the seemingly solid support discourse rooted in universalism, the answers advanced by this theory are not fully satisfactory due largely to the structural weaknesses that characterise it. Thus, subjecting the ICC to a stress test with regard to its theoretical foundations enables us to identify its stress points and, at the same time, seek other theoretical frameworks that may produce a discourse that holds and sustains it.

This article seeks to offer food for thought on the subject and starts by gauging the competence of legal universalism to support "its" ICC with regard to these issues. It



then attempts to identify the aspects that can be addressed within a more complex context, such as critical theory, which may grant the Court greater theoretical sustainability.

## **2. Universalism and the ICC**

Theorizing about the universality of public order, and particularly about the current debate around its constitutionalization is, at the level of International Law, an example of modern rationality that characterizes prevailing liberal thought. In turn, the narrative of liberal peace, whose agenda is part of the ICC, is a universalist concept with a rational basis (Richmond, 2008). Unlike what happens with conservative concepts of International Law, the currents of thought that embrace universalism argue that international public order is possible and advisable, even a logical construct led by reason (Dellavalle, 2010). These currents share a universal conception of public order that is underpinned by a fundamental normative core common to international players and institutions for collective action towards universal goals.

For universalism, International Law must comprehensively regulate international society in the various dimensions of human action in such a way that is not confined to the jurisdiction of the state and of its various stakeholders, including individuals. Achieving this goal requires the cooperation and partial integration among states (ideally democratic) in a process that is properly framed by international organizations.

The ideals of Kant about a cosmopolitan Law and of a world republic founded on reason constitute the starting point for the universalist understanding of public order which dominates today and is markedly present in prevailing liberal doctrine. The subjective mental process ruled by reason that is characteristic of each individual becomes the common element that underlies universalism.

The dilution of the power of the state into other political levels beyond it, increasingly stronger globalization of democracy, development and respect for human rights, chained to the practice of "good governance", cause new impulses and complement and deflate domestic constitutional frameworks. This is how the proposal for global constitutionalism is presented as an apology of universalism of objective rationality. Global constitutionalism is perhaps the most important structural change in recent times in International Law and has impacted profoundly on the debate around the subject (Machado, 2006). Basically, the proposal for universal constitutionalism offers a legal compensation to state constitutional shortages brought about by globalization (Peters, 2009).

The ICC clearly fits this liberal universalist conception, and this is shown in two ways: on the one hand, in the exercise of criminal justice beyond the State, and on the other, in the importance given to the individual as a subject relevant to international social relations.

As regards to the first, criminal prosecution is a power that traditionally forms part of the core sovereignty of States. The ICC represents a break with this classical postulate: the power for criminal prosecution is also exercised by an entity that stands beyond the public competencies of states. This international criminal prosecution power does not require authorization by the states. The investigation, arrest warrant and the trial may be triggered by a decision of the Court and may even oppose the will of the states



that have primary jurisdiction over it. This is the case when the jurisdiction has been established by the Prosecutor or by the Security Council under Article 13 of the ICC Statute, which may even imply the exercise of jurisdiction over states that are not Party to the Statute. This is reflected in the strengthening of the international public order, whereby it is granted criminal jurisdiction, similar to what happens in state orders.

As regards to the second point, it is worth noting that the Court exercises its action centred on the individual, as it aims, through the exercise of justice, at fulfilling the objectives of protecting and promoting human rights, restricting the use of force and reducing its effects on civilians. Under the ICC, these objectives denote a concern about the universal dignity of human beings, which is a concern of the international community and not merely of the state. But this centralization on individuals has also other equally important manifestations, such as the individuals' capacity to intervene in international criminal proceedings. However, none of the parties in the process is a state: rather, on the one side there is the Prosecutor, and on the other the defendant<sup>1</sup>. Then, the Prosecutor's investigation may have originated in information given by non-governmental organizations, which also contribute to the collection of documentary and testimonial evidence. It is also important to stress that an international employee, the ICC's Prosecutor, may, on his own initiative, start an investigation<sup>2</sup>. Finally, the victims intervene in the process, taking on a role similar to the one assigned to them in punishments decided by states.

### **3. Criticism of the ICC and the Response of Universalism**

Currently, the ICC has met with hard and lasting criticism with regard its foundations and which somehow reflects a concern about the decision to impose liberal "Western" ethical and regulatory solutions. This criticism is basically twofold: statutory and factual. Regardless of the fact that this criticism may be based on reasons of a juridical nature or on everyday political motivations, it is possible to identify, from a universalist perspective, arguments that seek to rebut those criticisms and support the ICC by means of a discourse anchored on objective rationality.

#### **3.1. Dependence on the Security Council**

Criticism that the action of the Court is excessively dependent on the Security Council and, therefore, largely determined by political rather than legal criteria of its jurisdiction, is a concern that refers to a statutory aspect. Indeed, the power of the Security Council over the action of the ICC is stated in the Statute of the Court, particularly in Articles 13 and 16.

Article 13, clause b) states that the Security Council may refer a situation in which there is evidence of serious crimes having been committed within the jurisdiction of the

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<sup>1</sup> The designation of cases brought to the ICC reflects the idea that we are dealing with an international accusation system where the parties are the Prosecutor and the defendant. For example, the first case of the ICC is called *Prosecutor v. Thomas Lubanga Dilo*.

<sup>2</sup> Article 15 of the Statute of the ICC.



ICC to the Prosecutor. Thus, of the seven cases under consideration<sup>3</sup>, two were submitted by the former. This power granted to the Security Council has, since the preparatory work behind the ICC Statute, met with several objections, ranging from the loss of independence and credibility of the Court, to the argument that the Security Council has no competence in matters of international criminal justice under the terms of the United Nations Charter and to the accusation that this creates a situation of selectivity in the establishment of jurisdiction (Yee, 1999).

The underlying point in any of these criticisms is that cases referred to the ICC are subject to political decision criteria that are different from the eligibility criteria specific to a court like the ICC. In addition, there is the fact that of the five permanent members of the Security Council, three – China, the US and Russia – are not Party to the Statute of the Court. Given that they have right to veto<sup>4</sup>, any situation occurring in their territories or involving their own nationals would certainly never have the chance of being referred to the Court. This reinforces the idea that the jurisdiction exercise of the Court may be selective, depending on the dynamics of the Security Council.

The power of the Security Council under Article 16 is, however, the one that has been touted as the most serious example of political interference. Under its terms, the Security Council may decide to suspend any investigation or criminal proceedings in progress at the ICC for a period of twelve months, which is renewable. The Security Council has gone to the extent of passing resolutions conferring immunity to persons involved in peacekeeping operations at the service of a state that is not Party to the ICC Statute.<sup>5</sup>

It can even be argued that this is a modification of the Rome Statute by the Security Council (Jain, 2005). This, on the one hand, conflicts with the objective of fighting impunity for the gravest international crimes, and, on the other, attests the full extent of intervention the Security Council is prepared to undertake. Several human rights non-governmental organizations have indeed pointed to the promiscuity between judicial action and political logic as being harmful to international criminal justice (Bourdon, 2000). A mechanism for consultation and dialogue between the Security Council and the Court would have been favoured instead (Bourdon, 2000).

In cases of crime of aggression, the role of the Security Council extends even further. The ICC Statute review conference held in Kampala in 2010 introduced the crime of aggression – not initially defined in the Statute – and established that the exercise of jurisdiction by the Court depends on prior decision by the Security Council that there has indeed been an act of aggression<sup>6</sup>.

In this critical view of the role of the Security Council with regard to the ICC there is an underlying concern about the duties of an executive entity that is centred on the narrow circle of its permanent members and with no real mechanisms of political control or jurisdiction (Kowalski, 2010). This is a concern for which the very discourse of universalism does not provide an answer.

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<sup>3</sup> Including the situation on the Ivory Coast, whose admissibility, at the time this paper is being written, is being considered by the 2<sup>nd</sup> Trial Court.

<sup>4</sup> See articles 27, no. 3 of the UN Charter and 13 b) of the Statute of the ICC.

<sup>5</sup> See, for instance Resolutions S/RES/1422, of 12 July 2002 and S/RES/1487, of 12 June 2003.

<sup>6</sup> See UN Depository Notification C.N.651.2010.TREATIES-8, 29 November 2010. The Court may exercise its jurisdiction if the Security Council does not act within six months after being notified by the Prosecutor of his intention to open an investigation into an act of aggression.



Nevertheless, the analysis of the issue from the perspective of universalism produces arguments that relegate those criticisms to secondary place, stressing instead the evolution in shaping the international order. Accordingly, in what concerns the capacity of the Security Council to submit a situation to the Court, it means, therefore, that the ICC has the possibility of prosecuting crimes connected to states which are not Party to the Statute and over which it could not otherwise exercise its jurisdiction. More than anything, the intervention of the Security Council under Article 13 clause b) is a mechanism that allows circumventing the wills of States and thus extend the jurisdiction of the Court. Given that only 116 States are Party to the Statute, the mechanism for the Security Council's submission potentially guarantees that the Court may try crimes committed anywhere by anyone. On the other hand, the Security Council effectively has authority to deal with matters of a criminal nature, which was actually the argument advanced by the ICC with regard to the Former Yugoslavia on the *Tadić* case<sup>7</sup>. Another argument in favour of this option is that the Security Council would cease to establish *ad hoc* criminal courts, as in the case of the former Yugoslavia and Rwanda (Cassese, 2008).

With regard to the more controversial power of suspension of investigation or criminal proceedings in progress, the universalism discourse will defend that this was a necessary negotiation compromise mechanism: there should be a balance between the action of the Court and the primary responsibility of the Security Council in maintaining peace and international security. Moreover, the analysis of the preparatory work shows that Article 16 strips powers from the Security Council in relation to the draft Statute prepared by the International Law Commission and which formed the basis for negotiations.<sup>8</sup> The at time Article 23, point 3 of that draft provided that the ICC could not initiate any proceedings with regard to a matter under discussion at the Security Council pursuant to chapter VII of the Charter, unless the latter decided otherwise. After intense negotiations in what became known as the "compromise of Singapore", the way the Security Council intervened was inverted, with the latter acting only when it wishes to suspend the procedure.

On the other hand, it is a fact that, so far, the Security Council has never resorted to its power to suspend an investigation or criminal proceeding in progress. Some African States have even exerted great pressure on the Security Council to exercise the power conferred to it under Article 16 of the ICC Statute, namely with regard to the situation in Sudan (Darfur) where Omar Al Bashir, President of Sudan, is charged with genocide, crimes against humanity and war crimes. This attests the responsibility and caution with which the Security Council exercises this power.

Thus, according to this concept and when those dispositions are analysed in the broader context of international criminal prosecution, the intervention of the Security Council is the result of a consensus necessary to build the ICC, and means a relative evil, even a possible benefit. Following this line of reasoning, and despite the abundant literature that advances arguments such as the vulnerability of nationals from the United States or even the absence of trial before a jury because that State is not Party

<sup>7</sup> *Prosecutor v. Duško Tadić*, ICTY – Appeals Chamber, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995.

<sup>8</sup> See International Law Commission (1997). *Yearbook of the International Law Commission: 1994, II(2)*. New York: United Nations.



to the Statute, Schabas defends that the rub lies actually on the excessive independence of the ICC with regard to the Security Council (2004).

### **3.2. Selectivity in the exercise of Jurisdiction**

Another strong criticism that has been advanced mainly at political and diplomatic levels and that has generated some hostility by African States with regard to the ICC has to do with a factual point: so far only situations concerning Africa have been submitted to the ICC. This would illustrate the selectivity of the Court.

All seven cases referred to the ICC pertain only to African States: Uganda, the Democratic Republic of the Congo, Central African Republic, Sudan (Darfur), Kenya, Libya, and the Ivory Coast. This factual and undeniable finding has fostered the accusation that the ICC is not impartial in the establishment of its jurisdiction, and this has been coupled by complaints, at least implicit, of neo-colonialism.

The accusations have gathered the protest of several States in Africa, more or less united in a common stance, which has manifested itself primarily through the African Union. Following the ICC arrest warrant against Omar Al Bashir, there has been a harsh reaction against the Court's attempt to bring African leaders to trial, particularly from States that are not Party to the ICC Statute. At the 15<sup>th</sup> Summit of the African Union, its Member States have confirmed that they would not cooperate with the Court in the arrest and submission of Omar Al Bashir. On the other hand, they refused a closer cooperation with the ICC by turning down the opening of a liaison office in Addis Ababa<sup>9</sup>.

The travels of the President of Sudan to countries that are Party to the Statute of the Court have also generated some tension. In Omar Al Bashir's controversial trip to Chad and Kenya, the ICC demanded that those States complied with the arrest warrant and handed in the President of Sudan to the Court. The African Union responded in a serious manner advancing decisions taken by that organization and arguing that it knew the reality of the region better<sup>10</sup>, thus assuming an attitude of rejection against neo-colonialist interference. More recently, the issuance of an arrest warrant by the ICC against Libyan leader Muammar Gaddafi took the African Union to ask its members to ignore such warrant. As if summarizing the concerns of several African States, the President of the African Union Commission, Jean Ping, stated that the ICC is discriminatory because it only deals with crimes committed in Africa, ignoring those carried out by "Western powers" in Iraq, Afghanistan and Pakistan.<sup>11</sup>

In this sense, the African Union has repeatedly tried that the Security Council of the United Nations suspends the proceedings in progress at the ICC against Al Bashir<sup>12</sup> by resorting to the dispositions in Article 16 of the ICC's Statute. As the Security Council has not shown any openness to suspend the proceedings, the African Union went to the extent of proposing an amendment to Article 16 requesting that when the Security

<sup>9</sup> See "15th AU Summit – Press Release 104: 'Decisions on the 15th AU Summit'", 29 July 2010.

<sup>10</sup> See "AU Press Release 118/2010", 29 August 2010.

<sup>11</sup> See Associated Press "African Union calls on Member States to Disregard ICC Arrest Warrant Against Libya's Gadhafi", 2 July 2011.

<sup>12</sup> See "AU Press Release 118/2010", 29 August 2010.



Council refuses to act, its authority be transferred to the UN General Assembly<sup>13</sup>, where the suspension of a case would have more favourable conditions for approval.

The reasons for this type of criticism are essentially political, to which the discourse rooted in universalism responds with strict observance of the ICC Statute criteria, in which thirty two African States are present, making it the largest group represented.

Thus, it immediately points out that complementary is a principle that informs the ICC's exercise of jurisdiction. Under the terms of Article 1 of the Statute, it means that the ICC is complementary to national jurisdictions on criminal matters, exercising it only when the latter do not want or are not genuinely able to do so. Not to be able to enforce jurisdiction, which may require the further intervention of the ICC, includes those cases in which suspects have been covered by an amnesty (Cassese, 2008). This subsidiary position in relation to national jurisdictions is also intended to encourage States to start criminal proceedings when crimes of extreme gravity are involved (Kleffner, 2008). This complementary principle opposes the primacy enjoyed by the *ad hoc* tribunals set up for the former Yugoslavia and Rwanda with regard to the corresponding national criminal jurisdictions.

Therefore, when the ICC started criminal proceedings in those situations in African States, it did so because either the states themselves denounced the situation – which is what happens in most cases<sup>14</sup> – or because there was strong evidence of serious crimes that were relevant for the entire international community and the States with primary jurisdiction did not want or were genuinely unable to conduct the trial. The fact that the Court is analysing situations of States that are not Party to the Statute – such as Sudan or Libya – cannot be subject to criticism, inasmuch as that possibility is inherent to the very same Statute and aims to avoid situations of impunity.

That said, the accusation of selectivity would only make sense if arguments were advanced for other situations in the world to be referred to the Court. In this case, it would not be the correctness of the cases under consideration relating to situations in Africa, but the injustice of other cases remaining unpunished. In addition, the fact remains that other situations have been or are still being considered by the Court, particularly by the Office of the Prosecutor, and which include other regions besides Africa, namely facts that took place in Afghanistan, Colombia, Georgia, Guinea, Iraq, Palestine, Venezuela, Nigeria, Honduras, and in the Republic of Korea. The preliminary assessment is subject to general and abstract criteria established by the Prosecutor based on the Statute of the Court<sup>15</sup>, which formally prevents any selectivity or discrimination in the decision to start, or not, criminal proceedings in a given situation.

#### **4. The shortcomings of Universalism: Are there Alternatives?**

The two sets of criticism referred to earlier deserve a seemingly secure and convincing answer on the part of the universalism discourse, and one that is formulated around logical-deductive arguments and that attests the sustainability of the Court as a structural component of the international public order. However, if one shifts the focus

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<sup>13</sup> See "Report on the Ministerial Meeting on the Rome Statute of the International Criminal Court (ICC)", AU Executive Council Document EX.CL/568 (XVI), 29 January 2010.

<sup>14</sup> These are the cases of Uganda, the Democratic Republic of Congo, the Central African Republic or the Ivory Coast.

<sup>15</sup> See "Draft Policy Paper on Preliminary Examinations", 4 October 2010, [www.icc-cpi.int](http://www.icc-cpi.int).



of criticism to the actual universalist construct, then it will be the theoretical framework of international public order in which the Court is set which will be called into question. The ICC may find itself devoid of a theoretical support and at the risk of breakdown or at least of being relegated to a secondary role in the international system when its state of grace comes to an end.

The criticism, gaps and unmet needs of the universalist theory, particularly in the field of global constitutionalism, lead to the need to probe new avenues for International Law as a juridical science. The post-positivist approach, namely that rooted in critical theory, which is more advanced in other social sciences, including International Relations, may offer a way to rethink International Law. Particularly with regard to the ICC, it is important to identify some key aspect of the Court that enables its interpretation and justification beyond the shortcomings of universalism.

#### **4.1. The shortcomings of Universalism**

Any attempt do define international public order solely in terms of universalism, particularly global constitutionalism, by looking at the state is an exercise that risks being a failed promise for International Law and for the international social systems it envisages to regulate, because one cannot draw a parallel between the concerns and response mechanisms of both (Uruena, 2009). In the description of Koskenniemi, global constitutionalism is intuitively interpreted as if it was domestic constitutionalism: «multilateral treaties as legislation; international tribunals as independent jurisdictional powers; the Security Council as the police» (2005a: 117).

The lure of the global constitutionalism project must be restrained by an alert critical exercise. Firstly because in the current framework of international social relations, the project risks enhancing the dynamic of power rationales which already influence the more or less institutionalised, and more or less informal, international social relations. For this reason, Zolo draws attention to the dangers of global constitutionalism centred on the United Nations Charter which can lead to excessive concentration of power, making «the international protection of rights and the pursuit of peace even more precarious» (1997: 121). Despite the dominance of liberalism, which is indeed detached from simplified power relations, the fact is that international social relations are still dominated by a state-centred rationale that aims to influence global governance according to own interests, thus forming a "hegemonic bloc".

The structuring power of liberalism finds a correspondence in current International Law (Koskenniemi, 2005b). The theory of International Law has, indeed, taken the Law (or the rule) and power (or political reality) as the two axes of reference. This double dimension of International Law immediately turned it into a tool for the States, and increasingly a key factor for shaping international society. This means a concern to ensure the balance between Law and power, between legitimation and resistance (Krisch, 2005): on the one hand, to ensure a distance between law and political reality that hampers the political defence and absolute freedom of the State; on the other, the approximation of Law to the political reality to avoid the utopia of mismatched social solutions (Koskenniemi, 2005b).

The liberal agenda and manifestations are clearly also infiltrated, albeit in a more subliminal form – due to the fact that the international structure is more complex – by



power rationales. In the framework of the universalist concept, liberalism provides a theoretical cover that confers it a scientific rationale that legitimizes the pursuit of individual interests by the States which greater capacity to do so – i.e. those with greater power. The “problem solution” approach that characterises liberalism and currently predominates in the theory and practice of International Law can serve a domination strategy. Accordingly, by acting as if the structures actually reflect a particular set of true and unique ideas, the problems that affect the functioning norms, processes and institutions get solved, and structures are deemed to be immovable. This leads to the stabilization of those norms, processes and institutions, as well as to the crystallization of structures that may lie at the root of the problem, without an alternative being sought. Thus, power and truth feed each other (Foucault, 1980).

However, this methodological and somewhat ideological understanding is rooted on a wrong premise: that political and social reality is immutable (Cox, 1981). Critique of this liberal approach encourages, as stated by Cox, «a strategic action guideline to bring about an alternative order» (1981: 130).

#### **4.2. Post-Positivism in International Law**

For some post-positivist stances, universalism is possible and eventually desirable. However, from the epistemological viewpoint, it moves away from the notion of a universal rationality that enables the universal objectivation of reality. Critical theory challenges the central possibility of objective knowledge, that societies and individuals are part of a natural order or that knowledge can only be acquired through experience (Hollis, 1996). Accordingly, it states that the object of perception (empirical reality), be it in the context of legal, social, political, economic or cultural relations, is inseparable from the subject that is trying to capture it, analyze it and explain it.

Critical theory, faced with the shortcomings of single truth departing ideas, as well as of orthodox universalist ontology and epistemology, aims to overcome them by resorting to the central concept of emancipation. The ethical discourse leads to greater freedom and emancipation detached from the Westphalian straitjacket which never really allows seeing beyond the State. The post-positivist critical theory alternative is thus able to withstand the rational basis of universalism as a form of hegemony by granting it increased representativeness (Hoffman, 1988). Knowledge, discourse, equal opportunities or justice are ethical elements that act as a shield against hegemony.

Post-positivism thought fosters a multidisciplinary interpretation of international social relations, particularly at the level of International Relations and International Law. The impulse given by critical theory applied to Political Science, particularly with regard to International Relations, feeds from other social sciences where social critical theory is more advanced and more present in specific ideas (George, 1994). This is perhaps one of the most important advances in contemporary theory of International Relations (Richmond, 2008): the abandonment of the defence of the eternal present and the quest for a richer theory (Pureza, 1999).

In terms of International law, the critical process that underlies the post-positivist approach has moved in two major opposing trends: on the one hand, there is a current that calls for a theoretical redefinition without cutting completely with the existing



system – this current is influenced by the Frankfurt School<sup>16</sup>; on the other, stands the trend that advocates a total break with modernity as it would prove impossible to use any of its bases for the necessary new theory<sup>17</sup>. Without wishing to expand on this, as this is not the place, it is, nevertheless, important to demystify the idea that critical theory necessarily implies condemning International Law (Carty, 1991) and that deconstruction means destruction.

A post-positivist analysis allows us to say that International Law can be different from the one built by the theory and practice of orthodox liberalism, and certainly of liberalism. This can give rise to a new conception of International Law based on a post-positivist paradigm: stress the critical theory dimension in International Law and thus build a true ethical and normative system and a legitimizing authoritative discourse which conforms to an international society that is less oligarchic and more equal (Pureza, 1998).

The ontology of this International Law is not just objective or “empirical” reality, but also its subjective representation, with a normative base and a transformative intention, in which everyday life and empathy are operational concepts. An International Law that aims to be a factor for transformation cannot simply break with political reality and pretend it never existed. First it needs to understand this reality in order to deconstruct it and then attempt a critique towards the construction of an alternative system. For this reason, and although there is a break with the theoretical postulates of the orthodox notions of International Law, critique cannot ignore objective reality (norms, facts, institutions, processes) upon which it wants to act.

#### **4.3. Elements for an interpretation of the ICC in a Post-Positivist Framework**

Post-positivist thought, especially in the context of critical theory, can lead to a divisive deconstruction of current international organizations, particularly if interpreted as an attempt to break with post-modernism: Koskeniemi argues in favour of International Law as an alternative to the current international order, saying this could be achieved through the empowerment of independent groups outside international organizations (2004); Kennedy, in turn, defends that the ICC was a “bad idea” (Moore, 2005). Without wishing to start a debate about post-modernism in this paper, it must be pointed out that there are some aspects about the Court that should be reflected upon and interpreted in a post-positivist approach, particularly in the context of critical theory.

Both sets of criticisms referred to earlier, currently quite audible, could be, and they are, to some extent, fed by the discourse of critical theory. However, there are aspects that are core to the ICC that could be the starting point to inform a post-positivist

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<sup>16</sup> See, among others: Habermas, Jürgen (1984). *The Theory of Communicative Action, vol. 1: Reason and the Rationalization of Society*. Boston: Beacon Press; Habermas, Jürgen (1987). *The Theory of Communicative Action, vol. 2: Lifeworld and System – a Critique of Functionalist Reason*. Boston: Beacon Press; Habermas, Jürgen (2008). «A Political Constitution for the Pluralist World Society?». In Jürgen Habermas (ed.), *Between Naturalism and Religion*. Cambridge: Polity Press, 312-352.

<sup>17</sup> See, among others: Koskeniemi, Martti (2005). *From Apology to Utopia: The Structure of International Legal Argument*. Cambridge: Cambridge University Press; Kennedy, David (2004). «Speaking Law to Power: International Law and Foreign Policy Closing Remarks». *Wisconsin International Law Journal*. 23(1), 173-181.



construct that holds the Court in a discourse of emancipation and transformation anchored on ideals rooted on human dignity. The figure of the Prosecutor and the role of civil society are examples of such elements, which are mentioned here as a suggestion for future reflection.

The Prosecutor, that is, the Office for the Prosecutor<sup>18</sup>, is responsible for receiving information on crimes within the jurisdiction of the Court, examine them, carry out investigation and institute criminal proceedings before the Court. The Prosecutor is autonomous with regard to the Court and can start an investigation and charge individuals for the practice of crimes under the jurisdiction of the ICC, always subject, of course, to further examination by the competent Court. In what concerns crimes committed in the territory or by a State Party to the Statute, the Prosecutor exercises those powers *motu proprio*. This, incidentally, is considered to be one of the important achievements for human rights non-governmental organizations and for the victims (Bourdon, 2000).

The figure of the Prosecutor of the ICC has no parallel in the international system. It is an international official who exercises criminal jurisdiction independently, and he can investigate, charge and order the arrest of individuals of any nationality, regardless of their official position or even the will of States. The status of the Prosecutor and his authority are a break with the Westphalian order. On the other hand, the independent exercise of his powers contributes to the development of the international social system by means of international ethical and normative postulates centred on human dignity.

In turn, both organizations and individuals from civil society have left a decisive mark on the Court, basically due to three aspects: the establishment of the ICC, collaboration in the investigations and collection of evidence, and in promoting the role of the Court and the universality purpose of its Statute. The first two aspects deserve special mention.

The contribution of civil society in the creation of the Court and even in the framing of the Statute is a landmark in the formation of International Law and in the constitution of international organizations (Glasius, 2006). It is significant that two hundred and thirty seven non-governmental organizations from around the world were accredited at the diplomatic conference that adopted the ICC Statute in Rome on 17 July 1998.<sup>19</sup> These organizations had direct influence on the drafting of some of the provisions of the Statute through collaborative work (Struett, 2008).

The intervention of non-governmental organizations in reporting crimes under the ICC's jurisdiction<sup>20</sup> and in the investigation of cases is another aspect that attests the importance of civil society in the functioning of the Court. Non-governmental organizations have always had very close contact with serious human rights violations, documenting and reporting them. The close contact with victims and witnesses has been of paramount importance for their protection and collection of evidence. Their contribution in terms of reporting situations and investigating cases can thus be decisive (HRF, 2004). It should be noted that the attribution of a role to non-governmental organizations pursuant to Article 15 no. 2 of the Statute is a landmark in

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<sup>18</sup> In accordance with Article 42 of the Statute of the ICC, the Prosecutor chairs the entity "Office of the Prosecutor".

<sup>19</sup> See UN Document A/CONF.183/INF/3, 5 June 1998.

<sup>20</sup> By May 2011 the Office of the Prosecutor had received around 4,898 communications with some sort of connection to the jurisdiction of the Court. Source: ICC – [www.icc-cpi.int](http://www.icc-cpi.int).



the international institutionalization of civil society. It is equally relevant that the information conveyed by NGOs is handled by the Office of the Prosecutor, who is responsible, at least initially, to determine its importance in the context of an investigation or prosecution.

These two elements for reflection could be joined by a third pertaining to the contents of the principle of complementarity of the ICC's jurisdiction. It concerns the development of this principle by seeking local forms, including traditional ones, of administering justice. Indeed, there is a recent trend to soften the dialogue between peace versus justice in the context of the Court and the subsequent focus on finding new forms of justice of proximity that are complementary to the ICC (*Ambos et al.*, 2009).

## 5. Conclusion

The creation of the ICC should be seen not only as an innovation but above all as an achievement of civilization in the defence of human dignity and in the promotion of peace. The long journey undertaken so far has also contributed to a paradigm shift in International Law and International Relations, whose focus is moving away from States and refocusing on the individuals. Nevertheless, this is a long way that we are still taking.

Almost ten years after the creation of the Court, the results – that is, to put it bluntly, the convictions – are still lacking, contributing to the swell of criticism and to feed a sceptical discourse which, until some time ago, had been overwhelmed by the excessive enthusiasm surrounding the Court at academic, diplomatic and political level, which was also shared by the civil society. The structural criticism that it receives, namely its dependence on an oligarchic organ of realism which represents an expired order – the Security Council – and its selective action which, to date, has only targeted African States, undermine its foundations.

The accusation behind these criticisms is the global imposition of liberal ethical and normative standards. Even if the selectivity criticism is inspired more by a state-based particularistic stance rather than by a universalist perspective, the truth is that it is the international public order viewed from an universalist stance that is being questioned. The responses of universalism are effective, but they stand the stress tests only because universalism itself is insufficient.

The ICC is still living in a state of grace. However, the risk of marginalization has been increasing. The review conference in Kampala in 2010 was a warning: the sun had not yet set over Lake Victoria on the last day of the conference and there were already differences about the application of what had been agreed. Indeed, to date no State has bound to the amendments adopted at the conference, including those relating to the definition of the crime of aggression.

Reflection on the ideals behind the ICC must be ongoing in order to create an ethical legitimization discourse that grants it effective resilience and transformation capacity. But in order to have legitimacy, it is necessary to ensure critique, deconstruction and disclosure so that the hopes placed on the ICC may be linked to the hope in the critical reflection and in the will of all the international players involved in it.



The considerations presented in this paper are proposals that seek to contribute to a reflection on the theoretical sustainability of the ICC in the current liberal universalist framework. Consequently, accepting that the ICC may be developed according to a post-positivist stance, and not simply marginalized, is important not only to the Court itself but also to the development of an International Law theory which, alongside International Relations, gets the impact of the shortcomings of liberalism-based legal universalism and is able to offer a viable, emancipatory and transformative alternative. Ascertaining if that is actually possible may require a contextualized analysis based on the reflection proposed here.

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## **Notes and Reflections**

### **BRIC COUNTRIES: BRAZIL, AN EMERGING POWER**

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The International Symposium “**The BRIC countries: Brazil, an emerging power**” took place on 7 and 8 April 2011 and attracted over 150 participants from Europe and Latin America. The event was held at the Centre for Brazilian Studies in Salamanca, Spain, and was co-organised by the Ibero-American Institute (*Instituto Ibero-Americano*) of the University of Salamanca and by the Latin-American Institute (Instituto de Latino-América) of the Academy of Sciences in Russia, as part of the network of the European Council for Social Research on Latin America (CEISAL), which includes 50 European institutions involved in Latin-American studies.

The role of Brazil in the international political and economic context was debated at the meeting from distinct perspectives and with regard to a wide range of topics. Some of the conclusions and additional notes are mentioned below:

- 1. Brazilian economy grew 7.5% in 2010, and according to the latest projections, the country will grow at a rate close to 5% annually over the next five years. However, the economic indicators do not necessarily match the social indicators for development. Despite having reduced its poverty percentage from 38% to 25% in the last 10 years, according to statistics advanced by ECLAC, Brazil continues to suffer from serious problems, such as social inequality.*

In a report on Human Development for Latin America and the Caribbean (2010), Brazil is in 73rd place out of the 169 countries for which there is data available on health,



education and income and that enabled the making of the comparative table presented by UNDP<sup>1</sup>. Brazil also has to face the serious challenge posed by internal violence: The Institute for Economics and Peace, which publishes an annual Global Peace Index (GPI) that measures security and violence indicators in the world, placed Brazil at number 74 in a ranking of 153 countries (2011), with the first in the ranking deemed to be the most peaceful in the world<sup>2</sup>.

*2. Brazil appears today in the international arena increasingly aware of its potential power and interests. The objectives of its foreign policy include: change the structure of Global Governance (mainly in political and economic terms) and be involved in world decision-making centres.*

The south Atlantic, where the vast oil reserves of the pre-salt are located, and the Amazonia region, with its borders permeable to drug trafficking, emerge as key priorities in the security agenda of Brazil. Thus, the consolidation of the South Atlantic as a Peace Zone (Resolution 41/11 of the UN GA of 27-10-1986) away from the conflicts that occur elsewhere in the world and out of the collective defence schemes that currently exist, such as NATO, are among the objectives of Brazil's foreign policy. Due to the need to monitor the Amazonia and its borders with 10 neighbouring states, exchanges in terms of security and military issues as part of the South American Defence Council assume increasing importance. Other equally major issues in the agenda of Brazil's foreign policy are: South-South Cooperation and new Partnerships, such as with several countries in Africa<sup>3</sup>. Indeed, according to the latest report on South-South Cooperation (2010) produced by the Ibero-American General Secretariat (SEGIB)<sup>4</sup>, in 2009 Ibero-American countries participated in 881 Bilateral Horizontal South-South Cooperation projects. The participation of Brazil, along with Mexico and Argentina, exceeded 10%. Brazil's large investment in Africa is also evident, as attested by the rise in the number of ambassadors in several countries of the continent and the allocation of funds for *development cooperation*. "Nowadays, Brazil can be considered as a new donor country"<sup>5</sup>. Other topics, such as Migration and Regional Integration, also stand out.

*3. As for regional integration, UNASUL – perceived as a political extension of MERCOSUR – has been gaining prominence among the objectives of Brazil's foreign policy. Accordingly, Brazil has been promoting what appears to be a form of Integration with low or no institutional framework that will enable it to act flexibly and autonomously. The big novelty in this type of action*

<sup>1</sup> UNPD. [Accessed on 10-07-2011]. Available at: <http://hdrstats.undp.org/es/paises/perfiles/BRA.html>

<sup>2</sup> IEP. [Accessed on 10-07-2011]. Available at : <http://www.economicsandpeace.org/WhatWeDo/GPI>

<sup>3</sup> Mário Vilalva, Ambassador of Brazil to Portugal, during the first meeting of the Working Group on Brazil, which was held at the headquarters of the Institute for National Defence (IDN) in Lisbon on 26-04-2011.

<sup>4</sup> SEGIB. [Accessed on 6-06-2011]. Available at: <http://segib.org/actividades/files/2010/12/Inf-coop-sul-sul-2010.pdf>

<sup>5</sup> ABC. [Accessed on 10-07-2011]. Available at: [http://www.abc.gov.br/lerNoticia.asp?id\\_Noticia=606](http://www.abc.gov.br/lerNoticia.asp?id_Noticia=606)



*is the investment that has been made in favour of physical integration.*

Market integration following the European model seems unlikely in a region formed by states whose major partners are out (US or China). From a political stance, the continuance of certain *nationalisms* also limits this type of projects, since "integration also implies the dilution of state sovereignties"<sup>6</sup>. But it is within the region, particularly in South America, that Brazilian manufactured goods gain relative competitiveness, which meets the objectives of promoting national industries. Accordingly, there is consensus among some sectors in Brazil about the importance of first revitalizing their relationship with neighbouring countries and then embark on a global platform. To this effect, several physical infrastructural projects are in progress, with over 80 Brazilian funded projects and infrastructural works in South America, totalling about US\$ 10 billion in projects already approved<sup>7</sup>.

*4. Far beyond the publicly expressed friendship relations between Hugo Chávez and Lula da Silva, and now Dilma Rousseff, there is a clear convergence or "convenient" reconciliation between what appears to be the economic and trade interests of Brazil (which are also geo-strategic) and Venezuela's political and ideological interests, reflected in the foreign political support that is necessary to ensure the non-isolation of its regime.*

The challenge for Brazil in relation to Venezuela surely is not to avoid contamination by the "Bolivarian ideology", because, as countries in the region show positive signs in issues such as the strengthening of democratic institutions, legal reassurance for foreign investment, freedom of the media, etc., the political and ideological project of Hugo Chávez meets with serious resistance<sup>8</sup>. In a prospective scenario proposed by Venezuelan Professor Elsa Cardozo, the government of Hugo Chávez may become more extreme as internal pressure for change increases (In Venezuela in 2010, inflation rates surpassed 29%, and there was shortage of products such as meat, sugar and coffee, and a high degree of internal violence), and this may lead to a radicalization in the design and implementation of its security agenda. This means that issues such as the political conflict with the U.S. – and, by extension, with countries in the region that are clear allies of the U.S. – and asymmetric warfare will go higher in the list of priorities of Venezuela's security agenda. As a result, we may see a fragmentation and weakening of the security cooperation agreements and, ultimately, regional integration<sup>9</sup>. Thus, the challenge facing Brazil appears to be of a different nature, like: until when will Brazil be

<sup>6</sup> Andrés Malamud, researcher at the Institute for Social Sciences (ICS) and a guest expert at the round table titled "Latin America: facing the mirror of its integration", held at the headquarters of UAL on 27-05-2011.

<sup>7</sup> Further information available at: <http://www.itamaraty.gov.br/temas/balanco-de-politica-externa-2003-2010/1.1.6-america-do-sul-infraestrutura>

<sup>8</sup> Sérgio Augusto de Abreu and Lima Florêncio Sobrinho analysed the political expansion potential of the Participatory Democracy model in the book coordinated by Arturo Oropeza Garcia "Latinoamerica frente al espejo de su Integración 1810-2010", pp. 179-195.

<sup>9</sup> Elsa Cardozo, *Brasil y Colombia en la Agenda de Seguridad de Venezuela*. Ildis. 2006 [Accessed on 11-07-2011]. Available at: <http://library.fes.de/pdf-files/bueros/caracas/50461.pdf>



able to play the “moderator” role against a backdrop of conflict and polarization such as this one?

*5. Most experts alert to the challenge facing a revisionist power with a universal vocation like Brazil to reduce its dependence on China and sustain economic growth.*

Between 2000 and 2010, Brazil’s exports to China went up from \$ 1.1 billion – 2% of Brazil’s total exports – to \$ 30.8 billion – 15% of the total. With regard to Brazil’s imports from China, they grew from \$ 1.2 billion – 2% of the total – to \$ 25.6 billion – 14% of the total<sup>10</sup>. China has thus become Brazil’s main partner and a major element for the maintenance of Brazil’s surplus<sup>11</sup>. However, the bulk of Brazil’s exports to China consist mainly of commodities<sup>12</sup>, which makes this type of primary partnership unsustainable in the long term. However, some people argue that this relationship of dependency is equally recent and relative if we consider that China’s position as the largest destination of Brazilian exports was only achieved in 2009, when it overtook the United States, and that trade with China currently accounts for 1/5 of Brazilian foreign trade relations. They insist that the main challenge lies in not getting carried away by the enthusiasm of the current economic climate.

*6. As Brazil’s foreign policy becomes global, its relations with the US and Europe are no longer a priority. This makes many analysts think there is the need to review the relationship pattern between these countries.*

This takes us to a comment made by Alfredo Valladão, where he stated that “... The relations between Brazil and Europe can no longer be anchored simply on celebrating old cultural ties, reiterating *common values* and facilitating business, and even less on maintaining the paternalistic approach of *development aid*. It is time to start establishing a more mature dialogue among equals, based on the promotion of interests and shared objectives”<sup>13</sup>. Accordingly, topics like Education, Trade, Air Traffic, Piracy, the South Atlantic, Energy, Naval Cooperation, and Cooperation with Africa, Peace Missions, and Human Rights may be included in the agenda of the current relationship.

*7. Brazil cannot assert itself as a global power if it does not invest in military power.*

<sup>10</sup> IPEA, *As Relações Bilaterais Brasil – China: A Ascensão da China no sistema mundial e os desafios para o Brasil*. [Accessed on 28-06-2011]. Available at: [http://www.ipea.gov.br/portal/images/stories/PDFs/comunicado/110408\\_estudochinaipeamre.pdf](http://www.ipea.gov.br/portal/images/stories/PDFs/comunicado/110408_estudochinaipeamre.pdf).

<sup>11</sup> Trade with China represented a surplus of US\$4.600 million for Brazil in 2009 (20% of the total surplus).

<sup>12</sup> The exports pattern from Brazil to China focuses basically on two basic products: non-agglomerated iron ore and its concentrates, and soy beans.

<sup>13</sup> Alfredo Valladão, professor at the Sciences Po-Paris University and a guest speaker at the 17th International Summer Courses of Cascais (topic: “Brazil and International Politics), organized by IPRI, and which was held at the Cascais Cultural Centre on 24-06-2010.



Indeed, according to data presented by the Stockholm International Peace Research Institute (SIPRI), the amount spent by Brazil on defence (2010) accounted for 1.6% of the GDP, which is less than the investment the USA (4.8%), India (2.7%) and China (2.1%) made in this area<sup>14</sup>. Comparative studies in this field highlight that Brazil not only invests little, but is also ill equipped and has a ratio between manpower and equipment that renders the military power of the country ineffective<sup>15</sup>. In his closing remarks presented at the conference, Júlio César Rodríguez said that "Brazil's lack of material and military capacities to be able to be a regional leader and a global power affect the medium and long-term objectives of the country, the alternatives to military development being just a few, of which the main ones are: the alliance with the U.S., giving up its leading role and the awareness that digitalization can be a form of *horizontalization* of capacities with the aim of generating deterrent forces"<sup>16</sup>.

*8. It is essential that countries harmonize their positions with regard to the values that should be core in a multipolar or pluripolar society like ours<sup>17</sup>. In this sense, the promotion and defence of certain values, such as respect for Human Rights, inexorably require agreement among major democratic countries. It is here that Brazil can play an important role as an "emerging power".*

Brazil's vote supporting the appointment of a special rapporteur to investigate the human rights situation in Iran during the session of the UN Human Rights Council on 24 March last could mean not only a change of tactics on the part of the "emerging power"<sup>18</sup> but also be a positive sign in favour of the maintenance of an international order that embraces those same values.

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<sup>14</sup> SIPRI. [online]. [caccessed on 06-06-2011]. Available at: <http://www.sipri.org/research/armaments/milex/factsheet2010>

<sup>15</sup> Eugénio Diniz, quoted by Júlio César Cossio Rodríguez during his presentation titled "Brazil, Regional Integration and Strategic Factors: a few considerations", at the Symposium "BRIC: Brazil, an emerging power".

<sup>16</sup> Júlio César Cossio Rodriguez, a researcher at ICS/UL, and a speaker at the Symposium "BRIC: Brazil, an emerging power". Title of his presentation: "Brazil, Regional Integration and Strategic Factors: a few considerations".

<sup>17</sup> Spanish professor Rafael Calduch Cervera defines the polarity of an international society as "the effective capacity of one or several international players to adopt decisions, behaviours or international standards accepted by other players, and through which they reach or guarantee an hegemonic position in the international hierarchy".

<sup>18</sup> It should be noted that during his administration, Lula da Silva always defended Iran's nuclear programme and opposed international sanctions against that country.



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## **Notes and Reflections**

### **EUROPE/AFRICA COOPERATION**

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When we refer to cooperation in economics and sociology, we consider a form of collaboration between individuals or organizations with a view to attaining common objectives in accordance with agreed procedures or methods. Cooperation may also be a form of collaboration between states that seek to achieve particular results in close partnership, and thus minimizing the costs, efforts and resources that each would need to use.

In the 20<sup>th</sup> century and as part of the relations between colonial powers and their colonies, cooperation mechanisms were developed that involved African states and the European Community. The aim was, in the first place, to maintain traditional relationships between the former and the latter while fulfilling the obligations that were implicit in order to be a member of this organization.

For many African countries, cooperation was the means and possibly the only way to solve many of their problems, be them of an economic, social or cultural nature, or any other type.

However, cooperation with the African continent did not come about merely in the context of the EEC. At the turn of the 1950s, there were attempts to put in place a project involving Portugal, Britain, Belgium, France, Rhodesia and South Africa.

A conference was held in London on 7 and 8 September 1949 with the purpose of setting up a Committee for Technical Cooperation in Sub-Saharan Africa. The Ministry for the Colonies appointed Frigate Captain M. M. Sarmiento Rodrigues, a professor at *Escola Superior Colonial* (Colonial Higher School), to represent Portugal. "On 2 September I was made aware of my appointment as representative of the Ministry for the Colonies to be present at a conference due to take place in London on 7 and 8 September at the invitation of the British government to create an intergovernmental committee to coordinate the technical cooperation between the countries listed below: France, Portugal, Britain, Southern Rhodesia and the Union of South Africa" (Minutes of CCTA, Archive of the Ministry of Foreign Affairs). Its constitution, dated from 1950, aimed to give it legal and political capacity in the international order by means of a



Convention that was to be subject to discussion in the several sessions held in subsequent years.

Several sessions took place with the purpose of conferring the organisation the necessary mechanisms for its operation, the distinct member states acting as hosts. Accordingly, the 8<sup>th</sup> session of the "Committee for Technical Cooperation in Sub-Saharan Africa (CCTA) was held in Lisbon, starting on 25 June 1953, with the participation, in addition to Portuguese delegates, of representatives from Belgium, France, Britain, Southern Rhodesia, and the Union of South Africa. The session is expected to be of the utmost importance" (Archive of the Ministry of Foreign Affairs, floor 2, Bookcase 17, Bundle 25).

The agreement that created the CCTA was signed on 18 January 1954, and on 24 December 1945, the CCTA was ratified in London by the following countries: South Africa, Federation of Rhodesia and Nyasaland and Britain. On Portugal's part, the agreement was approved, for ratification purposes, by resolution of the National Assembly of 23 April 1954 and promulgated by the President of the Republic on 1 May 1954 (Government Gazette, Series I, of 1 May 1954).

The functioning of CCTA was set on a legal framework shaped throughout several sessions, and the following was agreed:

Article I stated that the creation of a "Committed for Technical Cooperation in Africa south of the Sahara (hereinafter called «Committee »), was to be assisted by the Scientific Council of Africa south of the Sahara, under whose auspices the following organisations would operate: the Inter-African Bureau for Epizootic Diseases, the Inter-African Bureau for Tsetse and Trypanosomiasis, the Inter-African Bureau for Soils and Rural Economy, the Inter-African Labour Institute, and the Inter-African Pedological Service, in addition to any other cooperation bodies in Africa south of the Sahara that the Committee may designate."

The Committee was formed by the signatory governments or «Member Governments». Each government could appoint a delegate and the number of alternate representatives and advisers it deemed necessary to represent it (Article II).

The Committee had no executive powers and did not take any decisions by majority vote. Its "Recommendations" should be adopted by unanimity by all member governments.

Given the increasing activity of this body and in accordance with a "Recommendation" approved at the 5th session in Cape Town, in January 1952, CCTA was provided with a permanent secretariat. The General Secretariat was headed by a Secretary General assisted by a Deputy Secretary, and the expenses incurred by the Secretariat were divided in variable proportions among the member governments.

In order to maintain a connection with the Secretariat, each Member Government appointed an agent who normally ensured the continuance of links between the government and the secretariat (Article III).

The territorial jurisdiction of the Committee extended to all regions in mainland Africa and islands under the responsibility of Member Governments located to the south of a line which, starting at the Atlantic Ocean, extended along parallel 20º north to the north-eastern border of French Equatorial Africa and from there followed the northeast



and east borders of French Equatorial Africa, the northeast border of Belgium Congo, the northern borders of Uganda and Kenya territories and the eastern boundary of Kenya to the Indian Ocean.

Among the activities promoted by CCTA, several intra-African conferences were organised which, in turn, recommended the creation of common technical information "Bureaus".

Four "Bureaus" were set up:

- Inter-African Bureau for Epizootic Diseases (IBED);
- Inter-African Bureau for Soils (BIS);
- Permanent Inter-African Bureau for Tsetse and Trypanosomiasis (BPITT)
- Inter-African Labour Institute (ILI).

By proposal of the Portuguese government, an "Inter-African Statistics Bureau" was subsequently set up, in addition to extending the activities of the BPITT to other tropical diseases, in line with another Portuguese proposal to have it replaced by a Sanitary Bureau in order to encompass all the diseases affecting African populations.

Member states contributed to CCTS's operating costs according to their financial capacities. Given the chronic financial difficulties of the Portuguese State, there was always a concern that our involvement was in accordance with our capacities or that it fell within the parameters set by the government in Lisbon.

This cooperation model would have significantly benefitted sub-Saharan Africa if the course of history had not altered the relations between European colonial powers and their African colonies, which were dictated by the independence movement that started in 1957, when the Gold Coast British colony became the independent nation of Ghana.

The independent fever that swept across the African continent in the 1960s put an end to colonialism in Africa, with the Portuguese colonies surviving for just little over a decade, up to 25 April 1974. In May 1961, the Republic of South Africa was founded, establishing the exclusion of all non-whites from any involvement in political life, and imposing *apartheid* and the subsequent political isolation of the country on the international arena.

As referred to earlier, Europe/Africa cooperation was subsequently resumed, giving rise to a cooperation policy due to the Yaoundé and Lomé Conventions. This policy later involved the Caribbean and Pacific ACP countries. However, it is a different form of cooperation. We can therefore ask ourselves about the meaning CCTA could have had in sub-Saharan Africa.

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## **Notes**

### **The Charter of Fundamental Rights of the European Union - The role of the Court of Justice in the Jurisdiction of Fundamental Rights**

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The original text of the Treaties establishing the three European communities did not include any reference to the protection of fundamental rights. The original EU law was intended to be more of a "bill of powers" than a "bill of rights". It was understood that, that wasn't the subject of the founding treaties of communities, they were on the one hand, on the constitutions of Member States and on the other as part of the attributions of the Council of Europe.

However, the process of European integration led to the creation of a supranational legal structure, well beyond what was foreseen in the Treaties that would eventually end in the generation of a potential conflict with the national Constitutional Rights, regarding the need to seek mechanisms that would allow for the interpenetration of the different legal systems. Originally designed as sectoral and related only to the economic and trading areas, it acquired over time, a much broader scope than the envisioned by its founders. Throughout this process, the legal issue has always been fundamental, because the institution of a Common Market (original aim of the European Economic Community in 1957) assumed not only "negative" steps of regional integration, such as the abolition of tariff and nontariff customs barriers to trade within the EEC, but also "positive" steps, such as the elaboration of a common body of law in areas such as labour, consumer and environment protection, among others. On the other hand, European integration has always had a strong legal component, since it has been "rule oriented" from the beginning, *ie*, based on procedures that occur within legal parameters, which restricted, significantly, the use of purely political mechanisms in the mutual relations of Member States.



Under the legal and institutional perspective, the one characteristic of the integration process that has always been more surprising, was no doubt, the supranationality that also indicates a *sui generis* political situation, in which sovereign states agree to the imposition of decisions taken by the organization, even when they do not match their own interests. The integration dynamics and the progress of the founding treaties expanded considerably the transfer of competences, from the states in favor of the Union. Currently the EU has competence in areas that extend from agriculture, steel, atomic energy, competition, labor policy, social, fiscal, economic and monetary policy, trade and development, research and technology, education, transport, culture, and environment, to the provisions on foreign policy, security and defense policy, as well as immigration and asylum policies. Thus, the powers and duties of EU cover almost all sectors of State action, expanding, largely beyond the limits of a purely sectoral or economic integration, including to the sensitive area of fundamental rights.

From an early age, the need to create an effective system of protection of fundamental rights at Community level in which the development of a catalog of fundamental rights would be an essential part, was found, however this catalog was absent from the founding Treaties.

The Single European Act (SEA), which was the first major change of the founding treaties, revised the Treaty of Rome with the aim of relaunching European integration and the completion of the internal market. It has changed the operating rules of the European institutions and extended Community competence, on research and development, the environment and common foreign policy, furthermore it was inscribed in the preamble of the act, and for the first time, a generic formula Bill of Rights:

*"Determined to work together to promote democracy on the basis of the fundamental rights recognized in the constitutions and laws of the member states , in the convention for the protection of human rights and fundamental freedoms and the european social charter , notably freedom , equality and social justice"<sup>1</sup>*

Nevertheless, it was between advances and retreats, that only the Maastricht Treaty that would implement a protection more or less effective of fundamental rights within the Union, modeled on the then Article F, paragraph 2, which now bind the European Union in respect of *"The Union shall respect fundamental rights, as guaranteed by the ECHR and as they result from the constitutional traditions common to the Member States, as general principles of Community law"*.

Moreover, the prediction of a status of Union citizenship, recognized to all citizens of the Member States and involving the ownership of certain rights, including political rights (Articles 17 to 22 of the Treaty on European Community) was a catalog of major changes that were extended in its scope, by the Treaties of Amsterdam and Nice, but failed the objective of providing the communities with an European catalog of fundamental rights.

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<sup>1</sup> Preamble to the Single European Act.



However, the preparation of a catalog of fundamental rights was only decided at the European Council in Cologne, on 3 and 4 June 1999, whose specificities were set out in Annex IV to the Presidency conclusions of the said paper, from where we highlight the following passage:

*"... at the present stage of the Union's development, to establish a Charter of fundamental rights in order to make their overriding importance and relevance more visible to the Union's citizens.*

*The European Council believes that this Charter should contain the fundamental rights and freedoms as well as basic procedural rights guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and derived from the constitutional traditions common to the Member States, as general principles of Community law. The Charter should also include the fundamental rights that pertain only to the Union's citizens. In drawing up such a Charter account should furthermore be taken of economic and social rights as contained in the European Social Charter and the Community Charter of the Fundamental Social Rights of Workers (Article 136 TEC), insofar as they do not merely establish objectives for action by the Union."*

The aim was to highlight and to give visibility, to the rights of citizens and for citizens, through a catalog of fundamental rights endowed with normative primacy, legally binding and directly applicable, not intended, however, to change the Community competence in human rights. The contents of the future bill of rights should reflect the European and communitarian *acquis* on fundamental rights and should contain three broad categories of rights:

- The *personal rights and freedoms*, as guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms and the constitutional traditions common to the Member States.
- The *inherent rights of EU citizens*, the rights associated to the status of Union citizenship and therefore reserved for the citizens of the Member States (as provided for in the Treaty establishing the European Community).
- The *rights of economic and social nature* as they were enshrined in the European Social Charter and the Community Charter of Fundamental Social Rights of Workers.

On the other hand, the draft of the Charter would be participated by the main EU institutions and would count on the contribution of national parliaments.

From a first analysis of the draft catalog of fundamental rights, we can immediately draw two conclusions: that the Charter was not designed with the aim of expanding the competences of the Union and that the European Council of Cologne made it very clear that the issue of assigning a binding dimension to the Charter would be postponed without a specific deadline: *"... It will then have to be considered whether and, if so, how the Charter should be integrated into the treaties..."*



The Charter was only assumed a purely political commitment.

The 15 and 16 October the same year, in Tampere, the statement of the Council of Cologne was implemented and it was decided to set up a convention for drafting the Charter designed in Cologne, this convention, for the first time, joined in a direct process, the contribution of the representatives of national governments and parliaments for the development of EU law. Having met for the first time in December of that same year and approved a final draft on 2 October 2000 in Nice.

The drafting process of fundamental rights in the form of a Charter was developed by representatives of national governments, the European Commission and members of European and national parliaments. Chaired by Roman Herzog, former president of the RFA and of the German Constitutional Court, this process introduces an innovation, since it witnessed the participation of national parliaments and national governments, strengthening, therefore, the level of decision making, visibility and legitimacy of the catalog of fundamental rights, as well as the expression of several European sensibilities.

The Tampere European Council established the principle of publicity of debates and of documents submitted, therefore all documents of the presidency of the Convention, as well as the contributions of all participants and other groups are available on the Internet. The Convention completed its work and presented the draft Charter in its final version on the second of October 2000 in order to enable the European Council to discuss the text in the course of the informal summit on 13 and 14 October 2000, in Biarritz having obtained assent. Similarly, the European Parliament also spoke favorably about the text, on November 14, 2000 and December 7, the same year, so the Charter of Fundamental Rights was proclaimed by the three institutions.

The Charter derives from the existence of a collection of rules on the protection of fundamental rights, both in terms of the Member States and their constitutional traditions, which embodies the general principles of Community law, either at the international level, with the new paradigm of sovereignty based on the need to share responsibility in the protection of these rights. It also intends to shape the rights of European citizenship in particular the Community Charter of Fundamental Social Rights of Workers and the European Social Charter, thus giving formal recognition to the vast European Court of Justice rulings on Fundamental Rights. It becomes a Community legal instrument, enjoying from its protection and support and going beyond the member state reality.

The main functions assigned to the Charter are general functions as an instrument that legitimizes the Union's political action and the co respective and legal security as well as to provide the necessary visibility and proximity of citizens to the above mentioned *acquis*.

We can still identify as specific objectives; the Charter as a mechanism for monitoring and regulating the exercise of Community competence, and this does not mean increasing the powers of the Union, but rather the way in which they should be exercised; The formal vinculation to the European Convention of Human Rights and its submission to the Court of Justice, as well as clarification of the compatibility between the Charter and the national constitutions, does not require changes in national constitutional law, but rather arises as a criterion of interpretation; As a criterion for guidance on the Union's relations and there maining international community,



particularly in relation to the common foreign and security policy, on the relations with third countries and more specifically in relations with the states of the enlargement; Finally, the Charter guarantees the protection of existing rights in the Convention and thus generates a match and the integration of these rights in the Union *acquis*.

Despite its solemn proclamation of the European Council in Nice in 2000, the Charter has retained its non legally binding character until 2007, when the Lisbon Treaty has conferred binding legal force recognizing its legal value at the treaties level.

Moreover, in this area, the Lisbon Treaty, which entered into force in December 2009, already provided for the accession to the Convention and the Commission is provided with a mandate to this effect, so the Stockholm Programme, adopted by the European Council of 11 December 2009, also provided for the Union's rapid accession to the European Convention of Human Rights, thus consolidating the legal framework for protection of fundamental rights in the EU *acquis*

The multiannual Stockholm program (in force between 2010 and 2014) has for its mission to deepen the progress made within the Area of Freedom, Security, and Justice and to focus on the interests and needs related to citizenship. The challenge is to achieve a balance between the need to ensure respect for fundamental rights and freedoms of the individual and the need to ensure security in Europe. On the other hand, the Stockholm Programme provides that the European Union should join as soon as possible to the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Commission presented a draft decision of the Council of the European Union towards the authorization to negotiate the agreement on Union accession to the Convention.<sup>2</sup>

The status of the European Charter of Fundamental Rights, only recently, with the entry into force of the Lisbon Treaty, became clear within the Community legal order, strictly speaking, in March 2010.

Behind, it was left a long experience, based on the Court of Justice rulings on the enforcement of fundamental rights.

In fact, the scope of the treaties essentially economic, even alienating the issue of protection of fundamental rights, allowed under the rules of conformation of economic freedoms, for the rights, protected by the Community legal order, to have an effect on EU citizens. Although indirect and instrumentally, these rights have been regulated and assumed a key role in the *acquis* communitarian, the right to non discrimination on grounds of nationality, the right to free movement and access to the exercise a profession or economic activity in the territory of a member State, the freedom of establishment, as well as some economic and social rights such as equal pay between men and women.

In the absence of a declaration of rights, it fell on the Community Judge, based on a case by case assessment, the definition of a community model of protection of fundamental rights.

It is therefore important to examine the role of the Court of Justice of the European Union in the jurisdiction of the fundamental rights that anticipated the consecration of

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<sup>2</sup> Reflection document of the Court of Justice of the European Union on certain aspects of EU accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.



these rights as a genuine Community policy, as the result of binding nature given by the Treaty of Lisbon to the Charter.

The evolution of its jurisprudence illustrates the contribution of the Court of Justice to create a legal space with respect to citizens by protecting the rights that EU law gives them in different aspects of their daily lives. Thus, by holding that respect for fundamental rights as an integral part of the general principles of law, also contributed considerably to increasing levels of protection of those rights

The European Court of Justice includes the General Court and specialized courts, it falls on the ECJ, composed of these three jurisdictions, the main task of assessing the legality of Union acts and ensure full compliance with the Treaties as well as ensure the interpretation and uniform application of Union law.

The ECJ over the years has been creating, through its case law, the obligation of legislators, public administrations and national courts to fully implement EU law within their respective spheres and courts to protect the rights of European citizens. This law consolidated the principle of primacy of Community law and the direct effect of EU law.

The normative deepening of the integration process, closely related to the assertion of the primacy and direct effect, as the basic criteria of coordination between Community law and national laws, inculcated in most of the Community rules the characteristic of immediacy. The primacy and direct effect of Community rules gives the particular right to enforce them at the expense of the national rule.

However, as direct recipient of the Community legal command, the individual might be affected in its capacity as holder of the rights recognized by the national constitution or by applicable international conventions, particularly with regard to fundamental rights.

As a result, the Court was faced with a dilemma, to abdicate of the primacy whenever the binding force of Fundamental Rights was in question, or not to abdicate on the absolute and unconditional nature of the requirement of the primacy. From the analysis of the European Court of Justice jurisprudence, we can say that, at first, it has opted for an agnostic view, regardless of how relevant were the fundamental rights in its constitutional or international nature, the Community courts did not recognized them as parameters of assessment of validity of Community acts.

The Court held that it should ensure the enforcement of the primacy and the elimination of any exceptions that might weaken, even if it has to sacrifice fundamental constitutional rights or international rules on human rights, not allowing the individual invocation of the constitution or of international instruments to oppose the application of a Community act potentially restrictive of Fundamental Rights. Thus, the Court rejected the independent supervision of Fundamental Rights.

We can say that the Court violated the Treaty itself, in so far as the art. 19 TEU regards the court as the body *"to ensure the respect of law"*. Now, by historical legacy or under the current constitutional experience, the law embodies the proclamation and effective protection of fundamental rights.

This position of the Court undergoes a major change, with the ruling of 12 November 1969, delivered in the case Stauder, materializing shift from the "agnostic" phase to a



phase of active recognition of Fundamental Rights, "... *the fundamental human rights enshrined in the general principles of community law and protected by the court*"<sup>3</sup>.

The "*communitarisation*" of Fundamental Rights by reference to general principles of law, had been suggested by the Attorney General Lagrange in the case *Comptoirs*. On the other hand, we must stress that it is the Treaty itself, in art. 340º (EUT), that recognizes the general principles common to the laws of the Member States concerning extra-contractual liability.

In the sensitive area of Fundamental Rights the recourse to general principles of law as technical integration and empowerment tool of rights and freedoms enshrined in the national systems, would prove extremely fruitful. It is even an enhanced protection, since the general principles have primacy over secondary Community law and on the treaties themselves wherever basic rights inherent to the human dignity of a person, which by its ethical-legal force are not subject to exemption.

The Court of Justice jurisprudence has given an important contribution to the determination of a material notion of general principles of law inherent in the constitutional traditions of Member States and integrated into the structures and objectives of the Community *acquis*<sup>4</sup>.

The Court calls for himself, in collaboration with national courts, the protection of Fundamental Rights, initiating a third phase in the EU<sup>5</sup> jurisprudence, characterized by the determination of material criteria of Fundamental Rights. The Common constitutional traditions, the constitutions of the Member States and the international instruments on human rights to which Member States have acceded or cooperated, form a wide range of normative revelation of Fundamental Rights that must be protected by Community Courts in cooperation with national courts. As general principles of law their binding force on the legal system does not depend on any common denominator, nor on the greater or lesser acceptance of the Member States to identify their criteria, but on their functional adequacy. Being an EU body of limited powers, according to the principle of jurisdiction by assignment, the interpretation of the scope of competences both explicit and implicit, regarding the protection of fundamental rights can only match this space of regulatory action.

The active recognition of fundamental rights has meant that we can find in the Court of Justice jurisprudence direct references to international law as a source of rights guaranteed by the Community Courts<sup>6</sup>. The first explicit mention of Charter of Human Rights emerged in the case *Rutili*<sup>7</sup> by considering that the limits of the competence of the Member States regarding immigration policy, are the manifestation of a more general principle enshrined in Articles 8, 9, 10 and 11 of ECHR and Article 2 of Protocol No. 4.

In addition to the many explicit references and additional protocols to the ECHR, the ECJ recognized in a 1991 ruling that the ECHR "has a particular meaning" between the general principles of law whose protection is guaranteed by EU law.

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<sup>3</sup> Rulling, *Stauder*, Proc.29/69 of November 12, 1969, TJC Report 1969: 419.

<sup>4</sup> Rulling, *Handelsgesellschaft Internationale*, Proc. 11/70 of 12 December 1970, Report of TJC1970:1125.

<sup>5</sup> Rulling *Nold II*, Proc. 4 / 73 to May 14, 1974, TJC Report 1974: 491.

<sup>6</sup> In the *Van Duyn* case (Proc. 41/74 of 4 December 1974 Report of the TJC: 1337) characterized the right of entry and residence of nationals in their own state as a principle of international law.

<sup>7</sup> Rulling *Rutili*, Proc. 36/75 of 29 October 1974, Report of the TJC: 1219.



The imperative nature of human rights in EU law also legitimizes the power of the EU judge to, in cooperation with the national court, proceed to the supervision of legislative acts and regulations of the Member States.

Nevertheless, the Court confirmed its intention to limit the enforcement of the compatibility of national law with the ECHR provisions to those that run Community regulations or which provide exceptions to Community freedoms, and not to syndicate the compatibility with the ECHR of a national law that is located in the area of the national legislator.

The relevance of the protection of fundamental rights in the Court of Justice as part of the general principles of law, which are protected either by the Community judicature, or by the national court, may be understood as a form of material reception.

In fact, the provisions on Fundamental Rights were incorporated into the constitutional traditions of Member States and thus, in particular, the ECHR has been received and incorporated into EU law as part of the general principles of law. Thus, the EU Courts interpret and applies the fundamental rights of both national and conventional sources, according to the rules and criteria of EU law. The Community Court did not commit to a legal classification of fundamental rights in EU law, but in its jurisprudence on the relevance and meaning of Fundamental Rights, the court points to its material reception.

In a recent ruling on matters of competition concerning the right not to incriminate oneself, protected by the presumption of innocence under article 6, paragraph 2 of the ECHR, the Court concluded that "*has no jurisdiction to rule on the legality of an enquiry into competition law under the provisions of the ECHR, to the extent that these are not part of Community law as such*", stressing, however, that the Court has consistently held that "*fundamental rights are an integral part the general principles of law whose observance is ensured by the Community Courts.*" Different position would be adopted today because, under the Treaty of Lisbon, the ECHR became vinculative.

It is fair to say that the enactment of the Charter of Fundamental Rights of the European Union does not add powers to the EU competences on Fundamental Rights, nor has it revealed a new set of common values on which the Union is founded, but it gives a new legitimacy to the protection of these rights, solidarity of form, democratic legitimacy of the development, importance of codification and systematization and symbolism inherent in a catalog which aims to express the principles and rights it constitutes a fundamental pillar of a political community.

The jurisdictional *acquis* on the protection of fundamental rights in Europe whether perfect or not, constitutes itself as a first step, on the protection of fundamental rights of the European citizens and as a safeguard against violations of their legal rights by the authorities that hold the prerogatives of power.

However, its casuistic basis and legal uncertainty do not fit the defense of what is the deepest of human nature: human dignity and fundamental values.

In this regard, one must move towards a progressive deepening of an autonomous legal order, coherent and uniform, that does not infringe, if possible, state sovereignty, but that inevitably will end up restricting the freedom of state activity in areas that are increasingly large and extensive.



With the express consecration of Fundamental Rights, as a genuine Community policy, by making it binding, with the Treaty of Lisbon, the instances with political legitimacy and institutional competence took a step forward for the protection of Fundamental Rights.

On the other hand, the ECJ got released from a position of constraint, between the choice on the application of the Charter or the defense of European integration and resolves definitively the question of the legitimacy of the ECJ regarding the protection of these rights.

The Charter ceases to have a merely symbolic role and is set to fix the teleological principles inherent to the European Union, translating them into Fundamental Rights. With its binding nature, the Charter gives a qualitative leap, by stating that is not only intended to crystallize and articulate the rights but, in fact, to ensure adequate protection in the face of European public entities and powers.

The character of universality, found in this Letter shows that one of its objectives was the dissemination among Europeans of the knowledge necessary for them to demand and ensure an effective protection of their rights. In this sense, it provides an answer to need for dissemination and information of these rights to its recipients.

In short, the Charter approach and announces its catalog of fundamental rights to citizens, strengthening its legal security and certainty.

On the preamble of the Charter we can verify, the proclamation of EU common values (human dignity, freedom, equality, solidarity, ...), the statement of basic principles (the principle of democracy and the rule of law , principle of respect for fundamental human rights, the principle of subsidiarity, ...), the promotion of core values (respect for the diversity of cultures, traditions and identity of the people of Europe, balanced and sustained development of economy, social progress, evolution technological and scientific), the reaffirmation of compliance with the constitutional traditions of Member States, of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charter, as well as respect for the jurisprudence of the ECJ and the European Court of Human rights and submission to the superintendence of the ECJ and national courts of the Member States.

The Charter brings together a set of personal rights, such as civil and political rights of citizens enshrined in treaties, economic rights and social rights, applying, clearly, the principle of universality and indivisibility of rights. Concerning the structure, it does not make the distinction, previously established in European and international texts, including civil and political rights on one hand, and economic and social rights on the other, but opts for a list of all the rights and freedoms in accordance with some fundamentals essential to human dignity, fundamental freedoms, equality between people, solidarity, citizenship and justice. Being systematized around basic legal rights as those mentioned above.

Thus and for the first time, all the rights that were scattered through various legislations, such as national legislation and international conventions of the Council of Europe, the United Nations and the International Labour Organization, among others, were assembled in a single document.



Providing visibility and clarity to Fundamental Rights, the Charter helps to develop the concept of political union as well as to build a European area of freedom, security and justice.

For the future and regarding implementation of the Charter, it is important to give it credibility and invest in a wide dissemination of its contents, thus fulfilling one of the objectives of the project, to make it visible. On the other hand, the principles enshrined in the Charter shall serve as criteria guiding the development of EU policies and parameters for the activity of EU institutions.

We highlight some recent initiatives, which we reported as a breakthrough in the protection of Fundamental Rights and the application of the Charter; in September 2002 a network of independent experts on human rights was created, after an European Parliament recommendation. These same experts submitted their first report on the situation of Fundamental Rights in the European Union and its Member States on 31 March 2003. The report presents a synthesis of national reports produced by each of the experts and recommendations to the institutions and the Member States. The network was funded as a preparatory action<sup>8</sup>, with a limited duration to three years that cannot be renewed.

In February 2007, the European Union Agency for Fundamental Rights (FRA) was created<sup>9</sup>, based in Vienna, whose main purpose is to provide information, assist and provide competences to the EU and national institutions in the field of Fundamental Rights. The agency coordinates its activities by establishing a network of cooperation with civil society, exchanging information, sharing knowledge and ensuring close collaboration between agencies and other stakeholders. It also establishes institutional relations at the international, European and national levels, including the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE), the relevant community agencies, government organizations and public agencies, including the National Institutes of defense of human rights.

It aims to analyze of the main problems of each state, allowing the Union to increasingly act in accordance with the needs and interests of their members, looking for the effectiveness of their decisions and the consistent application of measures in the field of fundamental human rights.

In conclusion, the Charter adds legal certainty with regard to the protection of fundamental rights, to date this was only granted by the Court of Justice and Article 6 of the Treaty of the European Union..

For this reason, we cannot fail to highlight the role that the law played in the determination of the precise legal boundaries of the Charter and on the maturation of a system of protection of fundamental rights. This Court's role is and was so important that the Charter was to become mandatory by its interpretation as a source integrated in the general principles of Community law. In this sense, the letter was destined to be incorporated in the Treaties, sooner or later, which turned out to be implemented on the Lisbon Treaty.

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<sup>8</sup> In accordance with Article 49 of the Financial Regulation (Regulation 1.605/2002 Council)

<sup>9</sup> By Regulation 168/2007 of 15 February establishing the Fundamental Rights Agency of the European Union



In a time where international relations are governed both by its complexity, the diversity of their stakeholders and are characterized by the existence of multiple legal systems that are intertwined, resulting in a dispersed and fragmented normative order, the adoption of the Charter of Fundamental Rights European acquires a special importance.

With its enforced application, the debate about its necessity is ended it is now clear that states, citizens and the magistrates should consider its content as a criterion for decision-making and implementation of all public policies.

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## **Appendix**

### ***The Court Of Justice of European Union***

Stems from the December 10, 1952 with the establishment of the ECSC Court of Justice in Luxembourg. Through the Treaty of Paris in 1951, later adopted by the Treaties of Rome in 1957 was created the Court of Justice of European Communities, to ensure an accurate and uniform application of Community law by its Member States.

With the creation of the communities a new autonomous law was born, to regulate relations not only between member states, but also among its institutions, businesses and citizens themselves.

Since inception in 1952, the Court of Justice of the European Union carries with itself the jurisdictional administrative, international, constitutional, labor, civil, tax and customs functions, it is the jurisdiction responsible for the interpretation and application of Community law. The ECJ cooperates with the judicial authorities in the Member States to ensure uniform application of Community law, acting as interpreter ultimately responsible of Community law. As part of its contentious jurisdiction, whether or not resulting from the Treaties, it settles disputes between institutions and bodies of the EU, between Member States, between Member States and institutions, bodies or agencies of the EU and between individuals and Union institutions.

The Court is, therefore, the judicial authority of the European Union and its mission is to ensure "respect for the law in the interpretation and application" of the Treaties, in collaboration with the courts of member states.

The Court of Justice of the European Union, is composed of three courts: the Justice Court, the General Court (established in 1988) and the Civil Service Tribunal (established in 2004).

The Court of Justice is composed of 27 judges and 8 advocates-general. The Judges and Advocates General are appointed by common accord of the governments of the Member States, after consultation with a committee to advise on the suitability of the candidates proposed to perform the duties in question. Their terms are for six years, renewable. They are chosen from persons whose independence is beyond doubt and who possess the ability required for appointment in their respective countries, of high judicial office and have recognized competence.

The judges of the Court of Justice shall elect the president for a period of three years, renewable. The President directs the work of the Court and presides at hearings and deliberations of the major formations of the Court.

The General Advocates assist the Court. They are responsible to publicly present, with complete impartiality and independence, legal opinions, called "conclusions", in cases in which they were appointed.

The Court of Justice can function in Full Court, a Grand Chamber (thirteen judges) or in chambers of three or five judges.

The Full Court is responsible to assess particular situations envisaged by the Statute of the Court of Justice (including when to declare the resignation of the Ombudsman or compulsorily retire a Commissioner who has failed to fulfill the duties incumbent on him) and when considering that a specific cause as an exceptional importance.



It sits in a Grand Chamber when a Member State or an institution that is party to the proceedings so requests and processes are particularly complex or important.

The other cases are heard in chambers of three or five judges.

The General Court is composed of at least one judge per Member State (27 in 2007). Judges are appointed by common accord of the governments of the Member States, after consultation with a committee to advise on the suitability of candidates. Their terms are for six years, renewable. From among their number for a period of three years, the President of the Court appoints a Registrar for a term of six years.

Judges shall perform their duties with complete impartiality and independence. Contrary to the Court of Justice, the General Court has no permanent General Advocates. This function can, however, be exceptionally entrusted to a judge.

The General Court works in Chambers of five or three judges or, in some cases, a single judge. It can also sit as a Grand Chamber (thirteen judges) or in full court, when the legal complexity or importance of the case justifies it. Over 80% of the cases submitted to the General Court are heard by a Chamber of three judges.

The General Court has jurisdiction on: the actions brought by individuals or legal persons (institutions, companies, ...) against acts of the institutions and bodies of the European Union that are recipients or directly affected by the case, and against regulatory acts (directly affecting them and do not require implementing measures), or against a failure of these institutions and bodies. It is, for example, the action brought by a company against a Commission decision imposing a fine; actions brought by Member States against the Commission or, in actions brought by Member States against the Council in relation to acts adopted in the field of State aid, trade protection measures and the acts by which the Council exercises its competences.

The Civil Service Tribunal of the European Union is composed of seven judges appointed by the Council for a renewable period of six years, after a call for proposals and advice of a committee composed of persons chosen from among former members of the Court of Justice and the General Court and jurists of recognized competence.

When appointing judges, the Council must ensure that the composition of Civil Service Tribunal is balanced and based on the broadest possible geographical basis from among nationals of Member States and national legal systems.

The judges of Civil Service Tribunal shall designate among their number and for a renewable period of three years, its chairman.

The Tribunal meets in chambers of three judges. However, when the difficulty or the importance of questions of law warrant, a case may be referred to the Full Court. Moreover, in some cases and in the light of its Rules of Procedure, the Court may decide in sections of five judges or as a single judge. The judges shall appoint a secretary for a term of six years.

Regarding the litigation the Civil Service Tribunal is within the judicial institution of the Union, the specialized jurisdiction of litigation in the field of civil service of the European Union, previously exercised by the Court of Justice and, from its creation in 1989 by the Court of First Instance. It has jurisdiction to hear at first instance, disputes between the Communities and their servants pursuant to Article 270 EUFT. These disputes are related not only to issues relating to labour relations themselves (pay, career



development, recruitment, disciplinary action, etc, ...) but also on the social security system (illness, retirement, invalidity, accidents at work , family allowances, etc, ...). It also has jurisdiction for disputes between all bodies or agencies and their personnel, for which jurisdiction is conferred on the Court of Justice of the European Union (eg. disputes between Europol, the Office for Harmonisation in the Internal Market (OHIM) or European Investment Bank and their agents). On the other hand, has no jurisdiction to hear disputes between the administrations of their respective national agents.

Regarding the contentious mechanism, the default action is intended to monitor compliance by member states of their obligations under the law of the Union to the Court of Justice is preceded by a previous procedure initiated by the Commission that gives the member State the opportunity to respond to charges. If this does not lead the state to terminate the infringement the State may be brought before the Court on an action for breach of EU law.

This action may be brought by the Commission (it often the case) or by a Member State. If the Court declares the breach, the State concerned must terminate it without delay. If, after bringing a new action by the Commission, the Court finds that the Member State concerned has not complied with its ruling, it may order the payment of a lump sum or a penalty. However, in case of failure to notify measures transposing a directive to the Commission, the Court may, on proposal of the latter, apply a financial penalty on the Member State concerned, at the stage of the first ruling of non-compliance.

Another important mechanism is the action for annulment, through this type of application the applicant seeks the annulment of an act of an institution, of an organ or agency of the Union (including a regulation, directive, decision) because they are wounded with irregularities under EU law. Its main goal is to eliminate wounded legal acts from the EU. When it comes to judicial review of EU legality the Proceedings for failure to act allows for the control of the legality of the inaction of the institutions of an organ or a body of the Union. Proceedings for failure to act are legal proceedings brought before the Court of Justice of the European Union (CJEU). They enable the Court to control the inaction of a European Union (EU) institution, body, office or agency. This type of action may only be brought after a procedure of pre-litigation, and the institution concerned is urged to act. When the legality of the omission is declared, it is up to the institution concerned by the non-compliance to take appropriate measures to correct the omission.

Regarding the review of decisions they may be brought before the Court of Justice via appeal limited to the points of law, judgments and orders of the General Court. If the appeal is admissible and well founded, the Court of Justice annuls the decision of the General Court. If the process is able to be tried, the Court of Justice may decide the dispute definitively. Otherwise, it must refer the case to the General Court, which is bound by the decision given on the appeal.

Another review mechanism allows for the decisions of the General Court on appeals against decisions of the EU Civil Service Tribunal to can be exceptionally reviewed by the Court of Justice, in accordance with the Protocol on the Statute of the Court of Justice of the European.

Finally, the ECJ has advisory jurisdiction on the form of opinions on the compatibility of international treaties with EU law, art. 218 of the Treaty of Lisbon.



The Court of Justice, is also responsible for the development an action for judicial cooperation under the preliminary ruling, working in collaboration with all the courts of the Member States.

To ensure an effective and uniform application of Union law and avoid divergent interpretations, national courts can, and sometimes must, address the Court of Justice to request clarification on the interpretation of Union law, and allowing them to check the conformity of its laws. The preliminary ruling may also have intended to review the legality of an act of the Union.

The Court of Justice answers by reasoned rulling or decision and the recipient national court is bound by the given interpretation. The ruling of the Court of Justice is binding on other national courts to whom it may be submitted a similar problem.

It is also under the preliminary ruling procedure that any European citizen can ask for clarification of EU rules the concern him. In fact, although the preliminary ruling procedure can only be triggered by a national court, the parties already present in national courts, the member states and EU institutions can participate in the proceedings before the Court of Justice. That is the way in which some structural principles of EU law were from preliminary rulings, namely the development of the jurisprudence of the protection of the rights enshrined in the Charter of Human Rights.

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## **Critical Review**

**Kagawa, Fumiyo et Selby, David (ed) (2011). *Education and Climate Change. Living and learning in interesting times*. New York: Routledge: 259 pp. ISBN10: 0-415-80585-6**

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**“Education and Climate Change. Living and learning in interesting times”** is a co-authored book coordinated by Fumiyo Kagawa and David Selby published in 2010 by Routledge.

The book arouses interest for two main reasons, and any one of them is valid and sufficient to justify a careful reading: one the one hand, it is the central topic of the book and, on the other, the curricula of the authors. Accordingly:

1. The first reason lies in the subject under discussion – the pedagogical approach on climate change worldwide, bearing in mind its multiple impacts on several aspects of human life (health, food security, several types of economic production, ...) – which no doubt is a current topic of major importance. Implicitly, the analysis refers to the importance of International Relations in the context of environmental issues, and considers sustainability as the central goal. However, in this book the reverse is equally true, since environmental issues are equally important for International Relations, given that all examples presented and discussed are advanced from a holistic perspective;
2. The second reason has to do with the coordinators, co-authors of the book and of the preface. Fumiyo Kagawa is research coordinator at the Centre for Sustainable Futures at the University of Plymouth, United Kingdom, and David Selby is a Professor at Mount St. Vincent University, Canada, and Director of Sustainability Frontiers, a virtual research centre on climate change and sustainable education. In addition to the articles written by the coordinators, the book includes texts authored by lecturers from international renowned universities and researchers from research centres recognized worldwide by their peers<sup>1</sup>. The preface was written by Bishop

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<sup>1</sup> Virginia Cawagas (Associate Professor at the United Nations University for Peace, Costa Rica), Darlene Elower (Associate Professor at the University of Victoria, Canada), Ian Davis (Professor at the University of York), George Seja Dei (Full Professor at the University of Toronto, Canada), Edgar González-



Desmond Tutu, Nobel Peace Prize Laureate in 1984. In the first words of the preface, he reinforces the idea that climate change, besides being global, has a human cause, for which reason, more than vital, it is urgent to adopt and implement a wide range of measures, adjusted by sectorial areas, and which must be undertaken by all states and embraced by the world's population with a sense of responsibility. Desmond Tutu defines climate change as one of the main world crisis carried out by Humanity, and which has proven to be unbalanced in terms of its impacts.

*"Climate change is the greatest human-induced crisis facing the World today. It is totally indiscriminate of race, culture and religion. It affects every human being on the Planet. But, so far, its impacts have fallen disproportionately. In response to climate change, the World «adaptation» has become part of standard vocabulary" (pp: XV)*

As a work of joint authorship, it arouses a wide-ranging interest, allowing different perspectives on the same problem to come to the fore and, in addition, relate thematic areas, cross indicators, complement readings and reinvent methodologies to address the desired sustainability concept.

Above all, this book is pedagogical in that it allows the reader to learn about environmental issues from a critical theoretical approach. Readers also become familiar with the technical and scientific explanation about the processes that lead to climate change and corresponding consequences and, ultimately, benefit from the sharing of research experiences carried out by the respective authors.

The book is organised around twelve thematic texts<sup>2</sup> which, despite the specificities of each analysis, present a set of common concerns, mostly centred on the concept of social and environmental sustainability worldwide. All authors agree on three major issues: the urgency that the matter requires, involving reflection, debate,

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Gaudiano (Senior Researcher at Universidade Autónoma de Nuevo Leon, Mexico, and member of the Commission on Education and Communication of the International Union for Conservation of Nature IUCN UICN), Magnus Haavelsrud (Professor at the Norwegian University of Science and Technology in Trondheim, Norway), Bud Hall (Director of the Office of Community-based research at the University of Victoria, Canada), Heila Lotz-Sisitka (Full Professor in Environmental Education and sustainability at the University of Rhodes, South Africa), Pablo Meira Cartea (Professor at the University of Santiago de Compostela, Spain), James Pitt (Senior Researcher at the University of York, United Kingdom), Jane Reed (Coordinator of the International Network for School Improvement at the London Centre for Leadership, University of London), Janet Richardson (Professor at the University of Plymouth, United Kingdom), Toh Swee-Hin (Professor and Director at Griffith University Multi Faith Centre, Australia), Margareth Wade (Professor at the University of Plymouth, United Kingdom).

<sup>2</sup> The twelve articles are: 1) *Climate change education and communication: a critical perspective on obstacles and resistances*; 2) *Go, go, go, said the Bird: sustainability-related education in interesting times*; 3) *Peace learning: universalism in interesting times*; 4) *Climate injustice: how should education respond?*; 5) *The environment, climate change, ecological sustainability, and antiracist education*; 6) *Learning in emergencies: defense of Humanity for a livable World*; 7) *Sustainable democracy: issues, challenges and proposals for citizenship education in an age of climate change*; 8) *School improvement in transition: an emerging agenda for interesting times*; 9) *Critique, create and act: environmental adult and social movement learning in an era of climate change*; 10) *Transforming the ecological crisis: challenges for faith and interfaith education in interesting times*; 11) *Public health threats in a changing climate: meeting the challenges through sustainable health education*; 12) *Weaving change: improvising global wisdom in interesting and dangerous times*.



methodological redefinition and global intervention; 2) the need for a participatory methodological approach with the active involvement of everyone, ranging from ordinary citizens to the rulers; 3= sustainability as a goal, with continual reference to the new generations.

One of the major concerns highlighted in the twelve texts is the strategy to be adopted after awareness that, besides being an undisputable reality, climate change has major impacts that linger over time. The strategy advocated, which was shared by all authors, focuses on a conscious and responsible Environmental Education embraced by all regardless of origin or place of residence, economic and financial capacity or culture.

Given the awareness that climate change is global and world-encompassing, it is necessary to create a new universalism (Haavelsrud, 2010: 57 and following) based on a dynamic concept of Humanity guided by common objectives ("commonality"), including Peace, using a "transformative learning" methodology.

On an international level, dialogue is also considered from a global perspective (Sisitka, 2010: 73 and following) due to the urgent need to find contextualized answers to problems posed by climate change. This idea is based on the perception that negative socio-environmental impacts, including economic and political actions, are becoming more intense and difficult to resolve and also on the findings that those who feel the effects of climate change the most are not the same as the ones causing it. And ultimately, on the awareness that the consequences of climate change are so structural that what is at stake is the continuity of life in the entire planet. Thus, the relationship between climate change, equity and justice is equated, which, to some extent, does away with the conventional concept of territorial boundaries, incorporating educational enabling methodologies that are transnational and global, since the problems felt also have those characteristics.

The educational strategy is designed transversally so as to be an opportunity to rethink attitudes and behaviours and also to refocus priorities and objectives at what is deemed to be "interesting times" (Kagawa *et Selby*, 2010). This period in time is considered to be unique because it is characterised both by multiple changes in the climate and by the chance to shape attitudes and learn from previous mistakes. This stimulates a transformative process on a individual and social basis (group-based, whatever it may be) that calls for ethical and moral principles, producing positive impacts in terms of effective and active involvement (engagement) that leads to a "mirror response" (Kagawa *et Selby*, 2010: 5 and following). The "mirror response" is shown very clearly, and is brought into evidence by the proven perception that climate change stems, in part, from unplanned human activity without associated impact studies and also from the awareness that the effects of this change may be felt by human communities in such a radical manner that, more than economic or purely environmental, it undermines the sustainability of human life.

This idea of a "mirror response" goes beyond the conventional principles of environmental determinism and is particularly advocated in a pedagogical sense, regardless of the groups involved (children, youth, adults, specific socio-professional groups, managers and entrepreneurs, politicians and rulers,...). This educational strategy encompasses society on the whole at micro and macro level, and it takes into consideration the entire world dynamics. This idea is often advanced by referring to Al Gore:



*"It gives us an opportunity to experience something that few generations ever have the privilege of knowing: a common moral purpose compelling enough to lift us above our limitations" (Gore apud Kagawa et Selby, 2010: 4)*

As one of the elements that all the analyses presented agree about, the educational strategy implies the ability for participatory involvement and may be differentiated into "education for sustainable contraction" and "education for sustainable moderation" (Selby, 2010: 41 and following), both of which aiming at indentifying alternative intervention methodologies for a reversal of the effects of climate change in the long term.

The participatory methodological approach towards the creation and strengthening of active citizenship is not new, but the relational view bringing together participation and global environmental citizenship fostered internationally as a means to overcome crisis situations is innovative (Davies, 2010: 128 and following). Likewise, this socio-environmental learning process, which empowers and creates "new" citizens who experience problems from a local dimension but are aware of their inherent global nature, is basically critical, creative and focuses on action and intervention (Clover, 2010: 162). Accordingly, it moves away from purely theoretical and descriptive approaches and from listings of intent with no practical application (Reed, 2010: 141 and following) and which will get down in history as well written documents that, for distinct reasons, were never implemented.

Thus, the environmental problems brought about by climate change are presented as a learning paradigm with the potential to promote social change, based on systemic and holistic principles (Swee-Hin, 2010: 180 and following). In other words, it is guided by integrating criteria based on local, national and regional and, above all, international ethics. Once more, these elements are guided by critical and constructive dialogue regulated by values in order to ensure the sustainability of life worldwide.

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