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**International Security**  
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**Might and  
Right in  
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Konrad Adenauer Foundation  
[adenauer-brasil@kas.de](mailto:adenauer-brasil@kas.de)  
[www.kas.de/brasil](http://www.kas.de/brasil)



Brazilian Center of International Relations  
[cebri@cebri.org](mailto:cebri@cebri.org)  
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# **Might and Right in World Politics**

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*Margaret Cohen*

**Translation**

*Margaret Cohen*

*(pages 13 to 27 and 53 to 66)*

**Design and Cover Design**

*Charles Steiman*

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*J. Sholna*

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Konrad Adenauer Stiftung  
Rua Guilhermina Guinle, 163  
Botafogo – CEP: 22270-060  
Rio de Janeiro – RJ  
Tel: (0xx21) 2220-5441  
Fax: (0xx21) 2220-5448  
adenauer-brasil@kas.de  
www.kas.de/brasil

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# Introduction

**Dr. Jan Woischnik**

Representative of the Konrad Adenauer Foundation to Brazil

In the last decade of the 20<sup>th</sup> century, when the Cold War came to an end, there was a growing understanding that International Law was consolidated as legitimation body for state actions. It was the beginning of a new peaceful world order, the world hoped that an old problem of geopolitics could finally be fully addressed by the International Law, a problem which the Athenian General Thucydides observed already more than 2000 years ago, according to which in the realm of the international, “the strong do what they can and the weak suffer what they must”. In this new world order right was supposed to finally come before might.

However, history played out quite differently. Almost immediately after the fall of the Soviet Union, the world witnessed the so called new wars. Old rivalries powered by new features emerged as the core of the new international security agenda. Genocides, ethnic cleansing, the involvement of transnational non-state actors, among others became the new normal for conflicts that flared up all around the world. And as the international society debated on what should be done, it became clear that the existing international legal framework was inadequate for the challenges at hand. The legal body was constantly adapted, structuring possible state actions in accordance to the new needs of the international society.

In this ongoing struggle, might once again resurged as a promising tool for an eventual return to peace and stability. Yet, the application of military power ought, in theory, to take place within legal constraints. As more sophisticated military capabilities are deployed all around the world, the issue about legality is ever more important. Issues such as cyberattacks and drones, keep challenging the current legal framework. Brazil and others argue that the application of force in world politics should be avoided and used only as a last resource - that primacy should be given to diplomacy. In Europe, however, events are pushing the EU and its partners towards a more active engagement. The question is, how does the return to “Realpolitik” (in European terms) structures the continuous development of institutions and bodies of law?

The XIII Forte de Copacabana International Security Conference invited experts and practitioners to engage in discussions around: what is thus the relation between might and right in world politics in the XXI century. The articles debate how the return of realism has been influential on policy makers rationale and cast a doubt on the current legal framework, questioning whether it is sufficient for the challenges, such as global terrorism.

In order to address the issues involving Might and Right in World Politics, this year’s publication is divided in three main chapters: The first on the balance of law and force in world politics of security; the second on the Brazilian and European views on defense and Geo-economics and the third on restoring peace to nations in conflict, presenting outlooks from Europe and Latin America.

The relation between law and force in world politics is made through a discussion on International Law framework reform - in order to address contemporary challenges in the prevention and resolution of emerging conflicts. The conversion of non-traditional or soft power factors (i.e. economy, environment, culture and religion) and the prominence of non-state actors, as well as regional powers, are presented as key to a more comprehensive analysis of global politics in terms of security issues. The relevance of international society as a normative foundation which underpins the dynamics of might and right in current world politics is also discussed.



Contemporary perspectives from Brazil and Europe in defense and geo-economics agendas are the main theme of the second chapter. Its main connections and divergences are presented here as an effort to conduct a broader debate with a view to revisit mainstream theoretical lenses informing Brazilian and European relations concerning security and defense dimensions. The new Global Strategy for the European Union's Foreign and Security Policy (EUGS) is introduced in order to identify and discuss new trends in Europe's political and military approach towards its neighbors and partners globally.

The third part features elements presented in the peacemaking processes developing in South America and implemented in the Balkans region. They aim at identifying the impacts of such initiatives for conflict mediation and mitigation in the world. The debate concerning the construction of a global governance model grounded on a political stability and sustainable peace in the 21st century is marked by the cooperation between institutional organizations (such as NATO), national entities and non-state actors, as well as by the international community apparatus.

For the last 13 years, the Konrad Adenauer Foundation in Brazil, CEBRI and the European Union have joined efforts with its partners in Brazil, Europe and elsewhere to promote a dialogue on security, as part of its mission to reinforce democracy and peace values globally.





# World Politics of Security: the Balance of Law and Force

**Antonio Ruy de Almeida Silva** is consultant of the Center for Political and Strategic Studies of the Naval War College, member of the Group of International Conjuncture Analysis of the University of São Paulo, Postgraduate Program Coordinator and Special Advisor of Command of the Superior School of War. He has experience in the areas of International Relations, International Security, Defense Diplomacy, National Defense, Maritime Force and Naval Force.

**Maira Siman Gomes** holds a Master degree in International Studies from the Graduate Institute of International and Development Studies (Geneva, Switzerland) and a PhD degree in International Relations from the Pontifical Catholic University of Rio de Janeiro (PUC-Rio). She is a professor at the Institute of International Relations at PUC-Rio. Her main areas of study are: International Security; Conflict Resolution; Foreign Policy Analysis; History of International Relations and Brazilian Foreign Policy.

# Contemporary inter-state armed conflicts: factors and processes involved

Antonio Ruy de Almeida Silva

Maíra Siman Gomes

Armed conflicts are a scourge plaguing mankind and understanding its causes and dynamics is essential to trying to prevent and manage this terrible phenomenon. Therefore, the following questions are key to understanding these conflicts: What are the causes of war and armed violence? What are the factors that influence the existence and perpetuation of armed conflict? How do the study and analysis of different elements and processes involved in the (re) production of violent clashes allow us to ponder on the conditions for conflict prevention and management?

Based on a review of academic literature that seeks to reflect on the different causes and dynamics of internal conflicts, this paper addresses synthetically and incompletely, due to the complexity, a few key factors and processes connected to the outbreak and perpetuation of these conflicts. These factors and processes were divided into two groups. The first group is composed by those factors connected to economic aspects intrinsically related to the dispute for natural resources, their scarcity and environmental degradation. Next, ideological, religious and ethnical elements will be addressed. This division's purpose is merely to methodologically facilitate the analysis because, in fact, as will be seen in the conclusions, armed conflicts have complex origins and dynamics and factors from both groups are generally present and inter-connected in all conflicts, usually permeated by the fragility of State institutions. Finally, the last part of this paper presents a summary of conclusions on prevention, resolution and transformation of this kind of conflict.

## Economic Factors, Natural Resources and the Environment

The relationship between armed conflict and the environment remains a reason for disagreement in international politics. In the international arena, the different views that developed and developing countries have on the environment do not contribute to solving the problem. The latter consider that developed countries have historically established their economies disregarding environmental preservation and, now, use environmental proposals as barriers to hinder developing countries' economic growth. On the other hand, there are those who consider that environmental degradation and illegal exploitation of natural resources should be of concern of the international community and a goal to be achieved by global coordination. According to Buzan (1988), environmental conflict is related, in a subordinated way, to ethnical conflict or to political eruptions and, although movements to securitize the environment are, primarily of a global nature, the issue has been more successful at a local level.<sup>1</sup> Therefore, although there is a more current view on the relationship between environment and security that tries to elope the state-centered logic and seeks to change the referent object for Humanity, the matter has had greater prevalence locally and possibly regionally.

Terriff (1997) considers that environmental problems may influence or not a conflict's development and that, although it might affect one region, it will not necessarily affect another. The relationship between environmental degradation and violent conflict may be direct or indirect and, in both cases, it is associated to scarcity of resources. Environmental change may be the cause, but usually it is only one of many factors of the conflict. There is a relation between population growth, consumption habits and the environment: human activities and the environment are closely related and, in order to mitigate environmental problems, appropriate policies should be established, considering that economic aspects, population changes, decline in agriculture and weakness of institutions are factors that contribute to the likelihood of conflict.<sup>2</sup> For Terriff the influence of environmental factors is, therefore, dependent on other variables. However, once conflict erupts, it will always have a destructive impact on the environment, indirectly due to military operations and population displacement or directly, when the environment is intentionally used as a weapon or means to hamper the enemy.

Homer-Dixon (1991) analyzes two types of conflicts where the relationship between environmental degradation and scarcity of resources is indirect.<sup>3</sup> In the former, the population movement caused by environmental problems may contribute to a conflict of ethnic nature in which those displaced groups establish in areas where other groups already live. The refugee migrations, for example, may exacerbate the intra-state and inter-state conflicts. In the latter, the lack of arable land and environmental

<sup>1</sup> BUZAN, Barry, WAEVER, Ole and WILDE, Jaap. *Security: a new framework for analysis*. Boulder: Lynne Rienner, 1988, pp. 91-92.

<sup>2</sup> TERRIFF, Terry. *Environmental Degradation and Security*. In: SHULTZ, Richard, Jr; GODSON, Roy; QUESTER, George (Ed.). *Security Studies for the 21<sup>st</sup> Century*. Washington, Brassey's, 1997, pp. 253-267.

<sup>3</sup> HOMER-DIXON, Thomas F. *On the Threshold: Environmental Changes as Causes of Acute Conflict*. *International Security*. Volume 16, Number 2, Fall 1991, pp. 76-116

degradation can contribute to the decline of the economy, the impoverishment of the population and the weakening of social institutions, generating intrastate conflict. Developing countries are the most susceptible to environmental problems, because they, sometimes lack political, financial and technological conditions to generate effective policies that contribute to alleviate the problems caused by exploitation and environmental degradation. However, conflicts exacerbated by environmental problems may also affect developed countries, either by migration or by the regional instability they can cause.<sup>4</sup> Anyway, the solution to the environmental issue is complex because the policies to be adopted must take into account political, economic, cultural and religious aspects. Therefore, environmental issues continue to contribute as one of the sources of conflict both domestically and internationally. However, the relationship between environmental changes and conflict is typically indirect and related to the lack of resources.

Billon (2005) also considers that there is a relationship between resources and conflict. For him, the resources not only shape the economic and political contexts that contribute to conflict in countries dependent on natural resources but their exploitation can be characterized by a high degree of conflict that can help prepare the conditions for larger scale conflicts or trigger their outbreak. The possession of resources, the favoring of a political and economic elite and the unequal distribution of income that derives from these resources are important sources of conflict because they create political, social and economically instability. These factors are intensified by the lack of democratic governance and strong institutions and the dependence on one source of income susceptible to price changes out of the country's control. For the author there is also a relationship between the types of resources, their location and mode of operation and the duration of conflicts. Resources easily exploited by insurgents, and whose ratio great value/low weight is significant, as is the case of diamonds, hinder the end of conflicts. Finally, he considers that it is a duty of commodity markets and companies who trade these resources to promote better governance in countries with which they trade. At the same time the author defends the need to implement international instruments to ensure transparency in negotiations for access to resources in order to systematically connect the exploitation of resources with the ability of States to build strong domestic institutions responsible for providing public goods equally. Industry, government and civil society must therefore work together to make the changes needed to transform resources into a benefit and not a "curse".<sup>5</sup>

According to the United Nations Environment Programme's 2009 report, as of 1990, eighteen armed conflicts were at least partially financed by the exploitation of natural resources. However, the report concludes that the relationship between the environment, natural resources and conflict is multidimensional and complex. Countries that

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<sup>4</sup> Ibidem

<sup>5</sup> Billion believes that although there is evidence to prove the "resource curse," in which countries that possess rich natural resources are not always able to develop economically and socially, there is also evidence to suggest that there is no deterministic relationship between the amount of resources and conflict. However, natural resources can generate the context in which the country's vulnerability to armed conflict is strengthened, especially in Africa (BILLION, Philippe. *Fuelling War: Natural resources and armed conflict*. Adelphi Papers 45:373,7-10, London, Routledge, 2005, pp. 7-83).

depend on the export of a few commodities may be more vulnerable to conflict. In turn, social injustices, environmental degradation and the attempts to control natural resources contribute to the irruption of conflict. Once the conflict settles, natural resources can influence the conflict on strategic considerations for the control of certain areas that allow the exploitation of those resources to finance the armed struggle. Attempts to establish an agreement are influenced by the perception of those who believe that peace will be disadvantageous to them, either through the loss of privileges or the loss of income generated by the exploitation of natural resources. The report concludes that there is an imperative need to incorporate factors related to the environment and natural resources in peacekeeping operation strategies. Other proposed measures are: to strengthen the United Nations' (UN) ability to detect and act preventively against the outbreak of conflicts in countries vulnerable to factors related to the environment and natural resources; establish sanctions during the conflict, which should be a basic tool to stop trade in conflicts where natural resources play an important role; and encourage the international community to help States develop ways to use the income from natural resources to strengthen the economy after the war in order to prevent the resurgence of conflict.<sup>6</sup>

While studying the importance of political economy in civil wars, Ballentine & Nitzschke (2003) concluded that access to natural and financial resources are neither the primary cause nor the sole cause of the separatist and non-separatist conflicts they analyzed. For them, in all cases examined there was no direct relationship between abundance of natural resources and high risk for conflict. In fact, these factors interacted, in varying degrees, with the political and socio-economic inequalities, disputes between ethnic groups, and the security dilemma generated by weak and inefficient governments. Therefore, they suggest that the analysis of models based on "reductionism of resources" or models that favor dichotomies like "rebel-centered versus state-centered" or "greed versus grievance should be avoided.<sup>7</sup> For the authors, there should be emphasis on the analyses that highlight the complex interrelationship between the political and economic dynamics and consider both the actions of the rebels and the persistence of violent factors and processes resulting from the institutional failure of states, including their monopoly of the legitimate use of force.<sup>8</sup>

Ballentine & Nitzschke (2003) also consider that there is a direct relationship between the capacity of combatants to self-finance and the complexity and duration of hostilities. Different resources affect the conflict and benefit contenders differently depending on the operation mode and the State's action. Resources such as drugs and alluvial diamonds are more likely to generate non-separatist enduring conflicts because they easily generate revenue for combatants. Resources such as oil, gas and minerals,

<sup>6</sup> United Nations Environment Programme. *The Role of Natural Resources and Environment in Conflict*. Nairobi, Kenya, 2009, p.5.

<sup>7</sup> Humpreys considers that there are several mechanisms that permeate the relationship between natural resources and the eruption and duration of a conflict. Thus, he considers that it is not possible to assert that "civil war is a typical result of greed". (HUMPREYS, Macartan. *Natural Resources, Conflict, and Conflict Resolution: Uncovering the Mechanisms*. *Journal of Conflict Resolution*. Vol.49. No.4.2005. pp.508-537)

<sup>8</sup> BALLENTINE, Karen and NIETZSCHKE, Heiko. *Beyond Greed and Grievance: Policy Lessons from Studies in the Political Economy of Armed Conflict*. New York, International Policy Academy, 2003, pp.3-4.



whose operation is more complicated, tend to be associated with conflicts with a separatist nature, which are more related to an elite's political and economic privileges, social injustice and unequal distribution of income at the expense of other ethnicities.<sup>9</sup> Moreover, the insurgent's illegal economic activities are often interconnected with international criminal networks. However, the authors consider that the illegal activities should be penalized but not the insurgents, which are different from common criminals due to the political objectives that guide them. To alleviate the issue of resources, the authors also suggest an international regulatory regime that favors greater control over transactions with commodities. However, they acknowledge that this type of control faces difficulties in achieving significant results and that regulatory regimes can have adverse and non-intended humanitarian effects on the population. Thus, when establishing regulatory regimes, policy makers must distinguish between groups that exploit armed conflicts seeking profit and those involved in the war economy to ensure their family's livelihood.

For Ballentine & Nitzschke (2003), however, the critical factors that allow the occurrence of this type of conflict are economic mismanagement combined with inequality and social injustice; repressive and elitist political systems; ethnic disputes and the weakness of the state, which enables the emergence of security dilemmas and facilitates the development of insurgent movements. Therefore, it is critical that preventive policies are adopted in order to reduce poverty and social inequality and strengthen state institutions. To try to resolve ongoing conflicts, in addition to the abovementioned measures, a strategy must properly integrate, in the domestic field, political and economic incentives to military pressure on the insurgents, and seek support in regional organizations and ad hoc alliances in order to mitigate regional and global economic, social and political interconnections related to the conflict.

Humphreys (2005) believes that countries dependent on agricultural commodities are in a more fragile position on the possibility of conflict, regardless of other natural resources. The lack of industrial development and a stronger internal market contribute to the social and economic weakness of the country, since, in his view, a vibrant internal market increases the communion of interests of sectors of the population that rely on existing financial and commercial transactions between them. Thus, a preventive policy would be the diversification of economic activities and industrialization. For him, the hypothesis of a weak state has a high explanatory value, and policies should be directed so that revenues from natural resources be devoted to economic development and the benefit of the population and that the actions of extractive industries are more controlled domestically and externally. Policies to avoid that certain sectors capture this income or to cut the cash flow of rebels should be complementary. On the other hand, the study found "strong evidence" that conflicts related to natural resources are more likely to end or to end earlier through a military victory than through negotiations between contenders.<sup>10</sup>

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<sup>9</sup> Ibidem, p.1. The authors use the term "lootable", for those that can be easily "stolen" and "unlootable" for those that cannot be so easily "stolen".

<sup>10</sup> HUMPREYS, op.cit., pp.508-537.

Another economic factor related to conflict are remittances by the diaspora, which have an ambivalent impact. On the one hand, they can help families survive or improve their financial situation, which can prevent them from supporting the outbreak or the development of an armed conflict; on the other hand, when these funds are captured by insurgents, they constitute a financial source that helps promote and prolong armed conflict, as was the case of the Tamil Diaspora remittances to the conflict in Sri Lanka. Thus, the economic role of the diaspora should be analyzed in order to establish measures to help reduce their effect on conflicts without harming the population that uses the financial resources for their livelihoods.<sup>11</sup>

In summary, it can be said that economic factors, natural resources and the environment are directly interrelated and influence conflicts. There is a direct relationship between a country's economic fragility, natural resources and conflict, as demonstrated by the number of wars that have plagued non-developed countries. Countries dependent on a few export commodities are usually more prone to economic problems due to dependence on commodity prices in the global market. Resources shape the economic and political contexts, contributing to the conflict in these countries, especially when the income earned by their trade are used to favor an elite at the expense of the population. Therefore, natural resources cannot be considered a "curse". On the contrary, they constitute an advantage for countries that possess them. The problem is mainly related to the misapplication of the proceeds from their trade. Furthermore, these countries have weak States<sup>12</sup>, with fragile institutions that are not able to provide the population with security and basic public services and where corruption and fostering prevail contributing to political and social instability. Hence, civil society is not coherent or capable of influencing the necessary political and social changes. At the same time, industrial fragility and the lack of a vibrant domestic market contribute to increasing social tensions and reducing internal cohesion, facilitating the breakdown of social ties and the outbreak of violence.

Similarly, sustainable economic development is difficult to be achieved because poverty presses the most vulnerable portions of the population, particularly with relation to land and scarcity of resources, leading to environmental degradation as a means to sustain their livelihood. Population displacement caused by environmental factors can, then, exacerbate ethnic conflicts. Thus, the environmental factor is usually related to the scarcity of resources and to the economy, therefore these three mutually

<sup>11</sup> BALLENTINE and NIETZSCHKE, op.cit, pp.9-11

<sup>12</sup> Gross analyzes failed States both in relation to Weber's classic definition of State, which emphasizes coercive capacity, as in relation to the non-coercive capacity of providing public services, concluding that five factors are considered important causes to the existence of failed States: poor economic performance, lack of social synergy, authoritarianism, militarism and environmental degradation caused by population growth. (GROS, Jean Germain. Towards a taxonomy of failed States in the New World Order: decaying Somalia, Liberia, Rwanda and Haiti. *Third World Quarterly*, Vol.17, n13, pp455-471, 1996, p.457). Although not all authors agree with the last two factors cited by Gross, they coincide regarding the relationship between failed States and a State's inability to provide essential public services, including security, and to promote economic development and social justice, thus creating a favorable environment for armed conflict. ROTBERG, I Robert, (Ed.) *State Failure and State Weakness in a Time of Terror*. Brooking Institution Press / World Peace Foundation, 2003, p. 1-24; CARMENT, David. *Assessing state failure: implications for theory and policy*. *Third World Quarterly*, Vol. 24, No.3 pp. 407-427, 2003. RICE, Susan E. and PATRICK, Stewart. *Index of State Weakness in the Developing World*. Brookings Institution, Washington, DC, 2008 p.9. *Foreign Policy*. *Failed States Index 2008*.

exacerbating factors are a cause of conflict, although the last two have a more significant influence than the others, as a trigger to conflict.

There is a strong relationship between combatant's ability to auto-finance and the complexity and duration of hostilities. This funding ability is also associated to the type of natural resources and the easiness of exploration and trade, with a tendency to relate separatist conflicts and the the resources that are most difficult to exploit, such as, oil and gas, for example. However, critical factors that admit the existence of this type of conflict are repressive and elitist political systems; a poorly managed economy combined with social injustice and inequality; ethnic disputes and a weak State, which allow the emergence of security dilemmas and facilitate the insurgent movement's political and military development. Therefore, analyses that favor dichotomies should be avoided and approaches that favor the complex interrelation between political, economic, social and environmental dynamics and that include aspects related to the bankruptcy of the State and of society in the prevention or in termination of armed conflict should be emphasized.

### **Ethnic political-ideological and religious Factors**

The political-ideological factor as a cause of armed conflict has reduced its force after the end of the Cold War. With the end of the economic support provided by the great powers, the insurgent's ability to explore natural resources has helped extend this type of conflict, which is usually driven by a combination of structural factors that include social injustice, lack of land for the peasants, poverty, government corruption and the perpetuation of a politically and economically privileged elite.<sup>13</sup> After the September 11 attacks, some analysts visualize the return of ideological conflict on other terms, associating ideology with religion. In this context, for example, the term "Islamofascism" has been coined, based on the view that movements like al Qaeda consider that the US and its way of life represent an ideological threat to be reckoned with.<sup>14</sup> However, this view has been challenged by other authors who believe that religion and culture are more important factors than the ideological aspect.<sup>15</sup>

While studying the conflicts in Northern Ireland, Israel/Palestine and Sri Lanka, McTernan (2003), believes that religion is an important factor, but recognizes that it is not the main or only cause. According to him, these conflicts involve the phenomenon of "double minority", in which the majority community suffers from a complex of being minority by being close to countries that profess the same religion as its opponents. He believes that the international community, in its considerations to achieve peace, cannot ignore the religious factor, and the dynamics of fear and terror, that shape and sustain these conflicts.<sup>16</sup>

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<sup>13</sup> BALLENTINE and NIETZSCHKE, op.cit

<sup>14</sup> BALLENTINE and NIETZSCHKE, op.cit

<sup>15</sup> Huntington, Samuel P. Religion, Culture and International Conflict after September 11. In: CROMARTIE, Michael. Religion, Culture and International Conflict: A Conversation. New York: Rowman and Littlefield, 2005;pp.1-5.

<sup>16</sup> MCTERNAN Oliver. Violence in God's Name: religion in an age of conflict. Maryknoll: Orbis, 2003,p.77.

Huntington (2005) considers that during the last decade of the twentieth century, culture has replaced ideology as a source of identity and antagonism in world politics; and that religion had a great resurgence in all societies, helping shape identities, especially in the Islamic world. According to him, there was an increase in civil wars over conflicts between States. In the former, the conflict between communities is associated with religious cleavage, often also coupled to an ethnic division. He believes that although religion may be the major cause in some conflicts, in most cases it is only one of the causes, and that there is, however, a direct relationship between religious divisions and difficulties to reach a political commitment through peace agreements. <sup>17</sup>

Fox (2004) examined the relationship between ethnic violence and religious nationalism, studying ethnic conflicts and revolutionary wars between 1945 and 2001, showing that since 1980, religious and ethnic factors contributed significantly to the growth of the most violent conflicts compared to those where the religious factor was absent. Thus, for him, data do not support Huntington's thesis that conflicts between civilizations based on different religions occur because of the end of the Cold War. Similarly, the figures showed that ethnic-religious conflicts usually have occurred within the same society, which contradicts Huntington's vision of a "clash of civilizations", although Huntington recognizes the important role of religion in internal conflicts over the last decades.

Fox considers that religious fundamentalism usually takes the form of religious nationalism, and that the preservation of traditional values binds to the preservation of the nation or the State as a defender of those values. Thus, fundamentalists try to secure control of government when their followers are in power or seek autonomy from the State when it is ruled by members of another ethnic group. Thus, "in practice, the distinction between religion and ethnicity as the basis for nationalism is rarely clear." <sup>18</sup> The results of the study undertaken by Fox show that, from 1980, separatist conflicts of religious nature are more violent than other separatist conflicts and have a strong impact on ethnic conflicts. However, the author acknowledges that other variables such as type of regime, economic development, repression and mobilization have an impact on the level of rebellion. According to him, the religious factors appear when nationalism in the form of separatism is already present. Thus, nationalism, in his view, would be the main cause of ethnic conflict and religion an extremely strong exacerbating factor. <sup>19</sup>

Lake and Rothchild (1996), based primarily on the rational choice theory, argue that ethnic conflicts are usually caused by collective fear of the future, rooted on insecurity among communities. This feeling creates strategic dilemmas that have the potential for triggering violence. Ethnic activists and politicians interested in promoting these factors in their favor, use this fear to polarize society. According

<sup>17</sup> Huntington, Samuel P. op. cit.

<sup>18</sup> FOX, Jonathan. The Rise of Religious Nationalism and Conflict: Ethnic Conflict and Revolutionary Wars, 1945-2001. *Journal of Peace Research*. Vol. 41, No. 6 (2004). Pp718-719.

<sup>19</sup> Ibidem, pp.723-729.

to the authors, the State's weakness is precondition for the occurrence of violent ethnic conflict. Although the State may seem presently objectively strong, legitimacy and the State's ability to remain strong in the future are elements of strategic dilemma faced by the group that feels threatened. .<sup>20</sup>

According to them, the competition to control the government and the competition for resources, related, for example, to property rights, employment, access to education and government contracts, is at the heart of ethnic conflicts, when some groups are privileged over others. However, competition for preference policies is not sufficient to trigger violence. Information deficiencies increment distrust between groups, and credibility issues related to the fulfillment of agreements between the rival groups, generate the security dilemma.

According to Lake and Rothchild, unpredictable scenarios, fueled by incomplete information about the intentions of the Other and the fear related to the possibility of becoming victims in the future, increase both the perceptions of insecurity and the risk of disruption of direct violence. This feeling of ethnic rivalry is commonly manipulated by political groups that, although do not share extremists' beliefs, take advantage of the situation to earn power or maintain a certain status quo that is favorable to them. The action of these actors contributes to social polarization, reinforcing the security dilemma. However, it should be noted, social polarization and the role of these actors are not the main or only cause of ethnic conflict. In addition to several structural variables are strategic interactions within and between ethnic groups that produce fear of the future, in which conflicts arise and eventually perpetuate.

Thus, the State plays an important role in non-violent interaction between different ethnic groups. Confidence-building measures undertaken by local elites – demonstrations of respect, division of power, elections, regional autonomy and federalism – are the most effective democratic instruments to maintain peace in ethnically divided societies. However, these measures are more important to conflict management than to its resolution. If the State fails to end the conflict, the intervention of an external actor to the conflict may be required, either through non-coercive interventions such as mediation – that seeks to achieve a result of mutual gain (win-win) between parties to the conflict – or with the use of force when a consensual resolution of the conflict is impossible. Here, the authors point out the limitations of external intervention, which, according to them, do not seem to solve strategic dilemmas that produce fear and ethnic violence. Finally, they propose three actions for the international community to contribute to the reduction of ethnic conflict: managing and providing reliable information for ethnic groups and block, as possible, the communication channels of groups that encourage ethnic hatred; support economically and politically weak States; and after the negotiation of a peace agreement, focus on the implementation of the necessary measures to create stronger State institutions capable of mediating and promoting peaceful relations between ethnic groups.<sup>21</sup>

<sup>20</sup> LAKE, David A. and ROTHCHILD. *Containing Fear: the Origins and Management of Ethnic Conflict*. *International Security*. Vol.21, No.2, 1996; pp.41-43

<sup>21</sup> *Ibidem*, pp. 44-75.

If Lake and Rothchild examined ethnic conflict through the prism of rational decision, Arfi (1988) analyzes this phenomenon from the perspective of the constructive theory, stating that neither rationalism nor hypotheses based on ancient hatred can satisfactorily explain this type of conflict. For him, it is the reconstruction of ethnic groups' social identities that causes fear and ethnic violence.<sup>22</sup> The change in these identities, potentiated by profiteer ethnic and political activists, and shaped by historical memories and ethnic cleavages, destabilizes the balance between the groups, generating fear and insecurity. Therefore, unlike Lake and Rothchild, who considered that the three strategic dilemmas were necessary conditions for ethnic conflict, Arfi considers that the security dilemma generated by switching to an aggressive social identity is the single cause that leads to ethnic violence.<sup>23</sup> Arfi proposes establishing a bridge between the approaches of rational and structural choice, emphasizing from a constructivist view, how social identities are not fixed and how their changes may impact on relations between momentarily rival ethnic groups. Thus, non-violent patterns of interaction and cooperation between different ethnic groups may also be socially constructed. Therefore, Arfi proposes that containment strategies that favor violent ethnic divisions not occur through coercive measures, but through measures that allow the construction of narratives, memories and intersubjective meanings that favor ethnically tolerant social identities.<sup>24</sup>

Rose (2000), analyzing situations where a State or empire collapses and groups within them face a situation of "emerging anarchy", believes that an ethnic conflict is most likely to occur when the security dilemma is intense, and affirms that the perception of the intensity of the dilemma is the independent variable, and war and peace are dependent variables. Therefore, he proposes that measures be taken to help reduce the perception of the intensity of the security dilemma.<sup>25</sup>

In summary, according to the authors, ideology seems to be giving way to ethnic and religious factors as causes of the post-Cold War conflicts. However, despite Huntington's view that culture has replaced ideology, it is difficult to say that, to the extent that inequalities and social injustice persist, the ideological factor may not re-surface in the future with greater vigor. On the other hand, the internal wars now have greater prevalence in recent decades, and the importance of religion in armed conflict has been growing since 1980, hence, before the end of the Cold War, and usually associated with ethnic factors. For many authors, religion exacerbates ethnic conflict, increasing the frequency of violent clashes and hindering the establishment of sustainable peace agreements. According to Fox, religious factors appear when nationalism in the form of separatism is already present. Thus, in this view, nationalism would be the main cause of ethnic conflict and religion acts as an extremely strong exacerbating factor.

<sup>22</sup> Social identity is defined as a set of meanings that the actor attributes himself while considering the other's perspective. (ARFI, Badredine. *Ethnic Fear: The Social Construction of Insecurity*. Security Studies. Vol8. No.1 (1988); p.198.)

<sup>23</sup> ARFI, Badredine. *Op cit.* pp.151-153.

<sup>24</sup> *Ibidem*, pp.197-203.

<sup>25</sup> ROSE, William. *The Security Dilemma and Ethnic Conflict: Some New Hypotheses*. Security Studies. Vol.9, No 4(2000) 1-51.

The studied literature states that the dynamics that lead to ethnic conflict seem to be associated with insecurity and fear, which, from the logic of the security dilemma, increases the likelihood of an armed conflict.<sup>26</sup> So, for authors graded on a rationalist theoretical approach, collective fear of the future, associated with the realization that the State will not guarantee the safety of its nationals, creates strategic dilemmas favorable to the outbreak of violence. In this view, strategic dilemmas are necessary conditions for ethnic conflict. Strategic interactions within and between ethnic groups produce fear of the future in which conflicts arise.

In the constructivist view, it's the change in social identities that affects interethnic interactions. The construction of an aggressive social identity in relation to other ethnic groups generates the security dilemma, which is the only cause leading to ethnic conflict. Approaches guided in a constructivist perspective highlight the important role played by ethnic activists and political profiteers in manipulating ethnic differences and in interpreting and disseminating biased historical memories and ethnic myths, although social polarization and the role of these actors only contribute to ethnic conflict. In this perspective, the institutional failure of the State contributes to the worsening of ethnic tensions to the extent that it is not able to stand as a strong and legitimate mediator able to reverse the social, discursive and symbolic processes that building and fuel the security dilemma.

According to Kaufmann (2004), ideological and ethnic conflicts have different dynamics. The main difference lies in the flexibility of loyalties, which is more fluid in ideological conflict and much more inflexible in ethnic conflicts. The ideological loyalties are much easier to be modified, while the ethnic identities are more rigid because religion, culture, degree of kinship and sometimes language determine them. Although ideological and ethnic conflicts develop security dilemmas, they are different in nature. In ideological conflicts, the survival of the opponents does not depend on victory, because change in position and accommodation are easier. In the case of ethnic conflict, individuals cannot change their ethnic identities and in an intense socially polarized environment, it is much more difficult to accept that the group's security depends on the ethnic opponent.<sup>27</sup> Moreover, as seen above, when the religious factor is present in ethnic conflicts, it exacerbates this type of conflict, both regarding the degree of violence, as its duration. So in terms of prevention and conflict management, building a tolerant social identity is a goal that must be pursued long before there is social polarization and violent clashes.

As seen in the study of the causes of conflicts, it is difficult to point out a conflict that has only one cause. Conflicts are multifactorial and to understand them you need an approach that takes into consideration political, economic, social and environmental

<sup>26</sup> There are two levels to the dilemma of security: first and foremost, the dilemma of interpretation "on motives, intentions and capacities of others" in an atmosphere of uncertainty; and secondly, the dilemma of the response, related to the most rational way of reacting after having resolved the interpretation dilemma. (BOOTH, Ken and WHEELER, Nicholas J. *The Security Dilemma: Fear, Cooperation and Trust in World Politics*. Palgrave, New York, 2008, pp.3-6.)

<sup>27</sup> KAUFMANN, Chaim. *Interventions in Ethnic and Ideological Civil Wars*. In: ART, Robert J. and WALTZ, Kenneth N (Ed.). *The Use of Force; Military Power and International Politics*. Rowan & Littlefield Publishers, Inc, USA, 2004, pp.396-398.

dynamics. The first three factors have had a greater influence in the establishment of conflict. Political, economic and social factors are often closely intertwined. The so-called “failed States” are usually weak in these three fields and factors that materialize this weakness usually exacerbate each other. Although the state is only one of the actors in the national political scene, its inability to provide security, economic development and social justice hinders or even prevents the peaceful management of political rivalries, especially when ethno-religious cleavages are present.

## Conclusion

All the factors and processes discussed above tend to converge to a key issue on the prevention and resolution of intrastate conflicts, as was well summarized by Ballentine & Nietzchke in the following expression: “*bringing the State back in.*” The emergence and perpetuation of armed conflict should not be explained as direct causality since contemporary intrastate conflicts have their origin in a set of “triggers” that interact in a weak state governance context.

In this case, as indicated by the literature, the prevention and management of armed conflicts linked to competition for resources must undergo, above all, through a process of strengthening political, economic and social institutions. Conflict resolution practices must therefore go beyond a “rebel-centric approach” and move towards the analysis of the State’s role, considered both as an institution to be built and strengthened and as a key player in the politics of armed conflict (Ballentine & Nietzchke, 2003: 16). As stated in the European Union’s overall strategy in 2016, increasing the State’s and society’s resilience seeking to strengthen institutions and promote social justice is essential to the prevention of conflicts.

The resolution of violent conflict must be based on initiatives that seek not only the reduction of direct violence, but also of indirect violence, including poverty, social inequalities and different unrealized human needs.<sup>28</sup> In the case of disputes over resources, prevention and conflict resolution policies should be directed at ensuring that income deriving from the exploitation of natural resources is evenly distributed among the population. At the same time, greater regulation and control of the mining industry, whether national or multinational should be sought, even if it faces resistance in the context of a market economy. In the context of ethnic conflicts, sustainable peace building processes must necessarily involve the strengthening of State institutions considering parameters of political equality between ethnic groups and the establishment of space for dialogue and reconciliation.

When armed conflicts are perpetuated, in addition to the continuation of the above measures, conflict resolution strategies can combine political and economic incentives

<sup>28</sup> GALTUNG, J. Violence, Peace, and Peace Research. Author(s): Johan Galtung. Source: Journal of Peace Research, Vol. 6, No. 3 (1969), pp. 167-191.



to military pressure on the insurgents. In this case, States can seek military and strategic support from regional organizations and through *ad hoc* alliances in order to mitigate regional and global economic, political and social interconnections related to the conflict. However, according to Humphreys, in conflicts related to the exploitation of natural resources, military action is important, and they are more likely to end or end faster through a military victory than through negotiations between the disputants,<sup>29</sup> although recent studies have indicated that mediation in this type of conflict is easier than in those of ethnic or ideological nature.<sup>30</sup>

In the case of ideological and ethnic conflicts, strategies for prevention and conflict resolution should have different emphases. In the first, political, economic and social inequalities are usually the main goals of the insurgents and thus programs to reduce these inequalities are more important, relatively, than military actions. In relation to ethnic conflicts, where control of the territory is fundamental, military action is more important, and the political, economic and social programs are, relatively, less important.<sup>31</sup> The case of Sri Lanka, where military operations developed in a certain way to achieve a decisive military victory over the insurgents, who were well organized and fighting since the 70s, seems to confirm this view.

And what would be the role of the international community? It is clear that it must participate in this effort to reduce intrastate conflicts and that the United Nations' ability to detect and act preventively against the outbreak of such conflicts must be strengthened. When international conflict management is needed, the international community needs to think of ways to intervene that are guided by the needs of societies in conflict and find support in them, both by government and non-governmental actors. The practice of international interventions in a context of a failed State shows that the international community should not expect that local societies easily engage in conflict management processes led by external actors, such as the UN itself. This does not mean, however, that external agents cannot play a positive role in the development of State capacity-building and empowerment of societies in conflict.

In short, the recognition of the multiplicity of causes for violent clashes in intrastate conflicts must not only affect academic analysis, but it should also encourage the search for comprehensive approaches to the role of international actors in the prevention, during crisis and in post-crisis stabilization, considering the actions necessary for the local, regional and global levels, as the European Union's recent position shows.<sup>32</sup>

Apart from the mistake of ignoring the specificity of societies in the defining and implementing conflict management tools, it is also necessary that the international community resist the temptation to replicate in diverse contexts, a unique and rigid

<sup>29</sup> HUMPREYS, *op.cit.* pp.508-537.

<sup>30</sup> United Nations Environment Programme. *Addressing the Role of Natural Resources in Conflict and Peacebuilding*. UNEP, Nairobi, 2015

<sup>31</sup> KAUFMANN, *op.cit.* pp.398-404.

<sup>32</sup> EU. *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy*. June, 2016.

solution, guided by a pre-determined political logic that is not permeable to local demands. It is also necessary that the processes of conflict resolution are flexible, both in terms of the expected results and in relation to the time set for them to be executed.

In the case of peacekeeping operations, although it is clear that the United Nations needs to improve its “exit strategies” it is necessary that deadlines for the implementation of state reconstruction strategies in a post-conflict context be connected to targets set by the mandates of the missions and not by a pre-set schedule. In this regard, it is worth mentioning the existing suggestions for peace operations to incorporate in their mandate the surveillance of the implementation of regionally and internationally recognized governance regimes, and other specific regulations designed to control the predatory and illegal exploitation of natural resources. In this respect, peacekeepers should have more direct and extensive activities of monitoring both the so-called “smart sanctions” as defined by the Security Council under Article 41 of the UN Charter, as the much longer and structured efforts, such as during the regime established by the Kimberley Process, a joint initiative between governments and civil society to stem the flow of diamonds used by rebels to finance their activities against a legitimate government.<sup>33</sup> According to a UN report, twenty countries that were affected by armed conflict recognized that natural resources are an important factor to achieve the State’s stabilization and strengthening, and that actions to internally improve the governance of these resources should be accompanied by international community measures to combat their illegal exploitation.<sup>34</sup>

One point that directly affects the success of conflict management processes and the reconstruction of fragile States, refers to small arms trade. The rapid growth in the volume of these weapons in intrastate conflicts points to the need to adopt more effective methods to control the entrance of such weapons in the context of countries in conflict and at the same time, establish more precise mechanisms not only related to disarmament, but also to the reintegration of ex-combatants.

Finally, an essential aspect to be considered by the international community in the context of its intervention practices is the role of women in the prevention and resolution of conflicts and peacekeeping. Since the late 1990s the UN Security Council has progressively expanded the agenda now known as “Women Peace and Security.” Resolutions from this body show the need to give visibility to women in armed conflict, considering the specific impacts on this group, their resilience practices amid armed violence, and recommend various ways in which States can reduce gender inequality, improving the participation of women in various national contexts, including the processes of mediation and conflict resolution and other practices related to peacemaking.

<sup>33</sup> Kimberley Process. Disponível em: <https://www.kimberleyprocess.com/>. Acesso em 13 ago. 2016.

<sup>34</sup> United Nations Environment Programme. Addressing the Role of Natural Resources in Conflict and Peacebuilding. UNEP, Nairobi, 2015.

The ideas and approaches presented briefly here indicate that the international community should, through its various mechanisms to prevent and resolve conflicts, constantly search for more accurate and innovative ways both to analyze how multiple interdependent factors are the cause and participate in the perpetuation of armed conflicts as to understand and remedy the effects caused by these factors on individuals and communities from different parts of the world, especially from the Global South. Only based on good conflict analysis tools and on approaches and conflict resolution concepts that are appropriate to the local situation, the international community can address the different political, ethical and operational dilemmas surrounding interventions aimed at consolidating a sustainable peace in contexts of violence and extreme fragility.

**Franziska Stahl** is Head of the Analysis Unit of the EU CSDP mission EUCAP Sahel Mali. A political scientist and international lawyer by training (IHEID Geneva), she specialized in governance, post-conflict peacebuilding and security. Franziska previously worked with the Council of Europe, the OSCE and managed development projects for bilateral donors in Sub-Saharan Africa and Middle and Eastern Europe. She is a member of the German Expert Roster for Civilian Peace Operations, member of the Young Foreign Policy Experts of the Konrad-Adenauer-Foundation and member of the Working Group of Young Scholars in Public International Law (AjV).

## International Law – quo vadis?

Franziska Stahl

Over the past few years we have seen an upsurge in conflicts triggered by internal contestation of power (manifested in demonstrations and revolts staged by opposition groups and attacks by non-state armed groups), the recurrence of interstate conflict and indiscriminate terrorist attacks across the globe, including in places that had previously been spared from such violent incidents. At times of ever-closer global interconnections, intrastate conflicts that would have flown under the radar of world politics during the decades of the Cold War have implications far beyond those states directly subject to them.

The international order to maintain peace, stability and security is today increasingly challenged and international law as its guiding framework is perceived to have reached its limits: Authoritarian leaders strengthening their grip on power by taking recourse to political violence and restricting fundamental rights and freedoms, and blatant breaches of key principles of international law by states and non-state actors go largely unpunished. In fact, all too often existing rules of war are reluctantly enforced or openly disregarded with powerful states unilaterally taking coercive action. At the same time, the number of interventions in (post-) conflict situations authorized by the UN Security Council is decreasing, testimony of its growing marginalization as the sole institution entitled to legitimately authorize the use of force.

25 years after the end of the Cold War the heydays of international law seem to be over. The positive momentum felt at the turn of the

century – featuring an unprecedented number<sup>1</sup> of resolutions passed by the UN Security Council, the adoption (1998) and entry into force (2002) of the Rome Statute founding the International Criminal Court (ICC), and the introduction of the principle of the Responsibility to Protect endorsed by UN member states at the World Summit (2005) – has slowed down, giving way to uncounted violations and an increased fragmentation of international law.

As the international community has proven unable to come to terms with solutions to protracted and new conflicts (Libya, South Sudan, Syria, Ukraine), terrorist groups demonstrate their capacity to have an impact and influence well beyond their local strongholds and international borders are increasingly contested (trafficking and smuggling), the world is more than ever in need of appropriate rules for the international order backed by political willingness and capabilities to enforce them.

This article analyses contemporary challenges to the international order and highlights approaches to remediate them. It proceeds in a three-step approach: First, it identifies shortcomings in the current application and efficacy of international law. Second, it analyses the different incentives of powerful, emerging and fragile states to comply with international norms and to take on responsibility for the protection of international peace and security. Third, it pinpoints opportunities for reform, promoting a first things first approach focusing on topics such as counterterrorism where the interests of key decision makers and states subject to interventions converge. Based on this analysis it is argued that emerging powers and fragile states should have a stronger say in norm creation and enforcement and should take on more responsibilities to protect the international (legal) order.

## **International order and the legal framework for peace and security**

The contemporary framework for peace and security based on international law seems to be particularly unfit to meet contemporary challenges: Following a few years characterized by consensus, the UN Security Council is again mostly divided and paralyzed over actions to take to protect international peace and security. This is even more so following disagreement over the interpretation of UN SC resolution 1973 (2011) authorizing ‘all necessary measures’ to protect civilians and the subsequent intervention in Libya.<sup>2</sup> Over the past few years, interventions in conflicts and in the internal affairs of fragile states have thus increasingly been carried out without prior authorization by the Security Council. Even where consensus authorizing intervention was reached, implementation is stalling: the traditional powers willing to commit boots on the ground to defend the international order are increasingly facing budget constraints and internal contestation, forcing governments to limit their external engagement. Across well-established democracies nationalist and populist movements are gaining public sup-

<sup>1</sup> Between 1988 and 2000, the number of resolutions adopted by the Security Council more than doubled. Cf. Fasulo, Linda (2004). *An Insider’s Guide to the UN*. New Haven, Connecticut: Yale University Press.

<sup>2</sup> Cf. S/RES/1973(2011)

port, making it ever harder for governments to abide by and commit to internationally agreed upon rules and procedures. Whilst these may seem tedious, they actually represent some of the biggest accomplishments of the post world war II international order. By outlawing war and limiting state authority by introducing and protecting citizens' human rights, the UN Charter combined with the Universal Declaration of Human Rights and the Geneva Conventions revolutionized the international legal order, setting right before might. In today's world where threats are as global as goods and services, it is shortsighted to put national self-interest ahead of self-commitment to internationally agreed-upon rules of engagement.

### **Structural shortcomings and procedural deficiencies**

From these observations it can be inferred that the existing legal framework to protect international peace and security has not kept up with the pace of contemporary challenges. Conflicts have become more multifaceted, involving a broader variety of actors; cleavages are ideological, political, religious and ethnic at the same time. The existing rules were not conceived for this kind of conflicts. International law does not provide for appropriate mechanisms to address changing trends of modern day warfare and has proven too slow in adapting to it.

From its very conception the international legal order was built on several cornerstones as regards its governance, subjects and content. First, the primary objective of international law was to outlaw war and regulate inter-state conflicts – at that time the most frequent form of conflict and the most imminent threat. As foreseen in the post-world War II regime, norms guiding state action and the key principles were set and implemented by a group of responsible states committed to the protection of international peace and security, i.e. the UN Security Council. In case a state violated agreed upon rules, this select body was competent to authorize the use of force as last resort, legitimizing intervention for the benefit of all. This governance arrangement is however increasingly obsolete: the permanent members of the Security Council are no longer representative of the guardians of world peace. Instead, due to their respective colonial legacies, their role in conflict resolution is often biased. In fact, in many regions it is precisely these powers that imposed the structures triggering conflict today (arbitrary borders, weak state institutions and predatory systems). While the permanent five undoubtedly dominated the international order seventy years ago, their might is today contested by emerging powers and regional power blocs.

Second and linked to this, the agreed upon rules were to be implemented and enforced by nation states, at the time the sole subjects of international law. As such the principal actors of the international systems were the ones charged with its regulation, norm setting and enforcement. Today, however, the set of actors having a stake in the international system is much more diverse, including a broad variety of non-state actors such as multinational corporations, NGOs and epistemic communities, engaged not only in norm setting but increasingly in norm implementation. In view of this growing number of actors with ever more diverse characteristics, many of the foundational blocs of the international system are today becoming obsolete. Yet, enforcement is still

contingent on member states and thus subject to the political will of nation states. Even where international courts exist they are only as strong as commitment of the constituting member states.<sup>3</sup>

Third, in terms of content and context, international law was conceived to regulate state-state interaction, to limit the exercise of power by means of the rule of law and to protect civilians in armed conflict. Contemporary conflicts differ both as regards constellations and the means of warfare: Intra-state conflicts are frequent and violations of international humanitarian law such as indiscriminate killing of civilians are committed by state and non-state actors alike. These examples show that the Geneva Conventions aimed at limiting cruelty in inter-state conflict are no longer sufficient for contemporary conflicts.

By implication, none of these three cornerstones of the international legal order is fitting anymore. Even the most basic rules of international humanitarian law, traditionally perceived as the least common denominator of humane treatment, are being disregarded by conflict parties: Representatives of the ICRC have been subject to kidnappings (Mali) and hospitals have been purposefully bombed (Syria, Afghanistan), etc. This is testimony of the fact that enforcement based on moral, retribution and reciprocity is not enough to bring state and non-state actors into compliance.

## State practice as impediment for international law

In addition to these procedural and structural deficiencies, state practice further undermines international law. Interestingly, this is the case for three different sets of actors, albeit due to varying dynamics:

First, powerful states, i.e. generally speaking those states having contributed to the genesis of international law and IHL are increasingly negligent in its application. In fact, the very same powers that served as driving forces in the drafting of the UN Charter are today the ones weakening it. Several of the permanent members of the UN Security Council make increasingly use of executive orders, lethal autonomous weapons system and undeclared warfare, thus violating the basic rule of international humanitarian law. In view of lengthy procedures and the likely stalemate of the UN Security Council, such behavior has become more and more frequent. Whilst covert operations and unilateral action promise swift solutions, they raise significant questions with regards to accountability and the protection of civilians.

Such state practice indicates that self-commitment to international norms has become inconvenient even to those powers traditionally defending international law. By circumventing the existing structures and procedures of the international legal order,

<sup>3</sup> See as an example the track record of the ICC and (non-) enforcement of the arrest warrant issued for Sudanese president Al-Bashir. It shows that the implementation and enforcement of international law is still contingent on the political will of nation states. Cf. Davenport, David (2014). International Criminal Court: 12 Years, \$1 Billion, 2 Convictions. Available at: <http://www.forbes.com/sites/daviddavenport/2014/03/12/international-criminal-court-12-years-1-billion-2-convictions-2/#14f220fe6440>



making recourse to unilateral action or using more select international settings (G7, EU, NATO), or exercising interventions with *ad hoc* coalitions, these states weaken international law significantly.

Secondly, authoritarian and non-democratic regimes either openly question the validity of international law or interpret it to suit their geo-political interests: Whereas international law was intended to protect peace and security and provide a framework for post-conflict reconstruction, it is now made reference to by authoritarian leaders in order to justify illegitimate action in the name of the right to self-determination. Whilst the responsibility to protect was conceived as a milestone to provide solutions to new challenges and to protect civilians, it has been unilaterally invoked in intra-state conflicts by intervening powers. The example of the Russian intervention in Crimea is only one illustration of the abuse of the norm, undermining its credibility.

Third, terrorist and non-state armed groups purposefully disregard international law and use the compliance of adversaries (often states) with IHL as weakness. Offenses such as hostage takings, beheadings, sexual enslavement, bombing, attacks on civilian aircrafts, political assassinations outlawed under IHL are committed with complete impunity, questioning the universality of these norms and creating wrong incentives for states to deviate from the norm.

## Supporters and opponents of reform

The above shows that international law – as it stands – is challenged from different angles and in dire need of reform. However, in view of the new sets of actors and new types of conflict, it is valid to ask how such reforms should be undertaken. If international law were to be updated to take into account modern conflict, with *whom* should new rules be negotiated in order to grant them legitimacy and to be universally accepted? As explained above, international law is based on the assumption that those subject to it are also the ones enforcing it. If this equation is no longer valid, this poses a procedural challenge.

It is a truism of realist theory that national self-interest will always prevail over self-commitment and -constraint. Assessing how international law could be strengthened thus requires a careful analysis of the added value of international law to the respective actors currently undermining or bypassing it. What benefits do states and non-state actors gain from adhering to the basic principles of international law? If non-state actors have come to be key actors in today's conflicts, should they also be involved in setting the rules and bear responsibilities? These are complex and difficult questions – which need to be addressed in order to increase the effectiveness of international law.

Aspiring to promote international peace and security and to guarantee minimum standards, international law conceives of the state as guarantor of stability and security, legitimately representing the interests of their citizens. This assumption is however partly outdated: First, in contexts of internal contestation it is often difficult to distinguish the aggressor from the protector. Second, non-state armed groups such as

the Islamic State can sometimes prove more efficient and reliable in exercising governance and (albeit discriminately) providing basic services than state authorities, raising questions as to the legitimate representation of citizen's interests.<sup>4</sup>

It is clear from the above analysis that the interests of states in maintaining the international order differ. Interests of those states having set the rules are better reflected than those of states having gained independence post-colonization. At the same time, priorities of economic strongholds are distinct from countries facing civil unrest. This is further reinforced by economic powers benefiting from increasing strength of regional organizations creating level playing fields for engagement, whilst fragile states often see their authority contested from within (opposition groups) and outside (subjection to international rules, authority of regional organizations). Whereas powerful states have frequently used international law to legitimize their involvement abroad, fragile states have seen themselves increasingly forced to abide by rules in whose creation they have not been involved. Added to this is the fact that within fragile states, non-state actors can have more leverage and legitimacy than state actors, further deepening the gap between the applicable rules and the situation on the ground.

Departing from its state-centered conception, international law is easily confused as a tool made recourse to by powerful states to enforce might. Originally, it is however conceived to introduce limits on exercise of authority and should thus make states more equal rather than more different. Who are the actors most supportive of and consequently potentially most willing to reform international law? Powerful states guiding and enforcing the international order and markets have over decades insisted on the widening of international law, defending its universal applicability. Conditionalities for economic and political support have been applied to grant access to markets and facilitate foreign direct investment. Regional organizations across all continents have promoted the international legal order setting ambitious goals as regards market liberalization and protection of human rights. All this contributed to a growing acceptance of norms initially set by a rather select group of more or less alike states.

It is remarkable that the increasing contestation of international law is juxtaposed by an ever growing body of codified international law and a growing number of states signing up to it. In addition, those states having had least leverage in the genesis of international law (e.g. former colonies) feature the most avant-garde regional and national legal frameworks to protect international norms, often allowing for the direct application of international treaties. As an example, most constitutions and provisions regarding the protection of international norms stipulated in modern peace agreements are much more progressive compared to prevailing legal frameworks in many industrialized states. It thus seems that there is a particular interest for post-conflict states to commit to the rules of the international order. The high number of treaty ratifications by fragile and post-conflict states can be explained by conditionalities and the incentive structure of the international system.

<sup>4</sup> On governance by the Islamic State in Iraq and Syria c.f. Mara Revkin and William McCants (2015), "Experts weigh in: Is ISIS good at governing?", The Brookings Institution. Other examples include for instance Islamist insurgents in Northern Mali.

International law provides fragile states facing internal challenges with a tool to request support to combat non-state armed groups, allowing governments to reinforce their power. Whilst such requested assistance to regain control over the state's territory based on state consent is undoubtedly in line with the spirit of the UN Charter, the inclination of the members of the intervening powers to follow such an invitation is likely to be dependent on the requesting state's resources and geostrategic relevance. At the same time, international law may also have catalyzed quests for self-determination and secessions in fragile states. Governments of fragile states may thus have an ambivalent appreciation of international law, however, their dependency on international support will in most cases create incentives for – at least ceremonial – adherence to it.

Given their domestic constraints, fragile states are unlikely to be the key drivers of reform to make international law more inclusive. But they could join forces to limit the leverage of traditional powers and support those states seeking to take on more international responsibility in their endeavors to do so. One example is expressed support of many African states for a permanent seat for Germany in the Security Council. It is those states benefitting most from international burden sharing in the protection of international peace and security that are most likely to be in favor of it. Such uprising leaders are typically either states wanting to take action in a consortium with a broad coalition rather than going it alone (like Germany) or regional powers who do not face high entrance barriers to compliance with existing rules and whose political economy benefits from a stable international system (such as Brazil).

### **First things first: focus on common interests**

To reestablish the credibility of international law as guiding framework for peace and security, existing rules need to be consistently applied. In addition, reform efforts should focus on topics that are of common interest to all sets of actors. These are topics where consensus is most likely to be reached and reform thus most feasible.

Fighting non-state armed groups on a fragile state's territory seems to be a clear example where the interest of fragile, emerging and powerful states converge. As a consequence, this is where most scope for norm adjustment is to be expected. Ironically, it is precisely the so called “war on terror” and interventions to restore public order in fragile states that have contributed significantly to the undermining of international law as described above. Powerful states have not always been coherent in their decisions to intervene or not to intervene on behalf of a government that has come under threat.

The inconsistent application of international law has further weakened it. A comparison of external intervention shows that Security Council resolutions have been passed whenever the security (terrorism, migration) or economic interest (resources, trade routes – piracy) of the intervening powers – rather than international peace and security more generally – were considered to be at stake. This has led to wrong priorities guiding such interventions and a mismatch between the interests of interveners and receiving states, questioning the legitimacy and appropriateness of current conflict resolution mechanisms. Interventions (whether mandated by the Security Council or not) envisage to

restore peace and security and protect civilians by enforcing the cessation of hostilities and reestablishing the rule of law. Yet, often, mandates are insufficiently adapted, disregarding local needs and thus diminishing local support for interventions.<sup>5</sup>

Reform is thus needed both in terms of the governance structures of the international order and of the content and objectives of applicable rules. Governance must be more representative, giving responsibility to emerging powers and guaranteeing the inclusion of currently marginalized states. The long requested reform of the UN Security Council is nothing new but more pertinent than ever. Yet, it is only one important aspect of reform. International law needs to better reflect today's realities. All conflict parties irrespective of their status and all actors exercising control over local markets and individuals rights need to be bound by the same rules. Those seeking more influence and responsibility need to commit to suit the action to the word. This is true for states seeking a permanent seat in the Security Council just as much as for non-state actors contesting authority of states.

Due to the constraints inherent to the genesis of international law and its conception based on states in terms of norm-setting, implementation and enforcement and existing governance mechanisms (notably the Security Council), no drastic changes are to be expected in the near future. Yet, the international order is in dire need of reform not to lose further ground in view of recent developments and the upsurge of conflicts. The focus should therefore be put on pragmatic solutions: not striving to include non-state actors to take on responsibility for international peace and security, but to make them more accountable by reinforcing the capacity of states on whose territory they operate. Granting more power to regional leaders (e.g. Brazil, Germany, India and Japan) having shown their commitment to the protection of international peace and security over years as non-permanent members of the Security Council not only contributes to a fairer burden sharing but is also more representative of the current distribution of power.

The adoption of the principle of the responsibility to protect is one example of a rather progressive rule of international law: Not only was it pioneered by the African Union, representing many of those states traditionally less involved in the creation of international norms. Its development and codification were further lead by Canada, i.e. again an untraditional actor, striving for more responsibility. Whilst the responsibility to protect thus provides a good example of new norm creation, it is also representative of the weaknesses inherent in regulations spearheaded by emerging powers: In fact, the responsibility to protect has thus far only been enforced by the traditional powerful states, at best in coalition with emerging powers. This brief analysis illustrates that for the reform of the international legal order to be effective, emerging powers need to take on responsibility beyond the creation of norms, committing to active engagement in its enforcement.

<sup>5</sup> For example, the UN United Nations Multidimensional Integrated Stabilization Mission (MINUSMA) in Mali is mandated to reform the security and justice sectors in a view to combat terrorism and mitigate push factors of migration. Whilst this reflects the political motivation of troops contributing states, concerns of the local population in need of reliable and indiscriminate delivery of basic services are not taken into account, resulting in growing frustration with and opposition to the mission.

## Conclusion

The current upsurge in intra-state conflicts, new constellations of power, a diverse set of actors and fast-evolving challenges to international peace and security are a clear indication that the reform of international law as guiding framework is a matter of imminent importance. As the analysis has shown, whilst incentives of states to adhere to international norms and contribute to their diffusion differ, all states without exception have an interest in strengthening international law and the international order.

Currently, those actors with the biggest stakes in influencing the international (legal) order are the ones challenging and undermining it. Yet, recognition of the shortsightedness of such behavior seems to be growing. Seeming quick fixes circumventing international agreed-upon rules never pay off in the long term. Unilateral action will always trigger questions of legitimacy and catalyze frustration and radicalization, thus risking to promote conflict instead of solving it.

In view of contemporary challenges, regulators will always need to react rather than act as those actors disregarding rules are by definition less constrained in their actions. The growing trend of populism in well-established democracies is thus particularly dangerous, setting wrong incentives for leaders promising swift solutions circumventing international law. The international system is in need of committed leaders and the consistent application of rules and adherence to minimum standards.

Reform can be facilitated by addressing first things first, focusing on those topics where interests of powerful and fragile states converge. Bringing non-state actors contesting the authority of states as key actors of the international order into compliance with international norms can be achieved if fragile states receive more support in enforcing the applicable rules.

International law needs to be strengthened by reforming both its governing structure and its content. Emerging states having proven their commitment to the promotion of international peace and security must be granted more responsibility. This allows alleviating the burden of traditional powers facing increasing economic constraints and internal contestation promoted populist leaders. For a more equitable international order to become a reality, mere contributions to norm creation are not enough. They must be matched with solid commitments to enforce the norms of the international legal order, for right to enhance accountable might.

**Marcelo Mello Valença** is an Assistant Professor at the Department of International Relations at the Rio de Janeiro State University (UERJ). He holds a Doctorate degree in International Relations (2010) from the Pontifical Catholic University of Rio de Janeiro (PUC-Rio). His research interests involve Peace and Conflict Studies, conflict prevention, International Law, Humanitarian Intervention, and Active Learning in International Relations.

# The role of International Law in the current upsurge of conflicts

Marcelo Mello Valença

As the Cold War between the United States (“USA”) and the Soviet Union (“USSR”) came to an end, the international community was overtaken by a wave of optimism. Many believed that finally it would be possible to preclude the use of force in international relations as well as to promote the non-violent resolution of disputes. As a consequence, a more peaceful and collaborative world would emerge as the threat of war would fade away. This optimistic wave was reflected throughout the 1990s as international society worked collectively to strengthen international institutions and multilateral efforts to promote peace. One of the most visible aspects were the several peacekeeping operations authorized by the UNSC to end intra-state conflicts, mostly in Africa, the Balkans, and Asia.

These peacekeeping missions not only highlighted the new engagement of international society towards the protection of human rights and the promotion of democracy and the role of law, but also indicated a new trend on the nature of international conflicts by the end of the 20<sup>th</sup> century. Intrastate- and extrastate conflicts now constituted the majority of the contemporary armed disputes: the former are conflicts between groups within a state while the later defines disputes between a domestic group against a state (COW, 2004). Interstate wars, i.e., wars among sovereignty states, were no longer the dominant form of armed conflicts. Would the liberal peace finally prevail?

The United Nations (“UN”) and especially the United Nations Security Council (“UNSC”), once paralyzed by the superpower dispute, would

finally step up and assume its role towards the promotion of peace and international security. The experiences of two great powers wars in the 20<sup>th</sup> century showed the world the destructive potential of contemporary warfare and the international society realized its core values would be threatened in case of another major war. Facing a new political scenario, the international society found out that international intervention motivated by humanitarian reasons to prevent and resolve internal conflicts would also contribute to the maintenance of these values. The UNSC is responsible for evaluating international disputes as well as creating constraints to prevent the use of force in international relations by recurring to the law of war, the branch of international law that regulates and arbitrates armed conflicts, both within and between states.

Still, two questions remain recurrent in world politics. Is there any way to overcome power politics and promote the rule of law in the international system? How a legal framework designed to regulate state behavior can influence non-state actors?

This chapter tries to answer these questions. I will try to provide an analytical framework to understand how international law can contribute to the prevention of armed conflicts, including when non-state parties are involved. I support the idea that international law – more precisely, the law of war – is both effective and responsible for protecting and promoting the values underlying contemporary international society.

Political pundits and analysts alike point out that international law is not able to prevent a great power from acting unilaterally. Both the US invasion in Iraq in 2003, and Russian's in Ukraine, in 2014, reinforce such argument. They even accuse international law of being ineffective to prevent local disputes in areas where neither great powers nor the international society have a direct interest in intervening, as recently seen in Darfur, Syria, and Libya. Their argument is based on the premise that international norms alone can barely limit violence and the use of force.

I strongly disagree on these. I propose in this chapter that international law is not responsible for preventing the use of force, but to limit its use in international relations. The decrease in the number of wars and armed conflicts in the last decades reinforces such stance. The law of war is particularly valuable when the conflict starts, as it curbs policies and strategies that may cause unnecessary harm to both combatants and non-combatants alike, even in intrastate conflicts.

As a consequence, my answers to the above-posed questions are quite optimistic. Despite the lack of enforcement of international law, adherence to such standards is a way of legitimizing the values shared by the international society.

I develop my argument in three steps. Firstly I present the set of international norms known as the law of war. By and large, it is divided in two main sections, the *jus ad bellum* – the law towards war – and the *jus in bello* – the law in war.<sup>1</sup> The law of war is

<sup>1</sup> This terminology is not consensual, but it is established in the literature. Some authors as Michael Walzer (2003), though, may refer to *jus ad bellum* and *jus in bello*, respectively, as “the right to go to war” and “the right conduct in war”. In any case, the broad idea is the same.



structured on the values shared by international society and reflects its understanding of now valid and legitimate is the use of force in a given era.

I then propose that both *jus ad bellum* and *jus in bello* are applicable even when there are non-state parties involved. These set of norms were created by states to regulate their interaction, but their ultimate goal was the preservation of international society. My argument here clearly reflects a solidarist stance. Accordingly, *jus ad bellum* and *jus in bello* can be seen as equally valid in the relation between domestic groups and states and domestic groups alike. Their logic is based on the idea of a common humanity underlying international society. The law of war protects humanity from unnecessary harm, so it is not concerned on who is waging war, but on the maintenance of the values of international society.

I conclude the chapter by raising some issues that may be problematic for the law of war. Despite its centrality for the maintenance of international society, international law is subject to political moves and will. In that sense, states may break some rules in case there is special interests involved and still praise the role of international law. The same applies to contemporary themes such as refugees, war crimes, and massive violations of human rights.

Before proceeding, I would like to clarify the use of the terms (armed) disputes, (armed) conflicts, and war. The academic and political literature on war and peace do present distinct definitions for the two terms. While disputes and conflicts do not necessarily involve the use of military force, wars do. However, and despite I acknowledge the importance of upholding such differences, in this piece I will use them as interchangeable terms, especially when the term “armed” is added to one of them. I do believe it will contribute to make my argument clearer and I do apologize in advance in case for any simplification this choice may cause.

## **The law of war and the use of force in international relations**

International law has long leaned over into armed conflicts. It is possible to notice the development of a customary law, heavily influenced by *jus naturale*, the natural law or the rules of humanity, to regulate warfare, especially regarding diplomacy, mediation, and the respect for hierarchy and ranks. Such practices are prior to the formation of nation-states, dating back to the pre-Christian era.<sup>2</sup> The replication of such procedures thought time institutionalized some practices regarding warfare and built the foundations for the customary law towards war. These institutions can also be traced back as pillars to the development of modern international relations (Mello, 2000).

War played a central role in the formation, expansion, and maintenance of international order in the last centuries. As an international institution, it helped to consolidate the practices and expectations in international relations. However, other international

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<sup>2</sup> The Romans were one of the first societies to create a set of norms to differentiate the treatment between its citizens and foreigners, which may be considered an antecessor to the law of war.

institutions do play a complementary role to war, such as the international law and the great powers. Combined, they provide a framework to understand the legitimacy and possibility of recurring to the use of force in order to achieve state interests.

In that sense, one can perceive a change on how international society understands war throughout time. Notwithstanding the different approaches taken by both international relations and international law to war, it is possible to relate its foundations to the just war theory, as it contribute to justify and limit war (Johnson, 1981).

Firstly proposed in the pre-Christian era, the modern just war theory is heavily influenced by Saint Augustine and Saint Thomas Aquinas (Johnson, 1981; Walzer, 2003). According to the just war theory, war is not always the worst option in international politics. In that sense, it can be justified provided two conditions are met: the right conduct in war and the right to go to war. As for the religious and philosophical basis of just war, armed conflicts must be morally accepted and fit within a moral code of conduct. On contemporary terms, the moral acceptance refers to the *jus ad bellum* while the moral code of conduct refers to the *jus in bello*. The *jus ad bellum* describes the conditions that allow a war to be legally and legitimately accepted within the framework of the international law. The *jus in bello*, on the other hand, regulates the conduct in war.

Saint Thomas Aquina, probably the most influent thinker to support the just war theory, proposed that a divine authority would justify the use of force against an enemy usually religiously antagonist. His idea of proper authority ultimately rests on God and His will against the infidels. St. Thomas Aquina's writings and the ones that influenced his thoughts were men of their ages and, as such, developed their thoughts based on their world view and their religious and political notions of right and wrong. As a consequence, and despite the contributions brought to the debate, they expressed the values and the understanding of a Christian international society composed mostly of European political communities.

In today's contemporary international law, however, the law of god does not suffice be legally evoked to determine legitimacy in international relations. International society developed collective fora to promote the discussion on war and peace and the international law elected the United Nations Security Council as the legitimate arena to determine whether the use of force is legal or not. The UNSC is a political instance, but it acts under the premises of the *jus ad bellum*, as expressed in the UN Charter.

International society is based on the ability of its members of respecting compromises and limitation of violence is one of them. Accordingly, contemporary *jus ad bellum* suggests that the use of force may be a resort to political communities if the right conditions are on the table. No matter if it's a conflict involving states or other forms of political communities, including non-state actors, the norms of *jus ad bellum* are always a pre-requisite for the legitimate use of force.

Its legal basis rests on the UN Charter, mainly article 2 (3) and (4) and the Chapter 7, which comprises articles 39 to 51 (Morris, 2013: 105). As of the UN Charter Article 1 (1), UN main objective is

[t]o maintain international peace and security, and to that end: *to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law*, adjustment or settlement of international disputes or situations which might lead to a breach of the peace[.] (emphasis added)

Considering such institutional preference, Article 2 asserts that UN members shall act in accordance with the following principles:

- › 3. All Members *shall settle their international disputes by peaceful means* in such a manner that international peace and security, and justice, are not endangered.
- › 4. All Members *shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state*, or in any other manner inconsistent with the Purposes of the United Nations (emphases added).

These legal provisions put off the use of force as a tool of international politics. It is important to highlight that Article 2 (4) is considered *jus cogens*, i.e., a norm that must be observed by all states.<sup>3</sup> Therefore, the use of force is relegated to a minor role – the *ultima ratio*, last resort. As set out previously, war may not be the worst option for a state to achieve its goal, but contemporary shall be treated as the last one. In this sense, the experiences from the previous two world wars led states to understand that international society and international order are better served if the threat of force is diminished. The maintenance of peace and international security is considered a higher goal than an individual state's ambition or will.

However, and accordingly to the respect of states sovereignty and the limitations of international law, the UNSC cannot outlaw or forbid a state from using force in case it needs or desires. Yet, it limits the opportunities of actually happening.

Nothing in the present Charter shall impair *the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security*. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present

<sup>3</sup> According to Black's Law Dictionary, *jus cogens* is "a mandatory norm of general international law from which no two or more nations may exempt themselves or release one another" (Garner, 2000: 695). The legal prescription of *jus cogens* may also be found in the article 53 of the 1969's Vienna Convention on the Law of Treaties: "Treaties conflicting with a peremptory norm of general international law (*jus cogens*): (...) For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character."

Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security (emphazises added).

In this case, Article 51 stipulates the two exceptions to the general rule. Article 51 grants state members with the right of acting in self-defence, both individual or collectively, in case of a imminent threat. The definition of self-defence in international law resembles the self-defence in the domestic law. It is a proportional response to an imminent act of aggression against a state while the threat is still present. Self-defence depends on the combination of necessity and proportionality. While the former refers to the need for action to prevent the threat of becoming effective, the later demands that the reaction is dully proportional to the nature of the threat.<sup>4</sup>

In a similar note, it is important to distinguish between preemption and prevention when discussing self-defence. A preemptive attack consists on conducting military actions against a state that is about to attack. Prevention, on the other hand, is a military action against targets that may be a threat in the future, but it is currently not. According to these distinctions, the idea of self-defence within the *jus ad bellum* is restricted only to preemptive attacks as they would consist on the imminent threat.

The definition of threat, however, is problematic. As I discussed elsewhere (Valenca, 2014), states creating obstacles for a more clear definition as it could imply necessary international action even in situations where there was no interest to do so. What constitutes a threat remains open to subjective, political discussions.

The second exception to Article 2 (4) is the possibility of the UNSC to promote collective actions to restore or maintain international peace and security under the Article 42. The competence of the UNSC to act is granted by the article 39 combined to articles 41 and 42. The UNSC has the power to determine what constitutes a threat and propose recommendations on how to deal with it. In that sense, what constitutes a threat or not may be a sensitive topic, as it is subject to great power politics.

As there is no objective definition of threat, the interpretation of those exceptions should be made in a strict fashion. Even the recommendation of enforcement measures should consider the use of force as a last resort. Despite being often referred as the chapter that deals with enforcement and use of force, Chapter VII regulates “action[s] with respect to threats to the peace, breaches of the peace, and acts of aggression”. In that sense, enforcement may also implies economic and political sanctions (Hamann, 2012), which would be preferable. It would maintain respect for the sovereignty of states while preserving UN most basic principles.

The ability of the UNSC to authorize means to maintain peace and international security reflects the role played by the organ in international relations. The UNSC is responsible for legitimatizing the use of force, either by acknowledging and prescribing responses to acts of aggression or by calling for collective actions against potential

<sup>4</sup> The Just Law Theory also supports that a just war shall be deployed by using proportional means.

threats to the international order. It is important to highlight it does not have the expectation of prevent the use of force. The UNSC is responsible for legitimizing it. In that sense, the UNSC took out states' prerogative of the *jus bellum dicendi*, i.e., the right of proclaiming war. In a contemporary international society, states may unilaterally still resort to the use of force, but it will only be internationally accepted if it fits within the law of the war framework. If one needs to relate the *jus ad bellum* to the just war theory, UN may be compared to a modern version of the divine authority proclaimed by Saint Augustine and Saint Thomas Aquina. The use of force is not deployed in the name of the UN, but under its authorization.

The *jus ad bellum* explicits the conditions under which the use of force is legitimate in international relations. However, when a war starts, international law becomes even more important.

During the expansion of the modern international society, war was not only a valid political choice, but also an institution that anchored international order (Bull, 1977; Holsti, 2005, Buzan, 2014). The use of force was a part of international politics and, as such, there were limits to prevent the spillover of violence on domestic society, contributing to the continuation of domestic politics. In that sense, war should not prevent normal politics. Wars were supposed to be violent, but could not create unnecessary human suffering nor violating the *jus naturale*.

Accordingly, the development of a set of rules applicable to all humanity would strengthen the bonds among states, enhancing the solidarity within the international society and promoting its values. The expansion of the international society not only brought more members to it but also led to the development of collective mechanisms to protect both its values and individuals. A recurrent example is the “Declaration Renouncing the Use, in Time of War, of Certain Explosive Projectiles”, commonly referred to as the Saint Petersburg Declaration of 1868. The Declaration is one of the first modern documents to state a clear humanitarian concern by as well as to impose normative limits to warfare.

- › That the progress of civilization should have the effect of alleviating as much as possible the calamities of war;
- › That the only legitimate object which States should endeavour to accomplish during war is to weaken the military forces of the enemy;
- › That for this purpose it is sufficient to disable the greatest possible number of men;
- › That this object would be exceeded by the employment of arms which uselessly aggravate the sufferings of disabled men, or render their death inevitable;
- › That the employment of such arms would, therefore, be contrary to the laws of humanity (Swinarski, 1991: 14-15; Morris, 2013: 109)

These humanitarian guidelines constitute the basis of the *jus in bello* – the law in war -, also known as the International Humanitarian Law.<sup>5</sup> The *jus in bello* focuses on the

<sup>5</sup> For a comprehensive list of the treaties and declarations that forms the core of *jus in bello*, please refer to <<https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByDate.xsp?redirect=0>>. Accessed on August 12, 2016.

protection of those involved in armed conflicts, whether they are combatants or non-combatants, aggressors and victims alike. Thus, its main objective is the prevention of unnecessary suffering caused by war.

The *jus in bello* is commonly divided in two sub-categories, the Hague Law and the Geneva Law (Swinarski, 1991; Morris, 2013). This division is strictly didactic, but contributes to a clear understanding of how international society protects its most basic premises. While the former focuses on the protection of victims of armed conflicts, the later prescribes how belligerent parties should engage force during war time. Combined, the Hague Law and the Geneva Law highlight the common ground that supports international society values and its normative concerns: even in a scenario of war, states should and must respect and protect individuals, as their preservation is a necessary condition to the preservation of international society.

The Hague Law is based on the several conferences held in The Hague in 1899 and 1907 as well as on the 1977's Additional Protocol I. Similarly to the Saint Petersburg Declaration, these conferences reinforced the solidarity among states and prescribe the ways and means employed in war. The Hague Law includes, but is not limited to, the use of bombing and ranged attacks, chemical weapons, and other technologies considered excessive, even in an armed conflict situation.

The Geneva Law, on the other hand, is based on the four conferences held in Geneva in 1949. Each of them addresses a group of victims in an armed conflict. The first conference prescribes the treatment to the wounded and the sick in land conflicts. The second regulates conflicts at sea and the treatment to the wounded, the sick and the shipwrecked. The third conference refers to prisoners of war, while the fourth protects civilians in armed conflicts. Collectively, they provide the foundations of contemporary humanitarianism and highlight the importance of respecting minimum requirements to preserve the integrity of international society.

The *jus in bello* represents what international society considers part of the most fundamental aspects of political life: the limitation of violence and ability of keeping promises and respecting what was agreed upon. In that sense, its applicability is not conditioned to either the legitimacy of the armed conflict nor to the respect to these norms by the other belligerent party – i.e. the conflict does not need to fill the *jus ad bellum*'s requisites. The *jus in bello* is not subject to the principle of reciprocity. It must always be observed, even in armed conflicts that do not follow the premises of the *jus ad bellum*.

Many authors in international law consider the principle of reciprocity as the basis of modern and contemporary international law framework. By and large, it prescribes that the conduct and actions of a state can be replicated by the other part in their bilateral relations (Garner, 2000: 1021). Thereby, if a set of rules preclude the principle of reciprocity – i.e., they are subject to the principle of non-reciprocity -, it means these rules are above any condition of state's discretion.

In the case of the *jus in bello*, the principle of non-reciprocity is endorsed on the Article 1 of the Geneva Convention. It states that “[t]he High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances” (emphasis added) (ICRC, 1949). This is so because the *jus in bello* is “essentially unilateral and non-reciprocal in nature” (Morris, 2013: 110).

By establishing a common ground that must be observed and respected by states while in war, the *jus in bello* promotes humanitarianism in world politics. Humanitarianism is the idea that moral and sympathy are common and can be extended to all human beings universally. In other words, despite the fact that international society is based on and structured on a system of states, individuals share a common bond that spills over state borders and connect them in a deeply fashion. The *jus in bello* not only regulates and protects core values of a international society composed by states but also promotes the connection of all humanity.

Combined, the *jus ad bellum* and the *jus in bello* offer the basis for promoting the preservation of international society. They reflect international values and are contingent on how states understand such values, mainly the three elementary ones: the limitation of violence, the respect to what was agreed upon, and the stability of the possession of things (Bull, 1977: 4). These elementary values are present, in different degrees, in all political communities and, in the case of the contemporary international society of states, they highlights the foundations of the law of the war.

## The law of war and contemporary conflicts

The legal framework presented in the previous section is based upon and reflects the structure of a state-centric society. The expected outcomes of the law of war provide the conditions to guarantee the continuity of the international society in all the elementary values proposed earlier. The limitation of violence reflects a concern on the impacts of the use of force in international relations. The respect on what was agreed upon is translated on the idea that laws must be abided. The stability of the possession of things, on its turns, reflects state sovereignty. Considering this scenario, how is it possible to think that the law of war, created by states to regulate their own conduct, may not only apply but also be respected by non-state parties?

The answer to this question is structured on three premises. The first one reinforces the predominance of states in a world where non-state parties are gradually assuming a much bigger role, which implies that international organizations and states alike shall treat these new actors as actors endowed with rights and duties in the international sphere. In a similar fashion as states, non-states parties do represent sociopolitical groups that may not be autonomous or sovereign in international politics, but do represent a significant parcel of individuals. In that sense, and even if one highlights this parties are subjected to state control, they are a part of this state politics and, as such, shall be taken in consideration while interacting with other political groups.

The second premise refers to the role of individuals as the foundation of any society or political group, whether it is directly connected to domestic or international politics. In the case of domestic politics, individuals from different groups are considered parts of the same whole. This idea implies that their cultural, political, or sociological differences do impact on the formulation of public policies, but they are all considered parts of a larger whole. In the case of international politics, this “larger group” is not easily identified. It is not uncommon to refer to deeper differences to describe the cultural and political differences between states. On top of that, the idea of a larger group of individuals that ignores state borders – humanity – is hardly accepted. Cultural clashes are more visible and sometimes prevent universal strategies to preserve individuals.

Finally, the third premise functions based on the synthesis of the first two and suggests that the ability of the international community of states must adapt over the past centuries to accommodate to the political changes in order to ensure its continuity. In this case, I refer to the role of non-state actors in international politics, especially with regard to the use of force.

As noted earlier in this chapter, changes in the way war was made resulted in a decrease of wars between states and an increase in intrastate wars. But that did not represent the retirement of states from this area or the loss of their relevance in the control of the use of force in international politics. On the contrary, the United Nations Security Council continued to address the issue to preserve the principles that underpin international order.

Thereby, strategies such as peace missions, described earlier, changed their structure and became more complex and multidimensional. International responses were no longer intended to stop the immediate use of force, but to build structures that would prevent its use in domestic societies.

In this sense, States, as representatives of the international society, act – or developed a legal and normative framework that allows them to act – in order to prevent violence among non-state actors from escalating. Several international documents, produced within the United Nations’ scope, point to this trend, as the 2004 report “A more secure world: Our shared responsibility – Report of the High-level Panel on Threats, Challenges and Change” or the “An Agenda for Peace – Preventive diplomacy, peace-making and peace-keeping” of 1992 and its supplement published in 1995. These documents reinforce values that are inherent to international society as they prescribe both, the member’s expected behavior and the actions that must be rejected in hopes of collective action by its members.

Therefore, *Jus ad bellum* and *jus in bello* are part of this international normative toolkit. They reflect the modern understanding about when the use of force is accepted in international politics as well as implied conditions. At the same time, it protects individuals and communities from the use of excessive force in order to ensure a humanitarian foundation that is common to all States, groups and individuals.



And, how would non-state groups submit to these practices? I believe this answer is determined by wishful thinking, but that an operation is easily envisioned.

Non-state groups would be subject to the same controls as States as they seek international acceptance and recognition of their claim. Therefore, their strategies and methods would be subject to the same values and conditions as States'. Moreover, they would be subject to the elements that guide international society.

States, in turn, would act to control and ensure this behavior, particularly at the UN level. The understanding that these non-state groups have international rights and duties is widely disseminated, as shown by the Security Council's resolutions and recommendations in the past couple of decades. However, acting and maintaining credibility are an important way to ensure that two of the international society's fundamental values are being observed. Therefore, limiting violence and respecting agreements do affect non-state groups. On the other hand, the issues of sovereignty and stable possession present clear limitations internationally given their state-centric approach.

### **Concluding thoughts: signs of optimism or challenges to the law of war?**

Despite the remarkably optimistic approach I present in this chapter and discussion, both international law and the law of war face hard challenges. The tension between might and right are an integral part of international relations so this relation may affect the general perception on the effectiveness of international law.

On the side of the *jus ad bellum*, the UNSC needs to have the ability to overcome such wrong perceptions. As the international body responsible for legitimizing the use of force in international politics, the UNSC has played its role properly, despite some lack of collaboration from state members. The challenges posed by contemporary armed conflicts to the *jus ad bellum* refer both to the possibilities of promoting peaceful means to resolve disputes as well as the collective response to international threats.

The challenges that lay here, for reflection and without questioning, can be included in two larger groups. The first group is made up of the collective arrangements that are sought so the effectiveness of the Law of war is not affected by the perception that force constrains the law. The second group is formed by elements deriving from the behavior of belligerent groups and that affect individuals, communities and even the international society of States based on an idea of humanitarianism.

As I propose in another paper (Valencia, 2014), the role of States in the prevention of violence and on behalf of a larger humanitarian bond still faces issues related to specific interests, whether of a political, economic or strategic nature. Thus, rhetorical support without effective action or hindering of authorization for collective actions can affect the way international law is perceived by both the international community of States as by non-state groups. This happens because, despite the duty to act when called upon by the Security Council, there is no obligation to do so, given the

sovereignty of states. Thus, particularly when there are deeper connections between those States or target groups of international action and the countries engaged in the effort to prevent the use of force, international collective action can lose momentum. Still, States reinforce international law as they seek explanations for this violation of norms, creating justifications that would make such violations “morally acceptable”.

In that sense, is it possible to think that right may contain might? The examples mentioned in the introduction to this chapter may suggest otherwise, but it is important to notice that armed conflicts became the exception in international relations. States have developed mechanisms that limit the opportunities they use force, even considering the possibility of deterrence. Powerful states may still act unilaterally and violate international norms, but they still justify their actions. We can take George W. Bush’s attempts to justify the US invasion to Iraq based on legal interpretations of a UNSC resolution. Or Putin’s attempt to justify invading Ukraine based on a threat against peoples with a Russian ascendancy. Unlike in previous centuries, an interstate war is unlikely, which may be considered great news: states are more likely to resolve their disputes via peaceful means.

Thus, and despite the problems that may arise from the legitimization of the use of force, I understand the major challenges to international society come from the *jus in bello*. One can correctly point out that the number of armed conflicts worldwide has reduced sensibly in the last decades, both in the state and intrastate levels. However, it is also correct to highlight that armed conflicts are getting more violent. If one considers that intrastate wars are currently predominant and more violent, our perception of international law would indicate a complete failure of such institution. How can international society revert such trend?

States tend to follow the principles of *jus in bello* more often than non-state groups. However, most political actors abide by the bulk of international norms most of the time. Nonetheless, some cases of non-compliance affect our global perception and makes *jus in bello* seem less effective than it really is.

These elements have a common base but ultimately stand out in different ways. During the 1980s and 1990s, the violation of the principles of *jus in bello* was more evident within the great genocides that marked the intrastate conflicts that decade. The genocides in Rwanda, Cambodia and Bosnia-Herzegovina, for example, were a facet of how non-state groups were active in conflicts. The use of this kind of violence was a way to dehumanize the enemy, bringing it down to a sub-human condition as a way to legitimize violence.

In recent years, violations of *jus in bello* were more evident with the creation of conditions that led to the collapse of the states where conflicts occur, leading to large displacements of people affected by violence. Unacceptable and unnecessary levels of violence in intrastate armed conflicts currently promote large waves of refugees that, although protected by international standards, find themselves caught between a violent dispute in their territory and the difficulties of establishing, temporarily or

permanently, in other regions as refugees. As a policy tool, international law offers solutions to these issues, but there is no way to force states or non-state groups to abide by such responses. International law is a coordinating law, dependent on the cooperation and interdependence of actors in order to be effective.

However, it is important to highlight a final topic before concluding this chapter. Despite obvious problems in the application of international law and the laws of war, the international community seems more inclined than ever to adopt collective solutions to resolve disputes and prevent the use of force and violence. Even in situations where enforcement is not evident and the effectiveness of the standard is not as apparent as desired, there is legal room to develop forms of constraint. Coercive measures do not involve only the use of military force, but also mechanisms of political and economic sanctions, for example. Thus, the law of war makes room for these alternatives as a way for preserving and complying with the principles of *jus ad bellum*. After all, the legitimacy of international political actors is a fundamental aspect in the consolidation of international society. The development of alternatives to strengthen international society is an aspect that makes international law a compatible tool with the political and historical conditions for its implementation.

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**Mariano Aguirre** is the Director of the Norwegian Centre for Conflict Resolution, NOREF, Norway. An analyst and writer on international politics with particular expertise on the Middle East, Latin America and US foreign policy he has a Master Degree on Peace Studies from the Trinity College (Dublin). Author and editor of several books he is an international commentator and contributor to different international media and journals. Mr. Aguirre has received different international awards, the last one in 2014 by the Autonomous University of Lisbon for his career as defender of peace and human rights.

## Limits to political realism facing global challenges

Mariano Aguirre

The international system faces challenges that require governments and international organizations to react in previously unexplored areas, such as international organized crime, the intense environmental crisis and the increasing unconventional violence carried out by non-governmental armed groups and radicalized individuals. Moreover, governments, international financial organizations and the European Union have responded with an aggressive economic realism to the financial and economic crisis that began in 2007 and affected particularly the United States and Europe. Global society faces other structural problems such as unemployment of large masses of young people, violent radicalization, migration and urban sprawl. The complexity of each of these issues and the linkages between them require political actors to avoid simplistic and short-term solutions based on ideological prejudices.

However, the responses of governments and security and financial organizations are characterized by being essentially *realistic*, and sometimes *aggressively realistic*. The argument that justifies their actions is that decision-makers allege to acknowledge “the world as it is” and “not as it should be.” There is no time, they say, or room for “experiments” and “extravagances”. This means that the frame of reference and economic security paradigm that has guided their policies since at least the end of World War II will not be broken.

## Deregulation and inequality

In the field of economics, it is about the continuity of the liberal economic model, in which the role of the State in the management and regulation of the economy is diminished, there is increasing privatization, greater emphasis on speculative financial investments in the productive sector of goods, structural reforms that involve deep cuts in governmental social services (education, health, housing, transport), promotion of free competition (and subcontracting) at all levels of economic activity along with liberalization of employment and crackdown on union activities. Job insecurity becomes a permanent state.

Despite the signs derived from the recent financial crisis, the dominant economic model continues to rely on deregulation and lack of state control over the global financial movements. The recent revelations of the so-called *Panama papers* and other investigations show the diverse and intricate forms of massive tax evasion, covert investments, purchase of real estate through shell corporations and fictitious companies and other means that allow sectors with greater economic power to not contribute to the common good, detracting funds from countries and societies and to illegally accumulate more non-productive wealth.<sup>1</sup>

There are two technological factors that will generate more marginalization, social exclusion and, possibly, violent responses. First, automation that replaces human labor. Second, the use of artificial intelligence applied to control and planning systems, which will also displace many senior and middle managers of business administration. When technological advances are not considered a common good, they are used for the benefit of the private production of goods and the administrative management. The massive elimination of human jobs has serious consequences in developed economies with a more or less developed welfare state system. Yet the burden on social protection systems will be difficult to maintain, especially by having fewer workers contributing to their future pensions. But in the South (meaning in general less developed) the impact will be devastating. A study authored by US-based Citi bank and the Oxford Martin School, a research and policy arm of the University of Oxford, based on World Bank data indicates that:

*“(A)ll jobs in Ethiopia, and more than half of those in Angola, Mauritius, South Africa and Nigeria could be taken over by automation, according to an incisive new study, throwing a big spanner in continent’s hopes of manufacturing its way into prosperity. This is because the majority of jobs in those countries are either low-skilled or in industries highly susceptible to computers and robots, including the continent’s mainstay agriculture. The study (...) finds that 85% of jobs in Ethiopia are at risk of being automated from a pure technological viewpoint, the highest proportion of any country globally”.*<sup>2</sup>

<sup>1</sup> <https://theintercept.com/2016/04/05/heres-the-price-countries-pay-for-tax-evasion-exposed-in-panama-papers/>

<sup>2</sup> <http://mgafrica.com/article/2016-01-28-look-away-ethiopia-south-africa-and-nigeria-the-robots-are-coming-for-your-jobs>

Data regarding the number of jobs likely to be replaced in other countries is also very grave: 77% in China, 72% in Thailand, 67% in South Africa, 85% in the US, 35% in the UK, and 65% in Argentina.<sup>3</sup>

A manifesto of US scientists, including Stephen Hawkins, warns that despite the great advantages that automation and artificial intelligence generate when applied to fields such as medicine and communication, it is necessary that science be at the service of people and not for the benefit of a minority. According to a study by the Boston Consulting Group, by 2025 machines will have replaced 25% of the productive tasks that people perform today<sup>4</sup>. This growing incorporation of robots replacing jobs has a deep relationship with inequality. The so-called 1% of world population is less accountable to any state and has the ability to produce more, invest and manage funds globally, accumulate more wealth and power and use less human labor<sup>5</sup>.

The need to maintain the economic and financial system running without altering the power of the elite (the so-called 1%), and the great speed at which the operations of financial markets move leads to discarding all rationality or logic that defies the conventional thought on the economy<sup>6</sup>. The result of the adjustment policies is a dramatic increase in inequality, increased profits for the 1%, which, in turn, is subject to less regulation and restructuring of labor markets that accentuate the above trends. Aggressive Realism within the framework of hyper-globalization<sup>7</sup> has worked to maintain the privileges and the model running, but not to favor most citizens. Added to that, economists such as Larry Summers predict that in the future we will live in “conditions of secular stagnation – low interest rates, below target inflation, and sluggish output growth.”<sup>8</sup>

If global wealth is depicted in a pyramid, in the bottom there will be multiple manifestations of lack of access to jobs and services, with permanent and increasingly dramatic situations of masses of people trying to advance as economic trends reject them, as happens today with refugees. The grievance between the super rich and poor will generate more illegal forms of economic survival, intermediaries and exploitation of the poor against the poor, disaffection towards the State and various forms of violent responses, both organized and unorganized.

Examples are numerous and various: children on the streets of Istanbul selling fake lifejackets to migrants who are crossing to Greece; People who live from collecting

<sup>3</sup> “Au boulot les robots!”, *Courier International*, number 1346, August 18, 2016, p. 37.

<sup>4</sup> Daniel Mendelsohn, “**The Robots Are Winning!**”, *The New York Review of Books*, June 4, 2015. <http://www.nybooks.com/articles/2015/06/04/robots-are-winning/>

<sup>5</sup> Sue Halpern, “**How Robots & Algorithms Are Taking Over**”, *The New York Review of Books*, April 2, 2015. <http://www.nybooks.com/articles/2015/04/02/how-robots-algorithms-are-taking-over/>

<sup>6</sup> Among the wide literature on alternative policies to those undertaken by the International European Commission, the World Bank and the Monetary Fund see Stuart Holland, *Europe in question*, Spokesman Books, Nottingham, 2015. Also Joseph Stiglitz, “Seven changes needed to save the Euro and the EU”, [https://www.theguardian.com/business/2016/aug/22/seven-changes-needed-to-save-the-euro-and-the-eu?CMP=Share\\_AndroidApp\\_Email](https://www.theguardian.com/business/2016/aug/22/seven-changes-needed-to-save-the-euro-and-the-eu?CMP=Share_AndroidApp_Email)

<sup>7</sup> Martin Jacques, “**The death on neoliberalism and the crisis in Western politics**”, [https://www.theguardian.com/commentisfree/2016/aug/21/death-of-neoliberalism-crisis-in-western-politics?CMP=fb\\_gu](https://www.theguardian.com/commentisfree/2016/aug/21/death-of-neoliberalism-crisis-in-western-politics?CMP=fb_gu)

<sup>8</sup> <http://larrysummers.com/2016/04/28/secular-stagnation-in-the-open-economy/>

garbage in cities like Manila or Managua; smugglers of immigrants and refugees, and women from Africa and Russia and Eastern Europe for prostitution chains; the terrible working conditions in factories in Asia or Central American countries; the exploited peasants at the bottom of the drug trafficking networks; hundreds of thousands of people living in slavery conditions; or the masses of young people in the Middle East who have had their democratic expectations frustrated in recent years, among many other examples.

The crisis has shown the lack of judgment and foresight on the management of national and international finances. Economists and politicians in executive and middle management positions have clung to the neoliberal realist paradigm with the conviction that there are no alternatives to their policies, while benefitting through legal and in many cases illegal practices (corruption) that affect both state and private sectors. A belief reinforced by the huge profits they have earned and continue to earn. *Fortune* business magazine noted in 2013:

*“Income inequality has been a problem for decades, but the gap between the haves and have-nots has worsened in the years following the recession. The rise in home and stock prices may be benefitting the richest Americans, but the poorest are being left behind: From 2009 to 2012, the top 1% incomes grew by 31.4% while the bottom 99% incomes grew a mere 0.4%, according to an updated study by University of California Berkeley economists Emmanuel Saez and Thomas Piketty”.*<sup>9</sup>

## Real security?

In the field of security, Realism bases its theory on the defence of the interests of the State as a superior entity. The State’s interest is defended through military and non-military power (economic, diplomatic, cultural influence). According to this school of thought, peace in the international system is achieved through the balance of power between countries. This involves prioritizing traditional defence systems (the armed forces with a regular modernization of its weapons systems) as instruments of strategic principles (balance of power in face of potential enemies and deterrence) to ensure national and international security.

These economical-financial and security reference frameworks are projected in many areas at domestic and international levels. For example, international development cooperation is increasingly subordinated to the interests of donor states. Promoting the development of countries and societies affected by underdevelopment and State weakness is replaced by actions to ensure the stability of State investments and foreign companies or more generally to promote regional stability with the geopolitical objective of ensuring the influence of the North or developing countries (e.g., China in sub-Saharan Africa). Some authors argue that even the industry of cooperation serves more as a mechanism of profit than of help for poor countries. The development expert David Sogge notes:

<sup>9</sup> “The rich got a lot richer since the financial crisis”, *Fortune*, 11 de September, 2013. Ver Thomas Piketty, *Capital in the Twenty-first Century*, Harvard University Press, Harvard, 2014; and Tim di Muzio, *The 1% and the rest of us*, Zed Press, London, 2015.



*“There can be little doubt that helping oneself that is, providing benefits to interests within one’s own political economy is for donors a central pursuit indeed it may a central purpose. In contrast to its many elusive quests in its downstream realms, foreign aid has met considerable success in its downstream realms payoffs for interests based in donor countries help explain why the foreign aid system continues to grow despite its lack of success in promoting far better-known goals such as equitable growth and good governance. The foreign aid system continues moving its policies, goods and services downstream toward poorer places while at the same time casting an indulgent eye on large amounts of money and other resources moving upstream to richer places”.*<sup>10</sup>

A turn from cooperative multilateralism to aggressive realism can also be verified in refugee policies. The number of refugees in 2016 reached an all time high<sup>11</sup>. The international system in this field was governed by cooperative, liberal and multilateral guidelines, which ensured the protection of refugees according to international conventions on asylum and refuge. However, asylum is being redefined from the humanitarian realm to the realm of security.<sup>12</sup>

Policies for receiving refugees and immigrants (an increasingly difficult difference to establish because millions of people emigrate due to similar unbearable conditions or due to violent conflicts) are increasingly aimed at deterring their arrival in Europe, the United States, Australia and other countries. The policies are based on prioritizing the perceived safety of “our country”, trying to maintain a national identity against the “others” and trying to protect, despite data that deny it, citizens from the scarcity of jobs seized by refugees and immigrants<sup>13</sup>.

Some governments, political leaders and racist organizations in the United States, Europe and other parts of the world promote the perception of threat regarding people from the South and East. However, there is also a strong rejection of asylum-seekers and refugees and immigrants within countries of the South, as is the case of South Africa regarding immigrants from Mozambique, the rejection of the Rohingya minority from Myanmar in various countries of Southeast Asia<sup>14</sup> and the growing criminalization of Latin American immigrants in Argentina<sup>15</sup>.

National interests prevail over the general interests of society as a whole also on the issue of climate change. Despite some progress that has been made in agreements on

<sup>10</sup> David Sogge, “Donors Helping Themselves”, copy edited draft April 2015 [https://www.academia.edu/8699720/Donors\\_Helping\\_Themselves](https://www.academia.edu/8699720/Donors_Helping_Themselves) Final version published in B. Mak Arvin (Ed), Handbook on the Economics of Foreign Aid, Edward Elgar Publishing, Northampton, 2015, pp. 280-304.

<sup>11</sup> <http://www.unhcr.org/news/latest/2016/6/5763b65a4/global-forced-displacement-hits-record-high.html>

<sup>12</sup> Gallya Lahav, “The global challenge of the refugee exodus”, Current History, January 2016.

<sup>13</sup> Mariano Aguirre, “The dilemmas of migration and the alternatives”, <https://www.opendemocracy.net/arab-awakening/mariano-aguirre/dilemmas-and-alternatives-to-migration>

<sup>14</sup> <https://www.amnesty.org/es/latest/news/2015/10/southeast-asia-persecuted-rohingya-refugees-from-myanmar-suffer-horrific-abuses-at-sea/>

<sup>15</sup> <http://www.lanacion.com.ar/1745247-mitos-y-realidades-sobre-los-inmigrantes-que-viven-en-la-argentina>

reducing polluting gases emissions<sup>16</sup>, most governments (as representatives of business sectors) are reluctant to sign international agreements that reduce their industrial production capacities (including the application of intensive exploration techniques in the agricultural sector) and profit in the short and medium terms. The consequences that their policies have on the environment in the long run are denied or neglected on the grounds of the need to be part of a highly competitive global market. Once again, a short term realist vision against a strategic one.

## The last State of the Climate report

*“confirmed that 2015 surpassed 2014 as the warmest year since at least the mid-to-late 19th century. The record heat resulted from the combined influence of long-term global warming and one of the strongest El Niño events the globe has experienced since at least 1950. Most indicators of climate change continued to reflect trends consistent with a warming planet. Several markers, such as land and ocean temperatures, sea levels, and greenhouse gases, broke records set just one year prior”.*<sup>17</sup>

As for the relation between climate change and violent conflicts, environmental degradation is causing shortages of food resources, reduction of arable land, competition for resources among communities (eg. Syrian refugees are seen as competition by populations in Lebanon and Jordan, which accelerates ethnic tensions) and growing demands by social groups towards their governments<sup>18</sup>.

Specifically in the field of security, as of September 2001 the dominant paradigm of aggressive realism practiced by various governments has led to responding with force to problems and challenges that are rooted in poverty, marginalization, political repression, resource depletion and other causes. As Professor Paul Rogers suggests,

*“(...) although ISIS is certainly a major security problem, the real drivers of current global insecurity are quite different: deepening socio-economic divisions, which lead to the relative marginalization of most people across the world, and the prospect of profound and lasting environmental constraints, caused by climate change. ISIS, in short, should be seen as a warning of what could be to come, not as a fundamental trend in its own right”.*<sup>19</sup>

## Schools and reality

In the development of International Relations (IR), or the history of the relations between modern sovereign states, a number of theories represented by schools of thought have been established. Braillard defines an international relations theory as

<sup>16</sup> [http://unfccc.int/paris\\_agreement/items/9485.php](http://unfccc.int/paris_agreement/items/9485.php)

<sup>17</sup> [https://www.climate.gov/news-features/features/2015-state-climate-highlights#wows1\\_3](https://www.climate.gov/news-features/features/2015-state-climate-highlights#wows1_3)

<sup>18</sup> <https://dansmithsblog.com/2015/04/22/climate-change-and-security-heres-the-analysis-whens-the-action/>

<sup>19</sup> Paul Rogers, *Irregular war. ISIS and the new threat from the margins*, I.B. Tauris, London, 2016, p.5.

*“a consistent and systematic set of proposals designed to illuminate the field of social relations that we call international. One such theory presents an explanatory diagram of these relationships, its structure, evolution, and especially updates its determinants. Based on it, one can also predict the future development of these relations, or at least clarify certain tendencies of that evolution. The theory may also clarify facts. Like any theory, it implies a selection and organization of data, and some construction of knowledge”.*<sup>20</sup>

The replication, dissemination and adaptation of a theory take place within social circuits. Politicians, journalists, the military, government bureaucracy, private sector, churches, and organizations of civil society act deliberately and consciously or by inertia, according to theories, often mixing elements of several of them.

While there are different conceptualizations there is a general academic agreement that the main schools that define the spectrum are realism, liberalism and idealism. During the twentieth century, these schools have had different academic ramifications but in this text we refer only to these three.

Political Realism believes that “politics, like society in general is governed by objective laws that have their roots in human nature”<sup>21</sup>. Realism suggests that relations between States are based on interest and not on ideology; peace is achieved through the balance of power between States. Even great powers can coexist despite having different values and beliefs. There is no superior entity to which they are accountable. Ultimately their relations are ruled by war.

With these principles, Realism has become the predominant vision and practice in state policies due to its apparent practical recognition of how they work and relate. At the same time, it is a classical theory, with a long tradition that comes from Thucydides (460-406 BC), Niccolo Machiavelli (1549-1527), Thomas Hobbes (1588-1679) and Jean-Jacques Rousseau (1712- 1778)<sup>22</sup>. Even though the different schools refer to specific policies they have a profound philosophical background and perception of the world. British theoretical Martin Wight said in 1950 that there were “three schools”: *the Machiavellian or Realists, the Grotians or Rationalists and the Kantians or Revolutionaries*.

Realists believe that there is no superior entity to the State and that the State has, as human nature, selfish interests. They are skeptical about the idea of building an international society and in the face of international law and multilateralism embodied by the United Nations. The world is anarchic and peace is maintained through the balance of power, particularly of the great powers. The realistic politician is distrustful by nature. War is, in some cases, a result and a necessary factor to rearrange the

<sup>20</sup> Philippe Braillard, *Théorie des relations internationales*, Presses Universitaires de France, Paris, 1997, pp. 15-16.

<sup>21</sup> Hans J. Morgenthau, *Politics among nations. The struggle for power and peace (Brief edition)*, McGraw.Hill, New York, 1993, p. 4.

<sup>22</sup> Tim Dunne and Brian C. Schmidt, “Realism”, in John Baylis, Steve Smith and Patricia Owens (Eds.), *The globalization of world politics*, Oxford University Press, Oxford, 2014, p. 100.

power between States. Governments must ensure the survival of the State by all possible means. Regarding ethics, it must rule within each State, and the superior interest for peace is maintained precisely by recognizing that “the world is as it is.” Therefore, a well-managed balance of power leads to peace. For that reason, some theorists and politicians argue that realism has an ethics of peace.

Grotians or Rationalists (also called liberals) believe that States relate to each other but are not intended to confrontation in order to defend their interests. This can be achieved through cooperation with established practical relations (particularly trade) and rules of international law in a framework of values that include order, freedom, justice and tolerance. These are instruments to combat the lawlessness and anarchy realists accept as a fact of nature<sup>23</sup>. It is legitimate to defend the interests of each State but it must be done according to rules and regulations.

The Kantian or Revolutionaries (also called idealists) reject the confrontation of the Realists and the Grotian’s cooperation based on the law, and propose the creation of a community that is guided by cultural and moral standards, in which democratic States make up a community with legal obligations, which does not currently exist, of States living in “perpetual peace”<sup>24</sup>.

Studies of international relations have generated various classifications, with a tendency to unify the Grotians and the Kantians in a single stream which considers that the relationship between States can be ruled through institutions, law and regimes (eg. the international regime on human rights) that are generated through a process of negotiations. At the same time, other theories have emerged on how to interpret the relationship between States, and between States and different actors in the international system, such as multilateral organizations, civil society and the global media.

Since the 1970s increasing scientific knowledge and social awareness of global problems that have no solution without cooperation between States and societies have given way to different critical perspectives towards Realism. British scholar Ken Booth, who is in favor of an “emancipatory realism», considers that Realism is not up to the complexity and needs of global society. According to this author, Realism

*“is not realistic (it does not provide an accurate picture of the world); it is a misnomer (it is an ideology masquerading as a theory of knowledge); it is a static theory (without a theory of change); it is reductive (it leaves out much of the picture); its methodology is unsophisticated (it sacrifices richness for efficiency of explanation); it fails the test of practice (it does not offer a reliable recipe book); its unspoken assumptions are regressive (it leaves no space for gender or class); its agenda is narrow (it over-concentrates on the military dimension to the exclusion of other threats); its ethics are hostile to the human interest (by placing the “cold monster” of the state at*

<sup>23</sup> Tim Dunne, “Liberalism”, in Baylis, Smith and Owens (Eds.), p. 115.

<sup>24</sup> Martin Wight, *International theory. The three traditions*, Leicester University Press and the Royal Institute of International Affairs, London, 1994, pp. IX-XX and p.7-8.

*the centre); and it is intellectually rigid (its proponents have marginalized or silenced other approaches)*".<sup>25</sup>

Warnings on environmental sustainability<sup>26</sup> have been followed by studies and appeals from the United Nations, some Government leaders and civil society to build a common future based on the protection of human rights, rights of women, children and the elderly, communications, refugees, sharing technology and scientific knowledge, international organized crime and prevention and treatment of epidemics and pandemics.

In the field of war and peace, liberals and idealists promote different collective security mechanisms. The Machiavellian or Realists are not against agreements but prioritize the State's interests. Virtually all countries in the world are part of the United Nations, but many refuse to sign and ratify agreements that limit their action. For example, the United States is not part of the Rome Statute that established the International Criminal Court (ICC).

These "halfway" policies between realism and liberalism/idealism are part of government's practice, particularly democratic governments. In the field of defence of human rights and democracy, various Western governments, for example, have advocated for some causes but remain indifferent to others. Between rhetoric and practice in fields such as humanitarian interventionism, Governments tend to be biased, realistic and conservative<sup>27</sup>, especially after experiencing several failures. The same tension arises in the European Union, which promotes a series of normative values in its foreign policy that are, however, offset by bilateral policies of several member states, for example regarding relations with authoritarian governments and the arms trade<sup>28</sup>.

In recent years there has been a reappraisal of Morgenthau's theories, considered one of the greatest theorists of Realism, indicating that this trend "is thus more than a static, amoral theory (...) It is a practical theory that depends on the actual historical and political conditions, and is ultimately judged by its ethical standards and by its relevance in making prudent political decisions (...) However, when it becomes a dogmatic enterprise, realism fails to perform its proper function" turning into "an ideology" to "justify aggression"<sup>29</sup>.

<sup>25</sup> Ken Booth, *Theory of world security*, Cambridge University Press, Cambridge, 2007, pp. 35-36.

<sup>26</sup> El primer y muy importante informe fue producido por el Club de Roma <http://www.clubofrome.org/report/the-limits-to-growth/>

<sup>27</sup> Simon Jenkins, *Mission accomplished? The crisis of international intervention*, I.B. Tauris, London, 2015.

<sup>28</sup> Mariano Aguirre, "Europa y la seguridad internacional. El caso de los cambios en el mundo árabe y Oriente Próximo", en *Impacto de la crisis en el proyecto europeo*, Fundación Seminario de Investigación para la Paz/Mira Editores, Zaragoza, 2015, p. 212.

<sup>29</sup> "Political Realism in International Relations", Stanford Encyclopedia of Philosophy, 2013, p. 15. <http://plato.stanford.edu/entries/realism-intl-relations/>

## The War on Terror

In the field of peace and security, since the end of World War II, liberalism and idealism have promoted the strengthening of multilateral organizations, particularly the United Nations, the redirection to development of funds that were dedicated to defence and the establishment of mechanisms for conflict prevention. Especially in the 1990s there were several important initiatives, such as the Carnegie Commission on Preventing Deadly Conflict and by the European Union<sup>30</sup>. However, after the attacks of September 2001 these initiatives were marginalized by the so-called “War on Terror” led by the United States and Great Britain. A hardliner Realism since occupies almost all the political space intended for security having become this “aggressive ideology”.

The response of the governments of the United States, Great Britain and other allies to the terrorist attacks in New York and Washington in 2001 was to launch the so-called “war on terror”. Washington defined terrorism as an enemy made up of various organizations and individuals, with multiple ramifications, without a specific state basis and therefore without conventional armed forces. This enemy, the narrative goes, is supposed not to be governed by rules and does not respect international laws of war or international humanitarian laws.

Given these characteristics, the United States, Great Britain and other countries were involved in a multi-featured offensive: war on leaders and regimes accused of supporting terrorism (Saddam Hussein in Iraq, the government of the Taliban in Afghanistan) in order to change their regimes for democratic governments; sanctions, cyber warfare and other forms of pressure against the government of Iran; elimination and/or capture of individuals considered terrorists; detention without legal safeguards and procedures and for an indefinite period of time of suspected terrorists in illegitimate prisons (in US bases like Guantanamo); practice and attempts to legitimize the use of torture as a method of interrogation of suspected terrorists; avoidance of rules of international law, international humanitarian law and rules on prisoners of war through illegal and secret movements between countries that cooperate with detention and torture of individuals.

These initiatives taken by the government of George W. Bush and supported enthusiastically by then Prime Minister Tony Blair, with the collaboration of a long list of rulers, were implemented in parallel to forcing the intelligence to adapt their reports to the objectives of the war on terror, and not the other way around. Thus, the Central Intelligence Agency (CIA) and the MI5 confirmed that Saddam Hussein had nuclear weapons, although information from the United Nations and independent analysts indicated that its nuclear capability had been eliminated by sanctions and international control in previous years.<sup>31</sup>

<sup>30</sup> [https://www.carnegie.org/media/filer\\_public/b2/0e/b20e1080-7830-4f2b-9410-51c14171809b/ccny\\_report\\_1997\\_ccpdc\\_final.pdf](https://www.carnegie.org/media/filer_public/b2/0e/b20e1080-7830-4f2b-9410-51c14171809b/ccny_report_1997_ccpdc_final.pdf); [http://ec.europa.eu/europeaid/policies/fragility-and-crisis-management/links-between-security-and-development\\_en](http://ec.europa.eu/europeaid/policies/fragility-and-crisis-management/links-between-security-and-development_en)

<sup>31</sup> The Report of the Iraq Inquiry, London, 2016. <http://www.iraqinquiry.org.uk/the-report/> Also see Andrew J. Bacevich, Washington rules. America’s path to permanent war, Metropolitan books, New York, 2010; Zbigniew Brzezinski, Second

Regarding international agreements, such as the Convention on Torture, which the United States is part of and has ratified, scholars and officials developed studies redefining the concept of “torture” and indicating that the war on terror-and the fact that terrorists qualify as “non-Combatants” or citizens of no State- enable the country to be exempted from complying with the agreements due to a type of legal exception state.<sup>32</sup>

The intervention in Afghanistan (since 2001) and the war in Iraq (since 2003 with extensions that carry on until today) were the beginning of a downward trend in the international system. Climate change, the fight against drug trafficking, the millennium development goals, the prevention of armed conflicts through cooperation policies, refugees reception and dialogue with religious and political Islam were relegated or eliminated. Security became the priority. Massive resources were derived from other fields to strengthen security systems and create massive intelligence systems (and social control of citizens). Those regressive steps were noted not only in the channeling of resources for security but in the budget cuts for social services. In fact, the US military budget grew while its European allies did not respond to Washington’s pressure. However, a climate of *securitization* was created.

The policies carried out by the governments of the United States and Great Britain, and supported by several others, in the case of the war in Iraq, contradicted the “prudence” that Morgenthau predicted. Moreover, Washington’s policies in the case of Iraq, Afghanistan and previously in Vietnam were guided by an aggressive realism based on flawed analysis and partial readings of reality. At the same time, a superficial, patronizing and racist “idealism” was practiced. This “idealism” was promoted by the group of intellectuals and diplomats known as “the neoconservatives”, who believed that they could change regimes without understanding or respecting the internal affairs of countries, in which they intervened. However, in all situations there were strong realistic components such as associating US credibility with military force, the supposed ability to prevent a number of countries from falling under the influence of communism (the domino theory), and the balance of power between the great powers.

As Gordon M. Goldstein shows in his study about the US involvement in Vietnam, John F. Kennedy and Lyndon B. Johnson administrations’ policies were driven by ideas firmly entrenched in Cold War ideology. The theory, for example, aligned countries without taking into account their histories or present realities, and argued that if one domino were to fall, it would start a chain reaction in other countries in the region. And the credibility factor, which held that the strongest power in the world was simply not capable of losing a war. And finally, there was the global war against communism in the 1950s and 1960s, which failed to anticipate the vigorous nationalism behind many insurrections, from Cuba to Vietnam.<sup>33</sup>

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change. Three presidents and the crisis of American superpower, Basic Books, New York, 2007.

<sup>32</sup> David Luban, “The defence of torture”, The New York Review of Books, March 15, 2007 <http://www.nybooks.com/articles/2007/03/15/the-defence-of-torture/>; Keneth Roth et al (Eds.), Torture. Does it make us safer? Is it ever OK?, The New Press and Human Rights Watch, New York, 2005; Sanford Levinson (Ed), Torture. A collection, Oxford University Press, New York, 2004.

<sup>33</sup> Mariano Aguirre, “Pernicious parallels. US war policy from Vietnam to Afghanistan”, The Broker, December 6, 2010.

The simplistic use of force and the idea that authoritarian regimes supported by identity-alliances could be quickly replaced by Western-style forms of government collapsed in Iraq and Afghanistan. Force replaced dialogue and understanding of the reality of other contexts and cultures. The United States and its allies have paid a high price for not understanding local conditions. A price that extends to the radicalization of various sectors and has led to the creation of the so-called Islamic State (ISIS).

## Identities and complexity

The preponderance of ethnic, racial and religious identities in various international conflicts, and the fact that most armed conflicts are now occurring within countries rather than between them, is posing problems to Realism. This school acknowledges nationalism and identity as powerful factors. For realists, confrontations within States that collapse (the Balkans, Somalia, Syria, Yemen, Libya, etc.) are due to the same rationale of conflicts of interest (economic, political, of identity) similar to those of States when fighting against each other. The anarchy that governs the international system is projected, in these cases, to the State's domestic realm.

But political agendas of organizations like al-Qaeda and ISIS and the conflicts in Syria and Iraq do not allow an easy understanding of the concept of *interest*. In the case of al-Qaeda, there is a dual strategy of millenarian vision and the fight against corrupt local authorities and their imperial allies. This concept goes beyond State control while ISIS seeks to conquer territories and build a State (Caliphate) from which to extend its actions<sup>34</sup>. In Syria, additionally, dozens of armed groups fight along different agendas, redefined themselves, establishing flexible alliances and, in many cases, overlapping interests of local control with crime, setting up a complex political economy of war. At the same time, a number of regional powers (Iran, Saudi Arabia, Turkey) and global powers (US and Russia) interact and influence the dynamics of the war from a classic realistic perspective<sup>35</sup>. Once again, these types of challenges require more sophisticated analysis and answers than a conventional approach to the concept of interest and the use of force as the leading response.

As skeptics towards multicultural states, something consistent with the idea of defending national interests, realists believe that the solution to the armed conflict caused by matters of identity is the partition of the disputed territories<sup>36</sup>. The partition was the solution imposed by the US to the Balkan war in 1990, and some analysts propose it for Iraq, Yemen and Syria. This is, however, an idea rejected by critics of artificially established borders (something the colonial Realism did frequently in Africa, Asia and the Middle East) that do not respect the diversity of identities and help consolidate elites that dominate their own communities<sup>37</sup>.

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<http://www.thebrokeronline.eu/Articles/Peinicious-parallels> See Gordon M. Goldstein, *Lessons in disaster*. McGeorge Bundy and the path to war in Vietnam, Holt, New York, 2008.

<sup>34</sup> Patrick Cockburn, *The rise of the Islamic State*, Verso Books, London, 2015.

<sup>35</sup> Marc Lynch, *The new Arab wars*, PublicAffairs, New York, 2016.

<sup>36</sup> Dunne and Schmidt, p. 102.

<sup>37</sup> Bassel F. Salloukh et al., *The politics of sectarianism in postwar Lebanon*, Pluto Press, London, 2015.



The radicalization of individuals in the name of Islam in Europe and the United States also represents a serious challenge to the type of answers given by rulers. The reasons for radicalization are related to the socio-economic marginalization, extreme readings of religious texts, resentment against Northern countries' colonialism and policies in the Middle East and North Africa, among other factors. A simplistic analysis leads to military responses that do not favor the understanding of reasons for violent radicalization and its prevention. The terrorist attacks in France and Belgium in 2015 and 2016 were carried out by men of Arab origin living in Europe. The governments of Paris and Brussels responded by bombing ISIS' positions in Syria, affecting the civilian population. Beyond the symbolism to show that there is "a response", these force policies apparently aimed at defending national security end up acting contrastively, stripping States that execute them of legitimacy and generating more conflict.

## Conclusion

The dominant trend of aggressive realism with limited ethical considerations needs to be moderated by policies based on international law, which respond to democratic pressure from civil society and seek inspiration in schools of thought that promote cooperation, conflict prevention and rules that govern the relationship between States. Of the Realism theorized by Morgenthau and other classical realists we should rescue the recommendation that it should be "aware of the moral significance of political action". Political decisions "must be filtered through the concrete circumstances of time and place". Moreover, politicians should weigh their decisions considering "universal moral principles". In consequence,

*"(T)here can be no political morality without prudence; that is, without consideration of the political consequences of seemingly moral action. Realism, then, considers prudence—the weighing of the consequences of alternative political actions—to be the supreme virtue in politics".<sup>38</sup>*

Prudence in decision-making will be necessary in an international system that is moving towards a complex multi-polarity. As Kupchan suggests, "(A) global order, if it emerges, will be an amalgam of diverse political cultures and competing conceptions of domestic and international order".<sup>39</sup> A deeper interpretation of prudence shows the need to have deep knowledge of the societies we are dealing with in conflictive and cooperative environments. Even further, Western powers should take into consideration the colonial historical background and the impact of their present actions (for example, supporting local dictators for the sake of realist "stability" or bombardments in areas as the Middle East).

The (realistic) predictions that the international system will be led by a single power or that it will move towards a homogeneously liberal world are not being met. The United States is a power in deep internal crisis, increasing delegitimization and

<sup>38</sup> Morgenthau, p. 12.

<sup>39</sup> Charles A. Kupchan, *No one's world*, Oxford University Press, New York, 2012, p. 3.

declining international influence. Moreover, the international system has a complexity, which is not receiving a “convergence towards a common framework of values,” according to Root. On the contrary, “(t)he growing economic interconnectedness is establishing new norms of optimal governance based on growing diversity between the West and newly rising powers<sup>40</sup>”.

Two other predictions have not been met either. Firstly, that globalization and the power of multinational corporations would displace the State. Despite losing power, the State remains a central actor to regulate internal and external relations. In emerging countries, along with Russia and China, the State leads the process of industrialization and international affairs. Secondly, that democracy as the State’s system of political management would expand as a result of development of societies. The reality is that authoritarianism, and in some cases demagogic authoritarianism, occupies a political spot with high social legitimacy.

Ultimately, if Realism claims to make a practical and strict reading of reality, then global challenges and the complexity of the global system cannot be ignored, including the ethical implications involved for present and future generations. In the words of Habermas on global powers but that can be applied to all rulers “(T)hey have to be willing to broaden their perspectives on what counts as the “national interest” into a viewpoint of “global governance”. This change would need to occur “in the governing elites” jointly with a transformation of “value orientations of their electorates”<sup>41</sup>.

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<sup>40</sup> Hilton L. Root, *Dynamics among nations*, The MIT Press, Cambridge, 2013, p.1 and pp. 210-235.

<sup>41</sup> Jürgen Habermas, *The postnational constellation*, Polity Press, Cambridge, 2001, pp. 111-112.







# Brazilian and European Views on Defence and Geo-economics

**Susanne Gratius** is Professor for International Relations at the Department of Political Science and IR (Law Faculty), Universidad Autónoma de Madrid. She teaches IR Theories, Foreign Policy Analysis, International Regimes and Latin America in the international system. Her publications focus on European-Latin American relations, particularly Brazil, Cuba and Venezuela.

# From Soft to Hard power? Security and Geo-economics in Brazil-EU Relations

Susanne Gratius

The displacement from military power to the geo-economics of commercial rivalry (Luttwak 1990) – in this case between countries and the mega-blocs TPP and TTIP – might strengthen the international position of Brazil and the European Union (EU). Both are rather economic than military powers in a geo-strategic environment and, according to the definition of Maull (1990), Germany and Brazil can be considered civilian, non-nuclear powers with a strong focus on diplomacy and cooperation.

Traditionally, security and defence rank second in Brazil-EU relations dominated by economic exchange and soft power as the result of a shared history, the same values and a strong multilateral vocation. Most studies on the Brazil-EU strategic partnership tend to neglect the other dimension of relations: hard power. Despite its civilian image, it should not be forgotten that Brazil is the seventh world economic and the eleventh military power on the globe, and the EU the strongest economic bloc and the second in defence industry. Although from very different geopolitical positions, both, the EU and Brazil belong to the West (Quintana Steiner et al. 2014).

## Domestic Changes and Strategic Uncertainties

Brazil and the EU face serious internal crisis that diminish their capacity for global action and bilateral cooperation, compared to 2007 when Brazil was perceived as a rising power and the European integration

process and economic growth advanced steadily. Today, the long period of nearly three years without a bilateral Summit (the last one took place in February 2014) is a clear signal for the lack of interest or capacity on both sides.

Initial European enthusiasm over Brazil's rising power and social progress – recognized in 2007 by the status of a “strategic partner” – has been replaced by a pessimistic outlook due to the country's deep recession (a decline of GDP by -3.5% in 2015), institutional weaknesses and political uncertainties after the political trial against elected President Dilma Rousseff. Both, the former and the current Brazilian government have a popular support beyond 16% and a poor legitimacy to impose adjustment policies with high social costs.

On the other side of the Atlantic, the trade-off between security and human rights in the refugee crisis, the controversial deal with Turkey, creeping growth rates combined with high debt ratios in the South and right-wing parties with xenophobe messages reduce the attraction of European integration and values in and outside its borders. The lack of leadership and the weakening of supranational institutions under EC President Jean-Claude Juncker further contribute to undermine the European model of regional governance.

Despite its upgrading in the Joint Action Plan (JAP) 2015-2017, the economic agenda prevails over cooperation on security that has been a minor issue in relations between Brazil and Europe. Traditional priorities might change in the next future, according to the clear foreign policy shift under the Brazilian government of Michel Temer away from the BRICS and towards the traditional Western alliance with the United States and Europe. Thus, the former search for autonomy in Brazil's foreign and defence policy might be replaced by a realist stance of national economic interests.

The new domestic scenario in Brazil opens a window of opportunity to return to the initial goal of the bilateral Strategic Partnership, defined in 2007, to “engage with the EU in a global, strategic, substantial and open dialogue both bilaterally and in multi-lateral and regional for a” (EC 2007). But it also endangers the strong development-security nexus in European-Brazilian relations build up under the PT-Governments that allowed triangular cooperation by “exporting” Brazil's own experience to other Latin American and African countries with European support (Ayllón 2013). The “end of diplomacy for development” (Quintana Steiner et al. 2014: 43) that characterized EU-Brazilian cooperation in the last decade might place economic and defence issues higher on the bilateral agenda.

In midst of domestic crisis, foreign policy has become an instrument of economic solutions. As a result of their strategic partnership, Brazil and the EU focus on trade and investment, but also held a regular, high level dialogue on security issues at the regional and international level. In the last 13 years, both shared a strong development-security nexus and recognized the UN concept of Human Security. This basic consensus offers a broad field of cooperation on international peace and conflict resolution. Nonetheless, during the PT governments (2003-2016), for ideological and strategic



reasons, Brazil and Europe played in different international leagues: Brasilia aligned with the BRICS and the EU was part of the West (Gratius, 2014).

The conservative President Michel Temer, who replaced Dilma Rousseff at the end of August 2016 in a long and highly controversial impeachment process (Ayuso 2016) might bring Brazil back to its traditional Western alignment, but not necessarily closer to the EU. According to a speech that Foreign Minister José Serra gave in May 2016, not the EU but Argentina and the US are Brazil's top priorities. In the next years, Brazil's foreign policy will be hijacked by the utmost goal of economic recovery including a possible free trade agreement with Washington. Again, the EU does not rank high on Brazil's external agenda and the new strategy to bandwagon the United States is no guarantee for a more strategic alliance with Europe.

A similar trend of neglect is visible in the EU. Its Global Strategy does not even mention Brazil, and Latin America only appears as the Southern part of the Atlantic Partnership (EC, EEAS, 2016). NATO alignment, maritime security and economic recovery are top priorities on the EU's still weak common foreign and defence policy. Difficult relations with Russia and the refugee crisis place again Europe's Eastern and Southern neighborhoods at the center of its external agenda beyond the Transatlantic partnership, while Latin America rank third behind Asia.

The return to a mutual "benign neglect" as a result of domestic crisis diminishes the prospects for a security alliance between Brazil and the EU, but might also reduce the frictions on international conflict solution during the PT years, when dissent and different voting behavior prevailed over consensus-building (Gratius 2014). On the economic front, the shared goal of economic growth and recovery could offer an incentive for a free trade deal between Brazil and the EU, although recession could also have the opposite effect of stagnation and further trade diversion to China.

At the international stage, Europe and Brazil's positions might converge, given that the conservative Temer government – closer to its German or Spanish counterpart – does not any more identify with the South-South orientation of Brazilian foreign policy since 2003. A first hint for Brazil's external re-orientation was the President's speech at the G-20 Summit on 4 September 2016 in China, when he said that "our primary goal is to promote structural adjustment to public spending in the last 20 years" (Temer, 2016).

## **The economic and security agenda: Declining Soft Power**

Prosperity and Security are the utmost priorities of relations, according to the Joint Action Plan defined at the 7th bilateral summit (Council of the EU, 2014). Strategic economic interests and the desire to overcome stagnations in EU-MERCOSUR negotiations were the main motivation behind the decision in 2007 to up-grade bilateral cooperation and dialogue. In a new domestic framework, characterized by the steady decline of soft power in relations by a minor relevance of human rights and development, hard economic and security issues could rank higher on EU-Brazil relations.

## Asymmetric strategic economic interests

Europe is Brazil's main investor and trade partner. European FDI in Brazil is still higher than in other BRICS countries including China and India. EU member states represent approximately half of total capital inflows, although lower growth rates in Europe and Brazil constrained recent direct investment from European companies. In Latin America, Brazil is the main destiny for European capital and trade relations with Brazil account for one third of total EU exports and imports.

Trade relations are highly asymmetric: in 2015, Brazil had an insignificant share of 1.8% in EU's total trade, compared a European share of 19.6% in its own commercial exchanges. Brazil lost its ninth position in the list of EU's top trading partners and ranked tenth after South Korea and India. The EU was still Brazil's number one trading partner, slightly before China (18.6%) and the United States (14.1%). Despite Europe's key position in Brazilian trade and investment flows, Foreign minister José Serra included a free trade deal with the United States and not with the EU among his top ten priorities.

This decision might be a reaction to 16 years of failed negotiations of a EU-MERCOSUR association agreement including free trade. The deadlock of the bloc-to-bloc process has not been solved yet and none of the two partners has taken any step forward towards a bilateral negotiation that could negatively affect Brazil's strategic partnership with Argentina and undermine the EU's paradigm of inter-regionalism. Albeit agreed during Serra's first visit as a Foreign Minister in Buenos Aires, a neoliberal economic revival of MERCOSUR remains doubtful, given that the bloc includes Bolivia and Venezuela.

Following the format of the Andean Community to sign bilateral deals under a broad collective umbrella could offer a solution for the real strategic challenge in relations: the signature of a free trade plus (dialogue and cooperation) agreement. Another solution could be the re-activation of the stagnant WTO Doha Round initiated in 2001 under the Brazilian Secretary General Roberto Azevêdo. The likely failure of the TTIP process – questioned by broad sectors and governments in the EU and the United States- could, again, open the door to multilateral WTO-negotiations. A third scenario would be the status quo of stagnation: neither an EU-MERCOSUR agreement nor a bilateral Brazil-EU or a multilateral deal.

EU-Brazil trade prospects are conditioned by the success or failure of mega-blocs. Given that Brazil is not a global trader – imports and exports have a share of 20.8% in GDP, compared to 71% in the case of Germany, mega-bloc deals outside the WTO threaten Brazil's global economic position. Particularly the Transatlantic Trade and Investment Partnership (TTIP) pose a major challenge for Brazil because of strong interdependences with the EU and the United States without free trade deals. Different to other Latin American countries like Chile, Mexico and Peru, Brazil has neither signed free trade agreements with the EU and the United States nor does it take part in the Transpacific Partnership (TPP) that agreed in 2015 on zero tariffs. Brazil's relative

isolation, the low share of trade in GDP and high custom tariffs (an average of 13.5%) are major constraints to its international insertion. Those challenges should be addressed by the new Brazilian government, but lower trade barriers face strong opposition, for example by the protectionist National Confederation of Industry (CNI).

Beyond trade, the G-20 Summits and the IMF reform constitute the most important financial issues in Brazil-EU relations. Brazil is one of the emerging powers from the South that could increase its power quotes at the IMF in recognition of its financial contribution to the Fund and its rising power status. In 2016, six years after the initial agreement, the IMF reforms were approved. The new quota system guarantees a greater participation of the BRICS including Brazil and reduces tensions with European countries and the United States. Moreover, this year's G-20 Summit in China, attended by the new Brazilian government evidenced a closer approach on economic and financial policies between the EU and President Temer.

### Drifting apart together? the security and defence agenda

In terms of military power, Brazil and the EU play in different Leagues. The EU counts on a military manpower of 1.4 million actives, compared to 318000 in the case of Brazil. The EU spends each year approximately 195 billion on its military defence, while Brazil's military budget is eight times lower (24.3 billion in 2015). These figures prove that Brazil and the EU are also military powers with an important defence industry. But, with a modest share of 1.4% for Defence in GDP, the EU<sup>1</sup> and Brazil are rather civilian than military powers with a strong profile of development and diplomacy.

On security and defence, Brazil and the EU face different challenges. Terrorism has become a major threat for the EU since the attacks in Madrid (2004), London (2005), Paris (February and November 2015), Brussels and Nice (2016). The second security challenge is posed by the arrival of over one million refugees in Europe as a result of the five-year war in Syria, the conflict in Afghanistan and instability in Somalia and other countries in the global South. Under a weakened German leadership, the EU addresses both challenges from a perspective of border security and much less from a humanitarian and human rights stance<sup>2</sup>. Paradoxically, both phenomenon – international refugees and terrorism – pushes the EU towards a security community of a fortress Europe. The decline of European values and the return to realist nationalism affects its external image and attraction in the global South including Brazil.

Neither terrorism nor the refugees rank high on the Brazilian agenda focused on domestic security challenges like the protection of the Amazon region, the control of drugs trafficking and consume, and the fight against organized crime as a major threat for citizen's security, civil rights and democratic institutions including the police. Due

<sup>1</sup> Only France and the UK by their condition as permanent member states of the UN Security Council spend more than 2% of GDP on Defence.

<sup>2</sup> According to the UNHCR, 3 771 people died in 2015 during the attempt to reach European coasts.

to the absence of external enemies in a peaceful South American region, following the path of their neighbors Argentina and Uruguay, the Brazilian military increased its participation in UN peace missions. According to the Ministry of Defence, Brazil currently participates with 27 000 militaries in nine UN missions and had been part of another 21. From 2004 on, Brazil assumed the Military Command of the UN Stabilization Mission in Haiti (MINUSTAH) which is by far its largest logistical and financial contribution to international peace. Since 2010, Brazil's contribution is managed by the Common Peace Operations Center (CCOPAB) in Rio de Janeiro. In 2014-2015, under former Minister Antônio Patriota, Brazil chaired the UN Peacebuilding Commission (PBC). While Brazil focuses its engagement on the UN, European states are important financial contributors to international peace missions but send their troops to European military and civil operations (currently 16), most of them in Africa.

At the UN, Brazil and the EU assumed an active role in global disarmament. Brazil is a signature of the NPT and subscribed an agreement with the European Atomic Agency Euratom. Brazil and the EU pushed for the Arms Trade Treaty that came into force in 2014. Nonetheless, both partners face the dilemma to reconcile its international engagement for peace with influential domestic arms lobbies. Brazil figures among the top ten exporters of small arms, while France, Germany and the UK are important suppliers of all type of weapons that undermine efforts for any peaceful conflict resolution (SIPRI, 2015).

The final declarations of the seven Summits held between Brazil and the EU underline a regular dialogue on international conflicts aimed at the adoption of common positions. Iran, Syria and Haiti rank high on the bilateral agenda, albeit UN voting behavior revealed different perceptions on the causes and solutions of conflicts. Under the PT-Governments, Brazil gave priority to its alliance with the BRICS and prevailed national sovereignty and non-interference over the principle of the Responsibility to Protect (R2P) criticized by the former Government of Dilma Rousseff (Gratius, Grevi, 2013). Finally, Brazil has been a non-permanent member of the UN Security Council for nine times and seeks to obtain a permanent seat at the world's most powerful security institution. As a member of the G-4, together with Japan and India, Germany is a key ally to push for a reform of the UN Security Council, an issue that remains high on Brazil's list of foreign policy priorities.

Drugs-related problems are part of the (few) shared security problems. Brazil, that has become the second cocaine consuming country in the Americas, faces a serious problem of drugs-related criminal networks and is also part of the transit route to Europe (via Africa or Spain). In recent years, Europe increased its share in Latin American's cocaine market compared to the opposite trend in the United States. Different to most EU member states and some South American neighbors, Brazil has not yet adopted de-penalization and health as the dominant paradigms to address the drugs problem. A closer approach towards the global fight against consumption and trafficking of drugs – Fernando Henrique Cardoso was among the influential group of ex Presidents that criticized the war on drugs and suggested a softer de-criminalization paradigm – would be a major step towards an inter-regional and Atlantic consensus.

## Building a hard power alliance of the West? Prospects for cooperation

Although it is too early to predict a major shift in Brazil-EU relations, there are some trends in Brasilia that indicate important changes in traditional perceptions and priorities of cooperation with Europe:

- › First, Brazil's Government of Michel Temer represents a return to the Western alliance, away from the BRICS group, opening the way for an Atlantic consensus on international conflicts like Iran, Syria and others.
- › Second, economic realism and adjustment policy conspire against Brazilian-European triangle cooperation in Latin America and Africa and the development-security nexus under former Brazilian Presidencies.
- › Third, due to economic constraints, Brazil will probably reduce its regional and international engagement and leadership position of the South and replace political goals by the predominance of economic growth in its foreign policy agenda.
- › Fourth, Brazil's recent status as an emerging power suffered from a credibility crisis and forced a come-back of traditional structural problems like corruption, institutional weaknesses, social inequalities and infrastructure deficits that need to be addressed by a stable and legitimate government with strong popular support.

In the EU, three important trends determine its international profile and relations with Brazil:

- › The "securitization" of the development and human rights agenda tends to undermine the European brand as a soft, civilian power committed to peace, democracy and human security in and outside its borders.
- › The Global Strategy reinforced the EU's strong neighborhood profile and concentrate foreign policy even further on its Eastern and Southern borders. Security and human rights challenges at home and the traditional North Atlantic alliance reduce the prospects of the EU as a global actor with a larger presence in the far West, including Brazil.
- › A lower attraction of the European integration model as a false? promise of peace, security, democracy and prosperity. The spill around or spill back of European integration and the come-back of nationalism after the Brexit and the rise of right-wing political parties weaken the European brand of inter-regionalism (like the EU-MERCOSUR process) and supranational institutions.

Given those domestic constraints and a certain revival of realism and hard power in Brazil and the EU, in the near future, an interest-driven agenda will be even more important than before. Both share the strategic goal to sign a free trade agreement: Brazil needs the deal as an instrument to overcome its relative isolation and to stimulate exports, and the EU has to diversify markets, to countervail trade-diversion to China and to recover economic growths. The expected mutual benefits are probably higher than the political costs: tensions between Brazil and its MERCOSUR-partners and a conflict with the influential agriculture lobby in the EU.

There are less common interests and challenges to justify a strategic security alliance between Brazil and the EU. Nonetheless, on a wider security agenda there are several

issues where a closer position and common action could make sense. First, one of those sectors is the protection of the Amazon as a vaccine against climate change where both partners are actively engaged. Second, Brazil's current return to the West could facilitate a consensus on major international conflicts with the United States and EU member states. Third, at the national level, Olympic Games in Brazil showed the country's problems of internal security that could foster a closer cooperation with the EU on police reform. Fourth, the shared drugs problem offers a playground for a dialogue on bilateral, regional and global solutions. These four concrete fields could be further developed in a future Action Plan more focused on a horizontal security relationship than in the past. This would also include a stronger institutional cooperation and exchange between intelligence Services, defence ministries and security forces as well as common training programs at a bilateral or collective level.

Nonetheless, all these proposals and initiatives remain to be wishful thinking without a political impulse for closer relations. For the moment, none of the two partners seems to explore those alternative and interest-driven paths of hard power cooperation that rather respond to domestic crisis than to a conscious new strategy in relations. None of the issues mentioned can be put in practice without a new bilateral Summit. The fact that neither Brazil nor the EU asked for a date prove that, independent from the decline of soft power, relations are not in a good shape.

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**Renato G. Flôres Jr.** is Director of the International Intelligence Unit (IIU), at FGV (Brazil), where he is also Professor at the Graduate School of Economics and Special Aide to the President. A member of the IISS, London, he seats at the board of several research centres and think tanks involved in international relations, and at the Enlarged Board of one multinational bank. He also served as a Brazilian expert at the WTO. A specialist in global political economy, Professor Flôres has significantly contributed to the international, particularly Asian dimension of FGV activities.



## A EU Second Modernity Defence Strategy?

Renato G. Flôres Jr.

Ulrich Beck, starting with his pioneering book, Beck (1986), has called attention to a key characteristic of the “Second Modernity” (our times): the increasing number of problems created by the uncontrolled scientific and material development, leading to the paradoxical situation in which the possible solutions generate additional problems and risks, in an exponential progression. Ultimately, scientific progress and technological innovations, after having been a source of solutions, transformed the socio-ecological environment, generating themselves unexpected and uncontrolled damage.

In this context, risk management involves different disciplines and domains and remains an ever incomplete task, the unfolding of new issues and questions going ahead of each newly proposed solution. Credibility on institutions is lost, and reflexivity, from the technical to the daily social realm, something under control in the past, drastically changes the social dynamics.

Being defence systems fundamentally a peculiar risk management task in modern societies, it is somewhat surprising that in the analysis of such systems no use has been made of the original conceptual framework proposed by Beck.

This short essay outlines how approaches to the defence riddle could be examined under the above light. We do this by focussing on the post-Brexit EU case, taking as documentary evidence the recently launched

European Union Global Strategy (GS), EC (2016). It is important to say that what follows is not a detailed evaluation of this wide-ranging document, but rather a preliminary analysis of how it qualifies as a Second Modernity, Risk Society proposal. For this, selected parts and issues are discussed in greater detail, no room nor sense existing in covering all its topics and statements.

Emphasis is on the conceptual characteristics of the proposed system rather than on its specific, techno-military capabilities. A point essential in Beck's approach to the way to tackle the questions he himself posed is the need for interdependence and a cosmopolitan view, which will play a major role in our case.

## The European Defence System

Though mandatory, the key issue concerning the objectives of a European defence system is seldom clearly posed and even less frequently properly answered. Equally or more absent is a proper analysis of the ensuing risk pattern, with priorities, connections and main characteristics well defined.

Which risks should be main focus of a European Defence System are a function of the vision the European Union has on itself and here lies the heart of the confusion. The loss of identity since the 2004 Enlargement, when a hurried solution to the still unclear world order being generated by the 1989 fall of the Berlin wall and the ensuing dismemberment of the Soviet Union interrupted the needed consolidation of the recently concluded Delors initiative, is greatly responsible for this situation. A schizophrenic European personality, oscillating between supposedly main security concerns and the difficult task of re-establishing governance patterns lost within a renewed set of 25 members, even more heterogeneous than the previous 15 one, was created.

The haste of the enlargement, and the state of flux it bore out, heightened the not always clear relationships between the EU and NATO, leading to a stronger predominance and dependence on the US logic, thanks to the lack of a well-defined position from the European side. The Defence Risk Management System in the years after the enlargement answers to an amalgam of (mainly) US concerns in Europe, with a zest of an European view, and, more unfortunately, is framed within a Cold War rationale, in utter dissonance with the true *Zeitgeist* and –as usual in inadequate solutions in the Second Modernity– is still heavily based on the views of individual actors, the more vocal members –both the big old ones and a few of the 10 new entrants–, lacking, and worse, blocking a true and united EU voice.

The situation is everything but aggravated by the 2008 financial crisis and its lingering and serious unfolding, which rendered apparent a major fracture between Northern, financially risk-averting and more developed members and the Southern, macro-economically more fragile ones. This divide, once again, in spite of positive efforts and a few selected measures to deal with the financial problem in a communitarian spirit, showed a predominantly nation-state approach to problem solving, undermining the spirit of any common project.

This text does not aim at producing a deep analysis of the above questions; in citing them, the objective is to highlight how nearly impossible, within this state of affairs, was to design a coherent European defence policy.

Moreover, if internally the situation was troubled enough, external developments were and have been far from giving a helping hand. The hardening of the situation in the Middle-East and the Levant, where the combined outcomes of the disastrous interventions in Afghanistan, Iraq and Libya, together with the already existing open wound of the Israeli-Arab conflict, led to an unthinkable escalation of a generalised conflict, in a vast area roughly at the gates of Europe, together with a series of more frequent, daring and violent terrorist episodes. In more than one instance, had the EU had a more independent, clear, united and assertive position, at least some of the unfortunate developments might have been aborted.

In spite of this array of deeply adverse factors, and in the midst of the Brexit affair, the High Representative for External Affairs presented a new European Union Global Strategy, bringing an idea of order and stability to a chaotic situation.

How does the GS qualify as an adequate, Second Modernity solution, to the complex issue of European defence?

### **A Policy for a Risk Society?**

Unavoidably, the document is still heavily dependent on the opinion of the member states. Maybe, in a future time, the policy could become the outcome of a joint European large group on the subject, where much less members' idiosyncrasies and constraints would have to be taken into account. In the present state, as outlined in the previous section, this is utterly unfeasible.

Notwithstanding, efforts towards a European standpoint exist, in particular, great emphasis on a unified view and concomitant actions, as well as manifest pledges for deeper, more integration. Indeed, Unity, Engagement, Responsibility and Partnership are the guiding principles for the proposed external actions, under the adopted 'Principled Pragmatism' global methodology.

The text also quite often refers to resilience, or societal resilience, but in many of its use of this (undefined) concept it is hard to see something more than a rhetorical figure.

The GS clearly supports the multilateral approach and the existing institutions functioning under it, notably the United Nations, all ruled by international public law. This is extremely positive, in times when the UN Charter is oftentimes bypassed if not bluntly violated. However, a policy for the Second Modernity should perhaps stress -or at least mention- the existence of other ways of achieving governance in the semi-chaotic present world (dis)order. Attention in 3.4 to 'Co-operative Regional Orders' attenuates somehow this neglect, and section 3.5 duly addresses 'Global Governance in the 21<sup>st</sup> Century'. But the style is unfortunately a bit too conservative -as perhaps befits

an official document that will be world widely scrutinised-, more room for innovative forms of governance being still missed.

Another remain of a reality that does not apply any more is the disproportionate emphasis on the 'Enlargement Policy' as a way to solve manifold security problems. This is a first-modernity conception that contributed to the ongoing crisis, where, as already mentioned, the 2004 Enlargement played a major role.

Explicitly mentioning Tunisia and Georgia ('Our Neighbours') as candidate countries is to re-enact a pattern of behaviour that can be a new source of trouble, while sadly testifying that a needed change of mind did not take place. Establishing 'Deep and Comprehensive Free Trade Areas (DCFTAs)', while thinking "creatively about deepening tailor-made partnerships further" are welcome, more modern and flexible approaches that should receive much more weight, in detriment of the blind and (to some extent) irresponsible enlargement policy.

Though not denying the nowadays acute management, economic and political crises in the EU, the GS oscillates between this position and that of trying to pursue policies the present state of flux makes totally unfeasible, when not catastrophe-prone.

Boldness however is not absent from the text, and the explicit statements in favour of a European Army ('Security and Defence', pages 19-21, notably the first paragraph) signal a welcome rupture with the accommodating, NATO-relying posture that until today characterises the European society behaviour towards its own defence. The whole 'Security and Defence' section is a well-conceived, preliminary analysis of the huge, and actually novel task of strengthening the EU as a security community, something also crucial "for the sake of a healthy transatlantic partnership with the United States".

As for two important Second Modernity dimensions, interdependence and cosmopolitanism the policy is half successful, though both are not forgotten in the GS.

Interdependence is thoroughly acknowledged, but mainly and mostly as regards the relationship with the US defence complex. Scarce or quite general mention is made to other major forces that might be helpful or complementary in a European risk management context.

Here, the subject is ticklish, but Turkish forces, armies in the North of Africa and in the Mediterranean coast are important candidates for closer co-operations. If Turkey is dealt with in the context of NATO, and the need for a quick fix on the painful process of its admission as a member state -one of the worst blunders of the EU external policy in the past ten years- is rightly stated, this is no excuse for still leaving it in a secondary position in a strategy supposed to tackle issues from a European platform, in a straight forward way.

The North of Africa has its existence acknowledged in 'A Peaceful and Prosperous Mediterranean, Middle East and Asia', via the co-operation strategy, encompassing

cross-border dynamics in North and West Africa and dialogue with several African institutions and regional endeavours. Lack of more concrete defence and military measures may be due to the absence of a European armed force, but should at least have been aired.

In the same vein, and outside the NATO umbrella, cross-dependence with key Atlantic powers must be pursued in more concrete ways. It receives only one paragraph (the last one) in 'A Closer Atlantic', which lists a set of broad, wishful thinking pursuits and completely overlooks the African Atlantic coast. The reactions raised by NATO's few attempts to play a more conspicuous role in the South Atlantic could be circumvented if such attempts are pursued by a European navy; something not exploited as an extra reason for a European force. And... probably as a typo, signing of the EU-Mercosul free trade agreement is still mentioned as a relevant policy...<sup>1</sup>

The interdependence dimension is ticklish because it brings to the fore partnerships whose timing is not yet ripe or which raise unsolved questions in the EU foreign policy agenda. These cases are perhaps best considered in the light of the cosmopolitan dimension.

There will never be a stable EU without fully squaring the relation with Russia, Flôres (2016). As briefly mentioned in section 2, things took an unfortunate, divergent path at the time of the 2004 Enlargement, suspicions having persistently grown since then, to eventually arrive at the present moderate-to-explicit tense situation, where the Ukrainian conflict is not the only nuisance.

More importance should have been given in the text to this fundamental contentieux, which must urgently become a partnership. Russia receives debatable attention and only once, in (just) a little more than half a page, where a Rooseveltian carrot and stick style is used. Nothing against assertions like "substantial changes in relations between the EU and Russia are premised upon full respect for international law", but we wonder whether the style adopted is the best and more constructive one. Equating the Russian relationship is mandatory, and a firm though friendlier, or better, more sympathetic stance would have been both more convincing and engaging. At least, the issue is put on the table, what is something.

Secondly comes the already mentioned Turkish side, also crucial in a zero-degree security policy. More and proper attention is given here, though again in a style that alternatively conveys a more determined and clear attitude, seriously concerned with the remaining and sour open question of the accession, and a more distant and less engaging one, in which Turkey is bundled with other Middle-East and Levant countries, even the Balkans, in a serious strategic mistake.

The approach to international trade, an undeniably cosmopolitan issue, is disappointing by its adherence to the standard, much US influenced, rhetoric on the

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<sup>1</sup> For a realistic view on this zombie, whose periodic revival is a sad proof of how shallow and lacking priority is the EU-Mercosul, and broadly South America, dialogue, see Flôres (2013).

subject. A clear and open support to the TTIP – a venture still under negotiation and whose latest developments point to a rejection by the European side, while both candidates to the US presidency also show feelings mostly contrary to it- comes as totally unnecessary, beyond outside (the TTIP, not trade) the scope of the Strategy. The same as regards a related issue, regulatory convergence, a highly debated and explicitly geo-economic tool against the wide spread of the Chinese productive mesh. It is hard to find an independent thought here, when even South China Sea maritime security is included -at the same level as that of the Malacca Strait- in the European responsibilities for the deepening of the trade agenda; a misguided example of a cosmopolitan view.

Indeed, from the cosmopolitan viewpoint, the GS is close to flawed, be it by its ambiguity with respect to the two major points above, or by, in the overall balance, still giving too much focus to a state-nation narrative -no mention of novel forms in the world arena, like the BRICS, is made-, disregarding major flows and dynamics that would add a more modern, flexible and truly cosmopolitan flavour to its arguments. It does not, however, necessarily closes a door to several desirable endeavours.

A final point must be added: it has to do with risk. A Risk Management System for one of the main dimensions of a Risk Society that does not address risk is a strange, incomplete creation. Interests and principles, and priorities as well, are duly stated in sections 1 and 2, respectively, but no idea of the main and lesser, unique to the EU or global, key or not to society -though a threat to the Union- risks can be found.

It might be said that the risks are somehow embedded in the priorities (section 2), but these mix issues and methods, and the former receives a very general description. The whole text deals with too many situations -not all necessarily a risk- in which the GS, as a Risk Management System, wishes to act; something hardly possible, beyond extremely costly in funds, personnel and intelligence. Even if achievable, there is no idea of which are the top ones, needing tomorrow a principled pragmatism intervention, which could be addressed somewhat later and, in a context of limited resources, individually or in a concerted way, which demand a pre-emptive attitude, which a calibrated, aggressive one, and so on. A risk management system with no risk analysis looks at least odd.

Moreover, as in any Second Modernity solution there are its inherent risks.

## Challenges and Risks

Beck persistently calls attention to the fact that Second Modernity solutions, given the complex, reflexive and ever changing environment in which they will operate, create new problems, usually with a heavily technological character. The biggest challenge in such times is try to devise encompassing solutions -and here the need for the integrative and cosmopolitan dimensions- that would bypass, minimise or ideally block this chain reaction of problems.

The GS is no exception to Beck's prediction, and a few convincing examples can be drawn from it. We shall address three, loosely related to its perhaps strongest proposal, the European Army.

Though not unfeasible, the idea of the Army poses several questions. The first is a governance-strategic issue, not devoid of involved managerial aspects. Given the nearly overwhelming existence of NATO, under strong US tutelage, how would functions be disentangled from it, and a new share of responsibilities be designed? This obliges changes and adaptations at both levels, the Union and the member states ones, as many countries will belong to both forces. How will the defence budget(s) be divided? And how far will the new European Army succeed in establishing its own identity?

At the individual members' level, it will mean a considerable additional stress on the EU governance, already stretched beyond bearable limits with the manifold 'civilian' conundrums, ranging from the impact on the EU organisations of the domestic political evolutions, passing through the unending Euro crisis and reaching the present Brexit thorny situation. Certainly, heated discussions can be expected on how far the Army will outstretch its activities, and, again, on priorities and the related risk analysis.

Though the GS outlines in different points what could consist a starting strategy, ways to shape this new Gestalt will differ and be varied: a Pandora box has definitely been open.

A connected question, very close to Beck's worries, that goes beyond the Army discussion is the ever increasing and urgent European need for technological upgrading. The EU funds its own and buys foreign technology with the resources generated by its trade surplus and positive growth dynamics. Both are progressively decreasing, entailing a vicious cycle in which, with less funds, less top technology and innovation are generated, lowering the competitiveness of the Union, decreasing the number of funds amassed, and so on. It is not evident how the EU will countervail this process which, though slowly, is already in full motion.

In the case of modern armies, technology upgrading is a must, and the GS hints at its full awareness of this in two instances: at the end (pages 20 and 21) of the key section on 'Security and Defence', and at the bottom of page 44, with the explicit proposal of a collective commitment of allotting 20% of defence budget spending to the procurement of equipment and research and development<sup>2</sup>. There is no certainty that the above will be implemented, not to say feasible. If members like France and Spain, and to a lesser extent Germany, are able to sustain all these ideas, bringing also much needed innovation, in a EU-wide perspective it does not seem the case, particularly in an internationally competitive way.

Under the NATO umbrella, technology was not unfrequently supplied by the US forces; how long, sustainable and encompassing this help will be is also an unknown.

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<sup>2</sup> The text says 'Research and Technology'.

The third problem relates to energy. Energy dependence is the Achilles heel of the EU; energy being afforded via the same funds that sustain a competitive rhythm of innovation. This dependence -which could be rendered less painful if a frank, positive relation with Russia were in place- will continue for the foreseeable future, and sets limits to any new ambitious initiative, unless the additional amounts of energy to be required have been clearly and previously secured. The European Army is just one example.

Recent attempts to change the energy matrix, like the locally based *Energiewende* by Germany, where the daring decision to abolish nuclear sources -an idea not at all shared by its close neighbour, France- is being implemented, cannot be considered successful yet. Mentions to the problem in the GS, like in pages 22-23, under the very heading 'Energy Security', are too general, and do not offer anything concrete.

All the above signals that energy will ever more be a dangerous impediment to varied EU actions, one of the least ones a fully functioning, self-sustaining European Army.

## Conclusion – why to be modern?

Throughout this text we have repeatedly praised the rupture with a unidimensional, backwards looking attitude, that could make sense in the First Modernity times. It is then natural to ask, why? Why is it important to be modern, in tune with the new needs, shapes and forms of the Risk Society?

The central point is that, in spite of its plethora of current problems, the EU is still nowadays the most advanced experiment towards alternatives to the standard nation-state. Will it succeed? It is difficult to say, but the trend -in a long term perspective- remains (nearly miraculously) positive. As a corollary, the EU is the most qualified political entity to fully project its outside image in a smart power mode -in the original meaning coined by Nye (2011)-, or even better than this, especially in its security and defence activities. A smart power entity requires a modern, Risk Society-adapted strategy. Blurred contours of such appear on page 45, while the first statement of 'A Responsive Union' undeniably recognises the unavoidable Risk Society character of the times ("We live in a world of predictable unpredictability"); both confirming our point.

From this, it stands out that the European Union Global Strategy can be analysed from at least two perspectives. One, is the standard, linear evaluation grid, taking into account the present status and trying to encompass a multitude of questions in a reasonably coherent fashion, guided by a few broad principles and objectives. The GS surpasses this scope.

It would be thus unfair to the significant effort made by the GS to break with a linear view, anchored on First Modernity concepts -apparent in a number of points in the document-, not to demand more; more modernity, more audacity, more risk management concerns and tools, more ruptures.



The serious, and oftentimes subtle, ouvertures to a game change, spread along the text, deserve a criticism up to its significance: the possibility to change the modus operating of the Union in its external relations.

It is not perfect, it shows the unavoidable coexistence of the two modernities, either in the minds of its authors, or constrained by nearly unavoidable reality forces; it has up and downs, it hesitates sometimes too much, it has ambiguities.

No worry, it is by far the best, sincerest and more enticing piece produced by the Brussels establishment in the past few years. It brings hope to all those who have faith in the European endeavour.

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**Prof. Dr. Sven Biscop** is the Director of the Europe in the World Programme at the Egmont – Royal Institute for International Relations in Brussels, and teaches at Ghent University, the College of Europe in Bruges, and the People’s University in Beijing. He is an Honorary Fellow of the European Security and Defence College.

## The EU Global Strategy: Realpolitik with European Characteristics

Sven Biscop

On 28 June 2016 High Representative Federica Mogherini presented the *Global Strategy for the European Union's Foreign and Security Policy* (EUGS) to the European Council. Many pundits will present it as another example of Brussels' otherworldliness to table an external strategy just a few days after the UK created a huge internal challenge by voting to leave the Union. But would it have demonstrated a better sense of reality to pretend that because of the British decision to put a stop to its EU membership the world around Europe will come to a stop as well? The EU needs the EUGS and that "is even truer after the British referendum", as Mogherini rightly says in the foreword. Many will also gladly find fault with the document, looking for the deficiencies. But it is the strategy now. Therefore the question is not what it could have said that it doesn't, but whether it gives us something to work with to render EU foreign and security policy more effective. The answer is: yes, and quite a lot. Having gotten that out of the way, we can move on to the substance of the EUGS.

First of all, the EUGS introduces a new overall approach to foreign and security policy, which can be read as a correction on the 2003 *European Security Strategy* (ESS) that preceded it. "The best protection for our security is a world of well-governed democratic states", we said in 2003. Unfortunately, spreading good governance and democracy proved more difficult than expected, and when their absence provoked crises, we did not always muster the will and the means to respond. Where the ESS proved to be overoptimistic (and optimism is

a moral duty, as Karl Popper said), the EUGS is more conscious of the limits imposed by our own capabilities and by others' intractability, and therefore more modest. It charts a course between isolationism and interventionism, between "dreamy idealism and unprincipled pragmatism", as I put in a 2014 policy brief,<sup>1</sup> under the new heading of what the EUGS now calls "principled pragmatism".

This represents a return to Realpolitik. Not Realpolitik as it has come to be understood, the end justifying the means, but Realpolitik in the original sense of the term. As John Bew usefully reminds us, Realpolitik as coined by the German liberal Ludwig von Rochau in 1853 meant a rejection of liberal *utopianism*, but not of liberal *ideals* themselves. Rather, "it held out a vision of the future and a guide for how to get there", for how to achieve those ideals in a realistic way.<sup>2</sup> Or, as the EUGS has it, "responsible engagement can bring about positive change". This, says Bew, is the "real Realpolitik"; given that other actors still pursue the Machiavellian version, let's call it Realpolitik with European characteristics.

The fact that for the first time ever an EU document lists our vital interests (which is a breakthrough in its own right) is a reflection of this new approach. Policy is about interests; if isn't, no one will invest in it. That applies to the EU as much as to a state, and: "There is no clash between national and European interests". The vital interests that the EUGS defines are vital to all Member States: the security of EU citizens and territory; prosperity (which, the EUGS states, implies equality – otherwise we would indeed not be talking about the prosperity of *all* citizens); democracy; and a rules-based global order to contain power politics. Setting these interests off against the analysis of the global environment that Mogherini presented to the European Council in June 2015,<sup>3</sup> the EUGS identifies five priorities: (1) the security of the EU itself; (2) the neighbourhood; (3) how to deal with war and crisis; (4) stable regional orders across the globe; and (5) effective global governance.

## Priorities for Principled Pragmatism

The way to pursue the first three priorities especially clearly reflects the modesty or realism imposed by "principled pragmatism", by emphasizing our own security, the neighbourhood, and hard power, and by no longer emphasizing democratization.

First, there is a strong focus on Europe's own security (which was much less present in the ESS) and on the neighbourhood: "We will take responsibility foremost in Europe and its surrounding regions, while pursuing targeted engagement further afield". Following the terrorist attacks in Paris and Brussels, and the refugee crisis that is visible across Europe, addressing our internal and border security was indispensable for the EUGS to be credible with citizens and Member States alike. The focus on the neighbourhood is justified by the range of our capabilities. It is defined very broadly though, going beyond what Brussels now often calls the "neighbours of the neighbours": "to the east stretching into Central Asia, and south down to Central Africa". Stabilizing this part of the world is no mean task, yet the EUGS achieves the right balance for it does not ignore the challenges in Asia ("There is a direct connection

between European prosperity and Asian security”) and at the global level (such as the freedom of the global commons).

Second, there is much less emphasis on democracy. In line with the November 2015 Joint Communication on the future of the European Neighbourhood Policy (ENP) (though the EUGS looks at a broader region),<sup>4</sup> democratization no longer is a compulsory part of the package. The EU will support democracies where they emerge, for “their success [...] would reverberate across their respective regions” – but in our broad neighbourhood it only mentions Tunisia and Georgia as positive examples. As many others don’t wish closer relations with the EU, the EUGS puts the emphasis on reducing the fragility of these states rather than on changing their regimes, for which we have but limited leverage. But since many of our neighbours are “repressive states [that] are inherently fragile in the long term”, that requires targeting civil society instead. The aim is to increase the resilience of people and societies, notably by fighting poverty and inequality, so that over time home-grown positive change can emerge. Just like in the Joint Communication, it is not entirely clear where the funds for this will come from.

Lowering the level of ambition in terms of democratization is but the acceptance of reality. This is all about being honest with ourselves. The EU cannot democratize Egypt, so it should not pretend to. At the same time, it should then also not feel obliged to pretend that the Al-Sisi regime is a great friend – it is not. But we maintain diplomatic relations with (nearly) everybody, not just with our friends, and we work with (nearly) everybody where interests coincide. As long as they are there, we can indeed be obliged to work with authoritarian regimes in order to address urgent problems; the anti-IS coalition is a case in point. The EUGS doesn’t say much about this dimension: how to work with regimes, in line with “principled pragmatism”, without further strengthening their hold on power?

This question demonstrates that resilience is a tricky concept to be used in this context. Increasing the resilience of a state against external threats can easily lead to increasing the resilience of a repressive regime. While we have to be modest about our ability to change regimes, we should not be propping them up either. It makes sense therefore for the EUGS to simultaneously advocate capacity-building and the reform of the justice, security and defence sectors, as well as human rights protection. The strong emphasis on human rights (which is indeed to be distinguished from democratization) is indispensable, for it is often against their own governments that people have to be resilient. But can we deliver on that promise? Perhaps fighting inequalities would have been a better heading for the new strategy towards our eastern and southern neighbours than resilience (the meaning of which is not really clarified by the introduction of “energy and environmental resilience”).

By the way, if the EU wants to be more honest with itself, then (the Balkans excepted) “a credible enlargement policy” does not really have a place in the section on the neighbourhood, for enlargement no longer is a credible project, least of all for Turkey.

Third, there is a much stronger awareness of the indispensability of a credible military instrument. “Soft and hard power go hand in hand”, Mogherini rightly says in the foreword. The EUGS has not rediscovered geopolitics per se – the ESS already stated that “even in an era of globalisation, geography is still important” – but more than the ESS it recognizes that some powers don’t hesitate to use blackmail and force in what they consider to be a geopolitical competition. Hence the ambition “to protect Europe, respond to external crises, and assist in developing our partners’ security and defence capacities”. Furthermore, our efforts “should enable the EU to act autonomously while also contributing to and undertaking actions in cooperation with NATO”. This can be read as the EU constituting the European pillar that allows its Member States to act with the US where possible and without US assets when necessary (which could actually also be through NATO, the UN or an ad hoc coalition as well as the EU itself).

The ends to which the EU should apply this “strategic autonomy” (as Mogherini calls in in the foreword) are spread throughout the text. First, “this means living up to our commitments to mutual assistance and solidarity”, i.e. Articles 42.7 TEU and 222 TFEU. Second, where conflict is ongoing, the EU should “protect human lives, notably civilians” and “be ready to support and help consolidate local ceasefires”, presumably in the broad neighbourhood as a matter of priority. This is an ambitious undertaking, for it entails deploying troops on the ground, with serious firepower, who are backed up by serious air support and ready reserves, and who don’t necessarily seek out and destroy an opponent but who will fight when the civilians for whom they are responsible are threatened. Third, the EU “is seeking to make greater practical contributions to Asian security”, including in the maritime area. Finally, the EU “could assist further and complement UN peacekeeping” as a demonstration of its belief in the UN as “the bedrock of the multilateral rules-based order”.

These are more than sufficient elements to translate the EUGS into a revised military level of ambition in “a sectoral strategy, to be agreed by the Council” – into a white paper, in other words, that should kick-start more cooperation and even integration in defence. The EUGS also offers guidelines on how to do that: “an annual coordinated review process at EU level to discuss Member States’ military spending plans”. Or, as an earlier draft had it, a European semester on defence.

## **An Ambitious Diplomatic Programme**

Of the remaining two priorities, the focus on “cooperative regional orders” also reflects the awareness of ongoing geopolitical competition between different global and regional powers. The intention to ensure a coherent response to China’s “One Belt, One Road” initiative not just through the EU-China Connectivity Platform (to create the link with the EU’s own investment plans) but through ASEM and the EU-ASEAN partnership as well could signal the start of a sophisticated diplomatic initiative. In the same vein, the aim to deepen dialogue with Iran and the GCC countries ought to be the beginning of a new vision on the future regional order in the Middle East, though the EUGS itself could have offered more guidance already. After all, there is not one but several wars ongoing in an area that clearly falls within the neighbourhood

in which the EU ought to assume responsibility. This will also be one of the issues (though it is not among the examples explicitly listed in the EUGS) on which the EU will have to cooperate with Russia, while making “substantial changes in relations” dependent on Russia’s respect for international law. On Russia, the EUGS basically advocates strategic patience.

The fifth priority puts global governance firmly back on the EU agenda, after “effective multilateralism” (as the ESS phrased it) had more or less disappeared from the radar screen. Now the EUGS ambitiously sets out “to transform rather than simply preserve the existing system”, which will indeed be necessary to prevent “the emerging of alternative groupings to the detriment of all”. Under this heading as well, an ambitious programme on free trade (envisaging FTAs with the US, Japan, Mercosur, India, ASEAN and others) and on the freedom of the global commons could herald a creative diplomatic initiative – and a more strategic use of EU trade policy, which ought to be as embedded in overall strategy as it is in the US.

Of course, the EUGS does also show some deficiencies. Most eye-catching is the curious lack of diplomatic ambition when it comes to dealing with conflicts and crises, the third priority. In contrast with the ambitious (though perhaps not fully realized) military implications of the goal to protect civilians, the EUGS appears rather reactive on the diplomatic front. When peace agreements are reached, the EU will support them and provide security, but when they are not, the EUGS seems to prioritize the local level. To take the case of Syria: brokering local ceasefires will save people (if they are guaranteed militarily), but ultimately only diplomatic success in Geneva will end the war. The EU actually is good at diplomacy, and the EUGS refers at several instances to the successful example of the Iran nuclear negotiations, so it could have been more ambitious in this area.

## **Conclusion: To Work**

The EUGS is a strategy, and strategies have to be translated into sub-strategies, policies and action to achieve their objectives. Unlike in 2003, the EUGS itself already provides the linkage to what should become a systematic process of implementation and review. First, it calls for a prompt decision on “clear procedures and timeframes” for the revision of existing and design of new sectoral strategies. Second, it announces an annual reflection on the state of play, “pointing out where further implementation must be sought”, though not a systematic overall review. “A new process of strategic reflection will be launched whenever the EU and its Member States deem it necessary”, so not automatically every five years, for every legislature.

For this scheme to succeed, it is crucial that it be firmly anchored institutionally, not just within the EEAS but in the Commission as well. Of course, the High Representative has the main ownership of the EUGS and will assure overall coordination and initiative. But which body, including Commission and EEAS officials, will monitor implementation and prepare the annual state of play? (Analogous to the National Security Council in the US, which not only coordinates the drafting of the National Security

Strategy but also monitors whether all relevant subsequent documents comply with its approach). And, most crucially, will the Member States feel ownership of the EUGS? Mogherini will obviously drive implementation, but if it is only her, it cannot work. And implementing this ambitious Strategy will demand a serious drive.

This is where the Brexit will have the most impact on the EUGS. Not on substance: the analysis of the environment, the definition of our vital interests, and the identification of our priorities do not change because we will be one Member State fewer. But, unfortunately, it will have a negative impact on the capacity for delivery. For one, the EU has quite simply lost face – and face is important in diplomacy. The credibility and persuasiveness of any EU initiative will be undermined by the fact that one of the three biggest Member States has just decided to leave. And, unlike the High Representative in her preface, I am less confident that “we are the best in this field” of soft power. Furthermore, the UK can no longer directly contribute its impressive diplomatic and military clout to EU foreign and security policy. What options there are to bring it to bear indirectly will have to be explored.

Nevertheless, Federica Mogherini is absolutely right when she says: “A fragile world calls for a more confident and responsible European Union”. Even though the EU itself is somewhat more fragile now than in 2003. Hiding inside for fear of the world around us will not solve anything however, whereas “responsible engagement can bring about positive change”. Hence: to work.

Prof. Dr. Sven Biscop is the Director of the Europe in the World Programme at Egmont and teaches at Ghent University and at the College of Europe in Bruges. He is an Honorary Fellow of the European Security and Defence College.

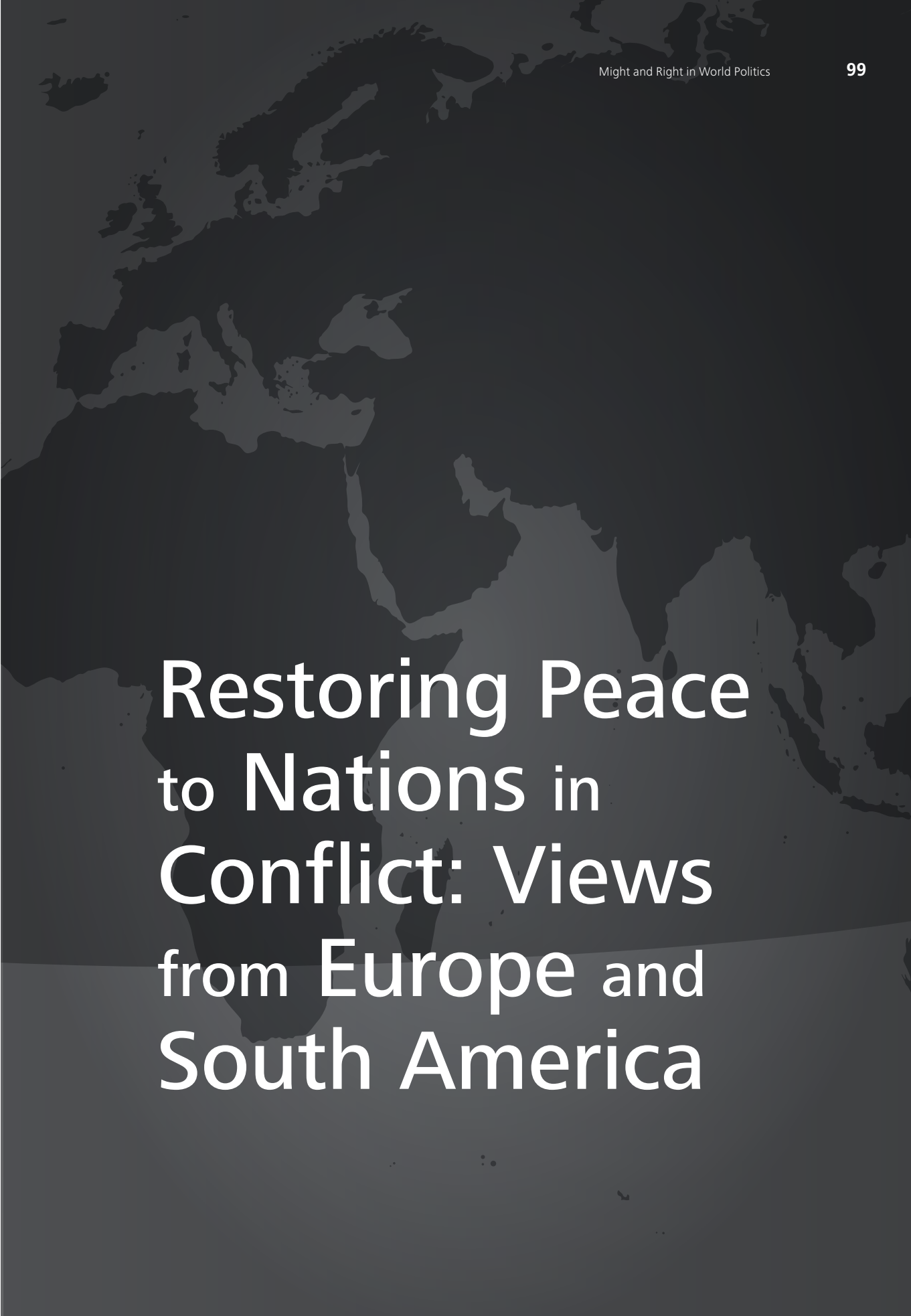
## Endnotes

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# Restoring Peace to Nations in Conflict: Views from Europe and South America

**Alfredo G. A. Valladão** is professor at the Paris School of International Affairs (PSIA) of Sciences Po Paris. President Advisory Board EU-Brazil association (Brussels). Senior Research Fellow OCP Policy Center (Rabat). He is Columnist for Radio France Internationale (RFI – Brazilian Service) and former member of the Board of Trustees of UNITAR (2009-2015). Mr. Valladão is also former Director (1999-2010) of the Mercosur Chair of Sciences Po. He launched and coordinated – in partnership with the KAS– the Annual International Conference of Fort Copacabana.

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## **“Systemic Threats” and “Pathological Risks”: An Atlantic Answer to Contemporary Security Issues**

Alfredo G. A. Valladão

No man is an island. Neither is a Basin. Security challenges, as many other aspects of human life, are more and more globalized. Distant events can have dire consequences, direct or indirect, for people living very faraway. Atlantic Basin security issues cannot be assessed without considering its situation on the global map of security problems. Particularly vis-à-vis the present most confrontational mega-regions: Asia-Pacific, the Middle East, and Eastern Europe.

In order to avoid a too broad a definition of “security” encompassing every dysfunctional aspect of human relations, a distinction should be made between matters that could involve the use of force and other so-called “new” security questions – health, trade, environment, poverty, social inequality, immigration, tornados and most issues – but not all – that come under the label of “Human Security”. Certainly, if not well managed, these new dimensions can stir up tensions leading to security threats, even serious ones. But they are not security problems per se. “Securitizing” every problem brings up two paradoxes. If everything is perceived as “security”, nothing is security: threats lose their specificity, ranking becomes fuzzy, which breed apathy and irresponsibility. The other pitfall is the temptation to use force to treat every man-made problem – and even every natural catastrophes –, which in turn can encourage reckless attitudes and bring about dangerous self-fulfilling prophecies.

Therefore, it’s probably more reasonable to stick with a narrower definition of security and defence (S&D): issues that imply using instruments

of coercion, be armed forces, the police, or even civilian and political tools – sanctions, embargos, diplomatic boycotts... On that matter, a distinction can be made between “systemic threats” and “pathological risks”. The first are deep challenges that could presumably destroy the core foundations of the global rules that actually guarantee a more or less predictable world order. The second are aggressive social illnesses that derive from the very functioning, or dysfunctions and hiccups of the world order itself.

## The “liberal order” great divide

The fact is that we live now in a networked planet, everyday more interdependent and interconnected. Each country, region or local group is engaged in this common world but has its own plights. Security situations can be highly diverse. In the Atlantic space, Europeans don't have the same perceptions, and don't have to face the same menaces as, say, Latin Americans, Africans or North Americans. Geography matters, as well as political cultures and economic and social vulnerabilities. However, all together they are extremely dependent on the smooth functioning of today's globalized economy and social interactions. What has been called the “liberal order” constitutes the main engine that boosted the “emergence” of many new “powers”<sup>1</sup>. One just has to consult the final documents of the ten G-20 meetings – which gather 80% of the world's GDP. They are truly a comprehensive catechism of the official articles of faith on the liberal rules of the game<sup>2</sup>. All dutifully signed by the representatives of each member country – along with the seventy years-old UN Charter, of course. Yet, nobody denies that global interactions go far beyond what national governments can control or influence.

At the beginning of this new century, the Atlantic societies and the international community as a whole have to face a new great divide. On one side, those who opt to defend the foundations of a global liberal order based on universal values and rules. That doesn't mean a Pollyannic satisfaction with this common framework as each of its supporters has its own ideas about how to improve it, and do criticize many aspects and consequences of its implementation. On the other side, those who yearn for a return of traditional nation-states' geopolitical power plays. A world made of zones of influence around the most powerful players, where international laws are just temporary arrangements subject to balance of power logics. Vladimir Putin's vision is the best current example of this 20<sup>th</sup> century nostalgia, while the Chinese leadership is still trying to play both cards simultaneously.

On one hand, political systems that thrive in open societies – competitive political representations that promote free movement of people, ideas, goods, capital, information or innovations. On the other, political systems that, in order to survive, require closed societies under an authoritarian control. With the former, there is a chance of keeping a more or less prosperous and free integrated global polity... with lots of inequalities and double standards. With the later, the world would surely end up more fragmented,

<sup>1</sup> Alfredo G. A. Valladão, “BRICS: Path Openers or Reluctant Followers?”, Madariaga College of Europe Foundation, Brussels, June 2012. <http://www.madariaga.org/images/madariagapapers/2012-jul-12%20-%20valladao%20paper%20globalisation.pdf>

<sup>2</sup> cf. G-20 Leaders Declarations, <https://g20.org/about-g20/past-summits/>

oppressive, poor and dangerous ... with even deeper inequalities and “multi” standards. Many nuances do exist in between those two choices, but in our interdependent world system, when the going gets really tough, everyone is compelled to take sides. Today, almost all security problems stem from the frictions that arise from these two contradictory Weltanschauung.

## The downgrading of the China threat

During the first decade of the 21<sup>st</sup> century, only two “systemic threats” were considered top priorities for those most engaged in preserving the global liberal order: a latent unruly China rise and chaos in the Middle East. The Atlantic was not a calm lake, but its many security issues – most of them deriving from criminal activities – were not seen as directly threatening the fabric of the basic global rules.

The southern part of the Atlantic Basin lost its strategic importance since at least the opening of the Suez Canal in 1869. But no country in this part of the world could threaten, or even have a meaningful influence on the big powers’ geopolitical games of the 19<sup>th</sup> and 20<sup>th</sup> centuries. Sometimes, particularly in colonial Africa, a region could become a localized theatre of conflicts between European imperial powers or, later on, a circumscribed battlefield of the Cold War. But, as international state actors in their own right, they couldn’t pose any significant threat to the successive world “orders” of the last hundred-fifty years.

The North Atlantic instead, was at the core of the main ideological confrontations of the 20<sup>th</sup> century between liberal democracies and totalitarian regimes – WWII and the bipolar nuclear stalemate between the West and the Soviet Union. However, after the fall of the Berlin Wall and the implosion of the USSR, the northern part of the Atlantic was deemed a peaceful and prosperous region, where governments could ripe the “dividends of peace”. So much so, that some could even theorize the “end of history”: “the universalization of Western liberal democracy as the final form of human government”<sup>3</sup>. Even the wake-up call given by the Balkan wars in the 1990s and its human rights tragedies, was relatively swiftly managed – thanks to the US intervention... – and fast forgotten. Except for the spillovers of transnational criminality, the Atlantic looked like vanishing from the security radars.

For China instead, the narrative was all about the prospect that the leadership in Beijing could be tempted to take advantage of a seemingly never-ending economic success to build disproportionate and modern military capabilities, which would be used to assert its hegemony and domination over the Asia-Pacific region. The main concern was that China’s “peaceful rise” could metamorphose into an “old-fashioned” expansionist power, at least in its own self-defined local “sphere of influence”. Such an evolution would certainly feed growing tensions with the neighbors, increasing the risks of open armed conflicts – the dangerous naval incidents in the South China Sea are a case in point. A commandeering China would threaten the performance of

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<sup>3</sup> Francis Fukuyama, “The End of History”, *The National Interest*, Summer 1989, Washington DC

the Asia-Pacific interlocked economies, threatening one of the main engines of global economy growth. A rising China playing by the established rules is good news for the present global order. The bad news would be an arrogant China bullying its neighbors and playing havoc with the Asia-Pacific integrated economies.

This uncertainty about China's path was at the heart of the now famous 2012 Obama's "pivot to Asia"<sup>4</sup>, a sort of rebalancing from the American traditional Atlantic priorities. The idea was to strengthen the US military and economic presence in the region in order to encourage China to abide the tenets of the global liberal order by upping the ante to possible aggressive military behavior and, at the same time, reassuring the neighboring countries against any serious Chinese expansionist threat. As former US president Lyndon B. Johnson once joked about FBI's J. Edgar Hoover: "better have him inside the tent pissing out, than outside the tent pissing in"<sup>5</sup>. This more affirmative American engagement and deterrence posture, which is clearly welcomed by Japan, Taiwan, South Korea, and many South East Asian states, was supposed to complement the routine mission of US deployments in the region, which is to guarantee an essential "common good" for the world economy: freedom of navigation and overflight in international waters of South and East China seas, and discouraging armed conflict between local powers.

But nearing the end of President Obama's mandate, the situation has clearly evolved. Yes, China is no doubt trying to build an overwhelming regional military force, and has also been undertaking a few hazardous actions against its neighbors. Nevertheless, the "Middle Empire's" economic success is slowing down dramatically. The rest of the world is already speculating about "soft" or "hard" landings. The Chinese Communist Party leadership is signaling a much greater concern about domestic stability, but there is still a danger that the government could seek antidotes in nationalistic campaigns that could end up in foreign adventures – even unwanted ones. Miscalculations do happen. The difference now, is that this potential threat to the global order would come from a position of weakness and retreat, not one of strength and expansion.

Still risky, but more manageable. Specially if there is time to build alternative economic circuits for Asia-Pacific growth that partly bypass China's centrality. The Trans-Pacific Partnership (TPP) is a significant example. Hence, the "pivot to Asia" looks less urgent and didn't really materialize. Instead of prioritizing a permanent power build-up in the region, the US is in a position to go back to its more traditional pattern of a strong "anchor of regional security" and counterbalancing power. "A stabilizing force (...) that has allowed all the Asian miracles to occur over the last 70 years", in the words of US Defence Secretary, Ashton Carter<sup>6</sup>. This is more "business as usual" than "new strategy".

<sup>4</sup> Hillary Clinton, "America's Pacific Century", Foreign Policy, October 11, 2011, Washington DC <http://foreignpolicy.com/2011/10/11/americas-pacific-century/>

<sup>5</sup> Quoted in The New York Times, October 31, 1971.

<sup>6</sup> Geoff Dyer, "US warns China against flexing its maritime muscles", Financial Times, November 5, 2015.



This new downgrading of China however, is not always good news for many Atlantic players, particularly on the southern part of the ocean. If Beijing's military buildup is less a threat to the liberal order in which China thrives, its economic underperformance is having dire consequences to all commodity exporters. Chinese market has become, by far, the world's biggest consumer of basic primary products, which are the main source of revenue for Africans and South Americans alike. A less gluttonous China spells dramatic trouble to South Atlantic economies and it is already having strong negative impacts on these countries' social policies successes of the last fifteen years. And that can have unsavory consequences for the region's security situation.

### **Middle East: managing the mess**

Middle East stability, particularly after the 9/11 terrorists attacks in New York and Washington, was considered the second big systemic threat. As a matter of fact, the menace had two names: oil and the risk of a regional nuclear arms race. Since the second half of the 20<sup>th</sup> century, Middle Eastern oil – particularly production from the Gulf – is the energy life-blood of the world economy. A serious disruption of hydrocarbons production and transport in the region would have dire consequences for mature, emerging and poor countries alike. Keeping the oil flowing is crucial for the global economy's survival. And this flow's ultimate security guarantor, like it or not, is the US.

However, new developments in the energy field are deeply affecting this Middle East central role: the American shale gas revolution, the reducing costs of renewable sources, the spectacular progress in energy savings and efficiency, the rise of "Atlantic oil" production<sup>7</sup>. Last but not least: the new "digital economy" and its ongoing industrial revolution, much less energy-hungry. The Gulf oil variable in the world energy equation is still paramount, but is becoming less "systemic" than before. As for the nuclear issue, the parlous threat was an Iranian nuclear weapons breakout, which would launch a regional nuclear arms race. And that, in turn, would threaten security and political stability well beyond the region itself. The Iran nuclear deal framework, signed in April 2015, has postponed the day of reckoning on this mater of contention.

More predictability in managing the oil-and-nukes problem is bringing about a progressive downgrading of the Middle East from a "systemic" threat to the global liberal order – that had to be squarely faced and defeated – to the status of a more "pathological risk", that has to be monitored and contained. This risk is of two types: Islamic terrorism with its spillover to adjacent regions (Europe, Africa, South Asia, Southern Russia...), and an eventual rise of a regional hegemon hostile to the global order. As the dominant power in the region, the United States seems to settle for more traditional local power balancing. The Obama administration, besides trying to contain Daech – at least in its territorial ambitions in Iraq and Syria<sup>8</sup> – with a combination

<sup>7</sup> Paul Isbell, "Atlantic Energy and the Changing Global Energy Flow Map", *Atlantic Future Scientific Paper*, Atlantic Future Project 2015, [http://www.atlanticfuture.eu/files/338-ATLANTIC%20FUTURE\\_17\\_Energy.pdf](http://www.atlanticfuture.eu/files/338-ATLANTIC%20FUTURE_17_Energy.pdf)

<sup>8</sup> Barak Obama, "Interview with George Stephanopoulos", *ABC News*, November 12, 2015.

of aerial strikes and support to local militias, is taking a more hands-off attitude: let all the local belligerents (states and non-state entities) exhaust themselves in fighting each other, while providing that no single power prevails against the others. A strategy that wants to avoid putting “boots on the ground” – a central tenet of the current US Executive apparatus – and bets that after exhaustion, some form of a balanced cease-fire and power equilibrium would have room to emerge. This course of action is even more evident after the Russian intervention in Syria, where Moscow could well get bogged down and become just another local military player. “Keep managing the mess” and circumscribing all eventual fall-outs looks increasingly as the US favored strategy in dealing with this relatively downgraded Middle-East threat.

Yet, the Paris 11/13 terrorist attacks, claimed by “Islamic State” group (Daesh), has show once again that what looks less “systemic” for some is much more so for others. For the US Atlantic European allies, the terrorist threat can rip the whole fabric of Europe’s integration process. Should the EU begin to fragment, that would not only seriously hamper any pan-Atlantic security perspective, but also any Atlantic economic cooperation and integration. As a matter of fact, it could become a menace to the whole global order. Thus, the old Atlantic “cape of Asia” would have the dubious privilege of being the first region in the 21<sup>st</sup> century facing the metamorphosis of a pathological risk (terrorism) into a systemic trial.

### **The come back of an Atlantic “systemic threat”: Europe**

If the challenges posed by the chaos in the Middle East and the rise of China have become relatively less weighty, another very dangerous “systemic threat” has been growing in the last few years: the prospect of Europe’s unraveling. Alongside the US, Europe is the other main pillar of the “liberal global order”. Without Europe there is no order based on open societies, and economic, individual and political freedoms. On one hand, the Old Continent is still grappling with the deep post-2008 economic crisis. On the other hand, it is confronted to a knot of internal centrifugal forces: secessionist and Quebec-style sovereignist movements (Catalonia, Scotland Flanders...), anti-integration temptations (Grexit and Brexit), and nationalistic, anti-European and xenophobic parties gathering more steam from the sudden large inflows of refugees and immigrants, and the surge of terrorist threats.

More ominous, Europe clearly wasn’t ready to cope with an old and recurrent issue: the reappearance of a Russian threat. Less than three decades after the fall of the Berlin Wall, the European Union, built on the principle of deep integration and power sharing between member countries, has to face Vladimir Putin’s drive to foment political divisions between EU members in order to rebuild a Russian Eastern European “zone of influence” resurrecting the expedient of “buffer states”. The use of gas deliveries to intimidate the European states most dependent on Russian production, the establishment of Moscow dominated separatist “grey” rebel territories carved out neighboring countries (Georgia, Ukraine, Moldova...) and the military annexation of Crimea, constitute direct and serious threats to international rule of law, reminiscent of the Cold War. No doubt, the EU institutional decision-making process

is achingly cumbersome, but much stronger and resilient than its critics admit: the European response to Russia's offensive has been rather assertive. But no doubt also, that the European integration process is in the middle of something looking more and more like a "perfect storm". And thousands of desperate refugees and immigrants trying to cross the EU borders every day, and the now permanent alerts about terrorist attacks after the Paris November shootings, makes the situation even more perilous. If anything is a "systemic" challenge, this is it.

Seen from the North Atlantic western seashore, the unavoidable "pivot" looks every day more like a "pivot to Europe" all over again – if reluctantly. The assessment of the Russian threat or of Near East Islamic terrorist spillovers into Northern Africa and the Sahel (Boko Haram or the deadly puzzle of Libyan militias) is being looked at mainly through the lenses of their impact on Europe's stability. Russia – and its inherent economic and demographic weaknesses – is not yet seen as a systemic threat per se, but one that has to be circumscribed and contained in order to protect the European construct – the same logic being applied to the whole mist of Islamic terrorists groups. For the time being, these two types of menaces can still be categorized as "pathological risks": they are more a consequence of European growing internal vulnerabilities and tensions, and political plodding, than proper "foreign" threats.

Actually, the "pivot to Europe" is already happening, slowly and in a quite thoughtful way: revitalization of NATO with a new rapid reaction force; a network of command centers, as well as forward prepositioning and maneuvers in Eastern Europe nearer the Russian borders; promotion of TTIP (Trans-Atlantic Trade and Investment Partnership) to lock-in the interdependence of North Atlantic economies and regulatory processes; intensification of bombing campaigns against Daesh in Syria and Iraq, as well as the upgrading of support and arms deliveries to Syrian anti-regime opposition groups; reinforcement of the US Africa Command (AFRICOM, head-quartered in Stuttgart) and deployment of drones and small contingents of Special Forces to monitor and help in the fight against Boko Haram and other jihadist groups that threaten European interests and security, and are partly responsible for the new wave of migrants to the North; encouragement and support for European energy independence vis-à-vis Russian gas... This accumulation of very diverse initiatives do create a pattern of much more American involvement in the Old Continent, reversing nearly two decades of something akin to benign neglect. But this time around the US – particularly under the Obama administration – will not do all the heavy lifting for the Europeans. The old Cold War transatlantic mantra of "burden-sharing" will come back with a vengeance.

## **A born-again Atlantic Alliance**

As a matter of fact, with threats and risks gathering inside and at its external borders, Europe can no longer stave off a serious debate about its "hard power", and how to use it. For now, only France and Britain have some significant force projection capabilities and the will to act. However that is not enough to confront the new security challenges and to assuage Washington's calls for partaking the load. Nowhere is this

question more sensitive to handle than in Germany. How will this debate play out with German public opinion? Can Germany move from a “pacifist” frame of mind country to a military power? And still avoid ripen into a bully? How will other EU member states react to a more affirmative German military power, knowing that Germany is already – and by far – the central and stronger economic player in the Union? Ask the Greeks, Hungarians and even much bigger neighbors.... But Germany is not alone. All the other member States, big and small, are now compelled to take a hard look at how to contribute – and with what means – to the continent’s security. Benign neglect is out; nobody can keep dodging its responsibilities.

This debate has become even more urgent due to the escalation of bloody terrorists threats inside EU territory. Europeans cannot settle anymore for simply “containing” the jihadist territorial expansionism in the Middle East and its ideological inroads in Africa – implicitly delegating this task to France or Britain... and to the US Armed Forces. Scattered surveillance of radicalized European followers will not be enough either. When a pathological risk is in fact rapidly upgrading to an indirect strategic threat, “destroying” it takes precedence over “containment”<sup>9</sup>. Much better coordination of European police forces and intelligence services, decisive improvements of common control instruments and procedures, and stronger links with US security agencies, are inevitable in order to confront ingrown and transnational jihadism. This means, like it or not, a step further for European integration and sharing of sovereignty, at a moment when nationalist anti-European political movements are on the rise. But the alternative is grim: a lasting re-erection of national borders and the demise of the 1985 Schengen Agreement, which guarantees the free movement of persons inside a borderless Europe. Such a throw back would simply demolish one of the two main pillars of the European integration process – the other being the Euro, which is still threatened by the seven years old global economic crisis. Paradoxically, the whole argument about Europe’s S&D responsibilities, ineludible for the sake of EU cohesiveness and security, could become the last straw that breaks the European construct.

Nolens volens, we are in for a much bigger and taxing US presence in the Old Continent. Washington cannot ignore that a European continent in turmoil would dangerously unravel the world’s main institutions, rules and values. The once creaky North Atlantic Alliance is fast becoming again the central instrument for tackling the defence of the liberal order in the region. NATO’s Trident Juncture exercise, held in November 2015, was its biggest war games since 2002, and was also meant to send a clear message to Moscow. Yet, we are still very far from a new Cold War: the bipolar world crumbled with the Berlin Wall. Paradoxically, Russia’s military intervention in Syria has facilitated the possibility of Western/Russian ad hoc cooperation – including each side’s regional allies – against the “Islamic State” group. This improbable rapprochement was sanctioned by a surprising unanimous vote of the UN Security Council calling Member States to take “all necessary measures” in order to “eradicate” Daesh’s “safe havens” in Syria and Iraq, and calling the Islamic terrorist group

<sup>9</sup> President François Hollande, Speech at the Congress in Versailles, November 16, 2015

“a global and unprecedented threat to international peace and security”<sup>10</sup>. But after the military annexation of Crimea by Russia, to guarantee North Atlantic security against conventional, “hybrid” or “new” threats has become a *sine qua non* condition – once again – for managing the global order’s economic and security challenges.

### **Confronting Atlantic “pathological risks”**

Apart from a re-emerging “systemic threat” in its northern shores, the Atlantic – North, Central and South – will also play a crucial role on tackling the “pathologic risks” arising from the functioning and dysfunctions of this same liberal global order: terrorism, transnational criminality (drugs and arms trafficking, piracy, immigrant smuggling...), and soaring urban violence<sup>11</sup>. And, sometimes, lingering local out-of-date border disputes, internal strife, and the chaos of “failed” or “fragile” states<sup>12</sup>. These forms of security problems can seldom be “solved”, let alone “defeated”. The nearly half-century-old “War on Drugs” bears witness to this harsh reality. For the time being, they can only be “managed” – at least until the present transition to a new economic, social and political model induced by the digital revolution is well advanced<sup>13</sup>. In the long term, only much more progress towards sustainable economic growth, better governance and accountable government, less inequality (social and regional) and efficient implementation of the rule of law can downgrade these risks to residual hazards. On the short and medium term, the central question is how to “contain” them.

Security containment measures have been implemented either by intermittent military interventions and/or strong police action and intelligence cooperation. The best recent examples are France’s “Serval” operation in Mali; the bombing sorties against the “Islamic State” group in Syria and Iraq; small contingents of Special Forces deployed against Boko Haram or embedded with Syrian militias; naval interdiction against piracy out of the Somali Coast or the Gulf of Guinea; dissuasive traditional naval exercises (PANAMAX in the Caribbean, UNITAS in the South Atlantic, US/Europe/Africa “Saharan Express” in the North Africa coast...); UN peacekeeping operations (MINUSTAH in Haiti, MONUSCO in D. R. Congo, MINUSMA in Mali...); the highly successful cooperation between Spain, Morocco, and Mauritania military and police forces against immigrant smugglers rings, Plan Merida against drug traffickers in Central America... In fact, the Atlantic Basin has seen a growing buildup of discreet pluri- or bilateral common responses to transnational criminal networks

<sup>10</sup> UN Security Council, Resolution 2249, United Nations, November 20, 2015. <http://www.un.org/press/en/2015/sc12132.doc.htm>

<sup>11</sup> Mark R. Jacobson & Max Daurora, “Significant Trends in Illicit Trafficking: A Macro View of the Problem and Potential Means to Address It”, Atlantic Forum Scientific Paper n° 8, September 29, 2014. [http://www.atlanticfuture.eu/files/326-ATLANTIC%20FUTURE\\_08\\_Transnational%20threats.pdf](http://www.atlanticfuture.eu/files/326-ATLANTIC%20FUTURE_08_Transnational%20threats.pdf)

<sup>12</sup> Fernanda Faria, “Fragile States: Challenges and Opportunities for Atlantic Relations”, Atlantic Forum Scientific Paper n° 9, October 9, 2014. [http://www.atlanticfuture.eu/files/327-ATLANTIC%20FUTURE\\_09\\_Fragiles%20states.compressed.pdf](http://www.atlanticfuture.eu/files/327-ATLANTIC%20FUTURE_09_Fragiles%20states.compressed.pdf)

<sup>13</sup> Alfredo G. A. Valladolid Masters of the Algorithms – The Geopolitics of the New Digital Economy from Ford to Google”, German Marshall Fund of the United States & OCP Policy Center, Brussels, May 2014. <http://www.gmfus.org/publications/masters-algorithms-geopolitics-new-digital-economy-ford-google>

and cooperation on internal conflicts prevention<sup>14</sup>, as well as an uptick in the domestic use of military forces in a constabulary role alongside traditional police deployments against urban or local violence.

Pathological risks are widespread throughout Latin America and Western Africa. But the transnational crime and terrorist activities also encompass and threaten North America and Europe. South and North Atlantic riparian governments cannot afford to procrastinate. A better organized security cooperation involving the whole Basin<sup>15</sup> is becoming a prerequisite to avoid that pathological risks turn into systemic threats. The potential pitfall stemming from a lack of common resolve is that it would certainly provoke unilateral interventions by big powers that possess the capabilities and the political will to do so – which would shatter prospects for the necessary consensual approaches to deal with these problems. But in any case, Southern and Middle Atlantic states and societies will also have to cope with the fall-out of surging systemic threats in the Northern Atlantic.

### **Building pan-Atlantic security**

During the Cold War, many African and Latin American territories were reduced to the condition of battlegrounds of the East-West arm-wrestling – most of the time with the complicity of local protagonists. The crumbling of the Berlin Wall, and the worldwide adoption of market economy principles and of the basic tenets of the liberal order, opened huge opportunities for the region to pursue strong economic growth and more open societies in a less constrained environment. Many Atlantic states in the region could benefit from the boom of the “happy globalization” years at the beginning of the new century. Latinos and Africans – each according to its own assets and drawbacks – made great strides towards more economic success, social justice and open political systems. But the imbalances inherent in this rush to prosperity could not but also worsen domestic security challenges. Disorderly urbanization and widespread connectivity are key ingredients for growth and modernization, but they create as well big opportunities for criminal networks. Yet, these pathological risks could be more or less contained into a national or regional ambit, sometimes with the support and cooperation of North Atlantic governments and peacekeeping UN forces. West Africa and Central Africa, in particular, had to rely on these North Atlantic links in order to confront transnational crime, terrorism, piracy and, at times, internal political or ethnic clashes.

This Atlantic relatively fragile security-balancing act will certainly struggle to adjust to the huge impact of a new systemic threat centered on the Northern part of the Basin. Latin American and African authorities will be summoned, by their much more

<sup>14</sup> John Kotsopoulos, “The Atlantic as a new security area? Current engagements and prospects for security cooperation between Africa and its Atlantic counterparts”, Atlantic Future Scientific Paper n° 6, September 29, 2014. <http://www.atlanticfuture.eu/contents/view/the-atlantic-as-a-new-security-area>

<sup>15</sup> Inês de Sousa, “Maritime Territorial Delimitation and Maritime Security in the Atlantic”, Atlantic Future Scientific Paper n° 7, September 29, 2014 [http://www.atlanticfuture.eu/files/325-ATLANTIC%20FUTURE\\_07\\_Maritime%20Security%20in%20the%20Atlantic.pdf](http://www.atlanticfuture.eu/files/325-ATLANTIC%20FUTURE_07_Maritime%20Security%20in%20the%20Atlantic.pdf)

powerful North Atlantic neighbors, to take sides and spend political, diplomatic and some “hard-power” capital to show their readiness to take their share of the burden in the “systemic” confrontation. And they will also be required to contain their domestic and regional security threats in a much more capable and collective manner. No doubt that Africa and Latin America’s room for maneuver is already shrinking due to this new pan-Atlantic security emergency. The Southern Atlantic states are compelled to hasten the establishment of efficient regional security mechanisms and institutions if they want to keep some influence on the management of their own pathological risks. But, like it or not, such path will depend on the will and capabilities of the region’s most powerful players.

The Southern Atlantic most important and powerful protagonist is Brazil. There won’t be efficient and strong security schemes in the region without Brazilian capacities and political will. But Brazil has always been traditionally inward looking and extremely mistrustful of any great power presence in the South Atlantic Basin<sup>16</sup>. The Falklands/Malvinas War, in 1982, was a wake-up call for the Brazilian authorities on Latin American defence vulnerabilities vis-à-vis strong military “Northern” powers. The fact that Washington sided with London, bypassing the “hemispheric” 1947 Rio Treaty commitments – which states that an attack against one member is considered an attack against the others – further increased this climate of distrust. These misgivings materialized four years later with the Brazilian initiative that led to the creation, in 1986, of the ZOPACAS agreement (South Atlantic Peace and Cooperation Zone), signed by all South Atlantic coastal states, establishing a regional nuclear-weapons-free zone with a clear intention of preventing the military presence of outside powers.

However, in the last few years, Brasilia has been redefining its security vision and priorities. For the first time, a “National Strategy of Defence” was published in 2008<sup>17</sup>, and the country’s armed forces have been collaborating with many regional and non-regional players, leading the UN peacekeeping troops in Haiti, participating in a naval coalition with North Atlantic forces to combat piracy in the Gulf of Guinea, or promoting naval exercises with India and South Africa (IBSAMAR) in the framework of the trilateral IBSA Dialogue Forum. It has also developed, quietly, stronger intelligence cooperation with the US and some European powers for monitoring and fighting drugs and arms trafficking, as well as maintaining its presence in UNITAS and PANAMAX maneuvers.

The containment of pathological risks in the South Atlantic space, as well as the need to guarantee regional political and diplomatic cover when handling systemic threats, cannot be assured efficiently without diverse forms of pan-Atlantic security initiatives. The best way to have Brazil on board – as well as other important South Atlantic players – is to build these relationships on the basis of an evolving issue-by-issue cooperation, including the needed contribution of the many regional organizations on both

<sup>16</sup> Alfredo G. A. Valladão, “Brazil – Defence without Threat” – **Multilateral Security Governance**, XI Conference of Forte de Copacabana – International Security: A European-South American Dialogue, Fundação Konrad Adenauer and CEBRI, Rio de Janeiro, 2014, pp. 147-156. [http://www.kas.de/wf/doc/kas\\_39113-1522-5-30.pdf?141010200746](http://www.kas.de/wf/doc/kas_39113-1522-5-30.pdf?141010200746)

<sup>17</sup> Brazilian Ministry of Defence, **2008 National Strategy of Defence**, Brazil: Ministério da Defesa.

sides of the ocean (ECOWAS, SADC, AU, UNASUR, MERCOSUR...)<sup>18</sup>. The answer is clearly not an extension of NATO to the South, nor a “SATO”, but a multilayered ad hoc Atlantic security cooperation network.

## Who will do the “dirty job”?

Whatever its shape, an Atlantic security framework, designed as a mix of collaborative instruments for promoting and defending an open rules-based world, will have to face a very classical and old dilemma. Rules are powerless if they are not implemented. There is no law without police. Hence the crucial contention: who will take responsibility for enforcing international – or global – law? Who will do the police job? At the end of World War II, the “law” became the UN Charter, and the US Federal Administration was its guarantor of last resort against those trying to subvert this ideal of a universal rules-based international life. In spite of the ambiguity and tensions between defence of US national interests and of those of the so-called “international community”.

Today, rules have proliferated, encompassing most aspects of human relations. And after the fall of the Communist bloc, most states and peoples in the planet adhered to the present universal creed. The rules-based organization of our globalized world is extremely more complex than seventy years ago. But, like it or not, the United States – or better, the US Executive power – still remain the ultimate guarantor of the core foundations of this global order – although more and more reluctantly. Presently, America can and will lead unwieldy arrays of allies and clients into taking a stand – including the use of force – when its direct national interests are threatened and when the foundations of the liberal global order are in danger<sup>19</sup>. Actually, for the US Executive apparatus, there are systemic challenges that have to be dealt with whatever the circumstances: threats to the global communication and information network, to space and underwater assets and to maritime sea-lanes and choke points, as well as local conflicts that could threaten directly the functioning of the global economy.

Clearly, that is not enough. True, these broad US concerns are shared by a majority of countries in the world, and most of them are quite happy to let the Americans do the “dirty job” – even if they don’t shout it from the rooftops. Nevertheless, most of today’s threats, even if they don’t have a systemic impact on the global liberal order, can have dangerous strategic consequences for single countries or regions. In general, they are symptoms of the global order ills. And these “pathological risks” for everybody can well become “systemic threats” to single countries or regions. For now and the foreseeable future, the US Executive power will not and cannot take care (or even take the lead) of facing all these categories of danger. The painful experiences in the Middle East are still very much in everybody’s minds. Every time things get really rough, there is a clamor calling for sending Uncle Sam’s cavalry. But today, all the king’s horses and

<sup>18</sup> John Kotsopoulos, *op. cit*

<sup>19</sup> Alfredo Valladão, “Democratic Hegemony and American Hegemony”, *Cambridge Review of International Affairs*, 19 (2), June 2006, pp. 243-60



all the king's men are getting weary of trying to put Humpty Dumpty together again.

Presently, the best allies and clients can hope for is a helping hand in case one of these pathological risks looks like metamorphosing into a “systemic threat”. “Leading from behind” is the conceptual framework championed by the Obama Administration. Which means that those who are already in the front line cannot but try to deal with the problem themselves – at least at first. Hence, each Atlantic Basin significant power or regional organizations (and not only the European Union) is compelled to take a much closer look at its own “hard power” capabilities, and political will, necessary for a legitimate use of force when needed. And to seriously consider the strengthening of its regional security alliances and cooperation, which can supplement each one's lack of means.

Is there any credible path for putting together a new global – and Atlantic – governance security structure that would take responsibility for managing the global liberal order? Which would provide for a predictable and legitimate collective decision-making process more inclusive and efficient than the present international institutions under the UN umbrella? Question marks that lead to a thornier one: what each society and government that needs to defend the global order is ready to put on the table? The saying goes that “those who are not at the table are on the menu...”, but one forgets that those who are seated have also do buy the goods, do the cooking and wash the dishes.

### **Conclusion: “Values” and “Interests”**

Pan-Atlantic security cooperation networks could become key contributors to a more collective global security governance. For the main reason that a broad consensus exists throughout the Atlantic Basin about the sharing of and the willingness to promote “common values”. These “values”, which are enshrined in the United Nations Charter and in the G-20 meetings' final documents, constitute the basic tenets of the global liberal order. Without some form of broad agreement on these political and ethical corner stones there is no possible cooperation in the security and defence fields. Values function as an essential compass for forging a common vision about key world challenges, and for defining and choosing a way forward.

However, the basic truth is that most putative members of a fledging Atlantic community do agree that they agree on “values”, but they also agree that in many instances they disagree on how to implement those values. There are substantial differences and many diverse ways of ranking threatening events and situations. A diversity of perceptions that depend on geographical localization, historical and political cultures, size and available power tools, economic performances... In the realm of defence and security challenges, when violence is involved and one has to decide to use force and act effectively, it is “interests” and power plays that take precedence. Innumerable situations in the world are permanent affronts to our values, but the decision to do something about it is taken only when there is a feeling that an issue represents a direct threat to perceived interests. Nobody risks strong political and diplomatic backlashes or goes to war, putting lives of citizens and kin in danger, purely for “values”.

No doubt, our sharing of fundamental values greatly facilitates the Atlantic dialogue on S&D. But that is clearly not enough for building meaningful Security and Defence cooperation agreements and engagements. An achievable Atlantic common security framework will have to go through many ad hoc bottom-up collaborative initiatives on specific issues where local shared interests are involved. And also many “variable geometry” diplomatic coalitions capable of taking at least a political stand against blatant “systemic threats”<sup>20</sup>. For the time being, this multidimensional conversation should avoid big institutional projects or any ambition of turning up a consensual “grand strategy”. Accepting the fact that the geographic and geopolitical location of each member is paramount.

Most of the Atlantic states – and societies – do agree on the necessity of maintaining an open rules-based international order, but each one has its own priorities and its own understanding of its most important or threatening challenges. The way forward is to transform gradually these parallel visions into compatible perceptions, instead of endlessly repeating that we share values – which we already take for granted, much more than in other parts of the planet. Yes, important regions of the Atlantic Basin are unfortunately doomed to become dangerous menaces to the security of our global world in the next decades. But the Atlantic, North and South, can also become the main laboratory of world security governance, thanks to its unique and old historical experience of promoting international rule of law and building an array of regional cooperation mechanisms and institutions. Provided its regional players – particularly the most powerful – are able to combine respect for diversity and their traditional drive for a world order where peace is based on a willful acceptance of enforceable common rules. Renaissance astrologers were pleased to remind that *Astra inclinant, non determinant*. “Stars influence, they do not constrain”.

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<sup>20</sup> Bruno Lété, “Addressing the Atlantic’s Emerging Security Challenges”, *Atlantic Future Scientific Paper n° 34*, September 10, 2015. [http://www.atlanticfuture.eu/files/1115-WP9\\_GMF\\_Addressing%20the%20Atlantic's%20Emerging%20Security%20Challenges.pdf](http://www.atlanticfuture.eu/files/1115-WP9_GMF_Addressing%20the%20Atlantic's%20Emerging%20Security%20Challenges.pdf)

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**Amna Popovac** is a member of the Board of the Association of Private Electronic Media in BiH (PEM) and one of the founders of the Association of Businesswomen in BiH – ONE. She is also member of Women Waging Peace Network. Popovac’s biography was included in the book “This Was Not Our War,” by Swanee Hunt, the U.S. Ambassador to Austria from 1993 to 1997. She is an enthusiast who knows how to motivate all team members to achieve the best results in project implementation.

## Peacemaking lessons from the Balkans region

Amna Popovac

“If the Balkans hadn’t existed, they would have been invented” was the verdict of Count Hermann Keyserling in his famous 1928 publication, *Europe*.

Terms ‘Balkan’ and ‘Balkanization’ are usually associated with violence and political unrest.

With the fall of Yugoslavia, ‘the Balkans’ came to mean a region fraught with violence, entrenched ethnic and religious divides, and the ‘Balkanization’ of civilization into bitter particles of hatred. Even though it was only the Yugoslavs who were involved in the war, journalists called them Balkan wars and restored the term ‘Balkanization’ to its unfortunate preeminence. ‘Balkanization’ not only had come to denote the parcelization of large and viable political units but also had become a synonym for a reversion to the tribal, the backward, the primitive, the barbarian’.

During the war in ex-Yugoslavia the World witnessed the cruelest war crimes on the European soil since the end of WWII, including massacre in Srebrenica in July 1995. The Srebrenica massacre prompted Europe and the US to act militarily and diplomatically in its aftermath. The war that had been waged for 3.5 years was effectively stopped by the U.S.–led international coalition in only a few weeks following the Srebrenica carnage

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<sup>1</sup> Maria Todorova, *Imagining the Balkans*

In December 1995, the General Framework Agreement for Peace in Bosnia and Herzegovina, also known as the Dayton Agreement, Dayton Accords, Paris Protocol or Dayton-Paris Agreement, was signed in Paris. This Agreement put an end to the three and a half year long Bosnia and Herzegovina (B&H) war.

Since then, Bosnia and Herzegovina became the first host of a comprehensive, international state-building effort designed to transform political, economic, and social interactions and create a functioning state. We are approaching 21<sup>st</sup> anniversary of Dayton Peace Accord, but B&H is not functioning state yet. It is fair to say that the war was stopped, but long lasting peace has not been established.

When the UN and NATO entered B&H in 1995, as part of the peace agreement ending the war, it signaled a new approach to conflict resolution. The multi-organizational operation was the most comprehensive program of post-war rebuilding ever attempted, with NATO's Implementation Force and subsequent Stabilization Force (IFOR, SFOR) addressing the military aspects, the UN Mission in Bosnia (UNMIBH) focusing on the police and judicial systems, and the Office of the High Representative to oversee the civilian implementation of the agreement, representing the countries involved in the Dayton Agreement through the Peace Implementation Council.<sup>2</sup>

These organizations, as representatives of 'international community' in B&H knew something must be done but they had little expertise and understanding of the challenges they were taking on. Moreover, each of the stakeholders involved had its own tasks and agenda and had no or very little coordination with each other.

This resulted in duplication of efforts and competitiveness on the field which was largely misused by local authorities/nationalist politicians to keep the status quo.

By 1997 it was obvious that the Office of the High Representative (OHR) needed more power in order to avoid the delay and the obstruction in the implementation of the Dayton Agreement by local nationalist politicians. Therefore, the Peace Implementation Council agreed to grant the Bonn powers to the OHR on its meeting in Bonn in December 1997.

The Bonn powers permit OHR to adopt binding decisions when local parties seem unable or unwilling to act and remove from office public officials who violate legal commitments or, in general, the Dayton Peace Agreement.

The Bonn powers were extensively used by the OHR till the end of 2006.

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<sup>2</sup> The Peace Implementation Council (PIC) is an international body charged with implementing the Dayton Peace Agreement for Bosnia and Herzegovina. The Council was established at an implementation conference held in London, United Kingdom on December 8 and 9, 1995, subsequent to the completion of the negotiations of the accord the preceding month. The PIC comprises 55 countries and agencies that support the peace process in many different ways – by assisting it financially, providing troops for SFOR, or directly running operations in Bosnia and Herzegovina. There is also a fluctuating number of observers.

After the 2002 elections, the OHR scrutinized all political candidates for major ministerial positions at Entity and State levels.

Until 2004, the OHR had dismissed a total of 139 officials, including judges, ministers, civil servants and members of parliaments, sometimes along with freezing their bank accounts.

During 2006 year, the PIC made conclusion that the Republic of Bosnia and Herzegovina needs to become a 'normal country' where decisions related to functioning of State and its Entities must be done and implemented by local politicians, and decided to keep Bonn powers, but not use them in the future, unless the Dayton Peace Agreement is in jeopardy.

This seemed a logical decision after one decade of intensive usage of the Bonn powers, which should help B&H to evolve into a normal and functioning state.

It was envisaged that local politicians who were elected in rather fair elections should use this as opportunity to show their capacity and keep moving forward to full integration of B&H and toward the EU. But, this is not what happened in reality.

Elected politicians, who were afraid of OHR and its Bonn powers in the past, were not afraid of removal from the office anymore and thus returned wartime inflammatory rhetoric in public discourse. We are now in a position where more than two decades after the signing of the Dayton Peace Agreement, we hear the rattling of weapons in B&H, and Balkans is again making headlines in the world news as the region entrenched with ethnic and religious divides.

## National vs. multi-national state

The notion of a multi-national state, which the Dayton Agreement attempts to restore in Bosnia and Herzegovina, is a very new idea, emblematic of American domination of the international arena and its tendencies of the past generation or so. Until recently, one of the most negative connotations of Balkanism was precisely the ethnic variety of the region, what Joseph Roucek called 'the handicap of heterogeneity'.

Homogenization has been a basic theme of European history, not just in post-French Revolutionary times, but from the crusades, the *reconquista*, the expulsion of Jews from England, and so forth. In the nineteenth and twentieth centuries the turning of peasants into Frenchmen, the unification of Germany and Italy, the Holocaust, the repositioning of Poland, and the recent hostility to immigrants suggest that the drive to create ethnically homogeneous states is not exclusively a Balkan phenomenon<sup>3</sup>.

Therefore, the Dayton Agreement, instead of creating real multi-national and multi-cultural state, divided B&H into two ethnic entities the Republika Srpska (RS) and

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<sup>3</sup> Maria Todorova, *Imagining the Balkans*

the Bosniak-Croat Federation, as a tool to provide ethnic security and encouraging political integration.

The real problem lies in the fact that each entity has its own vision of how the state B&H should look and interprets Dayton Agreement quite differently. The Bosnian Serbs, in particular, retain the hope that the RS could still become part of Serbia rather than part of B&H, while Bosnian Croats crave for their entity within the Federation, which would, eventually become a part of Croatia proper. At the same time Bosniaks claim B&H as their one and only country and are ready to do anything to defend its integrity within Dayton Agreement borders, while in reality they control less than a half of its territory.

Politicians in the RS have been consistently obstructionist of reforms and many seem to hold a belief that Bosnia's shape might still change, particularly if Kosovo finally gets recognized by Serbia which still considers it a part of its sovereign territory <sup>4</sup>. In this scenario the RS would be Serbia's compensation for letting Kosovo go. Some Bosnian Serbs feel unfairly targeted by international actors and thus lean on Serbia for support.

On the other hand, Bosnian Croats are looking for the Republic of Croatia to help them to deal with 'majorization'. Majorization of Croats in Bosnia and Herzegovina or the 'Croatian question' is a term that stems from a relatively low percentage of Bosnian Croats (17 per cent) as opposed to (Bosniaks and Serbs that both make more than 40 percent of the B&H population). Political leaders of Bosnian Croats use the fear of majorization to perpetuate the about the need for their own territorial entity, within the Bosniak-Croat Federation of B&H.

As a reaction to the above actions, Bosniak politicians have recently started to refer to Turkey as a 'friendly state' and have openly pleaded with the Turkish Government for its political support to protect the territorial integrity of the B&H state.

This led us to conclusion that the Dayton Agreement has been effective in stopping the war, but is not so good in creating a sustainable peace. It is true that violence is absent, elected governments have taken hold, and elections are considered free and fair. But, ethnic tensions remain high, local actors remain resistant to consensual modes of governance, and state is considered relatively unstable.

<sup>4</sup> As of 8 July 2016, the Republic of Kosovo has received 113 diplomatic recognitions as an independent state. Notably, 109 out of 193 (56.5%) United Nations (UN) member states, 23 out of 28 (82%) European Union (EU) member states, 24 out of 28 (86%) NATO member states, and 34 out of 57 (60%) Organisation of Islamic Cooperation (OIC) member states have recognised Kosovo. The Government of Serbia does not recognise it as a sovereign state, but has begun to normalise relations with the Government of Kosovo in accordance with the Brussels Agreement.



## What went wrong?

Various researches show that international peace-building is more successful at addressing immediate security needs than at building effective institutions.

Building effective institutions needs lot of coordination that was lacking among agencies deployed in B&H.

The OHR was in charge of the country but was not in charge of the many organizations working in it. Each reported to its own headquarters and maintained its own plan and agenda. While this difficulty has been frequently noted, in the Balkans and elsewhere, it remains one of the central problems of international interventions.

This problem was partially solved in international intervention in Kosovo in 1999, four years after the intervention in B&H, but in general the multiplicity of organizations, remains a central weakness of state-building efforts.

It is important to say that the international community had some success in state-building efforts such as unified currency, the border service, and housing law to address refugee and displaced persons claims. These were the direct results of international efforts.

So, we can say that the civilian reconstruction of B&H can be deemed successful.

But, the most significant efforts at unification have been forced by the OHR and international community. None really have been developed internally and B&H political parties remain defined by primarily nationalist agendas.

The primary goal of an integrated nation has not been met, nor will it be soon.

It is not news that the Balkans have been described as the “other” to the Europe. What has been emphasized about the Balkans is that its inhabitants do not care to conform to the standards of behavior devised as normative by and for the civilized world.<sup>5</sup>

Often the Balkans is described as ‘ugly sister of Europe’ and if we use this analogy Bosnia and Herzegovina can be considered as ‘infant terrible’ of the Balkans.

Europe sometimes has a problem to understand what is going on at the Balkans, and in 2006, it seem to have lost patience in dealing with that ‘infant terrible’.

In April 2006, the attempt by the EU and US to help overcome the political crisis in Bosnia and Herzegovina failed, with key Bosnian political players rejecting US Deputy Secretary of State James Steinberg’s and Spanish Foreign Minister Miguel Ángel Moratinos’ efforts, to convince them to sign up to constitutional reforms and a reform agenda after that year’s general election.

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<sup>5</sup> Maria Todorova, *Imagining the Balkans*

The initiative was designed to put pressure on the political parties to agree to major concessions, but most walked away from the talks and rejected the internationally proposed reforms when they realized that neither sticks nor carrots were on the table.<sup>6</sup>

So, as of 2006 there is common feeling within the B&H society that the international community is just ‘renting peace’ in B&H by pouring money via its institutions: International Monetary Fund (IMF), World Bank (WB) and European Bank for Reconstruction and Development (EBRD) – into the institutions of B&H.

By renting peace, the international community, especially the EU, did not help in building lasting peace, but rather maintaining the status quo i.e. keeping the situation within limits they understand and keeping a proverbial lid on it.

International players seemed to be satisfied with ‘crisis under control’ in B&H while pouring funds into B&H institutions which were mainly used to fill holes in B&H budgets on various levels.<sup>7</sup>

This situation produces the same election results each time the elections are held, i.e. nationalistic parties have been winning elections every time by votes of those working in the Public Administration, paid by IMF, WB, EBRD money.

In 2014 it was crystal clear that B&H political and economical situation is deteriorating, despite regular ‘financial injections’ from international financial organizations. Nationalistic leaders have been getting wealthier every year, while the people of B&H have been poorer. Reforms on any level were blocked for many years.

In February 2014 we witnessed riots, when several government buildings including the building of the Presidency of B&H were partially burned. After couple days of riots, the Citizens plenums<sup>8</sup> were organized in several cities in B&H, where people were gathering, discussing various existential issues and trying to find way out of the political and economic crisis in a way of direct democracy. Citizens plenums were organized by people and for the people to practically exercise democracy.

Citizens plenums sessions were held for a couple of months, politicians were afraid of the power of people for a couple of weeks and international community were watching everything from a side, hoping that time has come for a positive changes in B&H. This is not what happened.

<sup>6</sup> [http://www.epc.eu/documents/uploads/1087\\_constitutional\\_reform\\_in\\_bosnia\\_and\\_herzegovina.pdf](http://www.epc.eu/documents/uploads/1087_constitutional_reform_in_bosnia_and_herzegovina.pdf)

<sup>7</sup> B&H has four levels of governance: State, Entity, Cantonal and Municipal, with Brcko District as multi-ethnic self-governing administrative unit

<sup>8</sup> General assemblies in their various forms are a very old means of direct democratic organization of the oppressed during times of protests, rebellions, strikes and revolutions (like the 1905 and 1917 revolutions in Russia, 1936 in Catalonia or 1956 in Hungary). The earliest versions of some kind of general assemblies were already present in ancient Athens, while many ‘theorists of utopia’ imagine some kind of general assemblies in their blueprints of potential democratic societies in the future. The sudden emergence of the plenums in large parts of Bosnia and Herzegovina has taken everybody by complete surprise.

After couple weeks of disorientation, nationalistic parties managed to ‘put the situation under control’ i.e. using their political and economic pressure on the people coming to the Citizens plenums they managed to avert people attending and eventually Citizens plenums sessions stopped taking place.

This was a signal to the part of the international community that change in B&H society will not come from bottom up (disenfranchised citizens), or top down (i.e. ruling nationalistic parties) before they put additional efforts in order to make B&H a functioning state which may one day become a member of the EU.

By mid 2014, the IMF and other financial institutions stopped pouring money into B&H institutions i.e. lining pockets of nationalistic parties, and Germany and UK launched the plan called ‘Reform agenda’ in November 2014.<sup>9</sup>

The Reform Agenda sets out the main plans for socio-economic and related reforms at all levels of government. It is closely aligned with the aims of the EU’s new approach to economic governance in the Western Balkans and is in conformity with the Economic Reform Program as a fundamental element to encourage comprehensive structural reforms to maintain macroeconomic stability and to boost growth and competitiveness.<sup>10</sup>

The Reform agenda did not remove nationalistic rhetoric from the public discourse, but has shifted focus onto economic development, growth and EU integrations, which is of great importance to the people of B&H.<sup>11</sup>

Adopting the Reform agenda in the Parliament enabled Bosnia and Herzegovina to formally request to join the European Union, submitting its application at an event in Brussels on February 15, 2016.<sup>12</sup>

Many observers estimate that Bosnia and Herzegovina is at the bottom in terms of EU integration among the Western Balkans states seeking EU membership, but it is important to keep it on the EU integrations path in order to continue state-building efforts.

<sup>9</sup> Reform agenda, an initiative of the foreign ministers of Germany and the United Kingdom, Frank-Walter Steinmeier and Philip Hammond, for the acceleration of the Accession of Bosnia and Herzegovina to the European Union was announced at the so-called Aspen Initiative Meeting of Ministers of Foreign Affairs in late 2014.

<sup>10</sup> <http://europa.ba/wp-content/uploads/2015/09/Reform-Agenda-BiH.pdf>

<sup>11</sup> According to the latest researches, 70% of B&H population supports process of EU integrations and looking forward economic growth of the state.

<sup>12</sup> The accession of B&H to the EU is the stated aim of the present relations between the two entities. B&H has been recognised by the EU as a “potential candidate country” for accession since the decision of the European Council in Thessaloniki in 2003. B&H takes part in the Stabilisation and Association Process, and the relative bilateral SAA agreement has been signed in 2008, ratified in 2010, and entered into force in 2015. Meanwhile, the trade bilateral relations are regulated by an Interim Agreement. B&H formally applied for EU membership in February 2016, and it remains a potential candidate country until it gets a response from the Council.

## Democracy alone doesn't bring lasting peace

Bosnia is currently the longest running example of international state-building and yet the results are modest.

Sixty-five percent of citizens believed in late 2005 that the political situation was deteriorating and demonstrated declining approval for the country's executive and legislative bodies. Bosnians are also losing confidence in international institutions.

Public confidence in international actors and the reforms they are implementing is low and has been falling since early 2004. Elites and citizens thus feel betrayed, the elites because each ethnicity interpreted the Dayton agreement differently and none got what they wanted, and the citizens because they see a government still afflicted by institutional dysfunction.

International state-building can create governmental structures but it cannot give them authority. Some of the problems in the economic realm, therefore, stem from the fact that political reforms may seem positive on paper but often provide no capacity for (or perhaps officials have no interest in) effective rule. This may be viewed as the result of a failure of will on the part of nation-builders, or the result of a failure of capacity. Either way, it suggests that external state-building produces deficient governments.

In B&H where ethnicity-based forces have kept power through most post-conflict elections, democracy does not appear to be an effective tool for peace-building. The rule of law is expected to provide the strategic perspective which democracy may fail to create.

The 2015 European Commission Report for Bosnia and Herzegovina indicated that Bosnia and Herzegovina has made a certain level of preparedness for anti-corruption activities and that some progress has been achieved. However, the legal and institutional frameworks are still weak and inadequate, while a missing law implementation has a negative impact to both citizens and institutions.<sup>13</sup>

While talking to 'ordinary Bosnians' you can often hear expression: 'Every State has Mafia, but only in B&H the Mafia has its own State'.

The problem, acutely experienced in Bosnia, is that local judges and prosecutors are often tied to the same interests and groups that prosecuted and do not provide the objective body needed to move society beyond group-based divisions.

But this particular problem is complex because there is no clear right or wrong.

International judges may be more effective over the short-term because they can establish an objective basis for proper law application. But they may not provide the basis

<sup>13</sup> <https://europeanwesternbalkans.com/2016/08/23/bih-council-of-ministers-sanctioning-of-corruption-and-regulations-harmonisation/>

for developing local capabilities, and they may stoke resentments among the local population to perceive the judiciary as ‘run by outside’ actors.

How to get effective rule of law is a problem in every case of reconstruction, and obviously involves the police as well as the judiciary. But how to combine international and local efforts and when to transfer control to entirely local authorities remain difficult questions, and ones that have been answered incorrectly in most countries.

Although some judges may be connected to criminal networks, more likely they are simply guided by nationalist identifications and therefore by the political-criminal nexus of the politicians they are affiliated with. Decisions are based on identity rather than law and provide no basis for a reliable regulatory environment.

Virtually all economic activity is controlled, directly or indirectly, by politicians and their cronies. Honest people are thus discouraged from pursuing legal interactions and encouraged to view the government as illegitimate.

When it comes to economic development, the role of the legal system is important, because of its ability to guarantee legal framework for businesses. If business owners don’t expect to be protected within the legal system, they have no incentive to follow rules themselves. It is smarter to use cheaper and simpler informal means since the risk is no greater. The incentives for doing business legally are thus very low.

The rule of law and equality before the law are pre-requisites to the establishment of a viable democratic state. Without the rule of law, Bosnia & Herzegovina cannot survive as a state, nor become a member of the European Union.

The rule of law requires the application of a modern legal code and criminal procedures that protect the rights of the innocent while facilitating the pursuit of the guilty. It requires qualified judges and prosecutors who are independent and skilled and dedicated police. It requires a well-trained legal profession that maintains high standards of professional conduct and integrity.

All these players must be adequately equipped with laws, regulations and other tools – as well as properly funded – if they are to do their jobs.

Every citizen must have equal access to a fair and unbiased justice system, and one in which the decisions of the courts are recognized and enforced throughout B&H.

Peace will not be secured if extreme nationalists, including indicted war criminals and their helpmates in the ranks of organized crime, retain sufficient influence to destroy it. The embrace of organized crime and political nationalistic extremism keep entrapped the economy and administration in BiH and the relation must be broken through consistent application of the rule of law.

The continuum from investigation to incarceration needs to be credible and visible if

the threats posed by politicized criminal networks are not to undermine BiH's stability and preclude it from becoming a reliable partner in the global fight against both terrorism and organized crime.

Although B&H is the longest-running example of state-building it showed a trend away from rather than toward desired economic reforms.

Most citizens have a relatively pessimistic view of the future of the B&H at present. More than 80,000 persons left B&H during 2013-14 years. Not only young educated people leave B&H but whole families, regardless of nationality.

The most widespread reason for leaving is lack of conditions for decent life, where problem with endemic unemployment is particularly emphasized.

The new EU approach to B&H through the Reform agenda is a latest step the EU took towards making B&H more economically stable and competitive, towards creating new jobs and opportunities for young people and towards addressing some of the unfairness and inequality within society.

When people are employed and properly compensated for their job, then they can focus on an upgrade of their lives and vote democratically, without fear or blackmail of political nationalistic leaders and according to their real wishes and opinions.

In order to eliminate fear factor from elections and thus start seeing progress of state-building efforts, rule of law must be in force.

The EU has excellent chance now, after B&H submitted its EU application.

The next step is to secure the unanimous agreement of all 28 EU member states to forward B&H application to the European Commission for an assessment on whether B&H sufficiently complies with EU standards to become a candidate for membership.

As for B&H application to EU, Chapters 23 and 24 will be extremely important.

It is not strictly about becoming a member of the EU, but about adopting the standards, complying with the values that the civilized world believes in and becoming a respectable country that would provide its citizens with the rights and services they deserved.

Chapter 23 is especially important as, in its true essence, it is about independent judiciary, consistent fight against corruption and high level of human rights' protection.

Chapter 24 covers the fight against all types of organized crime (including drug and arms trafficking, trafficking of human beings etc.) and terrorism, the Schengen rules, border control and visas, as well as migration, asylum, judicial cooperation in criminal and civil matters and police and customs cooperation. As for B&H, fighting organized crime and terrorism are extremely important in this Chapter.

So, if the EU wishes to get fewer headaches because of B&H and more good news from it, it should not give in to pressure and instead persevere in its insistence on reforms from the B&H authorities, using all possible means, including stick and carrot (international funds).

With B&H application now in Brussels, the EU is in a position where it can help B&H citizens and pro-EU forces in Bosnia by sending the questionnaire to Sarajevo as soon as possible. This will kick the ball back in B&H's court. Then success will depend on political will of ruling parties and on the capabilities of Bosnia's administration, and not on the EU – as it should be.<sup>14</sup>

So, we can conclude that infant terrible (B&H) of the ugly sister of Europe (the Balkans) must be placed within EU legal framework as soon as possible if the aim is to secure lasting peace on European continent.


It is worth noticing that B&H citizens integrated very well in societies all over the world, where they end up either as refugees or economic migrants. This proves that where there is a proper legal framework and good governance, B&H citizens are good in following given rules.

That shows that they know how to work and operate within legal framework, when rules and laws are equally applied onto all members of the society equally.

It is important for EU and the rest of the international community to continue commitment and determination to see B&H realize its potential as a stable, modern European state. This objective can be achieved through continuous work on economic reforms, with parallel work on the establishment of the rule of law.

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<sup>14</sup> <http://www.suedosteuropa.uni-graz.at/biepag/node/200>



**Antonio Jorge Ramalho**, PhD, is professor of International Relations at the University of Brasilia and Executive Secretary of the UNASUR's Defense School, based in Quito, Ecuador. He worked at the Ministries of External Relations, Education and Defense, besides the Brazilian Presidency. His research focuses on international security.



## **Restoring Peace to Nations in Conflict: Understanding the Challenges ahead for Colombia and South America**

Antonio Jorge Ramalho

This essay aims at offering elements to encourage discussions among participants in the 2016th edition of the Forte de Copacabana Conference, which will focus on issues of “Might and Right in World Politics”. I conceived it not as an academic article, but as an unambitious attempt to bring to participants’ attention several evolving processes relevant to understand the impact of the current Colombian peace process on South America’s security dynamics. It may also encourage further thought about international cooperation with Europe as well.

The text responds, though not extensively, to some of the questions raised by the organizers in preparation for the Conference; and it offers clues to Brazilian and South American perspectives on the use of force and dialogue in mediating, transforming and solving conflicts. I organized the argument in short sections, searching for brevity, attempting to render it reasonably light – hopefully also enlightening. I will discuss with greater detail the complexities inherent in the peace agreement negotiated in Colombia and its negotiation, focusing on the implications of this for South America and beyond in the final section.

## **Are we finally witnessing an end to the decades old struggle in Colombia?**

Honestly, no one knows. It is an open process. Therefore, it is too soon to assert any categorical conclusion about it. Most of us hope so. To many involved in this armed conflict, it has been a war. And, as Erasmus wrote in his Adagia, “the most disadvantageous peace is better than the most just war”. Far from disadvantageous to any of its brokers, the peace agreement and the ceasefire that followed are certainly a great breakthrough that shall be supported, even more than praised.

Having taken a side in favor of President Santos and the FARC-EP’s remarkable achievement (it is a joint venture, let us not forget it), the best contribution a scholar can offer to that process is to play the role of the Devil’s advocate. I will hence raise several issues that should command the attention of observers and politicians in the years to come.

To start, this is at best the beginning of one long process. It is unclear how events will unfold, as much as the degree of confidence that the Colombian population have, and will maintain, in it. The pace and quality of its implementation will tell. The fact that it will affect the whole Colombian society – and beyond – complicates the process, since most of those who will suffer the consequences, for the better or for the worst, of the agreement did not participate in it.

Yes, it seems obvious, but it is worth stressing that this agreement involves only one key organization, the FARC-EP and the Colombian government. Colombia has at least a dozen similar, though smaller and less organized, entities which have not taken part in the deal. Some important ones, such as the National Liberation Army (ELN), have already openly opposed the Agreement, announcing that they will not change their behavior in the years to come. Others remain silent, which is even more disturbing.

This explains why the government has already announced that it does not intend to demobilize its Armed Forces. This is wise. It is an intelligent move also because it helps maintaining the support of the military to the government. Indeed, they have benefited from generous budgets, particularly during the tenures of Uribe & Santos, and they are highly respected in the Colombian society. I will not go as far as to assert that the security forces in general, and the military in particular, have a vested interest in the conflict; but they will certainly have to adapt to new standards of budget and prestige in the future, assuming that the situation will change for the better, as everyone wants.

Whatever is the case, we are talking about the first step to end the most important armed conflict between the Colombian government and one important organized group. It happens to be one that still has political aspirations, fortunately. It is unclear whether the following steps will allow their leaders to fulfill their expectations, and suffice to end this conflict. Hopefully so.

By contrast, it is certain that the government will have to manage more conflictive relations with several other armed groups whose protagonists may not be interested in becoming regular political organizations. Indeed, in the case of organized groups that use violence as a means to make money out of criminal activities, it is unclear how to set a path for dialogue and negotiation.

## More challenging struggles: Transnational Organized Delinquency

At least though the last 4 decades, the FARC-EP have established ties with drug dealers in order to finance its political project.<sup>1</sup> Because the FARC-EP had a cause & a political purpose, it organized itself to endure long periods of struggle. It thus developed methods to disguise and finance its criminal activities, which now may come to an end. Assuming that the FARC-EP will maintain its compromise, and that it maintains a reasonable grip on its members, it will be one less kid in the block, perhaps the strongest one. But it no longer controls the methods and technologies it has developed to support its underground activities. And it no longer controls some of its “soldiers”, even those who have not left the organization. Other organized groups, which are not interested in politics, appropriated such methods and developed their own. And they are not open to dialogue or negotiation.

Such groups benefit from the limited capacities of governments to control flows of riches that are often used to corrupt civil & military servants who promised to dedicate their lives to combat crime. This problem goes far beyond Colombia. It involves developed & developing countries, legally established actors & criminal organizations. Its connection with drug trafficking received greater attention, but it involves a plethora of transnational illegal activities. Certainly these activities produce spillovers to the legal economy and stimulate, for instance, the acquisition of precursors & other chemicals substances that are legally traded, paying taxes, employing people, laundering profits in markets as diverse as tourism, arts, sports, gambling, and advertising.<sup>2</sup>

South American governments are concerned with it. Because the region is particularly affected by the networks of drug trafficking, in April 2016, UNASUR was the first regional organization to present a common view on what it considers to be “The World

<sup>1</sup> See, for instance, Cook, T. (2011): The Financial Arm Of The FARC: A Threat Finance Perspective, in *Journal of Strategic Security*, 4, no. 1 (2011): 19-36. DOI: <http://dx.doi.org/10.5038/1944-0472.4.1.2>; Youngers, C. A. & Rosin, E. (2005): *Drugs and Democracy in Latin America*, Boulder, Colo.: Lynne Rienner Publishers; Ottis, J. (2010): *Law of the Jungle*, New York: HarperCollins; and Bagley, B. (2012): *Drug Trafficking and Organized Crime in the Americas*, Woodrow Wilson Update on the Americas, August 2012, for competent overviews of the problem.

<sup>2</sup> It is very difficult to estimate those links, as most criminal activities evolve underground and are themselves only superficially known my nation states. Pedroni & Verdugo Yepes (2011) indicate the links between the production of cocaine in Peru and the country’s legal economy. See Pedroni, P. & Verdugo Yepes, C. (2011): *The Relationship Between Illicit Coca Production and Formal Economic Activity in Peru*. IMF WP/11/182, 2011. See also Steiner, R. (1998). *Colombia’s Income from the Drug Trade*, In *World Development*, Vol. 26, No. 6: 1013-1031, Calderón, F. (2015) *Drug Trafficking and Organized Crime: Connected but Different*, in *Harvard International Review*, 36 (4), Summer 2015, available at <http://hir.harvard.edu/drug-trafficking-and-organized-crime-connected-but-different-2/> (Access: September 2nd, 2016; Ending the Drug Wars Report of the LSE Expert Group on the Economics of Drug Policy, May 2014, available at <http://www.lse.ac.uk/IDEAS/publications/reports/pdf/LSE-IDEAS-DRUGS-REPORT-FINAL-WEB.pdf> (Access: August 25th, 2016).

Drug Problem”. It is such an important issue in this region that the Union created a Council to coordinate public policies in combatting the crimes associated to drug trafficking. The document is worth reading<sup>3</sup>. Based on the Principle of Common and Shared Responsibility, it reminds the UN General Assembly that the global community shall assess this problem through an “open, frank, and realistic debate”, to set a “comprehensive, balanced, multidisciplinary and sustainable approach”<sup>4</sup>, if the intention to solve it is serious.

This is not a challenge that one government, even with the generous support of those who are immediately affected by it, can tackle successfully. Over 4 decades of a failed “war on drugs” have already convinced some people in Washington and beyond that it is time to adopt a different approach. UNASUR thus encourages a “comprehensive, balanced, multidisciplinary and sustainable”, one that combines simultaneous efforts to reduce the demand & the supply of drugs and proposes a “comprehensive and sustainable alternative development including prevention, judicial cooperation and international cooperation”, while creating “effective tools” to reduce “the probability of financial reward from those crimes”, particularly in regard to “the existence of tax havens or jurisdictions with financial or corporate opacity that could be used for laundering money from the illegal drug trade and related crimes.”<sup>5</sup>

It is unclear whether UNASUR’s suggestion will be adopted, notwithstanding its soundness. Major powers have other priorities and need no further divisive subject on their political agendas.

As for Colombia, it has already renegotiated the terms of its bilateral cooperation with the US, to assure further financing and expertise to face the consequences of the peace. The Colombian government also acknowledges the fact that the peace process disturbs a longstanding equilibrium. The rearrangement of socioeconomic and political forces may certainly spillover to neighboring countries, which now receive greater attention from the Colombian diplomacy. Illegal migration and transnational crime may increase significantly in the subcontinent.

The good news is that the Colombian government will be able to dedicate its energy & resources to those challenges, hopefully helped by its former antagonists, who understand better than most public servants the methods employed in the underworld of international crime. International cooperation will be necessary to maintain domestic order, even more than it was to help combat the FARC-EP.

But this is another issue, one that commands everyone’s concerns in the years to come. Let us get back to the struggle in focus.

<sup>3</sup> It is available at [https://www.unodc.org/documents/ungass2016//Contributions/IGO/UNASUR/UNASUR\\_common\\_position\\_on\\_UNGASS\\_english.pdf](https://www.unodc.org/documents/ungass2016//Contributions/IGO/UNASUR/UNASUR_common_position_on_UNGASS_english.pdf) (Access: September 1st, 2016).

<sup>4</sup> Paragraphs 3 & 9.

<sup>5</sup> Op Cit, par. 12 & 21.

## Crossing an unknown river

The old metaphor of crossing a river is appropriate here. Colombians know the miseries they have endured in the last 52 years at this side of the river; that's why most of them are eager to cross it. They are also tired of living in a divided country, or, as the saying goes, in two countries. And they are exhausted with the costs of a conflict that each day consumes an amount of money that would be sufficient to feed 3,000,000 families per day.<sup>6</sup>

But few people in Colombia discuss, in their full complexity, the challenges they may face at the other margin of the river. And the reader shall remember that this is an Amazonian river, full of curves, mysteries, and dangers. Only locals, or those who have spent there a long time, know that in the Amazon even the rivers change their course and evolve, more often than not, in unpredictable ways.

Hence, it is understandable that more than a few people do not want to embark in what appears to be an adventure. Colombian society is divided regarding the Peace Agreement. More importantly, its elites are divided in relation to it. In itself, this puts in risk the implementation of the Agreement, if not its approval. As I write this essay, recent polls indicate that most people, roughly 2 out of 3 Colombians, intend to vote in favor of it. But one month is an eternity in politics.

Reaching the deal required sense of direction, leadership, and perseverance. If ratified by the plebiscite, Colombia would have crossed that river, engendering another process, far more complex and delicate. Curiously, the government and the FARC-EP have discussed the specifics of their relation. Attentive readers can anticipate the political agenda in the first few years, an agenda that galvanizes actions for and against the proposed measures. As economic growth decreases<sup>7</sup> and social needs demand further expenditures, fiscal equilibrium will sooner or later face greater risk. However, no one is talking about the long term.

The difficult years at the horizon will require greater social cohesiveness, which can only be achieved through a common purpose. The search for an end to this struggle played that role in the last couple of decades or so. Now there is a void in the agenda. And it is unclear whether the current leaders will be able to fill it, since they are looking at and discussing the peace process.

<sup>6</sup> The full cost of the war is estimated to have imposed on the Colombian public Budget a burden of \$411 Billion in current pesos, roughly US\$ 140 billion. In his first mandate, President Santos has increased public expenses in US\$ 14 billion, when compared with Uribe's Second term. This mere increment in the budget, perceived as necessary to strengthen his position in negotiations could have been employed in the construction of 400,000 houses for poor families in Colombia. See Gonzalez Posso, C. *Las Cifras de la Guerra y de la Transición*. Available at <http://www.acpaz.org/las-cifras-de-la-guerra-y-de-la-transicion/> (Access: September 14, 2016).

<sup>7</sup> In August 31st the Central Bank just readjusted its expectations downward, to something between 1.5% and 2.3% of the GDP in 2016.

## **A gifted politician with a clever strategy at the right place & moment: But is this enough?**

President Santos will probably succeed in approving his proposal in the plebiscite on October 2nd. This will help approve the deal in Congress, where he has already built sufficient support what is presented to the population as “the best possible deal”.

In fact, Santos managed to design both the plebiscite and the voting procedures in Parliament in a way that favors its approval. And he gathered most opinion-makers, including the most influential part of the media, in a coalition to support the deal. Finally, he intelligently uses his position to sell the Agreement as an unique opportunity to end a conflict that killed as much as 220,000 people, displaced over 5,7 million people (almost 1/8th of the country’s population of roughly 48 million people), provoked more than 30,000 kidnapping and over 13,000 documented victims of sexual violations, plus countless violations of human rights.

The whole process shows how gifted a politician Santos is. Technically prepared, with a comprehensive understanding of the Colombian political system and its main actors, Santos has always shown a superior analytical mind and the political courage to make & carry on difficult decisions. It is thus understandable that he wants to make history.

His opponents suggest that he is in fact targeting the Nobel Peace Prize, with little concern with how things will settle once the Agreement is approved, as he would only be in charge only for a couple of additional years. Unfair as this may be with the President, the assessment stresses the nature of this moment: All attention focuses on the deal; no one is concerned with its political sustainability in the long run.

This is understandable. It is unusual to observe history in its making, being aware of it. Santos understands it and measures his words and deeds accordingly. But depending on what will come next, the deal and its initial implementation, even if successful, may not be sufficient to establish a pattern of long term growth & stability in a country that for so long cultivated habits of violence and mistrust.

Son of a former President, trained in excellent schools, able in manipulating the media<sup>8</sup>, Santos considers himself to be intellectually and emotionally prepared to break it through. Having founded one of the main political parties that supported Uribe’s government in Parliament, and having served in the cabinets of Gaviria, Pastrana, and Uribe, he entered the Presidency with an uncommon ease for new incumbents. He came with a strategy, with a duty in mind: “to try to match purposeful military effort and its consequences with the country’s political interests expressed as policy”, as Gray proposes<sup>9</sup>.

<sup>8</sup> Santos acquired experience as the editor of *El Tiempo*, one of the most traditional media groups in Colombia – which was founded by his family.

<sup>9</sup> Gray, C. *Schools for Strategy: Teaching Strategy for 21<sup>st</sup> Century Conflict*. SSI-US Army College, Pennsylvania, 2009: vii.

The policy was clear, at least in the mid-term: To end the conflict with the FARC-EP. The military effort joined intelligence to spot the leaders of the FARC and to impose the military defeats that weakened the morale and the sense of purpose of the “enemy”. International cooperation came from the US<sup>10</sup> and Israel, mainly, but the whole region supported this effort diplomatically, even when Colombia violated Ecuador’s sovereign space in March 2008 to kill a senior FARC leader and his closest associates. Santos was serving as defence ministry and knew that Marulanda, the charismatic founder of the FARC, was sick, having died from a heart attack in the same month.

Acephalous, cornered and debilitated by the military offensive undertaken under Uribe’s presidency, and partially demoralized by its links to drug dealers & violations of human rights perpetrated by its members, the FARC-EP eventually would have to negotiate its survival as a political entity.

In this context, Santos sized the moment to advance the deal.

### **Settling an old divide in a new political context?**

Santos also understood that the whole process was essentially political. (So did Uribe, who immediately opposed the deal.) The combination of force and dialogue then started to shift in favor of the latter. Initial arrangements for the conversations considered the original political purposes of the movement. The main point in the agenda had never been seriously addressed by the Colombian Government: Land reform, with financial & technical support from the central government to render small farmers viable.<sup>11</sup> Now it has. Will it work?

As the informed reader knows, both the FARC-EP and the ELN (National Liberation Army) emerged in 1964 as organizations that engaged in an internal armed conflict with the Colombian government precisely because it failed to address the socioeconomic demands associated to land tenure and social inclusion. Those organizations in fact evolved from a reaction to the Army’s aggressive persecution of political leaders who raised these issues in the late 1940s, ensuing a period that Historians labeled as “The Violence” (La Violencia), which in less than 2 decades left almost as much lethal victims (200,000) as the current 52 years struggle that may now come to an end.<sup>12</sup>

<sup>10</sup> Over 9.3 US\$ Billion since 1996. See Isacson, A. Ending 50 Years of Conflict: The Challenges Ahead and the U.S. Role in Colombia. WOLA; April 2014, Available at [http://colombiapeace.org/files/1404\\_colpeace.pdf](http://colombiapeace.org/files/1404_colpeace.pdf) (Access: August 02, 2016).

<sup>11</sup> The first agrarian census to cover the entire Colombian territory was completed late last year. It found out that 0.4% of the population holds over 46% of the country’s lands while 70% of farmers own 5% of farms with more than 5 hectares. Over 83% of farmers have no access to machinery and 90% receives neither technical assistance nor financial support. Roughly 2/3 of young people (17-24 years old) in rural areas receive no education. See Albertus, M & Kaplan, O The Key to Peace in Colombia is in the Countryside. Forbes, Oct 29, 2015. Available at <http://www.forbes.com/sites/realspin/2015/10/29/the-key-to-peace-in-colombia-is-in-its-countryside/#4055fae25e26> and Colombia: Agricultural census evidences unjust distribution of land, available at <http://lainfo.es/en/2015/08/16/colombia-agricultural-census-evidence-unjust-distribution-of-land/> (Access: September 02, 2016).

<sup>12</sup> The whole process goes back to the 1928 banana massacre, an episode in which the Colombian government, violently repressed workers at the United Fruit Company who asked it to formalize their labor relations with the company. This also marked the involvement of the US, backing its commercial interests, in political processes in Colombia and launched a campaign for modernizing labor relations in the country. The assassination of Jorge Eliécer Gaitán, one of the leaders of this campaign, in 1948, followed by the “Bogotazo”, is commonly considered the beginning of the process that ignited

In the context of the Cold War, governments in this part of the world had little margin for maneuver in their infrequent attempts to establish redistributive public policies in general. Any proposal of increasing labor rights or supporting small farmers would immediately receive the label of communist, attracting huge opposition from domestic & international political actors.

Currently this kind of policy faces no serious prejudices, as it did in the 1960s, a period shadowed by the “communist threat”. It is thus palatable for any government, particularly in a context of high demand for sustainable agriculture, food production, and social inclusion. Framed as a price to pay for the peace agreement, land distribution may finally take place in Colombia, bridging the gap that still separate the two countries. But this does not mean that landowners will accept a land reform in exchange for the peace agreement.

Whatever is the case, the issue is back on the agenda – to some actors. To others, it has never left the political agenda. It remains divisive, though perhaps not as much as it was several decades ago. And it still requires a sensible approach, perhaps enlightened by the commitments undertaken by the Colombian government in the context of the Sustainable Development Goals. This would be consistent with the overall decision to align the commitments set by the Peace Agreement with international law and would certainly help organizing the country’s political agenda in the long term.

This is one possibility of reframing an old divisive issue in terms that may help its solution in contemporary Colombian politics. Others may emerge. What shall not be ignored is the necessity to tackle it with public policies that simultaneously address the immediate needs of those who the peace process intend to demobilize & (re)integrate in the civilian life and the long term equilibrium that may create a healthy agricultural sector. After all, this sector may not only be sustainable in socioeconomic & environmental terms; it must also compete with the production of drugs for the international market.

### **Disarming, demobilizing, and (re)integrating former combatants in Colombia**

The mere announcement of these challenges point to their complexity. Disarming will certainly be the easiest part, at least in regard to those over whom the FARC-EP leaders have ascendancy. The scheme that has been conceived to make it happen is sound, the schedule is reasonable, the UN will supervise improving the level of transparency and effectiveness in the procedures. This is already a huge achievement. Total confidence in the abandonment of the arms by the rebels will only come with the passing time, but this is inherent in such processes. It is worth betting in the success of the planned arrangement.

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“La Violencia”, leading to the civil war that engulfed the country ever since. A concise summary of these events appears in Gillin, J. Understanding Colombia’s Armed Conflict: International Actors. In Peace Talks, January 15, 2015, available at <http://colombiareports.com/causes-colombia-conflict-international-actors/> (Access: September 07, 2016)



In fact, disarming is the least important part of the deal for irregular combatants. They know that this process may serve the most to build confidence, since it can be verified objectively. They also know that, with the abundance of arms sold in the black market, they can easily rearm if they ever decide to resume conflict.

A more complex challenge pertains demobilizing and (re)integrating former combatants. The parenthesis is important in the sentence above, for some of those combatants have never been integrated in civilian activities. Their whole life experience evolved within the struggle, fighting for their lives. This is all they know. Some of them feel too old to learn other ways of living. And those skills may be useful in many parts of the world, in case they do not find a smooth adaptation to new lives in their own country. In itself, this phenomenon will be a huge challenge at the other margin of this Amazonian river.

Judged by its letter, the intentions expressed in the Peace Agreement regarding demobilization and (re)integration do not guarantee that former combatants will easily adapt to the routine of small farmers. Old habits die hard, and sensible studies of similar cases in Africa show that those who dedicated their lives to the professions of arms tend to become addicted to immediate achievements, as much as to the adrenaline inherent in combats. In contrast, small farmers need more patience to crop their production and sell it, living far less adventurous lives. Hopefully those who decided to settle and hand over their arms intend to rest and to help build a new country.

Otherwise, this may open a Pandora box of transnational organized delinquency, for they have connections and knowledge to operate illegal arrangements that are difficult to follow, let alone to control.

Experts in the Colombian conflict have spotted this risk. Isacson, for instance, stresses the challenge of demobilization, asserting that:

*“The most problematic former guerrillas will be those who have had some middle-ranking position of authority, or involvement in fundraising, especially in areas where the FARC controls illegal income sources like drugs, unlicensed mining, or extortion. These individuals would be demobilizing with a large head start in the criminal underworld, controlling key trafficking corridors and enjoying extensive criminal connections. They pose the highest risk of returning to their zones of operations, rearming, and generating new violence as the heads of emerging criminal groups.”*<sup>13</sup>

In fact, the raise in the number of criminal organizations (Bandas Criminales, also known as BACRIMs) indicate that many have already taken this decision.

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<sup>13</sup> See Isacson (2014), op cit: 15.

## **A new struggle against drug trafficking and other criminal activities**

The successful implementation of the Peace Agreement will probably help sacking the FARC-EP from the drug business. However, this may have come too late. Indeed, the very success of the anti-drug policy conducted by the Colombian government under the auspices of the Plan Colombia helped create a situation that may be more difficult to manage. Having taken the heads of the former cartels, ruthless people such as Pablo Escobar, the Government of Colombia changed the whole game, unintentionally favoring its opponents.

Without their capos, soon the acolytes of the former leaders understood the utility of organizing themselves in dispersed cells, much like the contemporary terrorist organizations, only with different purposes. They employ methods that are similar to those of the terrorist networks and also benefit from the limited capacity of states to impose order, but they do not request strict loyalty or suicidal discipline from their followers. They are not involved in a messianic endeavor, but running a business. As long as their profits do not suffer significantly, they are open to share part of the total income with an extended network, developing alternative routes to traffic not only drugs and arms, but also counterfeited products, gems, minerals, biodiversity, organs, and persons.

These are neither issue-oriented nor locally organized criminal gangs. They are cells in a network of transnational organized crime, which can only be effectively combatted through a concerted effort of governments from all over the world. However difficult, this has to be part of the post-conflict long term stabilization efforts to be hold by the Colombian government, which will need enhanced international support to carry it on.

This will remain as a complex challenge, perhaps one of the most complex ones, future Governments will have to address – challenge that it will have to tackle while implementing the Peace Agreement.

### **Setting the path to the agreement...**

The Colombian Government and the FARC-EP took 4 years to negotiate a detailed agreement that points to every key issue in their relation. They both showed political courage to make important concessions and needed international support to break the deal, as much as they will need to assure its implementation. At the end of the day, they found a political solution for the conflict, which inspires hope and deserves support.

But precisely because the deal results from a political compromise between those important actors in Colombian politics, it induces those who are not part of the deal to oppose it. The louder opposition comes from former President Uribe, but former presidential candidate Óscar Iván Zuluaga also presents a vocal opposition to it.

Having decided to settle the political conflict, it became a matter of discussing the terms under which former FARC-EP leaders would engage in the regular, institutionalized,

country, as well as of the other dimensions that structured the deal: establishing a ceasefire; reincorporating combatants into the civilian life; supporting the victims; joining efforts to face the problem of drugs; and establishing the mechanisms to implement and verify the Agreement.<sup>14</sup>

Wisely enough, the government accepted to assure that the FARC-EP<sup>15</sup> will hold 5 seats in each of the Parliament Houses, out of 266 in total, for two constitutional mandates starting in July 20, 2018, without vote.<sup>16</sup> They will also participate in the electoral Council, without vote. Santos bets in the incapacity of the FARC-EP to reinvent itself, particularly in a moment when South America observes the discredit of left-wing governments and the dramatic situation created in Venezuela as a result of the intent to impose the 21<sup>st</sup> Century Socialism.

This is what most people see from abroad and one shall expect that opposition will remain, perhaps increase, depending on how successful will be the reintegration of former combatants to the civilian life.

## And some challenges in implementing it

Helping former combatants to adapt to some kind of a civilian life is a great challenge. The fact that the commission does not point to reconciliation and proposes unclear methods to evaluate each case on an ad hoc basis raises concerns.

On the one hand, resentments among families whose members disappeared (we are talking about more than 30,000 kidnappings) are high, proportional to their expectation that some kind of Justice will materialize. On the other hand, it is clearly impossible to bring each of the over 17,000 current FARC-EP combatants to Court, while their leaders have negotiated their special treatment in the context of the political deal that brought about the Peace Agreement.<sup>17</sup> Only the future will tell whether the Colombian society will be satisfied with the level of transparency and fairness it will manage to achieve through this process.

Few countries, like South Africa, have got it right, and they focused simultaneously on Justice and reconciliation. (Brazil hasn't and to this day deals uneasily with its past). It was a different context, though, in which charisma and religion played a more important role in a country that was preparing to face a whole new world. It was a time

<sup>14</sup> <http://www.acuerdodepaz.gov.co/acuerdos/acuerdo-final> (Access: August 27, 2016).

<sup>15</sup> Sooner or later, it shall find a new label, as "People's Army" no longer fits in a political movement or party.

<sup>16</sup> A local media news offer an interesting Comparison with other countries that negotiated peace agreements: In Angola, former rebels kept 70 out of 220 places plus 5 positions in the cabinet, among others; in Nepal, 83 out of 330, plus several cabinet positions; in Sudan, 126 out of 450, plus the Vice-Presidency and 8 cabinet positions. See <http://www.semana.com/confidenciales/articulo/el-acuerdo-de-paz-en-la-habana-garantiza-cinco-senadores-y-cinco-representantes-para-las-farc/492428> (Access: September 07, 2016).

<sup>17</sup> As always, the Devil lies in the specifics. It is improbable that even FARC-EP leaders know who did what and whether perpetrators of human rights violations are still in their forces. Moreover, the level of loyalty between leaders and followers is also unknown. To break the deal, FARC-EP leaders may well have exaggerated the control they affirm to have over the organization.

of high expectations with the end of the Cold War and enhanced confidence in global multilateral institutions.

Partially as a result of this confidence – and of the failure of the international community to deal with humanitarian disasters such as Srebrenica, Kosovo, and Cartoum, institutions such as the ICC evolved. Gradually, peacekeeping operations created an apparatus to support transitional justice and developed a deeper understanding about it, establishing clear procedures to be followed in cases like this. This is positive insofar as it imposes international standards to complex processes. But it also makes things more difficult for key actors to negotiate, precisely because they have less room for maneuver, as those standards constrain the possible outcomes.

In the case of Colombia, the peace agreement does consider international humanitarian law and abides by international standards, but this rendered the process bureaucratic. Because it lacks the positive inputs that both charismatic politicians and religious leaders may provide<sup>18</sup>, it is more difficult to sell it to the population, and the judicial & administrative processes appear to matter more than the persons who are involved in these processes.

In this context, opposition has mounted, particularly in small towns. Local, less known leaders, oppose the deal in their own way, and have already engaged in violence. Between August 26 and September 12th, 13 political leaders and human rights activists who supported the peace agreement were assassinated, almost one per day.<sup>19</sup> As it becomes clear that a new equilibrium is in its way, many of them will try to reposition themselves in this process, which may revive political violence at the local level.

Add to this the immediate material needs of the local population, which will be harder to meet timely due to the bureaucratic nature of the measures previewed in the agreement, as well as the gap between expectations and possibilities inherent in these processes, and tensions will tend to increase.

## Summing up

A more appropriate answer to the question raised in the beginning of this text is thus that we now witness the initial steps of a process that may hopefully lead the end of one decades old conflict in Colombia. This negotiation in part results from an intelligent combination of might and right in internal politics, conducted with perseverance by a gifted politician that happens to be at the right place, at the right time. Santos would not be able to engage in this negotiation had the FARC not been weakened militarily through the last couple of decades, mainly during Uribe's administration, which he supported and served as a defence minister.

<sup>18</sup> A combination of statesmen like Mandela and prayers like Tutu at the right place, at the right time occurs once in a generation, if not in a century.

<sup>19</sup> See *A Semana*: Los 13 líderes asesinados después la firma del acuerdo de paz. Available at [http://www.semana.com/nacion/articulo/los-13-lideres-asesinados-despues-de-la-firma-del-acuerdo-de-paz/493528#cxrecs\\_s](http://www.semana.com/nacion/articulo/los-13-lideres-asesinados-despues-de-la-firma-del-acuerdo-de-paz/493528#cxrecs_s)

The political nature of the conflict, or at least what remained from that in the behavior & interests of the FARC-EP leaders, along with their own relative weaknesses, made easier for Santos to identify a common ground, negotiating a deal that shall be approved and may redefine the political landscape in Colombia in the near future. Notwithstanding the difficulties to reach such an agreement, future challenges will be even more complex and difficult. While recognizing the importance of the deal, there is neither room nor time to celebrate.

The Agreement solves one important problem, but reminds us of the difficulty to employ the same model to dozens of others, whose protagonists are not interested in political acknowledgement or in transforming the Colombian society. It reinstates an old divisive issue, perhaps the most conflictive one, in Colombian politics: Land reform and the sustainability of small farms. It disturbs an equilibrium that offered prestige and generous budgets to the security forces, particularly the military, and somehow involved economic sectors that benefited from the spillovers of the underworld activities carried on by the FARC-EP. Obviously the peace deal does nothing to solve this problem, which is of a different nature, but it sheds light on it and, somehow, transforms it.

Indeed, the fact that the country was immersed in an internal armed conflict imposed one key agenda to political leaders and to the society as a whole. Once it fades away, attention will turn to longstanding unsolved problems in the Colombian society, such as the Land issue and the incapacity to control rural violence, huge socioeconomic inequalities and the resentments they unleash; and the high degree of autonomy enjoyed by criminal organizations to operate not only drug-related activities. On top of that, Colombians will now face the extraordinary challenge of (re)integrating former combatants in activities that requires scarce skills among people who always lived immersed in conflicts: patience and perseverance to achieve goals through regular jobs, rather than force; disciplined adaptation to repetitive routines, social connections and tolerance towards organized groups that share different worldviews.

And this will happen in a context of reduced economic growth, dropping commodities prices, and mounting demands from those who were told that the post-conflict situation would be happier. The government will also have to deal with longstanding frustrations that were kept at bay by the situation of conflict inherent in the confrontation with the FARC-EP. If it does not understand the necessity to create a positive political agenda in the long run, it will fall in the short-term trap of implementing the agreement, allowing tensions to mount up to an untenable point. Yet, no politician in the current debate has shown serious concern with building a convergent long-term agenda that directly responds to peoples' basic anxieties.

Neither has anyone showed a consistent strategy to deal with the important international repercussions of the Peace Agreement, to what we turn now, very briefly.

## Implications from the Colombian case for the region in terms of conflict mediation and mitigation

If successful, the implementation of the Colombian peace process will offer South America a great opportunity to consolidate its political identity in a turbulent world. This region has always been relatively marginal in global geopolitical and geo-economic processes. Since its ‘discovery’ by Europe, i.e., since its aggregation in a dependent pattern to the world economy, great powers perceived it either as an object that had to be dealt with or a rich and large piece of land that could be invaded, conquered, divided, exploited, or merely incorporated into their global strategies. This partially explains why it has become a land of opportunities for adventures or economic migrants from all over the world, a refuge for immigrants escaping from religious and national wars in Europe and in the Middle East, and a destination to slaves captured in other regions equally marginal in the modern era, mainly Africa.

It also explains its peripheral participation in World Wars I & II, notwithstanding its material contributions to – and Brazil’s active participation in – the Allies’ efforts to “make the world safe for democracies”.<sup>20</sup> After the war it has become clear that combatting communism was far more important than helping establish democratic governments in this part of the world.

For several reasons, Portugal and Spain adopted different strategies in dealing with their colonies, but the countries that emerged from the independence wars in the early 19th century shared common features, such as the establishment of creole elites that had a stake in maintaining the dependent incorporation of their economies in global capitalism, an special attachment to international law as a means to define their frontiers<sup>21</sup>, ethnically mixed societies, and the perception that regional wars would serve only further divisions, putting in risk the mere existence of the recently independent national states, their local elites and their economic interests.

As a result, they tacitly agreed in avoiding regional wars, developing a culture of dialogue and negotiation to deal with states’ divergent interests, while actively engaging in strengthening norms and institutions at the international realm, as this was perceived as a shield against power politics dynamics, clearly unsuitable for countries that have poor military capabilities. Already in the mid-18th Century, those elites managed to convince Portugal and Spain, under the Treaty of Madrid, to avoid taking to South America the wars they might undertake in continental Europe. Contrasted with other continents, South America has observed a small number of frontier wars, most of which have ended through diplomatic means.

Through history, these countries have also shown particular attachments both to excessive bureaucratic controls and to social contracts that simultaneously kept their

<sup>20</sup> The occupation of the Galápagos Islands during the conflict, as well as the plans to establish a base in Natal and Fernando de Noronha (in the Brazilian North-east) had the country not entered the conflict voluntarily illustrate this perception.

<sup>21</sup> This explains not only the Brazilian early involvement in arbitrations – even those that involved major powers –, but also the profusion of regional international cooperation initiatives and creative proposals, such as the Drago Doctrine.

economies closed, concentrated wealth, and produced highly unequal and violent societies. Their sophisticated political elites benefit from this pattern and managed to keep the region marginal in international geopolitics, avoiding wars between them, which created room for them to focus on unifying their nation states and benefiting from their trade relations with major powers.<sup>22</sup> The idea of integrating the region is relatively new in their foreign policy deeds, despite its obvious advantages and its presence in diplomatic discourses.<sup>23</sup>

Isolated from one another by the socioeconomic and political patterns of relation with the rest of the world, as much as by the physical obstacles imposed by the Andean mountains and by the Amazon, only recently have South American countries started to think about the subcontinent as a political entity. The very idea of a geographical identity has come to light in the late 19th century, by the way. Seen from Mexico or from the US, the Southern Cone was perceived as a region whose political dynamics were completely different from those in the Andes.

Ideas of a common Latin-American shared identity, as much as of an Ibero-American common heritage made more difficult for South American countries to start discussing their common identities and their shared views of the future. Only in 2000 have the 12 heads of state met alone for the first time in history, in Brasilia, to set an obvious common objective: develop the infrastructure necessary to integrate their economies and societies. UNASUR results from this process, with its ambiguous promise to promote the union of the nations and peoples of the continent through arrangements that are set to manage the coordination of sectorial public policies as ordered by states. In the field of security, however, the region has already advanced in the process of creating a common identity.<sup>24</sup>

By then, illegal activities had already integrated those markets, effectively operating underworld businesses in the shadows of, but somehow connected with, the legal economies of these countries. The high levels of violence in these countries indicate that governments do not have the capacity to monitor, let alone to control, the activities of these groups.<sup>25</sup> The region has always witnessed illegal networks trafficking minerals, gems, biodiversity (the history of how Malaysia started to produce gum is perhaps the best known example of that) and other riches at the sidelines of the established authorities.

<sup>22</sup> Now they work in purposefully building confidence measures that help strengthen the already positive regional dynamics in the field of security and defence. A thoughtful approach to this process appears in SAINT-PIERRE, Héctor Luis; PALACIOS JUNIOR; Alberto Montoya Correa. *As medidas de confiança no Conselho de Defesa Sul-americano (CDS): análise dos gastos em Defesa (2009–2012)*. RBPI 57 (1), 2014.

<sup>23</sup> See, for instance, Simões, A.J.F. *Integración: Sueño y Realidad en Sudamérica*. Brasília: Fundação Alexandre Gusmão, 2011.

<sup>24</sup> See, for instance, Namihas (Org). *El proceso de construcción de una Comunidad en Seguridad entre Bolivia, Brasil, Chile, Colombia, Ecuador y Perú*. Lima, Red de Política de Seguridad, IDEI-PUC/Peru & SAS, 2016.

<sup>25</sup> PNUD (2013) registra los altos niveles de violencia ciudadana en América Latina y la baja credibilidad de los agentes públicos, con estadísticas que subrayan crecientes inversiones privadas en ese campo. La Oficina de Referencia sobre Población (2015) apunta los siguientes niveles de homicidios por 100.000 habitantes en los países de UNASUR: Argentina 9; Bolivia: 5; Brasil: 26; Chile: 3; Colombia: 25; Ecuador: 6; Paraguay: 8; Perú: 7; Uruguay: 8; y Venezuela: 90. No hay estadísticas para Guyana y Surinam. Como parámetro de comparación, el promedio en Europa y en Asia son, respectivamente, del 2,1 y del 3,8 por 100.000 habitantes, de acuerdo a las estadísticas de la Oficina de Naciones Unidas para las Drogas y el Crimen. See UNODC. *Homicide Statistics 2013*. Available at <https://www.unodc.org/gsh/en/data.html> (Access: April 12th, 2016).

In the last 4 -5 decades, as the demand for drugs increased in the US and in Europe, the production of marijuana and cocaine took hold in countries like Bolivia, Brazil, Colombia, Peru, and Venezuela. As it often happens with those networks, they function in both ways. Bringing arms from industrialized countries soon became an interesting way to acquire drugs and to make more money, closing the circle. The spread of safe havens in the international financial system, including in the Caribbean (but also in Europe), helped laundering the money obtained in these activities, which also fostered corruption in the region, creating a vicious cycle that goes far beyond these activities.

The Colombian conflict lasted so long in part because of this context. Whenever repression became more effective there, the production of cocaine increased in Peru and Bolivia – and vice-versa. As we have discussed, it is impossible to understand the emergence of the FARC-EP and the ELN without considering both the unsatisfied social demands in the Colombian society and the Cold War setting in which they developed their political ideology. At that time, similar demands took place in countries like Bolivia, Brazil, Chile, Peru, and Uruguay, which were repressed with coups. In some of these countries, governments have been more effective in combatting the organized groups; In others the jungle did not offer the same competitive advantage both as a hiding place and as a source of income obtained through the association with drug dealers.

Whatever the case might be, now, more than ever, the challenges those countries face are similar. And the degree of interconnectedness, as much as of joint ventures, between those organized groups has grown consistently. They now have access to means of communication and to established economic flows that are far more sophisticated and effective than in the past. They have also diversified their activities, adding to their portfolio extortion, kidnapping, counterfeiting, human & organs trafficking, and other sources of income.

No government can effectively confront those challenges by itself. This is one of the lessons of the Colombian achievement. The mere diagnosis of the challenges ahead point both to the need to acknowledge the negative spillovers of the successful implementation of the Agreement to neighboring countries as well as the necessity to join efforts with them to combat those threats, which are in fact common. In this context, the positive historic trend that led to a degree of confidence among South American countries may certainly help develop effective cooperation policies in other areas. This has already begun, in fact. The very creation of UNASUR's Council on Citizen Security, Justice, and the Coordination of Measures against Transnational Organized Delinquency resulted from discussions undertaken at the South-American Defence Council, which in turn benefited from deep examination of the implications of conceptual differences to promote regional cooperation in juxtaposed fields of interest.<sup>26</sup>

<sup>26</sup> The Council was entitled "Consejo Suramericano en Materia de Seguridad Ciudadana, Justicia y Coordinación de Acciones contra la Delincuencia Organizada Transnacional" and is already fully operational. A sensible summary of conceptual discussions appear in Alda Mejía, S. & Gomez Ricaute, V. El concepto y las relaciones multilaterales de seguridad y defensa em el contexto de la UNASUR. Instituto Universitario General Gutierrez Mellado & Ministério da Defesa do Equador, 2012.



There are other lessons and implications, particularly from the point of view of the government: The need to persevere in pressure, combining forceful means with the perspective of a negotiation that gradually emerged as the best alternative for the FARC-EP; The ability to size the moment to open negotiations with the other side; The perception that it was necessary to offer the FARC-EP a reasonable way out of the conflict, a deal that it could sell to its followers; The competent employment of multiple tools in dealing with the FARC-EP, from intelligence to hard weapons; The courage to bear the costs of negotiation with an illegal organization (therefore legitimizing it), as much as the capacity to assume the risk of reaching the unknown at the other margin of the river; The necessity to frame the agreement in accordance with the existing international standards, particularly in regard to Humanitarian law and to the procedures inherent in disarming, demobilizing, and (re)inserting former combatants; The redefinition of the country's political agenda, both by bringing in new actors and by reinstating old divisive issues that the Colombian society will sooner or later have to address consistently.

These are not simple lessons. These are not inconsequential implications. If the Peace Agreement allowed for reframing and transforming the conflict, if it opened room for a political solution that involves (re)integrating part of the Colombian society to the civilian life, it also sheds light on a more complex political agenda that the government, by itself, will not be able to manage effectively. As a result, the future may become even more messy and difficult to manage than the past, as political tensions mount, while the available means to respond to social demands tend to decrease. Colombians will need even more support and solidarity in the years to come.

This presents the international community as a whole, and UNASUR in particular, with a great opportunity for international cooperation, insofar as the coordination of actions will have to occur at the supranational level. Though the organization is well placed to meet this challenge, as its contributions to set a common strategy to tackle the World Drug Problem illustrates, it does not appear to be seen as such by the Colombian government, at least up to the moment. Gradually, however, it will become clear that this organization is peculiarly well placed to help concert the public policies necessary to tackle these challenges: It is non-intrusive and issue-oriented; it has developed effective procedures in fields as different from each other as health, defence, and infrastructure, which created an expertise that can be employed here; and it is aligned with the international development agenda, particularly the sustainable development goals.

## In conclusion...

I intended this essay to be as provocative as possible, but also informative. I know that some readers of this forum are less familiar with the specifics of South American security dynamics than they wanted to be. I also know that the media enthusiastically welcomed the breakthrough created by the Peace Agreement in Colombia. By so doing, it may unintentionally encourage the misperception that everything is set, a behavior that may engender frustrations in the years to come.

Indeed, while the deal between the Colombian government and the PARC-EP deserves consistent support from all over the world, it is not yet a reality. Moreover, once implemented, it will unleash a set of challenges and threats, old and new, that are far more complex than solving this conflict. Hence we need to be conscious of them and we shall prepare to the spillovers that will emerge from the peace process.

Hence I tried to summarize the most challenging implications of the peace process to Colombia and to South America, hoping that this will also serve Europeans with a clearer view of this region's agenda in the years to come. This may obviously serve to identify possibilities for cooperation among our countries.

As it often happens, encouraged by the instigating questions raised by the organizers of this Conference, as much as by the complexities of the subjects under analysis, I developed my arguments longer than expected. Hopefully the strategy to organize it in brief sections might have taken the curious reader up to this point.

I thus welcome the opportunity to engage in further conversation with those who generously persevered in dedicating their time to this text in the debates to take place at the Forte de Copacabana Conference next October.



