

# Standard of civilization: The histories of international relations

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### Recibido:

18/02/2019

### Aceptado:

18/02/2019

### Traducción:

Matthew ROBSON

### DOI:

<https://doi.org/10.15366/relacionesinternacionales2019.40.007>

### Formato de citación recomendado:

PEÑAS ESTEBAN, Francisco Javier, "Standard of civilization: The history of international relations", en *Relaciones Internacionales*, n° 40, 2019, pp. 171 - 195.

The present work aspires to be a reflection on the theory of international relations from the point of view of history, from the histories of world politics. To this end, it is clear that in these histories accompanied by an ever present reason of state— central axis of the dominant visions in international relations theory— a *reason of system* and *reason of civilization* appears. The reason of state, like the balance of power, can only function in a system with a high degree of homogeneity, as was the European world of the 18th century, for example. But in the history of inter-European relations there has been moments of rupture of that homogeneity in which a reason of system appears next to a reason of state —the French Revolution, for instance—. Furthermore, if we consider the European expansion and westernization of the World as something more than a simple derivative of the European balance of power and we enter into its logic we will see how a reason of civilization is deployed. It is maintained that to develop a theory of international relations which is non-positivist and non-ahistorical it is necessary to take into account these three *reasons* and the logics that they give rise to.

The historiography of international relations has commonly focussed on the history of the European state system<sup>1</sup> and later on the universalization of the international system that had its origin, and was for centuries, European<sup>2</sup>. But if we do not consider these two moments —the European state system and its universalization— as the same space of action, but as two spaces with different logics, and we take the homogeneity/heterogeneity pair as driving thread— in the words of Carl Schmitt, friend/enemy—, understanding the latter as the ontological negation of the self<sup>3</sup>, we could trace three different levels of history: the reason of state in the homogenous world of the European state system; the ruptures of the principles of legitimacy of this order; and that of European expansion, conversion and conquest.

### I. Reason of state and homogeneity

The first level would be that of the European state system. This level is the area where *reason of state* is deployed. Friedrich Meinecke offers us a definition of this as ‘a theory of State interest’<sup>4</sup> or a ‘sum of maxims for policymaking’<sup>5</sup>. With reason of state we refer to an idea that justifies an action by the state, which is considered transgressive of moral principles, through the imperative of necessity or even from a higher good above the state itself. Reason of state in the European system has an internal and an external face, which we can differentiate for the purpose of analysis. In the first instance, reason of state is the justification, the instrument that the prince needs to consolidate power before his rivals, to consolidate the monopoly of power and violence in a single pole —the passing from *iurisprudencia* to politics, from the medieval *respublica* to Leviathan<sup>6</sup>—, to curtail the multiple sovereignties and overlaps which characterize the medieval world. This

<sup>1</sup> This work is the culmination of a long period of collaboration with Rafael Del Águila. Many of the ideas expressed here are either due to him —like for instance the idea of the existence of a reason of civilization— or are the fruit of discussions and correspondence during this time.

<sup>2</sup> This is the underlying idea of the famous work by Bull, H & Watson, A. *The Expansion of International Society*, Clarendon Press, Oxford, 1989. We are not trying to deny the clarity and importance of this work in the following pages: we are only positing that there is room for a different vision.

<sup>3</sup> Schmitt, C. *El concepto de la política*, Alianza, Madrid, 1987, pp. 56 and 63.

<sup>4</sup> Meinecke, F. *La idea de la razón de estado en la edad contemporánea*, Madrid, Centro de Estudios Constitucionales, 1983, 1\*reprint, p 20.

<sup>5</sup> *Ibid*, p. 375.

<sup>6</sup> *Prudentia* as the science of the reasonable proportion among the parts, among the powers. Vid. HESPANHA, A. *Visperas del Leviatán*, Madrid Taurus, 1989, pp. 441-442.

process has resulted historically in the centralized state of the Enlightenment<sup>7</sup>.

Its external face is that of the foreign relations of the princes— later of states—, of dynastic unions, alliances and wars that will begin to configure the European state system and the states themselves. This distinction between internal reason of state —the prince who struggles to obtain or maintain power—, and external or international reason of state, —the state that is constituted, strengthened, enlarged and protects itself in a struggle with other states— is not clearly defined until the 18th century, when the dividing line between *the internal* and *the international* begins to establish itself sharply. Niccolò Machiavelli does not distinguish between two different dynamics from the idea of necessity<sup>8</sup>. For Jean Bodino, Baruch Spinoza and Thomas Hobbes, the consolidation of the internal power of the state was even more important than external peace: civil wars were more destructive on the social fabric than external conflicts<sup>9</sup>. It is, seemingly, in the 19th century once internal pacification and the monopoly of legitimate violence by the state is obtained, that the reason of state appears in all its vigour and almost exclusively in the international sphere.

*The system in which the reason of state unfolds has a high degree of homogeneity: a common Christian tradition, common institutions like sovereignty, very similar state forms with the same principle of legitimacy of authority —dynastic first and later national— and a large degree of interaction. This homogeneity allowed for the functioning of a reason of system. Such an idea, that appears formulated by Adam Watson<sup>10</sup>, originates in the Concert of Europe period and is described by this author as ‘...the belief (by the states) that it is worth making the system work...as long as the agreements, even the collective security commitments, are voluntary and not imposed by a power or group of victorious powers’<sup>11</sup>. This reason of system, which does not exclude conflicts of interest between the members of the society of states, supposes ‘...the recognition by the parts that it is advantageous for all that such conflicts are resolved within the framework of a system’<sup>12</sup>.*

As far as Hedley Bull is concerned, he described it fifteen years before without using the same denomination. This author maintained that the first objective of the international order was the preservation of the system or society of the states themselves: ‘the very society of states has sought to ensure its continuity as the predominant form of political organization (the states and the society of states), in law and in practice’<sup>13</sup>, facing up to all of attempts at expansion, at conquest, or that seek the creation of a universal empire<sup>14</sup>. The ultimate objectives of the order of

<sup>7</sup> Contingent result, not predicted, not designed, formed by the correlation of forces between these internal powers and conditioned by the external context. Vid. Tilly, C. ‘Reflections on the History of European State-Making,’ in Tilly, C (ed) *The Formation of the Modern States of Western Europe*, Princeton, Princeton University Press, 1975.

<sup>8</sup> See Bartelson, J. *A Genealogy of Sovereignty*, Cambridge University Press, Cambridge, 1995, p. 60.

<sup>9</sup> Parkinson, F. *The Philosophy of International Relations*, SAGE, London, 1977, p. 39

<sup>10</sup> Watson, A. *The evolution of International Society*, London, Routledge, 1992. The idea appears in numerous occasions in the text. Vid. Analytical index.

<sup>11</sup> *Ibid.*, p. 14.

<sup>12</sup> *Ibid.*, p. 240

<sup>13</sup> Bull, H. *The Anarchical Society*, New York, Columbia Press, 1977, p. 16.

<sup>14</sup> ‘Each nation has its rights, but Europe also has its rights’ affirmed the historian William Lingelbach in 1900 referring to the need for the principle of the European balance of power to prevail even over the principle of sovereignty of this or that nation. Cited by Trachtenberg, M. ‘Intervention in Historical Perspective,’ in Reed, L.W. — Kaysen, C. (eds.), *Emerging Norms of Justified Intervention, Conference papers*. Cambridge, Mass., Harvard University Press, 1993, p. 17.

the system of states, which Bull listed also, are pertinent here: the limitation of violence, adherence to promises and stabilization of possessions through rules of property<sup>15</sup>.

The heterogeneity in this European system was determined by the growing division of the political space, the loss of power of the common European institutions like the Papacy and empire, and the configuration of territorial states capable of delimiting clearly the *inside* and the *outside*.

The reason of state appears in the European system as the theory and the justification of the defence and the advance of state interests themselves within a system of very similar units, of a European society<sup>16</sup>.

## II. Challenges to the order

The *second level*, which is situated also in the European state system, is found in the traces of *real heterogeneity*, of *real enmity*. These mark their appearance with revolution<sup>17</sup>, understood as sharp changes to the principles of legitimacy<sup>18</sup>, or through systemic challenges.

States have not been indifferent to the existence of varying principles of legitimacy — dynastic or national—, to the differences in the forms of organising the coercion of the state —liberal or absolutist states—, or to the modes of organising the production and distribution of material goods, capitalist or socialist states. We could, making a really quick overview of the history of the European state system, detect at least three large historical junctures where the existence of the differences imposed themselves as determinant elements in the relations between states, on the norms of mutual recognition between entities both independent and equal in terms of sovereignty.

The first of these ruptures extends from the French Revolution until the middle of the 19th century. From the Treaty of Utrecht spanning 1713 to 1789 a period of relative harmony among the European powers prevailed. This situation cannot be explained only by the balance of power, without taking into account that the states of European society shared some principles of political and social legitimacy in an international system whose borders were formed and were relatively stable<sup>19</sup>. Voltaire spoke of a large community that shared principles of public law and that

<sup>15</sup> *Ibid.*, p. 19.

<sup>16</sup> Hans Morgenthau points out how the balance of power emerges not only from a clash of interests of the members of the European state system, but from a common culture of *respect for the rights of others* and in accordance with some basic moral principles (work cited, *Politics among nations*, epigraph 'The restrictive influence of moral consent'). In short the balance of power emerges from a European state system. For his part, Martin Wight affirms: 'we must think that a state system will not emerge if a certain cultural unity amongst its members does not exist. The three systems that we have taken as paradigms —the Greek, the Western and pre-imperial China— were each born from a single culture,' in *Systems of States*, Leicester, Leicester University Press, 1977, pp. 33-34.

<sup>17</sup> According to Cynthia Weber (*Simulating Sovereignty*, Cambridge, Cambridge University Press, 1995, p. 13) revolutions are not solely nor exclusively internal affairs, but international ones. I am grateful to Carlos Esposito for bringing this aspect to my attention.

<sup>18</sup> A revolutionary state is one whose relations with other states are revolutionary because it implies fundamental changes to the bases on which states establish their mutual relations. The revolutionary state is that which adopts a position of confrontation with other states due to the external consequences of its revolution or, at least, it is perceived that way by other states. Vid, Armstrong, D. *Revolutions and World Order*, Clarendon, Oxford, 1993, p. 3. A state is revolutionary when it threatens the 'dominant myth of social order,' Johnson, C. *Revolutions and the Social System*, cited by *Ibid.*

<sup>19</sup> J.G. Ruggie distinguishes between three types of war in the history of the European system of states: constitutive, in the period that spans from the Peace of Augsburg (1555) to the peace of Westphalia (1648), configurative until the Treaty of Utrecht (1713) and positional, the latter only interrupted by attempts to create universal empire. See Ruggie, J.G. 'Territoriality and beyond: problematizing modernity in international relations,' *International Organization*, vol. 47, No 1, 1993, pp. 162-163.

idea was common place in 18th century Europe<sup>20</sup>.

The French Revolution, both national and regicidal, defended by an army of citizens and not mercenaries, and which radiated a universal ideology with expansionist orientation, put an end to this homogeneity of the system of states, breaking the tradition of European *respublica* that Edmund Burke loved so much<sup>21</sup>. David Armstrong<sup>22</sup> listed five aspects in which the French Revolution supposed a challenge to the principles of the Peace of Westphalia: (1) its different principle of internal legitimacy, that is the idea of national sovereignty; (2) its universalistic ideas that approached the notion of a community of humanity and that would turn into calls for ‘the toppling of thrones, the crushing of kings and the universal realization of the triumph of liberty and reason’<sup>23</sup>, and which differentiated between peoples and governments; (3) its preference for invoking natural law above international law; (4) its character of national war —the *levée en masse* of August 1793— and above all of total war, which broke with the tradition of limited war and European state system position from the second half of the 17<sup>th</sup> century<sup>24</sup>; and (5) its recourse to propaganda directed at the people over their governors to the detriment of conventional European diplomacy. It is worth mentioning the double character of France in the European state system, an idea that we will pick up below: it was at once a revolutionary state and a great power in the middle of the European continent, and its character, identity and objectives would change in the course of the wars themselves<sup>25</sup>.

It was precisely Edmund Burke who was one of the first to formulate the idea that the Revolution and the principles that governed it were the *enemy*, not so much because it was a military threat, but because it was radically different, the ontic negation of the self, as Carl Schmitt would formulate it later: ‘I thought that the dispute, once started could not be abandoned, to be retaken when we wish; our first struggle with this evil would be the last. I never thought that we could make peace with the system (the Revolution), because our rivalry was not for an object, we were at war with the system itself: such as I understood it, we were not at war with its conduct, but with its existence; convinced that its existence and its hostility were one and the same thing’<sup>26</sup>.

The Holy Alliance put the thesis of Burke into practice, intervening here and there, trying to take down the liberal revolutionary wave that was sifting through Europe. The historian A.J.P. Taylor points out how ‘the Holy Alliance was conservative in a double sense: it was an alliance of the status quo opposed to the changes at the borders; and it was a political alliance opposed to constitutional concessions within states. Although, in its declarations, the Holy Alliance expressed its opposition to liberalism in terms of threats to international stability, the two attitudes were

<sup>20</sup> Halliday, F. *Rethinking International Relations*, London, Macmillan, 1994, p. 108.

<sup>21</sup> On Burke, E. See Cruise O'Brien, C. *The Great Melody. A Thematic Biography and Commented Anthology of Edmund Burke*, London, Minerva, 1993.

<sup>22</sup> Armstrong, D. *Revolutions and World Order*, *op. cit.* (note 14), pp. 85 and ss.

<sup>23</sup> Instructions from the Committee of Public Health at the Ministry of Foreign Affairs, cited by Armstrong, D. *Revolutions and World Order*, *op. cit.* (note 14), p. 86.

<sup>24</sup> According to Paret, Clausewitz distinguished between national war and total war. A national war could be a total war or not depending on the political objectives of the contenders, and their social situation, etc. The wars of the Revolution and Napoleon were both things. See Paret, P. *Understanding War. Essays on Clausewitz and the History of Military Power*, Princeton University Press, Princeton, 1992, pp. 150-151.

<sup>25</sup> Armstrong cites the ambiguity of the French conquering armies: they brought with them the ideas of liberty, but the people who they transmitted these ideas to through military conquest had not no freedom to choose a government other than France. See Armstrong, D. *Revolutions and World Order*, *op. cit.* (note 14), p. 97.

<sup>26</sup> Burke, E. *Works and Correspondence*, cited by Halliday, F. *Rethinking...*, *op. cit.* (note 20), p. 110.

inseparable. Moreover, it would be likewise just as reasonable to attribute its emphasis on the need to maintain the status quo to a belief that the revision of the treaties would open the door to liberalism<sup>27</sup>.

The second juncture was of shorter duration but its effects still endure. It can be personalised in Woodrow Wilson and all of those European leaders who maintained that the cause of the First World War, apart from the secret diplomacy, could be found in the existence of authoritarian and multinational empires, which, for this very reason, were bellicose and expansionist. Peace would only be possible if the members of the system of states were liberal and nationally self-determined. The Treaties of Versailles, as a consequence, redrew the map of Europe, and therefore the whole World. 'Wilson —Martin Wight points out— wanted to make democracy a necessary criteria for remaining in the Society of Nations. The Western system of states has been closer than any other to erecting a structure of government on the principle of international legitimacy'<sup>28</sup>.

However in World War I and in the Peace of Paris the heterogeneity was not as manifest as it was in the French and Russian Revolutions. Although as Victor Kiernan points out<sup>29</sup>, the attitudes developed by the Europeans in the process of conquering other continents —patriotism, *military virtues*, etc. were reproduced on European soil— both contenders fought in favour of civilization and against the barbarism represented by their respective enemies—. Part of the spiritual crisis of the post-war derived from the conscience of the citizens, and above all the combatants, that the enmity, which seems so clear in July 1914 was more an effect of propaganda than a substantial *difference* between those who situated themselves in opposite trenches.

Our third juncture, finally, includes the Russian Revolution, fascism, and the emergence of *socialist* states. These events gave a new impetus to the consideration of *heterogeneity* as a determining factor in international relations. One must point out, and with this we return to Burke, that the heterogeneity only turns into total enmity when the alternatives to the liberal current mentioned are made, or are perceived, as strong and expansionist, as real challenges: for Burke in the pre-global world at the end of the 18th century this was the idea of *proximity*. In the case of Nazi Germany this perception is consolidated in the Pact of Munich of 1938; in the case of the USSR the threat acquires special virulence from the end of the Second World War.

The Cold War was not only a confrontation between two large powers who had reached a balance of power within the framework of nuclear dissuasion and that exhibited tensions facing the tumultuous Third World. It was also a confrontation between systems, between ways of organizing the networks of coercion and distribution, between social models, between ways of understanding the good, the just and the necessary, between two universalistic ideologies: the liberal and the communist. The Soviet experiment was the great modern challenge to the principle current of modernity and to the liberal order in which this was embodied.

The classical reason of state in the three junctures traced here —at the second level we propose— revolves around an as yet non-civilizing systemic confrontation: the reason of state

<sup>27</sup> Taylor, A.J.P. *The Struggle for Mastery in Europe, 1848-1918*, Oxford, Oxford University Press, 1971, 1<sup>st</sup> edition of 1954, p. 2.

<sup>28</sup> Wight, M. *Systems of States*, *op. cit.* (note 16), pp. 40-41.

<sup>29</sup> Kiernan, V. G. *Imperialism and its Contradictions*, Routledge, London, 1995, p. 153.

does not disappear, since the states continue to deploy a foreign policy. Nevertheless, it is now not a case of advancing their own interests within an agreed and imposed order, albeit accepted, but a confrontation between two antagonistic orders sustained by two visions of different worlds. The cultural homogeneity, which for some of the authors cited here makes possible and gives stability to the system of states, disappears, although not completely. The French Revolution and the Napoleonic Wars denied the principle of legitimacy dominant in Europe, and in the case of Napoleon, the very existence of sovereign states unsubordinated to empire, whose principals were established in the Thirty Years War. Fascism, above all German fascism, did not deny substantially forms of ownership and distribution of wealth, but the liberal order of the societies it did, and it put in danger once more the independence of European states. It is doubtful that the USSR, after the Second World War, wanted to redraw its borders in the areas of influence sketched out in Yalta and Potsdam, but its ideology, embodied in the European communist parties, tries, or as it was perceived, to subvert the liberal order of the West<sup>30</sup>. *In these confrontations the systemic component is the overriding consideration above all others. The classical reason of state widens its field of action here and is subsumed in a confrontation between different social formations.*

It is possible to make some final comments. When we say that *traces* of real heterogeneity or of real enmity appear in these junctures, we refer to the historical origin of these challenges to the dominant order —the Revolution of 1789, the fascisms, communism— it is no other than the same modernity whose main current gives rise to the liberal order. This shared historical core makes possible the existence of a common vocabulary, an agreement about certain institutions and traits of behaviour: *they were not completely and radically others*. The double character of revolutionary and Napoleonic France identified before —revolutionary and imperial— and the existence of a common culture and vocabulary, (at least during the Napoleonic phase), determines the response to the challenge and the design of the new world order at the Congress of Vienna. France is not deleted from the map and the liberal ideas take scarcely fifty years to become widespread in Europe. It is not simply that the Revolution and Napoleon are not totally at odds with the dominant ideas in Europe, but it is a question of different degrees: to a greater degree for the Austrian Chancellor Klemens von Metternich, whose maximum concern was to maintain the empire united under the Habsburg dynasty, and to a lesser extent for Robert Stewart Castlereagh and Great Britain, less threatened by the revolutionary ideas and more worried about re-establishing the balance of power in Europe<sup>31</sup>.

With regards to the challenge of Nazi Germany, Andreas Hillgruber<sup>32</sup> points out how the origin of the policy of *appeasement* followed by the Western powers can be found in that the revision policy proclaimed by Hitler —which was a continuation from that of the governments and parties of the Weimar Republic, the ‘struggle against Versailles’—, and even the idea of a ‘great Germany,’ seemed to be in agreement with above all British notions of a European balance of power. ‘The real incompatibility was found in the staunch objective of Hitler to undertake a complete transformation of the essential order of Europe in accordance with the principles of a

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<sup>30</sup> See Latham, R. *The Liberal Moment. Modernity, Security and the Making of the Post-war International Order*, New York, Columbia University Press, 1997, especially chapter 3 ‘An enemy is better than a friend.’

<sup>31</sup> Armstrong, D. *Revolutions and World Order*, *op. cit.* (note 14), p. 110.

<sup>32</sup> Hillgruber, A. *La Segunda Guerra Mundial, 1939-45*, Alianza, Madrid, 1995.

racial ideology...'<sup>33</sup>. Only the outbreak of war and the progressive awareness of the true character of the German regime in the years of strife made it the kind of enemy of which the only answer was to demand its unconditional surrender.

Finally, it is worth considering the socialist revolutions that take place in the World from 1917 as challenges to the dominant liberal modernity. One author has described them as attempts made by the socialist parties' leaders in their respective countries to improve their position in the world market and in the international hierarchy through mercantile policies and state intervention in all areas of social life<sup>34</sup>. This character of defiance to the West did not prevent these revolutions sharing many of their ideas and institutions: a universal ideology, Marxism, which just like Liberalism, believed in the existence of a human community awaiting progress; the culture of statehood, which in the socialist case leads to the hypertrophy of Leviathan; the faith in industrialization as the engine of historical progress, etc. Like in the cases examined above, the confrontation was played out in a common substrata of European and modern culture.

### III. Conversion and/or conquest

The other face —the *third level* that we propose— of the history of international relations (that is to say those relations that are produced in the European system of states and which are later extended) is the history, the histories, of European expansion, of the encounter with the *other*, with the radically or almost radically different: with whom not even is a minimal vocabulary shared, and of which the first question is if it is human or not, if it is a creature of God or of the devil. 'The concern in what is referred to as the Other in the 16th century —maintains Bernard McGrane— is if it is within the threshold of salvation, of conversion, or if it is beyond hope: it is within the context of this question that its level of humanity will be determined'<sup>35</sup>. In these histories, the heterogeneity, the enmity in a Schmittian sense, reaches its maximum and the relations that are established take place in the framework of *conversion and/or conquer*.<sup>36</sup>

In this genesis of European culture in the contact with the other, the stranger is apprehended from different traditions: the classical inheritance reformulated by the Renaissance and the Judeo-Christian. The first appeals to the dichotomy Greek (civilized) and barbaric, the second to that of Christians and pagans<sup>37</sup>. These two inheritances begin to weave together in the experience of the European contact with the other: in the cosmography of the 16th century the prism through which the other is seen, the idea that mediated between *us and them*, was Christianity. During the Enlightenment it was ignorance which interposed between the Europeans and non-Europeans; in the 19th century it was historical time, evolutionary time, which distanced the Europeans from the Africans, the Asians, etc. Civilization was the unavoidable end of historical development and civilized—uncivilized was the criteria of the relations that were established. The others were found on a stage that Europe had already overcome centuries before<sup>38</sup>.

<sup>33</sup> *Ibid.*, pp. 19-20

<sup>34</sup> Wallerstein, I. 'The rise and future demise of the world capitalist system: concepts for comparative analysis?' in Little, R. & Smith, M. (eds.), *Perspectives on World Politics*, Routledge, London, 1991, p. 313.

<sup>35</sup> McGrane, B. *Beyond Anthropology. Society and the Other*, New York, Columbia University Press, 1989, p. 11.

<sup>36</sup> Todorov, T. *La conquista de América. El problema del otro*, México, Siglo XXI, 1989, 2nd edition.

<sup>37</sup> Elliot, J. H. *The Old World and the New, 1492-1650*, Cambridge University Press, Cambridge, 1992, pp. 24, 41 and 43.

<sup>38</sup> McGrane, B. *Beyond Anthropology...*, *op. cit.* (note 35), p. 77.

In this work we will try to go over that experience. We will focus on four aspects of this relationship throughout four episodes. The first two are situated in the external borders of the European expansion of the 16th century: in the Christian-Islamic border in the Mediterranean and in the *Requirement*, an episode of the conquest of America by the Castilians. In the third place, we refer to how the civilized nations viewed the other spaces, peoples and communities in the second half of the 19th century and which was captured in texts of International Public Law at the beginning of the 20th century, as the principle of the *standard of civilization*. Finally, we will dedicate some lines to the process which starts from the division of Africa at the hands of the European powers to the contemporary theorization of the tutelage that the Europeans had the duty and the right to govern over uncivilized peoples.

#### **IV. European borders: The Mediterranean and the New World**

We situate ourselves here in the modern origins of the contemporary world system. Two determining processes of our world interlink in these histories which focus on the 16th century, but whose origins we can find in the Crusades. On the one hand, there is the construction of the modern states that the European state system will originate from: in terms of both its discourse *statpolitik*, and its justification the reason of state. In the period that we situate ourselves in, ambitious princes, like those which Machiavelli described, begin to construct the modern sovereignties. Yet, on the other hand, the construction of the interior borders of the *Christian respublica* weaves together with extension of its external borders: towards the East, cornering the Turkish Empire, towards the south at permanent war with the cities of North Africa, and towards the West, discovering and conquering the *New World*.

##### **I. First episode: the Mediterranean as border**

There is no better place that exemplifies these contradictory and complementary logics of the construction of the interior and exterior borders of the *Christian respublica* than the Mediterranean of the 15th and 16th centuries. The Mediterranean is and will continue for a while to be the centre of the universe, the melting pot of confrontations, the generative confines of history and legend. As historians point out, the discovery of America took a while to capture the European imagination<sup>39</sup> and the time had still not come for the European centre of gravity to shift to the waters of the North Atlantic.

For the duration of the medieval period the Mediterranean plays the role of meeting point with *the other*, and continues to be the great border of Christianity in the 15th and 16th centuries. But next to this the process of the creation of new states can already be detected. There are three logics deployed here: the logic of the crusade against the Turkish that unites the Christian princes, the Papacy and the Emperor, and where we can detect a civilizing reason; also we can see the logic of the inter-European wars linked to the construction of the new states— the reason of state—, either in the struggles to demarcate the new borders or in their attempts to free themselves from the weaker and weaker tutelage of Christianity, the Pope and the Emperor, and, finally, it is worth mentioning the always present logic of trade, for which the Mediterranean played the same role

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<sup>39</sup> See J. H. Elliot, *The Old War...*, *op. cit.* (note 37) and Cipolla, C. M. *Guns, Sails and Empires*, Sunflower University Press, Manhattan, Kansas, 1992 (5<sup>th</sup> reprint) p. 15, note 1.

as the public squares in the medieval boroughs<sup>40</sup>.

Emilio Sola points out how in the early-medieval Mediterranean, religion was a unifying and differentiating framework: the pertinence to the Roman or Byzantine church, on the one hand, but above all these were mandatory points of reference to Christianity or Islam<sup>41</sup>, and constituted the framework in which the border was negotiated, with reference to whom our author denominates as: ‘privateer— businessman— given to fortune —noble, feudal and new.’ Already in the 18th century, the confrontation Christianity-Islam, which the Pope Inocencio III consecrated<sup>42</sup>, constituted the ‘new legalization of the desire for adventure and the search for fortune.’<sup>43</sup> ‘The principal borders —Sola writes— were marked by the religious <orthodoxies>, which were mainly Christianity and Islam, and with the states already advanced in their formation. These orthodoxies justified everything and served admirably the interests of these governing groups. Crusades and *gazis*’<sup>44</sup>. The Ottoman Empire at the Eastern edge of the Mediterranean, and the monarchy of the Catholic Kings at the Western, were the heads of the opposed orthodoxies which kept the tradition of holy war from the crusades and the *gazis* alive<sup>45</sup>.

However, in the 15th and 16th centuries, in this wave of *conversion and conquest*, of princes, privateers and *renegades*, the new states begin to form. As we have already mentioned, the spirit of anti-Muslim crusade begins to be overshadowed, little by little, by the conflicts between the unifying forces of the states: the ruling families. The border with *the other*, the civilizing border, shares a space with the political borders that the sovereigns establish and which will give rise to the European state. In the words of Sola:

“As well as the religious orthodoxies, the states in an advanced process of formation also created borders in the Mediterranean, borders from coast to coast. In line with the wishes of such and such a lord or royal family, English and French fundamentally, but also the others —Spanish, Portuguese, various German and Italian— they began to outline their political borders— in spite of the large imperial project of Carlos V and the obsessive dynastic ambitions of the house of Hapsburg. I.A.A. Thompson ties the process to the formation of the great armies and navies, broadly, and if the army of Fernando the Catholic was fundamentally Hispanic, that of Carlos V was basically Hispanic-Italian-or German, which complicated affairs no end”<sup>46</sup>. In this process the princes not only had to battle against other threatening princes, but against rival families who disputed the throne. They must at the same time obtain the monopoly of legitimate violence for the state that they represent, the *sine qua non* of the very idea of sovereignty<sup>47</sup>.

<sup>40</sup> Vid. Kieman, V. G. *Imperialism...*, *op. cit.* (note 29), p. 148 and Braudel, F. *El Mediterráneo y el mundo mediterráneo en la época de Felipe II*, Mexico, F. C. E., 1980 2nd ed.

<sup>41</sup> Sola, E. *Un Mediterráneo de piratas: corsarios, renegados y cautivos*, Madrid, Tecnos, 1988, p. 45.

<sup>42</sup> Vid. Williams, R. A. Jr., *The American Indian in Western Legal Thought. The Discourses of Conquest*, Oxford University Press, 1990, pp. 13 y ss.

<sup>43</sup> Sola, E. A. *Un Mediterráneo...* *op. cit.* (note 41), p. 24.

<sup>44</sup> *Ibid.*, p. 300.

<sup>45</sup> *Ibid.*, p. 121

<sup>46</sup> *Ibid.*, p. 301

<sup>47</sup> On the relations between state monopoly of violence and the idea of sovereignty see Bartelson, J. *Genealogy of Sovereignty*, *op. cit.* (note 8), pp. 105 and ss. On the process of conversion of pirates and mercenaries into severs of the state see Thomson, J. *Mercenaries, Pirates and Sovereigns. State-building and Extraterritorial Violence in Early Modern Europe*, Princeton, Princeton University Press, 1994 and Sola, E. A *Mediterranean...*, *op. cit.* (note 41).

It is worth mentioning briefly the two great protagonists in the confrontation of these contradictory logics: the discourse of the Catholic Church with regards the inter-Christian wars and with the infidel, and the role of empire embodied in Carlos V. The salience of the Church in the medieval and the modern world is irrevocably linked to the intersection between Stoic universalism and Christian exclusivism, and the passing of this exclusivism into the background before the reality of the inter-European wars. From the period of Carlomagno the doctrine of the Church is increasingly dominated by what one author has called political Augustinianism: the denial of legitimacy to any non-Christian state due to its incapability of practicing justice<sup>48</sup>. The Carolingian scholastics start developing the idea of *holy war*, and it is Gregorio VII (1073-1085) who attributes the capacity of authorizing such war to the Pope, the ideological bases of the Crusades being founded on that<sup>49</sup>. However in the 15<sup>th</sup> century, coinciding with the emergence of the modern states, the Church finds itself obliged to corner this political Augustinianism: the Council of Constanza (1414-18) is not capable of establishing a clear doctrine in the dispute between the order of the Teutonic Knights and the Kingdom of Poland on the impious alliance of the latter with the Lithuanian pagans; when Francis I of France establishes an alliance with Suleiman against the Empire<sup>50</sup>, the Papacy does not take declare its position; finally in the Peace of Westphalia there can be seen ‘subtle changes in the way that Christianity has to give way to the concept of civilization as the main criteria in the relations between Christian and non-Christian states’<sup>51</sup>, while the jurists and theologians of Salamanca and the Grotians, Vatells, etc. establish new criteria to discern between just and unjust wars.

The second protagonist is Empire. As his apologists maintain, Carlos V was the only one of the Christian princes that had universal aims —the others only thought in terms of *national objectives*— for which the political power of Spain is one of the great obstacles<sup>52</sup>. The *international* program of Carlos V revolves around the pre-modern and the modern, around the idea of universal empire, and above all that of the defence of his patrimonial inheritance<sup>53</sup>, and the new logic of statehood. The ultimate aim of his program is the restoration of the *universitas christiana*, the last great attempt to re-establish the medieval order based on Empire and the Papacy. This aim moves in three fundamental directions: Empire as *ordinatio totius mundi*; Empire as *concordia hominum*; and Empire as *defensor fidei*<sup>54</sup>. For Carlos V and his followers the inter-European wars are civil wars that do no more than weaken Christianity facing the Turkish threat:

‘..it seems that God has miraculously given this victory to the Emperor so that he can not only defend Christianity and resist the power of Turkey, but once these civil wars calm— for it is like this they must be called since they are between Christians— go to seek the Turkish and Moors in their lands, extolling our holy catholic faith,..., claiming the empire of Constantinople and the Holy

<sup>48</sup> González-Seara, L. *El poder y la palabra*. Tecnos, Madrid, 1995, p. 49.

<sup>49</sup> For this and what follows see Parkinson, F. *The Philosophy of International Relations*, *op. cit.* (note 9), pp. 15 and ss.

<sup>50</sup> See Heath, M. “Unholy Alliance: Valois and Ottomans,” *Renaissance Studies*, vol. 3. No 1. 1989. Heath collects the arguments of necessity written by the propagandists of the Valois and the transcendence that such an alliance would have for the secularization of International Law.

<sup>51</sup> *Ibid.*, p. 17.

<sup>52</sup> Sánchez Montes, J. Franceses, protestantes, turcos. The Spanish and the international politics of Carlos V, publication service of the University of Granada, Granada, 1995, p. 17, note 4.

<sup>53</sup> Castellano, J. L. “Estudio preliminar” of *Ibid.*, pp. XXIII and ss.

<sup>54</sup> Sánchez Montes, J. *Franceses, protestantes...*, *op. cit.* (note 52), p. 129.

## Land of Jerusalem..<sup>55</sup>.

Carlos V and his supporters are almost the last defenders of *divine wars*<sup>56</sup>, faced with the new wars linked to the creation of modern states: the wars of civilization and wars through reason of state.

Finally one can point out that at the Mediterranean border of Europe *legalism* —the need for teleological and/or legal justification for action—, of which we will occupy ourselves later, has a central role for the protagonists. Sola points out how the historians of the period pick up on the concern of the *Catalan Company*, after the death of Roger de Flur and the breaking of his contract with Bizancio, in order to provide a legal base for his situation and his conquests: ‘... the key question for the Catalans-Aragonese concentrated in the city of Gallipoli, at the exit of the Marmara Sea to the Mediterranean, was, in addition to their own survival, “to legalize” once more their own situation, which would not degrade their status as men of arms with a just cause’<sup>57</sup>. Hence the importance that the historian Zurita confers on the choice of flags and standards: ‘through common consent they made a standard with the image of Saint Peter and with the emblems of the roman church; and this was put on the master tower of Gallipoli Castle; and another three flags, the first of Saint George and the other two of the coat of arms of Aragon and Sicily. And making a great defence of Gallipoli, they left to do their raids throughout the whole of that region’<sup>58</sup>.

## 2. Second episode: the Requirement

The second example that we are going to trace is taken from the history of the first years of the Spanish conquest of America<sup>59</sup>. The *Requirement* is a text written in 1514 by the jurist of the Spanish Court Juan López de Palacios Rubio. His objective was to regulate the conquests, chaotic till that point, to justify Spanish sovereignty over these territories and to give them a legal basis. It was a long history that identified two sources of legitimacy: an idea of law that protected the Spanish and an idea of the common good: civilization-Christianisation. It came from Jesus Christ — ‘the head of all human lineage’— followed by the Papacy and finished up in the legitimacy of the king of Spain to take hold of these lands through the grace of the Papal Bulls. The Spanish captains were obliged to read it before the indians upon entering a small village, in the event that the indians had not heard of this law<sup>60</sup>. If, after the reading, the indians showed themselves willing to accept the sovereignty of the Spanish king and baptism, there was no right to make them slaves. If they rejected the Requirement, the use of force was justified. In the instructions the need for interpretation was not mentioned<sup>61</sup>.

<sup>55</sup> De Valdés, A. *Relación verdadera de las nuevas de Italia*, cited by *Ibid.*, p. 129.

<sup>56</sup> De Cartagena, A. *Defensorium unitatis christinae* (1434), cited by *ibid.*, p. 29.

<sup>57</sup> Sola, E. *Un Mediterráneo...op. cit.* (note 41), p. 32.

<sup>58</sup> Cited in *Ibid.*

<sup>59</sup> For an extensive treatment of this episode and of its significance, see Remiro, A. *Civilizados, bárbaros y salvajes en el nuevo orden internacional*, Madrid, McGraw-Hill, 1996, pp. 119 y ss.

<sup>60</sup> Todorov, T. *La Conquista...*, *op. cit.* (note 36) p. 158.

<sup>61</sup> It seems to be, although Todorov does not mention it, that the Requirement is linked to a stir caused by the complaint that Antonio de Montesinos, a Dominican from the Hispaniola, made in the pulpit, one Sunday at Christmas: ‘a furious attack against “the cruel and horrible servitude” to which the Spanish colonizers has reduced the Indians,’ which ‘called into question the rights (jura) of the crown in America and, above all, the rights that were called *possession* in the language of the jurisprudence of Thomas Aquinas.’ Pagden, A. *El imperialismo español y la imaginación política*, Madrid, Planeta, 1991, p. 33.

The Spanish captains certainly did not have any scruples in applying the royal instructions. The Requirement was not always read, or it was read when the indians were already in chains, etc...but this is not the aspect that interests us most. Here we are not so much interested in the greed of the conquerors on the ground, but the reasoning of the Court which leads to the writing of the Requirement and the orders for it to be read before the start of every conquest.

The history and its significance speak for themselves but it is worth making some comments. The first point we want to make reference to are the drives, and their mutual relations, behind the conquest of America and of the Portuguese expeditions in the Atlantic and the Indian Oceans. Many authors point out that evangelization and wealth were the main motivations behind the overseas adventures. When Vasco de Gama anchored his boat at the port of Calcutta, the natives interrogated him on what was the objective of his trip, what the Portuguese were looking for in such distant lands, and his answer summarizes perfectly a spirit that is repeated in other explorers or conquerors: 'Christians and spices'<sup>62</sup>. When in 1511 Alburquerque takes Malacca he rallies his officials asking for their best since victory in the battle declared would perform great service to God —expel the Moors from the country and 'submit the sect of Muhammad to the fire'— and great services to King Manuel on taking control of the source of all the drugs and spices<sup>63</sup>. Bernal Díaz del Castillo, upon reflecting on the motives that drove him and his colleagues to the American adventure, wrote that they had left Europe '...to serve God and his Majesty, to bring the light to those that were in darkness and to become rich, which is the desire of every man.' 'Gold and conversion,' insists John Elliot, are the principal motives of conquest<sup>64</sup>. But the possession of the overseas territories and their immense reserves of silver will add a new motive in the course of the 16th and 17th century: silver will be the main source of income for the Spanish treasury and which will make it possible to maintain a dominant position in the order of European states. It is well known how the silver that arrived at the port of Seville twice per year was earmarked beforehand for the Spanish imperial campaigns in Flanders and in Italy<sup>65</sup>. On the contrary, as Elliot also points out, the French and English interest in America, at least in the first years, was short and orientated around getting hold of that flow of silver to weaken the Spanish empire in the inter-European rivalries<sup>66</sup>.

We find ourselves again with a trio that manifests itself in the Mediterranean border and which we will find again in our fourth and last episode: *power, wealth and Christianity-civilization*.

In view of this search for power and wealth by the conquerors, of the total contempt for others, Tzvetan Todorov describes certain Spanish attitudes as derisory, specifically the episode of

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<sup>62</sup> For this and what follows, Cipolla, C. M. *Guns, sails and empires*, *op. cit.* (note 38), p. 132.

<sup>63</sup> Bitterli, U. writes to this end. 'In the Spanish and Portuguese colonialism at the beginning, the existent link between commercial and agricultural expansion, and the Mission was extraordinarily close. It is not the case that the roman church had taken into their own hands the missionary work of the colonies, but starting from the idea of the global and apostolic empowerment of the Pope, it expressly confirmed the missionary mandate to the Iberian monarchs. As compensation to the papal bulls that handed over to Spain and Portugal the territories that they discovered, the catholic monarchs committed themselves to organise the Mission to convert the pagans in the regions occupied overseas. In this regard one must highlight that although the task was undertaken with very different enthusiasm according to the places and that the results were frankly dubious everywhere, nobody questioned the need to perform such service to the Pope (our emphasis);' in *Los 'salvajes' y los 'civilizados'*. *El encuentro de Europa y Ultramar*, F.C.E.; México, 1981, p. 121.

<sup>64</sup> Elliot, J. H. *The Old World and the New* *op. cit.* (note 37), p. 11.

<sup>65</sup> Elliot, J. H. *The Old World and the New*, *op. cit.* (note 37), pp. 97 and 102.

<sup>66</sup> See Elliot, J. H. *El Conde-duque de Olivares*, Crítica, Barcelona, 1990.

the *Requirement*. This leads to our second commentary, to that which is described by our author as the *derisory legalism*<sup>67</sup> of the Spanish. El Requirement is certainly not made for the indians, but to satisfy the moral-legal identity of the Spanish. Anthony Pagden points to the intensity and amplitude of the debates on the rights of the Spanish in America: the declarations that theologians and jurists made about the politics of the crown were a substantial part of the ideological structure of those who considered themselves defenders of universal Christianity. To maintain that role it was essential for the crown to seem to always act in accordance with Christian ethical, political and legal principles, and the theologians and jurists were the ones in charge of identifying such principles<sup>68</sup>. In this way, the conquest affected not only royal authority but, above all, 'the royal conscience and the tradition of royal justice'<sup>69</sup>. The Requirement was not made for the indians, —among the detailed instructions interpreters are not mentioned, and Palacios Rubios was aware that Spanish or Latin was not spoken in America—, but for the self-identity of the Spanish imbued with the theory of *just war*, which needs a *causus belli*. It is an appeal from the Spanish to themselves, who need to ensure that what they are doing is right. It is an example and tribute to a moral language, to an ethical discourse. It is the expression of the need to understand the reality in moral terms, with a moral justification for action. It is a dialogue *with ourselves*.

The Requirement is not, of course, the only episode where this self-centred dialogue takes place in the conquest of America. From the first moment that Columbus stepped foot on American soil he insists on declaring to the world —in this case the amazed indians and presumably the coconut trees of the beaches— that he takes possession of this *terra incognita et nullius* —inhabited for all to see— in the name of the Crown. As the son of the admiral narrates it, and which is shown in the paintings of the school of Spanish historical art from the 19th century, he comes down to land accompanied by a monk and a public notary that bears witness, and calls one by one to his captains for them to appear as witnesses and testify to the absolute legality of the act.

Thirdly, it would be worth mentioning that the conquest was a true crusade where the missionary zeal played a central role next to the desire for glory and for bounty<sup>70</sup>. Like in previous crusades, there was no contradiction between the Christian idea of the equality of all men and the conversion/conquest pair: there is no contradiction between the egalitarian component of Christianity and the alternative that is offered to the indians: accept and be servants or do not accept and be slaves<sup>71</sup>. *The equality among men does not exclude the inequality among religions, among models, among cultures or among civilizations*. Men are equal but Christians save themselves and pagans do not, the subjects of the king are protected and civilized, and the rebels are not. The whole conquest of America is done, also, for the good of the indians. The model is imposed for their own good: they will be Christians —they will save themselves— and be subjects of the king with civilization.

Fourth and finally, the incipient principles which will become the society of European states

<sup>67</sup> Todorov, T. *La Conquista...*, *op. cit.* (note 36), p. 159.

<sup>68</sup> Pagden, A. *El imperialismo...*, *op. cit.* (note 61), p. 19.

<sup>69</sup> Parry, J. H. *Europa y la expansión del mundo, 1415-175 México*, F. C. E., 1975, 2nd ed., p. 87.

<sup>70</sup> *Ibid.*, p. 86.

<sup>71</sup> Todorov, T. is the one who points out this contradiction. See Todorov, T. *La Conquista...*, *op. cit.* (note 36), p. 159.

has its reflection also in the legal casuistry of the conquest. While in 1542 slavery of the indians is prohibited, except those who resisted the sovereignty of the crown, the transatlantic human trafficking of black slaves flourished at the hands of the European slave traders and their African providers<sup>72</sup>. At first glance it seems strange that theologians and jurists who were so scrupulous and punctilious in other cases did not object to such practices. But for the Spanish crown the indians were subjects of the crown of Castille, while the blacks were subjects of independent African kings. Given that the Spanish visited Africa as traders, the local sovereigns sold prisoners of war, a quite common practice in the 16th century. It was understood as a custom admitted by the monarchs and African peoples, which was not the fault of the king of Spain. The theorists only required that the war from which these slaves had been captured was a just war, which was impossible to know and of no interest to slave traders<sup>73</sup>.

## V. The European expansion: Imperialism and civilization

Our two last episodes are situated in the 19th century, when the European expansion becomes universal. We will distinguish between two moments. The first refers to the codification of the relations that are maintained with other territories or peoples external to western European culture: the so called standard of civilization. The second refers to the territories and peoples that this standard described as *savages*, of the *terra nullius*, resulting in the division and colonization of Africa.

It is maintained in this work that moral language is a component of the western identity<sup>74</sup>, as justifications are usually required for the actions that emanate from this identity, no matter how selfish, egotistical or transgressive they are. We have said before that these justifications are formulated in terms of necessity. In the case of the treatment, or mistreatment, by the Europeans towards other people or territories, from their conquest, plundering and exploitation on the one hand, and evangelization and civilization on the other, this need is not absent. Kiernan points out how such a complex society as the European, where slave traders from Liverpool coexisted with the active anti-slavery and missionary organizations, could not be satisfied for long with a treatment of the conquered territories that was only based on crude exploitation<sup>75</sup>.

We find ourselves here with a double movement of conscience: the idea of the superiority of Europe on the one hand, and the need to justify it on the other. As Urs Bitterli points out, the European acted everywhere from a position of ethical and civilizational superiority: 'superiority that it was in charge of founding incessantly and from its own prejudices and bias which it found confirmation of in reality.' This re-vindication of the superiority, tacit in some cases, boastful in others, was constructed on three fundamental pillars: the missionary conscience, the subordinate role of the colonies in terms of trade, and the certainty of its own technical and military superiority<sup>76</sup>.

The need to justify, as has already been argued, has the effect that the Europeans in contact with the others start to give names to things. In the 19th century two names designate the

<sup>72</sup> Wolf, E. R. *Europe and the people without history*, Los Angeles, University of California Press, 1982, p. 143.

<sup>73</sup> Parry, J. H. *Europa y la expansión...*, *op. cit.* (note 69), pp. 98, 235 and 243.

<sup>74</sup> Obviously all the identities, all the cultures have a moral language: everyone justifies themselves.

<sup>75</sup> Kiernan, V. G., *Imperialism...*, *op. cit.* (note 29), p. 101.

<sup>76</sup> Bitterli, U. *Los 'salvajes' y los 'civilizados'...*, *op. cit.* (note 63), p. 203.

relations of the Europeans with the non-Europeans: uncivilized and inferiority. Those legitimizing the conquest were able to avoid justification in terms of interest, according to Todorov, through two moves: either they invoked humanitarian values and formulated the objective of the conquest as the propagation of civilization, material and spiritual progress; or they rejected humanitarian values and referred to the natural inequality of the human races and the right of the strongest to dominate the weakest<sup>77</sup>. However, this second attitude, which historians call social Darwinism—so much importance it had that it led to the First World War<sup>78</sup> and which made it impossible even in 1919 for the Charter of the United Nations to list a clause about the equality of races—appears in the course of the 19<sup>th</sup> and 20<sup>th</sup> centuries. Scarcely presentable, and of course it does not feature in the work of thinkers who have some importance today, it did however have resonance in practices by the colonial civil servants on the ground who were less enlightened, more greedy or more oriented towards cruelty or apathy.

Before entering into our two last episodes allow us to refer briefly to the relations with the others, with semi-civilized or barbaric territories, in the enlightened liberalism. We refer to two works from one of the greatest exponents John Stuart Mill. Mill dedicates the last chapter of his work *Of Representative Government*<sup>79</sup> to 'government of the colonies of a free state.' He distinguishes between the British colonies of European race—*settler colonies*, Canada, Australia, New Zealand and South Africa—and those inhabited mostly by natives. The discussion on the former is not of little interest and he concludes with the need for self-government, but it is in the comments dedicated to the latter where the enlightened colonial spirit is revealed: (1) the colonies that have not reached the degree of culture of the settler colonies must be governed by the dominant country and that government is legitimate; (2) that government must be benign and must be directed towards the elevation of that people to a superior state; (3) there are particular rules and international behaviour—here we refer also to the work *A few words on Non-intervention*<sup>80</sup>—between the civilized states and between them and the uncivilized. Let us look at it briefly.

After treating the problem of the settler colonies and making clear the need for self-government, Mill puts forward his proposals for those others 'that have not reached this degree of culture and that must be governed by the dominant country or by delegates of this country'<sup>81</sup>. This government could replace a succession of despotic governments—naturally those from countries in a barbaric or semi-civilized condition—without the uncertainty or insecurity. This condition of external government is, for Mill, an ordinary and universal condition, and its legitimacy comes from the differences of civilizational development. Mill evokes here the idea that the *distances* between nations are a difference of historical time, or as Marx would say, that the backward nations can see the image of their own future in the advanced countries: the image of the youthful age of nations is invoked, the ultimate ethical foundation of all colonization and all tutelage.

The legitimacy of the despotic government of the metropolis over the colony would be

<sup>77</sup> Todorov, T. *Las morales de la historia*, Paidós, Barcelona, 1993, p. 76.

<sup>78</sup> Meyer, A. Ch. 5 'Visión del mundo socialdarwinismo, Nietzsche, la guerra,' *la persistencia del Antiguo Régimen*, Madrid, Alianza, 1986.

<sup>79</sup> The edition that we use here is that of Tecnos (Madrid, 1985), presented by Negro, D. and translated by M. C. C. de Iturbe.

<sup>80</sup> 1859. *Essays on Equality, Law and Education, Collective Works of John Stuart Mill*, XXI, Kegan and Paul, Toronto and Buffalo, 1984.

<sup>81</sup> Mill, J. S. *Del Gobierno representativo*, Tecnos, Madrid, 1985, p. 203.

badly damaged if it was not for the good of the suppressed people: '...there is almost no more important question than to organise this domination in a way that is a good and not a bad thing for the suppressed people, assuring it the best possible government and the most favourable conditions for its future progress'<sup>82</sup>. This idea of the sacred trust of civilization forms the backbone of the theorizations on colonization and tutelage that are developed in the first decades of the 20th century: Frederick Lugard, who becomes one of the most illustrious British colonial civil servants, with wide experience in Africa, brings it together explicitly in his lone work, *The Dual Mandate of British Tropical Africa*<sup>83</sup>. However such as Mill points out, and as Lugard could verify in his long period of colonial administration, the best intentions of the ministers of colonies often had very deficient practical forms. Mill already indicated:

'however, it is a fact proven from experience that, when a country governs another, the individuals of the governing country that transfer to the conquered soil to make their fortune are the ones whom it is necessary to contain more energetically. They always constitute one of the greatest difficulties for the government; and, armed with prestige and full of arrogance from the conquering nation, they experience all of the feelings inspired by absolute power, except that of any responsibility'<sup>84</sup>.

The government, and Mill refers here to a reality observable in his time, which does not repress the excesses of their 'young and inexperienced' civil servants, represses even less those aforementioned. From this idea of the different international legitimization of civilized and barbaric governments, Mill deduces rules of international behaviour as much in the terrain of ethics as in that of pragmatics. Mill maintains that is a serious mistake to think that the international customs and moral rules, applicable and enforceable between the civilized nations, can be or must be a guide for the relations between them and the barbaric nations. And it is like this for two reasons: firstly, because these rules and customs demand reciprocity, which could never be obtained from the barbaric nations since 'their minds are not capable of such great effort'<sup>85</sup>; secondly because these nations have not overcome the period in which it is for their own good that they are conquered and dominated by foreigners<sup>86</sup>. Mill concludes that... 'the sacred duties that the civilized nations have towards the nationality and independence of other civilized nations, are not binding with those for which nationality and independence are wrong, or at least questionable'<sup>87</sup>.

From this our author deduces a moral principle: statehood —independence and sovereignty—. For the barbarians it is not a moral value and the only moral laws applicable in the relations between civilized governments and the barbarians are 'the universal rules of morality (applicable) between man and man'<sup>88</sup>. Mill also deduces a principle of international conduct: the civilized nations have the right, and the duty, to intervene in the affairs of the barbaric nations and this intervention can be deployed in a spectrum that goes from intervention before

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<sup>82</sup> *Ibid*, p. 204.

<sup>83</sup> See Robinson, K. *The Dilemmas of Trusteeship*, Oxford University Press, Oxford, 1965, especially pp. 20 and ss.

<sup>84</sup> Mill, J. S. *Del Gobierno...*, *op. cit.* (note 81), p. 207.

<sup>85</sup> Mill, J. S. *A few words on...*, *op. cit.*, p. 118.

<sup>86</sup> *Ibid*.

<sup>87</sup> *Ibid*, p. 119.

<sup>88</sup> *Ibid*.

situations of manifest injustice to conquest and the imposition of power. Finally it is possible to highlight an intermediate possibility in this spectrum, on whose importance we will return below: that of effective tutelage, understood as the imposition of conditions on how to organise the administration of the state, the finances, the armed forces, etc. The history of European expansion provides us with many examples of this last form of intervention, such as the British control of Egypt at the end of 19<sup>th</sup> century facing the bankruptcy of the Egyptian finances, or the French intervention in Tunisia for the same reason: debt<sup>89</sup>.

Let us see now how the ideas outlined in the texts of Mill, quite common in the period, are expressed in two concrete situations.

### I. Third episode: the standard of civilization

A vision of the world of relations between states, widely shared by Europeans and later codified in some legal texts of wide importance and diffusion, is known as the standard of civilization. Through this the states, peoples and territories are divided between the *civilized*—well-ordered societies— and the *savage*<sup>90</sup>.

Relations between civilized states were subject to custom and European or civilized law: the relations between well-ordered societies gave rise to the so called *unequal treaties*: non-reciprocal laws of extraterritoriality and trade, etc. These treaties were justified until the countries that suffered them could guarantee the minimum requirements of civilization: the minimum efficiency of the administration of the state, a certain independence of the judiciary and adequate protection of life, liberty, dignity and property of foreigners<sup>91</sup>. The occupation and colonization of the savages was a pertinent and just thing. The conversion/conquest pair is deployed here as an inversely proportional relation: the more *converted* the object of European action becomes, the more civilized, the more benign the conditions of treatment and less conquest; the more resistance to conversion, the less rights they are given.

These ideas of how to order the world have a wide tradition that extends back to Francisco de Vitoria. Vitoria justifies the Spanish presence in America through international law (*ius gentium*), which included the right to travel (*ius peregrinandi*), to trade (*ius comunicatio*) and to preach (*ius predicandi*). If these natural laws were transgressed, and the indians *did* transgress them, there was the right of *just war*<sup>92</sup>. Other authors, as Pagden explains in his commentary on Juan Ginés de Sepúlveda, made recourse to the theory of natural slavery, of Aristotelian resonance and really in vogue during the period<sup>93</sup>: 'the right of the Spanish crown to sovereignty in America is supported

<sup>89</sup> See Wesseling, H. L. *Divide y vencerás. EL reparto de África (1880-1914)*.

<sup>90</sup> For what follows, Gong, G.W. *The Standard of Civilization in International Society*, Oxford, Clarendon Press, 1984.

<sup>91</sup> *Ibid.*, p. 64.

<sup>92</sup> Pagden, A. *El imperialismo...*, *op. cit.* (note 61), pp. 42-43.

<sup>93</sup> We see here expressed in the XVI century the two attitudes that Todorov basic in the way in which the XIX century approaches the other: the idea of the backward state and the idea of natural inferiority. According to M. C. Ortega ('The Forgotten Link: Vitoria and the universalist conception of international relations,' in Clark, I. —Neumann, I. (eds.) *Classical Theories of International Relations*, London, Routledge, 1996, pp. 6-7), Vitoria gives seven reasons to justify the Spanish tutelage over the Indians: (1) the right to communication and trade; (2) the resistance of the indians to the preaching of the evangelist; (3) the need for Spanish tutelage over the converted indians opposite their pagan governors; (4) the authority that the Pope has to guarantee the Indians a Christian government; (5) to free them from tyranny and from the customs that threaten innocent victims; (6) the choice of the Spanish monarch for the majority of the 'indian republic'; and (7) the alliance of the indian nation with Spain against another nation.

in the principles of natural law which awards to all those civilized beings power over those who are not<sup>94</sup>.

Grotius, also, in his *De iure belli ac pacis*<sup>95</sup>, dealt with the application of law to the barbarian powers, identified in that period with the Muslim states of North Africa, who although dependent on the Ottoman Empire *de jure*, were quasi-independent *de facto*. But Grotius denominates as barbarian powers those who in the standard of civilization are classed as semi-civilized, reserving the first denomination for those lands inhabited by *savages* and that fell under the consideration of *terra nullius*. The discussion on the status of these states was linked to the problem of piracy and of the different conceptions it had on both sides of the Mediterranean. If the practice of robbing foreign boats was carried out by the ships of the state, it was not theft but an action of war; but if a state practiced piracy, it could not be considered a well ordered state, since it violated systematically the rules of international law. Grotius proposed as a way out of this paradox the notion of civilization: if these nations, in the old sense, were civilized, they could be considered states<sup>96</sup>. The habitual practice with these states was to establish *peace and trade treaties* where they drafted principles not very far from what Vitoria put in his *ius gentium*: peaceful relations between the parts; the legal status of the consuls; the legal situation of parts residing in the territory of the other (extraterritoriality and law will be judged by the consul of the country itself); right to trade, that is free trade and freedom of settlement<sup>97</sup>.

This distinction between civilized states and pirate states is made already in some legal texts of the 18th century<sup>98</sup>. However in the 19th century the 'civilizational superiority turned into juridical superiority<sup>99</sup>', giving rise, as Mössner suggests, to two types of international law: an intra-order law, which was what had been practiced by European nations in the 16<sup>th</sup>, 17<sup>th</sup> and 18<sup>th</sup> centuries, and which corresponded to the order of the Christian *respublica*; and an inter-order law, which corresponded to the relations of the former with the others, and which will be codified as standard of civilization at the end of the 19th and start of the 20th century.

Only in the 19th century is Europe in conditions to apply this tradition and criteria in the whole globe, thanks to inventions like the breech loader rifle, the steam ship, and the vaccination against malaria<sup>100</sup>. During the 19th century the *standard* starts to be codified in the first treaties that the European countries make with the non-Europeans and which begin acquiring the value of norms of customary international law. The second step, which is taken at the beginning of the 20th century, is the gradual and increasingly explicit articulation in the texts of the great jurists of the period<sup>101</sup>.

<sup>94</sup> *Ibid.*, p. 54. Commentary from Sepulveda's book *Demócrates Segundo o de las justa causa de la Guerra contra los indios*.

<sup>95</sup> *Del Derecho de Presa. Del derecho de la Paz y de la Guerra*, Centro de Estudios Constitucionales, Madrid, 1987, trans. and intro. From Mariño Gómez, P.

<sup>96</sup> Mössner, J. M. 'The Barbary Powers in International Law,' *Grotian Society Papers*, The Hague, 1972, p. 20.

<sup>97</sup> *Ibid.*, pp. 213-214.

<sup>98</sup> Brownlie, I. ('The Expansion of International Society: The Consequences for the Law of Nations,' in Bull, H. — Watson, [eds], *The Expansion of International Society*, *op. cit.* (note 2), p. 358), has this denomination in the work of Bynkershoek, *Questionum Juris Publici Libro Duo* (1737).

<sup>99</sup> Mössner, J. M. 'The Barbary Powers...' *op. cit.* (note 96), p. 207.

<sup>100</sup> McNeill, W. 'European Expansion, Power and Warfare since 1500,' in De Moor, J. A. — Wesseling, H. L. (eds), *Imperialism and War. Essays on Colonial Wars in Asia and Africa*, E. J. Brill/ Universitaire Press Leiden, 1989.

<sup>101</sup> Gong, G. W. *The Standard...*, *op. cit.* (note 90), p. 240.

Gerrit Gong summarizes the historical role of the standard of civilization in this way: 'during the period in which Europe was considered the political and cultural centre of the world, its standard of 'civilization' became an integral part of the doctrines of recognition dominant in international law. This way the standard of 'civilization' helped to define the international identity and the external borders of the international society dominant in the 19<sup>th</sup> century. Identified initially with Christianity and Europe, the international society of European states, he added, in its process of expansion to non-European members, came to be considered in more general terms as the society of 'civilized' states. The 'law of the Christian nations' and 'European public law' became the 'law of the civilized states'..' <sup>102</sup>

It is worth highlighting that, in the same period, the same statesmen and jurists that are giving shape to the *standard of civilization*, begin to develop what one author has called a code of peace among the civilized nations <sup>103</sup>; that is, those rules that states have started elaborating from their own experience of trade and war and that have given rise to a rich legal and philosophical tradition, captured in 'numerous treaties, conventions, protocols, declarations and other international instruments' <sup>104</sup>. This code of peace for civilized nations, which has not ceased evolving, included at the end of the 19<sup>th</sup> century elaborate principles of international law like the sovereign equality of states, territorial integrity, non-intervention etc. Lassa Oppenheim <sup>105</sup>, one of the authors of famous and well disseminated legal texts at the beginning of the century, established the relationship between this code of peace and the *standard* in a work from 1905. Those that were admitted into the 'family of nations' would be full subjects of international law and for such end they must fulfil two requirements: to be civilized and be accepted as such by the other member states of the community of civilized states.

## 2. Fifth episode: division and tutelage of Africa

A known historian <sup>106</sup> of the European expansion indicated how three logics intertwined in it, complementary or contradictory according to the cases, and of which liberal modernity would be capable of integrating into a round vision of civilization and progress centuries later. Our historian points out that in the European expansion of the 15<sup>th</sup> century the logic and pragmatism of the construction of the new European states could be detected, who through war and conquest extended their territories consolidating in this process a nascent state apparatus <sup>107</sup>. The recurring dynamic of the ideal mixed evangelizer with the logic of trade, of the dominion of their routes and the exploitation of the resources from the new territories visited or conquered.

The historians of the colonization of Africa point to how in the 19<sup>th</sup> century the emblematic figures of the logics noted down by John Phillips —that of statesman in the metropolis and that of soldier on the ground, that of trader or entrepreneur in the style of Rhodes, and that of Missionary like Livingstone— start to weave the network of the European appropriation of Africa <sup>108</sup>.

<sup>102</sup> *Ibid.*, p. 238.

<sup>103</sup> Jones, D.V. *Code of Peace. Ethics and Security in the World of the Warlord States*, Chicago University Press, Chicago, 1991.

<sup>104</sup> *Ibid.*, p. XVI.

<sup>105</sup> Oppenheim, cited by Gong, G.W. *The Standard...*, *op. cit.* (note 90), p. 30.

<sup>106</sup> Phillips, J. R. S. *La expansión medieval de Europa*, México, F.C.E., 1994 (1<sup>st</sup> Ed. English 1988), pp. 285 and ss.

<sup>107</sup> See Tilly, Ch. 'Reflections on the history.', *op. cit.* (note 7).

<sup>108</sup> See Robinson, R —Gallagher, J. *Africa and the Victorians*. The official mind of imperialism, London, Macmillan, 1988, 2<sup>nd</sup> Ed.

The European expansion in Africa has two moments with regards to the relations of Europeans with each other and with the African territories, and in what refers to the motivations of the Europeans in these relations. The tipping point is commonly situated in 1885 when the powers, meeting together in Berlin in order to deal with the future of the River Congo basin, divide up on paper the vast African continent. In each one of these periods the importance and the role of the emblematic figures— statesman, soldier, trader, entrepreneur, and missionary— has a different meaning. The first phase, sometimes called *informal imperialism*<sup>109</sup>, extends from the first Portuguese contacts with the coasts of Sub-Saharan Africa in the 15th century to the end of the 19th century. During this period commercial interests— palm oil, gold or slaves— are predominant and the contacts do not extend geographically beyond the European factories established at the coasts and in the basins of the great rivers, like the Niger or the Congo el Zambezi<sup>110</sup>. The strategic interests are limited to the defence of the routes towards India: Portuguese and Dutch forts on the Western coast, the establishment of the British colonies of the Cape and Natal, or the protectorate over Zanzibar.

It is in the second period when the logics are deployed that we have already seen above on dealing with the European expansion in the Mediterranean and in America: God, her Majesty and spices, as Alburquerque said in the taking of Malacca by the Portuguese in 1511. The struggle for Africa, to take direct possession of what was divided up on paper in Berlin, has a lot to do firstly with the rivalries within the European balance of power. For Alan Taylor, the imperialism at the end of the 19th century was above all a solution to European tensions, a solution which the Europeans came across by chance<sup>111</sup>: it was a way to enjoy the feeling of greatness without the worries and the costs that normally go with it. The one who had not participated in the division of Africa could not be considered a great European power, who was not capable of hoisting his flag in some exotic place like Fasoda, Kampala or Timbuktu, who did not flaunt the flag of their gunboats in the dock of Shanghai, etc<sup>112</sup>.

William McNeill indicated how one of the central reasons for the European drive towards the occupation of territory and, consequently, to colonial wars, was that normally they were very cheap, and on being successful they provided new territories, prestige and glory—not to mention the officials achieved rapid promotions<sup>113</sup>—. The European states maintained permanent armies and navies for which the colonial wars constituted good training on the ground<sup>114</sup>.

With the conquest came the search for reserves of precious minerals, alerted by the mining discoveries of the South African Rands, and with it the need to administer the new territories. At

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<sup>109</sup> Smith, T. *Los modelos del imperialismo* F.C.E., México, 1984.

<sup>110</sup> Robinson, R. and Gallagher, J. (Africa and the Victorians, *op. cit.* [note 108], pp. 2 to 4) point to the existence of an early Victorian vision of trade as civilizational element.

<sup>111</sup> Taylor, A.J.P. *The Struggle...*, *op. cit.* (note 27), p. 256.

<sup>112</sup> The colonies were a trump card in the game of alliances and counter-alliances in the balance of European power: 'The best justification for the four German colonies was that, given that Great Britain coveted them, its possession would cause problems to the latter. Thanks to an insignificant investment by the Reich, Bismarck had obtained a useful diplomatic bullet. Maybe now was the time for it to pay dividends, through an alliance with England or using the colonies to achieve some longed for prize in Europe.' Pakenham, T. *The Scramble for Africa, 1876-1912*, Johannesburg, Jonathan Ball Publishers, 1991, p. 350. On the link of the greatness of a country and the need to participate in the colonial division in the Spanish case see Rodríguez Esteban, J.A. *Geografía y colonialismo*, Madrid, UAM Ediciones, 1996, pp. 47 to 141.

<sup>113</sup> McNeill, W.H. 'European expansion...', *op. cit.* (note 100), p. 12.

<sup>114</sup> *Ibid.*

the end of the 19th century, conquest, trade and civilization are part of the same package, without substantial fissures, which is the idea of progress— this liberal, modern and universalistic dogmatic would be captured a century later in the ideas of the theories of development-<sup>115</sup>.

As Charles Trevelyan happily formulated it speaking of how convenient the development of India was and the benefits that it would generate for the manufacturers of Lancashire, ‘...the laws of God stick so happily together that when we benefit the natives, we benefit ourselves’<sup>116</sup>. Another great British historian summarizes the multiple faces of the colonial effort as in the idea of civilizational mission: ‘the imperial peoples exploited the ones that governed, but at the same time they thought that they were doing good. No empire without a mission and no empire without benefit, in reality or in imagination’<sup>117</sup>.

The idea that the West had the obligation to bring civilization wherever it extended to has been present since the days of Vitoria<sup>118</sup>, and in every people and territory a seed was found that, thanks to the benign tutelage of the colonial metropolis, would flourish and result in these peoples being capable of ‘managing themselves in the particularly difficult conditions of the modern world.’ It is made explicit in Article 22 of the Pact of the Society of Nations: ‘the wellbeing and the development of these peoples constitutes a sacred mission of civilization...’. This idea of tutelage that we have seen in Vitoria and Mill, finds a legal formulation whose consequences extend to present times.

## VI Civilizing strands

There is a continuity between the four episodes described here. This continuity, which we will pass through in what follows, is what we have called *civilizing strands*.

We have told four histories about the contact of European and Western culture with the others. Four histories of expansion and four histories of change produced by the attempt to fit the other and the new into Western vocabulary. As Todorov maintains, the surprising thing about Western culture is its capacity for reflection about the others: ‘the history of the conquest of America teaches us that Western civilization has conquered, among other things, because of its superiority in human communication...’<sup>119</sup>.

In these histories we have identified a series of recurrent motivations. These four beams of motivation take place simultaneously, and although embodied in different characters, they are present in all the histories we have described. One of course is *power*: the powers fighting in the Mediterranean— the Turkish, the Papacy, the emperor, the new states—, the power that Spain acquires with the new overseas empires —an empire where the sun does not set, and which provides silver with which to finance the campaigns to avoid its demise—, the fight for power in

<sup>115</sup> For a good anthology of development theories and their critics see Carnero Arbat, T. (ed.), *Modernización, desarrollo político y cambio social*, Madrid Alianza, 1992.

<sup>116</sup> Cited by Kiernan, V. G. in *Imperialism and its contradictions*, London, Routledge, 1995, p. 63.

<sup>117</sup> Taylor, A. J. P. ‘The Meanings of Imperialism,’ in Roger Louis, W. M. (ed), *Imperialism. The Robinson and Gallagher Controversy*, New York, New Viewpoints, 1976, p. 197.

<sup>118</sup> See Parkinson, F. *The Philosophy of International Relations*, op. cit. (note 9), pp. 22 and 23. Vitoria speaks of *mandatum* in his *Relecciones de Indis novieter inventis* de 1534.

<sup>119</sup> Todorov, T. *La Conquista...*, op. cit. (note 36) p. 261.

Europe, which is behind the division of Africa.

The wealth which is inextricably tied to power, also plays a central role in this expansion: from the spice trade to the struggle for the real or supposed riches at the heart of Africa. This search for wealth turns the planet into a world-economy at the start of the 16th century in the words of Immanuel Wallerstein.

We have also identified a third motivation behind the European expansion. This motivation could be called *civilizing*: it is captured at first in the belligerence against the infidels and in the missionary zeal; from the secularization of European politics that begins to take shape in the Peace of Westphalia of 1648, the Christian-pagan dialectic starts transforming into civilized-uncivilized.

A fourth driving thread is *legalism*. In all of the histories, the search for legitimacy is a central element. Power is not maintained on its own, it needs legitimization and that is found in the idea that the law assists the one who exercises it, and also in the idea of the search for the good, common to those who exercise power and those who suffer from it — *the right and the good of David Beetham*<sup>120</sup>— which will be captured in moral and legal norms. This struggle for legitimacy has, above all or almost exclusively, a character of justification for themselves, for those who exercise power.

Between the concerns of the Catalan Company, the *Requirement*, the standard of civilization, the texts of Mill, and the justification of the tutelage over backward countries, there is something more than continuity. There is a surprising parallel: they are all the discourses and practices that the Europeans impose on *the others*, but are directed at *themselves or at their equals*.

The Requirement was necessary to justify conquest, not facing the indians that did not know international law, but those who did know it: the Spanish Court and its theologians and jurists, and eventually other European nations. *The standard of civilization*, the practice of establishing international legal links with uncivilized countries, was necessary, above all, to maintain *a certain order in the family of nations*. The *protectorates* established by the civilized states on the uncivilized states were equipped with rights that they linked above all to other civilized states and they established barriers to subsequent attempts at division. As the spaces and the uncivilized populations could not be subjects of a law they had never even heard of, the relations amongst them and the civilized protector state were not subject to international law: 'when a civilized power establishes legal dispositions concerning *uncivilized* peoples, it becomes an affair between the occupying European state and the rest of the civilized states in the World'<sup>121</sup>.

Finally, we have seen how the *reason of state*, incipient in the 15th century and dominant in the practice and discourse of international relations from the 18th century onwards, shares the area of inter-European relations with a code of international conduct —*reason of system*—, and both revolve around a civilizing discourse and practice —*reason of civilization*— where the projection towards the *terra incognita* is a central element: towards the mythical kingdom of Prester John, towards the lands of silk, spices, gold and silver, towards the China of Marco Polo.

<sup>120</sup> Beetham, D. *The Legitimation of Power*, London, Macmillan, 1991.

<sup>121</sup> Gong, G.W. *The Standard...*, *op. cit.* (note 90), p. 58, citing Holland.

And in that projection, the Europeans begin conquering and converting, and settling the bases of the global and westernized World of the present.

Any history of international relations that forgets these three levels —analysing, as is very common, the division of Africa by the European powers exclusively as a sub-product of the European balance of power, for example—, will not only succumb to ethnocentrism, but will be a partial and unilateral account.

Any theory of international relations written with only the idea of the experience of the European system and reason of state, forgetting the crises of legitimacy of that system and its reason of system, and not taking into account the European expansion and its reason of civilization, runs the risk of forgetting fundamental reasons for the actions of individuals, states and civilizations, and reproducing a mechanistic idea of world politics. ●

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Revista académica cuatrimestral de publicación electrónica  
Grupo de Estudios de Relaciones Internacionales (GERI)  
Universidad Autónoma de Madrid, España  
<https://revistas.uam.es/relacionesinternacionales>  
ISSN 1699 - 3950

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