

# GLOBAL JOURNAL OF HUMAN SOCIAL SCIENCES: F

## Political Science



Contemporary International Law

Narratives of FEMICIDE in TJMG Decisions

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## CONTENTS OF THE ISSUE

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- i. Copyright Notice
  - ii. Editorial Board Members
  - iii. Chief Author and Dean
  - iv. Contents of the Issue
- 
- 1. Where and Why are Women being Murdered? Analysing Narratives of Femicide in TJMG Decisions. **1-19**
  - 2. The IMF or the AMF: Defining the Future of Financing for Investment and Development Projects in Africa. **21-28**
  - 3. China's Struggle against Covid-19: Crisis Management under Analysis. **29-34**
  - 4. Ballistic Missiles under Contemporary International Law. **35-42**
  - 5. From Incompatibility to Incommensurability: Notes on Isaiah Berlin's Value Pluralism. **43-48**
  - 6. Results of the Election Campaign to the State Duma of the Russian Federation and the Reasons for the Absence of Opposition among Russian Voters Living Outside of it (For Example, Israel). **49-53**
  - 7. Snippets of India's Polar Research. **55-59**
- 
- v. Fellows
  - vi. Auxiliary Memberships
  - vii. Preferred Author Guidelines
  - viii. Index



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## Where and Why are Women being Murdered? Analysing Narratives of Femicide in TJMG Decisions

By Luiz Antonio Soares Júnior  
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**Abstract-** The present work, which is part of the research carried out for my master's degree, aims to discuss the most common motivations and places of femicide in Minas Gerais, according to an analysis of data from processes that reached the Jury Court between 2015 and 2019. From this analysis, it is also possible to think about the importance of implementing public policies to combat it. As a result of the research, it is observed that femicide should be analysed as a social phenomenon that arises from a society that, even today, reveals asymmetries linked to gender, understood here as an analytical category that expands the understanding of social relations and the construction/learning of masculinity. It is also noted that feminism had a great relevance against femicide and against other forms of violence against women.

**Keywords:** *femicide; feminism; violence against women; gender.*

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# Where and Why are Women being Murdered? Analysing Narratives of Femicide in TJMG Decisions

Onde e Por Que as Mulheres Estão Sendo Assassinas? Analisando Narrativas de Feminicídio em Decisões do TJMG

Luiz Antonio Soares Júnior

**Resumo-** O presente trabalho, que faz parte da pesquisa realizada para o meu mestrado, tem como objetivo discutir as motivações e os locais de feminicídio mais frequentes em Minas Gerais, a partir de uma análise de dados de processos que chegaram ao Tribunal do Júri entre 2015 e 2019 neste estado brasileiro. A partir dessa análise, também é possível pensar na importância da implementação de políticas públicas para combater este crime. Como resultado da pesquisa, observa-se que o feminicídio deve ser analisado como um fenômeno social que surge de uma sociedade que, ainda hoje, revela assimetrias vinculadas ao gênero, sendo que gênero é entendido aqui como uma categoria analítica que amplia a compreensão das relações sociais e a construção/aprendizagem da própria masculinidade. É observado que o feminismo teve grande relevância contra o feminicídio e contra outras formas de violência contra as mulheres.

**Palavras-chave:** feminicídio; feminismo; violência contra as mulheres; gênero.

**Abstract-** The present work, which is part of the research carried out for my master's degree, aims to discuss the most common motivations and places of femicide in Minas Gerais, according to an analysis of data from processes that reached the Jury Court between 2015 and 2019. From this analysis, it is also possible to think about the importance of implementing public policies to combat it. As a result of the research, it is observed that femicide should be analysed as a social phenomenon that arises from a society that, even today, reveals asymmetries linked to gender, understood here as an analytical category that expands the understanding of social relations and the construction/learning of masculinity. It is also noted that feminism had a great relevance against femicide and against other forms of violence against women.

**Keywords:** femicide; feminism; violence against women; gender.

## I. INTRODUÇÃO

Este artigo, que parte de pesquisa realizada pelo autor durante a elaboração da Dissertação do Mestrado em Ciências Sociais, objetiva realizar uma análise de possíveis casos de Feminicídio em Minas Gerais (um dos estados da República Federativa

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do Brasil), a partir de 60 sentenças de pronúncia<sup>1</sup> proferidas pelo Tribunal de Justiça de Minas Gerais – TJMG – entre os anos de 2015 e 2019, que se referiam a agressões e/ou feminicídios realizados contra mulheres cisgêneras<sup>2</sup>. A partir disso, este artigo focaliza na análise das *principais motivações e dos locais mais frequentes* dessas agressões.

Historicamente, mulheres são agredidas e assassinadas no Brasil, na maioria esmagadora das vezes, pelo simples fato de serem mulheres. Tal fenômeno, no entanto, nem sempre recebeu a atenção devida. Um marco da discussão sobre a violência doméstica foi a promulgação da Lei 11.340, de 2006,<sup>3</sup> que ficou conhecida como *Lei Maria da Penha*<sup>3</sup> (BRASIL, 2006). Quase dez anos depois daquela Lei, foi promulgada, em 2015, a lei 13.104, mais conhecida como Lei do Femicídio, que incluiu no Código Penal Brasileiro o feminicídio como qualificadora do crime de homicídio, ou seja, do assassinato ou tentativa de assassinato contra mulher por razões da condição de sexo feminino (BRASIL, 1940; BRASIL, 2015):

A PRESIDENTA DA REPÚBLICA. Faço saber que o Congresso Nacional decreta e eu sanciono a seguinte Lei:  
Art. 1º: O art. 121 do Decreto-Lei nº 2.848, de 7 de

<sup>1</sup> A sentença de pronúncia é, no Brasil, aquela que determina o encaminhamento do réu ao Tribunal do Júri devido à suspeita de crime doloso contra a vida, tal como ocorre em casos como os de feminicídio. Contudo, deve-se ressaltar que um Juiz criminal brasileiro e o Tribunal do Júri brasileiro não têm a mesma dimensão do Júri americano. Sua estruturação é diversa. Competirá ao Tribunal do Júri de Minas Gerais analisar se de fato ocorreu o feminicídio ou se ocorreu um homicídio, sem a qualificadora, ou, por exemplo, lesões corporais.

<sup>2</sup> Mulheres cisgêneras, ou mulheres cis, são aquelas que identificam uma concordância entre a identidade de gênero delas e o gênero que foi atribuído junto ao nascimento delas, diferentemente das mulheres trans, que não se identificam com o gênero atribuído com o nascimento delas.

<sup>3</sup> Sancionada pelo então Presidente da República Luiz Inácio Lula da Silva, esta lei derivou de convenções internacionais tais como a Convenção de Belém do Pará e a Convenção sobre a Eliminação de Todas as Formas de Discriminação contra a Mulher; de pacto internacional, como o Pacto de San José da Costa Rica e da Declaração Americana dos Direitos e Deveres do Homem. Recebeu esta denominação popularmente conhecida devido ao nome de uma farmacêutica bioquímica que sofreu inúmeras agressões do companheiro (BANDEIRA; ALMEIDA, 2015) (OEA, 1994) (ONU, 1979), o que será melhor argumentado posteriormente.



dezembro de 1940 - Código Penal, passa a vigorar com a seguinte redação: "Homicídio simples. Art. 121. .... Homicídio qualificado §2º .... Feminicídio VI - contra a mulher por razões da condição de sexo feminino: ....§ 2º-A Considera-se que há razões de condição de sexo feminino quando o crime envolve: I - violência doméstica e familiar; II - menosprezo ou discriminação à condição de mulher. (BRASIL, 2015).

Como apontado, o objetivo deste artigo é analisar as sentenças de pronúncia de casos de violência contra as mulheres (feminicídio) com foco nas principais motivações e principais locais do crime – tudo, como dito, de acordo com as narrativas de tais sentenças (logo, não de todas as peças processuais existentes em um mesmo processo; até porque estes processos não se finalizaram). Assim, serão discutidas justificativas dadas pelos agressores/ feminicidas para a realização deste crime em alguns casos selecionados dentre o universo utilizado (ou seja, dentre as 60 sentenças). Em relação ao questionamento de *onde elas estão sendo assassinadas*, se trabalhará com: o interior da residência; locais próximos à residência; ambientes comerciais; a zona rural; e a via pública.

Para realizar a discussão proposta, o texto será dividido em três capítulos além da introdução, até se chegar às considerações finais. No primeiro capítulo após a introdução, serão discutidas as principais motivações para o cometimento de feminicídios no estado de Minas Gerais, Brasil, transcrevendo-se,

*Quadro 01: Os 60 Casos de Feminicídio levados ao Júri do TJMG entre 2015-2019<sup>4</sup>*

ANO	CASOS	NOME FICTÍCIO DAS VÍTIMAS	ANO	CASOS	NOME FICTÍCIO DAS VÍTIMAS
2015	CASO 01	Bárbara	2017	CASO 33	Alana
	CASO 02	Danielle		CASO 34	Bianca
	CASO 03	Débora		CASO 35	Bruna
	CASO 04	Eunice		CASO 36	Esther
	CASO 05	Giovana		CASO 37	Gislaine
	CASO 06	Hosana		CASO 38	Iara
	CASO 07	Joana		CASO 39	Lavínia, Lindaura, e Ludmila
	CASO 08	Karla		CASO 40	Lia
	CASO 09	Marta		CASO 41	Natália
	CASO 10	Paula		CASO 42	Nicole
	CASO 11	Poliana		CASO 43	Ohana
	CASO 12	Ruth		CASO 44	Quéren
	CASO 13	Sarah e Silvia		CASO 45	Rebeca
	CASO 14	Tainara		CASO 46	Xênia
	CASO 15	Uilly		CASO 47	Zilmma
	CASO 16	Vanessa e Vicentina		CASO 48	Alice
	CASO 17	Anastácia		CASO 49	Camila
	CASO 18	Catharina		CASO 50	Clara
	CASO 19	Fernanda		CASO 51	Dulce
2016			2018		

<sup>4</sup> Com o intuito de manter o *anonimato*, foram alterados e/ou ocultados os nomes das vítimas e dos agressores, mesmo que as sentenças sejam públicas; e para cada caso analisado, foi dado um número, aleatório, não necessariamente correspondente à ordem em que as sentenças foram encontradas e/ou publicadas. Agrupou-se, entretanto, as sentenças de pronúncia de acordo com o ano do crime.

inclusive, trechos de algumas das sentenças analisadas; já no segundo capítulo após a introdução será tratada a relação entre o movimento feminista e a visibilidade da violência contra as mulheres; seguido do último capítulo antes das considerações finais no qual serão analisados os locais de maior ocorrência das agressões/feminicídios em Minas Gerais.

## II. AS PRINCIPAIS MOTIVAÇÕES PRESENTES NOS CASOS ANALISADOS

Durante a pesquisa, foi encontrado o “caso Anastácia”<sup>4</sup>, caso que possibilitou trazer as seguintes impressões: o relato revela que se atrela à ideia de morte a compreensão de que esta seria uma eventualidade decorrente de ciúmes após o consumo de bebida alcoólica e/ou uso de drogas, o que levaria a um “atrito” entre o casal com um desfecho que pareceria comum em um cenário brasileiro.

Contudo, em uma análise mais profunda, percebe-se que os estereótipos relacionados ao gênero, como a ideia de que os homens não podem ser “traídos” devido a uma honra – pessoal e masculina – que deve ser protegida a todo e qualquer custo; de que mulheres que “traem” não merecem respeito, vinculam-se ao fato de que vivemos em uma sociedade estruturalmente machista onde há uma taxa altíssima de feminicídio, ou seja, assassinatos que são realizados unicamente pelo fato de as vítimas serem mulheres.

CASO 20	Francisca		CASO 52	Elaine
CASO 21	Gláucia e Gil		CASO 53	Fabiana
CASO 22	Helena		CASO 54	Heloísa
CASO 23	Isadora		CASO 55	Karina
CASO 24	Júlia		CASO 56	Maria
CASO 25	Olga		CASO 57	Yasmim
CASO 26	Quitéria		CASO 58	Yohanna
CASO 27	Sofia		CASO 59	Wanda
CASO 28	Tainá		CASO 60	Zélia
CASO 29	Úrsula			
CASO 30	Valentina			
CASO 31	Wendy			
CASO 32	Xayane			

Fonte: elaborado pelo autor

É narrado no “caso Anastácia”, que: “após fazerem uso de certa quantidade de bebida alcoólica e cocaína, bem como manterem relações sexuais, [Anastácia] e o denunciado entraram em atrito em razão de seu relacionamento” tal atrito teria ocorrido principalmente após o denunciado ter ouvido “[de Anastácia] que [Anastácia] o traía”. Assim, “o denunciado, utilizando-se de força física, apertou o pescoço dela com suas mãos, esganando-a até ceifar-lhe a vida”.<sup>5</sup>

Na versão do acusado/denunciado/possível feminicida, “ao chegarmos lá, consumimos todas as latinhas de cerveja, usamos as drogas, ficamos conversando por um certo período e novamente fizemos sexo” entretanto, quando “[Anastácia] já muito chapada, comentou que não estava namorando comigo merda alguma e que tinha me atraído [sic]<sup>6</sup>, então revidei falando que ela era piranha e biskeate” razão pela qual “[Anastácia] avançou em mim, unhando o meu pescoço, neste ato, com a mão direita” o que me levou a pegar “em seu pescoço e comecei apertar até a [Anastácia] ficar mole, em seguida soltei ela e fui com a minha motocicleta [...] , cor vermelha”.

Além deste caso em que o crime ocorreu em razão de suposta traição, outros casos chamam a atenção, ao apontar o ciúme e/ou o *inconformismo com o término do relacionamento* como motivação para o cometimento do crime, como no “caso Quitéria” e no “caso Olga” que são transcritos a seguir:

“Caso Quitéria”: Segundo apuraram as investigações policiais, o denunciado manteve um relacionamento amoroso com a vítima [Quitéria] por aproximadamente um ano e nove meses, intervalo de tempo em que demonstrou ser uma pessoa bastante ciumenta e possessiva, sendo que um mês antes dos fatos, o increpado pôs fim ao namoro. Em várias datas posteriores ao término do relacionamento, o autor procurou a vítima, bem como enviou diversas mensagens por telefone na intenção de

reatar o namoro, ocasiões em que, diante da negativa da vítima em reatar o namoro, ele proferiu diversas ameaças dizendo que iria praticar suicídio e que ela iria se arrepender. A vítima, mesmo assim, se manteve firme e não reatou o relacionamento.

“Caso Olga”: Em juízo, embora admitindo ter agredido a vítima [Olga] com uma faca, tentou justificar que estava com “a cabeça quente”, supondo que era traído pela vítima. Alegou que teria reatado o relacionamento com a vítima há um mês, sem que a família desta soubesse, e que se encontravam no trajeto da vítima quando ela saía do trabalho. Afirmou também que não aceitava a ideia de que a vítima deixava os rapazes com quem ficava, se aproximarem das filhas que tem com o interrogando. Disse que não sabia das medidas protetivas em favor da vítima [...].

A mesma motivação é encontrada no “Caso Poliana”, no qual o *inconformismo com o fim do relacionamento* foi acompanhado por perseguições à vítima e diversas formas de violência; e no “Caso Nicole” no qual o *inconformismo com o término do relacionamento* foi a “justificativa” do assassinato da vítima:

“Caso Poliana”: Narra a exordial acusatória que o acusado, inconformado com o fim de relacionamento, que ocorreu em fevereiro de 2015, vinha perseguinto, reiteradamente, a vítima, praticando contra ela várias formas de violência, sendo que, tentando intimidá-la, ele passou a vigiá-la, seguindo-a para todo o lado, importunando-a, inclusive, no local de trabalho, sempre proferindo palavras ofensivas e fazendo ameaça de morte. Informa a peça inicial que mesmo depois de a vítima [Poliana], ter registrado boletim de ocorrência no dia 19 de maio de 2015, o acusado continuou a importuná-la, até que no dia 14 de julho de 2015, agindo com *animus necandi*, ele, na condução do seu veículo Fiat/Strada, de placas [...], se deslocou até um ponto de ônibus situado nas proximidades da residência de [Poliana], onde permaneceu à espera dela, em verdadeira emboscada. Noticia a peça inaugural que o acusado, assim que viu a vítima atravessando aquela rua, acelerou o veículo e o jogou contra ela, que, sendo projetada para cima, caiu sobre o capô. Ato contínuo, o acusado acelerou ainda mais o veículo, arrastando a vítima por, aproximadamente, treze metros, quando o veículo invadiu um lote vago, o qual não

<sup>5</sup> As frases que se encontram em *italíco* e entre aspas correspondem a trechos de processos do TJMG – Tribunal de Justiça de Minas Gerais – obtidos até abril 2019.

<sup>6</sup> A palavra correta é ‘traído’.



tinha muro frontal, tendo ele só parado quando atingiu o muro lateral daquele lote.

*“Caso Nicole”:* Narra a peça acusatória que, aos 03 de dezembro de 2017, por volta das 21h218min, na Rua [...], o denunciado, de forma voluntária e consciente, agindo com intenção homicida, motivação torpe, mediante surpresa e extrema crueldade, matou sua ex-companheira [Nicole]. Explica que o denunciado decidiu matar a vítima por não aceitar o fim do relacionamento. Para tanto, o acusado monitorou o imóvel onde a ofendida residia, aguardando o momento mais oportuno para assassiná-la. No instante em que percebeu que a vítima estava sozinha na residência, o acusado, de posse de um pedaço de madeira, lá entrou e surpreendeu a vítima, que se encontrava sentada em um banco, deferindo-lhe o primeiro golpe. Em seguida, mesmo com a vítima caída ao solo, o acusado desferiu diversos golpes contra seu rosto, antebraço, mão e região cervical, causando-lhe lesões que foram a causa eficiente da morte. Consta que o crime foi cometido por motivo torpe, pois o réu decidiu praticar o homicídio porque não aceitava o fim do relacionamento amoroso que manteve com a vítima.

A ideia de posse, então, vinculada à tentativa de controle e objetificação da vítima, é encontrada em diferentes casos, portanto. Assim, observa-se, também, que *nem sempre* as agressões ocorrem após duradouros casos amorosos como se poderia pensar.

Nota-se que, no Brasil, o feminicídio é uma qualificadora do tipo penal de homicídio de uma mulher por um homem, em quase totalidade das vezes, pelo fato de ela ser uma mulher<sup>7</sup> (GRECO, 2019). Digo isto, porque em alguns casos (muito poucos) pode ser praticado por mulheres, de modo que nos casos aqui analisados, todos os feminicídios foram praticados por homens contra mulheres *cis*, havendo dois casos em que houve a participação de mulher, embora a nossa interpretação nos leve a compreender que a agressão não tenha sido realizada *diretamente* por ela. Como regra, então, o feminicídio ocorre em razão de um homem se ver no direito de controlar essa mulher e querer puni-la se ela tenta escapar ao controle dele, portanto. O “Caso Danielle” e o “Caso Zilmma”, são os dois casos encontrados em um universo de sessenta casos selecionados, nos quais mulheres teriam participado, de algum modo, nos casos de agressão/Feminicídio.

*“Caso Danielle”:* No dia 31 dezembro de 2015, após as 16:50h, no interior da residência situada na rua [...] o denunciado [NOME], utilizando-se de um objeto perfurocortante sem características definidas, desferiu vários golpes contra [Danielle], que se encontrava grávida, acarretando-lhe as lesões descritas no Relatório de Necropsia de fls. 70/75, ocasionando-lhe sua morte, bem como do feto que [Danielle] trazia no ventre; [...] que, depois de cometidos os crimes, o acusado [NOME] lançou

<sup>7</sup> No Brasil, utiliza-se, na lei de Feminicídio, e, consequentemente, no Código Penal brasileiro (BRASIL, 1940; BRASIL, 2015), o termo *sexo feminino*, e não o termo *gênero feminino*, o que leva à uma forte discussão em solo brasileiro quanto à aplicação ou não desta lei às mulheres *trans*.

os corpos de [Danielle] e do feto no Rio [...], zona Rural [...], como forma de ocultar os cadáveres; [...] que o móvel (motivo) do crime de homicídio seria pelo fato da vítima ter falado para o denunciado [NOME] que iria contar para a sua noiva, [NOME], a segunda denunciada, que tinha um caso com o mesmo, e que se encontrava grávida dele, caracterizando a torpeza do ato; que o crime foi praticado contra mulher por razões da condição de sexo feminino; que a denunciada [NOME], DE ALGUM MODO, concorreu para o crime, onde, pelos indícios colhidos nos autos, foi a incentivadora do crime quando soube da traição e da gravidez da vítima, tanto que o corpo foi levado até a cidade de [...], local de trabalho da mesma, como forma de [NOME], demonstrar a ela [NOME da DENUNCIADA], que tinha cumprido com o combinado: uma espécie da chamada de “ prova de amor” (fls. 02/04).

*“Caso Zilmma”:* [NOME DO DENUNCIADO] e [NOME DA DENUNCIADA], qualificados nos autos, foram denunciados pelo MINISTÉRIO PÚBLICO DE MINAS GERAIS, através do seu Promotor de Justiça em exercício nesta Comarca, como incursos nos artigos 121, §2º, incisos II, III, IV e V, artigo 125 e artigo 211, todos do Código Penal, o primeiro denunciado e como incuso nas sanções do artigo 121, §2º, incisos I, II e IV, artigo 125 e artigo 211, todos do Código Penal, a segunda denunciada, porque, segundo a denúncia, meados do mês de setembro de 2017, acusados adere ajustados, por motivo fútil, asfixia, recurso que impossibilitou a defesa da ofendida e por razões da condição do sexo feminino, mataram [Zilmma]. Consta na denúncia que os acusados e a vítima [Zilmma] formavam um triângulo amoroso, e no fatídico dia, acusado [NOME] de posse de uma faca, esfaqueou a vítima [Zilmma] e, na sequência, valendo-se de uma corda, enforcou-a, asfixiando-a, ao mesmo tempo em que a acusada [NOME] a segurava, reduzindo, assim, sua capacidade de defesa. Em seguida, os acusados envolveram a vítima em um plástico, cavaram um profundo buraco no quintal da residência e ocultaram o corpo que só veio a ser descoberto em 15/06/2018. Consta ainda na denúncia que a vítima estava grávida, o que causou a interrupção da gravidez contra a vontade da gestante.

Contudo, enfatizo que no universo de sessenta casos, *homens* foram os responsáveis pela tentativa ou morte de mulheres em *todos os outros casos*. Todavia, nota-se que o fim do relacionamento é, por vezes, a base da argumentação da motivação do crime; e que nem a gravidez é impeditiva para a realização dos ataques: ela pode, inclusive, ser a razão de ataques – observando a questão de uma triangulação amorosa, por exemplo.

*“Caso Uilly”:* Ainda, de acordo com [...], instantes após, por volta das 23 horas, o denunciado retornou para casa, situada no endereço retomencionado e, ao ouvir da vítima que esta realmente desejava terminar o relacionamento, retirou uma faca do bolso de sua calça, e, passou a desferir várias facadas contra o peito e o rosto de [ULLY], causando-lhe as lesões descritas no ACD de fls. 40, dando assim início a um crime de homicídio, por razões da condição do sexo feminino, já que envolveu violência doméstica e familiar, só não o consumando por circunstâncias alheias à sua vontade, pois a vítima

conseguiu se desvencilhar e se evadir do local, sendo socorrida pela testemunha [...] e levada à Unidade de Pronto Atendimento desta cidade, local onde foi submetida à intervenção médica que evitou sua morte.

Neste sentido, SANEMATSU (2019), aliás, já havia explicitado a violência doméstica contra gestantes, alertando, inclusive, que essa violência afeta também o feto, como analisamos que aconteceu com Heloísa que, aliás, revela que alguns homens coisificam as mulheres, tratando-as como objeto.

*“Caso Heloísa”*: [...] o acusado, livre e conscientemente, com *animus necandi*, por motivo fútil e razões da condição de sexo feminino, com emprego de meio cruel e mediante utilização de recurso que dificultou a defesa da ofendida, tentou matar a vítima [HELOÍSA], sua companheira, a qual estava grávida, golpeando-a com murros e chutes nas regiões da face, cabeça, joelho, tornozelo e perna direita, além de empurrá-la contra uma mesa, não consumando o delito por circunstâncias alheias a sua vontade.

Assim, há a seguinte versão nos autos:

*“Caso Heloísa”:* [...] QUE durante operação de batida policial, visualizamos um indivíduo sair correndo de uma residência localizada na Rua [...], de imediato as guarnições avançaram em direção ao mesmo a fim de abordá-lo, contudo, ao passar em frente ao número [...], foram ouvidos gritos e pedidos de socorro de uma mulher. Uma das guarnições prestou socorro à mulher, enquanto a outra GURP deslocou no intuito de abordar o indivíduo. Dentro da residência, deparamos com a Sra. [HELOÍSA], grávida de 7 meses, em trabalho de parto, com diversas lesões pelo corpo, atordoada com os ferimentos, principalmente na região do rosto, com a boca bastante inchada, dentes sangrando, e chorando. Segundo ela, havia sido agredida por seu amásio<sup>8</sup>, o indivíduo de nome [...], conhecido no meio policial como “[APELIDO DO ACUSADO]” – autor de diversos crimes, com ficha criminal extensa [...]

Mesmo policiais podem cometer feminicídio, como em um dos casos analisados, em que o agressor, além de tudo, teria usado uma viatura policial para praticar o crime:

*“Caso Bárbara”:* No dia e hora constantes da denúncia, o acusado, movido por ciúmes, telefonou para a vítima [BÁRBARA] dizendo que iria até a sua casa para matá-la. Ato contínuo, o acusado, na condução de uma viatura oficial da Polícia Civil do Estado de Minas Gerais, veículo [...] de placas [...], foi para o Condomínio e lá chegando, após forçar a porta de entrada e danificar o sistema de travamento, logrou alcançar a segunda porta que dá acesso ao prédio, pelo que chutando-a conseguiu abri-la, pelo que dirigiu-se até o apartamento da vítima, onde, de forma violenta, arrombou a porta de entrada, tendo, assim, acesso ao seu interior. Determinado a cumprir o que dissera para a vítima pelo telefone, o acusado desferiu dois tiros em direção à copa, onde a vítima se encontrava. Diante disso, a vítima refugiou-se no banheiro do

apartamento, sendo perseguida pelo increpado que desferiu dois tiros contra a porta do referido cômodo visando atingi-la. Contudo, a vítima que é também Policial civil, revidou com disparos efetuados com sua arma .40, do patrimônio da PCMG, um dos quais acertou o braço esquerdo do acusado que, em razão desse ferimento, evadiu-se do local. Acionada a Polícia Militar logrou autuar o acusado em flagrante delito, pelo que apresentando-o à autoridade policial competente.

Já nas relações conjugais em que há as “correções”, ou “atos corretivos”, percebe-se que os maridos ou companheiros tendem a narrar seu comportamento agressivo, dizendo que *avisaram primeiramente; chegaram a conversar; e depois de não terem sido obedecidos, agrediram* (MINAYO, 2005). Essa narrativa é um passo-a-passo que pode resultar no feminicídio; e que perpassa pelo denominado *ciclo de violência*<sup>9</sup>.

Mediante essa “justificativa/argumentação” e a análise do ciclo da violência, o que se nota é uma desumanização da mulher por parte dos homens agressores: como dispõe a lei, matam “por razões do sexo feminino” (BRASIL, 2015).

O “caso Júlia” revela a dificuldade que, por vezes, as mulheres enfrentam em relação a sua proteção e ao rompimento deste ciclo de violência. Por diversas vezes, perseguida pelo ex-companheiro (o acusado), Júlia teria procurado a polícia, sem ser de fato atendida. Neste caso Júlia, há o seguinte relato realizado por uma declarante. Vejamos:

“Caso Júlia”: QUE [JÚLIA] foi companheira de [ACUSADO] conhecido como [NOME], desde os 15 anos dela, isso é, por cerca de 20 anos; QUE, juntos, [JÚLIA] e [ACUSADO] tiveram sete filhos, sendo o mais novo de cerca de 01 ano e a mais velha cerca de 18 anos; QUE os filhos, por decisão judicial, já moravam com terceiros, eis que tanto [JÚLIA], quanto [ACUSADO], já foram presos e eram usuários de drogas; QUE, assim, somente o filho mais novo, [...], de um ano, morava com [JÚLIA]; QUE [JÚLIA] morava com a declarante, desde que saiu da APAC; QUE há cerca de 04 meses, [JULIA] saiu da APAC e [ACUSADO] tentou reatar o relacionamento com ela; QUE os dois, contra a vontade da declarante, tentaram reatar por um tempo, mas [ACUSADO] sempre foi muito ciumento e agressivo, além de ser usuário de drogas e álcool; QUE, por esse motivo, [JÚLIA] terminou o relacionamento com ele, mas [ACUSADO] sempre a procurava, tentando reatar e para ver o [FILHO]; QUE por várias vezes a [JÚLIA], agredida ou ameaçada, chamou a Polícia militar, mas nunca fora tomada nenhuma providência, de modo que ela parou de

<sup>8</sup> Expressão que seria mais bem empregada quando substituída por termos como *companheiro/a* ou *unido/a*. Amálio/amásia, na maioria das vezes, acarreta a discriminação às mulheres.

<sup>9</sup> Este ciclo pode ser, bem resumidamente, dividido em três fases: na primeira fase, há o *aumento da tensão* na qual aparecem argumentações baseadas em fatos insignificantes, ocorrem humilhações, ameaças e destruições de objetos da vítima; na segunda fase há o *ato de violência* na qual ocorre a explosão do agressor, levando a atos de agressão à vítima, que podem ser físicas ou não-físicas: verbal/psicológica/moral/patrimonial; na terceira fase ocorre o *arrependimento*, que, por muitas vezes leva ao retorno à primeira fase, formando um ciclo que não se cansa de se repetir. (IMP, 2021).

acionar a Polícia quando as ameaças e agressões ocorriam; QUE, recentemente, [JÚLIA] terminou definitivamente seu relacionamento com [ACUSADO], quando ele passou a dizer que “se ela não ficasse com ele, não ficaria com mais ninguém”; QUE mesmo assim, [JÚLIA] passou a se relacionar com [NOVO COMPANHEIRO], conhecido como [NOVO COMPANHEIRO]; QUE na última sexta feira, a declarante foi chamada para um evento e convidou [JÚLIA] para ir, tendo a mesma convidado o [NOVO COMPANHEIRO]; QUE foram os três juntos para o centro de convenções; QUE ao terminar o evento, quando iam embora, depararam-se com [ACUSADO] na esquina, esperando pelos três; QUE [ACUSADO], desde logo, começou a interpelar [JÚLIA] o que ela estava fazendo e sobre quem era [NOVO COMPANHEIRO]; QUE a declarante e [NOVO COMPANHEIRO], vendo que [ACUSADO] estava exaltado, abraçaram [JÚLIA], cada um de um lado, para protegê-la; QUE mesmo assim, num determinado momento, [ACUSADO] conseguiu agredir [JÚLIA], quando o [NOVO COMPANHEIRO] entrou na briga para defendê-la, quando, então [JÚLIA] e [NOVO COMPANHEIRO], se defendendo, agrediram [ACUSADO], e [ACUSADO], por seu turno, enciumado, agrediu os dois; QUE nesse momento, [JÚLIA] disse para [ACUSADO] que estava mesmo namorando com [NOVO COMPANHEIRO], quando [ACUSADO] foi embora, nervoso e dizendo que “ia pega-la, que ela ia ver”; QUE durante a briga, a declarante tentou acionar a Polícia Militar, infrutiferamente; QUE após algum tempo, a declarante viu [ACUSADO] chamando a [JULIA], que disse que não abriria a porta; QUE, [ACUSADO] chamou por três vezes, e, em todas elas, [JÚLIA] se recusou a abrir a porta; QUE, então, [ACUSADO] arrombou a porta com um chute e já adentrou a casa armado com uma faca, agredindo [JULIA] e [NOVO COMPANHEIRO]; QUE [JÚLIA] e [NOVO COMPANHEIRO] tentaram se defender, agredindo [ACUSADO] também; QUE a declarante ouviu um barulho e foi ao local, mas não conseguiu passar, eis

que a porta arrombada a impediu; QUE, num determinado momento, a declarante viu que [JÚLIA], [NOVO COMPANHEIRO] e [ACUSADO] estavam sangrando, sendo que o [NOVO COMPANHEIRO] ficou caído no chão da sala; QUE a declarante correu para a rua e chamou ajuda, mas ninguém ajudou, embora estivessem várias pessoas na rua; QUE a [JÚLIA] correu para uma esquina e o [ACUSADO], com a faca, correu atrás; QUE [ACUSADO] conseguiu alcançá-la e, após derrubá-la, nela desferiu várias facadas, matando-a; QUE a declarante tentou prestar socorro, mas ninguém na rua ajudou; QUE [ACUSADO] fugiu do local, sozinho; QUE desde então [ACUSADO] encontra-se escondido; QUE mesmo escondido, ele entra em contato com os filhos, por telefone, mas sem revelar seu paradeiro; QUE [ACUSADO] disse que matará a declarante e que terminará de matar o [NOVO COMPANHEIRO]; QUE a declarante teme por sua segurança e, por isso, pede providências imediatas. (...)

As agressões na maioria das vezes são persistentes, como se vê no “caso de Valentina”:

“Caso Valentina”: Ainda segundo a denúncia, no dia, horário e local acima descritos, os policiais foram acionados pelo Hospital Municipal [...], onde a vítima relatou que há aproximadamente oito meses vinha sendo agredida por seu companheiro e que naquela data ele tinha deferindo-lhe um golpe com uma “enxada” na cabeça, provocando um corte profundo.

Percebe-se, também, que as relações entre homens e mulheres “estão engendradas”, como argumenta MESQUITA (2016, p. 259). Há uma historicidade das relações de poder e dominação, portanto, por trás das violências contra as mulheres, especialmente no âmbito doméstico. Em um quadro e em um gráfico comparativos, podemos assim entender as principais motivações para o crime:

*Quadro 02: As principais motivações dos 60 casos analisados*

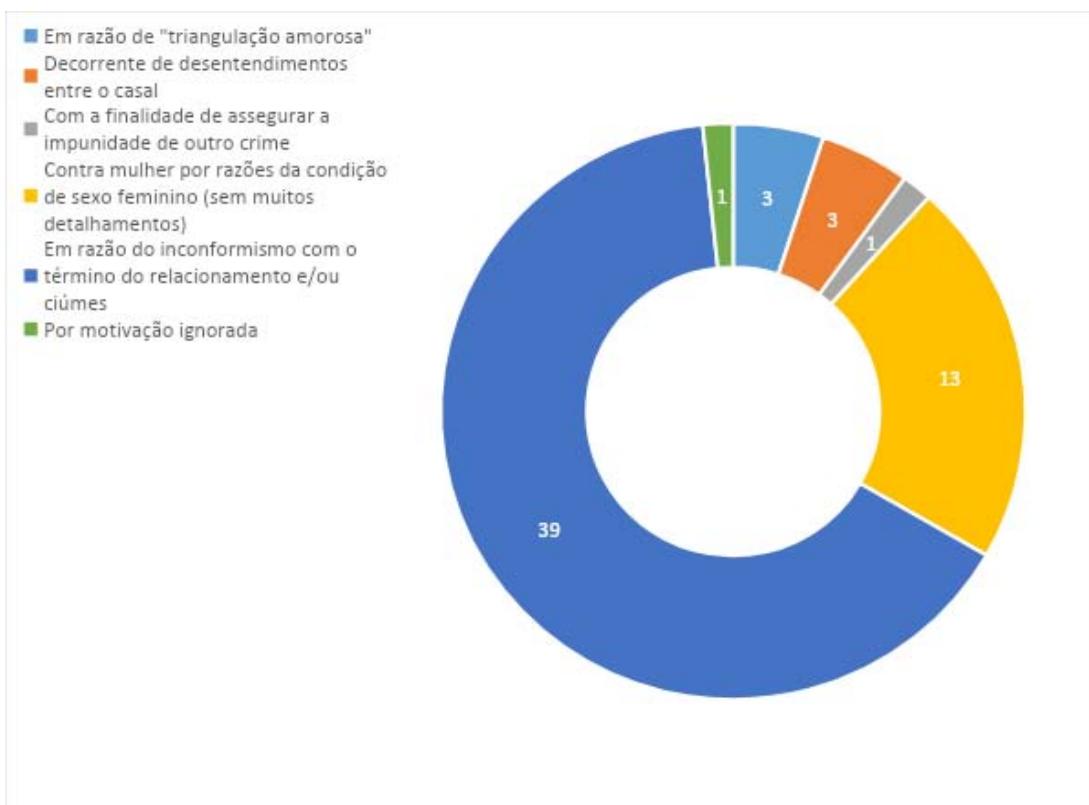
ANO	CASOS	NOME FICTÍCIO DAS VÍTIMAS	PRINCIPAIS MOTIVAÇÕES ALEGADAS NO PROCESSO PELOS ACUSADOS DAS AGRESSÕES/FEMINICÍDIOS
2015	CASO 01	Bárbara	Cíumes
	CASO 02	Danielle	A “amante” estava grávida
	CASO 03	Débora	Inconformismo com o término do relacionamento
	CASO 04	Eunice	Discussões familiares anteriores
	CASO 05	Giovana	Cíumes
	CASO 06	Hosana	Inconformismo com o término do relacionamento
	CASO 07	Joana	Inconformismo com o término do relacionamento
	CASO 08	Karla	Inconformismo com o término do relacionamento
	CASO 09	Marta	Por motivação ignorada
	CASO 10	Paula	Cíumes
	CASO 11	Poliana	Inconformismo com o término do relacionamento
	CASO 12	Ruth	Inconformismo com o término do relacionamento
	CASO 13	Sarah e Silvia	O companheiro tinha um relacionamento homossexual
	CASO 14	Tainara	Inconformismo com o término do relacionamento
	CASO 15	Uly	Inconformismo com o término do relacionamento
	CASO 16	Vanessa e Vicentina	Inconformismo com o término do relacionamento
2016	CASO 17	Anastácia	Cíumes
	CASO 18	Catharina	Inconformismo com o término do relacionamento
	CASO 19	Fernanda	Inconformismo com o término do relacionamento

	CASO 20	Francisca	Contra mulher por razões da condição de sexo feminino
	CASO 21	Gláucia e Gil	Inconformismo com o término do relacionamento
	CASO 22	Helena	Inconformismo com o término do relacionamento
	CASO 23	Isadora	Ciúmes
	CASO 24	Júlia	Inconformismo com o término do relacionamento / ciúmes
	CASO 25	Olga	Inconformismo com o término do relacionamento / ciúmes
	CASO 26	Quitéria	Inconformismo com o término do relacionamento/ ciúmes
	CASO 27	Sofia	Ciúmes
	CASO 28	Tainá	Inconformismo com o término do relacionamento
	CASO 29	Úrsula	Inconformismo com o término do relacionamento
	CASO 30	Valentina	Contra mulher por razões da condição de sexo feminino
	CASO 31	Wendy	Contra mulher por razões da condição de sexo feminino
	CASO 32	Xayane	Inconformismo com o término do relacionamento
2017	CASO 33	Alana	Contra mulher por razões da condição de sexo feminino
	CASO 34	Bianca	Inconformismo com o término do relacionamento
	CASO 35	Bruna	Inconformismo com o término do relacionamento
	CASO 36	Esther	Ciúmes
	CASO 37	Gislaine	Inconformismo com a ausência de relacionamento amoroso
	CASO 38	Iara	Inconformismo com o término do relacionamento
	CASO 39	Lavínia, Lindaura, e Ludmila	Inconformismo com o término do relacionamento
	CASO 40	Lia	Ciúmes
	CASO 41	Natália	"Atrito" verbal
	CASO 42	Nicole	Inconformismo com o término do relacionamento
	CASO 43	Ohana	Inconformismo com o término do relacionamento
	CASO 44	Quéren	"Simples" desentendimento entre o casal
	CASO 45	Rebeca	Contra mulher por razões da condição de sexo feminino
	CASO 46	Xênia	Contra mulher por razões da condição de sexo feminino
	CASO 47	Zilmma	Triangulação amorosa
2018	CASO 48	Alice	Ciúmes
	CASO 49	Camila	Ciúmes
	CASO 50	Clara	Assegurar a impunidade de outro crime
	CASO 51	Dulce	Por motivo fútil/ Contra mulher por razões da condição de sexo feminino
	CASO 52	Elaine	Por motivo fútil/ Contra mulher por razões da condição de sexo feminino
	CASO 53	Fabiana	Inconformismo com o término do relacionamento
	CASO 54	Heloísa	Por motivo fútil/ Contra mulher por razões da condição de sexo feminino
	CASO 55	Karina	Por motivo fútil/ Contra mulher por razões da condição de sexo feminino
	CASO 56	Maria	Contra mulher por razões da condição de sexo feminino
	CASO 57	Yasmim	Ciúmes
	CASO 58	Yohanna	Contra mulher por razões da condição de sexo feminino
	CASO 59	Wanda	Contra mulher por razões da condição de sexo feminino
	CASO 60	Zélia	Inconformismo com o término do relacionamento

Fonte: elaborado pelo autor



Graficamente, tem-se que



Fonte: elaborado pelo autor

*Gráfico 01: As principais motivações dos 60 Casos de Feminicídio levados ao Júri*

Logo, o *inconformismo com o término do relacionamento/ciúmes* são as principais motivações correspondendo à “justificativa” de 39 dos 60 casos analisados, ou seja, correspondendo a cerca de 65% das “explicações” para o assassinato/agressão de mulheres. Importante salientar que este número pode ser maior: dada a limitação das narrativas das sentenças de pronúncia, muitas sentenças narram apenas que as mulheres sofreram a violência em razão da condição de sexo feminino, sem dar muitos detalhes sobre o crime. Todavia, precisamos entender que, como afirma SAFFIOTI (1994), a violência contra a mulher integra a organização social de gênero, e se relaciona à sociedade patriarcal. Essa violência é diretamente relacionada à imposição do poder simbólico, mas, também, ao uso da força física. Isso se evidencia quando uma pessoa submete a outra *por meio de força ou ameaça*, como se vê no “caso de Sarah e Sílvia” e no “caso Clara”:

“Caso Sarah e Sílvia”: Os crimes também foram cometidos com asfixia e recurso que impossibilitou a defesa das vítimas, uma que o réu [...] atacou as vítimas por trás, aplicando-lhes o golpe conhecido como “mata-leão” ou “gravata”, inclusive quando a vítima SILVIA, de apenas três anos de idade dormia, valendo-se, ainda, da acentuada desproporção de forças existente [SARAH E SILVIA].

“Caso Clara”: Ato contínuo, o denunciado, utilizando-se de seu próprio peso e força física para imobilizar a vítima [CLARA], subiu em cima dela, o que também dificultou a sua defesa, oportunidade em que passou a estrangulá-la com um pano de prato que se encontrava próximo, pondo fim à sua vida.

O que chama a atenção é que as narrativas são muito semelhantes uma das outras, quando se observam as motivações, inclusive, para o cometimento dos crimes, como o não aceitar do término de um relacionamento. Assim, podemos entender que as motivações mais recorrentes foram contra mulher por *inconformismo com o término do relacionamento e/ou ciúmes*, seguido de *razões da condição de sexo feminino em contexto de violência doméstica e familiar* conforme o quadro e o gráfico anteriores. Sabe-se que dentre as “justificativas” por ciúmes estão presentes os questionamentos quanto ao fim da relação entre a companheira e o companheiro (esposa e marido; namorada e namorado, etc.) e por isso os relaciono conjuntamente.

Aí está a importância de se dar visibilidade aos casos: é muito mais fácil reduzir o número de casos de agressão/feminicídio quando se verificam as “justificativas” para o cometimento destes crimes e se passa a elaborar política públicas específicas, assim

como quando se passa a compreender o que há, de fato, por trás dessas motivações – questões relacionadas à construção do masculino, que veremos mais adiante (com a compreensão de termos como *masculinidade* e *gênero*). Não foi em vão que as feministas passaram a alertar a população e ao Estado (que pode [e deve] formular políticas públicas de combate à violência de gênero e retirá-la da “cultura do silêncio”<sup>10</sup>), sobretudo, através de

passeatas, debates na imprensa, encontros, seminários e publicações [através dos quais] procuraram chamar atenção para o absurdo da tese da “legítima defesa da honra”<sup>11</sup> [por exemplo] e para a necessidade de alterar o padrão cultural que legitima a violência contra a mulher. O movimento feminista destacou, ao lado dos crimes chamados de “violência doméstica”, a ocorrência cotidiana de estupros encobertos por uma “cultura do silêncio”, com a complacência das autoridades e a vergonha das vítimas. (BARSTED, 1994, p.50).

Compreendamos, então, agora, a relevância do movimento feminista para que ocorressem as denúncias de violência contra as mulheres, e como as suas teorias, sobretudo as de gênero (*masculinidade*), são fundamentais para um combate efetivo às diversas formas de violência praticadas por homens contra as mulheres.

### III. A RELEVÂNCIA DO MOVIMENTO FEMINISTA CONTRA O FEMICÍDIO E OUTRAS FORMAS DE VIOLENCIA CONTRAS AS MULHERES

A partir dos anos 1970, pode-se dizer que foram comuns, em solo brasileiro, defesas de homens que assassinaram mulheres com quem tinham ou tiveram um relacionamento amoroso, mediante o uso da tese da *legítima defesa da honra*. A primeira vez que a tese apareceu (com sucesso, ou maior repercussão na imprensa, em solo brasileiro) foi pelas mãos de um advogado, Evandro Lins e Silva, na defesa de Doca Street, acusado de matar Ângela Diniz (ELUF, 2007). Como argumenta Berenice Dias (2004), durante muito tempo, a Justiça brasileira, então, veio a dar enorme importância à vida de um casal e não propriamente aos fatos de um crime: os operadores do Direito não analisavam apenas o comportamento do agressor no momento do crime, era comum, contrariamente, culpabilizar as vítimas, a partir da investigação de

<sup>10</sup> Através do termo *cultura do silêncio* entende-se que as autoridades eram complacentes, e que, como analisa BARSTED (1994), a vergonha da vítima em denunciar as agressões/o crime tornava a questão uma verdadeira problemática (BARSTED, 1994).

<sup>11</sup> Maria Berenice Dias (2004) argumenta que a legítima defesa da honra era um argumento extralegal, ou seja, não previsto em lei, que estava servindo como causa de absolvição/atenuação da pena mediante preconceitos em relação às mulheres; era uma excludente de criminalidade, que, de fato, nunca chegou a constar em qualquer lei. (DIAS, 2004).

eventos de sua vida, usados para desaboná-las e, daí, justificar o feminicídio: “se o varão corresponde ao papel ideal de bom pai de família, e a vítima não é uma fiel dona-de-casa, seguramente o agressor será absolvido” (DIAS, 2004, p. 45). Além de réus primários, eram vistos como homens trabalhadores, maridos carinhosos e exemplares. Isso se somava às expressões que apareciam em sentenças: «*inocência da mulher*», «*conduta desregrada*», «*perversidade*», «*comportamento extravagante*», «*vida dissoluta*», «*situação moralmente irregular*», adjetivos ligados ao exercício da sexualidade, e, logo à liberdade da mulher, como aponta DIAS (2004, p. 39). Em caso já transcrito neste artigo, percebe-se, até hoje, que persiste, portanto, a ideia de que a mulher não deve ser respeitada, sobretudo se “trair”. É um indicativo forte de uma tentativa de levar a análise de um juiz ou júri ao comportamento da mulher e não ao comportamento do agressor. Logo, um resquício daquela tese ainda aparece em alguns casos.

Tendo em vista tal tese, desde 1970, sobretudo, mulheres ligadas ao movimento feminista buscam dar visibilidade ao uso de tal argumentação nos tribunais do Brasil seja se reunindo na frente dos fóruns, no momento dos julgamentos, contestando os argumentos que estão sendo utilizados nos tribunais uma vez que não se cabe a argumentação de que se alguém podia defender a sua vida, também poderia defender a sua vida íntima, interior, logo, a sua honra.

Naquele mesmo foco interpretativo – da Tese da Legítima Defesa da Honra – passou-se a explanar que o crime de *estupro contra as mulheres*<sup>12</sup> nem sempre era «*hediondo*»<sup>13</sup>. Para muitos juízes, somente se o estupro resultasse em morte ou provocasse lesões corporais entendidas como graves é que seriam assim considerados, de modo que mulheres tiveram que se organizar e recordar ao Judiciário que “*o estupro é sempre um crime hediondo*”<sup>14</sup>.

Hoje, são hediondos os seguintes crimes, à título de ilustração:

Art. 1º São considerados hediondos os seguintes crimes, todos tipificados no Decreto-Lei no 2.848, de 7 de dezembro de 1940 - Código Penal, consumados ou tentados I - homicídio (art. 121), quando praticado em atividade típica de grupo de extermínio, ainda que cometido por um só agente, e *homicídio qualificado* (art. 121, § 2º, incisos I, II, III, IV, V, VI, VII e VIII) [...] estupro [...] Art. 2º Os crimes hediondos, a prática da tortura, o tráfico ilícito de entorpecentes e drogas afins e o terrorismo são insuscetíveis de I - anistia, graça e indulto; II – fiança (BRASIL, 1990).

<sup>12</sup> Pois, no Brasil, somente nesse milênio passou-se a entender que o estupro também poderia ocorrer em relação aos homens. (BRASIL, 1940)

<sup>13</sup> Crimes que abalam a dignidade humana e que são reprovados pela sociedade causando grande comoção social, previstos pela Lei 8.072, de 1990 (BRASIL, 1990).

<sup>14</sup> Um slogan feminista da época.



Até hoje há quem queira utilizar essa tese em Tribunais brasileiros. Em razão disso, a Suprema corte do Brasil, o STF – Supremo Tribunal Federal, teve que, através da Arguição de Descumprimento de Preceito Fundamental – ADPF – n. 779, firmar o entendimento de que esta tese não só viola princípios constitucionais, como o da dignidade da pessoa humana, como também, viola à proteção à vida e a igualdade de gênero. E, por decisão unânime dos ministros, firmou-se o entendimento de que não caberá mais a utilização de tal tese em crimes como o feminicídio (BRASIL, 2021)<sup>15</sup>. Logo, é realmente possível perceber que até o momento em que estamos vivendo, há certa ligação entre aquelas criações e questões como o feminicídio.

Se quisermos entender como essa justificativa foi criada, temos que voltar às décadas de 1920 e 1930 quando, segundo BLAY (2008), há uma onda de absolvições de assassinos de mulheres cujos advogados tomavam como referência argumentativa a ideia de que, em certa medida, as mulheres haviam merecido morrer, uma vez que estas estariam realizando adultério, ou descumprindo “deveres” domésticos e elas teriam manifestado o interesse pela separação. “Matar por amor”, então, seria a justificativa de muitos desses maridos. Toda uma construção que perpassou o século e chegou a este milênio pode ser compreendida como argumentos em prol do agressor, ou seja, em prol do assassino: “matar por amor”. Há uma discrepância de forças entre homens e mulheres explicitada nas teorias de gênero.

Como sabemos, desde a infância, meninas recebem tratamento distinto de meninos, e isso ocorre em diferentes espaços, inclusive o escolar. As meninas são ensinadas, por exemplo, a brincar com utensílios domésticos, a lidar com o lar; e os homens são ensinados a não chorar, a ser agressivos, a brigas. A constituição da masculinidade está intrinsecamente ligada à violência (WELZER-LANG, 2001). Aqui, entendemos estar a origem de grande parte das violências atuais contra as mulheres, o que será argumentado, todavia, em um melhor momento. Entretanto, aqui cabe ressaltar que o feminismo (os feminismos, melhor dizendo, por ser um movimento heterogêneo) contribuiu para que se passasse a realizar denúncias públicas e que viessem a ocorrer políticas públicas em resposta ao fenômeno da violência contra as mulheres no Brasil<sup>16</sup>, ocorrendo, até mesmo, a

<sup>15</sup> Ressalta-se que o entendimento foi firmado pela Suprema Corte brasileira somente em 2021, embora a utilização de argumentos que sustentavam a tese da legítima defesa da honra remonte há muitas décadas anteriores, como será argumentado um pouco mais adiante.

<sup>16</sup> As feministas brasileiras, evidentemente, não lutaram de forma isolada do cenário internacional: o cenário internacional contribuiu muito para que as mulheres lograssem êxito. Entre as décadas de 1960-1990, mulheres ativistas feministas passaram a lidar com a ideia de que estariam subordinadas nos mais diversos setores sociais e passaram a lutar contra a desigualdade de gênero, o que incluiria o campo das Relações Internacionais. Também passaram a lutar pelos

Convenção sobre a eliminação de todas as formas de discriminação contra as mulheres – CEDAW<sup>17</sup>; além da Convenção Interamericana para Prevenir, Punir e Erradicar a Violência Contra a Mulher – Convenção de Belém do Pará; que são tratados a partir dos quais determinou-se a criação de mecanismos para o combate à Violência contra as Mulheres, o que, no Brasil, acabou culminando na Lei n. 11.340, de 2006 (BANDEIRA; ALMEIDA, 2015) (OEA, 1994) (ONU, 1979) e na do feminicídio, certamente (BRASIL, 2015), pois, é importante destacar que a elaboração da Lei Maria da Penha não partiu de uma *iniciativa* do Estado brasileiro diante de sua realidade social: a Comissão Interamericana de Direitos Humanos da Organização dos Estados Americanos recomendou ao Brasil uma ação, pois o país não só havia negligenciado em relação à tentativa de homicídio de Maria da Penha<sup>18</sup>, mas em diferentes casos.

Se, como argumenta Telia Negrão (2016), a violência de gênero era invisível no Brasil até a década de 1970, as manifestações das feministas naquele tempo e ainda hoje, são fundamentais para torná-la visível. Da década de 1970 em diante, o feminismo passa a contar com o movimento de mulheres na luta contra a ditadura que ocorria no Brasil (BARSTED, 2016). Nesse período, ocorre a ampliação da visibilidade das mulheres com as historiadoras que passaram a narrar sua história; com as problematizações das hierarquias de gênero (WOLFF; POSSAS, 2005). A partir de 1980, a discussão das diferenças entre as mulheres, a multiplicidade de opressões, numa palavra, a interseccionalidade, embora o termo só tenha cunhado em 1990, por Kimberlé Williams Crenshaw (HOLLANDA, 2018). Também nos anos 1980, os estudos de gênero começam a entrar para a agenda das universidades, nas discussões acadêmicas, problematizando diversas questões, tais como hierarquias de gênero, relações de poder, sexualidades, corpos, educação e trabalho de homens e mulheres sob a perspectiva de Gênero (WOLFF; POSSAS, 2005).

Percebe-se a partir do exposto que o movimento feminista foi importante para provocar mudanças sociais profundas, entre as quais a visão em relação à violência contra as mulheres, inclusive porque, com a participação de mulheres feministas em ONGs, mas também em órgãos estatais, foi

direitos humanos, no movimento de mulheres. Entretanto, no que diz respeito a este ramo do saber, o debate só é alcançado nos anos de 1990 (MATUELLA, 2017).

<sup>17</sup> sigla em inglês.

<sup>18</sup> O caso de Maria da Penha permaneceria impune, sem julgamento definitivo, por mais de uma década (CRUZ, 2016) e não foi enquadrado como Feminicídio, pois não era previsto em lei esse tipo penal. A lei de Feminicídio é posterior a sua ocorrência. Vale destacar, porém, a importância das vozes de muitas mulheres que foram às ruas para chamar atenção a casos como este, para a formulação dessa lei.

fundamental para que o Estado assumisse certa responsabilidade para si, formulando políticas públicas contrárias à discriminação das mulheres (BARSTED, 1994; HOLLANDA, 2018).

Ampliando nossas considerações, Maria Berenice Dias (2004) nota as relações de gênero no modo com o qual nos vestimos (uma padronização para homens e mulheres em diversos ambientes, o que inclui o mundo jurídico); e no modo com o qual pensamos (DIAS, 2004). Isso também é percebido por MACHADO (2014) em relação a estes aspectos do comportamento humano. Além disso, aquela autora percebe que a participação dos homens nas esferas de poder, logo, esfera pública, tem sido maior do que a das mulheres.

Tal compreensão é importante para que entendamos que não é mais possível se acreditar que Códigos Civis e Penais brasileiros, por exemplo, derivem de posicionamentos *neutros*. Eles não derivam de posicionamentos neutros. Também não é mais possível que se compreenda que políticas públicas sejam *neutras*. Na sua construção, há uma forte carga ideológica e sua interpretação vincula-se ao contexto sociocultural. Não se deve acreditar numa justiça com todos os personagens neutros (as partes, evidentemente, não são neutras, e tentarão levar o seu ponto de vista aos tribunais) o que pode gerar, inclusive, implicações para além de um processo em específico, como vimos no caso da Tese da Legítima Defesa da Honra.

Certo é que

o feminismo e os estudos de gênero [...] [mostraram] a necessidade de conquistar maior equilíbrio entre homens e mulheres, tanto na “esfera pública” quanto na “esfera privada”, reivindicando que à maior participação das mulheres no mercado de trabalho e nas organizações políticas e sindicais deveria corresponder uma maior participação dos homens na vida privada, através de seu comprometimento não só com a vida sexual e reprodutiva do casal, mas também com a criação dos filhos e com a divisão das atividades domésticas (BRUSCHINI; RICOLDI, 2012, p. 260).

WELZER-LANG (2001) explicitou que os comportamentos aprendidos são capazes de provocar heranças de comportamentos que aqui expressamos e que vão muito além de machismos: operam em instrumentos de locomoção e do que serviria para a segurança pessoal em atos verdadeiramente criminosos em alguns homens

Para os homens, como para as mulheres, a educação se faz por mimetismo. Ora, o mimetismo dos homens é um mimetismo de violências. De violência inicialmente contra si mesmo. A guerra que os homens empreendem em seus próprios corpos é inicialmente uma guerra contra eles mesmos. Depois, numa segunda etapa, é uma guerra com os outros. Articulando prazeres – prazer de estar entre homens (ou homens em formação) e se distinguir das mulheres, prazer de poder legitimamente fazer “como os

outros homens” (mimetismo) – e dores do corpo, cada homem vai individualmente e coletivamente fazer sua iniciação. Através dessa iniciação se aprende a sexualidade (WELZER-LANG, 2001, p. 463).

Quando se observa a dominação pelo saber, e a discrepância entre o consentimento e a resistência, percebe-se que há uma forma de violência, já que mulheres passam a ser tratadas como objetos e não como sujeitos, de modo que violência não é apenas ser alvo ou realizar agressão física: para SOIHET (1997), ela é decorrente de normatizações na cultura, da discriminação e da submissão feminina. DIAS (2004) leciona que o homem não necessariamente odeia a mulher. Ele pode amá-la. O que ocorre é que ele muitas vezes odeia a si próprio. Assim, é preciso notar que:

Tudo parece indicar, de acordo com as entrevistas realizadas no estudo sobre a homofobia e depois no das prisões, que muitos homens que foram violentados sexualmente por outro homem mais velho acabam por reproduzir esta forma particular de abuso. É como se eles se repetissem: “Já que eu passei por isso, que ele também passe”. E o abuso, além dos benefícios que traz, é também uma forma de exorcismo, uma conjuração da desgraça vivida anteriormente. Depois, ao longo dos anos, quando a lembrança da dor e da humilhação se estanca um pouco, o abuso inicial funcionaria como um elemento de compensação, um pouco como uma conta bancária que teria sido aberta por imposição; onde os outros abusos perpetrados representariam os juros que o homem abusado vem cobrar. Isso vale tanto para abusos realizados contra homens como os contra mulheres, realizados em outros lugares (WELZER-LANG, 2001, p. 464).

Desse modo, é plenamente possível ter sido vítima de abuso, de agressões, e precisar ter o total controle de determinadas situações a fim de que se possa sentir-se seguro na relação, embora, por óbvio, isso não justifique agressões às mulheres. O que ocorre, como argumenta DIAS (2004), é que a sociedade tende a proteger a agressividade masculina, ao permitir e construir a imagem da superioridade do homem, de tal modo que este é sempre retratado pelas expressões de virilidades: ser forte, não chorar, repelir e descontar a agressão.

A violência de gênero, inclusive em suas modalidades familiar e doméstica, não ocorre aleatoriamente, mas deriva de uma organização social de gênero que privilegia o masculino (SAFFIOTI, 1999). Desse modo, para WELZER-LANG (2001), os homens são capazes de dominar as mulheres nas esferas privada e pública, num campo de desigualdades. Não é possível, portanto, estabelecer que cada grupo de sexo ou cada gênero tenha uma relação que seja simétrica, como observa o autor. A assimetria se estabelece na medida em que as vantagens dos homens geram as desigualdades que vivem as mulheres. O estupro, como uma das formas mais perversas de violência às mulheres, revela essa face; e pode ocorrer em casos de



feminicídio. É importante notar que o medo em relação à violação sexual, ou estupro, por muito tempo manteve (e mantém) as mulheres presas a determinados comportamentos, como o de não andarem sozinhas. A ideia de violência, portanto, pode aprisionar algumas mulheres no espaço privado. E, muitas vezes, quando elas rompem com tais amarras, são de fato agredidas. Certamente, nem todos os homens realizam essa violência, no entanto. Todavia, como aponta ÁLVAREZ (2005), o estupro é parte de um sistema que dá poderes demais ao masculino, e o “caso Joana” retrata isso:

“Caso Joana”: 1º fato: A vítima saiu da aula de piano e ao entrar em seu veículo foi abordada pelo denunciado que, adentrando no lado do carona, apontou-lhe uma faca no pescoço, determinando que mudasse de posição dentro do veículo para que ele dirigisse. O denunciado transitou com o veículo em via pública sem rumo definido, privando a vítima da liberdade, a todo instante ameaçando-a com uma faca, inclusive determinando-a que ficasse em silêncio no momento que passou uma viatura policial. 2º fato: Em dado momento, o denunciado, enfurecido, passou a agredir a vítima causando-lhe lesões corporais descritas no ACD de fls. 120/126. 3º fato: O denunciado rumou para o motel [...] onde, mediante grave ameaça e violência, manteve conjunção carnal com a ofendida, conforme ACD de fls. 127/128, por meio da introdução do pênis em sua vagina, dentro da banheira. 4º fato: Logo depois, objetivando novamente saciar sua libido e matar a vítima, sedou-a com o medicamento [...], parcialmente por ela expelido, expondo a vida dela em perigo – em seguida manteve com ela nova conjunção carnal, por meio da introdução do pênis em sua vagina, dessa vez na cama. 5º fato: Exaustivamente saciada sua libido, o denunciado constrangeu a vítima mediante ameaça de morte, praticada com emprego de arma branca, a “desbloquear” seu celular para que ele acessasse seu histórico de conversas. 6º fato: Enquanto o denunciado bisbilhotava o celular, a vítima aproveitou-se para, ainda nua, se desvencilhar dele, abrindo a porta do quarto e indo para a área comum do motel – o denunciado a perseguiu com a faca na mão e, utilizando-se desse instrumento com o qual pretendia ceifar-lhe a vida, desferiu diversos golpes na vítima, atingindo-a em várias partes do corpo, sem que tivesse êxito em sua pretensão homicida em razão do pronto atendimento médico ao qual foi submetida depois de amparada por pessoas que se encontravam no local. O recurso utilizado para a extinção da vida da vítima dificultou sua defesa, já que foi surpreendida em circunstâncias de tempo e lugar (quando saía da aula de piano) que a permitisse supor pudesse o denunciado atentar contra sua vida. A motivação do crime foi torpe porque impregnada do sentimento de posse e egoísmo do denunciado que não aceitava o desfazimento do namoro que teve com a vítima.

Cenas como essas não só ocorrem por ex-companheiros em relação à vítima. Maria Berenice Dias (2004, p. 43) já observava que quando há “expressivo número de assassinatos, espancamentos e estupro de mulheres perpetrados por maridos ou companheiros”, se percebe que são praticados por pessoas com as

quais se têm «vínculo de afeto». Em relação ao estupro praticado dentro do casamento, revela que ele raramente era/é denunciado, e, pelo Código Civil brasileiro de 1916 (BRASIL, 1916), tampouco existiria estupro dentro do casamento, pois manter relações sexuais era visto como obrigação conjugal, podendo o marido inclusive solicitar a separação em caso de recusa (DIAS, 2004). Assim, muitas mulheres nem pensavam que estavam sendo estupradas e as que percebiam a violência, em certa medida, eram desestimuladas a denunciar o marido devido ao argumento de que fazia parte de um elo conjugal. Certamente, uma das razões para que determinados comportamentos tenham se perpetuado durante tanto tempo de forma a serem “naturalizados” por alguns homens. Assim, talvez aqui se entrelace a ideia de que separar é difícil e de que é melhor sofrer agressões durante o casamento, pois, como se sabe, mesmo com a mudança do código, ainda é comum essa percepção por muitas mulheres que não denunciam.

Quando argumento com WELZER-LANG (2001) sobre a construção do masculino, percebe-se essa articulação entre a masculinidade e a violência. Para o autor, homens dominam as mulheres na esfera privada e pública, e atribuem a eles mesmos privilégios em diversos setores, o que afeta até mesmo as políticas. Em entendimento similar, tem-se a argumentação de MESQUITA (2016), para quem a violência contra as mulheres pode ser compreendida como um fenômeno que é resultado de um processo *disciplinar* de gênero: homens e mulheres aprendem que estas são propriedades daqueles. Devido a esse aprendizado, muitas mulheres acabam se submetendo tanto à vontade quanto àquilo que pode ser chamado de processo disciplinador, dentre os quais se incluem a violência simbólica, a física e a sexual. Mas o que tem que ser notado aqui é que as ameaças que muitas vezes são veladas ou dissimuladas em nome de “um amor, ciúme, de problemas no trabalho, com a família, do uso de álcool e outras drogas [...]” podem levar ao feminicídio, na medida em que diversos estudos apontarem que a ameaça é porta de entrada para outros tipos de violência (MESQUITA, 2016, p. 251)<sup>19</sup>. Ao se submeter a tais vontades, as mulheres se prendem numa teia, que pode entrelaçá-las em meio a estas violências, e, assim, dificultar a sua libertação de um relacionamento abusivo entrelaçando-as de tal modo num emaranhado de agressões prévias ao feminicídio. Contudo, é preciso que se creia que, por mais que tenham passado por um difícil processo de socialização, a modificação é possível para tais homens.

BRUSCHINI; RICOLDI (2012), perceberam que muitos homens se referem como “ajuda” a sua

<sup>19</sup> O que este estudo não será capaz de demonstrar, entretanto, dada as limitações das sentenças de pronúncia.

participação no trabalho doméstico, indicando que atuam de forma periférica num trabalho tipicamente feminino e não obrigatório aos homens; há, porém, um cenário de transformações, que tem que lidar com barreiras. As autoras perceberam mudanças no comportamento masculino, de modo a se impactar a conciliação/articulação entre família, trabalho, e o mercado de trabalho das mulheres. Mas, em contrapartida, apontam que a Convenção de número 156 da OIT (C156) que diz respeito à *Igualdade de Oportunidades e de Tratamento para Homens e Mulheres Trabalhadores: Trabalhadores com Encargos de Família* ainda não estava ratificada pelo Brasil. E, observando a *International Labour Organization* (ilo.org) verifica-se que até meados de 2020 assim ela permanece, embora seja de 1981.

A importância, por sua vez, dos estudos de gênero para a história, reside na construção da masculinidade como parte integrante do processo da determinação de uma identidade, como afirma TORRÃO FILHO (2005), para o qual desde a argumentação de Joan Scott de que o termo gênero é importante para a História e não apenas à História das mulheres, pode esclarecer muitos pontos, inclusive, da História masculina, das relações homens-mulheres, homens-homens, mulheres-mulheres, além da desigualdade entre os gêneros e das hierarquias sociais entre os gêneros, pois esta autora propõe o uso do gênero abrangemente com homens e mulheres em conexões múltiplas, como argumenta Torrão Filho, quem também observa que as significações entre gênero e poder são construídas de modo recíproco, pois o poder é exercido sobre o gênero através de domínio político, especialmente nos regimes de exceção, totalitários ou ditatoriais, nos quais se codificam as relações de gênero e passam a vigiá-las. (TORRÃO FILHO, 2005).

MINAYO (2005, p. 23) nota que normalmente o masculino é visto como o sujeito da sexualidade enquanto o feminino é visto como o seu objeto. Isso, entretanto, não é fruto do agora, sendo, como afirma a autora, “um valor de longa duração da cultura ocidental”: no patriarcalismo, há uma ritualização do masculino, como um polo ativo das relações – lugar da ação, da decisão, chefia e provedor (MINAYO, 2005). Mas Berenice Dias argumenta que algumas expressões guardam tão forte carga ideológica que se desconsidera a liberdade das mulheres; a livre orientação sexual, inclusive de homens e de mulheres (DIAS, 2004). Assim, mesmo a mulher possuindo o direito a uma vida sem violência, perceptível em tratados internacionais, foi somente no final do século passado que saiu da esfera privada a questão da violência doméstica contra as mulheres no Brasil; exigindo “a atenção dos serviços de saúde, segurança, justiça, e assistência psicossocial e também de toda a sociedade” (SANEMATSU, 2019, p. 14). Isso foi

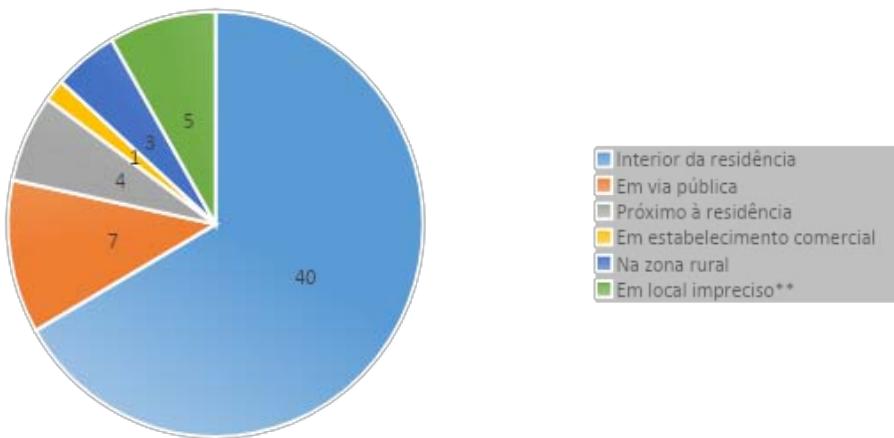
possível quando questões como “o pessoal é político” e “quem ama não mata” vieram à tona dando visibilidade à persistente violência à qual muitas mulheres estavam sujeitas.

O que também indago, entretanto, no presente artigo, é que: observando essas 60 sentenças selecionadas (ou seja, aquelas que determinaram que o acusado fosse encaminhado ao Tribunal do Júri), existiria um *local de maior incidência* de modo que se pudesse observar onde as mulheres estão sendo assassinadas? Assim, e após tais considerações, passo a analisar o local de ocorrência das agressões/feminicídio.

#### IV. VIVENDO REFÉM JUNTO AO TETO DO INIMIGO: O LOCAL DE MAIOR INCIDÊNCIA DO CRIME (TENTADO OU CONSUMADO) DE FEMINICÍDIO

Como foi apontado por Mesquita (2016), a partir de pesquisa realizada em boletins de ocorrência, em 70% dos casos de violência contra as mulheres, a agressão aconteceu dentro da casa da vítima. Também na análise que fiz das sentenças de pronúncia, explicitou-se que a maioria das mulheres foi assassinada em casa (67% dos casos), seguido da via pública, que, é importante, frisar, por muitas vezes é próxima da residência.

Vejamos



\*\* Em 05 casos compreendeu-se que os mesmos aconteceram em locais imprecisos, seja porque não foram mencionados na peça processual, ou porque realmente não se sabia precisar o local uma vez que o corpo da vítima, por exemplo, estava desaparecido.

Fonte: elaborado pelo autor

**Gráfico 02:** Os locais mais frequentes dos 60 Casos de Feminicídio levados ao Júri/TJMG

Nota-se que a morte espreita as mulheres no próprio lar. Como fugir de um local que deveria ser o seu refúgio, lugar de segurança e se torna a casa de morte? Com as observações que foram realizadas conforme GRÁFICO acima, tem-se que: tipicamente visto como um local acolhedor, confortável, de amor e de segurança, um local idealizado, a casa se torna o espaço do perigo (MESQUITA, 2016).

Entretanto, se observamos com Leila Linhares BARSTED (2016, p. 17), “[...] a violência contra as mulheres é mecanismo primordial para manter [...] relações políticas na família, no trabalho e em todas as esferas públicas”, assim, muitos homens têm feito deste lugar um verdadeiro cenário de horrores.

**Quadro 03:** Os agressores dos ataques no interior das Residências

ANO	CASOS	AGRESSOR	ANO	CASOS	AGRESSOR
2015	CASO 01	marido	2017	CASO 33	companheiro
	CASO 02	amante		CASO 36	companheiro
	CASO 03	companheiro		CASO 37	Não mencionado
	CASO 04	irmão		CASO 38	Ex-companheiro
	CASO 05	companheiro		CASO 39	Ex-marido
	CASO 06	companheiro		CASO 41	companheiro
	CASO 09	companheiro		CASO 42	Ex-companheiro
	CASO 10	companheiro		CASO 43	Ex-companheiro
	CASO 12	Ex-companheiro		CASO 45	Ex-companheiro
	CASO 13	Marido/Pai		CASO 47	Triângulo amoroso
	CASO 15	Companheiro		CASO 48	Marido
	CASO 16	Ex-genro		CASO 49	companheiro
2016	CASO 19	Ex-companheiro		CASO 50	Filho
	CASO 20	companheiro		CASO 51	Ex-marido
	CASO 21	Ex-companheiro		CASO 52	Marido
	CASO 23	companheiro		CASO 53	companheiro
	CASO 24	Ex-companheiro		CASO 54	companheiro
	CASO 27	companheiro		CASO 55	companheiro
	CASO 28	Ex-companheiro		CASO 56	Padrasto
	CASO 31	companheiro		CASO 59	companheiro

Fonte: Elaborado pelo autor



Observando o QUADRO dos ataques praticados no interior da residência, acima, verifica-se que mais da metade dos casos foram praticados por companheiros ou maridos (ou “amantes”) e, em menor proporção, por ex-companheiros (ou ex-maridos). O restante foi praticado por irmão, padrasto e filho. Enfim, sempre por algum homem com vínculo de afeto e/ou parentesco.

Assim, as violências por muitas vezes anunciadas através do slogan “o pessoal é político” que “trouxeram para o debate público a problemática das relações familiares marcadas por desigualdades em prejuízos das mulheres” continua até hoje (BARSTED, 2016, p. 20), e o feminismo ainda é protagonista na luta pelo fim da violência contra as mulheres, das discriminações tanto no âmbito social/ legislativo além de ampliações de direitos, mas, também, para que as mulheres possam usufruir dos direitos formais conquistados (BARSTED, 2016).

Destes ataques no interior da residência, cerca de 50% resultaram em tentativa de feminicídio, conforme QUADRO 04. Percebe-se que as pessoas com as quais as vítimas ainda manteriam contato (maridos/companheiros) corresponderiam aos maiores casos de agressão enquanto os que já teriam interrompido o vínculo (ex-maridos e ex-companheiros) corresponderiam a parcela menor conforme QUADRO 03, nos ataques no interior das residências, como dito.

Um desses ataques resultou, ao mesmo tempo, na tentativa de homicídio em relação a uma mulher e na consumação de um homicídio em outra conforme se depreende do QUADRO que se segue; logo tentativa de feminicídio e feminicídio consumado. Também ocorreu homicídio, por parte do agressor/possível feminicida, em relação a homens que estavam no interior da residência (o que não foi objeto do presente estudo, entretanto).

*Quadro 04:* Resultado dos ataques no interior das Residências

CASOS	RESULTADO	CASOS	RESULTADO
CASO 01	Tentado	CASO 33	Tentado
CASO 02	Consumado	CASO 36	Consumado
CASO 03	Consumado	CASO 37	Consumado
CASO 04	Tentado	CASO 38	Tentado
CASO 05	Tentado	CASO 39	2 Tentativas e 1 impronúncia
CASO 06	Tentado	CASO 41	Tentado
CASO 09	Consumado	CASO 42	Consumado
CASO 10	Consumado	CASO 43	Tentado
CASO 12	Consumado	CASO 45	Consumado
CASO 13	2 Consumados	CASO 47	Consumado
CASO 15	Tentado	CASO 48	Consumado
CASO 16	1 Consumado e 1 Tentado	CASO 49	Consumado
CASO 19	Consumado	CASO 50	Consumado
CASO 20	Tentado	CASO 51	Tentado
CASO 21	Tentado	CASO 52	Tentado
CASO 23	Consumado	CASO 53	Tentado
CASO 24	Consumado	CASO 54	Tentado
CASO 27	Tentado	CASO 55	Tentado
CASO 28	Tentado	CASO 56	Consumado
CASO 31	Consumado	CASO 59	Tentado

*Fonte: Elaborado pelo autor*

Embora as sentenças de pronúncia não especifiquem o perfil do agressor, SANEMATSU (2019, p.15) o destaca como sendo o “cidadão de bem”, o pai de família, e o trabalhador “que não é violento na rua, nem com o chefe, ou os colegas no serviço, mas

“apenas” dentro de casa onde é capaz de agredir de forma cotidiana a mulher, os filhos, a sogra, a mãe ou a irmã”, certamente, pessoas que têm menos poder, seja físico, seja simbólico, como também já afirmou DIAS (2004).

*Quadro 05:* Ataques fora da residência - Feminicídios de 2015 - 2018<sup>20</sup>

CASOS	VÍTIMA DO	RESULTADO
CASO 07	ex-namorado	Tentado
CASO 14	ex-companheiro	Tentado
CASO 30	companheiro	Tentado
CASO 35	ex-companheiro	Tentado
CASO 08	ex-companheiro	Consumado

<sup>20</sup> Termo usado nas sentenças e que pode ser tido como vexatório às mulheres.

CASO 11	ex-namorado	Consumado
CASO 17	companheiro	Consumado
CASO 18	ex-namorado	Consumado
CASO 25	ex-companheiro	Consumado
CASO 26	ex-namorado	Consumado
CASO 34	ex-companheiro	Consumado
CASO 40	ex-companheiro	Consumado
CASO 44	companheiro	Consumado
CASO 46	companheiro	Consumado
CASO 60	companheiro	Consumado

Fonte: Elaborado pelo autor

Agora, a partir do QUADRO anterior, chama-se a atenção para os casos em que o vínculo amoroso havia sido interrompido. Logo, *fora de casa*, os homens que não possuíam mais vínculo com as mulheres, seja

por decisão desta ou de qualquer outro fator; foram os responsáveis pelas tentativas e pelas consumações. Aqui chama-se a atenção para a necessidade das medidas protetivas e eficazes às mulheres.

*Quadro 06:* Número de resultados consumados e tentados

CASOS	RESULTADO	CASOS	RESULTADO
CASO 01	Tentado	CASO 02	Consumado
CASO 04	Tentado	CASO 03	Consumado
CASO 05	Tentado	CASO 08	Consumado
CASO 06	Tentado	CASO 09	Consumado
CASO 07	Tentado	CASO 10	Consumado
CASO 14	Tentado	CASO 11	Consumado
CASO 15	Tentado	CASO 12	Consumado
CASO 16	Tentado	CASO 13	2 Consumados
CASO 20	Tentado	CASO 16	Consumado
CASO 21	Tentado	CASO 17	Consumado
CASO 27	Tentado	CASO 18	Consumado
CASO 28	Tentado	CASO 19	Consumado
CASO 29	Tentado	CASO 22	Consumado
CASO 30	Tentado	CASO 23	Consumado
CASO 33	Tentado	CASO 24	Consumado
CASO 35	Tentado	CASO 25	Consumado
CASO 38	Tentado	CASO 26	Consumado
CASO 39	2 Tentativas (1impronúncia)	CASO 31	Consumado
CASO 41	Tentado	CASO 32	Consumado
CASO 43	Tentado	CASO 34	Consumado
CASO 51	Tentado	CASO 36	Consumado
CASO 52	Tentado	CASO 37	Consumado
CASO 53	Tentado	CASO 40	Consumado
CASO 54	Tentado	CASO 42	Consumado
CASO 55	Tentado	CASO 44	Consumado
CASO 57	Tentado	CASO 45	Consumado
CASO 59	Tentado	CASO 46	Consumado
		CASO 47	Consumado
		CASO 48	Consumado
		CASO 49	Consumado
		CASO 50	Consumado
		CASO 56	Consumado
		CASO 58	Consumado
		CASO 60	Consumado

Fonte: Elaborado pelo autor

Desses ataques praticados *fora da residência*, grande parte resultou em morte, e a menor parte dos casos resultou em tentativa (QUADRO 05), uma vez que a vítima, em boa parte dos casos, recebeu a ajuda de terceiros. No mesmo sentido, quando se olham todas as vítimas, em 60 casos processuais (QUADRO 06), observa-se que mais da metade morreu. É importante atentar para o ciclo de violência de gênero, que pode ir

desde agressões verbais e humilhações, ao feminicídio. A denúncia prévia pode ser vista como uma das possibilidades de rompimento desse ciclo. Raramente, uma mulher consegue desvincular-se de um homem violento sem auxílio externo. Até que isto ocorra, descreve uma trajetória oscilante, com movimentos de saída da relação e de retorno a ela.

É, contudo, preciso perceber que “a Justiça necessita arrancar a venda do preconceito, despir a toga da insensibilidade, usar da espada para acabar com a impunidade e deixar a balança pender para o lado que se encontra quem não tem voz nem vez”, fazendo uma alusão aos símbolos que retratam a Justiça – o poder Judiciário (DIAS, 2004, p. 05), raciocínio que se completa do seguinte modo:

não mais serve para identificar a Justiça a imagem de uma mulher sentada, de olhos vendados, tendo em mãos uma balança e uma espada. Ainda que venha aumentando a participação feminina nos quadros da magistratura, tal ainda não se refletiu em julgamentos atentos às questões de gênero (DIAS, 2004, p. 16).

Esse não-refletir, narrado na passagem acima, mesmo com a maior participação de mulheres na magistratura, pode ser compreendido, porque o poder ainda é, de fato, masculino. É, então, preciso agir, e como já foi dito, em parte

A Lei Maria da Penha (LMP) resultou de prolongado processo de luta das mulheres e da condenação por omissão do Estado brasileiro pela Corte Interamericana de Justiça. Ao ser sancionada, responsabilizou a União, Governos Estaduais, Distrito Federal, Governos Municipais, Poder Judiciário e a sociedade civil, alertando que a coibição dessa violência se localiza entre os fenômenos sociais de raízes profundas, um produto histórico da constituição imaginária da sociedade [...] (NEGRÃO, 2016, p. 110).

É importa que se note, entretanto, que, instituições como o Direito têm sido buscadas como aliadas no combate à violência, desde o pós-1970 no Brasil, quando o movimento feminista adquiriu toda aquela relevância que aqui apresentamos no combate à violência contra as mulheres.

## V. CONSIDERAÇÕES FINAIS

Ora, se a violência faz parte de um processo de socialização do homem, não seria possível que isso fosse naturalizado por homens e levados a outros conflitos que não consigo mesmo ou com outro homem, mas sim, em conflitos com mulheres como nos conflitos das relações conjugais entre homens e mulheres brasileiras? Isso é plenamente possível, embora nem todo homem seja um agressor, em último e mais elevado grau, em potencial, o que nos leva a crer que, apesar de sofrer esse processo de socialização e naturalizá-lo, homens podem alterar comportamento em relação aos demais e inclusive em relação às mulheres. Desse modo, percebe-se que políticas públicas, legislações e decisões não são neutras e que o Estado precisa alterar essa realidade, não para atender a uma recomendação internacional, mas para atender a uma consciência sensata, que não é só nacional, como também, internacional, não permitindo mais que relacionamentos envolvendo “amantes”, envolvendo diferentes gêneros; envolvendo

“atrito verbal” e/ou discussões familiares anteriores ou “simples” desentendimento entre o casal; ou tentativa de assegurar a impunidade de outro crime; ou, como dito, crimes contra mulher por razões da condição de sexo feminino; ou o inconformismo com o término do relacionamento e/ou ciúmes; venham a ocasionar feminicídios consumados ou a tentativa de feminicídios *nos próprios lares ou nos arredores dos lares*.

Não é só a mulher que sai prejudicada em relações como essa. Percebe-se que a socialização durante o desenvolvimento dos homens afeta a eles mesmos e a própria vida das mulheres. As agressões também. Indo mais além, e como nota Daniel Welzer-Lang (2001), sabe-se que o que nos cerca pode ser tido como um produto de um conjunto de relações sociais. Sejam as nossas vidas, sejam as situações materiais. Não é à toa que o autor salienta que a assimetria é resultado da dominação dos homens, sendo certo que em muitos momentos homens e mulheres não chegam a perceber os fenômenos sociais, de igual modo – ainda que sejam descritos com as mesmas palavras. E isso ocorre porque durante anos e anos homens e mulheres são influenciados pelas divisões baseadas no gênero. Masculinidade é, portanto, fundamental para os estudos de gênero; na medida em que possibilita a compreensão acerca do poder de gênero, privilégios e dinâmicas das relações de gênero, podendo-se pesquisar instituições e, claro, os indivíduos que a ela compõem. E é fundamental para a compreensão da violência contra as mulheres, cujo ápice é o feminicídio.

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# The IMF or the AMF: Defining the Future of Financing for Investment and Development Projects in Africa

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THE IMF OR THE AMF DEFINING THE FUTURE OF FINANCING FOR INVESTMENT AND DEVELOPMENT PROJECTS IN AFRICA

*Strictly as per the compliance and regulations of:*



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Paul S. Masumbe

**Abstract-** Since independence the government of many African countries have depended on the International Monetary Fund (IMF) and the World Bank as their main sources of finance for major developmental and investment projects in their respective countries. Accordingly, besides the granting of loans to Low Income Countries (LICs) at zero interest rate, the IMF also assists member countries to resolve their balance of payment challenges as well as granting interest-bearing loans to both member and non-member countries. Similarly, the African Monetary Fund (AMF) which is a prototype of the IMF was created by the African Union (AU) and is not yet operational. Just like the IMF, the AMF is intended to fund major developmental projects in Africa. This article examines the IMF loans conditionality and the award of Special Drawing Rights (SDR) to African Countries as seen during the COVID-19 crisis. It argues that the AMF would not be the African countries' panacea as far as funding for developmental projects in Africa is concerned. In this regard, the article further examines Agenda 2063 as a future development model for Africa, as well as the various sources of project finance as envisioned in the Frameworks Document of Agenda 2063. It concludes that IMF still has the financial muscle to fund developmental projects and resolved balance of payment problems in Africa despite alternative sources of finance recommended by Agenda 2063.

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## I. INTRODUCTION

The Articles of Agreement of the IMF were adopted at the United Nations Monetary and Financial Conference on 22 July 1944 and came into force on 27 December 1945.<sup>1</sup> These Articles have been amended several times by the Board of Governors through various resolutions.<sup>2</sup> The basic functions of the

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<sup>1</sup> See Articles of Agreement of the International Monetary Fund available at: <https://www.imf.org/en/Publications/Articles-of-Agreement/Issues/2016/12/30/Articles-of-Agreement-of-the-International-Monetary-Fund-Adopted-at-the-United-Nations-357> (the IMF Articles of Agreement), Accessed 12 May 2021.

<sup>2</sup> See various amendments of the Articles of Agreement of the IMF at: <https://www.imf.org/en/Search#q=articles%20of%20agreement&sort=relevancy>. Accessed 29 June 2021.

IMF are to manage exchange rate practices, help governments and state parties that experience balance of payment problem by selling foreign currencies to them, and to ensure a flexible system of international payments. Moreover, the IMF also lends to member countries to be used in developmental projects.<sup>3</sup> In accordance with Article 1 of the IMF Articles of Agreement, one of the purposes of the IMF is to provide short term fund, under adequate safeguard, to member countries to correct maladjustment in their balance of payments position without hindering their national or international prosperity. Conversely, the Protocol that established the AMF was adopted on 27 June 2014 by the AU member states in Malabo, Equatorial Guinea.<sup>4</sup> The AMF has not yet come into force and currently, only one AU member state has ratified the Protocol and only 12 out of the 55 AU members have appended their signature.<sup>5</sup> The main objectives of the AMF are to promote African monetary cooperation so as to achieve African economic integration and speed up the process of economic development among state members, to ensure stability of exchange rates among currencies and their mutual convertibility, to promote the development of African financial markets and correct disequilibria in the balances of payments among state members. Accordingly, since independence from the colonial masters in the 1960s, most African states have relied on the IMF loans for developmental projects. The economic crises of the 1980s and 1990s as well as the COVID-19 pandemic have increased the rate at much most African countries are seeking loans from the IMF.<sup>6</sup> Since the AMF is not yet operational, the IMF remains the main financial institution that finances for most of the developmental projects in Africa. Finally, the IMF also partners with the World Bank to provide loans and funding for developmental projects in Africa.

<sup>3</sup> See IMF Lending at: <https://www.imf.org/en/About/Factsheets/IMF-Lending>, Accessed 29 June 2021.

<sup>4</sup> See the Protocol on the Establishment of the African Monetary Fund available at: <https://au.int/en/treaties/protocol-establishment-african-monetary-fund>, (the 2014 AMF Statute), Accessed 12 May 2021.

<sup>5</sup> Ibid.

<sup>6</sup> See for example the case of South Africa available at: <https://www.imf.org/external/pubs/ft/fandd/2021/06/interview-with-south-africa-finance-minister-trevor-manuel.htm>, Accessed 29 June 2021.

After examining the aims and objectives of both the IMF and AMF in Part I, this article will examine the relationship between the IMF and Africa particularly the conditions for granting loans in Part II. Part III will examine whether the AMF will be the African investment and development financing panacea. Finally, Part IV examines Agenda 2063 as a development model for Africa. Part V also examines the sources of finance for future development and investment projects in Africa and, Part VI presents the concluding remarks.

## II. THE IMF AND AFRICA RELATIONSHIP

The IMF and the World Bank have long standing relationships with the African continent. These two institutions work together by granting loans to fund development and investment projects in Africa.<sup>7</sup> While the Fund provides temporary assistance to correct balance of payment problems in member countries and the African continent, the World Bank focuses on long term projects lending for the development of infrastructure in Africa and other developing countries.<sup>8</sup>

Initially, the Fund was not expected to be dealing with Less Developed Countries (LDC) which includes almost all the 55 African countries. However, in 1974, the Fund introduced a new policy; the Extended Fund Facility (EFF). The EFF which enables a funded programme to last for up to three years and by so doing, focus of the Fund shifted to developing countries as its major customers. Accordingly, the relationship between the Fund and Africa is further determined through the various conditions for the granting of loans and the Special Drawing Rights (SDR), applicable to member countries of the IMF.

### a) The IMF Loans Conditionality to African Countries

Almost all African countries fall under the category of Low Income Countries (LICs),<sup>9</sup> and the IMF uses various lending instruments depending on the need or circumstance.<sup>10</sup> In this regard, the IMF also uses policy conditionality agreed upon by the country and the IMF. Accordingly, the EFF for example, created by the Fund allows any African country to draw funding beyond its quota for up to three years, provided the country implements an economic stabilisation programme agreed to by the Fund and adheres to

performance criteria.<sup>11</sup> Additionally, the IMF provides financial support for balance of payment needs upon request by its member countries.<sup>12</sup> Consequently, unlike development banks, the IMF does not give loans for specific projects.<sup>13</sup> Upon receiving a loan request from a country, IMF staff holds discussion with the government of that country to assess the economic and financial structure, and the extent of the country's total financial needs. Then, the IMF and the government agree on appropriate policy. In other words, the country's government and the IMF must agree on a programme of economic policy reforms before the IMF may provide loans to that country. The policy programme agreed between the country and the Fund is presented to the Fund's Executive Board in a letter of intent for consideration.<sup>14</sup> Accordingly, the policy agreement may take different form and other conditions as follows: (i) Prior action which include steps a country agrees to take before the IMF approve financing.<sup>15</sup> Prior actions ensure that a programme will have the necessary foundation for success. Examples of prior actions are elimination of price controls and adoption of a budget consistent with fiscal policy; (ii) Quantitative Performance Criteria (QPCs) which include specific, measurable conditions for IMF lending that relate to microeconomic variables under the control of authorities. These are monetary and credit aggregates, international reserves, fiscal balances and external borrowing. Examples of QPCs include minimum level of government primary balance, ceiling on government borrowing and minimum level of international reserves; (iii) Indicative Targets (ITs) which include quantitative indicators to assess progress in realizing a programme's objective. Examples are minimum level of social assistance spending, minimum domestic revenue collection and minimum level of the general government primary balance; and (iv) Structural Benchmarks (SBs) which are reform measures that are non-quantifiable but are critical for realizing the programme objectives and are regarded as markers to assess programme implementation. Examples of SBs include improve

<sup>11</sup> Havnevik K.J. (1987). *Introduction* in K.J. Havnevik (Ed.), The IMF and the World Bank in Africa: Conditionality, Impact and Alternatives (p.11).Uppsala: Scandinavian Institute of African Studies.

<sup>12</sup> See Fritz-Krockow B. and Ramlogan P. (2007). *International Monetary Fund Handbook: Its Functions, Policies and Operation* (p.2), Washington D.C. International Monetary Fund Secretary's Department.

<sup>13</sup> See IMF Lending available at: <https://www.imf.org/en/About/Factsheets/IMF-Lending>, Accessed 18 May 2021.

<sup>14</sup> See an example on this in the recently in the Angola situation where the IMF Executive Board complete fifth review of the Extended Fund Facility Agreement with Angola and approves US\$772 million available at: <https://www.imf.org/en/News/Article/2021/06/09/pr21168-angola-imf-exec-board-completes-5th-review-of-the-eff-agreement-and-approves-disbursement>, Accessed on 25 June 2021.

<sup>15</sup> See Letters of Intent available at: <https://www.imf.org/en/Publications/CPID/Letters-of-Intent-Memoranda-of-Economic-Policies>, Accessed 29 June 2021.

<sup>7</sup> See Havnevik K.J. (1987). *Introduction* in K.J. Havnevik (Ed.), The IMF and the World Bank in Africa: Conditionality, Impact and Alternatives (pp. 9-23).Uppsala: Scandinavian Institute of African Studies. This is also available at: <https://www.diva-portal.org>, Accessed 16 May 2021.

<sup>8</sup> Ibid.

<sup>9</sup> Most of the loans given to LICs are interest free.

<sup>10</sup> See IMF Support for Low Income Countries available at: <https://www.imf.org/en/About/Factsheets/IMF-Support-for-Low-Income-Countries>, Accessed 18 May 2021.

financial sector operations, build up social safety nets and strengthen public finance management.<sup>16</sup>

Additionally, besides the EFF mentioned earlier, the policy conditionality may also take any of the following instruments:<sup>17</sup> (i) General Resources Account (GRA) which is available for all IMF members on non-concessional terms,<sup>18</sup> (ii) Poverty Reduction and Growth Trust (PRGT) which provides financial assistance to LICs at zero interest rate;<sup>19</sup> and (iii) Stand-By Arrangements (SBAs),<sup>20</sup> for emerging and advanced market economies in crises.<sup>21</sup> Accordingly, the SCF, the EFF, and the ECF are the main tools the Fund uses for medium-term support to LIC's affected by protracted balance of payment problems.<sup>22</sup> Likewise, to help prevent or mitigate crises and boost market confidence during intensified risk, IMF members with strong policies can use the Flexible Credit Line (FCL),<sup>23</sup> or Precautionary and Liquidity Line (PLL).<sup>24</sup> Finally, for LICs in crises, the Rapid Financial Instrument (RFI) and the corresponding Rapid Credit Facility (RCF) can be used by the IMF to provide rapid assistance to countries with urgent balance of payment need which may include natural disasters like COVID19, commodity price, shocks and domestic fragility.<sup>25</sup>

In all, the above conditions must be applicable for the IMF to grant loans to any member country. The lending is applicable depending on the need the country is facing. Another loan facility available to all the IMF member countries is the SDRs.

### b) Special Drawing Rights to African Countries

The IMF has a Department responsible for Africa which recently marked its 60th anniversary on 10 May 2021.<sup>26</sup> SDRs were created after the first amendment of the Articles of Agreement and it became operational in 1969.<sup>27</sup> These SDRs was to supplement its members existing reserve assets as the demand for reserves was expected to grow in accordance with the growing world trade.<sup>28</sup> The SDRs serves as a unit of account of the IMF and some other international organisations such as the AMF.<sup>29</sup> The IMF's SDR is based on a basket of five currencies which include: the U.S dollar, the euro, the Chinese renminbi, the Japanese yen and the British pound sterling.<sup>30</sup> According to the Fund's Africa department African countries need to widen their tax base and pay heed to domestic political considerations and preferences. For example, the IMF has chosen to take a tougher line with the government of Equatorial Guinea and is withholding more than 85 per cent of a US\$280 million loan until the country implements a number of good governance reforms.<sup>31</sup> The current COVID-19 crises and its impact on Africa have led IMF to grant SDRs to African countries. The recent France-Africa summit is aimed to counter COVID-19 economic impact.<sup>32</sup> Accordingly, it was agreed at the summit that rich nations will reallocate \$100 billion in IMF' SDRs monetary reserves to African states by October 2021.<sup>33</sup> According to the IMF managing Director Kristalina Georgieva, 'we cannot afford leaving the African economies behind', she also confirmed that the IMF would before the summit issue \$33 billion in SDRs for the African continent for this year.<sup>34</sup> Therefore,

<sup>16</sup> See IMF Conditionality at: <https://www.imf.org/en/About/Factsheets/Sheets/2016/08/02/21/28/IMF-Conditionality>, Accessed 18 May 2021.

<sup>17</sup> Ibid.

<sup>18</sup> See more on this at: <https://www.imf.org/en/News/Articles/2021/05/28/imf-executive-board-reviews-funds-income-position-for-fy-2021-22>, Accessed 29 2021.

<sup>19</sup> The main PRGT instruments are the Standby Credit Facility (SCF), the EFF and the corresponding Extended Credit Facility (ECF).

<sup>20</sup> See the agreement between the IMF and Egypt on SBA available at: <https://www.imf.org/en/News/Articles/2021/06/23/pr21193-egypt-imf-execboard-completes-2nddrev-under-the-sba-concludes-2021aiv>, Accessed 29 June 2021.

<sup>21</sup> See IMF lend and policies instruments available at: <https://www.imf.org/en/About/Factsheets/IMF-Lending>, Accessed 29 June 2021

<sup>22</sup> See for the example the ECF and EFF agreement between Cameroon and the IMF available at: <https://www.imf.org/en/News/Articles/2021/05/27/pr21147-cameroon-imf-mission-reaches-staff-level-agreement-new-arrangements-under-ecf-and-eff> Accessed 29 June 2021.

<sup>23</sup> See IMF and Sudan agreement on Rapid Credit Facility to address COVID-19 issues available at: <https://www.imf.org/en/News/Articles/2021/03/31/pr2194-south-sudan-imf-execboard-approves-us-174-2m-emergency-assistance-address-covid19> Accessed 29 June 2021.

<sup>24</sup> Ibid.

<sup>25</sup> For example, South Africa used RFI IMF loans for COVID19, available at: <https://www.imf.org/external/np/fn/tad/extarr2.aspx?memberkey1=880&date1key=2021-04-30>, Accessed 18 May 2021.

<sup>26</sup> See Transcript of the IMF Press Briefing available at: <https://www.imf.org/en/News/Articles/2021/05/06/tr050621-transcript-of-the-imf-regular-pres-briefing>, Accessed 28 May 2021.

<sup>27</sup> See International Monetary Fund Handbook: Its Functions, Policies and Operations available at <https://www.imf.org/en/Publications/Manuals-Guides/Issues/2016/12/31/International-Monetary-Fund-Handbook-Its-Fund-Policies-and-Operations-19756>, (the IMF Handbook), Accessed 22 May 2021.

<sup>28</sup> See details on this at the decision of the recent G7 summit at: <https://www.imf.org/en/News/Articles/2021/06/13/pr21173-imf-managing-director-welcomes-action-to-help-the-world-exit-the-pandemic-crisis>, Accessed 29 June 2021.

<sup>29</sup> See art.9 section 4(2) of the 2014 AMF Protocol noting that pending the adoption of an African unit of account, the AMF unit of account will be the SDRs of the IMF.

<sup>30</sup> See Special Drawing Rights available at: <https://www.imf.org/en/About/Factsheets/Sheets/2016/08/01/14/51/Special-Drawing-Right-SDR>, Accessed 22 May 2021.

<sup>31</sup> See Africa and the IMF- an unlikely duo available at: [https://www.dailymaverick.co.za/article/2021-02-09-africa-and-the-imf-an-unlikely-duo/amp/](https://www.dailymaverick.co.za/article/2021-02-09-africa-and-the-imf-an-unlikely-duo/), Accessed 22 May 2021.

<sup>32</sup> See France-African Summit 2021 available at: <https://p.dw.com/p/3tQ0l?maca=en-whatsapp-sharing>, Accessed 23 May 2021.

<sup>33</sup> See Paris Summit Promises New Deal for Africa available at: <https://m.dw.com/en/paris-summit-promises-new-deal-for-africa/a-57575579>, Accessed 23 May 2021.

<sup>34</sup> See Paris Summit Mobilises Finance, Vaccines for Africa New Deal available at: <https://www.google.com./amp/s/www.aljazeera.com/>



the summit was intended to triple the amount of SDR monetary reserves available to African countries at zero interest rate.<sup>35</sup> Similarly, the Fund authorizes the allocation of SDRs to members participating in the SDR Department. Accordingly, the allocation of SDRs to member countries is cost free, and it does not require contributions from donor countries' budget since SDRs are reserves and not foreign aid.<sup>36</sup> With regard to the condition for allocating SDRs to member countries, all that is needed is that the country have balance of payment needs or is going through extreme economic crisis as is the case now with the effects of the present COVID-19 pandemic on the economy of many African countries. Furthermore, the SDR provides the basis for calculating the interest rate charged to members on their non-concessional borrowing from the IMF and is paid to members for their remunerated creditor positions in the IMF. Finally, holders of SDR may use their SDR for the following: (i) to settle financial obligations; (ii) to make loans; (iii) to make pledges; (iv) as security for the settlement of financial obligations; (v) in both swap and forward operations; and (vi) to make donations.

Besides the IMF's SDR zero interest rate loans to African countries; the IMF has also restructured the high debt loads of Chad through the ECF and the EFF instruments.<sup>37</sup> This was because Chad urgently needs debt relief to recover from its present crises. Another African country that benefits from IMF zero interest rate is Sudan. According to the Sudanese government, both the IMF and Sudan agreed that the money will be used to pay salaries in arrears and the rest kept in the bank for urgent balance of payment needs.<sup>38</sup>

In all, the granting of SDRs based-funding by IMF to member countries is without interest.

### III. WHETHER THE AMF IS AFRICA'S INVESTMENT AND DEVELOPMENT FUNDING PANACEA

In order to determine whether the AMF is the African content's investment and development panacea,

[amp/news/2021/5/18/paris-summit-mobilises-finance-vaccines-for-africa-new-deal](https://www.google.com/amp/s/www.africanews.com/amp/2021/05/14/african-heads-of-states-set-for-may-18-paris-summit-on-covid-and-the-economy/), Accessed 23 May 2021.

<sup>35</sup> See African Heads of States set for May 18 Paris Summit on COVID19 and Economic Revival available at: <https://www.google.com/amp/s/www.africanews.com/amp/2021/05/14/african-heads-of-states-set-for-may-18-paris-summit-on-covid-and-the-economy/>, Accessed May 23 2021.

<sup>36</sup> See Seven Things You Need to Know About SDR Allocations available at: <https://www.imf.org/en/Topics/special-drawing-right/seven-things-you-need-to-know-about-sdr-allocations>, Accessed 26 May 2021.

<sup>37</sup> See IMF Continuing Chad Debt Restructure Talks after Deby death available at: <https://www.msn.com/en-za/news/world/imf/-continuing-chad-debt-restructure-talks-after-deby-death/ar-AAKcPVE?ocid=Huawei&appid=hwbrower&ctype=news>, Accessed 23 May 2021.

<sup>38</sup> See IMF Grants \$174m emergency loan to South Sudan available at: <https://www.msn.com/en-za/news/world/imf-grants-174m-emergency-loan-to-sudan-central-bank/ar-BB1fd7Ma?ocid=huawei&appid=hwbrower&ctype=news>, Accessed 23 May 2021.

the article will now examine the resources and operation of the AMF as well as sustainable development and investment model for Africa.

#### a) The Resources and Operation of the AMF

The authorized share capital of the AMF is US\$22.640 billion,<sup>39</sup> denominated in shares of US\$100 per share.<sup>40</sup> Similarly, the callable share capital of the fund shall be at least 50 per cent of the authorized share capital which is US\$11.320 billion. The paid-up share capital of the Fund shall be at least 50 per cent of the callable share capital which is US\$5.660 billion, denominated in shares of US\$100 per share.<sup>41</sup> By virtue of Article 5 of the 2014 AMF Statute, a state party may subscribe to shares in the authorized share capital of the Fund based on its capital subscription allocation specified in the AMF Statute.<sup>42</sup> The subscription by states parties to the Fund shares will also be determined by the AMF Statute.<sup>43</sup> Moreover, the shares of the Fund may not be pledged or encumbered,<sup>44</sup> and in case of an increase in the authorized capital of the fund, the increase shall be shared among the states parties in accordance with the existing capital subscription formula of the Statute.<sup>45</sup> Finally, by virtue of Article 5 Section 2(1), (2), and (3), of the AMF Statute each state party shall subscribe for shares from the date of deposit of its instrument of ratification or accession.<sup>46</sup>

The financial resources of the AMF are made up of two categories of assets as follows: (i) ordinary resources and, (ii) other resources.<sup>47</sup> Ordinary resources include: the subscribed and paid-up shares, the resources derived from borrowing by the Fund, reserves, and net income from loans and portfolio investments made with the fund resources.<sup>48</sup> The other resources of the Fund include: special or voluntary contribution from state parties, contributions in the form of grants, donations and similar assistance from other countries or institutions which are not state parties in accordance with the AMF Protocol, grants and net income derived from voluntary contributions and donations.<sup>49</sup> Again, it is imperative to recall that one of the main objectives of the AMF is to promote economic development and the development of the African financial market, as well as granting of credit facilities states parties to sustain balance payment in conformity with credit policy.<sup>50</sup> Therefore, the capital resources of

<sup>39</sup> See art.5(1) of the 2014 AMF Statute.

<sup>40</sup> See art.5(2) of the 2014 AMF Statute.

<sup>41</sup> See art.5(3) of the 2014 AMF Protocol.

<sup>42</sup> See art.5 sect.2(2) of the 2014 AMF Statute.

<sup>43</sup> See art.5 sect.(1) of the 2014 AMF Statute.

<sup>44</sup> See art.5 sect.2(5) of the 2014 AMF Statute.

<sup>45</sup> See art.5 sect.2(4) of the 2014 AMF Statute.

<sup>46</sup> See art.5 sect.2(6) of the 2014 AMF Statute.

<sup>47</sup> See art.6 of the 2014 AMF Statute.

<sup>48</sup> See generally art.7 of the 2014 AMF Statute.

<sup>49</sup> See generally art.8 of the 2014 AMF Statute.

<sup>50</sup> See generally arts. 2 and 3 of the 2014 AMF Statute.

Fund and its financial capabilities will facilitate development and investment on the African continent.

With regard to the operations of the AMF, the Fund will provide loans, technical assistance and policy advice to state parties in situations of balance of payment challenges and other macroeconomic problems as agreed by the Board of Directors.<sup>51</sup> Similarly, the Fund may also provide financial assistance to state parties after approval by the Board of Governors.<sup>52</sup> The Fund is required to ensure strict compliance with principles of good governance, including the principles of integrity and transparency in all its financial arrangements, through the supervisory bodies of the AMF which shall ensure effective implementation in this regard.<sup>53</sup> Additionally, the Fund shall be authorized by the Board of Governors to borrow and invest funds not immediately needed for its operations in international financial markets and institutions in order to make profits.<sup>54</sup> Lastly, the Fund will at all times be financially independent, maintain a sound credit rating and operate on a self-financing basis.<sup>55</sup>

In all, the AMF operations consist of ordinary operations and special operations. Ordinary operations will be funded by ordinary resources of the Fund, while special operations will be financed from other resources of the fund as indicated earlier.<sup>56</sup> Equally, loans issued by the fund to a state party over a period of 12 months will not exceed twice the amount of its paid-up subscription. Likewise, the maximum amount of indebtedness of the Fund shall not exceed 200 per cent of its total authorized share capital, and borrowing will be in accordance with the terms and conditions approved by the Board of Directors.<sup>57</sup> As indicated earlier, the AMF's unit of account for the time being shall be the IMF's SDR. Accordingly based on the statistic regarding the AMF financial resource and the share capital allocation to states parties, it is very unlikely that the African states will only rely on the AMF for their financial needs. This is because the resources of the Fund are limited to support the entire continent of Africa. Additionally, the AMF is not yet operational.<sup>58</sup> The fact that only few states in the continent have actually ratified the Protocol creating the AMF is another concern. Conversely, the IMF support to African states especially on the present COVID-19 crisis is overwhelming. Almost all the states on the African continent have benefited

<sup>51</sup> See art.9 sect.1(1) of the 2014 AMF Statute.

<sup>52</sup> See art.9 sect.1(2) of the 2014 AMF Statute.

<sup>53</sup> See art.9 sect.1(5) of the 2014 AMF Statute.

<sup>54</sup> See art.9 sect.1(3) of the 2014 AMF Statute.

<sup>55</sup> See art.9 sect.1(4) of the 2014 AMF Statute.

<sup>56</sup> See art.9 sect.2 of the 2014 AMF Statute.

<sup>57</sup> See art.9 sect.3(1)(2) of the 2014 AMF Statute.

<sup>58</sup> See Protocol on the Establishment of African Monetary available at: <https://au.int/en/treaties/protocol-establishment-african-monetary-fund>, Accessed 16 November 2021.

from IMF loans and SDRs awarded during this crisis. Most of loans granted by IMF to LICs are without interest. The AMF in this regard is not the African development and investment panacea as the Fund has a cordial relationship with the IMF. Sustainable development and investment model for Africa will enhance development in the continent.

#### b) Sustainable Development and Investment Model for Africa

Many African states arguably have the necessary resource to ensure sustainable development and investment. Most of the time, corruption in connection with the implementation of government projects has crippled the economy. The fight against corruption in public services and promotion of intra and inter African trade through the African Continental Free Trade Agreement (AfCFTA) are intervention that will ensure sustainable development and investment in the continent. The model adopted by the AMF specifically concerning the granting of loans to its African state parties is very vital as far as the fight against corruption is concerned. In this regard, Article 9 Section 1 of the AMF Statute provides as follow:

The Fund shall ensure strict compliance with principles of good governance, including the principles of integrity and transparency in its financial arrangement and those of its partners. These shall apply to the origins and destinations of capital for all financial transactions of the Fund. The supervisory bodies of the Fund shall ensure effective implementations of this provision.

*The keys terms here are:* The principles of good governance, integrity and transparency, and of course effective supervisory bodies. The implementation of these principles by African states will create the atmosphere for development and attracts foreign investment.<sup>59</sup>

With regards to AfCFTA, it will not only generate the necessary income needed to fund developmental projects, but also promote Foreign Direct Investment (FDI).<sup>60</sup> Accordingly, foreign investors are contributors to sustainable development. Moreover, trade, international licensing of technology and intellectual property and multinational enterprises will promote foreign investment and sustainable development in Africa. However, even though FDI promotes economic growth, it may also harm the environment through pollution caused by some of the activities carried out by multinational corporations. Accordingly, the AU Agenda 2063 and the United Nations (UN) Sustainable Development Goals

<sup>59</sup> See Fiscal Monitor: Curbing Corruption in some African countries available at: <https://www.imf.org/en/Publications/FM/Issues/2019/03/18/fiscal-monitor-april-2019>, Accessed 29 May 2021.

<sup>60</sup> See Condition for Success in the Implementation of the African Continental Free Trade Agreement available at: <https://au.int/en/documents/20200209/conditions-success-implementation-african-continental-free-trade-agreement>, Accessed 19 June 2021.



(SDGs) are stimulus for sustainable development and investment for the African continent.<sup>61</sup>

#### IV. AGENDA 2063 AS SUSTAINABLE DEVELOPMENT MODEL FOR AFRICA

Agenda 2063 is the Framework document that was adopted by the AU Assembly of heads of state and government in January 2015 in Addis Ababa.<sup>62</sup> This document was adopted after many consultations involving all African society both home and abroad, reflecting on the Africa we want by 2063. Agenda 2063 is therefore Africa's blueprint and master plan for transformation of Africa into a recognisable and an undeniable global powerhouse of the future. It is the continent's strategic framework that aims to deliver on its goals for inclusive and sustainable development, and collective prosperity pursued under Pan-Africanism.<sup>63</sup> Accordingly, Agenda 2063 is captioned by the following words:

"A shared strategic framework for inclusive growth and sustainable development and, and a global strategy to optimize the use of Africa's resources for the benefit of all Africans".

This Agenda 2063 is founded on the AU's vision of 'an integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in the international arena'.<sup>64</sup> The vision of this Agenda is supported by seven aspirations as follows: (i) a prosperous Africa based on inclusive growth and sustainable development;<sup>65</sup> (ii) an integrated continent, politically united and based on the ideas of Pan-Africanism and the vision of Africa's Renaissance;<sup>66</sup> (iii) an African of good governance, democracy, respect for human rights, justice and the rule of law;<sup>67</sup> (iv), a peaceful and secure Africa;<sup>68</sup> (v) an Africa with a strong

identity, common heritage, shared values and ethics;<sup>69</sup> (vi) an Africa whose development is people-driven, rely on the potential of the African people especially women, and youth and caring for children;<sup>70</sup> and (vii) Africa as a strong, united, resilient and influential global player and partner.<sup>71</sup> The last aspiration seeks to elevate the African continent to be an undeniable social, political and economic force in the world.

The continental framework has been developed and is aimed to address key developmental sectors such as agriculture, trade, transport, energy and mining.<sup>72</sup> These frameworks include: the Comprehensive African Agricultural Development Programme (CAADP),<sup>73</sup> the Programme for Infrastructural Development in Africa (PIDA),<sup>74</sup> the African Mining Vision (AMV),<sup>75</sup> there is also Science Technology Innovation Strategy for Africa (STISA),<sup>76</sup> Boosting Intra African Trade (BIAT),<sup>77</sup> and finally, Accelerated Industrial Development for Africa (AIDA).<sup>78</sup>

<sup>69</sup> This aspiration also seeks to Pan-African cultural assets such as heritage, folklore, language, films music, theatre, literature, festivals, religions and spirituality.

<sup>70</sup> This aspiration further seeks to include everybody in the decision-making in all aspects of development including social, economic, political and environmental in the continent.

<sup>71</sup> See Agenda 2063 Aspirations available at: <https://au.int/agenda2063/aspirations>, Accessed 12 June 2021.

<sup>72</sup> See Agenda 2063 Continental Frameworks available at: <https://au.int/agenda2063/continental-frameworks>, Accessed 15 June 2021.

<sup>73</sup> CAADP is a continental initiative designed by African countries to eliminate hunger and reduces poverty by raising economic growth through agriculture-led development. It has four priority areas namely; (i) extending the areas under sustainable land management and reliable water control system; (ii) improving rural infrastructure and trade-related capacity for market access; (iii) increasing food supply, reducing hunger, and improving responses to food emergency crises; (iv) improving agriculture research, technology dissemination and adoption.

<sup>74</sup> PIDA provides a common framework for African stakeholders to build the infrastructure necessary for more integrated transport, energy and trans-boundary water networks to boost trade, sparks growth and create jobs.

<sup>75</sup> AMV aims for transparent, equitable and optimal exploitation of mineral resources to accelerate sustainable growth and socio-economic development. It envisages an African mining sector that is: (i) knowledge-driven and contributes to growth and development which is fully integrated into a single African market; (ii) sustainable and well-governed and effective management of resources, taking into consideration the environment and the surrounding communities; (iii) a major component in the industrialisation of African economy; and (iv) optimising Africa's finite minerals for commercial purposes.

<sup>76</sup> STISA is considered to be at the epicentre of Africa's socio-economic development and growth. It is aimed at the following: (i) eradication of hunger and achieving food security; (ii) communication through physical and intellectual mobility; (iii) the protection of African space; (iv) living together in peace and harmony to build the society; (v) and wealth creation.

<sup>77</sup> BIAT main purpose is to deepen and widen Africa's market integration on the one hand and to increase the volume of trade amongst African countries to over 25 per cent the next decade on the other hand. The seven pillars identified by BIAT to address trade challenges are the following; trade policy, trade facilitation, productive capacity and trade information and factor market integration.

<sup>78</sup> AIDA is a Pan-African programme aimed at mobilising both financial and nonfinancial resources and enhances Africa's industrial

<sup>61</sup> See the 17 United Nations Sustainable Development Goals available at: <https://www.un.org/sustainabledevelopment/sdgs-framework-for-covid-19-recovery/>, Accessed 16 November 2021.

<sup>62</sup> See Framework Document of Agenda 2063 available at: <https://au.int/en/documents/20141012/key-documents-agenda2063>, (Agenda 2063 Framework Document of 2015), Accessed 12 June 2021.

<sup>63</sup> See Agenda 20603 Overview available at: <https://au.int/agenda2063/overview>, Accessed 12 June 2021.

<sup>64</sup> See the Agenda 2063 Framework Document of 2015, p.12.

<sup>65</sup> This aspiration is aimed to create an African that is environmentally friendly; using its own resources to drive its development thereby eradicating poverty. This will be done through manufacturing, values addition and using science and technology-driven innovation.

<sup>66</sup> This aspiration seeks to achieve an integrated, united, peaceful, sovereign and independent, confident and self-reliant continent.

<sup>67</sup> This aspiration also seeks to eradicate corruption and impunity on the one hand and promote democratic values, culture practices, respect for human rights, justice, gender equality and the rule of law in Africa on the other hand.

<sup>68</sup> This aspiration is aimed at promoting collective security and safety for all Africans, and also to eradicate gender-based violence in the continent.

Likewise, Agenda 2063 also considered the national development plan of AU state members as well as the strategic plans of the Regional Economic Communities (REC) as development priority.<sup>79</sup> Accordingly, some of the national and regional priorities areas are as follows: (i) sustainable and inclusive economic growth; (ii) human capital development; (iii) employment generation especially the youth and females; (iv) good governance including capable institutions; (v) manufacturing- based industrialization; (vi) science, technology and innovations.<sup>80</sup> Similarly, the main Agenda 2063 flagship programmes which also address the issues of development as agreed by the AU political leaders are as follows:<sup>81</sup> (i) the integrated high speed train network aimed to connect all African capitals and commercial centres to facilitate movement of people and goods; (ii) a Pan-African E-university designed to accelerate development of human capital, science, technology and innovation, and increase access to tertiary education for all African students in the world; (iii) formulation of a commodities strategy to add value and higher rents to all commodities in Africa; (iv) an annual African forum designed to bring African political leadership, the private sector academia and the civil society to discuss developmental issues and constraints regarding Agenda 2063; (v) fast track the establishment of the Continental Free Trade Area by 2017 aimed to promote intra-African trade and use trade as an engine of growth and sustainable development; (vi) the African passport and free continental movement of people designed to bring down borders and facilitate continental integration; (vii) silencing the guns by 2020 designed to end all wars and conflict in Africa; (viii) implementation of the Grand Inga Dam project to boost Africa's energy production to facilitate development and growth; (ix) the Pan-African E-Network designed to boost services in the continent and promote intra-African broad band; and finally, (x) the African outer space designed to strengthen Africa's use of outer space to bolster development.<sup>82</sup> Finally, Agenda 2063 is linked and consistent with the United Nations (UN) Sustainable Development Goals (SDGs).<sup>83</sup> These 17 goals include:<sup>84</sup> no poverty; zero hunger; good health

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performance. It also focuses on driving the integration of industrialisation of national development policies in poverty alleviation strategies; support the development of small scale and rural industries as well as the informal sectors.

<sup>79</sup> See Agenda 2063 Framework Document of 2015, p.14.

<sup>80</sup> For greater details, see Agenda 2063 Priorities available at: <https://au.int/agenda2063/priorities>, Accessed 19 June 2021.

<sup>81</sup> See Agenda 2063 Flagship Projects available at: <https://au.int/agenda2063/flagship-projects>, Accessed 19 June 2021.

<sup>82</sup> See Agenda 2063 Framework Document of 2015, pp.107-108.

<sup>83</sup> See Agenda 2063 and the Sustainable Development Goals available at: <https://au.int/agenda2063/sdgs>, Accessed 19 June 2021.

<sup>84</sup> See United Nations Sustainable Development Goals available at: <https://www.un.org/sustainabledevelopment/sdgs-framework-for-covid-19-recovery>, Accessed on 19 June 2021.

and well-being; quality education; gender equality; clean water and sanitation; affordable and clean energy; decent work and economic growth; industry, innovation and infrastructure; reduced inequalities; sustainable cities and communities; responsible consumption and production; climate action; life below water; life on land; peace, justice and strong institutions; and finally partnerships for the goals.<sup>85</sup> The outcome Agenda 2063 is that Africa is expected to witness the following: improved standards of living; transformed, inclusive and sustained economies; increased level of regional and continental integration; a population of empowered women and youth and a society in which they are cared for and protected; societies that are peaceful, demonstrate good democratic values, practice good governance principles and enhance Africa's cultural identity.<sup>86</sup> Nevertheless, most of these benefits are still in the pipe line and, consequently, financing the Agenda 2063 development projects may still require funds from the IMF.

## V. FINANCING AFRICA'S FUTURE DEVELOPMENTAL PROJECTS

The IMF, the World Bank and the African Development Bank are currently the main financial sources for developmental projects in Africa. Indeed, the IMF is the financial powerhouse of Africa with regard to development, loans and balance of payment problems in Africa, and the latest African country to benefit from the IMF's EFF of US\$772 million is Angola.<sup>87</sup> Despite the contributions made by the IMF in the African continent towards developmental projects, Agenda 2063 has considered different sources of finance and strategic plans for future for developmental and investment projects in Africa as stipulated in the Framework Document. Some of the developmental projects include: infrastructure; science, technology and innovation-based industrialization, and processing of local-resources; agriculture, food security and environmental sustainability; intra-Africa trade; health and nutrition; education attainment and science, technology, engineering and mathematics-based education, research and centre of excellence; inclusive and sustainable growth.<sup>88</sup> Indeed, all these projects require huge sums of money for their accomplishment. The financing sources identified by Agenda 2063 range from commercial finance from both public and private

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<sup>85</sup> See further the Goals and Priority Areas of Agenda 2063 available at: <https://au.int/agenda2063/goals>, Accessed 19 June 2021.

<sup>86</sup> See the Agenda 2063 Outcomes available at: <https://au.int/agenda2063/outcomes>, Accessed June 19 2021.

<sup>87</sup> See IMF Executive Board complete fifth review of the Extended Fund Facility Agreement with Angola and approves US\$772 million available at: <https://www.imf.org/en/News/Article/2021/06/09/pr21168-angola-imf-exec-board-completes-5th-review-of-the-eff-agreement-and-approves-disbursement>, Accessed 19 June 2021.

<sup>88</sup> See the Agenda 2063 Framework Document of 2015, pp.121-124.



commercial sources; grants, technical assistance, concessional loans, market price-based commercial loans; equity and other market-like instruments such as FDI and portfolio investment by the private sector. Furthermore, Agenda 2063 has also articulated three financial strategies as follows: (i) domestic resource mobilization; (ii) intermediation of resources into investment; (iii) access to finances<sup>89</sup>.

With regard to domestic resource mobilization and intermediation strategy, some of the potential sources of finance include: (i) government investment budget mobilized through budget reallocation, taxes, customs and revenues; (ii) government expenditure budgets reallocation; (iii) illicit capital flows mobilized through regulations, surveillance and enforcement; (iv) carbon credit, claimed from international development mechanism; (v) FDI through targeted investment promotion; (vi) private investment through project development; (vii) diaspora funds through bond, mutual funds and direct participation into projects; (viii) commercial bank and trade finance through capacitation and capitalization of banks; (ix) credit investment insurance and African Investment Bank, and Africa 50 Fund mobilized through institutional investors. Finally, the main source of continental financial sources is the levies on African private sector firms as suggested by the report of the Obasanjo led high-level panel on alternative sources of funding for the AU.

## VI. CONCLUDING REMARKS

The IMF is still a vital source of finance for development and investment projects despite the alternative sources of finance proposed by the AU and Agenda 2063. The AMF is under the supervision of the AU and therefore an integral part of Agenda 2063 projects. Even though the IMF grants loans with interest to advance economic development to develop countries, most of the loans granted to African countries and LICs are without interest.



<sup>89</sup> See the Agenda 2063 Framework Document of 2015, p.122.



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# China's Struggle against Covid-19: Crisis Management under Analysis

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**Abstract-** The Chinese government combat against the dissemination of the new coronavirus<sup>1</sup> should be seen as a case study capable of explaining the political system and the country's economic model, taking into consideration the strategies adopted by the Communist Party of China (CPC), fundamentally supported in science and technology. Based on the understanding that the management of the sanitary crisis should be seen as an example of public policy action, this paper is to present the importance of communication and coordination to overcome the challenges to civil society by the pandemic through administrative mechanisms and organizational structures. This analysis considers the governance of the Chinese state in combating disease as a disruptive process and aims to share practical solutions from the instruments used, such as the industrial conversion, the mobilization of the workforce, the QR code and the Social Credit System (SCS), among others. For such analysis, we will take into consideration the adopted actions during pandemic crises, contextualizing it into China's historical and cultural aspects as well as the referent CPC's policies, inserting the global conjuncture, to point the direction to be followed in a post-covid-19 scenario, contesting the social stigma against the country and its people.

**Keywords:** crisis management, covid-19, disruptive, social technology, public affairs.

**GJHSS-F Classification:** FOR Code: 369999



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## I. INTRODUCTION

The health crisis caused by the new coronavirus pandemic triggered a collapse in the global economy, challenging current contemporary models and the power structure in society. Upon identifying the first outbreak of covid-19, at the turn of 2019 to 2020, in Wuhan, capital of Hubei province, China was faced with an unknown disease, about which

<sup>1</sup> This article was awarded among the best papers presented during the International Conference on Public Organization (ICONPO), organized by the Asia Pacific Society for Public Affairs (APSPA). The theme of the event was "Digital Governance and Crisis Management During Covid-19".

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there was still much confusion related to the origin of the SARS-CoV-2 virus as well as the means of transmission.

However, China's "readiness economy" (JABBOUR, 2020), the coordination of public policy actions and the communication of procedures show the overcoming of a hitherto unknown and invisible - but lethal - enemy through administrative mechanisms and organizational structures. This national unity between the Chinese State and the people contrasts with the strategies of liberal democracies as most capitalist societies had come across a choice between who lives and who dies, adopting the so-called necropolitics (MBEMBE, 2016).

In turn, in China, the government's moves in the first days of 2020, including Wuhan's total confinement (lockdown) as of January 23, and the decisions taken by all levels of government and within society (neighborhood's committees, business sectors and civil entities) to fight back an unknown virus outbreak are a clear demonstration of the superiority of socialism over capitalism. China has developed a four-pronged strategy that enabled the country to break Sars-CoV-2's entire chain of infection. This strategy mixed the strict vigilance to quarantine and social isolation, seen as collective duties, the effective control of the disease through mass testing, proactive tracking of the virus, and the treatment of the infected people.

For its turn, liberal democracies, notably Western developed countries, exposed its fragility when facing a severe health crisis, placing alleged individual freedoms above actions against coronavirus' spreading. As a result, Western's countries mostly failed. QIN (2020) puts it in another way, arguing that high human rights have become a disadvantage for the West in its fight "What if 'human rights' means 'no humans left'?" (QIN, 2020).

The Chinese State's role in fighting the disease must be seen as a disruptive process, which takes into account organizational structures, technological innovation, practical solutions' communication and technical instruments' use coordination. Therefore, the political economy paradigm in China can only be a Marxist one. "At the fundamental level, the capability of our Party and the strengths of socialism with Chinese characteristics are attributable to the fact that Marxism works." (XI, 2021)

This is because the Communist Party of China (CPC) holds control over these gears as the country's



political system remains detached from the interests of private capital. On the other hand, people's needs are addressed through market socialism, which works in the opposite direction to liberal democracies. It is also because China's market initiatives are socialist, as companies, state-owned or not, have limited political leverage when compared to capitalism.

As a result, on April 8, 2020, 76 days after the lockdown, Wuhan City was reopened. There is, then, an antithesis between the health of the population and the economy. Chinese system shows the priority of the paradigm in which the economy is for life - and not life for the economy -, placing people as agents of capital organization, while commodity-based capitalist societies turn merchandise into protagonist, "reifying" human beings, according to Marx [1867], who links "fetishism" to "reification".

Therefore, the coronavirus' crisis has offered the opportunity for outsiders to understand China's political system and economic model, inserting the experience of socialism with Chinese characteristics into the global landscape. To show why the covid-19 pandemic explains the functioning of the Chinese state and its market relationship, it is necessary to take into account Chinese society formation process as a millenary civilization and the CPC's mission for national rejuvenation. It will make possible to understand the disruptions and technical-scientific progress with CPC's lead as a key role in this process, breaking up with the misunderstanding of a linear, continuous civilizing process of the Chinese people over 5,000 years.

It is based on the analysis of the health crisis management as an example of public policy action, that the Chinese state's governance model in fighting the disease presents itself as a disruptive process, taking into account the mistakes and achievements. Therefore, it is necessary to rescue the historical and cultural aspects of China and the CPC, placing them in the global context, in order to point out a direction to be followed in a post-covid-19 scenario.

Thus, the purpose of this article is to respond to the assumption that the Chinese political system and economic model reaffirms itself in the face of the crisis and challenges of the new millennium. The logic of this reasoning considers that CPC should remain in the lead of China's development process, planning the next steps of scientific-technological progress towards the goals set for 2049.

## II. COMMUNICATION AND COORDINATION BINOMIAL: METHOD ANALYSIS AND BASIC THEORY

Our research considers an approach of the Communication and Coordination binomial as the most appropriate method to analyze China's struggle against Covid-19 pandemic, by articulating these concepts and

relating them to the country's civilization aspects and its political-economic system. By doing so, the theoretical framework is consistent with the materialist paradigm, which sees reason as an argument for apprehending reality.

Therefore, we insist here that our basic theory, in the perspective presented so far, is linked to relations between historical-cultural process and public policy action, with the aim to understand how communication organizes and coordination builds and transforms networks that demonstrates China's great internal containment capacity of the coronavirus spreading.

Nevertheless, it is important to contextualize that the first type of communication in human history took place when the hominid became a hunter, using hands for hunting and gathering, enhancing brain development and, consequently, the need to count (BULLA, 2015). Such a process should not only be seen as the ability to make sounds, report facts and tell stories, but also to perform finger counting to calculate. "By having the ability for calculation, the notion of writing had been born, reinforcing the link between words and numbers. Thus, it is understood that numbers were the first form of writing for human beings" (BULLA, 2015: 20).

Such an achievement was paramount to the rise of civilization, portraying the gateway to scientific understanding, a link between the primitive mind and intelligence. Marx [1867] states that the hominization of ancestors is due to the emergence of work, by creating the consciousness of man, with language as a historical product of practical reality. Thus, after the development of work through the domestication of fauna and flora, the ability to speak and count was central for human organization in society. Although it has changed many times, the word civilization is used in multiple ways to refer to societies whose stage of development and social organization is deemed as advanced and complex, in cultural and technological aspects.

However, China is not a continuous people of more than 5,000 years. What does exist is a historical, economic and social accumulation over the millennia, turning a conglomerate of peoples into a civilization that emanates from the sharing of recorded technical-scientific means by a writing system. Therefore, without communication there is no civilization. In other words, communicating is the way to describe and change reality, and the relationship between human work and language is responsible for people's socialization and the creation and transformation of material bases for society's way of life.

Considering the proposal of this article regarding China's unparalleled capacity of response to a major public health problem, communication in society, in this sense, implies an example of public policy action. Drăgan (2019) affirms that contemporary's complex problems require a collaborative approach.

According to him, in crisis situations, such as natural disasters, terrorist attacks and pandemics, communication and coordination go hand in hand as a public policy action. That is why numbers and language need to be accurate, since communication in crisis management requires efficient, practical information use and sharing, avoiding failure, delay or loss. Otherwise, the ability to coordinate diminishes.

Drăgan (2019) further explains that crisis coordination requires collaborative resources, through an interorganizational arrangement that allows public agencies and private institutions to cooperate with each other in a joint effort to solve complex problems that any agent alone would not be able to manage. "Crisis coordination implies a full integration of the operations of the different actors involved in crisis management" (Drăgan, 2019: 29).

Besides that, Christensen et al (2016) state that crisis means situations in which there is a serious threat to basic structures or fundamental norms and values in civil society, requiring crucial decisions to be taken quickly and under unknown circumstances. According to the authors, to manage such situations the main problems are: decision making; communication and coordination; and the recovery, prevention and preparation phases.

That's why the fight against covid-19 in China was highly efficient. What made it possible for the country to face a "people's war" against the virus was the political system under which the central authorities perform general command, with the governing body represented as the State coordinating the strategies to be adopted, at the same time in that local authorities and all other sectors of society follow the lead and the instructions that are being communicated, performing their respective social functions.

China's efficient command is exercised by the Communist Party of China (CPC), whose power structure is the result of the 1949 Liberation War, securing a strong state, centralized government. Under this political system, the ruling party is the agent responsible for coordinating measures, while the State is the public administration's rank that communicates the actions and processes to be carried out.

However, this mechanism's main axis is at the base, since people, organizations, companies etc. - the social actors - fulfill their social functions and collective duties not because it is an autocratic regime, but because the social fabric formed by the people recognizes itself in the Party, thus legitimizing this control. The CPC has no interests of its own. Otherwise, the decision-making and commitments assumed to manage projects, based on science and technology, stands on the relentless pursuit of bringing concrete benefits to the vast majority of its people.

After all, if the Party or any ruler fails for a long period, legitimacy is weakened. And the CPC has been

successful so far for not being careless with the people's needs, having a constant sense of crisis management and what needs to be delivered as a result to the population, improving the living conditions of the country and its people. This means that many of the public policies needed by society can only be secured with a strong state and an empowered government.

It was such a structure that allowed China's expedite, effective fighting against the coronavirus spreading, with unparalleled results in the world, showing the Chinese political system and the so-called "market socialism" economic model superiority over liberal democracies and capitalists in their financialized phase, protecting life and waging every efforts to support triumph over this challenge. Thus, this unparalleled capacity to respond to such a major public health crisis brought to the fore the discussion on capitalism and socialism, which seemed to have been overcome since Fukuyama (1992).

From strategic state-owned companies to private ones, the CPC mobilized all Chinese society for a common good. Under the socialist market economy, capital is managed by the State, which executes coordinated actions capable of efficiently allocating funds and generating benefits, compensating for the limits and failures of private capitalism. In Western democracies, from the 1980s onwards and, notably, after the end of the Cold War, the neoliberal doctrine determines that the interests of capital are above the interests of the nation-state, giving companies the power to define public policies and actions on behalf of a small, affluent portion of the population.

Gabriele and Schettino (2012) explain that Market Socialism allows the overcoming of an intrinsic disadvantage of capitalism, namely, the potential contradiction between savings and investments caused by the appropriation of surplus value. According to them, this overcoming occurs because the bourgeoisie in socialism is not a class endowed with effective internal mechanisms of coordination to undertake economic decisions, with the State being responsible for formulating and implementing an advanced form of planning, with a focus on speed and qualitative characteristics of the accumulation process.

Therefore, it was through a socialist market economy that the CPC was able to convene strategic industries, reconverting activities and innovating the technological tools available, such as QR Code and Social Credit System (SCS). In addition, the Party mobilized the necessary workforce in several areas (health, civil construction, services etc.) to operate at full speed in order to coordinate public policy actions and communicate the urgent needs of the health crisis. In the next section of this article, we will illustrate that in each of these mechanisms there was a disruption, as crisis coordination efficiency depends on adequate crisis communication.

### III. FINDINGS AND DISCUSSION: SOCIAL, TECHNOLOGICAL DISRUPTION

The insights presented so far must be considered in a broader context, since the coronavirus pandemic was a global, unprecedented phenomenon, triggering specific challenges and different types of crisis in each country, horizontalizing the world in the face of a public health's global issue. Consequently, the management capacity in each region influenced the way in which the covid-19 contagion was faced.

The proposed discussion is to show that Wuhan's contingency plan posed as a model to control and prevent the spread of the disease, becoming a tool that could be replicated throughout China and that could, perhaps, serve as a reference outside its borders. However, the strategy used in the city served as a learning, scientific method due to the re-creation of existing protocols, with the CPC be taking previous experience during 2002-2003's SARS (Severe Acute Respiratory Syndrome) epidemic while improving its techniques through disruptive processes - whether in the form of social organization or through the tools used.

Such a procedure is part of the social technology idea presented by Helmer-Hirschberg (1965), by proposing a science-based reassessment of the social sciences methodology, modifying traditional procedures and allowing operational approaches to models and research. That is illustrated by Supreme Leader Deng's (1982) analogy of "crossing the river feeling the stones you are stepping on", perceiving the challenges of the journey as part of a socio-economic development strategy. Therefore, understanding social technology as a technical-scientific method of applying the political system and the economic model encompasses understanding how Marxism changed China, incorporating new values, concepts and structures, while absorbing lessons of success and failure.

Marx [1852] (2011) states that a society that does not learn from history is doomed to repeat it - first as a tragedy and then as a farce. Therefore, with a growing knowledge of the virus, the CPC leaders improved and optimized their response measures, making them more effective, ensuring that prevention efforts were strictly based on science.

So much so that since Wuhan reopening, in April 2020, the four fighting fronts (social isolation, mass testing, tracking and treatment) added to the cleaning of public places and the use of masks as a form of individual protection have continued in progress all over China. By listing these actions as effective tools, capable of breaking the whole infection chain, the CPC showed that it has learned to deal with public health crises, adapting the good results and practices left in the management system (blueprints) generated with the

SARS, at a time when the covid-19 vaccine did not yet exist.

This was the case in all subsequent cases: from the densely populated region of the Pearl River Delta in the south to the most populous cities, Shanghai and Beijing, and Qingdao in the east; and Kashgar and Chengdu in the west; and the emblematic experience in Shijiazhuang to the north. In all of them, there were efficiency gains, notably in terms of time and space, which allowed the adoption of localized measures, directing actions in restricted areas, without the need to close an entire city.

In doing so, the "people's war" called upon by the Party's General Secretary, President Xi Jinping, became continuous. Wang (2020) states that the Chinese leader's appeal made the battle take a form of defense and control by groups of people - including family communities, work units, individuals and several levels of government. Therefore, China's battle in defense of Wuhan against the disease was a victory won in a socially and historically organized space. After all, "Wuhan is China in miniature; it is a heroic city" (BENJAMIN, 2020: 13), where several battles that mark the country's history took place, shaping the image of a fortress.

That is why the lockdown in Wuhan turned Hubei province's capital into a "stage" for changes in society and modes of production, with public policy actions reaching both social life and the production of essential goods. It is this social engineering that explains the sending of 42,000 medical staff or the construction of two brand new hospitals with 1,000 and 1.6 thousand beds in record time of 10 and 12 days, respectively.

Claiming victory in the battle against covid-19 also depended on logistical support, with the industrial reconversion strategy showing the capacity to react and reorganize production in short notice, as well as updating and expanding existing digital components of the technology ecosystem, such as We Chat and AliPay applications, or through the improvement of the Social Credit System (SCS), in order to generate rewards for good behavior in society. In all of these mechanisms, the participation of state-owned companies (SOEs) was a centerpiece. Lin *et al* (2020) states that SOEs respond to the orders and recommendations of the Chinese government due to social responsibility commitments, to the detriment of profit maximization that prevails in private corporations.

Therefore, beating the coronavirus in China was based on experience and science. The prevalence of Chinese State governance in hierarchical arrangements and technological network, which ensured the quality of the response in fighting the coronavirus spreading, evidenced in the adoption of practical solutions in the economic and social environments, betaking tools managed by the political system.

#### IV. CONCLUSION

From a crisis management organizational point of view, China's struggle against the dissemination of the coronavirus means an in-depth dive in the country's political system and its economic model in order to ensure the strengthening and legitimacy of governance, by making the citizens' demands effectively met. Official statistics expose this discussion's core, showing that the most populous country in the world recorded just over 92,000 people infected with the SARS-CoV-2 virus and less than 5,000 dead, compared to more than 187 million global cases and more than 4 million confirmed deaths from the pandemic's outbreak to the first half of July 2021. The Chinese population was estimated at 1.44 billion people in July 2021, or 18.23% of the world population, estimated at 7.9 billion people at the time. However, the Asian country accounted for 0.05% of confirmed cases and 0.12% of deaths from the disease.

However, the Chinese government's skills are not restricted to the public health crisis, whether the current one or previous health collapses. The aim of this article is to show, through the rescue of the historical process of the CPC, that since Marxism reached China, even before 1921, the year of the Party's foundation, this thought brought with it a fresh philosophical notion, which leads towards a correct scientific judgment of social, political contradictions from a practical point of view, allowing coordination and communicate measures that can become concrete.

According to Qiang (2018), for this reason, the Party's first mission is to resolve the tension between philosophical truth and historical practice, to unify the universal philosophical truth of Marxism with the concrete, historical reality of China's political life, producing lines, orientations and policies that can provide concrete guidance in practice. This process is one where theory guides practice and practice tests theory, and where practice allows for the evaluation, improvement, and creation of theory. "This process of dialectical movement between theory and practice, philosophy and history is precisely the 'Sinification of Marxism'" (QIANG, 2018: 7).

It becomes clear, then, the importance of the strategy adopted through China's five-year plans (FYPs), which systematize the process of organizing actions in order to achieve the proposed goals, bringing the basic information to guide what needs to be done, serving as a roadmap even when the route is changed and, after the problem is solved, it is possible to know which direction to take. This is exactly what happened shortly after the control of the first covid-19 outbreak in Wuhan, with President Xi Jinping urging the nation to return to work and daily life, calling for stronger policies to keep the momentum of economic and social development in the country while paying close attention

to the achievement of the goals defined for 2020, such as the eradication of extreme poverty.

The FYPs have been used in China since 1953, bringing socio-economic development goals that shape a national project – not just every five years, but also in mid and long terms. Since 1954, the Two Sessions (两会) have been held, one of the country's main political events, in which the National People's Assembly, the highest legislative body, and the National Committee of the Chinese People's Political Consultative Conference meet in Beijing to set such goals.

At the most recent meeting, in May 2021, the leaders of social bases not only defined national priorities under the 14th FYP for the 2021-2025 period, but also outlined long-term goals eyeing 2035, with the premise of developing modes of production and releasing the productive forces for China's new journey in building a modern socialist state. In the understanding of the CPC, placing communism in a cultural, civilizational sphere allows for an evolutionary leap in geometric rather than linear progression.

The Chinese Dream (中国梦), a motto conceived in 2013 by President Xi, encompasses prosperity, harmony and shared destiny. Such an ideal must be achieved together with the great rejuvenation of the Chinese nation, at the time of the celebration of the Second Centenary, in 2049, when the 100th anniversary of the founding of the People's Republic of China is expected to be celebrated. More than a concept that finds fertile soil in the collective imagination of the Chinese population, the motto goes back to China's history and has deep roots, such as the traumatic events that marked the so-called Century of Humiliation, and is used as a promise of renewal and modernization of the country.

Before that, in 2035, China plans to become a leader in innovation, accelerating technological progress through the 5G mobile network, Artificial Intelligence (AI) and Big Data, in order to build a more sophisticated production system that can even protect nature, reshaping global biodiversity. After all, the covid-19 pandemic intensified the discussion about sustainability, as human beings became more vulnerable to diseases, leading to re-thinking the ways of natural resources exploitation.

Such a target includes the so-called "3060" climate goals, with China reaching its carbon dioxide emissions peak by 2030 and zeroing it in 2060. As part of this project, there are also new rural revitalization and urbanization strategies, such as the development of 19 superregions, with Wuhan being part of the "Nine Cities, One Dream", integrating the country's regional business environments with global economic strategies such as the Dual Circulation and the Belt & Road Initiative.

The West is left with only rhetoric, misrepresenting the achievements of Marxism in China



while building an ideological wall, which identifies and points out to New China as a society governed by another system. For the outsider, the Confucian state that prevailed throughout many dynasties because of a "mandate from heaven" still reigns to this day in the Middle Kingdom, even after the dismantling of the political power of the Qing dynasty, in early 1900's.

For Marx [1853], "the English cannon in 1840 (...) broke down the authority of the Emperor, and forced the Celestial Empire into contact with the terrestrial world". Since then, the West has tried to keep the Chinese people under the influence of the same "soporific drug", inducing the world to look at China as a place within the parameters of the past, that country that was humiliated, semi-colonized and would be dominated again if it returned to the Confucian era. But the New China breded from 1949's War of Liberation, under the communist aegis, despite being opposed to liberal democracies, has served as a basis for capitalism to overcome the many crises that have occurred since the end of the gold-dollar standard, in August 1971, with this mode of production remaining hegemonic until now.

For all these reasons, this article responds assertively to the assumption that the political system and economic model in China are reaffirmed in the face of the 21st century's crises and the challenges of the new millennium, recognizing that the solutions presented by the CPC sets a route simultaneously suited to specific national conditions and global challenges, overcoming the problems in order to promote human life in the productive force's collective. A closer look is enough to realize that there is no single path to the world.

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## Ballistic Missiles under Contemporary International Law

By Ibrahim Sief Abdel Hameed Menshawy

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**Keywords:** ballistic missiles, UN security council resolutions, international sanctions, hague code of conduct against ballistic missile proliferation (HCOC), european union draft for an international space code of conduct, general assembly resolutions, missile technology control system (MTCR).

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## INTRODUCTION

The development of ballistic missile programs of all types <sup>(1)</sup> is considered a great challenge, impeding the achievement of international peace and security. Especially since these missiles are capable of carrying nuclear warheads and reaching far regions of the planet. Therefore, once some countries were involved within the development of ballistic missile programs, such as North Korea and Iran, the international community, represented in the UN Security Council, quickly took a set of decisions that imposed sanctions on these two countries, as they constitute a threat to international peace and security through their actions and Activities to develop nuclear and ballistic missile programs. However, this, of course, does not undermine the peaceful uses of these missiles, which are mainly represented in the exploration of outer space.

In fact, the imposition of international sanctions is usually seen as a quick tool to achieve compliance with international legal rules, but on the other hand, it shows or reveals the weakness of the legal framework or the set of rules regulating a particular issue, as is the case with ballistic missiles. The review of the legal framework regulating ballistic missile programs clarifies that it is a framework tainted by the ambiguity and the deficiency. The legal framework regulating ballistic

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<sup>1()</sup> Ballistic missiles can be classified into five classes based on the range: near range (less than 300 km), short range (300 to 1,000 km), mediate range (1,000 to 3,000 km), intermediate range (3,000 to 5,500 km), and intercontinental range (more than 5500 km).

missile programs is quite incomplete and soft, which in turn leads to the existence of many loopholes that countries are trying to exploit to develop ballistic missile programs, and use them not only for peaceful purposes, but for military purposes as one of the deterrence tools recognized among states. Despite the danger of these missiles to global stability, some countries are still working on developing them, ignoring the extent of their danger, and disregarding the relevant UN Security Council resolutions. This indicates the fragility and weakness of the international legal framework regulating these missiles, and its violation by some countries.

## I. THE EMERGENCE AND DEVELOPMENT OF BALLISTIC MISSILE PROGRAMS

The interest in the use of missiles and rockets in warfare goes back to Sir William Congreve since 1800, in the context of his concern to develop the capabilities of the British Army on the battlefield. However, the real development of these weapons did not appear sufficiently until the twentieth century, specifically in the midst of the Second World War. The first ballistic missile manufactured in Nazi Germany during this war was the V-2 missile, which was invented by Walter Dornberger and Werner von Braun, and was first utilized in 1944 to attack the English capital – London <sup>(2)</sup>. During World War II, more than 3,000 V-2 missiles were launched against Allied cities. Since then, the major countries have been interested in this sort of missiles. for example, the Union of Soviet Socialist Republics and the United States of America were able, after a decade, to design intercontinental ballistic missiles (ICBMs), capable of reaching the other side of the world, by counting on the Nazis technology and designs, most notably the V-2 missile design.

In the beginning, the Soviet Union focused on developing a missile system that is capable of attacking European targets, but this tactic changed in 1953, when the trend was to develop an intercontinental ballistic missile capable of carrying hydrogen bombs that had been developed at that point. Indeed, the Soviets succeeded in building the R-7 missile, the first successful test of which was conducted on August 21, 1957. This missile was the world's first ICBM, with a

<sup>2</sup> - Clayton K. S. Chun. (2006). Thunder over the Horizon: From V-2 Rockets to Ballistic Missile, London, Praeger Security International, pp.41-50.



range of more than 6000 km. While in the United States of America, there was no real priority at first to develop intercontinental ballistic missiles. This matter changed a lot with the Soviet Union testing the first hydrogen bomb on November 22, 1955, as Washington began to be interested in the Atlas D missile program<sup>(3)</sup>, which entered military service on September 1, 1959, after undergoing a number of successful tests on November 28, 1958, and July 9, 1959. These missiles and their launchers were used in the development of space exploration programs in both the Soviet Union and the United States of America. For example, it was the R-7 launch pad that contributed to the successful launch of Russia's first satellite into space, Sputnik, on October 4, 1957. The Atlas, Redstone, Titan, and Proton missiles were also the basis of the USA space launch systems.

In the context of the Cold War and the frantic arms race between the two superpowers, the number of intercontinental ballistic missiles and submarine-launched ballistic missiles (SLBMs) was constantly increasing in both the United States and the Soviet Union. For example, in 1967, there have been 1,054 ICBMs and 656 SLBMs in the United States. With the increase in the cost of deploying these missiles, the two powers entered into discussions to limit strategic arms, which resulted in the conclusion of a number of bilateral agreements, such as the SALT and START treaties, which will be mentioned later.

In addition, some other countries have developed ICBM capabilities since the 1970s. France began developing and operating some ballistic missiles in 1971, like the M1 underwater missile, and the S2, a strategic surface-to-surface missile. France currently has M45 and M51 ballistic missiles, as well as submarine-launched ballistic missiles. Also, Israel began the process of developing the "Jericho" ballistic missile program in 1963, which resulted in the Jericho 1 missile in 1971, a short-range ballistic missile. The Jericho 2, a long-range solid-fuel ballistic missile system, with an estimated range of 7,800 km, was tested from 1987 to 1992. Finally, the Jericho 3, which has a payload capacity of 1,000 kg and a range of more than 5,000 km.

Moreover, China was able to develop the first intercontinental ballistic missile in 1965 (Dongfeng missile "DF-4"), with an estimated range of 5,500 to 7,000 km. It then replaced it with the DF-31 missile, which was first tested in 1999 and deployed in 2009. Additionally, China has been working on developing the DF-41 missile, which has an estimated range of 12,000-14,000 km, and underwent its first test in 2012. In parallel, China is developing submarine-launched ballistic missiles, called JL-2, which was also tested in

<sup>3</sup> - Jacob Neufeld. (1990). The development of ballistic missiles in the United States Air Force (1945- 1960), Washington, U.S. government printing office, p.106.

2012. This is beside to the various missile programs of other countries, such as the United Kingdom, India, North Korea, Iran, South Korea, Taiwan, Pakistan, Iraq, Egypt, Germany, Ukraine and Argentina<sup>(4)</sup>.

Perhaps the foremost important ballistic missile programs at the moment are the Iranian and North Korean missile programs. North Korea began its missile program in 1998, when it announced that it had used a Taepodong-1 missile to launch North Korea's first satellite. This missile was the initial stage for the development of a long-range missile, the Taepodong-2, whose first test was conducted in July 2006. Although the missile failed the test, it is believed that its range could reach 5,900 km, making it the first intercontinental ballistic missile for North Korea. International pressure and trade sanctions have not complimented Pyongyang for developing, improving and diversifying its missile and nuclear fleet, as its nuclear program, announced in 2003, focuses on developing nuclear warheads for short, medium and long-range ballistic missiles. North Korea's arsenal consists mainly of short-range Scud missiles and a number of longer-range Nodong and Taepodong missiles<sup>(5)</sup>. North Korea has also contributed to the development of ballistic missile programs in a number of countries through the export of this type of missile or the transfer of related technologies. In November 2010, the United Nations Committee of Experts<sup>(6)</sup> revealed that there is an exchange of ballistic missile technology between North Korea and Iran, Syria and Myanmar. This cooperation resulted in the transfer of missile components as well as ready-made missiles to Iran, such as the BM-25, Shahab 1, 2, 3 and designing and construction of a thermal reactor in Deir Ezzor<sup>(7)</sup>.

It goes without saying, that this cooperation helped Iran to develop its ballistic missile program since 1987, by trying to develop the Shahab 1 missile with a range of 1,000 km, which was improved in the Shahab 2 version with a range of up to 2,000 km, and which was first tested in 2006. Also, cooperation has led Between Iran and North Korea to develop the Shahab-3 missile with a range of up to 1,280 km. Among other missiles developed by Tehran: the Kosar missile, which was based on the Russian RD-216 engine and has a range of up to 5,000 km<sup>(8)</sup>. Currently, Iran possesses an arsenal of short and medium-range ballistic missiles. Short-range ballistic missiles can reach targets in Iraq,

<sup>4</sup> - Andrew Feickert. (2004). Missile Survey: Ballistic and Cruise Missiles of Foreign Countries, CRS Report for Congress, March, p.3.

<sup>5</sup> - Ibid, p.9.

<sup>6</sup> - This Committee was established by Security Council resolution 1718 (2006). (S/RES/1718 (2006)), para. 12.

<sup>7</sup> - Report of the Panel of Experts. (2010). <https://www.undocs.org/S/2010/571>.

<sup>8</sup> - Daniel Montero Yéboles. (2015). Analysis and optimization of trajectories for Ballistic Missiles Interception, "PhD dissertation", Madrid: Universidad Politécnica de Madrid, p.16.

Syria and the Arab Gulf states, with a range of 300 to 750 km. This category includes Fateh, Shehab and Scud missiles, and their launchers reach 100. As for the Iranian medium-range ballistic missile (MRBM), it has a range of 2,000 kilometers, allowing it to reach Israel, Lebanon and parts of Eastern Europe. It is of particular concern if Iran develops nuclear warheads. This category includes the Shahab-3, Sejjil and Khorramshahr missiles, and their launchers are estimated at 50 mobile platforms. To fortify its missile program, Iran, since 2008, has built underground buildings and facilities to store, produce, protect and hide ballistic missiles<sup>(9)</sup>.

## II. THE INTERNATIONAL LEGAL FRAMEWORK REGULATING BALLISTIC MISSILES

It can be said that the international legal framework regulating ballistic missiles is soft and non-binding, because there is no international agreement yet that prohibits or restricts the use of ballistic missiles for military purposes. Even as for the bilateral agreements signed between the United States of America and the former Soviet Union to limit strategic arms, its situation has become bleak in light of the withdrawal of the United States of America from most of them, as well as the termination of some of them.

Anyway, we can talk about the international legal framework regulating ballistic missiles through the following three points:

### a) International Legal Framework

This framework relates to The Hague Code of Conduct against Ballistic Missile Proliferation (HCoC) or the soft Law. This Code is the only international instrument regulating ballistic missiles. Therefore, the United Nations General Assembly took the initiative to recognize this Code as an important component of the broad international framework of agreements aimed at preventing the proliferation of weapons of mass destruction and contributing to arms control and disarmament, given the growing regional and global security challenges posed by the proliferation of ballistic missiles. This Code came into force on November 25, 2002<sup>(10)</sup>.

The Code aims to contribute to strengthening international peace and security by encouraging global efforts to curb the proliferation of ballistic missiles, as one of the most popular means of transportation for weapons of mass destruction such as nuclear

<sup>9</sup> - Iran's Missile Program: Past and Present. (2020). Wisconsin Project on Nuclear Arms Control: Weapon Programs, June 29, 2020, accessed on: <https://wwwiranwatch.org/our-publications/weapon-program-background-report/history-irans-ballistic-missile>

<sup>10</sup> - Lucia Marta. (2010). The Hague Code of Conduct Against Ballistic Missile Proliferation: "Lessons Learned" for the European Union Draft Code of Conduct for Outer Space Activities, European Space Policy Institute, No. 34, p.2.

warheads<sup>(11)</sup>. The reason behind the concluded of this Code was the development of ballistic missile programs by the People's Republic of Korea (North Korea) and the Islamic Republic of Iran in the 1990s. This has led members of the Missile Technology Control System to re-evaluate their strategy to limit ballistic missile proliferation, by restricting access to related technologies. The Missile Technology Control System<sup>(12)</sup>, established in 1987, plays an important role in limiting the proliferation of WMD delivery systems by restricting exports of missiles capable of delivering at least 500 kg payload, and missiles that deliver chemical, biological or nuclear weapons as well as the necessary technologies<sup>(13)</sup>.

As a means of limiting the proliferation of weapons of mass destruction, the 34 member states of this system, with the support of the European Union, proposed the establishment of a politically binding code to combat ballistic missile proliferation, in order to encourage the international community to be more transparent regarding the development of ballistic missiles and peaceful space programs. In addition, the purpose of concluded this Code was to serve as a warning system before making launching operations of this type of missile. Given the possibility of using ballistic missiles for peaceful purposes such as launching satellites and space exploration, it was agreed to develop this Code in a consensual manner and to be based on the voluntary implementation of states.

Indeed, the Code was concluded and became consist of a set of general principles, modest commitments, and limited confidence-building measures, which aim to try to limit the proliferation of ballistic missiles and increase transparency and confidence among nations in this area. This means that this Code is based on an informal political understanding between countries that seek to limit the proliferation of ballistic missiles and the technological capabilities needed to possess them. Hence, the Code depends primarily on its enforcement on voluntary political compliance rather than on submission to international treaties that bind its parties<sup>(14)</sup>.

<sup>11</sup> - Fabio Tronchetti. (2015). "Legal aspects of the military uses of outer space". Frans von der Dunk & Fabio Tronchetti (eds.), Handbook of Space Law, UK and USA: Edward Elgar Publishing Limited, pp. 346- 348.

<sup>12</sup> ( ) The Missile Technology Control System (MTCR), is an informal consortium or coalition of 35 countries including France, the United States of America, Italy, Germany, Canada, Japan and Britain, aims to limit the proliferation of missiles and unmanned aerial systems capable of delivering 500 payloads kg with a minimum distance of 300 km, as well as systems intended for the delivery of weapons of mass destruction. For more, please review the official website of this coalition at the following link: <https://mtcr.info/public-documents/>.

<sup>13</sup> - Nicolas Kasprzyk et al., (2016). The Hague Code of Conduct against Ballistic Missile Proliferation: Relevance to African states, Institute for Security Studies: Policy brief, pp. 1-2.

<sup>14</sup> - Ibid, p.3.



In order to achieve the main objective of the Code of promoting confidence-building measures among signatory States, the Code obligates the parties to accede to a number of international conventions and treaties relating to the peaceful use of space, such as the 1967 Outer Space Treaty and the 1996 Declaration on International Cooperation in the Exploration and Use of Space for the benefit and in the interest of all countries, taking into account the needs of developing countries in particular. The Code also urges signatory states to prevent the proliferation of ballistic missiles capable of delivering weapons of mass destruction by implementing prudent export control policies, exercising maximum restraint in their development, testing and deployment, and, where possible, limiting their possession. This is in addition to the voluntary commitment of signatories to submit an annual declaration outlining their policy on ballistic missiles and space launch platforms, announcing their respective launches during the year, and sending pre-launch notifications. Moreover, the Code encourages regular visits to launch sites. As for countries that do not have missile or space programs, the Code urges them to submit an annual declaration stating that they do not possess these programs to the Executive Secretariat<sup>(15)</sup>.

Also, in order to encourage dissemination of the Code, participating countries organize events to promote it during international meetings, such as the NPT Review Conferences and the First Committee of the United Nations General Assembly, which deal with global challenges and threats to international peace and security. It also works to create links between UNHCR and other UN initiatives<sup>(16)</sup>, such as the implementation of UN Security Council Resolution 1540 (2004)<sup>(17)</sup>.

However, one of the criticisms directed at the Code is that it has little impact on the ballistic arms race, especially in Asia and the Middle East, because some of the most active countries in the field of ballistic missiles have not signed it, such as: Brazil, Iran, Israel, North Korea, Pakistan and Syria. In addition, some countries failed to submit their declarations to the executive secretariat, as this is not mandatory. Moreover, the Code does not include restrictions on cruise missile programs that are increasingly being developed to deliver nuclear weapons. However, it remains the only international instrument that aims to delegitimizing, the development of ballistic missiles as it threatens international peace and security, especially with regard to the transfer of weapons of mass destruction. Furthermore, most countries with missile or space

<sup>15</sup> - Peter van Fenema. (2015). "Legal aspects of launch services and space transportation". Frans von der Dunk & Fabio Tronchetti (eds.), Handbook of Space Law, UK and USA: Edward Elgar Publishing Limited, pp. 425- 428.

<sup>16</sup> - Nicolas Kasprzyk et al., op.cit, p.5.

<sup>17</sup> - UN Security Council Resolution. 1540 (2004). S/RES/1540 (2004).

activities provide pre-launch notifications and annual updated announcements of their missile programs.

#### b) *Regional Legal Framework*

There is no concrete agreement at the regional level regarding ballistic missiles, but in this context, reference can be made to the European Union draft for an international Space Code of Conduct. The European Union developed the draft Code after United Nations General Assembly Resolution 61/75 of 6 December 2006, which called on Member States to submit proposals on Transparency and Confidence Building Measures (TBCM) in the context of preventing an arms race in outer space (PAROS)<sup>(18)</sup>. The draft of this Code states a number of things, including; Emphasizing the principles of the freedom to use outer space for peaceful purposes, maintaining the security and safety of space objects in orbit, as well as giving due consideration to the right of other states to explore and use outer space for peaceful purposes<sup>(19)</sup>.

This Code applies to all outer space activities carried out by States Parties, either alone or jointly with other States not party to the Code, as well as to the activities of non-governmental entities under the jurisdiction of the State Party. Most importantly, the draft of this Code obligated signatory states to comply with and promote treaties, declarations and other international obligations relating to outer space, including The Hague Code of Conduct against Ballistic Missile Proliferation (HCoC), and other relevant General Assembly resolutions<sup>(20)</sup>.

#### c) *International Bilateral Treaties Signed between the United States of America and the Former Soviet Union (The Russian Federation)*

In the 1970s, the United States of America "USA" and the Former Soviet Union entered into bilateral talks to limit the strategic missiles manufacturing capable of carrying nuclear weapons. These talks resulted in the signing of a number of agreements in this regard. The first agreements, known as SALT I and SALT II, were signed by the United States of America and the USSR in 1972 and 1979, respectively, and were intended to curb the arms race related to the production of long-range strategic ballistic missiles or intercontinental ballistic missiles capable of carrying nuclear warheads<sup>(21)</sup>. These talks also resulted in the

<sup>18</sup> - The United Nations General Assembly has repeated this invitation in subsequent resolutions like: resolution 62/43 (2007), resolution 63/64 (2008), resolution 65/73 (2010) and resolution 67/42 (2012).

<sup>19</sup> - Wolfgang Rathgeber, Nina-Louisa Remuss, and Kai-Uwe Schrogli. (2009). "Space Security and the European Code of Conduct for Outer Space Activities". Disarmament Forum, No. 4, pp.33-41.

<sup>20</sup>- DRAFT International Code of Conduct for Outer Space Activities. (2014). [https://eeas.europa.eu/archives/docs/non-proliferation-and-disarmament/pdf/space\\_code\\_conduct\\_draft\\_vers\\_31-march-2014\\_en.pdf](https://eeas.europa.eu/archives/docs/non-proliferation-and-disarmament/pdf/space_code_conduct_draft_vers_31-march-2014_en.pdf).

<sup>21</sup>- Paul Doty. (1975). Strategic Arms Limitation after SALT I. Daedalus, Vol. 104, No. 3, p.64.

signing of the Anti-Ballistic Missile (ABM) Agreement, and the Protocol on Limitation of Strategic Offensive Weapons, at a summit meeting between Leonid Brezhnev and Richard Nixon in Moscow on May 26, 1972. The Anti-Ballistic Missile Treaty made provisions to limit anti-ballistic missile systems and obligated the two parties to maintain only two anti-ballistic missile complexes, with a capacity of no more than 100 anti-ballistic missiles. This treaty also aimed to freeze the number of ICBMs and submarine-launched ballistic missiles for five years. However, the United States of America withdrew from this treaty in 2002<sup>(22)</sup>.

In addition to limiting the number the warheads carried by these missiles by no more than 2,400 heads. However, the US Congress did not ratify this treaty due to the Soviet invasion of Afghanistan<sup>(23)</sup>. The two parties also signed the Treaty on the Limitation of Intermediate-Range Nuclear Forces (INF) in 1987. Under this treaty, the two parties pledged not to manufacture, test or deploy any ballistic, winged or medium missiles, and to destroy all missile systems, whose medium ranges range between 1000-5500 km and short ranges between 500- 1000 km. Indeed, in May 1991, the two parties implemented the treaty, as the Soviet Union destroyed 1,792 ballistic and winged missiles launched from the ground, and the United States of America destroyed 859 missiles. However, the United States of America also withdrew from this treaty on August 2, 2019.

Then the START negotiations succeed the Strategic Arms Reduction Talks in the 1970s. These negotiations, which began in 1982, aimed to make drastic reductions in missiles and nuclear warheads for each superpower. START II was signed in 1991. When the collapse of the Soviet Union in 1991 led to the birth of four republics that possess nuclear weapons, namely Russia, Belarus, Ukraine and Kazakhstan. These new countries had to become parties to the First START Treaty. This aim was achieved by the signing of the Lisbon Protocol in May 1992. This Protocol obliged Belarus, Kazakhstan and Ukraine either destroy nuclear and strategic weapons or hand them over to Russia. The first START treaty specified the warheads and ballistic missiles that Washington and Moscow would be allowed to possess, and the treaty included a requirement for on-site investigations and inspections and monitoring of ICBM production<sup>(24)</sup>. Because of this treaty, Belarus and Kazakhstan destroyed all their nuclear warheads by 1997, Ukraine destroyed its last ballistic missiles by 1999, and the United States and

Washington reached the levels required for the second stage during 1997. This treaty terminated on December 5, 2009.

After the dissolution of the Former Soviet Union, negotiations continued between the Russian Federation and USA for a further reduction in strategic arms, which resulted in the signing of the START II Treaty in 1993. However, this treaty did not enter into force due to the lack of ratification by the US Senate until 1996, as well as the Russian State Duma's refusal to ratify this treaty after the withdrawal of the USA from the Anti-Ballistic Missile Treaty in June 2002. A new round of negotiations began in 1997 between Bill Clinton and Yeltsin, the START III/SORT negotiations, which aimed to reduce both sides' warheads to 2,000-2,500 by December 31, 2007. This treaty was signed by George W. Bush and Putin on May 24, 2002, and ratified by the US Senate and the Russian State Duma in March and May 2003, respectively.

Another round of negotiations began between Presidents Medvedev and Barack Obama<sup>(25)</sup>, after the termination of START I in 2009, to reduce strategic weapons to 500- 1,000 warheads, and 1,500 -1675 transport or delivery systems. Because of these negotiations, the New START Treaty was signed in 2010, which assigned each side 1,550 strategic warheads, with no more than 700 ballistic missile launchers and nuclear projectiles to be deployed. This treaty has been extended until February 4, 2026.<sup>(26)</sup>

In fact, the restrictions imposed by this latter treaty were few compared to the levels set by the SORT agreement in 2002, at a rate of 30%. It also eased the investigation and monitoring procedures of the First START Treaty. However, this treaty tightened inspection procedures for the respective sites<sup>(27)</sup>.

### III. INTERNATIONAL SANCTIONS IMPOSED ON THE DEVELOPMENT OF BALLISTIC MISSILE PROGRAMS

The international community uses the international sanctions system to force rogue states to stick by a certain international rule, because in reality the use of international sanctions is due to a lack of respect for international legal rules. According to the dangerousness of the production of ballistic missiles for military purposes to international peace and security, the international community has set out to impose a number of sanctions on countries that violate existing obligations under the Treaty on the Non-Proliferation of Nuclear

<sup>22</sup>- Editors of Encyclopedia Britannica. Strategic Arms Limitation Talks international negotiations. <https://www.britannica.com/event/Strategic-Arms-Limitation-Talks>.

<sup>23</sup> - A. C. Sjaastad. (1980). SALT II: Consequences for Europe and the Nordic Region. Sage Journals, Vol. xv, p. 237.

<sup>24</sup> - Alexei Arbatov. (1993). Implications of the START II Treaty for US-Russian relations. Henry L. Stimson Center, pp. 2- 9.

<sup>25</sup> - Fabio Tronchetti. Op.cit, p.348.

<sup>26</sup> - New Start Treaty. U.S department of State, accessed on: <https://www.state.gov/new-start/>.

<sup>27</sup> - Lawrence D. Freedman. Strategic Arms Reduction Talks: international arms control negotiations. <https://www.britannica.com/event/Strategic-Arms-Reduction-Talks/START-III-SORT>.



Weapons and relevant UN Security Council resolutions, precisely North Korea and Iran<sup>(28)</sup>.

When North Korea announced about ending its suspension of missile tests on July 21, 2006, it tested a Taepodong-2 long-range ballistic missile, which the UN Security Council confronted by adopting Resolution 1695, which demanded that North Korea must suspend all activities related to its missile program<sup>(29)</sup>. It also obligated all states to prohibit the export or purchase of missile-related materials, goods and technology, and to prohibit the transfer of any financial resources related to this program. But this decision did not deter North Korea from carrying out a nuclear test in October 2006, after which the UN Security Council adopted Resolution 1718<sup>(30)</sup>, by which it demanded that Pyongyang not conduct any further nuclear test or launch any ballistic missile, and suspend all activities related to its ballistic missile program as well as the irreversible complete abandonment of all nuclear weapons and nuclear programs. The Resolution also imposed a set of sanctions purposed to at forcing North Korea to return to the six-party talks and comply with its denuclearization obligations<sup>(31)</sup>, such as: obligating all countries not to sell, supply or transfer a set of materials to North Korea, either directly or indirectly. These materials such as any tanks, combat vehicles, artillery systems, aircraft, warships, missiles, missile systems and other related items. Additionally, the Security Council established under this resolution a committee of experts on the Korean nuclear program. After the collapse of the six-party talks with North Korea on April 5, 2009, and its launch of the Unha-2 spacecraft into space, Western analysts believed that this vehicle was a Taepodong-2 ballistic missile, so the Security Council issued a statement condemning this launch, and described it as a violation of Council resolution 1718 (2006). But North Korea did not take this statement seriously and conducted a second nuclear test on May 25 of the same year, so the UN Security Council adopted Resolution 1874, which repeated the call for North Korea to abandon its nuclear and missile programs, tightened sanctions against it, and called on countries to intercept ships believed to be involved in transporting prohibited goods<sup>(32)</sup>.

Following Pyongyang's third nuclear test in February 2013, the UN Security Council, in its resolution 2094, expanded the scope of sanctions imposed on

North Korea, especially those imposed on the financial sector, such as prohibiting financial institutions in all countries from opening representative offices or bank accounts in North Korea and placing restrictions on cash transfers to the Republic of North Korea<sup>(33)</sup>. The Council also imposed another set of sanctions under resolutions 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017), 2397 (2017), including, for example, a ban on the supply of crude oil or selling or transferring it to North Korea, as well as all kinds of refined petroleum products.

On the level of unilateral sanctions, the United States of America imposed many of them on some entities or institutions associated with North Korea's nuclear program. For example, the Treasury Department sanctioned eight of these entities on August 30, 2010, such as: Green Pine Associated Corporation, Korea Taesong Trading Company, and the Korea Heungjin Trading Company. The Treasury Department also imposed sanctions on North Korea on February 23, 2020, described as the most severe to force North Korea to stop its nuclear program, and these sanctions affected one person, 27 entities, 28 ships located or recorded in North Korea, China, Singapore, Taiwan, Hong Kong, the Marshall Islands, Tanzania, Panama and Comoros Islands<sup>(34)</sup>.

On the other hand, when Iran refused to abide by restrictions on its activities related to uranium enrichment, ballistic missile development, and weapons transfers to terrorist groups<sup>(35)</sup>, and as concerns grew about the goals of Iran's ballistic missile program, the international community imposed a group of sanctions on Iran. In 2006, the UN Security Council adopted Resolution 1737, which prohibited the supply of materials and technology to Iran that might assist in nuclear activities or the development of nuclear weapons delivery systems, and demanded countries to freeze the assets of certain companies and individuals<sup>(36)</sup>.

The Council also issued a set of subsequent resolutions in this context, namely: Resolutions 1747 (2007), 1803 (2008), 1929 (2010), in which it demanded, in particular Resolution 1929, Iran "not to undertake any activity related to ballistic missiles capable of delivering nuclear weapons, including launches using ballistic missile technology, and that all States take necessary measures to prevent the transfer of technology or the provision of technical assistance to Iran in connection

<sup>28</sup>- Anne-Marie La Rosa. (2008). Sanctions as a means of obtaining greater respect for humanitarian law: a review of their effectiveness. International review of the Red Cross, Vol. 90, No. 870, p.8.

<sup>29</sup>- UN Security Council Resolution 1695 (2006). S/RES/1695 (2006). Paras. 2-4.

<sup>30</sup>- UN Security Council Resolution 1718 (2006). S/RES/1718 (2006). Paras. 2-8.

<sup>31</sup>- Matthew McGrath and Daniel Wertz. (2015). North Korea's Ballistic Missile Program. The National Committee on North Korea, pp.3-5.

<sup>32</sup>- UN Security Council Resolution 1874 (2009). S/RES/1874 (2009). Paras. 1- 14.

<sup>33</sup> - UN Security Council Resolution 2094 (2013). S/RES/2094 (2013). Paras. 12- 15.

<sup>34</sup> - Trump announced imposing sanctions on North Korea. (2018). DW. <https://p.dw.com/p/2tFfK>.

<sup>35</sup> - Alleged Violations of the 1955 Treaty of Amity. (2019). Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America)- Preliminary objections, ICJ Reports, pp.11-17.

<sup>36</sup> - UN Security Council Resolution 1737 (2006). S/RES/1737 (2006). Paras. 2-8.

with such activities"<sup>(37)</sup>. The Council also imposed by these previous resolutions a set of sanctions on some companies and individuals involved in Iran's nuclear and missile programs. Among the companies covered by these decisions are: Shahid Hemmat Industrial Group (SHIG), Shahid Bagheri Industrial Group (SBIG), and Fajr Industrial Group (all entities affiliated with the Iranian Aerospace Industries Organization (AIO)). Other sanctions were also imposed on Ya Mahdi Industries Group, Parchin Chemical Industries, which produce solid fuel for rockets, Niru Battery Manufacturing Company, which manufactures power units for Iranian missile systems, Sanam Industrial Group, Electro Sanam Company, and Jozan Industrial Company<sup>(38)</sup>. Although many governments took these decisions seriously, Iran described them as illegal, and thus refused to abide by them. Tehran has repeatedly violated these decisions and continued to pursue illicit procurement efforts, exported missile equipment and technology to its regional proxies, and conduct nuclear-capable ballistic missile launches<sup>(39)</sup>.

In 2015, these previous resolutions were replaced by Security Council Resolution 2231, which co-existed with the Iran nuclear deal, or the Joint Comprehensive Plan of Action (JCPOA). The relevant resolution imposed less severity restrictions on Iran's missile program than its predecessors. As Iran is called upon it "not to undertake any activity related to ballistic missiles designed to be capable of delivering nuclear weapons". It also maintained sanctions on several key entities that support Iran's ballistic missile development. However, at the same time, it allowed member states to sell missiles and missile systems to Iran on a case-by-case basis if approved by the Security Council<sup>(40)</sup>. The main reason for the weakness of the language of this resolution compared to the previous decisions is that it came as a compromise between the desire of the United States of America to impose more restrictions on Iran's ballistic missile programs, and the opposition of Russia and China to that direction.

Despite the obligations imposed by Security Council resolutions on Iran in this regard, it continued to illegal purchase materials used in the manufacture of these missiles, and even continued to conduct various tests of these missiles. Therefore, the United States of America imposed sanctions on a German bank owned by Iran as well as the Export Development Bank of Iran for enabling Iran's ballistic missile program to purchase

more than \$3 million in materials<sup>(41)</sup>. Singapore also announced in March 2011 that it had intercepted a shipment of 18 tons of aluminum powder, which is likely to be used as solid fuel for Iranian ballistic missiles<sup>(42)</sup>. In fact, these sanctions did not keep Iran from carrying out a series of ballistic missile launches that occurred on August 20 and 25 2010, in October 2010, February 2011, June 2011, July 2012 and February 2015.

With the United States withdrawal from the JCPOA in 2018, due to the nuclear agreement with Iran not adequately addressing missile proliferation and testing, Washington imposed sanctions on large sectors of the Iranian economy as part of a "maximum pressure" campaign that aimed, among other things, to curb Iran's missile program. However, it seems that this campaign did not yield real results, especially since Iran continues to develop its nuclear and ballistic missile program, indifferent to international or even unilateral sanctions.

#### IV. AN ASSESSMENT OF THE INTERNATIONAL LEGAL FRAMEWORK REGULATING BALLISTIC MISSILES

It is so clear by reviewing the international legal framework regulating ballistic missiles that this framework is tainted by many shortcomings, foremost of which is the absence of an international agreement regulating the use of ballistic missiles for peaceful purposes or restricting or prohibiting their use for military purposes. This is clearly due to the absence of the international will necessary to reach a binding international treaty in this regard, and to the absence of transparency and the ineffectiveness of confidence-building measures between states, especially in light of the double standards at the international level. This appears distinctly in dealing with great sharpness, although Required, with the Iranian and Korean nuclear program, and leniency on the other hand with the nuclear program of Israel as well as its ballistic missile program. Which is shown by the imposition of many sanctions on Iran and Korea, and the failure of the international community to move, even an iota, to impose sanctions on Israel in this regard. Even at the level of bilateral international agreements signed between the United States of America and the Former Soviet Union or its successor, the Russian Federation, most of them have terminated either by their specified deadline, or by the withdrawal of the United States of America, as we have seen. This has serious repercussions for the arms race and for international peace and stability.

<sup>37</sup> - UN Security Council Resolution 1929 (2010). S/RES/1929 (2010). Para. 9.

<sup>38</sup> - A History of Iran's Ballistic Missile Program. (May 2012). <https://www.wisconsinproject.org/a-history-of-irans-ballistic-missile-program/>.

<sup>39</sup> - Robert Einhorn and Vann H. Van Diepen. (March, 2019). Constraining Iran's Missile Capabilities. Foreign Policy at Brookings, p.21.

<sup>40</sup> - UN Security Council Resolution 2231 (2015). S/RES/2231 (2015). Paras. 1-12.

<sup>41</sup> - Kenneth Katzman. (2021). Iran Sanctions. Congressional Research Service. p.28. <https://sgp.fas.org/crs/mideast/RS20871.pdf>.

<sup>42</sup> - Marybeth Davis et al., (2013). China- Iran: a limited partnership. Prepared for the US-China Economic and Security Review Commission, p. 70. <https://www.uscc.gov/sites/default/files/Research/China-Iran--A%20Limited%20Partnership.pdf>.

In addition, one of the shortcomings of this legal framework is that it is mostly based on soft rules that are not binding on states. The Hague Code, which is the only international framework regulating ballistic missiles, is not binding on states, but rather depends on mutual understanding and voluntary implementation. Hence, if one of the parties fails to implement the obligations contained therein, it will not bear any international responsibility. Therefore, this Code has not prevented some countries from continuing to develop their own ballistic missile programs. Moreover, if the international sanctions are effective in forcing countries to comply or abide by the international rule, they will remain selective measures - despite their importance - and are controlled by political rather than legal considerations. They also do not often bring tangible results and achieve the required deterrence, as they are subject in the first place to the political understandings of states in the UN Security Council, for fear of disrupting them using the Veto power.

In fact, in order to overcome these shortcomings, the international community should take the initiative to draw up a binding international agreement in this regard that takes into account the peaceful uses of ballistic missiles. In this regard, it will not start out of nowhere, but may build on the steps that have been achieved, especially the Hague Code of Conduct against Ballistic Missile Proliferation, which may constitute the initial step towards establishing that agreement, especially if the Hague Code constitutes some specific relevant customary international rules, which, therefore, will facilitate the possibility of establishing a specific international agreement. The international community should also be very keen to achieve collective international interests, and put in mind the risks that may result from the use of this type of missiles so that it can put aside its differences, and take decisions that truly reflect the international will away from political understandings. In fact, this will not only come by reforming the decision-making mechanism in the UN Security Council to rationalize the use of the Veto, but also by reforming the membership system in the Security Council as a whole.



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## From Incompatibility to Incommensurability: Notes on Isaiah Berlin's Value Pluralism

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**Abstract-** The contemporary public debate is permeated by diverse challenges to social life, especially because of the plurality of groups and convictions that are articulated in decision-making spaces. In Western societies, because of the process of secularization, there are no more exclusive systems of values that are capable of giving full meaning to the human experience in the community. From the context of the diversity of beliefs and values, this paper research discusses the thought of the Russian-Jewish philosopher and historian of ideas Isaiah Berlin (1909-1997), who developed a doctrine of value pluralism. For Berlin, a notable advocate of liberalism and one of the leading intellectuals of the twentieth century, pluralism is a principle of crucial importance for contemporary society as it postulates the coexistence of different systems of moral values and conceptions of good without trying to escape of the inevitable conflict between such values and conceptions.

**Keywords:** *isaiah berlin, value pluralism, religion and politics, religion and contemporaneity, conflicts between religious and secular.*

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# From Incompatibility to Incommensurability: Notes on Isaiah Berlin's Value Pluralism

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**Abstract-** The contemporary public debate is permeated by diverse challenges to social life, especially because of the plurality of groups and convictions that are articulated in decision-making spaces. In Western societies, because of the process of secularization, there are no more exclusive systems of values that are capable of giving full meaning to the human experience in the community. From the context of the diversity of beliefs and values, this paper research discusses the thought of the Russian-Jewish philosopher and historian of ideas Isaiah Berlin (1909-1997), who developed a doctrine of value pluralism. For Berlin, a notable advocate of liberalism and one of the leading intellectuals of the twentieth century, pluralism is a principle of crucial importance for contemporary society as it postulates the coexistence of different systems of moral values and conceptions of good without trying to escape of the inevitable conflict between such values and conceptions. Berlin's formulation, situated at the intersection of political philosophy and the history of ideas, indicates that moral values can be equally valid and yet incompatible and incommensurable, resulting in conflicts that do not allow for resolution without reference to particular contexts of decision. Therefore, from a theoretical approach of a conceptual and analytical nature, we seek to interpret Isaiah Berlin's pluralistic notion, that emerges as a valid theoretical system to foster academic approaches to value conflicts within plural societies.

**Keywords:** isaiah berlin, value pluralism, religion and politics, religion and contemporaneity, conflicts between religious and secular.

## I. INTRODUÇÃO

Não é novidade que uma das características do mundo moderno é o pluralismo. Trata-se de um traço irremovível do nosso tempo. A reflexão sobre o pluralismo é uma categoria-chave no percurso intelectual do filósofo político e historiador das ideias russo-judeu Isaiah Berlin (1909-1997), que se tornou protagonista no campo em questão. Não é exagero considerar, como fez Roger Hausheer (2002, p. 38), que “o pluralismo de valores de Berlin é uma das doutrinas mais ousadas e promissoras a surgir na história recente do pensamento ocidental”.

Embora Berlin seja majoritariamente conhecido por sua distinção conceitual entre liberdade negativa e liberdade positiva, é no campo do estudo do pluralismo que provavelmente reside a sua contribuição intelectual

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mais importante. Para ele, reconhecido como um dos principais intelectuais do século XX, o pluralismo de valor é um princípio caro à sociedade contemporânea, que permite a coexistência pacífica de diferentes interesses, convicções e concepções do bem.

A formulação do filósofo, situada no campo da teoria social e política, propõe que os valores humanos existentes nas sociedades são diversificados, frequentemente conflitantes e não combináveis, isto é, não comparáveis por meio de nenhum critério puramente *racional*. Os valores morais podem ser equitativamente válidos e, ainda assim, incompatíveis e/ou incommensuráveis, o que resulta em conflitos que não admitem resolução sem referência a contextos particulares de decisão.

Como Noel Annan (2002, p. 14) já havia advertido, pluralismo é uma palavra pouco precisa, cujo sentido é comumente associado à aceitação de que “há muitos grupos e interesses na sociedade, e uma boa sociedade cuida para que eles tolerem a existência uns dos outros”, um compromisso pragmático. De modo objetivo, contudo, pluralismo de valor é o termo que procura expressar a visão segundo a qual os valores humanos são variados em suas fontes e justificativas, o que os torna independentes uns dos outros, “não expressáveis ou conversíveis em qualquer medida comum, não classificáveis em qualquer hierarquia estável e aptos a entrar em conflitos, por vezes insolúveis” (CHERNISS, 2013, p. 44-45). Neste sentido, trata-se de um fenômeno bastante familiar aos seres humanos (RAZ, 1996, p. 179). O pluralismo de Isaiah Berlin postula que

já que não é possível darmos uma resposta definitiva às questões morais e políticas, ou em realidade a toda a questão de valor, e mais ainda, já que certas respostas dadas pelas pessoas, e que estão autorizadas a fazê-lo, não são compatíveis entre si, é preciso abrir espaço para uma vida na qual os valores possam se revelar incompatíveis, de maneira que, se devemos evitar um conflito destruidor, compromissos possam ser obtidos, e um grau mínimo de tolerância, mesmo dado contra a vontade, tornar-se á indispensável. (JAHANBEGLOO, 1996, p. 73).

As noções de pluralismo permeiam o trabalho de Isaiah Berlin desde o início de sua carreira, permanecendo durante toda a vida intelectual. A primeira aparição do tema como problema de pesquisa se deu em período anterior à atividade docente, em um

artigo apresentado em reunião da *Aristotelian Society*<sup>1</sup>. Em *Equality*<sup>2</sup>, um denso ensaio filosófico sobre a definição e os pressupostos do ideal de igualdade, Berlin já anuncia sua preocupação com as tensões provocadas pelo choque entre dois valores fundamentais: igualdade e liberdade. Como pontua o autor, no decurso da história política ocidental, igualitaristas mais zelosos “defenderam a instituição de desigualdades violentas e a total supressão de muitas reivindicações humanas normais como pré-requisito necessário para a criação de uma igualdade suprema” (BERLIN, 2013, p. 121).

Dois anos após a publicação deste ensaio filosófico, em 1958, Isaiah Berlin assumiu a cátedra de Teoria Social e Política do *All Souls College*, na Universidade de Oxford. Na ocasião da sua aula inaugural, o filósofo proferiu uma palestra que se tornaria, posteriormente, um dos seus ensaios mais célebres e reconhecidos. Em *Dois Conceitos de Liberdade*, nosso autor delineia mais claramente sua noção de pluralismo e converte o tema definitivamente no centro da sua teoria política e da sua concepção de mundo. Depois disso, nunca mais o assunto seria abordado da mesma maneira.

A semente pluralista em Isaiah Berlin é fruto de seu ceticismo, amparado na história, em relação à noção de uma solução harmônica final que conciliaria todos os bens, desejos e valores humanos. Para ele, não havia motivo para tal suposição, uma vez que a observação empírica e o conhecimento humano comum apontavam em direção distinta, de tal maneira a argumentar que

o mundo que encontramos na experiência comum é um mundo em que somos confrontados com escolhas entre fins igualmente supremos e reivindicações igualmente absolutas, e a realização de algumas dessas escolhas e reivindicações deve envolver inevitavelmente o sacrifício de outras. (BERLIN, 2002, p. 269).

Os primeiros vestígios dessa desconfiança surgiram ainda no início de sua carreira. Em 1930, Isaiah Berlin publicou um ensaio na revista *Oxford Outlook* que é considerado um prenúncio da visão pluralista que amadureceu mais tarde. Em *Some Procrustations*, o filósofo evoca Aristóteles (384 a.C-322

a.C.)<sup>3</sup> para esboçar uma espécie de pluralismo metodológico, que o seguiria por toda a vida – e desembocaria em um pluralismo ético.

No texto, Berlin denuncia a aplicação de métodos inadequados para a análise de qualquer traço da vida humana, como quando um moralista funda, a partir de seu arcabouço teórico, uma análise estética da moral. O filósofo argumenta que quando os padrões são retirados da sua esfera adequada e aplicados a outras indistintamente, conduzem “a uma completa confusão de palavras e valores, criando um caos, uma atmosfera nebulosa” (BERLIN, 1930, p. 492).

Desse modo, conclui que não deveria ser concebível que qualquer ser humano inteligente pudesse conscientemente “negar que cada atividade se desenvolve a partir de si mesma e envolve a conformidade com seu próprio padrão privado e, portanto, requer o uso crítico de seu próprio critério peculiar” (BERLIN, 1930, p. 501). Era o primeiro indício de sua inclinação pessoal ao pluralismo.

No período posterior, especialmente na segunda metade da década de 1930, Isaiah Berlin engrossou as fileiras da filosofia analítica. Ele se ocupou, com outros colegas de Oxford, da reflexão sobre a natureza do significado em relação à verdade e à falsidade, especialmente na questão da verificabilidade. O pensamento dominante nos círculos filosóficos de Oxford daquele tempo postulava a ideia de que o significado de uma proposição era o modo como era verificável: se não houvesse nenhuma maneira de verificar o que havia sido dito, então não seria possível atribuir caráter de verdade ou falsidade ao enunciado. Assim, a afirmação seria sem sentido empírico objetivo. Berlin nunca se enquadrou por completo a essa perspectiva, por considerar que as afirmações não eram “necessariamente passíveis de serem verificadas por algum critério simples arrasador” (BERLIN, 2005, p. 18). Por isso, ele costumava afirmar-se mais como um herege do que um verdadeiro discípulo desta escola de pensamento. O filósofo sustentava que

apesar da experiência empírica ser tudo que as palavras podem expressar – que não há outra realidade –, ainda assim a verificabilidade não é o único, nem realmente o mais plausível critério de conhecimento, crenças ou hipóteses. (BERLIN, 2005, p. 19).

Outro tópico sobre o qual o filósofo se debruçou com os colegas durante o período foi o fenomenismo, na tentativa de descobrir se a experiência humana estava restrita àquela fornecida pelos sentidos ou se existia uma realidade independente desta experiência. Foi no percurso dessa investigação que

<sup>1</sup> A *Aristotelian Society* é uma das mais antigas e prestigiadas sociedades de Filosofia que se tem registro. Vinculada à Universidade de Oxford, as reflexões desta sociedade, fundada em 1880, abrangem todas as áreas da Filosofia, incluindo Epistemologia, Filosofia da Mente, Metafísica, Metaética e História da Filosofia Ocidental. Isaiah Berlin presidiu a instituição entre os anos de 1963 e 1964. O conteúdo da *Aristotelian Society* pode ser acessado em sua página oficial: <<https://academic.oup.com/aristotelian>>.

<sup>2</sup> O texto foi publicado pela primeira vez em junho de 1956, no volume 56 dos *Proceedings of the Aristotelian Society*. Os anais desta sociedade de Filosofia são compostos pela publicação dos artigos filosóficos que são apresentados nas reuniões durante o ano letivo na Universidade de Oxford. Cf. BERLIN, 2013.

<sup>3</sup> No ensaio, Berlin usa como epígrafe um fragmento do livro 1 da *Ética a Nicômaco*, principal obra de Aristóteles no campo da ética, que aqui transcrevemos: “Ora, como são muitas as ações, artes e ciências, muitos são também os seus fins” (ARISTÓTELES, 1991, s/p).

Berlin se deparou com o monismo presente em toda a tradição do pensamento ocidental, fator crucial para a elaboração de sua noção de pluralismo. Ele mesmo afirmava que a "suspeita de que uma grande parte da filosofia estava num caminho ilusório veio mais tarde dominar as [suas] ideias numa conexão completamente nova e diferente" (BERLIN, 2005, p. 21).

Tal conexão ganhou consistência somente após a Segunda Guerra Mundial (1939-1945), durante a qual Isaiah Berlin atuou como oficial do serviço diplomático britânico em Washington, nos Estados Unidos, e em Moscou, na então União Soviética (nesta última, no período imediatamente posterior ao conflito armado). A partir de então, o enfoque do intelectual passou a ser o significado e a aplicação da noção de liberdade e a formulação de um pensamento pluralista – em resposta ao monismo, "a tese central da filosofia ocidental desde Platão até nossos dias" (BERLIN, 2005, p. 22).

## II. A QUESTÃO DOS VALORES

A esta altura, é necessário clarificar o que Isaiah Berlin comprehende por *valor*, uma vez que este é o núcleo por meio do qual todo o seu pensamento é formulado e estruturado – teórica e praticamente. Em geral, valores são considerados "produtos da mente humana, como pensamos sobre o mundo, nossas categorias conceituais e assim por diante" (DRUGGE, 2013, p. 55). O ponto de partida para a reflexão de Berlin sobre o tópico é a constatação de que "existe um mundo composto de valores objetivos [...], buscados pelos homens por eles mesmos, para os quais as outras coisas não passam de meios" (BERLIN, 1991, p. 21). A reflexão sobre o pluralismo e, em última instância, sobre os valores, é fixada por Berlin como pertencente ao campo do pensamento ético, que

consiste no exame sistemático das relações que os seres humanos estabelecem entre si, das concepções, interesses e ideais a partir dos quais surgem as formas com que os seres humanos tratam uns aos outros; consiste igualmente nos sistemas de valor sobre os quais se baseiam esses propósitos humanos. As crenças referentes à maneira como a vida deveria ser vivida, ao modo como homens e mulheres deveriam ser e agir, são objetos da investigação moral; quando aplicadas a grupos e nações e, na verdade, à humanidade como um todo, são chamadas de filosofia política, que nada mais é do que a ética aplicada à sociedade. (BERLIN, 1991, p. 13-14).

A concepção berliniana de *valor* preconiza ideias sobre o que é bom ser e o que é bom fazer: são noções sobre que tipo de vida, que tipo de ações e a que estado de vida os seres humanos devem aspirar. Desse modo, o entendimento do nosso filósofo sobre ética fundamenta-se na sua crença na importância de conceitos e categorias éticas normativas, especialmente os valores.

Isaiah Berlin não se deteve em formular uma teoria sistemática sobre a natureza dos valores, de tal maneira que sua visão sobre o assunto é extraída de seus estudos sobre a história das ideias. Ele parte do endosso da visão romântica segundo a qual os valores não são descobertos no mundo exterior, isto é, não são deduzidos ou derivados da natureza – visão que atribui a Kant e também a Hume. Antes, valores são criações humanas que derivam sua legitimidade exatamente disso.

Não obstante, Berlin também considera que há determinadas características dos seres humanos que são invariáveis, constituídas ao longo da história da humanidade e que tornam certos valores importantes ou necessários. Assim, cada valor é obrigatório para os seres humanos em relação às suas próprias reivindicações e em seus próprios termos – e não em termos de qualquer outro valor ou qualquer outro objetivo. Destarte, tem-se que Berlin considera os valores como invenções humanas, mas que são objetivos. Como recordam Cherniss e Hardy (2016), há pelo menos duas considerações sobre a objetividade dos valores no pensamento de Berlin, quais sejam:

A primeira é que os valores são "objetivos", pois são simplesmente fatos sobre as pessoas que os detêm – de modo que, por exemplo, a liberdade é um valor "objetivo" porque eu a valorizo e me sentiria frustrado e miserável sem pelo menos uma quantidade mínima dela. A segunda é que a crença em ou a busca de certos valores é o resultado de realidades objetivas da natureza humana - de modo que, por exemplo, a liberdade é um valor "objetivo" porque certos fatos sobre a natureza humana tornam a liberdade boa e desejável para os seres humanos. Essas visões não são incompatíveis entre si, mas são distintas. (CHERNIS; HARDY, 2016, grifos do autor).

Para desenvolver sua formulação sobre o pluralismo de valor, Isaiah Berlin partiu da reflexão sobre o paradigma tradicional do Ocidente: a ideia de que todos os bens genuínos são compatíveis e, mais que isso, que acarretam ou implicam uns aos outros (BERLIN, 2002, p. 158). Tal concepção, que por vezes Berlin pontua ser anterior à Sócrates, foi emulada em diferentes épocas e perspectivas, mas quase sempre associada àquela visão preconizada por Aristóteles e que encontra excelente síntese na seguinte declaração: "o aparente e trágico conflito de certo com certo advém das inadequações da razão, não do caráter da realidade moral" (MACINTYRE, 1988, p. 142). A concepção de racionalidade subjacente a tal afirmação revela que para cada questão genuína deve haver, pelo menos em princípio, uma única resposta correta.

Isaiah Berlin rejeita fervorosamente essa noção. O autor se insurge contra o compromisso elementar do pensamento ocidental, que resume em três proposições, as quais ressaltamos: (1) todas as perguntas autênticas podem ser respondidas, seguido da ideia de que (2) todas as respostas às perguntas



são cognoscíveis, atrelada à suposição de que (3) todas as respostas devem ser compatíveis umas com as outras. A proposta que Berlin interpõe a tal perspectiva é a sua célebre doutrina do pluralismo de valor, que foi assim expressa pelo biógrafo intelectual do filósofo:

Ele [Berlin] nega que bens genuínos, ou virtudes autênticas, sejam necessária ou verdadeiramente tais que a coexistência pacífica entre elas seja um estado possível da vida humana. Segundo Berlin, é verdade que muitos bens são rivais ou conflituosos. Além disso, Berlin nega que, ao ocorrer tamanha competição entre bens, ela é sempre passível de resolução pela aplicação de um padrão racional. Os bens humanos não são apenas frequentemente incompatíveis; eles às vezes são incalculáveis. (GRAY, 2000, p. 57).

### III. CONFLITOS INEVITÁVEIS

A inevitabilidade dos conflitos morais – e a agonia da escolha que deles se sucedem – está no cerne do pluralismo de Isaiah Berlin. “Que não podemos ter tudo não é uma verdade contingente, mas necessária” (BERLIN, 2002, p. 271), proclamava. O autor argumenta que os valores genuínos são muitos e podem entrar em conflito uns com os outros, o que, de fato, ocorre muitas vezes, quer seja “entre diferentes culturas, entre grupos pertencentes à mesma cultura ou entre você e eu” (BERLIN, 1991, p. 22). Quando há esse choque, isso não significa que um ou outro valor em disputa tenha sido mal interpretado ou, ainda, que um deles é mais importante que o outro. Disso decorre o nosso principal problema moral: o conflito entre bem e bem. Por isso, Berlin salienta que

o mundo que encontramos na experiência comum é um mundo em que somos confrontados com escolhas entre fins igualmente supremos e reivindicações igualmente absolutas, e a realização de algumas dessas escolhas e reivindicações deve envolver inevitavelmente o sacrifício de outras. (BERLIN, 2002, p. 269).

Do que se depreende que

esses choques de valores constituem a essência do que eles [os valores] são e do que nós somos. Se nos dizem que tais contradições serão dissipadas em um mundo perfeito no qual todas as coisas boas podem, em princípio, ser harmonizadas, então devemos responder aos que afirmam isso que o sentido dos termos denotativos dos valores conflitantes não é o mesmo para nós e para eles. Devemos dizer que se encontra totalmente fora de nossa compreensão um mundo no qual não esteja em conflito aquilo que vemos como valores incompatíveis. (BERLIN, 1991, p. 23).

A tese defendida por Berlin, portanto, postula que “qualquer moralidade complexa reconhece bens que são em suas próprias naturezas não compatíveis” (GRAY, 2000, p. 59). Ou seja, a possibilidade da incompatibilidade entre valores está atrelada à ideia segundo a qual os bens conflitantes possuem qualidades intrínsecas. Por conta disso, alguns valores

mantêm relação tão próxima que transformam a adesão a um em uma exclusão automática de outro. “A liberdade total para os lobos é a morte dos cordeiros”, reiteradamente afirmava Isaiah Berlin (1991, p. 22), que concluía dizendo que “a liberdade completa é incompatível com a equanimidade [igualdade, em melhor tradução] total” (BERLIN, 2016, p. 62).

Não obstante a isso, a incompatibilidade de valores também é derivada da atitude dos indivíduos em relação aos próprios valores, isto é, está ligada à natureza humana. Dentre os seres vivos, apenas os humanos enfrentam qualidades intrínsecas de alguns valores que são incompatíveis. Assim, os conflitos resultantes do embate “entre concepções justas quanto a uma vida boa e [outros] valores justos devem ser reconhecidos como características inevitáveis de uma compreensão adequada da moralidade e da política” (KEKES, 1993, p. 21). A implicação prática dessa concepção é que o conflito – e a agonia dele decorrente – não pode ser eliminado da vida dos seres humanos, de tal maneira que “a necessidade de escolher entre reivindicações absolutas é, portanto, uma característica inevitável da condição humana” (BERLIN, 2002, p. 270):

No final, os homens escolhem entre valores supremos; e assim o fazem porque sua vida e seu pensamento são determinados por categorias e conceitos morais fundamentais que são, pelo menos ao longo de grandes extensões de tempo e espaço, uma parte de seu ser, pensamento e senso de identidade – uma parte do que os torna humanos. (BERLIN, 2002, p. 272).

### IV. A INCOMENSURABILIDADE DOS VALORES

Os fins últimos perseguidos pelos indivíduos podem não ser apenas incompatíveis. Eles também podem ser *incomensuráveis*. Essa é a segunda dimensão da doutrina pluralista de Berlin, amplamente reconhecida como a contribuição central de seu pensamento.<sup>4</sup> A discussão sobre a incomensurabilidade dos valores tem ganhado destaque ao longo das últimas décadas, especialmente após as investigações de Isaiah Berlin.<sup>5</sup>

Assumir que dois ou mais valores são incomensuráveis não significa dizer, em absoluto, que haja incompletude ou imperfeição entre eles. Antes,

<sup>4</sup> A propósito do uso dos termos incompatibilidade e incomensurabilidade de valores, é pertinente ressaltar que se tratam de fenômenos distintos. Há bens incompatíveis que são comensuráveis e há bens incomensuráveis que são compatíveis. Esse é um pressuposto importante para a reflexão sobre a temática, e que vai se tornando mais claro à medida que os conceitos são melhor esclarecidos.

<sup>5</sup> John Gray presta um importante serviço ao elencar, na sua obra sobre o pensamento de Isaiah Berlin, algumas das contribuições mais esclarecedoras em relação à conceituação e implicações de incomensurabilidade de valores. Para verificar a lista bibliográfica completa indicada por Gray, da qual nos valemos para o desenvolvimento deste trabalho, cf. GRAY, 2000, p. 205-206.

indica que neles existe a verdade última, e que “não há nada além por detrás dela, nem ela é um sinal de imperfeição” (RAZ, 1988, p. 327). O filósofo israelense Joseph Raz ofereceu um importante esclarecimento a esse respeito, destacando a irredutibilidade inerente à concepção de incomensurabilidade, segundo a qual

em uma visão monista-redutora, quando se trocam os prazeres (e as ansiedades) de uma vida familiar por uma carreira como a de marinheiro, a pessoa está obtendo, ou esperando obter, a mesma coisa da qual está desistindo, seja felicidade, prazer, desejo-satisfação ou outra coisa. Enquanto planejar corretamente e conseguir executar os planos, não haverá perda de nenhum tipo. Abandona-se o prazer menor que se poderia obter na vida em família pelo prazer maior da vida no mar. Se o pluralismo de valores estiver correto, tal visão está totalmente errada. O que se perde é um tipo diferente do que se ganha. Mesmo no sucesso há uma perda e, comumente, não há sentido no julgamento de que se ganha mais do que se perde. Quando alguém se depara com opções valiosas e escolhe com sucesso uma delas, então simplesmente escolheu um modo de vida em vez de outro, sendo ambos bons e não suscetíveis à comparação de grau. (RAZ, 1996, p. 179).

Desse modo, dizer que alguns valores são incomensuráveis é afirmar que eles não podem ser sujeitos à comparação. Neste sentido, portanto, *incomensurabilidade* pode ser traduzida por *incomparabilidade*, tendo como implicação a “realidade de uma diversidade humana definitiva de formas incomparáveis de excelência ou florescimento humanos (e de uma igual diversidade de males incomparáveis)” (GRAY, 2000, p. 68-69). Essa leitura mais radical e drástica da incomensurabilidade afirma que não há “moeda comum” para a classificação dos bens últimos. Assim, “cada valor, sendo sui generis, não pode ser julgado em relação a nenhum outro valor, porque não há nada em relação ao qual ambos possam ser julgados ou medidos” (CHERNIS; HARDY, 2016).

De tal percepção depreende-se que, dentro de qualquer moralidade ou código de conduta humana, poderão ser desencadeados conflitos entre os valores últimos dessa moralidade ou código que não serão passíveis de mediação por meio do raciocínio teórico ou prático. Nas democracias ocidentais, por exemplo, bens como liberdade e igualdade, justiça e bem-estar “frequentemente [se] colidem na prática, [porque] são de natureza inherentemente rival, e seus conflitos não podem ser arbitrados por nenhum padrão globalizante” (GRAY, 2000, p. 57-58).

Cada um dos valores caros aos seres humanos também podem ser arenas de conflito e irredutibilidade dentro de si mesmos. Isto é, considerando que algumas virtudes humanas são complexas e inherentemente plurais, elas podem ser palcos para uma espécie de subconflitos, já que muitos são constitutivamente incomensuráveis. Se liberdade e igualdade não são bens totalmente harmoniosos, é possível separá-las e encontrar, em cada uma, duelos

de valor. Ora, não seria exagerado afirmar, para evocar um exemplo mencionado por Isaiah Berlin, que a liberdade de informação e a de privacidade se entrechoquem. Afinal, se a primeira for levada à instância máxima, certamente limitará o escopo de realização da segunda. É igualmente possível identificar o mesmo conflito a partir da igualdade, se levarmos em conta que igualdade de oportunidade não é permanentemente compatível e comparável à igualdade de resultados.

Ampliando a percepção do fenômeno pluralista, chega-se a um outro aspecto das noções de incompatibilidade e incomensurabilidade dos valores, segundo o qual diferentes formas culturais vão gerar diferentes virtudes e moralidades. Essas, por sua vez, serão naturalmente refletidas em distintas acepções do bem – neste caso, comum, uma vez que dizem respeito à sociedade. Assim, “se existem muitos e genuínos valores competitivos, então, quanto maior a medida em que uma sociedade tende a ser de valor único, mais valores genuínos ela negligencia ou suprime” (WILLIAMS, 2013, xxxvii).

Nisto reside o “tipo de incomensurabilidade aplicável a bens que são ingredientes constitutivos em modos ou estilos de vida inteiros” (GRAY, 2000, p. 58), como os engendrados por cosmovisões religiosas ou secularistas – para fazer menção a exemplo pertinente a esta dissertação. As formulações de Isaiah Berlin, é apropriado assinalar,

são encontradas em contextos históricos, como o nosso, em que tradições culturais não são completamente individuadas e interpenetram uma a outra, possuindo uma herança plural de moralidades complexas. De fato, [...] nossa própria sociedade abriga uma diversidade de moralidades altamente complexas e pluralistas cujos conflitos são frequentemente travados em vidas individuais. (GRAY, 2000, p. 61).

## V. CONSIDERAÇÕES

É a partir do panorama examinado que se torna possível sustentar que o pluralismo de Isaiah Berlin nega “que possa ser formulada uma moralidade política coerente expressa num único princípio ou num sistema ordenado de princípios” (GRAY, 2000, p. 78).

Sob uma perspectiva pluralista, as pessoas e as sociedades estão sujeitas a um desacordo razoável e permanente, que opta por acomodar a discordância em relação ao bem a endossar uma visão particular e última de bem. A implicação prática desse compromisso não tem a ver com certa anomia em relação aos bens válidos. Ao contrário,

os pluralistas aceitarão que alguma concepção do bem comum é inevitável, uma vez que as instituições básicas de qualquer sociedade refletirão alguma seleção geral e classificação de valores - qualquer sociedade viável terá alguma forma ética e política geral em termos dos valores que enfatiza. No entanto, os melhores arranjos políticos a

partir de uma perspectiva pluralista irão incorporar uma concepção do bem comum que será maximamente acomodada para concepções mais específicas. (CROWDER, 2008, p. 935, tradução nossa).

Do que se conclui, em exposição do nosso filósofo, que

o pluralismo, com a dose de liberdade “negativa” que acarreta, parece-me um ideal mais verdadeiro e mais humano do que as metas daqueles que buscam nas grandes estruturas disciplinadas e autoritárias o ideal do autodomínio “positivo” por parte de classes, povos ou de toda a humanidade. É mais verdadeiro, pois pelo menos reconhece o fato de que as metas humanas são muitas, nem todas comensuráveis, e em perpétua rivalidade umas com as outras. Supor que todos os valores possam ser graduados numa única escala parece-me falsificar nosso conhecimento de que os homens são agentes livres, representar a decisão moral como uma operação que uma régua de cálculo poderia, em princípio, executar. [...] É mais humano porque não priva os homens (como o fazem os construtores de sistema), em nome de algum ideal remoto ou incoerente, de muito que eles têm considerado indispensável para sua vida como seres humanos que imprevisivelmente se transformaram a si mesmos. (BERLIN, 2002, p. 272, grifos do autor).

Do projeto intelectual de Isaiah Berlin podemos extraír considerações de importância crucial para a atualidade, tais como: a inviabilidade de um grupo reivindicar o domínio sobre outro ou mesmo a hegemonia sobre a definição do que é o bem comum; a existência de dilemas éticos reais, em virtude de diferentes soluções morais, que não são facilmente solucionáveis; e a aceitação de diversos conjuntos de valores dentro de uma sociedade, o que certamente tem implicações no debate público, no exercício político e na elaboração de políticas públicas – já que não há apenas uma visão “oficial” do que constitui o bem comum.

Os desafios da convivência social talvez sejam uma das razões pelas quais a obra de Berlin tem despertado maior interesse de leitores, acadêmicos ou não, ao redor do mundo nos últimos anos. Há um vasto campo de possibilidades de estudo pela frente.

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## Results of the Election Campaign to the State Duma of the Russian Federation and the Reasons for the Absence of Opposition among Russian Voters Living Outside of it (For Example, Israel)

By Dr. Bocharov Yuri Borisovich

**Resume-** The article examines the results of voting in the State Duma of the Russian Federation, which took place on September 19, 2021, both in Russia and abroad in 144 countries of the world. Based on the conclusions of various categories of international observers, a contradictory opinion is formed about the results of the elections on the territory of Russia. On the example of Israel, publications in local media on the eve of the elections are analyzed, as well as statements and actual actions on the part of individual representatives of the Russian opposition living in Israel, before and during the elections. The results of voting both on the territory of Russia and abroad are compared. Conclusions are drawn about the passivity of the opposition and the absence of a critical mass of opposition-minded citizens who are not satisfied with the actions of the Russian authorities and do not approve of its path. The reasons for the appearance of anti-Russian statements in foreign media are analyzed.

**Keywords:** *elections to the state duma of the russian federation, opposition, suffrage, voting abroad, turnout, voter.*

**GJHSS-F Classification:** FOR Code: 369999



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# Results of the Election Campaign to the State Duma of the Russian Federation and the Reasons for the Absence of Opposition among Russian Voters Living Outside of it (For Example, Israel)

Итоги избирательной кампании в Государственную Думу РФ и причины отсутствия оппозиции, среди российских избирателей, проживающих за ее пределами (на примере Израиля).

Dr. Bocharov Yuri Borisovich

**Resume-** The article examines the results of voting in the State Duma of the Russian Federation, which took place on September 19, 2021, both in Russia and abroad in 144 countries of the world. Based on the conclusions of various categories of international observers, a contradictory opinion is formed about the results of the elections on the territory of Russia. On the example of Israel, publications in local media on the eve of the elections are analyzed, as well as statements and actual actions on the part of individual representatives of the Russian opposition living in Israel, before and during the elections. The results of voting both on the territory of Russia and abroad are compared. Conclusions are drawn about the passivity of the opposition and the absence of a critical mass of opposition-minded citizens who are not satisfied with the actions of the Russian authorities and do not approve of its path. The reasons for the appearance of anti-Russian statements in foreign media are analyzed.

**Keywords:** elections to the state duma of the russian federation, opposition, suffrage, voting abroad, turnout, voter.

**Аннотация-** В статье рассматриваются итоги голосования в Государственную Думу РФ, прошедшие 19 сентября 2021 года, как на территории России, так и за ее пределами в 144 странах мира. На основании выводов различных категорий международных наблюдателей, формируется противоречивое мнение об итогах выборов на территории России. На примере Израиля анализируются публикации в местных СМИ в преддверии выборов, а так же заявления и фактические действия со стороны отдельных представителей российской оппозиции, проживающих в Израиле, до и во время выборов. Сравниваются результаты голосования как на территории России, так и за ее пределами. Делаются выводы о пассивности оппозиции и отсутствии критической массы оппозиционно настроенных граждан, не довольных действиями российских властей и не одобряющих ее путь. Анализируются причины появления антироссийских выступлений в зарубежных СМИ.

**Ключевые слова:** выборы в государственную думу РФ, оппозиция, избирательное право, зарубежье, явка, избиратель.

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## INTRODUCTION

Прошли очередные выборы в Государственную Думу Российской Федерации. Как и ожидалось, с большим отрывом победила партия власти – «Единая Россия», которая в итоге сохранила абсолютное большинство в Думе получив 324 мандата из 450. При голосовании за федеральный список партия «Единая Россия» получила 49,82% голосов, второе место досталось КПРФ – 18,93%, на третьей строчке ЛДПР с 7,55%. Также пятипроцентный барьер удалось преодолеть партиям «Справедливая Россия – За правду» (7,46%) и «Новые люди» (5,32%). Остальные 9 партий, даже не прошли и полпути к проходному барьеру, набрав суммарно лишь 10,9%. В то же время по итогам выборов в одномандатных округах в Думу РФ прошло еще 8 депутатов, по одному представителю от партии «Гражданская платформа», «Родины» и «Партии Роста» и 5-самовыдвиженцев.<sup>[1]</sup> По данным ЦИК, итоговая явка составила 51,72%, а это больше, чем на прошлых выборах в 2016 году (47,88%).

По итогам выборов, а особенно в их преддверии, было много заявлений в зарубежных СМИ на тему об их не легитимности и необъективности. Много было сказано об административном ресурсе, давлении на подконтрольный электорат, о приписках, об ангажированных избирательных комиссиях и многом другом. Особенно сильно раскручивалась тема об отсутствии свободы в СМИ и о загоне всей реальной оппозиции в подполье. Эта тема нашла особую поддержку в различных комитетах и структурах Евросоюза.

<sup>1</sup> ЦИК РФ «О результатах выборов, состоявшихся в единый день голосования 19 сентября 2021 года». <https://telegra.ph/O-rezulatah-vyborov-sostoyavshisya-v-edinyj-den-golosovaniya-19-sentyabrya-2021-goda-CHast-V-09-24>



Уже в преддверии выборов 15 сентября Европарламент большинством голосов принял резолюцию, призывающую ЕС к готовности не признать парламент России и учесть обращение об исключении России из ПАСЕ, если парламентские выборы в России в 2021 году будут признаны искаженными и проведенными с нарушением демократических принципов и международного права<sup>[2]</sup>. Возможно эти предварительные «угрозы» были связаны с тем, что ссылаясь на пандемию, российские власти сократили число допущенных наблюдателей на предстоящие выборы с 500 до 60. В итоге Организация по безопасности и сотрудничеству в Европе (ОБСЕ) впервые с 1993 году не направила на выборы в России свою наблюдательную миссию.

В связи со событиями вокруг отсутствия наблюдателей ОБСЕ на выборах в России, хотел бы отметить, что в одной из самых демократичных стран Ближнего Востока- Израиле, никогда не присутствуют международные наблюдатели. Как сообщалось свое время в газете «The Times of Israel» спикер Кнессета Юлий Эдельштейн заявил группе Организации Объединенных Наций, что в Израиле нет места для внешних наблюдателей за выборами и что сама идея оскорбительна. «Мы никогда не соглашались с присутствием сторонних наблюдателей за нашим демократическим процессом, и мысль о том, что мы когда-либо сделаем это, немыслима», - написал от своего имени глава администрации Эдельштейна Эран Сидис в письме Парламентской ассамблее Средиземноморья (ПАС).<sup>[3]</sup>

Однако по итогам выборов в России и ЕС и Госдепартаменте США: «не признали проведение выборов в российскую Думу на суверенной украинской территории и подтверждаем нашу непоколебимую поддержку территориальной целостности и суверенитета Украины». <sup>[4]</sup> При этом отсутствие дополнительных заявлений по другим регионам России, скорее всего говорит о том, что де facto несмотря на якобы имеющиеся

<sup>2</sup> «Заявление Высокого представителя от имени Европейского Союза на выборах в Государственную Думу, региональных и местных органах власти» [https://www.consilium.europa.eu/en/press/press-releases/2021/09/20/russia-declaration-by-the-high-representative-on-behalf-of-the-european-union-on-the-state-duma-regional-and-local-elections/?utm\\_source=dsms-auto&utm\\_medium=email&utm\\_campaign=Russia%3a+Declaration+by+the+High+Representative+on+behalf+of+the+European+Union+on+the+State+Duma%2c+regional+and+local+elections](https://www.consilium.europa.eu/en/press/press-releases/2021/09/20/russia-declaration-by-the-high-representative-on-behalf-of-the-european-union-on-the-state-duma-regional-and-local-elections/?utm_source=dsms-auto&utm_medium=email&utm_campaign=Russia%3a+Declaration+by+the+High+Representative+on+behalf+of+the+European+Union+on+the+State+Duma%2c+regional+and+local+elections)

<sup>3</sup> «Израиль не допускает на выборы международных наблюдателей». - 28 января 2019 <https://hamodia.com/2019/01/28/knesset-rebuffs-international-election-observers/>

<sup>4</sup> «США и ЕС не признают российские "выборы" на неподконтрольной части Украины» <https://twnews.ch/ua-news/ssha-i-es-ne-priznaiut-rossiiskie-vybory-na-nepodkontrol-noi-chasti-ukrainy>

нарушения, в целом выборы на территории России они признали.

В то же время за ходом выборов, кроме нескольких сот тысяч российских наблюдателей, представленных баллотирующимися партиями и общественными объединениями, наблюдало 383 международных наблюдателя и эксперта из 80 стран мира. Среди иностранных наблюдателей были делегаты от парламентов, избирательных комиссий, социальных советов и омбудсмены. Им был предоставлен доступ к видеотрансляциям и наблюдению за электронным голосованием.<sup>[5]</sup> По мнению многих из них, они увидели на прошедших выборах в России хорошо организованную процедуру голосования, соблюдение высоких стандартов по санитарной безопасности на участках, а также полный общественный контроль. В итоге иностранные наблюдатели не зафиксировали каких-либо нарушений на выборах в Госдуму, о чем и заявил представитель делегации независимых иностранных наблюдателей, депутат Национального собрания (нижней палаты парламента) Франции Жан-Клод Эдмон Буше<sup>[6]</sup>.

Так кто же прав, не поехавшие на выборы в Россию представители Евросоюза или представители независимых иностранных наблюдателей, ознакомившиеся с ходом выборов на местах? Возможно мы вновь сталкиваемся с системой двойных стандартов. И почему практически во всех зарубежных СМИ, кого интересовала тема российских выборов, а тем более в социальных сетях раскручивалась одна и также история, что на самом деле народ хочет явно другой власти, но власть ему это не позволяет. То есть, если бы в России была бы демократия- то все было бы по-другому!

*Насколько это верно? И как это можно проверить?*

В принципе, все очень легко. Дело в том, что согласно российскому законодательству о выборах, любой гражданин России, вне зависимости от места проживания, а так же наличия у него гражданства других стран имеет право на участие в выборах в верховные органы власти, а, точнее, в выборах в Думу и Президента РФ<sup>[7]</sup>. Не многие из признано демократических

<sup>5</sup> «Почти 400 международных наблюдателей и экспертов приехали оценить выборы в России» [http://rapsinews.ru/election\\_right\\_news/20210918/307388695.html](http://rapsinews.ru/election_right_news/20210918/307388695.html)

<sup>6</sup> «Иностранные наблюдатели не зафиксировали нарушений на выборах в Госдуму» <https://iz.ru/1223522/2021-09-18/inostrannye-nabliudateli-ne-zafiksirovali-narushenii-na-vyborakh-v-gosdumu>

<sup>7</sup> Федеральный закон от 12 июня 2002 г. N 67-ФЗ "Об основных гарантиях избирательных прав и права на участие в референдуме граждан Российской Федерации" Статья 4 пункт 2. <http://base.garant.ru/184566/1b93c134b90c6071b4dc3f495464b753/>

стран могут похвастаться таким пунктом в своем избирательном законодательстве. Кстати в том же Израиле, в случае выезда гражданина страны за рубеж, он тут же «лишается» своего избирательного права. То есть любой израильянин (если только он не дипломат) находясь в день выборов за рубежом, не имеет права, в отличии от россиян, проголосовать в диппредставительстве Израиля за рубежом.

По данным ЦИК РФ , в день выборов в Государственную Думу за границей находилось более двух миллионов российских граждан, большая часть которых там проживает постоянно<sup>[8]</sup>. К примеру только в Израиле право голоса имеет более 150 тысяч израильян, имеющих и российское гражданство. При этом, как не трудно и догадаться, практически все израильские СМИ, в том числе и русскоязычные, не подконтрольны Кремлю и, судя по публикациям в преддверии выборов, позволяли себе писать все, что они думают о «демократии» в России. То есть, мы явно можем считать, что на территории Израиля все СМИ, а уж тем более все социальные сети писали все что хотели и как хотели о российских выборах, о ее власти и при этом, явно эту власть не хвалили. Все кто считал себя хотя бы в душе оппозиционером к той же власти, мог в любой день выйти с любым флагом и помахать им перед российским посольством, призывая их к ответу и порядку.

И это кстати уже бывало не раз. Как писал в свое время автор этой статьи, после ареста Навального в Израиле напротив Посольства РФ в Тель-Авиве и Генконсульства РФ в Хайфе прошли демонстрации протеста. По сообщениям участников, в акции в Хайфе приняло участие до тысячи человек, хотя, судя по фото в соцсетях, народу было не более трехсот человек. При этом большая часть явно пришла как бы проветриться и поучаствовать в тусовке, ведь карантин в стране убил практически весь досуг, а тут хоть какое-то мероприятие<sup>[9]</sup>.

То есть, главного «якобы» инструмента давления на электорат- административного ресурса, а уж тем более , подконтрольной прессы, у российской власти за рубежом и, в частности, в

Израиле не было. При этом каждый желающий мог, не боясь никаких последствий, прийти на выборы и проголосовать, так как ему велит совесть. А судя по публикациям в местной прессе «совесть»- велила выйти на баррикады и показать той далекой и не легитимной российской власти «кузькину мать».

#### *О голосовании за пределами территории РФ.*

И для участия в выборах российских избирателей проживающих за ее пределами ЦИК РФ на базе дипмиссий открыл 388 избирательных участков в 144 странах мира <sup>[10]</sup>. Кстати, именно в Израиле дипмиссия России всегда старается открыть как можно больше избирательных участков, чтобы у всех желающих проголосовать была возможность воспользоваться своим конституционным правом. И в этот раз, несмотря на строгие ограничения введенные как в России , так и в Израиле, в связи с эпидемией коронавируса, было открыто 13 избирательных участков в различных городах страны и голосование шло несколько дней. Сотрудники Посольства РФ в Тель-Авиве организовывали выборы в городах: Ашдод, Ашкелон, Ришон ле-Цион, Иерусалим, Беэр-Шева, Арад, Эйлат, Нетания и Тель-Авив, а сотрудники генконсульства в Хайфе организовывали выборы в городах: Кармиэль, Ноф ха Галиль, Хедера и Хайфа.<sup>[11]</sup> При этом генконсульство в Хайфе, дополнительно организовало и досрочно выездное голосование еще в четырех городах на севере страны, таких как Нагария, Цфат, Кирьят Шмона, Йокнам, а так же, ряд выездных голосований в день выборов в соседние с Хайфой города Моцкин и Нешер. В итоге почти в 20 городах Израиля граждане, имеющие право голоса, могли прийти и проголосовать. Кстати, согласно статистики в этих городах проживает более 100 тысяч россиян имевших право голоса.

В итоге каждый, считающий себя хотя бы в душе оппозиционером к российской власти, мог прийти и проголосовать против и тем самым доказать всему миру и, в частности, себе, что в России нет демократии. Но что получилось в итоге? Пришло всего чуть более 3,5 тысяч человек, что значительно меньше чем на предыдущих выборах

<sup>8</sup> ЦИК РФ «Сведения о численности зарегистрированных в Российской Федерации и за пределами территории Российской Федерации избирателей, участников референдума Российской Федерации по состоянию на 1 июля 2021 года» <http://www.cikrf.ru/izbiratel/quantity/01072021.php>

<sup>9</sup> Голосуем за Путина, митингуем за Навального <https://stmegi.com/opinions/posts/86182/golosuem-za-putina-mitinguem-za-navalnogo/>

<sup>10</sup> ЦИК РФ «Информация об участках, образованных за пределами территории Российской Федерации для голосования на выборах депутатов Государственной Думы Федерального Собрания Российской Федерации восьмого созыва , по состоянию на 27 августа 2021 года». <http://cikrf.ru/analog/ediny-den-golosovaniya-2021/kategorii-viborov/vibori-deputatov-gosdumi/ggzi/>

<sup>11</sup> Посольство РФ в Израиле « О выборах в Государственную Думу Федерального Собрания Российской Федерации VIII созыва» [https://israel.mid.ru/ru/press-centre/news/o\\_vyborakh\\_v\\_gosudarstvennyu\\_dumu\\_federalnogo\\_sobraniya\\_rossiyskoy\\_federatsii\\_viii\\_sozyva/](https://israel.mid.ru/ru/press-centre/news/o_vyborakh_v_gosudarstvennyu_dumu_federalnogo_sobraniya_rossiyskoy_federatsii_viii_sozyva/)



в Думу в 2016 году. Но самое главное, что на выборах в Израиле вновь победила «Единая Россия», правда не с таким отрывом, как в России, но победила. За ней идут партии КПРФ и ЛДПР, в ряде городов на третьем - четвертом месте было Яблоко, затем Справедливая Россия и «Новые люди». В большинстве своем, все пять прошедших в Думу партий набирали от 80% до 90% голосов на избирательных участках в Израиле.

Хотя было несколько запланированных демаршей с привлечением прессы, что лишь подтверждает их ангажированность и заранее подготовленную провокацию. А как по-другому можно охарактеризовать специально приведённое двойное голосование? Ведь человек изначально зная российское законодательство, нарывался на крупный штраф за такой проступок и, видимо при этом, не боялся потерять собственные деньги. Возможно потому, что ему за это было обещано больше? Тоже можно сказать и о спланированном скандале, при ошибочной выдаче второго бюллетеня для голосования по одномандатному округу избирателю, не имевшему право там голосовать. Вместо того, чтобы признать свою ошибку и вернуть бюллетень, он устроил мелкий дебош, при этом стараясь попасть в кадр киносъёмки.

Приведу еще один пример, явно подготавливаемой провокации на этих выборах. В качестве наблюдателя от общественной палаты РФ, я наблюдал за работой избирательной комиссии при досрочно-выездном голосовании в Нагарии. Стоит отметить, что на сайте генконсульства РФ в Хайфе было написано, что организуется досрочно выездное голосование 15 и 17 сентября в четырех городах севера, а также будет голосование 19 сентября еще в четырех других городах, в том числе и в Хайфе. Какое же было мое удивления, на выездном голосовании в Нагарии 15 сентября, когда там появилась пара молодых избирателей, проживающих в Хайфе, с просьбой разрешить им проголосовать досрочно. Мотивировали они это желание тем, что не знали о

тому, что 19-го будет голосование в Хайфе. Кажется, не очень правдоподобно. Уж если они прочитали информацию о Нагарии, то явно должны были видеть и время голосования в Хайфе. Им конечно разрешили проголосовать досрочно и в другом городе, так как избирательное законодательство за рубежом, позволяет подобную практику. Вполне возможно, что ребята также готовили провокацию с двойным голосованием на двух участках, но после того, сотрудники избирательного участка внесли их имена в базу данных проголосовавших, чтобы избежать накладок и возможного нарушения закона, они явно отказались от этой попытки.

То есть на 3,5 тысячи проголосовавших нашлось лишь трое псевдо-проводников, попытавшихся своими действиями продемонстрировать нелегитимность выборов, а ведь это менее 0,1% от принявших участие в голосовании.

Стоит так же отметить, что на этих выборах активно работали наблюдатели от общественной палаты РФ, которых было зарегистрировано 7 человек на Севере страны и двое в Центре. Наблюдатели работающие на территории генконсульства РФ приняли участие в 7 выездных и досрочных голосованиях, а также работали на территории избирательного участка в генконсульстве в Хайфе. Там же были и наблюдатели от партии Яблоко, которые принимали активное участие в выездных голосованиях. По итогам выборов, наблюдатели отметили четкую работу сотрудников генконсульства, которые во-первых сделали все, чтобы соблюсти все требования в связи с эпидемиологической ситуации в стране, которые предъявляли к таким мероприятиям как ЦИК РФ, так и законы Израиля, а во-вторых отметили, что проконтролировав весь ход голосования как на участке, так и при выезде на места, не нашли никаких нарушений избирательного законодательства.

Стоит отметить и такой момент, как «накидать» бюллетеней за какую-то партию, на зарубежных участках практически не возможно. Во-первых МИД РФ никогда не требует показателей от своих дипмиссий. Во-вторых сами комиссии очень малочисленны, а на участках постоянно присутствуют либо избиратели, либо наблюдатели, и в-третьих, в случае «попадания» работник дипмиссии, очень сильно рискует не только карьерой, но и местом работы, а это того явно не стоит. Выходит, что за рубежом практически нет пресловутого административного ресурса и есть возможность, а тем более у заангажированного избирателя, проголосовать. Так почему же тогда за рубежом и, в частности в Израиле, выигрывают те же партии, что и в России? Не показатель ли это

того, что их деятельность вполне устраивает «русское» зарубежье? И эта ситуация уже не первый год и не первые выборы.

Возможно в большинстве своем, именно граждан России и тех кто живет в ней самой и за ее пределами за рубежом, устраивает такое положение дел, возможно им «со своей колокольни» виднее, что хорошо, а что плохо. И эту ситуации признает и оппозиционный к власти писатель Виктор Ерофеев, выступившей с критиков российской власти и итогов выборов на страницах немецкого издания Frankfurter Allgemeine Zeitung, где он заявил: «На это я могу сказать: если бы выборы были проведены по всем правилам западной демократии, без всяких ухищрений и манипуляций, (...) Путин все равно победил бы с большим отрывом и получил бы конституционное большинство.»<sup>[12]</sup>

Так почему бы Западу не признать как наличие как реальной, так и проплаченной оппозиции, а заодно и легитимность избранной власти, тем более, что в большинстве своем выборы на территории зарубежных округов в других стран и не только в Израиле, показывают практически одну и ту же картину, что и в России.

Естественно, голосование на территории Израиля, возможно, и не показывает всю картину отношения как израильтян, так и бывших россиян к событиям в России, но стоит отметить, что те, кто «держит кирпич за пазухой» и осуждает политику России, имел полное право высказать это в слух. Ведь те, кто хотел поддержать парламентские партии, да и не только их, в основном пришел и поддержал, а это в принципе говорит о том, что курс России в Израиле одобряют. Ведь мнение 3,5 тысяч избирателей из 150 тысяч, это более чем репрезентативная выборка.

Возможно ли, что все потенциальные оппозиционеры по чему-то «приказу» вдруг остались на своей кухне или же ангажированные СМИ, слишком заангажированы на анти-российской тематике? А может быть просто кому-то это выгодно в политическом и экономическом плане и вся эта ангажированность просто хорошо проплачена?

К сожалению сегодня в нашем многополярном мире и у большинства базовых мировых лидеров, диаметрально противоположные интересы и задачи, при этом чаще всего большая часть благополучия одних решается за счет нестабильности у других.

<sup>12</sup> Полифония путинских гномов <https://www.faz.net/aktuell/feuilleton/debatten/russland-nach-der-dumawahl-putin-anhaenger-und-die-parfuempartei-17557616.html>





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# Snippets of India's Polar Research

By Nikhil Pareek

**Abstract-** Distant non-Arctic states, non government organisations, international organisations etc. have evinced interest and staked claim for engagement in the Arctic Council and thus Arctic has become a geopolitical, geo-economic issue of great importance in the recent times. India has cited climate change as well as impact and inter-connection between the Arctic climate and Indian monsoons due to the receding ice cover as a basis of its research, thus legitimising its role as an Observer and stakeholder. Despite the huge geographical distances between India and the Poles, it possesses an exceptional alpine region with the Himalayas in its background having polar characteristics to aid polar scientific research.

**GJHSS-F Classification:** FOR Code: 360199



SNIPPETS OF INDIA'S POLAR RESEARCH

*Strictly as per the compliance and regulations of:*



# Snippets of India's Polar Research

Nikhil Pareek

**Abstract-** Distant non-Arctic states, non government organisations, international organisations etc. have evinced interest and staked claim for engagement in the Arctic Council and thus Arctic has become a geopolitical, geo-economic issue of great importance in the recent times. India has cited climate change as well as impact and inter-connection between the Arctic climate and Indian monsoons due to the receding ice cover as a basis of its research, thus legitimising its role as an Observer and stakeholder. Despite the huge geographical distances between India and the Poles, it possesses an exceptional alpine region with the Himalayas in its background having polar characteristics to aid polar scientific research.

## I. INTRODUCTION

With the continuously changing situation at the North Pole, witnessing record highs of the polar ice sheet melts and the corollary growth in the avenues to exploit the vast untapped hydrocarbon deposits as well as opening up of shorter shipping routes to commercial and lucrative development, the Arctic region is garnering attention of the global comity of nations including India, who are vying for a say and place in Arctic affairs.

Other than the Arctic Council members and littoral states, distant non -Arctic states, non government organisations, international organisations etc. have evinced interest and staked claim for engagement and thus Arctic has become a geopolitical, geo-economic issue of great importance in the recent times. India has cited climate change as well as impact and inter-connection between the Arctic climate and Indian monsoons due to the receding ice cover as a basis of its research, thus legitimising its role as an Observer and stakeholder. Despite the huge geographical distances between India and the Poles, it possesses an exceptional alpine region with the Himalayas in its background having polar characteristics to aid polar scientific research.

This paper tries to comment on India's scientific focus though the author acknowledges the lack of any formal education in science and has relied solely on National Centre for Polar and Ocean Research's (NCPOR) Annual reports and other inputs available in public domain. Some data has been analysed from a lay-man's perspective and the author is blameworthy for any wrongful extrapolation.

## II. RESEARCH FOCUS

Unlike the Arctic-8 countries namely Canada, Denmark, Finland, Russia, the USA, Sweden, Norway

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and Iceland, India does not have permanent research station/facilities within or close to the Arctic Circle. The town of Ny-Ålesund, Norway is being used as the international research base by Norway, France, Germany, Italy, the Netherlands, the UK, India, China, Japan, and Korea which have established research stations and conduct research from there. India had commenced its research presence in Arctic since 2007 and established its research station Himadri in 2008. Among the Asian countries, India lagged behind China, Japan and Korea in commencing its research at Arctic but on the other hand, it has the advantage of having the Himalayas as the third largest depository of ice outside of the Poles in its backyard. Considering that India mans its Arctic research station only between April to September every year and exacerbated by the huge distances and transportation costs involved, there are huge deficits in the output, depth and quality of Indian polar scientific research.

India's Ministry of Earth Sciences (MoES) and its executive arm, Earth System Science Organisation (ESSO) and National Centre for Polar and Ocean Research (NCPOR) was constituted to understand and address the various aspects relating to earth processes for understanding the variability of earth system and for improving forecast of the weather, climate and hazards. The MoES has acknowledged that the Himalayas store the greatest concentration of snow apart from the Poles. The Himalaya range encompasses enormous variation in elevation, precipitation, biodiversity, and patterns of human livelihoods. (Singh., S.P and Thadani., Rajesh, 2015). The Ministry of Earth Sciences has been reiterating that its research activities are being focused at the Poles and the Himalayas. Indian research activities of the Cryosphere are concentrated in three major regions: (1) Antarctic region (2) Arctic region and (3) Himalayan region. (Ministry of Earth Sciences, 2011). In order to obtain more comprehensive understanding of climate change, it is also required to have climate records from Arctic region and Himalayas in addition to the Antarctica. (Ministry of Earth Sciences, 2011). The stated objective of Indian research also incorporates the study of the biogeochemical aspects of Himalayan ice and compare it with the polar environment. (Ministry of Earth Sciences, 2011).

It is universally acknowledged that the Tibetan plateau and the Himalayas exert a great influence on the regional and global climate due to their unique topography and affect the global atmosphere and fresh water flow on a massive scale. Moreover, there is extreme diversity and variation prevailing in the



Himalaya region in terms of forest cover, rainfall and biodiversity and a standard template cannot be applied. However, based on a cursory survey of NCPOR's seven Annual reports from 2012-13 to 2018-19 it appears that India has not devoted commensurate effort towards studying the Himalayas and its inter-linkages with the Polar environment. Indian research is also found deficient in studying the oft-quoted tele-connections between the Indian monsoons and Arctic snow recession. As per the Ministry of External Affairs (MEA) it was stated that the objective of Indian research included the study the hypothesized tele-connections between the Arctic climate and the Indian monsoon by analyzing the sediment and ice core records from the Arctic glaciers and the Arctic Ocean. (Ministry of External Affairs, 2013). Though India's research stations are located at both the poles, there are negligible attempts at co-relation of the data of the Poles among each other as well as with that of Himalayas.

It has been acknowledged by the MoES that there are over 9500 glaciers in the Himalayas, yet only symbolic study of the Himalayan Cryosphere is being undertaken. The detailed glacier inventory of Indian Himalayas (GSI, SAC) indicates presence of 9579 glaciers in the Himalaya, some of which form the perennial source of major rivers. (Ministry of Earth Sciences, 2011).

As a developing country with agriculture as the mainstay for majority of its population, the climatic impacts of a warming planet leading to disruption in yields should be the focal point of Indian research. Glacier retreat and snow cover changes have contributed to localized declines in agricultural yields in some high mountain regions, including Hindu Kush Himalaya and the tropical Andes. (IPCC, 2019). Against the presence of various glaciers spread over great distances with varying ecological parameters as well as similar features available in neighbouring countries in the Himalayan region for study of mountain weather phenomena, environmental, biogeochemical and ecosystem variabilities, the studies on the same appear not to have been undertaken. Yet, against the huge and humongous data available, India is assessed to be undertaking mere superficial studies, data for most of which has been already documented and researched. Instead of carrying out research in novel and unexplored areas, India appears to be relying on historical data points. The MoES has acknowledged that it is conducting studies by 'Identification of a few type glaciers such as Chota Sigr, Hamta and others for which some previous glaciological data are available, for detailed glacial assessment and mass balance studies.' (Ministry of Earth Sciences, 2011).

In the Himalayas, a pilot expedition to the Batal and the Sutri Dhaka glaciers in Himachal Pradesh was undertaken by a five-member team during August –

September 2013, as a prelude to the initiation of a major long-term program of cryosphere studies in the Himalaya. The team, during its month-long expedition, established a network of stakes on the glaciers to collect data for mass balance studies. (MoES Annual Report 2013-14).

Based on the aforesaid, two issues stand out that firstly India appears to be focussing only on those glaciers for which preliminary data is already available and secondly the pace of research appears to be tardy. From a lay-man's viewpoint, expeditions marked by its duration (one month) should not be the parameter, especially during the inception stages of any project.

A systematic long-term scientific investigation of Himalayan glaciers with objective "to understand the response of Himalayan Cryosphere to the changing climate and its hydrological impacts" has been carried out. Six selected benchmark glaciers (Sutri Dhaka, Batal, Bara Shigri, Samudra Tapu, Gepang and Kunzam) of Chandra basin, western Himalaya have been monitored for their changes. (MoES Annual Report 2019-20).

Despite commencing research at Arctic in 2007, the MoES has also acknowledged that 'systematic studies if (of) the cryospheric domain of the Arctic is as yet to be initiated.' (Ministry of Earth Sciences, 2011).

Figure 1 placed below depicts the number of papers on various subjects based on data contained in the NCPOR's seven Annual reports from 2012-13 to 2018-19 which shows that Himalayas has been covered mere 5.65% (25/442\*100) which appears to be grossly inadequate. The papers on Himalayas are placed in Table 1. A connected issue is that there is no data available on overnight stay by the ESSO scientists near Himalayas which could have given more clarity on the research efforts. In short, the Himalayas which possess many similarities with the Poles have been little studied and thus less understood. Since the Himalayas are water towers for nearly one-sixth of the human population including India, the scientific efforts to understand and co-relate with the climate change should form the bulwark of research efforts.

*Figure 1:* Subject wise papers as per data in NCPOR Annual Reports (2012-13 to 2018-19)

*Table 1:* Papers on Himalayas in NCPOR Annual Reports (2012-13 to 2018-19)

#### a) Duplication

A worrying issue noticed by perusing the NCPOR's Annual reports is the fact that previously published papers have been duplicated on several occasions. With NCPOR scientists having sole access to the data obtained from sensors and equipment installed by the Government of India in Polar, Ocean and Himalayan regions the prevalence of duplication is a



dent in having reliable, insightful and ethical research. Since NCPOR is the sole and pioneer institution heralding polar as well as ocean research, this duplication can be attributed to one of the following two reasons. It is assessed that the main reason for such duplication is to enhance the number of publications so as to give volume and credibility to the research. It is brought out that one paper from Fridtjof Nansens Institutt in 2013 had commented that 'Looking at India's research activities in terms of publication output the annual numbers have been modest.(Stensdal, 2013). The other reason for duplication could be to embellish the authors' curriculum vitae.

Though the author is ill-equipped and unqualified to comment on the co-relation/ similarity between the subjects, yet as per the Table 2 placed below, it is seen that the duplicated papers stand at 6.33%. Some other instances of similar papers are placed at Table 3, which have been tabulated from a lay-person's perspective and specialists from the subject can offer elaborate comments.

It is recommended that there must be stringent evaluation of the stream of publications from a researcher/subject utilising the same data and same theory and thus avoid duplication. The practice of thorough review of all scientific literature on the subject, formulation of the idea/objective of the research and designation of the subject part of the research along with a self-declaration by the researcher are few tools that can cease such blatant publishing violations. The ethics and methodology of utilising the data obtained from government sensors/equipment deployed at various locations is a separate study in itself and is being skipped here.

**Table 2:** Few Instances of Duplication of papers in NCPOR Annual Reports (2012-13 to 2018-19)

**Table 3:** Few instances of papers on similar/same subject in NCPOR Annual Reports (2012-13 to 2018-19)

#### b) Papers on Health

Another feature on visits by Indian researchers as part of Indian expeditions to the Antarctic and Arctic shows that the duration of visit of individual scientists remains close to one month, generally. Considering the long distances involved, need for acclimatisation and other logistics requirements, it is recommended that such short duration visits could be substituted by longer durations for greater productivity.

Though the duration of stay of NCPOR personnel at Antarctica is not given out in Annual Reports 2010-11 yet three papers put in the NCPOR Annual Report 2012-13 with the under-mentioned titles imply that the stay in Antarctic was for one year. This fact is neither corroborated by the data in the particular year's annual reports nor the prevailing precedents of Indian expeditions. The particular papers are:-

- i. Obesity, dyslipidemia and cholesterol gallstone disease during *one year* of Antarctic residence. (Ser No. 10 NCPOR Annual Report 2012-13)
- ii. Circadian melatonin and cortisol levels in relation to depression, sleep and neurocognitive performance over *one year* of Antarctic residence. (Ser No. 11 NCPOR Annual Report 2012-13)
- iii. Vitamin D homeostasis, bone mineral metabolism and seasonal affective disorder during *one year* of Antarctic residence. (Ser No. 12 NCPOR Annual Report 2012-13)

The contention is also shaken by another paper titled 'Psychological Health in the summer team of an Indian expedition to Antarctica' (Ser No. 18 NCPOR Annual Report 2015-16) and the particulars of duration of Indian Expeditions to Antarctic given in Table 4, which also affirms that Indian expeditions are launched during the Antarctic summer months and not once in any NCPOR annual report, year long residence is given out.

**Table 4:** Duration of Indian Expedition to Antarctic (2012-13 to 2018-19)

It seems that these papers may be based on data falsification and NCPOR must subject its papers to Retraction Watch Database and other similar tools for credible output. Off late, there has been a flurry of retraction of scientific papers on grounds of plagiarism and image duplication. 'While 127 papers retracted might be a fraction of the number of papers published each year from India, it is still a huge number considering how reluctant journal publishers are in retraction' (The Hindu, 2019). The purpose as well as credibility of NCPOR to function as an authentic, reliable repository is shaken by the aforesaid instances and a corrigendum may well serve to keep its scientific integrity intact.

#### c) Attendance of Commission on the limits of Continental shelf (CLCS) Meetings

On perusal of NCPOR Annual reports, it is also seen that India has been deputing scientists to attend the CLCS meetings rather than sending experts on legal/technical issues, as is the practice by all important countries. A brief on the United Nations Commission on the limits of Continental shelf is given below. As per the List of experts for the purposes of article 2 of Annex VIII (Special Arbitration) to the Convention (UN.org, 2020), India does not have any experts in the following three fields:-

- i. List of experts in the field of fisheries maintained by the Food and Agriculture Organization of the United Nations (communicated on 12 January 2017) ([https://www.un.org/Depts/los/settlement\\_of\\_disputes/experts\\_special\\_arb.htm](https://www.un.org/Depts/los/settlement_of_disputes/experts_special_arb.htm))
- ii. List of experts in the field of marine scientific research maintained by the Intergovernmental



- Oceanographic Commission of UNESCO (as at 28 January 2016) ([https://www.un.org/Depts/los/settlement\\_of\\_disputes/experts\\_special\\_arb.htm](https://www.un.org/Depts/los/settlement_of_disputes/experts_special_arb.htm))
- iii. List of experts in the field of navigation, including pollution from vessels and by dumping, maintained by the International Maritime Organization (as at 8 April 2019) ([https://www.un.org/Depts/los/settlement\\_of\\_disputes/experts\\_special\\_arb.htm](https://www.un.org/Depts/los/settlement_of_disputes/experts_special_arb.htm))

Also, none of the six experts named by India in the field of protection and preservation of the marine environment maintained by the United Nations Environment Programme (communicated on 8 November 2002) is from NCPOR. ([https://www.un.org/Depts/los/settlement\\_of\\_disputes/experts\\_special\\_arb.htm](https://www.un.org/Depts/los/settlement_of_disputes/experts_special_arb.htm))

The origin of the term Continental Shelf is exclusively based on its geomorphologic concept. The 1982 United Nations Convention on the Law of the Sea (UNCLOS) is one of the most important accomplishments in the development of international law in the twentieth century.

Despite the fact that there is a (L & T) Legal and Treaty division at MEA, (<https://www.mea.gov.in/divisions.htm>) it is seen that instead of sending domain experts, India has been sending diverse personnel including NCPOR scientists for CLCS meetings, in which the sovereign's claims on maritime boundaries are at stake.

The presentation of the submission to the Commission was made on 16 August 2010 by Shailesh Nayak, Secretary, Ministry of Earth Sciences, head of delegation, Anil Kumar Chaubey, Scientist, National Institute of Oceanography, and Narinder Singh, Joint Secretary and Legal Adviser, Ministry of External Affairs. The delegation of India also included Manjeev Singh Puri, Deputy Permanent Representative of India to the United Nations, and a number of advisers. (<https://un docs.org/en/clcs/68>).

It is vital to point out that notes verbales had been submitted to the UN CLCS by Myanmar on 04 August 2009, Bangladesh on 29 October 2009 and Oman on 19 May 2010 regarding delimitation of maritime boundaries with India. However, till September 2019 India was yet to enter into agreements with the Eastern offshore neighbours and thus the issue remains suspended. In conformity with the decision taken at its twenty-sixth session (CLCS/68, paras 35–36), and in the absence of communications conveying developments in this regard, the Commission instructed the subcommission to examine the information submitted in respect of the western offshore region of India in the Arabian Sea and not to consider the part of the submission relating to the eastern offshore region of India, comprising the eastern offshore region of mainland India in the Bay of Bengal and the western offshore region of the Andaman Islands. (<https://un docs.org/en/clcs/50/2>). Thus India's maritime limitation

issue in its Eastern offshore remains unfinished and unresolved.

Maritime legislation and marine legal order along with global ocean governance is a separate field and requires constant and updated domain expertise. A corollary to this is found in attuning domestic laws and legislation to UNCLOS. Another connected feature is participation in the other two exclusive bodies set up under UNCLOS namely International Seabed Authority, International Tribunal for the Law of the Sea. Based on information compiled from NCPOR Annual reports at Table 5 placed below, it is clear that diverse personnel as well as persons not acquainted with the domain knowledge are being sent for maritime legislation and legal order related work which may not do justice to the expertise required.

*Table 5:* NCPOR personnel on CLCS meetings/maritime delimitation

### III. CONCLUSION

India can derive parallels between its Antarctic expedition's scientific expertise and legacy as also as the state having the Third Pole, the Himalayas in its backyard to boast its credentials. India can put forward the Arctic governance example to build trust and foster intergovernmental cooperation to bring together India, China, Nepal, Pakistan, Bhutan, Afghanistan, and also Myanmar and Bangladesh among nations that are impacted by the developments in the Himalayan-Third Pole region. It is prudent that India's neighbours be coopted in a broad strategy so that no only India's position is strengthened but the resources are not monopolized by certain countries alone. It will pay handsome dividends to assume support of Asian partners and assume a lead position in sustained deliberations to obtain a lucrative and mutually beneficial arrangement. Among the Asian nations, India and China have been enriched by the observer status in the AC and can bring forth the insight and experience for the region's benefit. However, the dimension of the Third Pole remains conceptual and India has not been able to integrate this into the broad arctic discourse. China meanwhile has started the 'Third Pole Environment' (TPE) programme (Located at the Chinese Academy of Science in Beijing, TPE programme is pursued by the Institute of Tibetan Plateau Research to form an international research programme on the Third Pole, <http://www.tpe.ac.cn>) in 2009. Thus Indian efforts on establishing herself as a stakeholder by a leadership role in the Third Pole also have not been propagated adequately. In 2019 Arctic Circle assembly, Yao Tandong of the Institute of Tibetan Plateau Research, Chinese Academy of Sciences gave a presentation in which he termed the Tibetan Plateau as the Third Pole/High Pole in contrast to India's position of the Himalayas being the Third Pole.

From the view of a non-science prism, the scientific progress and research by India appears to be sufficient in quantity but lacking in quality. In any case, India has been notorious for falling to the tactics of predatory journals with a view to have a sufficiently large quantity of publications with scant focus on the quality of the output. According to 2015 estimates, more than 8,000 predatory journals churn out more than 400,000 items a year, and India -- which has also seen a spurt in high-quality scientific publications -- contributes more than one-third of the articles in predatory publications. (Patwardhan, Bhushan. 2019). India's academic institutions of national importance are found to be ranked poorly on ARWU (Academic Ranking of World Universities) as well as SCImago Institutions Ranking World Reports. The governmental research organisations have also fared similarly, though the participation in international conferences, seminars and meetings is coloured with diplomatic and multilateral foreign policy hues rather than recognition of its scientific accomplishments.

There appear to be a severe disconnect between the professed scientific goals of Indian polar scientists and there is insufficient focus on academic culture for excellence in selected fields. The situation is adversely compounded by plethora of international conferences, meetings and events, most of which are organised in popular destinations taking away both time and resources. Scientific (mis)conduct is examined as a historical phenomenon borne of the interaction between individuals' aspirations and the systems that impose, measure, and reward scientific output in particular ways. (Shahare, 2020). It is assessed that the overwhelming influence of social milieu and bureaucratic practices on India's bodies like NCPOR is also not conducive to scientific excellence. The enhanced role of institutional practices, social structures, performance audits and inspections, and political direction can improve the situation to a considerable extent.

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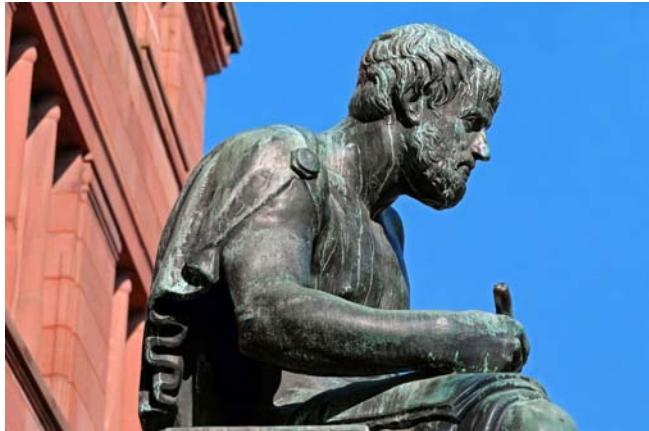
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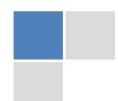
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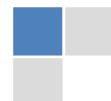
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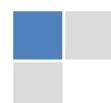
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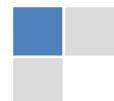
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Global Journals is in partnership with various universities, laboratories, and other institutions worldwide in the research domain. Authors are requested to disclose their source of funding during every stage of their research, such as making analysis, performing laboratory operations, computing data, and using institutional resources, from writing an article to its submission. This will also help authors to get reimbursements by requesting an open access publication letter from Global Journals and submitting to the respective funding source.

## PREPARING YOUR MANUSCRIPT

Authors can submit papers and articles in an acceptable file format: MS Word (doc, docx), LaTeX (.tex, .zip or .rar including all of your files), Adobe PDF (.pdf), rich text format (.rtf), simple text document (.txt), Open Document Text (.odt), and Apple Pages (.pages). Our professional layout editors will format the entire paper according to our official guidelines. This is one of the highlights of publishing with Global Journals—authors should not be concerned about the formatting of their paper. Global Journals accepts articles and manuscripts in every major language, be it Spanish, Chinese, Japanese, Portuguese, Russian, French, German, Dutch, Italian, Greek, or any other national language, but the title, subtitle, and abstract should be in English. This will facilitate indexing and the pre-peer review process.

The following is the official style and template developed for publication of a research paper. Authors are not required to follow this style during the submission of the paper. It is just for reference purposes.



### **Manuscript Style Instruction (Optional)**

- Microsoft Word Document Setting Instructions.
- Font type of all text should be Swis721 Lt BT.
- Page size: 8.27" x 11", left margin: 0.65, right margin: 0.65, bottom margin: 0.75.
- Paper title should be in one column of font size 24.
- Author name in font size of 11 in one column.
- Abstract: font size 9 with the word "Abstract" in bold italics.
- Main text: font size 10 with two justified columns.
- Two columns with equal column width of 3.38 and spacing of 0.2.
- First character must be three lines drop-capped.
- The paragraph before spacing of 1 pt and after of 0 pt.
- Line spacing of 1 pt.
- Large images must be in one column.
- The names of first main headings (Heading 1) must be in Roman font, capital letters, and font size of 10.
- The names of second main headings (Heading 2) must not include numbers and must be in italics with a font size of 10.

### **Structure and Format of Manuscript**

The recommended size of an original research paper is under 15,000 words and review papers under 7,000 words. Research articles should be less than 10,000 words. Research papers are usually longer than review papers. Review papers are reports of significant research (typically less than 7,000 words, including tables, figures, and references)

A research paper must include:

- a) A title which should be relevant to the theme of the paper.
- b) A summary, known as an abstract (less than 150 words), containing the major results and conclusions.
- c) Up to 10 keywords that precisely identify the paper's subject, purpose, and focus.
- d) An introduction, giving fundamental background objectives.
- e) Resources and techniques with sufficient complete experimental details (wherever possible by reference) to permit repetition, sources of information must be given, and numerical methods must be specified by reference.
- f) Results which should be presented concisely by well-designed tables and figures.
- g) Suitable statistical data should also be given.
- h) All data must have been gathered with attention to numerical detail in the planning stage.

Design has been recognized to be essential to experiments for a considerable time, and the editor has decided that any paper that appears not to have adequate numerical treatments of the data will be returned unrefereed.

- i) Discussion should cover implications and consequences and not just recapitulate the results; conclusions should also be summarized.
- j) There should be brief acknowledgments.
- k) There ought to be references in the conventional format. Global Journals recommends APA format.

Authors should carefully consider the preparation of papers to ensure that they communicate effectively. Papers are much more likely to be accepted if they are carefully designed and laid out, contain few or no errors, are summarizing, and follow instructions. They will also be published with much fewer delays than those that require much technical and editorial correction.

The Editorial Board reserves the right to make literary corrections and suggestions to improve brevity.



## FORMAT STRUCTURE

***It is necessary that authors take care in submitting a manuscript that is written in simple language and adheres to published guidelines.***

All manuscripts submitted to Global Journals should include:

### **Title**

The title page must carry an informative title that reflects the content, a running title (less than 45 characters together with spaces), names of the authors and co-authors, and the place(s) where the work was carried out.

### **Author details**

The full postal address of any related author(s) must be specified.

### **Abstract**

The abstract is the foundation of the research paper. It should be clear and concise and must contain the objective of the paper and inferences drawn. It is advised to not include big mathematical equations or complicated jargon.

Many researchers searching for information online will use search engines such as Google, Yahoo or others. By optimizing your paper for search engines, you will amplify the chance of someone finding it. In turn, this will make it more likely to be viewed and cited in further works. Global Journals has compiled these guidelines to facilitate you to maximize the web-friendliness of the most public part of your paper.

### **Keywords**

A major lynchpin of research work for the writing of research papers is the keyword search, which one will employ to find both library and internet resources. Up to eleven keywords or very brief phrases have to be given to help data retrieval, mining, and indexing.

One must be persistent and creative in using keywords. An effective keyword search requires a strategy: planning of a list of possible keywords and phrases to try.

Choice of the main keywords is the first tool of writing a research paper. Research paper writing is an art. Keyword search should be as strategic as possible.

One should start brainstorming lists of potential keywords before even beginning searching. Think about the most important concepts related to research work. Ask, "What words would a source have to include to be truly valuable in a research paper?" Then consider synonyms for the important words.

It may take the discovery of only one important paper to steer in the right keyword direction because, in most databases, the keywords under which a research paper is abstracted are listed with the paper.

### **Numerical Methods**

Numerical methods used should be transparent and, where appropriate, supported by references.

### **Abbreviations**

Authors must list all the abbreviations used in the paper at the end of the paper or in a separate table before using them.

### **Formulas and equations**

Authors are advised to submit any mathematical equation using either MathJax, KaTeX, or LaTeX, or in a very high-quality image.

### **Tables, Figures, and Figure Legends**

Tables: Tables should be cautiously designed, uncrowned, and include only essential data. Each must have an Arabic number, e.g., Table 4, a self-explanatory caption, and be on a separate sheet. Authors must submit tables in an editable format and not as images. References to these tables (if any) must be mentioned accurately.



## Figures

Figures are supposed to be submitted as separate files. Always include a citation in the text for each figure using Arabic numbers, e.g., Fig. 4. Artwork must be submitted online in vector electronic form or by emailing it.

## PREPARATION OF ELECTRONIC FIGURES FOR PUBLICATION

Although low-quality images are sufficient for review purposes, print publication requires high-quality images to prevent the final product being blurred or fuzzy. Submit (possibly by e-mail) EPS (line art) or TIFF (halftone/ photographs) files only. MS PowerPoint and Word Graphics are unsuitable for printed pictures. Avoid using pixel-oriented software. Scans (TIFF only) should have a resolution of at least 350 dpi (halftone) or 700 to 1100 dpi (line drawings). Please give the data for figures in black and white or submit a Color Work Agreement form. EPS files must be saved with fonts embedded (and with a TIFF preview, if possible).

For scanned images, the scanning resolution at final image size ought to be as follows to ensure good reproduction: line art: >650 dpi; halftones (including gel photographs): >350 dpi; figures containing both halftone and line images: >650 dpi.

Color charges: Authors are advised to pay the full cost for the reproduction of their color artwork. Hence, please note that if there is color artwork in your manuscript when it is accepted for publication, we would require you to complete and return a Color Work Agreement form before your paper can be published. Also, you can email your editor to remove the color fee after acceptance of the paper.

## TIPS FOR WRITING A GOOD QUALITY SOCIAL SCIENCE RESEARCH PAPER

Techniques for writing a good quality human social science research paper:

**1. Choosing the topic:** In most cases, the topic is selected by the interests of the author, but it can also be suggested by the guides. You can have several topics, and then judge which you are most comfortable with. This may be done by asking several questions of yourself, like "Will I be able to carry out a search in this area? Will I find all necessary resources to accomplish the search? Will I be able to find all information in this field area?" If the answer to this type of question is "yes," then you ought to choose that topic. In most cases, you may have to conduct surveys and visit several places. Also, you might have to do a lot of work to find all the rises and falls of the various data on that subject. Sometimes, detailed information plays a vital role, instead of short information. Evaluators are human: The first thing to remember is that evaluators are also human beings. They are not only meant for rejecting a paper. They are here to evaluate your paper. So present your best aspect.

**2. Think like evaluators:** If you are in confusion or getting demotivated because your paper may not be accepted by the evaluators, then think, and try to evaluate your paper like an evaluator. Try to understand what an evaluator wants in your research paper, and you will automatically have your answer. Make blueprints of paper: The outline is the plan or framework that will help you to arrange your thoughts. It will make your paper logical. But remember that all points of your outline must be related to the topic you have chosen.

**3. Ask your guides:** If you are having any difficulty with your research, then do not hesitate to share your difficulty with your guide (if you have one). They will surely help you out and resolve your doubts. If you can't clarify what exactly you require for your work, then ask your supervisor to help you with an alternative. He or she might also provide you with a list of essential readings.

**4. Use of computer is recommended:** As you are doing research in the field of human social science then this point is quite obvious. Use right software: Always use good quality software packages. If you are not capable of judging good software, then you can lose the quality of your paper unknowingly. There are various programs available to help you which you can get through the internet.

**5. Use the internet for help:** An excellent start for your paper is using Google. It is a wondrous search engine, where you can have your doubts resolved. You may also read some answers for the frequent question of how to write your research paper or find a model research paper. You can download books from the internet. If you have all the required books, place importance on reading, selecting, and analyzing the specified information. Then sketch out your research paper. Use big pictures: You may use encyclopedias like Wikipedia to get pictures with the best resolution. At Global Journals, you should strictly follow [here](#).



**6. Bookmarks are useful:** When you read any book or magazine, you generally use bookmarks, right? It is a good habit which helps to not lose your continuity. You should always use bookmarks while searching on the internet also, which will make your search easier.

**7. Revise what you wrote:** When you write anything, always read it, summarize it, and then finalize it.

**8. Make every effort:** Make every effort to mention what you are going to write in your paper. That means always have a good start. Try to mention everything in the introduction—what is the need for a particular research paper. Polish your work with good writing skills and always give an evaluator what he wants. Make backups: When you are going to do any important thing like making a research paper, you should always have backup copies of it either on your computer or on paper. This protects you from losing any portion of your important data.

**9. Produce good diagrams of your own:** Always try to include good charts or diagrams in your paper to improve quality. Using several unnecessary diagrams will degrade the quality of your paper by creating a hodgepodge. So always try to include diagrams which were made by you to improve the readability of your paper. Use of direct quotes: When you do research relevant to literature, history, or current affairs, then use of quotes becomes essential, but if the study is relevant to science, use of quotes is not preferable.

**10. Use proper verb tense:** Use proper verb tenses in your paper. Use past tense to present those events that have happened. Use present tense to indicate events that are going on. Use future tense to indicate events that will happen in the future. Use of wrong tenses will confuse the evaluator. Avoid sentences that are incomplete.

**11. Pick a good study spot:** Always try to pick a spot for your research which is quiet. Not every spot is good for studying.

**12. Know what you know:** Always try to know what you know by making objectives, otherwise you will be confused and unable to achieve your target.

**13. Use good grammar:** Always use good grammar and words that will have a positive impact on the evaluator; use of good vocabulary does not mean using tough words which the evaluator has to find in a dictionary. Do not fragment sentences. Eliminate one-word sentences. Do not ever use a big word when a smaller one would suffice.

Verbs have to be in agreement with their subjects. In a research paper, do not start sentences with conjunctions or finish them with prepositions. When writing formally, it is advisable to never split an infinitive because someone will (wrongly) complain. Avoid clichés like a disease. Always shun irritating alliteration. Use language which is simple and straightforward. Put together a neat summary.

**14. Arrangement of information:** Each section of the main body should start with an opening sentence, and there should be a changeover at the end of the section. Give only valid and powerful arguments for your topic. You may also maintain your arguments with records.

**15. Never start at the last minute:** Always allow enough time for research work. Leaving everything to the last minute will degrade your paper and spoil your work.

**16. Multitasking in research is not good:** Doing several things at the same time is a bad habit in the case of research activity. Research is an area where everything has a particular time slot. Divide your research work into parts, and do a particular part in a particular time slot.

**17. Never copy others' work:** Never copy others' work and give it your name because if the evaluator has seen it anywhere, you will be in trouble. Take proper rest and food: No matter how many hours you spend on your research activity, if you are not taking care of your health, then all your efforts will have been in vain. For quality research, take proper rest and food.

**18. Go to seminars:** Attend seminars if the topic is relevant to your research area. Utilize all your resources.

Refresh your mind after intervals: Try to give your mind a rest by listening to soft music or sleeping in intervals. This will also improve your memory. Acquire colleagues: Always try to acquire colleagues. No matter how sharp you are, if you acquire colleagues, they can give you ideas which will be helpful to your research.

**19. Think technically:** Always think technically. If anything happens, search for its reasons, benefits, and demerits. Think and then print: When you go to print your paper, check that tables are not split, headings are not detached from their descriptions, and page sequence is maintained.



**20. Adding unnecessary information:** Do not add unnecessary information like "I have used MS Excel to draw graphs." Irrelevant and inappropriate material is superfluous. Foreign terminology and phrases are not apropos. One should never take a broad view. Analogy is like feathers on a snake. Use words properly, regardless of how others use them. Remove quotations. Puns are for kids, not grown readers. Never oversimplify: When adding material to your research paper, never go for oversimplification; this will definitely irritate the evaluator. Be specific. Never use rhythmic redundancies. Contractions shouldn't be used in a research paper. Comparisons are as terrible as clichés. Give up ampersands, abbreviations, and so on. Remove commas that are not necessary. Parenthetical words should be between brackets or commas. Understatement is always the best way to put forward earth-shaking thoughts. Give a detailed literary review.

**21. Report concluded results:** Use concluded results. From raw data, filter the results, and then conclude your studies based on measurements and observations taken. An appropriate number of decimal places should be used. Parenthetical remarks are prohibited here. Proofread carefully at the final stage. At the end, give an outline to your arguments. Spot perspectives of further study of the subject. Justify your conclusion at the bottom sufficiently, which will probably include examples.

**22. Upon conclusion:** Once you have concluded your research, the next most important step is to present your findings. Presentation is extremely important as it is the definite medium through which your research is going to be in print for the rest of the crowd. Care should be taken to categorize your thoughts well and present them in a logical and neat manner. A good quality research paper format is essential because it serves to highlight your research paper and bring to light all necessary aspects of your research.

## INFORMAL GUIDELINES OF RESEARCH PAPER WRITING

### **Key points to remember:**

- Submit all work in its final form.
- Write your paper in the form which is presented in the guidelines using the template.
- Please note the criteria peer reviewers will use for grading the final paper.

### **Final points:**

One purpose of organizing a research paper is to let people interpret your efforts selectively. The journal requires the following sections, submitted in the order listed, with each section starting on a new page:

*The introduction:* This will be compiled from reference material and reflect the design processes or outline of basis that directed you to make a study. As you carry out the process of study, the method and process section will be constructed like that. The results segment will show related statistics in nearly sequential order and direct reviewers to similar intellectual paths throughout the data that you gathered to carry out your study.

### **The discussion section:**

This will provide understanding of the data and projections as to the implications of the results. The use of good quality references throughout the paper will give the effort trustworthiness by representing an alertness to prior workings.

Writing a research paper is not an easy job, no matter how trouble-free the actual research or concept. Practice, excellent preparation, and controlled record-keeping are the only means to make straightforward progression.

### **General style:**

Specific editorial column necessities for compliance of a manuscript will always take over from directions in these general guidelines.

**To make a paper clear:** Adhere to recommended page limits.



#### **Mistakes to avoid:**

- Insertion of a title at the foot of a page with subsequent text on the next page.
- Separating a table, chart, or figure—confine each to a single page.
- Submitting a manuscript with pages out of sequence.
- In every section of your document, use standard writing style, including articles ("a" and "the").
- Keep paying attention to the topic of the paper.
- Use paragraphs to split each significant point (excluding the abstract).
- Align the primary line of each section.
- Present your points in sound order.
- Use present tense to report well-accepted matters.
- Use past tense to describe specific results.
- Do not use familiar wording; don't address the reviewer directly. Don't use slang or superlatives.
- Avoid use of extra pictures—include only those figures essential to presenting results.

#### **Title page:**

Choose a revealing title. It should be short and include the name(s) and address(es) of all authors. It should not have acronyms or abbreviations or exceed two printed lines.

**Abstract:** This summary should be two hundred words or less. It should clearly and briefly explain the key findings reported in the manuscript and must have precise statistics. It should not have acronyms or abbreviations. It should be logical in itself. Do not cite references at this point.

An abstract is a brief, distinct paragraph summary of finished work or work in development. In a minute or less, a reviewer can be taught the foundation behind the study, common approaches to the problem, relevant results, and significant conclusions or new questions.

Write your summary when your paper is completed because how can you write the summary of anything which is not yet written? Wealth of terminology is very essential in abstract. Use comprehensive sentences, and do not sacrifice readability for brevity; you can maintain it succinctly by phrasing sentences so that they provide more than a lone rationale. The author can at this moment go straight to shortening the outcome. Sum up the study with the subsequent elements in any summary. Try to limit the initial two items to no more than one line each.

#### *Reason for writing the article—theory, overall issue, purpose.*

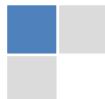
- Fundamental goal.
- To-the-point depiction of the research.
- Consequences, including definite statistics—if the consequences are quantitative in nature, account for this; results of any numerical analysis should be reported. Significant conclusions or questions that emerge from the research.

#### **Approach:**

- Single section and succinct.
- An outline of the job done is always written in past tense.
- Concentrate on shortening results—limit background information to a verdict or two.
- Exact spelling, clarity of sentences and phrases, and appropriate reporting of quantities (proper units, important statistics) are just as significant in an abstract as they are anywhere else.

#### **Introduction:**

The introduction should "introduce" the manuscript. The reviewer should be presented with sufficient background information to be capable of comprehending and calculating the purpose of your study without having to refer to other works. The basis for the study should be offered. Give the most important references, but avoid making a comprehensive appraisal of the topic. Describe the problem visibly. If the problem is not acknowledged in a logical, reasonable way, the reviewer will give no attention to your results. Speak in common terms about techniques used to explain the problem, if needed, but do not present any particulars about the protocols here.



*The following approach can create a valuable beginning:*

- Explain the value (significance) of the study.
- Defend the model—why did you employ this particular system or method? What is its compensation? Remark upon its appropriateness from an abstract point of view as well as pointing out sensible reasons for using it.
- Present a justification. State your particular theory(-ies) or aim(s), and describe the logic that led you to choose them.
- Briefly explain the study's tentative purpose and how it meets the declared objectives.

**Approach:**

Use past tense except for when referring to recognized facts. After all, the manuscript will be submitted after the entire job is done. Sort out your thoughts; manufacture one key point for every section. If you make the four points listed above, you will need at least four paragraphs. Present surrounding information only when it is necessary to support a situation. The reviewer does not desire to read everything you know about a topic. Shape the theory specifically—do not take a broad view.

As always, give awareness to spelling, simplicity, and correctness of sentences and phrases.

**Procedures (methods and materials):**

This part is supposed to be the easiest to carve if you have good skills. A soundly written procedures segment allows a capable scientist to replicate your results. Present precise information about your supplies. The suppliers and clarity of reagents can be helpful bits of information. Present methods in sequential order, but linked methodologies can be grouped as a segment. Be concise when relating the protocols. Attempt to give the least amount of information that would permit another capable scientist to replicate your outcome, but be cautious that vital information is integrated. The use of subheadings is suggested and ought to be synchronized with the results section.

When a technique is used that has been well-described in another section, mention the specific item describing the way, but draw the basic principle while stating the situation. The purpose is to show all particular resources and broad procedures so that another person may use some or all of the methods in one more study or referee the scientific value of your work. It is not to be a step-by-step report of the whole thing you did, nor is a methods section a set of orders.

**Materials:**

*Materials may be reported in part of a section or else they may be recognized along with your measures.*

**Methods:**

- Report the method and not the particulars of each process that engaged the same methodology.
- Describe the method entirely.
- To be succinct, present methods under headings dedicated to specific dealings or groups of measures.
- Simplify—detail how procedures were completed, not how they were performed on a particular day.
- If well-known procedures were used, account for the procedure by name, possibly with a reference, and that's all.

**Approach:**

It is embarrassing to use vigorous voice when documenting methods without using first person, which would focus the reviewer's interest on the researcher rather than the job. As a result, when writing up the methods, most authors use third person passive voice.

Use standard style in this and every other part of the paper—avoid familiar lists, and use full sentences.

**What to keep away from:**

- Resources and methods are not a set of information.
- Skip all descriptive information and surroundings—save it for the argument.
- Leave out information that is immaterial to a third party.



## **Results:**

The principle of a results segment is to present and demonstrate your conclusion. Create this part as entirely objective details of the outcome, and save all understanding for the discussion.

The page length of this segment is set by the sum and types of data to be reported. Use statistics and tables, if suitable, to present consequences most efficiently.

You must clearly differentiate material which would usually be incorporated in a study editorial from any unprocessed data or additional appendix matter that would not be available. In fact, such matters should not be submitted at all except if requested by the instructor.

## **Content:**

- Sum up your conclusions in text and demonstrate them, if suitable, with figures and tables.
- In the manuscript, explain each of your consequences, and point the reader to remarks that are most appropriate.
- Present a background, such as by describing the question that was addressed by creation of an exacting study.
- Explain results of control experiments and give remarks that are not accessible in a prescribed figure or table, if appropriate.
- Examine your data, then prepare the analyzed (transformed) data in the form of a figure (graph), table, or manuscript.

## **What to stay away from:**

- Do not discuss or infer your outcome, report surrounding information, or try to explain anything.
- Do not include raw data or intermediate calculations in a research manuscript.
- Do not present similar data more than once.
- A manuscript should complement any figures or tables, not duplicate information.
- Never confuse figures with tables—there is a difference.

## **Approach:**

As always, use past tense when you submit your results, and put the whole thing in a reasonable order.

Put figures and tables, appropriately numbered, in order at the end of the report.

If you desire, you may place your figures and tables properly within the text of your results section.

## **Figures and tables:**

If you put figures and tables at the end of some details, make certain that they are visibly distinguished from any attached appendix materials, such as raw facts. Whatever the position, each table must be titled, numbered one after the other, and include a heading. All figures and tables must be divided from the text.

## **Discussion:**

The discussion is expected to be the trickiest segment to write. A lot of papers submitted to the journal are discarded based on problems with the discussion. There is no rule for how long an argument should be.

Position your understanding of the outcome visibly to lead the reviewer through your conclusions, and then finish the paper with a summing up of the implications of the study. The purpose here is to offer an understanding of your results and support all of your conclusions, using facts from your research and generally accepted information, if suitable. The implication of results should be fully described.

Infer your data in the conversation in suitable depth. This means that when you clarify an observable fact, you must explain mechanisms that may account for the observation. If your results vary from your prospect, make clear why that may have happened. If your results agree, then explain the theory that the proof supported. It is never suitable to just state that the data approved the prospect, and let it drop at that. Make a decision as to whether each premise is supported or discarded or if you cannot make a conclusion with assurance. Do not just dismiss a study or part of a study as "uncertain."



Research papers are not acknowledged if the work is imperfect. Draw what conclusions you can based upon the results that you have, and take care of the study as a finished work.

- You may propose future guidelines, such as how an experiment might be personalized to accomplish a new idea.
- Give details of all of your remarks as much as possible, focusing on mechanisms.
- Make a decision as to whether the tentative design sufficiently addressed the theory and whether or not it was correctly restricted. Try to present substitute explanations if they are sensible alternatives.
- One piece of research will not counter an overall question, so maintain the large picture in mind. Where do you go next? The best studies unlock new avenues of study. What questions remain?
- Recommendations for detailed papers will offer supplementary suggestions.

**Approach:**

When you refer to information, differentiate data generated by your own studies from other available information. Present work done by specific persons (including you) in past tense.

Describe generally acknowledged facts and main beliefs in present tense.

## THE ADMINISTRATION RULES

Administration Rules to Be Strictly Followed before Submitting Your Research Paper to Global Journals Inc.

*Please read the following rules and regulations carefully before submitting your research paper to Global Journals Inc. to avoid rejection.*

*Segment draft and final research paper:* You have to strictly follow the template of a research paper, failing which your paper may get rejected. You are expected to write each part of the paper wholly on your own. The peer reviewers need to identify your own perspective of the concepts in your own terms. Please do not extract straight from any other source, and do not rephrase someone else's analysis. Do not allow anyone else to proofread your manuscript.

*Written material:* You may discuss this with your guides and key sources. Do not copy anyone else's paper, even if this is only imitation, otherwise it will be rejected on the grounds of plagiarism, which is illegal. Various methods to avoid plagiarism are strictly applied by us to every paper, and, if found guilty, you may be blacklisted, which could affect your career adversely. To guard yourself and others from possible illegal use, please do not permit anyone to use or even read your paper and file.



**CRITERION FOR GRADING A RESEARCH PAPER (COMPILED)  
BY GLOBAL JOURNALS**

**Please note that following table is only a Grading of "Paper Compilation" and not on "Performed/Stated Research" whose grading solely depends on Individual Assigned Peer Reviewer and Editorial Board Member. These can be available only on request and after decision of Paper. This report will be the property of Global Journals**

Topics	Grades		
	A-B	C-D	E-F
<i>Abstract</i>	Clear and concise with appropriate content, Correct format. 200 words or below	Unclear summary and no specific data, Incorrect form  Above 200 words	No specific data with ambiguous information  Above 250 words
	Containing all background details with clear goal and appropriate details, flow specification, no grammar and spelling mistake, well organized sentence and paragraph, reference cited	Unclear and confusing data, appropriate format, grammar and spelling errors with unorganized matter	Out of place depth and content, hazy format
<i>Introduction</i>	Clear and to the point with well arranged paragraph, precision and accuracy of facts and figures, well organized subheads	Difficult to comprehend with embarrassed text, too much explanation but completed	Incorrect and unorganized structure with hazy meaning
	Well organized, Clear and specific, Correct units with precision, correct data, well structuring of paragraph, no grammar and spelling mistake	Complete and embarrassed text, difficult to comprehend	Irregular format with wrong facts and figures
<i>Methods and Procedures</i>	Well organized, meaningful specification, sound conclusion, logical and concise explanation, highly structured paragraph reference cited	Wordy, unclear conclusion, spurious	Conclusion is not cited, unorganized, difficult to comprehend
	Complete and correct format, well organized	Beside the point, Incomplete	Wrong format and structuring
<i>Result</i>	Well organized, Clear and specific, Correct units with precision, correct data, well structuring of paragraph, no grammar and spelling mistake	Complete and embarrassed text, difficult to comprehend	Irregular format with wrong facts and figures
	Well organized, meaningful specification, sound conclusion, logical and concise explanation, highly structured paragraph reference cited	Wordy, unclear conclusion, spurious	Conclusion is not cited, unorganized, difficult to comprehend
<i>Discussion</i>	Well organized, meaningful specification, sound conclusion, logical and concise explanation, highly structured paragraph reference cited	Wordy, unclear conclusion, spurious	Conclusion is not cited, unorganized, difficult to comprehend
	Complete and correct format, well organized	Beside the point, Incomplete	Wrong format and structuring
<i>References</i>	Complete and correct format, well organized	Beside the point, Incomplete	Wrong format and structuring
	Complete and correct format, well organized	Beside the point, Incomplete	Wrong format and structuring

# INDEX

---

## A

---

Ambiguity · 1  
Amendment · 3

## B

---

Blameworthy · 6

## C

---

Conflicts · 9  
Contingency · 4  
Contradictions · 5  
Conversely · 1, 5  
Convertibility · 1  
Convictions · 9

## D

---

Deficits · 6  
Disruptive · 1, 2, 4  
Dissemination · 6, 1, 5, 4

## E

---

Emblematic · 4  
Endowed · 4  
Evinced · 6  
Exacerbated · 6

## F

---

Federation, · 1  
Fragility · 3, 1

## H

---

Humiliated, · 6

## I

---

Imperative · 4  
Implementing · 1, 4  
Influenced · 4  
Initiatives · 2, 4  
Innovating · 4

## L

---

Leniency · 8

## P

---

Pledged · 4, 5  
Populous · 4, 5  
Precisely · 5, 6  
Prevalence · 5, 8  
Prevention · 3, 4

## R

---

Ratified · 1, 5  
Reaffirmed · 6  
Reifying · 2  
Rejuvenation · 2, 6  
Relying · 7  
Reveals · 1

## S

---

Sediment · 7  
Staked · 6  
Stipulated · 7  
Suffrage · 1

## V

---

Vigilance · 1



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