

## **SUMMARY**

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*Francisco José Dacova Cerviño*

*- Presentation*

*Sumario/Summary*

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### *Presentation of IEEE Journal No. 14*

Once again, we return to our rendezvous with the academic community through the Journal of the Spanish Institute for Strategic Studies. On this occasion with a brand new issue, number 14, featuring seven articles and two reviews, chosen, as always, with the purpose of providing well-founded analysis on a variety of topics of major interest.

What could be timelier for a publication by an Institute such as ours than an essay on the transformation that the international system of relations is experiencing with its different actors? A transformation that is developing with almost dizzying speed, resulting from the possibilities of disruptive technologies; driven by the appearance of new powers that question the liberal democratic system characteristic of what we refer to as the West, and whose final state we can hardly fully sense. Luis V. Pérez Gil focuses his contribution on the most concrete aspects of the evolution of the disarmament treaties in force since the end of the Cold War, and points to their definitive abandonment by the signatories and to the very likely beginning of a renewed race for the possession of strategic weapons providing owners with guarantees of global influence. Outer space is but another new scenario for the development of this race, an increasingly accessible domain, and not only for the most powerful states. The big question facing us is whether the competing powers will be able to achieve the corresponding necessary treaties on control and disarmament.

We could consider the article by José Luis Juan Conesa, «North Korea and the United States: an analysis from the theory of international relations» as a case in point, illustrating what is indicated in the paragraph above. It is no easy task to explain the behaviour of the respective leaders of both countries. It is far easier to fall into the usual over-simplified shoddy news reports that give us an incomplete, if not biased, view of the decisions made by two such peculiar personalities as the presidents of North Korea and the United States. A tug-of-war dynamic centred on such an important issue as the North Korean regime's possession of nuclear weapons, in which not

only these leaders but also its powerful neighbour China, as well as South Korea and Japan all play their part, countries directly affected by a feared escalation or by a more desirable de-escalation.

Always topical in recent years –and particularly so at the time of publishing this edition of the journal in the wake of the death of Abu Bakr Al Baghdadi– jihadist terrorism merits the detailed study presented by José Ramón Blanco Castro, which focuses in particular on the rivalry between its two major organisations, Al Qaeda and the Islamic State. This is a battle whose ultimate goal is survival itself; the weapons at stake being their ideological principles, the methods they employ, the recruitment of militants or sympathisers and the occupation of new settlements after the setbacks suffered in the Middle East. Daesh's decision to occupy a physical space had the unwanted result of enabling the territorial defeat of the caliphate; it is more difficult, the author tells us, to defeat an idea, a choice that AQ has opted for. The most disturbing question now is whether the latest developments will result in the reunification of the global jihad.

The article by Omar Ahmed Abenza deals with a subject that has been scarcely analysed, but of undeniable interest, especially for those who are affected by it – the right to health in Syria. A conflict that has been going on for too long, with an unusual number of warring factions, inevitably results in an enormous weakness of governance across the entire country, regardless of who holds the «authority» in each area. In these circumstances, human rights in general and the right to health in particular, will only be able to achieve a satisfactory improvement when there is a definitive end to the conflict and a properly executed institutional and material rebuilding programme is undertaken. For this very reason the author concludes his article with a series of recommendations that deserve our attention.

We complete this issue of the journal with three articles of diverse and wide-ranging content. Miguel Ángel Martínez Alonso analyses the need for an institution as distinctive in its nature and mission as the Armed Forces to embrace the need to define and present a digital reputation in keeping with the times in which we live. The role of prisons in National Security matters is presented by Sara Carou García, who reminds us that the rights of inmates cannot be violated in the process of obtaining necessary intelligence. Finally, Ana Gemma López Martín explores the maritime borders of Africa, a very significant issue on the continent with the largest number of coastal states.

The two reviews included in this edition are those of Francis Fukuyama's book: «Identity. The demand for dignity and the politics of resentment» and the work of Michael Ignatieff: «Blood and Belonging. Journeys into the New Nationalism».

As a farewell note, allow me to express the hope that the present selection of topics will not only be of interest and use to you, but you will also find entertaining and enjoyable. Why not?

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*Thanks to Ruth María Abril Stoffels for her valuable comments*

## *Governance and the right to health in north-western Syria*

### **Abstract**

This article highlights i) the lack of respect for the right to health that is being experienced during the Syrian conflict, and ii) the impact of its political significance on the medical humanitarian response, whose mission is precisely that of assisting the people in health matters and thus guaranteeing the minimum standards required by the right to health.

We will focus on two issues: 1) non-fulfilment of the right to health in the Syrian conflict, and 2) clarifying the capacity of the existing medical humanitarian response system to uphold the right to health. The confirmed hypotheses are: first, that the right to health is suffering from a serious lack of respect due to the highly politicised nature of the conflict; and second, that the political influence placed on the system of governance of the health response prevents it from lessening the level of non-compliance with the right to health.

### **Keywords**

Governance, health, Syria.

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<sup>1</sup> My grateful thanks to Ruth María Abril Stoffels for her valuable comments.

### ***Methodology***

*The confirmation of both hypotheses is the result of a methodology that combines direct observation and the author's knowledge of the terrain. His work for two years as a humanitarian agent in the Syrian crisis allowed him to clearly identify and observe the issues. In addition, five specialists in public health and humanitarian aid were interviewed, all of them working at the time for donors, United Nations agencies and NGOs involved in the response to the crisis in north-western Syria. The interviews were conducted in an unstructured and confidential manner, given the political and sensitive nature of the content of the questions and answers provided. Finally, a review was conducted of academic/scientific literature on human rights, international humanitarian law (IHL) and the right to health as well as public health and public health governance, especially in crisis situations.*

### **To quote this article:**

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## Introduction

Generally speaking, armed conflicts result in a serious deterioration of health systems, affecting both the provision of services and respect for the right to health. The ongoing conflict in Syria for over seven years is no exception. The official figures from public and private bodies, as well as information provided by the media, speak for themselves: almost half a million dead, around five million refugees – the majority in neighbouring countries – and more than six million people who have been internally displaced. With public and social infrastructures severely damaged, health personnel are scarce and the quality of health structures is rather poor and survives largely thanks to the external support of multilateral institutions or non-governmental organisations of all kinds. In addition, the right to health is not respected and continues to be severely violated. On the one hand, there is a lack of availability and access to health services, and on the other, attacks on both structures and health personnel are incessant, the latter being one of the most horrendous practices of modern warfare<sup>2</sup>.

A feature of the humanitarian response in Syria is its fragmentation, with several 'hub' or coordination centres, both formal (Gaziantep, Damascus, Amman), and informal (Beirut and Erbil). This system has resulted in a unique operational response model. Validated following an official resolution of the United Nations Security Council – 2139 February 2014<sup>3</sup> – it is a system of cross-border aid, with assistance reaching north-western Syria<sup>4</sup> across the border from Turkey, as the region is not accessible from the rest of the country<sup>5</sup>.

The actors responsible for healthcare in northwest Syria – young and fragile 'opposition' health authorities, medical humanitarian NGOs born out of the Syrian diaspora and regular humanitarian crisis agencies (international NGOs, UN agencies and donors) – struggle to coordinate generous resources and efforts, and to collaborate on health issues as well as to accommodate different political interests. The result is a complex and rather dysfunctional health governance system unable to meet basic health needs and ensure respect for the right to health. In this case, governance in the health sector – according to the World Health Organisation (WHO)– refers to a wide range of functions related to policy-making and standard-setting carried out by governments responsible for decision-making as they seek

2 HAMPTON, Tracy. «Health care under attack in Syrian conflict». *Jama*, vol. 310, no 5. 2013, pp. 465-466.

3 UNITED NATIONS SECURITY COUNCIL. Security Council Unanimously Adopts Resolution 2139 (2014) to Ease Aid Delivery to Syrians, Provide Relief from 'Chilling Darkness', 2014.

4 For the purposes of this study, the northwest of the country refers to the governorate of Aleppo, the governorate of Idlib and the northern governorate of Hama which remains under rebel control.

5 UNITED NATIONS SECURITY COUNCIL. Security Council Adopts Resolution 2393 (2017), Renewing Authorization for Cross-Border, Cross-Line Humanitarian Access to Syria, 2017.

to achieve national health policy objectives that are conducive to universal health coverage<sup>6</sup>.

Because of its particular model of operational response and governance, as well as the intensity of the violations mentioned above, health care in north-western Syria deserves due attention. Thus, this article, by way of a brief review of scholarly literature and interviews with humanitarian workers and health professionals currently in charge of health care in north-western Syria, exposes and highlights non-compliance and violations of the right to health enshrined in international standards. Following a brief review of the historical milestones of the right to health in order to understand both its importance and its very constitution, we take a glance at its place as a basic right within human rights on the one hand, and IHL on the other, in order to situate the study within its corresponding legal framework. Once the concept of the right to health has been established, the violations of the right to health are listed within the IHL framework, and the reasons why the right to health in the northwest of Syria is far from guaranteed as it should be, are described and analysed.

Further on, we examine more closely the dysfunctional nature of the health governance system and the role it plays in guaranteeing the right to health in the Syrian crisis. In doing so, we approach the issue from two perspectives, one that looks at the existing situation and the other that focuses on the institutional system of health governance prevailing in the region and its applicability in humanitarian crisis situations such as that of north-western Syria. Since at this point there is a lack of literature on reference models for these cases, we use our own, thus creating a research area that can be added to in the future.

Next, we describe the original health governance system developed for health care in northwest Syria. And lastly, the shortcomings of this system are highlighted, thus demonstrating its complexity and considerable political weight, all of which hinder its effectiveness. Accordingly, the relationship between a health governance model and the effective recognition of the right to health is explained. Once analysed theoretically, this case study, although limited due to the scale of the conflict, demonstrates the impact of dysfunctional governance on the effectiveness of the enjoyment of the right to health care.

By way of conclusion, we make a series of minimally specific recommendations to all key actors involved to a greater or lesser extent in health governance in response to the humanitarian crisis in north-west Syria.

This paper also opens the way for comparative studies in other current or upcoming crises, and by extension the development of more efficient health governance systems for future humanitarian crises.

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6 DODGSON, Richard; LEE, Kelley; DRAGER, Nick. *Global health governance. A Conceptual Review*. London/Geneva, 2002.

## The right to health in north-western Syria

### *The right to health as a human right and within international humanitarian law*

#### *The right to health as a human right; a historic perspective*

The right to health, like most basic rights, was explicitly conceived and assumed in the mid-twentieth century. The right to the enjoyment of the highest attainable standard of physical and mental health was first expressed in the WHO Constitution of 1946<sup>7</sup>. Two years later, the 1948 Universal Declaration of Human Rights also mentioned health as part of the right to an adequate standard of living (article 25 of the Universal Declaration of Human Rights)<sup>8</sup>. And two decades later, it was again recognised as a human right in the 1966 International Covenant on Economic, Social and Cultural Rights. More recently, in 2002, WHO and the Commission on Human Rights created the mandate of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health. This mandate includes monitoring the effectiveness of the right to health in certain parts of the world through several annual visits to certain countries in need of evaluation<sup>9</sup>. The Special Rapporteur's last official visit to Syria was in 2010. The mission was considered relatively successful. On the one hand, he focused on problems of access to health, especially for detainees, and was able to gain access to a prison. On the other hand, he focused on sexual and reproductive health issues, where an improvement in epidemiological indicators was observed within a few years<sup>10</sup>.

In a recent statement the director of the WHO underscored a fundamental principle of the right to health: impartiality. He said that “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition”<sup>11</sup>. Thus, impartiality, understood as the universality of basic health, is in effect the essential driving force of any fair and inclusive health system. In a system that is fair, the right to health includes timely access to, and acceptable and affordable availability of

7 WHO. *Constitution of the World Health Organization*. Basic Documents, Supplement to 45th Edition, 2006.

8 UNITED NATIONS. *Universal Declaration of Human Rights*, 1948.

9 ACNUDH. *Overview of the Mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, 2002.

10 GROVER, Anand. *Syria Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*. Office of the High Commissioner for Human Rights, 2011.

11 WHO. *Health is a fundamental human right*. Declaration by Dr. Tedros Adhanom Ghebreyesus, Director General of the WHO, December 10, 2017.

health care services of sufficient quality. In terms of inclusiveness, the right to health must guarantee essential services for good health such as safe, drinkable water and adequate sanitation, and access to education and health-related information.

### *The right to health under international humanitarian law*

In times of armed conflict, IHL provides rules to protect access to health care, i.e. the right to health. These rules bind States and non-State armed groups. The right to health within international humanitarian law consists of three fundamental principles. The first of these is assistance, i.e. the obligation to provide health services – in accordance with the Geneva Conventions – for civilians, combatants and persons out of combat, including the sick and wounded of armed forces on the field, and shipwrecked members of armed forces at sea, prisoners of war, or assimilated persons who, being placed *hors de combat* are no longer military targets. Secondly, the protection of the medical mission, the wounded and sick, medical personnel, medical ethics and health structures. Thirdly, the principles of distinction and proportionality. First, the principle of distinction provides that in times of conflict combatants have the right to participate directly in hostilities in order to achieve a military objective as effectively as possible; such acts of war shall be directed only against enemy combatants and military objectives and shall avoid unnecessary and excessive harm to civilians and non-combatants. According to the second principle of proportionality, the parties shall avoid causing incidental loss of civilian life, injury to civilians or damage to civilian objects that is excessive in relation to the specific and direct military advantage anticipated. In order to comply with the restrictions and prohibitions on attacks, all parties to an armed conflict must take specific precautions<sup>12</sup>.

### *Violations and non-fulfilment of the right to health in north-western Syria*

#### *Violations of the right to health*

The Syrian conflict is characterised by the intensity and frequency with which all parties, and especially the Syrian Government and extremist armed groups, have violated human rights and international humanitarian law<sup>13</sup>. Such violations have also occurred in the area of health. Thus, health care and the protection of victims, the respect for and protection of the medical mission and in general, the distinction between military and non-military objectives –in this case the health mission– have not been guaranteed. Proof of this are the examples described below, which constitute the most flagrant violations of the right to health during the conflict and contribute to a

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<sup>12</sup> ICRC. *Methods and means of warfare*, 2010.

<sup>13</sup> IDRIS, Iffat. *International humanitarian law and human rights violations in Syria*. 2017.

clearer understanding of the gravity of the issue, as well as the reasons for such transgressions and their implications.

*Attacks on health facilities and the violation of the integrity of the medical mission.* Hospitals, medical centres and clinics have been intentionally and systematically attacked. It would appear that these are IHL violations committed for the most part by the Syrian government and Russian forces<sup>14</sup>. These attacks destroy vital infrastructure and result in an exodus of medical personnel, severely limiting the capacity of those who remain, thus depriving the wounded of their basic needs<sup>15</sup>. Attacks on health facilities are not only a violation of IHL by targeting the medical mission but also<sup>16</sup>, since May 2016, of the resolution adopted by the United Nations Security Council (UN) number 2286 in a bid to once again prevent and condemn these attacks<sup>17</sup>.

On the other hand, non-state armed groups have made inappropriate military use of medical structures in violation of the integrity of the medical mission and IHL<sup>18</sup>. In effect, the conflict in Syria presents unprecedented challenges to medical neutrality. The politicisation of medical care through severe and direct violence against missions and health facilities –the violent deprivation of humanitarian assistance for military advantage, with the flight of civilians, the destruction of infrastructure, terror and even the death of non-combatants– has made Syria the most dangerous place in the world for health service providers<sup>19</sup>.

*Harassment and denial of humanitarian access.* Up until mid-2018, the government persisted with a campaign of protracted sieges<sup>20</sup> in predominantly civilian areas, such as the north of Homs or the east of Guta, the rural area of Damascus<sup>21</sup>. Similarly, armed opposition groups maintained prolonged sieges targeted at predominantly ci-

14 PHYSICIANS FOR HUMAN RIGHTS. Issue Brief: Attacks on Health in Syria, 2018.

15 ARMSTRONG, Justin. *Changes in medical practice in Syria; Dilemmas and adaptations in medical facilities continually threatened by attack*. Centre for Applied Reflection for Humanitarian Practice, Médecins Sans Frontières, 2016.

16 SA'DA, Caroline Abu; DUROCH, Françoise; TAITHE, Bertrand. «Attacks on medical missions: overview of a polymorphous reality: the case of Médecins Sans Frontières». *International Review of the Red Cross*, vol. 95, no 890. 2013, pp. 309-330.

17 UNITED NATIONS SECURITY COUNCIL. Security Council Adopts Resolution 2286 (2016). Strongly Condemning Attacks against Medical Facilities, Personnel in Conflict Situations, 2016.

18 RELIEFWEB. «SAMS condemns violations of medical neutrality in Idlib». SAMS, 2018.

19 FOUAD, Fouad M., *et al.* «Health workers and the weaponisation of health care in Syria: a preliminary inquiry for The Lancet–American University of Beirut Commission on Syria». *The Lancet*, vol. 390, no 10111. 2017, pp. 2516-2526.

20 RELIEFWEB. Siege era in Syria ends. PAX, 2018.

21 AMNESTY INTERNATIONAL. *The Unfolding Humanitarian Catastrophe in Eastern Ghouta*, 2018.

vilian areas in the towns of Kefraya and Fua, in the governorate of Idleb<sup>22</sup>. In both cases, the local population was deprived access to medical care, other basic goods and services and humanitarian aid. In the case of Guta and Homs, they subjected the population to repeated aerial and artillery bombardment. In such cases, IHL is clear; Article 17 of the Fourth Geneva Convention stipulates that when a locality or area is besieged, the passage of medical and health care personnel and the evacuation of civilians, the wounded and the sick requiring treatment must be allowed<sup>23</sup>.

*Torture and ill-treatment.* Torture and other ill-treatment of detainees by government security and intelligence agencies and in state prisons remains systematic and widespread resulting in a high incidence of detainee deaths. For example, large numbers of detainees at Saydnaya Military Prison died after being repeatedly tortured and systematically deprived of food, water, ventilation, medicine and medical care<sup>24</sup>. This is contrary to the fundamental guarantees recognised in article 3 common to the four Geneva Conventions, which states that all persons taking no active part in hostilities or who fall into the power of the adversary must be treated humanely and it specifically prohibits torture and cruel treatment, outrages upon personal dignity, in particular humiliating and degrading treatment<sup>25</sup>.

### *Non-fulfilment of the right to health*

For the right to health to be complete, we previously cited the importance of impartiality, fairness and inclusiveness. To this end, availability, accessibility and quality are essential, but a brief review of the status of these three variables shows that the right to health in north-western Syria is far from being fully fulfilled/respected.

First, there is a lack of available services for the provision of adequate care in both primary and secondary health. This occurs mainly:

- i) in non-infectious diseases where there is a lack of continuity and medicines for treatment <sup>26</sup>,
- ii) in reproductive health, where fully equipped maternity wards offering 24-hour delivery capacity are scarce <sup>27</sup>, and

22 *Report Syria Events of 2017*. Human Rights Watch, 2018.

23 INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC). IV. Geneva Convention on the protection of civilians in times of war, 1949.

24 AMNESTY INTERNATIONAL. Annual report, Syria 2017/2018.

25 ICRC. *The Geneva Conventions of 1949 and its additional Protocols*, 2014.

26 COUSINS, Sophie. «Syrian crisis: health experts say more can be done». *The Lancet*, vol. 385, no 9972. 2015, pp. 931-934.

27 AL-DIMASHQI Youmna; MASSENA, Florence. «Syria's Women: Policies and Perspectives. For Many Syrian Women, Healthcare is a Matter of Geography». *Syria News Deeply*, 2017.

- iii) in the area of vaccination where coverage is insufficient and where, as a result of the arrival of displaced persons from areas where access to basic health did not exist, measles epidemics have broken out and cases of polio have been reported<sup>28</sup>.
- iv) However, it is interesting to note that the humanitarian response – although insufficient – brings with it the development of services that barely existed before the conflict, such as raising an awareness of mental health services<sup>29</sup>. Even so, in terms of mental health, in the whole of north-western Syria there are only two psychiatrists and a few psychologists for millions of people<sup>30</sup>.

On the other hand, the availability, accessibility and quality of water and sanitation are insufficient, which has a clear impact on health. This situation has been aggravated by the arrival of hundreds of thousands of displaced persons throughout 2017<sup>31</sup>.

Second, there is a lack of access to public health services due to constant attacks on medical facilities that either destroy them and render them inoperative, or discourage their use for fear of further attacks. In addition to the quantitative decrease, there has been a qualitative decrease in public health services, as a consequence of the exodus of health personnel and the lack of training facilities for new professionals. Thus, for years the population has been treated by students, specialist doctors who have ventured to practise different specialisations to their own or general practitioners who have become specialist doctors on the basis of practice.

Finally, the lack of education and promotion of good health practices is almost non-existent in a context where more than half of the population is displaced, poorly educated and after years of stress under war has been forced to understand a rather phantom and dysfunctional health system<sup>32</sup>.

Third, the poor quality of health services is notable. On the one hand, the quality of primary health services has been shown to be quite low in terms of clinical services and health centre management. Problems such as the lack of certain basic services, as well as incorrect and exaggerated prescriptions, are common, according to studies carried out by the WHO<sup>33</sup>. On the other hand, the quality of reproductive health is similarly poor with a high level of Caesarean sections and a lack of availability of places

28 WHO. *Reaching out with mental health services for displaced Syrians*. WHO Regional Office for Europe, 2018.

29 WHO. *Reaching out with mental health services for displaced Syrians*. WHO Regional Office for Europe, 2018.

30 BRADFORD, Alexandra. «In Syria's War, 'Mental Health Is the Last Priority'». *Syria News Deeply*, 2017.

31 Interview no. 5. Head of international medical-humanitarian NGO, February 2018 in Gaziantep (Turkey).

32 Interview no. 1. Official A of the WHO, February 2018 in Gaziantep (Turkey).

33 Interview no. 1. Official A of the WHO, February 2018 in Gaziantep (Turkey).

and personnel for twenty-four hour deliveries as well a high number of non-free-of-charge home deliveries carried out by false midwives (often poorly trained nurses)<sup>34</sup>. In this context, we should highlight the inadequacies in terms of accountability, since there are no mechanisms or processes whereby patients can seek explanations in the event of medical error, all of which generates mistrust and impunity. This in turn has repercussions on access to health services and clearly impacts on the provision of these services.

While in Syria, as the report of the visit of the Special Rapporteur indicates *inter alia*<sup>35</sup>, these elements (availability, accessibility and quality) were adhered to partially –but not entirely– satisfactorily, the conflict has turned Syria into a historic example of human rights and IHL violations. At the same time, in just a few years it has destroyed the existing health system and, with it, the past achievements of the Syrian state. Thus, as we shall see, difficulties of access, quality and accountability deriving from the conflict can be explained as resulting from both quantitative (lack of health governance bodies) and qualitative (lack of quality of the existing bodies in terms of an effective and coordinated response) governance problems.

## Health governance in north-western syria

### *Health governance, and its application in crisis situations*

According to the WHO<sup>36</sup>, where governance is understood as a political process that involves balancing competing influences and demands, governance in the health sector refers to a wide range of steering and rule-making related functions carried out by governments/decisions makers as they seek to achieve national health policy objectives that are conducive to universal health coverage including:

- maintaining the strategic management of policy development and implementation;
- detecting and correcting undesirable trends and distortions;
- regulating the behaviour of a wide range of actors, from health care financiers to health care providers; and
- establishing transparent and effective accountability mechanisms.

Beyond the formal health system, governance means collaborating with other sectors, including the private sector and civil society, to promote and maintain population

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<sup>34</sup> Interview no. 2. Official B of the UNFPA, February 2018 in Gaziantep (Turkey).

<sup>35</sup> GROVER, Anand. *Syria Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*. Office of the High Commissioner for Human Rights, 2011.

<sup>36</sup> Health System. Governance. Website WHO. Accessed at <https://www.who.int/healthsystems/topics/stewardship/en/>

health in a participatory and inclusive manner<sup>37</sup>. Health governance in humanitarian crisis situations is clearly affected and often faces difficulties in fulfilling the functions envisaged by the WHO in an efficient manner. In addition, it becomes a significantly relevant part of humanitarian governance, since health is usually one of the most important sectors in the response to a humanitarian crisis.

At the end of the twentieth century, since the end of the Cold War, humanitarian governance, and consequently health care, acquired a human rights and health protection perspective. As the landmark crises in the history of humanitarian aid –from Rwanda to Syria– demonstrate, this perspective has not meant infallible improvements in respect for human rights<sup>38</sup>.

Despite this protective framework, health governance faces a number of challenges that affect both its functionality and the legal protection framework. The most important challenge concerns the magnitude of the involvement and the role of external actors (private or institutional donors, international non-governmental organisations (INGOs), UN agencies), among which the WHO often stands out for its role as guarantor of protocols and the coordination of health care. Given the scale of the challenge, governance faces the daunting prospect of managing these resources in ways that promote national, regional and local leadership and strengthen national health systems. And it is the local actors who, despite crises, must remain the guarantors of the functioning of governance for the entire period from the outset until post-crisis.

The remaining challenges relate to issues that are also of concern in stable situations in terms of sustaining an efficient system of governance and guaranteeing the quality of services and care, but whose shortcomings may become more acute in times of crisis. These include, among others, transparency, corruption, health education, a tendency towards over-politicisation, the inability to include all sectors of society and a response to the dilemmas of public decentralisation versus hospitalised and privatised systems<sup>39,40</sup>.

Despite historical developments in the regulatory and legal protection framework, and despite knowing most of the common challenges faced by humanitarian governance in the area of health, there are currently no default master governance models for all crises. Much has been said about the challenges of the global health system –major pandemics such as Ebola, increasing politicisation, the effects of cli-

37 DODGSON, Richard; LEE, Kelley; DRAGER, Nick. *Global health governance. A Conceptual Review*. London/Geneva, 2002.

38 LAUTZE, Sue, *et al.* «Assistance, protection, and governance networks in complex emergencies». *The Lancet*, vol. 364, n.º 9451, 2004, pp. 2134-2141.

39 REPULLO, José R.; FREIRE, José M. «Gobernabilidad del Sistema Nacional de Salud: mejorando el balance entre los beneficios y los costes de la descentralización». Informe SESPAS 2008. *Gaceta Sanitaria*, vol. 22, 2008, pp. 118-125.

40 ARENAS, Carlos A. *La nueva gobernanza de las instituciones sanitarias*. Redacción Médica, 2015.

mate change— but not so much about ideal solutions at either global or specific levels, whether geographical or thematic. While this is not surprising given the particularities that characterise each crisis, it shows that there is still much room for research into models of standard and optimal health governance systems for specific humanitarian crises<sup>41</sup>. However, it is possible to have certain guidelines and principles. The following is an account of what can be extrapolated and learned from the case of Syria.

### *Health governance in north-western Syria*

#### *The socio-political situation in north-western Syria*

Since the beginning of the conflict, northwest Syria has been an area controlled by opposition and/or rebel forces. Despite the fact that as a result of various offensives the Syrian government has recovered part of the territory of both the Idlib and Aleppo governorates, to this day a large part of both governorates is still under the civil-administrative control of the opposition Syrian government and under the military control of the rebel forces, or under Turkish-Syrian military control, as is the case in the so-called Euphrates shield area, located in the north of the Aleppo governorate<sup>42,43</sup>. We are talking about approximately four million people, the vast majority of whom are in need of humanitarian assistance, half of whom are internally displaced persons and who clearly constitute the most vulnerable part of the conflict. Access to these areas not controlled by the Syrian government —much of the governorates of Idlib, Aleppo and Hama— from and to Damascus is officially closed for commercial and humanitarian purposes, with obvious exceptions that have to do with the business of war<sup>44, 45</sup>. As a result, basic needs are not being addressed because there is no infrastructure or public investment, and the economy is being maintained due to the humanitarian industry and, paradoxically, war.

41 BLANCHET, Karl, *et al.* *An evidence review of research on health interventions in humanitarian crises*. London: London School of Hygiene & Tropical Medicine, 2013.

42 In August 2016 Turkey launched an offensive in northern Aleppo to regain a border area that was in the hands of Kurdish armed groups with troops remaining on Syrian territory under the pretext of self-defence. Likewise, under the same pretext protected by Article 51 of the UN Magna Carta, it launched another offensive in January 2018 in the Afrin region northwest of the Aleppo Governorate, where forces have also remained. Furthermore, following the Astana agreements signed by Russia, Iran and Turkey in May 2017 aimed at reducing violence and guaranteeing humanitarian access through the military intervention of each of the signatory countries, Turkey has introduced new troops in the Idlib governorate.

43 BARNES-DACEY, Julien. *What Turkey's intervention means for Syria, the Kurds, and Ankara. What it means for the Syrian war*. European Council on Foreign Relations, 2018.

44 SINJAB, Lina. *How Syria's war economy propels the conflict*. Chatham House, 2017.

45 LUND, Aron. *The Factory: A Glimpse into Syria's War Economy*. The Century Foundation, 2018.

The lack of access to northwest Syria from the onset of the conflict was the result of the deployment of humanitarian aid agencies in eastern Turkey from where they still today assist the people in need through the crossing of the Syrian-Turkish border by experienced personnel and humanitarian equipment. In spite of the validity of resolution 2139 (2014) on «border-crossing»<sup>46</sup>, assisting and coordinating assistance from the neighbouring country with limited access is far from evident<sup>47</sup>. The conflict or crisis following the failed Turkish state coup often leads to blockades. In addition, the lack of visibility and proximity has led, on the one hand, to the inability of humanitarian actors to adequately monitor the delivery and provision of aid, and, on the other, to opportunities for corruption and internal political strife among the various Syrian power actors (civil society, NGOs, authorities, armed groups). These operational and political limitations are reflected in the medical humanitarian arena and, consequently, a health governance system has been developed that is exemplary in theory, as we shall see, in terms of its suitability to respond to such challenges, but somewhat complex and dysfunctional in practice.

### *The system of political-administrative governance in north-western Syria*

Before describing the health governance system, it is important to talk about political governance in north-western Syria because healthcare somehow represents an extension of it. With the *de facto* collapse of the extremely centralised Syrian state and its contemporary institutions, other authorities emerged to fill the gaps in governance and the sovereignty divide<sup>48</sup>. These are local councils and religious authorities, as well as clan structures<sup>49</sup>. Each administrative unit in northwest Syria has developed with varying degrees of autonomy, forming a system of decentralised governance. As mentioned above, despite the existence of an opposition Syrian government and even a second recently declared self-government<sup>50</sup>, local authorities in the form of local councils, religious authorities or armed groups –often represented by political and civil offices– manage the issues that concern their various areas of control with greater or lesser interaction and collaboration. Obviously the involvement of armed groups in any kind of public stewardship, though often invisible, is a concern for the neutrality and legality of the humanitarian response as it is considered to be high.

46 UNITED NATIONS SECURITY COUNCIL. Security Council Unanimously Adopts Resolution 2139 (2014) to Ease Aid Delivery to Syrians, Provide Relief from «Chilling Darkness», 2014.

47 RELIEFWEB. Fact Sheet: United Nations Cross-border Operations from Turkey to Syria (as of 31 Jan 2018). UN Office for the Coordination of Humanitarian Affairs, 2018.

48 DOBBINS, James; GORDON, Philip; MARTINI, Jeffrey. A Peace Plan for Syria II. Rand Corporation, 2016.

49 O'DRISCOLL, Dylan. Governance in Syria. K4D Helpdesk Report. University of Manchester, May 2017.

50 Syria opposition groups form new government in Idlib. Middle East Monitor, November 3, 2017.

In terms of local governance, the body most visibly respected by the people is that of the local councils, corresponding to the administrative legal framework – based on Legislative Decree 107– that existed prior to the conflict<sup>51</sup>. It is extremely difficult to get a clear picture of the make-up of the councils, the influences received, the allies they have made, their transparency and efficiency, their sources of funding and their ability to deliver. Even so, it is generally acknowledged that local councils are clearly involved in the provision and coordination of direct services, including health care.

Despite the existence of a system, INGOs, the UN and donors play a decisive role in the development of local governance through their control over flows of capital, knowledge, equipment and goods. However, while on the one hand they reinforce local capacity, on the other they create conflicts over access to resources, power and influence. Local actors, who benefit directly and indirectly, can distort the reality of the crisis in terms of needs and response in order to gain resources and power. As the external support actors are so diverse, a coherent and coordinated approach –within the region and also with the rest of the country where possible– in providing technical support to local governance actors is essential.

### *The health governance system in north-western Syria*

The role of external actors is therefore essential in the governance of health care, as they finance it almost entirely<sup>52</sup>. In order to understand its complexity and resulting inefficiency, the following is a description of the actors that compose it –at local and international level– in which we outline the governance platforms that have been created in order to improve the efficiency of the response and face the changing challenges. We also discuss what it means to approach governance from different perspectives: from the domestic perspective comprised of the civilian sector –which is not always the same as the opposition– and the military side - which generally corresponds to the armed opposition– as well as the international perspective composed of the humanitarian response and efforts towards stabilisation.

## **The actors**

These are the main actors responsible for health governance in north-western Syria. On the one hand, we have local and state health authorities, both with limited resources and capacity until European state donors start funding their governance bod-

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<sup>51</sup> ARAABI, Samer. *Syria's Decentralization Roadmap*. Carnegie Endowment for International Peace, 2017.

<sup>52</sup> Interview no. 3. European humanitarian donor official, February 2018 in Gaziantep (Turkey).

ies as part of their stabilisation programmes. In parallel, we have the medical NGOs that also receive international resources from the early Syrian diaspora. For a few years these played the role of pseudo-authorities in terms of the provision of services, because the health authorities did not have the structure or know-how to absorb resources from international funding. While the Ministry of Health of the opposition government continues to face many of these limitations, the health directors of the governorates, as they are more operational due to the proximity and size of the entities and population to be covered, have seen their resources and capacity grow thanks to donors and their interaction with different expert organisations. As a result, and for reasons that reflect the evolution of the conflict and associated policies, local health directors do not respond or report to the Ministry, but rather to the guidelines of donors, most of whom are European<sup>53</sup>.

Aside from the health authorities, there are still independent and autonomous medical facilities whose directors sometimes form part of local governance bodies, together with health authorities or local councils.

The WHO also plays an essential role in coordinating response at operational and institutional levels, and in raising and distributing funds. Its obligation as a UN agency to respect the sovereignty of states, while at times limiting, at other times results in a key actor playing the role of a nexus/bridge between the Syrian government and areas controlled by the opposition. But the health NGOs coordinated by WHO are both Syrian and international. The Syrians represent an unusual phenomenon in the panorama of humanitarian crises. Created and managed by the Syrian diaspora from both Western and neighbouring countries, they have been funded to respond to the crisis ever since the outset of the conflict. Nowadays, they still hold political power based on their considerable resource and implementation capabilities, and even the design of policies and strategies. While on the one hand, they have been reacting and taking risks from the outset, on the other, they respond to a clearly political profile –as they are the result of a political revolution– that sometimes calls into question their neutrality.

Finally, top of the list are the traditional donors - commonly belonging to European and North American governments and represented by their development and cooperation agencies. Secondly, the non-traditional donors, who, in the case of the Syrian crisis, generally come from the countries of the Arabian Gulf and are both private and confidential donors –the most obscure and difficult to follow– and institutional and visible donors who participate in large donor meetings.

Traditional donors clearly represent the foreign policies of the governments they represent. This does not always guarantee a neutral response as it is well known how many ‘western’ governments have positioned themselves vis-à-vis the Syrian govern-

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<sup>53</sup> Interview no. 4. Head of a Syrian medical humanitarian NGO, February 2018 in Gaziantep (Turkey).

ment throughout the conflict<sup>54</sup>. As for non-traditional donors, the phenomenon of a potential lack of neutrality is not eliminated. Transparency and coordination with traditional donors has increased, but it is still not total, so dysfunctionality is often generated by the lack of information generated by duplication and gaps. However, there are a number of private donors from Gulf countries (Qatar and Saudi Arabia mainly), who have continued to fund health programmes and other types of activities in support of the population and influential actors in northwest Syria<sup>55</sup>. The lack of transparency of these donations has often made it difficult to identify duplication and has even generated mistrust leading to the discontinuation of support to health structures by international actors because of suspicions that non-neutral actors –non-traditional non-private & confidential donors– were funding them as this would go against donation principles and even raise concerns about anti-terrorist laws.

### *Governance platforms*

At the same time, there are a number of governance bodies or platforms seeking to maximise coordination, inclusiveness and transparency.

On the one hand, there is the health working group organised by the WHO since 2014 (Syria Health Cluster Turkey Hub<sup>56</sup>). This is the main platform in terms of legitimacy, credibility, coordination capacity, and political influence. It meets on a weekly or twice-weekly basis to give visibility to health needs and challenges, so that medical humanitarian stakeholders can coordinate their interventions, and to address issues of shared importance or to present relevant epidemiological information.

Although donor meetings are not exclusively focused on health, they can be considered as health governance platforms since they allocate exclusive time to address health issues. Finally, at national level there is the so-called Health Sector Strategic Advisory Group; for the ‘whole of Syria’<sup>57</sup>, for the purpose of coordinating the different technical working groups of the different humanitarian coordination centres; for monitoring, evaluating and reviewing healthcare; and for developing the global health strategy for Syria. It is composed of a mix of members of the Syrian opposition Ministry of Health, national and international NGOs, UN agencies and donors.

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<sup>54</sup> RANKIN, Jennifer. «EU at odds with Trump administration over Assad’s role in Syria». *The Guardian*. 3rd April, 2017.

<sup>55</sup> LUND, Aron. «How Assad’s Enemies Gave Up on the Syrian Opposition». The Century Foundation, vol. 17. 2017.

<sup>56</sup> *Health Cluster Turkey Hub, 2018*. Accessed at <https://www.humanitarianresponse.info/fr/operations/stima/health>.

<sup>57</sup> *Whole of Syria Health Cluster, 2018*. Accessed at <https://www.humanitarianresponse.info/en/operations/whole-of-syria/whole-syria-health-cluster-4w>.

In addition to the international platforms, there are the following local governance platforms. First, the Coordination Committee composed of all the Governorate Directors, focuses on designing and updating policies and protocols –always in coordination with Damascus as far as possible and with the mediation of the WHO offices in Gaziantep and Damascus– and establishes standard operational procedures, or coordinates the management of resources such as the establishment of fair salaries for health personnel. A platform run by local health directors, it has been gaining legitimacy as capacities have improved.

Second, there is the Health Authority composed of the health directors of the governorates controlled by the so-called opposition, and by the Minister of Health of the Syrian interim government, which represents an update for the latter. And thirdly, by way of an informal platform, there is a kind of health care oligopoly made up of the most powerful Syrian NGOs in terms of resources, capacity and seniority. They meet with greater or lesser frequency and sometimes end up having greater decision-making capacity than any other platform since they are the actors with the greatest reach, proximity, impact and knowledge. Increasingly, the most influential health directors work in coordination and/or play a role that counterbalances this so-called informal platform.

### *Various response approaches*

Finally, we should point out that various approaches to medical humanitarian response –domestic (civil or military) and international (humanitarian or stabilisation)– coexist, interact with each other according to their interests and sometimes even overlap resulting in a certain systemic lack of functionality. Thus, the health governance system can be viewed from different perspectives.

- The governance approach to domestic and civil health represented by local health directors together with the local council and generally in collaboration with Syrian NGOs. Although they have gained independence, these actors often act with external partners who finance and advise them either in the humanitarian response arena (e.g. with INGOs or UN agencies) or in the stabilisation arena (e.g. with state development agencies and European donors).
- The domestic and military health governance approach represented by the civilian branches of armed groups, usually in conjunction with the local council and/or health directorate, acting independently. The reasons why the civilian branches of armed groups act alongside international actors –generally INGOs or even UN agencies– relate to gaining political legitimacy towards key actors in the conflict or the population under their territorial control<sup>58</sup>.

58 MARTÍNEZ, José Ciro; ENG, Brent. «Stifling stateness: The Assad regime's campaign against rebel governance». *Security Dialogue*, vol. 49, n.º 4. 2018, pp. 235-253.

- The governance approach to international humanitarian health –represented by the WHO health working group, i.e. the UN and NGOs– focuses on responding to urgent, immediate needs arising from an ongoing humanitarian crisis. Although the vertical approach of certain INGOs may generate imbalances due to their unilateral nature, the UN and INGOs are generally coordinated and governed in conjunction with NGOs and local authorities as they depend on them entirely to access beneficiaries and understand their needs.
- The governance approach to international health stabilisation –represented by ‘Western’ donors– has, in parallel to a certain foreign policy outreach, as previously mentioned, a vision of reinforcing and stabilising governance structures such as the Board of Directors or the Coordination Committee through funding, training and advice. This approach somehow assumes that the crisis is coming to an end and that it is therefore time to stabilise in order to rebuild. Despite differences of opinion with respect to other more short-term approaches, there is interaction –and coordination– with local governance actors (local health directors, local councils and NGOs) and with international actors such as the UN and INGOs.

In terms of the dimensions of international governance, it is interesting to note that while some argue that the coexistence of the two is natural and a sign of a certain process of conflict evolution<sup>59</sup>, others criticise the fact that, by focusing on stabilisation, immediate priorities are set aside to concentrate on a political agenda<sup>60</sup>. The truth is that, although the dilemma of the usefulness of applying both approaches is more a question of seeing the glass as half full or half empty, health governance has witnessed certain misunderstandings and frustrations resulting from this systemic parallelism, which we will see shortly. Preventing them clearly involves maximising coordination between the different areas mentioned above.

In conclusion, while there are no health governance models applicable to humanitarian crises– surely due to the complexity of each of these –the case of the crisis in north-west Syria does not offer an ideal model. Like the political governance system, health governance is complex and dysfunctional as a result of the diversity of actors with varying interests (the stance of the international powers, territorial control on the part of the various Syrian parties to the conflict, centralisation and the monopolisation of resources and influence and assistance to the population). These interact to a greater or lesser extent through different governance platforms, formal and informal, which strive to collaborate rather than compete. The multiplicity of actors and governance platforms can be seen through the different approaches to health care, defined according to the type of actors involved and their objectives and interests. The result is again a dysfunctional system in which, in parallel, the medical humanitarian response

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<sup>59</sup> Interview no. 4. Head of the Syrian medical-humanitarian NGO, February 2018 in Gaziantep (Turkey).

<sup>60</sup> MUGGAH, Robert (ed.). «Stabilization operations, security and development: States of fragility». Routledge, 2013.

is approached from different angles according to different interests –usually political – and in which the population’s right to health is not always prioritised.

### **The dysfunctionalities of governance and its impact on health**

In order to understand the dysfunctionalities of the health governance system in north-western Syria, we will refer again to the functions envisaged by the WHO for a healthy and efficient governance system. We will also add a malfunction briefly mentioned above, which has to do with the phenomenon of ‘anti-terrorism’.

### ***The strategic management of public health***

The strategic management of public health has been affected mainly by the political instability that has caused the collapse of the bodies responsible for it. Despite the creation of new institutions, these have limited strategic capacity and are framed within a system of humanitarian governance rather than public health, which continues to hinder comprehensive strategic management. The public health strategy is constantly hindered by funding problems, the multiplicity of actors wanting to do – or not do – the same thing, and the difficulty of making the minimally designed strategies operational either because of their lack of coherence with respect to strategies that existed in the past, the lack of access or because of the lack of legitimacy and credibility of the authorities in charge of their implementation.

On the other hand, the fact that donors initially funded health care through NGOs rather than (pseudo) public agencies prevented the development of strategic health management with a public focus. In this sense, this dysfunctionality is accentuated *a priori* by the fact that the opposition Ministry of Health is barely financed, and therefore there is no health authority in charge of proper strategic management, but rather several health directors who design strategies for their respective governorates. Moreover, it is worth noting that the majority of health personnel who have ended up in public (or pseudo-public) positions were formerly practitioners and not public health managers or administrators, which again undermines the capacity to design and oversee the strategic management of health<sup>61</sup>.

### ***Undesirable trends and distortions***

While undesirable trends and distortions have been detected in the public health system thanks to the data collection, analysis, and coordination systems established

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61 Interview no. 1. WHO Official A, February 2018 in Gaziantep (Turkey).

by WHO and other agencies, there is a problem with their prevention and correction. Once again, this is due to the difficulty of making a health system work properly in a region of armed conflict. Two of the most relevant distortions would be the low vaccination coverage and the constant attacks on medical facilities<sup>62</sup>.

Another distortion would be the fact that the maintenance and reconstruction of the system has been oriented more towards a hospital-based approach, although geographically decentralised to maximise access, but not decentralised in terms of service provision. That is, many small hospitals, but without the full range of services, especially primary health care. This is explained by the lack of resources, the need to maximise services that seemed to be of greater need (secondary health), and the profile of specialised practitioners among the medical staff in charge of these structures<sup>63</sup>.

### *The regulation of funding and the provision of services*

The regulation of funding is an arduous task when there are not enough resources, nor total coordination and transparency in relation to their origin and destination. As in any crisis, the fight to secure funding is constant throughout the year, and the appropriateness of its allocation is by no means self-evident<sup>64</sup>. Furthermore, despite the regular meetings of major donors, attended by both traditional and non-traditional donors, it is not uncommon for traditional donors to experience difficulties in coordinating and monitoring funds, especially non-traditional ones<sup>65</sup>. Besides, in the absence of a collection system, funding is provided by international agencies such as the UN, development and humanitarian offices and donors. These often reflect political agendas, which complicates the coordination of their plans and coherence in the governance of the system<sup>66</sup>.

Regulating the provision of relevant, orderly, constant/sustainable and acceptable quality services is almost impossible without access and proximity. Such a model entails reporting defects and hence potentially erroneous diagnoses. A good example is the inadequate functioning of epidemiological monitoring. At the height of the mea-

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62 Interview no. 5. Head of the international medical humanitarian NGO, February 2018, in Gaziantep (Turkey).

63 Interview no. 5. Head of international medical-humanitarian NGO, February 2018 in Gaziantep (Turkey).

64 EUROPEAN COUNCIL. «Supporting the future of Syria and the region». Brussels conference, 24-25/04/2018.

65 Interview no. 3. Official of a European humanitarian donor, February 2018 in Gaziantep (Turkey).

66 Interview no. 5. Head of international medical-humanitarian NGO, February 2018 in Gaziantep (Turkey).

sles epidemic in March 2018 in Idlib and Aleppo, instead of reporting cases identified according to the specific structure and the origin of patients, the report was restricted to the locality - where there is usually more than one medical unit. Thus vital accuracy in the analysis of the origin of the epidemic was lost and consequently in the efficiency of the response<sup>67</sup>.

Another interesting example of disruption in the provision of services affecting governance occurs in areas controlled by armed groups considered to be terrorists. There, medical structures have been used for military purposes on more than one occasion by armed groups, thus violating the integrity of the medical mission and in turn that of IHL. This resulted in a break in the provision of services, both at the time and *a posteriori*, either out of fear of patients or staff, or because of a possible cessation of funding by donors who do not wish to finance activities in territory controlled by armed groups that are classified as terrorists<sup>68</sup>.

### *Terrorism and health care in north-western Syria*

This example allows us to open a parenthesis in which to deal with a subject that is very present in the humanitarian response in north-western Syria: anti-terrorist policy. In recent decades, an international policy perspective has developed that defines health and humanitarian aid in crises as security issues<sup>69</sup>. This has challenged the ethos of human rights and IHL –politicising it– and influenced the way in which states, and therefore international organisations and non-state actors, understand governance in times of crisis, often directing it to prioritise responding to alleged security threats rather than humanitarian needs<sup>70</sup>.

Thus, in north-western Syria there is concern about assisting people in territory controlled by terrorist groups, and some wonder if this is not replacing humanitarian logic. Donors are obviously not comfortable with funding projects in environments controlled by terrorist groups. While in every crisis there is a price to pay for assisting the public, be they warlords or corrupt governments, the current anti-terrorist environment raises greater doubts about the issue, as there is talk of criminal consequences<sup>71</sup>.

67 Interview no. 5. Head of international medical-humanitarian NGO, February 2018 in Gaziantep (Turkey).

68 Interview no. 1. Official A of the WHO, February 2018 in Gaziantep (Turkey).

69 WHITTALL, Jonathan. «The Politics of Health in Counterterrorism Operations». *Website MSF Analysis, Reflections on humanitarian action*, 2018.

70 FIDLER, David P. «Governing catastrophes: security, health and humanitarian assistance». *International Review of the Red Cross*, vol. 89, no. 866. 2007, pp. 247-270.

71 PANTULIANO, Sara, MACKINTOSH, Kate, ELHAWARY, Samir, *et al.* «Counter-terrorism and humanitarian action». *Policy*, 2011.

In view of this, it is important that the right to health and the guarantee of the right to war should prevail over the international anti-terrorist agenda. To this end, IHL in Article 3 common to the four Geneva Conventions applies the term «party to the conflict» to non-state armed groups and obliges them to respect fundamental humanitarian guarantees. In this way it creates space for humanitarian actors assisting populations in areas controlled by these groups to be under the protection of the law by dealing with a party to the conflict and not with a terrorist group<sup>72</sup>. Thus, anti-terrorist concerns should avoid impeding humanitarian assistance, which is always protected under international law.

### *Mechanisms of accountability*

In terms of accountability mechanisms, the authorities and institutions responsible for the design and implementation of public health strategies for north-western Syria are accountable to each other – though apparently not in the best possible way. But there are still a couple of elements that guarantee minimal standards for this accountability: on the one hand, the possibility of accessing the beneficiary's opinion in terms of satisfaction, and on the other, greater capacity to verify the quality of medical activities<sup>73</sup>.

This analysis indicates that, in the case of north-western Syria, despite the coordination and governance programmes that both donors and multilateral institutions have developed with such commitment together with key Syrian actors, the health governance system does not achieve the expected efficiency due to the difficulties mentioned. The conflict and its political weight impede the necessary transparency and coordination. As a result, it does not contribute to improved availability, access, quality of services and accountability to beneficiaries, including millions of displaced persons in critical situations<sup>74</sup>. Ultimately, the right to health is not achieved in its entirety.

### **Conclusions**

In the northwest (and a large part) of Syria the right to health is not respected and is frequently and severely violated. On the one hand, if the right to health is to be guar-

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72 BOUCHET-SAULNIER, Françoise. Le consentement à l'accès humanitaire : une obligation déclenchée par le contrôle du territoire et non par les droits de l'État. *International Review of the Red Cross*, Volume 96, French selection, 2014/1.

73 Interview no. 5. Head of the international medical humanitarian NGO, February 2018 in Gaziantep (Turkey).

74 AKBARZADA, Sumaira; MACKEY, Tim K. «The Syrian public health and humanitarian crisis: A 'displacement' in global governance?». *Global public health*, vol. 13, no. 7. 2018, pp. 914-930.

anted as a human right, it must be impartial, fair and inclusive. For this to happen, the following requirements must be met: availability, accessibility and quality of health services, as well as the existence of accountability mechanisms. Unfortunately, this is not the case. On the other hand, within the framework of IHL, the right to health consists of three main elements: assistance, protection and respect for the principles of distinction and proportionality. But the constant attacks on medical infrastructures, the sieges and the denial of humanitarian access, demolish these elements. While IHL violations are a direct consequence of the armed conflict, the lack of respect for the right to health as a human right is further explained by governance problems which are both quantitative – lack of adequate bodies – and qualitative – lack of quality of the existing bodies in terms of efficiency and coordination. This leaves millions of people particularly vulnerable and especially the displaced, who suffer exacerbated consequences arising from the conflict.

Thus, the Syrian crisis is a very relevant case to examine not only because of its sad and evident violation and lack of respect for the right to health, but also because of the special nature of the medical humanitarian response model based on the UNSC resolution of border crossing, and its resulting health governance system.

Whereas, according to the WHO, governance in the health sector refers to a wide range of functions related to the management and standard-setting of health policy issues leading to universal health coverage, in humanitarian crisis situations these functions are deficient. This is the case in the crisis-ridden north-west of Syria, where, in keeping with the absence of standard and optimal models of health governance in humanitarian crises, no formula has emerged capable of developing a model that would guarantee efficient health governance.

That said, health governance in north-western Syria is a projection of the socio-political system of conflict governance that has developed throughout the conflict. As such, its complexity lies in the diversity of actors with different interests who interact to a greater or lesser extent through different platforms and within each of the different perspectives according to their own particular interests. These interests and their resulting heavy political burden all contribute to a series of system failures that impede the achievement of the expected efficiency according to WHO criteria; a lack of strategic leadership for efficient public health, an inability to correct undesirable trends and distortions in the health system, a lack of transparency and coordination in the regulation of the provision of funds and services, and a lack of effective accountability mechanisms. Although in terms of resources, actors and platforms, the health governance system is sound in theory; in practice political tensions as well as the omnipresent direct consequences of conflict undermine this robust framework. As a result, it does not contribute to improved availability, access, quality of services and accountability to beneficiaries, including millions of displaced persons in critical situations. Ultimately, the right to health is not fully achievable.

While political-military and socio-political instability is a key destabilising factor and the main cause of human rights violations, health governance in north-western Syria is somewhat dysfunctional and therefore unable to guarantee the right to health.

In times of conflict and with such high levels of violence, it is almost impossible to maintain robust and capable governance. Thus, on the one hand, for the violations of IHL and the right to health as a human right to cease, it would be necessary for the conflict to cease. On the other hand, a solid governance system with the necessary number of structures/agencies capable of effectively, transparently and inclusively coordinating health care would address the right to health compliance gaps and contribute to guaranteeing the right to health for the most vulnerable population in the conflict, and especially for displaced persons.

## Recommendations

Finally, the following recommendations are proposed to the stakeholders who play a key role in the governance of the medical-health response and in guaranteeing the right to health.

To donors and implementing organisations for better governance in healthcare:

- Maintain levels of investment in both the response and the governance bodies, developing parallel and coordinated strategies capable of fostering governance while responding to immediate needs, and devoting resources to local capacity development.
- More control mechanisms for sending and using resources to avoid the damages in terms of corruption and legal dilemmas caused by a wartime economy.
- Greater attention to the displaced and most vulnerable members of the population, especially in the area of access to primary and preventive health (vaccines) and in secondary health (reproductive health, mental health and infectious diseases).
- Governance platforms should try to distance themselves as far as possible from political issues that do not prioritise and focus attention on public health. They must also maximise coordination among themselves, and with the platforms of other operational centres and the 'Whole of Syria'.
- Maximise the channelling of resources through health authorities in order to strengthen the governance and response bodies that should and must guarantee the fulfilment of the right to health.
- Maintain a careful balance between the energy focused on responding to immediate health needs and the attention given to anti-terrorist concerns.

To the warring parties and neighbouring countries to increase respect for and compliance with the right to health:

- Awareness, knowledge and respect for international law, specifically IHL and human rights, and especially the neutrality and impartiality essential for assisting the people.
- Understanding that access and proximity to the patient is essential for quality healthcare operations, and therefore prioritising and enabling it.

- Facilitating coordination between the different stakeholders, be they humanitarian or political-administrative professionals.

While war is obviously a factor that impedes health governance and the guarantee of the right to health, there is room for improvement at the hands of donors, practitioners and policymakers. Although limited in their ability to prevent violations of IHL and the rights that are a direct consequence of armed conflict, these stakeholders could increase the efficiency and effectiveness of governance and therefore the right to health and its fulfilment: impartial, fair and inclusive health care.

## *Annexes*

### *Annex. 1. Aspects of the non-structured interviews*

In the context of preparing a paper that the author presented in March 2018 as part of a Panel on the Migration Crisis in the Mediterranean, for the 9th Conference on Global Health, held at Columbia University in New York and organised by the Consortium of Universities for Global Health (CUGH), in February 2018 the author conducted five interviews with specialists in public health and humanitarian aid, working at that time on the response to the crisis in north-western Syria for donors, United Nations agencies and NGOs.

The interviews were conducted in an unstructured and confidential manner, given the political and sensitive nature of the content of the questions and answers provided. The aim of these interviews was, together with these specialists, to analyse the situation concerning the fulfilment of the right to health –seen from various perspectives– and the impact of the political toll of the Syrian conflict, both local and international, on the work of each of the interviewees and on the regional medical humanitarian response. The interviewees were previously made aware that the information discussed would have an academic purpose with conversations centering on the perception and lack of respect for the right to health, as well as on the shortcomings and political weight of the health governance system in northwestern Syria.

1. Interview no.1. WHO Official A , February 2018 in Gaziantep (Turkey).
2. Interview no. 2. UNFPA Official B , February 2018 in Gaziantep (Turkey).
3. Interview no. 3. Official from a European humanitarian donor, February 2018 in Gaziantep (Turkey).
4. Interview no. 4. Head of a Syrian medical humanitarian NGO, February 2018 in Gaziantep (Turkey).
5. Interview no. 5. Head of an international medical humanitarian NGO, February 2018 in Gaziantep (Turkey).

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## *The Competition between Al Qaeda and the Islamic State*

### **Abstract**

Present-day jihadism is led by two groups that attract international attention: Al Qaeda and the Islamic State. This article focuses on demonstrating that, despite their different strategic approaches, the survival of both is based on jihadist ideology. For this purpose, an analysis of the key aspects of these groups is presented: the leaders, the ideological principles, the concept of territory, the franchises, the attacks and the recruitment model. While Al Qaeda bases its resilience on a more moderate network model, the Islamic state adopts a more territorial approach that is attractive because of its radical nature.

### **Keywords**

Terrorism, jihadism, ideology, Al Qaeda, Islamic State.

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## Introduction

**A**l Qaeda (AQ) became known through large-scale attacks. In August 1998, attacks on US Embassies in Kenya and Tanzania cost the lives of 224 people, twelve of them Americans. Less than six months later, Bin Laden gave Khalid Sheikh Mohammed, the chief architect of the attacks of September 11, 2001, approval to plan the deadly attacks in New York and Washington. In the decade following 9/11, the evolution of the Global Jihad was led by the organisation Al Qaeda and its regional franchises.

The Islamic State (IS) appeared on the scene in 2013 under the name of the Islamic State in Iraq and in the Middle East and took the name of IS from June 2014, when, in the wake of significant territorial gains in Iraq, it proclaimed the establishment of a caliphate led by Abu Bakr al-Baghdadi. The group became particularly renowned for its campaigns of terror and for the inspiration it passed on to groups and individuals who have carried out attacks in many different parts of the world.

At present, neither of the two groups has the same visibility that they both enjoyed in their infancy. Today the possibility of a large-scale repetition of attacks in the West by an organised group acting on the ground seems difficult, but the attacks of April 21, 2019 in which 321 people died in hotels and churches in Sri Lanka, responsibility for which has been claimed by IS, or the frequent attacks in Kabul, remind us that the threat still exists. Countries affected by the presence of jihadist groups continue to suffer their attacks, and adherents to their ideology could carry out attacks in third countries.

This article sets out to demonstrate that the survival of jihadist groups and their capacity for expansion is based on the ideology of Global Jihad. To this end, the key aspects of these groups are closely examined: the leaders, their ideological conception, the concept of territory, the franchises, the attacks and recruitment models. In the early stages, large jihadist groups such as AQ or IS began their journey based on a territory. However, with the passage of time, both have given way to a structure in which the occupation of territory has become secondary and, on the other hand, ideology has remained the centre of gravity.

## State of play

Among the theories that endeavour to explain the proliferation of jihadist terrorism, I will first mention the one that links jihadism with criminality. For Beatriz Mesa “the combination of criminal acts with the drug business in the north of Mali has transformed the jihadist project of Al Qaeda in the Islamic Maghreb (Mesa, 2014, p.103).

Contrary to this theory, Boeke asserts that «there is little empirical evidence to support allegations of direct involvement of Al Qaeda in the Islamic Maghreb (AQIM) in drug smuggling, but it is plausible to assume that it has on occasion, like many other groups in northern Mali, imposed transit fees or provided security escorts» (Boeke, 2016,

p. 927). Most reports credit the Movement for Oneness and Jihad in West Africa (MUJAO), with a larger role in the drug trade above other jihadi groups, and the city of Gao, as their primary base and recruiting ground, is an important centre on the cocaine route.

On the other hand, one may wonder about the purpose pursued by jihadist groups. For Saverio, the main hypothesis is that the strategies of jihadist groups «constitute specific activities aimed at intervening in the constituent elements of a territory, that is, they are acts of territorialisation and influences on the population, insofar as they create or mould new social, economic, administrative and cultural structures; in other words, they create an organisation of the territory and contribute to building a dimension that can be defined as territoriality» (Saverio, 2018, p. 26). However, as we will see later on, the terrorist strategy aims at political change, without necessarily having to control a territory.

*It is true that all groups need an infrastructure and a certain freedom of action in a given area and also that they act on a population linked to a territory, but Global Jihad is the key factor. In this sense, AQ's Global Jihad has followed a «network of networks» and «moderate» model, while IS has followed a territorial model with a more radical profile, but the resilience of both groups lies in their link with Global Jihad.*

## Methodology

This study focuses on the last decade and the AQ and IS groups. Based on an analysis of the attacks by groups linked to them at regional and local level, a study has been conducted on the interaction between these areas and Global Jihad, aimed at exploring in greater depth the processes linked to jihadist terrorism.

In preparing this article, we have used sources such as the Global Terrorism Database (GTD), successor to the Worldwide Incidents Tracking System (WITS), an open database that contains direct information on terrorist events around the world and includes data up to 2017<sup>1</sup>. In addition to this database, sources of published opinion have been also considered, such as the reports prepared by the International Crisis Group and those of the Combating Terrorism Center at West Point, which have been of immense value in studying incidents related to jihadist terrorism in the countries concerned.

## Theoretical framework

Al Qaeda and the Islamic state share a Salafist and jihadist ideology. Salafism comes from the term *Salaf al-Salifh*, the «pious ancestors», which refers to the *Rashidun*, the

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<sup>1</sup> This database is managed by the National Consortium for the Study of Terrorism and Responses to Terrorism (START). It can be accessed via the following link: <https://www.start.umd.edu/gtd>. This database is also used for the compilation of the Global Terrorism Index.

four perfect caliphs, Abu Bakr, Omar, Utman and Ali, successors of the Prophet and, therefore, heirs of his teachings, known as *Sunna*. Salafism calls upon Muslims to return to the Islam of the *Salaf*, since they considered that the rapid expansion of Islam at that time was due to the purity of those men, purity that had been lost with the passing of generations and the consequent social evolution.

For Sageman, author of the seminal work *Understanding Terror Networks*, there are basically three different approaches to Salafism (Sageman, 2004, p. 5-7). A non-violent form was Ilyas Muhammad's creation of the *Tablighi Jamaat* (Society for the Propagation of Islam) in 1927, in India. Ilyas advocated setting politics aside and proposed intensive religious discipline to bring back Muslims who had succumbed to the temptation of Hindu or Western culture<sup>2</sup>.

A second approach is that of peaceful political activism for the purpose of changing society through the organs of the state. This second current is identified with the struggle against colonialism and appears in countries such as North Africa, where Muslims take refuge in religion in the face of exploitation by Western countries.

The third branch of Salafism is associated with thinkers such as Sayid Qutb and Mohamed ibn Abd al-Wahhab<sup>3</sup>, who legitimize *jihad* to combat the state of *jahiliya* or ignorance, similar to that found in humans before the prophet's revelations. Leaving al-Wahhab aside because of its association with the Saudi royal house, Qutb's influence would be reflected in the thinking of contemporary jihadist leaders.

Before ascending to the highest ranks of IS and AQ, Abu Bakr al-Bagdadi, Osama bin Laden and Ayman al-Zawahiri belonged to the Muslim Brotherhood of Egypt and shared their ideology. The Muslim Brotherhood and, in particular, Sayid Qutb, influenced the beliefs of AQ and IS, as well as the thinking of these jihadist leaders. The Muslim Brotherhood brought the idea of changing society from the political sphere, in keeping with Salafist principles, but violent inspiration was to come from the thinking of Qutb (Counter Extremism Project, 2017, p. 1).

### *The leaders and ideology*

In Bin Laden's case, Qutb's influence can be clearly seen in the rhetoric of the «near enemy» and the «far enemy». The core of Bin Laden's work is made up of two

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<sup>2</sup> This discipline is based on the literal and strict imitation of the life of the prophet and his disciples as a model of Islamic virtue and proved successful in socio-political contexts where Muslims were in the minority.

<sup>3</sup> The Wahabi current was born in the eighteenth century at the hand of the religious reformer Muhammad Ibn Abd al-Wahab (1703-1792), who lived in the context of the growing domination and control over the Islamic world through contact with the Europe-Ottoman Empire. As a reaction to this reality, al-Wahab decided to initiate an Islamic current that, due to its relationship with the incipient Saud house, would end up prevailing in Arabia and being promoted by the Saudi Royal Household.

declarations of war or jihad against the United States. The first was issued in 1996 and was specifically directed against «the Americans occupying the land of the two holiest sites»<sup>4</sup>. On February 23, 1998 Bin Laden expanded the decree to include the assassination of «Americans and their allies, civilian and military ... in any country in which it is possible to do it.» (Washington Post, 2001).

Bin Laden's message was an individual plea to young followers of Islam anywhere in the world to «pursue jihad and roll up your sleeves; follow the right path and be careful not to support men who follow their whims, those who remain sitting at rest, or those who trust oppressors» (Federal Bureau of Investigation, 2004, p. 266). This appeal included *martyrdom*, and the ideology that promoted the surrender of one's life in suicide bombings. The appeal revealed that the strength of the group did not lie in its global infrastructure or membership itself, but in the attractiveness of its ideology. From its inception the group sought to build an organisation with a solid structure, whose main objective has been «to inspire and incite Islamist movements and the Muslim masses worldwide to attack those perceived to be the enemies of Islam» (Gunnaratna and Oreg, 2011, p. 1044).

In spite of sharing a common Salafist and jihadist ideology, differences arose between AQ and IS. The latter was born in a more recent context and, therefore, with different influences. In Afghanistan, for example, the origin of the IS was influenced by the Jalalabad school, which emerged in the 1990s. In 1989, after the end of the Afghanistan War (1979-1989) against the Soviets, Bin Laden left for Saudi Arabia and his mentor, Abdullah Azzam, was assassinated. These losses left a leadership vacuum that favoured the influence in Afghanistan of other jihadists from the Gulf and North Africa, especially Algeria, who promoted a more rigid doctrinal view than AQ, as well as a vehement opposition to the authority of the Global Jihad leader. These leaders, such as the Algerian Abu Zubaydah or the Egyptian Abdullah al-Muhajir practised a more extreme ideology than that of AQ and, in particular, disapproved of the link with the Taliban. They therefore criticised Bin Laden and AQ (Hamming, 2019, p. 1).

The IS is part of a legacy of *takfir*<sup>5</sup> schools and ideas that arise from AQ, but despite their initial affiliation or subordination, the two groups subsequently separated ideologically. For the IS, Islam's worst enemies are internal enemies, and it argues that the focus on the distant enemy (the West), ignoring the nearby enemy (Muslim enemies in the region, especially the Shiites) is not effective (Hassan, 2016, p. 9). This belief has led AQ leaders to emphasise that attacking these groups is not the top priority, while the IS has carried out mass killings of minorities in their territories. The controversy had already been the subject of a letter sent in 2005 by Zawahiri to Zarqawi,

4 Bin Laden was referring to the 500,000 American soldiers who had remained since the 1991 Persian Gulf War in his native Arabia, where the two holiest Muslim shrines are located: Mecca and Medina.

5 A heretical current of Islam that consists of denying the condition of true Muslims to all those whose dogmas or rites do not fully coincide with their own.

then leader of Al Qaeda in Iraq (AQI)<sup>6</sup>, in which he questioned the death of Shiites (Combating Terrorism Center, 2005).

Divisions between the two groups were evident when the Syrian conflict broke out in 2011 and Al Zawahiri encouraged the participation of Iraqi jihadists. Syria was in chaos and offered a great opportunity to establish bases there to raise funds and win new militants for the cause. To this end, Abu Bakr al-Baghdadi, leader of AQI, sent several members of the organization led by Abu Muhammad al-Golani, who had been released in 2008 from Camp Bucca<sup>7</sup>. Al-Golani soon became the leader of the al-Nusra Front in Syria, a split from AQ that pursued the creation of an Islamic state governed by Sharia law.

By the end of 2012, the al-Nusra Front had sufficient operational capacity to confront the forces of the Bashar al-Asad regime, but had not yet sworn allegiance to AQ. In the spring of 2013, Al-Baghdadi announced that his organisation, AQI, was merging with al-Nusra to form the self-proclaimed Islamic State of Iraq and the Levant (Bustillo, 2017, p. 301). Al-Golani was forced to respond to the merger declared by al-Baghdadi in April 2013 by claiming to renew his pledge of allegiance to Ayman al-Zawahiri, Emir of AQ, who then ordered the dissolution of IS and its supporters in Iraq to work together with the al-Nusra Front. This break-up did not occur and the IS remained in Syria, but Jabat al-Nusra began to show its affiliation with AQ more openly (Al-Tamimi, 2016, p. 16). Once the split occurred, the IS initially gained strength and quickly took control of large areas, benefiting from the affiliation of some fighters belonging to Jabhat al-Nusra, most of them non-Syrian jihadists (Al Monitor, 2013).

On January 28, 2017, the al-Nusra Front announced that it was being disbanded as an independent cell and was operating under the banner of Hayat Tahrir al Sham (HTS), a coalition combining the five main Islamist factions: the al-Nusra Front, Harakat Nur al Din al Zenki, Liwa al Haqq, Ansar Dine and Jaysh al Sunna, along with dozens of Islamic and secular groups of the Syrian Free Army under a central leadership, with Al-Golani leading its militant branch. However, after a series of clashes with other rebel groups in Idlib in July 2017, dozens of factions and leaders deserted the HTS, reducing the coalition to a core of al-Nusra Front supporters. That same year, Al-Golani declared that he had relinquished his role as leader of the al-Nusra Front in order to cede leadership to Hashim al-Sheikh, leader of the HTS coalition and

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6 In December 2004 he was appointed by Bin Laden as Al Qaida's emir in Iraq and died in June 2006 as a result of a US precision bomb attack on a house in Baquba.

7 Camp Bucca is an American prison in the Irak desert. In April 2003, when the Americans took control of the detention camp, it was renamed in honour of Ronald Bucca, a New York fire chief who died in the rescue effort following the 9-11 attack on the Twin Towers. Various analysts agree that this prison was the place where the creation of the Islamic State was first conceived. There, several members of the group met, including Abu Bakr al-Baghdadi, who stayed at Camp Bucca for five years. He was transferred after being detained in Fallujah, west of the capital, Baghdad, in February 2004.

resign from his role as military commander of the group. However, with Al-Sheikh's subsequent resignation in October 2017, Al-Golani once again became the undisputed leader of HTS. According to the estimates of several analysts, from the 5,000 to 7,000 combatants the al-Nusra Front had in 2016 this figure increased to approximately 10,000 in 2018 (Gutierrez, 2018).

AQ's «triumph» over IS in Syria reinforced Al-Zawahiri's leadership, who is also credited with devising the strategic model, based on three of his main principles. The first was to strengthen the decentralised franchise approach, which facilitated the survival of the movement. Today, AQ is truly «glocal» and has incorporated the local approach into a global narrative that forms the basis of a grand, all-encompassing strategy. The second major move was the order issued by Zawahiri in 2013 to avoid operations that could produce mass casualties, especially those that could kill Muslim civilians. AQ has thus been able to present itself as a more moderate organisation than the IS. Finally, Zawahiri has avoided confrontation with the forces of the international coalition in order to preserve his operational capacity, contrary to the open battle presented by IS (Hoffman, 2018).

IS, on the other hand, originally based its strategy on the conquest of territory. The initial belief was that the enormous potential of the IS, particularly motivated by the fact that the Muslim population would rise to more than 1.5 billion in the short term, terrorising the enemy and encouraging a rapid withdrawal. (Foundation For Defence of Democracies, 2011). It is considered that «until 2015 IS's strategy was primarily geocentric. It aimed initially to capture geographical territory, then cleanse and control it, and then to state-build within it according to its ideology» (Ashour, 2015, p. 10). The IS had, indeed, a strong kick-start and conquered large expanses of territory, but military pressure and the difficulty in recovering combat capacity made it gradually lose territory.

## Ideology as the basis of jihadist resilience

In this section we will look at the evolution of the main jihadist groups. By examining the attacks we trace the history of alliances and establish the link with the Global Jihad.

### *Al Qaeda and its affiliates*

Illustration 1 shows the evolution of the main jihadist groups linked to AQ ideology. This graph reveals the resilience of Al-Shabaab and Al-Qaeda in the Arabian Peninsula (AQAP) and the decrease in AQIM attacks. The case of the latter group, as we shall see, is different in that its evolution has been marked by affiliation to regional groups, which has allowed the influence of jihadist ideology to be maintained in the Sahel.

AQ initially existed as a formal organisation with a solid structure, albeit based on identifiable territory. This infrastructure provided the ability to survive the pressure AQ faced after the declaration of the World War on Terrorism that followed the attack of September 11, 2001. The organisation's ability to regroup and recover from the loss of its physical infrastructure and relevant leaders is what enabled it to survive and maintain the resilience of the ideology the group sought to spread (Gunaratna and Oreg, 2005, p. 1044). But, as the effects of the fight against terrorism were felt, AQ evolved into a highly decentralised and agile organisation. Central to this agility was the ideology based on Islamic fundamentalism around which its members gathered (Hutchison, 2010, p. 5). This ideology allowed it to continue to have visibility through attacks perpetrated by regional franchises.

From 2007 onwards, «regional franchises» emerged, which were linked to the Global Jihad. Among these regional franchises, three stand out: AQIM, Al-Shabaab and AQAP. These franchises were characterised the allegiance or *Bayat* offered to AQ and the support they received from the organisation in return.

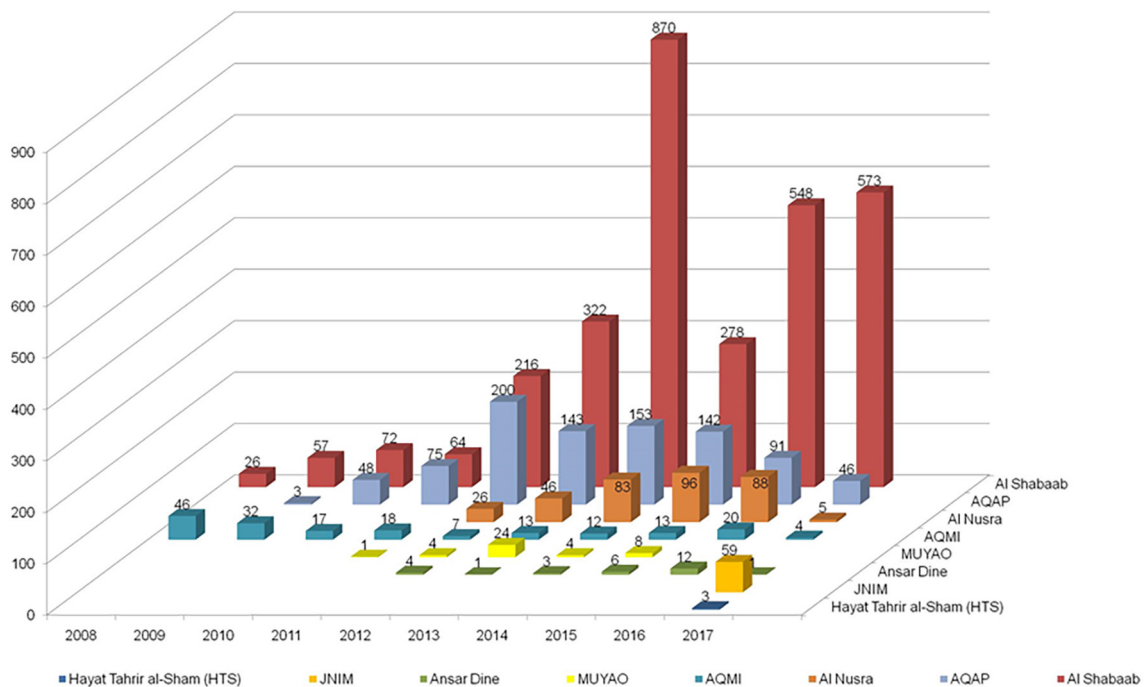


Illustration 4. Activity of jihadist groups  
Source: compiled by the author with GTD data.

### *Al Qaeda in the Sahel*

In early 2007 the Algerian Salafist Group for Preaching and Combat (GSPC) officially merged with AQ and was renamed AQIM (Filiu, 2009, p. 213). On September 11, 2006 AQ's second-most senior man, Ayman al-Zawahiri, used the fifth anniversary of the 9/11 attacks in the United States to announce this union by posting a video. In his message he said that "this blessed union will be a bone in the throat of the American and French Crusaders...and will provoke fear in the hearts of the treacherous sons

of France” (Guidère, 2006). For its part, the GSPC declared its intention to attack Western targets and Drukdal, head of AQIM, pledged allegiance to Bin Laden. This pledge was sealed with an attack near Algiers on a bus carrying foreign employees of the American firm Brown, Root and Condor (New York Times, 2006).

One of the reasons for this change may have been to improve AQIM’s legitimacy among the most militant members and facilitate recruitment, while AQ could renew its international credentials and access a region geographically close to Europe. Central AQ saw this connection as satisfying its interest in North Africa, while the GSPC moved from a focus on nationalist ambitions to a more international agenda (Arieff, 2013, p. 8). This change of name, therefore, also gave a boost to the local jihad in that membership of a global organisation lent legitimacy to its struggle. Illustration 2 shows the process of transformation from the GSPC into AQIM.

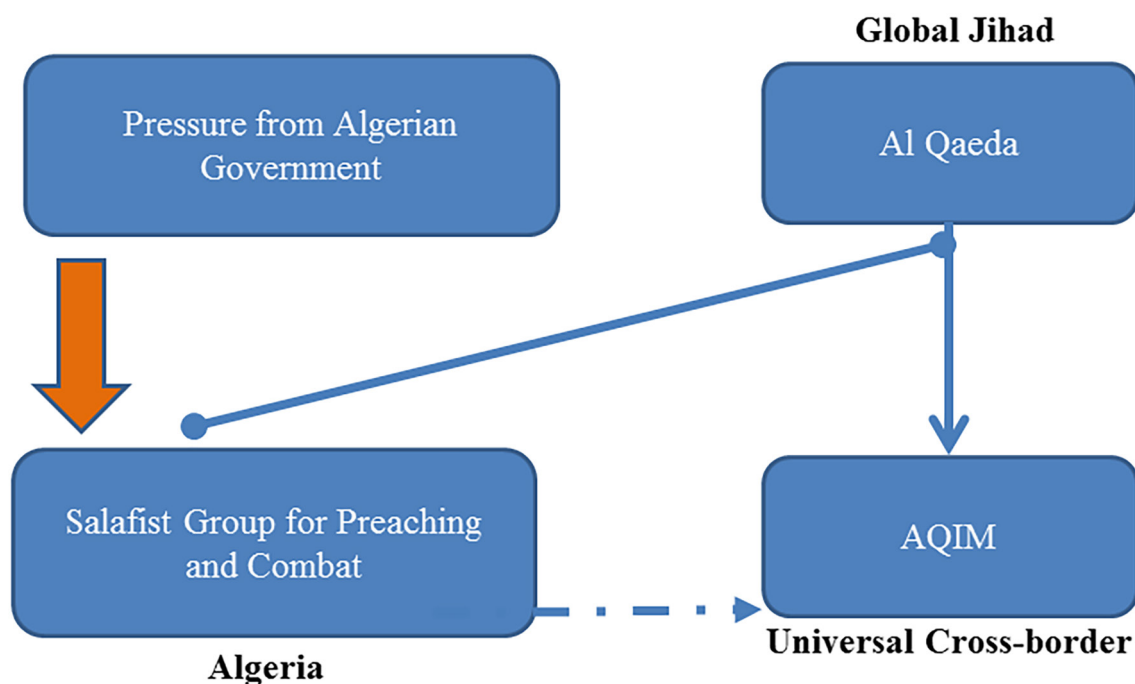


Illustration 5. Transformation from the GSPC into AQIM  
Source: compiled by the author with GTD data.

AQIM-related activity in countries such as Mauritania, Mali and Niger remained somewhat under control until 2008, but thereafter jihadist attacks were on the increase<sup>8</sup>. 2012 is identified as the beginning of the «Sahelisation of Jihad», a period marked by the impact of the Arab Spring, encompassing the revolts that broke out between December 2010 and January 2011, first in Tunisia and Egypt followed shortly afterwards by the civil war in Libya. These events «had consequences throughout the Sahel, with particular impact on the stability of Mali» (Echeverría, 2013, p. 21). In

<sup>8</sup> In 2005 there were two attacks perpetrated by the GSPC. The first took place in Mauritania, in June, in the city of Lemgheity, and a month later, in July 2005, another attack took place in Mali in which an Algerian helicopter was shot down without any fatalities.

addition to the regional franchises (AQIM, AQAP, AQI...), jihadist groups such as MUJAO and Ansar Dine began to emerge and extend their activity throughout the Sahel countries, infiltrating their societies.

From 2014, all G5 Sahel countries (Burkina Faso, Chad, Mali, Mauritania and Niger) were affected by the activity of these groups or divisions of them. The combination of political, social and economic factors facilitated the radicalisation of Islamists and the emergence of terrorist groups inspired by the ideology of Global Jihad. Moreover, certain circumstances such as pressure from security forces or the displacement of combatants contributed to the spread of jihadism from one country to another.

Military pressure resulted in the dispersion of the jihadist groups, but from the end of 2015 the situation began to change. Groups such as the Macina Liberation Front (FLM) and Ansaroul Islam (AI) had managed to organise themselves and became active. In August 2015, the FLM claimed responsibility for the attack on the Byblos Hotel in Mopti and involvement in that of the Radisson Blu Hotel in Bamako (which was also attributed to Al Murabitún and AQIM) and was mainly active between Burkina Faso and the Malian border (Weiss, 2018). In its early stages, AI, founded by Malam Ibrahim Dicko, preacher of Soum, emerged from the upsurge of widespread social discontent in the province and may have had the support of other jihadist groups such as the FLM, with which it was able to collaborate in various attacks in central Mali (Long War Journal, 2018). Since Dicko's death in 2017, there has also been speculation about the switchover of some militants to the Islamic State in the Great Sahara (Le Roux, 2019).

In the case of AQ, its associated groups became progressively closer until they were able to join forces and thus have a greater impact in the region. In March 2017, the most powerful jihadist organisations in the Sahel announced their unification and the creation of Jamaat Nusrat al-Islam wal-Muslimin (JNIM), under the leadership of Iyad Ag Ghali. These organisations were: Ansar Dine, the jihadist movement led by Ghali himself who was born at the beginning of this decade and was one of the protagonists of the occupation of northern Mali in 2012, the AQIM faction, led by the Algerian Djamel Okacha<sup>9</sup>, which included the katiba (brigade) Al-Murabitoun under the famous Algerian terrorist Mokhtar Belmokhtar; and, finally, the aforementioned FLM, a terrorist movement born in 2015 and led by the preacher Amadou Koufa.<sup>10</sup> (El País, 2017).

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<sup>9</sup> Djamel Okacha was Abu Zeid's successor after his death in February 2013 in an alleged attack by the French Army. AQIM appointed him responsible for operations in the region of the Sahara. Aged 34, Okacha, whose war name is Yahia Abou El Houmam, initially led the so-called Falange El Forqane, which dealt with the recruitment and mobilisation in the Sahara of troops to integrate them into the ranks of AQIM in northern Mali. He is allegedly responsible for the assassination of US humanitarian aid worker Christopher Leggett in 2009.

<sup>10</sup> Although left for dead after an attack by French forces in November 2018, he appeared in a video in 2019. He is a preacher who has developed his activity mainly in the city of Niafunke, in the centre of Mali and his mentor is Ghali. His group, the LWF, began to take centre stage in January 2015 and

The creation of JNIM put an end to the factionalism that had been a long-standing feature of jihadist organisations in the region and gave rise to what can be considered one of AQ's most powerful affiliates. Thus, on the one hand, Sahelian jihadism reorganised its forces in the face of increased military pressure from Operation Barkhane and Operation AQ<sup>11</sup> as well as G5 Sahel<sup>12</sup>. On the other hand, AQ reinforced its position against the penetration of IS in the area, since its affiliate, the Islamic State in the Great Sahara (ISGS), a division of Boko Haram, had gained prominence with the attacks of September and October 2016<sup>13</sup>. The new organisation introduced nuances of Islamism in West Africa and the Sahel but «despite the presence of local militia among its militants there was a preponderance of North African middle management, emerging figures and AQIM leaders who ensured that the essence of the brand was safeguarded» (Altuna, 2018, p. 12).

On the other hand, with the creation of JNIM, AQ positioned itself to remain the predominant group in the region and absorb groups that were beginning to see the fall of IS. Through its terrorist operations, JNIM helped mitigate the decline of the military potential of the AQ matrix in North Africa, where Mali became a JNIM nerve centre because, in addition to facilitating operations in a destabilised country, Mali's strategic location allowed JNIM's actions to resonate beyond its immediate neighbours<sup>14</sup>. As an illustration of this stance, it sought to increase its influence and capacity

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its objective is to revive the Macina Empire, which flourished in the nineteenth century and centred in the cities of Mopti and Segou.

<sup>11</sup> Operation Barkhane was launched on August 1, 2014 with the aim of fighting terrorism in the Sahel region. Also present in the region are the MINUSMA forces created by the Security Council in 2013 and which since 2014 have focused on ensuring the security, stabilisation and protection of civilians; supporting national dialogue on policy and reconciliation; supporting the restoration of State authority throughout the country, the reconstruction of the security sector and the promotion and protection of human rights.

<sup>12</sup> The presidents of the five Sahel States exposed to the terrorist threat officially launched the G5 Sahel Cross-Border Joint Force on July 2, 2017 in Bamako. The African Union supported the creation of this joint military force, which was approved by the UN Security Council in resolution 2359 (June 21, 2017), submitted by France. Its mandate is the fight against terrorism, cross-border organised crime and human trafficking in the geographical area of the G5 Sahel. Its first intervention took place in November 2017, with the armies of Burkina Faso, Mali and Niger.

<sup>13</sup> The first attack occurred on the night of September 1, 2016, when ISGS attacked a gendarmerie in Burkina Faso near the Nigerian border and killed two guards. The second occurred about a month later, on October 12. The group attacked a police post in Intoum, Burkina Faso, a few kilometres from the Malian border, where three policemen were killed. The third, and certainly the most sophisticated, was the organisation by ISGS of an escape attempt from the Koutoukale high-security prison in Niamey, Niger, on October 17, 2015.

<sup>14</sup> Like Niger, Mali is a gateway linking sub-Saharan Africa with North Africa and the Mediterranean, making it a key crossroads for migrants and refugees heading to Europe. It is true that these flows are an important source of income for a group accustomed to smuggling goods throughout the region, but the focal point remains the jihadist link, without which organised crime gangs would be much easier to fight. Its proximity to Libya also offers the group new avenues for smuggling and buying weapons in an affluent post-conflict market.

by assuming the cause of groups present in the region such as the FLM, which defended the Fulani cause and its extremist ideology, and JNIM endorsed it by engaging in a revenge attack after a Fulani teenager was murdered (Geopolitical Monitor, 2018).

### *Al-Qaeda in East Africa*

In this region Al-Shabaab exploited the social, economic, ethnic, religious and political factors fuelling the instability that existed before the fall of Siad Barre's government in 1991. The group controlled much of southern Somalia and parts of territory in Kenya and Ethiopia along the Somali border. In areas under its control, Al-Shabaab imposes its strict version of Sharia law. It is engaged predominantly in targeted attacks against the Somali government and the African Union Mission in Somalia (AMI-SOM).

In February 2012 Al-Shabaab pledged allegiance to AQ (Council on Foreign Relations, 2019) and the most prominent group attack took place in 2013 when it attacked the Westgate Mall in a luxury neighbourhood of the Kenyan capital, Nairobi, resulting in a four-day occupation of the shopping centre, 67 deaths and a disappointing performance by Kenyan security forces. At the time, Al-Shabaab seemed to have lost ground in Kenya, partly because of its own brutality and also as a result of pressure from the security forces, but since then the group has adapted and shown considerable resilience, allowing it to continue to represent not only a major threat to the country, but also to spread to parts of Tanzania, where militant violence was on the rise, and even to Mozambique (Crisis Group Africa Report, 2018, p. 2). As evidence of this, in 2015 the group killed 148 people in an attack on a university in the city of Garissa, in what became the most lethal attack in Kenya since the 1998 bombing of the US embassy in Nairobi, in which more than 200 people had lost their lives.

In recent years, Al-Shabaab has displayed a remarkable capacity for carrying out attacks. In April 2017, the new Somali president Mohamed Abdullahi Farmajo declared war on Al-Shabaab and offered his militants amnesty within 60 days. The government offered employment and education to the fighters who surrendered during this period, but the group formally rejected the offer and declared war the next day. On April 9, an Al-Shabaab suicide bomber killed at least 15 people in an attack near a military base in Mogadishu. In October 2017, Mogadishu again suffered its worst terrorist attack to date when a truck loaded with explosives killed more than five hundred people (El País, 2017), although the group never claimed responsibility.

Al-Shabaab's main strength was then its dominance of key territory. On the one hand, the group dominated the land surrounding the capital, Mogadishu, from where it coordinated complex attacks targeting the Federal Government of Somalia. On the other hand, it also had controlled strong points in central and southern Somalia. From there, Al-Shabaab was able to devise attacks against Kenyan security forces and soft targets. Al-Shabaab's safe havens on the outskirts of the capital allowed it to carry out

occasional complex attacks against well-protected targets, such as federal ministries. However, pressure from the security forces led them to switch targets to focus more on lethal and “hit-and-run” attacks against international forces deployed in the country and Somali security forces.

Operations by Kenyan security forces increasingly forced Al-Shabaab to move elsewhere. They thus began to forge alliances with local Islamist groups in Tanzania and northern Mozambique<sup>15</sup>. In Tanzania, it has capitalised on the situation to forge links with national activists. These militant groups have been engaged in attacks on police officers and churches, and since 2015 the number of attacks has further accelerated, particularly along the coast and in large cities such as Mwanza, Arusha and Dar es Salaam. In 2016, the group kidnapped and beheaded leaders of political groups in a campaign designed to spread fear and to prevent them from gathering intelligence. In 2017 militants from the group ambushed and killed eight policemen on the outskirts of Kibiti on the Tanzanian coast, the focus of clashes between militants and security forces (International Crisis Group 2018). In Mozambique, the province of Cabo Delgado has become a new hotbed for militancy<sup>16</sup>. Tanzanian militants escaping pressure from security forces have retreated to the south and crossed into Mozambique.

Most of the group’s attacks are reprisals against perceived injustices against Muslims and against the Al-Shabaab mission in Somalia. Targets include the United States and other Western countries, as well as other states such as Uganda and Kenya, which have contributed troops to AMISOM. A feature of Al-Shabaab is adaptability. For example, Al-Shabaab has combined the use of suicide bombers and hand grenades to penetrate heavily fortified perimeter structures (Counter Extremist Project, 2018).

Al-Shabaab ideology is described as a branch of Salafism and Wahhabism that supports *takfir*, the excommunication of apostates or infidels. The group is fighting first and foremost to create a fundamentalist Islamic state in the Horn of Africa, which would include not only Somalia but also Djibouti, Kenya and Ethiopia. The strict enforcement of Al-Shabaab sharia involves stoning, amputations, and decapitations, which are regular punishments for criminals and apostates. The group violently persecutes non-Muslims and frequently attacks humanitarian and international aid workers.

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<sup>15</sup> Attempts by transnational jihadism to build ties with Tanzanians were already underway in 1998 as investigations into the 1998 attack on the US embassy in Dar es Salaam, Tanzania, have revealed. Al Qaeda then turned to the locals for logistical support.

<sup>16</sup> The wave of attacks against civilians began in October 2017, when suspected armed Islamists attacked a police station in the Mocimboa da Praia district, causing two days of lock-down in the area and a military response that led to the evacuation of villages. Despite the police presence in the region and the establishment of a special military operation to combat armed groups, attacks on villages continued sporadically in 2018. Between May and July 2018, at least 39 people were killed in attacks by an alleged armed Islamist group in the northern province of Cabo Delgado killed and more than a thousand were displaced.

*Al-Qaeda in the Arabian Peninsula*

In Yemen, AQ was beginning to see the fruits of its local strategy in 2017. Civil war provided the ideal scenario for AQAP which, like all insurgent groups, thrives in environments where there is a lack of state authority, poverty and fragmented opposition forces. The war was the ideal setting for a more covert strategy that allowed it to expand its links with local communities and groups opposed to Yemeni Houthi rebels and their allies.

The new strategy based on local support was fundamental to AQAP's ability to sustain and expand in Yemen. The AQAP leadership went on to incorporate the lessons learned during its defeats and setbacks over the period from 2012-2014. AQAP then embraced the gradual approach advocated by its late leader, Al-Wuhayshi, and later accepted by Al-Raymi, who advocated self-restraint to facilitate rapprochement with those he sought to govern (Horton, 2017, p. 17). AQAP's growing concern for local community problems meant less interest in direct attacks on foreign targets, but a more pragmatic path to growth in the region. Strengthening local ties makes it more resilient and more difficult to combat. In addition, it secures its future as long as the civil war in Yemen continues.

AQAP went on to operate throughout Yemen, mainly in the southern and central regions of the country. In many of these provinces it ruled small areas of territory with sharia courts and a heavily armed militia. AQAP tried to engage with the Yemeni people by meeting their basic needs and integrating into the local population, even in compliance with local government structures. However, since mid-2017, AQAP has suffered losses in its leadership and commanders on the ground due to extensive Yemeni and international counter-terrorist operations.

*The evolution of Al-Qaeda*

Through its affiliates in Syria, Somalia, Yemen and West Africa, AQ has taken advantage of weak and deficient states, turning ungoverned spaces into alternatively governed spaces, with the government provided by AQ franchise groups working at grassroots level to generate legitimacy among local populations. This has been a hallmark of the AQ sister organisation in Syria, where the group softened its tone and juxtaposed its control to that of the much more draconian IS. AQ appears to be the most active group in Syria, at least for now, firmly rooted throughout Idlib province. Also worrisome is the possible expansion of AQ to southwest Libya as well as the stockpiles of weapons scattered throughout the Maghreb and Sahel.

Finally, the AQ was able to reinforce its leadership with the appearance on the scene of Hamza bin Laden, who might achieve the reunification of the Global Jihad. On September 14, 2017, the group issued an audio statement from Osama bin Laden's son calling on jihadists to double their jihadi efforts in Syria against what it described as a

U.S.-Russian-Shiite conspiracy against Islam. These signs of leadership are important as the Islamic state continues its decline. IS members were unlikely to pledge allegiance to Al-Zawahiri, whom they considered unworthy of bin Laden's legacy. Hamza, on the other hand, had in his favour his pedigree and his marriage to the daughter of an AQ founding member, Abu Mohammed al-Masri, making him a possible leader for IS militants (Soufan, 2017, p. 5).

### Islamic state

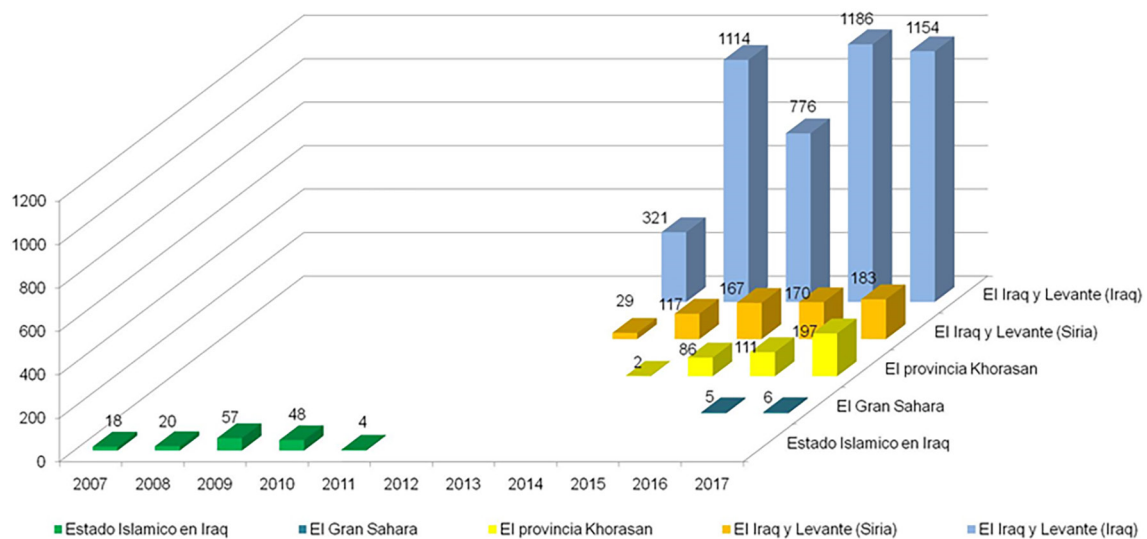


Illustration 6. Activity of jihadist groups associated with the Islamic State  
Source: compiled by the author with GTD data.

The Islamic State of Iraq originated in the Jama'at al-Tawhidwal-Jihad group, founded in 1999. This group pledged allegiance to AQ and participated in the Iraqi insurgency following the invasion of Western forces in 2003. It was from this group that Abu Musab al Zarqawi founded Al-Qaeda in Iraq in 2004. The group lost momentum after the build-up of US forces in Iraq in 2007 and the death of Al-Zarqawi in 2006, but began to re-emerge again in 2010 and in subsequent years has taken advantage of the growing instability in Iraq and Syria to carry out attacks and reinforce its ranks.

From 2011 onwards, in the wake of the aforementioned crisis with the al-Nusra group and the setback of Abu Bakr al-Bagdadi in attempting to expand into Syria, there was a break with AQ and the birth of the Islamic State in Iraq and the Levant<sup>17</sup>. Despite the setback in Syria, in 2014 the Islamic State in Iraq emerged very forcefully

<sup>17</sup> The group is known as Al-Dawla Al-Islamiya fi al-Iraq wa al-Sham in Arabic, or the Islamic State of Iraq and al-Sham. The term «al-Sham» refers to a region stretching from southern Turkey to Syria and Egypt (which also includes Lebanon, Israel, the Palestinian territories, and Jordan). The group's stated goal is to restore an Islamic state, or caliphate, throughout this area. The standard English term for this vast territory is «the Levant». Therefore, the translation is the Islamic State of Iraq and the Levant, or ISIL.

and managed to conquer territories in Iraq and Syria until Baghdadi declared the caliphate in the summer of 2014 in the great mosque of Mosul, leading the way to a campaign of terror. Since then the IS has succeeded in attracting affiliates in numerous countries that joined the group because they identified with its model of antagonism towards local jihadist competitors and its hatred of non-Muslim nations. In the majority of countries where the IS has been successful its recruitment capacity has been based on its reputation for its intransigence in imposing the ideology of Global Jihad (McCants, 2016, p. 20).

In 2014 IS was clearly on the rise at the expense of the decline of AQ. It proved victorious over AQ after its march through Iraq capturing town after town before concluding with the seizure of Mosul in June 2014. In a matter of months, a significant portion of AQ had fractured and in various places groups had emerged that favoured adherence to the IS. This was the case in Algeria, Pakistan, Yemen and, ultimately, in numerous countries from Morocco to Indonesia (Intel Center, 2016). The appeal of Islamic State branding caused the jihadist landscape to become more diverse than at any previous time in history. Initially, AQ and IS competed destructively against each other; however, since the creation of the caliphate, they were aggressively pursuing attacks in an attempt to one up each other. (Watts, 2016, p. 5).

In September 2014 the United States built an anti-IS coalition together with Kurds and Syrian Arabs known as the Syrian Democratic Forces (SDF), which gradually captured the Islamic State's key positions. Although IS managed to take Ramadi in Iraq and the former desert city of Palmira in Syria, it gradually began to lose ground. In June 2017 Mosul was lost to Iraqi forces after months of fighting and Baghdad declared the end of the caliphate. In 2018 the Syrian government regained the IS enclaves in Yarmouk, south of Damascus, and on the border with the Golan Heights occupied by Israel. Finally, on December 19, 2018, President Donald Trump declared that IS had been defeated and indicated his intention to withdraw the 2,000 U.S. troops supporting the SDF in Syria. But the SDF continued its offensive and in February 2019 launched a final siege on IS forces in Baghouz, their territorial last stand. Baghouz fell on 23 March 2019, formally ending the caliphate's claim on any territory.

Despite the enormous territorial losses and military setbacks in the Middle East, the violent ideals advocated by the IS remain resilient and seem to resonate in the hearts and minds of a section of inspired Muslims. An example is India, where after a brief pause in IS-led or IS-inspired events in the country, security agencies unearthed multiple pro-IS secret networks, and foiled conspiracies to carry out terrorist attacks aimed at key facilities and sites around the state capital, New Delhi, and locations in the states of Uttar Pradesh and Maharashtra (Jamestown Foundation, 2019).

### *Islamic State in the Great Sahara (ISGS)*

The ISGS clearly emerged from its link to the Global Jihad, as a split from Al Murabitún. The group was created when its leader, Al Sharawi, Emir of Al Murabitún,

a group linked to AQIM, pledged allegiance to the leader of the IS in May 2015, a commitment that the IS recognised in October 2016. The group has focused on local targets in rural areas of Mali and its recruitment base is in Niger, fuelled by ethnic conflicts as well as the lack of state presence and legitimacy. Estimates of the number of militants vary considerably between 50 and several hundred (Congressional Research Service, 2018).

The group has shown an increase in its operating capacity in recent years. Since its creation in May 2015, the most significant attack perpetrated by the group was that of Tongo Tongo in October 2017, when ISGS militants ambushed a convoy of joint U.S.-Nigerian army green beret forces in the Tillabéri region near the Malian border, in which four U.S. special forces soldiers (green berets), four Nigerian soldiers and an interpreter were killed and others wounded. That same month, ISGS militants assaulted the gendarmerie in Ayorou, also in the Tillabéri region, where thirteen gendarmes were killed and five wounded, and vehicles, weapons, ammunition and other materials were seized.

In recent years the ISGS has stepped up its activity considerably, from approximately ten incidents in 2017 to a hundred in 2018. The group has carried out attacks in Mali, Burkina Faso and Niger. However, it has failed to implement attacks resulting in massive casualties or complex operations against protected targets and is also far from reaching the operational capability of its rival, JNIM. The group has managed to capture several hostages in order to exchange them for a substantial ransom (Stratfor, 2019), but most of the group's attacks have been ambushes, assassinations, kidnappings and disruption to communication lines. The only attack that could have had a major impact was that of March 10, 2019, when they attempted a complex strike on the French Operation Barkhane forces near Akabar, but the suicide car bomb was detonated prematurely with fifteen French soldiers wounded as a result.

ISGS grew rapidly after the Tongo Tongo attack in October 2017. Although weakened by counter-terrorism operations in 2018, the group gained popular support in northern Mali and contributed to the scaling-up of the Salafist-jihadist insurgency in Burkina Faso. The persistent conflict conditions that allowed ISGS to grow in Mali foster the group's resilience.

### *Islamic State in the Province of Khorasan*

The IS became known in Afghanistan in 2014, when the group's first leader, Hafiz Saeed Khan, pledged *bayat*, or allegiance to the group that originated in Iraq (The Defence Post, 2018). The faction gained strength in Nangarhar province<sup>18</sup> from mid-2014 by recruiting dissatisfied Taliban commanders, exploiting local resources and winning over or forcing support from Salafist religious networks (Garret, Karokhaily Amir, 2016). Another factor in the emergence of IS in Afghanistan was the counterin-

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<sup>18</sup> Nangarhar is one of the few areas in Afghanistan with Salafist communities.

surgency operation carried out by Pakistan in 2014 and 2015, the so-called “Zarb-e-Azb” operation<sup>19</sup>. This resulted in the displacement of Pakistani activists arriving from across the border from Pakistan’s Federally Administered Tribal Areas (FATA). Many of these activists were separate members of the Terik-e-Taliban Pakistan and Lashkar-Islam groups. In addition, the appointment of Khan as the first emir of the Islamic State Khorasan (IS-K), and that of a Taliban commander, Abdul Rauf Khadim, as his deputy, further facilitated the group’s growth by connecting to recruitment networks established in Afghanistan. From 2017, members of Lashkar-e-Taiba, Jamaat-ud-Dawa, the Haqqani Network and the Islamic Movement of Uzbekistan (IMU) could also have joined IS-K (CSIS, 2018).

Most Islamists, especially those of Pakistani origin, have never identified closely with the official Taliban ideology, but have reached agreements with mutual benefits<sup>20</sup>. However, since the coalition forces deployed in Afghanistan expelled the Taliban from power, relations between AQ and its former benefactors have changed considerably (Council on Foreign Relations, 2009).

From 2015 onwards, IS registered significant expansion in Afghanistan. In January 2015, an IS spokesman based in Raqqa, Syria, announced that the group was expanding its operations into the province of Khorasan, a medieval name for a territory comprising territories of Afghanistan and parts of Iran and Pakistan (Oxford Analytical Daily Brief, 2015). The main attraction of IS was its ideology. The group quickly managed to muster enough strength to represent an active threat in Afghanistan, through the use of a narrative based on purity that permeated the local commanders and emirs, dissatisfied with the lack of application of Sharia law and collaboration with the Pakistani army. In these early years the group demonstrated its ability to infiltrate and attack populated areas, most notably the attack on the Pakistani consulate in the provincial capital, Jalalabad, in January 2016.

Territorial conquest has been a hallmark of IS-K. Afghanistan was important for the Global Jihad and this was manifested in the support of the central leadership of IS in Iraq and Syria. As the IS lost territory in Iraq first and Syria later, Afghanistan grew in importance as a base for its global caliphate. Like the IS’s central leadership in Iraq and Syria, IS-K envisioned a caliphate that began in South and Central Asia, governed by Sharia law that would spread as Muslims from across the region and the world united. In its vision, IS-K had no international borders and foresaw that its territory

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19 On June 14, 2014, the Pakistani army launched a large-scale offensive called «Zarb-e-Azb» with the stated aim of eliminating the militant pockets in the North Waziristan Area (NWA), which is a strategic area in the Federally Administered Tribal Areas (FATA). The name «Zarb-e Azab» refers to one of the seven swords of the Holy Prophet.

20 Let us not forget that the US and NATO campaign against Taliban forces in Afghanistan aims to prevent Al-Qaeda from re-establishing a base that could be used to plan attacks against third countries. This is intended to avoid the situation prior to the terrorist attacks of September 11, 2001, when Al-Qaeda enjoyed refuge under the Taliban government and the Taliban leader Mullah Omar refused to hand over Osama bin Laden to international authorities.

would transcend the territories of Afghanistan and Pakistan (Center for Strategic and International Studies, 2018).

Islamic State in Khorasan was unable to consolidate the land it had conquered. In Afghanistan, the group never achieved the success rates of Syria and Iraq for different reasons. On the one hand, the group's brutality and inflexible ideology caused it to lose the support of the local population and, as a consequence, its recruiting capacity diminished. On the other hand, they suffered attacks from both the Taliban and members of the Afghan security forces supported by the United States and NATO forces. The IS was at a disadvantage in expanding into a country where the Taliban had been struggling for decades against multiple attacks from abroad, living among Afghans and supported by families and tribes with whom they had ethnic ties.

The rejection of the Taliban, together with the counter-terrorist effort of the United States, resulted in IS-K finally losing its strongholds in the west and south of the country and concentrating in the province of Nangarhar in the east. There they managed to gain strength in villages in districts such as Achin, Naziyan, Bati. Kot and Shinwar, as well as some territories in Deh Bala, Rodat and Chaparhar, in the province of Nangarhar. In these territories they succeeded in expelling the Taliban (Middle East Institute, 2016, p. 6).

The case of IS in Khorasan demonstrates that, in addition to expanding into Afghanistan through the link to Global Jihad, territorial dominance is a vulnerable issue for jihadist groups. For this to be effective there has to be support from the local population and passiveness on the part of the security forces. This failed the IS in both Iraq and Afghanistan. Nevertheless, IS ideology inspired many of the jihadists who carried out attacks in the West.

### *Islamic State in the West*

In the United States, more than three-quarters of all deaths caused by jihadist attacks in the country since the 9/11 attacks occurred when IS was at the height of its popularity and more than half of the deadly attacks in the same period were somehow ISIS-inspired (Berger and Serman, 2018). Increased IS influence caused many to fear that the threat had changed radically. Although no foreign terrorist group has successfully carried out a deadly attack in the United States since September 11, there have been a considerable number of attacks inspired by IS ideology and it cannot be ruled out that they may occur in the future.

Europe is currently at the end of a wave of jihadist violence that began on November 13, 2015, with a series of IS-related attacks in Paris and which, in addition to France, also impacted on Denmark, Germany and the United Kingdom<sup>21</sup>. In 2015, 150

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<sup>21</sup> Since the 11-M attacks in Madrid, there have been nine European Union states that have suffered Islamist attacks resulting in loss of life: Spain, the Netherlands, the United Kingdom, Germany,

people died in jihadist terrorist attacks, followed by 135 in 2016 and 62 in 2017. However, 2018 ended with some 20 fatalities due to terrorist attacks in Europe, a significant reduction from previous years (New America, 2018).

## Conclusions

Ideology has been the cause of the expansion of jihadism in different regions. Networks related to illicit trafficking and organised crime have existed and continue to exist in different regions without having the significance of the jihadist phenomenon. In order to reach its present magnitude, the existence of ideology has been necessary, although the financing of these organisations is an essential requirement. On the other hand, cases such as that of the Islamic State in the province of Khorasan or that of Al-Qaeda in Iraq demonstrate that control of territory does not constitute the centre of gravity of jihadist groups, but rather the inspiration in their ideology and the moral supremacy granted to their militants.

The ideology of Global Jihad is universally represented by Al-Qaeda. The organization has evolved through different franchises and alliances, but its ideology has endured over time. The main idea remains the Global Jihad against the United States and its allies that will be fought around the globe, first conceived by Bin Laden and his Palestinian partner Abdallah Azzam in the 1980s during the war against the Soviets in Afghanistan.

The group's resilience resides mainly in the consolidation of a secure network and the existence of safe havens where the core of the organisation can be maintained. With this starting point, AQ has implemented an ambitious strategy to protect the central leadership and discreetly consolidate its influence in other regions. It has thus expanded into the Sahel, Syria, Yemen and the Arabian Peninsula, maintaining only a central core in Afghanistan and Pakistan. This has been possible thanks to the strength of its message, which has enabled the growth of local groups in different regions, maintaining a link with the global Jihad.

The evolution of AQ has been influenced by a series of processes based on the existence of similar nuclei in certain territories. Among these processes, the destabilisation caused by the Arab Spring stands out. An example of this is the GSPC, its transformation into AQIM and, finally, its rise following the impact of the Arab Spring in Mali. In other words, the reconstruction of AQ after 9/11 and subsequent operations bore fruit in the wake of the Arab Spring. Although initially the yearning for democracy and economic reform aroused great optimism in several Maghreb and Sahel countries,

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Belgium, Denmark, Finland, Sweden and France. Of these, the one with the highest number of fatalities was Madrid, with 191 deaths on commuter trains, followed by the 130 victims of the assault on the Bataclan hall and other targets in Paris in 2015, and the 86 victims of the atrocity in Nice in 2016.

AQ gained significant support from the local population, providing it with new opportunities for expansion.

Recent years have witnessed a rivalry in the Global Jihad between AQ and the Islamic state. In the early years following the proclamation of the Caliphate in 2014, the IS had the upper hand over AQ in the field of information. However, after the initial momentum, the IS suffered major setbacks in Iraq, Afghanistan and Syria, also evident in the reduction of its ideological influence to inspire attacks in Western countries. AQ initially lost appeal vis-à-vis the strength of the IS, but has invested in a strategy based on the support of the local population that has made it increasingly relevant in territories such as North Africa, the Levant, parts of Asia and, in addition, it continues to be strong on the border between Afghanistan and Pakistan.

The success of AQ's strategy resides primarily in its ideology and adaptability, reflected in its shift towards a «soft» or moderate approach. AQ is an idea, and an idea cannot be physically destroyed. Thus, despite operations aimed at killing their leaders and dismantling training camps, the ideology prevails. The clearest examples may be Afghanistan and Mali where, despite the military operations deployed, AQ survives and is even stronger thanks to its adaptability. Unlike the IS strategy based on headline-grabbing terrorist attacks, brutal public executions and propaganda, AQ pursues a softer approach, focused on seeking the support of Sunni Muslims in conflict countries.

In contrast, the IS has lost strength in recent years, particularly in Iraq and Syria. In Afghanistan, while the group has lost territory, the future presents opportunities for expansion. At present, negotiations in the context of a peace process that would put an end to the conflict could lead to the reintegration of the Taliban in different spheres of Afghan society, but we cannot rule out the possibility that some of the disenchanting will join the ranks of IS in order to continue the fight from an ideological perspective.

For the foreseeable future, the threat of AQ and IS will most likely continue to manifest itself in attacks in regions with associated groups. In the Sahel, despite military operations carried out by security forces, terrorist activity is expected to remain high in the Mopti region, where AQ-associated jihadist groups enjoy some freedom of movement and seek to control illicit trafficking networks in order to secure funding. In Burkina Faso, recent attacks in August confirm the presence of JNIM and Ansarul Islam. In Somalia, Al-Shabaab has suffered a severe loss of operational capacity, accentuated by the death of its leader, Oman Mahad Karata, and 18 other militants following a drone attack, but the group remains active in the region. The IS continues its activity in West Africa and could expand into areas of the Maghreb such as Morocco or Tunisia, due to the return of jihadists from Iraq and Syria. In addition, the attacks in Kabul confirm that it also has operational capacity in Afghanistan to carry out high-impact attacks.

The IS continues to be the benchmark of radical Jihad and also the one that has inspired the most attacks in Western countries but, nevertheless, it can no longer compete with AQ in terms of influence, scope, operational capacity or cohesion. Both

AQ and IS represent an ideology that attracts its militants, whose attacks have given them visibility and have succeeded in attracting new followers. At present, efforts against jihadist terrorism have managed to mitigate the risk of attacks in the West and downgrade the capacity of these organisations, but these groups or their predecessors have already suffered major defeats in the past and have managed to re-emerge, so the threat persists.

Hamza bin Laden's arrival on the scene, coupled with the IS's loss of operational capacity, could bring about progress towards the reunification of the Global Jihad. As with the creation of JNIM from other existing groups in the Sahel, the loss of IS territory, combined with the leadership that Hamza Bin Laden may represent, could make possible the future unification of Jihad with the merger of AQ and IS.

### Bibliographic references

- ALTUNA S. (2018). *Jamā'atNuṣrat al-Islāmwa-l-Muslimīn: análisis del proyecto de al-Qaeda para el Sahel a través de su propaganda*. Real Instituto Elcano. Análisis del Real Instituto Elcano. ARI 52/2018. April 18, 2018. <http://www.realinstitutoelcano.org/wps/wcm/connect/dec4c563-dccd-430e-8345-4914bedca72a/ARI52-2018-Altuna-JNIM-analisis-proyecto-al-Qaeda-para-Sahel-propaganda.pdf?MOD=AJPERES&CACHEID=dec4c563-dccd-430e-8345-4914bedca72a>.
- ARIEFF, A. (2013). *Algeria: Current Issues*. Congressional Research Service, p. 8. <https://fas.org/sgp/crs/row/RS21532.pdf>.
- ASHOUR, O. (2015). *Why does the islamic state endure and expand?* Istituto Affari Internazionali. December 2015. ISSN 2280-4331/ISBN 978-88-98650-77-4. <http://www.iai.it/sites/default/files/iaiwpi1552.pdf>.
- BERGER, P. Y STERMAN, D. (2018). *Jihadist Terrorism 17 Years After 9/11. A Threat Assessment*. September 10, 2018. <https://www.newamerica.org/international-security/reports/jihadist-terrorism-17-years-after-911/>.
- BOEKE, S. (2016). «Al Qaeda in the Islamic Maghreb: Terrorism, insurgency, or organized crime?». *Small Wars & Insurgencies*, vol. 27, n.º 5, pp. 914-936. DOI: 10.1080/09592318.2016.1208280.
- CONGRESSIONAL RESEARCH SERVICE (2018). *The Islamic State and U. S. Policy*. September 25, 2018. <https://crsreports.congress.gov/product/pdf/R/R43612>.
- COMBATING TERRORISM CENTER (2005). *Zawahiri's Letter to Zarqawi*. <https://ctc.usma.edu/app/uploads/2013/10/Zawahiris-Letter-to-Zarqawi-Translation.pdf>.
- CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES (2018). *Islamic State Khorasan (IS-K)*. [https://csis-prod.s3.amazonaws.com/s3fs-public/181113\\_IS-K\\_Backgrounder.pdf?LgtpuuPVxjdGU6g\\_idQlIH4cI1lLgZot](https://csis-prod.s3.amazonaws.com/s3fs-public/181113_IS-K_Backgrounder.pdf?LgtpuuPVxjdGU6g_idQlIH4cI1lLgZot).

- COUNCIL ON FOREIGN RELATIONS (2019). *Al-Shabaab*. <https://www.cfr.org/backgrounder/al-shabab>.
- COUNTER EXTREMISM PROJECT (2017). *The Muslim Brotherhood's Ties to ISIS and Al-Qaeda*. June 2017. [https://www.counterextremism.com/sites/default/files/Muslim%20Brotherhood%20Ties%20to%20ISIS%20and%20AQ\\_061617.pdf](https://www.counterextremism.com/sites/default/files/Muslim%20Brotherhood%20Ties%20to%20ISIS%20and%20AQ_061617.pdf).
- CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES (2018). No 2018. *Jama'at Nasr al-Islam wal Muslimin (JNIM)*. <https://www.csis.org/programs/transnational-threats-project/terrorism-backgrounders/jamaat-nasr-al-islam-wal-muslimin>.
- CRISIS GROUP (2018). *Al-Shabaab Five Years after Westgate: Still a Menace in East Africa*. Crisis Group. Africa Report N° 265. September 21, 2018. <https://d2o71andvipowj.cloudfront.net/265-al-shabaab-five-years-after-westgate.pdf>.
- DOBBS, M. (2001). «Inside the mind of Osama Bin Laden». *Washington Post*. September 20, 2001. <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/08/AR2006080800769.html>.
- ECHEVERRÍA, C. (2013, c). Coord. *Al Qaeda en las tierras del Magreb islámico y otros grupos de su entorno: una compleja red de carácter violento*. Instituto Español de Estudios Estratégicos Research document 02/2013. Collection: militant groups of radical ideology and violent character in the region of Mena and Central Asia, number 01. [http://www.ieee.es/Galerias/fichero/docs\\_investig/DIEEE-INV02-2013\\_AlQaidaTierrasMagreb\\_RegionMenaxAsiaCentral.pdf](http://www.ieee.es/Galerias/fichero/docs_investig/DIEEE-INV02-2013_AlQaidaTierrasMagreb_RegionMenaxAsiaCentral.pdf).
- EL PAÍS (2016). «El ISIS anuncia un nuevo líder de la secta yihadista Boko Haram». [http://internacional.elpais.com/internacional/2016/08/03/actualidad/1470239414\\_417586.html](http://internacional.elpais.com/internacional/2016/08/03/actualidad/1470239414_417586.html).
- EL PAÍS (2017). «Nace el grupo yihadista más grande del Sahel». March 2, 2017. [https://elpais.com/internacional/2017/03/02/actualidad/1488474628\\_926442.html](https://elpais.com/internacional/2017/03/02/actualidad/1488474628_926442.html).
- FILIU, J. (2009). «The Local and Global Jihad of al-Qa'ida in the Islamic Maghrib». *Middle East Institute, Middle East Journal*, vol. 63, n. 2, pp. 213-226. DOI: 10.3751.63.2.12.
- FOUNDATION FOR DEFENCE OF DEMOCRACIES (2011). *Declaring War on the Far Enemy*. <https://www.fdd.org/analysis/2011/08/09/declaring-war-on-the-far-enemy/>.
- GARRET, C., KAROKHAIL, M. y AMIRI, R. (2016). *The Islamic State in Afghanistan*. Assessing the Threat. Peace Brief 202. April 2016. United States Institute of Peace.
- GUIDÈRE, M. (2006). «Algeria's Al Qaeda franchise». *Le Monde Diplomatique*. <http://mondediplo.com/2006/11/04algeria>.

- GUNARATNA, R. y OREG, A. (2010). «Al Qaeda's Organizational Structure and its Evolution». *Studies in Conflict & Terrorism*, vol. 3, n.º 12, pp. 33-12, 1043-1078, DOI: 10.1080/1057610X.2010.523860.
- GUTIÉRREZ, O. (2018). «El enemigo número uno en Siria». *El País*. September 24, 2018. [https://elpais.com/internacional/2018/09/21/actualidad/1537526964\\_935081.html](https://elpais.com/internacional/2018/09/21/actualidad/1537526964_935081.html).
- HAMMING, T. (2019). «The Hardline Stream of Global Jihad: Revisiting the Ideological Origin of the Islamic State». *CTC Sentinel*, vol. 11, n.º 6. June/July 2018.
- HASSAN (2016). *The sectarianism of the Islamic State. Ideological Roots and Political Context*. Carnegie Endowment for International Peace. [https://carnegieendowment.org/files/CP\\_253\\_Hassan\\_Islamic\\_State.pdf](https://carnegieendowment.org/files/CP_253_Hassan_Islamic_State.pdf).
- HOFFMAN (2018). *Al-Qaeda's Resurrection*. Council on Foreign Relations. March 6, 2018. <https://www.cfr.org/expert-brief/al-qaedas-resurrection>.
- HORTON, M. (2018). «Fighting the Long War: The Evolution of al-Qa'ida in the Arabian Peninsula». *CTC Sentinel*, vol. 10 (1), pp 18-22.
- HUTCHISON, N. (2010). «Al-Qaeda: Study of Decentralized Organization Nicole Hutchison». 8th Conference on Systems Engineering Research. March 17-19, 2010. <https://pdfs.semanticscholar.org/b6dd/35eba393b84fbc847e5375724bac2a-359cef.pdf>.
- IVEY, K. (2018). «JNIM: The New Terrorist Threat from the Sahel». September 17, 2018. *Geopolitical monitor*. <https://www.geopoliticalmonitor.com/jnim-the-new-terrorist-threat-from-the-sahel/>.
- JAMESTOWN FOUNDATION (2019). «Islamic State-Inspired Extremist Threat Looms Large in India». *Terrorism Monitor*, vol. 17, n.º 3. Document #2002692. <https://www.ecoi.net/en/document/2002692.html>.
- MCCANTS, W. (2016). «The Polarizing Effect of Islamic State Aggression on the Global jihadist Movement». *Vol. 9, n.º 78*, pp. 20-23.
- MESA, B. (2014). «La transformación del yihadismo en el norte de Malí: de causa política a economía criminal». *UNISCI Discussion Papers*, n.º 34, January 2014. ISSN 1696-2206.
- MESA, B. (2016). *Boko Haram, de milicia a grupo terrorista*. Documento de Opinión del IEEE 33/2016, p. 5. [http://www.ieee.es/Galerias/fichero/docs\\_opinion/2016/DIEEEO33-2016\\_BokoHaram\\_DeMilicia\\_GrupoTerrorista\\_BeatrizMesa.pdf](http://www.ieee.es/Galerias/fichero/docs_opinion/2016/DIEEEO33-2016_BokoHaram_DeMilicia_GrupoTerrorista_BeatrizMesa.pdf).
- MIDDLE EAST INSTITUTE (2016). *The Islamic State in Afghanistan, Examining its Threat to Stability*. May 2016. MEI Policy Focus 2016-11. [https://www.mei.edu/sites/default/files/publications/PFI2\\_McNallyAmiral\\_ISISAfghan\\_web.pdf](https://www.mei.edu/sites/default/files/publications/PFI2_McNallyAmiral_ISISAfghan_web.pdf).
- NEW AMERICA (2018). «What is the Threat to Europe?». <https://www.newamerica.org/international-security/reports/jihadist-terrorism-17-years-after-911/what-is-the-threat-to-europe/>.

- OXFORD ANALITICA. «Afghan Taliban contain Islamic State's regional reach». <https://www.afghanistan-analysts.org/wp-content/uploads/2016/02/oxford-analitica-afghan-taliban-contain-islamic-states-regional-reach.pdf>.
- SAGEMAN, M. (2005). «Understanding Terror Networks». *University of Pennsylvania Press*, p. 5.
- SAVERIO, A. (2018). *El califato yihadista: la territorialidad insurgente de Al-Qaeda en Malí, Estado Islámico en Siria e Irak, y Boko Haram en Nigeria, 2011-2016*. Doctoral thesis 2018. Universidad Nacional de Educación a Distancia (Spain). Escuela Internacional de Doctorado. Doctorate programme in International Security.
- SMITH, C. (2006). «Qaeda-linked group claims Algerian attack». *New York Times*. December 13, 2006. <https://www.nytimes.com/2006/12/13/world/africa/13algeria.html>.
- STRATFOR (2019). «Tracking jihadist Movements in 2019: The Islamic State». <https://worldview.stratfor.com/article/tracking-jihadist-movements-2019-islamic-state>.
- SOUFAN, A. (2017). «Hamza bin Ladin: From Steadfast Son to al-Qa`ida's Leader in Waiting». *CTC Sentinel*. September 2017, vol. 10, n.º 8.
- THE DEFENCE POST (2018). «Turning east: the rise of Islamic State's Khorasan Province». <https://thedefensepost.com/2018/07/31/afghanistan-isis-khorasan-province/>.
- TELLIS, A. Y EGGERS, J. (2017). «U. S. Policy in Afghanistan. Changing Strategies, Preserving Gains». *Carnegie Endowment for International Peace*. <https://carnegieendowment.org/2017/05/22/u.s.-policy-in-afghanistan-changing-strategies-preserving-gains-pub-70027>.
- US DEPARTMENT OF STATE (2017). *Chapter 1. Country Reports: Africa*. <https://www.state.gov/j/ct/rls/crt/2017/282841.htm>,
- WEISS, C. (2018). «Burkina Faso wanted list details Ansaroul Islam network». *The Long War Journal*. June 24. <https://www.longwarjournal.org/archives/2018/06/burkina-faso-wanted-list-details-ansaroul-islam-network.php>.
- WATS, C. (2016). «Deciphering Competition Between al-Qa`ida and the Islamic State». *CTC Sentinel*, vol. 91, n.º 713, p. 5.

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## *The role of prison in relation to national security*

### **Abstract**

This article analyses the role prisons play within the structure of the state in terms of national security. To this end, the purpose conferred on prisons by the Spanish Constitution is examined. In addition, the possibilities of obtaining information from inside correctional facilities for the purpose of compiling criminal intelligence are examined from a legal point of view.

### **Keywords**

*Prison, national security, security measures, information, criminal intelligence.*

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## National security: Conceptual aspects

### *Doctrinal perspective*

In the course of modern history, the concept of national security has revealed its complex, multi-faceted and highly sensitive nature in the face of political and social changes. The resulting difficulty in reaching a doctrinal, widely-supported consensus regarding the definition of national security is one of the subjects of this analysis. Briefly, three schools of thought can be distinguished in relation to the concept of national security: traditionalist, widening and critical.<sup>1</sup>

The common denominator in the various definitions following the traditionalist approach is the perceived existence of an external threat to the state. Along these lines, Lasswell conceptualised national security as the «freedom from foreign dictation»<sup>2</sup>. In a similar way, although adding a wider notion, Lustgarten and Leigh understood it as the defence of «democratic practice from foreign manipulation along with the ability to defend the nation's independence and territory against military attack»<sup>3</sup>. The cited definitions of national security bear the hallmarks of Cold War political dynamics, where threats for the survival of states originated mainly from counterparts belonging to the opposing bloc. The result was a markedly militaristic character<sup>4</sup> which reduced national security to its defensive aspect<sup>5</sup> –even confounding the two– since the former was deemed to be upheld by an increase of military might.<sup>6</sup>

The widening of the notion of threats to national security caused a corresponding broader understanding of the meaning of national security itself. Thus, the widening approach considers that possible harmful factors for the state's immunity do not only originate from other nations. It extends to elements or actors located within its own borders (ecology, economy, vulnerable groups of people, identities, migratory flows, etc.); as well as external non-state actors with a transnational scope (particularly

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1 MOLOEZNIK, P. «Seguridad Nacional» in DÍAZ FERNÁNDEZ, A. M. (dir.), *Conceptos fundamentales de inteligencia*. Valencia: Tirant lo Blanch, 2016, pp. 320-322.

2 LASSWELL, H. *National Security and Individual Freedom*. New York: Mc Graw-Hill Book, 1950, p. 51.

3 LUSTGARTEN, L. and LEIGH, I. *In From the Cold: National Security and Parliamentary Democracy*. New York: Oxford University Press, 1994, p. 26.

4 FERNÁNDEZ HERNÁNDEZ, A. «Ciberamenazas a la Seguridad Nacional», in González Cussac, J. L. and Cuerda Arnau, M. L. (dirs). *Nuevas amenazas a la seguridad nacional: terrorismo, criminalidad organizada y tecnologías de la información y la comunicación*. Valencia: Tirant lo Blanch, 2013, p. 164.

5 MOLOEZNIK, P. *Op. cit.*, p. 320.

6 BALLESTEROS MARTÍN, M. Á. *En busca de una Estrategia de Seguridad Nacional*. Madrid: Ministry of Defence, 2016, p. 58.

organised crime and terrorism).<sup>7</sup> The heterogeneous character of potentially destabilising factors for national security thus entails an increase in the means deployed by the state for its preservation. The classical dyad of armed forces and security forces –designed to fight external and internal violent threats, respectively– turns out to be insufficient in the face of a concept of security that needs to provide answers to threats of an economic and environmental nature.<sup>8</sup> Thus, diplomacy or humanitarian aid, to mention two examples, have been added to the heterogeneous list of state mechanisms designed to contribute to the difficult task of maintaining national security.<sup>9</sup>

National security has become subject to a high degree of uncertainty. The reasons for this are threefold: the emergence of non-traditional security challenges that originate outside the geopolitical-military domain, e.g. natural disasters; the need to factor in potential negative action by criminal non-state actors with worldwide operational capacity; and the high degree of mutual dependence brought about by globalisation. The state continues to maintain its basic commitment of providing the conditions of safety for its citizens. However, this safety is now further than ever from reaching an ultimately utopian absolute. Current security policies have to operate within an unstable context where certain threats are characteristically unpredictable. This situation underlies the current rise of the concept of resilience alongside national security. In case of a threat actually materialising, resilience would allow the continuity of the exercise of government and the re-establishment of a safe environment for citizens, ensuring the provision of any basic services affected.<sup>10</sup>

The new entries among the list of threats for the invulnerability of the state, along with their heterogeneous and uncertain nature, are completed by a third feature –in line with the widening approach to national security– consisting in the use of an intersubjective perspective which introduces public opinion as a determining agent for the security-relatedness of a given issue.<sup>11</sup> Involving society in determining the challenges for security presents a positive aspect in that it conceives state immunity as a collective undertaking which concerns all citizens. However, in the author's understanding this also entails a shift towards the unreal in the sense that such a high goal would only be attainable in an ideal society.<sup>12</sup> Reality brings out a negative aspect of

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7 MOLOEZNIK, P. *Op. cit.*, p. 321.

8 FERNÁNDEZ HERNÁNDEZ, A. *Op. cit.*, p. 165.

9 GONZÁLEZ CUSSAC, J. L. and FLORES GIMÉNEZ, F. «Una metodología para el análisis de las amenazas a la seguridad, la evaluación de las respuestas y su impacto sobre los derechos fundamentales». *Cuadernos de Estrategia*, n.º 188, 2017, p. 18.

10 MORALES MORALES, S. «La resiliencia en el marco del sistema de seguridad nacional». *Cuadernos de Seguridad y Defensa*, n.º 77. 2018, pp. 83 ff.

11 MOLOEZNIK, P. *Op. cit.*, p. 321.

12 For the perception of citizens in relation to the relevance of their role regarding national security, see SANZ Y CALABRIA, A. «¿Por qué a la señora María le importa un rábano la estrategia de seguridad nacional?». *Documentos de Seguridad y Defensa*, n.º 63. 2014, pp. 113-130.

this involvement of citizens, made visible in the choice of issues included on the state security agenda and epitomised by the following question: are the threats perceived by society real? On the hierarchical pyramid of human needs, Maslow ranks security as the number one immaterial need of human beings.<sup>13</sup> The human desire to develop one's existence within a safe environment is becoming especially problematic in the current historical era which is marked by the presence of countless blurred and diverse dangers. The uncontrollable nature of the risks looming for postmodern society has led sociologists to coin the term *risk society*.<sup>14</sup> People of the postmodern age live in an essentially uncertain environment which gives rise to a feeling of vulnerability and, consequently, anxiety.<sup>15</sup> Their representation of reality is conditioned by both internal and external factors. Together with people's direct perceptions, which are not free of a certain cognitive bias, there are other perceptions mediated by external agents. The much bandied-about phenomenon of *fake news*, which is propagated through certain communication media and spread by social networks, contributes to creating supposed threats, risks and dangers that can be perceived as real by society. Faced with this situation, citizens demand state action directed at neutralising such risks. However, failure to contain an unreal enemy created and disseminated by disinformation campaigns could entail a delegitimisation of the state, as well as of state institutions dedicated to safeguarding security.

As opposed to the restrictive or widening concepts of national security (created, respectively, by the traditionalist and widening currents), the camp referred to as critical does not question the content of national security but rather its nature. For this school of thought national security is essentially a political discourse. As such, it is designed for the defence and protection of purely institutional interests which vary depending on the context the discourse is embedded in.<sup>16</sup>

For the purposes of this article, national security is treated in the wider sense, following the understanding of the widening school of thought which encompasses the protection of certain interests which are objectively essential to any democratic state, beyond mere political discourse. Thus, national security is understood «the present and future level of peace, integration, concord, rights and well-being of the citizens comprised in a national community at a given time.»<sup>17</sup> Through

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13 MASLOW A. H. *Motivación y personalidad*. Madrid: Ediciones Díaz de Santos, 1991, pp. 25-26.

14 BECK, U. *La sociedad del riesgo. Hacia una nueva modernidad*. Barcelona: Paidós, 2006.

15 CABELLO, A. M. / Hormigos Ruiz, J. «La sociedad del riesgo y la necesidad moderna de Seguridad». *BARATARIA, Revista Castellano-Manchega de Ciencias Sociales*, n.º 7. 2005-2006, p. 35.

16 MOLOEZNİK, P. *Op. cit.*, p. 322.

17 This definition was agreed by the working group organised by the Centre for National Defence Studies (CESEDEN) whose members were: GARCÍA SERVET, R. C.; SANZ Y CALABRIA, A.; FAURA MATEU, F.; ALDECOA LUZÁRRAGA, F.; ECHEVERRÍA, C.; SÁNCHEZ DE ROJAS DÍAZ, E. For this, see GARCÍA SERVET, R. C. «Introducción general». *Documentos de Seguridad y Defensa*, n.º 63, 2014 p. 10.

national security, the state aims to ensure «that the underlying values of its constitution are effectively applied, including the survival of the state, the protection of its citizens» life and integrity, of the free exercise of rights and freedoms and of their well-being.»<sup>18</sup>

The definition created by BALLESTEROS can be adopted in the same sense:

«National security is the situation where the normal course of life of a nation is protected from external and internal risks, dangers and threats and which allows the country to defend its national interests, fulfil its international commitments and contribute to international peace and stability.»<sup>19</sup>

### *Regulatory perspective*

The *Act on National Security (Ley 36/2015, de 28 de septiembre, de Seguridad Nacional)*<sup>20</sup> embraces a widening approach reaching beyond a strictly military scope and encompassing a dynamic, global and interdisciplinary understanding. Its preamble states:

«The national security challenges that affect society are in some cases fraught with great complexity, extending beyond the boundaries of traditional categories such as defence, public safety, foreign action and intelligence, and also of more recent additions to the list of security concerns, such as the environment, energy, transport, cyberspace and economic stability.»

This line of argument is further supported where the act highlights that «in today's world, and in the foreseeable future, the actors and circumstances posing a threat to security are subject to constant change, and it is the public authorities responsibility to equip themselves with the regulations, procedures and resources allowing them to effectively respond to these security challenges.» Thus, the underlying intention of this act is to coordinate and harmonise existing regulatory provisions to be found in different parts of the Spanish legal order and whose common purpose is to regulate state measures for the provision of security to its citizens. These regulations bear upon quite heterogeneous aspects such as: states of alert, emergency and siege, national defence, security forces and bodies, citizen safety, the protection of critical infrastructures, civil defence, external state action, the foreign service or private security, criminal law and international treaties and commitments entered into by Spain.

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<sup>18</sup> GARCÍA SERVET, R. C. *Op. cit.*, p. 10.

<sup>19</sup> BALLESTEROS MARTÍN, M. Á. *Op. cit.*, p. 63.

<sup>20</sup> BOE n.º 233, 29 September 2015.

In keeping with everything stated in the previous paragraph, article 3 of the act states:

«For the purposes of this law, national security is taken to mean state action targeted at protecting the freedom, rights and well-being of citizens; at guaranteeing the defence of Spain and its constitutional principles and values; and at contributing together with our partners and allies to international security in compliance with the commitments undertaken».

In the Constitutional Court's view, this state activity, described under article 3 of the National Security Act, does not constitute a new area of competence, but merges with existing state competences relating to defence and public security,<sup>21</sup> which are detailed, respectively, under sections 4 and 29 of article 149.1 of the Spanish constitution.<sup>22</sup> Regarding this item, Constitutional Court ruling 184/2016, of November 3, explains: «the exclusive state competence in matters of defence and of the armed forces (art. 149.1.4 CE), in accordance with constitutional article 8, comprises actions whose objective is the defence of Spain's territorial integrity and the constitutional order.» In relation to public security, the aforementioned Constitutional Court ruling states that it refers to (citing previous decisions):

*«activity directed at the protection of persons and goods (security in a strict sense) and upholding public peace and order»*; although it is not limited to regulating «specific actions of what is known as the security police», since «policing activity is a part of the broader matter of public security» which «encompasses a wide range of administrative actions» (Constitutional Court ruling STC 86/2014, of May 29, legal bases 2 and 4, amongst others) and includes «a broad and diverse range of actions, which –though different in nature and content– are all oriented towards the goal of protecting the legal asset thus defined» (Constitutional Court ruling STC 235/2001, of December 13, legal basis 6, and those mentioned therein).

## Security as a right

Security is not a phenomenon that materialises in any real sense. It is neither tangible nor can it be proven by empirical methods. On the contrary, security belongs to

21 STC 184/2016, 3 November, FJ 3.

22 Spanish Constitution, *BOE* n.º 311, 29 December 1978.

Art. 149.1.4 and 29 of the Spanish Constitution:

«1. The State holds exclusive competence over the following matters:

4. defence and the Armed Forces;

29. public safety, without prejudice to the possibility of the creation of police forces by the Autonomous Communities, in the manner to be laid down in their respective Statutes and within the framework to be established by an organic law.»

the realm of hypothesis, construed as a human judgement of probability in relation to future events.<sup>23</sup> Despite its immaterial nature, security represents a basic need for people –as was pointed out earlier– to the point where it constitutes a legal asset worthy of protection. The Declaration of the Rights of Man and of the Citizen of 1789 recognised security as a natural and imprescriptible right of man and, along with liberty, equality and fraternity, became one of the fundamental values of the French Revolution.<sup>24</sup>

On an individual level, security is included in the Spanish Constitution within the category of an individual's fundamental rights. Thus, article 17.1 stipulates that «every person has the right to freedom and security». Its nature as a fundamental right leaves no doubt whatsoever, since article 17 is systematised under Section 1, Chapter 2 of Part I, titled «Fundamental Rights and Duties». Security as a constitutionally recognised right forms part of another constitutional category, public order,<sup>25</sup> which may occasionally override other rights and freedoms stated elsewhere in the Constitution, as set out by articles 16.1<sup>26</sup> and 21.2.<sup>27</sup> The interconnections between the right to security and public order have been enlarged upon in Act 325/1994, December 12, of the Constitutional Court, according to which:

«There is another kind of security which is the support and companion of personal freedom (art. 17, Spanish Constitution) and whose essence lies since ancient times in the peace of mind brought about by absence of fear. [...] This security in turn is connected to the third kind, namely public safety (art. 149.1.29, Spanish Constitution), also known as citizens security, as an equivalent of peace in the streets. In short, this security was already called “public order” in the past century, and was understood as a situation of normality which rules a state and the lives of its citizens when its various collective activities take place without disturbances or conflict.»

Based on the aforementioned considerations about the concept, content and interrelations of security as an individual's fundamental right, one may regard national

23 PAREDES CASTAÑÓN, J. M. «La seguridad como objetivo político-criminal del sistema penal». *Eguzkilore*, n.º 20, 2006, p. 132.

24 PECES-BARBA MARTÍNEZ, G. «La Constitución española y la seguridad», in CAVINO, M., LOSANO, M.G. AND TRIPODINA, C. (edit.), *Lotta al terrorismo e tutela dei diritti costituzionali, Atti del Convegno dell'Associazione di Diritto pubblico comparato ed europeo. Alessandria, Università degli Studi, 9 maggio 2008*. Torino: Giappichelli, 2009, p. 39.

25 PAREJO ALFONSO, L. «Sobre el binomio libertad y seguridad en el derecho». *Iusta*, n.º 45, 2016, p. 113.

26 Article 16.1 of the SPANISH CONSTITUTION: «Freedom of ideology, religion and worship of individuals and communities is guaranteed, with no other restriction on their expression than may be necessary to maintain public order as protected by law.»

27 Article 21.2 of the SPANISH CONSTITUTION: «In the event of meetings in public places and of demonstrations, prior notification shall be given to the authorities, who may ban them only when there are well founded grounds to expect a breach of public order, involving danger to persons or property.»

security as a collective expression of this fundamental right, as stipulated by article 17 of the Spanish Constitution.

Theoretically, the right to security –if defined as the minimum state of normality necessary to effectively implement the rights of the individual<sup>28</sup>– is also the indispensable condition for the preservation of constitutional democratic order (the latter in turn protecting the remaining rights) and, finally, of a person’s freedom. Although on an intellectual level, security and freedom are mutually contingent –as reflected by the fact that the Spanish Constitution regulates them under the same precept– on a practical level, tensions may arise between the two. To what extent can rights be restricted for the sake of maintaining security without eroding freedom to an unacceptable degree in the context of a democratic state? The answer to this is not simple, especially in the current historical context.

The risk society referred to earlier is characterised by confronting human beings with numerous threats of various kinds and intensity. Economic and financial instability, natural disasters, the vulnerability of critical infrastructures, cyberattacks, terrorism or organised crime require a security response from the state. This state reaction inevitably requires the application of measures that partially restrict certain fundamental rights. Paradoxically, in order to protect the free and effective exercise of citizens’ rights, the state finds itself forced to restrict them. As was aptly pointed out by González Cussac and Flores Giménez, this can lead to an absurd situation where the destruction of the rule of law does not result from the threats that the latter tries to neutralise, but from a disproportionate internal reaction bent on preserving security.<sup>29</sup> In this sense, it is worth remembering the doctrine adopted by the Constitutional Court according to which:

«The limits imposed on the exercise of fundamental rights must be established, interpreted and applied with restraint, and in any case must not be harsher than necessary to preserve constitutionally protected assets or rights. Restrictions must be kept to the minimum required and are therefore subject to the principle of proportionality so as to avoid unnecessary or excessive sacrifices of said rights.»<sup>30</sup>

## The purposes of prison

### *Rehabilitation and social reintegration as guiding criteria of correctional enforcement*

The first paragraph of article 25.2 of the Spanish Constitution asserts: «*Punishments entailing imprisonment and security measures shall be aimed at re-education and social*

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28 PAREJO ALFONSO, L. *Op. cit.*, p. 113.

29 GONZÁLEZ CUSSAC, J. L. and FLORES GIMÉNEZ, F. *Op. cit.*, p. 8.

30 STC 151/1997, 29 September, FJ 5.

*rehabilitation [...]».* Far from expressing the aim of the state's punitive mechanism in unequivocal terms, this precept, which was initially intended to be the cornerstone on which to build the legislative framework of the Spanish Prison Law, actually uses rather laconic and confusing wording giving rise to a number of doubts as to the Constitution's exact final intent in this matter.<sup>31</sup>

The fact that article 25.2 is systematised under Section 1 of Chapter 2 of Part I of the Spanish Constitution, which contains fundamental rights, raises the essential question relating to the nature of this provision, i.e. whether it can be regarded as a right of convicted persons. The jurisprudence of the Constitutional Court rejects this idea finding that said precept merely embodies «a mandate from the Constitution to the legislators and to the prison administration to provide guidelines for the enforcement of custodial sentences.»<sup>32</sup> The author fully agrees with this evaluation of the Constitutional Court,<sup>33</sup> for various reasons.

Firstly, it should not automatically be inferred from the inclusion of constitutional article 25.2 under Section 1 of Chapter 2 of Part I that the rehabilitation and social reintegration of inmates constitutes a fundamental right. The cited section includes a series of provisions of varying kinds, which –although they in some cases encompass fundamental rights– also include organisational criteria, principles of order, constitutional principles or institutional and procedural guarantees.<sup>34</sup>

Secondly, the conceptualisation of reintegration and rehabilitation as fundamental rights would entail the impossibility of enforcing prison sentences. One needs to remember that a major part of the aspects relating to order and security would become inapplicable, because they would restrict or prevent the exercise of these presumed rights of constitutional article 25.2.<sup>35</sup> A paradigmatic example of this issue are the prison rules on isolating detainees, be it partial as in the case of closed centres or total as in the case of solitary confinement, whose immediate objective is to stop detainees from causing harm.

31 CAROU-GARCÍA, S. *Primer grado penitenciario y Estado de derecho. El estatus jurídico de los reclusos en régimen de máxima seguridad*. Barcelona: Bosch, 2017, pp. 273 ff.

32 STC 299/2005, 21 November, FJ 2.

33 It needs to be highlighted that a large part of criminal law doctrine favours the view that rehabilitation and social reintegration constitute fundamental rights of prisoners. In this sense, see COBO DEL ROSAL, M. and QUINTANAR DÍEZ, M., «Comentario al artículo 25. Garantía penal», in ALZAGA VILLAAMIL, O. (dir.). *Comentarios a la Constitución española de 1978*, vol. III. Madrid: Editoriales de Derecho Reunidas, 1996, p. 141; MAPELLI CAFFARENA, B. *Principios fundamentales del sistema penitenciario español*. Barcelona: Bosch, 1983, pp. 154 ff; TÉLLEZ AGUILERA, A. «Retos del siglo XXI para el sistema penitenciario español». *Anuario de Derecho Penal y Ciencias Penales*, vol. LII. 1999, p. 334.

34 DELGADO DEL RINCÓN, L. «El artículo 25.2 CE: algunas consideraciones interpretativas sobre la reeducación y reinserción social como fin de las penas privativas de libertad». *Revista Jurídica de Castilla y León*, n.º extraordinario. 2004, p. 352.

35 CAROU-GARCÍA, S. *Op. cit.*, p. 277.

Thirdly, full rehabilitation and social reintegration is materially unachievable, meaning that the state could never provide an individual with all the necessary conditions to allow this fundamental right to be truly effective. Rehabilitation as referred to by constitutional article 25.2 applies to action aimed at eliminating certain behaviours or personality traits of the inmate which intervene in their criminal activity. This is to allow subsequent reintegration in their customary social and family surroundings.<sup>36</sup> Reintegration, for its part, would encompass the means needed so that the person can lead a dignified life following their release.<sup>37</sup> Certain social or cultural deficits undeniably play a relevant role in fostering criminal activity. However, it is illusory to think that the state can guarantee the exercise of a fundamental right that offers relief in this context, since these deficiencies frequently are not of a transitory but rather a structural nature and with root causes that extend beyond the national boundaries of specific state policies. Economic inequalities, lack of employment, or social marginalisation –to mention a few– can be alleviated or mitigated to a certain degree through state action. However, the state cannot abolish them altogether, as they are influenced by global economic and political factors.

Hence, if we disregard rehabilitation and social reintegration as fundamental rights, they can be seen as «a beacon for prison policies within the regulatory framework and during its implementation [...]».<sup>38</sup> At the same time, they are more than just a policy statement. They stand as a legally binding mandate for both lawmakers and the prison administration.<sup>39</sup>

Setting aside the doctrinal and jurisprudential debate over the nature of the constitutional endorsement of rehabilitation and social reintegration of offenders and moving back to the field of national security, it must be mentioned that the stated provisions of constitutional article 25.2 also play a role in this area. One of the classic menaces for the state's indemnity and, by extension, for its citizens stems from crime. That is why crime policy is relevant in this matter. If the purpose of national security consists in mitigating risk to the extent possible, avoiding repeat offenses must form part of the acquis of measures designed for this purpose. In this respect, crime prevention has two facets. On the one hand, early detection of intended criminal action, thereby averting it – in this regard, the work of the security forces and law-enforcement bodies is fundamental. On the other hand, avoiding a repetition of criminal behaviour by previous offenders. At this level, state activity takes on the shape of socially-oriented services (inside and outside of prisons) that are able to provide the offending individual with the required means of assistance to overcome the negative

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36 ARMENTA GONZÁLEZ-PALENZUELA, F. J. AND RODRÍGUEZ RAMÍREZ, V. *Reglamento Penitenciario. Análisis sistemático, comentarios, jurisprudencia*. Madrid: Colex, 2009, p. 82.

37 SEGOVIA BERNABÉ, J. L. «Problemática en torno a la reinserción social». *Cuadernos de Derecho Judicial*, n.º 17. 2003, p. 579.

38 See, among others, ruling SSTC 19/1988, 16 February, FJ. 9, and 209/1993, 28 June, FJ 4.

39 CAROU-GARCÍA, S. *Op. cit.*, p. 278.

social or personal circumstances that have had a direct bearing on their criminal activity and that lie beyond the scope of their volitional capacity.

### *Detention and custody of detainees*

Constitutional article 25.2 was drafted in accordance with the *General Prison Organic Law* of 26/09/1979 (*Ley Orgánica 1/1979, de 26 de septiembre, General Penitenciaria*),<sup>40</sup> henceforth GPOL. Article 1 of this law assigns the duty of detention and custody of detained, imprisoned or convicted persons to the prison institutions. This precept also confers the goal of rehabilitation and social reintegration of prisoners on the prison service.

The two objectives –reintegration and security– are not always easily compatible. Rather, the whole structure of prison law reveals a tension between them which is closely reflected in the basic pillars of prison activity: regime<sup>41</sup> and treatment.<sup>42</sup> This tension between the two underlying elements of prison law cannot be resolved by granting one priority over the other. In this sense, article 73.3 of the *Prison Regulations*<sup>43</sup> states that «the activities pertaining to treatment and regime, though guided by a principle of specialisation, must be coordinated in due manner.»

As pointed out earlier, the reference of the constitution to the positive aspect of special prevention –social reintegration and rehabilitation– cannot be construed as a subjective right of the convicted person. But neither can it be regarded as constitutional law-making in favour of a specific punitive aim.<sup>44</sup> This line of argument informs the Constitutional Court's jurisprudence, according to which:

«[...] constitutional article 25.2 does not settle the question regarding how closely or loosely the possible effects of the sentence echo the Spanish Consti-

40 BOE n.º 239, 5 October 1979.

41 According to article 73.1 of the prison regulations «prison regime refers to the set of rules or measures intended to achieve a well-ordered and peaceful coexistence that enables an adequate environment which is conducive to a successful outcome of the treatment as well as the detention and custody of prisoners.»

42 The concept of treatment is explained in article 59 of the GPOL:

«1. Prison treatment comprises all the activities aimed directly at achieving the rehabilitation and social reintegration of convicts.

2. The treatment is intended to be conducive towards the inmate becoming a person that wants and is able to live in compliance with criminal law and to meet their own needs. To this end, building an attitude of self-respect and individual and social responsibility towards their family, fellow citizens and society in general is encouraged to the extent possible.»

43 Royal Decree RD 190/1996, 9 February, which approves the Prison Regulations. BOE n.º 40, 15 February 1996.

44 CAROU-GARCÍA, S. *Op. cit.*, p. 282 ff.

*tion's system of values. Neither does the article constitute a blueprint for determining the specific function of the sentence –general prevention, special prevention, retribution, reintegration, etc.– within Spanish criminal law. As confirmed by this court on other occasions, article 25.2 of the Spanish Constitution implies a mandate directed at the prison law-making bodies and their associated administrative bodies to provide guidance on how to put prison sentences into effect (by way of examples, Constitutional Court rulings SSTC 19/1988 and 28/1988), but does not rule that rehabilitation and social reintegration are the only legitimate aims of prison sentences.»<sup>45</sup>*

Therefore, the positive and negative sides of special prevention have to be harmonised for the duration of the prison sentence.

Neither would the aims of detention and custody be misplaced within the heterogeneous tool-set used in pursuit of national security. Their effects play out both inside and outside of prisons.

Concerning life inside prison, negative special prevention aims at maintaining the minimum levels of order and security to allow the punitive system to function. This is not reduced to repressive aspects devoid of any ultimate goal. Upholding order inside prison premises contributes to safeguarding such fundamental rights of detainees as have not been restricted by their sentence. The prison population does not lose its status as citizens once the prison threshold is crossed. Thus, convicts continue to enjoy fundamental rights whose protection is entrusted to the state. This statement is not invalidated by the fact that there is a special relationship of subjection between detainees and the prison administration. Prison is a kind of legal microcosm which needs to provide answers to a series of demands which do not exist outside of prisons (security, order, discipline, effectiveness of treatment, etc.). However, one cannot lose sight of the fact that this peculiar prison world is embedded within the general legal framework of the state, and as such needs to respect the principles and rights laid down by the Constitution.<sup>46</sup>

Along this line, article 3 of the GPOL establishes that penitentiary activity has to follow its course respecting the detainees' human personality as well as such rights as are not restricted by their sentence. Likewise, the precept mentioned imposes a duty on the administration to protect the detainees' lives, well-being and health. Therefore, any state action aimed at protecting the freedom, rights and well-being of citizens, as laid down by article 3 of the Act on National Security, also extends to the segment of the population serving prison sentences.

Order and security inside prisons can be threatened by detainees acting alone and whose personality is particularly prone to violence. Likewise, the presence of members

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45 STC 150/1991, 4 July, FJ 4.

46 CAROU-GARCÍA, S. «El principio de legalidad en el Derecho penitenciario español». *Indret: Revista para el Análisis del Derecho*, n.º 4, 2017, p. 16.

of organised crime gangs<sup>47</sup> or of terrorist groups inside Spanish prisons constitutes a serious problem for the internal security of prisons and thus also for the rights of detainees who are not involved in these gangs' activities.

Concerning the reality outside prisons, detention and custody of persons in breach of criminal law constitutes the most visible sign of the commitment of the prison system to defending society. Segregating individuals who have undermined the legal assets of their fellow-citizens contributes to preserving the fundamental right to security and to maintaining social order and peace. In its explanatory memorandum, the GPOL refers to «*the rigour in defending order inside the facilities, which is warranted by the needs arising from internment itself and by the social demand for peace*».

However, it should be borne in mind that detention and custody alone are not enough to safeguard the invulnerability of national security. They need to be combined with an approach to reintegration which –theoretically– reduces the chances of prisoners re-offending after their release. The rehabilitation potential is not realised in all cases. As mentioned before, the successful return of ex-convicts to society is influenced by structural factors, which are beyond the state's control. Moreover, there are cases of ex-convicts who are absolutely recalcitrant to social rehabilitation treatments and who re-offend in full conscience and with undiminished volitional capacity after their release. Even in those extreme cases, prison at least temporarily prevents them from causing harm and thereby protects the fundamental rights of the rest of the population. In such cases, an indeterminate sentence may be more effective, since the mechanisms to review the convict's progress within their treatment programme prevent the release of prisoners convicted for serious crimes, unless there are minimum guarantees that they will not re-offend. Notwithstanding the need to improve certain technical and legal aspects of this type of prison sentence, its regulated use nevertheless allows the constitutional mandate of the reintegrating role of prisons to be combined with the need to protect society from offenders who cannot be reintegrated.<sup>48</sup>

The provisions issued by the prison administration itself, i.e. the instructions of the General Secretariat of Prison Institutions, also refer to this commitment to defending society. Recent years have seen an upsurge in calls for more efforts as a consequence of the emergence of Jihadist terrorism. *Instruction 02/2016 «on the framework programme on intervention in cases of violent radicalisation of Islamist convicts»* points out that this prison programme has a bearing «both on aspects of reha-

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47 For repercussions of organised crime on prison security, see: SANSÓ-RUBERT PASCUAL, D. «Inteligencia criminal y sistemas penitenciarios: algunas reflexiones». *URVIO. Revista Latinoamericana de Estudios sobre Seguridad*, n.º 15, 2014.

48 About indeterminate prison sentences, see: LANDA GOROSTIZA, J. M. «Fines de la pena en fase de ejecución penitenciaria: reflexiones a la luz de la prisión permanente revisable». *Revista de Derecho Penal y Criminología*, 3.ª Época, n.º 18, 2017; ARRIBAS LÓPEZ, E. «Prisión permanente revisable y reinserción social». *Diario LA LEY*, n.º 9144, 2018.

bilitation of convicts and defending the prison institution and society in general.» On the other hand, *Instruction 8/2014, which sets out the «programme for the prevention of radicalisation inside prison facilities»*, highlights among its aims «*supporting the efforts which are taking place on a general level both nationally and internationally to address this form of terrorism and to fight this type of crime in an effective, solidary and coordinated way.*»

### Criminal intelligence in prisons

To ensure its effectiveness, state activity aimed at safeguarding the invulnerability of fundamental rights, the constitutional order and international security –which embodies the concept of national security– needs to respond to the principles of efficiency, foresight and prevention, amongst others.<sup>49</sup> Given the broad scope of the aim of national security, it is necessary to delimit certain areas of special interest. For this reason, article 10 of the Act on National Security considers these areas to be «*those that require specific attention as a result of their basic role in preserving rights and freedoms, as well as citizens' well-being, besides guaranteeing the provision and supply of essential services and resources.*»

As was pointed out in the previous section, the security and rehabilitation objectives of prison are reflected in the action aimed at maintaining national security, since these goals in one way or another affect the fundamental rights of society inside and outside of prisons. Thus, prison must be understood as an area of special interest. The prison system as a whole is one of its instruments, through which the state can address the threats posed by criminal offences.<sup>50</sup>

Prison walls contain a swath of population which reflects different shades of criminal reality, comprising anything from individual delinquency, to organised gangs or terrorist groups with international operating capacities. Detaining and keeping these individuals in prison allows them to be monitored 24 hours a day, thus making it possible to collect a significant amount of data. This is where intelligence comes into play. The concept of intelligence when referring to national security has been defined in different ways. In 1949, Kent<sup>51</sup> regarded it as knowledge –supplied by the intelligence services– which highly-placed civilians and military men must have to safeguard international interests and national welfare. For the Spanish National Intelligence Centre it is «the result of evaluating, analysing, integrating and inter-

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<sup>49</sup> The principles mentioned are set out in art. 4.2 of the Act on National Security, together with those offering guidance on unity of action, sustainability in the use of resources, capacity of resistance and recovery, coordination and cooperation.

<sup>50</sup> SANSÓ-RUBERT PASCUAL, D. *Op. cit.*, p. 10.

<sup>51</sup> KENT, S. *Strategic Intelligence for American World Policy*. Princeton: Princeton University Press, 2015, pp. 3-10.

preting information».<sup>52</sup> LLAVADOR PIQUERAS and LLAVADOR CISTERNES<sup>53</sup> conceive it as:

«information that has been handled, treated or processed using scientifically suited methods and which is transformed into knowledge that is offered to its intended legal recipients, usually the president of the government or top (civilian or military) government authorities.»

From the three proposed definitions it is apparent that information and intelligence are closely connected, with information constituting the starting point from which to formulate intelligence.<sup>54</sup>

The broad concept of intelligence gives rise to a subcategory: criminal intelligence. According to SANSÓ-RUBERT this is:

«merely a type of intelligence that is useful in obtaining, evaluating and interpreting information and in disseminating the intelligence required to protect and promote national interests of any kind (political, commercial, business) in the face of organised crime, in order to forestall, detect or neutralise those criminal activities, groups or people that jeopardise, threaten or breach the constitutional order or fundamental rights and freedoms, due to their nature, magnitude, foreseeable consequences, degree of danger or ways of operating.»

Criminal intelligence is not allocated to a specific government body; on the contrary, its broad scope, together with its proactive character, warrant the combined efforts of different entities such as security forces and law-enforcement bodies, customs authorities and prison services. The fact that criminal intelligence partly draws on information from within the prison environment must not lead to the confusion of calling it prison intelligence. The latter is restricted to:

«direct or indirect management and protection of the prison system (detainees, infrastructures, classification of prisoners, institutional strategies, prison policies) and the safety of its staff, both inside and outside the facilities, in support of public security initiatives.»<sup>55</sup>

The first time the law explicitly mentioned prisons as part of the state structures aimed at maintaining national security (through their role as sources of information and intelligence) was in 2011. This saw the amendment of the prison regulations

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53 LLAVADOR PIQUERAS, J. and LLAVADOR CISTERNES, H. *El régimen jurídico de los servicios de inteligencia en España*. Valencia: Tirant lo Blanch, 2015, p. 30.

54 LLAVADOR PIQUERAS, J. and LLAVADOR CISTERNES, H. *Op. cit.*, p. 30.

55 SANSÓ-RUBERT PASCUAL, D. *Op. cit.*, pp. 11&12.

through Royal Decree 419/2011, 25 of March,<sup>56</sup> which included the following declaration in its explanatory memorandum:

«The prison system constitutes one of the instruments available to the state in confronting the security threats and risks posed by, in particular, terrorism and organised crime. Together with prosecution and protection activities, prevention demands the drafting of a structured strategy of improvement of the information and intelligence services, as well as an adoption of organisational standards of surveillance, control and intervention to counteract attempts by prisoners to continue their criminal activities within prison facilities.»

The vast majority of information collected in the prison environment is obtained through human sources, i.e. the prisoners themselves. Handling these types of sources inside a closed environment such as a prison has substantial advantages while simultaneously posing serious challenges. On the positive side, there is the fact that the hermetic and regulated character of the prison context facilitates greater control and foresight concerning the process of obtaining information. The prisoners' routine takes place within the different parts of the prison premises. Their authorised prison leaves, if applicable, are known well in advance. In addition, all the prisoners' activities are subject to a specific time-schedule. Therefore, the source can be easily located at all times by those in charge of obtaining information. However, the rigid nature of prison life becomes an obstacle in cases where the process of gathering information requires a higher degree of flexibility.<sup>57</sup>

### *Interior security measures*

The security of prison facilities has traditionally been divided into internal and external security: these are regulated, respectively, in sections I and II of chapter VIII, part II, of the prison regulations.

External security is clearly focussed on the protection of society outside prisons and of the state itself as the custodian of justice. It is concerned with trying to avoid prison breaks, and by extension, the commission of further crimes. This type of security is also applies to ensuring due enforcement, as it is entrusted with seeing to it that sentences and court decisions involving restriction of movement take proper effect.<sup>58</sup>

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<sup>56</sup> Royal Decree R. D. 419/2011, 25 March, which modifies the Prison Regulations, approved by R. D. 190/1996, 9 February. *BOE* n.º 73, 26 March.

<sup>57</sup> SOLER PRIETO, C. «Aplicación en instituciones penitenciarias de la inteligencia criminal: manejo de fuentes humanas». *VIII Jornadas ATIP Almagro 2014*. Cáceres: ATIP (Asociación de Técnicos Superiores de Instituciones Penitenciarias), 2014, pp. 194 ff.

<sup>58</sup> FERNÁNDEZ ARÉVALO, L. and NISTAL BURÓN, J. *Manual de Derecho Penitenciario*. Cizur Menor: Thomson Reuters. Aranzadi, 2012, p. 476.

As laid down by article 63.1 of the prison regulations, competence in this matter rests with the security forces and law-enforcement bodies of Spain's autonomous regions. Although this exterior feature of prison security is clearly tied up with national security, in practice it offers little in the way of information that could be processed into criminal intelligence. In any case, external security strategies and protocols need to be designed on the basis of –among other things– the output of criminal intelligence.

Regarding internal security, the prison administration pursues three goals. Firstly, to ensure the detention and custody of convicts. Secondly, to safeguard the fundamental rights of the prison community, which could be jeopardised inside the prison facilities. For the purposes of this article, prison community is understood not only as convicts and remand prisoners, but also prison staff who work inside the prisons and towards whom the state has a duty of protection. Thirdly, internal security needs to contribute to preventing certain inmates from continuing their criminal activities within prison, or from using the facilities to recruit new members for their criminal organisation. The last two points refer to specific criminal activities, namely organised crime and terrorism, particularly of the Jihadist kind.<sup>59</sup>

Achieving these three goals requires effective strategies to be put in place, with information gathering a crucial condition for their design. The measures regulated by article 65 of the prison regulations are particularly relevant in obtaining useful data for internal security – which also has an undeniable influence on external security, since the aim is to neutralise crime. These measures are specified as: observation of inmates, counting over of prisoners, searches, body checks, inspections, controls, cell changes, adequate allocation of prison or block, and appropriate activities and safeguards for outdoor recreation or day leaves. As can be seen, these actions concern both prisoners as individuals and the prison facilities as a whole.

The variable intensity of these actions depends on the level of danger of the detainees, with higher degrees applied to detainees belonging to terrorist groups, organised crime gangs or those rated as extremely dangerous.<sup>60</sup> The extent to which the interior security measures are applied is governed by the principles of proportionality and necessity, as well as respect of the detainees' dignity and fundamental rights, as per article 71 of the prison regulations, which article 65.2 itself also refers to. It is vital to set limits to the heightening of security measures. Exacerbating the security aspects inside prisons can have damaging effects. The dynamics operating inside prisons imply continuous repetition of numerous activities, including security-related procedures. The routine that comes with performing surveillance and control tasks can lead to

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59 For further reading on prisons as a physical environment for Jihadist terrorist radicalisation and recruitment, see CAROU-GARCÍA, S. «Terrorismo yihadista y prisión: políticas penitenciarias de contención y prevención» in PÉREZ CEPEDA, A. I. (dir.). *Actas del Seminario Internacional El terrorismo en la actualidad: un nuevo enfoque político criminal*. Salamanca: Ratio Legis, 2017, pp. 197-207.

60 CAROU-GARCÍA, S. *Op. cit.*, p. 171.

a loss of perspective regarding the principles of necessity and proportionality of the measures, since mechanical procedures are averse to adapting to circumstances or context.<sup>61</sup> Moreover, the psychological effects deriving from subjecting inmates to greater control and surveillance have to be considered. If placed under conditions of extreme control, inmates have limited options to exercise their personal autonomy, making them totally dependent on the prison system which in turn can cause them to become dysfunctional in terms of living in society.<sup>62</sup>

According to the provisions of article 64 of the prison regulations, the competence for executing the measures of internal security lies with the state employees of the prison services. It is understood that this reference covers any civil servant belonging to any of the seven existing corps, i.e. assistants, special corps, healthcare professionals, qualified physicians, technicians and chaplains<sup>63</sup>. Thus, theoretically, any of these groups could take part in obtaining information for the purpose of generating criminal intelligence. However, in practice this task is mainly restricted to the assistant corps. The codes of ethics or rules of confidentiality that apply to the activities of certain prison staff could be difficult to reconcile with the task of obtaining information from human sources. It needs to be remembered that a total instrumentalisation of detainees as information sources, depriving them of their human condition and their most basic rights, would represent a clear shift towards an understanding of prison law as posited by enemy criminal law.<sup>64</sup>

The third paragraph of article 65 –included by virtue of the reform introduced through Royal Decree RD 419/2011– empowers the prison administration to create specialised groups of civil servants for the purpose of putting the interior security measures into practice. These are the so-called *Control and Monitoring Groups*, which are mainly focussed on prison management of organised and terrorist crime and thus on obtaining relevant data. These groups were created in 2007 through a *Reserved Instruction*. Following the 2011 reform they became an explicit and regulated item of the

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61 ARMENTA GONZÁLEZ-PALENZUELA, F. J. and RODRÍGUEZ RAMÍREZ, V. *Op. cit.*, p. 222.

62 SHALEV, S. *A Sourcebook on solitary confinement*. Oxford: Oxford University, 2009, pp. 30-31.

63 CAROU-GARCÍA, S. *Op. cit.*, p. 173.

64 The controversial model of enemy criminal law goes back to JAKOBS, G., «Kriminalisierung im Vorfeld einer Rechtsgutverletzung». *Zeitschrift für die gesamte Strafrechtswissenschaft*, n.º 97, 1985, pp. 751 ff. The amount of literature relating to this topic is colossal. To cite only a few studies: CANCIO MELIÁ, M. «De nuevo: ¿"Derecho Penal" del enemigo?» IN JAKOBS, G. and CANCIO MELIÁ, M. *Derecho penal del enemigo*. Madrid: Civitas, 2003, pp. 57 ff.; SILVA SÁNCHEZ, J. M. *La expansión del derecho penal. Aspectos de la política criminal en las sociedades postindustriales*. Madrid: Civitas, 2001, pp. 163 ff.; Gracia Martín, L. «Sobre la negación de la condición de persona como paradigma del "derecho penal del enemigo"». *Revista General de Derecho Penal*, n.º 2. 2004; PORTILLA CONTRERAS, G. «El derecho penal y procesal del "enemigo". Las viejas y nuevas políticas de seguridad frente a los peligros internos-externos», in ZUGALDÍA ESPINAR, J. M. and LÓPEZ BARJA DE QUIROGA, J. (coords.). *Dogmática y Ley penal. Libro homenaje a Enrique Bacigalupo*, vol. I. Madrid: Marcial Pons, 2004.

law. A *Central Group for the Coordination, Reception and Transmission of Information* was created as a coordinating body at *Central Services* level. Its mission is focussed on processing and integrating all the information sent by the *Centres* in order to obtain intelligence and to manage dissemination of the information to the units and areas involved.<sup>65</sup>

### *File on detainees under special supervision*

The primary target of the *Control and Monitoring Groups*’ work are those detainees who are in one way or another related to one of the principal threats for national security, namely organised and terrorist crime<sup>66</sup>. Information relating to these convicts is systematically stored and ordered in the File on Detainees under Special Supervision (henceforth FoDuSS).

The creation of this file as well as its later amendments at a legislative level responds to the security challenges faced by the prison administration as a result of new forms of crime.<sup>67</sup> In 1989, a special monitoring and control programme was set in motion through *Administrative Circular* (henceforth AC) of 13 November 1989, targeted at detainees with links to armed gangs. Two years later, AC 06/03/1991 extended this programme to two further groups of prisoners: detainees considered especially dangerous under article 10 of the general prison law; and detainees linked to organised drug trafficking activities.<sup>68</sup> AC 06/03/1991 requires that all data obtained be classified within a single file,<sup>69</sup> thus giving rise to the FoDuSS file. In 1996 the prison administration engaged in harmonising the dispersed regulatory content of the FoDuSS by reason of the fourth *Transitory Provision* of the prison regulations. This revision is set down by *Instruction 21/1996*.

65 SOLER PRIETO, C. *Op. cit.*, p. 202; COMISIONES OBRERAS. *Informe sobre la situación actual de las instituciones penitenciarias*. 2016, p. 23.

Available on [www.fsc.ccoo.es/dce0084362d95f6e112a21f118a82453000050.pdf](http://www.fsc.ccoo.es/dce0084362d95f6e112a21f118a82453000050.pdf). Consulted on 30/04/2019.

66 The challenge posed for national security by organised crime and terrorism is clearly reflected in the 2018 Annual Report on National Security.

Available on <https://www.dsn.gob.es/es/actualidad/sala.../informe-anual-seguridad-nacional-2018>. Last consulted 30/04/2019.

67 More on the regulatory developments concerning the FoDuSS file, see CAROU-GARCÍA, S. «La controvertida historia del Fichero de Internos de Especial Seguimiento: desde su nacimiento hasta la actualidad», in GONZÁLEZ GARCÍA, A. and FERNÁNDEZ BERMEJO, D. (coords.). *Cuestiones penitenciarias actuales. Criminología, derecho y práctica*. Madrid: Centro de Estudios Financieros, 2018, pp. 91-98.

68 ARRIBAS LÓPEZ, E. «Fichero de Internos de Especial Seguimiento (FIES) y régimen cerrado». *La ley penal: Revista de Derecho penal, procesal y penitenciario*, n.º 72. 2010, p. 193.

69 ARRIBAS LÓPEZ, E. *Op. cit.*, p. 194.

The fact that being included in the FoDuSS file leads to a restriction of rights has been the subject of several court cases. In 2009, the Spanish High Court ruled on the administrative regulation of the FoDuSS file. On 17 March 2009, the High Court ruling issued by the *Chamber for Contentious Administrative Proceedings* declared void the controversial subsection one of Instruction 21/1996, entitled «Security and control norms and norms on the prevention of incidents relating to highly disruptive and/or maladjusted detainees». In the resolution mentioned, the High Court concluded (legal basis 2) that the extent to which rights were affected by this subsection «oversteps the remit and purpose of the *administrative or organisational regulations* by entering the domain reserved to the law and its executive regulations, the latter having been drafted incorporating guarantees and disclosure requirements which the former lack.»

It needs to be said that the decision of the High Court does not question the inherent legality of the FoDuSS file as an instrument to gather and systematically order information. In the author's opinion it is not legally reprehensible to create an administrative file to compile data on convicts who are potentially destabilising for the prison order. Its existence is currently legally permissible under the provisions of chapter III of part II of the prison regulations – titled «protection of personal data in prison files». Furthermore, it is supported by the specific regulation for the protection of personal data, as laid down by Organic Law 3/2018 of December 5 on the *Protection of Personal Data and the Guarantee of Digital Rights*.<sup>70</sup> These two regulations are also underpinned by Order 1202/2011 of the Interior Ministry of May 4, regulating the Ministry's files containing personal data. On the other hand, article 6.4 of the prison regulations clears up any doubt as regards possible interference of the FoDuSS file with the prison regime currently applied:

«The prison administration is entitled to create files on detainees for the purpose of ensuring the security and correct functioning of the facility, as well as detainees' well-being. Being included in this file alone shall under no circumstance imply a different prison regime from that which legally applies.»

The current administrative regulation of the FoDuSS file can be found under Instruction 12/2011 which structures the file around five groups:<sup>71</sup>

- FoDuSS 1 CD (direct control) includes particularly disruptive and dangerous detainees, leaders and instigators of very serious disturbances of the prison regime with risks for the lives and well-being of prison staff, authorities, other inmates or external staff, whether inside or outside the prison, or during transfers, judicial proceedings or other procedures. The characteristics of these de-

<sup>70</sup> BOE n.º 294, 6 December 2018.

<sup>71</sup> CAROU-GARCÍA, S. «La controvertida historia del Fichero de Internos de Especial Seguimiento: desde su nacimiento hasta la actualidad». *Op. cit.*, pp. 94 ff.

tainees concur with those established by article 91.3 of the prison regulations, which justify reallocation to special departments.

- FoDuSS 2 DO (organised crime) includes a more precise definition of the detainees it encompasses. It refers to detainees sentenced in relation with crimes committed within criminal organisations or groups, in accordance with the concepts established by articles 570 “bis” and “ter” of the Criminal Code,<sup>72</sup> «both in the case of independent offences related to participation in the same, and in the case of offences whose classification specifically includes a subtype of aggravation on the grounds of membership of an organisation. It also includes detainees who present a high risk due to their links to illegal organisations.»
- FIES-3 BA (armed gangs) comprises convicts «sentenced for links to armed gangs or terrorist organisations, and those who, according to reports from security forces, collaborate with or support such groups.» The reference to reports from security forces should be highlighted. This is not the case in the description of the other groups included in the FoDuSS file, which refer to crimes that have led to prison sentences and which have therefore been verified in court.
- FIES-4 FS (*Security Forces and Prison Staff*) includes detainees that belong or have belonged to these occupational groups, as certain precautions are required during their confinement.
- FIES-5 CE (*Special characteristics*) comprises a heterogeneous group of detainees whose common denominator is the need for special monitoring for security reasons. It is made up of:
  - a) «Detainees with a prison record of elevated disruptiveness, escapes and severe violence.»
  - b) «Perpetrators of serious crimes against persons or serious sexual offences, or crimes related to corruption having given rise to great social alarm.»
  - c) «Belonging to or linked with violent organisations or groups.» The reference to the vague concept of violent organisations or groups allows this category to be applied to those detainees who do not exactly fit the FIES-2 DO and FIES-3 BA groups.
  - d) «Convicts who –without having been tried or convicted for Islamist terrorism– stand out on account of their radical fanaticism, their affinity to the terrorist ethos, or as leaders or members of groups exercising pressure on or recruiting other inmates within the prison premises.» This group matches those classed as Group B and Group C by *Instruction 8/2014* –which regulates the New Programme for the prevention of radicalisation inside prisons– which were later renamed by *Instruction 2/2016* as FIES B and FIES C (this instruction lays down the framework programme on intervening in cases of violent radicalisation of Islamist detainees).

<sup>72</sup> Organic law 10/1995, 23 November, of the Spanish Criminal Code. *BOE* n.º 281, 24 November, 1995.

- e) «Persons convicted by the International Court of Justice.»
- f) «Persons collaborating with the justice system against terrorist groups or other criminal organisations.» Similarly to FIES-4 FS, this item embodies a protective purpose, as these inmates can be exposed to acts of revenge by the criminal groups they have helped to bring to justice.

## Conclusions

Apart from a few laudable exceptions, the subject of prisons has constantly been neglected by academic research, particularly by studies originating from a legal science environment. Most studies have focussed on the reintegration and rehabilitation of convicts. Although the need for reintegration and rehabilitation as part of the operating strategies of prisons is unquestionable, it is equally clear that prisons have further-ranging potential which deserves a doctrinal analysis. This is the case of the significance and role of prison enforcement in national security within a democratic and lawful state.

Article 3 of the Act on National Security defines national security as «state action targeted at protecting the freedom, rights and well-being of citizens; at guaranteeing the defence of Spain and its constitutional principles and values; and at contributing together with our partners and allies to international security in compliance with the commitments undertaken.» The norm adopts a widening approach which hints at a dynamic, global and interdisciplinary perspective. This approach acknowledges that the prison system has a certain potential that can be harnessed by the state in meeting the difficult challenge posed by national security.

National security could be defined as a collective expression of the fundamental right to security, as enshrined in article 17 of the Spanish Constitution. Theoretically, this right is defined as the minimum state of normality necessary to effectively implement the rights of the individual. Thus, security is an indispensable condition for the preservation of the constitutional order (which in turn acts as a bulwark for the remaining rights) and ultimately of personal freedom.

The purposes attributed to prison by the Spanish law are reflected in the realm of national security and are fully compatible with it. Social reintegration and rehabilitation, seen as the guiding principles of prison sentence enforcement and laid down by constitutional article 25.2, also have an influence in this context. If national security is tasked with averting to the extent possible risk-generating factors (crime amongst them), avoiding repeat criminal behaviour –as pursued by reintegration and rehabilitation– must form part of the range of measures deployed to achieve this. On the other hand, article 1 of the GPOL entrusts the prison service with the detention and custody of detainees, prisoners and convicts. This activity also contributes to safeguarding national security inside and outside of prisons. As an expression of special negative prevention, it aims to maintain a certain level of order and security inside prisons required to protect such fundamental rights as are not restricted by the

detainee's sentence and whose protection is entrusted to the state. The prison population does not lose its status as citizens upon entering prison. Detainees continue to enjoy such fundamental rights as do not stand in the way of enforcing their prison sentence. Therefore, all state action geared towards protecting the freedom, rights and well-being of citizens, as defined by article 3 of the Act on National Security, also includes those citizens serving prison sentences. In this sense, it should be remembered that coordinated action of criminal organisations inside prison facilities can put the lives or physical well-being of the other inmates at serious risk. As regards the situation outside prison, segregating individuals who have violated legally protected interests of their fellow citizens contributes to upholding the fundamental right to security, as well as social order and peace.

A fine balance needs to be struck between detention, custody, reintegration and rehabilitation in order to contribute effectively to national security.

In terms of generating criminal intelligence –an aspect which is inexorably linked to national security– prison services could potentially play a valuable role. Detention and custody allow 24-hour monitoring of inmates, thus allowing significant volumes of information to be gathered. In this sense, prison can be regarded as a channel for obtaining data which, once analysed, gives rise to criminal intelligence. The vast majority of information extracted from the prison environment comes from human sources, i.e. the inmates themselves. Applying the measures cited under article 65 of the prison regulations (aimed at maintaining internal security in prisons) yields numerous clues on the various kinds of criminal activities. However, any far-reaching use of these measures is limited by the principles of proportionality and necessity, as well as the respect for dignity and fundamental rights. The role of inmates as human sources of information must be limited by the respect for their rights. As citizens, inmates are still entitled to inalienable rights which the state has the duty to protect. For this reason, any information requirements derived from maintaining national security must be balanced with the inmates' condition of human beings and holders of rights that can be made effective against state action. The opposite would lead to an instrumentalisation of inmates for the sake of achieving a security objective more akin to interpretations of prison law that hark back to enemy criminal law.

It is the members of the Assistants Corps who are tasked with obtaining information (with relevance for national security) from within the prison environment. Assigning other prison staff members to information-gathering could infringe professional secrecy requirements or codes of ethics which regulate the different occupational areas. Training of prison staff entrusted with gathering data is essential. This must cover not only the techniques involved in handling human sources of information, but also the legal limits of this activity. It should be remembered that any action designed to maintain national security and hence protect the state from harm loses its legitimacy if the action itself undermines the basic pillars of the constitutional order.

The information obtained from inmates is systematically classified, stored and ordered in the FoDuSS file. Its existence is legally permissible under the provisions of

chapter III of part I of the prison regulations –titled «Protection of personal data in prison files»– as well as the specific regulations on personal data protection, as laid down by Organic Law 3/2018, of December 5, on the Protection of Personal Data and the Guarantee of Digital Rights.

The all-encompassing concept of national security, as outlined by article 3 of the Act on National Security, extends to many areas, including the prison system, which –due to its special characteristics as a *total institution*<sup>73</sup> – offers optimal conditions to contribute to the protection of the democratic state and the rule of law. However, it must always be remembered that the prison environment does not form a kind of legal limbo; i.e. all fundamental rights articulated by the Constitution and fully elaborated by domestic law apply. Therefore, national security and the inviolability of prisoners' rights have to be harmonised to avoid overzealous security efforts encroaching on the democratic values they are supposed to protect.

## References

- ARMENTA GONZÁLEZ-PALENZUELA, F. J. and RODRÍGUEZ RAMIREZ, V. *Reglamento Penitenciario. Análisis sistemático, comentarios, jurisprudencia*, Madrid: Colex, 2009.
- ARRIBAS LÓPEZ, E. «Prisión permanente revisable y reinserción social». *Diario La Ley*, n.º 9144. 2018.
- BALLESTEROS MARTÍN, M. Á. *En busca de una Estrategia de Seguridad Nacional*. Madrid: Ministry of Defence, 2016.
- BECK, U. *La sociedad del riesgo. Hacia una nueva modernidad*. Barcelona: Paidós 2006.
- CABELLO, A. M. and HORMIGOS RUIZ, J. «La sociedad del riesgo y la necesidad moderna de seguridad». *BARATARIA, Revista Castellano-Manchega de Ciencias Sociales*, n.º 7. 2005-2006.
- CANCIO MELIÁ, M. «De nuevo: ¿"Derecho Penal" del enemigo?» in Jakobs, G. and Cancio Melia, M. *Derecho penal del enemigo*. Madrid: Civitas, 2003.
- CAROU-GARCÍA, S. «El principio de legalidad en el derecho penitenciario español». *Indret: Revista para el Análisis del Derecho*, n.º 4. 2017.
- CAROU-GARCÍA, S. «La controvertida historia del Fichero de Internos de Especial Seguimiento: desde su nacimiento hasta la actualidad», in González García, A.

73 Prison constitutes one of the paradigmatic examples of that which Goffman called a total institution, i.e. a «place of residence or work where a large number of people in the same situation and isolated from society for a significant length of time share a daily, formally supervised routine in their confinement.» See GOFFMAN, E. *Internados. Ensayos sobre la situación social de los enfermos mentales*. Buenos Aires: Amorrortu, 1970, p. 13.

- and Fernández Bermejo, D. (coords.). *Cuestiones penitenciarias actuales. Criminología, derecho y práctica*. Madrid: Centro de Estudios Financieros, 2018.
- CAROU-GARCÍA, S. «Terrorismo yihadista y prisión: políticas penitenciarias de contención y prevención» in PÉREZ CEPEDA, A. I. (dir.). *Actas del Seminario Internacional El terrorismo en la actualidad: un nuevo enfoque político criminal*. Salamanca: Ratio Legis 2017.
- CAROU-GARCÍA, S. *Primer grado penitenciario y Estado de derecho. El estatus jurídico de los reclusos en régimen de máxima seguridad*. Barcelona: Bosch 2017.
- COBO DEL ROSAL, M. and QUINTANAR DÍEZ, M. «Comentario al artículo 25. Garantía penal», in ALZAGA VILLAAMIL, O. (dir.). *Comentarios a la Constitución española de 1978*, vol. III. Madrid: Editoriales de Derecho Reunidas, 1996.
- COMISIONES OBRERAS. *Informe sobre la situación actual de las instituciones penitenciarias*, 2016. Available at [www.fsc.ccoo.es/dceo084362d-95f6e112a21f118a82453000050.pdf](http://www.fsc.ccoo.es/dceo084362d-95f6e112a21f118a82453000050.pdf). Consulted 30/04/2019.
- DELGADO DEL RINCÓN, L. «El artículo 25.2 CE: algunas consideraciones interpretativas sobre la reeducación y reinserción social como fin de las penas privativas de libertad». *Revista Jurídica de Castilla y León*, n.º extraordinario. 2004.
- FERNÁNDEZ ARÉVALO, L. and NISTAL BURÓN, J. *Manual de Derecho Penitenciario*. Cizur Menor: Thomson Reuters. Aranzadi, 2012.
- FERNÁNDEZ HERNÁNDEZ, A. «Ciberamenazas a la Seguridad Nacional», en GONZÁLEZ CUSSAC, J. L. and CUERDA ARNAU, M. L. (dirs.). *Nuevas amenazas a la seguridad nacional : terrorismo, criminalidad organizada y tecnologías de la información y la comunicación*. Valencia: Tirant lo Blanch 2013.
- GARCÍA SERVET, R. C. «Introducción general». *Documentos de Seguridad y Defensa*, n.º 63. 2014.
- GOFFMAN, E. *Internados. Ensayos sobre la situación social de los enfermos mentales*. Buenos Aires: Amorrortu 1970.
- GONZÁLEZ CUSSAC, J. L. and Flores Giménez, F. «Una metodología para el análisis de las amenazas a la seguridad, la evaluación de las respuestas y su impacto sobre los derechos fundamentales». *Cuadernos de Estrategia*, n.º 188. 2017.
- GRACIA MARTIN, L. «Sobre la negación de la condición de persona como paradigma del “derecho penal del enemigo”». *Revista General de Derecho Penal*, n.º 2. 2004.
- JAKOBS, G. «Kriminalisierung im Vorfeld einer Rechtsgutverletzung». *Zeitschrift für die gesammte Strafrechtswissenschaft*, n.º 97. 1985.
- KENT, S. *Strategic Intelligence for American World Policy*. Princeton: Princeton University Press 2015.

- LANDA GOROSTIZA, J. M. «Fines de la pena en fase de ejecución penitenciaria: reflexiones a la luz de la prisión permanente revisable». *Revista de Derecho Penal y Criminología*, 3.<sup>a</sup> Época, n.º 18. 2017.
- LASWELL, H. *National Security and Individual Freedom*. New York: Mc Graw-Hill Book 1950.
- LLAVADOR PIQUERAS, J. and LLAVADOR CISTERNES, H. *El régimen jurídico de los servicios de inteligencia en España*. Valencia: Tirant lo Blanch 2015.
- LUSTGARDEN, L. and LEIGH, I. *In From the Cold: National Security and Parliamentary Democracy*. New York: Oxford University Press 1994.
- MAPELLI CAFFARENA, B. *Principios fundamentales del sistema penitenciario español*. Barcelona: Bosch 1983.
- MASLOW A. H. *Motivación y personalidad*. Madrid: Ediciones Díaz de Santos 1991.
- MOLOEZNIK, P. «Seguridad Nacional», in Díaz Fernández, A. M. (dir.). *Conceptos fundamentales de inteligencia*. Valencia: Tirant lo Blanch, 2016.
- MORALES MORALES, S. «La resiliencia en el marco del sistema de seguridad nacional». *Cuadernos de Seguridad y Defensa*, n.º 77. 2018.
- PAREDES CASTAÑÓN, J. M. «La seguridad como objetivo político-criminal del sistema penal». *Eguzkilore*, n.º 20. 2006.
- PAREJO ALFONSO, L. «Sobre el binomio libertad y seguridad en el derecho». *Iusta*, n.º 45, 2016.
- PECES-BARBA MARTÍNEZ, G. «La Constitución española y la seguridad», in Cavino, M., Losano, M. G. and Tripodina, C. (edit.). *Lotta al terrorismo e tutela dei diritti costituzionali, Atti del Convegno dell'Associazione di Diritto pubblico comparato ed europeo. Alessandria, Università degli Studi, 9 maggio 2008*. Torino: Giappichelli 2009.
- PORTILLA CONTRERAS, G. «El derecho penal y procesal del “enemigo”. Las viejas y nuevas políticas de la seguridad frente a los peligros internos-externos», in ZUGALDÍA ESPINAR, J. M. and LÓPEZ BARJA DE QUIROGA, J. (coords.). *Dogmática y Ley penal. Libro homenaje a Enrique Bacigalupo*, vol. I. Madrid: Marcial Pons 2004.
- SANSÓ-RUBERT PASCUAL, D. «Inteligencia criminal y sistemas penitenciarios: algunas reflexiones». *URVIO. Revista Latinoamericana de Estudios sobre Seguridad*, n.º. 15. 2014.
- SANZ Y CALABRIA, A. «¿Por qué a la señora María le importa un rábano la estrategia de seguridad nacional?». *Documentos de Seguridad y Defensa*, n.º 63. 2014.
- SEGOVIA BERNABÉ, J. L. «Problemática en torno a la reinserción social». *Cuadernos de Derecho Judicial*, n.º 17. 2003.

SHALEV, S. *A Sourcebook on solitary confinement*. Oxford: Universidad de Oxford 2009.

SILVA SANCHEZ, J. M. *La expansión del derecho penal. Aspectos de la política criminal en las sociedades postindustriales*. Madrid: Civitas 2001.

SOLER PRIETO, C. «Aplicación en instituciones penitenciarias de la inteligencia criminal: manejo de fuentes humanas». *VIII Jornadas ATIP Almagro 2014*. Cáceres: ATIP (Asociación de Técnicos Superiores de Instituciones Penitenciarias), 2014.

TÉLLEZ AGUILERA, A. «Retos del siglo XXI para el sistema penitenciario español». *Anuario de Derecho Penal y Ciencias Penales*, vol. LII. 1999.

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*North Korea and the United States: An analysis from the theory of international relations.*

**Abstract**

Tensions between the United States and North Korea have grown considerably since the arrival of the Trump Administration to power, forcing the Security Council to impose heavy-hitting sanctions on the Korean regime since it has continued with its nuclear programme, thus giving rise to an exchange of declarations that some are predicting as the preamble to a nuclear war. While the behaviour of these two international actors is generally limited to a purely psychological analysis in the media and even in the reaction of some political leaders, here we will try to explain from the perspective of the theory of international relations

**Keywords**

North Korea, United States, Kim Jong-un, Donald Trump, Nuclear Weapons, International Relations.

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## Introduction

«The US has great strength and patience. But if it is forced to defend ourselves or our allies, we will have no choice but to totally destroy North Korea», Donald Trump said in his speech to the 72nd United Nations General Assembly in September 2017<sup>1</sup>. An inflammatory speech, which has not escaped criticism; some analysts have even described it as unprecedented, since the US president threatened the complete destruction of a UN member in the very podium of the Assembly<sup>2</sup>. This was not the first time the US leader had threatened North Korea. Weeks earlier, he said that if necessary, he would respond with “fire and fury»<sup>3</sup>.

Ever since North Korea conducted its first nuclear test in 2006, the escalation of the conflict, especially between Pyongyang and Washington, has been steadily on the increase<sup>4</sup>. However, tensions between North Korea and the United States started decades ago, when the division of the Korean peninsula into two states after World War Two led to a socialist state in the north and a capitalist state in the south. The war between the two Koreas in 1950 led to this division and the protection that the United States granted to Seoul, which has survived to the present day<sup>5</sup>. Four US administrations in recent times (Clinton, Bush, Obama and Trump) have had to deal with the problem of North Korean nuclear proliferation, mutually accusing each other of the mistakes made<sup>6</sup>. George Bush was quick to impose sanctions on the then regime of Kim Jong-Il. Barack Obama, for his part, opted for “strategic patience” seeking a cooling of existing tensions that failed to bring any tangible success. Since coming to power, however, the Trump Administration has shown its willingness to

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1 Appointments Presidential actions legislation disclosures? the White House Office of the press secretary for immediate release September 19, 2017. Remarks by President Trump to the 72nd Session of the United Nations General Assembly, *The White House*, available at: <https://www.whitehouse.gov/the-press-office/2017/09/19/remarks-president-trump-72nd-session-united-nations-general-assembly>.

2 MILANOVIC, M. «So has this ever Happened Before?». *EJIL TALK!*, 19.09.2017, available at: <https://www.ejiltalk.org>.

3 SEVASTOPULO, D. y DONNAN, S. «North Korea nuclear test raises challenges for Trump». *Financial Times*, 03.09.2017, available at: <https://www.ft.com>.

4 Although, as is widely known, the conflict dates back a long way and Pyongyang's flirtations with nuclear weapons were already evident in 1993 when it threatened to withdraw from the Nuclear Non-Proliferation Treaty.

5 Although Washington and Seoul disagree in their assessment of the threat. South Korea fears war on the Korean peninsula, while the United States is especially concerned over nuclear proliferation. (GUNTHER, H. y SUH, E. «Caught in the middle or mediating from the middle» en GUNTHER, H. y MEIER, O. *Facets of the North Korea Conflict: Actors, Problems and Europe's Interest*. Berlín: German Institute for International and Security Affairs, 2018, 18).

6 WINNEFELD, J. y MOREL, M. «Realism and North Korea». *Harvard Kennedy School. Belfer Center for Science and International Affairs*. 30.03.2017, available at: <https://www.belfercenter.org>.

take action and has even criticised the Obama administration's strategies. At the end of 2017 there were exchanges of declarations, with verbal threats and attacks from both sides, which suggested the possibility of imminent conflict. The trigger, on that occasion, was a test-flight with ballistic missiles that flew over Japan unleashing chaos for hours.<sup>7</sup> (Tokyo warned its inhabitants to seek refuge from the possibility of an attack that never occurred; schools and public transport services were suspended). Kim Jong-un, meanwhile, did not shrink from the threats of «total destruction» and declared:

*«...I will surely and definitely tame the mentally deranged US dotard with fire [Donald Trump] [...] Now that Trump has insulted me and my country in the eyes of the world, and made the most ferocious declaration of a war in history [North Korea ] is seriously considering the highest level of hard-line countermeasure»<sup>8</sup>.*

In the wake of these statements, more characteristic of opponents in a «B» movie than two Heads of State, there was much discussion as to whether we were on the verge of a new nuclear confrontation<sup>9</sup>. Particularly surprising were the comments of some world leaders who described Kim Jong-un's behaviour as if it were a product of some form of madness. Donald Trump, in a leaked conversation with the President of the Philippines, stated: «We can't let a madman with nuclear weapons run on the loose like that». And Duterte replied that his mind was «not working well<sup>10</sup>. The former Australian Prime Minister, John Howard, noted that Jong-Un was “an irrational leader” and “we should be worried”<sup>11</sup>. Others, such as the former Prime Minister of Singapore, branded the North Korean regime a “psychopath”<sup>12</sup>. Many Americans, in fact, as *Politico Magazine* states, have the impression that North Korea is a crazy country, led by a madman seeking global destruction<sup>13</sup>. 77 % of Americans even believe that Pyongyang is capable of launching a nuclear missile against the United States,

7 ESPINOSA, J. «Diez minutos para ponerse a salvo en Japón de los misiles norcoreanos». *El Mundo*, 29.08.2017, available at: <http://www.elmundo.es>.

8 «Kim Jong-un amenaza con “domar con fuego al viejo chocho” de Trump». *El País*. 04.10.2017, available at: <https://elpais.com>.

9 For example, this debate: RATNER, E., SMITH, S. y SNYDER, S. y ROSE, G. «What the U.S. Can Do About North Korea». *Foreign Affairs*. 10.08.2017, available at: <https://www.foreignaffairs.com>.

10 «Trump calls Kim Jong-un “a madman with nuclear weapons” in a leaked conversation with Duterte». *RT*. 24.05.2017, available at: <https://actualidad.rt.com>. And this was not the only time that the American president described Kim Jong-un in these terms. In September, following missile tests, he claimed he was a madman who didn't mind killing his own people.

11 «Kim Jong-un is an “evil”, “irrational” leader and we should be worried: John Howard». *ABC News*. 31.08.2017, available at: <http://www.abc.net.au>.

12 «El líder norcoreano es un pobre viejo fofo». *ABC*. 02.12.2010, available at: <http://www.abc.es>.

13 WOLFSTHAL, J. B. «Why Kim Kim Jong-un Isn't Afraid of Donald Trump». *Politico Magazine*. 29.08.2017, available at: <http://www.politico.com>.

a view that has spread to part of the western world<sup>14</sup>. The truth is that Kim Jong-un has not done anything to alleviate this kind of panic; in fact he actually stated that they would soon have intercontinental ballistic missiles capable of reaching the United States (according to some analysts, their missiles could already reach North America)<sup>15</sup>. The US Secretary of State, Rex Tillerson, has responded to these claims by suggesting that they could carry out a pre-emptive strike. The hermetic nature of the North Korean regime has also endorsed this aura of madness. Nor has the Western press been slow to exaggerate behaviour patterns with accounts of purges or unorthodox methods of execution, such as when it was erroneously claimed that the North Korean leader had thrown his uncle to the dogs; the story was a «hoax» created by a Chinese satirical website, but reproduced by all Western media which seems to take for granted such forms of lunatic behaviour on the part of the North Korean regime<sup>16</sup>.

However, 2018 presented us with an unexpected scenario. Insults and paranoia gave way to understanding. We were confronted with statements (even ones that could be described as affectionate) between Donald Trump and Kim Jong-un. We witnessed summits that appeared to be designed to come up with a solution, as if everything previously expressed was just a bad dream. So what happened?

The truth is that the conduct of international stakeholders has not always responded to the dictates of reason. In fact, according to a former Palestinian minister, George W. Bush once said that he invaded Iraq because God told him to<sup>17</sup>. But is Kim Jong-un someone who in all circumstances is engaging in irrational acts that jeopardize the survival of his country? Or is there another answer to the tug-of-war between the North Korean leader and the Security Council and the international community? Why is there room for consensus now? Some say that it is impossible to understand what North Korea is doing and that war between Washington and Pyongyang is highly probable<sup>18</sup>. We will try, nonetheless, to find an answer in the Theory of International Relations and in the recent history of the small Asian country both to the violent rhetoric of past decades and to the current situation.

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14 «CNN poll: Two thirds of Americans see North Korea as a very serious threat». *CNN*. 08.08.2017, available at: <http://cnnespanol.cnn.com>.

15 GUNTHER, H. y MEIER, O. «Interests, Interdependencies and a Gordian Knot» in GUNTHER, H. y MEIER, O. *Op. cit.*, p. 7; GILSINAN, K. «North Korean Nukes and the Grand International-Relations Experiment in Asia». *The Atlantic*. 18.03.2017, available at: <https://www.theatlantic.com>; BENDIX, A. «122 Nations Approve 'Historic' Treaty Banning Nuclear Weapons». *The Atlantic*. 08.07.2017, available at: <https://www.theatlantic.com>.

16 «De la jauría de perros que mató a su tío, a la amante resucitada: leyendas y verdades de Corea del Norte». *ABC*. 10.02.2016, available at: <http://www.abc.es>.

17 «Dios me pidió acabar con la tiranía de Irak». *El País*. 08.10.2005, available at: <https://elpais.com>.

18 MURRAY, R. «IR Theory and the DPRK». *E-International Relations*. 10.04.2013, available at: <http://www.e-ir.info>.

Theories of international relations have evolved over time, a logical occurrence if we consider that relations and conflicts between states are ever-changing, adjusting to man's technological, cultural and social advances. A century ago the North Korean issue could not have been dealt with by analysts, because the devastating effects of nuclear weapons had not been proven. Thus, traditionally, there are two basic frameworks to the theories of international relations: realism and rationalism<sup>19</sup>.

In general, rationalism recognises that situations of violence, inherent in life, can be avoided through understanding, dialogue and negotiation. These give a relevant role to the agreements reached between states, international Law and international organisations. Immanuel Kant, exponent of this school of thought (along with others such as Plato, Vitoria or Kelsen), understood that states with common democratic values, did not go to war against each other and that there could be no better scenario for relations than common understanding<sup>20</sup>. Applying these assumptions to the present day, it is evident that the UN, through the Security Council and the General Assembly, would have a fundamental role in resolving disputes between states.

Realists, however, take a more pessimistic view. They understand, unlike rationalists, that war is inevitable. In the view of Hobbes, it is the «state of nature», a confrontation of everything versus everything that is inherent in the human race<sup>21</sup>. From this perspective, states are motivated by their own interests in an anarchic world and international organisations promote the interests of the most powerful or influential countries and do not have the capacity to resolve conflicts equitably. Aristotle, Hegel, Machiavelli or Vattel are some examples of realistic authors. This is a theory that became relevant after the outbreak of World War Two. The interwar period, which followed the conclusion of the First World War, was used to create a League of Nations with rules agreed between the powers, which sought to avoid a new conflict on a large scale. However, these rationalist initiatives, with the creation of international organisations and common rules, proved insufficient and the world entered a fresh global war years later, with consequences for the civilian population as serious as the previous one. This encouraged the thesis of those who viewed such pacts as inadequate and failing to reflect the reality and anarchy of international relations. Logically, these two categories (realism and rationalism) are insufficient to describe all the theories developed since then –functionalism, neo-realism, theories of interdependence, etc.– but they do serve as a general framework for analysing North Korean behaviour.

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<sup>19</sup> On international relations theories, see: GARCÍA PICAZO, P. *Teoría breve de las relaciones internacionales ¿Una anatomía del mundo?* Madrid: Tecnos 2013.

<sup>20</sup> See: KANT, I. *Hacia la paz perpetua. Un diseño filosófico*. Madrid: Ediciones Alamanda, 2018.

<sup>21</sup> See: HOBBS, T. *Leviatán*. Madrid: Editora Nacional 2008.

*North Korea's foreign policy in the light of Waltz's neo-realism*

Among the realists, the American Kenneth Waltz, who developed highly controversial theories that were strongly criticised in the US, is especially relevant. Waltz analyses the world after the Second World War from what he himself described as a realistic perspective; in his view, agreement, is not the best option to solve the innumerable political conflicts that the world presents. As is well known, the World War Two and the creation of the United Nations gave way to a world described as bipolar in which the two major powers, the United States and the USSR, disputed power. Two totally opposite models faced each other: American economic liberalism, typical of the Western world, and Soviet socialism.

The coexistence of the two powers did not lead to direct armed conflict, but it did lead to blockades in the Security Council (the use by both powers of the abusive veto privilege) and proxy wars (in which both powers supported their governments or related armed groups in different parts of the world<sup>22</sup>). However, if there is one thing that characterised this Cold War, it was the constant threat of nuclear conflict. At the end of World War Two, the USSR managed to develop nuclear weapons in defiance of US dominance. Both powers began an arms race, which would later spread into space (generating costs that, according to some, the USSR could not afford), in order to defeat their opponent. Finally, with the fall of the Berlin Wall and its disintegration, the USSR lost the battle. Capitalism prevailed over communism. Having defeated its enemy, the United States therefore emerged at the beginning of the 1990s as an unrivalled, dominant power.

Waltz understands that, despite the tensions (which became more evident than ever in Cuba's missile crisis), the United States and the USSR avoided direct armed conflict for decades. And, therefore, a perfect balance existed. This situation of equilibrium was achieved by the fear shared by both sides of unleashing a major tragedy with the exchange of nuclear warheads. In other words, it was the nuclear bombs, and their indiscriminate effects, that guaranteed that neither party would want to enter into armed conflict (at least not directly), thus creating a balance of forces between the two contenders. Waltz, therefore, believes in the paradox of the work of nuclear bombs as a pacifying force. And he doesn't stop at analysing the case of the Cold War<sup>23</sup>.

Waltz relates this to the conflict between India and Pakistan. The two neighbouring countries are in a state of permanent tension. In fact there were border skirmishes recently, allegedly carried out by terrorist groups coming from Pakistan, to which India

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22 Like U. S. support for the contras in Nicaragua; or Russian support for the Afghan government while the U. S. helped the mujahideen, who paradoxically would form the Taliban that the Bush Administration would fight. Or, as it happens, Korea's own war in 1950.

23 WALTZ, K. «Why Iran Should Get the Bomb. Nuclear Balancing Would Mean Stability». *Foreign Affairs*. Julio/agosto, 2012, pp. 2-5 (p. 2).

replied<sup>24</sup>. Going back in time, following decolonisation, the two countries clashed in the conflict with Bangladesh. However, Waltz reminds us that from the moment they got nuclear bombs (both Pakistan and India, have this capacity, although it is not of major concern nor does it feature in the media), they have avoided direct conflict and the situation is peaceful, as was the case with the Cold War<sup>25</sup>.

The last scenario Waltz analysis is the Middle East and the proliferation of nuclear weapons by Iran, which has been seen as a threat to the wider international community. A case similar to North Korea, with the exception that in this case an agreement has been possible<sup>26</sup>. And while US politicians were even calling for preventive armed action to end Iran's nuclear capability, Waltz saw this as a new opportunity to stabilise the Middle East<sup>27</sup>. Israel, although it attempts to conceal the fact, is another country with weapons of mass destruction: it possesses chemical and nuclear weapons. Once again, Waltz considers that if Iran were to accede to nuclear weapons, the equation would be rebalanced and there would be a prosperous peace in the East; given that Israel has attacked its adversaries as and when it deemed necessary (and with little proportional action): both with occupations (such as that of Lebanon in 2006; or Gaza in 2009) and with isolated bombings of a preventive nature (Gaza and Syria recently). If Tel-Aviv feared an attack from Iran, it might renounce those attacks and the situation, just like that of the United States and the USSR or India and Pakistan, could be balanced out<sup>28</sup>.

Returning to North Korea, is this balance that Waltz advocates really possible? One has to determine what exactly the North Korean regime intends with its nuclear weapons and whether its intentions are defensive or offensive. The analysts have not reached a consensus. Pyongyang has its eyes set on the entire Korean peninsula. However, although North Korean propaganda tells its citizens that it was the United States that invaded North Korea in 1950, the truth is that it was Kim Il-Sung who attacked South Korea in order to unify the peninsula under a socialist banner. Some think that Kim Jong-un has the same ambition and hence his nuclear development. Many defend this theory, maintaining that a «Second» war between the two Koreas would be initiated by the northerners. These theories focus on the «madness» of the North Korean leaders and their expansionist leanings. This is a profoundly psychological thesis that obviously cannot be proven in the absence of hard evidence of the lack of common sense and reasoning (or excessive ambition) of the North Korean leaders.

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24 «India bombardea territorio paquistaní en respuesta por el atentado que mató a 44 militares hace dos semanas». *El País*. 26.02.2019, available at: <https://elpais.com>.

25 WALTZ, K. *Op. cit.*, p. 5.

26 Pulled back by the Trump Administración Trump especially in recent times.

27 It is worth noting that Iran finances Hezbollah's Shiite militias and Hamas and is a declared enemy of Israel, constituting one of Tel Aviv's main threats in a regional context.

28 WALTZ, K. *Op. cit.*, p. 5.

«Discussions of irrationality do not take us very far. First, if a ruler truly is irrational or paranoid, it is impossible to make any a causal link between that psychological state and expected outcomes. Second, this approach is falsifiable [...] By resorting to an irrational demagogue as an explanatory variable, analysts appeal to a deus ex machina through which any North Korean action can be post-dictively explained [...] and any possible North-Korean action can be possible».<sup>29</sup>

This simplistic reasoning which involves «demonizing» the enemy is not uncommon: it was used with other «unpleasant» leaders such as Saddam Hussein or Gaddafi<sup>30</sup>. Although, in the particular case of the two Koreas, the truth is that since the conflict in 1950 there has been no armed confrontation between the two countries and peace has existed on the peninsula for nearly seventy years (no small feat). Moreover, despite the military displays of the North Korean regime, it is often obvious that this is a small country (with barely twenty million inhabitants and a military capacity, with conventional weapons, similar to that of South Korea) that would have absolutely no place in an armed confrontation (even nuclear) with Washington and Seoul<sup>31</sup>. Although its nuclear capacity could cause major casualties (it is estimated that a nuclear missile would arrive in Japan in just ten minutes), this is derisory in comparison with that of the United States<sup>32</sup>. Despite this, as they recently confessed to *The New Yorker*, some members of the Trump

Administration's national security team still doubt that North Korea has the weapons simply to use in self-defence and they do not rule out an invasion of the South<sup>33</sup>. However, most analysts believe that North Korea's intentions are defensive rather than hostile and are focused on seeking a balance similar to that described by Waltz in the previous scenarios: peace (or survival in the face of threats from the United States)

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29 KANG, D. «International Relations Theory and the Second Korean War». *International Studies Quarterly*, Volume 47, Issue 3. 2003, available at: <http://onlinelibrary.wiley.com/doi/10.1111/1468-2478.4703001/full>.

30 One only has to pay heed to the following press headlines: «Gaddafi, un paranoico». *El Mundo*, 27.02.2011, available at: <http://www.elmundo.es>; «El embajador de la ONU dice que Gadafi está loco». *Europa Press*, 25.02.2011, available at: <http://www.europapress.es>; DEPETRIS, D. «Bashar al-Assad: A Clever Sociopath». *The National Interest*, 11.02.2015, available at: <http://nationalinterest.org>.

31 KANG, D. *Op.cit.*, available at: <http://onlinelibrary.wiley.com/doi/10.1111/1468-2478.4703001/full>.

32 The United States has between 6,800 and 7,000 warheads and North Korea, in contrast, is estimated to have between 10 and 20. The country with the most in its power is Russia, as a result of the Cold War arms race, with more than 7,000 warheads. France has 300; China 260; United Kingdom 215; India and Pakistan have similar numbers, between 120 and 130; and Israel closes the list with 80. («Nuclear Arsenals». *International Campaign to Abolish Nuclear Weapons*, available at: <http://www.icanw.org>; «Which Countries Have Nuclear Weapons and How Big Their Arsenals Are». *The New York Times*, 23.12.2016, available at: <https://www.nytimes.com>).

33 OSNOS, E. «The Risk of Nuclear War with North Korea». *The New Yorker*, 18.09.2017, available at: <https://www.newyorker.com>.

that could only be granted by the possession of nuclear weapons. An invasion of the south could go against the interests of the north, which would be forced to impose a feudal system on a society that has lived under a liberal regime that would prove very difficult to alter. Therefore it seems more realistic to consider that North Korean operations are aimed at «preserving what they already have»<sup>34</sup>. In this sense, the former US Secretary of State, William Perry, pointed out that North Koreans are cognizant of the fact that their nuclear weapons are valuable only if they «do not» use them, since the consequences of using nuclear arsenal would be devastating for the country, which could be completely destroyed.<sup>35</sup>

### Pyongyang's refusal of rationalism

But one might wonder why the North Korean regime, at least until quite recently, has resorted to such a tactic, which could be defined as extreme, in order to secure peace in its region. Would it not be simpler to sit down with the United States and negotiate the terms of an agreement that would please all parties? This is probably where the close link between the North Korean regime and realistic theories becomes apparent, since its nuclear proliferation policy would appear to derive from a profoundly pessimistic understanding of international relations and their mechanisms for resolving conflicts (whether the United Nations Assembly or the Security Council). Some analysts, therefore, do not see the North Korean leader's behaviour as that of a madman, but that of a most rational mind, taking into account the circumstances of his country, and acting in accordance with the tenets of realistic theses<sup>36</sup>. Theories that conceive enemy leaders as hostile by nature are arguably over-simplistic and should be replaced by others which, without justifying the conduct of the actors involved, would at least explain it from a rational point of view<sup>37</sup>. In other words, it is not a question of morally justifying the conduct of these leaders, but of analysing them in more detail, without starting from the premise that they are mentally ill<sup>38</sup>.

More traditional realist theses did not believe in diplomacy within an anarchic world of states acting only in their own interest. North Korea welcomes this reality

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34 KELLY, R. «There's a Lot of North Korean Alarmism». *Asian Security Blog International Relations of Asia & US Foreign Policy*. 14.06.2017, available at: <https://asiansecurityblog.wordpress.com/2017/06/14/theres-a-lot-of-north-korean-alarmism/>.

35 AZIZ, A. «The Logic in North Korean Madness». *Astute News. Science of News and Analysis*. 18.07.2017, available at: <https://astutenews.com>.

36 MURRAY, R. *Op. cit.*, available at: <http://www.e-ir.info>.

37 MALICI, A. «Thinking About Rogue Leaders: Really Hostile or Just Frustrated?». *The Whitehead Journal of Diplomacy and International Relations*. 2007, p. 8.

38 «North Korea, Far From Crazy, Is All Too Rational». *The New York Times*. 10.09.2016, available at: <https://www.nytimes.com>.

and until recently refused to negotiate with the United States. But a crucial aspect requiring clarification and one that often escapes analysis is that this has not always been the case. At the end of the Cold War, Kim Il-Sung was open to negotiations, but at that time neither the United States nor South Korea were up for the task. In 1999, the Clinton administration did take a step forward and began a very serious rapprochement with North Korea under the leadership of Kim Jong-Il. Moreover, in 2000 the Secretary of State, Madeleine Albright, spent more than twelve hours in Pyongyang with Kim Jong-Il negotiating the terms of an agreement on her missile programme<sup>39</sup>. Some historians even claim that had the Clinton agreements been maintained, North Korea would not currently have nuclear weapons<sup>40</sup>.

Months later, however, the situation deteriorated with the arrival in power of George Bush, who did not continue the line of his predecessor<sup>41</sup>. South Korea's own foreign minister at the time, Yoon Young-kwan, said he had had great difficulty convincing the Bush administration to establish diplomatic relations with North Korea<sup>42</sup>. In fact, in the year 2002, straining relations even further, President George Bush included North Korea in his well-known «Axis of Evil», a name by which he described the states that, in his opinion, supported terrorism, which included Iraq, Iran, Libya, Syria, Cuba and the North Korean regime itself<sup>43</sup>. That list, as one might imagine, is essential to understanding North Korea's behaviour.

First of all, three of the six countries named were attacked by different US administrations (Iraq, in 2003, by the Bush Administration; Libya, in 2011, by the Obama Administration; and Syria, in 2017, by the Trump Administration). Francis Fukuyama even pointed out that the «Axis of Evil» represented a significant change in US foreign policy from a policy of deterrence to a policy of active prevention against terrorism<sup>44</sup>.

39 OSNOS, E. *Op. cit.*, available at: <https://www.newyorker.com>.

40 AZIZ, A. *Op. cit.*, available at: <https://astutenews.com>.

41 Evidence of the good relations between the Clinton administration and Kim Jong-Il lies in the fact that the former American president, in 2009, mediated the release of two American journalists who had been arrested by the North Korean regime and sentenced to forced labour. Clinton travelled to Pyongyang and obtained their release by meeting personally with Kim Jong-Il, who openly acknowledged that the relationship with the previous US administration was better. A Wikileaks cable, in fact, revealed that Kim Jong-Il stated that the United States could have had a good ally in Southeast Asia. George W. Bush, however, in 2006 tried to restore relations with the North Korean regime (which deteriorated, apart from the inclusion in the Axis of Evil, after the US president literally said that he would not negotiate with the devil). (KAPLAN, F. «China Won't Stop Kim Jong-un. The U. S. Must Stand Up to Both of Them». *Slate*. 13.09.2017, available at: <http://www.slate.com>).

42 YOUNG-KWAN, Y. «Realism on North Korea». *China US Focus*, 05.04.2013, available at: <https://www.chinausfocus.com>.

43 «President Delivers State of the Union Address». *The White House*, available at: <https://georgewbush-whitehouse.archives.gov/news/releases/2002/01/20020129-11.html>.

44 FUKUYAMA, F. «Occidente puede resquebrajarse». *El País*. 17.08.2002, available at: <https://elpais.com>.

Starting with Iraq, George Bush's invasion turned the country into complete chaos, with a sectarian war that seems to have no end and that has undoubtedly left the country in worse conditions than under Saddam Hussein's regime. North Korea draws various lessons from this invasion that embrace realism and deviate from idealism. In the first place, not even the opposition of the United Nations Assembly and the Security Council prevented the United States from deploying its troops. And secondly, international law likewise failed, as there was no legal authority in international law to justify the US invasion. Neither the United Nations nor legality stopped the United States. The route to agreement, therefore, had failed completely for Iraq, which allowed UN inspectors to check until the very last moment whether they really had weapons of mass destruction, without the fact that none appeared (at the time or later) serving the US Administration. Pyongyang would have to ask itself why the United States would be any way more benevolent towards the North Korean regime.

The second significant case is Libya, and perhaps even more relevant than Iraq; in fact CIA advisers have pointed out that it is the scenario that North Koreans cite most when discussing the issue of a possible abandonment of nuclear weapons<sup>45</sup>. In 2011, under the Gaddafi leadership, Libya suffered the same fate as Iraq after the protests resulting from the Arab Spring. The United States and its allies branded Gaddafi a madman and began a constant campaign of air strikes that did not let up until the Libyan regime and leader were removed. On that occasion there was consensus in the Security Council and military actions had legal and political backing. However, the Security Council resolution did not authorise a regime change or the elimination of Gaddafi<sup>46</sup>. The interests of the Council members who had participated actively in the intervention (France, the United States and the United Kingdom) prevailed over the will of the United Nations, which opted for a more limited mandate.

Curiously, years earlier, the international community, led by the United States, managed to convince Gaddafi to give up his nuclear programme. These demands were accepted by the North African leader and probably turned out to be his downfall. Thus, the North Korean regime assumed that if Gaddafi had continued with his nuclear proliferation and had not heeded the pressures of the international community, he would probably still be alive today and, faced with the threat of nuclear weapons, no one would have dared to attack the country.

A case that bears many similarities to the latter is that of Ukraine, although without the participation of the United States. Kiev renounced its nuclear weapons in 1994 through the Budapest Memorandum, signed by Ukraine, Russia, the United States and the United Kingdom, with the commitment that these countries would respect Ukrainian sovereignty and territorial integrity. However, as is well known, years later Russia reneged on its promise and annexed Crimea. Already then, some analysts, like the researcher, Felix Arteaga, wondered what message was being sent to the prolifera-

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45 AZIZ, A. *Op. cit.*, available at: <https://astutenews.com>.

46 S/RES/1973 (2011), March 17, 2011.

ting countries (North Korea, Iran) if all those who had renounced nuclear weapons (Ukraine, Libya or Iraq) were being «attacked»<sup>47</sup>.

What, then, is North Korea trying to do? Survival is logical. Not ending up like these countries. Pyongyang, in pursuing a realistic interpretation of international relations, is seeking to dissuade its enemies, mainly the United States, from a possible attack or invasion in the face of the threat of possible nuclear retaliation. From Pyongyang's perspective, the arms race is not something «suicidal» but precisely the element that will allow them to achieve survival: that balance defended by Kenneth Waltz. For as long as South Korea and Japan<sup>48</sup> have the support of the United States, the North Korean regime will feel threatened. And it has learned two lessons: first, if the major powers (the US, Russia) want to attack, they will do so; second, the countries that abandoned nuclear proliferation were completely exposed. The regime, therefore, is contemplating a threat to American troops located in South Korea, which, they understand, only serve to maintain US dominance in the region<sup>49</sup>. It is estimated that North Korean casualties caused by US bombing in the Korean War were counted in the hundreds of thousands (an estimated 20 percent of the Korean population died during the intense bombing, which, according to some, was more brutal than the entire US air campaign during World War II<sup>50</sup>). That conflict did not end with a peace treaty, but with an armistice agreement, and tensions have been constant ever since<sup>51</sup>.

Moreover, as we have seen, when the United States decides to challenge Pyongyang's adjustment to international law, despite the justifications from its Administration, it has often been compromised. In fact, North Koreans are particularly critical of the work of the Security Council, which they accuse of double standards and serving the particular interests of a few countries; since the members of the Council were very concerned about sanctioning North Korea over its nuclear programme while they remained silent and imposed no sanctions of any kind on the US invasion of Iraq (2003) or Israel's invasion of South Lebanon (2006)<sup>52</sup>. The Secretary of State for the Clinton Administration, William J. Perry, pointed out, in relation to this double standard, that the North Koreans did not understand why the international community accepted

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47 «Ucrania, la lección más dura del desarme nuclear». *ABC*. 10.04.2014, available at: <http://www.abc.es>.

48 The country accused of being a mere puppet of the United States in the region.

49 SEONGJI WOO. «Pyongyang and the World: North Korean Perspectives on International Relations under Kim Jong-il». *Pacific Focus*, Vol. XXVI, No. 2 (August 2011), 188–205 (p. 198).

50 «Trump's threats are perfect propaganda for North Korea». *CNN*. 12.04.2017, available at: <http://cnnspanol.cnn.com>.

51 POTTS, M. «The Koreas, Bastion of Cold War Realism». *The Diplomat*. 25.06.2015, available at: <https://thediplomat.com>.

52 SEONGJI WOO. *Op. cit.*, 196. For this reason, North Koreans were involved in expanding the number of non-permanent members of the Security Council, with the aim of ensuring that non-aligned countries would have a say in important deliberations.

Saudi Arabia with its flagrant violations of human rights and yet did not tolerate a nuclear-armed North Korea<sup>53</sup>.

Nor, as he pointed out, does the United States' respect for legality inspire great confidence in Pyongyang: unilateralism that has manifested itself not only in the scenario of warfare but also in agreements relating to climate change, the refusal to ratify the Statute of the International Criminal Court and the treatment of Guantánamo prisoners<sup>54</sup>. If the Washington's behaviour in its international relations can only be analysed according to realistic theses, it seems understandable that the North Korean regime should react with a similar response. Recently, in fact, the North Korean regime openly acknowledged this defensive nature through its official newspaper:

«The United States has exaggerated when it states that we pose a serious threat to the entire world (...) we will not initiate or threaten a nuclear attack on any country in the world, unless it participates in the anti-Korean military actions of the United States [...].(North Korea) has not secretly carried out the development of its nuclear weapons and rockets, but all processes of weapons reinforcement have been clearly revealed as part of Pyongyang's efforts to prevent a war (with the US)»<sup>55</sup>.

This statement was reiterated after the US bombing of Syria in 2017 with a communiqué from the North Korean Foreign Minister: "The reality of today proves our decision to strengthen our military power and stand against force with force was a wise choice a million times over, we were right to increase our nuclear force in a remarkable way<sup>56</sup>". And they also insisted that their nuclear development was a means to curb the use of arbitrary US force in their international relations, as «successive US administrations have attacked those countries that did not have nuclear weapons»<sup>57</sup>.

The Trump Administration has similarly employed this argument and threatened to adopt unilateral measures, as in previous instances, if it fails to reach an agreement with Pyongyang; in such a scenario it would renounce the necessary authorisation to use the force of the Security Council, as required by the United Nations Charter<sup>58</sup>.

53 AZIZ, A. *Op. cit.*, available at: <https://astutenews.com>.

54 FUKUYAMA, F. «Occidente puede resquebrajarse». *Op. cit.*, available at: <https://elpais.com>.

55 «Corea del Norte dice que sus armas nucleares no amenazan a otros». *HispanTV*. 19.08.2017, available at: <http://www.hispantv.com>.

56 ESPINOSA, J. «Corea del Norte dice que el ejemplo de Siria justifica su armamento nuclear». *El Mundo*. 09.04.2017, available at: <http://www.elmundo.es>.

57 The Minister of Foreign Affairs said the following: «Our tremendous military muscle with a nuclear force as its axis serves as a valuable sword of justice capable of thwarting the shameless and arbitrary practices of the United States».

58 If the Security Council considers that the measures referred to in Article 41 may be inadequate or have proved to be inadequate [those relating to the peaceful settlement of disputes or the adoption of sanctions or coercive measures not involving the use of armed force], it may take such action through

This would not even be the first time that North Korea has been subjected to such behaviour from the United States, since the American invasion during the Korean War in 1950 also took place in violation of international law. On that occasion, the United States obtained an authorisation from the Security Council to use force, but it did so taking advantage of the absence of the Soviet representative at the Council session, who, had he been present, would have vetoed a resolution to that effect<sup>59</sup>.

The United States has not been slow to respond to these «dissuasive» theories and has contradicted Waltz by pointing out, in the words of Rex Tillerson, that nuclear weapons «are not instruments of mutual deterrence or strategic stability, but tools of destabilization»:

«While North Korea has shunned the international community and let its people starve while it relentlessly pursues nuclear weapons, South Korea has opted not to pursue nuclear weapons and is fully engaged with the international community. As a result, South Korea has grown into one of the world's great economic powers, with a GDP over 100 times that of its neighbor to the north. By contrast, though North Korea may assume that nuclear weapons will ensure the survival of its regime, in truth, nuclear weapons are clearly only leading to further isolation, ignominy and deprivation. Continued threats against us, the United States, and now the entire global community will not create safety for the regime, but will instead stiffen our collective resolve and our commitment to deterring North Korean aggression»<sup>60</sup>.

In fact, Rex Tillerson was calling on North Korea to take a more idealistic view of the world: placing them in a position to integrate commercially with other countries, to adhere to international norms and treaties, and participate in humanitarian activities<sup>61</sup>. One cannot overlook the North Korean regime's responsibility for this increase in mistrust either, for in 2003, when it announced its withdrawal from the Nuclear Non-Proliferation Treaty, it stated that it had no intention whatsoever of manufacturing atomic bombs and that its nuclear activities would be limited to peaceful purposes such as the manufacture of electricity<sup>62</sup>. These claims have not stood the test of time. Nonetheless, some analysts have

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air, naval or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockades and other operations carried out by air, naval or land forces of Members of the United Nations.

59 S/RES/84 (2011), July 7, 1950.

60 S/PV.8053, September 21, 2017, 5.

61 Ibid.

62 The North Korean agency KCNA stated: «Even if we leave the NPT, we do not intend to manufacture atomic weapons and our nuclear activities at this time will be limited to peaceful purposes such as the production of electricity». («Corea del Norte lanza otro pulso y abandona el Tratado de No Proliferación Nuclear». *El País*, 11.01.2003, available at: <https://elpais.com>).

pointed out that the change of discourse comes as a direct consequence to events in Iraq in 2003<sup>63</sup>.

### North Korea and Strategic Conflict Theory

But if North Korean weapons are strictly defence-related, as Pyongyang argues, one might ask why the North Korean regime publicly exhibits its weaponry, worshipping it, as if it were a television show, spreading images across the globe of its missile launches and its troops parading proudly with their deadly toys.

What is certain is that these practices are not new either in history or in the theory of international relations. A current of realism is the strategic theory of conflict, developed during the Cold War. This theory is based precisely on the assumption of rational behaviour on the part of the agents involved in the conflict<sup>64</sup>. The main focus of this theory is deterrence and not «all-out war» between the actors; so, although the name would appear to evoke belligerent activity, the theory is not based on aggression, war or resistance, but on «war threats» and how these influence the enemy.

Some of these dissuasive practices have a strong psychological element: for example, the exhibition of weapons and technological development in order to show off to the enemy their new and improved capabilities and weaponry. These are practices that Washington and the Kremlin made regular use of during the Cold War to dissuade the enemy from attacking. And that is precisely what the North Korean regime is doing now: presenting a full display of its armaments to dissuade the United States from carrying out pre-emptive strikes and in doing so to obtain greater popular support. Curiously enough, analysts point out that, since the end of the Cold War, there has been less reliance on deterrence, but clearly the country that most frequently uses it is the United States<sup>65</sup> (in the last two years alone it has threatened Venezuela, Syria, North Korea and Iran<sup>66</sup>).

One might still wonder whether this somewhat heterodox staging of nuclear capacity is necessary. Related to compulsive deterrence is the «madman» theory, which

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63 BALLBACH, E. «North Korea: Between Autonomy-Seeking and the Pursuit of Influence» en GUNTHER, H. y MEIER, O. *Op. cit.*, p. 11.

64 VAHABI, M. «A Critical Review Of Strategic Conflict Theory And Socio-Political Instability Models». *Revue d'économie politique*, 2009/6, Vol. 119, 817-858 (p. 822).

65 MORGAN, P. «The State of Deterrence in International Politics Today». *Contemporary Security Policy*, 33:1, 2012, 85-107 (88). This has been helped by the fact that Washington has kept its military bases worldwide completely intact (like the one it maintains in South Korea), which, added to its intelligence capability, allows it to maintain wars anywhere on the globe. Such a capacity level is something that a country like North Korea clearly lacks.

66 «The New Axis of Evil: Why Donald Trump focused on Venezuela, Iran and North Korea in his speech at the UN». *BBC*. 20.09.2017, available at: <http://www.bbc.com>.

became famous thanks to Richard Nixon. This theory consisted of adopting irrational behaviour so that the enemy would think that any military action, regardless of its size, would be possible. Thus, Richard Nixon, with aggressive and threatening statements, made the North Vietnamese leaders think that he was capable of launching a nuclear bomb in order to triumph in the US invasion of Vietnam; when such action was not really part of his plans and the statements were therefore merely dissuasive. The Nixon Administration did the same in 1969 in its confrontation with the USSR: it sent nuclear bombers to the Soviet border and raised its DEFCON level<sup>67</sup>; a fact that frightened Soviet officials into believing that nuclear conflict was imminent. Richard Nixon's Secretary of State, Melvin Laird, pointed out that with this tactic the American president intended that the Soviets would never be able to guess what their next step would be<sup>68</sup>. Richard Nixon himself was more explicit when commenting on the characteristics of his own theory:

«I call it the Madman Theory. I want the North Vietnamese to believe I've reached the point where I might do anything to stop the war. We'll just slip the word to them that for God's sake, you know Nixon is obsessed about Communism. We can't restrain him when he is angry—and he has his hand on the nuclear button and Ho Chi Minh himself will be in Paris in two days begging for peace<sup>69</sup>».

Using madness to achieve peace – a theory easily associated with Kim Jong-un's behaviour, but similarly applicable to the behaviour of Donald Trump<sup>70</sup>. Following in the footsteps of Nixon, Trump mobilised his fleet (without any offensive manoeuvres) and sent a fighter-bomber over North Korean airspace (once again, without attacks). Similarly, taking his cue from Nixon, Kim Jong-un has threatened to «carry out an all-out war»<sup>71</sup>.

The two of them have continued with these threats for a whole year and the truth is that absolutely nothing has happened, not even a minor skirmish. Some observers have even pointed out that Donald Trump, the businessman, is clearly well acquainted

67 The defence readiness condition is an alert state used by the United States Armed Forces, with DEFCON 5 representing the lowest state of readiness in situations of complete calm and peace and DEFCON 1 employed in situations of imminent nuclear conflict.

68 BAILEY, D. «Method to Madness: North Korea and the 'Madman' Theory». *Australian Institute of International Affairs*. 10.08.2017, available at: <http://www.internationalaffairs.org.au>.

69 GARVER, R. «What Game Theory tells us about Trump's 'madman' approach to North Korea!». *Business Insider*. 12.08.2017, available at: <http://www.businessinsider.com>. The phrase is picked up by Bob Handelman in his book «The ends of power».

70 In fact, the North Korean representative on the Security Council defined the American leader as a «mentally deranged person full of megalomania». («Corea del Norte asegura que está por completar su sistema nuclear». *Centro de Noticias ONU*. 23.09.2017, available at: <http://www.un.org>).

71 «Corea del Norte estudia atacar las bases militares de EE. UU. en Guam». *El País*. 09.08.2017, available at: <https://elpais.com>.

with this theory, as it is common practice in the business world. In fact, both before and after his election campaign, Donald Trump pointed out that he likes to be unpredictable in his negotiations<sup>72</sup>. As for Pyongyang, what good would it do the North Korean regime to have nuclear weapons if no one thought it was capable of using them?

### Economic Sanctions and the end of history?

Francis Fukuyama, in his book *The End of History?* analysed global trends after the end of the Cold War and came to the conclusion, shared by many, that Western ideals had imposed themselves on the world<sup>73</sup>. In other words, economic liberalism and democracy were universal values to which every state should aspire. Fukuyama does not refer to the end of history in the strict sense, as the conclusion of relevant facts of humanity, but as the end of development in search of the society in which «any individual would like to live»<sup>74</sup>. Thus, a struggle developed throughout the twentieth century came to an end. First with the confrontation between economic liberalism and fascism which culminated at the close of the Second World War and the end of Nazism and the belief that authoritarian regimes were the best system to control a dispersed European population. Communism was the next enemy capitalism had to face. In this case, contends Fukuyama, the struggle was more intense. However, the fact that the two great banners of communism, China and the USSR, have ended up opening up to the market economy has once again turned the tide in favour of capitalism and economic and political liberalism. All this evolutionary process in contemporary society, therefore, has reached a conclusion and states have to assume that they must aspire to the realisation of those values (liberal democracy and market economy), enshrining—even protecting—democracy as a universal value within the United Nations.

North Korea, however, is a state that resists the —end of history— and —with an authoritarian regime concentrated in the figure of its leader, which denies both democracy and the free market economy in its wildest form— in the opinion of some analysts still maintains a communist regime, although such assertions are quite questionable. In fact, the Korean peninsula is a faithful reflection on a small scale of the gap that separates North Korea from the rest of the world. With South Korea open to capitalism and sharing language and ethnicity with the North Koreans, it distinguishes itself in its political and economic system. Transnationalism characteristic of the twenty-first century, in which states are losing ground in favour of multinationals and the flow of money has not yet reached Pyongyang, which has its largest trading part-

72 GARVER, R. *Op. cit.* available at: <http://www.businessinsider.com>.

73 FUKUYAMA, F. «The End of History?». *The National Interest*, No. 16 (1989), 3-18.

74 Fukuyama himself had to face the criticisms that his article received after September 11, as some authors accused him that the attack was clearly a relevant historical fact, to which the author responded in terms similar to what I have repeated here. FUKUYAMA, F. «Seguimos en el Fin de la Historia». *El País*, 21.10.2001, available at: <https://elpais.com>.

ner in China<sup>75</sup> (almost 90% of North Korean imports and exports) that is under pressure from the West to curb, with its economic coercive power, the nuclear escalation of Kim Jong-un<sup>76</sup>. The secrecy surrounding the regime, with a perfectly controlled society, says Fukuyama, makes it very difficult for change leading to democracy to reach North Korea<sup>77</sup>. In fact, one of the factors that analysts see as key to understanding nuclear development is the internal legitimacy of the North Korean regime: as long as citizens have the United States as the common, implacable enemy, they will not question either their leader or the nuclear proliferation necessary for survival. So an internal revolution that leads the country to democracy, despite the fact that the Security Council denounces food and aid insecurity among the North Korean population, seems unlikely<sup>78</sup>. Nevertheless, as Pacheco Pardo points out, the North Korean regime, following the example of China, Taiwan and Singapore, could accept an opening of the economy that is not necessarily accompanied by enhanced rights and freedom for the people<sup>79</sup>.

However, there are countries that have seen the economic route as an option to exert pressure on the North Korean regime to abandon its nuclear programme. Such measures are not without precedent, and we have seen in scenarios like South Africa, Iran and Libya how economic sanctions imposed by the international community have caused such serious damage in the affected countries that their leaders, like Gaddafi or Khamenei, have been forced to reconsider their positions and abandon their nuclear programmes<sup>80</sup>. The rationale behind economic sanctions is to impose measures

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75 And even more so since Japan (in 2006) and South Korea (2010) cut their trade links with the North Korean regime. China, for obvious reasons, is not at all interested in a collapse of the North Korean regime: first, because the unification of the two Koreas (or an eventual war) could bring US influence to its doorstep; and second, because a war could trigger an avalanche of North Koreans into the country. BYUNG-SEONG MIN: «What game theory says about dealing with North Korea». *The Conversation*. 31.05.2017, available at: <http://theconversation.com>. However, the possession of nuclear arms by the North Korean regime is a worry for Beijing, as it would end its nuclear monopoly in the area and, furthermore, the tests carried out by the North Koreans could result in natural catastrophes that would affect the Chinese economy.

76 As we know, China already played a key role in 1994 when the North Korean regime threatened to abandon the Nuclear Non-Proliferation Treaty. Beijing mediated between Washington and Pyongyang and succeeded in bringing about a consensus, although it is true that the agreement then reached has become completely ineffective over time. BOC, A. y WACKER, G. «China: Between Key Role and Marginalisation» in GUNTHER, H. y MEIER, O. *Op. cit.*, p. 27.

77 S/RES/2375 (2017), September 11, 2017. Pregnant women, infants and five-year-olds are believed to be at serious risk of malnutrition and a quarter of the population is chronically malnourished.

78 FUKUYAMA, F. «Fukuyama Gives U.S. Foreign Policy Talk at SNU». *OhMyNews*. 11.09.2006, available at: <http://english.ohmynews.com>.

79 PACHECO PARDO, R. «North Korea and the US: no deal towards a workable and sustainable deal?». *Real Instituto El Cano. Royal Institute*, ARI 36/2009, 27.03.2019, 1-7 (p. 2).

80 LEVKOWITZ, A. «North Korea: A New IR Theory?». *The Begin Sadat Center for Strategic Studies*. Paper n.º 551, August 2017, 1, available at: <https://besacenter.org>.

gradually until the pressure is so intense that governments are forced to change their policy (in the case of North Korea, abandon its nuclear programme).

However, this practice has not worked with North Korea: neither the sanctions imposed by the Security Council<sup>81</sup> nor those adopted bilaterally by states, especially Washington, have deterred the North Korean regime. Some believe that China is not implementing the measures agreed; a fact that would hinder the overall blockade of the regime. Although it seems evident that in a situation of food crisis like the one the country is currently experiencing, the application of sanctions could deepen the problem even further and lead to internal revolts (from people who cannot explain military spending when basic necessities are needed). However, the regime's isolationism perhaps makes it less vulnerable to these sanctions.<sup>82</sup> Moreover, North Korea does not believe that the climate of regional tension has changed substantially since the Cold War. They see imperialism as a widespread phenomenon –with the United States as its main exponent– that in regional terms has expanded to neighbouring countries, such as Japan and South Korea, which are seen by Pyongyang as satellites of Washington. And they consider it vital to maintain their independence in the face of this political and economic imperialist tendency<sup>83</sup>. In fact, the North Koreans cited the economic crisis of 2008 as an example of the failure of Western ideas on the world. Others, such as the Russian president Vladimir Putin, rule out an internal revolt despite the sanctions and see another explanation that is related to previous points. Asked about the crisis with North Korea, the Russian leader had this to say:

«All of you remember well what happened to Iraq and Saddam Hussein. Hussein abandoned the production of weapons of mass destruction. However, under the pretext of seeking these weapons, Saddam Hussein and his family were killed during the famous military operation. Even children died then. I believe that his grandson was shot. The country was destroyed and Saddam Hussein was hanged. Everyone knows and remembers this. The people of North Korea also know it and remember it. Do you think that by imposing sanctions on North Korea it will abandon its production of weapons of mass destruction? Russia condemns these practices on the part of North Korea. We think they are provocative. But we cannot forget what happened in Iraq and Libya. North Korea will not forget. Sanctions of any kind are useless and ineffective in this case. They [the

81 Even sanctions recently imposed by resolution 2375 (2017), and defined by South Korea as the toughest since the sanctions began, have not stopped the North Korean regime.

82 Some analysts in Washington believe that the new willingness of the North Korean regime to negotiate is precisely due to the imposition of sanctions, but this has not been borne out, since, as Pacheco Pardo points out, internally the situation has not changed despite the imposition of sanctions. PACHECO PARDO, R. *Op. cit.*, p. 3.

83 SEONGJI WOO. *Op. cit.*, p. 198.

North Koreans] will prefer to eat grass before abandoning their nuclear weapons program, unless they feel safe <sup>84</sup>».

Putin offers a solution to the problem: diplomacy and the restoration of international legality, an offer that, as we shall see (and as you know), has been picked up by Pyongyang and Washington.

### *Rationalism and the change experienced with the Trump Administration*

When the violent rhetoric between Washington and Pyongyang could hardly get any more heated, out of the blue, after years of realism, both countries began to demonstrate a degree of rapprochement. The truth is that at that time it was difficult to imagine any convergence on the basis of statements that had been made previously. For example, in November 2017 the Trump Administration again described North Korea as a state sponsor of terrorism. And in February 2018 President Trump, in response to statements by Kim Jong-un who had said that the Nuclear Button was on his desk at all times, tweeted that he possessed a much bigger and more powerful «Nuclear Button» than the one handled by the North Korean leader<sup>85</sup>. Yet only a month later, in March 2018, this rhetoric changed completely and officials from both countries announced a meeting between the two main leaders.

After that, two unusual meetings were held in June 2018 and January 2019. Donald Trump, having described Kim Jong-un as a madman, indicated that he was an intelligent man who loves his country, even praising him for his toughness and pledging to help him to see him prosper<sup>86</sup>. Here was a completely new (and unexpected) script. In fact, these changes of register prove that the gems previously uttered by both leaders only constituted a strategy to handle the situation. But what do these changes ultimately mean?

First of all this marked a change in the relationship between the two Koreas that had been developing since early 2018. Some even interpret the seeds of this change having been laid in Kim Jong-un 2018 New Year's address, in which he called for peace between the two countries<sup>87</sup>. Thus the announcement of the March meeting between Washington and Pyongyang led to Kim Jong-un's visit to South Korea the following month and the signing of the Panmunjom Declaration in which the two Koreas pled-

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84 These declarations are available on: [https://www.youtube.com/watch?v=lf-lhsR\\_ae8](https://www.youtube.com/watch?v=lf-lhsR_ae8).

85 «North Korean Nuclear Negotiations». *Council on Foreign Relations*, available at: <https://www.cfr.org/timeline/north-korean-nuclear-negotiations>.

86 «Trump: Kim Kim Jong-un es un tipo astuto y bastante inteligente». *La Razón*. 01.05.2017, available at: <https://www.larazon.es>.

87 KLINGNER, M. «Why Does North Korea Want Nukes?». *Heritage*. 13.08.2018, available at: <https://www.heritage.org>.

ged, among other things, to improve their relations, unite efforts to minimise military tension and the risk of war on the Korean peninsula, resolve the humanitarian problems arising from separation, participate jointly in the Olympics, denuclearise the Korean peninsula and build a stable peace regime<sup>88</sup>. In September 2018, a further meeting was held between Seoul and Pyongyang, continuing the same course of action and reaffirming the terms of the Panmunjom Declaration. In the agreement, North Korea undertook to close the missile test site in Dongchang-ri, allow the entry of international inspectors and relaunch economic cooperation between the two countries<sup>89</sup>. However, while these green shoots were hailed as a positive move forward, they do not constitute a cause for any major celebration: in the wake of the three summits it was revealed that the South Korean conservative forces were not in favour of these movements.

Secondly, other, more minority sources point out that North Korea's "openness" can be explained by its growing attempts to reduce its dependence on China. Beijing's economic power has increased in recent years and, according to some forecasts, it could soon surpass the United States as a global economic power. This would generate a lack of trust in Pyongyang, which could seek to overcome this relationship of dependence by approaching other countries such as South Korea and the United States. According to these analyses, there would be no better way to combat China than with the backing of a nuclear power such as the United States<sup>90</sup>.

For its part, the United States must have seen that the «strategic patience» deployed with the Obama Administration over those eight years only led to an increase in the military power of the North Korean regime<sup>91</sup>. Donald Trump, after his initial aggressive line, switched to a more rationalist approach and thus demonstrated a capacity for mediation and conciliation that had hitherto been called into question. Thus, after the rapprochement between the Koreas, a meeting was announced between Washington and Pyongyang. That meeting, however, was in danger of being cancelled in May 2018. Following statements by Kim Jong-un relating to Mike Pompeo, Donald Trump sent a letter to the North Korean leader cancelling the meeting scheduled for June. The text, however, showed clear changes in the US president's attitude. For, although he cancelled the meeting, he did not use the kind of aggressive language employed against the North Korean leader in the past (and as recently as two months previously); he even thanked him for

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88 «Panmunjom Declaration for Peace, Prosperity and Unification of the Korean Peninsula». *Ministry of Foreign Affairs*, available at: <http://www.mofa.go.kr>.

89 «Pyongyang Joint Declaration of September 2018». *The National Committee on North Korea*, available at: <https://www.ncnk.org/node/1633>.

90 See: SIGAL, L. «A U. S. Alliance with North Korea?». *The National Interest*. 24.04.2019, available at: <https://nationalinterest.org>.

91 HUESSY, P. «North Korea: How the Discussion Was Changed». *Gatestone Institute International Policy Council*. 06.03.2019, available at: <https://www.gatestoneinstitute.org>.

releasing American prisoners and pointed out that they were building a «wonderful dialogue»<sup>92</sup>.

Despite the letter, the meeting was finally not even suspended. The meeting in June 2018 between the United States and North Korea was the first time that their leaders had met in eleven years, a clear sign of how relations had cooled over the period. At this meeting, a joint declaration was signed between the two leaders, which, broadly speaking included the following terms (some already outlined in the meeting between the two Koreas):

- Both countries committed themselves to maintain new relations with the desire of their citizens to find peace and prosperity.
- They would join efforts to build a stable peace on the Korean peninsula.
- They would work for the complete denuclearisation of the Korean peninsula.
- They would seek the repatriation of prisoners of war and recover the remains of those killed in the war between the two states<sup>93</sup>.

The terms of the declaration completely changed the scenario, although no concrete measures were established, which seemed to be set aside for future meetings. These advances, however, suffered a major setback with the new February 2019 meeting between Washington and Pyongyang. The second summit between the two countries ended without agreement and gave credence to the more pessimistic onlookers. The reason: Washington was looking for the North Korean regime to take greater steps towards denuclearisation and Donald Trump pointed out that North Korea had offered to dismantle its main nuclear facility (located in Yongbyan), but not to surrender its arsenal of nuclear weapons. In addition, Washington pointed out that the regime had called for a lifting of «all» sanctions. The North Korean regime, however, denied such claims and pointed out that only a «partial relief» from the sanctions had been requested<sup>94</sup>. The North Korean foreign minister pointed out that it was quite clear that Washington was not willing to accept his proposal<sup>95</sup>.

Thus, the formal negotiations between the two countries seem to have cooled down since the failed meeting in February 2019<sup>96</sup>. Kim Jong-un, in fact, acknowledged last

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92 «Trump's Letter to Kim Canceling North Korea Summit Meeting, Annotated». *The New York Times*. 24.05.2018, available at: <https://www.nytimes.com>.

93 See: «Joint Statement of President Donald J. Trump of the United States of America and Chairman Kim Jong-un of the Democratic People's Republic of Korea at the Singapore Summit». White House, available at: <https://www.whitehouse.gov>.

94 VIDAL LIY, M. «El diálogo nuclear EE. UU.-Corea del Norte busca una vía para continuar». *El País*. 01.03.2019, available at: <https://elpais.com>.

95 «North Korea contradicts Trump's account of negotiations. State Dept. official says NK is 'parsing words'». *USA Today*. 01.03.2019, available at: <https://eu.usatoday.com>.

96 On the second summit, see: ESTEBAN, M. «Lecciones de la fake summit de Hanoi». *Real Instituto El Cano*. 01.03.2019, available at: <https://blog.realinstitutoelcano.org>.

April 2019 that the last meetings with the United States had relaunched relations between the two countries, but recalled that the US style of dialogue, consisting of imposing unilateral conditions, was of no interest to North Koreans<sup>97</sup>.

The situation was aggravated by the recent military tests conducted by North Korea. The North Korean foreign minister had himself previously warned, following these misunderstandings, that nuclear tests could be resumed at any time, although relations between Trump and Jong-Un were good. And he kept his word. So from Pyongyang it was announced that a new test would be carried out<sup>98</sup> and that they were vetoing Mike Pompeo's presence in the negotiations<sup>99</sup>. North Korea's execution of the test elicited contradictory verdicts from the US Administration. John Bolton pointed out that they represented a clear breach of the agreements reached and the Secretary of Defence Patrick Sanahan, pointed out in the same vein that they violated the resolutions of the Security Council. But these words clashed with Donald Trump's version, so, while the press analysed the facts as a new provocation, the President pointed out that Kim Jong-un had «kept his word» which he considered «very important». He contended that Kim Jong-un had pledged not to test long-range missiles while the tests were carried out on short-range missiles. Trump even dared to acknowledge that his «people» thought there might be a violation of the terms of the agreement, but he saw it differently<sup>100</sup>. The American leader interpreted the suspension of the tests as affecting only intercontinental warheads and directly threatening the United States. However, short-range missiles can easily reach the territory of other US partners such as Japan or South Korea and US soldiers located in the Asian region. And Washington cannot be held accountable. *Foreign Affairs* advised that the North Korean test was conducted after the United States and South Korea conducted joint military exercises<sup>101</sup>, which Kim Jong-un interpreted as a violation of the terms of the agreement signed at the first Summit<sup>102</sup>.

However, this has not led to a complete breakdown of previous efforts, as direct correspondence between Kim Jong-un and Donald Trump has been ongoing. In June

97 «Supreme Leader Kim Kim Jong-un Makes Policy Speech at First Session of 14th SPA», pp. 2-5, available at: <https://manage.thediplomat.com/wp-content/uploads/2019/04/thediplomat-supreme-leader-kim-jong-un-makes-policy-speech-at-first-session-of-14th-spa.pdf>.

98 «North Korea announces firing of tactical guided weapon». *The Washington Post*. 17.04.2019, available at: <https://www.washingtonpost.com>.

99 «North Korea: If US wants to talk, put someone 'more mature' than Pompeo in charge». *CNN*. 18.04.2019, available at: <https://edition.cnn.com>.

100 «Trump says Kim has 'kept his word' hours after Bolton said he hasn't». *CNN*, 12.06.2019, available at: <https://edition.cnn.com>.

101 PANDA, A. y NARANG, V. *Op. cit.*, available at: <https://www.foreignaffairs.com>.

102 «Supreme Leader Kim Kim Jong-un Makes Policy Speech at First Session of 14th SPA», pp. 2-5, available at: <https://manage.thediplomat.com/wp-content/uploads/2019/04/thediplomat-supreme-leader-kim-jong-un-makes-policy-speech-at-first-session-of-14th-spa.pdf>.

2019, Donald Trump said he had received a «beautiful» letter from the North Korean leader –although, to date, he has not disclosed its contents– and left open the possibility of holding a third summit. The American president replied with a letter to the North Korean leader whose content, from the North Korean news agency, was described as «excellent», while appreciating the «courage» of the American leader<sup>103</sup>. So it seems that there is a certain chemistry between the two presidents that has not extended to the relations between their respective governments. Kim Jong-un even got involved in the US presidential race with the North Korean news agency voicing its criticism of the Democratic candidate Joe Biden<sup>104</sup>. This state of harmony was acknowledged by Kim Jong-un himself in his April 2019 speech: «but as President Trump continues to say, the personal ties between him and me are not hostile like the relations between the two countries and we still maintain good relations, as to be able to exchange letters asking about health anytime if we want»<sup>105</sup>.

All in all, the for the moment the encounters have only resulted in ambiguous statements<sup>106</sup>, that reflect a degree of good will on both sides, but by no means clarify what the outcome could be. It certainly does not appear that Kim Jong-un –especially in the light of what has gone on before– is prepared to willingly sell off North Korean cheaply<sup>107</sup>. Some analysts even point out that the legacy left by Kim Jong-un is nuclear weapons, which provide a guarantee of defence against the outside world. In fact, the North Korean agency KCNA stated in 2013 that if the Democratic Republic of North Korea were to sit at a table with the United States, there would have to be a dialogue between the two nuclear powers, without either party being able to force the other to dismantle its nuclear weapons<sup>108</sup>. Moreover, on this point, Kim Jong-un is likely to come up against opposition from the hard liners within his bureaucratic apparatus who would urge him not to renounce nuclear weapons - and in fact the recent missile tests or the announcement of the construction of a nuclear submarine

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103 «North Korea: Kim Kim Jong-un Received 'Excellent' Letter From President Trump». *Time*, 23.06.2019, available at: <https://time.com>.

104 «Biden urged to watch his mouth». *KCNA Watch*, 22.05.2019, available at: <https://kcnawatch.org/newstream/1558515649-516874058/biden-urged-to-watch-his-mouth>. It was indicated by the news agency that he had insulted and provoked Kim Jong-un, which, they pointed out, would never be forgiven. It also listed some of the most controversial points in the Democratic candidate's career.

105 *Ibid.*, p. 6.

106 «Joint Statement of President Donald J. Trump of the United States of America and Chairman Kim Kim Jong-un of the Democratic People's Republic of Korea at the Singapore Summit». *White House*, available at: <https://www.whitehouse.gov>.

107 Some analysts point out that perhaps the North Korean leader is hoping for some compensation that will allow him to match his grandfather's achievements. ESTEBAN, M. «Cumbre Kim-Trump: ¿adiós al último vestigio de la Guerra Fría?». *Real Instituto El Cano*, 13.06.2018, available at: <https://blog.realinstitutoelcano.org>.

108 BALLBACH, E. «North Korea: Between Autonomy-Seeking and the Pursuit of Influence» in GUNTHER, H. y MEIER, O. *Op. cit.*, p. 13.

would have been carried out, among other reasons, to satisfy this sector<sup>109</sup>. What is emanating from Pyongyang is that they do not like the manoeuvres of Mike Pence and John Bolton, a stance that has been endorsed by the declarations of the North Korean foreign minister to the effect that they had created a «hostile» and «suspicious» atmosphere<sup>110</sup>.

And the analysts generally agree that, in order for the negotiations to reach a successful conclusion, the North Korean regime would require:

- First, an end to the military Alliance between the US and South Korea.
- Second, the withdrawal of American troops from the Korean peninsula.
- Third, that Japan and South Korea cease to be «nuclear satellites» for Washington.
- Fourth, the lifting of economic sanctions (as well as the reinstatement of economic and diplomatic concessions), which, in the opinion of the North Koreans, are hindering the country's development (especially those imposed by the UN that affect raw materials, as well as the technology transfer and coal sectors).
- Fifth, the disappearance of criticisms of the North Korean regime and its institutions, and especially the accusations of human rights violations against Kim Jong-un and his family.
- Sixth, the cessation of military exercises involving flights of US B-52 bombers near the North Korean border.
- Seventh, the «formal» ending of the Korean War (1953) which is only governed by an armistice agreement<sup>111</sup>.

On the other hand, some analysts including B. R. Myers, consider North Korea's rationalist stance to represent a mere facade, because the regime's ultimate aim is to take over South Korea. He contends that the Western media focus is wrong in its interpretation of North Koreans as nationalists and for that reason lacking in expansionist ambitions. If this were the case, he argues, they would also seek to conquer the south, a challenge that, in the current scenario, seems difficult to reconcile with main-

109 PANDA, A. y NARANG, V. «Why North Korea Is Testing Missiles Again». *Foreign Affairs*. 16.05.2019, available at: <https://www.foreignaffairs.com>. On the construction of the nuclear submarine: «North Korea announces new submarine, sending message to Trump». *The Washington Post*. 23.07.2019, available at: <https://www.washingtonpost.com>.

110 GRAMER, R. y HIRSH, M. «It's not personal. It's just diplomacy». *Foreign Policy*. 15.03.2019, available at: <https://foreignpolicy.com>.

111 See: HERZOG, S. «After the Summit: A Next Step for the United States and North Korea». *Arms Control Association*. 2018, 1-9; WERZ, D. «The U. S., North Korea, and Nuclear Diplomacy». *The National Committee on North Korea*. 2018, pp. 1-24, p. 2; LEE, J. H. «Q&A: Can North Korea and the U.S. strike a nuclear deal?». *Wilson Center*. 25.06.2019, available at: <https://www.wilsoncenter.org>; ROGERS, P. *Op. cit.*, p. 3; DALTON, T., LEVITE, A. y PERKOVICH, G. «Key Issues for U.S.–North Korea Negotiations». *Carnegie Endowment for International Peace*, 04.06.2018, available at: <https://carnegieendowment.org>.

taining good relations with the United States<sup>112</sup>. But this interpretation is maintained only by a small minority.

For its part, the United States would demand a halt to the production of tritium and plutonium, the completion of all nuclear and missile tests, the suspension of all uranium enrichment activities outside the Yonbyong nuclear power plant and, in general, other measures aimed at reducing North Korea's nuclear capacity. In any case, Washington, for the time being, does not seem inclined to renounce sanctions or the presence of troops in South Korea either. Precisely the lifting of certain sanctions (such as a travel ban or the supply of humanitarian products) could be the first step towards unleashing negotiations, but at the second summit no agreement was reached on this point either<sup>113</sup>.

One of the biggest problems raised is that there seems to be no agreement between the parties on what is meant by «denuclearisation». Admittedly, both have agreed that this is the goal to be achieved, but there is no consensus on its scope. For the US government, denuclearisation would consist of North Korea withdrawing its current programme and any possibility of its regeneration in the future. For its part, in Pyongyang «denuclearisation» would be the withdrawal of all Washington's nuclear capacity in the region and the withdrawal of all US forces from South Korea and the islands of Japan<sup>114</sup>.

In short, the situation remains stagnant. The South Korean President Moon Jae-in recently announced that the United States and North Korea had decided, at least informally, to hold a third summit. But Kim Jong-un has made this summit conditional on a lifting of sanctions or a new attitude on the part of Washington regarding the negotiations<sup>115</sup>. Even so, while misunderstandings and frustrations continue to accumulate, it is not inconceivable that, in the blink of an eye, the sweet words of recent times could revert to the violent rhetoric of past years. The process is thus long and complex. The mediation of other countries, like Russia<sup>116</sup> or China<sup>117</sup>, also appear essential in guiding the situation towards a successful conclusion. In fact, Kim

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112 «North Korea's Unification Drive— B. R. Myers», available at: <https://sthelepress.com/index.php/2017/12/21/north-koreas-unification-drive>.

113 SEO, J. «Here are Some Economic Incentives That Could Help Move North Korea's Kim Toward Denuclearization». *Atlantic Council*. 26.02.2019, available at: <https://www.atlanticcouncil.org>.

114 ROGERS, P. «North Korea and The United States - Who is in Charge?». *Oxford Research Group*. September, 2018, pp. 1-5.

115 LANDAU, E. B. y STEIN, S. «How to Prepare for a Third U.S.-North Korea Summit». *The National Interest*. 02.05.2019, available at: <https://nationalinterest.org>.

116 The Kremlin is one of the main stakeholders in the absence of conflict on the Korean peninsula, as the consequences could be felt on its own territory. KLEIN, M. «Russia: a possible mediator» in GUNTHER, H. and MEIER, O. *Op. cit.*, p. 31.

117 Washington, for its part, is adopting a somewhat strategic position with Beijing: at times it has pointed out that it must be part of the solution to the crisis and at other times it has described it as

Jong-un, after the failure of negotiations with Washington, has arranged meetings with these countries to show his people that if the situation does not improve, he will continue to have powerful allies<sup>118</sup>. And of course the influence of Japan, which is adopting a somewhat ambiguous position, cannot be ignored: on the one hand it has condemned the recent tests (despite their short range), but on the other hand, Prime Minister Abe has shown his willingness to meet with Kim Jong-un, which would also be historic after the cooling of relations between the two countries<sup>119</sup>. The European Union is not an agent that has any direct impact on the conflict, but it can wield its economic and political influence<sup>120</sup>. Other analysts have also pointed out that it would be interesting to involve the International Atomic Energy Agency in the process<sup>121</sup>. We are still waiting.

### *North Korea with nuclear weapons accepted by the international community?*

The North Korean leader's strategy, however, does not need to be perfect. Some analysts think that in his attempt to develop a nuclear weapon capable of reaching the United States, with the aim of achieving a balance of power that leads to peace, Kim Jong-un could miscalculate and cross a red line that would provoke a US pre-emptive strike<sup>122</sup>. In any case, what seems to be North Korea's main objective is to become a legitimate (recognised) nuclear power in order, from this relatively balanced position, to establish diplomatic relations with all countries<sup>123</sup>. Some analysts even understand that Pyongyang would be adopting, in the current scenario, a position similar to the one maintained in its day by India and Pakistan. Fully aware that they were violating the non-proliferation norm they nevertheless continued with tests –conducted secretly– until they normalised their position as nuclear powers<sup>124</sup>.

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one more factor in the problem. (see: ALBERT, E. «The China-North Korea Relationship». *Council on Foreign Relations*. 25.06.2019, available at: <https://www.cfr.org>).

118 Although unsuccessful, according to some, see: LEE, J. «The Wooing of Kim Kim Jong-un: Love Letters and Lavish Banquets». *Australian Institute of International Affairs*. 27.06.2019, available at: <http://www.internationalaffairs.org.au>.

119 In this regard, see: KING, R. «Japan and North Korea: Summitry, Missile Fears, and Abductions». *Center for Strategic and International Studies*. 19.06.2019, available at: <https://www.csis.org>.

120 GUNTHER, H. y MEIER, O. *Op. cit.*, p. 6.

121 DALTON, T., LEVITE, A. y PERKOVICH, G. *Op. cit.*, available at: <https://carnegieendowment.org>.

122 FRIEDMAN, U. «Can Trump Make a Deal With North Korea?». *The Atlantic*. 17.08.2017, available at: <https://www.theatlantic.com>.

123 «North Korea v the US: how likely is war?». *The Guardian*. 09.08.2017, available at: <https://www.theguardian.com>.

124 ROGERS, P. *Op. cit.*, p. 3.

Is this demand excessive? The Non-Proliferation Treaties, which North Korea signed and did not comply with at the time (although it withdrew in 2003), seem to tell us that it is; however, the world map shows us that there are other countries with nuclear capabilities, some of which enjoy seats on the Security Council (the United States, the United Kingdom, China, France and the United Kingdom) and others named above, (India, Pakistan and Israel), have nuclear weapons that escape the criticism of the international community, which seems to have forgotten their status. Although it is also true that the case of Stanislav Petrov shows that not even the most powerful countries in the world have the necessary capacity to control nuclear dangers and only Petrov's intuition<sup>125</sup>, when everything seemed to indicate that a nuclear attack by the United States on the USSR (a fact that evidently did not correspond to reality but was a mere computer failure, which had confused the solar rays reflected in the clouds with the engines of nuclear missiles<sup>126</sup>), saved humanity from a possible nuclear holocaust. This is a risk factor that Waltz did not take into account in his studies, whereby a simple computer failure could have made «allegedly stabilising» nuclear weapons have precisely the opposite effect and devastate an entire region<sup>127</sup>. One can also say, in Waltz's favour, that notwithstanding Petrov's exploits, there has never been a nuclear attack resulting from an error.

One of the arguments frequently used to deny Third World countries (such as North Korea) possession of weapons of mass destruction is that dictators are dangerous because they are more «prone» to carrying out attacks. This judgement has a strong psychological element: it presumes that Western leaders are more disciplined and democratic than the leaders of Third World countries. And, if truth be told, it is a judgment that is hardly sustainable from a historical viewpoint. France, the United Kingdom, Israel and the United States have never submitted such an important issue as the acquisition of nuclear weapons to public debate. By contrast, India and Pakistan have done so<sup>128</sup>. With regard to the use of weapons of mass destruction (chemical, biological and nuclear), there is no difference in their use between Western countries

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125 Instead of informing his superiors of the events in preparation for a counter-attack, Petrov reported a system failure. This proves the enormous risk factor that still exists when it comes to nuclear weapons.

126 «Stanislav Petrov dies, the man who saved the world from a nuclear war». *El Mundo*. 19.09.2017, available at: <http://www.lavanguardia.com>.

127 In fact, this is one of the criticisms of Third World countries in possession of nuclear weapons: not having the necessary technology. In particular, India and Pakistan were accused of not having warning systems. Some authors, however, have criticised this argument. Others have pointed out that even if hostilities remain in the realm of rhetoric, there may be situations (because of mistakes) that could trigger a conflict. Such would be the case of a power outage in North Korea that is confused with a pre-emptive strike or the United States making a miscalculation in the demilitarised zone between the two Koreas. GUSTERSON, H. «A Double Standard on Nuclear Weapons». *MIT Center For International Studies*. 2006, pp. 1-6 (p. 3).

128 GUSTERSON, H. *Op. cit.*, p. 4.

and countries belonging to the Third World<sup>129</sup>; in fact, in terms of harmful effects on the civilian population, the balance continues to be in favour of the former<sup>130</sup>.

Nor do recent events help to dispel this «double standard» in the possession of nuclear weapons. In fact, the real strategy (and the game of alliances) of many countries has been completely uncovered. The United Nations General Assembly (with the support of more than 120 countries) adopted a resolution promoting the conclusion of a treaty to prohibit the use of nuclear weapons<sup>131</sup>. However, the same NATO members who are demanding disarmament from North Korea, as well as other nuclear-weapon states, refused to support the text (a total of 38 votes against). NATO's reason for not supporting the text, which was another breakthrough in achieving a world without weapons of mass destruction, was that it contravened NATO's policy of deterrence. In other words, NATO does not seem to trust the United Nations either in the event of armed conflict. China, India and Pakistan, for their part, abstained. Another fact (equally surprising): North Korea did vote in favour (and Iran, too)<sup>132</sup>. In effect, all the negative votes came from NATO countries and trading partners or countries with common interests. (Japan<sup>133</sup> and South Korea on account of their ties with the United

129 The «Third World» is understood as the group of countries which, after the end of the Second World War, did not belong either to the «First World», made up of Western countries, or to the «Second World», made up of the states comprised in the USSR.

130 REBEHN, M. «The Long History of Weapons of Mass Destruction». *Open Democracy*, 07.02.2003, available at: <https://www.opendemocracy.net>. France and the United Kingdom used chemical weapons during the First World War. Winston Churchill stated unequivocally that he was in favour of using chemical weapons. Germany also used mustard gas during the war. Asia did not remain alien to WMD and Japan used biological weapons in the war it waged with China in the 1930s. In the Second World War, despite treaties prohibiting the use of chemical and biological weapons (nuclear weapons had not yet been launched), they continued to be used. Nazi Germany used the Zyklon-B in its gas chambers. The United States dropped its nuclear bombs in Nagasaki and Hiroshima (being the only country to date that has used nuclear weapons, apart from tests carried out by the owner countries). The United States, was later accused of using chemical weapons in the Vietnam War. Until the early 1980s, therefore, weapons of mass destruction were used exclusively by world powers. The Iran-Iraq war opened up a new scenario. Saddam Hussein used mustard gas and nerve agents against the Iranians (also against the Kurds on their own territory). Since then other countries, such as Syria, Southern Sudan or Yemen, have been accused of using chemical weapons. The balance, therefore, for the time being, continues to be in favour of the world powers, but there is an increase (especially with chemical weapons) in small countries.

131 A/C.1/71/L.41, 14 de octubre de 2016, available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/C.1/71/L.41&Lang=S](http://www.un.org/ga/search/view_doc.asp?symbol=A/C.1/71/L.41&Lang=S). The Treaty was supported by “Third World” countries: Austria, Brazil, Chile, Costa Rica, Democratic Republic of the Congo, Ecuador, El Salvador, Guatemala, Honduras, Indonesia, Ireland, Jamaica, Kenya, Liechtenstein, Malawi, Malta, Mexico, Namibia, Nauru, New Zealand, Nigeria, Palau, Panama, Paraguay, Peru, Philippines, Samoa, South Africa, Sri Lanka, Swaziland, Thailand, Uruguay, Venezuela (Bolivarian Republic of) and Zambia.

132 «Voting on UN resolution for nuclear ban treaty». *International Campaign to Abolish Nuclear Weapons*, available at: <http://www.icanw.org/campaign-news/results/>.

133 All the more paradoxical if we consider that it is the only country to have suffered the terrible effects of this weaponry.

States; and Bosnia-Herzegovina, Montenegro and Serbia, in view of their expectations of joining the EU)<sup>134</sup>. Almost a year later, the Treaty was put to the vote in the General Assembly, repeating the same scene, although on this occasion Pyongyang joined the countries that neither supported the regulatory text nor participated in its drafting (Iran, for its part, continued to vote in favour)<sup>135</sup>. Among the countries that did not support the resolution was Spain, which, in a somewhat strange development, while refusing to support a treaty banning nuclear weapons, expelled the North Korean ambassador precisely on account of this issue (consequences of the alignment with NATO and the imminent visit of Mariano Rajoy to Washington). If NATO adopts an obviously realistic stance, which probably entails remaining protected from Russia and not renouncing its Waltzian balance, Kim Jong-un himself might wonder why the North Korean regime cannot have weapons to protect itself from NATO members (together with Russia) who have shown no respect for international law or the mechanisms for resolving conflicts provided for in the United Nations Charter and who, moreover, solely for self-interest, do not renounce nuclear weapons. Such attitudes certainly do not help to win North Korean confidence.

Returning to the initial question: If Kim Jong-un is a «madman», it would certainly not be appropriate, under any circumstances, to make any concessions to him. However, Professor Robert Kelly, an expert on international relations between the United States and North Korea states in this regard:

«One of the laziest tropes of pop North Korean analysis is that the Kim family is ‘crazy,’ ‘insane,’ and so on. [...] Were the Kim family suicidally mad, they have had many chances to launch a cataclysmic war. They never have. Crazy people do not rise to the top of powerful states, and if they were to somehow by quirk, they would not last long in the brutally competitive and dangerous politics of most autocracies. We may loathe Stalin, Mao, Hitler, Pol Pot and the rest, but they were not mentally ill (except perhaps at the end). This is part of why they are so frightening. Their atrocities –which required scale, planning, and complexity– would have been hard to perpetrate if they were insane. The Kim family would not have survived in the unforgiving northeast Asian neighborhood, nor against internal threats, were they not viciously rational, cutthroat survivors»<sup>136</sup>.

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134 «UN votes for global nuclear weapons ban negotiations in 2017». *Independent*. 02.11.2016, available at: <http://www.independent.co.uk>; «La OTAN se opone a la resolución de la ONU de prohibir las armas nucleares». *El Diario*. 03.11.2016, available at: <http://www.eldiario.es>.

135 «More than 120 nations adopt treaty to ban nuclear weapons at UN meeting». *The Independent*. 07.07.2017, available at: <http://www.independent.co.uk>; «The U.N. just passed a treaty outlawing nuclear weapons. That actually matters». *The Washington Post*. 17.07.2017, available at: <https://www.washingtonpost.com>.

136 KELLY, R. *Op. cit.*, available at: <https://asiansecurityblog.wordpress.com/2017/06/14/theres-a-lot-of-north-korean-alarmism/>. And he added: «Similarly, the Kims are not nihilists. They are dangerous norm-breakers, prone to violent outbursts, and have little concern for other people's lives. But there

The truth is that the behaviour of the North Korean leader, given the history of international relations, is not unusual. So Washington will have to choose whether it wants a completely denuclearised North Korea or whether it chooses to recognise its status as a nuclear power. That is the question that, according to some analysts, is being debated right now within the US administration. For the time being, according to Pacheco Pardo, voices calling for a complete denuclearization are gaining ground<sup>137</sup>, which will clearly make it difficult to reach a consensus.

## Conclusion

Our research presented here permits us to confirm that the actions of the North Korean and American leaders have not the slightest hint of madness and are based on theories developed earlier. One might ask, of course, whether these are the soundest of policies. The truth is that as they insist on reminding the North Korean leader that countries like Kazakhstan or South Korea itself opened up to the world and improved their alliances and their economy. Pyongyang could follow the same path and thus find a solution to the basic demands of its people. The dismissal of the «end of history» could be seen as a fear that an ultimately cosmopolitan North Korean society would not accept the regime in power. Although, on the other hand, North Korea's fears of US unilateralism cannot be described as unfounded, all the more so given that the majority, of the countries included on Washington's «black list» back in 2002 have, for one reason or another, finally been attacked. Nor is it helpful to insinuate that the United States is exaggerating propaganda (overstating the purges carried out by the regime) or that its political leaders are relying on the idea that the North Korean leader is not in his right mind. It is evident that within the US Administration they know that these behavioural patterns are not the result of impulses or instincts, but of a reasoned strategy. North Korea embraced a Waltzian neo-realism to dissuade the attacks of the United States, accompanied by certain actions that also remind us of the strategic theory of conflict –for the deployment and publicity given to nuclear weapons– and the theory of the «madman» capable of doing anything with his military material. There is no denying that if the North Korean regime was simply seeking survival, its methods have undoubtedly worked. A different matter is the price of this economic isolation and the setbacks to its international relations as a result of its nuclear proliferation (including sanctions by the Security Council), or indeed, in the

is much evidence that they value their own lives and indeed use their position at the top of North Korean society to live quite indulgently. Suicide bombing is indeed a frightening element of the war on terror, but there is little to suggest that that applies here. In fact, the Kims are quite crafty and tactical – pushing when they can, pulling back when they must, playing their neighbors against one another for gain, and so on.

This is not a suicidal, ideological, ISIS-like state bent on apocalyptic war but rather a post-ideological gangsterish dictatorship looking to survive».

137 PACHECO PARDO, R. *Op. cit.*, p. 2.

final analysis, whether the US threat of attack was close to materialising and made up for the investment and the setbacks. But, in any case, the positions were not irrational, as demonstrated by the recent rapprochement between Washington and Pyongyang, the consequences of which –and characteristic of the entire North Korean crisis– are highly unpredictable.

For the time being, there is less chance of a nuclear war or conflict in the Asian region. The historic encounters between Moon and Kim Jong-un and between Washington and Pyongyang –and probably too between Abe and Kim Jong-un– bear witness to this. Something seems to be changing in the Asian region. But the distances between North Korea and the United States remain enormous. It does not appear that Pyongyang is going to sell denuclearisation cheap and the imposition of unilateral conditions by the US is by no means appealing to the North Korean regime. It is true that the mediation work of South Korean President Moon has been essential in turning the situation around<sup>138</sup>. However, Seoul's decisive role in relations between Pyongyang and Washington is at times generating mistrust, as Pyongyang would prefer to hear directly from the US that it is willing to fulfil certain conditions. The withdrawal of US troops from the Asian region and the denuclearisation of Washington's satellite countries do not appear to be acceptable demands for the time being either. And all the more so at a time when Washington is not only seeking to protect itself against North Korea but also against China, which is in the midst of economic and military escalation.

Both the North Korean and US governments share a common enemy when it comes to negotiations: their own internal divisions. As alluded to earlier, the North Korean government has a group of hard liners who reject any initiative towards denuclearisation; while there are those within the US Administration –and especially in the wake of the latest tests– who wish to impose fresh sanctions against the North Korean regime<sup>139</sup>; and others still, who from time immemorial would defend military intervention. Other voices, however, contend that with every day that passes without an agreement the capabilities of the North Korean regime will be on the increase, which would threaten the United States even more. It seems clear, therefore, that these contradictory perceptions within the governments themselves will make any kind of agreement difficult. It is undeniable, however, that progress in recent months has been substantial: from war rhetoric to building bridges towards reconciliation (such as the suspension of tests and the release of prisoners). But it is similarly true that for the moment negotiations at the highest level have not had the expected results. Except, of course, for the good chemistry generated between Kim Jong-un and Donald Trump, which sentences the negotiations to language of a personal nature. It is paradoxical, therefore, that those who once delivered the most audacious messages now seem to

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138 Pacheco Pardo, así, sostenía que Moon había sido el principal impulsor del proceso diplomático (véase: PACHECO PARDO, R. «Llegó la hora de Moon». *El País*. 01.03.2019, available at: <https://elpais.com>).

139 PANDA, A. y NARANG, V. *Op. cit.*, available at: <https://www.foreignaffairs.com>.

have the best chance of resuming negotiations. In fact, after the failure of the second summit, the US Treasury Department imposed new sanctions on Pyongyang which were immediately withdrawn by the US president, who justified the withdrawal by claiming, according to his spokesman, that he liked President Kim and therefore considered that «these sanctions are not necessary»<sup>140</sup>.

In short, it is difficult, for now, to see the North Korean regime giving up its nuclear weapons and the United States lifting sanctions and vacating its military bases in the region. Some analysts have pointed out that this could go through a «gradual procedure»: North Korea would stop exporting nuclear technology in exchange for lifting some sanctions. Others have pointed out that perhaps economic incentives could make the regime surrender its nuclear weapons<sup>141</sup> - the opening of an economic account for the development of North Korea's economy, resources and infrastructure; or Washington guiding Pyongyang by the hand into international trade and IMF and WTO membership. For the moment, however, this is mere conjecture.

The case of North Korea thus constitutes a major test for the two classic branches of international relations. If progress continues, Kim Jong-un will remain a «patriotic» and «intelligent» man. If they fail, the media will be quick to recommend that he needs psychiatric care. For if at any time it is necessary to carry out a pre-emptive strike on the Korean peninsula<sup>142</sup>, and minimise the damning effects of public opinion (increasingly important, as shown by the cases of Vietnam, Somalia and Iraq), who would not want to put a stop to an evil madman with nuclear warheads?

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140 MONGE, Y. «Trump retira por sorpresa las últimas sanciones impuestas a Corea del Norte». *El País*. 22.03.2019, available at: <https://elpais.com>.

141 SEO, J. «Here are Some Economic Incentives That Could Help Move North Korea's Kim Toward Denuclearization». *Atlantic Council*. 26.02.2019, available at: <https://www.atlanticcouncil.org>.

142 An attack that might not be very effective, as Kim Jong-Un and his scientists have dispersed the materiel throughout the country to prevent it from being destroyed by a military strike of this nature.



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### *An in-depth analysis of maritime boundaries in Africa*

#### **Abstract**

One of the aspects that most affects maritime security is undoubtedly the appropriate setting of boundaries between neighbouring states, considering that once these have been determined, each country knows the extent of their jurisdiction. This facilitates navigation for third states, as it removes the tension caused when two more states stake a claim to the same maritime space. At the same time, they know with certainty what rules to follow depending on the waters they are crossing. The introduction of the United Nations Convention on the Law of the Sea of 1982, with new spaces and extensions, has complicated the situation, particularly for Africa, the continent with the largest number of coastal countries. The aim of this paper is to explain what maritime boundaries have been definitively established in Africa (by agreement or by a judgment of an international court) and thus know for certain what regions enjoy stability in the matter and which, by exclusion, are still pending delimitation. Furthermore, knowing what maritime boundaries have been established and the delimitation criteria applied can constitute an important reference and aid for other African states with delimitations pending.

#### **Keywords**

Maritime Borders, Maritime boundaries, Africa, Maritime Security, Settlement of Disputes, Law of the Sea.

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## Introduction

It is a well known fact that the adoption of the United Nations Convention on the Law of the Sea on 10 December 1982 created a tidal wave between neighbouring states in what had hitherto been more or less calm waters. The extension of the territorial sea to 12 nautical miles, on the one hand, and, most especially, the emergence of a new maritime space like the exclusive economic zone (EEZ), the limit of which was set at 200 nautical miles, together with the possibility of extending the outer limits of the continental shelf beyond this limit, sparked a flurry of overlapping maritime claims from states with common borders. In addition, the introduction of a new maritime status, the archipelagic state, significantly altered the baselines for calculating the maritime spaces of countries comprised solely of islands and/or archipelagos, which is the case of Cape Verde, São Tomé and Príncipe, Comoros and Seychelles, thus forcing a redefinition of the boundaries with neighbouring states<sup>1</sup>.

The new maritime zones created by the Convention of 1982 have complicated the delineation of boundaries on the sea map, and this has not left the continent of Africa unaffected; far from it, considering that Africa is the continent with the largest number of coastal countries: 38, no less. In addition, there are the non-self-governing territories of the Western Sahara, those governed by the United Kingdom, and France's overseas territories.

Without a doubt, the proper delimitation of maritime boundaries between states is essential for several reasons – not least for maritime stability and security in the region. In this respect, numerous factors have to be taken into consideration and, in the case of Africa in particular, the economic and strategic implications.

From an economic perspective, particular account must be taken of the continent's oil, gas and mining deposits, such as phosphate and diamonds in southern Africa, primarily in Namibia. An additional consideration is the high quality of African oil and the continent's advantageous geopolitical position in relation to Europe and the U.S. Furthermore, the location of oil fields and natural resource deposits can result in considerable complications when states unilaterally determine and apportion exploration blocks that infringe upon areas of disputed ownership by a neighbouring state, bearing in mind that exploration blocks are delineated by strict lines, yet oil fields often overlap maritime boundaries, which is the case of the Gulf of Guinea<sup>2</sup>.

1 It should be noted that, in international law, the term 'boundary' to which we refer means 'the line that marks the outer limit of a state's territory, in other words, the line that determines the spatial area within which a state exercises sovereignty to the exclusion of other states (...) nowadays this category encompasses spaces which are physically different, over which states also exercise sovereignty, such as airspace and maritime spaces. Accordingly, reference must now be made to the different types of boundaries: territorial, air, sea, river and lake' (see LÓPEZ MARTÍN, Ana Gemma. 'Frontera'. Román Reyes (Dir.). *Diccionario Crítico de Ciencias Sociales*, vol. II, 3.<sup>a</sup> ed. Madrid and Mexico: Plaza & Valdés, 2009, pp. 1326-1327).

2 For more information, see SOARES DE OLIVEIRA, Ricardo. *Oil and Politics in the Gulf of Guinea*. London: Hurst Publishers 2007.

Similarly, we must highlight the wealth of natural resources in African waters. Fishing is the main driver of many economies, such as Angola, Namibia and Egypt. Not surprisingly, it is estimated that it contributes some 10 billion dollars to African economies each year. These multiple sources of wealth heighten the African countries' eagerness to attain economic sovereignty over these areas, consequently exacerbating disputes. Hence the importance of accurately defining the respective exclusive economic zones and continental shelves of bordering states.

And strategic reasons are no less important. As Gutiérrez Castillo has pointed out, «nowadays, international peace and security are not only considered in terms of military confrontation and conflict [...] there are new, complex problems that transcend borders and which can only be effectively addressed by defining these borders»<sup>3</sup>. The absence of defined boundaries can have a destabilising effect in the fight against the growing threat of maritime piracy, organised crime, illegal immigration and even terrorism. And this is a particularly important concern for Europe, given that the various types of criminal activities that reach the European continent usually come via African waters. To effectively combat these threats, interstate cooperation is required; however, this is difficult if states feel that their national interests and sovereignty are under threat, and if they are uncertain about the extent of their sovereignty and jurisdiction.

All these problems underlying the delimitation of the new maritime spaces have heightened the tension in already strained relations between neighbouring states. This is why, as pointed out earlier, if the boundaries are not properly defined, it can give rise to numerous disputes between states, which can take on not just regional, but also international dimensions. And this can have a disastrous effect on efforts to maintain maritime security and the development of countries.

While it is true that significant progress has been made in the delimitation of maritime boundaries in Africa over the past two decades, there are still numerous boundaries pending delimitation, which in some cases has led to major instability in the region<sup>4</sup>. The African Union had set the end of 2017 as the deadline for all states to delimit their boundaries; by that date, however, only 30% of boundaries had been delimited<sup>5</sup>. It is obvious, therefore, that there is still a great deal of work to be accomplished in this area.

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3 GUTIÉRREZ CASTILLO, Víctor Luis. *El Magreb y sus fronteras en el mar. Conflictos de delimitación y propuestas de solución*. Barcelona: Huygens editorial 2009, pp. 22-23.

4 Aware of the importance of this issue and its consequences, the African heads of state and government adopted *the African Charter on Maritime Security, Safety and Development* during an extraordinary session of the Assembly of the African Union in Lome on 15 October 2016. Accordingly, the signatories committed to taking specific, measurable actions to promote the Africa-wide development of a sustainable 'blue economy', underpinned by good maritime security and efficient maritime law enforcement (IMO, *Annual Report 2016*, TC 67/3(a), 12 May 2017).

5 This was incorporated into the *African Union Border Programme* (AUBP), adopted at the 8th Ordinary Session of the Assembly of Heads of State and Government of the African Union held in Addis Ababa in 2007, with the aim of establishing their maritime boundaries, including the outer limits of the

The aim of this study, therefore, is to present an overview of the current situation with regard to maritime boundaries that have been definitively established, either through mutual agreement following negotiations between neighbouring states or by a judgment of an international court. It is extremely important to analyse current boundary delimitation practices in order to identify not just the areas that enjoy stability in the matter, but, by exclusion, the regions with boundaries still pending delimitation. At the same time, it is important to find out the criteria used when setting boundaries, as this could be useful for African states with delimitations pending and could serve as a reference or support for future agreements. Therefore, we will also take a brief look at cases where a failure to delimit maritime boundaries has caused greater tension between the countries concerned.

When taking a closer look at Africa's maritime boundaries, we will use the 'geoscheme' devised by the United Nations for use in studies on Africa. Because the system is based solely on geographical factors, it is an objective criterion and, therefore, has no connotations that might condition what is intended to be an impartial analysis. According to the geoscheme, the macro-geographical region of Africa is divided into five subregions. In order to obtain a systematised overview of the boundary situation, we will begin our journey through the region in the West, before moving on to Central, Southern and East Africa, and concluding in North Africa.

### **An introduction to international law on the delimitation of boundaries between neighbouring states**

Before moving on to our analysis, we believe it is necessary to take a brief look at the international rules governing the delimitation of maritime boundaries between neighbouring states. The aim is not so much to check that the boundaries already set comply with these rules but, rather, to ascertain what guidelines states with delimitations pending should follow. The latter will be accompanied by a reference to the mechanisms available for the resolution of disputes standing in the way of a delimitation agreement.

The *United Nations Convention on the Law of the Sea* of 10 December 1982 (UNCLOS) is without a doubt our main legal reference when presenting the rules governing the delimitation of maritime boundaries between neighbouring countries. Although the Convention did not enter into force until 16 November 1994, it should be pointed out, in relation to the delimitation of spaces between neighbouring states, that the rules are based on customary law; a type of law supported by substantial international case law which, moreover, has inevitably influenced the provisions of the UNCLOS. Nevertheless, it should be borne in mind that, of the 38 African states with

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extended continental shelf (see OKONKWO, Theodore. «Maritime Boundaries Delimitation and Dispute Resolution in Africa». *Beijing Law Review*, vol. 8. 2017, p. 61).

a coastline (including the French and British territories), only Libya is not a party to the Convention. Having said that, it should also be pointed out that, as indicated previously, the rules that apply to the existence and extension of the various maritime spaces and their delimitation criteria are generally consuetudinary, and Libya has never questioned them. Therefore, their binding nature is beyond question.

### *Rules applying to the delimitation of maritime boundaries. Equity as a goal*

First and foremost, the delimitation of the territorial sea, exclusive economic zone (EEZ) and continental shelf shall be by negotiated agreement between states with opposite or adjacent coasts, as provided by Articles 15, 74 and 83 of the UNCLOS, respectively.

If the states fail to reach an agreement, delimitation shall be determined by the competent court or arbitration body in accordance with the relevant principles and rules of international law. When this is the case, the delimitation criteria laid down by international law is as follows:

With regard to the delimitation of the territorial sea, Article 15 provides that the boundary shall be set from «a median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith».

In addition, Articles 74 and 83 provide that the delimitation of the exclusive economic zone and continental shelf «shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution».

Note the different terminology used depending on whether it is the territorial sea, EEZ or continental shelf; while the principle of equidistance is cited in the first case, an equitable solution is cited in the second. This difference can be explained by the judgment delivered by the International Court of Justice (ICJ) on 20 February 1969 in the *North Sea Continental Shelf Case* between Denmark, the Netherlands and the Federal Republic of Germany, which set an important precedent in the delimitation of maritime spaces. When assessing the applicability of the equidistance principle in the delimitation of the continental shelf between the neighbouring states, the ICJ ruled that equidistance was not an obligatory rule of customary law and rejected the general principle or rule of equidistance. It stated that the delimitation principle laid down by international law since the Truman Declaration –the international treaty created to codify the rules of international law relating to continental shelves– provides that delimitation should be based on equitable principles and take account of all «relevant circumstances». It can be concluded from the ICJ's statement that the application of

the median line or equidistance delimitation principle is not always fair because there may be other circumstances that make it unduly onerous for one of the states concerned, in which case the equitable delimitation rule established by international law would not be observed.

It should be pointed out that, despite the difference in the terminology used, it is a fact that in international judicial and arbitral settlements of boundary delimitation disputes, the objective is always the same, i.e. to try to find an equitable solution for all parties. Thus, according to this practice, the delimitation process consists of two consecutive phases: firstly, provisional delimitation is calculated from a median line equidistant from the baselines of the neighbouring states. After this, it is assessed whether there are «relevant circumstances» that warrant an adjustment of the median line in order to ensure that the delimitation result is equitable. Hence, the arbitral tribunal concerning the maritime boundary between Barbados and the Republic of Trinidad and Tobago in 2006 asserted that, «The identification of the relevant circumstances becomes accordingly a necessary step in determining the approach to delimitation». Similarly, some years before, in 1977, the arbitral tribunal that delimited the continental shelf between France and the United Kingdom also upheld that the «combined equidistance/special circumstances rule» reflected the customary law of equitable principles and that these applied irrespective of whether the coasts were opposite or adjacent.

If the decision-making body deems that the equidistance principle is unfair and that relevant circumstances exist, the latter will be taken into account when adjusting the provisional boundary set on the basis of the median line. However, if such circumstances do not exist, the provisional equidistant median line becomes the definitive boundary.

At this point, the question that remains to be answered is which of these *pertinent, relevant or special circumstances* should be taken into account when adjusting the equidistant median line. As there are no substantive norms governing this aspect, to find an answer, we must look to the vast body of judicial and arbitral case law on maritime delimitation which, as Prosper Weil has pointed out, has itself «undertaken the direct definition of the law of maritime delimitation, giving it the appearance and name of general or customary international law». There is probably no other chapter of international law which has been written so exclusively and rapidly by the international courts’.

Pursuant to the aforementioned case law, the *circumstances that may be relevant* in determining equitable delimitation are varied and can be classified as geographical and non-geographical.

As far as the former are concerned, we find that some or all of the following *geographical factors* may be relevant, as they are not mutually exclusive:

- The natural prolongation of the coast or ocean front; this criterion must take into consideration the proportionality between the respective lengths of the bordering states.

- The geography of the area, taking account of specific aspects of the region such as whether it is a semi-enclosed sea or an ocean.
- The general configuration of the coast, taking into consideration the general direction of the coastline, whether it is adjacent or opposite and whether there is more than one state in front of it; of particular relevance is whether the coast is concave or convex and the degree of concavity or convexity.
- The respective baselines, including the presence of ports, bays, roadsteads, inlets, mouths of rivers, islands, reefs or low-tide elevations.
- The existence of islands and rocks between states and whether these belong to one of the states.
- In the case of continental shelf delimitation, factors such as geomorphology of the seabed and geology of the subsoil may also be relevant.

Varied circumstances include *non-geographical* factors, which might include the following:

- Economic factors. In the case of EEZs or continental shelves, the economic benefits of the states will occasionally be taken into consideration, depending on the resources; in this case, particular relevance is afforded to the location of oil and gas deposits and fishing grounds.
- The historical rights of a state to certain maritime areas since time immemorial and with the acquiescence of other states, to which the general rules of international law would not apply.
- Navigation, taking account of where navigation channels run in order to ensure navigation routes; this circumstance is particularly relevant for the delimitation of territorial seas.
- The states' socio-economic situation.
- Political and security factors.
- Environmental factors, such as the temperature and salinity of water columns; spawning of marine species, etc.
- The presence of third states, possibly with overlapping maritime claims.

Therefore, the variety of specific situations means that the legal rule has to be relaxed in order to accommodate the important role afforded to equity, which allows the adaptation of the general rule in order to avoid unfair outcomes.

### *Mechanisms for the settlement of maritime boundary disputes*

Now that we have examined maritime delimitation under international law, we believe it is necessary to take a brief look at the mechanisms this legal system provides for the settlement of maritime boundary disputes. This question is extremely opportune for delimitation projects which are still pending.

On this point, it is important to note that, as mentioned previously, 37 African coastal countries are parties to the UNCLOS, in addition to France and the UK,

which have sovereignty or jurisdiction over some African territories. The Convention expressly sets out the bodies competent to settle maritime disputes and, moreover, has a compulsory subsidiary mechanism in place such as arbitration. Therefore, in the absence of an agreement, such mechanisms shall be used to resolve disputes.

Nevertheless, we must refer, firstly, to Article 281 of the Convention, pursuant to which states may settle disputes in relation to the application of the UNCLOS using mechanisms other than those provided for in the Convention. Therefore, African neighbouring states are perfectly entitled to submit their maritime boundary disputes to mechanisms not provided for in the UNCLOS, such as those provided for by the African Union<sup>6</sup>, the Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC) Tribunal and even bodies which have been set up by the African states themselves, such as the *The Elders* group. Nevertheless, it should be noted that, up until now, the African states have not availed themselves of these mechanisms to settle either maritime or land boundary disputes, and have shown a clear preference for international courts, such as the International Court of Justice, or an international arbitration tribunal. Indeed, such is the case, that Samuels has pointed out:

«African nations have demonstrated that resort to international tribunals can lead to meaningful resolution of existing boundary disputes. The continent's commitment to the ICJ is one of the enduring legacies that African states have offered over the past half-century [...] And, interestingly, the contributions to international boundary dispute law have come from across the continent».<sup>7</sup>

Considering, therefore, that the African states are unlikely to avail themselves of mechanisms other than those provided for in the UNCLOS, the procedures that apply are described in Part XV of the Convention, specifically in Article 287, which provides for the resolution of disputes relating to the law of the sea, and states as follows:

Choice of procedure.

- When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one

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<sup>6</sup> Such as the Court of Justice of the African Union. In this regard, the African Union (AU) has undertaken a number of initiatives, such as the African Union Border Programme (AUBP), the 2050 Africa's Integrated Maritime (AIM) Strategy and AGENDA 2063. Within these initiatives, what is known as the *Combined Exclusive Maritime Zone for Africa* (CEMZA) was established, defined as a common maritime zone of all AU Member States. For more information about these initiatives and African dispute settlement mechanisms, see OKONKWO, Theodore. «Maritime Boundaries...». *Op. cit.*; WALKER, Timothy. «Why Africa must resolve its maritime disputes». *Policy Brief* 80. Institute for Security Studies, October 2015.

<sup>7</sup> See SAMUELS, Joel H. «Redrawing the Map: Lessons of Post-colonial Boundary Dispute Resolution in Africa» and LEVITT, Jeremy (ed.). *Africa. Mapping New Boundaries in International Law*. Hart Publishing, Oxford and Portland, 2008, p. 254.

or more of the following means for the settlement of disputes concerning the interpretation or application of this Convention:

- ⊕ the International Tribunal for the Law of the Sea established in accordance with Annex VI;
  - ⊕ the International Court of Justice;
  - ⊕ an arbitral tribunal constituted in accordance with Annex VII;
  - ⊕ a special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified therein.
- A declaration made under paragraph 1 shall not affect or be affected by the obligation of a State Party to accept the jurisdiction of the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea to the extent and in the manner provided for in Part XI, section 5.
  - A State Party, which is a party to a dispute not covered by a declaration in force, shall be deemed to have accepted arbitration in accordance with Annex VII.
  - If the parties to a dispute have accepted the same procedure for the settlement of the dispute, it may be submitted only to that procedure, unless the parties otherwise agree.
  - If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the parties otherwise agree.

Pursuant to the Convention, several jurisdictional bodies are competent to resolve maritime boundary disputes between African states: the International Tribunal for the Law of the Sea, the International Court of Justice, general arbitral tribunals and special arbitral tribunals (fisheries, marine environment, marine scientific research and navigation; Annex VIII). Moreover, in the event that a State Party does not accept the same procedure for the settlement of the dispute or has not made a declaration choosing one of the possible mechanism (or has not reached an agreement in this respect), the arbitration provided for in Annex VII shall apply. This is what is known as the «default choice». Therefore, the key to determining what procedure applies in each specific case can be found in the declarations on the choice of procedure made by each State Party upon acceding to the Convention<sup>8</sup>.

Therefore, when negotiation fails and African states with maritime boundary delimitation claims pending are unable to reach an agreement, either state may avail of the provisions of Article 287 and activate the relevant jurisdictional procedure indicated in the declaration made by the neighbouring state. Failing this, and as a last resort, the states can submit to arbitration to bring about the definitive establishment of their respective maritime boundaries.

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<sup>8</sup> The declarations made by each State Party upon ratifying or acceding to the UNCLOS can be consulted at: [http://www.un.org/Depts/los/settlement\\_of\\_disputes/choice\\_procedure.htm](http://www.un.org/Depts/los/settlement_of_disputes/choice_procedure.htm).

## Maritime boundaries in West Africa

Now that we are conversant with the international regulatory framework governing the rules for maritime boundary delimitation and the procedures for addressing claims which are still pending, let us take an in-depth look at maritime boundaries in Africa, beginning, as stated earlier, with West Africa:

The West Africa subregion –sub-Saharan region– is comprised of 16 countries, 13 of which have coastlines: Benin, Cape Verde, Côte d’Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Nigeria, Senegal, Sierra Leone, Togo and Mauritania, in addition to the island of St Helena (non-self-governing territory under the jurisdiction of the United Kingdom).

This subregion has six established international borders, three of which were settled by bilateral agreement and the other three by international court judgments. Therefore, there are eight maritime delimitation cases still pending in the region.

The maritime boundary between the republics of *Cape Verde and Senegal* was established by means of a *negotiated agreement* which culminated in the Cape Verde–Senegal Maritime Delimitation Treaty signed on 17 February 1993. The boundary was set at an equidistant line between the two territories, but adjusted slightly in the north to take account of relevant circumstances. The maritime boundary separating the exclusive economic zone and continental shelf of *Cape Verde and Mauritania* was established by a treaty signed in Praia on 19 September 2003, and is merely an extension of the border between Cape Verde and Senegal. In this case also, the boundary was set from a median line equidistant from the baselines of the two countries, but with a slight deviation in the south. In Banjul on 4 June 1975, *Gambia and Senegal* signed a treaty establishing their northern and southern maritime boundaries. The delineation was inspired by the North Sea continental shelf cases mentioned previously, and clearly diverges from the equidistance principle, as this would have seriously undermined the interests of Gambia.

The maritime boundary delimitation between *Guinea-Bissau and Senegal* was settled by arbitration after the two countries failed to reach an agreement in relation to the exchange of notes between France and Portugal on 26 April 1960. This established the territorial sea, the contiguous zone and the continental shelf between the two countries defining a straight line running at 240° starting from the intersection of the extension of the land boundary and the low-water mark. In its award of 31 July 1989, the arbitral tribunal found that the aforementioned exchange of notes had the force of law. On 14 October 1993 the two countries signed a Management and Cooperation Agreement for the joint development of EEZ resources situated between the 268° and 220° azimuths drawn from Cape Roxo, but excluding their respective territorial seas. Similarly, the maritime boundary dispute between *Guinea and Guinea-Bissau* also had to be submitted to arbitration in the absence of an agreement between the two countries. The arbitral tribunal award of 14 February 1985, aiming to find an equitable solution in keeping with

the spirit of Articles 74 and 83 of the UNCLOS, deviated from the equidistance principle.

The most recent international maritime boundary to be established is that of *Ghana and Côte d'Ivoire*. On 23 September 2017, the Special Chamber of the International Tribunal for the Law of the Sea rendered its judgment on the *Différend relatif à la délimitation de la frontière maritime entre la République du Ghana et la République de Côte d'Ivoire* (no. 23). The ruling unanimously established a single maritime boundary for the territorial sea, exclusive economic zone and continental shelf of the two countries within and beyond 200 nautical miles; in the first section, the median line is adjusted to take account of special circumstances, while after turning point F, the single maritime boundary follows the median line.

According to this data, boundaries have not yet been established between Mauritania and Senegal; Cape Verde and Gambia; Guinea and Sierra Leone; Sierra Leone and Liberia; Liberia and Côte d'Ivoire; Ghana and Togo; Togo and Benin; and Benin and Nigeria. On this point, it should be noted that Sierra Leone is keen to reach agreements because of the oil and gas prospects in its EEZ. The situation between Ghana, Togo and Benin is complicated considering their juxtaposition; if the equidistance principle is applied, it will put Togo at a serious disadvantage. In this respect, the agreement reached between Gambia and Senegal in 1975 may serve as an important precedent for these states.

### Maritime boundaries in Central Africa

There are ten countries in this subregion, seven of which have coastlines: Democratic Republic of the Congo, Angola, Cameroon, Equatorial Guinea, Gabon, Republic of the Congo and São Tomé and Príncipe. Some of these countries obviously border Nigeria, which is the southernmost state in the West Africa subregion.

Five maritime boundaries have been established in the region, four by bilateral agreement and one by a ruling of the International Court of Justice. It is worth noting that the maritime boundaries of the Gulf of Guinea, one of the most coveted areas because of its abundant oil and gas resources, have been established in their entirety. This was largely achieved thanks to the initiative of Nigeria, which was particularly anxious to properly define its boundaries with its neighbours. Not surprisingly, Nigeria ranks ninth in the world in terms of oil reserves. Therefore, there are five maritime delimitation cases still pending in the region.

The maritime boundary between *Nigeria and Cameroon* was established following two treaties and a ruling by the International Court of Justice, each of which set a section of the boundary. The Yaoundé II Declaration of 4 April 1971 delimited the territorial sea between the two states up to what is known as «point 12» or the «compromise line» (British Admiralty Chart No. 3343). From «point 12» to «point G», the boundary follows the line adopted in the Declaration signed by the heads of state of Cameroon and Nigeria at Maroua on 1 June 1975, as corrected by the exchange of

letters between their heads of state of 12 June and 17 July 1975. The latter section is a negotiated line not determined by the equidistance principle, as it takes account of the geography, resources and human activity in the area. The maritime boundary beyond «point G» was submitted to the consideration of the International Coast of Justice. In its judgment of 10 October 2002, the Court effected the delimitation of the EEZ and continental shelf by a single line using the equidistance principle, as this was deemed to represent an equitable result in the absence of relevant circumstances that might warrant a modification of the course of the boundary.

While the case with Cameroon was being heard by the ICJ, *Nigeria* commenced negotiations with two other countries: Equatorial Guinea and São Tomé and Príncipe. The treaty with *Equatorial Guinea* was signed on 23 September 2000, establishing a single maritime boundary between the two states; rather than adopting an equidistant line between the two countries, the treaty takes into account the oil fields in the area. The treaty respects the exploration licenses for oil blocks granted by both states, thereby resolving the overlap and providing for unitisation agreements where there are straddling oil fields. On the other hand, a treaty with signed with *São Tomé and Príncipe* for the joint development of petroleum and other resources in respect of areas of the EEZ of the two states on 21 February 2001. The treaty proves far more advantageous for São Tomé and Príncipe because, despite being much smaller in size than Nigeria, it receives 40% of the revenues deriving from the resources, while Nigeria receives 60%.

For its part, *São Tomé and Príncipe* negotiated a treaty with *Equatorial Guinea* (signed on 26 June 1999), and *Gabon* (signed on 26 April 2001). In both cases, the maritime boundary was set using the equidistance principle.

Cameroon and Equatorial Guinea, on the other hand, have not only failed to delimit their common maritime boundary, but have lodged complaints in relation to their applications with the Commission on the Limits of the Continental Shelf, which further complicates the situation. The same has occurred with the boundary between the Democratic Republic of the Congo and Angola. The preliminary information presented by the former was rejected outright by Angola on the grounds that it does not respect international rules. Both states have overlapping oil concessions in the area. Gabon and Equatorial Guinea began negotiations with a view to establishing a common maritime boundary, but talks were suspended, not only on account of the abundant oil reserves in the offshore waters, but because of a dispute over the sovereignty of three islands in Corisco Bay where the Muni River flows into the sea, thus making it even more difficult to reach an agreement. Moreover, Gabon has been unsuccessful in reaching an agreement with the Republic of the Congo, and the latter with the Democratic Republic of the Congo.

### The situation in Southern Africa

There are five countries in this subregion: Botswana, Lesotho, Namibia, Swaziland (or Eswatini) and South Africa. Only Namibia and South Africa have coastlines, and

neither country has delimited its maritime boundaries. This situation is further exacerbated by strong disputes over the sovereignty of the islands in the mouth of the Orange River and by the presence of oil and diamonds in the outer sea and river mouth, in addition to the area's potentially substantial oil deposits.

However, the boundary between *Namibia and Angola* has been set, after the countries signed an accord on the delimitation and demarcation of the maritime boundary up to 200 nautical miles on 4 June 2001. The boundary extends along a parallel of latitude that begins at the mouth of the Kunene River where the countries share a common border.

Similarly, *South Africa, France and Madagascar* signed a Trilateral Declaration on 26 June 2012 in relation to their applications to the Commission on the Limits of the Continental Shelf to extend their respective continental shelves, and empowered the Commission to consider any overlapping claims in their respective submissions.

### The complex boundary map of East Africa

This subregion, made up of 18 countries, has ten coastal states: Eritrea, Djibouti, Somalia, Madagascar, Mauritius, Comoros, Seychelles, Kenya, Tanzania and Mozambique. In addition, there is the Chagos Archipelago (a British overseas territory – claimed by Mauritius as an integral part of its territory), the island of Mayotte, the island of Reunion and the so-called Scattered Islands (Banc du Géiser, Bassas da India, Europa Island, Glorioso Islands, Juan de Nova Island and Tromelin Island), all of which are French overseas territories.

It is worth noting the geographical peculiarity of this area, where four island and/or archipelagic states converge in the Indian Ocean, as well as France's island territories. As a result, we have two trilateral agreements in this tri-border area. In addition, there are eight bilateral maritime delimitation treaties, mainly based on the equidistance principle, and the maritime boundary dispute between Somalia and Kenya is in the final stages of resolution at the International Court of Justice. Furthermore, the boundary dispute between Eritrea and a state of another macro-geographical region, Yemen, has been resolved by international arbitration.

*Mozambique* definitively established its northern boundary with *Tanzania* by an agreement signed on 28 December 1988; the boundary is a combination of an equidistant median line at the start, which then follows a parallel of latitude up to 200 nautical miles. Later on, on 5 December 2011, the two countries signed a new agreement that does not amend the boundary of the previous one, but merely revises the coordinates to adjust it to the World Geodetic System (WGS). Talks intended to define the *trijunction point with the Comoros* were conducted alongside negotiations to delimit the boundary between *Mozambique and the Comoros*, and between *the Comoros and Tanzania*; all of these agreements were signed on the same date. The agreement on the trijunction point, concluded at the same time as the previous ones, can be seen

as a formal «tidying up» of the delimitation process. However, it should be pointed out that it also served to strengthen cooperation between the parties while they were negotiating bilateral treaties within the framework of the African Union Border Programme.

The equidistance principle was also used to delimit the northern boundary of the EEZ and continental shelf between the *Comoros and Seychelles* on 17 February 2012; in this case, between the respective archipelagic baselines from the *trijunction point with Tanzania*, which was agreed on the same date. The southern boundary is more complicated because of Comoros' sovereignty claim to the island of Mayotte and Madagascar's claim to the Glorioso Islands, both under French sovereignty, and also because the maritime boundary delimitation agreement concluded between *Seychelles and France* on 19 February 2001 defined the boundary based on an equidistant median line, but using different base points to those used by the Comoros and Seychelles. Similarly, the equidistance principle was used to delimit the EEZ between *Mauritius and Seychelles*, agreed on 29 July 2008, insofar as it is considered an equitable solution under international law. The principle was also applied in 2002 in the agreement between *Tanzania and Seychelles* to establish a single boundary line for their EEZ and continental shelf, and in the 2005 agreement between *France and Madagascar* to delimit the maritime boundary between the island of Reunion and Madagascar. As a supplement to the 2008 agreement, on 13 March 2012 Mauritius and Seychelles signed a treaty concerning the joint exercise of sovereign rights over the continental shelf in the Mascarene Plateau region.

As in the case of Tanzania and Mozambique, the maritime boundary between *Tanzania and Kenya* is the result of combining the equidistance principle with modifications in certain sections to take account of relevant circumstances. This is reflected both in the agreement of 9 July 1976, setting the boundary between their respective territorial seas, and that of 23 June 2009 in relation to the EEZ and continental shelf.

Aside from all these treaties, there are two judicial proceedings under way in the region concerning the delimitation of maritime boundaries. The arbitration between *Eritrea and Yemen* concluded with the award dated 17 December 1999, whereby the boundary is established in the Red Sea in application of the equidistance principle. The case concerning the delimitation of the maritime boundary between *Somalia and Kenya* in the Indian Ocean is still at the written procedure stage, after Somalia filed a suit with the International Court of Justice on 28 August 2014. After the Court issues a ruling, the boundary will be established definitively, given that the ruling is binding on the parties, and this should bring some stability to a tumultuous region.

Despite the fact that many of the region's boundaries have been definitively established, there are still some cases pending, and their resolution will pose a challenge, primarily because of the region's complex geographical circumstances. Once you have rounded the Cape of Good Hope, the first international border you encounter is that of *South Africa and Mozambique*, which is pending delimitation, and the process may be hindered by the proximity of Madagascar. Indeed, the boundary between the latter two states is also pending delimitation and, in turn, is hindered by the French islands

which, as mentioned previously, are subject to various sovereignty claims by African states, such as Mayotte by Comoros, Glorioso Islands by Madagascar and Tromelin Island by Mauritius. In this regard, it is also worth highlighting the special nature of the *Chagos* Archipelago, a non-self-governing territory under the jurisdiction of the United Kingdom, but subject to sovereignty claims by Mauritius. Indeed, in its advisory opinion of 25 February 2019, the International Court of Justice stated that «the process of decolonization of Mauritius was not lawfully completed when that country acceded to independence», going on to add that «the United Kingdom is under an obligation to bring to an end its administration of the Chagos Archipelago as rapidly as possible». Therefore, the boundary delimitation between Mauritius and Chagos should no longer be regarded as pending, since the latter can be considered an integral part of Mauritius' territory.

Similarly, the situation in what is known as the 'Horn of Africa' poses another challenge in relation to *Somalia's* boundaries with *Djibouti* and *Yemen*, not just because of the instability in the latter country but, most especially, following Circular M.Z.N. 106.2014 of 3 July 2014 whereby Somalia published the geographical coordinates defining its EEZ; these were fiercely disputed by the other two states, which do not recognise them and claim that they violate their respective maritime spaces.

### Maritime boundaries in North Africa (Maghreb)

Finally, the northern subregion is made up of six countries, all of which have a coastline: Morocco, Algeria, Tunisia, Libya, Egypt and Sudan. In addition, it includes the non-self-governing territory of the Western Sahara.

Only *Tunisia and Algeria* have negotiated and set their maritime boundary, as reflected in the Agreement on Provisional Arrangements for the Delimitation of the Maritime Boundaries signed on 11 February 2002. The agreement makes no reference whatsoever to the delimitation method used, and merely indicates the boundary coordinates. Nevertheless, it can be considered a combination of the equidistance principle, adjusted at certain points to accommodate relevant circumstances such as islands and various natural resources. On the other hand, the boundary of the continental shelf between *Tunisia and Libya* had to be determined by the International Court of Justice in its judgment of 24 February 1982. To achieve an equitable solution, the Court established a delimitation line made up of two segments, applying the median line principle to the first segment, but adjusting it to take account of relevant circumstances, such as the general characteristics of the region, the configuration of the coasts, the existence and position of the Kerkennah Islands and existing petroleum concessions, and the proportionality of the continental shelf areas and length of the relevant part of the coast in the second segment.

Of the three boundaries pending delimitation, the one likely to cause the most controversy is that of *Egypt and Sudan*, given that both countries have staked claims to

several areas of the border, such as Hala'ib Triangle and the area to the north of parallel 22, which precludes a negotiated settlement.

On the other hand, the boundaries with four neighbouring states from other macro-geographical regions have been successfully established. This is the case of the boundary between *Egypt and Saudi Arabia* (Agreement dated 8 April 2016) and between *Egypt and Cyprus* (Agreement on the delimitation of the EEZ dated 17 February 2003, applying the median line principle). In addition, the boundary between *Tunisia and Italy* concerning the continental shelf was delimited in an agreement signed on 20 August 1971. The solution is a balanced combination of the equidistance principle, adjusted to accommodate certain islands in the Strait of Sicily which belong to Italy but are closer to Tunisia than to Sicily. The delimitation of the continental shelf between *Libya and Malta* was determined by the International Court of Justice in its judgment of 3 June 1985. Delimitation was effected in accordance with equitable principles, taking account of all relevant circumstances in order to achieve an equitable result. The circumstances that the Court took into account when adjusting the equidistant line were the general configuration of the coasts of the respective states, their opposite position, the geographical context and the disparity in the lengths of their coasts.

However, no agreement has been signed concerning the delimitation of *Algeria's* maritime boundaries with *Italy* or *Spain*. Furthermore, Morocco's well known claims to certain Spanish territories on the African continent have led to a lack of clarity regarding the maritime boundaries between the two countries. This, however, does not lead to tension in practice and, except for occasional incidents, such as the seizure of Perejil Island by Moroccan soldiers on 11 July 2002 and the detention of the odd Spanish vessel close to Alboran Island, there appears to be de facto observance of the equidistant median line between the two territories.

What has proved more controversial is *Morocco's* maritime border in the Atlantic Ocean, due to the presence of the non-self-governing territory of the *Western Sahara* under the de facto jurisdiction of Morocco. This raises the thorny question of who is eligible to negotiate the boundaries of this territory with other neighbouring states. And this also affects the lack of clarity regarding Spain's maritime boundaries with respect to the Canary Islands, and the Canary Islands with respect to Mauritania. On this point, in our opinion, the agreement of 14 April 1976 between Morocco and Mauritania, establishing a –land and maritime– state frontier line between the two countries is inapplicable (and even null and void) where the continental shelf is concerned because it fails to take account of the wish of the Sahrawi people, and this is a blatant violation of the right to self-determination of peoples, which includes the right to permanent sovereignty over their natural resources. In our opinion, in light of the region's coastal geography –straight, with hardly any noteworthy geographical features– the application of the equidistance principle and the delimitation of the EEZ and continental shelf by a single line would appear to be the most logical means of achieving an equitable solution in accordance with international law.

## Final overall assessment

The delimitation of maritime boundaries effected to date in Africa demonstrates strict compliance with international rules, and represents a huge contribution by the African states to the construction of rules and case law on maritime delimitation.

On this point, the efforts made by the majority of states to adjust their respective boundaries in an equitable manner are indeed laudable, and will no doubt serve as a reference for all those countries that have yet to do so. However, although a significant number of maritime boundaries have been set, many more have yet to be defined. This has led to a certain degree of tension in these areas, which is not conducive to the stability or development of the region. Moreover, this lack of definition has a negative impact on maritime security, an issue that not only affects African states, but indeed every state, and most especially European countries, considering that African waters are one of the main maritime gateways to Europe.

In this respect, we must stress the fact that the current international legal framework, consisting of the United Nations Convention on the Law of the Sea of 1982, facilitates the task of delimitation. And not just because this body of international rules is underpinned by extensive practical experience, in which most African states have played a part, thus demonstrating the undeniable consensus around it and suggesting that its application should pose no problem whatsoever but, rather, because this legal instrument, to which all African coastal states are a party, has a binding system for the settlement of maritime disputes, which any state can avail itself of for the establishment of an equitable and definitive maritime boundary with their neighbour in accordance with international law.

It is therefore merely a question of political will... or lack thereof.

## Bibliography

- CHARNEY, J. I. and ALEXANDER, L. M. (eds.). *International Maritime Boundaries, vol. I*. The Hague: Martinus Nijhoff Publishers, 1993.
- COLSON, D. A. and SMITH, R. W. (eds.). *International Maritime Boundaries vol. V*. The Hague: Martinus Nijhoff Publishers, 2005.
- DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA. *Handbook on the Delimitation of Maritime Boundaries*. New York: United Nations 2000.
- FRANCALANCI, Guido and SCOVAZZI, Tullio (eds.). *Lines in the Sea*. Dordrecht: M. Nijhoff Publ., 1994.
- GÓMEZ-ROBLEDO VERDUZCO, Alonso. «Apuntes sobre delimitación en derecho internacional del mar». *Anuario Mexicano de Derecho Internacional*, vol. XVI. 2016, pp. 255-300.

- GUTIÉRREZ CASTILLO, Víctor Luis. *El Magreb y sus fronteras en el mar. Conflictos de delimitación y propuestas de solución*. Barcelona: Huygens editorial 2009.
- LAGONI, Rainer and VIGNES, Daniel (eds.). *Maritime Delimitation*. Publications on Ocean Development 2006.
- LATHROP, Coalter (ed.). *International Maritime Boundaries*, vol. VII. Leiden: American Society of International Law and Koninklijke Brill NV, 2016.
- LÓPEZ MARTÍN, Ana Gemma. «Frontera». Román Reyes (Dir.). *Diccionario Crítico de Ciencias Sociales*, vol. II, 3ª ed. Madrid and Mexico: Plaza & Valdés 2009, pp. 1326-1327.
- OKONKWO, Theodore. «Maritime Boundaries Delimitation and Dispute Resolution in Africa». *Beijing Law Review*, vol. 8. 2017, pp. 55-78.
- ROS, Nathalie. «El Derecho jurisprudencial de la delimitación marítima». *REDI*, vol. LXV. 2013.2, pp. 71-115.
- ROTHWELL, Donald R. and STEPHENS, Tim. *The International Law of the Sea*. Oxford: Hart Publishing 2010.
- SAMUELS, Joel H. «Redrawing the Map: Lessons of Post-colonial Boundary Dispute Resolution in Africa» and LEVITT, Jeremy (ed.). *Africa. Mapping New Boundaries in International Law*. Oxford and Portland: Hart Publishing 2008, pp. 227-255.
- SOARES DE OLIVEIRA, Ricardo. *Oil and Politics in the Gulf of Guinea*. London: Hurst Publishers, 2007.
- TANAKA, Yoshifumi. *Predictability and Flexibility in the Law of Maritime Delimitation*. Oxford: Hart Publishing 2006.
- WALKER, Timothy. «Why Africa must resolve its maritime disputes». *Policy Brief* 80. *Institute for Security Studies*, October 2015.
- WEIL, Prosper. *Perspectives du droit de la delimitation maritime*. Paris: Editions A. Pedone, 1988; *The Law of Maritime Delimitation-Reflections*. Cambridge: Grotius Publications Limited, 1989.

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## *Digital reputation as a strategy for transforming military organisations*

### **Abstract**

The key objective of the public relations strategy of any military organisation is to win the trust of its target audiences. To achieve this, it is essential to devote attention to and continuously improve its reputation. The digital medium, in which organisations are subject to constant scrutiny and which demands immediacy, astuteness and consistency, also has a major influence on the offline world. Therefore, digital reputation becomes a strategic issue in relations with all of the organisation's audiences.

In the Reputation Age, the use of digital reputation as a public relations strategy in military organisations is a necessary and essential process which has long-term effects and which must be planned. It has a transformative effect on the talent of an organisation and is capable of effecting changes in the corporate culture, thus adapting the organisation to the demands of today's digital society.

### **Keywords**

Reputation, Trust, Legitimacy, Public Relations, Military Organisations, Transformation, Digital Reputation.

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## Introduction

In today's world, changes are taking place at a dizzying speed, driven largely by advances in technology. This situation of constant change, transformation and uncertainty, to which we are forced to adapt, has made it increasingly difficult to arouse interest, and surprise and attract audiences.

The information overload generated by the Internet and new technologies has caused people's attention span for ordinary content to drop and they now seek out more selective and reliable information. Therefore, capturing their interest and providing credibility have become essential for organisations aiming to convey any kind of message.

The importance of communication for public bodies in a global and constantly changing environment is evident from the extraordinary development of political and institutional communication at all levels in recent years.

Today, it is beyond question that all organisations, including the government and public bodies and institutions, need public relations<sup>1</sup>, and that an organisation where there is no communication between the people comprising it and between these and the public is inconceivable<sup>2</sup>.

Nowadays, taking a no-communication approach is no longer an option, as silence is also a form of communication, as well as a risk, because we leave it up to others, whose intentions and interests may not coincide with those of the organisation, to distribute unreported information. Institutions are always communicating, even when they say nothing<sup>3</sup>, and it is advisable to communicate «even bad news and what our logic tells us not to communicate»<sup>4</sup>.

In addition, the phenomenon of «fake news» creates mistrust and makes us aware that not all filters and evaluations are useful to us. We have generated the need to believe certain sources of information and not believe others which, in reality, makes us depend on other people, most of whom we do not know. In order to quickly detect which sources can be trusted, society uses a system, where the information perceived

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1 GRUNIG, James E. and HUNT, Todd. *Dirección de Relaciones Públicas*. [trad.] Adelaida Santapau. Barcelona: Ediciones Gestión 2000 S. A., 2003, pp. 58-59 (The original title is *Managing Public Relations*).

2 CARRETÓN BALLESTER, María del Carmen. *Las relaciones públicas en la gestión de la comunicación interna de la banca española*. La Coruña: Netbiblo 2007, p. 16.

3 RAMÍREZ, Txema. *Gabinetes de comunicación: funciones, disfunciones e incidencia*. Barcelona: Bosch 1995.

4 LORENZO SOLÁ, Francisco. *Las relaciones públicas en la estrategia de comunicación de la Guardia Civil de Alicante: aplicación de modelos conductuales*. Alicante: University of Alicante, 2013. Doctoral thesis, p. 25.

and communicated about an individual or group of individuals precedes our interaction with them, called reputation.

We are thus experiencing a transformation where information will have value only if it is already filtered, evaluated and commented upon by others. As a result, reputation has become a central pillar of collective intelligence and we are moving from the «information age» towards the «reputation age»<sup>5</sup>.

All organisations are confronted with greater risks every day. Global Risk Management Survey 2019 identified damage to reputation as the second biggest risk confronting an organisation, after economic recession<sup>6</sup>.

We can still recall Volkswagen's reputational crisis after the U.S. Environmental Protection Agency exposed the falsification of nitrogen oxide emissions data in a number of vehicles between 2009 and 2015 or that of Samsung after cases of exploding batteries in its Galaxy Note 7 phone model were reported.

In the digital environment, Media Markt was plunged into an online reputational crisis after it published some unfortunate tweets in relation to the Spanish armed forces parade on 12 October 2013, which immediately attracted strong online criticism.

Reputation, therefore, has become an indispensable intangible asset for organisations, and caring for and tending to it has taken on strategic proportions.

Thus, this asset, which is becoming increasingly valuable in financial terms, is a necessity for any organisation intending to convey information to their stakeholders and engage individuals within the organisation, given that organisations and people cannot engage in conversation without first having an institutional reputation.

No organisation can afford to be involved in a reputational scandal which, after creating social and media alarm, might find itself the subject of harmful regulation as an improvised and opportunistic response by the corresponding regulator. The only way to avoid these situations is to anticipate them and plan through communication.

Therefore, the big challenge for organisations is to manage public trust and reputation in the face of changing consumer behaviour and the new habits of an ever more digital citizenry<sup>7</sup>, given that the widespread availability of Internet access inevitably

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5 ORIGGI, Gloria. «Say goodbye to the information age: it's all about reputation now». *Aeon Ideas*. [Published online 14 March 2018]. [Cited on 29 March 2019]. <https://aeon.co/ideas/say-goodbye-to-the-information-age-its-all-about-reputation-now>.

6 AON Empower Results. *Global Risk Management Survey 2019*. [Published online 2019]. [Cited on 20 June 2019]. [https://www.aon.com/2019-top-global-risks-management-economics-geopolitics-brand-damage-insights/index.html?utm\\_source=aoncom&utm\\_medium=2017-grms-popup&utm\\_campaign=grms2019](https://www.aon.com/2019-top-global-risks-management-economics-geopolitics-brand-damage-insights/index.html?utm_source=aoncom&utm_medium=2017-grms-popup&utm_campaign=grms2019).

7 CORPORATE EXCELLENCE - Centre for Reputation Leadership and CANVAS. «Estrategias sostenibles». *Approaching the Future 2019. Tendencias en Reputación y Gestión de Intangibles*. Madrid: s. n., 2019.

means that a significant portion of conversations between organisations and their audiences take place online or, in other words, in the digital environment.

Furthermore, in these times of constant social scrutiny, «Society demands a greater ethical commitment and greater control and involvement in the responsible governance of public and private organisations from the side of public decision-makers»<sup>8</sup>.

In the so-called digital society, military organisations cannot be an exception. Their target audiences cannot be excluded from digital contact, whether transactional or conversational, online or offline, most especially when you consider that they provide a service to the entire population.

Our aim is to demonstrate the appropriateness, usefulness and, indeed, the necessity of building a digital reputation as part of the public relations strategy in order to win the trust of the various target audiences of military organisations.

We will begin by defining some basic concepts, which will allow us, within the framework of public relations, to demonstrate how reputation can be used as a management tool for building trust<sup>9</sup>, how it affords organisations significant strategic advantages and how it is under permanent development. We will then transfer what we have learned to the digital environment, highlighting the main characteristics of digital reputation and how it can transform organisations.

## Basic concepts

### *Public Relations*

It is an indisputable fact that communication is based on different types of relations<sup>10</sup>. What we call public relations involves different corporate processes which, through communication, seek to interpret ideas and information in order to improve target audiences' perceptions of the organisation and, in short, its image and reputation, and engage with these audiences with the aim of winning their trust<sup>11</sup>.

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8 GARCÍA-GUIU LÓPEZ, Carlos. «Ethical leadership and responsible management as levers for improvement in security, emergency and defence organisations». *Journal of the Spanish Institute for Strategic Studies (IEEE)*, No. 9. Madrid: Ministry of Defence 2017, p. 369.

9 ALLOZA LOSANA, Ángel. *La economía de la reputación: un nuevo modelo de gestión empresarial*. Harvard Deusto Business Review, Vol. 2011. December 2011, pp. 44-53.

10 CARRETÓN BALLESTER. *Op. cit.*, p. 16, states that communication «is possible because of the relationships it creates and which it in turn generates».

11 This conclusion was reached by combining the following classical definitions of public relations: GRUNIG and HUNT. *Op. cit.*, p. 52, pointed out that communication is the task of everyone in the organisation and defined it as «managing communication between an organization and its publics». CUTLIP, Scott M. and CENTER, Allen H. *Effective Public Relations*. Englewood Cliffs: Prentice-Hall, 1978, p. 5, include the institutional environment and the concept of interpretation, and define these

On this point, the members of the Public Relations Society of America unanimously agree that «Public relations is a strategic communication process that builds mutually beneficial relationships between organizations and their publics»<sup>12</sup>.

Basically, the aim of public relations is very clear: to create awareness of the organisation and build good relations with the business's various publics by building up a good corporate image<sup>13</sup>, i.e. causing the public to have a positive perception of the organisation.

To achieve this, and as a first step in corporate communication, the organisation must clearly define its target audiences<sup>14</sup>, i.e. groups of individuals who, due to similar circumstances, have common behaviour patterns, and know how to engage with them. These targets have common defining characteristics: they are specific, homogeneous, have a common problem<sup>15</sup> and, as mentioned previously, behave similarly.

It should be noted that each organisation generates its own targets and that, in turn, each particular situation generates priority and secondary target audiences<sup>16</sup>; therefore defining the target audience is extremely important in any communication process.

Of the five general objectives of public relations<sup>17</sup>, the first three focus on building credibility and trust, the fourth on monitoring *reputation* and the fifth, as we will ex-

as «the communication and interpretation of ideas and information to the publics of an institution; the communication and interpretation of information, ideas and opinions from these publics to the institution in an effort to bring the two into harmonious adjustment».

WILCOX, D.; AULT, P.; AGEE, W. & CAMERON, G. *Relaciones públicas. Estrategias y tácticas*. 6ª. Madrid: Pearson Education S. A. 2001, p. 6, which reflects the definition of the Public Relations Society of America, when it states that it is the effort to «maintain mutual understanding between an organisation and all its publics».

12 PUBLIC RELATIONS SOCIETY OF AMERICA. A Modern Definition of Public Relations. *PRsay. The voice of Public Relations*. [Published online 1 March 2012]. [Cited on 12 February 2019]. <http://prsay.prsa.org/index.php/2012/03/01/new-definition-of-public-relations/>.

13 Based on the definition of: KOTLER, P.; ARMSTRONG, G.; CÁMARA IBÁÑEZ, D. and CRUZ ROCHE, I. «Marketing». *Décima*. Madrid: Pearson Educación, S. A., 2004 and ACED, Cristina. *Relaciones Públicas 2.0. Cómo gestionar la comunicación corporativa en el entorno digital*. Barcelona: Editorial UOC 2013.

14 *Publics* are defined as «an active social unit consisting of all those affected who recognise a common problem for which they seek common solutions», according to Dewey's definition cited in: CUTLIP, Scott M.; CENTER, Allen H. and BROOM, Glen M. *Manual de Relaciones Públicas Eficaces*. Barcelona: Ediciones Gestión 2000, 2006, p. 390.

15 GRUNIG and HUNT. *Op. cit.*, p. 58.

16 CAPRIOTTI, Paul. *Planificación Estratégica de la Imagen Corporativa*. 4ª. Málaga: Instituto de Investigación en Relaciones Públicas, 2013, pp. 48-49.

17 CUTLIP, CENTER and BROOM. *Op. cit.*, p. 105, highlight the five objectives of Public Relations:

1. Build credibility and trust between the company and external audiences.
2. Build credibility and trust between the company and internal audiences.

plain in more detail, on creating legitimacy. In short, this discipline is concerned with «managing the reputation of a company among its target audiences»<sup>18</sup>.

Creating trust, through ethics and values that create fluid relationships between organisations and their target audiences, thus allowing for smooth and astute communication, appears to be instrumental in an organisation's communication strategy.

## Trust

Broadly speaking, by trust we mean «a firm belief in someone or something»<sup>19</sup>. A more specific definition of trust would be «the expectation, that arises within a community, of regular, honest and cooperative behaviour based on commonly shared norms, on the part of other members of that community»<sup>20</sup>.

Luhmann describes trust as a *social relationship*, and sees it as an effective system for reducing the complexity of the environment in which we live<sup>21</sup>. Taking it as an indisputable fact that our environment is becoming increasingly complex, trust becomes extremely important in our social life, to the point that it becomes fundamental to almost every action, relationship and transaction<sup>22</sup>.

Indeed, we could say that trust is the catalyst that enables relational interactions between individuals or groups of individuals based on their past social behaviour.

However, this much-needed trust is not something that is easily won, or which can be improvised. «It is slow and hard to earn but easy to lose. It takes earnestness and perseverance and... years»<sup>23</sup>. It can only be earned when open and free spaces for communication are created to connect people with common interests<sup>24</sup>.

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3. Continue to maintain the two previous objectives while increasing our network of business contacts with new target audiences, and design new programmes.
  4. Design a crisis strategy to address new situations and public opinion. Be attentive to any rumours circulating among the public.
  5. Evolve as society changes and give them what they expect of us at all times.

18 ACED. *Op. cit.*, p. 35.

19 The Royal Spanish Academy. *Diccionario de la Lengua Española*. [Online]. [Cited on 2 July 2019]. <https://dle.rae.es/?id=AF8rq9a>.

20 FUKUYAMA, Francis. *Trust: The Social Virtues and the Creation of Prosperity*. New York: Free Press Paperback 1995, p. 26.

21 LUHMANN, Niklas. *Confianza*. Rubí (Barcelona): Anthropos Editorial, 2005.

22 BOTSMAN, Rachel. *Who can you trust? How Technology Brought Us Together - and Why It Could Drive Us Apart*. s.l.: Portfolio Penguin, 2017.

23 BASSAT, Luis. *El libro rojo de la publicidad (ideas que mueven montañas)*. Barcelona: Penguin Random House Grupo Editorial S. A. U., 1993, p. 38.

24 FERNÁNDEZ. *Op. cit.*, p. 3.

Furthermore, certain elements have to be taken into account when building trust, such as credibility, which is required for the development of strategic corporate communication<sup>25</sup>, legitimacy and, especially, reputation, which, in turn, includes image and identity.

### Legitimacy

An organisation's responsibilities<sup>26</sup> stem from what the organisation has the obligation to do or, more subjectively, what the different target audiences expect of the organisation. The concept of legitimacy is based on this idea and consists of how target audiences judge the actors, activities and results of an organisation in relation to the norms, values and expectations they have of it<sup>27</sup>.

Therefore, it can be said that an organisation has legitimacy when its actions are consistent with society's expectations<sup>28</sup>, in other words, when they are perceived as 'desirable, proper or appropriate within some socially constructed system of norms, values, beliefs, and definitions'<sup>29</sup>.

This intangible asset provides a financial and social benefit for any organisation, especially those belonging to the Public Administration, and creates value for the public, such as trust<sup>30</sup>.

### Reputation

Reputation and trust are two closely related concepts, considering that the first paves the way for the second and that both facilitate our development in the social

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25 CUTLIP, CENTER and BROOM. *Op. cit.*, p. 116.

26 In GRUNIG and HUNT. *Op. cit.*, p. 116, an organisation's responsibilities can be classified into three categories:

1. The performance of basic tasks.
2. The organisation's concern for the consequences of its activities for external groups.
3. The organisation's concern for solving general social problems.

27 ROBLES López, Carmen María. *La reputación y la legitimidad como bienes intangibles en el sector público. El caso del ministro y el Ministerio de Educación, Cultura y Deporte (2011-2015)*. Madrid: Complutense University of Madrid, 2016. Doctoral thesis, p. 37.

28 DE QUEVEDO PUENTE, E., DE LA FUENTE SABATÉ, J. M. and DELGADO GARCÍA, J. B. «Reputación corporativa y creación de valor. Marco teórico de una relación circular». *Investigaciones Europeas de Dirección y Economía de la Empresa*, vol. 11, 2. 2005, pp. 81-97.

29 SUCHMAN, M. *Managing legitimacy: Strategic and Institutional Approaches*. *Academy of Management Review*, Vol. 20. New York: s.n., 1995, pp. 571-610, p. 574.

30 *Ibíd.*, p. 44.

environment. Therefore, because we know that a good corporate reputation allows organisations to gain a great deal of *trust* from all stakeholders<sup>31</sup>, it can be concluded that only organisations «that continuously strive to maintain and improve their reputation will be able to build trust»<sup>32</sup>.

Reputation, i.e. what others say about us<sup>33</sup>, can be considered «a positive sentiment towards a person or an institution that incorporates three vectors: admiration, esteem and *trust*»<sup>34</sup>.

In an organisational context, corporate reputation can be defined as the *perception* that the various stakeholders of an organisation have of the organisation. These perceptions are shaped by how the organisation has behaved over time and describe its capacity to distribute value among its stakeholders<sup>35</sup>.

While it can also be described as the widespread perception that the organisation «demonstrates legitimacy in its relations with stakeholders, both in terms of behaviour and information transparency»,<sup>36</sup> the most widely accepted definition in the public relations sector is the definition provided by the Corporate Reputation Forum and the Reputation Institute, namely, «the set of perceptions that the various internal and external stakeholders that interact with the company have of the company based on how the company has behaved over time and its capacity to distribute value to these stakeholders»<sup>37</sup>.

The way to build a good corporate reputation is to work on «the perception each stakeholder has of the organisation»<sup>38</sup> by defining a genuine and appropriate pur-

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31 GARICANO ROJAS, Tomás. *El Gobierno corporativo y la reputación corporativa*. Investigaciones y Publicaciones del Centro de Gobierno Corporativo. Centro de Gobierno Corporativo, 2011, pp. 79-132, p. 84.

32 CORPORATE EXCELLENCE - Centre for Reputation Leadership & CANVAS. *Estrategias sostenibles*. *Op. cit.*, p. 21.

33 WALLER, David and YOUNGER, Rupert. *The Reputation Game. The Art of Changing How People See You*. London: Oneworld Publications 2017, p. 7.

34 CARRERAS, Enrique; ALLOZA, Ángel and CARRERAS, Ana. *Reputación corporativa*. Madrid: LID Editorial S. L. 2013, p. 30.

35 CORREDERA, Julián and GONZÁLEZ, Marcos. *Diccionario LID. Responsabilidad y sostenibilidad*. Madrid: LID Editorial Empresarial 2011.

36 DE QUEVEDO PUENTE, DE LA FUENTE SABATÉ and DELGADO GARCÍA. *Op. cit.*, p. 83.

37 DE SALAS NESTARES, María Isabel and MONSERRAT GAUCHI, Juan. *La reputación corporativa como instrumentos de articulación en la gestión de la organización*. FISEC-Estrategias, Vol. Año VI. Faculty of Social Sciences, National University of Lomas de Zamora, 2011, pp. 37-59, p. 42.

38 MARTÍNEZ-ALONSO, M. A. *Plan Estratégico de Comunicación para el ISFAS. Una propuesta concreta*. Alicante: University of Alicante, 2014. Master's Dissertation.

pose, having good management, being efficient and having a real and demonstrable impact<sup>39</sup>. Accordingly, reputation is a means of enhancing *trust* and the *credibility* of the organisation in the eyes of its stakeholders, and of communicating more effectively<sup>40</sup>.

For his part, Capriotti, who sees image and reputation as a basic common concept, defines it as a cognitive structure of the target audience, the result of information consumption by individuals, which gives rise to a mental structure of the organisation that is capable of generating evaluations and behaviours<sup>41</sup>.

«Institutions and people have always employed communication as an element of power and to build a good image among their audiences»<sup>42</sup>. Image, as we have seen, is a key aspect of communication and, hence, of public relations. Moreover, it plays a pivotal role in building an organisation's reputation, given that a positive image in the eyes of the public will eventually become a good reputation<sup>43</sup>.

Corporate image can therefore be defined as the «set of meanings that a person associates with an organisation». However, this does not mean that each organisation has only one image; on the contrary, there may be different types of images: company image, brand image and product image<sup>44</sup>.

In short, an organisation's image is the mental structure that «target audiences form of the organisation after processing all information relating to the organisation»<sup>45</sup>. Thus, in order to achieve a strong and successful result, the image projected must be «consistent with the organisation's real identity, in other words, its way of being and acting»<sup>46</sup> and it must be based on corporate identity<sup>47</sup>.

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39 VILLAFANE & ASOCIADOS. Interview with V&A. María Ruiz Pacheco, Director of Consulting. *Villafañe & Asociados Consultores*. [Published online 12 December 2018]. [Cited on 17 February 2019]. <http://villafane.com/entrevista-maria-ruiz-pacheco/>.

40 LÓPEZ JIMÉNEZ, David. «Identidad y reputación de carácter digital: repercusión de los medios sociales». *Paakat: Revista de Tecnología y Sociedad*, 2. University of Guadalajara (Mexico). March-August 2012, p. 3.

41 CAPRIOTTI, Paul. «De la imagen a la reputación. Análisis de similitudes y diferencias». *Razón y Palabra*, vol. 14, 70. Monterrey Institute of Technology and Higher Education. November-January 2009, pp. 1-10.

42 LORENZO SOLÁ. *Op. cit.*, p. 12.

43 GARICANO ROJAS. *Op. cit.*, pp. 79-132.

44 MÍNGUEZ, Norberto. «Un marco conceptual para la imagen corporativa». *ZER - Revista de Estudios de Comunicación*, Vol. 5, 8. Bilbao: University of the Basque Country 2000, p. 5.

45 CAPRIOTTI. *Planificación Estratégica de la Imagen Corporativa. Op. cit.*, p. 29.

46 GARICANO ROJAS. *Op. cit.*, p. 89.

47 VILA LÓPEZ, Natalia. «La gestión integral de la imagen de marca en el sector sanitario». [In] Asunción Hernández Fernández and José María Martínez García. *Marketing sanitario. Evolución - Revolución*. Madrid: ESIC Editorial 2014, p. 184.

## Digital reputation

Today, the Internet makes it possible for anyone to express his or her opinion about anything and anyone and for that opinion to be disseminated. Widespread access and use of the Internet has made us all opinion formers, judgement passers and information creators. In this context, public relations has adapted to and become part of the digital environment and, while the basic principles of public relations have not changed, it has taken on specific characteristics.

Therefore, online communication is an important instrument for public relations experts because the Internet presents certain key aspects such as global reach, the fact that its content is not subject to any type of controls and information tracking is more thorough and immediate<sup>48</sup>.

In addition, the difference between the online and offline environment is that electronic word of mouth is more «infectious, rapid and persistent», hence communication in this environment must be faster and more precise<sup>49</sup>.

All these circumstances mean that the concept of *perception management* in traditional public relations has become *trust building* in public relations 2.0. In other words, the traditional idea of *persuasion* has become *trust building* in the digital world. Hence, the practice of public relations 2.0 focuses on communicating values and ethics as an absolute concept in the organisation<sup>50</sup>.

In short, public relations 2.0 is «an assumed attitude and the use of a set of applications spawned by the information society which enable one-to-one communication with organisations' communities; and which encourage the creation of experience and content»<sup>51</sup>.

This digital medium is primarily made up of social media which «weave a new utopian and imaginary social fabric through the immediacy of contact» and which constitute a «virtual market where the symbolic value of one's own –ever-under-construction– identity is auctioned, frequented by peers who come to forge closer ties, on the one hand, and to share knowledge of the environment on the other»<sup>52</sup>. In the

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48 WILCOX, AULT, AGEE and CAMERON. *Op. cit.*, p. 278.

49 LEIVA-AGUILERA, Javier. *Gestión de la reputación online*. Barcelona: Editorial UOC 2012, p. 17.

50 FERNÁNDEZ, Matias. «Relaciones Públicas 2.0». *Razón y Palabra*, Vol. 11, 52. Monterrey Institute of Technology and Higher Education. August-September 2006, pp. 3-4.

51 SILVA ROBLES, Carmen and ELÍAS ZAMBRANO, Rodrigo. «Relaciones Públicas 2.0 (y educación). ¿De qué hablamos realmente? Un acercamiento conceptual y estratégico». *Fonseca, Journal of Communication*, 3. University of Salamanca 2011, pp. 72-96.

52 PIÑUEL RAIGADA, José Luis. «Redes sociales, discursos y crisis de reputación». [In] José Luis Piñuel Raigada and Jérôme Ferret. *e-Reputación. La construcción de la reputación on line y su vulnerabilidad*. Salamanca: Comunicación Social Ediciones y Publicaciones 2016, p. 1.

social media, which is open to everyone, all types of opinions and judgements are expressed and remain there to be viewed by any other user and even virally distributed and shared infinitely if they meet the necessary conditions.

In this context, when the reputation construct is confined to the digital medium, it is called online reputation, digital reputation or, as French authors prefer to call it, *e-réputation*. However, there is really «only one corporate reputation, and online reputation is an expression of the public's recognition of a company in online, digital and social media»<sup>53</sup>.

In relation to the digital medium, online reputation can be regarded as the value achieved by an organisation through the use or misuse of the opportunities afforded by the Internet<sup>54</sup> and is a direct result of appropriate management of digital identity to create virtual image<sup>55</sup>.

In general, Capriotti describes the concept of reputation as a construct of reception, as he sees it as a mental representation or perception. However, when the concept refers to the digital environment, it takes on a strategic role in communication, becoming a set of actions to be performed and behaviours to be publicised, and this has more to do with the construct of transmission because it becomes a corporate management tool that acts on all target audiences<sup>56</sup>.

Digital reputation affects all targets equally because of the permeability brought by the globality and accessibility of social media and it can be damaged (franchises may be in jeopardy and goodwill may be eroded) among those with access to Internet messages<sup>57</sup>, i.e. among all targets, precisely because of the universality of the medium.

Consequently, although corporate reputation runs along two converging paths (the online and the offline), it is considered that digital reputation transcends the online medium, in other words, the Internet impacts both the online and offline worlds<sup>58</sup>.

Furthermore, as mentioned previously, all organisations are constantly communicating, whether intentionally or not, beginning with their staff, which gen-

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<sup>53</sup> VILLAFANE & ASOCIADOS. Villafañe & Asociados Consultores. Reputación Corporativa. *Villafañe & Asociados Consultores*. [Published online 2019]. [Cited on 17 February 2019]. <http://www.villafane.com/reputacion-corporativa/>.

<sup>54</sup> LÓPEZ JIMÉNEZ, David. «Identidad y reputación de carácter digital: repercusión de los medios sociales». *Paakat: Revista de Tecnología y Sociedad*, 2. University of Guadalajara (Mexico), March-August 2012.

<sup>55</sup> SILVA ROBLES and ELÍAS ZAMBRANO. *Op. cit.*, pp. 72-96.

<sup>56</sup> CAPRIOTTI. *De la imagen a la reputación. Análisis de similitudes y diferencias*. *Op. cit.*, pp. 1-10.

<sup>57</sup> CUTLIP, CENTER and BROOM. *Op. cit.*, p. 491.

<sup>58</sup> LÓPEZ JIMÉNEZ. *Op. cit.*, p. 9.

erates a particular external public opinion. This is why it is so important that the image conveyed to the external public is the same as the image held by the internal public<sup>59</sup> and why taking care of an organisation's talent becomes extremely important.

Accordingly, virtual reputation management becomes a key way for companies to inspire trust<sup>60</sup> and inevitably emerges as a strategic element in an organisation's public relations mix.

If you examine the process of transformation that is currently taking place, you will notice that «as the economy becomes digitised, trust evolves because new ways of building, receiving and showing it become necessary. One of the most anticipated developments in this new digital space will be to see how trust is transformed into online reputation»<sup>61</sup>.

### Digital reputation as a strategy

Public relations or (corporate) communication in an organisational context has become «an indispensable tool for conveying the vision, mission and values set in the organisation's overall strategy to all stakeholders»<sup>62</sup>. Achieving a good reputation by forging a positive image and garnering widespread social recognition<sup>63</sup> is, likewise, the public relations goal of any organisation.

Firstly, organisations need to be aware that their reputation, which is continually being built, is not entirely under their control because what is said about them originates from other individuals or groups, whose intentions are unknown to the organisation. In the reputation age, where the digital medium reigns supreme because of its globality, immediacy and accessibility, no organisation's overall strategy can afford to overlook reputation management. It can therefore be concluded without a shadow of a doubt that «online reputation and digital identity are strategic concerns for every organisation»<sup>64</sup>.

The proper use of reputation as a public relations strategy can bring important competitive advantages, such as fostering a spirit of cooperation and company val-

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<sup>59</sup> CUTLIP, CENTER and BROOM. *Op. cit.*, p. 73.

<sup>60</sup> LÓPEZ JIMÉNEZ. *Op. cit.*, p. 8.

<sup>61</sup> ARROYO, Liliana; MURILLO, David and VAL, Esther. *Confiados y confiables. La fabricación de la confianza en la era digital*. ESADE Institute for Social Innovation and E&Y Foundation Spain, 2017, p. 6.

<sup>62</sup> DE SALAS NESTARES and MONSERRAT GAUCHI. *Op. cit.*, p. 55.

<sup>63</sup> MARTÍNEZ-ALONSO. *Op. cit.*, p. 101.

<sup>64</sup> SILVA ROBLES AND ELÍAS ZAMBRANO. *Op. cit.*, pp. 72-96.

ues<sup>65</sup>. By the same token, if reputation is neglected or mismanaged it can trigger crises, to which organisations will have to provide an effective response<sup>66</sup>.

Early identification of potential reputational risks is essential for preventing scandals and crises. If these occur, immediate reaction is the only way to protect this intangible asset; however, the reaction must be anticipated and orderly.

As is the case with every strategy, planning is key. In the *visioning* phase of strategic planning, the organisation should include «its definition of the vision and mission, setting out the principles that will guide the organisation's conduct with the different stakeholders»<sup>67</sup>, paying special attention to talent.

Corporate Communication in any organisation consists of two forms of communication: Communicative Action, or what the organisation says about itself, and Corporate Conduct, the organisation's everyday actions<sup>68</sup>. The two must be consistent and coordinated so that the perceptions of all target audiences build a favourable reputation for the organisation. Corporate reputation, the result of comparing what you say you will do with what you do and the public's opinion in this respect, means that it is essential that the organisation's objectives and values are aligned with its conduct and actions, as well as with the public's experiences and expectations. In short, the organisation needs legitimacy.

The current situation, in the digital environment in particular, is subject to constant scrutiny and demands for transparency. In this context, therefore, the concept of digital reputation is especially important and, moreover, a precondition for the existence of the much-coveted and necessary conversations.

All these concepts will become increasingly important in the future, given that the next ten years will be a period of explosive connectivity and asymmetric upheaval<sup>69</sup>. Thus, in this increasingly hyper-connected world, it is logical to think that the digital medium will virtually monopolise organisations' conversations with their public, precisely because the medium facilitates this.

However, in this emerging environment, it will not be enough for organisations to have a simple presence on the Internet, they will have to become part of it and play the role of active listener in conversations that are «frank, sincere and representative of their values»<sup>70</sup>.

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65 DE SALAS NESTARES AND MONSERRAT GAUCHI. *Op. cit.*, p. 55.

66 LÓPEZ JIMÉNEZ. *Op. cit.*, p. 9.

67 GARICANO ROJAS. *Op. cit.*, p. 87.

68 CAPRIOTTI, PAUL. *Comunicación Corporativa. Una estrategia de éxito a corto plazo*. 13 August 1999, Reporte C&D - Capacitación y Desarrollo, pp. 30-33.

69 JOHANSEN, Bob. *The New Leadership Literacies. Thriving in a Future of Extreme Disruption and Distributed Everything*. Oakland: Berrett-Koehler Publishers, Inc., 2017. Institute for the Future.

70 FERNÁNDEZ. *Op. cit.*, p. 4.

In short, it can be concluded that reputation is power and that advances in technology have given it more power than ever before<sup>71</sup>, thus making it a matter of critical strategic importance, which military organisations need to take into account.

## Military organisations

This broad category encompasses any organisation, national or international, comprised in whole or in part of military personnel engaged in national defence or one of its main axes.

This exceptional mission, which is a public asset, gives these types of organisations special social visibility and resonance. Accordingly, these organisations must 'not only fulfil their core mission, but do so effectively, responsibly and transparently, be exemplary role models in the management of their resources and be consistent in their duties<sup>72</sup>.

It can therefore be concluded that being an exemplary role model is one of the main means of achieving legitimacy for these organisations, with the double requirement that each of the organisation's members be seen as a role model by society in everything they do, inside state borders and in the countries to which they are posted or cooperate with allied armies<sup>73</sup>.

From the point of view of communication and public relations, military organisations, as public administration and government institutions, cannot afford to come to a standstill for being unable to «constantly speak to the people as individuals and in and through the different groups to which they belong»<sup>74</sup>. All their actions must be correctly perceived by their target audiences, bearing in mind that they attract far more attention from the media and, hence, the public, than any other organisation<sup>75</sup>.

Although every organisation has a corporate culture that influences its members' behaviour, military organisations have a very specific culture which is firmly entrenched in its members; this increases the potential of internal communication<sup>76</sup> in these organisations, making it a strategic aspect.

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71 FERTIK, Michael and THOMPSON, David C. *The Reputation Economy. How to Optimize Your Digital Footprint in a World Where Your Reputation Is Your Most Valuable Asset*. London: Piatkus 2015.

72 CARTELLE VILLAR, Juan Alberto. «La responsabilidad social corporativa en las FAS». *Revista General de Marina*, No. 262. Madrid: Ministry of Defence, January-February 2012, pp. 37-50, p. 43.

73 GARCÍA-GUIU LÓPEZ. *Op. cit.*, p. 185.

74 PIMLOTT, J. A. R. *Public Relations and American Democracy*. Princeton: Princeton University Press, 1951, p. 64.

75 CUTLIP, CENTER and BROOM. *Op. cit.*, p. 115.

76 In CASTILLO ESPARCIA, Antonio. *Las relaciones públicas internas como factor de gestión empresarial*. *Anàlisi* 34, 2006, pp. 193-208, internal communication is defined as «the element that allows an organisation's internal audience to participate in the formalisation and decision-making

This characteristic defines and conditions corporate communication in these organisations. Indeed, back in the 1990s, Admiral Kendell Pease<sup>77</sup> stated that military public relations was similar to public relations in other sectors but with greater emphasis placed on the internal audience in the understanding that the members of these organisations are key elements in corporate communication.

Therefore, a holistic approach should be taken to reputation strategy within the organisation, since it is the responsibility of each and every one of its members, who should know it and internalise it. Thus, «all of the organisation's critical functions and activities must assume this responsibility in their day-to-day management in a cross-cutting manner»<sup>78</sup>.

To achieve appropriate external communication, the internal communication strategy must be a success and begin «inside the organisation and work outwards, moving from command and control to relationships based on commitment, principles and trust, and incorporate development programmes and organisational learning into internal communication strategies»<sup>79</sup>.

Special attention should be afforded to this aspect because certain factors in military organisations can constitute an obstacle to, among other things, establishing the right connection with internal and external audiences.

Vego<sup>80</sup> speaks of how the «military's inherent hierarchical command structure –and authoritarian and bureaucratized system– and its thinking, which is exemplified by conformity, group-think, parochialism, dogmatism»<sup>81</sup> are the main impediments to military creativity and how this can lead to demotivation. In this vein, he mentions other characteristics typically found in these organisations, such as unquestioning obedience, how the peacetime environment encourages breeding of officers who rigidly follow rules, the policies and systems for military promotions, the authoritarian tendencies of the higher commanders, a fear of failure and making mistakes, the heavily bureaucratized system and some chiefs' tendency to create fiefdoms of power and influence.

These circumstances not only impede the normal flow of creativity among individuals and groups, but also create demotivation and apathy, which directly impact the reputation of the organisation and its communication to internal and external stakeholders.

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process through information and engagement. All of this will result in improved understanding, motivation and the achievement of common goals».

77 Former Chief of Information of the United States Department of the Navy.

78 DE SALAS NESTARES and MONSERRAT GAUCHI. *Op. cit.*, pp. 37-59.

79 FERNÁNDEZ. *Op. cit.*, p. 4.

80 Professor of Joint Operations at the Naval War College. U. S. Navy. 2013.

81 VEGO, Milan. «On Military Creativity». *JFQ*, 3rd quarter (70), 2013, pp. 83 – 90, p. 84.

It should be borne in mind that members of an organisation are tuned in to internal and external conduct, and that their perceptions are shaped by both types of conduct. Therefore, what we could call internal reputation is formed by how the members of an organisation perceive the organisation's corporate conduct towards all its targets, not just themselves<sup>82</sup>.

In the future, human capital will undoubtedly be the most critical factor in our defence policy, and talent management will afford an important competitive advantage and emerge as one of the key elements for «identifying, promoting and developing individual talent and turning it into organisational talent»<sup>83</sup>. Therefore, as mentioned previously in relation to attracting and retaining talent, the organisation's reputation becomes paramount, and if we take into account the age of active servicemen and the generation to which they belong, digital reputation becomes even more important.

As pointed out earlier, digital reputation activities need to be planned and scheduled in the organisation's overall reputation strategy. In addition, the basic requirements of the person responsible for developing it need to be defined, bearing in mind that the current situation calls for a high level of public relations professionalism from those responsible for military public affairs, including high standards of ethics and sound training<sup>84</sup>.

The position of Chief Reputation Officer (CRO) will become necessary for military organisations. This role should be in a position to influence strategy and be able to engage and hold to account all of the organisation's members and coordinate the management of reputation across the entire organisation in accordance with the strategic plan<sup>85</sup>.

## Digital reputation and transformation

Transformation can be defined as a special type of change that is holistic, nonlinear, impacts profound aspects of organisations (values, beliefs, etc.) and involves the modification of conceptual, cognitive and operational frameworks within the organisation<sup>86</sup>.

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82 VILLAFANE & ASOCIADOS. Twitter. [Published online 2 July 2019]. [Cited on 2 July 2019]. <https://mobile.twitter.com/VillafaneyAsoc/status/1145950484353732608>.

83 RUIZ, Benítez. *Liderazgo y gestión del talento. V edición de las jornadas «El Ejército de Tierra y los retos futuros»*. Revista Española de Defensa, 361. Madrid: Ministry of Defence, May 2019, pp. 42-43.

84 CUTLIP, CENTER and BROOM. *Op. cit.*, p. 663.

85 DE SALAS NESTARES and MONSERRAT GAUCHI. *Op. cit.*, pp. 37-59.

86 CALDERÓN HERNÁNDEZ, G.; CUARTAS CASTAÑO, J. & ÁLVAREZ GIRALDO, C. M. «Transformación organizacional y prácticas innovadoras de gestión humana». *Innovar*, 19 (35). 2009, pp. 151-166.

The current and future situations described earlier force organisations to immerse themselves in the process of adapting to transformation. This transformation cannot be confined merely to structural changes or the digital transformation fad, but calls for profound changes to the corporate culture and philosophy and the definition of an identity, adapted and adaptable, to the organisation itself.

Any organisation seeking to survive cannot pay mere lip service to transformation, showing only superficial and opportunistic elements to its target audiences. On the contrary, the transformation has to be profound, genuine and courageous so that it is perceived as such by internal audiences and so that these assist in conveying the reputation to external targets.

Therefore, a key element is that adaptive changes be based on talent and attitude because real transformation is a human process<sup>87</sup> which, in the case of military organisations, involves both the members of the organisation and society at large. Indeed society, in whom these organisations must inspire a feeling of safety and which supports them financially, may even demand changes and adaptations as it evolves.

To avoid falling short of expectations, this transformation should be undertaken before it is demanded by the public. Anticipating social needs will, moreover, endow the military organisation with a more enduring reputation based on skills and efficacy.

At the same time, public relations will play a critical role in managing reputation because of its cross-cutting and strategic nature within the organisation. Digital reputation, as an essential and extremely important element in the transformation process, is a perfect tool because of its capacity for overarching action, immediate engagement with audiences and its enormous potential.

Changing individual perceptions of the organisation's image within the organisation calls for a change in individual behaviour which, when combined, will change organisational behaviour and transform the corporate culture.

No less necessary in this process is a change in the behaviour of the most influential members of the organisation who, in short, are responsible for defining the organisation's strategic plan and corporate philosophy, that is to say, its vision and values. Similarly, corporate identity is closely linked to the organisation's purpose, which should also be defined in the strategic plan.

It has been demonstrated that when the transformation is genuine and correctly perceived, it contributes to improving the organisation's reputation and this is a transformative element in itself. It could be said that it sets in motion a sort of virtuous circle where the two concepts feed off each other. A salient feature of this circle is the mutual influence that digital reputation and digital transformation exert on each other, given that the first is an integral part of the second, which gives it real meaning and exponentially improves the first as it develops.

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<sup>87</sup> *Ibíd.*, p. 152.

In summary, military organisations must incorporate into their identity a process of continuous transformation that anticipates society's demands, and digital reputation, as part of the organisation's public relations strategy, is a contributing strategic element that should be harnessed.

## Results and conclusions

The practice of managing communication, which is based on relationships between organisations and their target audiences, is what is known as public relations. Its primary goal is to improve these audiences' perceptions of the organisation by understanding them and interpreting information and ideas.

Organisations must have credibility in the dialogue they engage in with their audiences and earn their trust, as this is fundamental for any interaction. Trust must be earned over time and cannot be improvised. Therefore, it is essential to have credibility and legitimacy, in other words, that audiences feel they can safely believe the organisation's message and see its actions as desirable and in line with their expectations.

It is generally agreed that reputation plays a direct role in the trust-building process. This concept, i.e. the public's perception of an organisation based on its actions and conduct throughout time, is closely linked to the concept of image, which, while also a perception, is more short-term; hence, if a good image is maintained over time, it creates a good reputation.

In the digital environment, which is much more demanding in terms of speed and accuracy, managing reputation is extremely important due to the far-reaching impact of this medium, the absence of control over content and the ease and speed with which information can be traced.

Digital reputation has become a key strategic issue in the public relations of any organisation, primarily for the following reasons:

1. It is essential in conversations with the public.
2. It has a strong impact because of the permeability of the digital medium.
3. It impacts both online and offline media.
4. It affects all of the organisation's target audiences, both internal and external.

Affording digital reputation the importance it deserves in the public relations strategy of an organisation has the following advantages:

1. In the immediate future, most conversations that organisations engage in with their public will take place in the digital environment, and a positive reputation gives the organisation the credibility it needs to ensure that the conversations do not damage the organisation.
2. Digital reputation gives conversations an immediacy and speed not found in offline reputation.

3. A good digital reputation, forged through transparency, legitimacy and ethics, makes it easier for the general public to accept the organisation and its messages.
4. Digital reputation helps to avoid negative judgments about the organisation which, in the digital environment, carry the risk of becoming permanent.
5. A good digital reputation helps the organisation to attract and retain talent.
6. In general, online reputation generates supportive behaviour both online and offline.
7. In addition, it fosters a spirit of cooperation and expands the values of the organisation.

A good reputation can be built by:

1. Working on each stakeholder's perception of the organisation's corporate image.
2. Giving the organisation a genuine and appropriate purpose, having good management and being efficient.
3. Communicating values and ethics.
4. Pursuing long-term strategies and avoiding improvisation.
5. Conveying consistency, transparency and legitimacy.
6. Providing quick and timely responses.

Although they function like any other organisation, military organisations nevertheless have specific characteristics which, from a public relations perspective, make them especially sensitive to public opinion. These characteristics are as follows:

1. They provide their services to the entire population; therefore, the whole of society is a target audience.
2. Their activities have a major social impact.
3. Society expects a higher level of ethics, exemplary conduct and accountability from them.
4. These organisations have a strong corporate culture and their internal audiences require special attention.

For all these reasons, defining a public relations strategy focused on digital reputation becomes more important than ever for these types of organisations, one which enables the organisation to build high levels of trust among its audiences and resolve any crises they may be confronted with on account of their high social exposure in an appropriate manner. In addition, it plays a key role in attracting and retaining talent, a critical factor in defence policy.

Implementation of this strategy in military organisations should be managed and coordinated by a Chief Reputation Officer (CRO) with the appropriate organic strategic level and preparation, an aspect that could be the subject of future studies.

Digital reputation strategy has a transformative effect on the members of an organisation, particularly in relation to corporate culture. If this is strengthened and internalised by military organisations, the transformation it brings about is real and profound. At the same time, this transformation feeds the organisation's reputation,

from which its members benefit and are proud of, and creates a mutually nourishing effect between reputation and transformation, which are continually being built, thus having enormous benefits for the organisation.

It can therefore be concluded that digital reputation strategy is necessary in military organisations and is capable of transforming them and adapting them to the requirements of their target audiences.

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## *The breakdown of the system of strategic stability and possible scenarios for the future*

### **Abstract**

In this paper, we argue that the international system has undergone a complete transformation in a few short years and that the possibility of its complete destruction has increased several hundredfold during this time. Consequently, it seems fitting to reflect upon an issue that has been raised on more than one occasion: Is a third world war imminent? Has decision-making reached the point of no return? The phrase, «no, it cannot be», has changed to «yes, it can, if we believe we have something to gain». These are the devastating consequences of ignorance, disdain for diplomacy, a false superiority complex and, most especially, the suicidal tendency that humanity as a whole has been cultivating since the beginning of time. The huge advances in technology can be envisaged alongside extinction because, in reality, some will survive on a dead planet. This may be the end of civilisation as we know it and the dawn of a new civilisation in a different world. These are hard questions to ask. But we ask them nevertheless. Even though we have no clear answers.

### **Keywords**

Global security, strategic stability, arms control, INF Treaty, nuclear weapons.

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## Introduction

«Dedicated to my teacher, eladio arroyo lara, professor of public international law and international relations».

In this paper, we assess the implications for the international system of the withdrawal of the United States and Russia from the Intermediate-Range Nuclear Forces Treaty (INF Treaty), signed in Washington on 8 October 1987 by President Reagan and Soviet General Secretary Gorbachev and ratified on 1 June 1988<sup>1</sup>. To this end, we will examine what disarmament treaties and cooperation mechanisms introduced at the end of the Cold War are still in force, and whether these are likely to remain in place or be dismantled in their entirety, a move which would jeopardise the system of strategic stability that has thus far ensured peace and security between the two great nuclear powers. In our study, we analyse the approaches taken by the U. S. and Russia based on the statements made by their most senior political and military representatives. Before doing so, however, we should clarify that by strategic stability we mean the balance of power within which neither party can gain a strategic advantage at the expense of the other, i.e. a situation where neither party would have an incentive to use nuclear weapons first because they have no guarantee that they will emerge from the conflict the victor.

From a Western perspective, we will examine the stance of the North Atlantic Alliance (NATO), which advocates taking some sort of action but fails to specify what exactly, given that the organisation is subordinate to the political hegemony of the U.S. and its security interests. In addition, we will look at the standpoint of the European Union, which demonstrates Europe's inability to take a common stance on such an important issue for European security, despite repeated calls for strategic autonomy.

In the final considerations, we examine three scenarios for the near future. The first is to let each power do as they please, in which case we can expect to see a new nuclear arms race in Europe, along the lines of the Soviet/U.S. conflict of the 1980s, which led to the deployment of the so-called *Euromissile*. The second scenario involves the negotiation and signing of a new general treaty covering all nuclear weapons, both strategic and non-strategic, in the hands of the two great powers. This would include the permanent renewal of the Strategic Arms Reduction Treaty (New START), signed in Prague on 8 April 2010 between presidents Obama and Medvedev, which entered into force on 5 February 2011<sup>2</sup>. The third is the most hypothetical of the three scenarios; it envisages the two major powers in the European Union –France and Germany– becoming aware of the interests currently at stake in the area of security and being

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<sup>1</sup> The text of the INF Treaty is available at the U.S. Department of State website: <https://www.state.gov/t/avc/trty/102360.htm>.

<sup>2</sup> The text of the New START Treaty is available at the official website of the U.S. Department of State: <https://www.state.gov/t/avc/trty/126118.htm>.

capable of progressing towards the establishment of an intra-European nuclear control system, which would form the basis of a new European security system within the global strategic stability regime.

### The dangerous rhetoric of a nuclear attack and preemptive strike

In early October 2018, the U.S. Ambassador to NATO, Kay Bailey Hutchison, stated that Russia must halt its covert development of a banned cruise missile system or the United States would seek to destroy it before it became operational. The statement, aside from being surprising coming from a senior diplomat, was also extremely worrying and, indeed, led to quite a powerful newspaper headline: «U.S. would destroy banned Russian warheads if necessary»<sup>3</sup>. Although the article did go on to state that Washington remained committed to finding a diplomatic solution, it nevertheless spoke of the possibility of launching a preemptive strike against Russian military forces and facilities. Almost immediately, Ambassador Hutchison tweeted from her official account –let us not forget that Twitter has become the oracle of the «New Era»– to clarify that, when she made this statement, she was not talking about a preemptive strike against Russia<sup>4</sup>; however, she had threatened to destroy Russian cruise missiles, which is the same thing. The development of a particular cruise missile had been repeatedly denounced as a violation of the INF Treaty by U.S. officials. We must remember that the Treaty laid down the general prohibition to produce, possess, store or deploy ground-launched ballistic and cruise missiles with ranges of 500–5,000 kilometres, and resulted in the elimination of a total of 2,692 nuclear and conventional ground-launched missile systems by the U.S. and Russia before the entry into force of the Treaty in May 1992.

In addition, Ambassador Hutchison went on to clarify that what she actually meant was «Russia needs to return to INF Treaty compliance or we will need to match its capabilities to protect US & NATO interests»<sup>5</sup>. Yet this is precisely what senior officials in Moscow had accused the U.S. of doing: developing new missile capabilities contrary to the provisions of the disarmament treaties.

A flurry of statements by senior politicians ensued. The Secretary General of NATO, Jens Stoltenberg, stated that «We remain concerned about Russia's lack of respect for its international commitments, including the INF Treaty. [...] After years of denials, Russia recently acknowledged the existence of a new missile system, called 9M729. Russia has not provided any credible answers on this new

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<sup>3</sup> EMMOTT, R. «U.S. would destroy banned Russian warheads if necessary: NATO envoy». *Reuters*, 2. October 2018, at <https://www.reuters.com/article/us-usa-nuclear-russia/u-s-would-destroy-banned-russian-warheads-if-necessary-nato-envoy-idUSKCN1MC1J6>.

<sup>4</sup> Available at <https://twitter.com/USAmbNATO/status/1047203183964160001>.

<sup>5</sup> *Ibid.*

missile»<sup>6</sup>, before going on to add that «All Allies agree that the most plausible assessment would be that Russia is in violation of the Treaty. It is therefore urgent that Russia addresses these concerns in a substantial and transparent manner»<sup>7</sup>. And we will see how these statements became the mantra of advocates for withdrawal from the treaty on both sides of the Atlantic.

It should be clarified that the missile the Western officials speak of is the Novator 9M729 cruise missile (NATO equivalent: SSC-8). This missile is a ground-launched variant of the 3M14 Kalibr missile (NATO: SS-N-30A Sagaris), which was extensively tested in the Syrian Civil War, and adapted to the short-range, nuclear-capable ballistic missile system Iskander-M. Russia has twelve of these missiles deployed throughout its territory, including the Kaliningrad region. A variant of this missile, possibly the 3M728, was tested in a real launch during the «Zapad-2017» exercises performed in Russia's Western Military District in September 2017, very close to the border with the Baltic republics.

However, we need to go further back in time. In October 2016, the Chairman of the Defence Committee of the Russian State Duma, Vladimir Shamanov, stated that the deployment of the Iskander-M system in Kaliningrad was a response to the potential threat posed to Russia by the installation of U.S. anti-missile defence systems in Europe, specifically in Deveselu in Romania, and subsequently in Poland, which have gone from being former allies of the Soviet Bloc to becoming territories from which NATO can pressure Russia<sup>8</sup>.

Not surprisingly, Russia has repeatedly denied these accusations, arguing that it has not developed missiles that violate the INF Treaty<sup>9</sup>, even though it is a fact that the congested Syrian skies are ablaze with Russian cruise missiles intended to destroy valuable terrorist targets. In an official statement made in response to Ambassador Hutchison's statements, the spokesperson for Russia's Ministry of Foreign Affairs, Maria Zakhárova, had no hesitation in pointing out that «It seems that people who make such statements do not realize the level of their responsibility and the danger of aggressive rhetoric»<sup>10</sup>.

6 Indeed, the statements were quickly echoed by Russia in the article «Stoltenberg pide cuentas a Rusia sobre el cumplimiento del Tratado INF» (Stoltenberg holds Russia to account over compliance with INF Treaty), published on *Sputnik* on 2 October 2018, at <https://mundo.sputniknews.com/defensa/201810021082413114-rusia-otan-tratado-inf/> (Also available in English at <https://sputniknews.com/europe/201810021068510454-stoltenberg-press-conference/>).

7 Ibid.

8 Shamanov's statements were published in *V Gosdume raskryli tseli perebroski «Iskanderov» pod Kaliningrad*, *Lenta.ru* on 15 October 2016, at <https://lenta.ru/news/2016/10/15/shaman/>.

9 By way of example, we can quote Russian Deputy Minister of Defence, General Alexander Fomin, in «Defensa rusa asegura que Rusia cumple a rajatabla el Tratado INF sobre misiles», *Sputnik*. 14 August 2018, at <https://mundo.sputniknews.com/defensa/201808141081194585-rusia-no-violatratado-inf/>.

10 Quoted from «Estados Unidos promete destruir los misiles de crucero rusos que supuestamente violan el tratado INF». *RT*. 2 October 2018, at <https://actualidad.rt.com/actualidad/290597-eeuu->

However, what Ambassador Hutchison actually said was that «At that point, we would be looking at the capability to take out a (Russian) missile that could hit any of our countries»<sup>11</sup>. Was she referring to taking anticipatory measures involving the use of force and, therefore, of an extremely serious nature or was she somewhat crudely suggesting talks intended to bring about a new framework of relations that would leave the U.S. and Russia free to develop new short- and medium-range cruise missiles without the current legal restrictions?

Whatever the case, it is shocking to see senior foreign and security officials from the world's most powerful nations play around with such dangerous concepts: in this case, preemptive war, as if such a war could be won against a nuclear superpower.

During the Cold War, Western strategists raised the theoretical possibility of launching a limited nuclear attack against the Soviet Union, which was documented in the Strategy of Flexible Response adopted by NATO in 1968. They believed that if an aggressor had reason to believe that an attack could trigger a nuclear response where there is a risk of uncontrollable escalation, it would be impossible to anticipate the cost of the devastation caused, or, in other words, the probability of suffering unacceptable damage. The next step was taken in 1980 when the Carter Administration adopted the counterweight strategy, which involved plans to wage and win a nuclear war in a politically acceptable manner. This envisaged the possibility of waging a limited nuclear attack on the assumption that, in the event of confrontation between great powers, they would exercise mutual self-restraint in order to avoid it escalating into a nuclear war. From a technical perspective, a war of this kind would only be possible using low-yield nuclear warheads, also known as mini nukes, thus, in principle, ruling out the use of thermonuclear weapons, which would be relegated to the role of strategic deterrence, counter-strike or second-use. In this scenario, low-yield nuclear warheads would serve the purpose of sub-strategic deterrence.

However, Soviet leaders and strategists never accepted this approach. As far as they were concerned, a nuclear attack meant confrontation with every nuclear weapon at their disposal and, therefore, that nuclear war necessarily entailed mutual assured destruction. In other words, never start a war unless you are absolutely sure you will emerge the outright victor. And Russia continues to embrace this doctrine when it comes to the use of nuclear weapons, as evidenced by President Putin's emphatic statements at the Valdai Forum in Sochi on 18 October 2018: «there is no provision for a pre-emptive strike in our nuclear weapons doctrine. [...] But then any aggressor should know that retaliation is inevitable and they will be annihilated»<sup>12</sup>.

amenazar-destruir-misiles-rusos-prohibidos (Also available in English at <https://sputniknews.com/europe/201810021068510454-stoltenberg-press-conference/>).

<sup>11</sup> At <https://twitter.com/USAmbNATO/status/1047203183964160001>.

<sup>12</sup> Quoted from *RT*. 19 October 2019, at <https://actualidad.rt.com/actualidad/292593-putin-discurso-foro-valdai>.

Based on this reasoning, most political scientists believe that the world is a safer place if the leaders of the great powers espouse the conviction that a nuclear war can never be limited, and this way of thinking strengthens deterrence. Indeed, this explains the rationale behind the INF Treaty and the strategic arms reduction treaties that culminated in the New START Treaty.

Nevertheless, in this new stage of international relations, the great nuclear powers, including France and the United Kingdom, are still toying with the idea of attacking non-strategic targets with low-yield nuclear warheads and, more recently, with short and medium-range cruise missiles equipped with high-explosive non-nuclear warheads as well. This significantly complicates the functioning of deterrence and seriously jeopardises global security because, if conventional military action by an adversary is mistaken for a nuclear strike, it could trigger the mechanisms of complete destruction.

Can we, therefore, at this point, consider another world war likely? Up until now, we believed that the atomic bomb and the threat of nuclear war were the rational limits of violence and that no one would intentionally condemn hundreds of thousands, even millions of people to total annihilation and, most especially, the irreversible destruction of the environment in which they live. This is the rational limit; an absolute limit to all kinds of wars, with the corollary that those who have nuclear weapons will be safe (the case of North Korea) and, therefore, that peace is necessary and possible. However, is this true, or is it an invention of a category of thought, which says «no, it cannot be»?

The phrase can be changed to «yes, yes it can» if we believe we have something to gain. Then we must ask ourselves if, despite everything, including the destruction of civilisation, it is possible to risk a fight to the death –o characteristic of human nature– as long as a community, alone or allied, fights to the end and some of the members can somehow survive in a dead world. Therefore, the answer to the first question as to whether a third world war is likely is, naturally, yes. The international system has completely changed in a few short years and the possibility of its complete destruction has increased several hundredfold in this time. Not just because there are now three great nuclear powers (the U.S., Russia and China), each with their own strategic interests, but because war, which is the essence of human communities organised on the basis of strategies to further their own ends, is part of the make-up of these communities. Death by violence has always been a defining characteristic of human nature and, as technology has developed, we have seen violence escalate to the point of no return: all-out nuclear war. Nowadays, we speak lightly of ever-growing apocalyptic threats and are unaware of the significance of the destruction of the entire system of states. Therefore, the final question is: Can anyone win a third world war? Does anyone have anything to gain from it?

### **Withdrawal from the INF Treaty and the silent witnesses: NATO and the European Union**

On 20 October 2018, President Trump announced the U.S.'s intention to withdraw from the INF Treaty because, unlike the START Treaty, the former has no expiration

date. In the reasons given for the decision, it was stated that Russia «has been violating the treaty for years» and that it has been developing various missile systems banned under the INF Treaty since 2008. Criticisms were primarily directed at the development of the 9M729 (SSC-8) cruise missile which can be equipped with nuclear warheads. The announcement was in line with the new nuclear defence policy announced by President Trump on 3 February 2018. The rationale was that the world today is more unstable, new powers have emerged to challenge U.S. hegemony and, therefore, the U.S. must keep all its options open if it is to address these threats, including the development and deployment of all types of arms, including nuclear weapons, which give the U.S. a comparative advantage over potential rivals.

The Russian authorities immediately described the decision as a «very dangerous step» that would jeopardise international security. On the same day the announcement was made, Russia's Deputy Foreign Minister, Sergei Ryabkov, said that Russia condemned what he called attempts by the U.S. to gain concessions «through a method of blackmail»<sup>13</sup>. And former Soviet leader, Mikhail Gorbachev, is quoted as saying: «Do they really not understand in Washington what this could lead to? Given this situation, the UN and the Security Council must be summoned, because Trump's decision affects the whole world»<sup>14</sup>. Press Secretary for the president of Russia, Dmitry Peskov, said on 21 October 2018 «after the last statements, explanations of the American side will be required»<sup>15</sup>. For his part, the Russian Ambassador to the U.S., Anatoly Antonov, had already commented on 10 October 2018 that «Recently, we hear more and again statements from the US military command that the country requires intermediate- and short-range missiles to deter China [...] Could it be that the United States is looking for a pretext to abandon the INF Treaty, while, obviously, blaming Russia for it?»<sup>16</sup>.

The then U.S. National Security Adviser, John Bolton's visit to Moscow on 22 October 2018 to interview Sergei Lavrov and Russia's National Security Adviser, Nikolai Patrushev, did nothing to dispel the doubts surrounding the decision announced by President Trump. But, as we know, Trump does not change his mind once he has made a decision. Therefore, on 20 November 2018, President Putin stated that he was willing to negotiate to save the treaty, but warned that if the United States ultimately decided to pull out, Russia would take the necessary measures to ensure its security. And Moscow has the resources to do so: a whole panoply of new strategic weapons

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<sup>13</sup> Quoted from «Rusia califica de "chantaje" la ruptura del tratado nuclear por parte de Trump». *El Mundo*. 21 October 2018, at <https://www.elmundo.es/internacional/2018/10/21/5bcc6946468aebd9578b4645.html>.

<sup>14</sup> Quoted from «Donald Trump desata la carrera nuclear». *El Mundo*. 22 October 2018, at <https://www.elmundo.es/internacional/2018/10/22/5bccca2822601d81538b4622.html>.

<sup>15</sup> Ibid.

<sup>16</sup> Quoted from «Embajador ruso no descarta que EE. UU. busque abandonar el Tratado INF y acusar de ello a Rusia». *Sputnik*. 12 October 2018, at <https://mundo.sputniknews.com/politica/201810121082691676-armas-nucleares-eeuu-rusia-corea-norte/>.

systems, as announced by President Putin in his address to the two chambers of the Russian parliament on 1 March 2018: Kinzhal hypersonic missiles, Avangard hypersonic weapons, Burevestnik nuclear-powered cruise missiles, Poseidon nuclear-powered torpedoes and Sarmat ICBMs. In other words, Russia had already laid some of the groundwork.

What stance did the European leaders in Brussels take on the exchange of accusations between the two great nuclear powers? As always, the senior European policy-makers expressed their obvious concern over the announcement of the collapse of the INF Treaty because it further complicated relations with Russia at a delicate moment in the Ukraine conflict and because it could lead to a new arms race of unpredictable proportions. Although Andrea Thompson, the Under Secretary of State for Arms Control and International Security Affairs, told the Senate Committee on Foreign Relations the exact opposite at a meeting on 15 May 2019<sup>17</sup>.

NATO Secretary General Stoltenberg said that «The INF Treaty has been for 30 years the cornerstone of arms control. The treaty not only reduced the number of missiles but actually banned a whole category». [...] This has served us all well — I think especially in Germany where we really saw the dangers related to these weapons in the «70s and 80s», before going on to add «This treaty has been extremely important»<sup>18</sup>. However, he stressed that Russia «has developed and is deploying new missiles» that are «mobile, hard to detect, nuclear capable» and can reach European cities «with little warning time», before going on to add «if we allow Russia to [continue to breach the agreement] without any consequences, it will undermine the respect for not only the INF Treaty but for all other arms control treaties». And to avoid this, Stoltenberg said «We will make a measured, proportionate and defensive decision», though he failed to specify what the measures were, except that «We have asked all our military authorities, our commanders to look into different options and consequences».

What is happening at a political level on the Western side? Basically, U.S. political leaders are using NATO to lend «moral» force to the implementation of U.S. policy, citing the famous «TransAtlantic Community of Values». If they were to adopt a unilateral stance on certain matters, their arguments would not be readily accepted, but if they say they are NATO's, they win support because they are based on the value of allied solidarity. In the end, what the U.S. says, goes; the U.S. is determined to enforce its interests at all costs and, ultimately, it gets its way. This was evident, for instance, with the issue of the deployment of anti-missile defence systems in Europe: in bilateral negotiations, governments rejected the initiative, but as a group they approved it and the system was subsequently deployed in Romania and is expected to be deployed in Poland soon.

The European Union's stance is attached less political importance. The High Representative of the EU, Federica Mogherini, spoke of «universality» in an open letter

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<sup>17</sup> Full text available at [https://www.foreign.senate.gov/imo/media/doc/051519\\_Thompson\\_Testimony.pdf](https://www.foreign.senate.gov/imo/media/doc/051519_Thompson_Testimony.pdf).

<sup>18</sup> Quoted from «Stoltenberg pide cuentas a Rusia sobre el cumplimiento del Tratado INF». *Op. cit.*

dated 31 January 2019: «[...] the stakes for our own security are simply too high. The starting point cannot be to dismantle the current architecture and start from scratch. We Europeans are working at all levels to promote the universalisation and implementation of existing agreements». «Preventing a new arms race is in our collective interest. That is why we have asked the United States to consider the consequences its possible withdrawal from the INF will have on its own security, and on our collective security. And, we expect the Russian Federation to address serious concerns regarding its compliance with the INF»<sup>19</sup>.

Therefore, NATO and the EU stand as silent witnesses to the strategic decisions of the U.S. And this ties in with our theory on the lack of European leadership at this critical time. It makes us wonder how Javier Solana would have acted in this situation, which, as we shall see, is really a covert pact between the two great nuclear powers to discontinue the nuclear disarmament treaties to further their own security interests.

### Hidden truths: the national interests underlying withdrawal from the INF Treaty

On 1 February 2019, the White House announced that the United States was suspending its obligations under the INF Treaty and beginning the process of withdrawing from the Treaty. Thus, the announcement triggered the six-month notice period required for permanent withdrawal from the Treaty «unless Russia comes back into compliance by destroying all of its violating missiles, launchers, and associated equipment» – a direct reference to the famous Iskander-M missile system we spoke of earlier<sup>20</sup>. The announcement merely served to implement a political decision taken earlier by the Trump Administration acting in its own security interests.

Moscow wasted no time in responding. The Russian authorities immediately issued a public announcement stating that they were also suspending their obligations under the INF Treaty and accused the U.S. of repeated violations of the agreement, the most blatant being the deployment of the Aegis-based Mk-41 vertical launch system in Deveselu, which could be equipped to launch the Tomahawk cruise missile – perhaps taking advantage of the technical stop scheduled for the base in Romania that summer?

However, do the security interests now being invoked correspond to a national interest in maintaining global strategic stability? According to President Putin, Washington is «constantly looking for certain pretexts to dismantle the global security sys-

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19 «La labor para crear una “Europa de la defensa”». *El Economista.es*. 31 January 2019, at <https://www.economista.es/opinion-blogs/noticias/9669713/01/19/La-labor-para-crear-una-Europa-de-la-defensa.html>.

20 The full announcement is available at the official Twitter account of the national security adviser, John Bolton, at <https://twitter.com/AmbJohnBolton/status/1091363490907017216>.

tem»,<sup>21</sup> jeopardising international security, as occurred with the Anti-Ballistic Missile Treaty (ABM Treaty) of 1972, from which the U.S. announced its withdrawal on 13 December 2001<sup>22</sup>. This is why he instructed the Russian government not to initiate new talks with the U.S. at least until «the American partners were mature enough for equal and meaningful dialogue» based on bilateralism and parity, the principles upon which disarmament treaties are founded.

Later on, in his address to the two chambers of the Russian parliament on 20 February 2019, President Putin reaffirmed that the withdrawal of the U.S. from the INF Treaty would have very serious consequences for strategic stability. He stated that the U.S. was the first to violate the treaty by «deploying launchers in Romania and Poland that are fit for launching Tomahawk cruise missiles»<sup>23</sup>. In doing so, the United States was trying to achieve hegemony with its anti-missile shield. President Putin stressed the fact that «Russia does not intend to deploy such missiles in Europe first», but if the U.S. were to do so, Moscow would be «forced to respond with mirror or asymmetric actions». Cruise missiles, equipped with nuclear or conventional warheads, «can reach Moscow in just 10–12 minutes», which represents «a very serious threat» and would considerably exacerbate the current international situation. Consequently, «Russia will be forced to create and deploy weapons that can be used not only in the areas we are directly threatened from, but also in areas that contain decision-making centres for the missile systems threatening us».

According to the Russian president, all these measures are essentially intended as a deterrent, given that «We are not interested in confrontation and we do not want it, especially with a global power like the United States of America», which, of course, is entitled «to think what they want. But can they count? Probably they can. So let them calculate the range and speed of our future arms systems. This is all we are asking: just do the maths first and take decisions that create additional serious threats to our country afterwards»<sup>24</sup>. Thus, President Putin upholds the doctrine of the mass use of nuclear weapons should his country become the target of a large-scale attack.

The statements demonstrate that in an increasingly multipolar world, the two great powers are progressively abandoning the treaties intended to put an end to bipolar confrontation. However, at the same time, they are returning to the language of the Cold War, which they paradoxically accuse each other of engaging in.

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<sup>21</sup> Quoted from «Putin responde a EE. UU. y Rusia suspende su participación en el tratado de desarme INF». *El Mundo*. 2 February 2019, at <https://www.elmundo.es/internacional/2019/02/02/5c556ce3fdddf780b8b4603.html>.

<sup>22</sup> The text of the ABM Treaty, signed in Moscow on 26 May 1972, is available at the official website of the U.S. Department of State: <https://www.state.gov/t/avc/trty/101888.htm>.

<sup>23</sup> The full text of the speech is available at [https://spain.mid.ru/es\\_ES/-/discurso-anual-del-presidente-de-rusia-vladimir-putin-ante-la-asamblea-federal?redirect=https://spain.mid.ru/](https://spain.mid.ru/es_ES/-/discurso-anual-del-presidente-de-rusia-vladimir-putin-ante-la-asamblea-federal?redirect=https://spain.mid.ru/).

<sup>24</sup> Ibid.

The question this leads to is: Who is the actual enemy? Who do we have to prepare for and arm ourselves against with every conceivable system and weapon, as set out in the national security documents of the Trump Administration? Russia forms part of the strategic stability system and participates in the non-proliferation regime that serves as a basis for maintaining the quasi-monopoly of the two great nuclear powers. Its foreign policy and military modernisation programme seek to restore Russia to its position as a great power but they do not threaten U.S. global hegemony.

China aspires to become a global power. It is already an economic power, and its political leaders are pursuing a foreign policy that will allow China to exert long-term global influence. Despite the ambitious military modernisation programme it was able to undertake on account of the economic growth of the past two decades, China's nuclear arsenal merely serves a defensive purpose based on a policy of minimum nuclear deterrence. However, Washington claims that China is developing new missile systems, including hypersonic weapons, which pose a direct threat to U.S. security, the naval forces deployed in the Asia Pacific region and its allies. Former U.S. Pacific Commander Admiral Harry Harris said in congressional testimony in 2017 that China has «the largest and most diverse missile force in the world, with an inventory of more than 2,000 ballistic and cruise missiles»<sup>25</sup>. However, upon closer examination, it can be concluded that China's nuclear programme does not pose a direct or imminent threat to the U.S. or Russia, both of which would be in a position to initiate a nuclear strike of truly catastrophic proportions; indeed, in this regard, there were attempts at concerted action between the two during the Cold War. The U.S. has also pointed out that China is not a party to the INF Treaty, or any arms control treaty for that matter. However, this is merely a reflection of a pre-existing reality: in 1987 China was irrelevant in terms of global disarmament. Indeed, while on a visit to Moscow as recently as 13 May 2019, the Chinese Minister for Foreign Affairs, Wang Yi, stated that his country has no interest in being part of any nuclear arms control treaty, and again pointed out that China pursues a nuclear strategy of self-defence, whereby it has sufficient and effective arsenal that it will only use should it become the target of a nuclear attack. Therefore, China claims to pursue an extremely cautious nuclear policy that does not pose a threat. How other countries perceive it is another story.

And what about North Korea and Iran? It would be rather simplistic to cite the threats posed by these two minor actors as justification for terminating the INF Treaty, a bilateral agreement between two great nuclear powers, whose legacy lies in, let us not forget, post-Cold War strategic stability.

Therefore, the only thing left on the table is the U.S. strategists' expectation that they will be able to freely develop, without political or regulatory constraints, advanced missile systems based on lightning-speed technology, and low-yield nuclear warheads

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25 Quoted from Brookes, P. «The INF Treaty-What it means for the U.S., Russia and China today». *The Heritage Foundation* no. 1301. 15 January 2019, at <https://www.heritage.org/node/10612903/print-display>

intended for tactical use, which is the dream of limited nuclear war theoreticians. Indeed, the Undersecretary for Arms Control and International Security Affairs, Andrea Thompson, admitted as much in a candid statement made on 6 February 2019: «Now the Department of Defense will be able to conduct those research and development activities that they hadn't because we'd been complying (with the INF Treaty)»<sup>26</sup>. As stated earlier, the point is that the current strategic scenario is complex and unstable, and made up of several major powers that challenge the U.S.'s power. Consequently, the U.S. has to have the necessary capability to deal with present and future threats, and this includes any weaponry that can give it a comparative advantage over similarly equipped rivals.

The outcome may be even more complex, however. In the wake of Washington's announcement, Russia immediately reciprocated by announcing that its «response will be symmetrical»<sup>27</sup>, i.e. it would acquire as many supersonic and hypersonic missiles, including land-based missiles, loaded with either nuclear or conventional warheads, as it was allowed to have without violating international treaties. As Ambassador Antonov pointed out on 15 April 2019, Russia's new strategic weapons are not covered by the New START Treaty but –and this is the interesting part of his statement– Russia was not refusing to discuss its new strike systems with the United States as part of a bilateral dialogue on strategic stability<sup>28</sup>. Less than a month later, Russia's Deputy Foreign Minister, Sergei Ryabkov, stated that «I think that as a priority, we and our colleagues from the United States should focus on the extension of the New START signed in 2010»<sup>29</sup>, and the matter was discussed by President Putin and the U.S. Secretary of State, Mike Pompeo, at a meeting in Sochi on 14 May 2019.

## Final considerations

In light of the new strategic situation brought about by the permanent abandonment of post-Cold War nuclear disarmament treaties, what is the outlook for international security in the near future? We believe that, in reality, the two great nuclear powers, which together account for 92 % of the world's nuclear weapons, no longer

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<sup>26</sup> Quoted from «EE. UU. se comprometerá con Rusia en el control de armas cuando sea apropiado». *Sputnik*. 6 February 2019, at <https://mundo.sputniknews.com/defensa/201902061085286765-como-eeuu-y-rusia-controlan-desarrollo-de-armas/>.

<sup>27</sup> Quoted from «Rusia suspende su participación en el Tratado INF como respuesta a la retirada de EEUU». *RT*. 2 February 2019, at <https://actualidad.rt.com/actualidad/304327-putin-rusia-suspender-participacion-tratado>.

<sup>28</sup> Statements quoted from «Russia's new strategic weapons don't fall under limits of New START Treaty, says envoy». *TASS*. 15 April 2019, at <http://tass.com/defense/1053781>.

<sup>29</sup> Quoted from «Rusia prioriza la prórroga del START III sobre un pacto nuclear con EE. UU. y China». *Sputnik*. 5 May 2019, at <https://mundo.sputniknews.com/politica/201905051087083804-prorroga-de-tratado-start-eeuu-rusia/>.

accept the INF Treaty. In other words, they both reject the restrictions on the development of short- and medium-range missiles, which they regard as absolutely essential for dealing with new and uncertain threats. However, this leads to the definitive breakdown of the system of strategic stability as it renders ineffective the treaties that paved the way for the end of the Cold War, German reunification and the return to democracy of the communist bloc countries behind the Iron Curtain.

It also throws the deterrence equation off balance because, as we have seen, how can we tell if an airborne missile is a nuclear strike or not?

And, finally, it fuels a new strategic arms race which could have devastating consequences for international security, although the two powers publicly deny this to naïve citizens.

The first scenario we consider seems the most obvious because of its simplicity. The idea is to let each power do as they please with no further constraint than their own national security interests. However, we know that it is in the interests of the major powers to maintain the current system –let us not forget that the first constitutional principle of the system is self-preservation– and that, in today’s international society, these are global security interests. We are therefore looking at an implicit system. However, the absence of regulatory restrictions, i.e. of an explicit system, clears the way for a new arms race where special emphasis is placed on the militarisation of space and advanced weapons. This new power struggle involves both the great powers, which maintain the status quo, and emerging powers, which find themselves compelled to participate lest they be excluded from the struggle for global influence; this can be construed as access to the most advanced technologies, and also explains the hostility surrounding the alleged trade talks taking place between Washington and Beijing, which are really a masked struggle for power.

Secondly, and as U.S. government officials have recently suggested, there is the option to negotiate and sign a new global disarmament treaty covering all nuclear weapons, both strategic and non-strategic, which would include the renewal of the New START treaty set to expire in 2021. Moscow has not explicitly ruled out this prospect and it appears to be the solution senior diplomats are working on. However, the talks should be monitored closely.

Finally, we can envisage a third –albeit highly hypothetical– scenario, where the European powers lay the groundwork for real progress towards the establishment of an intra-European nuclear control system, which would be one of the cornerstones of a new regional security system within the global strategic stability system. If the great world powers fail to reach consensus on maintaining the strategic stability system, it will be necessary to create a European nuclear deterrence force, drawing on France’s own power, put at the service of collective defence and with new institutional mechanisms that would have to be created from scratch. The legal basis for this can be found in the mutual defence clause of Article 42.7 of the Treaty of the European Union. The UK’s withdrawal from the European Union facilitates political speculation about this objective.

To achieve this, the European leaders must have a clear awareness of the interests currently at stake in the battle for global influence, and be willing to play the game as an independent player. It should be borne in mind, however, that this option should be exercised within the Western Bloc, which is the most advanced community of values that exists today and, indeed, the only one with a holistic vision of human society. However, this scenario calls for European leadership and, given the obvious lack thereof, should probably be ruled out from the start.

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## Book review

*Sangre y pertenencia. Viajes al nuevo nacionalismo. (BLOOD AND BELONGING. JOURNEYS INTO THE NEW NATIONALISM). Michael Ignatieff. Barcelona: El Hombre del tres. 2012, 311 pages.*

*ISBN: 9788494016110*



Good books endure in time, because they face questions and paradigms that are repeated over the years and replicated with the passing of generations, stages or great events and milestones that mark History.

And, undoubtedly, the work in question is one of these, since it constitutes a narrative that transcends the moment in which it was written. It was published for the first time in 1993, in a historical context in which the recent fall of the Berlin Wall and the end of the Soviet Union gave rise, as expressed in Francis Fukuyama's 1992 work *The End of History and the Last Man*, to the idea of embarking on a new era for Humanity, to the fact of entering a new stage in which armed conflicts would take second place, once the great ideological disputes had ended.

In that framework of hopes and expectations, of dreams of a Kantian lasting peace and of a world with a greater degree of global governance –one has only to recall the exponential growth of United Nations peace missions as a reflection of this attempt to increase international action– there are episodes that, although initially appearing as the mere death throes of the past, soon provide a dose of realism and a harsh spotlight on the concept of the end of history... for it seems, in the end, that history always returns.

A multi-faceted person like Michael Ignatieff (Toronto, 1947) –his extensive curriculum and career includes working as a writer, an academic at various universities in different countries, a radio and television presenter, as well as a politician– with his broad professional and vital experience, observes the events taking place in the former Yugoslavia of today and in other parts of the world, and seeks to produce a black-on-white vision of events based on issues that appeared to be from the past and not in line with the global and globalist expectations generated at the beginning of the decade. And this vision is centred on and articulated around nationalism.

Thus was born the work *Blood and Belonging. Journeys to the new nationalism*. Skillfully penned, with a combination of general and intimate brushstrokes, the reader is moved by its immediacy, by the power of its story, and also, of course, by the reflections it generates. In fact, for the reader less experienced in geopolitics and international relations, apart from certain issues almost contemporary to its publication relating to the war in the Balkans (in the former Yugoslavia) and the reunification of Germany, the remainder of the text, with the exception of passages in which a date or an event of particular significance is cited, could have been written «yesterday», mentioning the same places and almost the same characters and types as those presented here.

The book starts with an introduction and is then grouped into «six journeys» – Croatia and Serbia, Germany, Ukraine, Quebec, Kurdistan and Northern Ireland– and ends with a final reflection, as well as an epilogue to the Spanish edition. And throughout, the text revolves around the notions of nationalism and belonging, using as practical examples the environments and circumstances present *in situ* during those six journeys.

Ignatieff begins with a presentation of his work and what he hopes to achieve with it from a quasi-personal perspective; acknowledging that the world was heading towards

a new globalism, irrevocably leaving nationalism behind and definitively abandoning tribalism, he points out how deeply mistaken this way of thinking was.

He masterfully distinguishes between two types of nationalism, civic and ethnic nationalism, marking the profound differences between the two. Thus, he indicates that civic nationalism occurs when the nation is focused on individuals who espouse the political creed of the nation, regardless of their race, sex, religion, ethnicity or language; and it is civic because it grants an equal citizenship with rights, and, in addition, it is necessarily democratic, because what holds a society together, according to civic nationalism, are not the common roots –since today most societies are not mono-ethnic– but the law.

However, when dealing with the issue of ethnic nationalism, he notes that it advocates that an individual's deepest bonds are inherited, not elected. And while this psychology of belonging, he says, may be deeper than that of civic nationalism, the sociology that accompanies it is much less realistic, so that nationalist regimes necessarily end up maintaining unity by force, not by consent, which implies that they are ultimately more authoritarian than democratic regimes.

He goes on to point out on page 12 that *the fundamental appeal of ethnic nationalism is that it is a rationale for ethnic majority rule, for keeping one's enemies in their place, or for overturning some legacy of cultural subordination*. In the face of the dominant and prevailing cosmopolitanism of that time, he indicates that there has been no transition to a post-national age, and that, moreover, such cosmopolitanism is the privilege of those who can take a secure nation state for granted, because in the face of a situation of political and economic chaos, the question that arises is: who can I trust and whom can I consider «my own»? And the answer offered by ethnic nationalism is clear and obvious: those of your own blood.

Following these deliberations, he describes the case studies of his work; his first stop, Yugoslavia, where he had lived as a child under the rule of Tito (he died in 1980), where he was astonished to learn that the term «ethnic cleansing» had been coined in the ruins of the country he once admired, and was endeavouring to answer the question of what had turned former neighbours into enemies.

Germany, in the midst of the process of reunification –we need to remember that the original work was published in 1993– and beset with difficulties in this context, despite the fact that German laws define citizenship from the point of view of ethnicity, one of the few places in the developed world where this is the case.

Ukraine, the «frontier» –for this is the meaning of the term– presents a narrative with a strong personal element, since the author's grandparents and great-grandparents were Russian landowners settled in Ukraine, and where he tries to value what it means for Ukrainians to be a new and young nation; there is a section dedicated to Crimea, the peninsula that was Russian, then annexed to Ukraine in a territorial reorganisation by the USSR and annexed again by Russia in 2014... and where the Crimean Tartars want, as the author indicates, the return of an autonomous Tartar Republic, although, as he also points out on page 165: *«I fear the Ukrainian nationalists may be as deaf to*

*Crimean Tartar demands as Russian dissidents were when asked to identify with Ukrainian autonomist demands in the 1970s».*

Quebec –the destination of his exiled Russian grandparents– is the fourth stop on his journey, and is also the author's native country, a country that, as he points out, has been torn apart for thirty years by Quebec nationalism on the basis of cultural and linguistic claims. And, similar to what happens with the Crimea in Ukraine, he explores, among other issues, how Quebec nationalism addresses the demands for national self-determination of the Cree, an indigenous people in northern Quebec on whose lands lies a significant part of the economic potential of a potential independent Quebec, those Cree people, who repeat the argument: how can you ask for self-determination and deny it to us?

His fifth stop takes us to Kurdistan, the territory of a stateless people, divided among several states, where the author refers to part of their struggle to achieve it, as well as the attempts of Kurdish nationalism to achieve a single nation facing, in addition to the very states where that region is located, a still powerful tribal and local element.

Finally, Britain, where the author spent several years of his life; having depicted the general background, here the narrative focuses on Belfast, where the split between Catholics and Protestants is such that, as he points out, walls had to be erected so that neighbours did not kill each other from one side of the street to the other. Ignatieff continues with the importance of that background, and points out how the British are among the most fiercely nationalistic of all peoples, but also refers to Britain's «(...) awareness that their nation-building met its greatest failure in Ireland» (page 270). And finally, before moving on to his conclusions (pages 293-294), he states that: «*What saves the province (Ulster) from becoming Bosnia is nothing more than the British Army, policemen who do their jobs and courts which convict upon evidence. There is a larger moral to be drawn from this. The only reliable antidote to ethnic nationalism turns out to be civic nationalism, because the only guarantee that ethnic groups will live side by side in peace is shared loyalty to a state, strong enough, fair enough, equitable enough, to command through obedience*». In his final analysis, full of questions resulting from the investigation and assessment of what he witnessed in his travels, he focuses on a single, but highly significant aspect: «*Everywhere I've been, nationalism is most violent where the group you are defining yourself against most closely resembles you*» (page 295), for it is that very similarity which leads to it being defined precisely by the differences, however subtle they may be. It is what Sigmund Freud defined as «The narcissism of minor differences», and it is what motivates that hatred between siblings which, when it exists, is greater than hatred between strangers.

Similarly, he includes another very significant sentence: «*Nationalism is a form of speech which shouts, not merely so that it will be heard, but so that it will believe itself. It was almost as if the quotient of crude historical fiction, violent moral exaggeration, ludicrous caricature of the enemy was in direct proportion to the degree to which the speaker was himself aware that it was all really a pack of lies*» (pages 296-297), implying that, consequently, nationalism remains a language of fantasy and evasion of the harsh reality of life.

And, in view of the potential attraction that such fantasies may exert, the author points out that the political systems of any society may be vulnerable to them, as he states on page 297: «*Societies with adequate democratic tradition have proven themselves vulnerable to the politics of fantasy. But a democratic system does provide at least for the punishment of fantasists whose lies catch up with them. At the same time, however, one cannot think of democracy as a reliable antidote to nationalism*».

A note on violence: Ignatieff indicates that it is a mistake to assume that the whole world hates and fears violence –in his travels he has been able to verify this faithfully– as it can also be affirmed that there exists a deep connection between violence and belonging: the more strongly you feel the bonds of belonging to your own group, the more hostile, the more violent your feelings towards outsiders.

He therefore concludes by indicating that there is a battle between the civic and the ethnic nation and that the outcome of that battle is, for the time being, uncertain.

With Europe currently immersed in such a profound challenge as represented by Brexit, involving the reversal of a supranational integrative process, as well as the powerful internal tensions to which many of the nations of Europe –and of the world– are subject, the question arises as to whether or not the work is indeed highly topical. In any case, the reader who is fortunate enough to approach these three hundred pages, which are read in a heartbeat, will be able to assess whether this is one of those works that will endure over time. Fortunately, or perhaps because of the subject matter, in this case, unfortunately. Whatever the case, it is undoubtedly well worth exploring.



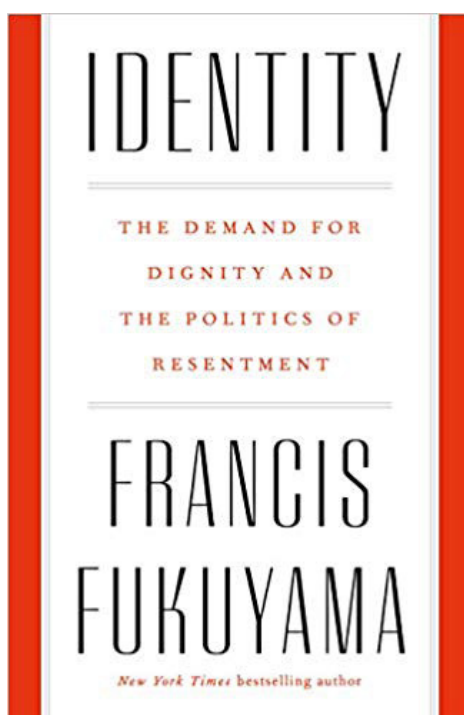
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## Book review

*IDENTITY. THE DEMAND FOR DIGNITY AND THE POLITICS OF RESENTMENT. Fukuyama, Francis, Identity. The demand for dignity and the politics of resentment. Main, Profile Books, 2018, €18.24, 208 pages.*

*ISBN: 978-0-374-90674-0*



Francis Fukuyama is one of the most frequently cited political scientists of recent decades and his essay *The End of History and the Last Man*<sup>1</sup> was one of the most widely distributed academic publications after the fall of the Berlin Wall and the end of the experience of real socialism. He had been one of the leading American Kremlinologists of the 1980s working in the state department during the Reagan and Bush (Sr.) administrations. His original essay, published in 1989 in *The National Interest*<sup>2</sup> magazine, was expanded three years later into an extensive and widely distributed book that projected its author's image internationally as one of the main proponents of conservative American thought. His later academic and political trajectory consolidated him in that image, increased by his support to the think-tank Project for the New American Century (PNAC), promoting US foreign policy marked by interventionism on a global scale. His subsequent shift away from these views, from the time of the second Bush (Jr.) administration, brought him back to the media debate. His departure from unilateralism in US foreign policy brought his texts and opinions back to the fore. In recent years he has attempted to qualify some of the statements in his most representative work, insisting that he referred to the end of history as a goal or objective in the Hegelian and Marxist sense.

In *Identity: The demand for dignity and the politics of resentment* Fukuyama presents a number of clues to understanding today's complex international relations, as well as the prominence of nationalist and populist messages in the political arena across almost the entire planet. On a global scale, the shift towards identity politics by the main political actors makes it difficult to achieve common objectives and to reach consensus on policies favourable to all actors on an individual and collective scale. According to the author, the insistence of minority groups in vetoing collective action is one of the milestones that have characterised the development of populist political programmes in the last five years. He points to an isolated example of this trend in Franklin Delano Roosevelt's victory in the 1932 US elections and he analyses the political phenomenon that led to Donald J. Trump's victory in the primary elections of the Republican Party and later in the 2016 US presidential elections, as well as in the result of the UK referendum to leave the EU that same year.

The lack of effective and stable political institutions is one of the main causes for not «getting to Denmark», the subtle way in which Fukuyama identifies Danish institutional stability with its political, economic and social development<sup>3</sup>. In this sense, the author points to stability and democratic accountability as key components guaranteeing social advancement alongside economic advancement, although he acknowledges that the fourth wave of democratisation either never materialised or failed to develop purely democratic political systems but rather competitive au-

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1 FUKUYAMA, Francis. *The end of history and the last man*. New York: Penguin, 1992.

2 FUKUYAMA, Francis. «The end of history?». *The National Interest*, Nº 16. 1989, pp. 3-18.

3 FUKUYAMA, Francis. *The origins of political order. From prehuman times to the French revolution*. New York: FS&G, 2011, pp.14, 431-433.

thoritarianism<sup>4</sup>, a model that, in this sense, could signal a global democratic recession<sup>5</sup>. The origin of the nationalist, populist and religious explosion that he finds evident in today's world is, according to the author, rooted in the search for dignity and recognition by individuals within the framework of the systems of which they are a component part. He affirms that democracies have problems with respecting dissent, especially when it entails confronting the situation of traditionally discriminated groups in a climate in which liberal democracy in Europe and the United States, aggravated by the economic crisis that marked the end of the first decade of the twenty-first century, has fallen into disrepute. Without being inconsistent with the foregoing, he downplays the importance of the lack of tangible integration as an explanation for the crisis of radicalisation and identity of those individuals who opt for the path of nationalism or exclusionary religious belief. In this respect, the very conception of identity underlying the entire length of the work is ambivalent; it does not provide a complete and closed definition of the term and refers both to collective identities and to its more subjective aspects. The relationship between the economic crisis and the reaction in defence of one's own cultural identities in the face of external cultural and migratory influences are, in the opinion of the author, indispensable elements for understanding the shift from the material to the immaterial in the political agenda. Fukuyama apparently disregards the fact that post-material movements that transformed the political and economic messages of the left, social democracy and the most liberal political actors in Europe and America were much earlier, originating in the transition from the 1960s to the 1970s<sup>6</sup>. Of course, the decline of real socialism and the emergence of the so-called *Third Way* during the 1990s helped change the traditional objective by improving the material living conditions of the middle and working classes that had been defended by the democratic left since the nineteenth century, and in so doing marked the political horizons of conservative parties. These material claims were replaced by others of a post-material nature, almost exclusively focused on defending the interests of groups perceived as relegated: ethnic minorities, women, the LGTB community, etc., and in a sense undermining classic political objectives based on the improvement of workers' living standards and conditions.

It seems that for Fukuyama the thresholds of *relative frustration*<sup>7</sup> to which individuals and groups are subjected are not only quantifiable in terms of economic or material aspects, but also with respect to their own instinctive urge for identity. Thus, policies of nationalist resentment link the policies of Donald J. Trump, Vladimir Putin, Viktor Orban, etc., in a framework of economic crisis as an accelerant that nonetheless

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4 LEVITSKY, Steven; Way, Lucan A. *Competitive authoritarianism. Hybrid regimes after the Cold War*. Cambridge: Cambridge UP 2010.

5 DIAMOND, Larry. «Facing up to the Democratic Recession». *Journal of Democracy*, N° 26(1). 2015, pp. 141-155.

6 VELASCO-MARTÍNEZ, Luis. «The pending utopias. A brief history of the world since 1945». *Journal of the Spanish Institute for Strategic Studies*, N° 6. 2015, pp. 4.

7 GURR, Ted R. *Why men rebel?* Princeton: Princeton UP, 1970.

provides an insufficient explanation for the rise in identity politics. Individuals' lack of rationality in decision-making and their gregariousness also has a role to play here<sup>8</sup>. Resentment at the lack of recognition to which collective subjects are supposed to be entitled causes those individuals who feel they are members to react angrily and legitimise violent actions or actions outside the conventional frameworks of political and social participation in democratic and pluralistic societies. The author argues that the demand for dignity is an inherent part of humanity's social being, which is also the driving force behind legitimate movements; he would identify the problem when these demands collide with the limits of democracy and its institutions, endangering the acquired rights and the stability of the system and its forecasts for future growth.

Many of the views offered by Fukuyama prove useful in understanding some of the political and social dynamics of today's world. The Messianic belief with which collective identities have resurfaced to embrace the aspirations of individuals from all over the world to live an existence that transcends them is evident, as well as the fluidity of these identities and the de facto existence of an array of identities available to individuals who aspire to their inclusion in some group. In this sense, traditional national, religious or ethnic identities have also been replaced in several instances by new types of identities hitherto unknown. The author quotes: [...] If the logic of identity politics is to divide societies into increasingly smaller and self-regarding groups, it may also be possible to shape larger and more inclusive identities. [...]<sup>9</sup>.

Fukuyama's work has some weak points and while they do not detract from the value of his contribution, they prompt us to pose interesting questions, such as: What are the vectors by which these collective identities of the twenty-first century are reproduced? The author himself affirms the singular role played by cultural patterns as agents disseminating national identities during the nineteenth and twentieth centuries, following Ernest Gellner's thesis<sup>10</sup>; and, without citing them, he accepts Eugen Weber's views on the role of the educational system as a vector of nationalisation,<sup>11</sup> even if he omits others. In the twenty-first century, are the same agents responsible for disseminating national, religious or other collective identities of whom we may speak in the present and in the future? What role do the new media, the so-called ICTs and specifically the Internet play in this process? Is there an identity market in which individuals can choose one or the other according to rational or irrational patterns? Are these identities fluid? Do they fluctuate throughout the lives of individuals or are they as immutable as those French recruits who rushed out to die for their homeland in 1914? The sheer number of questions we ask ourselves after reading the essay is a good indication of its greatness.

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8 KAHNEMAN, Daniel. *Thinking, fast and slow*. New York: FS&G 2011.

9 FUKUYAMA, Francis: *Identity. The demand for dignity and the politics of resentment*. Main: Profile Books 2018.

10 GELLNER, Ernest. *Nations and nationalism*. Ithaca: Cornell UP 1983.

11 WEBER, Eugen. *Peasants into Frenchmen: the modernization of rural France, 1870-1914*. Stanford: Stanford UP, 1976.

As we have mentioned elsewhere,<sup>12</sup> the emergence of inclusive identity spaces that respect the democratic framework, individual freedoms and rights, while simultaneously belonging to other identity references, can serve to create consensus that favours overcoming models of confrontation such as those analysed in this book. Aspiring to the development of inclusive collective identities, compatible among themselves within the framework of democratic states, is a distant but plausible goal. Essays such as *Identity: The demand for dignity and the politics of resentment* help to put the spotlight on reaching this milestone; it only remains to be seen which is the best way of getting to Denmark.

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<sup>12</sup> VELASCO-MARTÍNEZ, Luis. «Identidades colectivas en el horizonte 2050: ¿Consenso o disenso?». *Documentos de Trabajo del IEEE*, 24/2018. <http://www.ieee.es/contenido/noticias/2018/11/DIEEEINV24-2018Identidadescolectivas.html> (visto: 25/05/2019).

