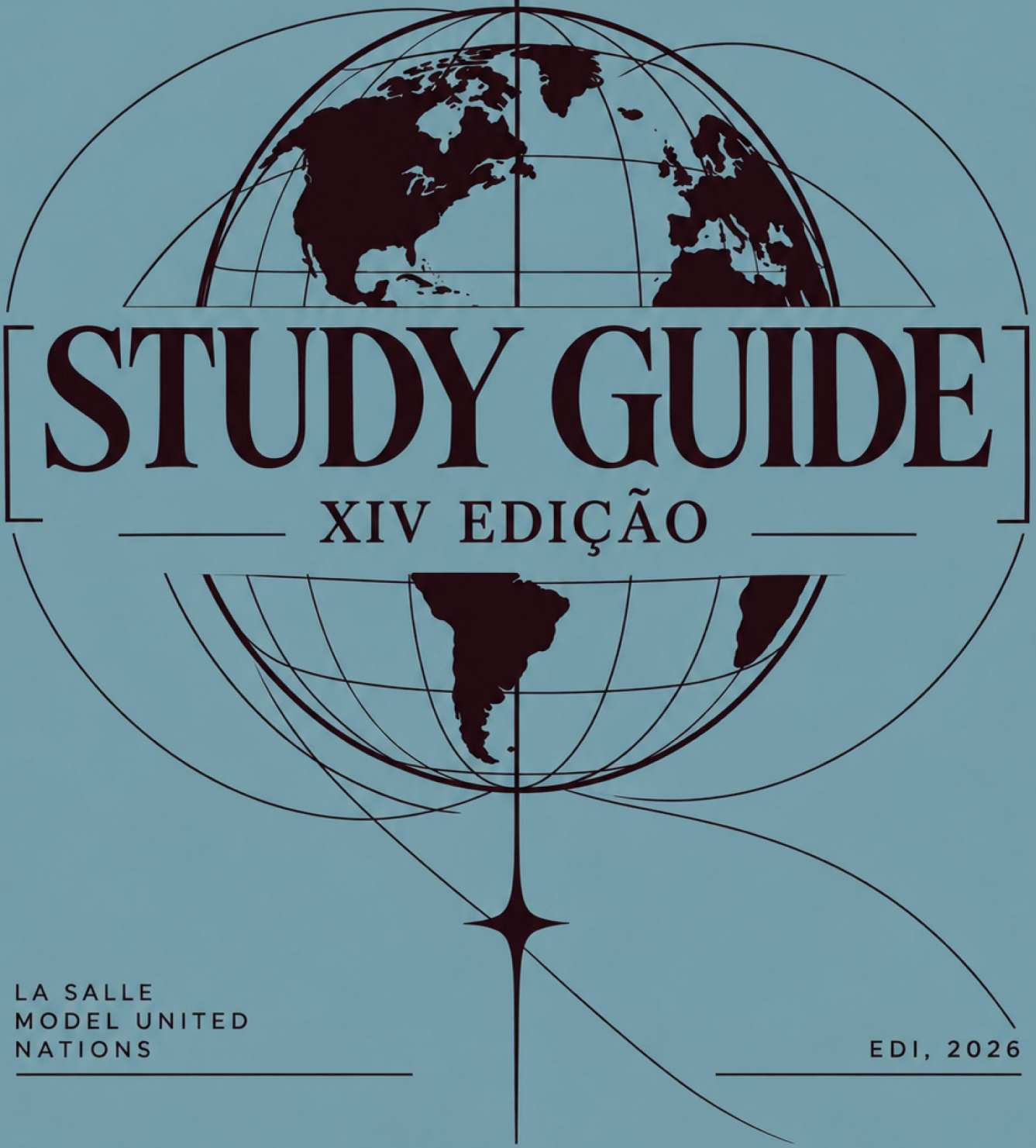
LASMUN

SIMULATION •
DIPLOMACY •
DIALOGUE



STUDY GUIDE

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LA SALLE
MODEL UNITED
NATIONS

EDI, 2026

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GENERAL INFORMATION ON LASMUN

1. Dress Code and National Symbols

In accordance with the standards observed at United Nations conferences and to ensure the integrity of the event, all delegates at LASMUN are required to wear Western business attire or a formal national equivalent. While traditional gendered norms need not be strictly followed, delegates are encouraged to express their identity in a manner that aligns with the formal and respectful tone of the conference. Appropriate attire includes, for example, a full suit with dress shirt and tie, or a blouse with dress pants or skirt, complemented by a blazer or sweater. Delegates may also choose to wear formal national dress, provided it is presented with due attention to detail, cultural conventions, and utmost respect. Additionally, small objects representing a delegate's country, such as flags, pictures, or memorabilia, are permitted as long as they are respectful and do not disrupt the proceedings. The Chair retains the discretion to determine the appropriateness of such items. Alcoholic beverages and weapons of any kind are strictly prohibited and may be confiscated for the duration of the conference. It is within the Chair's discretion to assess which objects are appropriate to be displayed and which are not.

2. Award Policy

While LASMUN values cooperation and the educational experience of all participants, it also seeks to recognize outstanding performance in a spirit that promotes learning rather than competition. To this end, each committee will award one Best Delegate prize and two Honorable Mentions. These recognitions are based on votes cast by delegates at the end of the conference, excluding members of the LASMUN Staff who are participating in the simulation. The Best Delegate will receive a certificate and a prize. Although awards are given, the primary goal remains to foster meaningful group work, mutual learning, and constructive dialogue. Delegates are expected to leave the conference with a deeper understanding of international affairs, enriched not only by their own research but also through collaboration with peers and guidance from the Bureau.

3. Parliamentary Language

Delegates must maintain the utmost respect in their interactions at all times. It is both conventional and professional to refer to fellow participants using neutral and courteous expressions such as “fellow delegate,” rather than gendered pronouns like “he” or “she.” Additionally, when presenting national viewpoints, delegates should avoid personal attributions such as “my position.” Instead, they should refer to “my country’s position” or explicitly state, for example, “France’s position.” The language employed throughout the conference must consistently reflect the diplomatic nature of the simulation, underscoring that delegates are official representatives of their states and are expected to engage in respectful and constructive cooperation.

PARTE ONE LASMUN's Study Guide

GENERAL RULES OF PROCEDURE OF LASMUN

1. SCOPE

These rules shall apply to the two committees simulated at the 13th edition of LASMUN. These General Rules of Procedure shall be considered adopted in advance of the session, and no other rules of procedure will be applicable. These rules were taken from the Handbook of the United Nations 2023-4, and LASMUN's 12th edition Handbook.

2. LANGUAGE

The official language of the Security Council and the Human Rights Council committees is English. The Organization of American States (OAS) committee may be conducted in Portuguese. Delegates are not permitted to address the Chair, the staff, or the committee in any other language. The use of foreign expressions is allowed only if immediately followed by a translation into the language of the respective committee.

3. DELEGATIONS

Each delegation will be represented by one delegate only.

4. CREDENTIALS

The name of the member of each delegation shall be submitted to the Secretariat prior to the opening of the Conference. All delegations will be assumed to have proper credentials to participate in the Conference. Delegates are all presumed to possess the diplomatic authority necessary to discuss and vote on the main issue being dealt with by the committee. The instructions and powers given to all delegates do not allow them to declare war, sign or denounce treaties, impose sanctions, or perform any action not strictly within the purview of the committee, unless so determined by the Chair.

5. GENERAL DUTIES OF THE DELEGATES

Delegates are expected to respect the decisions of the Chair, request the floor before speaking, represent and defend the interests of their assigned country, follow its official

foreign policy, and consistently maintain diplomatic decorum. The Secretary-General is the highest-ranking official within the Secretariat and may appoint a staff member to act on her behalf during any session of the Conference. Along with the Under-Secretaries-General, they are responsible for directing all conference activities. The Secretary-General, or any designated representative, may address the committees at any time with oral or written statements on any relevant matter.

6. GENERAL DUTIES OF THE CHAIR

The committee shall be led by a Chair, consisting of one or two Directors and Assistant Directors. In addition to the powers granted elsewhere in these rules, the Chair is responsible for declaring the opening and closing of each session, directing the flow of discussion, ensuring compliance with the rules of procedure, granting the right to speak, and making official announcements. The Chair shall rule on Points and Motions without the possibility of appeal, set time limits for speeches, and maintain full control and responsibility over the proceedings. The Chair may also propose motions it considers beneficial to the progress of the debate. Members of the Chair are also responsible for assisting delegates and ensuring a productive and respectful environment throughout the session.

7. RULINGS OF THE CHAIR

The rulings and decisions of the Committee's Chair are final and not subject to appeal. Members of the Chair are authorized to interpret and, when necessary, override the rules in order to ensure the effective and productive progression of the committee's work.

8. PLAGIARISM

Plagiarism is understood within the scope of these rules as the unacknowledged use of another individual's words or ideas. When writing position papers, working papers, draft resolutions and during all their participation in the conference, delegates are not allowed to make use of fragments of already existent documents without proper reference. A participant caught plagiarizing any written work will be dealt with accordingly. Punishment may entail disqualification for awards, denied voting and/or speaking rights and possible exclusion

from the conference. Applicable legal measures will be taken at the discretion of the conference's organization alone.

RULES GOVERNING DEBATE

Throughout these rules, a "simple majority" will be understood to be one half of the possible votes plus one, rounded down, whereas a "two-third majority" shall consist of two thirds of the possible votes, rounded up. For example, the simple majority of five is three, and the two-third majority of ten is seven.

9. QUORUM

The Chair may declare a session open and permit debate to proceed when at least one third (rounded up) of registered delegations are present. The presence of a simple majority of registered delegations shall be required for any substantive vote to be taken. The Chair shall proceed with a Roll Call at the beginning of each session to recognize the presence of the delegates. The Chair shall inform the delegates of the Quorum whenever required. Every committee shall start with a First Session composed by: Opening Speeches with Speakers List.

10. OPENING PLENARY SESSION

Every committee shall start with a First Session composed of two parts: (i) Interactive Dialogues and Briefings; (ii) Opening Speeches with Speakers List. The beginning of this session, therefore, is composed by a Briefing of the topic(s) to be discussed in the Committee, made by a specialist in the area or by some member of the Bureau. This moment may allow the initial interaction of the delegates with the discussion theme. Soon after that, the Bureau will present to the delegates a proposal of agenda on the topics to be discussed. The delegates may later decide for its adoption or suggest changes to it - if so, the delegates should submit the new agenda to the Bureau, which will present the new document to the committee. Albeit strongly recommended,still, the agenda is not mandatory and the delegates may prefer to go straight to the debate. Following the agenda presentation, each delegation may perform an Opening Speech. This shall contain, essentially, the topics presented in the CountryReport, previously sent to theBureau. In this sense, the delegates must adhere to the

foreign policy of the country they are representing, according to the topic(s). These Speeches shall be made in accordance with a Speakers List, opened exclusively for this reason. To be included in the list, delegates should raise their placards, provided that the delegation's name is not already on the List. The delegations' names will appear according to the order in which they indicate their desire to speak. The delegation can withdraw its name from the GeneralSpeakers List by indicating so to the Bureau. The speech time must be defined by the Bureau in informal voting with the delegations. Even though these Opening Speeches are not mandatory, we strongly encourage all the delegations to participate in it. After the finish of the Speakers List, the Bureau shall automatically change to theFormal-Informal type of debate.Then, to make a Speech, the delegationsmustraise their placards and waitforthe Bureau'sindication – it'stheir prerogative to choose the delegates.

11. SPEECHES

No delegates may address the Committee without previously obtaining the permission of the Chair. The Chair shall call upon speakers in the order they signify their desire to speak. The speaking time shall be stipulated by the Chair in advance, though it may consult the committee before deciding on the matter. When a delegate has ten seconds of speaking time left, the Chair will make a discreet signal. When the allotted time has expired, the Chair will call the delegate to order.

12. RIGHT OF REPLY

There is no right of reply. Real or perceived offenses or untruths should be dealt with during normal debate.

13. WORKING PAPERS

Working Papers are informal documents that aid the Committee in its discussions on substantive matters. Delegates may propose Working Papers for consideration by the Committee at any time during the Conference. They need not to be written in a specific format, but must be approved by the Chair to be distributed for and to be mentioned in the Committee. There is no need for sponsors of Working Papers.

14. POINTS

There are three types of Points by which a delegate may address the Chair directly. Should delegates wish to consult the Chair on a matter not covered by any of these three points, they should do so privately, with the understanding that the Chair will inform the whole committee of the matter if it is deemed to be a general interest.

Rule	Speeches	Votes	Comments
Point of Order	-	-	Used when the proper observance of procedural rules is in doubt. Not in order during speeches.
Motion to Adjourn the Session	-	Simple Majority	In order when announced by the Bureau; refers to adjourning the committee until the next meeting.
Motion to Introduce Topic to the Top of the Agenda	2 in favor and 2 against (maximum)	Simple Majority	Used to discuss and vote on the committee's Agenda, i.e., which of the two topics (A or B) will be addressed first.
Motion to Postpone the Debate	2 in favor and 2 against (maximum)	Two-Thirds Majority	Modifies the topic under discussion in the committee, moving on to the next topic listed on the Agenda.

Unmoderated Debate	-	Simple Majority	Aims to facilitate discussion and promote the drafting of resolutions.
Division of the Question	2 in favor and 2 against (maximum)	Simple Majority	Four-step process: 1) motion to divide the question is voted on; 2) each division proposal is voted on; 3) vote on inclusion of each part; 4) vote the final Draft Resolution.

15. FORMS OF DEBATE

In order to structure the discussions and ensure a balanced participation among delegations, different formats of debate are adopted throughout the sessions. Each form serves a specific purpose in the progression of committee work, from the formal presentation of positions to more flexible negotiation environments. The following subsections outline the three main types of debate that will guide the flow of the sessions: Formal Debate, Formal-Informal Debate, and Informal-Informal Debate. Delegates are expected to adapt their interventions and strategies accordingly, respecting the procedural rules and the authority of the Chair.

15.1. Formal Debate

The Formal debate happens exclusively in the First Session of the committees and must be composed by the Speakers List for the Opening Speeches of the delegations. To be included in the list, delegates should raise their placards, provided that the delegation's name is not already on the List.

15.2 Formal-Informal Debate

This type of debate will happen during all the sessions in all committees after the First Formal Session. This debate is conducted directly by the Chairwoman/Chairman: delegates willing to speak during the Formal Informal Debate may raise their placards, and will be recognized by the Chair at its discretion. Points of Order and Motions for Adjournment of the Session or Debate can be raised by delegates, according to the Chair indications.

15.3 Informal-Informal

This motion suspends the Formal-Informal debate, allowing delegates to engage in open discussions without interference from the Chair. During this time, delegates are free to move around the room, form working groups, and collaborate more informally. The purpose of the unmoderated debate is to facilitate in-depth, substantive negotiations — such as the drafting of resolutions or amendments — by temporarily relaxing the structure imposed by formal procedures. Delegates are encouraged to use this time to work in political blocs to develop and negotiate proposals.

To initiate an unmoderated debate, a delegation must request it from the Chair. The Chair will then ask whether there is consensus on the motion. If consensus is not reached, the motion must be put to a vote and requires a simple majority for approval. Although there is no fixed duration for this type of debate, a single unmoderated debate may not exceed 45 consecutive minutes.

SPECIAL RULES OF PROCEDURE UNITED NATIONS SECURITY COUNCIL

16. CREDENTIALS

Delegates must hand over their credentials at the beginning of the first session. These credentials are sent to the delegates by their respective country’s Ministry of Foreign Affairs in advance. In the case of not having received the Credentials delegates must contact the Secretariat. Delegates are encouraged to write letters to their governments to obtain authorization to undertake actions beyond those listed in the credentials section of the General Rules of Procedure or request needed information.

17. CONDUCT DURING VOTING ON A DRAFT RESOLUTION

The Secretary-General shall immediately bring to the attention of all representatives on the Security Council all communications from States, organs of the United Nations, or concerns regarding any matter that requires consideration of the Security Council in accordance with the provisions of the Charter. The Secretary-General may designate members from the Secretariat to attend any council's meetings. The selected members from the Secretariat must provide logistical and technical support to the Security Council's discussions, entertaining the Council with any formal or informal documents specifically sent to the Council or addressing any matters under its consideration. Draft-communiqués reporting on behalf of the Council may also be sent to its appreciation, whenever the Secretariat finds it.

SUBSTANTIVE MATTERS

18. VOTING MAJORITIES

Decisions of the Security Council on procedural matters shall be made by a simple majority of nine members. Decisions of the Security Council on substantive matters shall be made by an affirmative vote of nine members with no negative votes on the part of the permanent members; provided that, in decisions under Chapter VI on the UN Charter and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting. The matters hereby considered as substantive are the approval of Amendments to the Draft Resolution, the approval of Draft Resolutions and approval of clauses/parts in a division of the question.

19. FORM OF DEBATE

Unless otherwise stated by the committee, all sessions of the Security Council are presumed to be closed until the adjournment of the session, except for the First Session, when takes place the reading of the Briefing and/or the Interactive Dialogue, and when the delegates may deliver an Opening Speech, available to the Press. Closed sessions are secret and information on the proceedings is entrusted to the discretion of the participants. This is

meant to facilitate discussion and negotiation between members of the Council as the conversations will be confidential and undocumented.

Closed Sessions follow the format of a FormalInformal Debate at all times, except in the case of shifting to an Informal-Informal Debate. Besides the Point of Order described in the General Rules of Procedure, the following motions will be allowed during closed sessions (according to the order of precedence): (i) Motion for adjournment of the session; (ii) Motion for adjournment of the debate; (iii) Motion of no confidence; (iv) Motion for an open session; (v) Motion to issue a presidential statement.

A motion for an open session is functional when the action phase on a draft resolution is about to begin (i.e. after its introduction and during its voting). The Presidency must consult the Council about opening the session with a voting procedure. If a simple majority decide in favor of opening the session, all statements will be duly recorded and made available to the Press.

Any delegate may request the issuance of a Presidential Statement from their respective committee, an official document intended to inform the public about some of the Council's deliberations. If the motion is considered valid, the delegate will read the proposed text of the statement, and the chair will ask if any Council member objects. If there are no objections, the statement is considered issued and released to the public.

During Open Sessions, the following motions will be allowed (according to the order of precedence): (i) Motion for adjournment of the session; (ii) Motion for adjournment of debate; (iii) Motion for a closed session.

A motion for a closed session is a procedural matter, which will immediately be put to a vote. If the motion passes, the session will be immediately closed to the public, statements will no longer be recorded and all individuals who do not belong to the Secretariat or to the delegations represented in the Council will be asked to leave the room.

20. PARTICIPATION IN COUNCIL DELIBERATIONS

Should any member of the Council wish to invite an individual or representative of an organization or government to participate (without entitlement to vote on substantive matters) in the deliberations of the Council, he or she should submit a written request to the

President of the Council. The President will ask if any Council member objects to the invitation. There being no objection, the invitation will be issued.

21. LETTER TO THE SECRETARY-GENERAL

Should any member of the Council wish to issue a letter addressed directly to the Secretary-General, or intended to be transmitted to an organization or government relevant to the deliberations of the Council, he or she should submit the proposed letter and a request in writing to the President of the Council. The President will ask if any Council member objects to the letter. There being no objection, the letter will be issued.

22. PRESIDENCY

The Presidency of the Security Council shall be held in rotation by the delegations that express their willingness to assume it. Each President shall serve for the duration of one session. During the first session, lots shall be drawn among the interested delegations to establish the order of rotation.

Should the President of the session be perceived as failing to fulfill their responsibilities in a satisfactory manner, as judged by the members of the Security Council and the Secretariat, a change in the presidency may be considered. To initiate such a change, an informal written request must be submitted to the Secretariat, bearing the signatures of at least three members of the Council, including at least one permanent member.

The Secretariat may, at its discretion, submit the request to a vote. The motion shall pass with a simple majority. If approved, the presidency shall be transferred, for the remainder of the session, to the delegation scheduled to preside over the following session. The predetermined rotation shall remain unchanged for future sessions.

Some delegations may be requested to preside over more than one session, depending on the number of interested parties. The President shall chair the meetings of the Security Council and, under its authority, represent the Council in its capacity as a principal organ of the United Nations.

23. PRESIDENTIAL STATEMENTS

Any delegate may request the issuance of a Presidential Statement from their respective committee, an official document intended to inform the public about some of the Council's deliberations. If the motion is considered valid, the delegate will read the proposed text of the statement, and the chair will ask if any Council member objects. If there are no objections, the statement is considered issued and released to the public.

24. DRAFT RESOLUTIONS AND AMENDMENTS

In Closed Sessions, more than one Draft Resolution and Amendments may be on the floor at the same time. All the Draft Resolutions and Amendments shall be discussed simultaneously, yet the Council may approve only one resolution per topic. Before being introduced for debate, all Draft Resolutions and Amendments require the approval of the Secretariat. Draft Resolutions require five signatures and Amendments require three signatures to be introduced.

Once a Draft Resolution or an Amendment has been introduced, it can be withdrawn only if all signatories remove their signatures. Friendly Amendments are allowed. Before voting an Amendment, delegates can move for Roll Call Voting. Draft Resolutions are voted in open sessions; therefore, the Roll Call Voting is automatically in order.

SUBSTANTIVE MATTERS

25. DRAFT RESOLUTIONS

Before being introduced for debate, all Draft Resolutions require the approval of the Chair. All Draft Resolutions also require 5 signatures to be introduced and a simple majority to pass. Signing a Draft Resolution does not necessarily indicate that a delegation supports its ideas, but only that it desires to have the Draft Resolution discussed. A signatory of a Draft Resolution is not required to vote in favor of it. The Draft Resolution needs its signatories' support to continue on the floor. In the event of all signatories withdrawing their signatures, debate on the Draft Resolution is ceased. Other delegations may add their signatures to the Draft Resolution in the course of the debate. In general debate on a topic, there may be more than one Draft Resolution on the floor at the same time. All the Draft

Resolutions shall be discussed simultaneously on the General Speakers List. Only one Draft Resolution may be approved by the Committee. A Draft Resolution will remain on the floor until debate on that specific Draft Resolution is closed or another Draft Resolution on the topic passes. There will be no time limit to debate on one topic.

25.1 Motion for Introduction of Draft Resolution

Delegates may move for the Introduction of a Draft Revolution once it has been approved by the Chair and distributed to the Committee. This motion does not require a vote to pass, once accepted by the Chair it is automatically approved. The Chair will then grant the floor to one of the signatories of the Draft Resolution for the time required for them to read its operative clauses. After the Draft Resolution is read, the Chair asks for questions, which shall be limited to grammar or technical matters on the document and may not pertain to the substance of the Draft Resolution.

25.2 Motion for Introduction of an Amendment

Delegates may amend any Draft Resolution that is on the floor. Amendments may add, subtract, or modify parts of the Draft Resolution. An Amendment requires the approval of the Chair and the signatures of three members of the committee. Signing an Amendment does not constitute or require a vote in favor of it. After a Motion for the Introduction of an Amendment is approved by the Chair, debate on the General Speakers List shall be suspended and a Special Speakers List shall be established for and against the specific Amendment. A Motion for Closure of the Special Speakers List or a Motion to Close Debate on the Amendment will be in order after the Committee has heard at least two speakers in favor of the Amendment and two speakers against, when available. When debate is closed on the Amendment, the Committee shall proceed to an immediate vote, which may be a Roll Call Vote if so moved. Following the voting procedure, debate according to the General Speakers List shall resume. Once an Amendment is approved, it becomes part of the Draft Resolution, which means that it is no longer considered an Amendment.

25.3 Friendly Amendment

When all the current signatories of a Draft Resolution on the floor agree to modify any part of its operative clauses, they may do so through a Friendly Amendment, which has the same effects of a regular Amendment. A Friendly Amendment must be presented in a written format to the Chair for its approval. After approving it, the Chair will ask if all the signatories of the Draft Resolution support the Friendly Amendment and, if they do so, it will automatically become part of the Draft Resolution. In case any signatory is absent or

does not agree on the Friendly Amendment, it will be discarded. Yet, it may be presented again as a regular Amendment.

25.4 Procedure of Approval by Consensus

The resolution will be read aloud by one of the signatories. Delegations can suggest, if necessary, grammatical or technical corrections to the document (content-related questions cannot be altered). After, the Bureau will ask if any delegation opposes the Draft Resolution - this is not to happen, in general. If none, the resolution is approved and the discussion addresses the next topic, if there is one.

25.5 Procedure of Approval by Voting

In case there is not a consensus, the Draft Resolution is introduced to the debate if approved by the Bureau: from this moment on, the Draft becomes the sole focus of discussion of the committee, which is obliged to approve the document or reject it. Just after its introduction, the Draft is read aloud by one of the signatories, and the delegations can suggest, if necessary, grammatical or technical corrections to the document. When this process is completed, the committee returns to the normal flow of the debate.

25.6 Motion for Division of the Question

After debate has been closed and the Chair has started the voting procedures on a Draft Resolution, a delegate may move for the Operative Clauses of the Draft Resolution to be voted on separately. Perambulatory and Sub-Operative Clauses may not be divided this way. If a delegate moves for a Division of the Question, the Chair shall recognize two speakers in favor and two speakers against the Motion if available. A simple majority is needed for the Motion to pass (this is a procedural vote, with no abstentions allowed). If it does pass, a five-minute Unmoderated debate will be automatically granted to the Committee so that delegates can discuss, prepare, and present to the Chair, in written format, their proposals to divide the question. The Committee will hear two speakers in favor and two speakers against every proposal of division before voting it until one is approved. No abstentions are allowed in these votes, as they are procedural matters. If no proposals are approved by simple majority, the Draft Resolution shall be voted as a whole. When one of the proposals is approved, a separate vote shall be taken on each divided part to determine whether it shall be included in the Draft Resolution to be voted later. For the Operative Clauses to remain in the Draft Resolution, a simple majority of the votes is required. The substantive nature of this vote means abstentions are permitted.

26. MOTION FOR ROLL CALL VOTING

After debate has been closed on a Draft Resolution or Amendment, a delegate may move for a Roll Call Vote. In a Roll Call Vote, the Chair will recognize, in alphabetical order each voting delegate, who must state his/her vote. Delegates may vote in favor, against or abstain. Once recognized by the Chair, the motion for a Roll Call Voting is automatically approved and does not require a vote to pass. During a Roll Call Vote, delegates may choose to pass their turn of voting and wait for another roll call round to state their actual vote. However, delegates who pass their vote are not allowed to abstain from voting. Moreover, delegates are allowed to pass only once.

GUIDE ON WRITING RESOLUTIONS

27. DRAFT RESOLUTIONS

The United Nations does not pass "laws", it passes Resolutions. A Resolution is a way of bringing pressure upon Member States, of expressing an opinion on a pressing matter, or recommending some action to be taken by the UN or other agency. Draft Resolutions should not be introduced into formal session until they have circulated among other delegates to incorporate different perspectives and to build support. It is desirable for a Draft Resolution to be sponsored by several States or by an entire bloc. Delegates should not bring pre-written Resolutions to the Conference. Pre-written Resolutions are not only frowned upon by the Secretariat, but will inevitably alienate the other delegates in the committee. The process of writing Resolutions in committee with other delegates is designed to teach delegates the subtler forms of negotiations and concessions. Prefabricated Resolutions obviously pre-empt this process. When drafting and sponsoring a resolution, keep in mind that the wording will greatly influence its appeal. The Resolution should be clear, concise and specific. The substance should be well researched, and reflect the character and interests of the sponsorship nations. Being a signatory to a Resolution only means that delegates want to see it put on the floor; it does not indicate sponsorship or support and the signatory has no further obligations. For instance, you might be against a Draft Resolution but might want to see it debated to be able to convince other countries who have written the Draft Document. UN Resolutions follow a common format. A resolution in one long sentence, with commas and semi-colons used to separate the ideas and a period at the very end of the document. They should be single-spaced, with each line numbered in the left-hand margin. Resolutions consist of three main parts:

27.1 The Heading

The heading of the Draft Resolution should read as follows:

COMMITTEE: the name of the organ where it was introduced;

SUBJECT: the topic of the resolution;

SPONSORED BY: list of sponsoring nations. A document number will be given to the resolution as part of the heading and it will be referred to by its number for the remainder of the simulation.

27.2 The Perambulatory

Causes within the preamble of a Resolution, one will not find clauses proposing action or making substantive statements. The perambulatory causes explain the purpose of the resolution and state the main reasons for the suggestions to follow. This is where previous UN Resolutions are referred to and relevant precedents of international law are cited. The preamble may also include altruistic appeals to the common sense or humanitarian instincts of Member States regarding the Charter, the Universal Declaration of Human Rights, etc. Each clause begins with an italicized participle and is followed by a comma.

Affirming	Emphasizing	Having studied
Alarmed by	Expecting	Keeping in mind
Aware of	Fulfilling	Noting with
Bearing in mind	Fully alarmed	Noting with approval
Believing	Fully aware	Noting with deep concern
Confident	Fully believing	Noting with regret
Convinced	Further deploring	Noting with satisfaction
Declaring	Guided by	Observing
Deeply concerned	Having adopted	Reaffirming
Deeply convinced	Having considered	Realizing
Deeply disturbed	Having examined	Recalling
Deeply regretting	Having heard	Recognizing
Desiring	Having received	Welcoming

27.3 The Operative Clauses

The operative clauses list the recommendations for action, or state a favorable or unfavorable opinion regarding the existing situation. These actions can be as vague as a

denunciation of a certain situation or a call for negotiations, or specific as a call for a ceasefire or monetary commitment for a Project. Remember that only Security Council Resolutions are binding on Member States, the General Assembly and the Economic and Social Council can only make recommendations. Operative clauses begin with an active, present tense verb and are followed by a semicolon at the end of the sentence. The first word in each operative clause is italicized. Operative clauses are numbered, beginning with "1". The follow words are a partial list of appropriate terms for initiative operative clauses:

Accepts	Denounces	Further reminds
Accordingly	Deplores	Further requests
Approves	Designates	Further resolves
Authorizes	Draws the attention	Further urges
Calls	Emphasizes	Has resolved
Calls upon	Encourages	Notes
Commands	Endorses	Proclaims
Condemns	Expresses appreciation	Reaffirms
Confirms	Expresses its hope	Recommends
Congratulates	Further	Regrets
Considers	Further encourages	Reiterates
Decides	Further invites	Reminds
Declares	Further proclaims	Requests
Demands	Further recommends	Solemnly affirms

GUIDE ON THE OPERATION OF THE COMMITTEE

28. INTERNATIONAL COURT OF JUSTICE

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations, and it operates as a judicial body responsible for examining the legal disputes between different countries according to the principles and rules of international law. Within the simulation the ICJ focuses on legal argumentation, unlike other committees that are based primarily on diplomatic negotiation, the ICJ tends to be more structured with proceedings around oral and written arguments, questions from the judges, analysis from legal precedents and deliberation before the final decision. The simulation participants must base their intervention on legal reasoning and demonstrate familiarity with international law, treaties, principals and precedents.

The court is presided over by the judges who are responsible for analysing the arguments and participation during the deliberation that leads to the final judgment. During hearings the judges may question the parties to clarify their arguments, evidence, or interpretation of international law. After the oral proceedings, the judges will reach their conclusion to the case based on their deliberation and evaluation of the legal arguments presented. Therefore the functioning of the court depends on a distinction between those who present the arguments and those who evaluate them.

28.1 Roles

The function of each role at the ICJ simulation should read as follows:

Titular Judge: Responsible for the analysis of the case, they must examine the legal arguments, question participants and participate in the Court's deliberations.

Ad Hoc Judge: Responsible for bringing representation of the judicial tradition of each State to the judicial body ensuring procedural equality during deliberations. They perform judicial functions during proceedings and deliberations, also participating in the analysis of legal issues submitted to the Tribunal.

Agent: Responsible for formally leading the delegations, with the role of presenting political statements and the country's official requests to the Court, as well as setting forth arguments during oral hearings.

Co-Agent: Responsible for assisting in leading the delegation and ensuring compliance with formal requirements in defense submissions, while coordinating the legal team's strategy.

Lawyer: Responsible for the presentation of oral arguments by the prosecution or the defense. Lawyers are expected to base their arguments on relevant legal sources, precedents, treaties, and principles.

Legal Adviser: Responsible for conducting real-time research and the last-minute formulation of arguments, counter-arguments, and rebuttals, contributing to the coherence and legal rigor of the arguments presented by the team.

29. ORGANIZATION OF AMERICAN STATES

The Organization of American States (OAS) is a regional intergovernmental organization in which participants discuss issues of common interest and seek to develop relations through diplomatic negotiation. Its proceedings are based on the general rules established at this study guide, and the simulation must be conducted in Portuguese, with diplomatic decorum and respect to the authority of the Chair.

The committee begins with an opening session in which participants receive procedural guidance and deliver opening speeches before starting the debate. The chair, composed of two people, controls the speakers' list, establishes speaking times, recognizes participants, rules, points and motions while the delegates present their assigned positions and develop working papers to organize ideas and proposals under discussion. By the end these working papers may be restructured and fixed to the format of a resolution to be subject to the Chair's approval and voted by the delegates.

30. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

The United Nations Educational, Scientific and Cultural Organization (UNESCO) operates as a multilateral forum in which participants discuss matters of competence of the organization and seek solutions through debate, negotiation, and cooperation. Its proceedings are based on the general rules established at this study guide, and the simulation must be conducted in Portuguese, with diplomatic decorum and respect to the authority of the Chair.

The committee begins with an opening session in which participants receive procedural guidance and deliver opening speeches before starting the debate. The chair, composed of two people, controls the speakers' list, establishes speaking times, recognizes participants, rules, points and motions while the delegates present their assigned positions and develop working papers to organize ideas and proposals under discussion. By the end these working papers may be restructured and fixed to the format of a resolution to be subject to the Chair's approval and voted by the delegates.

PARTE TWO LASMUN's Study Guide

GUIDE ON WRITING RESOLUTIONS - COMMITTEES AND ITS GUIDE

INTERNATIONAL COURT OF JUSTICE

(ICJ)

APPLICATION OF THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM AND OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

(Ukraine vs. Russian Federation)

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1. ABSTRACT

The International Court of Justice has spent nearly a decade adjudicating one of the most politically charged disputes ever brought before it: the case concerning the International Convention for the Suppression of the Financing of Terrorism and the International Convention on the Elimination of All Forms of Racial Discrimination, filed by Ukraine against the Russian Federation in 2017. Over the course of its proceedings, the case has moved through distinct phases marked by both legal advances and setbacks, its development shaped at every turn by the wider political and security crises unfolding in Europe, most dramatically by the escalation of the Russian-Ukrainian conflict into full-scale war in 2022, an event that reshaped the trajectory and, ultimately, the outcome of the litigation itself.

Formally registered on the General List of the Court as Case No. 166, the dispute was submitted by Ukraine on 16 January 2017 against the Russian Federation, invoking two multilateral treaties to which both States are parties: the International Convention for the Suppression of the Financing of Terrorism of 1999 (hereinafter "ICSFT") and the International Convention on the Elimination of All Forms of Racial Discrimination of 1965 (hereinafter "CERD"). Although the two conventions address distinct subject matters, one concerning international terrorism and its financing, the other concerning racial and ethnic discrimination, Ukraine chose to combine both claims in a single Application because, in its view, they reflected a single, coordinated pattern of conduct by the Russian Federation following the political upheaval of 2013–2014: on the one hand, direct and indirect support for armed groups operating in the Donbas region of eastern Ukraine, and on the other, a systematic policy of discrimination against the Crimean Tatar and ethnic Ukrainian communities in the Crimean Peninsula after its annexation by Russia.

Since its institution, the case has traversed the full architecture of contentious proceedings before the Court: a request for the indication of provisional measures (resolved by the Order of 19 April 2017), a phase of preliminary objections raised by the Respondent (resolved by the Judgment of 8 November 2019), and, finally, a full merits phase, culminating in the Judgment of 31 January 2024. Each of these stages is examined in detail throughout this paper, contextualized against the backdrop of the broader Russian-Ukrainian conflict, and connected to their implications for the practice of international adjudication, the interpretation of counter-terrorism and anti-discrimination treaties, and, most importantly for the purposes of this committee, the diplomatic and legal strategies available to delegations

representing the fifteen (or, depending on the composition of the bench, sixteen, including judges *ad hoc*) judges called upon to decide it.

Three further sections carry the analysis forward. Section 2 traces the historical context behind the dispute, following the chain of events from the Revolution of Dignity of 2013–2014 through the annexation of Crimea and the outbreak of hostilities in Donbas, before turning to the legal framework of the two conventions invoked. Section 3 then confronts what may be described as the "onus of the crisis", the substantive burden of harm, evidence, and legal characterization that the case placed upon the Parties, separated into its ICSFT and CERD components, together with the intervening impact of Russia's full-scale invasion of Ukraine in February 2022. Section 4 reconstructs the international actions taken in response to the dispute, from the Court's own Order and Judgments to the reactions of the wider international community, including United Nations organs and civil society. A closing section draws out the considerations most relevant to the committee's simulation of the case.

2. HISTORICAL CONTEXT

The sequence of political, military, and diplomatic events that gave rise to the dispute between Ukraine and the Russian Federation is indispensable for delegates to grasp, since the legal arguments advanced by both Parties before the Court are inseparable from the political narrative each side constructs about the years 2013 to 2017, and, subsequently, about the escalation that followed in 2022. The subsections that follow trace, respectively, the domestic crisis in Ukraine and the annexation of Crimea; the war in Donbas and the emergence of the separatist entities named in Ukraine's Application; and the legal instruments, the ICSFT and the CERD, that Ukraine chose as the jurisdictional basis for its claims.

2.1 The Revolution of Dignity and the Annexation of Crimea (2013–2014)

The origins of the present case cannot be dissociated from the political crisis that erupted in Ukraine in late 2013. On 21 November 2013, the government of President Viktor Yanukovych announced that it would suspend preparations for the signature of the Ukraine–European Union Association Agreement, opting instead to pursue closer economic ties with Russia. This decision triggered a wave of demonstrations in Kyiv's Independence Square (Maidan Nezalezhnosti) that became known as "Euromaidan." Over the following three months, the protests intensified into what Ukrainian sources term the "Revolution of

Dignity," culminating in violent clashes between security forces and demonstrators in February 2014, in which scores of protesters were killed. Facing the collapse of his political base and the prospect of impeachment, Yanukovych fled Kyiv on 21–22 February 2014; the Ukrainian Parliament (Verkhovna Rada) subsequently voted to remove him from office and restore the 2004 Constitution, leading to the formation of an interim government and the election of Petro Poroshenko as President in May 2014.

The change of government in Kyiv was not accepted by all segments of Ukrainian society, particularly in regions with substantial ethnic Russian populations, such as the Autonomous Republic of Crimea and parts of eastern and southern Ukraine. Taking advantage of the political vacuum, armed men without insignia, subsequently acknowledged by President Vladimir Putin to have been Russian military personnel, began seizing strategic sites across the Crimean Peninsula on 27 February 2014, including the regional parliament building in Simferopol and key airports and communication centers. Under the effective control of these forces, the Crimean parliament replaced its government with a pro-Russian administration headed by Sergey Aksyonov and scheduled a referendum on the status of the peninsula. That referendum, held on 16 March 2014 under military occupation and without international observation, was reported by the Russian-installed authorities to have produced overwhelming support for secession from Ukraine and accession to Russia. Two days later, on 18 March 2014, President Putin and Crimean officials signed the Treaty on Accession of the Republic of Crimea to the Russian Federation, formally incorporating Crimea and the city of Sevastopol as constituent entities of Russia.

The international response to these events was immediate and overwhelmingly critical of Russia's conduct. On 27 March 2014, the United Nations General Assembly adopted Resolution 68/262 on the "Territorial Integrity of Ukraine" by a vote of 100 in favor, 11 against, and 58 abstentions. The resolution affirmed the General Assembly's commitment to Ukraine's sovereignty and territorial integrity within its internationally recognized borders, declared that the 16 March referendum had "no validity" and could not form the basis for any change in Crimea's status, and called upon States, international organizations, and specialized agencies not to recognize any alteration of that status. This non-recognition policy has been reaffirmed by subsequent General Assembly resolutions on the "Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol" (including Resolution 71/205, expressly cited in Ukraine's Application) and on the "militarization" of the peninsula. Neither Ukraine nor the vast majority of the international community has

recognized Russian sovereignty over Crimea; Ukraine treats the peninsula as territory under temporary Russian occupation.

It is precisely this annexation, and the administrative and social transformation of Crimea that followed it, that forms the factual basis of the CERD component of Ukraine's Application. According to Ukraine, the new authorities in Crimea proceeded, from 2014 onward, to marginalize the Crimean Tatar and ethnic Ukrainian communities, two groups that, unlike the ethnic Russian majority of the peninsula, had generally supported the continuation of Ukrainian sovereignty or, in the case of many Crimean Tatars (a Muslim, Turkic-speaking minority indigenous to the peninsula and historically persecuted under Stalinist deportation policies), had long-standing grievances against Moscow. This is the backdrop against which the alleged banning of the *Mejlis* (the historic representative body of the Crimean Tatar people), the suppression of Ukrainian-language education, restrictions on cultural gatherings, and allegations of enforced disappearances and violence discussed in Section 3.2 below took place.

2.2 The War in Donbas and the Emergence of Separatism in Eastern Ukraine

While the Crimean crisis unfolded in the south, a parallel and interconnected crisis developed in the eastern Ukrainian regions of Donetsk and Luhansk (together, "Donbas"), which also possess large ethnic Russian and Russian-speaking populations. Beginning in April 2014, armed groups seized government buildings in cities such as Donetsk, Luhansk, and Sloviansk, proclaiming the self-styled "Donetsk People's Republic" (DPR) and "Luhansk People's Republic" (LPR). Ukraine, together with the majority of Western governments, has consistently characterized these entities as illegal armed groups sustained, armed, trained, and, in significant part, directed by the Russian Federation, which it accuses of pursuing in Donbas a strategy analogous to, though distinct in method from, the one it pursued in Crimea: using proxy and covert means to fracture Ukrainian sovereignty over contested territory. Russia, for its part, has consistently denied direct control over the DPR and LPR, characterizing the conflict as a Ukrainian civil war rooted in local grievances and, at the same time, insisting on its right to protect ethnic Russian and Russian-speaking populations from what it describes as discriminatory or hostile policies of the Kyiv government.

Ukraine's Application to the Court catalogs a series of specific violent episodes that it attributes to the DPR, the LPR, and associated armed groups (which its pleadings also refer to as the "Kharkiv Partisans"), and for which it holds the Russian Federation internationally

responsible on account of its alleged financing, arming, and training of these groups. The most prominent of these episodes is the shooting-down, on 17 July 2014, of Malaysia Airlines Flight MH17, a civilian airliner traveling from Amsterdam to Kuala Lumpur that was struck by a surface-to-air missile over territory then controlled by the DPR, killing all 298 people on board. Ukraine also cites the shelling of a civilian checkpoint near Volnovakha in January 2015, the shelling of a residential area in Mariupol, and an indiscriminate attack on a residential neighborhood in Kramatorsk, among other incidents, as instances in which Russian-backed proxies "described the attack as a knowing and targeted attack on civilians." It was these episodes, framed not merely as violations of international humanitarian law but specifically as acts of terrorism financed, in Ukraine's view, by the Russian State, that led Ukraine to invoke the ICSFT, a treaty whose compromissory clause (Article 24) allows disputes concerning its interpretation or application to be referred to the Court after prior attempts at negotiation and arbitration have failed.

The armed conflict in Donbas, often referred to as a "frozen conflict" between 2015 and 2022 despite recurrent ceasefire violations, was nominally addressed through the Minsk Protocol (September 2014) and Minsk II Agreement (February 2015), brokered by France and Germany in the so-called "Normandy Format." These agreements, however, never achieved a durable political settlement, and low-intensity hostilities persisted along the line of contact for eight years, a period that overlaps almost entirely with the pendency of the ICJ proceedings discussed in this paper. It was against this backdrop of unresolved conflict that, on 21 February 2022, Russia formally recognized the "independence" of the DPR and LPR, and on 24 February 2022 launched a full-scale invasion of Ukraine, an event whose implications for the ICJ case.

2.3 The Legal Framework: The ICSFT and the CERD

Ukraine's decision to frame its claims through the ICSFT and the CERD, rather than through instruments more directly associated with the use of force (such as the UN Charter) or with the crime of genocide (the 1948 Genocide Convention, which forms the basis of the *separate* case of *Ukraine v. Russian Federation* concerning the Genocide Convention, registered in 2022 as a distinct proceeding), reflects a deliberate jurisdictional strategy. Russia has never accepted the compulsory jurisdiction of the Court under Article 36(2) of the ICJ Statute (the "Optional Clause"), and it maintains reservations excluding the Court's jurisdiction under several treaties it has ratified. However, both the ICSFT (Article 24,

paragraph 1) and the CERD (Article 22) contain compromissory clauses allowing any State party to refer to the Court a dispute concerning the Convention's interpretation or application, provided that prior negotiation, and, in the case of the ICSFT, an unsuccessful attempt at arbitration, has taken place. Since Russia and Ukraine are both parties to these conventions without relevant reservations excluding this specific jurisdictional avenue, this dual-treaty strategy provided Ukraine with the only available compulsory jurisdictional basis to bring its broader grievances against Russia before the Court in 2017.

The ICSFT, adopted by the UN General Assembly in 1999 and in force for both Parties since the early 2000s, criminalizes the direct or indirect provision or collection of funds with the intention or knowledge that they will be used to carry out acts of terrorism as defined in the Convention. Crucially for the outcome of the case (discussed in Section 4.3), Article 1 of the Convention defines "funds" as "assets of every kind," and Article 2 establishes the elements of the underlying offence, including the requirement of intent or knowledge regarding the use of the funds for a "predicate act" of terrorism. The Convention also imposes on States parties a set of positive obligations, notably: to freeze funds suspected of being used for terrorism financing (Article 8); to investigate facts related to alleged offenders present in their territory (Article 9); to submit cases to prosecution where appropriate (Article 10); to afford one another the greatest measure of assistance in connection with criminal investigations (Article 12); and to cooperate in the prevention of the offences set forth in Article 2, taking "all practicable measures" for that purpose (Article 18). Ukraine's claims under the ICSFT were built around alleged violations of each of these five provisions.

The CERD, adopted in 1965 and one of the foundational instruments of the international human rights treaty system, obliges States parties to engage in no act or practice of racial discrimination (Article 2), and to guarantee, without distinction as to race, color, or national or ethnic origin, the equal enjoyment of a broad catalogue of civil, political, economic, social, and cultural rights enumerated in Article 5, including the right to equal treatment before tribunals, the right to security of person, political rights, and rights relating to education and culture. Ukraine's claims under the CERD were built around the proposition that Russia, since assuming *de facto* control over Crimea in 2014, engaged in a "policy and pattern" of racial discrimination against the Crimean Tatar and ethnic Ukrainian communities of the peninsula, a formulation that, as discussed in Section 4.2, proved significant for the Court's approach to the admissibility of Ukraine's claims, since it allowed

Ukraine to frame individual incidents as illustrations of a broader "campaign," rather than as isolated violations requiring exhaustion of local remedies on behalf of specific injured individuals.

3. ONUS OF THE CRISIS

At the substantive core of the dispute lie the specific harms alleged, the legal characterizations advanced by each Party, and the burden these allegations placed on the Court's fact-finding function. The pages that follow separate the analysis by convention (ICSFT and CERD) before turning to the disruptive effect that Russia's full-scale invasion of February 2022 had upon the proceedings themselves.

3.1 Allegations under the ICSFT: The Financing of Terrorism in Eastern Ukraine

At the heart of Ukraine's ICSFT claim lay the accusation that the Russian Federation, through its State organs, agents, and other persons and entities under its instruction or control, supplied funds, including, in Ukraine's submission, in-kind contributions of weapons and training, to the DPR, the LPR, and associated armed groups, in the knowledge that these groups would use such support to commit acts of terrorism against Ukrainian civilians. Ukraine requested the Court to declare Russia internationally responsible, by virtue of its sponsorship of terrorism, for the acts committed by its proxies, expressly naming the downing of Flight MH17, the shelling of Volnovakha, Mariupol, and Kramatorsk, and the bombing of civilians in Kharkiv. Ukraine further alleged that Russia failed to identify, detect, freeze, or seize funds destined for terrorism financing (Article 8); failed to investigate persons within its territory suspected of financing terrorism, despite having received more than twenty formal requests and *notes verbales* from Ukraine identifying specific individuals and transactions (Article 9); failed to submit these cases for prosecution or extradition (Article 10); failed to provide Ukraine with the "greatest measure of assistance" in connection with related criminal investigations (Article 12); and, more broadly, failed to take "all practicable measures" to prevent the financing of terrorism from occurring within or through its territory, including by declining to designate the DPR and LPR as terrorist or extremist entities under Russian domestic law (Article 18).

Russia's central line of defense, both at the provisional measures stage and throughout the following seven years of litigation, was that the ICSFT imposes on States a comparatively

narrow set of *cooperative* and *preventive* obligations, not a general prohibition on State financing of armed groups, still less an instrument through which a State's own direct responsibility for acts of terrorism could be established. Russia argued that Ukraine had not demonstrated that the civilian casualties it cited resulted from acts of terrorism as opposed to the ordinary, if tragic, incidents of an armed conflict in which Russia contended; Ukrainian forces themselves also caused civilian harm through indiscriminate shelling. Russia further argued that the term "funds" under Article 1 of the ICSFT could not be read so broadly as to encompass weapons, ammunition, or military training, since the Convention's object and purpose is specifically the financing aspect of terrorism, not its material or logistical support. This latter interpretive dispute, over the scope of the term "funds", proved decisive to the eventual outcome of the case, discussed in Section 4.3, and is likely to be one of the central legal-technical questions that delegates representing the bench will need to grapple with during the LASMUN simulation.

3.2 Allegations under the CERD: Cultural and Racial Discrimination in Crimea

Ukraine's CERD claims addressed a materially different set of facts, geographically centered on the Crimean Peninsula rather than the Donbas front line. Ukraine alleged that, since 2014, the Russian Federation, acting through its own organs, through the *de facto* authorities administering the occupation of Crimea, and through other agents under its direction, had engaged in a systematic policy of "cultural erasure" targeting two groups perceived as opponents of the annexation: the Crimean Tatar community and ethnic Ukrainians residing in Crimea. The specific measures cited in Ukraine's pleadings included: the April 2016 ban on the activities of the *Mejlis of the Crimean Tatar People*, the historic executive body representing the community, on the grounds that it had been classified an "extremist organization" by Crimean courts; the suppression of Ukrainian- and Crimean-Tatar-language education, evidenced by a sharp decline in the number of students receiving instruction in the Ukrainian language between 2014 and 2016; restrictions on the ability of Crimean Tatars and ethnic Ukrainians to gather for culturally significant commemorations, such as the annual observance of the *Sürgün* (the 1944 Soviet deportation of the Crimean Tatars); interference with the operation of Ukrainian-language and Crimean-Tatar media outlets; and, in its most severe iteration, a pattern of disappearances and killings of prominent Crimean Tatar activists and leaders, Ukraine specifically named Reshat Ametov, Timur

Shaimardanov, and Ervin Ibragimov as victims whose disappearances it said Russia had failed to adequately investigate.

Russia's principal line of defense under the CERD was not to deny that the measures in question had occurred, but to contest their legal characterization as *racial* or *ethnic* discrimination. Russia argued, and the Court would eventually largely accept, that many of the contested measures, including the Mejlis ban, were more accurately understood as responses to the *political* activities and statements of specific individuals or organizations rather than as differentiations based on ethnic or national origin as such; the CERD, Russia noted, does not prohibit States from restricting organizations on grounds of national security or public order, provided such restrictions are not themselves grounded in racial or ethnic criteria. This distinction between political and ethnic motivation, and the corresponding evidentiary burden it placed on Ukraine to demonstrate a discriminatory *purpose* or *disparate effect* connected to prohibited grounds, rather than a purely political rationale, became one of the most consequential doctrinal battlegrounds of the merits phase, addressed further in Section 4.3.

3.3 The Impact of the 2022 Full-Scale Invasion on the Proceedings

Although the case was filed in 2017, five years before Russia's full-scale invasion of Ukraine, the events of February 2022 had a direct and material impact on its final resolution. Two developments proved particularly significant. First, on 21 February 2022, Russia formally recognized the DPR and LPR as independent States, territories over which the Court's 2017 Order on provisional measures was, by its own terms, intended to prevent an aggravation of the dispute. Second, on 24 February 2022, Russia launched what it termed a "special military operation" against Ukraine, invoking, among other justifications, alleged acts of "genocide" being perpetrated by Ukraine against Russian-speaking populations in Donbas, an allegation that Ukraine would go on to challenge in a wholly separate proceeding before the Court under the Genocide Convention (registered the same week, in a case that a subsidiary body of this committee may also encounter, but which is legally and procedurally distinct from Case No. 166).

For the purposes of the present case, the Court treated these two 2022 developments not as new causes of action requiring a fresh application, but as evidence relevant to Ukraine's pre-existing claim that Russia had violated the non-aggravation obligation contained in the Court's own 2017 Order on provisional measures. In its 2024 Judgment, the

Court found that, "by recognizing the DPR and the LPR as independent States and by launching [the] 'special military operation' against Ukraine," Russia had violated its obligation not to aggravate or extend the dispute, a rare instance of the Court expressly linking the broader, ongoing war to a discrete procedural obligation arising from a case filed years before the invasion began. This finding illustrates a broader point of relevance to the committee: cases before the ICJ, unlike a snapshot dispute resolved at a single moment in time, often span years or decades, during which the surrounding political and military reality can shift dramatically, requiring the Court, and the Parties' legal teams, to continuously reassess how earlier factual allegations interact with a rapidly evolving armed conflict.

4. INTERNATIONAL ACTIONS

The substantive allegations examined above set the stage for the procedural history of the case before the Court itself, and for the broader reactions of the international community that followed. This sequence of decisions is essential for delegates preparing to simulate the deliberations of the Court, since each phase produced its own dispositif, its own set of separate and dissenting opinions, and its own diplomatic reverberations.

4.1 The Request for Provisional Measures and the Order of 19 April 2017

Simultaneously with its Application, Ukraine submitted a request for the indication of provisional measures under Article 41 of the ICJ Statute, seeking urgent interim protection pending the Court's final decision. Ukraine requested, *inter alia*, that Russia be ordered to refrain from any action aggravating the dispute, to exercise control over its border to prevent the flow of weapons to armed groups in Ukraine, to halt support to the DPR, LPR, and associated groups, to suspend the ban on the Mejlis, and to take steps to halt the disappearance of Crimean Tatar individuals.

In its Order of 19 April 2017, the Court drew a sharp distinction between the two components of Ukraine's request. With respect to the ICSFT, the Court found that Ukraine had not, at that preliminary stage, put before it evidence sufficient to make it *plausible* that the conditions required for the indication of provisional measures were met, noting in particular, the absence of sufficiently specific evidence that the elements of "funds" and "knowledge" required by Article 2 of the Convention were present. Consequently, the Court declined to indicate any provisional measure in relation to the terrorism-financing

allegations, a decision that foreshadowed, in significant respects, the Court's ultimately restrictive interpretation of the Convention seven years later.

With respect to the CERD, by contrast, the Court found that at least some of Ukraine's claims were plausible and indicated two measures pursuant to its power, under Article 75(2) of the Rules of Court, to order measures other than those specifically requested: it required Russia to (a) refrain from maintaining or imposing limitations on the ability of the Crimean Tatar community to conserve its representative institutions, "including the Mejlis," and (b) ensure the availability of education in the Ukrainian language. Notably, the Court did not adopt Ukraine's broader requested measures concerning enforced disappearances or a general prohibition on racial discrimination, reflecting the traditionally cautious and narrowly tailored character of ICJ provisional measures orders. Several judges appended individual opinions to the Order; Judge Tomka, for instance, issued a declaration criticizing the first measure as going "too far" in effectively requiring Russia to overturn decisions of its own domestic courts (which had upheld the Mejlis ban on grounds of "extremism") without the Court having engaged with the substance of those judicial findings, and questioning whether the situation displayed the requisite urgency.

4.2 The Judgment on Preliminary Objections of 8 November 2019

Following the exchange of the Parties' initial written pleadings (Ukraine's Memorial and Russia's Counter-Memorial, the latter's submission having been the subject of an extension of time-limits in July 2020, although, chronologically the preliminary objections phase and its judgment preceded this later merits-pleading schedule), Russia raised a series of preliminary objections challenging the Court's jurisdiction and the admissibility of Ukraine's claims. Public hearings on these objections were held from 3 to 7 June 2019 under the presidency of Judge Abdulqawi Yusuf.

In its Judgment of 8 November 2019, the Court substantially rejected Russia's objections and confirmed its jurisdiction to entertain Ukraine's claims under both conventions, while narrowing certain aspects of the dispute. On the ICSFT, the Court confirmed that Ukraine had made a genuine attempt to negotiate with Russia, noting the exchange of numerous diplomatic communications and Ukraine's 2016 proposal to submit the dispute to arbitration, a proposal to which Russia had responded only partially and belatedly, such that the six-month period contemplated by Article 24 for referral to the Court, absent agreement on the arbitration's organization, had duly elapsed. The Court rejected

Russia's argument that the ICSFT's cooperative obligations could never, as a matter of treaty interpretation, extend to conduct amounting to a State's own alleged direct financing of terrorism, holding this to be a question going to the merits rather than to jurisdiction. On the CERD, the Court confirmed its jurisdiction under Article 22 on essentially the same negotiation-based reasoning (noting more than twenty exchanged diplomatic notes and three rounds of bilateral negotiation), and significantly for the shape the merits phase would later take, held that Ukraine's claim, framed as an allegation of an "overall pattern of conduct" or "campaign of racial discrimination" rather than as the adoption of the cause of specific injured nationals, was admissible without a prior requirement that Ukraine exhaust local remedies on behalf of individual victims. The Judgment produced several notable separate and dissenting opinions, including a dissenting opinion by Vice-President Xue and separate opinions by Judges Tomka and Cançado Trindade, several of which grappled with the proper limits of State consent to compulsory jurisdiction and with the interpretive latitude the Court should extend to the ICSFT's cooperative obligations. Public hearings on the merits followed from 6 to 14 June 2023.

4.3 The Judgment on the Merits of 31 January 2024

After more than six years of written and oral proceedings, the Court delivered its final Judgment on 31 January 2024, under the presidency of Judge Joan Donoghue. The outcome was, in the assessment of most commentators and of the Parties themselves, a mixed and narrow result that fell well short of the sweeping vindication either Party had sought.

On the ICSFT, the Court adopted the restrictive interpretation of "funds" that Russia had advocated since the provisional measures phase: relying on the ordinary meaning of the term, the object and purpose of the Convention, and its *travaux préparatoires*, the Court concluded that "funds," as used in Article 2, refers exclusively to resources possessing monetary or financial character, and does *not* extend to the means used to commit acts of terrorism, including weapons, ammunition, or training. This finding removed from the scope of the case the supply of weapons that Ukraine alleged had enabled the downing of Flight MH17 and the shelling incidents cited in its Application, since Ukraine's allegations concerning those specific episodes rested on the transfer of matériel rather than of money as such. Consequently, the Court did not rule on Russia's responsibility for MH17 or for the shelling of Volnovakha, Mariupol, or Kramatorsk as such. By a vote of thirteen to two, however, the Court found that Russia had violated Article 9, paragraph 1, of the ICSFT,

holding that certain of Ukraine's diplomatic communications had provided sufficiently specific and substantiated allegations to trigger Russia's obligation to investigate, and that Russia had failed to do so; the Court declared that Russia continues to be required to undertake such investigations. The Court rejected Ukraine's claims under Articles 8, 10, 12, and 18, finding in each instance that the evidentiary threshold required to establish "reasonable grounds to suspect" terrorism financing, or a specific, provable failure to take practicable preventive measures, had not been met.

On the CERD, the Court likewise adopted a predominantly restrictive approach. It rejected Russia's "clean hands" defense as inapplicable to inter-State proceedings of this nature, but then proceeded to reject nearly all of Ukraine's substantive allegations on the ground that the measures complained of the Mejlis ban, restrictions on cultural gatherings, the citizenship régime imposed in Crimea, and incidents of physical violence against Crimean Tatars and ethnic Ukrainians had not been convincingly shown to be motivated by, or to have a legally cognizable disparate effect based on, ethnic or national origin as opposed to political opposition to the Russian administration. The single substantive exception concerned education: the Court found that the drastic decline in access to Ukrainian-language schooling in Crimea between 2014 and 2016 produced a disparate adverse effect on ethnic Ukrainian families that Russia had failed to justify or mitigate, and accordingly declared Russia in violation of Articles 2(1)(a) and 5(e)(v) of the CERD. In addition, and importantly, the Court separately found that Russia had violated the 2017 Order on provisional measures both by maintaining the ban on the Mejlis notwithstanding the Court's earlier indication, and, as noted in Section 3.3, by recognizing the DPR/LPR and launching the 2022 invasion, which the Court characterized as a breach of the obligation not to aggravate the dispute. Critically, the Court declined to award Ukraine any of the substantial remedies it had requested, including monetary compensation, "moral damages," and specific corrective measures concluding in each instance that a declaratory finding of violation constituted "adequate satisfaction," and that no further remedy was "necessary or appropriate." The Judgment attracted a considerable number of individual opinions, including a dissenting opinion by Judge Sebutinde, separate opinions by Judges Bhandari, Iwasawa, and Charlesworth, a declaration by Judge Brant, and a separate opinion by Judge *ad hoc* Pocar, several of which argued that the majority had applied an unduly narrow evidentiary standard to Ukraine's CERD claims and had understated the cumulative, pattern-based character of the discrimination Ukraine alleged.

4.4 Reactions of the International Community

The 2024 Judgment generated substantial and polarized reactions. Ukraine's Ministry of Foreign Affairs and its legal representatives, including Agent Anton Korynevych, emphasized the historic and symbolic significance of the ruling, noting that this was, in the words of Ukrainian officials, "the first time that officially, legally Russia is called a violator of international law" by the Court, given the finding of violations under both the ICSFT and the CERD, however narrow. The Russian Ministry of Foreign Affairs, conversely, issued statements emphasizing that the Court had rejected the large majority of Ukraine's claims, had not attributed any responsibility for MH17 or the other cited attacks, and crucially for Russia's broader diplomatic and financial position had not ordered any form of compensation, thereby denying Ukraine any judicial basis to pursue the confiscation of frozen Russian State assets abroad by reference to this case.

Civil society organizations were, for their part, largely critical of the Judgment's limited scope. The International Federation for Human Rights (FIDH) and its Ukrainian partner organizations, while welcoming the recognition of violations under both conventions, expressed disappointment that the Court had not addressed the "broader implications of Russia's actions since the beginning of the conflict" and had applied what they characterized as an unduly conservative interpretation of both treaties a critique echoed extensively in academic commentary, including analyses published in the *American Journal of International Law* and on the *EJIL:Talk!* blog, several of which described the case as a demonstration of the structural difficulties inter-State human-rights litigation faces before the Court, particularly regarding fact-finding standards and the near-total absence of a developed reparations jurisprudence for treaty breaches of this kind. Commentators broadly agreed that, from a strictly quantitative standpoint, Ukraine "lost" on the great majority of the claims it had originally advanced in 2017, a fact of considerable relevance for delegates simulating either Party's position, or the deliberations of the bench, since it illustrates the significant gap that frequently exists between the political narrative surrounding an international dispute and the comparatively narrow, treaty-text-bound findings a court of limited jurisdiction is institutionally equipped to produce.

5. FINAL CONSIDERATIONS

The case of the *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All*

Forms of Racial Discrimination (Ukraine v. Russian Federation) stands as one of the most significant, and most instructive, contentious proceedings brought before the International Court of Justice in the past decade. Its seven-year trajectory from the political rupture of the Revolution of Dignity and the annexation of Crimea in 2014, through the drawn-out war in Donbas, to the full-scale Russian invasion of Ukraine in 2022 that unfolded while the case was still pending offers a rare window into how international adjudication interacts with, and is reshaped by, an evolving armed conflict occurring in real time around it.

Crucially, this trajectory should not be simulated as a bilateral confrontation to be relitigated solely between two delegations. The bench that decided Case No. 166 was composed of fifteen permanent judges of different nationalities, elected precisely so that the Court might reflect, in the terms of Article 9 of its Statute, "the main forms of civilization and of the principal legal systems of the world," together with two judges *ad hoc* appointed respectively by Ukraine and by the Russian Federation to sit for the purposes of this specific dispute. This committee is expected to reproduce that same plurality: the great majority of delegates will not act as advocates for Kyiv or Moscow, but as judges who are nationals of dozens of other States across Africa, Asia, Latin America, Europe, and Oceania each bringing to the bench a distinct legal tradition (common law, civil law, Islamic law, or mixed systems), a distinct diplomatic relationship with the two Parties, and, inevitably, a distinct set of national interests in the precedent this case may set for the international law of terrorism financing, minority protection, and the legal consequences of an ongoing armed conflict. Delegates should therefore prepare not merely to master the case's substance, but to inhabit the specific judicial persona and the foreign-policy posture of the State they have been assigned weighing, for instance, how a judge from a State that has itself confronted separatist insurgencies, or that maintains close economic ties with Russia, or that has historically championed the compulsory jurisdiction of human-rights treaties, might each approach the same interpretive question differently, while still being bound by the requirement of judicial independence that Article 2 of the Statute demands of every member of the Court, regardless of nationality.

Those interpretive tensions remain genuinely open for debate and should not be treated as settled simply because the real Court resolved them one way in 2024. Delegates sitting as judges should be ready to engage with and, if their legal reasoning and their State's interests so warrant, to depart from the majority's restrictive reading of the term "funds" under the ICSFT; the evidentiary standard required to establish a discriminatory purpose or

effect under the CERD, particularly where contested measures can plausibly be characterized as political rather than ethnic in motivation; and the legal consequences that should attach to a State's breach of a provisional measures order in the context of an active and escalating armed conflict. The delegations formally representing Ukraine and the Russian Federation as Parties to the case together with any delegations designated to intervene as interested third States should be ready to draw on the extensive factual record and procedural history summarized in this paper to build persuasive arguments before a bench that, unlike the historical Court, need not reach the same conclusions twice.

Formally, the case remains before the Court only in the limited sense that Russia continues to be under an obligation, per the 2024 Judgment, to investigate substantiated allegations of terrorism financing. Substantively, however, that Judgment closed this particular chapter of the broader legal confrontation between the two States even as the underlying conflict, and Ukraine's parallel case against Russia under the Genocide Convention, continue to unfold. It is precisely in the space between that formal closure and that substantive continuation that this committee's simulation is meant to operate: revisiting, through the deliberation of a bench that represents the world's plurality of States and legal traditions, questions that the international community itself has never ceased to debate.

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ORGANIZAÇÃO DOS ESTADOS AMERICANOS

(OEA)

TRÁFICO DE PESSOAS NO CONTINENTE AMERICANO:

Desafios Regionais e Cooperação Interamericana

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1. INTRODUÇÃO

O tráfico de pessoas constitui uma grave violação dos direitos humanos e é um fenômeno transnacional que envolve aspectos criminais, sociais, econômicos, migratórios e institucionais. Embora frequentemente associado à exploração sexual, apresenta abrangência mais ampla, podendo envolver trabalho forçado, escravidão ou práticas análogas, servidão e remoção de órgãos. Sua ocorrência está relacionada ao aproveitamento de situações de vulnerabilidade, agravadas por fatores como pobreza, desigualdade socioeconômica, precarização do trabalho, discriminação, deslocamentos populacionais e fragilidades institucionais. No âmbito do Direito Internacional, a principal referência normativa é o Protocolo de Palermo, adotado em 2000, cujo artigo 3º define o tráfico a partir de atos como recrutamento, transporte, transferência, alojamento ou acolhimento realizados mediante determinados meios e com finalidade de exploração.

Nas Américas, a relevância do tema está relacionada às desigualdades estruturais, à diversidade econômica, social e política e à intensidade dos fluxos de mobilidade humana, fatores que podem ampliar a exposição de determinados grupos a situações de exploração. Nesse contexto, também é fundamental distinguir o tráfico de pessoas do contrabando de migrantes. Embora ambos possam envolver deslocamentos e atuação transnacional, o contrabando está relacionado à facilitação da entrada irregular em determinado Estado mediante benefício financeiro ou material, enquanto o tráfico possui como elemento central a finalidade de exploração e pode ocorrer mesmo sem a passagem por fronteiras internacionais.

Diante da dimensão transnacional do problema, a Organização dos Estados Americanos constitui um espaço relevante para o diálogo e a cooperação regional em áreas relacionadas à segurança, aos direitos humanos, à migração e à justiça. O intercâmbio de informações, a cooperação jurídica, o fortalecimento institucional, a prevenção e a proteção das vítimas são elementos importantes para o enfrentamento do tráfico de pessoas no continente. Nesse sentido, o presente paper tem como objetivo analisar o tráfico de pessoas nas Américas, considerando os desafios regionais e os mecanismos de cooperação interamericana destinados ao seu enfrentamento. A análise será desenvolvida a partir de quatro dimensões: segurança e combate à criminalidade transnacional; direitos humanos e proteção das vítimas; mobilidade humana e relação entre tráfico e contrabando de migrantes; e atuação institucional da Organização dos Estados Americanos, buscando compreender os

principais fatores associados ao problema e as possibilidades de construção de respostas regionais integradas.

2. CONTEXTO HISTÓRICO

A compreensão do tráfico de pessoas no continente americano exige considerar tanto a formação histórica das práticas de exploração humana quanto as transformações jurídicas e sociais que conduziram à construção do conceito atualmente reconhecido pelo Direito Internacional. Embora o tráfico de pessoas, enquanto categoria jurídica, tenha sido consolidado apenas no período contemporâneo, suas bases históricas estão relacionadas a sistemas de escravidão, servidão, exploração laboral e violência que, durante séculos, restringiram a liberdade e a autonomia de diferentes populações. Nas Américas, essas estruturas estiveram profundamente associadas ao processo de colonização, à escravização de povos africanos e à exploração de populações indígenas. A análise histórica é, portanto, fundamental para compreender que a exploração humana não constitui um fenômeno recente, mas que suas formas, mecanismos e instrumentos de enfrentamento foram modificados ao longo do tempo.

2.1 Evolução histórica do tráfico de pessoas e sua definição internacional

Durante o período colonial, a exploração assumiu diferentes configurações nos territórios americanos, sendo a escravidão uma das principais formas de organização econômica e social em determinadas sociedades. A utilização sistemática de pessoas escravizadas, sobretudo africanas, esteve vinculada à produção agrícola, à mineração, ao trabalho doméstico e a outras atividades econômicas, enquanto populações indígenas também foram submetidas a diferentes regimes de coerção e exploração. Essas experiências históricas não devem ser juridicamente confundidas com o conceito atual de tráfico de pessoas, uma vez que o ordenamento internacional contemporâneo estabelece elementos específicos para sua caracterização. Entretanto, a permanência de relações baseadas na coerção, na desigualdade e na apropriação da força de trabalho contribuiu para a formação de estruturas sociais marcadas pela exposição de determinados grupos à exploração e à violação de direitos.

A construção do conceito contemporâneo de tráfico ocorreu gradualmente com o desenvolvimento de instrumentos internacionais voltados à proteção da liberdade individual e ao combate à exploração. Inicialmente, a preocupação esteve concentrada no comércio e na exploração sexual de mulheres, especialmente nos instrumentos produzidos no início do século XX. Posteriormente, essa compreensão foi ampliada para abranger diferentes formas de exploração, como trabalho forçado, servidão, escravidão, exploração sexual e remoção de órgãos. Um dos principais marcos dessa transformação ocorreu em 2000, com a adoção da Convenção das Nações Unidas contra o Crime Organizado Transnacional e de seus protocolos complementares. Entre eles está o Protocolo para Prevenir, Reprimir e Punir o Tráfico de Pessoas, especialmente Mulheres e Crianças, conhecido como Protocolo de Palermo, adotado em Palermo, na Itália, em 2000 e em vigor desde 2003. O instrumento estabeleceu uma definição internacional amplamente aceita e forneceu uma base jurídica comum para a cooperação entre os Estados.

A definição estabelecida pelo Protocolo de Palermo articula três elementos fundamentais: ação, meios e finalidade de exploração. A ação envolve o recrutamento, transporte, transferência, alojamento ou acolhimento de pessoas, enquanto os meios incluem ameaça, uso da força, coerção, fraude, engano, abuso de poder ou de uma situação de vulnerabilidade, entre outros. A finalidade deve ser a exploração. O abuso de uma situação de vulnerabilidade constitui aspecto relevante da definição, especialmente em contextos de pobreza, deslocamentos forçados, dependência econômica ou fragilidade das redes de proteção. Dessa forma, a caracterização do tráfico não depende necessariamente da existência de uma fronteira internacional, podendo ocorrer dentro do próprio território de um Estado.

A distinção entre tráfico de pessoas e tráfico ilícito de migrantes também é necessária. Enquanto o tráfico possui como elemento central a exploração da vítima, o tráfico ilícito de migrantes está relacionado à facilitação da entrada irregular de uma pessoa em determinado Estado, geralmente mediante pagamento. Assim, uma pessoa pode realizar uma entrada irregular sem ser vítima de tráfico, enquanto este pode ocorrer sem deslocamento internacional. Essa diferenciação é importante para evitar que situações de exploração sejam tratadas exclusivamente como questões migratórias ou de controle de fronteiras, permitindo maior atenção à identificação e à proteção das vítimas.

No caso de crianças, o Protocolo de Palermo estabelece tratamento jurídico específico. O artigo 3º determina que o recrutamento, transporte, transferência, alojamento ou acolhimento de uma criança para fins de exploração constitui tráfico mesmo sem a comprovação dos meios exigidos para adultos, como ameaça, coação ou fraude. Essa previsão reconhece a necessidade de proteção reforçada diante de situações de exploração. A evolução normativa internacional demonstra, portanto, a ampliação da compreensão sobre o tráfico de pessoas, que passou de uma abordagem inicialmente concentrada em determinadas formas de exploração para um conceito abrangente, fundamentado na proteção dos direitos humanos e no enfrentamento à criminalidade transnacional. Esse processo também estabeleceu bases jurídicas para a cooperação entre os Estados, aspecto central para a compreensão dos desafios regionais enfrentados nas Américas.

2.2 Tráfico de pessoas e dinâmicas migratórias no continente americano

As dinâmicas migratórias no continente americano apresentam diferentes trajetórias, envolvendo deslocamentos intrarregionais e transfronteiriços entre a América do Sul, América Central, Caribe e América do Norte. Essas movimentações podem ocorrer por motivos econômicos, familiares, políticos ou humanitários e assumir diferentes formas ao longo do percurso. Nesse contexto, a mobilidade humana não constitui, por si só, uma situação de tráfico, mas determinadas circunstâncias presentes nas rotas migratórias podem favorecer a atuação de agentes que se aproveitam de situações de vulnerabilidade.

Na América Central, os deslocamentos em direção ao México e à América do Norte constituem uma das principais dinâmicas migratórias da região. As trajetórias podem envolver a passagem por diferentes territórios e apresentar mudanças de rota conforme as condições encontradas pelos migrantes. Em determinadas áreas fronteiriças, dificuldades de acesso a serviços, ausência de documentação e dependência de intermediários podem ampliar a exposição a violações de direitos. Ainda assim, a migração irregular não deve ser confundida com o tráfico de pessoas, cuja caracterização depende da existência dos elementos previstos no Protocolo de Palermo e, principalmente, da finalidade de exploração.

Na América do Sul, os deslocamentos associados à Venezuela evidenciam outra dimensão da mobilidade regional. A saída de venezuelanos produziu diferentes trajetórias em direção a países sul-americanos e caribenhos, fazendo com que os mesmos territórios pudessem assumir funções distintas conforme o percurso realizado. Além disso, parte desses deslocamentos ocorre dentro da própria América do Sul, demonstrando que os fluxos migratórios do continente não seguem uma única direção.

O Caribe e as fronteiras amazônicas também possuem características particulares. No espaço caribenho, a proximidade entre diferentes Estados favorece movimentos populacionais diversos, enquanto a região amazônica apresenta extensas áreas fronteiriças, circulação entre comunidades e dificuldades de acesso a determinados serviços e instituições. Essas condições podem dificultar a identificação de situações de exploração, sobretudo em locais nos quais a presença estatal é limitada. Outro aspecto relevante é a migração intrarregional, que demonstra que o tráfico de pessoas não está necessariamente relacionado a deslocamentos em direção aos países da América do Norte.

2.3 Transformações recentes das redes de tráfico

As redes de tráfico de pessoas passaram por transformações significativas com o avanço das tecnologias digitais e as mudanças nas formas de mobilidade humana. Embora métodos tradicionais de recrutamento ainda sejam utilizados, redes sociais, aplicativos de comunicação e plataformas de emprego passaram a facilitar a aproximação com potenciais vítimas. Entre as estratégias utilizadas estão as falsas ofertas de trabalho, que apresentam oportunidades aparentemente legítimas e podem envolver promessas de melhores condições econômicas ou profissionais. Após o estabelecimento do vínculo, a situação pode evoluir para diferentes

formas de exploração e controle.

As plataformas digitais também possibilitaram novas formas de aproximação e recrutamento de vítimas. Recursos tecnológicos podem facilitar a identificação de vulnerabilidades, o desenvolvimento de práticas de grooming, a comunicação entre integrantes de redes criminosas, ampliar o alcance do recrutamento e dificultar a identificação dos responsáveis (UNODC, 2021). Essas mudanças demonstram a capacidade de adaptação do crime organizado transnacional às ferramentas disponíveis na sociedade contemporânea.

Outro fator relevante está relacionado às transformações das rotas migratórias e às condições que acompanham os deslocamentos. Crises humanitárias, econômicas e climáticas podem provocar deslocamentos, perda de renda, separação familiar e dificuldades de acesso a serviços e documentação. Essas circunstâncias não caracterizam, por si mesmas, situações de tráfico, mas podem ampliar vulnerabilidades posteriormente exploradas por agentes criminosos.

3. ÔNUS DA CRISE

O tráfico de pessoas produz impactos que ultrapassam a dimensão criminal, afetando diretamente a liberdade, a dignidade, a segurança e os direitos das vítimas, além de representar um desafio para a atuação dos Estados. No continente americano, esses impactos se manifestam de forma desigual entre diferentes grupos e estão relacionados a vulnerabilidades sociais, econômicas, migratórias e institucionais. Esta seção analisa a dimensão atual do problema, os grupos mais expostos, os fatores que favorecem sua permanência e os principais obstáculos enfrentados pelos Estados na prevenção, identificação, repressão e proteção das vítimas.

3.1 Dimensão e características do tráfico de pessoas nas Américas

Os dados disponíveis sobre tráfico de pessoas devem ser interpretados com cautela, pois representam apenas as vítimas detectadas e registradas pelas autoridades. Dessa forma, não correspondem necessariamente à dimensão real do fenômeno, especialmente diante das dificuldades de identificação, denúncia e registro.

Na América Central e no Caribe, em 2022 ou no ano mais recente disponível, 52% das vítimas detectadas eram meninas e 30% mulheres adultas, fazendo com que mais de 80% das vítimas identificadas fossem do sexo feminino. Quanto à finalidade do tráfico, 62% dos casos estavam relacionados à exploração sexual, 22% ao trabalho forçado e 16% a outras formas de exploração (UNODC, 2024).

Na América do Sul, observa-se uma configuração diferente. Mulheres e meninas correspondiam a 62% das vítimas detectadas, enquanto o trabalho forçado representava 55% das formas de exploração identificadas e a exploração sexual, 40% (UNODC, 2024). Esses números demonstram que o perfil do tráfico varia dentro do próprio continente e que a exploração laboral possui peso particularmente relevante na América do Sul.

3.2 Mulheres, crianças, migrantes e outros grupos vulneráveis

A vulnerabilidade ao tráfico de pessoas está relacionada à combinação de fatores sociais, econômicos, migratórios e institucionais que podem reduzir o acesso à proteção e ampliar a exposição à exploração. Entre os grupos mais vulneráveis estão mulheres e meninas, crianças e adolescentes, migrantes, refugiados e trabalhadores em situação de precariedade.

Mulheres e meninas apresentam maior exposição à exploração sexual, mas também podem ser submetidas a trabalho forçado, servidão doméstica e outras formas de exploração laboral. Da mesma maneira, homens e meninos também podem ser vítimas de exploração sexual e de outras práticas, o que reforça a necessidade de evitar perfis rígidos de vítimas (UNODC, 2024).

Crianças e adolescentes demandam proteção específica tanto em razão de sua idade quanto de sua maior dependência econômica, familiar e institucional. Além da exploração sexual e do trabalho forçado, crianças podem ser submetidas à mendicância, à criminalidade forçada, à servidão doméstica e a outras formas de exploração. A condição particular desse grupo também é reconhecida pelo Protocolo de Palermo, segundo o qual não é necessária a comprovação dos meios de coerção, fraude ou abuso previstos para vítimas adultas quando o recrutamento, transporte, transferência, alojamento ou acolhimento de uma criança ocorre para fins de exploração (UNODC, 2000).

Migrantes, refugiados e solicitantes de refúgio podem enfrentar riscos adicionais durante diferentes etapas de seus deslocamentos, especialmente quando se encontram sem documentação regular, recursos econômicos ou redes de apoio. A dependência de intermediários, empregadores ou outras pessoas para obtenção de transporte, moradia e trabalho pode ser utilizada como mecanismo de controle. Essas condições podem favorecer situações de exploração em setores como agricultura, construção, mineração, trabalho doméstico e outras atividades marcadas por informalidade ou fiscalização reduzida. A condição migratória, entretanto, não constitui por si mesma uma situação de tráfico, sendo necessário identificar a existência dos elementos de exploração previstos pelo Direito Internacional (ACNUR, [s.d.]; OIT, [s.d.]).

A vulnerabilidade também pode ser intensificada por formas de discriminação e exclusão social. A Comissão Interamericana de Direitos Humanos identifica, entre os grupos particularmente expostos ao tráfico nas Américas, mulheres, crianças, migrantes, pessoas afrodescendentes, integrantes de comunidades indígenas e pessoas lésbicas, gays, bissexuais e trans. Em determinados contextos, discriminação, estigmatização, rejeição familiar e dificuldades de acesso a serviços públicos e oportunidades econômicas podem reduzir redes de proteção e aumentar a exposição a situações de exploração (OEA, 2015).

3.3 Fatores que favorecem o tráfico nas Américas

A permanência do tráfico de pessoas nas Américas está relacionada à combinação de fatores econômicos, sociais, migratórios, territoriais e institucionais. Pobreza, desigualdade socioeconômica, desemprego e precarização do trabalho podem reduzir alternativas disponíveis e aumentar a vulnerabilidade a falsas ofertas de emprego, deslocamento ou melhores condições de vida utilizadas como forma de recrutamento. A discriminação também pode limitar o acesso a direitos, serviços públicos e redes de proteção (UNODC, 2024).

Crises políticas, econômicas e humanitárias podem ampliar situações de vulnerabilidade ao provocar deslocamentos forçados, perda de renda, separação familiar e ausência de documentação. Situações migratórias irregulares podem aumentar a dependência de intermediários para transporte, moradia e trabalho, enquanto desastres ambientais podem agravar vulnerabilidades já existentes. Esses fatores não produzem automaticamente o tráfico, mas podem criar condições posteriormente exploradas por redes criminosas (ACNUR, [s.d.]).

As características territoriais do continente também influenciam esse cenário. Extensas fronteiras e áreas de difícil fiscalização, somadas à presença estatal limitada em determinadas regiões, podem dificultar a identificação de vítimas e a interrupção das redes de exploração, reforçando a necessidade de cooperação entre os Estados.

A atuação de organizações criminosas constitui outro fator relevante. Essas redes podem adaptar rotas, formas de recrutamento e mecanismos de controle, utilizando estruturas ligadas a transporte, falsificação documental e movimentação financeira para facilitar a exploração das vítimas.

A corrupção pode ampliar essas dificuldades ao permitir que agentes envolvidos no tráfico evitem controles, obtenham documentos fraudulentos, atravessem fronteiras ou reduzam o risco de investigação e responsabilização. Estudo publicado pela UNODC demonstra que práticas corruptas podem ocorrer em diferentes etapas do tráfico, envolvendo, entre outros atores, agentes migratórios e fronteiriços, autoridades policiais, inspetores do trabalho e integrantes do setor privado. Dessa forma, a corrupção pode contribuir para a manutenção da impunidade e para a continuidade das redes criminosas (UNODC, 2025).

3.4 Obstáculos ao enfrentamento

Apesar dos avanços normativos e institucionais, diversos obstáculos ainda dificultam a prevenção, identificação e repressão do tráfico de pessoas nas Américas. Um dos principais desafios é a subnotificação, já que muitas vítimas não procuram as autoridades por medo de represálias, desconfiança das instituições, dependência econômica, desconhecimento de seus direitos ou receio de consequências relacionadas à sua situação migratória. Como resultado, parte significativa dos casos permanece fora dos registros oficiais, dificultando a compreensão da dimensão real do fenômeno e a formulação de políticas públicas adequadas.

A identificação das vítimas constitui outra dificuldade relevante. Migrantes em situação irregular podem ser tratados inicialmente apenas como infratores das normas migratórias, enquanto pessoas submetidas à criminalidade forçada podem ser interpretadas como autoras de delitos. A falta de capacitação específica entre agentes de fronteira, forças policiais, serviços migratórios, fiscalização trabalhista e atendimento social pode contribuir para que sinais de exploração não sejam reconhecidos.

O caráter transnacional do tráfico também impõe obstáculos à investigação e à responsabilização. Redes criminosas podem operar simultaneamente em diferentes Estados, enquanto legislações, procedimentos investigativos e capacidades institucionais variam entre os países. A insuficiência no intercâmbio de informações e na cooperação jurídica pode dificultar a produção de provas, a localização de envolvidos e a condução de investigações que ultrapassem fronteiras nacionais. Além disso, práticas de corrupção podem facilitar a atuação dessas redes e reduzir a efetividade dos mecanismos de controle.

A proteção das vítimas não se encerra com sua retirada de uma situação de exploração. Sobreviventes podem necessitar de abrigo seguro, atendimento médico e psicológico, assistência jurídica, regularização documental, proteção contra represálias, oportunidades de trabalho e apoio para reconstrução de sua autonomia. A ausência ou insuficiência desses mecanismos pode favorecer novas situações de vulnerabilidade e até mesmo a revitimização.

A situação migratória pode representar um obstáculo adicional quando a proteção da vítima é subordinada às regras de permanência no território. O medo de detenção ou deportação pode afastar indivíduos das autoridades, dificultando denúncias, investigações e o acesso a serviços de proteção.

4. AÇÕES INTERNACIONAIS

O enfrentamento ao tráfico de pessoas nas Américas exige cooperação entre os Estados, especialmente diante do caráter transnacional do fenômeno e da atuação de redes criminosas em diferentes territórios. Nesse contexto, a Organização dos Estados Americanos atua como espaço de articulação regional por meio de planos de trabalho, diretrizes, capacitação e mecanismos de diálogo entre seus Estados membros. Entre os principais instrumentos recentes destaca-se o Terceiro Plano de Trabalho para uma Resposta Integral ao Tráfico de Pessoas no Hemisfério Ocidental 2023–2028, que orienta ações de prevenção, proteção das vítimas, fortalecimento institucional e cooperação internacional.

4.1 Sistema internacional de combate ao tráfico de pessoas

A base normativa internacional de enfrentamento ao tráfico de pessoas está concentrada na Convenção das Nações Unidas contra o Crime Organizado Transnacional e no Protocolo de Palermo, já apresentados anteriormente. Esses instrumentos estabeleceram parâmetros comuns para criminalização, prevenção, cooperação e proteção das vítimas (UNODC, 2000).

Nesse sistema, o United Nations Office on Drugs and Crime (UNODC) possui papel central no enfrentamento da dimensão criminal e transnacional do fenômeno. O organismo acompanha a implementação da Convenção e de seus protocolos, produz pesquisas e dados internacionais, oferece assistência técnica aos Estados e contribui para o fortalecimento de mecanismos de prevenção, investigação e responsabilização. O *Global Report on Trafficking in Persons* constitui uma das principais fontes internacionais para análise de tendências, perfis de vítimas e formas de exploração (UNODC, 2024).

A Organização Internacional para as Migrações (OIM) atua especialmente na proteção e assistência de migrantes vulneráveis e vítimas de tráfico, incluindo medidas de assistência e reintegração social (OEA; OIM, 2023).

A Organização Internacional do Trabalho (OIT) atua sobre a dimensão laboral do fenômeno. Suas normas relativas ao trabalho forçado estabelecem parâmetros de prevenção, proteção e responsabilização. A Convenção nº 29 e instrumentos posteriores, como o Protocolo de 2014, reforçam medidas de combate ao trabalho forçado e de proteção às vítimas, reconhecendo a relação existente entre determinadas situações de tráfico e exploração laboral (OIT, [s.d.]).

O Alto Comissariado das Nações Unidas para Refugiados (ACNUR) atua principalmente quando o tráfico envolve refugiados, solicitantes de refúgio, apátridas e outros grupos deslocados. Sua atuação envolve prevenção, identificação de pessoas em risco e proteção internacional, especialmente em contextos de crise, conflito e deslocamento (ACNUR, [s.d.]).

O enfrentamento ao tráfico também foi incorporado à Agenda 2030 para o Desenvolvimento Sustentável. A Meta 5.2 prevê o combate ao tráfico e à exploração de mulheres e meninas; a Meta 8.7 aborda trabalho forçado, escravidão moderna e tráfico de pessoas; e a Meta 16.2 trata da proteção de crianças contra abuso, exploração e tráfico. Dessa forma, o tema é relacionado à igualdade de gênero, ao trabalho decente e à proteção dos direitos humanos (ONU, [s.d.]).

4.2 Atuação da Organização dos Estados Americanos

A Organização dos Estados Americanos desenvolve uma atuação regional no enfrentamento ao tráfico de pessoas que articula cooperação política, segurança, prevenção, fortalecimento institucional e proteção dos direitos humanos. Um dos marcos dessa atuação foi a Resolução AG/RES. 2019, aprovada pela Assembleia Geral em 2004, que tratou especificamente do combate ao tráfico de pessoas, especialmente mulheres, adolescentes e crianças. Desde então, diferentes resoluções, reuniões especializadas e planos de trabalho passaram a orientar a construção de uma resposta hemisférica ao fenômeno.

Um dos principais mecanismos desenvolvidos pela OEA são as Reuniões de Autoridades Nacionais sobre Tráfico de Pessoas, que funcionam como espaço de diálogo e cooperação entre os Estados membros. Esses encontros permitem identificar tendências regionais, estabelecer prioridades, formular recomendações e desenvolver planos de ação para orientar políticas nacionais e hemisféricas. A primeira reunião ocorreu em 2006, na Venezuela, e as edições posteriores contribuíram para a elaboração de sucessivos Planos de Trabalho contra o Tráfico de Pessoas no Hemisfério Ocidental (OEA, [s.d.]).

Atualmente, uma das principais referências da atuação da OEA é o Terceiro Plano de Trabalho para uma Resposta Integral ao Tráfico de Pessoas no Hemisfério Ocidental 2023–2028. O documento orienta os Estados membros em áreas como prevenção, identificação e proteção das vítimas, investigação e responsabilização, produção e intercâmbio de informações, fortalecimento institucional e cooperação internacional (OEA, 2023).

No âmbito da Secretaria de Segurança Multidimensional, o Departamento de Segurança Pública participa de iniciativas de capacitação, intercâmbio de experiências e desenvolvimento de instrumentos destinados a fortalecer a atuação dos Estados. A circulação de informações e boas práticas é especialmente relevante diante da natureza transnacional das redes de tráfico (OEA, 2023).

A continuidade desse processo pode ser observada na Oitava Reunião de Autoridades Nacionais sobre Tráfico de Pessoas, realizada em maio de 2026, na sede da OEA, em Washington, D.C. Entre os temas discutidos estavam o tráfico para exploração laboral e trabalho forçado, o recrutamento de menores por grupos criminosos organizados, a reparação às vítimas e os desafios relacionados à produção de dados e aos ambientes digitais (OEA, [s.d.]).

Paralelamente, o Sistema Interamericano de Direitos Humanos contribui para incorporar uma perspectiva centrada na proteção das vítimas. A Comissão Interamericana de Direitos Humanos defende que o enfrentamento ao tráfico seja orientado por uma abordagem de direitos humanos, combinando prevenção, responsabilização e assistência, além de evitar a criminalização das próprias vítimas e considerar vulnerabilidades específicas de mulheres, crianças, migrantes, povos indígenas, pessoas afrodescendentes e pessoas LGBTQIA+ (OEA, 2015).

4.3 Políticas nacionais e cooperação regional

A implementação das normas internacionais de combate ao tráfico de pessoas ocorre de maneira distinta entre os Estados americanos, conforme suas estruturas jurídicas e institucionais. Apesar dessas diferenças, políticas nacionais frequentemente articulam prevenção, repressão, assistência às vítimas e mecanismos de cooperação, seguindo princípios estabelecidos pelo Protocolo de Palermo e por iniciativas regionais.

No Brasil, a Lei nº 13.344/2016 constitui um dos principais marcos jurídicos sobre o tema e organiza o enfrentamento ao tráfico em três dimensões principais: prevenção, repressão e atenção às vítimas. A legislação prevê atuação articulada entre diferentes órgãos, campanhas de conscientização, assistência integral às vítimas e estímulo à cooperação internacional (BRASIL, 2016). Atualmente, essas medidas são complementadas pelo IV Plano Nacional de Enfrentamento ao Tráfico de Pessoas, vigente para o período de 2024 a 2028 (BRASIL, 2024).

O México possui a *Ley General para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas*, aprovada em 2012 e posteriormente reformada. A legislação reúne medidas de prevenção, investigação, punição, proteção e assistência às vítimas, além de estabelecer competências compartilhadas entre diferentes níveis de governo (MÉXICO, 2012).

Nos Estados Unidos, a *Trafficking Victims Protection Act* (TVPA), adotada em 2000, estabeleceu uma estrutura federal baseada na prevenção do tráfico, proteção às vítimas e responsabilização dos autores. Entre seus mecanismos estão formas de proteção migratória para determinadas vítimas estrangeiras, como o visto T, além de estruturas de coordenação entre órgãos federais e iniciativas de cooperação internacional (ESTADOS UNIDOS, [s.d.]).

A comparação entre essas experiências demonstra que, embora os Estados adotem estruturas distintas, suas políticas convergem em torno de prevenção, proteção das vítimas, responsabilização e cooperação. No contexto interamericano, essas experiências reforçam a importância da OEA como espaço de coordenação e intercâmbio entre os Estados membros.

5. CONSIDERAÇÕES FINAIS

O tráfico de pessoas no continente americano constitui um fenômeno complexo, relacionado à criminalidade transnacional, desigualdades sociais, vulnerabilidades econômicas e deslocamentos populacionais. Suas manifestações variam conforme o contexto regional e podem envolver exploração sexual, trabalho forçado, servidão doméstica, criminalidade forçada e outras formas de exploração, atingindo mulheres, crianças, migrantes, trabalhadores e outros grupos em situação de vulnerabilidade.

Apesar da existência de instrumentos internacionais, legislações nacionais e mecanismos de cooperação, persistem desafios como subnotificação, dificuldade de identificação das vítimas, limitações no compartilhamento de informações e na cooperação jurídica, adaptação das redes criminosas às tecnologias digitais e insuficiência de mecanismos de assistência e reintegração. O enfrentamento ao tráfico exige, portanto, respostas capazes de articular prevenção, investigação, responsabilização e proteção às vítimas.

Nesse cenário, a Organização dos Estados Americanos pode contribuir para o fortalecimento da cooperação regional, da capacitação institucional e do intercâmbio de boas

práticas, respeitando a soberania e as competências internas dos Estados membros. O principal desafio para os delegados será formular propostas que conciliem cooperação interamericana, responsabilização das redes criminosas, proteção dos direitos humanos e assistência adequada às vítimas.

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UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

(UNESCO)

ARTIFICIAL INTELLIGENCE, ETHICAL DILEMMAS AND LEGAL ISSUES

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1. ABSTRACT

The expansion of Artificial Intelligence (AI) represents one of the main technological transformations of recent decades, changing not only the ways in which information is produced and circulated, but also activities traditionally associated with human action. Among these transformations is artistic production, particularly with the development of generative AI systems capable of producing images, texts, sounds, and videos based on commands provided by users. Although these tools expand the possibilities for creation and access to cultural production, their use also raises new dilemmas related to authorship, copyright, privacy, artistic work, cultural diversity, and responsibility for the content produced.

In this context, this paper seeks to analyze the main ethical dilemmas and legal issues related to the use of Artificial Intelligence, particularly considering its impacts on artistic and cultural production. The analysis begins with the recent transformation of AI and its effects on the relationships between technology, artists, artworks, and the market, subsequently addressing the risks associated with algorithmic opacity, bias, the use of data, and the protection of rights. Finally, international responses are considered, with emphasis on UNESCO's role and initiatives aimed at regulating artificial intelligence. Thus, the objective is to understand how technological development can be accompanied by mechanisms capable of reconciling innovation, human rights, justice, transparency, and cultural diversity.

2. HISTORICAL CONTEXT

The discussion surrounding Artificial Intelligence (AI) has shifted, particularly over the past few decades, from a field predominantly associated with scientific research and task automation to a technology capable of directly affecting different dimensions of social life. The development of systems capable of processing large amounts of data, identifying patterns, and producing results with different levels of autonomy has led AI to occupy spaces previously associated almost exclusively with human action. Among these spaces is cultural and artistic production, in which recent advances in generative artificial intelligence have changed not only the ways in which works are created, but also the relationships between artists, artworks, audiences, and the market.

Although the use of computational technologies in artistic production is not recent, the expansion of generative AI systems represents a significant change in this process. Over

the last decade, advances in machine learning have enabled the development of systems capable of analyzing large sets of images and reproducing certain elements present in these materials, making it possible to create new images based on commands provided by users. Artistic production has been one of the fields significantly affected by the development of machine learning, as these systems began learning from multiple images and subsequently producing new results (KHATIWADA et al., 2025) .

The expansion of these tools makes the production of images and other artistic content more accessible to individuals who previously lacked specific technical knowledge of drawing, editing, or modeling. At the same time, this process has introduced a series of questions related to authorship, originality, the use of pre-existing works, and the very definition of creativity. Thus, the incorporation of artificial intelligence into the artistic field should not be understood merely as the emergence of a new technological tool, but rather as a transformation of the relationships that structure cultural production.

2.1. The Expansion of Artificial Intelligence in Artistic Production

The recent development of generative AI is part of a broader process of digital transformation that has reached different sectors of the economy and society. With the improvement of machine-learning techniques and, subsequently, of models capable of generating texts, images, sounds, and videos, artificial intelligence has begun to operate not only in the interpretation of existing information, but also in the production of new content. In the artistic field, this transformation has become particularly relevant because the technology has begun to perform functions traditionally associated with human creative ability. Image-generation systems can produce results based on textual descriptions, combining patterns found in large databases. The work of Khatiwada et al. (2025) observes that contemporary generative systems are capable of producing images in different styles and formats based on user commands, being trained on thousands of images used in their development.

This process, however, presents an important contradiction. At the same time that artificial intelligence expands creative possibilities and can democratize access to certain tools, its own ability to produce results depends on the existence of large amounts of data. In the case of visual arts, this means that works produced by human artists may become part of the datasets used to train these systems. According to Khatiwada et al. (2025), generative systems may use images available on the internet, including professional portfolios, illustrations, and concept art, without their creators necessarily being aware of or having consented to such use. It is at this point that technological development begins to produce

consequences that go beyond the technical dimension. The use of pre-existing works to train models raises questions concerning the relationship between innovation and copyright, since the creation of new content by AI systems may be linked to the use of an artistic heritage previously produced by individuals who do not necessarily participate in the economic benefits resulting from this new technology.

In addition to the issue of intellectual property, the advancement of AI in artistic production has also raised questions about the continued presence of human labor in creative industries. The possibility of rapidly producing large quantities of images, videos, and other content creates a situation in which certain activities previously performed by artists can be automated. Identify professional displacement as one of the dilemmas associated with the expansion of AI-generated art, emphasizing that the integration of these technologies may affect both economic stability and the cultural meaning attributed to artists' work (KHATIWADA et al., 2025).

This scenario does not necessarily mean that artificial intelligence will completely replace human production. Academic debate itself presents different interpretations of this possibility. While some authors point to risks related to the replacement of artistic labor, other perspectives indicate that the value of human production may remain or even increase precisely because of the expansion of artificially generated content. The central issue, therefore, is not simply determining whether AI will replace artists, but understanding how the relationship between human labor and technology will be organized economically, culturally, and legally.

This transformation also has an international dimension. AI does not develop uniformly across different countries and regions, meaning that access to technologies, digital infrastructure, and the skills required to use them remains unequal. UNESCO itself recognizes that artificial intelligence may deepen existing divisions between and within countries, particularly when there are differences in access to infrastructure, knowledge, and digital technologies.

Thus, the expansion of AI in artistic production should be understood as part of a broader process of transformation in cultural and creative industries. Technology creates new possibilities for the production, circulation, and access of artworks, but it also alters income distribution, the labor market, and existing power relations within these sectors.

2.2. The Emergence of Ethical and Legal Dilemmas

With the expansion of generative artificial intelligence tools, questions initially concentrated on the technical capabilities of these systems have progressively come to

involve ethical and legal problems. The speed of technological development has made the task of establishing regulations capable of keeping pace with new forms of AI production and use particularly complex.

In the case of artistic production, one of the first problems concerns authorship. The use of systems capable of producing images raises the question of who should be considered responsible for the resulting work: the user who provided the prompt, the developer of the system, the artists whose works were used for training, or the artificial intelligence system itself. Present this problem as one of the main issues introduced by generative art, directly relating it to originality, intellectual property, and the difficulty of determining who should receive recognition for the work produced (KHATIWADA et al., 2025).

This issue is further complicated by the fact that different legal systems do not necessarily provide the same answers regarding production carried out with the assistance of artificial intelligence. The work provided as a reference highlights that the international legal landscape remains fragmented, while AI tools are evolving faster than public policies can adapt. The existence of initiatives such as the European Union's AI Act and Japanese debates concerning artificial intelligence and copyright demonstrates that different countries and organizations have already begun addressing the issue, although there is still no uniform legal solution to all questions related to AI-generated artistic production.

The issue of authorship, however, is only one part of the problem. The use of AI-generated images may also involve the reproduction of artistic styles, unauthorized use of works, the depiction of real people, and the creation of false content. Generative systems can produce highly realistic images of individuals who never participated in the creation of that content, creating new possibilities for manipulation, disinformation, and harm to one's image. So-called deepfakes are particularly relevant in this context. The ability to produce realistic images and videos of people may make it difficult to distinguish between real events and artificially generated content. Beyond artistic production, this possibility affects journalism, political communication, advertising, and social relations. UNESCO itself recognizes that artificial intelligence is associated with new risks related to disinformation, false information, hate speech, freedom of expression, and privacy.

The environmental dimension has also become part of this debate. The operation of large artificial intelligence models requires computational infrastructure and energy consumption, meaning that the expansion of these systems is related to questions of sustainability. In the study by Khatiwada et al. (2025), carbon emissions appear as one of the dilemmas associated with AI-generated artistic production, particularly given the

difficulty of adequately measuring and regulating the environmental footprint of large models.

Thus, the emergence of generative AI demonstrates that its problems cannot be reduced to a single legal dimension. Authorship, copyright, privacy, image rights, remuneration, labor, sustainability, cultural diversity, and access to technology constitute interconnected issues. It is precisely this characteristic that causes the discussion surrounding artificial intelligence to go beyond the development of specific regulations and also involve ethical principles capable of guiding the construction of such regulations.

In this regard, UNESCO states that ethical reflection can contribute to the development of policies and legal norms in response to the speed of technological development. The organization establishes that ethical values and principles can assist in the construction of rights-based measures and regulations, providing a reference point in the face of the transformations produced by AI.

The need for this articulation between ethics and law arises precisely from the difficulty of anticipating all possible uses of a technology that is constantly changing. While a legal rule depends on a concrete definition of rights, obligations, and responsibilities, ethics can serve as an instrument for reflecting on situations that have not yet been fully addressed by existing legal systems.

This does not mean replacing law with ethics, but rather recognizing that the development of regulations concerning artificial intelligence needs to consider the social and human effects resulting from its application.

2.3. The Construction of an International Response: UNESCO's Role

The transformation brought about by artificial intelligence has led international organizations to seek mechanisms capable of establishing common parameters for its development and use. In this context, the role of the United Nations Educational, Scientific and Cultural Organization (UNESCO) is particularly important, especially because the organization approaches AI from a perspective that connects technology, human rights, culture, education, science, and communication.

An important milestone in this process was the adoption, on November 23, 2021, of the Recommendation on the Ethics of Artificial Intelligence, approved during UNESCO's 41st General Conference. The document represents an attempt to establish an international reference for the ethical use of artificial intelligence and was developed from a perspective based on international law, human rights, human dignity, equality, social justice, diversity, and environmental protection.

The historical relevance of this document lies in its attempt to establish an international framework at a time when the expansion of AI was already producing effects that extended beyond national borders. UNESCO recognizes that artificial intelligence systems can generate benefits, but they can also reproduce inequalities and forms of discrimination. For this reason, the organization emphasizes the need for transparency regarding how algorithms function and the data used to train them.

The Recommendation also establishes a broad conception of the artificial intelligence life cycle. Ethical issues should not be considered only when a system is made available to users, but throughout all stages of its development, from research, design, and development through implementation, use, maintenance, evaluation, and decommissioning.

This perspective is particularly relevant to the artistic field because it makes it possible to shift the discussion from a narrow question such as "who is the author of the image produced by AI?" to a broader set of questions: which works were used to develop the system? Was consent obtained? How can artists be recognized or compensated? Who is responsible for damages caused by the content produced? How does technology affect cultural diversity? And which groups have effective access to the tools necessary to participate in this transformation?

Culture occupies a specific position within the Recommendation. UNESCO recognizes that AI technologies can enrich cultural and creative industries, but they can also concentrate content, data, markets, and income in the hands of a few actors. As a consequence, effects may arise concerning the diversity and pluralism of cultural expressions, languages, and cultural participation.

This aspect becomes even more important when considering the international dimension of artistic production. Culture is not formed solely by large markets and content widely disseminated on the internet. Different communities possess traditions, languages, knowledge, and forms of expression that may not be equally represented in the datasets used to develop AI systems. UNESCO itself draws attention to the underrepresentation of low- and middle-income countries in debates on AI ethics and to the risk of neglecting local knowledge and cultural pluralism.

Based on this concern, the Recommendation establishes as an objective the construction of a universal framework of values, principles, and actions capable of guiding States in the formulation of their policies and legislation concerning artificial intelligence. The document also emphasizes shared responsibility among States, companies, academic institutions, civil society, and other actors involved in the life cycle of AI systems.

Although the Recommendation does not have the same binding nature as an international convention, its importance lies in the construction of common parameters to guide national policies. The document itself recommends that Member States voluntarily adopt its provisions through legislative or administrative measures appropriate to their national structures and international law.

The international discussion, however, did not remain limited to the 2021 document. The transformation brought about by generative artificial intelligence in the following years caused the relationship between AI and culture to gain even greater importance within the international agenda.

In 2024, for example, UNESCO's Cultural Policy Monitoring Platform recorded that artificial intelligence was transforming different cultural and creative sectors, including visual arts, cinema, music, fashion, cultural heritage, and video games. The same document identifies challenges related to copyright and personality rights, employment and skills, transparency, fairness, cultural diversity, and impacts on cultural markets.

More recently, UNESCO expanded this discussion. In 2025, an international group of experts convened by the organization published a report specifically addressing the relationship between artificial intelligence and culture. The document identifies, among other aspects, risks related to digital divides, concentration of power, the use of artistic works, cultural diversity, and the protection of cultural rights. UNESCO has therefore come to address AI not merely as a technology that can be applied to culture, but as a force capable of transforming the very structures through which culture is produced, distributed, and consumed.

This concern remains present on the international agenda in 2026. In March of this year, UNESCO promoted a specific dialogue on artificial intelligence and culture, highlighting that generative AI is transforming artistic practices, forms of production and dissemination of artworks, and possibilities for participation in cultural life. Among the issues discussed were copyright, artists' remuneration, algorithmic bias, censorship, environmental impacts, and the unauthorized use of works for training systems.

The development of this debate therefore demonstrates an important change in how artificial intelligence has come to be understood internationally. Initially presented mainly as a tool for technological innovation, AI has also come to be viewed as an issue related to human rights, culture, the economy, and the organization of society itself. In the artistic field, this transformation is even more evident because it brings together two dimensions

historically associated with human action: the technological capacity to produce and the cultural capacity to create.

In this sense, the recent historical context demonstrates that the central issue is not simply determining whether artificial intelligence should or should not be used in artistic production. The question is how this use will be organized and which principles should guide its integration into cultural activities. UNESCO itself establishes that addressing ethical risks should not prevent innovation, but should guide technological development in a manner compatible with human rights, fundamental freedoms, diversity, and environmental protection.

From this perspective, the expansion of artificial intelligence in artistic production represents a transformation that is still underway. Existing legal instruments were largely developed before the current expansion of generative AI, while new technologies continue to produce forms of creation and circulation that challenge traditional concepts of authorship, ownership, labor, and responsibility. Therefore, the historical context presented demonstrates that the ethical dilemmas and legal problems associated with AI do not arise in isolation, but as a consequence of a broader process of technological and cultural transformation.

The construction of responses to these problems will therefore depend on the ability of States and international organizations to establish mechanisms that reconcile technological innovation and the protection of rights. In the cultural sphere, this task also involves ensuring that the incorporation of artificial intelligence does not result in reduced cultural diversity, unrecognized appropriation of artistic labor, or the concentration of the economic benefits of digital transformation. Thus, the recent trajectory of AI demonstrates that its regulation constitutes not only a technological issue, but also an ethical, legal, cultural, and international one.

3. ONUS OF THE CRISIS

This section aims to define UNESCO's global guidelines to ensure the ethical use of artificial intelligence.

3.1. Warnings

UNESCO has issued warnings concerning the impactful integration of artificial intelligence into education, emphasizing that it should serve as a reinforcement rather than something that puts learning, human development, and social and cultural experience at risk.

3.2. Isaacs' Three Risks

Shafika Isaacs highlights three risks associated with the improper use of artificial intelligence, particularly in education:

1. Externalization of thought.
2. Algorithmic bias.
3. Loss of data sovereignty.

These three risks contribute to the loss of privacy, security, and rights. When using artificial intelligence, students may avoid mental effort, which can result in a loss of critical-thinking development. Algorithms may lack control and/or cultural relevance. Hypothetically, students may choose to study in isolation, with machines rather than through interaction within the school community.

3.3. The Complexity of Artificial Intelligence Systems

Artificial intelligence is based on a data system that functions like a "black box": data enters and answers come out, but its internal operation remains hidden, as does its technical limitation, since even its own engineers are sometimes unable to explain the internal steps of deep learning.

These are technical capabilities filled with variables and hidden layers, codes kept confidential, and even a certain degree of technical illiteracy when it comes to auditing and reading such codes. The challenges imposed by this system range from bias and discrimination, through the reproduction of prejudices, to the difficulty of identifying those responsible and the difficulty of regulation.

This process of invisibilization is called "algorithmic opacity," a method in which a product is presented as though responsibility belongs to the device or its users, but never to the platform that discriminates and makes processes and decisions more difficult. The opacity of algorithmic systems is a central epistemic concern, due to the difficulty of understanding how algorithms reach conclusions that may lead to morally arbitrary decisions.

Burrell (2016) identifies three forms of opacity:

1. Intentional opacity.
2. Technical opacity.
3. Intrinsic opacity.

The first occurs when the system is deliberately concealed, whether for the purpose of protecting intellectual property, maintaining commercial advantages, or preventing users from circumventing the system. The second requires a more advanced level of specialization to read, write, and understand programming code. The third arises from characteristics of machine learning itself: as the system processes large quantities of data, it creates dynamic, mathematical, and nonlinear decision rules, making the machine's reasoning difficult for humans to understand and creating a decoding gap.

4. INTERNATIONAL ACTIONS

This section aims to clarify points concerning international actions and initiatives.

4.1 Actions and Regulation

There is a need to establish actions and regulate global guidelines for the protection of human rights, justice, and transparency in technological development.

4.2 Artificial Intelligence Act

The European Union created the Artificial Intelligence Act, becoming a pioneer in adopting comprehensive criteria based on the social risks associated with the law. All Member States of the United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted a historic agreement defining common values and principles to ensure the sound development of artificial intelligence. The agreement emphasized that AI actors should favor efficient methods for the use of data, energy, and resources, helping to ensure that these tools become more prominent in addressing environmental issues.

Adaptations to existing laws are necessary, making sector-specific changes (health, education) and using cross-cutting rules (criminal codes, data protection laws), improving existing regulatory frameworks and providing access to information through transparency instruments that are easy for the public to understand, with basic information about AI.

These measures should be risk-based, with obligations and requirements established according to an assessment of the specific context in which these tools are used. Responsibility should be assigned and sanctions established for problematic uses of AI systems, imposing standards of conduct in criminal, administrative, and/or civil matters.

5. FINAL CONSIDERATIONS

The analysis developed demonstrates that the expansion of Artificial Intelligence is not merely a technological transformation, but a process that produces ethical, legal, social,

and cultural consequences. In the artistic field, the use of generative systems expands creative possibilities, but it also raises questions concerning authorship, copyright, the use of works for training, artists' remuneration, labor, privacy, disinformation, and cultural diversity. These problems become even more complex given the speed of technological development and the difficulty faced by legal systems in keeping pace with new forms of use.

In this context, the construction of international responses demonstrates the need to establish principles capable of guiding AI development without preventing innovation. UNESCO's role illustrates precisely this perspective by connecting artificial intelligence, human rights, dignity, justice, cultural diversity, and environmental protection, recognizing that the effects of these technologies must be considered throughout their entire life cycle.

Thus, the main challenge is not simply to determine whether artificial intelligence should or should not be used, but to establish the conditions under which its use can occur responsibly and in a manner compatible with existing rights. AI regulation must therefore keep pace with technological transformation, ensuring that the benefits of innovation are not achieved through the reduction of rights, the unrecognized appropriation of artistic labor, or the concentration of cultural and economic benefits in the hands of a few actors.

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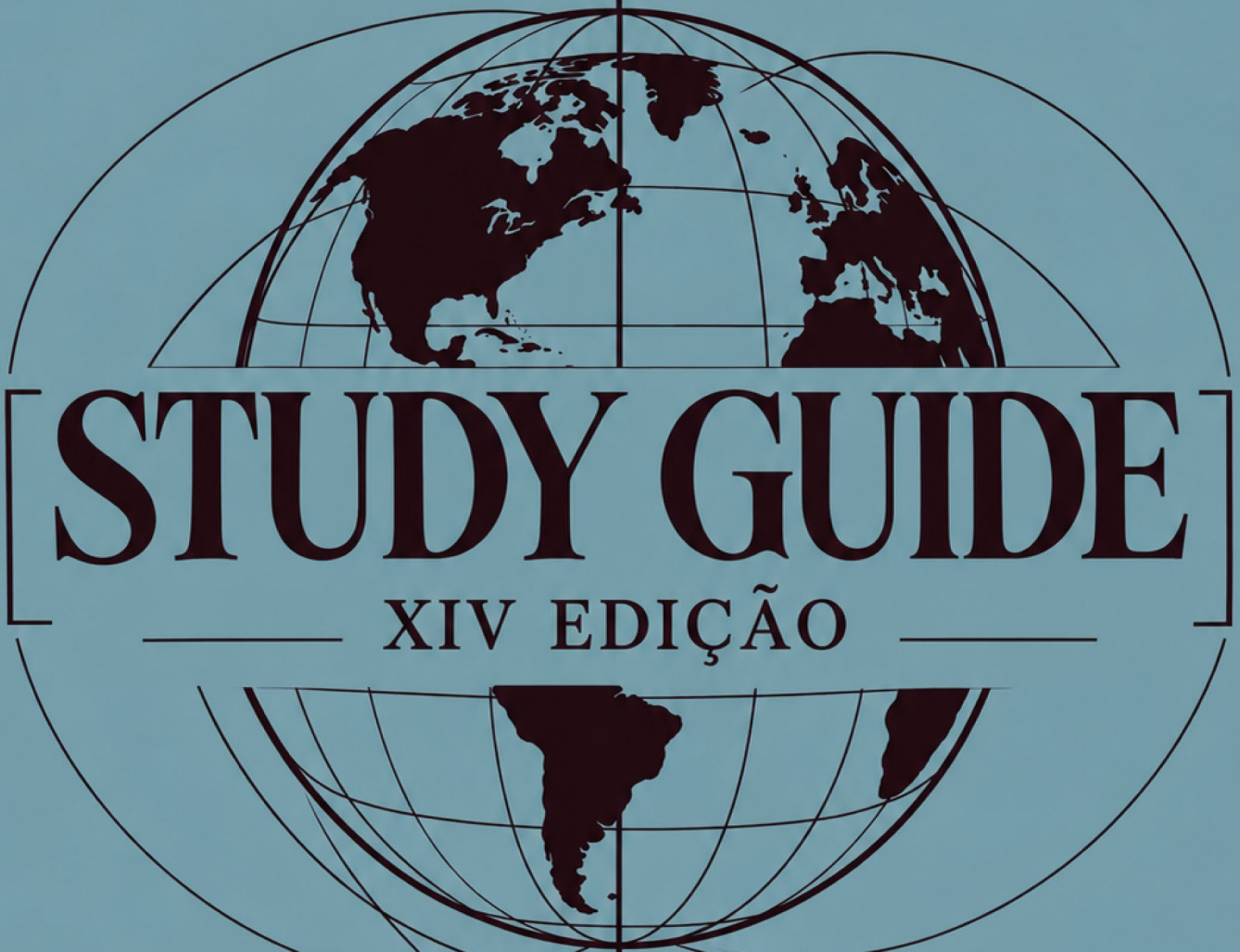
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