The 2030 Agenda: Standing UP for Human Rights

Study Guide

FACAMP Model United Nations 2018

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The 2030 Agenda:

Standing UP for Human Rights

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THE 2030 AGENDA: STANDING UP FOR HUMAN RIGHTS

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INTRODUCTION

THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT: STANDING UP FOR HUMAN RIGHTS

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Introduction

The Preamble of the United Nations (UN) Charter states the UN's will of saving the upcoming generations from facing another war, by reaffirming "faith in fundamental human rights, in the dignity and worth of the human person" and by promoting "social progress and better standards of life in large freedom" (UNITED NATIONS, 1945, p. 2). It means that, in the UN Charter, development and human rights are correlated: without development, many human rights cannot be enjoyed; and without the promotion of human rights, there is no true development. Despite this connection, both UN pillars have been treated separately as if they were not interdependent and inter-related.

In the UN Charter, the promotion of human rights is one of the organization's principles, and they are specified in the 30 articles of the Universal Declaration of Human Rights (UDHR), adopted in 1948. The UDHR represents a minimum standard of human rights that must be assured by all States without any discrimination or exceptions. Since then, the UN has been responsible for the development of an international human rights regime, based on international treaties, conventions and monitoring mechanisms. The end of the Cold War brought different challenges to the UN, and one of them was to improve the UN human rights system in order to promote the universality, indivisibility, interdependency and inter-relation of all human rights.

In the area of development, since its early years the UN has engaged itself in fighting against poverty and promoting economic growth and better social conditions worldwide. The main characteristic of the development debate at the UN is the so-called North-South divide, which means the inequalities between rich and poor countries. During the Cold War, this divide led developing countries to demand special political and financial UN support in order to overcome underdevelopment. After the Cold War, the UN has focused on targeted actions, combined in a global set of development goals.

In 2015, the UN adopted the most comprehensive development agenda so far: the 2030 Agenda for Sustainable Development. Would this agenda be the opportunity to the UN promote greater connection between the human rights and the development agenda? In order to answer this question, this introductory chapter is divided into four sections. The first one presents the advancements and setbacks of the international human rights regime under the auspices of the UN, focusing on the main international human rights instruments, since the adoption of the UDHR. The second one addresses the historical and political debate around the meaning of development and the UN contributions to the promotion of development. The third section analyzes the 2030 Agenda, by highlighting its potential and the limitation in converging the human rights and the development agendas. Finally, we present some concluding remarks on the challenges for a greater interrelation between human rights and development.

The importance of the UN to the development of an international human rights regime

The "international human rights regime" means all the international human rights treaties, documents (resolutions, declarations), organs, and monitoring mechanisms adopted by States in the international and regional[1] levels. Under the UN umbrella, the text of UN Charter promoted the basis for the advancement of the International Law of Human Rights. The grave crimes committed against civilians during the Second World War generated the commitment of all countries participating in the Conference of San Francisco with an international organization that could promote international peace and security, and the respect for human dignity.

The UN Charter establishes the principles of the organization: cooperation, international peace and security, development and the promotion of human rights. In its Article 1, Member States committed themselves with "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion" (UNITED NATIONS, 1945, pp. 2-3).

1 In the regional level, the European and the American human rights regimes were developed after the Second World War. In Europe, States adopted the European Convention of Human Rights in 1950, and the European Court of Human Rights was established in 1959. In America, States adopted the American Declaration on Human Rights and Duties of the Man in 1948 and the American Convention on Human Rights in 1969. The Inter-American Court of Human Rights was established in 1979. The African human rights regime was developed with the adoption of the African Charter on Human and Peoples Rights in 1981 and the African Court on Human and Peoples Rights was established in 1998.

The reference to the promotion of human rights as a principle and a purpose of the UN stimulated the adoption of the Universal Declaration of Human Rights (UDHR), in 1948[2]. The UDHR sets a "common standard" to all nations and, although the UDHR is not a binding legal instrument such as an international treaty, it is considered the first international document that established basic universal human rights, being of utmost importance to the adoption of future human rights treaties. In this sense, UN Member States recognized "the equal and inalienable rights of all members of the human family" as fundamental for achieving global freedom, justice and peace (UNITED NATIONS, 1948).

Alongside with the UDHR, other two international instruments composed the International Bill of Human Rights. The International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR), adopted in 1966, expanded the scope of the protection of human rights included in the UDHR. The importance of both treaties is that they create obligations to States Parties (WEISS et al, 2014, p. 178).

The international scenario of creation of both Covenants reflected the political division of the Cold War. First, the East-West division put in opposite sides the United States and the Soviet Union, followed by their respective allies. The group represented by the United States defended that civil and political rights were of immediate applicability and had to be prioritized by all States. On the other hand, the group represented by the Soviet Union defended that economic, social and cultural rights were as important as or more important than civil and political rights, because they affected the livelihoods of all people. Because of this debate, there were two Covenants instead of one[3] (UNITED NATIONS, 2009).

The ICCPR guarantees the protection of civil and political rights, such as the right to life, the right not to be submitted to torture or to cruel, inhuman or degrading treatment, the right not to be submitted to slavery or forced labor. It includes the right to freedom

2 It is important to highlight that one day before the adoption of the Universal Declaration of Human Rights (10 December 1948), UN Member States adopted the Convention on the Prevention and Punishment of the Crime of Genocide (9 December 1948).

3 The debate in the 1960s became part of the academic discussions concerning human rights. Civil and political rights were known as "first generation" of human rights, because they were considered of immediate applicability. Economic, social and cultural rights were known as "second generation" of human rights and they were connected to development and measures to achieve better quality of life in the developing world. In this sense, they were considered "positive obligations", applicable progressively and in a long term (UNITED NATIONS, 2009). After the Cold War, the UN worked to eliminate the division between human rights, asserting the indivisibility, universality, interdependence and inter-relation of all human rights, presented in the Vienna Declaration and Programme of Action (1993).

of thought, conscience and religion, the right to assembly and association, the equality before the law, among others (UNITED NATIONS, 1966 a).

The ICESCR contemplates important rights for the achievement of the well-being of the human person, including labor rights regarding fair wages and equal remuneration, without gender-based or any kind of discrimination. The Covenant also covers the right to attend the necessities of the trading countries and to social security, the right to education, healthcare, and foresees special protection for mothers and children regarding economic or social exploitation (UNITED NATIONS, 1966 b).

The UDHR and the International Covenants are the main human rights instruments adopted under the auspices of the UN. After the adoption of the Covenants, it seemed necessary the creation of monitoring mechanisms to supervise the compliance of Member States with the International Covenants. In this sense, the Human Rights Committee is a body composed by independent experts that monitor the implementation of the ICCPR by States parties. The Committee examines the reports submitted by States parties and makes recommendations in the form of concluding observations. In addition, the Committee has the important function of interpreting the provisions of the ICCPR in the form of general comments (OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, 2018 b).

Article 41 of the ICCPR prescribes that the Committee can receive complaints from States parties when they consider that another State party violated the obligations of the ICCPR. In 1966, States adopted the First Optional Protocol to the ICCPR, which gave the Committee the competence to receive individual complaints concerning violations of the ICCPR by a State party to the Protocol. In addition, in 1989, States parties adopted the Second Optional Protocol to the ICCPR that abolished the death penalty (OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, 2018 b).

In order to monitor the compliance of States with the ICESCR, they created the Committee on Economic, Social and Cultural Rights in 1985. Differently from the Human Rights Committee, the Committee on Economic, Social and Cultural Rights is under the umbrella of the Economic and Social Council (ECOSOC), which established the Committee through resolution 1985/17. States parties to the ICESCR must submit reports to the Committee concerning the implementation of the Covenant. The Committee is only entitled to make recommendations to States parties in the form of concluding observations (OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, 2018 c).

However, in 2013, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights established that the Committee could receive communications from individuals claiming that a State party violated the ICESCR. In addition, the "Committee may also, under certain circumstances, undertake inquiries on grave or systematic violations of any of the economic, social and cultural rights set forth in the Covenant, and consider inter-state complaints", and it can publish general comments concerning the interpretation of the provisions of the ICESCR (OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, 2018 c).

During the Cold War period, the advancement of the human rights regime faced many political challenges, due to divergent interests from developed and developing countries. Therefore, the UN agenda was focused on different topics, which were discussed separately by Member States, depending on their highest political and economic priorities. As we will present later in this chapter, the decades of 1960 and 1970 were marked by the emergence of a new agenda, brought to the UN by developing countries, focused on development issues and in the promotion of a new economic world order. In this sense, there were few spaces for the advancement of the human rights regime or the reinforcement of protection mechanisms. However, two important treaties were adopted: the Convention on the Elimination of All Forms of Racial Discrimination[4] (1965) and the Convention on the Elimination of All Forms of Discrimination against Women (1979)[5].

Although States, during the 1980s, were facing great economic crisis, especially developing countries, civil societies were responsible for bring to the UN's attention the consequences of the economic crisis to the protection of human rights. In many countries, poverty, unemployment and lack of basic social and economic rights aggravated the situation of many vulnerable groups, such as children, women, migrants and indigenous people[6]. In addition, in many countries with dictatorial regimes, societies were pressuring regime leaders to promote the transition to democracy, and to end impunity through the prosecution of those responsible for violations of human rights. In order to respond

4 The Convention on the Elimination of All Forms of Racial Discrimination established the creation of a Committee on the Elimination of Racial Discrimination in 1965.

5 The Convention on the Elimination of All Forms of Discrimination against Women established the creation of the Committee on the Elimination of Discrimination against Women in 1979.

6 Due to its collective character rather than individual, these rights are also known as "solidarity rights" and attempt to meet the demands for equal rights and opportunities in a collective perspective. Those rights are related directly to the demands of civil societies in the 1980s and 1990s, and contemplate the protection of minorities, as well as the right to a healthy environment as the "common heritage of humankind" (WEISS et al, 2014, p. 174).

to civil society's demands, the UN succeed to adopt new human rights treaties[7], which contemplate the protection of children, indigenous people and other minorities, and the prohibition of torture.

The end of the Cold War brought new challenges to the UN, not only related to peace and security, but also concerning the reinforcement of the international human rights regime, which appeared to be threatened by the a great number of massive violations of human rights perpetrated in internal conflicts. Most conflicts had two common aspects: they took place in the territory of least developing countries and they were characterized by grave violations of human rights. Therefore, global stability and development were seen as consequences and causes of the assurance of human rights (WEISS et al, 2014, p. 173).

The climate of both optimism and pessimism that market the end of the Cold War favored the organization of UN international conferences throughout the 1990s. The World Conference on Human Rights, in 1993, was a great step towards the advancement of the international regime of human rights and to the common notion that human rights, development and peace are interconnected and interdependent. At the end of the conference, States adopted the Vienna Declaration and Programme of Action, which not only reaffirmed the need to respect and promote human rights by UN Member States, but also reinforced the UN human rights system[8].

Article 5 of the Vienna Declaration states that:

> All human rights are universal, indivisible, interdependent, and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms (WORLD CONFERENCE ON HUMAN RIGHTS, 1993).

7 The adopted treaties were: the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment of Punishment (1984); the Indigenous and Tribal People Convention (1989); the Convention on the Rights of the Child (1989); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990); the Worst Forms of Child Labour Convention (1999); the Convention on the Rights of Persons with Disabilities (2006).

8 In the Vienna Declaration and Programme of Action, Member States decided to establish the Office of High Commissioner for Human Rights, which is a subsidiary organ composed by human rights independent experts that work in the promotion and protection of human rights (WORLD CONFERENCE ON HUMAN RIGHTS, 1993).

Article 5 eliminates one of the most common arguments used by States during the Cold War period concerning their unwillingness to ratify human rights treaties – their economic and social situations or cultural or religious backgrounds. In this sense, by stating that all human rights are universal, indivisible, inter-related and interdependent, States put the protection of the human person first, and the economic, social, cultural or religious differences from one country to another cannot be used as an excuse to the fulfillment of States' obligations under international law.

In addition, in the Vienna Declaration, States affirm the connection between human rights, development and democracy. Therefore, the importance of democratic regimes lies on "the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives"; consequently, the protection of human rights should not be based on any conditions. In this sense, the international community has the responsibility to "support the strengthening and promoting of democracy, development and respect for human rights and fundamental freedoms in the entire world" (WORLD CONFERENCE ON HUMAN RIGHTS, 1993).

The connection between human rights and development is stated on article 10 of the Vienna Declaration, which affirms the importance of the right to development "as a universal and inalienable right and an integral part of fundamental human rights". States recall the Declaration on the Right to Development that emphasized that the human person is the central subject of development. In this sense, a State cannot justify the abridgement of human rights based on lack of development. Therefore,

> States should cooperate with each other in ensuring development and eliminating obstacles to development. The international community should promote an effective international cooperation for the realization of the right to development and the elimination of obstacles to development. Lasting progress towards the implementation of the right to development requires effective development policies at the national level, as well as equitable economic relations and a favourable economic environment at the international level (WORLD CONFERENCE ON HUMAN RIGHTS, 1993).

In the Declaration, States also mention the special conditions of countries in debt and the obstacles that extreme poverty inflict to the enjoyment of human rights, affirming that all countries should guarantee the full implementation and realization of the right to development (WORLD CONFERENCE ON HUMAN RIGHTS, 1993).

Although in the Vienna Declaration and Programme of Action, States advocate for the intrinsic connection between human rights and development, they have treated those UN pillars separately. The promotion of human rights was not connected with development, although development and human rights, as well as peace and security, are considered central principles of the UN, and stated in its Charter. At the same time that the North-South division created obstacles to the advancement of human rights regime, it promoted the emergence of a new form of thinking about development, from the perspective of the South, changing the UN system as whole. The UN agenda for development will be discussed in the next section.

The evolution of UN contributions to the promotion of development

Since its early years, the UN has always been active in the debate about international economic and development issues. However, this organization has not had exclusivity over this debate: alongside the UN, the so-called Bretton Woods Institutions (BWI) – the International Monetary Fund (IMF) and the World Bank, created in 1944 – have also played a significant role. While the BWI, based on orthodox economic theory, have focused on recovering and expanding international trade through "free market solutions" (PANDIARAJ, 2013, p. 76), the UN approach to development has leaned towards a heterodox view, focusing on the specific needs of developing countries.

Nevertheless, it is important to mention that this heterodox approach was not organized in a single and coherent view of development. Throughout the decades, UN organs, agencies, offices and entities have adopted different perspectives to development, emphasizing different aspects of it. Besides, the discussion about development happened in a separated way from the human rights debate. From 1945 to the present days, the evolution of the UN contributions to the promotion of development can be understood in four phases (WEISS et al, 2014, p. 257).

The first phase is called "National State Capitalism", and covers the period of 1945-1962. It was characterized by the coexistence of three different approaches to development. The first one is the Keynesian doctrine, which acknowledges the fundamental role of the State in regulating market forces as a means for avoiding systemic economic crises and promoting full-employment. Even though the Keynesian thought was based on the experience of industrialized countries, its State-centered perspective influenced many of the UN recommendations to developing countries (WEISS et al., 2014, p. 258).

The second approach of the first phase refers to the contributions made mainly by Hans Singer and Raúl Prebisch in the scope of the Economic Commission for Latin America (ECLA)[9]. According to the Prebisch-Singer thesis, the international terms of trade between core industrialized countries and peripherical countries (who were specialized on the export of primary products) presented a structural inequality. While the productivity growth rate for manufactured products exported by industrialized countries was crescent and led by technical progress, for primary products it tended to decline. The liberalization of international trade progressively deepened these asymmetries between core and periphery, hindering the possibilities of development for the latter. For ECLA, the only way the periphery could overcome this condition was to complete the process of industrialization through an import-substitution process and State protectionism. The UN would support this process by guaranteeing special treatment for developing countries (ECONOMIC COMMISSION FOR LATIN AMERICA, 1950, pp. 1-2; pp. 7-8).

The third predominant approach during the first phase is referred to as functionalist (WEISS et al, 2014, p. 262). The functionalist approach focused on giving technical assistance for developing countries in specific areas, such as planning, labor, infrastructure, agriculture, etc. With that, the UN would promote development in a more ideologically neutral way, which became important with the rising tensions of the Cold War. With this functionalist view, the Special United Nations Fund for Economic Development (SUNFED) was established with the main purpose of creating a "soft loan facility for economic development that was located within the UN itself" (TOYE; TOYE, 2004, p. 138).

From 1950 to 1960, the global wave of decolonization gave birth to new independent countries, and the UN faced a large expansion of its members. These countries from Africa and Asia, together with Latin American countries, organized themselves at the UN under the title of the Global South. With this, the second phase of the UN contributions to development is called International Affirmative Action (1962-1981). Likewise the previous phase, development was measured in terms of macroeconomic growth, but the novelty was that the UN started to create entities and programs specialized in addressing the needs of the Global South (WEISS et al., 2014, p. 262).

For that, the United Nations Conference on Trade and Development (UNCTAD) was established in 1964. Its main purpose was to set a forum for North-South dialogue in

9 ECLA (now ECLAC, Economic Commission for Latin America and the Caribbean) was created in 1948 as one of the regional commissions of the UN, under the scope of the Economic and Social Council (ECOSOC) (UNITED NATIONS, 2016 a).

order to help developing countries to take part equally in the international trade. As a means for achieving more bargaining power within the UN, by the end of the first UNCTAD conference, developing countries created the Group of 77 (G-77), which became an important political group, responsible for coordinating the Global South positions regarding development (TOYE, 2014, p. 19).

The United Nations Development Programme (UNDP), created in 1966, consolidated the UN role as an international organization dedicated to the promotion of development. UNDP was responsible for being the central coordinator of all UN programs, projects and activities in the area of technical cooperation for development. In the same year, the International Covenant on Economic, Social and Cultural Rights was adopted by Member States, and in its Article 1, economic and social development was recognized as a human right (UNITED NATIONS DEVELOPMENT PROGRAMME, 2016; UNITED NATIONS, 1966 b).

Led by UNDP, the UN work in the 1960s had many important achievements in the areas of economic and social planning, poverty, education and institutional capacity building. However, the global economic crisis in the 1970s deepened the inequalities between Northern and Southern countries, requiring greater efforts from the UN to close this gap. For that, the General Assembly adopted the Declaration and the Plan of Action on the Establishment of a New International Economic Order (NIEO) in 1974. Based on the principles of "equity, sovereign equality, interdependence, common interest and cooperation among all States" (UNITED NATIONS GENERAL ASSEMBLY, 1974, p. 3), the NIEO proposal encompassed measures for eliminating the gap between developed and developing countries in the areas of international trade, science and technology, and economic, financial and technical cooperation among countries.

From the 1970s on, the idea that development meant economic growth begun to change and incorporate new topics, such as the protection of the environment and the promotion of basic needs. The UN was the forum for unprecedented international efforts to protect the environment while promoting development. In the United Nations Conference on the Human Environment, held in Stockholm in 1972, it was created the concept of sustainable development, as the need "to defend and improve the human environment for present and future generations" (UNITED NATIONS, 1972, p. 3). The UN adopted the common view that for tackling environmental issues and promoting basic human rights, development was required.

Besides protecting the environment, in 1976 the International Labour Organization (ILO) complemented the concept of development by incorporating the notion of basic needs. It was defined in terms of "food, clothing, housing, education, and public transportation. Employment was both a means and an end, and participation in decision making was also included" (EMMERIJ, 2010, p. 1). This was the first UN effort to give a more people-centered approach to the concept of development, although development and human rights continued to be treated as separated areas.

The third phase of development thinking at the UN is called "Return to neoliberalism" (1981-1989). With the election of Ronald Reagan in the United States and Margaret Thatcher in the United Kingdom, the economic thought changed from Keynesianism to neoliberalism. In order to solve the debt crises faced by most of the countries from the Global South, the BWI required them to make structural adjustments as counterpart for their loans. These adjustments were based on an orthodox view of development, including the liberalization of trade and finance, economic deregulation, privatization and non-interference of States in the economic realm (PANDIARAJ, 2013, p. 85).

The return to neoliberalism weakened the political position of the Global South at the UN, which, by its turn, did not present an organized reaction against the neoliberal approach to development:

> The G77 fragmented as an effective political force. So the return of neoliberal economics was complete. After a long silence and toward the end of the period, some UN organizations began to criticize the impact of economic liberalization – the most notable being UNICEF's concern with the impact on children and ECA's [Economic Commission for Africa] with the devastating impact on Africa (WEISS et al., 2014, p. 270).

The few advancements made by the UN in this third phase can be noticed through the adoption of the "Declaration on the Right to Development" by the General Assembly, in 1986. The Declaration highlighted the UN efforts to retake the debate over development as it was proposed in the previous decades. It reinforced the concept of development as a human right and reaffirmed that development should be seen not only as an economic matter, but as a "comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population" (UNITED NATIONS GENERAL ASSEMBLY, 1986).

The UN response to the 1980s neoliberal reforms and to its failure in starring the development debate in that period only came in the fourth phase, called "Sustainable Development" (1989-present). This phase has two different periods: the 1990s, when there was a more emphatic attempt to promote a people-centered approach for development within the UN; and the 2000s, when the UN developed a new strategy based on global development goals.

The UNDP, influenced by the work of Amartya Sen[10], launched in 1990 its first Human Development Report. Based on the idea that "people are the real wealth of nations" (UNITED NATIONS DEVELOPMENT PROGRAMME, 1990, p. 9), the report inaugurated the concept of human development as a "process that enlarges people's choices" (UNITED NATIONS DEVELOPMENT PROGRAMME, 1990, p. 10). Human development would embody choices such as living a healthy life, acquiring knowledge and accessing the necessary means for a decent and worthy standard of living, among others (SEN, 1999, p. 3).

However, in order to guarantee that people would be free to make those choices, the assurance of basic human rights was necessary. Seeking to promote and consolidate this human-centered approach of development, the UN Secretary-General Boutros-Ghali submitted to the General Assembly the report "An agenda for development" in 1994. In his report, the Secretary-General attempted to explore and connect the many dimensions of development, such as peace, economy, the environment, justice and democracy (UNITED NATIONS GENERAL ASSEMBLY, 1994).

In 2000, the human-centered approach was strengthened by the recognition that a global endeavor was necessary in order to reduce poverty and promote development. Through its Resolution A/RES/55/2 of 8 September 2000, the General Assembly adopted the Millennium Declaration, which determined eight specific areas that should be tackled by global efforts, called Millennium Development Goals (MDGs). The Millennium Declaration inaugurated the new global goals approach to development, by establishing common goals to be achieved through pre-established targets until 2015 (UNITED NATIONS GENERAL ASSEMBLY, 2000).

Nevertheless, by setting specific and separated areas of action, the global goals approach reinforced the fragmentation of the dimensions of development. Therefore, the UN Member States had before them the challenge of truly connecting the promotion

10 Amartya Sen is an Indian Economist, who won the Nobel Prize in Economic Sciences in 1998.

of development and the achievement of human rights in the new global development agenda post-2015.

The 2030 Agenda for Sustainable Development and its connection with Human Rights

On 25 September 2015, the General Assembly adopted its resolution A/RES/70/1, entitled the *2030 Agenda for Sustainable Development: Transforming our world*. The 2030 Agenda has the objective of promoting sustainable development through 17 Sustainable Development Goals (SDGs) and 169 targets in 5 pivotal areas, known as the 5Ps: People, Planet, Prosperity, Peace and Partnership. The P for People stands for Member States efforts to address the human rights dimension of sustainable development: "We are determined to end poverty and hunger, in all their forms and dimensions, and to ensure that all human beings can fulfil their potential in dignity and equality and in a healthy environment" (UNITED NATIONS GENERAL ASSEMBLY, 2015, p. 2).

There are fifteen mentions to "human rights" along the 35 pages of Resolution A/RES/70/1. The first one is made in the preamble, where the objectives of the new agenda are presented. By affirming that the SDGs "seek to realize the human rights of all" (UNITED NATIONS GENERAL ASSEMBLY, 2015, p. 1), the document introduces human rights as a main goal to be achieved by the SDGs. Paragraph 4 recognizes the importance of the "dignity of the human person" and, in this sense, it states the people-centered approach of the Agenda:

> As we embark on this great collective journey, we pledge that no one will be left behind. Recognizing that the dignity of the human person is fundamental, we wish to see the Goals and targets met for all nations and peoples and for all segments of society. And we will endeavour to reach the furthest behind first (UNITED NATIONS GENERAL ASSEMBLY, 2015, p. 3).

On paragraph 19, the language is more incisive concerning States' responsibilities in the promotion of human rights, which are:

> (…) to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status (UNITED NATIONS GENERAL ASSEMBLY, 2015, p. 6).

Paragraph 35 refers to the UN three pillars: Peace and security, sustainable development and human rights. Concerning the human rights pillar and its connection with the others, the Agenda "recognizes the need to build peaceful, just and inclusive societies that provide equal access to justice and that are based on respect for human rights (including the right to development)" (UNITED NATIONS GENERAL ASSEMBLY, 2015, p. 9).

A people-centered approach is also part of the follow-up and review processes, as stated in paragraph 74: "they will be people-centered, gender-sensitive, respect human rights and have a particular focus on the poorest, most vulnerable and those furthest behind" (UNITED NATIONS GENERAL ASSEMBLY, 2015, p. 32).

All these mentions to human rights show that the 2030 Agenda attempts to present the various facets of development as integrated and interlinked factors, including the human rights dimension. Despite of this important effort, the Agenda unfortunately fails in making a strong and clear connection between development and human rights. For instance, it is stated in the preamble that the SDGs are a balance of the three dimensions of sustainable development (economic, social and environmental), which do not include human rights. The fact that human rights are not officially one of the pillars of sustainable development shows a profound gap in this matter.

Besides, the Agenda lacks a strong use of the human rights language. The mentions are rather vague, and human rights are presented as a desire or an aspiration of Member States, instead of a responsibility and an obligation. It can be seen in paragraph 8, which refers specifically to the promotion of human rights:

> We envisage a world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination; of respect for race, ethnicity and cultural diversity; and of equal opportunity permitting the full realization of human potential and contributing to shared prosperity (UNITED NATIONS GENERAL ASSEMBLY 2015, p. 4).

The same weak language is verified in relation to the human rights instruments mentioned in the 2030 Agenda. On paragraph 10, only the Universal Declaration of Human Rights is directly highlighted, while the legally binding conventions are generically mentioned as "international human rights treaties":

> The new Agenda is guided by the purposes and principles of the Charter of the United Nations, including full respect for international law. It is grounded in the Universal Declaration of Human Rights, international human rights

> treaties, the Millennium Declaration and the 2005 World Summit Outcome. It is informed by other instruments such as the Declaration on the Right to Development (UNITED NATIONS GENERAL ASSEMBLY, 2015, p. 4).

The biggest gap concerning human rights is related to the language of the 17 SDGs. There are specific mentions to human rights only for the SDGs related to gender equality and the empowerment of women and girls; and to safe drinking water and sanitation. For the other SDGs, this specific language is missing although it is clear that the promotion of human rights is a pre-requisite for their fulfillment. The right to life, the right to decent work, the right to education, the right to health, and the right to justice are some examples of human rights directly related to the SDGs. As it can be seen at Table 1, the achievement of the 17 goals comprise directly or indirectly various human rights.

Table 1 – Main Human Rights related to the Sustainable Development Goals

SUSTAINABLE DEVELOPMENT GOALS	RELATED HUMAN RIGHTS
1. End of poverty in all its forms everywhere	• Right to an adequate standard of living • Right to social security • Equal rights of women in economic life
2. End hunger, achieve food security and improved nutrition, and promote sustainable agriculture	• Right to adequate food • International cooperation
3. Ensure healthy lives and promote well-being for al at all ages	• Right to life • Right to health • Special protection for mothers and children • Right to enjoy the benefits of scientific progress and it applications • International cooperation
4. Ensure inclusive and equitable quality education and promote life-long learning opportunities for all	• Right to education • Equal rights of women and girls in the field of education • Right to work, including technical and vocational training • International cooperation
5. Achieve fender equality and empower all women and girls	• Elimination of all forms of discrimination against women • Right to decide the number of spacing of children • Special protection for mothers and children • Elimination of violence against women and girls • Right to just and favorable conditions of work

6. Ensure availability and sustainable management of water and sanitation for all	• Right to safe drinking water and sanitation • Right to health • Equal access to water and sanitation for rural women
7. Ensure access to affordable, reliable, sustainable and modern energy for all	• Right to an adequate standard of living • Right to enjoy the benefits of scientific progress and its application
8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all	• Right to work and to just and favorable conditions of work • Prohibition of slavery, forced labor, and trafficking of persons • Equal rights of women in relation to employment • Prohibition of child labor • Equal labor rights of migrant workers
9. Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation	• Right to enjoy the benefits of scientific progress and its application • Right to access to information • Right to adequate housing, including land and resources • Equal rights of women to financial credit and rural infrastructure
10. Reduce inequality within and among countries	• Right to equality and non-discrimination • Right to participate in public affairs • Right to social security • Promotion of conditions for international • Right of migrants to transfer their earnings and savings
11. Make cities and human settlements inclusive, safe, resilient and sustainable	• Right to adequate housing, including land and resources • Right to participate in cultural life • Accessibility of transportation, facilities and services particularly of persons with disabilities, children, and rural women • Protection from natural disasters
12. Ensure sustainable consumption and production patterns	• Right to health including the right to safe, clean, healthy and sustainable environment • Right to adequate food and the right to safe drinking water • Right of all peoples to freely dispose of their natural resources
13. Take urgent action to combat climate change and its impacts	• Right to health including the right to safe, clean, healthy and sustainable environment • Right to adequate food & right to safe drinking water • Right of all peoples to freely dispose of their natural wealth and resources

14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development	• Right to health including the right to safe, clean, healthy and sustainable • Right to adequate food & right to safe drinking water • Right of all peoples to freely dispose of their natural wealth and resources
15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss	• Right to health including the right to safe, clean, healthy and sustainable environment • Right to adequate food & right to safe drinking water • Right of all peoples to freely dispose of their natural wealth and resources
16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels	• Right to life, liberty and security of the person including freedom from torture • Protection of children from all forms of violence, abuse or exploitation, including trafficking • Right to access to justice and due process • Right to legal personality • Right to participate in public affairs • Right to access to information
17. Strengthen the means of implementation and revitalize the global partnership for sustainable development	• Right of all peoples to self-determination • Right of all peoples to development, & international cooperation • Right of everyone to enjoy the benefits of scientific progress and its application, including international cooperation in the scientific field • Right to privacy

Source: Adapted from OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, 2018 d.

Although the 2030 Agenda attempts to give a people-centered approach to development, it fails to present specific human rights-based instructions for its implementation. Therefore, the UN must concentrate its efforts in filling these gaps, taking actions to expand the influence of human rights in the Agenda and overcome the lack of direct connection between sustainable development and human rights.

The work of the Office of the High Commissioner for Human Rights (OHCHR) is trying to explicit the link between human rights and the SDGs, especially in the obtainment of data for follow-up and implementation of the Agenda. According to the Office, "the 'data revolution' for sustainable development must fully embrace not only human rights-sensitive indicators, but also a human rights-based approach to the collection, production,

analysis and dissemination of data" (OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, 2018 e).

The Human Rights Council is working on identifying situations of discrimination and inequality in which the lack of human rights is negatively affecting the implementation of the SDGs. It is specially working to improve the human rights situation of vulnerable groups, such as women, children, indigenous people, the elderly, refugees, internally displaced persons, migrants and the LGBTI community. For the Council, the best way of connecting sustainable development with human rights is ensuring that "no one is left behind" (UNITED NATIONS, 2016 b).

The Economic and Social Council has adopted a series of resolutions that approach the connection between the SDGs and human rights. One example is its Resolution E/RES/2016/9 of 29 June 2016, on "Strengthening of the Coordination of Emergency Humanitarian Assistance of the UN", in which the Council emphasized the need to ensure that people in humanitarian emergencies are not left behind. It also stressed the need "to reduce the specific needs of the most vulnerable, thereby contributing to achieving the goals of the 2030 Agenda for Sustainable Development" (UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL, 2016, p. 3).

The Security Council has also attempted to better connect the 2030 Agenda with the protection of human rights. In its Resolution S/RES/2282, of 26 April 2016, the Council defined the concept of Sustaining Peace as an enabler and an outcome of sustainable development. For that, the Council stressed the importance of the Peacebuilding Commission "to promote an integrated, strategic and coherent approach to peacebuilding, noting that security, development and human rights are closely interlinked and mutually reinforcing" (UNITED NATIONS SECURITY COUNCIL, 2016, p. 4).

In sum, even though the human rights language is not mentioned in the text of all 17 SDGs, the current efforts of many entities under the UN umbrella are seen as positive steps to make the necessary connection between sustainable development and human rights.

Conclusion

Following the principles of its Charter, the UN will only succeed in its purpose of maintaining international peace and promoting global development as long as it ensures the respect to human rights. As the former Secretary-General Kofi Annan (1999) stated,

"A United Nations that will not stand up for human rights is a United Nations that cannot stand up for itself".

As we have shown, the 2030 Agenda for Sustainable Development has not succeed in fully addressing the connection between human rights and development, as well as including human rights as one dimension of sustainable development. Instead, the 2030 Agenda is fragmented into 17 goals, confronting the idea of indivisibility, universality, inter-relation and interdependence of all human rights.

The year of 2018 offers a great opportunity to bridge development and human rights agenda, since the UN celebrates the 70th anniversary of the UDHR. The campaign "Stand up for Human Rights" is a way to promote, engage and reflect about the role of human rights nowadays. It shows that it is possible to fill in the human rights gaps in the process of implementing the 2030 Agenda: Whether they relate to social, cultural, economic or political issues, human rights cannot be enjoyed one without the other, as neither can the SDGs (OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, 2018 a).

In sum, in order to achieve the main purpose of the 2030 Agenda of leaving no one behind, the promotion of human rights should guide the implementation of its goals and targets. For that, the UN needs to address three main issues:

1. What can the UN entities do to effectively anchor the 2030 Agenda in human rights?
2. How can Member States assure the promotion of people-centered development in their national development strategies?
3. How can the international community promote human rights in the implementation of the SDGs?

References

ANNAN, K. *Address to the Commission on Human Rights*. Geneva, 7 April 1999. Press Release SG/SM/6949 and HR/CN/898. Available at: <https://www.un.org/press/en/1999/19990407.sgsm6949.html>. Accessed 26 July 2018.

ECONOMIC COMMISSION FOR LATIN AMERICA (ECLA). *The economic development of Latin America and its principal problems.* New York: United Nations Department of Economic Affairs, 1950.

EMMERIJ, L. *The basic needs development strategy.* Background paper, World Economic and Social Survey. New York: United Nations Department of Economic and Social

Affairs, 2010. Available at: <http://www.un.org/en/development/desa/policy/wess/wess_bg_papers/bp_wess2010_emmerij.pdf>. Accessed 18 May 2018.

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR). "About the campaign". In: *Official website of Stand up 4 Human Rights*, 2018 a. Available at: <http://www.standup4humanrights.org/en/about.html>. Accessed 11 June 2018.

_____. "Introduction – Monitoring civil and political rights". In: *Official website of the United Nations Human Rights Office of the High Commissioner*, 2018 b. Available at: <https://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIntro.aspx>. Accessed 12 July 2018.

_____. "Monitoring the economic, social and cultural rights". In: *Official website of the United Nations Human Rights Office of the High Commissioner*, 2018 c. Available at: <https://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIntro.aspx>. Accessed 12 July 2018.

_____. "Summary table on the linkages between the SDGs and relevant international human rights instruments". In: *Official website of the United Nations Human Rights Office of the High Commissioner*, 2018 d. Available at: <https://www.ohchr.org/Documents/Issues/MDGs/Post2015/SDG_HR_Table.pdf>. Accessed 26 July 2018.

_____. "Transforming our world: Human rights in the 2030 Agenda for sustainable development". In: *Official website of the United Nations Human Rights Office of the High Commissioner*, 2018 e. Available at: <http://www.ohchr.org/Documents/Issues/MDGs/Post2015/TransformingOurWorld.pdf>. Accessed 09 June 2018.

PANDIARAJ, S. "Strengthening the role of United Nations in global economic governance: some reflections in the wake of the recent global economic crisis". In: *AALCO Journal of International Law,* No. 71, 2013, pp. 71-116. Available at: <https://ssrn.com/abstract=2385442>. Accessed 16 May 2018.

SEN, A. *Development as freedom.* New York: Alfred A. Knopf, Inc, 1999.

TOYE, J; TOYE; R. The *UN and global political economy: trade, finance and development.* Bloomington: Indiana University Press, 2004.

TOYE, J. *UNCTAD at 50 – a short history.* Geneva: United Nations, United Nations Conference on Trade and Development, UNCTAD/OSG/2014/1, 2014.

UNITED NATIONS (UN). "About ECLAC". In: *Official website of the Economic Commission for Latin America and the Caribbean,* 2016 a. Available at: <https://www.cepal.org/en/about>. Accessed 29 April 2018.

_____. *Charter of the United Nations and the Statute of the International Court of Justice*. San Francisco: United Nations, 1945. Available at: <http://www.un.org/en/charter-united-nations/index.html>. Accessed 08 June 2018.

_____. "Inputs from the President of the Human Rights Council to the 2016 HLPF: The work of the Human Rights Council in relation to the 2030 Agenda

for Sustainable Development". In: *Sustainable Development Knowledge Platform*, 2016 b. Available at: <https://sustainabledevelopment.un.org/index.php?page=view&type=30022&nr=225&menu=3170>. Accessed 27 May 2018.

_____. *International Covenant on Civil and Political Rights.* New York: United Nations, 1966 a. Available at: <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>. Accessed 20 May 2018.

_____. *International Covenant on Economic, Social and Cultural Rights*. New York: United Nations, 1966 b. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>. Accessed 09 April 2018.

_____. "International Human Rights Law: A Short History". In: *UN Chronicle*, vol. XLVI, n. 1, January 2009. Available at: <https://unchronicle.un.org/article/international-human-rights-law-short-history>. Accessed 2 June 2018.

_____. *Report of the United Nations Conference on the Human Environment*. Stockholm, 5-16 June 1972, A/CONF.48/14/Rev.1. Available at: <https://undocs.org/A/CONF.48/14/Rev.1>. Accessed 30 March 2018.

_____. *Universal declaration of human rights*. Paris: United Nations, 1948. Available at: <http://www.un.org/en/universal-declaration-human-rights/>. Accessed 10 April 2018.

UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP). *Human development Report.* New York: Oxford University Press, 1990. Available at: <http://hdr.undp.org/sites/default/files/reports/219/hdr_1990_en_complete_nostats.pdf>. Accessed 08 June 2018.

_____. "On its 50th anniversary, UNDP is looking towards the future". In: *Official website of the United Nations Development Programme,* 2016. Available at: <http://50.undp.org/en/ >. Accessed 18 May 2018.

UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL (ECOSOC). *Resolution 2016/9 - Strengthening of the coordination of emergency humanitarian assistance of the United Nations.* Adopted by the Economic and Social Council at its 2016 session, on 29 June 2016, E/RES/2016/9. Available at: < http://undocs.org/E/RES/2016/9>. Accessed 08 June 2018.

UNITED NATIONS GENERAL ASSEMBLY (UNGA). *An agenda for development –Report of the Secretary-General.* Submitted to the General Assembly at its 48th session, on 6 May 1994, A/48/935. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/48/935>. Accessed 08 June 2018.

_____. *Resolution 3201 (S-VI) – Declaration on the Establishment of a New International Economic Order.* Adopted by the General Assembly at its 6th Special Session, on 1 May 1974, A/RES/S-6/3201. Available at: <https://digitallibrary.un.org/record/218450/files/A_RES_3201%28S-VI%29-EN.pdf>. Accessed 08 June 2018.

_____. *Resolution 41/128 - Declaration on the right to development*. Adopted by the General Assembly at its 97th plenary meeting, on 4 December 1986, A/RES/41/128. Available at: < http://www.un.org/documents/ga/res/41/a41r128.htm>. Accessed 08 June 2018.

_____. *Resolution 55/2 - United Nations Millennium Declaration*. Adopted by the General Assembly at its 8th plenary meeting, on 8 September 2000, A/RES/55/2. Available at: <http://www.un.org/millennium/declaration/ares552e.htm>. Accessed 08 June 2018.

_____. *Resolution 70/1 – Transforming our world: the 2030 Agenda for Sustainable Development.* Adopted by the General Assembly at its 70th session, on 25 September 2015, A/RES/70/1. Available at: <http://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf>. Accessed 08 June 2018.

UNITED NATIONS SECURITY COUNCIL (UNSC). *Resolution 2282 (2016).* Adopted by the Security Council at its 7680th meeting, on 27 April 2016, S/RES/2282(2016). Available at: <http://undocs.org/s/res/2282(2016)>. Accessed 26 July 2018.

WEISS, T. G. *et al*. *The United Nations and changing world politics.* Boulder: Westview Press, 2014.

WORLD CONFERENCE ON HUMAN RIGHTS. *Vienna Declaration and Programme of Action.* Vienna: World Conference on Human Rights, 1993. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx>. Accessed 08 June 2018.

SECTION 1

HIGH SCHOOL COMMITTEES AND COUNCILS

CHAPTER 1

ELIMINATION OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

United Nations General Assembly

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Introduction

The main purpose of this chapter is to present the current advances of the topic "Elimination of racism, racial discrimination, xenophobia and related intolerance", discussed by the United Nations (UN) Member States in the Third Committee of the United Nations General Assembly (UNGA).

Since the adoption of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), in 1965, the UNGA has supported the elimination of racial discrimination in all its forms. In this sense, the UN has been working not only with Member States, but also with civil society, in order to raise awareness on the fight against racial discrimination. One good example of this effort is the promotion of the decades to combat racism and racial discrimination: 1973-1983, 1983-1993, and 1993-2003.

The chapter will focus on the historical and current developments of the topic of "elimination of racism, racial discrimination, xenophobia and related intolerance" by presenting the notes transmitted by the Secretary-General (SG) to the Third Committee, which analyzes every year the reports of the Special Rapporteur on the contemporary forms of racism, racial discrimination, xenophobia and related intolerance. The reports have shown the relevance of the topic nowadays, and the importance of combating racial discrimination in all its forms, as the cases of violations of the CERD around the world are alarming.

In order to analyze the topic, the chapter is divided in four sections. The first section presents the functions of the UNGA and of its Third Committee. Section two analyzes the UN Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the

work of the Committee on the Elimination of Racial Discrimination. In section three, we present the discussion of the Third Committee concerning the topic of the elimination of racism, racial discrimination, xenophobia and related intolerance. Section four analyzes the current developments of the topic, focusing on the reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. We also present the work of the Third Committee on promoting annual thematic discussions, by focusing on the most recent discussion: "Thematic Discussion on Racial Discrimination in Today's World: Racial profiling, ethnic cleansing and current global issues and challenges". Lastly, we present some concluding points about the topic and propose some questions concerning the challenges on the elimination of racism, racial discrimination, xenophobia and related intolerance today.

The United Nations General Assembly and its Third Committee

The United Nations (UN) was created on 26 June 1945 with the adoption of the UN Charter. The United Nations General Assembly (UNGA) is one of the main organs of the organization, along with the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice and the Secretariat. The UNGA congregates all Member States of the UN (UNITED NATIONS, 2018 a; 2018 b).

The UNGA can make recommendations to Member States concerning the promotion of international cooperation in many different areas, such as, political, economic, social, cultural, educational and related to the protection of human rights. In addition, the UNGA has the role to act with the Security Council to ensure armistice, calling its attention, if necessary, to specific situations that may cause any danger to the world. The General Assembly is also responsible for the election of the non-permanent members of the Security Council, and the members of the Economic and Social Council and Trusteeship Council, as well as to the admission of new Member States (UNITED NATIONS, 2018 a).

Each Member State of the UNGA has the right to one vote, and the decisions must be taken by a two-third majority. It is important to highlight that throughout the years, the UNGA has made efforts to reach consensus in all its resolutions instead of using the formal voting procedure (two-thirds majority). In this sense, the President of the UNGA, "after having consulted and reached agreement with delegations, can propose that a resolution be adopted without a vote" (UNITED NATIONS, 2018 a; 2018 c).

The UNGA has six main committees: the First Committee, "Disarmament and International Security"; the Second Committee, "Economic and Financial", the Third Committee, "Social, Humanitarian and Cultural"; the Fourth Committee, "Special Political and Decolonization"; the Fifth Committee, "Administrative and Budgetary"; and the Sixth Committee, "Legal".

In this chapter, we will focus on the Third Committee, which deals with humanitarian and social issues, such as

> the advancement of women, the protection of children, indigenous issues, the treatment of refugees, the promotion of fundamental freedoms through the elimination of racism and racial discrimination, and the right to self- determination. The Committee also addresses important social development questions such as issues related to youth, family, ageing, persons with disabilities, crime prevention, criminal justice, and international drug control (UNITED NATIONS, 2018 d).

The Committee has been discussing the topic "elimination of racism, racial discrimination, xenophobia and related intolerance" since 2009, by analyzing the notes of the SG transmitting the reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. However, the Third Committee has discussed the elimination of racism and racial discrimination previously, focusing on the reports of the Committee on the Elimination of Racial Discrimination.

In the next section, we present the International Convention on the Elimination of All Forms of Racial Discrimination and the work of Committee on the Elimination of Racial Discrimination.

The UN efforts on combating racism and racial discrimination

In 1965, the UNGA adopted the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). The Convention was based on the principle of equality of the UN Charter, which highlights that one of the purposes of the organization is "to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion" (UNITED NATIONS GENERAL ASSEMBLY, 1965).

The Convention condemns colonialism and every form of segregation and discrimination based on the Declaration on the Granting of Independence to Colonial Countries and

Peoples of 14 December 1960. In addition to this Declaration, in 1963, the UN adopted the Declaration on the Elimination of All Forms of Racial Discrimination, which affirms the necessity of "speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person" (UNITED NATIONS GENERAL ASSEMBLY, 1965).

The CERD defines racial discrimination as:

> (…) any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life (UNITED NATIONS GENERAL ASSEMBLY, 1965).

In addition, the CERD affirms that States shall take measures to guarantee, in the social, economic and culture fields, the protection and development of certain social groups, ensuring the full enjoyment of human rights. It condemns racial segregation and the apartheid, and any propaganda or organizations that are based on theories of superiority of one race or group over another. The CERD also guarantees that States shall assure the protection against racial discrimination in their national laws and tribunals (UNITED NATIONS GENERAL ASSEMBLY, 1965).

In relation to the term "racism", it has a different meaning from "racial discrimination. One can define racism as an ideological construct that can lead to a policy or a practice of racial discrimination. In this sense, racism is

> (…) an ideological construct that assigns a certain race and/ or ethnic group to a position of power over others on the basis of physical and cultural attributes, as well as economic wealth, involving hierarchical relations where the 'superior' race exercises domination and control over others (INTERNATIONAL LABOUR OFFICE; INTERNATIONAL ORGANIZATION FOR MIGRATION; OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, 2010, p. 2).

Although the CERD defines racial discrimination based on the racist practices that were institutionalized by many States in the 1960's, the term "xenophobia" appeared years later in the discussions of the Committee on the Elimination of Racial Discrimination. Xenophobia means "attitudes, prejudices and behavior that reject, exclude and often vilify persons,

based on the perception that they are outsiders or foreigners to the community, society or national identity" (INTERNATIONAL LABOUR OFFICE; INTERNATIONAL ORGANIZATION FOR MIGRATION; OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, 2010, p. 2).

One important achievement of the CERD was the creation of a Committee on the Elimination of Racial Discrimination. The Committee is composed of eighteen impartial experts elected by States Parties, considering geographic distribution and cultural diversity. The Committee writes annual reports to the Secretary-General concerning its activity, and makes suggestions and recommendations based on the reports that the UN Member States send about the measures taken each year to implement the norms of the CERD (UNITED NATIONS GENERAL ASSEMBLY, 1965).

The Committee can receive a complaint from a State Party related to another State Party concerning non-compliance with the norms of the CERD. In that case, the Committee communicates the State Party in question, which shall submit an explanation concerning the measures taken. The Committee can also recognize petitions made by individuals or groups concerning violations of the CERD by a State Party that have accepted the competence of the Committee in this specific matter (UNITED NATIONS GENERAL ASSEMBLY, 1965).

The UNGA, along with the Committee on the Elimination of Racial Discrimination, make efforts to raise awareness concerning the CERD and the importance of combating racism and racial discrimination in all its forms. Since 1973, the UN implemented the decades to combat racism and racial discrimination. On 15 November 1972, the UNGA adopted resolution 2919 (XXVII) that established the Decade to Combat Racism and Racial Discrimination (1973-1983). The resolution was based on the draft program made by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (UNITED NATIONS GENERAL ASSEMBLY, 1972).

On 2 November 1973, the UNGA adopted resolution 3057 (XXVIII) to establish de First Decade for Action to Combat Racism and Racial Discrimination. The Decade was launched on 10 December 1973 to celebrate the 25th anniversary of the UN Declaration of Human Rights. The UNGA adopted the Program for the First Decade for Action to Combat Racism and Racial Discrimination, and condemned apartheid and other policies or practices based on racial discrimination, and stated that they were violations of the UN Charter and the Universal Declaration of Human Rights. The Program called upon States

to end their economic and military collaboration with racist regimes, and welcomed the ratification by States of the CERD (UNITED NATIONS GENERAL ASSEMBLY, 1973).

The Program for the First Decade established goals and objectives to be achieved by UN Member States:

> (…) to promote human rights and fundamental freedom for all, without distinction of any kind on grounds of race, colour, descent of national or ethnic origin, especially by eradicating racial prejudice, racism and racial discrimination; to arrest any expansion of racist policies, to eliminate the persistence of racist policies and to counteract the emergence of alliances based on mutual espousal of racism and racial discrimination; to resist any policy and practices which lead to the strengthening of the racist régimes and contribute to the sustainment of racism and racial discrimination; to identify, isolate and dispel the fallacious and mythical beliefs, policies and practices that contribute to racism and racial discrimination; and to put an end to racist régimes (UNITED NATIONS GENERAL ASSEMBLY, 1973).

In addition, the Program highlighted that, in order to achieve those objectives, UN Member States should implement decisions concerning the elimination of racism and racial discrimination. The education of youth on human rights and fundamental freedoms, prescribed in the UN Charter and in the Universal Declaration of Human Rights, was an important tool to raise awareness of civil society to the fight against racism and racial discrimination. The Program also emphasized the importance of women in the formulation and implementation of the objectives (UNITED NATIONS GENERAL ASSEMBLY, 1973).

Because of the adoption of the First Decade for Action to Combat Racism and Racial Discrimination, the UN launched the First World Conference to Combat Racism and Racial Discrimination, which took place in Geneva in 1978. Besides UN Member States, other representatives from liberal movements, intergovernmental organizations, UN specialized agencies, UN human rights bodies and non-governmental organizations where invited to participate in the Conference (UNITED NATIONS GENERAL ASSEMBLY, 1977).

On 22 November 1983, the UNGA launched the Second Decade to Combat Racism and Racial Discrimination, and affirmed the importance of the Second World Conference to Combat Racism and Racial Discrimination, held in Geneva in the same year. The UNGA noticed that, despite all the efforts made by the international community, many people

remained victims of different forms of racial discrimination, such as the apartheid in South Africa. The UNGA also established the Program of Action for the Second Decade to Combat Racism and Racial Discrimination (UNITED NATIONS GENERAL ASSEMBLY, 1983).

The Program of Action emphasized the recommendations of the Second Conference to Combat Racism and Racial Discrimination that affirmed that the apartheid in South Africa was a crime against humanity, and the policies and practices of the government of South Africa constituted grave violations of human rights, as well as a threat to peace and security. In this sense, the Conference highlighted that States, UN organs and non-governmental organizations should implement the Security Council resolutions relating to apartheid. In addition, the Conference called upon the UN and other international organizations to give assistance to the victims of apartheid in South Africa and Namibia (UNITED NATIONS GENERAL ASSEMBLY, 1983).

The Second Conference called upon States to implement the economic and military embargo against South Africa, as stated in the Security Council resolution 418 (1977), and requested that the Council acted under Chapter VII to impose mandatory sanctions against South Africa, in order to prevent the country from developing nuclear weapons, the cessation of financial assistance, exporting of petroleum and other commodities. The Conference also requested that States immediately cease all political and economic relations with the government of South Africa, and asked the International Monetary Fund and the World Bank to stop sending credits to South Africa (UNITED NATIONS GENERAL ASSEMBLY, 1983).

The Conference focused on important measures to combat racism and racial discrimination, such as: (a) education, teaching and training; (b) dissemination of information and the role of the mass media in combating racism and racial discrimination; (c) measures for the promotion and protection of human rights of persons belonging to minority groups, indigenous populations and peoples and migrant workers who are subjected to racial discrimination; (d) recourse procedures for victims of racial discrimination; (e) national legislation to prohibit racism and racial discrimination; and (f) organization of regional and international seminars to discuss the racism, racial discrimination, apartheid (UNITED NATIONS GENERAL ASSEMBLY, 1983).

In 1993, the UNGA adopted resolution 48/91 and welcomed the proposal to launch the Third Decade to Combat Racism and Racial Discrimination, and recognized the importance of the democratic transition in South Africa – the end of the apartheid. The

UNGA was concerned about the phenomenon of migrant workers and the necessity of providing the protection of their human rights, stated in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The UNGA affirms that migrant workers and indigenous people were victims of racism and racial discrimination (UNITED NATIONS GENERAL ASSEMBLY, 1994).

In 1994, the UNGA proclaimed the Third Decade to Combat Racism and Racial Discrimination and the adoption of the Program of Action. The UNGA urged States to take all necessary measures to fight new forms of racism through legislative, administrative and educational methods. It also invited governments and non-governmental organizations to contribute to the Trust Fund for the Program of Action for the Decade to Combat Racism and Racial Discrimination (UNITED NATIONS GENERAL ASSEMBLY, 1994).

The Program of Action for the Third Decade to Combat Racism and Racial Discrimination focused on important measures to be implemented by States equally, and reinforced the objectives of the previous decades. The first measure was "to ensure a peaceful transition from apartheid to a democratic, non-racial regime in South Africa"; the second was "to remedy the legacy of cultural, economic and social disparities left by apartheid". The Program focused on measures to be implemented at the international level, such as the organization, by the SG, of seminars about the CERD and the importance of its norms, and to combat racial discrimination against migrant workers, indigenous people, ethnic groups and refugees. The Program of Action emphasized the importance of actions implemented on national levels, by Member States, to combat all forms of racism and racial discrimination (UNITED NATIONS GENERAL ASSEMBLY, 1994).

In 2001, UN Member States gathered in Durban, South Africa, to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. At the end of the Conference, they adopted the Durban Declaration and Program of Action, which recalled the UN Charter, the Universal Declaration of Human Rights and the CERD, and recognized the universality, indivisibility, interdependence and inter-relation of all human rights. In the Declaration, States were concerned with the practices of racial discrimination and culture superiority in societies, as well as recognized the failure of some politicians and authorities to combat those practices (UNITED NATIONS, 2001).

States noted with concern the fact that racial discrimination, racism, xenophobia and related intolerance could be aggravated by "inequitable distribution of wealth, marginalization and social exclusion". In addition, they recognized the special situation of

developing countries in mitigating the negative effects of globalization, such as poverty, marginalization, economic and social disparities (UNITED NATIONS 2001).

One of the most important paragraphs of the Durban Declaration mentioned the slave trade and slavery as crimes against humanity, and considered those practices as

> (…) major sources and manifestations of racism, racial discrimination, xenophobia and related intolerance, and that Africans and people of African descent, Asians and people of Asian descent and indigenous peoples were victims of these acts and continue to be victims of their consequences (UNITED NATIONS, 2001).

In this sense, the Durban Declaration not only criminalized slavery and slave trade, but also recognized colonialism as a source of racism, racial discrimination, xenophobia and related intolerance, which continued to victimize African and Asian descendants. The condemnation of those historical practices by the Durban Declaration brought a novelty, since other UN documents related to the fight against racism and racial discrimination did not mention past practices of the West countries – especially European States – as crimes against humanity. The Declaration referred to colonialism as a cause to the persistence of racism and racial discrimination nowadays:

> We acknowledge the suffering caused by colonialism and affirm that, wherever and whenever it occurred, it must be condemned and its reoccurrence prevented. We further regret that the effects and persistence of these structures and practices have been among the factors contributing to lasting social and economic inequalities in many parts of the world today (UNITED NATIONS, 2001).

As seen above, the paragraph also affirmed that social and economic inequalities in many countries were a result of those practices, emphasizing that they were associated with racism and racial discrimination (UNITED NATIONS, 2001).

Although the criminalization of slavery and slave trade appeared in the Durban Declaration, States acknowledged "the fact that the history of humanity is replete with major atrocities as a result of gross violations of human rights", which could be remembered as a lesson to prevent future atrocities (UNITED NATIONS, 2001). By doing that, they also focused on remembrances as acts that could prevent future violations, instead of criminalizing those violations or prosecute them. Clearly, the language in

the Declaration varied from criminalization to acknowledgment, which represent the differences among States when dealing with the topic.

The representative of Kenya, on behalf of the African group, affirmed that slavery and slave trade were considered crimes against humanity not only in the past but also "for all time". He stated that it was significant that "an apology and appropriate remedial, as per paragraph 119, are expected and in order" (UNITED NATIONS, 2001). The statement of Kenya made it clear that the African countries expected an apology and remedies from Western countries, which were, in their view, responsible for the crimes of slavery and slave trade.

Belgium, on behalf of the European Union, stated satisfaction that the Durban Declaration was adopted by consensus. However, the representative of Belgium emphasized that the "Declaration and the Programme of Action are political, not legal documents. These documents cannot impose obligations, or liability, or a right to compensation, on anyone" (UNITED NATIONS, 2001). In this sense, the European countries clarified that they did not agree with the paragraph in which slave and slavery were considered crimes against humanity, and would not apologize or give compensations to African and Asian countries.

The European States affirmed that "nothing in the Declaration or the Programme of Action can affect the general legal principle which precludes the retrospective application of international law in matters of State responsibility". By stating that, they emphasized that, according to international law principles, a State could not be responsible for past actions before they were considered an international crime. That statement was contrary to the statement of the African Group, which affirmed that the Nuremberg Principles considered that crimes against humanity "are not time bound". However, the European States acknowledged and deplored the "suffering caused by past and contemporary forms of slavery and the slave trade wherever they occurred and the most reprehensible aspects of colonialism" (UNITED NATIONS, 2001).

In the Declaration, States also mentioned anti-Semitism and Islamophobia as emerging practices of racism, racial discrimination and xenophobia. A controversial point mentioned was the situation of the Palestinian people, especially in the occupied territories. States recognized the right of the Palestinians to self-determination and to an independent State. However, the Declaration also recognized the right to security of Israel and called upon all States to support the peace process between Palestinians and Israelis (UNITED NATIONS, 2001).

It is important to highlight in the Declaration the connection made between racism, racial discrimination, xenophobia and related intolerance with the deteriorating conditions of live of women and girls. In this sense, States recognized "the need to integrate a gender perspective into relevant policies, strategies and programmes of action" that aimed at combating racism and racial discrimination (UNITED NATIONS, 2001).

The Program of Action focused on actions of States and cooperation among States and international and regional institutions. The measures to prevent racism, racial discrimination, xenophobia and related intolerance were aimed at victims, such as Asian and African descendants, migrant workers, refugees and indigenous people. The Program of Action also listed a great number of UN international human rights instruments that States should ratify in order to prevent human rights violations, especially racism, racial discrimination, xenophobia and related intolerance (UNITED NATIONS, 2001).

On 24 December 2010, the UNGA adopted resolution 65/240 on "Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation and follow-up to the Durban Declaration and Program of Action". In the resolution, States did not mention the controversial themes of the Durban Conference and, instead, they focused on the general principles of the Declaration and the measures to implement the Program of Action (UNITED NATIONS GENERAL ASSEMBLY, 2011).

After the adoption of the Durban Declaration and Program of Action, the UNGA Third Committee started to discuss the follow-up of the Declaration as a topic of its agenda, and, in 2009, the Committee added the "elimination of racism, racial discrimination, xenophobia and related intolerance" as a new agenda topic. In the next section, we present the main themes discussed by Member States concerning this topic by analyzing the notes of the SG transmitting the reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

The elimination of racism, racial discrimination, xenophobia and related intolerance as a topic of the Third Committee's agenda

The topic "elimination of racism, racial discrimination, xenophobia and related intolerance" is part of the agenda of the UNGA Third Committee since 2009. Member States based their discussions on the reports of the Committee on the Elimination of Racial Discrimination, and on the reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, which are

transmitted by the SG. In this section, we will present the main themes addressed on the reports of the Special Rapporteur, as well the current discussions about the topic.

The report of 2009 mentioned resolution A/63/162 of the UNGA, in which Member States showed their concern with the spread of extremist political parties and groups – neo-Nazis and skinheads. Those groups were responsible, in many countries, for racist and xenophobic acts of violence against ethnic groups and other minorities. The Special Rapporteur made recommendations to States Parties and asked them to comply with the obligations of the CERD, especially article 4, which states that States shall punish acts of racism and racial discrimination, and the dissemination of ideas based on racial superiority, as well as prohibit public authorities to incite or promote racial discrimination (UNITED NATIONS GENERAL ASSEMBLY, 2009).

The report also recommended that Member States implement the Durban Program of Action, especially paragraph 86, which states that countries should prevent the emergence of nationalist and fascist ideologies that promote racial discrimination and xenophobia. The report focused on legislative measures and education as tools to combat racism, racial discrimination, xenophobia and related intolerance. Concerning education, the Rapporteur recommended history classes in order to teach youth about Nazism and Fascism, as well as other innovative approaches to facilitate access to information (UNITED NATIONS GENERAL ASSEMBLY, 2009).

In the report of 2010, the Special Rapporteur recommended that Member States should consider withdrawing their reservations to article 14 of the CERD, which relates to the competence of the Committee on the Elimination of Racial Discrimination to receive communications from individuals. In addition, the Rapporteur emphasized the need to guarantee access to justice to all victims of racial discrimination, and affirmed that judiciary agents should receive mandatory human rights training in order to improve their capacity to prosecute perpetrators of racism, racial discrimination, xenophobia and related intolerance (UNITED NATIONS GENERAL ASSEMBLY, 2010).

In 2012, the report of the Special Rapporteur considered that, although some States affirmed the non-existence of acts of violence of neo-Nazis or Fascist groups or incitement of racial discrimination and xenophobia in their territories, States are not immune to these new phenomena and should increase vigilance and other measures to prevent them from happening (UNITED NATIONS GENERAL ASSEMBLY, 2012).

The Special Rapporteur, in 2013, was concerned about the proliferation of political parties and groups that incited racism, racial discrimination and xenophobia:

> The Special Rapporteur remains deeply concerned about the confirmation of tendencies to scapegoat vulnerable groups, including migrants, asylum seekers and ethnic minorities, especially Roma. Scapegoating remains a powerful tool for politicians whose only goal is to mobilize the masses to the detriment of social cohesion and human rights. The continued blunt, uncensored and unpunished expressions of supremacist, anti-Semitic and hateful opinions by political leaders may be an indicator that societies are growing dangerously and increasingly tolerant of hate speech and extremist ideas. The Special Rapporteur wishes, once more, to stress that political leaders and parties have the responsibility to strongly and clearly condemn all messages that disseminate ideas based on racial superiority or hatred, incitement to racial discrimination or xenophobia. Political leaders have the moral duty to promote tolerance and respect and they should refrain from forming coalitions with extremist political parties of a racist or xenophobic character (UNITED NATIONS GENERAL ASSEMBLY, 2013, p. 23).

The emergence of political parties and groups that promote racial discrimination against minorities or vulnerable groups was present once more in the report of 2014. The report addressed resolution 68/150 "on combating glorification of Nazism or other practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance" (UNITED NATIONS GENERAL ASSEMBLY, 2014, p. 3).

The Special Rapporteur condemned the "denial or attempt to deny the Holocaust and all manifestations of religious intolerance, incitement, harassment or violence against persons or communities on the basis of ethnic origin or religious belief". He addressed the importance of the preservation of the Holocaust sites, such as concentration camps and forced labor camps in order to preserve the memories of the victims and to raise awareness through educational, legislative and other measures (UNITED NATIONS GENERAL ASSEMBLY, 2014, p. 14).

In 2015, the Special Rapporteur called the attention to the use of internet and social media by political parties, movements and groups to incite racism and racial discrimination. In this sense, it requested that States take measures to counter the dissemination of ideas of racial superiority and to promote values of non-discrimination, democracy and

diversity. The report of 2016 stated the importance of sports – especially the Olympic games – to raise awareness about cultural diversity, tolerance and non-discrimination, and recommended "States and other relevant stakeholders, such as sports federations, to take advantage of sports events to promote the values of tolerance and respect", in pursuant of paragraph 218 of the Durban Program of Action (UNITED NATIONS GENERAL ASSEMBLY, 2015, p. 19).

Recent discussions concerning the elimination of racism, racial discrimination, xenophobia and related intolerance

The latest reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2016 and 2017), transmitted by the SG to the UNGA, addressed the same themes of previous reports. The main themes addressed on the reports of 2016 and 2017 are the necessity of improving national legislation regarding the criminalization of racism and racial discrimination; the ratification by State of international human rights instruments, especially the CERD; improving education and capacity-building of young people to prevent the influence of extremist and xenophobic political parties; the action to prevent dissemination of racism and racial discrimination by political parties, movements and groups through internet and social media; the role of sports to raise awareness about tolerance, diversity and non-discrimination; the problem of Holocaust denial, anti-Semitism and distortion of history; and the importance of cooperation among States and civil society institutions to combat racism, racial discrimination, xenophobia and related intolerance.

In their statements from 2016 and 2017 at the UNGA Third Committee, Member States emphasized the importance of the topics mentioned in the reports of the Special Rapporteur and raised some other specific points. The G-77 and China stated that the persistence of racism and racial discrimination were related to past practices, such as colonialism, the Holocaust and slavery, which led to social and economic inequalities in many African countries (PLASAI, 2016).

The representative of El Salvador, on behalf of CELAC (Community of Latin American and Caribbean States) recognized the importance of the right to development, stating that racism, racial discrimination, xenophobia and related intolerance could have negative effects on the full enjoyment of this particular right, as well as of other civil, political,

economic, social and cultural rights (COMUNIDAD DE ESTADOS LATINOAMERICANOS Y CARIBEÑOS, 2017).

The European Union explained its abstention from the resolution adopted by the Third Committee in 2017 by stating that the document did not express a common view on the "true significance of the fight against racism", and affirmed that the contemporary forms of racism and racial discrimination should be addressed in "an impartial, balanced and comprehensive way". The statement criticized that some countries continued to include in the resolutions some elements in a "selective and twisted way", mentioned the fight against Nazism as an example of "one-sided interpretation of history" (EUROPEAN UNION, 2017).

Along with the discussions made by States on the UNGA Third Committee, the Committee on the Elimination of Racial Discrimination promotes thematic discussions on contemporary issues. The participation of non-governmental organizations and representatives of civil society on those discussions is extremely important to bring current issues to the center of the debates. The meetings held by the Committee congregates States Parties and non-governmental organizations to debate contemporary forms of racism, racial discrimination, xenophobia and related intolerance, such as ethnic cleansing, discrimination against African descendants, hate speeches, among others. In 2017, the Committee promoted a thematic discussion concerning racial profiling, ethnic cleansing and current global issues and challenges (OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS, 2018 a).

Although considerable progress in combating racial discrimination has been achieved since the entrance into force of the CERD, in 1969, racism and racial discrimination persist in today's world and appear in many situations. In this sense, the aim of the 2017 thematic discussion was to address racial discrimination based on hate speeches, hate crimes, violence suffered by minorities, such as indigenous people and migrants (OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS, 2018 b).

The 2017 thematic discussion on racial profiling, ethnic cleansing and current global issues and challenges had the main objectives of

> (1) deepen the understanding of key current issues which challenge the elimination of racial discrimination globally; (2) provide an opportunity for participants to share their experiences and reflect on issues and challenges they face in addressing racial discrimination; (3) provide an ongoing

> opportunity for feedback to the Committee from States parties and other stakeholders; and (4) inform the Committee's work and development of recommendations on these issues, in particular racial profiling and ethnic cleansing (OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS, 2018 b).

The debates in 2017 were held by the Committee on the Elimination of Racial Discrimination had the participation of States Parties, UN human rights bodies, non-governmental organizations, academics and other stakeholders. The participants addressed different issues concerning racial discrimination nowadays and called the attention of States to made more efforts to combat racism. Ethnic cleansing was one of the greatest concerns, as well as hate speeches, disseminated by social media. The position of some high-profile politicians or political leaders denying slavery and the refusal of UN Member States to launch the International Decade for People of African Descent were addressed by participants in the debate (UNITED NATIONS INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION, 2017).

The 2017 debates also highlighted the importance of the implementation of the 2030 Agenda to combat racism and to fulfill the pledge of leaving no one behind. Special attention was dedicated to the situation of the Rohingya in Myanmar, who continued suffering on ethnic and religious discrimination; other religious minorities, such as Muslims in Sri Lanka; and discrimination against indigenous people. Concerning racial profiling, some countries have targeted African descendants, subjecting them to security and control policies, which violate their human rights. Another issue addressed was poor economic and social conditions in some countries, which favored racism and racial discrimination. Indigenous people continued to suffer discrimination in many countries and, in some of them, they are not recognized by law, which can generate institutionalized policies of discrimination. In some countries, indigenous people are victims of attacks and murder (UNITED NATIONS INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION, 2017).

The Committee on the Elimination of Racial Discrimination continues discussing racial profiling, ethnic cleansing and current global issues in the present year. The work of the Committee is of utmost importance to prevent racism, racial discrimination, xenophobia and related intolerance, receiving reports from States Parties, as well as individual communications denouncing States of violating the CERD. Member States play an

important role, because they have the legislative and political tools to combat extremist, racist and xenophobic practices in their territories. Nevertheless, civil society is the actor that can put pressure on States to combat racism and racial discrimination, raising awareness and demanding a more active participation in decision-making processes, internally and internationally.

Conclusion

In this chapter, we presented the advancements of the topic "elimination of racism, racial discrimination, xenophobia and related intolerance", discussed by the UNGA Third Committee since 2009. The main purpose of the chapter was to analyze the historic and current developments under the UN umbrella concerning the fight against racism and racial discrimination. We also presented the CERD, adopted in 1965, the work of the Committee on Elimination of Racial Discrimination, as well as the UN conferences and decades to combat racism and racial discrimination.

All those achievements contribute, not only to raise awareness to the importance of combating racism, racial discrimination, xenophobia and related intolerance, but also to the discussion about contemporary forms of racism and racial discrimination, which has been a problem in many countries, through actions of extremist and neo-Nazis political parties, movements or groups. The incitement of racism and racial discrimination, the hate speeches against refugees, migrants, ethnic groups and minorities, proved that the UN alone cannot achieve properly the objective of combating contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

The organization depends on the compliance of Member States with international human rights treaties, such as the CERD, in order to implement politics to eliminate racism, racial discrimination, xenophobia and related intolerance. In addition, the active participation of civil society in decision-making processes, nationally and internationally, is crucial to fight racism, achieving the main purpose of the 2030 Agenda for Sustainable Development, which is to leave no one behind.

In order to conclude the chapter, we would like to address the following questions:

1. Which measures of the Durban Declaration and Program of Action can be implemented to deal with the emergence of contemporary forms of racism, racial discrimination, xenophobia and related intolerance, such as neo-Nazis parties, movements and groups?

2. Does the Durban Program of Action, agreed by States in 2001, contemplate effective measures to deal with the emergence of governmental politics and practices of banishment of refugees and migrants?
3. How can the UN promote the respect of human rights through the 2030 Agenda for Sustainable Development, especially the elimination of racism, racial discrimination, xenophobia and related intolerance?

References

INTERNATIONAL LABOUR OFFICE (ILO); INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM); OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR). *International Migration, Racism, Discrimination and Xenophobia*. Geneva: United Nations. 2001. Available at: <http://publications.iom.int/system/files/pdf/international_migration_racism.pdf>. Accessed 1 June 2018.

COMUNIDAD DE ESTADOS LATINOAMERICANOS Y CARIBEÑOS (CELAC). *Statement by the Permanent Mission of El Salvador to the United Nations on behalf of the Community of Latin American and Caribbean States (CELAC)*. Item 70 (a, b): Elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance, General Discussion, 72nd Session of the General Assembly, New York, 31 October 2017. Available at: <https://papersmart.unmeetings.org/media2/16154782/el-salvador-ceclac-70ab-eng.pdf>. Accessed 7 July 2018.

EUROPEAN UNION. *EU Explanation of vote. Draft resolution L.56/Rev.1: "Combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance"*. 16 November 2017. Available at: <https://papersmart.unmeetings.org/media2/16155325/eu-explanation-of-vote-l56-r1.pdf>. Accessed 8 July 2018.

OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS (OHCHR). "Thematic Discussions". In: *Official website of the United Nations Human Rights Office of the High Commissioner*, 2018 a. Available at: <http://www.ohchr.org/EN/HRBodies/CERD/Pages/Discussions.aspx>. Accessed 2 June 2018.

_____. "Thematic Discussion on Racial Discrimination in Today's World: Racial profiling, ethnic cleansing and current global issues and challenges". In: *Official website of the United Nations Human Rights Office of the High Commissioner*, 2018 b. Available at: <http://www.ohchr.org/EN/HRBodies/CERD/Pages/RacialProfilingEthnicCleansing.aspx>. Accessed 2 June 2018.

PLASAI, V. *Statement on behalf of the Group of 77 and China delivered by H. E. Mr. Virachai Plasai, Ambassador and Permanent Representative of the Kingdom of Thailand to the United Nations, on the Agenda item 66: Elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance, at the Third Committee of the*

Seventy-First Session of the United Nations General Assembly (New York, 1 November 2016). Available at: <https://papersmart.unmeetings.org/media2/7663536/thailand.pdf>. Accessed 8 July 2018.

UNITED NATIONS. "Chapter IV". In: *Official website of the United Nations*, 2018 a. Available at: <http://www.un.org/en/sections/un-charter/chapter-iv/index.html>. Accessed 7 April 2018.

_____. "Introductory Note". In: *Official website of the United* Nations, 2018 b. Available at: <http://www.un.org/en/sections/un-charter/introductory-note/index.html>. Accessed 7 April 2018.

_____. "First World Conference to Combat Racism and Racial Discrimination". In*: Official website of the General Assembly of the United Nations,* 1978. Available at: <http://www.un.org/documents/ga/res/33/ares33r99.pdf &gt>. Accessed 07 jun 2018.

_____. "Functions and powers of the General Assembly". In: *Official website of the United Nations*, 2018 c. Available at: <http://www.un.org/en/ga/about/background.shtml>. Accessed 5 May 2018.

_____. *Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance*. Durban, 31 August – 8 September 2001, A/CONF.189/12. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N02/215/43/pdf/N0221543.pdf?OpenElement>. Accessed 7 July 2018.

_____. "Second World Conference to Combat Racism and Racial Discrimination. In: *Official website of the General Assembly of the United Nations,* 1983. Available at: <http://www.un.org/documents/ga/res/38/a38r015.htm&gt>. Accessed 7 June 2018.

_____. "Third Committee" In: *Official website of the General Assembly of the United Nations*, 2018 d. Available at: <http://www.un.org/en/ga/third/index.shtml>. Accessed 10 April 2018.

UNITED NATION GENERAL ASSEMBLY (UNGA). *Contemporary forms of racism, racial discrimination, xenophobia and related intolerance*. Note by the Secretary-General, 17 August 2009, A/64/295. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N09/460/16/PDF/N0946016.pdf?OpenElement>. Accessed 04 June 2018.

_____. *Contemporary forms of racism, racial discrimination, xenophobia and related intolerance*. Note by the Secretary-General, 24 August 2010, A/65/323. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N10/493/25/PDF/N1049325.pdf?OpenElement>. Accessed 4 May 2018.

_____. *Contemporary forms of racism, racial discrimination, xenophobia and related intolerance*. Note by the Secretary-General, 22 August 2012, A/68/329. Available at: <http://www.ohchr.org/Documents/Issues/Racism/A-68-329_en.pdf>. Accessed 18 May 2018.

_____. *Contemporary forms of racism, racial discrimination, xenophobia and related intolerance*. Note by the Secretary-General, 16 August 2013, A/67/328. Available

at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N12/470/32/PDF/N1247032.pdf?OpenElement>. Accessed 7 July 2018.

_____. *Contemporary forms of racism, racial discrimination, xenophobia and related intolerance*. Note by the Secretary-General, 21 August 2014, A/69/334. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/512/66/PDF/N1451266.pdf?OpenElement>. Accessed 4 June 2018.

_____. *Contemporary forms of racism, racial discrimination, xenophobia and related intolerance*. Note by the Secretary-General, 14 August 2015, A/70/321. Available at: <http://undocs.org/A/70/321>. Accessed 4 May 2018.

_____. *Decade for Action to Combat Racism and Racial Discrimination*. Resolution 2919 (XXVII), 15 November 1972. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/2919%20(XXVII)>. Accessed 1 June 2018.

_____. *Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action*. A/RES/65/240, 5 April 2011. Available at: <http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/65/240>. Accessed 7 July 2018.

_____. *Resolution 2106 (XX) - International Convention on the Elimination of All Forms of Racial Discrimination.* Adopted by the General Assembly at its 20th meeting on 21 December 1965, A/RES/20/2106. Available at: <http://www.un-documents.net/a20r2106.htm>. Accessed 09 April 2018.

_____. *Resolution 3057 (XXVIII) - Decade for Action to Combat Racism and Racial Discrimination*. Adopted by the General Assembly at its 2163rd plenary meeting on 2 November 1973. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/3057(XXVIII)&Lang=E&Area=RESOLUTION>. Accessed 1 July 2018.

_____. *Resolution 38/14 - Second Decade to Combat Racism and Racial Discrimination*. Adopted by the General Assembly at its 66th plenary meeting on 22 November 1986, A/RES/38/14. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/38/14>. Accessed 1 July 2018.

_____. *Resolution 48/91 - Third Decade to Combat Racism and Racial Discrimination*. Adopted by the General Assembly at its forty-eight session on 16 February 1994, A/RES/48/91. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/48/91>. Accessed 1 June 2018.

_____. *Resolution 52/111 - Third Decade to Combat Racism and Racial Discrimination and the convening of a world conference against racism, racial discrimination, xenophobia and related intolerance*. Adopted by the General Assembly at its fifty-second session on 18 February 1998, A/RES/52/111. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/52/111>. Accessed 30 June 2018.

_____. *Resolution - 32/129 - World Conference to Combat Racism and Racial Discrimination*. Adopted by the General Assembly at its 105th plenary meeting on 16 December 1977, A/RES/32/129. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/32/129>. Accessed 30 June 2018.

UNITED NATIONS INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION. *Summary record of the 2600th meeting.* Committee on the Elimination of Racial Discrimination, ninety-four session, Geneva, 29 November 2017. CERD/C/SR.2600, 11 December 2017. Available at: <file:///C:/Users/robs3/Downloads/G1735315%20(2).pdf>. Accessed 2 June 2018.

CHAPTER 2

THE HUMANITARIAN CONSEQUENCES OF NUCLEAR WEAPONS

United Nations General Assembly

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Introduction

This chapter discusses how the topic "humanitarian consequences of nuclear weapons", a sub-item in the United Nations General Assembly (UNGA, or simply GA) agenda, is changing the general debate over nuclear disarmament. Traditionally, this debate usually follows a security approach, considering the actions and consequences related mainly to the States. However, efforts are being made to bring the humanitarian perspective into the centre of the discussion. Considering this, the main focus of this article is to discuss how the "humanitarian consequences of nuclear weapons" emerged as an agenda sub-item of the UNGA and is now restructuring the disarmament debate.

First, the structure of the UNGA it is presented focusing on its First Committee. After, a historical background of this topic is presented in order to contextualize the nuclear disarmament debate from the 1940s to the 2000s. The following section focuses on the emergence of the humanitarian perspective in this discussion, considering the inclusion of the "humanitarian consequences of nuclear weapon" as an agenda sub-item of the UNGA. The idea is to understand the main interests behind this change in the tone of the debate and also to point out some challenges and difficulties that are still present in the First Committee discussions over nuclear disarmament.

The United Nations General Assembly and the First Committee

The UNGA is one of the six subsidiary bodies of the United Nations (UN). Its mandate is established by the Chapter IV of the UN Charter. The GA is the organ which has the participation of all the 193 UN Member States and discusses a wide range of themes comprehended in the UN scope. To facilitate the discussions, the work of the GA is divided into six thematic committees. The First Committee discusses themes related to Disarmament

and International Security; the Second one, Economic and Financial topics; the Third one is related to Social, Humanitarian and Cultural discussions; the Fourth one is for Special Political and Decolonization themes; the Fifth one is for debates over Administrative and Budgetary issues; and the Sixth one is responsible for legal issues (UNITED NATIONS, 2018 c).

The GA is responsible for making recommendations about the discussed themes to foster "(…) the peaceful adjustment of any situation (…)" (UNITED NATIONS, 1945, p.5), following the principles described in the charter. In addition, the GA is demanded to consider and appreciate the reports of other UN organs, such as the Security Council. It also has the task of supervising and determining the Organization budget and its special agencies. Article 18 of the Charter establishes that the abovementioned decisions are always voted in the GA. In these procedures, all the UN Member States have the right to one vote and, customarily, those are taken with simple majority decision (UNITED NATIONS, 1945, pp. 5-6).

However, the process differs for specific decisions, namely: the recommendations related to international peace and security; the election of members to UN organs or inclusion of new members; and the suspension of rights of the members and budgetary questions. In these cases, the voting procedures are taken with two thirds of affirmative votes. Members States that have debts higher than the amount of two years payment in its contribution should have their votes suspended, unless the debts are caused by external conditions. Notwithstanding, over the last years the UN has encouraged the members to merge their efforts to reach consensus in its processes, in order to adopt decisions with more legitimacy (UNITED NATIONS, 1945, p.6).

In terms of procedure, to facilitate the progress of work and to incentivize achievement of the consensus, the Member States are encouraged to align their positions within political groups, such as the Association of Southeast Asian Nations (ASEAN), New Agenda Coalition (NAC), African Group and Arab Group. The GA maintains annual meetings to discuss its agenda items. However, special meetings can be requested by the Secretary-General or by the majority of the Member States. The meetings are conducted by a President, elected for one session. Moreover, it is possible to create subsidiary organs in order to support the GA work (UNITED NATIONS, 1945; 2018 d).

Since the focus of this article is to discuss the "humanitarian consequences of nuclear weapons", our attention is concentrated in the work of the GA First Committee, which "(…) deals with disarmament, global challenges and threats to peace that affect the

international community and seeks out solutions to challenges in the international security regime" (UNITED NATIONS, 2018 b). It is important to highlight that there are differences between the work of the GA First Committee and the work of the UN Security Council (SC). While the first is mainly responsible for discussing the topics and making recommendations related to disarmament and international security to Member States, the later has a more practical function since it "(…) has primary responsibility for the maintenance of international peace and security" (UNITED NATIONS, 2018 i) and "only the Security Council has the power to make decisions that member states are then obligated to implement under the Charter" (UNITED NATIONS, 2018 k).

Another key difference between these two organs is that the First Committee comprehends representatives from all the 193 UN Member States, while the SC is formed by five permanent States (United States, United Kingdom, France, Russia and China) plus ten non-permanent States, which are elected every two years. Although, as stated in the UN Charter, "[t]he General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security" (UNITED NATIONS, 1945, p. 5).

Considering that the UN was created in the shadows of the two world wars with the main purpose "to maintain international peace and security", the First Committee plays an important role within the international organization. As stated in the last document released by UN towards disarmament:

> Disarmament is at the heart of the system of collective security set out in the United Nations Charter (…) The Charter is neither a pacifist document nor an instrument designed to be fully implemented in a world free of conflict and international disputes. Rather, disarmament is a tool to help prevent armed conflict and to mitigate its impacts when it occurs (UNITED NATIONS, 2018 g).

In this sense, "General and Complete disarmament" is one of the most important topics of the agenda of the GA First Committee. This importance is reinforced by the fact that it is the only Committee where all UN Member States participate discussing and making recommendations towards disarmament, especially when concerning nuclear weapons.

The Humanitarian Consequences of Nuclear Weapons: the emergence as an agenda item

This section brings a historical discussion of nuclear disarmament. Even though the cause of disarmament does not rely only upon nuclear weapons, the debate emphasizes the dangers

of Weapons of Mass Destruction (WMD), since its consequences are not limited to military targets, affecting indiscriminately civilians and having significant and long-lasting impact on environment and society in general. Nuclear armament, nonetheless, receives a special attention in this debate, not only because of its power and range, but also because of its relative promptness, centrality and automation of its use, when compared to other kinds of weapons (GONTIJO, 2016, p. 87). Nuclear radiation can also have serious health impacts on future generations, beyond the fact that it can turn regions uninhabitable – just as occurred in the Ukrainian city of Chernobyl, in 1986, and the Japanese city of Fukushima in 2011 (GILLIS, 2017, p.23).

The advent of the nuclear weapons – and the nuclear energy in general – restructured the international relations and became one of the main focus on the effort over disarmament. Since the 1940s, efforts are being made in order to control and prevent the proliferation of these weapons. However, it is a difficult debate since it corresponds to a very sensitive point: the security of the States. This section discusses some aspects of these efforts and how it is evolving over time.

The nuclear disarmament debate: an historical overview

The United States of America's (USA) nuclear bombing upon the Japanese cities, Hiroshima and Nagasaki, during the Second World War, marked a turning point in international relations. The destruction of these two cities was so quick and so assertive that it reformulated a wide range of themes in the relations between the States. Since then, the international community initiated discussions on how to prevent, contain and even eliminate the use and the proliferation of nuclear weapons. The Cold War is the clearest example of how nuclear weapons affected the international relations, especially the warfare. From now on, the deterrence strategy prevailed in order to avoid or prevent the use of nuclear weapons. The possibility of a mass destruction caused by a nuclear escalation lead the States to rethink their strategies about the use of the force on the settlement of disputes.

Given its magnitude, nuclear weapons can be considered a resource of bargaining to the States in the international system. In that sense, efforts to discourage the use or pursue of these weapons are often seen as an attempt to diminish other States' security by the use of technological restriction from those who have it over those who do not deter nuclear technologies. In general terms, that is why it is so difficult for the States to reach an agreement on how to resign the possession of nuclear weapons or to prevent its

proliferation. Also, it is one of the reasons that help us to understand why States continue to develop their nuclear arsenals. During the Cold War, most States tried to reach similar power, in terms of bargain and dissuasion, of those deterred by the USA and the Union of Soviet Socialist Republics (USSR). That is why the United Kingdom, France and China developed their own arsenals between 1950 and 1960 (PECEQUILO, 2017, p. 180).

Nevertheless, since the end of the Second World War, a series of formal agreements – often supported by these five Nuclear Weapons States (NWS) – started to negotiate activities linked to the nuclear development (PECEQUILO, 2017, p. 180). The first resolution ever adopted by the UNGA in 1946, A/RES/1(I), reflects this effort as it states "the establishment of a commission to deal with the problem raised by the discovery of atomic energy", what became the United Nations Atomic Energy Commission, to monitor and supervise the development of nuclear technologies (UNITED NATIONS GENERAL ASSEMBLY, 1946). The Partial Test Ban Treaty (PTBT), created in 1963, is one of the major examples of the effort to discourage nuclear development, by banning nuclear tests in the atmosphere, underwater and in outer space. Even though great part of the UN Member States had ratified this treaty, the agreement was not able to contain nuclear testing (PECEQUILO, 2017, p. 181).

Also in the 1960s, another major effort to prevent the use and proliferation of nuclear weapons was the advance of the discussions to establish Nuclear-Weapons-Free-Zones (NWFZ) as specific regions where countries "commit themselves not to develop, manufacture, acquire, test or possess nuclear weapons" (GILLIS, 2017, p. 39). These discussions were formalized in 1975 by the GA resolution A/RES/3472B, which originated approximately ten free-zones agreement in different regions of the globe, including the Antarctic, and also the outer space, seabed and the moon (UNITED NATIONS GENERAL ASSEMBLY, 1975; UNITED NATIONS, 2018 f).

The Treaty on the Non-Proliferation of Nuclear Weapons (NPT), however, was the most significant regulatory measure in the attempt to bar the development of nuclear weapons. As stated in the official website of the treaty,

> [t]he NPT is a landmark international treaty whose objective is to prevent the spread of nuclear weapons and weapons technology, to promote cooperation in the peaceful uses of nuclear energy and to further the goal of achieving nuclear disarmament and general and complete disarmament. The Treaty represents the only binding commitment in a multilateral treaty to

> the goal of disarmament by the nuclear-weapon States (UNITED NATIONS, 2018 i).

The NPT was created in 1968 and entered into force in 1970. Since then, 191 States have joined the commitment, including the five NWS abovementioned, which are the only States officially recognized by the agreement as nuclear powers. Other three countries that are known or suspected of maintaining nuclear arsenals – namely, Israel, India and Pakistan – have never entered the NPT. The Democratic People's Republic of Korea, that has recently conducted many nuclear tests, withdrew from the treaty in 2003. In order to assure that the provisions of the NPT are being realized, the treaty determines that a review conference must be held every five years. In that sense, nine NPT Review Conferences were held since 1970 (UNITED NATIONS, 2018 j).

In terms of non-proliferation, "[…] the NPT has largely been successful, although not perfect, at containing the spread of nuclear weapons globally" (GILLIS, 2017, p. 44). Indeed, the treaty and other efforts have had positive results, especially in terms of increasing the constraint environment for States to develop nuclear technologies for military purposes. In fact, the number of nuclear weapons around the world decreased significantly from 70 thousand warheads in the 1980s to approximately 15.4 thousand in 2016 (GILLIS, 2017, p. 4). In practical terms, the NPT works

> (…) as a "grand bargain" between the nuclear-weapon States and the non-nuclear-weapon States. In exchange for the commitment of non-nuclear weapon States not to acquire nuclear weapons, the nuclear weapon States agreed to cease the nuclear arms race and accomplish the elimination of their nuclear arsenals (GILLIS, 2017, p. 44).

Along with Johnson (2010, p. 434), "(…) the NPT has played a core role in building the norms and rules that have put a break on proliferation". In that sense, it is comprehensible that the number of nuclear weapons is being reduced, especially considering the end of the Cold War and the agreements between USA and Russia upon the Strategic Arms Reduction Treaty (START). However, the so called non-strategic nuclear weapons were still considered an important asset for these States, in terms of dissuasion . In this case, challenges persist in establishing an agreement on non-proliferation, notably because the acquisition, development and the threat of the use of these weapons are still perceived as strategic movements in terms of political and military gains for the States (JOHNSON, 2010, p. 431). Considering this, the major difficulty is aligning the interests

of those who have the nuclear weapons – and are not willing to give up on them – and those who does not have nuclear weapons, but are constantly pressured by nuclear powers to not pursue or develop it:

> The non-proliferation regime has had to operate with contending and contradictory messages arising from the different value apparently accorded to the obligations on the NNWS [non-nuclear weapons States] (which were verified through IAEA safeguards) and the weakly worded nuclear disarmament obligations on the NWS (with no verification requirements or timetables) (JOHNSON, 2010, p.434).

In these terms, this topic is usually discussed from a security point of view, as nuclear weapons possession is considered as an important instrument of political bargain. One example of the challenges imposed by this perspective is the fact that the International Court of Justice (ICJ) does not condemn explicitly the threat or use of nuclear weapons . The fact that the Comprehensive Test Ban Treaty (CTBT) has not entered into force yet also reflects these difficulties upon de nuclear disarmament. The CTBT, created by the resolution 50/245 adopted by the UNGA in 1996, was established to prohibit all nuclear-related test explosions (UNITED NATIONS GENERAL ASSEMBLY, 1996). To enter into force it needs to be ratified by all the 44 States listed in Annex 2 of the treaty and until now the USA have not ratified it yet, alongside with China, Democratic People's Republic of Korea, Egypt, India, Islamic Republic of Iran, Israel and Pakistan (UNITED NATIONS, 2018 a).

In the early 2000s, new efforts were made not only to prevent the proliferation, or at least constrain the States on the use of nuclear weapons, but also in terms of actually pursuing actual disarmament, mostly because of the perception that the reduction in the number of nuclear warheads was not enough if the States continue to modernize and increase the power of their reduced arsenals. The reformulation of the debate towards a world free of nuclear weapons

> (…) is not because disarmament is an ethical objective (though some may regard it as a moral endeavour), but because non-proliferation is unsustainable without significant progress towards reducing the value attached to nuclear weapons (JOHNSON, 2010, p. 442).

Considering this, an important progress occurred during the 2000 NPT Conference Review when the parties adopted a final document establishing "thirteen practical steps" for the implementation of the article VI of the NPT, towards nuclear disarmament.

The document reflected the major efforts of the New Agenda Coalition (NAC) and the Non-Aligned Movement (NAM) in pressuring NWS for denuclearization. But it also could be understood as an attempt of the nuclear powers for not letting another NPT Conference Review fail, as occurred in the previous edition. It was even more important for USA image, once it has failed the CTBT ratification in that time. Still, the 2000 conference is considered a diplomatic success (JESUS, 2012, p. 402).

On the other hand, the conference of 2005 is remembered for the inaction of the parties, mostly because of the disagreements between the NWS and non-NWS over the advances made in terms of disarmament discussion. Representing the NWS, the USA – under the administration of George W. Bush – in fact announced the reduction of its nuclear arsenal, but it also defended that nuclear weapons were still important and strategic to guarantee their defense and of their allies, considering the great power of dissuasion of these armaments in constraining any kind of threats. It was a clear message then that the USA was not willing to give up its nuclear power (JESUS, 2013, pp. 80-82). On the other side, among the non-NWS, Egypt had a more prominent role leading the discussion on behalf of the NAM, which refused any kind of concessions that could jeopardize the advances on the nonproliferation and disarmament debate. It is important to recognize that the NAM had some disagreements among its own members concerning the use of nuclear energy for pacific use. It also avoided criticizing its members involved in the development of nuclear weapons, such as India, Pakistan and Iran (JESUS, 2012, p. 396, 409; MULLER, 2011, p. 220).

The concerns about nuclear weapons are not restricted to the States. In 2007, an important initiative from the civil society originated the International Campaign to Abolish Nuclear Weapons (ICAN), which main goal is "to build a powerful global groundswell of public support for the abolition of nuclear weapons" (INTERNATIONAL CAMPAIGN TO ABOLISH NUCLEAR WEAPONS, 2018 c). In 2008, strengthening the UN will for denuclearization, the former Secretary-General (SG), Ban Ki-Moon, released his "Five Point Proposal on Nuclear Disarmament". The proposal seeks to reinforce the importance of the treaties, as the NPT and CTBT, upon the effort over disarmament, as well as indispensable commitment of the States – especially the nuclear ones – to fulfill its obligation with these documents.

The proposal also calls the attention of the role of the UNSC in these efforts on nuclear disarmament, mainly considering that the five permanent members are the five officially recognized nuclear States by the NPT. The SG required greater transparency about nuclear

projects and emphasized the need of complementary measures to advance the process of disarmament. He remembered the high cost of maintaining nuclear weapons, largely in terms of the risks it represents to the environment, people's health and security. Also, he noted with concern the possibility of another nuclear arms race and condemned the possibility of terrorist use of WMD in general (UNITED NATIONS, 2018 h). The SG speech is a clear example that were

> (…) growing moves to build a new international constituency to address the security-impeding elements of the current non-proliferation regime and transform it into a comprehensive abolition regime, with mutually reinforcing norms against the use, possession and spread of nuclear weapons (JOHNSON, 2010, p. 433).

Alongside that, an important change occurred in the tone of the disarmament debate when Barack Obama, during the first year of his mandate, addressed a speech calling attention to the possible effects of the proliferation of nuclear weapons to humankind:

> Our efforts to contain these dangers [nuclear weapons] are centered on a global non-proliferation regime, but as more people and nations break the rules, we could reach the point where the center cannot hold. Now, understand, this matters to people everywhere. One nuclear weapon exploded in one city – be it New York or Moscow, Islamabad or Mumbai, Tokyo or Tel Aviv, Paris or Prague – could kill hundreds of thousands of people. And no matter where it happens, there is no end to what the consequences might be – for our global safety, our security, our society, our economy, to our ultimate survival […] Just as we stood for freedom in the 20th century, we must stand together for the right of people everywhere to live free from fear in the 21st century (THE WHITE HOUSE, 2018).

Obama also recognized that "(…) as the only nuclear power to have used a nuclear weapon, the United States has a moral responsibility to act" upon the objective to seek a world without nuclear weapons. In this regard, the former president announced that his administration would "(…) immediately and aggressively pursue U.S. ratification of the Comprehensive Test Ban Treaty" and also reinforced the USA compromise with the NPT (THE WHITE HOUSE, 2018). In the end of 2009, the UNSC adopted the Resolution 1887 "resolving to seek a safer world for all and to create the conditions for a world without nuclear weapons (…)" (UNITED NATIONS SECURITY COUNCIL, 2009).

Albeit the CTBT has not been ratified by the USA yet, Obama's speech can be considered a major turning point in the USA position towards nuclear disarmament and non-proliferation. So much so that it granted Obama the 2009 Nobel Peace Prize, even though the USA was involved in some conflict every single day during his two mandates in front of the White House ("OBAMA…", 2017). In practical terms, however, the USA nuclear policy during Obama's administration had not changed significantly from his antecessors. The USA Nuclear Posture Review Report of 2010 still considered the importance of these weapons in terms of strategy as it states that "nuclear forces will continue to play an essential role in deterring potential adversaries and reassuring allies and partners around the world" (UNITED STATES OF AMERICA, 2010). The document tends to demonstrate that without the USA nuclear umbrella, its allies could pursue and develop its own nuclear arsenals seeking their own means of dissuasion. This argument, nonetheless, reinforces the USA nuclear status quo, actually clouding the disarmament perspective (JESUS, 2012, p. 412).

Even so, the speech can be understood as a strategy for aligning USA position towards the disarmament movement, trying to reduce the animosity of the non-NWS while increasing the credibility of the government in these negotiations. It is paramount to remember, though, that reducing the numbers of nuclear weapons does not mean reducing its power. In fact, it is stated in the same document that

> (…) by modernizing our aging nuclear facilities and investing in human capital, we can substantially reduce the number of nuclear weapons we retain as a hedge against technical or geopolitical surprise, accelerate dismantlement of retired warheads, and improve our understanding of foreign nuclear weapons activities (UNITED STATES, 2010, p. vi).

In that sense, the changes in USA position can be understood in this major context of reformulation of the nuclear nonproliferation debate as disarmament was becoming the mainstream. Interpreting Obama's declaration, Jesus (2013, p. 83, our translation) affirms "total disarmament seems to be a vague slogan – although politically valuable – because it potentially weakens deterrence, encourages the cover-up of weapons and, ultimately, encourages the first use of nuclear weapons".

Considering this, the expectations for advances on nuclear disarmament were particularly high at the 2010 NPT Conference Review. Although controversial, the new tone of USA position reinforced the denuclearization argument, as it facilitated the understandings and future dialogues among the parties. It was particularly important for

Egypt considering its interests in advancing the nuclear disarmament in the Middle East and the establishment of the region as a Nuclear-Weapons-Free-Zone. Since the early 2000s, distrusts about clandestine activities related to development of nuclear arsenals – by States like Iraq, Iran and Libya or by terrorist groups – strengthened preoccupation upon nuclear activities in the region, also considering the fact that Israel is a NWS although not officially recognized by the NPT (MULLER, 2011, p. 225-226).

At the same time, Obama's speech was favorable for the parties pressuring nuclear disarmament as he brought the humanitarian topic into the nuclear weapons debate. The humanitarian appeal was already gaining more general attention from the civil society, NGOs and the media, and became an important asset for non-NWS to bargain its interests regarding non-proliferation and disarmament (SLADE; TICKNER; WYNN-POPE, 2015, p. 744).

The "Humanitarian consequences of nuclear weapons" in the international agenda

Since the end of the 2000s, the significant nuclear disarmament debate was renewed as the future of the humankind – and not only of the future of the States – started to occupy a more central role in these discussions. As the overall humanitarian cause was gaining major attention from the civil society, the nuclear concerns involving these humanitarian and environmental aspects emerged more clearly also in the international agenda.

In 2010, a statement from the President of the International Committee of the Red Cross (ICRC) called the attention to the humanitarian consequences of the use of nuclear weapons and the urgent need for its prohibition and complete elimination:

> President Kellenberger stressed that the debate about nuclear weapons must go beyond the legal and security considerations to encompass the ethical and humanitarian considerations. Further, he stated that the discussion on the efficacy of nuclear weapons must ultimately be about people and the future of humanity (SLADE; TICKNER; WYNN-POPE, 2015, p. 745).

The statement had a considerable impact in the 2010 NPT Review Conference as a special attention was driven on the catastrophic humanitarian consequences from the use of nuclear weapons. As stated in the paragraph IV of the final document:

> [t]he Conference expresses its deep concern at the continued risk for humanity represented by the possibility that these weapons could be used and the catastrophic humanitarian consequences that would result from the use of nuclear weapons (UNITED NATIONS, 2010).

This scenario was favorable for a turning point in the tone of the nuclear disarmament discussion, as "(…) the emphasis on the humanitarian consequences of nuclear weapons provides a fresh opportunity to negotiate their eventual elimination" (SLADE; TICKNER; WYNN-POPE, 2015, p. 733). The strength of the humanitarian cause in the nuclear debate lies in its moral and ethical facets, which brings an uncomfortable position for States that defends the maintenance of the nuclear powers status quo, while it gives a truly strong argument for those who defend an effective denuclearization.

The lack of progress on the nuclear disarmament debate over the last decades stimulated the non-NWS, especially the members of the NAM, to support the idea of holding a convention to delegitimize the use and the maintenance of nuclear weapons and motivate its total elimination. Egypt had a prominent role in this aspect, since it represented an opportunity to reinforce its long-time demand for the creation of a Nuclear-Weapon-Free-Zone in the Middle East. Brazil was another important player in this effort, trying to mediate the nuclear agreement about Iran (JESUS, 2012, p. 397).

The humanitarian debate also opened an opportunity for non-NWS that were historically aligned to nuclear powers to strengthen its position towards denuclearization. The Norway position is the most evident example of this movement:

> Its stance was remarkable for a NATO country: Norway pleaded for timelines for the disarmament process, supported the Swiss effort to emphasize the humanitarian aspects of nuclear weapons and their use, demanded the cessation of modernization (rather than mere "constraints on" modernization), called for further steps to lower the operational status of nuclear weapons, and argued for cutting the linkage between nuclear disarmament and other arms control measures (…) Norway has always been an NPT member with a strong commitment to nuclear disarmament. But until 2010, never before had Norwegian demands and proposals been so radical and pronounced (MULLER, 2011, p. 229).

Notwithstanding, the NWS adopted a more defensive posture along the 2010 NPT Review Conference. Russia and USA, for example, agreed to update its understandings

over arms control and reduction process, resulting in the New Strategic Arms Reduction Treaty, also known as New START. Even though China did not embrace the USA position, its delegation adopted a more constrained position, while France was slightly criticized for maintaining its deterrence discourse (MULLER, 2011, pp. 221-224).

After the Fukushima nuclear incident, the humanitarian consequences of nuclear weapons gained even more space and urgency among international organizations and civil society groups. In 2011, the ICRC together with the International Federation of Red Cross and Red Crescent Societies released a resolution that committed these institutions to "raise the awareness about the catastrophic humanitarian consequences of nuclear weapons, and the need for concrete actions leading to their elimination" (SLADE; TICKNER; WYNN-POPE, 2015, p. 746). The document reunited health professionals, scientists, politicians and the public in general to urge government and decision makers to pursue prohibition and elimination of these weapons. It also expressed deep concerns with the lack of provisions of humanitarian assistance for nuclear disasters victims (CAUGHLEY, 2013, p. 22; INTERNATIONAL COMMITTEE OF THE RED CROSS, 2011).

The ICRC resolution has been used as a base document for nuclear disarmament discussions since then. In 2012, during the sessions of the NPT Preparatory Committee, Sweden recalled the importance of this document and, in this same occasion, Norway offered to host an intergovernmental conference to discuss exclusively the humanitarian impact of nuclear weapons (INTERNATIONAL CAMPAIGN TO ABOLISH NUCLEAR WEAPONS, 2018 a). The Oslo Conference was held in 2013 attended by 128 States. None of the five officially recognized nuclear powers attended the Conference. On the other hand, Pakistan and India – that are not officially recognized as NWS – were both present. The occasion was particularly important because it marked the reframing of the nuclear disarmament discussion and represented an important move for the negotiation of a document for actually banning nuclear weapons. In these terms, the Conference was extremely successful. So much so that Mexico offered to host a follow-up event in the following year, in the city of Nayarit (SLADE; TICKNER; WYNN-POPE, 2015, pp. 747-748).

In this context, the humanitarian aspects over disarmament began to gain more attention also at the UN. Following the Oslo Conference, the United Nations Institute for Disarmament Research (UNIDIR) released a report named "Viewing nuclear weapons though humanitarian lens". Aiming to reunite "(…) perspectives that, broadly speaking,

take a humanitarian approach or perspective as a means of critical inquiry into the continued value and acceptability of nuclear weapons" (BORRIE; CAUGHLEY, 2013, p. 4).

Also in 2013, during the GA 68th session, the First Committee started to discuss the concerns upon nuclear weapons considering its humanitarian impacts and not only the security merit of it (SLADE; TICKNER; WYNN-POPE, 2015, p. 751). By the Resolution A/RES/68/32, the GA expressed its "deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons" and established September 26th as the International Day for the Total Elimination of Nuclear Weapons (UNITED NATIONS GENERAL ASSEMBLY, 2013; GILLIS, 2017, p. 40).

In the Nayarit Conference about the humanitarian consequences of nuclear weapons, the need to start a process to prohibit and eliminate these armaments was reinforced. The decision, however, was not well received by all the States, considering that the main focus of these conferences was the discussions about humanitarian impacts and not the formulation of another nuclear weapons agreement. Emphasizing this aspect, the Austrian government expected to convince the nuclear powers to participate in the next Conference – in Vienna –, since many States considered the debate was jeopardized without their presence.

Although the main focus was the humanitarian cause, the urgent intention to negotiate a legal instrument to prohibit nuclear weapons continued to be evident and at the end of the conference, a document entitled Humanitarian Pledge was released to "stigmatize, prohibit and eliminate nuclear weapons"(INTERNATIONAL CAMPAIGN TO ABOLISH NUCLEAR WEAPONS, 2018 b). According to Slade, Tickner and Wynn-Pope (2015, pp. 749-750), the document

> (…) was an interesting diplomatic device as it significantly increased the pressure on nuclear weapons States and their dependents by placing the nuclear weapons issue firmly in the arena of civilian protection and human security, and while some diplomats passed it off as a "stunt", the Pledge has gained significant momentum.

The timing was particularly important, as a new NPT Review Conference was being prepared for 2015, year that marked 70 years since the atomic bombing of Hiroshima and Nagazaki. The occasion broadened the visibility of the humanitarian aspects over nuclear disarmament among civil society, NGOs and national governments, reinforcing the importance of the Humanitarian Pledge (INTERNATIONAL CAMPAIGN TO ABOLISH

NUCLEAR WEAPONS, 2018 a). However, the 2015 NPT Review Conference is considered a diplomatic failure, once the parties could not reach a consensus on a final document because they were divided among those in favor of the establishment of benchmarks and timelines towards total denuclearization and those who were in favor of "a step-by-step or 'building-block' approach to nuclear disarmament" (UNITED NATIONS GENERAL ASSEMBLY, 2015 a). Ban Ki-Moon regretted that the parties at the 2015 NPT Conference Review "were unable to reach consensus on a substantive outcome". Additionally,

> He expressed the hope that the growing awareness of the devastating humanitarian consequences of any use of nuclear weapons would continue to compel urgent action for effective measures leading to the prohibition and elimination of nuclear weapons (UNITED NATIONS GENERAL ASSEMBLY, 2015 a).

Reflecting the overall movement of bringing the humanitarian aspect into the center of the nuclear disarmament question, the GA at its 70th session adopted the Resolution 70/47, entitled: Humanitarian consequences of nuclear weapons. The resolution recalled great part of the efforts and conventions made to discuss the humanitarian impact of nuclear weapons; urged all States to exert all the efforts necessary to eliminate completely the threat of nuclear weapons; and decided to include the topic "Humanitarian consequences of nuclear weapons" as an sub-item in the GA 71st session agenda, under the item "General and complete disarmament" (UNITED NATIONS GENERAL ASSEMBLY, 2015 c).

As an official sub-item of the GA First Committee agenda, the humanitarian impact of nuclear weapons offered the nuclear disarmament debate a renewed significance, allowing the States in favor of a world free of these weapons to reinforce its arguments and efforts towards the establishment of formal mechanisms to its prohibition. Thereby, also during its 70th session, the GA adopted the Resolution 70/33 that decided to form a special working group on nuclear disarmament of which the main objective was to discuss new forms to achieve a nuclear-weapon-free world (INTERNATIONAL CAMPAIGN TO ABOLISH NUCLEAR WEAPONS, 2018 a; UNITED NATIONS GENERAL ASSEMBLY, 2015 b).

The report elaborated by the working group was submitted at the GA 71st session and in its conclusion it recommended the negotiation of a "legally-binding instrument to prohibit nuclear weapons", leading to its total elimination (UNITED NATIONS GENERAL ASSEMBLY, 2016 b). In that sense, in 2016, the GA First Committee voted on a resolution – entitled "Taking forward multilateral nuclear disarmament negotiations" – to advance

on actual negotiations processes on a treaty to prohibit nuclear weapons (UNITED NATIONS GENERAL ASSEMBLY, 2016 a). The draft resolution was initially proposed by Austria, Brazil, Ireland, Mexico, Nigeria and South Africa and the voting process is considered a historical result since 123 UN State Members approved the resolution, while 38 voted against and 16 abstained. Four of the five officially recognized as NWS voted against the resolution. The exception was China that abstained, alongside with India and Pakistan. A leaked document of the USA delegate to NATO members encouraged its allies to vote against any initiative at the UN First Committee on starting negotiations for a nuclear ban treaty, affirming that deterrence – combining nuclear and conventional capabilities – remains the most important element of NATO's strategy (INTERNATIONAL CAMPAIGN TO ABOLISH NUCLEAR WEAPONS, 2016; 2018 a; NORTH ATLANTIC TREATY ORGANIZATION, 2016).

Notwithstanding, in the same year, the GA adopted the Resolution 71/46 about the Humanitarian consequences of nuclear weapons, which recalled the historical concern about the nuclear energy and the renewed efforts of the international community, among other topics, to emphasize that "the only way to guarantee that nuclear weapons will never be used again is their total elimination" (UNITED NATIONS GENERAL ASSEMBLY, 2016 c).

All these efforts opened the path for the negotiations for the Treaty on the Prohibition of Nuclear Weapons, which was formally adopted by the UNGA in 2017. It is the most important multilateral agreement towards denuclearization ever made by the international community and it can be understood as a result of the recent reframe of the nuclear disarmament debate. As stated by the current UN Secretary-General, António Guterres, the agreement "is the product of increasing concerns over the risk posed by the continued existence of nuclear weapons, including the catastrophic humanitarian and environmental consequences of their use" (GUTERRES, 2017; UNITED NATIONS GENERAL ASSEMBLY, 2017).

Besides this important step, challenges remain in terms of practical action on nuclear disarmament. It is important to note that, even though the Treaty was adopted with 122 votes in favor, none of the NWS – officially recognized or not – attended to the negotiations. In fact, a joint press statement from the permanent representatives to the UN of the USA, United Kingdom and France alleged that those States "do not intend to sign, ratify or ever become part" to the Treaty (UNITED STATES MISSION TO THE UNITED

NATIONS, 2017; JANUÁRIO, GONTIJO, 2017). Difficulties remain also in terms of how the denuclearization process is expected to happen, once that for a nuclear weapon State to join the Treaty it needs to agree"(…) to remove such weapons from operational status immediately and destroy them in accordance with a legally binding, time-bound plan" (GILLIS, 2017, pp. 37-38).

It does not mean, however, that the Treaty can be considered an idealist plan. The agreement can be understood as a strategic play of non-NWS in terms of political instrument when bargaining with States that possess nuclear arsenals and it also holds a moral aspect that can guarantee the support of other actors, like NGOs and the civil society. The Treaty also formalizes a point of no return in the nuclear disarmament debate. So much so, that UN has recently released an agenda for disarmament entitled "Securing our common future" (UNITED NATIONS, 2018 g).

Conclusion

The concern about the use and the threat of nuclear weapons is present in the UN since its very beginning. Although important efforts have been made since 1945 towards nuclear non-proliferation, practical actions on disarmament are still a great challenge for the international community, since it is goes against security interests of those States that possess nuclear arsenals. The NPT is one of the most significant moves in terms of restraining the use and proliferation of nuclear weapons. However, the possession of this armament is still considered strategic in terms of political bargaining in the international system. In that sense, major attempts to advance on the nuclear disarmament debate failed or advanced very slowly.

It is possible to say that this scenario has changed since the end of the 2000s, when a more humanitarian perspective was brought into the center of these discussions. It does not mean that humanity was not taken into consideration before that. But, after important events – like Obama's speech in 2009 –, the humanitarian consequences of nuclear weapons emerged as a more central topic, as it has been reinforced, particularly by non-NWS, as a manner of pressuring the NWS to adopt effective measures concerning disarmament. This humanitarian perspective over disarmament debate received a lot of support also from NGOs and civil society. The topic gained such a considerable attention that it was incorporated as a sub-item of the GA First Committee agenda.

The main point is that the humanitarian consequences of nuclear weapons have been reframing the overall debate over denuclearization. So much so, that, in 2017, the most important agreement was settled towards the prohibition of this armament. However, as the NWS refused to negotiate, questions still remain:

1. How can the States reinforce the humanitarian perspectives of nuclear weapons?
2. How can the debate on humanitarian consequences of nuclear disarmament be strengthened within the First Committee?
3. How to bring the NWS into the nuclear prohibition negotiations?

References

BORRIE, J.; CAUGHLEY, T. (Eds.). "Introduction". In: *Viewing nuclear weapons through a humanitarian lens*. Geneva: United Nations Institute for Disarmament Research, 2013, pp. 2-12.

CAUGHLEY, T. "Tracing notions about humanitarian consequences". In: BORRIE, J.; CAUGHLEY, T. (Eds.). *Viewing nuclear weapons through a humanitarian lens*. Geneva: United Nations Institute for Disarmament Research, 2013, pp. 14-28.

GILLIS, M. *Disarmament*: a basic guide. New York: United Nations Publications, Fourth edition, 2017.

GONTIJO, R. "Por que os Estados querem a bomba? As condições para a proliferação nuclear" In: *Revista. Brasileira de Estratégia e Defesa,* v. 3, nº 1, jan./jun. 2016, p. 69-90. Available at: <https://rbed.abedef.org/rbed/article/view/64087>. Accessed 20 May 2018.

GUTERRES, A. "Remarks at signing ceremony for the Treaty on the Prohibition of Nuclear Weapons". In: *Official website of the United Nations Secretary-General*, 20 September 2017. Available at: <https://www.un.org/sg/en/content/sg/speeches/2017-09-20/sgs-prohibition-nuclear-weapons-remarks-ceremony>. Accessed 20 June 2018

INTERNATIONAL CAMPAIGN TO ABOLISH NUCLEAR WEAPONS (ICAN). "Humanitarian Initiative". In: *Official website of International Campaign to Abolish Nuclear Weapons,* 2018 a. Available at: <http://www.icanw.org/campaign/humanitarian-initiative/>. Accessed 08 June 2018.

_____. "Humanitarian Pledge". In: *Official website of International Campaign to Abolish Nuclear Weapons,* 2018 b. Available at: <http://www.icanw.org/pledge>. Accessed 11 June 2018.

"Overview". In: *Official website of International Campaign to Abolish Nuclear Weapons,* 2018 c. Available at: <http://www.icanw.org/campaign/campaign-overview/>. Accessed 06 June 2018.

_____. "UN General Assembly approves historic resolution". In: *Official website of International Campaign to Abolish Nuclear Weapons,* 23 December 2016**.** Available at: <http://www.icanw.org/campaign-news/un-general-assembly-approves-historic-resolution >. Accessed 11 June 2018

INTERNATIONAL COMMITTEE OF THE RED CROSS. "Council of Delegates 2011: Resolution 1". In: *Official website of the International Committee of the Red Cross*, 26 November 2011. Available at: https://www.icrc.org/eng/resources/documents/resolution/council-delegates-resolution-1-2011.htm>. Accessed 08 June 2018.

INTERNATIONAL COURT OF JUSTICE (ICJ). "Overview of the case". In: *Official website of International Court of Justice*, 2018. Available at: <http://www.icj-cij.org/en/case/95>. Accessed 29 March 2018.

JANUÁRIO, L.; GONTIJO, R. "Prêmio Nobel para os sonhadores". In: *ERIS Defesa e Segurança Internacional*, 09 October 2017. Available at: <http://www.eris-gedes.org/single-post/2017/10/09/Pr%C3%AAmio-Nobel-para-os-sonhadores>. Accessed 07 June 2018.

JESUS, D. S. V. "Deterrence, reduction of nuclear weapons and missile defense in Bush and Obama administrations". In: *Revista Brasileira de Política Internacional,* v. 56, n° 2, July/Dec. 2013. Available at: <http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0034-73292013000200005>. Accessed 19 May 2018.

_____. "Mirando o passado: autonomia e proteção nas Conferências de Exame do TNP (2000-2010)". In: *História*, São Paulo, vol. 31, n. 1, Jan-Jun, 2012, pp. 392-419. Available at: <http://www.scielo.br/scielo.php?pid=S0101-90742012000100019&script=sci_abstract&tlng=pt>. Accessed 30 May 2018.

JOHNSON, R. "Rethinking the NPT's role in security: 2010 and beyond". In: *International Affairs,* v. 86, n. 2, 2010, pp. 429–445.

MULLER, H. "A Nuclear Nonproliferation Test: Obama's Nuclear Policy and the 2010 NPT Review Conference". In: *Nonproliferation Review*, vol. 18, n. 1, March 2011.

NORTH ATLANTIC TREATY ORGANIZATION. "United States non-paper: 'defense impacts of the potential United Nations General Assembly Nuclear Weapons Ban Treaty'". Committee on proliferation (CP), 17 October 2016. Available at: <http://www.icanw.org/wp-content/uploads/2016/10/NATO_OCT2016.pdf>. Acceess in: 20 June 2018.

"OBAMA, o Nobel da Paz que se tornou o 1° presidente dos EUA a estar em guerra durante todos os dias de seu governo". In: *BBC Brasil,* 19 January 2017. Available at: <https://www.bbc.com/portuguese/internacional-38642556>. Accessed 02 June 2018.

PECEQUILO, C. "O desarmamento" In: *Temas da agenda internacional: o Brasil e o mundo.* Curitiba: Editora Intersaberes, 1st Edition, 2017, pp. 173-203.

SLADE; TICKNER; WYNN-POPE, "Protecting humanity from the catastrophic humanitarian consequences of nuclear weapons: Reframing the debate towards the humanitarian impact" In: *International Review of the Red Cross,* 97 (899), 2015, pp. 731-752,

THE WHITE HOUSE. "Remarks by President Barack Obama in Prague as Delivered". In: *Official website of the White House for President Barack Obama*, 2018. Available at: <https://obamawhitehouse.archives.gov/the-press-office/remarks-president-barack-obama-prague-delivered>. Accessed 17 May 2018.

UNITED NATIONS (UN). "2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons Final Document". In: *Official website of the United Nations,* 2010. Available at: http://www.un.org/ga/search/view_doc.asp?symbol=NPT/CONF.2010/50%20(VOL.I)>. Accessed 30 May 2018.

_____. *Charter of the United Nations and Statute of the International Court of Justice*. San Francisco, 1945. Available at: <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>. Accessed 09 April 2018.

_____. "Comprehensive Nuclear-Test-Ban Treaty (CTBT)". In: *Official website of the United Nations Office for Disarmament Affairs*, 2018 a. Available at: <https://www.un.org/disarmament/wmd/nuclear/ctbt/>. Accessed 10 May 2018.

_____."Disarmament and International Security (First Committee)". In: *Official website of the United Nations General Assembly,* 2018 b. Available at: <http://www.un.org/en/ga/first/>. Accessed 10 April 2018.

UNITED NATIONS (UN). "Functions and powers of the General Assembly". In: *Official website of the General Assembly of the United Nations*, 2018 c. Available at: <http://www.un.org/en/ga/about/background.shtml>. Accessed 30 May 2018.

_____ . "Groups of Member States". In: *Official website of the Model United Nations,* 2018 d. Available at: <https://outreach.un.org/mun/content/groups-member-states/>. Accessed 23 May 2018.

_____. "Missiles". In: *Official website of the United Nations Office for Disarmament Affairs,* 2018 e. Available at: <https://www.un.org/disarmament/wmd/missiles/>. Accessed 10 April 2018.

_____. "Nuclear-Weapons-Free Zones". In: *Official website of the United Nations Office for Disarmament Affairs*, 2018 f. Available at: <https://www.un.org/disarmament/wmd/nuclear/nwfz>. Accessed 30 May 2018.

_____. "Remarks at signing ceremony for the Treaty of the Prohibition of Nuclear Weapons". In: *Official website of the United Nations Office for Disarmament Affairs*, 2017. Available at: <https://www.un.org/sg/en/content/sg/speeches/2017-09-20/sgs-prohibition-nuclear-weapons-remarks-ceremony>. Accessed 08 June 2018.

_____. *Securing our common future*: an agenda for disarmament. New York: Office for Disarmament Affairs, 2018 g. Available at: <https://www.un.org/disarmament/sg-agenda>. Accessed 30 May 2018.

_____. "The Secretary-General's five point proposal on nuclear disarmament". In: *Official website of the United Nations Office for Disarmament Affairs*, 2018 h. Available at: <https://www.un.org/disarmament/wmd/nuclear/sg5point>. Accessed 30 May 2018.

_____. "The Security Council". In: *Official website of the United Nations Security Council,* 2018 i. Available at: <http://www.un.org/en/sc/>. Accessed 30 May 2018.

_____. "Treaty on Non-Proliferation of Nuclear Weapons (NPT)". In: *Official website of the United Nations Office for Disarmament Affairs*, 2018 j. Available at: <https://www.un.org/disarmament/wmd/nuclear/npt>. Accessed 10 May 2018.

_____. "What is the Security Council?". In: *Official website of the United Nations Security Council,* 2018 k. Available at: <http://www.un.org/en/sc/about/>. Accessed 30 May 2018.

UNITED NATIONS GENERAL ASSEMBLY (UNGA). *Draft resolution 71/258 (2016) - Taking forward multilateral nuclear disarmament negotiations*. Adopted by the General Assembly at its 71st plenary meeting, on 23 December 2016 a, A/RES/71/258. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/258>. Accessed 26 June 2018.

_____. *Resolution 1 (I) (1946) - Establishment of a commission to deal with the problem raised by the discovery of atomic energy*. Adopted by the General Assembly at its 1st meeting, on 24 January 1946, A/RES/1(I). Available at: <http://www.un.org/documents/ga/res/1/ares1.htm>. Accessed 30 May 2018.

_____. *Resolution 3472B (1975)- Comprehensive study of the question of nuclear-weapon-free zones in all its aspects*. Adopted by the General Assembly at its 2437th plenary meeting, on 11 December 1975, A/RES/3472(XXX). Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/3472(XXX)>. Accessed 21 May 2018.

_____. *Resolution 50/245 (1996) - Comprehensive Nuclear-Test-Ban-Treaty*. Adopted by the General Assembly at its 125th plenary meeting, on 17 September 1996, A/RES/50/245. Available at: <http://undocs.org/A/RES/50/245>. Accessed 21 May 2018.

_____. *Resolution 68/32 (2013) –Follow-up to the 2013 high-level meeting of the General Assembly on nuclear disarmament*. Adopted by the General Assembly at its 67th plenary meeting, on 7 December 2013, A/RES/68/32. Available at: <http://undocs.org/A/RES/68/32>. Accessed 02 June 2018.

_____. *Resolution 70/181 (2015) – Report of the Secretary General on Nuclear disarmament; follow-up to the advisory opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons; and reducing nuclear danger*. Adopted by the General Assembly at its 70th plenary meeting, on 24 July 2015 a, A/RES/70/181. Available at: <http://undocs.org/A/70/181>. Accessed 20 June 2018.

_____. *Resolution 70/33 (2015) - Taking forward multilateral nuclear disarmament negotiations*. Adopted by the General Assembly at its 70th plenary meeting, on 7 December 2015 b, A/RES/70/33. Available at: <http://undocs.org/A/RES/70/47>. Accessed 02 June 2018.

_____. *Resolution 70/47 (2015) - Humanitarian consequences of nuclear weapons*. Adopted by the General Assembly at its 70th plenary meeting, on 11 December 2015 c, A/RES/70/47. Available at: <http://undocs.org/A/RES/70/47>. Accessed 02 June 2018.

_____. *Resolution 71/371 (2016) - Report of the Open-ended Working Group taking forward multilateral nuclear disarmament negotiations*. General Assembly at its 71st plenary meeting, on 1 September 2016 b, A/RES/71/371. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/71/371>. Accessed 26 June 2018.

_____. *Resolution 71/46 (2016) -Humanitarian consequences of nuclear weapons*. Adopted by the General Assembly at its 71st plenary meeting, on 5 December 2016 c, A/RES/71/46. Available at: <http://undocs.org/A/RES/71/46>. Accessed 02 June 2018.

_____. *Treaty on the Prohibition of Nuclear Weapons*. Negotiations, pursuant to paragraph 8 of General Assembly resolution 71/258 of 23 December 2016, on a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination, 7 July 2017, A/CONF.229/2017/8. Available at: <http://undocs.org/a/conf.229/2017/8>. Accessed 21 June 2018.

UNITED NATIONS SECURITY COUNCIL (UNSC). *Resolution 1887 (2009).* Adopted by the Security Council at its 6191st meeting, on 24 September 2009. Available at: <hhttp://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1887(2009)>. Accessed 04 June 2018.

UNITED STATES OF AMERICA. "Nuclear Posture Review Report". In: *Department of Defense*, April 2010. Available at: <https://www.defense.gov/Portals/1/features/defenseReviews/NPR/2010_Nuclear_Posture_Review_Report.pdf>. Accessed 01 June 2018.

UNITED STATES MISSION TO THE UNITED NATIONS. "Joint Press Statement from the Permanent Representatives to the United Nations of the United States, United Kingdom, and France Following the Adoption of a Treaty Banning Nuclear Weapons". In: *Official website of the United States Mission to the United Nations*, 7 July 2017. Available at: <https://usun.state.gov/remarks/7892>. Accessed 20 June 2018.

CHAPTER 3

WOMEN IN DEVELOPMENT

United Nations General Assembly

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Introduction

Since its early years, the United Nations (UN) has been committed to the promotion of gender equality. This topic has been so relevant to the organization that its Charter has two specific mentions about it. Firstly, in its preamble, the UN reaffirms its faith "in the equal rights of men and women" (UNITED NATIONS, 1945, p. 3). Secondly, in its Article 8, the UN decided that it "shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs" (UNITED NATIONS, 1945, p. 4).

Among many areas in which the UN has been working on since 1945 to guarantee that all women and girls can enjoy their human rights and develop their full potential, the relationship between women and development is one of crucial importance. After all, the UN Charter also defines, in its preamble, the need to "promote social progress and better standards of life in larger freedom" (UNITED NATIONS, 1945, p. 3), and this goal cannot be achieved without economically empowering women and truly incorporating them as a key party in the promotion of sustainable development.

Since 1995, the Second Committee of the United Nations General Assembly (UNGA) has been discussing "Women in Development" as a subtopic of its agenda. Member States have been taking action for combating the phenomenon called feminization of poverty, because women and girls are the most affected ones by poverty and economic crisis worldwide. Besides, increasing women participation in labor force and giving them access to economic resources is fundamental to change the current reality, in which only 47.1% of women are part of the labor market (against 72.2% of men) and where women earn from 60 to 75% of men's wages worldwide (UNITED NATIONS WOMEN, 2018 a).

In order to present the main issues under discussion, this chapter is divided in four main sections. The first one will present the main characteristics of the UNGA. The

second one is an overview of the UN historical efforts to guarantee women's rights to development. The third one will discuss the advancement of this topic in the 2000s due to the efforts to fulfill the Millennium Development Goal 3, "Promote Gender Equality and Empowerment". The fourth one will analyze the current discussion of this topic, focused on the achievement of Sustainable Development Goal 5, "Achieve gender equality and empower all women and girls". Finally, the conclusion will present questions for discussion.

The United Nations General Assembly and its Second Committee (Economic & Financial)

Chapter IV of the United Nations Charter defines the structure and characteristics of the United Nations General Assembly (UNGA). According to Article 9, all Member States are represented in the UNGA, and, due to this, it is considered the most democratic organ of the UN. In the Assembly, all Member States have the same rights to include items on the agenda and to make statements about different matters (UNITED NATIONS, 1945, p. 4).

Article 18 of the Charter defines the voting procedure in the UNGA. Each Member State has the right to one vote and a simple majority is required to approve decisions. However, since UNGA resolutions have a recommendatory character, it has the practice of seeking consensus, because it gives more credibility to its decisions and guarantees that Member States will have greater commitment to comply with the decisions (UNITED NATIONS, 1945, p. 6; UNITED NATIONS, 2018 b).

The UNGA deals with a variety of issues, from economic to political, social, legal and humanitarian topics. In order to organize its deliberations in these different issues, the Assembly works on six Committees or Commissions. Each one of them covering a specific agenda: the First Committee deals with Disarmament and International Security; the Second Committee discusses Economic & Financial issues; the Third Committee works with Social, Humanitarian and Cultural topics; the Fourth Committee deals with Special Political and Decolonization themes; the Fifth Committee is responsible for the Administrative and Budgetary issues; and the Sixth Committee discusses Legal affairs (UNITED NATIONS, 2018 b).

This chapter will focus on the work of the Second Committee, where Member States make recommendations in order to promote economic growth and development. There are many important topics on its agenda, such as sustainable development, poverty

eradication, the promotion of economic opportunities and social well-being and financing mechanisms (UNITED NATIONS, 2017; UNITED NATIONS, 2018 a).

Developing countries have special interest in the discussions under the Second Committee, and they organize themselves in different negotiation groups in order to present their demands. The Group of Seventy-Seven (G-77) is the largest political group at the UN, encompassing 134 developing countries plus China. The G-77 usually drafts the resolutions in the Second Committee and it is responsible for aligning interests in the area of cooperation for development (THE GROUP OF 77, 2018). Nevertheless, there are also other important groups, such as the Association of Southeast Asian Nations (ASEAN), the Caribbean Community (CARICOM), the Community of Latin America and Caribbean States (CELAC), the African Group, the Least Developed Countries (LDCs) and the Alliance of Small Island States (AOSIS).

The Second Commission's work has become even more important with the approval of the 2030 Agenda for Sustainable Development, and all its decisions are aligned with the fulfillment of its 17 goals. One important Goal is number 5, which aims at promoting gender equality. However, it is important to notice that there have been important global commitments since the 1960s, as it will be discussed in the next section.

The historical UN efforts to guarantee women's rights to development

The UN has been dedicated to raising global awareness of the role of women in the process of development. Women's right to development and women's economic empowerment have been progressively guaranteed by several international norms agreed by UN Member States.

Adopted by State Parties in 1966, the International Covenant on Economic and Social Rights defined the relationship between women and economic development. In Article 3, the States Parties decided "to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant" (UNITED NATIONS, 1966, p. 2). Besides, in its Article 7, the Covenant states that men and women should have the same work conditions, which include safe and healthy conditions, same hours worked, equal job opportunities, and fair and equal pay for the same types of work (UNITED NATIONS, 1966, pp. 2-3).

Although the Covenant was an advance at the time – since it guaranteed the insertion of women in the labor market without discrimination –, it was not a document entirely

dedicated to the situation of women. In that sense, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was a pioneer document in the defense of women's right to development. It addressed the measures to combat discrimination against women in all areas, including the economic field. Article 11 defined the following labor rights that women must enjoy in equal terms as men:

> (a) The right to work as an inalienable right of all human beings;
>
> (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
>
> (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
>
> (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
>
> (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
>
> (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction (UNITED NATIONS, 1979, pp. 4-5).

The CEDAW also recognized, in its Article 11, that all women should have equal opportunities and treatment as men in the labor market while enjoying other important rights, such as the right to maternity. In addition, Article 13 stated the importance of including women as an integral part of economic and social life. In order to do so, women should have access to economic resources, such as bank loans and financial credit. This was especially important to rural women, and Article 14 established that they should have access to economic opportunities and contribute to rural development by having equal access to agricultural credit and loans and equal treatment in the possession of land (UNITED NATIONS, 1979, pp. 5-6).

On 4 December 1986, the UNGA adopted, by its resolution A/RES/41/128, the Declaration on the Right to Development. The Declaration considered development as a human right, and all peoples should enjoy political, economic, social or cultural development,

regardless of sex or any other form of discrimination. In the Article 8 of the Declaration, the UNGA recommended that "effective measures should be undertaken to ensure that women have an active role in the development process" (UNITED NATIONS, 1986).

In the 1990s, the negative effects of globalization and liberal economic reforms culminated in the phenomenon known as feminization of poverty. It is defined as "a change in poverty levels that is biased against women or female-headed households. More specifically, it is an increase in the difference in poverty levels between women and men" (MEDEIROS; COSTA, 2008, p. 1). In order to address this issue, among others, in the Fourth World Conference on Women, held in Beijing, China, in 1995, Member States adopted two important documents: The Beijing Declaration and the Beijing Platform for Action.

In the Beijing Declaration, paragraph 26 tackled the feminization of poverty by promoting measures to change economic structures and the structural causes of poverty that were biased against women. In order to do so, the promotion of women's economic independence was fundamental. That is why paragraph 35 stated the need to ensure that women should have equal access to all economic resources: besides financial resources and land, the Declaration included information, training, and science and technology as important economic means to integrate women in development (UNITED NATIONS, 1995, pp. 4-5).

The Beijing Platform for Action defined 12 focal areas, each one with its strategic objectives and actions. The area A, entitled "Women and poverty", addressed the macroeconomic policies, development strategies and legislative matters to ensure women's rights to economic resources. The area F, entitled "Women and the economy", defined actions to promote gender equality in the areas of employment and occupational segregation, work conditions, access to markets and harmonization of work and family responsibilities between women and men (UNITED NATIONS, 1995, p. 18; p. 65).

After the Beijing Conference, the Second Committee included the subtopic "Women in Development" under the agenda item "Eradication of poverty and other development issues". The first resolution on this topic – A/RES/50/104, of 20 December 1995 – discussed the integration of women in development, considering that they are key contributors to the economy and to combating poverty. In paragraph 6, the UNGA called upon Member States to adopt gender-sensitive policies focused on guaranteeing equal participation of women in economic activities (UNITED NATIONS GENERAL ASSEMBLY, 1996, p. 2).

The two subsequent resolutions – A/RES/52/195, of 18 December 1997 and A/RES/54/210, of 22 December 1999 – addressed other relevant issues in the 1990s. The Assembly focused on the particular situation of women in Africa and in least developing countries; the necessity of mainstreaming a gender perspective in all aspects of economic policy making; and the importance of including women in the economic decision making processes (UNITED NATIONS GENERAL ASSEMBLY, 1998, p. 3; 2000, p. 2). These recommendations set path to the new millennium, in which the debate on the empowerment of women gained new impetus, promoting a broader role of women in development, as it will be discussed in the next session.

Women in Development: main discussions and decisions of the General Assembly in the 2000s

Aiming to promote development in the new millennium, Member States adopted, in 2000, the Millennium Development Goals (MDGs), which consisted of 8 objectives that should be achieved by 2015. For the achievement of the MDG 3, "Promote Gender Equality and Empowerment", the UN increased its efforts to promote women's economic empowerment. It is defined as:

> (…) the capacity of women and men to participate in, contribute to and benefit from growth processes in ways which recognise the value of their contributions, respect their dignity and make it possible to negotiate a fairer distribution of the benefits of growth. Economic empowerment increases women's access to economic resources and opportunities including jobs, financial services, property and other productive assets, skills development and market information (ORGANISATION FOR ECONOMIC COOPERATION AND DEVELOPMENT, 2011, p. 6).

The promotion of women's economic empowerment was considered crucial to tackle poverty. At the begging of the century, most of the 1.5 billion people worldwide living with less than 1 dollar a day were women. Besides, many of these women were employed, meaning that their insertion in labor market was precarious and not enough to eradicate poverty (UNITED NATIONS DEPARTMENT OF PUBLIC INFORMATION, 2000).

One necessary step for economic empowerment is providing education and training at all levels for all women and girls, due to the direct correlation between education and employment opportunities. In the 2000s, estimates showed that women's wages would

increase between 10 to 20% per extra year of education (UNITED NATIONS GENERAL ASSEMBLY, 2009 b, p. 34). With that in mind, in its resolution A/RES/60/210, of 22 December 2005, the UNGA reaffirmed the need to eliminate the disparities in primary and secondary education at all levels by 2015, ensuring equal access to education for men and women. In addition, in paragraph 15 of this resolution, the Assembly called upon governments to provide specific education to women entrepreneurs. By doing so, women would have the knowledge and ability to pursue better job opportunities and better income (UNITED NATIONS GENERAL ASSEMBLY, 2006, p. 2; p. 4).

On the other hand, despite of the increase in levels of education, women's participation in labor market worldwide had not presented a major change: their participation remained at around 52% in the period from 1990 to 2010 (UNITED NATIONS, 2010, p. 76). Women continued to face major inequalities in comparison to men in terms of type of work, conditions of work and wages.

In the 2000s, women were, in their majority, employed in lower-quality jobs or in the informal sector. According to the Report of the Secretary-General on the World Survey on the Role of Women in Development (A/64/93, of 17 June 2009), "at the global level, the share of vulnerable employment in total female employment was 52.7 per cent in 2007, as compared with 49.1 per cent for men" (UNITED NATIONS GENERAL ASSEMBLY, 2009 b, pp. 29-30). Women employed in formal professional jobs represented only 30% to 60% of global workforce in 2004, and few had occupations in skilled areas, such as the information technology industry. Not to mention the gender wage gap: in 2008, it was estimated that women earned 16.5% less than men worldwide. In countries where the wage gap narrowed, such as in the developed countries, that happened more due to a reduction in male wages than to an increase in women wages (UNITED NATIONS GENERAL ASSEMBLY, 2009 b, p. 31).

In face of this reality, the UNGA urged governments, in paragraph 17 of its resolution A/RES/64/217, of 21 December 2009, to develop labor market policies focused on creating decent work for women. The concept of decent work was created by the International Labour Organization and encompasses four pillars. The first one is employment creation, which means that all people should have access to productive work. The second one is social protection, which means that all people should have access to basic social security. The third one is rights at work, which means that all people should have a formal and secure job, with a fair wage. The fourth one is social dialogue, which means that all people

should be free to participate in the decisions related to their workplace and to labor policies in general (UNITED NATIONS GENERAL ASSEMBLY, 2009 a, p. 6; INTERNATIONAL LABOUR ORGANIZATION, 2018).

By the end of the first decade of the new millennium, the UNGA started to focus on how to develop better employment conditions so women could enjoy more opportunities of decent work. The creation of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) in 2011 was a crucial mechanism in order to do so. In its resolution A/RES/66/216, of 22 December 2011, the Assembly recognized the role of UN-Women in supporting Member States to incorporate a gender perspective in their national development policies. With that, more concrete measures could be taken in order to truly promote women's economic empowerment, as defined by the MDG 3 (UNITED NATIONS GENERAL ASSEMBLY, 2012, p. 9).

Women in Sustainable Development: the 2030 Agenda

In 2015, Member States renewed their commitments with the global development agenda, and, with the purpose of continuing and furthering the MDGs, the UNGA adopted the document A/RES/70/1, of 25 September, entitled "Transforming the world: the 2030 Agenda for Sustainable Development". The 2030 Agenda consists of 17 goals and 169 targets, and the Sustainable Development Goal (SDG) 5 intends to "Achieve gender equality and empower all women and girls". There are nine targets under SDG 5, such as ending all forms of discrimination and violence against women (UNITED NATIONS, 2015). The following targets specifically refer to the situation of women in development:

> 5.4 Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate;
>
> 5.5 Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life;
>
> 5.A Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws;

> 5.C Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels (UNITED NATIONS, 2018 c).

Based on these targets, the UNGA has currently focused its discussion on the subtopic "Women in Development" on two main issues: the transition of women from the informal market to productive jobs; and the recognition, reduction and redistribution of non-paid care and domestic work.

The transition of women from informal to formal markets

Informal work is defined as an occupation that is not covered by labor laws or social protection. Informal work includes the categories of work such as "unregistered workers, own-account workers, casual and seasonal workers, and home-based domestic workers" (UNITED NATIONS GENERAL ASSEMBLY, 2017, p. 5). It also includes the categories of street vendors, small traders and subsistence farmers.

More than one billion people that live in poverty around the world nowadays are working informally, and a large number of women are part of this. Currently, women represent 63% of informal workers around the world. A significant share of informal workers is of domestic workers: among the 67 million domestic workers globally, 54 million are women (UNITED NATIONS GENERAL ASSEMBLY, 2017, p. 5). Besides, informal work is the main source of employment for most women in developing countries. In Southern Asia, 95% of women in the non-agricultural sectors have informal jobs. In sub-Saharan Africa, 89% of women are in this same situation, while in Latin America and the Caribbean, this number is 59% (UNITED NATIONS WOMEN, 2018 b).

It is a consensus in the UNGA that full sustainable human development can only be achieved if women transition from the informal to the formal market, and, in order to do so, the UNGA has identified three areas of action: the increase of social protection; the strengthening of labor laws; and the creation of productive jobs.

In paragraph 22 of its resolution A/RES/70/219, of 22 December 2015, the UNGA encouraged an increase in investments, policies and programs of social protection and social services with a gender perspective. Income security, maternity and paternity leave, health and childcare, transportation, education, are all crucial to give women access to decent work (UNITED NATIONS GENERAL ASSEMBLY, 2016, p. 9).

Latin America and Caribbean countries were at the forefront of strategies to guarantee income security as a social right that ensures the survival of families led by women living in poverty. Through the access to income and the promotion of financial autonomy, income transfer mechanisms have truly promoted poor women's economic empowerment. In this region, 18 countries have developed specific social protection policies for women through income transfer. *Bolsa Família* (Family Allowance) in Brazil, *Oportunidades* (Opportunities) in Mexico and *Familias en Acción* (Families in Action) in Colombia are good examples of income transfer programs with a gender-sensitive social protection policy, because female family leaders are the main recipients of the transfers (ORGANIZAÇÃO DAS NAÇÕES UNIDAS DO BRASIL, 2011).

In the Report of Secretary-General A/72/282, of 3 August 2017, it was emphasized that the most important measure to recognize and value women's work and to give them access to productive jobs is to bring workers and enterprises together under the protection of labor laws. As a response to this recommendation, the UNGA urged governments, in paragraph 29 of its resolution A/RES/72/234, of 20 December 2017, to:

> (…) develop, adequately resource and implement active labour market policies on full and productive employment and decent work for all, including the full participation of women and men in both rural and urban areas, as well as policies that encourage the full and equal participation of women and men, including persons with disabilities, in the formal labour market, to enact or strengthen and enforce laws and regulatory frameworks that ensure equality and prohibit discrimination against women, in particular in the world of work, including their participation in and access to labour markets, inter alia, laws and frameworks that prohibit discrimination based on pregnancy, motherhood, marital status or age, as well as other multiple and intersecting forms of discrimination (…) (UNITED NATIONS GENERAL ASSEMBLY, 2017 b, p. 9)

In recent years, the International Labour Organization has promoted international campaigns in order to recognize and sets laws for domestic workers. Labor legislation in this case is essential to accelerate the transition of women from informal to decent work because only 10% of the 43.6 million women employed as domestic workers enjoy labor protection. Some governments, such as Qatar and Bosnia and Herzegovina, are working on their national policies to implement legislation and labor market reforms to

promote equal rights in informal and formal employment. These countries, for example, offer training for women with a focus on entrepreneurship, business management, and information and communication technology (UNITED NATIONS GENERAL ASSEMBLY, 2017, p. 6; pp. 8-9).

Productive jobs are defined as formal and paid jobs that must have adequate remuneration, be exercised in a condition of freedom, equity, security and able to guarantee a decent life. In other words, a productive job is a decent work. The UNGA believes that, to accelerate the transition of women from informal to formal employment, the creation of productive jobs is key. However, it has become a challenge after the global economic and financial crisis in 2008, since the recovery of global economy was not enough for creating the necessary amount of jobs worldwide (UNITED NATIONS GENERAL ASSEMBLY, 2017, p. 8).

The creation of productive jobs for women requires active macroeconomic policies to promote investments in sectors with more opportunities and to improve the quantity and quality of paid employment for women. Besides, it is important to give women access to economic resources, especially credit, so they can develop their own enterprises and employ a large number of women. There are interesting initiatives in Sudan and China, where governments accelerated the transition of women from informal to formal employment by increasing the access of women to finance. In Sudan, their Banking System focused on rural finance, allowing women to be entrepreneurs and promote rural development. Likewise, China provides concessional microcredit loans to women in urban areas (UNITED NATIONS GENERAL ASSEMBLY, 2017, p. 10).

The political groups at the UNGA have also emphasized the need of specific strategies to accelerate the transition of women from informal to formal markets, considering the different situations of each group of countries. The Group of 77 and China expressed their concern with the persistent inequalities between men and women in labor force participation, leadership, social norms and conditions of work. The group emphasized the importance of women to have access to justice, healthcare and education, which are basic conditions to maintain economic livelihood (PAZMIÑO, 2017).

Least Developed Countries stressed that women need to participate in the eradication of poverty, facilitating the transition to productive jobs. They emphasized that there is the necessity of increasing investment in infrastructure, energy, Information and

Communication Technologies and skill development focused on women. With this, market barriers against women would be weakened (AHSAN, 2017).

For the Community of Latin American and Caribbean States (CELAC), the Caribbean Community (CARICOM) and the Association of Southeast Asian Nations (ASEAN), the eradication of poverty, marginalization and inequality concerning women should be a priority. For these groups, only by eliminating these problems will it be possible to include women in productive jobs (CALDERON, 2017; YOUNG, 2017; TUY, 2017).

Based on these positions, the UNGA agreed to focus, in its next meeting, on marginalized women, combating all forms of discrimination, and include women in decision-making processes. Only with equal access of women to economic resources and political participation, quality education, equal pay, employment opportunity and leadership, will it be possible to truly achieve sustainable development.

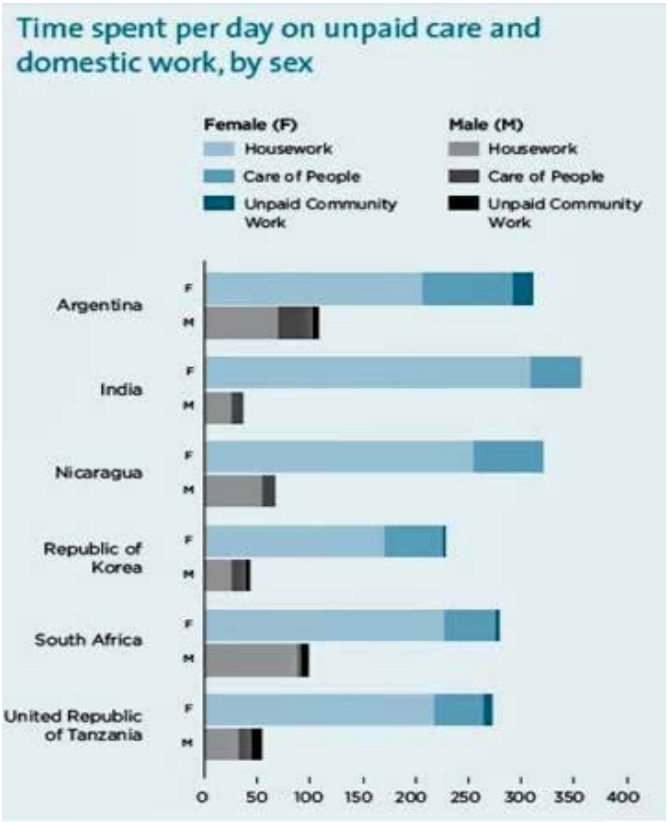
Recognition, reduction and redistribution of non-paid care and domestic work

Non-paid care can be understood as "the provision of personal, face-to-face services to meet the physical and emotional needs that enable a person to function on a socially acceptable level of ability, comfort, and safety" (RAZAVI, 2016, p. 1). This means that activities such as the care of children and elderly people, and other tasks involved in these activities, such as taking them to school, hospitals, supermarket, are considered jobs, and, mainly, non-paid ones.

In Article 1 of the Convention concerning Decent Work for Domestic Workers, adopted by the General Conference of the International Labour Organization on 16 June 2011, domestic work is defined as "work performed in or for a household or households", which involves cooking, cleaning or caring for children and the elderly (INTERNATIONAL LABOUR ORGANIZATION, 2011).

The provision of care services and domestic work is generally attributed to women and girls. As it is possible to see in the Figure 1, the time spent by men in housework, care of people and unpaid community work is lesser than women's in many countries. In Argentina, women spend about 300 minutes in these tasks, while men spend about 100 minutes. In India, while women spend about 350 minutes per day in housework and caring of people, men spend about 50 minutes for the same tasks. These differences appear also in Nicaragua, Korea, South Africa and Tanzania (RAZAVI, 2016, p. 1).

Figure 1 - Time spent per day on unpaid care and domestic work by sex



Source: RAZAVI, 2016, p.1.

In face of this reality, the UNGA has taken actions for the recognition, reduction and redistribution of unpaid care and domestic work. In its resolution A/70/219, of 22 December 2015, the Assembly recognized that women and girls are disproportionately and negatively affected by unpaid work and domestic work. While spending less time on paid and formal work, women have less time for participation in social, political and economic life – therefore, it negatively affects development. In paragraph 30 of this resolution, the UNGA encouraged:

> (…) Governments to strengthen the collection of time-use data, time-use research on the unpaid care burdens of women and girls and the construction of satellite accounts to determine the value of unpaid care work and its contribution to the national economy, as appropriate, in cooperation with the United Nations system and other international organizations, upon the request of Governments (UNITED NATIONS GENERAL ASSEMBLY, 2016, p. 10).

Recognizing, reducing and redistributing unpaid work and domestic work will require countries to take targeted actions. The three main measures discussed in the Second

Committee are investment from both public and private sectors in care services and infrastructure; improvement of social protection; and the creation of a care economy (UNITED NATIONS GENERAL ASSEMBLY, 2017, p. 13).

According to the Report of Secretary-General A/72/282, of 3 August 2017, public and private investments in affordable care services and infrastructure is the most efficient way to reduce and redirect the care responsibilities of women and girls. When families have access to clean water, sanitation, education, energy, transport, health and childcare, the time women dedicate to tasks related to these areas is reduced and directed to other productive activities. For instance, in sub-Saharan Africa, women and girls are the main responsible for caring for their family and fetching clean water, usually from long distances. With the appropriate infrastructure and water services, these women and girls could use their time for education or in productive jobs (UNITED NATIONS GENERAL ASSEMBLY, 2017, p. 13; RAZAVI, 2016, p. 2).

In its resolution A/RES/70/219, of 22 December 2015, the UNGA encouraged Member States to implement policies and legislation in support of parental leave and other types of leave, focusing on the reconciliation of work and family responsibilities. With that, women's double shift, at work and at home, would be reduced and unpaid care work and domestic work would be better distributed. Other important measures are part-time jobs, flexible working hours and decent care services, especially because there is considerable inequality in access these care services depending on class, gender, race or migrant status (UNITED NATIONS GENERAL ASSEMBLY, 2016, p. 9; UNITED NATIONS GENERAL ASSEMBLY, 2017, p. 13; RAZAVI, 2016, p. 3).

Many countries have been focusing on creating the so-called care economy. The objective of the care economy is to transform unpaid care work into productive and decent jobs, supported by adequate labor laws, social protection and fair wages. Besides, it would have a positive impact in global economy. According to estimates made by International Trade Union Confederation:

> If 2% of GDP was invested in the care industry, and there was sufficient spare capacity for that increased investment to be met without transforming the industry or the supply of labour to other industries, increases in overall employment ranging from 2.4% to 6.1% would be generated depending on the country. This would mean that nearly 13 million new jobs would be created in the US, 3.5 million in Japan, nearly 2 million in Germany, 1.5

> million in the UK, 1 million in Italy, 600,000 in Australia and nearly 120,000 in Denmark. As a consequence the employment rate of women would increase by 3.3 to 8.2 percentage points (and by 1.4 to 4.0 percentage points for men) and the gender gap in employment would be reduced (by between half in the US and 10% in Japan and Italy) (…) (INTERNATIONAL TRADE UNION CONFEDERATION, 2016, pp. 5-6).

The recognition, reduction and redistribution of unpaid care and domestic work is a new theme on the UNGA agenda. Although this issue does not appear yet with great emphasis on country and political group speeches at the UN, the implementation of SDG 5 is giving traction to it. After all, ending all forms of discrimination against all women and girls will definitely require changing gender bias related to care work and domestic work. By adopting measures to recognize, reduce and redistribute domestic work and unpaid work, it will be possible to better promote women's economic empowerment.

Conclusion

Since its early years, the UN has made important efforts to engage Member States to a number of conferences and resolutions focused on promoting gender equality. Despite that, inequality between men and women persists worldwide, in a way that many women and girls cannot enjoy their basic rights and opportunities related to development. Everywhere, women still have less education opportunities, earn less for the same work, have less access to productive and formal jobs and face more difficult work conditions and less work security than men. Besides all that, women are responsible for most part of the unpaid care and domestic work, which imposes great barriers to their empowerment, since they could spend more time in education or dedicate themselves to productive and formal jobs if these tasks were better redistributed.

The SDG 5 is an important global commitment to achieve gender equality and empower all women and girls. In order to integrate women in development and guarantee women's economic empowerment, more vigorous efforts are required. Firstly, it is necessary to make greater investments and deploy adequate macroeconomic policies to create decent work opportunities and truly include women in formal employment market. Secondly, the development of gender sensitive social protection is urgent to guarantee women's income independence and security. Thirdly, discriminatory practices and legal barriers must be taken down so women can have control of economic resources, especially financial resources, properties and land. Fourthly, a focus on specific groups of women

is required, such as poor and marginalized women, rural women, and girls, who face different forms of discrimination in terms of development.

It has been vastly proved that when women are integrated in development processes, economies grow, conditions of life improve and new generations have greater opportunities. It means that, to fulfill the 2030 Agenda's purpose of leaving no one behind, the promotion of women's economic empowerment is key. With that in mind, the UNGA needs to address three main questions:

1. How can the UN better promote a gender perspective in its poverty reduction programs? Especially in order to address the feminization of poverty, which has consolidated as a long-term problem worldwide?
2. What are the national and regional measures that Member States should take to speed up women's transition from informal to formal labor markets? Which best practices can be scaled up and adapted to different countries in the areas of social protection and decent work?
3. How can the UN accelerate efforts towards the recognition, reduction and redistribution of unpaid care and domestic work by women and to encourage global investments in care economy?

References

AHSAN, S. *Statement on behalf of the Least Developed Countries by H.E. Mr. Shameem Ahsan, Ambassador and Permanent Representative of Bangladesh to the United Nations in Geneva, at the Second Committee on Agenda Item 23: Eradication of Poverty and Other Development Issues of the 72th Session of the United Nations General Assembly*. New York, 11 October 2017. Available at: <https://papersmart.unmeetings.org/media2/16153539/asean-statement-on-agenda-23-eradication-of-poverty-of-the-2nd-committee.pdf>. Accessed 29 April 2018.

CALDERON, H. J. *Statement on behalf of Latin American and Caribbean Community (CELAC) by H.E. Ambassador Hector Jaime Calderon, Deputy Permanent Representative and Charge D'Affaires on Agenda Item 23: Eradication of Poverty and Other Development Issues of the 72th Session of the General Assembly of the United Nations.* New York, 11 October 2017. Available at: <https://papersmart.unmeetings.org/media2/16153414/el-salvador-celac.pdf>. Accessed 29 April 2018.

INTERNATIONAL LABOUR ORGANIZATION (ILO). "Decent Work". In: *Official website of the International Labour Organization*, 2018. Available at: <https://www.ilo.org/global/topics/decent-work/lang--en/index.htm>. Accessed 11 July 2018.

INTERNATIONAL LABOUR ORGANIZATION (ILO). *Convention concerning Decent Work for Domestic Workers (No. 189).* Adopted in the 100th ILC session, Geneva, 16 June 2011. Available at: <http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189>. Accessed 12 July 2018.

INTERNATIONAL TRADE UNION CONFEDERATION (ITUC). *Investing in the Care Economy - A gender analysis of employment stimulus in seven OECD countries.* A report by the UK Women's Budget Group. International Trade Union Confederation, March 2016. Available at: <https://www.ituc-csi.org/IMG/pdf/care_economy_en.pdf>. Accessed 12 July 2018.

MEDEIROS, M.; COSTA, J. "What Do We Mean by 'Feminization of Poverty'?". In: *International Poverty Centre (IPC) One Pager,* no. 58, July 2008. Available at: <http://www.ipc-undp.org/pub/IPCOnePager58.pdf >. Accessed 27 April 2018.

ORGANISATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD). *Women's Economic Empowerment*. Paris: Organisation for Economic Cooperation and Development, April 2011. 31 p. Available at: <http://www.oecd.org/dac/gender-development/47561694.pdf>. Accessed 27 May 2018.

ORGANIZAÇÃO DAS NAÇÕES UNIDAS NO BRASIL (ONUBR). "Programa Bolsa Família é exemplo de erradicação de pobreza, afirma relatório da ONU". In: *Official website of Organização das Nações Unidas do Brasil*, 07 December 2011. Available at: <https://nacoesunidas.org/programa-bolsa-familia-e-exemplo-de-erradicacao-de-pobreza-afirma-relatorio-da-onu/>. Accessed 20 May 2018.

PAZMIÑO, D. M. *Statement on Behalf of the Group of 77 and China by H.E. Mr. Diego Morejon Pazmiño, Ambassador and Permanent Representative of Ecuador to the United Nations, at the Second Committee on Agenda Item 23: Eradication of Poverty and Other Development Issues of the 72th Session of the United Nations General Assembly*. New York, 11 October 2017. Available at: <https://papersmart.unmeetings.org/media2/16153398/ecuador-77-e.pdf>. Accessed 1 May 2018.

RAZAVI, S. "Redistributing Unpaid Care and Sustaining Quality Care Services: A Prerequisite for Gender Equality". In: *UN Women Policy Brief,* 2016. Available at: <http://www.unwomen.org/en/digital-library/publications/2016/3/redistributing-unpaid-care-and-sustaining-quality-care-services>. Accessed 01 May 2018.

THE GROUP OF 77 (G-77). "About the Group of 77". In: *Official website of The Group of 77*, 2018. Available at: <http://www.g77.org/doc/>. Accessed 28 April 2018.

TUY, R. *Statement on behalf of The Association of Southeast Asian Nations (ASEAN) by His Excellency Mr. Ry Tuy, Ambassador and Permanent Representative of the Kingdom of Cambodia to the United Nations on Agenda Item 23: Eradication of Poverty and Other Development Issues of the Second Committee of the 72th Session of the United Nations General Assembly.* New York, 11 October 2017. Available at: <https://papersmart.unmeetings.org/media2/16153539/asean-statement-on-

agenda-23-eradication-of-poverty-of-the-2nd-committee.pdf>. Accessed 29 April 2018.

UNITED NATIONS (UN). "About economic and social development". In: *Official website of the United Nations,* 2018 a. Available at: <http://www.un.org/esa/about_esa.html>. Accessed 24 April 2018.

_____. "Economic and Financial Committee (Second Committee)". In: *Official website of the United Nations General Assembly*, 26 September 2017. Available at: <http://www.un.org/en/ga/second/>. Accessed 7 April 2018.

_____. "Functions and powers of the General Assembly". In: *Official website of the United Nations General Assembly*, 2018 b. Available at: <http://www.un.org/en/ga/about/background.shtml>. Accessed 7 April 2018.

_____. "Sustainable Development Goal 5 – Achieve gender equality and empower all women and girls". In: *Official website of the UN Sustainable Development Knowledge Platform*, 2018 c. Available at: <https://sustainabledevelopment.un.org/sdg5>. Accessed 08 July 2018.

_____. *Charter of the United Nations and the Statue of the International Court of Justice.* San Francisco, 1945. Available at: <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>. Accessed 18 May 2018.

_____. *Convention on the Elimination of All Forms of Discrimination against Women*. Adopted and opened for signature, ratification and accession by General Assembly, 18 December 1979, 34/180. Available at: <http://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>. Accessed 28 April 2018.

_____. *Declaration on the Right to Development*. Resolution adopted by the General Assembly, 4 December 1986, A/RES/41/128. Available at: <http://www.un.org/documents/ga/res/41/a41r128.htm>. Accessed 24 April 2018.

_____. *International Covenant on Economic Social and Cultural Rights.* Adopted and opened for signature, ratification and accession by General Assembly, 3 January 1966, 2200A (XXI). Available at: <http://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>. Accessed 24 April 2018.

_____. *Report of the Fourth World Conference on Women*. United Nations, Beijing, 4-15 September 1995, A/CONF.177/20. Available at: <http://www.un.org/womenwatch/daw/beijing/pdf/Beijing%20full%20report%20E.pdf>. Accessed 18 May 2018.

_____. *The World's Women 2010 – Trends and Statistics.* New York, Department of Economic and Social Affairs, 2010, ST/ESA/STAT/SER.K/19. Available at: <https://unstats.un.org/unsd/demographic/products/worldswomen/ww_full%20report_color.pdf>. Accessed 11 July 2018.

UNITED NATIONS DEPARTMENT OF PUBLIC INFORMATION. *The feminization of poverty*. UN Women, Fact Sheet No. 1, May 2000. Available at: <http://www.un.org/womenwatch/daw/followup/session/presskit/fs1.htm>. Accessed 11 July 2018.

UNITED NATIONS GENERAL ASSEMBLY (UNGA). *Transforming our world: the 2030 Agenda for Sustainable Development.* Resolution adopted by the General Assembly at its seventieth session, on 25 September 2015, A/RES/70/1. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/1>. Accessed 29 April 2018.

_____. *Women in development*. Report of the Secretary-General. Seventy-second session, 3 August 2017, A/RES/72/282. Available at: <http://undocs.org/en/A/72/282>. Accessed 29 April 2018.

_____. *Women in development*. Resolution adopted by the General Assembly at its Fiftieth session, 9 February 1996, A/RES/50/104. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/50/104>. Accessed 20 May 2018.

_____. *Women in development*. Resolution adopted by the General Assembly at its Fifty-second session, 18 February 1998, A/RES/52/195. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/52/195>. Accessed 20 May 2018.

_____. *Women in development*. Resolution adopted by the General Assembly at its Fifty-fourth session, 1 February 2000, A/RES/54/210. Available at: <https://undocs.org/en/A/RES/54/210>. Accessed 20 May 2018.

_____. *Women in Development*. Resolution adopted by the General Assembly at its Seventieth session, 15 February 2016, A/RES/70/219. Available at: <http://undocs.org/a/res/70/219>. Accessed 20 May 2018.

_____. *Women in development*. Resolution adopted by the General Assembly at its Seventy-second session, 23 January 2018, A/RES/72/234. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/72/234>. Accessed 29 April 2018.

_____. *Women in Development.* Resolution adopted by the General Assembly at its Sixtieth session, 22 March 2006, A/RES/60/210. Available at: <https://undocs.org/A/RES/60/210>. Accessed 27 May 2018.

_____. *Women in Development.* Resolution adopted by the General Assembly at its Sixty-fourth session, 21 December 2009 a, A/RES/64/217. Available at: <https://undocs.org/A/RES/64/217>. Accessed 27 May 2018.

_____. *Women in Development.* Resolution adopted by the General Assembly at its Sixty-sixth session, 27 March 2012, A/RES/66/216. Available at: <https://undocs.org/en/A/RES/66/216>. Accessed 27 May 2018.

_____. *World Survey on the Role of Women in Development.* Report of the Secretary-General. Sixty-fourth session, 17 June 2009 b, A/63/63. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N09/372/25/PDF/N0937225.pdf?OpenElement>. Accessed 11 July 2018.

UNITED NATIONS WOMEN (UN-WOMEN). "Facts and Figures: Economic Empowerment". In: *Official website of UN Women,* 2018 a. Available at: <http://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures>. Accessed 10 July 2018.

_____. "Women in informal economy". In: *Official website of UN Women,* 2018 b. Available at: <http://www.unwomen.org/en/news/in-focus/csw61/women-in-informal-economy>. Accessed 20 May 2018.

YOUNG, L. M. *Statement on behalf of the Caribbean Community (CARICOM) by H. E. MS. Lois M. Young, Ambassador Extraordinary and Plenipotentiary Permanent Representative of Belize to the United Nations on Agenda Item 23: Eradication of Poverty and Other Development Issues of the 72th Session of the Second Committee of the General Assembly.* New York, 11 October 2017. Available at: <https://papersmart.unmeetings.org/media2/16153409/belize-caricom.pdf>. Accessed 29 April 2018.

CHAPTER 4

STRENGTHENING OF THE COORDINATION OF EMERGENCY HUMANITARIAN ASSISTANCE OF THE UNITED NATIONS

Economic and Social Council

Flávia Leal Mattos

Gabriela Oliveira da Costa

Introduction

The humanitarian assistance sector was created in the 19th century as a response to the scourge of wars. The idea was to alleviate human suffering, restricting the negative impacts of conflicts. The sector was born outside and prior to the United Nations (UN) and has evolved considerably ever since. The increasing demand for humanitarian assistance and the great diversity of humanitarian actors on the ground have brought an important challenge to the matter: How can these actors work together to improve support during humanitarian crises?

Humanitarian coordination involves joint action with all humanitarian actors in order to ensure coherent humanitarian activities based on principled responses to emergencies, which may be related to conflicts, natural disasters or chronic issues, such as famine. The strengthening of the coordination of emergency humanitarian assistance of the UN has become a determining factor over the years: even though the organization has not led the creation of the sector, it has proved to be an indispensable stakeholder, mobilizing resources and scaling up assistance (CRISP, 2009, p. 1).

Also, the current setting is more challenging than ever before: due to the increase of complex crises and disasters worldwide, demand has multiplied, and humanitarian assistance has become more expensive. Therefore, the duplication of tasks represents a real waste of precious resources: coordination is more than a priority, it is an urgent need. It is important to advance the strengthening of coordination, to tackle the main problems that affect the current humanitarian sector.

In the first section of this chapter, we will present the structure of the Economic and Social Council (ECOSOC) that coordinates humanitarian assistance in different scopes. After that, we will discuss the historical path since the emergence of endeavors to mitigate

the warfare problems, until the consolidation of the humanitarian sector throughout the years, highlighting the participation of the UN. In the third part of this chapter, we will address the current coordination of humanitarian assistance, seeking to show the main challenges that the sector faces and how the UN has been working to improve efforts to meet its high demand. Finally, as concluding remarks, we will raise some important questions to discuss the issue for humanitarian assistance.

The Economic and Social Council and its mains responsibilities

The United Nations Economic and Social Council was created in 1945, defined in the United Nations Charter. ECOSOC is one of the main UN organs and it was given a broad mandate by Chapter 10 of the UN Charter, mainly related to the economic and social area[1] (UNITED NATIONS, 2018 d).

ECOSOC is composed of fifty-four Member States, chosen by annual elections organized by the General Assembly, which elects eighteen members to hold a term of three years each. Therefore, the ECOSOC renews one-third of its membership every year. Membership is organized based on geographic location: fourteen seats are distributed to African countries, eleven to Asian countries, six to Eastern Europe countries, ten to countries of Latin America and Caribbean, and thirteen to Western European countries and others. Regarding the decision-making process, each ECOSOC member has one vote and decisions are taken by the majority of votes. However, in the last few years, it has been a practice of the ECOSOC to adopt its decisions and resolutions by consensus, in an effort to increase its legitimacy and the implementation of its decisions (ROSENTHAL, 2009, pp. 1-3; UNITED NATIONS, 2018 b; 2018 d).

Since most of its mandate is in some extent similar to the one of the United Nations General Assembly (UNGA), ECOSOC underwent some formal and informal alterations in its agenda: most countries in the UN believed it was better to discuss economic and social topics at the UNGA, because of its universality. Consequently, if we compare ECOSOC's current activities with its original mandate, we will identify some important changes[2] Nowadays, ECOSOC has three main responsibilities: move forward with sustainable development, promote coordination among the UN system[3] and its partners, and monitor

1 Originally, the ECOSOC would be responsible for matters related to economy, society, culture and human rights. However, with the creation of the Human Rights Council, in 2006, ECOSOC lost some space in this discussion (CRISP, 2009, p. 3).

2 The most significant were made in 2005, after an effort of revitalizing the work of ECOSOC (CRISP, 2009, pp. 3-7).

3 The UN system relates not only to the six main organs, namely UNGA, Security Council, ECOSOC, Secretariat, Trusteeship Council and International Court of Justice (ICJ), but also to the funds, agencies and programs related to the UN (UNITED NATIONS, 2018 a).

important UN conferences (ROSENTHAL, 2009, pp. 2-5; UNITED NATIONS, 2018 a; 2018 d; 2018 f).

Within the second area, related to the interaction with the UN system and its partners, the ECOSOC has been dedicated, since 1998, to fostering the coordination of Humanitarian Assistance of the UN. It created the Humanitarian Affairs Segment (HAS) to encourage the interaction between UN Member States, UN agencies and non-UN humanitarian actors in an effort to better organize aid relief. The main objective is to act more cohesively in delivering humanitarian assistance, alleviating suffering amidst crisis (UNITED NATIONS, 2018 g).

The HAS organizes annual sessions to promote a General Debate, resulting in a resolution on humanitarian coordination. Moreover, the sessions also include High-Level Interactive Panels, and other side-events. As the aim is to strengthen coordination, not only Member States attend the Conference, but also representatives from the UN System (funds, agencies and programs) that also perform humanitarian activities, and Non-Governmental Organizations (NGOs). Each annual meeting has an official theme to guide discussions and highlight priorities. In 2018, HAS is going to address the theme: "Restoring humanity, respecting human dignity and leaving no one behind: working together to reduce people's humanitarian need, risk and vulnerability" (UNITED NATIONS, 2017 a; 2018 e).

The Humanitarian Assistance Sector: origins and development

The Humanitarian Assistant Sector dates back to the 19th century but has been through many changes since then. Over the years, the humanitarian assistance sector has increased due to the diverse demands of the International System. With globalization and the wars that have raged the need for greater support, organizations that provide assistance and the UN have seen the need to create diverse mechanisms capable of encompassing the entire humanitarian sector, according to local and human needs.

The emergence of Humanitarian Assistance and the International Humanitarian Law

In 1863, Henry Dunant founded the International Committee of the Red Cross (ICRC), as he saw the necessity to create a mechanism that could provide assistance to the wounded of war. The initiative originated after the battle of Solferino[4] where he witnessed the suffering that wars caused to people involved, mostly combatants. At first, the Red Cross

4 The Solferino War was a conflict for the Italian unification (INTERNATIONAL COMMITTEE OF THE RED CROSS, 1998).

would focus on coordinating and supporting assistance offered by States: however, after sometime it was clear that some States would not have the willingness to offer assistance during warfare and the Committee started to act more in the field (INTERNATIONAL COMMITTEE OF THE RED CROSS, 1998; 2016).

In order to create a framework to engage States in humanitarian assistance, ICRC pushed for the signature of a document obliging these actors to offer support to wounded militaries, disregarding the side of the conflict that they were fighting in. As a result, the First Geneva Convention was created in 1864, establishing the grounds of the International Humanitarian Law (IHL), which would aim to limit the cruelty of war. This mission would prove to be essential in the next century, when the suffering caused by wars would reach unprecedented levels with the World Wars (INTERNATIONAL COMMITTEE OF THE RED CROSS, 2016).

The First World War, was the first conflict of the 20th century involving many European countries, and demanded great efforts regarding humanitarian assistance: this moment was the most active of the Red Cross. After the World War I, international society hoped peace would become a reality. However, conflicts began to erupt outside Europe and it was clear that the workload of humanitarian organizations would only increase (INTERNATIONAL COMMITTEE OF THE RED CROSS, 2016).

The Second World War showed the atrocities of a conflict much more armed and technological, which deliberately expanded human suffering. This was responsible for an unprecedented flow of refugees and large-scale brutalities. Consequently, the humanitarian sector had to respond to new challenges, leading to its expansion: humanitarian actors tried to include the victims of both sides. The high demand of this time showed the need for an instance that would coordinate and guide all humanitarian efforts and of a broader legal framework that could orientate humanitarian assistance. Also, the Second World War showed that some States did not have the compromise of offering support to those affected by war, even if they were civilians (INTERNATIONAL COMMITTEE OF THE RED CROSS, 2016).

In 1949, the International Community found the need to advance IHL and agreed to update and expand the Geneva Conventions, which would contain rules to protect not only soldiers and prisoners of war, but also civilians in a situation of vulnerability due to the violations and unnecessary suffering during warfare (INTERNATIONAL COMMITTEE OF THE RED CROSS, 2014; 2016).

The Geneva Conventions are comprised by four conventions. The first is an updated version of the one from 1864 and it addresses the protections of soldiers on the ground, medical and religious personnel. The Second Geneva Convention deals with the protection of militaries at the sea, and also the medical ships at the sea (INTERNATIONAL COMMITTEE OF THE RED CROSS, 2014).

The third Geneva Convention is related to the prisoners of war. The Convention guaranteed to these prisoners a minimum of dignity and defined the work, financial resources and legal rights available to them. In addition, the convention deals with the repatriation of prisoners at the end of war (INTERNATIONAL COMMITTEE OF THE RED CROSS, 2014).

Finally, the Fourth Geneva Convention was adopted in 1949 and brought a great innovation to International Law: it takes into consideration the disaster of World War II to address, in its 159 articles, the protection and the treatment of civilians. By distinguishing between combatants and civilians in the occupied territory, this Convention was the first to deal with the particular suffering imposed to those who are not directly engaged in the war. The document foresees special conditions to the offer of aid relief and gives special attention to vulnerable groups, such as women and children. Due to the lack of other treaty related to humanitarian assistance, the Fourth Convention is still the main reference for all actions taken in field, managing to maintain a certain coherence and regulating the work carried out in conflict-affected areas (INTERNATIONAL COMMITTEE OF THE RED CROSS, 2014; INTERNATIONAL COMMITTEE OF THE RED CROSS, 2018).

Over the years, it was necessary to include new additions due to the action of different actors on the conflict, such as non-state actors. In 1977, two Protocols were added to the Geneva Conventions: Protocol I discussed the security of victims of international conflict, reinforcing the importance of protecting civilians and the ones mobilized to offer them assistance. Protocol II included a new type of conflict, the non-international, which involved not only States, but also armed groups[5] . This Protocol also extended protection to those objects that are essential to very survival of civilians (INTERNATIONAL COMMITTEE OF THE RED CROSS, 2004; 2014).

Together, the Geneva Conventions and its Protocols represent the pillars of IHL and, therefore, function as a reference to humanitarian assistance: however, it is worth noting that these mechanisms deal only with conflict-related emergencies, leaving disasters

5 In 2005 was agreed the Protocol III that adds the Red Crystal, it is the same pathway to Red Cross and Red Crescents Movement (INTERNATIONAL COMMITTEE OF THE RED CROSS, 2014)

relief for example amidst uncertainty. In the years after the Geneva Conventions, the humanitarian sector and emergency relief underwent a significant expansion, which witnessed also the greater involvement of a newly created institution: the UN.

Humanitarian assistance and the United Nations

The UN charter outlined the effort of the international community to avoid the reemergence of the instability seen during the first half of the 20th century. The Preamble clearly states that the UN was created with the aim to "(…) save succeeding generations from the scourge of war" and the suffering caused by it (UNITED NATIONS, 2018 h). In addition, the Charter specifically determines, in its article I, that the UN has the purpose to promote international cooperation to overcome humanitarian issues, in order to achieve and maintain the peace. These were some of the legal devices that entitled the UN to discuss and take decision in such matter: however, the UN had some difficulties in performing this role (UNITED NATIONS, 2018 c).

In the 1940s and 1950s, the international community was engaged in rebuilding Europe and created mechanisms to support this new demand, such as United Nations International Children's Emergency Fund (UNICEF), the World Health Organization (WHO), the United Nations High Commissioner for Refugee (UNHCR), the Food and Agriculture Organization (FAO) and the World Food Programme (WPF) among others, with the objective to minimize the impacts of war. It is interesting to note that some of these organizations were created outside of the scope of the UN, like UNICEF that was created as a Fund to support European children. Therefore, right after its creation, the UN engaged in an effort to absorb some of those in its system, so the main challenge was to be able to incorporate all the work that already was being made (CRISP, 2009, pp. 2-3; REINDORP; WILES, 2001, p. i).

In the 1960s, the UN faced some criticism regarding its humanitarian efforts: with the entry of new members from the developing world, the organization naturally focused on development issues, putting emergency relief aside. At the same time, NGOs, such as the Red Cross, were receiving much attention due to their great efforts in the field: the UN system was criticized for not providing a very effective work, showing a certain absence. Responding to these crises, the UN entered the 1970s with renewed engagement in the humanitarian assistance: in 1971, for example, during a disaster in Pakistan, the UN indicated the UNHRC to organize relief efforts (CRISP, 2009, pp. 2-3; REINDORP; WILES, 2001, p. iv).

In the same year, through Resolution 2816 (1971), the United Nations Disaster Relief Coordinator Office (UNDRO), was created to be "the focal point in the United Nations system for disaster relief matters" (REINDORP; WILES, 2001, p. iv). Nevertheless, the office struggled to accomplish its mandate. First, it became clear that developing and underdeveloped countries were the ones that suffered the most and needed humanitarian assistance due to the impact of disasters. But the great majority of these emergencies were related to chronic instabilities related to the lack of development: humanitarian assistance, therefore, would not be enough. Second, as the sector grew and crisis multiplied, the resources got scarcer compelling institutions to compete; this was a reality even among the UN system (CRISP, 2009, pp. 2-3).

In this context, UNDRO entered the 1980s facing grave difficulties to centralize humanitarian support and even more to coordinate the diversity of humanitarian actors on the field. Criticism came even from within UN: in some reports, Secretariat recognized UNDRO's faults in accomplishing its duties. The situation was still aggravated in the emergence of internal armed conflicts, which had a more disruptive impact into civilians' lives and security (CRISP, 2009, p. 4; REINDORP; WILES, 2001, p. 4).

In the 1990s, this trend worsened and crises became deeper and linked with lack of development, governance failures, and social and political instabilities. When the Cold War finally ended, the hope was that the conflicts would decrease, but the emergence of internal disputes within countries brought an increasing demand for humanitarian assistance. The situation was not only a political and military issue, but it also required the mobilization of donors, peace missions, international media and other international actors. However, these new changes brought different difficulties and reinforced the limitations that the UN had in coordinating this topic. Thus, the UN understood the necessity to discuss this topic in a different scope. In the post-Cold War period, the concept of humanitarian action ceased to have a bias towards disaster relief, and the UN and NGOs expanded promptly the funding to emergencies and their field presence (CRISP, 2009, pp. 4-7).

In 1991, the General Assembly adopted the resolution 46/182, which designated the UN as responsible to coordinate efforts to humanitarian assistance, natural disasters and complex emergencies. The resolution also recognized the importance of strengthening UN's capacity regarding humanitarian relief, in order to ensure an adequate response: this could not be done without proper funding:

> The United Nations system needs to be adapted and strengthened to meet present and future challenges in an effective and coherent manner. It should

> be provided with resources commensurate with future requirements. The inadequacy of such resources has been one of the major constraints in the effective response of the United Nations to emergencies (UNITED NATIONS GENERAL ASSEMBLY, 1991).

Another important contribution presented in this resolution was the creation of three of the four principles of humanitarian assistance[6] , which would be fundamental to legitimate and establish effective relief assistance in emergency situations. The resolution indicated the following principles: humanity, neutrality and impartiality. The first one, humanity, deals with the aim of ensuring dignity and respect to those in need, offering adequate relief support (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2010).

Neutrality established that humanitarian actors must not align with any sides of the conflict or engage in any manner on political or ideological disputes: the practice of humanitarian actors should not benefit one side over the other. Finally, impartiality means that there should be no distinction of color, race, politics, ethnicity or religion in providing assistance: the need must be the only reference, ensuring that those who need the most will be assisted first (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2010).

Another important landmark of the resolution 46/182 was the creation of the Emergence Relief Coordination (ERC). Thus, the ERC would be the global advocate for people affected by emergencies and should support coordination of humanitarian assistance within the UN. Soon after its creation, a new department was established in order to assist the ERC: the Department of Humanitarian Affairs (DHA) (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2018 b).

In 1998, DHA had its mandate expanded and was renamed Office for Coordination of Humanitarian Affairs (OCHA). OCHA upholds humanitarian principles and actions, and promotes solutions to reduce the need, risks and vulnerable situations of those who have been affected. The work done by OCHA involves coordination, not an operational effort, forging different partnerships and contributing to effective humanitarian response with policy, information management and humanitarian financing tools and services. Besides that, UNOCHA was responsible for the turning point in the humanitarian coordination,

6 The fourth principle, independence, was included in 2004 and will be better explained in the following pages.

moving efforts to centralize and adjust every action that was performed in the sector (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2018 b).

It was also in 1998 that the Humanitarian Affairs Segment of ECOSOC was created. The idea was to ensure that the different actors involved in aid relief could have a space to engage and better coordinate their strategies and activities. Through HAS, ECOSOC would give Member States the opportunity to discuss humanitarian action, not only with the UN system, but also with NGOs and the private sector, forging new and long-lasting partnerships. This was an important step to bring the humanitarian assistance debate closer to Member States, since it was traditionally a topic more centralized in the Secretariat (UNITED NATIONS 2018 g).

In the beginning of the 2000s it seemed that the humanitarian sector would enjoy an ease in its activities: the wars and instability of the 1990s had been relatively stabilized and, with 9/11, the International Community focused its attention on terrorism and security issues. Nevertheless, this situation would change rapidly with the crisis that started in Darfur in 2003. To the outburst of the internal armed conflict, it was added the lack of development and its related consequences, such as lack of sanitation and inadequate food supply. The result was a broad scale crisis, which translated into widespread famine, epidemics and massive refugee fluxes. Darfur was a breaking point to understand that the response to complex humanitarian crises was still insufficient. The UN realized the necessity to considerably improve coordination of the efforts to humanitarian assistance (CRISP, 2009, p. 8).

In this context, in 2004, ECOSOC issued resolution 58/114 that recognized a fourth principle to guide humanitarian assistance: independence. The preambular paragraph stated that the concept should be understood as "(…) the autonomy of humanitarian objectives from the political, economic, military or other objectives that any actor may hold with regard to areas where humanitarian action is being implemented (…)". The aim was to ensure that humanitarian actors would have a transparent decision-making process, which should consider only the need in the field. This principle would also reinforce the previous three: humanity, neutrality and impartiality (UNITED NATIONS GENERAL ASSEMBLY, 2004, p.1).

The 2000s ended with renewed pressure upon the humanitarian assistance sector, which faced not only new demands, but a different type of need: the one related to complex crises. Theses crises involve different drivers and aggravating factors, mixing conflict-

related problems, with natural disasters, lack of development and chronic instability. This trend would bring new obstacles and challenges to the sector and, consequently, to ECOSOC's effort to coordinate humanitarian actors. This reality was only the start of the overload that would be imposed to the sector in the following decade.

Strengthening of the coordination of emergency humanitarian assistance of the United Nations

Over the years, the demand for humanitarian assistance increased steadily and put the sector under pressure. As we saw in the last section, the crises have evolved since the emergence of aid relief and are now more complex. Even worse, those are now frequently protracted and require long-term and costly support. OCHA estimated that, in 2018, 130.6 million people would be in need, while only 95.3 should receive assistance, due to restrictions in resources and logistics (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2018 a, p. 3).

In this scenario, ECOSOC holds the key mandate to promote coordination in order to overcome obstacles and ensure that humanitarian assistance can reach those populations who are really in need.

ECOSOC and the current effort of humanitarian coordination

In the last few years, ECOSOC has faced great challenges regarding coordination of humanitarian action. The aggravation of many emergencies and the increased need for supplies request that Member States, UN agencies and NGOs are ready to cooperate to avoid a waste of scarce resources and ensure delivery efficiency. Among the main aggravating factors are the increased number and duration of conflicts, the protracted displacement of people and the consequent length of refugees campuses, high levels of water and food insecurity, and climate change, which reinforces vulnerability of disasters-prone countries (UNITED NATIONS GENERAL ASSEMBLY; ECONOMIC AND SOCIAL COUNCIL, 2017, p. 2).

In 2018, the humanitarian sector is currently working with 21 different Humanitarian Response Plans (HRP)[7], which are strategies elaborated to guide humanitarian assistance. They are created based on the situation in the field and try to address the main priorities

7 The current HRPs are in: Afghanistan, Burundi, Cameroon, Central African Republic, Chad, Democratic Republic of the Congo, Ethiopia, Haiti, Iraq, Libya, Mali, Myanmar, Niger, Nigeria, Palestine, Somalia, South Sudan, Sudan, Syria, Ukraine and Yemen (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2018 a, p. 17).

and needs. Another tool is the Flash Appeals[8], which are strategies to urgent humanitarian response that must be delivered in a faster way: there are currently 5 (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2018 a, p. 17).

In this context, the HAS in 2018 will debate coordination having as a reference the concept of "Leaving no one behind", which is one of the foundations of the 2030 Agenda. When applied to humanitarian aid, this concept aims at improving coordination so that financial and human resources can be optimized. In his last report, the Secretary-General indicated the main concerns regarding collective responses: first, the frequent disrespect of humanitarian principles and IHL, which jeopardize assistance efforts and amplify crisis. This is mainly an issue related to Member States and armed groups compromise abide by the international commitments, allowing humanitarian assistance to be delivered in the midst of a crisis. In neglecting these agreements, the parties to a conflict end up significantly hampering the capacity of the humanitarian sector to accomplish its mandate (UNITED NATIONS GENERAL ASSEMBLY; ECONOMIC AND SOCIAL COUNCIL, 2017, p. 2).

Second, the need to strengthen the ability to anticipate and prepare the response to emergencies. The report considers that many of the current crises could have been foreseen, since they are related to previous instability or natural disasters. If information was better collected and shared within the humanitarian sector, it would be easier to prevent the escalation of emergencies. Third, information and preparedness could also be essential to avoid the duplication of tasks: for example, it is frequent that when facing an Ebola outburst, both the WHO and the NGO Doctors without Borders respond, but without proper exchange of information, they may end up offering the same support to the same area, leaving behind others who are also in need (UNITED NATIONS GENERAL ASSEMBLY; ECONOMIC AND SOCIAL COUNCIL, 2017, pp. 14-15).

Fourth, the necessity to reinforce the nexus between humanitarian and development. In an environment where crises are protracted, complex and frequently related to the lack of development, it is central to clearly separate the humanitarian area from the developmental one. The first should be directed to emergencies and short-term support, while the second should address long-term problems and chronic deficiencies, as inadequate infrastructure for example. Currently, as these two areas often overlap and the humanitarian sector is able to present quicker responses, it ends up concentrating some tasks that are beyond their capacity, wasting resources that could be allocated to

8 The current Flash Appeals were launched to: Bangladesh, Burkina Faso, DPR Korea, Mauritania and Senegal (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2018 a, p. 17).

other countries and regions. Finally, the fifth major concern highlighted by the report is the increasing gap in financing. The estimate for 2018 is that the humanitarian sector will require US$ 22.5 billion to deliver all the assistance needed: in 2017, the requirements were of US$ 24 billion but the sector was able to fund only 52% of its costs. It is indispensable that stakeholders be willing to finance relief activities and that humanitarian actors act ethically while trying to raise funds.

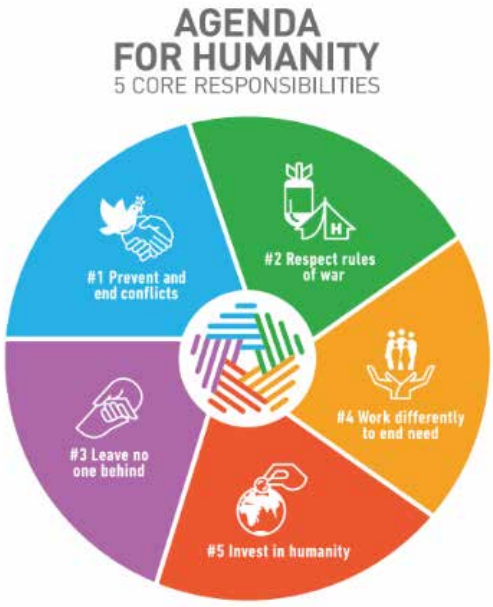
Agenda for Humanity

Due to the unprecedented demands on humanitarian assistance and its growing gap with financing, the then Secretary-General, Ban Ki-Moon, decided to summon major humanitarian stakeholders to foster engagement. The World Humanitarian Summit (WHS) was convened in Istanbul and it gathered Heads of States and Governments, non-governmental organizations, representatives from civil society and the private sector (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2016 a).

As a result, the WHS released "The Agenda for Humanity", which is a global commitment to humanitarian assistance with five pillars. The five points were created from the main challenges of the sector and represent five core responsibilities that should be prioritized by all humanitarian stakeholders (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2016 a).

They aim to prevent, end and coordinate all the efforts in the humanitarian sector. They are the following (Image 1):

Figure 1 – Agenda for Humanity



Source: Agenda for Humanity, 2016.

The first one named "Prevent and end conflicts" addresses the commitment of preventing and ending conflict. It encourages political leaders to use their position to achieve better outcomes and improve engagement relating to the early resolution of tensions and conflicts. This first core responsibility also highlights the importance of tackling the root causes of conflicts and investing in stability reconciliation and social cohesion, bringing sustainable solutions and dignity to people (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2016 a).

The second core responsibility advocates for the respect and safeguard of the international law, aiming at protecting civilians and the resources that are indispensable to their survival. The idea is to foster accountability and support reporting mechanisms on violations. The third core responsibility states the imperative of leaving no one behind. This goal is mainly related to displacement and its consequences: it aims to reduce statelessness, to close gaps in education, to eradicate sexual and gender violation, and to support refugees and migrants in situation of risk. This effort also includes the most vulnerable, empowering young people and women to ensure their dignity amidst a crisis (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2016 a; 2016 c).

The fourth core responsibility is more ambitious, regarding the delivery of humanitarian assistance: its intent is to reinvent the *modus operandi* of aid so that it can also address ending the need itself. Thus, the idea is to reinforce investment directed at preventing conflicts and anticipating crisis. Besides, it has the purpose of fostering resilient societies by building and consolidating national capacity (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2016 a; 2016 b).

Finally, the fifth core responsibility deals with one of the major obstacles of humanitarian assistance, which is the resource gap: its purpose is to encourage investment in humanity, to improve better outcomes in humanitarian assistance. Also, this responsibility has the goal of reducing, if not eliminating, earmarked contributions to this sector, avoiding the steering of financing. These are the resources "(…) directed by donors towards specific locations, themes, activities and operations" and they respond for much of the unbalancing of the allocation of funding. When the donor chooses the allocation of its contribution, he/she may not have a clear understanding of the main priorities of the sector: therefore, its not unusual to have too much funds allocated to one area or country while the neediest remain unfunded (UNITED NATIONS, 2015, pp. 2-3; UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2016 a).

It is interesting to note that all the five core responsibilities involve a long-term commitment towards humanitarian assistance, aiming at improving the whole system dynamics. To this end, the Agenda depends on the collaboration of different stakeholders direct on indirectly involved with humanitarian assistance: but mainly, the Agenda calls upon States to assume their leading role in dealing and managing humanitarian crisis. In many situations, the country lack of capacity to provide its population with basic resources and services is an important driver to protracted crisis. Therefore, if the humanitarian sector is to have any chance of adequately meeting its demands, it must rely on States being able to meet their responsibilities first (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2016 b).

In this greater effort, the Agenda is also complemented by a set of different initiatives[9], whose main objective is to facilitate the implementation of the five core responsibilities. Among these, one initiative is especially urgent, since it can enable the implementation of others: the Grand Bargain, which calls great humanitarian donors to compromise on ensuring reliable and non-earmarked funding for the sector. The document contemplates 51 commitments to strengthen the humanitarian sector with an effective, transparent and efficient management. The aim is to reduce the uncertainties and unbalances related to the funding of humanitarian assistance, in an effort to avoid duplication or concentration of resources in a framework marked by the lack of these (UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2016 c).

Conclusion

The United Nations comprehends the necessity to engage all the NGOs and Member-States because the number, intensity and the duration of the conflict or the crisis increased substantially. In the last reports of the Secretary-General, it was highlighted the unprecedented pressure on the humanitarian assistance sector: according with estimates, 134.1 million people will be in need of humanitarian assistance, whereas only 96.2 million will be able to receive support from the United Nations and its partners. This scenario still tends to worsen due to unexpected events that may occur during the years, as natural disasters and new conflicts (UNITED NATIONS GENERAL ASSEMBLY, ECONOMIC AND SOCIAL COUNCIL 2017, p. 1).

9 Some examples are: Global Alliance for Urban Crisis, Education Cannot Wait and Inclusion Charter. More information on: https://www.agendaforhumanity.org/initiatives.

Consequently, the efficient coordination of humanitarian assistance is of upmost importance to ensure the best allocation of restricted resources. As we could see, throughout this chapter, the UN alone cannot meet the current humanitarian needs: actually, historically, the humanitarian sector has developed out of the institution's structure. More important, in order to deal with the challenges facing humanitarian assistance, ECOSOC, by gathering the UN and other stakeholders, needs to address the issue of redesigning assistance delivery and funding. In light of this, representatives should consider some questions while debating:

1. How to reduce, or if possible avoid, the duplication of tasks by humanitarian actors?
2. How to promote more efficient humanitarian coordination as each organization works in a different way?
3. How to ensure a predictable and stable funding for humanitarian assistance?

References

CRISP, J. "Humanitarian Action and Coordination". In: DAWS, S; WEISS, T. *The Oxford Handbook on the United Nations.* Oxford Handbooks Online, 2009, pp. 01-09. Accessed 11 April 2018.

INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC). "Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949" In: *Official website of International Committee of the Red Cross*, 2018. Available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/INTRO/380?OpenDocument>. Accessed 18 May 2018.

_____. "History". In: *Official website of International Committee of the Red Cross,* 29 October 2016. Available at: <https://www.icrc.org/en/document/history-icrc>. Accessed 04 April 2018.

_____. "The battle of Solferino (24 June 1859)". In: *Official website of International Committee of the Red Cross,* 06 April 1998. Available at: <https://www.icrc.org/eng/resources/documents/misc/57jnvr.htm>. Accessed 18 May 2018.

_____. "The Geneva Conventions of 1949 and their Additional Protocols". In: *Official website of International Committee of the Red Cross,* 01 January 2014. Available at: <https://www.icrc.org/en/document/geneva-conventions-1949-additional-protocols>. Accessed 07 April 2018.

_____. "What is International Humanitarian Law". In: *Official website of International Committee of the Red Cross,* July 2004. Available at: <https://www.icrc.org/eng/assets/files/other/what_is_ihl.pdf>. Accessed 07 April 2018.

REINDORP, N; WILES, P. "Coordination - an overview". In: *Humanitarian Coordination: Lessons from Recent Field Experience*, June 2001 London: Overseas Development Institute, 2001, pp. i-iv. Available at: <https://www.google.com/url?q=https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/4186.pdf&sa=D&ust=1525102170458000&usg=AFQjCNH2GcvSzXrkTqiDvkJo9IdzJ3s84A>. Accessed 30 April 2018.

ROSENTHAL, G. "Economic and Social Council". In: DAWS, S; WEISS, T. *The Oxford Handbook on the United Nations.* Oxford Handbooks Online, 2009, pp. 1-5. Accessed 31 March 2018.

UNITED NATIONS (UN). "About the UN". In: *Official website of the United Nations,* 2018 a. Available at: <http://www.un.org/en/sections/about-un/main-organs/>. Accessed: 20 May 2018.

_____. "About Us". In: *Official website of United Nations Economic and Social Council,* 2018 b. Available at: <https://www.un.org/ecosoc/en/about-us>. Accessed 30 March 2018.

_____. "Chapter I". In: *Official website of United Nations,* 2018 c. Available at: <http://www.un.org/en/sections/un-charter/chapter-i/index.html>. Accessed 21 May 2018.

_____. "Chapter X". In: *Official website of United Nations,* 2018 d. Available at: <https://www.un.org/en/sections/un-charter/chapter-x/index.html>. Accessed 31 March 2018.

_____. "ECOSOC Humanitarian Affairs Segment". In: *Official website of the United Nations,* 2018 e Available at: <https://www.un.org/ecosoc/en/events/2018/humanitarian-affairs-segment>. Accessed: 21 May 2018.

_____. "FAQ" In: *Official website of the United Nations,* 2018 f. Available at: <https://www.un.org/ecosoc/en/FAQ>. Accessed 10 April 2018.

_____. "Humanitarian Affairs Segment". In: *Official website of United Nations Economic and Social Council,* 21 June 2017 a. Available at: <https://www.un.org/ecosoc/en/events/2017/ecosoc-humanitarian-affairs-segment>. Accessed 20 May 2018.

_____. "Humanitarian Affairs Segment". In: *Official website of the United Nations,* 2018 g. Available at: <http://www.un.org/en/ecosoc/julyhls/has2012.shtml>. Accessed: 20 May 2018.

_____. "Preamble". In: *Official website of United Nations,* 2018 h. Available at: <http://www.un.org/en/sections/un-charter/preamble/index.html>. Accessed 20 May 2018.

_____. "Technical Note on Funding". In: *Official website of the United Nations,* 2015. Available at: <http://www.un.org/en/ecosoc/qcpr/pdf/technical_note_on_funding.pdf>. Accessed 28 May 2018.

UNITED NATIONS GENERAL ASSEMBLY (UNGA). *Strengthening of the coordination of humanitarian emergency assistance of the United Nations.* Adopted by General

Assembly at its 78th Plenary Meeting, on 19 December 1991, A/RES/46/182. Available at: <http://www.un.org/documents/ga/res/46/a46r182.htm>. Accessed 10 April 2018.

_____. *Strengthening of the coordination of humanitarian emergency assistance of the United Nations.* Adopted by General Assembly at its 58th Plenary Meeting, on 5 February 2004, A/RES/58/114. Available at: <https://www.preventionweb.net/files/resolutions/N0350142.pdf>. Accessed 20 May 2018.

_____. *Strengthening of the coordination of humanitarian emergency assistance of the United Nations.* Adopted by General Assembly at 70 Plenary Meeting, on 10 December 2015, A/RES/70/106. Available at: <https://undocs.org/en/A/RES/70/106>. Accessed 29 May 2018.

_____. ECONOMIC AND SOCIAL COUNCIL (ECOSOC). *Strengthening of the coordination of humanitarian emergency assistance of the United Nations".* Adopted by General Assembly at its 71 Plenary Meeting and by Economic and Social Council 2016 session, on 26 April 2016, A/71/82–E/2016/60. Available at: <http://www.un.org/ga/search/view_doc.asp?symbol=E/2016/60>. Accessed 29 May 2018.

_____. *Strengthening of the coordination of humanitarian emergency assistance of the United Nations.* Adopted by General Assembly at its 72nd Plenary Meeting on 13 April 2017, A/72/76–E/2017/58. Available at: <https://undocs.org/A/72/76>. Accessed 28 May 2018.

UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS (UNOCHA). "About Agenda for Humanity". In: *Official website of Agenda for Humanity,* 2016 a. Available at: <https://www.agendaforhumanity.org/agendaforhumanity>. Accessed 01 May 2018.

_____. "About Agenda for Humanity: according to the report of Secretary-General for the World Humanitarian Summit A/70/709, p. 1". In: *Official website of Agenda for Humanity, 2 February* 2016 b Available at: <https://www.agendaforhumanity.org/sites/default/files/AgendaforHumanity.pdf>. Accessed 01 May 2018.

_____. "Grand Bargain – Summary". In: *Official website of Agenda for Humanity,* 2016 c. Available at: <https://www.agendaforhumanity.org/agendaforhumanity>. Accessed 01 May 2018.

_____. *Global Humanitarian Interview 2018*. Office for Coordination of Humanitarian Affairs, 2018 a. Available at: <https://www.unocha.org/sites/unocha/files/GHO2018.PDF>. Accessed 01 June 2018.

_____."OCHA on Message: Humanitarian Principles", April 2010. Available at: <http://www.unocha.org/sites/dms/Documents/OOM_HumPrinciple_English.pdf>. Accessed 30 May 2018.

_____."Our work". In: *Official website of United Nations Office for the Coordination of Humanitarian Affairs,* 2018 b Available at <https://www.unocha.org/our-work>. Accessed 30 May 2018.

_____. "Uphold the Norms that safeguard humanity" In: *Official website of United Nations Office for the Coordination of Humanitarian Affairs,* 2016 c Available at: <https://www.agendaforhumanity.org/cr/2>.

CHAPTER 5

PROTECTION OF CIVILIANS IN ARMED CONFLICT

United Nations Security Council

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Introduction

This chapter aims at presenting the topic "Protection of Civilians in Armed Conflict", discussed by the United Nations Security Council (UNSC). The discussion of this topic in the UNSC's agenda is relatively recent, starting after the Cold War period. In the 1990s, the UNSC acted in armed conflicts with the main purpose of protecting civilian populations affected by armed conflicts, connecting peace and security with the protection of human rights and humanitarian law.

In order to understand the protection of civilians in armed conflict, it is important to highlight the Geneva Conventions of 1949 and their Additional Protocols. These international treaties are the core of the International Humanitarian Law and prescribe the norms and obligations of States towards humanitarian personnel, combatants and soldiers, shipwrecked combatants, wounded and sick combatants, and civilians. Although the Geneva Conventions and their Additional Protocols differentiate an international conflict from an internal conflict, the UNSC, when treating the topic of the protection of civilians in armed conflict, is focused on the actions of the Council to guarantee the protection of civilians, whether it is an international or internal conflict.

Therefore, the main purpose of this chapter is to analyze the role of the UNSC after the Cold War concerning the protection of civilians, as well as the controversies that emerged from the actions of the Council in that matter. One of the controversies concerns the application of the responsibility to protect, an approach that authorizes the UNSC to act to protect civilians in cases where a State is not able or is not willing to do so. The main question that arise nowadays is how far can the UNSC go to protect civilians in armed conflict.

In order to tackle those issues, the chapter is divided in four sections. The first section describes the UNSC and its main functions according to the United Nations Charter.

Section two presents an overview of the role of the UNSC after the Cold War related to the protection of civilians in armed conflict. The third section discusses the recent developments of the topic of protection of civilians in armed conflict and the main controversies that emerged after some actions of the UNSC in armed conflicts. In this sense, we present the reports of the Secretary General and the main issues concerning the recent situations of armed conflict and the protection of civilians. The last section presents some concluding remarks on the topic and questions to be discussed.

The United Nations Security Council

The United Nations Security Council (UNSC) is responsible for the maintenance of international peace and security, acting according to the United Nations (UN) Charter (Chapters V, VI, VII, VIII and XII). According to Chapter V of the United Nations Charter, the UNSC is endowed with the liberty of adopting "its own rules of procedures". Although the Charter gives the UNSC relative autonomy when taking decisions to safeguard its duties, it must respect the principles and purposes described in the UN Charter (UNITED NATIONS, 2018).

The UNSC consists of fifteen seats, occupied by 15 Member States of the United Nations. The United States, China, Russia, the United Kingdom and France are permanent members of the UNSC. The other ten non-permanent members are elected by the General Assembly for a term of two years. Resolutions on procedural matters must be taken with nine affirmative votes, while resolutions on all other matters require nine affirmative votes, "including the non concurring votes of the permanent members". Despite the designated number of 15 seats, any other Member of the United Nations is allowed to participate in the debates held by the UNSC, if granted permission from the Council, without the right to vote (UNITED NATIONS, 2018).

As described in Chapter VI of the UN Charter, any disputes or conflicts that have the inclination to become a threat to international peace and security may be analyzed by the Security Council. In order to seek a solution for a dispute, the Security Council must call upon the parties involved, as well as regional organizations, to discuss and settle the hostilities through negotiation and dialogue. Only if these pacific measures fail, the Council can decide to make recommendations or act according to Article 36 of the Charter (UNITED NATIONS, 2018).

Chapter VII is related to actions "respect to threats to the peace, breaches of the peace, and acts of aggression", and states all the measures that can be taken by the UNSC to guarantee the restoration of peace and security. In this sense, the Council can act according to Articles 41 and 42 of the UN Charter by implementing measures that do not involve the use of armed force, such as economic sanctions, blockades or other related measures. Besides, Article 43 states that, upon the call of the Security Council and through agreements, all Members of the United Nations must provide the means to preserve international peace and security through the use of force. The agreements will be settled "between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes" (UNITED NATIONS, 2018).

At last, Chapter VIII of the UN Charter gives priority to regional arrangements and agencies to solve threats to international peace and security through pacific means, according to the principles of the UN Charter. However, the UNSC can authorize regional organizations or arrangements to act when it deems necessary, and all executive implementations made by them must be with the authorization of the Council and under its authority. Furthermore, the Security Council has to be informed of all actions taken by the regional arrangements and agencies (UNITED NATIONS, 2018).

International Humanitarian Law and the protection of civilians in armed conflict: The Geneva Conventions and their Additional Protocols

In accordance with the International Committee of the Red Cross[1] (ICRC), the Geneva Conventions of 12 August 1949 and its Additional Protocols of 1977 and 2005 define who must be protected during an armed conflict, whether it is of international and not of an international character. In this sense, it is important to highlight that personnel from non-governmental organizations (NGOs) who deliver humanitarian assistance and health care, as well as civilians, for instance women, children and displaced persons, must be protected by all parties involved in an armed conflict. The Geneva Conventions state

1 The International Committee of the Red Cross was established in 1863. It was responsible for the creation of the Geneva Conventions and for the coordination of the activities of the Red Cross and the Red Crescent around the world. The ICRC is an impartial, independent and neutral organization, whose main mission is to protect the life and dignity of the victims in armed conflicts. It also contributes to the development and promotion of the International Humanitarian Law (COMITÊ INTERNACIONAL DA CRUZ VERMELHA, 2012).

that combatants who left the conflict, such as wounded, shipwrecked combatants and war prisoners are subjected to the norms of the Conventions. Beyond that, the Geneva Conventions and its Additional Protocols work on how to avoid and mostly how to mitigate the strife activities in order to respond to the violations of International Humanitarian Law (IHL) (INTERNATIONAL COMMITTEE OF THE RED CROSS, 2014).

The Geneva Conventions consist of four international treaties. The I Convention is called "Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field", and it focuses on wounded and sick combatants. The "Second Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea" regulates how to protect shipwrecked combatants within the conflict once they have left the hostility. The III Convention is the "Convention relative to the Treatment of Prisoners of War" and defines the conditions of captivity of the war prisoners related to repatriation and judicial proceedings. The IV Geneva Convention relative to the Protection of Civilian Persons in Time of War focuses on the protection of civilians during an international armed conflict (INTERNATIONAL COMMITTEE OF THE RED CROSS, 1949 a; 1949 b; 1949 c; 1949 d).

The IV Geneva describes the obligations of the parties in an international conflict concerning civilians, which can be defined as:

> Persons protected by the Convention are those who, at a given moment and in any manner, whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals (INTERNATIONAL COMMITTEE OF THE RED CROSS, 1949 e).

The text of the IV Convention explains that it is applicable to any civilian who is in need of medicine, clothing or food, and gives special attention to vulnerable groups, such as women and children. It also stresses that if a nation is not able to provide protection to its civilians, it shall allow humanitarian organizations to provide civilians the necessary assistance, whether in its own territory or in the occupied territory (COMITÊ INTERNACIONAL DA CRUZ VERMELHA, 2012).

In order to understand the scope of the IV Convention it is also important to highlight Article 4, which defines who to protect: "Persons protected by the Convention are those who, at a given moment and, in any manner, whatsoever, find themselves, in case of

a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals".

The four Geneva Conventions have one article in common: Article 3 is related to conflicts that are not of an international character and states the minimum obligations concerning the protection of civilians in internal armed conflicts, including also combatants who laid down their arms, the sick and the wounded, and detainees. Those people shall be treated "humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria" (INTERNATIONAL COMMITTEE OF THE RED CROSS, 1949 a). In this sense, Article 3 prohibits torture or any inhumane or degrading treatment, violations against personal dignity, taking of hostages, and arbitrary sentences and executions.

The Additional Protocols to the Geneva Conventions expand the scope of the protection of civilians in armed conflict, whether of an international character or not, based on the provisions of common Article 3. Additional Protocol I extend the First and Second Geneva Conventions, redefines the definition of armed forces and combatants and classifies fights "against colonial domination, alien occupation or racist regimes" as international conflicts. Articles 43 and 44 of Additional Protocol I state that the parties involved in a conflict do not necessarily need to be a State for the nature of the conflict to be considered international. The same applies to the combatants, who can be from a State's armed forces or from another non-state army that is taking part in a conflict (INTERNATIONAL COMMITTEE OF THE RED CROSS, 1977 a).

Additional Protocol II refers to the dispositions of common Article 3 of the Geneva Conventions, expanding its scope. It is a treaty that applies the norms of IHL to conflicts that take place inside the territory of a State. It is important to highlight that Additional Protocol II is related to the minimum norms of common Article 3, although the Protocol expand the scope of the protection of civilians and prescribe international norms to be followed by States concerning its own population. To some countries, those norms were seen as a violation of the principle of sovereignty, which prevented many States of ratifying Protocol II. The countries that ratified it, presented reservations concerning the violation of the principle of sovereignty. (INTERNATIONAL COMMITTEE OF THE RED CROSS, 1977 a; 1997 b).

The application of the Additional Protocols and the controversies surrounding the protection of civilians in armed conflict have had great impact in the discussions of this

topic by the UNSC. In the following section, we analyze the role of the UNSC after the Cold War, focusing on the protection of civilians and on the reports of the Secretary-General on this topic. During the 1990s, the Council augmented its actions in armed conflicts and was responsible for the creation of new rules concerning not only its own functions and responsibilities, but also concerning the protection of civilians. One example of the UNSC prerogative of creating new rules is the creation of *ad hoc* international criminal tribunals[2] or the application of the responsibility to protect[3].

The role of the UNSC after the Cold War and the protection of civilians in armed conflict

The Security Council amplified the scope of its main function of maintenance of international peace and security after the Cold War period. It was extended to the protection of civilians in situations of armed conflicts in which there were grave violations of human rights and international humanitarian law, most of them in internal conflicts. During the Cold War, the actions of the UNSC in cases of international conflicts were limited, due to the vetoes of the United States and the Soviet Union in territories where their interests were involved. The division inside the Security Council ended during the 1990's, especially because Russia did not engage in a dispute with the United States, which generated an accommodation among the permanent members. For that reason, the UNSC acted in a large number of conflicts that were considered threats to international peace and security (MALONE, 2008).

The growing role of the Security Council in relation to protection of civilians can be seen in the resolutions 688 (1991) on Iraq; 941 (1994), 1034 (1995) and 1019 (1995) on Bosnia and Herzegovina; 955 (1994) on Rwanda; and 1181 (1998) on Sierra Leone. In those resolutions, the Security Council condemned grave violations of human rights committed

2 In 1993, the UNSC was dealing with the conflict on the territory of the former Yugoslavia. The conflict was characterized by systematic violations of human rights, including ethnic cleansing. Due to the aggravation of the violations committed in Bosnia and Herzegovina, the UNSC decided to establish an international criminal tribunal (resolution 827) – International Criminal Tribunal for the Former Yugoslavia – to investigate and prosecute individuals responsible for grave breaches of humanitarian international law during the conflict. In 1994, the UNSC adopted the same measures for the conflict in Rwanda, in which took place the genocide of the tutsis and moderated hutus. The Council established the International Criminal Tribunal for Rwanda (resolution 955) to prosecute individuals responsible for the genocide and other grave violations of humanitarian international law.

3 The Responsibility to Protect is considered a new approach that establish the rules and requisites to the protection of civilians against systematic violations of human rights, such as ethnic cleansing, genocide, and crimes against humanity, which are imminent or are taking place in the territory of a State. In the following sections, we will explain more about the responsibility to protect and how the UNSC applied that approach in 2011.

by the parties involved in armed conflicts, such as genocide, ethnic cleansing, crimes against humanity and violations to international humanitarian law. The novelty about those resolutions was that the UNSC treated grave violations of human rights as threats to international peace and security. In this sense, the Council was expanding its own role by connecting the protection of vulnerable people in armed conflicts – the civilians – to the maintenance of international peace and security.

It is important to highlight that, in the preambles of those resolutions, the UNSC reaffirmed its respect for "the sovereignty, territorial integrity and political independence" of the States concerned. Although the UNSC reaffirmed the principle of sovereignty, in the cases where the Council acted under Chapter VII of the UN Charter, it considered grave violations of human rights as threats to peace, creating an important precedence to UNSC's actions from that moment on. This reinforced the necessity of protecting civilians and preventing further damage to civilian population, as a way of maintaining international peace and security (UNITED NATIONS SECURITY COUNCIL, 1999 a, p. 7; UNITED NATIONS, 2011, p. 97).

The topic "Protection of civilians in armed conflict" was discussed for the first time by the UNSC in an open debate of 12 February 1999. In this debate, the Council requested the Secretary-General (SG) to write a report on the subject. The report of the SG gave concrete recommendations to the UNSC on how to improve the protection of civilians in situations of armed conflicts (UNITED NATIONS SECURITY COUNCIL, 1999 a, p. 7).

In his report of 1999, the SG emphasized the need to respect the Geneva Conventions of IHL, addressing the failure of many parties in armed conflicts to comply with those norms. The main concern was that instead of protecting civilians, the parties in a conflict were using them as targets. The SG also highlighted the role of non-state actors, such as militias and rebel groups, which characterized the great majority of internal conflicts. The SG noted the grave violations of human rights perpetrated by the parties in the conflicts of Rwanda, Sierra Leone and Burundi, especially against vulnerable groups, such as women, children and internally displaced people. The SG was concerned about the attacks against UN peacekeeping and humanitarian personnel, as well the obstacles imposed by the parties in conflict to the humanitarian access and assistance (UNITED NATIONS SECURITY COUNCIL, 1999 a, pp. 2-4).

The report of the SG also highlighted the role of the UNSC in the protection of civilians in armed conflict. The SG reinforced that systematic violations of human rights against civilians, which represent breaches of IHL and of human rights law, have an "intimate" connection

with breaches of international peace and security. Therefore, the UNSC has the responsibility to act to protect civilian populations from grave violations of human rights and IHL, in all stages of a conflict, and to end the disputes. The SG also mentioned the responsibility of the Council at the aftermath of a conflict, helping to rebuild the societies and to promote reconciliation among all parties (UNITED NATIONS SECURITY COUNCIL, 1999 a, pp. 6-8).

The SG drew attention to important recommendations to reinforce the legal and physical protection of civilians in armed conflict. Among the recommendations to strengthen legal protection, the SG emphasized: (a) the ratification and implementation of the Geneva Conventions and its Additional Protocols, as well as other human rights treaties; (b) the accountability concerning war crimes, crimes against humanity and genocide by domestic courts, and the ratification by States of the statute of the International Criminal Court[4]; (c) the action of the UNSC concerning the protection of internal displaced persons, the minimum age of 18 for recruitment in armed forces, and the safeguard of humanitarian personnel in conflict areas (UNITED NATIONS SECURITY COUNCIL, 1999 a, pp. 8-12).

Concerning the physical protection of civilians, the SG recommended the UNSC to act diplomatically and politically and through Chapters VI, VII and VIII of the UN Charter. In this sense, the SG recommended the UNSC: (a) to act preventively in cases of conflict; (b) to prevent hate media assets that incite violence to ethnic, racial or religious groups, and promote the dissemination of human rights law and IHL in conflict zones; (c) to reinforce in its resolutions the free access of humanitarian personnel and assistance to civilians; (d) to provide special attention to the needs of women and children; (e) to use target and smart[5] sanctions in order to deter the perpetrators of grave violations of human rights and IHL, and to improve information and statistic to determine the repercussion of sanctions on civilians; (f) to establish arms embargoes where the civilian population is targeted and prompt Member States to enforce them nationally; (g) to increase the UN's capacity to plan and deploy military units in conflict areas; and (h) to deploy international observers to survey refugees and displaced persons camps when the presence of harmful elements is suspected (UNITED NATIONS SECURITY COUNCIL, 1999 a, pp. 13-21).

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4 In 1998, the UN Member States adopted the Rome Statute of the International Criminal Court. The Court was created in order to investigate and prosecute individuals who committed war crimes, crimes against humanity, genocide and the crime of aggression.

5 According to the report of the SG, smart sanctions mean to freeze financial assets, suspend credits and aid, deny or limit access to financial markets, promote trade and arms embargoes, to promote flight bans (UNITED NATIONS SECURITY COUNCIL, 1999, p. 16).

In cases where the parties in a conflict are responsible for the grave and systematic violations of human rights law, such as genocide, crimes against humanity and war crimes, the SG recommended that the UNSC should intervene in accordance with Chapter VII of the UN Charter. In this sense, bearing in mind that the use of force must be a last resort, the SG recommended the UNSC to consider some criteria before using military force: the scope of the violations and the number of people affected; the disposition of local authorities to prevent those violations; the failure of peaceful means to resolve the conflict; and the proportionality of the use of force (UNITED NATIONS SECURITY COUNCIL, 1999, pp. 23-24).

This report motivated the first resolution of the UNSC (1265 (1999)) on the protection of civilians in armed conflict. The UNSC highlighted the importance of the compliance with the Geneva Conventions and its Additional Protocols by the parties involved in a conflict and urged the States to ratify them. A large part of the recommendations made by the SG were taken into account by the UNSC, such as the use of preventive peacekeeping operations, to guarantee access to humanitarian personnel, and the application of human rights law, IHL and refugee law. The UNSC made clear its readiness to act under the UN Charter in situations of armed conflicts that used civilians as targets, and that were characterized by systematic violations of their rights, especially against women and children (UNITED NATIONS SECURITY COUNCIL, 1999 b).

The report of 2001 of the SG concerning the protection of civilians in armed conflict explained that the nature of conflicts had changed: the number of internal armed conflicts proliferated and the civilians became the main targets of the parties. States lost their central role in conducting warfare and most conflicts were characterized by the presence of non-state actors, such as militias and rebel groups. The SG lamented that only a few of his previous recommendations were adopted by Member States and, due to that situation, the UN was not able to tackle the needs of the civilians in armed conflict (UNITED NATIONS SECURITY COUNCIL, 2001, p. 1).

The SG emphasized fourteen steps, which focused on the most recent and developing problems concerning the protection of civilians, such as: the prevention of the recruitment of child soldiers, and of the targeting of women and children; the elimination of the proliferation of small arms and landmines; the separation between civilians and armed elements; the accountability and the prosecution of violations of international law. In addition, the SG called upon Member States to create "culture of protection", in

which "Governments would live up to their responsibilities, armed groups will respect the recognized rules of international humanitarian law (…) and Member States and international organizations" will act rapidly and decisively in crisis situations (UNITED NATIONS SECURITY COUNCIL, 2001, p. 2).

More importantly, because of the change in the nature of conflicts, new mechanisms needed to be adopted to deal with the challenges of the protection of civilians, which included the engagement with armed groups, the use of media as emotional support to spread awareness, and a greater effort of the international community, including governments, the private sector, the non-governmental organizations and the regional organizations. The SG ended his report by saying that "the primary responsibility for the protection of civilians falls on Governments and armed groups involved in conflict situations. Where they do not honor these responsibilities, it is up to the Security Council to take action" (UNITED NATIONS SECURITY COUNCIL, 2001, p 15).

The statement of the SG illustrates the new role of the UNSC after the Cold War, as mentioned previously, which is to act in cases where systematic violations of human rights are taking place and when they represent a threat to international peace and security. As we will present in this article, the reports of the SG and the resolutions of the UNSC related to armed conflicts and the protection of civilians have stressed the need to act under Chapter VII, as a last resort, in cases where States are not willing to comply with their obligations under international law.

The report of 2002 of the SG discussed practical actions in three areas: humanitarian access, separation of civilians from armed elements and the reestablishment "of the rule of law, justice and reconciliation during transition". It also examined new challenges and their repercussions on civilians, such as sexual and commercial exploitation and terrorism (UNITED NATIONS SECURITY COUNCIL, 2002, p. 16).

In this sense, the SG highlighted that gender-based violence had increased in conflict areas, generating cases of sexual exploitation abuse and trafficking of women and girls, perpetrated by UN peacekeepers and humanitarian workers. In order to tackle this problem, a Task Force on Protection for Sexual Exploitation and Abuse in Humanitarian Crisis was created to assure preventive measures and to protect women and girls (UNITED NATIONS SECURITY COUNCIL, 2002, p. 13).

The report of the SG also addressed the emergence of terrorist groups that are involved in armed conflicts, explained that this issue brings difficult challenges to States

and to the UN. Terrorist groups attack civilians directly and are a threat to their security. Therefore, the SG affirmed that the UN needed to establish guidelines for its future actions concerning the protection of civilians in conflicts in which terrorism were active (UNITED NATIONS SECURITY COUNCIL, 2002, pp. 15-16).

In his report of 2004, the SG exemplified situations of armed conflicts in which civilians were the most affected group: Darfur, in Sudan, Côte d'Ivoire, Iraq and Nepal were examples of high numbers of violations of human rights against civilians, including torture, rape and ethnic cleansing. In countries such as Afghanistan, the Democratic Republic of the Congo and Liberia, the need to protect civilians is persistent in the aftermath of the conflicts. The report noted that, although the UNSC had made progress in several areas, the nature of warfare continued to change, resulting in new actors (militias, mercenaries, and terrorist groups), weapons and circumstances, and therefore the efforts to protect civilians also needed to evolve and adapt to those new issues. The SG highlighted the peacekeeping missions that were allowed to protect civilians in countries such as Sierra Leone, Côte d'Ivoire, the Democratic Republic of the Congo, Liberia and Burundi (UNITED NATIONS SECURITY COUNCIL, 2004, p. 3).

The report of 2005 of the SG focused on the changing characteristics of armed conflicts, in which not only civilians were targets, but also used as weapons, especially women who were sexually enslaved and raped. The SG emphasized the need to bring to justice the perpetrators of those crimes and acknowledged the case of Darfur, which was referred to the International Criminal Court. Furthermore, the SG highlighted the new approach of the "responsibility to protect", recognized by UN Member States in the 2005 World Summit Outcome, which stated the responsibility of the international community to act in territories where grave violations of human rights, such as genocide, ethnic cleansing, war crimes and crimes against humanity are taking place. The SG reinforced that the UNSC must act under Chapter VII to protect civilians as a last resort, and the diplomatic and political measures should be implemented previously (UNITED NATIONS SECURITY COUNCIL, 2005, pp. 2-4, 15).

The SG stated, in his reports of 2007 and 2009, that the UNSC has taken decisive and concrete measures to protect civilians, particularly in resolutions 1674 (2006) and 1820 (2008) about the Council's framework and the efforts to tackle sexual violence. Despite the progress, the situation of civilians worsened since 1999, due to new challenges and to the changing aspects of internal conflicts. The SG, in his report of 2010, explained

that the greatest difficulty concerning the protection of civilians in armed conflict was the fact that conflicts were almost always internal, which prevented the application of international law to protect civilians by States. In 2010, the SG focused on two actions to be taken by the UNSC: he urged the Council to make use of its autonomy and act in new ways to protect civilians and to perform a consistent approach on the topic (UNITED NATIONS SECURITY COUNCIL, 2007; 2009; 2010, pp. 2, 21-22).

In the following section, we will present some controversies that emerged from actions of the UNSC under Chapter VII with the purpose to protect civilians against systematic violations of human rights. The recognition of the responsibility to protect as a new international norm to be implemented to protect civilians was put into question when the UNSC adopted resolution 1973 (2011) on the situation in Libya. Although controversies emerged related to how far the UNSC should act to protect civilians, the Council did not properly address other situations in which grave violations of human rights were occurring.

The actions of the UNSC to protect civilians: problems and controversies

Previously in this chapter, we analyzed the reports of the SG to the UNSC related to the protection of civilians in armed conflict. The complexities and difficulties of this task, according to the reports, demanded assertive actions from the Council to prevent more damage to civilians and, as a last resort, to act under Chapter VII of the UN Charter. In this section, we present the latest reports of the SG about the protection of civilians in armed conflict, focusing on his recommendations to the UNSC on this matter.

One of the recent international approaches applied by the UNSC in order to protect civilians was the "responsibility to protect", developed by the International Commission on Intervention and State Sovereignty (ICISS), which published a report in 2001 to fulfill a request made by the former SG Kofi Annan. The report addresses how the international community should act – under the UNSC resolutions – to prevent systematic violations of human rights (genocide, ethnic cleansing, and other crimes against humanity) (INTERNATIONAL COMMISSION ON INTERVENTION AND STATE SOVEREIGNTY, 2001).

The report of the ICISS states that each State has the responsibility to protect its own population against the gravest violations of international human rights. In a scenario where a State is not willing or is not able to fulfill this responsibility, the international

community should act through the UNSC. It is important to highlight that the use of force is a last resort mechanism that must be approved by the UNSC, and any other means of pacific solution of conflict should be applied in order to guarantee the protection of civilians. When the pacific measures fail, the UNSC can act under Chapter VII, however, the action has to be careful in order to avoid more suffering and damage to civilians (INTERNATIONAL COMMISSION ON INTERVENTION AND STATE SOVEREIGNTY, 2001).

The first time the UNSC referred to the responsibility to protect in its resolutions was in 2011. In resolution 1970, the UNSC called upon Libya to protect its population against imminent violations of human rights, and approved sanctions and embargoes in order to pressure the government to comply with its obligations of protecting civilians. Since those measures did not prevent the Libyan government from violating human rights norms, the Council adopted resolution 1973 (2011) and decided to act under Chapter VII in order to take all necessary measures to protect civilians from attacks (UNITED NATIONS SECURITY COUNCIL, 2011 a; 2011 b).

The report of 2012 of the SG addressed the application of the responsibility to protect by making some important distinctions between this approach and the protection of civilians. The latter is a broad concept and is based on international human rights law and IHL, such as the IV Geneva Convention and Additional Protocol II, whereas the responsibility to protect is a political concept, only applied in specific circumstances – genocide, ethnic cleansing, or other acts considered crimes against humanity – which can "occur in situations that do not meet the threshold of armed conflict" (UNITED NATIONS SECURITY COUNCIL, 2012, pp. 5-6).

The use of the responsibility to protect in Libya brought some controversies among Council Members. Although the SG praised the actions of resolution 1973 (2011) to protect civilians, he said that "the extent to which its implementation was perceived to go beyond the protection of civilians raised concerns among some Member States that continue to color the Council's discussions on the protection of civilians and related issues in other situations". In addition, the SG stated that those controversies undermined the discussions and actions of the UNSC on the protection of civilians' agenda, preventing the Council from acting in other conflicts (UNITED NATIONS SECURITY COUNCIL, 2012, p. 5).

On his report of 2013, the SG addressed situations in which there were attacks perpetrated on civilian population by the parties in conflict. The SG mentioned the conflict in Syria to illustrate the political differences among the UNSC Members, which were preventing

measures to protect civilians. He also called the attention of the UNSC to recurrent problems in many conflict zones, such as attacks against health-care facilities and against journalists. The SG stated that the use of drones by States was a menace to the protection of civilians and, in many cases, such as in Afghanistan and the occupied Palestinian territories, there were reports of casualties due to the use of drones. Concerning the use of this matter, the SG affirmed that States should be transparent about the use of drones to ensure the protection of civilians against their attacks (UNITED NATIONS SECURITY COUNCIL, 2012).

In 2015, the SG showed his concern about some situations where civilians continued to be attacked and stated that violations of human rights law and IHL were frequent and widespread. Among those cases, the SG mentioned Afghanistan, Central African Republic, Colombia, Democratic Republic of the Congo, Iraq, Libya, Mali, Myanmar, Nigeria, occupied Palestinian territory, Pakistan, Somalia, South Sudan, Sudan, Syria, Ukraine and Yemen. The civilians in those countries were subjected by grave violations of human rights, especially women and girls, which were experiencing sexual violence, and boys, which were being recruited as soldiers (UNITED NATIONS SECURITY COUNCIL, 2015).

In his report of 2016, the SG mentioned the World Humanitarian Summit (23-24 May 2016), which was held in Turkey. The Summit reunited States, international aid organizations, and representatives of civil society. The document "Agenda for Humanity"[6], written by the SG, called upon Sates to act in order to prevent conflicts and to find solutions, as well as to respect international norms related to the protection of civilians in armed conflict. The report reaffirmed the that the compliance of States with international law was a prerequisite for the protection of civilians, and highlighted that in many States, such as Syria and Yemen, the parties in conflict were not only disregarding international norms but were responsible for the attacks against civilians (UNITED NATIONS SECURITY COUNCIL, 2016).

In addition, the SG also focused on improvements regarding the protection of civilians in armed conflict. He mentioned the 2030 Agenda and the Sustainable Development Goals, which focus on vulnerable people, such as internally displaced persons, and the 2015 Kigali Principles on the Protection of Civilians that aimed at implementing effectively the mandates of the peacekeeping operations concerning the protection of civilians (UNITED NATIONS SECURITY COUNCIL, 2016).

6 A/70/709 (2016).

In his report of 2017, the SG highlighted the importance of preventing conflicts and of building a sustainable peace. However, prevention can fail and, in those cases, the SG presented three priorities in order to protect civilians. The first priority is to enhance the respect to IHL, international human rights law and refugee law; the second is to protect humanitarian and medical missions; and the third priority is to prevent forced displacement, protecting civilians from becoming refugees and internally displaced persons. The SG showed his concern about the trade of arms and ammunition, which can be used from the parties in conflict to commit violations of human rights and IHL. He asked States to stop exporting armaments and encouraged States to ratify the Arms Trade Treaty and the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UNITED NATIONS SECURITY COUNCIL, 2017).

The SG also called the attention to the increase of violence against humanitarian and medical personnel and facilities in many conflict areas, such as Syria, Yemen, and Central African Republic. Attacks against humanitarian and medical workers and facilities are violations of the Geneva Conventions, and the parties in a conflict have the obligation to protect wounded and sick civilians, ensuring that they will receive proper assistance (UNITED NATIONS SECURITY COUNCIL, 2017).

The latest reports of the SG highlighted a series of recurrent violations of human rights against civilians and recommended to UN Member States measures to prevent them. Since 1999, the reports of the SG concerning the protection of civilians in armed conflict addressed important issues and gave recommendations to the UNSC in order to tackle the problems that many civilians were facing in armed conflicts. The widespread violations of human rights committed by the parties in conflict increased since 1999, although some efforts were made in that area. However, as the SG highlighted in his reports, the primary responsibility to protect civilians falls on States and non-states actors that are parties in armed conflicts. The reality is that most of the violations perpetrated against civilians are committed by those parties intentionally and, in many cases, the UNSC is not able to take appropriate measures to protect civilians.

Conclusion

The protection of civilians in armed conflict was discussed for the first time by the UNSC in 1999. Since the 1990s, the Council increased the scope of its actions in order to protect civilians, and that effort was also translated in the creation and implementation

of new rules, which augmented the scope of the Council's functions. In this sense, some of the actions of the UNSC in order to protect civilians generated controversies among UN Member States, which were doubtful that the use of military force was the best option to protect civilians. With the purpose to end those controversies and enhance the quality and efficacy of the UNSC's actions, the SG reinforced that, in order to protect civilians, the UNSC should act towards the prevention and resolution of the conflicts. The use of force should be used as a last resort. For those reasons, the SG highlighted that the mandates of the peacekeeping operations should focus on the protection of civilians in armed conflicts.

The main concern nowadays is that the gravest violations of human rights are being committed by the parties in armed conflicts intentionally. They are recruiting children to be soldiers, promoting sexual violence against women and girls, attacking civilian populated areas and civilian objects. The conflicts mentioned by the SG in his reports are characterized by those violations and the UNSC is the UN organ capable of acting to protect civilians. However, in many conflicts in which civilians are being attacked constantly, the Council is not able to take the appropriate and efficient measures to protect civilians, mainly due to the different political interest among the permanent members.

Concerning the recent developments of conflicts and the actions of the UNSC to protect civilians, some questions are addressed:

1. How far can the UNSC go to protect civilians? The actions under Chapter VII of the UN Charter has been promoted as a last resort?
2. How can the UNSC act promptly to prevent conflicts and damages to civilians' lives?
3. What would be the most effective and consensual approach applied by the UNSC in order to act appropriately when civilians' lives are being threatened?

References

COMITÊ INTERNACIONAL DA CRUZ VERMELHA (CICV). *Resumo das Convenções de Genebra de 12 de agosto de 1949 e dos seus Protocolos Adicionais.* Genebra: Comitê Internacional da Cruz Vermelha, segunda edição, dezembro de 2012. Available at: <https://www.icrc.org/pt/publication/resumo-das-convencoes-de-genebra-de-agosto-de-1949-e-dos-deus-protocolos-adicionais>. Accessed 3 May 2018.

INTERNATIONAL COMMISSION ON INTERVENTION AND STATE SOVEREIGNTY (ICISS). *The responsibility to protect*. Report of the International Commission on Intervention and

State Sovereignty. Canada: International Development Research Centre, December 2001.

INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC). "Commentary of 1958, article 2: Application of the Convention". In: *Official website of the International Committee of the Red Cross*, 1958. Available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/1a13044f3bbb5b8ec12563fb0066f226/5aa133b15493d9d0c12563cd0042a15a>. Accessed 23 May 2018.

_____. "Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field". In: *Official website of the International Committee of the Red Cross*, 12 August 1949 a. Available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/INTRO/365?OpenDocument>. Accessed 12 April 2018.

_____. "Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea". In: *Official website of the International Committee of the Red Cross*, 12 August 1949 b. Available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/INTRO/370?OpenDocument>. Accessed 12 April 2018.

_____. "Convention relative Treatment of Prisoners of War". In: *Official website of the International Committee of the Red Cross*, 12 August 1949 c. Available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/INTRO/375?OpenDocument>. Accessed 12 April 2018.

_____. "Convention relative to the Protection of Civilian Persons in Time of War". In: *Official website of the International Committee of the Red Cross*, 12 August 1949, d. Available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/INTRO/380?OpenDocument>. Accessed 12 April 2018.

_____. "Definition of Protected Persons". In: *Official website of the International Committee of the Red Cross*, 12 August 1949 e. Available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=78EB50EAD6EE7AA1C12563CD0051B9D4>. Accessed 2 May 2018.

_____. "Geneva Conventions and Commentaries". In: *Official website of the International Committee of the Red Cross*, 1 January 2014. Available at: <https://www.icrc.org/en/document/geneva-conventions-1949-additional-protocols>. Accessed 12 April 2018.

_____. "Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)". In: *Official website of the International Committee of the Red Cross*, 8 June 1977 a. Available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=D9E6B6264D7723C3C12563CD002D6CE4&action=openDocument>. Accessed 29 April 2018.

_____. "Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)". In: *Official website of the International Committee of the Red Cross*, 8 June 1977 b. Available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=AA0C5BCBAB5C4A85C12563CD002D6D09&action=openDocument>. Accessed 29 April 2018.

MALONE, D. M. "Security Council". In: DAWS, Sam; WEISS, Thomas G. (editors). *The Oxford Handbook on the United Nations*, 2008, pp. 1-15.

UNITED NATIONS SECURITY COUNCIL (UNSC). *Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict*. S/1999/957, 8 September 1999 a. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/1999/957>. Accessed 1 May 2018

_____. *Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict*. S/2001/331, 30 March 2001. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2001/331>. Accessed 20 May 2018.

_____. *Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict*. S/2002/1300, 26 November 2002. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2002/1300>. Accessed 20 May 2018.

_____. *Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict*. S/2004/431, 28 May 2004. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2004/431>. Accessed 20 May 2018.

_____. *Report of the Secretary-General on the protection of civilians in armed conflict*. S/2005/740, 28 November 2005. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2005/740>. Accessed 20 May 2018.

_____. *Report of the Secretary-General on the protection of civilians in armed conflict*. 28 October 2007. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2007/643>. Accessed 20 May 2018.

_____. *Report of the Secretary-General on the protection of civilians in armed conflict*, S/2009/227, 29 May 2009. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2009/277>. Accessed 20 May 2018.

_____. *Report of the Secretary-General on the protection of civilians in armed conflict*, S/2010/579, 11 November 2010. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2010/579>. Accessed 20 May 2018.

_____. *Report of the Secretary-General on the protection of civilians in armed conflict*, S/2012/376, 22 May 2012. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2012/376>. Accessed 12 June 2018.

_____. *Report of the Secretary-General on the protection of civilians in armed conflict*, S/2013/689, 22 November 2013. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2013/689>. Accessed 12 June 2018.

_____. *Report of the Secretary-General on the protection of civilians in armed conflict*, S/2015/453, 18 June 2015. Available at: <http://undocs.org/S/2015/453>. Accessed 16 June 2018.

_____. *Report of the Secretary-General on the protection of civilians in armed conflict*, S/2016/447, 13 May 2016. Available at: <http://undocs.org/S/2016/447>. Accessed 16 June 2018.

_____. *Report of the Secretary-General on the protection of civilians in armed conflict*, S/2016/447, 13 May 2016. Available at: <http://undocs.org/S/2016/447>. Accessed 29 May 2018.

_____. *Report of the Secretary-General on the protection of civilians in armed conflict*, S/2017/414, 10 May 2017. Available at: <http://undocs.org/S/2017/414>. Accessed 29 May 2018.

_____. *Resolution 1265 (1999) - Protection of civilians in armed conflict.* Adopted by the Security Council at its 4046th meeting, on 17 September 1999 b, S/RES/1265. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1265(1999)>. Accessed 19 May 2018.

_____. *Resolution 1970 (2011)*. Adopted by the Security Council at its 6491st meeting, on 26 February 2011. S/RES/1970 (2011). 2011 a. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1970(2011)>. Accessed 18 June 2018.

_____. *Resolution 1973 (2011)*. Adopted by the Security Council at its 6498th meeting, on 17 March 2011. S/RES/1973 (2011). 2011 b. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1973(2011)>. Accessed 18 June 2018.

UNITED NATIONS. "The Security Council". In: *International legal protection of Human Rights in armed conflict*. New York and Geneva, 2011, pp. 96-100.

_____. "UN Charter (full text)". In: *Official website of the United Nations*. 2018. Available at: <http://www.un.org/en/sections/un-charter/un-charter-full-text/>. Accessed 9 April 2018.

CHAPTER 6

THE SITUATION IN LIBYA

United Nations Security Council

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Introduction

The United Nations Security Council (UNSC) is one of the six main organs of the United Nations (UN). Its main role is described in the UN Charter, which is guaranteeing international peace and security and taking actions in order to secure the world from threats and breaches to peace. The Council has been officially dealing with the case of Libya since the 1990s.

Coronel Muammar al-Gaddafi's nationalist and anti-Western regime in Libya has historically had conflicted relations with the United States (US), the United Kingdom and France, which are permanent members of the Council. The situation seemed to be stabilized in the 2000s, but it took a turn for the worse with the occurring of the Arab Spring in 2011. Facing Gaddafi's violent response to civilian protests against his regime, the UNSC had to take actions in order to contain persecution and violence against civilians. Under its responsibility to protect civilians from massive violation of their human rights, the Council authorized the use of force against Colonel Gaddafi's regime, culminating in the Libyan leader's death by NATO forces.

The challenges faced by UNSC in guaranteeing peace in Libya, however, have not ended by taking the power away from Gaddafi, because the situation unfolded to a vacuum of power that collapsed the political system of the nation. To address this issue, the Council established the United Nations Support Mission in Libya (UNSMIL), a political mission which has the objective of dealing with the political transition and supporting the post-conflict efforts in the country.

UNSMIL has been facing an array of tribulations in its attempt to transition Libya's political system. In the security area, there are some armed political groups acting in the country, such as terrorist organizations and military branches in favor or against

Gaddafi's regime. There is also a humanitarian crisis, and UNSMIL is trying to guarantee access to basic health care and sanitarian conditions and contain the smuggling of immigrants. Not to mention the continuity of human rights violations, such as illegal arrest and torture.

To discuss the situation in Libya, this chapter is divided in four major sections: firstly, the structure of the UNSC and its mandate related to international peace and security; secondly, a background of the history of Gaddafi's regime and its relation with the UNSC permanent members, from his rise to power in 1969 to the stabilization in the 2000s; thirdly, a discussion on the 2011 Arab Spring and the matter of the Council's actions under the responsibility to protect principle; and, finally, an analysis on the current problems faced by UNSMIL.

The structure of the United Nations Security Council

The United Nations Security Council (UNSC) is one of the six organs of the United Nations (UN), responsible for the maintenance of international peace and security. Chapters V, VI, VII and VIII of the UN Charter specify the composition, the mandate, the decision-making process and the instruments that the UNSC can use in the promotion of international stability and peace.

The UNSC is composed by fifteen countries, as defined by the Article 23 of the UN Charter. Among them, there are five permanent members: the Republic of China, the French Republic, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Besides the permanent members, there are ten non-permanent members, which are elected by the United Nations General Assembly for a mandate of two years, without the option of being reelected right after the end of mandate. The elected members are chosen based on a regional distribution: five seats for African and Asian countries; one for Eastern European countries; two for Latin American and Caribbean countries; and two for Western European and other countries. Currently, the elected members are Bolivia, Côte d'Ivoire, Equatorial Guinea, Ethiopia, Kazakhstan, Kuwait, Netherlands, Peru, Poland and Sweden. Also, Article 31 defines that any State affected by the issues discussed by the Council can be invited to attend its meetings, with no right to vote (UNITED NATIONS, 1945, p. 6; UNITED NATIONS SECURITY COUNCIL, 2018 a).

The decisions of the Council are expressed by its resolutions. According to Article 25, the UN Members must follow all resolutions made by UNSC. It means that its resolutions are legally binding and all UN Members have to accept and carry out its decisions. Resolutions are adopted by vote and, in agreement with the Article 27 of the UN Charter, each Council Member has the right to one vote. A resolution is approved by nine affirmative votes, including the vote of the five permanent members. Even though all matters before the Council shall be put to a vote, there is a significant meaning if the resolution is approved by unanimity, because it brings greater legitimacy to the Council's decisions (UNITED NATIONS, 1945, pp. 7-8).

In order to solve problems related to the international peace and security, the Council has different means at its disposal. As specified in Charter VI, the first step in the solution of a dispute among countries is the use of pacific means, such as "negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice" (UNITED NATIONS, 1945, p. 8), as disposed in Article 33. Besides, in the Article 34, it is specified that the UNSC can investigate any dispute in which a controversial situation might erupt and determine how to act in this situation in order to prevent the controversy from becoming a threat to international peace and security (UNITED NATIONS, 1945, p. 8).

The UNSC also has the prerogative to define the existence of any threat to the peace, breach of the peace or act of aggression, as stated in Article 39 of Chapter VII. In these situations, Article 41 establishes the measures the Council can apply that do not involve the use of force and are related to sanctions. The measures are: "complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations" (UNITED NATIONS, 1945, p. 9).

However, Article 42 explains that if the measures mentioned in Article 41 were inefficient, the Council can take measures involving the use of force in order to restore international peace and security. It expresses the Council's role in the international collective security, meaning that the UNSC is the only one that can legitimately make the use of force. The only exception is stated in Article 51, which guarantees the right of individual or collective self-defense to the UN Member States (UNITED NATIONS, 1945, pp. 10-11).

Chapter VIII points out the importance of regional arrangements in the maintenance of international peace and security. Article 52 establishes that regional bodies can work as intermediators to the pacific settlement of disputes, and Article 53 defines the use of regional arrangements in order to implement coercive measures, but only with the explicit permission of the Council and following the principles of the UN Charter (UNITED NATIONS, 1945, p. 11).

Libya has been an issue before the UNSC since the 1990s, due to the actions conducted by President Gaddafi's controversial regime and its sensitive relations with some of the permanent members of the Council. This will be discussed in the following section.

Gaddafi's regime in Libya and its relations with the P5

This section aims to briefly describe the history of Colonel Muammar al-Gaddafi's regime in Libya, and highlight the main issues concerning Libya's relations with the permanent members of the UNSC. To approach this topic, the section will be divided in two major periods. The first period covers the Gaddafi's regime during the Cold War, presenting his rise to power and the main characteristics of his domestic and foreign policies.

The second period covers the Gaddafi's regime after the end of the Cold War. In the 1990s, the UNSC urged Libya to extradite the Libyan suspects behind the Pan Am airplane bombing in 1988. Libya's refusal of compliance resulted in a series of sanctions imposed by the UNSC, a situation that was maintained in a deadlock through the decade, and only reversed by 2003 when Libya finally complied to the Council's requests. These matters are essential to comprehend the political background of the current situation in Libya.

The emergence of Gaddafi's regime and the Cold War

Libya is a sovereign state that gained independence in 24 December 1951, after two years of the UN administration over its territory[1]. From 1951 to 1 September 1969, the country was ruled by the King Idris I of Libya – a monarchic regime characterized by an agricultural economy, sustained by foreign aid from Western countries and the maintenance of distant ties with the Soviet Union. But the economic situation dramatically changed with the discovery of oil within its territory in 1959. The country's oil reserves

1 In 1911, the region around Tripoli was controlled by Italy, but with its defeat after the Second World War, the control of the territory was a matter of dispute between France and the United Kingdom. To solve it, in 1949 it was decided that the UN would be responsible for administrating the territory until its independence in 1951 ("LIBYA…", 2018).

were extensive (Libya holds Africa's largest crude oil reserves) and of high quality, not to mention its strategic position, with coastal access to the Mediterranean Sea and a direct linkage to Europe (METZ, 1989, pp. 38-39; UNITED STATES ENERGY INFORMATION ADMINISTRATION, 2015).

However, the control over oil resources generated a political dispute. Influenced by the Arab nationalism proposed by the Egyptian leader Gamal Abdul, the politicized urban elite and the young officers of the Libyan Armed Forces started to question King Idris' pro-Western regime. In 1969, public dissatisfaction reached its heights and Libya faced a regime change through a so-called "bloodless coup" conducted by the Libyan Armed Forces, organized in a faction called the Free Officers Movement[2] (METZ, 1989, p. 41).

The body of the new Libyan government was initially constituted by the Revolutionary Command Council (RCC), composed by the twelve-member directorate who headed the Free Officers Movement. The RCC then appointed a predominantly civilian cabinet of technician administrators to the Council of Ministers. Besides, the main leader of the Movement, Colonel Muammar al-Gaddafi, was firstly appointed to take over as commander-in-chief of the Armed Forces, but soon, the RCC chose him to be Prime-Minister of the newly established Libyan Arab Republic, since he was considered the main leader of the movement ("BLOODLESS…", 1969; "COLONEL…", 2017).

The RCC political board, alongside with Colonel Gaddafi as the executive power, instituted vigorous economic, social and political reforms, integrating Islamic and nationalist principles in the political structure of the government. The means for the reforms was the nationalization of Western foreign oil companies in the mid-1970s, such as British Petroleum and Exxon Mobil. By the end of the decade, about 70% of domestic oil production was controlled by the Libyan state and fuel exports started to account for more than 90% of its merchandise exports (THE WORLD BANK, 2006, p. 1; p. 3; 2018; METZ, 1989, p. 51; p. 122).

With the nationalization of oil profits, the government was able to invest US$ 20 billion for the modernization of the economy, in an effort to build industrial capacity and develop the country. The plan was, arguably, a success. By the 1980s, the general population of Libya had major improvements in their welfare – citizens enjoyed improved housing, education and health services. At this time, the general standards of health

2 The movement preached for an Arab brand of socialism, with proper national development through the management of the oil reserves and a policy independent from the Western influence, and reach out for positive relations with Arab neighbors ("BLOODLESS…", 1969).

of its population were among the highest in Africa (MASOUD, 2013, p. 3; THE WORLD BANK, 2006, pp. 6-8).

In terms of foreign policy, Colonel Gaddafi actively pushed for pan-Arab politics. The leader grew up listening to Radio Cairo, in which President Nasser of Egypt was a grand exponent of Arab Unity philosophy – the belief that Arab countries needed to unite under a single state, stretching across North Africa and the Middle East. As such, the Libyan leader was heavily influenced by Nasser's politics of unity, and he frequently advocated for it[3] (METZ, 1989, p. 44).

To better understand the UNSC's role in Libya, it is vital to study the relations of the country with the permanent members of the Security Council during the Cold War. These members have had a polarized view of Gaddafi's regime: while the Soviet Union and China maintained a steady friendly relationship, relations with the other members – France, and above all, the United Kingdom and the US – were troubled.

In Gaddafi's interest of pushing his country onto a major role in the Arab affairs, he turned to the Soviet Union and China for the acquisition of weapons. Libyan import of weapons in the period between the mid-1970s and early-1990s reached the sum of US$ 4.6 billion with the Soviet Union and US$ 320 million with China. On the other hand, his foreign policy resulted in a strong antagonism against the West. Actions such as the nationalization of Western oil companies and the evacuation of British and American military personnel from Libya's territory in 1970, reflected his anti-Western foreign policy (METZ, 1989, pp. 51-52 p. 54; p. 273).

Besides that, four incidents related to Libya's involvement in the funding and training of international terrorism marked the decay of its ties with France, the United Kingdom and the US, respectively: the war in Chad, in 1984-1987; the shootout in front of the Libyan Embassy in London, in 1984; the 1986 bombing in a Berlin nightclub; and the bombing of the Pan Am Flight 103 in 1988.

In the early 1970s, as a consequence of Gaddafi's political objective of creating a Federation of Arab Republics, the ruler negotiated its integration with Chad. However, the talks failed and, in subsequent years, the Libyan government funded and trained rebel

3 He even negotiated with Arab neighboring states on the creation of the Federation of Arab Republics, in which would be possible to combine Libya's oil wealth and fiscal reserves with other populous Arab countries disposed with vast available manpower and military capacity. The leader came close to his objective: in 1972, Egypt, Syria and Sudan agreed on creating the political federation with Libya. However, no concrete legislation was made to implement this agreement. Egyptians feared the increasingly radical direction Gaddafi took in his foreign policy, and disagreements were raised until the project was no longer possible (METZ, 1989, p. 44; pp. 52-53).

groups in Chad's civil war which conducted an overthrow of the Chadian government in 1980. The French response to Libyan intervention in Chad's civil war was conducted through the use of military forces in southern Chad, aiming to override Libyan influence. This resulted in a series of military defeats for Libya and their Chadian allies in early 1987 (METZ, 1989, p. 225).

Concerning relations between Libya and the United Kingdom, they took a downfall in early 1984. In April of that year, Yvonne Fletcher, an English police officer, was shot by officials from the Libyan embassy in London, when she was monitoring an anti-Gaddafi protest[4] in front of the building. This attack led to a cut-off in diplomatic relations between the UK and Libya for fifteen years (FEDER, 1984).

As for the US, Libyan relations have been historically conflicted. Tensions escalated in 1973, when the Libyan government claimed territorial ownership over the entirety of the Gulf of Sirte, in order to establish an exclusive fishing zone. The US, however, refused to recognize Libya's claims, leading some naval operations to enforce rights of free passage in international waters. The tensions near Sirte prompted many crossfires between the nations, and in 1986, the US imposed economic sanctions against Libya (KIMMITT, 2006; POPOVSKI, 2011).

Two weeks after the 1986 crossfire between Libya and the US over the Gulf of Sirte, a bomb was exploded in a Berlin nightclub, killing and wounding more than 200 people. According to the US investigation, the attack was orchestrated by Libyan agents, and two American soldiers were killed in the incident. In retaliation, the White House authorized air strikes onto Tripoli and Benghazi. The target of the mission was Colonel Gaddafi and his family, but it failed to kill the Libyan leader[5] (HERSH, 1987).

Finally, the bombing of Pan Am Flight 103 in 1988 was the episode that definitely worsened Libya's relations with the West. The explosion occurred over Scotland and resulted in the death of 270 people. According to investigations, Libyan officials were responsible for the attack, as a retaliation for the US bombing in 1986. This matter escalated the Gaddafi regime's relations with France, the United Kingdom and the US to

4 The protest in from of the Libyan Embassy was against the hanging of two students from Tripoli University, who were against Gaddafi's regime.

5 However, since the use of force was not approved by the UNSC, the United Nations General Assembly condemned "the military attack perpetrated against the Socialist People's Libyan Arab Jamahiriya on 15 April 1986, which constitutes a violation of the Charter of the United Nations and of international law" (UNITED NATIONS GENERAL ASSEMBLY, 1986).

its worst point since its establishment. The event unfolded to the first involvements of the UN in matters concerning Libya (POPOVSKI, 2011).

The actions of the UNSC in Libya in the post-Cold War (1990-2009)

The history of Gaddafi's regime after the Cold War is mainly understood by the Council's direct involvement in matters concerning Libya. In 1991, after a three-year investigation on the Pan Am bombing, two Libyan nationals were incriminated as responsible for the attack[6]. As a result, on 21 January 1992, the Security Council adopted the Resolution S/RES/731, urging Libya to comply with extradition requests, showing its good will in the fight against international terrorism. Libya reacted against the Council resolution by asking the International Court of Justice to protect its right to not extradite any nationals to countries that it does not have and extradition treaty with, as determined by the Montreal Convention on Suppression of Unlawful Acts against the Safety of Civilian Aviation (UNITED NATIONS SECURITY COUNCIL, 1992 a; POPOVSKI, 2011).

On 31 March 1992, the US and the United Kingdom pushed the Council to adopt Resolution S/RES/748, imposing sanctions against the Libyan State. The sanctions included an arms embargo, travel ban for some officials and an aviation bans for all flights to and from Libya. After twenty months with no substantive response from Libya on the matter of complying with the UN requests, the Security Council adopted the Resolution A/RES/883 on 11 November 1993, deciding to expand the sanctions to a ban on imports of equipment to transport oil and freeze the government foreign assets (UNITED NATIONS SECURITY COUNCIL, 1992 b; 1993).

The situation began to reverse in 1994, when Libya offered to extradite the suspects to The Hague, a neutral place, instead of to the US or the United Kingdom. After some years of hesitation of both countries, in 1998 they accepted to have The Hague as the jurisdiction to judge the offenders. As a consequence, the Council decided, in its Resolution S/RES/1192 of 27 August 1998, that it would lift the sanctions against Libya if the two accused were properly delivered for trial. With these signs of good will, the United Kingdom decided to restore its diplomatic relations with Libya. The suspects were

6 After the conclusion of the investigations, France, the United Kingdom and the US issued before the UNSC the documents S/23306 – S/23317, of December 1991. In those documents, the three permanent members demanded that Libya assumed the responsibility for the bombing by extraditing the suspects, paying due compensation to the victims and giving full access to the investigations. The actions of the Council in 1992 were based on these official documents (POPOVSKI, 2011).

finally judged in The Hague under Scottish Law in 2001, and one of them was found guilty (UNITED NATIONS SECURITY COUNCIL, 1998; POPOVSKI, 2011).

With this long process concluded, the Council decided to end the sanctions regime in 12 September 2003, by its Resolution A/RES/1506. After this, the period of 2004-2010 was marked by an unprecedented stability in the relationships between Libya and the West. In 2005, Libya authorized US oil companies to participate in license auctions for the first time since the 1980s. In 2006, the US restored full diplomatic relations with Libya, and the State Department removed the country from its list of States incriminated of funding terrorism. In 2007, the United Kingdom Prime Minister, Tony Blair, made the first official visit to the Arab country since 1943 (UNITED NATIONS SECURITY COUNCIL, 2003; "LIBYA…", 2018).

Libya even became a rotating president of UNSC in January 2008, showing its alignment with the Council's measures. This process of stabilization was concluded with the official visit of US Secretary of State Condoleezza Rice to Libya, in 2008. A high-level US visit to the country had not happened since 1953 ("LIBYA…", 2018). However, the period of stabilization would be short, as the events of the Arab Spring quickly unfolded in 2011.

The Arab Spring and the Responsibility to Protect

In 2010, the scenario of stability changed with a series of protests against dictatorial governments in sub-Saharan Africa. The so called Arab Spring started in Tunisia in December 2010, when the population organized protests against the autocratic government and the economic crisis. Soon the protests reached other countries, such as Egypt and Libya.

The popular uprising against Gaddafi's regime started on 15 February 2011, in Benghazi, a city in the region of Cyrenaica. The protests were pacific at first, but then government responded with the use the national forces, opening fire against the protesters. A few days later, the manifestations arrived to Tripoli, in the region of Tripolitania, which was the central region of Gaddafi's power. In 3 days of protests, more than 100 people were killed and 200 were injured. On 22 February, it was clear that the situation had turned into a civil war, when Gaddafi made a speech on state TV urging his followers to use violence against the rebels. In his own words, it was necessary to "(…) capture the rats. Go out of your homes and storm them" (SPENCER, 2011); he said he would look for and kill all the opponents in "inch by inch, quarter to quarter, house to house, alley to alley" ("PROFILE…", 2011).

The international community was quickly alarmed by the government's use of force against civilians. The African Union, the Arab League and the Organization of the Islamic Conference public condemned the use of force, as well as the UN Secretary-General, Ban Ki-moon, and the UN High Commissioner for Human Rights, Navi Pillay (POPOVSKI, 2011).

The UNSC, in its turn, approved its resolution S/RES/1970, on 26 February 2011, in response to the massive violation of human rights and the use of force against civilians in Libya[7]. Acting under Chapter VII, the Council decided, in paragraph 4, to take the case to the International Criminal Court, in face of the human rights violations. The Council imposed an arms embargo, a travel ban and an asset freeze in order to compel Libyan government to cease the use of violence. Besides, the Council called upon the UN to offer, with the upmost urgency, the necessary humanitarian assistance. This resolution was approved by unanimity, showing the concern of Council members about the severe situation in Libya (UNITED NATIONS SECURITY COUNCIL, 2011 a, p. 2).

The actions under resolution 1970 were not enough to stop the violation of human rights, proved by the killing of 300 civilians in the following events. Therefore, under Chapter VII the UNSC authorized, by its resolution S/RES/1973, of 17 March 2011, the use of all necessary measures to protect the rights of the civilians, expressed in the fourth operative paragraph. The Council also decided to establish a no fly zone in Libyan airspace (ABDESSADOK, 2017; UNITED NATIONS SECURITY COUNCIL, 2011 b, p. 3).

The North Atlantic Treaty Organization (NATO)[8] was responsible for the protection of civilians and the establishment of the no fly zone. In 36 hours after the adoption of the resolution 1973, missiles and fighter jets from the United States, the United Kingdom and France bombed some understructures of Libyan government and enforced the no fly zone on 24 March 2011, with the support of the Arab League to these military operations (WEISS et al., 2014, p. 117).

Resolutions 1970 and 1973 were considered a milestone in the work of the Council because these were the first resolutions in which the use of force was justified under the

7 The United Nations General Assembly also expressed its concern with the human rights situation in the country, and, because of that, on its resolution A/RES/65/265, of 1 March 2011, it decided to suspend Libya's rights as a Member of the United Nations Human Rights Council. The Human Rights Council is a UN body responsible for the protection of human rights and is composed by 47 elected members. This was the first time a member elected was suspended in this Council (UNITED NATIONS GENERAL ASSEMBLY, 2011, p. 1; UNITED NATIONS HUMAN RIGHTS COUNCIL, 2018).

8 NATO is a military and political alliance between 29 countries – being the United States, United Kingdom and France the most importance ones.

concept of Responsibility to Protect (R2P). This concept was created by the International Commission on Intervention and State Sovereignty in 2001, and has the following definition:

> (…) the responsibility to protect (R2P) infused state sovereignty with a human rights dimension – that is, sovereignty was not a license to do as state authorities wished but was contingent on respecting minimal human rights standards. (…) The responsibility to protect includes action not only to intervene when large-scale loss of lie occurs but also to prevent armed conflicts and to help mend societies (WEISS, et al. 2014, p. 93).

However, the authorized use of force in Libya under the R2P concept was very controversial. Firstly, China, Russia, Brazil, India and Germany decided to abstain from their votes in resolution 1973. For these Council Members, this resolution would give NATO a "blank-check" in Libya, and, in fact, this regional organization acted way beyond the resolution's mandate, taking measures in favor of Gaddafi's opposition, clearly forcing a regime change. Besides, NATO's airstrikes resulted in many casualties and the international community started to question if the use of force was in fact protecting civilians, or causing them more harm. This position was summarized in a letter from the Permanent Representative of Brazil to the United Nations to the Secretary-General, on 9 November 2011: "As it exercises its responsibility to protect, the international community must show a great deal of responsibility while protecting" (PERMANENT REPRESENTATIVE OF BRAZIL TO THE UNITED NATIONS, 2011, p. 3).

Amidst NATO's airstrikes and the international debate over the legitimacy of these actions, the General Assembly recognized the National Transitional Council (NTC) – the political organization of opposition forces in Libya – as the official representation of this country in that body on 16 September 2011. On that same day, the Security Council adopted its resolution S/RES/2009, with the objective of consolidating a transitional government in Libya, under NTC's leadership. In order to support this process, the Council decided to establish, in paragraph 12 of the same resolution, the United Nations Support Mission in Libya (UNSMIL), for an initial period of 3 months. UNSMIL was not a peacekeeping operation, since its mandate was a political one, focused on transitioning to a democracy, rebuilding State institutions, reestablishing the rule of law, restoring public security, promoting national reconciliation, protecting human rights and starting economic recovery (UNITED NATIONS, 2011; UNITED NATIONS SECURITY COUNCIL, 2011 c, p. 3).

On 20 October 2011, NATO's military forces were able to capture and kill Colonel Gaddafi, finalizing the process of regime change in Libya. In face of that, the Council adopted its resolution S/RES/2016, on 27 October 2011, with the purpose of suspending the arms embargo, the asset freeze and the no fly zone against Libya. In relation to the NTC, the Council reiterated in paragraph 2 "the need for the transitional period to be underpinned by a commitment to democracy, good governance, rule of law, national reconciliation and respect for human rights and fundamental freedoms of all people in Libya" (UNITED NATIONS SECURITY COUNCIL, 2011 d, p. 2).

Nevertheless, Libya has not seen a fast and peaceful transition to democracy. On the contrary: since then, the country has faced a profound crisis, and prospects to a stable transition are still not on the horizon. In the next section, the current challenges the Council faces in Libya will be presented.

The UNSC current challenges in Libya

Through UNSMIL, the UNSC has concentrated its efforts to stabilize Libya and solve problems in four main areas: political transition; security issues; human rights and humanitarian situation; and development assistance. In the following items, these areas will be discussed, highlighting the Council's actions in the period of 2014-2018.

Political transition

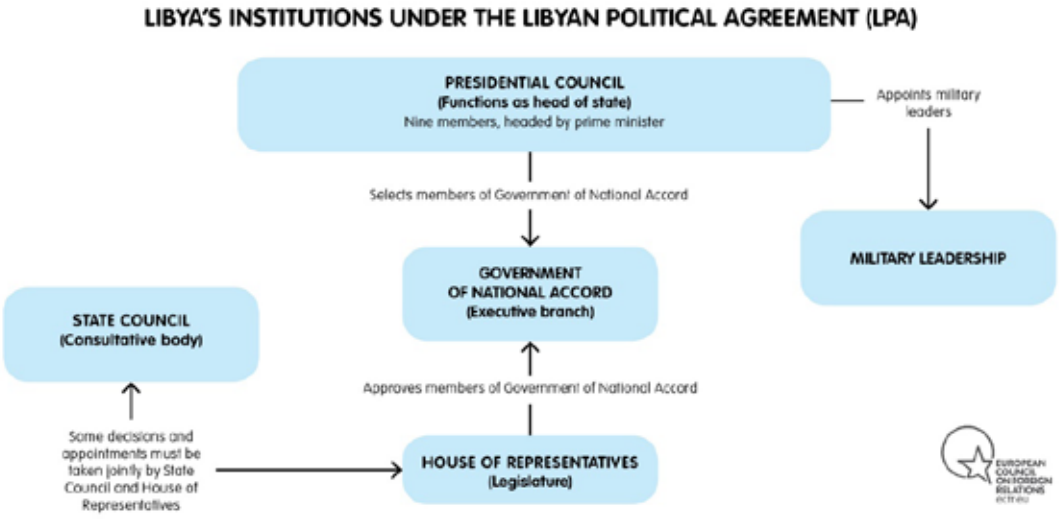
The end of Gaddafi's regime after four decades of ruling created a vacuum of power, and in order to build new governmental institutions at the national level, UNSMIL gave support to the creation of a provisory legislative body, the General National Congress (GNC). Based in Tripoli, the GNC was responsible for drafting a new constitution and establishing a parliament. The election of the members of the GNC happened on 8 August 2012. It was a very important political moment, since it was the first democratic election in Libya since Gaddafi's rule. UNSMIL supervised the election by giving support to the Libyan High National Elections Commission, guaranteeing a democratic and fair voting (APAP, 2017, p. 2).

However, soon the work of the GNC turned into a politic dispute between officers from the NTC (which were the majority) and officers that were part of Gaddafi's regime. This dispute was translated into a civil war, since each group had the support of militias. It led to the dissolution of the GNC, and new elections were held on 25 June 2014 in order to establish the House of Representatives (HoR) in the city of Tobruk. The majority

of the seats were occupied by liberals and former Gaddafi's supporters. Due to that, the GNC parliamentarians did not recognized the legitimacy of the HoR. The political power in Libya was then divided between two centers: one controlled by HoR in Tobruk, which was internationally recognized as the legitimate power, but with a small influence over national politics; and the other controlled by self-appointed leaders in Tripoli, with greater power (APAP, 2017, p. 3).

Then the UN started to mediate negotiations between the rival political groups with the objective of establishing a true national transitional power. Its efforts led to the Libyan Political Agreement (LPA) on 17 December 2015. The agreement was consolidated with four principles: democratic rights, separation and balance between powers, empowerment of State institutions and judiciary responsibility (TOALDO; FITZGERALD, 2016, p. 6). With this agreement, the political institutions are now organized into three centers of power, as can be seen below:

Figure 1 – The political institutions under the Libyan Political Agreement



Source: TOALDO; FITZGERALD, 2016, p. 2.

Firstly, there is the Presidential Council, based in Tripoli and composed of nine members under the leadership of Fayez al-Sarraj. Al-Sarraj is the Prime-Minister and acts as head of state. The Presidential Council is responsible for selecting the members of the second political institution, which is the Government of National Accord (GNA). Also based in Tripoli, the GNA acts as the executive branch and is responsible for securing the LPA, in order to guarantee that all political parties have their interests represented

in the transitional government. The members of the GNA are approved by the HoR, the third institution, which continues to be the legitimate legislative branch (TOALDO; FITZGERALD, 2016, p. 2).

Currently, there are two political challenges for UNSMIL. The first one is guaranteeing a peaceful and fair election process for municipalities this year. UNSMIL supported the Libyan High National Elections Commission in the voter registration update, which was completed in March 2018. The second and most important challenge is to finish the transitional government and finally approve a constitution. The Constitution Drafting Assembly has been working on a constitutional proposal, but it has been difficult to engage the different Libyan institutions and interests in order to create a national consensus (UNTIED NATIONS SECURITY COUNCIL, 2018 c, pp. 5-6).

Security issues

A major responsibility of UNSMIL is to assist Libya on restoring public security, especially by strengthening civilian security institutions and the civilian control over military institutions. UNSMIL and UNDP, together with the Ministers of Interior and Justice, are working on professionalizing the Libyan police through the Policing and Security Programme (UNITED NATIONS SECURITY COUNCIL, 2018 c, p. 11).

The civilian control and the unification of military institutions are a more complicated issue. So far, the Libyan National Army is a group of uncoordinated military units and regional armed groups. In March 2018, the government of Egypt, a key regional player, held the sixth Libyan Military Unification Meeting in Cairo. In the meeting, there was great disagreement between the military representatives appointed by the Presidential Council regarding the roles and the hierarchy in senior military positions. Until the military representatives reach a consensus, Libya will not be able to have a proper national army (UNITED NATIONS SECURITY COUNCIL, 2018 c, p. 11).

Terrorism and clashes between different armed groups and militias are the most pressing issue for the Security Council. In its resolution S/RES/2214, of 27 March 2015, the Council decided the following:

> 3. Urges Member States to combat by all means, in accordance with the Charter of the United Nations and International Law, threats to international peace and security caused by terrorist acts, including those committed by ISIL, groups that pledged allegiance to ISIL, Ansar Al Charia, and all other

> individuals, groups, undertakings and entities associated with Al-Qaida operating in Libya in coordination with the Government of Libya (UNITED NATIONS SECURITY COUNCIL, 2015, p. 3).

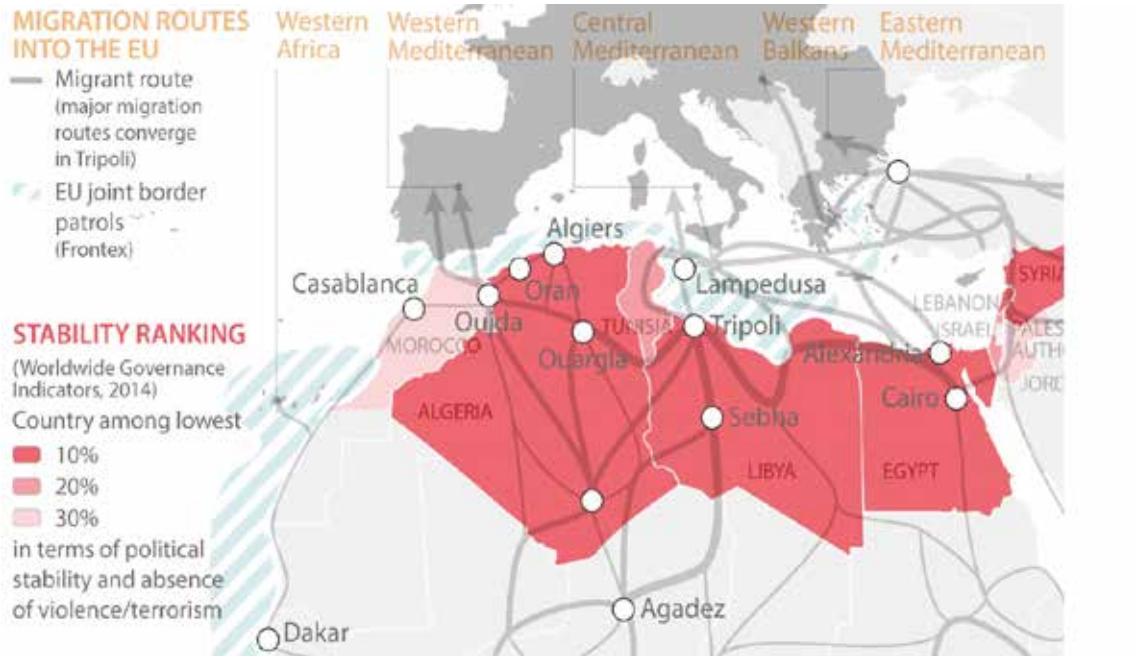
The Council is currently concerned with the two main jihadists groups in Libya, which are the Islamic State and the Levant (ISIL) and the fighters formerly connected to Ansar Al Charia. ISIL began to operate in Libya in 2014, with headquarters in Sirtre and presence in Tripoli, Fezzan, Derna and Barqa. Although ISIL does not have direct control over any territories in Libya, in 2018 it performed several bombing attacks using vehicles against Libyan National Army checkpoints, causing several casualties. As for Ansar Al Charia, it was created in 2012 by revolutionary fighters in favor of the supremacy of the Sharia law. In connection with al-Qaeda, the group conducted various terrorist attacks from 2012-2014; but after 2014, the group fragmented and its fighters merged with other jihadist militias (TOALDO; FITZGERALD, 2016, p. 7).

In order to control ISIL and the influence of al-Qaeda in Libya, the UN has focused on supporting neighboring countries to develop a stronger border control. In April 2018, Libya, together with Chad, Niger and Sudan, established a border security cooperation agreement. For the Secretary-General, the rapid rise of violence and clashes between militias and armed groups makes it even more urgent to institutionalize the rule of law in the country: "I underline the urgent need to establish the rule of law in the area to ensure the cessation of hostilities among the warring factions and introduce more effective border control" (UNITED NATIONS SECURITY COUNCIL, 2018 c, p. 15).

Human rights and humanitarian situation

Gaddafi was prosecuted in the International Criminal Court for committing crimes against humanity (murder and persecution). The end of his regime did not result, however, in an improvement of the human rights situation. In terms of security, the population remains greatly affected by abductions, assassinations, illegal or arbitrary detentions and torture motivated by the increase in rivalry between armed groups and militias. UNSMIL has estimated that 75 to 80% of people in prison did not have a trial. In many prisons across the country, the Mission has reported medical neglect, denial of visits (including from lawyers) and inhuman conditions (UNITED NATIONS SECURITY COUNCIL, 2018 c, p. 7).

Figure 2 – Migration routes into the European Union



Source: APAP, 2017, p. 8.

An urgent human rights issue is the smuggling of migrants, human trafficking and even slave markets. Libya is a central migration route, as it can be seen in Figure 2. According to the Report of the Secretary-General:

> There were over 704,000 migrants in Libya, including women (11 per cent of identified migrants) and children (10 per cent), nearly half of whom came from Chad, Egypt and the Niger. Between 1 January and 3 April, 6,161 migrants arrived in Italy from Libya. During the same period, 3,479 migrants were returned to the shores of Libya by the Libyan Coast Guard, of which 1,410 were returned during the reporting period. There were 359 deaths by sea registered on the central Mediterranean route (UNITED NATIONS SECURITY COUNCIL, 2018 c, p. 12).

Women and children migrants are the most vulnerable groups and the most in need of humanitarian assistance. They have been victims of abduction, and those in migrant detention centers have been victims of rape, violence and forced labor. Smugglers profit from Libyan and other African migrants aiming to reach Europe, and trips have caused thousands of deaths due to the use of vessels with improper navigation conditions. The UNSC, in its resolution S/RES/2380, of 5 October 2017, condemned the smuggling of migrants and human trafficking and called upon Member States to inspect any vessels

on the high seas off the coast of Libya which are suspected to be used for those criminal purposes (UNITED NATIONS SECURITY COUNCIL, 2017, p. 4).

Development assistance

The political transition in Libya will require a simultaneous process of economic reconstruction and development. In this regard, the recovery of the oil industry is of upmost importance. Estimates show that oil production has increased: in January 2018, the country produced 1.1 million barrels per day, in comparison with 860,000 barrels per day in August 2017 (UNITED NATIONS SECURITY COUNCIL, 2018 b, p. 6).

However, a major recovery in oil production is limited not only by the lack of financial resources and investments in infrastructure, but also by the blockades and the illicit export of oil conducted by militias and armed groups. In order to combat these illicit actions, the Council, by its resolution S/RES/2362, of 29 June 2017, authorized Member States to make inspections in vessels suspected of illicit carrying of oil and to take appropriate actions to return the goods (UNITED NATIONS SECURITY COUNCIL, 2017, p. 2).

Another economic problem is the fiscal crisis that heavily limits the Libyan transitional government's capability to provide basic public services and basic infrastructure, including, but not limited to, access to safe drinking water, food security and sanitation services. There are 630,000 people in need of food security assistance in Libya, and among the 181,000 internally displaced persons, 24% are in a situation of food insecurity. In May 2018, the World Food Programme distributed food to more than 65,000 people, focusing on internally displaced persons needs (UNITED NATIONS FOOD AND AGRICULTURE ORGANIZATION, 2018, p. 2; UNITED NATIONS SECURITY COUNCIL, 2018 c, p. 13).

To overcome the economic crisis and promote sustainable development, the integration of women in the transitional political process is fundamental. In February 2018, UNSMIL supported Libyan women to be part of the drafting of the national Constitution, providing a gender perspective to the document. The advancement of women as a tool for promoting peace is a priority for the Secretary-General, who stated: "I continue to urge all Libyan political, social and economic actors to engage fully to ensure the implementation of Security Council resolution 1325 (2000) [Women, Peace and Security]" (UNITED NATIONS SECURITY COUNCIL, 2018 b, p. 15).

Conclusion

Since the 1990s, the Security Council has been dealing with different challenges in Libya. From the 1990s to 2011, the Council's efforts were directed to contain the threats to peace and security, which came from Gaddafi's regime, such as the support to terrorists attacks in the 1980s and the massive violation of human rights during the Arab Spring protests.

Nevertheless, the end of Gaddafi's regime after four decades of ruling did not culminate in a fast transition to a democratic regime. On the contrary: it created a vacuum of power and led to a violent civil war. Nowadays, the greatest challenge to the Security Council is to conduct Libya – through UNSMIL – to the creation of a new national political pact, which is very difficult to achieve because most of the political actors are regional or even local.

The security situation has deteriorated quickly in 2018, due to the clashes between different militias and armed groups. Amidst the conflict and violence, Libyan civilian population continues to be deprived of their basic human rights. The Security Council, in its resolution S/RES/2376, of 14 September 2017, renewed UNSMIL mandate until 15 September 2018. With the end of its mandate fast approaching, the Mission has before it three main questions to be solved:

1. How can UNSMIL better support the political conciliation among different political interests, in order to finally approve a Constitution and conclude the transition process?
2. Considering that the security problems are transboundary and require the cooperation of neighboring countries, how can the Council support international cooperation in the security area?
3. The Sustainable Development Goal 16 intends to promote peaceful and inclusive societies. How can UNSMIL better mainstream a sustainable development perspective in Libya's reconstruction process?

References

"A TIMELINE of the conflict in Libya". In: *Cable News Network (CNN)*, 24 September 2011. Available at: <http://edition.cnn.com/2011/WORLD/africa/08/18/libya.timeline/index.html>. Accessed 2 April 2018

ABDESSADOK, Z. "Libya Today: From Arab Spring to failed state". In: *Al Jazeera*, 30 May 2017. Available at: <https://www.aljazeera.com/indepth/features/2017/04/happening-libya-today-170418083223563.html>. Accessed 22 May 2018.

APAP, J. *Political developments in Libya and prospects of stability*. Brussels: European Parliamentary Research Service, Briefing, June 2017. Available at: <http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/603959/EPRS_BRI(2017)603959_EN.pdf>. Accessed 14 July 2018.

"BLOODLESS coup in Libya". In: *British Broadcasting Corporation*, 1 September 1969. Available at: <http://news.bbc.co.uk/onthisday/hi/dates/stories/september/1/newsid_3911000/3911587.stm>. Accessed 10 April 2018.

"COLONEL Gaddafi Seized Power in Libya in Bloodless Coup on This Day in 1969". In: *Sputnik News*, 1 September 2017. Available at: <https://sputniknews.com/politics/201709011056997468-gaddafi-libya-anniversary-coup/>. Accessed 22 May 2018.

FEDER, B. "British break off Libyan relations over London siege". In: *The New York Times*, 23 April 1984. Available at: <https://www.nytimes.com/1984/04/23/world/british-break-off-libyan-relations-over-london-siege.html>. Accessed 23 May 2018.

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (UNFAO). Libya Humanitarian Response Plan 2018. Food and Agriculture Organization of the United Nations, February 2018. Available at: <http://www.fao.org/3/i8709en/I8709EN.pdf>. Accessed 29 May 2018.

HERSH, S. "Target Qaddafi". In: *The New York Times*, 22 February 1987. Available at: <https://www.nytimes.com/1987/02/22/magazine/target-qaddafi.html?pagewanted=all&src=pm>. Accessed 11 April 2018.

KIMMITT, R. "Reagan and Gadhafi". In: *The Washington Times*, 20 August 2006. Available at: <https://www.washingtontimes.com/news/2006/aug/20/20060820-104133-3139r/>. Accessed 22 May 2018.

"LIBYA profile – timeline". In: *British Broadcasting Corporation*, 24 January 2018. Available at: <http://www.bbc.com/news/world-africa-13755445>. Accessed 02 April 2018.

MASOUD, N. "A Review of Libyan's Economy, Structural Changes and Development Patterns". In: *Business and Economics Journal,* vol. 4, issue 83, 27 December 2013. Available at: <https://www.omicsonline.org/open-access/a-review-of-libyans-economy-structural-changes-and-development-patterns-2151-6219-4-083.php?aid=21860>. Accessed 23 May 2018.

METZ, H. *Libya: A Country Study*. Washington, D.C.: Federal Research Division, Library of Congress, 1989. Available at: <https://cdn.loc.gov/master/frd/frdcstdy/li/libyacountrystud00metz_0/libyacountrystud00metz_0.pdf>. Accessed 01 May 2018.

PERMANENT REPRESENTATIVE OF BRAZIL TO THE UNITED NATIONS. *Responsibility while protecting: elements for the development and promotion of a concept*. Letter dated 9 November 2011 from the Permanent Representative of Brazil to the United Nations addressed to the Secretary-General. United Nations General Assembly, sixty-sixth session and United Nations Security Council, sixty-sixth year, 11 November 2011, A/66/551. Available at: <http://undocs.org/A/66/551>. Accessed 13 July 2018.

POPOVSKI, V. "Fighting the Colonel: "Fighting the Colonel: Sanctions and the Use of Force". In: *Jindal Journal of International Affairs*, Vol. 1, Issue 1, 2011. Available at: <https://unu.edu/publications/articles/fighting-the-colonel.html#info>. Accessed 21 May 2018.

"PROFILE: Muammar Gadhafi". In: *Al Jazeera,* 21 August 2011. Available at: <https://www.aljazeera.com/indepth/2011/02/201122117565923629.html>. Accessed 22 May 2018.

SPENCER, R. "Libya: Col Gaddafi's speech his last stand?". In: *The Telegraph*, 22 February 2011. Available at: <https://www.telegraph.co.uk/news/worldnews/africaandindianocean/libya/8341374/Libya-Col-Gaddafis-speech-his-last-stand.html>. Accessed 01 June 2018.

THE WORLD BANK. "Fuel exports (% of merchandise exports) – Libya, 1965-2010". In: *Official website of the World Bank*, 2018. Available at: <https://data.worldbank.org/indicator/TX.VAL.FUEL.ZS.UN?locations=LY>. Accessed 23 May 2018.

_____. *Socialist People's Libyan Arab Jamahiriya Country Economic Report*. Washington, D.C.: World Bank, 2006.

TOALDO, M.; FITZGERALD, M. *A quick guide to Libya's main players*. European Council on Foreign Relations, 2016 Available at: <https://www.ecfr.eu/page/-/Lybias_Main_Players_Dec2016_v2.pdf>. Accessed 13 July 2018.

UNITED NATIONS (UN). "After Much Wrangling, General Assembly Seats National Transitional Council of Libya as Country's Representative for Sixty-Sixth Session". In: *United Nations News Centre*, Press Release GA/11137, 16 September 2011. Available at: <https://www.un.org/press/en/2011/ga11137.doc.htm>. Accessed 13 July 2018.

_____. *Charter of the United Nations*. San Francisco, 26 June 1945. Available at: <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>. Accessed 10 April 2018.

UNITED NATIONS GENERAL ASSEMBLY (UNGA). *Declaration of the Assembly of Heads of State and Government of the Organization of African Unity on the aerial and naval military attack against the Socialist People's Libyan Arab Jamahiriya by the present United States Administration in April 1986*. Resolution adopted by the General Assembly at its 78th plenary meeting, on 20 November 1986, A/RES/41/38. Available at: <http://www.un.org/documents/ga/res/41/a41r038.htm>. Accessed 11 April 2018.

_____. *Suspension of the rights of membership of the Libyan Arab Jamahiriya in the Human Rights Council.* Resolution adopted by the General Assembly at its sixty-fifth

session, 3 March 2011, A/RES/65/265. Available at: <http://undocs.org/A/RES/65/265>. Accessed 13 July 2018.

UNITED NATIONS HUMAN RIGHTS COUNCIL (UNHRC). "About HCR". In: *Official website of the United Nations Human Rights Council*, 2018. Available at: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx>. Accessed 22 May 2018.

UNITED NATIONS SECURITY COUNCIL (UNSC). "Members". In: *Official website of the United Nations*, 2018 a. Available at <http://www.un.org/en/sc/members/>. Accessed 10 April 2018.

_____. *Resolution 1192 (1998)*. Adopted by the Security Council at its 3920th meeting, on 27 August 1998, S/RES/1192 (1998). Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1192(1998)>. Accessed 3 May 2018.

_____. *Resolution 1506 (2003).* Adopted by the Security Council at its 4820th meeting, on 12 September 2003, S/RES/1506(2003). Available at: <http://unscr.com/en/resolutions/doc/1506>. Accessed 11 April 2018.

_____. *Resolution 1970 (2011)*. Adopted by the Security Council at its 6491th meeting, on 26 February 2011 a, S/RES/1970 (2011). Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1970(2011)>. Accessed 2 May 2018.

_____. *Resolution 1973 (2011)*. Adopted by the Security Council at its 6498th meeting, on 17 March 2011 b, S/RES/1973 (2011). Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1973(2011)>. Accessed 2 May 2018.

_____. *Resolution 2009 (2011)*. Adopted by the Security Council at its 6620th meeting, on 16 September 2011 c, S/RES/2009 (2011). Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2009(2011)>. Accessed 22 May 2018.

_____. *Resolution 2016 (2011)*. Adopted by the Security Council at its 6640th meeting, on 27 October 2011 d, S/RES/2016 (2011). Available at: <https://undocs.org/S/RES/2016(2011)>. Accessed 22 May 2018.

_____. *Resolution 2214 (2015)*. Adopted by the Security Council at its 7240th meeting, on 27 March 2015, S/RES/2214 (2015). Available at: <https://undocs.org/S/RES/2214(2015)>. Accessed 2 May 2018.

_____. *Resolution 2380 (2017)*. Adopted by the Security Council at its 8061st meeting, on 5 October 2017, S/RES/2380 (2017). Available at: < https://undocs.org/S/RES/2380(2017)>. Accessed 22 May 2018.

_____. *Resolution 731 (1992).* Adopted by the Security Council at its 3033rd meeting, on 21 January 1992 a, S/RES/731. Available at: <http://unscr.com/en/resolutions/doc/731>. Access in: 11 April 2018.

_____. *Resolution 748 (1992)*. Adopted by the Security Council at its 3063rd meeting, on 31 March 1992 b, S/RES/748. Available at: <http://unscr.com/en/resolutions/doc/748>. Access in: 11 April 2018.

_____. *Resolution 883 (1993)*. Adopted by the Security Council at its 3312th meeting, on 11 November 1993, S/RES/883. Available at: <http://unscr.com/files/1993/00883.pdf>. Access in: 23 May 2018.

_____. *United Nations Support Mission in Libya.* Report of the Secretary-General, 12 February 2018 b, S/2018/140. Available at: <http://undocs.org/S/2018/140>. Accessed 28 May 2018.

_____. *United Nations Support Mission in Libya.* Report of the Secretary-General, 7 May 2018 c, S/2018/429. Available at: < https://undocs.org/S/2018/429>. Accessed 28 May 2018.

UNITED STATES ENERGY INFORMATION ADMINISTRATION. *Libya Country Analysis*. Washington, D.C.: U.S. Department of Energy, 2015.

WEISS, T. et al. *The United Nations and changing world politics*. Seventh Edition. Boulder, Colorado: Westview Press, 2014.

SECTION 2

UNIVERSITY COMMITTEES, COUNCILS AND COURT

CHAPTER 7

APPLICATION OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (GEORGIA VS. RUSSIAN FEDERATION)

International Court of Justice

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Introduction

This chapter presents the Georgia vs. Russian Federation case before the International Court of Justice (ICJ) concerning the application of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). The CERD was established in 1965 in order to prevent and eradicate racism and racial discrimination and other forms of intolerance. In this sense, the States Parties to the Convention resolved "to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations" (OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS, 2018).

In 2008, Georgia filed an application against the Russian Federation, and alleged that Russia violated articles 2, 3, 4, 5 and 6 of the CERD, due to Russia's participation in the internal conflict between Georgia and separatist groups from South Ossetia. Georgia affirmed that Russia was encouraging and helping the separatists. In the same year, Georgia also requested to the ICJ to make a pronouncement about provisional measures concerning the escalation of the conflict and the possible violations of human rights against Georgians and other groups. Therefore, the ICJ delivered two decisions on the case: the first decision concerned the provisional measures and, the second, related to whether Russia violated the CERD during the conflict of 2008 in the territory of Georgia.

In order to present the Georgia vs. Russian Federation case before the ICJ, the chapter is divided in four sections. In the first section, we present a brief explanation of the functions of the ICJ, according to its Statute and to the Charter of the United Nations (UN). The second section explains the relationship between Russia and Georgia, especially after the Cold War period, and how the conflict in Georgia became international, with

the participation of Russia. The third section focuses on the case before the ICJ: the decision of the Court concerning provisional measures (2008) and the decision concerning Georgia's allegations that Russia violated the CERD (2011). The fourth session presents the conclusions and addresses some questions related to the Court's decisions.

The International Court of Justice

The International Court of Justice (ICJ) is the judicial organ of the United Nations (UN) and was established in 1945 by the UN Charter. The statute of the ICJ is based on the Statute of the Permanent Court of International Justice (PCIJ), which was the former judicial institution created by the League of Nations. Article 93 of the UN Charter affirms that all UN Member States are parties of the Statute of the ICJ. Non-members can become parties of the Court under special circumstances, and each case will be decided by the UN General Assembly (UNGA) (INTERNATIONAL COURT OF JUSTICE, 2018 a).

All UN Members agreed to comply with the ICJ's decisions if they are parties in a dispute. If a Member State fails with this obligation, the other party in a dispute can communicate the UN Security Council (UNSC), which is the only organ capable of taking the necessary measures to make sure the decisions of the ICJ are respected (INTERNATIONAL COURT OF JUSTICE, 2018 a).

The UN Charter establishes the relationship between the UNGA and the ICJ. The UNGA is responsible for the election of the judges, and can ask the ICJ for its advisory opinion in legal matters, authorizing other UN organs and specialized agencies to do so. According to articles 3 and 4 of the Statute of the ICJ, the Court is composed of fifteen judges, each one of a different nationality and all of them elected by the UNGA. Article 21 establishes that the Court must have one President, one Vice-President and one Registrar, which will be elected among the 18 judges for a period of three years (INTERNATIONAL COURT OF JUSTICE, 2018 a).

According to Article 36.1 of the Statute of the ICJ, the "jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force". The parties can declare, at any time, that they recognize the compulsory jurisdiction of the ICJ, which means that the Court is competent to decide about any dispute concerning States that have also recognized the compulsory jurisdiction. In this sense, the ICJ has jurisdiction over "the interpretation of a treaty", "any question of international law", "the existence of

any fact which, if established, would constitute a breach of an international obligation", and "the nature or extent of the reparation to be made for the breach of an international obligation" (INTERNATIONAL COURT OF JUSTICE, 2018 a).

The parties of the ICJ may pronounce that they do not recognize the jurisdiction of the Court at any time; therefore, they cannot be a party of any dispute examined by the Court. Bearing that in mind, if any case presented to the ICJ concerns a State which has not recognized the jurisdiction of the Court, that State must be consulted previously (UNITED NATIONS, 2018).

When a State party is involved in a dispute with another State party, it can submit an application before the ICJ. In this application, the State "shall specify (…) the legal grounds upon which the jurisdiction of the Court is said to be based" and "the precise nature of the claim, together with a succinct statement of the facts and grounds on which the claim is based" (INTERNATIONAL COURT OF JUSTICE, 2018 c). At any time when a case is being analyzed by the ICJ, a State party can request for the indication of provisional measures. In this case, the ICJ shall examine the request prior to all other cases, and shall indicate the measures that the parties involved must take (INTERNATIONAL COURT OF JUSTICE, 2018 c).

In the next sections, we present the Georgia vs. Russian Federation case before the ICJ, focusing on the application filed by Georgia in 2008 and its request for provisional measures. Before the analysis of the case, we present the circumstances that led to the 2008 conflict in Georgia, the participation of Russia and the involvement of other international actors, such as the UN.

The relationship between Georgia and Russia: the 2008 conflict

Georgia and Russia relations at the end of the Cold War

In order to understand the conflict between Georgia and Russia in 2008, it is important to analyze how the relationship between those countries evolved at the end of the Cold War. The end of the Soviet Union in 1991 revived several of the historical tensions in the territory of the former USSR. These tensions were reinforced by nationalisms and claims for independence. That was the case of South Ossetia, which is part of the Georgian territory and has been seeking to obtain its independence from Georgia since 1991 (JENTZSCH, 2009, p. 6).

The separatist attempts of South Ossetia from Georgia started an internal conflict following the dissolution of the Soviet Union. Georgia declared its independence from the Soviet Union on 9 April 1991. However, the new Georgian authorities did not accept the independence of the former autonomous provinces, Abkhazia and South Ossetia. "In this sense, the collapse of the Soviet Union and the emergence of a secessionist movement can both be seen as root causes of the conflict" (JENTZSCH, 2009, pp. 6-7).

At first, Russia did not declare support for the separatist movement in South Ossetia, because the Russian government was concerned with domestic political and economic issues. On the external front, Russia tried to establish a policy of rapprochement with the West. Nevertheless, divergences between Georgia and Russia emerged, especially with regard to the command of the military forces of the former USSR that were still in Georgia (MIELNICZUK, 2013, p. 161).

As the central Georgian government stepped up the fight against the South Ossetian nationalists, Russian soldiers began to intervene to protect the population that were historically supported by Moscow. The Russian government was also having trouble dealing with separatist movements in its territory, such as in Chechnya. The tensions in the autonomous regions increased and the Georgian government intensified the attacks to stem the military influence of Russia in South Ossetia (MIELNICZUK, 2013, p. 161).

From 1992 to 2003, peace agreements between Georgia and South Ossetia, mediated by Russia, ensured a scenario of relative stability in the region. However, the Georgian government and Russia drift apart again in 2003, when a new government in Georgia envisaged partnerships with the West to face the influence of the Russian government in the separatist regions, especially in South Ossetia (MIELNICZUK, 2013, p. 162).

Manifestations, known as the Rose Revolution in Georgia, overturned President Shevardnadze, who was accused of corruption. The new president, Mikheil Saakashvili, was the leader of the party of the National Movement of Georgia, which supported the reunification of the country as a paramount task, affecting directly the question of the autonomous republics and highlighting a renewal of Georgian nationalism (MIELNICZUK, 2013, p. 162).

An essential move in this direction was the conversations between Georgia and the North American Treaty Organization (NATO). However, Russia understood Georgia's partnership with NATO and the West could be used as a shield against Russia's intentions

to prevent the government from reintegrating the separatist regions in defense of their territorial integrity (MIELNICZUK, 2013, p. 163).

Russia, on the other hand, expanded its ties with the separatist regions of Georgia, endeavoring to broaden its political, social and economic relations in order to establish a greater link with local authorities. Therefore, since 2003, several military operations were carried out by Russian troops on the border with Georgia. Those actions were justified by the Russian government as initiatives to combat terrorism and to prepare for future peacekeeping operations (CORNELL; POPJANEVSKI, NILSSON, 2008, p. 10).

The permanence of Russian troops on the Georgian border increased tensions in the conflict zone of South Ossetia. Several bombings and sniper attacks were recorded. While Russia argued that it was undertaking efforts to defuse tensions in the region, since the Georgian government was aggravating tensions in the conflict zone, Georgia stated that Moscow was trying to stage an illusion of war, aimed at disrupting the peace process between Georgia and the separatists (CORNELL; POPJANEVSKI, NILSSON, 2008, p. 12).

At the same time that Russia and Georgia were trying to promote bilateral talks, the tensions inside Georgia increased. In that way, in the beginning of 2008, Georgia was increasingly concerned about the movement of Russian forces in the region to help the South Ossetians in their intent of declaring independence from Georgia (CORNELL; POPJANEVSKI; NILSSON, 2008, p. 14).

The separatist uprising of South Ossetia against Georgia and the participation of Russia in the dispute

After the Revolution of 1917, which dismantled the Russian Empire and led to the rise of the Soviet Union, Georgia declared its independence, encompassing the entire Georgian majority territory, and Abkhazia and South Ossetia, while the North Ossetia remained part of the Soviet Union. Since then, the Ossetians have sought to obtain recognition of their sovereignty by the Georgian government and the international community (HANDIG, 2008, p.15).

Although the first Georgian republic lasted just three years, the Georgian government had to face resistance from Ossetian separatists. The first dispute between the two parts was in 1920, when the ethnic Ossetians tried to establish their own Soviet republic (JENTZSCH, 2009, p. 2). When Georgia was invaded in 1921 by the Soviet Union, South

Ossetia became an "autonomous oblast", a province of the Georgian Soviet Socialist Republic (HAFKIN, 2010, p. 222).

During the Cold War, both Georgia and South Ossetia were part of the USSR, so the period was characterized as of relative peace and stability, so that internal conflict between Georgians and Ossetians was reasonably controlled. Thus, to some extent, "Soviet rule was characterized by peacefulness, with high rates of intermarriage" (HAFKIN, 2010, p. 222). However, even with the autonomy, constitutionally guaranteed by the Soviet Union, South Ossetians considered that they were in a position of political disadvantage in Georgia, without the status of an autonomous republic (JENTZSCH, 2009, p. 2).

At the end of the Cold War, Georgia and South Ossetia pursued their independence and autonomy. However, since South Ossetia was part of Georgian territory, the Georgian government did not accept its claims to be an autonomous republic (JENTZSCH, 2009, 6 -7).

The conflict evolved in 1989, when separatists' leaders of South Ossetia submitted an official request to the Supreme Court of Republic of Georgia, in order to consolidate the region as an autonomous republic. This initiative, which was denied by the Georgian government, increased the tension and triggered a reaction from the Georgian Supreme Soviet, the highest unicameral legislative body in the country, which, on the eve of 1990's elections, decided to forbid political parties. Due to this prohibition, South Ossetians separatists held their own elections, which evidenced the population's desire to join North Ossetia and to be incorporated into Russia. In this way, Russia started pressuring the Georgian government to sign a cease-fire agreement with South Ossetia (JENTZSCH, 2009, p. 3; MIELNICZUK, 2013, p. 162).

In December of 1990, the new Georgian government cancelled the results of the Ossetian elections and revoked South Ossetia's status as an autonomous province (JENTZSCH, 2009, p. 3). In 1991, the government of Georgia sent troops into the capital of South Ossetia, Tskhinvali, beginning a devastating conflict, known as the South Ossetia War. The war lasted until June 1992, when the intensity and the gravity of the conflict led to the request for Moscow's support by self-proclaimed governments (HAFKIN, 2010, p. 222).

After diplomatic negotiations, authorities from Russia and Georgia signed a ceasefire agreement in Sochi, Russia. The agreement established a peacekeeping force in the region (Joint Peacekeeping Forces – JPKF) with the military presence of Georgia, South Ossetia and Russia. The Organization for Security Cooperation in Europe (OSCE) has also

been involved in the peace promotion plan since 1992, being responsible for monitoring the JPKF (HAFKIN, 2010, pp. 222-223; MIELNICZUK, 2013, p. 162).

The Agreement on Principles of Settlement of the Georgian-Ossetian Conflict, or "Sochi Agreement", had the objective of ceasing immediately the conflict and achieving comprehensive solutions for the situation, requiring the complete withdrawal of armed training in three days. The agreement showed a special concern with the demilitarization of the conflict region and with the prevention of the possibility of involvement of the Armed Forces of the Russian Federation ("AGREEMENT…", 1992).

The Sochi Agreement established a Joint Control Commission, formed by representatives from Georgia, South Ossetia, North Ossetia and Russia. The agreement also established a Control Commission in cases of violation of its guidelines, which "shall carry out investigation of relevant circumstances and undertake urgent measures aimed at restoration of peace and order and non-admission of similar violations in the future"("AGREEMENT…", 1992; HAFKIN, 2010, p. 223).

Although the parties should promote negotiations to stabilize the region of conflict economically, socially and politically, the Sochi Agreement was heavily criticized because it failed to end the conflict. Besides that, the agreement provided a central implementation role for Russia (HAFKIN, 2010, p. 223).

However, a further conflict escalation began in 2004, when the president of Georgia, Mikheil Saakashvili, tried to restore the control over Tbilisi, in South Ossetia "in response to smuggling in the region, leading to a series of armed skirmishes" (JENTZSCH, 2009, p. 4). As a result, South Ossetian leaders considered the increase in troop levels as a sign that the Georgian government was preparing for a military action and claimed that the initiative was an attempt to attack its security and independence (JENTZSCH, 2009, p. 4).

The scenario became more complex when Georgia accused Russia of sending weapons and military equipment from North Ossetia to the South Ossetia separatists. Although a new ceasefire commitment was signed in 2004, the uncertainty surrounding the Georgian-South Ossetian and Georgian-Russian relations in the region continued, "as opposing factions exchanged small arms and mortar fire" (HAFKIN, 2010, p. 223; JENTZSCH, 2009, p. 4).

In 2008, tensions were imminent. The planned peace negotiations did not happen and the attacks and bombings between the Georgian military and the South Ossetian rebels continued, killing thousands of people in the conflict. The Georgian government decided

to cease fire "in order to defuse tensions and offers to engage in talks with the South Ossetian side" (CORNELL; POPJANEVSKI; NILSSON, 2008, p. 14).

The tensions emerged in August 2008, when Russia invaded the Georgian territory as a response to its military actions in South Ossetia, erupting into the Russo-Georgian War. Although it is not clear who started the conflict, it "caused concern among Western powers as they interpreted Russia's response to Georgia's military strikes as an act of unwarranted aggression" (HAFKIN, 2010, p. 219).

Thus, there are controversies over the main causes of the intervention. The Georgian government claims that Russian troops entered South Ossetia the morning of 7 August 2008. However, Russia claims that the troop movement was a regular part of peacekeeping operations and that Russian troops entered the territory only after Saakashvili, president of Georgia, ordered an attack on the capital of South Ossetia, Tskhinvali (HAFKIN, 2010, p. 224).

Dmitry Medvedev, the former president of Russia, declared, on 8 August 2008 that "Georgian troops committed what amounts to an act of aggression against Russian peacekeepers and the civilian population in South Ossetia" (MEDVEDEV, 2008). He emphasized the need to protect Russian peacemakers and citizens and said that what happened was a "gross violation of international law and of the mandates that the international community gave Russia as a partner in the peace process" (MEDVEDEV, 2008).

The leaders of South Ossetia, Abkhazia and Georgia, with the mediation of the OSCE and the European Union (EU), signed a new agreement on 12 August 2008, which consisted of six principles that aimed at establishing a cease-fire and at restoring peace:

> (1) non-use of force; (2) the absolute cessation of hostilities; (3) free access to humanitarian assistance; (4) withdrawal of the Georgian armed forces to their permanent positions; (5) withdrawal of the Russian armed forces to the line where they were stationed prior to the beginning of hostilities; pending the establishment of international mechanisms, the Russian peacekeeping forces will take additional security measures; (6) an international debate on ways to ensure security and stability in the region (INTERNATIONAL COURT OF JUSTICE, 2008, p. 371).

However, Georgia was not satisfied with the results of the agreement and claimed that the Russian intervention continued to be an aggravating factor in the conflict. For this

reason, it decided, in August 2008, to fill an application before the International Court of Justice, denouncing Russia of violating the CERD against Georgians in South Ossetia.

The next section presents the application of Georgia before the ICJ. The Georgian government also requested that the ICJ make a pronouncement about provisional measures concerning the conflict. We will analyze the decision of the ICJ concerning the request of provisional measures (2008) and the decision related to whether or not Russia violated the CERD (2011).

Georgia vs. Russia Federation: Application of the International Convention on the Elimination of All Forms of Racial Discrimination

The International Convention on the Elimination of All Forms of Racial Discrimination (CERD)

Before analyzing the application of Georgia before the ICJ, we will present the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). The Convention was adopted by UN Member States in 1963, and it addresses the need to eliminate racism and racial discrimination in all its forms and in all parts of the world. It emphasizes the importance of respecting the dignity of the human person and states that any act or doctrine based on racial discrimination is unjustifiable.

The Convention defines racial discrimination as:

> any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life (OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS, 2018).

The application presented by Georgia before ICJ was based on Article 22 of the CERD, which states that a dispute involving two or more States parties over the interpretation or application of the Convention may be referred to the ICJ:

> Any dispute between two or more States Parties with respect to the interpretation or application of this Convention which is not settled by negotiation or by the procedures expressly provided for in this Convention shall, at the request of any party to the dispute, be referred to the

> International Court of Justice for decision, unless the disputants agree on another mode of settlement (OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS, 2018).

Considering Article 22 to support the admissibility of the case before the ICJ, Georgia mentioned in its application the violation by Russia of Articles 2.1(a), (b) and (d), 3, 4, 5 and 6. Article 2.1 (a), (b) and (d) is related to the implementation of appropriate and expeditious policies for the elimination of racial discrimination in all its forms and emphasizes that each State party shall not practice, support or defend racial discrimination[1]. Article 3 states that the Parties shall prevent, prohibit and eradicate all practices of racial discrimination[2]. Article 4 affirms that the Parties shall extinguish all practices that incite discrimination based on superiority on ethnicity, race or color[3]. Article 5 affirms the importance of the prohibition and eradication of all forms of discrimination, and the protection of all fundamental human rights[4]. Article 6 states that States parties

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1 States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end: (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to en sure that all public authorities and public institutions, national and local, shall act in conformity with this obligation; (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations; (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization (…) (OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS, 2018).

2 States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction (OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS, 2018).

3 States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia: (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof; (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law; (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination (OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS, 2018).

4 In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (a) The right to equal treatment before the tribunals and all other organs administering justice; (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution; (c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service; (d) Other civil rights, in particular: (i) The right to freedom of movement and residence within the border of the State; (ii) The right to leave any country, including one's own, and to return to one's country; (iii) The right to nationality; (iv)

shall guarantee to everyone protection and remedies against acts of racial discrimination contrary to the CERD[5] (OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS, 2018).

The decision of the ICJ concerning Georgia's request of provisional measures (2008)

Georgia submitted an application to the ICJ on 12 August 2008, denouncing Russia of violating the CERD. According to Georgia, the breach of specific obligations of States under the CERD (Articles 2.1 (a), (b) and (d), 3, 4, 5 and 6) would have occurred in three distinct moments in which Russia acted in South Ossetia and Abkhazia. The first moment was between 1990 and 1992, when Russia intervened in South Ossetia, providing support to the separatists in the attack on the Georgian government, including the supply of weapons and mercenaries. In addition, Georgia alleged that Russia was responsible for a mass expulsion of the Georgian population from South Ossetia (INTERNATIONAL COURT OF JUSTICE, 2008, pp. 355-359).

The second moment presented by Georgia in its application was the period from 1991 to 1994, when Russia implemented discriminatory policies in South Ossetia while conducting peacekeeping operations. At that time, the Russian government provoked the forced displacement of the ethnic Georgian population as well as other ethnic groups from South Ossetia (INTERNATIONAL COURT OF JUSTICE, 2008, pp. 355-356).

The third moment presented by Georgia consisted of Russia's actions in 2008, which, in addition to seeking to strengthen the authorities of the separatist regions – South Ossetia and Abkhazia – to consolidate their objectives, Russia increased their military activities in the region and encouraged a campaign of discrimination against Georgians. According to Georgia, the situation worsened with the invasion of Russia into Georgian territory in 2008 (INTERNATIONAL COURT OF JUSTICE, 2008, pp. 356-357).

The right to marriage and choice of spouse; (v) The right to own property alone as well as in association with others; (vi) The right to inherit; (vii) The right to freedom of thought, conscience and religion; (viii) The right to freedom of opinion and expression; (ix) The right to freedom of peaceful assembly and association; (e) Economic, social and cultural rights, in particular: (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration; (ii) The right to form and join trade unions; (iii) The right to housing; (iv) The right to public health, medical care, social security and social services; (v) The right to education and training; (vi) The right to equal participation in cultural activities; (f) The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks (OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS, 2018).

5 States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination (OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS, 2018).

Georgia therefore requested the Court to order the Russian government to take all necessary steps to fulfill its obligations related to the CERD. Based on Article 22 of the CERD, it also requested that the Court indicate provisional measures in order to resolve the impending conflict, safeguard the rights of the population, according to the provisions of the CERD, and protect its citizens from acts of Russian forces and separatist militias (INTERNATIONAL COURT OF JUSTICE, 2008, pp. 359-360).

Russia was against Georgia's request of provisional measures, stating that the ICJ should not accept the application of Georgia and, therefore, should remove the case from its list. In the public hearings, the Russian Federation affirmed that ethnic tensions had been growing in the region since the 1980s, when a nationalist government ruled Georgia, which prevented Abkhazia and South Ossetia from pursuing their status as autonomous regions. Since then, Russia had been committed to support peacekeeping activities and act as a mediator of conflicts, ensuring the protection of civilians, with the support of international organizations, such as the Organization for Security and Co-operation in Europe (OSCE) and the United Nations (UN) (INTERNATIONAL COURT OF JUSTICE, 2008, p. 369).

The ICJ accepted Georgia's request to indicate provisional measures and ordered the parties in conflict to stop acting or support any actions of racial discrimination against persons, groups or institutions in South Ossetia and Abkhazia. The parties should also prevent racial discrimination of any origin, as well as ensure the safety of persons and their freedom of movement and residence within the national borders. The Court also affirmed that the parties should protect the property of displaced persons and refugees and step up efforts to ensure that public authorities and institutions under their influence or control do not engage in acts of discrimination (INTERNATIONAL COURT OF JUSTICE, 2018 a).

In addition, the Court stated that the parties involved in the conflict could not prejudice the rights of another part in relation to the decisions of the Court, or take actions that would aggravate the dispute before the institution. Therefore, each party should report on the measures taken to comply with the provisional measures. The ICJ decided that the Georgian government should present a memorial until 2 December 2008, while the Russian Federation would have the right to file a counter-memorial until 2 July 2010 (INTERNATIONAL COURT OF JUSTICE, 2018 a).

The decision of the ICJ concerning the Georgia vs. Russian Federation case (2011)

Before analyzing whether Russia had violated the CERD, the ICJ proceeded to analyze the preliminary objections presented by Russia and Georgia.

In order to present evidence that Russia violated the CERD, Georgia presented some important evidence of the actions of the Russian government in South Ossetia and Abkhazia. Georgia stated that Russia continued to control those regions through administrative organs. In addition, Russia increased the military control over those regions and installed military bases in South Ossetia and Abkhazia (INTERNATIONAL COURT OF JUSTICE, 2009 a, p. 250)

Georgia presented evidence that some individuals from the Russian government had close relations with the separatist movements, and held important positions in South Ossetia leadership. Besides giving financial support, Russia indirectly controlled defense, security and intelligence matters of South Ossetia and Abkhazia (INTERNATIONAL COURT OF JUSTICE, 2009 a, pp. 252-255).

Georgia also affirmed that Russia was preventing the Georgians that had fled South Ossetia and Abkhazia from coming back to their homes, and alleged that Russia was preventing humanitarian help to reach the regions in need (INTERNATIONAL COURT OF JUSTICE, 2009 a, p. 257).

Georgia accused Russia of engaging in a policy of ethnic cleansing, reducing the Georgian population of the district of Akhalgori from 7800 to 1000 (INTERNATIONAL COURT OF JUSTICE, 2009 a, p. 260). The discrimination against Georgians worsened when the Georgians living in South Ossetia and Abkhazia were forced to change their nationality from Georgians to Russians or Ossetians in order to keep their political rights. The policy of racial discrimination affected the education in Georgia and all content in Georgian language was banned from every school of South Ossetia and Abkhazia (INTERNATIONAL COURT OF JUSTICE, 2009 a, pp. 263 and 268).

After presenting those evidences that Russia was responsible for a policy of racial discrimination, Georgia based its argumentation in four accusations. The first one was related to Russia's violations of the CERD (INTERNATIONAL COURT OF JUSTICE, 2009 a, p. 7).

The second argument presented by Georgia was that ICJ had jurisdiction over the case according to Article 22 of the CERD (INTERNATIONAL COURT OF JUSTICE, 2009 a, p. 8). Opposing Georgia's argument, Russia stated that there had been no attempt of a pacific resolution of the conflict; therefore, the conditions of Article 22 were not met. The ICJ

would have jurisdiction over the case if the parties had tried a conciliation or any other diplomatic measures to resolve the conflict (INTERNATIONAL COURT OF JUSTICE, 2009 b, pp. 80-81). Georgia replied by stating that Article 22 did not require the existence of an attempt to resolve a dispute before it could be analyzed by the ICJ. According to Georgia, the CERD stated that the parties *might* start a bilateral negotiation before invoking the ICJ; however, the word *shall* was not used, which means that Georgia could submit the case to the ICJ (INTERNATIONAL COURT OF JUSTICE, 2010, pp. 96; 100).

Georgia also said that in its decision of 2008 concerning provisional measures, the Court considered that the evidence presented by Georgia regarding the negotiation between the two parties was enough for the Court to analyze questions of provisional measures (INTERNATIONAL COURT OF JUSTICE, 2010, p. 123). Georgia stated that there had been negotiations in process between the parties since 1992, when the first campaign for ethnic cleansing was initiated by Russia (INTERNATIONAL COURT OF JUSTICE, 2010, pp. 134-135).

The third argument presented by Georgia was related to the ICJ's jurisdiction *ratione loci*, saying that Russia acted in the territory of Georgia in areas that it had been controlling since the early 1990's and, therefore, the CERD was applicable to the case (INTERNATIONAL COURT OF JUSTICE, 2009 a, p. 9).

Russia stated that the ICJ did not have jurisdiction *ratione loci* to judge the case, explaining that the CERD "generally appear[ed] to apply" on actions in the territory of the violating country. Therefore, Russia affirmed that the CERD is applicable on violations committed on the territory of a State party, not only on violations of a State party in a foreign territory (INTERNATIONAL COURT OF JUSTICE, 2009 b, pp. 186-187).

Georgia replied to Russia based on previous jurisprudence of the Court, and argued that if the interpretation of Russia were to be applied in other cases, any State could violate the CERD in any foreign territory (INTERNATIONAL COURT OF JUSTICE, 2010, pp. 170-171).

The last argument presented by Georgia concerned the ICJ's jurisprudence *ratione temporis*. Georgia became a State party of the CERD in 1999, but its allegations against Russia dated from 1991 to 2008 (INTERNATIONAL COURT OF JUSTICE, 2009 a, p. 10). Regarding that argument, Russia stated that the ICJ did not have jurisdiction *ratione temporis* over the case. The CERD came into force to Russia in 1999, and, in this sense, Russia could not be judged based on events that happened before 1999 (INTERNATIONAL COURT OF JUSTICE, 2009 b, p. 231).

The decision of the Court concerning the preliminary phase of the case – preliminary objections – focused on the arguments presented by Georgia and Russia. The first argument concerned the existence or not of a dispute between Russia and Georgia in the terms of Article 22 of the CERD. The Court confirmed that there were attempts of conflict resolution in different occasions and validated Georgia's argument (INTERNATIONAL COURT OF JUSTICE, 2018 b).

Regarding whether there was a process of negotiation between Georgia and Russia, the ICJ proceeded to analyze the term *negotiation* on the CERD. The Court stated that the term *negotiation* did not have the same meaning as the term *dispute*. The Court affirmed that there was no evidence that Russia did in fact violate the CERD, since that there was no dispute according to Article 22. Therefore, the ICJ concluded that a negotiation required an attempt of conversations between two parties and that trying to negotiate did not mean that an agreement would necessarily be reached. The ICJ concluded that Georgia tried to negotiate with Russia before proceeding with its application before the Court; however, the negotiations did not concern violations of the CERD and, instead, were related to the

> (...) status of South Ossetia and Abkhazia, the territorial integrity of Georgia, the threat or use of force, the alleged breaches of international humanitarian law and of human rights law by Abkhaz or South Ossetian authorities and the role of the Russian Federation's peacekeepers (INTERNATIONAL COURT OF JUSTICE, 2018 b).

In addition, the ICJ concluded that the parties did not engage in conversations about the CERD before 9 August 2008, when the case was submitted to the ICJ, and, in this sense, the Court could not analyze whether Russia violated or not the CERD. Therefore, the ICJ upheld Russia's preliminary objection, which prevented the Court from proceeding to the merits phase, suspending the provisional measures of 2008 (INTERNATIONAL COURT OF JUSTICE, 2018 b).

The ICJ did not achieve unanimity on the case, especially concerning the second preliminary objection of Russia (lack of jurisdiction of the Court under Article 22 of the CERD): ten judges voted in favor and six voted against the acceptance of Russia's preliminary objection. Judges Owada (acting as President), Simma, Abraham and Donoghue – who wrote a joint dissident opinion – and Judge Cançado Trindade disagreed with the majority.

Judge Owada *et al* stated that although Article 22 established preconditions, those preconditions might be read "as alternative, rather than cumulative requirements". They affirmed that the Court applied a formalistic interpretation of Article 22, which was "at odds with the Court's recent jurisprudence", and stated that, for the first time, the Court concluded "that it lacks jurisdiction on the sole basis that the Applicant has failed to satisfy a prior negotiation requirement — despite the fact that when Georgia filed its Application, any attempt by Georgia to resolve the dispute through negotiations had no chance of success" (INTERNATIONAL COURT OF JUSTICE, 2011, p. 1).

Judge Cançado Trindade also disagreed with the majority of the ICJ concerning the acceptance of Russia's preliminary objection. His dissenting opinion focused on the "imperative of the realization of justice under a United Nations human rights treaty", such as the CERD (INTERNATIONAL COURT OF JUSTICE, 2011, p. 10). He also said that the Court relied on a textual and grammatical reading of Article 22, ignoring the purpose and the historical importance of the CERD "as a pioneering human rights treaty, and its continuing contemporaneity for responding to new challenges that are of legitimate concern of humankind" (INTERNATIONAL COURT OF JUSTICE, 2011, p. 15). In this sense, Judge Cançado Trindade criticized the Court's decision by affirming that it

> deprived itself of the determination whether the present dispute (which has victimized so many people) falls or not under the CERD Convention. The unfortunate outcome of the present case discloses that, despite all the advances achieved for human dignity under the CERD Convention, there is still a long way to go: the struggle for the prevalence of human rights, – he adds, – is never-ending, like in the myth of Sisyphus (INTERNATIONAL CRIMINAL COURT, 2011, p. 15).

The dissenting opinions reveal the difficulties and complexities of the decisions made by the ICJ, especially when a case concerns powerful States, such as Russia. In the case analyzed – Georgia vs. Russian Federation – the Court relied, as the dissenting opinions stated, on formalistic and textual interpretations, which not only prevented the case from going to the merits phase, but also prevented the analysis of possible violations of an important human rights treaty such as the CERD.

Conclusion

In this chapter, we presented the Georgia vs. Russian Federation case, submitted to the ICJ in 2008. The internal conflict in Georgia, which exposed the confrontation between the government and South Ossetian separatists, became international when Russia intervened to help South Ossetians. The conflict involves different interests: Georgia's disagreement with the separation of South Ossetia from its territory and Russia's desire to continue to be a huge influence in East Europe.

The application of Georgia before the ICJ aimed at accusing Russia of violating the CERD, by helping South Ossetia separatists in their police of racial discrimination against Georgians. Although the ICJ accepted the request of provisional measures made by Georgia in 2008, the Court favored Russia's allegations about the lack of jurisdiction of the Court concerning Article 22 of the CERD. That decision was not unanimous among ICJ Judges (ten votes to six), and the six Judges who voted against the decision stated their dissenting opinions.

In this sense, concerning the complexities of the case and the different interests involved, we propose the following questions:

1. Was the International Court of Justice consistent in its decisions (the decision on preliminary objections of 2008 and the decision of 2011)?
2. Did the final decisions of the Court lean towards one of the parties?
3. Why did the ICJ lose a historical opportunity to analyze the violation of an important human rights treaty such as the CERD?

References

"AGREEMENT ON PRINCIPLES OF SETTLEMENT OF THE GEORGIAN - OSSETIAN CONFLICT". In: *Official website of the Regional Research Center – Georgia*, Sochi, 24 June 1992. Available at: <https://peacemaker.un.org/sites/peacemaker.un.org/files/GE%20RU_920624_AgreemenOnPrinciplesOfSettlementGeorgianOssetianConflict.pdf>. Accessed 08 April 2018.

CORNELL, S, E; POPJANEVSKI, J; NILSSON, N. *Russia's War in Georgia:* Causes and Implications for Georgia and the World. Central Asia - Institute Silk Road Studies Program, August 2008. Available at: <http://isdp.eu/content/uploads/images/stories/isdp-main-pdf/2008_cornell-et-al_russias-war-in-georgia.pdf>. Accessed 29 April 2018.

HAFKIN, G. "The Russo-Georgian War of 2008: Developing the law of unauthorized humanitarian intervention after Kosovo". In: *Boston University International Law*

Journal, vol. 28:219, 2010, pp. 219-249. Available at: <https://www.bu.edu/law/journals-archive/international/volume28n1/documents/219-240.pdf>. Accessed 26 April 2018.

HANDING, R.W. "Guerra na Ossétia do Sul: a Geórgia como foco de conflito entre Rússia e o Ocidente". In: *Meridiano 47*, no. 97, 2008, pp. 15-20.

INTERNATIONAL COURT OF JUSTICE. "Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Overview of the case". In: *Official website of the International Court of Justice*, 2018 a. Available at: <http://www.icj-cij.org/en/case/140>. Accessed 29 April 2018.

_____. *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation) Preliminary Objections Summary of the Judgment of 1 April 2011.* 1 April 2011. Available at: <http://www.icj-cij.org/files/case-related/140/16426.pdf>. Accessed 05 June 2018.

_____. *Application of the International Convention on the Elimination of all Forms of Racial Discrimination (Georgia v. Russian Federation), Provisional Measures*, Order of 15 October 2008, ICJ. Reports 2008, 353p. Available at: <http://www.icj-cij.org/files/case-related/140/140-20081015-ORD-01-00-EN.pdf>. Accessed 29 April 2018.

_____. "History". In: *Official website of the International Court of Justice*, 2018 b. Available at: <http://www.icj-cij.org/en/history>. Accessed 23 April 2018.

_____. *Memorial of Georgia*. Volume I, 2 September 2009 a. Available at: <http://www.icj-cij.org/files/case-related/140/16097.pdf>. Accessed 29 April 2018.

_____. *Preliminary Objections of the Russian Federation*, 2009 b. Volume I, 1 December 2009 b. Available at: <http://www.icj-cij.org/files/case-related/140/16099.pdf>. Accessed 29 April 2018.

_____. "Rules of the Court (1978). Adopted on 14 April 1978 and entered into force on 1 July 1978". In: *Official website of the International Court of Justice*, 2018 c. Available at: <http://www.icj-cij.org/en/rules>. Accessed 23 June 2018.

_____. *Written Statement of Georgia on Preliminary Objections*. Volume I, 1 April 2010. Available at: <http://www.icj-cij.org/files/case-related/140/16101.pdf>. Accessed 29 April 2018.

JENTZSCH, G. "What are the main causes of the conflict in South Ossetia and how can they best be addressed to promote lasting peace?". In: *BSIS Journal of International Studies*, vol. 6, 2009, p. 22. Available at: <https://www.kent.ac.uk/brussels/documents/journal/2009/Greg%20Jentzsch%20-%20What%20are%20the%20main%20causes%20of%20conflict%20in%20South%20Ossetia%20and%20how%20can%20they%20best%20be%20addressed%20to%20promote%20lasting%20peace.pdf>. Accessed 08 April 2018.

MIELNICZUK, F. "O Conflito entre Rússia e Geórgia*:* uma revisão histórica". In: *Estudos Internacionais*. Volume I, n° 2, 2013, pp.157-166. Available at: <http://periodicos.

pucminas.br/index.php/estudosinternacionais/article/viewFile/6311/5790>. Accessed 15 April 2018.

OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS (OHCHR). "International Convention on the Elimination of All Forms of Racial Discrimination". In: *Official website of the United Nations Human Rights Office of the High Commissioner*, 1996-2018. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>. Accessed 16 May 2018.

UNITED NATIONS. "Chapter XIV". In: *Official website of the United Nations*, 2018 c. Available at: <http://www.un.org/en/sections/un-charter/chapter-xiv/index.html>. Accessed 23 April 2018.

CHAPTER 8

THE SITUATION IN MYANMAR

United Nations Security Council

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Introduction

The United Nations (UN) is based in three major values: prevention of international peace and security menaces, the defense and promotion of the human rights, and the promotion of sustainable development. To accomplish its mandate, the UN is composed by six main organs, being the United Nations Security Council (UNSC) the one responsible for the maintenance of international peace and security.

One of the most pressing issues in the current UNSC agenda is the situation concerning Myanmar. The item has been discussed in the Council since the 1990s, due to the reconciliation process in which Myanmar was involved. However, recent developments have brought a more urgent concern: the Rohingya refugee crisis and its consequences. Since 2017, more than 1 million people, mostly Rohingyas, crossed the border of Myanmar towards Bangladesh causing a major refugee crisis. This question relates not only to traditional security issues, but also to human rights violations and instabilities driven by the lack of development: it can, therefore, be classified as a complex crisis. This poses great challenges to the UNSC and the aim of this chapter is precisely to highlight some of these.

This work will be divided in four sections: in the first, we will present the United Nations Security Council and all the Chapters of the UN Charter that sustain its mandate. In the second section, we will briefly approach the historical context of Myanmar, stressing some of the elements that help us to understand the current crisis. The fourth part will address the recent debate being held about this topic in the Council and indicate the main constraints and options to the UNSC decisions. Finally, as concluding remarks we will suggest some questions to foster further discussions.

The United Nations Security Council

The United Nations Security Council is one of the six main organs of the UN and its creation and structure is explained on the Charter. The Council holds the responsibility of protecting international peace and security and, for that, its decisions must be implemented by all Member States. The UNSC mandate and the instruments it can use to accomplish its responsibility are provided on Chapters V, VI, VII and VIII of the UN Charter (UNITED NATIONS, 2018).

According to Article 23, Chapter V, the UNSC is composed by 15 members, being five of them permanent. These permanent members (P-5) are: the French Republic, the People's Republic of China, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The ten remaining Member States are elected by the United Nations General Assembly for a 2-year term (UNITED NATIONS, 2018).

Chapter V also states that Council's decisions are made public in the format of resolutions, which need to be voted in order to be approved: 9 affirmative votes are needed to its approval. Among these, the votes of all the permanent members must be included, otherwise the resolution cannot be approved - this grants the P-5 the so-called veto power (UNITED NATIONS, 2018).

Chapter VI states that the Council can investigate situations, in which there is a threat to peace and security: the organ can either choose to analyze the situation or receive a demand from one of the Member States. On such situations, it can be recommended proceedings or appropriate manners to reach a solution. The chapter determines the option of solving a crisis by peaceful means, which should be the first attempt to any situation that may endanger international peace and security: the Council can suggest negotiations, mediation or any other pacific mean (UNITED NATIONS, 2018).

According to Chapter VII, the UNSC is responsible for identifying any threats to international peace and security and taking actions to prevent it. One possible action is imposing economic or political restrictions known as sanctions, which can be interruption on trade, transportation or communications. If sanctions are not enough, the chapter also legitimates the use of force to contain threats. If this is the option, UN Member States must contribute with the means necessary to accomplish the measures decided: if the State required to support with military is not on the UNSC, it is invited to take part in

UNSC special meetings and has the power to participate on the decisions taken (UNITED NATIONS, 2018).

In applying any of the abovementioned measures, the UNSC can also resort to regional institutions, as foreseen in Chapter VIII. Regional institutions are especially helpful to mediate the peaceful settlement of disputes and to support post-conflict efforts (UNITED NATIONS, 2018).

It is important to understand that, although the actions presented in the Charter were conceived to follow a certain order, there is no rule specifying that the Council is obliged to scale up its decisions. Therefore, the UNSC may, in some cases, decide to skip any of its instruments to settle disputes if it deems necessary. The resolutions of situations as the one in Myanmar depend only on Council members' discretion.

From Burma to Myanmar: an instable path[1]

Historically, Myanmar has been known for its ethnic and cultural diversity. Until now, the country concentrates more than 135 different ethnic groups, who coexist in the region. The majority of the population is Burman, which is mostly linked to Buddhism, but the country is also home to Rakhine, Shan, Karen, Bangladeshis, Chinese, Indians and many others. Their coexistence, however, has not been always easy or pacific. In the 20th century, for example, some of Myanmar's main instabilities were directly or indirectly related to ethnic or religious disputes. These were greatly aggravated by the British colonial rule, which began in 19th century (RIEFFEL, 2010, p. 5).

Since 1820s, British and Burmese clashed disputing regional political power: the British already controlled India and were willing to extend their influence. The colonial rule officially started in 1885 and would have profound implications to governance in Burma. Before colonization, government and religion were interlinked, since the monarch was considered as having the mandate of protecting the country and Buddhist values and traditions. However, when the British took over political power, they separated both instances and, as a result, the Buddhists lost their support and protection from the State (BIVER, 2014, pp. 14-15).

1 In 1989 happened the change of the country's name: from Burma to Myanmar. The change of the country´s name represents best the Buddhist majority within the country. The word Burma is directly related to the Muslim culture, whereas Myanmar is related to the Buddhist culture. However, the name Burma is still used by some countries such as: the United Kingdom, the United States, the European Union, and others with the objective of undermine the Buddhist government (RIEFELL, 2010, p. 6).

The vast majority of the Burmese people were Buddhists; meanwhile a minority was Muslim and Hindu. After the withdrawal of the Buddhists from power, the Muslims supported the British in order to access some privileges and form the central government. Throughout the country, the British imposed new ruling structures that disregarded traditions and local social relations, reinforcing ethnic divides and tensions (BIVER, 2014, p. 16; HOLLIDAY, 2010, pp. 116-117).

By the Second World War the differences between the ethnic and religious groups were remarkable. Japan invaded Burma from 1942 to 1945: the Burmese Buddhists supported the Japanese invasion, since Japan not only fought against the British Empire but also had Buddhist traditions. Muslims, in turn, aligned to the British to avoid losing some rights and privileges that would certain be the result of a Buddhist restoration. This division would later generate conflicts and an insurmountable suspicion between both religious groups (BIVER, 2014, p. 15).

After the war, the independence movement[2] leader, General Aung San, negotiated with the British government the political and economic decolonization of Myanmar. The agreement was settled in the Constitution of 1947: the independence would happen within one year, instituting a multiparty parliamentary government. The General tried to address the ethnic divide by pointing the possibility of secession. Nevertheless, General Aung San was murdered prior to end of the process, interrupting all reconciliation efforts: ethnic violence erupted all over the country, reinforcing divisions (BURMALINK, 2018; RIEFELL, 2010, p. 5).

The 1950s would be marked by instability and internal conflict. The National Army became the foundation of the government and ended up concentrating mostly Burmese, what also collaborated to the aggravation of the clashes between the army and minorities. The following decade, the 1960s, would worsen the situation: in 1961, the Parliament approved the State Religion Promotion Act, recognizing Buddhism as the state religion. Consequently, the Muslim minority lost space in politics and was more repressed (HOLLIDAY, 2010, p.118; RIEFFEL, 2010, p. 5).

In 1962, General Ne Win, then head of the military, organized a *coup d'état* that resulted in the implementation of a socialist dictatorship. This further intensified ethnic

2 The independence movement in Burma starts in 1930, led by a group of Burmese nationalists, whose leader was General Aung San. The group was named "30 Comrades", whose training was provided by Japan to help on the process of independence. The help of Japan in the Burma territory can be understood by the religious perspective, since both countries are mainly Buddhist (BURMALINK, 2018).

clashes, since the military started to resort to violence to put an end to opposition. The new government would start drafting a new Constitution that would finally entry into force in 1974. The document established that the government would be composed by only one party and one legislative body. It has also recognized 135 ethnic groups and reorganized Burma creating seven states that exist until now: Chin, Kachin, Kayin, Kayah, Mon, Rakhine and Shan States[3] (Image 1) (HOLLIDAY, 2010, p. 118; RIEFFEL, 2010, p. 6).

Figure 1 – Myanmar's administrative division

Source: MAPS OF THE WORLD, 2015.

The division, in a certain way, was supposed to decrease ethnic tensions by separating the different groups, but eventually it only perpetrated the dissimilarities of the regions. By fragmenting the country in states, which would each allocate specific ethnic groups, the Constitution reinforced the concentration of the power with the majorities,

3 In the map (Image 1), other than the 7 states we can also see the 7 regions, which compose Myanmar's administrative division.

marginalizing the minorities and creating "ethnic enclaves" (HOLLIDAY, 2010, p. 121). In this process, the Rohingya were concentrated at the Rakhine State, in the South West region of Myanmar (RIEFELL, 2010, p. 6).

In late 1980s, influenced by similar episodes in Southeast Asia, Burma witnessed the organization of a democratic movement that opposed the communist government and demanded elections. Taking advantage of the emerging instabilities, the State Law and Order Restoration Council (SLORC), a group of opposing militaries, seized power from the Communist Party. In 1989, Burma became Myanmar in order to reflect the undergoing change of the country. The new government committed to multiparty elections and to promote reconciliation through peaceful settlement, by negotiating ceasefires with armed groups. Notwithstanding, SLORC goal was only to reestablish the internal peace, not necessarily towards democratization (BIVER, 2014, p. 18; RIEFELL, 2010, p. 6).

When elections were held, in May 1990, the results were unexpected by the government: Aung San Suu Kyi[4], the daughter of the murdered hero of Burma's independence movement, General Aung San, was elected representing the National League for Democracy (NLD). While the SLORC backed-party won only 25% of the votes, NLD received 60% of the votes, much of which were directed linked to the ideal of democracy and freedom represented by Aung San Suu Kyi. Even with her victory, the military regime did not recognize the results, imprisoned the NLD leaders and extended the home detention of Suu Kyi (RIEFELL, 2010, pp. 6-7).

As a response, both national prodemocracy groups and the international community began to pressure SLORC to recognize the election: the United States imposed sanctions on Myanmar to force the government to cooperate. The government, however, refused to reconcile with NLD and argued that democracy could be achieved by promoting national stability rather than by accepting a new leadership. In this sense, in 1993, SLORC promoted a national convention to elaborate a new Constitution that would be more inclusive towards ethnic minorities: the process, however, was extremely manipulated and biased, reinforcing opposition and suspending negotiation in 1996. At the same time, SLORC started a program of economic reforms that would guarantee some growth in the following years (KYAW, 2010, p. 36).

4 Aung San Suu Kyi had led the democratization movement in the previous years and was kept house-arrested for the first time from 1989 until 1995. In this period, she became a symbol of national resistance against the dictatorial government of Myanmar.

Confident that these policies would be enough to ensure its legitimacy, the SLORC released Aung San in 1995. Despite expectations, the government was not willing to dialogue with NLD and ignored demands towards democratization. In 1998, after giving some statements to the international media opposing the government, Aun San was again arrested (KYAW, 2010, p. 37).

The 2000s would be marked by the political disputes between the national government with NLD, resulting in the recurring imprisonment of Aung San[5] and the aggravation of ethnic divides and clashes. In 2004, the National Convention to elaborate the Constitution was reconvened and, despite being invited to participate, NLD decided to remain out of discussion in protest to the government. Tensions escalated and non-Stated armed groups increased operations against the Myanmar Armed Forces (Tatmadaw) all over the country. In this scenario, the United Nations Security Council included, in 2006, the item "The Situation in Myanmar" in its agenda following a controversial request from the United States[6]. Since then, the pressure from the international community in Myanmar increased, as the support to NLD and Aung San (KYAW, 2010, p. 37).

After a failed attempt to approve a pro-government Constitution in 2007, NLD was invited to rejoin national convention and Aung San had an important role in forging a new text. In May 2008, a new Constitution was approved and elections were promised to happen in 2010: however, Aung San would not be allowed to participate as candidate, since she had personal relations with the British[7]. As a response, the NLD decided to withdraw its candidacy: the military-backed party, Union Solidarity and Development Party, won and new government was composed of the recently retired militaries (KYAW, 2010, pp. 37-38; UNITED NATIONS SECURITY COUNCIL, 2013, p. 2).

Clashes between the government and non-State armed groups were aggravated causing the displacement of many people, especially in Shan and Kachin states. In the following years after the election, the new government tried without much success to negotiate ceasefires with the main local armed groups. Notwithstanding, the dissatisfaction with the slowness of the democratization process and the constant redefinition of alliances

5 Aung San was released from house arrest in 2002 and retaken into protective custody in 2003, together with other NLD leaders after some clashes between NLD supporters and the government (KYAW, 2010, p. 37).

6 Supporting the prodemocracy movements and claiming human rights violations, the United States wrote a letter to the president of the UNSC requesting the inclusion of the agenda item. Although China and Qatar opposed to the inclusion, arguing that the issues in Myanmar were internal matters, the request was put to a vote and approved by 10 votes (UNITED NATIONS SECURITY COUNCIL, 2004-2007, p. 539).

7 Aung San's husband and son were both British.

among the non-State armed groups, jeopardized the discussions (UNITED NATIONS SECURITY COUNCIL, 2017 a, p. 3).

In 2015, Aung San Suu Kyi leading the NLD[8] won most seats in the parliamentary elections beginning a gradual political transition. This was seeing with optimism both by the internal groups and the international community, who expected a progress in national reconciliation. The new Parliament approved some legislations promoting human rights and restricting the interventionist power of the State. Still, Tatmadaw, the Armed Forces, were increasingly repressing minorities especially in border areas provoking clashes mainly in Shan, Kachin and Rakhine states (UNITED NATIONS SECURITY COUNCIL, 2017, p, 3).

As we could see, Myanmar's political history is deeply marked by instability and great social divides. Political dispute came not only from the main parties, but also included non-State armed groups, who represented the diverse minorities in Myanmar. The situation in the country can be classified as a complex crisis, since it is a result not only of political disputes, but also lack of development and violation of human rights as it will be better explained in the next session.

The UNSC and the situation in Myanmar: the current refugee crisis

In October 2016, ethnic tensions and the failed reconciliation efforts in Myanmar triggered one of the most complex current crises in the world. An attack against the Board Guard Police[9] led by the Arakan Rohingya Salvation Army in Rakhine State resulted in great repression from the Tatmadaw and triggered the displacement of an unprecedented flux of refugees to neighboring Bangladesh. The crisis is considerably undermining reconciliation efforts (OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2016, pp. 10-11).

8 Although Aung San could not directly be a candidate, she becomes the State Counselor and participates directly in the government decisions.

9 "The border guard forces were created by the Government in 2009 and incorporate former armed groups into the Tatmadaw. Twenty-three armed groups accepted their conversion to border guard forces, although it required them to relinquish most of their operational and command autonomy. Once converted to border guard forces, former armed groups are included as a regular military force. The people's militias, however, maintain differing forms of affiliation with the Tatmadaw. While some units appear to be under the command and supervision of the Tatmadaw, others appear to operate as Tatmadaw-supported village militias, without a formal military structure" (UNITED NATIONS SECURITY COUNCIL, 2017, p. 5).

Myanmar and the Rohingya: a foreseeable crisis

As mentioned in the previous section, Myanmar's territory was segregated during the military dictatorship, in 1982. Although the action accomplished the separation of the different ethnicities, it also highlighted the historical contrasts between them, turning the regions brutally different among each other ("CONSULTATIONS…", 2017).

The situation of the Rohingya is directly linked to the previous context of the segregation in Myanmar's territory. The Rohingya people were allocated in Rakhine State, which is also one of the poorest regions of the country: while in Myanmar 37.5% of the population are under the poverty line, in Rakhine this figure amounts to 78%, with considerable levels of underdevelopment and malnutrition. The situation was further aggravated by the violent clashes happening since 2012, which were responsible for massive internal displacement. It is estimated that almost 120,000 people are internally displaced in the country, living in camps or similar environments that often lack basic infrastructure and services. Other than that, due to the chronic poverty, many people living in the cities also need humanitarian assistance (OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2016, p. 8).

From the 2.1 million people living in the State, over 1 million are Muslims, which are predominantly from the minority Rohingya. They are a stateless group: their citizenship is not recognized, due to the law created in 1982 allowing only 3 groups of citizens (citizens, associated citizens and naturalized citizens), those who are not part of none of the groups are not granted basic rights. Because of that, the Rohingya were subjected to discriminatory policies from the government: as they do not have identification papers, their movement is restricted to the Rakhine State, as is their access to basic services, such as education and health. As consequence of conservative gender practices among this population, the situation for women and children is even worst, being them the most affected by poverty-related issues (OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2016, p. 8).

A note released by the United Nations Department of Economic and Social Affairs states that:

> The intersection of long-standing ethnic tensions and xenophobia, poverty and violent conflict has created a crisis of human misery that has shocked the world. It is further complicated by issues of citizenship, religious division, and security on both sides, escalating the situation into a human

> tragedy of unprecedented proportions (UNITED NATIONS DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS, 2018).

Thus, the main difficulties about the Rohingya group in Myanmar are not restricted to its ethnicity, but to several decades of designedly negligence by Myanmar's central government, inhibiting civil rights to the minority Muslim and forcing them to stay in a region that would not be receiving any kind of assistance from the State. Therefore, the Rohingya crisis is directly related to the violation of Human Rights and the deficiency of economic development in Rakhine State.

Since 2016, the NLD government tried to create and support initiatives aiming at an inclusive national reconciliation: the party understood that only by addressing the ethnic divide it would be possible to rule a stable country. The government created the Central Committee for the Implementation of Peace and Development in Rakhine State, under the leadership of Aung San Suu Kyi. The committee is mandated to provide assistance in four main areas: "Security, Peace and Stability and the Rule of Law Working Committee; Immigration and Citizenship Scrutinizing Working Committee; Settlement and Socio-economic Development Working Committee; and Working Committee on Cooperation with UN Agencies and International Organizations". The main purpose is to fasten the resolution of Rakhine instability, including the revision of the stateless status of the Rohingya (THE REPUBLIC OF THE UNION OF MYANMAR, 2016).

Another important project directed to the Rakhine was the creation of the Advisory Commission on Rakhine, in 2016, as an attempt to have a better understanding of the situation and to reach "a peaceful, fair and prosperous future for the people of Rakhine" (ADVISORY COMMISSION ON RAKHINE STATE, 2017). The commission was created as a joint initiative of Myanmar's government and the Kofi Annan Foundation. The mandate of this commission is to identify the main problems that resulted from the underdevelopment of the region, the refugee crisis and the violent acts. The commission should periodically present recommendations to Myanmar's government in five areas of research: conflict prevention, humanitarian assistance, reconciliation, institution building and development. Kofi Annan, former Secretary-General, provided on 2016 advices on how the Rakhine state could operate to generate a better living for the group. The recommendations were to give an end to the refugee camps and to investigate the military actions taken after the attacks from 2016. The report also indicated steps to guarantee the access to humanitarian assistance throughout the territory and classified

segregation as one of the drivers of the state's instability (ADVISORY COMMISSION ON RAKHINE STATE, 2017; "BRIEFING…", 2017; "CONSULTATIONS…", 2017).

In the same year, the government launched the first 21st Century Panglong Conference, which should gather different interest groups in order to discuss and agree on furthering the peace process. Non-State armed groups that had signed ceasefire agreements were also invited to attend. Following this effort to promote an inclusive reconciliation process, a second Panlong Conference was held in May 2017 amidst the refugee crisis (UNITED NATIONS SECURITY COUNCIL, 2017 c).

Though the government of Myanmar has fostered some initiatives to advance national reconciliation and promote peace, the pervasive social divides jeopardize such efforts. Within the government and the Parliament, for example, the lack of cohesion is mainly responsible for some actions related to the Rohingya issue: even though the government has launched the abovementioned projects, the Army – Tatmadaw – remains highly intolerant with minorities. The escalation of tensions towards the Rohingya is mainly explained by the persecution from Tatmadaw to Arakan Rohingya Salvation Army: most Rohingya villages have been burnt and looted (UNITED NATIONS SECURITY COUNCIL, 2018, p. 2).

Also, the government has restricted humanitarian access to the Rakhine state, giving only a few humanitarian actors authorization to act in the region. In this scenario, adequate assessment and delivery of assistance is almost impossible. According to the United Nations Office for Coordination of Humanitarian Affairs, around 1.3 million people are currently in need since the outburst of violence in Rakhine and 671,000 have been forced to flee their homes as for February 2018. Most of these are women and children, who have been subjected to gender-based violence in the process of displacement (STRATEGIC EXECUTIVE GROUP, 2018, pp 7-10; UNITED NATIONS SECURITY COUNCIL, 2017 a, p. 2; 2018, p. 2).

Myanmar's critical situation has triggered a transnational crisis. Its reflections are felt by the nearby countries – especially Bangladesh, which is directly affected with the increasing number of refugees crossing the border since August 2017. The State has historically received Myanmar's refugees who tried to escape the constant ethnic violence in their home country. Since the aggravation of the crisis, Bangladesh has been home to Cox's Bazar that has turned into the largest refugee camp in the world, sheltering around 905,000 refugees, mostly Rohingya. In November 2017, both countries have

signed an agreement regarding the repatriation of refugees, which should be gradual and voluntary: however, due to the ongoing persecution of Rohingya in Myanmar's, refugees are discouraged to come back. Another problem is the fact that this population is stateless and most of them, by lacking identification papers, cannot prove that they had a life in Myanmar (STRATEGIC EXECUTIVE GROUP, 2018, pp 7-10; UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2018; UNITED NATIONS SECURITY COUNCIL, 2017 a, p. 3).

In this scenario, the main focus of the UNSC, nowadays, is to not let this crisis escalate to a deflagrated conflict, even a civil war.

The UNSC and the challenges to address the issue

The Situation in Myanmar was first introduced to the United Nations Security Council agenda in 2006. The SG reports from 2006 until early 2016 were bi-annual and directed to the national reconciliation process and the ongoing violence involving the Armed Forces and non-State armed groups. In 2017, in response to the outburst of violence in Rakhine State and the refugee crisis, the UNSC convened some meetings to address the issue. Since then, four formal and some informal meetings have been dedicated to consider the situation in Myanmar.

In September of 2017, the UN Secretary-General, António Guterres, briefed the Council and called the organ's attention to the main issues related to the crisis. The SG prioritized some immediate actions, as the end of violence both from the Armed Forces and non-State armed groups; the restoration of humanitarian assistance to the most needed in Rakhine State; and the assurance of safety to those willing to go back to Myanmar. Mr. Guterres also emphasized that a durable solution to the crisis will depend on addressing the root causes of the problem, namely protracted statelessness, discrimination, violation of human rights and lack of development (UNITED NATIONS SECURITY COUNCIL, 2017 a, pp. 2-3).

In November 2017, the UNSC released a Presidential Statement, which was the e only official document providing official actions by the UNSC, as a resolution was not published on the agenda item. The document recognized some efforts made by Myanmar's government to negotiate with Bangladesh and to initiate efforts towards widening the access of humanitarian actors to the country. But the Presidential Statement mainly expressed concern to the grave human rights violations, to the deteriorating

humanitarian conditions and to the use of excessive force in Rakhine State. UNSC went further by recommending the government of Myanmar to uphold the Rule of Law, to restore refugees and to respect human rights in its actions towards the Rohingya. The Council also requested the SG to dedicate its good offices to fasten the resolution of the crisis (UNITED NATIONS SECURITY COUNCIL, 2017 d, pp. 1-3).

In December 2017, the briefings from Secretariat members reported extreme sexual violence with rape being used as a tool to threat and force displacement of Rohingya population. Most accounts mentioned the Tatmadaw as perpetrator of such atrocities. In the briefing it was also highlighted the vicious cycle of statelessness, discrimination and violence that was observed in Myanmar for ages. The representatives from the Secretariat stresses the importance of overcoming the historical social divide, promoting an inclusive reconciliation process in order to ensure a durable solution to the situation (UNITED NATIONS SECURITY COUNCIL, 2017 b).

Finally, in February 2018, the Council was briefed on the ongoing intimidation of Rohingya in Myanmar and the ongoing restriction of access to humanitarian assistance. The briefers also called Member States' attention to the issue of repatriation that due to the adverse scenario in Myanmar could cause even greater problems. With the constant influx of refugees over the last six months, the refugee camps in Bangladesh were overloaded and demanded adaptations. Another threat was also stressed: the region is extremely vulnerable to monsoons and some refugee camps were not ready to face such natural events, which would deteriorate the living conditions. The increasing violence in other areas of Myanmar, as Kachin and Shan states were also addressed (UNITED NATIONS SECURITY COUNCIL, 2018).

Facing these reports on Myanmar's complex crisis, Member States are divided about the actions that should be taken on the territory. China, for example, was unwilling to interfere on the situation, as argued that the root causes of the issue were internal matters of Myanmar and actions of the Council could not disrespect State's sovereignty. The country offered to, together with the Association of Southeast Asian Nations (ASEAN), help the governments of Myanmar and Bangladesh to find durable solutions to the crisis. Whenever invited to participate on the UNSC meetings, Myanmar's representative related the inaccuracy of some data and allegations against Tatmadaw: he especially claimed that most of the countries initiatives to deal with the situation were being neglected by the SG reports. In contrast, countries such as United States, United Kingdom, France,

Sweden, Kazakhstan, Egypt and Senegal stressed their support to actions taken by the UN and others to generate a better environment and stop the humanitarian violations in Myanmar. Moreover, there have been criticism made by the Member States of the UNSC on the government of 2017, stating the democratic government does not control the State's military movement that has been attacking the Rohingyas. Because of this controversy, the Council until now was not able to approve a resolution on the agenda item ("BRIEFING…", 2017; UNITED NATIONS SECURITY COUNCIL, 2017 a; b; 2018).

At this point, the UNSC has virtually all the options envisaged in the UN Charter to dealt with the situation in Myanmar: from the peaceful settlement of disputes, to the use of more strong measures and regional cooperation. Until now, the main actions were to request the offer of good offices by the SG and to ask for regional organizations as ASEAN and the Organization of Islamic Cooperation to support negotiations. However, as we could see, the situation in Myanmar is a complex crisis that it involves a vicious cycle between lack of development, violation of human rights and protracted insecurity. It is in the UNSC scope to prevent this eminent crisis of transitioning from a humanitarian critical condition to a warlike crisis by: ensuring the respect of the Human Rights, the end of all security and peace threats and promoting sustainable socio-economic development.

Conclusion

The beginning of the Rohingya crisis demonstrated the fragile conditions of Myanmar, which for decades has struggled with internal conflicts, lack of development and discrimination of ethnic minorities. National reconciliation was considerably hindered by the crisis, as the disproportional response of the government revealed the lack of cohesion within it.

The crisis is complex, since the country also faces violations of human rights, lack of development and insecurity and has a great potential to not only escalate into a civil conflict, but also trigger regional instability. Neighboring countries, as Bangladesh, even though are extremely supportive to refugees, have limited capacity to ensure good living conditions in the long-term. Meanwhile, Myanmar's government has not shown total support to the initiatives taken by the UN, and the leader Aung San Suu Kyi has been questioned in its capacity to ensure democracy and stability.

Therefore, the agenda item poses great challenges to the Council that will have to consider the limits between international action and national sovereignty, the importance

of promoting human rights and the unresolved link between insecurity and poverty. In this sense, some questions can be raised to discussion:

1. How should the Council act regarding the situation of the refugees to Bangladesh?
2. What means should be used to prevent the human rights violations on the Rakhine territory?
3. How to prevent this crisis into becoming a greater threat to the international peace and security?

References

ADVISORY COMMISSION ON RAKHINE STATE. *Towards a peaceful, fair and prosperous future for the people of Rakhine: Final report of the Advisory Commission on Rakhine State*, August 2017. Available at: <http://www.rakhinecommission.org/app/uploads/2017/08/FinalReport_Eng.pdf>. Accessed 22 May 2018.

BIVER, E. *Religious nationalism: Myanmar and the role of Buddhism in anti-Muslim narratives.* An analysis of Myanmar's ethnic conflicts through the lens of Buddhist nationalism. Lund University, Department of Political Science, Lund, 2014. Available at: <http://lup.lub.lu.se/luur/download?func=downloadFile&recordOId=4778729&fileOId=4778731>. Accessed 03 June 2018.

"BRIEFING on the Situation in Myanmar". In: *What's In Blue*, 16 March 2017. Available at: <http://www.whatsinblue.org/2017/03/briefing-on-the-situation-in-myanmar.php>. Accessed 29 May 2018.

BURMA LINK. "History since colonization". In: *Burma Link*, 2018. Available at: <https://www.burmalink.org/background/burma/history-since-colonisation/>. Accessed 2 May 2018.

"CONSULTATIONS on Myanmar". In: *What's In Blue*, 30 August 2017. Available at: <http://www.whatsinblue.org/2017/08/consultations-on-myanmar.php>. Accessed 29 May 2018.

HOLLIDAY, I. "Ethnicity and Democratization in Myanmar". *Asian Journal of Political Science*, August 2010, v.18, n.2, pp. 11-118. Available at: <http://www.socsc.hku.hk/moei/2013/pdf/academic/ajps2010.pdf>. Accessed 02 June 2018.

KYAW, Y H. "Problems with the Process of Reconciliation". In: RIEFELL, L. (org.). *Myanmar/Burma: Inside challenges, outside interests*. Washington: Brookings Institution Press, 2010, pp. 33-51.

MAPS OF THE WORLD. *Political Map of Myanmar*, 2015. Available at: <https://www.mapsofworld.com/myanmar/myanmar-political-map.html>. Accessed 02 June 2018.

OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS. "Humanitarian response plan: Myanmar". In: Humanitarian response plan, 2016. Available at: <https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/2017_myanmar_hrp_final.002.pdf>. Accessed 22 May 2018.

RIEFELL, L. "The moment". In: RIEFELL, L. (org.). *Myanmar/ Burma: Inside challenges, outside interests*. Washington: Brookings Institution Press, 2010, pp. 1-32.

STRATEGIC EXECUTIVE GROUP. *JRP for Rohingya Humanitarian Crisis – March/December*, 2018, 90 p. Available at: <https://www.unocha.org/sites/unocha/files/JRP%20for%20Rohingya%20Humanitarian%20Crisis%202018.PDF>. Accessed: 23 July 2018.

THE REPUBLIC OF THE UNION OF MYANMAR. "Govt forms committee to implement peace, stability, development in Rakhine State", 31 May 2016. Available at: <http://www.president-office.gov.mm/en/?q=issues/rakhine-state-peace-and-stability/id-6391>. Accessed 23 May 2018.

UNITED NATIONS (UN). "Charter of the United Nations". In: *Official website of the United Nations*, 2018. Available at: <http://www.un.org/en/sections/un-charter/preamble/index.html>. Accessed 8 April 2018.

UNITED NATIONS DEPARTAMENT OF ECONOMIC AND SOCIAL AFFAIRS (UN DESA). "Conflict and Poverty: The Case of the Rohingya", 5 February 2018. Available at: <https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2018/01/Concept-Note-.pdf>. Accessed 27 May 2018.

UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMAN AFFAIRS (UNOCHA). "Rohingya Refugee Crisis", 2018. Available at: <https://www.unocha.org/rohingya-refugee-crisis>. Accessed 7 April 2018.

UNITED NATIONS SECURITY COUNCIL (UNSC). *8060th meeting*, 28 September 2017 a. S/PV.8060. Available at: < http://www.un.org/en/ga/search/view_doc.asp?symbol=S/PV.8060>. Accessed 17 June 2018.

_____. *8133rd meeting*, 12 December 2017 b, S/PV.8133. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/PV.8133>. Accessed 25 July 2018.

_____. *8179th meeting*, 13 February 2018. S/PV.8060. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/PV.8060&referer=http://www.un.org/en/sc/meetings/records/2017.shtml&Lang=E>. Accessed 17 June 2018.

_____. *Report of the Secretary-General on children and armed conflict in Myanmar,* 01 May 2013, S/2003/258. Available at: <https://www.securitycouncilreport.org/atf/cf/%7b65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7d/s_2013_258.pdf>. Accessed 31 May 2018.

_____. *Report of the Secretary-General on children and armed conflict in Myanmar,* 22 December 2017 c, S/2017/1099. Available at: <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2017_1099.pdf>. Accessed 31 May 2018.

_____. *Statement by the President of the Security Council*, 6 November 2017 d. S/PRST/2017/22. Available at: <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_prst_2017_22.pdf>. Accessed 31 May 2018.

_____. "The situation in Myanmar". In: UNITED NATIONS SECURITY COUNCIL. Repertoire of the Practice of the Security Council, 2004-2007, pp. 539-543. Available at: <http://www.un.org/en/sc/repertoire/2004-2007/Chapter%208/Asia/04-07_8_Myanmar.pdf>. Accessed 25 July 2018.

CHAPTER 9

UNITED NATIONS PEACEKEEPING OPERATIONS

United Nations Security Council

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Introduction

Ever since the United Nations (UN) deployed the first observation task force to the Middle East, in 1948, with the objective of monitoring an unstable situation, an unexplored tool was included in the practice of the United Nations Security Council (UNSC). It involved a new and, at that time, unstructured mechanism that later on would be referred to as Peace Keeping Operations (PKOs). Since then, the PKOs have been extensively applied by the UNSC, but the fact that they are a result of practice and its capabilities and limits are not clarified in the UN Charter, has turned this tool into a useful but undefined one.

According to the UN Department of Peacekeeping Operations (DPKO), PKOs are the most adequate tool available to the UNSC "(…) to assist host countries navigate the difficult path from conflict to peace" (UNITED NATIONS, 2018 f). However, its deployment to a great diversity of environments and situations has actually shaped every PKO differently from the other. Consequently, the lack of standards and norms is sometimes considered one of the reasons why this tool has not been completely successful in promoting peace and stability.

Recently, the UNSC has engaged in a new effort regarding PKOs that consists in restructuring the mechanism as a whole. The objective is to review its competences, capabilities and budget, emphasizing prevention and avoidance of conflicts, instead of stabilization of conflicts.

Therefore, aiming to further discuss PKOs, its limits and strengths, this article will be divided in four sections, other this introduction. In the first one, the structure and the main functions of the UNSC are described, focusing on its work on PKOs. The second section brings an historical overview on the evolution of PKOs regarding their unidimensional and multidimensional formats. The next section considers the discussions about the recent

difficulties and challenges in planning and structuring UN peace operations. A conclusion is presented in the final section to sum up all the information regarding the possibilities on restructuring the missions.

The United Nations Security Council

The UNSC, whose mandate is expressed in Chapter V of the UN Charter, is one of the six main organs of the organization. Its primary responsibility is to maintain peace and security in the international system and determine which actions occurring should be considered a threat to such purpose. The Security Council is composed of 15 members in total, divided in two groups: the five permanent members - the People's Republic of China, the Republic of France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America – and the other ten non-permanent members that are appointed by the General Assembly for terms of two years each (UNITED NATIONS, 2018 b).

It is important to highlight that the rules of procedure grant the permanent members veto power in the Council's decision-making process: 9 votes are necessary to approve resolutions and among them it must be comprised the favorable votes of the P5. It is also stated in Chapter V that all UN Member States must be in accordance with the Council's decisions – whether they are active member of the Security Council or not -, besides further ensuring the enforcement of such settlements, while acting on their behalf (UNITED NATIONS, 2018 b).

In order to accomplish its mandate of maintaining international peace and stability, the UN Charter provides some options and tools to the UNSC: they are comprised in Chapters VI, VII and VIII. Chapter VI determines that the use of peaceful ways of settlement of disputes should always be the first resort to the resolution of any conflict. The actions may include, but are not limited to "(…) negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice" (UNITED NATIONS, 2018 b).

Whenever identifying a threat or breach of peace in the international system, the UNSC may also decide whether to resort to the use of more rigid actions - which are described by Chapter VII of the Charter. Such measures may account for the use of sanctions (better specified in the Article 41 as the complete or partial interruption of economic relations, and the severance of diplomatic relations), and may include actions that do not involve the use of straightforward force. However, if such measures prove to be inadequate to

the situation at hand, as specified in Article 42, the UNSC may decide to employ the use of force. For the purpose of this research, it is also important to highlight that, since the UN lacks its own army, the option to use force is applied with troops provided by UN Member States, regardless of them being a current Council member or not. Usually, a country or a coalition is authorized by the UN to use force (UNITED NATIONS, 2018 b).

Chapter VIII of the Charter adds to the previous tools, mentioning the possibility of the UNSC to collaborate with regional arrangements in order to ensure international peace and stability. These regional arrangements must always act under the authority of the Security Council, carrying out UNSC instructions (UNITED NATIONS, 2018 b).

Having presented the four Chapters that comprise UNSC mandate and mechanisms, it is interesting to note that the PKOs are not formally addressed in neither. They were created from the practice of the Council and, actually, cannot be classified in the provisions previously mentioned. PKOs are neither a tool under Chapter 6, since they are not precisely a peaceful settlement of dispute, nor an option presented under Chapter 7, since they do not represent the use of force: consequently, they would come to be known as the Chapter "Six-and-half" of the Charter, indicating their middle-ground objective (UZIEL, 2010, p. 87).

Therefore, aiming to explain the progressive evolution of such a complex and controversial mechanism, the next section will focus specifically on the history of the PKOs, addressing how PKOs were criticized and adapted throughout the years.

PKOs: an historical overview

Since their inception, the PKOs have considerably changed and evolved. As we saw, they are not coded in the Charter, being the result of the UNSC practice in specific contexts and times. In this sense, one essential watershed in PKOs history was the Cold War: there are important differences between the midst and post Cold War operations. They are usually divided, respectively, in unidimensional, and multidimensional.

The traditional missions during the Cold War

During the bipolar world of the Cold War, the UNSC had limited space to resort to all the options provided in the UN Charter when facing international instabilities. Sometimes, the peaceful settlement of disputes was not enough, but the use of force was not an option since it would involve a great political risk. Peacekeeping operations emerged as a mid-

term solution amongst the impossibility of acting upon the collective security system and the impracticability of not acting (DIGOLIN, 2018, p. 21; UZIEL, 2010, pp. 33-35).

In this first phase of PKOs development, from 1948 to 1989, they were usually applied either during cease-fires or after the end of conflicts. Their main responsibilities included monitoring cease-fires to enable peace negotiations, maintaining order in the territory after the end of a dispute and supervising disarmament initiatives in post-conflict settings. Consequently, these missions had considerably simpler and cheaper mandates: in general, they would require only a limited military component, since they were supposed to deal with basic security issues. Another important characteristic of this first phase, was the fact that most conflicts were international, in the sense that they reflected a dispute between two or more States: in this environment, it was easier to identify the parts of a dispute and use traditional ways of settlement, as peace agreements (DIGOLIN, 2018, p. 23; FAGANELLO, 2012, pp. 57-58; KJEKSRUD, 2009, p. 8).

It was also during this phase that the three basic principles that guide PKOs would be created. The first one is the consent of the parties, since the main parts involved in the conflict have to agree with the operation to provide the necessary conditions for the UN action. The second one is impartiality: the UN peacekeepers cannot take part in the conflict, since their core task is to ensure conditions to the negotiation of peace. And, the third principle is the non-use of force except in self-defense and defense of the mandate, the force can only be use as a last resort to defend the UN peacekeepers and it needs to be authorized by the UNSC (UNITED NATIONS, 2018 e).

The first operation that paved the way for the peacekeeping operations was the UN Truce Supervision Organization (UNTSO), created in 1948 to monitor the situation in Palestine: it included only political observers and introduced the idea of deploying UN staff to the field. After eight years of the creation of the UNTSO, the UN Emergency Force I (UNEF I) was formed as the first peacekeeping mission with armed personnel, sent to the Suez Chanel to enable the cease-fire while negotiations on the dispute[1] were held (DIGOLIN, 2018, pp. 21-22; FAGANELLO, 2012, pp. 58-60).

In 1960, the UNSC would have its first great challenge involving PKOs, with the UN Operation in the Congo (ONUC). The situation in Congo was more distant from a traditional inter-State

1 The president of Egypt, Gamal Abdel Nasser, nationalized the Suez Canal in 1956, unilaterally, after the United Kingdom transferred the control of the canal to the country, while still owning it. Then, Israel initiated a war with Egypt to guarantee access over the canal, and further occurred the occupation of the canal by United Kingdom and France, to guarantee free movement over the canal while demanding Egypt and Israel to stand off.

conflict: in a way it involved post-independence struggles between the former-colonizer, Belgium, and the newly independent country, but it also involved an internal dispute for power. Different Congolese political groups were fighting to take political power. As a result, ONUC's mandate needed to be broader, but the tools available to the UNSC and PKOs at this point did not enable such demand. Hence, the operation faced huge problems, such as the death of the UN Secretary-General at the time, Dag Hammarskjöld, and 250 militaries, under circumstances that showed that PKOs were not structured to deal with ongoing conflicts (DIGOLIN, 2018, pp. 23-24; FAGANELLO, 2012, pp. 61-62; MATIJASCIC, 2010, p. 172).

The truth was that, even though peace operations were created to assist UNSC with its mandate to ensure international peace and stability, they had not been conceived to act in face of actual threats and to deal with complex and long-term instabilities. However, at this time, this failure was concealed by the fact that within a bipolar word, the UN was not the only actor responding to conflicts. With the end of the Cold War and the emergence of a new type of conflict, these problems would be exposed.

The multidimensional missions and the constant need of revisions

The 1990s would bring, not only new challenges to the PKOs, but also a whole different environment and *modus operandi*. The end of the bipolar world enabled the unlocking of the UNSC to deal with security issues: in fact, if during the Cold War the Council had to accept its secondary role regarding international peace; now, it would be the leading actor in this task. The items related to disputes included in the UNSC agenda increased considerably and the organ was frequently called to act upon them: the peace operations were then chosen as the main tool to be used (UZIEL, 2010, pp. 55-56).

The post-Cold War period would also reveal a new nature of the conflicts: the great majority of disputes would be between different armed groups concurring for political power. The former inter-State wars would make room for new intrastate conflicts, which would be harder to settle with traditional tools. In this new scenario, it is more difficult to identify all parties of a conflict and to ensure that they will abide by the agreements made in peace negotiations: as most of these actors are non-state ones, they are not subjected to the same rules applied to States. Consequently, most of the time there is no peace to be kept by UN operations: the UNSC responded by creating new and more flexible arrangements under the PKO umbrella. Peace operations would become multidimensional, since they would not only deal with traditional security issues, but also ensure the respect for human rights, the organization of elections, the support of

disarmament and the assistance of the reform of the State (FAGANELLO, 2012, pp. 65-67; UZIEL, 2010, pp. 55-56).

The first sign of change would come in a report of the then Secretary-General, Boutros Boutros-Ghali, entitled "An Agenda for Peace, Preventive Diplomacy, Peace-making and Peacekeeping" and published in 1992. The document highlighted the new context of insecurity, recommending the UNSC to expand the range of PKOs to also address the roots of conflict, as lack of development and human rights violations. According to Boutros-Ghali, the UN should be able to, not only preserve peace in the immediate aftermath of a peace agreement, but also ensure that peace is sustained in the long-term through peace building. The concept envisages the reconstruction of the State and the creation of an environment capable of fostering peace, mainly by the assurance of the rule of law and basic services (UNITED NATIONS, 1992).

In order to be able to offer the assistance that the renewed PKOs would need, the UN created, also in 1992, the Department of Peacekeeping Operations (DPKO)[2], to guide the operations and connect the parts involved to fulfill its duties, as UNSC member States, troop-contributing countries and other actors involved in the effort of a peace operation. However, these adjustments were not enough to face the challenges on the ground posed by the new conflicts. During the 1990s, PKOs confronted their greatest failures: Somalia, Bosnia-Herzegovina and Rwanda. In the three episodes, the lack of resources and of clear rules of engagement prevented the operations to fulfill the responsibilities that Boutros-Ghali had suggested in 1992 (UNITED NATIONS, 2018 c; UZIEL, 2010, p. 60).

Given this scenario, the 2000s were a period of deep reflections and self-criticism for the UNSC and PKOs. The new Secretary-General, Kofi Annan (1997-2006), convened a group of UN experts to analyze and review the overall framework of peace operations identifying their flaws and opportunities. The result was known as Brahimi Report and would represent a turning-point in the discussion of PKOs. The document reinforced the three principles of PKOs, but argued that in intrastate conflicts, consent could be subject to manipulation and impartiality could not mean absence of action: whenever the parties of a conflict violated the UN Charter principles, PKOs should be able to act and must be properly staffed and equipped to do so. The report suggested the creation of robust missions, which should be capable of carrying their mandate regarding the protection of civilians, even if that required the possibility of using force. Another point verified, was

2 The currently Under-Secretary General for PKOs is Mr. Jean-Pierre Lacroix.

the need to ensure more financial support, and better defined mandates for the missions, facilitating the achievement of the goal that is ending and preventing conflicts, at the same that the safety of the UN workers and forces are guaranteed (UNITED NATIONS, 2000, pp.viii - xv).

From the Brahimi report release onwards, many other initiatives were held to reflect upon the PKOs. In 2004, the High Level Panel on Threats, Challenges and Change, identified the priorities of international security in the 21st century and reinforced the key role of peacebuilding in preventing instabilities and the reoccurrence of conflicts. In 2008, another important document was released: "United Nations Peace Operations: principles and guidelines", which is also known as Doctrine Capstone. This text aimed at being a practical guide to all those who were on the ground, but its main contribution ended up being the connection made between PKOs and Human Rights: it was argued that this component should be reinforced, in order to achieve long-lasting peace in post-conflict environment (DEPARTMENT OF PEACEKEEPING OPERATIONS, 2008, pp. 13-15; UNITED NATIONS, 2004, pp. 5-6).

All these efforts represented important contributions to the overall debate on PKOs and to the improvement of this important tool. Notwithstanding, they were not capable of resolving the main problems and inadequacies of peace operations. Therefore, as the UN advanced to the 2010s, the need for PKO reform became an even more pressing issue in front of the Council.

United Nations Peacekeeping Operations: current challenges

The item of the peacekeeping operations has been placed in the UNSC agenda since the 1990s, in order to discuss possible ways of improving such an important tool to ensure international peace. Currently, there are 14 active peace operations[3] mainly concentrated in Africa and the Middle East. Some of them are renewed versions of long-standing peace operations, as the one in the Democratic Republic of Congo. Conflict proliferation has reached a point in which is severely outpacing the efforts of the current

3 They are: United Nations Mission for Justice Support in Haiti (MINUJUSTH); United Nations Mission for the Referendum in Western Sahara (MINURSO); United Nations Multidimensional Integrated Stabilization Mission in The Central African Republic (MINUSCA); United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA); United Nations Organization Stabilization Mission in The Democratic Republic Of The Congo (MONUSCO); African Union - United Nations Hybrid Operation In Darfur (UNAMID); United Nations Disengagement Observer Force (UNDOF); United Nations Peacekeeping Force In Cyprus (UNFICYP); United Nations Interim Force In Lebanon (UNIFIL); United Nations Interim Security Force for Abyei (UNISFA); United Nations Interim Administration Mission in Kosovo (UNMIK); United Nations Mission in the Republic of South Sudan (UNMISS) (UNITED NATIONS, 2018 g).

PKOs taking place throughout the world: intrastate conflicts are more complex and in some ways more disruptive of the socio-economical structure of the country (UNITED NATIONS, 2015, pp. 2-3; 2018 d).

The continuous reemergence of conflicts in areas that had already witnessed the deployment of PKOs is a clear reflection of the current inefficiency of the missions being employed, even with its well-established principles and capability of adapting. It is interesting to note that while the missions have become more complex and multidimensional, they have also became more expensive: in 2017, PKOs budget was US$ 6.8 million, which is US$ 1.4 million more than the UN regular budget[4], which funds the activities related to the six main organs of the organization (UNITED NATIONS, 2015, pp. 2-3; 2018 d).

Considering the intense rhythm in which these new conflicts expand and intensify in the modern era, and the further adding of the inability of establishing a cooperative system within the Member States, the Peace Operations as we have known for its six decades of existence need to be revised. In 2014, the then Secretary-General, Ban Ki-Moon, convened the High-Level Independence Panel on Peace Operations, in order to review the current situation of this tool (UNITED NATIONS, 2015, pp. 2-3).

The Panel published the report "The Future of UN Peace Operations", in which it indicates that the focus of PKOs should be new ways of conceiving, applying and maximizing the effects of the peace and security instruments available today. In these terms, the report called for the urgent need for a complete reform of these operations, considering both their responsibilities and its overall approach. The document lays down three main pillars for reforming of the PKOs:

> (…) renewed focus on prevention and mediation; stronger regional-global partnerships; and new ways of planning and conducting United Nations peace operations to make them faster, more responsive and more accountable to the needs of countries and people in conflict (UNITED NATIONS, 2015, p. 3).

The first pillar is the focus on the prevention of conflict. Even though this has been mentioned before as an important element of the UN peace efforts, it has been dealt with from a different perspective: prevention was often seen as one possibility within a wide

4 It is important to note that peace operations budget is not under UNSC responsibility. The fifth committee of the UNGA is the one responsible adjusting and approving the budget considering the mandate created by the Council (UNITED NATIONS, 2018 d).

range of options. What the report suggests is that prevention should be the core task of peacekeeping, being focused in halting the roots of the conflicts, as lack of development and the violation of Human Rights: in this sense, PKOs might be deployed prior to the existence of conflicts in some scenarios. Establishing such responsibility to an otherwise post and within conflict instrument was revolutionary, and it should involve the overall streamlining of all operations. This approach promises to be more cost-effective than previous types of peace operations, since it would avoid the highly costly environment of peacebuilding (UNITED NATIONS, 2015, p. 8).

The second pillar, relates to the reinforcement of global-regional partnerships. The Panel concluded that effective conflict response depends heavily on the ability of engaging local stakeholders and building local capacity. This could enable quicker responses to the emergence of threats, decreasing the demand for resources. Regional organizations also have an indispensable role to play in this task of avoiding escalation of conflicts, since they are the ones who can better organize prompt responses. The third pillar, envisages both planning and the implementation of the peace operations, and reinforces the importance of tailored solutions, which are elaborated considering the particularities of each scenario. Tailored peace operations would certainly allow for the effectiveness of the missions: by creating missions to each specific framework and environment, the UNSC would be able not only to reduce costs but also to ensure better results (UNITED NATIONS, 2015, pp. 10-12).

The SG report based on the Panel analysis went further reinforcing the importance of coordinating efforts relating to PKOs. Reasonable mandates, for example, are an imperative to ensure effective conflict response and sustainable peace, but they can only happen if the dialogue between the Security Council, the Secretariat and troop and police contributing countries is enhanced. So, even before the employment of a mission, every point is assessed and properly taken care of so the efficiency of the PKOs is properly maximized (UNITED NATIONS, 2015, pp. 13-14).

States cooperation and engagement is also central when relating to the proper and efficient financing for PKOs. As it was mentioned above, they represent now one of the most expensive tools of the UN, even surpassing the organization's budget. While it is of extreme importance to ensure that the operations are cost effective, it is also essential to understand that funding PKOs properly is also an investment in peace. Therefore, Member States must be ready to respect the commitments made under the UN Charter,

guaranteeing that peace operations have the necessary resources to effectively implement their mandates (UNITED NATIONS, 2015, pp. 15-16).

As we can see, reforming the peace operations system is a challenging task that should consider multiple factors. Achieving peace is a much more complex concept, and needs to be studied as such, so tools such as the prevention of conflict can effectively be viewed more as a crisis prevention instrument rather than only a way to halt conflicts. For the achievement of such goal, it is essential to reconsider some preconceptions regarding peace. First, peace, as a concept, needs to be the focus of any analyses, aiming at identifying the factors that contribute to a durable peace. Until now, PKOs have been mainly focused on post-conflict practices, ignoring the whole spectrum of non-conflictual regions where, if peace is not nurtured, there is high risk of that it would be ruined (CONNOLLY, MAHMOUD, MECHOULAN, 2018, pp. 3-8)

Second, it is essential to focus on long-term solutions, and not only those adequate to a certain period of time, since peace is, at its core, "an ongoing exercise, not a one-time intervention" (CONNOLLY, MAHMOUD, MECHOULAN, 2018, p. 3). Keeping peace should not be a momentary exercise, but a long-term commitment from all stakeholders: in order to achieve peace it is necessary to constantly nurture a culture of peace and stability (CONNOLLY, MAHMOUD, MECHOULAN, 2018, p. 3).

To this end, the promotion of human rights must be seen as an enabler of sustaining peace, as tool for prevention of conflict; a tool that shall be fostered to its maximum. The violation of human rights is usually one of the roots of instability and conflict. It is usually aggravated by the lack of development, which should also be considered a pillar to sustain peace. In this sense, we can better understand the recent efforts linking peace and the sustainable development goals: the pillars envisaged in the UN Charter are also the essential requirements to ensure peace worldwide (CONNOLLY, MAHMOUD, MECHOULAN, 2018, pp. 3-4).

Another important driver of sustainable peace is the restoration and consolidation of State authority. The State is responsible for guaranteeing many public goods and specifically during periods of conflicts, State authority is severely damaged, therefore inhibiting the security of sustainable peace. Consequently, in the lack of the public goods and services offered by a State, the drivers of a conflict are often reinforced, which, as a result, aggravate violence and overall instability. Some of the activities related to this issue are Security Sector reform, disarmament and the rebuilt of the rule of law. Even

though most of the current peace operations include such tasks, the methods used to foster State authority are not fit enough to warrant long-lasting peace after the end of the mission taking place. In some cases, trying to rebuilt the State overall capacity can be understood as an unwanted foreign intervention which can undermine legitimacy, a concept that is crucial to "safeguard against the relapse into conflict" (UNITED NATIONS GENERAL ASSEMBLY, 2018; CONNOLLY, MAHMOUD, MECHOULAN, 2018, pp. 47-48).

Some suggestions made by the Panel on Peacekeeping to overcome this obstacle are: (i) establishing a mission-wide strategy for sustaining peace, extending and legitimating, politically, the State authority; (ii) people-centered approach to rebuild the State, assuring the participation of the population on the process and in decision making; (iii) a compact of mutual accountability, with the secretariat guaranteeing dialogue with the government of the host State to make clear what the extension of the State authority is, increasing legitimacy and strengthening the bases of sustaining peace. In this sense, the Council must look for a better alignment of resources when defining mandates, which can be reached with better communication between Member States to guarantee the financial and human resources, aligning the discussion between the Council, the financial contributors, the TCCs, the DPKO and the Department of Field Support (DFS)[5] (CONNOLLY, MAHMOUD, MECHOULAN, 2018, pp. 49-51; UNITED NATIONS SECURITY COUNCIL, 2018, p. 3).

Even though the Council has been holding consecutive meetings on PKOs in the last few years, few decisions or changes have actually been agreed upon. In the 8218th meeting of the Council, on 28 March 2018, the Secretary-General advocated for States to reaffirm their commitment with the reform of the PKOs, recognizing the challenges and addressing some paths to improve the missions, showing resemblance to points stated on the report made by the "High-Level Independence Panel on Peace Operations", published in 2015, and to principles of the sustaining peace (UNITED NATIONS SECURITY COUNCIL, 2018).

The Secretary-General recognized that the missions are in riskier environments, with high complexity, and highlighted problems related to the preparedness of the peacekeepers, lack of resources and equipment, causing deaths or complicating the execution of the mandate. Therefore, he recommended to focus efforts on changes having realistic expectations on mandates, making the missions more robust and safer, and concentrating more support on political solutions and better prepared and equipped personnel (UNITED NATIONS SECURITY COUNCIL, 2018, pp. 2-3).

5 The DFS was created in 2007, to provide services to the PKOs, usually managing financial and human resources, and taking care of operational issues (UNITED NATIONS, 2018 a).

In order to succeed the operations need to be deployed in support of a political solution and not as the political solution itself. Considering this, it is important to remember that despite the fact that these operations offer support to civilians, they should not be understood as a humanitarian agency. In the same way, it should not be confused with an army just because it has armed personal – which, in fact, cannot use weapons unless as a last resort, in case of self-defense. In that sense, the Secretary-General called the Members States to acknowledge that the PKOs are instruments to create "the space for a nationally owned political solution", which will demand better coordination with regional institutions and local actors. If the Council is willing to rethink Peace Operations, it will need to reconsider some of its own practices in the field of security (UNITED NATIONS SECURITY COUNCIL, 2018, p. 3).

Conclusion

PKOs are one of the most important tools of the UN. Yet, it is only briefly mentioned in the UN Charter and its functions are not clearly envisaged in any document from the organization. Consequently, these operations have been a reflection of the UNSC practice: as conflicts evolved to a more complex scenario, the deployment of multidimensional operations becomes more frequent. In addition, a broader scope of the missions and the employment of a wide range of professionals to deal not only with the conflict itself, but also with the process of preventing instability and sustaining peace was increasingly needed. As a result, at the same time PKOs have turned into key tools to the UNSC, they also have suffered the disadvantages of informality, being frequently criticized by its lack of effectiveness.

Considering this, the UN is trying to implement a series of reforms to improve the implementation of PKOs. As the Secretary-General, Mr. Gutérres emphasized: "The overall goal of the reforms is to improve our capacities to prevent conflict and to sustain peace" (UNITED NATIONS SECURITY COUNCIL, 2018, p. 3), showing that it is coherent with the historical evolution of the peace operations debate, that has focused on prevention and in the need for political solutions, strongly maintaining need to implement the sustaining peace, according to the concept. Bearing in mind the concepts, proposals and needs expressed in this article, the main challenges that circumscribe the reform debate are:

1. How to ensure that peace operations have adequate mandates, aiming at more effectiveness?

2. How to adequately manage PKOs budget, since the costs are skyrocketing?
3. Is it possible to reform PKOs without reforming the UN Charter?

References

CONNOLLY, L., MAHMOUD, Y., MECHOULAN, D. *Sustaining Peace in Practice: Building on What Works*, International Peace Institute, 2018. Available at: <https://www.ipinst.org/wp-content/uploads/2018/02/1802_Sustaining-Peace-in-Practice.pdf>. Accessed 20 June 2018.

DEPARTMENT OF PEACEKEEPING OPERATIONS (DPKO). *United Peace Operations: principles and guidelines,* 2008, New York: United Nations. Available at: <https://peacekeeping.un.org/sites/default/files/peacekeeping/en/capstone_eng.pdf>. Accessed 17 May 2018.

DIGOLIN, K. A. *Cooperação em operações de paz: atuações e iniciativas conjuntas entre Argentina, Brasil e Chile.* Dissertation (Master). Universidade Estadual Paulista, Universidade Estadual de Campinas e Pontifícia Universidade Católica de São Paulo, Programa de Pós-graduação em Relações Internacionais San Tiago Dantas, São Paulo, 28 February 2018, pp. 20-33.

FAGANELLO, P. L. F. "As operações de manutenção de paz da Organização das Nações Unidas e dos direitos humanos". Dissertação (Mestrado). Universidade de São Paulo, São Paulo, 2012.

KJEKSRUD, S. *Matching robust ambitions with robust action in UN peace operations – towards a conceptual overstretch?*. Norwegian Defense Research Establishment, 20 April 2009. Available at: <https://www.ffi.no/no/Rapporter/09-01016.pdf>. Accessed 11 April 2018.

MATIJASCIC, V. B. "As operações de manutenção de paz das Nações Unidas no início da década de 1990". *Revista Eletrônica de Ciência Política,* vol. 1, n. 2, 2010, pp. 171-192.

UNITED NATIONS (UN). "About the UN Field Support". In: *Official website of the United Nations Field Support,* 2018 a. Available at: <https://fieldsupport.un.org/en/about-un-field-support>. Accessed 20 June 2018.

_____. *An Agenda for Peace, Preventive Diplomacy, Peace-making and Peacekeeping,* 17 June 1992, A/47/277 - S/24111. Available at: <https://www.un.org/en/ga/search/view_doc.asp?symbol=S/2006/730&referer=/english/&Lang=E>. Accessed 10 June 2018.

_____. "Charter of the United Nations". In: *Official website of the United Nations*, 2018 b. Available at: <http://www.un.org/en/sections/un-charter/un-charter-full-text/>. Accessed 8 April 2018.

_____. *Comprehensive review of the whole question of peacekeeping operations in all their aspects,* 21 August 2000, A/55/305 - S/2000/809. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/55/305&referer=/english/&Lang=E>. Accessed 10 June 2018.

_____. "Department of Peacekeeping Operations". In: *Official website of the United Nations Peacekeeping Operations,* 2018 c. Available at: <https://peacekeeping.un.org/en/department-of-peacekeeping-operations>. Accessed 10 June 2018.

_____. *Follow-up to the outcome of the Millennium Summit,* 02 December 2004, A/59/565. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/59/565>. Accessed 10 June 2018.

_____. "How we are funded". In: *Official website of the United Nations Peacekeeping,* 2018 d. Available at: <https://peacekeeping.un.org/en/how-we-are-funded>. Accessed 20 June 2018.

_____. "Principles of Peacekeeping". In: *Official website of the United Nations Peacekeeping,* 2018 e. Available at: <https://peacekeeping.un.org/en/principles-of-peacekeeping>. Accessed 15 June 2018.

_____. *The future of United Nations peace operations: implementation of the recommendations of the High-level Independent Panel on Peace Operations*, Report of the Secretary General, A/70/357–S/2015/682, 2015. Available at: <http://digitallibrary.un.org/record/802167/files/A_70_357_S_2015_682-EN.pdf>. Accessed 31 May 2018.

_____. "What is peacekeeping". In: *Official website of the United Nations Peacekeeping,* 2018 f. Available at: <https://peacekeeping.un.org/en/what-is-peacekeeping>. Accessed 05 June 2018.

_____. "Where we operate". In: *Official website of the United Nations Peacekeeping,* 2018 g. Available at: <https://peacekeeping.un.org/en/where-we-operate>. Accessed 22 June 2018.

UNITED NATIONS GENERAL ASSEMBLY (UNGA). *Shifting the management paradigm in the United Nations ensuring a better future for all*, Report of the Secretary General, A/72/492, 2017. Available at: <https://undocs.org/A/72/492>. Accessed 25 June 2018.

UNITED NATIONS SECURITY COUNCIL (UNSC). *Record of the 8218th meeting*, 28 March 2018, S/PV/8218. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/PV.8218>. Accessed 24 June 2018.

UZIEL, E. "Conselho de Segurança, as operações de paz e a inserção do Brasil no mecanismo de segurança coletiva das Nações Unidas". Brasília: FUNAG, 2010, pp. 33-87.

CHAPTER 10

HARMONY WITH NATURE

United Nations General Assembly

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Introduction

On 22 April the whole world celebrates the International Mother Earth Day. This date began to be recognized in 2009, when negotiations about the principles of Harmony with Nature began.

The concept "Harmony with Nature" goes beyond the idea of Sustainable Development, breaking the anthropocentric paradigm, which considers that man is the center of the universe and discusses nature as being subjected to human needs. This topic presents a nature-oriented perspective, which considers Nature as a subject instead of a resource to be explored: being an actor with its own needs, Nature is also entitled to rights aiming at preserving Earth's. These rights are known as Earth Jurisprudence, which is the "law and human governance that is based on the idea that humans are only one part of a wider community of beings and that the welfare of each member of that community is dependent on the welfare of the Earth as a whole" (UNITED NATIONS, 2018 f).

This discussion is complex and emphasizes the limitations of the current patterns of production and consumption, which rely on excessive exploitation of natural resources. Under the paradigm of "Harmony with Nature", humankind is urged to see itself as part of natural ecosystems, being called to comply with the laws of the Earth. Being a new and controversial topic in the agenda of the United Nations General Assembly (UNGA), the concepts and possibilities of implementation involved in the effort of being in harmony with nature are still under creation.

In order to present the discussion and its mains aspects and challenges, this chapter will be divided in four sections other than this introduction. The first section will expose the structure of the UNGA, focusing on its Second Committee, which is responsible for discussing this topic. Section two will provide the historical aspects of the topic until its

inclusion in the UN agenda. The third section will present the current discussion about Harmony with Nature highlighting its main issues. Lastly, the fourth section will present a conclusion with the most relevant aspects related to Harmony with Nature.

The General Assembly and its Second Committee

The UNGA is one of the main organs of the United Nations (UN), because it is the principal deliberative and universal body of the organization. In it, the 193 Member States discuss and consider different issues according to the array of international issues covered by the United Nations Charter. Each Member State has one vote and the decision is issued by a resolution with recommendatory status: even though the UNGA was conceived to take its decisions by vote, in the last few years we have witnessed a trend to adopt resolutions by consensus and without a vote, in an effort to increase support to its decisions (UNITED NATIONS, 1945, pp. 4-5).

The UNGA is divided into six committees, which are individually responsible for addressing some items of the extensive GA's agenda. They are: the First Committee (Disarmament & International Security); the Second Committee (Economic & Financial); the Third Committee (Social, Humanitarian & Cultural); the Fourth Committee (Special Political & Decolonization); the Fifth Committee (Administrative & Budgetary); the Sixth Committee (Legal) (UNITED NATIONS, 2018 d).

The item "Harmony with Nature" is negotiated in the Second Committee because of its relation with the issue of sustainable development. This committee is responsible for important economic discussions, as eradication of poverty, macroeconomic issues and the promotion of development (UNITED NATIONS, 2018 e).

In order to have more efficient negotiations, it is a practice of the UNGA that the Member States divide themselves into political groups. In these smaller gatherings, the States are able to define a strategy and collective priorities prior to negotiating with the whole committee. To this agenda item, the leading political groups are: Group of 77, Association of Southeast Asian Nations (ASEAN), Alliance of Small Island States (AOSIS), Community or Caribbean States (CARICOM), Community of Latin-American and Caribbean Countries (CELAC), CANZ, Least Developed Countries (LDC) and the African Group.

The emergence of Harmony with Nature as an international debate

In order to understand the discussion that Harmony with Nature proposes, it is crucial to go through the whole history of the theme until its inclusion in UNGA's agenda, in 2009.

Environmental issues are a common topic in the international scenario and have been debated since 1972 at the UN Conference on the Human Environment. The Stockholm Conference, as it is also known, was the first meeting of Member States of UN to focus specifically on degradation and environmental issues. It "brought the industrialized and developing nations together to delineate the 'rights' of the human to a healthy and productive environment" (UNITED NATIONS GENERAL ASSEMBLY, 2010 a, p. 4).

Global institutions began to be created in partnership with the United Nations, such as the World Commission on Environment and Development (Brundtland Commission), in 1983, as a way to strengthen the bond between humanity and nature. In 1987, the Brundtland Commission published the report "Our Common Future", in an effort to link the issues of economic development and environmental stability (UNITED NATIONS GENERAL ASSEMBLY, 2010 a, p. 4).

The Brundtland report was of significant importance, as it brought the definition of sustainable development as a "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". For that, the economic and social development objectives of all countries would adopt the sustainable perspective (WORLD COMMISSION ON ENVIRONMENT AND DEVELOPMENT, 1987, p. 41).

As a consequence of the Brundtland report, the environmental issue advanced in the 1990s and was included in the agenda of some international conferences, being Rio 92 one of the most important in this regard. This Conference, also known as the first United Nations Conference on Environment and Development, adopted the Agenda 21 for environment and development in the twenty-first century, which is a document containing actions to be adopted by all States and the civil society, recognizing their commitment to choose the path of sustainable development. This was also the first time the term "Harmony with Nature" appeared, even though it did not have its current meaning. The term is stated in the first principle of the Rio Declaration: "Human beings are at the center of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature" (UNITED NATIONS GENERAL ASSEMBLY, 2010 a, pp. 4-5).

Since Rio 92, other conferences occurred aiming at raising awareness about the conscious use of natural resources. In 2000, the Millennium Declaration emerged, with eight goals related to development issues to be achieved by the States by the year of 2015. Although the 7th target of the Millennium Development Goals (MDGs), which

was "Ensure environmental sustainability", involved the environmental issue, this was not the major concern at this point. The focus was on promoting the integration of sustainable development into national economies, ensuring that natural resources would be managed considering a long-term planning. In 2009, when the Millennium Agenda was about to complete its first decade, discussions emerged regarding the renovation and reformulation of the MDGs: this was when the environmental issue and its relation with sustainable development received renewed attention (UNITED NATIONS DEPARTMENT OF PUBLIC INFORMATION, 2000, p. 1).

Considering this context of revaluation of the environmental debate, the concept of Harmony with Nature was incorporated in the discussion, remembering the Rio Declaration that mentioned the importance of living in harmony with nature. On 1 April 2009, the UNGA decided to create the International Mother Earth Day, which should occur on 22 April. The idea was not only to celebrate and honor the Earth and its ecosystems but, primarily, to raise awareness among all Member States and the civil society about the importance of living in balance with the planet, which is humankind's home. The date has the purpose of making people deeply reflect about their ways of life and the actions that have negative impacts on the planet's current situation: the aim is to stress that the Earth also has specific needs and demands (UNITED NATIONS GENERAL ASSEMBLY, 2009 a, p. 2).

It is important to highlight the central role that the State of Bolivia has played in drawing the attention of all States to the relevance of the topic and suggesting its inclusion in the UN agenda. The Plurinational State of Bolivia was responsible for emphasizing that climate change was the direct result of the non-recognition and disrespect for the rights of the Earth and pushing forward the discussion about the urgency of rethinking production and consumption patterns. Bolivia recalled that many ancient populations had to adapt to the cycles of nature to strive and claimed that our society could only survive if it was able to return to this ancient knowledge (UNITED NATIONS GENERAL ASSEMBLY, 2009 a, pp. 2-3).

As a result, the UNGA adopted, on December 2009, resolution A/RES/64/196 that established the sub-item entitled "Harmony with Nature", under the Sustainable Development item, as a provisional topic of the 65th session (UNITED NATIONS GENERAL ASSEMBLY, 2009 b, p. 2).

The first Report of the Secretary-General on Harmony with Nature, published in 2010, brought some important reflections about the topic. It showed that all the social, economic and environmental problems that we are currently facing are a direct result of the exacerbated

consumption and production patterns that are unsustainable in the long-term. The human relationship with the Earth in the last centuries as their machine of benefits is clearly a non-recognition of this interdependency between them. The report stressed the unique relationship between Nature and humankind, based on a two-way interaction: unlimited exploitation of resources that may lead their depletion, necessarily mean to threat the very existence of humanity (UNITED NATIONS GENERAL ASSEMBLY, 2010 a, p. 3).

The Report also reinforced the importance of cherishing Nature and its cycles, in order to ensure a just balance between human and Earth's needs. In this sense, education was indicated as being a key driver of awareness and revision of practices: "(…) students have yet to be educated through all the stages of formal education within an educational framework informed by sustainability (…) as an overarching principle" (UNITED NATIONS GENERAL ASSEMBLY, 2010 a, p. 11).

Finally, the report also made some recommendations to advance the mainstreaming of "Harmony with Nature" in State's and civil society's behavior, such as investments in education, especially aiming the most vulnerable groups in society; the promotion of the use of technologies for the dissemination of the knowledge about the topic; and the creation of a virtual platform to show scientific work and research that is being done in this area (UNITED NATIONS GENERAL ASSEMBLY, 2010 a, p. 19).

Following this report, the UNGA adopted a Resolution that called for the development of a more sustainable model for production and consumption and asked States to promote the national implementation of legislations to mainstream the topic. The document also stressed that progress on the matter could only be achieved if it was based on the holistic philosophy that everything is interconnected and that nothing has an isolated path: human beings are deeply connected with nature and a collective action is necessary for progress on this issue to be achieved. About that, the sharing of national experiences is important to understand the way of life of some ancient civilizations, which lived in harmony with nature and always respected its natural cycles, without the exacerbated exploitation that is taking place today (UNITED NATIONS GENERAL ASSEMBLY, 2010 a, pp. 6; 14; 19; 2010 b, pp. 1-2).

Current issues and discussions of Harmony with Nature

Since the first SG report about the topic, Harmony with Nature has faced great progress and made clear its complexity and relevance[1]. In the following years, the discussion would

1 It is interesting to note that, as a part of the effort for advancing the topic, the UN Department of Economic and Social Affairs (UNDESA) has been dedicated to engaging different stakeholders in the

become deeper and broader, proposing an Earth-centered approach to the relation between humankind and Nature.

The consolidation of the topic and its priorities

The concept behind this agenda item emerges from an important criticism of the current economic system, which is based on exacerbated consumption and materialism prioritizing economic growth instead of balance and sustainability. The consequence is the depletion of natural resources, putting at risk our very existence. In this context, the Harmony with Nature approach proposes a major shift in our behavior and social values, highlighting the fact that we are a part of the Earth system and, therefore, depend on it to survive. In order to foster this change and improve the understanding of Nature's needs, it is of upmost importance to invest in research and data gathering to ensure that decision-making process is well informed: to improve the knowledge on Harmony with Nature of decision makers, is a fundamental part of the advancement of this theme (UNITED NATIONS GENERAL ASSEMBLY, 2011 a, pp. 17-18).

In this sense, GA's Resolution 66/204 urged States to develop and improve the availability of data and promote cooperation among developed and developing countries to share knowledge and experiences: the aim was to support a knowledge network about the topic. Education is seen as major step towards the recognition of the intrinsic relation between humankind and nature. In different resolutions and reports, the importance of promoting an education and studies on Harmony with Nature was highlighted: since this approach proposes a real transformation of the current economic system, alternatives to it must be created and people must be taught about this new understanding. To discuss the need to harmonize with Nature is also to discuss new patterns of development (UNITED NATIONS GENERAL ASSEMBLY, 2011 b, pp. 2-3).

In 2012, the debate would be considerably reinforced by the parallel discussions about the MDGs: the Goals were about to expire and it was necessary to decide the next steps. The United Nations Conference on Environment and Development (Rio+20) was organized to this end. The Resolution, entitled "The future we want", adopted as a result of the Conference, contained in its paragraphs 39, 40 and 202 the term "harmony with nature" and advocated to a holistic approach to sustainable development that should

discussions about Harmony with Nature. From the UN Member States to civil society, a great diversity of supporters have participated in the last few years of events, such as dialogues and seminars, and initiatives, such as specialized research, aiming at deepening the available knowledge and increasing awareness on the topic.

consider not only the economic pillar, but also the social and environmental ones (UNITED NATIONS GENERAL ASSEMBLY, 2012 b, pp. 8; 39).

In the following years, under this discussion related to the revision of the development debate at the UN, the topic Harmony with Nature would also initiate an important movement towards consolidation. All actors involved with the issue started to plan strategies to ensure the implementation of this Earth-centered approach to development. Supporters of this approach, from States to civil society, began to create and foster practices on the national and international levels so that to operationalize a new shift towards harmonizing with Nature (UNITED NATIONS, 2014, p. 1).

In this sense, a new pillar of Harmony with Nature would be strengthened: the advancement of Nature's Rights. Being Nature an actor with its own needs and demands, it would also be entitled to rights that should be officially recognized: Nature should be regarded as a "rights-bearing partner". Consequently, a whole new normative framework that puts Earth as a subject of law would have to be created: the jurisprudence of Earth (UNITED NATIONS, 2014, p.1; 2018 a).

As a result, countries would be encouraged to go through the formulation of new national legislation, which should reinforce the respect to Nature and its limitations. Some important initiatives are already being made in this sense. This is the case of Australia, Argentina, Bolivia, Brazil, Colombia, Ecuador, India, Mexico, New Zealand, Portugal and United States[2], which approved legislations related in some aspect to the recognition of Nature's needs (UNITED NATIONS, 2018 b).

Australia, for example, has created a law that protects the Yara River, recognizing the connection between traditional owners to the river and the importance of preserving its landscape and biodiversity. This law also recognizes the need to maintain the social, cultural, and economic benefits of this region for future generations and the shared responsibility of government, industry and the population to reach a more harmonious relation with Nature (CHIEF PARLIAMENTARY COUNSEL, 2017, pp. 15-17).

Another interesting example is that of Argentina that in 2015 had a proposal for national regulation of the rights of nature, including the rights to life, biodiversity, clean

2 Other countries and regional groups also have norms and legislations mentioning some aspect of the concept "Harmony with Nature". The Group of 77 + China, for example, have issued a document establishing some commitments involving a new world order that would be more environmentally-aware. Some national parties, as the Green Party of England and Wales and the Green Party of Ireland, have presented specific policies addressing the issue. A complete list laws and policies involving Harmony with Nature can be found on: http://www.harmonywithnatureun.org/rightsOfNature/.

air, balance, restoration and recovering of the planet. Brazil has also approved a local law recognizing the right of Nature to "exist, prosper and evolve", calling the government in its different levels to be responsible for defending and ensuring these rights (ESTADO DE PERNAMBUCO, 2018; SOLANAS, GIUSTINIANI, 2015, pp. 1-2).

It is interesting to note, however, that Earth Jurisprudence has yet a long way to go, since most of the existing legislation is restricted to the local level. If humankind is to change its relation with Nature transforming the current economic system, it is essential to advocate for the inclusion of Nature's rights into broader legal framework, as Constitutions. In addition, this effort includes the development of Ecological Economics, a new field of study and thinking that recognizes the intrinsic connection between humankind and Nature, disseminating a holistic approach to sustainable development. The objective is to create new production and consumption patterns, which would be in harmony with the Earth, addressing Nature no longer as a resource to be explored (UNITED NATIONS, 2018 f).

The consolidation of the concept of Harmony with Nature also depends on funding for related activities. In 2016, Bolivia signed an agreement with the UN Department of Economic and Social Affairs (UN-DESA), in order to create a Trust Fund that would bolster earmarked contributions to activities aiming at promoting Harmony with Nature. The objective was to finance activities from studies to conferences that could help to advance discussions (ESTADO PLURINACIONAL DE BOLÍVIA, 2016, p. 5).

Harmony with Nature and the 2030 Agenda

Harmony with Nature holds a special connection to the discussions of the 2030 Agenda related to ensure a more reasonable and sustainable economic system. The 2030 Agenda[3] pledged 17 Sustainable Development Goals (SDGs), including items such as climate change, eradication of poverty, protection of biodiversity and reconsideration of consumption patterns, to guide international development for the next 15 years. The document was based on a broader concept of sustainable development, which would overcome the definition of the Brundtland report by proposing that development could only be truly sustained if encompassed the economic, social and environmental dimensions. This assertion draws near to the proposition under Harmony with Nature

3 The 17 SDGs of the 2030 Agenda are further detailed in 169 targets about different topics related with each of the goals. The idea is to create more concrete references to guide development. More information about each goal and its targets can be found on: https://sustainabledevelopment.un.org.

to adopt a more holistic approach towards development (UNITED NATIONS GENERAL ASSEMBLY, 2015, p. 1).

From the 17 Goals of the 2030 Agenda, four are directly connected to Harmony with Nature: they are goals 12, 13, 14 and 15. SDG 12 advocates for the promotion of more sustainable consumption and production patterns, reducing the use of resources. This SDG mentions in one of its targets the concept of Harmony with Nature, reinforcing the commitment of developing knowledge networks: "By 2030, ensure that people everywhere have the relevant information and awareness for sustainable development and lifestyles in harmony with nature" (DEPARTMENT OF PUBLIC INFORMATION, 2018 a).

SDG 13 addresses the urgent need to combat climate change and determines a transformation towards cleaner economies. Among its targets, the main idea is to strengthen tools to reduce the impacts of climate change and to stop its growth. SDG 14 is related to the preservation of oceans and maritime biodiversity, setting targets for the conservation of this natural resource (DEPARTMENT OF PUBLIC INFORMATION, 2018 b; 2018 c).

Finally, SDG 15 aims at reducing forests degradation and desertification. The targets include, but are not limited to: the conservation, restoration and sustainable use of ecosystem; the combat to desertification and the increase of financial resources for all biodiversity conservation (DEPARTMENT OF PUBLIC INFORMATION, 2018 d).

From the goals and targets above-mentioned it is interesting to note that, even though they deal with the environmental pillar of sustainable development, they do not deeply reconsider the relationship between humankind and Nature. Although one of the targets from SDG 12 recognizes the importance of supporting knowledge about Harmony with Nature, the discourse presented still considers nature as a resource to be administered and conserved. Therefore, if considering the indicated SDGs from the Harmony with Nature's perspective, they still lack the recognition of Nature as a partner in the universe with its own rights and limitations. As we could note, the idea of Harmony with Nature is not fully embedded at the concept of sustainable development at this point: it actually advocates a bolder transformation of the world we live in, by changing the economic system and recovering traditional wisdom related to the integration of humankind and nature (UNITED NATIONS, 2018 f).

According to the Harmony with Nature approach, it is essential to overcome the established consumption and production patterns that have caused so many crises and

suffering to humans and the environment. The objective should be to promote a balance between both sides: Nature would have to be decommodificated, meaning that it can no longer be seen as a resource available for unlimited exploitation. Instead, it should be considered an actor of the universe with its own existence value and that needs to be healed in order to continue ensuring universal balance. Therefore, ensuring that Nature has a voice and it is protected, it should be considered a legal obligation and a moral responsibility of society as a whole: this is a collective effort and compromise (UNITED NATIONS, 2018 f).

Conclusion

This chapter presented the topic Harmony with Nature since its adoption as an agenda item of the General Assembly, in 2009. As shown, although it may seem simple at first, this is a complex issue, because it involves not only the environmental aspect but also the entire economic and social structure of the planet. It challenges our current system of capitalist production, which is already so deeply rooted in societies and economies around the world, demanding the engagement of not only State's, but also the private sector, non-governmental organizations, and civil society. Harmony with Nature proposes a new paradigm of development that leaves the anthropocentric mainstream aside to embrace an Earth centered approach.

The great challenge for humanity is how to make more stakeholders support this new way of thinking. One of the ways found to implement Harmony with Nature was to encourage the creation of Earth Jurisprudence, composed by local, national and international legislation aiming at advancing this new approach. This is a call for countries to recognize the intrinsic rights of Nature, which needs to have its limitations and demands respected if we are to reach a truly sustainable way of living. Many of these legal tools would retrieve traditional knowledge on how to better co-exist with Nature. Until now, Rights of Nature related law and policy have been adopted by 11 countries. Considering that the United Nations currently has 193 members this number is still very small and it shows that great work still needs to be done for other countries to begin to consider the issue in their national legislations.

Despite these challenges, Harmony with Nature is an extremely relevant topic to be discussed so that the world can jointly reverse the current crisis, with all natural disasters, climate change and the depletion of natural resources - just to mention some problems -

and everything that also harms the human beings, since they are directly interconnected with the existence of the planet. In this sense, some questions still need to be considered:

1. What measures could be taken to change the pattern of consumption towards a more harmonized path?
2. How to advance the topic Harmony with Nature among the civil society?
3. How to broaden Earth Jurisprudence internationally?

References

CHIEF PARLIAMENTARY COUNSEL. *Yarra River Protection (Wilip-gin Birrarung murron) Act 2017,* on 2017. Available at: <http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/51dea49770555ea6ca256da4001b90cd/DD1ED871D7DF8661CA2581A700103BF0/$FILE/17-049aa%20authorised.pdf>. Accessed 27 Mai 2018.

DEPARTMENT OF PUBLIC INFORMATION. "Goal 12: Ensure sustainable consumption and production patterns". In: *Official website of Sustainable development, goal 12,* 2018 a. Available at: <https://www.un.org/sustainabledevelopment/sustainable-consumption-production/>. Accessed 29 May 2018.

_____. "Goal 13: Take urgent action to combat climate change and its impacts". In: *Official website of Sustainable development, goal 13,* 2018 b. Available at: <https://www.un.org/sustainabledevelopment/climate-change-2/#>. Accessed 29 May 2018.

_____. Goal 14: Conserve and sustainably use the oceans, seas and marine resources. In: *Official website of Sustainable development, goal 14,* 2018 c. Available at: <https://www.un.org/sustainabledevelopment/oceans/>. Accessed 29 May 2018.

_____. Goal 15: Sustainably manage forests, combat desertification, halt and reverse land degradation, halt biodiversity loss. In: *Official website of Sustainable development, goal 15,* 2018 d. Available at: <https://www.un.org/sustainabledevelopment/biodiversity/>. Accessed 29 May 2018.

ESTADO DE PERNAMBUCO. *Câmara Municipal de Vereadores emenda à Lei Orgânica No. 01/2017 – altera o art. 236, caput e seu parágrafo único da lei orgânica do município de Bonito/PE*, 08 March 2018. Available at: <http://files.harmonywithnatureun.org/uploads/upload644.pdf>. Accessed 03 July 2018.

ESTADO PLURINACIONAL DE BOLÍVIA. *Agreement between the Government of the Plurinational State of Bolivia and the United Nations Department of Economic and Social Affairs*, 23 September 2016. Available at: <http://files.harmonywithnatureun.org/uploads/upload49.pdf>. Accessed 03 July 2018.

UNITED NATIONS (UN). *Charter of the United Nations*, 1945. Available at: <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>. Accessed 03 July 2018.

_____. "Chronology". In: *Official website of Harmony with Nature*, 2018 a.

_____. *Concept Note – Interactive Dialogue of the General Assembly on Harmony with Nature to Commemorate International mother Earth Day*, 22 April 2014. Available at: <http://files.harmonywithnatureun.org/uploads/upload22.pdf>. Accessed 03 July 2018.

_____. "Earth Jurisprudence". In: *Official website harmony with nature*, 2018 b. Available at: <http://www.harmonywithnatureun.org/ejInputs/>. Accessed 29 March 2018.

_____. "Eighth Interactive Dialogue of the General Assembly on Harmony with Nature". In: *Official website harmony with nature*, 2018 c. Available at: <http://www.harmonywithnatureun.org/dialogue/DNCzR6PJDcB6hYy02XhOfoGWvo3+OkI4rfsRcPLYjxp7AOOsxNb64p38O3irLC9dCSf5o+NdASHDnBIPpWKhcw>. Accessed 03 July 2018.

_____. "General Assembly of United Nations/Main Committees". In: *Official website of the General Assembly,* 2018 d. Available at: <http://www.un.org/en/ga/maincommittees/index.shtml>. Accessed 04 April 2018.

_____. "General Assembly of United Nations/Main Committees/Second Committee". In: *Official website General Assembly*, 2018 e. Available at: <http://www.un.org/en/ga/second/index.shtml>. Accessed 09 April 2018.

_____. "Home". In: *Official website harmony with nature*, 2018 f. Available at: <http://www.harmonywithnatureun.org/>. Accessed 28 April 2018.

UNITED NATIONS DEPARTMENT OF PUBLIC INFORMATION. In: *The Millennium Development Goals,* 2000. Available at: <http://www.un.org/en/mdg/summit2010/pdf/List%20of%20MDGs%20English.pdf>. Accessed 30 April 2018.

UNITED NATIONS GENERAL ASSEMBLY (UNGA). *Official Records – 80th plenary meeting,* 22 April 2009 a, A/63/PV.80,. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/63/PV.80&referer=/english/&Lang=E>. Accessed 07 April 2018.

_____. *Report of the Secretary General*. Adopted by General Assembly, on 19 August 2010 a, A/65/314. Available at: <http://undocs.org/A/65/314>. Accessed 29 April 2018.

_____. *Report of the Secretary-General.* Adopted by the General Assembly, on 15 August 2011 a, A/66/302. Available at: <http://undocs.org/en/A/66/302>. Accessed 01 July 2018.

_____. *Resolution 64/196 - Harmony with Nature.* Adopted by the General Assembly at its 64th meeting, on 21 December 2009 b, A/RES/64/196. Available at: <http://undocs.org/A/RES/64/196>. Accessed 07 April 2018.

_____. *Resolution 65/164 - Harmony with Nature.* Adopted by the General Assembly at its 65th meeting, on 20 December 2010 b, A/RES/65/164. Available at: <http://undocs.org/A/RES/65/164>. Accessed 07 Apr 2018.

_____. *Resolution 66/204 - Harmony with Nature.* Adopted by the General Assembly at its 66th meeting, on 22 December 2011 b, A/RES/66/204. Available at: <http://undocs.org/A/RES/66/204>. Accessed 27 May 2018.

_____. *Resolution 70/1- 2030 Agenda.* Adopted by the General Assembly at its 70th meeting, on 21 October 2015, A/RES/70/1. Available at: <http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E>. Accessed 28 May 2018.

_____. *Resolution 72/223 – Harmony with Nature.* Adopted by the General Assembly on 20 December 2017, A/RES/72/223. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/72/223&referer=http://www.harmonywithnatureun.org/unDocs/&Lang=E>. Accessed 03 July 2018.

WORLD COMMISSION ON ENVIRONMENT AND DEVELOPMENT. *Report of the World Commission on Environment and Development: Our Common Future,* 1987. Available at: <http://www.un-documents.net/our-common-future.pdf>. Accessed 22 April 2018.

CHAPTER 11

WATER FOR SUSTAINABLE DEVELOPMENT

United Nations General Assembly Summit

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Introduction

The preamble of the United Nations (UN) Charter states the commitment of its Member States with the promotion of "social progress and better life conditions in larger freedom" and, for that, to "employ international machinery for the promotion of the economic and social advancement of all peoples" (UNITED NATIONS, 1945, p. 3). In order to fulfill these objectives, guaranteeing the access and the protection of water for all is of upmost importance.

Nowadays, the world lives in a global water crisis, both in terms of drinking water and basic sanitation. Drinking water is defined as water used for personal consumption, hygiene and food preparation. While basic sanitation is defined as "facilities that ensure hygienic separation of human excreta from human contact", which include "flush or pour-flush toilet/latrine to a piped sewer system, a septic tank or a pit latrine; ventilated improved pit latrine; pit latrine with slab; and composting toilet" (UNITED NATIONS, 2014 a).

There are 844 million people worldwide without access to safe drinking water; and 2.3 billion people are living without improved sanitation. Women and children are the most affected by this water crisis, increasing their vulnerability to diseases and poverty. Many regions around the world are also facing a health and an economic crisis due to the lack of safe water and sanitation (WATER.ORG, 2018).

In the last decade, the United Nations and its Member States have focused on improving water accessibility, increasing sanitation facilities and protecting water from pollution. For the New Water Decade (2018-2028), the focus is to achieve the Sustainable Development Goal 6 and its targets, guaranteeing the availability and the sustainable management of water and sanitation for all.

In order to discuss the importance of water for sustainable development, this chapter is divided as follows: firstly, it will discuss the United Nations General Assembly (UNGA) and its functions. Secondly, it presents the international efforts to protect water as a natural resource (1970-1980) and the access of clean water as a development goal (1990-2000). Thirdly, it analyses the achievements of the International Decade for Action: "Water for Life" (2005-2015), highlighting the recognition of water as a human right. Fourthly, it discusses the 2030 Agenda, the main challenges for the implementation of SDG 6 and the efforts of the New Water Decade to accelerate the fulfillment of this goal. Finally, the chapter concludes with some questions for discussion.

The United Nations General Assembly and the importance of its Summits

The United Nations (UN) was established in 1945, based upon the principles of cooperation and peace among nations. The United Nations General Assembly (UNGA) is the major deliberative and policy-making organ of the UN, since, as defined by the Article 9 of the UN Charter, it is composed by all its Member States (UNITED NATIONS, 1945, p. 4).

According to Chapter IV of the UN Charter, the UNGA has an open agenda and can discuss any questions or matters under its powers (including recommendations to the United Nations Security Council on issues related to international peace and security). It is also responsible for approving the organization's budget; assigning non-permanent members to the United Nations Security Council; and instituting subsidiary organs (UNITED NATIONS, 1945, pp. 4-6).

Due to the wide range of topics under its consideration, the work of the UNGA is divided into six main Committees or Commissions, that deliberate about the following issues: Disarmament and International Security (First Committee); Economic and Financial (Second Committee); Social, Cultural and Humanitarian (Third Committee); Special Political and Decolonization (Fourth Committee); Administrative and Budgetary (Fifth Committee); and Legal (Sixth Committee). The commissions are the place where the UNGA accomplishes most of its work, holding regular annual sessions in which Member States discuss the many topics on the agenda (PETERSON, 2009, pp. 99-100).

Regarding its power of decision, Article 11 states that the UNGA has the power of making recommendations in the format of resolutions. The recommendatory character

of its decisions means that all measures are not legally binding, and their implementation is under the responsibility and willingness of each Member State. That is the reason why the decision-making process is so important in the UNGA. Article 18 establishes that the Assembly approves its resolutions by vote; considering that each Member State has one vote, it requires a single majority for approving regular questions and a two-thirds majority for approving special matters. However, due to the recommendatory character of its decisions, reaching consensus has become crucial, because it shows that all nations are committed to implement what has been agreed on (UNITED NATIONS, 1945, pp. 4-6; PETERSON, 2009, p. 102).

In order to facilitate the negotiations and the consensus, Member States usually align themselves into different political and regional groups with the intent to coordinate their position and expand their power of negotiation. Some political groups in the UNGA are the Group of 77 + China (G77 + China), the Least Developed Countries (LDCs), the Caribbean Community (CARICOM), the Alliance of Small Island States (AOSIS), the Association of Southeast Asian Nations (ASEAN), the European Union (EU) and the group of Japan, United States, Canada, Australia and New Zealand (JUSCANZ) (UNITED NATIONS, 2018 a).

When it sees necessary, the UNGA, in the figure of the Secretary-General, may convoke a special session to discuss a problem or a topic that is not on the agenda of its regular session (UNITED NATIONS, 1945, p. 6). That is the case of the General Assembly Summits, which are special sessions held as high-level meetings in which Member States aim at raising the profile of a topic in the international agenda (UNITED NATIONS, 2017).

Reaching consensus in a UNGA Summit by the coordination of the political and regional groups is of utmost importance, since Member States need to reach a common goal and take collective action on the topic they intent to address. In the particular case of the issue under discussion, Water for Sustainable Development, Member States are urged to focus on proposals to help all people who do not have access to clean water and sanitation and solve the water crisis. This is a topic with a long history at the UNGA, as we will present in the next session.

From the protection of a natural resource to a development goal

The topic of water has been part of the UN agenda since the 1970s, when the international community became aware of global environmental problems. In this section,

we will discuss the evolution of this debate in two major periods: the first one, during the 1970s and 1980s, when the discussion about water was introduced in the UNGA agenda, with the perspective of protecting water as natural resource. The second one comprehends the period from the 1990s to the new century, when water was addressed as a global development goal.

The protection of the water as a natural resource (1970-1980)

The discussion about water has been in the UN agenda since the adoption of the Declaration of Stockholm on the Human Environment, which was the final document of the United Nations Conference on the Human Environment, held in Stockholm, in 1972. The declaration indicated the need to safeguard water as a natural resource to benefit present and future generations through the control of pollution and the improvement of sanitation. The Declaration defined that the establishment of water management programs was key to the achievement of this objective, putting water supply as a priority area for governments (UNITED NATIONS, 1972, pp. 3-4; pp. 6-8).

The Stockholm Conference also adopted a Plan of Action, which contained important recommendations on the subject. Recommendation 9 indicated that the World Health Organization should help governments to improve water supply and sewerage services. Recommendation 10 focused on guaranteeing that the development assistance from developed countries to developing ones would finance initiatives to the conservation of water. Recommendation 53 asked the Secretary-General to take steps to warrant that the UN system was ready to provide technical and financial support to governments regarding management of water resources, including administration and policies, laws and legislations, economic structures, implementation of technology and more efficient use and re-use of limited supplies (UNITED NATIONS, 1972, p. 8; p. 18).

The Stockholm Declaration and Plan of Action gave thrust to the first UN Water Conference, held in 1977 in Mar del Plata. The main goal of the conference was to avoid a global crisis regarding water, by assessing water resources and improving water efficiency in terms of use and quality. In its action plan, Member States continued focusing on integrated water resources management (UNITED NATIONS, 1977; O'ROURKE, 1992, p. 1929).

The UN Water Conference led to a new decade with stronger recommendations regarding water and sanitation. In the 1980s, the protection of the water as a natural resource was leveraged by the International Drinking Water Supply and Sanitation

Decade (IDWSSD), which covered the period of 1981-1990. The objective of this Decade, according to the resolution A/RES/35/18, of 10 November 1980, was to "assume a commitment to bring about a substantial improvement in the standards and levels of services in drinking water supply and sanitation by the year 1990" (UNITED NATIONS GENERAL ASSEMBLY, 1980, p. 101). The UNGA urged Member States that had no policies regarding water to set targets and to mobilize resources for the creation of water management systems. To those governments that had policies on the area the Assembly recommended their further expansion, by including education and public programs. Together with other UN entities, developed and developing countries should increase their technical and financial cooperation to achieve the Decade's goals (UNITED NATIONS GENERAL ASSEMBLY, 1980, p. 101).

Unfortunately, the goals of this decade were not fully achieved, because of two problems. The first was that water was not addressed in an integrated way: the decade focused only on the 7% of freshwater that was used for domestic purposes, instead of dealing with the pool of water resources in the planet. The second problem was regarding implementation. Since water supply and sanitation were seen as a component in the areas of health and environmental protection, the UN entities and governments focused their work on more traditional interventions, such as immunization, oral rehydration and the creation of infrastructure, instead of policies directly related to water and sanitation (O'ROURKE, 1992, p. 1929).

Despite the problems faced, the decade was able to set, for the first time, a global approach to the water and sanitation sectors, establishing the major guiding principles for years to come. For example, one important principle was to find specific solutions for different types of developing countries, not defying a general package deal. In addition, the decade was able to promote greater focus on policies, legislation, institutional capacity and decentralization. These achievements were fundamental to expand the access to clean water as a development goal in the 1990s (O'ROURKE, 1992, pp. 1929-1930; p. 1937).

The access of clean water as a development goal (1990-2000)

The understanding that the world needed urgent measures to protect the environment was the cornerstone of the United Nations Conference on Environment and Development, also known as the Earth Summit or the Rio Summit, held in Rio de Janeiro, Brazil, in 1992. The Rio Declaration adopted a cornerstone principle in the area of sustainable

development: "common but differentiated responsibilities". This principle considers that all countries, together, are responsible for the sustainable development, but these responsibilities are different between developing and developed countries, due to their different capacities. On one hand, developing countries should consider the environmental protection in their development process. On the other hand, developed countries should increase their financing and sharing of technology in order to help developing countries to achieve the sustainable development (UNITED NATIONS GENERAL ASSEMBLY, 1992).

Based on the principle of common but differentiated responsibilities, the representatives present in the Rio Summit agreed, by consensus, on the Agenda 21, a plan of action that defined priorities for the promotion of sustainable development in the new century to come. The agenda defined the need of a global partnership involving the international community in four main areas: economic and social dimensions of sustainable development; conservation and management of resources for development; strengthening of major groups, such as women, children, non-governmental organizations, trade unions, businesses and the scientific and technological community; and means of implementation (UNITED NATIONS, 1992, pp. 1-2).

Chapter 18 of the Agenda 21 set the commitments for the area of water resources. Considering that climate change and atmospheric pollution could harm water resources and its availability, the general objective of chapter 18 was to make sure that both quality and quantity of water supplies were preserved for the entire world. For that, the Agenda 21 expanded the notion of water conservation, focusing not only on potable water as it was in the IDWSSD during the 1980s, but in all water resources and related ecosystems (UNITED NATIONS, 1992, p. 196).

To reach the objectives of chapter 18, the concept of integrated planning and management of water resources was key in the Agenda 21. It is defined as "a process which promotes the coordinated development and management of water, land and related resources, in order to maximize the resultant economic and social welfare in an equitable manner without compromising the sustainability of vital ecosystems" (UNITED NATIONS, 2014 b). In order to improve the integrated planning and management of water, the Agenda proposed a program regarding seven major areas:

- Area 1: Improve integrated water management with the objective of satisfying the water need of all nations, based on their capabilities and capacities;
- Area 2: Ensure the proper evaluation of the water resources quality and quantity;

- Area 3: Protection and management of water resources and ecosystems;
- Area 4: Supply of proper water and sanitation for all;
- Area 5: Improve government's efforts and capacities in the management of water use in urban areas;
- Area 6: Integrated water management in rural areas in order to promote the sustainable production of food and rural sustainable development;
- Area 7: combat the negative effects of climate change on water resources (UNITED NATIONS, 1992 b, pp.196-224).

With the turn of the century, water as a global issue gained a new momentum with the Millennium Summit, held in the UN headquarters in New York, in the year 2000. The UNGA unanimously adopted the Millennium Declaration and the Millennium Development Goals (MDGs) in its resolution A/RES/55/2, of 8 September 2000. The MDGs encompassed eight development targets that should be achieved by developing countries by the end of 2015 (UNITED NATIONS GENERAL ASSEMBLY, 2000).

The MDG 7, entitled "Ensure environmental sustainability", referred to the sustainable management of natural resources to ensure the achievement of social, economic and environmental needs to all people. In order to do so, Member States committed themselves to tackle problems such as climate change, conflicts over access to resources, and increased water scarcity. The third target related to the MDG 7 stated that, by 2015, the rate of people without access to safe drinking water and basic sanitation sectors should be reduced by half. For that, the indicator 7.8 measured the proportion of the population with access to improved drinking water sources (MDG MONITOR, 2016; UNITED NATIONS STATISTICS DIVISION, 2008).

In 2003, the UN celebrated the International Year of Freshwater, as defined by the UNGA in its resolution A/RES/55/196 of 20 December 2000. The celebration of this year had the objective of increasing "(…) awareness of the importance of freshwater and to promote action at the local, national, regional and international levels" (UNITED NATIONS GENERAL ASSEMBLY, 2001, pp. 1-2). In order to enhance its efforts, the UN Water was created in this same year. The UN-Water is a mechanism with the purpose of coordinating the work of the UN itself and its many programs, funds, specialized agencies, and Bretton Woods Institutions, in the area of sustainable management of water and sanitation, especially for the implementation of Agenda 21 and the targets of MDG 7 (UNITED NATIONS WATER, 2018 a).

In 2004, a new indicator for the MDG 7 was created: the indicator 7.9 measured the proportion of population using an improved sanitation facility. This was a major achievement, because so far this MDG had not mentioned the question of sanitation. The inclusion of this new indicator was the result of the discussions in the 2002 World Summit on Sustainable Development, in Johannesburg. Among various measures for the promotion of sustainable development, the Johannesburg Declaration on Sustainable Development expanded the global commitment for increasing the access to basic sanitation (UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND; WORLD HEALTH ORGANIZATION, 2015, p. 34; UNITED NATIONS, 2002, p. 3).

The International Decade for Action: "Water for Life" (2005-2015)

After the Millennium Summit and the Johannesburg Conference, global measures in order to address water and sanitation problems gained strength since the UNGA declared the period from 2005 to 2015 as the International Decade for Action, "Water for Life", by its Resolution A/RES/58/217, of 23 December 2003. The decade started on the World Water Day on 22 March 2005, with the focus on the implementation of programs and projects for a sustainable management of water resources and improving the infrastructure for sanitation (UNITED NATIONS GENERAL ASSEMBLY, 2003).

The UN-Water was responsible for coordinating all the actions under the Decade, and its work was divided in two programmes: the UN-Water Decade Programme on Advocacy and Communication (UNW-DPAC) and the UN-Water Decade Programme on Capacity Development (UNW-DPC). The mission of the UNW-DPAC was to ensure the availability of data and information in order to facilitate the implementation of the actions. The programme also developed campaigns with the objective of raising global awareness for the water and sanitation agenda. The function of UNW-DPC was to create capacity with the objective of achieving the MDGs and its targets related to water and sanitation. The creation of capacity was focused on thematic areas of importance, including gender, sanitation, drinking water and health, climate change, transboundary waters and water scarcity, among others (UNITED NATIONS DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS, 2005; UNITED NATIONS OFFICE TO SUPPORT THE INTERNATIONAL DECADE FOR ACTION 'WATER FOR LIFE', 2010, p. 6).

In the 2000s, over 1.1 billion people worldwide lacked access to sanitation and hygiene, being the poorest and vulnerable people the most affected ones. To fight against this sanitation gap, the UNGA adopted the Resolution A/RES/61/192, on 20 December 2006,

establishing the International Year of Sanitation in 2008. In order to complement these efforts, the Secretary-General launched, in June 2011, a campaign called the "Sustainable Sanitation: The Five-Year Drive to 2015". Besides, the UNGA adopted the Resolution A/RES/67/291, on 24 July 2013, in which it designated the date of 19 November as the World Toilet Day. The objective of this date was to encourage Member States to create infrastructure of sanitation access to the vulnerable and poor population and to eradicate the existence of open defecation (UNITED NATIONS GENERAL ASSEMBLY, 2007, p. 2; WORLD HEALTH ORGANIZATION, 2011; UNITED NATIONS GENERAL ASSEMBLY, 2013, pp. 2-3).

Besides, the Assembly considered that greater cooperation among different stakeholders – UN entities, governments, civil society, communities and companies – was needed in order to achieve the goals included on the Agenda 21, the Millennium Declaration and the Johannesburg Plan of Implementation by 2015. To address this concern, on 20 December 2010, the UNGA adopted the Resolution A/RES/65/154, in which it declared the year of 2013 as the International Year of Water Cooperation UNITED NATIONS GENERAL ASSEMBLY, 2011, p. 2).

By the end of the International Decade for Action: "Water for Life", important results were achieved. In terms of positive impact, 91% of the global population had access to an improved drinking water source, achieving 96% in urban areas and 84% in rural areas. On the other hand, by the end of 2015, over 600 million people still did not have access to improved drinking water sources; 2.4 billion people worldwide still relied on unimproved safe drinking water and more than 900 million people still practiced open defecation (UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND; WORLD HEALTH ORGANIZATION, 2015, p. 2; p. 4).

Water as a Human Right

One of the greatest achievements of the International Decade for Action: "Water for Life" was the recognition of water as a human right. The first discussion about water as a human right took place in 2002, at the Committee on Economic, Social and Cultural Rights of the United Nations Economic and Social Council (ECOSOC). In its General Comment no. 15, the Committee approached the connection between water and human rights. Water was defined as a limited resource and due to that, the Committee recognized it as a universal right in the following terms: "The human right to water entitles everyone to sufficient, safe, acceptable physically accessible and affordable water for personal and domestic uses" (UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL, 2003, p. 2).

There are three aspects to the right to water: availability, quality and accessibility. Availability means that there must be sufficient water for ingestion, personal hygiene, domestic cleaning and food preparation. Quality refers to water safety, which means that the water must be clean, free from microorganisms and with appropriate odor, transparency and taste. Accessibility is divided in four areas. The first one is physical accessibility, which means that all people must have an immediate, safe and easy physical access to water. The second one is economic accessibility, which means that water must be affordable for all, and the charges for accessing water should not compromise people's rights. The third one is information accessibility, which means that all people must participate in the decision-making processes that could affect their right to water. The fourth one is the principle of non-discrimination, which means that water resources must be available for all, including the marginalized ones and the most vulnerable groups (UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL, 2003, pp. 5-6).

The ideas discussed in the General Comment no. 15 were adopted by the UNGA in its Resolution A/RES/64/292, of 2 December 2009, in which the human right to water and sanitation was recognized. This resolution was a major step in order to reinforce the responsibility attributed to all States to provide and protect this right among all other human rights (UNITED NATIONS GENERAL ASSEMBLY, 2010).

Regarding the international human rights law, the obligations of States in order to ensure the access to safe drinking water are divided into three categories: the obligation to respect, the obligation to protect and the obligation to fulfill. In the obligation to respect, States cannot interfere, directly or indirectly, on the right to water enjoyment. For example, States cannot pollute water resources or reduce, illegally disconnect or destroy the access to water and sanitation services. The obligation to protect means that States must take measures to prevent actors from the private sector from interfering on the right to water. This can be done, for example, by the implementation of legislation to make companies respect the right to water. The obligation to fulfill compels States to take appropriate measures to totally ensure the right to water, for example, through water management programs (UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS; UN HABITAT; WORLD HEALTH ORGANIZATION, 2010, pp. 27-28).

In practical terms, the right to water means not only guaranteeing the access to clean water and sanitation but also creating conditions for the fulfillment of other human rights. Without water, people cannot fully enjoy their rights to life, adequate housing,

education, food, health, work and cultural life. To the UN, it meant a new responsibility of allocating greater resources and mechanisms to promote this right and monitor its progress to ensure its realization. In sum, the formal recognition of water as a human right was a fundamental step to the constitution of a better and sustainable future for all, as it was recognized in the post-2015 UN development agenda.

The 2030 Agenda: Water for Sustainable Development and its challenges

After the deadline for the implementation of the MDGs, Member States decided that a new Agenda was necessary to continue the global efforts in promoting sustainable development. The UNGA adopted, in its 70th session, the resolution A/RES/70/1, of 25 September 2015, entitled "Transforming our world: the 2030 Agenda for Sustainable Development". The document entails the concept of sustainable development, defined by its three pillars, which are economic development, social development and environmental protection. The 2030 Agenda is composed by 17 Sustainable Development Goals (SDGs) and 169 targets. Among them, it is important to highlight the SDG 6, that is regarding an integrated management of clean water and sanitation, with the objective to "ensure availability and sustainable management of water and sanitation for all" (UNITED NATIONS GENERAL ASSEMBLY, 2015, p. 18).

Differently from the MDGs, in which water and sanitation were just a target, in the 2030 Agenda this issue is a global goal in itself. The SDG 6 has 8 ambitious targets that should be achieved by 2030 (except for the target 6.6, which should be achieved by 2020). Target 6.1, "Achieve universal and equitable access to safe and affordable drinking water for all" has as main challenge the reduction in the number of people who do not have access to safe drinking water. In 2015, 3 out of 10 people worldwide did not have access to safe drinking water. The least developed countries and the landlocked developing countries are the most affected by this problem, especially in sub-Saharan Africa. Another challenge is guarantee the physical access to water, especially to the poor, women and children, who are the most vulnerable ones. It is estimated that 263 million people worldwide spend more than 30 minutes per trip in order to fetch water (WORLD HEALTH ORGANIZATION; UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND, 2017, p. 3; UNITED NATIONS WATER, 2015).

Target 6.2, "Achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations", tackles the problems of open defecation, lack of sanitation services and hygiene facilities. In, 2015, 3 out of 5 people did not use safely managed sanitation services and almost 900 million people worldwide practiced open defecation. In least developed countries, 47% of their population lack basic handwashing facilities. The main challenge is to create cheap and reliable services and infrastructure through an integrated water and sanitation management (WORLD HEALTH ORGANIZATION; UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND, 2017, pp. 4-5; UNITED NATIONS WATER, 2015).

Target 6.3, "Improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally", addresses health and environment problems related to the contamination and pollution of water. In terms of global health, 1 out 4 people uses contaminated water sources, which are responsible for many diseases, such as cholera, dysentery, typhoid and polio: a child dies every 15 seconds from a water related disease. In terms of the protection of the environment, 80% of wastewater worldwide has returned to the ecosystems untreated. Only 27% of global population has access to sewers connected to waste treatment. To solve these problems, it is necessary to increase sewage and water treatment facilities, and use affordable technologies to improve the reuse of water (UNITED NATIONS WATER, 2015; WORLD HEALTH ORGANIZATION; UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND, 2017, p. 4).

Target 6.4, "Substantially increase water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water scarcity and substantially reduce the number of people suffering from water scarcity", encompasses two mains issues: the use of water by different economic sectors; and the situation of water stress. The economic sectors that use the most quantity of water are the agricultural sector, with 70% of water use; followed by the industry, with 20% (the other 10% is the use by domestic households). Not to mention that 8% of freshwater worldwide is used for the production of energy and about 11% of this water is not returned to its source. It is necessary to change the pattern of water consumption in order to solve the situation of water stress worldwide, which affected more than 2 billion people globally in 2017. The

regions with higher water stress levels (60%) are Northern Africa and Western Asia and they might face water scarcity in the following years (UNITED NATIONS ENVIRONMENT PROGRAMME, 2014, p. 1; UNITED NATIONS WATER, 2015).

Target 6.5, "Implement integrated water resources management at all levels, including through transboundary cooperation as appropriate", focuses on a policy level, both domestic and international. Integrated water resources management is a policy advocated by the UN since the 1970s, but in the XXI century, it needs to be better defined in order to balance the water needs of the economy, society and environment. In 2012, only 65% of 130 countries reported to the UN that water management policies were being set at national level (UNITED NATIONS, 2018 b). Greater challenges are posed at international level, since most of the water resources worldwide are shared between two or more countries: 145 States' territories are located within transboundary lakes or river basins. This makes transboundary cooperation crucial, especially to avoid international conflict over water. According to UN-Water, "since 1948, there have been 37 incidents of acute conflict over water, while approximately 295 international water agreements were negotiated and signed in the same period" (UNITED NATIONS WATER, 2018 b).

Target 6.6, "Protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes", is focused on the protection of the environment against the effects of urbanization and climate change. Nowadays, more than half of the global population live in urban areas, putting greater stress over or even destroying surrounding ecosystems. Regarding climate change, UN-Water predicts that "by 2030, water scarcity in some arid and semi-arid places will displace between 24 million and 700 million people" (UNITED NATIONS WATER, 2018 c). Climate change is also affecting food security, especially in Sub-Saharan Africa, where 30 to 60 million hectares of land may become unsuitable for agriculture by 2080. To overcome these problems, countries have to undertake active measures to reduce CO2 emissions and to commit themselves to the targets established in the Paris Agreement (UNITED NATIONS WATER, 2018 c; 2018 d).

The target 6.A, "Expand international cooperation and capacity-building support to developing countries in water- and sanitation-related activities and programmes, including water harvesting, desalination, water efficiency, wastewater treatment, recycling and reuse technologies", highlights the important role of international cooperation in order to achieve all the targets under SDG 6. Transfer of technology and financing are key. In 2015, official development assistance related to water summed US$ 8.6 billion,

corresponding to about 7% of total flows. However, many countries with urgent needs in terms of water and sanitation infrastructure have been receiving very few assistance (less than US$ 2 per capita annually), and a greater effort is necessary to destine appropriate finance to countries that are most in need (UNITED NATIONS, 2018 b).

The target 6.B, "Support and strengthen the participation of local communities in improving water and sanitation management", stresses the need to involve all stakeholders in the fulfillment of SDG 6. Considering water as a human right, all groups and communities need to take part in the decision-making process related to the access of water and sanitation, including the most vulnerable groups.

In order to accelerate the implementation of the SDG 6 and its 8 targets, the UNGA, by its resolution A/RES/71/222, of 21 December 2016, proclaimed the period between 2018 to 2028 as the International Decade for Action, "Water for Sustainable Development". The decade has three objectives: promote sustainable development by the integrated management of water resources; implement projects and programs in this area, especially by scaling up successful solutions and initiatives; and advocate for greater partnerships to achieve the targets of SDG 6 (UNITED NATIONS GENERAL ASSEMBLY, 2016, pp. 3-4).

It is also important to emphasize the participation of the United Nations Secretary-General (UNSG) António Guterres in the promotion of this new decade. He released an action plan in order to accelerate the fulfillment of the decade's objectives, focused on four work streams. The first one aims at sharing and exchanging information regarding good practices. The second one focuses on the conduction of scientific research projects that are related to the SDGs. The third one refers to the promotion of advocacy campaigns, alongside the promotion of agreements and partnerships. The fourth one seeks the collaboration between governments, the UN, civil Society, private sectors and financial institutions to facilitate the implementation of the decade's goals (UNITED NATIONS SECRETARY GENERAL, 2017, pp. 3-5).

Conclusion

The discussion about water in the UN system has evolved from being treated as a natural resource that needed to be protected in the 1970s and 1980s, to being considered a development goal that needed to be accessible to all people in the 1990s and 2000s. After being recognized as a basic human right in 2010, there has been a global commitment to provide access to clean water and sanitation for all under the 2030 Agenda and its SDG 6.

Despite these efforts, the world continues to face a water crisis. Water related problems have been mapped, but now is time to scale up fast, affordable and reliable solutions. In order to do so, firstly it is necessary to improve integrated water resources management at national and international levels, by developing a holistic approach to water supply, sanitation and combat climate change.

Secondly, it is necessary to give a human rights approach to these management policies. After all, without water and sanitation, it will not be possible to fulfill other human rights, such as reducing poverty, promoting sustainable economic growth, improving education, guaranteeing fundamental freedoms, among others. The human rights approach is also important to improve the situation of those regions most in need, such as Sub-Saharan Africa and Western Asia, and the least developing countries.

Thirdly, it is necessary to guarantee water and sanitation in an inclusive and non-discriminatory way. For that, strengthened partnerships among various stakeholders, such as international organizations, governments, non-governmental organizations and private sector, not to mention the importance of incorporating specific groups, such as women, children, refugees, native and poor people from urban and rural areas.

These measures shall be discussed during the United Nations General Assembly Summit, with the objective to all UN Member States to reach a global cooperation to make the necessary changes to achieve all goals related to water and sanitation. There are three questions to be addressed in the Summit:

1. How can the UN support Member States to promote more efficient integrated water resources management systems, aligning national policies to the targets set under the SDG 6?
2. How can the UN help Member States to systematize water and sanitation solutions that can be scaled-up, transferred and adapted to different countries and regions, such as the least developing countries and the regions facing water stress?
3. What are the specific measures that Member States must take in order to guarantee water as a human right for all and especially to vulnerable groups?

References

MDG MONITOR. "MDG 7: Ensure Environmental Sustainability". In: *Official website of MDG Monitor,* 2016. Available: <http://www.mdgmonitor.org/mdg-7-ensure-environmental-sustainability/>. Accessed 11 April 2018.

O'ROURKE, E. "The International Drinking Water Supply and Sanitation Decade: Dogmatic Means to a debatable end". In: *Water Science & Technology,* 01 October 1992. Available at: <https://www.ircwash.org/sites/default/files/202.3-92IN-19105.pdf>. Accessed 5 April 2018.

PETERSON, M. J. "General Assembly". In: DAWS, S; WEISS, T.G. (eds.). *The Oxford Handbook on the United Nations.* Oxford: Oxford University Press, 2009, pp. 98-113.

UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL (ECOSOC). *The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights).* Committee on Economic, Social and Cultural Rights, General Comment No. 15 (2002), 20 January 2003, E/C.12/2002/11. Available at: <http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf>. Accessed 08 July 2018.

UNITED NATIONS (UN). "Access to sanitation". In: *Official website of United Nations,* 23 October 2014 a. Available at: <http://www.un.org/waterforlifedecade/sanitation.shtml>. Accessed 20 May 2018.

_____.*Agenda 21*. United Nations Conference on Environment & Development. Rio de Janeiro, 3-14 June 1992. Available at: <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf>. Accessed 30 March 2018.

_____. *Charter of the United Nations and Statute of the International Court of Justice.* San Francisco, 1945. Available at: <https://treaties.un.org/doc/Publication/CTC/uncharter.pdf>. Accessed 30 March 2018.

_____. "Groups of Member States". In: *Official website of United Nations,* 2018 a. Available at: <https://outreach.un.org/mun/content/groups-member-states>. Accessed 23 May 2018.

_____. "Integrated Water Resources Management". In: *Official website of the International Decade for Action Water for Life 2005-2015,* 24 November 2014 b. Available at: <http://www.un.org/waterforlifedecade/iwrm.shtml>. Accessed 29 April 2018.

_____. *Report of the United Nations Conference on the Human Environment*. Stockholm, 5-16 June 1972, A/CONF.48/14/Rev.1. Available at: <https://undocs.org/A/CONF.48/14/Rev.1>. Accessed 30 March 2018.

_____. *Report of the United Nations Water Conference.* Mar del Plata, 14-25 March 1977, E/CONF.70/29. Available at: <http://undocs.org/E/CONF.70/29>. Accessed 29 April 2018.

_____. *Report of the World Summit on Sustainable Development.* Johannesburg, 26 August-4 September 2002, A/CONF.199/20*. Available at: <https://undocs.org/A/CONF.199/20>. Access in: 29 April 2018.

_____. "Special sessions". In: *Official website of the General Assembly of the United Nations,* 2017. Available at: <http://www.un.org/en/ga/sessions/special.shtml>. Accessed 30 March 2018.

_____. "Sustainable Development Goal 6 – Ensure availability and sustainable management of water and sanitation for all". In: *Official website of the UN Sustainable Development Knowledge Platform*, 2018 b. Available at: <https://sustainabledevelopment.un.org/sdg6>. Accessed 08 July 2018.

UNITED NATIONS DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS (UNDESA). "About the Decade". In: *Official website of United Nations,* 2005. Available at: <http://www.un.org/waterforlifedecade/background>. Accessed 01 May 2018.

UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP). *Water and Energy Efficiency*. Water for Life Decade Information brief, 2014. Available at: <http://www.un.org/waterforlifedecade/pdf/01_2014_water_energy_efficiency.pdf>. Accessed 08 July 2018.

UNITED NATIONS GENERAL ASSEMBLY (UNGA). *International Decade for Action, "Water for Life", 2005-2015.* Resolution adopted by the General Assembly as its 58th session, on 23 December 2003, A/RES/58/217. Available at: <http://www.un-documents.net/a58r217.htm>. Accessed 26 April 2018.

_____. *International Decade for Action, "Water for Sustainable Development", 2018–2028.* Resolution adopted by the General Assembly at its 71st meeting, on 21 December 2016, A/RES/71/222. Available at: <https://undocs.org/A/RES/71/222>. Accessed 29 April 2018.

_____. *International year of Fresh Water.* Resolution adopted by the General Assembly in the 55th session, on 1 February 2001, A/RES/55/196. Available at: <http://undocs.org/A/RES/55/196>. Accessed 29 April 2018.

_____. *International Year of Sanitation, 2008.* Resolution adopted by the General Assembly as its 61st session, on 6 February 2007, A/RES/61/192. Available at <https://undocs.org/A/RES/61/192>. Accessed 28 April 2018.

_____. *International Year of Water Cooperation, 2013.* Resolution adopted by the General Assembly as its 65th session, on 11 February 2011. Available at <https://undocs.org/A/RES/65/154>. Accessed 29 April 2018.

_____. *Proclamation of the International Drinking Water Supply and Sanitation Decade.* Resolution adopted by the General Assembly at its 49th meeting, on 10 November 1980, A/RES/35/18. Available at: <http://undocs.org/en/A/RES/35/18>. Accessed 29 April 2018.

_____. *Rio Declaration on Environment and Development*. Report of the United Nations Conference on Environment and Development. Rio de Janeiro, 3-14 June 1992, A/CONF.151/26 (Vol. I). Available at: <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>. Accessed 30 April 2018.

_____. *Sanitation for all*. Resolution adopted by the General Assembly as its 67th session, on 1 August 2013, A/RES/67/291. Available at <https://undocs.org/A/RES/67/291>. Accessed 01 May 2018.

_____. *The human right to water and sanitation.* Resolution adopted by the General Assembly as its 64th session, on 3 August 2010, A/RES/64/292. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N09/479/35/PDF/N0947935.pdf?OpenElement>. Accessed 01 May 2018.

_____. *Transforming our world: the 2030 Agenda for Sustainable Development.* Resolution adopted by the General Assembly at its 70th meeting, on 25 September 2015, A/RES/70/1. Available at <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/1>. Accessed 29 April 2018.

_____. *United Nations Millennium Declaration.* Resolution adopted by the General Assembly in its 55th meeting, on 18 September 2000, A/RES/55/2. Available at: <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/55/2>. Accessed 29 April 2018.

UNITED NATIONS SECRETARY GENERAL. *United Nations Secretary-General's Plan: Water Action Decade 2018-2028.* New York, 2017. Available at: <http://www.wateractiondecade.org/wp-content/uploads/2018/03/UN-SG-Action-Plan_Water-Action-Decade-web.pdf>. Accessed 29 April 2018.

UNITED NATIONS STATISTICS DIVISION. "Millennium Development Goals". In: *Official website of the United Nations for the MDG Indicators,* 15 January 2008. Available at: <http://mdgs.un.org/unsd/mdg/host.aspx?Content=indicators/officiallist.htm>. Accessed 29 April 2018.

UNITED NATIONS WATER. "About United Nations Water". In: *Official website of the United Nations Water,* 2018 a. Available at: <http://www.unwater.org/about-unwater/>. Accessed 11 April 2018.

_____. "Transboundary waters". In: *Official website of UN Water,* 2018 b. Available at: <http://www.unwater.org/water-facts/transboundary-waters/>. Accessed 08 July 2018.

_____. "Water and Climate Change". In: *Official website of UN Water,* 2018 c. Available at: <http://www.unwater.org/water-facts/climate-change/>. Accessed 20 May 2018.

_____. *Water and sanitation – The pathway to a sustainable future.* UN-Water and Unilever, 2015. Available at: <https://www.pseau.org/outils/ouvrages/unilever_water_and_sanitation_the_pathway_to_a_sustainable_future_sdg_6_infographics_2015.pdf>. Accessed 21 May 2018.

_____. "Water and Urbanization". In: *Official website of UN Water,* 2018 d. Available at: <http://www.unwater.org/water-facts/urbanization/>. Accessed 20 May 2018.

UNITED NATIONS OFFICE TO SUPPORT THE INTERNATIONAL DECADE FOR ACTION 'WATER FOR LIFE'. *Biennial report of 2010-2011*. Zaragoza, Spain: United Nations Water Decade Programme on Advocacy and Communication, 2011. Available at: <http://www.un.org/waterforlifedecade/pdf/unwdpac_biennial_report_2010_2011.pdf>. Accessed 01 May 2018.

WATER.ORG. "Water crisis". In: *Official website of the Water.org,* 2018. Available at: <https://water.org/our-impact/water-crisis/>. Accessed 21 May 2018.

UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND (UNICEF); WORLD HEALTH ORGANIZATION (WHO). *Progress on sanitation and drinking water: 2015 update and MDG assessment.* Geneva: United Nations International Children's Emergency Fund (UNICEF) and World Health Organization (WHO), 2015. Available at: <https://books.google.com.br/books?id=KFA0DgAAQBAJ&pg=PA29&lpg=PA29&dq=mdg+target+7.9&source=bl&ots=l5Y9eH36pa&sig=u-HPU1msjxjt_lA-5sdwKWtdRnU&hl=pt-BR&sa=X&ved=2ahUKEwio3s7yhPraAhXNl5AKHXCIAy8Q6AEwBHoECAAQTQ#v=onepage&q=mdg%20target%207.9&f=false>. Accessed 20 May 2018.

UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (UNOHCHR); UN HABITAT; WORLD HEALTH ORGANIZATION (WHO). *The right to water.* Fact Sheet No. 35. Geneva: United Nations, 2010. Available at: <http://www.ohchr.org/Documents/Publications/FactSheet35en.pdf>. Accessed 01 May 2018.

WORLD HEALTH ORGANIZATION (WHO); UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND (UNICEF). *Progress on drinking water, sanitation and hygiene*. Geneva: World Health Organization (WHO), United Nations International Children's Emergency Fund (UNICEF), 2017. Available at: <https://www.unicef.org/publications/files/Progress_on_Drinking_Water_Sanitation_and_Hygiene_2017.pdf>. Accessed 20 May 2018.

WORLD HEALTH ORGANIZATION (WHO). "Water sanitation hygiene". In: *Official website of World Health Organization,* 2011. Available at: <http://www.who.int/water_sanitation_health/events/fiveyeardrivesanitation/en>. Accessed 01 May 2018.