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FROM ALLIANCE BUILDING TO STRATEGIC PARTNERSHIPS: A HISTORICAL ANALYSIS OF DEFENCE DIPLOMACY

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Abstract

Defence diplomacy within the sphere of statecraft is experiencing rapid growth due to the geopolitical and geo-economic interests of rising power blocs around the world. This paper aims to provide a comprehensive historical background of significant activities undertaken in modern defence diplomacy. The central research question explores how the activities in defence diplomacy have shaped the landscape of international relations. It is found that defence diplomacy activities like military exchanges, exercises and cooperation with roots in antiquity, have continuously adapted to shape history and remain relevant in today's complex international relations.

Keywords

Defence diplomacy, interoperability, joint military exercise, Defence Attaché, Defence cooperation agreements.

Resumo

A diplomacia de defesa, no âmbito da esfera do Estado, está a registar um rápido crescimento devido aos interesses geopolíticos e geoeconómicos dos blocos de potências emergentes em todo o mundo. O presente artigo tem por objetivo fornecer um contexto histórico abrangente das atividades significativas realizadas no quadro da diplomacia de defesa moderna. A questão central da investigação explora a forma como as atividades de diplomacia de defesa moldaram o panorama das relações internacionais. Verifica-se que estas atividades, como os intercâmbios militares, os exercícios e a cooperação, com raízes na antiguidade, adaptaram-se continuamente para moldar a história e continuam a ser relevantes nas complexas relações internacionais de hoje.

Palavras-chave

Diplomacia da defesa, interoperabilidade, exercício militar conjunto, adido de defesa, acordos de cooperação no domínio da defesa.



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FROM ALLIANCE BUILDING TO STRATEGIC PARTNERSHIPS: A HISTORICAL ANALYSIS OF DEFENCE DIPLOMACY

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1. Introduction

States resort to their traditional diplomacy to achieve foreign policy goals. This traditional diplomacy carries out its work under some fixed principles, norms, traditions, and laws, which are recognized by all states. The primary goal of traditional diplomacy includes peaceful coexistence, conflict prevention, peacemaking efforts and the protection of economic and trade interests. If states add a few more goals in their foreign policy, such as security and defence-related matters and support traditional diplomatic staff with one or more uniformed people, who are associated with the country's defence institutions and conduct diplomacy, then it will be termed as defence diplomacy. In simple words, it can be said that the achievement of national foreign policy objectives through the peaceful employment of defence resources and capabilities in international politics is considered defence diplomacy (Drab, 2018).

Alliance building is the purposeful and strategic formation of cooperative connections between two or more nations to achieve common aims or reduce perceived dangers in the dynamic field of international affairs. Such alliances take many forms, including formal treaties with specific military obligations and informal understandings based on shared economic and strategic interests such as the North Atlantic Treaty Organization, European Union, BRICS, an informal grouping of emerging economies. Security dialogues and contacts at the highest level, economic prosperity, pursuing strategic goals, ideological alignments, joint military exercises and signing of treaties are all important parts of alliance formation. It is this significant motive that alliance-building has become a key instrument for governments to handle problems and pursue goals in the changing fabric of international relations. These collaborations are motivated at their heart by a shared understanding of interests, where states' interests are being converged on concerns of security, economic development, or ideological congruence. Alliances, which are often codified through treaties, usually include a commitment to mutual defence, ensuring rapid and decisive action against common dangers.

Strategic partnerships also provide a more adaptable framework for collaboration across broader sectors such as trade, technological advancement, and other important



uncertainties. While alliances prioritize military and security-related cooperation, partnerships offer a wide range of collaboration encompassing economic, environmental, and technological areas and allow for a more multifaceted strategy that also leverages the combined resources of participating states for mutual gain. This complicated interplay between alliance and partnership enables states to navigate a difficult global landscape while ensuring both immediate security and pursuing shared prosperity.

As for the origins of the concept of defence diplomacy, according to Koerner Wolfgang, it originated as a systematic notion after the end of the Cold War, when the British Ministry of Defence, in the name of security sector reforms, began to help states seceding from the Soviet Union in 1991 (Koerner, 2006). One goal of this assistance was to have a peaceful environment of international security.

Although alliance building and strategic partnerships are often seen as critical parts of defence diplomacy, however, to understand the various dimensions of this relationship, we argue that specific initiatives and selected key activities performed under the umbrella of defence diplomacy, need to be examined in historical terms. By doing so, we may show how their origins extend beyond the defined idea of defence diplomacy itself.

Defence diplomacy can involve a range of goals and activities, so it can be considered a multitasking process. These activities include military exchanges and training programs, as well as using military assets to support foreign policy-related matters. Defence diplomacy also involves using military presence and capabilities to deter potential adversaries and promote stability in a region (Forster, 2004). The primary goal of defence diplomacy is to use military resources to support and advance diplomatic goals, rather than only for military purposes.

To present a historical analysis, we shaped a foundation by creating a purpose-built table of activities within the scope of defence diplomacy. A historical comparison of the activities involved has been offered. Hence, the authors suggest a research question: *What is the historical evolution and enduring significance of the top four activities in defence diplomacy, and how have these activities shaped the landscape of international relations over time?"*

2. Literature Review

The material on defence diplomacy is extensive. But we find no particular writing about its evolution or its historical context. Most of the writings on defence diplomacy have discussed either the activities carried out under the realm of defence diplomacy; or the significance of such activities to attain the foreign policy objectives. The highly cited work has been presented by Andrew Cottey & Anthony Forster who have mentioned various activities and described them as military cooperation and assistance. It is also held that the appointment of a defence attaché, an important part of defence diplomacy, emerged as part of nineteenth-century European diplomacy. The authors have acknowledged ten actions, which the countries perform mutually, as defence diplomacy activities which include; bilateral and multilateral contacts between senior military and civilian defence officials, the appointment of defence attaches to foreign countries, bilateral defence cooperation agreements, training of foreign military and civilian defence personnel,



provision of expertise and advice on the democratic control of armed forces, defence management and military technical areas, contacts and exchanges between military personnel and units, and ship visits, placement of military or civilian personnel in partner countries defence ministries or armed forces, deployment of training teams, provision of military equipment and other material aid, and bilateral or multilateral military exercises for training purposes (Forster, 2004). These activities can be carried out by the army, navy and air force of a state, under the auspices of its Ministry of Defence. Apart from this, defence cooperation has also been kept in this context and it happens between two countries.

A different view on defence diplomacy, arguing it as an investment in relationships and a means to create strategic partnerships, is emphasized by John, notably through military exercises to foster mutual understanding and military collaboration (Blaxland, 2014). For this, the author provides an example, of when Thailand showed willingness for Australia's support, on East Timor. The author argues that Australia's position on the East Timor crisis would not have succeeded if it had not been for decades of Australia's cooperation with Thailand in the shape of exchanges, partnerships, and bilateral military exercises. Therefore, effects like bilateral and short-term military engagement and cooperation in aid projects are reasons for strengthening measures through defence diplomacy.

Juan Emilio traces the origins of defence diplomacy to the classic military diplomacy that has been practised since ancient times and was revived in the Napoleonic era. He notes that the concept of defence diplomacy remained largely unchanged until the end of the Cold War, focusing primarily on military relations within the classic military field (Cheyre, 2013). Juan also highlights that the 1990s marked the dawn of a new era in international affairs, characterized by complex interdependence, the rise of new global actors, and the emergence of public diplomacy. These developments paved the way for a new conception of defence diplomacy as an expression of network diplomacy, linking the implementation of foreign policy objectives to those of the defence sector. Juan underscores the potential of defence diplomacy to be a valuable instrument of statecraft when managed effectively, leveraging both soft and hard power dimensions on any given issue.

Gregory considers that defence diplomacy is a strategic use of soft power to integrate conceptual paradigms. This indicates that states use defence diplomacy to influence other countries' perceptions of security issues, thereby furthering their strategic objectives. In addition, he presents a new concept of defence diplomacy based on how states pursue their interests in the global arena. This improved explanation eliminates the historical conceptual uncertainty around the term, providing a clearer understanding of how defence diplomacy functions as an instrument of statecraft (Winger, 2014). The author claims that the study of defence diplomacy is still in its initial stages, demanding additional scholarly research to uncover its complex uses and measure its success. This emphasizes the continued need for more research to fully understand the complexities of defence diplomacy and its multidimensional role in international relations.

Cooperation to form alliances and create partnerships is a specific part of broader forms of security cooperation around the world. Its notable structures are the Shangri-La dialogue, the Rim of the Pacific Exercise (RIMPAC), the annual meeting of defence ministers of ten ASEAN countries and its dialogue partner countries i.e., ASEAN Defence Ministers Meetings (ADMM), Western Pacific Naval Symposium (WPNS), small bilateral



efforts and bilateral military-to-military contacts (Bisley, 2014). The most important advantages of defence diplomacy, according to the author, are its potential to deliver, and then it can reduce stress and is helpful in crisis management. Second, it gives the benefit of improving the flow of information and enhancing mutual understanding of states' capabilities, interests, and red lines. Third is the ability to improve the strategic environment by fostering personal connections between senior defence officials through high levels of trust and joint communication.

In international affairs, diplomacy is how countries advance their national interests. If diplomacy fails, the same interests are achieved through force. In terms of national security, diplomacy is a soft power, while the military is a hard power (Leahy, 2014). In the current rapidly changing international situation, this difference is not so clear today. This is the reason defence diplomacy is proving to be a beneficial way of achieving national interests less than conflict.

Table 1

Sr	Activities under the ambit of defence diplomacy
	Defence & Military Officials' Bilateral/multilateral contacts
	Defence attaches
	Joint military exercises
	Defence cooperation agreements, provision of military equipment, MoUs, treatise
	Sub Activities
	Interoperability among all branches of armed forces
	Education and military training
	United Nations Peacekeeping operations
	Humanitarian assistance and disaster relief operations, Search and rescue operations
	Participation in events organized by military institutions, conferences, parades and (tattoos, is a new trend and on the rise, the UK termed it cultural defence diplomacy).

Source: Purpose-built table created by the authors during the literature review

It is argued that the activities above, from serial 1 to 4 give a systematic form to defence diplomacy. These are the basic actions and features through which states conduct mutual defence diplomacy. Sub-activities are the results and outcomes of the above four activities. A historical analysis of the top four activities from the above table will be presented to argue the research question.

3. Defence & Military Officials Bilateral/Multilateral Contacts

Military and defence officials have long engaged in bilateral and multilateral contacts to achieve diplomatic goals and promote international security. Bilateral contacts refer to interactions between two countries, while multilateral contacts involve two countries. Because of such engagements, military and strategic alliances are formed. These are formal agreements between two or more countries to provide mutual defence against external threats. Defence and military professionals' bilateral and multilateral interactions are significant because they facilitate diplomatic communication and



government collaboration. These encounters are critical to defence diplomacy, enhancing mutual understanding, trust, and strategic partnerships. Bilateral connections also allow governments to engage in direct discussions, exchange perspectives on security-related matters, and explore mutually beneficial endeavors. Multilateral contacts, on the other hand, are frequently held within the context of international forums and alliances, and they help to build collective policies and actions to address common security challenges and threats. These activities strengthen military-to-military partnerships and play an important role in developing larger diplomatic relations.

3.1 Genealogy

Ancient civilizations have a long history of bilateral and multilateral interactions between armed forces. For instance, city-states like Athens and Sparta, joined forces in Ancient Greece to coordinate military actions and for mutual defences (Martine, 2013). Athens and Sparta's alliance against Persia during the Greco-Persian Wars is a well-known instance of bilateral cooperation. In Ancient Greece, the Delian League, led by Athens and the Peloponnesian League, led by Sparta represented multilateral alliances (Larsen, 1940). Military alliances were also formed between various city-states, tribes, and kingdoms in ancient Rome, for instance, in the First Macedonian War, 215-205 BCE (Bunson, 2014). During the Middle Ages, military alliances were formed between feudal lords and monarchs to defend against invaders and to expand their territories. Military alliances and interactions between nations have evolved more formally and institutionally in recent history (Clausewitz, 1950).

In the years leading to World War I, many military alliances between European nations were formed, including the Triple Alliance and the Triple Entente. The 20th century saw the formation of the North Atlantic Treaty Organization (NATO) in 1949, which is a military alliance of several North American and European countries that was formed as a response to the threat of Soviet expansion during the Cold War. Since its end, NATO has expanded its mission beyond collective defence to include crisis management operations. This includes peacekeeping missions, peacebuilding activities and interventions to prevent or stop conflicts. Since 1999 the Kosovo Force (KFOR) in Kosovo and the International Security Assistance Force (ISAF) in Afghanistan from 2003 to 2014 was a NATO-led alliance aimed at stabilizing the country and supporting the Afghan government in building a secure and democratic state (NATO, 2023). While not formal allies, Australia, New Zealand and the US security treaty (ANZUS) and NATO also collaborate. Beyond participating in large-scale military exercises like Talisman Sabre and Rim of the Pacific (RIMPAC), they also share intelligence and develop joint training programs. This cooperation extends to regional security concerns, especially in the Indo-Pacific.

While the end of the Cold War saw a surge in UN peacekeeping operations, the UN emerged as a central player in peacekeeping, alongside regional organizations like the African Union and multilateral alliances like NATO. The UN Mission in South Sudan (UNMISS) established in 2011 to support and protect civilians in South Sudan and the UN Interim force in Lebanon (UNIFIL) since 1978 face varied degrees of success, grappling with challenges. Such peacekeeping efforts are carried out through UN Security Council resolutions, which play a key role in shaping international security policy as well



as peacekeeping efforts (UN, 2023). So, it can be assumed that bilateral and multilateral contacts between military forces have a long history and existed for centuries, but it has become more formalized and institutionalized in the modern day. North Atlantic Treaty Organization (NATO) and Australia, New Zealand, and United States Security Treaty (ANZUS) are a few prominent examples.

4. Defence Attaché

A defence attaché is a military officer assigned to a foreign embassy or consulate to represent their country's defence interests and military capabilities. Defence attachés are typically responsible for promoting military-to-military relationships and cooperation with the host country, as well as providing information about the military capabilities and intentions of their own country. They may also be responsible for coordinating military exchanges and training programs, and for providing help and support to their country's military personnel who are stationed abroad (Masland & Radway, 1957). Defence attachés often work closely with their country's embassy staff and with the military officials of the host country to meet their goals.

Moreover, he also gathers intelligence while serving as a diplomatic representative of his country, but as globalization progresses, more complex technology emerges, and Attaches' role and scope are also becoming more complex. This role is the name of any nation's ability to know what kind and how much important information they can get about another country.

Furthermore, states spend a lot of capital on the training, deployment, etc. of defence attachés, and this is the reason their performance and capabilities are closely monitored. It is difficult to estimate the value of the Attaché system, especially in terms of efficiency when countries are spending their resources on them. One thing is certain many actions assigned to the defence attachés prove to be beneficial for the achievement of foreign policy goals. Because of the desire to achieve great power, the acquisition of strategic intelligence has become very important. Timely assessment of the war capability of foreign governments or countries is now becoming a guarantee of survival and security for the country. The reason for this is that at no other time in the history of civilization did a man have such great abilities to destroy his fellow man as they do today (Vagts, 1967).

4.1 Genealogy

In Roman history, military personnel were used for the special purpose of espionage. Frontinus (40-103 AD) included espionage as an instruction among other services in the work of an officer (Erdkamp, 2011). It is also mentioned that when Scipio sent Caius Lilius to the camp of Syphax under the pretext of the embassy, he took many military officers with him in the disguise of his domestic servants and gathered expert soldiers. In this way, the task of appointing generals to diplomatic posts in 17th-century Persia began so diplomatic reports could be checked. There are many mentions of appointing Generals as Ambassadors by Napoleon (Freke, 1854). Due to their historically strong role, most European powers had also employed military officers as foreign representatives by the mid-nineteenth century. The official nomination and regular



position and name were given in 1857. In the same way, the United States came out of the period of isolation and in 1888 officially started appointing military attachés (Kupchan, 2020).

5. Joint Military Exercises: Enhancing Interoperability and International Relations

It refers to a large-scale activity in which more than one country exercises its military capabilities under an explicit purpose at a specific location by mutual consent. These are training exercises that involve military staff and equipment to practice and improve military skills and capabilities. These exercises can take place at various levels, ranging from small unit-level training to large-scale and multinational exercises involving the participation of multiple countries (Clem, 2018). Such exercises have a variety of objectives, which include improvement in the readiness and capabilities of military forces, testing of new types of equipment and tactics, and demonstration of military strength to deter potential adversaries. They are also used to build and strengthen relationships with allies and partners, and to foster cooperation and interoperability between military forces. Military exercises can take many forms, including field training exercises, which involve live-fire ranges and simulated battlefield conditions, and computer-simulated exercises, which use advanced computer technology to simulate military operations. They also include a range of activities, such as air, land, and sea drills, as well as cyber and space operations (Caton, 2018). Joint Military Exercises (JME) are an important part of maintaining the readiness and effectiveness of military forces and are a critical part of national defence strategies. They also serve as a signal for military opponents by showing the level of unity between the forces involved and their ability to coordinate. In this way, without actual combat, the army gets a good idea of what the effects of a possible war would be and will the strategy be correct and so on (Levy J. S., 1998). Defence policymakers get first-hand information on several issues such as scenario preparation, analysis, training for wartime decisions, the consequences of possible decisions taken during the war, and mobility can also be reiterated. According to a 2021 study, joint military exercises conducted within a defined alliance have the potential to deter adversaries without creating moral hazard (Dylan R. K., 2022). The reverse can also happen, and it can lead to an increase in conflicts, but this is extremely rare (Dylan R. K., 2021).

JME's promote brotherhood, and camaraderie among the forces involved. Along with expressing the spirit of goodwill, it can also show the soft power, culture, language, customs and lifestyle of the nation. The professional skills of the staff emerge through exercises. It is a fact that the effectiveness of any defence equipment can be known only because of the skill of the person using it. This is the reason for weapons manufacturing companies and countries, such exercises, where equipment is also tested, are an advertisement of their advanced technology and equipment. If we talk about the implications, the subtlest aspects that are part of the war strategy can be decoded and many things can be revealed (Sukin, 2020).

Military exercises often involve the participation of multiple countries and military forces, which lets them practice and improve their ability to work together and coordinate their



efforts. This is important for making sure military forces can effectively run together in multinational operations. Similarly, military exercises help to build and strengthen relationships between countries, particularly when they involve the contribution of multiple nations. This can foster greater cooperation and understanding between military forces, and help to promote regional stability and security. Another important feature of JME is deterrence. It is argued that military exercises are an important tool for improving the readiness and capabilities of military forces and for building and strengthening relationships with allies and partners.

5.1 Genealogy

The history of military exercises can be traced back to earlier civilizations. For instance, Greek city-states like Athens and Sparta engaged in regular phalanx training in ancient Greece to practice battle and test out new tactics and techniques (Martin, 2013). This involved synchronized marches, manoeuvres, and weapon drills which helped to improve discipline, cohesion and effectiveness in battle. To increase cooperation and interoperability, the Roman military conducted joint exercises with allied tribes and kingdoms in antiquity (Southern, 2007). To increase their armies' readiness and coordination, feudal lords and kings also remained engaged in combined military drills during the Middle Ages, the medieval warfare often involved the combined forces of multiple lords and kings. These forces held regular "war games" and tournaments which served as military training.

Persia has a rich and ancient military history, with training procedures evolving. Achaemenid army (550-330 BCE) relied largely on mounted archers called Aspeis and Dastana, who were trained in mounted archery, riding and battle tactics (Archer & Ferris, 2002). Foot troops, sometimes recruited from conquered lands were trained in spear and swordsmanship, shield formations and marching drills. Persian soldiers were known for their strict discipline and steadfast loyalty to the king. Strict obedience, physical exercise and shared meals were used in training to establish these ideals.

6. Defence Cooperation Agreements

The Defence Cooperation Agreements (DCAs) are formal agreements between countries that set a framework for military cooperation and collaboration. These agreements cover a wide range of activities, including the exchange of military personnel and equipment, joint training and exercises, sharing military technology and information, alliance against common threats and military assistance. The DCAs help states in the achievement of several important foreign policy objectives which include, strengthening military relationships, improvement of military capabilities, enhancing interoperability and promoting regional stability (Kinne, 2018).

The DCAs also help to improve the capabilities and readiness of military forces which is important for developing countries, as they have limited financial and other resources and need to rely on external support to modernize and improve their defence capabilities. In the same way, DCAs let military forces of different countries work together effectively by improving their ability to run together in an environment other than war. This is also



very important for developing countries that intend to participate in peacekeeping or other international missions under the auspices of the United Nations or any other formal international coalition.

In recent years, DCAs have become an efficient tool among states to address their common defence threats, border problems and internal security challenges, such as terrorism, piracy, and other transnational maritime threats. Developing countries are already vulnerable to these threats and benefit from this cooperation with other countries to address them. The opportunities for collaboration and innovation help military forces of states to learn from each other and share best practices and access to new markets and technologies, providing the opportunity to countries willing to share or sell military equipment and technology as part of the agreement (Swedish Defence research agency, 2019).

Defence cooperation agreements are also useful for economic gains as well. These have the potential to attract investment and support from other states which may include the coproduction of military equipment, arsenals, and training, again this is crucial for developing countries without many resources to invest in their military-industrial or manufacturing capabilities and seek cooperation at international level to strengthen their defence.

6.1 Genealogy

Defence cooperation partnerships have a long history. Although the structure and complexity of these agreements have evolved throughout time, the basic concept of many groups working together for mutual defence predates recorded history. In Ancient Mesopotamia, city-states such as Lagash and Ur formed alliances in reaction to common challenges, which likely included mutual military support. Treaties and pledges, frequently invoking deities to confer binding authority, helped to strengthen the consolidation of these accords (Richardson, 2012).

In Egypt, Pharaohs formed alliances with neighbouring countries to combat nomadic tribes and rival powers, with documented examples of cooperative military operations and troop transfers reaching back to the New Kingdom period (Langdon & Gardiner, 1920). During the Persian Wars in ancient Greece, city-states formed intricate alliances, with Athens leading a maritime confederacy against the invading Persian Empire. This concerted endeavor, which featured shared military resources and coordinated plans, demonstrated the effectiveness of the collective defence. In ancient Rome, regular treaty engagements with allies and client states required military assistance during times of crisis. The Roman army incorporated auxiliary troops from conquered countries, resulting in a diversified and multicultural force (Phang, 2011). Examining the historical foundations of such accords provides essential insights into their current significance and potential.



7. Concluding Analysis

There is an increasing need for defence diplomacy to promote collaboration between the global north and the global south. Within this framework, defence diplomacy emerges as a critical tool for promoting international peace and security, increasing communication, and encouraging state collaboration. Its application not only reduces the likelihood of conflict but also contributes to the development of trust and understanding among governments. Defence diplomacy continues to be a dynamic force in navigating the changing global scene. The entire essence of diplomacy is changing; the emergence of new technology, notably the influence of social media, creates new communication channels.

This transition involves diplomacy's adaptation to new forms and organizations. It necessitates the integration of a variety of statecraft tools to effectively traverse and address these difficulties. Against this backdrop, the historical evolution and enduring significance of bilateral and multilateral contacts between defence and military officials, assignments of defence attaches, joint military exercises, defence cooperation agreements, and the establishment of Memoranda of Understanding (MoUs) for military equipment provision and treaties all play a role in shaping the ever-evolving landscape of international relations.

Defence diplomacy, which consists of some important activities, has an old history. The historical evolution of defence diplomacy activities, encompassing military exchanges and training programs, joint military exercises, and cooperation in various fields of mutual interest, reveals a persistent and dynamic engagement that predates contemporary international relations. Military exchanges, serving as conduits for knowledge transfer and fostering relationships between nations, have been traced back to ancient civilizations, which show their enduring importance in building alliances and helping with understanding. Joint military exercises, a cornerstone of defence diplomacy, have evolved from traditional manoeuvres to complex multinational operations. Historical instances, such as joint military exercises during the World Wars, underscore the enduring significance of collaborative military training in enhancing interoperability and promoting collective security. Additionally, cooperation in fields like technology exchange and tactics has roots in historical alliances, showcasing the continuing nature of multifaceted defence diplomacy activities. These defence diplomacy activities, shaped by geopolitical shifts and technological advancements, have played pivotal roles in alliances like the North Atlantic Treaty Organization and strategic partnerships, leaving an indelible mark on the international relations landscape. Their historical continuity underscores their adaptability and relevance, illustrating how they have consistently contributed to shaping diplomatic interactions, enhancing security, and fostering stability across different epochs. In modern times it has become more organized and institutionalized. Today, defence diplomacy has evolved to encompass a wider range of activities, including joint military exercises of bilateral and multilateral level, humanitarian missions, and peacekeeping operations. As technology continues to transform the way militaries operate and interact, the future of defence diplomacy is likely to see even more innovative approaches, such as the use of artificial intelligence in strengthening military-to-military interactions and greater cooperation between military and civilian agencies. The challenges and opportunities of defence diplomacy will continue to be shaped by



broader geopolitical trends and global security challenges, such as rising nationalism, regional conflicts, and the ongoing threat of terrorism.

It is a fact that throughout modern history, the change from historical alliance formation to contemporary strategic alliances in defence diplomacy has had a substantial impact on governments' ability to achieve their national aims and interests. This progress has seen a shift away from rigid and static partnerships and toward more flexible, collaborative, and nuanced methods. Strategic defence diplomacy alliances have proven useful in resolving multidimensional global concerns, encouraging information sharing, and responding to non-traditional security threats. Governments have improved their ability to handle geopolitical challenges by adjusting to this changing landscape, ensuring a more effective pursuit of national goals and interests on the international stage.

The global community encounters complex and multidimensional problems that no single state or institution can manage alone. The COVID-19 pandemic highlighted the collective vulnerability of governments, demanding coordinated measures on both internal and foreign fronts. The implications go beyond health crises; challenges like terrorism, the widespread influence of the Internet, and the inexorable march of modernization have changed the global security landscape. Combating international terrorism, for example, is no longer an individual's job, but rather a shared concern that transcends national and organizational boundaries.

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THE REGIME SECURITY AND ALLIANCE POLITICS IN THE MIDDLE EAST

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Abstract

This article seeks to systematically understand the logic of unstable alliances in the post-revolutionary Arab Middle East. On what basis do the states in the Middle East enter into alliances with each other and what variables influence their fluid coalition-forming policy? Contrary to mainstream approaches that explain the nature of alliances through variables such as the balance of power, anarchy, identity, and external threats, however, understanding the mechanisms and empirical complexities of the alliance-making policy of Middle East states go beyond those variables. The present study proposes using the theories of alliance in international relations as an approach to 'regime security', an alternative integrated framework in understanding the roots of alliance in the Middle East. Despite the changes in international and regional politics, the main interest for each of the Middle East states is still to ensure the survival and security of their political regime. The options of foreign relations and alliances of the states in the Middle East are based on their dynamic action to maintain the security of the ruling regime against potential internal and external threats. In such a situation, alliances are formulated as transnational coalitions among potential allies to ensure the survival of political regimes. In line with the test of the main idea of the article, a case study of regional alliances in the Middle East is discussed.

Keywords

Alliances, the Middle East, the Arab Uprisings, Balance of Power, Regime Security.

Resumo

Este artigo procura compreender de forma sistemática a lógica das alianças instáveis no Médio Oriente árabe pós-revolucionário. Com que base é que os Estados do Médio Oriente estabelecem alianças entre si e que variáveis influenciam a sua política de formação de coligações fluidas? Contrariamente às abordagens tradicionais que explicam a natureza das alianças através de variáveis como o equilíbrio de poder, a anarquia, a identidade e as ameaças externas, a compreensão dos mecanismos e das complexidades empíricas da política de formação de alianças dos Estados do Médio Oriente vai, no entanto, além dessas variáveis. O presente estudo propõe a utilização das teorias da aliança nas relações internacionais como uma abordagem à "segurança do regime", um quadro integrado alternativo para compreender as raízes da aliança no Médio Oriente. Apesar das mudanças na política internacional e regional, o principal interesse de cada um dos Estados do Médio Oriente continua a ser o de assegurar a sobrevivência e a segurança do seu regime político. As opções de relações



externas e alianças dos Estados do Médio Oriente baseiam-se na sua ação dinâmica para manter a segurança do regime no poder contra potenciais ameaças internas e externas. Nesta situação, as alianças são formuladas como coligações transnacionais entre potenciais aliados para garantir a sobrevivência dos regimes políticos. Para testar a ideia principal do artigo, é discutido um estudo de caso de alianças regionais no Médio Oriente.

Palavras-chave

Alianças, Médio Oriente, Revoltas Árabes, Balanço de Poder, Segurança de Regime.

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THE REGIME SECURITY AND ALLIANCE POLITICS IN THE MIDDLE EAST

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Introduction

The transformation in the strategic political environment of the Middle East after the Arab revolutions has led to a change in the logic of alliances and the instability of regional alliances. Although the dynamics of regional power redistribution in the anarchic and permeable environment of the Middle East still play a fundamental role in shaping the logic of regional alliances, several major developments necessitate a review of traditional approaches to alliances in the region. Unlike the traditional alliances that were determined based on security and defense treaties between allies, the changing regional politics is more focused on informal and fluid patterns of coalition forming. Non-state actors such as Hezbollah, Kurdish forces, Salafi movements, and militia groups play an important role in regional politics by challenging the traditional functioning of states, security, and even alliances. Furthermore, the change in the US's Middle East policy and the reduction of strategic commitments to determine the rules of the game in the region has given the regional powers more room to maneuver and shape the order in the Middle East. Finally, the structural changes in the international system have brought the Middle East into a new context of competition between great powers, in which the relative decline of the US hegemony has provided a wider arena to policies of eastern powers, including Russia and China, each based on strategic interests to develop relations with regional states.

In the macro view, there is a significant connection between the structural changes in the international system and the dynamics of alliances in the changing geopolitics of the Middle East. After the Cold War, the conditions of the structure of the Unipolar system and the undisputed power of the US shaped the alliance-forming policy of allies and enemies in the region. In recent years, with the decline of the hegemony of the US or at least the reduction of its strategic inclinations to shape order in the Middle East has been weakened, and at the same time, no competing power has replaced it. Although in terms of material power, it is not easy to talk about the decline of the US dominance in the international system, especially in the Middle East, where it has the largest number of military bases and regional alliances, the results of its performance show that the power structure and equations of the region as a whole are no longer directed from Washington. In such a situation, it seems that Middle East geopolitics is transitioning from the post-Cold war US order to post-US disorder (Valbjørn, 2019; Darwich, 2018). This situation



encourages not only regional powers such as Iran, Saudi Arabia, and Turkey, but also major eastern powers such as Russia and China to play an active role in the changing regional political landscape.

In such a context, regional powers have found a special position in shaping the changing order of the Middle East. At the same time, the limitation in structural power and the lack of capacity to apply for hegemonic order on the part of each of the regional players have led them to help and create regional alliances to expand influence and shape the path of the Middle East equations. In the period after 2011, while the traditional centers of power in the Arab Middle East such as Egypt, Syria, and Iraq became the focus of regional conflicts, regional politics in many cases were affected by the activism of non-Arab powers, Iran, Turkey, Israel, and the only comparable Arab power has been Saudi Arabia. In the meantime, while Saudi Arabia and Israel have sought to maintain the status quo, Iran and Turkey, considering their national role as anti-hegemonic powers, have mobilized their power sources to weaken the hierarchy and the Western-oriented system (Kamrava, 2018).

At the intermediate level, there are small powers and weak states that are inclined towards alliances with regional powers based on security motivations, identity ties, or pragmatic approaches. A group of these actors sees the provision of their strategic interests in connection with maintaining the regional status quo, and therefore, they follow the initiatives of the Western powers and their main allies in the region. The UAE, Bahrain, Egypt, and Jordan have approached Saudi Arabia and Israel based on ideological links and common security concerns, especially the increasing influence of the Resistance Axis and the adventures of the Muslim Brotherhood, which are supported by Western allies. Another group, whom not identically motivated, but based on strategic considerations, moves closer to or away from alliances. This group of states that have flexible and pragmatic behavior includes Algeria, Oman, Morocco, Qatar, and Tunisia. Qatar is a clear example of the overlap of strategic interests and identity in alliance forming. While it approaches Iran and Western powers due to strategic and security considerations, under the influence of ideological motivations, it enters into a strategic alliance with the forces of the Muslim Brotherhood, especially Turkey, and moves away from the Sunni axis led by Saudi Arabia, the UAE, and Bahrain, an example of it that is the Qatar blockade crisis.

At the domestic level, there is another cluster of regional actors who are unable to influence the equations of the Middle East due to the weakness and fragility of the central government and internal crises. Hence, to ensure survival, they are inevitably inclined towards forming alliances with regional powers and non-state actors. Those states which include Iraq, Yemen, Syria, Libya, and Lebanon, have become the playground of competition and conflict between regional and extra-regional powers. The intervention of foreign powers in the internal equations of fragile states, directly or through proxy forces, has increasingly led to the inefficiency of the central governments in providing system and internal security; which naturally forms part of the disorder in the chaotic geopolitics of the Middle East.

Meanwhile, each of the regional power's allies with the middle powers and the weak states in the region based on their strategic preferences. Some of their priorities are also affected by the policies and preferences of extra-regional powers. The strategic priorities



of the US, Saudi Arabia, and Israel, as the guardians of the status quo, have made a comprehensive alliance against Iran's regional influence in Syria, Iraq, and Yemen. Saudi Arabia, in an alliance with the UAE, Egypt, and Bahrain, seeks to keep Qatar - even at the cost of regime change - within their alliance. Turkey and Qatar have united with Hamas and other Brotherhood forces in the region in order to dominate their strategic arrangements in the Middle East, especially in the internal equations of Syria, Egypt, Libya, and the Gulf. At the same time, the threats posed by the strategic rise of the Syrian Kurds shape the nature of Turkey's security alliance behavior in relations with neighboring states and Western allies. Russia, Iran, and Hezbollah have allied with Syria in order to preserve Bashar al-Assad's regime and change the balance of power in the eastern Mediterranean. In a comprehensive alliance with the forces of the resistance front, Iran is trying to challenge the US order in the region, to safeguard the security of its allies in Syria, Iraq, Lebanon, and Yemen, and to maximize geopolitical influence in competition with other regional powers.

The Syrian crisis is a clear example of the complex situation of the formation of competing alliances between extra-regional powers, regional actors, and non-state actors. In the meantime, the perspective of the regional alliances on the Palestinian issue as the most important traditional variable of the alliances in the Arab world is controversial and based on the regional goals of the alliances. The Palestinian issue, and from a closer perspective, the Arab-Israeli conflict traditionally played a fundamental role in the forming of alliances in the region. After 2011, with the deepening of regional crises, especially wars and internal conflicts in the Arab world, the issue of Palestine and the confrontation with Israel's hostile policies in the occupied territories have been removed from the strategic priorities of many Islamic states, and on the other hand, they have witnessed an alliance. We are unofficially fighting between the Arab and Israeli states against Iran and its allies, which is part of this process influenced by the Middle East conspirators of Washington and Brussels to weaken Iran's regional influence. It seems that the main reason for the decentralization of the Palestinian issue is the volume and depth of crises throughout the Middle East. On the other hand, while the strengthening of Salafi movements, especially IS, is one of the major common security threats among different regional actors, the regional offensive policies and priorities have prevented the adoption of joint measures by rival alliances in the Middle East.

In such a situation in the Middle East after 2011, where instability and lack of regional order are one of its most important characteristics, the states of the region, under the influence of the fluidity of attempts and the lack of threatening uncertainties, faced the puzzle of what are the most urgent and main threats against them to adjust or change their union-forming behavior based on that. This article seeks to systematically understand the logic of alliances in the Middle East after 2011. On what basis do the states of the Middle East enter alliances with each other and what variables and motivations influence their alliance options? How can the fluidity and instability of regional alliances in the Middle East be explained? Contrary to mainstream approaches in explaining the nature of alliances in the Middle East, variables such as the balance of power, anarchy, and external threats cannot explain the dynamics and complexities of the alliance-forming policy of states in the Middle East and the changing field realities of regional politics. On the other hand, although alternative perspectives such as the universal balance of shifting responsibility and Structuralist concerns in shaping the



nature of the alliances in the region, broaden our theoretical perspective in understanding the logic of fluid regional alliances, but do not provide a comprehensive and systematic approach to us.

It is simplistic to explain the nature of Middle East alliances after 2011 based on Shia-Sunni ideological clashes and sectarian conflicts between Iran and Saudi Arabia. According to the logic of the balance of power, the region should have witnessed the emergence of a comprehensive alliance between Turkey, Saudi Arabia, and Israel to deal with the common threat of Iran's regional influence. Also, contrary to the predictions of the balance of threats, the states of the region never entered into a comprehensive alliance against IS as a common security threat. In such a situation, to systematically understand these complexities and the underlying layers of the alliance-forming policy in the Middle East, a unified framework of international relations theories is needed that formulates the variables and different levels of analysis of 'regime security' in the form of a unified idea or concept. Based on this, this article sees the issue as the main driving force behind the alliance-forming policy of the Middle East states after 2011 and suggests a way to recognize alliance-forming in the region. In the security of the regime, this basis, the actual framework, after the revolutionary developments of 2011, was the logic of forming alliances of the Middle East states based on their dynamic action to ensure the security of the political regime against potential internal and external threats.

The Nature of Alliances: A Look from the Theoretical Perspectives

From the point of view of some neorealist approaches, power distribution and anarchy as the main drivers of international relations alone cannot explain the changing dynamics of alliances in the regional politics of the Middle East. Contrary to Waltz's balance of power theory, from Stephen Walt's point of view, the policy of states is not just a reaction to a change in the balance of power but is influenced by the perception of common threats and the need to balance threats against the capabilities and aggressive intentions of competitors (1987). Consistent with Mearsheimer, Alliances are an adversarial response to the aggressive policy of other states to maximize power and defend against threats (Mearsheimer, 2001). In such circumstances, states need to choose between Bandwagoning or balancing against it. Walt's main argument is based on the hypothesis that international anarchy, binds the states in the Middle East to always seek to balance each other in order to maintain security. Perhaps one of the prominent features of Walt's theory is to consider the different understanding of regional states of security and threats in the process of alliance forming.

Walt believes that during the Cold War, the leaders of the Middle East, unlike their Western allies, were not worried about the threats caused by the spread of communism, but the threat of the Zionist regime and the perception of threats from each other shaped the alliance policy of the Middle East states more than the Soviet threat (Walt, 1987). What was neglected in the Cold War thinking about the regional security of the Middle East was the regional actors' understanding of security. What did they consider as a threat, what was their security concern, and based on what motivations did they ally? Other alternative perspectives explain the scope of coalition forming beyond the necessity of choosing between balancing and sequencing, which include inclusive balancing and



delegation of responsibility. By examining the relations between regional states and international powers, believes that the logic of unification of third-world states (including Middle East states) is affected by structural conditions and balancing against external threats, as much as it is a reaction to threats. Domestic is against the security of their political system. In this framework, weaker states take comprehensive measures to balance with foreign powers to ensure the survival of their political regime and deal with internal threats. In such a context, the security of the state is considered to mean the security of the established political regime (David, 1991).

In the event of a legitimacy crisis, the leaders of the Middle East in the field of foreign policy adopt a strategy that serves to consolidate their internal power and ensure the survival of their political system, even if the state's interests and national security are jeopardized in the long run. Weaker states are also likely not to put any of the balancing strategies on their agenda, and at the same time, not follow through, due to a lack of material capabilities or fear of entering into an unwanted conflict. In such a situation, they follow the responsibility-shifting strategy in the hope that stronger aligned states will bear the cost of balancing in the face of common threats or aggressive actions of emerging powers, the results of which are highly uncertain. However, if these states conclude that the survival of their political system is in danger, they will undertake even more commitments in their alliances (Ryan, 2016). Concerning the reason for the instability of alliances in the Middle East, Snyder (1991) believes that due to the lack of sufficient information about the intentions of other allies, in addition to the threats of the hostile bloc, the states also have a threat perception about the intentions and behavior of their allies. Therefore, the situation of security bottleneck within the alliances prevents their stability.

Although the approaches influenced by realist assumptions seek to include the imaginations of regional actors in the analysis of the pattern of Middle East alliances (Walt, 1987; Schweller, 2004). But they cannot explain how some states in the region seek to balance against internal threats and, in this way, unite with secondary allies to concentrate foreign resources against the main enemy. On the contrary, some, by challenging the assumptions of realism, consider political economy and internal political relations as the main variables in foreign policy regulation and alliance forming in the region. Michel Brent believes that domestic policy concerns and the issue of economic development are more capable of explaining the foreign policy behavior and coalition forming of states in the Middle East than the high policy variables such as the distribution of military capabilities and the balance of power (Barnett, 1998). By studying the unification policy of small Arab states such as Jordan, Allinson concluded that the logic of the Middle East states' unification is rooted in 'budget security' and the provision of financial resources of the ruling regime, which forces or encourages their economic needs to participate in a regional alliance (Allinson, 2016).

Constructivists also consider the understanding of the logic of alliances in the Middle East as dependent on the introduction of the roles, identities, and constructed norms, especially in the Arab world. By moving away from the material focus of neo-realist approaches, Barnett (1998) believes that Arab policymakers seek security through representational politics. In the sense that by strengthening the 'Pan Arab' image, they both reproduce their legitimacy and determine their friendship and enmity patterns based



on its representations. Accordingly, Arab leaders have used symbolic power instead of military power to strengthen their security and control each other's foreign policy, and states that are outside of this pan-Arab representation are seen as hostile. In this respect, Bilgin (2004) by asking critical questions about 'the meaning of security in the Middle East, believes that the neglected point in the approaches investigating the regional alliances in the Middle East is not taking into account the alternative understandings about security that coexist in the region in the sense that the identity and conventional wisdom create collective interests, and the clash of intangible interests is the primary factor in forming alliances. Neoclassical realists such as Randall Schuler, by combining different approaches and criticizing the Structuralist assumptions of Neorealists, developed a new concept called 'the Balance of Interests'. From this point of view, states create a balance when it is in their favor. Balancing involves situations in which a state is not directly threatened by a hostile state, but in order to maintain its long-term security interests, it decides to balance against a state that, in different circumstances, wherever it is, acts against it (Schweller, 2004). Underbalancing happens when a coalition state cannot balance against the hostile state or does not have an efficient response to the perceived threat. Mark Haas (2014), using the idea of Schweller's balance deficit in explaining the alliances in the Middle East, believes that the alliance-making policy in the region is based on the ideology and the type of political system of the potential allies. If the ideological distance between the states and potential allies is large or if they perceive each other's political system as a threat, despite the balance of power predictions, they will not be able to ally against the hostile power and will suffer a balance deficit against it. This approach can explain the non-formation of a comprehensive alliance between Turkey, Saudi Arabia, and Israel against Iran's regional influence after 2011, and, the balance deficit against it.

The Regime's Security Framework and Middle East Exceptionalism

Understanding the international relations of the Middle East is incomprehensible without understanding the internal and regional structures in which states maneuver, and also without paying attention to the patterns of cooperation, competition, and permanent conflicts in this region. Political trends in the Middle East challenge universal theoretical considerations that hinder generalization and resist explanation. The unpredictable chain of events in the Middle East since the beginning of the last decade is a confirmation of this outlook (Fawcett, 2018). The heterogeneous and complex structure of the Middle East has caused this region to live in constant instability and crisis. This critical structure has become more fragile due to the unprecedented intervention of great powers, and the states of the region are always in a state of security enigma. Subsequently in the Middle East, it is not possible to be allied with a state without being hostile to another (Buzan & Weaver, 2003). For instance, if the US strengthens the regional position of Saudi Arabia by issuing strategic plans, it has inadvertently strengthened it against Israel. If Iran manufactures or buys defense weapons, the Arab states in the Gulf feel a security threat. This is a special structure of the Middle East, whose pattern of friendship and enmity is still influenced by Hobbesian thought regarding the main priority of survival.

Compared to other luminaries, the regional political atmosphere of the Middle East is unique. Regionalism in the Middle East is theoretically and empirically more diverse and



complex than it is portrayed. Contrary to popular views, the Middle East is not a region without regionalism. There are potential forces in the Middle East, especially the Arab world, with an emphasis on identity, interests, and common concerns for cooperation and convergence in the region, which are multiple coalitions based on Arab and non-Arab, Shiite and Sunni criteria, pro-status quo and revisionist. Despite this, internal competitions and crises, instability, insecurity of regimes, lack of effective institutions, and the influence of foreign powers prevent the formation of a regional community in the Middle East (Hinnebusch & Ehteshami, 2019). Moreover, regionalism is a political process in which states and other actors pursue common goals and policies within a region, and may ultimately lead to fragmentation, polarization, and instead of consensus and convergence Buzan and Weave (2003). Regionalism in the Middle East has always suffered from the lack of legitimacy of state-nation forming, the fragility of states, the effects of authoritarianism, and the destabilizing intervention of foreign powers, and the main forces behind these setbacks are the consequences of regime insecurity.

A brief look at the theoretical literature on alliances in international relations shows that operationally, these approaches are mainly focused on alliances in Europe and the historical experiences of the West, and rarely confirm their assumptions in the non-Western world. In line with testing the main ideas of the West, almost all of these approaches have pointed to why and how to unite Western powers in institutional frameworks such as NATO. However, significant empirical reasoning has not been provided in the nature of coalitions in non-western regions such as the Middle East. In this framework, it necessitates examining the role of the politics of great powers more than the policies of other actors. Unlike Western structures, the concept of state and security has many different and more complex meanings in the context of the Middle East. Basically, when the talk is about the concept of national interests as a guiding light of foreign policy in the context of the West, it cannot have a similar function in the context of the region. In the Middle East, there is no clear line between national interests and the interests of the ruling regime or even the security of the state and the security of the regime, and the state is often considered the ruling regime (Halliday, 2005; Hinnebusch, 2003).

Despite the effects of structural conditions and systemic limitations, who and when is in power, what are his main concerns and preferences, and what is his interpretation of systemic opportunities and limitations, are important in the Middle East. Therefore, different meanings and readings of the main concepts such as state, security, and national interests are used in these societies, and the need to revise the dominant Eurocentric model in understanding the nature of Middle East alliances is necessary. Paying special attention to the regime's security approach in understanding the logic of Middle East alliances helps break away from the Western-oriented model and exploit the assumptions of different approaches of realism, constructivism, and political economy in explaining the alliance-forming policy of regional states. The alliances forming in the Middle East are not only based on traditional defense treaties between states to deal with external threats but also often result from the security concerns of the political system at home. In this framework, alliances mean transnational coalitions between the ruling elites in different states to deal simultaneously with traditional threats and threats emanating from their domestic politics. When the talk is about the importance of the survival of the ruling political regime, naturally economic and identity variables are also



highlighted, especially concerning the weak states. In this sense, alliances not only include military, political, and diplomatic support but also provide the economic needs of states to ensure the survival of the ruling political regime in the face of economic crises (Ryan, 2019). There is a broad definition of regime security here that includes internal and external, economic and military, and material and discursive threats. Any challenge that threatens the survival of the political regime, or at least perceived by the ruling elite, is somehow related to the security of the regime (Barnett, 1998). Therefore, regime security as a theoretical bridge connects different approaches and levels of analysis to provide a comprehensive explanation of the logic of alliances in the Middle East.

The coalitions discussed in this article are more than based on the traditional definition and formal treaties of alliances 'such as the Santo or Baghdad Pact', looking at the framework of cooperation and mutual support between two or more political units to achieve common goals in regional politics. Especially considering that some alliances are between states and non-state actors. A coalition is a non-treaty and dynamic form of alliance that is done informally between two or more actors and by including political and economic support, it is not limited to military and security matters. This distinction is important because many theoretical studies, taking into account the experience and practice of Western states' alliances, use alliances as formal security treaties (such as the NATO and the Warsaw Pact) that are used in politics. The Middle East variable is rarely identifiable. In contrast to the practice of alliances in Western politics, informal alliances are the main feature of Middle East regional politics. The coalition seems to be a more accurate term to describe the Middle East's variable alignments, but the current study uses both interchangeably (Salsmey, 2009).

The regime's security approach emphasizes different empirical realities that Middle Eastern states and even most third-world states are facing. Focusing on the regime instead of the state as a single actor provides a more realistic view of the alliance-forming policy of the Middle East states, where diverse sources of threats against the security and survival of the ruling regime are taken into consideration whether these threats are internal and systematic, or military and economic. In this regard, the alliances are a reaction to the threats emanating from these different areas and are not limited to systematic military challenges (Susser, 2008). Therefore, the options to ally are naturally limited and the cost-benefit calculation of ruling elites in being far or close to a coalition is affected by their priority in maintaining security and consolidating the power of the established regime.

In summary, the main features of the regime's security approach in understanding the nature of the changing alliances in the Middle East can be discussed as follows: First, internal security is as important as an external security threat in foreign policy, and security in such a context, non-conventional factors such as economic support to maintain the regime. Second, the demarcation between internal and external security is very faint for those weak states that are economically dependent, and this situation makes them constantly need to form external allies to protect their fragile regime. Third, coalitions are the result of strategic calculations and the elites' perception of their regime security, which constantly leads them to evaluate different options for securing their existential security. If a state is in a state of economic crisis, the leader looks for allies to meet its economic needs, especially through foreign aid. If the state has economic



capability but is weak militarily, they tend to form alliances with allies that strengthen its military capabilities. In a situation where the internal and external environment is constantly changing, the perceptions and estimates of the leaders of their strategic needs lead to the instability of the pattern of alliances in the Middle East. Fourth, ideology is not a determining causal variable in forming alliances in the Middle East. Even at the height of Middle East identity politics, coalitions are essentially a pragmatic response to the material needs of survival. Although the role of ideology in Middle East politics cannot be ignored, it is not the main driving force in shaping foreign alliances (Ryan, 2009; Gause, 2015; Bank & Valbjorn, 2012).

Even if regional alliances and coalitions change, the security dynamics of the political regime are still a determining factor in shaping the options of foreign relations and alliances of states in the region. States' alliance options are always hostage to the riddle of internal and external security created by the minds of their elites (Ryan, 2016). In such a situation, it is important what the ruling political elites think about the security and stability of their political regime. When states face fundamental challenges, the elites try to rearrange political alliances and national security priorities at home and change alliances in foreign policy to ensure the security of their political regime. Due to the low risk of revising foreign relations and the high risks of reforming alliances or carrying out internal reforms, Middle Eastern states often tend to manipulate foreign policy options and alliances when faced with emerging threats to the security of their political regime (Bank & Valbjorn, 2012). Therefore, one of the main reasons for the fluidity of alliances in the Middle East is the states' avoidance of comprehensive changes in domestic politics and the outsourcing of dealing with threats to the security of the ruling political regime through foreign policy options.

It can be argued that the framework of regime security is an approach to understanding the nature and function of non-western coalitions and, in addition to the Middle East, it can be applied in other third-world societies that are somehow still concerned about securing the security of their political regimes (Bellin, 2004). In the study of alliances in the Middle East, the identification of internal and external threats to the survival of the regimes broadens our theoretical horizons regarding the multi-dimensional understanding and the explanation of several variables of fluid regional alliances. This section emphasized the central idea that Middle Eastern states enter or leave an alliance based on the relatively intransigent interests of their regime's security and survival. In such a framework, states, Arab or non-Arab, do not have national interests or goals that are systematically defined, and national interests are nothing but the interests of the ruling elites in consolidating their power and ensuring the survival of their political system (Santini, 2017). It is the interests of the ruling political regime that guides the foreign policy options and alliance-forming policy of the states, on top of which ensuring the survival of the regime has an incomparable priority.

Political regimes seeking long-term survival must be able to adapt to the changing domestic and international political atmosphere. How to adapt and react to political changes requires resources that are provided through coalitions formed with internal and external forces. Depending on the type of political system and the level of pluralism, states put alliances with domestic political forces or alliances with foreign actors on the agenda (Gause, 2015). For example, authoritarian regimes are often inclined to form



alliances with external forces to ensure their survival, while quasi-democracies also evaluate domestic coalition options. For this reason, many authoritarian states in the region have become the center of influence of foreign powers and do not risk strengthen potential domestic allies. On the other hand, while the non-oil states can provide a part of their economic resources from within by changing the tax law, due to the fear of economic and political reforms, they inevitably tend to attract foreign aid, which results follow the initiatives of the supporting powers in regional politics. In such a situation, the widespread reliance on foreign support sources provides the conditions for the ruling regime to neutralize the domestic demand for political participation in the affairs of the country. To the extent that states are less dependent on foreign support (economic-military-security), they have more options for alliances to ensure their survival.

The Logic of Alliance in the Middle East: The Security of Regime

In line with the test of the main idea of the article, this section, empirically examines regional alliances after the Arab Uprisings, which include a range of bilateral and multilateral alliances between Arab, non-Arab, and non-state actors. Although the focus of this research is not on a specific alliance case study, a brief study of the alliance-making policy of Middle East states shows how similar political regimes with common security concerns can ally with each other and maintain or change their alignment. The unbridled developments after the Arab Uprisings are often seen as the weak point of regionalism in the Middle East, where cooperation and coalition forming are artificial and transitory measures for alliances has been explained in the form of realist state-oriented analyzes which are the cornerstones of international relations (Fawcett, 2018). However, the lack of an effective network of cooperation arrangements and regional institutionalism, the crisis of legitimacy, and the lack of the nation-state in its Westphalian sense have prevented the realization of the predictions of the mainstream views. In the meantime, it seems that the security of the regime and its type of it still plays a fundamental role in determining the positions and capabilities of the Middle East states for cooperation and forming alliances.

In the middle of the first wave of Arab Uprisings, the November 2011 meeting of the Arab League leaders was held in Cairo, while the kingdoms of the Gulf found themselves next to the revolutionary representatives who had recently replaced the Arab authoritarian regimes based on democratic mechanisms. The main agenda of the summit for many Arab kingdoms, this time was not Israel and Iran, nor even the emergence of Salafi movements, but the spread of public protests for democracy and demands of revolutionaries for regime change throughout the Arab world. For others, the bigger threat came from reformists and revolutionary movements such as the Muslim Brotherhood, which greatly worried the conservative Arab elites. The strengthening of Brotherhood forces through elections, Ennahda led by Rached Ghannouchi in Tunisia and Freedom and Justice Party led by Mohamed Morsi in Egypt, led to the formation of an alliance between the states in the Gulf Cooperation Council and some non-member kingdoms such as Morocco and Jordan. To prevent popular revolutions from spreading inside themselves, they should create some kind of collective regime security mechanism (Ryan, 2015).



In the meantime, wide differences over the future of the political system in Syria, as well as the increase in Salafist-Ikhwani ideological clashes throughout the region prevented the realization of such a mechanism. The active policy of non-Arab powers in the changing equations of the Arab world and the reduction of the strategic commitments of the US to its Arab allies fueled the perception of the threats of the kingdoms in ensuring the security of their political regime. Turkey's extensive support to Brotherhood movements in Syria, Egypt, Tunisia, and Iran's continuous support to Shiite groups, especially in Yemen, Iraq, and Lebanon, led to the intensification of ideological polarization and changes in the power structure, resulting in the rearrangement of alliances in the region. Meanwhile, the finalization of the JCPOA nuclear agreement between Iran and the 5+1 group in 2015, as a systematic shock, affected many calculations and security options of the conservative Arab states (Raffaella et al, 2024). Such an impression was formed among the kingdoms that the reduction of US security commitments to its regional allies and the possible reduction of tension in Tehran-Washington relations will lead to the expansion of Iran's influence in the Middle East, and therefore, their fear of the existential security of their regime increased.

Under this circumstance, the Saudi-led coalition moved towards bringing in new allies such as Israel and Turkey against the threat caused by Iran's regional influence in the Middle East. From this onwards, military options became the priority of the Arab kingdoms, an example is a war in Yemen. Despite this, the traditional concerns about each other's intentions and the existence of a kind of security mystery among the allies hindered the efficiency and sustainability of such coalitions against Iran. Tehran's threat was one of the main focuses of President Erdoğan's visit in November 2015 at the invitation of King Salman to Riyadh, but the two states' different and sometimes conflicting readings of the changing equations in the region, especially in the Arab world, prevented their unit against a common threat. Mutual distrust in the case of Khashoggi's murder and Bin Salman's intelligence plan to create a crisis inside Turkey to weaken Erdogan's regime reached its peak (Middle East Eye, 2018). The Arab revolutions, the Syrian war, the rise of IS, and the Iran nuclear Deal brought a systemic shock to the regional security mechanisms in the Middle East after 2011, in each of which the alliance-forming policy of states was significantly influenced by their concerns about the security of their regimes. The readings and intentions of the regional states to enter the regional alignment are different from each other since they have different perceptions of the threat to their existential security.

For example, the policies of states such as Jordan, Morocco, Sudan, and Egypt to provide diplomatic support and even send military forces to help the Saudi Arabia coalition in the Yemen war are more than rooted in the threats caused by the Houthis gaining power or Iran's regional influence. It is an effort to attract capital and economic aid from the kingdoms of the Gulf to ensure their survival against internal pressures. Therefore, the continuation of economic aid from the Gulf States is directly related to the security of the political regimes of Jordan, Egypt, and other weak states in the region, and makes them inevitably follow the regional initiatives of the Saudi coalition. Based on this, the alliance-forming policy in the region is a function of the urgency of the corresponding threats to the security of their political system (Darwich, 2019). For this reason, although they unite around a common threat such as terrorism or Iran, each of them has a different perception of their security threats. For Saudi Arabia and Bahrain, the main threat is



Iran's influence in the region and even their internal politics, while the most immediate threat to the security of the political regime of the UAE and Egypt is the influence of the Muslim Brotherhood network, and for Jordan, the emergence of Salafi movements within the borders.

In the big picture, the Middle East was in a multipolar state of power and ideology after 2011. The growing conflict between the poles of Shia, Ikhwani, and Salafi power was going on in the centers of regional conflicts. In such a situation, the possibility of the power poles uniting against the other power is very small due to the fear of the ideological aspirations of the potential ally. Hence, the ideological differences between potential allies prevent effective balancing against potential threats and as a result the balance deficit against the threatening power (Haas, 2014). Both Saudi Arabia and Turkey threaten Iran's regional influence, especially in Syria and Iraq, but they cannot unite against Iran, because Saudi Arabia has serious concerns about Turkey's Islamic democratic model and its support for the Muslim Brotherhood's revolutionary movements in the Sunni world. While Saudi Arabia seeks to weaken Iran's regional influence in its surroundings, it declares the Muslim Brotherhood network as a terrorist organization. On the other hand, despite Washington's efforts to normalize relations between Israel and Saudi Arabia to balance against Iran's influence, Saudi elites do not establish official diplomatic relations with Tel Aviv due to ideological reasons and its possible consequences in the internal balance of power (Darwich et al, 2022). Therefore, the balance deficit in the ideologically multipolar situation is strongly rooted in the fear of the security of the political regimes of potential allies.

Based on this, the leaders of the Middle East are always concerned about the internal consequences of transnational ideological coalitions and do not ally with potential allies whose ideological construction of their state conflicts with the legitimacy of their political regimes, given that it weakens the foundations of legitimacy and security of their established political system (Gause, 2015; Rubin, 2014). This argument shows well why an alliance was never formed between the Sunni powers of 'Arabia, Turkey, Egypt, Jordan, and the Gulf Arab States' against the Shia coalition of Iran. On the other hand, the priority of the regime's security in alliance forming can be the reason for the alliance. Saudi Arabia should clarify with the Arab kingdoms and the anti-Brotherhood regime of General Al-Sisi in Egypt, as well as Turkey's strategic alliance with Qatar and other Brotherhood forces in the Sunni world. Basically, historically, the Brotherhood forces perceive the Sunni powers as more threatening than the common Iranian coalition. Even the ideological links between Iran and the Shiite factions of the region, especially Hezbollah, Hashd al-Shaabi, and the Houthis, 'even though they are Zaydis', is also a fundamental factor in Iran's alliance policy and creating a shared destiny in securing the security of the allied political system. In such a situation, due to the potential domestic political consequences of an open partnership with Tel Aviv, Israel cannot become an acceptable ally for any of the regional states.

On the other hand, economic motives are also an important variable in the formation of alliances between weaker states and regional powers, which to ensure survival in the face of economic crises inevitably lean towards the follow-up strategy. Egypt after the 2013 coup is a clear example of this. Immediately after General Fattah al-Sisi took power in Egypt, he received about 5 billion dollars from Saudi Arabia, 4 billion dollars from



Kuwait, and 2 billion dollars from the UAE to avoid the consequences of internal economic crises. So far, Cairo has received more than 10 billion dollars in foreign aid from Saudi Arabia, and since 2016, Riyadh has pledged that Aramco will supply Egypt with one million barrels of oil per month for five years (Kamrava, 2018). General al-Sisi, who carried out his coup project with the support of the Arab kingdoms, was forced to participate in an international coalition against the Muslim Brotherhood in Syria, Yemen, and Libya for the survival of his regime. On the other hand, Cairo inevitably accompanies the Saudi coalition in regional equations, especially Yemen, and the military capabilities of this country are very important in the strategic calculations of the sheikhs of the Gulf to deal with internal and external threats.

Although Bahrain's association with the Saudi coalition does not have economic motives, Manama's fear of the country's Shiite movements and Iran's regional influence is directly related to the security of the Al-Khalifa regime. Hence, the military intervention of the Peninsula Shield Force in the internal unrest in Bahrain in 2011, inviting Morocco and Jordan to join the Gulf Cooperation Council and signing a joint security agreement between the members of the council along with Jordan and Morocco in November 2012 to deal with potential internal unrest and revolutions. All efforts to form a counter-revolutionary coalition of Sunni kingdoms are evaluated to ensure survival (Yom, 2016). In such a framework, the policies of the Arab kingdoms to suspend diplomatic relations with the democratic governments of Tunisia and Egypt in 2012 and stop financial aid to them, as well as the blockade of Qatar due to its support for the Brotherhood forces in the region in 2017, are understandable. In the meantime, the fact that states such as Oman, Egypt, and Qatar do not have an active presence in the Saudi coalition against Iran and often take a neutral side is related to the fact that their leaders, unlike their neighbors, are not threatened by Iran's influence. They do not see the existential security of their regime in danger from Iran.

In addition to ideological clashes and economic motives, security threats caused by destabilizing raids in the changing geopolitics of the Middle East, which in some way shakes the security of the political regimes of regional states, play an important role in the policy of states to form alliances. For example, the strategic preparation of the Syrian Kurds and their territorial influence in the self-governing cantons of Rojava has shaped Turkey's foreign relations and alliance-forming policies more than the threat of ISIS and the geopolitical influence of competing powers. Because the security threat of the Syrian Kurds has directly affected the Kurdish identity policy inside Turkey and as a result the national security of this country. The US's policy in consoling and equipping the Kurdish democratic forces of Syria and its military arm, the People's Defense Units, to achieve their field goals in Syria, is the focal point of the rupture in Turkey's relations with Western allies, especially US. Considering the gaining power of Turkish Kurdish forces and their entry into the parliament of this country (Peoples' Democratic Party) in the June 2015 elections, as well as the financial support of some Arab states to Syrian Kurds, Ankara is more concerned about the security threat caused by Kurdish movements.

In such a situation, Turkey moved away from Western allies and reconsidered its Syrian policies towards alternative alliances, which are headed by Russia and Iran. In the shadow of the Astana trilateral talks, Turkey established several de-escalation zones and conducted three military operations in cantons administered by Kurdish militias. The turn



in Turkey's alliance-forming policy in the Kurdish issue points to the threats that targeted the national security of this country, and naturally, it can endanger the survival of the ruling political regime. The logic of the balance of power and the balance of threats in the study of the nature of alliances in the Middle East leads us to the conclusion that we can never witness a strategic alliance and cooperation between Iran and Turkey as two competing powers in the changing regional equations. But the security logic of the regime provides a different output. The failed coup of July 2016 is a turning point in reforming the internal and external allies of Erdogan's regime. Unlike Western allies, Moscow and Tehran immediately supported Ankara against the coup plotters. Ambiguity in the reaction of Saudi's allies and Arab rivals created this perception of threat in Erdogan's thinking room, that the West and some Arab states, with the support of the coup plotters, have keyed the 'Erdogan's oust Project'.

After the coup in 2016, the concern of ensuring the survival of the established government has played an essential role in guiding Turkey's foreign policy and alliance forming, which has also been reflected in the strategic closeness of Turkey-Iran relations (Yücesoy, 2019). Despite conflicting priorities in regional politics, especially in Syria, Turkey, and Iran in the Qatar blockade issue 'the conflict between Qatar and the Gulf kingdoms, the April 2017 referendum on the independence of Iraqi Kurdistan, and the hostile policies of the US against the two states', took joint steps. Therefore, the strategic closeness of Turkey to Russia and Iran is actually evaluated as a smart move to create a comprehensive balance to ensure the security of the Turkish political regime against internal and external threats. In addition to the cases that have been reviewed in brief, there are other examples of the logic of alliances in the Middle East that can be used objectively for the security of the regime in the formation of fluid regional alliances.

Meanwhile, why the long-standing alliance between Iran and Syria, Iran and Iraq after Saddam Hussein, the comprehensive alliance between Iran and allied Shiite groups (Hezbollah, Ansarullah, and the Popular Mobilization Forces) in the form of the resistance front, why the region's Kurds turned away from the US, the emerging government alliance Fayezi Siraj's national agreement with Turkey to ensure its survival against General Khalifa Haftar, the inevitable alliance of Jordan with the Gulf kingdoms, and why the IS is not united against the US deal of the century and Israel's hostile policies in annexing other parts of the land occupations are among the other cases that scrutinize their nature, strengthen the main idea of the regime's security in shaping Middle Eastern alliances. Providing a detailed discussion of the various cases above is not within the form and content of this article. However, each of these cases can be researched with more details and data in separate writings.

Conclusion

To explain the mechanism of unstable alliances in the Middle East after the Arab Uprisings, this article tried to provide an alternative theoretical framework to the dominant Western-oriented paradigm in the literature of alliances in the international relations of the Middle East. Emphasizing only the Western model and considering alliances as official defense treaties between states limits our theoretical horizons in understanding the complexities of relationships and the empirical realities of Middle East



alliances. As such alliances can rarely be identified in the modern history of the Middle East and if there is a need, it has been influenced by the initiative of the western powers. Contrary to common theories of alliances that ignore the role of the dynamics of internal politics and the security of political systems, the approach of regime security investigates the multiple sources of internal and external threats, military, economic, material, and discourse, emphasizing the importance of the ruling leaders' perception of the changing political realities. At the same time, the regime's security approach does not ignore the role of traditional factors such as anarchy, power distribution, state security, and foreign military threats.

The article proposed such an idea that despite the change in structural conditions and the importance of lower policy issues in shaping alliances in international relations, the main interests of each of the states in the region are still ensuring the survival and security of their political regime against potential threats whether internal and external. The states often consider their political system as a government in its general sense and somehow tie the survival of their political regime to national security. In this way, national security is defined as the security of their established political system, and in the meantime, the survival of the political regime is considered to be the main security concern in shaping the alliance-forming policy. Based on this, alliances are formulated as transnational coalitions between potential allies to ensure the existential security of regimes, which is aimed at weakening the function of the nation-state in the sense of the whole political unit.

Focusing on the importance of maintaining the security of the regime reveals more and more the internal historical gap between the political elites and the society of the state. Arab Uprisings showed that civil society is dynamic and growing in many states of the region. While the regimes of the Arab Republic have gradually weakened, the Arab kingdoms are trying to maintain and stabilize themselves against the destabilizing effects of change. The fact is that the regimes in the region are in an unstable and fragile state, and by manipulating foreign policy options, they resist any internal reforms and changes. Some of them, including Yemen, Libya, and Syria, are engaged in civil wars, and others resort to any means against public protests and destabilizing environmental trends. This situation also includes the non-Arab regional powers that still have the issue of ensuring the survival of the political system of the ruling elites of high priority and urgency in shaping their alliance-forming policy. Considering that the security of the regime is the driving force of the Middle East states in their foreign policy, the need to deal with internal and external threats is unavoidable.

Although some states have significantly invested in the development of their defense and deterrence capabilities, the situation of the security dilemma in the security structure of the Middle East and the internal legitimacy crisis has caused the political elites to always perceive the security of their regime as a threat. In addition to explaining the logic of coalitions in the Middle East after 2011, the regime's security framework helps to predict possible future coalitions by broadening our theoretical perspective regarding the alliance-forming dynamics of regional states. If the ruling leaders perceive potential allies as a threat to their survival, no stable and efficient alliance can be formed. On the other hand, if the ruling political elites recognize that the security of their regime is ensured in the form of an alliance even with rivals and potential enemies, the realization of such an



alliance is likely. More objectively, if the Hashemite family of Jordan concludes that the main threat to its kingdom is from the Salafi groups of the Saudi-Emirati alliance, it will move towards an alliance with the internal forces of the Muslim Brotherhood and the Turkish-Qatar regional alliance.

If the sheikhs of the United Arab Emirates conclude that Iran's regional influence is not a threat to their political regime, not only will they not have an active presence and action in the Saudi coalition, but they will also move towards the normalization of relations with Tehran. On the other hand, if Egypt can meet its economic needs in any way and sees the Brotherhood's threats evaporate, it will not doubt the regional initiatives of the Saudi coalition. If there is a regime change in Turkey and a Western-oriented regime replaces the incumbent government, surely will have a different view on the continuation of strategic relations with Iran and Russia.

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COMPARATIVE ANALYSIS OF MEDIATION IN SOME FOREIGN COUNTRIES AND UZBEKISTAN: POTENTIAL QUESTIONS AND PROPOSALS

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Abstract

Today, it is no secret that alternative dispute resolution methods, such as mediation, are widely used all over the world. However, in the experience of some countries, there are still problems in the practice of applying and introducing mediation. This article is devoted to the application of alternative dispute resolution and comparative analyses between some developed countries and the Republic of Uzbekistan. The author analyzes the use of alternative dispute resolution methods in Uzbekistan and their features. The goal of this research is to discuss and develop solutions to common problems related to the application and implementation of alternative dispute resolution methods. The current work also provides answers to potential misunderstandings, identifies the problems associated with the use of the mediation procedure, and develops ways to solve them.

Keywords

Alternative dispute resolution, arbitration, negotiations, mediation, pre-trial (claims procedure), commission on labor disputes, out-of-court settlement of disputes, voluntariness.

Resumo

Atualmente, não é segredo que os métodos alternativos de resolução de litígios, tais como a mediação, são amplamente utilizados em todo o mundo. No entanto, segundo a experiência de alguns países, ainda existem problemas na prática da aplicação e introdução da mediação. Este artigo é dedicado à aplicação de métodos alternativos de resolução de litígios e à análise comparativa entre alguns países desenvolvidos e a República do Usbequistão. A autora analisa a utilização de métodos alternativos de resolução de litígios no Uzbequistão e as suas características. O objetivo desta investigação é discutir e desenvolver soluções para problemas comuns relacionados com a aplicação e implementação de métodos alternativos de resolução de litígios. O presente trabalho também fornece respostas a potenciais mal-entendidos, identifica os problemas associados à utilização do procedimento de mediação e desenvolve formas de os resolver.

Palavras-chave

Resolução alternativa de litígios, arbitragem, negociações, mediação, pré-julgamento (processo de reclamação), comissão de conflitos laborais, resolução extrajudicial de litígios, voluntarismo.



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COMPARATIVE ANALYSIS OF MEDIATION IN SOME FOREIGN COUNTRIES AND UZBEKISTAN: POTENTIAL QUESTIONS AND PROPOSALS

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1. Introduction

Today, in Uzbekistan, judicial protection is the predominant method of dispute resolution. However, alternative dispute resolution (ADR) techniques have the potential to be more effective in many cases. Mediation stands out as one type of ADR garnering substantial use internationally while still facing barriers in the Uzbekistan context.

The primary objective of this research is to undertake a comparative analysis of mediation implementations in Uzbekistan against the models of Germany, Singapore, and Georgia, which are renowned for their proficient legal integration of mediation practices. Challenges to mediation uptake in Uzbekistan manifest across three primary dimensions:

- Lack of enforceability limits the power of negotiated voluntary agreements between conflicting parties. Signed resolutions do not carry legal authority or accountability if later breached.
- Undefined pricing and occupational assurances restrict the emergent profession of independent mediators from organizing effectively and promoting the affordability of services.
- Underdeveloped connections to state judicial activities represent a missed opportunity for greater visibility and legitimacy-building of extrajudicial options¹.

Alleviating tensions in these problem areas through targeted legal reforms and multi-sector partnerships can strengthen alternative dispute resolution alignment. More broadened implementation then carries the potential to ease pressure on traditional court cases, allowing more efficient processing for legal cases inherently necessitating full trial attention.

The paper begins by reviewing key principles and theorists grounding alternative dispute resolution as a paradigm, focusing attention on the negotiation and conflict management foundations upholding the mediation technique specifically. Following this review, an analysis compares written laws and observed practices related to the integration and use

¹ Davronov D.A. *Research problems of procedural coercive measures in civil court proceedings*. Monograph. (Tashkent, TSUL, 2021), p. 11



of non-adversarial mediation procedures in Uzbekistan and internationally recognized models. Common barriers are elucidated through a synthesis of procedural documentation and secondary research commentary. In response, specific amendments and supporting programs are recommended to help the practice of mediation reach its full capability as a voluntary recourse, improving the accessibility of dispute settlement to the Uzbek populace.

The need to use the ADR in Uzbekistan is especially urgent in connection with the adoption in 2018 of the Civil Procedure Code² (hereinafter referred to as CPC) and the Economic Procedure Code³ (hereinafter referred to as EPC) in a new edition. In which the relevant chapters ("Conciliation Procedures") appeared, which in turn contain a provision that the parties can resolve the dispute by concluding a settlement or mediation agreement.

2. Literature Review

Uzbek and foreign scientists are conducting research in this regard. Sevarkhon Maripova, Associate Professor of the Lawyer's Training Center under the Ministry of Justice of the Republic of Uzbekistan, gives her opinion that the parties prefer to maintain business and partnership relations, avoid publicity, save time and money, and accordingly resolve the dispute amicably⁴. In addition, Prof. Dr. Thomas Trenczek is the owner and director of the Steinberg Mediation Institute in Hanover, which is one of the leading providers of mediation, coaching, training, and consultancy in Germany, and Prof. Serge Loode⁵ expressed his opinion on the execution of the agreement made in the process of alternative dispute resolution. As well, Joel Lee and Teh Hwee Hwee, experts at the Singapore Academy of Law, also analyzed an Asian perspective on mediation⁶.

The experience of the world community shows that mediation is one of the most effective methods of alternative dispute resolution. To date, considerable experience has been gained in integrating the mediation procedure with the assistance of a mediator into the legal systems of various states. In many foreign countries, mediation exists and is used as a special form of dispute resolution along with and in conjunction with litigation. Mediation is a relatively new institution for the Uzbek legal system, and the process of its implementation in the legislation took many years. It was officially introduced in 2018 in connection with the adoption of the Law of the Republic of Uzbekistan "On Mediation"⁷ (hereinafter the Law on Mediation).

² *Civil Procedure Code of the Republic of Uzbekistan*, dated April 1, 2018; *National Legislation Database*, August 4, 2022, No. 03/22/786/0705; <https://lex.uz/docs/-3517337>

³ *Economic Procedure Code of The Republic of Uzbekistan*, dated April 1, 2018; *National Legislation Database*, August 4, 2022, No. 03/22/786/0705. <https://lex.uz/docs/5535151>

⁴ S.A. Maripova, "The importance of the mediation institute in resolving labor disputes," (theory and practice), *J. Lawyer Newsletter*, 2021, no. 1, pp. 132-138.

⁵ Professor Thomas Trenczek and Serge Loode. "Mediation "made in Germany" – a quality product," January 2012. https://www.researchgate.net/publication/228096531_Mediation_made_in_Germany_-_a_quality_product

⁶ Joel Lee and Teh Hwee Hwee (eds.). *An Asian Perspective on Mediation*, (Academy Publishing 2009). <http://www.review.upeace.org/pdf.cfm?articulo=93&ejemplar=18>

⁷ *Law on Mediation*, July 3, 2018 No. LRU-482; *National Legislation Database*, April 21, 2021, No. 03/21/683/0375. <https://lex.uz/docs/4407205>



Besides, a group of scientists agrees to enforce it according to the agreement of the parties in both the arbitration and mediation processes. Including Prof. Dr. Thomas Trenczek, owner and director of the Steinberg Mediation Institute in Hanover, which is one of the leading providers of mediation, coaching, training, and consultancy in Germany, and Prof. Serge Loode, both agree that if the dispute outside of the court is resolved through ADR, it is emphasized that the agreement should be focused on execution. In the experience of several developed countries, ADR documents can be focused on execution. In particular, the German Arbitration Institute (DIS) offers a portfolio of alternative dispute resolution proceedings from which the parties can select the most suitable type of mechanism for resolving their dispute. In addition to consensus-oriented methods (mediation, conciliation), decision-oriented types of proceedings (arbitration, adjudication, expertise/expert determination) are also available. Business entities and parties to a dispute may benefit from applying the German experience, depending on the content of the dispute⁸.

Therefore, this article analyzes the general problems of using mediation and the obstacles related to applying mediation in the experience of the Republic of Uzbekistan and the experience of developed European countries.

3. Methodology

This comparative study uses qualitative content analysis as the primary research method. This involves an in-depth assessment of mediation-related legislation and scholarly discussion on the topic, with Uzbekistan as the focus case as well as Germany, Singapore, and Georgia for juxtaposition.

Data was collected systematically from the electronic databases of academic journals, national legislative repositories, and justice system open data indexes. The search used terms including "mediation", "alternative dispute resolution," and "voluntary reconciliation" combined with the names of each respective country. Articles were scanned for relevance to the research questions, and the reference tracing technique was also utilized to find additional pertinent studies. Thematic coding will be applied to identify recurring topics across the landscape of literature.

Textual analysis will be performed systematically on the corpus of texts extracted. A structured codebook contains definitions for a priori codes based on alternative dispute resolution theory, which will guide analysis. These include concepts such as "enforceability," "pricing mechanisms," and "integration with the judiciary." New codes will be added as needed to capture specific elements found in the literature. The author will manually categorize segments into different themes during the coding process.

Extracted mediation regulations will undergo doctrinal analysis to compare procedures and requirements established in law across the country's environment. The laws governing enforcement, advertising, trial process involvement, and mediator protection will offer insights into the unique promotion of alternative dispute resolution in each

⁸ Professor Thomas Trenczek and Serge Loode. "Mediation "made in Germany" – a quality product", January, 2012.
https://www.researchgate.net/publication/228096531_Mediation_made_in_Germany_a_quality_product



location. Tables are incorporated to highlight procedural variations for a summarized visual comparison.

4. The concepts and Backgrounds of mediation as a type of ADR

Alternative dispute resolution (ADR) is a set of procedures that are aimed at out-of-court resolution of disputes, but there is no legislative definition of "alternative dispute resolution." Most of the ADR methods existing in the world are not yet familiar to national legislation and dispute resolution practice. Along with the concept of ADR, the concept of conciliation procedures is also used in literature and legislation. Procedural codes only include a reference to the use of conciliation procedures, namely the conclusion of a settlement or mediation agreement, but the code also does not contain a definition of this concept.

According to A.Yu Kononov, ADR is a system of interconnected actions of the parties and other persons in resolving a dispute that is aimed at out-of-court settlement or resolution through the use of conciliation or other not prohibited procedures and is carried out on the basis of the voluntary expression of the will of the parties⁹. G.V. Sevastyanov understands alternative dispute resolution as "the right to choose any method of resolving a dispute or resolving a conflict not prohibited by law by the subjects of a disputed legal relationship based on a specific situation"¹⁰.

As noted by S.S. Sulakshin, alternative dispute resolution is a method of extrajudicial influence on a conflict, the purpose of which is to eliminate contradictions between the parties to the conflict or to minimize the negative consequences of the conflict for its participants¹¹.

Some scientists use the term "procedures" when studying certain types of ADR: "Methods of resolving disputes and resolving legal conflicts mean state or non-state (private) procedures regulated by legislation and/or agreement of the parties: state legal proceedings, arbitration proceedings, conciliation procedures, etc."¹² Author M.A. Rozhkova also uses a similar term: "Procedures outside of state resolution and settlement of disputes also include reconciliation (conciliation procedures)"¹³.

The term "mechanisms" is also applicable to ADR. For example, a scientific and practical manual by the author N.I. Gaidaenko, she received the title "Formation of a system of alternative dispute resolution mechanisms: a conflict-free society as the basis for combating corruption"¹⁴. In the quotes mentioned above, various terms like "methods,"

⁹ Kononov A.Yu (2014). Concept, classification, and main types of alternative methods of dispute resolution. *Journal of Russian Law*, No. 12, p. 124.

¹⁰ Sevastyanov G.V. (2016). Alternative dispute resolution: concept and general features. *Arbitration Court*, No. 2, p. 141.

¹¹ *Alternative ways to resolve disputes between business entities: monograph by S. S. Sulakshin, Center for Problem Analysis and State Management Design* (2013). Moscow: Scientific Expert, p. 78.

¹² Andreeva T.K. (2016) Conciliation procedures in arbitration proceedings. *Arbitration Court*, 2016, No. 1, p. 14.

¹³ Rozhkova M.A. & Kluwer M. Wolters (2016). *Means and methods of legal protection of the parties to a commercial dispute*, p. 12.

¹⁴ Semilyutina, N.G., IZiSP, M & INFRA-M (eds.) (2015). *Formation of a system of alternative mechanisms for dispute resolution: a conflict-free society as the basis for combating corruption: scientific and practical. allowance/answer*, p. 75.



"procedures," and "types" are used regarding ADR, which are often considered synonyms by scientists and authors.

An alternative resolution system (ARS) is a set of methods and procedures that are designed to resolve conflicts and disputes outside the traditional court system. It provides the parties to a dispute with the opportunity to find a compromise solution without resorting to lengthy and expensive litigation. The alternative dispute resolution system includes various methods, such as mediation, arbitration, arbitration courts, conciliation, negotiations, and others. These methods can be applied in a variety of areas, including labor relations, family disputes, commercial disputes, civil cases, and others.

The institution of ADR has its origins in ancient times. At certain periods of its historical development, various forms of dispute resolution arose in society. They represented a whole system of methods and procedures capable of resolving a conflict. One of the important institutions for resolving disputes in Uzbekistan has long been the "mahalla". "Mahalla" is a whole system of relationships between residents of one quarter that has existed in Uzbekistan for many centuries and has had a significant impact on the development of Uzbek traditions and their daily lives¹⁵. In a way, it is a social institution in the form of a community united in a small area. For a long time, the elders who lived there were instructed to resolve conflicts between neighbors, family members, and spouses. Today, conciliation commissions operating under citizens' self-government bodies perform this role. It should be noted that the ADR was once enshrined at the legislative level. So, for example, in the Civil Procedure Code of 1963, there was a Chapter "Comrades' Courts", and for a number of disputes, it was necessary first to apply to the Comrades' court and only later, if the dispute was not resolved by the Comrades' court, to a civil court. With the next branch of judicial and legal reforms, when the Constitution of the Republic of Uzbekistan was adopted in 1992¹⁶ and Article 44 fixed the priority of the judiciary, respectively, the above rules have lost their relevance for that period. It should be noted that at that time, the civil courts considered only 107 thousand cases a year, so the courts, although with difficulty, coped with the load that took place. In 1997, the Civil Procedure and Economic Procedure Codes were adopted, where, of all the ADRs, there was only one way to resolve disputes: the conclusion of a settlement agreement in court and its approval by the court. Adopted in 2006, the Law "On Arbitration Courts"¹⁷ became the first sign in the legal system of Uzbekistan when the institution of ADR was legally enshrined. The gradual introduction of the institution of mediation into the legal system of Uzbekistan as a new way of ADR was associated with the adoption in 2018 of the Law of the Republic of Uzbekistan "On Mediation"¹⁸.

This is how mediation developed in Germany, separating from the state sphere based on civil society. After a while, this picture changed. After initial rejection and criticism from conservative lawyers, judges, and prosecutors, mediation has grown in popularity and acceptance. With the growth of this recognition, mediation began to be integrated into

¹⁵ Khayrulina, Asal (2021). "Institute of mediation as an alternative disputes resolution". *Monograph*, pp. 16-17

¹⁶ *Civil procedure law. A study guide* (2017). <https://library-tsul.uz/fu-arolik-protsessual-u-u-i-2017/>

¹⁷ *Law on Arbitration*, dated August, 2006, No. LRU-64; *National Legislation Database*, April 21, 2021, No. 03/21/683/0375. <https://lex.uz/docs/4407205>

¹⁸ *Law on Mediation*, dated July 3, 2018, No. LRU-482; *National Legislation Database*, April 21, 2021, No. 03/21/683/0375. <https://lex.uz/docs/4407205>



the state judicial system, and so-called "judicial mediation" was born. Judicial mediation means that the new mediation tool has been combined and used in a certain way with regular litigation.

A mediation in Germany gained significant development due to the direct involvement of courts, the following types of mediation emerged in German practice:

- *Judicial mediation*: the judge directly participates in the mediation process and acts as a mediator;
- *Mediation in court*: mediation is carried out by an independent mediator at the suggestion of a judge;
- *Out-of-court mediation*: mediation is carried out by an independent mediator on a contractual basis¹⁹.

In addition, the terms "mediation" and "conciliation procedure" are used interchangeably in German practice, with the exception of the area of consumer dispute regulation²⁰. Here, conciliation procedure (schlichtung) means the activity of special bodies for the resolution of consumer disputes, during which a third party makes a binding decision; for example, it is binding on the bank but not on the consumer.

The first mediation projects started in the early 1980s, mainly as divorce mediation and victim-offender mediation (VOM) projects. Amendments to the civil law system and the criminal (between 1991 and 1999) and civil procedure laws (between 2000 and 2002) were necessary because they provided statutory frameworks for court-related mediation schemes. Additionally, there was an important Federal Constitutional Court decision in 2007 – despite it not yet having been fully adopted by courts and legal professionals – that stated, "In a state governed by the rule of law, it is preferable to solve an initially litigious issue by mutual consensus in contrast to a contradictory process and a judicial decision"²¹. When introducing alternative dispute resolution methods into the country's legislation, it is necessary to carefully consider the powers of state courts. The preference for state courts reduces citizens' interest in ADR.

¹⁹ [German law on support for mediation and other forms of out-of-court settlement of conflicts \(mediations g\) \(with brief explanation\) pdf.](#)

²⁰ Kovach, K. & Love L. (1996). "Evaluative Mediation is an Oxymoron", 14(3), 31. <https://core.ac.uk/download/pdf/230447658.pdf>

²¹ Trenczek, Thomas & Loode, Serge (January 2012). "Mediation "made in Germany" – a quality product". https://www.researchgate.net/publication/228096531_Mediation_made_in_Germany_-_a_quality_product



Table 1 - Development of Mediation (Law) in Germany²²

Until early 1980s	Almost purely academic discussion
1985	First mediation projects in family mediation and victim offender mediation. Rapidly growing numbers of associations and organisations offering mediation and mediation policy but little practice.
Mid-1990s	Growing practical use of mediation (mainly victim-offender mediation and family mediation). Plethora of conferences and training as well as publications.
1991,1994,1999	Amendments of the Criminal Code and Code of Criminal Procedure referring to victim offender dispute resolution/mediation.
2000 and 2002	Amendment of the Code of Civil Procedure referring to ADR in civil matters.
14 February 2007	Federal Constitutional Court decision 1 BvR 1351/01: "In a state governed by the rule of law it is preferable to solve an initially litigious issue by mutual consensus in contrast to an adversarial process and a judicial decision."
25 April 2007	Draft of mediation law in Lower Saxony (not enacted because of a change of government after state elections).
2008	Law to Regulate Legal Services (Gesetz zur Neuregelung des Rechtsdienstleistungsrechts), effective on 1 July 2008: "mediation is not a legal service".
2008	EU Council and EU Parliament: Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on Certain Aspects of Mediation in Civil and Commercial Matters with regard to cross-border conflicts.
12 January 2011	Draft federal Law to Foster Mediation (Gesetz zur Förderung der Mediation).
15 December 2011	The lower house of the German Parliament (Bundestag) accepted the draft Law to Foster Mediation.

Nowadays, technologies are developed and widely used in the legal system that create opportunities to make the ADR process online. The first appearance of online dispute resolution was done via email. This method of dispute resolution is done online. Once the application was accepted for resolution, the other party responded to the application. If no agreement is reached, the parties are directed to the negotiation stage. This was done through an electronic means of communication - e-mail²³. This is also extending the opportunity to apply ADR and resolve problems between parties.

5. Formation and operating system of mediation in Uzbekistan and some developed countries

The institution of mediation as a form of out-of-court dispute resolution is widely used in world practice. This institution is used as a means of resolving conflict situations as well as family issues and disputes in the business environment. Through mediation, the losses

²² Trenczek, Thomas & Looze, Serge (January 2012). "Mediation "made in Germany" – a quality product". https://www.researchgate.net/publication/228096531_Mediation_made_in_Germany_-_a_quality_product

²³ Pirmatov, Otabek (2022). Online dispute resolution - fantasy or reality? *Janus.net, an e- journal of international relations*. Vol. 13, No. 1, May – October 2022. <https://doi.org/10.26619/1647-7251.13.1.03>.



of the parties to the dispute, both moral and material, are minimized. To reflect the depth of implementation of the institution of mediation in practice in different countries, it is necessary to present their national experience in this area.

Because there are still problems with mediation including:

The non-enforcement of the ADR, especially the mediation agreement and arbitration decision, does not allow for a sharp increase in the number of applicants. The mediation agreement does not have the force of an executive document; that is, the parties, when resolving disputes, use the mediation procedure and come to a mediation agreement; however, if the party does not comply with or does not execute the mediation agreement or does not execute it properly, the enforcement of this agreement is impossible.

As defined in Article 51 of the Law of the Republic of Uzbekistan "On Arbitration," adopted in 2006, the application for the issuance of a writ of execution shall be submitted to the competent court by the party to which the decision of the arbitration court was issued in favor of the parties to the arbitration proceedings. According to Article 29 of the Law of the Republic of Uzbekistan "On Mediation," adopted in 2018, "the mediation agreement is binding on the parties to it and is executed voluntarily by them in the manner and within the time frame stipulated in it. If the mediation agreement is not fulfilled, the parties are entitled to apply to the court for the protection of their rights.²⁴" This is the reason why the parties are less interested in ADR today.

There is ongoing discussion on the execution of the mediation agreement. Uzbek legal experts, including S. Maripova, Associate Professor of the Lawyer's Training Center under the Ministry, previously discussed the issue of the possibility of a mediating agreement being focused on execution only through the court due to the existence of the principle of voluntariness defined in the law "On Mediation".

The mediation agreement is binding on the parties and governed by contract law. The mediation agreement can be executed in the following ways:

Notarization (Section 794 (1) No. 5 of the Code of Civil Procedure);

Approval of a mediation agreement as amicable if the mediation was conducted by a mediator judge (Section 794 (1) No. 1 of the Code of Civil Procedure);

or in parallel with legal proceedings (section 278 (6) of the Code of Civil Procedure);

transformation of a mediation agreement into an arbitral award on agreed terms (section 794 (1) No. 4a of the Code of Civil Procedure);

transformation of the mediated agreement into an agreement of the lawyers of the parties, which is then registered in the district court (section 795 a (1) of the Code of Civil Procedure)²⁵.

Also, in the experience of Russia and Georgia, during the mediation process, the parties can confirm the mediation agreement through the state court and focus on execution.

²⁴ *Law on Mediation*, dated July 3, 2018 No. LRU-482; *National Legislation Database*, April 21, 2021, No. 03/21/683/0375. <https://lex.uz/docs/4407205>.

²⁵ Code of civil procedure as promulgated on 5 December 2005, 10 last amended by Article 1 of the Act of 5 October 2021. *Federal Law Gazette I*, p. 4607. https://www.gesetze-im-internet.de/englisch_zpo/englisch_zpo.html.



The laws of the Republic of Uzbekistan do not specify the issue of a fixed fee for a mediator, and there is no organization to protect the rights of mediators, which prevents the rapid development of this activity.

The institution of mediation in Singapore, as one of the countries in Southeast Asia, has deep roots. Dispute resolution through mediation has existed in Singapore for a long time. The elders, who also carried out this procedure, have historically headed mediation. They invited the parties to discuss the conflict and come up with a solution that was beneficial to both parties. There are plenty of advantages to applying for mediation, and the number of qualified mediators is enough to solve problems and give alternative ways for parties since centers are operating to support mediators, retrain them, and give directions. On the example of the Singapore Mediation Centre²⁶, which was founded as a non-profit organization in 1997, one can see the practice of introducing out-of-court mediation, where the Singapore Law Academy, which is a government body, became the founder. The director of the SMC is always a judge of the Supreme Court.

In addition, the Judicial Mediation Center is a public institution that conducts the mediation procedure in Georgia. Mediation was introduced into the Georgian court system in 2013 and is used only in civil law disputes. If there are inheritance disputes, disputes between neighbors, as well as family disputes, except for disputes on adoption, deprivation of parental rights, and violence against a woman, in such categories of cases, with the consent of the parties or forcibly, the judge may refer the dispute to mediation²⁷.

Actually, there is a mediation center in some Asian countries, including Uzbekistan. However, this is not enough to ensure the rights and obligations of mediators, as well as to support them and improve their activities. Therefore, it is desirable to establish centers, like in the experience of Singapore and Georgia.

In addition, according to the legislation of the Republic of Uzbekistan, the mediation process is voluntary, and the legislation allows mediators to work as professional or non-professional mediators. There is no fixed fee for mediators. In practice, this situation does not allow for an increase in the number of people professionally engaged in mediation activities.

In German practice, mediation is not a free procedure; payment is subject to agreement between the private mediator and the parties concerned. The legislation does not regulate the fee for mediation, and there are no statistics on costs. It is quite realistic to assume that the hourly pay can be around 80 to 250 EUR²⁸. In order to support the activity of mediators, increase the number of professional mediators, and strengthen the responsibility of the parties, it is desirable to set a fixed price for mediators.

²⁶ Lee, J. & Hwee, Teh Hwee (eds.) (2009). An Asian Perspective on Mediation, pp.10–11, <http://www.review.upeace.org/pdf.cfm?articulo=93&ejemplar=18>

²⁷ Ismailova R. (2020). *Overview of the practice of introducing mediation in the top 5 countries according to the AMRS according to the rating "Doing Business"*, pp. 14–16.

²⁸ European e-justice portal. Official site.: https://e-justice.europa.eu/content_mediation_in_member_states-64-de-en.do?member=1



6. Features of mediation

It is customary to distinguish between two main models of judicial mediation: integrated (intra-judicial), in which the procedure is carried out in the courthouse by one of its employees and a partner, and associated (out-of-court), which is carried out outside the court by a mediator independent of the court and the parties²⁹. Mediation in Uzbekistan is a pre-trial and out-of-court procedure for resolving disputes; intra-judicial mediation has not been introduced into the national legislation of Uzbekistan.

Since over 1,500 mediators have been trained in the country to date³⁰, with the number of disputes that exist in civil and economic courts and despite the fact that the population is not familiar with mediation, in my opinion, it is necessary to introduce a mediation procedure by the court. Of course, our proposal may turn out to be controversial, but in fact, if we consider each court session, all judges begin by offering the parties to reconcile, but at the legislative level, we have not secured their right to participate in judicial reconciliation or invite mediators. Therefore, in our opinion, it is necessary to introduce into the current legislation the right of a party to conduct a conciliation procedure with the participation of a judge. The judge who will conduct the mediation will notify the parties of the time and place of the mediation. He or she has the right to postpone the mediation procedure within the time limits that we have already established in the legislation, from 1 to 60 days, and also invite other people to the mediation procedure if their participation will contribute to the settlement of the conflict. For example, the judge may invite a professional mediator to resolve the dispute. If we turn to the experience of America, mediation has become a popular method of resolving disputes. In the US, more than 90% of all civil disputes are resolved before trial, and many of them are resolved through mediation³¹. Mediation has become so popular that many courts have created their own mediation programs that they either offer or require litigants to participate in. However, mediation programs offered by courts are markedly different from those conducted out of court in private. Knowing these differences can help parties determine whether they want to allow the court to provide a mechanism to resolve their dispute in court or engage in private mediation prior to going to court.

The issues of admission to mediation practice and accreditation of mediators are regulated differently in different states. In judicial mediation programs, mediators are provided by the court, and the parties have nothing to do with their choice. Local courts establish minimum requirements for the training of mediators, their experience, and their scope of expertise as one of the conditions for inclusion in the register of mediators in court. Typically, registries of mediators are not compiled by the courts separately but in cooperation with local bar associations and private ADR organizations. Courts also contract with non-profit mediation groups to provide mediators to the court.

In some states, courts provide their own mediators. In any case, the court appoints a mediator, and the parties do not resort to costs. The mediator can be a lawyer as well as anyone who performs this work on a voluntary basis. Mediators must complete a

²⁹ Thomas I. Elkind., <https://www.financierworldwide.com/to-mediate-in-court-or-out-of-court-that-is-the-question>.

³⁰ <http://uzmarkaz.uz/uzc/page/ochiq-malumotlar>

³¹ Thomas I. Elkind., <https://www.financierworldwide.com/to-mediate-in-court-or-out-of-court-that-is-the-question>.



certification course and be trained in the use of court-required forms. Many courts use a joint mediation model in which two mediators work with the parties in each case.

In the Republic of Uzbekistan, mediation is one of the most commonly used methods of alternative dispute resolution. According to the legislation of Uzbekistan, mediation has the following features:

The mediation process is voluntary.

A mediation agreement is not enforceable; it cannot be enforced even through state courts.

If the parties do not comply with the mediation agreement, the case can be reconsidered in state courts.

No fixed price is set for mediators.

Non-compliance with the mediation agreement will not result in any consequences³². For this reason, the number of mediation agreements before the trial and in the courts is low.

Despite the expiration of four years, mediation in Uzbekistan has also not received its wide development, as has arbitration. The evidence is the statistical data of the Supreme Court of the Republic of Uzbekistan and the Association of Arbitration Courts of the Republic of Uzbekistan on the results of cases left without consideration in connection with the conclusion of a mediation agreement.

We can also see this in statistical numbers:

Table 2 - Courts for civil cases of the Republic of Uzbekistan³³

Period	Total cases considered	Left without consideration	With the signing of a mediation agreement
2018	453 354	16 832	0
2019	276 937	17 308	-
2020	291 132	22 836	140 – 0,61%
2021	104 023	9 125	60 – 0,65%

Table 3 - Courts for Economic Affairs of the Republic of Uzbekistan³⁴

Period	Total cases considered	Left without consideration	With the signing of a mediation agreement
2018	403 340	7 515	0
2019	197 228	4 067	-
2020	104 327	2 694	24 – 0,9%
2021	34 978	734	8 – 1,08%

³² Khayrulina, Asal (2021). "Institute of mediation as an alternative disputes resolution". *Monograph*, pp. 56-58

³³ Source: Primary date, 2021(<https://stat.sud.uz/>)

³⁴ *Idem*.



Table 4 - Arbitration Courts of the Republic of Uzbekistan³⁵

Period	Total cases considered	Left without consideration	With the signing of a mediation agreement
2018	403 340	7 515	0
2019	197 228	4 067	-
2020	104 327	2 694	24 – 0,9%

Although the mediation procedure is aimed at unloading the work of the courts, the system demonstrates to the public its disinterest in the introduction of mediation. There are no statistical data on resolving disputes through mediation, and there are cases when judges do not distinguish between the legal consequences of a mediation agreement and a settlement agreement³⁶.

Undoubtedly, the legislation in the field of mediation requires improvement, expansion of its legal application, and the formation of a high-quality and effective legal model of the mediation procedure.

7. Conclusion

One of the urgent problems in modern civil procedural legislation is that the current judicial system cannot cope with the volume of cases submitted for consideration, and mediation as an institution is in no way an alternative to the existing judicial system and does not compete with it. On the contrary, mediation can relieve the judicial system of those disputes that can be easily and quickly resolved out of court.

One of the most important aspects of the mediation process is the trust of the parties. The reasons for the conflict between the parties will be investigated, and the parties will be provided with the opportunity to continue their relations well in the future. But if the parties do not follow the mediation agreement, the laws of some countries prevent the execution of the agreement. Therefore, it is suitable for state legislation to authorize the enforcement of mediation agreements for specific types of cases, such as contract disputes, debt issues, and non-compliance with obligations, based on the decision of the relevant state courts.

Also, professional and experienced mediators are necessary for the effective implementation of the mediation process. Therefore, it is important to train mediators, improve their qualifications, and develop a support system for them. Based on the analysis, an association of mediators should be established based on the experience of Singapore and Georgia.

Mediation in Uzbekistan, as mentioned above, is a pre-trial and out-of-court dispute resolution procedure; intra-judicial mediation has not been introduced into the national legislation of the country. In my opinion, it is necessary to introduce into the current legislation the right of a party to conduct a mediation procedure with the participation of a judge or a professional mediator who will carry out his activities in court. On the other

³⁵ Source: <https://uzarbitration.uz/>

³⁶ Khairulina, A. & Khabibullaev, D. (2021). "Mediation as a new type of alternative dispute resolution in Uzbekistan". *Society and Innovations*, Vol. 2., No. 3., pp. 494-501.



hand, the “keys to mediation” are in the hands of the judiciary. Therefore, the judges who can inform the parties about the possibilities of mediation, offer the parties to the dispute to apply to this institution, and approve these agreements reached during the procedure. Moreover, at the same time, the congestion of the courts makes mediation an extremely useful tool for the judges themselves, allowing them to get rid of the burden of those disputes on which the disputants can come to an agreement without the intervention of the court. Recent years have clearly demonstrated that the judicial community is very interested in mediation and is ready to take an active part in the development of a new institution.

The inclusion of this change in the legislation of the states, the increase in confidence of the citizens of the country in relation to alternative dispute resolution methods, and most importantly, the reduction of the volume of work in the state courts, allow for considering the dispute between the parties in an impartial, fair, and timely manner.

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NATO E OPINIÃO PÚBLICA EUROPEIA: FATORES MEDIÁTICOS DEFINIDORES DE CONFIANÇA

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Resumo

Num contexto político internacional em plena transformação face à invasão da Ucrânia pela Rússia, a NATO vê o seu papel recentrado no debate público europeu. Desta forma, é crucial compreender o papel dos media nas atitudes que os cidadãos europeus têm sobre esta instituição. A presente pesquisa tem como objetivo medir o papel dos media na adesão dos cidadãos da União Europeia à ação da NATO. Para tal consideram-se os indicadores de confiança na NATO, confiança nos media tradicionais e digitais, bem como da frequência de utilização dos media do Eurobarómetro de janeiro e fevereiro 2022, que contou com um total de 26.681 participantes oriundos dos 27 Estados-membro da UE, com amostras representativas. A principal descoberta da pesquisa sugere que os media têm relevo na adesão dos europeus à ação da NATO. Verificou-se que nas vésperas da invasão da Ucrânia pela Rússia a maioria dos europeus confiava na NATO. Mais, a evidência empírica obtida revela que existe grande probabilidade de um cidadão europeu confiar na NATO quando a montante confia nos media tradicionais. Outros resultados relevantes passam pelo facto de a confiança nos media digitais, bem como o seu uso serem bons preditores da confiança na NATO.



Subsidiariamente conclui-se que os homens e entre estes os mais instruídos, constituem o núcleo dos cidadãos europeus que mais propensão têm em confiar na NATO.

Palavras-chave

OTAN, confiança nos media, uso de media, opinião pública, Eurobarómetro.

Abstract

In a context of international politics undergoing significant changes due to Russia's invasion of Ukraine, NATO is reevaluating its role in the European public discourse. Therefore, it is crucial to understand the role of the media in shaping the attitudes of European citizens towards this institution. This research aims to measure the media's role in the adherence of European Union citizens to NATO's actions. To achieve this, indicators such as trust in NATO, trust in traditional and digital media, and the frequency of media usage from the Eurobarometer of January and February 2022 are considered. The Eurobarometer involved a total of 26,681 participants from the 27 EU member states, with representative samples. The main finding of the research suggests that the media plays a significant role in Europeans' adherence to NATO's actions. It was observed that, on the eve of Russia's invasion of Ukraine, most Europeans trusted NATO. Furthermore, the empirical evidence obtained reveals a high likelihood that a European citizen will trust NATO when they trust traditional media. Other relevant results include the fact that trust in digital media, as well as its usage, are good predictors of trust in NATO. Additionally, it is concluded that men, especially those with higher education, constitute the core of European citizens with a greater propensity to trust NATO.

Keywords

NATO, trust in media, media use, public opinion, Eurobarometer.

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NATO E OPINIÃO PÚBLICA EUROPEIA: FATORES MEDIÁTICOS DEFINIDORES DE CONFIANÇA

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1. Introdução

Com a queda do Muro de Berlim em 1989, a NATO (North Atlantic Treaty Organization) passou por uma longa crise de identidade. O colapso da URSS (União das Repúblicas Socialistas Soviéticas) representou a vitória percebida do modelo de democracia liberal ocidental sobre o socialismo (Williams & Neumann, 2000; Sjursen, 2004). Esse momento histórico notável também influenciou as teses sobre o "fim da história", sugerindo que, com a queda da URSS e o triunfo do modelo ocidental liberal, estávamos inevitavelmente a caminho da globalização da cultura democrática ocidental (Fukuyama, 1989). O domínio ocidental levou à formulação de planos alternativos para expansão no Indo-Pacífico (Kitchen, 2010) e, mais recentemente, ao fortalecimento da cooperação institucional com a União Europeia (UE) (Ostermann, 2018). Nesse contexto, Cruz (2021) argumenta que a sobrevivência da NATO depende da identificação de uma ameaça comum, prevendo que, na ausência dela, a aliança transatlântica que marcou o pós-guerra no hemisfério ocidental poderia desmoronar.

Na política internacional, a afirmação de um Estado passa pela sua integração em instâncias como a ONU, UE e NATO, como ocorreu com Portugal em 1949 (Pinto, 2012). Assim, embora a NATO seja primariamente uma coligação de índole militar, possui também uma dimensão política relevante.

Antes da invasão russa da Ucrânia, a aproximação à Turquia era um desafio adaptativo para a NATO, assim como a intensificação das relações com a UE (Cruz, 2021). Nos últimos 20 anos, a NATO expandiu as suas atividades além das fronteiras políticas dos Estados-membros, como na intervenção decisiva na guerra civil da Líbia, resultando na queda de Muammar Kadhafi (Vicente, 2013).

Em sociedades globalmente interconectadas por redes de comunicação (Castells, 2007) os media têm papel crucial na formação das atitudes e na definição da própria opinião pública. A este propósito entendemos por opinião pública as atitudes e de certo modo as crenças partilhadas amplamente numa comunidade (Childs, 1939; Lippmann, 2017) e que determinam o posicionamento dominante sobre um determinado tema e instituição (Zaller, 1992, Noelle-Neumann, 1993). De forma transversal, estes autores convergem



na ideia de que os media são os agentes fundamentais na formação política dos cidadãos e no moldar do relacionamento destes com as instituições. A opinião pública constitui-se como o espaço de convergência e confrontação das diferentes posições sobre um dado processo ou instituição como a NATO. Contudo, na contemporaneidade este processo complexificou-se, nomeadamente no modo como intervém os diferentes agentes socializadores (Crespi, 2013), mais especificamente com o incremento da preponderância dos media e do trabalho de enquadramento jornalístico (McCombs & Valenzuela, 2020). Os media são responsáveis por dinamizar o debate político e articular a população com as instituições, moldando a opinião pública.

Os media constituem-se como elementos cruciais na compressão dos processo de formação da opinião pública contemporânea. De forma sintática entendemos por media os canais pelos quais se produz e difunde conteúdos informativos a um vasto público visando informar a cidadania (Lasswell, 1948). Como argumenta Rebelo (2014), o papel dos media é duplo: consolidar ideologias e estimular conflitos sociais, assumindo-se como um mecanismo institucionalizador de potenciais tensões e conflitos. Nesse contexto, os media digitais são vistos como agentes plurais e promotores da ação política, como observado nos países da Europa do Sul, incluindo Portugal, durante a intervenção da Troika (Sousa & Morais, 2021). Assim, os media digitais devem ser entendido como dispositivos tecnológicos que possibilitam que articulam três funcionalidades até aqui dispersas, nomeadamente a criação, armazenamento e transmissão de conteúdos informativos descentralizados (Jenkins & Deuze, 2008; Shirky, 2008). Esta tendência tem comportado diversos para a esfera política e seus autores, seja através da crescente polarização (Klein, 2019), mas também a rápida disseminação dos discursos de ódio direcionados a categorias sociais específicas como mulheres, imigrantes e outros (Paz *et al.*, 2020) e o recurso massivo a desinformação (Woolley e Howard, 2018). Com o surgimento do modelo de comunicação em rede (Castells, 2007), onde predominam os fluxos de muitos para muitos, esperava-se uma maior diversidade cultural e política, ao contrário do século XX, quando a comunicação era predominantemente unidirecional. No entanto, essa expectativa foi frustrada (Cádima, 2017), pois o espaço digital está associado a disfunções informativas (Wardle, 2018), polarização e crescente desconfiança (Sousa & Pinto-Martinho, 2022) em relação às instituições que suportam as democracias liberais no ocidente. Por outro lado, Vaccari e Valeriani (2021) ao estudarem diversos países (Grécia, Espanha e Itália) concluíram que os benefícios da utilização dos media digitais, eram relevantes no que toca ao incremento da atividade política e à sua potencial mobilização para o debate em torno das instituições.

Com efeito, como é defendido por Godinho (2018), numa fase de intensa globalização, os media têm o poder de moldar as disposições dos atores, considerando a sua dupla condição de eleitor-consumidor, especialmente em relação a instituições como a NATO. Portanto, é relevante questionar em que medida os media contribuem para a formação da opinião pública europeia em relação à NATO, num momento em que o conflito armado voltou ao continente europeu?

2. Da NATO nos media à confiança na NATO

Para Rosanvallon (2008), a confiança é uma instituição invisível que serve como uma "bússola" entre cidadãos e instituições. Do ponto de vista funcionalista, a confiança



permite a distribuição legítima de recursos (Luhmann, 2018), facilitando o funcionamento de diversas instituições e sistemas sociais e políticos.

Antropologicamente, a confiança é vista como potenciadora e facilitadora da ação, tanto individual quanto institucionalmente. Em sociedades democráticas, que se alicerçam na cooperação entre cidadãos e entre estes e as instituições, a confiança é desempenha papel crucial. Em contextos com excesso de informações (Castells, 2007), a confiança permite a delegação de responsabilidades, como nos sistemas periciais baseados em conhecimento específico, como o da segurança militar (Rodrigues, 2023).

A NATO reconhece a importância dos media contemporâneos, pois podem funcionar como articuladores com os cidadãos dos diversos estados-membros e desta forma potenciar a confiança junto da opinião pública, mas também podem disseminar desinformação (Lange-Ionatamishvili *et al.*, 2015). Este é o papel duplice que com que a NATO concebe a sua relação com o sistema mediático contemporâneo, enquanto fonte de oportunidades, mas também de novos riscos. Rahkonen (2007) mostra diferenças na representação da NATO entre setores de media, sugerindo que a visão da NATO como instituição política está associada a estatutos socioeconómicos mais altos. É precisamente nesta esteira que Ydén *et al.* (2019) identificam um paradoxo na opinião pública sueca relativamente à adesão à NATO, isto é, o discurso dos atores políticos nas últimas décadas entra em contradição com uma crescente preparação para um possível perigo corporizado pela Rússia.

Paralelamente os media, além de agentes ativos na socialização política (Belchior, 2015), são também objeto de escrutínio dos cidadãos, sujeitos a confiança ou desconfiança. Assim, o trabalho de mediação jornalística é uma ferramenta essencial para os media moldarem a opinião pública, influenciando as suas atitudes políticas, através do agendamento e enquadramento que realizam, impactando na confiança expressa nas instituições (De Vreese, 2004) e particularmente em contexto de conflito militar (Beattie e Milojevich). Mesmo em tempos de crise, como a pandemia da Covid-19, a confiança política é mais influenciada por determinantes de eficiência do que por ondas emocionais (Belchior & Teixeira, 2023). Esta premissa convoca-nos para a relevância da comunicação, muitas vezes em forma de propaganda (Nordenstreng, 2023) no contexto da invasão russa da Ucrânia.

No continente europeu, observa-se uma considerável heterogeneidade na confiança nas instâncias internacionais. As sociedades do espaço pós-soviético e os dois Estados ibéricos notabilizam-se por níveis mais elevados de confiança, em contraste com sociedades da Europa central (Marozzi, 2015). Esta facto pode ser o resultado de fatores muito diversos como o processo histórico de consolidação da democracia, mas também ficar-se a dever a determinantes sociais e mediáticos que se constituem como elementos influenciadores da relação dos cidadãos com a esfera institucional. Esta interação entre fatores socio mediáticos na configuração da esfera política institucional tem ficado demonstrada por Hallin e Mancini (2004) que conceberam um amplo quadro interpretativo desta interação. Estes autores salientaram que o papel dos media na formação das representações e atitudes políticas difere mediante os respetivos ecossistemas mediáticos de cada país, nomeadamente ao estabelecerem três modelos ideais-tipo: modelo liberal, típico de sociedades como EUA ou Reino Unido; modelo corporativo democrático, predominante nas sociedades da Europa central e



Escandinávia; e modelo pluralista polarizado, que predomina nas sociedades do sul da Europa onde os regimes democráticos se estabeleceram mais recentemente.

Os media desempenham um papel central na socialização política, contribuindo para a erosão ou reforço da confiança por parte das diversas populações europeias. Os agentes mediáticos têm assim o poder de potenciar alterações significativas nos níveis de confiança quando reportam e enquadram a eficiência ou ineficiência de instituições como a NATO. Como demonstraram Ringsmose e Børgesen (2011) uma estratégia comunicativa baseada numa postura proactiva e que vise informar de forma objetiva, pode incrementar a adesão da opinião pública a intervenções militares como aquela que decorreu no Afeganistão, ainda que havendo categorias sociais que são mais propensas a apoiar instituições como a NATO (Kiratli, 2022).

Neste contexto, a confiança na NATO é entendida como a adesão dos cidadãos à NATO, ou noutros termos, a perceção de utilidade da aliança militar e política entre os diversos parceiros militares dos dois lados do Atlântico Norte (Daskalopoulou, 2019). Dados recentes e recolhidos posteriormente à invasão rusa da Ucrânia apontam para uma vasta maioria de estados-membros com opiniões públicas favoráveis à NATO (Wike *et al.*, 2022). De acordo com a nomenclatura de Schneider (2017), a confiança na NATO integra-se na segunda categoria, aquela que resulta de instituições de proteção, que inclui também as forças armadas e a polícia. Com efeito, expressar confiança na NATO implica aderir a um pacto militar, mas também a uma organização implicitamente política. Noutros termos, a confiança na NATO assenta na adesão a um pacto militar, mas também a uma parceria transcontinental de carácter eminentemente política e que por isso carece de respaldo da opinião pública dos respetivos estados-membros.

3. O efeito mediático na confiança nas instituições: uso e exposição aos media

Foi sobretudo no hemisfério ocidental no pós-guerra, que se desenvolveram os primeiros estudos sobre o impacto dos media na formação da opinião pública (Wolf, 2010). Lazarsfeld *et al.* (1944) defendiam que os media tinham papel crucial em contexto de campanha eleitoral, nomeadamente na formação de atitudes políticas e eleitorais refletindo-se em última instância nas escolhas dos cidadãos. Na era da comunicação de massa, televisão e rádio eram os principais agentes impulsionadores para uma opinião pública informada (Almond & Verba, 1964). Em sociedades altamente mediatizadas (Hjarvard, 2013), a socialização política e o contato com a esfera política e institucional ocorrem, em grande parte, através dos media, incluindo os digitais. Com o surgimento de um modelo de comunicação descentralizado (Castells, 2007), a formação da opinião pública passou a ser menos controlada e unidirecional, tornando-a mais sensível e mobilizável.

Em 2022, internacionalmente, de acordo com o Digital News Report, o consumo de notícias continuou a ser a principal forma de contato com a política (Hölig *et al.*, 2022). Entre os portugueses, 51,1% afirmam ter interesse em notícias, embora esse número represente uma queda em relação a 2021, quando o indicador era de 68,6%. Como observado, os media desempenham um papel central no contato dos cidadãos com a atividade política, influenciando as suas atitudes e proximidade percebida relativamente



à esfera política institucional. Por outro lado, na perspetiva dos portugueses, existem diferentes motivações para acompanharem a agenda noticiosa, sublinhando motivações pessoais (56,4%) e razões de índole mais coletivo, que passam por cumprir o dever cívico de estar informado (54,5%) (Cardoso *et al.*, 2022). No plano da confiança nos media, são diversos os estados-membro da EU que ocupam posições cimeiras, entre eles Portugal (61%) e os finlandeses com 69% a dizerem confiar nos media. Estes dados revelam algum consenso relativo ao papel dos media enquanto articuladores fundamentais entre esfera política institucional e uma cidadania informada num espaço muito considerável de democracias no ocidente, embora seja um compromisso sujeito a novas tensões.

Atualmente, os laços sociais entre os cidadãos, o Estado e outras instituições tendem a sofrer uma forte erosão, devido às tensões constantes nos processos sociais (Beck & Beck-Gernsheim 2003). Em contextos de democracias liberais, a tendência mais marcante das últimas duas décadas tem passado pela diminuição dos níveis de confiança nas instituições, podendo considerar-se que estamos a transitar para sociedades de desconfiança (Belchior, 2015).

Dentro dos estudos sobre os efeitos dos media, duas correntes dominam o debate. Uma sugere que o desinteresse pela política se deve à proliferação de conteúdos de entretenimento em detrimento dos informativos (Almond & Verba, 1964; Sousa, 2023b), chegando mesmo a falar-se numa profunda imbricação entre essas duas tipologias de conteúdos, resultando no "infotainment" (Baym, 2008). As consequências incluem desinteresse pela política e assuntos públicos, como a NATO, e uma forte segmentação informativa, exemplificada pelas estações de notícias 24 horas por dia, sete dias por semana, contribuindo para uma crescente disparidade de informação entre diferentes categorias da população. A proposta alternativa sugere que, ao longo das últimas décadas, os media trouxeram novas categorias de cidadãos para a esfera pública, permitindo acesso a um maior volume de informação. No entanto, existem riscos relacionados à qualidade da informação nos media digitais, como as Fake News, o discurso de ódio e desinformação mais dissimulada (Sousa, 2023a). Apesar de pontos de convergência, há discordância entre ambas as correntes.

O tipo de conteúdo produzido e divulgado por cada meio é relevante devido à amplitude e às categorias sociais das suas audiências (Beaudoin & Thorson, 2004). A base social que compõe a audiência das estações de televisão generalistas é mais ampla e diversificada em comparação com a dos media digitais (Marichal, 2012). Os media e sua arquitetura condicionam os seus potenciais utilizadores. É lícito depreender que existe uma crescente assimetria informativa dentro das sociedades democráticas não só na quantidade de informação, mas sobretudo na qualidade dela e nas escolhas que os cidadãos fazem das suas fontes informativas.

A televisão, desde os primeiros anos de vida, é um poderoso agente socializador no campo político entre os mais jovens (Riddle, 2010), especialmente no que diz respeito às disposições e atitudes políticas, incluindo a confiança nas instituições. Um estudo sobre a realidade alemã sugere que o uso e consumo de conteúdos de media privados ou estatais pode influenciar a adesão às instituições, sendo que a predominância dos últimos está associada a maiores níveis de confiança (Arlt *et al.*, 2020). A concentração crescente dos media, observada nas últimas décadas, juntamente com o surgimento de



plataformas digitais, representam significativos desafios não só aos designados media tradicionais, como às próprias democracias liberais (Nielsen & Ganter, 2022), particularmente num contexto de recrudescimento dos populismos.

A pesquisa atual pretende contribuir para identificar e discutir os fatores mediáticos e sociais que condicionam a confiança na NATO, que nos últimos dois anos tem readquirido protagonismo no debate político e mediático e no modo como se prospectiva a evolução das democracias ocidentais. A principal indagação passa por perceber que papel têm tido os media na formação da opinião pública europeia relativamente à NATO? Para nos aproximar-nos a uma potencial resposta a esta questão teremos como objetivo medir o papel preditor dos media na confiança na NATO.

3.1 O efeito da confiança dos media

A opinião pública deve ser compreendida como uma fonte de legitimação da esfera institucional (Habermas, 1989), da qual faz parte a NATO. Nas sociedades contemporâneas, os media desempenham um papel crucial na articulação entre diferentes instituições sociais e a opinião pública (Norris & Inglehart, 2009). Portanto, a proximidade dos cidadãos às instituições que estruturam essas sociedades é parcialmente resultado do papel dos media.

A interação entre a esfera institucional e os media está longe de ser consensual, sendo atribuído aos últimos o desinteresse e a crescente desconfiança nas instituições (Putnam, 1993). Apesar das críticas (Scheufele & Shah, 2000; Uslaner, 2003; Schmitt-Beck & Wolsing, 2010), argumenta-se que é através dos media tradicionais, principalmente da televisão, que o consumo de conteúdos políticos é mais intenso, contribuindo para a construção da socialização política.

A confiança nos media é um preditor relevante da confiança nas instituições (Cabelkova *et al.*, 2015), facilitando a consolidação do processo institucional e político em sociedades democráticas. Strömbäck (2020) destaca uma forte correlação entre o uso dos media e a confiança nos mesmos.

A confiança nos media é tradicionalmente operacionalizada, segundo Gunther e Lasorsa (1986), através dos indicadores de seleção dos temas agendados, seleção e enquadramento dos factos relatados, rigor na reportagem dos factos e reputação do meio e do jornalista. Recentemente, Kohring e Matthes (2007) definem-na como um fator hierárquico operacionalizado pela escolha das temáticas, factos relatados, rigor nos relatos jornalísticos e capital reputacional do jornalista. Prochazka e Schweiger (2019) testaram a robustez dessa última conceptualização, demonstrando a sua capacidade de acompanhar as últimas transformações no ambiente mediático. Turcotte *et al.* (2015) encontraram uma associação entre a credibilidade das notícias, a reputação dos comentadores e líderes de opinião, e a confiança nos media e nas instituições, como a NATO.

Alguns indicadores (cf. Jones, 2018; Cardoso *et al.*, 2022) apontam para uma erosão progressiva da confiança nos media nas últimas duas décadas nos Estados Unidos e no continente europeu, embora Portugal aparente manter esses indicadores relativamente estáveis (Silva *et al.*, 2017). No entanto, estudos recentes mostram que a confiança, especialmente a confiança nos media, é influenciada por uma variedade de fatores,

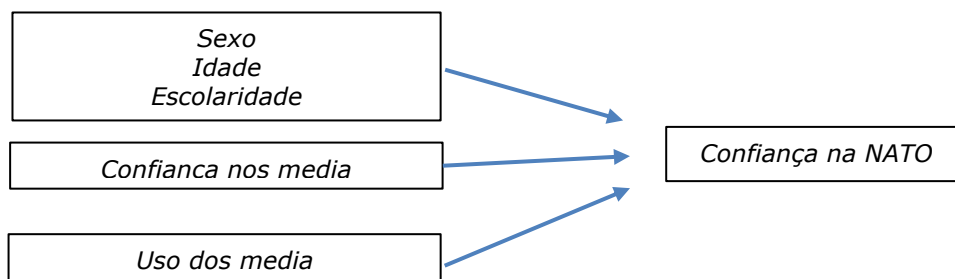


incluindo processos de transição democrática (Markov & Min, 2020), recursos educativos (Belchior, 2015), feminização da esfera pública Vidal-Correa (2020) e heterogeneidade etária (Fišer & Mišič, 2015).

A disseminação dos media digitais, onde proliferam as fontes alternativas, baseia-se na desconfiança institucional e nos media tradicionais, num contexto de intensificação da concorrência exacerbada entre setores de media (Daniller *et al.*, 2017). Fletcher e Park (2017) argumentam que aqueles que declaram menor confiança nos media têm maior propensão para aceder a fontes informativas e media alternativos. Assim, a confiança nos media tradicionais e digitais emerge como uma clivagem, onde os fatores socio educacionais desempenham um papel definidor. Em contextos percebidos como de risco e de crise, os media digitais são considerados fontes de informação confiáveis (Williams *et al.*, 2018), e as hiperligações e a diversidade de fontes nesses media aumentam a confiança (Verma *et al.*, 2017).

Nesta medida, definimos cos objetivos específicos da presente reflexão baseiam-se em três dimensões teóricas como são os fatores sociodemográficos; a confiança nos media e os usos dos media. Os objetivos específicos são: construir o perfil sociodemográfico do cidadão que confia na NATO; medir o papel preditor da confiança nos media na confiança na NATO; mensurar o papel do uso dos media na confiança na NATO; e finalmente colocar em perspetiva os fatores socio-mediáticos na definição da confiança na NATO. Levantamos a hipótese, com base na revisão teórica realizada, de que os media representarão um incremento na confiança na NATO. O esquema da figura 1 representa graficamente esses desígnios:

Figura 1 – Modelo de Investigação



Fonte: Elaboração própria.

4. Estratégia metodológica

Com o objetivo de medir o papel preditivo dos fatores sociais e mediáticos na confiança na NATO. Deste modo, pretendemos contribuir para a melhor compreensão do processo de como os media estruturam a opinião pública europeia relativamente a um aspeto de crescente relevância na esfera política das democracias do hemisfério ocidental. Para a prossecução deste desígnio estabeleceu-se uma estratégia metodológica que compreende a implementação de três modelos estatísticos distintos. Para tal, foram considerados três grupos de variáveis: confiança nos media, uso dos mesmos (variáveis independentes), e confiança na NATO (variável dependente). Esta estratégia envolveu a



implementação da Análise de Correspondências Múltiplas (ACM), Análise de Componentes Principais (ACP) (Carvalho, 2017) e Regressão Logística (Marôco, 2010). A opção por estes três modelos estatísticos prende-se com a natureza dos diversos conjuntos de indicadores considerados, uma vez que a confiança nos media é medida com uma escala dicotómica (qualitativa), tendo sido necessária a implementação de uma ACM. Já os indicadores relativos à utilização dos media têm escalas quantitativas, o que implicou a aplicação de uma ACP. A opção pela regressão logística ficou a dever-se ao facto de a confiança na NATO ser uma variável qualitativa (dicotómica).

Além disso, foram incluídas variáveis sociodemográficas, como género, idade e escolaridade. A escolha recaiu sobre a edição 96.3 ZA7848 do Eurobarómetro, datada de janeiro-fevereiro de 2022 (European Commission, Brussels, 2022). Este período proporciona um ponto de partida comparativo, permitindo a análise e caracterização da evolução da opinião pública europeia sobre o papel da NATO no conflito entre a Rússia e a Ucrânia.

4.1 Participantes

O estudo contou com uma amostra composta por 26.681 inquiridos, distribuídos pelos 27 estados-membro da UE. O Eurobarómetro é um inquérito promovido pela Comissão Europeia, de modo a auscultar a opinião pública dos europeus. A amostra é probabilística aleatória e por isso representativa do universo dos cidadãos da UE. De referir que os resultados foram obtidos a partir da utilização do ponderador WEIGHT EU27.

4.2. Medidas e indicadores

A pesquisa passou pela mobilização de quatro categorias distintas de indicadores: 1ª) confiança nos media; 2ª) uso dos media; 3ª) variáveis sociodemográficas; 4ª) confiança na NATO. O modelo baseou-se nos seguintes indicadores preditores: confiança nos media, uso dos media e a variável dependente, confiança na NATO. Para a caracterização social e demográfica, foram considerados sexo, idade e escolaridade. A medição da confiança nos media incluiu os seguintes itens: televisão, rádio, imprensa escrita, internet e redes sociais digitais. A medição do uso dos media envolveu televisão, rádio, imprensa escrita, podcast, internet e redes sociais digitais. A confiança na NATO tem o estatuto de variável dependente.

4.2.1. Confiança nos media (variáveis independentes)

Os itens que operacionalizaram a confiança nos media são dicotómicos com as seguintes categorias: "1 - tendo a não confiar" e "2 - tendo a confiar", após inversão de escalas de modo a torná-las mais legíveis. Realizou-se uma Análise de Correspondências Múltiplas (ACM) como forma a verificar potenciais associações entre os cinco indicadores.



Tabela 1 – Medidas de discriminação da confiança nos media nas duas dimensões ACM

	Dimensões		média
	1	2	
Confiança na Imprensa	,700	,098	,399
Confiança na Rádio	,711	,115	,413
Confiança na Televisão	,715	,080	,398
Confiança na Internet	,354	,472	,413
Confiança nas Redes Sociais Digitais	,246	,588	,417
Totais	2,726	1,353	2,039

Fonte: Elaboração própria a partir Eurobarómetro 2022 (96.3 ZA7848)

Os resultados obtidos através da ACM sugeriram a construção de dois indicadores compósitos: a confiança nos media tradicionais e a confiança nos media digitais. O primeiro (α 0,847) agrega: televisão, imprensa escrita e rádio. O segundo indicador compósito, confiança nos media digitais variável – (Spearman-Brown de 0,756) – agrega a internet e redes sociais digitais. Este procedimento permitiu-nos medir a capacidade preditiva da confiança nos media e desde logo, discernir que os europeus têm níveis de confiança distintos entre media tradicionais e digitais.

4.2.2. Uso dos media

O uso dos media foi medido por seis itens, nomeadamente a utilização de: televisão, rádio, imprensa escrita, TvNet, Podcast, Internet e Redes sociais digitais. Estes itens são operacionalizados pela seguinte escala: "1-Nunca", "2-Menos frequência", "3-Duas a três vezes por mês", "4-Cerca de uma vez por semana", "5-2 ou 3 vezes por semana", "6-Todos os dias ou quase todos os dias". Deste modo, foram tratadas como variáveis quantitativas. Realizou-se uma Análise Componentes Principais (ACP) de modo a identificar potenciais associações.

Tabela 2 - Loadings das variáveis nas duas dimensões ACP

	Componentes	
	1	2
Televisão	-,255	,524
TVNet	,708	-,061
Rádio	,262	,742
Podcast	,707	,036
Imprensa	,217	,731
Internet	,778	-,045
Redes Sociais Digitais	,730	-,228

Método de extração: Análise dos componentes principais.

Método de Rotação: Varimax com Normalização Kaiser.

a. A rotação convergiu em 3 iterações.

Fonte: Elaboração própria a partir do Eurobarómetro 2022 (96.3 ZA7848)



Os resultados da ACP sugeriram a existência de uma dimensão que resulta da agregação dos seguintes indicadores: TvNet; Podcast; Internet e Redes sociais digitais (α 0,728), dando lugar à nova variável uso de media digitais. Não obstante os resultados obtidos na ACP não é possível considerar a construção de uma compósita resultante do uso da rádio e imprensa escrita (Spearman-Brown 0,503). Consideraram-se separadamente. Mediante os resultados constantes na tabela 2 optou-se pela exclusão do indicador, uso de televisão, uma vez que ela não diferencia qualquer uma das duas dimensões, não aportando poder explicativo. Este procedimento permitiu-nos para perceber que entre os europeus o uso da TvNet, Podcast; Internet e Redes sociais digitais estão intrinsecamente associados, isto é, existe um padrão de utilização dos media digitais. Por outro lado, a segunda dimensão permitiu discernir que o uso da rádio tem uma dinâmica específica, tal como a leitura de jornais entre os europeus. Com efeito, fiámos com um indicador relativo à utilização dos media digitais e outros dois de rádio e imprensa escrita, permitindo medir o seu impacto na confiança na NATO.

4.2.3. Caraterização social e demográfica

Foram consideradas três variáveis de caraterização social e demográfica que desempenharam o papel de controlo: sexo (0-feminino e 1-masculino) idade e escolaridade com "1 - até 14 anos" a "9 - 22 anos ou mais".

4.2.4. Confiança na NATO

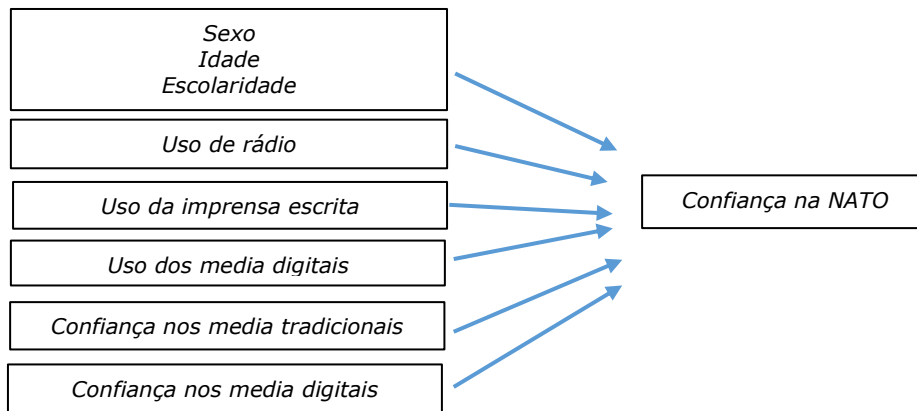
A confiança na NATO enquanto variável categorial foi medida por "1 - tendo a não confiar" e "2 - tendo a confiar", após inversão. O facto de a variável dependente ser qualitativa implicou a adoção de um modelo de regressão logística.

4.3. Modelo de análise

Face à construção de indicadores compósitos que implicaram a agregação de alguns indicadores, resultou na alteração do modelo de investigação inicial, dando lugar ao modelo de análise (cf. Figura 2). Nesta pode observar-se a manutenção dos três indicadores de caraterização social e demográfica da amostra, mas também à manutenção dos indicadores relativos ao uso dos media em: rádio, imprensa escrita, aos quais foi acrescentado o indicador compósito relativo ao uso dos media digitais. No que concerne à confiança nos media construíram-se dois indicadores compósitos: confiança nos media tradicionais e confiança nos media digitais.



Figura 2 – Modelo de Análise



Fonte: Elaboração própria

5. Resultados

O modelo comportou, no total, 26.681 indivíduos distribuídos pelos 27 Estados-membros da UE. Os dados contidos na tabela 3 permitiram-nos verificar que 52% dos inquiridos eram do sexo feminino, sendo que a idade média aproximada foi de 50 anos (dp 18,72), com um percurso escolar a rondar os 19 anos (dp 2,87).

Tabela 3 - Estatísticas descritivas, confiabilidade e correlações entre as variáveis em estudo

Variáveis	média	DP	1	2	3	4	5	6	7	8
1 - Sexo ¹	,48									
2 - Idade	49,72	18,72	-,071**							
3 - Escolaridade	6,06	2,87	,058**	-,465**						
4 - Confiança media tradicionais ²	1,55	,44	-,013*	,056**	,111**	(,847)				
5 - Confiança media digitais ³	1,32	,42	,026**	-,188**	,109**	,310**	(,756)			
6 - Uso rádio	4,34	1,92	,058**	,104**	,057**	,156**	,002			
7 - Uso imprensa escrita	3,33	1,95	,050* ⁴	,196**	,093**	,209**	-,010	,336**		
8 - Uso media digitais ⁴	4,13	1,29	,096**	-,313**	,379**	-,121**	,171**	,274**	,528**	(,728)
9 - Confiança na NATO	1,53	,50	-,015*	-,031**	,163**	,396**	,209**	,068**	,106**	,122**

N = 26.681 Confiabilidade entre parêntesis.

(1) Sexo: 0 – mulher, 1 – homem

(2) Confiança na televisão; confiança na imprensa, confiança na rádio.

(3) Confiança na internet; confiança nas redes sociais digitais.

(4) Uso Podcast; uso de internet; uso de redes sociais digitais.

* $p < ,05$ ** $p < ,01$

Fonte: Elaboração própria a partir Eurobarómetro 2022 (96.3 ZA7848)

Cerca de 55% (dp 0,44) dos inquiridos disseram confiar nos media tradicionais, nomeadamente na televisão, rádio e imprensa escrita. Situação inversa quando considerada a confiança nos media digitais, uma vez que apenas 32% (dp 0,42) declararam confiar nas fontes de informação digitais. A utilização dos media entre os



européus fez-se com maior frequência através do uso da rádio, com uma média de 4,34 (dp 1,92), padrão de uso relativamente similar ao uso dos media digitais, com média de 4,13 (dp 1,29). A leitura da imprensa escrita constituiu-se como o uso mais seletivo, com um registo médio de 3,33 (dp 1,95). A maioria dos europeus disse confiar na NATO (53%). Não obstante as correlações entre os diversos indicadores que compõem o modelo terem sido estatisticamente significativas, elas variaram entre o que se pode considerar fraco e moderado. Por outro lado, este indicador perspetivado pelo prisma dos que tendem a não confiar na NATO, encontrámos sobretudo europeus do sexo feminino e mais velhos, além de terem menor contacto com os recursos mediáticos. Adicionalmente, pode-se apurar que a nível nacional (ver tabela I em anexo) que é entre os Estados herdeiros do espaço pós-soviético que se encontram os maiores níveis de confiança na NATO, aos quais se adicionam países como a Dinamarca e Países Baixos.

Relativamente aos pressupostos de construção dos indicadores compostos, os critérios de qualidade e confiabilidade foram garantidos, uma vez que todos os três tiveram valores superiores a 0,7. Concentrando-nos na relação da confiança na NATO, constatámos que as correlações com as outras variáveis que compõem o modelo foram todas estatisticamente significativas. A idade não apresentou diferenças estatisticamente significativas. Os diversos indicadores que medem a confiança e uso nos media apresentaram correlações positivas, ou seja, quanto maior a confiança e uso dos media, maiores níveis de confiança na NATO. Com efeito, os dados preliminares sugerem uma influência positiva do contato com os media relativamente à confiança na NATO. Recorrendo à nomenclatura de Marôco (2010), o modelo construído pode ser categorizado como razoável, uma vez que a sua capacidade de precisão se cifrou nos 68,5%. O teste de Hosmer e Lemeshow sugeriu a existência de diferenças estatisticamente significativas entre os valores observados e os estimados ($X^2(8) = 58,327, p < ,001$). Ainda na senda da medição da robustez do modelo desenhado, constatámos que existiram diferenças estatisticamente significativas entre o modelo apenas com a constante e o modelo com as diversas variáveis ($X^2(8) = 3764,098, p = ,000$). Esses três aspetos demonstram a robustez e qualidade do modelo na previsão da confiança na NATO a partir de fatores sociais e mediáticos.

Tabela 4 - Propensão para confiar na NATO (regressão logística binária)

	Exp(B)
Sexo (mulher)	,069*
Idade	,001
Escolaridade	0,088**
Confiança media tradicionais	1,728**
Confiança media digitais	0,483**
Uso rádio	0,003
Uso imprensa escrita	-0,007
Uso media digitais	0,090**
Nagelkerke R ²	,225
Model X ² (8)	3764,098**

* p<0,05; ** p<0,001

Fonte: Elaboração própria a partir Eurobarómetro 2022 (96.3 ZA7848)



Considerando os resultados do modelo, que deram uma perspetiva mais precisa da dimensão do efeito de cada variável, observou-se que tanto os sexos quanto a escolaridade tiveram efeitos estatisticamente significativos, ainda que de dimensão reduzida. Nesta linha, verificou-se que é entre o sexo masculino que se observou maiores níveis confiança na NATO ($Exp=0,069$), comparativamente ao feminino. Tendência semelhante quando se considerou a escolaridade ($Exp=0,088$). Por outras palavras, por cada nível acrescentado de escolaridade, a confiança na NATO incrementou em cerca de 8,8%, em linha com o verificado em estudos anteriores (cf. Catterberg e Moreno, 2006; Tabery e Pilnacek, 2021).

No que diz respeito aos indicadores dos media, entre os cinco considerados no modelo, dois, uso de imprensa escrita e rádio, não apresentaram diferenças estatisticamente significativas. Entre os três com diferenças estatisticamente significativas, destaca-se a confiança nos media tradicionais ($Exp=1,728$), com o maior efeito sobre a variável dependente. A confiança nos media digitais também teve um efeito estatisticamente significativo e de dimensão razoável ($Exp=0,483$). Finalmente, o uso dos media digitais também esteve associado a um efeito estatisticamente significativo ($Exp=0,090$), ainda que de dimensão mais reduzida que os dois anteriores.

Os três efeitos estatisticamente significativos foram positivos, traduzindo-se num aumento da confiança na NATO. Noutros termos, a proximidade dos cidadãos com a esfera mediática, seja por via da confiança neles, seja pelo uso/consumo, aumentou a confiança na ação da NATO. Mesmo considerando os efeitos estatisticamente não significativos, apenas a imprensa escrita apresentou um efeito negativo, ou seja, maiores níveis de leitura de jornais podem estar associados a menores níveis de confiança na NATO.

6. Considerações finais

Com base em dados do período exatamente anterior à invasão da Ucrânia pela Rússia, a presente pesquisa teve como objetivo perceber o papel dos media na UE no posicionamento dos cidadãos relativamente à ação da NATO. Em particular, procurou-se perceber que fatores sociais e mediáticos contribuem para as representações de confiança dos europeus na NATO. A evidência empírica obtida sugeriu que efetivamente a confiança na NATO é condicionada por determinantes sócio mediáticos, como a escolaridade, a confiança nos media tradicionais e digitais, e o uso dos media digitais. Num período em que se adensava o possível cenário de uma guerra no leste do continente europeu, a opinião pública europeia confiava na NATO, especialmente os homens com maiores níveis de escolaridade, o que corrobora resultados de pesquisas anteriores (Kiratli, 2022). Contrariando aquilo que é evidenciado em estudos anteriores (cf. Sousa & Pinto-Martinho, 2022), a maior utilização dos media digitais, bem como a confiança nestes media, está correlacionada com maiores níveis de confiança na NATO. Este facto pode decorrer de uma população europeia com crescentes níveis de educação formal, sendo que é neste grupo mais instruído que também temos maiores níveis de utilização dos media digitais. Com efeito, a verificar-se esta possível explicação, fatores sociais e culturais estão profundamente imbricados com as condicionantes mediáticas de cada um dos Estados-membros da UE na definição da opinião pública sobre a NATO. Esta constatação convoca-nos para uma avaliação, ainda que parcial e conjuntural do modelo



preconizado por Hallin e Mancini (2004), uma vez que efetivamente os dados sugeriram que os fatores mediáticos são determinantes na consolidação do compromisso de uma cidadania mais ativa e próxima da esfera institucional da política.

Ainda no plano das implicações fácticas e políticas que decorrem dos resultados obtidos, convocan-nos para uma crescente necessidade dos atores institucionais ou líderes políticos de prestarem contas, num contexto de crescente debate em torno do necessário reforço orçamental do sector da Defesa nacional, no âmbito das responsabilidades dos parceiros da NATO de registar 2% do PIB nesta área. Estamos perante escolhas que deverão ser feitas no âmbito da esfera política institucional e que deverão ter o imperativo respaldo da opinião pública dos estados-membros da NATO.

Assessoriamente, demonstrámos que é entre as sociedades pós-soviéticas e outras como a Dinamarca que se encontram os maiores níveis de confiança na NATO, sendo que aqui se cruzam fatores políticos e históricos, com aspetos de proximidade geográfica a um potencial invasor como é a Rússia. Tomando em linha de conta os resultados contidos em Wike *et al.* (2022), e colocando-os em perspetiva com os nossos, diríamos que o incremento do conflito na Ucrânia incrementou a confiança na NATO. Contudo, este aspeto, pela sua relevância e atualidade, requer maior atenção. Desse modo, pode-se perspetivar uma possível fonte de pesquisas futuras que tenha como objetivo central a aferição do papel da proximidade geográfica como preditor na confiança na NATO, com a implementação de um modelo estatístico multinível.

Face à evidência empírica produzida, sugere-se a implementação de medidas, à escala da UE, que visem incrementar a literacia mediática e digital (Baptista & Silva, 2017), em resultado da crescente relevância dos media digitais na formação da opinião pública. Assume-se que os agentes mediáticos podem ser atores fundamentais no combate ao desinteresse e crescente desconfiança que os cidadãos europeus denotam relativamente ao modelo de democracia liberal. Não obstante estarmos perante uma pesquisa com um pendor empírico e, por isso, demonstrativo, deve-se frisar que o seu desenvolvimento subsequente pode evoluir em duas direções: por um lado, no sentido de perceber como evoluiu a confiança dos europeus na NATO em pleno contexto de guerra; por outro lado, perceber até que ponto a preponderância dos media se tem intensificado no que toca à formação das representações e confiança na NATO, para além de outras instâncias internacionais como a ONU e a própria UE. Outras possibilidades de futuras pesquisas prendem-se com a proximidade geográfica e cultural ao epicentro do conflito (Ucrânia) e perceber até que ponto existem dinâmicas regionais, no que toca ao papel atribuído à NATO pelas opiniões públicas nacionais e regionais.

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Anexo

Tabela I – Médias nacionais

	Confiança NATO	Confiança Media Tradicionais	Confiança Media Digitais
Dinamarca	1,84	1,79	1,25
Países Baixos	1,79	1,72	1,24
Estónia	1,79	1,71	1,33
Lituânia	1,73	1,46	1,38
Portugal	1,70	1,74	1,41
Malta	1,70	1,49	1,34
Irlanda	1,68	1,62	1,25
Chéquia	1,68	1,57	1,27
Suécia	1,67	1,74	1,15
Polónia	1,64	1,53	1,56
Bélgica	1,62	1,63	1,26
Hungria	1,61	1,44	1,49
Finlândia	1,59	1,77	1,25
Alemanha	1,57	1,64	1,28
Letónia	1,56	1,54	1,33
Roménia	1,53	1,53	1,39
Médias	1,53	1,55	1,31
Luxemburgo	1,51	1,57	1,27
Itália	1,49	1,52	1,38
Áustria	1,46	1,66	1,42
Espanha	1,45	1,41	1,20
Croácia	1,43	1,43	1,34
Eslovénia	1,41	1,40	1,24
França	1,40	1,44	1,18
Bulgária	1,38	1,54	1,51
Eslováquia	1,33	1,52	1,39
Grécia	1,23	1,38	1,51
Chipre	1,16	1,51	1,45

ANÁLISE COMPARATIVA DA COMUNICAÇÃO ESTRATÉGICA - NATO VERSUS TURQUIA - NO INÍCIO DA INVASÃO DA UCRÂNIA EM 2022

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Resumo

No dia 24 de fevereiro de 2022 a Rússia lançou uma operação militar especial no leste da Ucrânia. Vários países e organizações internacionais reagiram com mensagens de condenação. Neste artigo, foi definido como objeto de estudo as comunicações oficiais da NATO e da Turquia durante as primeiras três semanas após o início da guerra a 23 de fevereiro de 2022, partindo da questão inicial: terão existido diferenças na comunicação da NATO e da Turquia sobre a invasão da Ucrânia e, em caso afirmativo, que fatores poderão ter motivado estas diferenças? Foram realizadas análises de conteúdo a 26 comunicados do Secretário-Geral da NATO e a 31 comunicados do Governo Turco emitidos entre 24 de fevereiro e 17 de março de 2022. Nos resultados foram detetadas diferenças significativas na utilização das palavras-chave mais relevantes. A linguagem insuficientemente crítica e assertiva da Turquia permitiu-lhe manter um jogo-duplo, beneficiando, por um lado, da sua proximidade a Moscovo, sem descurar, por outro lado, a sua posição na NATO. Por outro lado, a NATO modelou a sua comunicação de forma a sublinhar que esta ameaça à segurança da Europa evidencia que o reforço de uma aliança defensiva, forte e coesa, continua a ser um aspeto central das políticas de defesa nacional dos seus estados-membros.

Palavras-chave

Comunicação estratégica, Turquia, NATO, guerra na Ucrânia, Comunicação e Defesa Nacional.

Abstract

On February 24, 2022, Russia launched a special military operation in eastern Ukraine. Several countries and international organizations reacted with messages of condemnation. In this article, was defined as an object of study the official communications of NATO and Turkey during the first three weeks after the beginning of the war on February 23, 2022, starting from the initial question: were there differences in the communication of NATO and Turkey on the invasion of Ukraine and, if so, what factors might have motivated these differences? Content analysis was carried out on 26 press-releases from the Secretary General of NATO and 31 press-releases from the Turkish Government issued between February 24 and March 17, 2022. Significant differences were detected in the use of the most relevant keywords in the results. Turkey's insufficiently critical and assertive language allowed it to maintain the double game, benefiting, on the one hand, from its proximity to Moscow, without neglecting, on the other hand, its position in NATO. On the other hand, NATO displayed its communication in such a way as to underline that this threat to Europe's security shows that the reinforcement of a strong and cohesive defensive alliance continues to be a central aspect of the national defence policies of its member states.

Keywords

StratCom, Turkey, NATO, Ukraine war, Communication and National Defence.

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ANÁLISE COMPARATIVA DA COMUNICAÇÃO ESTRATÉGICA - NATO VERSUS TURQUIA - NO INÍCIO DA INVASÃO DA UCRÂNIA EM 2022

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Introdução

O dia 24 de fevereiro de 2022 será marcante na história do século XXI. Próximo das seis da manhã, hora de Moscovo, o Presidente russo Vladimir Putin comunicou a sua decisão de lançar uma operação militar especial no leste da Ucrânia (Sheftalovich & Kuznetzov, 2022). No seu discurso, refere ter como plano ocupar o território ucraniano num apoio direto à autodeterminação do povo ucraniano, que segundo ele enfrentava há oito anos humilhações e genocídios por parte das autoridades de Kiev. Pretendia ainda com esta operação garantir a desmilitarização e «desnazificação» da Ucrânia. Após este discurso surpreendente do presidente Putin, tiveram lugar várias explosões em território ucraniano nas suas cidades mais importantes, como Kiev, Kharkiv e Odessa, assim como na região do Donbass (Putin, 2022).

Perante esta realidade, foram vários os países e organizações à escala global que reagiram quase de imediato a este acontecimento, que segundo vários analistas poderá trazer no futuro significativas alterações à ordem mundial. Enquadrados nas novas circunstâncias da história presente, encaixamos nesta realidade o tema da nossa investigação, elencando para o efeito como objeto de estudo as comunicações oficiais da NATO e da Turquia. Com este enquadramento, definimos ainda como objetivo geral da investigação a intenção de aferir se existiram diferenças nas perspetivas apresentadas por estas duas entidades no âmbito da sua comunicação estratégica. Delimitado o objetivo principal e querendo focar da melhor forma a nossa investigação, decidimos abordar uma questão concreta: terão existido diferenças na comunicação da NATO e da Turquia sobre a invasão da Ucrânia e, em caso afirmativo, que fatores poderão ter motivado estas diferenças?



A construção desta questão central acabou por resultar, na sua essência, das várias comunicações difundidas na altura por diferentes países e organizações em relação à invasão da Ucrânia. Apesar de uma maioria de sensibilidade mais condenatória, existiram outras menos evidentes e mesmo contrárias a essa condenação de acordo com as orientações de política externa dos respetivos estados e organizações. Para melhor completar os fins últimos da nossa investigação, o enquadramento teórico deste estudo acabou por ser essencial para o desenvolvimento da nossa investigação. Destacamos aqui o conceito de defesa nacional que surge como um instrumento indispensável na resposta nacional ao novo ambiente de segurança que resultou da invasão da Ucrânia. Pressupondo ainda uma estratégia nacional capaz de mobilizar os portugueses, assim como todos os recursos materiais e imateriais do país, na consecução dos objetivos da segurança e defesa (Governo de Portugal, 2013).

Importa, igualmente, referir o conceito de comunicação estratégica numa primeira leitura como o processo de desenvolver e implementar planos de comunicação eficazes para atender aos objetivos de uma organização, que envolve a identificação e compreensão do público-alvo, a seleção de mensagens e de canais de comunicação adequados, o estabelecimento de objetivos claros e a avaliação dos resultados. Apesar do conceito ter evoluído consideravelmente, continua a ser de difícil a sua definição, já que não existe um consenso sobre o que abrange efetivamente (Paul, 2011). Segundo definição da NATO, publicada através do seu Centro de Excelência de Comunicações Estratégicas, sediado em Riga, na Letónia (NATO StratCom COE), comunicação estratégica é a utilização coordenada das atividades e capacidades de comunicação da NATO, de modo a atingir os objetivos da organização. Estas atividades e capacidades incluem diplomacia, relações-públicas civis e militares, operações de informação e operações psicológicas. No seu novo Conceito Estratégico, aprovado na Cimeira de Madrid, em 2022, a NATO prevê expressamente o reforço da sua comunicação estratégica, juntamente com a sua capacidade de dissuasão (NATO, 2022). Neste quadro, podemos concluir que a comunicação estratégica da NATO é um esforço planeado e coordenado para transmitir mensagens precisas e coerentes ao seu público-alvo com o objetivo de apoiar a tomada de decisões políticas e militares, bem como promover a compreensão e a aceitação das suas ações. A comunicação estratégica, da NATO é especialmente importante em tempos de crise e conflito, quando as mensagens precisam de ser cuidadosamente elaboradas para alcançar objetivos pretendidos e evitar interpretações errôneas. Este tipo de comunicação é para a NATO uma parte crítica da sua estratégia de defesa coletiva e dos seus compromissos com a segurança e a estabilidade. Para o efeito a NATO conta com três pilares de comunicação que servem para estruturar as comunicações externas da Aliança, designadamente a NATO Protege, a NATO Une e a NATO Fortalece. Os três pilares, conforme mencionado, são projetados para orientar quem comunica quando adapta conteúdo e atividades para segmentos de audiências específicas. O primeiro pilar, a NATO Protege, abrange a comunicação da organização em relação à sua missão principal de defesa coletiva e à sua capacidade de responder a ameaças à segurança do seu território e dos seus aliados. O segundo pilar, a NATO Une, cobre os esforços da organização para fortalecer a Aliança e promover a unidade dos seus membros, incluindo para o efeito atividades que visam construir consenso, fomentar a cooperação e aumentar a solidariedade entre os países membros. Por último, a NATO Fortalece, é o pilar que cobre os esforços da organização para fortalecer as suas capacidades de defesa



e dissuasão, bem como estabelecer parcerias e colaborações com outros países e organizações internacionais, incluindo para o efeito atividades de comunicação que visam destacar as missões realizadas pela NATO, obter apoio para gastos com a defesa e promover a cooperação e colaboração entre os países membros.

Em último lugar, releva reconhecer-se o papel da comunicação social, que se apresenta como um segmento responsável pela difusão das atividades de comunicação estatal, organizacional e empresarial. Assim, os profissionais desta área acabam por atuar como intermediários entre os emissores e as suas diversas audiências. Ao desempenhar essa função, elaboram e supervisionam a produção de textos, que servem tanto os interesses dos públicos-alvo, como dos emissores (Cardoso de Andrade, 2013). Por este motivo, neste estudo, foi tomada a decisão deliberada de analisar apenas os comunicados institucionais oficiais da NATO e da Turquia, evitando o vasto corpo de conteúdos produzidos na comunicação social e redes sociais durante o período em análise.

1. Análise de conteúdo

A análise de conteúdo é uma ferramenta que *"tem por objetivo apresentar uma apreciação crítica de análises de conteúdo como forma de tratamento em pesquisas qualitativas e quantitativas"* (Santos, 2012) é uma metodologia de análise utilizada na comunicação social e nas mais diversas áreas, que possibilita uma identificação, rápida, simples e com poucos recursos, de padrões, temas, ideias e valores que estão presentes num determinado conjunto de dados (comunicação, textos, imagens, áudios e vídeos). Wittgenstein na sua obra sobre a teoria da linguagem considera que o pensamento e a linguagem ganham significado ao representar o Mundo. Wittgenstein acreditava que existiam proposições que refletiam a estrutura da realidade (Phillips, 1971). Segundo Anne Applebaum e Edward Lucas em análises realizadas a textos publicados pela Federação Russa concluem por exemplo que *"a desinformação transformada em arma corrói o apoio público aos valores euro-atlânticos, impedindo e distorcendo a tomada de decisão nos EUA e na Europa"* (Applebaum & Lucas, 2015). Existem diferentes abordagens para a análise de conteúdo, que podem variar de acordo com os objetivos e características da pesquisa. Ao aplicar a análise de conteúdo nesta pesquisa, ponderamos a clareza sobre os objetivos da mesma, as questões a responder e as hipóteses a serem testadas. Também foi importante a definição de uma metodologia clara, bem como seguir rigorosamente todas as etapas do processo de análise, que incluiu a pré-análise, a exploração do material, o tratamento dos resultados obtidos, a inferência e a interpretação, ou seja, a fase da organização propriamente dita. No que respeita à pré-análise, esta é a fase da organização propriamente dita e integra três missões, a escolha de documentos a serem submetidos à análise, a formulação de hipóteses e dos objetivos e a elaboração de indicadores que fundamentem a interpretação final. Estes três fatores não têm necessariamente uma ordem cronológica previamente definida, mas mantêm uma ligação estreita entre si. A exploração do material envolve uma fase longa de codificação, decomposição ou enumeração dos documentos selecionados. O tratamento dos dados obtidos é frequentemente necessário para obtermos resultados significativos, uma vez que estes são submetidos a operações estatísticas e testes de validação. Já com uma síntese e seleção de resultados podemos propor inferências e adiantar interpretações a propósito dos objetivos previstos.



Neste âmbito, para avaliar se existiram diferenças nos conteúdos da comunicação oficial da NATO e da Turquia durante as primeiras três semanas da invasão da Ucrânia pela Rússia, analisaram-se os 26 comunicados do Secretário-Geral da NATO (Anexo I) e os 31 comunicados do Governo Turco (do Presidente da República e do Ministro dos Negócios Estrangeiros) que abordaram esta matéria entre 24 de fevereiro e 17 de março de 2022 (Anexo II).

De seguida passamos à formulação das hipóteses e dos objetivos, nomeadamente, avaliar se a Turquia e a NATO tinham diferenças de conteúdo nas comunicações que realizaram sobre o mesmo evento - o início da Invasão da Ucrânia - e por último à elaboração de indicadores que fundamentassem essa interpretação. Realizamos uma transformação dos dados brutos recolhidos na análise dos textos, de acordo com as exigências das análises qualitativa e quantitativa previstas, sistematizando e agregando em unidades que permitiram uma descrição clara das principais mensagens a destacar, a determinação da frequência de utilização das palavras-chave selecionadas, bem como aferir se as diferenças detetadas, no conteúdo das comunicações emitidas, por ambas as partes, eram significativas.

Na análise de conteúdos destes comunicados referimo-nos a cada um dos documentos como uma unidade de contexto utilizando a nomenclatura de Osgood (Bardin, 2016). Adaptando o Procedimento de Osgood, selecionaram-se agrupamentos de palavras-chave que descrevem conceitos semelhantes e que surgem com alguma frequência nas unidades de contexto. Estes agrupamentos, que são elementos constitutivos com sentido equivalente, são descritos nesta análise de conteúdos como unidades de registo.

Estes dados permitem duas análises quantitativas importantes para se aferirem as diferenças entre as mensagens da NATO e as da Turquia, no período em análise.

Em primeiro lugar, foi aplicado um teste estatístico paramétrico (teste T de *Student*, bicaudal, para amostras independentes, com tamanhos e variâncias diferentes) para determinar se as diferenças nas frequências de utilização destas 38 palavras-chave foram significativas, entre a NATO e a Turquia, no período em análise. O teste t de *Student* foi selecionado para este efeito por ser considerado um teste paramétrico simples e relativamente robusto, no sentido de ser eficaz mesmo quando os pressupostos do teste não se verificam plenamente, ou quando são de difícil confirmação, e por ser amplamente utilizado neste tipo de análise nas ciências sociais (Barbetta, 2002). De forma sumária, podemos dizer que o objetivo do teste T de *Student* é verificar com que nível de confiança (valor do parâmetro p) podemos rejeitar a chamada "hipótese nula". No caso concreto deste estudo a hipótese nula é não existirem diferenças estatisticamente significativas no uso das 38 palavras-chave nas unidades de contexto que avaliamos da NATO e da Turquia. Se o teste T de *Student* permitir rejeitar esta hipótese nula, com um nível de confiança elevado (considera-se comumente um nível elevado quando se obtém um parâmetro $p < 0,05$), teremos confirmação de que as diferenças detetadas entre as amostras de comunicados da NATO e da Turquia não ocorreram por acaso, e são significativas do ponto de vista estatístico (Barbetta, 2002).

Em segundo lugar, analisaram-se as frequências, e principais coocorrências, destas palavras-chave dentro das respetivas unidades de registo, relativamente aos comunicados da NATO e da Turquia. Neste âmbito foram consideradas as seguintes



unidades de registo: Reação inicial; Designação do conflito; Adjetivação; Ação exigida às partes; Legalidade da intervenção militar; Justificação para o conflito; Solução proposta; Reação internacional preconizada; Implicações para defesa coletiva; Apoio humanitário. Para cada unidade de registo foram identificadas as palavras-chave mais utilizadas. Este tipo de análise de conteúdos e de coocorrências pretende revelar preocupações latentes, estereótipos, representações sociais e ideologias (Bardin, 2016). Na interpretação dos resultados e, especialmente, na procura dos fatores motivacionais que possam estar na origem de diferenças na comunicação estratégica da NATO e da Turquia no período em análise está implícita, também, uma análise de expressão no sentido de M.C d'Unrug, segundo a qual *"Os traços pessoais mais ou menos permanentes, o estado do locutor ou a sua reação a uma situação, modificam o discurso tanto na sua 'forma' como no conteúdo"* (Bardin, 2016).

2. Análise léxica e sintática da amostra

A análise de conteúdo visa dois objetivos, superação da incerteza e enriquecimento da leitura, ou seja, o que julgo ver na mensagem estará lá efetivamente contido e não poderá uma leitura atenta aumentar a produtividade e a pertinência. Este oscilar entre estas duas tendências, desejo de rigor e necessidade de descobrir, expressa o desenvolvimento histórico e o aperfeiçoamento da análise de conteúdo. Neste âmbito e para melhor entendermos como funciona podemos centrar o nosso foco na análise léxica e sintática de uma amostra, fazendo um estudo de código de diversos textos tendo por base as Convenções e as Possibilidades de Comparação, uma vez que as convenções permitem enumerar nos textos o número total de palavras presentes ou ocorrências; o número total de palavras diferentes ou vocábulos que representam o reportório léxico a que o autor do texto recorre, e a relação ocorrências/vocábulos dá conta da riqueza (ou da pobreza) do vocabulário utilizado pelo autor da mensagem, visto que indica o número médio de repetições por vocábulo no texto. Podemos ainda classificar as unidades de vocabulário entre palavras plenas e palavras instrumento, sendo as primeiras palavras portadoras de sentido, ou seja, substantivos, adjetivos e verbos. As segundas são palavras funcionais de ligação, ou seja, artigos, preposições, pronomes, advérbios, conjunções, etc.

Também é possível estudar o modo (ou tempos) dos verbos presentes no texto se anteciparmos que possa ser significativo. A análise qualitativa das unidades de vocabulário por ordenação frequencial segundo o sentido, pode fornecer informações. Da mesma forma, certos aspetos sintáticos como a organização da frase são suscetíveis de serem reveladores das características de um discurso, ou podem fornecer a confirmação de certas hipóteses formuladas.

No que respeita às possibilidades de comparação, é de referir que as características de um discurso necessitam da comparação com outros discursos ou com normas que o ponham em relevo.

Para o efeito, apresentamos na tabela I uma proposta que descreve a percentagem dos comunicados em que cada palavra-chave ocorre no conjunto de unidades de contexto da NATO e da Turquia. Para o efeito aplicamos à amostra o Teste T de *Student*, um teste estatístico paramétrico que é usado para determinar se há uma diferença significativa



entre as médias de duas amostras independentes. Como referimos previamente, este teste é adequado para dados contínuos e é amplamente utilizado em muitas áreas, incluindo nas ciências sociais. O teste t de *Student* é baseado em duas hipóteses: a hipótese nula e a hipótese alternativa.

A hipótese nula é que as duas amostras têm médias iguais, enquanto a hipótese alternativa é que as duas amostras têm médias diferentes. O teste T de *Student* calcula o valor t, que é a diferença entre as médias das duas amostras dividida pelo erro padrão dessa diferença. Esse valor t é então comparado a uma distribuição T de *Student* com um certo grau de liberdade, que depende do tamanho das amostras e do nível de significância escolhido.

Se o valor t calculado for maior do que o valor crítico na distribuição T de *Student*, a hipótese nula é rejeitada e conclui-se que há uma diferença significativa entre as médias das duas amostras. Como já foi referido, o teste T de *Student* é um teste estatístico robusto, ou seja, é eficaz mesmo se os pressupostos do teste não forem completamente atendidos. No entanto, o teste T de *Student* só deve ser usado se as duas amostras forem independentes e se ambas tiverem uma distribuição normal ou se o tamanho da amostra for grande o suficiente para que a distribuição normal seja uma aproximação adequada. Se essas suposições não forem atendidas, pode ser necessário usar um teste não paramétrico em vez do teste T de *Student*.

O resultado do teste T de *Student* aplicado à frequência de utilização das 38 palavras-chave (tabela I) selecionadas confirma que existe uma diferença estatisticamente significativa entre a NATO e a Turquia na utilização destas palavras nos seus comunicados (valor $p < 0,05$).

A tabela II ilustra as palavras mais frequentes em cada unidade de registo, pela NATO e pela Turquia.

No processo de seleção de regras de contagem, a presença de elementos ou unidades de registo (palavras, temas ou outras unidades) pode ser significativa ou, ao contrário, a ausência de determinados elementos pode bloquear ou traduzir a vontade oculta. Outros fatores cruciais neste processo são a frequência com que aparece a unidade de registo; a intensidade medida através dos tempos dos verbos, advérbios e adjetivos; a direção favorável, neutra ou desfavorável e outros critérios associados (positivo ou negativo); a ordem estabelecida nos registos, ou seja, se o sujeito A aparece antes do B e, por fim, a coocorrência, caracterizada pela presença simultânea de duas ou mais unidade de registo numa unidade de contexto. Neste âmbito, verificamos que apesar de uma aparente similitude no discurso e posição da NATO e da Turquia, face à Invasão da Ucrânia, denota-se diferenças como é possível constatar nas três primeiras unidades de registo - Reação inicial, Designação do conflito e Adjetivação - a Turquia utiliza uma linguagem mais branda como «*reject*» (de recusa, de não aceitação, de desaprovação), enquanto a NATO uma linguagem forte e assumida como «*condemn*» (de reprovação, de censura, de proibição); No que refere à Denominação do evento, a Turquia utiliza as expressões de «*War*» e «*Crisis*» enquanto a NATO recorre a expressões como «*Invasion*» e «*Aggression*»; No que respeita aos adjetivos mais utilizados neste recorte (e aqui determinar o grau, ou seja, a qualidade que permite que os adjetivos possam designar, com maior ou menor intensidade, as características do evento), a Turquia foca-se em



«Unacceptable», enquanto a NATO adjetiva a invasão como «Brutal» (cruel, desumana, violenta).

Tabela I - Propostas de Análise

Unidade de registo	Palavras-chave	NATO	TURQUIA
Reação inicial	<i>Reject</i>	0%	14%
	<i>Condemn</i>	35%	0%
Designação	<i>Invasion</i>	46%	0%
	<i>Military operation</i>	0%	9%
	<i>Attack</i>	23%	36%
	<i>War</i>	0%	23%
	<i>Crisis</i>	15%	18%
	<i>Agression</i>	35%	5%
Adjetivação	<i>Barbaric</i>	4%	0%
	<i>Unacceptable</i>	0%	14%
	<i>Brutal</i>	27%	0%
Ação exigida	<i>Cease military action</i>	23%	18%
	<i>Withdraw/retreat/turn back</i>	19%	0%
	<i>Cease fire</i>	0%	36%
	<i>Restore peace/peace agreement</i>	0%	45%
Legalidade	<i>Unlawful/violation of international law</i>	23%	14%
	<i>UN Charter</i>	15%	0%
	<i>International recognised borders/integrity</i>	4%	14%
	<i>Right self defense</i>	23%	0%
	<i>Responsability to pay/indemn</i>	8%	0%
	<i>War crime</i>	4%	0%
	<i>Territorial integrity and sovereignty of Ukraine</i>	27%	0%
Justificação	<i>Unprovoked</i>	27%	0%
	<i>Unjustified/illegitimate/unjust</i>	27%	5%
	<i>Russia alone to blame</i>	4%	0%
Solução proposta	<i>Diplomatic solution/diplomacy</i>	27%	45%
	<i>Military assistance to Ukraine</i>	42%	0%
Reação internacional preconizada	<i>Consequences</i>	8%	0%
	<i>Measures</i>	8%	0%
	<i>Efforts</i>	0%	45%
	<i>Response</i>	0%	0%
	<i>Imposing</i>	19%	0%
Implicações para defesa coletiva	<i>Independence/sovereignty/territorial integrity</i>	0%	14%
	<i>Unity</i>	27%	0%
	<i>Colletive Defence/Article 5</i>	73%	0%
	<i>Threat</i>	19%	5%
Apoio humanitário	<i>Humanitarian aid</i>	42%	23%
	<i>Refugee support</i>	19%	18%



Quanto às seguintes unidades de registo, nomeadamente - Ação exigida, Legalidade; Justificação; Solução proposta - a Turquia no que respeita à ação exigida utiliza expressões como «*Restore peace*» e «*Cease fire*» e referências ao restabelecimento da paz, enquanto a NATO utiliza outras expressões com enfoque militar como «*Cease military action*» e «*Retreat/Withdraw/Turn back*»; Na unidade de registo Legalidade a NATO e a Turquia utilizam o mesmo conjunto de palavras-chave para definir o evento como uma «grave violação» dos princípios estabelecidos no direito internacional, respeitando e mantendo as «fronteiras e a integridade internacionalmente reconhecidas», bem como o «*direito à autodefesa*» da Ucrânia, privilegiando a NATO termos como «*Illegal/Unlawful*», e a Turquia referências a «*Territorial integrity/recognised borders*»; Relativamente a uma possível Justificação para a invasão russa da Ucrânia, a Turquia quase não adjectiva a iniciativa, usando apenas «*Unjust*» em um dos seus comunicados, enquanto a NATO utiliza abundantemente adjectivos como «*Unjustified/illegitimate/unjust*» e, principalmente, «*Unprovoked*»; Na unidade de registo Solução proposta, apesar de ambas as partes referirem que a resolução do conflito se deve basear numa solução diplomática, alcançada através da cooperação, a NATO defende apoio militar à Ucrânia, algo que a Turquia nunca menciona.

Relativamente às unidades de registo - Reação internacional preconizada, Implicações para defesa coletiva e Apoio humanitário - importa realçar na primeira unidade de registo o seguinte, a comunicação da NATO assenta em expressões duras como «*Imposing/Implementing sanctions*» ou «*Consequences*», e a Turquia tem um discurso mais conciliador em que manifesta que centrará todos os seus esforços («*Efforts*») para obter a paz pela via diplomática; No que reporta à segunda unidade de registo Defesa coletiva, a Turquia apresenta um discurso centrado em apoiar e garantir a independência, soberania e integridade territorial da Ucrânia, enquanto a NATO polariza o seu discurso com palavras como «*Collective defense*», «*Unity*» e «*Threat*», referindo em múltiplas ocasiões o seu compromisso do artigo 5.º do Tratado do Atlântico Norte; Por fim e no que diz respeito ao Apoio humanitário é de destacar que ambas as partes, NATO e Turquia, centram o seu discurso e atenção na ajuda humanitária e apoio aos refugiados e vítimas do conflito, porventura com um pouco mais de insistência da Turquia na problemática dos refugiados e sua evacuação segura através de corredores humanitários.



Tabela II - Palavras-chave mais frequentes em cada unidade de registo (a negrito a palavra-chave mais utilizada)

Unidade de registo	NATO	TURQUIA
Reação inicial	Condemn	Reject
Designação	Invasion Attack Aggression	Attack War Crisis
Adjetivação	Brutal Barbaric Reckless	Unacceptable
Ação exigida	Cease military action Retreat/Withdraw/Turn back	Restore peace/Peace treaty Cease fire
Legalidade	Illegal/Unlawful Violation of international law UN Charter	Territorial integrity / recognised borders Illegal/Unlawful Violation of international law
Justificação	Unprovoked Unjustified/illegitimate/unjust	Unjust
Solução proposta	Military support/assistance Diplomatic solution/diplomacy	Diplomatic solution/diplomacy Dialogue/Mediation/Negotiation
Reação internacional preconizada	Imposing/Implementing sanctions Consequences Measures	Diplomatic efforts
Implicações para defesa coletiva	Collective defense/Article 5 Unity Threat	Independence/Sovereignty/Territorial integrity
Apoio humanitário	Humanitarian aid Refugee support	Refugee support Humanitarian aid

3. Comunicação e Defesa Nacional

Em síntese, podemos confirmar que a comunicação é uma ferramenta importante para a defesa nacional uma vez que possibilita a troca de informações e disseminação de mensagens a diferentes públicos-alvo. A aplicação da análise de conteúdo neste trabalho produziu resultados úteis para a investigação neste domínio, se considerarmos que este tipo de análise é utilizado como um instrumento de diagnóstico. Neste quadro, corroboramos a visão de que a deteção padrões e ideias-chave em conjuntos de comunicados através de uma análise quantitativa e qualitativa dos seus conteúdos permite revelar as causas subjacentes a estes padrões e, porventura, prever os seus efeitos nos públicos-alvo (Riffe, 2019).



Confirma-se a possibilidade de que, no início da invasão da Ucrânia pela Federação da Rússia em 2022 distintas agendas políticas e prioridades estratégicas no seio da NATO afetaram o teor das comunicações oficiais produzidas nesse período. A este efeito acrescem as diferenças de opinião conhecidas, entre estados-membros da NATO sobre que papel deve ter a comunicação estratégica em situações de crise (Fry, 2022). Neste quadro, não é verdadeiramente inesperado que uma análise de conteúdos dos comunicados oficiais da NATO e da Turquia revele diferenças. A interpretação destas diferenças e a identificação de fatores que as possam ter motivado constituem-se como os aspetos mais relevantes deste estudo.

Evitando, o mais possível, mergulhar no debate sobre as vantagens que os instrumentos da psicologia nos disponibilizam em análises de subjetividade na construção de posições discursivas, uma vez que este é essencialmente um debate teórico (Saville-Young & Frosh, 2009), não podemos deixar de fazer algumas inferências sobre como a comunicação estratégica dos diferentes atores durante o início da guerra na Ucrânia terá sido também afetada pelas suas ansiedades, receios e perceções subjetivas dos eventos em curso.

No que respeita à comunicação da Turquia, o Presidente Recep Erdoğan teve palavras duras e surpreendentes face à invasão da Ucrânia em fevereiro de 2022, referiu-se ao evento como "*inaceitável*", defendeu a integridade territorial da Ucrânia, afirmou que a designada operação militar era ilegal à luz do direito internacional, realizou exercícios militares conjuntos com outros membros da Aliança no âmbito da defesa coletiva e desempenhou um papel importante no apoio humanitário à Ucrânia, ajudando a mitigar os efeitos da crise humanitária em curso.

No entanto, manteve uma postura ambígua quanto à imposição de sanções à Federação Russa optando apenas por proibir a circulação de alguns produtos no país, mas realizando acordos, já após o início da invasão da Ucrânia, em que assume o pagamento do fornecimento de gás russo, ao país, em rublos, moeda russa. Ao contrário de outros estados-membros da NATO, a Turquia não defendeu abertamente o apoio militar à Ucrânia, nem forneceu material ou equipamentos letais no início da guerra.

A posição da Turquia é difícil e complexa, uma vez que enquanto membro da NATO é compelida a apoiar as decisões do Conselho do Atlântico Norte, onde tem assento, mas por outro lado está refém das retaliações da Federação da Rússia que já demonstrou, no passado, usar táticas duras contra a Turquia. Em vários conflitos regionais, contudo, atingiu-se um equilíbrio de forças algo inesperado entre a Turquia e a Rússia. Desde os recentes conflitos das montanhas do Cáucaso, até ao Magrebe, há exemplos de um certo equilíbrio militar. Foi o caso quando se constatou a superioridade dos *drones* turcos em relação às defesas aéreas russas, que permitiu à Turquia afirmar-se com sucesso em teatros de operações na Líbia, na Síria e no Nagorno-Karabakh.

A tentativa da Turquia se manter neutral nem sempre foi bem conseguida, tanto que para se defender o Governo Turco tomou várias posições contra os governos ocidentais afirmando que estes têm contribuído para "*agravar a crise entre a Ucrânia e a Rússia*". Porém, e pela sua posição geográfica, que inclui o Estreito do Bósforo, a Turquia tem um trunfo a jogar neste contexto, que lhe confere algum ascendente sobre as partes beligerantes, dado que a Convenção de Montreux (de 1936) atribui a este país da NATO



a possibilidade de condicionar a navegação no estreito em tempo de guerra, e quando a sua segurança nacional é colocada em causa.

A este conjunto de variáveis de política externa acresce uma dimensão de política interna turca que o Presidente Recep Erdoğan teve de ponderar na sua comunicação estratégica durante o período em análise neste estudo. A invasão da Ucrânia pela Federação da Rússia começou a pouco mais de um ano das mais disputadas eleições legislativas na Turquia de sempre, que ocorreram em duas voltas, a 14 e a 28 de maio de 2023. Recep Erdoğan acabou por sair vitorioso por uma escassa margem, contra o candidato da oposição unida republicana e laica, Kemal Kiliçdaroglu. Existe algum consenso entre analistas políticos de que a guerra na Ucrânia foi um fator com impacto indireto, mas importante, neste desfecho eleitoral. Para além do desgaste do regime de Erdoğan, no poder há 21 anos, a guerra na Ucrânia agravou a crise económica, provocando uma redução acentuada do poder de compra dos cidadãos. Durante a campanha eleitoral, a posição da Turquia em relação às partes beligerantes e à própria guerra não foi um tema central, uma vez que o debate se acabou por centrar em questões económicas, agravadas pelo conflito na Ucrânia e pelo forte terramoto de 6 de fevereiro de 2023, que afetou o sudeste da Turquia, e questões políticas internas. Por um lado, Erdoğan manteve o seu estilo mais autoritário, beligerante, nacionalista e conservador. Por outro, Kiliçdaroglu contrapôs uma postura mais inclusiva, tolerante e conciliadora, defendendo a reconciliação nacional e a melhoria das relações da Turquia com os seus vizinhos (Tavares, 2023).

Relativamente à comunicação da NATO, a aliança "*ressuscitou*" com a invasão da Ucrânia pela Federação da Rússia e revelou coesão e unidade transatlânticas ao condenar a Federação da Rússia pelo ato de agressão, com um discurso duro e assertivo face à ameaça que pende sobre a Europa. A comunicação da NATO tem como principal finalidade garantir que as informações e mensagens da organização sejam transmitidas de forma clara, objetiva e coerente por forma a aumentar a compreensão e a consciencialização sobre a importância da aliança e das suas ações. A NATO tem três pilares de comunicação, que servem para estruturar as comunicações externas da aliança provendo estrutura para temas e tópicos das áreas políticas. Os três pilares NATO - Protege, Une e Fortalece - são projetados para orientar quem comunica quando adapta conteúdo e atividades para segmentos de audiências específicas. Neste âmbito a NATO apoiou a Ucrânia, e descreveu como "*sem precedentes*", o apoio militar ao país, centrando a sua atuação no "*direito à autodefesa*" deste país. O Secretário-Geral Jens Stoltenberg reafirmou também que a NATO está "*pronta a defender a soberania e a integridade territorial*" da Ucrânia. A NATO enquanto instituição e organização é uma aliança militar defensiva, criada para a defesa dos países membros e só atua perante ataque, invocando para o efeito o Princípio de Defesa Coletiva patenteado no artigo 5.º do Tratado do Atlântico Norte. O apoio da NATO à Ucrânia é pela defesa deste país, mas acima de tudo pela defesa das suas fronteiras.

Em suma, as diferenças de comunicação entre a NATO e a Turquia são significativas, mas não são profundas, têm similitudes como foi possível verificar na análise de conteúdo dos comunicados publicados, por exemplo, quanto à legalidade, em que ambas recorrem à mesma linguagem, ou seja, como sendo uma violação grave dos princípios estabelecidos no direito internacional, das fronteiras e integridade territorial internacionalmente



reconhecidas, quanto à importância a atribuir à resolução do conflito pela via diplomática e quanto à necessidade de se assegurar apoio humanitário às vítimas da guerra.

Contudo também têm diferenças no tom e na forma como comunicam ou se expressam, como é possível verificar na linguagem a que cada parte recorre para reagir por exemplo à invasão. Enquanto a NATO opta por um tom duro de condenação, a Turquia mantém um tom mais suave de apenas rejeição. O mesmo se verifica na designação do conflito. Enquanto a Turquia caracteriza o evento como «*guerra*» ou «*crise*», quase como uma certa normalização de um estado de tensão e hostilidade, a NATO designa de «*invasão*» e «*agressão*», ou seja, um ato hostil, agressivo que tem de ser imediatamente cessado. Esta dissonância também se mantém na adjetivação do conflito. A Turquia afirma que o evento é inaceitável, quase como se fosse apenas uma ação inadequada, enquanto a NATO refere-se ao conflito como uma ação «*brutal*», violenta e desumana para o período da história em que nos encontramos. E a dissonância continua como podemos verificar nos resultados da nossa análise relativamente a outras unidades de registo, nomeadamente, na ação exigida ao invasor, na justificação para esta intervenção militar ou na reação internacional recomendada.

A linguagem insuficientemente crítica, afirmativa e assertiva da Turquia permitiu-lhe manter o jogo-duplo, beneficiando, por um lado, da proximidade a Moscovo, de acordo com os seus interesses e objetivos, sem descurar, por outro lado, a sua posição na NATO. Por outro lado, a NATO modelou a sua comunicação de forma a sublinhar que esta ameaça à segurança da Europa, e do mundo, evidencia, uma vez mais, que o reforço de uma aliança defensiva, forte e coesa, continua a ser um aspeto central das políticas de defesa nacional dos seus estados-membros.

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Anexo I

Lista de Comunicados publicados pela NATO que foram alvo de análise nesta investigação
NATO, 2022. NATO Secretary General: «NATO and the EU stand with the brave people of Ukraine». [Online] Available at: https://www.nato.int/cps/en/natohq/news_192397.htm.

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NATO, 2022. NATO Secretary General: «Secretary General in Poland: NATO Allies will always stand together to protect each other». [Online] Available at: https://www.nato.int/cps/en/natohq/news_192548.htm?selectedLocale=en#:~:text=S%20toltenberg.,each%20other%20he%20said.

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NATO, 2022. NATO Secretary General: «Remarks: by NATO Secretary General Jens Stoltenberg with the US Secretary of State, Antony J. Blinken at the start of the Extraordinary meeting of NATO Ministers of Foreign Affairs». [Online] Available at: https://www.nato.int/cps/en/natohq/opinions_192736.htm.



NATO, 2022. NATO Secretary General: «NATO Foreign Ministers meet amidst escalating Russian aggression in Ukraine». [Online] Available at: https://www.nato.int/cps/en/natohq/news_192795.htm.

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NATO, 2022. NATO Secretary General: «Secretary General in Latvia: NATO stands united». [Online] Available at: https://www.nato.int/cps/en/natohq/news_192968.htm?selectedLocale=en.

NATO, 2022. NATO Secretary General: «NATO Secretary General welcomes Canada's leading role in the response to Russia's invasion of Ukraine». [Online] Available at: https://www.nato.int/cps/en/natohq/news_193057.htm.

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NATO, 2022. NATO Secretary General: «Secretary General in Turkey: NATO stands with Ukraine, rejects spheres of influence». [Online] Available at: https://www.nato.int/cps/en/natohq/news_193091.htm?selectedLocale=en.

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NATO, 2022. NATO Secretary General: «Secretary General previews extraordinary meeting of NATO Defence Ministers». [Online] Available at: https://www.nato.int/cps/en/natohq/news_193201.htm.

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NATO, 2022. NATO Secretary General: «Remarks: by NATO Secretary General Jens Stoltenberg with the US Secretary of Defense, Lloyd J. Austin III at the start of the Extraordinary meeting of NATO Ministers of Defence». [Online] Available at: https://www.nato.int/cps/en/natohq/opinions_193188.htm?selectedLocale=en.

NATO, 2022. NATO Secretary General: «NATO Secretary General, German Chancellor discuss Russia's invasion of Ukraine». [Online] Available at: https://www.nato.int/cps/en/natohq/news_193368.htm?selectedLocale=en.



Anexo II

Lista de Comunicados publicados pela Turquia que foram alvo de análise nesta investigação

Türkiye, 2022. PR Recep Tayyip Erdoğan: «The military operation Russia has launched against Ukraine is unacceptable» [Online] Available at: <https://www.tccb.gov.tr/en/news/542/135778/-the-military-operation-russia-has-launched-against-ukraine-is-unacceptable->.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «NATO should have taken a mor decisive step». [Online] Available at: <https://www.tccb.gov.tr/en/news/542/135790/-nato-should-have-taken-a-more-decisive-step->.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with Prime Minister Rutte of the Netherlands». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136123/phone-call-with-prime-minister-rutte-of-the-netherlands->.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with President Michel of the European Council». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136118/phone-call-with-president-michel-of-the-european-council->.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with Prime Minister Johnson of the UK». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136124/phone-call-with-prime-minister-johnson-of-the-uk->.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with President of Russia». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136129/phone-call-with-president-putin-of-russia->

Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with President Sandu of Moldova». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136125/phone-call-with-president-sandu-of-moldova->.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «We have displayed a principled and conscientious stance in the face of the crises in our region». [Online] Available at: <https://www.tccb.gov.tr/en/news/542/135913/-we-have-displayed-a-principled-and-conscientious-stance-in-the-face-of-the-crises-in-our-region->.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with President Biden of the US». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136119/phone-call-with-president-biden-of-the-us->.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «A new global security architecture must be established». [Online] Available at: <https://www.tccb.gov.tr/en/news/542/135949/-a-new-global-security-architecture-must-be-established->.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «As Türkiye, we continue our attempts aimed at achieving a ceasefire». [Online] Available at: <https://www.tccb.gov.tr/en/news/542/136075/-as-turkiye-we-continue-our-attempts-aimed-at-achieving-a-ceasefire->.



Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with UN Secretary-General Guterres». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136122/phone-call-with-un-secretary-general-guterres>.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «German Chancellor Scholz to visit Türkiye». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136005/german-chancellor-scholz-to-visit-turkiye>.

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Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with President Zelensky of Ukraine». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136131/phone-call-with-president-zelensky-of-ukraine>.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with President of Russia». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136127/phone-call-with-president-putin-of-russia>.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «President Erdoğan to visit Belgium». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136206/president-erdogan-to-visit-belgium>.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with President Zelensky of Ukraine». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136266/phone-call-with-president-zelensky-of-ukraine>.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with President of Russia». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136267/phone-call-with-president-putin-of-russia>.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with President Zelensky of Ukraine». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136330/phone-call-with-president-zelensky-of-ukraine>.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with President of Russia». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136351/phone-call-with-president-putin-of-russia->.

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Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with President of Russia». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136739/phone-call-with-president-putin-of-russia>.



Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with UN Secretary-General Guterres». [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136740/phone-call-with-un-secretary-general-guterres>.

Türkiye, 2022. PR Recep Tayyip Erdoğan: «Phone Call with President Macron of France». No: 62, 24 February. [Online] Available at: <https://www.tccb.gov.tr/en/speeches-statements/558/136777/phone-call-with-president-macron-of-france>.

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Türkiye, 2022. Ministry of Foreign Affairs Press Release: «Regarding Meetings at the Deputy Minister Level Between Türkiye and the U.S.». No: 75, 4 March. [Online] Available at: https://www.mfa.gov.tr/no_-75_-turkiye-ile-abd-arasinda-bakan-yardimcisi-duzeyinde-gerceklestirilecek-gorusmeler-hk.en.mfa.

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“JOINT INVESTIGATION TEAMS”. O COMBATE À CRIMINALIDADE TRANSNACIONAL: BALANÇO OPERACIONAL PORTUGUÊS (2018-2021)

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Resumo

A globalização e a evolução das sociedades e do mundo, criaram inúmeras oportunidades a diversos níveis. Vimos os Estados progredirem, a procurarem alianças de variadas índoles (estratégicas, tecnológicas, militares, económicas, entre outras). Mas, não foram só os estados a beneficiar desta evolução natural, o mundo paralelo do crime, acompanhou esta tendência, superando-a por vezes. A atividade criminosa alastrou a sua esfera de influência, passando da realidade nacional à transnacional, muita das vezes corrompendo organismos e autoridades públicas, com o fim de obtenção de poder e lucro. Para fazer face a esta nova realidade, surgem entidades supra estatais, alicerçadas no esforço conjunto das nações para a prevenção e combate a este flagelo. A Europol e a Eurojust, são exemplos a nível europeu da cooperação internacional no sector securitário e judiciário. No âmbito desta cooperação, surgem as Joint Investigation Teams (JIT), ou Equipas de Investigação Conjunta, equipas vocacionadas para a investigação transnacional de criminalidade organizada. Procedemos à análise da atividade das autoridades portuguesas em investigações com a sua participação em JIT, com base nos relatórios anuais da Eurojust, entre 2018 e 2021, e comparamos esta atividade com outros países, próximos da nossa realidade criminal, suportados pelo Global Organized Crime Index. Verificamos que Portugal tem recorrido a esta ferramenta de cooperação, cada vez mais importante no combate ao crime transnacional. Mas, está longe da realidade de outras nações no que concerne a atividade operacional desenvolvida nestes quatro anos de análise.

Palavras-chave

Criminalidade transnacional; Cooperação Internacional; Eurojust; Equipas de investigação conjunta; Investigação Criminal.



Abstract

Globalization and the evolution of societies and the world have created countless opportunities at various levels. We have seen States evolving, seeking alliances of several kinds (strategic, technological, military, economic, among others). But it was not only the states that benefited from this natural evolution; the parallel world of crime followed this trend, sometimes surpassing it. Criminal activity has spread its sphere of influence from national to transnational reality, often corrupting public organizations and authorities to obtain power and profit. To face this new reality, supra-state entities have arisen, based on the joint effort of nations to prevent and combat this scourge. Europol and Eurojust are examples at European level of international cooperation at a security and judicial level. As part of this cooperation, Joint Investigation Teams (JIT) have emerged, teams dedicated to the transnational investigation of organized crime. We analyzed the activity of the Portuguese authorities in investigations with participation in JITs, based on the annual reports of Eurojust, between 2018 and 2021, and compared this activity with other countries, close to our criminal reality, supported by the Global Organized Crime Index. We verified that Portugal has used this cooperation tool, increasingly important in the fight against transnational crime. But it is far from the reality of other nations in what concerns the operational activity developed in these four years of analysis.

Keywords

Transnational Crime; International Cooperation; Eurojust; Joint Investigation Teams; Criminal Investigation.

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BRUNO MIGUEL OLIVEIRA GARCÊS

Introdução

No passado recente, o século XX foi dominado pela temática da "Guerra Fria", sendo que o 11 de Setembro veio despertar consciências para uma nova realidade, a "Guerra ao Terrorismo". Hoje, em pleno século XXI, podemos ver que o crime organizado transfronteiriço é uma temática com grande proeminência a nível securitário (Galeotti, 2004).

A segurança é não só um objetivo, mas um dos principais propósitos de um Estado. Como refere Elias (2013, p. 16) a "segurança é transversal e multinível", sendo que anteriormente vetores que eram encarados como característicos da segurança interna, hoje projetam-se para além da realidade nacional, em diversas áreas (judicial, policial, proteção civil, entre outras). Se outrora, a segurança era tarefa fundamental em qualquer Estado soberano, hoje, a complexidade da mesma, gera a necessidade de dois ou mais Estados concentrarem esforços e recursos, humanos e materiais, para determinada investigação (Commonwealth Secretariat, 2008).

No que concerne ao crime organizado Shanty e Mishra (2008, p. 4), define-o como "atividade ilegal sistemática com o objetivo de aumentar a riqueza ou o poder e é tão antigo como os primeiros sistemas de governo e de direito", enumerando diversos exemplos, como o rapto, pirataria, contrabando, entre outros.

A União Europeia (UE) tem como objetivo securitário proporcionar aos seus cidadãos a segurança dentro de um espaço comum de liberdade, segurança e justiça. Para tal é um pilar fundamental a prevenção criminal e o próprio combate ao crime salvaguardando sempre os direitos, liberdades e garantias que são transversais aos seus estados (Gualtieri, 2007). Uma ferramenta crucial neste âmbito, são as *Joint Investigation Teams* (JIT), ou Equipas de Investigação Conjunta (Paterson et al., 2020). Com origem no Conselho Europeu de Tampere, em 15 e 16 de Outubro de 1999, as JIT vieram reforçar a resposta de combate ao crime além-fronteiras, reforçando o vínculo cooperativo quer a nível policial, quer a nível judicial entre Estados-Membros (EM) procurando, num



primeiro momento, uma resposta ao tráfico de droga, de seres humanos e terrorismo (Gualtieri, 2007). As JIT têm ganho popularidade na Europa, e são cada vez mais utilizadas em processos de investigação criminal de âmbito transnacional, como por exemplo em investigações sobre tráfico de seres humanos (Paterson et al., 2020), ou em casos de terrorismo (Bakker & Powderly, 2011).

Suportadas pela Eurojust, alicerçadas no Tratado da União Europeia, e focalizadas na criminalidade transfronteiriça, as JIT têm por finalidade melhorar a coordenação das investigações de crimes na realidade além-fronteiras, cada vez mais proeminente e sofisticada (Helmsberg, 2007).

A globalização e o crime

A globalização e a abertura de fronteiras criaram um manancial de benefícios económicos e comunicacionais, levando a um incremento do comércio transfronteiriço em todos os níveis de atividade, legal, informal e criminal. De facto, a par desta evolução surge, surgem novas oportunidades para outro tipo de atividade: a atividade criminosa e o crime organizado internacional (Vermeulen, 2002). Conforme refere Galeotti (2004, p. 1) "o mundo legítimo é vítima do seu próprio sucesso: a globalização da economia legal também globalizou o submundo (criminal)".

"Cada sociedade tem a sua marginalidade: o crime é um facto universal" (Clemente, 2010, p. 145), e, neste introito, a existência da taxa natural de crime é uma realidade inexorável e incontornável na sociedade (Morgado, 2013; Morgado & Felgueiras, 2021). O crime transnacional é também uma realidade universal. É comum a todas as nações e, tanto o lucro como o poder, associado por vezes à corrupção dos organismos estatais, independentemente do sistema político vigente, origina um grande transtorno em diversas nações (Shanty & Mishra, 2008). Atualmente, a criminalidade provoca danos graves no seio dos Estados de direito democráticos afetando, em alguns casos, a sua estrutura, nomeadamente funcionários e até altos representantes, quer de instituições do Estado quer de órgãos de soberania (Elias, 2018).

A par na noção de crime transnacional, importa abordar o conceito de crime organizado. Apesar de não existir uma definição consensual, Abadinsky (2010) enumera oito atributos, que permitem distinguir este tipo de associações de grupos de criminosos convencionais. A saber: i) sem objetivos ou fins políticos; ii) é hierarquizado; iii) com composição definida; iv) com subcultura única; v) perpetua-se no tempo; vi) recurso a violência e métodos de suborno ilegais; vii) é tendencialmente monopolista; e, viii) apresenta regras específicas no seu seio.

Contudo, algumas destas prerrogativas já não se aplicam à realidade atual. Por sua vez, o *Global Organized Crime Index* (2021, p. 143), define o crime organizado como de uma forma mais simplificada e abrangente:

Atividades ilegais, conduzidas por grupos ou redes que atuam de forma concertada, através de violência, corrupção ou atividades afins, a fim de obter, direta ou indiretamente, um benefício financeiro ou material. Tais atividades podem ser levadas a cabo tanto dentro de um país como transnacionalmente.



Elias (2018) apresenta três causas para o surgimento do crime organizado: o enfraquecimento do poder do Estado; a burocracia em excesso que este apresenta; e a proibição de atividades e nichos económicos que fomentam mercados ilegais paralelos. A título de exemplo, Galeotti (2004), menciona que cerca de metade dos lucros da economia paralela criminosa de todo mundo tem por base o narcotráfico, aponta que cerca de 4% da população mundial consome produtos estupefacientes, sendo esta a principal economia ilícita, seguindo-se o tráfico de seres humanos. Em paralelo surgem mercados negros, associados ao tráfico de armamento, pessoas e estupefacientes, que resultam em graves prejuízos na economia associados à evasão fiscal, fuga de capitais, entre outras situações. Esta realidade destabiliza e prejudica gravemente a economia a nível global (Shanty & Mishra, 2008). A evolução do crime tem-se consubstanciado num elevado dispêndio de recursos e a uma elevada especialização por quem pesquisa e combate o fenómeno. A par desta realidade, as investigações destes crimes obrigam a criar equipas multidisciplinares que albergam especialistas das mais diversas áreas e graus de elevados de conhecimento e multidisciplinares de áreas tão dispares como peritos em análise financeira a peritos de comunicações (por exemplo).

Outras são as situações que podem ser enquadradas como verdadeiras situações de crime organizado, por exemplo: as associações criminosas que suportam os fluxos ilegais de migração (Hampshire, 2015), ou as que suportam atividades terroristas (Bakker & Powderly, 2011), bem como o tráfico de droga e armas (Abadinsky, 2010; Elias, 2018; Shanty & Mishra, 2008) sendo que o próprio crime se alicerça no meio digital servindo este como uma forma de prestação de serviços ou produtos de origem ilícita (Elias, 2018).

Tabela 1 - Tipos de abordagem ao crime

Civil law	Criminalização da participação numa associação criminosa
Common law	Abordagem sustentada na conspiração, por exemplo o ato preparatório de planear um crime.
Abordagem escandinava	Não considera a tipificação de organização criminosa, contanto apenas com a parte geral do direito penal.

Fonte: Adaptado de Elias, L. (2018). *Ciências Policiais e Segurança Interna: Desafios e prospetiva*, p. 183. Copyright 2018 de ISCPSI-ICPOL.

A Cooperação Internacional

Para os realistas clássicos, o Estado é visto como um ator racional, único interessado em questões de segurança, estando os seus interesses acima dos demais, ou seja, dos cidadãos que o compõe. Para além dessa hegemonia interna, o Estado, nesta visão realista clássica, não confia em terceiros, sejam eles outros Estados, ou instituições internacionais, garantindo a sua segurança e existência, a sua soberania e integridade territorial com o seu poder militar. Porém, como refere Elias (2018, p. 172) "o conceito weberiano de monopólio do uso legítimo da força por parte do Estado parece estar em crise face a uma miríade de atores internacionais, nacionais, locais e privados(...)", o mesmo acaba por se aplicar na realidade da investigação criminal.



Porém, existe ainda quem defenda que áreas como a segurança e justiça devem ser responsabilidade das nações na sua individualidade, sob a égide de ministérios na dependência do poder político do Estado, relegando para segundo plano os esforços securitários desenvolvidos a nível regional ou internacional, como a União Europeia (Bigo, 2009).

Todavia, esta cooperação é, atualmente uma realidade, sendo que neste âmbito, podemos defini-la como a dimensão externa da segurança interna de Portugal, que assenta em três prismas: o global, o europeu e o lusófono (Elias, 2018).

**Tabela 2 - Dimensão Externa da Segurança Interna
(ou a Cooperação Internacional) de Portugal**

<i>Cooperação Internacional</i>		
Global	Europeia	Lusófona
- Operações de Paz (ONU) - Oficiais de Ligação (MAI) - Interpol	- Missões de Gestão civil de Crises - Cooperação Policial - Europol - Frontex - Cefpol	- Cooperação técnico- Policial (CPLP)-

Fonte: Adaptado de Elias, L. (2018). *Ciências Policiais e Segurança Interna: Desafios e perspectiva*, p. 107. Copyright 2018 de ISCPSI-ICPOL.

Com a cooperação transnacional, o direito penal e processual penal tem de procurar acompanhar a forma como a criminalidade se tem adaptado, face a uma realidade tendencialmente estanque, no que concerne ao seu combate. A título de exemplo, no caso Português, Elias (2018, p. 178) defende que existem dificuldades na nossa realidade em “compreender a liquidez e inter-relação entre os diferentes patamares da criminalidade – organizada, violenta ou de massa”.

As JIT têm sido defendidas pela Europol e Eurojust como uma das melhores práticas para investigação de situações crime transfronteiriço, todavia, existe alguma resistência ao seu estabelecimento, decorrente das diferenças latentes entre os EM, nomeadamente a nível do ordenamento jurídico, às práticas e procedimentos internos e até mesmo à política e ideologia. Porém, o apoio das instituições europeias, como a Europol e Eurojust, representa um acesso a financiamento e recursos que beneficia a criação deste tipo de cooperação (Paterson et al., 2020).

Em 2000, com a Convenção Europeia de Auxílio Judiciário Mútuo em Matéria Penal, surge uma nova forma de pensar e agir em matéria de cooperação judiciária na UE, surgem regras específicas para intercâmbio de informações, para interceções telefónicas e até para as operações encobertas (Elezi & Ngucaj, 2014).

Podemos ainda referir, que em 2014, com a Diretiva 2014/41/UE do Parlamento Europeu, instituiu-se uma nova ferramenta: a Decisão Europeia de Investigação (DEI). De um modo sucinto, esta DEI, é um documento oficial emitido por autoridade judicial, que tem a sua origem num EM, para que noutro EM sejam executadas determinadas diligências de investigação, ou para obter meios de prova (Elias, 2018).



O ordenamento jurídico do EM onde a JIT opera vigora, definindo assim a forma de atuação e os processos a realizar, sendo que os restantes membros externos à esse país são destacados para a equipa e são considerados como membros de autoridade desse EM, em caso de qualquer ilícito criminal cometido contra eles.

Europol

"A Europol tem por missão prestar assistência aos serviços policiais dos EM na sua luta contra a criminalidade organizada internacional, através da estreita cooperação com e entre os EM, os países candidatos e outras organizações internacionais" (Guedes & Elias, 2010, p. 191).

Para além da sua missão genérica e restantes atribuições, por força da Recomendação do Conselho de 30 de Novembro de 2000, a Europol foi incumbida de prestar apoio às JIT, sendo que esse apoio é transversal a diversas áreas, como: a nível de conhecimento e informação, assistência na coordenação operacional, aconselhamento técnico e na análise de informação, entre outros. No entanto, existem determinados quesitos para esta assistência multinível. Em primeira estância esta deve ser solicitada, expressamente, por pelo menos um (ou mais) dos EM integrantes na JIT, deverá de igual forma ser solicitada por EM ou estados terceiros com os quais a Europol tenha um acordo de cooperação válido e, por último, para além de ter existir obrigatoriamente o envolvimento de uma estrutura de crime organizado, deverão os crimes a ser investigados serem abrangidos pelo manancial de crimes que fazem parte do repertório operacional da Europol¹ (Buck, 2007).

Tem por finalidade agilizar o intercambio de informações entre os EM num grande leque de crimes característicos do crime organizado transnacional, proporcionando apoio técnico e especializado às investigações e operações na UE (Guedes & Elias, 2010).

A Europol apresenta inúmeras vantagens a nível de cooperação policial internacional, sendo que no contexto de constituição de uma JIT (durante, e até antes da sua constituição formal), existem ainda mais vantagens. É possível estabelecer uma rede de telecomunicações específica, rápida e segura, entre os EM, salvaguardando-se a exclusividade do canal de informação através das unidades nacionais para o efeito. Existe de igual forma a possibilidade de acesso a relatórios de informações mais completos, com foco em informações detalhadas para a situação criminal a investigar. Estes relatórios analíticos, fornecidos neste contexto podem conter informações detalhadas, tais como: descrição dos papéis dos suspeitos, o seu posicionamento e responsabilidades dentro das organizações, as ligações destes com os seus pares, as novas ameaças e novos alvos, entre outras. Por último podemos ainda identificar todo o apoio logístico que pode ser dado, desde instalações para reuniões e a sua própria organização, incluindo a sua coordenação e acompanhamento, passando pelo apoio na tradução, bem como o apoio nas melhores práticas a tomar no seio dessa investigação (Buck, 2007).

¹ Crimes relacionados com: Estupefacientes, tráfico de seres humanos, imigração clandestina organizada, cibercriminalidade, contrafação do euro, fraude em matéria de IVA, branqueamento de capitais e localização de bens, grupos móveis (itinerantes) de criminalidade organizada, criminalidade no domínio da propriedade intelectual, contrabando de cigarros, gangues de motociclistas fora-da-lei, terrorismo. Obtido de <https://www.europol.europa.eu/about-europol.pt>, acedido a 23 Fevereiro de 2023.



Eurojust

Com o Tratado da União Europeia, surge um regime jurídico de cooperação criminal no seio da UE, que despoleta a a missão da Eurojust – promover essa coordenação (Elezi & Ngucaj, 2014). A Eurojust (2023) define-a como o seguinte:

Agência da União Europeia para a Cooperação em matéria de Justiça Penal, é um centro único com sede em Haia, nos Países Baixos, onde as autoridades judiciais nacionais trabalham em estreita colaboração para combater o crime organizado transfronteiriço grave. O papel da Eurojust é ajudar a transformar a Europa mais segura, coordenando o trabalho das autoridades nacionais - dos Estados-Membros da UE, bem como de Estados terceiros - na investigação e repressão do crime transnacional².

A origem desta instituição remonta ao Tratado de Nice de 2001, tendo como finalidade, facilitar a coordenação e prestar apoio em matéria de coordenação judicial. Surge ainda, com o Tratado do Funcionamento da UE, a figura do Procurador da UE, que teve como finalidade reforçar a coordenação, cooperação e apoio das autoridades dos EM, em estreita colaboração com a Europol e sempre que haja necessidade de criar processos de investigação criminal que envolvam dois ou mais países da UE (Elezi & Ngucaj, 2014). É apontado como a "primeira rede permanente de autoridades judiciárias a ser estabelecida em todo o mundo" (Guedes & Elias, 2010, p. 200).

Dotado de personalidade jurídica, situado em Haia, a Eurojust tem a colaboração de um juiz ou procurador nomeado por cada EM (Helmberg, 2007). Atualmente, no caso português, o representante nacional é o Digníssimo Procurador-Geral-Adjunto António Cluny (MP, 2023)³.

O facto de, quer os representantes dos EM quer a sua equipa, trabalharem no mesmo local, traduz-se numa proximidade que permite uma comunicação célere e natural, reduzindo os obstáculos burocráticos que até então eram uma realidade. A própria experiência dos representantes do ordenamento jurídico nacional, nomeadamente em matéria de direito penal e processual penal, diferente entre os EM, permite um intercâmbio de conhecimento que potencia a cooperação e colaboração (Helmberg, 2007).

A criação da Eurojust tem por finalidade criar fluxos de informação entre países que permita ampliar à eficácia e eficiências da investigação e ação penal em caso da criminalidade internacional. Em suma, a Eurojust procura dois grandes fins : reforçar e aperfeiçoar a coordenação e a cooperação entre as autoridades dos EM (Helmberg, 2007), sendo que a sua atividade baseia-se na "realização de reuniões entre investigadores e procuradores dos diversos países a fim de tratar de casos específicos ou de definir ações estratégicas para tipos específicos de criminalidade, principalmente as formas graves de criminalidade transfronteiriça" (Guedes & Elias, 2010, p. 200).

² Obtido de: <https://www.eurojust.europa.eu/about-us/who-we-are>, acessido a 23 Fevereiro de 2023.

³ Obtido de: <https://www.ministeriopublico.pt/en/node/1711>, acessido a 26 Fevereiro de 2023.



"Joint Investigation Teams"

Génese

Segundo Block (2012), a ideia de criação de equipas vocacionadas para a investigação transnacional foi surgindo em diversos documentos estratégicos da UE, todavia já em 1967, mais precisamente na Convenção de Nápoles, onde a Alemanha sugeriu que fossem criadas equipas conjuntas, no caso em concreto de cooperação entre autoridades aduaneiras. Esta sugestão, ganhou forma em 1994, num documento apresentado pelas autoridades alemãs no âmbito do Grupo de Trabalho de Cooperação Aduaneira. Voltou a surgir, mais tarde, indicado pelo mesmo EM, no projeto Convenção de Nápoles II, servindo como uma ferramenta suplementar à assistência mútua entre EM que já vigente.

É na Convenção Europeia de Auxílio Judiciário Mútuo em Matéria Penal em 2000 que surge pela primeira vez o conceito de JIT (Elezi & Ngucaj, 2014). No segundo semestre de 2004, a Europol opera um levantamento de legislação dos EM derivada da proposta e implementação da Decisão-Quadro sobre as JIT. O objetivo seria procurar e coligir toda a informação legal disponível nos EM acerca das JIT, procurando agregar a mesma por país, todavia nessa altura, apesar de esgotado já o prazo imposto pela UE, alguns países ainda não teriam implementado legislação nacional (Horvatits & de Buck, 2007).

Atividade e Funcionamento

Ao criar uma JIT, pretende-se que a investigação seja coordenada e concertada, sendo necessária a celebração de um acordo entre pelo menos dois EM, onde sejam definidos o fim a que se propõe, o hiato temporal a operar, bem como os procedimentos a adotar. É ainda possível a participação dos EM que a constituem na tomada de decisão bem como no processo de atualização continua do estado da investigação em curso (Helmberg, 2007).

Após a sinalização de uma situação adequada para ser investigada nestes parâmetros, existe a necessidade dos EM envolvidos se reunirem para estabelecer a JIT (Block, 2012; Helmberg, 2007). O ordenamento jurídico do EM onde a JIT opera vigora definindo assim a forma de atuação e os processos a realizar, sendo que os restantes membros externos à esse país são destacados para a equipa e são considerados como membros de autoridade desse EM, em caso de qualquer ilícito criminal cometido contra eles (Helmberg, 2007).

Na constituição de uma JIT não existe limitação no que concerne ao número de EM envolvidos, surgindo o acordo entre as autoridades dos referidos estados, estas nomeiam nesse acordo os membros para a constituição, sendo que podem ser selecionados entre membros das forças de segurança, procuradores ou juízes, com experiência reconhecida (Campos et al., 2017; Gualtieri, 2007), em alguns casos poderá até ser um equipa multidisciplinar, constituída por diversas entidades como polícias, procuradores, juízes, serviços alfandegários, entre outros (Block, 2012). Para além da necessidade de exigir um líder de entre os representantes dos EM os restantes elementos detêm as mesmas competências e não possuem funções específicas, encontrando-se sediados em locais geograficamente distintos em comunicação permanente. Por norma



a liderança é assumida pelo representante do EM onde ficará sediada a operação, ou seja o estado de origem (Bakker & Powderly, 2011; Campos et al., 2017). A Europol e a Eurojust asseguram em permanência o apoio e orientação operacional às JIT constituídas, facilitando a criação dessas equipas (Horvatits & de Buck, 2007).

A JIT é sediada num determinado EM, contudo a presença de representantes de diferentes EM, facilita o recurso a diversas diligências de investigação nos restantes países que a compõem, facilitando a interação com diversas autoridades nacionais, fomentando desse modo a eficácia e celeridade da investigação (Helmsberg, 2007), através da troca de provas e informações acerca de determinada atividade ou grupo criminoso (Paterson et al., 2020).

No que concerne a estas equipas Elezi e Ngucaj (2014), enumeram as seguintes vantagens:

- Oportunidade de intercambio direto de informações, sem necessidade de formalismos;
- Solicitar de forma célere diligências de investigação entre os EM;
- Oportunidade de participação dos representantes nas diligências processuais (interrogatórios, inquirições, buscas, entre outras) mesmo noutros países;
- Possibilidade de partilha de conhecimento e formação;
- Apoio direto da Europol e Eurojust.

Balanço Operacional das JIT em Portugal (2018-2021)

Vemos que as JIT permitem a cooperação formal entre entidades de cariz judicial, policial e até aduaneira de diferentes países, para uma investigação eficaz e bem sucedida sobre qualquer ilícito criminal (Bakker & Powderly, 2011). A primeira JIT, com participação das autoridades portuguesas, remonta a 2012, com a assinatura do acordo, entre Portugal o Reino Unido e, mais tarde, França. Foi desenvolvida com base numa investigação desenvolvida pelo DIAP de Lisboa, apoiado pelo Serviço de Estrangeiros e Fronteiras (SEF), que iniciou em Portugal em 2010 (A. Sousa, 2019).

Após a análise atenta dos 4 últimos relatórios disponíveis da Eurojust, o *Eurojust Annual Report* de 2018 a 2021, os quais abordam a atividade das JIT, propomos analisar a atividade desenvolvida pelas autoridades portuguesas durante esse período, com a finalidade de descobrir se esta se encontra alinhada com a restante realidade europeia. Dessa análise, foi possível compilar os seguintes dados:

Tabela 3 - Compilação da Cooperação Internacional de Portugal respeitante às JIT, baseada nos relatórios anuais Eurojust

	Reuniões de Coordenação	Joint Investigation Teams
2018	15	2
2019	23	3
2020	10	1
2021	9	1
Total	57	6

Fonte: elaboração própria



Verificamos que no período entre 2018 e 2021, apesar de existirem 57 reuniões de coordenação no âmbito das JIT, as autoridades portuguesas apenas fizeram parte em 6 JIT, o que será manifestamente pouco se compararmos com os restantes países da União Europeia.

Optamos por uma análise cronológica da participação portuguesa neste tipo de cooperação internacional, sendo que podemos referir as participações de relevo que se seguem.

Em 2018, as autoridades portuguesas surgem associadas à "Operação *Pollino*", que é referenciada como "numa das maiores investigações em matéria de criminalidade organizada do tipo na Europa até à data." levando à "deteção de quase 4 000 kg de cocaína e grandes quantidades de outras drogas, bem como na apreensão de cerca de 2 milhões de euros em ativos de origem criminoso e 84 detenções". Contudo, esta tratou-se apenas de uma colaboração nacional numa JIT constituída pela Itália, Alemanha e Países Baixos (Eurojust, 2018, p. 12).

Neste ano, Portugal participou efetivamente em duas JIT, sendo que uma reporta a novembro de 2018, onde em colaboração com Espanha, desmantelou uma rede de escravatura e tráfico de seres humanos, que atuava na província de Segóvia, permitindo diversas buscas, apreensões e detenções, culminando ainda na libertação de 10 vítimas de tráfico, seis das quais em Portugal. Ainda nesse mesmo mês, mas em colaboração com Luxemburgo, foi desmantelada uma rede de jogos de fortuna ou azar, branqueamento de capitais e fraude fiscal, que atuava online. Resultaram dessa JIT, 30 detenções, 275 buscas e cerca de 576 mil euros, para além de diverso material informático entre outros. Os lucros dessa rede foram avaliados em 80 milhões de euros, tendo ainda sido recuperados cerca de 6 milhões provenientes da atividade ilícita (Eurojust, 2018).

No ano de 2019, as autoridades portuguesas são convidadas a participar numa investigação que teve origem na Alemanha em 2015, que visava uma organização criminosa que se dedicava a fraude e branqueamento de capitais. Essa organização esteve também sob investigação em Itália, numa investigação autónoma. A Eurojust promoveu a criação da JIT, e para além da Alemanha e Itália, Portugal, a Suíça e Espanha tomaram parte na equipa de investigação. Em janeiro de 2019, foram detidos 4 suspeitos (dois em Espanha, dois na Alemanha), tendo sido realizadas diversas buscas, inclusive em entidades bancárias, levando ao congelamento de contas e apreensões de viaturas de luxo, joias, entre outros. Os prejuízos causados por esta rede ascende aos 12 milhões de euros (Eurojust, 2019).

Ainda nesse mês, com as autoridades belgas, foi desmantelada uma rede que recrutava mulheres portuguesas para casamentos fictícios. Com origem em 2015 na Bélgica, a investigação tinha por suspeita casamentos de mulheres portuguesas com cidadãos paquistaneses. Estes casamentos falsos, tinham contrapartidas monetárias para as mulheres portuguesas, que não tinham contacto prévio com os maridos e apenas se deslocavam a território belga para o casamento. A JIT, fundada em 2017, tem o seu resultado em janeiro de 2019, culminando em 17 suspeitos detidos, e 18 buscas domiciliárias na Bélgica e 3 suspeitos e 8 buscas em Portugal. Resultou ainda a apreensão de diversos documentos falsos e avultadas quantias em dinheiro (Eurojust, 2019).



Já em Maio, eclode a "Operação *Carpatos*", que visava o desmantelamento de uma rede criminosa que se dedicava a pesca ilegal, evasão fiscal e branqueamento de capitais. Em estreita colaboração com a Espanha, França, Itália, Roménia e Hungria, Portugal cooperou em 250 buscas que resultaram na detenção de treze suspeitos, para além de 11 barcos e 30 toneladas de peixe apreendidos (Eurojust, 2019).

Já em 2020, Portugal apenas se vê envolvido numa JIT, que visou uma rede criminosa de pirataria online que atuava por todo o mundo. Com mais de 15 países envolvidos, e com a estreita colaboração dos Estados Unidos, esta ação conjunta veio proteger os direitos de autor de conteúdos audiovisuais, sendo que em Agosto de 2020, foram inutilizados cerca de 60 servidores na América do Norte, Europa e Ásia, numa operação envolvendo diversos países, a Europol e a Eurojust, tendo ainda resultado na detenção de vários suspeitos (Eurojust, 2020).

Em 2021, a participação de Portugal em JIT limita-se a uma investigação com origem em Espanha em 2018/19, que visava a transmissão ilegal de jogos de futebol e outros conteúdos que visavam os direitos de autor, com recurso a uma plataforma denominada "*Mobdro*" que permitia a visualização em *streaming* a partir de servidores de diversos jogos de futebol (da Premier Ligue, da La Liga, entre outros). Em fevereiro de 2021, com o apoio da Europol e a Eurojust, foram visados diversos servidores, bem como efetuadas diversas buscas em Portugal, Espanha, Andorra e República Checa. Foram detidos 4 suspeitos em Espanha e Andorra e a plataforma "*Mobdro*" foi desativada (Eurojust, 2021).

Método

A globalização trouxe consigo uma interconexão sem precedentes entre as nações, oferecendo vastas oportunidades de desenvolvimento em diversos âmbitos. Contudo, essa mesma interligação também propiciou o crescimento da atividade criminosa numa escala transnacional, desafiando as estruturas tradicionais de aplicação da lei e exigindo respostas igualmente transnacionais. Nesse contexto, as JIT surgem como uma resposta colaborativa e coordenada para lidar com a criminalidade organizada em escala internacional. Neste sentido, questiona-se qual o impacto da participação de Portugal nas JIT, quando comparado com os outros países, no combate à criminalidade transnacional?

Este artigo opta por um método quantitativo, fundamentado no método descritivo frequencista, para explorar a participação de Portugal em JIT e possibilitar a comparação com outros países, com base nos relatórios anuais da Eurojust entre os anos de 2018 e 2021. Acresce a utilização do *Global Organized Crime Index* como referência para contextualizar a realidade criminal de Portugal em relação a outros Estados de Direito.

A revisão bibliográfica inicial destaca a evolução da globalização e o seu impacto na dinâmica do crime transnacional, bem como o surgimento de organizações supra estatais, como a Europol e a Eurojust. O objetivo destas é o fortalecimento da cooperação internacional em termos de segurança e justiça. Dentro desse contexto, as JIT emergem como uma ferramenta crucial para investigar e combater a criminalidade organizada em escala transnacional.



O trabalho de campo realizado para sustentar esta investigação envolveu a análise detalhada dos relatórios da Eurojust, bem como a consulta do Global Organized Crime Index para contextualizar os dados obtidos.

Em suma, este estudo quantitativo, fundamentado no método descritivo frequencista, fornece uma análise exploratória da participação de Portugal em JIT no contexto do combate ao crime transnacional. Suportado por uma revisão da literatura, análise de dados empíricos e trabalho de campo, oferece uma visão informada sobre o papel de Portugal na cooperação internacional em segurança e justiça.

Apresentação e Discussão de Resultados

Após uma sucinta abordagem ao que tem sido desenvolvido por Portugal em matéria de cooperação internacional em investigação criminal com recurso às JIT, a questão que nos propomos debater é se o caminho que tem sido traçado, em especial nestes 4 anos de análise (2018 a 2021), se encontra alinhado com os nossos pares.

Para tal, e com vista a procurar uma análise mais específica, verificou-se a posição de Portugal no *Global Organized Crime Index* (2023)⁴.

Utilizando os dois universos de variáveis que esse índice apresenta, verificamos que Portugal apresenta a seguinte pontuação: 4.55 no *Criminality Score*⁵ e 6.46 no *Resilience*⁶ Score. Ora no caso do primeiro índice coloca Portugal no 24º lugar a nível da região europeia no que concerne ao índice de criminalidade aferido.

Vemos que o primeiro índice de pontuação, que versa sobre a criminalidade de Portugal, podemos verificar que no universo do *Criminal Market*, o tráfico de estupefaciente, nomeadamente cocaína com o valor mais alto (5.00), seguindo-se o tráfico de drogas sintéticas, canábis e heroína, todos com 4.5 de pontuação atribuída, a par do tráfico de seres humanos, seguindo com 4.00 o tráfico de armas e outros. Vemos, que neste indicador apresentado, o tráfico de estupefacientes tem grande relevo.

Ora, no segundo universo de variáveis abordadas: *Criminal Actors*, que no seu global apresenta 5.00 de pontuação, surge o indicador de Criminal Networks com 6.00, bem como os *Foreign Actors* com 5.00.

⁴ Obtido de: <https://ocindex.net/country/portugal> acessado em 5 de Março de 2023.

⁵ Este indicador abrange dois universos de variáveis: Prevalência de mercados ilícitos (incluindo o valor e alcance do mercado, as considerações de valor como o impacto do mesmo); Estrutura e influência dos criminosos (a presença de organizações criminosas modelo máfia, tipo de redes criminosas, os atores estatais e os fatores estrangeiros).

⁶ O *Global Organized Crime Index* define Resiliência como "a capacidade de resistir e perturbar as atividades criminosas organizadas como um todo, e não os mercados individuais, através de medidas políticas, económicas, legais e sociais. A resiliência refere-se às medidas dos países tomadas tanto pelo Estado como por atores não estatais" (2021, p. 146).



Tabela 4 - Valores apresentados pelo Global Organized Crime Index (2021) referente a Portugal, do conjunto de variáveis referentes ao "Criminality Score"

Mercado Criminal (a)	4.10
Tráfico De Seres Humanos	4.50
Contrabando Humano	4.00
Tráfico de Armas	4.00
Crimes associados à Flora	3.50
Crimes associados à Fauna	3.50
Crimes de Recursos Não Renováveis	3.00
Tráfico de heroína	4.50
Tráfico De Cocaína	5.00
Tráfico de Canábis	4.50
Tráfico de Drogas Sintéticas	4.50
Atores Criminais (b)	5.00
Grupos estilo Máfia	4.50
Redes Criminosas	6.00
Atores Estatais	4.50
Atores Estrangeiros	5.00
"Criminality Score" $(a + b)/2$	4.55

Fonte: dados retirados do *Global Organized Crime Index (2021)* (pp. 1-188). Global Initiative Against Transnational Organized Crime.

De igual forma, no índice de *Resilience*, Portugal apresenta-se em 21º lugar, apresentando uma pontuação satisfatória, para este índice cujo o topo é liderado por países como a Finlândia, que apresenta um valor de 8.52 nesse índice (e 2.52 no *Criminality Score*). Para Portugal, no que concerne à "resiliência" vemos dois indicadores surgirem em igualdade de pontuação, e que mais contribuem para este índice: *Law enforcement* e *International Cooperation* (7.50, ambas) (*Global Organized Crime Index, 2021*).

Tabela 5 - Valores apresentados pelo Global Organized Crime Index (2021) referente a Portugal, do conjunto de indicadores referentes ao "Resilience Score"

Liderança Política e Governação	7.00
Transparência e Responsabilidade Governamentais	5.50
Cooperação Internacional	7.50
Políticas e Leis Nacionais	7.00
Sistema Judicial E Detenção	5.50
Aplicação da Lei	7.50
Integridade Territorial	6.00
Anti Lavagem de Dinheiro	6.50
Capacidade Reguladora Económica	5.50
Apoio às Vítimas e Testemunhas	7.00
Prevenção	5.50
Atores Não Estatais	7.00
"Resilience Score"	6.46

Fonte: dados retirados do *Global Organized Crime Index (2021)*, pp. 1-188. Global Initiative Against Transnational Organized Crime.



Após esta análise e enquadramento de Portugal neste índice, foram identificados, por opção metodológica própria, no universo dos países parceiros da Eurojust, os 6 países que apresentam, quer para o *Criminality Score* (tabela 4), quer para o *Resilience Score* (tabela 5):

- Valores imediatamente acima do valor apresentado por Portugal (3 países);
- Valores imediatamente abaixo do valor apresentado por Portugal (3 países).

Após essa identificação, foram recolhidos os dados dos Relatórios Anuais da Eurojust, de 2018 a 2021, no que concerne às JIT que cada país levou a cabo no referido ano, tendo-se elaborado as seguintes tabelas:

Tabela 6 - Criminality Score e JIT desenvolvidas (2018-2021)

País	<i>Criminality Score</i>	<i>Joint Investigation Teams</i>				Total
		2018	2019	2020	2021	
Répubblica Checa	4.63	32	30	33	35	130
Roménia	4.63	56	55	51	46	208
Suécia	4.56	18	16	22	26	82
Portugal	4.55	2	3	1	1	7
Hungria	4.50	16	16	16	16	64
Bélgica	4.34	28	31	26	27	112
Eslovénia	4.29	5	8	7	6	26

Fonte: elaboração própria

**Tabela 7
 Resilience Score e JIT desenvolvidas (2018-2021)**

País	<i>Resilience Score</i>	<i>Joint Investigation Teams</i>				Total
		2018	2019	2020	2021	
Bélgica	7.00	28	31	26	27	112
França	6.83	37	52	55	51	195
Espanha	6.63	12	14	9	8	43
Portugal	6.46	2	3	1	1	7
Itália	6.29	26	49	53	53	181
República Checa	6.25	32	30	33	35	130
Polónia	6.13	20	25	27	23	95

Fonte: elaboração própria

Reportando as tabelas apresentadas, verificamos de imediato que existem dois países que segundo os parâmetros traçados se repetem pela proximidade dos dois índices usados em relação a Portugal: a Bélgica e a República Checa. Optamos por manter o critério, referindo que esses dois países são verdadeiramente próximos de Portugal em ambos os universos abrangidos, segundo o *Global Organized Crime Index* (2021).

A análise holística das tabelas, independentemente da variável que reportamos, evidencia que no que concerne a constituição e uso desta ferramenta Portugal encontra-se totalmente desenquadrado dos seus pares. Em 4 anos, apenas 7 JIT figuram nos relatórios analisados. O país que se segue nesta análise é a Eslovénia, com mais quase duas dezenas de JIT que Portugal (26). A nossa vizinha, Espanha, apresenta de igual



forma um valor 6,5 vezes superior ao nosso com a presença em 46 JIT. Nestes 10 países em análise, vemos que a Roménia lidera com a participação em 208 JIT ao longo de quatro anos, seguida de França (195) e Itália (181).

Conclusão

Efetivamente, Portugal tem recorrido a esta ferramenta de cooperação internacional bem como tem colaborado ativamente em investigações transnacionais, por intermédio das JIT, todavia, dado o panorama utilizado, e comparando com realidades de criminalidade semelhantes, demonstra estar aquém do potencial que deveria desenvolver.

De referir, que já em 2007, Gualtieri referia que a maioria dos JIT desenvolvidos baseavam-se em investigações de terrorismo ou tráfico de drogas. Ora, no caso Português, a atividade terrorista⁷, segundo o *Global Peace Index* (2022), encontra-se no valor mais baixo: 1 (numa escala de 1 a 5), o que acaba por limitar a constituição de JIT, nesta área. Porém, cabe-nos realçar que, apesar de ser algo que possa parecer improvável para a nossa realidade nacional, existem situações já reportadas de atividade terrorista associada ao nosso país, como por exemplo detenções de membros com ligações ao grupo terrorista basco, ETA - *Euskadi Ta Askatasuna* - e ao grupo terrorista irlandês, IRA - *Irish Republican Army* (Vasconcelos, 2013). Defendemos, portanto, que no caso em particular da constituição de JIT para a investigação de crimes relacionados com o terrorismo, seria improvável dada a realidade portuguesa, sendo que é justificável que não exista referência à colaboração portuguesa neste âmbito, pelo menos, entre 2018-2021.

Todavia, em contraste, e como já foi referido, segundo o *Global Organized Crime Index* (2021), o tráfico de estupefacientes (heroína, cocaína, cannabis e sintéticas) são dos indicadores com mais relevância no índice de criminalidade aferido pelo *Global Organized Crime Index* (ver tabela 4). Portugal encontra-se amplamente referenciado como um dos pontos de entrada de estupefacientes na Europa (Nunes, 2015; Sousa *et al.*, 2014; Tapia, 2011; Vasconcelos, 2013). Tapia (2011), refere até 3 diferentes rotas de entrada de cocaína em território europeu, provenientes da América do Sul (via aérea ou marítima) e cuja entrada em território europeu se centra em duas hipóteses: Espanha ou Portugal.

Ora, apesar desta realidade, durante o período abrangido pelo estudo, não foi verificada nenhuma JIT cujo alvo de investigação fosse o tráfico de estupefacientes, a não ser a referência na cooperação na JIT da Alemanha, Itália e Países Baixos, em 2018, na "Operação *Pollino*". Curiosamente, e quase em harmonia com Portugal, Espanha apenas apresenta uma JIT em 2019 que visa este tipo de ilícito indicando que esta ferramenta de cooperação internacional não é muito utilizada na península ibérica.

Importa ainda acrescentar outro ilícito criminal, orquestrado por organizações criminosas transnacionais, e que recentemente tem apresentando destaque nos órgãos de comunicação social de Portugal: o tráfico de seres humanos. Este tem emergido em Portugal, especialmente associada à exploração laboral, seguindo-se a exploração sexual de mulheres e até de crianças (Amador, 2019; Matos, 2022), as JIT poderiam ser

⁷ Cálculo com base numa média ponderada dos últimos cinco anos do número de mortos, feridos e danos materiais causados pelo terrorismo.



utilizadas como uma ferramenta de resposta, combate e até prevenção desta realidade (Paterson et al., 2020), todavia, em quatro anos, vemos apenas surgir uma JIT, a abordar este tipo de ilícitos. Sendo que Portugal esta a ser assolado por este tipo de ilícito criminal (Matos, 2022), encontrando-se a ser fustigado por situações graves, no que respeita a casos de tráfico de seres humanos, para situações de escravatura laboral⁸.

Alicerçando-nos nestes argumentos, verificamos que apesar das autoridades portuguesas terem participado ativamente na cooperação internacional, sendo que prova disso é a pontuação atribuída na variável de Cooperação Internacional (7.50), pelo *Global Organized Crime Index* (2021) (ver tabela 5), no que concerne ao recurso, estabelecimento e participação em JIT, Portugal estará aquém do esperado, comparado com os países com realidade criminais semelhantes (segundo os nossos indicadores). Ora, para além da finalidade última que é combater e prevenir o crime transnacional, o parco recurso a esta ferramenta, leva a que se perca algum conhecimento do que se tem feito em matéria de investigação nos nossos pares, no combate aos novos fenómenos criminais, cada vez mais evoluídos, sofisticados e complexos. Outra questão crucial é o financiamento que é assegurado pela Eurojust (Sousa, 2019), e que desta forma, pelo parco recurso a este instrumento, se perde, indiretamente.

Importa ainda referir, que a comparação apresentada neste ensaio é meramente baseada na comparação do *Global Organized Crime Index* (2021), sendo esta limitante, uma vez que não consideramos outros fatores que poderão ter impacto na realidade criminal de cada país e que poderá por si, impulsionar a necessidade de recurso a JIT para o combate ao crime nesses estados. Fatores sociais, económicos, demográficos, entre outros, podem distanciar os países apresentados da realidade portuguesa, pelo que poderá ser esta uma limitação das nossas conclusões, mas ao mesmo tempo uma potencialidade, revelando aqui algumas linhas investigação futura, para compreender o porquê de a nível dos nossos pares, haver realidades tão díspares.

Vemos que os obstáculos que surgem no estabelecimento destas equipas por vezes assentam nas diferenças do ordenamento jurídico a nível dos países que participam, ou se propõe a participar, nestas investigações conjuntas (Block, 2012; Hewitt & Holmes, 2002; Horvatits & de Buck, 2007). Existem condicionantes devido à diversidade da realidade dos países especialmente a nível das competências e poderes dos magistrados do Ministério Público e das Polícias em sede de investigação e no que concerne aos meios de prova e meios de obtenção de prova e da sua admissibilidade (o recurso a policiamento encoberto, "escutas", "informadores", entre outros (Block, 2012). Estas diferenças a nível do ordenamento jurídico, poderá também levantar outra questão, que explique o escasso recurso às JIT no nosso país: será o ordenamento jurídico português limitante face ao de outros países? Apresentamos assim, outra linha de investigação possível, que poderá explicar o diminuto recurso às JIT pelas autoridades do nosso país e de terceiros em cooperação.

⁸ Cardoso, R. (2022, novembro 23). Escravatura laboral. Detidos 35 suspeitos em operação da PJ no Alentejo. RTP - Notícias. https://www.rtp.pt/noticias/pais/escravatura-laboral-detidos-35-suspeitos-em-operacao-da-pj-no-alentejo_n1448965; e Miranda, T. (2023, fevereiro 14). SEF identifica 357 vítimas de tráfico humano em Portugal, com «especial incidência» no Alentejo. Expresso. <https://expresso.pt/sociedade/2023-02-14-SEF-identifica-357-vitimas-de-trafico-humano-em-Portugal-com-especial-incidencia-no-Alentejo-d6a0be2a>



Outros autores, identificam como limitação o facto da cooperação basear-se em cooperação bilateral baseada em laços de confiança entre as instituições nacionais e não baseada em procedimentos, especialmente em casos como o do terrorismo, apesar de notarem o papel crescente da importância da Europol e Eurojust na cooperação internacional (Bakker & Powderly, 2011; Plachta, 2005). Existem ainda dificuldades reportadas por dificuldades provenientes da barreira linguística, no desconhecimento e falta de sensibilização para este instrumento, na identificação dos interlocutores dos países envolvidos e os papéis a executar, para além das dificuldades já reportadas das diferenças do ordenamento jurídico (Sousa, 2019). Gualtieri, (2007), refere que a maioria das JIT, são criadas por Estados vizinhos, o que complementa a questão da referida cooperação bilateral assente na confiança, ainda assim " o feedback dos funcionários envolvidos nos JIT é extremamente positivo" (Gualtieri, 2007, p. 238).

Vejam os que mesmo para os membros das JIT de países destacados, ou seja, cuja investigação esteja delegada num país terceiro, tem vantagens como por exemplo: podem ter direito a participar nas diligências de investigação, sendo que podem até ser investidos de poderes específicos de investigação no referido estado anfitrião; pode solicitar às autoridades do seu país medidas e diligências necessárias para a investigação, que decorre num país terceiro, sendo este pedido tratado como se de uma investigação nacional se tratasse ; e, enquanto a JIT estiver a operar, todas as informações e provas obtidas podem ser partilhadas entre as autoridades dos estados envolvidos (Block, 2012). Face aos métodos tradicionais, este tipo de equipas apresenta inovações e vantagens, sendo que permite a troca de informação e conhecimento face a uma criminalidade organizada cada vez mais sofisticada e modernizada, permitindo uma resposta integrada, baseada num envolvimento numa estratégia conjunta (Sousa, 2019) sendo as JIT uma grande mais valia no combate ao crime transnacional, construindo confiança entre as autoridades dos Estados envolvidos.

No que concerne ao combate à criminalidade organizada transfronteiriça, as JIT são, sem dúvida, um instrumento crucial e as autoridades portuguesas já perceberam a sua importância, tornando-se partes ativas em diversas investigações. Todavia, na nossa opinião, mais poderia e deveria ser feito, à semelhança do que é a realidade dos nossos pares europeus.

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THE IMPLICATIONS OF INCREASING MILITARY SPENDING ON HUMAN SECURITY: A GLOBAL PERSPECTIVE

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Abstract

The war between Russia and Ukraine which started on the 24th of February 2022, has heightened concerns about the implications of rising military expenditure on the spread of weapons and world security. Since the 9/11 attacks in the United States, studies have indicated that state military spending has increased, raising concerns among policymakers throughout the world. Therefore, the objective of this study is to investigate how an increase in military spending may affect both human security and the proliferation of weapons. Data for this study were gathered from secondary sources using a historical research approach, and content analysis was used for analysing the data. This study makes the case that increasing military spending has detrimental effects on human security in a variety of contexts, including the political, socio-psychological, and economic components of daily living. On the economic front, funds that could be utilised to raise citizen welfare are instead being spent to buy military hardware and software. In the political realm, it results in invasion and the funding of proxy wars, while on the social front, it has sparked hostility and concerns among nations. Lastly, this study recommended among other things that there is the need for collective efforts by member states of the United Nations through collective security to pressurised erring states.

Keywords

State, Budget, Military, War, United Nations.

Resumo

A guerra entre a Rússia e a Ucrânia, que teve início em 24 de fevereiro de 2022, aumentou as preocupações sobre as implicações do aumento das despesas militares na disseminação de armas e na segurança mundial. Desde os ataques de 11 de setembro nos Estados Unidos, os estudos indicam que as despesas militares do Estado aumentaram, suscitando preocupações entre os decisores políticos em todo o mundo. Por conseguinte, o objetivo deste estudo é investigar de que forma um aumento das despesas militares pode afetar tanto a segurança humana como a proliferação de armas. Os dados para este estudo foram recolhidos de fontes secundárias, utilizando uma abordagem de investigação histórica, e foi utilizada a análise de conteúdo para analisar os dados. Este estudo defende que o aumento das despesas militares tem efeitos prejudiciais para a segurança humana numa variedade de contextos, incluindo as componentes política, sócio-psicológica e económica da vida quotidiana. No plano económico, os fundos que poderiam ser utilizados para aumentar o bem-estar dos cidadãos são, em vez disso, gastos na compra de equipamento e software militares. No domínio político, resulta em



invasões e no financiamento de guerras por procuração, enquanto na frente social provocou hostilidade e preocupações entre as nações. Por fim, este estudo recomendou, entre outras coisas, a necessidade de esforços colectivos por parte dos Estados membros das Nações Unidas, através da segurança colectiva, para pressionar os Estados prevaricadores.

Palavras-chave

Estado, Orçamento, Militar, Guerra, Nações Unidas.

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FROM THE IMPLICATIONS OF INCREASING MILITARY SPENDING ON HUMAN SECURITY: A GLOBAL PERSPECTIVE

ZEKERI MOMOH

Introduction

The military remains one of the key institutions of the state charged with the responsibility of defending the state against external aggression. Therefore, the survival of any state is more often than not left in the hands of the military. In recent years, increasing military budgets has been considered a desideratum in securing the territorial integrity and prevention of any act of aggression from the perceived enemy(ies) of the state by any government.

The rising military budget for states across the world especially from 1999 and later in 2001 has attracted the attention of policymakers, researchers and scholars in International Relations and strategic studies considering its intended and unintended consequences on human security and development. From the realist's perspective, military capabilities remain one of the fundamental elements of state power. The realist theory maintained that the ability to use military might to coerce an enemy state is far more rewarding than obtaining favours or concessions from them. This position was contrary to the liberal strategic thinkers who maintain that under the contemporary era of globalisation where the global economy has been economically, politically and culturally integrated in a way that economic might is considered valuable to national strength and security when compared to military capabilities (Nye, 2008).

Nevertheless, one the ways to know state capability is to compare the extent to which they spread money on acquiring military weapons; other sources of determining the power potential of a state aside from military expenditures, include state economy, population and territorial size, geographic location, natural resources, levels of technological advancement, political cultural, the volume of trade, level of educational national moral, efficiency of political decision making and domestic solidarity among others (Kegley et al, 2011, pp. 277-278).

However, studies have shown that the use of territorial size as a criterion for measuring the power potential of any state has been criticized. For instance, Russia's territorial space is twice the size of countries like Canada, China, the US, Brazil and Australia; but cannot be said to be the most powerful nation in the world but one of the most powerful states in the world. Again, the use of population size as a criterion for measuring state



power potential has also been criticized. For instance, if population size is used as the sole criteria for measuring state power, countries like China, India, the US, Indonesia, Pakistan, Nigeria and Brazil would have been the most powerful countries in the world (Kegley et al, 2011). Similarly, when the use of countries' expenditures on research and development (especially concerning the country's GDP) to find future economic prosperity and military capability, countries like Israel, Sweden, Finland, Japan, the US, South Korea, Switzerland, Denmark, Germany, Australia and Singapore would be the most powerful countries in the world (WDI, 2009, pp. 314-315).

Besides, there is a consensus among scholars in international relations and strategic studies that power is relative. This is because some leading states in some areas of power potential may not be leading in other areas since there are various dimensions of power potential. Also to put into consideration, the lack of consensus on how to measure the power potentials of states in the international system. In this study, we shall situate our measurement of state power potentials within the context military budget and the state's economy. However, this criterion has been criticised because most countries in the world with larger military arsenals have not necessarily won in most political conflicts like in Vietnam, North Korea's seizure of USS Pueblo in 1968, Iran's hostage-taking of American diplomats and the Al-Qaeda terrorist 9/11 attack among others (Diamond, 2005, Kegley, 2011). Another instance is where the inability of the Soviet Union to dislodge and take total control of political events in Afghanistan. Besides, Switzerland was against the Habsburg Empire, the Netherlands against Spain and Greece against the Ottomans (Kegley, 2011).

On the whole, despite the criticisms levelled against the use of military might in measuring state power potential. The use of military might in measuring state power potential remains one of the dominant criteria for measuring state capacity. This is so because it served as a desideration for the successful exercise of coercive diplomacy, especially through the use of limited force. Hinging on this background, this study seeks to examine the implications of the increased military budget on arms, race and human security.

Literature Review

There is growing research on the implications of increasing military spending on human security. However, there is consensus among some scholars that state power potential has shifted from military might (hard power) that characterized the Cold War era to factors such as technology, external respect and reputation, education and economic growth (Nye, 2005, p. 55), also known as soft power.

Rej et al (2023) evaluate the effects of terrorism, military spending, and capital creation on tourism in India using data from 1980 to 2017. According to the study, there is a reversed relationship between the two variables, with terrorist occurrences having a positive influence on foreign tourist arrivals but their squared term having a negative impact. Additionally, it is discovered that the amount spent on defence and its squared term has both a negative and positive impact on foreign tourist arrivals, demonstrating the presence of a 'U-shaped' link between military spending and foreign tourist arrivals.



Using armed conflict as a moderator and adjusting for population, wealth, distance to destination, and closeness to cultural and linguistic groups, Khalid et al. (2020) investigated the impact of military spending on tourism for the years 1995–2015. The research proved that supporting the military encourages tourism. By moderating the impact of terrorists on the number of tourists in 163 countries throughout 2010–2015, Asongu et al (2020) studied the impact of military spending. According to the study, spending on the military affects visitors' number.

Okafor et al (2021) investigated the impact of military spending on travel in 67 nations between 1995 and 2013 using a gravity model. The authors discovered that spending on the military encourages visitor traffic. Santamaria (2021) employed an unequal sample of 167 nations using a fixed and random effect model to study the effects of terrorism and military expenditures on tourism between 1994 and 2014. The study provided proof that lower tourism was caused by terrorism, income, and military spending. However, spending on the military in response to terrorism encourages traveller arrivals.

Other studies including Samitas et al. (2018) have shown that terrorism slows down visitors to Greece by using analysis of principal components to create a tourism-related proxy. Besides, Rauf et al (2020) looked into the links between terrorism and travel in Pakistan. According to the study, terrorist attacks eventually discourage people from travelling. Charfeddine et al (2020) investigated the asymmetrical impact caused by terrorism on tourism in Turkey compared to the symmetrical effect. Similarly, Iyavarakul (2019) used monthly data from 2004 to 2018 to examine the relationship between terrorism and tourism in South Thailand. According to the study, incidents of terrorism have negative impacts on tourism.

Nadeem et al. (2020) investigate the impact of terrorism, military spending, governance frameworks, and infrastructure on tourism. The research showed that both short and long-term growth of the tourist business are slowed by terrorism and military spending. Asongu et al. (2019) used negative binomial regression and the system GMM to examine the impact of terrorism, military spending, and peace on tourism in 163 countries over the years, 2010 to 2015. The authors provided evidence that the number of visitors was affected by political upheaval and easy access to weapons. Tourist arrivals and military spending have a bad, but statistically insignificant, association. Liu and Pratt (2017) looked at how much terrorist acts damaged the travel and tourism sector in 95 nations between 1995 and 2012. According to the research, terrorist activity hinders the flow of tourists. By utilising the information collected every quarter from 2002 to 2016 and focusing on Pakistan.

The aforementioned reviews make it evident that the majority of empirical studies in the literature focus on the relationship between military spending, terrorism and tourism. Additionally, no research has been carried out using the interactional term between military spending and human security up to 2022 in the corpus of literature. Additionally, we found that there is a study gap in the literature when it comes to examining the connection between military spending and human security using recent data up to 2022. Hence, the need for this inquiry.



Trend Analysis Global Military Spending

Military spending worldwide has surpassed previous highs. Thousands of hundreds of millions of citizens are simultaneously threatened by uncommon "essential" hazards to their security, including threats to their safety, earnings, and dignity. Investments in people's security are more urgent than ever because of the acceleration of climate change and the continuing loss of ecosystems. The notion of human security emphasizes individual protection without ignoring governmental security or law and order. The approach to human security places a strong emphasis on the need to balance financial requirements with all significant risks and hazards, regardless of their origin. It logically results in a review of military spending. It also takes seriously the concern that cutting military spending may weaken state security, which has been a key impediment to previous multilateral efforts to cut military spending (Brzoska et al, 2022).

The UNDP's Human Development Report from 1994 was the first to introduce the idea of human security. It made the case that for peace to last, people must be free from both fear and want: "For most individuals nowadays, an impression of insecurity arises greater to fears regarding everyday issues compared to from a terror of a catastrophic global event." The new worldwide priorities for human security include things like financial security, medical safety, preservation of the environment, and protection against crime (Brzoska et al, 2022).

The Commission on Human Security expanded on the wide definition of human security presented by the UNDP in its 2003 report *Human Security Now*. According to the commission's interpretation of the UNDP's 1994 report, human security refers to safeguarding "the vital core of all human lives in ways that enhance human freedoms and human fulfilment." Human security was defined as "freedom from want, freedom from fear, and freedom to live in dignity" in the UN Secretary-General Kofi Annan's 2005 report, "In Larger Freedom: Towards Development, Security, and Human Rights for All." This three-part definition has endured (Brzoska et al, 2022).

The Human Development Report Office of the UNDP declared in 2020 that it will be re-examining the notion of human security. An organisation of "independent eminent experts" provided advice to the office on examining "what "freedom from want and freedom from fear" means today," building on the Human Development Report 1994 and *Human Security Now*. A special study on the Anthropocene's new generation of interconnected risks, how they influence human security and possible solutions will be released in February 2022. Calls for an ambitious agenda to fit the scope of the difficulties are made in the conclusion. Instead of tolerating disjointed approaches to security, this necessitates systematic, ongoing, and global attention to human solidarity (Brzoska et al, 2022).

However, World Bank categorises the following nations as being affected by (1) high-intensity conflict based on the intensity of the war and the likelihood that governments will invest in their military capabilities: (1) High institutional and social fragility: Afghanistan, Libya, Somalia, Syria Arab Republic; (2) medium-intensity conflict: Burkina Faso, Cameroon, Central African Republic, Chad, Democratic Republic of Congo, Iraq, Mali, Mozambique, Myanmar, Niger, Nigeria, South Sudan, and Rep. of Yemen; and (3) high institutional and social fragility: Burundi, Comoros, Rep. of Congo, Eritrea, The



Gambia, Guinea-Bis The aforementioned classification served as one of the foundation for an examination of state expenditure trends on the military. Also, examining budget credibility, or the extent to which governments carry out their budgets as intended (and as approved by their legislatures), is another technique to determine how governments prioritise certain sectors. (United Nations Women, 2022).

The Second World War (WWII) led to the emergence of the Cold War between the US and her ally, known as the Western Bloc and the Soviet Union and her ally, on the one hand, and, on the other hand, known as the Eastern Bloc. One of the dominant features of the Cold War era was the arms race between the Eastern and Western Bloc. However, the collapse of the Soviet Union in 1991 marked the end of the Cold, the decline arms race and the increase in military spending, especially between the Eastern and Western Blocs. It is also important to note that since the end of the Cold War, states and international organisations involved in the production of both conventional and non-conventional weapons no longer have the strategic ties that once connected them when selling, trading, and producing their products. As a result, the spread of conventional and non-conventional weapons has become a more prevalent issue (Ayson, 2008).

Another defining feature of the collapse of the Soviet Union was that it brought forth a new issue. For instance, former states that were under the control of the Soviet Union nations became independent governments like the Russian Federation, Belarus, Ukraine and Kazakhstan just to mention a few with sizable conventional and nuclear weaponry stockpiles (Davis, 1995). In many cases, these newly independent states had a dire need for money and were in financial instability. They were unable to maintain or continue housing with the arsenals that the Soviet government had left in their custody since they were insufficient for the smaller-scale wars or unrest that these nations were anticipated to have in the future (Keohane, 2008).

Moreover, from 1999, the world witnessed increased military spending to about 45 per cent with an estimate of \$ 1.46 trillion. By 2001, the world witnessed an average of 4 increase in military spending with an estimate of 2.4% of global GDP spent on the procurement of weapons. This shows that \$217 is spent for each person in the world on a military budget. Besides, 2,785,000 is spent every minute on military preparedness (SIPRI, 2009: p. 7; Kegley, 2011, p. 281).

Nevertheless, studies have shown that developed countries allocate more resources to arms procurement than developing countries. For instance, available statistics have shown that in 2009 the developed countries spent \$1039 billion on military preparation when compared to the developing countries that spent \$193.9 billion. Again, the developed countries of the world spend an estimate of 2.6% per cent of their GDP on military preparedness while the developing countries spend an estimate of 2.0% on military preparedness (WDI, 2009, p. 296).

United Nations Women Research Paper (2022) posits that the Afghan government underspent on health spending overall for the same time by 29.7% and its budget for immunisations by 27.4% between 2012 and 2016. Between 2009 and 2015, Burkina Faso had an average underspending of 25.4% on immunisations and 37.8% on the entire health system. Additionally, Niger underspent by 18.9% per cent on immunisation between 2009 and 2016 and by almost 30% overall on health. A related study by the



United Nations Women Research Paper (2022) posits that a recent study on budget credibility in Nigeria which is classified by the World Bank as a medium-intensity country shows that the Ministry of Defence and the Office of the National Security Adviser to the President in 2015 spent 65 per cent and 100 per cent of their budgetary allocation for the 2015 fiscal year. Meanwhile, government institutions that deal with women and youth-related issues spent 34 per cent and 50 per cent of their budgetary allocation for the 2015 fiscal year.

It is important to note that the United Nations Women Research Paper (2022) indicates that governments typically spend about twice as much on health as on their military in nations that are not considered fragile or conflict-affected. The tendencies are inverted in nations where there is war when military spending is often more than twice as high as health spending. However, developed countries tend to spend more on social protection due to their responsibility to their citizens' welfare since they are less prone to instability or violence. Besides, in most developed nations, spending on education exceeds investment on defence not until recently that there is a gradual shift, albeit the difference is lower in in most developing countries that are prone to armed conflict and countries under intense security threat. However, when we account for national revenue, the propensity for conflict-affected countries to spend more on their military than on social safety remains is also like.

Moreover, military spending accounted for roughly a quarter (24%) of the government's investment in Afghanistan in 2019; the remaining 13% went to projects involving "public order and safety." Comparatively speaking, less than 6% of government spending went to the health sector, 9% went to education, and 4% went to social protection (which includes all programmes designated as focusing on families and children). In Burkina Faso, a nation with a medium level of conflict, the government planned more than ten times as much on defence as for social protection in 2020 (including all programmes designated as focusing on families and children). Similar trends were seen in Mali in 2017, another African nation with a war of moderate severity, where the authorities spent more on the military than they did on welfare programmes. Contrarily, in most low-income countries that aren't supposed to be affected by war, there are distinct trends. For instance, less than 6% of total government expenditures in Senegal were allocated to the armed forces, ensuring safety and protection in 2018, compared to 14% for education and research, 4% for health and social services, and less than 6% for education (United Nations Women Research Paper, 2022).

Furthermore, studies on military spending between developed and developing countries have increased significantly over the years. For instance, the share of global military spending from developing countries rose from 7% in 1961 to 14% in 2008 (SIPRI, 2009, p. 209). It can be argued here that developing countries are emulating the developed countries in terms of their military spending. The implication of this increased military spending is that, resources that would have been used to develop other sectors of the society are diverted for the funding of military operations. Hence making others sectors of the economy to suffer insufficient funding. This will have negative implications on human security. Hence, striking a balance between increased military spending and funding research and development has been problematic for many countries.



During the Cold War era (1945-1991), while countries like the US and the Soviet Union were investing heavily in arms procurement, some countries like Japan were investing in Research and development (R&D). Today, one of the long-term implications of increasing military spending is that, it often leads to the neglect of other critical sectors like; science and education or makes a country face what Friedman, 2005:6, Florida, 2007, and Kegley et al, (2011) called "creativity Crisis".

The implication of this is that developing countries are emulating the developed countries in terms of their military spending. Another implication of the increased military spending is that huge resources that would have been used for research and development are diverted for funding military preparation. This has further negative implications on human capital development. Hence, striking a balance between increased military spending and funding research and development has been problematic for many countries. For instance, during the Cold War era (1945-1991) why countries like the US and the Soviet Union were investing heavily in arms procurement, some countries like Japan were investing in Research and development (R&D). today, one of the long-term implications of increasing military spending is that, it often leads to the neglect of other critical sectors like science and education, or it makes a country face what Friedman, 2005:6, Florida, 2007, and Kegley et al, (2011) called "creativity Crisis".

Again, Kegley (2011, p. 283) rightly observed that increased military spending often results in opportunity cost. A situation where what is gained for one purpose (military preparation) is lost for other purposes. The consequence of this, according to Kegley et al (2011), any choice made will be a lost opportunity that must be paid for by other sectors of the economy. In addition, studies have shown that military spending often slows down a country's economic growth and creates fiscal deficits. This is because a significant amount of funds spent on arms procurement has aided the eroding of a country's welfare.

The table below shows the military spending of the five highest military spenders based on their annual budgetary allocation as shown in table 1 below.

Table 1: Global Military Spending as at 2022

S/No	Country	Military Spending
1	United States	USD 766.6 Billion
2	China	USD 244.9 Billion
3	India	USD 73 Billion
4	Russia	USD 66 Billion
5	United Kingdom	USD 58.5 Billion

Source: Stockholm International Peace Research Institute (SIPRI, 2022).

From the table above the United States occupy the top position as the country with the highest military budget of USD 766.6 billion. China occupies the second position with a military budget of USD 244.9 billion. Moreover, India occupies the third position with USD 73 billion. Besides, Russia occupies the fourth position with a military spending of USD 66 billion and the United Kingdom occupies the fifth position with a military spending of USD 58.5 billion. The United States of America held the top spot among the five nations



ranked in Table 1 above as the world's leading military spender as of 2022, while the United Kingdom held the bottom spot among the five nations rated as the world's least military spender.

Table 2: Top Ten Military Spending Nations

S/No	Country	Military Budget	Global Percentage of Military Budget
1	United States	USD 801 Billion	37.9%
2	China	USD 293 Billion	13.9%
3	India	USD 76.6 Billion	3.6%
4	United Kingdom	USD 68.4 Billion	3.2%
5	Russia	USD 65.9 Billion	3.1%
6	France	USD 56.6 Billion	2.7%
7	Germany	USD 56.0 Billion	2.7%
8	Saudi Arabia	USD 55.6 Billion	2.6%
9	Japan	USD 55.13 Billion	2.6%
10	South Korea	USD 50.23 Billion	2.4%
11	Rest of the World	USD 536 Billion	25.3%

Source: SIPRI, 2022

From Table 2 above, the United States occupy the top position as the country with the highest military budget of USD 801 billion with a global percentage of military budget of 37.9%. China occupies the second position with a military budget of USD 293 billion and a global percentage of the military budget of 13.9%. Moreover, India occupies the third position with USD 76.6 billion with a global percentage of military budget of 3.6%. The United Kingdom occupies the fourth position with a military spending of USD 68.4 billion and a global percentage of the military budget of 3.2%. Besides, Russia occupies the fifth position with a military spending of USD 65.9 billion and a global percentage of the military budget of 3.1%. France occupies the sixth position with a military spending of USD 56.6 billion and a global percentage of the military budget of 2.7%. Germany occupies the seventh position with a military spending of USD 56.0 billion and a global percentage of the military budget of 2.7%. Saudi Arabia occupies the eighth position with a military spending of USD 68.4 billion and a global percentage of the military budget of 2.6%. In addition, Japan occupies the ninth position with a military spending of USD 68.4 billion and a global percentage of the military budget of 2.6%. Furthermore, South Korea occupies the tenth position with a military spending of USD 68.4 billion and a global percentage of the military budget of 2.4% while the rest of the world has USD 536 on military spending and a global percentage of military spending of 25.3%.



Table 3: Global Military Spending as at 2023

S/No	Country	Military Spending
1	United States	USD 877 Billion
2	China	USD 292 Billion
3	Russia	USD 86.4 Billion
4	India	USD 81.4 Billion
5	Saudi Arabia	USD 75 Billion
6	United Kingdom	USD 68.5 Billion
7	Germany	USD 55.8 Billion
8	France	USD 53.6 Billion
9	South Korea	USD 46.4 Billion
10	Japan	USD 46 Billion
11	Ukraine	USD 44 Billion

Source: Military News (2023)

Table 3 above shows that, with an estimated military budget of USD 877 billion in 2023, the US will continue to spend the most on defence. With an anticipated USD 292 billion, China remained in second place. With an estimated budget of USD 86.4 billion, Russia comes in third place, followed by India (\$81.4 billion), Saudi Arabia (\$75 billion), the United Kingdom (\$68.5 billion), Germany (\$55.8 billion), France (\$53.6 billion), South Korea (\$46.4 billion), Japan (\$46 billion), and Ukraine (\$44 billion). The aforementioned growing military budget implies that each nation increases its military spending annually.

On the whole, the implications of increasing military spending on human security are that other sectors of the economy are neglected while much attention is spent on acquiring more military hard and soft wares. This is particularly becoming a common trend in both the developed and the developing countries. In contemporary times, especially since the invasion of Ukraine by Russia on the 24th of February, 2022, states are beginning to reconsider military might as critical for the sustenance of their territorial integrity. Today countries are beginning to increase their military budget. Again, the increasing militarization of the United States, Russia, China, Germany, India, Pakistan, Israel, Iran, Turkey and non-state actors like terrorist groups who are in the business of the production of weapons like modern aircraft, tanks and missiles. The destructive nature of these weapons has necessitated increased military spending around the world. Also, the growth and expansion of military industries around the world have further triggered increased military spending to address growing security threats.

Conclusion

There is a growing concern globally today on the dangers posed as a result of increased military arms proliferation both in the long and short run human security as well as the stability of the international system. To this end, despite international instruments put in place by the international community particularly under the aegis of the United Nations to curtail to spread of various arms and aminations around the world, arms proliferation has remained unabated among the developed countries of the world like the United States, China, Russia, Britain, France, Japan just to mention a few that has doubled and in some instances tripled their military budgets in curtail the rising threats posed by perceived enemies within the international system. One of the consequences of the



increased military budget and arms proliferation on the international system as argued in the literature is that it often led to the neglect of human security. Based on this background, this study seeks to make some suggestions on measures to be adopted in a bid to curb the growing military spending and arms proliferation on human security.

Recommendations

Firstly, the United Nations Security Council (UNSC) in collaboration with the United Nations General Assembly (UNGA) should come up with a resolution that goes beyond political statements to restrain arms proliferation and set a benchmark for military spending by states.

Second, Civil Society Organisations should pressurise their home government on the need to strike a balance between meeting the needs of the citizens and achieving increased military spending. In this regard, this will help to limit states spending in procuring arms and ammunitions.

Lastly, there is the need for global re-orientation of state leaders alone the thinking that it is arguably safer when states limit the proliferation of nuclear, biological and chemical weapons. This implies that existing nuclear proliferation Treaties should be reviewed in line with current realities of nuclear proliferation.

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THE COUNCIL OF EUROPE, THE MOTOR OF THE EUROPEAN UNION'S LEGISLATIVE DEVELOPMENT IN MATTER OF PROMOTION OF HUMAN RIGHTS

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Abstract

The Council of Europe, although often confused with the European Council, is not an institution of the European Union, but an international intergovernmental organisation. In reality, the Council of Europe is an international organisation that has legal personality recognised by international law and whose main objective is the defence of human rights, democratic development and political and social stability in Europe for around 820 million people in 47 Member States, including the Member States of the European Union. It is important to note that states wishing to join the Council of Europe must also ratify the European Convention on Human Rights, also known as the European Convention for the Protection of Human Rights and Fundamental Freedoms. We therefore restate that the Council of Europe is the driving force behind European Union legislation, to the extent that the European Union gets much of its legislative inspiration from the legal instruments that the Council of Europe has adopted to enshrine, promote, and protect the most fundamental human rights.

Keywords

Council of Europe, Human Rights, Engine Development, European Union, European Council.



Resumo

O Conselho da Europa, embora muitas vezes confundido com o Conselho Europeu, não é uma instituição da União Europeia, mas uma organização internacional intergovernamental. Na realidade, o Conselho da Europa é uma organização internacional com personalidade jurídica reconhecida pelo direito internacional e cujo principal objetivo é a defesa dos direitos humanos, o desenvolvimento democrático e a estabilidade política e social na Europa para cerca de 820 milhões de pessoas em 47 Estados-Membros, incluindo os Estados-Membros da União Europeia. É importante notar que os Estados que pretendem aderir ao Conselho da Europa devem também ratificar a Convenção Europeia dos Direitos do Homem, também conhecida como Convenção Europeia para a Proteção dos Direitos do Homem e das Liberdades Fundamentais. Por isso, reafirmamos que o Conselho da Europa é a força motriz da legislação da União Europeia, na medida em que a União Europeia se inspira, em grande parte, nos instrumentos jurídicos que o Conselho da Europa adotou para consagrar, promover e proteger os direitos humanos mais fundamentais.

Palavras-chave

Conselho da Europa, Direitos Humanos, Motor de Desenvolvimento, União Europeia, Conselho Europeu.

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Introduction

The Council of Europe, although often confused with the European Council, is not an institution of the European Union, but an international intergovernmental organisation. Some authors define an international organisation as a voluntary association of persons governed by international law, constituted by international treaty and regulated in the relations between the parties by rules of international law, and which takes the form of a stable entity with its own internal legal system and its own organs, through which it pursues ends common to the members of the Organisation, by carrying out certain functions and exercising the necessary powers conferred on it (Sereni, 1958, p. 804; Campos & Campos, 2007, pp. 42-50).

For its part, the European Council, according to Miguel Gorjão-Henriques, is an institution of the European Union, whose connection to the Communities, and in particular to the European Community, is based above all on the fact that the latter is a subject within the European Union (Article 1 of the EU Treaty: "The Union is founded on the Communities..."). Created in 1974 by decision of the Paris Summit of Heads of State or Government of the then EEC countries, it was configured and institutionalised outside the strict framework of the European Communities, although it was stated there that it would meet "as the Council of the Community for political cooperation" (Gorjão, 2003, p. 95). Therefore, the European Council should not be considered as a traditional "Sommet", a diplomatic conference at the level of heads of national executives, but rather as a true Community institution (Campos & Campos, 2007, p. 113; Gorjão, 2012, p. 149) that was given legal recognition by the Single European Act (Soares, 2006, pp. 152-157). The functional responsibilities of the European Council are laid down in Articles 235 to 243 of the Treaty on the Functioning of the European Union.

However, it should be pointed out that there are various types of international organisations, namely: a) universal organisations, which are open to all states in the world (e.g. United Nations Organisations - UN); b) regional organisations, which are aimed only at states in a particular region (e.g. Organisation of African Unity (OAU),



Council of Europe or European Union (EU); c) international cooperation organisations, in which states do not lose any sovereignty (e.g. North Atlantic Treaty Organisation (NATO) or the World Trade Organisation (WTO)); d) international integration organisations, in which states lose parts of their sovereignty and/or these parts are transferred. g. North Atlantic Treaty Organisation (NATO) or World Trade Organisation (WTO); d) international integration organisations, in which states lose parts of their sovereignty and/or these parts are transferred to a sui generis organisation to be created but capable of managing the common interests of its member states (e.g. European Union) (Santos, 2011, p. 1). Finally, there are two other international organisations: e) general international organisations, where the field of action is not limited to a particular area (e.g. the United Nations (UN)); f) sectoral international organisations, where the competencies are limited to a field of action, such as the Council of Europe, which promotes the values of democracy and human rights (Boniface, 2001, pp. 247-248).

The Council of Europe originated at the Hague Congress, held from 7 to 10 May 1948, which was a political and ideological conference based essentially on freedom, democracy and justice against authoritarian regimes such as the fascist and communist ones. In this regard, it's worth recalling a few excerpts from the minutes of this congress, mainly so that we can understand the underlying essence of the Hague Congress itself:

For four days, the participants debated Europe's future, seeking to reconcile approaches ranging from the most ardent federalism to rather more lukewarm unionism. Despite these differences, the goal - summed up in the words of President Kerstens at the opening of the Congress - was shared by all: 'to promote a freely and democratically united Europe'. Winston Churchill described the Congress's aims in terms which speak to us with undiminished force today: The movement for European unity must be a positive force deriving its strength from our sense of common spiritual values, it is a dynamic expression of democratic faith based upon moral conceptions and inspired by a sense of mission. At the centre of our movement stands a charter of human rights, guarded by freedom and sustained by law. It is impossible to separate economics and defence from general political structure. Mutual aid in the economic field and a joint military defence must inevitably be accompanied, step by step, with a parallel policy of closer political unity (European Parliament, 1999).

In fact, as Pedro Cantinho Pereira pointed out, the Hague Congress, chaired by Winston Churchill, can be seen as the high point in the process of maturing and realising the imperative need to unite Western Europe. It was a symbolic moment of recognition of the European spirit, which succeeded in merging the different pro-European currents into a unified "European Movement". (Pereira, 2008, p. 2) In fact, this Congress for Europe held in The Hague would forever be marked as one of the key moments in driving the European Union forward, to such an extent that it would become known as the Congress of Europe (Baltazar, 2021, pp. 20-21).

This international organisation, created on 5 May 1949, aims to bring about a closer union between its members in order to safeguard and promote the ideals and principles



that are their common heritage and to promote their economic and social progress. However, issues relating to national defence¹, are expressly excluded from these objectives, as they are the responsibility of the North Atlantic Treaty Organisation (NATO)². (Statute of the Council of Europe, 1949, p. 1). In fact, if we analyse the preamble to the Treaty of London and/or the Statute of the Council of Europe, we can understand the main motivations behind its creation.

[Convinced] that the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation; Reaffirming their devotion to the spiritual and moral values which are the common heritage of their peoples and the true source of individual freedom, political liberty and the rule of law, principles which form the basis of all genuine democracy; Believing that, for the maintenance and further realisation of these ideals and in the interests of economic and social progress, there is a need of a closer unity between all like-minded countries of Europe; Considering that, to respond to this need and to the expressed aspirations of their peoples in this regard, it is necessary forthwith to create an organisation which will bring European States into closer association (Statute of the Council of Europe - Preamble, 1949).

In reality, the Council of Europe is an international organisation that has legal personality recognised by international law and whose main objective is the defence of human rights, democratic development and political and social stability in Europe for around 820 million people in 47 Member States, including the Member States of the European Union (Council of Europe, 2022). Having made the distinction between the Council of Europe and the European Council, it should also be emphasised that the Council of Europe was initially created by 10 founding countries³ with steady growth over the years, particularly after the fall of the communist bloc in 1989. The Council of Europe currently has 46 members⁴, including 28 [27]⁵ of the European Union (European Union, 2021), which corresponds to

¹ See Article 1(1) and (3) of the Statute of the Council of Europe adopted in London on 5 May 1949.

² This treaty was signed on 4 April 1949, and Article 5 of the treaty states its fundamental objective peremptorily. " It states that the parties have agreed that in the face of... *The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence recognised by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.* (The North Atlantic Treaty, 1949)."

³ Belgium, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden and the United Kingdom.

⁴ Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Republic of Macedonia, Turkey, Ukraine, United Kingdom.

⁵ Germany (1952), Austria (1995), Belgium (1952), Bulgaria (2007), Cyprus (2004), Croatia (2013), Denmark (1973), Slovakia (2004), Slovenia (2004), Spain (1986), Estonia (2004), Finland (1995), France (1952), Greece (1981), Hungary (2004), Ireland (1973), Italy (1952), Latvia (2004), Lithuania (2004), Luxembourg (1952), Malta (2004), Netherlands (1952), Poland (2004), Portugal (1986), United Kingdom (1973), Czech Republic (2004), Romania (2007), Sweden (1995). Let's not forget that the United Kingdom is no longer part of the European Union.



a vast territorial space, with the exception of Belarus. It also has six states with observer status⁶ (Council of Europe, 2024; Liberti, 2012).

It is important to note that states wishing to join the Council of Europe must also ratify the European Convention on Human Rights, also known as the European Convention for the Protection of Human Rights and Fundamental Freedoms. Regardless of the ratification of the Universal Declaration of Human Rights, as they are separate legal instruments, as can be seen in their preamble:

[Considering that] this Declaration aims at securing the universal and effective recognition and observance of the Rights therein declared (...) Reaffirming their profound belief in those fundamental freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the Human Rights upon which they depend; [...].

It should be noted, however, that states joining this international organisation do not transfer any sovereign power to it but interact on an equal basis in the international and intergovernmental sphere. The Council of Europe brings together governments from across Europe and beyond, with the aim of harmonising a minimum of legal standards with regard to the promotion and protection of human rights, as well as to monitor how well these standards are being implemented in the countries that request such guidance and/or as a way of offering technical assistance in areas of its expertise (Council of Europe, 2022i). In May 1990, the Venice Commission was created to act as an advisory organ to the Council of Europe on constitutional issues:

We welcome the interest shown by several states that are not members of the Council of Europe in the work of the Commission and wish to offer these states the possibility of participating in the Commission's work on equal terms. Convinced that the independent character of the Commission and its working methods are fundamental to its success and must be preserved (Council of Europe, Committee of Ministers, 2022).

This Venice Commission is made up of experts in law and political science, as mentioned in Article 2(1) of the Venice Commission statute:

The Commission shall be composed of independent experts who have achieved eminence through their experience in democratic institutions or by their contribution to the enhancement of law and political science. The members of the Commission shall serve in their individual capacity and shall not receive or accept any instructions (Council of Europe, Committee of Ministers, 2022).

⁶ Canada, Israel, Japan, Mexico, the United States and the Holy See.



In this context, and in accordance with Article 1(1), this Commission has three main objectives:

[(...) a] strengthening the understanding of the legal systems of the participating states, notably with a view to bringing these systems closer; [b] promoting the rule of law and democracy; [c] examining the problems raised by the working of democratic institutions and their reinforcement and development." However, it maintains some priorities in its line of action, according to Article 1 al 2: [...] the constitutional, legislative and administrative principles and techniques which serve the efficiency of democratic institutions and their strengthening, as well as the principle of the rule of law; fundamental rights and freedoms, notably those that involve the participation of citizens in public life; the contribution of local and regional self-government to the enhancement of democracy (Council of Europe, Committee of Ministers, 2022).

Today, the Council of Europe is recognised as an independent international organisation. However, it should also be noted that this Venice Commission is particularly active in the former Eastern bloc countries, assisting them in drafting new constitutions or laws on constitutional courts, electoral codes, minority rights and the legal framework for democratic institutions. Among the states that have regularly co-operated with the Commission in the electoral field can be mentioned countries such as Albania, Armenia, Azerbaijan, Georgia and Ukraine. The Venice Commission has been active on a more occasional basis in several other states, for example in the Swiss Cantons, Croatia, Moldova, Romania and the Republic of Macedonia (Council of Europe, 2022a).

Furthermore, it should be emphasised that this Venice Commission also identifies possible risks and incompatibilities, legal and legislative anomalies, but leaves countries free to draw their own conclusions and solve the most diverse problems in the way they see fit. In fact, the Venice Commission is so recognised for its experience and *status* that its work extends beyond the borders of Europe.

Finally, it should be noted that the Venice Commission has 58 members, with Argentina, Canada, Vatican City State, Japan, Kazakhstan, the United States and Uruguay having observer status. South Africa and the Palestinian National Authority have a special status similar to that of observer countries. Consequently, and as a result of the tasks assigned to the Council of Europe, this international organisation is often seen as the driving force behind the European Union's legislative development, mainly in terms of promoting democracy, the rule of law and human rights. Therefore, as José Noronha Rodrigues said

[this] international organisation is of capital importance in the development of the asylum institute both at international as well European Union level... It remains the fundamental legislative and conventional test tube for the development of policies and legislation on refugees, displaced persons, immigration, humanitarian protection and, in particular, asylum. In fact, as we have seen, at the level of the Council of Europe, various policies and measures have been outlined and adopted, principles and rights have been stipulated and various guidelines have been drawn up in the field of asylum,



which have served as inspiration and models for the policies and measures adopted within the European Union. In fact, the European Union drew much of its inspiration in the field of asylum from the policies adopted in Latin America and the Council of Europe (Rodrigues, 2022, pp. 94-113).

Due to all of these factors, we agree with Marc Antoni Deitos that the United Nations' 1948 Universal Declaration of Human Rights and regional organisations like the Council of Europe that protect these rights served as the spark for the internationalisation of human rights (Deitos, 2013, 1130). We therefore restate that the Council of Europe is the driving force behind European Union legislation, to the extent that the European Union gets much of its legislative inspiration from the legal instruments that the Council of Europe has adopted to enshrine, promote, and protect the most fundamental human rights.

1. The Treaty of London and/or the Statute of the Council of Europe

The Treaty of London and/or the Statute of the Council of Europe, concluded on 5 May 1949, is divided into ten chapters (I - Purpose of the Council of Europe; II - Composition; III - General provisions; IV - Committee of Ministers; V - Consultative Assembly; VI - Secretariat; VII - Financing; VIII - Privileges and immunities. IX - Amendments; X - Final provisions), spread over forty-two articles (Statute of the Council of Europe, 1949). Thus, the Council of Europe's fundamental objective, according to Article 1(a) of its Statute, is to promote closer union among its members in order to safeguard and promote the ideals and principles which are their common heritage, as well as to promote their economic and social progress (Statute of the Council of Europe, 1949).

To achieve this, it has an organisational structure made up of two sections:

- a) the Committee of Ministers, is a body competent to act on behalf of the Council of Europe and, is composed of a representative of each Member State (Ministers of Foreign Affairs), with voting rights⁷. "The Committee of Ministers is the Council of Europe's statutory decision-making body. Its role and functions are broadly defined in Chapter IV of the Statute. It is made up of the Ministers for Foreign Affairs of member States. The Committee meets at ministerial level once a year and at Deputies' level (Permanent Representatives to the Council of Europe) weekly. The conduct of meetings is governed by the Statute and Rules of Procedure. The Ministers' Deputies are assisted by a Bureau, rapporteur groups, thematic coordinators and ad hoc working parties" (Council of Europe, 2022b; Deitos, 2013, pp. 116-117);
- b) The Consultative Assembly is the deliberative body of the Council of Europe. Its role will be to discuss issues within its sphere of competence, as defined in these Statutes, and to present conclusions to the Committee of Ministers in the form of recommendations. It will be made up of representatives from each member, elected

⁷ See Articles 13 to 21 of Chapter IV of the Council of Europe Statute



by their parliament from among its members or appointed from among its members in accordance with the procedure established by each parliament.⁸ However, it should be emphasised that this body is a long way from what was idealised by the Hague Congress, insofar as the Hague Congress called for a body that was truly representative of the peoples of Europe and endowed with the necessary powers to promote the project of European unification on a political and legal-constitutional level. However, this Consultative Assembly does not have the power to legislate, nor can it even take decisions on funding directly related to its operation, and even less does it have any real political power in relation to the Committee of Ministers. (Deitos, 2013, p. 117).

However, both of the above mentioned entities are assisted by an office composed of the Secretary General and all the administrative staff deemed necessary. It must be emphasised that all members of the Secretariat staff must, in a solemn declaration, declare their loyalty to the Council of Europe, conscientiously perform the duties of their office without allowing themselves to be influenced by any national considerations, and neither seek nor accept instructions, in relation to the performance of their duties, from any government or authority outside the Council, and refrain from any action incompatible with their status as international officials in relation to the Council alone.

It should also be noted that the Secretary General is responsible to the Committee of Ministers for the activities of the Secretariat. It is the Secretary General's responsibility to submit to the Committee any request from the Assembly that involves expenditure exceeding the number of credits already included in the Assembly's budget and its work, as well as to submit to the Committee of Ministers an assessment of the expenditure arising from the implementation of each of the recommendations submitted to the Committee. A resolution whose implementation involves additional expenses will not be considered adopted by the Committee of Ministers until the Committee of Ministers approves the estimates of the corresponding additional expenses. It should also be noted that each year the Secretary General notifies the government of each member of the amount of its contribution. The contributions will be considered due on the day of this notification and must be paid to the Secretary General within a maximum period of six months⁹.

On 4 November 1950, the European Convention on Human Rights, also known as the Convention for the Protection of Human Rights and Fundamental Freedoms, was adopted in Rome by the Council of Europe. This Convention aims to protect human rights, democracy and, above all, the rule of law. It is therefore a fundamental legal instrument, as it has an organisational structure capable of overseeing compliance with its own rules, referring of course to the European Court of Human Rights. This Convention entered into force in the international legal order on 3 September 1953 and introduced a revolutionary novelty in the protection of human rights by establishing the European Court of Human Rights, whose decisions are binding on the signatory states (Direcção-Geral da Política de Justiça, 2022). All the member states of the Council of

⁸ See Articles 22 to 35 of Chapter V of the Council of Europe Statute.

⁹ See, Articles 36 and 37 of Chapter VI (Secretariat) and Articles 37 to 38 (Secretary General) of the Statute of the Council of Europe.



Europe have signed the European Convention on Human Rights, whose originality lies in establishing mechanisms to guarantee effective jurisdiction, offering people who have had their rights violated a mechanism for redress against states (AA.VV., 2005, pp. 83-84). Any individual can submit complaints of human rights violations to the Strasbourg Court, once all appeals have been exhausted in the member state in question. (Council of Europe, 2022I)

The European Court of Human Rights is *"an innovative jurisdiction established in 1959 within the framework of the Council of Europe, following the European Convention on Human Rights. Its aim is to effectively guarantee the fundamental human rights enshrined in that Convention and its Additional Protocols. [...] The Court's decisions are binding, and states undertake to implement them. It is the responsibility of the Committee of Ministers of the Council of Europe to ensure their implementation"* (AA.VV., 2005, pp. 342-343). This European Court of Human Rights essentially aims to promote, defend and guarantee respect for human rights, as well as international cooperation in various areas. Thus, it not only recognises certain rights for individuals, but also gives them access to a system for guaranteeing these rights, through which states can be held accountable for violations of their international obligations at this level (Barreto & Campos, 2004, p. 2).

However, it should be emphasised that the European Court of Human Rights should not be confused with the Court of Justice of the European Union. In fact, the Court of Justice of the European Union is a specialised jurisdiction of the European Union with the mission of ultimately guaranteeing the correct interpretation of Community rules, common to a collectivity of states, as well as controlling and sanctioning behaviour - both by Community organs and by its member states, and possibly by individuals themselves - that violates respect for the Community legal order (Campos & Campos, 2007, pp. 175-189). Despite this, it should be emphasised that the case law of the European Court of Human Rights can have a considerable influence on European Union law, since the fundamental rights guaranteed in the European Convention on Human Rights also constitute general principles of European Union law. (European Justice, 2022a).

On 14 January 1994, by decision of the Committee of Ministers of the Council of Europe, the Congress of Local and Regional Authorities of the Council of Europe was also created. This Congress is essentially a pan-European assembly whose main role is to promote local and regional democracy, improve local governance and strengthen self-government authorities. It pays particular attention to applying the principles set out in the European Charter of Local Self-Government, as well as encouraging the processes of decentralisation and regionalisation, as well as cross-border cooperation between cities and regions (Congress of Local and Regional Authorities, 2022).

Finally, in 1999, the Council of Europe established the figure of the Commissioner for Human Rights, whose main tasks are to: promote human rights education and promotion in the Member States, contributing to the effective fulfilment of rights and the full exercise of human rights in the Member States, among others; promote measures to achieve tangible improvements in the area of human rights promotion and protection; cooperate with a large number of national and international institutions as



well as human rights monitoring mechanisms¹⁰. However, it should be emphasised that the Commissioner for Human Rights is a non-judicial institution, so the Commissioner's Office cannot act on individual complaints, but the Commissioner can draw conclusions and take broader initiatives on the basis of reliable information about human rights violations suffered by individuals. Thus, its intergovernmental partners include the United Nations and its specialised offices, the European Union and the Organisation for Security and Cooperation in Europe (OSCE). It also cooperates with leading human rights Non-Governmental Organisations (NGOs), universities and *think tanks* (Council of Europe, 2022c); Council of Europe, 2022d).

It should also be noted that the work of the Council of Europe is greatly helped by contacts with the dynamic elements of society, in particular by cooperation with Non-Governmental Organisations (NGOs) such as the European Anti-Poverty Network, the European Blind Union and many others, which in total number more than 300 non-governmental organisations (Council of Europe, 2022e). Thus, one of the Council of Europe's main challenges is to strengthen NGOs and civil society in order to develop a pan-European participatory democracy (Council of Europe, 2022f). Furthermore, since its foundation in 1949, the Council of Europe has recognised the importance of making Europe known through a symbol with which its inhabitants could identify. With this in mind, on 25 October 1955, the Parliamentary Assembly unanimously adopted the emblem of a circle of golden stars on a blue background. On the blue background, the stars form a circle, symbolising unity. The number of stars is fixed at twelve, symbolising perfection and completeness and referring to the apostles, the sons of Jacob, the labours of Hercules and the months of the year, among others (Council of Europe, 2022g; Council of Europe, 2022h).

Finally, with a view to asserting itself internationally on 9 December 1995, the Committee of Ministers adopted the Star-Spangled Banner, which was officially presented in Paris on 13 December of the same year.

2. The Council of Europe and the European Union

For the first time in European history, an international organisation is explicitly binding itself to its member states in its Statutes. In particular, the Statute of the Council of

¹⁰ See Article 3 of Resolution (99) 50 of the Committee of Ministers of the Council of Europe: *"The Commissioner shall: a. promote education in and awareness of human rights in the member States; b. contribute to the promotion of the effective observance and full enjoyment of human rights in the member States; c. provide advice and information on the protection of human rights and prevention of human rights violations. When dealing with the public, the Commissioner shall, wherever possible, make use of and co-operate with human rights structures in the member States. Where such structures do not exist, the Commissioner will encourage their establishment; d. facilitate the activities of national ombudsmen or similar institutions in the field of human rights; e. identify possible shortcomings in the law and practice of member States concerning the compliance with human rights as embodied in the instruments of the Council of Europe, promote the effective implementation of these standards by member States and assist them, with their agreement, in their efforts to remedy such shortcomings; f. address, whenever the Commissioner deems it appropriate, a report concerning a specific matter to the Committee of Ministers or to the Parliamentary Assembly and the Committee of Ministers; g. respond, in the manner the Commissioner deems appropriate, to requests made by the Committee of Ministers or the Parliamentary Assembly, in the context of their task of ensuring compliance with the human rights standards of the Council of Europe; h. submit an annual report to the Committee of Ministers and the Parliamentary Assembly; i. co-operate with other international institutions for the promotion and protection of human rights while avoiding unnecessary duplication of activities."*



Europe reaffirms its adherence to the spiritual and moral values which are the common heritage of its peoples and which are at the root of the principles of individual liberty, political freedom and the rule of law, on which any true democracy is founded (Statute of the Council of Europe, 1949). As a result, in our opinion, there is an interconnection between the Council of Europe and the European Union, not least because both international organisations share the same principles.

We mustn't forget the interaction between the European Union and the Council of Europe brought about by the European Union's accession to the European Convention on Human Rights and Fundamental Freedoms, via Protocol 14 of June 2010, which brought with it various legal implications for the protection of human rights in Europe (Deitos, 2013, p. 119). We therefore consider the Council of Europe to be the legislative engine from which the European Union draws much of its inspiration. In reality, there is a lot of evidence of this fact, and it is almost impossible to list them all, since they are in various areas of activity. But for the sake of illustration, we can highlight a few:

In 1983, the European Parliament adopted the flag created by the Council of Europe and recommended that it become the symbol of the European Communities. The European Council gave its approval in June 1985 and the institutions of the European Union began using the flag in 1986 (Resolution on the adoption of flag for the European Community, 1983, pp. 17-19). Since then, the flag of the European Union has become the shared symbol of a political project that unites all Europeans, transcending their diversity.

The Council of Europe and the European Union share the same fundamental values, such as human rights, democracy and the rule of law. This can be seen when the European Union adopted the Charter of Fundamental Rights of the European Union. This Charter is divided into six chapters, dignity, freedom, equality, solidarity, citizenship and justice and, in a single text of 54 articles, summarises a set of civic, political, economic and social rights for European citizens and all people residing in the territory of the Union. These rights are based, in particular, on the Community Treaties, the fundamental rights and freedoms recognised by the European Convention on Human Rights, the constitutional traditions of the EU Member States, the European Social Charter of the Council of Europe and the Community Charter of the Fundamental Social Rights of Workers, as well as other international conventions to which the EU or its Member States are parties (Council of Europe, 2022j; AA.VV., 2005, pp. 42-43).

On the other hand, since 1993, in pursuit of common objectives related to the protection of democracy, respect for human rights and fundamental freedoms in Europe, the Council of Europe and the European Union have developed cooperation, instrumentalised through joint programmes. Indeed,

The Joint Programme format is designed as a tool to facilitate co-operation with countries that have joined the Council of Europe since 1989. (...) More than fifteen years of effective co-operation between the European Commission and the Council of Europe under numerous Joint Programmes has demonstrated that lasting results in support of the rule of law, better protection of human rights, and stronger democratic institutions can be achieved when the two organisations combine their resources and respective



strengths. (Co-operation between the Council of Europe and the European Union, 2009)

Most of the joint programmes are country-specific, but there are also various thematic, regional and multilateral programmes in this regard, for example joint programmes for: national minorities, raising awareness of the abolition of the death penalty, combating organised crime and corruption, and action to promote the European Social Charter. There are also other programmes promoting the strengthening of democracy and constitutional development in Central and Eastern Europe, with the Venice Commission of the Council of Europe.

However, an important step was taken in April 2001, when the European Commission and the Council of Europe signed a Joint Declaration on Cooperation and Partnership which, among other things, offered more systematic means of joint programming and priority setting:

[Co-operation] in the various fields of activity of the Council of Europe and the European Community should include all areas of common interest where such co-operation would be mutually beneficial. It should aim, among other things, at strengthening democracy, the rule of law and respect for human rights, including the protection of national minorities. In particular, the two organisations pledge to work closely together to maintain the high standards in these areas required for membership of the European Union and stand ready to help countries applying for membership of the European Union to meet these standards. Co-operation should be extended to all areas where it is likely to bring added value to both sides and strengthen complementarity of action. This concerns certain aspects of social cohesion, as well as the development of co-operation on research and ethical issues. Special attention will also be paid to activities aimed at strengthening cultural co-operation in Europe in all its national and regional diversity, in the spirit of the provisions on fostering co-operation between the European Community and the Council of Europe in the field of education and culture in Articles 149 and 151 respectively of the Treaty establishing the European Community. (Council of Europe, 2001)

In May 2007, a Memorandum of Understanding was signed which reaffirmed the determination of the two partners (the Council of Europe and the European Union) to strengthen ongoing cooperation within the framework of joint programmes. The signing of this Memorandum gave new impetus to relations between the two organisations: more developed political and technical cooperation, both quantitatively and qualitatively.

This Memorandum of Understanding provided a new legal framework and principles for this type of cooperation. Essentially, it aimed to achieve greater unity between the states of Europe through respect for the shared values of pluralist democracy, the rule of law and human rights and fundamental freedoms, as well as through pan-European co-operation, thus promoting the democratic stability and security to which European



societies and citizens aspired. On the other hand, it recognised the unique contribution of the Convention for the Protection of Human Rights and Fundamental Freedoms, the European Court of Human Rights, as well as other standards and instruments of the Council of Europe to the protection of individual rights and, in particular, it also recognised the importance of the Charter of Fundamental Rights of the European Union.

Finally, this Memorandum of Understanding also aimed to create a new framework for enhanced cooperation and political dialogue based on the guidelines set out in Chapter IV of the Action Plan adopted at the Third Summit of Heads of State and Government of the Council of Europe in Warsaw in May 2005, as well as to intensify cooperation and ensure coordination of actions on issues of mutual interest. In other words, the role of the Council of Europe as a standard for human rights, the rule of law and democracy in Europe is confirmed, as well as highlighting the need for coherence between the legal bases of the two international organisations (Council of Europe and European Union) in the areas of human rights and fundamental freedoms, and encouraging ever greater unity between the Council of Europe and the European Union (Council of Europe, 2022k; Delegation of the European Union to the Council of Europe, 2022).

This cooperation is quite diverse and includes activities ranging from the regular exchange of information, the organisation of joint activities and even the use of the Council of Europe's monitoring mechanisms as a useful source of information in a diverse range of areas of interest to the European Union. In 2007, the signing of the Treaty of Lisbon increased the possibilities for EU action in many areas where the Council of Europe already had significant experience and expertise. This led to greater co-operation in a number of areas, such as combating trafficking in human beings and/or the exploitation of children and violence against women. Moreover, the Council of Europe opened up or made it possible for the European Union itself to sign the European Convention on Human Rights and other European agreements of the Council of Europe (Council of Europe, 2022l).

Thus, in 2010, there were 53 active joint programmes, ensuring a greater source of sustainable funding from the Council of Europe for technical assistance and cooperation projects for democratic reforms in the countries of eastern and south-eastern Europe. For the South Caucasus and Turkey, the EU funded 84 per cent of the total amount of €87.6 million. This form of cooperation, based on complementarity and coherence, has brought added value and builds on each other's strengths for the benefit of all Europeans. (Delegation of the European Union to the Council of Europe, 2022).

Cooperation has recently been strengthened within the framework of the European Neighbourhood Policy (ENP), especially within the framework of the European Union's Eastern Partnership initiative, where the Council of Europe has been invited to participate in the multilateral platforms on Democracy, Good Governance and Stability, and on People-to-People Contacts. Indeed,

Established in 2004, just 10 years ago, the ENP's mission is to consolidate stability in Europe, preventing the emergence of new divisions between the countries of the region. Prosperity, stability and security for all the peoples involved represent the set of objectives pursued, based on values that



constitute the genetic code of the European Union: freedom, democracy, the rule of law and respect for fundamental rights. (Sande, 2014, p. 88)

Within this framework, a specific financial instrument was designed, allowing the expertise of the Council of Europe to be deployed in the Eastern Partnership countries¹¹, in areas such as judicial reform, the fight against corruption, cybercrime and pre-election assistance. However, there are other plans to increase co-operation beyond the borders of the Council of Europe, namely in the Southern Mediterranean and Central Asia. In fact, we can define three priority areas for cooperation between the European Union and the Council of Europe, namely: a) geographical cooperation with the European Union candidate countries; b) thematic cooperation: a) in human rights (i) Strengthening respect for European human rights standards; ii) freedom of expression and assembly; iii) combating discrimination, promoting and protecting human rights and those of people belonging to minorities and vulnerable groups: Roma, Freedom of religion or belief (FORB), Children's rights, LGBTI, Women's rights, Trafficking in human beings iv) Social and economic rights); b) on Democracy; c) Rule of Law (i) Reform of the judiciary; ii) Data protection; iii) Combating corruption; iv) Judicial cooperation in civil and criminal matters; v) Combating organised crime; vi) Preventing and combating terrorism; vii) Combating cybercrime; viii) Combating sports manipulation); d) Cross-cutting issues enabling the creation of secondary legislation binding on the states that sign them, thus enabling the principles on which the Council of Europe is based to be transposed into national legislation.

Furthermore, we mustn't forget that over time, many of the legal instruments adopted within the Council of Europe, particularly in the field of human rights, have been given special attention by the European Union, to the point where they have become legal instruments of the European Union. Figure 1 shows some of these examples:

Figure 1: Some Council of Europe legal instruments that have been readapted into European Union legal instruments

Council of Europe	European Union
<ul style="list-style-type: none"> - European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment – 16/11/1987 - Protocol nº 1 and 2 to the European Convention for the Prevention Torture and Inhuman or Degrading Treatment or Punishment – 4/11/1993 	<ul style="list-style-type: none"> - Resolution on prison conditions in the European Union: improvements and alternative penalties (<i>Official Journal nº C 098 of 09/04/1999 p. 0299</i>) - The Charter of Fundamental Rights, Article 4 - Prohibition of Torture and Inhuman or Degrading Treatment or Punishment – 7/12/2000
<ul style="list-style-type: none"> - European Convention on the Adoption of Children – 24/04/1967 	<ul style="list-style-type: none"> - Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (<i>Official Journal L 178 of 2/7/2019. p. 1</i>)
<ul style="list-style-type: none"> - Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of 	<ul style="list-style-type: none"> - Regulation (Ec) No 1394/2007 Of The European Parliament And Of The Council of 13 November 2007 on advanced therapy medicinal products and amending Directive 2001/83/EC and

¹¹ Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine.



Biology and Medicine, on the Prohibition of Cloning Human Beings – 12/1/1998	Regulation (EC) No 726/2004 (Official Journal L 324 of 10/12/2007, p.121)
– European Convention on the Legal Status of Children Born out of Wedlock – 15/10/1975	– The Charter of Fundamental Rights, Article 9 - Right to marry and found a family.
– European Convention on the Suppression of Terrorism – 27/1/1977	– Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on combating the dissemination of terrorist content online (Official Journal L 172 of 17 May 2021, p. 79)
– European Social Charter - 18/10/1961	– Community Charter of the Fundamental Social Rights of Workers (Strasbourg European Council, 8 and 9 December 1989)

Undoubtedly, the European Union continues to draw inspiration from the legal instruments issued by the Council of Europe and has progressively adapted them to the sources of primary and secondary European Union law.

3. The European Convention on Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights

The Cologne European Council, which took place on 3 and 4 June 1999, considered it appropriate to enshrine fundamental rights in a Charter, in order to give the European Union greater visibility "[t]he European Council considers that, at the present stage of development of the European Union, the fundamental rights in force at European Union level should be brought together in a Charter, thereby acquiring greater visibility" (European Parliament, 1999a).

It was therefore drafted by a "Convention" made up of a representative from each EU country and the European Commission, as well as members of the European Parliament and national parliaments. The term "Convention", as Guy Braibant says, was intended to express a historical gesture that evoked the French Revolutionary Conventions and the Convention that drafted the Constitution of the United States of America. (Braibant, 2001, pp. 19-20) However, this Charter of Fundamental Rights of the European Union was only formally adopted by the European Parliament, the European Council and the European Commission at the Nice European Council, which took place between 7 and 10 December 2000. The Charter became effective in 2009 with the Treaty of Lisbon and was given binding legal effect, as were the Community Treaties (Europa, 2022).

This Charter of Fundamental Rights of the European Union contains a preamble and is divided into seven chapters: I - Dignity; II - Freedoms; III - Equality; IV - Solidarity; V - Citizenship; VI - Justice; VII - General Provisions. These chapters are divided into 54 articles (Charter of Fundamental Rights of the European Union, 2012). In essence, they aim to include in the Charter the general principles enshrined in the 1950 European Convention on Human Rights and Fundamental Freedoms, previously adopted by the Council of Europe, as well as all the other principles resulting from the common constitutional traditions of the EU countries. In addition, the Charter should also include the specific fundamental rights of EU citizens, such as the economic and social rights enshrined in the Social Charter of the Council of Europe (1961) and the Community Charter of the Fundamental Social Rights of Workers (1989). It should also reflect the



principles derived from the case law of the Court of Justice and the European Court of Human Rights (Charter of Fundamental Rights of the European Union, 2012).

One might ask what idea of fundamental rights the Charter proposes? Why not a Charter of Human Rights? In the opinion of Sérgio Direito

[The] formal argument that we did not want to run the risk of confusing the Charter with the already existing European Convention on Human Rights seems too reductionist and simplistic to explain why the expression fundamental rights was chosen. As food for thought, let's say for now that the Charter aims to meet the needs of Community citizens, legitimise the intrusive actions of the institutions, make Community policies sympathetic to the interests and anxieties of specific individuals, demystify Eurocracy and involve European public opinion, which is now beginning to take shape. Jean Monnet's words will echo forever and with increasing symbolism as the notorious political union materialises: "Nous ne coalisons pas des États, nous unissons des hommes (Direito, 2002, p. 6).

It should also be noted that, like the EU Charter of Fundamental Rights, the Council of Europe's European Convention on Human Rights and Fundamental Freedoms is also structured by a preamble and three chapters: I - Rights and Freedoms; II - European Court of Human Rights; III - Miscellaneous Provisions, which in turn are divided into 59 articles (Council of Europe, 2022I). However, the Charter of Fundamental Rights of the European Union only applies at national level to the Member States of the European Union when they are implementing EU legislation, namely when the public authorities of the Member States (legislative, executive and/or judicial power) are dealing with EU legislation, in particular when they are implementing regulations, decisions and/or transposing directives (European Justice, 2022b). Indeed,

The Union contributes to the preservation and development of these common values by respecting the diversity of the cultures and traditions of the peoples of Europe, as well as the national identities of the Member States and the organisation of their public authorities at national, regional and local level; it seeks to promote balanced and sustainable development and guarantees the free movement of persons, goods, services and capital, as well as freedom of establishment. (...) The Charter aims to guarantee the rights of EU citizens in relation to the EU institutions (Charter of Fundamental Rights of the European Union, 2022).

As far as the European Union is concerned, the Charter of Fundamental Rights of the European Union applies to all acts of the EU institutions. The Commission's aim is to ensure that the legislative proposals they put forward comply with the Charter: all EU institutions (and especially the European Parliament and the Council) must respect the Charter throughout the legislative process (European Justice, 2022a). If a national authority is found guilty of violating the Charter when applying EU law, a complaint can be lodged with the Commission, which has the power to initiate infringement proceedings against the Member State in question. However, the Commission is not a



judicial or appeal body against decisions of national or international courts. Nor does it, in principle, examine the merits of individual cases, except where this is relevant to its task of ensuring the correct application of European Union law by the Member States (European Justice, 2022b).

The Court of Justice of the European Union is the institution competent to assess violations of Community law, and in particular of the Charter of Fundamental Rights. In fact, the Court of Justice of the European Union is making more and more references to the Charter in its rulings. So it's no coincidence that the European Court of Human Rights is distinct from the Court of Justice of the European Union. The two institutions are different because they judge different issues, although they are of the same nature and from comparable perspectives.

Thus, in the words of Sérgio Direito

Human rights are rights valid for all peoples and at all times; fundamental rights are the rights of man, legally and institutionally guaranteed and limited in space and time. Human rights derive from human nature itself and therefore have an inviolable, timeless and universal character; fundamental rights would be the rights objectively in force in a concrete legal order (Direito, 2002, p. 10).

Regardless of all these theories, we are of the opinion that we do indeed have several international legal instruments safeguarding the most basic human rights and/or fundamental rights. Some of these legal instruments share the same principles and rights, which often makes them almost repetitive. In fact, we share the view that a single binding international legal instrument with universal reach, a *hard law* such as the Universal Convention on Human Rights, would suffice.

Final considerations

Since its creation, the Council of Europe has centred its attention and focus on promoting democracy, the rule of law and human rights, with the aim of achieving greater European unity and including as many European states as possible within it. The European Convention on Human Rights and Fundamental Freedoms was a revolutionary legal instrument of the Council of Europe, in that it allowed violations of the rights enshrined in this Convention to be judged by the European Court of Human Rights. Of course, the Council of Europe was and still is, in our opinion, the driving force behind the European Union's legislative development in terms of safeguarding human rights.

Today, however, the Council of Europe suffers from a problem of visibility, since the European Union has begun to assume a more prominent political and legislative role. Even today, as we have seen, there is an overlap of functions and legal instruments. In this regard, it is worth remembering Vitor P. Nogueira "[today], the most illustrative example of this reality is the entry, with the adoption of the EU Human Rights Convention, into the reserved domain of the Council of Europe. During its first twenty-five years of existence, the Council of Europe fought hard for greater visibility and political influence. Today it is also fighting to increase its credibility in the face of criticism that it is lowering



its standards when it comes to safeguarding democracy and human rights" (Nogueira, 2006).

However, despite this, we continue to believe that the role of the Council of Europe is fundamental in developing new international legal instruments to safeguard the most basic human rights.

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ELEIÇÕES PARA O PARLAMENTO EUROPEU 2024: ESTRATÉGIAS DE MOBILIZAÇÃO JOVEM

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Resumo

Em 2019, a participação eleitoral dos jovens portugueses na eleição para o Parlamento Europeu foi a mais baixa de toda a União Europeia. O presente artigo visa identificar estratégias de mobilização jovem para as eleições europeias de 2024. Para tal, este artigo oferece uma tipologia descritiva que distingue entre estratégias de mobilização a curto e a médio/longo prazo. Esta tipologia foi testada em três focus groups, num total de vinte e um jovens portugueses. Os resultados indicam que existe uma convergência no apoio a algumas estratégias de mobilização e uma divergência relativamente a outras. O artigo conclui com algumas recomendações que visam promover a participação dos jovens portugueses nas próximas eleições europeias.



Palavras-chave

Eleições Europeias; Parlamento Europeu; Mobilização Jovem; Participação Política; Portugal.

Abstract

In 2019, voter turnout among young Portuguese citizens in the European Parliament election was the lowest across the European Union. This article aims to identify youth mobilization strategies for the 2024 European elections. To this end, this article provides a descriptive typology that distinguishes between short- and medium/long-term mobilization strategies. This typology was tested in three focus groups, totalizing twenty-one young Portuguese citizens. The results indicate a convergence in support for some mobilization strategies and a divergence regarding others. The article concludes with some recommendations aimed at promoting the participation of young Portuguese citizens in the upcoming European elections.

Keywords

European Elections; European Parliament; Youth Mobilization; Political Participation; Portugal.

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Introdução

A participação eleitoral dos portugueses nas eleições para o Parlamento Europeu (PE) é reduzida, em especial quando comparada à média europeia. Em 2014 e 2019, a média europeia de participação eleitoral foi de 42,61% e 50,66%, respetivamente. Apesar de a participação eleitoral europeia nestas eleições ter aumentado de 2014 para 2019, em Portugal diminuiu de 33,67% para 30,75%. Esta elevada taxa de abstenção portuguesa é consequência da baixa participação eleitoral dos jovens portugueses (Becuwe *et al.*, 2019).

No contexto das eleições europeias de 2019, apenas 3% dos jovens portugueses entre os 18-24 anos afirmaram ser “muito provável” irem votar, colocando-os na posição mais baixa em toda a União Europeia (UE). Segundo Magalhães (2022), a participação eleitoral dos jovens portugueses é muito reduzida. Dado que a literatura não oferece uma proposta sistematizada das estratégias de mobilização que possam ser aplicadas aos jovens, no contexto das eleições europeias, este artigo procura preencher essa lacuna.

Recorrendo a uma metodologia qualitativa, o presente artigo começa por fazer uma breve contextualização do problema. De seguida, oferece uma tipologia descritiva que identifica estratégias de mobilização de curto e médio/longo prazo que possam favorecer a mobilização jovem nas próximas eleições europeias. Num terceiro momento, esta



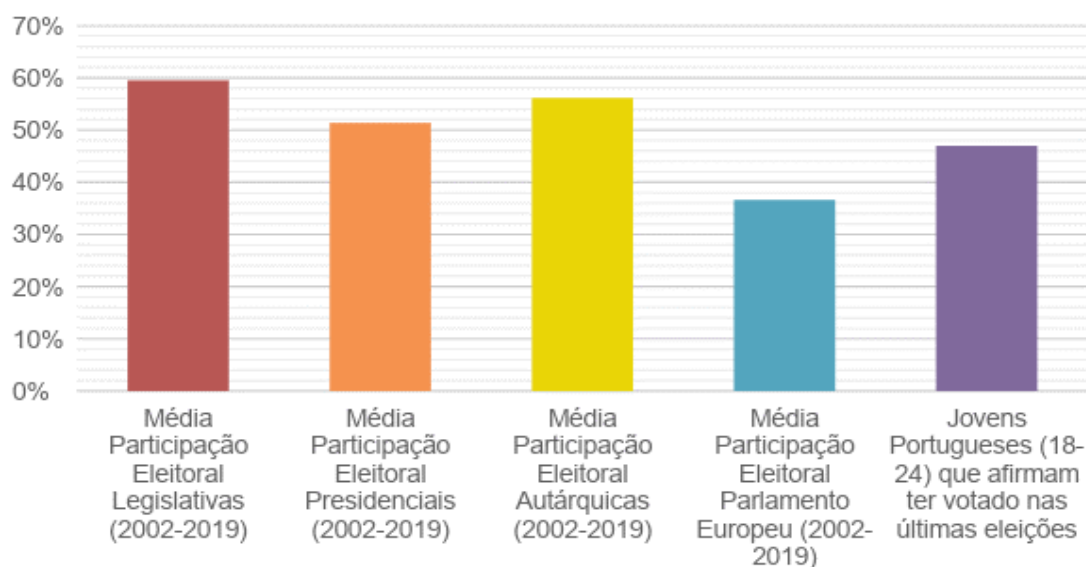
tipologia é colocada a teste mediante a realização de três *focus groups*. Os dados recolhidos foram discutidos, possibilitando a formulação de algumas recomendações. Em jeito de conclusão, este artigo destaca os principais ensinamentos a retirar deste estudo e sinaliza as suas limitações.

1. Participação jovem nas eleições europeias: a identificação do problema

A participação eleitoral europeia está em declínio, em particular no que toca aos jovens (Kitanova, 2020; Deželan & Moxon, 2021). De acordo com um estudo realizado por Magalhães (2022), somente 47% dos jovens portugueses da faixa etária 18-24 anos afirmaram ter votado nas últimas eleições. Este valor é inferior ao da média europeia, que igualou os 57% (*ibidem*). Por outro lado, na faixa etária 25-34 anos a percentagem de indivíduos que declarou ter votado nas últimas eleições, em Portugal, alcança os 66%, ficando apenas um valor percentual atrás da média europeia de 67% (*ibidem*).

A participação eleitoral portuguesa da faixa etária 18-24 é também inferior à participação eleitoral média em Portugal em três das quatro eleições analisadas, no período de 2002-2019. Nesse intervalo, em Portugal, a taxa de participação eleitoral para as eleições legislativas foi 59,5%; para as eleições presidenciais foi 51,4%; para as eleições autárquicas foi 56,2%; e para o PE foi 36,6% (ver Figura 1, abaixo).

Figura 1: Comparação entre Médias de Participação Eleitoral em Portugal (2002-2019) em quatro tipos de eleições com Jovens Portugueses (18-24) que afirmaram ter Votado nas Últimas Eleições (2002-2019)



Fontes: adaptado de Pordata (sem data); e Magalhães (2022).

Na EU, a taxa de abstenção para as eleições para o PE de 2019 foi de apenas 49,4%, quando comparada com os 57,4% de 2014 (Becuwe *et al.*, 2019). Todavia, a participação



eleitoral portuguesa nessas eleições diminuiu 3% entre 2014 e 2019 (*ibidem*). No que toca à participação eleitoral jovem portuguesa nas eleições europeias de 2019, somente 3% dos inquiridos entre as idades 18-24 declararam ser “muito provável” irem votar nessas eleições, colocando Portugal em último lugar na expectativa de voto. Por outro lado, 18% dos inquiridos portugueses com 25 ou mais anos afirmaram ser “muito provável” votarem nessas eleições.

Um outro estudo realizado por Matos *et al.* (2023) revelou que 89,6% dos jovens inquiridos declararam já ter votado em alguma eleição. Nessa fração, 81,8% votaram em legislativas; 79,1% em autárquicas; 76,6% em presidenciais; e apenas 45,6% em eleições para o PE (*ibidem*). Assim, torna-se aparente que o voto em eleições europeias é expressamente preterido pela população portuguesa, em geral, e pelos jovens portugueses, em particular.

Esta tendência alinha-se com o modelo que caracteriza as eleições europeias enquanto eleições de segunda-ordem (Reif & Schmitt, 1980). Mais especificamente, este modelo defende que as eleições europeias são determinadas mais pelas clivagens políticas internas do que por alternativas originárias da CE [Comunidade Europeia]¹, além de atentar que a participação eleitoral nestas eleições será sempre menor do que em eleições de primeira-ordem (*ibidem*, 1980). Perante esta situação, e dado que a literatura não oferece qualquer modelo de mobilização jovem, este artigo identifica estratégias de mobilização dos jovens portugueses para as próximas eleições europeias, mediante a aplicação de um modelo original. Em suma, este artigo consagra um contributo de natureza conceptual e empírico.

2. Estratégias de mobilização jovem: o que diz a literatura?

Na literatura, é possível distinguir entre estratégias de mobilização de curto prazo, relativas a uma comunicação eleitoral eficaz, e estratégias de mobilização a médio e longo prazo, que incidem sobre a instrução cívica dos indivíduos.

A primeira estratégia de mobilização de curto prazo concerne o uso das redes sociais e *mass media online*, portando algum desacordo na literatura (Matthes, 2022; Boulianne & Theocharis, 2020; Moeller *et al.*, 2018). Por um lado, Moeller *et al.* (2018) fazem notar que os meios de comunicação tradicionais *offline*, como jornais e a televisão, “não tiveram um efeito consistente no comportamento eleitoral dos jovens”². Contudo, os meios de comunicação noticiosos *online* influenciaram significativamente a participação política jovem (*ibidem*). Esta tendência aparenta resultar da capacidade que os *media online* oferecem na seleção do conteúdo que os jovens consomem (Moeller *et al.*, 2018). Por outro lado, uma meta-análise de Boulianne e Theocharis (2020) concluiu que: (1) o uso de *media* digitais não é uma fonte de distração para os jovens; (2) apenas atividades políticas digitais têm um efeito mobilizador; e (3) existe uma “correlação forte entre formas *online* e *offline* de participação na vida cívica e política”. Porém, Matthes (2022) discorda desta tese, alegando que os níveis de abstenção desta faixa etária não sofreram alterações significativas. De acordo com o autor, este fenómeno decorre do conteúdo

¹ Tradução livre nossa.

² Tradução livre nossa.



não-político divulgado nas redes sociais e de fácil acesso que pode distrair os jovens de conteúdo político mobilizador (*ibidem*).

Uma outra estratégia de mobilização a curto prazo identificada na literatura trata-se do envio de mensagens de texto aos eleitores num momento pré-eleitoral (Bhatti *et al.*, 2017; Bergh *et al.*, 2019; Dale & Strauss, 2009). Bergh *et al.* (2019) concluíram que as mensagens de texto são uma ferramenta eficaz para mobilizar eleitores nas eleições locais norueguesas. Todavia, Bhatti *et al.* (2017) mostraram que, apesar de estas mensagens serem eficazes em eleitores habituais, carecem de utilidade quando são enviadas a eleitores casuais. A somar-se a isto, Dale e Strauss (2009) apresentam a teoria do *Noticeable Reminder*, que argumenta que o envio das mensagens, antes do dia da eleição, é um método pouco dispendioso de assegurar que os indivíduos que querem votar, efetivamente votam.

Finalmente, a mobilização política jovem através de meios de comunicação tradicionais constitui a terceira estratégia de mobilização a curto prazo (Althaus & Trautman, 2008; Costa, 2022). Althaus e Trautman (2008) mostram que a dimensão do mercado televisivo local tem um impacto sobre a participação política local maior do que outros fatores que influenciam o comportamento eleitoral. Este fator é relevante, uma vez que, em 2020, 49% dos jovens portugueses alegaram receber informação política pela televisão, ao passo que somente 30% deram preferência à *internet* (Costa, 2022).

Quanto às estratégias de mobilização de médio e longo prazo, a primeira trata-se da realização de atividades de voluntariado (Augusto, 2008; Costa, 2022). Ou seja, os jovens que participam em várias organizações e/ou associações são mais ativos na política. Porém, a natureza das organizações tem um impacto no grau de incremento da participação política dos jovens (*ibidem*). Organizações diretamente envolvidas na sociedade civil contribuem mais para a mobilização política jovem do que organizações estritamente recreativas (*ibidem*). Num outro quadro, Augusto (2008) mostrou que a participação jovem em associações voluntárias politicamente envolvidas tem resultados positivos na sua participação eleitoral. Num estudo realizado por Costa (2022) a jovens portugueses, 15% afirmaram que nunca fizeram voluntariado, nem nunca o fariam; 23% alegaram ter feito voluntariado no ano anterior ao inquérito; 25% fizeram voluntariado num passado mais distante; e os restantes 38% afirmaram que poderiam ter feito voluntariado, mas não o fizeram.

A participação em programas de intercâmbio é a segunda estratégia de mobilização a médio e longo prazo, apesar de ser escassa e de ser marcada por algum dissenso (Wilson, 2011; Martínez *et al.*, 2014; Consonni, 2020). Por um lado, Wilson (2011) concluiu que "a experiência Erasmus não faz com que os alunos se tornassem mais pró-europeus"³. Isto porque indivíduos que já participaram em programas Erasmus não tendem a votar mais em partidos pró-UE, nem a favorecer uma UE mais política (*ibidem*). Consonni (2020) discorda, argumentando que estudantes espanhóis e italianos que participaram em programas de Erasmus estão mais interessados nas eleições europeias e votam nelas. Um outro estudo realizado por Martínez *et al.* (2014) mostrou que os inquiridos, que haviam participado no programa Erasmus, tendem a estar mais informados sobre o modo como os membros do PE são eleitos. No ano da realização do estudo, 2014, os

³ Tradução livre nossa.



participantes que tinham feito intercâmbio através do projeto Erasmus participaram com maior expressão nas eleições para o PE.

Uma terceira estratégia de mobilização eleitoral a médio/longo prazo relaciona-se com o papel desempenhado pela educação (Kitanova, 2020). Uma análise de 28 países europeus concluiu que os “fatores sociodemográficos que preveem a participação política entre os jovens são a idade, educação e classe social”⁴ (*ibidem*). Assim, a educação formal é um fator fundamental para uma mobilização jovem alargada. Por outro lado, a educação não-formal refere-se a “programas e processos planeados e estruturados de educação pessoal e social para jovens destinados a melhorar uma série de habilidade e competências, fora do currículo educacional formal”⁵ (Conselho da Europa, sem data). Esta educação não-formal deve ser voluntária, acessível a todos e centrada nos alunos (*ibidem*). A este respeito, Busse *et al.* (2019) notaram que a educação não-formal tem um impacto positivo na participação política não-eleitoral dos adultos.

De modo geral, não se encontrou qualquer bibliografia que combinasse estratégias de mobilização jovem a curto e médio/longo prazo para as eleições europeias. Neste sentido, o presente artigo vem preencher este vazio, oferecendo uma análise preliminar sobre o assunto.

3. Modelo de análise: uma proposta para a mobilização jovem

Uma vez identificadas as estratégias de curto e médio/longo prazo, passaremos agora, à construção de uma tipologia que combina estratégias de mobilização a curto e a médio/longo prazo (Tabela 1, abaixo).

As estratégias de curto prazo, i.e., estratégias de comunicação em período de pré-campanha e campanha, podem ser divididas em estratégias *online* e *offline*. Sobre as estratégias em formato *online*, destacam-se as campanhas de sensibilização jovem nas redes sociais. Moeller *et al.* (2018) apontam que as redes sociais, atualmente, conseguem influenciar significativamente a participação dos jovens, tornando-se o mecanismo mais indicado para a aproximação com a juventude. Acresce que Matthes (2022) sublinha que “as redes sociais conseguem construir relações entre atores políticos e jovens adultos, possibilitar a interação social sobre temas políticos, conectar pessoas, promover a expressão da opinião política, equilibrar o envolvimento e promover a participação, bem como impulsionar a participação eleitoral ou contribuir para a coesão social”⁶.

⁴ Tradução livre nossa.

⁵ Tradução livre nossa.

⁶ Tradução livre nossa.



Tabela 1: Estratégias de mobilização a curto prazo e a médio/longo prazo

	Objetivo	Agentes Responsáveis	Medidas
Mobilização de Médio/Longo Prazo	Formação Cívica Jovem	Gabinete do Parlamento Europeu e Representação da Comissão Europeia em Portugal	Atividades de Formação e Capacitação Jovem Voluntariado ligado a Questões e Valores Europeus Programas de Educação Não-Formal de Intercâmbio
		Embaixador da UE	Sensibilização Jovem na Rua e em Escolas e Universidades
		Escolas	Alteração do Plano de Estudos da Disciplina de Cidadania e Desenvolvimento Inclusão da Disciplina de Ciência Política na Formação Geral do Ensino Secundário
	Objetivo	Tipo de Comunicação	Medidas
Mobilização de Curto Prazo	Estratégia de Comunicação no Período de Campanha	<i>Online</i>	Campanhas de Sensibilização Jovem nas Redes Sociais
		<i>Offline</i>	Envio de Mensagens de Texto antes do Ato Eleitoral Debates nos <i>Media</i> Tradicionais Embaixador UE: Comunicação Eleitoral Cara-a-Cara

Fonte: autoria própria

Sobre as estratégias em formato *offline*, a literatura identifica o envio de mensagens de texto antes do ato eleitoral, a realização de debates nos *media* tradicionais e a comunicação cara-a-cara pelos Embaixadores UE. A primeira possibilita impactar os diversos círculos de inserção social, ao receber e transmitir a informação enviada, além de assegurar que os indivíduos que querem votar, efetivamente votam (Bhatti *et al.*, 2017; Dale & Strauss, 2009). Já os debates nos meios de comunicação social tradicionais — a rádio, os jornais, a televisão, etc. —, apesar de alguns constrangimentos verificáveis, como a morosidade, a tecnicidade e profunda discussão de diversos temas, podem ser benéficos para a camada jovem mais velha e instruída. A terceira iniciativa passa pelo papel a ser exercido pelos jovens Embaixadores UE, que teriam a função de se conectar com os seus pares, de os informar em relação à UE e de os enquadrar em relação aos valores europeus e quanto à importância do voto.

Relativamente às estratégias de médio/longo prazo, estabeleceu-se como objetivo a formação cívica dos jovens sobre a UE. Assim, distinguiu-se entre agentes das medidas e as medidas que cada um pode efetuar. As instituições europeias (ou de representação das mesmas), como o Gabinete do Parlamento Europeu e a Representação da Comissão Europeia em Portugal e, podem executar atividades de formação e capacitação jovem, como sugerido pelas recomendações da Conferência Europeia da Juventude (2015) e reforçado por Deželan e Moxon (2021). Além disso, o desenvolvimento do voluntariado, ligado a questões e valores europeus, como o *unidos.eu* e o Corpo Europeu de Solidariedade, seria uma forma não convencional de participação e de vinculação às



instituições europeias (Augusto, 2008). A divulgação de programas de educação não-formal de intercâmbio, como o Erasmus+, são, igualmente, fundamentais para a inserção dos jovens no contexto de participação cívica. Para além de ser uma forma de desenvolvimento cognitivo e pessoal, possui resultados extremamente positivos no que respeita ao aumento participação política.

As escolas têm também a função de proporcionar aos jovens, desde cedo, espaços seguros de aprendizagem e de criação de estímulos à participação, capacitando os jovens com os recursos necessários para a mesma (Menezes *et al.*, 2019). Assim, a concretização efetiva do plano de estudos da disciplina de Cidadania e Desenvolvimento, oferecida de forma obrigatória no ensino básico (do 5.º ao 9.º ano) e de forma transversal no ensino primário (do 1.º ao 4.º ano) e secundário (do 10.º ao 12.º ano), irá também ao encontro à formação cívica necessária para cada jovem. Apesar de o programa desta disciplina prever a discussão de questões e temas relativos à UE, não é evidente que essas matérias sejam, de facto, lecionadas. Logo, torna-se necessário repensar esta aprendizagem, de modo a se adotar um modelo mais claro, simples e objetivo (Deželan & Moxon, 2021). De igual modo, a obrigatoriedade desta disciplina no ensino primário e secundário, bem como a inclusão da disciplina de Ciência Política na formação geral do 10.º ao 12.º ano, poderia ser positiva para a participação eleitoral jovem.

Os Embaixadores UE teriam, por sua vez, a função de criar, organizar e dinamizar ações de sensibilização na rua e nos espaços de socialização mais habituais dos jovens, onde têm a oportunidade de conviver com os seus pares e intervir na sua comunidade. Apesar de já existirem iniciativas semelhantes, como as Escolas Embaixadoras do Parlamento Europeu (Parlamento Europeu, sem data), os Embaixadores da Iniciativa da Cidadania Europeia (União Europeia, sem data) e os Embaixadores UE *Careers* (EPSO, sem data), estes Embaixadores jovens distinguem-se por terem um contacto presencial e digital diferenciados. Estes Embaixadores, além de educarem os jovens em relação a matérias e valores europeus, devem também discutir e informá-los em relação a questões eleitorais e à importância do voto. Esta rede de embaixadores deve ser formada pelas instituições nacionais de representação dos órgãos europeus, além de as deverem promover nos seus contactos com os jovens.

4. Método e técnica de análise

Na impossibilidade de entrevistar toda a população portuguesa com idade entre os 18 e os 34 anos, optou-se por utilizar o *focus group* como técnica de recolha de dados neste estudo de caso. O *focus group* consiste numa técnica de pesquisa qualitativa que envolve a interpelação de um grupo de indivíduos, selecionados cuidadosamente, para a discussão e partilha das suas atitudes relativas a um conceito, produto ou ideia (Matthews & Ross, 2010). Trata-se de um método eficiente que permite respostas abertas e fluidas, dependendo de uma discussão assistida entre 5 a 13 pessoas para produzir resultados, o que requer um moderador apto e imparcial, encarregue de facilitar e moldar a discussão.



Optamos por realizar três *focus groups*⁷, cuja composição variou entre seis a oito elementos num total de 21 participantes. Estes últimos foram selecionados em função do critério da idade (divididos em dois escalões etários, dos 18- 24 anos e dos 25-30 anos de idade, respetivamente) e do nível de escolaridade (com formação superior e sem formação superior) já que estes critérios são, de acordo com a literatura, os fatores mais relevantes na compreensão da dinâmica da participação eleitoral.

De acordo com Magalhães (2022), existe uma relação entre a idade e a participação eleitoral nos jovens portugueses, já que os jovens entre os 18 e 24 anos apresentam taxas de participação eleitoral inferiores às dos jovens situados no escalão etário dos 25-34 anos. De igual modo, o mesmo autor referiu que a “forte relação negativa entre a idade e a participação eleitoral [dos jovens portugueses pertencentes à faixa etária 18-24 anos] confirma-se, mesmo quando tomamos em conta outros atributos dos indivíduos e do voto, como a educação” (*ibidem*). Esta afirmação contradiz a literatura, já mencionada, que relaciona positivamente a educação e a participação eleitoral. Dada esta aparente incerteza, investigou-se se o fator escolaridade contribuiu para a adoção de diferentes convicções pelos participantes dos *focus groups*.

A Tabela 2, infra, traduz a composição dos três grupos:

Tabela 2: Composição dos Focus Groups

Critérios de Seleção	Número de Participantes
18-24 com formação superior	6 elementos
18-24 sem formação superior	8 elementos
25-34 com formação superior	7 elementos
Total	21 participantes

Fonte: autoria própria

Por último, gostaríamos de fazer notar que a amostra escolhida para este estudo não espelha a composição da população jovem portuguesa, pelo que as inferências decorrentes da presente investigação deverão ser lidas como generalizações teóricas (e não empíricas). Estas poderão, no entanto, servir de base para investigações futuras onde a representatividade da amostra poderá ser acautelada (George e Bennett, 2005).

5. Apresentação e Discussão dos dados

5.1. Focus group 1

Este grupo revelou-se notavelmente participante em períodos eleitorais, como demonstra a Tabela 3, abaixo. Os participantes destacaram a importância da educação para a cidadania, para que se torne intuitivo o exercício do dever cívico nas eleições europeias.

⁷ Procurou-se realizar um quarto *focus group* com intervalo de idade compreendido entre os 25 e os 34 anos sem formação superior, mas o mesmo não foi possível por falta de participantes disponíveis em colaborar. Notamos ainda que procuramos formar grupos que espelhassem as clivagens escolares e etárias dos jovens portugueses, mas que, limitações na captação de participantes, não nos foi possível assegurar a representatividade da amostra nos *focus groups*.



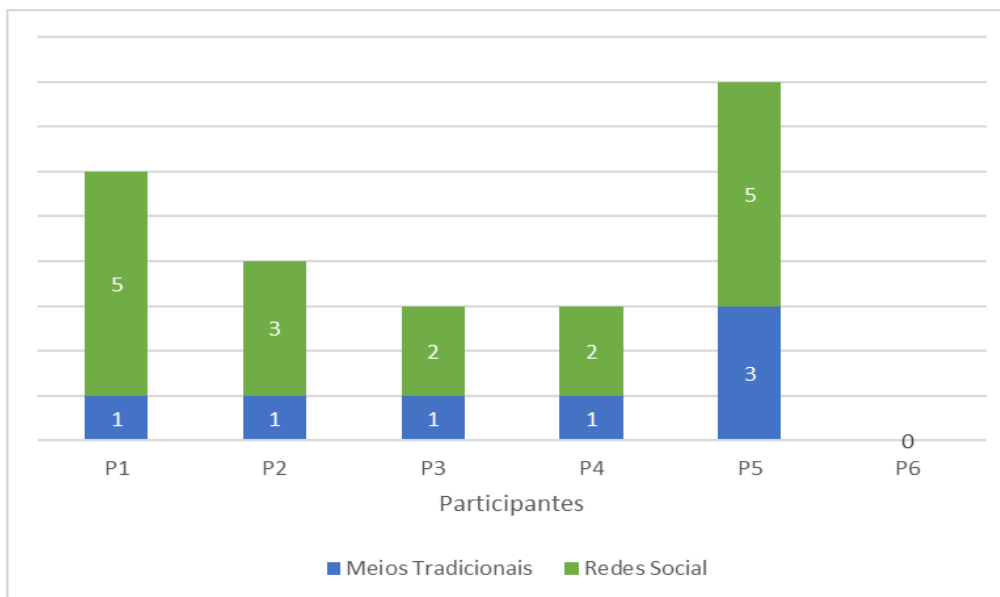
Tabela 3: Percentagem de Participação nas Eleições Europeias de 2019

	P1	P2	P3	P4	P5	P6	Percentagem
Votou	X	X	X	X	X	X	100%
Não votou							0%

Fonte: autoria própria

A eficácia das redes sociais na comunicação institucional europeia para envolver jovens eleitores foi também discutida. Defendeu-se a necessidade de focar a comunicação nas agendas políticas através dos grupos políticos em vez das instituições *per se*, que podem demonstrar pouca pluralidade interna. Alguns mostraram-se céticos sobre a mobilização via redes sociais. Como sugere a escala de avaliação obtida na Figura 2, abaixo, os participantes acreditam, em geral, que uma campanha de sensibilização pré-eleitoral, seja nas redes sociais ou nos meios tradicionais, poderá aumentar a probabilidade de votarem nas eleições europeias. É de referir, também, que a participante P5, do género feminino, se mostrou mais recetiva ao uso de meios tradicionais.

Figura 2: Avaliação de 0 (Não aumentaria Nada) a 10 (Aumentaria Extremamente) dos Participantes quanto a Campanhas de Mobilização Através dos Meios de Comunicação



Fonte: autoria própria

Abordou-se também o potencial dos contactos presenciais e de mobilização informal. Enquanto contactos tradicionais de rua foram considerados menos meritórios, debates e discussões em escolas e universidades foram vistos como estimulantes. A eficácia dessas estratégias depende do tipo de jovem envolvido e uma sensibilização a médio/longo prazo foi, de novo, enfatizada como necessária. Durante o período eleitoral, deve-se apenas intensificar esses esforços para aumentar o interesse e a consciência política.

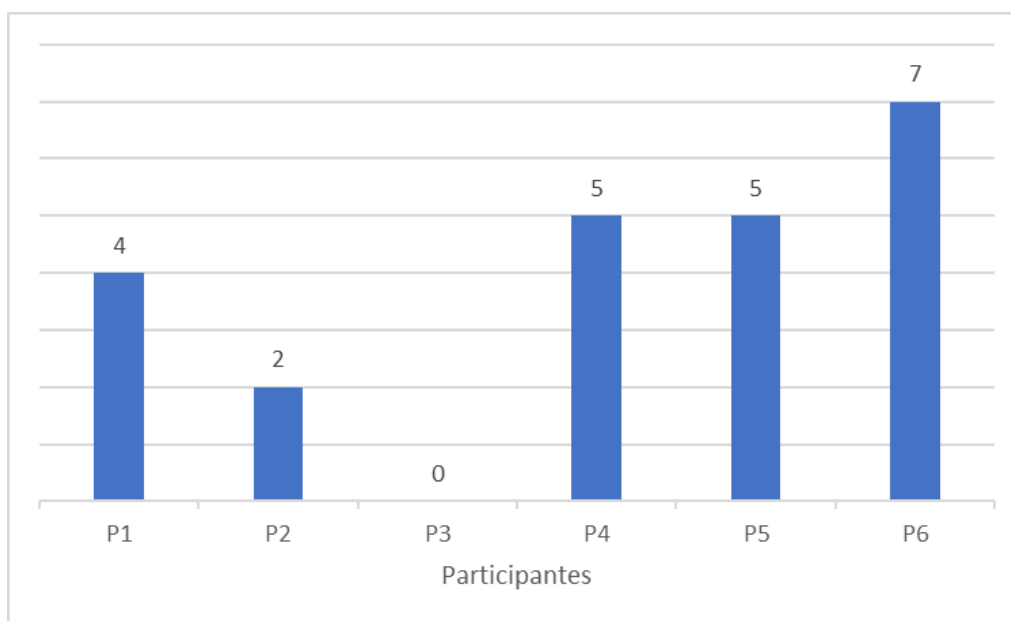
A formação escolar foi novamente destacada como uma estratégia eficaz para mobilizar os jovens, através de debates, aulas e palestras. A informação deve ser difundida "de modo informal e íntimo, diferente de meios institucionais, que levará a discussão do



assunto no seio familiar” (P3, do género masculino) através de meios como debates televisivos, *podcasts* e redes sociais. De maneira geral, os participantes concordaram que as escolas são fundamentais para a educação sobre a União Europeia e a cidadania. Enfatizaram a importância da participação política e cívica, desde o ensino primário, e destacaram a necessidade de abordar o tema com urgência. A participação também deve ser incentivada em casa, possivelmente pela influência da escola. Propõem-se *workshops*, novas disciplinas, grupos de estudo e vivências práticas com visitas de estudo obrigatórias a instituições europeias para despertar o interesse dos jovens nas questões europeias. Frisou-se, igualmente, a importância de professores capacitados.

Sobre a eficácia de um Embaixador jovem da UE, as opiniões divergem, como consta na Figura 3, abaixo. Alguns participantes afirmaram que esta figura podia despertar o interesse dos jovens pela política através da identificação e aproximação da instituição, mas que a sua eficácia dependeria da personalidade, comunicação e destaque do jovem em questão.

Figura 3: Avaliação de 0 (“Nenhum Efeito”) a 10 (“Ajudaria Extremamente”) dos Participantes à Mobilização Através de um Embaixador Jovem



Fonte: autoria própria

As opiniões sobre o envio de uma mensagem de texto antes das eleições são diversas. Alguns acreditam que teria um impacto positivo por destacar a importância do voto, enquanto outros têm dúvidas sobre a sua eficácia, devido à existência de anúncios institucionais semelhantes. Não obstante, a maioria não vê qualquer dano na ideia e tende a ser favorável. Opiniões divergem sobre o impacto dos programas de voluntariado e educação não-formal na aproximação dos cidadãos às questões europeias e mobilização para eleições. Alguns participantes consideram-nos positivos, ao passo que outros questionam se existe alguma relação direta. Os valores, a identidade e democracia europeia foram, também, questionados.



Os participantes deste grupo defenderam que a melhor estratégia passaria pela utilização de diversas opções de comunicação, incluindo *media* tradicional e digital, além dos Embaixadores jovem da UE. No entanto, concordam que a escola se trata do fator mais importante, bem como a prática e o envolvimento familiar, criando um laço estável, como consta na Tabela 4, abaixo.

Tabela 4: Escolha dos participantes — Qual a Melhor Estratégia?

	P1	P2	P3	P4	P5	P6	Porcentagem
Redes Sociais	X	X			X		50%
Meios Tradicionais		X					16,7%
Contacto de Rua		X					16,7%
Mensagens de Texto	X						16,67%
Embaixador Jovem		X					16,67%
Educação Formal	X	X	X	X	X	X	100%

Fonte: autoria própria

Realçamos, ainda, que neste grupo, a característica 'género' não revelou ser uma variável impactante nos testemunhos recolhidos neste *focus group*.

5.2 Focus Group 2

Ainda que a maioria dos participantes deste grupo não tenha votado nas últimas eleições europeias (ver Tabela 5, abaixo), por não serem maiores de idade, foi consensual, incluindo de quem se absteve de votar, a valorização da importância do ato eleitoral, salientando a especificidade das eleições europeias para a política doméstica.

Tabela 5: Porcentagem de Participação nas Eleições Europeias de 2019

	P7	P8	P9	P10	P11	P12	P13	P14	Porcentagem
Votou				X	X			X	37,5%
Não Votou	X	X	X			X	X		62,5%

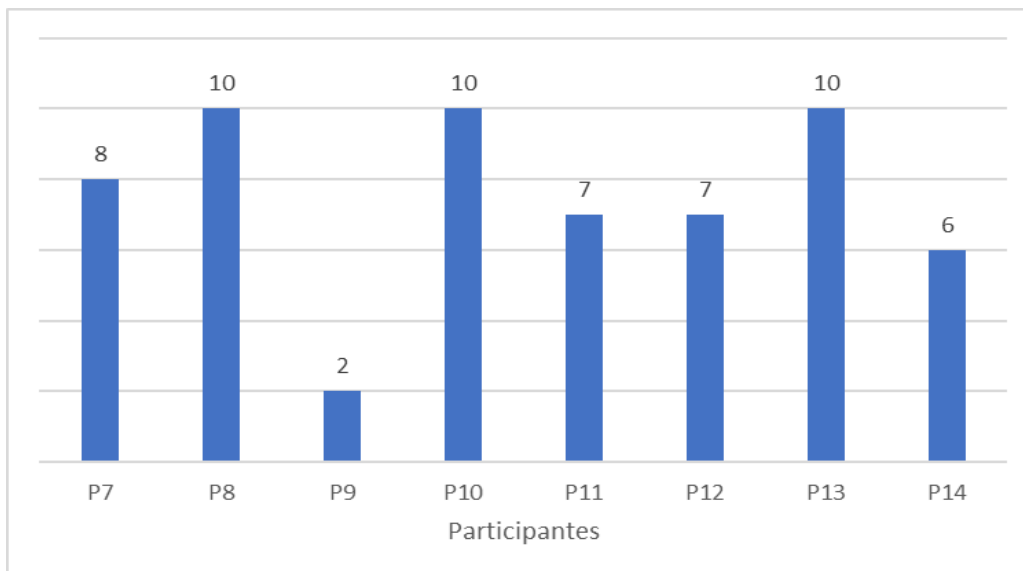
Fonte: autoria própria

Os participantes acreditam que uma campanha de contacto pessoal de rua é mais eficaz com a população mais velha do que com os jovens. Portanto, preferem campanhas em redes sociais dada a facilidade de disseminação de informações (ver Figura 4, abaixo). Demonstraram também interesse em debates televisivos e nas redes sociais devido à sua acessibilidade. As redes sociais são vistas como uma arena que estimula o debate político, promovendo transparência e divulgando o trabalho dos representantes europeus. A maioria dos participantes considera o envio de mensagens de texto benéfico, mesmo que tenham pouca esperança na capacidade de alterar os comportamentos eleitorais daqueles que já não votam.

Quanto aos projetos de educação não-formal, os participantes têm pouco conhecimento, mas reconhecem seu potencial para fortalecer o sentimento europeu nos jovens e torná-los politicamente ativos, embora não necessariamente nas eleições. Existe um descompasso maior entre os jovens e os representantes europeus em relação aos assuntos nacionais, sobretudo, pela falta de destaque dado a essa esfera nos meios de comunicação, tanto durante as campanhas quanto durante o mandato.



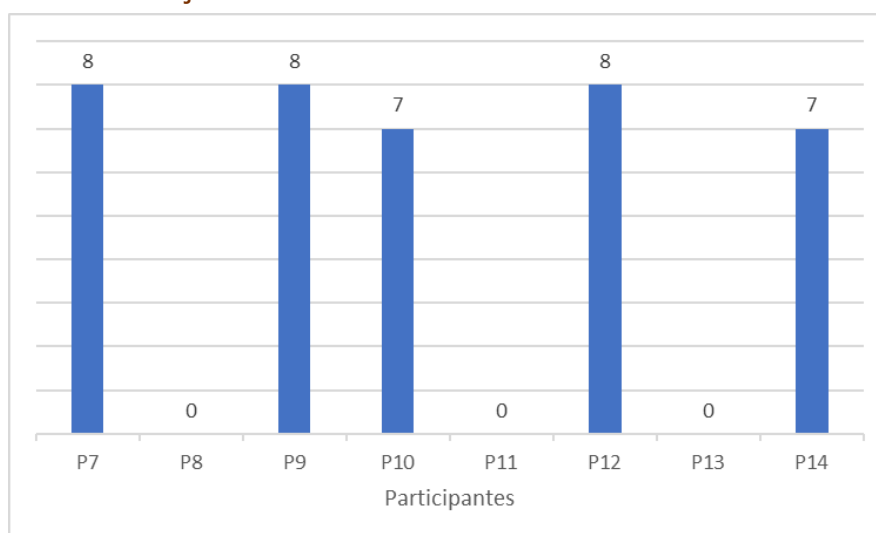
Figura 4: Avaliação de 0 (Não aumentaria Nada) a 10 (Aumentaria Extremamente) dos Participantes quanto a Campanhas de Mobilização Através dos Meios de Comunicação



Fonte: autoria própria

Nessa linha, a ideia de um maior contacto pessoal com figuras do PE, as poucas respostas obtidas, ainda que positivas, apontavam para a necessidade de sentirem que o representante estaria de facto atento e devotado às suas propostas. Daí que, quando apresentados à sugestão de um Embaixador jovem, as respostas tenham sido mais positivas, com a maioria dos participantes a apreciá-la com valores elevados (ver Figura 5, abaixo). Isto suporta a ideia de que esta seria uma interação mais próxima e com um discurso mais simples, capaz de ajudar a combater a perceção elitista da política.

Figura 5: Avaliação de 0 ("Nenhum Efeito") a 10 ("Ajudaria Extremamente") dos Participantes à Mobilização Através de um Embaixador Jovem



Fonte: autoria própria



Na discussão, os participantes consideraram que a escola deve ter um papel mais presente no desenvolvimento de boas práticas políticas nos jovens, mencionando, para esse efeito, a adoção de uma maior transversalidade de disciplinas que substitua aquelas em que os alunos se sentem menos estimulados. Acresce que acreditam que o aumento do interesse político dos jovens está também ligado à promoção de sessões de literacia e de formas de educação não-formal, em especial visitas de estudo a órgãos políticos e atividades como simulações parlamentares.

Tabela 6: Escolhas dos participantes – Qual a Melhor Estratégia?

	P7	P8	P9	P10	P11	P12	P13	P14	Percentagem
Redes Sociais	X	X	N/A	X	X	X	X	X	100%
Meios Tradicionais									0%
Contacto de Rua									0%
Mensagens de Texto									0%
Embaixador Jovem	X								14,2%
Educação Formal									0%

Fonte: autoria própria

As redes sociais são, para este grupo, o melhor mecanismo para veicular a informação aos jovens, como revela a Tabela 6, acima. Deste modo, os participantes mencionaram que gostariam de ver nas redes sociais mais conteúdos dedicados à atividade dos órgãos, bem como mais *podcasts* de cunho político e tangentes a temáticas europeias. Além disso, foi ainda mencionado o uso do cinema como meio para vincar e exportar os valores europeus.

Nota-se, ainda, que a característica 'género' não condicionou as escolhas e perceções dos participantes que integraram este *focus group*.

5.3 Focus Group 3

Nas últimas eleições, a maioria dos participantes admitiu não ter votado (Tabela 7, abaixo), por falta de interesse ou conhecimento, ou esquecimento. P15, do género masculino, referiu que a eleição foi "um pouco desleixada". Quem participou, ressalva a importância destas eleições para o país.

Tabela 7: Percentagem de Participação nas Eleições Europeias de 2019

	P15	P16	P17	P18	P19	P20	P21	Percentagem
Votou			X		X		X	43%
Não Votou	X	X		X		X		57%

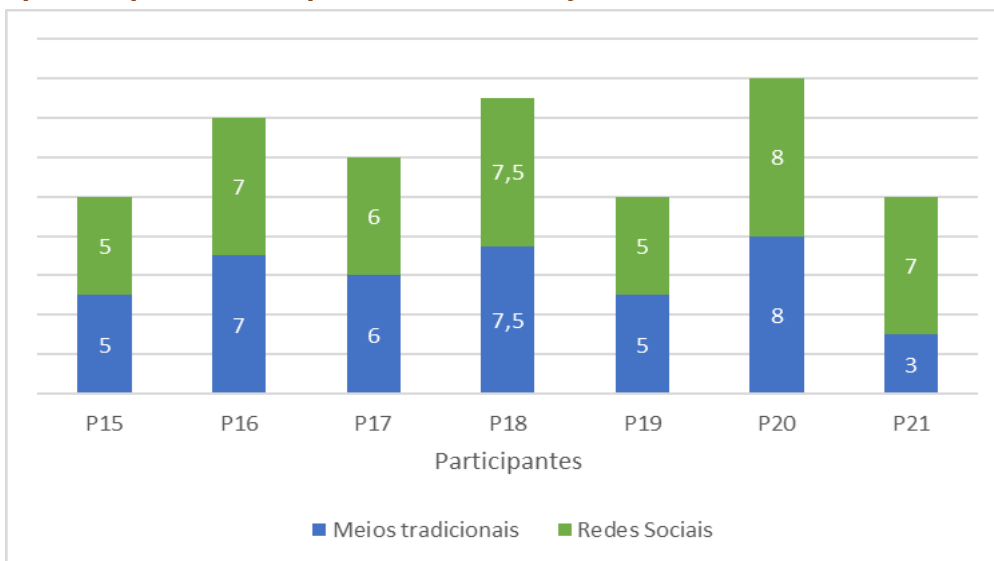
Fonte: autoria própria

Verificando a Figura 6, abaixo, é possível aferir que os entrevistados não fazem uma distinção significativa entre meios tradicionais e redes sociais. Reconhecem a ascensão



das plataformas online “pela simples opção que uma pessoa tem de colocar uma história ou partilhar uma publicação [...] isto chegar à sua base de seguidores” (P18, do género masculino). Todavia, consideram que os media tradicionais não devem ser descartados, em especial para população mais velha.

Figura 6: Avaliação de 0 (Não aumentaria Nada) a 10 (Aumentaria Extremamente) dos Participantes quanto a Campanhas de Mobilização Através dos Meios de Comunicação



Fonte: autoria própria

Na opção por uma mobilização direta de rua capaz de explicar aos jovens o propósito das eleições, o participante P16, do género masculino, notou que “à partida presto mais atenção ao que a pessoa que está a falar comigo me diz [que] seria possível retirar as minhas dúvidas na hora”. Para os participantes, os maiores interessados seriam os partidos, uma vez que estas ações permitem recolher votos e informar a população. Existem participantes que consideram que os jovens são movidos não por este tipo de contacto, mas por se identificarem com uma causa.

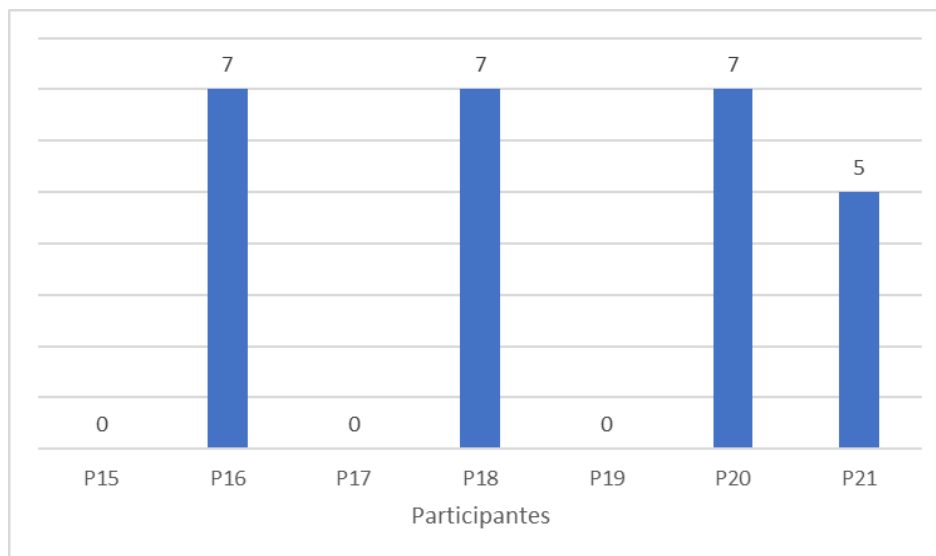
Perante a figura de um Embaixador UE que explique de forma clara e imparcial o processo da eleição, parte dos candidatos considera que “seria interessante ter a imagem de alguém como nós, interessado por temas políticos, que nos explicasse as coisas de forma simples” (P16, do género masculino). Ao longo da conversa, levantaram-se questões sobre a forma como este seria escolhido e sobre a sua credibilidade, pela possibilidade de pós-eleição aderir a um partido, como refere P17, do género feminino. A Figura 7, abaixo permite constatar a recetividade dos participantes a esta figura.

Relativamente ao uso de mensagens de texto como lembrete, os participantes consideraram ser uma iniciativa favorável, desde que livre de propaganda política. Segundo alguns participantes, uma maior flexibilização do período eleitoral e a passagem para um sistema de voto eletrónico reduziriam a abstenção. Programas como o Erasmus+ foram considerados um importante fator de mobilização e consciencialização. P18, do género masculino, relata a experiência do irmão como uma “mais-valia, é partilhar, é contactar jovens da mesma faixa etária, de diferentes culturas [...] aquela



interação cria ideias muito giras”, destacando o papel da escola nestes momentos. Aliás, o grupo considerou a escola como um importante disseminador de conhecimentos sobre a UE. Todavia, os participantes enfatizaram a importância da imparcialidade dos professores.

Figura 7: Avaliação de 0 (“Nenhum Efeito”) a 10 (“Ajudaria Extremamente”) dos Participantes à Mobilização Através de um Embaixador Jovem



Fonte: autoria própria

A Tabela 8, abaixo, mostra a preferência dos participantes pelas estratégias discutidas.

Tabela 8: Escolha dos Participantes — Qual a Melhor Estratégia?

	P15	P16	P17	P18	P19	P20	P21	Percentagem
Redes Sociais	X		N/A	x		x	N/A	60%
Meios Tradicionais								0%
Contacto de Rua								0%
Mensagens de Texto								0%
Embaixador Jovem								0%
Educação Formal	X	X		x	x	x		100%

Fonte: autoria própria

Salienta-se, igualmente, que neste grupo, a característica ‘género’ não constituiu uma variável que tivesse condicionado as perspetivas dos participantes em relação às eleições para o PE.

6. Discussão de dados

Uma comparação dos diferentes grupos conclui que *focus group* sem formação académica dos 18 aos 24 anos teve uma menor participação eleitoral em 2019, com 37,5%, seguido pelo grupo dos 25 aos 34 anos com formação superior, com 43%. O *focus group* dos 18



aos 24 anos com formação teve a maior participação eleitoral, com 100% dos participantes votantes. A não concordância destes valores percentuais com os elencados por Magalhães (2022) deve-se, provavelmente, ao reduzido número de participantes. A falta de importância pessoal dada ao ato eleitoral foi a causa mais comum da não participação, o que se aparenta conciliar com o modelo que afirma serem as eleições europeias de segunda-ordem (Reif & Schmitt, 1980).

Quanto à mobilização por meio das redes sociais, os três grupos reconhecem sua importância na transmissão de ideias e conscientização dos jovens, o que se coaduna com toda a literatura que defende o uso destes meios para mobilizar os jovens. Ainda que Matthes (2022) sugira que os algoritmos das redes sociais sirvam mais para distrair do que para os mobilizar os jovens a votar, o uso das redes sociais pode mostrar-se vantajosa. Uma notável sugestão feita pelos grupos passou por defender que os partidos políticos deviam aproveitar as redes sociais para realizar campanhas de sensibilização e informação do eleitorado. Num quadro complementar, porém, há divergências em relação ao uso dos meios tradicionais. Os *focus groups* com formação superior consideram que os meios digitais e tradicionais devem complementar-se, enquanto o grupo sem formação académica acredita que os meios tradicionais não têm a capacidade de despertar o interesse dos jovens. Aqui, seria oportuno promover meios de comunicação noticiosos *online*, já que promovem a participação política jovem (Moeller *et al.*, 2018). Por fim, os debates televisivos foram também endossados como um tipo de estratégia *offline*.

Os participantes consideram o envio de mensagens de texto no período pré-eleitoral como uma estratégia neutra ou positiva, embora não seja a preferida. Alguns participantes duvidam que esta estratégia conseguisse cativar eleitores que não se encontram dispostos a votar, ecoando a tese de Dale e Strauss (2009).

Quanto ao contacto cara-a-cara de rua, não houve concordância entre os participantes. Em geral, acreditam que os jovens se mobilizam quando se identificam com quem os ouve e com as causas defendidas, mas consideram essa estratégia mais eficaz em pessoas mais velhas. O grupo dos 18-24 anos com formação superior realçou que a eficácia deste contacto dependeria da personalidade do indivíduo que a faria. Já o grupo da mesma faixa etária sem formação rejeitou esta estratégia, atentando que os jovens não têm interesse para ouvir os candidatos e, portanto, esse método não será eficaz. O grupo dos 25-34 anos foi o mais recetivo a este tipo de contacto direto.

Quanto às estratégias de médio/longo prazo, houve recetividade (em especial na faixa etária 25-34) face a programas de voluntariado e educação não formal sobre a UE. Uma vez que, de acordo com Costa (2022), muitos dos jovens (38% no estudo) que não fizeram voluntariado o poderiam ter feito, aparenta existir uma faixa da juventude cuja mobilização eleitoral seria beneficiada caso participassem nestes programas de voluntariado.

Por outro lado, em relação aos programas de intercâmbio, notou-se um apoio por parte dos participantes que deram a sua opinião, como o caso do P18, do género masculino, do *focus group* 3. Na eventualidade da tese de Wilson (2011) estar correta, é possível que a participação nestes programas não contribua para que os jovens se sintam mais pró-europeus. Todavia, tendo em conta a abertura dos participantes neste estudo aos programas, bem como literatura que nitidamente discorda da tese do primeiro (Consonni,



2020; Martínez *et al.*, 2014) seria benéfico, quando menos, incentivar os jovens a participar nestas atividades de intercâmbio.

Existe consenso sobre a importância da educação política nas escolas, tendo sido a estratégia mais destacada. Porém, as opiniões divergem entre grupos. No primeiro, os jovens de 18-24 anos com formação superior veem as eleições europeias como parte de uma participação cívica e política geral, sugerindo *workshops*, disciplinas dedicadas e visitas obrigatórias a instituições europeias. No grupo dos jovens da mesma faixa etária, mas sem formação superior, houve a promoção de atividades práticas e a inclusão da disciplina de Ciência Política no ramo geral do ensino secundário. Já os jovens de 25 a 34 anos com ensino superior defendem a inclusão de disciplinas no ensino secundário que versem sobre a cidadania, e introduzam conceitos sobre economia e representação política. Aqui, considerando que uma mais elevada educação formal é um dos fatores sociodemográficos que preveem a participação política (Kitanova, 2020), e que a educação não-formal incentiva uma participação política não-eleitoral (Busse *et al.*, 2019), é notável que os jovens tenham hospitalidade face a estas propostas.

Sobre a sugestão do Embaixador jovem da UE na aproximação dos cidadãos às instituições europeias, os participantes sem formação superior dos 18 aos 24 anos são mais otimistas do que os participantes com formação superior e de faixas etárias superiores. Os participantes destes dois grupos são céticos em relação às habilidades de comunicação específicas do Embaixador e ao método de seleção dessa figura. Daí terem enfatizado que a sua eficácia enquanto comunicador dependeria da sua personalidade.

Acresce que os próprios jovens entrevistados sugeriram estratégias além das elencadas na Tabela 1. Os dois *focus groups* com jovens entre os 18-24 anos consideraram as redes sociais, *podcasts* e debates políticos (que podiam tomar lugar nas redes sociais) como os meios mais eficazes de mobilização a médio prazo. Porém, os jovens com ensino superior destacaram o papel dos meios digitais para dinamizar a formação já obtida em contexto escolar. Já os participantes entre os 25-34 anos enfatizaram a importância dos agendas e programas políticos. Os jovens mostraram um afastamento dos representantes europeus em comparação com os nacionais, justificando esse fenómeno pela falta de destaque que aqueles têm no noticiário oferecido pelos *media* tradicionais. Além disso, a perceção dos participantes é que o sistema e a representação europeia são muito complexos e ligados a processos internos dos partidos. Outras propostas de estratégias incluem a ênfase das agendas pelos partidos, bem como uma maior flexibilização cronológica do sufrágio e a sua transição para um sistema eletrónico.

É também relevante destacar que não se identificou uma grande discrepância entre as respostas dos participantes do género feminino e do género masculino. Excluindo algumas pontualidades, a vasta maioria das respostas masculinas foram de encontro às femininas, o que significa que o atributo 'género' não condicionou as reflexões.

Em suma, a melhor estratégia apontada pelo *focus group 1*, com participantes dos 18 aos 24 anos com formação superior, é a educação formal (100%) com o complemento das redes sociais (50%). O *focus group 2*, da mesma faixa etária sem formação superior, atribui maior peso à utilização das redes sociais (100%). O *focus group 3*, com jovens dos 25 aos 34 anos com formação superior, semelhante ao primeiro grupo, concedem maior destaque à educação (100%), apresentando-se, adicionalmente, favoráveis à utilização das redes sociais (60%).



7. Recomendações

Apresentam-se, agora, algumas recomendações estratégicas que, de acordo com a investigação, permitem aumentar a participação eleitoral dos jovens portugueses nas eleições europeias.

A curto prazo, em primeiro lugar, seria vantajoso que instituições como o Gabinete do PE em Portugal se valessem das redes sociais, organizando uma campanha de sensibilização direcionada aos jovens. Esta campanha deveria efetuar publicações semanais sobre temas como a identificação dos candidatos, a estrutura das famílias políticas no PE e o sistema eleitoral da UE. A segunda estratégia a curto prazo prevê o envio de uma mensagem de texto com informações essenciais sobre o processo eleitoral. Em terceiro lugar, julga-se necessário que os *media* tradicionais criem uma rubrica semanal informativa sobre temáticas europeias, informando, assim, as audiências sobre estas eleições. Por fim, também os partidos políticos devem dar um maior destaque às eleições europeias e aos temas europeus, quer zelando para que a informação chegue aos mais jovens.

Quanto às estratégias de médio/longo prazo, primeiramente, propõe-se que representantes de instituições como a Representação da Comissão Europeia em Portugal e o Europe Direct continuem a visita a escolas, mas também que se envolvam diretamente com associações estudantis, juvenis e sociais com o intuito de apresentar o projeto europeu (via *workshops* e outras atividades que instruem os jovens). Além disso, as escolas portuguesas devem velar pelo cumprimento do plano da disciplina de Cidadania e Desenvolvimento, de modo a instruir os jovens sobre a esfera política e cívica, tanto a nível nacional como europeu.

Em terceiro lugar, a inclusão obrigatória da disciplina de Ciência Política no ensino secundário poderia também contribuir para uma maior participação jovem nas eleições europeias, caso destacasse questões europeias e fosse lecionada por professores especializados. Seria também benéfico instituir visitas de estudo a instituições políticas europeias com os jovens. A quinta estratégia tem que ver com a criação de uma rede de jovens Embaixadores da UE que, de forma clara, sejam capazes de explicar questões europeias aos jovens. Finalmente, é relevante referir a criação de *podcasts* e debates que abordem temas europeus de forma simples e didática, nomeadamente desenvolvidas pelas instituições de representação europeia.

Fora as sobreditas estratégias, os participantes dos *focus groups* sugeriram uma flexibilização do período do voto, que permita o acesso generalizado ao voto antecipado, além da introdução de um sistema de voto eletrónico.

Conclusão

O objetivo deste artigo foi investigar e testar um conjunto de estratégias de mobilização a curto e médio/longo prazo que pudessem aumentar a participação eleitoral jovem nas eleições europeias. Para tal, identificaram-se estratégias de mobilização eleitoral na literatura, tendo-se criado uma tipologia descritiva que foi testada em três *focus groups*.

Os resultados dessa testagem apontam para a existência de uma convergência na defesa de algumas estratégias de mobilização e uma divergência relativamente a outras. O uso



das redes sociais e o reforço da educação cívica nas escolas foram as estratégias mais enfatizadas pelos participantes dos grupos. Face a essas conclusões, articulou-se um conjunto de recomendações que visam enfrentar e corrigir o problema. Além de incluírem estratégias previstas na literatura e codificadas na tipologia, as recomendações contam com sugestões feitas pelos próprios jovens entrevistados.

Em jeito de nota conclusiva, poderemos afirmar que o presente artigo contribui para preencher uma lacuna identificada na literatura, porém não poderemos deixar de sinalizar uma limitação que advém da composição da amostra utilizada na análise, apesar desta investigação não ter ambicionado a generalização empírica.

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COLOMBIA'S ENTRY INTO THE PACIFIC ALLIANCE; A READING FROM THE PERSPECTIVE OF NEOCLASSICAL REALISM

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Abstract

Colombia has a long tradition of participating in regional integration initiatives, as a full or associate member. The Pacific Alliance (PA) is one of the most recent integration projects in which Colombia participates. This article explores, from the perspective of neoclassical realism (NCR), the role played by the perception of foreign policy decision-makers, both in the systemic and regional context, and how these perceptions were assumed as opportunities or threats that defined Colombia's entry into this integrationist initiative. It employs a qualitative methodology through documentary analysis of scientific and journalistic sources. It concludes that the perception of the external context played an important role in Colombia's decision to become a founding member of the Pacific Alliance, and that the intervening variable of the decision-makers perception becomes valuable in contexts where the formulation of foreign policy falls largely on the presidential figure.

Keywords

Colombian foreign policy, Pacific Alliance, Neoclassical Realism, decision makers, systemic stimuli.

Resumo

A Colômbia tem uma longa tradição de participação em iniciativas de integração regional, como membro de pleno direito ou associado. A Aliança do Pacífico (AP) é um dos mais recentes projetos de integração em que a Colômbia participa. Este artigo explora, a partir da perspectiva do realismo neoclássico (RNC), o papel desempenhado pela percepção dos decisores de política



externa, tanto no contexto sistémico como regional, e como essas percepções foram assumidas como oportunidades ou ameaças que definiram a entrada da Colômbia nesta iniciativa integracionista. É utilizada uma metodologia qualitativa através da análise documental de fontes científicas e jornalísticas. Conclui-se que a percepção do contexto externo desempenhou um papel importante na decisão da Colômbia de se tornar membro fundador da Aliança do Pacífico, e que a variável interveniente da percepção dos decisores se torna valiosa em contextos onde a formulação da política externa recai majoritariamente na figura presidencial.

Palavras-chave

Política externa colombiana, Aliança do Pacífico, Realismo Neoclássico, decisores, estímulos sistémicos.

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COLOMBIA'S ENTRY INTO THE PACIFIC ALLIANCE; A READING FROM THE PERSPECTIVE OF NEOCLASSICAL REALISM

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Introduction

Based on Goldstein's (1993) and Giacalone's (2020) rationalist institutionalism, regional agreements, and therefore integrationist initiatives, are to a large extent an expression of political agreements on shared interests and ideas. That is, they are based on shared concessions, coincidences and values. This was not indifferent to the emergence of the Pacific Alliance (PA). Gonzalez (2021) and Actis (2014) state that the Pacific Alliance was mainly based on the convergence of foreign policies, the orientation towards free trade, openness and open regionalism shared by the founding countries (Colombia, Chile, Mexico and Peru), as well as the existence of harmonious relations with the United States. Each member of the PA joined the initiative according to its own expectations and interests, but there was a common feeling of sharing a pragmatic geo-economic vision that assumed the Asia-Pacific region as an economic and commercial pole to which it was necessary to integrate collectively.

In addition to shared interests, coincidences and ideological affinities, some factors play a role in the decision to join or not join a given integration process. Factors such as a systemic and contextual nature and the perception of foreign policy decision-makers, who, according to neoclassical realism, are those who interpret information as a threat or an opportunity. At the time of its creation, the Pacific Alliance was articulated with several objectives of Colombia's foreign policy: a platform for international projection towards trading partners and the Pacific Basin, reinserting itself into regional dynamics, and even, as pointed out by Daniel Flandes and Rafael Castro (2016) as a mechanism to confront Brazil's leadership in South America through *soft balancing*, in the words of Gonzalez (2021).

From this reflection, questions arise such as: Why did Colombia orient its foreign policy towards the creation and participation in the Pacific Alliance; what is the institutional design and guiding principles of the PA?; what were the systemic and regional contexts like before and during the creation of the PA?; what role did the perception of systemic



and regional stimuli play in the Colombian foreign policy decision to join this integrationist initiative?

In order to answer these questions and provide a contribution to the understanding of the Colombian foreign policy decision-making process, the article is structured in six sections. The first part shows the theoretical foundations of neoclassical realism, with special emphasis on the systemic stimulus variable and the intervening variable of the image and perception of the decision-making leaders for foreign policy. This, followed by a detailed description of the methodology designed. The third part analyzes the institutional characteristics of the Pacific Alliance. The fourth part shows a characterization of the external and regional context at the time of the creation of the Pacific Alliance; It also brings forward the image and perception of Colombian foreign policy decision-makers. In the fifth section, the possible systemic stimuli that influenced the decision to join the PA are related as a. The article ends with a series of conclusions.

1. Theoretical and conceptual foundation

Neoclassical realism (NCR) is a research program linked to the realist tradition that seeks to explore both external and internal determinants of state response and foreign policy. NCR seeks to bridge the gap within realism, which has traditionally been oriented towards theories of international politics rather than foreign policy. Authors considered neoclassical realists, such as Meibauer (2020), define it as a middle-range and eclectic theory in the sense of incorporating both structural and non-structural factors; domestic institutions, perceptions, identity, strategic culture, etc. (Meibauer, 2020, p. 8).

For this realistic program, the independent variable corresponds to systemic stimuli and power distribution at the international level, and the dependent variable is the foreign policy and external response of the States. Regarding the independent variable, Smith (2019) considers that it is a key determinant of international policy outcomes, because the international (and regional) environments in which a state is found, are what provide both incentives and disincentives for external action" (2019, p. 19). However, the process of translating systemic stimuli into external response is not a clear process; on the contrary, it is mediated by factors, which are considered in the NCR as intervening variables: the image of leaders, the strategic culture, the State-Society relationship and domestic institutions. In other words, these determine the way in which the systemic environment is perceived, the recognition of a threat, stimulus or opportunity. Also, and on the basis of these, decision-makers orient, in a certain way, a country's foreign policy.

Therefore, in order to explain the behavior of a state, one must elucidate the existing domestic processes that act as a perceptual filter through which all choices related to international pressures are made (Meibauer, 2020). In the words of Trapara (2017) foreign policy is ultimately more a matter of choices of political decision-makers, rather than an automatic consequence of the functioning of the international system (2017, p. 230). The perceptions of decision-makers become, among other factors, the hinge element connecting systemic conditions with a country's foreign response. These perceptions are like cognitive filters that inform how the information from the international environment is processed, what to pay attention to, where a state's



resources should be directed to, when and how to prepare to respond to potential threats and opportunities (2021).

Along this line of thinking, this article emphasizes the intervening variable of the perception of decision makers, in order to elucidate the motivations and opportunities, perceived by them, according to the stimuli and systemic context that made Colombian foreign policy be part of the nascent Pacific Alliance.

2. Methodological route

The article is based on a qualitative approach, through the search, analysis and interpretation of information from both primary and secondary sources. The selected information was processed and systematized by means of a bibliographic matrix under the orientation marked by the defined variables and the respective categories of analysis.

Table 1: Research variables

Independent variable	Intervening variable	Dependent variable
Stimuli and systemic and regional context prior to and during the creation of the Pacific Alliance	Perception of the independent variable by Colombian foreign policy decision makers, expressed as opportunity/threat.	Colombia's entry into the Pacific Alliance as a manifestation of the country's foreign policy

Source: prepared by the authors

Based on this, five (5) categories of analysis of the intervening variable were defined: i) the leftist shift experienced by a large part of the region at the beginning of the 21st century; ii) the weakness experienced by the Andean Community (AC); iii) the Colombian foreign policy goal since 2010 to reinsert itself into regional dynamics; iv) soft balancing strategies implemented by some secondary powers in Latin America with respect to Brazilian foreign policy, as in the case of Colombia; and v) the efforts of Colombian foreign policy to improve the levels of insertion in the region, mainly commercial, in the Asia-Pacific area. These five categories were evaluated based on the type of perception of the Colombian State's foreign policy, with "threat" or "opportunity" being the possible alternatives.

3. Historical Evolution and Integrationist Foundations of the Pacific Alliance

Through the different declarations and founding documents, the Pacific Alliance defines, among its main objectives: to progressively advance towards the free circulation of goods, services, capital and people; to promote greater growth, development and competitiveness of the member states, resulting in higher levels of well-being and overcoming socioeconomic inequality; to become a platform for political articulation, trade integration and projection to the world with emphasis on the Asia-Pacific region.



The Pacific Alliance defines itself as a deep integration. However, this feature is not enough to account for the institutional design and characteristics associated with the Pacific Alliance. The self-designation of deep integration in the case of the PA may refer to questions of rhetoric or the desired destination towards which this integrationist initiative will lead in the future, but it is not a feature of its current institutional structure.

On the other hand, the lack of consensus on the meaning and characteristics of deep integration should be pointed out. A number of authors, such as Schiff and Winters (2004), Barbosa and Buitrago (2019) consider that a fundamental condition for deep integration is supranationality, which allows, through the transfer of sovereignty, the harmonization of macroeconomic policies. On the other hand, another group of authors do not consider supranationality as an unrestricted condition for the achievement of deep integration. In that sense, for Vásquez (2013) this type of integration seeks to materialize global reforms within economies through openness, policy homologation and promotion of interdependence. This type of integration is based on four pillars: i) reduced differences in standards and production systems; ii) stability of governmental mechanisms; iii) eradication of custom and non-custom barriers; iv) elimination of barriers to trade in services (2013, p. 73). For Briceño, Legler and Prado (2022), interpreting the declarations and other documents of the Pacific Alliance, indicate that deep integration can be understood as a free trade zone that allows the free circulation of factors, but does not establish a common external duty or a joint trade policy. (2022).

The type of integration and regionalism, characteristic of the Pacific Alliance, has been considered from different shores. For example, Rojas and Terán classify it as New Latin American Regionalism (2016) this theoretical proposal of these authors, which goes beyond the exclusively commercial dimension and is framed in the new global and regional dynamics. Ardila (2015), on the other hand, calls it the New Latin American multilateralism (2015) and for Garzón (2015), it consists of Cross Regionalism (2015) because it consists on a complex network of trade agreements even with extra-regional economies and provides benefits such as: exercising a greater degree of control over the liberalization, increasing the attractiveness of foreign direct investment by signing trans-regional agreements with many extra-regional partners; and allowing economic visibility by establishing themselves as FTA "hubs" and serving as bridges between different regions" (Garzón, 2015, p. 11).

Another characteristic feature of the PA's institutional structure is its leadership. In this integration scheme, there is no evidence of a vertical and hierarchical structure led by a member state. In this sense, it can be considered that there is a shared leadership based on the *Pro-tempore* Secretariat, with an annual rotation among each member. In the words of Malamud (2011, p. 224), the PA is a liberal intergovernmentalism type: "it conceives regional integration as the result of the sovereign decision of a group of neighboring states [...] these states promote international cooperation to satisfy the demands of their relevant national actors. The intended outcome is the strengthening of state power, which retains the option to withdraw from the association, rather than its dilution into a regional entity" (Malamud, 2011, p. 224). Therefore, it is also of a presidentialism type, since the deliberative space where the transcendental decisions are taken are the presidential summits (González, 2021). The main mechanism for decision-



making is presidential declarations, which are based on the will of the parties and are not binding.

The working structure of the Pacific Alliance includes Presidential Summits, which in practice is the highest decision-making body of the process; the Council of Ministers, which is comprised of both the Ministries of Foreign Affairs and Foreign Trade; the meetings of the High Level Group (HLG), made up of the Vice Ministers of Foreign Affairs and Foreign Trade, who supervise the progress of the technical groups; and finally there are the technical groups and subgroups, which prepare the negotiations of the different themes of the Pacific Alliance, i.e. trade and integration, services and capital, mobility of people, cooperation and institutional matters.

Within the PA's organizational structure, there are also committees of non-state actors, such as the Pacific Alliance Business Committee, which has consultative and proactive powers. In addition to the emphasis on trade, the PA's work agenda also includes objectives related to education, cooperation and mobility, among others.

4. External environment and perception of decision-makers

China's entry into the world market and its impact on market globalization generated different consequences in both the industrialized North and the global South. Latin America was no exception and, in search of alternatives to the traditional relations with the United States and Europe, different regional leaders, as early as 2007, began to design a strategy to approach the Asia Pacific as a potential area of opportunities and development.

However, it was only in 2010, after the failure of the Pacific arc initiative, that negotiations began between Colombia, Mexico, Peru and Chile to create the Pacific Alliance. At that time, Presidents Alan García of Peru, Sebastián Piñera of Chile, Juan Manuel Santos of Colombia and Felipe Calderón of Mexico, met at the XX Ibero-American Summit held in Mar de Plata in December 2010, and agreed to promote a common project that would lead the four countries to the Pacific Alliance as an alternative and competition to MERCOSUR of Brazil, Uruguay, Paraguay and Argentina.

The PA was also created with economic rather than political integration in mind. A subtle form of criticism of the integration initiatives that were popular at the moment in South America. Also, as an alternative to UNASUR (Union of South American Nations) and ALBA (Bolivarian Alliance for the Peoples of Our America).

In this regard, there is an analysis of the external environments of the region and the perception of decision-makers in order to take the initiative to create the PA.

4.1 Genealogy

In Roman history, military personnel were used for the special purpose of espionage. Frontinus (40-103 AD) included espionage as an instruction among other services in the work of an officer (Erdkamp, 2011). It is also mentioned that when Scipio sent Caius Lilius to the camp of Syphax under the pretext of the embassy, he took many military officers with him in the disguise of his domestic servants and gathered expert soldiers.



In this way, the task of appointing generals to diplomatic posts in 17th-century Persia began so diplomatic reports could be checked. There are many mentions of appointing Generals as Ambassadors by Napoleon (Freke, 1854). Due to their historically strong role, most European powers had also employed military officers as foreign representatives by the mid-nineteenth century. The official nomination and regular position and name were given in 1857. In the same way, the United States came out of the period of isolation and in 1888 officially started appointing military attachés (Kupchan, 2020).

4.1 The pendulum to the left; the Latin American pink tide

The political and social environment in Latin America began to experience changes and turning points at the beginning of the 21st century; forces and changes of a systemic nature and also as a result of others generated within the region; one of these forces of change was the predominance of leftist governments in a large part of the region. Change motivated by the dissatisfaction with the results generated by the neoliberal policies implemented in Latin America since the end of the 1980s and by the search for empowerment of groups, communities and social movements excluded from these changes. This discredit allowed the rise of governments with alternative development models to neoliberalism, linked to the left-wing political spectrum, with its different nuances. This predominance of left-leaning governments has been known as the Latin American pink tide.

In terms of regional integration, several initiatives were promoted that distanced themselves from open regionalism, where trade took a back seat to include in the agenda various issues such as the political dimension, close cooperation, physical infrastructure, and the search for greater autonomy of the region from the United States, among other aspects. Sanahuja (2010) named these new initiatives post-liberal integration, which includes initiatives such as the Union of South American Nations (UNASUR) and the Union of South American Nations and the Bolivarian Alliance for the Peoples of Our America (ALBA).

These counter-hegemonic integration processes are also framed as a response and alternative to the proposal of North American origin and leadership for the creation of the Free Trade Area of the Americas (FTAA). This negotiation process began formally in 1998 at the second Summit of the Americas, after a preparatory period of four years (1994-1998) and ended, without a formal agreement, at the VI Summit of the Americas in 2005, signifying an ideological and political triumph of the so-called pink tide, especially of Hugo Chavez and Lula da Silva.

It is no coincidence that countries whose political orientation at the time was right-wing and liberal in matters of international trade, and which held, to varying degrees, a certain level of regional leadership, decided to create a new regional integration space. The formation of the Pacific Alliance can be considered a strategic response to counteract the counter-hegemonic project represented by the Bolivarian Alliance for the Peoples of Our America (ALBA).



It is worth noting that between 2002 and 2010 Colombia was navigating a project contrary to the leftist initiatives of the continental south. The United States was the epicenter of both economic and military policy. The then President Álvaro Uribe created, with his government, a retaining wall, so that Colombia would abandon any attempt to look towards alternative models of development and foreign policy autonomy from the United States, which was being forged in Unasur.

4.2 Weaknesses of the Andean Community (CAN)

The operational and institutional weakness experienced by the Andean Community is a stimulus for decision-making by Colombian foreign policy to establish the creation and active participation of a new integrationist alternative, such as the Pacific Alliance. This implies the mobilization of resources, strategies, and relationships with different stakeholders.

Authors such as Dos Santos and Ibañez consider that this crisis was the driving force behind the emergence of two diametrically opposed initiatives such as ALBA and the Pacific Alliance. Countries such as Ecuador and Bolivia approached the Bolivarian postulates represented in ALBA, while Colombia and Peru continued with a vision of free trade and open regionalism.

Several factors are attributed to the crisis of CAN. González (2021) considers that it has been largely due to the impossibility of achieving some of the integrationist objectives such as an Andean common market. According to Arroyave (2008, p. 299), this is attributable to the lack of political will to comply with the agreements, which was exacerbated in the early 21st century by ideological differences between the governments of the respective members. In the words of Casas and Correa (2007), it was the withdrawal of Venezuela from the organization, arguing discrepancies with the FTA negotiations between Colombia and Peru with the United States. In addition, the uneasiness in the political and commercial relations between Colombia and Venezuela contributed to the poor operability of the CAN, as these two countries have been the protagonists and leaders since its foundation, and their commercial exchange was the most dynamic within the organization (Casas & Correa, 2007, p. 608) .

As a result, for Colombia, the Andean Community lost its strategic value as the main mechanism for regional insertion, and the search for alternatives became an imperative for Colombian foreign policy. The Pacific Alliance was partly a response to the paralysis of the Andean Community, which immobilized it as the economic engine of the Andean region, but also caused the crisis to grow.

There were also political aspects that had an impact on the cracking of the CAN. Colombian foreign policy (2002-2010) was guided in correlation with the so-called "War on Terror" that George Bush had declared in the United States to the groups and countries that attacked the twin towers on September 11, 2001.

In Colombia, President Uribe assumed the war on terror doctrine and applied it to the guerrilla groups, declaring open war on them. The United States supported this war on the grounds that it was the way to counteract drug trafficking and therefore it was in the national interest of the US. Plan Colombia was the most powerful foreign policy



instrument Colombia has ever had in relation to the United States. It financed the modernization of the army, activated combined forms of collaboration in military intelligence and supported Colombia in its fight against guerrilla terrorism. All this led to an internal legitimization of the Democratic Security Policy, which Uribe had used to win the presidential elections.

This foreign policy was so ideologically empowering in Colombia that Venezuela and Ecuador became alarmed that the Colombian conflict was crossing their borders. There is a whole chronology of disagreements and border problems with Venezuela and Ecuador, which reached its peak when Colombia made an unauthorized incursion (2008) into Ecuador and intercepted and killed one of the most important FARC guerrilla fighters, the notorious *Raul Reyes*. This incursion was known as Operation Phoenix. With such provocation from Colombia to Ecuador, Venezuelan President Chavez confirmed his total disagreement with the Colombian government and prepared to close borders and reduce bi-national commerce to its minimum in the same year.

After the United States, Venezuela was the second most important market for Colombia. The losses of the crisis with the neighboring country were incalculable and the effect of such closure immediately affected the Colombian industry and forced the government to seek new opportunities in previously little-known markets such as the European Union. The export market with the latter went from USD 3,867 million in 2008 to USD 7,752 million in 2011. In addition, exports to neighboring countries such as Peru increased from 846 million dollars in 2008 to 1,323 million dollars in 2011, and Ecuador from 1,491 in 2008 to 1,909 in 2011 (DIAN, 2023). Relations with the latter were finally restored three months after the inauguration of Juan Manuel Santos as President of Colombia in 2010.

4.3 Colombia reconnects with the region gain

Several authors agree that during the 2002-2010 period, corresponding to the administration of Álvaro Uribe, Colombian foreign policy experienced a process of isolation in the Latin American context. In the opinion of Gonzalez (2021), this was the result of a strategic and intentional decision where the priority was bilateralism, the coupling relations with the United States, and the distancing from regional dynamics due to the predominance of left-leaning governments.

Several events deepened this process of Colombian isolation: the so-called Operation Phoenix on March 1, 2008, which involved the death of alias Raúl Reyes, number two of the Farc-EP guerrilla group, by means of a bombing by the Colombian air force in Ecuadorian territory; the military agreement between Colombia and the United States in 2009 that included the use of seven Colombian military bases by U.S. military and civilian personnel, which was perceived by much of the region as the possibility of greater interference by the northern country in regional dynamics. For Galeano (2019), the ideological differences added to these events was a reason for mistrust towards Colombia and an impediment to consolidate regional initiatives of relevance, or at least did not allow the inclusion of Colombia in these large projects" (2019, p. 64).

In seeking a shift in the orientation of foreign policy, since 2010, the administration of Juan Manuel Santos defined two explicit intentions: to break the country's isolation from



regional dynamics, (Sánchez & Campos, 2019), (Galeano, Badillo, & Rodríguez, 2019), and to exercise a greater role in the region and in multilateral spaces. This coincides with the perception of the then President Juan Manuel Santos, regarding regional integration and multilateralism, who stated:

We are a country that respects multilateralism and wants to strengthen it, that believes in integration, in trade openness, in respect for human rights, in the defense of freedom and democracy [...] We want to have good relations with all countries, including, of course, with those that have positions different from ours. This openness and international pragmatism are in Colombia's interest (Redacción el Tiempo, 2011).

An important difference that marked the arrival of Juan Manuel Santos to the presidency of Colombia (2010-2018) was the shift from a foreign policy of war against terrorism (Uribe 2002-2010) to a policy oriented towards peace with the guerrilla groups. In fact, there was such a diplomatic shift in neighboring countries that both Venezuela and Ecuador offered to mediate the Colombian armed conflict, which positively activated relations with those countries. Juan Manuel Santos never abandoned the strategic relationship with the United States; instead, he linked it to his peace policy and integrated it as a driving force in relations with Latin American countries.

4.4 Soft Balancing vis-à-vis Brazilian foreign policy

At the geopolitical and strategic level, authors such as Flames and Castro (2015) and González (2021) consider that the Pacific Alliance was presented as a means of institutional contestation or challenge in the region against the Southern Common Market and the leadership exercised by Brazil in this integrationist initiative and in the South American region. For Flandes and Castro (2015), from the administration of Álvaro Uribe — prior to the emergence of the PA— to that of Juan Manuel Santos, Colombian foreign policy underwent a shift towards the containment of Brazilian influence in the region. Under Uribe, it went from collateral hard balancing, expressed in the military cooperation agreement with the United States and the use of Colombian military bases by the northern country, to a soft balancing through the Pacific Alliance under Santos administration.

The context of the birth of the Pacific Alliance coincides with the deployment of Brazilian foreign policy led by Luis Inacio Lula Da Silva, aimed at consolidating a solid zone of influence in South America, excluding other power candidates such as Mexico. It also resulted in the leadership of regional projects such as Unasur, the South American Defense Council, the Initiative for the Integration of Regional Infrastructure of South America (IIRSA), the complementarity between Mercosur and CAN, and the Community of Latin American and Caribbean States (CELAC).

The Pacific Alliance was perceived by Colombian foreign policy as a sort of geopolitical counterweight to Brazil's South Americanist project, for a country that considered itself a secondary power, as is the case of Colombia. This Brazilian foreign policy strategy is presented as a clear systemic stimulus of a regional nature, which received determined responses from other Latin American states.



Soft balancing is a foreign policy strategy of states that aims at achieving a balance of power or reduction of influence of the dominant power, avoiding direct confrontation, whether on a global or regional scale. In this regional case, Brazil uses diplomatic and institutional mechanisms, such as "regional blocs and coalitions in multilateral spaces, financial movements, among others" (Carranco, 2017, p. 66). Colombian foreign policy elements that allowed improving relations with Brazil included thematic diversification, the search for reinsertion into regional dynamics, desecuritization, and a pragmatic relationship with the United States.

4.5 The Pacific Alliance as a projection platform to Asia Pacific

Colombia is a country with extensive coastlines on both the Atlantic and Pacific oceans. However, despite this condition, the country has historically registered low levels of insertion at the political, cultural, diplomatic, and commercial levels in strategic areas such as Asia Pacific; Colombia has emphasized its external relations with Latin America and Atlantic countries.

Since the last two decades, the emergence and rise of the Asia-Pacific region as an economic and commercial pole of the world has become a systemic and global fact, accompanied by geopolitical tensions, rivalries, and alterations in the balances of world power, as pointed out by Schereer (2019) and Morais (2023), as well as commercial and economic opportunities; Sanjay et al. (2022), (Lee & Chen, 2020), illustrate these different realities.

Certainly, for the foreign policy of the time of the creation of the Pacific Alliance, this area of the world was perceived by decision makers as a strategic opportunity for Colombia to diversify markets, as well as the exportable supply and the possibility of advancing in the insertion to the global trade dynamics. On different occasions, the president at the time expressed the vision and perception of the Asia-Pacific region as a zone of commercial opportunities for the Colombian economy: "Integrating Colombia with the Asia-Pacific region, which concentrates more than half of the world's GDP and more than half of world trade, has been a dream, almost an obsession, for more than two decades" (El Espectador, 2015).

On another occasion, the highest authority in foreign policy in Colombia, President Juan Manuel Santos, two years after the signing of the Lima Declaration that gave rise to the PA, and emphasizing the strategic importance of Asia-Pacific, stated: "Asia-Pacific is the new pole of development in the world and Latin America wants to be part and partner of this development. To achieve this, we created this Pacific Alliance" (El Tiempo, 2013).

The objective of achieving higher levels of insertion in the Asia-Pacific region did not fall exclusively on Colombian participation in the PA; this was also sought through different expressions of Colombian foreign policy; i) seeking formal entry to the Asia-Pacific Economic Cooperation forum (APEC), reflected in the participation, as an observer member, in different working spaces of this organization, such as the Investment Experts Group, Services Group, Subcommittee on Customs Procedures, Tourism, Small and Medium Enterprises, and the subgroup on Data Protection. (Ministry of Foreign Affairs of



Colombia, 2019); (ii) signing of free trade agreement with South Korea; (iii) significant increase in official visits.

5. Synthesis of systemic stimuli that influenced the decision to become part of the PA

The following table summarizes the role played by the intervening variable of the perception of decision makers as opportunities or threats and their consequent response based on the development of the previous analytical categories, understood with the possible systemic and regional stimuli.

Table 2. Perception of systemic stimuli

Systemic Stimuli: Regional international context	Perception of Colombian Foreign Policy	Type of perception
Latin American pink tide	The advance of left-leaning governments generated polarization in the region between these and the countries governed by right and center-right projects. The Latin American pink tide developed integrationist and geopolitical projects not shared by Colombia, largely because it promoted principles contrary to free trade, distancing itself from the United States and open regionalism.	Threat
Weaknesses of the Andean Community (CAN)	The failure to meet some of the objectives set, Venezuela's withdrawal, and ideological polarization weakened the institutional framework and called into question the viability of the Andean Community. A double perception, both as a threat and an opportunity; a threat for losing an integrationist space of good political and commercial benefit for Colombia, and an opportunity to diversify commercial and political relations with important regional economies such as Mexico, Peru, and Chile.	Opportunity/Threat
Colombia reconnects with the region	The emergence of the Pacific Alliance coincided with the change in the orientation of Colombian foreign policy since 2010, which established as one of its main objectives to reinsert itself into regional dynamics. The PA was perceived as a means to achieve this objective.	Opportunity



Soft Balancing vis-à-vis Brazilian foreign policy	The orientation of Brazilian foreign policy at the beginning of the 21st century towards the consolidation of South America as an area of influence and its undisputed leadership in the region threatened the aspirations of secondary powers such as Colombia and Chile.	Threat
The Pacific Alliance as a projection platform to Asia Pacific	Among the Latin American countries with coasts on the Pacific Ocean, Colombia is one of the furthest behind in terms of its integration into Asia-Pacific markets. Colombian foreign policy decision-makers recognize the growing importance of this area in the world economy and the need to improve these insertion levels. Precisely, since its inception, the PA has been defined as a platform for insertion into the Asia-Pacific area.	Opportunity

Source: Prepared by the authors

The systemic stimuli, mainly expressed in the opportunity-threat relationship of the international and regional context, are one of the factors that influence the definition of a given foreign policy. As shown and evidenced throughout the article, the decision to join the Pacific Alliance and to place it as a strategic and fundamental axis within the country's foreign policy was largely influenced by the image of foreign policy executives, both in the systemic and regional environment. However, this is not the only determining factor; in this decision, factors such as the strategic culture, the tradition of Colombian foreign policy, the political orientation of the administration in office, among others, may also have played an important role. In other words, considering the systemic stimuli, the distribution of power at the regional and international level, the perception of foreign policy decision makers, the political orientation of the government in power, among other factors, joining the Pacific Alliance appeared to be the natural path to follow for Colombian foreign policy.

Foreign policy analysis currently has a series of diverse theoretical and methodological tools and options that provide an understanding of the process of design, decision-making and execution of this type of policy. One of them is precisely the postulates of neoclassical realism, which is useful for the analysis of specific cases, such as the one studied here. In this sense, regarding Colombian foreign policy, it is important to open the space for future research that seeks to answer questions such as: "Is it worthwhile to constantly open new regional integration initiatives that respond more to the ideology of decision-makers than to their institutional consolidation, beyond the governments in power?" "How can the different regional multilateral integration initiatives be integrated and coordinated among themselves as a strategic whole for the region vis-à-vis the large transcontinental market blocs?" "Is it possible for a country like Colombia to activate state institutional mechanisms that allow for a stable diplomatic and foreign policy route, regarding its bi-national and multilateral integration initiatives without depending on the ideology of the governments in power?" "How to ensure that the foreign policy of a state



is not so sensitive to the ideology of the governments in power?" "What can be expected from the Pacific Alliance in this decade when leftist presidents are returning to power in Mexico, Colombia, and Chile, who view this initiative with indifference and even suspicion?"

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LOSS OF A COMMON HORIZON: ALBA AND THE CONTRADICTIONS OF THE BOLIVARIAN REVOLUTION

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Abstract

This article deploys neo-Gramscian international relations theory to discuss how the Bolivarian Alliance for the Peoples of our America (ALBA) can be understood as an attempted transnationalisation of the counter-hegemonic historical bloc of social forces that originated with Venezuela's Bolivarian Revolution. The Bolivarian Revolution inaugurated a protagonistic National Constitution which sought to give a central role to civil society and social movements in political life, enfranchising unrepresented people, like indigenous communities. ALBA consists of an attempt to transnationalise this movement by providing a model of regionalization for Latin America that constitutes an alternative to the neoliberal approach embodied in other regionalisation initiatives, such as the Free Trade Area of the Americas (FTAA). However, the article argues that ALBA's success as a vehicle for the transnationalisation of counter-hegemony in Latin America has been severely compromised by emerging tensions and contradictions within the Bolivarian Revolution historical bloc, namely between the social movements and the central governments of ALBA's member countries. These contradictions become particularly evident when analysing social movements' struggles about the environmental impacts of massive infrastructure projects promoted by these governments as part of their overall national and regional strategy of economic development and poverty alleviation.

Keywords

ALBA; Bolivarian Revolution; social movements; hegemony; counter-hegemony; environment and development.



Resumo

Este artigo utiliza a teoria neogramsciana das relações internacionais para discutir como a Aliança Bolivariana para os Povos da Nossa América (ALBA) pode ser entendida como uma tentativa de transnacionalização do bloco histórico contra-hegemónico de forças sociais que se originou com a Revolução Bolivariana na Venezuela. A Revolução Bolivariana inaugurou uma Constituição Nacional que procurou dar um papel central à sociedade civil e aos movimentos sociais na vida política, emancipando pessoas não representadas, como as comunidades indígenas. A ALBA consiste numa tentativa de transnacionalizar este movimento, fornecendo um modelo de regionalização para a América Latina que constitui uma alternativa à abordagem neoliberal incorporada em outras iniciativas de regionalização, como a Área de Livre Comércio das Américas (ALCA). No entanto, o artigo argumenta que o sucesso da ALBA como veículo para a transnacionalização de um movimento contra-hegemónico na América Latina foi severamente comprometido pelas tensões e contradições emergentes dentro do bloco histórico da Revolução Bolivariana, nomeadamente entre os movimentos sociais e os governos centrais dos países membros da ALBA. Estas contradições tornam-se particularmente evidentes quando se analisam as lutas dos movimentos sociais sobre os impactos ambientais de projectos de infra-estrutura promovidos por estes governos como parte da sua estratégia nacional e regional de desenvolvimento económico e redução da pobreza.

Palavras-chave

ALBA; Revolução Bolivariana; movimentos sociais; hegemonia; contra-hegemonia; ambiente e desenvolvimento.

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Introduction

In 2005, the Summit of the Americas gathered in Mar del Plata to celebrate a new economic free trade agreement, the Free Trade Area of the Americas (FTAA). This agreement would serve as an expansion of the North American Free Trade Agreement (NAFTA) and aimed to inaugurate a free trade area 'from Alaska to Patagonia' (FTAA, 2003). However, simultaneously a parallel Summit took place that expressed resistance to, and discontent with, the FTAA. Hugo Chávez, Néstor Kirchner and Lula da Silva, the political leaders of Venezuela, Argentina, and Brazil respectively, formed a diplomatic alliance to stop the approval of the FTAA. In this historical moment, Chávez presented to Latin America, in the Summit of the Peoples, the Bolivarian Alliance for the Peoples of our America or *Alianza Bolivariana para los Pueblos de Nuestra America* (ALBA). ALBA is a regional institution founded by Venezuela and Cuba in 2004, that was portrayed as an expression of the struggle for an alternative form of political, economic, and social integration in Latin America; an alternative regionalisation process that has been described by authors such as Thomas Muhr (2011) as 'counter-hegemonic'.

Informed by a neo-Gramscian perspective, this article builds upon ALBA's characterization as 'counter-hegemonic' to discuss ALBA as an expression of the transnationalisation of the national-based counter-hegemonic movement inaugurated with the Bolivarian Revolution in Venezuela. The Bolivarian Revolution expressly aimed at transforming the social configuration of the Venezuelan state, by providing the economic, social, and political conditions that would permit previously excluded and unrepresented people, such as indigenous groups and poorer Venezuelans, to constitute themselves as active political agents in the shaping of their conditions of existence and collective future. By mobilizing Cox's (1987, 1993) conception of the transnationalisation of hegemonic classes, ALBA can be read instead as an institutional vessel for the transnationalisation of the Venezuelan historical bloc of social forces and the counter-hegemonic movement these represent, in an attempt to escape the national isolation of the Bolivarian revolution. This is expressed, for example, in the way that crucial social movements in the historical bloc of the Bolivarian state were provided with a platform



for transnational expression in the ALBA framework, with the creation of the Council of Social Movements (CMS).

However, the article also argues that the transnationalisation of the Bolivarian Revolution via ALBA was ultimately undermined by emerging contradictions within the historic bloc that supported it. Building on what Martínez (2013) calls the 'counter-hegemonic double turn' in the CMS, the article discusses how a growing tension emerged between the social movements and the governmental elites constituting the Bolivarian counter-hegemonic historic bloc that eventually weakened the movement and its transnational institutional expression in ALBA. These contradictions expressed themselves at both the national and international/ALBA levels and became particularly evident in the tension that developed between different expressed goals of the Bolivarian Revolution, namely between the goals of economic development and poverty alleviation, environmental protection, indigenous and minority rights, and participatory democracy.

The article develops this argument in three sections. First, it discusses the neo-Gramscian notions of hegemony and counter-hegemony. Second, the article considers how these concepts can be mobilized to analyse ALBA as an expression of the transnationalisation of a counter-hegemonic movement. Third, the article considers the contradictions within the Bolivarian counter-hegemonic historical bloc and how these ultimately undermined its transformative goals for the Latin American region. This discussion is particularly relevant for understanding the challenges facing counter-hegemonic movements in Latin America.

Hegemony, counter-hegemony and transnationalisation

Robert W. Cox (1987) is acknowledged as one of the main authors responsible for the mobilization of Antonio Gramsci's notions of hegemony and counter-hegemony for the study of world politics. Differentiating himself from neorealist (see e.g., Mearsheimer, 2001) and neoliberal (see e.g., Keohane, 1984) ahistorical conceptions of hegemony predominant in International Relations (IR) theory, Cox sought to develop a historical materialist approach to the concept that highlighted the close relationship between production, class relations and world politics.

The Coxian approach emphasises the Gramscian conception of hegemony as a combination of both coercion and consent. Hence, hegemony, at the level of world politics, does not simply mean military domination. Rather, to become hegemonic, a state must establish and protect a world order which is also universally consented to. Therefore, in an inter-state system, hegemony does not emerge purely from direct military domination, but is always accompanied by a consensualization process between the various interests that arise from a global civil society that operates on a world scale (Cox, 1993, pp. 59-62).

According to Cox (1993), a world hegemony can thus be witnessed when a national hegemonic historic bloc – comprising of a dominant set of social forces at the national level which, via coercion and consent, exercises hegemony over subaltern classes in that national state-society complex – expands outwardly, towards the international level, reproducing its national patterns into other states. Thus, the countries on the receiving



end, without undergoing the same historical process as the hegemonic state, will willingly adopt its political and economic models.

This world hegemony is exercised through international institutions that combine a repressive function and a consent-building function, expressed in the form of an emergent consensus around 'universal' norms, institutions, and mechanisms for the regulation of world affairs and national societies. These international institutions prescribe general understandings, protocols, norms, and behaviours that each state should abide by and which, ultimately, support the hegemonic modes of production and political organization. The hegemonic world order thus manifests itself through international institutions that embody the rules and facilitate the expansion of the hegemonic states' social forces, in the process legitimating their norms of world order while absorbing and rejecting counter-hegemonic ideas (Cox, 1993, pp. 62–64).

However, beyond tracing the national formation and transnationalisation of hegemonic movements, and their eventual consolidation as hegemonic world orders, Cox was also interested in identifying the immanent potentials for structural change in the hegemonic world order through the development of alternative, counter-hegemonic historical blocs. Cox's argument was that, in order to constitute themselves as effective counter-hegemonic movements, counter-hegemonic social forces needed to acquire autonomy from the hegemonic consensus, ultimately developing their own class and group identity (Cox, 1987, pp. 356–358). In this context, and once again closely following Gramsci, Cox highlighted the fundamental role of organic intellectuals in the production and reproduction of both hegemonic orders and counter-hegemonic movements. Similarly to Gramsci, Cox conceived the intellectual as belonging to a social stratum that fulfils certain functions of cultural and political reproduction (Hoare and Sperber, 2016, pp. 36–39). While the majority of organic intellectuals actively legitimize and reproduce the hegemonic order, intellectuals can also play a role in delegitimizing dominant hegemonic consensuses and forms of common sense, actively seeking the development of alternative worldviews and identities that underline the ideational consolidation of counter-hegemonic movements.

A counter-hegemonic movement can thus be formed when a subordinated class, together with counter-hegemonic organic intellectuals, successfully leads the process of formation of a counter-hegemonic historical bloc that, involving several other subaltern groups, successfully breaks the dominant hegemonic consensus and conquers power at the national level (Cox, 1993, pp. 64–65). As Cox (1993, p. 65) notes, 'changing the world begins with the long, laborious effort to build new historic blocs within national boundaries'.

However, conquest of national power cannot be the end-stage of any counter-hegemonic movement. While the structural transformation of world order starts with the laborious task of building a national historical bloc, its potential to survive in face of the opposition of the hegemonic world order also depends on expanding beyond its borders and reproducing, at the international level, its own consensual understandings and conceptions of the world, namely via the establishment of international institutions and other mechanisms that promote its alternative mode of production and model of social organization (Cox, 1993).



Cox thus provides a framework, framed within a wider neo-Gramscian perspective, through which the Bolivarian Revolution, and its attempted transnationalisation via ALBA, can be understood. From the start, the Bolivarian Revolution was portrayed by Hugo Chávez as an attempt at carrying out the dream of Simón Bolívar, the union of Latin America (Cole, 2011). The attempted actualization of Bolívar's vision for the region has been expressed in two different phases (McCarthy-Jones, 2015, p. 48): The first phase (1994-2004) was focused principally on domestic issues relating to poverty alleviation, as well as great political challenges, such as the attempted *coup d'état* on Hugo Chávez's administration in 2002, as it sought to consolidate power. The second phase (2005-2013) involved a greater emphasis on foreign policy at both the regional and international levels. Thus began the institutionalization of ALBA which aimed to break with the United States' hegemonic position in Latin America and promote an alternative process of regional integration. The next section provides a more in-depth analysis of these different phases and a discussion of ALBA as an expression of the attempted transnationalisation of the Bolivarian Revolution.

ALBA and the transnationalisation of the Bolivarian Revolution

ALBA was constituted in 2004, during what has been called the fourth wave of regionalisation in Latin America (Dabène, 2018, p. 51). The third phase of Latin America's regionalism can be characterized by the opening of national markets to neoliberal policies with emphasis on exports and free trade under the Washington Consensus (Drake, 2006, pp. 33–39). The perceived failure of pro-market policies meant that Latin America's left parties and left-wing movements had to reimagine the very constitution of a possible democratic society (Beasley-Murray, Cameron and Hershberg, 2009). Thus, Latin America's left turn during the late 1990s and early 2000s, frequently characterized as a 'pink tide', has been described 'as a multiplicity of disparate efforts to (...) re-found the constitutional order or social pact' (Beasley-Murray, Cameron and Hershberg, 2009, p. 320).

The fourth wave of regionalism was thus characterized by a questioning of the 'common sense' of the third wave, and by the development of a conception of regional integration not as a vehicle for free trade and capital accumulation, but rather as an instrument of democracy and development in Latin America (Dabène 2018, p. 53). Dabène (2018, p. 53) characterises this fourth wave regionalism as a 'counter-hegemonic turn' in the region, and sees it as an expression of a movement which, initiated with Venezuela's Bolivarian revolution, and with the active support of other regional leaders, such as Brazil's Lula da Silva or Cuba's Fidel Castro, had the expressed purpose of questioning US hegemony on the continent and promoting an alternative regionalization process, whose main international institutional embodiment was ALBA.

The creation of ALBA is frequently framed as part of the second phase of the Bolivarian Revolution, characterised by a reinforced focus on foreign policy issues. In 2004, Venezuela's government announced a 'new strategic map' which introduced the notion of '21st century socialism' (Muhr, 2013, pp. 7–8) and radicalized Venezuela's foreign policy towards a break of bilateral relations with the United States and the promotion of



integration and solidarity across the region through a process of Latin American institutionalization (McCarthy-Jones, 2015, pp. 53–61).

As mentioned above, the Bolivarian Revolution is characterised as having two different phases (McCarthy-Jones, 2015, p. 48). The first phase began when Hugo Chávez was first elected president in 1999 and promised a total political transformation of Venezuela, immediately announcing the intention of calling a Constitutional Assembly to produce a new Constitution for the country. The final document was submitted to a referendum on November 12th, 1999, approved popularly by 71 per cent of the voters. According to Cusack (2019), the new republic showed several distinguishing characteristics that would become core features of the Bolivarian Revolution. The promotion of national and Latin American autonomy became crucial, as well as the pursuit of endogenous development, while enfranchising previously excluded segments of the population (Cusack, 2019). This enfranchisement targeted specifically indigenous people, with Chapter VIII of the Bolivarian Constitution stating that ‘as a consequence of [their] conditions of vulnerability, indigenous rights are recognised (...) as specific and original rights’. The Constitution protected indigenous peoples and directed ‘the Venezuelan State to acknowledge its multi-ethnic, pluricultural and multilanguage character’ (RBV, 1999, pp. 212–215). Article 62, for example, stated that ‘the participation of the people in the creation and execution, and control of public affairs is the required means to achieve the protagonism that guarantees their complete development, both as individuals and as a collective’ (RBV, 1999, p. 182). This predicted participation through traditional methods, such as elections to public office, the right to referendum or legislative initiatives, but also envisioned methods such as the development of self-management communities, cooperatives, and community businesses (RBV, 1999, pp. 182–185).

The attempt to institutionalize a participatory democratic model in Venezuela led to the establishment of the *misiones* (missions) in the social, political, economic, and cultural spheres which ultimately promoted grand missions for large-scale social projects that promoted citizen participation in local government planning and decision-making (Muhr 2008). Ultimately, the new Bolivarian Constitution would give a ‘protagonistic’ role to social movements, something social movements have ever since sought to promote both within Venezuela and in the context of ALBA. The 2012 *Plan de Desarrollo de la Nación* (PDN) also campaigned towards a culture of popular mobilization. The PDN was a program for the planification of contributions to electoral campaigns at the local and regional levels, organizing debates between the candidates and seeking popular inclusion during the electoral processes. The organization and expansion of Communal Councils (*Consejos Comunales*) also became an important tool for popular mobilization. Communal Councils were a new type of neighbourhood association, with each council being constituted of up to four hundred families who then met in a Citizens Assembly (Hawkins, 2010). Because the Communal Councils were not purely territorial, they frequently overlapped several different communities. The multiplication of communal spaces was understood as the materialisation of the participatory democracy project spreading across rural and urban areas (Vargas, 2020, pp. 185–208).

The Bolivarian Constitution thus symbolised an attempted refoundation of Venezuelan politics under a participatory democratic model (Hawkins, 2010). It was understood by its promoters as the first impulse of a national project in which sovereignty was placed



in the people's hands, who exercised it directly through mechanisms established by the new Constitution. It sought the consolidation of national independence from foreign powers, and the construction of a 'socialism of the 21st century' implying a deep transformation of Venezuela's economic and political system.

However, this project was never understood as a purely national one. In fact, the perception of its success and future survival was premised on its capacity to transnationalise itself beyond the borders of the Venezuelan state. Hence, the second phase of the Bolivarian Revolution, beyond being characterised by a reinforcement of Chávez's presidential powers vis-à-vis opposition forces following the attempted *coup* of 2002, also witnessed the establishment of a foreign policy expressly oriented to the transnationalisation of the Bolivarian project (Roniger, 2019).

Venezuela's 'new strategic map', presented in November 2004, expressed the desirability of a multipolar world, constituted of five regions that Chávez considered the main poles of global power (Africa, Asia, Europe, North America, and South America). An autonomous South America was envisioned in this context, where the USA no longer led either the world or the American continent. To achieve this, Venezuela's foreign policy began to engage in the strengthening of South American regional integration through an incremental process of institutionalization (McCarthy-Jones, 2015, pp. 47–66). Ultimately, the view was that, to liberate Venezuela from the United States' economic and geopolitical dominance, it was necessary to solidify its sovereignty via an international strategy of promoting a regional integration process that constituted an alternative to the Washington-led regionalism in Latin America (McCarthy-Jones, 2015, pp. 47–66). ALBA came to be in this context.

A major development that favoured the idea of ALBA was the failure of the proposed FTAA during the Summit of the Americas in 2003 (FTAA, 2003). This rejection revealed a regional break with the Washington Consensus and a changing orientation in Latin America's models of economic and social development (McCarthy-Jones, 2015, pp. 53–61). ALBA was from the beginning described as the opposite of the FTAA, with the former's heads of state describing the latter's neoliberal initiative as the 'most polished expression of the appetites for domination over the region and, if it were to take effect, it would constitute a profound neoliberalisation which would create levels of dependence and subordination without precedent' (ALBA, 2004). ALBA was thus established in a clear rejection of the contents of FTAA's agreement, affirming aspirations towards Latin American and Caribbean (in opposition to Pan-American) integration for the region. The bloc would be built within Latin Americanism foundations, that is, with the objective of building a *Patria Grande* (Great Homeland), for the people of Bolívar, envisioning a postcolonial fraternity. It would be built through developmental guarantees, South-South cooperation and cultural protection for the mutual integration and benefit of the Latin American people.

Besides ALBA, the Latin Americanism integrational strategy saw the creation of other regional institutions, like the Union of South American Nations (*Unión de Naciones Suramericanas* – UNASUR), the Community of Latin American and Caribbean States (*Comunidad de Estados Latinoamericanos y Caribeños* – CELAC), and interstate projects such as *PetroCaribe*, *Banco del Sur*, *Gasoducto del Sur* or *Transcaribeño* (Roniger, 2019). *PetroCaribe* was an initiative founded in 2005 by Venezuela to provide subsidised oil to



17 countries in the Caribbean and Central America. *Banco del Sur* was founded in 2007 in Buenos Aires to serve as a substitute institution to the World Bank and the IMF which, once again, was to be funded with Venezuelan oil money. Finally, the *Gasoducto del Sur*, as well as the *Transcaribeño*, were new infrastructure projects for cooperation towards financial and energetic sovereignty in the region.

ALBA thus became the centre of an increasingly intertwined network of regional initiatives focused on integration-based cooperation and solidarity between Latin American states, which expressly excluded a US-led neoliberal regional integration model. At the centre of ALBA's alternative was an attempt to transnationalise the 'participatory democracy' inaugurated in Venezuela with the Bolivarian Revolution by conceiving a key role to social movements in ALBA's regionalisation model. Hence, ALBA actively encouraged the participation of non-state actors at the regional level, aiming towards the construction of what has been described as a 'transnational organised society', as an alternative conception to that of liberal individualism's civil society (Muhr, 2012). Therefore, ALBA actively sought to 'upscale' what were understood as the democratic conquests of Venezuela's Bolivarian Revolution by integrating transnational social forces in ALBA's governance structure (Muhr, 2011). The main expression of this was the institutionalization of the Council of Social Movements (CSM).

The CMS was established at the 5th ALBA Summit, in 2007, with the expressed objectives of promoting the continuous struggle for pluralism in harmony with the environment and with the principles of *buen vivir*, and to forge a new Latin American *Patria Grande*, decolonized, founded on multiversity, and respecting the difference of every social and cultural particularity. The CMS was to operate as a space for the development of common agendas, fully identified with the principles which directed ALBA as a process of integration, and it envisioned the constitution of national chapters that would define their own dynamic guidelines in coordination with their national governments (Martínez, 2013, pp. 63–67). The CMS thus expressed an attempt to transnationalise the goals of participatory democracy of the Bolivarian Revolution.

The Manifesto written for the 1st Summit of ALBA's CMS expresses great similarities with the Venezuelan Bolivarian Constitution, including a call on both other states and social movements of Latin America to unite in the common struggle for an autonomous region, committed to the ideals of development, peace, and solidarity. In the Manifesto it can be read:

What we are living in Latin America is part of a process of social reappropriation of our common destiny, of new forms of political organization, [that promote a] horizontal, direct, and participatory democracy, a new economic system which benefits the peoples within harmonious, solidarist and communitarian social relations of production¹.

ALBA and the CMS were thus a clear expression of the transnationalisation of the counter-hegemonic movement initiated with Venezuela's Bolivarian Revolution, aiming at a

¹ CSM (2009) "Manifesto Geral da Primeira Cúpula de Conselhos de Movimentos Sociais da ALBA-TCP". Accessed 31 October 2022: <https://mst.org.br/2009/10/21/manifesto-aponta-para-fundacao-do-conselho-de-movimentos-sociais-da-alba/>.



reconfiguration of politics at the national and regional levels based on the development of a participatory, direct democracy model of governance, and the gradual development of a transnational organised society.

However, as the next section discusses, the transnationalisation of the Bolivarian Revolution soon faced similar tensions to the ones that were emerging within the Venezuelan historical bloc itself, leading to a growing split between social movements adhering to the goals of participatory democracy and central governments and regional institutions increasingly concerned with promoting economic development and poverty alleviation in the midst of the constraints imposed by the hegemonic world order.

Contradictions and breakdown in counter-hegemony

In an assessment of the development of the CMS, Martínez's (2013, pp. 63–77) has built upon Muhr's (2011) argument that ALBA represents a transnationalisation of the counter-hegemonic movement initiated with the Bolivarian Revolution to argue that, in fact, that movement has witnessed what can be described as 'double-turn of counter-hegemony'. While the first 'turn' is characterised by a process of transnationalisation of the Bolivarian Revolution's principles of 'participatory democracy', namely via the establishment of the CMS within ALBA's institutional framework, the second 'turn' is characterised by a growing dissatisfaction, on the part of social movements, with the perceived predominance of member-states' agendas, accompanied by a side-lining of social movements and their understanding of the principle's orienting ALBA's regionalisation process. Hence, Martínez (2013) speaks of an evolving fracture in the historical bloc associated with the Bolivarian Revolution as, increasingly, social movements came to contest the political elites that had hitherto led the process at both the national and regional levels, in ALBA.

The discussion in the rest of this section supports Martínez's conclusions and illustrates them by an analysis of how this growing fracture between social movements and ALBA's member-states not only manifested itself at the regional level but was in fact an expression of deeper tensions within the historical bloc supporting the Bolivarian Revolution, namely within the Venezuelan state itself. This fracture can be identified with particular clarity by analysing how social movements and central state authorities in Venezuela – but also in other ALBA member-states – came to increasingly clash over their understanding of how Bolivarian 'participatory democracy' could better be articulated in the context of the pursuit of the frequently contradictory goals of environmental protection, poverty alleviation and economic development. This analysis will focus particularly on the tensions between indigenous communities' attempts at environmental protection vis-à-vis major projects of economic development, both in Venezuela's national context and in the context of ALBA's South America Regional Infrastructure Integration Initiative (IIRSA).

The Wayúu are an indigenous community living in the *Sierra de Perijá* (Perijá Mountains) located in the state of Zulia. The Wayúu have been at the centre of the debate regarding Venezuela's economic development model. According to Montiel (2010, pp. 205–217), the Bolivarian Revolution is allegedly an advocate of environmental protection and protection of indigenous rights and lands; however, few steps have actually been taken



towards the articulation of these ends and the creation of a national economy that is environmentally sustainable and not predominantly based on the extraction of natural resources.

Corpozulia, the Zulia State development corporation, provides mining concessions and makes deals with multinational companies to exploit coal within areas inhabited by Wayúu communities, namely areas surrounding the Socuy, Mache, and Cachirí rivers. North of the Perijá Mountains there are already two coalmines owned by Corpozulia and multinational companies that were responsible for the displacement of indigenous communities. Thus, the Wayúu community, afraid of having this experience repeated, maintained a defiant campaign against further mining in indigenous territory. In this campaign, the community was able to maintain a high profile both in the Venezuelan and in the international spotlight through alliances with environmental organizations such as *Sociedad Homo et Natura*.

In this context, President Chávez manifested support to the Wayúu's cause, publicly expressing a refusal to extract coal if it meant deforestation and disrespect for indigenous territories. However, despite these statements, Chávez's need for hemispheric energy integration meant his support of the Wayúu struggle proved hollow. In 2006, Chávez ratified big development plans to expand coal exploitation in Zulia, in the context of the IIRSA, an infrastructure integration initiative which will be further discussed below. At this point, Chávez's declarations became out of sync with his actions and, in 2008, coal concessions had not been repealed by the President and the mines continued to operate (Suggett, 2008).

Meanwhile, the Wayúu community was brutally oppressed by Corpozulia during the Indigenous Resistance Day, October 12th, 2008. The Wayúu community gathered in the Socuy River for an anti-coal conference and were received by Corpozulia's functionaries accompanied by armed National Guard troops who aggressively interrogated and threatened the Wayúu mobilised there (Suggett, 2008). The growing tension between indigenous groups and the central state was further evidenced by the way the Ministry of Popular Power for Indigenous Peoples came to accuse the Wayúu communities of being a subversive group and of harbouring separatist ideals (Montiel, 2010, pp. 205–217).

The Bolivarian Constitution thus became a document of empty words for the Wayúu community. Under the Organic Laws of the Indigenous Peoples and Communities, the indigenous territories should be protected by the 'consent of the community' (Montiel, 2010, p. 213). However, this article was constantly ignored, with the Venezuelan state supporting extraction activities and Corpozulia operating on indigenous land despite local communities' opposition. When meeting with the state Commission on Energy and Mines, the Wayúu community was faced with the confirmation of this situation when it was claimed that the Mining Law was superior to the organic laws which defended the indigenous peoples and that the Mining Law could not be revoked, however much it was contested (Montiel, 2010, p. 213).

The Wayúu conflict can thus be interpreted as a testing ground for the orientation of the Bolivarian Revolution regarding the complex balance between the goals of economic development based on resources' extraction on the one hand, and, on the other hand, environmental protection and participatory democracy involving indigenous populations



and other minorities. While the Wayúu community and their allies argue that the environment in indigenous territories, and the laws consecrated in Chapter VIII of the Bolivarian Constitution regarding the rights of indigenous people, must be respected, the state-backed Corpozulia company continued carrying out the extraction of coal from indigenous territory.

To recap, when Hugo Chávez was elected, the Bolivarian Revolution sought to structure a participatory democracy to promote the creation of a communal state that would expand and guarantee the rights of the poor and minorities in both urban and rural areas. However, concomitantly, Venezuela's dire needs of economic development were pursued via projects that frequently clashed with locals' interests and ways of life. As demonstrated above, the Wayúu community in the Périja mountains had their struggles subverted by the central government who kept ignoring the Bolivarian Constitution's ideals of participatory democracy, environmental protection and right to the land of indigenous peoples, triggering the emergence of tensions between social movements and governmental elite's economic development ambitions. Social movement's struggles ended up being silenced either by active repression or via generous social missions that were funded by the capital of the exploration of the energetic resources that caused the environmental destruction of the region.

These emerging tensions and fractures within the Bolivarian Revolution's historical bloc, however, have not manifested themselves only at the national level, but also found expression at the regional level, namely within ALBA. Hence, the transnationalisation of the counter-hegemonic Bolivarian Revolution carried with it not only a strategy of siege avoidance, but also the internal contradictions and fragilities affecting the movement. These tensions and contradictions at the centre of ALBA, as an expression of the transnationalisation of the Bolivarian Revolution, are particularly evident in the growing conflict between social movements, whose regional institutional expression could be found in the CMS, and ALBA's member-states, in what concerns their respective understandings and support of the IIRSA's framework.

As mentioned above, ALBA was institutionalised with an expressed commitment to *buen vivir*, an expression of indigenous knowledge and communitarian solidarity economics in both Bolivia and Ecuador. Ultimately, it describes the goal of ensuring a harmonious relationship between humankind and nature. ALBA pledges to develop the greatest possible security and happiness in harmony with nature, social justice, and the true sovereignty of the people (Muhr, 2013, p. 14). However, the commitment to *buen vivir* has come to increasingly find itself in contradiction with the projects of economic development expressed by the states inspired by the Bolivarian Revolution and their search for the political and economic autonomy that the ALBA counter-hegemonic movement embodies.

In Cochabamba, Bolivia, the 7th ALBA Summit took place in 2009, where the fundamental principles of the Peoples' Trade Agreement (*Tratado de Comercio de los Pueblos* or TCP) were defined. The TCP Agreement promoted principles of solidarity, cooperation, and sovereignty in harmony with nature:



Human beings are part of an interdependent system of plants, animals, forests, oceans, and airs with whom they must live in harmony and equilibrium respecting the rights of us all. To guarantee the rights of human beings we much recognise and defend the rights of Mother Earth².

However, while ALBA was making such environmental commitments, it was also expressing support to development projects, such as the South America Regional Infrastructure Integration Initiative (IIRSA), whose incompatibility with the principles of environmental protection quickly led to growing tensions between the various actors supporting the Bolivarian Revolution and its transnationalisation. IIRSA is a regional integration project, founded in 2000 by Latin American political leaders from Brazil, Colombia, and Argentina, which aims to synchronize strategic infrastructure works towards the facilitation of natural resources extraction and development. In December 2004, in Cuzco, Peru, upon the foundation of the Union of South American Nations (UNASUR), twelve participant Presidents, including the leaders of Ecuador, Bolivia, and Venezuela (ALBA member-countries), confirmed their commitment to the IIRSA initiative. IIRSA is an initiative clearly framed within the parameters of the Washington Consensus, outlining an open regionalism agenda that recommends deregulation of the economy and liberalization of foreign trade in Latin American countries (Cardoso-Castro and Ravena, 2020).

IIRSA executes regional integration based on four 'hubs' comprehending the Amazon region and integrating infrastructure projects from Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname, and Venezuela (Cardoso-Castro and Ravena, 2020). According to Cardoso-Castro and Ravena (2020), the Amazon territory, transversal between Peru, Brazil and Bolivia, concentrated projects related to ports and waterways, roads, seaports, air transportation and borders crossing, electrical and hydroelectrical power plants. These projects would permit the reinforcement of state power and facilitate the implementation of development policies. Furthermore, competition would be promoted which would allow domestic firms to seize global economies of scale. Concerning technology, these projects would support innovation policies and an active trade policy targeted at strong intellectual property regimes and investment opportunities for domestic firms (Cardoso-Castro and Ravena, 2020).

However, IIRSA development projects also reveal a clear lack of environmental regulation as, according to Cardoso-Castro and Ravena (2020), only 50% percent of the action in the Amazon region between 2013 and 2014 had environmental licenses. As for social and environmental impacts, indigenous communities, which are protected by national constitutions, such as those of Venezuela, Bolivia, and Ecuador, were frequently ignored in the planning processes of IIRSA projects, as well as frequent victims of displacement as a result of their implementation. Thus, IIRSA's overall plan for the Amazon region was the generalization of a shared approach to environmental legislation that facilitates integration from a supranational perspective, while ignoring national and international

² ALBA-TCP (2009). "Joint Declaration of the Nations Members of the ALBA on Inauguration of TV Station of the South. Caracas". Accessed 31 October 2022: <http://www.handsoffvenezuela.org/joint-declaration-of-the-nations-members-of-the-alba-on-inauguration-of-tv-station-of-the-south.htm>



commitments expressed in the context of ALBA for the protection of the environment, and the rainforest in particular (Kozlff, 2010).

For example, in IIRSA's framework, a team of technical experts from Venezuela, Brazil and Argentina planned for the construction of a new pipeline across Venezuela's Guayana region and the Amazon. Inclusively, the Russian firm Gazprom had expressed interests in what was considered 'the most ambitious physical infrastructure initiative in South America' (Márquez, 2006). The project was the source of much controversy, alarming environmentalists from the 'Red Alerta Petrolera-Orinoco Oilwash', who expressed concern about the Amazon rainforest and indigenous populations. This network of environmentalists explained that the IIRSA project describes an offer of energy extraction that is cleaner than oil, but that risks major spilling in a region where the pipeline would be vulnerable to natural disasters or sabotage that could cause damages to the environment and to local communities. Furthermore, the Wayúu community also expressed great concern with IIRSA's project, which was complementary with Corpoluzia's plan for the expansion of coal extraction in the Zulia (Montiel, 2010, p. 215).

Once again, the growing tension between the national pursuit of economic development and the expressed commitments to environmental protection and participatory democracy of the various actors constituting the historical bloc of the Bolivarian Revolution became evident. On the one hand, ALBA member states were under enormous pressure to develop economically, to industrialise, to become autonomous regarding energy resources and vis-à-vis international donors. Additionally, economic development is seen as the only way these states can reduce poverty, one of the main goals of the Bolivarian Revolution. But, on the other hand, economic and technological development, especially based on resource extraction models, usually have great environmental costs, which causes tensions between ALBA member countries' governments and the CMS's social movements.

As mentioned earlier, ALBA sought to present an alternative framework to address environmental issues with the ultimate objective of respecting the principle of *buen vivir*. In terms of ALBA's narrative, it aimed to defend the oppressed and the vulnerable, like the indigenous communities (Watts and Depledge, 2018). However, despite this rhetoric, ALBA's member states continued to rely on hydrocarbons' revenues for social missions and development promotion while stripping communities from meaningful participation in environmental policies and development projects (Cutler and Brien, 2013, p. 227). Venezuela, for example, has been accused of shutting out NGOs from domestic environmental policy making and suppressing dissent and national social movement's protests. Concomitantly, protected areas in Bolivia and Ecuador have been explored for gas and oil even against the resistance of indigenous peoples, mostly in the context of IIRSA initiatives (Watts and Depledge, 2018; Cutler and Brien, 2013, pp. 226–229).

Thus, the environmental issue demonstrates the fundamental developing tensions, and even fractures, between the various actors constituting the historical bloc supporting the Bolivarian Revolution as a counter-hegemonic movement, and its transnational institutionalization in ALBA. This fracture was publicly acknowledged in the follow-up to the People's World Conference on Climate Change and the Rights of Mother Earth, held in Cochabamba, Bolivia, in April 2010. The conference gathered an estimated thirty thousand people from 135 countries, including the presence of many regional NGOs and



social organisations, and expressly attributed the 'historical responsibility' of climate change to developed countries (Watts and Depledge, 2018). The conference placed the rights of the Mother Earth and the principles of *buen vivir* at the centre of governance and climate justice. It promoted proposals to fund non-extractive economic development, protect indigenous communities' rights and oppose market-based environmental governance (Zimmerer, 2015).

In support of the 'People's Agreement' emanating from the People's World Conference, ALBA countries met with the social movements represented in the CMS, as well as non-member state governments from across the world, at the 10th ALBA Summit, in June 2010. In this context, the Bolivian government promoted the mobilization of social movements to defend the proposals of the People's World Conference (Cutler and Brien, 2013, p. 226). However, Bolivia's commitment to the positions of the World's People's Conference was also infused with contradictions if the relations between the Bolivian government and indigenous communities within the country are considered. According to Zimmerer (2015), protesters in Bolivia, who sought to draw attention to the impacts of state or corporate-led resource extraction and the resulting destruction of indigenous communities' livelihoods, sustainability prospects and water resources, were silenced and marginalized by government forces during the conference. In response, the National Council of Ayllus and Markas of Qullasuyu, a Bolivian indigenous council, directly referred to these tensions when, in reference to the Bolivian government's expressed position at the Conference of the Parties to the United Nations Framework Convention on Climate Change (COP-16), noted that:

Externally our President is the defender of Mother Earth, of nature, but internally he is doing the opposite... They are trying to hide these internal contradictions (...) (Building Bridges, 2010, p. 35).

As a response to this accusation, the Bolivian government accused the National Council of being funded by right-wing interests. Following these mutual accusations, several protests erupted in defence of the National Council, contesting the Bolivian government's concessions to private foreign companies for the extraction of natural resources, resulting in the contamination of water resources and deforestation. This example, once again, highlights how the pursuit of an economic development agenda mainly based on resource extraction by ALBA member-states is clashing with the goals of environmental protection and participatory democracy of the Bolivarian Revolution and leading to a breakdown of the solidarity between the various state and non-state actors supporting the counter-hegemonic movement at both the national and regional levels (Cutler and Brien, 2015, p. 228).

Thus, while ALBA member states consider social movements to be allies and an integral part of the counter-hegemonic historical bloc that seeks to challenge neoliberal hegemony in the region, there are growing signs of contradictions and tensions between the agendas of sovereign economic development and poverty alleviation, on the one hand, and environmental protection and participatory democracy on the other. The fact that ALBA member states depend for the funding of their social missions and sovereign economic development mainly on the revenues deriving from the exploration of



hydrocarbon and energy resources extraction, fuels a growing contradiction between ALBA's member states national governments' search for autonomous development and the environmental protection concerns of social movements, in particular indigenous communities. This contradiction is increasingly compromising the cohesion of the counter-hegemonic bloc at both the national and regional levels, as tensions arise between the immediate interests of social movements and governmental elites.

Conclusion

The Bolivarian Revolution can be seen as an attempt at the development of a counter-hegemonic movement in Latin America which, despite having found its origins at the national level, in Venezuela, soon sought a transnational expression and institutionalization in the constitution of the Bolivarian Alliance for the Peoples of Our America (ALBA). This article has traced this transnationalisation process as a key aspect of the possibility of survival of any counter-hegemonic movement in the context of a global neoliberal hegemony. However, the article has also highlighted increasing tensions within the historical bloc responsible for the Bolivarian Revolution and its transnationalisation. As was discussed via several examples, Bolivarian governments and national- and regional-based social movements have come to be in dispute in their respective interpretations of how best to pursue the frequently clashing goals of economic development, environmental protection, and participatory democracy. From the analysis here developed, it becomes clear that ALBA and its member states have increasing difficulty in adequately addressing this challenging balancing act. The process of building communal states in the region appears to be failing because of the continued dependence of Bolivarian states on a development model based on an extractive economy, whose effects in terms of environmental degradation lie at the core of a growing uncoupling between the social movements and the governmental elites, culminating in a fracturing of the historical bloc that led and supported the Bolivarian Revolution.

This fracture is expressed at both the national and regional levels, as Venezuela or Bolivia have come to adopt national policies that directly contradict ALBA's principles of *buen vivir*, of development in harmony with nature and of participatory democracy involving indigenous groups as key actors in the decisions over the development model to be implemented on their lands. Venezuela, for example, has been financing ALBA and its social missions with revenues from the exploration of hydrocarbon fuels and, although simultaneously promoting the production and exploration of alternative fuels, environmental disasters, namely the deforestation caused by coal mining, left indigenous communities in a very vulnerable situation showing there is a clear contradiction between national interests and ALBA principles. In the context of these contradictions, the role of Bolivarian states, as intermediaries between the demands of social movements, the goals of sovereign regional development, and the pressures of a hegemonic global neoliberal world order, has become increasingly difficult. Finding a path in dealing with these challenges is fundamental for the future of the counter-hegemonic movement that ALBA embodies. Failing to do so, will have as a result the loss of a common horizon (Vargas 2020).



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O DIREITO DA ORDEM REGIONAL PREVALECENTE E A CULTURA DE NEGOCIAÇÃO NA ÁFRICA AUSTRAL

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Resumo

Partindo da questão da cultura negociadora resultante da construção de uma nova ordem regional na África Austral, este artigo de investigação explora a ideia de que nesta região está a emergir uma cultura de negociação integrativa, baseada numa história de conflito e cooperação. A ênfase colocada pela Comunidade de Desenvolvimento da África Austral (SADC) nas dimensões legais e programáticas da integração económica manifesta, por um lado, as condições da ordem regional prevalecente e, por outro, os esforços dos estados membros para negociar a partir de uma perspectiva cooperativa. Portanto, este artigo de investigação examina o processo de construção de uma ordem regional na África Austral, os factores que o proporcionaram e o conjunto de regras jurídicas que resultam numa cultura de negociação regional. Consequentemente, propõe uma perspectiva construtivista, concluindo que há adaptação no processo de adoção de modelos internacionais de regionalismo.

Palavras-chave

Ordem regional; cultura de negociação; África austral; integração regional; direito regional..

Abstract

Starting with the question of the negotiating culture resulting from the development of a regional order in southern Africa, this research paper explores the idea that in this region a culture of integrative negotiation is emerging, based on a history of conflict and cooperation. The emphasis placed by Southern African Development Community (SADC) on legal and programmatic dimensions of economic integration manifests, on the one hand, the conditions of the prevailing regional order and, on the other, the member states' efforts to negotiate from a cooperative perspective. Therefore, this research paper examines the process of a cooperative regional order in southern Africa, the factors that provided this order and the set of legal rules, which result in a regional negotiating culture. Consequently, it proposes a constructivist perspective, concluding that there is adaptation in the adoption process of international models of regionalism.



Keywords

Regional order; negotiating culture; southern Africa; regional integration; regional law..

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O DIREITO DA ORDEM REGIONAL PREVALECENTE E A CULTURA DE NEGOCIAÇÃO NA ÁFRICA AUSTRAL

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Introdução

Entendida como o conjunto de conhecimentos, normas e significados partilhados que se constroem nas interações sociais, neste trabalho de investigação analisamos a cultura negocial que se manifesta no direito da ordem regional prevalente na região da África Austral. Para este efeito, consideramos o colapso do Apartheid como o factor que iniciou uma nova ordem na região da África Austral, embora tal ordem regional não seja estranha aos elementos da ordem internacional. Nesse sentido, começamos com a seguinte questão de investigação: que cultura negocial resulta da construção da ordem regional prevalente na África Austral, que articula dimensões jurídicas e políticas?

Temos a hipótese de que, ao abrigo da lei da nova ordem regional prevalente na África Austral, que resulta da queda do Apartheid, as negociações se desenvolvem, tendo em conta as condições jurídicas e políticas regionais, constituindo uma cultura negocial de perspectiva cooperativa em que a clara superação da relação baseada na rivalidade ainda não se traduziu em padrões de interação de amizade, apesar da evolução para este nível. Portanto, este trabalho de investigação tem os seguintes objectivos: primeiro, pretende caracterizar os elementos políticos que geram o direito da ordem regional prevalente na África Austral; segundo, identificar o conjunto de tratados e outros instrumentos jurídicos existentes no âmbito da legislação desta ordem regional; por último, pretende analisar o quadro jurídico que concretiza as condições para a construção de uma cultura de negociação integradora na África Austral.

Metodologicamente, optamos por uma abordagem analítico-dedutiva, que explora, por um lado, o conceito macro de ordem internacional aplicado ao nível microrregional da África Austral e, por outro, identifica as diferentes normas jurídicas que corporizam as políticas de integração na SADC e manifesta uma cultura de negociação regional. Consequentemente, numa abordagem inversa, deduz teoricamente os elementos de compreensão do contexto e do âmbito das negociações regionais na África Austral, num continuum de articulação conceptual entre o direito e a política.



A construção da ordem regional prevalente na África Austral

A construção da ordem prevalente na África Austral está relacionada com o desenvolvimento de um regime jurídico de política regional alinhado com as tendências internacionais. Como enfatiza Mirasola (2019, p. 214) "International politics since World War II has been built on the progressive development of international law, and particularly on multilateral treaties aimed at creating shared legal regimes." Portanto, a ordem regional da África Austral está inserida numa ordem internacional mais ampla.

A problemática da ordem é fundamental para os campos da política internacional e do direito internacional, assentes numa profunda tradição das ciências sociais. Conforme apontado por Sosnowski (2020, pp. 599-600), "the concept of order (...) remains relatively amorphous but scholars from Durkheim to Foucault certainly saw it as crucial and determinative. Order, and the predictability it brings, does not simply exist: it becomes, emerges, settles and disappears." Para abordar o conceito de ordem regional prevalente, começamos por explorar a noção de ordem internacional, entendida por Ribeiro (2005) em termos do estado em que as relações internacionais se baseiam num sistema regulatório que garante a segurança internacional. Embora seja difícil determinar com precisão a inauguração de uma nova ordem, ela resulta "da mudança gradual de atitudes, comportamentos e interesses dos estados ao longo de um determinado período que se materializa em acontecimentos com reflexão no cenário internacional" (Monteiro, 2001, p. 195).

A ordem internacional manifesta-se como a regulação das relações conflitantes dos Estados no contexto do sistema internacional. Assim, é possível compreender a operacionalização que Ribeiro (2005, p. 4) faz da nova ordem internacional, quando afirma que ela é sinalizada por "uma mudança repentina nas relações de forças que caracterizaram a ordem que termina". No caso da África Austral, a ordem regional tornou-se nova e marcadamente cooperativa com o colapso do Apartheid, como bastião dos regimes minoritários na região.

- A ordem regional prevalente na África Austral decorre dos seguintes elementos principais: o colapso do apartheid na África do Sul, como o último reduto dos regimes minoritários na região;
- o fim da guerra fria, que afastou a ameaça comunista do xadrez regional que legitimava a interferência de potências externas;
- a capitalização da cooperação política estabelecida nos Estados da Linha da Frente (ELF) e na Conferência de Coordenação do Desenvolvimento da África Austral (SADCC);
- e a integração da África do Sul em órgãos de cooperação regional, particularmente na Comunidade de Desenvolvimento da África Austral (SADC), que substituiu a SADCC.

Esta ordem regional prevalente também resulta dos elementos de uma nova ordem internacional pós-guerra fria. Tal como referido por Silva (2015, p. 139), "a transição da ordem global no pós-Guerra Fria e o regime do apartheid na África do Sul contribuíram para a emergência de uma ordem regional de natureza essencialmente liberal".

A região sul de África não está isenta da natureza anárquica do sistema internacional e, portanto, as três culturas, exploradas por Wendt (1999, p. 44) podem ser encontradas



no subsistema regional da África Austral. Assim, a perspectiva teórico-analítica de Wendt ajuda a compreender a cultura interacional regional na África Austral. Analisando esta região como um subsistema, onde também se manifestam os efeitos da estrutura sobre os agentes, através das ideias partilhadas na interação social, pode-se argumentar, com referência a três culturas de anarquia, a manifestação do seguinte processo na África Austral: uma lógica de inimigos (a cultura hobbesiana) nas relações entre o regime Sul-africano apartheid e os outros estados majoritários; atualmente, os Estados estão superando a lógica lockeana, de rivais; e a lógica kantiana dos amigos é desejada, e os estados já vivenciam alguns elementos dessa cultura.

Desta forma, os Estados estão efectivamente a viver uma articulação de elementos da cultura lockeana, em questões de desenvolvimento económico, em transição para a cultura kantiana, em questões de defesa e segurança. A construção de uma nova ordem regional na África Austral deve-se, sobretudo, à queda do regime do apartheid, facto que permitiu o desenvolvimento de relações mais cooperativas e abrangentes na região da África Austral, com a integração da África do Sul, um antigo inimigo, no sistema institucional de cooperação entre os países da região. Este processo revela, por um lado, um certo pragmatismo por parte dos Estados da região, incluindo a África do Sul, no que diz respeito ao sistema regional, mas também manifesta o resultado de um processo de interação social e histórica que influencia as opções e decisões dos estados, além dos mecanismos estruturais de poder percebidos do ponto de vista material. O fim do apartheid indicou o fim dos regimes minoritários na África Austral, embora, como observado por Miti (2007), não determine, automaticamente, um ambiente de confiança e amizade regional.

Se considerarmos que, numa perspectiva subsistémica, na África Austral os efeitos da estrutura regional sobre os agentes manifestam-se através das ideias compartilhadas na interação social, pode-se inferir que a região deixou uma lógica de inimigos, caracterizada por a cultura hobbesiana, dominante nas relações entre o regime do Apartheid sul-africano – que ocupou a Namíbia, apoiou o regime de Ian Smith, no Zimbabué, e foi aliado do regime colonial Português em Angola e Moçambique –, com os restantes estados da região; há atualmente uma passagem pela lógica dos rivais, pela cultura lockeana, no que diz respeito ao desenvolvimento económico regional, e um movimento em direção à lógica dos amigos que caracteriza a cultura kantiana, no campo da defesa e da segurança.

Portanto, com o fim do regime do Apartheid na África do Sul, foi inaugurado um processo na região da África Austral que alterou significativamente a correlação de forças na região, estabelecendo um ambiente mais cooperativo no qual a regulação de potenciais conflitos interestatais é realizada na base de consulta e construção de uma estrutura jurídico-normativa que apoia o relacionamento dos Estados. É neste contexto que os tratados regionais ganham mais significado, apoiando a cooperação e a integração económica, sendo, por um lado, o resultado de negociações regionais e, por outro lado, o quadro e o âmbito de negociações subsequentes.



Os Tratados em negociações regionais

O papel do direito na regulação das relações regionais é importante. Entendemos o direito regional como o conjunto de normas jurídicas assumidas nas relações entre Estados soberanos e outros sujeitos de personalidade internacional reconhecidos no âmbito de uma região. A abordagem da questão dos tratados como fonte do direito internacional não pode deixar de questionar a sua natureza no contexto das relações regionais.

O direito regional não se aplica aos estados com a mesma força que o direito interno é imposto aos indivíduos, destacando a importância das dimensões políticas e negociais nas relações regionais (Ngoben, 2019). Ele constitui “instrument with commendable features that have great potential to promote and strengthen democracy, good governance and the rule of law in Africa” (Kioko, 2019, p. 42). Embora tenha uma base normativa, na resolução de conflitos e no avanço da cooperação, a política pode levar os Estados a encontrar outras formas às quais o direito também deve prestar atenção. Como resultado, a caracterização do direito regional implica o reconhecimento de que este é constituído por um sistema baseado no consenso e na reciprocidade, tornando os costumes, em termos de prática social (Ndim, 2017), e os acordos como fontes privilegiadas.

Nas relações internacionais, apoiadas no direito público, os acordos, alcançados através de negociações, podem ser designados como tratados, embora possam ter outras denominações como convenções, protocolos e pactos. Essa é também a perspectiva explorada por Queiroz (2009), que combina o artigo 38 do *Estatuto da Corte Internacional de Justiça* com o artigo 2 da *Convenção de Viena sobre o Direito dos Tratados*. Assim, entendemos os tratados como acordos internacionais que expressam, por escrito, a conciliação das vontades das partes, sujeitos de direito internacional, com a intenção de produzir os efeitos desejados no âmbito da vontade manifestada. Este recurso de gestão das relações entre os Estados tem ficado evidente nos processos de construção do regionalismo.

Além dos tratados, existem outras fontes de direito regional, como os costumes, que podem ser analisadas, no caso da África Austral, no sentido da gama de práticas e experiências partilhadas pelos Estados, incluindo a luta contra os regimes racistas coloniais e minoritários e a luta pela autodeterminação dos povos, através dos movimentos de libertação, que servem de referência na atuação das elites governantes dos Estados membros, assumindo-as com a convicção da sua obrigação. De fato, “Historically, African peoples and individuals have resisted oppression and domination. For instance, they resisted colonial rule” (Manirakiza, 2019, p. 94).

No que diz respeito à jurisprudência, na região que integra a SADC, há um contributo significativo da jurisprudência internacional na aplicação e interpretação das normas jurídicas que regulam as relações regionais. No entanto, coexistem na região tradições jurídicas puras e mistas, cujos princípios têm um impacto diferente no processo de aplicação e interpretação das leis. Com efeito, se por um lado existem estados como Angola, Moçambique e a República Democrática do Congo pertencentes à tradição do sistema romano-germânico ou do direito civil, por outro, estados como a Zâmbia e o Zimbabué estão ligados ao Tradição anglo-saxônica ou direito consuetudinário. Além disso, existem também estados como a África do Sul e o Botswana que possuem um



sistema híbrido que se refere tanto ao direito civil como ao sistema de direito consuetudinário (Zongwe, 2020). Contudo, esta diversidade de tradições e sistemas jurídicos não atinge o estágio que Cede (2002, p. 151) chama de “clash of legal civilizations”, porque a história partilhada de cooperação política permite à elite governante dos Estados promover e procurar garantir tecnicamente a solidariedade regional e a procura de segurança, superando questões de diversidade de tradições jurídicas.

As outras fontes do direito internacional são os atos das organizações internacionais, na medida em que produzem e incentivam o direito não vinculativo como “non-mandatory rules, that is, instruments that interpret or inform our understanding of binding legal norms or represent promises that create expectations about future conduct” (Guzman and Meyer, 2010, p. 174). Conforme enfatizado por Deng e Adeola (2021, p. 60), soft law “are supporting hard law formations” e não são apenas o resultado de Estados considerados individualmente, pois os produzem principalmente através de organizações internacionais que os promovem em diversas formas, tais como as leis modelo, os contratos modelo e as recomendações legais. Este aspecto também é sublinhado por Kaufmann-Kohler (2010) quando afirma que, com a globalização, as instituições internacionais têm promovido cada vez mais soft law.

As organizações internacionais possuem atos que podem ser distinguidos em regras; decisões individuais; atos preparatórios, definitivos, vinculativos e facultativos. Este papel normativo legal estende-se às organizações regionais. Conforme observado por Wallace (2016, pp. 225-226), “Regional Organizations enjoy varying degrees of legal personality and if this should extend to a treaty-making competence, the organization in question may shape substantive international law by participating in treaties” (see also Perišić, 2016). Na região da África Austral existem alguns exemplos de *soft law*, como a *Lei Modelo do Banco Central da SADC*, que inclui princípios fundamentais que permitem a constituição de uma estrutura jurídica e operacional convergente dos Bancos Centrais dos Estados da SADC, promove a adoção de princípios que visam a independência operacional dos Bancos Centrais e cria padrões de responsabilização e transparência, colaborando, assim, para a harmonização financeira da região.

Consequentemente, o direito é um elemento intrínseco aos processos de negociação, especialmente em contextos de construção de uma ordem regional. Assim, é necessário considerar os elementos políticos que geram o direito da ordem regional prevalente na África Austral e elencar os acordos que corporizam direito desta ordem regional em que ocorrem as negociações regionais. Neste sentido, os tratados, os protocolos, as declarações, as cartas e os memorandos de entendimento constituem o quadro jurídico-normativo existente na SADC.

O Tratado da SADC foi assinado em Windhoek (Namíbia), em 17 de Agosto de 1992, e os 16 seguintes Estados são actualmente membros da organização regional: Angola, Botswana, Comores, República Democrática do Congo, Esuatini, Lesoto, Madagáscar, Malawi, Maurícias, Moçambique, Namíbia, África do Sul, Seicheles, Tanzânia, Zâmbia e Zimbabué. O texto original do Tratado da SADC de 1992 foi alterado nos anos de 2001, 2007, 2008 e 2009, conforme descrito na tabela 1.



Tabela 1 - Alterações ao Tratado

Data	Natureza da Alteração	Descrição
2001	Acordo de Alteração do Tratado	Modifica o Preâmbulo e o índice; adiciona artigos sobre a adesão à SADC e à troika.
2007	Acordo que altera o Artigo 22.º do Tratado da SADC	Descreve as condições para uma alteração a um protocolo.
2008	Acordo que altera o Tratado da SADC	Descreve o estabelecimento de Comitês Ministeriais Sectoriais e as funções de gestão executiva da SADC.
2009	Acordo que altera os artigos 10.º e 14.º do Tratado da SADC	Descreve a estrutura e nomeação da gestão executiva do Secretariado da SADC.
2009	Acordo que altera o Artigo 10.º-A do Tratado da SADC	Descreve a composição do Comité Ministerial do órgão responsável pela coordenação dos seus trabalhos e das suas estruturas.

Fonte: SADC.INT

Além do Tratado da SADC, entre os protocolos, importa destacar dois que corporizam, na sua essência, o legado histórico e os ideais para a constituição da organização regional da África Austral: o *Protocolo sobre Cooperação em Política, Defesa e Segurança*, e o *Protocolo sobre Comércio*.

O Protocolo sobre *Cooperação em Política, Defesa e Segurança* foi assinado em Blantyre em 14 de Agosto de 2001 e tem como objetivo geral promover a paz e a segurança na África Austral. Este Protocolo promoveu a criação do *Pacto de Defesa Mútua* que determina um conjunto de reações colectivas dos estados da SADC a situações de ameaça à segurança contra um dos seus membros. O *Protocolo sobre Comércio* visa, entre outros objetivos, promover a liberalização do comércio intrarregional de bens e serviços, com base em acordos comerciais justos, equilibrados e mutuamente benéficos, aumentar o desenvolvimento económico, a diversificação e a industrialização da região e estabelecer uma Zona de Comércio Livre (ZCL) na África Austral.

Esta análise dos tratados resultantes das negociações regionais, que também orientam a sua estrutura normativa, permite concluir que, como fonte de direito regional, no âmbito da construção de nova ordem na África Austral, os tratados têm merecido especial consideração. Portanto, a produção normativa de instrumentos jurídicos para o processo de integração na África Austral tem sido frutífera. Esta estrutura jurídica, como elemento de construção de relações pacíficas, cooperativas e integrativas, revela a importância da dimensão jurídica na negociação da integração regional, conforme discutido a seguir.

A dimensão jurídica das negociações de integração regional na África Austral

Os instrumentos de planeamento, discussão e implementação da integração regional têm uma dimensão jurídica significativa. Tal como noutras actividades humanas, nas relações regionais, o direito e as negociações estão interligados (Cede 2002). As negociações estão duplamente ligadas ao direito porque se, por um lado, o direito se manifesta como um elemento regulador da interação social que ocorre nas negociações, por outro, os



resultados das negociações contêm um âmbito de aplicação jurídico. O direito é o ramo do conhecimento normativo e social que delimita a atuação dos agentes em suas interações sociais e, ao mesmo tempo, resulta das discussões políticas entre os atores sociais e define o quadro em que ocorrem as interações futuras.

Nas relações regionais, o direito e as negociações estão interligados não só no sentido de o direito servir como instrumento técnico para a realização de negociações, especialmente com intencionalidade política, mas também porque servem de enquadramento e, portanto, muitas vezes condicionam as opções políticas existentes. Assim, o direito circunscreve a órbita das negociações e torna possível fazer cumprir os acordos. Desde o fim do Apartheid na África do Sul como factor que inaugurou uma nova ordem regional na África Austral, as negociações conduzidas ao abrigo do direito desta nova ordem regional têm em conta as condições de natureza jurídica e política.

Ao mesmo tempo em que as negociações regionais ocorrem no âmbito de um quadro normativo em que prevalece o direito, especialmente através de suas fontes, os acordos que decorrem das negociações regionais adquirem uma conformação jurídica própria que se torna fonte de direito. Portanto, as negociações regionais são ao mesmo tempo fonte e resultado do direito regional. No contexto das relações regionais, as negociações têm um papel fundamental na definição dos termos e condições da interação, manifestando-se na sua dimensão jurídica. Contudo, uma vez definida a estrutura jurídica para discussão, o direito torna-se o elemento enquadrador das negociações regionais.

Se as negociações podem ser apresentadas como pertencentes ao eixo da gestão política regional, o direito delimita o âmbito normativo do seu desenvolvimento. Assim, os advogados desempenham um papel relevante nos processos de negociação internacional, quer como consultores, ou como principais condutores das negociações (Powell, 1991). Com efeito, a dimensão jurídica desempenha um papel importante nas negociações, pois permite delimitar o âmbito de atuação dos negociadores. A condução das negociações não pode ignorar as normas jurídicas que regulam o objeto da negociação e a aplicação do acordo para a sua eficácia.

No contexto das relações regionais, é importante considerar, por um lado, que as negociações são conduzidas, em conformidade com o quadro jurídico em vigor, e, por outro, os acordos estabelecidos na sequência das negociações regionais devem ter conteúdo e força jurídica para a sua implementação. Portanto, deve ser dada atenção à gama de tratados que existem na região e que incorporam o quadro jurídico para as relações entre os Estados da África Austral. Assim, os Estados membros da SADC devem ter em conta o conjunto de instrumentos jurídicos que regulam as relações regionais, em geral, e as interações dos estados em sectores específicos.

Tabela 2 - Instrumentos Jurídicos da SADC (Continua)

Tipo	Nº	Instrumento Jurídico
Tratado	1	Tratado da SADC
	2	Acordos que alteram o Tratado da SADC
Protocolos	3	Protocolo da SADC Sobre Imunidades e Privilégios
	4	Protocolo da SADC sobre Sistemas de Cursos de Água Compartilhados (substituído pelo Protocolo Revisto)
	5	Protocolo da SADC sobre Energia



	6	Protocolo da SADC sobre Transportes, Comunicações e Meteorologia
	7	Protocolo da SADC sobre a Luta Contra as Drogas Ilícitas
	8	Protocolo da SADC sobre Comércio
	9	Protocolo da SADC de Educação e Formação
	10	Protocolo SADC sobre Mineração
	11	Protocolo da SADC sobre o Desenvolvimento do Turismo
	12	Protocolo da SADC sobre Saúde
	13	Protocolo da SADC sobre Conservação da Vida Selvagem e Aplicação da Lei
	14	Protocolo da SADC sobre Tribunal e Regulamento
	15	Protocolo da SADC sobre Assuntos Jurídicos
	16	Protocolo SADC sobre Cursos de Água Compartilhados
	17	Protocolo de Alteração do Protocolo da SADC sobre Comércio
	18	Protocolo da SADC sobre Política, Defesa e Cooperação de Segurança
	19	Protocolo da SADC sobre Controlo de Armas de Fogo, Munições e outros Materiais
	20	Protocolo da SADC sobre Pescas
	21	Protocolo da SADC sobre Cultura Informação e Desporto
	22	Protocolo da SADC contra a Corrupção
	23	Protocolo da SADC sobre Extradicação
	24	Protocolo SADC sobre Silvicultura
	25	Protocolo da SADC sobre Assistência Jurídica Mútua em Matéria Penal
	26	Protocolo da SADC sobre a Facilitação do Movimento das Pessoas
	27	Protocolo da SADC sobre Finanças e Investimento
	28	Protocolo da SADC sobre Ciência, Tecnologia e Inovação
Pacto	29	Pacto de Defesa Mútua da SADC
Acordos	30	Alteração ao Tratado da SADC
	31	Alteração do Protocolo sobre o Tribunal
	32	Alteração do Protocolo da SADC sobre Corrupção
	33	Alteração do Protocolo da SADC sobre Género e Desenvolvimento
	34	Acordo sobre a criação da Comissão do Curso de Águas do Zambeze
Cartas	35	Sobre a Organização Regional de Turismo da África Austral (RETOSA)
	36	Sobre o Estabelecimento do Centro de Coordenação de Pesquisa e Desenvolvimento Agrícola
	37	Sobre Direitos Sociais Fundamentais
Declarações	38	Sobre Género e Desenvolvimento
	39	Para uma África Austral Livre de Minas Antipessoais
	40	De Produtividade
	41	Sobre as Armas de Fogo, Munições e outros Materiais Relacionados
	42	Sobre a Protecção dos Refugiados na África Austral
	43	Sobre as Tecnologias de Informação e Comunicação (TIC)
	44	Sobre o Papel da Informação e da Comunicação na Construção da SADC
	45	Sobre a Cooperação Regional em Matéria de Concorrência e Políticas de Consumo
	46	Sobre a Erradicação da Pobreza e o Desenvolvimento Sustentável
	47	Sobre VIH e SIDA
	48	Sobre Agricultura e Segurança Alimentar
	49	Sobre o Desenvolvimento e Empoderamento da Juventude na SADC
	50	Sobre o Desenvolvimento de Infraestruturas Regionais
	51	Apelo Regional da SADC para Apoio Humanitário e de Recuperação
Memorandos de Entendimento	52	Sobre a Padronização, Garantia de Qualidade, Acreditação e Metrologia na SADC (SQAM)
	53	Sobre a Cooperação em Tributação e Assuntos Relacionados
	54	Sobre Convergência Macroeconómica
	55	Sobre a Cooperação no Domínio da Política de Concorrência, Legislação e Fiscalização
	56	Sobre a Brigada de Alerta da SADC
	57	Sobre a Nova Sede da SADC
	58	Entre a SADC e as Câmaras de Comércio Associadas da SADC

Fonte: Elaboração própria a partir dos dados da Unidade Jurídica do Secretariado da SADC.



No que diz respeito à condução das negociações regionais, é importante notar a diferença que surge pelo facto de serem bilaterais ou multilaterais. Com efeito, como sublinha Cede (2002), se o grau de informalidade é maior nas negociações bilaterais, o mesmo não se pode dizer das negociações multilaterais caracterizadas por conferências diplomáticas e com uma intervenção cada vez mais acentuada de organizações internacionais com padrões, consensos e compromissos próprios que são geralmente preferidos ao princípio da maioria, que é adotado apenas nos casos em que a unanimidade não é possível (ver também Powell, 1991).

No caso da SADC, embora o processo de integração regional tenha absorvido subsídios resultantes de negociações e consultas bilaterais, é privilegiada a dimensão multilateral das negociações dos protocolos, mediadas pelas estruturas da SADC. Neste sentido, foi adoptado o princípio do consenso, procurado, por vezes, através de longos períodos de consulta e negociação informal e formal. Assim, por exemplo, o *Protocolo sobre Comércio da SADC*, embora tecnicamente detalhado, deixou espaço político para flexibilidade na sua implementação.

Portanto, a dimensão jurídica é duplamente importante para o processo de negociação da integração regional, pois, por um lado, marca o alcance do processo e, por outro, na forma de tratado, manifesta-se como resultado da negociações. Contudo, observando a relação das elites dos partidos que atualmente governam os Estados da África Austral, remontando às décadas de 1960 e 1970, os factores sociais e históricos são cruciais para a compreensão da flexibilidade política da discussão e aplicação dos protocolos resultantes da negociação sobre a integração regional. Consequentemente, como mecanismos de gestão das relações, as negociações estão imbuídas de um valor social e histórico que não deve ser reduzido dos jogos de poder ou dos imperativos legais.

A ZCL-SADC e os instrumentos de integração regional

O Zona de Comércio Livre da SADC (ZCL-SADC) é uma das formas iniciais de integração regional, pois consiste em eliminar as restrições ao comércio entre os Estados membros, proporcionar melhores condições para o comércio de bens e serviços e harmonizar os padrões de controle de qualidade. É este instrumento que está a ser implementado no âmbito da agenda de integração regional na África Austral.

No âmbito da SADC, houve necessidade de reestruturação institucional da organização e do desenho de um plano estratégico cuja natureza fosse indicativa e que abrangesse duas vertentes principais, a integração económica e o desenvolvimento regional. Este plano baseou-se no *Tratado da SADC* e nas suas Emendas, bem como na agenda comum da região. Assim, o *Plano Estratégico Indicativo de Desenvolvimento Regional (RISDP)* constitui o plano que fornece orientação estratégica aos objectivos, programas e projectos da SADC, visando a integração económica da região. Ele, define as metas a alcançar, as ações necessárias e os objetivos prioritários para enfrentar os desafios da integração económica regional.

Embora tenha sido formulado em Março de 2001 e aprovado na Cimeira de Agosto de 2003, que teve lugar em Dar es Salaam, República Unida da Tanzânia, o RISDP começou a ser implementado apenas em 2005, por um período de quinze anos. Inicialmente



previsto para o período de 2003 a 2018, posteriormente teve em consideração a data da sua aprovação, a implementar para o período de 2005 a 2020.

Para a implementação do RISDP, a reunião do Conselho de Ministros da SADC realizada em Lusaka, República da Zâmbia, em Agosto de 2007, adoptou princípios concebidos para criar confiança e compromisso entre os Estados-membros, bem como sinergias nas diferentes estruturas da organização. Tais princípios são: *adicionalidade*, entendida no sentido de que os programas devem acrescentar valor à integração regional e aumentar a capacidade para alcançar os objectivos da SADC; a *subsidiariedade*, uma vez que as questões sociais e políticas devem ser abordadas ao nível mais imediato (ou local) que seja consistente com a sua resolução; a *geometria variável* que permite considerar que os Estados-membros crescem a ritmos diferentes; e *orientação para o desenvolvimento* em termos de priorização de programas (Comunidade de Desenvolvimento da África Austral, 2017).

Da mesma forma, assinado em 24 de Agosto de 1996, em Maseru, capital do reino do Lesoto, o Protocolo sobre Comércio entrou em vigor em 25 de Janeiro de 2000, após a sua ratificação, e começou a ser implementado em Janeiro de 2001 pela África do Sul, Botsuana, Esuatini, Lesoto, Malawi, Maurícias, Moçambique, Namíbia, Tanzânia, Zâmbia e Zimbabué. Consequentemente, em 2008, foi criada o ZCL.

O *Protocolo sobre Comércio* compreende trinta e nove artigos e constitui o instrumento jurídico básico para a criação e implementação do ZCL-SADC. Adicionalmente, existem cinco anexos que fazem parte do Protocolo, como instrumentos jurídicos para a sua implementação: Anexo I, sobre as Regras de Origem; Anexo IIS sobre Cooperação Aduaneira; Anexo IIIs relativo à Simplificação e Harmonização de Documentação e Procedimentos Comerciais; Anexo IVS sobre Instalações de Transporte e Trânsito; e Anexo VS sobre Desenvolvimento Comercial. Além do protocolo, e no seu âmbito, os ministros da indústria e do comércio aprovaram o *Memorando de Entendimento sobre Cooperação em Normalização, Garantia de Qualidade, Acreditação e Metrologia*; também foram acordados mais dois anexos do Protocolo: o Anexo sobre a Aplicação de Medidas Sanitárias e Fitossanitárias e o Anexo sobre Barreiras Técnicas ao Comércio.

Tendo em conta que a região é constituída por países com níveis de desenvolvimento assimétricos, o processo de negociação, que culminou com a aprovação do Protocolo, baseou-se em conceitos e princípios fundamentais. Os principais conceitos que podem ser destacados no âmbito do Protocolo e instrumentos relacionados são: *assimetria*, entendida no sentido de um tratamento diferenciado dos países, considerando os seus níveis de desenvolvimento; a *oferta básica*, que consiste na oferta de desarmamento tarifário feita pelos países à África do Sul; a *oferta diferenciada*, feita por cada país aos demais Estados da região, exceto a África do Sul; e as *categorias de produtos*, que têm a ver com a classificação dos produtos na oferta tarifária aduaneira dos Estados.

Os princípios fundamentais da adesão e implementação do ZCL-SADC são quatro: o *princípio da livre adesão*, em virtude do qual a integração dos Estados membros baseia-se na avaliação económica das vantagens e desvantagens; o *princípio ganha-ganha*, segundo o qual, no equilíbrio global, todos os participantes devem ganhar com a integração comercial e não pode haver perdedores; o *princípio da assimetria*, segundo o qual os Estados mais desenvolvidos devem fazer mais sacrifícios e desarmar-se mais



cedo do que os menos desenvolvidos; e o *princípio da globalidade*, definindo que nada está acordado até que tudo esteja acordado (Lopes, 2016). Para a implementação do protocolo existe um conjunto de instrumentos e mecanismos, entre os quais se destacam: as regras de origem dos produtos comercializados entre os estados membros; as regras de cooperação aduaneira; os mecanismos de simplificação e harmonização de documentos e procedimentos comerciais; os mecanismos de resolução de disputas; a facilitação de comércio; e o agenciamento de carga.

Na sequência do *Protocolo sobre Comércio*, os Estados membros da SADC aprovaram, em 2012, o *Protocolo sobre Comércio de Serviços*, que, embora ainda não implementado, determina as obrigações gerais relativas ao tratamento dos serviços da região, prevendo negociações entre os Estados membros com o objetivo de eliminar gradualmente as restrições ao comércio de serviços, especialmente nos sectores das comunicações, construção, energia, finanças, turismo e transportes.

Portanto, o regionalismo na África Austral baseia-se na história da cooperação na região e é fortalecido pelo processo de construção jurídico-normativa, bem como pela definição de uma agenda comum em que os tratados enquadram normativamente a relação entre os Estados e a estrutura de negociações regionais construindo uma cultura própria de negociação, no sentido de constituir simultaneamente o contexto social em que as negociações acontecem e o resultado da interação dos Estados.

Para uma compreensão construtivista

No domínio das Relações Internacionais, o construtivismo é uma teoria que começou a ser amplamente difundida nas décadas de 1980 e 1990. Nessas décadas, chamou-se a atenção para a importância das ideias e dos valores nos fenômenos sociais, incluindo nas relações internacionais. Assim, como afirmam Nogueira e Messari (2005), Friedrich Von Kratochwill e Thomas Risse-Kappen concordam que a premissa central e comum de todos os construtivistas é que o mundo não é predeterminado, mas construído à medida que os atores agem; o mundo é uma construção social. É a interação entre os atores, os processos de comunicação entre os agentes que constroem os interesses e preferências desses agentes.

Portanto, devemos tomar o construtivismo como uma corrente teórica que propõe a consideração de que a realidade e o nosso conhecimento sobre ela não estão acabados, uma vez que a interação dos atores sociais é um fator essencial na construção da realidade social. O mesmo é dizer que, diferentemente da realidade natural, a realidade social não é um dado prévio, adquirido e consolidado. Para Ruggie (1998), o construtivismo social deve opor-se ao neoutilitarismo e, portanto, apresenta-se em três faces: neoclássico, pós-moderno e naturalista (ver também Hopf, 1998; Wendt, 1992). A teoria construtivista e a sua agenda de investigação têm uma aplicação importante nos processos de regionalismo, para além do contexto ocidental. O construtivismo ajudou a surgir autores que se dedicam a estudos mais regionais e locais. É neste sentido que Acharya (2014) aplicou o conceito de Karl Deutsch de 'security communities' à compreensão da cooperação no Sudeste Asiático.

Os tratados assinados numa região como a África Austral representam o que Queiroz (2009) chama " 'interests' and 'shared common values', being therefore interpreted as



'embodying' the collective will' " dos Estados. No entanto, a não implementação destes instrumentos normativos levanta a possibilidade do seu cumprimento como uma mera agenda formal para a construção da região pelos Estados membros da SADC, sem preocupação com a sua implementação efectiva. Neste caso da África Austral, a dimensão regulatória do direito, interpretada na perspectiva construtivista, pode ajudar a compreender a razão desta opção pela assinatura de tratados regionais, independentemente da sua implementação efectiva, com base nas relações históricas e sociais dos Estados.

Um dos aspectos essenciais do fenómeno do regionalismo, além da contiguidade geográfica, é a afinidade identitária dos Estados membros, ou seja, a dimensão daquilo que autores como Behr e Jokela (2011) apontariam como construção social (ver também Dias, 2011), superando uma abordagem transaccionalista de política externa (Bashirov e Yilmaz, 2020). Assim, a dimensão política está implícita no regionalismo, baseado nas identidades e relações dos Estados (Hettne, 1999), o que justifica a formulação de Benedict Anderson sobre 'imagined communities', no sentido de interpretar as organizações regionais como entidades construídas simbolicamente. Conforme considerado por Poku (1998, p. 41),

Constructivists do not deny the existence of an independent phenomenal world. Indeed, they insist that each datum remains an inter-subjectively discriminable aspect of the world. However, they do contend that we can never know all the features of the world independent of the discourses about it.

Esta face das regiões como entidades socialmente construídas na interacção histórica dos Estados permite compreender a criação e evolução da SADC e, sobretudo, a lacuna existente entre a formalidade jurídica e discursiva e a realidade factual das escolhas individuais dos Estados.

A formação e evolução da SADC, no âmbito da cooperação regional na África Austral, são marcadas pela aliança dos ELF, aproveitando a experiência de cooperação em questões de segurança para ser extrapolada no desenvolvimento da integração económica. Tal como salienta Poku (2001), os modelos de colonialismo na África Austral e o papel central da África do Sul como potência contra a qual os outros Estados da região se uniram devem ser considerados como elementos históricos que ajudaram a construir uma identidade regional na região da África do Austral.

A utilização da teoria construtivista para interpretar o direito da nova ordem regional na África Austral pode ajudar a compreender o regionalismo austral como uma articulação dos modelos existentes de arquitetura jurídica, experimentados noutras realidades do contexto internacional como a União Europeia, e a sua realidade endógena. O regionalismo da África Austral pode ser entendido como a assimilação de um projecto ocidental; o que pode ser evidente na forma e estrutura da construção jurídica na região (Lee, 2003). No entanto, este regionalismo na África Austral não é apenas consequência da inspiração externa, é também o resultado da experiência pragmática de cooperação informal entre os Estados da região, cuja natureza é mais política do que jurídica (Khadiagala, 1994; Cilliers, 1999).



Conclusões

No final deste artigo de investigação sobre o direito da ordem regional prevalente na África Austral como dimensão da construção de uma nova cultura de negociação, concluímos primeiro que o regionalismo na África Austral se manifestou como uma resposta normativa aos desafios e dificuldades vividas pelos Estados no seu processo histórico de formação e afirmação e constituiu-se numa reação e adaptação ao sistema internacional que marcou a região.

Assim, no âmbito da nova ordem regional na África Austral, está a ser desenvolvida uma cultura de negociação, tendo em conta que a África do Sul é um factor para a compreensão da construção de esquemas de cooperação institucional na África Austral, tanto durante o Apartheid, sob o categoria de inimigo e rival, como reduto dos regimes minoritários da região, e, após sua queda, na categoria de construção de amizades, tornou-se o estado diretor económico.

No entanto, a cultura cooperativa de negociação regional de amizade em formação na África Austral também é caracterizada pelo facto de a África do Sul necessitar de partilhar a sua liderança económica na região, com a influência política de outros Estados que atualmente encaram a integração como uma oportunidade de crescimento e garantia de uma relação de cooperação, superando rivalidades e conflitos, e considerando os mecanismos integrativos como locais de interação social, bem como fóruns de liberalização económica.

Finalmente, a inspiração internacional na construção de uma arquitetura jurídica regional faz parte de um processo de socialização que caracteriza a construção do projeto de regionalismo na África Austral. Assim, ao analisar o regionalismo na África Austral não se pode esquecer que os Estados-membros fazem parte das tradições jurídicas existentes e consolidadas, especialmente o direito consuetudinário, e do direito civil, aprendendo com os modelos jurídico-formais de integração estabelecidos noutras regiões. A adoção de outros modelos jurídicos pelos estados da África Austral, a sua internalização não se limita ao processo de replicação. Há adaptação no processo de adoção. Na verdade, na sociedade internacional, ao mesmo tempo que os novos agentes são informados pelas estruturas existentes, eles também informam as mesmas estruturas.

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A COOPERAÇÃO PARA O DESENVOLVIMENTO: PRÁTICAS E DESAFIOS DA COOPERAÇÃO ENTRE MOÇAMBIQUE E BRASIL (1975-2022)

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Resumo

A cooperação Sul-Sul é uma alternativa atraente para os países africanos gerirem os problemas enfrentados com os actuais mecanismos de ajuda externa. Entretanto, caracteriza-se pela volatilidade, isto é, a sua intensidade oscila no tempo e no espaço. Na sua relação com o Brasil, Moçambique depara-se com uma diminuição recente do engajamento do Brasil. Embora tenham sido assinados acordos de cooperação entre os dois países em diversas áreas, no início do milénio 2000, o cenário de mudança de governo no Brasil expôs a vulnerabilidade da cooperação entre ambos. Devido à postura anti-globalista do Presidente Bolsonaro, o projecto de inserção internacional do Brasil à escala global foi abandonado, o que afectou directamente a cooperação com Moçambique. Visto que Moçambique tem o Brasil como um parceiro estratégico, a redução do engajamento político deste último obriga o primeiro a repensar estratégias de desenvolvimento no contexto da cooperação Sul-Sul. Este distanciamento político de ambos não é novo, tende a reproduzir-se num contexto internacional diferente, afectando negativamente as expectativas de Moçambique. Com o propósito de aprofundar a compreensão sobre as dinâmicas da cooperação para o desenvolvimento a nível da periferia, este artigo investigou, com base na análise documental e em entrevistas, as práticas comuns e os desafios inerentes da cooperação entre Moçambique e Brasil.

Palavras-chave

Cooperação Sul-Sul, desenvolvimento, Brasil, Moçambique.

Abstract

South-South co-operation is an attractive alternative for African countries to manage the problems they face with current foreign aid mechanisms. However, it is characterised by



volatility, i.e. its intensity fluctuates over time and space. In its relationship with Brazil, Mozambique has seen a recent decrease in Brazil's engagement. Although cooperation agreements were signed between those countries in various areas at the beginning of the millennium 2000, the change of government in Brazil exposed the vulnerability of cooperation between the two. Due to President Bolsonaro's anti-globalist stance, Brazil's international insertion project on a global scale was abandoned, which directly affected cooperation with Mozambique. Since Mozambique has Brazil as a strategic partner, the reduction in the latter's political engagement forces the former to rethink development strategies in the context of South-South cooperation. This political distancing between the two is not new, but tends to be reproduced in a different international context, negatively affecting Mozambique's expectations. With the aim of gaining a deeper understanding of the dynamics of development co-operation on the periphery, this article investigated the common practices and inherent challenges of co-operation between Mozambique and Brazil, based on documentary analysis and interviews.

Keywords

South-South co-operation, development, Brazil, Mozambique.

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Introdução

Existem diferentes modelos de cooperação internacional para o desenvolvimento. No que diz respeito à cooperação entre Estados, a cooperação Norte-Sul representa o modelo tradicional, através do qual os países do Norte firmam parcerias de cooperação em determinados domínios, seja económico, político ou social, enquanto que a cooperação Sul-Sul representa um modelo mais recente de cooperação internacional, em que os países do Sul global tendem a estabelecer parcerias uns com os outros, em diversas áreas. Esse último modelo de cooperação internacional constitui uma nova abordagem que envolve o incremento de relações entre Estados periféricos e, por vezes, envolve cooperação erodida entre tais Estados. Embora os dois modelos tendam a funcionar em simultâneo, a recente dinâmica da cooperação para o desenvolvimento, a nível da periferia e da semi-periferia, ganha desenvoltura própria que requer devida compreensão (Wallerstein, 1975; 1985). Uma das formas de relações entre países periféricos (ou em desenvolvimento) é a cooperação Sul-Sul.

Embora a relação entre países periféricos também possa estar pautada por subordinação, um dos elementos centrais é que emerge o fenómeno da cooperação Sul-Sul, com o estabelecimento de uma relação menos assimétrica e com maior potencial de negociação equilibrada e de benefícios mútuos. Assim, a cooperação Sul-Sul tornou-se um importante instrumento de concertação política e promoção de desenvolvimento alternativo às relações tradicionais com os países do centro capitalista. A cooperação Sul-Sul não tem um conceito plenamente definido, mas incorpora algumas características. Pode incluir na sua agenda uma ampla gama de formas de cooperação entre países em desenvolvimento, tanto com finalidade de reforço político mútuo, como promoção de cooperação técnica e desenvolvimento em diversos sectores (Milani & Carvalho, 2013).

Neste contexto, o Brasil e Moçambique têm interesse e actuam no formato de cooperação Sul-Sul. Desde a década de 1970, o Brasil utiliza o mecanismo de cooperação Sul-Sul



como instrumento de inserção internacional. Estas estratégias de cooperação Sul-Sul permeiam tanto o meio bilateral, quanto multilateral. Isto é, procurou-se uma aproximação dos países do Sul quer através de mecanismos multilaterais (com destaque para as negociações no âmbito da Organização Mundial do Comércio, OMC), quer através de acordos bilaterais. A formação de parcerias estratégicas entre o Brasil e países em desenvolvimento, criando planos de acção para a cooperação, está incluída nessa estratégia (Saraiva, 2007). Ademais, a cooperação Sul-Sul ganhou destaque na política externa brasileira na primeira década do milénio com a ampliação do número de parceiros, de projectos e de recursos empregues, principalmente com países africanos.

Já Moçambique caracteriza-se por apostar na cooperação Sul-Sul como alternativa de impulso ao desenvolvimento. Desde 1975, ano da independência de Moçambique, a cooperação Sul-Sul tem sido usada por este país como estratégia de desenvolvimento (Gomes, 2023; Uache, 2023). A sua materialização envolveu acções bilaterais e multilaterais. Assim, Moçambique estabeleceu relações com Estados vizinhos do Sul como a Tanzânia, Zâmbia, Botswana, entre outros. Igualmente, formou parcerias em fóruns multilaterais como o Grupo dos 77, os Não Alinhados, a Organização da Unidade Africana, a Conferência de Coordenação e Desenvolvimento da África Austral (Gomes, 2023; Uache, 2023). Entretanto, a intensificação da cooperação desenvolvida entre Moçambique e Brasil, nos finais da década 1990 e início do milénio 2000, realçou e aprofundou a dinâmica da relação entre ambos os países, marcando o início de novos projectos envolvendo países que outrora tinham reduzida proximidade.

Assim, apesar da cooperação entre Moçambique e Brasil ter iniciado no ano da independência de Moçambique (1975), surge no novo milénio uma nova característica marcante da relação entre ambos os países. A cooperação mostra-se, nessa altura incrementada, sendo contudo posteriormente reduzida. A mudança de governo no Brasil, que se deu com a subida do Governo de Dilma Rousseff (2011-2016), Michel Temer (2016-2018) e, posteriormente, Jair Bolsonaro (2019-2022), alterou o fluxo de cooperação entre ambos os países, dando lugar a uma significativa redução de engajamento do Brasil. Esta variação na intensidade da cooperação entre Moçambique e Brasil, coloca em causa os interesses estratégicos de Moçambique uma vez que este país considera o Brasil como um parceiro estratégico.

Este estudo tem o objectivo de analisar a dinâmica das relações entre Moçambique e o Brasil, nos marcos da cooperação Sul-Sul, a fim de compreender até que ponto é afectada pela mudança de governo brasileiro. Para tal, recorreu-se ao método qualitativo sustentado pela perspectiva histórica, pelo método comparativo, pela revisão bibliográfica e pela realização de entrevistas a fim de compreender as dinâmicas da cooperação entre Moçambique e Brasil, no tempo e no espaço. Questões como i) quais são as práticas comuns da cooperação entre ambos?; e ii) que desafios resultam da cooperação entre Moçambique e Brasil? O objectivo radica na análise das implicações dessas questões nas perspectivas de desenvolvimento de Moçambique.



Cooperação entre Moçambique e o Brasil: Primeiras Iniciativas e Reacções

O Estado brasileiro, face ao processo de descolonização de África, continuou apoiando a Europa, sendo a favor da França quando este país começou por se opor à independência da Tunísia, Marrocos e Argélia. A diplomacia brasileira assistiu como “espectadora passiva” aos processos de descolonização (Penna Filho & Lessa, 2007, p.61-62). No entender de Ferreira (2011), o Brasil observou silenciosamente a independência de 17 países africanos em 1960, não tendo prestado atenção a quanto as nações africanas se estavam a organizar naquele momento. Tanto a Conferência de Bandung como o início da Guerra-Fria tinham trazido um novo ângulo para as relações internacionais, diferente do existente Leste-Oeste. No entanto, África não tinha valor político para o Brasil, pois as relações económicas que ocorriam entre a Europa e a África, eram vistas como potencialmente concorrentes com o Brasil em termos de fornecimento de produtos de exportação. Concomitantemente, o governo brasileiro também apoiava o colonialismo português, pois desde 1953 havia assinado o “Tratado de Amizade e Consulta com Portugal” que consagrava a comunhão espiritual e política entre ambos e que condicionava as acções da diplomacia brasileira, que consultava Portugal os posicionamentos internacionais (Ferreira, 2011; Santos, 2014).

A grande viragem nas relações do Brasil para África ocorreu nos Governos de Jânio Quadros (1961) e João Goulart (1961-1964), com um expressivo avanço nas relações com o continente africano. Em 1961, o governo de Jânio Quadros formulou uma política externa denominada de Política Externa Independente (PEI), mantida pelo governo de João Goulart. O núcleo ideológico básico da PEI assentava nos princípios da auto-determinação, no planeamento económico, na não intervenção e na descolonização completa (Silva e Riediger, 2016: 106). Mas restaram as ambiguidades em relação a Portugal e à África do Sul. O Brasil condenava o racismo e o colonialismo, mas não votava pelas sanções contra esses países. A África do Sul representava 70% das exportações brasileiras para o continente. Pressionado pelos interesses portugueses, o Brasil permaneceu apoiando Portugal, embora de forma ambígua, na questão da descolonização angolana, mas não por muito tempo (Saraiva, 2012).

Com a implantação do regime militar no Brasil, em 1964, ocorreu um novo afastamento em relação a África (Silva, 2004). Nesse período, aumentou o apoio do Brasil à política africana portuguesa. África tornava-se, aos olhos dos formuladores da política exterior do Brasil pós-golpe de 1964, um lugar vulnerável às influências comunistas. Entretanto, as relações comerciais mantiveram-se e, crescentemente, no início dos anos 1970, ocorreu uma reafirmação da diplomacia africana do Brasil. Em julho de 1974, o Brasil reconheceu a Guiné-Bissau como um Estado independente, mesmo antes das conclusões das negociações entre Portugal e a Guiné. Além disso, em março de 1975, o Brasil foi o primeiro país a estabelecer relações diplomáticas com Angola, cuja independência ocorreria apenas em novembro desse ano. A partir desse momento, África passara a ser importante para a política externa brasileira. Politicamente, o continente africano era fonte potencial de apoio para demandas comuns no diálogo Norte-Sul e em outros órgãos multilaterais. Economicamente, significava mercados para produtos brasileiros, em especial os industrializados (Silva, 2007).



Para o caso das relações diplomáticas com Moçambique, estas ocorreram, inicialmente, num contexto de ressentimento e desconfiança por parte de Moçambique em relação ao Brasil. Esse contexto era oriundo do passado sensível que caracterizou a relação entre as duas partes. Melo (2009: 113) aponta que:

Em 1963, justamente para dar a conhecer ao público brasileiro o drama da guerra anticolonial, a Frelimo havia aberto um escritório no Rio. Aquela representação diplomática oficiosa de um país ainda não independente, correspondia, em sentido inverso, à representação diplomática formal que agora queríamos abrir num país cuja independência ainda não estava completa. Mas em 1964, o escritório da Frelimo no Rio foi varejado pela polícia, e seus funcionários presos e seviciados. Mais: foram ameaçados de expulsão para Portugal, onde iriam cair nas masmorras da PIDE. E tão desastrosa expulsão só não se consumou porque Leopold Senghor, Presidente do Senegal, intercedeu junto ao Brasil, em favor da Frelimo...Por tudo isso, Moçambique sempre havia esperado o apoio do Brasil que, moralmente, valeria muito perante Portugal, perante o mundo. Assim, o voto de abstenção do Brasil na ONU nunca foi bastante. Um voto afirmativo do Brasil em favor de Moçambique provavelmente teria paralisado o braço armado português, poderia talvez ter permitido que Moçambique em menos tempo visse a guerra terminar e ganhasse a independência.

Entretanto, embora a relação entre Moçambique e Brasil tenha sido caracterizada por uma forte agenda assente no comércio exterior, entre 1975 e 1986, foi resultado da insistência, por parte do Brasil, de cooperar com Moçambique, com Angola a ter um importante papel para que Moçambique se abrisse às relações com o Brasil (Santos, 2014; Melo, 2009). Melo (2009: 114) afirma que “a Frelimo queria primeiro ver como o Brasil iria se comportar em Angola, agora que lá abríamos uma Representação Especial. As relações com Moçambique dependeriam certamente do que fizéssemos em Angola. E relações de confiança com a África Negra, a mais longo prazo, o Brasil só poderia ter caso se entendesse bem com os novos países que falam português naquele continente”.

As relações diplomáticas entre Moçambique e Brasil foram formalizadas a 15 de Novembro de 1975 com a abertura da embaixada brasileira em Maputo e o papel desempenhado pelos dois primeiros embaixadores, primeiro Ronald Leslie Moraes Small, depois Ítalo Zappa. O governo de Ernesto Geisel (1974-1979) abriu linhas de crédito no Banco do Brasil para Moçambique importar produtos industrializados brasileiros. Desse modo, até 1979, o financiamento brasileiro para Moçambique era o maior disponibilizado, com mais de 100 milhões de dólares, valor não superado por nenhum outro país (Morais, 2019). Não obstante, em relação à cooperação, os governos do Brasil e Moçambique tinham perspectivas bastante diferentes. O Brasil estava disposto a agir rápido por meio de projectos de cooperação para os anfitriões esquecerem o passado e abrirem as portas para que as empresas brasileiras pudessem desenvolver negócios como, por exemplo, os dois projectos agrícola e de irrigação, no valor de 8 milhões de dólares, que a empresa Geoténica estava a desenvolver na Beira. Moçambique propunha uma cooperação mais estruturada e pontual para o desenvolvimento do país, conforme Sérgio Vieira (presidente do Banco de Moçambique) destacava: “ajuda na prospecção e exploração de



petróleo e carvão, a cooperação no campo agrícola de irrigação, pecuária e construção de barragens” (Santos, 2014: 289).

Em 1980, o Ministério das Relações Exteriores convidou quarenta empresários brasileiros para uma viagem a Moçambique e demais países da África Austral visitados pelo *chanceler*, para avançar na política de aproximação com o continente africano. Do lado moçambicano, também se notou maior interesse para avançar com as incipientes relações. Em retribuição à visita do chanceler, o governo frelimista enviou ao Brasil, em Dezembro de 1980, o governador do Banco de Moçambique, Sérgio Vieira. No ano seguinte, em 1981, o Ministro dos Negócios Estrangeiros de Moçambique, Joaquim Chissano, visitou Brasília, onde teve um banquete oferecido e se reuniu com o presidente João Figueiredo (1979-1985), com a presença de Ítalo Zappa (apesar de já não ser embaixador em Maputo).

Firmou-se, nessa altura, o Acordo Geral de Cooperação entre a República de Moçambique e a República Federativa do Brasil. Entre os compromissos em Brasília, Rio de Janeiro e São Paulo, Chissano reuniu-se na última cidade com empresários da Câmara de Comércio Afro-Brasileira (a convite do empresário Adalberto Camargo, que estava na comitiva de Guerreiro um ano antes), na qual se trataram de interesses comerciais.

Foi na altura da presidência de Figueiredo que Moçambique assinou o primeiro acordo de cooperação com o Brasil, a 15 de Setembro de 1981, promulgado a 9 de Junho de 1984 (Bussoti & Macamo, 2018). Este acordo pretendeu fomentar a cooperação bilateral nos sectores económico, científico, técnico e cultural, incluindo, acções práticas de formação do profissional. Uma comissão mista permanente foi encarregue de acompanhar e dinamizar o acordo. Trata-se de um documento bastante genérico, mas que constitui o instrumento fundamental em termos de identificação dos eixos que iriam orientar as relações bilaterais entre os dois países (Bussoti & Macamo, 2018). A assinatura desse acordo foi antecedida pela visita de Chissano ao Brasil, em 1980, que visava ampliar as parcerias internacionais de Moçambique.

Em 1985, face às crises internas e a necessidade de abertura da economia moçambicana, o presidente Samora Machel (1975-1986) estava mais propício ao diálogo com diferentes países. Em Abril de 1986, Machel fazia um esforço maior de aproximação: enviou ao Brasil o ministro Armando Guebuza para levar uma carta ao presidente José Sarney (1985-1990). Na mensagem, Machel traçou um esboço das dificuldades enfrentadas pelo seu país, estrangulado entre a crise económica – legada pelo sistema colonial – a soma aos fracassos da política económica do governo e à seca que se abatia sobre Moçambique – e às consequências da guerra com o movimento militar oposicionista, a Renamo.

Durante 11 anos como chanceler do governo de Samora Machel, Chissano conduziu, na segunda metade da década de 1970, as relações com o Bloco Leste, blocos multilaterais (Conferência de Coordenação do Desenvolvimento da África Austral/SADCC, Países da Linha da Frente e Grupo dos Países Não-Alinhados) e tentou, sem sucesso, integrar o Conselho de Ajuda Mútua Económica/CAME, na sequência da orientação político-ideológica do partido-Estado. Porém, o que de facto marcou essa fase de transição foi a morte trágica de Samora Machel no final de 1986. A sua morte encerra uma era, chamada pela historiografia moçambicana de “Primeira República”, na qual o governo era fortemente dependente da personalidade do líder. Pela habilidade no diálogo



internacional e por ser figura respeitada na cúpula do Partido, Chissano substituiu Machel. Assim, na segunda metade da década de 1980, perante as urgentes necessidades económicas e sociais, Chissano conduziu uma política pragmática de abertura ao diálogo com os países ocidentais e reforçou o relacionamento com os Não-Alinhados, incluindo o Brasil, abriu a transição de uma economia socialista atrasada para o capitalismo e promoveu diálogo para uma cultura de paz com os países vizinhos (Santos, 2014).

Concluindo, na primeira metade dos anos 1980, a crise do sistema socialista, a perda de apoio do Leste, e a par da crise interna levaram as relações diplomáticas de Moçambique a serem reorientadas para o Ocidente (Ottaway, 1988, Abrahamsson & Nilsson, 1998), o que exigiu uma habilidosa reorientação da diplomacia. Aqui, a diplomacia moçambicana foi redesenhada na sua concepção de forma a albergar relações com Estados que outrora se encontravam fora da lista de parceiros de cooperação de Moçambique, entre os quais alguns dos Estados do Ocidente. Nota-se aqui que Moçambique não abandonou os laços de cooperação que estabelecia com seus antigos parceiros, como é o caso de Estados socialistas, o que se verifica nesta fase é um alargamento de parceiros de cooperação com vista a diversificar potenciais fontes de apoio para a realização dos objectivos de Moçambique. Esses factos marcam a reorientação da Política externa moçambicana.

Ademais, Moçambique iniciou a década 1990 carregando novos interesses como resultado do ajuste nas suas políticas. Para além de incentivar o comércio com os Estados vizinhos e outros, procurou capitalizar os seus recursos internos através da abertura para ao Investimento Directo Estrangeiro e estabilidade política interna. Mas é no início do novo Milénio (2000) que a política externa moçambicana foi mais eficaz para, por um lado, intensificar a atracção de investimento directo estrangeiro, a fim de responder às necessidades internas de desenvolvimento e, por outro lado, consolidar a cooperação económica regional. Nesse contexto, a indústria extractiva tornara-se a aposta principal do Estado para responder às demandas de crescimento económico e possibilitar a integração na economia global.

Esta nova fase da política externa de Moçambique visava a busca de financiamento ao desenvolvimento, materializada pela diplomacia económica e pela valorização da cooperação Sul-Sul. É no contexto internacional, caracterizado pela redução do poder das potências tradicionais europeias, impulsionadas pela divisão entre unipolaridade e multipolaridade, que Moçambique se aproximou de Estados Ocidentais e outros próximos para intensificar relações diplomáticas e económicas, estreitando os laços de cooperação com o Brasil.

Assim, ao longo do século XX, as relações entre Brasil e Moçambique caracterizavam-se por um relativo afastamento, principalmente marcadas pelo posicionamento brasileiro de apoio a Portugal na questão da independência das colónias africanas. Esse cenário foi alterado, primeiro devido a aproximação do Brasil com os Estados africanos, que adquiriu maior grau de profundidade a partir do início do século XXI, motivada também pela importância que os Estados africanos ganharam para o alcance dos objectivos de política externa do Brasil, como veremos a seguir.



Investimento como Instrumento de Cooperação

A área comercial firmou-se como o primeiro alicerce das relações entre Moçambique e Brasil. Segundo Santos (2014), desde 1975 (Independência de Moçambique) até 1986 (adesão à economia de mercado por Moçambique – que ocorreu ainda antes da morte de Samora Machel), a relação diplomática entre os dois países foi marcada por um direccionamento: a atuação da Embaixada brasileira como actor comercial em Moçambique, explicitada na participação na Feira Agrícola, Comercial e Industrial de Moçambique (FACIM). Santos (2014, p. 298) aponta que:

Tendo em vista o desaceleramento da economia brasileira no final dos anos 70 (fim do "milagre económico"), provocado pela a crise do petróleo em 1979, o aumento do dólar e do preço dos combustíveis, o comércio com a África tornou-se muito importante, particularmente as importações do petróleo de Angola e da Nigéria, assim como as exportações de produtos industrializados brasileiros. Em 1980, cerca de 50% do valor das exportações foram direccionadas para Moçambique, e este valor correspondia basicamente à venda de 21 unidades de locomotivas para construção da malha ferroviária do país.

As exportações foram aumentando neste período, e mesmo com uma diminuição dos expositores na FACIM entre 1980 e 1982, os valores de bens exportados do Brasil alcançaram o montante de 207 milhões de dólares em apenas três anos. Muitas empresas estabelecidas já recebiam encomendas (Santos, 2014, p. 297).

No entanto, a par das questões de política doméstica e da guerra civil (1977-1992), a ausência de produtos moçambicanos que alavancassem as relações entre os países manteve-as num patamar de pouca relevância, não obstante algumas acções pontuais, como a participação brasileira na missão de paz organizada pelas Nações Unidas em Moçambique e, posteriormente, com a criação da Comunidade dos Países de Língua Portuguesa (CPLP) (Almeida, 2016). Entretanto, foi com o governo de Fernando Henrique Cardoso (1995-2002), que o interesse em relação a África adquiriu novo dinamismo. Embora privilegiando os aliados ocidentais (Estados Unidos e Europa) e a estratégia na América Latina (o Mercosul tinha sido constituído há poucos anos, em 1991), Cardoso distinguiu-se como moderador de conflitos. Por exemplo, em Angola para onde enviou o maior contingente militar da história brasileira no exterior (cerca de 1200 soldados na missão UNAMEV), e em Moçambique, onde militares brasileiros integraram a missão ONUMOZ para acompanhar o processo de paz entre a Renamo e a Frelimo (Bussoti & Macamo, 2018).

No início do século XXI, a intensificação da exploração de importantes recursos minerais em solo moçambicano e o novo posicionamento da política externa brasileira redimensionaram essas relações (Almeida & Kraychete, 2014). Com Cardoso, as relações bilaterais Brasil-Moçambique tornaram-se mais profundas. A primeira visita de Estado a Moçambique feita por um presidente brasileiro foi a de Fernando Henrique Cardoso a Maputo em 2000, por ocasião da III Conferência de Chefes de Estado e de Governo da CPLP. No ano seguinte Chissano retribuiu a visita.



Foi nestas circunstâncias que as duas partes assinaram importantes protocolos bilaterais no âmbito da saúde, educação, políticas sociais e segurança pública. Dois tipos de acordos foram ratificados: programas específicos e memorandos de entendimento, chamados de “protocolos de intenções” (Bussoti & Macamo, 2018). Pertencem ao primeiro tipo, o mais operacional, o Ajuste Complementar ao Acordo Geral de Cooperação no sector educacional, com a implementação do programa “Alfabetização Solidária em Moçambique”. Tal programa visava difundir a alfabetização em Moçambique, quer nos jovens, quer nos adultos, no âmbito do Plano Estratégico da Educação de Moçambique, tendo como objectivo alfabetizar um milhão de jovens e adultos até 2003. Também nos acordos operacionais deve ser incluído o Ajuste Complementar no âmbito educacional, com o programa “Bolsa-Escola”, que visava colocar todas as crianças em idade escolar a estudar em escolas públicas até 2005, com a disponibilização de 100 bolsas, ao longo do primeiro ano, para que as famílias mantivessem os seus filhos na escola. O terceiro Ajuste Complementar refere-se ao “Apoio ao Programa Nacional de Controle às DTS/SIDA”, cuja finalidade era apoiar o esforço de Moçambique na luta contra SIDA e outras doenças sexualmente transmissíveis. O Brasil tinha, como sua tarefa fundamental, enviar especialistas a Moçambique, formar quadros moçambicanos e garantir a transferência de tecnologia (Bussoti & Macamo, 2018).

Esses programas incidiam sobre áreas sociais moçambicanas e a actuação de especialistas brasileiros, através da cooperação técnica tinha por fim a partilha da sua experiência e conhecimentos. Tais programas não interferiam em questões de ordem política, isto é, não apresentavam e nem constituíam interferências nos assuntos políticos domésticos do Estado moçambicano. No entanto, o número de indivíduos que se pretendia abranger pelos projectos era ambicioso, não correspondendo à realidade dos recursos disponíveis. O Ajuste Complementar na área da educação, por exemplo, pretendia abranger todas as crianças em idade escolar, mas só tinha 100 Bolsas-Escola para oferecer.

Pertencem ao segundo tipo de acordos o Protocolo de Intenções relativo à cooperação técnica na área da mulher e acção social, da educação, da saúde (com enfoque especial na saúde da mulher, da criança e do adolescente), na formação de quadros superiores do sector, na implementação do ensino à distância para formação contínua dos profissionais de saúde, HIV/SIDA, com transferências tecnológicas na produção de antirretrovirais. Aqui, também não existe especificação do número de moçambicanos que deviam beneficiar dessas acções. Pela primeira vez, é assinado um Protocolo de Intenções na área da segurança pública, envolvendo os Ministérios do Interior dos dois países, com o objectivo primário de troca de informações entre as partes sobre a prevenção e combate ao crime, formação de pessoal, pesquisa, desenvolvimento científico e estudos organizacionais (Bussoti & Macamo, 2018). Neste protocolo verifica-se, diferentemente dos anteriores, não apenas o contributo expresso do Brasil, também um papel atribuído a sua contraparte moçambicana, dado o envolvimento de instituições securitárias dos dois Estados, actuando em forma de intercâmbio institucional.

Assim, a cooperação entre os dois países ganhou uma nova dimensão em que às questões comerciais se juntam componentes sociais e de segurança que passaram a fazer parte do leque de ajuda disponibilizada pelo Brasil a Moçambique – na base de



necessidades apresentadas por este último país. Porém, Moçambique assume um papel de parceiro na área securitária com o dever de participar não só na qualidade de receptor de ajuda, mas de contribuinte activo na cooperação com o Brasil. Este facto colocou Moçambique na posição de doador, o que automaticamente trouxe um ganho para o Brasil e não apenas para Moçambique como se verifica nos acordos anteriores.

Apesar da importância assinalável dos acordos acima mencionados, a verdadeira viragem nas relações bilaterais Brasil-Moçambique registou-se com a presidência Lula, a partir de 2003. Uma intensa aproximação com o continente africano ocorreu neste período, encontrando reciprocidade no outro lado do Atlântico (Amorim & Silva, 2021) Os dois mandatos do governo de Luís Inácio Lula da Silva (2003-2010) representaram não só o aumento dos investimentos na cooperação como o início da contínua preocupação com a sua sistematização e aperfeiçoamento (Almeida & Kraychete, 2014). É nesse contexto que projectos da cooperação brasileira se tornaram um importante instrumento de aprofundamento da relação de cooperação entre ambos os países. Dois projectos são exemplares para se compreender esse processo: a implantação da fábrica de medicamentos antirretrovirais em Matola nas proximidades da cidade de Maputo e o Programa de Cooperação Tripartida para o Desenvolvimento Agrícola da Savana Tropical em Moçambique – ProSavana. Por meio desses projectos, a existência de imbricações entre cooperação e interesses económicos pode ser analisada, verificando-se a adequação do discurso brasileiro à sua prática.

Foi neste cenário que Moçambique se tornou palco para a materialização dos projectos mais emblemáticos da estratégia da política externa do Brasil no continente africano. Em 2010, foram investidos R\$8.625.830 em Moçambique, com preferência para projectos de cooperação técnica de natureza estruturante (IPEA, 2011). Diferentemente da ajuda directa ao orçamento e dos empréstimos concessionais realizados pelos países desenvolvidos, o Brasil elegeu a cooperação técnica como abordagem preferencial da sua actuação em Moçambique, empreendendo acções que objectivassem o fortalecimento estrutural de alguns sectores, principalmente saúde, agricultura e educação (Almeida & Kraychete, 2014). Moçambique era o primeiro país, em termos de Ajuda Pública ao Desenvolvimento (APD) brasileira, entre os cerca de 80 abrangidos pela acção da Agência Brasileira de Cooperação. E, durante a presidência Lula foram assinados os seguintes acordos (Bussoti & Macamo, 2018): Acordo para o Desenvolvimento do Sector Agropecuário; Acordo de Cooperação Técnica no âmbito sanitário e fitossanitário (em 2003); Acordo para o Reforço das Acções para Alimentação e Nutrição, com o objectivo de formar técnicos moçambicanos para melhorar geneticamente árvores de fruta e produtos hortícolas (cerca de USD 200.000 em 2007); Projecto ProSavana (com a Cooperação Japonesa); Acordo para o Projecto de Suporte Técnico da Plataforma de Inovação Agropecuária de Moçambique (USD 12.188.802, em 2009). Consequentemente, os dois sectores em que a cooperação bilateral Brasil-Moçambique mais se desenvolveu foram a saúde e a agricultura. No primeiro caso, o Itamaraty apoiou-se ao Ministério da Saúde para levar a cabo acções que visassem a transferência de políticas públicas que no Brasil tinham registado grandes sucessos e, acima de tudo, a luta contra o HIV/SIDA (Milani & Lopes, 2014). Assim, foi envolvida a Fundação brasileira Fiocruz para preparar o Plano Estratégico do Instituto Nacional de Saúde (INS) e abrir um mestrado em Ciências da Saúde em Moçambique (Bussoti & Macamo, 2018).



No caso do ProSavana, embora esse projecto se insira na cooperação técnica e tenha como objectivos prover as partes envolvidas com os maiores benefícios, numa situação *win-win*, o mesmo é criticado por não conter na sua concepção o maior envolvimento da população local. O Pro-Savana é tido, por organizações da sociedade civil e pela UNAC (União Nacional dos Camponeses) como um projecto expropriador de terras dos agricultores, colocando-os em situação de vulnerabilidade. Essas críticas levantadas em torno do Pro-Savana têm impedido o mesmo de ser colocado em prática (Funada-Classen, 2019). Tal coloca em causa, até certo ponto, a viabilidade dos projectos de cooperação técnica em algumas áreas. Como Silva (2007) aponta, há interesses múltiplos sobre as relações do Brasil com países africanos, reflexos das próprias contradições da sociedade brasileira. Do mesmo modo, a cooperação Sul-Sul tem múltiplos entendimentos, engajando práticas diversas com interesses diversificados (Cezne, Hönke, 2022).

Desafios da Cooperação entre Moçambique e Brasil

O quadro de cooperação entre Moçambique e Brasil caracteriza-se por variações na relação entre ambos. Embora de médio-prazo, a última década indicou novamente um afastamento nessa relação. Assim, apesar da cooperação bilateral entre os dois Estados periféricos ter, de 2003 a 2011, aprofundado o apoio técnico entre ambas as partes - envolveu sectores estatais dos dois lados, que demonstraram capacidade de partilhar conhecimento, principalmente nos sectores agrários ou de saúde. A alteração de presidente no Brasil conduziu a mudanças no engajamento. Durante o Governo de Dilma Rousseff (2013-2016) registou-se uma queda significativa nos recursos alocados a Moçambique, que passaram de 42,7 milhões de reais para 10,9 milhões e 8,2 milhões de reais em 2015 e 2016, respectivamente (IPEA, 2018). Casarões (2021) afirma que o solidarismo cedeu para o pragmatismo guiado pelas grandes empresas na área da construção civil, mineração, petróleo e siderurgia. Ao longo do segundo mandato de Dilma, houve tentativas de retoma das relações com o continente africano, com a assinatura de três Acordos de Cooperação Internacional (ACI) - com Angola, Malawi e Moçambique -, mesmo em circunstâncias globais e domésticas desfavoráveis. Contudo, os desafios, permaneceram: o avanço da Operação Lava Jato (investigação de corrupção que alcançou diversos políticos e empresários brasileiros) paralisou ou reduziu as actividades de determinadas empresas em África.

Ademais, é importante apontar que houve uma mudança na estratégia da ABC de cooperação técnica, uma vez que a agência passou a centrar-se sobretudo em iniciativas de Cooperação Trilateral com organismos internacionais e países desenvolvidos, verificando-se uma consolidação dos protocolos de padronização de práticas e um incremento do orçamento focado nesse domínio, que se cifrou em 54 milhões de dólares em 2013 (45% dos quais exclusivos da ABC). Na mesma linha, o Governo de Temer (2016-2018), simpatizante das relações Norte-Sul, privilegiou o retorno à relação especial com os Estados Unidos (Fingerman, 2019). A ABC, por exemplo, elaborou as Directrizes Gerais para a Concepção, Coordenação e Supervisão de Iniciativas de Cooperação Trilateral, em 2017, que levou à ampliação de gastos com países desenvolvidos. Segundo o IPEA (2018), em 2016, os recursos destinados aos Estados Unidos da América (21,8 milhões de reais) superaram aqueles destinados a Moçambique



(8,2 milhões de reais). Consequentemente, a agenda africana perdeu centralidade na política externa brasileira, o que se manifestou no enfraquecimento de laços com Moçambique. O auge deste afastamento contemporâneo deu-se com o encerramento de postos diplomáticos e a redução do corpo diplomático do Brasil no exterior, que ocorreu com a entrada de Bolsonaro. Segundo Casarões (2021), a política externa de Bolsonaro assumiu um carácter antiglobalista que levou a uma ruptura com os projectos anteriores de potência emergente.

É natural que, numa democracia, que a política externa – uma política pública, afinal – se submeta aos interesses do governo do dia. Contudo, a redução do engajamento brasileiro compromete o alcance do objectivo da Cooperação Sul-Sul com Moçambique, uma vez que o Brasil virou as costas ao parceiro estratégico. Francisco (2021), considera que, no geral, o governo de Bolsonaro se caracterizou por um distanciamento pragmático em relação a de África. Analisando as motivações brasileiras da intermitência nas relações estratégicas com Moçambique, Fingerman (2019) afirma que a transformação nas relações Moçambique-Brasil já era esperada na presidência de Bolsonaro devido ao programa conservador de governo e ao discurso de posse do chanceler Ernesto Araújo. Tais evidências indicavam um claro afastamento das iniciativas do Sul Global com possível impacto na área da Cooperação Sul-Sul. Com o retorno de Lula da Silva à presidência do Brasil, a partir de 2023, há a expectativa de retoma nas relações mais próximas com os países africanos. De facto, a política externa do governo Lula anunciou uma retomada do engajamento do Brasil na cooperação Sul-Sul, na aproximação aos países do Sul Global e em buscar uma aproximação com os países africanos.

Fingerman (2019) defende que existe um consenso no Itamaraty de manter uma certa continuidade na política brasileira para África a despeito do Governo. Entretanto, reconhece igualmente que o Itamaraty sofre influências que o obrigam a adaptar-se à diplomacia presidencial e à politização da política externa de modo a servir os interesses de novos actores domésticos na agenda internacional. Com isto, nota-se que a coerência e fluidez da cooperação entre Moçambique e Brasil estão sujeitas à ideologia e simpatias políticas assumidas pelo presidente do dia o que afecta as perspectivas de desenvolvimento de Moçambique, visto que se ressentiu da diminuição do investimento do Brasil nas áreas de cooperação onde incidiam os protocolos. Consequentemente, Moçambique é obrigado a repensar estratégias de desenvolvimento menos dependentes das transformações sistémicas que têm ocorrido no contexto da cooperação Sul-Sul. O quadro de cooperação entre Moçambique e Brasil caracteriza-se por variações na relação entre ambos. Embora de médio-prazo, a última década indicou novamente um afastamento nessa relação. Assim, apesar da cooperação bilateral entre os dois Estados periféricos ter, de 2003 a 2011, aprofundado o apoio técnico entre ambas as partes - envolveu sectores estatais dos dois lados, que demonstraram capacidade de partilhar conhecimento, principalmente nos sectores agrários ou de saúde. A alteração de presidente no Brasil conduziu a mudanças no engajamento. Durante o Governo de Dilma Rousseff (2013-2016) registou-se uma queda significativa nos recursos alocados a Moçambique, que passaram de 42,7 milhões de reais para 10,9 milhões e 8,2 milhões de reais em 2015 e 2016, respectivamente (IPEA, 2018). Casarões (2021) afirma que o solidarismo cedeu para o pragmatismo guiado pelas grandes empresas na área da construção civil, mineração, petróleo e siderurgia. Ao longo do segundo mandato de Dilma, houve tentativas de retoma das relações com o continente africano, com a



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políticas assumidas pelo presidente do dia o que afecta as perspectivas de desenvolvimento de Moçambique, visto que se ressentia da diminuição do investimento do Brasil nas áreas de cooperação onde incidiam os protocolos. Consequentemente, Moçambique é obrigado a repensar estratégias de desenvolvimento menos dependentes das transformações sistémicas que têm ocorrido no contexto da cooperação Sul-Sul.

Considerações finais

Ao final deste artigo conclui-se que a cooperação para o desenvolvimento proporciona aos Estados envolvidos oportunidade de trocar experiências sobre a actuação em várias áreas sócio-económicas. A cooperação Sul-Sul, em particular, difere da mera doação de dinheiro ou da ajuda externa ao orçamento do Estado, uma vez que inclui a definição de áreas comuns de intervenção entre os Estados envolvidos. Neste contexto, a cooperação técnica caracterizou a relação entre Moçambique e Brasil com projectos de acção nas áreas da saúde, agricultura e segurança, operacionalizados através de diversos protocolos e memorandos assinados entre os dois países.

Apesar de vários hiatos registados na relação entre Moçambique e Brasil, entre 1975 a 2022, o momento de ascensão da Cooperação Sul-Sul entre ambos foi marcado pela governação de Luiz Inácio Lula da Silva (2003-2010). Nessa época, o discurso oficial do Brasil ilustrava uma abertura para África e as acções evidenciavam uma aproximação sistematizada e aperfeiçoada. No geral, foram colocados em prática os Acordos visando a cooperação técnica, assinados durante a vigência de um líder que simpatizava com determinado Estado Africano, como é o caso da simpatia do presidente Lula por Moçambique. Entretanto, diante da mudança de presidente, este cenário foi alterado. Isto é, a mudança na liderança política do Brasil impôs um desafio crítico à estratégia da política externa brasileira, que foi marcada por um claro afastamento do Sul Global.

A tendência declinante de investimento na cooperação com Moçambique constitui uma das marcas do governo de Bolsonaro. Embora Moçambique pretenda o estreitamento de parcerias estratégicas com países como o Brasil, esta intenção esbarra com o desengajamento brasileiro em África. Isto é expresso no reduzido investimento do Brasil na cooperação Sul-Sul, o que afecta as perspectivas de desenvolvimento de Moçambique, visto que este país se ressentia da diminuição do investimento do Brasil nas áreas de cooperação, onde incidiam os protocolos – saúde e agricultura – obrigando Moçambique a repensar novas estratégias de desenvolvimento e parcerias alternativas, no contexto da cooperação Sul-Sul. Este enquadramento poderá ser novamente revertido, dependendo principalmente da evolução política no Brasil.

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RARE EARTH GEOPOLITICS: GLOBAL DYNAMICS AND STRATEGIC BALANCE OF POWER

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Abstract

This article examines the multifaceted landscape of Rare Earth Elements (REEs), crucial components in traditional industries like glass and metallurgy, as well as pivotal in the growing green and digital economies. The transition toward a greener economy heavily relies on REEs for batteries, wind turbines, and solar panels. The global REE supply chain, dominated by China with nearly 95% of the world's reserves, introduces complexities and geopolitical considerations, and prompting nations like the United States and countries in the European Union to seek alternatives and reduce dependence on China's dominant control. The United States, once a key player in rare earth mining, now heavily relies on Chinese imports, posing national security concerns. This article examines the challenges and opportunities in the global rare earth elements market, addressing environmental controversies, geopolitical tensions, and the race for a secure supply chain. As nations handle the complexities of this critical industry, the pursuit of sustainable and geopolitically secure rare earth supplies emerges as a vital global concern.

Keywords

Rare Earth Elements (REEs); Geopolitics; Environmental Sustainability; Global Supply Chain; US-China Trade War.

Resumo

Este artigo analisa a paisagem multifacetada dos Elementos Terras Raras (ETRs), componentes cruciais em indústrias tradicionais como vidro e metalurgia, bem como essenciais na crescente economia verde e digital. A transição para uma economia mais verde depende fortemente dos ETRs para baterias, turbinas eólicas e painéis solares. A cadeia de abastecimento global de ETRs, dominada pela China com quase 95% das reservas mundiais, introduz complexidades e considerações geopolíticas, levando nações como os Estados Unidos e países da União Europeia a buscar alternativas e reduzir a dependência do domínio da China sobre este mercado. Os Estados Unidos, outrora uma potência chave na mineração de terras raras, agora dependem fortemente de importações chinesas, levantando preocupações com a segurança nacional. Este artigo examina os desafios e oportunidades no mercado global de elementos terras raras, abordando controvérsias ambientais, tensões geopolíticas e a corrida por uma cadeia de abastecimento segura. À medida que as nações lidam com as complexidades desta indústria crítica, a busca por materiais de terras raras sustentáveis e geopoliticamente seguros emerge como uma preocupação global vital.



Palavras-chave

Elementos de Terras Raras (ETR); Geopolítica; Sustentabilidade Ambiental; Cadeias de Logística Globais; Guerras Comerciais EUA-China.

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RARE EARTH GEOPOLITICS: GLOBAL DYNAMICS AND STRATEGIC BALANCE OF POWER

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Introduction

Rare Earth Elements (REEs) are a group of 17 (15 with commercial properties) soft heavy-metals, that include such important elements like Thulium and Cerium. Those are vital components in a wide range of modern technologies, and are found in everyday items like cell phones, computer processors, medical tools, industrial products such as MRI contrast agents and even high-powered magnets used in windmill generators (Van Gosen et al, 2014). They also play a significant role in the glass industry, where they are used for polishing and “providing color and special optical properties” (Chapman, 2017, p. 52). Lanthanum, one specific REE, makes up nearly 50% of digital camera lenses, including those in cell phones (Chapman, 2017). CD-ROM and DVD drives are other crucial applications for these metals. While the label “rare” suggests scarcity, these elements and the minerals housing them are plentiful in the Earth's crust, but the discovery of deposits sizable enough for economic exploitation remains an uncommon geological event.

Extraction and purification of rare earth metals play a pivotal role in achieving a Zero Carbon transition by facilitating the advancement of battery technology, windmill efficiency, and solar panel production (Serpell, Chu and Paren, 2021). It's no coincidence that Bill Gates, a major player in the green transition, is investing around \$1 billion in AI mining of rare earth metals, made through KoBold Metals, a mining company based in Berkeley (Sheikh, 2023).

Also, the transition from traditional vehicles to electric ones seem to be dependent on the future of mining of rare earth metals. In reality, the President of Defense Metals Corporation, actually told the press that: “Our way of life depends on advanced materials — from the car we drive to the buildings that house us” (Silverstein, 2022). General Motors is rapidly moving from sourcing their rare earth materials, especially neodymium, from China, to an increase in mining their own rare earth metals domestically .

Nevertheless, this process poses environmental struggles, like in Inner Mongolia, a key Chinese hub for rare earth ore extraction, that has been accused of detrimental practices such as injecting acid into the ground and using various chemicals having occasioned significant environmental repercussions. This has resulted in the release of toxic gases, the creation of acidic wastewater, and the generation of radioactive waste,



with the impact on surrounding farms and villages being devastating, prompting thousands of people to relocate (Penke, 2021 and Bontron, 2012).

Rare Earths were not widely recognized by scholars or policymakers until China established a virtual monopoly across all stages of the Rare Earth Elements value chains. This shift from simple industrial components to materials with strategic and economic significance, acquired worldwide attention, leading to a reevaluation of their importance in discussions about economic direction and resource competition. The increasing demand for REE raw materials outside China, has raised concerns about the near-monopolistic supply situation (Andersson, Zeuthen and Kalvig, 2018), and as a result both the European Union and the United States have designated REEs as Critical Raw Materials, highlighting their strategic importance (Andersson, Zeuthen and Kalvig, 2018, p. 5). Despite efforts in the EU and other Western countries to develop alternative REE supplies, these political strategies have faced challenges and proven (in general) unsuccessful, and this is changing the western strategy. In fact, U.S. Department of Interior, even identifies “35 critical minerals essential for national and economic security” (Cohen and Grant, 2021).

From Commerce to Conflict: REE’s and the China-US Power Play Initial Landscape: from United States Monopoly to Beijing’s Ascent

Situated in a remote part of the California desert, approximately 85 kilometers southwest of Las Vegas, Mountain Pass operates as an open pit mine crucial for the extraction and production of Rare Earth Elements, and was discovered in 1949, coming under the ownership of the Molybdenum Corporation of America, initiating small-scale production in 1952 (Burron, 2023). Recognized as a historic source, Mountain Pass once held the distinction of being the predominant global supplier of REEs and it was one more evidence of American power on a global scale at the time. It reached its peak period of production “between the mid-1960s through the 1980s” (Chapman, 2017, p. 74). Even though the United States was the undefeated dominant position as the world's primary rare earths producer until the 1980s (Seaman, 2019, p. 13), the 1970’s were already giving hints of a gradual decline with the rise of environmental protection movements and regulations, especially in the United States, resulting in a significant increase in “regulatory and pricing pressure on producers” (Seaman, 2019, p. 13), especially in western countries. This situation led some companies operating in this “environmentally hazardous industries to seek alternative resource supplies” (Seaman, 2019, p. 13) or contemplating the relocation of production.

Contrastingly, while the United States experienced a rapid growth in the production of rare earth elements during the 1950s and 60s, establishing control over most of the supply chain through the discovery of Mountain Pass, the state of China underwent a comparatively slower process. The first developments of processing Rare Earth minerals in China were done during the late 1950’s, but “it was not until the mid-1970s that China became able to make quality RE products and emerged as a very important producer, consumer, and exporter” (Shen, Moomy and Eggert, 2020, p. 130). This was actually coincidental with the emergence of environmental movements in the United States, which, in turn, resulted in the relocation of production, as stated above. Also, in 1975,



the Chinese central government-initiated regulation of the rare earth industry by establishing the National Rare Earth Development and Application Leading Group (Shen, Moomy and Eggert, 2020, p. 130).

The “liberalization of global trade and investment”, along with China's own economic openness, allowed international companies to set up operations in China, and gave Chinese firms some technological know-how in the rare earth sector from overseas (Seaman, 2019, p. 13). Furthermore, under the guidance of the Ministry of Land Resources and Planning, China expanded its mining operations between 1978 and 1989 (Pelaudeix, 2015, p. 135). The liberalization and the resource-based strategy of the Chinese government was bearing fruits during the 1980's, with Japan and the USA increasing the import of Rare Earth products from China. Japan alone doubled its import of primary RE chlorides and oxides from 1000 to 2000 tons, and by the year of 1985, it is reported that China's “capacity for producing mixed RE chlorides and oxides was approximately 10,000 tons” (Shen, Moomy and Eggert, 2020, p. 130).

This economic move is seen by some analysts and experts in the field as a failed strategy from the USA, and Ryan Castilloux, founder of Adamas Intelligence's, an organization for the research of strategic metals and minerals, acknowledged that “China (...) in the '80s, flooded the market with low-priced rare earths elements and led to the going out of business of all the other mines globally” (Seligman, 2022). Castilloux continued saying that Beijing's low costs were driven by “government subsidies, low worker wages and poor environmental standards” (Seligman, 2022) that outsmarted the US Rare Earth industry. Thus, it is possible to see how the 1980s ignited the start of the competition between both superpowers that continue until today in this field.

Deng Xiaoping's Vision and China's Rise to Rare Earth Supremacy in the 1990s

In the 1980s, competition intensified due to liberalization and China's strategic moves. However, the 1990s marked China's strong emergence as a major player in rare earth production, making the Yellow Dragon a leading force during that decade and “producing around 85-95% of the world's supply” (Lavengood, 2022, p. 95). During the last three decades, China employed its abundant rare earth resources to drive “technological innovation and economic development, in a wide range of sectors, from space, defense, and energy” (Seaman, 2019, p. 13). The leadership of Deng Xiaoping and his economic and political plan outlined in 1992 came to be crucial for the REE industry of China, when he stated that his government goal would be to achieve world leadership in the REE industry, and affirmed in 1992 that the “Middle East has oil, China has rare earth” (Pelaudeix, 2015, p. 135). After this direction of policy was stated by the Chinese government, the late 90's confirmed and illustrated this new guideline, when for example, General Motors' magnet-producing subsidiary, Magnequench, was acquired by Chinese State-Owned Enterprises (Mancheri and Marukawa, 201, p. 93), causing some attention from the United States, with Chinese companies securing around 62 percent majority stake at the company (Mancheri and Marukawa, 2018, p. 93). Mr. Zhang Hong, the son-in-law of Deng Xiaoping assumed leadership roles in Magnequench (Mancheri and Marukawa, 2018, p. 95) and the relocation of Magnequench to China in the early 2000s,



following the acquisition, marked a pivotal moment in Sino-U.S. economic relations on REEs issues.

Simultaneously, Japan closed numerous rare-earth processing facilities, transferring both plants and technology to China, and making it more dependent on “Chinese rare earth processors for mischmetal or RE oxides to use as metal hydrides in energy storage” over the years (Mancheri and Marukawa, 2018, p. 113). Therefore, it is possible to understand that China’s dominance of the rare-earths market is a relatively new phenomenon, and its dominance over the supply chains allied with environmental issues (a toxic waste spill) led to the cessation of production in the USA’s Mountain Pass in 2002 (Chapman, 2017, p. 74), and to the subsequent downfall of the US rare earth production. It is true that under new ownership in 2008, Molycorp resumed production, but these owners have experienced repeated financial problems since then.

Rare Earths Diplomacy: China's Export Restrictions and Global Response

Before 2010, scholars paid little attention to the concentration of China's rare earth production. However, in that mentioned year, China's dominance, accounting for “95% of the world's rare earth oxides” (Seaman, 2019, p. 7), led Beijing to enforce strict measures that included the imposition of export quotas, taxes (ranging from 10% to 25%), and price controls, causing significant repercussions across global industries like information and communication technology, energy, and defense (Seaman, 2019, p. 7-14). In July 2010, China's Ministry of Commerce announced a dramatic “725% reduction in Rare Earth Oxide (REE) exports for the second half of the year” (Chapman, 2017, p. 61) and in December 2010, Beijing declared an additional cut, setting REE export quotas for the first half of 2011 at 14,508 tons, reflecting an 11% reduction (Chapman, 2017, p. 61).

In September 2010, a notable incident unfolded, marked by a clash between a Chinese fisherman and the Japanese Coast Guard (Seaman, 2019, p. 23). Reports emerged of China halting rare earth shipments to Japan, creating an effective embargo, and increasing concerns about China potentially leveraging its rare earth supply as a diplomatic tool. Faced with this uncertainty, “consumers of rare earths frantically sought solutions and (...) began exploring some of the most far-flung corners of the globe - from the depths of the Pacific Ocean to the jungles of the Amazon, to war-torn Afghanistan” (Seaman, 2019: 7), in order to explore alternatives to the Chinese supply chain. Nevertheless, upon closer examination, these disruptions emerged, not influenced by Beijing’s central authorities, but by the hands of local government officials, and port workers, responsible for halting rare earth shipments to Japan, in order to sell for a higher price due to the tendencies in prices. Seaman (2019, p. 23-24) even highlights the potential influence of the black market in this incident, emphasizing its significant power within China's Rare Earth Industry. In reality, officials at different levels of the Chinese central government, including the Ministry of Commerce and the Prime Minister, firmly refuted any suggestion of implementing an embargo on Japan.

Following this rare earths crisis between China and Japan, there was a significant surge in the prices of these elements in 2011 and 2012. Primarily driven by speculative activities, prices rose by up to 500 percent (Seaman, 2019, p. 3), marking the beginning



of heightened awareness in the West regarding Chinese dominance in this field, leading to the initiation of over 200 new projects outside of China in the subsequent years. The surge in prices served as a catalyst for a new moment in the “collaboration between the EU, the US, and Japan to find ways in which to innovate” (Kalantzakos, 2020, p. 4), addressing their substantial dependence on these elements, and resulting in the most significant increase in non-Chinese rare earth minerals, rising from 16.5 million in 2010 to 87.3 million in 2015 (Seaman, 2019, p. 16). Production started in mines (sometimes re-started) in Australia, Vietnam, Brazil and even the United States, and the focus was to diversify, innovate and recycle in order to end dependence on Chinese rare earth minerals. In fact, during 2012, the United States reactivated Mountain Pass after a few years of dormancy, even though initially, this reactivation was gradual and slow. Currently, this mine in California accounts for 15 percent of the world's production of rare earths and is used to supply magnets for “America's most advanced commercial and military technology, from electric vehicles to Virginia-class attack submarines” (Seligman, 2022). The new company that owns Mountain Pass, MP Materials, despite some ups and downs in terms of stock closures, has recently been on Zacks.com's list of the most searched stocks (Zacks Equity Research, 2023) and has been instrumental in the efforts of the public and private sectors to increase the production of Rare Earth Elements from its mine. In November 2022, MP Materials announced the second phase of its production with the construction of a new facility in Fort Worth, Texas. The goal of this new facility is to “convert the refined minerals from Mountain Pass into metals, alloys, and magnets” (Seligman, 2022). The company's Chairman, James Litinsky, himself mentions that “there has to be an American champion in this space” (Seligman, 2022), sending a message to China that the competition cannot come to a halt.

In 2009, China tried to acquire a majority stake (51 percent) in Lynas, Australia's primary rare earth mining corporation (Kalantzakos, 2020, p. 4). However, the Australian government rejected the proposal, stressing the importance of keeping non-Chinese-controlled rare earth resources accessible, and in 2011, this strategy was taken further, when Japan stepped in to support Lynas, providing “a total of USD 250 million in loans and equity in order to receive 8,500 tons of rare earth products over a period of ten years” (Kalantzakos, 2020, p. 5). In 2012, “EU, Japan, and the US collectively filed complaints with the World Trade Organisation (WTO)” (Kalantzakos, 2020, p. 4), regarding Chinese export restrictions on rare earths and other elements like tungsten, and in June of that year, the “U.S. formally requested the establishment of a Dispute Settlement Board (DSB) process” (Chapman, 2017, p. 62). This meant that WTO was called to solve this trade dispute between the Chinese export quotas and restrictions, and the other several countries (lead by the US) complaining that this was China's way of leveraging and weaponizing international negotiations in its own favor. For America, this was detrimental to “American workers and manufacturers across established and emerging industrial sectors” (Chapman, 2017, p. 62), and something had to be done.

After two years of negotiations and processes, the final decision was that Chinese practices “were inconsistent with its WTO accession commitments”, and that they violated article 11 “of the General Agreement on Tariffs and Trade (GATT), which prohibits trade restrictions besides duties, taxes, and other charges” (Chapman, 2017, p. 62). The rare earths dispute between China and Japan underscored the potential weaponization of these resources, intensifying global competition for them. Since then,



scholars, international organizations and policymakers have shown a growing interest in these disputes. A Google Scholar search for "Rare Earth Geopolitics" reveals a notable increase in results over specific time periods: from 2010-2012, there are 9,230 results; during the dispute from 2012-2014, this number rises to 11,600 results. Subsequently, in the aftermath of the crisis from 2014-2016, the number further increases to 13,800 results, indicating the escalating relevance and attention to this critical geopolitical issue.

As a consequence of this decision by the WTO, China took the measure in 2015 of abolishing export duties on Rare Earth Elements, and the China's Ministry of Finance and State Administration of Taxation introduced a resources tax in their place. Nonetheless, the disputes between various "Western" countries and China, concerning the embargo and export duties, marked the emergence of another industry where Sino-American relations were being forged amid a foundation of mutual mistrust. In fact, this competition is giving way to new pathways and geographies involved in this conflict. The rise of China's investment in the Arctic is not confined to oil, gas and shipping, but also encompasses the production of rare earths, and in January 2018 the publication of China's Arctic Strategy (State Council Information Office of the People's Republic of China, 2018) paved the way for China's increasing importance in the region.

With Greenland trying to maneuver their way into a more independent position towards Denmark's control, their strategy has been one of flirting with both China and the West in terms of deals for the prospection and export of their resources. China has directed substantial investment towards Greenland, and has ambitious plans to construct or expand airports in the region, like Nuuk, Ilulissat, and Qaqortoq (Kuo, 2019). This has been very important for Greenland's strategy of replacing Danish subsidies and diversify its economy. Another two projects where collaboration between China and Greenland is prospering, is at the Citronen Fjord zinc project in Northern Greenland and the Kvanefjeld Rare Earth Elements (REE) and uranium project. Greenland Minerals Ltd. (GML) owns the Kvanefjeld project, with a significant shareholder base from Western countries and an 11% investment from China's Shenghe Resources Holding (Andersson, Zeuthen, and Kalvig, 2018).

Beyond Party Politics: The 'Rare' Harmony of Rare Earths Policy during Trump and Biden Administrations

Recognizing the potential pitfalls of excessive dependence on Chinese REEs, former President Donald Trump took action by issuing Executive Orders 13817 and 13953 (Executive Office of the President, 2020). These directives emphasized the need to prioritize domestic extraction of minerals, refining processes, and the assurance of secure supply chains. Donald Trump stated:

Our dependence on one country, the People's Republic of China (China), for multiple critical minerals is particularly concerning. The United States now imports 80 percent of its rare earth elements directly from China, with portions of the remainder indirectly sourced from China through other countries. In the 1980s, the United States produced more of these elements than any other country in the world, but China used aggressive economic practices to strategically flood the global market for rare earth elements and



displace its competitors. Since gaining this advantage, China has exploited its position in the rare earth elements market by coercing industries that rely on these elements to locate their facilities, intellectual property, and technology in China. For instance, multiple companies were forced to add factory capacity in China after it suspended exports of processed rare earth elements to Japan in 2010, threatening that country's industrial and defense sectors and disrupting rare earth elements prices worldwide - Executive Office of the President, 2020.

Donald Trump's statements resonate with the rhetoric put forth by prominent industry analysts, as well as by members of the Pentagon and other American security agencies who increasingly raise concerns about the need to act regarding the Chinese monopoly in the production and acquisition of rare earths. The fact that the "United States had not mined any rare earths domestically in 2017" (Kalantzakos, 2020, p. 4), relying instead on importing 80 percent of REEs from China was a big cause of concern during the Trump Administration. In reality, from 2017 to 2018, the estimated value of rare-earth compounds and metals imported by the United States increased from 137 million dollars to 160 million dollars (Kalantzakos, 2020, p. 5).

With this in mind, as part of the increasingly higher trade war between China and USA, especially during Trump's years, his administration listed REEs in the "summer 2018 list of products" from China that might face tariffs. However, this decision was rapidly overturned. First and foremost, the American dependence on Chinese rare earths could lead to an economic and diplomatic catastrophe from which the U.S. would have difficulty recovering, and the significance of these elements in the everyday economic aspects of the U.S. prevented this trade war from progressing much beyond the initial threats. Secondly, having already observed that Donald Trump was aware of the incident between China and Japan in 2010, it would be expected that he also would not want to face the same consequences from the WTO if China retaliated with similar complaints to the organization in the event of the U.S. proceeding with restrictions on Chinese rare earths.

However, the year 2019 brought to light the same disputes as those in 2018, when "Donald Trump announced he was increasing tariffs on \$200bn of Chinese goods from 10% to 25%" (Makortoff, 2019). Chinese retaliation was fast, with tariffs imposed on about \$60 billion worth of a wide range of products imported from the U.S. One of the editors of the state-owned newspaper "Global Times," Hu Xijin, tweeted: "Based on what I know, China is seriously considering restricting rare-earth exports to the US. China may also take other countermeasures in the future" (Makortoff, 2019). Near the end of 2019, the United States signed a formal agreement with Australia on critical minerals production as a way of delivering "opportunity and security to both nations" (U.S. Department of the Interior, 2019), in an obvious move to counter Chinese rare earth monopoly, and reinforce the diplomatic network known as QUAD in another critical industry.

The U.S. Department of Defense allocated \$30 million to Lynas, the above mentioned Australian rare earth company, in July 2020, supporting the establishment of rare earth refinement facilities in Texas in collaboration with Blue Line Corp. aiming to process imported rare earths domestically (Cohen and Grant, 2021). Also, Canada plays a crucial



role in supplying 13 critical minerals to the U.S., with joint efforts to enhance production discussed in confidential meetings in March 2021, already with the Biden Administration. Both countries, as members of the Energy Resource Governance Initiative (ERGI), are likely to continue collaborating on critical mineral sourcing. And the U.S. is also expanding its critical mineral sources in Mexico, in mining projects led by companies like Southern Copper and Asarco (Cohen and Grant, 2021).

The Biden administration is actively pursuing efforts to strengthen the U.S. rare-earth sector, evident in their commitment to invest in rare-earth separation processes, and in 16 billion dollars awarded for “putting hundreds of thousands [of people] to work in union jobs plugging oil and gas wells and restoring and reclaiming abandoned mines” (Swasey, 2021) under the newly approved \$2 trillion infrastructure plan. President Biden’s Executive Order 14017 kickstarted a 100-day review of critical mineral supply chains, and in order to combat the climate crisis, “announced an investment in the expansion of the largest rare earth element mining and processing company outside of China” (White House, 2021). The US Government strategy to counter Chinese power and domination over the REEs market is based on deregulation and investment in public and private partnership in order to achieve a stable domestic supply.

Additionally, it is also necessary to look at projects not directly related to Washington but that demonstrate a willingness from its allies to create an alternative to Beijing. For American allies, being a source of production and export of critical materials is a priority, and for Americans, it is necessary to diversify, that is, import their sources of rare earths from allies, reducing dependence on Beijing. As such, the UK launched a mega-project in Angola in 2021, in collaboration with the company Pensana, in order to “build the world’s first sustainable rare earth separation facility” (Mining Technology, 2021) with an investment of around 125 million dollars. The goal is to produce approximately 12,500 annualized tons of rare earth oxides and to represent about 5% of the world demand for rare earths in the future.

In September 2022, another episode highlighted significant American concerns about Chinese dominance in this industrial field. The delivery of an F-35 jet was halted for a month following orders from the Pentagon due to issues related to the lack of notification that its rare materials were sourced from China. Some military contracts now include clauses requiring materials from China to undergo thorough inspection and scrutiny (Hudson, 2022). In fact, the majority of F-35s contain materials from China, but the goal is to reduce that number. Ms. Halimah Najieb-Locke, the Deputy Assistant Secretary of Defense for Industrial Base Resilience at the U.S. Department of Defense, stated that “there are choke points that we can’t control. If we don’t prioritize onshoring this, then we are going to have weak points that don’t enable us to really defend ourselves” (Hudson, 2022). Ms. Halimah Najieb-Locke’s statement, emphasizing the need to prioritize onshoring, reinforces the broader objective of strengthening domestic capabilities. This commitment aligns with the broader narrative of Washington’s efforts to foster self-reliance and minimize vulnerabilities associated with relying on China for crucial resources. General Motors, for example, trying to lead the Electric Vehicle’s market have made a deal with Mountain Pass, in order to “to produce enough magnets for up to 500,000 electric motors annually” (Eisenstein, 2021).



And if in 2018 China made their way into Greenland and Arctic Rare Earth Elements, the US approved during this year (2023), a resolution to begin a preliminary process for a potential investment of US\$3 million to US\$5 million in Ucore Rare Metals Inc.'s rare earths separation facility in Alaska (O'Rourke, 2021). The Alaska Strategic Metals Complex is designed to process mixed rare earth concentrates from U.S.-allied suppliers into high-purity REE oxides, in order to get to the full potential of the Arctic in terms of mineral resources, since it is still underexplored (O'Rourke, 2021).

Indeed, both the Trump and Biden administrations have pursued a strikingly similar course of action in revitalizing the American rare earths industry, driven by shared motivations. While the Trump administration opted for more drastic measures, including tariff hikes on Chinese products, the Biden administration has been cautious to avoid potential economic and diplomatic repercussions with China, a significant economic power in this domain. Nevertheless, the bipartisan political determination to reduce dependence on the Chinese market transcends party lines and is a consistent theme across two seemingly ideologically divergent administrations. It is possible to affirm it as a "rare" bipartisan harmony in a "rare" earth environment.

Challenges and Opportunities: Balancing Environmental Responsibility and Industrial Demand in a Divided World

Although the rare and critical materials industry represents a small portion of the economy when evaluated individually (valued at roughly 9 billion dollars), it fuels various industries, and its importance is crucial for the global economy (Seaman, 2019, p. 9). Currently, China completely dominates the production of these materials, especially in the case of heavy rare earths like dysprosium. These materials contribute to essentially two categories: firstly, they are essential for traditional heavy industries such as glass, metallurgy, and catalysts. On the other hand, about 40 percent of their contribution goes directly to the emerging industries of the digital revolution and the green energy transition. Currently, 23 percent of today's wind turbines utilize rare earth magnets, but this figure is expected to increase to 72 percent by 2030 (Wind Europe, 2018).

Despite this, there are already pressures to replace rare earths with other components, as expressed by billionaire Elon Musk, who is pushing for a total substitution of rare earth dependence for the green economy and is actively seeking alternatives (Orf, 2023). However, caution is necessary, as the European Commission, in its "Substitution Index" of critical raw materials in 2017, revealed the extreme difficulty of replacing these rare earths with other components. In fact, "heavy rare earths scored 0.96 on a scale of 0 to 1, with 1 being the least substitutable" (Seaman, 2019, p. 21).

It is important, however, to understand the challenges of the Rare Earth Elements industry and not fall into the trap of oversimplifying the phenomenon. Even after several regulatory measures, unlike major industries like oil and gas, China's rare earth industry historically lacked centralization (Seaman, 2019, p. 25-26). Despite the strategic importance of this industry for China, the latest image acquired from this scenario in China shows that an estimated 25,000-50,000 tons of rare earth oxides were illegally produced, with 60 percent involving "heavy" rare earths (Seaman, 2019, p. 25-26). This challenges the notion of a highly bureaucratized state where crime would be difficult to



take place. Additionally, there are practical obstacles to the exploitation of these resources due to their high prices, which hinder the financing of these industries.

With this scenario in mind, China is making increasing efforts to centralize and enhance the planning of rare earth production. In this regard, China developed the China's National Plan for Mineral Resources (2016-2020) with the goal of "protecting national economic security, defense security, and strategic emerging industries" (State Council, 2016, p. 14, as cited in Andersson, Zeuthen, and Kalvig, 2018). This plan includes five-year plans for both Zinc and Rare Earth Elements, encouraging the six major companies, referred to as the "Big Six," to consolidate their positions and engage in overseas activities, promoting collaboration with countries possessing advanced mining industries. Despite encouraging international engagement to demonstrate advanced technologies, the plan paradoxically recognizes the necessity for enhancing China's Rare Earth Element sector to attain world-class status. This seeming contradiction notes the sector's diversity, with smaller producers either ceasing operations or amalgamating into larger entities referred to as the "Big Six" (Andersson, Zeuthen, and Kalvig, 2018). Furthermore, the plan promotes the establishment of REE separation plants in resource-rich countries, indicating a transition towards global leadership instead of relying solely on dominance through processing within China. In other words, China is trying to go global.

China is the predominant force in the rare earths sector, accounting for 62% of raw material production in 2019. In contrast, the United States contributed 12.2% to global production (Cohen and Grant, 2021). Additionally, China holds a substantial majority of global reserves, boasting 36.7%, while the United States has a significantly smaller share at 1.1% (Cohen and Grant, 2021). Therefore, Kazakhstan, Tajikistan, Kyrgyzstan, and Mongolia prioritize increasing mining production, with a primary focus on exporting to China and Russia. Despite this existing connection, the United States has sought investments and strategic partnerships with Kazakhstan. Kazakhstan stands out not only as one of the world's major uranium producers (Cohen and Grant, 2021) but also due to its escalating emphasis on rare earths production. This is exemplified by a significant agreement signed in June 2023, totaling around \$1.7 billion with Germany (Kazakh Invest, 2023), and a major aspect of this agreement involves the collaboration between Kazenergopower LLP and Siemens AG to manufacture medium-voltage distribution devices for Kazakhstan's energy sector using Siemens technology. This collaboration includes the establishment of a Siemens equipment production base in Kazakhstan, with an associated project cost of approximately \$22 million (Kazakh Invest, 2023).

When this scenario is examined, it becomes evident that the United States appears to have undergone a kind of Schumpeterian creative destruction from the 1990s until the Trump Administration took office. Despite external influences, such as pressure from low prices and Chinese overproduction of rare materials, the push by environmentalists to close the mine in California would have been highly unlikely to succeed in China. Although the Chinese also faced significant environmental disasters and issues with the toxicity of extracting these resources from their mines (Standaert, 2019 & Liu and McGregor, 2016), the Chinese national ethos, characterized by greater collectivism and unity around a common goal (Jiashan, 2019 & Bai, 2022), as opposed to Western liberalism, leads to a more calculated assessment of risks and benefits in their policies.



Thus, it is possible to observe how the growing social and political division in the United States also leads to a collapse of its industries and internal deindustrialization. The deindustrialization of the United States and the West, in general, is a macroeconomic phenomenon more prominently expressed in the relocation of Western industries to countries considered part of the Global South. What Giovanni Arrighi considers the second phase of capital overaccumulation cycles, resulting from the greater emphasis by the hegemonic power (in this case, the United States) on the financial and speculative sector (Arrighi, 2006). This translates into the abandonment of industry and the so-called physical economy.

However, the influence of environmental movements in the American heavy industry, while having less impact than deindustrialization due to the financialization of the economy, demonstrates how the growing division in American society has also been a key element in its significant loss in the resource race against China. In fact, for China to consider environmental factors, it is most of the times necessary some external pressures and the intervention of non-governmental organizations. In the West, this concern is more ingrained in the daily lives of its citizens, leading society itself to call for environmental justice and giving rise to tensions between responsible economic growth and the effects of heavy industry on the environment.

In this scenario, it is evident that the United States needs to expedite the production process and international agreements to remedy the damage done to the industry during years of mining closures on its territory. Therefore, it is crucial to pay close attention to Mountain Pass, which, after a long hiatus for the reasons mentioned above, has become operational again with significant American investment. It is currently the crucial bet for the United States in the rare earths sector, and much hope has been placed in its reopening by the leading experts in the sector.

Conclusions

In conclusion, the global dynamics of Rare Earth Elements exemplify a complex interplay between environmental concerns, geopolitical rivalries, and economic shifts. China's historic dominance, holding nearly 95% of the world's reserves and a significant share of production, underscores its strategic position. The evolving landscape, from Washington-based production to a Beijing monopoly, highlights the consequences on global supply chains and the construction of mines worldwide.

The importance of REEs extends beyond traditional industries to crucial sectors like the digital revolution and green energy transition. However, concerns about the environmental impact of extraction processes and China's quasi-monopolistic control have prompted a quest for alternatives. Efforts to replace REEs face challenges due to their irreplaceability, especially heavy rare earths.

China's approach, despite environmental challenges and illegal production, reflects a strategic shift towards centralization and planning. The "Big Six" companies and international collaborations signal China's ambition for global leadership in the REE sector. In contrast, the United States, once a dominant player, faces the repercussions



of deindustrialization and a fragmented approach. The revival of Mountain Pass in California becomes a focal point, symbolizing American efforts to regain prominence.

The historical rivalry between the U.S. and China, marked by strategic moves in the 1980s, continues to shape the REE landscape. China's market strategies, driven by subsidies, low wages, and lax environmental standards, outpaced the U.S., contributing to the latter's decline in the industry. The current scenario emphasizes the urgency for the U.S. to expedite production processes, form strategic partnerships, and secure a stable supply chain, represented by the pivotal role of Mountain Pass. The global quest for sustainable and geopolitically secure REE supplies remains a pressing concern, influencing economic strategies, international collaborations, and the balance of power in this critical industry.

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MULTISTAKEHOLDER COLLABORATION IN ENVIRONMENTAL CHALLENGES AT THE LOCAL LEVEL: A STUDY OF NGALAM PETENGAN AS AN INITIATIVE FROM GLOBAL CIVIL SOCIETY

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Abstract

This study aims to investigate the efficacy of global civil society actors' efforts at the local level in fostering multistakeholder collaboration, with a specific focus on Earth Hour Malang through Ngalam Petengan agenda. Additionally, the study examines the diverse participation of stakeholders in Ngalam Petengan aimed at addressing environmental challenges. The results show that government entities, businesses, academia, media, and local communities actively engage and cooperate in advancing environmental protection initiatives through Ngalam Petengan. This cooperative engagement correlates with the Pentahelix model, recognized as a developmental collaborative framework. This study contributes significantly to understanding GCS dynamics at the local level and underscores the essential role of the Pentahelix model in addressing global issues. However, specific geographical locations and local actors are the limits of the study. Future research should focus on the broader scale to explore how multistakeholder collaboration responds to global issues, particularly environmental challenges.

Keywords

Campaigns, green lifestyle, Pentahelix Model, SDGs.

Resumo

Este estudo tem como objetivo analisar a eficácia dos esforços dos atores da sociedade civil global a nível local na promoção da colaboração entre as várias partes interessadas, com um enfoque específico na Hora do Planeta Malang através da agenda Ngalam Petengan. O estudo examina a participação diversificada das partes interessadas em Ngalam Petengan com o



objetivo de enfrentar os desafios ambientais. Os resultados mostram que as entidades governamentais, as empresas, a Academia, os meios de comunicação social e as comunidades locais se envolvem e cooperam ativamente na promoção de iniciativas de proteção ambiental através do Ngalam Petengan. Este envolvimento cooperativo está correlacionado com o modelo Pentahelix, reconhecido como uma estrutura de colaboração para o desenvolvimento. Este estudo contribui significativamente para a compreensão da dinâmica da GCS a nível local e sublinha o papel essencial do modelo Pentahelix na abordagem de questões globais. No entanto, as localizações geográficas específicas e os atores locais são os limites do estudo. A investigação futura deve centrar-se numa escala mais alargada para explorar a forma como a colaboração entre as várias partes interessadas responde a questões globais, em especial aos desafios ambientais.

Palavras-chave

Campanhas, estilo de vida ecológico, Modelo Pentahelix, ODS.

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MULTISTAKEHOLDER COLLABORATION IN ENVIRONMENTAL CHALLENGES AT THE LOCAL LEVEL: A STUDY OF NGALAM PETENGAN AS AN INITIATIVE FROM GLOBAL CIVIL SOCIETY

NAJAMUDDIN KHAIRUR RIJAL

LUCKE KARIMAH PAMUNGKAS SAPUTRO

Introduction

This study examines multistakeholder collaboration in addressing environmental challenges at the local level initiated by global civil society (GCS) actor. Public awareness about environmental preservation, shared among government entities, private sectors, and society, underscores the importance of safeguarding the environment and ensuring a sustainable future (Lee et al., 2015). This recognition originates from the understanding that various environmental challenges have universal implications, particularly climate change and global warming, necessitating a collective response from all stakeholders. The collective actions are also correlated with efforts to achieve Sustainable Development Goals (SDGs), precisely climate action, life below water, and life on land goals.

The focus of the analysis is on Earth Hour Malang (EHM) through an initiative known as Ngalam Petengan. This is an annual event held regularly, specifically on the last Saturday night of March each year. During Ngalam Petengan, also called the switch-off, participants turn off electrical devices for an hour. The initiative originated in 2007 under Earth Hour auspices and has since been adopted globally by various cities and countries, with 192 nations participating in the 2023 switch-off action.

Earth Hour is a global movement that actively campaigns for environmental awareness and the adoption of sustainable lifestyles. This movement was introduced in 2009 and subsequently gained traction in various regions, including Malang City and Malang Regency, East Java, Indonesia, with the establishment of EHM in 2012. In 2019, EHM was recognized as the Most Active Earth Hour Account based on engagement in Indonesia, underscoring the significance of further examination (Rijal & Anggraheni, 2019).

Ngalam Petengan is one of EHM's annual actions to campaign for the importance of environmental awareness and concern, alongside other regular and conditional actions (Rijal, 2020). In Ngalam Petengan series, EHM engages various stakeholders to collaborate and ensure the success of this initiative. The various actors range from



government actors, business actors, academics, local communities, and the mass media. Therefore, the study aims to examine EHM efforts in fostering multistakeholder collaboration in Ngalam Petengan initiative. The analysis underscores the importance of multistakeholder participation and cooperation in correlating efforts to protect the environmental future with the SDGs agenda, as emphasized by the partnership for the objectives. The investigation contributes academically to the fields of GCS, international-domestic dynamics, multistakeholder cooperation, and research related to SDGs as a global agenda.

Literature Review

The study explored previous research, investigating the local-level strategies of GCS and its role in addressing climate change through community action (Rijal & Anggraheni, 2019). Additionally, other aspects examined comprised the GCS public awareness campaign model (Rijal & Widiatmojo, 2021), the transformation and expansion from local to global (Rijal & Sabila, 2022), and the modalities of GCS at the local level (Rijal & Prasodjo, 2023).

In the context of this investigation, several previous research related to Earth Hour as a GCS initiative and multistakeholder collaboration within SDGs were referenced. Some study on Earth Hour across different levels, from international to local (Fernandez et al., 2017; Kee, 2013; Marciano, 2011; Oleksak & Meier, 2013). Additionally, publications on multistakeholder cooperation and participation in various development agendas were carried out by some scholars (Carayannis et al., 2012; Widowati et al., 2019; Zakaria et al., 2019). The relevance of these publications contributed to the study by enhancing the understanding of the role of EHM as GCS and the implementation of the Pentahelix model across diverse development programs.

Conceptual Framework

This study used the concept of GCS and the Pentahelix model as a conceptual framework. GCS concept was incorporated to contextualize EHM, which functioned as GCS actor at the local level. Conversely, the Pentahelix model was adopted to examine how multistakeholder collaboration in Ngalam Petengan represented an effort to promote environmental awareness.

The concept of GCS was initially explored, comprising stakeholders advocating for the public interest, distinct from both the state (politicians) and the business (economic actors). These stakeholders consisted of community groups that did not intervene in political or economic interests (Powell, 2022). The actors also maintain transnational connections without being constrained by national boundaries (Pallas, 2013). GCS also comprises a social space, organization, movement, or group interconnected across national borders, engaging in activities and networks that transcend local to global dimensions or vice versa.

The characteristics of GCS included voluntariness, non-governmental status, and non-commercial orientation (Helmut et al., 2016). The diversity of GCS comprises a wide



array of entities, such as non-governmental organizations, transnational advocacy networks, support groups, humanitarian foundations, and global social movements, among others. The entities' activities and network relations extended internationally and globally, distinguishing the organizations from civil society stakeholders primarily associated with domestic affairs. In this context, EHM evolved into a GCS actor, operating as a branch of Earth Hour Indonesia in the broader Earth Hour Global network. EHM was dedicated to advocating for universal public interests related to environmental sustainability, positioning the entity outside the domain of state power and business interests, thereby correlating with the third sector (Munck, 2010).

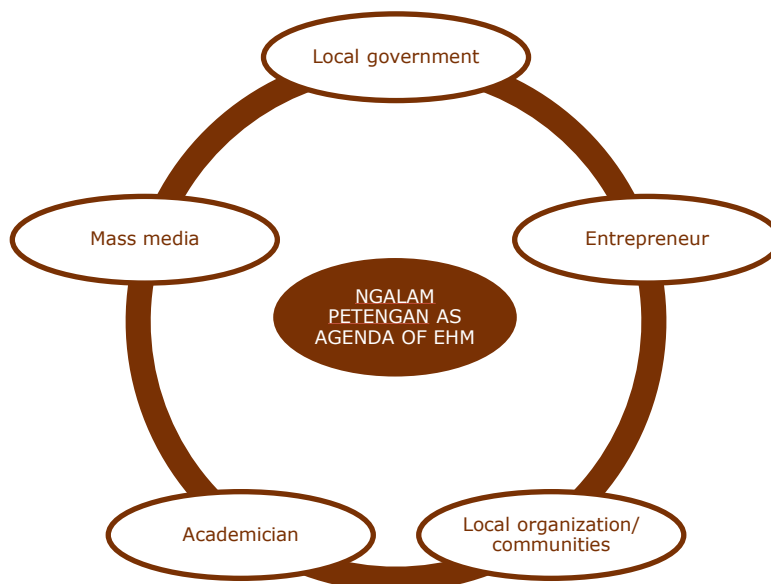
The Pentahelix model was subsequently explored and the term "helix" denoted synergy or cooperation (Hardianto et al., 2019). The term was used to represent the support or participation of various parties in development. Pentahelix also called Quintuplehelix was an extension of the helix model alongside Triplehelix and Quadruplehelix. This model described the organized and continuous collaboration among various stakeholders in the framework of program, policy, or development agenda success (Hermawan & Astuti, 2021). Five important stakeholders contributed actively to Pentahelix model, namely Academician, Business, Community, Government, and Media. Therefore, this model was alternatively called ABCGM or Pentahelix multistakeholder collaboration model (Zakaria et al., 2019).

The quintuplehelix or Pentahelix model served as an innovation framework for addressing environmental challenges through multi-actor synergy. The application of the model in environmental challenges was predicated on the recognition that the problems were dynamic, complex, and transcended national borders. Therefore, the approach to addressing the problems should be flexible and adaptable. The steps taken should correlate with developmental dynamics, with multistakeholder synergy being a crucial element. Environmental challenges were communal concerns, necessitating shared responsibility, participation, and tangible contributions from all parties (Carayannis et al., 2012).

In the context of this study, the Pentahelix model was used to assess the participation of the five elements in environmental stewardship, namely government, business, universities, mass media, and civil society communities. This participation was exemplified through Ngalam Petengan, which EHM initiated as a local GCS entity. Multistakeholder collaboration constituted a critical component in achieving the SDGs agenda and implementing the principles of the 17th SDGs, namely fostering cooperation to attain this global objective with inclusivity. The operationalization of the Pentahelix model referred to in this study is depicted in Figure 1.



Figure 1. Pentahelix model of Ngalam Petengan



Method

This study adopted a descriptive-qualitative approach to describe a situation or phenomenon without exploring causality relationships or inter-variable connections. The data consisted of both primary and secondary sources, where primary data was collected through interviews conducted with EHM activists.

The interviews showed information regarding multistakeholder participation in various EHM activities, particularly during Ngalam Petengan campaign. Additionally, primary data was collected and processed from EHM social media publications. Data collection and processing from social media were facilitated through the NVivo 12 Plus application with the NCapture feature. This allowed for the description of EHM's social media activities and the depiction of the stakeholder network associated with EHM.

Secondary data was sourced from various literature such as books, journals, magazines, online articles, news portals, and other library resources relevant to the study objectives. Various literature was gathered using the Harzing Publish or Perish application. The data analysis method used in this study, including four key components, namely data collection, condensation, display, and conclusions (Miles et al., 2014).

Results

Earth Hour and Ngalam Petengan

EHM used Ngalam Petengan to represent the switch-off initiative, comprising the cessation of electrical device usage for an hour on the last Saturday night of March. This action was undertaken as part of the Earth Day commemoration, signifying darkness in Malang (Ngalam in reverse).



The inception of the switch-off initiative occurred in 2005 when World Wildlife Fund (WWF) Australia introduced "*The Big Flicks*," envisioning a moment when all energy consumption on Earth would cease simultaneously. WWF founded in Switzerland on April 29, 1961, served as an international non-governmental organization dedicated to global environmental preservation. By 2006, the Big Flick concept evolved into Earth Hour, with the inaugural switch-off event taking place on March 31, 2007.

The concept gained global traction, with the switch-off event in 2008 including 371 cities across 35 countries (Baktiar, 2014). A decade later, the event comprised 188 countries including millions of individuals. In Indonesia, the initiative was adopted in 2009 and supported by partners in 128 cities. Despite Earth Hour's continuous advocacy efforts and campaigns, the switch-off initiative known as Ngalam Petengan remained the primary agenda annually. This prominence originated from the simultaneous observance across numerous countries, attracting millions of participants globally. During the 2021 switch-off, Earth Hour Global reported participation from 192 countries, including various stakeholders such as government officials, global corporations, international governmental and non-governmental organizations, and the broader community. Similarly, the switch-off initiative received support from partners across 128 cities in Indonesia, propelled by 2,000 young volunteers in 33 regions, and engaged 2 million netizens through digital activation (Rijal & Prasodjo, 2023).

In Indonesia, as stated on the Earth Hour Indonesia website, the switch-off initiative was primarily targeted towards Java and Bali. This preference originated from the concentration of 78% of Indonesian electricity consumption in Java-Bali, which housed 68% of electricity consumers, while other parts received a smaller share. Additionally, approximately 23% of the electricity consumption was focused on DKI Jakarta and Tangerang, with the distribution split among households, businesses/offices, commercial buildings, the industrial sector, public facilities, and social sectors, each accounting for around 30% (Earth Hour Indonesia, 2019).

Based on this data, Earth Hour Indonesia estimated that when 10% of Jakarta residents participated in the switch-off event, it could alleviate the strain on a 300-megawatt power plant. This reduction in electricity usage equated to providing electricity for 900 villages, saving Jakarta approximately 200 million rupiah in electricity costs, and mitigating emissions by around 267 tons of carbon dioxide. The emissions reduction was equivalent to the absorption capacity of 267 trees aged 20 years and provided oxygen for a minimum of 534 individuals (Earth Hour Indonesia, 2019).

Based on this assumption, the switch-off initiative signified that energy-saving practices contributed to reducing carbon dioxide emissions and other harmful gases while facilitating oxygen production. The definite aim of the initiative was to mitigate global warming and climate change threats, with energy conservation closely connected to various environmental challenges.

In the context of Malang, Ngalam Petengan's action addressed various environmental problems. By conserving electricity and fostering environmentally friendly practices, it aimed to make a positive contribution to environmental conservation efforts.



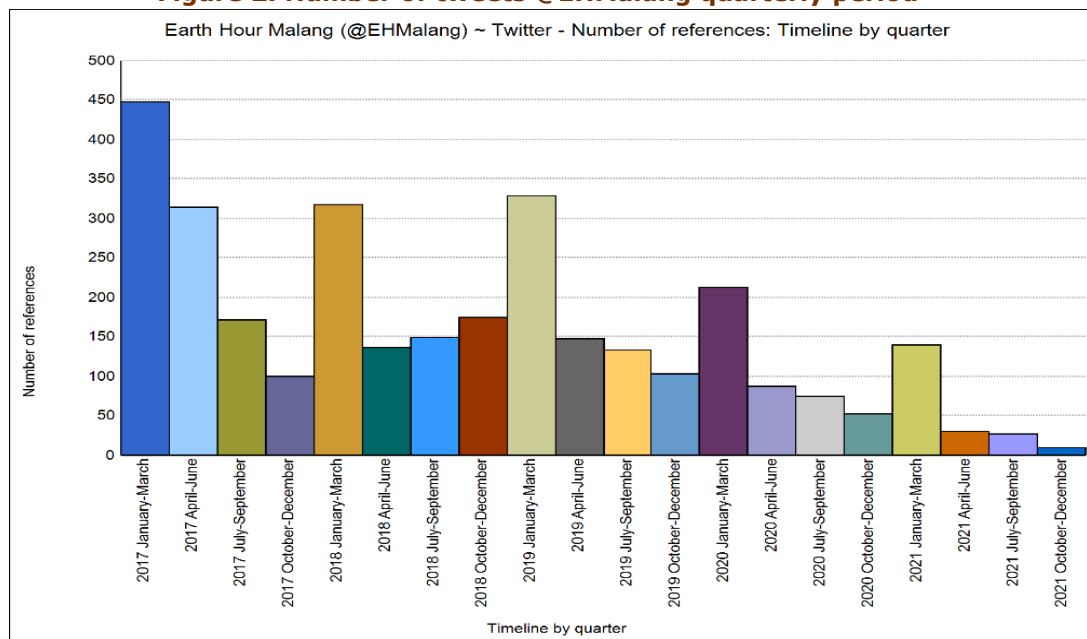
The Existence of Ngalam Petengan Annually

Ngalam Petengan was organized by EHM community starting in 2012. However, the examination of Ngalam Petengan's documentation via EHM publications showed that @earthhourmalang on Instagram started in 2015, and @EHMalang on Twitter began in 2017. The EHM blog at <http://earthhourmalang.blogspot.com/> was also initiated in 2015, and the YouTube channel EHM was established in 2016. The primary sources of social media data for this study predominantly came from Twitter and Instagram EHM accounts, with other publication platforms serving as supplementary data sources.

The analysis results on Twitter using the NCapture feature on the NVivo12Plus software showed that tweets from the @EHMalang account experienced a consistent increase between January and March annually. During January-March of 2017-2021, EHM Twitter uploads consistently showed increased engagement and intensity, as depicted in Figures 2 and 3.

Figures 2 and 3 showed that consistently, during the January-March period annually, the @EHMalang account exhibited higher activity on Twitter compared to other periods. This was attributed to the culmination of the Earth Hour Day agenda known as Ngalam Petengan. Consequently, starting in January, EHM initiated outreach and campaigns to disseminate information, attract public support, and stimulate social media engagement. EHM adopted direct efforts through various actions, such as park campaigns, cafe promotions, school initiatives, and indirect strategies using social media tools.

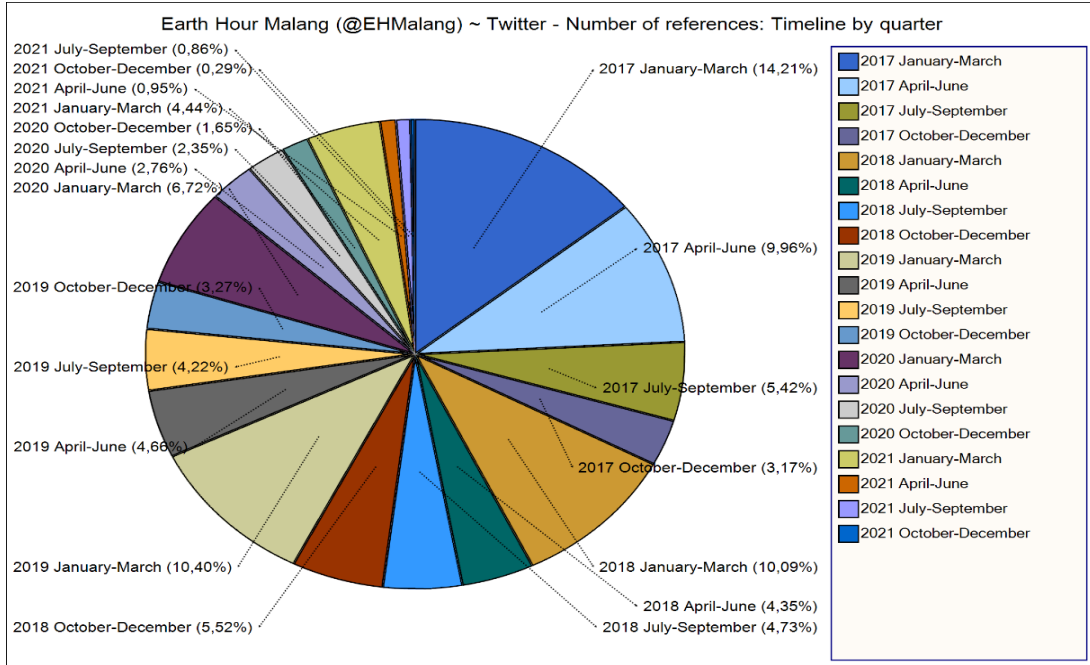
Figure 2. Number of tweets @EHMalang quarterly period



Source: Processed by the author, 2021



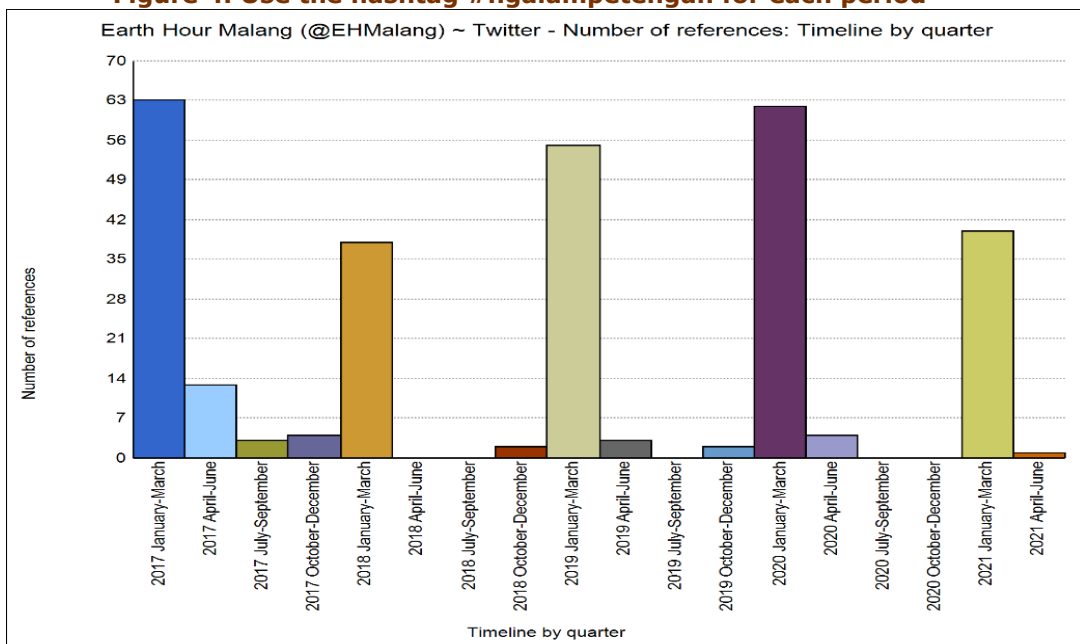
Figure 3. Percentage of total tweets @EHMalang quarterly period



Source: Processed by the author, 2021

The results affirmed the analysis concerning @EHMalang Twitter account activity regarding the hashtag #ngalampetengan. As depicted in Figure 4, the hashtag #ngalampetengan was most frequently used during the January-March period annually. However, the hashtag was continually used in posts after the January-March period when discussing past or upcoming Ngalam Petengan events.

Figure 4. Use the hashtag #ngalampetengan for each period

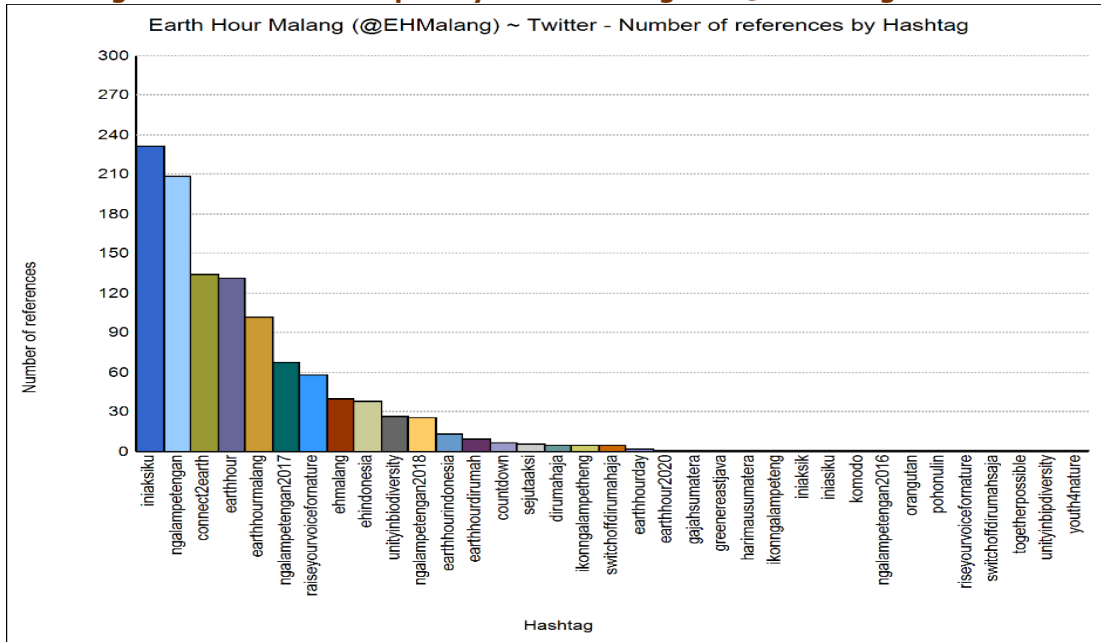


Source: Processed by the author, 2021



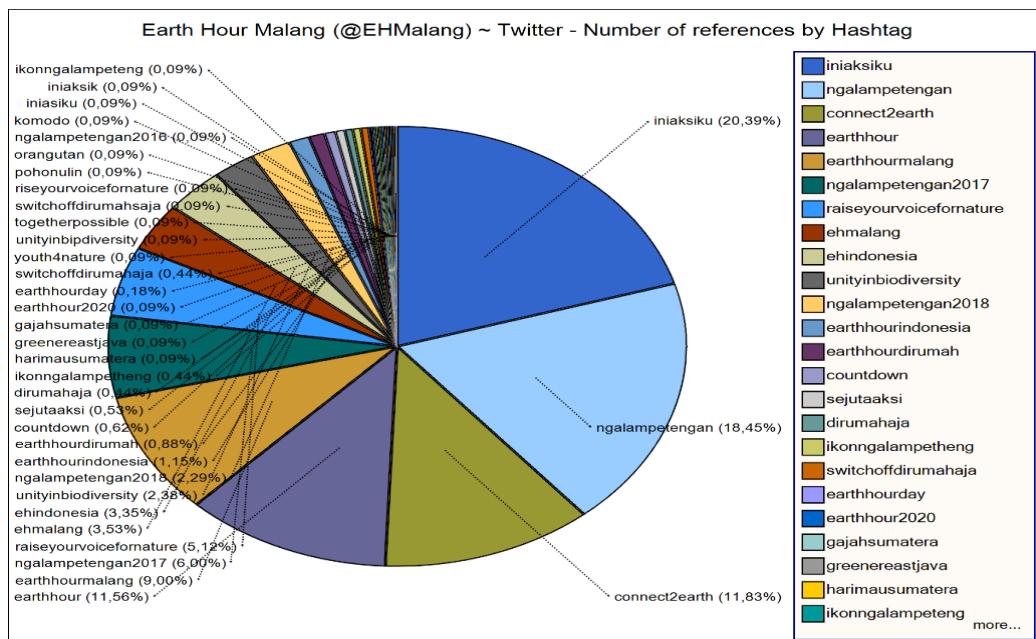
The data in Figure 4 showed that #ngalampetengan was one of the hashtags most frequently used by EHM on @EHMalang account. Although the most used hashtag was #iniaksiku, the NCapture results on Nvivo12Plus showed that #ngalampetengan was more frequently used than others, as seen in Figures 5 and 6.

Figure 5. The most frequently used hashtags on @EHMalang account



Source: Processed by the author, 2021

Figure 6. Percentage of the most frequently used hashtags on @EHMalang



Source: Processed by the author, 2021



Table 1. Overview of Ngalam Petengan from 2015 to 2021

Year	Date	Location	Theme	Participant Switch-Off	Media Partners
2015	March 28, 2015	Merbabu Park, Malang City	Change Climate Change	1 government office, 4 public facilities such as parks and monuments, 4 hotels, as well as 1 village	7 radios and various online promotional media
2016	March 19, 2016	Malang City Hall	Shine a Light on Climate Action	3 public facilities such as monuments and parks, 1 mall, 5 hotels, 1 cafe, 1 campus, 1 government office, and 1 green village	9 radios and various online promotional media
2017	March 25, 2017	Malang City Hall	Shine a Light on Climate Action: From Moment to Movement	2 government offices, 1 mall, 2 campuses, 4 hotels, 1 cafe, and 2 villages	14 radios and various online promotional media
2018	March 24, 2018	Grand Hall of Malang Regency	Welcome to the Jungle: Greetings from the Forest to Friends in Civilization	3 hotels, 5 cafes, 3 government offices, 5 public facilities such as parks, monuments, and statues, as well as 2 campuses	8 radios, 1 TV, and various media promotions online
2019	March 30, 2019	Grand Hall of Malang Regency	Down by The Ocean "Because the Ocean Doesn't Need Plastic"	6 hotels, 7 cafes, 3 campuses, 3 government offices, 1 mall, and 3 public facilities	8 radios, 1 TV, and various online promotional media
2020	March 28, 2020	Online (Zoom Meetings)	My Earth, My Home	4 hotels, 2 cafes, and 2 government offices	6 radio and various online promotional media
2021	March 27, 2021	Hybrid (Offline: Ibis Style Hotels), Online: Zoom	Connect Our Biodiversity: Our Earth is A Part of Us	11 hotels, 9 cafes, 3 campuses, 2 government offices, and public facilities	7 radio and various online promotional media

Source: Processed by authors from various sources, 2021

Table 1 presented information on the implementation of Ngalam Petengan from 2015 to 2019, which took place at government-owned locations. In 2015, the event was held in a city park owned by Malang City Government, while in 2016 and 2017, it occurred at Malang City Hall, directly opposite Malang City Square. In 2018 and 2019, the event was held at the Hall of Malang District Regent's Office. The selection of these venues was strategic to showcase the presence of EHM and attract the wider community's attention. This selection also showed EHM's ability to engage and persuade the Malang City government and Malang Regency government to support and participate in the initiatives.

As anticipated in 2020, Ngalam Petengan was expected to be held as usual, but the COVID-19 pandemic necessitated a shift to online platforms. EHM announced the cancellation of Ngalam Petengan a week before the scheduled date on March 28, 2020. This was announced following a circular from WWF, the leading organization of the Earth Hour community, regarding the cancellation of public Earth Hour campaign events. Similarly, in 2021, during the COVID-19 pandemic, Ngalam Petengan was conducted both



online and offline (hybrid). Apart from the online component, the in-person aspect of Ngalam Petengan was limited to Ibis Style Hotel Malang. Holding Ngalam Petengan 2021 at a 3-star hotel in Malang City underscored EHM's ability to engage business entities in supporting and participating in the activities.

Table 1 further details stakeholders who participated in the switch-off initiative and those who supported Ngalam Petengan. Based on the table, participants in Earth Hour Day switched off energy from 20.30 to 21.30, including government agencies responsible for public facilities, private sector entities such as hotels, malls, cafes, universities, and the local community (Green Village). Additionally, various media outlets played a role in supporting Ngalam Petengan through publication and information dissemination, including radio stations, local television channels, and several promotional platforms on social media. Numerous organizations, movements, and communities provided support, contributing to both information dissemination and direct participation in the execution of Ngalam Petengan.

Efforts to Stimulate

The participation of various stakeholders was closely connected to the efforts made by EHM volunteers to stimulate engagement in Ngalam Petengan. Based on the findings, the study identified three primary forms of effort. Firstly, there were active lobbying and advocacy efforts. Secondly, networking initiatives include leveraging existing networks to foster collaboration and support. Thirdly, campaign strategies were used to raise awareness and promote engagement in the cause. These campaign efforts were divided into two forms, namely direct or indirect engagement through media channels.

Lobbying and Hearing Efforts

Lobbying and hearing efforts were carried out by EHM volunteers targeting government entities, businesses, universities, and the media. These efforts aimed to stimulate participation in Ngalam Petengan and support environmental protection initiatives through pro-environmental policies or activities. The lobbying process typically commenced with the submission of proposals to the targeted entities, followed by conducting hearings.

Initially, efforts were directed towards lobbying government stakeholders, including the Malang Mayor, Malang Regent, environmental agencies, parks services, executive branches, law enforcement agencies, and the state electricity company. This lobbying approach was confirmed in an interview with the City Coordinator of EHM 2021, Nariswari Alifathea Jasmine. Jasmine explained that "Stakeholders were typically engaged by commencing with the submission of a proposal followed by scheduling hearings. The hearings were conducted with government representatives and relevant entities such as the environmental service, Malang City Scouts, and the police. This act provided an overview of Ngalam Petengan, benefits, and invitations to support and participate in the initiative. Additionally, EH Indonesia also assisted in promoting local government participation."



The success of lobbying efforts with the government was evident in the authorization granted by the authorities to host Ngalam Petengan in public facilities. In 2018 and 2019, Ngalam Petengan was hosted at Malang Regent Office Hall, while in 2016 and 2017, it took place at Malang City Hall. This success was further indicated by government support, with various government offices and public facilities participating in the switch-off event during Ngalam Petengan annually.

An outcome of the engagement with government officials was the creation of a short video urging public participation in Earth Hour Day. In 2019, EHM managed to persuade Malang Regent to record a video appealing to both the government and the wider community to join the Earth Hour Day initiative. In addition to the video appeal, Malang Regency Government issued a letter to all department heads and sub-district officials, urging participation in switching off electrical devices on the eve of Earth Hour Day.

The letter was addressed to all levels of Malang Regency government, including inspectors, departments/services, hospitals, legislatures, and sub-district heads across the regency. The contents emphasized two key points, namely promoting a campaign to turn off lights for an hour and appealing to the public to adopt energy-saving habits by using electricity only as necessary. The appeal underscored a collective commitment to addressing climate change, preserving biodiversity, and reducing carbon emissions.

In both 2020 and 2021, EHM successfully approached government officials, including the Regent of Malang, to deliver appeals through short videos. The presence of government officials or representatives at Ngalam Petengan events annually served as further evidence of EHM's successful lobbying efforts.

Lobbying and hearing efforts were also directed toward business stakeholders, such as hotels, malls, and cafes. This was evident in the participation of various establishments in Ngalam Petengan by turning off electricity. Furthermore, several businesses actively facilitated the success of the EHM agenda. In 2019, EHM hosted a press conference for Ngalam Petengan 2019 at the 101 Hotel Malang. The manager of Favehotel fostered participation in Ngalam Petengan through a short video in 2021. Additionally, Ibis Style Hotel facilitated the hybrid implementation of Ngalam Petengan, combining offline and online elements.

The participation of the business community originated from the pro-environmental orientation. According to Nariswari Alifathea Jasmine, the Coordinator of EHM 2021, efforts were made to engage entrepreneurs and business owners who prioritize environmental concerns, such as those in the hotel and cafe sectors. Jasmine explained, "The benefits of participating in the switch-off are first outlined, followed by the proposal of a feasible partnership." However, not all business circles targeted by EHM were receptive to participation.

As Jasmine stated, the benefits offered by EHM served as an incentive for business owners to engage in Ngalam Petengan, signifying the commitment to environmental protection and correlating business practices with sustainability principles. This "profit" primarily comprised promotional opportunities across EHM's various social media platforms. According to Calista Amalia, Coordinator of EHM 2018, not all businesses adopted this promotional offer. Eventually, the businesses that supported EHM initiatives



shared a common vision concerning environmental stewardship, leading to the eventual agreement to participate.

Lobbying and hearing efforts were directed towards universities to stimulate participation in Ngalam Petengan by switching off lights on campus during Earth Hour Day. This included lobbying campus leaders, primarily through student organizations, and leveraging existing student volunteers. The Coordinator of EHM 2021 explained, "Hearings were conducted at universities, and possible collaborations were proposed. Additionally, student organizations were typically prioritized to convey the message to higher-ups."

The presence of EHM volunteers at various universities played a crucial role, serving as advocates to promote campus participation. Student organizations served as conduits for engaging with higher education leaders, facilitating successful lobbying and hearing efforts resulting in several universities participating in the switch-off event.

Lobbying and hearing were also extended to the media, particularly radio stations, which served as crucial partners for Ngalam Petengan annually. EHM approached radio stations with proposals for talk shows, discussing relevant themes and inviting public participation. This approach aimed to disseminate information about environmental challenges and Ngalam Petengan initiative, motivating public engagement. Additionally, local television stations were also approached and eventually became media partners for EHM Ngalam Petengan's agenda.

Social media platforms, particularly those favored by students, were adopted as promotional avenues and media partners to spread information and foster public engagement. Jasmine further emphasized, "Initially, the switch-off event was outlined, and the media explored uniqueness, thereby distinctive aspects from EHM community and the initiative were presented".

Networking and Collaboration Efforts

In each Ngalam Petengan agenda, various organizations and local communities participated in providing support and assistance for the annual initiative's success. This participation was carried out through collaborative efforts aimed at ensuring the success of various agendas leading up to the night of Ngalam Petengan.

The support of the organizations was closely connected with EHM's efforts to leverage the entity network. This network was established through collaborations with various local organizations and communities, particularly extracurricular foundations focused on environmental challenges. For instance, in 2017, EHM collaborated with AIESEC Brawijaya University, Malang Berkebun (Malang Gardening), Turun Tangan, and Kemangteer Malang to organize a Sambang Baby Tree event. This initiative included tree planting and periodic monitoring visits to observe the planted trees' growth. Subsequently, EHM conducted joint water source checks at the Precet Junrejo Water Source in Batu City, in collaboration with Earth Hour Batu City.

EHM organized the Aksi Menghadap Laut (Action Facing the Sea) event in collaboration with various organizations including Marine Buddies, Climate Change Frontier, Sobat Bumi Malang, Ekora Community, AIESEC, Hilo Green Community, Mapala Ma Chung



University, and other Earth Hour chapters such as Earth Hour Sidoarjo and Earth Hour Batu City in 2018. Collaborative efforts, referred to as *CollaborAction* by EHM, were also conducted in commemoration of Earth Day 2018, including the UMM Asian Medical Students Association and Gerakan Sejuta Pohon (the Million Tree Planting Movement) by collaborating with Ngalup.co as well as Parimaya (Malang Raya Tourism).

CollaborAction initiatives also led by EHM included a garbage cleanup campaign initiated during Waste Awareness Day in 2019, collectively with the Turun Tangan Malang community and Green Generation Malang. The various networking efforts carried out by EHM showed the community's strong relationships with other groups. This was acknowledged by Calista Amalia stating, "The cooperation between EH and other communities was very strong. ... Invitations from other communities were rarely declined, and reciprocation was common."

The statement suggested a reciprocal relationship between communities, where the groups invited each other to participate in the activities. Consequently, when other communities hosted events, EHM activists were also present. This reciprocal relationship showed mutual support among diverse communities to address the issues advocated. EHM cooperated with various groups, recognizing that tackling environmental challenges required collective efforts. Therefore, establishing a network was essential for all communities to unite and pursue the shared vision. In the context of Ngalam Petengan, EHM leveraged the collaborative network to obtain support and participation for the event.

Campaign Efforts

EHM carried out efforts to succeed and engage the public by conducting campaigns. These campaigns were carried out directly or indirectly through the media. Direct campaigns were initially executed through routine EHM actions, including the City Park Campaign, Café Night Campaign, and School Campaigns.

During the City Park Campaign, EHM volunteers socialized and educated the public visiting the parks. Information about the importance of environmental care and protection in city parks, such as proper waste disposal and sorting, was provided. Additionally, promoting a green lifestyle by fostering the use of reusable drink bottles or supplies was emphasized. Volunteers invited participants to join Ngalam Petengan's agenda by switching off electrical devices.

The Café Night Campaign included EHM volunteers campaigning at various cafes during the evening, targeting a larger audience due to higher attendance at night. Volunteers engaged cafe patrons in discussions about adopting a green lifestyle, emphasizing the importance of using reusable drink bottles and non-plastic straws while minimizing food waste. Posters signifying various aspects of a green lifestyle were depicted, and visitors were motivated to participate in Ngalam Petengan event by switch-off electrical devices for an hour.

EHM conducted a School Campaign targeting students from elementary to high school levels to educate them about adopting a green lifestyle. Activities of the campaign included repurposing used plastic bottles into trash cans, transforming old t-shirts into



bags, and practicing hydroponic gardening. Campaigns about the significance of energy conservation were also conducted to support the switch-off action.

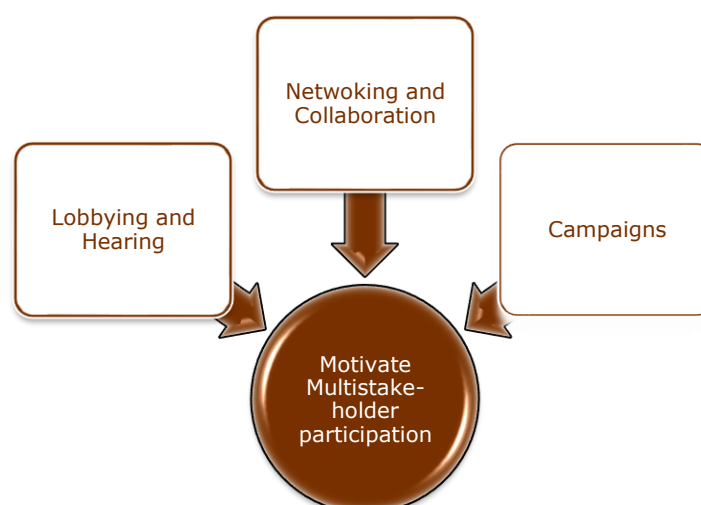
Apart from the direct methods, campaigns were conducted using media platforms, mainly social media. Consistently, EHM uploaded various content related to Ngalam Petengan and environmental challenges on several social media platforms, such as Twitter, Line, Instagram, and Facebook. The aim was to ensure that all activities and the messages reached a wider audience, with the hope of raising public awareness and stimulating participation in the events, including the switch-off action.

The social media campaign consistently used various hashtags, including #SeninBawaTumbler, promoting the use of reusable drink bottles to reduce plastic waste. The hashtag #PlastikTakAsik was used to advocate for reduced plastic usage, while the tag #SaturdayPreiBBM motivated alternative transportation methods such as cycling and walking. Additionally, #AyoBawaBekal urged individuals to bring lunch boxes to reduce plastic and food waste, along with other hashtags such as #iniaksiku and #connect2world.

EHM used radio as a campaigning tool, a result of successful lobbying and hearings, as discussed earlier. Additionally, EHM made appearances on local television stations for campaigns, talk shows, and similar initiatives. These efforts eventually aimed to engage the broader community in supporting and participating in Ngalam Petengan and adopting a green lifestyle.

The three forms of effort described were visualized in Figure 8, signifying EHM's response to environmental challenges through Ngalam Petengan. The figure showcased EHM's efforts to promote environmental awareness and motivate multistakeholder participation, including lobbying and hearings, networking and collaboration, and campaigns.

Figure 8. EHM efforts to motivate multistakeholder participation



Source: Processed by the author, 2022



Table 2 provides a straightforward summary of the three types of efforts undertaken by EHM to foster multistakeholder participation, along with the respective objectives. The table also outlined the engagement of each stakeholder according to the Pentahelix model, which included government actors, business actors, academicians, media, and local organizations/communities.

Table 2. Efforts to promote multistakeholder collaboration

Efforts	Main Target/Stakeholders	Forms of Participation
Lobbying and Hearing	Government actor	Participation and facilitating of Ngalam Petengan, support for pro-environmental policies, and calls for action
	Business actors	Participation and facilitating of Ngalam Petengan, support for pro-environmental business activities, and calls for action
	Universities/Academicians	Participation in Ngalam Petengan, green lifestyle support, and calls for action
	Media (local radio and television)	Facilitate publication and information dissemination of Ngalam Petengan
Networking	Local Organizations/Communities	Participation in Ngalam Petengan, green lifestyle support, and calls for action
Campaigns (direct campaign and via media)	Individual	Participation in Ngalam Petengan and green lifestyle support

Source: Processed by the authors, 2022

Discussion

Based on the results, this study shows three key findings. Firstly, EHM through Ngalam Petengan efforts to foster multistakeholder participation, comprising five essential stakeholders who contribute, participate, and provide support based on respective roles and capacities. These stakeholders include local government bodies such as Malang City and Malang Regency administrations, representatives from the business entities comprising cafes, shopping centers, and hotel proprietors, both public and private universities, local media elements comprising radio, television, and online platforms, as well as local organizations and the public.

Collaboration among multiple stakeholders in the form of Pentahelix is essential for collectively addressing various challenges. Previous studies underscored the significance of Pentahelix synergy, particularly in the context of issues such as COVID-19. According to the results, stakeholder synergy in the Pentahelix model should be adapted to local contexts, wisdom, and resources (Upe et al., 2021).

EHM adapts to the local context by selecting themes that resonate with the conditions in Malang to promote multistakeholder participation through Ngalam Petengan. Additionally, the activities in Ngalam Petengan initiative are adapted to fit the socio-cultural context of the community. Leveraging local wisdom, the name Ngalam Petengan reflects the indigenous wisdom of Malang societies, characterized by the use of “*walikan*”



language (reversing the words, such as Malang becoming Ngalam), aimed at gaining public empathy and attention.

The participation of hotel and cafe entrepreneurs is inseparable from Malang's position as a tourist destination with hundreds of hotels and thousands of cafes (Badan Pusat Statistik Kota Malang, 2021). EHM leverages this partnership to engage visitors in adopting a greener lifestyle. Similarly, the engagement of higher education institutions is fostered by Malang's reputation as an educational hub, with various universities reaching 80 public and private institutions. This collaboration capitalizes on the educational resources and expertise available in the region, furthering the objectives of Ngalam Petengan and environmental advocacy efforts.

Secondly, efforts to motivate multistakeholder participation by EHM through Ngalam Petengan correlate with SDGs, particularly regarding partnerships for achieving the objectives. This SDGs rule underscores the importance of collaboration to strengthen the implementation of sustainable development by including all stakeholders without exceptions. EHM through Ngalam Petengan strives to realize this collaborative method as part of a collective effort to protect the environment's future. Indirectly, this effort also contributes to the realization of SDGs, specifically those related to climate action, which comprise taking immediate action to combat the impacts.

The results correlate with Florini and Pauli's argument that collaborative governance is essential for implementing SDGs through cross-sectoral partnerships (Florini & Pauli, 2018). Additionally, Desai asserts that innovation is crucial in achieving SDGs, particularly through multistakeholder governance, where diverse actors with knowledge, information, and commitment collaborate to find global development solutions. This necessitates a platform where various stakeholders integrate to set agendas, design policy solutions, and conduct evaluations (Desai et al., 2018).

Thirdly, the points underscore the critical role of GCS as an essential stakeholder in contemporary international relations (Mishra, 2012). GCS represents the needs, interests, and immediate challenges of communities worldwide. Through Ngalam Petengan, EHM as a form of GCS at the local level shows a tangible contribution to addressing global environmental challenges through action. This underscores the fact that local government cannot address the challenges alone, necessitating the participation of civil society, local leaders, academia, and the private sector (Asian Development Bank, 2020).

Through Ngalam Petengan, EHM unites diverse stakeholders to protect the environment's future while simultaneously advancing SDGs collectively. This underscores the crucial role of GCS actors who adopt cosmopolitanism, emphasizing shared awareness and moral responsibility towards the universal interests of the global community.

Despite being a local initiative, Ngalam Petengan's significance extends beyond Indonesia, as similar actions are carried out worldwide. In this manner, Ngalam Petengan switch-off event becomes part of global collective effort led by GCS. As Chandhoke argues, local struggles can be integrated into a global campaign to shape a new global order (Chandhoke, 2005). Therefore, Ngalam Petengan and similar initiatives worldwide are expected to contribute positively to environmental preservation, particularly in combating the threat of climate change and its consequences.



Conclusion

This study showed the crucial role played by GCS stakeholders at the local level, exemplified by EHM, in fostering multistakeholder participation. This partnership was essential because GCS could not function as a solitary entity. Given that various global challenges constituted shared responsibilities, multistakeholder collaboration was crucial to address issues impacting universal well-being collectively. The initiation of Ngalam Petengan served as a instrument for fostering collaboration among stakeholders through respective engagements, contributing to global agenda of realizing SDGs.

The results of this study contributed to showing the participation and significance of local stakeholders in addressing global challenges. The findings enriched the understanding of GCS, which had been studied from global-to-local perspective, rather than the local-to-global perspective. The investigation further underscored the importance of the Pentahelix model, emphasizing the necessity of engaging multiple stakeholders as a method to address various global challenges.

The study had limitations, particularly in terms of geographical scope and focus on local stakeholders. The analysis only examined Ngalam Petengan as part of the switch-off initiative led by EHM, with the primary data collection only extending until 2021. Therefore, further research should aim to explore a broader range of geographical locations and include various stakeholders over a longer duration to generate more comprehensive and holistic insights.

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O SEGREDO DE ESTADO EM PORTUGAL: DA OPACIDADE DO ESTADO NOVO À PRIMAZIA DA TRANSPARÊNCIA CONTEMPORÂNEA

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Resumo

Este artigo analisa o regime do segredo de Estado em Portugal, enfatizando a imperiosa necessidade de uma maior transparência e o seu alinhamento com os princípios democráticos de accountability e participação cívica. Partindo de uma perspetiva histórica, o estudo traça a evolução do conceito de segredo de Estado desde o período do Estado Novo até à consolidação democrática pós-25 de Abril, evidenciando como as transformações políticas e sociais influenciaram a legislação e as práticas governamentais relativas à classificação e à gestão da informação sensível. A investigação aborda, com particular atenção, as modificações introduzidas pela Lei n.º 2/2014, de 6 de agosto, destacando os desafios que persistem na conciliação entre a segurança nacional e os direitos à informação e à transparência administrativa. Através de uma análise crítica da legislação vigente e da sua aplicação prática, o artigo debate a adequação do atual regime do segredo de Estado às exigências de uma sociedade que valoriza cada vez mais a transparência e o escrutínio público das atividades governamentais. Propõe-se, assim, uma reflexão sobre as tensões inerentes à proteção de informações classificadas em face da crescente demanda por uma governança aberta e responsável. O estudo conclui sublinhando a necessidade de reformas legislativas e de práticas administrativas que promovam um equilíbrio efetivo entre a segurança do Estado e o fortalecimento dos pilares democráticos de transparência e participação dos cidadãos.

Palavras-chave

Segredo de Estado; Democracia; Transparência; Segurança e Accountability.



Abstract

This article examines the regime of State secrets in Portugal, emphasizing the imperative need for greater transparency and its alignment with the democratic principles of accountability and civic participation. From a historical perspective, the study traces the evolution of the concept of State secrets from the Estado Novo period to the post-April 25th democratic consolidation, highlighting how political and social transformations influenced legislation and governmental practices related to the classification and management of sensitive information. The research pays particular attention to the modifications introduced by Law No. 2/2014, of August 6, highlighting the challenges that persist in reconciling national security with the rights to information and administrative transparency. Through a critical analysis of current legislation and its practical application, the article debates the adequacy of the current State secret regime to the demands of a society that increasingly values transparency and public scrutiny of governmental activities. It proposes a reflection on the inherent tensions between the protection of classified information and the growing demand for open and accountable governance. The study concludes by underlining the need for legislative reforms and administrative practices that promote an effective balance between State security and the strengthening of democratic pillars of transparency and citizen participation.

Keywords

State Secrecy; Democracy; Transparency; Security; Accountability.

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O SEGREDO DE ESTADO EM PORTUGAL: DA OPACIDADE DO ESTADO NOVO À PRIMAZIA DA TRANSPARÊNCIA CONTEMPORÂNEA

ANA MIGUEL DOS SANTOS

Introdução

O conceito de “Segredo de Estado”, dada a sua natureza multidimensional e multifacetada, pode ser definido como o conjunto de informações cuja divulgação não autorizada é considerada apta a causar danos à segurança nacional, aos interesses estratégicos, ou à integridade de um Estado e ao bem-estar dos seus cidadãos. Estas informações são, portanto, objeto de medidas especiais de proteção, alicerçadas em considerações legais, políticas, de segurança, éticas e internacionais, cuja aplicação específica varia de país para país.

A literatura académica e as legislações nacionais oferecem múltiplas perspetivas sobre o conceito, a sua implementação e implicações. Segundo Bok (1989), o segredo de Estado é justificado por razões de segurança nacional, implicando que a divulgação de determinadas informações poderia prejudicar a capacidade do Estado de defender-se de ameaças externas e internas. Esta noção é amplamente reconhecida e encontra respaldo na prática e na teoria da gestão da informação governamental. Assim, o segredo de Estado constitui-se como uma ferramenta vital na salvaguarda da segurança nacional, ao mesmo tempo que se apresenta como um ponto de tensão intrínseco entre as demandas das democracias por transparência e a necessidade de confidencialidade em assuntos de interesse estratégico.

Do ponto de vista legal, o conceito de segredo de Estado está intrinsecamente ligado ao direito administrativo e constitucional. A legislação sobre segurança nacional de diversos países estabelece os critérios para proceder à classificação de informações, os procedimentos para a sua proteção e as penalidades pela divulgação não autorizada. Por seu turno, do ponto de vista ético, o segredo de Estado levanta questões significativas sobre o equilíbrio entre a transparência governamental e a necessidade de confidencialidade em assuntos de importância nacional. Já Weber (2014) considerava que o segredo é uma ferramenta necessária na administração pública, permitindo a eficiência e a proteção dos interesses do Estado. No entanto, este princípio deve ser equilibrado com o direito do público à informação e à participação democrática (Weber, 2014).

Mas a conceção do segredo de Estado transcende a sua dimensão puramente legal ou administrativa, imergindo profundamente nas esferas política e de relações



internacionais, onde assume uma complexidade adicional. Politicamente, o segredo de Estado não apenas protege informações vitais à segurança nacional, mas também serve como instrumento de poder, influência e negociação no tabuleiro global. Na interseção de interesses nacionais e globais, o manuseamento e a estratégia por trás do que é mantido em segredo *versus* o que é divulgado podem alterar o equilíbrio de poder, a cooperação internacional e a dinâmica de conflito entre Estados. No âmbito das relações internacionais, o segredo de Estado é uma faceta integral da diplomacia e da estratégia de segurança. A gestão de informações classificadas permite que os Estados conduzam negociações diplomáticas com uma mão mais forte, protegendo as suas estratégias, intenções e capacidades. Como argumenta Kissinger (1994), a diplomacia eficaz frequentemente depende da habilidade de um Estado em guardar segredos e revelá-los estrategicamente, mantendo assim uma posição vantajosa em diálogos e negociações internacionais.

Além disso, o conceito de segredo de Estado possui implicações significativas para a inteligência e a segurança coletiva. A partilha de informações sensíveis dentro de alianças, como a OTAN, ilustra como os segredos de Estado, quando compartilhados estrategicamente, podem fortalecer a cooperação em defesa e segurança, contribuindo para a estabilidade global. No entanto, essa partilha de informações também introduz complexidades nas relações internacionais, onde a confiança mútua e os interesses compartilhados devem ser constantemente balanceados contra o risco de *vazamentos* e a possibilidade de espionagem.

A era digital e a ciberguerra adicionaram uma nova dimensão ao conceito de segredo de Estado, ampliando os desafios à sua proteção e as implicações da sua divulgação não autorizada. A capacidade de um Estado de proteger as suas informações num ambiente cada vez mais permeável e digitalizado é agora um componente crítico da sua soberania e influência internacional (Nye, 2005).

O conceito de segredo de Estado, prevalente em diversas estruturas governamentais, tem sofrido uma série de modificações ao longo das épocas, sendo moldado pelas metamorfoses políticas, sociais e culturais inerentes à evolução dos Estados.

Em Portugal, a história deste conceito é particularmente rica, revelando-se intrinsecamente ligada às dinâmicas políticas do país e à evolução da relação entre o Estado e os seus cidadãos. A fase do Estado Novo, caracterizada por um controlo autoritário e uma comunicação limitada, deu lugar a uma era democrática, que obrigou a uma nova abordagem do segredo de Estado em virtude do amplo reconhecimento do direito à informação administrativa, corolário do princípio da administração aberta, e que é hoje um direito fundamental de natureza idêntica aos direitos, liberdades e garantias, reconhecido como um pilar essencial na sua relação com a Administração Pública (Canotilho & Moreira, 2014). Com efeito, a partir da consagração deste direito fundamental de acesso à informação administrativa, o espaço para a justificação democrática do segredo de Estado limitou-se.

Neste estudo, procuraremos perceber se o regime do segredo de Estado em solo lusitano, está em harmonia com o direito à informação administrativa consagrado na Constituição da República Portuguesa de 1976, aonde a transparência e a participação cívica adquiriram maior preeminência quando comparado ao hermetismo característico do



período do Estado Novo. Esta jornada analítica, para além de visar especificamente o regime atual previsto na Lei n.º 2/2014, de 6 de agosto, procura também destacar o impacto das crescentes demandas por transparência e da revolução digital nessa dinâmica. O advento da era digital, com o seu potencial disruptivo, amplifica a relevância da nossa análise, ao questionar o quão resilientes são os paradigmas tradicionais perante o desafio da abertura informativa.

Com esta pesquisa, ambicionamos também fomentar uma reflexão crítica sobre o papel e os desafios do segredo de Estado na contemporaneidade, à luz das demandas de uma sociedade que clama, cada vez mais, por transparência, integridade e *accountability*, bem como identificar e propor mudanças concretas que respondam eficazmente às exigências crescentes por integridade e responsabilidade na governança contemporânea.

II. O segredo de Estado em Portugal: Do Estado Novo à Democracia

A história recente de Portugal, particularmente no século XX, viu uma transição notável do autoritarismo para a democracia, com o segredo de Estado a desempenhar papéis distintos nestes contextos.

O Estado Novo, que durou de 1933 a 1974, representa um período sob a liderança autoritária de António de Oliveira Salazar e, entre 1968 e 1974, Marcello Caetano. Caracterizado por um nacionalismo intenso, mecanismos fortes de censura e uma economia cuidadosamente controlada, o regime exaltava uma identidade conservadora e suprimia qualquer forma de contestação através da sua polícia política, a PIDE (Pimentel, 2017).

Durante a vigência do Estado Novo, a preservação do segredo de Estado foi meticulosamente orquestrada mediante a implementação de instrumentos jurídicos combinados com práticas administrativas rigorosas. No espectro legal, o regime instituiu um compêndio de diplomas, cuja função primordial era reprimir a liberdade de expressão e obstar a qualquer manifestação de dissidência (Pimentel, 2017). A operacionalização da censura prévia, aplicada com minuciosidade, tinha como escopo assegurar que os meios de comunicação e literatura respeitassem e propagassem os preceitos estatais. Em paralelo, a PIDE, agência de inteligência do regime, detinha uma função primordial na monitorização e repressão de iniciativas vistas como subversivas, operando frequentemente de modo autónomo e, não raro, sub-reptício, constituindo vastos arquivos sobre indivíduos ou associações que eram vistos como potenciais ameaças ao aparato estatal (Pimentel, 2017). Esta intrincada rede de legislação, censura e monitorização, garantia que uma multiplicidade de ações e decisões governamentais permanecesse velada ao escrutínio público, instaurando, assim, uma aura de sigilo em torno das operações estatais.

Uma das ferramentas mais eficazes na preservação deste *status quo* autoritário foi a invocação do segredo de Estado. Em nome deste princípio, muitas ações e decisões do regime foram afastadas do escrutínio público, limitando assim a transparência e a prestação de contas (Pimentel, 2017). Embora seja compreensível que qualquer governo, independentemente do seu carácter democrático ou autoritário, possa necessitar de proteger certas informações sensíveis relacionadas com a segurança nacional, o que se



observa no caso do Estado Novo é um uso extensivo, e a maior parte das vezes abusivo, do conceito de segredo de Estado. Em nome do segredo de Estado, muitas ações e decisões do regime foram ocultadas do público. Este princípio foi utilizado de maneira extensiva, abrangendo áreas desde a economia até assuntos coloniais (Torgal, 2009).

A Revolução dos Cravos em 1974 sinalizou o fim do Estado Novo e abriu caminho para uma democracia em Portugal. Esta mudança de regime foi consolidada com a Constituição de 1976, que introduziu novas normas sobre transparência e acesso à informação (Vieira e Silva, 2010). A transição de um regime autoritário para uma democracia em Portugal representou uma mudança paradigmática em quase todas as esferas da vida nacional. Esta transformação foi especialmente evidente na abordagem do país em relação ao segredo de Estado, que sofreu uma reconfiguração à luz dos valores democráticos emergentes. Este movimento revolucionário, liderado por militares, mas rapidamente abraçado pela sociedade civil, não só procurou restaurar as liberdades civis, mas também criar um ambiente de maior transparência governamental. Com a queda do regime autoritário, o véu de segredo que envolvia muitos aspetos da governação começou a ser levantado, revelando à população muitos dos atos e decisões anteriormente ocultos.

No processo de democratização de Portugal, a transformação da administração pública, movendo-se de um paradigma de segredo para um de transparência, tornou-se uma marca distintiva. O Estado Novo, dominado por um *ethos* de reclusão administrativa, foi substituído por uma abordagem de administração aberta durante a transição democrática. Como refere o Tribunal Constitucional,

na raiz do princípio está a pretensão de substituir e superar o princípio da arcana praxis ou o princípio do segredo, característico de um modelo de Administração Pública autoritária, burocrática, fechada sobre si mesmo, que decide em segredo, pelo princípio geral da publicidade ou da transparência, próprio de uma administração aberta, participada, que age em comunicação com os administrados¹.

A Constituição da República Portuguesa de 1976, nascida das cinzas da Revolução dos Cravos, incorporou este espírito de abertura, estabelecendo um princípio de administração aberta, permitindo o acesso do cidadão a arquivos e registos administrativos, restringindo o segredo de Estado, a situações verdadeiramente sensíveis (Gomes, 1997).

O surgimento desta nova visão administrativa refletiu a perceção de que, numa verdadeira democracia, os cidadãos têm o direito inalienável de conhecer as atividades do Estado (Canotilho, 2018). Canotilho, em particular, argumenta que este direito de transparência é fundamental para a ideia de democracia administrativa.

Neste contexto de reforma, também se tornou evidente que a transparência não é um valor absoluto. Como Bobbio (1996) argumenta, mesmo em democracias consolidadas, o Estado precisa de manter certos detalhes ocultos para proteger a privacidade e a

¹ Cfr. Acórdão n.º 117/2015, de 12 de fevereiro, in Diário da República, n.º 67/2015, Série II, 2015-04-07.



segurança dos cidadãos. Estes "segredos de Estado", segundo Bobbio, não são necessariamente antitéticos à democracia, mas podem servir para proteger interesses mais amplos, como a segurança nacional ou a privacidade dos cidadãos.

Em suma, o segredo de Estado, como praticado pelo regime do Estado Novo, transcendeu o seu propósito nominal de proteção da segurança nacional. Em vez disso, serviu como uma ferramenta multifacetada para manter o controlo político e social e assegurar a continuidade de um regime que, de outra forma, poderia ter enfrentado desafios significativos ao seu domínio. A transição de Portugal para a democracia significou uma transformação profunda na interação entre o Estado e os seus cidadãos, estabelecendo a transparência como princípio central, ainda que se reconheça a necessidade pontual de confidencialidade. O paradigma renovou-se.

III. O Direito à Informação Administrativa em Portugal

Em democracias consolidadas, o direito à informação administrativa figura como um dos pilares de um sistema transparente, garantindo não só a *accountability* dos órgãos públicos, mas também fortalecendo a participação dos cidadãos no processo democrático. Portugal, no seu percurso evolutivo pós-revolução de 1974, tem progressivamente adotado medidas legislativas e práticas que evidenciam a relevância deste direito.

Em Portugal, o princípio da liberdade de informação administrativa foi consagrado em dois momentos distintos, pois se é verdade que a versão de 1976 da CRP já previa um direito de acesso aos arquivos administrativos, é só a partir da revisão constitucional de 1989 que o ordenamento jurídico português passou a prever um *direito à informação administrativa* que não depende de qualquer interesse pessoal direto na informação².

Este direito é frequentemente identificado em literaturas jurídicas como a concretização do princípio da administração aberta, a que Canotilho (2018) designou como o princípio do "*arquivo aberto*". Como o Tribunal Constitucional português pronunciou em 1992, este princípio visa transformar a administração numa "*casa com paredes de vidro*", garantindo a transparência necessária para permitir que os cidadãos avaliem a sua conformidade com a lei³.

No quadro constitucional português, embora o direito à informação esteja disperso por vários artigos da Constituição da República Portuguesa - com foco principal nos artigos 37.º a 40.º, e outros complementares como os artigos 41.º, n.º 5 e 73.º, n.º 3 - o seu núcleo encontra-se solidificado no artigo 37.º. Este artigo, inserido no capítulo dos direitos fundamentais, estabelece que cada cidadão possui o direito inalienável de expressar, divulgar e informar-se livremente. Esta perspetiva é essencialmente congruente com as normas e práticas internacionais, especialmente no contexto europeu, onde a liberdade de informação é vista como um pilar da democracia participativa (Keohane e Nye, 2000).

² Cfr. artigo 175.º da Lei Constitucional n.º 1/89 de 8 de julho.

³ Cfr. Acórdão do Tribunal Constitucional n.º 176/1992.



A interseção deste direito à informação com o direito de participação pública, delineado no artigo 48.º da CRP, culmina no direito à informação administrativa explicitado no artigo 268.º da CRP. Para Dias (2015), este direito é uma manifestação do “*princípio geral de publicidade ou transparência da Administração Pública*”, ressaltando a sua importância no contexto do Estado de Direito democrático. Da mesma forma, Pratas (2013) posiciona este direito como um dos pilares centrais da transparência administrativa, alinhando-se com os debates internacionais sobre a necessidade de governos abertos e responsáveis.

O direito à informação administrativa em Portugal é um testemunho do compromisso do país com os ideais democráticos e os princípios de governança transparente que têm vindo a ganhar terreno nas arenas globais. Esta evolução, ao lado de outros Estados, destaca a natureza interconectada da governança no mundo moderno, onde os direitos nacionais refletem e são influenciados por tendências e normas globais (Slaughter, 2004).

A doutrina é unânime em qualificar este direito à informação como um direito fundamental, de natureza análoga aos direitos, liberdades e garantias e com aplicabilidade direta (Canotilho e Moreira, 2014), e por isso, sujeito ao regime aplicável aos outros direitos fundamentais nos termos do disposto do artigo 17.º da CRP, sendo diretamente aplicável e vinculante das entidades públicas e privadas, só podendo ser limitado por lei e nos casos expressamente previstos na Constituição.

Assim, as restrições ao direito à informação administrativa deverão limitar-se ao necessário para salvaguardar outros direitos ou interesses constitucionalmente protegidos e expressamente previstos na lei constitucional, no caso, “*em matérias relativas à segurança interna e externa, à investigação criminal e à intimidade das pessoas*”⁴ (artigo 268.º, n.º 2 da CRP).

No domínio da relação do Estado com os cidadãos, o direito à informação administrativa é protegido no ordenamento jurídico português por diversos diplomas avulsos, designadamente pela Lei de Acesso aos Documentos Administrativos (LADA)⁵ (Lei n.º 26/2016, de 22 de agosto) e pela Lei da Proteção de Dados Pessoais⁶ (Lei n.º 58/2019, de 8 de agosto), cuja aplicação é assegurada e fiscalizada por duas comissões independentes: a Comissão de Acesso aos Documentos Administrativos e a Comissão Nacional de Proteção de Dados.

De acordo com o diploma que regula o acesso aos documentos administrativos, “*o acesso e a reutilização dos documentos administrativos são assegurados de acordo com os princípios da publicidade, da transparência, da igualdade, da justiça e da imparcialidade*” (artigo 1.º). Por seu turno, a Comissão de Acesso aos Documentos Administrativos tem tido um papel bastante relevante na defesa deste direito à informação administrativa e a Comissão Nacional de Proteção de Dados na defesa da reserva da intimidade da vida privada dos cidadãos-administrados, através da ponderação dos valores conflituantes da abertura e transparência administrativa e da garantia do acesso dos cidadãos à informação procedimental.

⁴ Cfr. artigo 268.º, n.º 2 da CRP.

⁵ Lei n.º 26/2016, de 22 de agosto.

⁶ Lei n.º 58/2019, de 8 de agosto.



No que se refere ao direito de informar, estamos diante de informações que contêm fatos de relevância pública, dignos de notícia e que sejam verdadeiros para que o sujeito possa invocar a proteção do seu direito à informação. Os titulares deste direito são todos os cidadãos e não apenas os jornalistas profissionais. No caso de um profissional transmitir, divulgar ou conferir informações através da comunicação social, este beneficia de uma proteção maior do que o resto dos cidadãos contra eventual colisão que possa surgir com outros direitos ou ainda diante de um direito a informação de um cidadão. Por conseguinte, no que concerne ao direito a receber informações, este direito é diferente do direito a aceder a elas e goza de proteção jurídica distinta. Dito de outra forma, a liberdade de informação envolve uma dupla faceta: por um lado, a liberdade de informação ativa, que corresponde ao direito de comunicar livremente informações verdadeiras por qualquer meio de disseminação e, por outro lado, a liberdade de informação passiva, que corresponde ao direito de receber informação *tout court* (Jáuregui, 2010).

O referido artigo 268.º, n.º 2 da CRP ao prever “este *direito de acesso aos arquivos e registos administrativos*”, limita este direito àquilo que se encontra previsto em matérias “*relativas à segurança interna e externa, à investigação criminal e à intimidade das pessoas*”. Estamos diante de restrições ao conteúdo constitucional do direito fundamental de informação administrativa, com um âmbito de proteção muito delimitado, porque este direito à informação administrativa não é um direito absoluto visto que a Constituição permite uma intervenção normativa do legislador para salvaguarda de outros valores constitucionais, nomeadamente de bens jurídico-penais, como é o caso da segurança, da investigação criminal e da intimidade das pessoas.

Assim, o n.º 2 do artigo 268.º da CRP admite restrições a estabelecer por lei com fundamento em exigências, designadamente de segurança. Trata-se, pois, de um preceito constitucional que contempla uma previsão constitucional expressa da restrição de um direito fundamental (direito à informação administrativa), preenchendo o pressuposto material da emanção de leis restritivas a que diretamente se refere ao artigo 18.º, n.º 2, primeira parte, da Lei Fundamental, que determina “*que a lei só pode restringir direitos, liberdades e garantias nos casos expressamente previstos na Constituição*”.

Como alude Canotilho (2018, p. 448), a autorização de restrição expressa de um direito fundamental tem

como objetivo obrigar o legislador a procurar sempre nas normas constitucionais o fundamento concreto para o exercício da sua competência de restrição de direitos, liberdades e garantias, de modo a criar segurança jurídica nos cidadãos, que poderão contar com a inexistência de medidas restritivas de direitos fora dos casos expressamente considerados pelas normas constitucionais como sujeitos a reserva de lei restritiva.

Deste modo, a intervenção normativa abstrata do legislador ordinário encontra-se vinculada aos pressupostos e fins predeterminados na norma constitucional que autoriza a restrição, pois como observa Andrade (2019, p. 281),



presume-se que o legislador só está autorizado a restringir o conteúdo dos direitos para essas finalidades, ou seja, para a salvaguarda dos direitos ou valores enunciados, quando muito para outras finalidades que decorram necessariamente ou se possam considerar implicadas nas expressamente referidas.

A primeira categoria referida no citado artigo 268.º, n.º 2 da CRP é também objeto do artigo 6.º da LADA, cujo n.º 1 dispõe que

os documentos que contenham informações cujo conhecimento seja avaliado como podendo pôr em risco interesses fundamentais do Estado ficam sujeitos a interdição de acesso ou a acesso sob autorização, durante o tempo estritamente necessário, através de classificação operada através do regime do segredo de Estado ou por outros regimes legais relativos à informação classificada⁷ (Lei n.º 26/2016, de 22 de agosto).

Esta legislação específica, por seu turno, é constituída nuclearmente pela Lei do Segredo de Estado⁸ (Lei Orgânica n.º 2/2014, de 6 de agosto) e, ainda, pelos diplomas relativos ao Sistema de Informações da República Portuguesa⁹ (Lei n.º 30/84, de 5 de setembro), pela Lei de Segurança Interna¹⁰ (Lei n.º 53/2008, de 29 de agosto) e pelas regras sobre a segurança de matérias classificadas (SEGNAAC) consagradas na Resolução do Conselho de Ministros n.º 50/88, de 3 de dezembro.

Com efeito, segundo o regime do segredo de Estado,

os órgãos do Estado estão sujeitos aos princípios da transparência, da publicidade e da administração aberta, salvo quando, pela natureza da matéria, esta seja expressamente classificada como segredo de Estado, nos termos da presente lei, sem prejuízo dos casos referenciados no n.º 3 do presente artigo (Lei Orgânica n.º 2/2014, de 6 de agosto).

IV. A Lei n.º 2/2014, de 6 de agosto

Na única e mais recente alteração ao primeiro diploma que aprovou o regime do segredo de Estado em 1996, a Lei n.º 2/2014, de 6 de agosto, procedeu-se a um alargamento do âmbito material de aplicação deste regime. Assim, na primeira versão deste regime, aprovada pela Lei n.º 6/94, de 7 de abril, a norma alusiva ao seu âmbito de aplicação referia-se apenas a “documentos e informações que fossem suscetíveis de colocar em risco ou de causar dano à independência nacional, à unidade e integridade do Estado e à sua segurança interna e externa” (cfr. artigo 2.º).

O diploma de 2014, reformula a redação deste artigo da seguinte forma: “as matérias, os documentos e as informações cujo conhecimento por pessoas não autorizadas é

⁷ Lei n.º 26/2016, de 22 de agosto.

⁸ Lei Orgânica n.º 2/2014, de 6 de agosto.

⁹ Lei n.º 30/84, de 5 de setembro.

¹⁰ Lei n.º 53/2008, de 29 de agosto.



suscetível de pôr em risco interesses fundamentais do Estado”, referindo no seu n.º 2 o que considera por interesses fundamentais do Estado, “os relativos à independência nacional, à unidade e à integridade do Estado ou à sua segurança interna ou externa, à preservação das instituições constitucionais, bem como os recursos afetos à defesa e à diplomacia, à salvaguarda da população em território nacional, à preservação e segurança dos recursos económicos e energéticos estratégicos e à preservação do potencial científico nacional” (Lei Orgânica n.º 2/2014, de 6 de agosto).

Com efeito, a alteração legislativa operada pelo diploma de 2014 no tocante ao regime jurídico do segredo de Estado suscitou modificações substantivas em dois eixos fundamentais. Por um lado, o elemento material do segredo de Estado foi objeto de uma dilatação conceptual. O diploma, ao aludir a “matérias” para além do tradicional escopo de “documentos e informações”, expandiu de forma significativa o perímetro do segredo de Estado, abraçando uma terminologia mais abstrata. Esta expansão conceptual, corroborada pelo seu artigo 2.º, n.º 5, onde se estipula que “considera-se documento ou informação qualquer facto, ato, documento, informação, atividade ou tudo aquilo que se encontre registado, independentemente da sua forma ou suporte”, denota a intenção do legislador de se adequar a uma realidade contemporânea multifacetada em termos de armazenamento de informação, transcendendo a materialidade convencional dos suportes. Por outro lado, o objeto do segredo de Estado sofreu uma alteração significativa. O enfoque anterior, voltado principalmente para ameaças à “independência nacional, unidade e integridade territorial, assim como a segurança”, deu lugar a uma perspetiva mais ampla, englobando “interesses primordiais do Estado”. Esta nova visão inclui a proteção de instituições constitucionais, defesa, relações exteriores, além da proteção de recursos vitais e do legado científico do país. Este novo enquadramento expande consideravelmente o escopo do segredo de Estado, passando a cobrir áreas como a diplomacia, a proteção de recursos estratégicos e a preservação do património científico nacional.

Nos termos do atual regime normativo, a prerrogativa de classificar determinadas informações sob a égide do segredo de Estado é confiada exclusivamente a altas instâncias estatais, nomeadamente o Presidente da República, o Presidente da Assembleia da República e o Primeiro-Ministro. Esta atribuição é inalienável e insuscetível de ser delegada.

Tanto o ato de classificação como o de desclassificação devem ser devidamente fundamentados, com a indicação dos interesses a proteger e os motivos ou as circunstâncias que justificam a aplicação do regime do segredo de Estado. O processo de desclassificação destes atos deve ser realizado pela autoridade competente para proceder à sua classificação. Importa ainda sublinhar que toda e qualquer informação que possa constituir-se como elemento probatório de ilícitos contra a segurança do Estado deve ser prontamente reportada às entidades judiciais competentes. O Presidente da República e o Primeiro-Ministro, no exercício das suas elevadas funções, detêm plenipotência no acesso a informação categorizada como segredo de Estado. Instaura-se um dever intransigente de confidencialidade sobre aqueles que, em virtude das suas funções, estabelecem contacto com estas matérias, vinculação esta que se perpetua para além da cessação da sua atividade funcional. Esta reserva também se manifesta em cenários judiciais em que o possuidor da informação seja arguido, ainda que sejam



implementados mecanismos jurídicos que assegurem o pleno exercício do direito de defesa. A infração a estas previsões normativas é gravemente censurada no ordenamento jurídico, incluindo sanções determinadas no Código Penal, bem como em outros diplomas jurídicos pertinentes.

A partir de 2014, a classificação como segredo de Estado passou a ser um ato formal, que deve ser comunicado num prazo que não pode exceder os trinta dias à entidade fiscalizadora deste regime (artigo 3.º, n.º 6 da Lei Orgânica n.º 2/2014, de 6 de agosto), no caso, a entidade Fiscalizadora do Segredo de Estado, órgão independente que funciona junto à Assembleia da República. Isso implica que tais decisões, que anteriormente poderiam ser tomadas em contextos mais informais ou menos padronizados, estão agora sujeitas a procedimentos claros, determinados e, sobretudo, registados. Esta mudança para além de assegurar uma maior conformidade com as normas democráticas, introduz um nível de responsabilidade no processo, ao tornar o ato de classificação rastreável e, assim, potencialmente sujeito a revisão ou escrutínio.

De realçar ainda que, o Tribunal Constitucional português questionou a Lei n.º 2/2014, que regula o regime do segredo de Estado, colocando em destaque o dilema entre segurança nacional e direitos individuais. Esta decisão ressaltou que restrições aos direitos fundamentais, mesmo em nome da segurança, devem estar firmemente ancoradas na Constituição.

V. Desafios Atuais e o Equilíbrio entre Segredo e Transparência

Nas democracias contemporâneas, o equilíbrio entre a salvaguarda da segurança nacional e a preservação dos direitos fundamentais tornou-se uma questão de crescente complexidade.

Como Buzan e Hansen (2009) destacam, a segurança nacional envolve proteger os interesses vitais de um Estado, como a sua integridade territorial, soberania e estabilidade política. Isto implica a adoção de medidas e a implementação de políticas que, em muitos casos, envolvem vigilância, coleta de informações e monitorização de potenciais ameaças. Em tempos de crescente globalização e tecnologia avançada, ameaças como terrorismo, espionagem e ciberataques tornam-se mais iminentes e complexas (Freedman, 2013). Como resultado, os governos veem a necessidade de aumentar as suas capacidades de inteligência e de monitorização para prevenir e combater tais ameaças. Por outro lado, temos os direitos fundamentais que, como defende Rawls (1999), são a garantia das liberdades individuais, que englobam privacidade, liberdade de expressão e igualdade perante a lei. Estes direitos são a base para uma sociedade justa e equitativa, permitindo que os cidadãos vivam sem medo de perseguição, censura ou discriminação Rawls (1999).

Todavia, a complexidade do cenário global contemporâneo, marcado por ameaças como o terrorismo e ciberataques (Freedman, 2013), frequentemente coloca estes dois conceitos em tensão. Um exemplo marcante deste conflito é a expansão da vigilância estatal. O uso de tecnologias como reconhecimento facial e a coleta de dados em massa surgem como respostas à necessidade de segurança, mas suscitam debates sobre privacidade e direitos fundamentais (Lyon, 2018). A pandemia de COVID-19 acentuou



ainda mais este embate, ao equilibrar medidas de saúde pública com liberdades individuais.

No âmbito da contemporânea discursividade política, destaca-se o imperativo da *accountability* estatal e a imperiosa busca pelo equilíbrio entre transparência governamental e prerrogativas de segredo de Estado. A emergência da era digital catalisou uma inexorável demanda por uma governança mais transparente. No entanto, para Mulgan (2003), a transparência, embora essencial para a eficácia estatal, quando implementada de forma imprudente, pode erodir a confiança pública. Schedler (1999) enfatiza a importância de cultivar uma cultura institucionalizada de responsabilidade, na qual o aparato estatal se dedica a disseminar informações pertinentes aos seus constituintes, consolidando um paradigma de governança mais refinado.

Intrinsecamente ligado à democracia representativa, o princípio da *accountability* estatal, entendido como a obrigatoriedade de o Estado responder pelas suas decisões e ações, serve como um mecanismo de controlo para mitigar eventuais abusos de poder e fortalecer a confiança na administração pública. Contudo, na era da informação, a dialética entre o imperativo de transparência e a manutenção de segredos estatais emerge como um dilema preponderante.

Ao longo das últimas décadas, testemunhamos uma expansão das expectativas em relação à transparência governamental, um fenómeno catalisado, em grande medida, pela revolução digital e pelo conseqüente acesso democratizado à informação. A transparência é concebida como um instrumento *sine qua non* para contrapor práticas corruptas, reforçar a responsabilidade estatal e potencializar a participação cívica. O desafio reside, portanto, na dialética entre a legítima necessidade de preservação de segredos estatais, sobretudo em áreas de segurança e diplomacia, e a demanda crescente por transparência. Mulgan (2003) argumenta que, embora o segredo possa ser um instrumento valioso para a eficácia do Estado, o seu uso indevido pode comprometer a confiança pública. Teóricos como Schedler (1999) postulam que a solução pode residir na instauração de uma cultura robusta de *accountability*, na qual o Estado, reconhecendo a sua responsabilidade perante os cidadãos, se dedica à partilha de informações essenciais.

No contexto português, este princípio é profusamente reconhecido, estando enraizado em diversas vertentes legislativas e da cultura política. A Constituição da República Portuguesa de 1976 consagra as bases fundamentais da *accountability*. O artigo 266º deste documento jurídico prevê que os poderes soberanos estão adstritos ao controlo da legalidade das suas atividades e reconhece o direito universal ao acesso de dados pessoais. Além disso, a evolução conceitual da transparência, historicamente circunscrita ao domínio administrativo, tem experienciado uma expansão significativa (Fung, Graham & Weil, 2007). A importância da transparência na governança estatal é refletida nos órgãos legislativos, como o Parlamento português, que tem adotado medidas para tornar as suas deliberações mais acessíveis ao público. Portugal também conta com organismos independentes encarregados de supervisionar e garantir a *accountability* do Estado. O Tribunal de Contas, por exemplo, é uma instituição que fiscaliza a legalidade das despesas públicas e assegura que os recursos públicos são usados de maneira eficiente e responsável. A *accountability* não é apenas uma questão legal, mas também uma questão cultural e política. A sociedade civil desempenha um papel importante na



promoção da *accountability*, através de organizações não-governamentais, grupos de cidadãos envolvidos na monitorização das ações do governo e na denúncia de irregularidades (Bauhr & Grimes, 2014).

No âmbito da União Europeia, a transparência é reconhecida como um pilar vital da governança. A Carta dos Direitos Fundamentais estabelece o direito de acesso aos documentos das entidades da União (art. 12.º) bem como a Diretiva (UE) 2019/1024 do Parlamento Europeu e do Conselho. Adicionalmente, a NATO, ainda que uma organização focada em defesa, no seu "*Building Integrity Programme*", lançado em 2007, enfatizou a integridade e transparência, indicando que ambas são cruciais para a segurança coletiva. Tanto a NATO como a UE reconhecem que, em alguns casos, a transparência absoluta pode comprometer a segurança nacional. No entanto, ambas enfatizam que o segredo de Estado não deve ser usado para ocultar a má governança, corrupção ou abusos (*Transparency International*, 2016).

O equilíbrio entre segurança nacional e direitos fundamentais é uma questão espinhosa. As sociedades contemporâneas, portanto, encontram-se num dilema persistente: como garantir a segurança dos seus cidadãos e do Estado sem comprometer as liberdades fundamentais que definem a essência da democracia? Autores como Sunstein (2017) argumentam que o excesso de ênfase na segurança pode levar a um estado de vigilância intrusiva e à erosão dos direitos individuais. Por outro lado, negligenciar a segurança nacional pode expor o Estado e seus cidadãos a riscos significativos.

Esta é uma questão que não possui uma resposta definitiva, mas que exige reflexão, debate e revisão contínua para garantir que os direitos e a segurança caminhem lado a lado.

VI. Conclusão

A *Era da Informação* provocou uma profunda transformação na forma como as sociedades contemporâneas interagem com os seus governos e demandam transparência. Em Portugal, assim como em outras nações, a disseminação da informação digital e a utilização das redes sociais estão a moldar a perceção dos cidadãos em relação ao compartilhamento de informações governamentais. As redes sociais, como apontado por autores como Castells (2015), têm desempenhado um papel central na disseminação de informações e na sensibilização dos cidadãos sobre questões de interesse público, estando a desempenhar um papel significativo nas demandas contemporâneas por transparência governamental.

De facto, um dos fenómenos que mais evoluiu nos últimos anos foi a nova relação entre o cidadão e os seus governos, que enfrenta agora novos desafios com as tecnologias emergentes, assim como cidadãos mais qualificados e mais bem informados dos seus direitos. Como constatamos, o cidadão contemporâneo, mais educado e informado, prefere não seguir ordens sem antes compreender as razões por trás delas. Este princípio do conhecimento alia-se à velha ideia de consentimento que legitimava a obediência dos cidadãos num sistema democrático, para dar origem a esta visão moderna do conhecimento que supõe a transparência. Segundo Dias (2018), a clareza e acessibilidade das ações governamentais são essenciais para garantir a participação ativa



dos cidadãos nos processos decisórios que afetam suas vidas. Assim, existe uma conexão direta e indispensável entre o acesso à informação por parte do público e o seu direito de participar desses processos.

Não há participação sem comunicação entre a Administração e o cidadão.

No contexto português, plataformas como o Facebook, o *Twitter*, agora "X", e o Instagram têm-se tornado espaços de discussão política e de divulgação de informações governamentais, aumentando a percepção e a participação cívicas.

A crescente sensibilização dos cidadãos em Portugal, impulsionada pelas redes sociais e pela disseminação da informação digital, está a aumentar as expectativas em relação à transparência governamental. Autores como Han (2014) argumentam que a era da informação trouxe a expectativa de que os governos compartilhem informações de maneira mais aberta e eficaz. Os cidadãos agora esperam não apenas acesso fácil a dados governamentais, mas também uma comunicação mais transparente sobre políticas públicas, orçamentos e decisões políticas.

Importa realçar que, a transparência não é desejada apenas como uma ferramenta de vigilância ou controlo. Os cidadãos querem entender as decisões políticas para participar mais ativamente no processo democrático (Fung, Graham & Weil, 2007). A transparência facilita a participação informada e, quando usada efetivamente, pode aumentar a confiança no governo.

Em resposta, alguns governos têm explorado soluções digitais inovadoras. Portais de dados abertos, como o "*Dados.gov.pt*" em Portugal, são uma tentativa de atender a essas pretensões, oferecendo conjuntos de dados públicos em formatos acessíveis e utilizáveis. No entanto, enquanto estas iniciativas são um passo na direção certa, muitos desafios permanecem. A qualidade, atualização e relevância dos dados disponibilizados são áreas de preocupação, assim como garantir que as informações sejam compreendidas pelo público em geral (Bertot, Jaeger, & Grimes, 2010).

As demandas contemporâneas por transparência governamental estão intrinsecamente ligadas ao surgimento das redes sociais, à disseminação da informação digital e à crescente consciencialização dos cidadãos sobre questões de interesse público. Esses fatores têm redefinido as expectativas em relação à transparência governamental, desafiando o governo a encontrar novas formas de atender a essas exigências enquanto mantém o equilíbrio necessário para proteger informações sensíveis.

O segredo de Estado, enquanto ferramenta de proteção da segurança nacional e interesses estratégicos, é uma questão de significativa importância em qualquer país democrático.

Em Portugal, a legislação relativa ao segredo de Estado passou por mudanças significativas ao longo dos anos, culminando na Lei orgânica n.º 2/2014, de 6 de agosto. Com este diploma, foram aprovadas alterações significativas ao regime do segredo de Estado em Portugal.

Apesar de reafirmar no seu artigo inicial, o princípio da excecionalidade deste regime, uma vez que "os *órgãos do Estado estão sujeitos aos princípios da transparência, da publicidade e da administração aberta*". Com efeito, a lei abordou de forma clara a necessidade de transparência, determinando que a exceção a este princípio só poderá



ser admitida nas situações “*que seja expressamente classificada como segredo de Estado, nos termos da presente lei*”, definindo procedimentos para acesso à informação classificada. Introduziu regras específicas para a classificação de informações como secretas, incluindo requisitos de justificação e prazos para revisão. Contudo, não deixou de expandir o conceito de segurança tradicionalmente utilizado na constituição portuguesa e acolhido nas leis de defesa nacional e de segurança interna, desde logo ao referir-se a “*recursos económicos e energéticos estratégicos e à preservação do potencial científico nacional*”. Ao analisar o artigo 268.º da CRP, concretamente o seu n.º 2, observamos que a restrição ao direito fundamental de acesso à informação se justifica apenas em contextos específicos, nomeadamente “*matérias relativas à segurança interna e externa, à investigação criminal e à intimidade das pessoas*”.

À luz das reflexões desenvolvidas ao longo deste estudo, é viável argumentar que o alargamento do âmbito de aplicação da recente legislação relativa ao segredo de Estado, sobretudo mediante a incorporação de conceitos de natureza indeterminada, não se alinha cabalmente às disposições articuladas no artigo 268.º, n.º 2 da Constituição da República Portuguesa. Esta ampliação, ademais, parece desviar-se do paradigma tradicionalmente consagrado pela Constituição no que concerne à segurança, tanto interna quanto externa, bem como dos pilares basilares de transparência e responsabilização.

Por seu turno, este diploma também determinou uma obrigação importante: “*adaptar o quadro normativo respeitante à segurança das matérias classificadas, designadamente as instruções abreviadamente designadas por SEGNAC, aprovadas pelas Resoluções do Conselho de Ministros n.ºs 50/88, de 3 de dezembro, 37/89, de 24 de outubro, 16/94, de 22 de março, e 5/90, de 28 de fevereiro, que comporta os graus de classificação «Muito secreto», «Secreto», «Confidencial» e «Reservado», deve ser adaptado à presente lei no prazo de 90 dias a contar da sua publicação*” (cfr. lei orgânica n.º 2/2014, de 6 de agosto).

Sucede que, esta imposição ainda não foi cumprida, permanecendo em vigor um regime – *as normas SEGNAC* – estabelecidas com fundamento na Lei de Segurança Interna de 1987, diploma anterior à integral afirmação do direito à informação administrativa no artigo 268.º da CRP, que ocorreu apenas com a revisão constitucional de 1989 e que já foi posteriormente alterado. Esta situação amplifica a complexidade, dando origem a um regime intrincado que, potencialmente, desafia o princípio da transparência administrativa, consignado na Carta Magna, e impossibilita o indispensável escrutínio público.

Considerando a imperiosa necessidade de assegurar transparência e aderência aos preceitos constitucionais, torna-se incontornável a necessidade de uma reformulação e padronização das normas relativas à classificação documental. Esta revisão tem o dever de estabelecer claramente os critérios e mecanismos pelos quais o acesso à informação administrativa é limitado ou negado. Nesta perspetiva, reveste-se de crucial relevância uma imediata revisão das disposições SEGNAC, as quais, na sua configuração presente, desaliam-se das premissas da Constituição da República Portuguesa. A passividade face a esta matéria pode arriscar a orientação do Estado para uma postura que, ultrapassando a mera violação dos princípios de transparência, obstaculizaria indevidamente o direito



ao escrutínio público - ambos pilares fundamentais e indubitáveis de uma democracia sólida e evoluída.

Para além disso, no atual cenário legislativo, identifica-se uma notória incongruência entre as normas SEGNAC e os postulados do edifício constitucional contemporâneo português. Estas disposições, originárias de resoluções emanadas de conselhos de ministros, ancoram-se numa Lei de Segurança Interna anterior à revisão constitucional de 1989 e já revogada pela Lei n.º 53/2008, de 29 de agosto. É importante destacar que a mencionada revisão constitucional de 1989, ao reforçar e esclarecer o direito à informação dos cidadãos, marcou um momento decisivo no desenvolvimento democrático e legal de Portugal. Deste modo, perante a preeminência de tal direito e visando a harmonização normativa com os princípios consagrados na atualidade constitucional, torna-se incontornável a necessidade de uma revisão meticulosa e expedita das aludidas disposições SEGNAC. Esta iniciativa, além de promover uma maior uniformidade e alinhamento ao ordenamento jurídico, reiterará o comprometimento irrevogável do Estado português com a salvaguarda dos direitos e garantias fundamentais essenciais a uma democracia, como a transparência e a *accountability*.

Em última análise, é crucial enfatizar um aspeto particularmente relevante. A configuração da entidade responsável pela fiscalização do segredo de Estado em Portugal suscita intrincadas questões relativas à sua capacidade operacional. Embora este órgão, que atua sob os auspícios da Assembleia da República, seja teoricamente concebido como uma entidade autónoma, há consistentes relatos que aludem a limitações operacionais e a uma notável insuficiência de recursos (Sobral, 2021).

Ademais, torna-se notório um padrão de incumprimento, por parte de certas entidades públicas, relativamente às normas que obrigam à comunicação de matérias classificadas como segredo de Estado. Este cenário compromete, inexoravelmente, a efetividade do escrutínio adequado. Tais lacunas comprometem a eficiência do mecanismo de supervisão, mas também sublinham uma urgente necessidade de maior transparência e rigor no manuseamento da informação classificada no contexto português.

A robustez das democracias contemporâneas reside, em grande medida, na transparência, responsabilidade e no respeito aos direitos fundamentais dos cidadãos. Neste contexto, o segredo de Estado, enquanto instrumento jurídico de preservação de interesses vitais de uma nação, torna-se uma ferramenta ambivalente: se, por um lado, é imperativo para a segurança e bem-estar nacional, por outro, pode ser mal utilizado para fins que contrariem os princípios democráticos. Assim, entidades fiscalizadoras independentes surgem como mecanismos essenciais para assegurar que a aplicação do segredo de Estado não extravase os seus limites estritos e justificados. Estas entidades, ao operarem desvinculadas de pressões governamentais ou partidárias, proporcionam um escrutínio objetivo e criterioso sobre o que é classificado sob o manto do segredo. A sua independência não apenas fortalece a confiança pública nas decisões tomadas nesta matéria, mas também desempenha um papel vital na prevenção de potenciais abusos. Sem tais órgãos de supervisão, o risco de o segredo de Estado se tornar um instrumento de opacidade e evasão da responsabilidade aumenta exponencialmente.

Em conclusão, a delicada intersecção entre o segredo de Estado, a segurança e os princípios de transparência e *accountability* nas democracias contemporâneas representa



um desafio fundamental para os Estados de direito. O segredo de Estado, embora indispensável para a proteção de interesses vitais de uma nação, não pode ser invocado de forma indiscriminada, sob pena de enfraquecer os próprios alicerces democráticos que pretende proteger. A segurança, tanto interna quanto externa, é indubitavelmente crucial, mas deve ser balanceada com a transparência e a responsabilização, evitando assim a erosão das liberdades civis e garantindo o escrutínio público das ações estatais. Qualquer desequilíbrio pode comprometer a confiança do público nas instituições e, conseqüentemente, a própria coesão social.

Deste modo, é imperativo revisitar e reformular os moldes legislativos e políticos, comprometendo-se irrevogavelmente com os valores democráticos, para garantir que a transparência e a responsabilização transcendam a retórica e se estabeleçam como pilares efetivos de uma governança transparente, justa e responsável perante os cidadãos. A longo prazo, somente uma abordagem equilibrada e ponderada pode assegurar uma democracia resiliente, onde a segurança e os outros direitos fundamentais coexistam harmoniosamente.

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FERTILITY FRAUD: EXPLORING THE LEGAL GAPS IN INDIA VIS A VIS THE UNITED STATES

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Abstract

Infertility is an issue that many couples worldwide are facing. There are numerous individuals who seek treatment for this condition. However, those who treat infertility often handle all sperm samples equally, without differentiating between the sperm of the intended parents and that of others. This raises concerns about fertility fraud, where people intentionally exchange sperm samples. Many countries have recognized this as a sexual offense, but in India, there is currently no specific law addressing this issue. This question was initially raised when a case of this fraud occurred in the United States. This paper addresses all the related issues and provides a comparative analysis of the laws in India and the United States.

Keywords

Infertility, Fraud, India, US, Sexual offence, Laws

Resumo

A infertilidade é um problema que muitos casais em todo o mundo estão a enfrentar. Há muitos indivíduos que procuram tratamento para esta condição. No entanto, os profissionais que tratam a infertilidade tratam frequentemente todas as amostras de esperma da mesma forma, sem diferenciar entre o dos pais pretendidos e o de outros. Este facto suscita preocupações quanto à fraude na fertilidade, em que as pessoas trocam intencionalmente amostras de esperma. Muitos países reconheceram esta prática como uma ofensa sexual, mas na Índia não existe atualmente nenhuma lei específica que trate desta questão,



inicialmente levantada quando ocorreu um caso de fraude nos Estados Unidos. O presente documento aborda todas as questões relacionadas e apresenta uma análise comparativa das leis da Índia e dos Estados Unidos.

Palavras-chave

Infertilidade, Fraude, Índia, EUA, Crime sexual, Legislação.

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FERTILITY FRAUD: EXPLORING THE LEGAL GAPS IN INDIA VIS A VIS THE UNITED STATES

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Introduction

Infertility is a health issues prevalent worldwide, one in four couple face infertility in developing nation¹. As per World Health Organization's recent estimation, around 48.5 million individuals and 186 million couples around the world² are suffering from infertility. While developed nations have access to infertility diagnosis and treatment, many countries do not have easy access to fertility treatments, for examples countries in Africa such as Angola, Chad, Congo, Mali, and Somalia³. In fact, doctors have even claimed that "Assisted reproductive technology cannot be done in Africa as it is done in Europe⁴". In fact, even if the countries do have fertility treatment only a few countries have public funds for fertility treatment such as Sweden, Netherlands, and United Kingdom (with conditions for the eligibility to the fund) but other countries such as Taiwan and India fertility treatment is provided by the private sector and public fund is not provided⁵. In India cost of fertility treatment can range from hundred fifty to five thousand US Dollars

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- ¹ SingleCare, "See the Most Recent Fertility Stats" (*The Checkup* February 4, 2023) <https://www.singlecare.com/blog/news/infertility-statistics/#:~:text=Epidemiology%20of%20infertility,-Infertility%20is%20becoming&text=One%20in%204%20couples%20in,million%20couples%20experience%20infertility%20worldwide>, accessed October 5, 2023
 - ² SingleCare Team, "See the Most Recent Fertility Stats" (Marissa Walsh ed *The Checkup* February 4, 2023) <https://www.singlecare.com/blog/news/infertility-statistics>, accessed December 15, 2022
 - ³ Ombelet W and Onofre J, "IVF in Africa: What Is It All about?" (*Facts, views & vision in ObGyn* March 2019) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6822948/>, accessed 25 December 2022.
 - ⁴ Hörbst V, "'You Cannot Do IVF in Africa as in Europe': the Making of IVF in Mali and Uganda" (*ScienceDirect* June 1, 2016) <https://www.sciencedirect.com/science/article/pii/S240566181630020X>, accessed December 20, 2
 - ⁵ Ndegwa S and Kelly SE, "Status of Public Funding for In Vitro Fertilization in Canada and Internationally" (*CADTH* 2010) https://www.cadth.ca/sites/default/files/pdf/Public_Funding_IVF_es-14_e.pdf, accessed December 26, 2022



(with sperm donation it is hundred fifty US Dollars, fertility treatment with their own eggs is two thousand US Dollars and fertility treatment with egg donation is five thousand US Dollars)⁶. Whereas, in Singapore it ranges from six hundred to twenty thousand US Dollars (with sperm donation it is six hundred US Dollars, fertility treatment with their own eggs is twelve thousand US Dollars and fertility treatment with egg donation is between fifteen to twenty thousand US Dollars)⁷. Therefore, as observed, while private sectors do provide fertility treatments, it is not accessible to everyone due to the expensive nature of it without the exception of a nation being developed or not. In fact, one of the reasons India is popular for medical tourism is because of the affordable cost of fertility treatment as compared to the rest of the countries around with a procedure than fifteen thousand US Dollars in United States but the same procedure is done in India between three to four thousand US Dollars⁸. Which is most probably the reason for the rise in illegal fertility clinics like mushrooms⁹. Artificial reproductive technologies are used in fertility treatment such as In vitro fertilization, in this procedure, intensive hormone therapy is done on the patient to boost egg production. The sperm from the husband, partner, or donor is then implanted into these eggs. Couples who opt for any kind of Artificial Reproductive Technology (ART) are desperate for a child of their own, as they make this choice only failing various fertility treatments resulting from severe form of infertility (Society for Assisted Reproductive Technology)¹⁰. They often decide to go on this long and painful journey due to the tedious and long procedures of adoption or often due to the societal pressure placed on a couple to have a child of their bloodline. However, as there is a lack of laws overlooking the practice of ART, it has led to those receiving these treatments vulnerable to fertility frauds due to the lack of proper laws regarding fertility treatments and frauds¹¹.

Fertility fraud happens when the health care provider misrepresents one or more of the following, i.e., the source of reproductive material, the way the reproductive material will be used and the risks, benefits and cost associated with each procedure. Fraudulent insemination is arguably one of the most egregious types of fertility fraud in recent, it is when a doctor artificially inseminates a patient with his own sperm without the patient's knowledge or consent, it is called fraudulent insemination¹². The patient is typically made to believe the sperm was either her husband's or that of a thoroughly vetted anonymous

⁶ Suaza C, "IVF Price Comparison in Different Countries" (*MedicalTourism.Review* June 10, 2021) <https://medicaltourism.review/articles/ivf-price-comparison-different-countries/>, accessed December 22, 2022

⁷ *Idem*.

⁸ Daddy's Digest, "The Rise of Fertility Tourism in India" (*Daddy's Digest* February 18, 2022) <https://daddysdigest.com/the-rise-of-fertility-tourism-in-india/>, accessed December 22, 2022

⁹ Kapil S, "Illegal Fertility Clinics Mushroom across Capital" (*The Asian Age* March 26, 2017) <https://www.asianage.com/metros/delhi/260317/illegal-fertility-clinics-mushroom-across-capital.html>, accessed December 22, 2022

¹⁰ Society for Assisted Reproductive Technology, "Assisted Reproductive Technologies" (SART) <https://www.sart.org/patients/a-patients-guide-to-assisted-reproductive-technology/general-information/assisted-reproductive-technologies/>, accessed November 1, 2022

¹¹ Saraswat A and Mondal O, "The Assisted Reproductive Technology (Regulation) Act, 2021: A Step Forward, Two Steps Back?" (*THE CONTEMPORARY LAW FORUM* April 21, 2022). <https://tclf.in/2022/04/21/the-assisted-reproductive-technology-regulation-act-2021-a-step-forward-two-steps-back-2/>, accessed November 5, 2022

¹² Madeira, Jody Lynee (2020). 'Understanding Illicit Insemination and Fertility Fraud, from Patient Experience to Legal Reform', 39 Colum J Gender & L 110



donor such as the case of Dr. Bertold Wiesner who has allegedly father more than six hundred children in the United Kingdom¹³.

Patients undergoing IVF are also under risk of various forms of frauds such as,

1. The embryos that were left unused can be used in another patient without the consent of the couple, or the couple could be on the other end and receive another woman's eggs or couple's embryo can be implanted during the procedure without the knowledge or consent of either couple¹⁴.
2. Another form of fertility fraud is the fraudulent use of sperm. Patients with fertility issues are frequently permitted to review information on anonymous sperm samples, including the donor's genetic profile and personal traits. However, since the donor is anonymous there is no guarantee whether the sperm used was not the one, they had consented to¹⁵.
3. Overall fraud happens when one or more of the following are done:
 - (i) the donor was not screened at all.
 - (ii) the profile information was false.
 - (iii) the woman was conceived using a different sample of sperm; or the sample was utilised more frequently than was revealed to the patient or donor¹⁶.

This is what had happened in the case of Dr. Reynold Boyd. He had given false information about the donor in his case with Catherine and Paul Watt, whose sperm he had fraudulently used by taking his sperm without his knowledge to impregnate Catherine's mother and had cheated to Catherine's parents as well who were told that the sperm donor was a medical student¹⁷. The reason fertility fraud must stop is because it is a crime on many levels, it is violative of an individual's reproductive rights and a form sexual assault against men and women desperate for children. It is also a biomedical crime; it unknowingly exposes the offspring to genetic disorders and predispositions. It puts the gene pool at risk of having close relatives get married and have children without being aware of their kinship (Stein Law Firm)¹⁸. Unfortunately, in India these practices are not held as crime, so even as there are victims of such cases in India as we will observe later this paper, they are unable to report it as there are laws explaining such acts as crimes. This paper will present a comparative study of the laws regarding fertility fraud in the United States of America and India because there are lot of cases in US and

¹³ Pinto-Correia C, 'Fertility Rites' (De Gruyter, 25 September 2017), <https://doi.org/10.7312/qilb17094-007> accessed 28 February 2024

¹⁴ Stein Law Firm, "Fertility Fraud: What You Should Know" (Stein Law Firm January 31, 2023) <https://www.steinlawoffices.com/fertility-fraud-what-you-should-know/>, accessed November 1, 2022

¹⁵ Gong D and others, 'An Overview on Ethical Issues about Sperm Donation' (U.S. National Library of Medicine, November 2009). <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3735320/>, accessed 28 February 2024

¹⁶ Cho K, Ruitter J and Dahan MH, 'Protecting Fertility Clinics against Sperm-Related Fraud: A Call to Action' (U.S. National Library of Medicine, June 2018). <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6029996/>, accessed 28 February 2024

¹⁷ Kleeman J, "The Great Sperm Heist: 'They Were Playing with People's Lives'" (The Guardian September 25, 2021). <https://www.theguardian.com/lifeandstyle/2021/sep/25/the-great-sperm-heist-they-were-playing-with-peoples-lives>, accessed December 26, 2022

¹⁸ Stein Law Firm, "Fertility Fraud: What You Should Know" (Stein Law Firm January 31, 2023) <https://www.steinlawoffices.com/fertility-fraud-what-you-should-know/>, accessed November 1, 2022



there are some laws made in some cities of US. This paper will further suggest how those laws can be implemented in India, after some changes as per the requirements demanded by the Indian society.

The laws against fertility fraud in the US legal system are a new addition having been enacted only in nine states and not on a federal level¹⁹. There are over twenty cases of fertility fraud in the US, two of the most notorious cases would be the case of Dr. Donald Cline of Indiana and Dr. Kim McMorries of Texas²⁰. These two cases are of utmost importance as they not only caused public uproar but also led to change in law. In the case of Dr. Donald Lee Cline, it was Jacoba Ballard, one of Cline's children, who was among the first to piece all the information together. (ref) Ballard was thirty-three when she had started the search for her half-siblings being aware from a young age that she was conceived through donor insemination. She had used a DNA tracing kit 23andMe in hopes of finding some half-siblings²¹. She had been expecting one or two half-siblings but was surprised to find that she had eight half-siblings listed on the website. This contradicted what Cline had told his patients. He'd stated that the donors he used were medical students. He'd stated that he only used each donor for three successful pregnancies. However, 23andMe revealed that he'd used the same donor at least eight times, with the resulting children born between 1979 and 1986. They found dozens of more distant genetic matches, but no one in the 23andMe database shared enough DNA with them to be their father. They could build a massive family tree by combing through public records and social-media profiles, and sometimes simply asking genetic matches about their families. It was after a lot of searching As Ballard and her half siblings researched their family tree, one name kept popping up: Cline. It was only after much investigation, filing a complaint with Indiana's attorney general that Cline had used his own sperm in patients and asking for an investigation and asking a TV channel to air the news about the unusually high number of kids from one sperm donor. However, Cline was only charged with obstruction of justice. Even then Cline was ultimately only fined \$500 and given a year of probation. He lost his medical license, but he had been retired since 2009. In fact, he probably would not have even been charged had he not replied to the Attorney General's letter claiming that the complaint against him was a try at defaming him and very well lying on legal ground, as he was biologically the father of Ballard and her other half-siblings. In fact, he had even lied further to Ballard on a call with her that he had cheated by using his own sperm only nine to ten times, when clearly the current count of offspring resulting from his sperm is over ninety-four²². The reason this man was not charged and was let go of free was because there were no laws regarding this form of fraud at the time.

¹⁹ *Idem*.

²⁰ Mroz J, "Their Mothers Chose Donor Sperm. the Doctors Used Their Own." (*The New York Times* August 21, 2019). <https://www.nytimes.com/2019/08/21/health/sperm-donors-fraud-doctors.html>, accessed January 2, 2023

²¹ Zhang S, "The Fertility Doctor's Secret" (*The Atlantic* March 19, 2019). <https://www.theatlantic.com/magazine/archive/2019/04/fertility-doctor-donald-cline-secret-children/583249/>, accessed December 15, 2022

²² *Idem*.



The case of Dr. Donald Cline caused a massive public uproar and essentially led to the introduction of fertility fraud laws in Indiana²³. As of May 2019, Indiana offers both criminal and civil remedies for fertility fraud. That is if human reproductive material is used without the express consent of the donor created a felony offence level 6 and a civil cause of action that the patient, their spouse, or child may bring. Attorney's fees, the cost of fertility treatment, punitive and compensatory damages, or ten thousand US dollars are all possible damages that the victim can claim²⁴. The statute of limitations is ten years after the child's 18th birthday (or twenty years after the procedure was performed), or five years after the discovery of fertility fraud via DNA testing, confession by the health care provider, or sufficient evidence²⁵. However, even the state of Indiana fails to recognize the sexual nature of the offence taking place. Cline had to masturbate each time to obtain the semen for the IVF process and then his semen would be used by him on his patients without their consent for using his own semen²⁶.

Countries that have accepted this as a sexual offence

Texas, different from Indiana, recognized the sexual nature of the crime and hence also recognizes this as a sexual offence. Laws in Texas were brought after the case of Dr. Kim McMorries²⁷. Wiley was conceived in the year 1986 with the semen of "Donor 106" in McMorries' clinic. It was in mid-2018 that she tried to communicate with McMorries after being linked to McMorries through multiple consumer DNA matches. McMorries then replied to her in a series of mails that he was indeed her biological father. This emotionally disturbed Wiley who had bonded with "Donor 106" whom she presumed was her biological father. Wiley presented this case in front of Texas legislators. Texas legislators after hearing Wiley's and multiple other victims decided and made it a felony sexual assault for any Texas doctor to secretly impregnate patients with his own sperm. However, the law, which went into effect in September 2019, is not retroactive, and the physician whose actions inspired the reform was not prosecuted²⁸.

However, Indiana and Texas are not the only states in the States have laws against fertility fraud though. The following eight states are the states excluding Indiana and Texas that have laws against fertility fraud in the United States:

Arkansas

In 2019, Matthew Smith learned that he was the victim of a fertility scam. His family brought a civil lawsuit against the doctor, and Arkansas passed legislation establishing

²³ Zhang S, "A Decades-Old Doctor's Secret Leads to New Fertility-Fraud Law" (*The Atlantic* May 9, 2019) <https://www.theatlantic.com/science/archive/2019/05/cline-fertility-fraud-law/588877/>, accessed September 5, 2022

²⁴ Indiana Code 1976, Title 34, Article 24, Chapter 5

²⁵ *Idem*.

²⁶ Zhang S, "A Decades-Old Doctor's Secret Leads to New Fertility-Fraud Law" (*The Atlantic* May 9, 2019). <https://www.theatlantic.com/science/archive/2019/05/cline-fertility-fraud-law/588877/>, accessed September 5, 2022

²⁷ Olsen L, "Conception Deception" (*The Texas Observer* September 15, 2020) <<https://www.texasobserver.org/fertility-fraud-east-texas-kim-mcmorries/>> accessed December 1, 2022

²⁸ *Idem*.



both civil and criminal causes of action for fertility fraud²⁹. As of April 2021, a patient or spouse may file two felonies and a civil action against a health care provider who uses his own sperm without the patient's written consent, and who reasonably should have known the donor did not consent to its use or in the manner it is being used. The statute of limitations runs for five years from the date of discovery, or the defendant admits to the facts giving rise to the action. Attorney's fees, treatment costs, and economic, compensatory, and punitive damages may be awarded. This protects those who submit their sperms/ovum for the purposes other than donating it for some other person's use³⁰. However, it once again fails to recognize the victims as victims of sexual offence. It also fails to recognize the victims whose reproductive materials have been used without their consent.

Arizona

In 2020, Kristen Finlayson learned that she was the victim of in vitro fertilisation fraud. She testified in support of a law in Arizona that was passed in 2021 against fertility fraud after her family filed a civil lawsuit against the doctor. This bill gave victims a civil cause of action³¹.

As of March 2021, the patient, the patient's spouse, and the child can file a civil action against a health care provider who used their own reproductive material without the patient's written consent. There is a possible award of compensatory and punitive damages, as well as liquidated damages of \$10,000. Each child has his or her own cause of action. A civil action may be filed within five years of the discovery of sufficient evidence for a case or the defendant's confession³². However, Arizona not only fails to recognize it as asexual offence but fails to recognize it as an offence all together.

California

California in 1996 itself made it a crime to use reproductive material other than that specified on the donor's consent form (except for sperm donors) and to implant reproductive material without the recipient's written consent. Violations are punishable by up to five years in prison and a \$50,000 fine³³. California while was earliest in the race to recognize the importance of laws against fertility fraud and is still much ahead of other states by not only recognizing it as criminal offence not only punishable with prison but also with a hefty sum as a form of compensation.

²⁹ Evewiley, "Stories Behind the Legislation..." (Evewiley2022). <https://evewiley.com/fertility-fraud-cases>, accessed May 5, 2023

³⁰ Arkansas Code 1987, Title 16, Subtitle 7, Chapter 118, s 16-118-117

³¹ Evewiley, "Stories Behind the Legislation..." (Evewiley2022). <https://evewiley.com/fertility-fraud-cases>, accessed May 5, 2023

³² Arkansas Code 1987, Title 16, Subtitle 7, Chapter 118, s 16-118-117

³³ California Penal Code 1872, Part 1, Title 9, Chapter 12, s 376g



Colorado

In October 2019, Maia Emmons-Boring and seven other families sued Dr. Jones and Women's Health Care of Western Colorado, the clinic where he worked. He was charged with medical malpractice, fraud, and contract violation. It was this case that led to new legislation to be made in regard to fertility frauds. As per July 2020, a felony offence (Class 6) and civil liability was created in Colorado, which can be brought by the patient, spouse/partner, or child, with liability for each child. Attorney's fees may be awarded. Damages are \$50,000 or reasonable compensation for injuries. Other legal remedies may be pursued. A Class 6 felony offence carries a sentence of 18 months in prison and a fine of \$1,000 to \$100,000. The statute of limitations begins when the offence is discovered. Fertility fraud is now listed as an example of unprofessional behaviour³⁴.

Florida

An offspring of a doctor daddy case in Florida contacted Eve Wiley in 2019. They chose to settle in mediation after she assisted them in getting in touch with an attorney. She represented them in Florida behind closed doors, working with Senator Lauren Book and Representative Jenne³⁵. As result in June 2020, a third-degree felony offence was created for using material without the patient's specific consent, punishable by up to 5 years in prison and a \$5,000 fine. If a doctor uses their own material, it is a second-degree felony punishable by up to 15 years in prison and a \$10,000 fine. The patient's consent to an anonymous donor is not a defence. It is necessary to register with the police. The statute of limitations begins when the offence is discovered. Fertility fraud is also listed under enumerated unprofessional conduct³⁶.

Iowa

As per July 2020 it is a sexual offense if a health professional uses human reproductive material that the patient did not expressly consent to. It is a crime to give a patient false information about assisted reproduction, including the material used and the donor's identity and medical history, and for a health professional or facility to give a patient material in a way that neither the donor nor the patient consented to (a request for anonymous donor is not a defense). Either crime gives rise to a private cause of action for the patient, spouse, children, and donor. If a doctor used his own sperm, in addition to compensatory or punitive damages, he must pay back child support and pay for the offspring's postsecondary education - no legal parent-child relationship is created. A violation can result in the revocation of a health professional's or a health facility's licence³⁷.

³⁴ O HOUSE BILL 20-1014 2020

³⁵ Ewewiley, "Stories Behind the Legislation..." (Ewewiley2022). <https://ewewiley.com/fertility-fraud-cases> accessed May 5, 2023

³⁶ Florida Senate, "Bill Analysis and Fiscal Impact Statement - Florida Senate" (flsenateFebruary 28, 2020). <https://www.flsenate.gov/Session/Bill/2020/698/Analyses/2020s00698.rc.PDF>, accessed December 1, 2022

³⁷ Iowa Legislative Services Agency, (Iowa legislature - billbookJune 14, 2022). <https://www.legis.iowa.gov/legislation/BillBook?qa=89&ba=SF529> accessed November 1, 2022



Kuntucky

Susan Crowder discovered decades later that the daughter she had conceived through IVF, was not through an anonymous donor but her own doctor³⁸. She worked with other victims and Dr. Jody Medeira to pursuit House Bill 402 which was sponsored by Representative Deanna Frazier Gordon³⁹. As a result, as per April 2022, use of human reproductive material other than that to which the patient has consented, or use of the health care provider's own material without the patient's prior knowledge and consent. With a five-year statute of limitations after DNA discovery and a class D felony for such actions, it creates a cause of action for the patient, spouse, offspring, and donor whose materials were used in a manner other than what was consented to for compensatory and punitive damages. Kentucky provides a cause of action for even to those whose materials were used for purposes other than they had consented for⁴⁰.

Utah

Since March 2021 a third-degree felony is committed by a health care provider who uses their own gametes without the patient's written consent. Utah is the only state which while does recognize fertility fraud as a felony, but is vague about it, to the point it can be deemed of no benefit for the victims. It can be seen that this was brought in action without much consideration put into it⁴¹.

India

India as mentioned before does not currently have any specific laws against fertility fraud. As mentioned before in this paper both Indian legal system and American have legal systems closely derived from English laws. Therefore, with a few changes the laws currently in action the States can be applied in India as well. Current regulations as per the Assisted Reproductive Technologies (ART) Act⁴² (hereinafter to be referred as the Act) which was enacted in December 2021 and came to force in January 2022, every ART clinic and bank must be registered with the National Registry of Banks and Clinics of India, which shall maintain a central database of such institutions' information. Such clinics and banks are registered for five years and can be renewed for another five. If the institution violates the Act, it may be canceled or suspended. Clinics are not permitted to provide a child of a specific gender and must screen for genetic diseases before implanting an embryo in a woman's body.

This Act defines offences as abandoning or exploiting children born through ART; selling, purchasing, or trading embryos; exploiting the couple or donor in any way; and

³⁸ McAlister S, "Doctor Used Own Semen to Impregnated Patient without Her Knowledge. Now, She's on a Mission to Make Fertility Fraud Illegal in Kentucky" (*whas11.com* February 27, 2022). <https://www.whas11.com/article/news/investigations/fertility-fraud-criminalized-kentucky-bill-susan-crowder-dr-jody-medeira/417-44eb51d0-f38f-4bb3-bdf9-60b145bcd731>, accessed May 5, 2023

³⁹ Ewewiley, "Stories Behind the Legislation..." (*Ewewiley* 2022). <https://ewewiley.com/fertility-fraud-cases> accessed May 5, 2023

⁴⁰ Kentucky Revised Statutes 1942, Title 26, Chapter 311, s 311.373

⁴¹ UT House Bill 192 2021

⁴² The Assisted Reproductive Technologies (Regulation) Act 2021



transferring an embryo into a male or an animal⁴³. For the first time, such offences may result in a fine of Rs 5 to 10 lakhs subsequent offences are punishable by 8 to 12 years in prison and a fine of Rs 10 to 20 lakh Rupees⁴⁴. And only on the basis of a complaint from the National or State Board will a court take cognizance of an offence⁴⁵ and no offence punishable by this Act can be tried in a court lower than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class making the process even more complicated⁴⁶. All the offences under this Act are cognizable but they are also bailable notwithstanding anything mentioned in the CrPC 1973⁴⁷ i.e., Code of Criminal Procedure 1973⁴⁸.

Reforms

The Act however fails to recognize the seriousness of the offence and has written of the offences in a vague manner which leaves huge scope and loophole for further offences to be committed. "Exploitation" for example can be overlooked as simple monetary exploitation and overlooks the sexual exploitation and trauma that a donor or couple would have to go through. The Act also fails to provide relief to those who have suffered from the fraud but have discovered of the fraud after the birth of the child. It has not provided any time duration and who are the parties that can lodge the complaint. As in such cases not only are the couples and/or donors the victims but also the children at times and hence should have fair chance to lodge complaint as a victim as well which the Act fails to recognize as well. Also, the punishment doesn't seem to mention the suspension or the expulsion of the license of the medical practitioner, failing to realise that fertility fraud is as well a medical offence. Overall, there needs to be much work that needs to be done regarding fertility fraud to provide justice and relief to the victims of fertility fraud. Following are the reforms based on the active American laws against fertility fraud that are adjusted as per the Indian legal system:

An option should be created for all the victims of the fertility fraud that is the couple, the donor and the offspring. A limit of filing a FIR within a year of discovering the fraud (Arkansas). Giving a patient false information about assisted reproduction, including the material used as well as the donor's identity and medical history, should be considered as a crime, as should giving a patient human reproductive material in a way that neither the donor nor the patient consented to and request for an anonymous donor should not constitute as defence (Iowa). The insertion of the sperm of the doctor or the medical practitioner or of any donor for whom the patient has not given explicit consent should be constituted as while not rape but still as a form of sexual offence similar to how section 376C⁴⁹ of the Indian Penal Code treats sexual intercourse with a person in authority. There should also be civil action and compensation available to all the victims that is the couple, the donor, and the offspring (Arizona). And this compensation should be available to each one of the offspring separately (Arizona). And the accused should also pay for

⁴³ The Assisted Reproductive Technologies (Regulation) Act 2021, s 33 (1)

⁴⁴ The Assisted Reproductive Technologies (Regulation) Act 2021, s 33 (2)

⁴⁵ The Assisted Reproductive Technologies (Regulation) Act 2021, s 35 (1)

⁴⁶ The Assisted Reproductive Technologies (Regulation) Act 2021, s 35 (2)

⁴⁷ The Assisted Reproductive Technologies (Regulation) Act 2021, s 36

⁴⁸ Code of Criminal Procedure 1973

⁴⁹ The Indian Penal Code 1860, s 376C



the sum of attorney's fee or any other legal remedy that the victim had to face regarding this case (Colorado). As a punishment the medical practitioner or the doctor should face expulsion of his medical license along with 8 to 12 years of prison time and fine of 10 to 20 lakh Rupees. And most importantly the reformed laws should be retrospective in nature so that only future victims but also the victims already harmed are able to get the justice they deserve.

Remedies available

However, as we do not have any stringent and specific law in action against fertility fraud in India, a remedy other than the one provided by the Act would be section 42⁵⁰ of the Indian Penal Code on cheating which is defined in section 415⁵¹ of the Indian Penal Code which states that Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat" (explanation.—A deception within the meaning of this section is a dishonest concealment of facts). In the case of fertility fraud, the sperm and ovum of the donor can be regarded as their property and the misuse of their human reproductive material, or the deceptive use of the material can be considered as cheating the donors. Whereas the patients can approach this situation under section 416⁵² of the Indian Penal Code on cheating by personation which states that a person is said to "cheat by personation" if he cheats by pretending to be someone else, or knowingly substituting one person for another, or representing that he or such other person is someone other than what he or such other person is (explanation.—Whether the individual personated is a real or fictitious person, the offence is committed). In the case that an individual uses the reproductive of a donor on the patient that they had not consented to while deceiving them into believing that it was the donor, they had consented to the patient can use this section. Another situation where a patient can use section 416 would be where an individual has deceived the patient into believing that they are a licensed medical practitioner licensed to carry out such practice. Both are situation which have already occurred but have left the victims without justice due to the lack of laws and regulation in place. There has also been a case⁵³ where a minor girl was violated by her stepfather, with the knowledge mother, who along with her stepfather would force her under medical procedures to donate her ovum (done more than 3 times) without her consent. Even when her stepfather was convicted, he was only convicted for assaulting her, but not for violating her by forcing to follow through the medical procedure. While it may seem satisfactory that he was punished for sexual assault, but he was not punished for the other form in which he had sexually violated her. The victim (i.e., minor girl) received justice only partially. She felt violated not only when being

⁵⁰ The Indian Penal Code 1860, s 420

⁵¹ The Indian Penal Code 1860, s 415

⁵² The Indian Penal Code 1860, s 416

⁵³ Nath A, "Woman Forces Teen Daughter to Donate Eggs to Fertility Clinic, Arrested" (*India Today* June 4, 2022). <https://www.indiatoday.in/crime/story/woman-tamil-nadu-erode-daughter-donate-eggs-fertility-clinic-arrested-embryo-1958118-2022-06-03> accessed May 6, 2023



assaulted by her stepfather, but also every time she was under the medical procedure to which she had consented. Therefore, unless until much more stringent laws are brought about in force victims will only be able to justice partially.

Conclusion

United States of America is not the only the country that has enacted laws against fertility fraud. Other countries such as New Zealand⁵⁴ with its Human Assisted Reproductive Technology Act 2004⁵⁵, Canada⁵⁶ with its Assisted Human Reproduction Act 2004⁵⁷ and United Kingdom⁵⁸ with its Human Fertilisation and Embryology Act 1990⁵⁹. United Kingdom was one of the earliest countries to introduce laws regarding assisted reproductive technologies by enacting the Human Fertilisation and Embryology Act⁶⁰ in 1990 itself. In fact, the first IVF-baby in India and second in the world was born in 1978⁶¹. Assisted Reproductive Technologies (ART) Act 2021⁶² was made active in 2022, that is more than four decades after this technology was introduced in India. Indian legislature was not only late in introducing any form of regulation in India but also complacent about the issue. This issue is rampant and concerning, it may not seem large scale because there are not many records, but the reasons such records are not there is because people do not have the provisions under which they can report the wrong that has been committed against them. It took the state forty-four years to clarify simply that the donor of the child conceived through IVF did not have any legal rights towards the said child⁶³. In an era where the society is moving at a pace faster than ever, the law should not keep up but rather be one step ahead of society. This paper has argued that the laws currently present in India against fertility fraud are not sufficient and needs to be modified. The Act in power right now leave aside providing protection against fertility fraud, it does not even acknowledge or define fertility fraud. A case like Dr. Kim McMorries or Dr. Donald Cline's should not happen in India for it to take an action. It is important to empathize with the couples who come to receive these treatments with hope for a child after losing trying all other possible methods. The process in which a child is conceived with the artificial reproductive technologies is painful beyond the understanding of anyone who has not themselves experienced the pain that comes along with hope. Couples go through

⁵⁴ Advisory Committee on Assisted Reproductive Technology (*Guidelines for family gamete donation, embryo donation, the use of donated eggs with donated sperm and clinic assisted surrogacy*2020). <https://acart.health.govt.nz/assets/Uploads/ACART/Publications/donation-and-surrogacy-guidelines-18august2020.pdf>, accessed May 5, 2023

⁵⁵ Human Assisted Reproductive Technology Act 2004

⁵⁶ Health Canada, "Consent to Use Human Reproductive Material and In Vitro Embryos" (*Canada.ca*February 5, 2020). <https://www.canada.ca/en/health-canada/services/drugs-health-products/biologics-radiopharmaceuticals-genetic-therapies/legislation-guidelines/assisted-human-reproduction/consent-human-reproductive-material-vitro-embryos.html> accessed May 6, 2023

⁵⁷ Assisted Human Reproduction Act 2004

⁵⁸ The Fertility & Gynaecology Academy, "Legal Information" (*The Fertility & Gynaecology Academy* April 11, 2022). <https://www.fertility-academy.co.uk/legal-information/>, accessed May 6, 2023

⁵⁹ Human Fertilisation and Embryology Act 1990

⁶⁰ *Idem*.

⁶¹ IVF Specialist, "Louise Brown: The First Test Tube Baby in the World" (*IndiraIVF*April 2022). <https://www.indiraivf.com/blog/louise-brown-the-first-test-tube-baby-in-the-world#:~:text=Test%20Tube%20baby,The%20name%20of%20the%20first%20Indian%20test%20tube%20baby%20is,baby%20through%20the%20IVF%20procedure>, accessed May 6, 2023

⁶² Assisted Reproductive Technologies (ART) Act 2021

⁶³ *Idem*.



this process even though it is considered taboo within the Indian society and taunted by the society. It is important to protect such people and provide them justice if the protection was breached by someone who had legal responsibility towards them. This paper has suggested reforms that can be brought as actions against fertility fraud based on the laws currently in action in the United States of America against fertility fraud. The reforms in this paper are suggested keeping in mind the unique diverse society and legal system of India.

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“INFORMATION DISORDER” CAMPAIGNS IN NATURAL HAZARDS AND EXTREME EVENTS – A FORM OF FOREIGN INFLUENCE AND A HYBRID THREAT?

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Abstract

The objective is to prove that the nexus of "information disorder" campaigns, through rumours, conspiracy theories, and natural hazards/extreme events, may allow powerful and frequent foreign influence campaigns against communities in their most vulnerable situation. It can be a form of hybrid threat. In other words, this paper aims to understand how social media platforms can be weaponised through "information disorder" campaigns, particularly during extreme events. It was considered two examples where information disorder had a solid social and political impact, with security consequences – during natural hazards and extreme public health events. "Information disorder" campaigns, during extreme events and disasters, through social media platforms can immediately impact political, geopolitical and security dynamics. It is information whose veracity is indisputable but leads to distorted conclusions and can subvert the current political environment. Information is multiplied at high speed and low cost, allowing the dissemination of false information to cement political and social division and influence different decision-making procedures. This type of operation could be more than a question of strategic communication. It is a threat to democracies that may place communication at the heart of a geopolitical and security strategy. The nexus, "information disorder," campaigns for natural hazards and extreme events favour influence campaigns against communities in their most vulnerable situation.

Keywords

Information disorder campaigns, rumours, online social media platforms, natural hazards, extreme events, disaster communications, hybrid threats, wildfires, COVID-19.



Resumo

O objetivo é demonstrar que a relação entre campanhas de "desordem de informação" – através de rumores e teorias da conspiração – e eventos extremos pode permitir intervenção nociva estrangeira, através de operações de influência, contra comunidades na sua situação mais vulnerável. Portanto, esta relação pode permitir formas de ameaças híbridas. Por outras palavras, neste artigo pretende-se analisar a forma como as plataformas de redes sociais podem ser transformadas em armas através de campanhas de "desordem de informação", particularmente durante eventos extremos. Para tal, foram considerados dois exemplos de eventos extremos em que este tipo de campanha teve um impacto social e político sólido, com consequências securitárias e geopolítica – durante desastres naturais e durante uma pandemia. As campanhas de "desordem de informação", através das plataformas de redes sociais, podem ter impacto imediato nas dinâmicas políticas, geopolíticas e de segurança. São informações cuja veracidade se torna indiscutível, mas que levam a conclusões distorcidas e podem subverter o ambiente político vigente. A informação é multiplicada a alta velocidade e baixo custo, permitindo a disseminação de informações falsas para cimentar a divisão política e social e influenciar diferentes procedimentos de tomada de decisão. Este tipo de operação é mais do que uma questão de comunicação estratégica. É uma ameaça às democracias que pode colocar a comunicação no centro de uma estratégia geopolítica e de segurança. A relação entre campanhas de "desordem de informação" e eventos extremos favorecem ações de influência contra comunidades na sua situação mais vulnerável.

Palavras-chave

Campanhas de desordem de informação, rumores, plataformas de redes sociais online, desastres naturais, eventos extremos, comunicação de risco natural, ameaças híbridas, incêndios florestais, COVID-19.

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"INFORMATION DISORDER" CAMPAIGNS IN NATURAL HAZARDS AND EXTREME EVENTS – A FORM OF FOREIGN INFLUENCE AND A HYBRID THREAT?

FELIPE PATHÉ DUARTE

1. Introduction

Hybrid threats result from a strategy based on a broad and multidimensional combination of conventional and unconventional methods, with open and covert actions implemented by military, paramilitary, or civilian actors. The main objective of a hybrid threat is to create political and social destabilisation, reflecting this impact on governments and opponent institutions by creating chaos and a power vacuum (Duarte, 2020, 2023; Giannopoulos *et al.*, 2020; Treverton *et al.*, 2018).

Both State and non-state actors use hybrid threats to pursue their political and military aims, which can be kinetic or non-kinetic. Kinetic actions are those which, because of military or non-military action, have a direct physical impact, with possible use of lethal force. Nevertheless, these do not necessarily represent an act of war. Non-kinetic actions are broader than kinetic. These have to do with perception and conditioning. Non-kinetic actions determine how and where the enemy does direct kinetic action, potentially preventing him from pursuing or, in another case, forcing him to direct it against himself (Duarte, 2020).

These actions are not mutually exclusive and sometimes overlap.

In the full range of activities that pose a hybrid threat, the consequences of "information disorder" campaigns (or influence operations) through social media platforms (a non-kinetic form of hybrid threat) in natural hazards and extreme events will be considered. This realm is about narrative-driven activities that, through words, images, and coordinated actions, aim to change the perception and behaviour of the target audience during a disaster and emergency crisis, but with the specific objective of changing social and political dynamics (Giles *et al.*, 2019; Mazzuchi, 2022; Nissen, 2012, 2015; Singer & Brooking, 2018; Patrikarakos, 2017; Svetoka, 2016).

Following the common taxonomy is the field of mal-information, disinformation, and misinformation (Wardle & Derakhshan, 2017; UNDP, 2022). Disinformation is false information deliberately created to harm a person, social group, organisation, or country. It is information that passes out of context, which can be manipulated and whose content



is manufactured. It may have a propagandistic purpose. Misinformation or rumour is false information that is not created with the intent to cause harm. It is false information, however, without the intention of inflicting any harm. Mal-information is incorrect information that is factually based and used to inflict harm on a person, organisation, or country. It is information based on facts but manipulated with the concrete aim of causing harm. It is the field of hate speech, harassment and incitement to violence.

"Information disorder" campaigns are difficult to identify. Therefore, information is scarce, which has complicated the research, leading to assume, in many cases, speculation about perpetrators and intentions. Although it neither points out vulnerabilities nor makes procedural recommendations or considerations, it is fundamental in identifying the peculiarity of "information disorder" campaigns, based on rumours and conspiracy theories, during disasters and emergency crises in democratic states.

So far, "information disorder" campaigns related to emergency crises and natural disasters have generally been more grassroots than those from foreign influence and state actors (Johansmeyer, 2023 February 20). However, influence operations coordinated by States have already been deployed during periods of vulnerability, mainly in the periods preceding and following elections or during civil unrest (Bradshaw *et al.*, 2022; Faleg & Kovalčíková, 2022; Siegle, 2021, 2022). It must be noted nonetheless that such operations have not yet been identified during disasters. "Information disorder" campaigns related to emergency crises offer conditions for influencing operations against communities when they are most vulnerable. Until now, it has not been a significant problem.

Nevertheless, the increasing possibility of major natural disasters due to climate change (Huppert & Sparks, 2006; IPCC, 2022; Rädler, 2021) may offer more opportunities for State actors to weaponise social media platforms as a form of hybrid threat, particularly when communities are weakened or the State tends to fail or be weak.

This paper has two parts: a conceptual analysis of "information disorder" campaigns as a form of hybrid threat and, based on the typology previously presented, an analysis of two examples where there were "information disorder" campaigns based on rumours and conspiracy theories – the first is on natural hazards (wildfires in Australia and the United States), the second on extreme events (public health, COVID-19). The first part relied on source analysis as the result of a desk review methodology supported by monographs, declassified official documents and reports. The second part is also the result of source analysis but is more extensive. In addition to the desk review methodology, the study included semi-structured interviews with stakeholders from security services in Brazil who asked not to be quoted. Media content analysis was also carried out – for trends and fact-checking.

2. "Information Disorder" Campaigns – A Weaponization of Social Media Platforms

"Information disorder" campaigns, or influence operations, are among the most effective formulas for hybrid threats. They take advantage of the mass structure and exploit the



individual's feelings of self-assertion – two actions taken simultaneously for manipulation (Ellul, 1990). It is not new. However, today, this kind of action is facilitated by mass access to the internet and the proliferation of media, which has become the most effective way to convey ideologies, spread ideas, and information disorder – in continuous action, without fail or interruption. It depends more on the channel that spreads the information than on the nature of the information itself. These are narrative-oriented activities through words, images, and synchronised actions. They target different audiences.

The information is received and transmitted to analyse the social and political environment and manipulate the perception of reality through propaganda, fake news, strategic leaks, and State or parastatal news media (Duarte, 2020; Giannopoulos *et al.*, 2020; Treverton *et al.*, 2018; Wigell, 2020). However, information multiplies quickly and cheaply through social media platforms. The main goal is perception to create divisiveness and influence different decision-making procedures, with the concrete objective of changing social and political dynamics. For that, the concept of "truth" in the political facts must be distorted (Kavanagh & Rich, 2018). Thus, for the perpetrators of this type of action, it is crucial to flood internet news sites and social media platforms with fake news and alternative narratives of news events to muddy the ability of populations to separate fact from fiction, undermine dominant media sources and instill doubt in hitherto trusted sources of information (D'Ancona, 2017; Kavanagh & Rich, 2018).

Depending on the context and targets, the consequences of these "information disorder" campaigns, which spread through social media platforms, could assume several forms. It could be fostering radicalisation and recruitment for violent extremist groups. The intensification of hate speech in fragile contexts polarises a specific social and political community (Nemr & Gangware, 2019; Perez-Escobar & Noguera-Vivo, 2022). Disinformation/mal-information campaigns can erode social/political cohesion and delegitimise adversaries in a conflict (Byman *et al.*, 2023; OHCHR, 2022; Fitzpatrick *et al.*, 2022). The manipulation of political discourse within a State may subvert a democratic process (Colomina *et al.*, 2021).

During natural hazards and extreme events, social media users become "citizen reporters" as the first responders to a situation and, in this way, contribute to the dissemination of information (Abdullah *et al.*, 2015; Muhammed & Mathew, 2022). Easy access allows them to contribute to greater public awareness of a crisis within and beyond their online networks. Furthermore, when posting to social media accounts, individuals can use a hashtag to broaden access to other users outside their network.

The spread of inciteful and/or false narratives and the systematic dissemination through social media platforms can disrupt, corrupt, or usurp the decision-making process. False information, information overload or information scarcity in social media platforms are the main concerns that interrupt the communication between the affected community and the rescue team (Muhammed & Mathew, 2022). While social media platforms can help coordinate disaster relief efforts, information credibility can be a leading issue amongst individuals using social media during an emergency crisis.



Thus, emergency or disaster events could be an ideal context for deliberately misusing social media. The platforms can be transformed into a weapon by disseminating mal-information and/or disinformation to sow social disruption and mistrust in the authorities.

3. "Information Disorder" Campaigns During Natural Hazards or Extreme Events

During a natural hazard or an extreme event, individuals on social media platforms can be the first respondents to a situation (Abdullah *et al.*, 2015). This way, deliberately or not, besides being the frontline and help the authorities (Gonçalves & Oliveira, 2022), they also may contribute to "information disorder". A dread rumour can be more trustworthy and more likely to go viral, possibly directly impacting a community (Mukherjee, 2017 July 14; Muhammed & Mathew, 2022). Rumours are unverified stories or "propositions for belief" spread through informal channels, often during crises and stressful events (Spiro & Starbird, 2023). According to the disaster management cycle, several stages can vary between organisations and governments. However, the principles remain the same (Sawalha, 2020). Initially, the cycle includes resilience, risk reduction, and mitigation. Then, there is the disaster preparedness. The third phase is disaster response, followed by disaster recovery. The possibility of an "information disorder" campaign in any part of the cycle will cause harmful effects, such as in the disaster response and recovery stages (UNDDR, 2016). An "information disorder" campaign through social media platforms is an easily accessible tool for almost all actors. It is a dynamic, user-oriented, and ever-changing environment.

The effect tends to be inversely proportional to the investment. Furthermore, it is difficult to identify the source of information, verify its authenticity, and separate facts from fiction. Alternatively, it is also possible to expand the message's visibility. In that case, the content can be spread and generated automatically through "spamming" (such as Twitter bombs) or fake identities (with trolls' sock puppets and bots).

It is also possible to saturate cyberspace with information through social media posts and op-eds coordinated by activists, opinion leaders, avatars, or regular people trying to shape disaster governance.

Suppose someone wants to attack or distract the opponent. In that case, there is the dissemination of disinformation and mal-information, attacks on specific targets (blocking or denigrating the opponent's content), social engineering actions, or deception, creating "noise" or "fog" around a controversial topic, such as fake news. In many cases, fake news or news with fabricated content was spread in communications during the post-disaster phase. (Bak-Coleman *et al.*, 2022; Spiro & Starbird, 2023; Svetoka, 2016; Zade *et al.*, 2023; Zhou *et al.*, 2023)

For instance, after the Boston Marathon, a false rumour on Twitter circulated that a young girl killed was in remembrance of the Sandy Hook victims. Despite this information being unfounded, this tweet received 33,000 retweets: "RIP to the 8-year-old girl who died in Boston's explosions while running for the Sandy Hook kids. #prayforboston". Corrective tweets were minimal compared to the volume of tweets that spread incorrect information. Of the 8 million tweets sent in the days following the Boston bombing, just 20% were



accurate pieces of factual information (Schultz, 2013, October 24); unquestionably, "information disorder" contributed to the public hysteria of both disaster events (Starbird *et al.*, 2014).

During the Ebola outbreak in Africa, there was widespread dissemination of a rumour, mainly through the application WhatsApp, that the virus was engineered (Martin, 2019). A rumour claimed that Ebola patients had risen from the dead, and treatment centres were deemed death houses (Martin, 2019 June 15; Spinney, 2020). False information circulated online about alternative remedies, such as consuming Ewedu plants or drinking large amounts of salt water (Oyeyemi *et al.*, 2014). Alternatively, during the 2018 floods in the South Indian State of Kerala, a fake video on Mullaperiyar Dam leakage created unnecessary panic, negatively impacting the rescue operations (Muhammed & Mathew, 2022). With minor exceptions, most fake news is propagated through social media and social network platforms like Twitter, WhatsApp and Facebook (Varghese & Yadukrishnan, 2019).

The plot can thicken if one considers the use of "deep fakes" on social media platforms. "Deep fakes" are digital simulations of images and sounds produced through deep learning within the scope of artificial intelligence. An increased power characterises this technological device for simulation and realistic effects. Therefore, it is used with malicious intentions in common cyber-criminality and political and military disinformation/mal-information campaigns. The fact that there is an increasing set of reports and news that stress the threat of this kind of technological device leads this reflection to evaluate its impact. It is interesting to understand this impact in the political/military and disinformation scope, knowing that there are more substantial malicious effects at the cyber-crime level, with successful cases of CEO fraud, for instance. (Byman *et al.*, 2023; Giles *et al.*, 2019; Mazzucchi, 2022). So far, no evidence exists of "deep fakes" during natural hazards or extreme events.

4. Examples of Extreme Events and Disasters

a) Social Media Platforms and "Information Disorder" Campaigns in Natural Hazards

A recent study on counteracting wildfire misinformation examined how "information disorder", spread by social media or news media, confuses people about the causes, contexts, and impacts of wildfires and substantially hinders society's ability to adapt to proactively and plan for inevitable future fires (Jones *et al.*, 2022). At the same time, social media can also be employed to diminish its influence. It can help avoid overstating or oversimplifying complicated wildfire issues to garner attention in a competitive media ecosystem (West and Bergstrom 2021, *in* Jones *et al.* 2022.)

In 2019 and 2020, massive wildfires sowed panic in Australia. Different sources present different estimates. However, according to the environmental organisation World Wide Fund for Nature (2020), the flames, which were particularly severe between December 2019 and January 2020, consumed up to 19 million hectares, destroyed more than 3000 homes and killed or caused the displacement of around three billion animals.



Climate change deniers blamed Australia's wildfires on arson (Chow *et al.* 2020, January 09). Disinformation has spread across social media platforms. Two pieces of "information disorder" stand out from the rest: that an "arson emergency", rather than climate change, was behind the wildfires and that environmentalists and eco-terrorists were preventing firefighters from reducing fuel loads in the Australian bush (Knaus, 2020, January 11).

Much of the "information disorder" on Twitter centred around the #arsonemergency hashtag. Nevertheless, many suspicious accounts were posted on the #australiafire and #bushfireaustralia hashtag. A study found that bot and troll accounts were involved in an "information disorder" campaign exaggerating the role of arson in Australia's wildfires (Keller *et al.*, 2020). The accounts carried out activity similar to past "information disorder" campaigns, such as the coordinated behaviour of Russian trolls during the 2016 US presidential election (Chappel, 2020, January 10; Daume *et al.*, 2023).

There was an explicit politicisation of climate change, and social media platforms have provided fertile ground for "information disorder" campaigns. Populist conservatives, far-right and conspiracy figures all pushed the exaggerated arson claims to millions of followers on Twitter, Facebook, and Instagram (Badham, 2020 January 08; Weber *et al.*, 2022). However, claims about arson are not the only falsehoods being spread on social media. Other false claims include that the government created the bushfire crisis to clear land for high-speed rail. Another claim was that the Islamic State was responsible for the wildfires (Smyth, 2020, January 5).

In 2020, the United States also experienced a severe wildfire season. Millions of acres burned in California, Oregon, and other parts of the Western United States, devastating towns, destroying lives, and covering communities in thick smoke. Scientists said these wildfires were the worst in 18 years and linked their increasing prevalence and intensity to climate change (BBC, 2020, September 18). At the same time, related to the crisis, a viral wave of misinformation and disinformation spread across social media platforms.

In Oregon, a rumour spread that radical activists lighted the wildfires and that it was a politically motivated arson. Various posts have for days strongly suggested and claimed outright that members of far-left Antifa or the far-right movement Proud Boys are deliberately setting the fires (Jankonwicz, 2020 September 11). Rumours, especially about Antifa, have spread wildly on Facebook and Twitter. Although there have been arrests for alleged arson amid the fires, authorities have vehemently denied political motivations. These rumours also formed a nexus between local communities, sometimes violent protest groups, and even elected officials in rural areas. It complicated the emergency response by motivating armed patrols in towns gripped by rumours of Antifa arson attacks and inspiring vigilante acts.

b) Social Media Platforms and "Information Disorder" Campaigns in Public Health Extreme Events

COVID-19 created the perfect condition for "information disorder" campaigns, primarily because of the mixture of misinformation, disinformation and mal-information spread on social media platforms. As little information came out of the Chinese government in the



first days of the spread of the virus, the scenario of disinformation and mal-information preceded misinformation (Ahmad *et al.*, 2022; Azzim *et al.*, 2020; European Commission, 2022).

As the epidemic turned into a pandemic, the amount of fear it generated because of the scarcity of information and mixtures of misinformation, mal-information, and disinformation, along with a combination of facts, kept flowing, leading to an infodemic. During the 2020 Munich security conference, the Director-General of the World Health Organization, Tedros Adhanom Ghebreyesus, said, "We are not just fighting an epidemic; we are fighting an infodemic, fake news spreads faster and more easily than this virus, and is just as dangerous" (World Health Organization, 2020), referring to the faster spread of COVID-19 "information disorder" through social media platforms. In fact, in the first quarter of 2020, more than 6000 people were hospitalised, and at least 800 people may have died due to COVID-19-related disinformation (Coleman, 2020 August 12; Islam *et al.*, 2020). As COVID-19 vaccination began, many popular myths and conspiracy theories arose. They were easily spread, and, in some cases, it led to arsons, assaults and conspiracies, or racial tensions and violent attacks (Spring, 2020, May 27). One such rumour purported, for instance, that Bill Gates wanted to use vaccines to embed microchips in people to track them, and this created vaccine hesitancy among the citizens; another that the origin of the virus from failed biological experiments, that the virus is a result of genetic modification; that the virus could be cured by ingesting fish-tank cleaning products containing chloroquine; also that self-medication of hydroxychloroquine, a medicine used to treat malaria, could prevent the virus; or homoeopathy medicine and ingestion of bovine excreta could protect from the virus (Azzim *et al.*, 2020; Islam *et al.*, 2020; Spring, 2020 May 27). The reference to the trade war between the US and China (Kurlantzick, 2020), the shifting of responsibility towards a particular religion and sending corona-affected terrorists to neighbouring countries were also examples of rumour and conspiracy theories spread (UNCRI, 2020) that could have the objective to delegitimise governments' efforts to face pandemics.

According to a report from the European Union Parliament (Jacob *et al.*, 2023), Russia and China were the two central foreign countries at the frontline of COVID-19 "information disorder" campaigns. During the pandemic, the European Commission and the European External Actions Service monitored false or misleading narratives and operations by foreign actors using the Rapid Alert System against disinformation, an essential element in tackling COVID-19 disinformation across the EU (Jacob *et al.*, 2023, p. 23).

Nevertheless, we can consider Brazil by putting aside the external influence and focusing on using COVID-19 disinformation and mal-information through social media platforms as an internal political weapon. A parliamentary commission of inquiry concluded that, over 18 months, then-president Bolsonaro made statements that downplayed the health emergency, contravened guidelines from the World Health Organization and promoted treatments without scientific proof, in addition to repudiating the vaccines (Oliveira, 2021 October 21; Senado Federal, 2021).

One of the most damaging cases, as stated in the report, was his defence of the research and conduct of Prevent Senior, a Brazilian healthcare company, accused of masking deaths from COVID-19, distributing early treatment kits and conducting research without



patient consent (Betim *et al.*, 2021 September 23). Jair Bolsonaro was a "leader and spokesperson" of a coronavirus-denial movement in his own country, concluded the parliamentary commission (Senado Federal, 2021).

For this strategy, different forms of "information disorder" campaigns have been leveraged to lead a dangerous crusade against scientific and evidence-based recommendations. Hundreds of examples of false information circulating on social media were identified, and government members relaid several of those mentioned above (Lupa, 2020). Without surprise, government public authorities follow Bolsonaro's rhetoric. Posts of distorted or decontextualised information on their social media platforms led to wrong conclusions and manipulated content (Ricard & Medeiros, 2020).

Through Facebook, for example, "information disorder" campaigns were started with posts made by fake accounts and then digital influencers were hired to disseminate this information, many of them paid by agencies hired by the Special Secretariat for Communication in public expenses that amounted to more than four million reais (Oliveira, 2021 October 21; Senado Federal, 2021). The report of the Parliamentary Commission of Inquiry concluded that around 120,000 lives could have been saved in Brazil – according to the most conservative estimate of epidemiologists interviewed by the Parliamentary Commission of Inquiry if the health measures advocated by international authorities such as the World Health Organization had been adopted and disseminated (Senado Federal, 2021).

A study of Spanish negationist content on Twitter revealed that antivaccine tweets were the most frequent (Herrera-Peco *et al.*, 2021). The study also showed that attacks against vaccine safety were the most important, but a new kind of message presenting the vaccine as a means of manipulating the human genetic code was detected. In short, it was concluded that the antivaccine movement and its tenets significantly influenced the COVID-19 denialist movement.

Another exciting study analyses the role of information disorder during the pandemic by using audio content disseminated through WhatsApp in Portugal (Cardoso *et al.*, 2022). The study explores the discussion about the potential shift toward nontextual and nonvisual forms of information disorder; the new social role of audio, namely related to the critique of governmental measures during the early stage of the pandemic, making WhatsApp a fertile environment for the circulation and dissemination of "information disorder" campaigns.

Of the various types of content that were analysed, there was a predominance of content focused on the authorities' response to the pandemic, the performance of institutions, and guidelines on how to contact or access them. The government was a common target, and the audio messages heightened uncertainty and caused social alarm. The accusations were focused on two main ideas: the distance and disparity between citizens and government structures and the questioning of the government's capacity (Cardoso *et al.*, 2022, p. 9).



5. Final Remarks

Following the analyses of the examples, it is concluded that social media platforms can be weaponised through "information disorder" campaigns. It is a form of narrative-driven operations to condition the cognitive predisposition. The objective is to influence the perception of security and vulnerability. A disaster, or "information disorder," can be a weapon foreign actors use. It is a form of hybrid threat. The weaponisation of social media platforms is a practice easily accessible to almost all actors. With this activity, information is multiplied at high speed and low cost, allowing the spread of disinformation or mal-information for divisiveness and influencing different decision-making procedures. The effect tends to be inversely proportional to the investment.

Furthermore, it is difficult to identify the source of information, verify the authenticity and separate facts from fiction. The weaponisation of information is nothing new. However, regular citizens are the first responders to a crisis during an emergency. Thus, they are the primary vehicle, deliberate or not, for the "information disorder" causing harmful effects in disaster response and recovery stages, challenging the legitimacy and efficiency of the response process or the government/State. It is an easily accessible tool for almost all actors. It is a dynamic, user-oriented, and ever-changing environment. Identifying the perpetrator is complex, making it highly effective for political and security purposes. "Information disorder" campaigns and the weaponisation of social media platforms are more than about strategic communication. It may put communication at the centre of a geopolitical and security strategy. These two examples demonstrated that "information disorder" campaigns through online social media can immediately impact political, geopolitical and security dynamics. It is about information whose veracity is indisputable but which leads to distorted conclusions and which can subvert the current political environment. Through public disorder, it is intended to change the current democratic order by erasing the basic principles of the social contract. Due to climate change, there is a trend toward more natural disasters, more powerful and impactful. This nexus, "information disorder" campaigns and extreme events, favours the perfect condition for powerful and frequent influence campaigns against communities in their most vulnerable situation.

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NOTES AND REFLECTIONS

TURKEY-CYPRUS: PROMETHEUS UNBOUND OR THE CATHARSIS OF AFRODITE?

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We know the origin of the unit dealing with external relations of the European Commission's General Secretariat is Turkey's application for membership in the Customs Union in 1959. The proclamation of the Republic of Cyprus as an independent republic impacted the development of the relationship between the EEC and Turkey (Katselli, 2006). The Ankara Agreement's preamble "resolved to preserve and strengthen peace and liberty by the joint pursuit of the ideals underlying the Treaty establishing the European Economic Community." Alain Peyrefitte reports that De Gaulle examined the Ankara Association agreement with Turkey from a long-term strategic perspective in the context of the wall's fall and tended to subsume the EEC under a French confederalist design on Europe¹. This is the likely origin of the provision in the 1964 agreement: the EU does not exclude the possibility of Turkey acceding the European Communities². Thus, Franco-German interests and security strategies were at stake from the outset of Turkey's relationship with Europe. From the EUI archives, it transpires there were concerns among the EC member states about the state of development of Turkey and the implications for the EU policies and budget of Turkish accession to the EEC. These concerns are also reflected in the Ankara agreement. This was not going to change. The interrelationship between the Franco-German structured rivalry and European integration

¹ Peyrefitte (1994).

² Quoted in Reiners (2021).



is starting to be studied systematically and in more detail³. It is not unlikely that the timing of adopting the Elysée-treaty forging the Bonn-Paris axis followed the failure of negotiations linked to the German question⁴. It was subsequently resolved as part of NPT negotiations that the German quest for atomic parity would unfold within a European framework through the note submitted by Willy Brandt to the NPT conference.⁵ What has been lacking is a study into the relationship between EU Foreign Policy-making, the Structured Franco-German rivalry, and European law.

As Europe responds to threats from the USA, Russia, and China, European civilization must evolve to thrive. This requires wise decision-making, the development of a vision, and that our beloved leaders are held accountable to achieve a new synthesis in Europe's long history. None wants to return to a Concert of Europe or a modified balance of power. Instead, we are creating something "new" and "right" in Europe. This is not only a conflict in Cyprus that Turkish scholars have readily recognized without specifying the factors involved in moving from conflict management to conflict solution⁶. In this piece, I argue that a solution to the Cyprus conflict flows from understanding and addressing the strategic stakes the central actors attribute to the grand bargain between Turkey and the EU combined with party political competition, financial aspects, and negotiators' skills. An integrated political and economic approach is to be adopted, joined with a well-thought-out strategic plan for the achievement of the political goals of the European integration project. Care needs to be exercised at several levels to succeed. This also involves translating academic projects into organizational attributes and better communication from the EU.

I ask: How to proceed between Turkey and the EU? How to advance the EU-Turkey relationship? What are Europe's interests? In response to the EU Commission's 2021 enlargement report, the European Parliament urged the European institutions to communicate consistently between themselves vis-à-vis Turkey⁷. So what are the objectives the EU is pursuing vis-à-vis Turkey? First, the EU wants to prevent the organization of an alternative Europe between Turkey and Russia⁸. Second, the EU core intends to adopt a constitutional treaty⁹. Third, the EU is haltingly pursuing defense integration¹⁰. Fourth, a compromise between France's critical engagement with Germany¹¹ and Germany's asymmetrical federalization of Europe is sought¹². Fifth, the EU pursues value-based foreign policy¹³. These objectives are complex and require internal and external realignment. Thus, strategic patience is advised. Sixth, Turkey's membership application will continue to be assessed on its own merits and on an equal basis with the other candidate countries.¹⁴ For instance, EU-Turkey could adopt a joint action plan on good governance, human rights, and the rule of law in conjunction with

³ Krotz & Schild (2015).

⁴ Trachtenberg (1999).

⁵ William Burr (2018)

⁶ Dalay (2021) & Ker-Lindsay (2012)

⁷ Report on the 2021 European Commission Report on Turkey [online],
https://www.europarl.europa.eu/doceo/document/A-9-2022-0149_EN.html

⁸ Keltikli (2019) & Facon (2022)

⁹ Teker (2021)

¹⁰ Quille (2006), Merand, Foucault & Irondele (2008), Mérand & Angers (2013) Howorth (2014).

¹¹ Eilstrup-Sangiovanni (2001).

¹² Pedersen (1998)

¹³ Keukeleire & Delreux (2022).

¹⁴ https://ec.europa.eu/commission/presscorner/detail/en/country_22_6088



establishing a school in Istanbul on the same topics. Ankara could adopt a Turkey-Transparency International anti-corruption package comprising institution-building, policy, and legislation. The EU Commission also highlights Turkey's alignment with CFSP statements. There are misgivings about the appeal to and use of populist Islamist forces in Turkey and the emergence of identity politics in Türkiye¹⁵. Those, conversely, who have been purged as part of the crack-down after the coup attempt in 2016 will be safer by keeping a low profile until a professional administration is restored. And an end is made to Turkey's authoritarian bend¹⁶, a personal tragedy and a by-product of Erdogan's power grab fused with an Anadolu sense of revenge¹⁷. Turkey lives in a tough neighborhood. Some EU member states are concerned about letting in Turkey without comprehensive peace in the Middle East and about Turkey's added value to the collective. On its side, the EU must deliver on the Migration Pact, augment the Customs Union, implement the agreed visa liberalization for Turkish citizens, and pay out the promised funds to Ankara for providing security to the European Union¹⁸. There is no reason to be petty. EU could also do more to partner with Turkey on its policies towards Iraq¹⁹, Syria²⁰, the Black Sea²¹, Caucasus²², and Central Asia²³.

Cyprus's departure point must be reconciliation and peace between Greece and Turkey²⁴. This could comprise establishing working parties in all areas of dispute on the model of Turkey's relationship with Azerbaijan and KSA. However, people-to-people programs and a historian commission might also be added. Pending progress between Athens and Ankara on the 25-point Positive Agenda and the Joint Action Plan and its extension into the political realm through establishing working parties in all areas of dispute²⁵, progress on Cyprus will be possible. Next, according to Andreas Theophanous, an international refugee settlement commission is needed to address compensation for Cypriot refugees, agree on rules and modalities for rehousing, and manage the question of property rights²⁶. A UNESCO Fund could be established to restore destroyed cultural artifacts in Cyprus²⁷. This could be accompanied by a De-securitization program and confidence-building measures backed by the EU & UN²⁸, followed by an agreement on exploiting energy resources in natural waters²⁹. Finally, a trilateral Border Commission between Libya-Turkey-Greece could ensue. Based on this, the EU Commission could study Northern Cyprus' relationship with the EU³⁰. In return, Turkey could lift its veto on the Ankara protocol to the Customs Union so that a trading relationship emerges based on

¹⁵ Levin (2011) Yaman & Dönmez (2023)

¹⁶ Duzgun (2022) & Neuman (2021).

¹⁷ Consequences of the Intcen report on the coup in Turkey[online]
https://www.europarl.europa.eu/doceo/document/E-8-2017-000601_EN.html?ssp=1&darkschemeovr=0&setting=da-DK&safesearch=moderate

¹⁸ Carroado (2019)

¹⁹ Duman & Aygün (2023)

²⁰ Phillips (2018) Baucher (2021) Rabinowich & Valensi (2022).

²¹ Roxandra (2012), Acikmese & Triantatyfollou (2017), Pokaev, Sovga & Chaplina (2021)

²² Hunter (2017), Amolnik & Weiss (2021), Haxthausen (2021), Avdaliani (2022).

²³ Brannen (2016)

²⁴ Kontos (2022)

²⁵ Ioannides (2023).

²⁶ Theophanous (2017)

²⁷ Clausen (2013)

²⁸ Adamides (2020), Hampson & ôzerdem (2022) ICC (2024).

²⁹ Goren, Limon & Sözen (2023).

³⁰ Adalouglu (2009)



international law and mutual recognition³¹. This ought to provide the conditions for political negotiations in Cyprus, a conflict with its own dynamic, as noted by President Erdogan.

According to Sözen, the bilateral negotiations in Cyprus could be relaunched by resuming work at the point where they were left off³². This implies the resuscitation of the political and technical working parties and addressing outstanding issues at the presidential level. Based on this, a consensus must be forged between the two communities' leaders on common institutions and external security within a federal constitution, the constitutional order of choice. A national body for a re-unified Cyprus would require a constitutional assembly, which could comprise Andras Sajó, Tom Ginsburg, and Bruno de Witte as international experts. The two entities are constituents of the constitution-making process, and the two Presidents are convenors of a constitutional assembly. The Cypriot constitution should be inclusive, specific, and flexible to endure³³. A broad spectrum of both societies should be represented in the community. It is understood that women, the people, minorities, youth, migrants, settlers, and interest groups are included in the Cypriot constitution-making process. The specificity of the Constitution's provisions could be facilitated by forging prior political negotiations on constitutional issues, security, governance, territorial aspects, settlers, the four fundamental freedoms, and the economy at expert and negotiator levels. The EU Commission could be involved in this pre-negotiation. The Constitution should contain provisions on judicial review and a constitutional amendment to be flexible. A unified army must be forged under the command of the Cypriot President, who is to be elected by the people of Cyprus³⁴. If a Greek-Cypriot is elected as President, his Vice-President must be a Turkish Cypriot and vice-versa. There should be one judiciary system and country-wide and communal policing- René: One Foreign Service, Border Management organization, Investment & Tourism Agency, and Integrated Tax-system. I anticipate Turkey to phase out its security presence. The same applies to Great Britain. There should be provisions on the executive, legislature(s) and courts, rights, and scope (monitoring elections, ombudsperson, anti-corruption, minorities). Contingency decisions concerning abolishing the guarantor system also belong in the new Cypriot constitution. In short, Cyprus' vision for a solution to the conflict appears sound, although flexibility on Anatolian settlers on the island, procedural aspects, and the process of constitution-making appear nearby. On this basis, I anticipate continuity in action.

Thus, I turn things a little upside-down, addressing emotional aspects cluttering progress, emphasizing the design of the constitution-making process³⁵, and changing the sequencing of moves geared towards a political compromise. The constitution is brought to a referendum – not the settlement plan. It is only at the moment of adoption of the new Cypriot constitution that the President informs the EU that the territorial application of the *acquis* may now be extended to the whole island under a jointly agreed form, upon

³¹ European Parliament postpones vote on protocol to Ankara agreement
[online][https://www.europarl.europa.eu/RegData/presse/pr_info/2005/EN/03A-DV-PResse_IPR\(2005\)09-21\(00563\)_EN.pdf](https://www.europarl.europa.eu/RegData/presse/pr_info/2005/EN/03A-DV-PResse_IPR(2005)09-21(00563)_EN.pdf)

³² Sözen (2017)

³³ Ginsburg & Melton (2014)

³⁴ The EU Commission could scrutinize the election law given the bad experiences in Cyprus.

³⁵ Ginsburg (2012).



which TRNC is integrated into the EU³⁶. I propose that the timeline put on the roll-back of foreign militaries could begin from the date of adoption of the Cypriot constitution. Terminating the Treaty of Guarantee could ensue by mutual consent due to changed circumstances.

The assumption is that Greeks are federalists, listen to Berlin and Paris, and care about Cyprus. I want to emphasize that Turkish elites are pro-European, power-oriented, and pragmatic. Turkey likely adopted negotiation tactics to extract concessions from the EU after the Kosovo War. This was initially successful based on the transatlantic four-pronged deal emerging from the US-EU summit on 21 June 1999 in Bonn³⁷. Or was it Cologne? The intervention by the US was widely anticipated at the diplomatic level ahead of the US-EU Summit. Thus, central EU member states concurred internally in a working group – Quint Chypre – where it was decided that Turkish membership would come at a “price” (David Hannay). Turkey then prepared itself to play along, while a period of push-ups and negotiations ensued based on the four-pronged US-EU package deal, likely a multi-bilateral anorak for a “done deal” whereby France agreed not to exclude Turkey from the talks on Cyprus’ future in return for Great Britain’s support for the Franco-German grand bargain, i.e., the development of a common European defense. Thus, - to coin Claude Martin - the EU’s approach to enlargement, and by extension, to Turkey would be “global, inclusive, evolutionary”.

On this basis, playing the Cyprus card proved a highly realistic proposition and a stratagem, maximizing Turkey’s leverage from a position of relative weakness. TRNC subsequently voted yes to the Annan IV plan, while Turkey turned its back on Europe when its stratagem failed as Cyprus adopted coercive bargaining. At an emotional level, this meant a smooth transition from being a historical presence in Europe to being a member of the EU was thwarted. It also meant Bill Clinton’s attempt to organize Europe around the bilateral-time of the US’s links to the middle powers in Europe failed, even as his bid to steal a march on the EU by playing France and Germany out against each other were to be rectified. Or, as Joshua Fischer said in a casual remark in Firenze in 2001 during his visit to EU: “He was a strong one.” The poet puts it like this: “Like a cornered animal cunning, I concealed my game, my stake, my bet from your gaze.”

The EU Commission’s attempt to channel Franco-German power into a Constitutional Treaty by acting as host to the Quint Chypre was similar to leading to a shipwreck. This relative failure also doesn’t explain why the Helsinki Headline Goals on the rapid reaction corpse have remained a pie in the sky. There seems to have been no political will to enact

³⁶ Protocol 10 on Cyprus, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12003T/PRO/10&from=ES>

³⁷ Ilcus (2000). I was relayed that a conversation between Kohl and Chirac took place in 1997 in Turkey along the following lines: Kohl: “I have given up the Deutschmark. Now, I want influence over France’s defense policy”. Chirac replied: “Deal. I want Turkey in the EU, then”. This is the origin of article 17 in the Amsterdam treaty, later amended by TFEU 42 in the Lisboa treaty. And this is why I recall the regional grand bargain on Turkey underlying the 1999 transatlantic package deal, if not underpinning it. This piece of high politics, still undocumented in physical form, is alluded to in the literature and reverberates through the EU machinery. I hope to document it in the book to evolve out of my thesis. That is to say, the historical and political context against which the grand bargain between EU and Turkey unfolds is a struggle over Europe’s political order, which coincides with the question of the Euro-pean post-Cold War security architecture. This also allows us to distinguish between what is right and what is wrong, what is emergent or needs to be strengthened, how to apply practical rationality, and how best to participate in the earthly realities through the mediation of a humanized cosmic order.



politically binding plans nor reflect upon how to implement the EU's treaty-bound obligations to each other and the citizenry.

Turkish interests, however, are linked to the anchoring of its modernization project in Europe. The positions throughout the EU integration project and, by implication, the objectives pursued by the EU core and Turkey are gradually converging. Moreover, Turkey connects the Kurdish issue to the Cyprus conflict in their strategic percepts. In plain language, the Turkish Army doesn't want to be taken in the ass and the front simultaneously. The TRNC is a sub-division of Turkey, and Ankara controls Lefkosa in strategic matters. Turkey has adopted a more assertive foreign policy, a by-product of the deterioration in the bilateral relationship with the EU.³⁸ Thus, the time for a solution is becoming ripe. Indeed, a fresh approach is warranted as part of a broader effort to stabilize the Eastern Mediterranean, strengthen Europe's energy security, and move the EU toward a sustainable equilibrium based on satisfying the EU's objectives in "a strategic and forward-looking manner."³⁹

Of course, the EuCo is free to express itself on various options for the next phase of the European integration project. Still, they should rely on the historical record and the political context within which that political choice is based on the suitable course of action between the EU and Turkey. There are well-laid foundations, which were renewed following the unification of Germany. They should also avoid false discourses – by affirming the past and negating the option⁴⁰. A harmonious solution is possible now. The future has an old heart.

Or, to coin Cicero: I have often and deeply resolved this question in my mind: whether a command of the dossier has been beneficial or detrimental to men and cities concerning the desired political order in Europe. When I consider the debacle over the Constitutional Treaty, and when I call to mind also the role of France, Germany, and Italy in the formation of the European nation-state⁴¹, I see that it is by no means the most insignificant portion of their distresses which has originated from the conduct of the most influential leaders. But, at the same time, when I set myself to trace the various attempts, with the aid of written memorials and documents, affairs which, because of their historical record, bear witness to unconstructive attitudes to a settlement in Cyprus by the former French ambassador to Germany, lack of coordination and ripeness as well as clumsiness by the UN and EU Commission⁴², and sabotage by Russia⁴³, I perceive the need for political leadership assisted by wisdom and facilitated by diplomacy and cemented by friendships and interaction.

At the EU level, treaty reform is now urgently needed. The departure point for this is a two-step process⁴⁴. In the first instance, the simple procedure for treaty change will be

³⁸ Kutlay & Önis (2021).

³⁹ European Council Conclusions, 30 June 2023 [online] <https://data.consilium.europa.eu/doc/document/ST-7-2023-INIT/en/pdf>

⁴⁰ Wigen (2010).

⁴¹ Kohn (1967)

⁴² Hannay (2004)

⁴³ Drousiotis, (2023)

⁴⁴ The Franco-German Summit on 22 January 2023 established a working group - Groupe de Douze – which envisages three stages: (1) immediate reforms, (2) IGC25, and (3) Convention. Immediate reforms are extensions of majority voting in certain areas of foreign policy, enlargement, and taxation) Article 7 related sanctions on the rule of law, and stronger citizen participation. The next milestones: The Granada Informal Foreign Minister Meeting and the EUCO December 2023 will decide on a suitable way forward.



enacted to strengthen the EU's global role and enhance the EU's democratic legitimacy, considering the Conference on Europe's Future proposals. This also allows for a division of labor between member states and the supranational institutions. This should facilitate addressing the underlying issues and resolving the strategic stakes the actors attribute to the grand bargain between the EU and Turkey. However, I do not intend for the blood of the Bull to be spilled on the earth of barbarians. On the contrary, I want to lead and guide the evolving EU. A convention will likely be convened in the second sequence when the EU's enlargement to West-Balkan approaches. In parallel, harmonizing the Eurozone's debt issuance calendars around Italian, French, and German benchmarks, administered by a debt management office in ECB, could be decided on⁴⁵. The deepening of the European integration project will accompany the widening of the EU. Thus, a proper foundation for an enlarging European Union will be laid not on sand but on a rock. Perhaps the Cyprus conflict is a microcosm of the Euro-Pean Union. The plan is to forge a state-like fiscal-military actor out of the EU to manage the Franco-German structured rivalry veritably and move Europe forward effectively and creatively. It is really about seizing the moment and fully exploiting the situation. *Sich Bessinnen* on leadership, clear communication and a coherent approach. This contrasts with a process without a *sujet*, if not without an agent or agency⁴⁶.

If a certain logic applies, Turkey could accede after the accession of the West-Balkan countries. The point is not only – to coin Orhan Pamuk – that the relationship between Turkey and Europe constitutes a prism on the development of The European Union and Turkey, but also that we are in this together. If the EU and Turkey are together, nothing is impossible; if we are divided, all will fail. Thus, the EU needs to weigh in and maximize the probability that a future multipolar system is well-managed and as democratic as possible.

No later than at the point of Georgia's accession⁴⁷, a Council of Ministers in the formation of Europe-Ministers could be created employing a democratically elected Senate representing the member states⁴⁸. This is the paradox of a good solution. As the supranational leadership is strengthened, the European Council could increasingly assume the role of a Council of Prytanians.

Can you follow me?

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³⁸ Cohen (2007).

⁴⁶ Bracani (2021)

⁴⁷ German & Kokacia (2023)

⁴⁸ Noël (2022).



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NOTES AND REFLECTIONS

FRONTEIRAS DA REPÚBLICA DE ANGOLA – RASTOS DA CONFERÊNCIA DE BERLIM

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1. Introdução

A República de Angola, localizada na região Austral de África, possui uma extensão territorial de 1.246.700 km². Faz fronteira com as Repúblicas do Congo e Democrática do Congo ao Norte, com as Repúblicas da Zâmbia e do Congo Democrático a Leste e com a República da Namíbia a Sul. “O país é banhado pelo Oceano Atlântico numa extensão de 1.650 km, a oeste” (Mbunga, 2014, p. 27). Conta no presente com dezoito Províncias¹ e está em curso uma iniciativa do Executivo que propõe a alteração da divisão político-administrativa conducente à criação de mais Províncias, num total de duas².

A noção que se tem na atualidade sobre fronteiras não é muito diferente da que se tinha há muito. Apesar de hoje ser visível a aposta – preferencial – em elementos artificiais para delimitação territorial entre países, já foi realidade em África, a recorrência – exclusiva – a elementos naturais como marcos, a exemplo de cursos de água, florestas, montanhas, etc.

Procuramos compreender as incidências do processo que resultou na delimitação das atuais fronteiras do território angolano, rastros visíveis deixados pela Conferência de Berlim ocorrida entre 15 de novembro de 1884 e 26 de fevereiro de 1885, convocada pelo Chanceler Alemão Otto Von Bismarck, no quadro de Expedições Geográficas que visavam perscrutar o Continente Africano. É também nosso interesse olhar para as decisões produzidas em Berlim e apresentar as consequências das novas fronteiras traçadas a partir de acordos celebrados entre potências europeias.

¹ Luanda (a Capital), Cabinda, Zaire, Uíje, Malanje, Lunda Norte, Lunda Sul, Moxico, Bengo, Cuanza Norte, Bié, Huambo, Cuanza Sul, Benguela, Huíla, Namibe, Cunene e Cuando Cubango.

² As futuras Províncias resultarão da divisão das Províncias do Cuando Cubango e do Moxico.



2. Fronteiras pré-coloniais

As diferentes unidades políticas presentes em Angola antes que se dessem os primeiros contactos com o Reino de Portugal, mantinham o controlo sobre os seus domínios territoriais, pois disto dependia também, além da salvaguarda das suas soberanias, o exercício do poder e a preservação dos traços identitários de cada grupo. “A imagem que surge de Angola antes da chegada dos europeus é a de um país com razoável densidade populacional, especialmente nas pastagens abertas entre a floresta tropical do Congo e os desertos do Kalahari” (Wheeler & Pélissier, 2009, p. 50). No período anterior à colonização efetiva, o território que hoje compreende a República de Angola estava constituído por vários Reinos independentes como o Kongo, Lunda, Ndongo, Matamba, Dembos, Kisama, Ciyaka, Viye, Bailundo, Kwanyama, Kasanje, N’goio, Loango, Kakongo, Benguela e muitos outros. Em África, diferentes Reinos partilhavam fronteiras entre si, apesar do desconhecimento da celebração – entre chefaturas, entidades locais – de acordos jurídicos que as tenham estabelecido. Segundo Patrício (2014: 86), “A principal mudança que o colonialismo impôs neste *status quo* foi um novo sistema de fronteiras territoriais fixas, que os Estados africanos pós-coloniais decidiram manter”, sobretudo por razões políticas, porquanto muitos Governos emergentes estavam mais preocupados em resolver os problemas internos.

Em relação aos domínios territoriais de Reinos e outras unidades políticas em Angola, na época pré-colonial, elementos naturais destacavam-se como marcos fronteiriços. Fazendo, por exemplo, referência aos domínios do Reino do Ndongo, Cadornega aponta que,

Os limites e demarcaçoens deste Reino de Angola he muito estendido e dilatado, porque conforme notícias começava da Ilha frente ao porto e Cidade de São Paulo de Loanda em que o testifica ser assim humas arvores que nella ainda hoje se vem chamadas ensandeiras, em que fallão e apontão os roteiros dos mareantes, como balizas e sinais por onde dão os que navegação o conhecimento deste porto costa e terra, setas taes arvores que são mui duraveis em sua pranta, e nascem por si de suas estacas e sementes; achasse por tradição forão mandadas prantar pellos Reys antigos de Angola como sinais certos dos limites do seu reino e sua demarcação, de terra firme, onde hoje esta a nossa Cidade vay correndo pello Sertão dentro, comprehendendo muitas Provincias desta banda do famoso Rio coanza que chamão de Ilamba [...] hum Reino onde se comprehende a provincia do Ari a da Umba que he onde chamão a quituxila, entrando Cabaça que era a Corte e assento deste poderoso Rey de Angola hindo por diante das Ilhas de quindonga [...] (Cadornega, 1680, p. 26-27).

Na mesma linha, Merlier (citado por Santos, 1966, p. 19-21), aponta que,

A Lunda era uma grande pegada em África, virada para o Atlântico, com o calcanhar assente no lago banguelo, cujos bordos desciam o Kwango, até à nascente deste último rio, caminhava em direcção ao Zambeze no ponto onde ele deixa o território de Angola, tocando nos lagos Banguelo e Moero em direitura ao Kasai, inflectiam para o Sul até quase tocar o extremo Norte [...] e dobravam para o Nordeste até fechar o contorno.



Em vários casos houve a evidência de árvores, rios, Ilhas, Lagos, inclusive o Oceano Atlântico, como elementos fronteiriços. No final do século XIX, o Imperador Menelik chegou mesmo a apelar a distintos Governantes Europeus que num passado longínquo, as fronteiras da Etiópia eram o mar (Boahen, 2010). Após a Conferência de Berlim, o Continente Africano viu nascer novas fronteiras resultantes de interesses coloniais europeus.

3. Expedições geográficas

Depois de o comércio de escravos ter sido oficialmente abolido, as potências europeias voltaram os seus interesses para a África visando obter matérias-primas a fim de se alimentar a máquina industrial emergente e desenvolver o Continente Europeu. Entretanto, à entrada do século XIX, os Europeus não conheciam suficientemente o interior de África, uma vez que o comércio desenvolvido nas regiões costeiras (Guiné, Togo, Luanda, Costa do Marfim, Benguela, Costa do Ouro, Nigéria, etc.) satisfazia as suas necessidades dada a concentração no litoral, dos produtos mais procurados (ouro, marfim, escravos, etc.). Para se ultrapassar o problema, as potências europeias empreenderam expedições geográficas com o fito de fazerem um reconhecimento detalhado sobre África, suas bacias hidrográficas, flora, fauna, minerais, línguas faladas, organização política e social, etc. Ficou patente ao longo do processo que, "...os exploradores portugueses – tais como Serpa Pinto, Capelo, Ivens, Cordon, Paiva de Andrade, Cardoso, Carvalho e outros – transmitiram a Portugal muitos conhecimentos sobre África [...]” (Wheeler & Pélissier, 2009, p. 101). No quadro das expedições geográficas, Portugal – e outros países europeus – em função dos investimentos feitos, reuniu informação diversificada sobre territórios até então desconhecidos localizados além da costa africana.

3.1 Exploradores

Movidos por um espírito aventureiro e prestígio, diversos especialistas abraçaram o desafio de viajar para e pelo Continente Africano. A ânsia de conhecer um novo mundo despertou a curiosidade de Médicos, Militares, Comerciantes, Jornalistas, Cientistas etc., cujos relatórios produzidos por si, deram a conhecer a África em detalhes, às entidades patrocinadoras das expedições, dos recursos naturais ao clima, das doenças ao *modus vivendi* dos seus habitantes.

Os registos colhidos pelos diversos exploradores facilitariam a partilha e posterior colonização de África. “Nos anos 1850, Carneiro fundou uma feitoria comercial na região *cokwe* de *Mwacimbundu*. [...]. O sertanejo António da Sila Porto, em 16 anos no interior de Angola, realizou várias missões comerciais no *Kwango*; nas terras dos *Cokwe*; na região do Kasai, Lulua e Lubuko” (Manassa, 2011, p. 56).

O interesse estratégico em torno das expedições geográficas mobilizou instituições públicas e privadas, funcionários públicos e profissionais liberais, ávidos em participar deste *magno* empreendimento que consistia em identificar povos, culturas, e localizar recursos naturais.



A Comissão Central de Geografia e a Sociedade de Geografia de Lisboa organizou, de 1877 e 1879, a expedição chefiada pelos oficiais de Marinha, Hermenegildo Capelo e Roberto Ivens; do Major de Infantaria, Alexandre Alberto de Serpa Pinto para estudarem as possibilidades de ligação das duas costas (Manassa, 2011, p. 56-57).

Ainda na senda das expedições levadas a cabo pelo território angolano registou-se a duradoura viagem pelo Império Lunda protagonizada pelo Oficial Português Henrique Augusto Dias de Carvalho, entre 1884 e 1888 (Manassa, 2011).

A Alemanha lançou-se igualmente na corrida à África esperando recolher o maior número de informações suficientes para a penetração no interior do Continente. “As expedições e os exploradores alemães, bem equipados e eficientes, como Lux, Von Wissmann e Pogge, penetrando a partir do norte de Angola, avançaram mais e em primeiro lugar pelo interior da África Central do que os seus rivais portugueses” (Wheeler & Pélissier, 2009, p. 122). Percebe-se nisso, a competição existente entre as potências europeias – neste caso particular, entre Portugal e Alemanha – no que tange ao *timing* a ser cumprido, no financiamento das atividades expedicionárias, bem como na adequada preparação dos exploradores.

Ainda no âmbito dos protagonistas das “aventuras por África” verificou-se que, “O Médico, Missionário Protestante, Dr. David Livingstone, de nacionalidade britânica, [...]. Enviado pela London Missionary Society ligou, por terra, em 1840, as duas costas ocidental e oriental da África, através do rio Zambeze e Kwanza [...]. Permaneceu em África cerca de 25 anos, na sua missão de Evangelização e Estudo dos povos aí contactados” (Manassa, 2011, p. 64).

Os exploradores granjearam, fruto do seu trabalho, muito prestígio diante das entidades patrocinadoras das viagens. No período de conquista e ocupação, Portugal passou, por exemplo, a dar o nome de seus viajantes a Cidades, Vilas, etc., nos territórios sob sua colonização.

Dentre os exploradores que participaram nas Expedições Geográficas em África elencamos alguns dos mais conhecidos.

Quadro 1 – Algumas individualidades que deram corpo às Expedições em África

Exploradores	Potência patrocinadora
René Caillié, Savorgnan de Brazza, etc.	França
Serpa Pinto, Silva Porto, Henriques de Carvalho, Roberto Ivens, Hermenegildo Capelo, etc.	Portugal
Henry M. Stanley, etc.	Bélgica, Grã-Bretanha
David Livingstone, Richard Francis Burton, Cameron, Young, etc.	Grã-Bretanha
Anton Erwin Lux, Paul Pogge, Hermann von Wissmann, etc.	Alemanha

Fonte: Elaboração própria



4. Conferência de Berlim

Enquanto decorriam as Expedições Geográficas, surgiram contendas entre potências, envolvendo em particular a Inglaterra, França, Bélgica e Portugal. A maior desavença girava em torno do domínio sobre a Bacia do Congo pelas suas riquezas naturais – óleo de palma, cobre, borracha, madeira, etc. – e a sua localização estratégica³.

Telo e Pires (2018, p. 2) defendem que, “Entre 1880 e 1914 a corrida à África está articulada à volta de três focos de rivalidade. [...]. O segundo foco de rivalidade surge para o controlo dos rios da costa Atlântica de África, principalmente o Níger e o Congo [...]”.

De acordo com Wheeler e Pélissier (2009, pp. 101-102),

Na Conferência de Berlim, em 1884-85, e durante a crise do «ultimato» inglês por causa da Rodésia [...] e da Niassalândia [...], Portugal tentou medidas [...] para se apoderar de territórios de que se sentia legítimo detentor por direito de descoberta, exploração e início de ocupação. As duas áreas mais disputadas eram a foz do Congo (ambas as margens) e as terras altas do rio Shire [...].

Portugal, temendo perder protagonismo na região esperava que as querelas fossem resolvidas pela via diplomática. Otto Von Bismarck convocou a propósito, uma Conferência Internacional em que o mesmo seria o anfitrião.

4.1 Participantes

O palco das discussões políticas e económicas em torno dos interesses europeus em África, foi a cidade de Berlim. “Será no Acto de Berlim que 15 Estados imperiais (14 europeus e os Estados Unidos da América), corolário dos interesses coloniais das potências mundiais, irão redefinir a geografia do continente, sem a participação de um único africano”⁴.

A pretensão de tirar proveito das reivindicações previamente apresentadas pela Inglaterra, França e Portugal, o Chanceler alemão ofereceu-se para acolher e arbitrar as aludidas querelas. “A Conferência foi inaugurada por Bismarck no sábado, dia 15 de novembro de 1884, e encerrou-se no dia 26 de fevereiro de 1885”⁵. No total, houve representação além da Suécia, “... da Alemanha, da Austria-Hungria, da Bélgica, da Dinamarca, da Espanha, dos Estados Unidos da América, da França, da Grã-Bretanha, da Itália, dos Países Baixos, de Portugal, da Rússia, da Noruega e da Turquia” (Manassa, 2011, p. 72). Salta logo à vista, a ausência de representantes de África em Berlim. Houve, entretanto, a participação de uma potência não-europeia.

³ A navegabilidade do Congo acirrou as disputas entre as potências europeias pois, permitiria o acesso ao centro do Continente. Além disso, a crença de que a partir do rio Congo era possível alcançar a contracosta Indica foi outro elemento decisivo.

⁴ https://www.researchgate.net/publication/334650780_O_percurso_historico_do_estabelecimento_das_fronteiras_em_Angola

⁵ https://www.researchgate.net/publication/240772825_A_vida_longa_das_linhas_retas_cinco_mitos_sobre_as_fronteiras_na_Africa_Negra



Dentre as várias razões que concorreram para a ausência de africanos na Conferência de Berlim e que podemos referir, ressalta a viva possibilidade de ao serem tornadas públicas e conhecidas as suas reais intenções, as entidades europeias terem que enfrentar – imediatamente – a contestação de eventuais representantes africanos. Medina (1994, pp. 147-148) de modo peremptório, alude que, “Nenhum delegado africano fora convidado: os africanos eram os grandes mudos, já que a África não passava ali de um objecto de partilha ao qual não se perguntava sequer com que molho preferia ser comida...”. É facto que, “[...] na sua esmagadora maioria, autoridades e dirigentes africanos foram profundamente hostis [...] e declararam-se decididos a manter o *status quo* e, sobretudo, a assegurar sua soberania e independência, pelas quais praticamente nenhum deles estava disposto a transigir, por menos que fosse” (Boahen, 2010, pp. 3-4).

Em Berlim, as potências europeias visavam estabelecer pactos e traçar mecanismos de exploração dos recursos e dos povos autóctones. Portanto, a participação de representantes africanos seria um entrave aos objetivos dos europeus. Grosso modo, à mesa de negociações a África era bem-vinda, porém, os africanos não.

4.2 Decisões tomadas em Berlim

Em Berlim, potências europeias partilharam entre si, ideias, ambições e projetos tendentes a partilha e ocupação de África. No rescaldo, foram estabelecidos mecanismos de atuação para que o processo fosse conduzido com o menor número de problemas.

Por força do artigo 34 do Ato de Berlim, documento assinado pelos participantes da conferência, toda nação europeia que, daí em diante, tomasse posse de um território nas costas africanas ou assumisse aí um “protetorado”, deveria informá-lo aos membros signatários do Ato, para que suas pretensões fossem ratificadas (Boahen, 2010, p. 33).

Ficou reforçado em Berlim, o sentido de pertença do Estado Livre do Congo por parte do Rei da Bélgica, Léopold II bem como o seu reconhecimento por parte dos participantes. Uma das principais querelas que levou à convocação da Conferência de Berlim ficou resolvida com o direito de livre navegação sobre o rio Congo mas, também, sobre duas outras bacias hidrográficas presentes em África, a do Níger e a do Zambeze. A liberdade de evangelização⁶ nas regiões ocupadas e reclamadas esteve igualmente no centro das decisões. Aos missionários foi autorizada a livre circulação pelos territórios em disputa a fim de disseminarem o Cristianismo entre os nativos, sem impedimentos das autoridades e forças europeias já instaladas localmente. Foram também motivo de discussão os binómios *chegar-ocupar* e *chegar-notificar*, prevalecendo no final a substituição do direito histórico de ocupação pelo direito de ocupação efetiva.

⁶ O ensino e instrução fornecidos pelas Igrejas Baptista, Metodista e Congregacional, contribuíram para o despertar da consciência nacionalista em Angola e noutras partes do continente. Vários nativos que tornaram-se líderes dos movimentos independentistas receberam formação sob patrocínio destas Igrejas Messiânicas.



De acordo com Mbunga (2014, p. 65),

Na Conferência de Berlim, quatro critérios/métodos eram aceites, para provar a ocupação efectiva dos territórios, em África: por meio de feitorias comerciais; pela presença militar; por meio de colónias de europeus e pela presença de missões religiosas, no terreno.

A corrida desenfreada pela África, levada a cabo por cada uma das potências, por um lado para a ocupação de territórios para si, e por outro, para evitar que as outras o fizessem, levou também à mesa de negociações um novo assunto: a questão dos Protectorados. A solução encontrada esteve centrada na aceitação e respeito – comuns – pelos pactos firmados entre Europeus e autoridades africanas.

Em Angola, segundo os estudos de Mbunga (2014, p. 64),

Os tratados de Protectorado não foram assinados exclusivamente em Cabinda. Tratados semelhantes a estes foram também encontrados em outras regiões, nos casos das regiões dos Ndembu/Dembos, nas Lundas e no sul do país.

Ficou também registado que, “Depois da Conferência de Berlim, outros Tratados foram ainda assinados em Futila (7 de Março de 1885), Moanda (16 de Março de 1885), Chimbolo e Sócca (27 de Março de 1885)” (Arquivo Histórico de Angola, Caixa n.º 5451).

É imprescindível reconhecer-se que na Conferência de Berlim não ocorreu efetivamente a partilha de África, no geral, nem de Angola em particular. As decisões emanadas de Berlim agudizaram a competição existente entre diferentes potências europeias desembocando no processo contínuo de partilha efetiva de África caracterizado pela negociação, divisão e ocupação territorial, bem como pela delimitação e reconhecimento das novas fronteiras. No terreno, as potências envolveram-se em incidentes político-diplomáticos, alguns dos quais ligados ao Projecto Mapa cor-de rosa e ao Projecto *MittelAfrika*.

De acordo com Telo e Pires (2018, p. 4), “A Alemanha apostou no jogo colonial com grande habilidade no tempo de Bismarck. No Congresso de Berlim juntou o seu peso à França e a outros estados europeus, para isolar a GB e a obrigar a recuar na questão do Congo”.

A Conferência encerrou em Fevereiro de 1885 e as potências europeias colocaram em marcha a efetivação dos pactos assinados através de Convenções.

5. Convenções

Como já foi referido, a Conferência durou pouco mais de 3 meses, e ao ser encerrada, em fevereiro de 1885 o território africano não se encontrava já partilhado entre os países europeus. “A maioria das fronteiras entre as esferas de influência das diferentes potências coloniais e, com isso, as fronteiras entre os futuros territórios coloniais foram



estabelecidas consensualmente em acordos bilaterais após a Conferência de Berlim. A maioria destes acordos foi concluída nos anos 90” (Asiwaju, 1984, p. 85).

Portanto, é importante que se olhe para o *day after*. Nos anos imediatamente a seguir às conversações em Berlim, firmaram-se acordos que resultaram na divisão dos territórios em África. Wheeler e Pélissier (2009, p. 104), destacam que, “Em tratados com Inglaterra, França, Alemanha, Bélgica e mais tarde com a União Sul-Africana, entre 1885 e 1926, Angola foi delimitada quer em mapas, quer no terreno”. Os limites fronteiriços de Angola resultaram do processo que conduziu à partilha efetiva de África no período de ocupação que se seguiu à Conferência de Berlim. Entre concertações diplomáticas e militares a montante e antagonismos políticos a jusante, diversas potências foram signatárias com Portugal, de diferentes Convenções. Assim, a partir das Convenções Luso-Francesa, Luso-Alemã, Luso-Belga, Luso-Britânica e Luso Sul-Africana procedeu-se à delimitação do território angolano.

Quadro 2 – Convenções que estabeleceram as actuais fronteiras da República de Angola

Convenções	Signatários	Datas	Resultados
Luso – Francesa	Portugal e França	12 de Maio de 1886	Definiu limites da fronteira Norte de Angola, particularmente de Cabinda.
Luso – Alemã	Portugal e Alemanha	30 de Dezembro de 1886	Definiu a fronteira Sul de Angola.
Luso – Belga	Portugal e Bélgica	25 de Maio de 1891	-Estabeleceu limites a Norte de Angola. Portugal cedeu territórios à esquerda do Rio Congo, conservando apenas o Enclave de Cabinda. -Definiu igualmente parte da fronteira Leste.
Luso – Britânica	Portugal e Grã-Bretanha	30 de Maio de 1905	Definiu a outra parte da fronteira Leste de Angola.
Luso Sul-Africana	Portugal e União Sul-Africana	22 de Junho de 1926	Concluiu a fronteira Sul de Angola.

Fonte: Elaboração própria

5.1 Consequências das fronteiras traçadas a luz de Berlim

A partir do não muito longínquo ano de 1960 vários territórios africanos ascenderam à independência. Uns conseguiram-na pela via pacífica (como foi o caso de São Tomé) e outros, pela via armada (como sucedeu com a Argélia, Moçambique, etc.). Por motivos sociais e políticos⁷, fundamentalmente, os novos Estados – incluindo a República de Angola – mantiveram as fronteiras traçadas a luz do pendor mercantilista e imperialista que norteou as conversações em Berlim. Neste diapasão, Asiwaju (1984, p. 20), afirma que “apesar de seus atributos incontentáveis como linhas arbitrárias e artificiais de demarcação, as fronteiras tiveram que ser aceitas como alinhamentos legais do arcabouço territorial dos Estados-nações pós-coloniais”. No fundo, “Trata-se, no

⁷ A Organização das Nações Unidas (ONU) defendeu em 1960 a manutenção das fronteiras herdadas pelos territórios colonizados, posição fomentada pela Organização de Unidade Africana (OUA) aquando da sua fundação em 25 de Maio de 1963.



essencial, de transformações que representam a imposição da cartografia sobre percepções territoriais ancestrais (não dependentes de mapas) e a posterior apropriação destas percepções com a imposição dos poderes pós-coloniais” (Albuquerque, 2017, p. 75). Para a República de Angola são várias as consequências resultantes das fronteiras traçadas após a Conferência de Berlim.

- a) Dispersões demográficas.** Em relação ao impacto das Convenções assinadas entre as potências europeias, ficou manifestamente visível que, “Estes acordos consagraram a divisão de vários povos, nomeadamente: (i) Os Bakongo ficaram entre os dois Congos e Angola, pondo fim à unidade do Estado Kongo; (ii) Os Lunda, Baluba e os Cockwe ficaram divididos entre o Congo-belga, Zâmbia e Angola; (iii) Os Ovambo e os Helelos ficaram entre os territórios coloniais de Angola e do Sudoeste Africano (Namíbia)”⁸. Assim, povos com afinidade étnica, linguística e cultural ficaram separados pelas fronteiras coloniais que certamente não levaram em conta o dilema existente entre identidade étnica e identidade nacional. A situação é, muitas vezes, agravada, quando são tidas em conta as restrições que determinados Estados colocam à livre circulação das populações e seus bens.
- b) Redução de Cabinda a um Enclave.** “Desde 1885, o território de Angola ficou constituído por dois blocos descontínuos; a norte e a sul da embocadura do rio Zaire. Cabinda é a parte Nortenha com 7.270 km², separado do resto do país por uma banda de terra de cerca de 60 km” (Mbunga, 2014, p. 27).

A delimitação das fronteiras de Angola a noroeste, de acordo com as aspirações, interesses e *empowerment* da França, Bélgica e Portugal, impediu que o território angolano fosse contínuo e tivesse maior dimensão. A descontinuidade entre Cabinda e o resto do território dificulta a circulação de mercadorias e a interação entre as populações. Além do exposto, a saída para o mar reivindicada por Leopold II⁹ na época, reduziu o acesso aos recursos haliêuticos e outros de que Angola beneficiaria, no Atlântico. É relevante a visão de Sacchetti (2009, p. 121), ao considerar que, “Angola deverá incluir a preocupação de desenvolver as capacidades para conhecer o Mar e para fazer conhecer a competência para bem gerir e defender a área oceânica da sua responsabilidade [...]”, afim de salvaguardar os seus interesses de cariz económico, mas também securitário.

- c) Aculturação dos povos deslocados.** De forma inevitável, o convívio entre diferentes povos provoca a troca de valores, símbolos, crenças e práticas costumeiras alheias. Com a delimitação das fronteiras, povos angolanos deslocados da República de Angola encontram-se num meio cultural diferente, estranho, podendo mesmo virem a identificar-se mais e melhor com outras socioculturas, em detrimento daquelas de que são originários.

⁸

https://www.researchgate.net/publication/334650780_O_percurso_historico_do_estabelecimento_das_fro_nteiras_em_Angola

⁹ Os interesses comerciais levaram o Rei Belga a negociar uma saída para o mar. Como resultado houve a concessão por parte de Portugal, de uma porção de terra à esquerda do rio Congo permitindo assim, o acesso do Estado Livre do Congo ao Atlântico.



A questão das fronteiras africanas continua gerando debate na actualidade, entre organizações e investigadores, nacionais e internacionais. São os casos, por exemplo, da Conferência sobre fronteiras que ocorreu em Edimburgo em 1993 e a criação da *African Borderlands Research Network*. A propósito, “os temas centrais da ABORNE são (i) os africanos (partitioned) pelas fronteiras coloniais, [...]; (ii) as migrações, [...]; (iii) o comércio transfronteiriço, [...]; (iv) os conflitos, [...]; (v) as questões dos refugiados, [...]; (vi) a utilização e gestão partilhada de recursos, [...]”¹⁰. As consequências resultantes da Conferência de Berlim permanecem atuais e atuantes pelos desafios que colocam aos Estados africanos e suas populações.

6. Conclusão

O processo de delimitação das fronteiras da República de Angola foi longo. A industrialização emergente na Europa no final do século XVIII conduziu os Europeus ao Continente Africano no período posterior à abolição oficial do Tráfico de Escravos, em busca de matérias-primas, mão-de-obra barata e de um mercado consumidor. As Expedições Geográficas empreendidas com algum êxito no século XIX facilitaram o acesso ao interior, a exploração e conseqüente partilha de África.

A disputa entre distintas potências europeias por territórios levou a realização da Conferência de Berlim entre 1884 e 1885. A partir de Convenções firmadas entre Portugal, França, Bélgica, Inglaterra, Alemanha e a União Sul-Africana, foram traçadas as fronteiras atuais do território angolano. Porém, as novas fronteiras trouxeram consigo consequências de índole geográfica, cultural e linguística, que ainda se constituem como um desafio para a República de Angola.

Vários Estados africanos debatem-se com a gestão das fronteiras deixadas para trás pelas negociações de Berlim. A preocupação não gira apenas em torno da multiplicidade étnica das populações, sua mobilidade, mas também tem a ver com a riqueza natural que os Países limítrofes partilham.

Haverá espaço nas agendas intra-africanas para se discutir uma possível redefinição das fronteiras coloniais? As novas exigências – poder autárquico, descentralização, desconcentração, gestão de novas fronteiras internas – com que se deparam os Estados africanos parecem mostrar que não.

Importa-nos reconhecer algumas limitações desta investigação, nomeadamente as disputas travadas entre as potências europeias em África, impulsionadas por interesses particulares e que deixaram marcas indeléveis na relação entre si. Referimo-nos, por exemplo ao Mapa cor-de-rosa, Projecto Português e ao *MittelAfrika*, Projecto Alemão. Por último, recomendamos vivamente que as autoridades angolanas prestem particular atenção à fronteira marítima que o País partilha com a República Democrática do Congo. Que o Estado Angolano atribua a Nacionalidade aos povos de origem angolana que se encontram nos territórios limítrofes, desde que a solicitem. E, que sejam recenseados periodicamente os povos Angolanos que se encontram nos territórios em questão.

¹⁰ <http://www.seer.ufrgs.br/index.php/bqq/article/view/53757/33111>



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NOTES AND REFLECTIONS

ENVIRONMENTAL AND SOICIO ECONOMIC IMPLICATIONS OF ENERGY USAGE IN KWALI TOWN, FCT, ABUJA, NIGERIA

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Introduction

Energy resources in Sub-Saharan Africa (SSA) is more than enough to satisfy its overall energy requirements if they are well developed and evenly distributed, but unfortunately SSA remains the central point of global energy poverty. Presently, around 588 and 783 million persons in SSA do not have access to clean energy sources like solar powered electricity, wind, and geothermal energy for lighting and cooking fuels respectively. The situation even becomes overwhelming in the context of climate change given the fact that the current energy system of most SSA countries is dominated by fossil fuels and traditional biomass.

Air pollution occasioned by the use of unclean energy has become an environmental challenge worldwide. Air pollution is one of the most common forms of environmental problems especially among the third world countries. In Nigeria, air pollution is a concern because it is hazardous to man and his environment (Geissler et al., 2018; HEI, 2018; Vanguard, 2018; World Health Organisation, 2018; Guo, Wei, Li, 2019). Experts have found that air pollutant (aerosols) can accumulate in the tissues of living organisms and the environment. It is also linked with global warming and climate change phenomenon (Gerson, 2008; Idoko, 2019). This scenario occurs when the green houses gases is trapped in the atmosphere (Seppälä et al., 2019). Thus, growing concerns about this issue has made the United Nations sustainable development goals (SDGs) to capture energy access, renewable energy, and energy efficiency as its goal number 7 (SDG7) (UNDP, 2013). Experts in advanced countries have realized this and have put clean energy at the top of their agenda. In spite of this, only a very few studies have been conducted to highlight the issue in the context of energy in Nigeria, by extension FCT, Abuja (Onoja and Idoko, 2012).



Unclean energy use in the residential sector is mainly consumed in the form of traditional solid fuels that is animal dung, charcoal, coal, and fuel wood, for cooking and heating, and this contributes significantly to ambient air pollution, global warming and climate change. Onoja, Idoko, & Adah (2008) identified cooking fuel as one of the leading factors responsible for the rate of deforestation in FCT, Abuja. Therefore, providing all households with modern energy will reduce environmental pollution and energy consumption will require effective policy reforms. Apart from the lack of adequate finance, a key obstacle to facilitating sustainable energy development is the lack of proper information by policymakers about the possible impacts of different energy policy pathways (WHO, 2017).

Studies from one of the countries in SSA, Nigeria is the most populous and largest economy in Africa, endowed with a large menu of energy resources, but only about 61% and 6% of its entire population have access to electricity and clean cooking equipment respectively (Ogie and Oghogho, 2013). The country is currently struggling to provide modern energy for all its citizens. Realizing this ambitious goal will require the triangulation of policies, coordinated support, and strong political will from the government. However, the design of such policies for a successful energy transition needs to be informed by quantitative assessments which consider the role of technologies towards de-carbonizing the household sector and ensuring energy security. Energy system models can be applied to explore the future energy pathways of a sector or region.

Evidently, Kwali town has been witnessing rapid growth over the years since the establishment of Federal Government College and Government Secondary School Abuja in 1986. The change has also translated to the increasing energy demand and consumption pattern in the town. Access to energy and electricity is basic human right that is threatened by the increasing demand and consumption pattern by the teeming population.

Accessing energy is a more prominent challenge in Kwali as with other cities in Nigeria, and the cost of environment impact of energy usage is very high. Due to poor access to clean energy resources by the teeming population, it's usage have being posing negative impact on several communities in Kwali namely; Ashara, Dafa, Gumbo, Kilankwa I & II, Kundu, Kwali, Pai, Wako, Yangoji and Yebu. Consequently, many households resolve to several alternative sources for their day-to-day activities. The increasing demand for energy in Kwali has resulted to severe environmental challenges such as changes in ambient temperature, visibility and decline in the quality of air.

Several researchers have studied and reported works relating to energy conservation and environmentally friendly energy strategies in countries across Europe, Asia and Latin America (Epe Shari et al., 2020; Halbe, 2013; Newsom, 2012; Teng et al., 2012; Zerinou et al., 2020). The following scholars have focus on energy types, energy consumption and economic development. Specifically, Osueke and Ezugwu (2011) investigated 'Nigeria energy resources and its consumption, Onoja and Idoko (2012) worked on 'Econometric analysis of factors influencing fuelwood demand in rural and peri-urban farm households of FCT, Abuja, Kayode *et al.* (2015) did theirs on 'Analysis of Household



Energy consumption in Nigeria' using residents of Ibadan, Nigeria, Awosusi and Oriye (2015) worked on the economic development of Kwali, while Ibrahim and Cudjoe (2021) focused on 'The Environmental Impact of Energy Consumption in Nigeria: Evidence from CO₂ Emission'. However, none of these studies have looked at assessment of energy usage and its environmental implication on Kwali Town, FCT, Abuja. It is against this background that the study is pertinent. Hence, this paper tends to fill this gap.

1. Study area

Kwali is located in FCT, Abuja, Nigeria (see figures 1 & 2). Its coordinates are: latitude 7° 15' to 7° 29' N, and Longitude 7° 11' to 7° 32' E and is one of the rapidly urbanizing towns in Abuja, Nigeria.

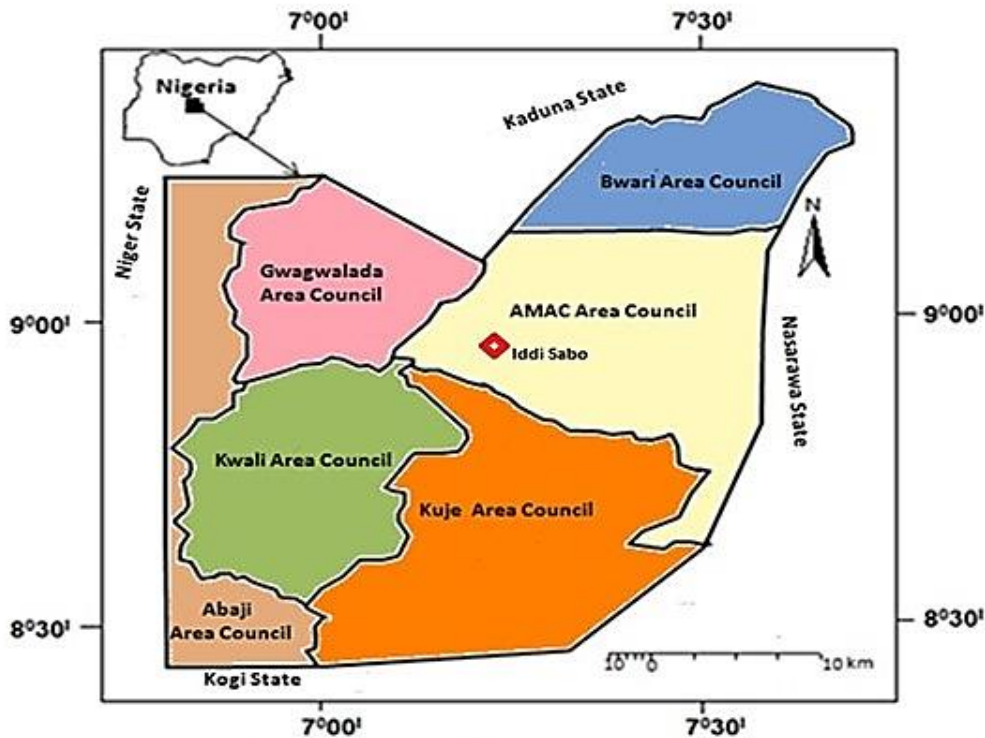
Figure 1: Nigeria showing FCT, Abuja



Source: Department of Geography and Environmental Mgt, Uniabuja (2019)



Figure 2: FCT showing Kwali Study Area



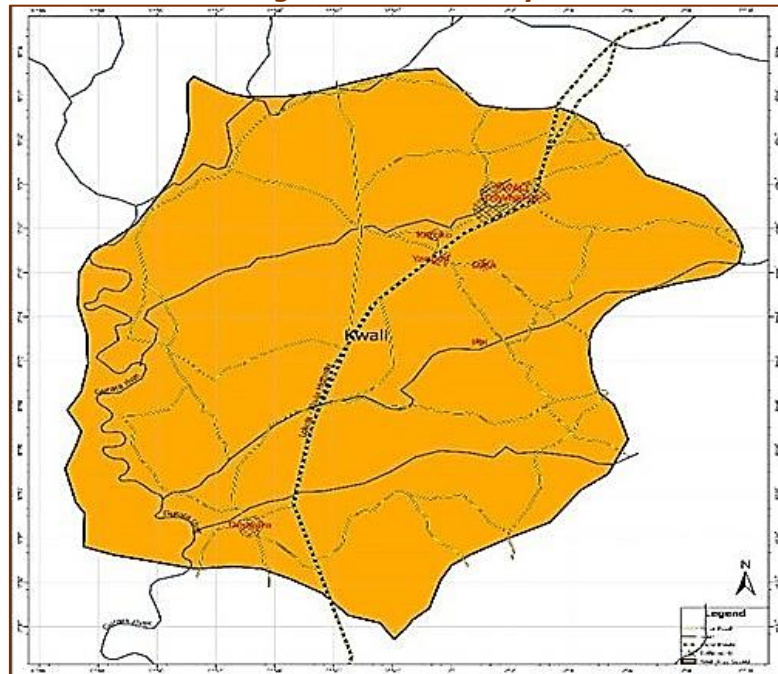
Source: Ishaya (2013)

Kwali lies within tropical hinterland climate. The climate region is characterized partly by double and single maximum rainfall patter with about four months of dry season. In the mornings, Relative Humidity generally rises to over 80% and falls between 50% -70% in the Afternoon during the wet season. Rainy season occur between April through October and the peak is September. Heavy rains of conventional type fall sometimes amount up to about 978.5mm. The mean rain days for this area are approximately 73.90days. The rate of rainfall generally decreases inland from the southern part of the region. The mean monthly temperature ranges between 21°C and 32°C (Awosusi and Oriye, 2015).

The landform of the study area undulates gently with less developed valleys. However, there is a visible valley to the North of Kwali town and with little exposed bedrock (Awosusi and Oriye, 2015). Equally, the vegetation of Kwali consists of tropical woodland, savannah and grassland, with notable economic trees such as Ebony (Iroko), Mahogany (Teak), Cordia (Melina), Cedrela (Eucalyptus), and whole food crops such as cassava, soya bean, cereals, maize and leguminous crops. A few cash crops such as Cashew, Oil palm, Neem and lots more are also found in the area.



Figure 3: Kwali Study Area



Source: Geography & Environmental Mgt Department. University of Abuja (2023)

Importantly, Kwali are largely farmers but since the establishment of some governments institutions, some of the settlers moved to other occupation such as trading, construction work, and auxiliary services such as barbing salons, dressmaking, shoe-making, computer and business services. It is important to state here that, some of the institutions in the area such as the government-owned and private hospitals, bank, and post-office have absorbed a great number of Kwali's population into non-agrarian economy. Its market has also greatly enhanced trading within the area.

2. Methodology

The paper adopted a survey design format. Reconnaissance survey was embarked upon to enable the researcher to examine the sources of energy that could have severe impact and risk to the environment within Kwali town. Furthermore, household categories that consumed energy types that posed threat to Kwali environment were identified. The data required for the study includes

Socio-demographic data of the respondents in Kwali, sources of energy and frequency of usage in Kwali, energy application and implication in Kwali and household consumption of energy-types that posed threat to Kwali

The study used both primary and secondary sources of data. Given the fact that Kwali current settlement population cannot be ascertained, the researcher applied Hanlon and Larget (2011) formulae for calculating sample size, thus:



$$N > (ZP/M)^2 - 4$$

Where N= the required sample size

Z = the alpha level at 95% Confidence level which is 1.96

P = the level of precision (0.25)

M = the desired margin of error (0.05)

4 = constant

Therefore, the required sample size was

$$N > (1.96 \times 0.25/0.05)^2 - 4$$

Therefore, $N > 92$

Therefore, a total of 100 questionnaires were distributed to respondents. Simple random sampling was used in the distribution of the questionnaire. The data returned was coded and analyzed. The result was presented using table and simple percentage. The underlying consideration to present the results in table was to ensure that readers find it easy to understand. It also assists the author to present data in a way that would catch the reader's eye, hold his interest and enhance his understanding Sandeep (2015).

3. Result and discussion

Table 1 shows the percentage frequency distribution of some bio-data characteristics of the respondents. Equivalent numbers of male and female respondents were administered questionnaire and who were predominantly below thirty years of age, constituted 63% of the population. Those in the upper age bracket of thirty years and above constituted 37%. This ratio of about 3:2 was also reflected in the marital status of single: married. The observed relationship, however, had no correlation with their tribal status. There are four tribes among the residents in Kwali, but gwari (76%) and Igbo (14%) tribes are major. It was note-worthy that nearly half of the population had acquired secondary school or a tertiary level of education. This status of education was adjudged sufficient to enable energy consumers to distinguish between hazardous and relatively safer energy types. About 27% were still students at the period of study while those engaged in various trades or businesses were up to 70%. The list is in-exhaustive but includes commercial motor-cycle riding, salon activities, tailoring, carpentry, automobile repair, marketing, farming, photography and employees in confectionery sector. About 50% to 60% residents owned their houses while about 40% were in rented apartments. In either of the scenarios, there appeared to be sufficient accommodation for every individual in a household as an average of 89 rooms was available for 80 persons.



Table 1: Socio-Economic characteristics of respondents in Kwali, FCT, Abuja, Nigeria

Variables		Frequency	Percent
Gender	Female	46	46
	Male	54	54
	Total	100	100
Age	1-19 years	29	29
	20-29 years	34	34
	30-39 years	21	21
	Above 40 years	16	16
	Total	100	100
Marital Status	Single	59	59
	Married	40	40
	Divorced	1	1
	Total	100	100
Tribe	Gwari	76	76
	Igbo	14	14
	Yoruba	6	6
	Hausa	4	4
	Total	100	100
	Educational Level	Informal	2
Primary		8	8
Secondary		45	45
Tertiary		45	45
Total		100	100
Occupation	Business	69	69
	Student	27	27
	Civil servant	4	4
	Total	100	100
House Status	Rental	38	38
	Owner-occupier	56	56
	Others	6	6
	Total	100	100
Number in household	1-5	40	40
	6-9	40	40
	Above 10	19	19
	Total	100	100
Number of rooms	1-5	69	69
	6-9	20	20
	Above 10	11	11
	Total	100	100

Source: Field Survey (2023)

Table 2 presents the responses to some energy characteristics which Kwali residents' experience. The results indicated that the preferred energy source of use is electricity accounting for 72%, compared with kerosene 14%. Before the twenty-first Century, more than 1.6 million people globally were still without access to electricity and in Nigeria, about 60 – 70% of the population were in this category (Osueke and Ezugwu, 2011). However, by the early twenty-first Century, sub-Sahara African population of about 46% used electricity (Treiber, 2013). The trend had improved remarkably in recent years, as 72% of residents in Kwali town have access to electricity. Only 2% of the residents still applied the classical energy types of firewood or candle. As also seen in figure 4.



Table 2: Energy Characteristics of Kwali Residents

Variables		Frequency	Percent
Usage of Energy types	Firewood	2	1.8
	Candle	2	1.8
	Kerosene	15	13.8
	Electricity	78	71.6
	Solar	12	11.0
Reasons	Availability	27	33.3
	Affordability	26	32.1
	Convenience	28	34.6
Cost Importance	Yes	76	89.4
	No	9	10.6
Income (₦) per month	≤ 4,999	18	21.7
	≤ 9,999	22	26.5
	≤ 49,999	25	30.1
	≤ 99,999	11	13.3
	≥ 100,000	7	8.4
Source OF FUEL for Cooking	Firewood	45	42.9
	Coal	3	2.9
	Kerosene	12	11.4
	Gas	44	41.9
	Electricity	1	1.0
Source for Lighting	Solar	3	2.8
	Firewood	0	0.0
	Kerosene	17	16.0
	Gas	5	4.7
	Electricity	81	76.4
Purpose for Electricity	Lighting	53	41.4
	Appliances	72	56.3
	Heating/Warming	3	2.3
Most risky source	Firewood	1	1
	Coal	1	1
	Kerosene	3	3
	Gas	63	63
	Electricity	32	32
	Solar	0	0
Least risky source	Firewood	43	43
	Coal	4	4
	Kerosene	33	33
	Gas	4	4
	Electricity	4	4
	Solar	12	12

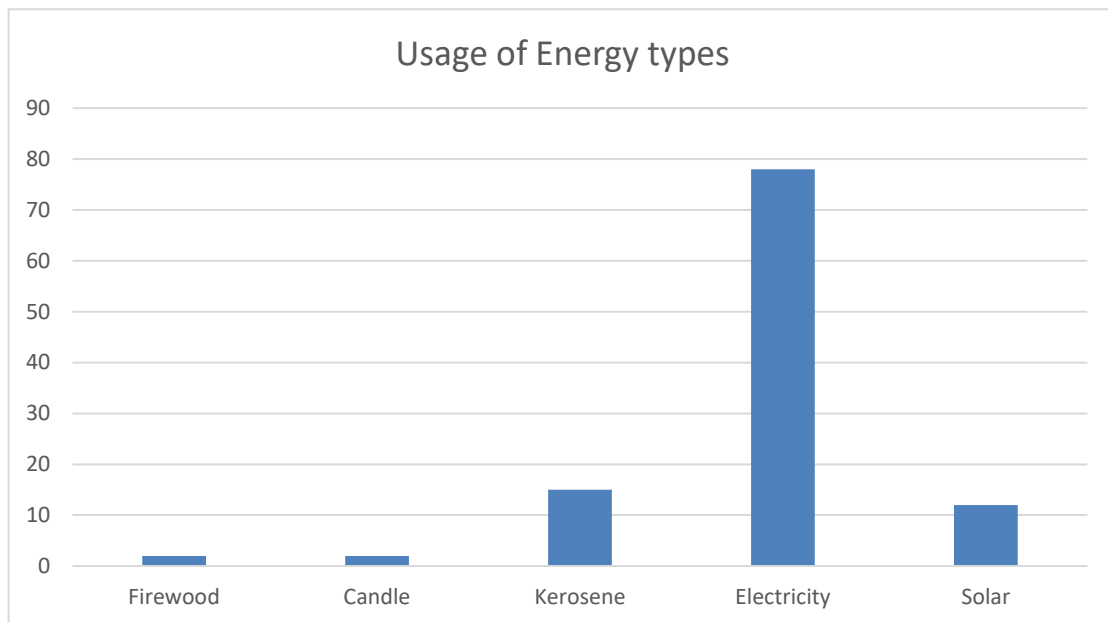
Source: Field Survey (2023)

The transition to usage of modern energy sources was further illustrated by 11% solar energy application. A critical review of the data obtained from the field also revealed that 9% of the residents combined usage of kerosene and electricity. While cost was the baseline in decision-making, reasons adduced by respondents were principally availability, affordability, and convenience of usage. These three factors were rated similarly. The respondents were majorly identified with various businesses indicated earlier, accounting for 78% of the population and with monthly income of less than fifty thousand (N50, 000.00) naira. The breakdown indicated that 22% earned below N5, 000.00, 27% earned between N5, 000.00 – N10, 000.00, while 30% earned below N50, 000. However, only 22% of the respondent falls into the category of those earning above



N50, 000 monthly. This class of people is likely to have the economic capability to purchase solar equipment for use in their households. The influence of income level on switch between uses of energy types had been reported by Vander Kroon *et al.* (2013) to explain the Energy Ladder theory.

Figure 4: Showing Usage of Energy Types



Source: Author Field Work (2023)

Bearing in mind the chosen factors of availability, affordability, and convenience of usage, respondents were further presented with different scenarios of application if the different energy types were to be readily available. For the purpose of cooking, 42% indicated interest for firewood like those for gas (that is, the liquefied petroleum, LP). The observation was a further reflection of household transition from classical to modern energy consumption, possibly for reasons of affordability and convenience of usage. In similar vein, 76% preferred the use of electricity for lighting purpose and activities that needed appliances.

Finally, respondents' level of education was tested on the factor of risks inherent in the application of the different energy types. The benefits and hazards of various energy sources have been extensively reviewed by Vieira (2021). The most environmentally friendly energy source identified is gas (63%), followed by electricity (32%). On the contrary, the most eco-harmful energy source was firewood (73%), followed by kerosene (33%). Therefore, the energy ladder/energy-mix transition for Kwali could be inferred as firewood – kerosene – solar – electricity – gas. The firewood and gas supplies were readily available to the two classes of residents who could afford their energy source of choice and its convenience.



Conclusion and recommendation

It is imperative to note that energy usage will be on the increase as population increases. It is however, necessary to be conscious of its environmental implication for sustainable development. Most developing countries are yet to key into clean energy as there still patronize the use of firewood and kerosene. Indeed, Kwali is not an exception. One of the major drawbacks is the fact that electricity is not generated at full capacity. This has affected both domestic and industrial activities particularly small-scale business (SME). It is worthy of note that the use of firewood has greatly affected the ecosystem as more trees are being cut down. Consequently, improvement in the amount of voltage generated and poverty reduction strategies in among energy users in Kwali will improve the environmentally friendly energy consumption outlook of the area. It is therefore necessary that all stakeholders in energy provisions should strive to provide clean energy to sustain the environment.

But to achieve this, efforts should be made to encourage energy users to transform from relying heavily on hydrocarbons to take advantage of sustainable or environmentally friendly energy sources. This can be done by developing new technology and design of energy systems. Energy policies and management strategies aimed at achieving efficient and sustainable should also be designed and encouraged.

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NOTES AND REFLECTIONS

FROM GEO-ECONOMICS OF THE "ASIA-PACIFIC" TO GEO-POLITICS OF THE "INDO-PACIFIC"¹

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Introduction

Crafted over the last 60+ years, the member states of the EU, or most of them, have always had a very Cartesian, legal formalistic view of regionalism. They have taken, not unreasonably, a certain degree of pride in their regionally integrative *bona fides*. This pride was underwritten by a Balassian logic of progressive economic integration, especially in the last two decades of the 20th, and the now clichéd assumptions about the relevance of Europe's "normative power. These positions were accompanied by an unstated assumption that processes of regional development in other parts of the world would, even if slowly, progress along a similar path to that espoused in Europe. The assumption was that the European model was exportable.

With hindsight we now appreciate this was not to be. Assumptions about the power of European ideas and practices in region building, underwritten by both a political naivety and an intellectual hubris, simply did not come to pass. The route to regionalism in the Asia Pacific has been, and is, many things. But one thing it is not is a facsimile of the EU road to integration. Cartesian legal formalism has found little or no fertile ground in Asia. Asians have chosen not to learn from other regions. The drivers of region in Asia have

¹ This short note is a transcript (more or less) of a public lecture delivered at the University of Lisbon, Symposium *Europa e Asia: Construeções e Interações Num Mondo Dividio*, April 16, 2024. It has rudimentary footnoting. It draws on a much longer paper that can be found online at LSE/IDEAS (<https://www.lse.ac.uk/IDEAS>.) The longer paper carries extensive documentation and citation to support the arguments advanced in this short essay.



been both local and global. Two global factors that have proved to be pivotal — globalisation and geopolitics — are the subject of this paper.

Recognising that we are witnessing the changing relationship between globalisation and geopolitics as categories of both global and regional order, it is the purpose of this paper to look at contemporary regional urges in Asia through these lenses. The changes that are coming about are underwritten by both ideational narrative and policy practice. At the analytical level, this short paper focuses on the ideational narrative, specifically the juxtaposition of the declining ideational hegemony of neo-liberal economics and the rising ideational hegemony of realist geopolitics. The analysis is illustrated empirically by a brief discussion of the declining interest in the geo-economics of the "Asia Pacific" as a hosting metaphor and the rising focus on the geopolitics of the "Indo Pacific" that reflects the intensification of global great power competition between the USA and China.

Ideas Have Consequences: From Globalisation to Geopolitics

The relationship between theory and practice is more important than many in the policy world often assume. It is more complicated and less understood than we appreciate. We all too often ignore the degree to which ideas cast massive policy shadows. As Keynes noted:

"The ideas of economists and political philosophers, both when they are right and when they are wrong, are more powerful than is commonly understood. Indeed, the world is ruled by little else"².

Geopolitics, as both idea and practice — overshadowed empirically and intellectually after the end of the Cold War — is back. It is currently the most powerful ideational metaphor in the lexicon of international politics. Nothing symbolically emphasises this better than the rise and decline of the annual Munich Security Conference and the Davos World Economic Forum. And as IISS data demonstrates, even without the Ukraine war and the Gaza conflict, interstate conflict and the absolute number of conflicts are growing³.

Globalisation is not dead, but it is challenged now more than any time since the end of the Cold War (and especially since the GFC of 2008). The hegemonic neo-liberal (Hayekian) paradigm is increasingly questioned and exhibits paradoxes too significant to ignore (see the analyses of Dani Rodrik, Joseph Stiglitz and Branco Milanovic). Specifically, the unalloyed benefits of globalisation are over-hyped, and the negative externalities under-played. For sure, globalisation has been a major generator of gross aggregate welfare (lifting nearly 1 billion out of poverty)⁴. But it has also been a major generator of inequality. Its negative distributional consequences have fueled socio-

² Keynes, John Maynard (1935). *The General Theory of Employment, Interest and Money*: p 383. (Note: here his reference is also to political philosophy; not economics alone.)

³ See Mia, T. Irene (ed.) (2023). *Armed Conflict Survey*, London, International Institute of Strategic Studies, <https://www.iiss.org/en/publications/armed-conflict-survey/2023/editors-introduction/>. And the Editors 'A Return to Interstate Conflict,' *World Politics Review*, December 18, 2023,

⁴ World Bank, *Lifting 800 million people out of Poverty*, <https://www.worldbank.org/en/news/press-release/2022/04/01/lifting-800-million-people-out-of-poverty-new-report-looks-at-lessons-from-china-s-experience>



political resentment against cosmopolitan elites. It has been a key influencer of the rise of anti-globalism, populist and nativist politics and anti-immigration⁵.

Accompanying these changes we have also seen the emergence of a new mercantilism reflected in the rise of protectionism, a declining support for an open global economy and multilateral institutions. These trends are captured in the words of Joe Biden's NSC Chief, Jake Sullivan⁶. His "New Washington Consensus (Industrial Policy, IRA, Chips Acts. delinking, reshoring, onshoring) and the *Economist's* identification of the trend towards "homeland economics" are representative of the dominant discourse *du jour*.

If it is autumn for globalization, it is clearly springtime for geopolitics. But, like globalization, geopolitics has its plusses and minuses. It clearly enhances and heightens our risk awareness, and we do need good geopolitical risk analysis in an age when the USA and China are becoming increasingly competitive. It is not wrong for states to be concerned about China's, at times aggressively, forward leaning practices in international relations (I am not a naive liberal). China needs to be watched. The question is how we watch it and what policy prescriptions to adopt? There is a fine line between deterrence and provocation.

Language matters and the excessive of zeal of advocates of either discourse—be they neo Hayekians or hard realist security specialists—can be incubators of extreme prescriptive policy positions. The logic of realist geopolitics can be self-fulfilling. Notwithstanding views of deterrence theory, realist geopolitical logic invariably privileges Thomas Hobbes's "disposition for war." This leaves us with a difficult question to answer: "Will modern geopolitical analysis, with its search for threats and enemies, in fact simply exacerbate rather than mitigate political strategic competition and conflict between the US and China?"

Of course, the discourse of geopolitics is very different to that of globalization. A concept arguably measured in millennia rather than centuries, its recent origins can be traced to analyst/practitioners such as Mackinder, Spykeman, Mahan in the early 20th century, Kissinger and Brzezinski in the second half of the 20th century and the proliferating off the shelf geopolitics of the early 21st century (Hal Brands, et al, 2023). There are both liberal and authoritarian strands of geopolitical thought to be found in the modern era. But central to both strands is the "balance of power", which may be seen as the strategist's equivalent of the economist's "equilibrium". The discourse of geopolitics in the post-Cold War era is a metaphor for great power competition (GPC)⁷. GPC is largely bilateral, transactional, and indeed geographical. All other elements of global conflict

⁵ There is a vast literature on populism in all its guises. I discuss the populist critique of globalisation relevant to this essay in Higgott, Richard (2022). *States, Civilisations and the Reset of World Order*, London: Routledge. On populism generally see Muller, Jan Werner (2017). *What is Populism?* London Penguin and Oswald, Michael (2022). *The Palgrave Handbook of Populism*, London: Palgrave Macmillan.

⁶ See 'Remarks by National Security Adviser, Jake Sullivan on Renewing American Economic Leadership', Washington DC, The Brookings Institution, April 27, 2023, www.whitehouse.gov/briefing-room/speeches-remarks/2023/04/27/remarks-by-national-security-advisor-jake-sullivan-on-renewing-american-economic-leadership-at-the-brookings-institution/

⁷ See Hal Brands (2023). 'The Field of Geopolitics offers both Promises and Perils', *Foreign Policy*, December 28, 2023: https://foreignpolicy.com/2023/12/28/geopolitics-strategy-eurasia-autocracies-democracies-china-russia-us-putin-xi/#cookie_message_anchor and Casten Nickel, 'What do we talk about when we talk about the return of geo-politics?' *International Affairs*, 100 (1) 2024. <https://academic.oup.com/ia/issue/100/1?login=false>.



should be seen as secondary. There is little room for multilateral collective action problem solving here.

At the empirical level, talk of economic interdependence and integration declines as talk of conflict in the security domain grows stronger everyday and great power rivalry surges after a brief post-Cold War uni-polar moment. Further, the discourse of geopolitics is replete with the language of threat inflation. Whatever China does is read by the USA in zero sum terms and as a precursor to future aggression. The need to confront what is seen as a rising competition from China is the only element of bipartisanship in Washington politics.

China, in US strategic jargon, is the "pacing threat". But there are two big differences from the days of the US-Soviet Union Cold War. First, the US and China are economically interdependent in a way that US and Soviet Union never were. Second, despite Biden's democracy-authoritarian divide, neither of the great powers are leaders of ideologically coherent blocs. The world may be bifurcated, but it is neither bi-polar nor multi-polar. It is fuzzy.⁸ States have become hedgers.

We should learn from the hegemony of neo-liberal globalization here. In the early days of neo-Hayekian ideational hegemony, we saw only the benefits of economic globalization and none of its problems. We must not repeat the mistake in our new-found love affair with geopolitics. We need to take account of the negative externalities too. Especially the self-fulfilling properties of much of the language of geopolitics: great power rivalry, regional security dilemmas and threat inflation. We must ask if geopolitics is fulfilling a similar role to that of the early phase of economic globalisation? If Hayekian liberalism was economics without liberalism—that is not much more than simply unfettered free markets—then is geopolitics international relations without liberalism too? Is geopolitics international relations absent qualifying notions of interdependence and diplomacy?

Words Have Consequences: From "Asia Pacific" to "Indo Pacific"

As Amitav Acharya noted, Asia Pacific was a term coined by economists. Indeed, the language of (neo) liberal economics drove the idea of the "Asia Pacific". It reflected the privileging of a trade liberalism and open regionalism. While it cannot be discussed here, the intellectual history of the evolution of APEC is a fascinating story of modern diplomacy. The Indo-Pacific, says Acharya on the other hand, was coined by strategists. The language of geopolitics is driving the idea of the "Indo Pacific". It has become the discourse of the official and unofficial security policy communities of USA and its allies. While others too—Indonesia and ASEAN especially—also use the idea and language of Indo Pacific, their understanding is driven by a more open, less geopolitical, more cooperative understanding of region and with much less of anti-China focus; positions are articulated in the 2019 *ASEAN Outlook on the Indo-Pacific*.

For the USA, economics, more than security, drove the development of the Trans-Pacific Partnership (TPP) as the centrepiece of President Obama's "Pivot to Asia". But on his first day in office, Donald Trump withdrew the US from the TPP. Joe Biden did not attempt

⁸ See Higgott, Richard and Reich, Simon (2022). 'The Age of Fuzzy Bifurcation: Lessons from the Pandemic and the Ukraine War' *Global Policy*, 13 (5), <https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.13141>.



to reverse this. The US DoS formalised the idea with the concept of a *Free and Open Indo-Pacific in 2019*.⁹ It was seen as a means to consolidate the QUAD (India, Australia, Japan). His policy has in fact reflected substantial continuity with Trump's. Biden's priorities were always geopolitics and security.

His primary aim has been to build a grand alliance against what he sees as the systematically competitive growth of Chinese power; to contain, if not rollback, Chinese global influence was to be capped. US international economic policy (and technology) was effectively securitised via practices such as sanctions, the Inflation Reduction Act and Chips Act. In simple terms, when it comes to the Indo Pacific and China, Biden and his advisers, are what we might call "primacists"—a strategy that reflects a misreading of the changing nature of power considerations in the contemporary world order.

The Indo Pacific is not a neutral description of region: but one designed to counter a China dominated regional order. Concern with China, at the heart of US grand strategy, dominates the views of both its official and quasi-official analytical policy community within the DC Beltway.¹⁰ The geopolitical imagining of the Indo-Pacific discourse has the China threat at its centre. Indeed, the Indo-Pacific, according the 2022 US *National Security Strategy*, is the 'epicentre of 21st Century geopolitics'¹¹. Only a small part of the US analytical community thinks that while China needs to be watched closely, it is not the existential and geopolitical security threat it is thought to be¹².

At the policy level the dominant discourse, especially in think tanks such as AEI, the Cato Institute, CSIS, AEF, Atlantic Council is now, rivalry driven, virulently geo-political and anti-China. Even the CFR and Brookings are carrying fewer discussions of the prospects for cooperation and conflict mitigation as opposed to conflict. At the extreme, in 2019, that most hawkish of Cold War organisations, the *Committee for Present Danger* underwent a resurrection. China was substituted for the Soviet Union in its full title¹³.

But, at a time when the Trans-Atlantic world is learning what the *Economist* calls "homeland economics", and asking how Indo Pacific geostrategic tensions affect it and what it can do to contain them, many Asian countries are developing an important portfolio of economic institutional cooperation. Note, TPP did not collapse with US withdrawal. It became CPTPP and is clearly a viable, if less significant, organization. Similarly, RCEP is fulfilling an increasingly relevant regional role as it gears up since its recent ratification. The AIIB, legitimate criticism of its *modus operandi* notwithstanding has become, against US wishes, a key component of regional economic statecraft.

⁹ Department of State *A Free and Open Indo-Pacific: Advancing a Shared Vision* Washington, D.C: 4 Nov. 2019. <https://www.state.gov/wp-content/uploads/2019/11/Free-and-Open-Indo-Pacific-4-Nov2019.pdf>.

¹⁰ See Jentlesen, Bruce (2020). 'Refocussing US Grand Strategy on Pandemic and Environmental Mass Destruction', *The Washington Quarterly*, 43 (3): pp. 9-12.

¹¹ The White House, *National Security Strategy* (2022). October, p. 37. <https://www.whitehouse.gov/wpcontent/uploads/2022/10/Biden-Harris-Administrations-National-Security-Strategy-10.2022.pdf>

¹² See Weiss, Jessica Chen (2022). 'The China Trap: US China Foreign Policy and the Perilous of Logic of Zero-Sum Competition', *Foreign Affairs*, September-October, <https://www.foreignaffairs.com/china/china-trap-us-foreign-policy-zero-sum-competition>, Fravel, M. Taylor et al. (2019). 'China Is Not an Enemy,' *Washington Post*, July 3, <https://www.washingtonpost.com/opinions/making-china-a-us-enemy-is-counterproductive/> and Dan Murphy, 'Is the United States Overestimating Chinese Power', *The Conversation*, March 1, 2024, <https://theconversation.com/is-the-united-states-overestimating-chinas-power-220014>

¹³ To be found at: <https://presentdangerchina.org>.



The US, in contrast to the turn of the century, is not in a good position 25 years on. It is not involved with any of the above major economic initiatives. APEC, the quintessential site of economic institutional activity in the Asia Pacific, that includes the US, is running out of steam. And the economic pillar of the Biden Indo Pacific strategy—the *Indo-Pacific Economic Framework for Prosperity* introduced in May 2022—has had little positive impact on the regional economic discourse to-date.

For Australia the change of language from the Asia Pacific to Indo Pacific reflects a dramatic change in its strategic culture. In the last decade, and especially since 2018 it has transitioned from being a cooperative regional middle power leading in the building of an open economic Asia Pacific and strong economic links with China to client state status as the strongest US regional ally in anti-China camp¹⁴. In the last quarter of 20th century Australia was at forefront of movement for open regionalism in the Asia Pacific. The Bob Hawke (1983-91 and Paul Keating (1991-96) governments worked hard to address Australia's regional liminality. In the discourse of the day they wanted Australia to be both **in** and **of** the Asia Pacific, not a European outpost¹⁵. It was a period of sure-footed regional economic policy. In 1989 Hawke kick ed off APEC as focal point for regional economic dialogue and Australia grew its economic relationship with China and closer links with ASEAN neighbours.

Australian foreign policy has lost its sure footedness since the end of the first decade of the 21st century. This has been illustrated by two major diplomatic blunders: (i) Prime Minister Scott Morrison's 2021 call for China Covid Inquiry (at US bidding) which generated a massive deterioration in the relationship with China and a fierce Chinese trade response. (ii) The apparent duplicity involved in the cancellation of France's submarine contract with Australia in favour of the AUKUS agreement, which reflects in many ways the culmination in the changing nature of Australian strategic culture. I am not suggesting the US forced AUKUS on Australia. Australia has always been a willing participant in the US regional project. Rather, the anti-China inspired AUKUS is merely the latest stage in the US regional primacy project¹⁶. Putative US primacy in the region is in many ways "primacy by invitation", especially from Australia, Japan and South Korea.

The Indo Pacific narrative emerged in Australia in 2013 *Oz Defence White Paper*. It took root as a neologism over the decade since then and Australia moved firmly towards the US **geopolitical** view of Indo-Pacific under the government of Bill Morrison between 2018 and 2022. Australia signed on as a faithful US ally greater than at any time since Vietnam when Prime Minister Harold Holt, was "All the Way with LBJ!!"

¹⁴ On the early period see Andrew Cooper, Richard Higgott and Kim Nossal, *Relocating Middle Powers; Australia and Canada in an Evolving World Order*, Melbourne: Melbourne University Press, 2002; Higgott, Richard, Leaver, Richard and Ravenhill, John (eds). *Pacific Economic Relations in the 1990s: Cooperation or Conflict?* Boulder, Colorado, Reinner, Lynn (1993) and Mack, Andrew and Ravenhill, John (eds) (1994). *Pacific Cooperation: Building Economic and Security Regimes in the Asia Pacific Region*, Melbourne: Allen and Unwin.

¹⁵ See Higgott, Richard and Nossal, Kim Richard (1997). 'The International Politics of Liminality: Relocating Australia in. the Asia Pacific,' *The Australian Journal of Political Science*, 32 (2): 169-86, <https://doi.org/10.1080/10361149750887>

¹⁶ Prashad, Vijay (2022). 'Australia: A Frontline State in a New Cold War', *Pearls and Irritations*, December 15, <https://johnmenadue.com/australia-a-frontline-state-in-the-new-cold-war/>, <https://www.australianforeignaffairs.com/afa/fatal-shores-aukus-is-a-grave-mistake/3081>



As the paper has suggested, ideas and policy discourse have consequences. There is a direct US input into the security discourse of the Canberra policy community. Documents are replete with the geo-political jargon and phrases of direct US origin. This discourse is reflected in the annual Annual AUSMIN meetings. And the US Defense Intelligence Agency even have their own people working in-house in the Australian Defense Intelligence Organisation in Canberra.

The predominance of the Indo Pacific voice has given rise to what I call a "discursive disequilibrium" in the debate over Australia's strategic culture. It has been fostered by what former Australian Ambassador to China, Geoff Raby, calls the "China Threat Industry" stoking the narrative that "China is *the* existential threat". A former head of the Australian Department of Foreign Affairs and Trade, Heather Smith, talks of the "hijacking" of the Australian "economics establishment" by the "security establishment". The security paradigm, unsurprisingly, permeates Canberra institutions such as the ONA, ASIO, ASIS, some key think tanks, especially the very hawkish Australian Security Policy Institute (essentially a quasi-autonomous arm of government) and of course the highly influential Murdoch press, notably the *Australian*¹⁷.

But the discursive disequilibrium notwithstanding, there is a diminishing domestic consensus on AUKUS in Australia, be it the issue of submarine provision or greater defence industrial integration between the US, the UK and Australia. The national is debate growing. Central to this debate are some basic questions of cost and technical consideration, especially a doubt (even in the pro AAUKUS camp) of the ability of the UK to deliver its part on time and on cost. Most important however are growing considerations of **strategy and politics**. Australia's leading security specialist, Hugh White, describes it as the "most disastrous defence policy mistake in Australian history." He notes an excessively elongated implementation time frame, a dubious political viability and commitment of the US and the UK over time, a gap in US expectations and Australian commitments and the vaulting ambitions of AUKUS being out of step with Australia's middle power traditions and international status. White challenges the largely untested assumption in the wider Australia security establishment that AUKUS axiomatically makes Australia safer¹⁸.

Conclusion: Be careful what you wish for

As noted, ideas and words have consequences. They are not just rhetorical or heuristic academic devices as the paper has demonstrated with its juxtaposition of the ideational and policy fortunes of globalisation and geopolitics as organizational/normative narratives of world order. The growing influence of the discourse of geopolitics is creating

¹⁷ See Scrafton, Mike (2023). 'Abandoned Sovereignty: Australia's Intelligence Function Colonised by the US', *Pearls and Irritations*, Dec. 31, <https://johnmenadue.com/abandoned-sovereignty-australias-intelligence-function-colonised-by-us/> and 'Shutting Down ASPI: Hugh White, Peter Jennings and China', *Pearls and Irritations*, Nov. 30, 2021, <https://johnmenadue.com/shutting-down-aspi-hugh-white-peter-jennings-and-china/>. James Curran, 'Excess Baggage: Is China a Genuine Threat to Australia', *Australian Foreign Affairs*, 19, October 2023, 27 and Heather Smith, 'Australia in a Fragmenting World', AIIA National Conference, November 13, 2023, <https://www.internationalaffairs.org.au/australia-in-a-fragmenting-world/>

¹⁸ On AUKUS, see Hugh White, 'AUKUS is a Grave Mistake', *Australian Foreign Affairs*, 20, February 2024,



new mental maps. Asserting the geopolitical over the geo-economic casts major global and regional policy shadows.

In empirical terms the new mental maps privilege the Indo Pacific over the Asia Pacific. This change downplays the discourse of cooperative open economic regionalism at the expense of a discourse of geopolitical strategic competition. While not denying the need for good geopolitical analysis, a consequence is that it can give rise to threat inflation, exacerbate rather than contain great power rivalries, and generate regional security dilemmas.

The argument of the paper was illustrated by a discussion of the changing US view of the Indo Pacific and how Australia's security culture has changed to accommodate it. Change in Australian strategic culture is based on two assumptions: (i) that the US will contain China's continued economic and political rise; (ii) that the US approach to the Indo Pacific will remain consistent. Both assumptions are, at best, problematic. Two reasons: (i) It is not necessary to be Kishore Mahbubani to assume China's rise will continue¹⁹. (ii) US foreign policy, and by extension support for Australia, is at the whim of the US presidential system and all its attendant consequences. A second Trump administration is never far from peoples' thoughts. We have seen a reversion in Australian strategic culture: from that of a concerned international, and regional, citizen practicing a modest "middle power" role back to that of a client state of the US. It is band wagoning of a recklessly high order.

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¹⁹ See *inter alia*, Mahbubani, Kishore (2021). *Has the US Lost it?* London, Penguin, 2018; *Has China Won?* New York, Public Affairs, 2020 and *The Asian 21st Century*, Singapore: Springer.

RECENSÃO CRÍTICA

**SUN BIN (2023). AS LEIS DA GUERRA. LISBOA: EDITORA GRÃO-FALAR.
ISBN 978-989-35434-2-9.**

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“...porque este não é apenas um livro, mas uma sobreposição de histórias, invejas e traições; de guerras, alianças, profundas mudanças sociais e políticas...”

Carlos Morais José, In “As Leis da guerra” de Sun Bin (p. 10).

A obra “As Leis da Guerra”, de Sun Bin, editada recentemente para Portugal pela Editora Grão-Falar, e apresentada no passado dia 14 de março de 2024 no Centro Científico e Cultural de Macau (CCCM), em Lisboa, insere-se na Série Sínica dedicada aos textos clássicos de autores chineses, em que Sun Bin se enquadra perfeitamente.

Aspeto só por si relevante e que merece uma referência especial, ao proporcionar aos leitores, na Língua Portuguesa, um conhecimento e uma aproximação histórica ao relativamente pouco conhecido “Mundo Clássico Chinês” da Era anterior a-Cristo, e que nos abre um “novo” e fascinante conhecimento empírico sobre um dos principais estratégias militares chineses da época dos designados “Reinos Combatentes” – Sun Bin.

Sun Bin e “As Leis da Guerra” representa essencialmente uma visão histórica sobre a forma de combater e fazer a guerra nessa época, e surge na linha dos famosos escritos do estrategista Sun Tzu na famosa obra “A Arte da Guerra”, que se estuda nas escolas militares e nas escolas de estratégia e gestão um pouco por todo o mundo.

A obra “As Leis da Guerra”, tal como ressalva Carlos Morais José na introdução, permaneceu “...oculta, desaparecida e sem rasto, durante mais de um milénio...”, sendo, contudo, frequentemente citada e referida em escritos chineses ao longo dos tempos, mas não tendo havido, até há bem pouco tempo, a plena certeza de que a obra de Sun



Bin existia. Era quase que um “mito” ou um “enigma” que nos acompanhou durante muitos séculos e que agora parece desvendado.

A Obra “Sun Bin Bing Fa”, ou seja, “As Leis da Guerra de Sun Bin”, esteve perdida durante cerca de 1400 anos e foi parcialmente recuperada apenas em 1972 (há pouco mais de 42 anos) em escavações arqueológicas realizadas na província Chinesa de Shandong, onde foram encontrados vários rolos de tiras de bambu onde se encontrava fragmentado e incompleto o famoso livro desaparecido.

Esta descoberta de antigos túmulos chineses e mais concretamente de uma suposta biblioteca de clássicos chineses, teve um enorme impacto na historiografia clássica chinesa e permitiu recuperar parte dos escritos de Sun Bin, e ainda de Wei Liaozi¹ e de Liu Tao, conhecidos pelo livro das “6 Estratégias” que consubstancia a existência de uma Escola do Pensamento Estratégico que teve impacto até aos nossos dias.

É um caso raro e um episódio histórico que vem colocar um pouco de “mistério” e de “enigma”, e certamente de mais interesse, numa obra que vagueou pela espuma dos tempos seculares, e que surgiu quase que tão misteriosamente como tinha desaparecido...

Esta descoberta proporcionou um acesso à argumentação de Sun Bin e da forma como concebia as suas estratégias e táticas para derrubar os seus inimigos, associando mestria estratégico-militar aos valores culturais e sociais que pairavam sobre as narrativas desta obra que chegou agora aos nossos tempos.

O título do livro “As Leis da Guerra” surge com o seu nome inicial “Bing Fa”, em que Bing no Chines antigo quer dizer “Guerra” e Fa significa “Lei”; mas quase sempre traduzido para o Ocidente, conforme refere Carlos Morais José, como “Arte da Guerra”, tendo sido com este título que Sun Tzu viria a ser conhecido e estudado até aos nossos dias.

Neste caso, até para diferenciar e articular, em complemento, as duas obras, os títulos são diferentes e até algo contraditórios, pois que a “Arte da Guerra” é vista como uma obra estratégica, onde a estratégia está intimamente ligada ao conceito de ciência e arte, associado ao génio humano no planeamento e na condução das operações militares. Já o conceito de “Leis da Guerra” parece mais associado ao regime rígido, formal, mais tático e regulamentado do fenómeno da guerra, ligado mais à condução das operações militares, estando, contudo, em linha com os estudos sobre Sun Tzu e que agora Sun Bin veio contribuir para consolidar e tornar mais conhecidos e estudados.

Esta obra não é apenas um livro, ou um escrito histórico, ou até a descrição de uma época específica na história chinesa clássica. A obra representa a guerra vista na sua dimensão de alianças, de luta pelo poder e de constantes mudanças sociais em que os “Reinos Combatentes” se digladiavam e lutavam pela conquista ou manutenção de um Império...o Império do Meio. Esta obra é por tudo isso o relato histórico da transformação

¹ O Wei Liaozi e Liu Tao são os supostos autores de um texto sobre estratégia militar, um dos designados “Sete Clássicos Militares da China Antiga” e foi escrito durante o período dos Reinos Combatentes. O Wei Liaozi e Liu Tao nos seus escritos defendem uma abordagem integrada civil e militar sobre os assuntos da guerra e da governança do Reino. De acordo com os escritos, salientam que a agricultura e a população são os dois maiores recursos do Reino, e ambos devem ser tratados como recursos fundamentais e prioritários. Embora os autores não mencionem especificamente o confucionismo, os escritos apontam, segundo especialistas, para uma governação baseado em valores humanistas, em perfeita consonância com essa escola de pensamento, contudo não comprovada cientificamente.



de Reinos em Império, visto pela genialidade estratégico-militar de Sun Bin, agora disponível na Língua Portuguesa.

Analisemos, brevemente, a biografia do pretérito autor, Sun Bin. Este nasceu e viveu num período conturbado da história multimilenar chinesa, numa altura onde vários reinos se afrontavam e combatiam, geralmente motivados pelas ambições pessoais soberanas e pelos clãs que manobravam o povo de um Império sem poder.

A guerra era uma atividade omnipresente na região dos reinos combatentes entre 476-221. a.C., e foi precisamente neste ambiente bélico e conflitual que Sun Bin nasceu, cresceu e que viria a morrer como estratega ou estrategista militar. Era na génese um guerrilheiro, pertencente a uma elite combatente, que lhe permitiu desenvolver evidentes qualidades militares e pessoais, que associadas a uma vasta sabedoria, inteligência prática, integridade de carácter e supostamente assente numa matriz de sólidos valores morais, lhe forjaram um carácter e uma identidade própria e muito marcante que sobressai nos seus escritos ao longo da obra "As Leis da Guerra".

Nestes tempos, os senhores e a alta nobreza chinesa rodeavam-se dos seus melhores estratégias militares, no intuito de pensar a guerra e estabelecer normas e princípios para defesas inexpugnáveis, ou dirigir ofensivamente os exércitos de modo a confundir e a atacar, com o objetivo de derrotar o inimigo e tendo sempre em vista a vitória no campo de batalha e a defesa da integridade do reino...o que podemos chamar hoje de defesa da soberania. Sun Bin nasceu no designado reino de QI, um dos 7 reinos combatentes, localizado no extremo leste da China, cerca do ano 380 a.C. Foi por isso quase contemporâneo de Sun Tzu² que também nasceu nesta região.

Sun Bin é descendente de uma família de estratégias militares (Sun Zi) e teve oportunidade não apenas de estudar e desenvolver a doutrina estratégica da guerra, como testar na prática as suas opções militares, pois o reino de QI era regularmente invadido pelos estados vizinhos, gerando um permanente clima de guerra e de violência.

Ao longo do seu percurso de vida militar viria a mudar-se para o reino de Wei, tendo assumido o comando do exército do Rei Hui e mais tarde designado como seu principal conselheiro militar, estabelecendo novas lógicas e táticas militares, e revelando a sua enorme capacidade e genialidade estratégico-militar para o estudo da guerra. Alvo de invejas e injustiças, viria mais tarde a ser condenado e mutilado severamente nas pernas, o que o impossibilitou de voltar a andar e a combater, assumindo, desde aí, o epíteto de "Bin", ou seja "aleijado".

Embora preso e desprovido de comando militar no reino de Wei, viria a ser resgatado pelos generais de QI, o seu reino de origem, reconhecendo-lhe toda a sua genialidade e passando a servir de "Estratega do Rei" e seu principal conselheiro militar, acompanhando-o nas batalhas numa cadeira de rodas construída para o efeito.

Quando atingiu uma idade avançada retirou-se da vida pública e viveu como um monge nas montanhas até à sua morte em 316 a. C, sendo reconhecido como um dos principais estratégias militares chineses e autor de uma das principais obras sobre o estudo clássico da guerra, "As Leis da Guerra", que abordaremos em seguida.

² Sun Tzu (544 a.C. – 496 a.C.) foi um general, estrategista e filósofo chinês e principal nome relacionado a escola militar de filosofia chinesa. É mais conhecido pelo seu tratado militar, designado de "A Arte da Guerra", composto por 13 capítulos de Estratégia Militar (Sawyer, 1994).



A obra está articulada em três partes. Numa I parte (pp. 18-63) onde estão descritos os 16 capítulos (incompletos) recuperados das tiras de bambu da dinastia Han. Uma II parte (pp. 65-108) com os 15 capítulos suplementares, também incompletos; e uma III parte (pp. 109-117) onde constam algumas explicações e textos recuperados de outros documentos, perfazendo 34 leis ou normas ou conselhos militares ou mesmo orientações estratégicas sobre a guerra, pois grande parte da obra é feita em tom de diálogo e de pergunta-resposta.

Cremos, contudo, que as 34 “Leis da Guerra” de Sun Bin, tem aplicabilidade e semelhança com as doutrinas operacionais atuais dos exércitos mais evoluídos do mundo, destacando aquelas leis da guerra que parecem ser as mais relevantes e que materializam o que definimos atualmente como “Princípios da Guerra” e/ou “Princípios das Operações Militares”. Estas leis da guerra de Sun Bin, são também elas, como vimos, relatos históricos de batalhas e de episódios militares da guerra, vistas num prisma pessoal e muitas vezes traduzidas em diálogos e em ações que se traduzem numa manobra ou uma operação militar e que era posteriormente avaliada com base na vitória ou na derrota no campo de batalha.

Atualmente, esta ideologia associada à condução da guerra é um dos temas centrais das “Ciências Militares”³ e surgindo segundo a forma de “Princípios da Guerra”⁴, que Procuramos, recorrendo a alguns exemplos ao longo da obra, comparar e comprovar o supracitado, assim:

- Sun Bin defende na Lei II (p. 22) que “...*nos assuntos bélicos não existe um modelo estratégico invariável no qual se possa confiar em todas as ocasiões...*” (p. 22). O que é traduzido atualmente no princípio da manobra das operações militares. E acrescenta ainda na mesma Lei que “...*os belicosos, que extraem prazer da guerra, levam os seus reinos à perdição e os que anseiam pelo espólio da guerra cairão em desgraça. A guerra não é algo que se deva desfrutar e a vitória não é algo de que se deve lucrar...*”. O que atualmente, embora nem sempre respeitado, consideramos como o princípio do objetivo nas operações militares.
- Na Lei III (p.25), em resposta a uma pergunta do Rei Wei de QI, Sun Bin observa que “...*quando dois Exércitos se equivalem...usa primeiro uma unidade de Infantaria Ligeira para atacar o inimigo, oferecendo o comando a um jovem oficial de baixa patente e ataca com pequenas unidades nos flancos...embora saiam derrotados...esta é a tática que te permitirá a vitória...*”. Este reflete atualmente o princípio da surpresa nas operações militares.
- Na Lei VI (p. 38) refere “...*há cinco causas para a derrota. Se uma das causas está presente, a vitória é impossível...*” e acrescenta ainda que “...*desde que se derrote as*

³ As Ciências Militares compreendem o estudo dos processos militares, instituições e comportamento, juntamente com o estudo da guerra e a teoria e aplicação da força coercitiva organizada. É focado principalmente na teoria, método e prática de produzir capacidade militar de forma consistente com a política de defesa nacional (IUM, 2024).

⁴ Os Princípios da Guerra representam o conjunto de fatores não materiais que afetam a conduta das operações militares. Não são uma lista de verificação de procedimentos, mas o resultado dos fatores observados ao longo da História em campanhas e batalhas com sucesso. No Exército Português são preconizados nove (9) Princípios da Guerra e que são os mesmos que encontramos, por exemplo, nos manuais do Exército dos EUA. Esses princípios são: Objetivo; Ofensiva; Massa; Economia de Forças; Manobra; Unidade de Comando; Segurança; Surpresa e Simplicidade (Princípios da Guerra, 2012).



leis da guerra o inimigo não escapará à derrota...", fazendo parece-nos uma alusão contextualizada ao princípio da segurança nas operações militares.

- Na Lei IX (p. 47) refere "*...dispor de vantagem estratégica é atacar o inimigo onde este não está preparado e seguir por caminhos que este nunca imaginaria e atacar o que está próximo a partir de uma contemplação à distância...*", o que corresponde ao princípio da ofensiva nas operações militares.
- Na Lei X (p. 49) Sun Bin salienta que "*...por forma a serem bem-sucedidas, as operações militares requerem a coordenação entre o soberano, o Comandante e as tropas...*". O que alude ao que designamos por unidade de comando nos princípios das operações militares, e alinha os níveis político-estratégico-operacional na conduta da guerra.
- Na Lei XIV (p.55) o autor refere "*...de um modo geral, no posicionamento das tropas, na transformação coordenada de formações de batalha e na colocação dos vários batalhões, as nomeações devem ser feitas à semelhança da harmonia do ser humano...*" o que alude ao princípio da simplicidade das operações militares.
- Finalmente, ainda na Lei XIV (p. 57) quando salienta, abordando as diferentes tipologias de formação militar que "*...ataca um invasor utilizando as tuas tropas de elite e recebe as tropas de combate homem-a-homem do inimigo com apertadas fileiras de carros de combate...*", o que pensamos poderá aludir aos princípios da massa e da economia de forças das operações militares.

Este exercício visou demonstrar que as 34 "Leis da Guerra" definidas por Sun Bin na sua obra, têm alguma analogia conceptual com os 9 "Princípios da Guerra" que se estuda atualmente nas escolas militares no âmbito das Ciências Militares e que orientam o planeamento e a conduta das operações militares.

No geral, "As Leis da Guerra de Sun Bin" oferecem informações relevantes sobre a antiga filosofia militar chinesa e continuam sendo um recurso valioso para aqueles interessados no pensamento estratégico e na liderança militar em vários contextos operacionais. O que parece também evidente é existirem algumas semelhanças conceptuais entre o pensamento estratégico-militar de Sun Bin há 1400 anos e os princípios da guerra que regem as operações militares atualmente. Por este motivo, a obra "As Leis da Guerra" de Sun Bin parece ser, em certa medida, uma obra atual e com aplicação prática ao nível da liderança, da estratégia militar e das operações militares atuais.

Reflexão sobre a Obra

O autor, um dos clássicos da estratégia militar chinesa, apresenta-nos um significativo conjunto de reflexões em modo de diálogo e de conselheiros sobre a estratégia militar entendida na época como a forma de conduzir os exércitos em batalhas. Paradigma que, tal como aconteceu a outros estrategistas clássicos chineses da época dos reinos combatentes, pode ser entendido como um compêndio de normas e leis que se aplicam em geral à condução das operações militares e da guerra na sua expressão mais moderna.

O exercício teórico de comparação entre as "Leis da Guerra" de Sun Bin e os Princípios da Guerra aplicados às Operações Militares adotados pela NATO (e por Portugal) para a



condução das operações militares parece-nos teoricamente semelhantes, requerendo, contudo, uma análise mais profunda e sistémica para alargar e consolidar o seu âmbito de entendimento e aplicação.

Os escritos de Sun Bin, embora incompletos, permitem identificar uma Escola de Pensamento Estratégico na época clássica chinesa, que se consolidou com Sun Tzu e outros pensadores chineses clássicos, e que agora com a obra “As Leis da Guerra” ganham novo relevo, salientando os princípios estratégico-militares-operacionais inerentes à preparação, planeamento e condução da guerra nas suas múltiplas dimensões.

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