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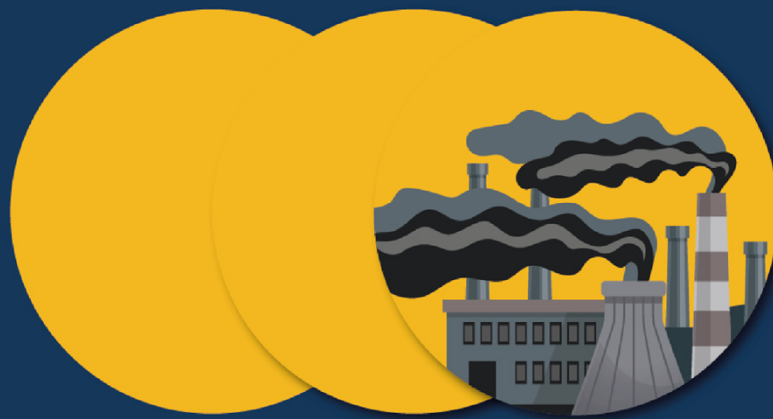
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The Impact of Transnational Regulatory Standards regarding the Control of Air Pollution on the Decisions of the US Supreme Court and the Supreme Court of Brazil in a Time of Populism

M.R. Staffen

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The Impact of Transnational Regulatory Standards regarding the Control of Air Pollution on the Decisions of the US Supreme Court and the Supreme Court of Brazil in a Time of Populism

*Márcio Ricardo Staffen**

Abstract

This scientific article analyses the arguments and opinions used by the US Supreme Court and the Supreme Court of Brazil about air pollution control and the influence of transnational legal foundations in times of populist governments. For the development of this research, the comparative method was used, operationalized by the operational concept techniques, bibliographic research, and jurisprudential analysis. The product of the succinct comparative analysis performed allows us to classify the decision-making standard in the case of *West Virginia v. EPA* completely uncharted to foreigner law, while the Direct Action of Unconstitutionality n. 6.148/2019, constantly mentions transnational legal agreements and, in the case of regulatory omission by the Brazilian State, indicates the prevalence of World Health Organization standards.

Keywords: Constitutional Courts – *West Virginia v. EPA*. ADI n. 6.148/2019 – Air Pollution Legal's Standards – Populism – Transnational Law.

CONTENTS: 1. Introduction. 2. Domestic Law regarding International Relations. 3. The US Supreme Court and the *West Virginia v. EPA* Case. 4. The Supreme Court and the Judgment of the Direct Action of Unconstitutionality no. 6.148/2019. 5. Final Considerations.

* Full Professor of Constitutional Law and Political Science at University of the Itajaí Valley - UNIVALI (Brazil). The essay was submitted to double blind peer-review. Member of the Editorial Staff who oversaw the essay: Christian Mosquera Arias.

1. Introduction

Starting from the premise that constitutional norms, in addition to governing sovereign States, together with rules of international law produce implications for transnational actors and claims, this article is dedicated to the analysis of the decision-making and persuasive reasons of the Constitutional Courts of the United States of America and of Brazil when considering the constitutionality of regulatory models on air quality and, consequently, on the environment, health and climate change.

Therefore, the function of the Courts responsible for guarding the Constitution also exceeds their territorial limits of jurisdiction. The Courts have effects in other States, in other Constitutional Courts or in other bodies of the State itself to which they are connected in the exercise of international attributions¹, impacting the law's transnational performance.

The first half of 2022 is marked by the discussion around the constitutionality control, in the Supreme Court (United States of America) and in the Federal Supreme Court (Brazil), of actions in which the normative standards of air pollution control are judged against the precepts of the Constitution. Both Courts recognize the material relevance of environmental protection, the need to take a stand about the challenges of climate change and the protection of the environment as a diffuse legal claim.

This article aims to analyse, in view of the thematic similarity of the judgments produced, by homonymous Courts, the impact of transnational normative standards in the debates and in the reasoning of decisions, considering that the countries in question are part of the same international legal agreements and have relationships deeply marked by transnationality/globalization, including an express recognition of transnationality in previous decisions.

Furthermore, the investigation is justified as a sampling of the Constitutional Courts' institutional capacity to base their decisions in scenarios marked by transnationalism and the emergence of transnational law, either by adopting arguments from different national spaces, or by seeking to refute the influence of foreign foundations.

2. Domestic Law regarding International Relations

The consolidation of globalization as behaviour, attacks the premise of the sovereignty's classical principle, according to which States are 'independent communities' in the exercise of their *imperium*.

This is the framework for the phenomenon that is immediately relevant: global, transnational, supranational and international organizations affect social interaction

¹ S. Baldin, P. Viola, *L'obbligazione climatica nelle aule giudiziarie. Teorie ed elementi determinanti di giustizia climatica*, in *Diritto pubblico comparato ed europeo*, Vol. 23, No. 3, 2021, 597-630.

in States in such a way, and with such autonomy, that sovereignty cannot assume the whole construct, but make it engraved with greater complexity, especially due to the multiplication of actors and demands with which the State relates or is impacted².

The recurrence of events related to economic, environmental, sanitary, humanitarian, and energetic crises, as well as the rise of risks stemming from the terrorist threat, accelerated the creation of polycentric clusters to manage and regulate these new manifestations.

As a result of this context, it becomes possible to set a standard guided much more by channels of communication and presentation of precepts endowed with greater effectiveness for each phenomenon, given its specialty. Even if, at times, juxtapositions and/or overlaps are observed, the means of communication contribute to the development of law, if faced in a substantial way. Consequently, the notion that normative prescriptions do not originate in formal, vertical, descending flows, in an up-down style, gains strength³. In the same way, political agendas are challenged to go beyond the domestic territorial space of each State as well as of its citizens.

Consequently, social dynamics, in addition to facing the problem of the place of production of the norm, under the aspect of national/international geography, create bases of hybridism regarding the sources of law, its methods and its place of production in times of globalization⁴. Such movements constitute scenarios for the political tension to also be resized, with the conversion of previously hermetic borders now into zones of porosity. Therefore, doing politics nationally involves positioning oneself politically in the face of transnationality⁵.

In this context, Sabino Cassese signalize that such political practice is governed by the domain of networks with fluid development and variable alliances, winning the one with the greatest ability to establish direct connections with civil society. In summary: verticalized relationships mediated by the State are minimized; channels for the circulation of legal models are facilitated; and the search for analogue functionalities for previously domestic challenges is encouraged⁶.

In general terms, globalization promotes a radical change in the powers

² S. Sassen, *Territorio, autoridad y derechos. De los ensamblajes medievales a los ensamblajes globales*, Katz, 2015.

³ M. Staffen, *Interfaces do direito global*, 2 ed., Lumen Juris, 2018.

⁴ A. Arnaud, *Governar sem fronteiras. Entre globalização e pós-globalização*. Lumen Juris, 2007.

⁵ A. Peters, *The American Law Institute's restatement of the law: bastion bastion, bridge and behemoth*, in *The European Journal of International Law*, Vol. 32, No. 04, 2021.

⁶ S. Cassese, *Chi governa il mondo?*, Il Mulino, 2013. In parallel, Alessio Lo Giudice presents the following thesis: «Quest'ultima considerazione permette un ulteriore chiarimento del concetto di postnazionalità: superamento del paradigma nazionalistico non equivale a destrutturazione degli Stati nazionali, né tanto meno equivale all'ideale istituzionale di un Superstato. Il postnazionale implica invece la costruzione di uno spazio istituzionale di unità politica che superi l'elemento nazionale come esclusivo fattore di coesione sociale. Per queste ragioni la dimensione postnazionale potrebbe rinviare alla costruzione di uno spazio pubblico entro cui articolare e sperimentare forme di solidarietà sociale denazionalizzate». A. Lo Giudice, *Istituire il postnazionale Identità europea e legittimazione*, Giappichelli, 2011.

operating at the most diverse levels, including ideological, institutional, and normative power, with the respective social interactions that are constantly finding new arrangements.

In this sense, an environment legal protection with all its capillarity (natural environment, cultural, digital, labour, health, climate changes), is an outstanding illustrative agenda for the clashes between domestic law and international relations⁷. Regardless of the level of maturity of national legal treatment, international negotiations, transnational actors, local social demands, and global public opinion make the defence of the environment an item of prime necessity for transnationalism that impacts national law. The recognition of the environment as a universal, diffuse, and transgenerational legal asset conditions the regulation of each State according to transnational parameters, treading directions for a political unit around environmental protection due to the possibility of continuity of life on Earth⁸.

On the other hand, this state of the art reveals the perception of the existence of legislatures without legislators, executives without rulers and dispute resolution without judicial courts, as Eric Posner⁹ publicises, prompting political reactions that seek to appropriate the feeling of popular frustration and configure a new pattern of populism that, opportunistically and selectively, elects the international, transnational or global dimension as a new enemy to be fought with fiery rhetoric.

The events of the last five decades that have marked an overflow of national political and legal guidelines to transnational spaces, in the last five years have been hampered by reactionary speeches and actions that intensify a dialectic that seeks to deny international relations in the name of nationalist priorities, even if contrary to the rule of law, which presents itself as a new type of populism, already report by Human Rights Watch¹⁰.

As ambiguous and polymorphic as the concept of populism could be, as Heike Krieger¹¹ reveal, rejecting the effectiveness of international mechanisms for the legal protection of relevant assets, delegitimizing public opinion coming from the press, civil society and non-governmental organizations, seeking to counterattack the manifestations of globalization, have become common actions in States under populist governments, in the style of Trump, Salvini, Duda, Orbán and Bolsonaro.

In common, these populist governments affect the nature and function of international law at two different levels: through politics, their practices change the general environment in which norms are interpreted and, in the legal sphere, in which populist governments guide changes in the interpretation of consolidated

⁷ L. Rajamani, J. Peel, *Reflections on a Decade of Change in International Environmental Law*, in *Cambridge International Law Journal*, 10(1), 2021, 6-31.

⁸ A. Atilgan, *Global Constitutionalism: A Socio-legal Perspective*, Springer, 2018, 43-45.

⁹ E. Posner, *The perils of global legalism*, University of Chicago Press, 2009.

¹⁰ Human Rights Watch, *World Report 2017. A perigosa ascensão do populismo*, in: [hrw.org/pt/world-report/2017/country-chapters/298540](https://www.hrw.org/pt/world-report/2017/country-chapters/298540).

¹¹ H. Krieger, *Populist governments and international law*, in *European Journal of International Law*, No. 30, 2019, 971-996.

international legal standards¹².

It should also be noted that the agenda of populist governments chooses classic arguments from international law to justify their actions and options, frequently resorting to discourses that praise sovereignty, non-intervention, and people's self-determination. As a result, they do not just make use of the practice of «cherry picking»¹³ but reduce international law to useful purposes for State reasons and refute the institutions that guide the legal dimension that comprises international law with a humanist foundation, transnational law, and global law, described by part of its administration as «globalism»¹⁴. In summary, the main target is not in international law, but in the transnationalization of law and in its global dimension, as it is seen as a threat because it relativizes the totalizing claims of production of legal norms by the State¹⁵.

The crusade against the transnationalization of law and against the configuration of its actors, transits through the refutation of transnational dialogue networks, through the new configurations of social representations and the denial of the emergence of new rights. In line with the precepts of Heike Krieger¹⁶, contemporary populism inhibits full democratic participation, excluded civil society from public debates, and empties control functions, including the control of external observers.

Therefore, populism encourages the rupture between local and global levels of politics, representation, and standardization. It does so in the name of defending traditional values, defending the sovereign homeland and the originalism of its institutions with the purpose of removing the effectiveness of transnational legal precepts, delegitimizing the validity of human rights, attacking democracy, discrediting the role of non-governmental organizations and transnational corporations, denying concern for the environment and climate change.

In the focused approach proposed by this article, the sphere of environmental protection is seen, by such governments, as a simple figure of a globalist elite that intends to intervene in domestic affairs, when not sabotaging the sovereign State. Environmental protection results in a competitive lag in the global market. The circulation of non-governmental organizations interested in the environmental agenda is understood as a breach of national sovereignty and, as such, the presence of these institutions must be controlled. The assumption of transnational environmental protection commitments is an ideological manifestation that attacks the State.

¹² H. Krieger, *Populist governments and international law*, in *European Journal of International Law*, No. 30, 2019, 996.

¹³ A. Friedman, *Beyond Cherry-Picking: Selection Criteria for the Use of Foreign Law in Domestic Constitutional Jurisprudence*, in *Suffolk University Law Review*, Vol. 44, No. 4, 2011, 977.

¹⁴ E. Araújo, *Globalismo: uma visão a partir do pensamento de Nietzsche*, in *Cadernos de Política Exterior*, Vol. 5, No. 8, 2019.

¹⁵ D.S. Silva, C. Derani, *A ordem transnacional como fato de relativização de pretensão totalizante de produção de normas jurídicas pelo Estado*, in *Revista Novos Estudos Jurídicos*, Vol. 02, No. 26, 2021, 508-529.

¹⁶ H. Krieger, *Populist governments and international law*, in *European Journal of International Law*, No. 30, 2019, 979-982.

Also, the combination of denialist and bellicose populism against international relations and the environmental protection agenda finds an even more complex variable, which puts environmental protection at risk, that is, the aversion to science¹⁷. Populist narratives and their appeals to civil society set public opinion against science. Thus, not only are international organizations and their normative precepts attacked, but they are also forced to doubt their validity and effectiveness. With each discredit sown, a delay in environmental protection.

However, the dialectic that intensifies between transnational normative standards and national legal precepts, potentiated by populist rulers in societies that do not believe in political projects, also spreads to decisions of the respective Constitutional Courts. As a result, the courts guarding the Constitutions assume a position in the face of norms that escape the hegemony of the State, whether at a national or transnational level, as their decisions result in a paradigm for other courts and/or rulers. Constitutional Courts, in such a way, do not remain neutral in the face of the transnationalization of Law and the populist expedients of national rulers.

3. *The US Supreme Court and the West Virginia v. EPA Case*

Globalization supposes the transforming force of each national reality, capable of bringing with it an element of integration and development at the local level, which is carried out through the rules of a universal legal language, within the cultural framework of each constitutional order.

In the context of the Supreme Court of the United States of America, in matters of the environment, this perception was manifested with emphasis in the case of *Massachusetts v. Environmental Protection Agency* (n. 05-1120/2007)¹⁸.

In the dispute in which the competences of the American environmental agency to regulate greenhouse effect gas emission, air quality and terrestrial heating with sea level rise were discussed, the Supreme Court in a narrow vote decided on the duty of Environmental Protection Agency to adequately and objectively regulate the greenhouse gas emission limits and the possibility of member states of the federation to sue the Agency for its inaction or deficient protection.

In his dissent, for example, Justice John Glover Roberts Jr. referred to the impossibility of judicial protection by the Supreme Court due to problems of legitimacy and ability to quantify environmental damage, given the diffuse nature of the legal interest and the conduct of China and India that it considers more harmful, therefore, it makes no sense to allow US administrative limitations if the harmful agents are outside the limits of the Court's jurisdiction.

¹⁷ D. Ventura, J. Martins, *Between Science and populism: the Brazilian response to COVID-19 from the perspective of the legal determinants of Global Health*, in *Revista de Direito Internacional*, Vol. 17, No. 02, 2020, 67-83.

¹⁸ United States Supreme Court, *Decision n° 05-1120. Massachusetts. Environmental Protection Agency: Certiorari to the United States Court of Appeals for the District of Columbia Circuit*, Washington DC, available in: supremecourt.gov/opinions/06pdf/05-1120.pdf.

In the case of *Massachusetts v. Environmental Protection Agency* (no. 05-1120/2007), Justice Antonin Scalia recorded divergence to, in addition to recognizing the illegitimacy of the claim, analyse the degree of uncertainty about scientific studies related to climate change and greenhouse gases, from the National Research Council and the Intergovernmental Panel on Climate Change (IPCC/WMO/UN)¹⁹.

For the present article, *Massachusetts v. The Environmental Protection Agency* is relevant because of the environmental issue it faces and, mainly, because of the recurrence of arguments that reflect the Supreme Court's performance in the face of transnational precepts, whether in terms of opinion of the Court or in dissent. Although, since 1973 (*United States v. SCRAP*) the Court was already dealing with environmental law, the *Massachusetts v. Environmental Protection Agency* episode is a pioneer in contextualizing environmental protection with transnational models and consequences.

Starting with the Syllabus, the Court already delimits its position towards the planetary emergency of climate change, recognizes the extent of the problem and the need for analysis at a global level, although the core of the claim lies in the normative competences of the Environmental Protection Agency.

Concerning the winning reasons (Opinion of the Court), nine references to the Intergovernmental Panel on Climate Change (IPCC/WMO/UN) are counted, adding to its argumentative importance for the outcome of the claim. In the judgment, the adhesion by then President Bush to the United Nations Framework Convention on Climate Change is considered, because of the Rio-92 Convention (1992) and the norms stemming from the Kyoto Protocol (1995) and how such alignments resonated in the Congress and US diplomacy.

As a product, it is possible to envision a movement by the Court towards taking a position outside the walls, constituting channels of communication, and claiming transnational protagonism in environmental matters. The consolidated contrast in the Supreme Court between originalists and textualists²⁰ takes on new contours by seeking to create conditions for coordination between domestic spheres (Congress, Federal Administration and Judiciary) with external commitments and claims. Even though Roberts Jr.'s vote has a consequentialist/pragmatist streak, its prognosis expands abroad, with mentions and concerns about China and India.

In 2022, the Supreme Court again faces an agenda involving the regulatory functions of the Environmental Protection Agency and control of greenhouse gas emissions. In the case of *West Virginia v. Environmental Protection Agency*, the provocation took place because of the powers granted by the Clean Air Act to the Environmental Protection Agency to set parameters for greenhouse gas emissions to the detriment of state legislatures and the Federal Congress. The plaintiffs (from States governed by Republicans) claim the absence of express delegation from

¹⁹ United States Supreme Court, *Decision n° 05-1120. Massachusetts. Environmental Protection Agency*: Certiorari to the United States Court of Appeals for the District of Columbia Circuit, Washington DC, available in: supremecourt.gov/opinions/06pdf/05-1120.pdf, 59-62.

²⁰ L. Tribe, M. Dorf, *On reading the Constitution*, Harvard University Press, 1991, 35.

Congress to the Agency, the disrespect for the autonomy of States and the economic consequences of regulation in the coal, oil and gas production chain.

It was up to the Justice Roberts Jr. to write The Opinion of the Court. In contrast, Justice Kagan, accompanied by Justices Breyer and Sotomayor, drew up the manifestation of disagreement. Completely, the decision in *West Virginia v. Environmental Protection Agency* spans 89 pages in which it restricts the powers of the Environmental Protection Agency, conditioning its regulatory power to the express delegation of Congress and the defence of federalism.

In summary, this position of the Court ends up undermining the foundations of US regulatory administrative law, makes environmental protection a by-product in legal protection priorities, expands the notions of non-intervention of the State in the economy and internalization of populist discourses, as in the case of the argument of Justice Gorsuch that is based on people's opinions and their capacity to disagree or the exorbitant costs of changing the energy matrix. So much so that it uses the metaphor «hide elephants in mouseholes» to illustrate the Agency's practices²¹.

Especially for the scope of the present investigation, the argumentative and persuasive turn used by the Supreme Court in the *West Virginia v. Environmental Protection Agency* case. Preliminarily, in a system marked by the force of precedents, the absence of references to *Massachusetts v. Environmental Protection Agency* in the Syllabus and Opinion of the Court is innate, ruled on similar factual and normative grounds in 2007, primarily with members of the Court in full exercise of jurisdiction in both cases. The precedent *Massachusetts v. Environmental Protection Agency* appears only in the divergence to emphasize the Agency's role and the importance of substantial environmental protection and greenhouse gas control to mitigate climate change effects.

Equally peculiar in the decision of the *West Virginia v. Environmental Protection Agency* case is the total absence of mention and/or reference to the transnational system of environmental protection, pollutants control and *lato sensu* international treaties. It silences the Supreme Court through the agreements and commitments signed by the US Government in terms of reducing greenhouse gases and reducing the earth's temperature, for example. Unlike the earlier *Massachusetts v. Environmental Protection Agency*, nothing was mentioned about the Rio 92 Convention, the Kyoto Protocol, or the Climate Conferences.

Even the manifestations of dissent were silenced when substantiating their positions from external legal mechanisms, except for a single reference to the Intergovernmental Panel on Climate Change. For rhetorical purposes, the judgment was generically restricted only to a search in transnational scientific authorities, the use of expressions such as better control system for polluting gases and the global crisis related to the planet's warming, but this was due to dissent.

Blank slate for what is presented was the Supreme Court's intention for the *West*

²¹ United States Supreme Court, *Decision n° 20-1530. West Virginia v. Environmental Protection Agency et al.* Certiorari to the United States Court of Appeals for the District of Columbia Circuit Washington DC, in: supremecourt.gov/opinions/21pdf/20-1530_n758.pdf.

Virginia v. Environmental Protection Agency case for the purposes of attributing new meanings to regulatory, environmental, and international law, in an unequivocal legal setback. The Court to a certain extent validated the speech of the Trump administration, as denounced by Justice Kagan²² – moreover, the turnaround is due to the recomposition of the Supreme Court by appointments sponsored directly by President Trump.

The Supreme Court, by limiting the authority of the Environmental Protection Agency, promoted a genuine stealing of transnational precepts and normative influences, excluding them from their persuasive bases. From this option, it is assumed: the attempt to justify the autonomy of US law in the face of any connection (optional or not) arising from transnational spaces; the proposal to ward off any “invasion” of other normative models in the Court’s tradition; to correspond to the populist pressure that sees in international relations and in its legal institutions ways of decomposing the national order and its values and; the decline of cooperation and governance objectives in matters of global interest by the delegitimization of transnational law, international law and their institutions.

In summary, the outcome of *West Virginia v. Environmental Protection Agency*, in addition to breaking with the force of the tradition of precedents that gives solidity to the Supreme Court, sets up a clear setback in terms of environmental protection and, notably, denies any relevance to the law when it is not produced domestically by the authorities of the United States of America. In addition to the national effects, the recent US court decision conveys a dangerous lesson to homonymous courts, as previously warned by Anne Peters²³.

4. The Supreme Court and the Judgment of the Direct Action of Unconstitutionality no. 6.148/2019

Before discussing the judgment of the Direct Action of Unconstitutionality n. 6.148/2019, it is important to contextualize the recent Brazilian past in terms of environmental policy. Over the last five years indicates Brazil’s priority in environmental protection indicators²⁴, reduction of the effectiveness of environmental protection, repeal or relaxation of environmental norms, withdrawal or non-acceptance of international commitments, persecution of environmental activists and defenders, and recurrence of disasters resulting from man’s action in nature.

Before, however, despite the extractive past that marks the construction of the

²² United States Supreme Court, *Decision n° 20-1530. West Virginia v. Environmental Protection Agency et al.* Certiorari to the United States Court of Appeals for the District of Columbia Circuit Washington DC, in: supremecourt.gov/opinions/21pdf/20-1530_n758.pdf.

²³ A. Peters, *The American Law Institute’s restatement of the law: bastion bastion, bridge and behemoth*, in *The European Journal of International Law*, Vol. 32, No. 04, 2021, 1390.

²⁴ Instituto Nacional de Pesquisas Espaciais (INPE), *Relatório Anual do Projeto de Monitoramento do Desmatamento na Amazônia Legal por Satélite (2021)*, in: obt.inpe.br/OBT/assuntos/programas/amazonia/prodes.

Brazilian State, the last four decades and, particularly the promulgation of the Federal Constitution of 1988 and the construction of the Environmental Rule of Law, consolidated the progressive normative protection in environmental matters that put Brazil in a vanguard position and material reference for the other States, becoming clear from the Rio-92 Convention and the comparison on the constitutionalization of the environment from the Brazilian Constitution.

It turns out that such progress was not enough to ensure a change in the popular imagination that, regardless of the economic conditions of each individual or social class, usually sees in environmental protection causes for economic crises, delay in national progress, competitive damage in the external scenario, increase in production costs and inflation to the final consumer, systematization of corruption and international intervention in Brazil's domestic affairs. This scenario becomes more complex when it involves topics about indigenous peoples, traditional peoples, and the Amazon rainforest.

In terms of diplomacy and international organizations, changes were clear in Brazilian behavior at the Climate Summits (COPs), in the management of the Amazon Fund and in the Free Trade Agreement between the European Union and MERCOSUR. In common, the Brazilian government denied its protective and promotional shortcomings of environmental protection and highlighted nationalist criticism of foreign countries, making personal attacks on other heads of state a reason to please their voters and a parliamentary base of support in the National Congress.

However, the biggest confrontation with the rhetoric and the populist and derogatory government measures of the environmental rule of law in the Bolsonaro government are on the agenda of the Federal Supreme Court, the highest Court of the Brazilian Judiciary that reconciles the competences of constitutional control with the defence of the federation.

The Supreme Court focused on the Federal Government's actions against the environment as a strategy to obtain greater effectiveness and efficiency. Called the "Green Package", the seven agendas, arising mostly from the Executive under the leadership of President Bolsonaro, involve deforestation in the Amazon, limiting the autonomy of the Brazilian Institute of the Environment and Renewable Natural Resources (Ibama), standards of adequacy to the World Health Organization recommendations on air quality and the exclusion of environmental policies and being mostly under the rapporteurship of Justice Cármen Lúcia²⁵.

²⁵*Arguição de Descumprimento de Direito Fundamental n. 760/2020*, calls on the government to resume the Plan to Prevent and Combat Deforestation in the Amazon. The action was filed in November 2020 by the PSB, REDE, PDT, PT, PSOL, Pcdob, and Partido Verde parties, in conjunction with 10 other entities in the environmental segment; *Ação Direta de Inconstitucionalidade por Omissão n. 54/2019*, action submitted by the Rede Sustentabilidade which alleges unconstitutional omission of the President of the Republic, Jair Bolsonaro, and the then Minister of the Environment, Ricardo Salles, in curbing the advance of deforestation in the Amazon; *Ação Direta de Inconstitucionalidade n. 6.148/2019*, which questions Resolution 491 of the National Council for the Environment, which does not satisfactorily regulate acceptable air quality standards; *Arguição de Descumprimento de Direito Fundamental n. 651/2020*, calls for the declaration of

At the beginning of the trial, Justice Cármem Lúcia maintained that the Federal Government is a confessed defendant in the practice of environmental transgressions. Creating a metaphor with termites, she set out that institutions are being destroyed from within. Inefficient public policies, processes of destruction, are promoted. Clear-cutting does not destroy anymore, but what began to happen was destruction from within.

In her vote, she denounced the existence of the Unconstitutional State of Things in the actions and she defended the existence of an Unconstitutional State of Things in the actions of the Federal Government, which means that she sees generalized and systemic violations of fundamental rights and the environmental rule of law, since the institutional termite infestation' leads to the breach of structures put in place to guarantee human rights, including the rights to an ecologically balanced environment perpetrated by the government, meaning that she sees generalized and systemic fundamental rights violations, as well as of the environment law State, considering that the institutional termitization leads to the smash of the structures positioned to safeguard human rights, including the ecologically balanced environment rights.

With this position, which inaugurates the simultaneous trials, Justice Cármem Lúcia seeks to align the Court's own precedents to recognize the constitutional limits to the actions of the Brazilian government and ensure the principle of environmental non-retrogression, compelling the federal Executive to promote environmental protection and to abstain from generalized violations, causing populism and denialism by the President of the Republic to be inhibited by the connection with the Federal Constitution.

In the same sense, Justice Cármem Lúcia's statement refers to the United Nations' Agenda 2030, the Sustainable Development Goals and the Agreements signed at the Climate and Climate Change Summits, highlighting the contradictory approach taken by the Brazilian government.

The very joining of the judgments, an unusual fact in the tradition of the Federal Supreme Court, demonstrates the position of the Court before the behavior and speeches of the President of the Republic and the Parliament, which launches itself as a diplomatic agent and a provider of spaces for new governing laws of international relations, aiming to deter systematic violations of the environmental protection legal duty and the populist rhetoric of the Executive, indicating a correctional standard inherent to the Environmental Rule of Law and an

unconstitutionality of a decree that does not provide for the participation of civil society in the National Environment Fund; *Arguição de Descumprimento de Direito Fundamental n. 735/2020*, states that a federal decree and an ordinance of the federal government limit the autonomy of Ibama to promote surveillance by defining that the Ministry of Defense coordinates Operation Green Brazil; *Ação Direta de Inconstitucionalidade por Omissão n. 59/2020*, questions the federal government's non-availability of R\$ 1.5 billion to the Amazon Fund, which provides for environmental preservation projects; *Ação Direta de Inconstitucionalidade n. 6808/2021*, contests the law that provides for automatic concession and without analysis of operating permits to environmental licensing for companies, within the National Network for the Simplification of registration and legalization of Companies and Business (Redesim).

institutional capacity preserved for foreign States and international organizations.

This is especially clear when analysing the Direct Action of Unconstitutionality no. 6.148/2019, proposed by the Attorney General's Office against the content of Resolution 491, of the National Council for the Environment. Although the contested act was produced during President Temer's government, its inclusion in the so-called "Green Agenda" occurs due to the repeated behavior of the current government and the mischaracterization that the Council suffered by order of President Jair Bolsonaro, who replaced technical personnel with political names.

The Direct Action of Unconstitutionality no. 6,148/2019, in its initial claim, alleges the emptying of air protection, in the face of previous standards of the Council itself and, also, of the World Health Organization (WHO), seeking to insert itself in the debate about the express Brazilian abandonment of international commitments and use of precarious normative sources produced unilaterally by the Executive to regulate matters involving the right to health, access to information, social security and the environment. For these reasons, it defends the violation of the Federal Constitution and the urgency of returning to WHO standards.

It also maintains that CONAMA Resolution 491/2018 conveyed air quality standards – a component intrinsically related to the protection of fundamental rights to a balanced environment, health, and life, with vague, deficient control levels that are out of step with the standards established by WHO. The contested normative act, in turn, replaced the previous one (CONAMA Resolution No. 5, of June 15, 1989), edited about 30 years ago with retrogression situations.

The point of criticism that most affected the Court was the fact that, without fixed deadlines for progress in relation to air quality standards; and without mechanisms that operated in the implementation of these same standards – especially in the case of omission or failure on the part of the federated entities – the model recommended by CONAMA Resolution 491/2018 proved to be incapable of generating the desired adhesion effect²⁶. Command without sanction would be emptied in its aptitude to induce conduct – and therein would lie the harm to constitutionally protected values.

The decision issued by the Constitutional Court involved the dismissal of the request for recognizing the Resolution's conformity with CONAMA's institutional competences delimited by the Constitution. However, it consigned a determination to the regulator to revise the rule discussed within a period of 24 months, with the objective of dealing with the matter of setting air pollution control standards to include the duties of effective environmental protection, in line with the Constitution and international standards.

Afraid that CONAMA will not undertake the adjustments guided by the decision being constructed, the Plenary – at this point, driven by the insistence of Justice Ricardo Lewandowski – decided to establish consequences for this eventual omission or delay. This led to the return to old substitutive practices, with the prediction that CONAMA's failure to deliberate within 24 months will result in the

²⁶ Brasil, *Ação Direta de Inconstitucionalidade n. 6808/2021*, 14-15.

immediate application of the new guidelines established by WHO.

It is necessary to point out that, in harmony, even with different conclusions, all the Justices of the Federal Supreme Court in the presentation of their votes (despite pending publication) brought to the debate normative precepts deriving from transnational legal obligations. Thus, even the dissenting votes presented by Justices appointed by President Bolsonaro reported influences from abroad, signalling the persuasive impact that transnationality causes, different from what was observed in the *West Virginia v. Environmental Protection Agency* case.

Along the same lines, the current Attorney General of the Republic, Augusto Aras, in his oral argument, who, when differing from his predecessor, responsible for filing the action, on repeated occasions highlighted the normative role of the World Health Organization in terms of air quality. He notes that the World Health Organization has global authority, Brazil recognizing such prevalence since 1990, when the first regulations were made, that the Ministry of the Environment replicates the Organization's reference standards. He ends by mentioning that the World Health Organization is a «body that reaches out to the planetary community».

The representative of the Attorney General's Office also supports his arguments in defence of the constitutionality of CONAMA Resolution 491/2018 with topics arising from transnational instruments and influences. However, when considering that it is up to governments to consider local circumstances before conforming them to a legal standard it is possible to see a strategy like the case considered in 2022 by the Supreme Court of the United States of America.

In summary, in addition to the strict control of constitutionality, in the face of such judgments, the Federal Supreme Court throws itself into the vacuum of the Brazilian Government, to constitute itself as guarantor of intergenerational legal and political obligations that cannot be set back²⁷, finding a possible institutional solution to inhibit the populism established in the current Brazilian government.

The recurrent mentions of the World Health Organization, the international commitments and obligations previously assumed by Brazil and the dynamics of globalization and global legal interests translate into behavior of the Federal Supreme Court of Brazil in importing the need to align national law with transnational norms.

By recognizing the supplementary condition of WHO standards, in case of inertia of the national Executive, the Brazilian Constitutional Court imposes a strong pattern of adoption of foreign regulatory authorities for national demands that escapes the dual system of internalization of international norms, with the purpose of safeguarding the content of the rule of law and mitigating possible effects of a deliberate abandonment of Brazil from the international system.

²⁷ I. Sarlet, T. Fensterseifer, *Guardian of the Amazon: On the Brazilian Supreme Court's "Climate Fund Case" Decision*, in *VerfBlog*, in: verfassungsblog.de/guardian-of-the-amazon/.

5. *Final Considerations*

Populism, from the perspective of the study, is dynamic to consolidate instruments for authoritarianism and mechanisms of disruption with global flows. This is not an expedient that simply calls into question the transnational legal order as a whole. On the contrary, it moves with chameleonic purposes, taking advantage of essential concepts of classical International Law, potentiated in populism, such as the idea of national sovereignty, non-intervention, and self-determination of peoples.

In this space, the Constitutional Courts enjoy new institutional attributions, which oscillate between the overvaluation of national sovereignty to the defence of non-national norms as a material reference to domestic law. Although they defend the hegemony of national law, the Courts end up inducing transnational behavior, assuming a leading role in the transnational mobilization of law.

The United States Supreme Court, in the *West Virginia v. Environmental Protection Agency* case, by the arguments presented, marked a clear position of denial of non-national normative grounds for determining standards on air pollution, emphasizing the idea of national sovereignty and local interest. It is a rupture that aligns with the populist discourses shaped in the recent policy of that State. Such closure demonstrates the lack of interest in cooperating at a transnational level, even if registering the situation of environmental crisis.

In Brazil, the Supreme Court invokes the condition of a true bastion, or guarantor of transnational legal claims and international law as a brake on this negationist populism of international law, covering the prevalence of the protection of human rights, democracy, the environment and of the rule of law, adding, therefore, the prevalence of non-national normative standards.

However, the denialist populism of environmental protection does not only impede the effectiveness and efficacy of international, transnational and/or global legal mechanisms. To weaken the transnational legal order over sensitive and diffuse interests is to weaken Constitutional Law.

Faced with the scenario of populism and denialism through International Law and International Organizations (Public, Private and/or Transnational), associated with the movements of the National Congress, the Brazilian Constitutional Court found a domestic and emergency solution to compensate for the opposition and/or the inaction of the Brazilian State in relation to International Law and its institutions, seeking to constitute resistance from the domestic sphere so as not to deteriorate the Environmental Rule of Law and national political and legal institutions.

The Brazilian Supreme Court presents itself as a bastion and trench to avoid the disruption of the Brazilian State with the institutions and with the idea of the Rule of Law coming from the international, transnational and global order. It follows that the Federal Supreme Court, in the exercise of its constitutional attributions, in addition to mitigating populist leaps and preserving the assumptions of the rule of law, ensures Brazilian adherence to the collection of rights, guarantees and

obligations that make up the current complex legal regime.

In the US case, it is possible to see consequences that stretch from the normative fragmentation and the federative conflict between the respective member States, passing through the absence of substantial normative protection for the population and difficulty in adapting to the global order of public and private entities. However, there is an immediate risk that is foreseen, the mirroring of the decision-making behavior of the Supreme Court of the United States of America by other Courts, considering the exchange that exists between members of the judiciary.

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A Foot in Two Camps? South Sudan's Relations with China in a Historical Perspective

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A Foot in Two Camps? South Sudan's Relations with China in a Historical Perspective

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Abstract

Relations between South Sudan and China are not a new phenomenon. However, since 2011 they have been steadily growing in terms of trade and investments, cultural exchanges, development and humanitarian aid. The breakout of the civil war in December 2013 has contributed to this trend. Amidst the disenchantment of traditional Western partners of South Sudan, massive shifts of aid flows from development to humanitarian response, and the flight of foreign capitals scared by the war, not only did China keep its presence in the country, it also took a more active stance by sending its first combat troops ever in the framework of the UN Mission, and engaging in the peace negotiations. What consequences has China's growing presence had on South Sudan's capacity of determining its own political agenda? This article argues that it has provided an opportunity of expanding the space for agency of the South Sudanese governing elite to make choices in opposition to the requests of traditional donors. At the same time, since relations with China are bound to pragmatic considerations from both sides, there is evidence that China's will to partner with the country is only as strong as the potential benefits accruing from this partnership.

Keywords: South Sudan – China – Agency – Oil – Aid.

CONTENTS: 1. Introduction. 2. China-Sudan-South Sudan Relations in a Historical Perspective. 3. China approaches Southern Sudan. 4. South Sudan's Independence and the Disenchantment of Traditional Donors. 5. Conclusion.

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1. Introduction

Since its independence in 2011, South Sudan has been progressively ascending towards the top of Freedom House's yearly classification of the lack of freedom in countries around the world, reaching the first position in 2022¹. Persistent internal instability and political tensions, which exploded into a civil war in 2013, have led Salva Kiir's government to strengthen its grip on power with any possible means, including frequent cabinet reshuffles and shifting political alliances², censorship, intimidation³, repression of – real or perceived – political opponents⁴.

While not an unusual evolution for regimes stemming from liberation struggles, South Sudan's authoritarian slide stands out against years of international cooperation with the specific purpose of improving governance processes as well as the governing skills of its ruling elite. The capacity of African states and ruling elites of exercising agency through the use of "extraversion", what Bayart defined as the ability of capitalizing on one's position of dependence within the international system⁵, has been well documented by a growing literature highlighting the active role of African states in determining their positioning in the international system⁶. I myself have investigated the capacity of the South Sudanese ruling party, the Sudan People's Liberation Movement, of capturing international financial flows destined to good governance and development in the Southern region of Sudan to implement a locally defined political agenda that had little to do with donors' objectives and conditionalities⁷. In this article, I would like to suggest

¹See Freedom House website: freedomhouse.org/country/south-sudan/freedom-world/2022. Although the US-based think tank ranking represents, as all indicators, a simplification of a complex reality, the indicators on which the ranking is based provide nonetheless a useful picture of how the situation of a country evolved over time with regards to specific aspects (freedom of speech, the rule of law, the exercise of civic liberties).

²D. A. Thiong, *The Pawn Who Became King: How Has Salva Kiir Stayed at The Top So Long?*, in *African Arguments* (blog), 16/02/2022, africanarguments.org/2022/02/the-pawn-who-became-king-how-has-salva-kiir-stayed-at-the-top-so-long/.

³CIVICUS, *South Sudan: "Our Current Regime Is Democratic Only on Paper, Not in Practice"*, CIVICUS, 29/08/2018, civicus.org/index.php/media-resources/news/interviews/3423-south-sudan-our-current-regime-is-democratic-only-on-paper-not-in-practice.

⁴S. Formisano, K. Bartemes Miranda, *"The Broken Dreams": Life and Work of Kerbino Agok Wol, South Sudanese Entrepreneur and Philanthropist*, Note di Ricerca del Centro Studi sull'Africa Contemporanea, Università degli Studi di Napoli L'Orientale, July 2022, pp. 5-6.

⁵J. Bayart, *L'Afrique dans le monde : une histoire d'extraversion*, in *Critique internationale*, No. 5, 1999, p. 98.

⁶W. Brown, S. Harman, *African Agency in International Politics*, Routledge, 2014; J. Fisher, *Structure, Agency and Africa in the International System: Donor Diplomacy and Regional Security Policy in East Africa Since the 1990s*, in *Conflict, Security & Development*, No. 13, 2013, pp. 537-567; J. Fisher, *Managing Donor Perceptions: Contextualizing Uganda's 2007 Intervention in Somalia*, in *African Affairs* No. 111, 2012, pp. 404-423.

⁷S. de Simone, *Playing the 'Fragile State' Card: The SPLM and State Extraversion in South Sudan*, in *The Journal of Modern African Studies*, No. 56, 2018, pp. 385-420; S. de Simone, *State-Building South Sudan: International Intervention and the Formation of a Fragmented State*, Brill, 2022, pp. 50-107.

that this capacity of exercising extraverted agency has been increasingly enhanced, in recent years, by the emergence of new partners and allies to the South Sudanese elite with different approaches to the provision of development assistance, with a particular focus on China.

While the literature on the role of the “new-donors” is divided between those who emphasize the opening of new spaces of agency for African recipient countries⁸ and those who warn against overstating this agency⁹, it is important to analyze these relations in a historical perspective focusing on specific country case studies and how they themselves change over time¹⁰. Moreover, Otele has pointed at specific aspects (reciprocal trade dependence, the recipient country’s level of indebtedness, its dependence on foreign direct investments and the internal legitimacy of its government) that might influence the relations between China and specific African countries and the amount of room for maneuver that the African country has to carve out advantageous agreements from its negotiation with China. This kind of situated analysis also speak to the debate around the growing influence of China in “preventing democracy” and supporting the strengthening of autocratic regimes around the world¹¹, even though some authors have argued that local socio-political and clientelist dynamics might be more important than Chinese influence in determining the outcome of Chinese investments¹².

This article thus attempts at a reconstruction of South Sudan’s relations with China in a historical perspective, pointing at how, consistently with China’s pragmatic approach to international affairs, these relations intensified notwithstanding China’s traditional proximity with el Bashir’s regime in Khartoum. Even though growing evidence of the role of other “new donors” from the Gulf exists, with particular regards to the concession of loans to the new-born country¹³, China’s

⁸ L. Corkin, *Uncovering African Agency: Angola’s Management of China’s Credit Lines*, Ashgate, 2013, pp. 123-160; A. Gadzala, *Africa and China: How Africans and Their Governments Are Shaping Relations with China*, Rowman & Littlefield, 2015; A. Gadzala, *Ethiopia: Toward a Foreign-Funded ‘Revolutionary Democracy’*, in A. Gadzala (ed.) *Africa and China: How Africans and Their Governments Are Shaping Relations with China*, Rowman & Littlefield, 2015, pp. 85-108; G. Mohan and B. Lampert, *Negotiating China: Reinserting African Agency into China-Africa Relations*, in *African Affairs*, No. 112, 2013, pp. 95-100.

⁹ P. Carmody and P. Kragelund, *Who Is in Charge? State Power and Agency in Sino-African Relations*, in *Cornell International Law Journal*, No. 49, 2016, p. 15; H.J. Swedlund, *Is China Eroding the Bargaining Power of Traditional Donors in Africa?*, in *International Affairs*, No. 93, 2017, pp. 393-396.

¹⁰ J. Malm, *China-powered’ African Agency and its Limits: The Case of the DRC 2007–2019*, Policy Insights (South African Institute of International Affairs, 2020), pp. 12-13; O. M. Otele, *Rethinking African Agency Within China-Africa Relations through the Lens of Policy Transfer: A Framework for Analysis*, in *The African Review*, No. 43, 1, 2016, p. 96.

¹¹ See for example M. Beckley and H. Brands, *China’s Threat to Global Democracy*, in *Journal of Democracy*, 2022, journalofdemocracy.org/chinas-threat-to-global-democracy/.

¹² Y. Wang and U. Wissenbach, *Clientelism at Work? A Case Study of Kenyan Standard Gauge Railway Project*, in *Economic History of Developing Regions*, No. 34, 1, 2019, pp. 1-20.

¹³ D. K. Deng, *From the Region to the Grassroots: Political Dynamics in South Sudan*, Conflict Research Programme Briefing, London School of Economics, 2019, available at: lse.ac.uk/ideas/Assets/Documents/Conflict-Research-Programme/crp-memos/CRP-South-Sudan-

presence in the region dates back to the 1960s, and its economic power, its efforts on promoting alternative approaches to development and international relations, and its increasingly authoritative international posture make it a particularly relevant actor on the South Sudanese scene. At the same time, however, China's foreign relations are widely dominated by the country's self-interest, which makes it both difficult and, perhaps, also undesirable for the Southern Sudanese ruling elite to let relations with traditional donors deteriorate. For this reason, South Sudan finds itself looking for a delicate balance between international allies that have different priorities and values, something that forces it to keep a foot in two camps and may ultimately endanger the relations with both sides.

The article relies on the analysis of secondary literature and newspapers, as well as on extensive field research conducted in South Sudan between 2010 and 2016.

2. China-Sudan-South Sudan Relations in a Historical Perspective

China's relations with the region pre-date South Sudan secession in 2011, as the country had a long history of cooperation and friendly relations with Sudan. These relations have intensified in the 1990s, in line with China's increasing penetration in Africa taking advantage of US's reduced interest towards the continent¹⁴, but go much more back in time. In 1959, Sudan was among the first countries to recognize the government of the People's Republic of China that took power in Beijing. The latter, which was struggling for international recognition and legitimacy, paid back with trade, aid, political and military cooperation¹⁵. Relations between the two countries remained amicable throughout the 1960s, 1970s, and 1980s, characterized by favorable trade arrangements and development aid - including military assistance and medical cooperation. In the 1970s, Jafaar Nimeiri travelled to China to strengthen relations with the Asian country. Even though Beijing was not involved in the oil explorations, which were started by Chevron in the mid-1970s, China absorbed 26% of Sudan's cotton production and significant portions of its exports of gum Arabic, oil seeds and other food items. It imported manufactured goods, building materials and industry machinery, while also obtaining favorable loans to implement infrastructural projects such as the Hassa Heissa Friendship Textile Mill and several bridges¹⁶.

When the war between Sudan and the Sudan People's Liberation Movement/Army (SPLM/A) broke out in 1983, the rebel movement started targeting Chevron oil facilities, jeopardizing the explorations and forcing the company to scale down its

Panel-Memo-December-19-Final.pdf. See also the IMF website: elibrary.imf.org/view/journals/002/2021/070/article-A003-en.xml.

¹⁴ S. Graziani, "Buona narrazione" e potere discorsivo nel contesto dei rapporti sino-africani. Una riflessione preliminare, in *Sinosfere*, 17/01/2021, sinosfere.com/2021/01/17/sofia-graziani-buona-narrazione-e-potere-discorsivo-nel-contesto-dei-rapporti-sino-africani-una-riflessione-preliminare/.

¹⁵ D. Johanson, *China's Soft Power in Sudan: Increasing Activity but How Effective?*, in H. Wasserman, W. Mano (eds.), *China's Media and Soft Power in Africa. Promotions and Perceptions*, by Xiaoling Zhang, Palgrave Macmillan, 2016, p.182.

¹⁶ L. N. Moro, *China, Sudan and South Sudan Relations*, in *Global Review*, Winter 2012, pp. 23-24.

operations. In 1989, Omar el Bashir took power with a coup supported by Hassan al Turabi's National Islamic Front, compromising the relations between Sudan and the US and turning the country into a pariah of the international community. By 1997, after having stopped all oil explorations since 1992, Chevron was forced to leave after the US government imposed an embargo against the country, accusing it of hosting international terrorists. By the end of the decade, not only was Sudan hit by a double embargo (one from the US and one from the United Nations); also, support from International Financial Institutions was completely halted¹⁷.

While the US turned their support towards the SPLM/A, el Bashir travelled to China in 1995 to ask for support in the development of the oil industry, and obtained it¹⁸. If Sudan was desperately in need of international allies, China had launched an economic modernization campaign and was in search of access to resources that were not controlled by established powers in Africa. Sudan, particularly, gave it the opportunity of accessing a stable oil supply to fulfil the country's growing energy needs, as well as of acquiring important risk management skills that would make Chinese companies more competitive at an international level¹⁹. To encourage Chinese companies to invest in the country, the Chinese government offered special incentives between the late 1990s and early 2000s²⁰. And indeed, it was thanks to Chinese investments in the oil sector (together with those of Malaysian, Indian and Middle Eastern companies, even though to a smaller extent), that Sudan became an oil exporting country in 1999.

Economic relations between Sudan and China were not limited to the oil sector: Chinese companies also invested in the construction of the infrastructures needed for oil export (pipelines, airfields, roads, refineries), but also not related to the oil industry (one such example is the Meroe Dam, started in the early 2000s). Between 2001 and 2004, Sudan was the third most important African economic partner to China, where it exported 80% of its crude (5% of China's total oil imports)²¹.

Sudan's oil boom must be contextualized in the situation of protracted civil war in the Southern region that raged on throughout the 1990s and early 2000s. The entanglement of the oil business with the armed conflict has been well documented by NGOs and human rights activists²². Oil revenues became an outstanding source of hard currency for the Government of Sudan, increasing of 875.7% in just three years (1999-2001) and enabling the government to boost its purchase of weapons. As a consequence, the late 1990s and early 2000s saw the worsening of the North-South civil war, together with the breakout of new conflicts in Darfur²³. With

¹⁷ D. Large, *China and the Changing Context of Development in Sudan*, in *Development*, No. 50, 2007, p. 59.

¹⁸ L. N. Moro, *China, Sudan and South Sudan Relations*, in *Global Review*, Winter 2012, p. 24.

¹⁹ L. Patey, *Learning in Africa: China's Overseas Oil Investments in Sudan and South Sudan*, in *Journal of Contemporary China*, No. 26, 107, 2017, pp. 1-13.

²⁰ These incentives were then dropped in 2007.

²¹ D. Large, *China's Sudan Engagement: Changing Northern and Southern Political Trajectories in Peace and War*, in *The China Quarterly*, No. 199, 2009, pp. 615-616.

²² Human Rights Watch, *Sudan, oil, and human rights*, 2003.

²³ D. Large, *Sudan and South Sudan: A Testing Ground for Beijing's Peace and Security*

Chinese assistance, Sudan developed an arm manufacturing industry and intensified arms import from the Asian country notwithstanding the arms embargo imposed by the UN to counter the war in Darfur²⁴.

China's presence in Sudan was thus marked by its complicity with the Khartoum government: not only because, by turning Sudan into an oil-exporting country, it sustained the government's war effort, enabling it to perpetrate atrocities against civilians; also, its oil industry provoked massive social and environmental damage in the oil producing areas, by severely polluting the land and water sources and by supporting the creation of local armed militias tasked with clearing the oil areas from the population²⁵. For these reasons, China was largely looked at with suspicion, when not with open opposition, by South Sudanese people. "We don't want those Chinese here", told me a former child soldier from Bentiu town, deep into the oil producing area, during a personal conversation in 2010: "they don't put conditions on human rights, governance and so on, but we do need these requirements here to make things work!"²⁶. While this arguably remained a common sentiment among the Southern population after the end of the civil war, Southern Sudan's political elite adopted a rather pragmatic approach and actively sought to develop relations with the Asian country notwithstanding its legacy of close relations with Khartoum.

3. China approaches Southern Sudan

In January 2005, the Comprehensive Peace Agreement was signed between the SPLM/A and the Government of Sudan, ending over twenty years of civil war. The agreement included five protocols disciplining specific aspects. Most notably, the Power-sharing agreement created a regional government in the Southern region (GoSS – Government of Southern Sudan) headed by the SPLM leader, who was also appointed as First Vice President of a Government of National Unity (GoNU) in Khartoum headed by el Bashir and made of members of the ruling National Congress Party and of the SPLM. The Wealth-sharing agreement answered to Southern people's grievances of being left out from any benefit arising from the exploitation of the country's natural resources, which were located predominantly in the Southern region: it provided for the equal redistribution of oil revenues between the GoNU and the GoSS, and also recognized the entitlement of 2% of the oil revenues to oil producing states²⁷. Overall, the CPA recognized the right to self-

Engagement, in C. Alden, A. Alao, Z. Chun, L. Barber (eds), *China and Africa. Building Peace and Security Cooperation on the Continent*, Palgrave MacMillan, 2018.

²⁴ *Sudan Tribune*, *Chinese arms in Darfur: the twisted trail of weapons*, 19/06/2006. sudantribune.com/article16778/.

²⁵ Human Rights Watch, *Sudan, oil, and human rights*, 2003.

²⁶ Personal communication of the author with male ex-child soldier in the SPLA, Bentiu, 15 November 2010.

²⁷ The government structure of Southern Sudan was organized in four layers, of which states constituted the highest. The same structure has been adopted by the Transitional Constitution of the Republic of South Sudan in 2011.

determination to the Southern people: it provided for a six-year interim period that was to end with a referendum to decide whether Southern Sudan would become an independent state or it would stay united with Sudan. During the interim period, both parties to the agreement, together with their international partners, had to work to “make unity attractive” – to promote reforms to the political system and to support the delivery of “peace dividends” to the Southern population to convince it that unity was the most desirable outcome of the peace process²⁸.

China held important stakes in the unity of Sudan: China National Petroleum Corporation (CNPC) controlled the two major oil consortiums active in the country (Greater Nile Petroleum Operation Company – GNPOC, formed in November 1996, and the Petrodar Operating Company, formed in 2001), as well as the vast majority of the oil blocks²⁹. However, since 75% of the oil wells happened to be in the Southern territory, China had to come to grips with the possibility that Southern Sudan would choose secession – a possibility that became ever more realistic after John Garang, the late leader of the SPLM and the major supporter of unity with Sudan, died in a helicopter crash months after the signing of the CPA.

Consistently with its policy of non-interference with other states’ internal affairs, China only started contacts with the SPLM after the signing of the CPA. In 2005, a small delegation of the SPLM visited the Asian country, but the first official, high-profile visit of a Southern Sudanese delegation to Beijing took place in 2007. The president Salva Kiir Mayardit, together with representatives of several ministries and top SPLM members, visited China to convey two key messages to the Chinese government: that Southern Sudan was likely to vote for secession; and that the majority of Sudan’s oil actual and prospective production was located in southern territory³⁰. This visit was rapidly followed up by the Chinese Ambassador to Sudan who travelled to Juba, and by a Chinese government technical team conducting an official needs assessment mission to Juba, Yei and Nimule³¹. Less than a year after, in 2008, China opened a consulate in Juba, expressing its will of including the regional government in its relations with Khartoum³².

Notwithstanding the people’s grudges against China and its proximity to the Khartoum regime, Salva Kiir clearly stated, during an opening speech at the Southern Sudan Legislative Assembly, that “South Sudan is open for business and

²⁸ Government of Sudan e SPLM, *The Comprehensive Peace Agreement* (2005).

²⁹ D. Large, *China and the Changing Context of Development in Sudan*, in *Development*, No. 50, 2007, p. 59.

³⁰ S. Kiir Mayardit’s speech, opening of the second session of the Southern Sudan Legislative Assembly, Juba, 10 September 2007 (quoted in D. Large, *Between the CPA and the Southern Independence: China’s Post-Conflict Engagement in Sudan*, Occasional Paper, Global Powers and Africa Programme, South African Institute of International Affairs, 2012).

³¹ D. Large, *Between the CPA and the Southern Independence: China’s Post-Conflict Engagement in Sudan*, Occasional Paper no. 115, South African Institute of International Affairs (SAIIA), 2012, fn 81, p. 24.

³² See the website of the Embassy of the People’s Republic of China: 中国首任驻朱巴总领事张清洋向苏丹外长阿鲁尔递交领事任命书 (china-embassy.gov.cn).

investors are welcome”³³. And indeed, as a region coming out from almost half a century of civil strife, Southern Sudan was direly in need of investments: not only to sustain its most vital economic sector – that of the oil industry, which made up 98% of the regional budget -, but also to develop other economic sectors, telecommunications, and to build any kind of infrastructures (from public buildings to housing, bridges, hospitals, roads – at the time of independence, there were only 200 m of paved road for every 1000 km of roads in the country)³⁴.

On the other hand, South Sudan was widely perceived to be a new, unexplored economic frontier as well as an undeveloped market, characterized by a situation of persistent relative instability that discouraged risk-averse Western entrepreneurs and that therefore provided a relatively little competitive business environment. In 2007, CNPC still held control of the major extractive companies active in the country³⁵, but Chinese companies also started investing in the infrastructure sector, building vital facilities such as the Juba airport, hospitals, roads and entire neighborhoods in the capital city³⁶. Chinese service providers also developed (particularly hotel, restaurants, supermarkets and private medical clinics)³⁷.

To minimize the legacy of its relations with Khartoum, China supported the idea that a peaceful coexistence and cooperation between the two Sudan was in the interest of both peoples³⁸. To strengthen this idea, Beijing engaged in multilateral forums, contributing peacekeepers to the UN peacekeeping Mission in Sudan (UNMIS) deployed in 2005, participating to the Donor Coordination Forum³⁹, supporting the UN Work Plan coordinated by the UN Office for the Coordination of Humanitarian Affairs (UNOCHA). Support to Southern Sudan development constituted an important part of China’s efforts to clean its image from the war legacies and to demonstrate to a hostile Southern population that development

³³ Government Policy Statement delivered by the president of the Government of Southern Sudan, opening of the second session of the Southern Sudan Legislative Assembly, 10 April 2006 (quoted in D. Large, *Between the CPA and the Southern Independence: China’s Post-Conflict Engagement in Sudan*, fn 80).

³⁴ African Development Bank Group, *South Sudan: An Infrastructure Action Plan*, 2013, afdb.org/sites/default/files/documents/projects-and-operations/south_sudan_infrastructure_action_plan_-_a_program_for_sustained_strong_economic_growth_-_full_report.pdf.

³⁵ In 2007, Sudan extracted 520.000 barrels per day of crude. CNPC has a 40% stake in the Greater Nile Petroleum Operation Company (GNPOC) formed in November 1996 to develop three blocks in Wester Upper Nile. The Petrodar Operating Company was formed in 2001 (CNPC holds 41% and Sinopec 6%). CNPC holds 95% of Block 6, which straddles Darfur and South Kordofan. D. Large, *China and the Changing Context of Development in Sudan*, p. 59.

³⁶ D. Johanson, *China’s Soft Power in Sudan: Increasing Activity but How Effective?*, p. 186; Ł. Jureńczyk, *Economic Cooperation of the People’s Republic of China with the Independent South Sudan*, in *Humanities and Social Sciences quarterly*, No. 28, 2021, pp. 38-39.

³⁷ D. Large, *Between the CPA and the Southern Independence: China’s Post-Conflict Engagement in Sudan*, p. 16.

³⁸ See former Minister of Foreign Affairs Yang Jiechi’s declarations, available at: ss.china-embassy.gov.cn/sbwl/201108/t20110809_7182850.htm (courtesy translation by Giulia Sciorati).

³⁹ Established by OCHA (Office for the Coordination of Humanitarian Affairs), this involved neighboring states, the Intergovernmental Authority on Development, the US, Norway and the AU.

would also benefit them and not only the northern region⁴⁰. Besides engaging in budget support to alleviate the financial fatigue of the Government of Southern Sudan after the collapse in international oil prices in 2009, it supported a variety of cooperation projects in the agriculture, education, water&sanitation, and medical sectors⁴¹, emphasizing the shared agenda with the SPLM of bringing “peace through development”⁴².

Both the Chinese consulate – turned Embassy right after South Sudan’s independence in 2011 – and the Southern political elite have worked hard to reinforce the narrative around the proximity of the Chinese and South Sudanese people. As elsewhere in the Global South, China emphasizes a sense of shared historical experience at the hands of imperial powers and brings its own example of economic transformation and rapid rural development as something that can be repeated elsewhere⁴³. Memories of the engagement of Chinese medical teams dispatched to the Southern region in the 1970s were also greatly celebrated (for example, through setting up an online photo exhibitions on historical diplomatic relations between the two countries⁴⁴, or on Chinese medical teams working side by side with Southern Sudanese nurses in various southern health centers, hosted on the website of the Chinese Embassy in Juba⁴⁵), together with the existence of common names between the two peoples, like Deng or Guandong⁴⁶.

These strengthening relations between China and Southern Sudan changed the former’s position on unity: while still preferring it as an option, the Chinese government became more open to the idea of Southern secession. A new delegation from the Government of Southern Sudan visited Beijing in 2010 on a “post-referendum preparation” trip, followed up by a Chinese delegation visiting Juba. China was now willing to support stability through the peaceful transition towards

⁴⁰ T. Wheeler, *Development through Peace: Could China’s Economic Cooperation with South Sudan be More Conflict-sensitive?*, in *Global Review*, Winter 2012.

⁴¹ D. Large, *Between the CPA and the Southern Independence: China’s Post-Conflict Engagement in Sudan*, p. 17.

⁴² While also representing the core philosophy of Chinese cooperation in conflict-affected countries (see T. Wheeler, *Development through Peace: Could China’s Economic Cooperation with South Sudan be More Conflict-sensitive?*), “Peace through development” was also the title of a booklet published in 2000 by the SPLM in which the then rebel movement argued the need to promote economic and social inclusive development to address the root causes of the civil war. See: SPLM, *Peace through development in the Sudan*, 2000.

⁴³ International Crisis Group, *China’s New Courtship in South Sudan*, Report 186, Africa, 2012, p. 4; S. Graziani, “Buona narrazione” e potere discorsivo nel contesto dei rapporti sino-africani. Una riflessione preliminare, in *Sinosfere*, 17/01/2021, sinosfere.com/2021/01/17/sofia-graziani-buona-narrazione-e-potere-discorsivo-nel-contesto-dei-rapporti-sino-africani-una-riflessione-preliminare/.

⁴³ See the website of the Embassy of the People’s Republic of China to South Sudan, ss.china-embassy.gov.cn/sbwl/201108/t20110812_7182874.htm.

⁴⁴ See the website of the Embassy of the People’s Republic of China to South Sudan, ss.china-embassy.gov.cn/sbwl/201108/t20110812_7182874.htm.

⁴⁵ See the website of the Embassy of the People’s Republic of China to South Sudan, ss.china-embassy.gov.cn/sdnfjj/tpk/201108/t20110826_7648972.htm.

⁴⁶ L. Biong Deng, *China: A Strategic Partner of the New Nation of South Sudan*, in *Sudan Tribune*, 16/04/2012.

independence of Southern Sudan under the CPA terms by donating US\$500.000 to the Southern Sudan Referendum Commission and sending teams of observers during the polls⁴⁷.

4. South Sudan's Independence and the Disenchantment of Traditional Donors

In 2011, 98,8% of Southern population voted in favor of secession from Sudan, and on 9 July 2011 South Sudan became independent. Even though the transition to independence was relatively smooth, relations between Juba and Khartoum remained tense: the CPA had not addressed several important border issues and, most importantly, had left open to negotiation any agreement for the exportation of the crude extracted in Southern Sudan through the only existing transport facility: the Sudan-owned pipeline that linked the oil producing areas in Upper Nile to Port Sudan. An escalation of tensions over the use of the pipeline – and related accusations of Khartoum diverting part of the oil – brought to brief military confrontation in Heglig between the two countries and to a shutdown of oil production in 2012. Following this decision, South Sudan went under severe financial stress, with a skyrocketing deficit, limited access to concessional loans (at that time the country was not yet a full member of the International Monetary Fund) and a nearly bankrupt government. Relations with China, at that point, were ambivalent: on the one hand, the CNPC president of Petrodar (41%-owned by CNPC) was kicked out of the country with the accusation of being complicit with Khartoum; on the other hand, China was nagged to provide more credit to the country as a form of payback for its proximity with the Sudanese government⁴⁸, which the country accepted to do due to its own reliance on South Sudanese crude⁴⁹. Thanks to its persistent bilateral relations also with the Government in Khartoum, China tried to mediate between the two governments to avoid the oil shutdown, but its attempt was unsuccessful. The result was a stalemate that was only resolved one year later, when Juba and Khartoum reached an agreement on the price to use the pipeline, after the Uganda-Kenya Crude Oil Pipeline project, which would have connected Hoima (Uganda) with Lamu (Kenya), providing Juba with an alternative route of international markets for its crude, failed to in secure investors⁵⁰.

⁴⁷ D. Large, *Sudan and South Sudan: A Testing Ground for Beijing's Peace and Security Engagement*, in C. Alden et al. (eds.), *China and Africa. Building Peace and Security Cooperation on the Continent*. Palgrave Macmillan, 2018, p. 167.

⁴⁸ L. Biong Deng, *China: A Strategic Partner of the New Nation of South Sudan*.

⁴⁹ H. Xu, *China's Influence in South Sudan: Prospects and Challenges*, The Zambakari Advisory, 2017.

⁵⁰ China was involved in the Lamu (Kenya) pipeline negotiation but refused to fund its construction until the countries reached an agreement. Zhang Chun, *China's Relations with Two Sudans: From 'One Country, Two Systems' to 'Two Countries, One System'*, in *Global Review*, Winter 2012; The involvement of China National Offshore Oil Corporation financing the East Africa Crude Oil Pipeline, which has replaced the Lamu pipeline project and will link Uganda's oil producing areas to the Tanzanian port of Tonga, might still expand South Sudan's possibility of exporting its crude through alternative routes than the Port Sudan pipeline. Nevertheless, this will only become possible in the long run as the project is still at an early stage of construction and there seem to be no

The oil shutdown was the first moment, after the successful interim period and declaration of independence, when the international community dominated by Western actors started to show some kind of impatience with the new-born country. The World Bank described the move as “irresponsible”⁵¹, the US deplored the decision, the EU warned against the threat to the viability of the two states without oil. China too was hit by the oil shutdown, yet relations between the two countries intensified as South Sudan’s traditional partners’ impatience increased.

Despite the relatively smooth transition to independence and the effort to normalize relations with Sudan, South Sudan was never really at peace. Localized tensions continued throughout the interim period and after independence, often giving rise to violent clashes between different ethnic communities. On top of local disputes, usually linked to the access to resources such as land, water and basic services, high level political tensions, kept at bay by the common objective of achieving secession, exploded after independence. The oil shutdown, particularly, contributed to heighten these tensions, depriving the ruling elite of the vital resources to feed clientelist networks and to buy loyalty from political opponents⁵². The year 2013 was marked by an increasingly visible cleavage among the political leadership of the SPLM that saw the current president Salva Kiir Mayardit challenged by his vice president Riek Machar Teny. The tension escalated, in mid-December 2013, into a full-scale civil war, largely fought along ethnic lines, with most clashes concentrating, once again, in the oil-producing areas.

China’s approach of non-interference in the internal affairs of its partners, deplored by the SPLM when it was a rebel movement, was much more appealing to the Government of South Sudan in these circumstances, as China did not take a strong position against the conflict – and the government itself – as other major donors did. Even though it had to intervene to shortly evacuate its nationals from the country, China kept regular relations with the Government of South Sudan even bringing cooperation a step further: if at independence no military cooperation was ongoing between the two countries (as the SPLA still received assistance from the US and the Chinese were considered to be too close to the Sudan Armed Forces), after December 2013 things changed. The US stopped supporting the SPLA and the UN imposed an arms embargo: Juba thus started military cooperation with Beijing. The Chinese North Industries Group Corporation (Norinco) sent arms cargo to the Government of South Sudan in July 2014. Even though the shipment was said to have been ordered before December 2013, this was in open violation of

immediate plans to link South Sudan’s oilfields to the new pipeline. Luke Patey, *A Belated Boom: Uganda, Kenya, South Sudan and Prospects and Risks for Oil in East Africa*, Oxford Institute for Energy Studies, 2017; Brendon J. Cannon and Stephen Mogaka, *Rivalry in East Africa: The Case of The Uganda-Kenya Crude Oil Pipeline and the East Africa Crude Oil Pipeline*, in *The Extractive Industries and Society*, 11, 2022.

⁵¹ M. Giugale, *Note-to-File. Closed Hold, Not for Distribution or Attribution*, Briefing, The World Bank, 2012.

⁵² A. de Waal, *When Kleptocracy Becomes Insolvent: Brute Causes of the Civil War in South Sudan*, in *African Affairs*, No. 113, 2014, p. 349.

the UN embargo. Also, while many other investors fled the country, South Sudan continued to court Chinese investments and the South Sudan Embassy in Beijing organized the first South Sudan-China Investment forum in early 2014.

But Chinese investments were also at risk. After a first few days of clashes in Juba, fighting between the South Sudan army and the rebel group Sudan People's Liberation Movement/Army-In-Opposition (SPLM/A-IO) quickly moved to the oil producing areas in Unity and Upper Nile States, leading to a drastic reduction in oil production (from around 500.000 to 165.000 barrels per day). China thus started unofficial relations with the SPLM-IO and, in September 2014, a SPLM-IO delegation visited Beijing allegedly to discuss the security of the oilfields. As during the civil war between Northern and Southern Sudan, Small Arms Survey has traced links between oil companies and armed militias in the oil producing areas, suggesting that the very existence of these militias may be linked to the incentives provided by oil companies in exchange for security⁵³.

In what might be looked at as a contradiction, China also tried to market itself as a contributor to peacebuilding efforts, both contributing to the UN peacekeeping Mission in South Sudan (UNMISS) and by attempting a higher-level political mediation between the warring parties in Addis Ababa⁵⁴. For the first time, China decided to dispatch 850 combat troops to UNMISS. It did so after having obtained the strengthening of the mission's mandate, which came to include the protection of oil workers and oil facilities⁵⁵. At the same time, Chinese foreign minister Wang Yi participated to the IGAD-led peace negotiations while at the same time also holding separate talks with Kiir and Machar. While stressing the need to find an African solution to South Sudanese problems – taking on a popular refrain of the African Union and emphasizing the need to support ongoing peace initiatives in the region – in 2015 he proposed a five-point peace plan based on: the implementation of the signed agreements (which were systematically violated); the creation of a Transitional Government; the strengthening of the humanitarian response; the support to the IGAD-led peace process; and the need to ensure safety of foreign people and assets located on South Sudan's national territory⁵⁶.

⁵³ L. M. James, *Fields of Control: Oil and (In)security in Sudan and South Sudan*, Small Arms Survey, 2015, pp. 48-50.

⁵⁴ D. Large, *Sudan and South Sudan: A Testing Ground for Beijing's Peace and Security Engagement*. This new trend in China's approach to international security was later officialized during the Boao Asia Forum in 2021, where Xi Jinping launched the Global Security Initiative based on the Indivisible Security Principle – the idea that collective security of the international community should be prioritized to national security interests. See Sumukhi Asati and Shivangi Jain, *China's Global Security Initiative and Indivisible Security Principle*, in *Diplomatist*, 28/10/2022. diplomatist.com/2022/10/28/chinas-global-security-initiative-and-indivisible-security-principle/.

⁵⁵ C. Lynch, *U.N. Peacekeepers to Protect China's Oil Interests in South Sudan*, in *Foreign Policy*, 2014, available at: foreignpolicy.com/2014/06/16/u-n-peacekeepers-to-protect-chinas-oil-interests-in-south-sudan/.

⁵⁶ D. Large, *China and South Sudan's Civil War, 2013-2015*, in *African Studies Quarterly* No. 16, 2016, p. 45.

In 2015, the IGAD-led peace process achieved the signing of a peace agreement that soon turned out to be unviable. South Sudan was undergoing a deep economic crisis due to the limited operation capacity of its oil sector as well as to low international oil prices. Expectations of China approving a major financial support package were unrealistically high, but the situation in the country remained too unstable even for China and its entrepreneurs. As expected, the agreement collapsed less than one year after it was signed, and it was not until 2018 that a new peace agreement, the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) was signed. This agreement provided for the creation of a monitoring system (the Reconstituted Joint Monitoring and Evaluation Commission) to oversee its timely implementation, which involved representatives from “International Partners and Friends of South Sudan”, including China⁵⁷. Despite continuous clashes in various parts of the country, the progressive disillusionment of traditional donors and repeated threats of withdrawing support forced the leaders to take the implementation of the agreement seriously: renovated prospects for the improvement of stability led to the restart of economic activities and investments, with CNPC obtaining new concessions to conduct hydrocarbon explorations through its two participated companies, Dar Petroleum Operating Company (DPOC) and Greater Petroleum Operating Company (GPOC) (winning over French and Kuwaiti competitors)⁵⁸.

Yet, the implementation of the peace agreement proceeded slowly, with frequent episodes testifying of a lack of trust from both sides: it took almost two years for Salva Kiir and Riek Machar to agree on the formation of the Transitional Government, and several burning issues (such as the organization of elections, power-sharing within the local government system and the merging of the rebel troops with the army) have again stalled. While cooperation with China was strengthened during the Covid-19 pandemic – when the Asian country sent medical supplies and personnel as well as committed to infrastructural interventions and economic support to the creation of Small and Medium Enterprises⁵⁹ and agricultural projects in the framework of South Sudan’s participation to the Forum on China-Africa Cooperation⁶⁰ –, relations with traditional donors have also become less tense. This *détente* is visible in OECD-DAC data on ODA to South Sudan between 2018 (when the revitalized agreement was signed) and 2020, as well as by recent commitments from the World Bank to grants and credits in various sectors⁶¹.

⁵⁷ See JMEC website: jmecsouthsudan.org/index.php/about-rjmec/rjmec-membership-.

⁵⁸ M. A. Goch, *China, Oil and the South Sudan Resource Curse*, in *The Elephant*, 18/18/2022, theelephant.info/features/2022/02/18/china-oil-and-the-south-sudan-resource-curse/.

⁵⁹ Xinhua, *China, South Sudan hold workshop on SMEs development*, 30/06/2021, xinhuanet.com/english/africa/2021-06/30/c_1310034825.htm.

⁶⁰ Xinhua, *China, South Sudan start implementation of key projects under FOCAC*, 12/08/2022, english.news.cn/20220812/ba3da2e8d0f84ac5b0f5343041daf430/c.html.

⁶¹ World Bank, *South Sudan: New World Bank Financing to Boost Access to Income Generating Opportunities for Youth and Women*, 07/06/2022. worldbank.org/en/news/press-release/2022/06/07/south-sudan-new-world-bank-financing-to-boost-access-to-income-generating-opportunities-for-youth-and-women; World Bank, *Provides \$34 million to Support Public Financial*

5. Conclusion

The history of relations between South Sudan and China clearly shows that they grew hand in hand with the capacity of the South Sudanese political elite to subtract itself from, or even openly resist to, traditional donors' conditionalities and requests, particularly in the field of democratic governance, human rights protection and transparency. This dynamic has become quite clear during the civil war that broke out in December 2013: irrespective of the mediation efforts, of the sanctions and of the arms embargo, the Juba government still managed to delay the implementation of peace agreements and both parties repeatedly disrupted the negotiation process at least partly thanks to their access to alternative sources of finance and supply. Providing an alternative to the traditional donor community, China represents an attractive partner to South Sudan notwithstanding its increasing political – and military – engagement in the region. Its commitment to not interfere in other countries' internal affairs remains strong at a time when South Sudan's Western allies – particularly the US, the EU, UK and Norway – have become increasingly critical of the government (in)actions⁶².

At the same time, however, recent events would invite to caution. Consistently with what has been noticed by other authors⁶³, China's approach to its international relations and cooperation remains extremely pragmatic and it has already demonstrated in the past that it is willing to take on risks only as long as it deems that the benefits will outplay the costs. While benefits do not only include economic ones but also have to do with broader political and strategic considerations about China's positionality in the international order⁶⁴, the economic viability of investments and the political stability of its partners still play an important role.

Because of this, and also because of the amount of aid that DAC donors still pour into the country, the Government of South Sudan finds itself between a rock and a hard place, searching for a balance between traditional donors' conditionalities and

Management Reforms in South Sudan. 04/03/2022, worldbank.org/en/news/press-release/2022/03/04/world-bank-provides-34-million-to-support-public-financial-management-reforms-in-south-sudan; World Bank, *South Sudan Receives \$120 million to Continue Strengthening Service Delivery, Community Institutions, and Resilience to Floods*, 15/03/2022, worldbank.org/en/news/press-release/2022/03/15/south-sudan-receives-120-million-to-continue-strengthening-service-delivery-community-institutions-and-resilience-to-flo.

⁶² See for example: *Statement by the Troika, the EU and its Member States on the Extension of the Revitalized Agreement on the Resolution of the Conflict in South Sudan*, 9/08/2022, ss.usembassy.gov/statement-by-the-troika-the-eu-and-its-member-states-on-the-extension-of-the-revitalized-agreement-on-the-resolution-of-the-conflict-in-south-sudan/.

⁶³ J. Malm, *China-powered' African Agency and its Limits: The Case of the DRC 2007–2019*, pp. 1-14; Jon Phillips, *Who's in charge of Sino-African resource politics? Situating African state agency in Ghana*, in *African Affairs*, No. 118, 2019, pp. 1-24.

⁶⁴ S. Graziani, *"Buona narrazione" e potere discorsivo nel contesto dei rapporti sino-africani. Una riflessione preliminare*, in *Sinosfere*, 17/01/2021, sinosfere.com/2021/01/17/sofia-graziani-buona-narrazione-e-potere-discorsivo-nel-contesto-dei-rapporti-sino-africani-una-riflessione-preliminare/.

requests, and China's (at times implicit) requirements for its investments to be rewarding. One example is the implementation of restrictive measures to improve transparency and accountability in the oil sector, and particularly the undertaking of an environmental audit and the implementation of human resource policies in early 2021, which was strongly advocated for by the Troika (the three most important donors to South Sudan, US, UK and Norway) and the World Bank. However, this exercise seems to have triggered China's resentment, which resulted in its favorable vote for the extension of the UN arms embargo, from which it had previously abstained, as a form of retaliation⁶⁵.

These latest events may suggest that, even though a pragmatic relation with China has provided benefits in terms of infrastructural development and reduced dependence from Western donors and their conditionalities, South Sudan may need to decide which partnership to prioritize for its own development and the wellbeing of its population.

⁶⁵ M.A. Goch, *China, Oil and the South Sudan Resource Curse*, in *The Elephant*, 18/18/2022, theelephant.info/features/2022/02/18/china-oil-and-the-south-sudan-resource-curse/.

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Tax Competence of the Eurasian Economic Union

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Tax Competence of the Eurasian Economic Union: A New Reading by the Court

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Abstract

In October 2022, the Court of the Eurasian Economic Union (EAEU) adopted the first Advisory Opinion fully devoted to the interpretation of the tax provisions of the EAEU Treaty. While reiterating its previous findings that the powers to impose taxes fall within the jurisdiction of the Member States, for the first time, the Court has argued in favour of limiting these powers by the law of the EAEU. Such limitations derive from the principles of non-discrimination and free competition of goods and services regardless of the country of production. In such a manner, the Court has made a significant contribution to the establishment of a single common market within the Union and has enriched the understanding of the principles governing the division of competence between the Member States and the bodies of the Union. The only conclusion that could be seen as dubious by the Court was regarding the collection of VAT on the basis of the country of destination and the fact that this is necessary to maintain competition and avoid double taxation and that the reasoning for such a mechanism is also predetermined by the nature of this tax.

Keywords: Eurasian Economic Union – Advisory opinion – Indirect taxes – Non-discrimination – Single market – Fair competition.

CONTENTS: 1. Introduction. 2. The Facts and Essence of the Case. 3. Arguments of the Court and Conclusions on the Tax Competence of the EAEU. 4. Conclusion.

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1. Introduction

The Eurasian Economic Union (EAEU) first started functioning on 1 January 2015 and currently includes 5 states: the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation. Within the framework of the EAEU, a customs union was established, a single customs tariff was applied, and common customs regulations were implemented with the stated goal of forming a single market that ensures the freedom of movement of goods, services, capital and labour resources¹.

EAEU bodies were created, including the Supreme Council, the Intergovernmental Council, the Eurasian Economic Commission and the EAEU Court², with the Court having jurisdiction to resolve disputes and the advisory competence to clarify and interpret the provisions of the EAEU Treaty³. As of December 23, 2022, the Court had considered 70 cases, of which 42 cases were related to the functioning of the customs union, 10 cases were connected to the general principles and rules concerning competition and 5 were related to labour relations within the bodies of the EAEU⁴.

There are only three articles contained within the EAEU Treaty that are devoted to the cooperation of the Member States in the field of taxation: Article 71 outlines the principles of cooperation of the Member States in the field of taxation; Article 72 provides for the principles for the collection of indirect taxes; and Article 73 contains one provision regarding the taxation of income of permanent residents of the Member States who are entitled to a resident tax rate in the other Member State from their first day of employment. The first two articles mentioned above state that goods that are imported from the territory of one Member State into the territory of another Member State are subject to indirect taxes only in the destination country of goods, while in the country of origin, the export of the goods in question is

¹ Articles 1, 2, 4, 25 of the Treaty on the Eurasian Economic Union (TEAEU); See English text of the TEAEU at the docs.eaeunion.org/en-us; See also A. Di Gregorio, *The Eurasian Economic Union: Origin and Development of a New Integration Format Compared to That of the EU*, in A. Di Gregorio, A. Angeli (eds.), *The Eurasian Economic Union and the European Union. Moving Toward a Greater Understanding*, Eleven International Publishing, 2017, 3-26.

² Art. 8 of the TEAEU.

³ Par. 39, 46 of the Statute of the EAEU Court, Annex 2 to the TEAEU; See also E. Diyachenko, K. Entin, *Competence of the Court of the Eurasian Economic Union: myths and reality*, in *International Justice*, No. 3, 2017, 76-95; Z. Kembayev, *The Court of the Eurasian Economic Union. An Adequate Body for Facilitating Eurasian Integration?*, in *Review of Central and East European Law*, Vol. 41 No. 3-4, 2016, 354-360, 365-367; K. Entin, B. Pirker, *The Early Case Law of the Eurasian Economic Union Court: On the Road to Luxembourg?*, in *Maastricht Journal of European and Comparative Law*, No. 3, 2018, 266-287; K. Entin, E. Diyachenko, *The Court of the Eurasian Economic Union* in A. Aseeva, J. Górski (eds.), *The Law and Policy of New Eurasian Regionalization: Economic Integration, Trade, and Investment in the Post-Soviet and Greater Eurasian Space*, Brill Nijhoff, 2021, 90-104.

⁴ Statistical data on the activities of the Court of the EAEU as of 23 December 2022 (Table 7), courteurasian.org/analytics/statistical_information/.

exempt from indirect taxation. This particular provision differs from that contained within the taxation system of the European Union, whereas a general rule, goods are subject to indirect taxation in the country of origin⁵. Thus, for example, an exporter of goods from one EAEU state (for example, from Kazakhstan) is not subject to value-added tax (VAT) on exports of goods to another EAEU state (for example, to the Kyrgyz Republic), and VAT that was in fact paid to the supplier of the product within the first country is subject to refund from the budget of Kazakhstan. Thus, continuing with the example above, in Kyrgyzstan, the buyer of the goods, after acquiring full ownership rights over the goods, is obligated to pay the full amount of VAT calculated on the price of the goods into the state budget. However, the EAEU Treaty provides for several exceptions to this rule when VAT is not charged when importing into the territory of a Member State: 1) when the goods in question are exempt from indirect taxes in accordance with the legislation of the destination state; 2) when the goods are imported by individuals and not to be used for business purposes, i.e., when they will be used for the purpose of consumption; and 3) when the goods are moved within the same legal entity (paragraph 6 of Article 72). The interpretation of the last provision has become a subject of the EAEU Court Advisory Opinion, which is commented on in this article.

2. The Facts and Essence of the Case

The Epiroc Central Asia Limited Liability Company⁶ (hereinafter referred to as the Company), which is registered in the Republic of Kazakhstan, transferred goods from the warehouse of its head office to the warehouse of one of its own branches in the Kyrgyz Republic. The branch in question did not pay VAT upon receipt of the goods on the basis of the abovementioned norm of the EAEU Agreement. Furthermore, the goods were then sold in the territory of the Kyrgyz Republic, and sales of the goods were subject to VAT in accordance with established procedures. The Kyrgyz tax authorities then conducted an audit of the company and ordered the company to pay the VAT, which the company allegedly had not paid when transferring the goods into the Kyrgyz Republic. In regard to this issue, the Financial Policy Department of the EAEU executive body (the Commission) then signed two conflicting letters dated 2020 and 2021 with regard to the need to impose

⁵ Council of the European Union, *Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax*, OJ L 347/1, 2006 (last amended by Council Directive 2022/890 of 3 June 2022), art. 193. The Commission in 2016 declared a plan to introduce in the EU the principle of cross-border VAT taxation in the country of destination instead of the country of origin principle. See European Commission, *Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT*, Brussels, 7.4.2016 COM(2016) 148 final, at 4. However, this plan was not performed.

⁶ Until January 1, 2018, the company operated under the “Atlas Copco” brand. Atlas Copco is a global industrial company headquartered in Sweden with 49,000 employees in 70 countries, atlas-copco.com/content/dam/atlas-copco/web-only/corporate/documents/about-us/20230219-atlas-copco-facts-and-figures-2023.pdf.

VAT on goods imported into an EAEU Member State for the purpose of further sale. In this regard, the Ministry of Economy and Commerce of the Kyrgyz Republic, which is the official body responsible for tax policy in the country⁷, submitted to the EAEU Court an application for the clarification of Clause 6 of Article 72 of the EAEU Treaty. An explanation of this seemingly obvious provision was then used by the Court to formulate rather important conclusions with regard to the scope of the tax competence of the Eurasian Economic Union as an integration entity. The Advisory Opinion was then adopted on the 12th of October⁸. Nine judges voted in favour of this Opinion, and one judge disagreed with the conclusions of the Grand Panel and signed a dissenting opinion⁹. As expected, the Court interpreted the provision of the EAEU Agreement on the exemption of VAT for goods transferred within the same legal entity as also covering those cases when goods are imported for resale¹⁰. Literally, the conclusion reads as follows: «The import of goods into the territory of a Member State of the Union from the territory of another Member State of the Union related to their transfer within the same legal entity is not subject to indirect taxes, regardless of the purpose of such an import»¹¹.

3. Arguments of the Court and Conclusions on the Tax Competence of the EAEU

It should be noted first and foremost that since its establishment, the EAEU Court has repeatedly noted in its judgements that the sphere of taxation is outside the competence of the Union's bodies. Therefore, for example, in the case of individual entrepreneur *Tarasik*, (28.12.2015, excise duty in connection with the import of a truck) the Court stated that determination of the scope of goods subject to the excises is not within the competence of the Union in accordance with the Treaty on the EAEU and falls under the exclusive right of the Member State¹². In the decision of the Appeals Chamber in this case, the Court then stated that the payment of taxes and duties in the case of the import of vehicles for business purposes into the territory of a Member State from third countries is within the competence of the Member State and cannot be subject to monitoring and control by the Union body¹³.

As the Court pointed out in the *Sevlad* case (07.04.2016, the imposition of VAT on the import of feed additives), the application of the national law with regard to the granting of benefits is clearly and unconditionally within the competence of the state implementing such acts; therefore, the rights granted by national legislation

⁷ See the official website of the Ministry, mineconom.gov.kg/en.

⁸ Court of the Eurasian Economic Union (EAEU), *Advisory Opinion of the Grand Chamber of the Court of 12 Oct. 2022 at the request of the Ministry of Economy and Commerce of the Kyrgyz Republic*, Case CE-2-1/1-22-BK, courteurasian.org/court_cases/aeau/P.2-22/.

⁹ Court of the EAEU, *Dissenting Opinion of Judge T. N. Neshataeva*, of 12 Oct. 2022, Case CE-2-1/1-22-BK, courteurasian.org/court_cases/aeau/P.2-22/.

¹⁰ Court of the EAEU, *Advisory Opinion of the Grand Chamber of the Court of 12 Oct. 2022*, at 8.

¹¹ *Ibid.*

¹² Case CE-1-2/2-15-KC, *Tarasik K.P.*, at 22, courteurasian.org/court_cases/aeau/C-4.15/.

¹³ *Ibid.*, at 31.

cannot be protected by the supranational law¹⁴. By the word “protected” the Court meant that the taxpayer could not invoke the Treaty provisions since the Union didn’t have competence in taxation. The Appeals Chamber confirmed this conclusion, adding that tax relations «according to the law of the Union fall under the exclusive jurisdiction of national Member States»¹⁵.

In its Advisory Opinion on Leasing (10.07.2020), the Grand Panel of the Court also ruled that the Treaty itself and international agreements within the Union did not endow the Union bodies with competence in the field of direct taxation; therefore, the relevant relations are regulated by the legislation of the Member States¹⁶. In the Opinion at issue, the Court repeated this conclusion, pointing out again that taxation matters fall within the competence of the Member States¹⁷.

In the same phrase, however, the Court pointed out that the tax powers of the Member States are limited by the law of the Union and, in particular, by the principle of non-discrimination, which derives from «the need to create equal conditions for the free competition of goods and services regardless of the country of production, and establishes the foundations of a fair trade, and is interrelated with the principle of fair competition»¹⁸. This legal position, in essence, not only allows the Court to clarify the tax provisions of the treaty but also in fact confers the tax competence to the Union bodies. It is important to note that when formulating limitations on the tax competence of the states, in essence, the Court refers to the declaratory norms of the EAEU Treaty (Paragraph 3 of Article 71), which, within the framework of a narrower approach, could have been interpreted as referring only to the harmonization of legislation by the Member States.

When referring to the principles of fair competition, the Court does not mention Article 76 of the Treaty on competition since in this context, the Court refers to the protection of competition not from the actions of companies but from the measures of the Member States. The provisions on the protection of competition in the EAEU Treaty also provide for certain obligations that the Member States must follow to create equal conditions for economic entities registered in different EAEU Member States. However, this obligation does not apply to any measures but only to measures relating to Member States’ antitrust legislation.

Comparing provisions on the protection of competition in the EAEU and the EU Founding Treaty, one would see that the scope of the relevant norms in the latter is more complete. In the Treaty on the Functioning of the European Union (TFEU), competition rules contain provisions prohibiting state aid that distorts or threatens to distort competition by favouring certain undertakings or the production of certain

¹⁴ Case CE-1-2/1-16-KC, Sevlad, at 26, courteurasian.org/court_cases/eaue/C-5.15/.

¹⁵ *Ibid.*, at 29.

¹⁶ Court of the EAEU, *Advisory Opinion of the Grand Chamber of the Court of 10 Aug. 2020 at the request of the Ministry of Justice of the Russian Federation*, Case CE-2-1/2-20-BK, at 12, courteurasian.org/court_cases/eaue/P-1.20/.

¹⁷ Court of the EAEU, *Advisory Opinion of the Grand Chamber of the Court of 12 Oct. 2022*, at 4.

¹⁸ *Ibid.*

goods¹⁹. It is noteworthy that this particular provision was actively used by the Commission to counteract the practice of granting preferential tax regimes to individual corporations (Starbucks, Apple, Fiat and Amazon) by some EU Member States (Luxembourg, Ireland, and the Netherlands)²⁰.

It should also be noted that the EAEU Court's justification for the Union's own tax competence is based on approaches that are similar to the legal positions of the Court of the European Union. Article 113 of the TFEU explicitly provides for the right of the EU to harmonize only the legislation of the Member States with regard to indirect taxation, while direct taxation continues to be mainly regulated by the Member States. However, in cases where direct taxation affects the effective functioning of the internal market, the EU has reserved the right to adopt legislation in the form of directives in relevant areas of which there are currently three: taxation on internal transactions between parent and subsidiary companies (Directive 2011/96/EU)²¹, taxation on mergers and divisions (Directive 2009/133/EC as amended in 2013)²²; and taxation on interest and royalties between associated companies (Directive 2003/49/EC)²³.

Another example of the relationship with regard to taxation and the functioning of the internal market can be given in relation to the interaction of the Double Taxation Treaties (DTTs) and EU law. On the one hand, DTTs apply to direct

¹⁹ Consolidated Version of the Treaty on the Functioning of the European Union, OJ C 202/47, 2016, art. 107.

²⁰ European Commission, Commission decides selective tax advantages for Fiat in Luxembourg and Starbucks in the Netherlands are illegal under EU state aid rules, Brussels, 21 October 2015; European Commission, Letter to Ireland regarding the decision to initiate formal procedure, C(2014) 3606 final 2014, alleged aid to Apple, 2014; European Commission, Letter to the Netherlands regarding the decision to initiate formal procedure, C(2014) 3626 final, alleged aid to Starbucks, 2014; European Commission, Letter to Luxembourg regarding the decision to initiate formal procedure, C(2014) 3627 final, alleged aid to FFT, 2014; European Commission, Letter to Luxembourg regarding the decision to initiate formal procedure, C(2014) 7156 final, alleged aid to Amazon by way of a tax ruling, 2014. See the in-depth analysis in: R. Luja, *EU State Aid Law and National Tax Rulings*, 2015. Available at: [www.europarl.europa.eu/RegData/etudes/IDAN/2015/563453/IPOL_IDA\(2015\)563453_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/563453/IPOL_IDA(2015)563453_EN.pdf). See also C. Bobby, *A Method inside the Madness: Understanding the European Union State Aid and Taxation Rulings*, in *Chicago Journal of International Law*, Vol. 18 No. 1, 2017. Available at: chicagounbound.uchicago.edu/cjil/vol18/iss1/5.

²¹ Council of the European Union, *Council Directive 2011/96/EU of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States*, OJ L 345/8, 2011 (last amended by Council Directive (EU) 2015/121 of 27 January 2015).

²² Council of the European Union, *Council Directive 2009/133/EC of 19 October 2009 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States*, OJ L 310/34, 2009 (last amended by Council Directive 2013/13/EU of 13 May 2013).

²³ Council of the European Union, *Council Directive 2003/49/EC of 3 June 2003 on the common system of taxation applicable to interest and royalty payments made between associated companies of different Member States*, OJ L 157/49, 2003 (last amended by Council Directive 2013/13/EU of 13 May 2013).

taxation, the possibilities for the harmonization of which are explicitly not assigned to EU institutions; on the other hand, different tax regimes of the nationals of the various Member States pose an obvious obstacle to the functioning of the internal market²⁴. This fundamental problem of double taxation in the EU was partially resolved by the CJEU by referencing the obligation of Member States to exercise their powers in full compliance with the Community Law²⁵. In cases where the principles of the Founding Treaties are violated as a result of the application of DTTs or due to national laws implementing them, such agreements and laws should be amended²⁶.

The third example taken from EU legal practice concerns mechanisms for combating the use of tax avoidance schemes, which is an area of EU tax competence. In this sphere, the EU Council Directive of 2016 laid down rules against tax avoidance practices that directly affect the functioning of the internal market is currently in force²⁷. The reference to the internal market in the directive's

²⁴ European Commission, Workshop of Experts, *Working Document: EC Law and Tax Treaties*, June 5, 2005, DOC (05) 2306, at 3.

²⁵ The report cites the following judgements of the Court: Case C-279/93, Schumacker, ECLI:EU:C:1995:31, pt. 21, curia.europa.eu/juris/liste.jsf?language=en&num=C-279/93; Case C-80/94, Wielockx, ECLI:EU:C:1995:271, pt. 16, curia.europa.eu/juris/liste.jsf?language=en&num=C-80/94; Case C-107/94, Asscher, ECLI:EU:C:1996:251, pt. 36, curia.europa.eu/juris/liste.jsf?language=en&num=C-107/94; Case C-250/95, Futura, ECLI:EU:C:1997:239, pt. 19, curia.europa.eu/juris/liste.jsf?language=en&num=C-250/95; Case C-118/96, Safir, ECLI:EU:C:1998:170, pt. 21, curia.europa.eu/juris/liste.jsf?language=en&num=C-118/96; Case C-264/96, I.C.I., ECLI:EU:C:1998:370, pt. 19, curia.europa.eu/juris/liste.jsf?language=en&num=C-264/96 (accessed 31 Mar. 2023). The comprehensive collection of the relevant case law in: I. Panzeri, *Tax Treaties versus EU Law: Which Should Prevail?*, in *European Taxation*, April 2021, note 8 at 148.

²⁶ The report cites the following judgements of the Court: Case C-58/01, Océ Van der Grinten, ECLI:EU:C:2003:495, pt. 54, curia.europa.eu/juris/liste.jsf?language=en&num=C-58/01; Case C-385/00, F.W.L. de Groot v. Staatssecretaris van Financiën, ECLI:EU:C:2002:750, pts 84, 94, 99 et seq, curia.europa.eu/juris/liste.jsf?language=en&num=C-385/00; Case C-397/98, Metallgesellschaft, ECLI:EU:C:2001:134, pts 71 et seq, curia.europa.eu/juris/liste.jsf?language=en&num=C-397/98; Case C-200/98, X AB et Y AB, ECLI:EU:C:1999:566, pts 10 and 31, curia.europa.eu/juris/liste.jsf?language=en&num=C-200/98 (accessed 31 Mar. 2023). The recent jurisprudence of the Court on the application of the DTT by the EU Member States comprises following judgements: Case C-403/19, Société Générale SA v. Ministre de l'Action et des Comptes publics, ECLI:EU:C:2021:136, curia.europa.eu/juris/document/document.jsf?text=&docid=238169&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=15027312; Case C-572/20, ACC Silicones Ltd. v. Bundeszentralamt für Steuern, ECLI:EU:C:2022:469, curia.europa.eu/juris/document/document.jsf?text=&docid=260988&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=15027312, C-538/20, W (Déductibilité des pertes définitives d'un établissement stable non-résident), ECLI:EU:C:2022:717, curia.europa.eu/juris/document/document.jsf?text=&docid=266103&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=15027312.

²⁷ Council of the European Union, *Council Directive (EU) 2016/1164 of 12 July 2016, which laid down rules against tax avoidance practices that directly affect the functioning of the internal market*, OJ L 193/1, 2016 (last amended by Council Directive (EU) 2017/952 of 29 May 2017).

title is not accidental. The basis for its publication was not the tax provisions of the TFEU but Article 115 on the approximation of the Member States legislation, which gives the Council the right to adopt directives specifically designed to ensure the establishment and functioning of the internal market.

Continuing on the analysis of the Advisory Opinion at issue, we must note that the EAEU Court has in fact conducted a fairly detailed analysis of indirect taxation in the Eurasian Economic Union based on the main text of the EAEU Treaty, as well as that of Protocol No. 18, which is an Annex to the Treaty. In this regard, the Court points out that indirect taxes, including VAT and excise tax²⁸, and the taxpayer's obligation to pay indirect taxes arises when it is engaged in a goods purchase and at the moment of obtaining ownership on goods²⁹. Given the clear fact that there is no transfer of ownership when goods are moved within the same legal entity, there are therefore no legal or economic grounds for an obligation to pay taxes. Moreover, even the purpose of transferring any goods within a single legal entity is not legally relevant.

In such a manner as stated above, the Court not only applied very carefully thought on the interpretation of the norms of the EAEU Treaty but also examined the legal and economic grounds for taxation, as well as taking into consideration the concise rules of the EAEU Treaty in a fairly broad context. An additional argument that the Court could have presented is that VAT exemption relating to the goods imported for sale purposes within a single legal entity practically does not affect the fiscal interests of the state of import, since the seller in the case of the further sale pays VAT into the budget of the state without any tax deductions. In this regard, it is thus difficult to agree with the argument of the dissenting opinion that the term "transfer" specified in the Treaty should be interpreted exclusively as «a transfer for own needs, otherwise it may conceal an unjustified tax benefit of multinational companies»³⁰.

The only flaw in the Court's argument, in our opinion, occurred when discussing the principle of the country of destination. The Court made it a point that the collection of VAT on the basis of the country of destination is 1) determined for the purpose of maintaining competition and elimination of double taxation and 2) determined by the legal nature of the VAT as a consumption tax³¹. Note that VAT on the sale of goods within customs unions of states can be collected on the basis of the country of origin, as it occurs in most cases in the EU³². In such a case, norms on competition are not violated, double taxation does not occur, and the legal

²⁸ Court of the EAEU, *Advisory Opinion of the Grand Chamber of the Court of 12 Oct. 2022 at the request of the Ministry of Economy and Commerce of the Kyrgyz Republic*, at 3.

²⁹ *Ibid.*, at 7-8.

³⁰ Court of the EAEU, *Dissenting Opinion of Judge T. N. Neshataeva, of 12 Oct. 2022*, Case CE-2-1/1-22-BK, at 1-2.

³¹ Court of the EAEU, *Advisory Opinion of the Grand Chamber of the Court of 12 Oct. 2022*, at 6.

³² Art. 193 of the *Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax*: «VAT shall be payable by any taxable individual carrying out the taxable supply of goods or services [...]»; for a brief explanation of the VAT calculation and payment mechanism, see the website of the European Commission, taxation-customs.ec.europa.eu/eu-vat-rules-topic_en.

foundation for the application of VAT is not distorted. Moreover, such a system is evidence of the development of a more “mature” customs union. As a general rule in the EU, VAT is paid by the seller to the budget of the seller’s state of origin with a deduction from the tax charged on the price of the goods a tax, which has been paid to the suppliers of acquired goods, materials and/or services³³. A buyer from an EU Member State, paying VAT to the seller in the price of the goods, can then deduct this VAT from the further sale of the goods. VAT can also be paid into the state budget by the buyer, but this happens, with only a few exceptions, only when goods are imported from outside the EU³⁴. However, some researchers argue that both “the principle of the country of destination” and “the principle of the country of origin” are imperfect: in the first case, the efficiency of production is ensured but not the efficiency of exchange (trade), and in the second case, the opposite of the aforementioned occurs³⁵.

4. Conclusion

The Advisory Opinion of the EAEU Court at issue, like all the Advisory Opinions of the Court, has the nature of *res interpretata*³⁶. It is a very important stage in the Court’s development of the legal system of the Eurasian Economic Union³⁷. It should be underlined that the Court has formulated notable provisions in recent years on the supremacy of the law of the Union³⁸, on its direct effect³⁹, on

³³ Exceptions, when VAT is paid to the budget by the buyer, in particular cases where the seller is a business that is not established in the EU, see *Council Directive 2006/112/EC of 28 November 2006*, arts. 195-198.

³⁴ *Ibid.*, art. 70.

³⁵ S. Ene, D. Micuda, *Indirect Taxation in the European Union*, in *MPRA Paper*, No. 30414, 2007, 315 ff.

³⁶ E. Diyachenko, K. Entin, *Competence of the Court of the Eurasian Economic Union: myths and reality* cit., at 84, 93, 76–95.

³⁷ Note that by analogy with the European Court of Justice (Digest of case-law, curia.europa.eu/jcms/jcms/Jo2_7046/en/), the EAEU Court’s website contains a compendium-material of exceptional value including a detailed compilation of its legal positions as of 31 December 2022. The legal positions of the EAEU Court are divided into sections: EAEU Law order, EAEU Institutional System, EAEU Court Proceedings, EAEU Substantive Law, Accession of New Members to the Union, Union International Service; the annex contains a list of cases heard by the EAEU Court, courteurasian.org/analytics/publications/.

³⁸ Case CE-2-2/1-17-BK, Eurasian Economic Commission (Redundancy case), *Advisory opinion of the Grand Chamber of the Court of 12 Sept. 2017*, at 13, courteurasian.org/court_cases/eaau/P-2.17/; Case CE-2-2/5-18-BK, Eurasian Economic Commission (Professional Athletes case), *Advisory opinion of the Grand Chamber of the Court of 7 Dec. 2018*, at 12, courteurasian.org/court_cases/eaau/P-3.18/; Petrov and Kalinichenko argue that drafters of the TEAEU intentionally avoided any references to the supranationality and supremacy of “Union Law” and defined the EAEU as an “international organization of regional economic integration”, see R. Petrov, P. Kalinichenko, *On Similarities and Differences of the European Union and Eurasian Economic Union Legal Orders: Is There the ‘Eurasian Economic Union Acquis’?*, in *Legal Issues of Economic Integration*, 43, 2016, 299.

³⁹ Case CE-1-1/1-16-BK, Russian Federation/Republic of Belarus (Kaliningrad Transit Case), at 9; Case CE-2-2/5-18-BK, at 6. See also A. Rosano, *Wrong Way to Direct Effect?: Case Note on the*

the supranational competence of the Union⁴⁰ and on the principles of mutual recognition and freedom of movement of goods⁴¹.

In the Advisory Opinion at issue, the Court formulated important provisions that make it clear that even within the sphere of national competence, states are not free from obligations and must take into account the provisions of the Treaty on non-discrimination and the freedom of movement of goods and services. This shows the peculiarity that characterizes the Court of the EAEU as the court that carries out the function of the constitutional court of the Union. In addition, the Treaty on the EAEU plays the same role for the Court as constitutions do for national constitutional courts and therefore, the Court is obliged to ensure the supremacy of the EAEU law and the protection of its values⁴². It should also be emphasized that the Advisory Opinions of the EAEU Court, including the Opinion at issue, allow for a certain mechanism to protect the rights of private persons that do not have *locus standi* with regard to claims for non-performance or improper performance by the authorities of a Member State under the norms of the Union law⁴³.

In conclusion, we note that the judicial act of the EAEU Court is notable for the following reasons: 1) it is the first judicial act devoted entirely to taxes; 2) the Court made an important conclusion that the tax powers of the Member States of the Union are limited by the law of the Union and placed special emphasis on the principle of non-discrimination; and finally, 3) the Court linked the principles of tax non-discrimination with the principles governing the free competition of goods and services, regardless of their country of production.

Finally, it can be concluded that the Court has formulated important provisions that, in fact, grant the Union's bodies the right to exercise measures regarding tax competence, although the EAEU Treaty does not explicitly grant them such powers. A practical consequence of the adoption of this Advisory Opinion may be the closer monitoring of the national tax legislation and national tax practices of the Member

Advisory Opinion of the Court of the Eurasian Economic Union Delivered on April 4, 2017 at the Request of the Republic of Belarus, in Legal Issues of Econ. Integration, No. 2, 2018, 211-220.

⁴⁰ Case CE-1-2/2-15-KC, Tarasik K.P., at 15; Case CE-1-2/1-16-KC, Sevlad, at 26; Case CE-1-2/2-16, General Freight CJSC, at 15; Case CE-3/2-16-KC, TP Rusta-Broker, at 4, courteurasian.org/court_cases/eaau/C-4.16/; Case CE-2-1/1-17-BK at the request of the Ministry of Justice of Belarus (Vertical Agreements Case), *Advisory Opinion of the Court of 4 Apr. 2017*, at 4, courteurasian.org/court_cases/eaau/P-1.17/; Case CE-2-2/2-17-BK, The Eurasian Economic Commission (Free Movement of Goods), *Advisory Opinion of the Grand Chamber of the Court of 30 Oct. 2017*, at 4, 6, docs.eaeunion.org/docs/ru-ru/01220306/ac_21122018_att.pdf; Case CE-2-1/2-18-BK at the request of the Ministry of Justice of Belarus, *Advisory Opinion of the Court of 10 Jul. 2018*, at 3, 5-7; Case CE-2-2/6-18-BK, Eurasian Economic Commission (Coordination Case), *Advisory Opinion of the Grand Chamber of the Court of 17 Dec. 2018*, at 8; Case CE-2-2/7-18-BK, Eurasian Economic Commission, *Advisory Opinion of the Court of 20 Dec. 2018*.

⁴¹ Case CE-1-1/1-16-BK, Russian Federation/Republic of Belarus (Kaliningrad Transit Case), at 3-4, 7; Case CE-2-2/5-18-BK, Free Movement of Goods, at 8-9.

⁴² K.L. Chaika, *The Court of Integrative Organization as International Judicial Body*, in *Proceedings of the Institute of State and Law of the RAS*, No. 6, 2019, at 147-166.

⁴³ E. Diyachenko, K. Entin, *Competence of the Court of the Eurasian Economic Union: myths and reality*, cit., at 76-95.

States to identify possible violations of the non-discrimination provisions contained in the Treaty on the Eurasian Economic Union. In addition, Member States national courts applying the EAEU Treaty to the tax relations will take into consideration the interpretation of the Court in the Advisory Opinion at issue.

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*Agata Lavorio**

Abstract

Today, the natural, social and political effects of the “climate crisis” are intensifying, bringing back the debate on the relationship between non-traditional phenomena, national security and democracy. Indeed, it is widely perceived that the involvement of traditional security actors (the executive branch, the military, government professionals) into non-traditional phenomena, such as climate migrations, can have severe effects on democratic values, as explained by studies on securitization (and its variations) and militarization. Mostly from a perspective of “practical geopolitics”, this article argues that climatization can help build a comprehensive adaptation to climate change effects, avoiding single target emergencies characterized by existential threats and military response, as demonstrated by the evolving case of the United States (where climatization has been recently launched) and Australia (where, in the absence of a political debate on climate security, climate migrations are evidently handled in undemocratic ways).

Keywords: Climate change – Climate crisis – Security – Migrations.

SOMMARIO: 1. Introduzione. 2. Le migrazioni climatiche come argomento di sicurezza nazionale: securitizzazione e militarizzazione. 3. Migrazioni climatiche come minacce geopolitiche: una panoramica delle origini. 4. Le migrazioni climatiche nelle politiche di sicurezza e difesa. 4.1. Stati Uniti. 4.2. Australia. 5. Le migrazioni climatiche nel rapporto tra climatizzazione, sicurezza e democrazia. 6. Conclusione.

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1. Introduzione

Il coinvolgimento degli apparati della sicurezza nazionale tradizionale in materia di migrazioni climatiche (specialmente se irregolari, provenienti da Stati già entrati nella *grand strategy* come fonti di instabilità regionale e internazionale) è stato largamente considerato nella letteratura politologica come uno dei processi maggiormente disfunzionali per la tenuta dei regimi democratici. Non occorre, infatti, andare oltre la letteratura grigia prodotta da Stati occidentali e organizzazioni internazionali degli anni Novanta per rilevare rappresentazioni di orde disordinate e dalle identità confuse, mosse da cambiamenti climatici e ambientali di grande portata, richiedenti asilo alle porte delle economie avanzate – rappresentazioni che hanno effettivamente replicato all'interno del *policy-making* di Stati e organizzazioni rapporti di potere ineguale e discriminazione razziale¹ in linea con logiche antidemocratiche². L'effettivo coinvolgimento degli apparati militari nella gestione dei fenomeni meteo-climatici estremi, come nel caso dell'impiego della Guardia nazionale e di personale in servizio attivo in risposta all'uragano Katrina negli Stati Uniti (2005), così come nella gestione dei flussi migratori (emblematica in tal senso è l'*Operation Sea Signal* del 1994-1996 condotta dal Dipartimento della Difesa americano e la *Pacific Solution* australiana attiva dal 2001), assieme alla relativa superficialità con cui sono stati commentati e gestiti i primi casi di migrazioni climatiche³ e il cambiamento climatico stesso⁴ a inizio Duemila, ha dimostrato la reale possibilità che fenomeni correlati alla crisi climatica possano eludere i normali processi decisionali delle democrazie per mezzo dell'uso di personale militare in contesti non afferenti all'uso o alla minaccia della forza armata (come le politiche migratorie), ma richiedenti, in ogni caso, una

¹ A. Baldwin, *Racialisation and the Figure of the Climate-Change Migrant*, in *Environment and Planning A: Economy and Space*, No. 6, 2013.

² Tale giudizio trae origine dall'analisi proposta da Robert Ullman, tra i primi a sottolineare come una concezione di sicurezza nazionale in senso tradizionale implichi una «immagine profondamente falsa della realtà», portando a «una militarizzazione pervasiva delle relazioni internazionali che nel lungo periodo può solo aumentare l'insicurezza globale». La citazione è tratta da R. Ullman, *Redefining Security*, in *International Security*, No. 1, 129.

³ Sulla “scoperta” del caso dell'Arcipelago di Carteret (Papua Nuova Guinea), identificato dalla stampa e dalle Nazioni Unite come primo caso di rifugiati climatici, rimando all'articolo che portò l'attenzione del pubblico sulla questione, ovvero J. Vidal, *Pacific Atlantis*, in *The Guardian*, 25 Novembre 2005. Sul caso del villaggio alaskano di Kivalina, presentato come primo caso di rifugiati climatici su territorio americano (in un contesto emblematico per le economie avanzate), si veda invece: C. Schearer, *Victim of Climate Change, a Town Seeks a Lifetime*, in *The New York Times*, 27 Maggio 2007; per un'analisi più approfondita, anche C. Schearer, *Kivalina: A Climate Change Story*, Haymarket Books, 2011.

⁴ Q. Schiermeier, *Disaster Movie Highlights Transatlantic Divide*, in *Nature*, Vol. 431, 2004; A. Bulfin, *Popular Culture and the 'New Human Condition': Catastrophe Narratives and Climate Change*, in *Global and Planetary Change*, Vol. 156, 2017; G. Vaidyanathan, *Science and Culture: Imagining a climate-change future, without the dystopia*, in *Proceedings of the National Academy of Sciences of the United States of America*, No. 51, 2018.

capacità di risposta in termini di rapidità, mezzi e *know-how* che in molti contesti può ancora essere offerta solo dagli apparati militari.

Oggi, con l'intensificazione della crisi climatica (aumento del numero e dell'intensità dei fenomeni meteo-climatici estremi, così come di sistemiche situazioni emergenziali), interrogarsi su un fenomeno già presente, ma che rischia di diventare sempre più frequente e serio, anche nei suoi effetti sociopolitici, è socialmente auspicabile. Inoltre, mentre diventa via via più chiara la necessità per il mondo della politica di dotarsi di *framework* con cui approcciarsi alla crisi climatica, nel dibattito accademico la questione è ancora poco commentata, pur avendo importanti risvolti sulla politica e la tenuta delle democrazie. L'urgenza e l'imprevedibilità della crisi climatica, soprattutto negli anni più recenti, richiedono un aggiornamento delle strategie di ricerca che possa rispondere con più precisione agli sviluppi della realtà empirica, incluso il rapporto tra democrazia, sicurezza nazionale e fenomeni non tradizionali. Alla luce di una reale intensificazione degli effetti del cambiamento climatico e di un effettivo coinvolgimento degli apparati tradizionali nella mitigazione e nell'adattamento agli effetti della crisi climatica, le migrazioni climatiche sono quindi concettualmente ed empiricamente diventate questioni di sicurezza nazionale? Quale strategia di ricerca è più funzionale alla descrizione e alla spiegazione del fenomeno, nelle sue forme più recenti? In questo saggio ci si soffermerà sui casi di paesi di arrivo come Stati Uniti e Australia, Stati che hanno a lungo rivolto la propria geopolitica pratica⁵ verso gli effetti delle migrazioni (non solo climatiche) sulla sicurezza nazionale, ma con esiti differenti dal punto di vista del discorso e della pratica, soprattutto strategica.

Nel corso delle prossime pagine si inizierà, quindi, col ricostruire la concettualizzazione delle migrazioni climatiche all'interno delle agende della sicurezza nazionale del mondo europeo-anglosassone: a partire dalle diverse interpretazioni nella letteratura accademica dell'inclusione di fenomeni non tradizionali nella sicurezza tradizionale, si andrà a ricostruire la concettualizzazione pratica delle migrazioni climatiche negli ambienti del *policy-making*. L'argomentazione procederà attraverso la lettura dei documenti strategici, supportata dall'analisi empirica dei provvedimenti legislativi adottati, a seconda delle specificità contestuali dei casi presi in considerazione. Si rileverà come in entrambi i casi la tendenza alla "securitizzazione" caratterizzante l'inizio della sicurezza ambientale e climatica sia andata via via attenuandosi a favore, infine, della climatizzazione della sicurezza, attuata a livello politico e da poco introdotta a livello accademico. Verranno, infine, discussi brevemente i benefici, i limiti e le ricadute sulla democrazia della climatizzazione, in vista di un auspicabile (e sempre più urgente) ampliamento del dibattito su migrazioni climatiche e sicurezza climatica.

⁵ Sulla definizione di geopolitica pratica si veda G. Ó Tuathail, *Critical Geopolitics: The Politics of Writing Global Space*, Routledge, 1996, 60. Qui si intende, nello specifico, l'insieme di letteratura e di provvedimenti prodotti dal governo e dalle istituzioni ad esso afferenti, compresi *think-tank*, centri di ricerca, professionisti dell'accademia, della difesa e della sicurezza.

2. Fenomeni non tradizionali e sicurezza nazionale: “securitizzazione” e “militarizzazione”

L’allargamento del concetto di sicurezza a fenomeni non direttamente correlabili alla minaccia armata e all’integrità territoriale statale è un processo nato durante la Guerra fredda, ma intensificatosi significativamente con la fine della competizione bipolare. Nella *grand strategy* della superpotenza sopravvissuta proliferarono allora minacce legate a fenomeni già presenti sulla scena internazionale, fino a quel momento soppressi dal primato politico della competizione globale tra Stati Uniti e Unione Sovietica: tra i nuovi fattori destabilizzanti e le minacce all’ordinamento internazionale ottennero peso significativo nei documenti strategici di alto livello delle potenze occidentali – e degli Stati Uniti soprattutto – anche fenomeni trasversali e trans-nazionali come disastri ambientali, epidemie, crimine organizzato, terrorismo, traffici illeciti e flussi irregolari di migranti. Nel corso del paragrafo, verrà presentato innanzitutto il dibattito alle origini dell’allargamento concettuale di sicurezza all’interno del quale si posizionano le migrazioni climatiche. Si procederà, poi, a delineare le due principali tendenze contemporanee in letteratura riguardanti il rapporto tra fenomeni non tradizionali (in questo caso, migrazioni ambientali e climatiche incluse) e gli apparati tradizionali: securitizzazione e militarizzazione⁶.

Tra gli anni Settanta e gli anni Novanta, il punto centrale del dibattito sull’ampiamiento del concetto di sicurezza nazionale fu l’inclusione di minacce non convenzionali spazianti dal conflitto violento alla scarsità di risorse, dalla sovrappopolazione al terrorismo⁷. Questa svolta ebbe significativa influenza non solo sulla letteratura politologica, ma anche sui processi decisionali delle potenze occidentali. È stato provato, ad esempio, che le ricerche della Scuola di Toronto (tra i pionieri dell’analisi delle complesse catene multicausali che affliggevano contesti percepiti fragili ed estremamente complessi⁸) e le analisi “sul campo” del giornalista Robert Kaplan⁹ arrivarono direttamente all’attenzione del Presidente Clinton e del Vicepresidente Al Gore¹⁰.

⁶ Qui analizzati in funzione degli obiettivi del testo, ovvero le diverse interpretazioni dei fenomeni non tradizionali e, nello specifico, le migrazioni climatiche.

⁷ Tra cui, i “classici”: L.R. Brown, *Redefining National Security*, Worldwatch Institute, 1977; R.H. Ullman, *Redefining Security*, in *International Security*, No. 1, 1983; J. Tuchman Mathews, *Redefining Security*, in *Foreign Affairs*, No. 2, 1989; N. Myers, *Environment and Security*, in *Foreign Policy*, No. 74, 1989; D. Deudney, *The Case Against Linking Environmental Degradation and National Security*, in *Millennium*, No. 3, 1990, 461. Si veda la «prima generazione di studi sulla sicurezza» commentata in N. Græger, *Environmental Security?*, in *Journal of Peace Research*, No. 1, 1996.

⁸ In particolar modo, le analisi del fondatore: T. Homer-Dixon, *On the Threshold: Environmental Changes as Causes of Acute Conflict*, in *International Security*, No. 2, 1991; T. Homer-Dixon, *Environmental Scarcities and Violent Conflict: Evidence from Cases*, in *International Security*, No. 1, 1994; T. Homer-Dixon, *Environment, Scarcity, and Violence*, Princeton University Press, 2001.

⁹ Ci si riferisce nello specifico alla seguente opera: R. Kaplan, *The Coming Anarchy*, in *The Atlantic Monthly*, No. 2, 1994.

¹⁰ R. Floyd, *Security and the Environment: Securitisation Theory and US Environmental Security*

Studiare i meccanismi causali tra fenomeni non tradizionali e *outcomes* sociali, politici e culturali richiede, innanzitutto, di mettere in correlazione fenomeni di diversa natura (da quella fisica a quella economica e culturale) secondo processi e modelli estremamente complessi. La portata dei fattori presi in considerazione finì spesso per produrre analisi di scenario che altro non fecero che confermare intuizioni e buon senso, a volte guidate da sofismi metodologici che, nelle parole dei più critici, finivano per dimostrare semplicemente l'evidente¹¹, ovvero la correlazione tra stress ambientali, sociali ed economici e conflitto violento. Nel complesso *network* di cause e fattori appartenenti alla sfera economica, culturale, sociale, politica e geografico-ambientale studiate dalla Scuola di Toronto, le migrazioni "causate" dai cambiamenti ambientali¹² e dal cambiamento climatico vennero concettualizzate come un sotto-insieme delle migrazioni ambientali¹³ (*environmental migrations*) già oggetto di politica di organizzazioni internazionali nella seconda metà degli anni Ottanta¹⁴. Le migrazioni ambientali e climatiche, in particolare, assunsero fin dagli anni Novanta a simbolo del caos e dell'instabilità delle periferie del mondo occidentale, lette come in netta contrapposizione al processo di delimitazione dell'ordinamento spaziale che aveva invece segnato il quadro politico e giuridico europeo¹⁵.

Se l'ampiamiento del concetto di sicurezza fu tra gli anni Settanta e gli anni Ottanta un cambiamento socialmente auspicato, quando infine un più ampio concetto di sicurezza nazionale entrò davvero nelle strategie e nelle agende delle *élite* politico-militari molti furono i dubbi e le paure legati alla gestione di fenomeni

Policy, Cambridge University Press, 2010, 75.

¹¹ N.P. Gleiditsch, *Whither the Weather?: Climate Change and Conflict*, in *Journal of Peace Research*, No. 1, 2012; S.M. Hsiang, M. Burke, *Climate, Conflict, and Social Stability: What Does the Evidence Say?*, in *Climatic Change*, No. 1, 2014; T. Ide, *Research Methods for Exploring the Links between Climate Change and Conflict*, in *Wiley Interdisciplinary Reviews: Climate Change*, No. 3, 2017.

¹² Si tenga presente che il lessico dei primi anni della sicurezza ambientale è spesso approssimativo, confuso e a volte contraddittorio. Per «cambiamenti ambientali» (*environmental changes*) si intendeva l'insieme di diverse cause e fattori – quasi sempre interconnessi – con effetti sulla sfera naturale e umana: disastri naturali, cambiamenti di lunga durata (ad esempio, il cambiamento climatico), progetti di sviluppo (come la costruzione di dighe, l'urbanizzazione), distruzione intenzionale dell'ambiente, incidenti (inquinamento o disastri nucleari). Per una rassegna in merito si rimanda a H. Graeme, *Climate Change-Induced Mobility in Asia and the Pacific*, in J. McAdam (Ed.), *Climate Change and Displacement: Multidisciplinary Perspectives*, Hart Publishing, 2010, 9-35.

¹³ B. Mayer, *The Concept of Climate Migration: Advocacy and Its Prospects*, Edward Elgar Publishing, 2016, 12.

¹⁴ Il concetto di rifugiato ambientale (*environmental refugee*) venne popolarizzato in particolare da Lester Brown, una delle voci più influenti della ricerca ambientalista e fondatore dell'*Earth Policy Institute*. Negli stessi anni il concetto venne ripreso e commentato, si vedano: E. El-Hinnawi, *Environmental Refugees*, UNEP, 1985; J. El Jacobsen, *Environmental Refugees: A Yardstick of Habitability*, World Watch Institute, 1988.

¹⁵ In merito all'ordinamento interstatale europeo, caratterizzato da chiare delimitazioni, ci si riferisce soprattutto al classico C. Schmitt, *Il nomos della terra nel diritto internazionale dello Jus publicum Europaeum*, Adelphi, 1991. L'edizione originale è del 1950.

non tradizionali che avrebbero potuto avere, intuitivamente, forti ripercussioni sulla sfera civile. Questo rapporto trovò una prima cornice teorica nella Scuola di Copenaghen, rete di studiosi appoggiate al Copenhagen Peace Research Institute. Nel *framework* proposto dal manifesto ad opera di Barry Buzan, Ole Wæver e Jaap de Wilde vennero aperti i confini del concetto di sicurezza oltre l'oggettività della minaccia della forza armata rivolta alla violazione dell'integrità territoriale di uno stato, attraverso soprattutto il legame con la pratica di politiche eccezionali. Nella versione originale della Scuola di Copenaghen la minaccia è infatti da ritenersi tale, quando un problema – generalmente non appartenente alla galassia della sicurezza tradizionale – viene presentato come minaccia esistenziale da parte di un attore securitizzante. La “minaccia” è dunque proposta, da parte della politica, come una problematica in grado di cooptare il sostegno di un'*audience* nei confronti dell'adozione di misure eccezionali lontane dalla normalità dei processi decisionali¹⁶. È dunque fondamentale che la questione venga presentata «come una minaccia esistenziale, che richiede misure d'emergenza e che giustifica azioni che vanno oltre i confini normali della procedura politica»¹⁷, tra cui innanzitutto la limitazione dei diritti degli individui.

Si noti che il processo di securitizzazione non verte attorno a una realtà necessariamente oggettiva, ma è un atto linguistico (*speech act*) che dà inizio (*securitizing move*) a un processo, rivolto alla platea, che può sfociare su uno «spettro» che va dal non politicizzato (assente dal dibattito pubblico e dai processi decisionali), al politicizzato (entrato nei processi politici standard) e al securitizzato (minaccia esistenziale che richiede misure eccezionali)¹⁸. È tuttavia piuttosto raro che un fenomeno relativamente lontano dalla sfera della sicurezza tradizionale venga securitizzato secondo i canoni di una piena securitizzazione¹⁹. Non stupisce dunque come nel corso degli anni siano state proposte diverse letture, nelle quali la pietra di paragone dell'eccezionalità è soggetta a importanti aggiustamenti. Tra queste, la Scuola di Parigi propone un *focus* teorico sulle pratiche quotidiane dei professionisti della sicurezza, ovvero i processi burocratici generati dagli apparati non soggetti a rielezione politica come militari, *intelligence*, polizia e amministratori, con una prospettiva incentrata su diversi valori di rischio (*riskification*)²⁰. Altri propongono letture incentrate sull'applicazione empirica di

¹⁶ B. Buzan, O. Wæver, J. de Wilde, *Security: A New Framework for Analysis*, Lynne Rienner Publishers, 1998, 204.

¹⁷ C. Monteleone, *Sicurezza e securitizzazione: Copenaghen e oltre*, in *Ragion pratica*, No. 1, 2017, 13.

¹⁸ *Ibidem*.

¹⁹ Soprattutto nel caso delle questioni ambientali, come hanno fatto notare M.J. Trombetta, *Environmental Security and Climate Change: Analysing the Discourse*, in *Cambridge Review of International Affairs*, No. 1, 2008; N. Detraz, M. Betsill, *Climate Change and Environmental Security: For Whom the Discourse Shifts*, in *International Studies Perspectives*, No. 3, 2009; R. Floyd, *Security and the Environment*, Cambridge University Press, 2010; O. Corry, *Securitisation and 'Riskification': Second-order Security and the Politics of Climate Change*, in *Millennium: Journal of International Studies*, No. 2, 2012.

²⁰ Si vedano, ad esempio: D. Bigo, A. Tsoukala (Eds.), *Terror, Insecurity and Liberty: Illiberal*

una lettura mediana tra minaccia e rischio (*threatification*)²¹ o sulla costruzione di fenomeni non tradizionali come crisi (intesa come atto linguistico alle origini di un processo di simil-securitizzazione, la *crisification*)²². Al di là delle diverse cornici teoriche e metodologiche, via via più sofisticate e funzionali alla spiegazione di una realtà empirica complessa, è qui importante sottolineare come l'intuizione della cooptazione da parte della sicurezza nazionale – dominio ultimo delle misure eccezionali – di fenomeni virtualmente infiniti, legati a cruciali aspetti alla vita civile, resti un argomento estremamente attuale²³ e applicabile, a maggior ragione, alle migrazioni, climatiche e non.

Diversi sono, invece, l'impostazione teorica e gli obiettivi della ricerca sulla "militarizzazione" dei fenomeni non tradizionali, letteratura decisamente più giovane rispetto alla più grande "famiglia" della securitizzazione. La militarizzazione presenta al momento ancora una letteratura frammentata. Il concetto di militarizzazione è stato studiato e applicato in letteratura in relazione a fenomeni come il cambiamento climatico, le epidemie e occasionalmente alle migrazioni. Per «militarizzazione» (concetto nato in origine negli studi femministi) si è inteso in origine «il processo graduale con cui una persona o una questione²⁴ viene controllata dai militari o arriva a dipendere per il proprio benessere da idee militariste»²⁵, trovando così legittimazione per la propria esistenza (e rilevanza) grazie all'associazione con gli obiettivi militari²⁶.

L'afflato "formale" caratterizzante la securitizzazione non è stato perseguito nel caso della militarizzazione, che, invece, da allora, è andata incontro a un più diffuso e libero commento da parte degli autori. Non è sempre mantenuta, infatti, la stessa concettualizzazione di militarizzazione, che può spaziare dal *focus* sulla questione della legittimazione²⁷ (come nel caso di Cynthia Enloe) all'"appropriamento di

Practices of Liberal Regimes after 9/11, Routledge, 2008; J. Huysmans, *Minding Exceptions: The Politics of Insecurity and Liberal Democracy*, in *Contemporary Political Theory*, No. 3, 2004; T. Balzacq (Ed.), *Securitization Theory: How Security Problems Emerge and Dissolve*, Routledge, 2011.

²¹ H. Stritzel, *Towards a Theory of Securitization: Copenhagen and Beyond*, in *European Journal of International Relations*, No. 3, 2007; S. Guzzini, *Securitization as a Causal Mechanism*, in *Security Dialogue*, No. 4-5, 2011. Sul tema di ambiente e clima rimando a: Trombetta, cit.; T. Diez, F. Lucke, Z. von Wellmann, *The Securitisation of Climate Change: Actors, Processes and Consequences*, Routledge, 2016.

²² E. Paglia, *The Socio-scientific Construction of Global Climate Crisis*, in *Geopolitics*, Vol. 23, 2011.

²³ In questa cornice, il cambiamento climatico ha trovato più seguito in letteratura rispetto al tema, più specifico, delle migrazioni climatiche. Riguardo queste ultime, si vedano, ad esempio, I. Boas, *Climate Migration and Security*, Routledge, 2017; G. White, *Climate Change and Migration: Security and Borders in a Warming World*, Oxford University Press, 2011 (si veda il capitolo 3); M. Trombetta, *Linking Climate-Induced Migration and Security within the EU: Insights from the Securitization Debate*, in *Critical Studies on Security*, Vol. 2, No. 2, 2014.

²⁴ «Thing» nell'originale C. Enloe, *Maneuvers: The International Politics of Militarizing Women's Lives*, University of California Press, 2000, 3.

²⁵ *Ibidem*.

²⁶ *Ivi*, 145.

²⁷ E. Gilbert, *The Militarization of Climate Change*, in *ACME*, 2012.

fatto” di fenomeni non tradizionali all’interno delle pratiche e delle dottrine dei militari²⁸, agli effetti diretti dell’attività militare sull’ambiente o sulla società²⁹ fino all’inclusione di fenomeni non tradizionali all’interno delle agende della sicurezza³⁰ o alla più generica compresenza di due o più dei punti appena citati. Occorre anche notare che analisi, studi e *report* che trattano temi sia nella letteratura accademica che nella letteratura grigia – se non coincidenti, almeno vicini agli argomenti trattati dalla letteratura militarizzazione, in particolare quando l’analisi non è condotta secondo termini moralmente negativi – non sempre vengono concepiti come studi sulla militarizzazione, complicando notevolmente la percezione e la rilevazione della letteratura in questione. Non per questo, tuttavia, la linea della militarizzazione ha mancato di centrare il suo obiettivo: rilevare i diversi, a volte sottili e solo intuibili, processi attraverso i quali il potere militare è coinvolto nella politica di fenomeni lontani dalla dimensione della forza.

3. Migrazioni climatiche come minacce geopolitiche: una panoramica delle origini

Da una prospettiva di geopolitica pratica, almeno dalla fine della Guerra fredda le migrazioni climatiche sono state tra i fenomeni non tradizionali maggiormente concettualizzati come minacce geopolitiche connotate di una piena carica emergenziale, normalmente contraria ai principi democratici. Nel corso di questa sezione si presenteranno brevemente le origini della lettura delle migrazioni climatiche come temi di *grand strategy* e (geo)politica nazionale, passaggio essenziale per poter comprendere più nel dettaglio gli *iter* concettuali e legislativi di stati aventi le stesse radici all’interno di un panorama politico internazionale interconnesso sia a livello di legami politici che di singoli legami individuali e professionali.

A inizio Duemila, con l’entrata del cambiamento climatico nella letteratura accademica e nel dibattito pubblico, il concetto di migrazione ambientale e climatica è stato innanzitutto affinato nel linguaggio della ricerca e della politica: oggi si è generalmente concordi sul fatto che le migrazioni climatiche si verifichino a causa di un intreccio complesso di fattori e che dunque non siano dovute al cambiamento climatico inteso come causa sufficiente³¹. La difficoltà nel

²⁸ R. Marzec, *Militarizing the Environment: Climate Change and the Security State*, University of Minnesota Press, 2015; J. Loyd, E. Mitchell-Eaton, A. Mountz, *The Militarization of Islands and Migration: Tracing Human Mobility through US Bases in the Caribbean and the Pacific*, in *Political Geography*, Vol. 5, 2016.

²⁹ A. Jorgenson, B. Clark, J. Kentor, *Militarization and the Environment: A Panel Study of Carbon Dioxide Emissions and the Ecological Footprints of Nations, 1970-2000*, in *Global Environmental Politics*, No. 1, 2010.

³⁰ A. Benton, *Whose Security? Militarization and Securitization During West Africa’s Ebola Outbreak*, in M. Hofman e S. Au (eds.), *The Politics of Fear: Médecins Sans Frontières and the West African Ebola Epidemic*, Oxford University Press, 2017; A. Ingram, *The Pentagon’s HIV/AIDS Programmes: Governmentality, Political Economy, Security*, in *Geopolitics*, No. 3, 2011.

³¹ International Organization for Migration *World Migration Report 2020*, capitolo 9. È entrato in

determinare “quando” si tratta di rifugiati climatici rende in ogni caso la propensione alla securizzazione (intesa in senso lato come trasformazione del fenomeno in logiche emergenziali) e alla militarizzazione (la “gestione di fatto” della questione da parte di attori tradizionali, finalizzata a una legittimazione) ancor più suscettibile di delicatezza: leggere le migrazioni climatiche come minacce alla sicurezza nazionale significa di fatto trasformare i migranti irregolari mossi (anche) dal cambiamento climatico in *policy-issues* caratterizzate da eccezionalità politica e da emergenza tale da giustificare l’interesse e il coinvolgimento degli apparati tradizionali della sicurezza – spesso, oltretutto, unici attori in grado di offrire una risposta reale, rapida ed efficace al problema.

Si ritiene ormai comunemente che l’applicazione di una prospettiva di sicurezza climatica sia stata un processo iniziato nei primi anni Duemila sulla scia della popolarizzazione del dibattito sul cambiamento climatico e una più forte posizione ambientalista avvertita dopo il fallimento di Kyoto³². Il dibattito in merito ai flussi migratori correlati al cambiamento climatico si polarizzò negli anni 2007-2010 su due posizioni: da un lato i massimalisti, spesso provenienti dalla sfera delle *hard sciences* e sostenuti da modelli climatici, secondo i quali il cambiamento climatico avrebbe portato quasi esclusivamente a conflitti violenti e ad orde di rifugiati alle porte dei paesi avanzati; dall’altro i minimalisti inclini a rigettare posizioni estremiste e a contestualizzare in ambito politico, sociale ed economico, i flussi migratori e i fattori alla loro origine attraverso casi-studio attinenti alle scienze politiche e sociali³³. Nel lessico della sicurezza nazionale, le migrazioni climatiche sono invece entrate nel fortunato concetto di moltiplicatore di minacce (*threat multiplier*), con il quale si intendono nei documenti strategici i focolai di minacce non convenzionali, costituiti da migrazioni verso le economie avanzate, soprattutto alla periferia del mondo occidentale.

Il concetto di cambiamento climatico come moltiplicatore di minacce, con minacce costituite principalmente dai flussi migratori, venne di fatto riproposto e replicato a inizio Duemila su più livelli di *governance*, sia internazionale che nazionale. Nell’aprile del 2007 si tenne la prima seduta (su iniziativa britannica) dedicata alle implicazioni del cambiamento climatico del Consiglio di Sicurezza delle Nazioni Unite, con riferimenti, tra gli altri, alle «massicce migrazioni umane, che polarizzano le società e indeboliscono la capacità delle nazioni di risolvere

uso, inoltre, il termine “*climate-induced migration*”, ad indicare la complessità di fattori alla base delle “migrazioni climatiche”. Sull’uso dei termini si veda ad esempio la riflessione di White, cit. (capitolo 1).

³² Tra le analisi e i commenti alle origini della sicurezza climatica (2007-2009 circa) si trovano soprattutto gli influenti: United Nations, *A More Secure World – Our Shared Responsibility*, 2004; Ban Ki-Moon, *Opening Discourse at the Bali Climate Summit*, 11 Dicembre 2007; N. Stern, *The Economics of Climate Change: The Stern Review*, Cambridge University Press, 2007. Sulle migrazioni in particolare: Greenpeace, *2008 Annual Report*, 2008; Environmental Justice Foundation, *No Place like Home: Where Next for Climate Refugees?*, 2009.

³³ La riflessione sulle due posizioni è ripresa da G. Bettini, *Climate Migration as an Adaption Strategy: De-Securitizing Climate-Induced Migration or Making the Unruly Governable?*, in *Critical Studies on Security*, No. 2, 2014.

pacificamente i conflitti»³⁴. Il tema approdò due anni dopo all'Assemblea Generale, nella cui risoluzione sulle «implicazioni sulla sicurezza del cambiamento climatico» dell'11 Settembre 2009 il cambiamento climatico venne formalmente presentato come moltiplicatore di minaccia e le migrazioni come una delle «minacce» da esso derivanti³⁵. Lo stesso concetto venne proposto nelle motivazioni dell'attribuzione da parte del Norwegian Nobel Committee del premio all'Intergovernmental Panel on Climate Change (IPCC) e ad Al Gore per gli sforzi compiuti per la divulgazione dell'esistenza del cambiamento climatico e della sua origine antropica, per il quale il cambiamento climatico era «minaccia per la sicurezza del genere umano»³⁶. Dopo gli Stati Uniti (sui si tornerà nel prossimo paragrafo)³⁷, la Commissione Europea³⁸ avanzò l'argomento per cui il cambiamento climatico stesse ponendo delle minacce non convenzionali e agisse da moltiplicatore di minacce (il termine è mutuato dal lessico americano)³⁹. Ne derivava che una maggiore vulnerabilità al cambiamento climatico avrebbe così agito da «vettore» verso una condizione caratterizzata da «milioni di 'rifugiati' ambientali entro il 2020»⁴⁰, la quale avrebbe a sua volta generato più alti livelli di conflitto durante il transito e le aree di destinazione⁴¹ dei migranti. Anche se secondo il documento la risposta da parte europea si sarebbe dispiegata attraverso mezzi di *soft power*, restava evidente nel testo l'enfasi sui pericoli portati da stati terzi all'interno dell'Unione Europea.

4. Le migrazioni climatiche nelle politiche di sicurezza e difesa

È lecito affermare come il discorso “tendente” alla securitizzazione abbia caratterizzato di fatto le agende di stati e organizzazioni internazionali, configurando un panorama di geopolitica pratica in cui le migrazioni climatiche sono state percepite come uno degli effetti del cambiamento climatico più “reali” e connotati da emergenza e minaccia per gli stati occidentali. Questo è particolarmente evidente nei casi di Stati Uniti e Australia, dove i flussi in arrivo a causa di fattori climatici e ambientali da Caraibi, Messico e Sud-Est Asiatico e Pacifico sono stati intesi nei documenti strategici e nella pratica come minaccia per la sicurezza nazionale fin dalla fine della Guerra fredda. Entrambi gli Stati sono attori appartenenti alla sfera anglosassone, ma dal differente peso geopolitico (in

³⁴ Le parole sono del Segretario Generale Ban Ki-Moon. Sugli argomenti della seduta: un.org/press/en/2007/sc9000.doc.htm.

³⁵ Cfr.: A/64/350.

³⁶ Senza, tuttavia, riferimenti significativi alle migrazioni per gli scopi di quest'analisi. Per il testo originale si consulti: nobelprize.org/prizes/peace/2007/gore/lecture/.

³⁷ Center for Naval Analyses Military Advisory Board, *National Security and the Threat of Climate Change*, Center for Naval Analyses Corporation, 2007.

³⁸ European Commission, High Representative, *Climate Change and International Security*, Council of the European Union, 6 Giugno 2008.

³⁹ *Idem*, 3.

⁴⁰ *Idem*, 7.

⁴¹ *Ibidem*.

quanto a fattori di potenza, collocazione regionale e globale), le cui decisioni restano di notevole peso nelle politiche migratorie internazionali e regionali. Entrambi hanno presentato – come si vedrà nelle prossime pagine – sia i prodromi di un processo di securitizzazione, sia una tendenza alla militarizzazione della crisi climatica (e dei suoi effetti) volta alla legittimazione della gestione *manu militari* del cambiamento climatico, fenomeno che ha invece generalmente faticato ad imporsi come *policy-issue* di politica interna in entrambi i casi.

Si può dunque affermare che la politica delle migrazioni climatiche abbia effettivamente seguito la linea della securitizzazione (migrazioni climatiche come minacce esistenziali⁴²) e della militarizzazione (processo di gestione di fenomeni non tradizionali da parte di attori tradizionali, volto alla legittimazione dell'intervento e della questione), rintracciabile empiricamente? Oppure la percezione e la gestione del fenomeno hanno seguito un processo differente, le cui specificità si differenziano dalle principali letture proposte nel dibattito accademico e politico? Per rispondere a queste domande, per entrambi i casi si procederà a ricostruire la presenza, mediante l'analisi dei principali documenti strategici, dell'identificazione del rapporto tra i seguenti temi: "migrazione", "cambiamento climatico", "minaccia", "emergenza". In secondo luogo, si andrà a ripercorrere l'effettiva attuazione all'interno della politica nazionale dei concetti rilevati, da rintracciare nel caso di Stati Uniti e Australia nei provvedimenti legislativi ed esecutivi di rilevanza contestuale⁴³.

4.1. Stati Uniti

Negli Stati Uniti, il problema dei migranti climatici si inserì chiaramente nel dibattito sul cambiamento climatico come *threat multiplier*. Alla luce della lettura dei documenti della giovane sicurezza climatica americana, si può affermare che fu proprio la questione delle migrazioni climatiche ad innescare la consapevolezza dell'intensità e della gravità degli effetti del cambiamento climatico sulla sicurezza nazionale, sia a livello internazionale che a livello interno, da parte di un settore della difesa storicamente refrattario alla considerazione delle questioni ambientali.

Il cambiamento climatico entrò nei corridoi della difesa americana grazie a un report di inizio Duemila curato da due prestigiosi *scenario planners*, Peter Schwartz e Doug Randall, nel quale le migrazioni climatiche rivestivano un peso considerevole. Inteso come porta d'ingresso e strumento informativo per il Pentagono su una questione nuova, ma sempre più importante sulla scena politica internazionale, il report aveva il provocatorio scopo di «immaginare l'inimmaginabile»⁴⁴ (da qui il tono apocalittico del suo contenuto) per smuovere il

⁴² Ci si attiene qui a una lettura conservativa della teoria della securitizzazione, essendo stata la questione delle migrazioni climatiche fortemente connotata da un lessico emergenziale ed esistenziale, come ricostruito nel par. 2.

⁴³ Nel corso dell'analisi, la ricerca è limitata alla sola questione delle migrazioni climatiche, laddove presentata come tale dal mondo politico (attori coinvolti e/o organizzazioni internazionali).

⁴⁴ P. Schwartz, D. Randall, *An Abrupt Climate Change Scenario and Its Implications for United*

settore della difesa di fronte a scenari dai forti impatti sulla geopolitica americana. Secondo il report, le migrazioni dovute alla concatenazione di problematiche derivanti dal cambiamento climatico avrebbero portato a situazioni drammatiche:

[I]n regioni meno prospere, dove gli stati mancano delle risorse e delle capacità richieste per adattarsi velocemente a condizioni più gravi, il problema molto probabilmente si esacerberà. Per alcuni stati, il cambiamento climatico potrebbe diventare una sfida tale da risultare in una condizione in cui la migrazione di massa risulti in popoli disperati che cercano vite migliori in regioni, come gli Stati Uniti, che possiedono risorse per l'adattamento⁴⁵.

Negli scenari continentali venivano previste migrazioni dai paesi settentrionali europei (Olanda, Germania) verso le mete più calde, come Spagna e Italia; negli Stati Uniti, invece, «fiumi di rifugiati» si sarebbero mossi dalle isole caraibiche verso gli Stati Uniti meridionali e il Messico. Infine, si sarebbe arrivati a consegnare la gestione dei confini e dei rifugiati caraibici (e anche europei) nelle mani del Dipartimento della Difesa⁴⁶. L'immagine di «Stati Uniti e Australia» che «probabilmente costruiranno fortezze difensive attorno ai propri stati perché possiedono le risorse e le riserve per ottenere l'autosufficienza» e porranno confini «rafforzati attorno allo stato per tenere indietro non voluti immigranti morenti di fame dalle isole dei Caraibi (un problema particolarmente acuto), Messico e America del Sud»⁴⁷ fu l'unico messaggio che restò impresso a una difesa americana che cestinò fin da subito le proiezioni di scenario, dimostrandosi ancora profondamente diffidente verso l'eventualità che il cambiamento climatico potesse avere seri effetti sulla sicurezza nazionale della superpotenza, soprattutto a livello interno.

Anche se con toni decisamente meno forti, le migrazioni climatiche restarono infatti una delle priorità tra le minacce poste alla sicurezza nazionale americana anche nel primo vero manifesto della sicurezza climatica degli Stati Uniti. Il report *National Security and the Threat of Climate Change* ad opera di professionisti della sicurezza e comandanti militari a quattro stelle coordinati dal Center for Naval Analyses (CNA, *think-tank* vicino alla Marina americana) individuava in primo luogo le minacce a livello globale, partendo sempre da «alcune delle più volatili regioni del mondo»⁴⁸ come «molte nazioni in Asia, Africa e Medio Oriente»⁴⁹. Nei risultati dell'indagine del CNA, «Stati Uniti e Europa potranno sperimentare una crescente pressione per accettare larghi numeri di immigrati e popolazioni di rifugiati con l'aumento della siccità e la diminuzione della produzione alimentare in America Latina e Africa»⁵⁰. La «più grande preoccupazione»⁵¹ tra gli effetti

States National Security, 2003.

⁴⁵ *Idem*, 5.

⁴⁶ *Idem*, 17.

⁴⁷ *Idem*, 18.

⁴⁸ CNA, cit., 6.

⁴⁹ *Ibidem*.

⁵⁰ *Idem*, 7.

destabilizzanti del cambiamento climatico era sempre la questione delle migrazioni, con «richiedenti asilo e rifugiati che a causa della devastazione ecologica diventano permanenti»⁵². I riferimenti alla questione migratoria divennero così un mantra all'interno del documento, dove essa restava intesa sempre come «preoccupazione primaria» sia nel contesto americano (Messico in primis) che europeo. Nel 2010, il concetto di cambiamento climatico come moltiplicatore di minaccia entrava anche nella sfera militare. Il lessico proposto non richiama la securitizzazione, ma ne ventilava chiaramente la militarizzazione (intesa nel senso di legittimazione di una questione derivante da approvazione militare):

[A]nche se il cambiamento climatico non causa di per sé conflitto, può agire come accelerante di instabilità o conflitto, ponendo un peso a cui dovranno rispondere le istituzioni civili e i militari nel mondo. In aggiunta, fenomeni meteorologici estremi possono portare a crescenti domande di supporto alle autorità civili da parte della difesa per assistenza umanitaria o risposta ai disastri, sia negli Stati Uniti che oltreoceano. In alcune nazioni, i militari sono l'unica istituzione con la capacità di rispondere a disastri naturali su larga scala⁵³.

Il report del CNA è ormai generalmente considerato il primo motore della sicurezza climatica americana. Da allora, la concettualizzazione delle migrazioni come minacce geopolitiche si è andata attenuando nel tempo. Per comprendere questo passaggio è necessario rivolgere l'attenzione alla concettualizzazione degli effetti del cambiamento climatico nella *high politics* americana. Il rapporto tra sicurezza americana e cambiamento climatico, comprese le migrazioni, venne considerevolmente deviato dal discorso emergenziale con la svolta tecnicistica nella sicurezza climatica avviata soprattutto con il secondo mandato del presidente Obama, durante il quale di fatto sparì dai documenti della difesa il focus incentrato su migrazioni, sicurezza e cambiamento climatico⁵⁴ a favore di una più ampia prospettiva concettuale e pragmatica sulle diverse ricadute del cambiamento climatico in ambito di difesa e sicurezza. L'Ordine Esecutivo (EO) 13514, emanato già nel 2009, fu in questo senso il primo passo verso una più ampia inclusione degli effetti del cambiamento climatico lungo tutto l'orizzonte delle agenzie federali, con la richiesta rivolta ai dipartimenti e alle agenzie federali di valutare i rischi e le vulnerabilità nel breve e nel lungo periodo sulle missioni e le operazioni⁵⁵. All'ordine si aggiunse nel 2013 una direttiva più stringente, richiedente questa volta a ogni agenzia di sviluppare, implementare e aggiornare piani comprensivi che integrassero la considerazione del cambiamento climatico nelle operazioni delle agenzie e nelle missioni, inviandole, poi, al Council on Environmental Quality

⁵¹ *Idem*, 16.

⁵² *Idem*, 16.

⁵³ US Department of Defense, *Quadrennial Defense Review Report*, 2010, 85.

⁵⁴ Presente, anche, nella *Nobel Lecture* di Obama a seguito del conferimento a suo favore del Premio Nobel per la Pace (si veda nobelprize.org/prizes/peace/2009/obama/lecture/).

⁵⁵ EO 13514, *Federal Leadership in Environmental, Energy, and Economic Performance*, 5 Ottobre 2009.

e all'Office of Management and Budget⁵⁶. Il primo risultato nel settore della difesa è stata la *Adaptation Roadmap* del Dipartimento della Difesa pubblicata nel 2014. Qui restava il riferimento alla migrazione di massa in teatri d'operazione d'oltremare⁵⁷; le migrazioni, tuttavia, venivano equalizzate all'interno di una serie di problematiche diventate via via più preoccupanti per il Pentagono – come l'innalzamento del livello del mare diventato ostacolo per le operazioni anfibiae, l'addestramento, i danni alle infrastrutture, le sfide poste all'estensione del controllo americano nel teatro artico⁵⁸ – ai quali è dedicata di fatto l'intero documento. Nella direttiva 4715.21 del Pentagono⁵⁹ volta a implementare l'EO 13653, quella che era la minaccia delle migrazioni climatiche veniva “diluata” all'interno di una serie di «responsabilità» del Dipartimento che andavano dai rischi poste alle infrastrutture, all'acquisizione di materiale, dalla logistica all'addestramento del personale, trovando un *framework* (senza che la più “generica” questione delle migrazioni venisse effettivamente citata) soprattutto nella richiesta di piani di adattamento negli scenari di assistenza umanitaria e gestione delle catastrofi, nelle politiche di stabilizzazione, nella dottrina e nella pianificazione in riferimento a «conflitto e fragilità statale»⁶⁰.

È importante, tuttavia, soprattutto rivolgere l'attenzione verso i documenti e la pratica della *grand strategy*, dove da sempre è stata evidente la lettura delle migrazioni come minacce. A riprova del progressivo abbandono della lettura delle migrazioni climatiche come “unica” minaccia esistenziale prodotta dal cambiamento climatico nei confronti degli Stati Uniti, nella versione aggiornata del report del CNA pubblicata nel 2017 (ora incentrata sull'urgenza della risposta a cambiamento climatico), la questione delle migrazioni sostanzialmente sparisce⁶¹. Alla prova dei fatti, le migrazioni climatiche non “primeggiavano” nemmeno nelle leggi di bilancio della difesa, compresa la versione del 2018 (dicembre 2017)⁶² nella quale il cambiamento climatico diventò «diretta minaccia geopolitica» agli Stati Uniti. Con «diretta minaccia geopolitica» nella legge non si intendeva più la “generica” proliferazione di *humus* caotico di inizio Duemila (migrazioni climatiche al primo posto), bensì le specificità tecniche della difesa, in particolar modo la vulnerabilità delle installazioni militari su suolo interno e a livello internazionale. Nel linguaggio e nella pratica della difesa, le migrazioni erano così diventate “una” delle diverse minacce derivanti dal cambiamento climatico all'interno di una mappatura di minacce su più livelli (strategico, operativo e tattico).

⁵⁶ EO 13653, *Preparing the United States for the Impacts of Climate Change*, 1 Novembre 2013.

⁵⁷ US Department of Defense, *2014 Climate Change Roadmap*, 2014, 2.

⁵⁸ *Ivi*, 4-5.

⁵⁹ DoD Directive 4715.1, *Climate Change Adaptation and Resilience*, 14 Gennaio 2016.

⁶⁰ *Ivi*, 7.

⁶¹ CNA, *National Security and the Accelerating Risks of Climate Change*, Center for Naval Analyses Corporation, 2014.

⁶² Public Law 115-91-December 12, 2017 (*National Defense Authorization Act*).

Dopo una cesura nello sviluppo della sicurezza climatica americana negli anni dell'amministrazione di Donald Trump⁶³, l'adattamento del comparto della difesa americana, a livello di dottrina e di pratica, venne ripreso su iniziativa presidenziale da Joe Biden. Con l'EO 14008 *On Tackling the Climate Crisis at Home and Abroad*, il Presidente richiedeva, in termini più urgenti ed emergenziali⁶⁴, che gli effetti della crisi climatica venissero inclusi nella pratica quotidiana di tutte le agenzie federali e che una rendicontazione da consegnare a diversi attori (come Congresso, National Security Council, Presidente) venisse prodotta periodicamente. Anche all'interno del nuovo provvedimento – da intendersi come una forte reazione agli anni di Trump, caratterizzati da forte negazione ed inattivismo anche in riferimento alla sicurezza e alla difesa – il lessico e le misure non presentano riferimenti significativi alle migrazioni.

Sono da valutare, però, soprattutto le disposizioni contenute nell'EO 14013⁶⁵ (nel febbraio 2021) dedicato all'attivazione di programmi per l'accoglienza di migranti climatici negli Stati Uniti ed emanato nell'ambito della politica sulle migrazioni del governo americano, formalmente indipendente dall'EO 14008, ma, di fatto, su ammissione presidenziale⁶⁶, inteso come provvedimento nell'ambito dell'adattamento della politica americana alla crisi climatica. L'EO 14013 è la prima volta in cui il governo americano ufficialmente concettualizzò l'esistenza e le specificità delle migrazioni climatiche, in una sede dove era possibile non solo definire e includere un fenomeno all'interno della mappatura delle minacce di interesse per lo stato, ma anche disporre di provvedimenti esecutivi. È, dunque, un banco di prova significativo. L'EO 14013 contiene disposizioni atte all'identificazione dello status di rifugiato climatico nell'ordinamento legislativo americano, così come alla facilitazione dell'accoglimento di quest'ultimi su suolo americano. Se questa non è la sede adatta per valutare l'efficacia di tali disposizioni, è importante sottolineare come alla luce dei più recenti sviluppi, le migrazioni climatiche non siano percepite e presentate come minacce geopolitiche, ma come

⁶³ Dovuto alla direzione negazionista della presidenza Trump che portò alla dismissione dei termini "cambiamento climatico" e "riscaldamento globale" nei documenti strategici di alto livello, oltre che alla revoca dell'EO 13653 (EO 13783, *Promoting Energy Independence and Economic Growth*, 28 Marzo 2017). Essendo la presidenza Trump una forte eccezione nella drasticità dei provvedimenti adottati, del lessico strategico e nelle procedure politiche che si sono potute riscontrare nella sicurezza climatica americana, si è scelto di non includerla nell'analisi: essendo scomparsa la sicurezza climatica "ufficiale", non è possibile di fatto rilevare una concettualizzazione di migrazioni climatiche, né ricondurre i provvedimenti di politica migratoria adottati al cambiamento climatico.

⁶⁴ Si legge per esempio nell'EO: «Abbiamo una piccola finestra di tempo per agire internamente e internazionalmente per impedire che avvengano i più catastrofici impatti di questa crisi e per cogliere l'opportunità di affrontare il cambiamento climatico»; «L'impegno internazionale degli Stati Uniti per affrontare il cambiamento climatico – diventato una crisi climatica – è più necessario e urgente che mai».

⁶⁵ EO 14013, *Executive Order on Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change*, 4 Febbraio 2021.

⁶⁶ Come in White House, *Fact Sheet: Prioritizing Climate in Foreign Policy and National Security*, 21 Ottobre 2021.

urgente questione da identificare e gestire al pari di altri effetti della crisi climatica sull'intero apparato della sicurezza e della difesa.

Uno dei prodotti derivanti direttamente dell'EO 14013 è il *Report on the Impact of Climate Change on Migration* dell'ottobre 2021. L'obiettivo del report è la definizione di migrazioni climatiche e dei loro fattori, la proposta di strategie per la gestione a seconda dei contesti specifici. Il discorso proposto dal documento (al di là della sua applicazione) è in netta discontinuità con il concetto di migrazione climatica come minaccia: se la possibilità che le migrazioni climatiche vengano intese come “minacce” – si scrive – questo deriva da una lettura politica che ha come obiettivo proprio la rappresentazione dei migranti come «flussi migratori ampi e fuori controllo» con effetti sulla politica, le tensioni già esistenti e la capacità di «rispondere appropriatamente a crisi acute» coinvolgenti sia migranti che rifugiati⁶⁷. In questo senso, resterà da valutare l'efficacia delle nuove norme in merito all'accoglienza e alla facilitazione dell'ingresso dei migranti climatici⁶⁸, così come le scelte politiche riguardanti nel caso americano la gestione di uno dei casi di migranti climatici più discussi nella letteratura geopolitica e strategica, ovvero i flussi provenienti da Messico e Caraibi. La costruzione del “muro” tra Messico e Stati Uniti si è protratta, infatti, fino all'ultima amministrazione; almeno la definizione delle migrazioni climatiche come minacce è progressivamente scomparsa all'interno del *framework* dei documenti⁶⁹, anche dalle normative del settore della sicurezza e della difesa di uno stato che ha dato inizio alla propria sicurezza climatica a partire dalla minaccia posta da migranti climatici.

4.2. Australia

Il rapporto tra migrazioni, cambiamento climatico e sicurezza è invece particolarmente significativo nelle contraddizioni presenti nel caso australiano. L'Australia è stata l'ultima, dopo Gran Bretagna e Stati Uniti, ad includere il cambiamento climatico e le migrazioni climatiche in una progressiva costruzione della sicurezza climatica nazionale; ciò non toglie, tuttavia, che le migrazioni climatiche, anche nel caso australiano, siano state fin dal principio intese come minacce geopolitiche e siano diventate argomento di sicurezza e difesa anche in assenza di una più formale letteratura inerente alla sicurezza climatica. Inoltre, vale la pena ricordare come le amministrazioni australiane del dopo Guerra fredda si siano caratterizzate per una forte ostilità nei confronti degli impegni in merito alla mitigazione delle emissioni, nonostante lo stato abbia subito (e stia subendo) effetti

⁶⁷ White House, *Report on the Impact of Climate Change on Migration*, 2021, 8.

⁶⁸ Su questo rimando, ad esempio, a J. Watson, *After Raising Hope, Biden Still Lacks Climate Migration Plan*, *Associated Press News*, 19 Ottobre 2022.

⁶⁹ A conferma, si veda anche White House, *National Security Strategy*, Ottobre 2022, 9: gli effetti del cambiamento climatico, pur esistenziali ed emergenziali, vengono articolati su diversi livelli di strategia, settori, regioni geografiche, sia a livello internazionale che interno. Tra gli effetti rientrano anche le migrazioni.

particolarmente gravi e intensi⁷⁰. In questo contesto, non sorprende dunque che la riluttanza della politica nel trattare il cambiamento climatico (in generale) abbia impedito uno sviluppo coerente non solo della sicurezza climatica, ma anche dell'inclusione delle migrazioni climatiche nelle agende della sicurezza e della difesa, pur essendo la questione gestita attraverso mezzi tradizionali e con forti impatti sui valori democratici.

Non stupisce, dunque, che in Australia l'identificazione del nesso cambiamento climatico e flussi migratori sia incappata in un cortocircuito concettuale. La politica nazionale in campo ambientale e climatico si era giocata nel corso degli anni su un tavolo profondamente ispirato al negazionismo e all'inattivismo, con una breve quanto incisiva punta di attivismo negli anni di Kevin Rudd. Con il governo Rudd, il cambiamento climatico era sostanzialmente entrato nella politica australiana (oltre che nelle politiche di mitigazione) attraverso il concetto di moltiplicatore di minacce. Nelle parole del Primo ministro⁷¹, «[U]n significativo cambiamento climatico porterà movimenti irregolari di popolazioni, una diminuzione della produzione alimentare, riduzioni di terra coltivabile, violenti *trend* meteorologici e conseguenti eventi catastrofici»⁷². Nel 2009 il cambiamento climatico venne inserito nel *White Paper* del Dipartimento della Difesa come moltiplicatore di minacce, con particolare enfasi nei confronti dell'instabilità del Sud-Pacifico e dei flussi migratori da esso provenienti, sempre associati a crescenti livelli di conflitto violento⁷³. Chiusa la parentesi di Rudd – mentre si intensificava la voce, ma anche l'azione politica, di stati insulari geograficamente vicini all'Australia in cui gli effetti della crisi climatica avevano ripercussioni sempre più evidenti in campo sociale, politico ed economico, ma anche territoriale – si accettava così che le migrazioni fossero correlate alla proliferazione di instabilità generata dal cambiamento climatico, ma non si agiva affinché esso venisse effettivamente arginato o incluso all'interno di un processo di “normalizzazione” all'interno dell'arco della sicurezza e della difesa. In questa contraddizione, l'Australia inseriva inoltre un difficoltoso rapporto tra i diritti dei migranti e la politica nazionale, aggravato dall'altalenante riluttanza nel riconoscere e non riconoscere gli effetti del cambiamento climatico anche nella sicurezza nazionale.

⁷⁰ Commonwealth Scientific and Industrial Research Organisation e The Bureau of Meteorology, *State of the Climate 2022*, 2022.

⁷¹ Il laborista Rudd ratificò il Protocollo di Kyoto (ultimo stato a ratificare il Protocollo, escludendo gli Stati Uniti, per volere dell'allora ministro Howard nel 2002) e avanzò un ruolo di leadership diplomatica all'interno delle conferenze climatiche dei primi anni Duemila.

⁷² *National Security Statement*, 4 Dicembre 2008.

⁷³ Department of Defence, *Defending Australia in the Asia Pacific Century: Force 2030*, 2009. Si vedano anche le versioni successive che inquadrano il cambiamento climatico come moltiplicatore di minacce, tra cui migrazione e mobilità umana: Department of Defence, *Defence White Paper 2013*, 2013, 18-19; più articolato è invece Department of Defence, *Defence White Paper 2016*, 2016,

In questo vuoto concettuale⁷⁴ a causa del quale è difficile procedere con un'analisi dei documenti strategici di sicurezza climatica, le migrazioni climatiche sono state evidente oggetto di militarizzazione (intesa come gestione di fatto) e ancor più di securitizzazione, intesa nel senso della «percezione dei migranti illegali come minacce alla sicurezza nazionale»⁷⁵. In un contesto geopolitico (l'Asia Pacifico) dove è ormai un dato di fatto rilevare importanti quanto complessi casi di migrazioni climatiche – posta la compresenza di diversi fattori politici, sociali ed economici a muovere i migranti – la militarizzazione è stata avviata con una serie di provvedimenti più largamente conosciuti come *Pacific Solution* (insieme di emendamenti al *Migration Act 1958*) volta a implementare norme più stringenti in ambito di politica migratoria nei confronti di migranti irregolari (ovvero senza visto australiano) diretti verso l'Australia su barca. Con la *Pacific Solution*, introdotta dal governo Howard nel 2001, i richiedenti asilo avrebbero dovuto essere intercettati da navi della Marina australiana e trasferiti in centri collocati nella Repubblica di Nauru e sull'isola di Manus in Papua Nuova Guinea⁷⁶; una seconda versione, presentata dal governo Rudd (2013)⁷⁷, prevedeva in aggiunta che coloro a cui non fosse stato riconosciuto lo status di rifugiato venissero detenuti al di fuori dell'Australia⁷⁸.

Il coinvolgimento dell'apparato militare (l'Australian Defence Force) nella *Pacific Solution* è stato attuato in tutte le fasi del programma, anche nel corso degli anni, con *Operation Redlex* (2001-2006), *Operation Resolute* (dal 2006), *Operation Sovereign Borders* (dal 2013), operazioni volte a deterrenza l'arrivo dei migranti, prenderli in carico e ricollocarli nei centri di detenzione (minori compresi), in ottemperanza a una politica di tolleranza-zero che si evince anche dall'uso di slogan, informative ufficiali e dalla richiesta di segnalazioni anonime, oltre che dall'abuso derivante dal pagamento di trafficanti in mare ancor prima dell'arrivo in Australia⁷⁹. Nonostante il programma venga tuttora presentato dalle autorità australiane come il tentativo di salvare vite umane, sottoposte a condizioni di estremo pericolo lungo il viaggio in mare e controllati dai trafficanti⁸⁰, l'uso della forza nei confronti dei migranti si è dimostrato negli anni una profonda lesione dei

⁷⁴ Anche l'ultimo *Defence Strategic Plan* del 2020 presenta una sola, vaga, menzione del cambiamento climatico in riferimento alle minacce poste alla *human security*. Si veda: Australian Government, Department of Defence, *Defence Strategic Update 2020*, 2020, 16.

⁷⁵ S. Ibekwe, 'Preventing People from Risking Their Lives at Sea': *Forced Migration and the Securitization of asylum seekers in Australia*, in *Asian Journal of Comparative Politics*, No. 3, 2022, 627.

⁷⁶ Il programma venne fermato dal governo Rudd nel periodo 2008-2012.

⁷⁷ Questa versione potrebbe essere considerata anche la terza, una prima reintroduzione da parte del governo Gillard (2012).

⁷⁸ A. Warbrooke, *Australia's Pacific Solution: Issues for the Pacific Islands*, in *Asia & The Pacific Policy Studies*, No. 2, 337.

⁷⁹ A. Missbach, W. Palmer, *People Smuggling by a Different Name: Australia's Offshore Immigration Detention Centres*, in *The International Journal of Human Rights*, No. 2, 2020.

⁸⁰ S. Ibekwe, *Preventing People from Risking Their Lives in Sea*, cit.; si rimanda anche al sito ufficiale di *Operation Sovereign Borders*: osb.homeaffairs.gov.au/

diritti umani. Le prove in merito alla violazione dei diritti umani su più livelli⁸¹ derivanti dall'autorizzazione all'uso della forza – compresi abusi commessi sui minori nei campi di detenzione⁸² – coinvolgono l'intero spettro temporale dell'attuazione del programma.

Allo stesso tempo, è importante rilevare come, in un contesto dove l'arrivo di potenziali migranti climatici è ampiamente riconosciuto dalle organizzazioni internazionali e dalla letteratura, l'identificazione non solo dello status di rifugiato climatico, ma anche la dichiarazione del nesso tra cambiamento climatico e migrazione, sia di fatto assente, così come quello tra sicurezza e cambiamento climatico⁸³. Le operazioni condotte dall'Australian Defence Force procedono dunque contro “generici” migranti irregolari, secondo una concettualizzazione del nesso tra migrazione e sicurezza che ancora fatica ad in modo più complesso e che, per questo, prosegue secondo logiche di stampo prettamente tradizionale, anche in un quadro legislativo, internazionale e statale, che va sempre di più verso la protezione dei migranti e rifugiati climatici⁸⁴. In questo contesto, non stupisce dunque che a fine settembre 2022 l'Australia sia stata condannata da parte del Comitato per i Diritti Umani a causa della mancata protezione dagli effetti del cambiamento climatico di un gruppo di abitanti dello Stretto di Torres⁸⁵, in un atto destinato molto probabilmente a segnare lo sviluppo della questione dei diritti delle comunità indigene e delle minoranze nei confronti delle responsabilità degli stati e a condannare l'approccio disfunzionale particolarmente evidente nel caso australiano.

Anche in Australia nel corso del 2022 è stato avviato il primo impulso di climatizzazione (come nel caso americano, anche in quello australiano è stato grazie a un militare in pensione, l'ammiraglio Chris Barrie), introducendo un piano di *risk assessment* riferito alle risorse nazionali, condotto sotto l'egida del capo dell'intelligence Andrew Shearer. Il piano è di chiara ispirazione americana ed è frutto del governo di Anthony Albanese a favore di una ora evidente e più conclamata dichiarazione del cambiamento climatico come questione di sicurezza nazionale⁸⁶. È ancora presto per poter offrire un'analisi più accurata del caso

⁸¹ UNHCR Multi-Country Representation in Canberra, *UNHCR Statement on 8 Years of Offshore Asylum Policy*, 19 Luglio 2021; per una panoramica più estesa, si consulti: unhcr.org/en-au/publications/legal/6163e2984/united-nations-observations-on-australias-transfer-arrangements-with-nauru.html. Si veda anche: A. Nethery, R. Holman, *Secrecy and Human Rights Abuse in Australia's Offshore Immigration Detention Centres*, in *The International Journal of Human Rights*, No. 7, 2016.

⁸² P. Farrell, N. Evershed, H. Davidson, *The Nauru Files: Cache of 2,000 Leaked Reports Reveal Scale of Abuse of Children in Australian Offshore Detention*, in *The Guardian*, 10 Agosto 2016.

⁸³ Si segnala, tuttavia, il *Defence White Paper 2016*, 102, contenente una disamina sugli effetti del cambiamento climatico sulla difesa australiana.

⁸⁴ Nel gennaio 2020 il Comitato per i Diritti Umani delle Nazioni Unite ha riconosciuto l'impossibilità di rimpatrio di persone la cui incolumità sia a rischio a causa degli effetti del cambiamento climatico. Il quadro geopolitico di riferimento è proprio quello del Pacifico. Si veda Teitiota contro Nuova Zelanda (CCPR/C/127/D/2728/2016).

⁸⁵ Billy *et al.* contro Australia (CCPR/C/135/D/3624/2019).

⁸⁶ D. Hurst, *Anthony Albanese to Order Intelligence Chief to Examine Security Threats Posed by*

australiano, ma è lecito quantomeno potersi aspettare che in futuro la militarizzazione possa essere stemperata a favore di una più ampia climatizzazione della politica, in cui sia il lessico e le misure finora adottate non siano incentrate unicamente sulla minaccia posta dai migranti, quando considerati mossi dal clima.

5. Le migrazioni climatiche nel rapporto tra climatizzazione, sicurezza e democrazia

L'attenzione rivolta dal settore della sicurezza e della difesa verso il peso e gli effetti delle migrazioni climatiche è ormai un dato di fatto. Meno evidente è il processo attraverso il quale ciò stia avvenendo, quantomeno nei casi in cui i flussi migratori siano stati percepiti come "causati" dal cambiamento climatico o non vengano riconosciuti come tali (come evidente nel caso australiano). Emerge dai due casi di Stati Uniti e Australia come le migrazioni climatiche non siano andate incontro agli effettivi risultati di una logica emergenziale ed esistenziale, allontanandosi dal discorso di inizio Duemila secondo il quale le migrazioni climatiche ponevano una minaccia esistenziale alla sopravvivenza e al benessere degli Stati occidentali. In quanto effetto delle crisi climatiche, per comprendere le migrazioni climatiche è necessario ancora una volta soffermarsi sul peso dedicato dagli attori in questione al cambiamento climatico all'interno dei processi decisionali.

È ormai evidente in letteratura come la logica emergenziale *tout court* della Scuola di Copenhagen sia stata generalmente evitata nel caso del cambiamento climatico e delle questioni da esso derivanti, tanto che la questione è stata già più volte studiata per mezzo *framework* teorici e metodologici, secondo cui il concetto di cambiamento climatico e migrazioni come minacce viene replicato soprattutto nelle pratiche di sicurezza, nuove e pre-esistenti⁸⁷. Manca, infatti, l'esposizione di un legame tra cambiamento climatico e migrazioni nel discorso emergenziale. Alla luce degli attuali sviluppi politici, secondo Angela Oels, «l'articolazione del cambiamento climatico come questione di sicurezza significa che i professionisti della (in)sicurezza (come intelligence, militari, polizia, ministri della difesa) stiano producendo il cambiamento climatico come una minaccia legittima nelle pratiche quotidiane», includendo, allo stesso tempo, professionisti di altri settori (come *risk-management*, modelli climatici)⁸⁸. Questo non corrisponde forzosamente nemmeno a una pura gestione *manu militari* delle questioni non tradizionali, come vorrebbe la letteratura sulla militarizzazione, né a una legittimazione della questione passata attraverso il beneplacito dei militari. Nel caso americano, per esempio, la climatizzazione è stata avviata formalmente su impulso presidenziale, abbracciando uno spettro di settori federali ben oltre la difesa e la sicurezza: si tratta,

Climate Crisis, in *The Guardian*, 21 Giugno 2022.

⁸⁷ A. Oels, *From 'Securitization' of Climate Change to 'Climatization' of the Security Field: Comparing Three Theoretical Perspectives*, in J. Scheffer et al., *Climate Change, Human Security and Violent Conflict*, Springer, 2012, 197.

⁸⁸ Ivi, 185.

complessivamente, del processo di inclusione del cambiamento climatico (e ciò che da esso deriva) nelle pratiche quotidiane dell'attività amministrativa, burocratica e politica, come esercizi di *scenario planning*, *wargames*, ma anche, ad esempio, studi di analisi del rischio in campo finanziario ed economico, dialogo con rilevanti *stakeholders* nell'ambito delle politiche agricole o la raccolta di dati scientifici da organizzazioni e privati⁸⁹. L'avviamento di questo processo è già evidente nel caso americano, forte di uno sviluppo più lineare e maturo della sicurezza climatica rispetto al caso dell'Australia.

È emersa, infatti, soprattutto nel corso degli ultimissimi anni, un'attenzione maggiore verso la climatizzazione della politica – settore della sicurezza e della difesa incluso – anche in letteratura⁹⁰. Con un cambiamento di natura geografica nella cornice dell'attività umana (il cambiamento climatico), “climatizzazione” è da intendersi, invece, esattamente come il contrario della securitizzazione⁹¹, ovvero il processo «attraverso il quale altri domini della politica mondiale vengono inquadrati attraverso la lente del clima e trasformati a seguito di questo processo»⁹². Nello specifico dei settori della politica qui di interesse, si tratta del «mainstreaming del cambiamento climatico nella strategia militare, basato sulle percezioni dei militari delle vulnerabilità climatiche e della concordanza storica tra attori civili e militari nei rispettivi ruoli»⁹³. Nel caso degli Stati Uniti, il processo di climatizzazione risponde alla più generale logica di adattamento agli effetti del cambiamento climatico alla quale afferiscono, in tal senso, anche le migrazioni, non più concettualizzate come minaccia esistenziale, ma come una delle diverse problematiche poste dalla crisi climatica. In questo senso, la climatizzazione si configura come un processo quantomeno più funzionale ai vincoli democratici e alla suddivisione dei poteri all'interno dello stato, poiché affida agli organi politici, soggetti ad elezione e costituiti da personale civile, l'amministrazione dei processi di mitigazione e adattamento al cambiamento climatico lungo tutto lo spettro della politica statale, comprese le ricadute sulla sicurezza nazionale. Questo permette, in linea di principio, di evitare che specifiche questioni (come le migrazioni) vengano concettualizzate come “uniche” ricadute di seria importanza per lo stato, legittimando dunque discorsi emergenziali e gestione militare: secondo la prospettiva della climatizzazione, gli effetti del cambiamento climatico coinvolgono tutti gli aspetti della vita politica, dalla difesa alla salute pubblica e la protezione dell'ambiente.

⁸⁹ EO 14008, *infra*.

⁹⁰ A partire da A. Oels, *From 'Securitization' of Climate Change to 'Climatization' of the Security Field*, cit. Si vedano anche: A. Estève, *Preparing the French Military to a Warming World: Climatization through Riskification*, in *International Politics*, No. 1, 2021; L. Maertens, *Climatizing the UN Security Council*, in *International Politics*, No. 3, 2021.

⁹¹ L. Maertens, *Climatizing the UN Security Council*, cit., 642.

⁹² *Ivi*, 642.

⁹³ D. Jayaram, *'Climatizing' Military Strategy? A Case Study of the Indian Armed Forces*, in *International Politics*, No. 6, 2020. Parla, invece, di “ambientalizzazione” (*environmentalization*), ad esempio, H. Ascelrad, *The 'environmentalization' of social struggles—the environmental justice movement in Brazil*, in *Estudos Avançados*, No. 68, 2010.

6. Conclusione

Il caso delle migrazioni climatiche si pone particolarmente delicato e socialmente rilevante nella misura con cui esso influenza la sfera individuale, la difesa dei valori democratici e dei diritti umani, soprattutto quando gestito attraverso gli apparati della sicurezza e difesa secondo logiche militariste. Le parole di Richard Ullman, per il quale le «soluzioni militari» sono una via «più facile» per la politica per «costruire consenso» in riferimento a «problemi di politica estera»⁹⁴, sono ormai ampiamente accettate. In particolare, la correlazione tra sicurezza tradizionale e ambiente è stata normalmente percepita come moralmente sbagliata⁹⁵ e generatrice di violenza⁹⁶; molti hanno scritto, anche in riferimento ai cambiamenti climatici del passato, come cambiamenti ambientali e climatici possano minare la legittimità e l'effettività dei leader politici e delle istituzioni⁹⁷. A seguito dell'intensificazione del cambiamento climatico – ora “crisi climatica” – e dell'effettiva partecipazione militare, guidata da logiche emergenziali ed eccezionali (particolarmente chiara nel caso australiano) è lecito interrogarsi su come la politica e la letteratura accademica abbiano proposto risposte attraverso le quali approcciarsi a una questione dalle notevoli ricadute sulla democrazia, risposte (sempre nelle parole di Ullman) basate sul riconoscimento di un necessario un *trade-off* atto a scambiare quote di sicurezza con quote di libertà⁹⁸ e di garanzie nei confronti del potere statale, come i diritti individuali, la concentrazione dei poteri e la legittimità dei processi decisionali. Resta da chiedersi se tali strategie di ricerca siano ancora in grado di spiegare una realtà empirica sempre più in cambiamento, a tassi di velocità e imprevedibilità in aumento o se la climatizzazione della politica e della sicurezza possa essere una via auspicabile per una più efficace e democratica risposta all'urgenza e all'intensità della crisi climatica. Verranno quindi qui

⁹⁴ R.H. Ullman, *Redefining Security*, cit., 129.

⁹⁵ J. Barnett, *Meaning of Environmental Security: Ecological Politics and Policy in the New Security Era*, Zed Books, 2001; D. Deudney, *The Case Against Linking Environmental Degradation and National Security*, cit., 1990; S. Dalby, *Ecopolitical Discourse: Environmental Security and Political Geography*, in *Progress in Human Geography*, No. 4, 1992; R. Floyd, *Security and the Environment*, cit.

⁹⁶ R. Floyd, *The Environmental Security Debate and Its Significance for Climate Change*, in *The International Spectator*, No. 3, 2008.

⁹⁷ M. Davis, *Late Victorian Holocausts. El Nino Famines and the Making of the Third World*, Verso Books, 2001; J. Diamond, *Collasso: Come le società scelgono di morire o vivere*, Einaudi, 2005; C. Ponting, *A New Green: History of the World and the Environment and the Collapse of Great Civilizations*, Penguin Books, 2007; E. Linden, *The Winds of Change: Climate, Weather, and the Destruction of Civilizations*, Simon and Schuster, 2007; B.M. Fagan, *Floods, Famines, and Emperors, El Niño and the fate of civilizations*, Basic Books, 2009.

⁹⁸ La sicurezza, nota Ullman (cit., 130), non è un valore assoluto nelle società democratiche: la sicurezza assoluta viene “barattata” a favore di altri valori. «Se compiessimo una scelta hobbesiana, le nostre strade sarebbero in qualche modo più sicure e le nostre forze armate si ingrosserebbero grazie alla coscrizione. Ma la nostra società sarebbe – e ci sentiremmo così noi stessi – molto più irregimentati».

brevemente proposte alcune ultime considerazioni riguardo il dibattito accademico e le implicazioni per il *policy-making*, derivate dai due casi presi in analisi intesi come spunti preliminari per un dibattito più ampio sul nuovo rapporto tra sicurezza tradizionale e fenomeni non tradizionali derivati dalla crisi climatica.

Nel corso di questo articolo, si è sottolineato più volte come dalla fine della Guerra fredda le migrazioni climatiche siano state concettualizzate nel lessico delle organizzazioni internazionali e degli attori statali come vere e proprie minacce geopolitiche, concetto implicante legittimazione dell'uso della forza armata e misure emergenziali; la stessa questione del cambiamento climatico trovò in principio consenso e legittimità, ad esempio, all'interno del comparto della difesa americano attraverso la forte rappresentazione di orde di migranti dirette verso le economie avanzate. Nel caso australiano, dove i migranti climatici non sono riconosciuti ma vengono "securitizzati" *de facto*, anche se per mezzo di un discorso che li identifica come migranti irregolari, sono continuate a pieno titolo decisioni e pratiche lesive dei diritti umani dei migranti, più volte condannate dall'opinione pubblica internazionale e dalle organizzazioni internazionali. È dunque lecito affermare che analizzare, ma anche "mettere in pratica" a livello politico, le strategie di climatizzazione sia diventato uno snodo importante per il mondo della ricerca e della politica. "Climatizzazione", dunque, è al momento il termine che indica sia il fenomeno politico che la strategia di ricerca volta a rilevarne la presenza e la modalità.

Si è notato nel corso di queste pagine come con un maggiore affinamento della comprensione del cambiamento climatico e dei suoi effetti abbia portato, sempre nel caso americano, a una più reale consapevolezza della ricaduta complessiva del cambiamento climatico anche su altre questioni legate alla sicurezza nazionale, perdendo la legittimità derivante precedentemente dal problema migratorio. Una consapevolezza simile è stata rilevata anche nel caso australiano, ma solo nel momento in cui anche il settore della sicurezza e della difesa australiano è riuscito ad avviare uno studio più rigoroso dell'intera mappatura degli effetti del cambiamento climatico sulla sicurezza nazionale. Anche a livello accademico, dunque, per comprendere il nesso tra sicurezza, militarizzazione e migrazioni climatiche è dunque importante sottolineare come sia necessario rivolgere il focus della ricerca verso il peso che il cambiamento climatico occupa nella *grand strategy*, nella politica di sicurezza e nella politica della difesa, inteso come prerequisito per l'analisi – laddove dovuto – di questioni specifiche a loro volta "climatizzate". Una generalizzazione futura, rivolta anche ad altri stati o ad altre fenomeni "climatizzati", si porrebbe come un passaggio importante a conferma di tale tesi preliminare, limitata qui al caso di Stati Uniti e Australia.

Per concludere, è lecito affermare sulla base dell'evidenza qui presentata che una maggiore "alfabetizzazione" sulle questioni ambientali e climatiche da parte dei professionisti della sicurezza e della difesa porterebbe ad evitare condotte militariste almeno in campo climatico. L'impulso verso la climatizzazione, avviato sia nel caso americano che in quello australiano (pur essendo troppo presto per offrire una conclusione sul caso australiano), si connota come un relativo

rafforzamento delle procedure democratiche. Finora, le proposte per arginare di meccanismi disfunzionali hanno spaziato dall'assistenza civile in casi di eventi estremi⁹⁹, all'inclusione dei rifugiati ambientali sotto l'egida della Convenzione sui Rifugiati o all'interno della Convenzione quadro delle Nazioni Unite sui cambiamenti climatici¹⁰⁰; qui si vuole aggiungere che anche l'implementazione di processi di climatizzazione possa stemperare la propensione degli apparati tradizionali verso processi antidemocratici. Resta da chiedersi, ma in altra sede, quale possano essere i risvolti futuri di un processo – la climatizzazione – che, data la sua definizione, potrebbe essere letta anche come una strategia di istituzionalizzazione della crisi, e quale sia il suo rapporto con i limiti temporali di un possibile stato di emergenza.

⁹⁹ J. Barnett, M. Webber, *Migration as Adaptation. Opportunities and Limits*, in McAdam, cit., 37-56, 48.

¹⁰⁰ *Idem*, 50.

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The End of a Great Era. Post-Soviet Transformation in a Historical Perspective

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The End of a Great Era: Post-Soviet Transformation in a Historical Perspective

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Abstract

This article offers a conceptual and methodological apparatus for assessing periods of contemporary history. Using this apparatus and empirical data from the development of Eastern European and northern Eurasian countries over the last forty years, the article analyzes the establishment, evolution, and decline of the post-Soviet period. These developmental processes are conceptualized in terms of five categories: democratization, autocratization, marketization, nationalization, and Europeanization. The article concludes that the post-Soviet period and its structural processes have ended, and Europe and Eurasia must undergo the process of remapping their geography and adjusting their regional temporalities.

Keywords: Eastern Europe – Post-Soviet Transformation – Democratization – Autocratization – Europeanization.

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1. Introduction

The collapse of the Soviet Union created a long-term impetus for the development of Eastern Europe and Northern Eurasia. The influence of this impetus can be traced along four lines – political, economic, social, and transnational – that, following the language of active participants in these processes in the early 1990s¹, can be named democratization, marketization, nationalization, and Europeanization. Altogether, these four areas of development constituted the post-Soviet transformational tetrad², a model which one can use to describe the post-communist transformation in this region and timeframe.

Behind the model, however, the post-Soviet social reality extended far beyond these four lines. Despite the common impulse, the dynamics of change varied significantly in each domain. Nonetheless, they shared a common destiny: the initial impetus gradually faded away as the gravity of other political entities began to determine the processes of the region. Democratization gave way to autocratization; marketization struggled with corruption; nationalization oscillated between its civic and ethnic poles, as well as between anarchy and *étatisme*; and Europeanization vacillated between the integratory processes of the Council of Europe (CoE), the European Union, and the North Atlantic Treaty Organization (NATO) and conflict with the Eurasian Economic Union and Shanghai Cooperation Organization. Thus, the post-Soviet period – and all historical, sociopolitical, and cultural phenomena connected to it – slowly approached its end.

The Russian invasion of Ukraine in 2022 was a historical milestone that marked the end of the post-Soviet period. The invasion demonstrated that the post-Soviet impulse and its model no longer define the life of people in Eastern Europe and Northern Eurasia³. New timeframes and regional units are emerging in that part of the world and our segment of global history. Therefore, it is time to recognize the post-Soviet period as part of the past by looking back and making our first historical evaluations of the path that the Eastern European and Northern Eurasian peoples have traveled over the last three decades.

¹ For an analysis of the evolution of scholars' approaches to studying the socioeconomic transformation of Eastern Europe and Northern Eurasia, see M. Minakov, *The Transition of "Transition": Assessing the Post-Communist Experience and Its Research*, in O. Kushnir, O. Pankieiev (Eds.), *Meandering in Transition: Thirty Years of Identity Building in Post-Communist Europe*, Rowman & Littlefield, 2021, 25-41.

² Here I unite the terms "post-communist" and "post-Soviet" to designate the socio-political transformation of the people living in Eastern Europe and Northern Eurasia in 1989-2022 that stemmed from the denial of the Soviet social imagination, the Soviet interpretation of Marxism, and the Soviet power practices that controlled social realities in the Soviet republics (1922-1991) and the members of the Eastern Bloc (1947-1989).

³ If the assumption that the post-Soviet period has ended is true, it is no longer correct to call the fifteen recognized and four non-recognized states that were established after the fall of the USSR "post-Soviet". For that reason, the term "Eastern Europe and Northern Eurasia" is used to denote the group constituted by these states. This region includes Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan, as well as Abkhazia, Nagorno Karabakh, South Ossetia, and Transnistria.

Therefore, in this paper, I will address the following questions: What features defined the post-Soviet period? When did it begin and end, and what were the dialectics of its development? Finally, it will be important to consider the possible implications of the end of this period and the consequent dissolution of the post-Soviet region.

The answers to these questions dictate the structure of this paper. First, I define the major concepts and methodological approach to addressing these questions. Second, I offer a macro-level analysis of the post-Soviet transformational tetrad's tendencies. Then, I suggest answers and conclusions. Finally, the conclusion advances some preliminary remarks on the possible tendencies of "post-post-Soviet" development.

2. Concepts and Methodology

Before answering the key questions of this paper, we must first come to terms with what makes a historical period and defines its beginning and end. In addition, we must define the key concepts used in this paper: democratization, autocratization, marketization, nationalization, and Europeanization.

2.1. History as a Dynamic Unity of Continuities and Caesuras

For the purposes of this research and in continuation of the discussion around Reinhart Koselleck's idea of multiple temporalities⁴, I propose that history should be considered a combination of continuities and caesuras that refers simultaneously – in the social reality and in our imagination – to the past, the now, and the future of humankind, each community, and each person. The continuities refer to collective efforts to live through periods in certain regions with traces of an individual and collective co-presence in historical events. The caesuras are moments of rupture, which are experienced as social, political, or ecological crises – that is, moments that put an end to events and their specific orders and open a space for new ones. Continuity is thus the historical element that gives human creativity a place and time to be realized, while the caesura is the historical element in which one continuity is fully or partially halted and a new continuity can begin. During a caesura, a historical actor (a big or small group organized around some historical identity) meets with the nothingness that pervades the human world and

⁴ See R. Koselleck, *The Practice of Conceptual History: Timing History, Spacing Concepts*, Stanford University Press, 2002. For the discussion around the topic, see: N. Olsen, *Carl Schmitt, Reinhart Koselleck and the Foundations of History and Politics*, in *History of European Ideas*, No. 2, 2011; D. Blackburn, "The Horologe of Time": *Periodization in History*, in *Publications of the Modern Language Association of America*, No. 2, 2012; L. Besserman, *The Challenge of Periodization: Old Paradigms and New Perspectives*, in L. Besserman (Ed.), *The Challenge of Periodization: Old Paradigms and New Perspectives*, Routledge, 2014, 3-12; C. Lorenz, "The Times They Are a-Changin". *On Time, Space and Periodization in History*, in M. Carretero, S. Berger, M. Grever (Eds.), *Palgrave Handbook of Research in Historical Culture and Education*, Palgrave, 2017, 109-131.

decides to forge a new self-understanding, self-definition, and project, projecting a sketch into the void of the future. Consequently, history is a constellation of events and narrations – as well as their disruptions – where different historical actors constantly end and restart some projects and tell and retell their (hi)stories.

Caesuras occur as vital changes, such as those that transformed one geological period into another, fundamentally altering the forms of life on Earth. Caesuras can also be seen in wars or revolutions leading to changes in social orders and relevant imaginations. Furthermore, it is important to remember that there can be attempts at caesuras, or hybrid events, when the rupture of some historical process does not create a lasting change. In these cases, the energy of the continuity is stronger than the energy of the caesura, and the continuity is reinstated after the attempt at a caesura fails.

An example of a caesura is the period from 1989 to 1991 when the Eastern Bloc and the USSR collapsed. For the individuals and communities living between the Adriatic and White Seas, from the Alps to the Kamchatka, these few years were an opportunity to re-evaluate their recent histories, reject their political systems stemming from the Soviet communist imagination, and – most importantly – launch their new collective socio-political projects and shape the new historical time and space.

2.2. The Caesura of 1989-1991 and the Beginning of the Post-Soviet Period

The post-Soviet period began with the caesura of 1989 to 1991 when the communist order's continuity was ruptured⁵. Spatially, the post-Soviet period concerns the societies and communities that were formed after the collapse of the Soviet Union; temporally, it refers to approximately thirty years between the 1989-1991 caesura and the new caesura that began with the event of the Russian invasion of Ukraine in 2022. In terms of historical meaning, the post-Soviet period unleashed human creativity in the realms of political, civil, religious, entrepreneurial, and ethnonational emancipation. This creativity also brought the Western experience to the people of Eastern Europe and Northern Eurasia, who partially changed their social realities in accord with the imported models. For the people living in the Eastern Bloc and the USSR, the caesura of 1989-1991 was a revolutionary moment that created opportunities to build functional democracies, open market economies, new nation-states, and Europe-inspired societies.

⁵ There is consensus on this origin point among contemporary historians and political scholars. For example, see arguments in: V. Solonari, *Creating a "People": A Case Study in Post-Soviet History-Writing*, in *Kritika: Explorations in Russian and Eurasian History*, No. 2, 2003; J. Asanova, *Teaching the Canon? Nation-Building and Post-Soviet Kazakhstan's Literature Textbooks*, in *Compare*, No. 3, 2007; R. Marsh, *Literature, History and Identity in Post-Soviet Russia, 1991-2006*, Peter Lang, 2007; T. Sherlock, *Historical Narratives in the Soviet Union and Post-Soviet Russia: Destroying the Settled Past, Creating an Uncertain Future*, Springer, 2007; M. Minakov, G. Kasianov, M. Rojansky (Eds.), *From "The Ukraine" to Ukraine: A Contemporary History, 1991-2021*, Ibidem Press, 2021.

With this in mind, post-Soviet means anti-Soviet. In other words, the post-Soviet era began with two guiding ideas: (1) overcoming the traumas committed by the Soviet communist regime and preserved in the social imagination and cultural practices, and (2) finding ways into the future based on human creativity and largely determined by the goal of negating the Soviet past. Historical events and self-descriptive narratives of that period were diverse but largely linked to the doomed (Soviet) past, which inhibited the social imagination and repressed human creativity. Thus, the four major lines of the post-Soviet transformation – democratization, marketization, nationalization, and Europeanization – were understood and practiced by traumatized individuals and collectives, with their Soviet- and caesura-related concerns and sufferings.

However, as the developments and narratives of the post-Soviet era demonstrated, the caesura of 1989-1991 reached different depths and created various breaks with Soviet continuity in each post-Soviet society. These differences will be discussed below.

2.3. Key Concepts

The following analysis depends on five concepts that require definition and contextualization regarding the post-Soviet period: democratization, autocratization, marketization, nationalization, and Europeanization.

Democratization relates to the many political and social processes in the post-Soviet societies that focused on constructing new political cultures, systems, and regimes founded on the division of power between autonomous branches, as well as among central and local governments; the rule of law and human rights; ideological pluralism; the diversity of parties and competitive elections; the strong role of independent mass media and civic organizations; and the growing role of citizens in decision-making processes⁶. Although the post-Soviet spread of democracy was part of a wider global process (the third wave of democratization), it had some specific characteristics, as post-Soviet nations reinvented political freedom and institutions in the early 1990s without the first-hand experience of such liberties and under the strong influence of Western political models and social imagination. Nonetheless, arguably all post-Soviet nations experienced political freedom and participation to some extent; some, like Azerbaijan, Uzbekistan, and Turkmenistan, only briefly experienced such freedom, while others, like Belarus and Russia, had a much longer attempt at freedom with a bitter termination. For some, such as those who live in the Baltic countries or Moldova, the experience of freedom continues.

Autocratization is a term applied not only to the decline of democracy in post-Soviet societies but also to the long-term tendency toward autocratic

⁶ See: J. Dryzek, L. Holmes, *Post-Communist Democratization: Political Discourses across Thirteen Countries*, Cambridge University Press, 2002; V. Gel'man, *Post-Soviet Transitions and Democratization: Towards Theory-Building*, in *Democratization*, No. 2, 2003; S. Gunitsky, *Democratic Waves in Historical Perspective*, in *Perspectives on Politics*, No. 3, 218.

institutionalization and social acceptance. In other words, autocratization is an overarching concept that includes gradual democratic recession, sudden breakdowns of democracy, and autocratic consolidation «resulting in less democratic, or more autocratic, situations»⁷. The third wave of autocratization is an ongoing global political process that began around 2008-2012 when the number of countries simultaneously witnessing the decline of democracy and the growth of effective autocratic political systems and corresponding ideologies dramatically increased⁸. At that time, the national and international conflicts that had been growing in the post-Soviet region since 2003 sharpened under the influence of wider autocratization and led to the launch of massive military conflicts in the east of Europe in 2014 and 2022.

Marketization refers to the process of establishing new economies oriented to the neoliberal market model and participation in the global economy. In the post-Soviet period, economic transformation was expected to occur through the privatization of huge socialist economic legacies, the creation of an entrepreneurial class, and the formation of a “middle class” of economically self-sufficient citizens who would not be willing to depend on the government and would demand the respect of their political liberties. The new social structure with new classes was expected to prevent communists from returning to power and provide the relevant economic background and social structure for democratization⁹.

In this context, nationalization refers to the process of creating new post-Soviet nations. In the 1990s, it was commonly believed that nationalism – be it civic or ethnic – would create a stable majority population whose identity would be supportive of liberal democracy and a market economy¹⁰. State-building and the creation of new economies coincided with the end of Soviet society (which lasted much longer than the dissolution of the USSR) and the emergence of new “national societies”. These processes were closely related and often competed with or undermined each other. This is partially why the complex, non-ethnonational states like the USSR, Yugoslav Federation, and Czechoslovakia could no longer exist or create democratic governance.

Finally, Europeanization was a regional integration process aimed at ensuring that the new political, legal, and economic systems, as well as the societies themselves, would be able to considerably unify around similar norms and values,

⁷ A. Lührmann, S. Lindberg, *A Third Wave of Autocratization Is Here: What Is New About It?*, in *Democratization*, No. 7, 2019, 1099.

⁸ A. Lührmann, S. Lindberg, *A Third Wave of Autocratization*, cit., 1102; M. Minakov, *Sovereignty as a Contested Concept: The Cases of Trumpism and Putinism*, in M. Minakov (Ed.), *Inventing Majorities: Ideological Creativity in Post-Soviet Societies*, Ibidem Press, 2022, 281-320.

⁹ A. Aslund, *How Capitalism Was Built: The Transformation of Central and Eastern Europe, Russia, the Caucasus, and Central Asia*, Cambridge University Press, 2013; P. Horvat, G. Evans, *Age, Inequality, and Reactions to Marketization in Post-Communist Central and Eastern Europe*, in *European Sociological Review*, No. 6, 2011.

¹⁰ R. Brubaker, *Nationalizing States Revisited: Projects and Processes of Nationalization in Post-Soviet States*, in *Ethnic and Racial Studies*, No. 11, 2011; V. Tismaneanu, *Fantasies of Salvation: Democracy, Nationalism, and Myth in Post-Communist Europe*, Princeton University Press, 2009.

leading to long-term peace and cooperation among the Eastern and Western European nations. According to the founders of the new Europe in the early 1990s, the future continent was to be a space of harmony between people from Dublin to Vladivostok¹¹.

3. Measuring the Post-Soviet Period

With the understanding of historical periods as sets of continuities, along with these five processual concepts, we can now examine the structure and dialectics of the post-Soviet period.

3.1. Post-Soviet Democratization and Autocratization

The spread of democracy in Eastern Europe and Northern Eurasia at the end of the 1980s and the beginning of the 1990s was part of the global process called «the third wave of democratization»¹². Accordingly, the destruction of the Soviet Union gave the nations of the disappeared Eastern Bloc and the collapsed Union a way to realize their own new political agendas: these nations had a historical chance to build states based on liberal democracy and the rule of law. This means that the new states – even if they restored their past statehood as in the cases of Estonia, Latvia, Lithuania, and Georgia¹³ – were designed as republics with divided branches of power, distinct central and local governments, and strongly-defended human rights and civil liberties. These new nations, informed by the bitter experience of the communist era, created their political systems by applying the Western model with their own twist: the new legal and political systems were to ensure that communist dictatorship would never return and that one political group or state ideology would never again control all branches of government and society. The new party systems and ideological pluralism were meant to create strong competitors to any radical political group with totalitarian plans, and the constitutional and legal systems were created to ensure both future freedom and a rejection of the past.

If we compare the liberal democracy indices of the countries in the region – taking, say, Estonia, Hungary, Poland, Russia, and Ukraine as examples – we can see that in 1989-1991, the new elites and societies established foundations for

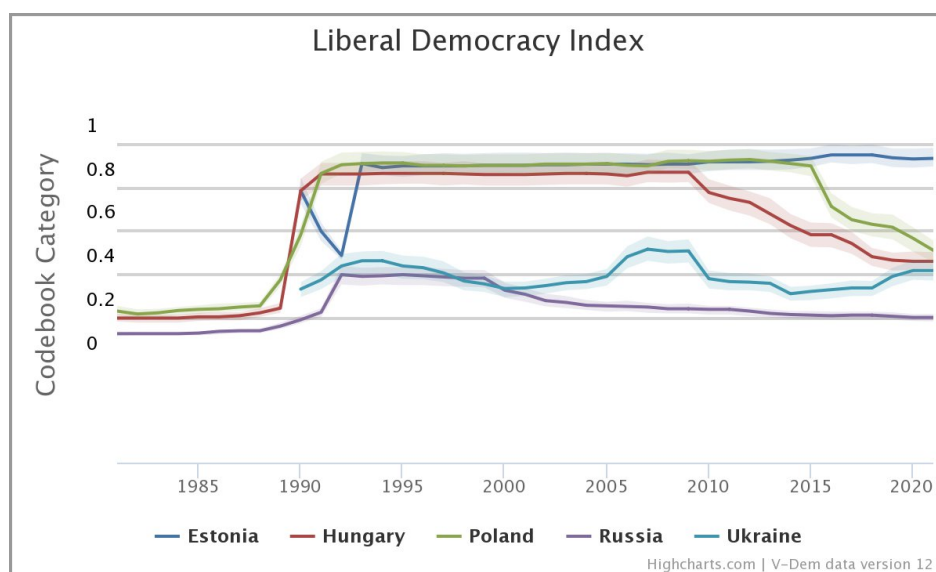
¹¹ See: M. Minakov, *Big Europe's Gap: Dynamic Obstacles for Integration between EU and EAU*, in A. Di Gregorio, A. Angeli (Eds.), *The Eurasian Economic Union and the European Union: Moving Toward a Greater Understanding*, Eleven International Publishing, 2017; E. Avdaliani, *The End of "Europe from Lisbon to Vladivostok"*, in *The Bar Elan University*, 8 March 2019, <https://besacenter.org/economic-space-lisbon-vladivostok/>; R. Sakwa, *Sad Delusions: The Decline and Rise of Greater Europe*, in *Journal of Eurasian Studies*, No. 1, 2021.

¹² S. Huntington, *Democracy's Third Wave*, in *Journal of Democracy*, No. 2, 1991.

¹³ All declarations of sovereignty and independence approved by the republics leaving the USSR can be divided into two groups: those that established new states and those that reinstated the statehood interrupted by the Soviet Union's intervention. Estonia, Latvia, Lithuania, and Georgia belong to the latter group.

democratization in all cases (see Graph 1)¹⁴. Liberal democracy is defined by the extent to which a political system respects civil liberties and the rule of law, upholds an independent judiciary, and maintains effective checks and balances, and the index shows how emerging states created institutions according to the widespread beliefs concerning the third democratization model¹⁵. The liberal principle of democracy, which takes a “negative” view of political power insofar as it judges the quality of democracy by the limits placed on government, is thus a good measure for post-Soviet state-building.

Graph 1. Liberal Democracy Index for Estonia, Hungary, Poland, Russia, and Ukraine, 1981-2021



Graph 1 demonstrates that after the initial stage of the democratization efforts, the paths of the five nations diverged. Estonia, Hungary, and Poland, as well as many other countries in the region close to old European democracies, felt a stronger pull from the Western political and legal systems, so they continued to implement the chosen model for at least two post-Soviet decades. On the other hand, the Russian and Ukrainian political regimes began changing their adherence to the model within a decade. Both countries entered the 21st century with visible autocratic trends in their newly established democracies. However, while autocratization was fully implemented in Putin’s Russia, Ukraine has twice demonstrated its desire to return to democracy during the Maidan protests of 2004-

¹⁴ Hereafter I use the data and evaluations from the Varieties of Democracy (V-Dem) database, <https://v-dem.net/about/v-dem-project/methodology/>. V-Dem provides researchers with valuable data and data analysis at different levels of generalization by indicator, set of indicators, country, and region.

¹⁵ For the indicator methodology and methods of their collection and analysis see K. Marquardt, *V-Dem Methodology*, <https://v-dem.net/about/v-dem-project/methodology/>.

2005 and 2013-2014. In total, Ukrainian society has gone through two waves of democratization and two periods of autocratization in the last 30 years, while the Russian population has witnessed an ongoing autocratic trend for over 20 years.

In the second decade of the 21st century, the democratization trend was losing its energy in Central Europe as well. While the Baltic countries have managed to keep their liberal democratic quality at least until 2022, Hungary and Poland have begun to move away from liberal democracy. Since approximately 2015, the post-communist democratization impulse has weakened, and «the third wave of autocratization» has tempted the power elites of the region to make an «illiberal turn»¹⁶. Today, the Eastern European and Northern Eurasian political systems can be divided into three types:

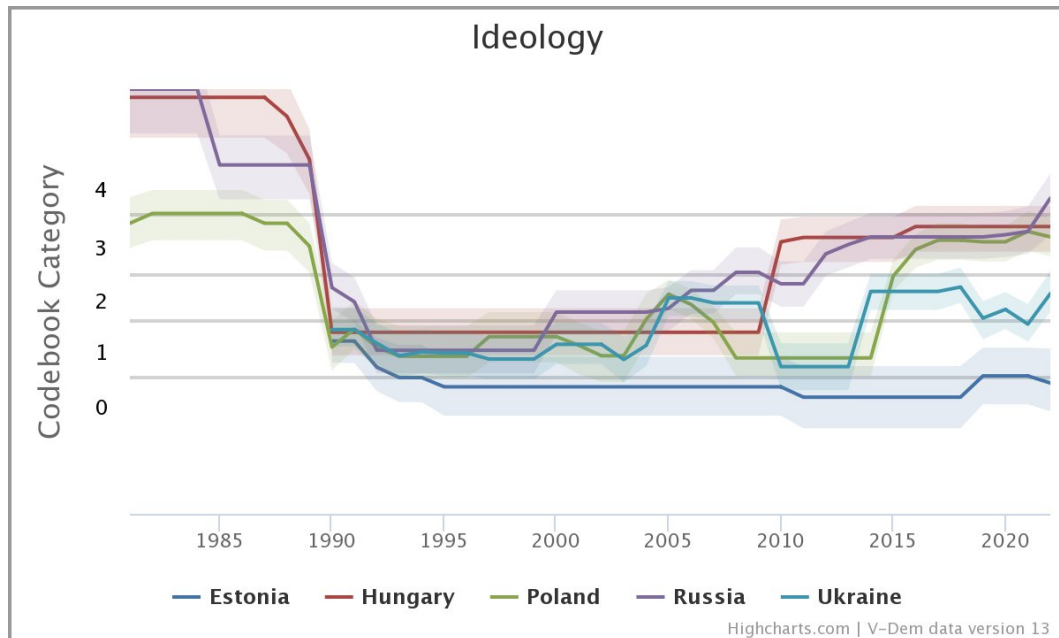
- 1) those defending the remainders of post-Soviet democratization (Estonia and other Baltic countries);
- 2) flawed democracies with hybrid regimes (Armenia, Georgia, Moldova, and Ukraine); and
- 3) the autocratic states of Azerbaijan, Belarus, Russia, and other central Asian countries.

The ideological monopoly buried by Gorbachev's liberalization in 1989-1990 arguably returned to most post-Soviet political cultures at the beginning of the 21st century. The ideology index measures the extent to which the government of a given country promotes a certain ideology to justify the existing regime¹⁷. The data in Graph 2 demonstrate that after the de-ideologization of post-Soviet nations, the governments in most countries (excluding Estonia) returned to ideologized politics at the beginning of the 21st century, and in the last five to eight years, they have developed policies reminiscent of the Soviet-era ideological monopoly. In Russia, re-ideologization began with the rule of Vladimir Putin and reached a significant level by 2012. In Ukraine, attempts to establish an ideological monopoly coincided with the post-revolutionary rule of 2005-2009 and 2014-2018.

¹⁶ See: A. Lührmann, S. Lindberg, *A Third Wave of Autocratization*, cit., 1100; A. Sajó, R. Uitz, S. Holmes (Eds.), *Routledge Handbook of Illiberalism*, Routledge, 2021, 3-4.

¹⁷ See V-Dem database methodology.

Graph 2. Ideology Index for Estonia, Hungary, Poland, Russia, and Ukraine, 1981-2021



Therefore, it is clear that the post-Soviet democratic impulse is exhausted and no longer determines any processes in the region. Autocratization, however, has spread throughout the region, supported by the war-born militarization of state-building and securitization of politics.

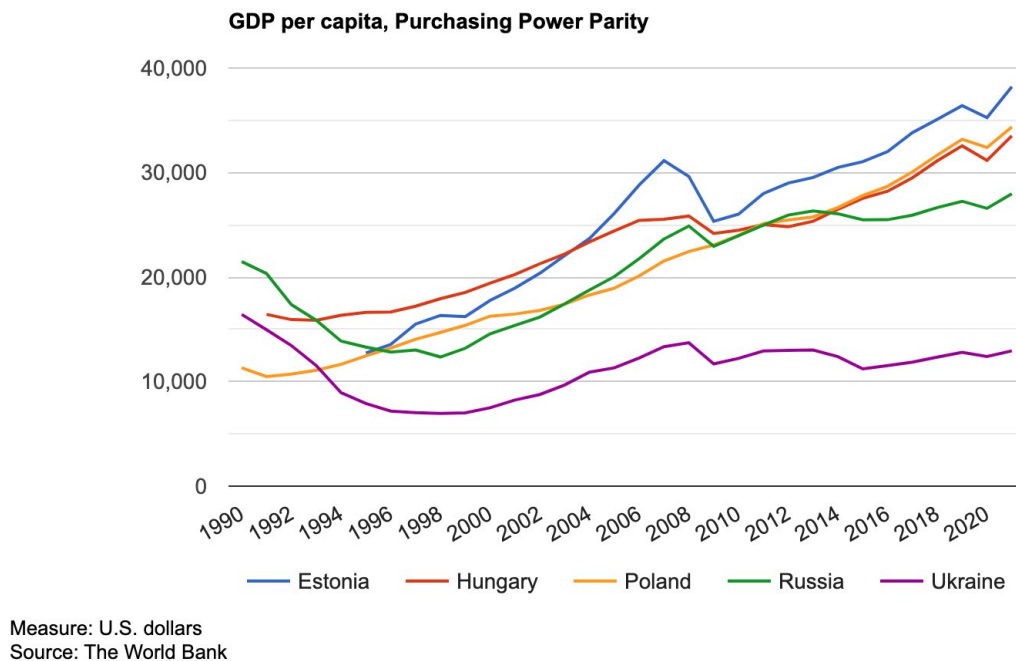
3.2. Post-Soviet Market Economies

Post-Soviet marketization aimed to establish new economies oriented to the neoliberal market model and participation in the global economy. Due to the economic transformation, all societies of the region suffered a huge loss of GDP in the early 1990s and a return to significant economic inequality¹⁸. The deep and comprehensive reforms were expected to include the privatization of huge socialist economic legacies, the creation of an entrepreneurial class, and the formation of economically self-sufficient citizens (a so-called middle class) that would not be willing to depend on the government and would drive democratic reforms. Thus, the new social structure with new classes would prevent the communists from returning to power.

Before the global financial crisis of 2008, most countries of the region, including Latvia, Poland, and Russia, had significantly improved their economies, as shown in Graph 3.

¹⁸ P. Horvat, G. Evans, *Age, Inequality, and Reactions to Marketization in Post-Communist Central and Eastern Europe*, cit.

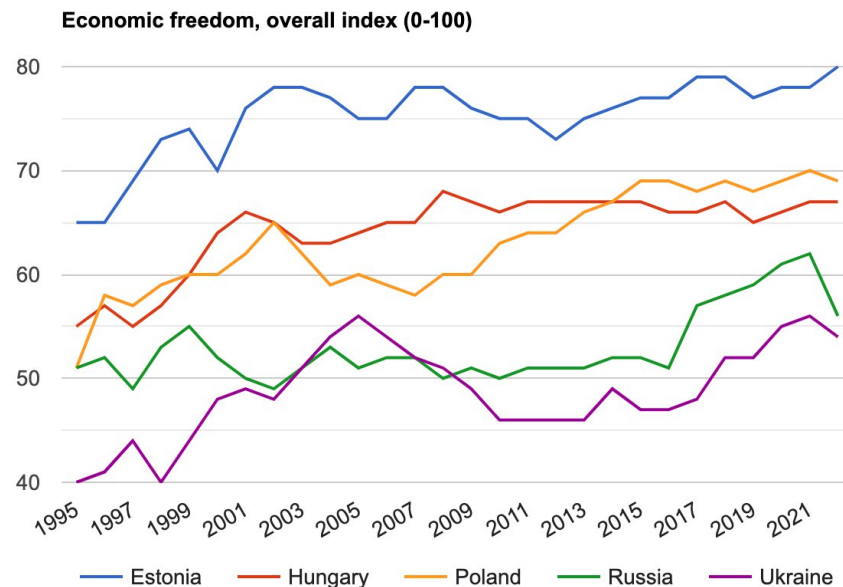
Graph 3. GDP PPP of Estonia, Hungary, Poland, Russia, and Ukraine, 1990-2021



However, some post-Soviet countries, including Ukraine (shown in Graph 3), Armenia, Georgia, and Moldova, did not manage to create economic systems that would create an economically self-sufficient citizenry. In Ukraine, the GDP growth was very limited despite the country's adherence to democracy; instead, the combination of political freedom and economic malfunction facilitated strong corruption and an influential oligarchy. The oligarchic clans organized many «patronal pyramids» whose constant competition would not allow the autocrats or the liberal democrats to successfully govern Ukraine¹⁹.

¹⁹ M. Minakov, *Republic of Clans: The Evolution of the Ukrainian Political System*, in B. Magyar (Ed.), *Stubborn Structures: Reconceptualizing Post-Communist Regimes*, CEU Press, 2019, 88-99.

Graph 4. Economic Freedom in Estonia, Hungary, Poland, Russia, and Ukraine, 1995-2022



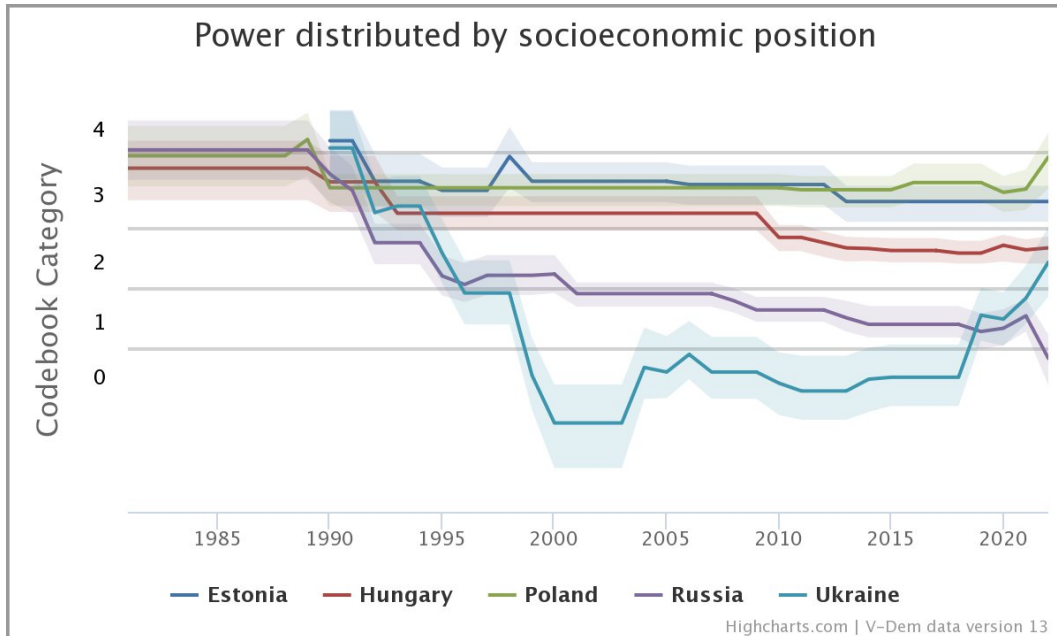
Measure: index points
Source: The Heritage Foundation

While democracy and market economies were generally mutually supportive in Western and Central Europe, in Eastern Europe, economic success supported the creation of one patronal pyramid and autocratic regime²⁰. The further to the east, the less economically free the post-Soviet societies were. Thus, economic success did not necessarily support political and economic freedom, and economic freedom did not necessarily spur the fast growth of the GDP or political freedom, as can be seen in Graph 4.

The post-Soviet market economies differ among themselves regarding the level of political inequality they produce. By measuring power as distributed by socioeconomic position, the V-Dem database provides data demonstrating that the EU socioeconomic model has kept the once-communist societies rather equal, at least in terms of the nexus of socioeconomic position and access to political power. In Russia and Ukraine, however, richness directly translates into political power (Graph 5), though this link was somewhat broken in Ukraine during the Covid-19 pandemic.

²⁰ M. Lavigne, *The Economics of Transition: From Socialist Economy to Market Economy*, Bloomsbury Publishing, 1999; H. Hale, *Russian Patronal Politics Beyond Putin*, in *Daedalus*, No. 2, 2017.

Graph 5. Power Distributed According to Socioeconomic Position in Estonia, Hungary, Poland, Russia, and Ukraine, 1981-2021



Marketization has indeed changed the economies and societies in Eastern Europe and Northern Eurasia. However, this change did not always support democratization in the post-Soviet period.

3.3. Building the Post-Soviet Nations as Part of One Big Europe

In the post-Soviet period, “nationalization” also led to unexpected results in the region’s development. According to the post-Soviet social imagination, the success of democratic and market reforms depended on their stable support by the majority of the population. It was commonly believed that limited nationalism (be it civic or ethnic) could create a majority whose identity would be supportive – or at least not hostile towards – liberal democracy and a market economy²¹. Therefore, in the last three decades, post-Soviet state-building was guided not only by the goal of democracy and the rule of law but also by the nationalization of statehood, politics, and the economy²². The complex states – the Soviet Union, Yugoslav Federation, and even Czechoslovakia – could not exist within the frameworks of such a monistic political imagination.

The nations of Eastern Europe and Northern Eurasia entered the 21st century as nation-states wherein democracy and nationalism were supposed to be balanced by

²¹ R. Brubaker, *Nationalizing States Revisited*, cit.; V. Tismaneanu, *Fantasies of Salvation*, cit.

²² S. Bianchini, M. Minakov, *State-Building Politics after the Yugoslav and Soviet Collapse. The Western Balkans and Ukraine in a Comparative Perspective*, in *Southeastern Europe*, No. 3, 2018.

Europeanization. Europeanization, the fourth major tendency of post-Soviet development, was connected with the idea that the new nations would live in a common space of peaceful coexistence. The One Big Europe project (also known as the Common European Home) was strongly influenced by the imagination of the Gorbachev-Kohl (Habermas-Yakovlev) generation²³. The future Europe, according to this idea, would become a space of peace and cooperation among the nations from Dublin to Vladivostok.

The first organization to make this vision a reality was the CoE. This organization promoted liberal democratic values and norms, as well as human rights, among all the nations from the British Isles to Russia's Far East. Around 2003, it looked like the CoE had managed to achieve its goal: except for Belarus, all states had more or less institutionalized the core norms and values of the Council²⁴.

The European Union created even stronger "European integration" but did not include the post-Soviet nations (except for the Baltic ones) to the same extent. The EU managed to bring together the nations of Western and Central Europe and organize them in a comprehensively integrated political, legal, economic, and financial system. In addition, the Organization for Security and Cooperation in Europe (OSCE), a guardian of the Helsinki Final Act's legacy, established another common framework for the Eastern European and Northern Eurasian nations to peacefully coexist in one Big Europe²⁵.

However, most of these organizations have failed. Today, after the onset of the Russian war on Ukraine, the CoE and OSCE cannot provide a platform for continental dialogue: the aggressive Russia and its ally Belarus are absent from the European dialogue. The EU, weakened by Brexit and the socioeconomic impact of the war in Ukraine, is trying to reinvent itself and its role for the bigger Europe. Even the meaning of the term Europeanization has started to lose its normative force, as the economic and geopolitical interests of the EU are increasingly in conflict with its core values and norms. Thus, all four post-Soviet tendencies are losing their energies and meanings, preparing Europe for a new era. In the last eight years, since Russia's illegal annexation of Crimea and the beginning of the Donbas War, military conflict has reorganized the continent of Europe according to a new geopolitical logic²⁶.

²³ E. Avdaliani, *The End of "Europe from Lisbon to Vladivostok*, cit.

²⁴ On this, see *The Council of Europe at 70: Milestones and Achievements*, in *Council of Europe*, 5 May 2019, www.coe.int/en/web/secretary-general/-/the-council-of-europe-at-70-milestones-and-achievements.

²⁵ M. Bauer, C. Knill, D. Pitschel, *Differential Europeanization in Eastern Europe: The Impact of Diverse EU Regulatory Governance Patterns*, in *Journal of European Integration*, No. 4, 2007; N. Timuş, *Democracy for Export: The Europeanisation of Electoral Laws in the East European Neighbourhood*, in *East European Politics*, No. 3, 2013.

²⁶ R. Youngs, *Europe Reset: New Directions for the EU*, Bloomsbury Publishing, 2017; M. Minakov, *The Militarist Remapping of Europe and Northern Eurasia*, in *Focus Ukraine*, 2 November 2022, www.wilsoncenter.org/blog-post/militarist-remapping-europe-and-northern-eurasia.

4. Summing Up the Post-Soviet Period

The post-Soviet period was a thirty-year period in which the eastern part of Big Europe's nations showed their political destructiveness and creativity, their power to imagine and act, and their commitment to and fear of freedom and prosperity.

The term "post-Soviet" still provokes an aversion in many of us – especially in the last ten years – as the autocratic wave has revived Soviet practices in many countries of our continent. The more the societies of our region fall back into the regime of ideological monopoly, resembling the Soviet political culture, the harsher our reaction will be to the mention of the Soviet, even when qualified with the prefix "post". This symptom is connected to the fact that elements of the Soviet system survived through the caesura everywhere: in some countries, these fragments survived in marginal forms, while in others, especially in Russia and Belarus, the Soviet elements substantially formed their current political orders.

Still, the emphasis is on the first part of "post-Soviet". The term refers both to a historical period and to a social experience based on the rejection of Soviet practices and values. The post-Soviet period was full of efforts aimed at self-overcoming and revolutionary attempts to create new social worlds in Eastern Europe and Northern Eurasia. It was a period of conquering the Soviet communist legacy and the totalitarian experience. The tragedy of the post-Soviet era stems from too much fear of the past and too little daring innovation. As the turbulent year of 2022 showed, too many Soviet elements have survived the caesura of 1989-1991.

The post-Soviet transformational tetrad lost its developmental energy by the early 2020s. Democratization slowed down or reverted, giving way to autocratic tendencies in most of the countries of the region. Market economies changed the structures of Soviet/communist societies, but the new class structures did not necessarily support democracy and the rule of law. Finally, nationalization increasingly contradicted the Europeanization agenda. The recent Russian aggression against Ukraine and the immediate polarization of the continent thus show that the post-Soviet period has ended, and a new period for new geopolitical regions has begun.

5. Looking into the Future of Europe and Eurasia

The post-Soviet era ended with the Russian Federation's unprovoked attack on Ukraine. Although the military conflict in Ukraine began in 2014, the demons of the new historical caesura were released in February 2022. This event marked a rupture with post-Soviet continuity and set in motion the catastrophic processes that are now changing the region and influencing the global rules-based order.

It is now clear that the globalized world order led by the West is in the past. The nature and quality of the debate at the G20 Forum of 2022 revealed: growing cleavages between the G7 and the remaining thirteen countries, tensions between

the emerging geopolitical blocs, and the fragmentation of the global economy into economic/financial zones²⁷.

The antagonism between the West and Russia has become a multilayered conflict, with Ukraine being forced to act as the site of the long Russian-Ukrainian war of attrition. The second year of the war shows that the war of attrition further translates into the international relations of attrition, at least on the European continent. This war has all chances – as the recent “Polish missile crisis” (on November 15, 2022) showed – to extend into the countries bordering Ukraine. Moreover, nations have divided into those showing solidarity with Ukraine (the vast majority of the EU and NATO member-states), those supporting Russia (Belarus, Iran), and those gaining from the conflict in Europe (Azerbaijan, China, India, Turkey, etc.).

Before the war in Ukraine, Europe had its ever-more-complicated political geography fragmented by the actions of Russia, the UK, and Turkey, each of which has its own European project. With the start of the war in Ukraine, the new Iron Curtain has been reinstalled, as NATO has reorganized itself around the mission to defend Central and Western European countries from Russian expansionism. Now, Europe is being re-imagined and re-institutionalized as the continent of systemic conflicts and competing visions of the future.

It is too early to define the exact processes that will shape the new (dis)order in Europe, but some early signals can be interpreted as suggesting three processes: the redefinition of the global core, the militarization of Europe, and the social homogenization of European and Eurasian nations.

First, the former world-system’s core-periphery structure is undergoing a thorough revision. Already in 2022, countries like Poland, Estonia, Latvia, and Lithuania demonstrated their growing role and ability to make critical sovereign decisions influencing other nations in the EU. Meanwhile, the political role of the old European democracies is declining in the Union. If Central Europe’s political rise is supported by economic and cultural influence, it could become part of the global core. Furthermore, the global role of China is becoming more important, turning it into an alternative geopolitical pole to the United States.

Second, militarization – as the primary political imaginary of this period and long-term sociopolitical process – redefines Europe as a space of many different conflicts, where the traumas of the 20th century and new ills coalesce to establish a new era. As a political imaginary, militarization is already changing European state- and nation-building models. It influences national policies and creates completely different foundations for the future political geography of Europe. If European intellectuals and politicians were recently proud of their societies’ post-heroic conditions²⁸, today they sing glory to the heroes of the war in Ukraine.

²⁷ P. Wintour, *G20’s Dysfunctional Family Show Little Sign of Working Together in a Crisis*, in *The Guardian*, 15 November 2022, www.theguardian.com/world/2022/nov/15/little-sign-of-recovery-at-g20-at-either-political-or-economic-level.

²⁸ T. Elsaesser, *Post-Heroische Erzählungen: Jean Luc Nancy, Claire Denis und Beau Travail*, in H. Kappelhoff, A. Streiter (Eds.), *Die Frage der Gemeinschaft: Das westeuropäische Kino nach*

Third, European and Eurasian societies seem to have opted for homogenization, which translates into stronger limits on cultural, social, and ideological pluralism within their nations. The freedoms that were so natural in our societies and communities over the last thirty years are entering the stormy waters of the dominant-majority social life.

If these three processes continue, Europe – instead of being a region “from Lisbon and Vladivostok” defined by inspiring symbols – would turn into the symbolic space stretching from Belfast, the city of many re-emerging and new conflicts, to Magadan, once the Gulag capital and now the source of cadres for Russian forces in Ukraine. We have strayed from the post-Soviet and post-heroic eras, and we are now marching into the unknown territory of the future world.

1945, Brill, 2012, 67-94.

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Why Ukrainians Resist. Historical Memory, Civic Identity, Political Independence

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Why Ukrainians Resist. Historical Memory, Civic Identity, Political Independence

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Abstract

What are the motivations that support Ukrainians' strenuous and unexpected resistance to the invasion, which began in 2014, of their republic? For many political observers, journalists, researchers and scholars, the Ukrainians' tenacity, courage, and determination remain little or not fully understandable to this day. In reality, the reasons for that tenacity are many. However, the main has been and continues to be the opportunity, in the thirty years of Independence, to discover one's own history, both from the period of the Russian and the Soviet Empires. Ukraine's history has been difficult, punctuated with long denied, counterfeited, and obscured tragedies. Its discovery is the most important reason that supports the will to resist today. What is taking place today thus is the intensification of a centuries-long process of de-colonization that not only affects the ethnic Ukrainian component, but also becomes an attempt to block the way for the return of autocratic and totalitarian rule that threatens to overwhelm a fragile civic nation in the making for the past 30 years.

Keywords: Ukraine – Ukraine's independence – Ukraine's history - Russian invasion of 2022 – Self-government.

SOMMARIO: 1. Foreword. Why Ukrainians Resist. 2. An Intensifying Process of De-colonization. 3. Thirty Years of Discovering a Denied History. 4. The Discovery of Ukraine's History in the Soviet Period. 5. Conclusions.

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«The noblest of all wars is the one that a people fight on their own soil, for independence and freedom».

Carl von Clausewitz

«I admire those who resist, who made the verb “resist” their flesh, sweat, blood, and those who proved without great gestures, that it is possible to live and live standing up, even in the most difficult of times».

Luis Sepúlveda

1. Foreword. Why Ukrainians Resist

Several political observers, journalists, and scholars continue to wonder, more than a year after the Russian invasion of Ukraine on Feb. 24, 2022, where the tenacity, courage, and strength shown by Ukrainians in fighting and dying to defend their country's independence comes from.

Almost everyone expected a rapid territorial conquest, the dismissal of the ruling President and his escape¹, the capitulation and surrender of an entire people to the dominator, stronger and armed with the “right to conquer” (of force), certainly not such, unexpected resistance. But this belief soon proved to be completely groundless. Only the lack of knowledge and reflection on Ukrainian history of the last centuries and particularly that of the last 30 years could have generated such an expectation.

A year after the invasion, nearly 90 percent of Ukrainians, most of them Russian speaking, said they would continue to fight, even in the extreme case of a nuclear attack.² That means continuing to resist *usque ad effusionem sanguinis*, without limit, to defeat and annihilate the invader. The general mobilization of all men in Ukraine seemed in the West to be an excessive prevarication, especially because of the disproportionate nature of the forces. However, the multiplication of volunteers participating in the conflict, including thousands of women not obliged to take up arms, showed that the willingness to fight and die for independence was not a product of “state” choices.

Such firm motivation is proving not only that we are not faced with a “nonexistent nation,” as the Kremlin would have it, but also that Ukraine is not that “divided country” between East and West, as has long been described by much journalism. This strong motivation, furthermore, which has forced the Russian leadership to relinquish control of most of Ukraine, cannot derive only from the desire to regain territories annexed by the neighboring power or those invaded and conquered by force³.

¹ In Washington from the beginning the US Administration did not believe in a possible Ukrainian resistance: this is demonstrated by the immediate offer of political asylum to the Ukrainian President. Which shows, among other things, the total unreadiness of a plan to counter the possible invasion.

² *Munich Security Index in Ukraine*, 2023: <https://securityconference.org/en/publications/munich-security-report-2023/spotlight-ukraine/> See also: <https://www.ukrinform.net/rubric-society/3669412-almost-90-of-ukrainians-ready-to-continue-fighting-off-russian-aggression-poll.html>.

³ Therefore, it is nonsensical to believe that the Ukrainian President should consider, as a leader, whether to save as many Ukrainians as possible or to continue the resistance against invasion to keep as much Ukrainian territory united as possible, as on the contrary argues J. Shapiro, *L'Ucraina si prepara a una nuova partizione*, in *Domino*, No. 1, 2022, 20. It makes no sense because resistance aims to prevent first of

Although powerful, the long ties to one's homeland are not enough to explain this tremendous force of resistance, which will still have important consequences in the future as it continues to grow more powerful. There must be something much deeper, even more decisive than those motivations that had led to Ukrainian political Independence on December 1st, 1991, when more than 90 percent of the population had voted for it⁴.

2. An Intensifying Process of De-colonization

The invasion of independent Ukraine intensified and accelerated pushes toward the overthrow, already begun in 1991, of a centuries-long process of imperial colonization.

Both in practice and in the consciences of the Ukrainian population, the de-colonization of vast subjugated regions and assimilated populations through even violent processes of de-nationalization has now become an indispensable priority.

Imperial, Russian and Soviet colonization has long aimed not only at subjugating and erasing Ukrainian national identity (using arbitrary definitions, such as “little Russians,” – a word, however, which also possesses a more neutral administrative and religious meaning⁵ – “inferior people,” “Ukrainian language dialect of Russian,” etc.), but also at

all new imperial and colonial subjugation. Moreover, breaking the resistance does not mean containing losses, as research on the democides and genocides of the twentieth century committed in peacetime has clearly shown. See R. J. Rummel, *Death by Government*, Transaction Publishers, 1994; R. J. Rummel, *Statistics of democide*, School of Law, University of Virginia, Transaction Publishers, 1997. The choice to continue the struggle for territorial reasons (following a kind of “territorial trap”: J. Agnew, *The Territorial Trap: the Geographical Assumptions of International Relations Theory in Review of International Political Economy*, No. 1, 1994, 53-80) is instead apparent. In fact, reclaiming territory is instrumental: it means saving lives and population from an already known rule.

⁴ Even Russians who were present in Ukraine in 1991 could no longer tolerate the Kremlin's policies. The Ukrainian declaration of independence on August 24, 1991, was recognized by the RSFSR. Dissident Ukrainians' relations with Russian human rights activists had lasted since the 1970s. The referendum on maintaining the Union (March 17, 1991), still used today as an example to contend with the legitimacy of the independence of the former Soviet republics, was an absolute farce, according to the testimony of the Russians themselves, who denounced it in many fora, until the August coup. All of this contrasts with Kremlin propaganda, which has sought to combat any Ukrainian motivation for political independence. A. Vitale, *The Reasons for Ukraine's Independence*, in P. Bocale, D. Brigadoi Cologna, L. Panzeri (Eds.), *Minorities in the Post-Soviet Space Thirty Years After the Dissolution of the USSR*, cit., No. 14, 284. The protection of pluralism had become evident with the recognition of Ukrainian citizenship to all residents in December 1991. The republic did not want to turn into an ethnic state that discriminated against minorities. In addition, all Ukrainian popular movements of the past three decades have been linked to a civic patriotism, citizenship, and not to an ethnic conception of the nation. A. Graziosi, *L'Ucraina e Putin, tra storia e ideologia*, Laterza, 2022, 43; G. Lami, *L'Ucraina in 100 date. Dalla Rus' di Kyiv ai nostri giorni*, Della Porta, 2022, 16. A patriotism even more stimulated today by the Russian invasion. Kremlin policy has tried in vain to divide Ukrainians along linguistic, regional, and ethnic fault lines, achieving the opposite effect. In fact, Ukrainian society in its near totality has compacted around the idea of a multilingual and multicultural nation united administratively and politically. S. Plokhyy, *The Gates of Europe. A History of Ukraine*, Basic Books, 2021 (Ital. Translation, Mondadori, 2022, 478).

⁵ «The *intelligenciya* of the nineteenth century perceived more and more clearly the presence, on the fringes of the imperial territory, of various peripheries characterized by their own cultural traits, and of “exotic” spaces clearly distinguishable from the purely Great-Russian cultural milieu. In other words, Russian thought could gradually perceive the existence of various “Inner Easts.” At this stage, Russian culture, in the wake of Herderian Romanticism, was in search of folklorically intact lands: in this view, even Little-Russia represented an exotic land, the “sweet noon of Muscovy”». A. Franco, *Popolamento e colonizzazione nella Siberia in età zarista (fine Ottocento-inizio Novecento)*, in *Studi Slavistici* VIII, 2011,

preventing the formation of a “civic nation”⁶ composed of multiple ethnic groups who now identify themselves as an integral part of the independent Ukraine.

The Ukrainian struggle for independence is now more than ever anti-colonial and anti-imperial. A civic identity – as thousands of Ukrainians who are ethnically Russian or who feel Ukrainian even though they speak Russian, exasperated by the destruction of Russian-speaking cities such as Kharkiv, which had suffered no ethnic discrimination in the past thirty years, participate in fighting the invader – emerges from the upheavals of the past and the violent aggression of the present. A multi-ethnic but increasingly “Ukrainian” civic identity, which feels endangered, as the attack is no longer just against an ethnic group, but against an entire people and its composite cultural heritage, threatened by a war of annihilation (and certainly not a war “between states”), which has targeted not just an ethnic nation but a “civic” nation as a whole (even ethnic Russians and Russian speakers who feel they are Ukrainian citizens), with atrocities and violence stemming from a continuation of the twentieth century.

The massive historical work of excavation conducted in Ukraine over the past three decades has enabled Ukrainians to learn about the most dramatic stages of their history, long deliberately concealed. Much more than had been possible in 1991, the impressive collection of data and reflection on Russian and Soviet imperial domination, as in the joining of the pieces of a puzzle that is still painfully being pieced together, over the thirty years of political independence have strengthened the determination toward decolonization, the reappropriation of their cultural heritage and the firm resistance to any attempt to return to past dominations.

In these thirty years Ukrainians have become aware that they have suffered from a history of centuries of imperial colonization, which has repeatedly attempted to subjugate or even erase them (first with the Tsarist imperial decrees and then with the *slivanje nacij*, the “fusion of nationalities” already in the very nutshell of Lenin’s political projects). The rediscovery of language, harshly persecuted for four hundred years, is only the tip of the iceberg of this anti-colonial cultural renaissance, which can no longer bear to see its own culture considered “minor” or “without history”.

Examining even just the history of the twentieth century, Ukraine suffered, much more intensely than the other former Soviet republics, an assimilationist onslaught unparalleled in human history and planned phenomena of “deportation-repopulation,” an “ethnocultural dilution” that transformed it into a new region subjected to the erosion of its original cultures. Ukrainian culture was compressed and marginalized as a result, as

61-78.

⁶ With Independence in 1991, a civic ideal of citizenship and a non-ethnic project of nationhood were consolidated, which entailed a progressive acceptance of diversity and a marginalization of purely ethnonational projects and aspects. A. Graziosi, *L’Ucraina e Putin, tra storia e ideologia*, cit., 28, 33). It has been significant the participation of Russian-speaking Ukrainians or Ukrainian citizen Russians in the Orange Revolution of 2004. At that time, an aggregate of people with different ethnonational characteristics recognized themselves as a “people”, endowed with constituent power and resulting from an act of breaking an existing constituted political-territorial order, regardless of whether or not they had a common history. The same occurred with the participation of Russian speakers from the Donbass in street protests in Kiev during the *Maidan Nezalezhnosti* in 2013-2014. A. Vitale, *The Geographical Problem of Political and Territorial Unity. The Reasons for Ukraine’s Independence*, in A. Rykała (Ed.), *W kręgu Geografii Politycznej i dyscyplin “okolicznych”*, cit., No. 36, 216.

well as nationality, which as it is well known, derives from the interaction between subjective elements, perceptions, and factually existing elements.

The attack on Ukrainian identity, as elsewhere, has in fact passed through impressive practices of de-nationalization, devastation, and erasure of national historical monuments, forced assimilation, cultural and linguistic, the main instrument of political domination, implemented through compulsory, homogeneous education, aimed at eradicating the memory of what of the historically occurred events is too dangerous to publicize. Ukraine has possessed its own complex ethnocultural physiognomy for centuries, characterized by plurietnicity, acceptance and tolerance, and by a formidable coexistence⁷. The long rejection of compression within an imperial “Procustean bed” is also rooted in this historical tradition.

The aspiration for independence and the tenacious struggle to regain and preserve it have always contained first and foremost manifest motivations of cultural and identity self-defense. The attack on identity has triggered the need to safeguard, by political means of protection, a threatened culture, since cultural belonging is fundamental to the lives of individuals⁸. Today, Ukrainian resistance has become not only a defense against the Kremlin’s genocidal projects, contained in official statements and speeches⁹, but also a defense of a “multi-ethnic civic nation” and the physical existence of all the peoples of Ukraine, threatened by violence that goes beyond the long colonial repression and is used in case of refusal to submit totally to the invader.

3. *Thirty Years of Discovering a Denied History*

Over 30 years of independence, tragic realities, facts of Ukrainian history long consigned to forced oblivion by Soviet censorship, have gradually emerged and revealed themselves in all their terrifying magnitude. Beginning in 1985, in fact, a long history of Ukrainians’ subjugation to foreign domination has re-emerged from the fogs of the past (and it has begun to be possible to speak openly about it). Studies and research appeared, based on documents and testimonies and on writings and memoirs, on the countless and often brutal prevarications suffered by Ukrainians in the Russian-Soviet period. These have been true historiographical discoveries about an unknown history.

The rediscovery of Ukrainian history began with the demystification of that of Kievan Rus’ (10th-13th centuries), used as a justification for a kind of “historical right” of Muscovite Russia and its empire over the regions and peoples of Ukraine. The intersection of peoples and cultures in that extremely fluid aggregation, typically medieval (a proto-federation composed of low-political aggregations, which was not organized on the basis of political sovereignty over a homogeneous and continuous territory, fenced by strict modern linear boundaries, and in which centralized power typical of a modern state was lacking: after all, different princes had different enemies, which negates the presence of sovereignty), neither “Russian” nor “Ukrainian” (because the modern idea of a nation did not yet exist), precludes reference to it as a political unit that was the precursor of Muscovite Russia in a political-structural sense and as the

⁷ G. Potašenko (Ed.), *The Peoples of the Grand Duchy of Lithuania*, Aidai, 2002. However, the internal, peasant, Cossack, and anti-nobility uprisings that marked this history cannot be forgotten.

⁸ A. Vitale, *The Geographical Problem of Political and Territorial Unity*, cit., 204-205.

⁹ T. Snyder, *The War in Ukraine Is a Colonial War*, in *The New Yorker*, April 28, 2022.

progenitor of the Tsarist Empire¹⁰. In fact, there was no dynastic, political, ecclesiastical continuity that would authorize Russia to attribute to itself the exclusive inheritance of Rus'¹¹ let alone a different physiognomy from the polyethnic conglomerate¹² that characterized it¹³. As is well known, the beginning of Muscovite Russia's territorial expansion dates back only to 1667, while after the end of Mongol rule only the southern territories of Ukraine belonged to Russia, excluding the rule over Smolensk and Černihiv, which dates back to the early 16th century¹⁴.

During the 30 years of independence, the discovery and deepening of the long history and legacy (in terms of culture and mentality) left in western and southern Ukraine by the Grand Duchy of Lithuania also occurred¹⁵: very different characteristics, in all respects¹⁶,

¹⁰ Kostomarov, in his nineteenth-century work, remains fundamental in pointing out the impossibility of using this proto-federation as a synonym for a pre-existing statehood considered to be the historical basis of the Moscow Empire. In fact, it was a completely different political and cultural reality that Russian historiography tried to fit into a Procrustean framework of modern state simplification. See A. Franco, *Le due nazionalità della Rus'*. *Il pensiero di Kostomarov nel dibattito ottocentesco sull'identità ucraina*, Aracne Editrice, 2016; see also, A. Vitale, *Rossijskaja gosudarstvennost' v sravnitel'noj perspektive: russkaja tradicija i zapadnaja model' stroitel'stva gosudarstva*, in *Novejšaja Istorija Rossii. Mezhdisciplinarnyj Nauchno-Teoreticheskij Zhurnal'*, No. 3, 2013, 20-36.

¹¹ G. Lepesant, *L'Ukraine dans la nouvelle Europe*, CNRS Editions, 2005, 26. On the issue of Kievan Rus' legacy, see for a quick overview A. Kappeler, *Kleine Geschichte der Ukraine*, Verlag C. H. Beck, 2009, 29-39.

¹² K. Boeckh., E. Völkl, *Ucraina. Dalla rivoluzione rossa alla rivoluzione arancione*, Beit, 2009, 25.

¹³ A. Vitale, *The Geographical Problem of Political and Territorial Unity*, cit., 207.

¹⁴ S. Plokhyy, *The Gates of Europe. A History of Ukraine*, cit. (ital. transl., 102).

¹⁵ As early as 1363, during the period of the reign of Algirdas (1363-1377), the Grand Duchy included Volynia (incorporated in 1352), Principality of Briansk (1355), Principality of Smolensk (1357), Principality of Kiev (1362), Podolia (1364) and lower Dnipro: that is, even before the Kreva Dynastic Union (1385), the beginning of four centuries of Polish-Lithuanian Confederation. From 1505 the Grand Duchy englobed almost all of present-day Ukraine, generating within it a fusion of different nobility and forms of extraordinary coexistence between different ethnic groups. See G. Potašenko (Ed.), *The Peoples of the Grand Duchy of Lithuania*, cit. See also the beautiful book in Lithuanian: Plures, *Ukraina: Lietuvos Epocha, 1320-1569, Mokslo ir enciklopedijų leidybos centras*, 2010; A. Eidintas, A. Bumblauskas, A. Kulakauskas, M. Tamošaitis, *Istorija Litvy*, Eugrimas, 2013; A. Kappeler *Kleine Geschichte der Ukraine*, cit., 102-105. A. Vitale, *The Geographical Problem of Political and Territorial Unity*, cit., No. 13, 207-208.

¹⁶ Lithuanian influences on Ruthenian, Western Ukrainian society, subject to historiographical research today, have been innumerable. The most important ones, which differentiate this region from Muscovite Russia, are those related to the influence of the Renaissance, the echo of the Reformation, Magdeburg law (foreign to Muscovite Russia), but especially to individual farms, personal ownership of land (allodial), different from the forms of land management formed in the culture of the Eastern Slavs. These aspects are still recognizable in linguistic terms: in Ukrainian we still find Lithuanian words related to the reality of individual farms. Rooted in these diversities are the distant roots of the Ukrainian peasantry's tragic struggle against Stalinist forced collectivizations and the dictator's genocidal and democidal reprisals (Holodomor), after a period of recovery that had allowed for a certain cultural and economic flourishing in agriculture. Regarding the diversity of political conceptions, the pages of the correspondence between Ivan IV and Prince Andrei Kurbsky, a refugee in the Grand Duchy of Lithuania, remain emblematic. Ivan the Terrible, *Un buon governo nel regno. Carteggio con Andrej Kurbskij*. Adelphi, 2000. A conception of politics opposite to the autocratic one developed in medieval Ukraine, which also renders the popular thesis, widespread especially in the United States, of "Slavic countries congenitally devoted to autocracy and absolute power," inconsistent. L. Pauwels, T. Pauwels, *Histoire d'Ukraine. Le point de vue ukrainien*. Yoran, 2015, 164. It would be enough to think of the *veche*, a popular assembly of Ukrainian cities (the best-known case being the Republic of Novgorod), invested with supreme authority, comparable to the

than those that will be assumed by Muscovite Russia. Studies were then directed to the original historical and cultural legacy of the Cossack component, repressed for a very long time, up to the Stalinist genocide. Studies that have highlighted the originality of the free institutions of the Cossacks¹⁷, and of the *lichnaja svoboda* (individual freedom), as well as the importance of the individual, albeit embedded in the Cossack brotherhood, but above all the *federativnoe načalo* (federal principle), inherited from the political tradition of Kievan Rus', preserved for centuries in the Ukrainian political mentality. All cultural elements in sharp contrast to the autocratic principle of the Muscovite tsars, who were increasingly influenced by the model of the modern centralized unitary state, both of autocratic origin and, later, of Western origin (Prussian, French, Swedish in the bureaucratic sphere, from Peter onward)¹⁸. Ukrainians have also discovered that under the Tsarist Empire, assimilationist and homogenizing tendencies toward Ukrainians were massive and overwhelming.

As is well known, Great-Russian chauvinism, also targeted by Lenin, drastically reduced Ukrainian ethnocultural and linguistic space. Indeed, it reduced it to a peripheral, dialectal, folkloric status and considered it deprived of original and original historical-cultural connotations. Beginning in the 19th century, a genuine imperial disdain for the revival of Ukrainian national self-consciousness appeared increasingly evident, masterfully represented by Mikolai Kostomarov's literary masterpiece *Skotskij bunt (The Animal Uprising)*¹⁹.

Moreover, in the 19th century, the Czarist imperial assimilationist strategy was fully manifested, which sought to nip in the bud the development of Ukrainian peculiarities. It did so by seducing local elites, russifying wherever possible, strictly banning the use of the Ukrainian language²⁰, suppressing cultural institutions, libraries, and independent educational institutions, national publications, excluding the local elite from schools, academies, and universities (all acts long considered by political thought to be signs of the presence of political tyranny), changing of place names, forcing demographic change in several regions, transforming the architectural heritage, introducing serfdom and suppressing the status of free peasants, taxing them to the point of exhaustion. The policies of Peter I and Catherine II suppressed a host of typical (and differentiating)

Nordic *Thing* or the Swiss *Landsgemeinde*. As early as the 15th century, Grand Duke Alexander of Lithuania granted Kiev considerable independence, according to the principles of the Magdeburg Law, a European code of municipal self-government, on the basis of which citizens could elect their own rulers and members of the judiciary. That Law remained in force in Kiev until 1834. The list of Lithuanian influences is very long. See A. Vitale, *The Geographical Problem of Political And Territorial Unity*, cit. 208.

¹⁷ K. S. Jobst, *Geschichte der Ukraine*, Philipp Reclam jun. GmbH & Co KG, 2010, 87-104; A. Kappeler, *Kleine Geschichte der Ukraine*, cit., 54-71; K. Boeckh, E. Völkl, *Ucraina. Dalla rivoluzione rossa alla rivoluzione arancione*, cit., 33-38.

¹⁸ A. Vitale, *Rossijskaja gosudarstvennost' v sravnitel'noj perspektive: russkaja tradicija i zapadnaja model' stroitel'stva gosudarstva*, cit.

¹⁹ M. Kostomarov, *La rivolta degli animali. Lettera di un proprietario terriero piccolo russo al suo amico di Pietroburgo*, Sellerio, 1993.

²⁰ K. S. Jobst, *Geschichte der Ukraine*, cit., 117.

features of Ukrainian culture²¹, starting with the freedoms of the Cossacks, in the course of the colonization of the South²².

The expansion of autocracy also brought with it a rough and primitive conception of absolute sovereignty. This was quite different from the “proto-federal” tradition inherited from Kievan Rus. It was precisely that conception of absolute sovereignty that would later create the basis (in perfect Tocquevillian continuity) for the totalitarian state, which was its consistent evolution, in terms of the concentration of political power. Of course, this was a process that lacked the Western constitutional exceptions to the “pure” model of modern state development, based on the continuous production of internal political unity and enforced homogeneity, accompanied by disregard for national particularities.

4. The Discovery of Ukraine’s History in the Soviet Period

But it is especially the discovery of what Ukrainians suffered in the Soviet period that today stimulates the spirit of resistance to the invasion and the attempt to suppress their independence. This is the case with the Bolshevik invasions of 1917, 1918 and 1919, the shelling of Kiev and repressions of that time, the annihilation of Ukrainian *intelligentsija* in 1929-1930, but especially the Holodomor of 1932-33, which resulted in about 5 million deaths from starvation²³. The demonstration of the intentional and genocidal character of the Great Famine, which differentiates it from previous or subsequent famines²⁴ used to punish Ukrainian national character, has been similar in its disruptive effect to what the revelations about the Secret Protocols of the Ribbentrop-Molotov Pact of 1939 had provoked in the Baltic countries.

²¹ As early as 1720 the de-culturation that resulted from a decree of Peter I, had provided for the elimination of all Ukrainian linguistic elements from theological literature. The process of “russification” then continued under Catherine II, with an uninterrupted policy of cultural assimilation that, in addition to Livonia, Finland and many other lands, fully invested Ukraine. The suppression of the Polish-Ukrainian uprising of 1863 failed to represent, with the heavy cultural bans on Ukrainians and their culture (Valuev circular, 1863), the culmination of ethnocultural discrimination and assimilation under the Empire. S. Plokhy, *The Gates of Europe. A History of Ukraine*, cit. (Ital. Transl., 232-233). A. Vitale, *The Reasons for Ukraine’s Independence*, cit. 280. With Alexander II’s ukaze of Ems, 1876 (kept secret from the population), the culmination of those policies was reached, with a ban on the use of the Ukrainian language, referred to as a “Russian dialect”, a ban on teaching in Ukrainian in schools, the withdrawal of all books in Ukrainian from local schools, and the deportation of recalcitrant Ukrainian teachers, who were sent to the furthest provinces of the Empire and replaced by colleagues seen as “true Russians”. Those who managed to save themselves, taking refuge in Galicia under the Habsburg Empire, helped to fuel a Ukrainian national revanchism capable of spanning the following centuries as well as preserving, by revitalizing them, the most salient features of a specific and original culture. *Ibidem*, 280-81.

²² K. Boeckh., E. Völkl, *Ucraina. Dalla rivoluzione rossa alla rivoluzione arancione*, cit. 36. A. Vitale, *The Reasons for Ukraine’s Independence*, cit., 210.

²³ Ettore Cinnella described it as a vast operation designed to punish a people like the Ukrainians, who were rearing their heads and aspiring for independence. E. Cinnella, *Ucraina 1932-33. Il genocidio dimenticato*, Della Porta Editori, 2015, 294. Stalin’s choice to use famine against Ukrainians resulted in the death of 25 percent of Ukraine’s ethnic population and the simultaneous destruction of much of Ukraine’s political and intellectual elite in the form of genocide. A. Graziosi, *L’Urss di Lenin e Stalin. Storia dell’Unione Sovietica, 1914-1945*, Il Mulino, 2007, 361.

²⁴ R. Conquest, *The Harvest of Sorrow. Soviet Collectivization and the Terror-Famine*, Oxford University Press (it. transl.: Fondazione Liberal, 2004); S. V. Kul’cyc’kyi, *The Famine of 1932-1933 in Ukraine. An Anatomy of the Holodomor*, CIUS Press, 2018.

The desperate postwar armed Ukrainian resistance against Soviet domination (1944-1950), which had been unable to signal to the world the presence of violent domination, was later explored more deeply²⁵, revealing dark sides, great sufferings²⁶ and an immense, incalculable damage to national cultural heritage that resulted from it²⁷. That civil war caused thousands of shootings, starvation, and more than two million Ukrainians deported to Siberian and Arctic prisons and death camps, in conditions similar to those suffered by other ethnic minorities.

Historians have often wondered about the problem of continuity between the national and cultural policy pursued by imperial Tsarist Russia and that of the Kremlin. However, it is difficult not to see the striking similarities, even if the ideological character and goals of the Soviet period reveal a decisive difference, characterized by systematic planning that ended up exacerbating the Ukrainian question²⁸. The logic of modern state-building

²⁵ A. Graziosi, *L'Ucraina e Putin. Tra storia e ideologia*, cit., 47-48.

²⁶ The Communist military commanders killed Ukrainian prisoners of war, forced them to defect to their side, used chemical weapons, resorted to the annihilation of the peaceful inhabitants, and cruel tortures and humiliations on a wide scale, inflicting irreparable moral and psychological damage on the nation. *Judgement of the International Public Tribunal in Vilnius*, 2000, 93-94. It is important to note that the resistance movement welcomed elements from many nationalities, religions and ethnicities into its ranks. Although the Ukrainian struggle was more against the NKVD than against the Soviet army, there was no doubt that Stalin's orders aimed at finally liquidating "the long-standing Ukrainian question." The civilian population was also subjected to harassment of all kinds (inspection of villages, destruction of houses and harvests, seizure of livestock, and deportations of farmers to Gulag) and especially the blocking of food and seed supplies to villages: a method already used in 1932, which resulted in the deaths of 10,000 more people in the postwar period. In 1945 alone, the Soviets shot and hanged 218,865 Ukrainians, including men and women. Stalin imposed an ethnically based "population exchange" (of Russification) in western Ukraine, using the technique of deportation and forced repopulation. This allowed the ties between Ukrainian partisans and the population to be broken. Soviet counterinsurgency techniques were similarly employed everywhere in the Soviet Union for the purpose of repressing any recalcitrant ethnic groups. P. Abbott, E. Pinak, *Ukrainian Armies 1914 - 1955*, Osprey Publishing, 2004; A. Rosselli, *La resistenza antisovietica e anticomunista in Europa Orientale, 1944-1956*, Settimo Sigillo, 2004; K. Bondarenko, *Istoriya, kotoruyu ne znaem ili ne khotim znat'?* In *Zerkalo nedeli*, 29 March-5, 2002; M. Buhai, *Deportatsii naselennya z Ukrainy in Ukrains'kyi istorychnyi zhurnal*, No. 11, 1990, 21-25; D. R. Marples, *Heroes and Villains. Creating National History in Contemporary Ukraine*, Central European University Press, 2013.

²⁷ Among the first historians and political scientists to lift the veil on the reality of Soviet colonialism in Ukraine was Abdurachman Avtorchanov as early as 1990. His study *Imperija Kremlja. Sovetskij tip kolonializma*, printed in Russian first in Germany and then in Vilnius (Oformlenie Kooperativ "Spauda", Vilnius, Lithuania) in 1990, had described the reality of discrimination suffered by Ukrainians during the entire Soviet period, even at the high levels of the local Party leadership. A. Avtorchanov, *Ibidem*, 56-81. However, the problem of colonialism is very intricate, especially because of the "internal" components of the Empire: in fact, Russia and the Soviet Union are believed not to have had an Empire, but to have been an Empire. After all, already in the late nineteenth century the Russian historian Ključevskij stated, «The history of Russia is that of a country colonizing itself». V. Ključevskij, *Sočinenija v devjati tomach*, 1987, Vol. II, 49-55.

²⁸ On the Russification process of the Soviet period, see A. Kappeler, *Kleine Geschichte der Ukraine*, cit., 236-241. However, the relationship between Soviet "integral statehood" and Russification is complicated. In fact, members of national minorities also remained involved in the political practice of repression and de-nationalizing against other minorities in the Empire and participated in both the preservation of the system and the policies, planned by the Kremlin, as members of the Party, administration, and secret police. Consider, for example, the Latvians or Ukrainians involved until the end of the Soviet regime in these practices. Today, the post-independence perception is more simplified in all republics, although it is true that Ukrainians, because of the Independence immediately suppressed during the 1920s, suffered from violent de-nationalizing policies much more than the nationalities that were then able to gain Independence.

in the imperial sphere, with the consistent pursuit of political unity and internal homogeneity exploded with the engineering of nationalities and the devastating project of *slijanije nacji* (merger of nationalities)²⁹ to create the fictitious reality of the “*sovetskij narod*” (Soviet people)³⁰. Even in 1972, at the height of neo-Stalinist restauration under Leonid Brežnev, there were frequent arrests of Ukrainian teachers, later sentenced to multiple years in prison for teaching Ukrainian in school and other subjects in his native language. The Ukrainian language was “purged” of its supposed archaisms and foreign word loan words³¹. The number of magazines and newspapers was drastically reduced. The Ukrainian leadership of the Party was periodically eliminated or reduced to insignificant ranks. In parallel with the attack on churches, the destruction of family, community and ethnocultural ties, the heavy invasion into Ukrainian civil society through atomization, terror³² and the systematic use of divide and rule and delation, Soviet power had been unleashing for more than fifty years a planned and systematic policy of cultural eradication and of erasing historical memories and monuments of the past. As a result, Ukraine suffered a tragic cultural humiliation, based on terror (culminating in the extermination of the kulaks, who in countless cases were not rich peasants at all), aimed at producing absolute homogeneity and political integration in the Soviet state, and dependence of atomized individuals on the ruler. In part, only a few cultural forms were artfully preserved in terms of folklore - the antechamber to extinction - which, unlike political independence, never succeeded in effectively counteracting the processes of centralization of power and the extension of the latter’s control over culture in general, as well as those of progressive ethnocultural dilution³³.

Of course, the most dramatic phenomenon was the physical elimination of all the intellectual strata and the country’s best and most creative elements. Added to this was the encouragement of emigration or deportation-a hemorrhage of human capital from which Ukraine has never recovered³⁴.

In addition to this, there is today the rediscovery of the history of Eastern Ukraine, which went from tsarist Russification to the tactics of settlement of non-Ukrainian populations (and parallel deportation of Ukrainians) in the Soviet period, starting from

²⁹ A. Avtorchanov, *Imperija Kremlja. Sovetskij tip kolonializma*, cit., 25; see also B. Nahaylo, V. Swoboda, *Soviet Disunion. A History of the Nationalities Problem in the U.S.S.R.*, The Free Press, 1990.

³⁰ The only exceptions to those policies were those of the 1920s (Boeckh, Völkl, *Ucraina. Dalla rivoluzione rossa alla rivoluzione arancione*, cit., 87-89), with the policy of *ukrainizacija* and maintaining the façade of the Soviet federal system. From the 1930s, however, began a devastating and de-nationalizing policy.

³¹ A. Vitale, *The Reasons for Ukraine’s Independence*, in *Minorities in the Post-Soviet Space Thirty Years After the Dissolution of the USSR*, cit., 282.

³² It is important to note that terror was not only used in the Stalin period. In 1965 and also later, during the “general pogrom” of 1972, thousands of Ukrainians were imprisoned in the GULag on charges of “anti-Soviet riots” or detained indefinitely in psychiatric hospitals. Some prisoners were released only in 1987.

³³ A. Vitale, *The Geographical Problem of Political and Territorial Unity*, cit., 213.

³⁴ Moreover, as the Soviet state controlled all properties, monuments, libraries, and artistic works, inevitably these had fallen de facto into the hands of (and into the factual ownership of) ignorant bureaucrats and Party personnel used to administer the domination, which had the sole purpose of the subjugation of the dominated. Not only were these not concerned, as bureaucrats, with the future value of those assets, but since they belonged to none other than the Soviet state, they were integrally subjected to Party decisions, which could lead to their depredation and total destruction. In the Stalin period, Party members without any culture were nearly 90 percent. Those recruited locally were often characterized by deep frustration, resentment caused by their social position, and severe psychological problems.

1927. This historical rediscovery has been one of the decisive elements for Ukrainian resistance in the Donbas, against the Kremlin's rhetoric, which was used to construct a "false secession"³⁵, carried out with paramilitary forces.

Last but not least, historical and scientific insights on the Černobyl disaster should then be considered: a decisive turning point in the crisis of the Soviet system, that definitively highlighted how the Soviet imperial leadership treated the local population³⁶. The delays in intervention, the lack of consideration for human lives, the population treated as inhabitants of a colony, ten thousand deaths in the first years after the disaster³⁷ are just some of the causes that would lead Ukrainian ecological movements to converge with the *Ruch* (People's Movement for Perestroika) in their claim to independence³⁸. Ecological devastation thus added to the consequences of an "anti-economic" system that has generated widespread corruption, internal mafias that were born or thrived in symbiosis with the Party and an irresponsible and tyrannical administration. The story of this ecological devastation, in a land battered by decades of a continued "Tragedy of the Commons," had never been told³⁹.

The geopolitical determinism in vogue today, a widespread justification for a supposedly ineluctable imperial recomposition, sounds at least as sinister in the face of all this⁴⁰ (and more or less self-conscious variant of the Brezhnevian doctrine of "limited sovereignty" or of the "inevitable spheres of influence") that also reinglobes Ukraine, going through those interferences that have continued throughout the post-Soviet period, with the extension of the Kremlin's *longa manus*, feeding parental kleptocracies, electoral manipulations, attacks on the legitimate president, and blackmail capable of exploiting the forced, strong and inescapable economic-industrial interdependencies that Stalin designed so that even in the future the right to become independent would remain a dead letter for the Soviet republics⁴¹.

5. Conclusions

Over the years, the reasons for the Ukrainians' strenuous resistance have only grown stronger. After all, political restoration in Russia has continued to manifest its obvious continuity and derivation from the Soviet period. Putin's Russia sees itself as the successor state to the Soviet Union and what is more, has continued to make open apology, of that system, that Empire, its violent abuses and autocrats (starting with Stalin). The opportunity to travel and work abroad has also enabled independent Ukrainians over the past three decades to make a comparison between their past (the long series of abuses

³⁵ A. Vitale, *Centralismo, decentramento o autogoverno*, Tramedoro Edizioni, 2023, 36.

³⁶ On this, see the illuminating pages of Nobel Prize Svetlana Aleksievič, contained in her masterpiece *Černobyl'skaya molitva*, 2001. See in particular the testimony of Vasily B. Nesterenko, (Ital. transl.: 2002, 291-301).

³⁷ Even today, the Putin regime disputes the death figures as a result of the disaster and the wholly inadequate reactions of the Soviet system, which is to blame for the most terrible consequences of the disaster.

³⁸ L. Pauwels, T. Pauwels, *Histoire d'Ukraine. Le point de vue ukrainien*, cit., 344.

³⁹ G. Hardin, *The Tragedy of the Commons*, in *Science*, No. 3859, 1968, 1243-1248.

⁴⁰ Among many others, an example of what has been published in Italy along these lines, generally accepted by the public, is E. Di Rienzo, *Il conflitto russo-ucraino*, Rubbettino, Soveria Mannelli, 2005.

⁴¹ A. Vitale, *The Reasons for Ukraine's Independence*, cit., 283-284.

of power, usurpations, violence, genocide, and a long resistance to an autocratic and tyrannical power which prevented Ukrainian political, cultural, linguistic, and economic development)⁴² and that of other countries, as well as between Russia and the West⁴³. What is happening in the Kremlin-occupied territories (mass violence, group deportations, “re-education” of the remaining population) is reinforcing this comparison. Ukrainians’ will to resist also stems from their new relationship, intensified through the invasion war they suffered, with their own self-rule institutions. Protecting linguistic, cultural, and religious pluralism means for today’s Ukrainians to adopt a more flexible and richer conception of nationality, immersed in articulated forms of civil coexistence. Only in this way is it possible to value the culture of which individuals are bearers, but also more complex subjective parameters that contribute to identity formation. And indeed they have already adopted relative political pluralism, held back only by war, as well as the protection of diversity⁴⁴. It means being able to recover and value the past, the historical memories, but also the strength of the will to “be a nation” in the present and the clearly expressed desire to continue life in common by bearers of complementary but different cultures. Above all, it means recognizing and valuing as Ukrainians people of mixed history and background, who are therefore bearers of an extraordinary cultural richness that is already part of the new nation. This means depoliticizing the abuses that can result from the use of the “state instrument” and its overemphasis on “national” character. It also means attempting a depoliticization of ethnicity—a reverse process from that instigated by the French Revolution. The result is the consequent increasing valorization of the acquisitions of other ethnic groups, through mixed marriages and a polyglot society integrated by a vehicular language and enriched by other, voluntarily acquired languages. This is especially possible in Ukraine, where the treasure of interethnic coexistence has always been invaluable. The idea of a new multiethnic and multilingual nation, of a political nation, is strengthened precisely by the lessons learned from Ukraine’s difficult and often tragic history of internal divisions and is grounded in a tradition of centuries-old coexistence of different languages, cultures, and religions⁴⁵. Moreover, despite all the economic and administrative difficulties, the experience of decades of cultural, political, and civil freedom, especially of major Ukrainian cities, continues to encourage strenuous resistance to invasion. The fear of new domination has merged elements of an ethnic nationality with the evident emergence of a civic nation.

It is partially true that Ukrainians today have a perception of their own history that tends to impute all the dramatic problems they experienced to the former imperial center - a view that also influenced national historiography after 1991. But this perception now stems from the fact that the Kremlin for many years has continued to identify what the USSR did, with present-day Russia. Moreover, the Kremlin turns everything Soviet into “Russian,” even the worst and most violent things the Soviet Union did. Ukrainians have only “taken it into recognition”. Obviously, this perception has been reinforced by the present invasion itself, to an extent previously unthinkable, and it will have long-term consequences. However, it is precisely the emergence of a nation that is much more

⁴² L. Pauwels and T. Pauwels, *Histoire d’Ukraine. Le point de vue ukrainien*, cit., 160.

⁴³ A. Graziosi, *L’Ucraina e Putin. Tra storia e ideologia*, cit. 46.

⁴⁴ G. Lami, *L’Ucraina in 100 date. Dalla Rus’ di Kyiv ai nostri giorni*, cit., 16. See also G. Lami, *La questione ucraina fra Ottocento e Novecento*, Cuem, 2005.

⁴⁵ S. Plokhyy, *The Gates of Europe. A History of Ukraine*, cit. (Ital. transl., 2022, 478).

articulate and complex than some sort of an “ethnic” nation (on the contrary, there is an evident emergence of a new “civic” nation) that makes this new national conscience less inclined to ethnonational confrontation.

The Kremlin has paradoxically helped bring about a new Ukraine in the minds and hearts of Ukrainians, regardless of their ethnolinguistic affiliation. But this has occurred at the cost of a frightening number of casualties and immense economic and ecological damage to the country.

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Nationalistic Propaganda as a Strategy for Patriotic Upbringing in Russian Education

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Nationalistic Propaganda as a Strategy for Patriotic Upbringing in Russian Education

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Abstract

This article outlines the radical transformation of educational policies in Russia since 2020, displaying the timing of the individual stages of the rooting of state propaganda in schools, the militarization of school education, and the spread of neo-nationalist ideology among schoolchildren aged 6 to 19. This paper aims to raise awareness of the extreme instrumentalization of historical narratives for state propaganda goals in national education. It also intends to illustrate the extent of the militarization of education and the destructive nature of any propaganda during one's upbringing. Emphasis will be given to the actions made by the Russian government to develop the whole complex of state-build patriotism, which is about militarization, neo-nationalistic propaganda and rewritten history.

Keywords: Historical Politics – Educational Policy – Eastern European Studies – Russia.

SOMMARIO: 1. Agenda. Trinity of Education Politics in Russia: God. Hate. Guns. 2. A Unified History Textbook and Historical Policy. 3. The Militarization of School Education: The Youth Army as a Military Reserve. 4. Neo-Nationalist Propaganda in Schools upon the Russian-Ukrainian War. 5. Conclusions.

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1. Agenda. Trinity of Education Politics in Russia: God. Hate. Guns

With the re-election of Vladimir Putin in 2012, Russia began to report slow but continuously evolving authoritarian trends, with state propaganda penetrating all areas of society¹, above all school education. The first target of state propaganda was humanities and social subjects, especially history. Meanwhile, Putin's government has shown a pronounced interest in the formation of a plan for patriotic education, which includes the militarization of education and the promotion of a militaristic image among schoolchildren exemplifying the true patriots of their country.

The very first attempt to develop an idea of patriotism dates back to the first term of Putin². The concept embedded in Russians' patriotism was initially built on military camouflage and **a learned hatred** of the external enemy represented by a number of Western countries³. This image builds a link with the past, where Russia is presented as the absolute guarantor of justice and truth⁴. The historical narrative is a crucial part of this propaganda discourse because the current leadership considers the 1945 victory as a nation-uniting event. The Second World War affected every family, and everyone had someone either to mourn or to be proud of. Surprisingly, this extreme patriotic idea is hailed by the Russian Orthodox Church, which encourages believers to educate their children in the same way, teaching them to serve the country and God, avoiding "Western values"⁵ that are based on gay-living standards which run counter to nature and God. So, state propaganda also includes a strong anti-LGBTQ+ agenda focused on schoolchildren⁶.

This approach has not only been spreading in schools through militaristic events and religious courses over the past 10 years, but is also conditioned, among other things, by legislation and education development strategies introduced by the Russian president⁷. One striking example of the extreme militarization of school

¹ T.C. Helmus, E. Bodine-Baron, A. Radin, M. Magnuson, J. Mendelsohn, W. Marcellino, A. Bega, Z. Winkelman, *Russian Social Media Influence: Understanding Russian Propaganda in Eastern Europe*, RAND Corporation, 2018, 9.

² Concept of Patriotic Education of Citizens of the Russian Federation Approved at a Meeting of the Government Commission on Social Issues of Servicemen, Citizens Dismissed from Military Service and Members of Their Families, Protocol No. 2(12)-P4 of 21 May 2003, base.garant.ru/6148105/.

³ T.P. Gerber, J. Zavisca, *Does Russian Propaganda Work?*, in *The Washington Quarterly*, Vol. 39, No. 2, 79-98.

⁴ T. Lykova, *The Strategy of Patriotic Education: Problems, Tasks, Solutions*, in *Actual Issues of Modern Academia*, No. 36, 2014, 18-22 (in Russian).

⁵ P. Christopher, M. Matthews, *The Russian "Firehose of Falsehood" Propaganda Model: Why It Might Work and Options to Counter It*, RAND Corporation, 2016; C. Voyles, M. Chilton, *Respect, Protect, and Fulfill-or Reject, Neglect, and Regress? Children's Rights in the Time of the Russian "Gay Propaganda Law"*, in *Health and Human Rights*, Vol. 21, No. 2, 2019, 325-330.

⁶ *No Support. Russia's Gay Propaganda, Law Imperils LGBT Youth*, 11 December 2018, [hrw.org/report/2018/12/12/no-support/russias-gay-propaganda-law-imperils-lgbt-youth](https://www.hrw.org/report/2018/12/12/no-support/russias-gay-propaganda-law-imperils-lgbt-youth).

⁷ Presidential Decree No. 808 of 24 December 2014 approved the Fundamentals of State Cultural Policy, kremlin.ru/acts/bank/39208. The Concept of Additional Education for Children was

education as an educational strategy is the involvement of the Ministry of Internal Affairs and the Ministry of Defense in the educational processes and the formation of units and training centers of the Youth Army.

An important feature of the patriotic trend in Russian education is the role of the country's leader as an inspirer. For instance, the idea of creating a unified history textbook under the pretext of combating the falsification of the historical past was voiced by Vladimir Putin (2013)⁸. Subsequently, the need to create centers of military-patriotic education⁹ was urged by the Russian Minister of Defense Shoigu (2016)¹⁰. Finally, the radicalization of propaganda in education during the war against Ukraine came in the wake of a historical-patriotic lesson for gifted children held by Vladimir Putin personally (2022).

There is a clear correlation between the public political performance of State leaders and senior politicians and the transformation of educational practice through new educational standards, the development of "presidential education strategies", and active lawmaking in this area. So, the discussion is exclusively about systemic patriotism, which is being introduced by force and legal pressure on educational institutions, teachers and parents, and children alike.

2. A Unified History Textbook and Historical Policy

The newly re-elected president immediately announced that patriotic education would be developed under State control¹¹. In other words, a basis for ideological propaganda in the field of education was created by means of the Presidential Decree «On Improving State Policy in the Field of Patriotic Education» of 20 October 2012¹². In his Address to the Federal Assembly of the Russian Federation (the Parliament) on 12th December 2012, President Putin noted that it was necessary to «strengthen the solid spiritual and moral foundation of society»¹³.

approved by Russian Government Order No. 1726-r of 4 September 2014, base.garant.ru/70733280/. The Fundamentals of State Youth Policy of the Russian Federation for the Period until 2025 was approved by Russian Government Order No. 2403-r of 29 November 2014, government.ru/docs/15965/. The Strategy of Education Development in the Russian Federation for the Period until 2 May 2015 was approved by Russian Government Order No. 996-r of 29 May 2015, fcprc.ru/wp-content/uploads/2019/06/2.-Rasporyazhenie-Pravitelstva-RF-ot-29.05.2015-N-996-r.pdf.

⁸ *Putin Ordered the Development of a Unified Textbook on Russian History*, 19 February 2013, informpskov.ru/news/109371.html.

⁹ *The Youth Army Military-Patriotic Movement*, laplandiya.org/deyatelnost/patrioticheskoe-dvizhenie-yunarmiya/.

¹⁰ Decree of the Government of the Russian Federation of 30 December 2015, No. 1493 «On the Programme: Patriotic Education of Citizens of the Russian Federation for 2016-2020», base.garant.ru/71296398/.

¹¹ *Putin: Patriotic Education Should Be Based on Truth*, 12 September 2012, bbc.com/russian/rolling_news/2012/09/120912_rn_putin_patriotism.

¹² Message of the President of the Russian Federation to the Federal Assembly of the Russian Federation on 12 December 2012, news.kremlin.ru/news/17118.

¹³ Transcript of the meeting of the President of the Russian Federation with representatives of the

The next step in the development of the ideology of patriotic education was the discussion on State educational strategies and the demand for a unified history textbook for schools. Thus, in early 2013, President Putin issued a call to tackle the falsification of the past and to revise the educational standards for history teaching, bringing them to a common denominator¹⁴. And in 2016, the updated history textbooks became the basis for a new curriculum, fulfilling the presidential call for truth-telling¹⁵.

One significant change was the semantic transformation of the discussion about the outbreak of the Great Patriotic War (*i.e.*, the moment when the USSR stepped into the Second World War)¹⁶ and the geopolitical initiatives taken by the Soviet regime¹⁷. In particular, the Polish operation, that is the partition of Poland, was marked in Russian textbooks as an act of liberation of Poland from invaders and the protection of “brotherly peoples”. The Russian government clearly articulated the main purpose of creating a single textbook: to connect with the past, to highlight the great exploits in the Great Patriotic War¹⁸. For its part, the Russian presidential administration emphasized the need for “objective writing of history”, which again meant denying the crimes of the former regime, forbidding criticism of the Soviet army, and changing the course and outcome of the Second World War for the USSR, *i.e.*, rewriting history of the Soviet period in the way of glorification¹⁹.

The representation of the war revolving around the historical myth of the victory has a functional load, fulfilling two important goals: the national consolidation of ethnically and value-divided social groups, and the legitimization of power through the reflection of continuity from the victorious Soviet Union. Speaking of *the myth of victory*, it is important to stress that this is not a discussion on the actual outcome of the Second World War, but the creation of a legend about the salvation of humanity and the world²⁰. This would be later actively used in the propaganda during the war with Ukraine, arguing that the slayers of fascism could not be wrong and that the destruction of the “Ukrainian Nazis” was the right thing to do, a painful but necessary measure to save Russia’s peace and independence.

public on patriotic education of youth. Krasnodar, 12 September 2012, president.rf.

¹⁴ *History Textbooks Should Have a Unified Concept*, rg.ru/2013/04/25/uchebnik-anons.html.

¹⁵ *Schoolchildren Will Be Told about the “Sailed Crimea” and the “Anti-Russian Front”*, 25 August 2016, znak.com.

¹⁶ *Putin Instructed the Foreign Ministry to More Actively Communicate the Truth about the Victory over Nazism*, 19 April 2016, tass.ru/obschestvo/3220672.

¹⁷ M.A. Moiseev, *World-Historical Significance of the Victory of Soviet People over Nazi Germany in the Great Patriotic War of 1941-1945*, in *Pedagogy*, No. 4, 2015, 3-9 (in Russian); N.V. Polyakova, *History of the Great Patriotic War and Patriotic Education of Youth*, in *Higher Education Today*, No. 5, 2009, 56-59 (in Russian).

¹⁸ *Putin Talks about the Need for a Unified History Textbook*, polit.ru/news/2013/04/25/pamyat/.

¹⁹ Naryshkin [Chairman of the Russian’s Parliament]: “*In the Concept of History Managed to Find Compromise Wording*”, in *RIA Novosti*, 16 January 2014.

²⁰ O.V. Golovashina, *The Victory of the Image: Identification Risks of Commemorative Practices*, in *Studia Humanitatis*, No. 1, 2017 (in Russian); E.C. Onken, *The Baltic States and Moscow’s 9 May Commemoration: Analyzing Memory Politics in Europe*, in *Europe-Asia Studies*, Vol. 59, No. 1, 2007.

All geopolitical metamorphoses are immediately reflected in school history curricula. To illustrate, as early as 2014, the Russian president instructed to update textbooks, and to include information about Soviet Crimea²¹, *i.e.*, the heroic return of Crimea to Russia²², justifying the invasion of a neighboring country, the violation of international law, the abuse of violence. In parallel, some pieces of legislation were introduced to regulate the historical narrative and censor academic and public history, prohibiting comparison between Nazi and Soviet regimes, the criticisms made against the USSR, and the accusations concerning war crimes committed by Russia in the past and present²³. In 2020, Vladimir Putin adopted the education law amendment to make the study of World War II compulsory in schools, noting that it was important to foster «a sense of patriotism and citizenship; respect for the memory of defenders of the homeland and the exploits of heroes of the fatherland, for the law and order, for the man of labour and the older generation, mutual respect and a respect for the cultural heritage and traditions»²⁴.

3. The Militarization of School Education: The Youth Army as a Military Reserve

The Youth Army, an organization set up at the initiative of the Russian Defense Minister, Sergei Shoigu, after Putin voiced the need for military-patriotic education for children and young people²⁵, has been actively recruiting children from 7 to 18 years old into its ranks since 2016. Above all, there is an attempt to convince parents that an armed child in uniform is the right and even natural way to raise a patriot. Thus, one of the first measures to take is to award an extra 20 points in the national examination to each member of the Youth Army.

Since these extra points can ensure admission to university, initially the parents and school administration become quite loyal to this militaristic organization. Although in the first 2-3 years public criticisms were raised about arming children and military training for pupils, mainly from the academic community, the psychologists' community and a small percentage of parents, the situation is now changing, and most parents view the initiative positively. The only disadvantage that was pointed out is the paid camouflage for a child to join the Youth Army: a

²¹ *Putin Has Ordered the Addition of Chapters on Crimea and Sevastopol to the History Textbook*, in *RIA News*, 2 June 2014, ria.ru/20140602/1010266707.html#14016989856954&message=resize&relto=login&action=removeClass&value=registration.

²² *Ibid.*

²³ Federal Law No. 278-FZ of 01 July 2021 «Amending the Federal Law on Commemoration of the Victory of the Soviet People in the Great Patriotic War of 1941-1945», kremlin.ru/acts/bank/7872; Criminal Code of the Russian Federation of 13 June 1996 No. 63-FZ (rev. of 24 September 2022), Article 354.1, base.garant.ru/10108000/.

²⁴ Meeting on the current situation in the education system from 21 May 2020. Transcript of the meeting, kremlin.ru/events/president/news/63376.

²⁵ Presidential Decree No. 536 of 29 October 2015 «On the Establishment of the Russian Movement of Schoolchildren (main focus – military-patriotic education)», followed later in 2016 by the practical implementation of this initiative in the form of the Youth Army, kremlin.ru/acts/bank/40137.

parent must provide the child with summer and winter uniforms (40.000 – 50.000 rubles, approximately 830\$ with an average regional salary of 350-400\$).

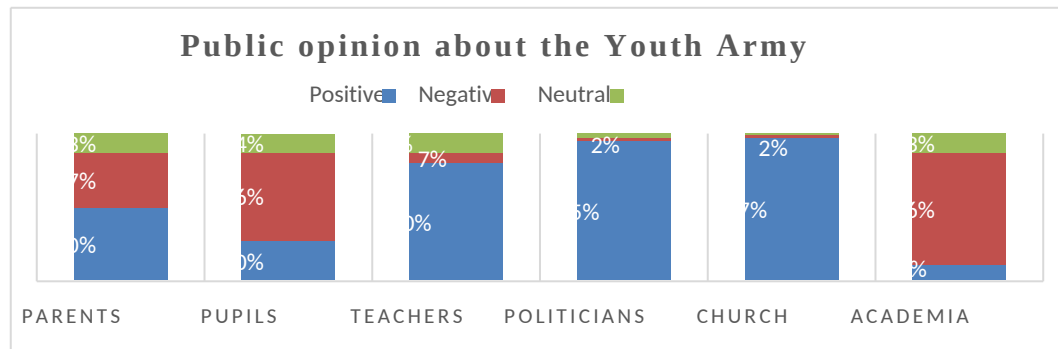


Figure 1. Diagram of Public Opinion towards the Youth Army in 2022, divided to a few social groups²⁶

The main aim of the organization is precisely the military-patriotic education and the forcible involvement of minors in this armed endeavor through pressure from teachers and school administrators. This is the way in which over 600.000 children joined the Youth Army between 2018 and 2020. Members are forced to wear uniforms all the time, take part in military exercises where they have to survive through hardships, eat army food, take part in shootings, including human-shaped targets. Ideologically, it is believed that in this way children and teenagers are trained to defend the homeland. This idea is actively supported by schools and also by the Russian Orthodox Church.

The organization itself notes that in 2021, despite the war and the difficult situation in the Crimean region, the Youth Army in Sevastopol increased its membership by more than 24%. This only underscores the extreme militarization of the region and the state propaganda against school-age children²⁷.

Although at the time of its creation there were public slogans about the revival of the pioneer movement, the ideological orientations and activities of the organization resemble those of the Hitler-Jugend era. Because one of the tasks that is set as a duty for the members of the army is the protection of the Russian culture and State, the value of people is put on the back burner, and it is the State that needs protection first. Secondly, in Russian there is a fine line between the two adjectives that describe ethnicity and nationality of people living in Russia, so ‘russkiy’ (русский) denotes ethnicity and direct belonging to an ethnic group by blood, while

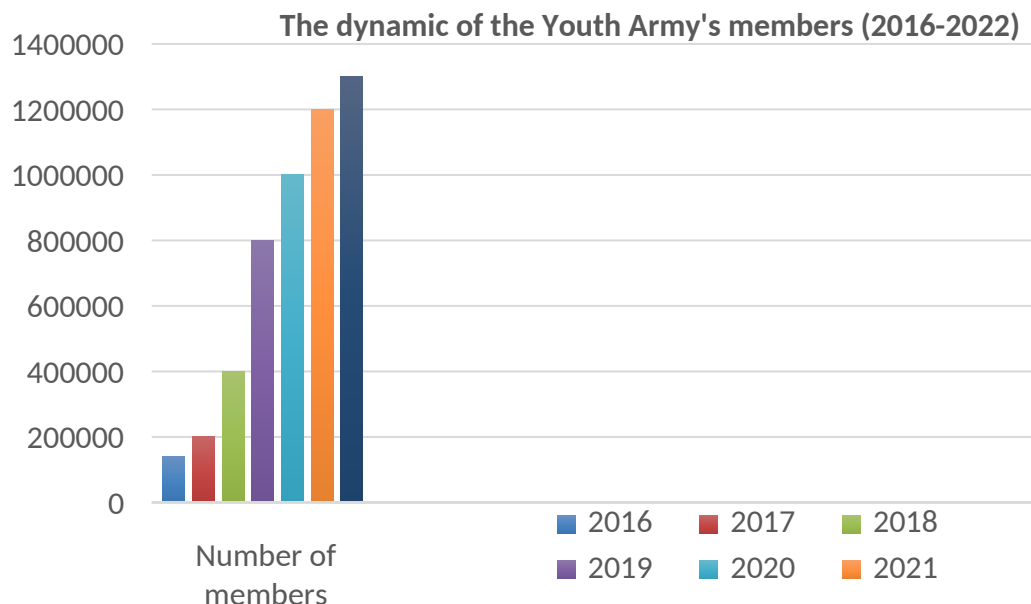
²⁶ The statistical data for this graph has been collected through all kinds of Russian media materials published in 2016-2022 (content noted the Youth Army regulation, society appreciation, and children involving per year), using digital parsing tools based on Python. Among the media pull we can underline a few sources provided by State departments: RIA News, Russia 24, TASS, etc.; as well as non-government media, Meduza, Russian Newspaper, Radio Freedom, etc.

²⁷ Address by the Minister of Defence. YounArmia Information White Paper, No. 1, 2021, (in Russian), yunarmy.ru/upload/iblock/98a/Byulleten-YUnarmiya-_1_2021.pdf.

‘rossiyanin’ (россиянин) determines nationality and can refer to members of different races and ethnicities having Russian citizenship. However, children are brought up in a nationalistic tradition and aim to defend only the first option, ethnically Russian values, culture, and people.

In addition, the practical implementation of membership of the Youth Army implies the involvement of children and adolescents in activities with high levels of potential violence. Furthermore, the promotion of state ideology among young adults and kids can form unrealistic representation of particular historical events, ethnic groups, etc. Yet, the main problem of the extreme militarization is justifying anger and human-harm for kids. For example, military exercises involving shooting trainings, heavy physical exercises, living in difficult conditions are held to anger and toughen up children. Then, children take an exam to obtain a red beret that involves a series of hand-to-hand combat with other members.

Figure 2. Diagram of the increasing dynamic of number of the Youth Army's members²⁸



In interviews, children revealed that they work with firearms all the time. Respondent N. noted that he used to shoot at paper figures of people while a military officer would shout «You must destroy your enemy!». And another participant of the Youth Army reported that they were systematically verbally and physically abused by soldiers and commanders. Thus, this militarist organization is now part of the educational system in Russia and serves solely the propaganda purposes of the government, spreading a neo-nationalist ideology among children and

²⁸ The data for the graph has been collected from different sources: RIA News, Russia 24, TASS, Meduza, Russian Newspaper, Radio Freedom, etc.

teenagers²⁹. The propaganda mostly provides ideas about an external enemy, a heroic past and also states that the members' purpose is defending the homeland associating it with the religious idea of self-sacrificing for the best of their loved ones.

4. Neo-Nationalist Propaganda in Schools upon the Russian-Ukrainian War

With the beginning of the war in Ukraine, State propaganda in schools reached a new level. Before the war, individual children were involved in militaristic organizations and a single textbook on the history of Russia was compiled for schools including elementary, middle, and high schools. But now, all schools in the country are obligated to hold ideological lessons for children from the first to the eleventh grade³⁰. All materials for this particular course including textbooks, PowerPoint presentations, workbooks and additional materials are supplied directly by the Ministry of Education under the control of Center E (anti-terrorist and anti-extremist department of the Federal Security Service of Russia)³¹.

These lessons are called "Conversations about the important matters" [*Razgovory o vazhnom*], which discuss three main blocks³²: 1. External enemies of Russia; 2. Non-existence of Ukraine as a separate State, and Ukrainians as a separate nation; 3. Fulfillment of duty to the motherland in Ukraine [author's note: *i.e.*, it preventively protects Russia in Ukraine from a possible armed aggression supported by NATO].

As a result, propaganda is carried out in schools to spread the idea that NATO planned to attack Russia, therefore Putin tried to protect the country's borders from an invasion. The lessons also state that the Ukrainians are not a real nation to legitimize military operations on the territory of Ukraine and Russia is trying to save "the lost people". Moreover, to shape the collective opinion of youth, the program includes blocks about 'fake news' and underlines the idea that the international media are lying. As a result, the vast majority of schoolchildren supports the war because it is convinced that Russia is defending itself and fighting the Ukrainian Nazis for the good of the future.

And if teachers or parents try to speak up against these lessons or refuse to participate in them, law enforcement agencies open criminal cases under the article

²⁹ *Eight Myths about the Yunarmiya*, fontanka.ru/2019/04/16/144/.

³⁰ Russian education system has 3 stages: elementary, middle, and high schools. All kids have to start school education at 7 and an obligated level of education is middle school, *i.e.*, 9th grade (15-16 y.o. teenagers). Thus, the pro-war propaganda covering all age kids from 6/7 y.o. up to 18 y.o.

³¹ Main Directorate of the Russian Ministry of the Interior for Countering Extremism, *i.e.*, Centre E; for more details see: xn--b1aew.xn--p1ai/mvd/structure1/Glavnie_upravlenija/Glavnoe_upravlenie_po_protivodejstvu_j.

³² *Talk about Important Things. Academy of the Ministry of Education*, apkpro.ru/razgovory-o-vazhnom/; *Conversations about the Important: What Is It and What is Known about the Program?*, skysmart.ru/articles/useful/razgovory-o-vazhnom.

on discrediting the Russian Armed Forces or threaten to deprive them of parental rights or of their job³³.

5. *Conclusions*

The dynamics of education policy in Russia over the last 10 years clearly demonstrate the implementation of the strategy for the patriotic education of young people. It is possible to identify the sequence of implementation of the individual steps. The strategy includes political propaganda, militaristic training, and the complex of aggression against gender, sexual, ethnic, racial, religious identities and other minorities through historical myths and the active use of populist rhetoric intoxicated by hatred. On the legislative level, this process usually starts with the leader's speech, then annual addresses and recommendations follow, turning into programs and strategies of education, and then concludes with adopting laws to regulate the approach of upbringing and the standards of history teaching.

To sum up, it is evident that nowadays education in Russia is based on neo-nationalistic values and traditions, spreading and normalizing violence among children. All of this is closely related to the deprivation of the right to vote and freedom of speech of all groups of the population. Since each step of the educational policy was ruled by senior rulers, it reveals one of the main reasons of harsh outcomes of the democratic transition in Russia that mirrors in current politics: lack of lustrations. The old political elites bring the old values that root deeply into the militarism and nationalism of the former regime.

³³ Criminal Code of the Russian Federation dated 13 June 1996 N 63-Federal Law (as amended on 24 September 2022). Criminal Code, Article 280.3: «Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation in order to protect the interests of the Russian Federation and its citizens, maintain international peace and security, or exercise their powers by State bodies of the Russian Federation for these purposes».

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Gli sciiti afghani e il secondo emirato islamico **The Afghan Shi'as and the Second Islamic Emirate**

*Elisa Giunchi e Mir Ahmed Joyenda**

Abstract

After the return to power of the Taliban in August 2021, many analysts wondered if the new Islamic emirate would be different from the one that had controlled much of the country between 1996-2001. The treatment of women since then, which has received extensive coverage, seems to indicate that their ideological stand has not changed. But there is one aspect that has been overlooked and that would help us answer that question: the policies towards the Shi'a minority. In the paper we will summarize the status of Afghan Shi'as through the decades and assess whether it has changed over the course of two periods of Taleban rule.

Keywords: Afghanistan – Shi'as – Ismailis – Taleban.

SOMMARIO: 1. Introduzione. 2. La condizione degli sciiti afghani fino al 2001. 3. Il ritorno dei Talebani e gli sciiti.

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1. Introduzione

Dopo il ritorno al potere dei Talebani nell'agosto del 2021, molti analisti e studiosi si sono chiesti se il nuovo emirato islamico sarebbe stato diverso da quello che tra il 1996-2001, con il riconoscimento diplomatico di Pakistan, Emirati Arabi Uniti, Arabia Saudita, aveva controllato gran parte del paese. A distanza di un anno e mezzo, la risposta appare evidente: nonostante le iniziali dichiarazioni concilianti di figure di spicco del nuovo regime e alcuni inevitabili mutamenti nel *modus operandi* dell'emirato – dal ricorso ai media a un maggior pragmatismo nelle relazioni intra-regionali – l'ideologia talebana sembra, in sostanza, immutata. Delle restrizioni introdotte a detrimento dello *status* femminile e della libertà di espressione si è discusso spesso, ma c'è un aspetto che è stato trascurato dalle analisi e dai media: la ripresa di una politica di discriminazione degli sciiti che aveva contraddistinto i Talebani negli anni '90. Nelle prossime pagine vedremo come è cambiata la condizione degli sciiti afghani negli ultimi decenni.

2. La condizione degli sciiti afghani fino al 2001

Per quanto non vi siano dati attendibili, visto che da decenni non è stato fatto alcun censimento, l'opinione più comune è che gli sciiti costituiscano il 10-20% della popolazione afghana; secondo alcuni sarebbero addirittura un terzo della popolazione¹. Per lo più si tratta di afghani che seguono la corrente duodecimana o imamita, quella che è maggioritaria in Iran così come, in generale, nel mondo sciita. Gli sciiti si trovano soprattutto presso gli hazara, il terzo gruppo etnico a livello nazionale per consistenza, che sono insediati nella parte centrale del paese, per lo più a Bamiyan. È controversa la questione dei tempi e delle modalità della conversione degli hazara allo sciismo, ma è diffusa l'opinione che in tal senso giocarono un ruolo importante i predicatori (*da'i*) ismailiti a partire dal IX secolo². Appartengono alla fede sciita anche i farsiwan - circa 1,5 milioni di persone che vivono nelle province di Herat e Farah, in minor misura a Ghor e nelle principali città, i qizilbash, oggi presenti soprattutto a Kabul, Herat e Kandahar, e comunità residuali di tagiki nell'area di Herat. Per questi gruppi etnici è facile ipotizzare che a diffondere lo sciismo sia stata determinante l'influenza dei safavidi, e poi dei qajari, che per lunghi periodi inglobarono nei loro imperi le aree occidentali dell'attuale Afghanistan³. Gli ismailiti – sui quali la letteratura ci racconta molto poco – si trovano soprattutto a Badakshan e Baghlan e contano circa il 5% della popolazione. La loro presenza era forse, in origine, più consistente, ma con la

¹ C. Therme, *The Shi'a Afghan Community: Between Transnational Links and International Hurdles*, in *Iranian Studies*, No. 4, 2017, 511.

² Y. Baiza, *The Hazara of Afghanistan and their Shi'a Orientation: An Analytical Historical Survey*, in *Journal of Shi'a Islamic Studies*, No. 2, 2014, 164 ss.

³ Si veda N. Green, *Afghanistan's Islam: From conversion to the Taliban*, University of California Press, 2016, 278.

distruzione da parte mongola di Alamut e delle altre fortezze *nizari* nel nord della Persia durante il XIII secolo e la nascita, dal XVI secolo, dell'impero safavide, sarebbe divenuta prevalente all'interno dello sciismo afghano-persiano la corrente duodecimana⁴.

La comunità sciita nel suo insieme ha sviluppato forti legami transnazionali con i paesi limitrofi, dall'Iran, all'Iraq – entrambi a maggioranza duodecimana –, al Pakistan, dove vive una minoranza consistente di sciiti imamiti e in minor misura di ismailiti. È in questi paesi – e soprattutto in Iran – che gli sciiti hanno trovato in più occasioni, anche in epoca contemporanea, rifugio, ed è alle loro istituzioni religiose che si sono rivolti per proseguire gli studi di teologia e diritto molti sciiti afghani. Da qui l'accusa, mossa più volte agli sciiti afghani dai loro detrattori, di costituire una sorta di quinta colonna dell'Iran. Gli ulama sciiti afghani in realtà hanno tradizionalmente rapporti, sul piano dell'istruzione religiosa, sia con Qom, in Iran, sia con Najaf⁵, in Iraq, e per lo più non condividono la dottrina del *velayat-e faqih* che ispira la struttura politica iraniana.

Gli sciiti afghani hanno alle spalle una lunga storia di discriminazioni, sul piano economico come su quello politico, e, soprattutto a partire dalla seconda metà dell'Ottocento, di violenze. Sotto "l'emiro di ferro" Abdur Rahman (1880-1901), gli hazara, che erano considerati dai mawlawi sunniti alla stregua di infedeli⁶, furono ridotti in schiavitù e convertiti forzatamente al sunnismo, e oggetto di massacri, espulsioni ed espropriazioni a vantaggio di pashtun ghilzai provenienti dalle aree meridionali⁷; molti trovarono rifugio nelle aree più impervie o recondite dell'Hazarajat; altri lasciarono il paese, trasferendosi in Iran orientale o nel nord del Belucistan indiano. Su questi eventi pesarono considerazioni religiose ma anche razziali da parte di élite pashtun che sin dalla nascita del paese nel 1747 avevano controllato le leve del potere e identificavano l'Afghanistan con la propria etnia. La stessa promozione di una monarchia accentrata "moderna" fu perseguita da Abdur Rahman sulla base del duplice pilastro sunnita e pashtun, a detrimento di quanto non si riconoscevano in questi elementi identitari⁸. Le confische di terre continuarono fino agli anni '40 del Novecento, così come le discriminazioni nei loro confronti⁹. Tra gli anni '60 e '70, sotto Zahir Shah e poi Muhammed Daud, gli sciiti poterono ricoprire alcune cariche politiche di spicco. Negli anni '70 la comunità sciita fu interessata nelle aree urbane, al pari della maggioranza sunnita, da un processo di crescente mobilitazione politica, e molti giovani che studiavano

⁴ Y. Baiza, *The Hazara of Afghanistan*, cit., 165. Sugli ismailiti in generale si veda A. Daftary, *A Short History of the Ismailis: Traditions of a Muslim Community*, Edinburgh University Press, 1998.

⁵ C. Therme, *The Shi'a Afghan*, cit., 512.

⁶ A. Olesen, *Islam and Politics in Afghanistan*, Curzon press, 1995, 78.

⁷ R. Bindemann, *The Political reconstruction of Afghanistan. The hazara a hundred years after Abdur Rahman*, in M. Centlivres-Demont (Ed.), *Afghanistan. Identity, society and politics since 1980*, London, I.B. Tauris, 2015, 42.

⁸ E. Giunchi, *Afghanistan. Da una confederazione tribale alle crisi internazionali*, Carocci, 2021, 39-40.

⁹ Y. Baiza, *The Hazara of Afghanistan*, cit., 153.

a Kabul e a Herat aderirono al PDPA (People's Democratic Party of Afghanistan), un partito marxista-leninista dichiaratamente filo-sovietico fondato nel 1965, o a gruppi maoisti; dopo l'invasione sovietica, avvenuta negli ultimi giorni del 1979, parte della comunità sciita, quella che viveva nella capitale e in altre città a ovest e a nord, sostenne il governo di Babrak Karmal e poi di Najibullah, che avevano ai loro occhi il merito di avere incluso diversi sciiti nelle istituzioni e nel governo¹⁰; tra questi Sultan Ali Keshtmand, politico hazara che dopo avere presieduto il consiglio dei ministri, facendosi promotore dell'autonomia dell'Hazarajat, ricoprì la carica di vice-presidente tra il 1990 e il 1991. Parte della comunità sciita, in particolare quella che aveva trovato rifugio in Iran nel decennio precedente o che aveva legami con la diaspora in terra iraniana, aderì invece al khomeinismo; altri, infine, si opposero al governo filo-sovietico da premesse tradizionaliste. L'ingerenza esterna a favore di diverse componenti della resistenza contribuì a esacerbare e a politicizzare le differenze settarie: il Pakistan e l'Arabia Saudita, in sinergia con gli Stati Uniti, sostennero le fazioni sunnite, privilegiando quelle più legate a una visione esclusivista e anti-sciita, l'Hezb-e Islami di Gulbuddin Hekmatyar e l'Ittehad-e Islami di Sayyaf, mentre l'Iran sostenne inizialmente gruppi sciiti filo-khomeinisti e poi, più pragmaticamente, anche fazioni sciite tradizionaliste e gruppi persanofoni, sia sunniti che sciiti, e persino alcune fazioni pashtun¹¹. Con il ritiro sovietico si formò un partito che raggruppava diverse fazioni sciite, l'Hezb-e Wahdat Islami-e Afghanistan, che entrò ben presto in collisione con la fazione di Sayyaf, sostenuta dai sauditi e fortemente anti-sciita, e con la Shura-e Nizar guidata da Massud e legata al Jamiat-e Islami di Rabbani. Particolarmente noto è il massacro di Afshar, un quartiere di Kabul densamente popolato dove gli sciiti nel 1993 furono oggetto di violenze premeditate da parte dei militanti dell'Ittehad, alleati allo stato islamico d'Afghanistan che era sorto, sotto la leadership di Rabbani e Massud, l'anno precedente.

Con la conquista da parte talebana di Kabul nel 1996, il sostegno saudita agli "studenti coranici", che erano (e sono tuttora) quasi esclusivamente pashtun sunniti, e, di contro, il sostegno iraniano al Fronte Unito che raggruppava le minoranze, contribuì ad acuire le differenze settarie. Nelle aree poste sotto il controllo talebano negli anni '90 gli sciiti furono oggetto in più occasioni di violenze che costarono la vita a migliaia di persone: gli episodi più noti sono il massacro che nel 1998 a Mazar-e-Sharif comportò anche l'uccisione di 8 funzionari consolari iraniani e di un giornalista iraniano¹², quello compiuto a Baghlan, nel villaggio di Naikpai, nel 2000, e a Yakawlang l'anno successivo.

3. Il ritorno dei Talebani e gli sciiti

¹⁰ S. A. Mousavi, *The Hazara of Afghanistan: An historical, cultural, economic and political study*, Curzon Press, 1998, 176 ss.

¹¹ Si veda M. M. Milani, *Iran's Policy Towards Afghanistan*, in *Middle East Journal*, No. 2, 2006.

¹² Human Rights Watch, *Afghanistan. The massacre of Mazar-e-Sharif*, November 1998, No. 7 (C), <https://www.hrw.org/legacy/reports98/afghan/Afrepor0.htm>.

In seguito alla disfatta dell'emirato islamico, nell'autunno del 2001, e alla formazione del governo interinale presieduto da Karzai, gli sciiti afgani poterono celebrare liberamente le proprie festività – l'*Ashura*, innanzitutto, il giorno più importante del calendario sciita –, candidarsi alle elezioni, entrare nell'amministrazione e nelle forze armate¹³, pur rimanendo sottorappresentati nell'esercito, dove nel 2015 costituivano solo il 7%¹⁴. Alcuni ex mujaheddin sciiti che avevano ricoperto posizioni apicali nell'Hezb-e Wahdat furono inclusi nel governo post-talebano: è il caso di Muhammad Mohaqiq, che si candidò alle elezioni presidenziali nel 2004, e di Karim Khalili, che fu nominato vicepresidente dal 2004 al 2014. Altre figure di spicco della comunità sciita poterono ricoprire posizioni importanti nell'assetto politico-istituzionale e nelle istituzioni preposte alla promozione dei diritti umani, da Sima Samar, vicepresidente sotto il governo interinale e quindi, tra il 2001 e il 2003, ministra degli Affari Femminili, a Mir Ahmed Joyenda – uno degli autori di questa cronaca – che come indipendente sedette nella *Wolesi jirga* tra il 2005 e il 2010.

I progetti di costruzione e di riabilitazione di infrastrutture, strade, scuole realizzati dopo il 2001 interessarono anche le regioni abitate dagli hazara, migliorandone le condizioni di vita e diminuendo l'isolamento dei suoi distretti rurali più poveri. L'Iran sostenne economicamente la ricostruzione, con progetti che in alcuni casi erano mirati alla comunità sciita: si pensi, ad esempio, all'erogazione di borse di studio per permettere agli afgani di studiare teologia a Qom, e al sostegno economico fornito alle università private hazara a Kabul e Herat¹⁵. Altri progetti, volti ad ampliare la rete stradale e a connetterla con quella iraniana, avevano chiare implicazioni strategiche ed economiche: incrementare gli scambi bilaterali, contro l'isolamento imposto dalle sanzioni internazionali, e allargare la propria influenza regionale.

Sul piano legislativo si cercò di correggere la precedente discriminazione anti-sciita. La Costituzione del 2004¹⁶, oltre a menzionare tra i suoi principi "l'uguaglianza tra tutti i popoli e le tribù" (art 6), conteneva meno riferimenti, rispetto alla Costituzione del 1964, alla scuola hanafita, e riconosceva esplicitamente la scuola giurisprudenziale sciita. L'art. 131, posto dopo un articolo che chiedeva ai tribunali, in caso di lacuna legislativa, di applicare la giurisprudenza hanafita – quella maggioritaria nel paese – stabiliva che "I tribunali applicheranno ai seguaci della setta sciita la giurisprudenza sciita in casi relativi a questioni private. Negli altri casi, se non vi sono chiarimenti in questa costituzione o in altre

¹³ M. Sappenfield, *Afghanistan's success story: The liberated hazara minority*, in *The Christian Science Monitor*, 6 August 2007, <https://www.csmonitor.com/2007/0806/p06s02-wosc.html>.

¹⁴ K. Karzman, *Afghanistan: Politics, elections, governance*, Congressional Research Service Report, 12 January 2015, 3.

¹⁵ F. Adelhah, *Religious dependency in Afghanistan. Shia madrasas as a religious mode of social assertion?*, in Keito Sakurai and F.A (Eds.), *The moral economy of the madrasa. Islam and education today*, Routledge, *passim*.

¹⁶ Si veda Afghanistan 2004, in *Constitute Project*, https://www.constituteproject.org/constitution/Afghanistan_2004?lang=eng.

leggi, i tribunali decideranno secondo le leggi di questa setta”.¹⁷ Non si fornivano tuttavia dettagli sulla scuola giurisprudenziale sciita: quella jaf‘arita, seguita tra i duodecimani, o anche altre, seguite da altre correnti sciite? La preminenza nella comunità sciita di elementi tradizionalisti avrebbe fatto sì che l’autonomia in materia legale si traducesse in misure penalizzanti per la componente femminile, come risultò evidente quando nel febbraio del 2009 il Parlamento approvò una legge sullo statuto personale sciita. La legge, fortemente voluta dall’ayatollah Asif Mohseni, permetteva tra le altre cose che una bambina potesse essere data in sposa a 9 anni e prescriveva i doveri sessuali della moglie¹⁸. Alcune centinaia di uomini e donne protestarono a Kabul, ma fu soprattutto in ambito internazionale che la legge fu accusata di violare i diritti delle donne e gli stessi principi costituzionali – quelli in particolare relativi all’uguaglianza tra i sessi (art. 22) e al rispetto di trattati e convenzioni in materia di diritti umani ratificati dall’Afghanistan (art. 7). I promotori della legge, tuttavia, la difesero proprio facendo riferimento al dettato costituzionale, che prevedeva il rispetto dell’Islam (art. 3) e, come si è visto, delle peculiarità giurisprudenziali sciite. Con alcune modifiche minori, la legge fu approvata ad agosto di quell’anno.

Le discriminazioni e violenze contro gli sciiti non cessarono dopo il 2001. Sia i Talebani sia i loro affiliati pakistani sia, dopo il 2014, l’ISK (la branca regionale di Daesh), colpirono in diverse occasioni le comunità hazara. Il 6 dicembre 2011, ad esempio, furono uccisi dal Lashkar-e-Janghvi circa 60 hazara che si stavano recando a celebrare l’*Ashura*¹⁹.

In seguito al ritorno dei Talebani a Kabul, il 15 agosto 2021, il Consiglio degli *ulema* sciiti chiese che il nuovo governo fosse inclusivo e rispettasse i diritti delle minoranze²⁰. Inutilmente: con la rinascita dell’emirato islamico gli sciiti hanno dovuto lasciare le posizioni che avevano occupato nei ministeri così come nei livelli intermedi e apicali dell’amministrazione e dell’esercito. A livello locale il nuovo governo continua a servirsi, tuttavia, di funzionari sciiti: il Ministero per la Propagazione della Virtù e la Prevenzione del Vizio, istituito il 17 settembre 2021, e il Consiglio degli *ulema* sciiti in un incontro a Bamiyan il 27 luglio 2022 hanno concordato in particolare che sarà impiegato personale sciita all’interno della polizia morale locale, che è tenuta ad applicare le restrizioni decise a livello centrale dall’emirato. Sempre secondo l’accordo, il governo riserverà una quota del budget per finanziare le celebrazioni dell’*Ashura*²¹. La composizione del nuovo governo, annunciata poco dopo il ritorno dei Talebani a Kabul, indica chiaramente, in ogni

¹⁷ Si veda J. Desautels-Stein, *Rites and Rights in Afghanistan: The Hazara and the 2004 Constitution*, in *The Fletcher Forum of World Affairs*, No. 1, 2005.

¹⁸ Per la traduzione in inglese si veda: *Afghanistan: Law of 2009 - Shiite Personal Status Law*, in *RefWorld*, <https://www.refworld.org/docid/4a24ed5b2.html>.

¹⁹ K. Karzman, *Afghanistan*, cit., 3-4.

²⁰ *Shia Ulema Calls for Inclusive Afghan Govt*, 7 September 2021, [tolnews.com/afghanistan-174549](https://www.tolnews.com/afghanistan-174549).

²¹ *The Agreement Between the Taliban and the Shia Ulema Council for “Interfering in People’s Privacy”*, in *Nimrokh Media*, nimrokhmedia.com/en/2022/07/28/the-agreement-between-the-taliban-and-the-shia-ulema-council-for-interfering-in-peoples-privacy/.

caso, il loro *bias* etnico e religioso: a guidare i ministeri dell'emirato sono quasi tutti pashtun, e non vi è alcuno sciita. Solo due sciiti duodecimani, che hanno legami con l'Iran e, secondo alcune indiscrezioni, con i servizi segreti pakistani, occupano la posizione di vice-ministro – Abdul Latif Nazari nel Ministero dell'Economia e Shaikh Madar Ali Bamyani nel Ministero della Pianificazione Urbana. Nomine, queste, forse ineludibili visto che l'Iran ha sostenuto dopo il 2007, e in modo più marcato dopo il 2016, alcune fazioni talebane e finanziato la shura di Quetta²², presumibilmente al fine di accelerare la partenza delle truppe statunitensi e di evitare che l'emirato cadesse nelle mani degli elementi più anti-sciiti e filo-sauditi.

C'è da chiedersi fino a che punto il pragmatismo iraniano possa proteggere la popolazione sciita: dopo l'estate del 2021 si sono verificati diversi attentati contro gli sciiti afghani; sebbene siano stati attribuiti all'ISK, si ha l'impressione che i Talebani non facciano granché per prevenirli. Molti membri dell'ISK sono peraltro ex Talebani, a ricordarci – insieme alle violenze commesse contro gli hazara, dagli stessi Talebani fino al 2021 –, che tra i due gruppi non esiste una netta contrapposizione ideologica.

²² A. Giustozzi, *The Taliban at War. 2001-2021*, Hurst and Co, II ed., 2019, 48-49, 62.

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Nuovi Autoritarismi e Democrazie:
Diritto, Istituzioni, Società



**Il paradosso del Cile:
alla destra il compito di riscrivere la Costituzione che
non aveva**

M. Rosti

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**Il paradosso del Cile: alla destra il compito di riscrivere
la Costituzione che non aveva intenzione di cambiare**
**Chile's Paradox: The Right Wing Tasked with Revriting the
Constitution it had no Intention of Amendin**

*Marzia Rosti**

Abstract

In Chile, the beginning of the work of the Consejo Constitucional – the conservative-majority body that will draft within four months a new constitution that should replace the existing 1980 Constitution – serves to outline the ongoing constitution-making process. This can be done considering the first year of the presidency of progressive Gabriel Boric, who was its promoter but will not be able to lead it. Instead, it will be led by the ultra-conservative José Antonio Kast, leader of the Partido Republicano de Chile, which has always declared itself opposed to a reform of the Fundamental Charter and which holds precisely the majority in the Consejo Constitucional.

Keywords: Cile – Consejo Constitucional – Constitutional Reform – Boric – Kast.

SOMMARIO: 1. Introduzione. 2. I risultati delle elezioni del 7 maggio 2023. 3. Il primo anno di presidenza di Gabriel Boric. 4. L'iter di riforma costituzionale. 5. Conclusioni.

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1. Introduzione

In Cile il 7 giugno 2023 si è svolta la solenne e impeccabile cerimonia di insediamento del Consejo Constitucional¹, cioè l'organo con il compito di redigere entro quattro mesi una nuova Costituzione che dovrebbe sostituire quella vigente del 1980 e che, in seguito alle elezioni del 7 maggio 2023, è composto a maggioranza da esponenti della destra conservatrice, che si sono sempre dichiarati contrari alla riforma costituzionale, che invece è stata promossa dal Presidente della Nazione progressista Gabriel Boric, sin dalla sua campagna elettorale, ma che nell'organo si trova in minoranza.

Il presente scritto si propone di ripercorrere sinteticamente le fasi del processo di riforma costituzionale in corso nel paese, intrecciandole con il primo anno di presidenza di Gabriel Boric che, avendo perso la fiducia dell'elettorato cileno, ha perso anche l'occasione per poterlo guidare. Sarà invece l'ultraconservatore José Antonio Kast, leader del Partido Republicano de Chile (PLR) e sconfitto al ballottaggio per le presidenziali nel novembre 2021 proprio da Boric, a controllare l'intero processo costituente al quale si è sempre dichiarato contrario.

2. I risultati delle elezioni del 7 maggio 2023

Nelle elezioni del 7 maggio 2023 che si sono svolte in Cile per designare i 51 membri del Consejo Constitucional, cioè l'organo che dovrà redigere entro quattro mesi il testo di una nuova Costituzione che dovrebbe sostituire quella vigente del 1980², ha trionfato il Partido Republicano de Chile (PLR) ultraconservatore guidato da José Antonio Kast. La formazione di estrema destra ha ottenuto infatti il 35,41% delle preferenze, alle quali si è aggiunto il 21,06% di voti conseguiti dalla coalizione

¹ *Ceremonia de instalación del Consejo Constitucional Chile 2023*, <https://www.youtube.com/watch?v=-BBruacq45M>. Per il processo costituente cfr. *Proceso Constitucional*, <https://www.procesoconstitucional.cl/>; *UCHILE Constituyente*, <https://constituyente.uchile.cl/>; *Proceso Constitucional*, in *Biblioteca del Congreso Nacional de Chile*, <https://www.bcn.cl/procesoconstitucional> e *Tenemos que hablar de Chile*, <https://www.tenemosquehablardechile.cl/>.

² La Costituzione vigente è quella del 1980, redatta e approvata durante il regime di Augusto Pinochet e che, nonostante alcune riforme apportate fra il 1989 e il 2012 e un tentativo più incisivo durante il secondo governo di Michelle Bachelet (2014-2018), non è mai stata sostanzialmente modificata. Come osserva Anna Mastromarino «Per quanto la Costituzione del 1980 sia stata rimaneggiata nel corso dei decenni, sino a perdere formalmente ogni richiamo esplicito alle sue origini, quel peccato originale che risiede nel suo DNA (l'essere, cioè, stata concepita per volontà di un sistema autocratico, repressivo, nato per mano della violenza) ha continuato, di fatto, a condizionare la sua stessa capacità di autorigenerarsi. È mancato lo spazio politico-istituzionale per aprirsi a un nuovo modello economico e sociale e nell'impresa di rinnovamento sono falliti, una e più volte, gli stessi governi progressisti di sinistra» A. Mastromarino, *Quando la Costituzione si fa memoria. Perché le piazze cilene chiedono una nuova Costituzione?*, in *DPCEonline*, Osservatorio sul processo costituente, 27 novembre 2020, No. 2, <https://www.dpceonline.it/index.php/dpceonline/OsservatorioCile>.

di centro-destra Chile Seguro³. Le “due destre”, che si sono sempre dichiarate contrarie a riformare la Costituzione del 1980, occupano quindi 33 dei 51 seggi disponibili⁴ e potranno controllare l'intero processo costituente, influenzando sul futuro istituzionale del paese.

I partiti della sinistra, promotori della riforma costituzionale sin dal 2019, sono invece usciti sconfitti dalle elezioni: la coalizione Unidad para Chile⁵ (UPCh) del Presidente della Nazione Gabriel Boric ha ottenuto solo il 28,60% delle preferenze e le sono andati i rimanenti 17 seggi⁶, che però non le permetteranno di esercitare il potere minimo di veto (ne occorrono infatti 21), e Todo por Chile con l'8,9% dei voti raccolti non ha conseguito alcun seggio. Infine, si aggiunge 1 seggio per l'unico rappresentante dei popoli indigeni eletto, Alihuen Antileo Navarrete⁷.

Boric ha riconosciuto la sera stessa del 7 maggio in un discorso pronunciato da La Moneda il trionfo dei repubblicani ed ha chiesto all'avversario Kast di non «cometer el mismo error que cometimos nosotros»⁸, riferendosi a quando, durante il primo tentativo di riforma della Costituzione fra il 2021 e il 2022⁹, una Asamblea Constituyente con una maggioranza composta da esponenti progressisti e

³ È il nome con cui si è presentata la coalizione di destra Chile Vamos, che raggruppa Unión Demócrata Independiente (UDI), Renovación Nacional (RN) ed Evopolis (EVOP).

⁴ 22 seggi andranno a esponenti del Partido Republicano de Chile e 11 a quelli di Chile Seguro.

⁵ Coalizione che raggruppa i seguenti partiti politici: Revolución Democrática (RD), Convergencia Social (CS), Comunes, Partido Comunista de Chile (PCCh o PC), Federación Regionalista Verde Social (FREVS- FRVS), Partido Socialista de Chile (PS o PSCh), Partido Liberal de Chile (PL), Acción Humanista (AH).

⁶ *Elección Consejo Constitucional 2023*, in *Servicio Electoral de Chile*, https://www.servelecciones.cl/#/votacion/elecciones_consejo_gen/pais/8056.

⁷ Nell'Asamblea Constituyente del 2021 erano stati riservati 17 seggi ai rappresentanti dei popoli indigeni, così ripartiti: sette per i rappresentanti Mapuche, due per quelli Aymara ed uno per ciascun altro popolo (Likan Antai/Atacameños, Quechua, Colla, Diaguita, Kawashkar/Alacalufe, Chango, Yámana/Yagán e Rapa Nui), eletti in collegi elettorali divisi geograficamente e sulla base della percentuale degli abitanti indigeni, secondo i dati del censimento del 2017 (*Ley 21.298* del 21 dicembre 2020).

⁸ *Presidente Boric ante resultados del Consejo Constitucional. Elecciones 2023*, <https://www.youtube.com/watch?v=IZyGZS5sWVM>.

⁹ Il primo tentativo di riforma è stato inaugurato dal Plebiscito Nacional del 25 ottobre 2020, che poneva agli elettori due quesiti: un primo se fossero stati o meno a favore della riforma costituzionale e, qualora lo fossero stati, quale composizione avrebbe dovuto avere l'organo incaricato di redigere la nuova Carta. Rispetto al primo quesito, il 78,28% dei cittadini si è dichiarato a favore della riforma della Carta e, rispetto al secondo, il 78,99% ha indicato che avrebbe dovuto essere redatta da un organo *ad hoc*, composto esclusivamente da membri designati dal popolo. Si sono quindi svolte il 15-16 maggio 2021 le elezioni per i 155 membri dell'Asamblea Constituyente che – il 4 luglio 2021 – ha inaugurato i propri lavori con una cerimonia durante la quale la Presidente mapuche Elisa Loncón Antileo ha pronunciato un discorso che ha sintetizzato le fratture e le contraddizioni emerse nei 200 anni di indipendenza del Cile, indicando le sfide che attendevano la Costituente e l'intera nazione. Un anno dopo, il 4 luglio 2022 è stato consegnato al Presidente Gabriel Boric – che nel frattempo aveva vinto le elezioni e aveva assunto l'incarico – il testo della Costituzione, che è stato poi sottoposto al referendum del 4 settembre 2022 ed è stato respinto dai cileni. Cfr. M. Rosti, *Una Presidente indigena per l'Assemblea Costituente cilena*, in *Osservatorio su Nuovi Autoritarismi e Democrazie*, 16 luglio 2021, <http://nad.unimi.it/an-indigenous-woman-as-president-of-the-chilean-constituent-assembly/>.

indipendenti lavorò a un progetto di Costituzione escludendo dal dibattito «deliberadamente a las fuerzas de derecha»¹⁰, oltre a deludere le attese della società civile. I lettori ricorderanno che il testo venne poi bocciato dal Plebiscito Constitucional del 4 settembre 2022, con il 61,87% dei voti contrari¹¹, che – di fatto – rappresentò la prima sconfitta per il Presidente millennial Boric, distintosi nella nuova leadership giovane e di sinistra emersa dalle proteste del 2019 e che ha assunto la presidenza nel marzo 2022, dopo aver battuto proprio Kast al ballottaggio nel dicembre 2021¹².

Anche Kast la sera del 7 maggio ha commentato i risultati elettorali, dichiarando che «Hoy es el primer día de un mejor futuro para nuestro país, es el primer día de un nuevo comienzo para Chile» e sottolineando come, grazie alla vittoria elettorale, finalmente «Chile ha derrotado a un Gobierno fracasado, [...] que ha sido incapaz de enfrentar la crisis de la inseguridad, la crisis migratoria, la crisis económica, la crisis social en materia de salud, educación, vivienda y tantas otras»¹³. In pochi minuti Kast ha fatto riferimento non solo alla sconfitta della sinistra, ma anche alle molte difficoltà incontrate da Boric nel suo primo anno di presidenza, che l'hanno obbligato a due rimpasti di governo e a rivedere alcuni punti del suo programma elettorale.

3. Il primo anno di presidenza di Gabriel Boric

Con la promessa di traghettare il Cile verso una “nuova era”, che si sarebbe aperta con una “nuova Costituzione”, in campagna elettorale Boric si era assunto anche l’impegno di smantellare almeno in parte il modello neoliberista ereditato dal regime di Pinochet, di aumentare le tasse ai cosiddetti “super-ricchi” e alle imprese per finanziare le riforme sociali, di riformare il sistema pensionistico

¹⁰ *Presidente Boric ante resultados del Consejo Constitucional. Elecciones 2023*, <https://www.youtube.com/watch?v=IZyGZS5sWVM>. Significativa è la frase «Los grandes acuerdos los vamos a poner nosotros y los demás tendrán que sumarse», pronunciata nel maggio 2021 da Daniel Stingo, membro della maggioranza della prima Costituente (gruppo Revolución Democrática) e che è stata ricordata spesso nei giorni dopo le elezioni del 7 maggio 2023. Stingo osservava come nell’Asamblea Constituyente la maggioranza composta da esponenti della sinistra e indipendenti (ai quali si sarebbero aggiunti i rappresentanti dei popoli indigeni) avrebbe potuto approvare le norme della nuova Costituzione con i 2/3 dei voti anche senza il consenso della destra, in minoranza e che non avrebbe avuto neppure i voti per opporsi. Cfr. *Emol.com*, 29 maggio 2023, <https://www.emol.com/noticias/Nacional/2023/05/27/1096293/cronica-constitucionalconsejo.html>.

¹¹ *Elección Consejo Constitucional 2023*, in *Servicio Electoral de Chile*, https://www.servielecciones.cl/#/votacion/elecciones_constitucion/global/19001, inoltre *Il Cile e il no alla nuova Costituzione. Il referendum*, Istituto per gli Studi di Politica Internazionale, 5 settembre 2022, <https://www.ispionline.it/it/pubblicazione/il-cile-e-il-no-alla-nuova-costituzione-36045>.

¹² Al primo turno del 21 novembre 2021 Kast aveva conseguito il 27,91% delle preferenze rispetto a Boric che aveva ottenuto 25,83%; al ballottaggio del 19 dicembre 2021, invece, Boric ha vinto con il 55,87% dei consensi battendo Kast, che ha raccolto solo il 44,13% dei voti. Cfr. *Elección de Presidente 2021*, in *Servicio Electoral de Chile*, <https://historico.servel.cl/servel/app/index.php?r=EleccionesGenerico&id=236>.

¹³ *Discurso de José Antonio Kast: Republicanos logró mayoría nacional. Elecciones 2023*, <https://www.youtube.com/watch?v=1ZhThrgUKmU>.

privato e di eliminare gradualmente il sistema delle assicurazioni sanitarie private. Aveva anche proposto di ridurre la settimana lavorativa da 45 a 40 ore, di aumentare il salario minimo e di introdurre sussidi per i giovani e le donne e, infine, di migliorare il sistema d'istruzione pubblica e di riformare il corpo dei Carabineros, fra i principali responsabili della violenta repressione delle proteste del 2019.

Gli elettori erano stati inoltre rassicurati e convinti del cambiamento proposto da Boric, poiché sarebbe stato il primo Presidente a non aver militato in nessuno dei partiti tradizionali che avevano guidato il paese dal ritorno alla democrazia nel 1990 e che, inoltre, si sarebbe circondato di collaboratori ed esperti accomunati dall'idea di voler cambiare il Cile in maniera radicale.

Il primo anno di governo iniziato nel marzo 2022 si è però chiuso con un calo dei consensi al 35%, determinato, in generale, dalle aspettative deluse per gli errori e per l'inesperienza dimostrata in alcuni frangenti da Boric, dai suoi collaboratori e da alcuni ministri, ma soprattutto per le due principali sconfitte subite, cioè la bocciatura col referendum del settembre 2022 del progetto di nuova Costituzione e la mancata approvazione – ai primi di marzo 2023 da parte della Camera dei deputati – della riforma fiscale, che avrebbe finanziato i programmi sociali promessi. Sono così passati in secondo piano i risultati comunque ottenuti, cioè l'introduzione dell'assistenza sanitaria gratuita per circa 5 milioni di persone, un primo aumento del salario minimo per quasi 800.000 lavoratori, l'approvazione da parte del Senato della riduzione graduale della settimana lavorativa da 45 a 40 ore e i primi segnali di ripresa dell'economia. Inoltre, Boric rappresenta un'eccezione fra i governi progressisti dell'area, per aver condannato la deriva autoritaria del Nicaragua di Ortega e del Venezuela di Maduro.

Per quanto riguarda la riforma costituzionale, molti analisti concordano che siano stati molteplici i temi che hanno scoraggiato l'elettorato dall'approvare il progetto di Carta costituzionale presentato dall'Asamblea Constituyente nel 2021 e appoggiato da Boric. In particolare, il ventaglio delle perplessità è stato ampio e ha compreso l'incertezza su alcuni profondi cambiamenti, come l'estensione dei diritti sociali, il passaggio da uno Stato unitario e fortemente centralizzato a uno Stato regionale e con vari livelli di autonomie, la sostituzione del Senado con la Cámara de las Regiones e un riconoscimento troppo ampio dei diritti indigeni. Inoltre, il testo era troppo lungo¹⁴, complesso ed è stato giudicato troppo plurinazionale, interculturale, regionale, green e “di sinistra” dalla maggioranza dei cileni che, oltre ad essere perplessa sui contenuti, era anche delusa dal comportamento, dalla scarsa preparazione e dall'inesperienza degli stessi membri della Convenzione Costituente¹⁵.

¹⁴ Composta da 388 articoli per un totale di 178 pagine, cfr. *Propuesta – Constitución Política de la República de Chile*, 2022, 178.

¹⁵ S. Bagni, «Era un gioco, non era un fuoco». *Una lettura del processo costituente cileno alla luce del risultato del plebiscito del 4 settembre 2022*, in *DPCEonline*, 4/2022, 1790-1805. Si rinvia anche all'Osservatorio Cile-Osservatorio sul primo processo costituente, <https://www.dpceonline.it/index.php/dpceonline/OsservatorioCile>. Cfr. inoltre, F. Rivas Molina, R. Montes, *Chile rechaza rotundamente la nueva Constitución*, in *El País*, 5 settembre 2022, <https://elpais.com/chile/2022->

4. L'iter di riforma costituzionale

L'appuntamento elettorale del 7 maggio aveva dunque una sua particolare importanza in quanto, oltre ad essere una tappa del secondo tentativo di riforma della Costituzione, sarebbe stata l'occasione per misurare il grado di fiducia degli elettori nelle capacità degli esponenti della sinistra di partecipare alla stesura di una nuova Carta.

Se sul verdetto delle urne si rinvia al paragrafo precedente, per quanto riguarda il nuovo iter della riforma, si ricorda che le fasi erano state concordate tra le forze politiche cilene nel dicembre 2022 e una prima tappa è stata il 6 marzo 2023, con l'investitura della Comisión de Expertos¹⁶. Quest'ultima, composta da 24 membri designati dal Parlamento¹⁷ (17 dei quali giuristi), ha redatto in questi mesi la bozza di Costituzione (*anteproyecto*) che ha approvato il 30 maggio¹⁸ e che poi ha consegnato appunto il 7 giugno al neocostituito Consejo Constitucional. Quest'ultimo, entro quattro mesi e basandosi sul progetto, dovrà redigere la nuova Costituzione, che verrà poi discussa e approvata dal Congresso e, infine, sarà sottoposta all'approvazione degli elettori attraverso un referendum il prossimo 17 dicembre 2023¹⁹.

09-05/chile-rechaza-rotundamente-la-nueva-constitucion.html, e M. Velásquez Loaiza, *Las razones detrás del rechazo a la nueva constitución de Chile y lo que sigue*, in *CNN Español*, 5 settembre 2022, <https://cnnespanol.cnn.com/2022/09/05/razones-rechazo-no-plebiscito-nueva-constitucion-chile-lo-que-sigue-orix/#0>.

¹⁶ Cfr. M. Rosti, *Il Cile prova per la seconda volta a redigere una nuova Costituzione*, in *Osservatorio su Nuovi Autoritarismi e Democrazie*, 23 marzo 2023, <http://nad.unimi.it/il-cile-prova-per-la-seconda-volta-a-redigere-una-nuova-costituzione/>.

¹⁷ La sua composizione era paritaria e rispecchiava le forze politiche presenti nel Legislativo: in particolare sono stati nominati 12 membri dal Senato e 12 dalla Camera dei Deputati; la Presidente era Verónica Undurraga e il Vicepresidente era Sebastián Soto (*Comisión Experta*, in *Proceso Constitucional*, <https://www.procesoconstitucional.cl/comision-experta/>). I lavori sono stati suddivisi fra le quattro sottocommissioni – cioè Sistema Político, Reforma Constitucional y Forma de Estado, Función Jurisdiccional y Órganos Autónomos, Principios, Derechos Civiles y Políticos e Derechos Económicos, Sociales, Culturales y Ambientales (*Comisión Experta-Subcomisiones* in *Proceso Constitucional*, <https://www.procesoconstitucional.cl/comision-experta/subcomisiones/>) – e le sue decisioni sono state approvate da 3/5 dei componenti. Inoltre, *Proceso constituyente: se instala Comisión Experta y elige mesa directiva*, 6 marzo 2023, <https://www.senado.cl/noticias/proceso-constituyente/proceso-constituyente-se-instala-comision-experta-y-elige-mesa-directiva>, e cfr. anche il video della cerimonia in *Comisión Experta Proceso Constitucional*, 6 marzo 2023, <https://www.youtube.com/watch?v=gtFhSsrLeLM>.

¹⁸ È composta da 211 articoli e 47 disposizioni transitorie per un totale di 131 pagine, cfr. *Anteproyecto de Constitución Política de la República de Chile*, <https://www.diarioconstitucional.cl/wp-content/uploads/2023/06/anteproyecto-web.pdf>, e A. M. Sanhueza, *Chile cierra la primera etapa en su camino para reemplazar la Constitución de Pinochet*, in *El País*, 31 maggio 2023, <https://elpais.com/chile/2023-05-31/chile-cierra-la-primera-etapa-en-su-camino-para-reemplazar-la-constitucion-de-pinochet.html>.

¹⁹ Lo stesso 7 giugno è stata eletta come Presidente Beatriz Hevia e come Vicepresidente Aldo Valle. I lavori saranno suddivisi fra quattro commissioni: Sistema Político, Reforma Constitucional y Forma de Estado; Función Jurisdiccional y Órganos Autónomos; Principios, Derechos Civiles y

Fra gli aspetti significativi del progetto del Comité de Expertos, si segnala la previsione che il Presidente della Nazione possa ricoprire al massimo due mandati non consecutivi di quattro anni ciascuno; inoltre, il riconoscimento dei popoli indigeni come “parte della nazione cilena”, un meccanismo di partecipazione dei cittadini nel processo di formazione delle leggi e un capitolo dedicato all’ambiente.

Alla luce dei risultati elettorali del 7 maggio, si ritiene che assuma un ruolo importante il Comité Técnico de Admisibilidad, costituito sempre il 6 marzo e composto da 14 giuristi²⁰ eletti dal Senato su proposta della Camera dei deputati. Il suo incarico infatti prevede il controllo che la Comisión de Expertos, sino ad ora al lavoro, e che il Consejo Constitucional, che lavorerà in futuro, rispettino nella redazione dei rispettivi progetti le *12 Bases Constitucionales* fissate nell’Acuerdo por Chile del 12 dicembre 2022, firmato tra i rappresentanti delle forze politiche presenti nel Congresso, dopo 3 mesi di colloqui²¹. Fra di esse si ricordano che il Cile è una «República democrática, cuya soberanía reside en el pueblo» e che «El Estado de Chile es unitario y descentralizado». Viene inoltre ribadita la separazione e l’indipendenza dei tre poteri, cioè «el Poder Ejecutivo; con jefe de gobierno e iniciativa fiscal de gasto, el Poder Judicial; con unidad jurisdiccional y con pleno respeto de las sentencias judiciales firmes y ejecutoriadas y el Poder Legislativo compuesto por cámara de Diputados y Senado», per evitare che ci siano interventi incisivi come avvenuto nel precedente progetto di Costituzione, ove il Senado era stato sostituito della Cámara de las Regiones e il Poder Judicial era stato ribattezzato Sistema Nacional de Justicia. Sul fronte dei diritti, si stabilisce che il Cile protegge e garantisce i diritti e le libertà fondamentali, che è «un Estado social y Democrático de Derecho, cuya finalidad es promover el bien común [...] y que promueve el desarrollo progresivo de los derechos sociales»; inoltre che «reconoce a los pueblos indígenas como parte de la nación chilena, que es una e indivisible» e che «respetará y promoverá sus derechos y culturas» e, infine, sul fronte ambientale il paese si assume l’impegno «al cuidado y la conservación de la naturaleza y su biodiversidad».

Se il nuovo *iter* costituente è stato meglio definito per quanto riguarda sia i principi che devono essere rispettati nella redazione del progetto sia il profilo e la preparazione di coloro che lo redigeranno, è chiaro che la composizione del Consejo Constitucional emersa dal voto del 7 maggio scorso suscita ora alcune perplessità

Políticos; y Derechos Económicos, Sociales, Culturales y Ambientales. Cfr. *Consejo Constitucional se instaló formalmente y eligió mesa directiva*, 7 giugno 2023, <https://www.camara.cl/cms/noticias/2023/06/07/consejo-constitucional-se-instalo-formalmente-y-eligio-mesa-directiva/>. Per l’*iter* previsto si rinvia a *Proceso Constitucional*, <https://www.procesoconstitucional.cl/>.

²⁰ Per i componenti del Comité Técnico de Admisibilidad, cfr. *Comité Técnico de Admisibilidad*, in *Proceso Constitucional*, <https://www.procesoconstitucional.cl/comite-tecnico-de-admisibilidad/>.

²¹ *Acuerdo por Chile*, 12 dicembre 2022, <https://www.senado.cl/noticias/proceso-constituyente/acuerdo-por-chile-definen-consejo-constitucional-comite-de-expertos-e>; A. M. Sanhueza, *La Constitución chilena debería recoger las ansias de transformación, pero sin tantas incertezas*, in *El País*, 16 marzo 2023, [https://elpais.com/chile/2023-03-16/la-constitucion-chilena-deberia-recoger-las-ansias-de-transfor macion-pero-sin-tantas-incertezas.html](https://elpais.com/chile/2023-03-16/la-constitucion-chilena-deberia-recoger-las-ansias-de-transfor-macion-pero-sin-tantas-incertezas.html).

su quanto potranno essere incisive le riforme costituzionali, mentre il ruolo del Comité Técnico de Admisibilidad assume particolare rilevanza.

5. Conclusioni

Vincitori e sconfitti non dovranno inoltre sottovalutare un dato emerso dalle urne del 7 maggio 2023, cioè l'elevato numero non solo di schede nulle, più di 2 milioni, pari a circa il 17% di coloro che si sono recati al voto e che rappresenta il numero più alto registrato dalle elezioni parlamentari del 1997, ma anche il dato delle schede bianche, che sono state 568.628 pari al 4,55% rispetto alle 77.000 del referendum del 4 settembre 2022²².

Pare infatti essersi delineata nell'elettorato cileno, oltre a una quota di delusi per i risultati del governo, una fascia piuttosto ampia di elettori che, una volta davanti alle urne, non ha votato per il cambiamento ma neppure per coloro che sono ancora legati in qualche modo al regime di Pinochet e alla sua eredità. Ben definita e rafforzata appare invece essere la quota di elettori di destra, che ha confermato la sua visione politica e il sostegno alle due formazioni che più li rappresentano.

Senza dubbio, durante il secondo anno di mandato presidenziale, Gabriel Boric dovrà impegnarsi nel riconquistare la fiducia dei cileni. Sul fronte della riforma costituzionale, dovrà cercare di avviare un dialogo con la destra che controlla il Consejo Constitucional e poi dovrà portare a termine le altre grandi riforme che aveva promesso in campagna elettorale: cioè, quella del sistema pensionistico e sanitario, riproporre quella tributaria appena bocciata e, infine, intervenire anche in materia di sicurezza. Nel paese si è infatti diffusa la percezione che sia aumentata la criminalità e la violenza e i cileni chiedono interventi più incisivi di quelli adottati sino ad ora²³. Anche Kast, sebbene vincitore delle elezioni del 7 maggio, nel guidare il processo costituente, oltre a non deludere i suoi sostenitori, dovrà dimostrarsi disponibile ad ascoltare la sinistra, per evitare di ripetere gli stessi errori commessi da Boric durante il primo tentativo di riforma della Costituzione.

Le premesse per un dialogo pare che ci siano: è stata infatti accolta la richiesta di Boric di partecipare e di prendere la parola alla cerimonia del 7 giugno, mentre nel luglio 2021 sarebbe stato impossibile per il Presidente allora in carica Sebastián Piñera anche solo assistere alla cerimonia d'insediamento dell'Asamblea Constituyente, che aveva preso le distanze da La Moneda, dalle istituzioni e dalle forze politiche.

²² Elección Consejo Constitucional 2023, in Servicio Electoral de Chile, https://www.servelecciones.cl/#/votacion/elecciones_consejo_gen/pais/8056.

²³ Ad esempio, per garantire la sicurezza ha adottato misure che hanno suscitato polemiche come l'invio di militari nelle regioni del nord al confine con Perù e Bolivia per affrontare la crisi migratoria e in quelle meridionali, ove alle tensioni per le proteste mapuche si sono aggiunte le violenze legate al narcotraffico e alla criminalità organizzata. Infine, il 24 aprile 2023 il governo ha presentato il Plan Calles sin Violencias. *Plan Calles sin Violencia es lanzado en comuna de Santiago: Estos son sus detalles*, <https://www.gob.cl/noticias/plan-calles-sin-violencia-es-lanzado-en-comuna-de-santiago-estos-son-sus-detalles/>.

Boric, innanzitutto, ha ringraziato la Comisión de Expertos «porque han desempeñado su tarea con un espíritu patriótico que ha demostrado ser virtuoso y que espero, además, sea contagioso, no sólo para este espacio, sino para el conjunto de la sociedad chilena. Y nos han dado una muestra de que quienes pensamos distinto podemos ponernos de acuerdo cuando el bien de la patria se requiere». Si è poi rivolto ai nuovi costituenti esortandoli alla collaborazione e al dialogo, per giungere «a un texto que dé certezas y estabilidad democrática en el largo plazo», ricordando che «Esto es lo que la ciudadanía espera hoy, un proceso de colaboración en donde las distintas partes sean capaces de ceder cuando es necesario y de encontrar los puntos comunes en búsqueda de lo mejor para Chile [...] cambiar lo que tenemos que cambiar», ma «con respeto y teniendo presente lo mejor de nuestras tradiciones democráticas, que son tan ricas y que no podemos dejar de lado, porque como, creo, todos y todas hemos aprendido, Chile no se construye de la noche a la mañana, Chile no parte de cero»²⁴.

Kast, da parte sua, in una intervista ha esortato i “suoi costituenti” alla prudenza e al dialogo: «Hay que trabajar. Eso requiere prudencia, conocimiento, preparación y diálogo. Pero lo primero es la prudencia, no decir cosas de las que después se puedan arrepentir»²⁵.

²⁴ Boric en el Consejo Constitucional: a Chile le hará bien cerrar este ciclo, 7 giugno 2023, <https://www.youtube.com/watch?v=9A0uOPng4dk>, e ¿El fin de la presidencia? Las líneas que bajó Boric en la apertura del Consejo Constitucional, in *La Tercera*, 7 giugno 2023, <https://www.latercera.com/la-tercera-pm/noticia/el-fin-de-la-prescendencia-las-lineas-que-bajo-boric-en-la-apertura-del-consejo-constitucional/7SIGNR6AC5C5LA4YWI3ZRZFRJI/>.

²⁵ Kast recomendó a sus representantes en el Consejo Constitucional «prudencia» en sus intervenciones, in *El Mostrador*, 7 giugno 2023, <https://www.elmostrador.cl/noticias/pais/2023/06/07/2916619/>.

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Nuovi Autoritarismi e Democrazie:
Diritto, Istituzioni, Società



**“O Brasil de esperança”:
alcune riflessioni sulle elezioni presidenziali brasiliane
tra cambiamento, governabilità e violenza politica**

F. Zega

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**«O Brasil da esperança»:
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«O Brasil da esperança»: Some Reflections on the Brazilian
Presidential Elections between Change, Governability and
Political Violence**

*Fulvia Zega**

Abstract

Brazil's presidential elections held last October were the closest in the country's history. The results reflect the polarized political environment and the scenario of political violence, institutional delegitimization, and social unrest perpetuated by the *bolsonaristas*, which reached its peak with the assault on the Palácio do Planalto. This was the concluding act of a process of construction of dialectical and visual violence, steeped in denialism and delegitimization of the opponent. This led to a highly conflictual and aggressive electoral space, that institutions like the Tribunal Superior Eleitoral and Transparência Eleitoral Brasil tried to counter. This essay investigates the pre-and post-electoral violence and the role of the institutions designated to mitigate it.

Keywords: Brazilian Elections – Democracy - Political Violence – Bolsonaro – Lula da Silva.

SOMMARIO: 1. Introduzione. 2. Alcune considerazioni sul bolsonarismo e sull'inasprimento della violenza politica. 3. Riflessioni sul risultato e sulla geografia elettorale. 4. Considerazioni finali sulla polarizzazione post-elettorale e le sfide del nuovo governo.

* Ricercatrice in Storia e Istituzioni delle Americhe presso il Dipartimento di Antichità, Filosofia e Storia dell'Università degli Studi di Genova. Il testo è stato referato internamente a cura della Direzione. Responsabile del controllo editoriale: Valentina Paleari.

[...] Sim, a eleição está polarizada
E seja qual for o resultado,
A vida continuará polarizada
Entre o que olham de frente para o futuro
E os que desejam a morte de todos
Os olhares que não rezem
Segundo seus esgares.
(Flavio Aguiar, *Polarizações*, 28.10.2022)

1. Introduzione

Con le elezioni che si sono celebrate lo scorso ottobre i cittadini brasiliani hanno scelto di restituire la guida del paese al già due volte Presidente Luiz Inácio Lula da Silva (Partido dos Trabalhadores, PT) e di trasformare Jair Bolsonaro (Partido Liberal, PL) nell'unico Presidente non rieletto dopo il solo primo mandato. Tuttavia, il quadro che si presenta all'osservatore è quello di una società brasiliana fortemente polarizzata. Spaccata sia nell'esito delle urne – 60.345.999 voti contro 58.206.354¹ – sia a livello sociale. Le presidenziali brasiliane, infatti, si sono giocate sul filo di lana di una manciata di voti, dando vita all'elezione *mais apertada* della storia del paese. Tale panorama, così come lo scenario di violenza politica, di delegittimazione istituzionale e di contestazioni sociali perpetuate dalla destra probolsonarista, rimanda ad una polarizzazione della società che è il risultato di questioni di carattere politico, economico, sociale e religioso. Questa nota si propone di indagare tanto le azioni violente messe in atto nel periodo pre- e postelettorale, quanto quelle delle istituzioni preposte a monitorare e limitarle. Nelle scorse elezioni, infatti, è apparso evidente come esistesse una correlazione tra ideologia di destra e violenza che ha raggiunto la propria acme con l'assalto del Palácio do Planalto, l'8 gennaio 2023, atto conclusivo di un percorso di costruzione di un ambiente dialettico e visuale di esasperazione della violenza, intriso di negazionismo e di delegittimazione dell'avversario, che ha portato alla formazione di uno spazio elettorale fortemente conflittuale e aggressivo contro il quale alcune istituzioni hanno cercato di opporsi. Si fa qui riferimento, in particolare, all'azione di monitoraggio svolta dal Tribunal Superior Eleitoral e dall'associazione Transparência Eleitoral Brasil.

2. Alcune considerazioni sul bolsonarismo e sull'inasprimento della violenza politica

Lo storico brasiliano Rodrigo Patto Sá Motta, nel trattare la questione del negazionismo storico, evidenzia come, a partire dal 2014, si sia registrato un incremento dei conflitti politico-ideologici all'interno di uno scenario di crescente polarizzazione politica tra destra e sinistra che ha visto il rafforzarsi dell'anti-petismo e la nascita del fenomeno bolsonarista, «movimentos que convergiram no

¹ Portale del Tribunal Superior Eleitoral brasiliano: <https://sig.tse.jus.br/ords/dwapr/seai/t/sig-eleicao-resultados/resultado-da-elei%C3%A7%C3%A3o?session=201746962418393>.

quadro das eleições de 2018, resultando em vitória da direita conservadora e autoritária»². Allo stesso modo, Daniel Aarão Reis, nel suo tentativo di spiegare le ragioni del bolsonarismo, conferisce una profondità temporale all'ascesa di Bolsonaro utilizzando l'evocativa locuzione: «não caiu como um raio de um céu azul»³ sollevando, così, l'importante questione dei prodromi del 2018. In tal senso, considerare brevemente i molteplici fattori alla base del successo ottenuto dall'ex-Presidente nella penultima tornata elettorale aiuta a comprendere alcune questioni essenziali per inquadrare tanto gli accadimenti delle elezioni 2022 quanto ciò che ne è conseguito. Tra queste è necessario considerare l'exasperazione della violenza politica, la creazione di un ambiente di delegittimazione politico-istituzionale e la relazione tra democrazia ed elettorato. Il periodo 2018-2022, così come gli anni precedenti che vanno dall'impeachment a Dilma Rousseff alle elezioni 2018⁴, infatti, si è caratterizzato da uno scarso grado di fiducia sia nelle istituzioni, sia nella democrazia e da forme di rifiuto della politica tradizionale e dei partiti politici, tali da costruire una gamma di percezioni negative in grado di compromettere la legittimità del sistema democratico. Si tratta di ciò che il politologo Leonardo Avritzer ha definito come un'epoca di relativizzazione della democrazia⁵. In realtà ci si trova di fronte a un processo vizioso circolare, che parte da una situazione iniziale di malcontento all'interno di parte della società e di discredito dei partiti politici tradizionali, che viene poi ripreso e dilatato, negli anni successivi, dalla propaganda politica presidenziale. Una retorica che si è concentrata su alcune parole chiave, quali la corruzione, i valori tradizionali e la criminalità, declinate come argomento legittimante di azioni autoritarie e di contenimento della società. Un impianto che, riuscendo a capitalizzare un malcontento sociale esistente, ha saputo accrescere il proprio bacino grazie a un consenso trasversale da parte di alcuni segmenti dei settori popolari, dei militari, delle forze armate e l'ausilio di alcuni gruppi evangelici, in particolare neopentecostali⁶. Questi ultimi erano schierati con l'ex-Presidente in virtù della posizione dichiarata a favore dei valori cristiani, tra cui il conservatorismo sociale, la difesa della famiglia tradizionale, l'opposizione all'aborto, all'eutanasia e alle politiche di genere⁷. L'idea dell'uso

² R. Patto Sá Motta, *A guerra cultural bolsonarista e as disputas pela história recente*, in *Contenciosa*, No. 12, 2022.

³ D. Aarão Reis, *Notas para a compreensão do bolsonarismo*, in *Estudos Ibero-Americanos*, No. 1, 2020, 4.

⁴ Per un'analisi di lungo periodo sulla genesi dello stato attuale della politica brasiliana si veda: A. Dal Ri, M. A. Soares, *Le elezioni presidenziali dell'ottobre del 2022 in Brasile: La vittoria di Lula e il bolsonarismo "in tance"*, in *NAD – Nuovi Autoritarismi e Democrazie: Diritto, Istituzioni, Società*, No. 2, 2022.

⁵ L. Avritzer, E. Santana, R. Callai Bragato (a cura di), *Eleições 2022 e a reconstrução da democracia no Brasil*, Autêntica, 2023.

⁶ In particolare, tra i gruppi evangelici che hanno sostenuto Bolsonaro ricordiamo la Assembleia de Deus, la Igreja Universal do Reino de Deus e a Igreja Batista; queste sono, per altro, le tre Chiese che esprimono la maggioranza all'interno della Frente Parlamentar Evangélica (FPE).

⁷ Per un'analisi puntuale dei gruppi che hanno appoggiato l'ascesa di Bolsonaro si rimanda a D. Aarão Reis, *O bolsonarismo: uma concepção autoritária em formação*, in *A Terra é redonda*, 9 marzo 2021.

della violenza nella battaglia contro i criminali – basta ricordare il motto «bandido bom è bandido morto» – l’odio per le lotte identitarie e l’avversione contro il PT e la sinistra sono, inoltre, gli argomenti del bolsonarismo che hanno sedotto una porzione della classe media e delle classi alte. Un sistema che, per la sua realizzazione, si è servito dei mezzi di comunicazione e dei social media per la diffusione di messaggi ambigui e di false notizie dal carattere fortemente aggressivo contro gli avversari, che hanno generato un inasprimento della veemenza tra le fila dei seguaci dell’ex-Presidente che si è manifestata durante l’intero periodo di chiamata alle urne e nei mesi successivi. Un’attitudine che può essere compresa, in parte, considerando, così come viene indicato dalla ricerca *A cara da democracia* portata avanti dall’Instituto da Democracia e da Democratização da Comunicação, la fine del fenomeno della cosiddetta “direita envergonhada”, ovvero con l’esistenza, a partire dal 2018, di un gruppo crescente di individui i quali, nel periodo preelettorale, si definivano apertamente come appartenenti alla destra radicale e su posizioni estremiste riguardo alla pandemia, ai vaccini e all’isolamento⁸. In altre parole, così come evidenziato in una recente intervista rilasciata dalla deputata Maria do Rosario Nunes⁹ a Rádio Câmara, l’invasione del palazzo del Congresso e delle sedi dei poteri Esecutivo e Giudiziario è il risultato di una costruzione antecedente che rimanda ad una costante e continua svalorizzazione della politica.

3. Risultato e geografia elettorale

Per comprendere l’esito delle presidenziali brasiliane si deve, a mio avviso, da un lato considerare in modo separato i risultati dei due turni elettorali e gli accadimenti accorsi nei ventotto giorni che li hanno separati e, dall’altro, portare l’attenzione su quella che potremmo definire la “geografia dell’elettorato”, di modo da porre in critica la vulgata che, in forma semplicistica, vuole un paese spaccato a metà: Sudovest vs. Nordest, non considerando alcune zone che, come evidente nella mappa sottostante, contrastano questo modello e che hanno dimostrato di avere un peso, se non specificatamente nell’esito delle presidenziali, dove il nordest si è dimostrato fondamentale, almeno per la Câmara Federal. L’analisi dell’esito del voto per la Camera dei deputati, infatti, rimanda ad un panorama assai più eterogeneo e vincolato a istanze locali di cui sono emblematici, solo a titolo d’esempio, i casi dei blocchi della sinistra nel Rio Grande do Sul – in una fascia rossa che va da Porto Alegre verso le zone sud dello stato (municipi di Pelotas, Rio Grande e Bagé) includendo i municipi di Santa Maria e São Borja a nordest – e nell’area metropolitana dello stato di São Paulo, includendo la stessa capitale, e che, a mio avviso, rimandano maggiormente a questioni economico-culturali legate

⁸ Per maggiori informazioni si veda: <https://www.institutodademocracia.org/a-cara-da-democracia>

⁹ Maria do Rosario Nunes, esponente del PT del Rio Grande do Sul, è attualmente al suo quinto mandato e, il primo febbraio del 2023, è stata nominata seconda segretaria della Mesa Diretora da Câmara dos Deputados. Per ascoltare l’intervista: <https://www.camara.leg.br/radio/programas/938886-maria-do-rosario-segunda-secretaria-da-camara-reforca-papel-da-mesa-no-fortalecimento-da-democracia/>.

all'anelito di politiche pubbliche d'aiuto alla crescita e di investimenti federali nelle aree segnate da una stagnazione economica, a cui si aggiunge un processo di deindustrializzazione che ha coinvolto, nell'arco di tre decenni, São Paulo e il suo distretto industriale.



Figura 1: Mappa del voto del 2° turno¹⁰

Fatta questa breve premessa, che meriterebbe sicuramente di essere approfondita con un'analisi maggiormente esaustiva dell'elezione proporzionale per il Parlamento, si può notare che se i risultati del primo turno hanno dato un esito positivo per Lula da Silva e hanno dimostrato una ripresa del PT rispetto alle elezioni del 2018, probabilmente anche in virtù di una candidatura ritenuta più

¹⁰ Fonte: <https://www.estadao.com.br/politica/eleicoes/2022/apuracao/segundo-turno/>.

evocativa e carismatica di quella dell'attuale ministro dell'Economia Fernando Haddad, questi si sono, da un lato, distaccati pesantemente in termini di percentuale da quei sondaggi preelettorali che prefiguravano una vittoria schiacciante di Lula a livello nazionale e, dall'altro, hanno evidenziato alcuni elementi sfavorevoli al PT nell'elezione dei governatori e nella già citata votazione per il Parlamento dove il Partido Liberal, ottenendo 99 deputati, ha dimostrato, a prescindere dalla sconfitta di Bolsonaro, l'esistenza nel paese di una base sociale vicina alla destra radicale che ne renderà ostica la governabilità.

Un'ultima questione che mi preme trattare rispetto all'arco temporale che ha separato i due turni elettorali è quella che riguarda la recrudescenza del livello di violenza sulla scena politica brasiliana. Se la violenza politica, da intendersi nella sua accezione più ampia possibile, ha caratterizzato non solo il periodo elettorale bensì tutto il quinquennio 2018-2022, questa ha vissuto la sua acme nel periodo che va dall'organizzazione alla realizzazione delle elezioni, sino all'assalto dell'8 gennaio, dimostrando un legame tra ideologia della destra radicale e le pratiche virulente. Nel trattare tale pratica è necessario specificare che questa si compone di una variegata gamma di sfaccettature, sia retoriche che pratiche, incentivate, nel corso della storia recente brasiliana, dalla natura belligerante e autoritaria del bolsonarismo. Quindi, se da un lato è stato registrato un incremento delle aggressioni e degli assassini legati a divergenze politiche¹¹, dall'altro, si ritiene che un ruolo fondamentale nel comporre questo universo lo abbiano avuto sia la retorica di aggressione nei confronti dell'avversario perpetuata dalla destra radicale, a partire dall'impeachment contro Dilma Rousseff, sia la continua diffusione di informazioni fallaci, volte a manipolare un pubblico che, tuttavia, si è dimostrato in molti casi particolarmente disponibile nell'accettare la falsa notizia dando ragione alle riflessioni di Marc Bloch:

Una falsa notizia nasce sempre da rappresentazioni collettive che preesistono alla sua nascita; questa, solo apparentemente è fortuita, o, più precisamente, tutto ciò che in essa vi è di fortuito è l'incidente iniziale, assolutamente insignificante, che fa scattare il lavoro dell'immaginazione; ma questa messa in moto ha luogo soltanto perché le immaginazioni sono già preparate e in silenzioso fermento¹².

Se lo stato d'animo collettivo generato da un turbamento morale e dal bisogno di giustificare un evento traumatico, così come immaginato dallo storico francese, può essere ricercato nel trauma della crisi politico-economica, negli scandali riguardanti la corruzione e in una generale disillusione rispetto ai partiti, la diffusione di *fake news* ha assunto un carattere tanto impattante in Brasile da spingere il Tribunal Superior Eleitoral, congiuntamente a settanta istituzioni tra partiti politici e entità pubbliche e private, a creare la pagina *Fato ou Boato*,

¹¹ A.C. Santano (a cura di), *Relatórios parciais 1º e 2º turnos: missão de observação eleitoral nacional 2022*, Transparência Eleitoral Brasil, 2022.

¹² M. Bloch, *La guerra e le false notizie. Ricordi (1914-1915) e riflessioni (1921)*, Donzelli, 1994, 103.

un'iniziativa che integra il *Programa de Enfrentamento à Desinformação*, per affrontare gli effetti negativi sulla democrazia provocati dalla disinformazione. A tale proposito merita un cenno la falsa retorica costruita intorno alla presunta inaffidabilità delle urne elettorali elettroniche, innanzitutto perché ha rappresentato una delle argomentazioni preferite dalla destra per contestare il risultato elettorale e per giustificare il congiunto di proteste, di blocchi stradali e di richieste di un intervento da parte dei militari che hanno seguito il 30 ottobre. Secondariamente, questa vicenda svela una montatura di lungo periodo in favore dell'ex-Presidente. Infatti, come informa Avritzer:

No mês de junho de 2022, as Forças Armadas insistiam em promover uma auditoria técnica nas urnas como resultado de um convite, realizado no ano anterior pelo ministro Luís Roberto Barroso, para que os militares fizessem parte da Comissão Externa de Transparência instituída pelo Tribunal Superior Eleitoral (TSE). A entrada dos militares na comissão de transparência acabou gerando um relatório pouco fundamentado, mas que foi utilizado pelo presidente Jair Bolsonaro para tentar conturbar o início do processo eleitoral. No dia 19 de junho de 2022, a poucas semanas do início da campanha eleitoral, Jair Bolsonaro repetiu notícias reconhecidamente falsas sobre as urnas eletrônicas completarem votos automaticamente, notícias estas baseadas em vídeos que já haviam sido reconhecidos como manipulados e editados. Dessa forma, não foi pouca coisa tal reconhecimento, pela opinião pública brasileira, da importância da democracia e a oposição a uma ruptura política que não era apenas hipotética, mas também se tornava concreta devido ao discurso e às ações do então presidente Jair Bolsonaro¹³.

Se il tema della disinformazione politica è altamente trattato sia dalle istituzioni preposte alla difesa della democrazia sia dalla letteratura scientifica dedicata all'analisi dell'esito elettorale, ugualmente importante appare la crescita, nel periodo elettorale, di aggressioni politiche in taluni casi con uso di armi da fuoco¹⁴. Un timore altamente sentito dalle istituzioni, tanto da spingere il Tribunal Superior Eleitoral ad adottare una serie di misure preventive che potessero scongiurare pratiche violente, tra le quali possiamo ricordare la proibizione di utilizzare il cellulare durante il momento del voto o il divieto di trasportare e usare armi durante l'intera giornata elettorale¹⁵. Allo stesso modo, è stato sospeso il decreto presidenziale che flessibilizza l'acquisto di armi¹⁶. Una paura che si è dimostrata fondata in considerazione sia degli scontri che hanno seguito la vittoria di Lula sia

¹³ L. Avritzer, E. Santana, R. Callai Bragato (a cura di), *Eleições 2022 e a reconstrução da democracia no Brasil*, cit., 10.

¹⁴ Per i dati si rimanda a <http://www.global.org.br/blog/numero-de-casos-de-violencia-politica-e-eleitoral-em-2022-e-400-maior-do-que-o-regis-trado-em-2018>.

¹⁵ <http://www.tse.jus.br/comunicacao/noticias/2022/Setembro/tse-altera-resolucao-e-regu-lamenta-entrega-do-celular-aos-mesarios-e-proibicao-de-porte-de-arma-nos-locais-de-votacao>.

¹⁶ <https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=493519&ori=1>. A tale proposito merita notare come l'associazione Transparência Eleitoral Brasil riporti di un aumento del 94% della vendita d'armi nel quinquennio 2018-2022: A. C. Santano (a cura di), *Relatórios parciais 1º e 2º turnos: missão de observação eleitoral nacional 2022*, cit., 31.

l'assalto e gli atti vandalici alle sedi del potere. C'è da sottolineare, tuttavia, che, per quanto deprecabili politicamente e d'impatto emotivo e mediatico, tali accadimenti sono l'espressione, come sottolinea il politologo Rodrigo Carvalho, di un manipolo minoritario di persone¹⁷. L'opinione di Carvalho è inoltre che alcuni segnali, quali le statistiche riguardanti la fiducia popolare sul funzionamento delle urne elettorali, positive nonostante la disinformazione dilagante, il funzionamento e la reattività delle istituzioni preposte al mantenimento delle regole della democrazia e l'affluenza alle urne, sono segnali incoraggianti del fatto che le elezioni 2022 «reforçam o sistema político brasileiro, de caráter liberal democrático»¹⁸. Ciò che, al contrario, appare più preoccupante si cela dietro l'evidente polarizzazione della società e in ciò che Guilherme Leite Gonçalves definisce «enraizamento do bolsonarismo no tecido social e no regime democrático»¹⁹.

4. Considerazioni finali sulla polarizzazione post-elettorale e le sfide del nuovo governo

Durante la campagna elettorale e nel periodo successivo la vittoria, l'attuale Presidente ha utilizzato una ampia varietà di termini volti a smuovere l'emotività dell'elettorato quali "amore", "speranza", "sogno" in contrapposizione all'odio, alla disumanità e all'aggressività di Bolsonaro e del suo entourage nei confronti dei deboli, delle donne, delle minoranze e dei popoli nativi. Tuttavia, l'esito elettorale restituisce all'osservatore un paese spaccato e la previsione di una difficile governabilità per Lula Inácio da Silva il quale, al suo terzo mandato, non trova né la congiuntura internazionale né il consenso di cui aveva goduto nei due mandati precedenti; una situazione a cui si aggiunge l'esistenza di un'opposizione al Congresso numericamente più efficace, dove la *bancada* più cospicua è quella del PL, e più aggressiva che in passato è la presenza di un nuovo potere Legislativo con tendenze più conservatrici rispetto al precedente. Come fa notare Daniel Aarão Reis, Lula «tentará equilibrar-se no seu estilo habitual de mestre em negociar e arbitrar conflitos», nell'esercizio di una politica pragmatica e segnata da un sistema di ampie alleanze²⁰. Tra le aspirazioni e le speranze del nuovo corso politico brasiliano c'è l'urgenza di pacificare il paese. Una riconciliazione che nelle opzioni formulate fino a questo momento dipenderà dalla qualità delle politiche pubbliche e dagli interventi nelle aree della salute pubblica, dell'educazione, dell'assistenza sociale, della reindustrializzazione, nel combattere le disparità sociali e le

¹⁷ R. Carvalho, *Eleições e participação popular no Brasil*, in *Justiça Eleitoral em Debate*, No. 2, 2023, 28.

¹⁸ Idem, 23.

¹⁹ G. Leite Gonçalves, *Eleições no Brasil expropriado: reorientações políticas das classes médias e populares*, in *Revista Rosa*, No. 2, 2022.

²⁰ Per un'analisi delle misure messe in atto dal leader del Partido dos Trabalhadores per tentare di arginare la minaccia della destra sulla governabilità del paese si rimanda a Marco Morra, *Lula ha vinto, Bolsonaro non è sconfitto*, in *NAD – Nuovi Autoritarismi e Democrazie: Diritto, Istituzioni, Società*, No. 2, 2022.

sperequazioni economiche. Esiste, tuttavia, un'urgenza culturale, ovvero la necessità di un cambiamento nelle mentalità e di una decostruzione del retaggio lasciato dal governo precedente o, come enfatizzato dall'economista Luiz Augusto Estrella Faria in suo recente articolo dall'evocativo titolo *O fim do pesadelo?*, con cui riprende le parole pronunciate da Lula di fronte ad un palazzo presidenziale non ancora violato: «O futuro do governo Lula está condicionado, para [...] à superação de tudo o que se poderia chamar no vocabulário político brasileiro recente como remoção de todo o entulho neoliberal e autoritário»²¹.

²¹ L.A. Estrella, *O fim do pesadelo?*, in *A Terra è Redonda*, 29 novembre 2022.

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RECENSIONI

- S. DOSSI, *Marina Miranda, Ideologia e riforma politica in Cina. Una democratizzazione elusa dagli anni Ottanta in poi*, *Libereriauniversitaria.it*, 2022
- J.M. DE LARA VÁZQUEZ, *A vueltas con el populismo de izquierdas de Podemos: un estado del debate a diez años de su fundación*

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**Marina Miranda, Ideologia e riforma politica in Cina.
Una democratizzazione elusa dagli anni Ottanta in poi**

S. Dossi

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**Recensione. Marina Miranda, *Ideologia e riforma politica in Cina. Una democratizzazione elusa dagli anni Ottanta in poi*,
Limena, Libreriauniversitaria.it, 2022.**

Simone Dossi*

Il più recente lavoro di Marina Miranda, sinologa della Sapienza di Roma e punto di riferimento in Italia per gli studi sulla politica cinese, è dedicato alla Cina dagli anni Ottanta al termine del secondo mandato di Hu Jintao. Quarant'anni di storia politica, che l'Autrice analizza dall'originale prospettiva dell'ideologia ufficiale del Partito Comunista Cinese (PCC) e del rapporto fra quest'ultima e la questione della riforma del sistema politico. In contrasto con la prevalente tendenza del dibattito pubblico italiano a trascurare l'ideologia del PCC, considerata per lo più come mero velo retorico, la studiosa dimostra la centralità che proprio l'ideologia ha avuto nell'assicurare la preservazione del potere politico del Partito. Come osserva Miranda, infatti, «pur avendo subito una serie di progressive trasformazioni nell'adattarsi gradualmente ai profondi cambiamenti verificatisi in Cina negli ultimi decenni, l'ideologia rimane tuttora uno strumento fondamentale per il PCC al fine di esercitare un controllo politico molto stretto sul Partito stesso e sulla società in generale» (p. 16).

L'evoluzione dell'ideologia è esaminata dall'Autrice alla luce della distinzione, proposta da Franz Schurmann, fra ideologia pura e ideologia pratica: la prima costituisce la *Weltanschauung* del Partito, l'insieme cioè delle sue idee fondamentali sulla politica e sulla società; la seconda ne rappresenta invece la traduzione in termini operativi, una guida all'azione che – pur mantenendo un ancoraggio all'ideologia pura – può però evolvere nel tempo in direzioni anche molto diverse¹. Questa distinzione si riflette nella terminologia stessa impiegata dal Partito: da un lato il termine *lilun* (理论), “teoria”, indica il nucleo essenziale corrispondente, almeno in origine, al solo Marxismo-Leninismo; dall'altro il termine *sixiang* (思想), “pensiero”, è utilizzato per identificarne la specifica applicazione al contesto cinese, a partire dal “Pensiero di Mao Zedong” (*Mao Zedong sixiang* 毛泽东思想). Da questa prospettiva il volume ricostruisce dunque quegli «equilibrismi teorici» che hanno consentito al Partito di modificare significativamente l'ideologia pratica senza tuttavia intaccare l'ideologia pura, giustificando così «il fatto che il PCC mantenesse sempre e comunque la propria denominazione ‘comunista’» (p. 15).

Illustrata la prospettiva teorica nell'Introduzione, il volume procede in quattro capitoli, dedicati ciascuno a una fase caratterizzata da una sua unità sul piano dell'elaborazione

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¹ F. Schurmann, *Ideology and Organization in Communist China*, University of California Press, 1966, trad. it. *Ideologia, organizzazione e società in Cina dalla Liberazione alla Rivoluzione culturale*, a cura di A. Martinelli, Il saggiaiore, 1972, 48-79.

ideologica e del suo rapporto con il tema della riforma politica. Il primo capitolo si concentra sulle profonde trasformazioni verificatesi negli anni Ottanta, sui dibattiti teorici fra intellettuali e sui disegni di riforma politica sostenuti nel corso del decennio da Hu Yaobang e da Zhao Ziyang. Alla traumatica chiusura di quei dibattiti e di qualsiasi prospettiva di riforma è quindi dedicato il secondo capitolo, incentrato sui «nodi insoluti dopo la strage di Tian'anmen», «punto di rottura del patto sociale stretto tra il regime e la popolazione» (p. 75) e oggetto di una «rimozione collettiva» (p. 77) destinata a condizionare in profondità gli sviluppi politici successivi. Il terzo e quarto capitolo sono infine dedicati, rispettivamente, ai nuovi orientamenti emersi negli anni del mandato di Jiang Zemin, con la canonizzazione del contributo ideologico di Deng Xiaoping e dello stesso Jiang; e ai tentativi di correzione di rotta operati nel successivo decennio dell'«amministrazione Hu-Wen», anche attraverso un esplicito recupero di valori, parole-chiave e retoriche di derivazione confuciana. Attraverso i capitoli, il filo rosso è l'evoluzione del dibattito attorno al concetto di democrazia (*minzhu* 民主), declinato in termini differenti e non sovrapponibili al coevo dibattito occidentale. Osserva infatti Miranda che, come sostenuto da Edward Said, «concetti e teorie sviluppatasi in Occidente, nello spostarsi nello spazio e nel tempo verso le aree extra-europee, hanno acquisito nuovi significati e accezioni, trasformandosi necessariamente in qualcosa di diverso dalle formulazioni originarie» (p. 25).

Il volume offre innumerevoli spunti di riflessione e rappresenta per molti versi una vera e propria boccata d'ossigeno per chiunque avverta i limiti del dibattito pubblico italiano sulla Cina, spesso concentrato sulla congiuntura e incapace di collocarla entro una linea evolutiva di più lungo periodo – linea evolutiva, però, dalla quale non si può prescindere nel cercare di comprendere anche i fenomeni congiunturali. Dei tanti spunti di riflessione offerti dal volume, si menzioneranno qui – per ragioni di spazio – due soli aspetti di carattere metodologico, di particolare utilità per ridare prospettiva al dibattito pubblico attuale.

Il primo è la centralità del linguaggio politico come strumento di analisi della *politics* interna al Partito-Stato. Il volume di Miranda dimostra ancora una volta quanto lo studio attento, competente del linguaggio politico – lo studio di slogan e “formulazioni” (*tifa* 提法) nel loro evolversi e consolidarsi – costituisca una potente leva per interpretare allineamenti e dinamiche di competizione politica altrimenti imperscrutabili. Il volume è ricchissimo di esempi in tal senso, a partire dall'analisi dei sofisticati aggiustamenti di linguaggio che caratterizzano la complessa fase di transizione dal maoismo: esaminando slogan quali i “due qualsiasi” (*liangge fan shi* 两个凡是), “cercare la verità dai fatti” (*shishi qiushi* 实事求是), “la pratica è l'unico criterio di verità” (*shijian shi zhenli de weiyi biao zhun* 实践是真理的唯一标准), Miranda ci conduce sapientemente attraverso i mutevoli equilibri politici che caratterizzano i due anni intercorsi fra la morte di Mao e il consolidamento del potere di Deng. O, in tempi più recenti, la virata in senso confuciano del linguaggio politico del Partito, che Miranda analizza muovendo da un'attenta disamina dello slogan della “società armoniosa” (*hexie shehui* 和谐社会), considerato non già quale «vuoto slogan di propaganda» (p. 150), bensì quale strumento ideologico ideato da Hu Jintao per marcare una discontinuità rispetto agli sfavillanti anni di Jiang Zemin, accreditare una innovativa variante di «populismo autoritario» (p. 173) e per questa via consolidare, in ultima istanza, la propria posizione ai vertici del Partito-Stato. Pagina dopo pagina, Miranda ci ricorda quanto sia irrinunciabile confrontarsi in modo

diretto con il linguaggio della politica cinese, accedendo alle fonti e interpretandole alla luce tanto delle eredità culturali di lungo corso quanto del contesto politico contingente. Così, anche dettagli apparentemente minori – per esempio la scelta di denominare le *Opere scelte* di Deng Xiaoping *Wenxuan* (文选) anziché *Xuanji* (选集) come le *Opere scelte* di Mao e altri dirigenti del passato – offrono importanti indizi sulle strategie dei principali attori politici e sulle dinamiche di *politics* (p. 109).

Il secondo aspetto di carattere metodologico che si vuole qui sottolineare ha invece a che fare con la periodizzazione. Come detto, Miranda muove dalle «significative aperture degli anni Ottanta» per approdare alla vigilia della cosiddetta “Nuova era” avviata da Xi Jinping al XVIII Congresso nazionale del PCC. Nel guardare alla Cina di oggi, il punto di partenza sono cioè gli anni Ottanta, un decennio decisivo per comprendere gli sviluppi successivi – vale a dire per comprendere perché la Cina abbia intrapreso un percorso che era allora solo uno dei diversi percorsi possibili, come evidente se si compara la traiettoria seguita dai diversi Stati socialisti. Miranda ricostruisce accuratamente il confronto interno al Partito sulle diverse concezioni di riforma, ne esamina il rapporto con le concezioni di democrazia articolate in quegli stessi anni nel mondo intellettuale e con le diverse concezioni di società, a partire dal dibattito sul “pluralismo di interessi” (*liyi duoyuanzhuyi* 利益多元主义) e sul rapporto tra società, Partito e Stato. Come evidenziano i capitoli successivi, quei dibattiti e la loro brusca interruzione nella crisi del 1989 segnano il percorso successivo della Cina, non solo perché la rimozione di Tian’anmen impone la direzione senza possibilità di ripensamenti, ma anche perché i «nodi insoluti» di quel decennio riaffiorano periodicamente nei decenni successivi. Ciò è evidente, per esempio, nelle inconsuete dichiarazioni di Wen Jiabao sulla “riforma del sistema politico” (*zhengzhi tizhi gaige* 政治体制改革), che nel 2010-11 ripropongono – pur nei termini strumentali descritti da Miranda – un tema essenziale dell’agenda riformatrice degli anni Ottanta.

È solo il caso di osservare che, così come sul piano della politica interna, anche sul piano della politica estera gli anni Ottanta rappresentano il punto di partenza imprescindibile cui dobbiamo guardare se vogliamo comprendere la Cina di oggi. Da un lato, è proprio agli anni Ottanta che risale la cesura principale nella percezione cinese del contesto internazionale, vale a dire la fine dell’incombere della minaccia sovietica e dunque l’apertura di nuovi margini di autonomia per la politica estera cinese². Così, proprio agli anni Ottanta risale la linea di politica estera che – pur con significativi aggiustamenti – continua a orientare il comportamento internazionale di Pechino: quella “politica estera indipendente per la pace” (*duli zizhu de heping waijiao zhengce* 独立自主的和平外交政策) non a caso richiamata anche a fondamento della posizione cinese rispetto alla guerra in Ucraina. Dall’altro, è negli anni Ottanta che gli intellettuali cinesi avvertono la necessità di elaborare teorie della politica internazionale che superino la rigida interpretazione strutturale propria del Marxismo-Leninismo, guardando tanto alle teorie delle Relazioni internazionali elaborate in Occidente quanto al pensiero tradizionale cinese sull’ordine internazionale e ad alcuni suoi concetti fondamentali, a partire da quello di *tianxia* (天下). È appunto negli anni Ottanta che hanno avvio un

² Si veda J. Niu, *Hou lengzhan shidai de Zhongguo waijiao* [La diplomazia della Cina nel post-Guerra fredda], Beijing daxue chubanshe, 2009, 26-30.

imponente sforzo di traduzione dei classici delle Relazioni internazionali occidentali e, parallelamente, il tentativo di articolare una “Scuola cinese” di Relazioni internazionali³.

In conclusione, con questo recente volume Marina Miranda offre ancora una volta un contributo importante per un dibattito pubblico sulla Cina contemporanea che sappia andare oltre la congiuntura e collocare la cronaca politica entro linee di tendenza di lungo periodo. Attraverso la ricostruzione dell’ideologia del Partito, della sua evoluzione e del rapporto con la questione della riforma politica, il volume sottrae la Cina di oggi alle rappresentazioni essenzializzanti prevalenti in larga parte del dibattito e la restituisce alla sua natura di prodotto di una specifica evoluzione storico-politica – prodotto, cioè, di specifiche condizioni storiche, di specifici dibattiti intellettuali, di specifiche scelte politiche. Anche per questo motivo sarà di grande interesse il successivo studio che l’Autrice annuncia nell’Introduzione, interamente dedicato alla “Nuova era” di Xi Jinping.

³ Si veda P. Lu, *Chinese IR Sino-centrism tradition and its influence on the Chinese School Movement*, in *The Pacific Review*, Vol. 32, No. 2, 2019.

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**A vueltas con el populismo de izquierdas de
Podemos: un estado del debate a diez años de su
fundación**

J.M. De Lara Vázquez

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Revisión. A vueltas con el populismo de izquierdas de Podemos: un estado del debate a diez años de su fundación.

*Juan M. de Lara Vázquez**

Manuel Álvarez Tardío & Javier Redondo Rodelas (coord.), *Podemos. Cuando lo nuevo se hace viejo*, Madrid, Tecnos, 2019.

Manuel Alcántara Sáez & José Manuel Rivas Otero (coord.), *Los orígenes latinoamericanos de Podemos*, Madrid, Tecnos, 2019.

Francesco Campolongo & Loris Caruso, *Podemos e il populismo di sinistra. Dalla protesta al Governo*, Milano, Meltemi, 2021.

Raffaella Fitipaldi, *Podemos. Un profilo organizzativo*, Milano, Meltemi, 2021.

Andrés de Francisco & Francisco Herreros, *Podemos, izquierda y "nueva política"*, El Viejo Topo, Barcelona, 2022.

El análisis de cualquier fenómeno político contemporáneo presenta siempre una serie de dificultades, de las que muchos estudiosos prefieren alejarse todo lo posible a la espera de que el tiempo permita un mayor distanciamiento emocional de la materia estudiada. En enero de 2024 se cumplen diez años desde la fundación del partido español Podemos, a lo largo de los cuales se han sucedido numerosas publicaciones, tanto de corte periodístico como ensayos de tipo académico. Algunos ejemplos son los trabajos de Müller, Fernández Albertos, Iglesias y Torreblanca. Entre las más recientes, en los últimos años han aparecido, tanto en lengua italiana como en español, los títulos que aquí se presentan¹. Otros límites, que han señalado acertadamente en su trabajo Andrés de Francisco y Francisco Herreros, es el de la dificultad de encontrar datos y la polarización que aún existe a favor y en contra del partido aquí analizado por parte de muchos de los estudios académicos (p. 9).

A lo largo de los años se ha ido perfeccionando la capacidad de los estudiosos de establecer una periodización clara de la evolución de la agrupación, así como una categorización de los elementos más reconocibles del partido. Una de las características principales que acomunan estas investigaciones es el esfuerzo de todos los autores por esbozar un recorrido histórico del partido desde su fundación hasta hoy. El volumen

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¹ Los dos textos que aquí se incluyen de la editorial Meltemi han sido reseñados en lengua italiana por la profesora Annarita Criscitello, *Alla ricerca della sinistra (populista) perduta. Tre letture sul caso Podemos*, en *Quaderni di scienza politica*, XXVIII, 2021, pp.241-252. Se agradece a la profesora el haberme facilitado el documento.

coordinado por Manuel Alcántara Sáez e José Manuel Rivas Otero, en este sentido, es el trabajo que más espacio ha dedicado a la cuestión, diferenciándose de los demás por la capacidad de crear un hilo narrativo que permite al lector entender la conexión que existe entre las influencias hispanoamericanas y el movimiento del 15 M en España. Al mismo tiempo es el que más se ha adentrado en el análisis de las relaciones políticas, académicas y profesionales de los fundadores de Podemos con Iberoamérica. Resulta muy interesante el hecho resaltado por el cual ha sido la primera vez en la historia en la que España ha recibido influjos del otro lado del océano y no viceversa: «A lo largo de prácticamente dos siglos de relaciones entre los países latinoamericanos y España este escenario es insólito y cabe referirse a él como una venturosa epifanía en la que, por primera vez en su historia, una formación política española bebe sus fuentes en experiencias llevadas a cabo al otro lado del Atlántico» (p. 12). Entre los textos italianos destaca particularmente el de Raffaella Fittipaldi porque demuestra un buen conocimiento histórico de la realidad española, incluso de los siglos XIX y XX, aspecto para nada descontado y que salta a la vista del lector. Puede que, como consecuencia de ello, a la hora de categorizar y colocar a las nuevas formaciones políticas como Ciudadanos, Podemos y Vox es más precisa y demuestra un buen dominio de la bibliografía.

Un importante segundo aspecto en el que se han concentrado todos estos trabajos, pero en el que difieren en sus conclusiones, es el de la naturaleza populista de la formación morada. La dificultad terminológica que plantea el "populismo" lleva a los estudiosos a abordarlo desde diferentes perspectivas: lingüística, substancial en base a los contenidos ideológicos, y desde un punto de vista comparativo social y organizativo. De particular interés es el punto de partida adoptado por Fittipaldi: «il populismo è una in-definizione» (p. 7), que la lleva a afirmar que la lógica y el discurso populista han sido aplicados por Podemos para inventar un nuevo sujeto político. Para la estudiosa italiana «il populismo è stato – e in parte continua ad essere – una chiave di volta per la rappresentazione del conflitto sociale, emerso dalla globalizzazione neoliberista. Il ruolo della logica populista è stato fondamentale per la costruzione di una nuova impresa politica e di un nuovo senso comune ad essa annesso. Allo stesso modo ha rappresentato un vettore essenziale per la ricerca e la strutturazione della base di elettori e attivisti» (p. 176). Por ende, afirma que la estrategia populista de Podemos se asemeja a una cultura política e ideológica de izquierdas, afirmación con la que concuerdan los autores del libro de Álvarez Tardío y Redondo Rodelas, según los cuales sería más propio inscribir el populismo de Podemos dentro de un populismo de matriz marxista o más sencillamente “neomarxista” (p. 22). Sucesivamente afirman que Podemos busca «radicalizar la democracia, hacerla real, inclusiva, extensiva y participativa para eliminar las desigualdades y favorecer la emancipación de la clase obrera, ahora del pueblo o clases populares [...] el nuevo marxismo difiere del ortodoxo en que asume que la toma del poder no será revolucionaria [...] El neomarxismo ha sustituido las nociones de explotación y acumulación por otras como *tecnocratismo* y especulación. Por último, el nuevo marxismo reconoce que el anticapitalismo ha desaparecido; por eso, insistimos, pugna por arrebatar la democracia. Si bien, converge con los movimientos anticapitalistas» (pp. 32-33). Partiendo de una crítica desde la “izquierda” los estudiosos de Francisco y Herreros consideran que en el caso de Podemos la «actividad política tradicional de los partidos de izquierda se ha abandonado y sustituido por una estrategia de comunicación especializada en la tele-mercadotecnia» (p. 50) y concuerdan con los otros autores cuando afirman que no parece

haber en Podemos ninguna nueva política radical (p. 88), llegando a afirmar rotundamente que «Pablo Iglesias, siete años después de la presentación oficial del partido, y tras duras guerras internas, era el líder absoluto de una organización que no sólo no tiene nada que ver con la democracia radical, participativa y deliberativa, ansiada por el 15M, sino que es una negación perfecta de dicha democracia» (p. 104). Contrariamente, Campolongo y Caruso, en su intento de demostrar, a través del intenso debate científico, la naturaleza del partido, consideran que Podemos ha sido el primer grupo político «dell'area della sinistra europea ad assumere le sfide della sfera pubblica mediatizzata in termini efficaci e iperprofessionalizzati, a costo di numerose contraddizioni che animeranno il dibattito e lo scontro interno» (p. 13). Por ello intentan entender cómo se comporta Podemos ante las fracturas sociales tradicionales y qué líneas de ruptura presenta, es decir las contraposiciones y dicotomías sobre las que se basa su discurso. Por otro lado, intentan colocarlo dentro del panorama de las izquierdas para decidir si en este caso el populismo puede servir como categoría para describir su naturaleza. Llegan a la conclusión de que la etiqueta de populismo es poco útil a la hora de describir al partido porque no sirve para comprender ni su naturaleza ni sus objetivos: «La proposta politica di Podemos è quella di una socialdemocrazia radicale, e più che populista può essere definita “popolare”. Una distinzione, quella tra populista e popolare, che sarebbe bene reintrodurre nel dibattito attuale, e che non è pensabile nei termini proposti dalla letteratura accademica, che non contempla l'esistenza di una politica popolare o, al meglio, la equipara alla politica populista (“inclusiva”), squalificandola, quasi sempre accusandola di anti-liberalismo quando non di anti-costituzionalismo e antidemocraticità» (pp. 241-242).

El tercer aspecto analizado, que acomuna todos estos trabajos, es la naturaleza de Podemos: ¿partido o movimiento? Raffaella Fittipaldi se pregunta si la formula de partido-movimiento puede representar el *statu nascenti* o en cambio la cristalización de un modelo que se caracteriza por el ser híbrido (p. 21). En su análisis llega a la conclusión de que Podemos adoptó ese tipo de modelo en su fase inicial de manera funcional para emerger en la escena política española e internacional. Seguidamente «Podemos si è progressivamente spostato su terreni più conosciuti, approdando forse a porti più sicuri e adeguati a garantirne l'istituzionalizzazione» (p. 182). El quinto capítulo del libro de Campolongo y Caruso ofrece, a través del estudio comparativo de los documentos de los diferentes congresos del partido, un interesante análisis de las diferentes propuestas de organización. Gracias a este capítulo, que destaca respecto a los demás textos, se ofrece al lector una panorámica capaz de explicar luego las causas de las diatribas internas y las escisiones que siguieron. De Franciso y Herreros, si bien aparentemente no entran directamente a responder a esta pregunta recorren a través de los contenidos ideológicos la evolución de la formación. Desde una perspectiva más crítica Redondo Rodelas explica la manera en que, inicialmente, algunos fundadores, como Íñigo Errejón y Pablo Iglesias, coincidieron en considerar a Podemos como un movimiento. Los experimentos de candidaturas populares como la CUP (Candidatures de Unitat Popular) en Cataluña, complementados con colectivos anticapitalistas fueron un laboratorio de trabajo que inspiraron a los futuros líderes de Podemos. El estudioso, al esbozar las características esenciales y clásicas del partido-movimiento, las relaciona con la concepción de la organización que los fundadores utilizaron en términos gramscianos, o incluso desde una perspectiva bolchevique (p. 63).

Más allá de estos tres puntos comunes hay que reseñar que los textos demuestran un gran interés y una creciente vitalidad académica hacia este fenómeno político, lo cual parece indicar que la cuestión seguirá siendo objeto de estudio en el futuro. Algunas consideraciones finales que se pueden resaltar tienen que ver con los elementos innovadores que presentan los autores. Es apreciable, por ejemplo, en la tercera parte del texto de la editorial el Viejo Topo, el intento de hipotetizar la conexión entre Schmitt y Podemos, pero no queda del todo probada, a juicio de quien aquí escribe, o por lo menos no se entienden bien los pasajes lógicos que llevan a los autores a esta afirmación. El riesgo es el de acometer una *reductio ad Schmitt* exacerbada con el consiguiente problema de contemplarlo todo bajo el mismo prisma perdiéndose así la complejidad del análisis. Aun así, este bloque es el más válido y, como es normal, el más problemático porque, si bien es cierto que los autores advierten que conectan a Podemos con el Schmitt de los años Veinte y Treinta del siglo pasado, es también cierto que no se puede reducir la complejidad de su pensamiento solo a ese periodo. En cambio, respecto a las demás inspiraciones políticas, los autores de todos los textos coinciden en que es innegable la profunda influencia ejercida por el continente americano en el pensamiento que dio origen a Podemos, al menos en lo que se refiere a Bolivia, Ecuador y Venezuela. Los autores demuestran un profundo conocimiento de los temas estudiados, así como de los autores que los inspiraron.

En conclusión, se puede afirmar que es inevitable que pueda desprenderse y adivinarse la simpatía o antipatía hacia el sujeto estudiado por parte de los autores, pero solo algunos, a día de hoy, consiguen alejarse lo suficientemente para acometer una investigación útil para comprender el fenómeno de forma aséptica. Aun así, todavía habrá que esperar más tiempo y saldrán muchas más investigaciones que abran nuevas pistas de investigación.