Hispano-Deutsche Zeitschrift Für Rechts- Und Institutionsgeschichte

nº 1, 2023

Hispano-Deutsche Zeitschrift Für Rechts- Und Institutionsgeschichte

Überweisung und Format

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Formal müssen die eingereichten Texte folgende Kriterien erfüllen:

• Text in der Schriftart Times New Roman, Größe 11, einzeilig. Fußnoten sind in Times New Roman, Schriftgröße 10, einzeilig zu schreiben.

• Sie sollten in deutscher und englischer Sprache eine kurze Zusammenfassung und eine Auswahl von Stichworten enthalten.

• Jedes in der akademischen Welt gebräuchliche Zitiersystem kann verwendet werden, wobei das Chicagoer System empfohlen, aber nicht vorgeschrieben ist.

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Die Nichteinhaltung der oben genannten formalen Kriterien kann als Grund für die Nichtannahme des Artikels angesehen werden.

INDEX

PRÄSENTATION

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für Rechtswissenschaft und Gesetzgebung Spaniens

Es gibt viele Elemente, die die deutsche und spanische Rechtsgeschichte auf allen Ebenen verbinden. In der Geschichtswissenschaft war die Rezeption der Werke von Savigny selbst eine der Grundlagen für die Entstehung der spanischen Rechtsgeschichte als zeitgenössische Disziplin. In der Geschichte sind Elemente des germanischen Rechts Teil des spanischen Rechts, das zu Beginn des Mittelalters mit der Ankunft von Völkern wie den Westgoten und den Sueben in das Gebiet der Halbinsel aufgenommen und assimiliert wurde. Gegenwärtig ist die Verbindung zwischen spanischen und deutschen Rechtshistorikern stärker denn je, dank der Initiativen von Institutionen wie dem Institut für die Geschichte der Intoleranz in Spanien oder dem Max-Planck-Institut in Deutschland.

Die Initialzündung für diese Publikation war der Wunsch, eine akademische Plattform für die Verbreitung wissenschaftlicher Inhalte zu schaffen, die deutsche und spanische Rechtshistoriker direkt miteinander verbindet und den Austausch von Wissen und die Kenntnis der Arbeit des jeweils anderen fördert.

Nach einer ersten Prüfung wurde jedoch deutlich, dass in der heutigen akademischen Welt reduktionistische Perspektiven in einem Kontext ständiger Transversalität und Multidisziplinarität nicht effizient sind: Es ist nicht möglich, klare Fortschritte in der Kenntnis

der deutschen oder spanischen Rechtsgeschichte aus einer Perspektive zu erzielen, die sich auf Studien der spanischen oder deutschen Rechtsgeschichte beschränkt, abgesehen von Studien der mittelalterlichen Geschichte, der Kriegsgeschichte, des kanonischen Rechts oder, im Vergleich dazu, des Common Law.

Aus diesem Grund wurde die Deutsch-Spanische Zeitschrift für Rechts- und Institutionsgeschichte mit dem Ziel ins Leben gerufen, eine wissenschaftliche Plattform für alle Autoren und Themen zu sein, die sich aus einer transversalen und multidisziplinären Perspektive mit Themen der Rechts- und Institutionsgeschichte befassen, seien sie germanisch, spanisch, europäisch, amerikanisch oder, warum nicht, in einer vernetzten Welt, global.

Die Ausgabe, die Sie in Händen halten, ist nur ein erster Schritt, den wir ohne die Mitarbeit aller Autoren, deren Artikel den Band ausmachen und denen wir dafür danken, dass sie ihn möglich gemacht haben, nicht hätten machen können.

Wir glauben auch, dass dies ein Schritt ist, der verbessert werden kann, und wir arbeiten bereits daran, ihn für den zweiten Band zu verbessern, da diese Zeitschrift mit einer Berufung zur Dauerhaftigkeit geboren wurde, ebenso wie mit einer Berufung zur ständigen Verbesserung, wie es bei einem Projekt dieser Art nicht anders sein kann.

Hier beginnt also eine Reise, von der wir hoffen, dass sie konsolidiert wird und sowohl Forschern und Akademikern als auch Studenten und Lesern eine Hilfe sein wird.

BREXIT AND EUROSCEPTICISM IN THE 2019 EUROPEAN ELECTIONS

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Abstract: In recent years, Brexit has been an enormous shock to the European integration project, fueling the debate on the Eurosceptic currents that run through the European Union, an issue on which the need for an in-depth debate is imposed.

Key words: European Union, Euroesceptic, Brexit; United Kingdom.

1.-Brexit's propaganda

One of the main reasons for the United Kingdom's separation from the European Union was the poll that was held in 2016. The question raised during the ballot read as follows: "*Should the United Kingdom remain a member of the European Union or leave the European Union*?". Two options could then be selected: "*Remain a member of the European Union / Leave the European Union*".

The margin between the two choices was slim — less than one million votes separated the victorious 51.9% from the losing 48.9%. Votes from rural areas were essential for the final result to take place. Many British people did not take this voting seriously, just as some other surrounding countries did, which led to an unprecedented result that many citizens regretted soon after — sadly, to no avail.

When a country holds an instant-runoff voting (IRV) system, electors posses a second chance, preventing a greater evil, just as the case of France twice this century. In 2022, the far-right leader Jean Marie le Pen emerged victorious after the first runoff, beating the left-wing Socialist Lionel Robert Jospin by just over 400,000 votes, after which a final ballot between him and Jacques Chirac was held. During the second runoff, the share rose around 8% — more than 2,500,000 electors. Chirac swept through the voting with an 82% support rate and more than 20 million votes that led to his victory over Le Pen.

Fifteen years later, the Le Pens, now with his daughter Marine Le Pen as a leader, won the first runoff again and faced Emmanuel Macron during the second runoff. The margin was not as extreme this time, so Macron was elected as President with a 66% share on his favour consisting of 20,753,798 votes. This was a total 10,644,118 votes more than Le Pen, a 33,9% share — almost double the votes than his father got in 2002.

This is the advantage of instant-runoff voting systems, although it is not an option in referendums. The political marketing of that particular campaign managed to more efficiently gain support from rural areas and older voters, as evidenced by the following study. In Greater London, almost 60 % of voters supported Bremain, but the participation share was lower than in overall Britain by a 2.5%. Electors that stayed at home were the trigger of the final result, as the marketing campaign failed to mobilize them. Still, the results of the city of London show that over 75% of people voted Leave. In big cities, such as Bristol, Liverpool and Manchester, Stay was the option for around 60% of

electors who cast their vote. Scotland's support significantly favoured to stay at the EU — a 74% share in Edinburgh, and a 66% in Glasgow.

After studying the marketing of this campaign, some consequences can be inferred. Bremain supporters failed to convince voters about the dangers this decision would entail for the country. Fear voting did not succeed this team, either because the propaganda was not right, ore because of the stronger reason; the belief in British significant monetary contributions to Europe that end up in southern European countries. From a tactical analysis, political parties use this as common approach, which has proved successful on several occasions and countries. In Spain, Adolfo Suárez made an explicit call to rally voting against leftist parties, in order to keep them away from winning the 1979 elections. and thus was successful. In France, it was the fear of far-right policies that prevented Le Pen's National Rally from winning the second runoff. Sometimes, this is not the case, as evidenced by the 1996 campaign of the Spanish Socialist Workers' Party (*PSOE* in Spanish), which aimed to deter electors to vote for the People's Party and accused them of standing for far-right ideas — which did not stop the People's Party to emerge victorious.

Economic reasons were also brought up by Brexit supporters, insisting on the 350 million GBP that had been spent on the public healthcare system, a clear, simple, and appealing message for voters that had a significant impact on them. Still, reality was not the same as the reasons Brexit supporters were clinging to. The UK's contribution to the public institutions was actually 190 million GBP, almost half of what was being advertised, not accounting Brussels' monetary contributions to the least developed British areas.

Another misleading rally — this time used by Bremain supporters — was that leaving the EU would mean a loss of 3 million jobs, although there are no sources that back up this argument.

One of the core marketing tools was the topic of immigration. Nigel Farage managed to prompt immigration as the key argument of the discussion, as he reached what could be seen as one of the most meaningful issues for a significant British demographic sector, possessing a strong nationalist, patriotic drive. Said demographic group was aware of an ongoing risk of losing national culture and identity, so they put their faith into leaving the EU. As evidenced by post-electoral demographical examinations, as well as the voting results of certain, traditionally leftist working neighbourhoods, this fear-based claim particularly mobilized poorer voters who perceived immigration as a threat to their jobs, given most jobs immigrants are offered consist in unskilled labours:

> "Emulating the tactics used by the French National Rally, Vox aims to collect the votes of critics and despairing workers, via neighbourhood-targeted meetings, if it fails to, at least, meet voting abstention for the left."[1]

Apart from the support of working neighbourhoods, another significant event was crucial for this — the population's rejection of the British Prime Minister and subsequent manifestation of the Brexit referendum as a punishment for his administration without carefully considering the consequences. These political groups claimed immigration was out of control, involving a serious risk for a proper operation of the public services, such as the healthcare system, which was claimed to be at risk of collapsing.

Another argument of the Eurosceptic parties is that most fundamental decisions are discussed away, only in Brussels, which contradicts national sovereignty. States are progressively losing their

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[1] BOCANEGRA, R. (2019): "Vox busca el voto del descontento (y la abstención de la izquierda) en los barrios obreros de Sevilla", on *Público*, February 21st, www.publico.es

decision-making capabilities, both because they are being managed in some aspects by the EU and because of the domestic decentralization that is being driven by the supranational tools developed by most European States.

The stance of traditional political parties played a key role in the aftermath of these events, in addition to the Labour Party's ambiguous claims Their vague stance, which favoured neither party explicitly, had two main reasons behind. Firstly, the will to avoid internal disputes similar to the Conservative Party's, and, on the other hand, the aim to avoid an exodus of left-wing electors who actively opposed the United Kingdom's remain in the EU.

This scandal was triggered by some text advertisements, one of which was a UKIP billboard that involved incitements to racial hatred, which was later compared on social media to some actual black and white images of a nazi propaganda documentary released by BBC in 2005. The image used on the billboard is a snapshot of the border between Croatia and Slovenia in 205.

The marketing of Brexit-supporting parties arrived late and its claims were poorly formulated: "For every £1 we put into the EU, we get almost £10 back". Such an abstract, generic argument needed a more moving approach, targeting the feelings of potential voters in order to gain their support. The Bremain campaign, led by the Prime Minister, targeted the economy and the market with its first steps, marketing it in a way easily understood by large corporations, but one that the average citizen could never really identify with.

Not every study is analysed rationally and objectively during a political campaign — individual charm plays a significant role in gaining people's trust, as the candidate's personality and appeal in social media may entice many electors to change their vote. Although no candidate is elected individually, there are several groups of people publicly siding with a particular choice, such as the former Mayor of

London and current British Prime Minister Boris Johnson, whose charming personality gained notable support, both from the Conservative Party and from different political ideologies. Some scholars consider nearly 10% of Brexit votes was achieved thanks to him. Similarly, the Secretary of State for Justice Michael Gove used his clever communicative skills to support Brexit and thus gaining potential voters.

2. The process of withdrawal from the EU

In March 29th, 2017, the UK notified the President of the European Council about its decision to abide by article 50 of the Treaty on European Union and thus withdraw from the EU. The withdrawal should enter into force in 2 years time, although it is stated in that very article that said deadline may be extended:

> "The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period."[2]

The rejection of the Prime Minister's, Theresa May, proposals by the House of Commons has led Brexit to a dead end, which has consequently prompted the European Council to grant two additional extensions to allow for a proper agreement on Britain's exit from the EU. There have been increasing requests for a new referendum in the UK, but this does not seem possible due to the Conservative Party's refusal, as well as reservations of some sectors of the Labour Party — electoral calculations, to be precise. In early 2019, the leaders of the opposition stood for a new referendum for the British people:

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[2] Article 50 of the TREATY ON EUROPEAN UNION: Official Journal of the European Union., March 3rd, 2010

"The British Labour Party will support a second ballot on Brexit: "We'll back a second referendum to stop Tory no-deal Brexit (from being elected)", said the leader of the Labour Party, Jeremy Corbyn, in an MP Labourer meeting"[3].

Despite the previous statement's will to re-establish a voting on Brexit, this measure would not be backed by some sectors of the Labour Party — according to electoral calculations —, as it would inevitably wear down its candidates in certain regions of the UK where "LEAVE" was the dominant choice.

British Prime Minister, Theresa May, has managed the withdrawal agreement on three separate occasions, only for it to be rejected every time by the MPs. She has not been supported even by her fellow MPs, which consequently resulted in her proposal of a second Brexit referendum should it receive enough support— all during the week of the 2019 European Elections — in an attempt to cast one last voting in the House of Commons. Still, this proposition had a clear propagandistic goal behind, requested only two days from the voting in which British people would probably elect their European MPs for the last time — it intended to avoid losing support en masse.

The day after the elections, Theresa May announced her official resignation, facing the appalling results of the Conservative Party — which became the fifth most voted Party in the UK. May resigned her duties as Leader of the Conservative Party and as Prime Minister on July 24th, and was replaced by Boris Johnson, who was elected internally. As previosuly stated, this politician was one of the fiercest, most belligerent Brexit defenders during the ballot. One of his first policies was the announcement of the UK's withdrawal from the European Union before October 31st, 2019, no matter what.

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[3] CONCEJO, Edurne (2019): "Los laboristas apoyarán la convocatoria de un segundo referéndum sobre el Brexit", en La Vanguardia, February 25th, 2019, www.lavanguardia.com.

3.- The rocky European elections

When examining the electoral results, one must consider the intricate situation of Europe after the Brexit referendum, an event that has been used as a fuel for foreign Eurosceptic parties. Populists and the far-right have been gaining significant support during recent votings, even being a part of the Government in some countries. The Spanish elections of Mat 2019 have had the highest participation share in the last two decades, which can be explained by the fear of extremist ideologies — which, at the same time, may have pressed Abstentionists into an active attempt to stop said parties from power. This was the case of the Spanish general elections of April 2019, in which the fear to VOX — a far-right political party — resulted in the highest participation rate in Spain since the 2004 elections, that took place just three 3 days after the Madrid train bombings.

Despite this optimism, it should be noted that the share rate barely passed 50%; it was a 50.95%, compared to a 43.61% in 2014. The aftermath suggested a rise in Green and Liberal voters, who got their best ever results, in addition to a rise in Nationalism and Euroscepticism. Some scholars have viewed this result in a truly positive light:

> "Europe is indeed a matter of interest. It mobilizes people. This has been evidenced by the increased participation share of last Saturday's voting — the highest in the last 20 years. Democracy thrives on confrontation and conflict. The system is actually the tool that organizes said confrontation and conflict and arranges them into power and politics."[4]

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[4] BASETS, Lluis (2019): "La democracia europea está viva", www.elpais.es, May 27th. TRANSLATION OF THE ORIGINAL QUOTE.

After the elections, the study mostly depends on the general expectations. During the Spanish elections, it was believed that both the far-right and the far-left would come into power, threatening the future of the EU. Although traditional parties, such as the *PPE* (European People's Party) and the Party of European Socialists have lost some support, they are still the two most powerful parties. All in all, utilizing fear as a fuel to vote seems to have been a successful strategy, although the presence of one third of Eurosceptical MEPs in the European Chamber should prompt everyone into a careful reflection on the current status of the Old Continent, in which these parties are supported by electors as one and only half of the voters actually attend the voting.

The number of total seats in the European Parliament will drop down from 751 to 705 after the United Kingdom finally withdraws from the EU, with some States gaining representation. The changes on representative power within the European Parliament are being studied in the following chart, comparing the last two elections:

GROUPS	2015	2019
EPP	221	182
S&D	191	151
ALDE/ Renew Europe	67	108
Greens/EFA	50	74
Identity and Democracy		73
ECR	70	62
GUE/NGL	52	41
EFDD	48	54
Others		29
Not Included	52	8

Chart 1. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

The most significant party within the European Parliament's Chamber is the European People's Party (EPP), which are considered as Christian Democrats by the official site of the European Parliament, followed by the Progressive Alliance of Socialists and Democrats (S&D) – showing that Social Democracy is a staple in many countries. The European Conservatives and Reformists Group (ECR) is on third place, whose MEPs come from 15 different countries. The former Alliance of Liberals and democrats for Europe Group (ALDE), currently Renew Europe, is comprised od Liberal parties, such as the Spanish *Ciudadanos*. Some recent additions are the Basque Nationalist Party and Catalan nationalists, due to their confrontations with the Spanish People's Party, and thus the EPP, despite their similar stance on Christian Democracy. They are followed by the Greens, who have seen a 50% increase on their representation, becoming the fourth most powerful group in the European Parliament. the Europe of Nations and Freedom Group (ENF) has renamed itself into Identity and Democracy, led by the French politician Le Pen along with other two far-right European parties such as the Italian Northern League and groups from different countries.

> Le Pen stated that the group is "the first sovereign power in the European Parliament" and said the countries that represent it are Austria, Belgium — specifically the Flanders region —, the Czech Republic, Denmark, Estonia, Finland, Germany, and Italy[5].

Although Eurosceptical parties came into power in some of the most relevant European countries, pro-European parties are the most significant force within the European Parliament. However, the rocky situation that the EU is facing is no longer a secret, due to the upsurge of Populist and Anti-System parties that have gained more popularity after Brexit. Furthermore, Eurosceptic parties have come into power in

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[5] EFE (2019): "Le Pen presenta el nuevo grupo Identidad y Democracia en el Parlamento Europeo", 13 de junio, www.euroefe.com, seen on July 3rd, 2019.

states such as Hungary, with a 62% support share, and with over 50% in the Czech Republic, Italy, and Poland. The Brexit-supporting party of Nigel Farage has also gained power in the UK, as well as Salvini's Northern League in Italy and Le Pen's National rally in France, just to name some renowned examples in Europe.

Conservative and Reformist parties dropped down to 6th place and lost 8 seats. This group is comprised of some nationalist parties, which have been claimed to be far-wingers by some political and public environments, such as the Polish Law and Justice and the Spanish VOX.

They are followed by the European United Left, also known as Nordic Green Left (*GUE*/NGL) is comprised by left-wing groups, such as the Spanish *Podemos* and United Left, *La France Insoumise*, the Irish *Sinn Féin*, Communists and Nationalists. The Greens Group is comprised of environmental parties such as *Esquerra Republicana de Catalunya* (ERC), whose MEP have increased in 2, reaching 41 members.

Eurosceptics fell under the Europe of Freedom and Direct Democracy (EFDD) Group. This group was also led by Neil Farage's Brexit Party, with the addition of the Italian Populists of the Five Star Movement, although they are currently enrolled in no European Party. Both groups are comprised by over 90% of the latter group, with whom some minor parties from Croatia, Germany, Greece, and Slovakia have joined up.

After accounting the MEPs of Identity and Democracy, the 14 belonging to the Italian Five Star Movement, and the 29 belonging to the UK's Brexit, there are a grand total of 116 seats whose intention is to bring down the EU. This is just over 15% of the whole political groups, but it could gain support from other Eurosceptic and Populist parties that fall under the Conservative Group and the GUE/NGL Group —although it would reach around a 30% support share, and would thus

be unable to change the general course, given it would only be a third out of all representation.

21 parties that can be considered as far-right actually have representation in the European Parliament. However, not all of them belong in the same Group, as they have been sorted into several sectors, staying out of the Liberal Group, the Greens, the Social Democrats and the GUE/NGL.

From now on, the results of the most recent votings will be studied by country. The highest participation rate —of 88.47%— took place in no other country that Belgium, home of the supranational organization. Since the first referendum of 1979, most Belgians have cast their vote —with a remarkable participation rate of over 90%, besides the last two elections, where it dropped to 89% and 88% respectively.

BELGIUM	2015	2019
EPP	4	4
S&D	4	3
ALDE/ Renew Europe	6	4
Greens/EFA	2	3
Identity and Democracy	1	3
GUE/NGL		1
EFDD	48	54

Chart 2. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

Another country where participation rate is at its utmost is Luxembourg. Its rate used to reach almost 90%, although it dropped at 85% in the 2014 elections, ands remained slightly over 84 in the 2019 elections, with a similar seat distribution than in 2014. The Democratic Party managed a Liberal victory in the latter referendum, followed by the Christian Social People's Party, The Greens, and the Social

Democrats. In this case, no far-right party was elected, contrary to other nations.

LUXEMBOURG	2015	2019
EPP	3	2
S&D	1	1
ALDE/Renew Europe	1	2
Greens/EFA	1	1

Chart 3. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

Maintaining the declining trend; the case of Malta, whose first European elections were held in 2004, could not keep its 82% initial rate, which has been gradually decreasing every five years —even dropping down to 72.7%. On the last referendum, and with comparable results than in 2014, only two groups achieved seats within the Parliament. The EPP won these elections, gaining one more seat and thus decimating Social Democrats, after a difference of over 20 points.

MALTA	2015	2019
EPP	3	4
S&D	3	2

Chart 4. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

Participation rate has also been exceeded by another small EU member —Denmark, with a 66%. The case of this Nordic country is opposite to the previous examples, as participation has been rising since the 1979 elections, when it did not even reach 48%. However, said increase halted in 1999 and has been irregular since. It should be mentioned that, during the 2019 voting, participation rate increased in ten points, compared to the one in 2014. The reason stems from the

results of the Danish 2015 general elections, since the Danish People's Party obtained 21% of all the votes, which might have mobilized several electors in an attempt to stop this force. Actually, its support has dropped down to 8%, losing over half of its voters.

DENMARK	2015	2019
EPP	1	1
S&D	3	3
ALDE/Renew Europe	3	5
GUE/NGL	3	1
Greens/EFA	1	2
ECR	1	1
Not Included	1	

Chart 5. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

Boasting a 64% rate, Spain is the participation leader of the big countries, an event which has been triggered by its referendums. Both times these three referendums were held at the same time resulted in a 63% participation rate in 199, and a 69% in 1987 —further proof that participation has stayed the same. Considering municipal and regional elections, the European elections of a significant part of the nation has not surpassed 50% on average.

A party that can be considered as far-right has gained representation in Spain for the first time —VOX. Despite it not placing over the other parliamentary group it would eventually join, this party has been praised by radical parties of France and Italy. The Spanish Socialist Worker's Party, a Social Democrat group, was victorious in Spain, followed by the EPP —who lost support In favour of the Liberal group *Ciudadanos* and the party on its right, led by Santiago Abascal. The latter has been integrated into the European Conservative and Reformists Party (ECR).

SPAIN	2015	2019
EPP	17	12
S&D	13	20
ALDE/Renew Europe	8	8
Greens/EFA	5	6
GUE/NGL	10	5
ECR		3

Chart 6. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

Germany has had the highest participation rate in the last 30 years, being a 61%. Since 1999, abstention surpassed 50%, which has been beat as well just by the first voting calls of 1979 and 1989. The eventual loss of power of traditional parties, such as the Christian Democratic Union of Germany —despite winning the German elections with 28% of the votes— as well as the downfall of the Social Democrats, with 12 points less than in 2014, entail a rise of minor parties. Said benefiting parties are the Greens, which has become the second largest group in Germany with over 20% of total support, and the rising far-right Alliance for Germany —evidenced by its 11 seats and over 10% votes. This must be studied accounting the increased participation rate concerning previous referendums. Mobilization has struck deep within electors and has triggered the two most significant powers to lose over 20 points.

GERMANY	2015	2019
EPP	34	29
S&D	27	16
ALDE/Renew Europe	4	7
GUE/NGL	8	5
Greens/EFA	13	24

ECR	6	1
ENF	1	
EFDD	1	11
Not Included	2	1
Others		2

Chart 7. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

The participation rate of Austrian citizens is 59%, almost 15 points greater than their historical record, except from their first elections held in 1999. Abstention rate surpassed 50% in every other call. These referendums were severely struck by the corrupt scandal that aired shortly before the Hans Christian Strach voting. The leader of the far-right group *FPÖ* was met with rejection within the ballot — support for his party dropped to 17 and consequently lost a MEP. The EPP thus won the elections, and already ruled in the country, followed by the Social Democrats. Elector mobilization, once again, proves to be an obstacle for radical groups.

AUSTRIA	**2015**	**2019**
EPP	5	7
S&D	5	5
ALDE/Renew Europ	1	1
Greens/EFA	3	2
ENF	4	3
Not Included	1	

Chart 8. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

Greece, a country that has been greatly wounded by recent crisis, in which both the far-right and far-left, have gained significant power. Still, power can mean one's own demise, and Tsipras' party, in power since 2014, has been punished by voters, losing votes in regional and European referendums — even losing in 12 of the 13 regions that make up his country.

GREECE	2015	2019
EPP	5	8
S&D	4	2
GUE/NGL	6	6
ECR	1	1
Not Included	5	4

Chart 9. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

The victory of the moderate right with a 33% support rate has paved the way for political changes once of the countries that was struck the most fiercely by the economic crisis, spurred by the intervention of the Troika. Additionally, its severe policies that deeply angered and astonished the people, who perceives Syriza as a national weapon and a way to rebel to economic decisions of politicians in Brussels. Support for the left has since dropped to 23%. Nevertheless, the neo nazi group Golden Dawn has also lost half of its support, placing right under 5%. The spread of propaganda during times of uncertainty.

Voting is, many times, a manifestation of protest, as evidenced by several examples. In the 2019 European elections, the group led by a fugitive Puidgemont, received 3700 votes in the Community of Madrid, at the same time that Junqueras' group received 5730. Excluding nationalist-bound regions, such as the Basque Country, Navarre, Galicia, Valencia, and the Balearic Islands —the latter being a

part of the concept of Países Catalans—, Andalusia has been their most supportive region after Madrid, with over 5000 votes. In the 1987 European elections, the first ones held in Spain, Herri Batasuna, the political tool of ETA (Euskadi Ta Askatasuna), gained one MEP with over 361,000 votes — 147,000 of which came from Navarre and the Basque Country. They got more than 15,000 votes in Madrid, 12,000 votes in the Valencian Community and over 10,000 votes in Andalusia. In fact, this campaign's morro was "Strike them where it hurts them the most. Vote for Herri Batasuna".

SWEDEN	2015	2019
EPP	4	6
S&D	6	5
ALDE/Renew Europe	3	3
GUE/NGL	1	1
Greens	4	2
ECR	2	3

Chart 10. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

Far-righters and far-wingers both gained representation during the last Italian elections, all in a quite unusual alliance backed by Italians themselves in the European elections.

ITALY	2015	2019
EPP	12	7
S&D	31	19
ALDE/Renew Europe	1	
GUE/NGL	3	
Greens	1	
ECR	5	5

ENF	6	28
EFDD	14	14

Chart 11. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

Participation in Lithuania barely met half of the population, with a 53.48% share, the highest of the four electoral calls they have taken part in since their inclusion in the European union, but that have ended similarly to the ones of 2014.

LITHUANIA	**2015**	**2019**
EPP	3	3
S&D	2	2
ALDE/Renew Europe	3	2
Greens/EFA	1	2
ECR	1	1
EFDD	1	
Others		1

Chart 12. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

In Romania, the participation share has spiked in 51%, just over half of the population, and still a far more considerable number than the previous three calls, which barely met 30% of the population. The National Liberal Party was the choice of Romanian citizens, which belongs to the EPP. The Social democrats lost 4 seats and over 10 share points. The Liberals gained representation compared to 2014, and stayed in third place. This call resulted in a decrease in support for the left and an increase for the moderate right.

ROMANIA	2015	2019
EPP	13	14
S&D	13	9
ALDE/Renew Euro	3	8
ECR	2	1
Not Included	1	

Chart 13. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

France was on the spotlight during the last referendum, as it is one of the mightiest, most significant countries in Europe, and whose results may trigger all-out support for the French right wing, represented by Le Pen's National Rally with 23.53% of the votes and 22 seats. Not far below from Le Pen's party lies the coalition led by Prime Minister Macron, Renaissance, which got 22.47% of the votes and 21 MEPs. In addition to the rise in support for ENF and the Liberals, the Greens also managed to double its parliamentary representation, surpassing 13%. The EPP lost a significant part of its electors and dropped to fourth place with 8% of the votes. The left-wingers, comprised by the French Socialist Party and la France Insoumise both obtained 6%.

Participation in this referendum exceeded 50%, significantly over the last four elections, in which neither voting met half of all voters and stayed around a 40% share. The only ballot to manage it first call of 1979, with a 60% share.

FRANCE	2015	2019
EPP	12	8
S&D	20	5
ALDE/Renew Europe	7	21
GUE/NGL	5	6

Greens/EFA	6	12
Not Included	3	
ENF	15	22
EFDD	6	

Chart 14. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

One of the countries that have lived through the worst effects of Brexit is Ireland, the only State to share a land border with the UK. This has only served as a fuel that evidences the chasm between the Ulster and the Republic of Ireland. The EPP won the elections, under the Christian Democratic Fine Gael, who obtained 29% of the votes, after which the Greens placed second with a 15%. The left-wingers, represented by the Sinn Féin and Independents, approached that same number of votes, along with the Liberals, who managed only 1 MP. Participation rate in the European elections, of 49%, has been historically low —the lowest since 1994.

Given such challenging times, especially for the Irish nation, it is interesting that not even the impeding consequences of Brexit have triggered mobilization for Irish electors on their future in Europe, as results are similar to the ones from five years ago.

IRELAND	2015	2019
EPP	4	4
S&D	1	
ALDE/Renew Europe		1
GUE/NGL	4	2
Greens/EFA		2
ECR	1	

The situation in Poland has been of deep interest for analysts, as well as France's and other nations', mostly due to the rise of the far-righter Law and Justice (*PIS*). Participation share in 2019 reached 45%, almost twice as much as the previous three referendums, where participation remained between 20 and 24%. Law and Justice beat its parliamentary rivals by a sizeable margin with over 45% of the votes and most of the seats —now belonging to the ECR. The European Coalition, assembled by opposing parties of different political ideologies, placed second with a 38% of the votes, whose seats have been sorted among the separate groups of the Parliament in Strasbourg —ranging from the EPP to the Social Democrats and the Greens. The far right of *Konfederacja* did not make it to the Parliament, after getting a 4.6%.

POLAND	2015	2019
EPP	22	17
S&D	5	8
ECR	19	26
ENF	2	
EFDD	1	
Not Included	2	

Chart 16. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

Following the analysis on participation share, Cyprus reached 44%, a similar number to 2014, although far from the 72% that was attained on the first time its citizens were called to elect their MEPs in 2004, and far from the 59% of 2009. The growing disinterest in this

island nation's referendums can be explained by this regression in participation. On the other hand, results were close to the last elections, although with an effective draw between the Popular group and the Social Democrats, which got 29% and 27% respectively.

CYPRUS	2015	2019
EPP	1	2
S&D	2	2
GUE/NGL	2	2
ECR	1	

Chart 17. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

Hungary has been one of the prime scenarios for right-wing growth. Coalition, home to many groups led by Fidesz, a Nationalist party whose leader is Viktor Orbán, obtained no less than 52% of the votes. Despite this group is usually accused of being far-right, it belongs to the EPP. In March 2019, after ostracizing the European Commission and its president, the far-right turn made by this party, who also manages Hungarian government, was put under careful study. This decision was also discussed within the members of the parliamentary group, but no reaction was encouraged in light of the elections that were to be held in two months' time. The outcome of the May referendum was Fidesz solidifying their political representation. the seats were sorted similarly to the 2014 elections, with a 43% participation share — a historical record—, much higher than the 28% of 2014 and the 36% and 38% of the two previous calls.

HUNGARY	2015	2019
EPP	12	13
S&D	4	5
ALDE/Renew Europe		2
Greens/EFA	2	

Not Included	3	1

Chart 18. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

Participation share in the Netherlands rose in 4 points compared to 2014, reaching 41%, although it should be noted than the abstention rate has exceeded the electors since 1989 — with the 199 elections holding a 30% as the historical record for the least voters. The Dutch labour Party obtained 19% of the votes and thus political victory this time, followed by the Liberal parties *VVD*, and the People's Party for Freedom and Democracy, that slightly precede the Christian Democrats of the CDA. The Greens obtained fourth place with a 10%, same rate that the following group, the Eurosceptic Forum for Democracy (*FVD*).

Behind them, two Liberal and Christian Democratic parties obtained 7% of the votes and 2 MEPs. The right-winger Party for Freedom (*PVV*) got no European seats, as it only obtained 3.53%. This decline can be explained by the success of the *FVD*, which directly opposes immigration, and whose strategy is to close Dutch borders —a party that was very well received within the Dutch regional elections held some months prior, and which undoubtedly promoted its results during the call of May 26th.

THE NETHERLANDS	2015	2019
EPP	5	4
S&D	3	6
ALDE/Renew Europe	7	6
GUE/NGL	3	1
Greens/EFA	2	3
ECR	2	5
ENF	4	
Others		1

Chart 19. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

40% of the population cast their vote in Finland, a similar number to the recent ballots, which have only significantly deviated in 1996, after the country's entry to the EU. Participation rate during said year spiked at 57%, only to later drop to 30% in 1999.

The centre-right National Coalition Party (KK) won the elections with 20% of the votes. Right after it, the Greens obtained 16% and 2 MEPs —same amount than the Social Democrats. Just below 14%, the right-wing Finns Party (PS) stood its ground. The Centre Party (SK) did not make it just by a few tenths. During the Finnish national elections, held a couple months before the European ones, the Finns Party was beaten by the Social Democrats —the winning party— by just two tenths, which also beat the National Coalition Party. The situation was so close that it resulted in an effective draw, where the three most voted parties are separated by less than one full point. The fear of a far-right uprise mobilized citizens into stopping them from almost winning the elections.

FINLAND	2015	2019
EPP	3	3
S&D	2	2
ALDE/Renew Europe	4	3
GUE/NL	1	1
Greens/EFA	1	2
ECR	2	2

Chart 20. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

Participation rate in another Baltic country close to Finland, Estonia, reached 37% —similar to the one of 2014 but still far from the spike of 43% in 2009 and the unusual, incredibly low rate of 24% obtained during the two first European referendums of 2004.

The Estonian Reform Party (*ER*), with Liberal ideology, won the 2019 elections with 26% of the votes, beating the Social Democrats' 23%. They were followed by the Estonian Centre Party (EK), in third place, and the Conservative People's Party of Estonia (EKRE), in fourth place, who has been considered far-right and obtained 12% of the total votes.

ESTONIA	2015	2019
EPP	1	
S&D	1	2
ALDE/Renew Europe	3	3
Greens/EFA	1	
Others		1

Chart 21. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

These referendums should not have been held in the UK, as its withdrawal from the EU should have entered into force some time ago, even exceeding the overtime it was granted. However, the issue was hindered by the Parliament's refusal and poorly executed communication on the formation of an agreement, and resulted in British citizens casting their vote for MEPs who would most likely not fulfill the required 5-year-period.

Additionally, a low participation rate of 37% should be noted — still greater than the 34% rate of 2014. People's indifference and lack of mobilization spurred this kind of results in the UK and other

countries like France or Italy, although participation in these nations was slightly above 50%.

This referendum favoured Eurospectic parties, just like a second Brexit runoff. The results in the UK evidence the marketing campaigns have been successful. The Brexit Party, led by Neil Farage, stormed through the ballots, obtaining 28 MEPs and 32% of the votes. The Liberal Democrats have risen from only 1 seat to 15 and a 20% of the votes. Traditional parties, on the other hand, were notably struck with a massive loss of support. Labour supporters managed third place with 10 seats, 8 less than in previous votings. The Greens got fourth place with 7 MEPs and a 12% rate, followed by the Conservatives, who have dropped to fifth place, with 9% of the votes and only 4 seats.

The Brexit Party was created just two months before the European referendum, after confirming it would take place because of the stalemate concerning UK's withdrawal. Once again, a newly formed party that demolishes their rivals with a Populist message, similar to the Italian situation in 1994 with *Forza Italia*, led by the broadcasting tycoon Silvio Berlusconi, who won the elections with a new party. Electors punished the ambiguous stance on the UK's withdrawal of traditional parties and rewarded the direct approach of Brexit supporters through Farage's party and the Liberal democrats that favoured Bremain.

UNITED KINGDOM	2015	2019
EPP	2	
S&D	18	10
ALDE/Renew Europe	1	16
GUE/NGL	1	1
Greens/EFA	6	11
ECR	19	4
ENF	18	
EFDD	14	29

Not Included	3	1
Others		1

Participation rate in this Baltic Nation has been exceptionally low —only a 33%—, far from the 53% of 2009, and the 41% of 2004, but quite similar to the last ballots of 2014 where abstention peaked at 70%. The Liberal Conservative formation New Unity (*JV*) managed first place. The Social Democrats, vastly pro-Russian, attained second place, followed by the National Alliance. All three groups obtained 2 seats each, whereas the Latvian liberal party and the Latvian Russian Union obtained 1 —overall, similar results to the ones from five years prior. The positive results of openly pro-Russian parties, such as Nils Ušakovs', should also be mentioned. The Social Democrats were supported en masse by the Russian minority of this territory, which gained its independence almost three decades ago.

LATVIA	2015	2019
EPP	4	2
S&D	1	2
ALDE//Renew Europe	1	
Greens/EFA	1	1
ECR	1	2
Others		1

Bulgarian participation reached 32%. During the four referendums held in this country since its inclusion in the EU in 2007, participation rate has not strayed much, remaining between 29 and 39%. A Populist-leaning Conservative party, Citizens for European Development of Bulgaria (*GERB*) demolished the elections. It is currently the opposition leader after the 2016 national elections. This group formed a coalition with other parties and together obtained slightly over 30% of the votes, 4 points over the Social Democrats, followed by the party defending the Turkish minority living in Bulgaria.

BULGARIA	2015	2019
EPP	7	7
S&D	4	5
ALDE/Renew Europe	4	3
GUE/NGL		
Greens/EFA		
ECR	2	2

Chart 23. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

These referendums have not been particularly interesting for Portuguese citizens, barely reaching a 30% participation rate, the lowest since their inclusion in the former European Economic Community in 1986. In that call, participation rate reached 70%, although it plummeted to 51% in 1981 and has not exceeded 40% ever since. The Socialist Party obtained 33% of the votes, eleven full points more than the Democratic People's Party. The Left Bloc attained third place with almost 10% of the support, preceding another coalition comprised of the Portuguese Communist Party and the Ecologist Party, which obtained one seat, like the CDS and the Greens.

PORTUGAL	2015	2019
EPP	8	7
S&D	8	9
ALDE//Renew Europe	1	
Greens/EFA		1
GUE/NGL	4	4

Chart 24. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

29% of Croatian citizens cast their vote —a sparse number, but definitely more significant than the 20% of the first European elections of 2013, and the 24% of 2014. This country entered the EEC in July 2013, although, considering the results, it seems European elections are of little to no concern for Croatians, one of the last countries to enter the supranational organization.

CROATIA	2015	2019
EPP	5	4
S&D	2	3
ALDE/Renew Europe	2	1
Greens/EFA	1	
ECR	1	1
Others		2

Chart 25. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

28.89% of Slovenian citizens voted on May 2019, a slight increase from the 24% of 2014, and still a greater number than the two previous European votings, including the first one since its inclusion in

the EU in May 2004. Once again, a centre-right coalition attained victory for the EPP with 26% of the votes, followed by the 18% of Social Democrats and two different parties in the Liberal group.

SLOVENIA	2015	2019
EPP	5	4
S&D	1	2
ALDE/Renew Europe	1	2
Greens/EFA	1	

Chart 26. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

The two nations that comprised former Czechoslovakia are the ones in which European participation share has been the lowest. Czechia's participation rose to 28%, ten points greater than in 2014, but almost the same number to the calls of 2007 —its inclusion in the EU—, and in 2009. ANO 2011, Action of Dissatisfied Citizens, a centre-wing party with a Populist influence, was the one to attain victory. They were followed by Civic Democratic Party (ODS), a centre-right party under the EPP. Freedom and Direct Democracy (SPD), a far-right party, obtained fifth place with 9% of the votes and 2 MEPs. The latter group may have had a low support rate, but it attained second place in the national elections held a few months prior. It obtained 11,5% of the votes, and preceded the Communist Party, the Czech Pirate Party, the Social Democrats, and the Christian Democrats.

CZECHIA	2015	2019
EPP	7	5
S&D	4	
ALDE/Renew Europe	4	6
GUE/NGL	3	1

ECR	2	4
ENF		2
EFDD	1	
Greens/EFA		3

Chart 27. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

Slovakia had a 22.74% participation rate, the lowest out of the 28 countries that comprise the European Union, as well as the lowest of its four European elections, which has never surpassed 28%. On this case, victory was grasped by a centre-right coalition under the EPP, with over 20% of the votes, followed by the Social Democrats' 15%, and the far-right group Kotleba, with a 12%.

SLOVAKIA	**2015**	**2019**
EPP	6	4
S&D	4	3
ALDE/Renew Europe		2
ECR	3	2
Others		2

Chart 28. SOURCE: Self-made study based on the data found on http://www.europarl.europa.eu/portal/es

All in all, as it has previously been stated, even if the combination of extremist or Eurosceptic parties does not reach the necessary third that would obstruct ruling within the European Parliament, there is an unsettling political marketing-related detail that must be considered. Either far-right or openly anti-EU parties have gained significant power in three out of the four most relevant countries in the EU. The National Rally in France, the Brexit Party in the United Kingdom and the

Northern League in Italy. Most votes went to the Christian Democrats of the CDU in Germany, but the far-right group *AFD* obtained fourth place with over 10% of the votes. Right-wing parties whose direct aim is to dismantle European institutions have prevailed in three of the fourth highest-grossing GBP European countries.

Considering countries by their population, five out of the six most populated nations have far-right parties on their Governments. Poland should also be taken into account, as the PIS, Law and Justice gained power. In Spain, on the other hand, the Socialists won the elections, but one party, more conservative than the EPP, entered the Spanish Parliament —a party under the same group that the aforementioned Polish party. Vox, classified as far-right or ultra-conservative, attained 3 seats, with over 6% of all votes. Thus, Spain followed the steps of most EU states, where this kind of groups already paved their way into the Government.

4.-Conclusions

Considering the results of these referendums and the stalemate of the UK's exit from the EU, one must wonder whether the future of the EU is at risk and just how far this snowball effect, along with on some parties' ongoing Eurosceptical propaganda can weaken the European institutions.

The agreements between the European People's Party, the Social Democrats, and the Liberals, which influence the designation of the most vital position as well as geographical stability, is once again the go-to choice. German Christian Democrat Ursula von der Leyen has been appointed President of the European Commission —a pro-European politician who will be in charge of the most important European institution. The European Central Bank is also lead by a woman, the French citizen Christine Lagarde in this case, who used to be a Minister during the Conservative French governments of Chirac

and Sarkozy. A French-German core which allows two politicians to lead two key positions of international politics is now at play.

On the other hand, the Social Democrats have had the opportunity to appoint two of their politicians in relevant positions. The Spaniard Josep Borell, former Minister during several of the Spanish Socialist Worker's Party governments, has been appointed EU High Representative for Foreign Affairs, a similar role to the Secretary of State for Foreign Affairs in other countries. David-Maria Sassoli, a Social Democrat, led the first turn of the European Parliament, up until his death in 2022 —whose position was replaced by Roberta Metsola, a Christian Democrat— whereas the Liberals managed to appoint Belgian politician Charles Michel as President of the European Council.

All in all, the three most powerful groups, along with the pro-European parties have prevailed over extremists from both sides of the political spectrum with the intention of developing a bright future for the European Union despite the warnings from the electors.

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THE GREAT WAR AND THE AMERICAN ART OF PEACE[1]

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Abstract: After the Great War, the European tradition of how to conduct peace negotiations was altered by the completely different perspective that American diplomacy adopted, and which influenced the form that the diktat of Versailles finally took.

Key words: Diplomacy, International Relations, Treaty of Versailles, History of Diplomacy, American Diplomacy.

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1.- Introduction

The Great War, the war that was to end all wars, proved to be such a war as there had been no other in human history up to that time. The combination of a series of political, economic, technological, tactical, scientific and even biological factors brought the desolation and destruction of war to a level never seen before.

The list of these factors is extensive: the massive growth in the size of armies—a trend that began with the military revolution at the dawn of the Modern State[3]; the industrialization of war machinery, at the pace set by the industrial revolution, with the widespread use of railways for the deployment of troops; the improvement in the performance of infantry weapons, both for rifles—with the introduction of the rifled bore as early as the Austro-Prussian War of 1866 and ordnance rifles capable of sustaining a constant volume of rapid fire, such as the British Lee Enfield[4]—and for heavy and medium machine guns, deployed on a massive scale for the first time. This meant an exponential increase in their lethality, given the advances in quality—

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[3] In this regard, see FERNÁNDEZ RODRÍGUEZ, M., and MARTÍNEZ PEÑAS, L., *La guerra y el nacimiento del Estado Moderno*. Valladolid, 2014; FERNÁNDEZ RODRÍGUEZ, M., and MARTÍNEZ PEÑAS, L., "Revolución militar y fortalecimiento del poder central: guerra y Estado en el tiempo de los Reyes Católicos", in VV.AA., *Actas del I Congreso Internacional de Historia Militar*. Madrid, 2015; and FERNÁNDEZ RODRÍGUEZ, M., "Guerra y cambios institucionales en el contexto europeo del reinado de los Reyes Católicos", in *Revista de la Inquisición, Intolerancia y Derechos Humanos,* no. 18, 2014, pp. 129-157.

[4] Although it was a bolt-action weapon, the simple handling of the bolt and the ten-round magazine of the Enfield made it suitable for maintaining a high volume of fire. The record set by a British sergeant proves it: 38 successful shots were fired at a twelve-inch target at a distance of three hundred yards in sixty seconds. While this is an extraordinary number, it suggests the firepower that such a weapon could provide an experienced soldier. On average, British soldiers were capable of firing between 15 and 30 shots per minute with the Lee Enfield (SKENNERTON, I., *The Lee-Enfield*. Gold Coast, 2009, p. 60).

precision—and quantity—volume of fire. Other factors included in this same list are the development and use of new weapons on land, sea and air, such as the aeroplane, the airship, the submarine and the tank, all of which, moreover, took the war to hitherto almost pristine scenarios, such as the skies or beneath the surface of the seas and oceans; the use of gases and other chemical products against enemy troops; the development of trench warfare, which had already been seen in some previous conflicts, such as the Battle of Spotysville in the American Civil War and the battles of Port Arthur and Mukden in the Russo-Japanese War; the use of technological innovations such as the telephone, the telegraph and the combustion engine. The list continues with the number of belligerent nations; the surface of the planet affected by land and naval operations; the inability of the high commands to adapt tactics to the new conditions of the battlefields; the epidemics unleashed during and after the conflict—especially the Spanish flu, probably the most devastating in the human history by number of fatalities[5], and which were favoured by conditions of misery, poverty, weakness, overcrowding and displacements of population and troops produced by the war... All of this converged to create a war vortex of unknown intensity.

The carnage on the fields of Europe ceased on 11 November 1918, although unfortunately for only a historical blink of an eye, twenty years and ten months, before resuming with even greater verve, so it is not surprising that some authors have referred to the period between 1914 and 1945 as the great European civil war or a new Thirty Years' War.

A few months later, in 1919, one of the greatest peace conferences in world history, and indeed in European history, began in Paris. If the Great War had been a unique war after which conflicts would never be the same anymore, the Paris Conference was also an

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[5] On this epidemic, see SPINNEY, L., *El jinete pálido. 1918: la epidemia que cambió el mundo*. Barcelona, 2018.

unparalleled peace conference in the history of European diplomacy, after which no peace conference would ever be the same again.

2.- From Susa to Algeciras: the long way towards peace conferences

The resolution of complex military conflicts has mostly been addressed through peace conferences, multinational in many cases, in which the parties to the conflict negotiated the way in which each confrontation was to be concluded. Out of the six wars, or sets of hegemonic wars—the Peloponnesian War, the Second Punic War, the Thirty Years' War, the series of wars fought by France against several coalitions during the reign of Louis XIV, the Seven Years' War and the Revolutionary and Napoleonic Wars[6]—prior to the Great War[7], four led to immediate multilateral peace conferences. The situation created by the fifth—the Peloponnesian War—made an international conference inevitable within less than twenty years of its conclusion. The Second Punic War is the exception, perhaps related to the fact that, unlike the other five, the Hannibal War was essentially a bilateral conflict, especially in its final stages when the Macedonian intervention in the eastern Mediterranean was over. Just as in the Peloponnesian War, the situation in the Eastern Mediterranean was so unstable that it had to be rebuilt by means of a multilateral peace conference at Apamea in 188 BC, only fourteen years after the end of Hannibal's War.

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[6] KAUPPI, "Contemporary international relations theory and the Peloponnesian war", p. 108

[7] Hegemonic war is understood as "a military conflict involving all the great powers, other great states and many of the minor powers, in which the last issue to be settled is the nature of the international system and who will dominate it, giving rise to a great war in terms of intensity, duration and geographic framework" (MARTÍNEZ PEÑAS, L.,...Y lo llamarán paz. Visión jurídico institucional de las relaciones internacionales en la Antigüedad. Valladolid, 2018, p. 246).

The plurality of actors in the Greek world, as well as the instability of international relationships in the system in which they operated, were breeding grounds first for the conflict and then for its resolution in peace conferences. This was encouraged by the idea that the Greeks were, to a large extent, one and the same people, or at least relatives of one another. They spoke the same language, believed in the same gods, held similar value systems and legal traditions, and were co-participants in a set of customs accepted by the whole of Helladia on how to conduct diplomacy and what the boundaries of warfare should be. The fact that they called this customary system of rules "the laws of the Greeks" is a further evidence of the extent to which they saw themselves as members of the same civilisation[8].

These systemic unstable conditions meant that the end of the Peloponnesian War was not the end of all conflicts, but only the opening of a new phase, with Sparta as the main actor[9]. It included both the invasion of Persian Asia Minor by the Spartan king Agesilaus and the almost simultaneous creation of the League of Corinth, which was formed by Athens, Corinth, Thebes and Argos in order to challenge the dominant position of the Lacedaemonian city. The Hellenic world was again immersed in a general state of war, the Corinthian War, which was only channelled towards peace thanks to the intervention of the Persian High King Artaxerxes. He summoned one of the leading Spartan commanders, Antalcidas, to Susa, with whom he negotiated a general agreement to stabilise the situation in Greece. On the basis of the agreement between the Spartan negotiator and the Persian monarch, the other powers involved were summoned to a peace conference in Sardis, where the agreement was presented to them to be accepted, as Persia rejected a bilateral solution with Sparta and demanded that all the Hellenic actors should be part of the final peace treaty[10].

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[8] LANNI, A., "The law of war in Ancient Greek", in *Law and History Review*, no. 26, 2008, pp. 470-473.

[9] LEWIS, D. M., "Sparta as victor", in VV. AA, *The Cambridge Ancient History*. Cambridge, 1994, vol. VI, p. 27.

[10] SEAGER, "The Corinthian war", p. 107.

The negotiations at Sardis failed, but in the winter of 392-391 BC, they were reopened in Sparta, with all the Hellenic parties concerned present. This time the Persians were absent, merely presenting their proposal for an agreement—reached with the Spartans at Susa—and threatening to go to war against anyone who did not subscribe to it. Nevertheless, the hard bargaining between the Greek powers was extremely difficult. Sparta was the main beneficiary, as it effectively enshrined its dominant position in the Greek world. Athens, on the other hand, was forced to accept, as its supply and trade routes were under great threat, and the agreement proposed by the Persians allowed them to keep a small part of their conquests.

The major problem was the Thebans. One of the basic pillars of the treaty was the idea of the autonomy of the Greek states, which the Spartans interpreted to mean the dissolution of the League of Boeotia, dominated by Thebes[11]. Therefore, when the Thebans tried to sign the agreement on behalf of all the states of the League, the Spartans refused. The situation was so tense that Sparta even mobilised its army and marched towards the Boeotian border, but Thebes finally gave in and each of the members of the League of Boeotia signed the agreement in their own name.

Thus, the King's Peace—referring to the key factor that Artaxerxes' pressure meant to get it signed—or the Peace of Antalcidas—after the Spartan diplomat who negotiated its initial version in Susa—was approved and signed at a multilateral meeting of Greek powers, under the shadow, of course, of the absent Great King.

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[11] They did not interpret the same thing when it came to the confederations of which they were allies or which had a friendly attitude towards Sparta, and coalitions such as the Phocian federation were not forced to dissolve for the sake of the idea of self-determination.

The Peace of Apamea, signed in 188 BC, this time under Roman influence, was also the outcome of the situation in the same geographical area: the Hellas, the Eastern Mediterranean and Asia Minor. The unstable balance between the three great Hellenistic kingdoms—Macedonia, Egypt and the Seleucid empire—had been broken first by the Egyptian succession crisis and then by the intervention of the Macedonians against Rome and its Greek allies during the Second Punic War. The attempts to solve the existing conflicts, especially those arising from the Seleucid occupation of Thrace, led to the holding of an international conference at Lysimachia in the summer of 196 BC—again only six years after a major war ended without a multinational peace conference. The conference began with ten days of informal negotiations, followed by a plenary session in which the Seleucid King Antiochus and the Roman legate, Lentulus, discussed face to face. The latter tried to persuade the monarch to make peace with Egypt and respect its territorial integrity. Antiochus did not refuse but delayed the end of his military campaigns by claiming that Egypt was plunged into anarchy and lacked a valid partner with whom to negotiate peace.

The Lysimachia conference was a failure and was unable to prevent the outbreak of war between the Seleucids and Rome and their Hellenistic allies, Rhodes and Pergamum[12]. When, after the battle of Magnesia, Antiochus was forced to negotiate a peace. This was discussed at Apamea in 188 BC, where the Seleucid delegation, the Roman delegation and those of their allies sat face to face. The outcome was a devastating peace for Antiochus, who lost most of Asia Minor—in fact, all of it north of the Taurus Mountains—and was forced to pay a huge indemnity to the victorious powers. However, the Seleucid king

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[12] Eckstein considers that it was a war that could easily have been avoided, as the interests at stake were not vital to either Rome or Antiochus (ECKSTEIN, A. M., *Mediterranean anarchy, interstate war and the rise of Rome*. Los Ángeles, 2006, pp. 294-295).

had been sitting in Apamea, trying to get the best possible terms, a relevant event to which we will return later.

After the fall of the Roman Empire and the medieval millennium, marked by interesting and far-reaching diplomatic summits[13], the rebuilding of the centrality of the state and the diplomatic revolution emerging from Renaissance Italy, where agreements such as the Peace of Lodi laid the foundations for the new world of international relationships, the European continent undertook with renewed vigour the use of peace conferences to solve the problems arising from war conflicts.

The great peace conference of the 16th century was undoubtedly that of Cateau- Cambrésis in 1559. Indeed, its significance is even greater if we take into account that it represented, in many ways, the end of an era and the beginning of another[14]. It marked the end of the peak of the Italian wars and the dual confrontation between Spain and France for the hegemony of the Italian peninsula. However, after Cateau-Cambrésis, it would be almost a century before the next great diplomatic meeting between European powers, the Peace of Westphalia. In between, Europe would bleed to death in the collective suffering brought by the wars of religion[15].

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[13] In this regard, see MARTÍNEZ PEÑAS, L., *El invierno. Visión jurídico-institucional de las relaciones internacionales en el Medievo*. Valladolid, 2019.

[14] An interesting monograph on the conference is HAAN, B., *Une paix pour l'éternité: La négociation du traité du Cateau-Cambrésis*. Madrid, 2010.

[15] On these, you can see FIGEAC, M., (dir.), *Les affrontements religieux en Europe. Du début du* xvi *e siècle au milieu du* xvii *e siècle*. Paris, 2008; SOURIAC, P. J. and Souriac, R., *Les affrontements religieux en Europe. Du début du* xvi *e siècle au milieu du* xvii *e siècle: Historiographie, bibliographie, enjeux*, Belin, Paris, 2008; KAISER, W., (dir.), *L'Europe en conflits. Les affrontements religieux et la genèse de l'Europe moderne, vers 1500-vers 1650*. Rennes, 2008.

Cateau-Cambrésis was a three-way conference between England, France and Spain. Granvelle was Philip II's plenipotentiary negotiator but minor powers such as Lorraine and Savoy were also present, as well as the interests of important monarchies such as Denmark and the Austrian Habsburgs, represented by relatives linked to the reigning dynasties[16]. France finally recovered Calais and gained some positions on the Rhine, but in exchange it had to put aside—in theory this was for good, until Nevers and Richelieu decided otherwise—its ambitions over Italy, restoring independence to Savoy and Genoa and returning Monferrato to Mantua. The conference created a certain status quo between the Spanish and the French[17], allowing Spain to focus its efforts for a few years on containing the Turks in the Mediterranean. Without Cateau-Cambrésis, it is difficult to believe that Malta in 1565 or Lepanto in 1571 would have been possible.

It would take 89 years before the European powers were able to sit down at a negotiating table to rebuild the political scenario after a great conflict. Even then, they only shared a table in a metaphorical sense, because the Peace of Westphalia was negotiated in different cities. In Osnabruck, the Swedes and the Imperials negotiated part of the agreement, while in Münster, the Dutch, Spanish, French and again the Imperials negotiated another set of agreements. In spite of these circumstances and the fact that there was not a single plenary session in which all 109 delegations represented were present, the negotiating process is considered the first modern diplomatic congress.   In 1648, thirty years had passed since Bohemian Protestants threw the nobles who administered the kingdom in the name of the Emperor of the House of Habsburg out of the windows of the Castle of Prague. Over the course of those three decades, the war had ravaged the Empire and gradually involved all the great European powers. The Habsburgs, all

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[16] VELARDE FUENTES, J., "De Cateau-Cambrésis a Ámsterdam", in *Arbor*, no. 96, 1998, p. 11.
[17] DÍAZ SERRANO, A., and RUÍZ IBÁÑEZ, J. J., "Cateau-Cambrésis, 1559: ¿Hacia una Europa confesional o hacia la hegemonía de la Monarquía Hispánica?", in *Pedralbes*, no. 29, 2009, p. 65.

German princes, Spain, France, Holland, Denmark, Sweden and Transylvania, among others, participated directly. England was a constant, but indirect, contributor of money, mercenaries or volunteers, depending on the time, to the protestant cause. The issues of Poland or the Ottoman Empire both influenced and were influenced by the Thirty Years' War. Once again, Italy became a battlefield through a series of conflicts, such as those of Mantua and Monferrato, which were connected to the general European conflict[18].

Although the Westphalia agreements left the Spanish-French conflict open, which would not end until the Peace of the Pyrenees, they were the starting point for a new Europe. France would become the hegemonic power, Sweden would dominate the Baltic, the Netherlands would become an emerging trading nation whose independence was recognised even by Spain, and the Empire would be reduced to a nominal dignity over the German principalities. However, the Empire retained its power base in the East, which allowed it to reinvent itself first as an Austrian monarchy and then as a dual Austro-Hungarian monarchy. The ground for German unification was laid in Westphalia by recognising the full sovereignty of the principalities and by territorially expanding the electorate of Brandenburg, which was to become the heart of the later kingdom of Prussia, the driving force of Germanic nationalism in the 19th century.

As a result of its triumphs, which were diplomatically ratified at Westphalia and the Peace of the Pyrenees, France became the hegemonic power in Europe. It enlarged its domain through a series of wars that allowed it to extend its borders to the Rhine, in search of a natural defensive wall against its continental enemies, which some authors have seen as an emulation of Roman defensive imperialism.

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[18] Undoubtedly, the reference work on this conflict is WILSON, P., *La guerra de los Treinta Años. Una tragedia europea*. Madrid, 2018, 2 vols. It is also noteworthy from a Hispanic point of view, BORREGUERO BELTRÁN, C., *La guerra de los Treinta Años*. Madrid, 2018.

This territorial enlargement and consolidation of political hegemony took place through armed conflicts such as the War of Devolution, the Dutch War and the Nine Years' War. In order to put an end to these conflicts, international conferences were held, again resulting in peace treaties such as Nijmegen and Ryswick.

When the attempts to contain Louis XIV led to the outbreak of a general war in Europe, known as the War of the Spanish Succession. The solution to this war was again to achieve peace in an international conference at Utrecht, which began in January 1712 and ended with the signing of the Treaty of 1713. This was possible to a great extent thanks to French and English pressure on their respective allies to conclude a peace that could put an end to a war that had lasted almost twelve years at that point. These demands were not enough to persuade the Austrian Emperor Charles VI, who would keep the war going for another two years, until finally, in the Treaty of Rastatt, he accepted what the other powers had agreed to at Utrecht.

The 1763 Treaty of Paris, which ended the Seven Years' War, had its greatest significance in the recognition of Great Britain as a colonial empire and the confinement of its Austrian and French rivals to the Old Continent. Despite the fact that this treaty introduced some nuances to the balance of power in Europe, Europe would again call for a great international conference to restore order after a period of great conflict following the collapse of Napoleon's empire at Leipzig in 1813 and both epic and tragic epilogue on the Plain of Waterloo in June 1815. It was the day when Wellington, staring at the corpses, pronounced one of the most accurate definitions of war ever given by a general: "Nothing except a battle lost can be half so melancholy as a battle won."

The powers gathered at the Congress of Vienna. Metternich was nicknamed the "Count of the Scales" in his quest for an international order based on a balance between the great powers, and Talleyrand, in the service of the restored monarchy as he had previously been in the

service of the Corsican. In this Congress, the powers designed a new Europe that was very much like the old one.

The Europe of Vienna was the Europe of the *Ancien Régime*, and it was sketched in marble halls on mahogany tables, without paying any attention to the wishes of the peoples whose fate was at stake. Poles, Hungarians, Bohemians, Dutch, Italians and Germans remained, or became, nations without a homeland, in an attempt to keep the hands of European clocks ticking in the 18th century. However, the revolution had let a wild beast escape from its cage and there was no way it could be put back in it. With the bayonets of the Guard, the idea of national sovereignty, one of the pillars of the French Revolution, had also made its way across Europe, and had particularly resonated in two groups: the peoples divided into different kingdoms—such as the Italians and Germans— and those peoples who lacked sovereignty in the framework of plurinational states—such as the Hungarians, Greeks or Poles. National sovereignty reshaped the concept of nation, adding to the objective element—that of belonging to a people with a common language, territory, folklore, traditions, religion or culture—a subjective element. That is, only those who voluntarily felt part of a nation were part of it.

The denial of independence and, thus, of national sovereignty to a large part of the European peoples is undoubtedly at the root of the Congress of Vienna and contributed to the fact that a substantial part of the communities that felt constrained in their legitimate aspiration to sovereignty turned to the most perverse of its forms, that is nationalism. In other words, it is the association of the idea of state and nationality, in such a way that each state consists of individuals belonging to a common identity—let us call it a nation, if you will—and in which there is no place for other identities or, at best, they are considered second-class citizens left to the whim of whatever the dominant identity community sees fit to grant or deny. Unfortunately, in current terminology, concepts such as sovereigntism, pro-independence and nationalism have had their semantic differences blurred, in a dangerous

process of "goebbelslisation" of the rhetoric that leads to forgetting that not all pro-independence people are nationalists and not all nationalists are sovereignists.

If the denial of national sovereignty to a significant part of the European continent has been correctly described as a very negative phenomenon for Europe, it has often been ignored what was to the credit of the Congress of Vienna. No matter how reactionary the model adopted, no matter how much one might disagree with the ideological model on which the European political map was redrawn, and no matter how tragic the consequences for specific groups were, the truth is that the Congress of Vienna built the only century of general peace that European history has ever seen. For the first time since the Middle Ages, there was not a single general in Europe, and even the conflict that most resembled it, the Crimean War—Orlando Figes' work on this war is as essential as his reconstruction of the Russian Revolution[19]— was too geographically localised to be considered a general conflict, even though it involved Russians, English, Ottomans, French, Austrians and Piedmontese.

The Vienna system collapsed in the wake of German unification, which was enshrined by the humiliation inflicted on France in the Hall of Mirrors at Versailles in 1871 with the proclamation of Wilhelm I as emperor. However, Nevertheless, the European tradition of resorting to international conferences did not cease. Over the following decades, at least two major conferences were held to put an end to war or pre-war conflicts of several kinds. On the one hand, the Congress of Berlin in 1878, which amended the Treaty of San Stefano—the outcome of the Russo-Turkish war of 1877. On the other hand, the Algeciras Conference in 1906, which sought to prevent the security crisis unleashed in Morocco by Raisuli's kidnapping of two American citizens. Algeciras, which definitively established the division of

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[19] FIGES, O., *Crimea. La primera gran guerra*. Madrid, 2013; FIGES, O., *La revolución rusa, 1891-1924. La tragedia de un pueblo*. Madrid, 1996.

Europe into two alliance blocs, one around Germany and the Austro-Hungarian Empire, the other around the very recent alliance between France and the United Kingdom, aided by Russia, was the last major international meeting before the cannon fire of August 1914.

3.- Paris 1919 and its influence on the pattern of subsequent conferences

When the Paris Conference began on 18 January 1919 aimed at designing a final peace for the Great War, since the armistice of November 1918 was, like all armistices, merely a temporary ceasefire, the challenges facing the attending powers were colossal, both in terms of practical organisation and in terms of the problems to be solved. This complexity would prove to be an extremely fearsome monster and ended up being the determining cause of many of the decisions made at the Conference and their global repercussions.

It soon became clear that it would be impossible to hold a plenary conference with any guarantee of achieving even minimal agreements that would lead to peace. Therefore, a decision was made that would eventually prove catastrophic. First, a preliminary conference would be held between the victorious powers, at which they would establish their common position, and then the real peace conference would be held with the defeated nations. However, the complexity of the interests at stake made the negotiating process so complicated, even with only the victors present, that the idea of a second conference or a second round of negotiations with the defeated within the same conference was dismissed by the victorious powers. "The preliminary conference became, unwittingly, the final conference"[20], thus sealing the future of humanity.

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[20] MACMILLAN, M., *Paris 1919. Six Months That Changed the World*. Madrid, 2005.

For the first time in European history, a great war—a hegemonic war, if you wish to use Liebow's term—was to culminate in a peace conference from which the defeated were completely excluded. This was a complete break with Europe's two-thousand-year-old diplomatic tradition, which dated back to at least the Peace of Antalcidas in the fourth century BC. Coalitions that had achieved far more overwhelming victories than the Western allies in the Great War, which had not felt legitimized to deny a seat to the defeated powers at the negotiating table. Thus, the France bled by the feat of Bonapartism sat down in Vienna with those who had defeated it, as had previously done those vanquished by Louis XIV in Nijmegen and Ryswick, or the exhausted Spain that negotiated in Münster the recognition of the independence of the United Provinces of the Netherlands.

The denial of a seat at the peace conference eventually became part of a general policy of marginalization of the defeated— the one that still existed, Germany, since the Ottomans and Austro-Hungarians had been wiped off the map. Its access to the recently created international institutions, such as the League of Nations, was blocked and it was denied, in the broadest sense of the term, being treated as an equal by the victors in the post-war years. When the terrible consequences of this began to show—for example, when Germany and the Soviet Union signed the Treaty of Rapallo in 1922, to the surprise of the international Community—, the Western nations tried to redress the situation and initiated a kind of detente with Germany. This led to the signing of the Locarno Treaties in 1925 and to the subsequent admission of the Weimar Republic to the League of Nations. By that time, however, much of the damage had already been done and the years of exclusion had left a strong scar on the collective imagination of an entire generation of Germans. To make things worse, Locarno was a remedy that aggravated the initial disease. After it was signed, ratifying the borders with France that had already been accepted in the Treaty of Versailles, German revisionism towards this treaty increased both in the streets and in the palaces of the Chancellery. By agreeing to a treaty which included nothing new in relation to Versailles and celebrating it

as a great diplomatic achievement, the Allies had inadvertently helped to support the German idea that what had been signed under protest at Versailles had no legal value until Germany voluntarily ratified it.

Germany's absence from the Paris negotiating table continued to poison the results of those agreements. The Allies presented a peace treaty on which the kaiser's diplomacy was given no room for negotiation. Either it would be accepted unabridged or the war would be resumed, something Germany was in no position to cope. Hence arose the concept of the "Diktat of Versailles", which was to have such a deep impact on German society. It was a peace dictated by the victors and imposed by the living threat of force. German diplomats signed the treaty under protest, denying the legitimacy of the agreement and accepting it only under the coercion posed by the threat of resuming a war they could not sustain. Those lines buried on fertile ground the seeds of what was to come, for the idea that the Treaty was an illegitimate imposition that Germany had not participated in negotiating and had accepted under threat, and that Germany was therefore free to break it when circumstances permitted, was an essential part of the events leading up to 1 September 1939, when the *Panzerwaffe* tanks crossed the Polish border.

The refusal of the Treaty of Versailles showed how important it was to have the defeated attend peace conferences. It conferred legitimacy on what might otherwise be questioned as mere imposition. However, the practice of major peace conferences without the defeated would be so far-reaching in the way diplomacy was conceived that, just over two decades after the Paris Conference, the shaping of the world that was to be rebuilt at the end of the Second World War was once again determined exclusively by the victors. Peace—rather, the post-war world—was designed through a series of conferences that took place before the conflict ended and from which the Axis powers were thus absent. In Cairo, without the Soviets but with a delegation from Kuomintang Nationalist China, the future of much of the Far East was settled, including the independence of Korea once the war was over. In

Tehran, the only time Stalin took a plane, the first plans for post-war Germany were drafted and it was agreed that the Polish eastern border would be moved back to the west from the pre-war line, to be fixed at the Curzon Line[21]. At Bretton Woods, with the Soviets as observers, the post-war economic and financial system was designed. At Yalta, the division of Europe—and thus of the world—into two blocs was de facto sanctioned. Also, the essential aspects of the UN, which were left unresolved by the preliminary work done at the Dumbarton Oaks conference—such as the veto and voting system in the new organisation—were clarified. Finally, at Potsdam, after the German surrender but with Japan still at war, efforts were unsuccessfully made to reach agreement on those issues where differences still existed. These failed due to factors such as the change in the US presidency, the growing influence of the Riga School on American diplomacy and the culmination of the Manhattan Project, which made the US delegation reluctant to make concessions to the Soviets[22].

The influence of the Paris model of 1919 can be seen in two elements of the conferences held during the Second World War. First, the negotiating process was limited to the main parties, which acted on behalf of all the other powers in their coalition. Just as the Paris decisions were first limited to five powers—the United States, the United Kingdom, France, Italy and Japan—then to four and finally to three—the first three previously mentioned—in the Second World War, with the exception of Chang-Kai-Check's China, represented at the Cairo Conference, only the Soviet Union, the United Kingdom and the United States participated in real terms in the decision-making processes at Tehran, Dumbarton Oaks, Yalta and Potsdam. While at the latter, France and, for Asian issues, China were added to the Council of

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[21] This meant that, in the east, Poland would be limited to ethnically Polish lands, even though historically it had been a multinational state that included the Baltic nations, White Russians, Ruthenians, Ukrainians, etc.

[22] MARTÍNEZ PEÑAS, L., *Sic transit gloria mundi*. Valladolid, 2018, pp. 143-148.

Ministers created during the conference, it should also be remembered that hardly any decisions were made by the Council of Ministers.

Secondly, the diplomacy of the major conferences of World War II was direct diplomacy, conducted by the heads of state of the powers involved. The Big Three, or the triumvirate formed by Roosevelt, Churchill and Stalin, met and negotiated personally at the three key summits: Tehran, Yalta and Potsdam. It is hard not to see in this an echo of the Paris meetings between Clemenceau, Lloyd George and Wilson.

4.- The US presence as a differentiating factor

If the Paris Conference and the Treaty of Versailles broke with a practice that had been common for resolving major multilateral conflicts for almost two and a half millennia, it seems inevitable to wonder why such a change happened.

The short and immediate explanation is the one that comes from a simple reading of the events. The issues to be resolved were so complex that it was considered impossible to find a solution unless the negotiating process was simplified by eliminating the vanquished from the equation. Yet it was a titanic task to reach positions that could be accepted by the whole of the victorious powers. In fact, strictly speaking, not only were the defeated but also most of the victors excluded from the Paris Conference. Soon the idea that even in this alleged first phase of the conference there would be no plenary sessions was banished. Also, the process of drafting proposals was fragmented into 52 commissions, following the usual working method of the US administration, whose reports, considerations and conclusions were presented to the so-called Council of Ten. This was formed by two representatives from the United States, the United Kingdom, France, Italy and Japan. The Asian power would soon abandon this synod, giving rise to the informal creation of the Council of Four: Wilson, Clemenceau, George and Orlando. Furthermore, the Italian politician

would leave the conference due to the refusal of the other powers to hand over Fiume to Italy. As a result, in practice, peace was designed by three nations, or at least by the representatives of three nations: the United States, the United Kingdom and France.

Certainly, some of the main victorious leaders already had many qualms about sitting at the same table as the delegates of the Kaiser, the Emperor or the Sultan. American President Woodrow Wilson, for instance, stated that it should not be forgotten that "the men with whom we are about to negotiate do not represent their peoples." Meanwhile, Wilson considered himself a representative not only of his own, but also of the French, Russian and Italian masses[23].

There is no doubt that the victors faced an extremely complicated process, but this was not the first time. It should be remembered that 109 delegations attended the negotiations for the Peace of Westphalia, and the issue of nationalism and nationalities was nothing new to the Europeans, who had already dealt with it both in Vienna in 1815 and in Berlin in 1878[24]. In none of these cases had the complexity of the international situation at stake led to the exclusion of one of the parties from the negotiating table. This does not mean that the idea of the absence of Germans, Austrians and Ottomans from Paris being motivated by a desire to simplify the negotiating process and ease the chances of agreement is false, but it does raise the question of whether it was the only reason.When discussing what made the Paris Conference different from other peace conferences, the first thought that comes to mind is that it was a diplomatic meeting that was to resolve issues at a global level, far transcending the mere European order. However, this is only half a difference, because it was not the

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[23] MACMILLAN, *Paris 1919*, p. 36.

[24] It does seem to have come as a surprise to Wilson: "In late 1919 Wilson, chastened, told the Congress: "When I gave utterance to those words ["that all nations had a right to self-determination"], I said them without the knowledge that nationalities existed, which are coming to us day after day"." (MACMILLAN, *Paris 1919*, p. 40).

first peace conference in which the issues to be settled were global in scope, or, to use a more current term—yet only superficially equivalent—global. In fact, the Great War was also far from being the first armed conflict to be considered global. The Napoleonic campaigns were fought on four continents and on all the world's warm oceans— as recalled by Patrick O'Brien's novels or Peter Weir's magnificent film adaptation of them, *Master and Commander*, graphically subtitled, in this respect, as *The Far Side of the World*. The Seven Years' War was waged in Europe, America and India. The Thirty Years' War was fought on all continents, or in their waters, except Antarctica. The Great War was surely the first major global conflict in a vertical sense, since it affected most of the world's population, but the differences in a horizontal—geographic—sense from other conflicts are of scale, but not of substance.

However, there is one element of the Great War as a global conflict that was essential in shaping the Paris Conference. It might not have been the first global war, but it was the first in which a non-European nation sat at a peace conference not just on an equal footing, but even playing a dominant role. The presence of the United States is a distinguishing fact that separates Paris in 1919 from all other peace conferences up to that date. Could it also have been the differentiating factor which catalysed the other factors that eventually led to the exclusion of the defeated from the peace negotiating process? This is a nearly impossible question to answer, but one that is worth considering.

If you analyse the US diplomatic tradition, you will find that negotiating with the vanquished is not part of the cultural heritage of American diplomacy. If you review the major negotiating processes in which such bargaining took place, such as in Geneva in the Vietnam War or, previously, at Panmunjom during the Korean War, and, even further in the past, at the Treaty of Ghent that ended the war with the UK which began in 1812, none of them were at a point where they could be considered American victories, and the final agreements showed so: withdrawal from Vietnam and a return to the initial *status quo* in Korea

and Ghent. Even the negotiations that resulted in the signing of the Treaty of Versailles in 1783, which would give independence to the United States, cannot be considered to have been undertaken from a position of absolute military supremacy. This is demonstrated by the fact that the newborn nation had to renounce including Canada in its borders, as it had intended and as it would try again in the War of 1812, taking advantage of the pressure that Napoleon's empire was putting the United Kingdom under in other scenarios.

Out of all the conflicts it fought before the Great War, including its own civil war and the war against Spain, the only conflict in which we can find some negotiation with the defeated was the one with Mexico. Despite losing more than half of its territory, Mexican diplomats achieved certain victories, such as the preservation of Baja California and its land connection with the state of Sonora. These successes should be emphasised, given the occupation of the Mexican capital by US forces and the virtual beheading of the Mexican government after General Santa Anna's departure into exile.

In the post-Great War conflicts, as well as in the numerous peace conferences of the Second World War, the United States has never been involved in a negotiation concerning a conflict that it could be considered to be winning outright. The most obvious example of this can be found in the policy of unconditional surrender adopted during the World War II, which eliminated any possibility of negotiating a deal with the enemy powers. This was apparently an idea that US President Roosevelt included in Allied policy without asking either Stalin or Churchill. This provoked anger from both—especially from Churchill—when Roosevelt made it public at a press conference. The consequences of this decision are incalculable. For example, it laid the foundations that would lead American diplomacy to ignore all Japanese attempts to reach a negotiated surrender on the sole demand that the figure of the emperor be respected. These efforts were repeatedly made

from Tokyo to Washington throughout 1945, via the Soviet Union, which was at that time neutral in the conflict with Japan[25].

An American idea, that the United States is exceptional among all nations on Earth and in history, undoubtedly played a role in America's reluctance to negotiate with its adversaries, especially when they were defeated or in the process of being defeated. American exceptionalism is the term used to describe the phenomenon whereby a significant part of the US—56% during Barack Obama's presidency—considers the United States to be qualitatively different from other nations, in a sense of moral superiority[26]. Consequently, governments in Washington have sometimes considered themselves to be above not just other countries, but above the rules that govern international society as a whole. The idea, which has existed since the nation's founding, reached its most popular expression when Abraham Lincoln told the Congress that the United States was "the last best hope of earth."

Exceptionalism has permeated a good part of US foreign policy, as Margaret Macmillan noted:

> "Faith in their own exceptionalism has sometimes led to a certain obtuseness on the part of Americans, a tendency to preach at other nations rather than listen to them, a tendency as well to assume that American motives are pure where those of others are not."[27]

Indeed, exceptionalism, of which Wilson was a staunch believer, had a very direct influence on the attitude of the President and many of his delegates to the Paris Conference:

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[25] This issue is covered in detail by KUZNICK, P. and STONE, O., *La historia silenciada de Estados Unidos*. Madrid, 2015.

[26] LIPSET, S. M., *American Exceptionalism: A Double-Edged Sword.* New York, 1996, p. 18.

[27] MACMILLAN, *Paris 1919*, p. 43.

"The Americans had a complicated attitude toward the Europeans: a mixture of admiration for their past accomplishments, a conviction that the Allies would have been lost without the United States and a suspicion that, if the Americans were not careful, the wily Europeans would pull them into their toils again. As they prepared for the Peace Conference, the American delegates suspected that the French and the British were already preparing their traps. Perhaps the offer of an African colony, or a protectorate over Armenia or Palestine, would tempt the United States—and then suddenly it would be too late. The Americans would find themselves touching pitch while the Europeans looked on with delight. American exceptionalism has always had two sides: the one eager to set the world to rights, the other ready to turn its back with contempt if its message should be ignored."[28]

The belief that the state it represents has been called by Fate to play a special role as a kind of chosen people within the international community implies the idea that whoever opposes this exceptional state is opposing the designs of Providence or, if you wish to take a religious view—as American exceptionalism often does—of God. This entails a stigmatisation of the adversary as agents or servants of chaos or the forces of evil, which on the one hand is very old and far from unknown in the diplomatic world—it was already practised assiduously by the Assyrians. However, on the other hand, it creates a moral obstacle to the action of negotiating with an adversary that results in processes of annihilation of diplomatic solutions, for is it possible to negotiate with evil or chaos? Moreover, should one trade with the representations of these ideas? The famous quote that John Rodat, in the script of *Saving Private Ryan*, put into Captain Miller's mouth, often underlies the American diplomatic mindset: "If God's on our side, who the hell could be on theirs?" Both parts of the saying—believing that God is exclusively with one's side and thinking that the most negative forces in the universe, by whatever name they are called, are with one's

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[28] MACMILLAN, *Paris 1919*, p. 42.

opponent—generate a tendency that rejects negotiation with adversaries.

The foregoing should not be interpreted as the blunt statement that the absence of the defeated from the Paris negotiating process of 1919 and the break with the tradition of previous peace conferences that this implied should be attributed, fully or in part, to the participation for the first time of the United States in a major conference of this kind and to the particular underlying ideas in American thinking about the diplomatic and political conception of its own nature. It should be understood as a reflection that highlights the presence of the United States as one of the great differentiating elements between the Paris Conference and the previous historical tradition. On this basis, it is undoubtedly worth thinking in depth about how the way in which US diplomacy and politics viewed the world was one of the factors behind the decision to create a process of rebuilding the international system in which the defeated were excluded from the negotiating process.

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LEGISLATIVE ACTION AS A MECHANISM FOR PERFECTING THE ROYAL STATUTE[1]

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Abstract: During the executive led by Martínez de la Rosa, one of the most intense debates of the 19th century on the rights and freedoms of citizens took place in Spain.

Key Words: Liberal State; History of Spain; Martínez de la Rosa; History of XIXth Century.

1.- Martínez de la Rosa, president again[2]

Francisco Martínez de la Rosa reached the presidency of the government, by the hand of the Secretary of State, for the first time in 1822, forming the fourth government of the Liberal Triennium[3]. It was a short government -it lasted barely five months-, a sign of the convulsion of the period characterized by the Spanish political tension, the result of the confrontation of the different ideological factions, and by continuous alterations of the public order, both on the part of exalted and royalist counterrevolutionaries[4]. In this context, the opponents of

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[2] There are many publications on the figure of Martínez de la Rosa, whose intellectual brilliance led him to stand out in various fields: politics, international relations and literature. In this regard, see: Pérez de la Blanca Sales, P., "Martínez de la Rosa. Un granadino en la guerra de la Independencia", Historia 16, pp. 94-109. By the same author, "El joven Martínez de la Rosa", Historia 16, No. 337 (2004), pp. 70-83. López, M. A., "Martínez de la Rosa, student and teacher", Revista de educación de la Universidad de Granada, No. 1, 1987, pp. 117-136.

[3] In this regard, a classic work is that of Gil Novales, A., "El Trienio Liberal". Madrid, 1980. More recent publications, for example, the text coordinated by Rújula, P. and Frasquet, I., "El Trienio Liberal (1820-1823). Una mirada política". Granada, 2020. In relation to the figure of Martínez de la Rosa and the doceañistas, see Chust Calero, M., "Las caras del Doceañismo", in Chust Calero, M., "Doceañismos, constituciones e independencias: la constitución de 1812 y América". Madrid, 2006, pp. 11-14; Martínez Peñas, L., "Pretorianismo en el reinado de Fernando VII: El ejército como defensor del doceañismo", in Aguilar Gil, M., "Construcciones y deconstrucciones de la sociedad". Almagro, 2010, pp. 65-76.

[4] On this subject, see, among others, La Parra López, E., "El rey y la contrarrevolución absolutista al final del Trienio constitucional", Bulletin d'Histoire Contemporaine de l'Espagne, No. 37-42, 2004-2006, pp. 197-214. On the ideological factions in the Triennium FERNÁNDEZ SARASOLA, I., "Los partidos políticos en el pensamiento español (1783-1855), Historia Constitucional (revista electrónica), n. 1, 2000, pp. 117 et seq. On public order and its penal consequences, see Pino Abad, M., "Consecuencias penales de las asonadas desde el final de la Guerra de la Independencia al de la primera guerra

the government turned the question of public order into one of the central axes of their criticisms, reproaching the Executive for not acting with due forcefulness in the face of the constant disturbances. The repeated criticisms ended up overcoming the resilience of the government and of Martínez de la Rosa.

It would take more than a decade for the liberal from Granada to return to top-level responsibilities within a Spanish Executive. His second government took place at a completely different time. After the death of Ferdinand VII[5] and the reign of his daughter Isabella II[6] - although due to her minority the effective power fell on the regent, the queen mother Maria Cristina de Borbon-. In this context, Francisco Martínez de la Rosa returned from the exile to which he had had to go years before to avoid the reprisals of King Ferdinand for his links with liberalism and his participation in the government of the Liberal Triennium[7].

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carlista", Glossae. European Journal of Legal History, 18 (2021), pp. 63-110. Martínez Peñas, L., Prado Rubio, E., and Fernández Rodríguez, M., "Contrainsurgencia y orden público: aproximaciones hispánicas y globales". Madrid, 2020; an example on another historical period and another order in MARTÍNEZ PEÑAS, L., "En nombre de Su Majestad". Valladolid, 2016.

[5] In this regard, the classic work Artola, M., "La España de Fernando VII". Barcelona, 2005; and the more recent La Parra, E., "Fernando VII: un rey deseado y detestado". Madrid, 2018.

[6] Reference works on the reign of Isabel are Burdiel, I., "Isabel II: una biografía". Madrid, 2011. Jover Zamora, J. M., "La era isabelina y del sexenio democrático". Madrid, Espasa-Calpe, 1981. Many other texts complete specific aspects of her reign. This is the case, for example, of Morales Moya, A., "Isabel II en el régimen político liberal", Pérez Garzón, J. S., Isabel II. Los espejos de la reina. Madrid. Marcial Pons, 2004, pp. 37-60.

[7] Governments that he had found so detestable that he referred to the first of them as "the government of the convicts", in reference to the time that several of those ministers had spent imprisoned -by Ferdinand VII himself- due to their liberal convictions.

Once in Spain, Martínez de la Rosa was appointed to lead the executive, at the head of a new government to replace the neoabsolutist and continuist formation of his namesake Cea Bermúdez. On this occasion, the presidency of the Granada-born member of the Council of Ministers[8], without being able to be described as long-lived, did enjoy a certain stability, for the standards of the time, since it lasted for a year and almost five months -between January 15, 1834 and June 7, 1835-[9]. During this time, his cabinet colleagues were Garelli, at the head of the Ministry of Grace and Justice, Aranalde in the Ministry of Finance, Vázquez Figueras in the Ministry of the Navy, Javier Burgos in the Ministry of Development and Zarco del Valle at the head of the Ministry of War[10].

Thus, for the second time, Martínez de la Rosa, the moderate liberal, governed the destiny of the country in a period that threatened to be just as convulsive as his previous mandate: a conjuncture of the

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[8] The Royal Statute formally regulated the presidency of the Council of Ministers -a novelty in a text of a constitutional nature-, although Martínez de la Rosa was not named president of the Council of Ministers -although he was considered as such-, but Secretary of State and of the Office. Tomás Villarroya, J., "El sistema político del Estatuto Real (1834-1836)". Madrid, Instituto de Estudios Políticos, 1968, pp. 237-239.

[9] In this government, under the regime of the Royal Statute, which due to its peculiarity and limited extension did not regulate the organization of the Executive, it was interpreted that its members were freely appointed and dismissed by the monarch. However, this freedom was limited by the rules of the representative system which obliged the king to take into consideration the majority political orientation of the Courts, that is to say, a double confidence was required. This double confidence did not exist in the cabinet of Martínez de la Rosa. Tomás Villarroya, "El sistema político del Estatuto Real (1834-1836)", pp. 203-204.

[10] The figure of the secretaries originates from the administration of the Hispanic Monarchy in the modern period, and derives from the secretaries of the councils, a subject on which Escudero, J. A., "Los secretarios de Estado y del Despacho" (1474-1724). Madrid, 1969.

economy that could lead the nation to bankruptcy[11], a succession dispute that divided the country and would provoke several civil wars and, as if this were not enough, the fragmentation of liberalism into two opposing sides -moderates and progressives- between which there was an acrimony, at times, as bitter as the one that confronted them with absolutism[12]. Faced with this complex panorama, for the Secretary of State, the priority issue was to overcome the succession crisis, for which it was necessary to rally the greatest number of supporters in favor of the legitimacy of Isabella II.

As a consequence of the situation, the disturbances of the public order in the country were as frequent, or more, than they had been during the Triennium. From the situation of constant tension, we can highlight the wave of attacks and aggressions against friars and members of religious orders, as a result of the encouragement that a part of the population gave to the accusation that the regular clergy had poisoned the fountains of the town of Madrid during an epidemic of morbid cholera[13]. Another relevant disturbance was the attempted uprising of Captain Cayetano Cardero, member of the secret society La

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[11] The Spanish treasury has declared bankruptcy on thirteen occasions; a succinct overview of all of them in Fuente Del Moral, F. de la, "En bancarrota!: las trece suspensiones de pagos de la historia de España", Clío: Revista de historia, No.. 138, 2013, pp. 12-21.

[12] Multiple issues served as a confrontation. See, for example, Gómez Ochoa, F., "El liberalismo conservador español del siglo XIX: la forja de una identidad política, 1810-1840", Historia y Política, no. 17, Madrid, January-June (2007), pp. 37-68. Also, Estrada Sánchez, M., "El enfrentamiento entre doceañistas y moderados por la cuestión electoral (1834-1836)", Revista de Estudios Políticos (Nueva Época), no. 100. April-June 1998, pp. 241-272.

[13] This massacre was known by contemporaries as "El degüello de los frailes". In this regard, see García Rovira, Ana María, "Revolución liberal y fuerzas populares: "El degüello de los Frailes" Madrid, July 1834". Gil Novales, A., "Ejército, pueblo y constitución. Siglos XIX y XX". Homage to General R. del Riego. Madrid, 1988, pp. 455-496.

Isabelina[14], who, in January 1835, mutinied, at the head of six hundred men, in front of the Casa de Correos in Madrid, shouting "Down with the ministry!"[15].

2.- Absence of dogmatic expression of rights and freedoms in the Royal Statute

The fundamental norm that governed the Spanish political system during the first years of the regency of María Cristina de Borbón was the Royal Statute, a text sanctioned in April 1834 and whose authorship is attributed to a triad of secretaries: the Secretary of State, Francisco Martínez de la Rosa -who is attributed a leading role in its development-, the Secretary of Grace and Justice, Nicolás María Garelli, and the Secretary of Public Works, Javier de Burgos[16].

The Royal Statute was a transactional text conceived with a double purpose. On the one hand, as a transitional instrument that would facilitate the transition from the Fernandine monarchy to the Elizabethan monarchy[17] by opening up to the absolutism that had

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[14] In this regard, see Busquets, J., "Las sociedades secretas militares en la primera transición española: La Isabelina (1833-1836)", Ferrer Benimeli, J., A., "Masonería, revolución y reacción". Vol. 1, 1990, pp. 79-90.

[15] This was Joaquín María López's account of the events in the Procurators' Estamento. DSC. Procuradores. No. 127. 21-01-1835, p. 1282. In the course of the incident, the Captain General of Madrid, José de Canterac, lost his life. At the time, he had maintained an intense correspondence with General San Martín, about which Silva Ortiz, L., "La correspondencia entre San Martín y Canterac en diciembre de 1821", in Navarro García, L., José de San Martín y su tiempo. Madrid, 1999, pp. 231-246.

[16] On the Royal Statute the reference text is Tomás Villaroya, J., "El sistema político del Estatuto Real"; Madrid, 1968.

[17] On the concept of Transitional Law, see Martínez Peñas, L., "Hacia una conceptuación amplia del derecho transicional", Glossae, No. 17, 2021. On some aspects related to national defense in the Constitution of Cadiz, "El

characterized the previous reign and contributing decisively to the implementation of a parliamentary system with the full backing of the Crown[18]. On the other hand, as a means of conciliation between the various liberal factions, whose division had become evident in the previous months.

The text of the Statute was elaborated as secretly as possible, which increased the expectations of many, who finally saw them frustrated[19]. Particularly dissatisfied were the most advanced liberals, who -rightly so- did not consider it a true constitution, both because of the absence of a full constituent process and because of the material gaps it contained. The contrast with the flagship norm of liberalism, the Constitution of 1812, was enormous in every sense: starting with formal issues, such as the extension, continued by the parliamentary system that it established and ending with the enormous regulation of the State that covered the Cadiz work - human rights, electoral system, basic organization of the State, etc. - and which were omitted in the text elaborated under the command of Martínez de la Rosa.

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ejército y la defensa como fenómenos constitucionales durante la construcción transicional del estado liberal (1812-1856)", in Glossae, 2021. On a more classical conceptualization, that of transitional justice, can be seen the work of Sara Arrazola Ruiz: "Breve aproximación al concepto de justicia universal", in VV. AA., ...Y justicia para todos, Valladolid, 2018.

[18] The roots of liberalism in the Spain of 1834 were still unknown; it would be necessary to wait for the text of 1837 to see a firmer step towards the liberal state. Lacalzada de Mateo, M. J. " El estado liberal en España durante el siglo XIX. La cuestión de la soberanía entre ilustrados, doctrinario y racionalistas armónicos", Ius fugit: Revista interdisciplinar de estudios histórico-jurídicos, No. 3-4, 1994-1995, p. 420.

[19] Tomás Villarroya, J., "La redacción y publicación del Estatuto Real", Revista de estudios políticos, No. 145, 1966, pp. 47-78.

In view of all this, it is not surprising that the most critical contemporaries described the Statute as a mere law to convene the Courts or, at best, as a charter granted[20]. Its promoters, for their part, defended it as a fundamental norm that restored the basic principles of the Monarchy, that is, it was recognized that institutions such as the king and the Courts were prior and superior to any written text, and that the Statute integrated them into the constitutional State. However, this recognition clashed with the most progressive liberal approaches. Criticism centered on the fact that it did not include the principle of national sovereignty, but rather established shared sovereignty between the king and the Courts, the starting point of Spanish doctrinaire -or conservative- liberalism[21]. Also, in the absence of regulation of basic aspects, which left the door open to legislative development, both from the organic point of view, which focused almost exclusively on the organization of the Courts, as well as in the dogmatic part[22]. The absence of regulation of rights and liberties, given the rupture of liberalism, became a motive for constant parliamentary confrontations that deepened, even more, the differences between progressives and moderates.

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[20] At present, the main currents also debate between its character as a granted or agreed charter, in the sense that circumstances forced the monarchy to grant the text, as Artola defends (Artola, M., "Carta y Constitución como modelos constitucionales" in Revista da Historia das Ideas. Coimbra, 1987, pp. 859-877.) and its consideration as a mere convocation of Courts. This is the case of Astarloa Villena or Tomás Villarroya (Astarloa Villena, "Los derechos y libertades en las constituciones históricas españolas", pp. 207-250 and p. 218). Villarroya's work deals with the nature of the Statute on pp. 95-136.

[21] On moderantism, see Díez del Corral, L., "El liberalismo doctrinario". Madrid, Centro de Estudios Constitucionales, 1984. On the organization of powers of moderate liberalism, see: Marcuello Benedicto, J. I., "La Corona y la desnaturalización del parlamentarismo isabelino", Burdiel, I., "La política en el reinado de Isabel II". Madrid, Marcial Pons, 1998, pp. 15-36.

[22] This issue was alleviated, in part, by the constitution of 1837, with a scarce regulation, but much broader than that of the Royal Statute. Fernández Sarasola, "Los partidos políticos en el pensamiento español. De la Ilustración a nuestros días". Madrid, 2009, pp. 146-147.

Occasionally, ideological differences left the dialectical arena of the Courts and the newspapers to take the form, recurrent in the first half of the Spanish 19th century, of insurrections against the established system. In almost all cases, however, their discovery by the forces of order at an early stage of their planning or execution and the rapid reaction of the authorities prevented these uprisings from achieving their intended effects[23].

The absence of the recognition of rights and liberties in the text of the Royal Statute was a clamorous fact, given the antecedents in Spanish politics[24]. Constitutional texts prior to 1834 had already included a panoply of rights. The Statute of Bayonne, apart from the debate on its constitutionality, includes a series of rights and liberties of universal ownership in its articles -procedural rights, inviolability of the home, freedom of the press or personal freedom- and a body in charge of guaranteeing them, such as the Junta Senatoria (Senate Board)[25].

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[23] This was the case, for example, of the revolt organized by the secret society La Isabelina, planned to coincide with the opening of the Courts. The purpose of that movement was the establishment of a new constitution along the lines of the project drafted by Juan de Olavarría. The action was most probably influenced by the fact that a decree of April prohibited membership in secret societies. The text, however, due to the prevailing transitional spirit, amnestied all those who had belonged to those organizations up to the time of its promulgation. Gaceta de Madrid, num. 69, 30/04/1834, p. 321. On this issue see Escudero, J. A., "Las sociedades secretas ante la legislación española del siglo XIX", Ferrer Benimeli, J., A., "Masonería, revolución y reacción". Vol. 2, 1989, pp. 511-544. The text of the La Isabelina project is available at http://www.cervantesvirtual.com/obra-visor/proyecto-de-constitucion-de-1834/html/5a1c79e1-53b3-4167-b2e5-637557cce091_2.html.

[24] Aniceto Masferrer discusses the fragility of fundamental rights in the beginnings of Spanish constitutionalism: "La antinomia 'derechos fundamentales - 'soberanía nacional en los orígenes del constitucionalismo moderno", GLOSSAE. European Journal of Legal History 10 (2013), pp. 278-302.

[25] In this regard, see Fernández Sarasola, I., "El precedente de la Constitución de Bayona", Escudero, J. A., Courts y constitución de Cádiz. 200 años. Espasa,

Following in the wake of that norm, the Cadiz constitution also made a recognition of rights, scattered throughout the text, broad but incomplete and lacking in guarantees[26]. Despite its shortcomings, it became a coveted object of desire for later liberalism[27].

Apart from the constitutional norms, there were other initiatives for the recognition of rights in the first decades of the 19th century. This is the case of Álvaro Flórez Estrada's pamphlet on freedom of the press[28] or his *Constitution for the Spanish nation*[29] in 1809 or the draft Constitution prepared by the secret society *La Isabelina* in 1834, a text which, despite its reduced length - only 65 articles - includes in its first article a declaration of principles in favor of the iusnaturalist theses by establishing that:

> Artículo 1. Los gobiernos se han instituido para afianzar el libre ejercicio de las facultades naturales. Estas facultades son: 1. El derecho de poder hacer todo cuanto no esté prohibido expresamente por la ley o la costumbre. […]

2001, pp. 354-366. Martín-Retortillo Baque, L., "Los derechos humanos en la Constitución de Cádiz", Escudero, J. A., "Courts y constitución de Cádiz. 200 años." Espasa, 2001, pp. 405-426.

[26] Incomplete in the sense that it has important absences, from which the Statute of Bayonne also suffered, such as the generic recognition of equality or freedom of worship.

[27] Gómez Sánchez, Y., "Las Courts de Cádiz y los Derechos Humanos", Escudero, J. A., "Courts y constitución de Cádiz. 200 años." Espasa, 2001, p. 98.

[28] Valentín Foronda had also written a text on the subject. Fernández Sarasola, I., Valentín de Foronda: "Escritos políticos y constitucionales, Servicio de Publicaciones", Universidad del País Vasco, 2002.

[29] Fernández Sarasola, I., "El pensamiento político-constitucional de Álvaro Flórez Estrada a través de la prensa", Historia Constitucional (electronic journal), n. 5, 2004, pp. 21-48. RAE, "Don Álvaro Flórez Estrada, un español excepcional" (1766-1835). Madrid, 1982.

In any case, the enjoyment of rights and liberties in the Spain of the first third of the century was very limited both because of the limited validity of both constitutional texts, as a consequence of the French invasion, and because of the intermittency in the case of Cadiz.

3.- The Crown's Response to the Speech of the Crown in the House of Peers

The absence in the Royal Statute of a dogmatic part in which the constitutional principles that would govern during its validity were stated in the written press after the promulgation of the text[30]. As a result, projects for the reform of the Statute were soon drawn up with the aim of perfecting and completing the regulation. Some of them were not even debated or processed by the Courts, as was the case of two projects that aspired to the complete reform of the Statute: the text prepared by the secret society *La Isabelina* and the project of Istúriz[31]. Other projects, however, sought only partial reforms. Of particular relevance were those aimed at completing the text of the Statute by including - and, therefore, recognizing- a series of rights and freedoms. In this sense, the Statute of Procurators submitted a petition to the queen governor.

The question of rights, therefore, was debated in depth in the Courts, as soon as they were legally inaugurated by the queen governor, María Cristina de Borbón, on July 24, 1834. As it corresponded to the

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[30] Both the most exalted, such as El Eco del Comercio, and the more moderate, such as La Revista Española, expressed the absence of Tomás Villarroya, "La Constitución de 1812 ..., p. 271.

[31] The latter stands out because its first article contained a table of rights and liberties "Art. 1. Governments have been instituted to secure the free exercise of the natural faculties. These faculties are: [...]". Draft constitution of La Isabelina. It emphasizes the elimination of the term freedom of the press in exchange for freedom of expression. Sevilla Andrés, D. "Constituciones y otras leyes y proyectos políticos de España". Volume I. Madrid, 1969, p. 277 and ff.

protocol of the inauguration act, that day the regent, before the procurators -seated to her left- and the procurators -seated to her right- read the speech of the Crown[32]. That text was not without relevance since in the reign of Isabel II the custom was established for the Government to present its political program to the Courts through the Crown Speech [33] . María Cristina questioned representatives and notables in the following way:

"El Estatuto Real ha echado ya el cimiento: á vosotros os corresponde, ilustres Próceres y Sres. Procuradores del reino, concurrir á que se levante la obra"[34].

The Courts took up the baton and it was in the reply to the Crown's speech, which each Estament drafted separately, when they took the opportunity to propose a reform of the Statute, opening a debate on the question, vital for the liberalism of the twelfth century, of incorporating a table of political rights and obligations, as well as other issues, such as the restoration of freedom of the press or the organization of an urban Militia. In this transitional environment, other basic issues, such as the recognition of national sovereignty[35], were

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[32] The arrival and departure of the queen as well as the development of the ceremony is extensively reported in the newspaper *La Abeja* of 26/07/1834, p. 4.

[33] Marcuello Benedicto, J. I., "La práctica parlamentaria en el reinado de Isabel II". Madrid. Publications of the Congress of Deputies, 1986, p. 63. Regarding the government, see also Tomás Villarroya, J., "El gobierno durante el reinado de Isabel II", 1812-1992. El arte de gobernar: historia del Consejo de Ministros y de la Presidencia del Gobierno". Madrid, Tecnos, 1992.

[34]. Diario de las Sesiones de las Cortes, appendix to No.6, 23-07-1834, p. 2.

[35] The influence of the doceañistas was manifested in many other aspects beyond those that were made clear in the reply to the Crown's speech. For example, on the occasion of the discussions related to the debt, the Treasury Commission of the Estamento de procuradores proposed that a distinction be made between the debt contracted during the Liberal Triennium, which should be recognized because it had been contracted by the representatives of the

temporarily put aside, in view of what seemed to be a certain possibility of making progress on the issue of rights and accepting, therefore, that the notion of shared sovereignty would be the foundation on which the transition process between the absolutism of Ferdinand VII and the constitutional monarchy of Isabella II would be based.

If the Crown's speech was used to present the government's program, the reply to the speech was valid to test parliamentary confidence in the executive, since a debate on the points of the program was held in each House[36].

For the elaboration of the response of the Courts to the Crown, each of the Estates created a Response Commission, which prepared a draft that was presented to the plenary of the corresponding Estates for its approval. In the case of the House of Peers, the draft reply of the Response Commission was presented to the Chamber on July 31, 1834[37], one week after the royal speech. To debate the text of the response, the date of August 2 was set.

Only one intervention claimed the substantial modification of the Statute. The one who carried it out was Ángel Saavedra y Ramírez, the

nation, and the debt contracted during the absolutist decade, which was considered to be rejected. Tomás Villarroya, J., "La Constitución de 1812 en la época del Estatuto Real", Revista de Estudios Políticos, number 126, November/December, 1962, pp. 252-267.

[36] Marcuello Benedicto, J. I., "La práctica parlamentaria en el reinado de Isabel II". Madrid. Publicaciones del Congreso de los diputados, 1986, pp. 63-64. Beyond the Contestación al discurso de la Corona were the examination of petitions, the discussion of Budgets, questions and propositions, Tomás Villarroya, J., "Los orígenes del control parlamentario en España". Revista de Estudios Políticos, number 132, November/December 1963, pp. 103-144.

[37] Diario de las Sesiones de las Cortes. Estamento de ilustres próceres. No. 6, 31-07-1834, pp. 1-2.

Duke of Rivas[38], who, accepting the invitation of María Cristina de Borbón to raise the work whose foundations the Statute had laid and interpreting it as openly and broadly as possible, demanded the drafting of a law on police or the organization of the urban militia, the approval of a law on printing and, most important of all, the recognition of the rights of citizens through an express declaration of the same[39].

The government's rejection of the Duke of Rivas' proposal was forceful. The Secretary of State and leader of the executive, Martínez de la Rosa, expressed his opposition to the proposals of the Grand Duke of Spain, alleging that the country was in such serious difficulties that it was not the right time to initiate such a far-reaching legislative action:

> "¿Es tal la urgencia, tal la prisa, que desde el primer día ya se quiere una enumeración circunstanciada y prolija de todas las mejoras que deban practicarse?"[40].

The position of the Secretary of State was supported by the Secretary of State for Development, Javier de Burgos, who stressed the idea that the response to the Crown's speech should not go into specific issues, but limit itself to expressing the willingness of the Estate to cooperate with the government in what the Crown had outlined[41].

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[38] On his figure, see Pastor Díaz, N., "Galería de españoles célebres contemporáneos". Madrid, 1862, vol. II, pp. 1-63.

[39] Diario de las Sesiones de las Cortes. Estamento de ilustres próceres. No. 7, 02-08-1834, pp. 15-16.

[40] Diario de las Sesiones de las Cortes. Estamento de ilustres próceres. No. 7, 02-08-1834, p. 17.

[41] Diario de las Sesiones de las Cortes. Estamento de ilustres próceres. No. 7, 02-08-1834, p. 18.

Rivas' proposal did not obtain any support in the Chamber. No intervention alluded to or defended the inclusion of the issues enunciated by the former, so that the official text of the reply approved by the House of Peers of the kingdom did not include any mention of the recognition of the rights and liberties of Spaniards.

4.- The debate on the draft answer in the Kingdom's Procurators' Estates

In the Procurators' Estament, on the other hand, the reply to the Crown's speech also became the starting point for the debates on the need to make a declaration of citizens' rights that would complete the text of the Royal Statute. When the Commission of Answer presented its draft to the Chamber, an intense exchange of opinions took place which, unlike what happened in the House of Peers, did reveal the existence of numerous supporters both of including the issue in the text to be adopted and of keeping it out.

The debate began after the explanation of the proposal by one of the members of the Commission of Answer, Joaquín María López. In it, in accordance with what the Duke of Rivas had raised in the House of Peers, it was proposed to take up the invitation of the regent to raise the work begun with the Royal Statute and use it to request the establishment of freedom of the press without censorship, examination or prior restriction; the establishment of the jury, the independence of the judiciary, the principle of responsibility of the public authorities and their agents, as well as the recognition of a catalog of rights, applicable to all citizens: right to equal rights before the law, right to civil liberty[42], right to personal security, right to inviolability of property, etc. The proposal advocated that the recognition of rights should be express,

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[42] Diario de las Sesiones de las Cortes. Estamento de procuradores. No. 8, 03-08-1834, p. 20.

through their codification in a table of rights that the laws would firmly defend[43].

Faced with the hostile reaction that López's presentation aroused in the government's bench, another member of the Response Commission, Francisco Díez González, tried to find a point of convergence with Martínez de la Rosa's executive, declaring that the will of the Commission was to make it possible for the Spanish legal system to have a table of rights and freedoms as soon as possible, although he understood that we could not aspire to its immediate materialization, which should be the result of a much calmer gradual process[44].

If Díez González tried to moderate the scope of the proposal for a reply by reducing the rights to a table setting them out as objectives to be achieved in the future, the former prosecutor of the Council of Navarre, Ramón Giraldo y Arquellada[45], oriented his intervention in the opposite direction, He considered that the Cortes should immediately present "three or four sheets" containing the claims of the draft response, including the table of rights and their immediate legal defense, taking into account the situation in which the nation found itself, which he considered critical[46].

Again, the need for the elaboration of a table of rights was contested by members of the government. In this case, one of the first to argue against the Commission's proposal was the Secretary of the

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[43] Diario de las Sesiones de las Cortes. Estamento de procuradores. No. 8, 03-08-1834, p. 21.

[44] *DSC. Procuradores.* No. 8, p. 28. *DSC. Procuradores.* No. 9, 04-08-1834, p. 32.

[45] See Giraldo y Arquellada, R., "Discurso pronunciado en el Supremo Tribunal de Justicia el 2 de enero de 1837", Madrid, 1837.

[46] *DSC. Procuradores.* No. 8, p. 29.

Treasury, the Count of Toreno[47], who, although he said he was in favor of establishing rights and liberties, did not consider the reply speech to be the right place to vindicate them[48], repeating, in this sense, the arguments that Javier de Burgos had given before the group of heroes. The Count of Toreno also did not believe that, given the situation of confrontation that the country was going through, it was opportune to recognize them -on this occasion, taking up the arguments of Martínez de la Rosa in the other chamber-. Toreno also criticized the fact that the table of rights proposed by the Commission did not include religious freedom[49], an omission that, in his opinion, was intentional, due to the serious problems that its implementation could cause in the situation of civil confrontation in which the country was immersed as a result of the Carlist war, thus underpinning his argument that the situation of the country was not favorable to such recognition[50].

Martínez de la Rosa, as the visible head of the government, could not fail to intervene in the debate either. The argument of the Liberal

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[47] On the figure of the Count, see Señas Encinas, F., "El Conde de Toreno ante la crítica", in Boletín del Instituto de Estudios Asturianos, No. 14, 1960, pp. 217-231; and "El Conde de Toreno o el peregrino en su patria", in Boletín del Instituto de Estudios Asturianos, No. 13, 1959, pp. 339-366.

[48] *Diario de las Sesiones de las Cortes. Estamento de procuradores.* No. 8, 03-08-1834, p. 22.

[49] In this regard, see Escudero, J. A., "Las sociedades secretas ante la legislación española del siglo XIX", Ferrer Benimeli, J., A., Masonería, revolución y reacción. Vol. 2, 1989, pp. 511-544. Ortega Barrero, A., "Sobre la libertad religiosa en la historia constitucional española", Revista española de derecho constitucional, 21 (61), 2001, pp. 131-185. Zamora García, F. J. " Iglesia y Estado en el constitucionalismo isabelino", Ius canonicum, vol. 58 (2018), pp. 741-780. It should be recalled that the suppression of the Inquisition was one of the key issues in the first moment of the reign of Isabel II. On the Holy Office, recent studies by Leandro Martínez Peñas can be seen. Also worth mentioning are the works of Erika Prado Rubio on the subject: Pilar de llamas. Análisis histórico-jurídico de la Inquisición en la ficción cinematográfica, Madrid, 2020;

[50] *DSC. Procuradores.* No. 8, p. 25.

from Granada to reject the draft reply to the Crown's speech was perfectly summarized in the quotation he made of some words attributed to the Greek sage Solon:

"He dado a los atenienses, no las mejores leyes posibles, sino las que les convienen más"[51].

He rejected that there was a need to detail a table of rights, since he considered that, when the queen had alluded to the fact that the Courts were responsible for building the edifice founded on the Statute, the promise to make improvements for the nation was already implicit. He also argued that some of the rights being claimed, such as the inviolability of private property, were already guaranteed in Spain[52]. In the opinion of the Secretary of State, therefore, to go further, by merely enumerating a series of rights, but without setting a concrete timetable for their implementation, could only generate hopes in the population which, if not fulfilled, would turn into complaints and fuel the ranks of the opposition to the constitutional government[53]. Instead, Martínez de la Rosa assured the Chamber that some of the principles being demanded, such as judicial independence or the incorporation of the jury, would be incorporated through the code of laws[54].

The attorney Miguel Latorre supported the government's point of view, following Toreno's argument regarding the inconvenience of including in the reply questions not mentioned in the Crown's speech,

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[51] DSC. Procuradores. No. 8, p. 26. The Greek juridical-institutional contributions go far beyond the development of classical republicanism, the origin of democracy. For example, the field of international law can be seen Martínez Peñas, L., "Aproximación a los elementos jurídico-institucionales en las relaciones internacionales en la Grecia antigua", GLOSSAE. European Journal of Legal History 14 (2017).
[52] *DSC. Procuradores.* No.11, 06-08-1834, p. 47.
[53] *DSC. Procuradores.* No. 8, p. 27.
[54] *DSC. Procuradores.* No. 11, 06-08-1834, p. 48.

since, in his opinion, it was essential to stick to the points that appeared in it and anything else would be going beyond the scope of this duty[55].

The Marquis of Falces, Pedro Manuel Velluti, went further in his rejection of the proposal to request the elaboration of a table of rights through the reply to the speech of the Crown, and took the floor to point out that he considered such a proposal an illegal way to request the elaboration of laws. In his opinion, the request for the development of new legislation could not be made by replying to the Crown's speech, but should follow the petition procedure regulated in article 32 of the Royal Statute of 1834 [56]. The Marquis's point of view was supported by other attendees, such as the procurator Francisco Redondo [57].

1.1   Jury implementation and freedom of the press

Some of the rights listed in the proposed table were the subject of specific discussion. This was the case of the introduction of the jury in the Spanish judicial process, as well as the always sensitive right to freedom of the press.

Attorney Diego Medrano intervened against the jury, arguing that its institutional introduction was premature[58]. In his opinion, the lack of political education of the Spanish citizenry did not make its

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[55] *DSC. Procuradores.* No. 8, p. 28.

[56] DSC. Procuradores. No. 8, p. 29. In this regard, see Tomás Villarroya, J., "El sistema político del Estatuto Real (1834-1836)". Madrid, Instituto de Estudios Políticos, 1968, pp. 365 et seq. A historical overview of this right can be found in Jiménez De Cisneros Cid, F. J., "El derecho de petición y la iniciativa legislativa". Madrid, 1980.

[57] *DSC. Procuradores.* No. 9, p. 34.

[58] On the introduction of the jury in the Spanish legal system, see Saénz Berceo, Mª del C., "Apuntes sobre la institución del Jurado en España: el Jurado en el siglo XIX", Revista electrónica del Departamento de Derecho de la Universidad de La Rioja, No. 4, 2006.

implementation advisable, and its implementation was likely to generate dysfunctionalities in the application of the laws [59]. The government was not in favor of either the establishment of the jury or a broad freedom of the press, as the Count of Toreno considered that both could be instrumentalized by the parties and, like Medrano, considered that the lack of political education of Spanish society prevented their effectiveness[60]. Along the same lines, Pablo Santafé considered that every law and every right or freedom had to be adjusted to the customs of those to whom it was addressed, who, in turn, had to be prepared to receive it. For him it was clear that Spanish society was not yet ready to adopt an institution such as the jury[61]. The government's position of rejection was supported by Martínez de la Rosa who, resorting to historical review, reminded the procurators that both the jury and the freedom of the press had tried to be put into operation during the Triennium, and the result had been a notable failure[62].

For its part, the Commission made a lukewarm defense of the jury, through Joaquín María López, who, following the approach already offered by Francisco Díez González in his general assessment of the proposed response, indicated that the inclusion of the jury among the institutions to be established was not intended for its immediate implementation, nor even to set the exact time for it, but only to record that its implementation was considered beneficial for the nation and, therefore, should be an aspiration for the future, rather than a requirement for the present time[63].

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[59] Journal of the Sessions of the Courts. Senate Procurators' Estament. No. 8, 03-08-1834, p. 22.
[60] *DSC. Procuradores.* No. 8, p. 24.
[61] *DSC. Procuradores.* No. 9, p. 33
[62] *DSC. Procuradores.* No. 8, p. 27
[63] Journal of the Sessions of the Cortes. House of Peers. No. 8, 03-08-1834, pp. 22 and 26.

The discussion on freedom of the press focused on the elimination of prior censorship, an instrument which, according to Joaquín María López, was systematically used by the government to avoid criticism of its actions. Through the mouth of Toreno, the government rejected this assertion, pointing out that thanks to the existence of the Cortes, any procurator or procercer could censor government actions, regardless of the printing press, so that criticism of the actions of the executive was not undermined by the existence of censorship. If what the Secretary of the Treasury stated is true, it is certain that the repercussion of the criticism of the government by the members of the Cortes was very limited if public opinion did not have access to information about them, which was only possible on a large scale through newspapers, which were affected by censorship. In this sense, Joaquín Abargues spoke out in support of the elimination of prior censorship, since he considered freedom of the press to be a means of inestimable importance for the regeneration of the country by allowing anyone to expose the ills afflicting the nation[64].

In his idea that freedom of the press could be easily exploited by the parties, Toreno insisted that, given the war situation, freedom of the press should be limited by prior censorship for newspapers, although not for other publications, since it was essential to prevent certain publications close to absolutism from defending the rights to the throne of the prince Carlos María Isidro[65] and the validity of the Salic law in Spain[66].

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[64] *DSC. Procuradores.* No. 9, p. 33.

[65] *DSC. Procuradores.* No. 8, p. 24.

[66] On the validity of this legislation, of French origin, see Robles Do Campo, C., "Los Infantes de España bajo la Ley Sálica", Anales de la Real Academia Matritense de Heráldica y Genealogía, no. 10, 2007, pp. 305-356; and Quirós Rosado, R., "Ley Sálica. Historiografía y crítica antifrancesa en la Navarra de Carlos II de Austria", in VV.AA, La corte de los chapines: mujer y sociedad política en la monarquía de España, 1649-1714. Madrid, 2018, pp. 97-117.

The argument of partisan instrumentalization was rejected by Joaquín María López who took the floor to defend the key role of the press, given its breadth, ease of circulation and for the instruction of the population[67]. In his opinion, the defense of the pretender's rights, of absolutist or absurd and foolish ideas, even if they had a place in the press, would arouse the opposition of the general opinion against those who made them public. This argument is somewhat flimsy, because if these ideas were evidently absurd and foolish for the entire population, the claims of Don Carlos would not have plunged the country into the situation of confrontation in which it found itself.[68]

More legal weight in favor of freedom of the press and the suppression of prior censorship was the fact that the possibility that such a right could be exercised abusively could not justify its complete suppression[69]. The argument was applicable to any other right, since any legal exercise is susceptible to being exercised abusively, so the logic of such an approach would imply the suppression of all rights, not just freedom of the press, which, logically, did not occur.[70]

When Martínez de la Rosa took the floor regarding freedom of the press, his arguments followed the line marked by his secretary of the Treasury, the Count of Toreno, emphasizing the use that could be made of this freedom by opponents of the monarchy of Isabel II:

> "En todos los Estados, aun los más libres, así antiguos como modernos, se han puesto trabas, y se ha suspendido más o menos el ejercicio de la libertad en tiempos borrascosos: en Roma, hasta los comicios se suspendían en caso de peligro: el

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[67] *DSC. Procuradores.* No. 8, p. 25.

[68] *DSC. Procuradores.* No. 8, p. 26.

[69] Abuse of rights has been addressed by Gaviria Gutiérrez, "El abuso del derecho", in Revista Facultad de Derecho y Ciencias Políticas, No. 49, 1980, pp. 27-34.

[70] *DSC. Procuradores.* No. 10, 05-08-1834, p. 42.

Senado callaba[71], y se solía confiar a un solo hombre la salvación de la república: […]"[72].

For the Secretary of State, freedom of the press was to be one of the last freedoms to be granted, it would have to wait until the institutions had reached the necessary degree of perfection and the political education of the nation was sufficient, only then would its exercise have no negative consequences either for society or for the political system[73].

1.2 The voting

Given the intensity of the debate that had arisen over the draft reply to the Crown's speech, when the time came to submit it to a vote for approval by the House, it had to be taken paragraph by paragraph, and even on some of the more sensitive issues, such as the case of freedom of the press, the paragraph was divided into several parts, each of which was voted on separately by the procurators[74].

Finally, the introduction in the answer of the reference to the development of a table of rights and freedoms of citizens was approved by the House of Peers, deciding to include them under the denomination of "social rights".

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[71] The Roman Senate was the main responsible for the management of Roman foreign policy. This issue is dealt with in Martínez Peñas, L., "...Y lo llamarán paz. Visión jurídico-institucional de las relaciones internacionales en la Antigüedad". Valladolid, 2017; this work is continued in "El invierno. Visión jurídico-institucional de las relaciones internacionales en la Edad Media". Madrid, 2018

[72] *DSC. Procuradores.* No. 8, p. 27.

[73] *DSC. Procuradores.* No. 10, 05-08-1834, p. 42.

[74] *DSC. Procuradores.* No. 9, p. 35. *DSC. Procuradores.* No. 10, 05-08-1834, p. 43. *DSC. Procuradores.* No. 11, 06-08-1834, p. 47.

The mention of social rights already appeared in the first paragraph of the reply, where it was mentioned that it was the will of both the regent and the Cortes that "all the necessary latitude and guarantees be given to social rights", which would result in a better understanding between the throne and the people. Later, in response to the mention made by the regent in her speech to the attacks on members of the religious orders as a result of the cholera epidemic of 1834[75], the reply alluded to personal safety as the first right of man, whose enjoyment must be effectively guaranteed by all governments.[76]

Finally, in the response to the invitation made by the queen mother for the Estates to raise the legal work founded on the Royal Statute, the reply alludes to the duty of the political powers to protect all social rights, specifically mentioning freedom of the press, which thus became a sort of spearhead that would serve as a guarantee for other rights and freedoms. It was stated that this freedom of the press should be enjoyed as broadly as possible, as long as it was compatible with morality and the political system in force[77], an idea which seems to be a concession to those who sought to prevent the press from becoming a disseminating element of the ideas of Carlism through censorship.

The draft reply submitted by the Commission included an express mention of the organization of an urban militia as one of the main objectives to be addressed at the legislative level, placing it

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[75] The response to epidemics was not only based on violence and superstition, but the Hispanic monarchy had a long legal tradition of sanitary legislation, especially with regard to quarantines. In this regard can be seen Prado Rubio, E., and Martínez Peñas, L., "Un ejemplo de legislación de prevención emergencia sanitaria en el siglo XVIII: el Decreto de Prevención de 1740", in VV. AA., "Especialidad y excepcionalidad como recursos jurídicos", Valladolid. 2017. Also Ascheri, M., Rimedi per le epidemia. I consigli dei giuristi nel diritto europeo (secoli XIV-XVI). Aracne, 2020

[76] *DSC. Procuradores. NO. 12. 07-08-1834. Appendix one, p. 1.*

[77] *DSC. Procuradores. NO. 12. 07-08-1834. Appendix one, p. 2.*

practically on the same level as equal rights before the law, civil liberty, personal security, the inviolability of property, the independence of the judiciary, as well as the accountability of its agents and ministers.[78]

5.- Epilogue

The final wording of the reply to the speech of the House of Peers mitigated quite a bit the petitions regarding the debates developed in the Chamber. This did not prevent that, in accordance with the right of petition, recognized in article 32 of the Royal Statute and which allowed the Cortes to share the legislative initiative with the king, a petition was presented in which the queen governor was asked to sanction as rights and liberties the content of the twelve articles of the petition in which Martínez de la Rosa himself recognized the imprint of the Cadiz constitution[79].

The debate on the need for such a table of rights generated by the Commission of Response to the Speech to the Throne of the House of Peers of 1834 was only the starting signal for an issue that still had a long way to go in the political and legal life of the monarchy of Isabella II.

The first step was taken on August 25, 1834, less than a month after the proposal to reply to the Crown's speech was debated, when a law on the responsibility of judges was presented to the House of Peers, at the proposal of the head of the government himself, Secretary of State Martínez de la Rosa[80]. Three days later, on August 28, 1834, a formal petition was presented to the Cortes for the recognition of a table of fundamental rights. This petition gave rise to a parliamentary battle for

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[78] *DSC. Procuradores. NO. 12. 07-08-1834. Appendix one, p. 2.*
[79] Tomás Villarroya, "La Constitución de 1812 …, pp. 272-273.
[80] *DSC. Procuradores.* No. 22. 25-08-1834, pp. 84-85.

the legal recognition of the rights and liberties of citizens in the Spanish legal system.

Thus, the drafts of the reply to the Crown's speech at the inaugural session of the Cortes of 1834, especially the proposal of the House of Peers, became a key milestone on the road towards the inclusion in the Spanish legislative framework of a regulation that expressly recognized a series of specific rights and freedoms, as well as the legal mechanisms for their defense and, therefore, for their enforceability. The open debate foreshadowed the subsequent parliamentary debate, focused much of the political activity in the subsequent period, which would be a relevant factor, although not the only one, in the succession of events that eventually led to the fall of the Martínez de la Rosa government.

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CLASSICAL COMMANDERS AND TACTIC-OPERATIONAL DECISION-MAKING IN THE PRESENT

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Abstract*:* To decide tactic-operationally within a modern warfare defined by its incredible speed, its significant amount of data and its complexity of scenarios, the reliance on technology seems to be the ideal solution for modern commanders. However, in environments with uncertainty, technological degradation or where machines cannot remove the fog of war, modern commanders must use their human artistic-cognitive agility to obtain the desired tactic-operational decision advantage. For this, they will be guided through their knowledge and experience, providing them with the necessary judgment for effective decision-making. Studying past commanders, especially those forgotten from classical times, gives the modern commander unique guidance for decision-making through their leadership, understanding of the operational environment, and risk management. Delving into classical commanders like Caesar, Hannibal, and Belisarius will show how their decision-making is similar to what is currently required by the modern commander in environments of uncertainty, providing a practical guide.

1.- Introduction

1.1. *Problem statement*

"Peruse again and again the campaigns of Alexander, Hannibal, Caesar, Gustavus Adolphus, Turenne, Eugene, and Frederick. Model yourself upon them. This is the only means of becoming a great captain and acquiring the secret of the art of war."

Napoleon Bonaparte[1]

According to Napoleon, modern commanders largely forgot this adage; in his unfinished *On War*, Carl von Clausewitz, intellectually inspired by his contemporary Friedrich Hegel, defended the wisdom of the past and recovered that dictum inside his "critical analysis"[2]. It promotes the deep study of past commanders' decision-making, increasing the Napoleonic "peruse" with a Clausewitzian deep "mind-re-enactment" that reflexively recreates the conditions in which commanders took the decisions[3]. As historian Alan Beyerchen suggested, equations cannot solve non-linear systems. Therefore, in warfare systems with abstract problems and uncertainty, the commander must use intuition generated through real-life experience to solve them instead of analytical tools. In the absence of real-life experience in war, "critical analysis", through deep study of the past, encourages intuition and the Clausewitzian *coup d'oeil* (discern

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[1] David Chandler, *Napoleon's Military Maxims* (England: The History Press, 2016), 46.

[2] Friedrich Hegel, A. Miller, *Phenomenology of Spirit* (Oxford: Oxford Univ. Press, 2013), 18.

[3] Jon Sumida, *Decoding Clausewitz: A New Approach to On War*, Modern War Studies (KS: University Press of Kansas, 2008), 145.

advantages at a glance) and, therefore, the judgment for future decision-making[4].

The current issue is that while there are studies and posts of campaigns and commanders from long ago, just a few have been transformed for application in the present. There are rare exceptions like Liddell Hart, who took this Napoleonic maxim as a guide and wrote about various commanders such as Sherman or Scipio. Another example is historian Victor Hanson who set ancient Roman-Greek Wars in fashion nowadays[5]. He compares commanders like Pericles or Pyrrhus with current conflicts like Iraq or Afghanistan but even less profoundly than Hart; Nevertheless, none of them analyses them through the most significant parameters a commander should consider to improve decision-making in complex environments.

1.2.   Background

Considering this Napoleonic maxim as a reference, in moments of risk and uncertainty, as in warfare, academics also confirmed that intuition and own perceptions are used preferably. According to the Nobel Prize in Economics, Simon Herbert, mathematical models are usually discarded in decision-making because human skills are limited to compiling data and performing complex computations. Therefore, decision-makers choose "rules of thumb" or heuristics with fewer choices and less time. These rational shortcuts offer a satisfactory solution without costly, time-consuming calculations. After various studies, psychologist Gary Klein also argued that in complex problems, decision-makers use intuition 90% of the time, not analytical processes[6]. To explain it, Klein proposes a Recognition-Primed

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[4] Sumida, 130.

[5] Victor Hanson, *Makers of Ancient Strategy: From the Persian Wars to the Fall of Rome* (Princeton: Princeton University Press, 2010).

[6] Gary Klein, *The Power of Intuition: How to Use Your Gut Feelings to Make Better Decisions at Work* (New York: Currency Doubleday, 2003), 55.

Decision-making model (RPD) based on experience, through mental patterns, for complex problems. Herbert, Klein and Clausewitz agreed with the importance of experience, intuition and heuristics in decision-making; however, the problem arises when decision-makers need situations to generate them.

Therefore, they all affirmed that training and education from past experiences is a way to acquire them. Likewise, the UK Develop, Concept and Doctrine Center (DCDC) suggests that "patterns and mental templates of experience, training and education allow current problems to be associated with past examples to select appropriate options"[7]. Therefore, decision-makers, including commanders, in complex environments like warfare use intuition, heuristics, experience, and education focused on the past to solve problems.

Consequently, the commander must have specific characteristics for decision-making. NATO defines *command* as "the authority vested in an individual of the armed forces for the direction, coordination, and control of military forces"[8]. This individualism contrasts with the "collective command" phenomenon currently proposed by Anthony King. He argues that because operations are more complex in the twenty-first century, demanding the integration of heterogeneous forces, the command has become a joint activity in which subordinates and staff play a critical role. As Tonny Zinni argued, examples such as the campaigns in Iraq and Afghanistan have shown that the Napoleonic, hierarchical and centralised previous command model was impractical due to the complexity of decision-making[9]. However, this "collaborative command" has been used only in operations with clear superiority over the adversary. At the same time, against a future peer-

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[7] DCDC, 'Understanding and Decision-Making' (Joint Doctrine Publication UK, 2016), 40.

[8] NATO Standardization Office, 'AAP-06 NATO Glossary of Terms and Definitions', 2021.

[9] Anthony Zinni, *Leading the Charge: Leadership Lessons from the Battlefield to the Boardroom*, (New York: Palgrave Macmillan, 2009).

to-peer competitor, it has yet to be known whether it will be effective. Therefore, echoing John Keegan, "It is nonsense to think that the qualities of the individual have no bearing on the course of the world"[10]. Freedman even proposes a different quality for the commander, "political sensibility". The leading cause is the ability to get along with various characters, which is required in future coalition warfare[11]. Therefore, the current commander should have individual, collective qualities and political skills for decision-making.

Furthermore, decision-making is currently influenced by the complexity of technology, which creates uncertainty, often known as the Clausewitzian fog of war[12]. Examples that support it are quantum computers, Artificial Intelligence (AI) and hypersonic systems, which accelerate the decision cycles, squeezing humans' time to make deliberate decisions. Another example is the "paralysis analysis" occurred when wanting too much precision to reach a decision; commanders do not recognize the critical elements of data and collapse. In this abstract and chameleonic scenario, the "art of war", or its human dimension, remains constant. In contrast, the "science of war", or its technological dimension, varies with time and the advances that occur. Although future human-machine teams mainly focus on the latter, artistic-cognitive agility is critical for commanders to obtain "decision advantage"- the skill to understand, discern, and make decisions better than rivals-[13]. Using the game theory that studies mathematical models of strategic interactions among rational agents, Kevin Zollman

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[10] John Keegan, *The Mask of Command* (NY: Penguin, 1988), 11.

[11] Lawrence Freedman, *Command: The Politics of Military Operations from Korea to Ukraine*, (New York: Oxford University Press, 2022), 5.

[12] James Reed, 'Modern Fog and Friction | Small Wars Journal', 2012, https://smallwarsjournal.com/jrnl/artmodern/-fog-and-friction.

[13] Ann Rondeau, 'Rebalancing the Science and Art of War for Decision Advantage', U.S. Naval Institute, 2022, https://www.usni.org/magazines/proceedings/2022/august/rebalancing-science-and-art-war-decision-advantage.

argued that creativity is essential to deal with well-prepared components[14].

In contrast, scholars like Bernard Bass do not trust the judgment of intuition since he demonstrates through experiments that arithmetic provides the best option in decision-making. However, echoing Klein again, there are many cases where analytical processes without intuition have failed[15]. Therefore, human-machine teams will need human artistic-cognitive agility in their decision-making process. In moments of great uncertainty with the speed of data and degraded technology, commanders must resort to their learned heuristics by experience or through prior studies.

1.3.   Rationale and BLUF

Considering the technological future, commanders will use machines for their decision-making. However, they must be prepared to use their human artistic-cognitive agility based on heuristics. Following the characteristics that current commanders should possess and forge for decision-making, not only individual but collective and even political, it is necessary to review the Napoleonic-Clausewitzian approach to identify which parameters of past commanders will be helpful in modern decision-making.

However, within the past commanders, those of the classical era are far from the modern present. Both Klein's RPD model and Clausewitz's "critical analysis" alluded to learning from the past without mentioning how far away it is from the present. Current trends like "Presentism" study the past as contemporarily as possible, with the ease

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[14] Kevin Zollman, *The Game Theorist's Guide to Parenting: How the Science of Strategic Thinking Can Help You Deal with the Toughest Negotiators You Know--Your Kids* (New York: Scientific American, 2016).
[15] Klein, *The Power of Intuition*, 115.

of assimilating their similar technologies, tactics or societies[16]. However, according to Kenneth Payne, experts can identify positive behavioural patterns in historical periods that predate the present because of human biological and cultural inheritance, which makes up the nature of war constant[17]. Considering everything, this paper will examine the distant time spanning from the third century BC to the sixth century AC, when there were sophisticated classical civilisations and intriguing commanders who are virtually lost now.

In the modern world, the speed and pace of technology, coupled with developments like AI, means that a commander will seek the necessary advantage by mastering the art of decision-making. To do this, they will combine analytical and heuristic thinking models. The latter will be essential in situations that need more data for analysis, with a short response time, great uncertainty, or an avalanche of data. The nature of war is immutable, and human experience is necessary to feed heuristics. However, sometimes there are no real opportunities to achieve it. One method to acquire mental models as heuristics was to analyse the experiences and traits of former commanders.

Thus, considering that human artistic-cognitive agility is critical and can be shaped by a deep study of the past, this paper will demonstrate that the lessons of classical commanders will be a practical guide for improving military decision-making in the modern world.

1.4.   Aim and Objectives

The current study seeks to examine a practical guide based on the teachings of classical commanders to improve military decision-making in the modern era. The following are the research objectives:

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[16] Salem Press Encyclopedia, 'Presentism and Cultural Bias.', 2021.

[17] Kenneth Payne, *Strategy, Evolution, and War: From Apes to Artificial Intelligence* (Washington: Georgetown University Press, 2018), 3.

1.	To empirically analyse the lessons of classical commanders as a guide for effective decision-making based on three criteria: leadership, understanding the operational environment and risk management.
2.	To obtain practical decision-making heuristics guide through the lens of classical commanders' case studies.

It is divided into three parts, each dedicated to one criterion. Each part will evaluate the same three case studies. The first case study examines Belisarius, a classical leader of the Byzantine Empire. It will examine his excellent underdog decision-making while focusing on the Sasanian, Vandalic, Gothic, and Kutrigur Wars. The second case study will examine the original decision-making of Hannibal, a legendary Carthaginian general, exploring the Second Punic War. The final case study examines the ancient commander, Caesar, focusing on the Gallic Wars, where his determined decisions helped Rome achieve enormous success.

### 1.5.	Significance of the Research and Limitations

This study is significant because it examines for the first time three classical commanders to obtain a practical guide for decision-making based on criteria that will help present leaders in complex warfare situations. It differs from the usual historical studies in that it is focused on helping current operational commanders, considering trends in conflict, technology, and military thinking through lesser-remembered leaders. Furthermore, to be aligned with the modern operational commanders, all three were selected due to were in charge of military campaigns under the direction of a political-focused government.

However, the study limits itself to the three classical commanders and just a few cultures from that period. Furthermore, it is restricted to the land domain, notably in the Mediterranean region; it does not consider nuclear weapons or the influence of current global media. The last constraint is the international law of war, which did not exist during the classical era. As a result, further study should be conducted to supplement the existing research in those areas.

2.- Context, Conceptual and Analytical Framework

2.1.   *Context*

In antiquity, leaders used a unique system with two conceptual levels of warfare; strategy to win the war and tactics to win battles. After the political and military separation of the leaders in the modern nation-state, the global levels of antiquity were divided, currently forming: the grand strategy, which sets political objectives, the military strategy that assigns forces to fulfil political objectives; and the operational level that plans campaigns and the tactical level, which directs operations on the ground, sea and air[18]. Considering this, the case studies are classical operational commanders in charge of decisions at the tactical and operational levels, with governments in charge of higher levels, simulating the level of decisions of current operational commanders.

2.2.   *Conceptual*

This research section mainly presents conceptual ideas of the main paradigms discussed in this study. First, the modern operational commander should be guided by the leadership of classical commanders to optimise their decision-making. Like the NATO concept, Clausewitz also outlines the commander's or military genius's

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[18] RCDS, *Getting Strategy Right (Enough)*, 2017, 3–4.

individual qualities: intellect to give light in moments of darkness (*coup d'oeil*), courage to follow that light (determination) and temperament[19]. In the intellectual part, determination is essential, allowing decision-making without fear and accepting responsibility. Echoing Clausewitz:

"We often see that the most intelligent people are irresolute"[20].

In contrast, temperament is "the psychological component of mastering subordinates' resistance to being directed"[21]. Therefore, leadership from this critical character perspective, made up of determination and temperament, is essential for decision-making, as well as the "political sensibility" suggested by Freedman. This last feature inevitably aligns with modern Civil and Military Relations (CMRs). The operational commander will need to relate to the political echelon in some way to make their decisions consequently. Each classical case study commander differs in the CMR applied, showing an exciting variety of possibilities for the future commander. Hannibal's Carthaginian system furthers the *divergent* school of Samuel Huntington with a division between the spheres of civil government and the military. The Carthaginian Senate thought, like Huntington, that this professionalism reduced military power and increased the military's aversion to politics[22]. With his *convergence* school, Janowitz's Theory is not applicable here since his "constabulary force", more focused on

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[19] Antulio Echevarria, *Clausewitz and Contemporary War* (Oxford: Oxford University Press, 2007), 117.

[20] Carl von Clausewitz, *On War*, (Princeton: Princeton University Press, 1989), 102–3.

[21] Sumida, *Decoding Clausewitz*, 132.

[22] Suzanne Nielsen, 'American Civil-Military Relations Today: The Continuing Relevance of Samuel Huntington's The Soldier and the State.', *International Affairs* 88 (2012): 369–76.

the present[23], does not fit the classics studied. In contrast, Feaver's "Agency Theory" from economics advocates a modern civilian control over the military similar to some classics.

For example, Caesar was controlled by the Roman Republic Senate in the Gallic campaign studied. Generally, Roman operational commanders had *imperium* (control of the armed forces) in their particular theatre. This would be assimilated to Feaver's "professionalism" option, where civilians rely on military experience for decision-making. However, Belisarius' Imperial Byzantine system, with a controlling Emperor like Justinian, promotes Feaver's "civilian supremacists" approach, where politicians can intervene and rule on military matters[24]. Authors such as Eliot Cohen, who promotes the need for a beneficial intrusion of the civilian leader in military spheres[25], would also align with Belisarius' system. However, no classic study would be aligned with the more specific for modern democracies Rebecca Schiff's "Concordance Theory", which promotes cooperation between the military, politicians and the citizenry[26].

In addition, the second guide to decision-making should be understanding the operational environment. Understanding "the perception and interpretation of a particular situation to provide context, insight, and foresight" aids in making more informed judgements. However, in complex and unfamiliar environments, commanders will not have time to understand the operational environment, defined as "a composite of conditions, circumstances and influences that affect the employment of capabilities and bear on the commanders' decisions"[27].

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[23] Donald Travis, 'Decoding Morris Janowitz: Limited War and Pragmatic Doctrine', *Armed Forces & Society* 46 (2020): 68–91.
[24] Metin Gurcan, 'Armed Servants: Agency, Oversight and Civil-Military Relations', *Security Strategies Journal* 9 (2013): 257–62.
[25] Eliot Cohen, 'Supreme Command in the 21st Century.', *JFQ* 31 (2002): 48.
[26] Hugues Canuel, From Concordance to Discordance in Post-War France, Defence Studies 457 (Taylor & Francis 2013).
[27] NATO, 'APP-06', 2021.

Since classical commanders are used to these uncertainties for lacking modern Command and Control (C2) elements, their understanding, compared to John Boyd's current OODA cycle, will benefit the modern commander. This cycle is essential in decision-making and consists of four phases[28].

- Observation, scanning for dangers and opportunities;
- Orientation, considering genetic heritage, cultural traditions, experience and education;
- The decision, selecting actions;
- Action, with constant feedback;

The first two phases provide the necessary understanding for modern commanders. However, these are affected by their perceptions, which are composed of a wide variety of elements, among others:

- Cognitive biases, which contain innate and learned aspects, are systematic errors in thinking that interfere with how decision-makers process information and perceive reality[29].
- Experience along with the environment and conditions of those past experiences.
- Personality.
- Education and knowledge.
- Instinct.
- Beliefs.

It is interesting to highlight those possessed by commanders within the "beliefs" in the classical era as opposed to the present. For example, Caesar was educated as a *nobilis* (high-status family) through

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[28] John Boyd, 'A Discourse on Winning and Losing', *Air University Press*, 2018, 384.

[29] DCDC, 'Understanding and Decision-Making', 66.

the Roman *virtu*s, which maintained the heritage of the Hellenistic *aretè*. This quality represented value, bravery, courage, and mental and physical excellence[30]. Contrarily, Greek tutors educated Hannibal in *mêtis* or cunning intelligence[31]. Finally, Belisarius had a modified *aretè* focusing on the devotion to the Empire and the figure of the emperor[32]. These classic human "beliefs" significantly affecting decision-making are challenging to observe today. Therefore, information framing will be carried out through the perceptions exposed above, which in this work will be called, as a whole, "Essentials". These "Essentials" will make up heuristics for understanding the operational environment that will guide towards judgement and a "decision advantage". This advantage should be "breaking the kill chain", which the US military uses to describe how they degrade the effectiveness of an opposing force. This concept, defended by Christian Brose, is a process that involves understanding, deciding and acting, calling it "closing the kill chain". For this, Brose argued that software would be more vital than hardware in the future, allowing human beings to complete the "kill chain" faster than its rivals. Brose also argues that the US obsession with developing costly and unique platforms is the problem[33]. Nevertheless, this statement must be contrasted with the effectiveness shown in the campaigns of the classics, which do not use this approach.

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[30] Elizabeth Horner, 'Ancient Values: "Arete and Virtus"', *ProQuest Dissertations and Theses* (Ph.D., US, University of Virginia, 1975), 128, https://www.proquest.com/dissertations-theses/ancient-values-arete-virtus/docview/302755045/se-2?accountid=11862.

[31] Marcel Detienne, Jean-Pierre Vernant, and *Cunning Intelligence in Greek Culture and Society* (Chicago: Univ. of Chicago Press, 1991).

[32] Horner, 'Ancient Values: "Arete and Virtus"', 182.

[33] Christian Brose, *The Kill Chain: Defending America in the Future of High-Tech Warfare* (New York: Hachette Books, 2020), 46.

Third, in addition to leadership and understanding, risk management should be one last guide for decision-making. There are several decision-making theories to manage risk appropriately. One example is the standard Military Decision-Making Process (MDMP), based on a doctrine-based approach applied in the modern Headquarters but not by classical commanders.

In contrast, naturalist theories like Klein's RPD or Tversky and Kahneman's Prospect Theory (PT), which focus on successful human judgements in complicated real-world contexts, might be matched with classical commanders' risk management. In this way, PT is attractive since it predicts that decision-makers are more likely to take risks in bad situations and more likely to be cautious when times are going well[34]. It means that in uncertain environments, commanders will have little time to understand the environment and their responses could inherit significant risk or lose opportunities[35]. These opportunities appear through windows, as exposed by the UK JCN 1/20, searching to target vulnerable parts of the adversarial system[36]. These windows appear equally to classical commanders, so their usefulness should be evaluated, considering the difference concerning modern Multi-Domain Integration (MDI). However, in this environment of uncertainty, where opportunities appear, commanders can also deliberately generate them through originality. Mosaic Warfare is one of the current concepts which advocates the need for this originality. With this concept, commanders would use, like tiles in a mosaic, existing capabilities in evolving creative combinations that take advantage. Relevant insights for current decision-making will be derived by comparing it to the inventiveness of ancient commanders in their wars. Furthermore, this model fosters the goal-oriented command, provides initiative to lower echelons, and develops talented mosaic leaders. As a result, mission command will be viewed as a recent

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[34] James Schultz, 'A Framework for Military Decision Making under Risks': (Fort Belvoir: Defense Technical Information Center, 1997), 2.

[35] DCDC, 'Understanding and Decision-Making', 11.

[36] Ibid., 44.

tendency from the standpoint of the risk that this delegation of responsibilities involved in antiquity.

2.3. Analytical Framework

Therefore, an analytical framework offers a practical guide for decision-making. Analysing the actions of classical commanders requires three criteria, illustrated below:

2.3.1. Criterion A: Commander's Leadership

The element of character proposed by Clausewitz will be used to measure this fundamental criterion in the decision-making of classical commanders. It is precisely their characteristics of determination and temperament that will influence complex situations. Furthermore, this criterion will be evaluated by contrasting classical commanders' leadership with modern military perspectives. It will compare classical commanders' lessons with modern CMRs theories and Freedman's leadership approach to "political sensibility". This approach includes their relationship with the higher political level, called in this paper "sensibility from below", and their ability to create or maintain allies in the theatre, called "theatre sensibility".
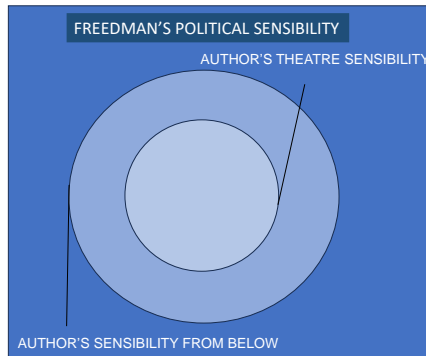
Figure 2. Freedman's political sensibility division (Source: Author).

2.3.2. Criterion B: Practical Understanding of Operational Environment

Two elements of the efficiency of classical commanders will be carried out during this criterion. Boyd's OODA cycle will be one element, particularly its Observation and Orientation phases, which are well-suited to understanding the operational environment in classical times compared with the modern Information Age. Additionally, this element will be analysed through the degree of affectation of bias, comparing the "Essentials" of classical commanders with new technologies in uncertain situations. The other element will be the "kill chain" concept, particularly understanding the operational environment using disruptive and costly units as a critical tool for classical commanders, contrary to Brose's concept.

2.3.3. Criterion C: Risk management

The critical element of this criterion is the MDI windows of opportunity. It will be evaluated if the classical commanders took action at this point, seizing opportunities when they arose and carefully analysing the risks involved. Mosaic Warfare will be independently assessed as a distinct aspect, focusing on the necessity to operate outside official doctrine, preferring creativity above established processes. This criterion will end with the importance of a delegating model to mitigate risks in decision-making, particularly with the mission command, comparing classical and modern perspectives.
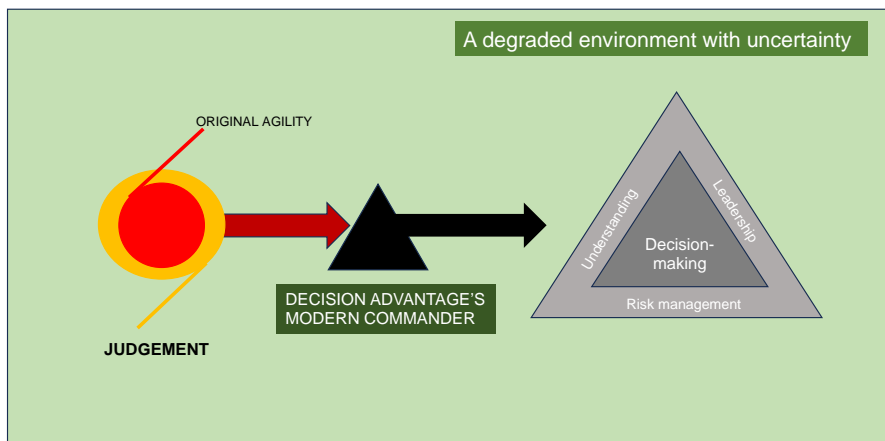
Figure 3. Decision-making criteria (Source: Author).

3.- Commander's Leadership

With the complexity of future warfare, the tendency is that past military leadership is no longer helpful. This part will demonstrate through the analytical framework of character and "political sensibility" how the leadership of the classical leaders must continue as a valuable guide for the modern tactic-operational decision-making of commanders.

3.1.   *Character and determination*

Echoing Clausewitz, the character is an essential element of leadership, with classical commanders being ideal examples for the present. The first quality of character, determination, is shown throughout their lives, and it is interesting to know how they have possessed it. In the case of Hannibal, early experiences fighting in Hispania as a child and an innate aptitude for command would forge the self-confidence to use this quality[37]. In contrast, Caesar's determination derives from a unique personality. While in Hispania reading Alexander the Great's book, echoing Plutarch, Caesar began to cry when comparing himself with the Macedonian in age and achievements, showing an ambitious character that gave him determination[38]. An example of solid determination was when Caesar took advantage of the *Helvetii* migratory flow, attacking them without hesitation. The classics, through "Essentials" such as previous experience, personality and ambition, possessed an outstanding determination that was useful in the decision-making of the modern operational commander. Thus, the classics' determination is aligned with the modern Jim Storr perspective, which promotes getting rid of the current slow planning

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[37] Polybius, *The Histories of Polybius, Vol. 1 (of 2)* (Project Gutenberg), III.11. (9-12).

[38] Plutarch and John Dryden, *Complete Collection of Plutarch's Parallel Lives* (New York: Palatine Press, 2017).

process. This tends to favour leaders with instinct, character and experience, supporting naturalistic theories[39]. Verily, it does not mean that the classics did not plan and rely solely on their instinctive heuristics. Belisarius, for example, remarks that "everything depends on forecasting"[40]. Therefore, they were quick to use them effectively when necessary. This ability of the classics to use determination in environments of uncertainty, when necessary, comes, as shown, from their previous experience in war, considering Hannibal or their personality as Caesar.

The high education received as "aristocrats" positively affected their self-confidence, which is critical for determination. In contrast, contemporary classic military with excellent social positions and similar education do not achieve the attainments of the leaders studied. Examples are the co-commanders who accompanied Belisarius in his first Sasanian campaign, Sittas and Libelarius, who failed, unlike the young Belisarius[41]. Therefore, personality, environment and experiences mark the "Essentials" that shape determination. As Strauss suggested, an example of those qualities is *ambition*, which means "greatness of soul" and is a characteristic of good commanders like Caesar and Hannibal[42].

Nevertheless, ambition significantly leads to what the historian Barbara Tuchman warns:

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[39] Jim Storr, *Something Rotten: Land Command in the 21st Century* (Hampshire: Howgate Publishing Limited, 2022), 36.
[40] Victor Hanson, *Savior Generals: How Five Great Commanders Saved Wars That Were Lost, from Ancient Greece to Iraq* (New York: Bloomsbury, 2019), 87.
[41] Ibid., 53.
[42] Barry Strauss, *Masters of Command: Alexander, Hannibal, Caesar and the Genius of Leadership* (New York: Simon & Schuster, 2012), 22.

"If leaders do not carry out correct determination, the danger of catastrophe is great"[43].

In this way, commanders' ambition can lead to good results, such as the conquest of Gaul. However, it also can lead to the destruction of a civilization like the Carthaginian as a direct consequence of the defeat in the Second Punic War started by Hannibal. In contrast, Belisarius did not have the quality of ambition so developed. When he was removed from the command of Italy at its military peak, choosing the Eunuch Narses instead, he assumed it without crossing the Rubicon as Caesar would.

"This, too, I can bear-I still am Belisarius" perfectly described his integrity by the poet Henry Wadsworth[44].

Therefore, Strauss's requirement of ambition to be a successful commander omits this type of classical commander, like Belisarius, being not mandatory for being an excellent modern operational commander with determination.

In contrast, the three agree on their dedication to their work, which gives them experience, self-confidence and, ultimately, determination in their decisions. Campaign experience seems critical. Practice, as Napoleon suggested, is the key to a commander[45]. They all started their military careers very young. Even Caesar, who cried in Hispania as a *Praetor* in his forties without outstanding military

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[43] Barbara Tuchman, *Practicing History: Selected Essays* (New York: Ballantine Books, 1982), 277.

[44] Longfellow Wadsworth, *The Masque of Pandora and Other Poems* (Massachusetts: Osgood and Company, 1876).

[45] Napoleon et al., *Napoleon on War* (Oxford: Oxford University Press, 2015), 130.

achievements, was at the average age when he reached the magistracy of the Proconsul.

In short, the three classical leaders show excellent determination for decision-making, coming from their personality and environment. In some cases, their ambition and, above all, their experience and dedication in military campaigns from an early age.

3.2.   Character and temperament

The three classics constantly demonstrate the second quality of character, temperament. Livy describes Hannibal's qualities in detail:

> "Under his leadership, the men invariably showed to the best advantage both dash and confidence"[46].

Belisarius also constantly demonstrates a practical temperament. In a besieged Rome by the Ostrogothic Army (537-538), through a determined speech, Belisarius calmly and energetically convinced the masses who desperately wanted an open battle to wait for reinforcements, avoiding an inevitable defeat[47]. This style would align with British General David Richards, who promotes a communicator commander as the model of a modern leader[48]. Therefore, classical commanders teach how personal skills enhance temperament, which is a good guide for the modern commander.

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[46] Livy, Aubrey De Sélincourt, and Betty Radice, *The War with Hannibal: Books XXI-XXX of 'The History of Rome from Its Foundation'* (London: Penguin, 2004), 4.

[47] Procopius, *History of the Wars, Books V and VI: The Gothic War* (Project Gutenberg), III, 165.

[48] David Richards, 'The Art of Command in the Twenty-First Century: Reflections on Three Commands' (Oxford University Press, 2012), 383.

Strauss points out that other skills, such as the proper perspective of rewards and punishments, create discipline and forged temperament[49]. For instance, Caesar rewarded acts of bravery. Polybius describes how his soldiers performed inhuman feats for him; Centurion Cassius Scaeva sustained multiple wounds to the eye, thigh and shoulder. In fact, he carried a shield with one hundred and thirty holes, defeated his enemies and was rewarded as *Primus Pilus* (senior Centurion). This promotion reward is similar to past commanders like Napoleon, an example of temperament echoing Clausewitz, who promoted officers to Marshals and Dukes. In the same way, Caesar raises legionaries to centurions and even centurions to Senators[50]. Polybius adds that Caesar was adored because he did not keep wealth for himself but used it to reward the valour actions of his soldiers, unlike other contemporaneous greedy generals[51].

In contrast, punishments such as the one imposed by Belisarius on the indiscipline of two drunken Hun mercenaries who murdered a comrade, which Belisarius settled by hanging them in front of everyone, making an inspiring speech[52], also forge temperament. The difference is that in the classical period, insurrections could be reduced this way, but not today. Examples of current commanders, such as US General Mattis releasing his First Regimental Combat Team (RCT) commander in Iraq (2003) for not attacking at the ordered tempo, created a national debate in the US media[53]. Therefore, although not in a classical way, with a similar effect, there are tools for current soldiers' rotten behaviour in combat, whether they are seniors or not. However, only modern operational commanders with an excellent temperament, like Mattis, can do so in democratic environments.

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[49] Strauss, *Masters of Command*, 112.
[50] Plutarch and Dryden, *Complete Collection of Plutarch's Parallel Lives*.
[51] Polybius, *The Histories of Polybius, Vol. 1 (of 2)*.
[52] Philip Stanhope, *The Life of Belisarius* (UK: Leonaur, 2014).
[53] James Mattis and Francis West, *Call Sign Chaos: Learning to Lead* (New York: Random House, 2019), 107.

Nonetheless, to reward or punish, commanders should be on the front line, although not mandatory, to contemplate soldiers' actions. Secondly, as an essential inspiring component for the army that forges temperament, it is vital to be at the forefront. Today's operational commander should train to control from a *chateau*-style rearguard command post but should also be able to act heroically when necessary. This model is aligned with Mattis, who declares against the *château* model:

> "Intangibles like will, cohesion and affection are more important than tangibles. I strove to be the opposite of the *château* General"[54].

Cases like the command model of the Israelis in the First Lebanon War in 1982 opted for a "command from in front and within"[55]. Although among the casualties, almost one-third were officers, the Israelis consider it an inspiration to follow.

However, it does not seem that the Israelis are the model to be followed. Since it manages to inspire from the vanguard, there are too many casualties among officers due to the current lethal weapons. This caused an irreplaceable deficit of leaders. Therefore, non-*château* command and the ability to inspire at any time and place, not only in the vanguard, forge the current temperament, of which the classics are a good example. As Strauss suggests, what inspires men and women to follow the leader everywhere is a temperament that goes beyond rewards[56]. Livy also highlights this quality of Hannibal appreciated by his soldiers sharing their food and sleeping places, sacrificing himself like them[57]. Coinciding with Strauss and Livy, Polybius also highlights

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[54] Mattis and West, 242.
[55] Doron Almog, 'Positioning the Batallion Commander' (Journal military operactions, 2012), 15.
[56] Strauss, *Masters of Command*, 26.
[57] Livy, De Sélincourt, and Radice, *The War with Hannibal*, 32.

this exemplary behaviour in Caesar as even more critical than his rewards[58], thus being a crucial element of good temperament.

Concluding this, the ability to provide proper rewards and punishments, inspire subordinates everywhere and maintain exemplary behaviour forge the Clausewitzian temperament necessary for making current decisions.

3.3.   Leadership's "political sensibility"

The other critical element in the current commander's leadership is "political sensibility". Compared with the classics, in the case of Hannibal's "sensibility from below", coming from a respected military family like the *Barcids* gave him support at the political level. Hannibal obtained support against Rome after the Carthaginian Senate declared war on the famous Roman delegation of Fabius[59]. Regarding "theatre sensibility", Hannibal was exceptional. One example is when he unites to his cause imprisoned Gauls, with different cultures and languages, calling contests and using an interpreter who promised the victors freedom and riches[60]. Likewise, Caesar has adequate "theatre sensibility" in his proconsular area. He rewarded Gallic allies who gave him help, like the *Aeduii*, and harshly punished the foreign enemies of his province, like the *Helvetii* or the Germans[61]. However, the most impressive characteristic was his extraordinary "sensibility from below" since Caesar handled his relations with the political centre, Rome. Interesting examples are the dissemination each year in Rome of a chapter of his *Commentarii* with the chronicles of the campaign and the deliberate election of that proconsular magistracy due to its proximity since Caesar used to spend the winters in Ravenna, only 200

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[58] Polybius, *The Histories of Polybius, Vol. 1 (of 2)*.

[59] Tony Bath, *Hannibal's Campaigns: The Story of One of the Greatest Military Commanders of All Time* (Cambridge: P. Stephens, 1981), 39.

[60] Livy, De Sélincourt, and Radice, *The War with Hannibal*, 43.

[61] Hanson, *Makers of Ancient Strategy*, 216.

miles from the capital. Thus, the classics have the "political sensibility" suggested by Freedman for modern commanders.

Therefore, this fundamental quality for leadership and decision-making is not modern, as Freedman suggests when analysing Eisenhower since classical leaders already possessed it to different degrees. For example, Hannibal had a fluctuating relationship with the political power of Carthage, and therefore, his "sensibility from below" was affected. On the one hand, the Senate supported him in the undertaking against Rome, but on the other, it did not provide him with resources for fear of his defeat. Moreover, Hannibal's relationship with the Senate was farther away than Caesar's, as he left Carthage as a child and only returned years before the Zama battle[62]. Therefore, Hannibal's Huntingtian lack of "sensibility from below" had the consequence that although he only obtained tactic-operational victories on Roman soil, he lost the war as needed to be aligned with the political objectives. This tactical success not aligned with the grand strategy is repeated in recent conflicts such as Afghanistan, where counterinsurgency victories were not aligned with political objectives, as Antulio Echevarria suggested with his "American way of battle"[63]. Compared to Caesar, who had made his career through the progressive *cursus honorum* system holding different political public offices, Caesar had the advantage and experience in the political framework.

Therefore, Caesar, having such a highly developed "sensibility from below", could align his tactic-operational successes in campaigns with political objectives and social support, improving Feaver's "professionalism" approach. This alignment was more effortless in the case of the Feaver's "civilian supremacists" Belisarius' approach, as he acted under Justinian's political orders. However, this "sensibility from

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[62] Adrian Goldsworthy, *The Fall of Carthage: The Punic Wars, 265-146 BC* (London: Cassell, 2003), 299.

[63] Rose Keravuori, 'Lost in Translation: The American Way of War | Small Wars Journal', https://smallwarsjournal.com/jrnl/art/lost-in-translation-the-american-way-of-war.

below" is complicated for the operational commander in the relationship with the Head of State. In the case of Belisarius, he suffered constant instabilities from Justinian. Sometimes he was his favourite general, and at other times, he was suspected of ambition due to his fame, supporting the Eunuch commander Narses with more resources, probably for the lack of descendants or political ambition[64]. Ryan Holiday remarks that these cases show a recurring fight between egos and fame[65], including politicians and commanders, which modern operational commanders must solve.

A good way of solving it is that of Belisarius. His "sensibility from below" is based on his absolute dedication to obeying the emperor and only taking the initiative within his theatre. Therefore, as Cohen suggested, he follows the style of a perfect modern operational commander under political-democratic micromanagement control. Only rarely did Belisarius carry out significant political actions in his theatre, exceeding modern operational tasks. An example is his deposition of Pope Silverius for a possible alliance with King Vitiges. This act would be unthinkable today without political authorization, showing a significant deviation from this perfect style of "sensibility from below". However, it is unknown if Belisarius previously consulted the emperor when Procopius did not specify it[66]. Therefore, Belisarius had exceptional "sensibility from below", aligned with Cohen, being an example for modern commanders.

In the case of "theatre sensibility", the three classics performed it successfully. Their ability to command such heterogeneous armies is remarkable due to their complexity. In the case of Hannibal and Belisarius, it was exceptional considering the different units and cultures under the same leader. Caesar also has merit but to a lesser

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[64] Maurice and George Dennis, *Maurice's Strategikon: Handbook of Byzantine Military Strategy*, The Middle Ages (Philadelphia: University of Pennsylvania press, 1984).

[65] Ryan Holiday, *Ego Is the Enemy* (New York: Penguin, 2016).

[66] J. McCabe, *A History of the Popes* (N. Douglas, 1938).

extent. The recruited local troops were irregular *auxiliarii*. Due to scarce Italic cavalry, Caesar used these *auxiliarii* as cavalry units or with specific tasks to support the legions[67]. Therefore, although Caesar had to convince foreigners to join him, he only commanded legions with the same doctrine supported by *auxiliarii.* Therefore, Caesar did not require the same "theatre sensibility" as the heterogeneous armies of Hannibal and Belisarius. However, having this "theatre sensibility" is not easy. Sometimes, they did not achieve their purpose. Examples include powerful King Numidian Massinisa, who betrays Hannibal by joining Scipio[68], or the vital allied *Aeduii*, who betrays Caesar by joining Vercingetorix. Therefore, even with difficulties, classical leaders were examples of exceptional "theatre sensibility" for modern commanders.

In short, training such as the *cursus honorum*, having a permanent physical relationship with the political capital city, and maintaining social support show helpful guidance for modern operational commanders' decision-making. Furthermore, demonstrating an intelligent "sensibility from below" by not competing with political power, maintaining an exemplary behaviour of fidelity to the State and aligning tactic-operational objectives with political ones are critical heuristics from classical commanders. Lastly, using "theatre sensibility" in campaigns provides tactic-operational successes, eventually confirming how the guidance provided by the classics aligns with Freedman.

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[67] Colin Ewan and Gaius Iulius Caesar, *Caesar, De Bello Gallico* (London: Bristol Classical Press, 2000).

[68] Adrian Goldsworthy, *Cannae: Hannibal's Greatest Victory*, Cassell's Fields of Battle (New York: Basic Books, 2019).

3.4.   Against the commander's leadership

Some authors argue that the commander's leadership is not crucial for decision-making. In his "face of battle", Keegan assumes that the commander does not make the decisions on a chaotic battlefield where a single person cannot control everything[69]. With their multitude of personal feelings, the soldiers on the front line are ultimately the protagonists of the actions in battle.

Keegan opts for historical studies, including Caesar, considering spaces, soldiers' stories and material evidence on the battlefields to prioritise soldiers' morale over the command-centred approach. However, Kimberly Kagan clarifies that the command-centred approach is not the problem and suggests that Caesar considered the morale and perspectives of his soldiers and how they affected his decision-making[70]. Besides, it is corroborated because Caesar recognises in his *Commentarii* the different states of morale of his soldiers and how to modify them at his convenience. From the *anime magnitude*, since it causes indiscipline and must be mitigated, to the perfect *animus aequus*, balanced to fight, passing through the *redintegrates animus*, which must be restored. The *redintegrates animus* generates the most damaging effects, and, for example, Caesar revitalises it at the critical moment against the *Belgae* tribes[71]. Kagan adds that commanders are unique in battle since their effects are essential in critical events, and they also understand the flow of the battle as a whole[72]. The alignment of this paper with Kagan is accurate since both consider the commander's leadership a unique and essential reference in tactic-operational campaigns against the Keegan approach, which omits how Caesar really made decisions.

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[69] John Keegan, *The Face of Battle* (New York: Viking Press, 1976), 80.

[70] Kimberly Kagan, *The Eye of Command* (Ann Arbor: University of Michigan Press, 2006), 21.

[71] Ibid., 190.

[72] Ibid., 200.

Therefore, the classical commanders made decisions considering the most critical elements of the battle, including the morale and thoughts of their soldiers, being valuable leadership for the present.

3.5. *The leading guide of Leadership in decision-making*

First, the classical commanders showed a determination stemming from personality, environment, in some cases, ambition, but mostly from their early dedication to war. Second, temperament is displayed through the ability to reward, punish, inspire, and display exemplary behaviour. Third, having "sensibility from below" through a *cursus honorum* system, union with the political sphere and with society, and "theatre sensibility" with allies and populations, aligned with Freedman, is a valuable guide for the present. Ultimately, operational commanders must make decisions considering the morale and thoughts of their soldiers, supporting Kagan's perspective.

4.- Practical Understanding of Operational Environment

It has been verified how effective decision-making today can be based on the particular leadership of classical commanders. However, if commanders understood the operational environment in which they operate, decision-making would be positively affected.

4.1. *Observation and Orientation in Understanding*

The example of the classical commanders is a guide for this understanding since they first collected information according to Boyd's Observation phase and later oriented it so that they make decisions based on critical information. In the classical era, this information came from various sources, such as spies or scouts. For example, there was an organised corps of agents *in rebus* across the

Byzantine Empire that, according to Procopius, furnished Belisarius with intelligence about enemy movements in each theatre, seditions, and even unanticipated mishaps[73]. Therefore, knowing the inhabitant's feelings against the Goths and Vandals through his intelligence network allowed Belisarius to successfully guide his decision-making with a liberator's approach upon reaching those lands. For his part, as Livy suggested, Hannibal had an intelligence network far superior to the Roman one[74], drawing a decisive advantage in his decisions.

This advantage came from the reliability of their intelligent network. Caesar and the classical theorist Flavius Renatus agreed to provide the *exploratores (scouts)* with the best horses and be chosen among the best, showing the importance given to the reliability of the intelligence network[75]. According to Procopius, Belisarius chose remarkable spies to check *Sillectum* in the Vandal Kingdom to scan its support in the critical advance towards Carthage[76]. However, in actuality, an error from these sources was fatal. A Roman patrol stopped the chosen Numidian and Gallic emissaries who coordinated Hannibal and his brother-in-law Hasdrubal's unification, finding and killing the latter's army near Metaurus (207 BC)[77]. Compared to a modern Joint Headquarters, it has intelligence professionals like the J2 branch who analyze a large amount of information from external and internal sources from all domains, levels and spectrums. Following the classics, modern operational commanders could intervene, leaving their mark and modifying the network with elements of trust, looking for reliability like the classics. The issue is that contemporary militaries appoint individuals on a rotational basis to balance the military's personal life.

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[73] Procopius, G. Williamson, and Peter Sarris, *The Secret History*, Penguin Classics (London; Penguin, 2007).

[74] Rose Sheldon, 'Hannibal's Spies', *International Journal of Intelligence and CounterIntelligence* (1986): 56.

[75] Flavius Vegetius, *De Re Militari: The Classic Treatise on Warfare at the Pinnacle of the Roman Empire's Power* (Leonaur, 2012), 257.

[76] Hanson, *Savior Generals*.

[77] Sheldon, 'Hannibal's Spies' 15.

Even in military operations, compelled professionals are chosen because they have completed specialised training courses but lack the requisite ability. Indeed, it would not happen in the same manner in a global or attrition struggle, such as the one in Ukraine or the Second Punic War, when the best person would be appointed permanently. So, the type of conflict will influence the reliability of the current intelligence network. However, looking at the classics, the recommendation is that operational commanders should always adopt and even modify their intelligence network in any campaign they lead so that it is reliable since an error can be decisive for the final outcome.

In addition to the sources, the Information Age affects both phases with its speed, shortening decision-making times. However, although current communications reduce the reaction time to decide, the rate provides the advantage over the classical commanders of modifying mistakenly made decisions. For example, giving the immediate order by satellite communications to withdraw an attack helicopter company after having identified superior Anti-Access/Area Denial (A2AD) elements is different from sending a Huns' unit to reconnaissance and, after meeting with the massive unit of the Vandal Gibamund leader, remaining under the decision of the Hunnic leader to fight or not, since Belisarius cannot modify the orders. Therefore, classical commanders' chances of changing their decisions are remote once they have ordered. Therefore, they must assess their decision more accurately than present, where there is room to correct errors.

Continuing with the high speed of the Information Age on the modern battlefield, at what speed needs to set the reality of the permanent positions nearby Chasiv Yar that the Ukrainians defend with machine guns every morning in Bakhmut?[78]. There will indeed be areas of the Ukrainian theatre, such as an air-defence position that destroys a

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[78] Gaelan Hanlon, 'How Long Should Ukrainian Forces Defend Bakhmut? Lessons from Stalingrad', Modern War Institute, 2023, https://mwi.usma.edu/how-long-should-ukrainian-forces-defend-bakhmut-lessons-from-stalingrad/.

Russian "Kinzhal" hypersonic missile, which operate at speeds higher than in classical times. In these cases, as suggested by US General O'Shaughnessy, the military should go towards "human on the loop", with the human supervising the automatic decision-making, instead of "human in the loop", where the prerequisite is needed -approval of the human[79].

However, according to Kagan, with his eye command, Caesar understood the decisive tactic-operational decisions in a Clausewitzian *coup d'oeil*. Caesar did not describe all the details in his *Commentarii*, only the important ones that caused the battle to be lost or won, discarding the rest[80]. Accordingly, those decisive actions are carried out at a similar speed in ancient times and now. Therefore, "human on the loop" decisions are not a critical tactic-operational decision of the same level as the one that General Syrskiy must decide whether or not to launch Bakhmut's Ukrainian counterattack or Gerasimov's erroneous decision to launch the offensive against Kyiv with Spertnaz units[81]. These, in contrast, have Observation and Orientation decision-making processes at the same speed as the classic ones, and they are the ones that decide on campaigns.

Suppose the crucial tactic-operational decisions that a current commander makes daily are analyzed. In that case, they are not thousands or millions as the Information Age presupposes. However, after the analysts' filter, there are dozens comparable to those of the classical commanders, as is shown from daily ISW reports from Ukraine[82]. Suppose it is compared with Belisarius' diary written by

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[79] Terrence O'Shaughnessy, 'Decision Superiority Through Joint All-Domain Command and Control', *Joint Force Quarterly* (2020): 74–80.

[80] Kagan, *The Eye of Command*, 199.

[81] Alex Horton, 'Russia's Commando Units Gutted by Ukraine War', *Washington Post*, 2023, https://www.washingtonpost.com/national-security/2023/04/14/leaked-documents-russian-spetsnaz/.

[82] Karolina Hird et al., 'Russian Offensive Campaign Assessment', Institute for the Study of War, April 2023, http:www.understandingwar.org.

Procopius in the Vandalic War. In that case, it will be seen how in 48 hours, he had to deal with six critical actions in *Ad Decimum* and Carthage. Perfectly, Belisarius complies almost with a scenario in the style of the modern three blocks of Krulak (combat, humanitarian aid and peacekeeping)[83]. Therefore, the number and complexity of critical tactic-operational decisions a modern commander deals with are similar to a classical one.

In short, modern operational commanders, looking at the examples of the classics, should demand reliable intelligence networks and orient themselves by selecting the critical information of the operation which produces key tactic-operational decisions, considering the advantages and disadvantages of the time factor of the Information Age.

4.2. *Biases and framing effects on Understanding*

Biases and framing of the information affect the current understanding of the operational environment. Cognitive bias also affected classical commanders. For example, Hannibal was influenced by the stereotype bias, which holds that all group members have similar qualities. Having battled for years against a wide range of Roman generals such as Longus, Flaminius, Rufus, or Varro, all of whom had identical command styles, talents, and temperaments, Hannibal could not predict the acts of the various Scipio[84]. Scipio was the only one who could adapt to Hannibal's tactics and behaviour, finally defeating him in Zama. Likewise, a young and inexperienced Belisarius was affected by the cognitive "bandwagon effect" bias, which made him decide

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[83] Franklin Annis, 'Krulak Revisited: The Three-Block War, Strategic Corporals, and the Future Battlefield', Modern War Institute, 2020, https://mwi.usma.edu/krulak-revisited-three-block-war-strategic-corporals-future-battlefield/.

[84] Adrian Goldsworthy, *In the Name of Rome: The Men Who Won the Roman Empire* (London: Orion, 2004), 56.

actions because others believed in it, being convinced by his junior commanders to attack Callinicum mistakenly.

Adding AI to the current commander's framing, as Freedman suggests, machines will make decisions more unpredictable, but anomalous data may lead to perverse decisions[85]. Additionally, when there is not enough time to analyze data and fatigue appears after a month of campaigning, human framing and, consequently, the decisions will be affected. Under those conditions, which will undoubtedly be in future campaigns, commanders must take out their "Essentials" that form heuristics for good judgement since the machines cannot help them. The classical commanders were used to these conditions of uncertainty and fatigue, being ideal examples for the present. One example is the superhuman effort of a Caesar at almost 50 years of age in the battle of Gergovia, with forced marches in hostile Gallic terrain, crossing a river with stratagems, building siege fortifications, facing surprise combats such as the cavalry charge of Vercingetorix, convincing some dubious *Aeduii* allies and at the same time coordinating the union with the far away legions of Labienus[86]. Therefore, Caesar has the "cognitive resilience" recommended for the current leader, where in an environment degraded by physiological stressors and fatigue, distraction or ageing, he manages to continue operating effectively[87]. "Essentials" like *virtus* guided Caesar's "cognitive resilience" and affected his bias since, for example, he measured tribes and units with that parameter. Therefore, this affected his perceptions and decision-making, identifying enemy strengths and forcing demands on his units:

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[85] Freedman, *Command*, 424.

[86] Adrian Goldsworthy, *Caesar: The Life of a Colossus* (London: Phoenix, 2007).

[87] Nancy Wesensten 'Cognitive Readiness in Network-Centric Operations', *The US Army War College Quarterly: Parameters* (2005).

"Even if no one else follows, I shall march with the Tenth Legion alone"[88].

Additionally, the "Essentials" that affect the bias of the Carthaginians described by the Romans as bad faith (*fides Punice*) would be more aligned with "dirty tricks". Hannibal's educated *mêtis* aligns with the Russian *maskirovka* doctrine of deception, Sun Tze's Art of War or the OODA loop, which, as Frans Osinga suggests: "outsmarts an adversary by manipulating their cohesion before using the kinetic part"[89]. Therefore, Caesar's information framing differs from Hannibal's, which is aligned with current AIs' ability to learn to deceive, as Heather Roff suggests[90]. In contrast, Belisarius is affected by the *aretè* that constantly marks his decisions. Examples such as the immediate delivery of the keys of Rome to the emperor or in Ravenna, when the Goth nobility begs him to be his Western Emperor, and Belisarius surrenders everything to the emperor, show its importance as an imperturbable guide in all his decisions.

This devotion could indeed be programmed into the AIs. Nevertheless, suppose autonomous systems were configured, as Paul Scharre suggests, through the more competitive "emergent coordination", where the individual swarm elements biologically react among themselves[91]. In that case, the probability that this exceptional devotion of Belisarius would be diluted is vast. Therefore, as MIT's research published, the more reliance there is on AI, the more influential

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[88] Ewan and Caesar, *Caesar, De Bello Gallico I, 124*.
[89] Frans Osinga, *Science, Strategy and War: The Strategic Theory of John Boyd*, Strategy and History 18 (London: Routledge, 2007).
[90] Heather Roff, 'AI Deception: When Your Artificial Intelligence Learns to Lie', IEEE Spectrum, 2020, https://spectrum.ieee.org/ai-deception-when-your-ai-learns-to-lie.
[91] Paul Scharre, *Army of None: Autonomous Weapons and the Future of War* (New York: Norton & Company, 2019), 43.

the human element in war[92], in this case, the classical commanders' examples will be even more significant.

On the other hand, if the AI functions properly in non-degraded surroundings, it gives extensive machine-learning analysis to prioritise guidance quickly. Consequently, one alternative for the individual commander to prevent such reliance would be to get the interdisciplinary knowledge recommended by Sumida's approach, optimising decision-making based on continuous in-depth research and obtaining a broad perspective personally[93]. However, due to the difficulty of this education, commanders will rely on AI support. If AI fails to resolve critical tactic-operational decisions due to poor design, either by misleading information or misguided advice, the campaign's fate could be cast. In this sense, the similarity with the classics is apparent. It will be decisive if either algorithms or the classical intelligence network generates an error in the Observation-Orientation phases. For example, before the deployment of Zama, Hannibal directed his spies to inform him about Scipio's cavalry. While learning about his camp, they assumed that Scipio lacked cavalry, causing a significant misunderstanding for Hannibal since it eventually joined him, becoming a critical component at Zama. Hannibal could have attacked before Massinisa's Numidian Roman allied cavalry arrived. However, Hannibal did not guess the enemy's purpose. Scipio delayed the combat with meetings so that cavalry would arrive on time[94].

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[92] Avi Goldfarb, 'Prediction and Judgment: Why Artificial Intelligence Increases the Importance of Humans in War', *International Security* (2022): 7–50.

[93] Sumida, *Decoding Clausewitz*, 190.

[94] Liddell Hart, *Scipio Africanus: Greater than Napoleon* (New York: Da Capo Press, 1994), 166.

Therefore, in critical moments when the commander mindlessly relies on AI algorithms or an intelligence network, they would be decisive if these elements provide errors[95]. This effect, called "automation of the analysis process", carries this inherent risk, similar to the "technological singularity" that the Chinese Army opts for in the future. This singularity on the battlefield predicts that human knowledge cannot keep up with the speed of decision-making in combat of the future, promoting human-machine collaboration and humans "out of the loop" to achieve an advantage. However, only specific tasks cause an escalation, which people must recognise and moderate[96]. In this way, it returns to the final section, where the classics highlight what is vital in the working atmosphere when dealing with uncertainty.

In addition, to get the desired decision advantage AI offers, the modern commander needs cognitive agility to employ it successfully, often known as "technological leadership," which was not required for classical commanders. The problem is that if commanders prepare only to be *château*-leaders, focused on improving only their machine-human teams, they will not be able to in case of uncertainty without technology. In the end, Mattis suggests "the preservation of human individual maverick thinkers and commanders who anticipate future actions"[97], therefore, not only opting for machines but also for the example of classical human leaders for decision-making.

In summary, bias and information framing will always affect the cognitive agility that provides the decision advantage. When human-machine teams or AI are not available or prepared, the classical commanders are examples to follow. Therefore, they are guided by their excellent "cognitive resilience" and motivations through *virtus*, *aretè* or

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[95] James Luke, David Porter, and Padmanabhan Santhanam, *Beyond Algorithms: Delivering AI for Business* (Boca Raton: CRC Press, 2022).

[96] Elsa Kania, 'Battlefield Singularity: Artificial Intelligence, Military Revolution, and China's Future Military Power', *Center for a New American Security*, November 2019, 43.

[97] Mattis and West, *Call Sign Chaos*, 234.

mêtis, useful for framing decision-making. However, unlike the classical commander, the modern one must add the "technological leadership" to use AI support, under normal operational environment conditions, without forgetting the qualities of Mattis's mavericks, reflected in the classics.

4.3.   *Understanding through disruptive elements*

Eventually, understanding the operational environment also translates to having the necessary combat elements in the theatre to obtain a decisive advantage. All three classical commanders understand their operational environment well and rely on disruptive elements to make their armies decisive. For example, Hannibal inherited his father's veteran and well-organized army, similar to Alexander the Great, who inherited it from his father, Philip. However, just like the Macedonian with his *Companion* cavalry, the Carthaginian knows how to use his elite elements depending on the operational environment. Hannibal used different disruptive units throughout his campaigns, such as war elephants in Trebbia or Tagus, African heavy infantry in Geronium, Trasimene, *Cannae* or Zama and Numidian cavalry in Ticinus or Capua[98].

The current operational environment also requires bringing the winning pieces to the theatre. At present, for example, in NATO, when an operation begins, understanding the situation translates into Military Operational Options (MROs), through which advice is given on the "estimation of the size and nature of required forces, along with other resource requirements"[99]. According to Brose, looking for a way to kill the enemy's chain is how a force should be designed, opting more for joint software than hardware, avoiding expensive and unique elements

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[98] Bath, *Hannibal's Campaigns*.

[99] 'AJP-5: Allied Joint Doctrine for Operational-Level Planning', 27.

deployed in the theatre, such as aircraft carriers or F-35[100]. Contrarily, the three classics agree in trusting in unique and disruptive units at critical moments. For instance, Belisarius recruited his elite *buccelarii* from among the best warriors, such as Vandals, Thracians and Ostrogoths, being its effects devastating. They were decisively used as horse archers, vanguard, reserve or heavy cavalry. This disruptive unit would be effective against "kill chains" and more sophisticated "kill webs" that shift dynamically based on mission requirements[101], as the *buccelarii* successfully performed virtually all actions.

However, the problem of the disruptive units is its "culminating point", as Edward Luttwak assures[102]. After several victories with the same proposal, the enemy, constantly learning, as Clausewitz remarks, makes it reach its climax, after which success turns to its opposite with the "inversion of opposites". One current example is the TB2 drones that enabled the victory in Nagorno-Karabagh in 2010 but are being counteracted by the Russians in Ukraine after several months of success[103]. This counteracting of disruptive units has always occurred in military history. It was a concern before when Vegetius tried to provide solutions against falcate chariots or elephants[104], or now when China worries about hypersonic solutions against aircraft carriers. Therefore, the key is not to discard these units, as Brose states, but to know how to adapt or change them before reaching their peak. Although there are exceptional cases, such as Belisarius', who did not

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[100] Brose, *The Kill Chain*, 2020, 140.

[101] Benjamin Jensen and John Paschkewitz, 'Mosaic Warfare: Small and Scalable Are Beautiful', 2019 https://warontherocks.com/2019/12/mosaic-warfare-small-and-scalable-are-beautiful/.

[102] Edward Luttwak, *Strategy: The Logic of War and Peace* (Cambridge: Belknap Press of Harvard University Press, 2001), 57.

[103] Dan Sabbagh, '"They'Re Starting to Die": Fears Ukraine's Drone Supremacy May Soon Be over, *The Guardian*, 10 April 2023, https://www.theguardian.com/world/2023/apr/10/in-war-there-are-no-emotions-ukraine-drone-squads-bakhmut.

[104] Vegetius, *De Re Militari*, 304.

need to modify his disruptive unit during his campaigns, perhaps because of its versatility or because he did not find an adversary like Scipio to counter it, this adaptation is necessary. In addition, the constant updating of cutting-edge technological and military disruptive units has, as US Air General Andrea Tullos suggests, the additional advantage of pooling talent since it attracts the best of society to the organization[105].

In short, looking at the classical commanders, disruptive units are critical in every operational environment, considering their need to adapt before the culminating point in case of well-prepared adversaries, additionally generating talent benefits for the organization.

4.4. Alternatives to bias mitigation

Against the classic heroic leader, King and Zinni's "collective leader" advantages with their staff-centric perspective are well suited to mitigate commander bias and optimize understanding of the operational environment. As the UK DCDC proposes, it is achieved with a staff with a multi-discipline approach with specialists working together to capture diverse thinking[106]. Daniel Kahneman also agrees that this numerous approach versus individual typically obtains a more broadly framed, performing optimized decision-making[107].

Unlike this perspective, classical commanders use a heroic command style but are aligned with Storr's proposal, supported by a small trusted staff as advisors. For example, Belisarius, a centric leader, made his own decisions in the Vandal War. However, echoing Keegan,

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[105] Andrea Tullos, 'A Chat with Lt. Gen. Andrea Tullos of Air University', War on the Rocks, 2022, https://warontherocks.com/2022/10/a-chat-with-lt-gen-andrea-tullos-of-air-university/.

[106] DCDC, 'Understanding and Decision-Making', 16.

[107] *Daniel Kahneman: Why We Make Bad Decisions About Money (And What We Can Do About It)*, 2012, https://youtube.com/watch?v=Kpev-Lb0EAg.

these heroic leaders relied on veteran advisors[108]. Obtaining outstanding achievements, Belisarius was advised mainly by John of Armenia as *optio* (second in command) and Solomon as *domesticus* (chief of staff). Therefore, trusted staff and a centric commander can complement each other to understand the operational environment better. This recommendation is in line with King's correction, which later, in the face of criticism from Freedman and Storr, suggested that his collective leader does not intend to eradicate the leader-centric approach, only to complement it[109].

However, this complementation can be done by promoting large or small staff. The reduction of staff promoted by the classics is aligned with Mattis: "because large staff which do not add value slow down decisions and can paralyse execution"[110]. Focused and oriented, according to Boyd, on what is essential, like the classics, reduces the bureaucracy of the large headquarters that Storr and Mattis criticize. These fewer personnel might use Kahneman's broad vision, consistent with UK philosophy. It is impressive, for example, how Belisarius enhanced this additional broad vision with the help of his wise wife Antonina, who accompanied him on his campaigns. However, as Klein denounces, this broad vision does not share the ideals of current leadership manuals such as US Army Leadership, which are crucial for the organisation[111]. Therefore, operational commanders should complement themselves with both perspectives. As the DCDC advises, commanders must exercise control over their staff in this complementation since they may become biased. For example, as the inexperienced Belisarius in Callinicum discovered, "groupthink" evolved into prejudice like the "bandwagon effect" did. The DCDC promotes commander attitudes that achieve a balanced staff, such as monitoring staff over-reliance or brainstorming. Therefore, although

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[108] Keegan, *The Mask of Command, 43*.

[109] Anthony King, 'On Command', *Journal of Strategic Studies*, 2022, 1–10.

[110] Mattis and West, *Call Sign Chaos*, 239.

[111] Anthony King, *Command: The Twenty-First-Century General* (Cambridge: Cambridge University Press, 2019), 45.

due to their multidisciplinary perspective, staffs reduce bias, they also indirectly enhance them.

In short, the "collective leader" of King or Zinni can be complemented with the classical commander model, implementing a small multidisciplinary staff supervised to reduce biases and distorted perceptions.

4.5.   The leading guide for understanding decision-making

Firstly, classical and current commanders must require trustworthy intelligence networks focused on what is essential and make good use of the time element of the Information Age. Second, the classical commanders are a guide to understanding in moments of uncertainty due to their "cognitive resilience" and motivations such as *virtus*, *aretè* or *mêtis.* However, modern commanders should add "technological leadership" since they must have AI support for a non-degraded operational environment. Third, following the example of classical commanders, understanding the operational environment through disruptive units is essential against Brose's kill chain but needs adaptation before Luttwak's culminating point. Finally, complementing the classic leadership style with King's collective leader through a small, supervised multidisciplinary staff is an excellent guide for understanding modern decision-making.

5.- Risk Management

After studying how the classics provide a practical example to understand the operational environment, analysis is on decision-making risk management. For this, windows of opportunity are used, considering Mosaic Warfare's originality and mission command's approach.

5.1. Windows of opportunity

Currently, in moments of uncertainty, as pointed out by DCDC, the decision-makers become risk-averse and opt for more risk when they have more understanding[112]. In contrast, classical commanders are an excellent example of knowing how to take advantage of windows of opportunity in moments of uncertainty. For example, Hannibal chose the risky option of crossing the Alps with his army to attack Roman soil. He did not move with the fleet as usual. Vitigis's Ostrogoths, surprisingly without a battle, left Rome to assemble a more powerful army at Ravenna. It was an unplanned enemy reaction, but Belisarius did not hesitate to enter Rome and defend it. The challenge was great as it was a large city for an effective defence. In addition, the Ostrogoths chose to leave it, fearing the population would rise up against them. Contrarily, Belisarius trusted in his capacity to defend it, population support, and the arrival of reinforcements. Therefore, the classics show practical examples of taking advantage of opportunities with risk when uncertainty is maximum.

As Strauss describes in the qualities of the commander, judgment is needed to take advantage of the risk with little information[113]. As seen throughout the paper, the classical commanders possessed this judgment from "Essentials" that allowed opportunities to be undertaken without having all the information.

Nevertheless, the judgment, as Schulz suggests, following the PT, reacts with the risk, deriving in choices other than the rational ones. A potential solution to this dilemma of hasty but necessary decisions in the face of risk is the so-called "controlled risk". It is one of the qualities that Mattis highlights for the mavericks mentioned above that an organization needs[114]. The degree of control necessary for success

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[112] DCDC, 'Understanding and Decision-Making', 56.
[113] Strauss, *Masters of Command*, 36.
[114] Mattis and West, *Call Sign Chaos*, 239.

cannot be quantified due to various circumstances. This is a quality that such classical commanders possessed and should guide modern ones. For example, Polybius notes that Hannibal led the enterprise of crossing the Alps with consummate judgment. This proved the nature of the country, the hostile disposition of the Po Valley tribes towards the Romans, and with Gallic guides who shared his hopes[115]. These judgment details helped in reducing the level of uncertainty until reaching effective decisions with the "controlled risk" that Mattis proposes.

On the other hand, following the PT, each person frames differently. In the case of Hannibal's risky action, another person could have chosen to be overcautious in the same situation. Therefore, once again, the "Essentials" of individual framing are the ones that decide one way or another against the risk. The risk must also be assumed today when obtaining a multi-domain window of opportunity following the MDI concept. The power of thinking without and trying to "thin slicing" (making sound decisions with minimal information) proposed by Malcolm Gladwell[116]. It is the one that would be used in the MDI windows. It is the same one that Belisarius did in his campaigns. Waiting to receive too much information and arrive at the "analysis paralysis" mentioned, Belisarius decided to disembark within striking distance from Carthage in hostile terrain. It was not distant but friendly Tripolitania as planned. He took this risk when he learned from his intelligence network that a large part of the Vandal army was deployed in Sardinia containing a rebellion, leaving the capital with reduced troops. This opportunity is even riskier than the one carried out by Mattis's Task Force 58 in Operation Rhino in Afghanistan (2001), which was decided and organised in a few days[117]. Mattis knew the preparation of his Marines, just like Belisarius knew his army, so no prior training time was necessary. Both commanded the land-naval

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[115] Polybius, *The Histories of Polybius, Vol. 1 (of 2)*, III, 487.

[116] Malcolm Gladwell, *Blink: The Power of Thinking without Thinking* (London: Penguin Books, 2006), 34.

[117] Mattis and West, *Call Sign Chaos*, 58.

force and were not used to directing ships; However, the initial phase of Belisarius is riskier, as an earlier Byzantine amphibious expedition led by Basiliscus against the Vandals. It failed at Cape Bon just 65 years before, with the fleet destroyed without landing. Contrarily, Mattis' Task Force was flown in with the powerful and untouchable US Fifth Fleet. Additionally, the information Mattis had, satellite or digital, provided more detailed operational environment knowledge than the uncertainty with which Belisarius accepted the risk.

Additionally, in ancient times, decisions were not easy, considering the vital responsibility that losing the main army of the Empire entailed as opposed to losing a regular Task Force. That is why most classical commanders were conservative in their decisions due to this vital responsibility that could lead to the disappearance of their State and society. The most explicit classical exponent is the conservative "Fabian" doctrine of an enemy of Hannibal, Fabius Maximus, who weaponized time as McFate suggests[118], avoiding all combat until he had a clear advantage. The habitual way of combat of the Roman Consuls was conservative doctrines in the style of Fabius[119]. Cases like Caesar or Scipio were exceptional mavericks, less conservative Consuls who obtained remarkable success at the cost of assuming more risk in their decisions.

However, this risk sometimes leads to mistakes. In his second campaign in Italy, after disembarking to relieve Rome of the Totila's Gothic siege, Belisarius receives the information that his rearguard, the port of Portus, had been taken. Belisarius decides to take the risk, and without waiting for more information, he backs off to release it. Arriving at the port, he discovered it was safe, and his information was wrong, losing momentum and the success of this second Italian campaign[120]. However, the acceptance of windows of opportunity with

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[118] Sean McFate, *The New Rules of War: Victory in the Age of Durable Disorder* (NY: HarperCollins Publishers, 2019), 187.
[119] Goldsworthy, *In the Name of Rome*, 45.
[120] Brogna, *The Generalship of Belisarius*.

a "controlled risk" in uncertain environments led classical commanders to unprecedented successes. These include the conquest of Gaul, the Vandal and Ostrogoth Kingdoms, or a large part of the territory of the mighty Roman Republic, compensating for the occasions with failure.

5.2. *Originality with Mosaic Warfare*

Originality is necessary to carry out surprising actions with risk as proposed by modern Mosaic Warfare and has a unique reference in these classical commanders. The originality of Hannibal influenced by the *mêtis* is constant throughout his campaigns. A curious example is the battle of Ager Falernus. Fabius Maximus trapped his army, and Hannibal used oxen with wood tied to the horns at night to confuse the enemy and escape unscathed[121]. Caesar, for example, demonstrated his originality in the battle of Alesia (52 BC). In less than a month, he created a gigantic siege ring of more than 10 miles with a double line against besieged and external forces attacks, barriers, redoubts, an anti-cavalry moat and trenches[122]. This astounding engineering stunt put down the rebellion of Vercingetorix, having no precedent, except for the siege of Scipio Aemilianus in Numantia with a 5 miles construction (134 BC).

Surprising risky actions that had taken advantage of opportunities entail originality as a requirement to defeat intelligent opponents. They were recognised by current decision-making theories such as game theory or Mosaic Warfare. In a series of war games to test the concept of Mosaic Warfare, a collaboration between DARPA, Marine Corps University, and the U.S. Army Reserve concluded that acting outside of doctrine and opting for original solutions was the way to get the best results. In those games, the teams that used decoys or feints obtained

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[121] Bath, *Hannibal's Campaigns, 69.*
[122] Colin Ewan and Gaius Iulius Caesar, *Caesar, De Bello Gallico I* (London: Bristol Classical Press, 2000), 145-156.

better results, as Jensen and Paschkewitz remark[123]. This perspective is similar to the one that Hannibal followed, looking for *mêtis*-inspired tricks like the oxen display, always looking to act outside the usual doctrine.

However, the following question arises:

how vital is the adversary in originality?

As Mosaic Warfare games of war suggest,

"It is needed to understand the adversary to execute even tactical deception effectively"[124].

In the case of an original adversary like Scipio, the risk is amplified, as corroborated by the game's theories suggested by Zollman and the defeat in Zama. Contrarily, Caesar and Belisarius had fewer original opponents throughout their campaigns, such as Vercingetorix, Gelimer or Vitiges. Only at the end of their military careers did Caesar and Belisarius find original rivals in Pompey and Totila, respectively. Therefore, originality should continue adapting using modern and classic heuristics. An excellent example appeared in the Mosaic Warfare war games. A US Marine Corps blue team sought originality by positively employing the swarming form of armed reconnaissance. The inquisitive thing was that they used a method similar to that of Belisarius' *buccelari* armed in the Parthian or Hun style, with bows on horseback[125]. If Belisarius demolished much of Vitiges' army in the siege of Rome with this "Parthian Shot" stand-off tactic, the Marine team constantly used their unmanned drones with loitering ammunition

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[123] Jensen and Paschkewitz, 'Mosaic Warfare', 2019.
[124] Crăișor-Constantin Ioniță, 'The "Mosaic" Warfare: A New American Strategy for the Future', *CDSSS*, (2020).
[125] Jensen and Paschkewitz, 'Mosaic Warfare', 2019.

to segregate enemy high-value targets, simulating the same classic tactic.

In summary, originality is a prerequisite against intelligent adversaries that require constant adaptability and where classical commanders provide a valuable guide of lessons for effective heuristics for decision-making.

5.3.   *Mission Command*

This risk applied at the opportune moment entails a tempo in decision-making, the option of the mission command being the most accepted currently to execute it. Although this concept is officially recognized by von Moltke, and the *Auftragstaktik*[126], the classical commanders, with limitations in communications, were used for this type of delegation through the commander's intent. An example is when Caesar orders his top Legate Labienus to attack the *Parisii*, while he headed to Gergovia. Labienus knows perfectly Cesar's intent to quell mainly the great *Avernii* rebellion was led through Vercingetorix and, after defeating the *Parisii* in Lutetia, with great initiative, quickly joins Caesar to defeat the Gauls in Vingeanne battle. Belisarius also encourages the initiative of his subordinates. In *Ad Decimum*, John of Armenia's *buccelarii* vanguard pursued the remnants of Ammatas' Vandal force to Carthage because he knew *Belisarius'* intent. John knew that Belisarius' intent promotes the exploitation of success and thus achieves the destruction of the fixing element of King Gelimer's manoeuvre.

The delegation of tasks with an intent to reduce the factor risk in the current decision-making is critical, and the classical commanders offer a valuable guide of the experience in degraded communications

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[126] Donald Vandergriff, 'How the Germans Defined Auftragstaktik: What Mission Command Is - and - Is Not', Small Wars Journal, 2023, https://smallwarsjournal.com/jrnl/art/how-germans-defined-auftragstaktik-what-mission-command-and-not.

environments. The Mosaic Warfare concept and prominent modern authors promote mission command as a form of command. Van Creveld, for example, protects mission command with the criticism of the centralised command[127], and Freedman approves it as the best present method to exercise the command[128]. Classical commanders were forced to give their subordinates expanded roles due to theatre distances and degraded communications, using a rough mission command. The most important lesson as a guide for the present is the predisposition to the uncertainty of the classical commanders. They are used to giving orders to subordinates, and as time goes by, their ignorance of the situation increases and, with it, the uncertainty. For example, when Hannibal departed for Italy, he left forces in Hispania with specific tasks. When Scipio unexpectedly appears there, the doubts cannot be consulted with Hannibal due to the complicated communications, and Hasdrubal must act with the marked intent of the mission command.

On the contrary, the current operational commander has Headquarters with permanent contact and even TV kill with subordinates. They can do this under normal conditions or against asymmetric adversaries, but would it be the same against peer-to-peer competitors who damage the C2 system? For this reason, prominent thinkers such as Freedman and van Creveld advocate being prepared through mission command. Mattis joins them in saying:

> "Once I set the tempo, the speed I prized was always built on the subordinate initiative"[129].

The examples of classical commanders support this type of leadership, although the difference is that they usually do it through trusted subordinate commanders. As Vandergriff suggests, the current

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[127] King, *Command*, 542.
[128] Freedman, *Command*, 422.
[129] Mattis and West, *Call Sign Chaos*, 238.

mission command concept is a cultural philosophy encouraging the entire unit's initiative[130]. Therefore, it is not the same approach, probably due to the modern strategic impact that even a corporal could trigger with his/her actions, as suggested by Krulak[131]. Nevertheless, although the difference in mission command is noticeable, classical and modern commanders agree that it must be used to the uncertainty of giving extended tasks per intent that they cannot fully control. Therefore, classical and modern commanders align with Gladwell, who states, "Empowering subordinates with decision-making authority will exponentially accelerate the decision cycle while achieving a level of innovation otherwise unattainable"[132].

This search for innovation by subordinates carries the risk of unsuccessful empowerment. In the Italian campaign, Belisarius suffered acts of disobedience from subordinates like Martin, Uliaris, or John (nephew of Vitalian). Belisarius' decision not to release the beleaguered John and the appearance of rival co-commander Narses led to the army's distrust of him, leading to mission command errors. This critical part of mission command, the trust of subordinates in the operational commander, is needed both in ancient times and today. As Mattis suggests regarding the mission command: "We had to win only one battle: for the hearts and minds of our subordinates"[133], thus a timeless human feeling.

In short, mission command represents a command style that is currently necessary, especially in degraded environments, which enhances decision-making and originality in subordinates under the commander's intent. The classical commanders' experience in these actions must be used as a guide, even with differences in the concept, as they were used to a permanent environment of uncertainty, as well

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[130] Vandergriff, 'How the Germans Defined Auftragstaktik: What Mission Command Is - and - Is Not'.

[131] Annis, 'Krulak Revisited', 2020.

[132] Gladwell, *Blink, 85*.

[133] Mattis and West, *Call Sign Chaos*, 244.

as their lessons on the importance of taking care of the minds of subordinates for compelling mission command.

5.4.   Frictions with classical risk

Edward Luttwak suggests that straying from the most straightforward course of action and seeking originality with "paradoxical actions" leads to decisions with more friction and risk, causing severe organisational errors[134]. Therefore, commanders whose forces are superior to the enemy are justified in underestimating originality and surprise by opting for simple methods with minimal risk. For example, Roman Consuls employed the superior legions in their effective doctrinal mode, whether against Pontians, *Cimbrii*, Samnites, or Etruscans, among many others[135]. Instead, Hannibal, for example, numerically disadvantaged in *Cannae* with almost 1:2, opted for Luttwak's paradoxical manoeuvres, deviating from the doctrinal course of action and looking for the advantage of surprise, assuming the risk it entails.

Underdogs generally utilise the option of Luttwak, which tends to bet on the "paradoxical actions" in conflicts. Referring to the case of classics, Hannibal must be emphasised as an underdog, who is always in numerical inferiority, and Belisarius, having small armies compared to the Vandals or Ostrogoths. An outstanding example is the novelty shown through the underdog Hannibal in *Cannae*. The legions at this time used the effective *triplex acies* (triple battle order) doctrinal method, having three ranks of the infantry and cavalry on the flanks. Hannibal used an original and risky semicircle along with the enveloping tactic that practically diverged from the traditional Carthaginian formation, countering Roman superiority[136]. *Cannae*'s

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[134] Luttwak, *Strategy*, 231.
[135] Goldsworthy, *In the Name of Rome*.
[136] Goldsworthy, *Cannae*.

originality is such that its impact has affected many military theorists. The study of *Cannae* influenced Schlieffen's thought in his 1905 plan[137]. Even Norman Schwarzkopf applied *Cannae*'s principles in the Gulf War after his in-depth study[138]. Therefore, it turns into a good heuristic for the present. In contrast, and aligned with Luttwak, it would be hard to see a EUFOR Joint Force Commander going into conflict in Mali, whether against irregular forces or state forces, changing his/her Joint doctrine when they significantly dominate means. Hence, the classical commanders are allied with the viewpoint of Luttwak, where underdogs like Hannibal perform original manoeuvres with risk, being an excellent heuristic in the current decision-making, unlike the commanders who have superiority and opt for doctrinal manoeuvres.

Another perspective against the risky individual actions of classical commanders is that of Dan Heath, who postulates "reactive" decision-making. This "right of boom", practised by the classical commanders and resulting in the decisive battles, is for Heath just as decisive as the "left of boom", which evades the battle[139]. The "left of boom" actions create that there is no battle and thus overpower the risks of following tactic-operational decisions. Hence, the commander should use this perspective in theatre, sometimes choosing for success without a decisive battle, which entails suppressing the risk in decision-making.

Heath's approach is similar to Eastern thought, from classical authors like Sun Tze to modern ones like Liang and Xiangsui with their "unrestricted warfare". They all share a thought that eliminates the tactic-operational risk by avoiding the decisive battle and obtaining

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[137] Jack Snyder, *The Ideology of the Offensive: Military Decision Making and the Disasters of 1914*, Cornell Studies in Security Affairs (Ithaca: Cornell Univ. Press, 1989), 135.

[138] David Lamb, 'General Has Heart of a Romantic Schwarzkopf', *The Los Angeles Times*, 1991.

[139] Dan Heath, *Upstream: The Quest to Solve Problems Before They Happen* (New York: Avid Reader Press, 2020).

victory through alternative methods[140]. A decisive victory is a concept promoted in the West since ancient times but made official by Clausewitz in *On War*. This concept inspired many military theories, such as the RDO (Rapid Decisive Operations) developed in the 2000s by the US[141]. These facts show a Western mentality in the offensive view of Hannibal, which was not anticipating besieging Rome. It was because he deliberately did not carry this particular equipment[142]. However, he was looking for a helpful treaty after a decisive victory. There are also classic contemporary Western exceptions, such as the cautious Fabius, who opted more for the Heath or Eastern mode to weaken Hannibal on Italian soil[143]. However, Belisarius, possibly instilled with a mixture of Western and Eastern thoughts as the Byzantine Empire inherited, is a commander with both perspectives. One example is when, first, Belisarius surrounded himself with an assortment of fearsome warriors. Later, he gave a daunting speech to the Sasanian royal emissary Abandanes, who did not dither to advise the army's withdrawal against this very prepared enemy. Another example is when Belisarius sent the head of the Vandal Commander Tzazo, to Sardinia, obtaining the island without a fight[144]. They are effective coercive actions in the style of Heath or Liang and Xiangsui. However, the activity in Sardinia must be noted as impossible for a modern democratic operational commander because it goes against human rights and would not be supported by contemporary society.

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[140] Qiao Liang and Wang Xiangsui, *Unrestricted Warfare: China's Master Plan to Destroy America* (La Vergne: U.S. Dep. of Health, 2021).

[141] Antulio Echevarria, 'Rapid Decisive Operations: US Operational Assumptions Regarding Future Warfare', *Defence Studies* (2002): 127–38.

[142] John Shean, 'Hannibal's Mules: The Logistical Limitations of Hannibal's Army', *Historia: Zeitschrift Für Alte Geschichte* 45 (1996): 159–87.

[143] Goldsworthy, *In the Name of Rome*, 34.

[144] Conor Whately, 'Descriptions of Battle in the Wars of Procopius' (University of Warwick, 2009), 256.

Therefore, the classics studied with a Western imprint seek an offensive with a decisive battle, deviating from Heath's concept. However, broader-minded commanders like Belisarius use these actions to remove subsequent tactic-operational risks in decision-making. He is an example for modern operational commanders to use these approaches, always inside the international legal framework.

5.5.   The leading guide to risk management

First, the classical commanders, being used to situations with uncertainty, are an example when deciding windows of opportunity with "controlled risk". Second, for the originality necessary for decision-making against intelligent adversaries, classical commanders' performances and permanent adaptations should be taken as a guide. Third, the mission command of the classics is a reference due to their concern for their subordinates and because they were used to delegate tasks in degraded situations. Fourth, the risky manoeuvres of the classics are aligned with Luttwak, being underdog commanders' examples for the present. Finally, some broad-minded classical commanders could choose to carry out offensive and Heath-style actions, being an example of risk management for present decision-making.

6.- Conclusions

This study has analytically examined three classical commanders. It has demonstrated how their lessons are a practical guide for the tactic-operational decision-making of modern commanders. It has shown how in complex situations of uncertainty, human artistic-cognitive agility is essential for the decisions of the future commander. It has focused on learning through the study of past commanders, where the classics are still a good example. Several lessons from the classical

commanders highlighted the tactic-operational decision-making of the present through the three criteria studied:

Regarding the leadership criterion, the classics have shown determination as a quality of character. It is forged through "Essentials" such as personality, either innate or influenced by the environment and, above all, the early dedication to the professional war. In contrast, it was not mandatory, against Strauss's assessment, the ambition. They have also shown how another quality of character, temperament, is forged through the ability to reward and punish appropriately. However, they consistently have demonstrated exemplary behaviour that should inspire the soldiers at all times and places. In addition, the necessary quality of "political sensibility" for the commander's decision-making has revealed that classic lessons, such as training in the *cursus honorum* style, have a permanent relationship with the political centre and maintain the support of society. This is critical for "sensibility from below". It has shown how the excellent alignment with the political power contrasted with the current CMRs that optimise the tactic-operational decision-making and the results of the campaigns. For the "theatre sensibility", the excellent ability of the classics aligns with Freedman's proposal, being a valuable guide for the present. Finally, it has been shown how the classical commanders made their tactic-operational decisions considering the morale and thoughts of their soldiers, supporting Kagan's perspective, thus being a good leadership for the present.

Regarding the criterion of understanding the operational environment, compared to the classical commanders, the ODAA cycle, with its first two phases, has provided exciting lessons. Both phases show the need to demand a reliable intelligence network and delimit the critical information. This will produce critical tactic-operational decisions less affected by Information Age characteristics such as time and speed. In addition, cognitive agility will be affected by the bias and the framing of the information. The heuristics made by "Essentials" will be used in moments of uncertainty and technological degradation. The

classics have "Essentials" such as *virtus, aretè* or *mêtis*, producing a valuable understanding in moments of uncertainty. AI does not have to the same extent and is an example for the present. In addition, modern commanders will have AI support. They must possess "technological leadership" without forgetting the human qualities of mavericks from the classics. In understanding the operational environment, disruptive units from the classics adapted prior to Luttwak's culminating point are helpful solutions against Brose's approach. Finally, complementing King's collective leader with a reduced and supervised multidisciplinary staff, in the style of the classics, is an excellent option to optimize tactic-operational decisions.

Regarding risk management criterion, the classics prove to be a guide in using MDI-style windows of opportunity with "controlled risk" in situations of uncertainty. Furthermore, they are a clear guide for tactic-operational decisions where originality is critical, as in modern Mosaic Warfare. This originality, trying to go outside the usual doctrine, is adapted through their campaigns, showing effective heuristics for the present decision-making. In addition, classical commanders, being used to uncertainty due to degraded communications, present an excellent example of mission command. It has laid the importance of caring for the minds of subordinates, which is rescued so that the commander's intent allows effective delegated decision-making. It has even shown how the classics follow Luttwak's risk model, with underdogs adopting more risks than commanders with superior forces, which is a valuable heuristic for the present. Finally, some broad-minded classics can be a good guide when opting for Heath's approach. This seeks victory by the other legal alternative means to the decisive battle and eliminating the risks of tactic-operational decisions.

Additionally, due to the limitations of this study concerning the number of commanders and theatres, land-focused domain, and the non-incorporation of nuclear warfare, global media, or international law of war, further studies could address these perspectives.

Analyzed through the selected criteria, classical commanders' "Essentials" and actions throughout their campaigns will create heuristics that guide modern commanders to the judgment necessary to shed light in the fog of war for decisive advantage.

> "If you have not read hundreds of books, learning from others who went before you, you are functionally illiterate—you cannot coach and lead. History lights the often-dark path ahead; even if it is a dim light, it is better than none".

> James Mattis[145]

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[145] Mattis and West, *Call Sign Chaos*, 234.

EVOLUTION OF MIGRATORY MOVEMENTS IN THE FIRST HALF OF THE 20TH CENTURY THROUGH LEGAL MECHANISMS: THE GERMAN DIASPORA[1]

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Abstract: The vicissitudes of the 20th century hit the German communities in Central and Eastern Europe hard, causing a gigantic migratory tragedy, often forgotten in the framework of the great events of its time.

1.- Introduction

Different historical and legal phenomena would mark the ups and downs of the 20th century. The balance of power was interwoven through a complex network of alliances between powers that would eventually drag them into the Great War. The mistakes made at the peace conferences, which gave rise to a Europe very different from the

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one that had seen the beginning of the 20th century, were later repeated at the end of the Second World War.[2]

In the first attempt at European reconstruction nationalisms gained strength and in the second they continued to wreak havoc in favor of nation-states, which were sponsored by the most important international treaties of the time, while the international organizations that emerged throughout the century proclaimed some of the most important principles of contemporary international law.

In the course of all the phenomena that would mark the century, large population groups and different minorities were forced, for one reason or another, to leave behind their homes and, with them, the links with their communities, in the hope of being better integrated in the new states.

2.- Migratory movements in the 20th century and ethnic cleansing

Within the migratory movements of this period there are at least two groups: on the one hand, displaced persons, individuals who have been forcibly expelled from their homes; and on the other, refugees, who leave their country of origin voluntarily for reasons of insecurity[3]. The main difference is based on whether their emigration was organized by the state rather than on the autonomy of will of the individuals, since the dangers from which refugees flee may be imposed by the state.

Regarding the refugee problem, specific mechanisms were soon needed, which, in the interwar period, were developed within the newly created League of Nations. The High Commissioner for Refugees,

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[2] On the Versalles diktat see: MARTÍNEZ PEÑAS, L., "El diktat de Versalles y la ruptura de la tradición negociadora europea", in SAN MIGUEL PÉREZ, E., Los cañones de Versalles. Madrid, 2019.

[3] PINTOR PIRZKALL, H., "Un viaje sin retorno para los Sudetes alemanes", in Studia politicae, no. 44, 2018, p. 101.

headed by Fridtjof Nansen, facilitated the repatriation of prisoners and coordinated aid to different populations affected by the disasters of the war[4]. One of his most outstanding achievements was the design of a passport with a view to making the transit of refugees and stateless persons across borders safer[5].

The phenomenon of displaced persons, on the other hand, was regulated by different bilateral and multilateral treaties between powers that sought to create nation-states without minorities, organizing resettlements of large population groups between states, in some cases with very different political and economic principles and systems, so that there is a great difference between some displacements and others. One of the most striking cases was established in Potsdam, where Czechoslovakia, Poland and Hungary were granted the expulsion of the German population residing in their territories, although eventually more countries would join the initiative using the Agreement as a precedent.

Factors driving the displacements

Regardless of whether the displacement was organized by the State or was the result of a voluntary act of individuals, there are several factors that explain the migratory movements of the 20th century, although all of them are directly intertwined in a dynamic in which it is difficult to determine what were causes and what were consequences.

On the one hand, the difference in the political systems of the states that made up Europe at that time, where some were governed by democratic systems consolidated in liberal constitutions, such as the

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[4] PINTOR PIRZKALL, H., "Un viaje sin retorno para los Sudetes alemanes", in Studia politicae, no. 44, 2018, p. 102.
[5] On the Nansen passport: PRADO RUBIO, E., "La regulación del estatuto jurídico de los expatriados receptores de un pasaporte Nansen (1922-1928)" in SAN MIGUEL, E., Integración, Derechos Humanos y ciudadanía global. Madrid, 2021.

United Kingdom or France, while others maintained in part almost feudal structures, as in Eastern Europe, drove those migratory movements motivated by economic and political circumstances[6].

War was another reason for displacement. Specifically, it is estimated that, within the framework of the Second World War, approximately 15.5 million people had to leave their countries of residence, apart from other forced displacements that took place on the continent, which led to the resettlement of the population on national territory and which are not usually recorded in the statistics. Some populations were particularly affected by displacement for decades, as is the specific case of Poland, which was involved in both global conflicts and in the German-Soviet Pact. It is estimated that more than one Pole died for every six in the context of World War II[7].

In addition to the complexity of voluntary migratory displacements, there is a long list of expulsions spread throughout the 20th century, reaching its highest peak at the end of World War II, with the expulsion of minorities for reasons of security and public order, as had already happened at the end of the Great War. This type of forced displacement must be framed within the concept of ethnic cleansing.

Ethnic cleansing and the principle of self-determination

The term transcended into politics as early as the beginning of the 20th century[8]. Some authors point out that it has its origin in the conflict in the former Yugoslavia and is a translation of "etnicko ciscenje", a military concept that was already used in the context of the

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[6] FASSMANN, H. y MUNZ, R., "European East-West migration, 1945-1992", in International migration review, Nº28, 1994, p. 521.

[7] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p. 19.

[8] PREECE, J.J., "Ethnic cleansing as an instrument of Nation-state creation: changing state practices", in *Human Rights Quarterly*, no. 4, 1998, pp. 817-818.

expulsion of Croats and Muslims from the territories conquered by Yugoslavia, although this expression passed into the Western media when a journalist reported on the most recent Yugoslav conflict in the last decade of the twentieth century[9]. Although the term has been used to refer to massacres or genocides of specific groups, such as the one in Srebrenica in 1995, it encompasses other practices as long as they are based on ethnic criteria:

> "As a practice, ethnic cleansing can consist of a number of different actions committed by one ethnic group against another with a view to compelling flight. People may simply be rounded up, detained, and deported; or their movement may be the result of other, more indirect measures including some or all of the following: the removal of elected authorities; the prohibition of ethnic associations and minority language use; force homogenization or assimilation; work restrictions; restricted access to education, housing medicine, food, or humanitarian aid; forced labor; confiscation of property; political violence in the form of pogroms and purges; or terror campaigns inflicting beatings, rape, castration, and even death. Regardless of the measures used, the end result is the same: a given area is eventually cleansed of a particular group of people defined in ethnic terms and the dominant ethnic group comes closer to achieving a homogeneous nation-state- that is ethnic cleansing"[10].

The imposition of forced displacement contravenes the provisions of the United Nations Charter, as it is undoubtedly linked to human rights and the most modern interpretation of the right to self-determination[11]. However, the lack of concreteness of this principle had a decisive influence on the justification of the deportations.

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[9] [9] PREECE, J.J., "Ethnic cleansing as an instrument of Nation-state creation: changing state practices", in *Human Rights Quarterly*, no. 4, 1998, p. 820.

[10] PREECE, J.J., "Ethnic cleansing as an instrument of Nation-state creation: changing state practices", en *Human Rights Quarterly*, nº 4, 1998, p. 822.

[11] GLEJDURA, S., "Treinta años de una tragedia: la Völkerwanderung germana", in *Revista de Política Internacional*, no. 145, 1976, p. 69.

In short, what was learned in World War I served for the practice of expulsions at the end of World War II, so that it is possible to find enormous parallels between the end of one conflict and the other. The tragic note in World War II is that the Allies sponsored, at the end of the war, measures contrary to some of the principles for which the conflict was fought.

Finally, although in all of the motives outlined so far the actor motivating the displacements is always the state, it should be noted that the population also approved of the expulsions with few exceptions. For some authors, revenge was the element that allowed the consent and even the approval of the forced resettlement of Germans in the post-war period[12]. The shadow of World War II did not only cover the war between different armies. The suffering and inhumane treatment of the population during the war engendered in part of the population the need for revenge.

This sentiment was also fueled by the press which, especially in the Soviet-influenced states, emphasized both the incitement of attacks against Germans and the crimes committed by Germans during the occupations[13]. In some of these territories pogroms were carried out against the German population, taking the lives of men, women and children[14]. Some media went so far as to suggest a solution against the Germans similar to that proposed by the Nazis which involved

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[12] GLEJDURA, S., "Treinta años de una tragedia: la Völkerwanderung germana", in *Revista de Política Internacional*, no. 145, 1976, p. 68.

[13] PYKEL, P. "The expulsion of the Germans from Czechoslovakia", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 17.

[14] PYKEL, P. "The expulsion of the Germans from Czechoslovakia", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 18.

exterminating them as a moral solution[15]. The later Minister of Justice of Eduard Benes, the Czechoslovak president, went so far as to state that "There are no good Germans, only bad ones and even worse"[16]. For Kamusella, the hatred of the Poles towards the Germans was channeled so that it would not revert also to the Soviets, who would become the guardians of the new borders of the Polish state, rejecting the German post-war pretensions to recover the territories that had belonged to the Germanic state before the conflict and that had been incorporated into Poland[17].

3.- Population displacements in the interwar period

Shortly after the turn of the 20th century, Europe underwent a major transformation. Changes in borders, the disappearance and birth of new states on the continent, wars, epidemics and the corresponding social crises resulting from the total war had a perverse demographic effect. After the Great War, massive population deportations were encouraged, in the belief that the homogeneity of the nation within a state would guarantee stability by eliminating the nationalist movements that did affect other multiethnic states. Even in those countries where total homogenization by means of deportations was not possible, reforms were imposed to that end, as in the Slovak territories which, despite its efforts in the negotiations of the Peace of Paris, continued to have national minorities within its territory on which it imposed Slovakization, transforming the civil rights of its Hungarian population[18].

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[15] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, pp. 48-49.

[16] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p 97.

[17] KAMUSELLA, T., "The expulsion of the population categorized as "Germans" from the post-1945 Poland", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 26.

[18] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, pp. 194-195.

U.S. President Woodrow Wilson, an exporter of the principle of self-determination, warned that the new states emerging from the Great War would be forced to deal with the tensions arising from the multiple nationalities they harbored, going so far as to affirm that these powers should be free to integrate into their states only the "masses of the people" of their choice[19]. The principle of self-determination of peoples was thus interpreted in an ambiguous manner that allowed it to be used both for peoples seeking independence in the context of conflicts generated by decolonization aspirations and for the formation of states seeking national homogeneity.

It should be noted that the same principle of self-determination was also not considered during the negotiations that took place in the last years of World War II. On the basis of a compensation theory, based on political rather than legal criteria, the Western Allies accepted the transformation of Poland's borders, even though the Polish government in exile in London did not agree at least on the changes to its eastern border that favored the Soviet Union[20]. Thus, not only were the German minorities not given a chance to decide on their future, but also the Polish government in exile was not expected to accept their eastern borders.

On the other hand, the expulsions at the end of the Great War were promoted by means of the different peace treaties, changing the configuration of the European states in their external dimension, related to their borders, and also in their internal dimension, transferring ethnic minorities from one region to another, thus homogenizing the population. While it is true that several countries joined in the mass deportations, there was no general rule for establishing the conditions of the transfers, nor their organization. For example, although the displacements between Greece and Bulgaria in the interwar period were not imposed by force, this was not the case in many other cases. The

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[19] MACMILLAN, M., Paris, 1919. "Six months that changed the world". Barcelona, 2005, p. 38.
[20] GLEJDURA, S., "Los grandes problemas del este europeo: Polonia", in *Revista de Política Internacional*, no. 106, 1969, p. 128.

Treaty of Lausanne forced the transfer of population and forbade the return of expellees. This agreement stipulated for the first time that deportations were to be carried out in an "orderly and humane" manner, an expression that was also repeated at Potsdam[21].

In addition to peace treaties, this period also saw a series of bilateral agreements between powers to exchange populations in search of national homogeneity[22]. Despite the hope of Western leaders in ethnic cleansing to guarantee democratic systems in those new powers, approximately a decade later, a good part of the new states saw authoritarianism as the best option to maintain unity and extinguish the power of nationalist movements which, on the other hand, were fed with the propaganda of the emerging dictatorships[23]. Some authors consider that, in the case of Czechoslovakia, the German nationalist movements of the 1930s and their hostility towards authority were present in the minds of the authorities when the confiscation of the property of the German population residing in this power at the time of its expulsion was imposed[24].

The creation of Czechoslovakia in 1918 implied the integration of territories inhabited mostly by Germans, who did not welcome their incorporation into the new state. They were in favor of becoming an autonomous region or, if necessary, joining the Austrian state, a desire that was truncated in the Treaty of Saint-Germain[25]. These first events

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[21] PREECE, J.J., "Ethnic cleansing as an instrument of Nation-state creation: changing state practices", in *Human Rights Quarterly*, no. 4, 1998, pp. 824.

[22] PREECE, J.J., "Ethnic cleansing as an instrument of Nation-state creation: changing state practices", in *Human Rights Quarterly*, no. 4, 1998, p. 822.

[23] PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 3.

[24] [24] PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, pp. 7-8.

[25] PYKEL, P. "The expulsion of the Germans from Czechoslovakia", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from*

had a decisive effect on the German nationalist movements in the region, encouraging the government of Czechoslovakia to present the first projects for the transfer of the German population in the last years of the interwar period, justifying the displacements in a need to restore public order, given the aggressiveness that the nationalist movements were acquiring [26]. Some authors go further, pointing out that the violence with which the new deportations at the end of the Second World War took place had its roots in these events, the Czechs being the ones who treated the German minorities the worst[27]. In this way, the nationalist movements of this period laid the moral and political foundation for the massive deportations of Germans in the post-World War II period.

In this interwar climate, it was the League of Nations that was responsible for the supervision of the displacements, as well as for the economic compensation for the goods and property that the displaced had to leave behind, although this aid was either impossible to implement, or insufficient in any case[28]. Despite the shortcomings, the role played by the League of Nations served as a precedent for the new expulsions that would take place at the end of World War II, establishing that these expulsions should be supervised and organized by an international organization that would establish certain security guarantees for the forced migrants[29].

Eastern Europe at the end of the Second World War. San Domenico, 2004, p. 11.

[26] PREECE, J.J., "Ethnic cleansing as an instrument of Nation-state creation: changing state practices", in *Human Rights Quarterly*, no. 4, 1998, p. 827.

[27] PYKEL, P. "The expulsion of the Germans from Czechoslovakia", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 17.

[28] PREECE, J.J., "Ethnic cleansing as an instrument of Nation-state creation: changing state practices", in *Human Rights Quarterly*, no. 4, 1998, p. 824.

[29] PREECE, J.J., "Ethnic cleansing as an instrument of Nation-state creation: changing state practices", in *Human Rights Quarterly*, no. 4, 1998, pp. 828-829.

4.- First deportations of Germans during World War II

The displacements that took place during the war conflict occurred in two directions: on the one hand, those promoted by Germany, based on the construction of a German state without minorities and homogeneous; on the other hand, those from the Allied powers, which were, in principle, initiated for security reasons.

Nazi Germany added to the concept of the nation-state the "volksgemeinschaft", in reference to a homogeneous national community that was not even divided by dialects or regional peculiarities, breaking with one of the most relevant identity characteristics of the German state since 1871[30]. The displacements promoted by Germany must be framed within the principles of the construction of a German racial and national state, formed, on the one hand, by the resettlement campaign of the German population through international treaties for the exchange of citizens; and on the other hand, by the Germanization, or "Eindeutschung", of at least 9 million non-German citizens[31]. Finally, as if that were not enough, Germany had almost eight million foreign workers forcibly brought to the Reich who later had to be repatriated at the end of the war, a task that would be taken over by UNRRA, the United Nations Relief and Reconstruction Administration[32].

Nazi Germany and the Soviet Union, through three agreements signed between 1939 and 1941, would agree to the expulsion of approximately 100,000 Germans residing in Soviet-occupied Poland in exchange for the resettlement of more than 30,000 Ukrainians and

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[30] KAMUSELLA, T., "The expulsion of the population categorized as "Germans" from the post-1945 Poland", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 24.

[31] PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 5.

[32] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p. 27.

Belarusians who, up to that time, lived in German-occupied areas[33]. However, some authors estimate that in 1939 at least 9.6 million Germans were expelled from Polish and Soviet territories for resettlement in Germany, losing at least 200,000 lives in transit[34]. Hitler's resettlement policy, known as "umsiedlung", involved, in addition to the new territories conquered by the Reich, the Baltic States and several Eastern European powers[35].

Another of the most representative examples of Nazi Germany's deportations of German citizens occurred around the Sudetenland, a mountain range divided by Germany, Poland and the Czech Republic. The same term was used to denote the German population of regions such as Silesia, Moravia and Bohemia where, according to estimates, almost three and a half million Sudeten Germans or "Sudetendeutsche" lived at the turn of the century. The nationalist objectives of the Nazi party gave prominence to the region, being one of the fundamental points of the Munich Agreements of 1938 between Germany, Italy, France and the United Kingdom. The latter opted for the policy of appeasement, granting the annexation of the territories with the largest German-speaking population to the Third Reich[36]. Linguistic and cultural characteristics were already considered as proof of nationality at the beginning of the 20th century[37]. Later, in the post-war deportations, these territories would again come to the fore. In part, the fact that Hitler had used the German minorities as an excuse for his

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[33] PREECE, J.J., "Ethnic cleansing as an instrument of Nation-state creation: changing state practices", in *Human Rights Quarterly*, no. 4, 1998, pp. 825-826.

[34] GLEJDURA, S., "Los grandes problemas del este europeo: Polonia", in *Revista de Política Internacional*, no. 106, 1969, pp. 117-118.

[35] PREECE, J.J., "Ethnic cleansing as an instrument of Nation-state creation: changing state practices", in *Human Rights Quarterly*, no. 4, 1998, p. 825.

[36] PINTOR PIRZKALL, H., "A Journey of No Return for the German Sudetenland," in Studia politicae, no. 44, 2018, pp. 103-104.

[37] PREECE, J.J., "Ethnic cleansing as an instrument of Nation-state creation: changing state practices", in *Human Rights Quarterly*, no. 4, 1998, pp. 822-823.

expansion led the Allies to justify in a simple way the need to empty at least the occupied territories of Germans[38].

For their part, the Allies organized the resettlement of Germans, Italians and Japanese in their territories. These were relocated in immigration camps and then exchanged with the Axis powers or expelled after the war, although the means and scope of resettlement varied according to each state, the main driving force being, in this case, the United States.

The entry of the United States into the conflict after the attack on Pearl Harbor precipitated a whole series of steps aimed at drawing up a census of the nationals of the Axis powers who were in the territories of the Allies, with special attention to the American continent. The first movements to American camps began in 1942. About 8,500 citizens of different Latin American states with German, Japanese or Italian nationality were interned in immigration camps in Texas with the aim of deporting them or exchanging them, in some cases, for American prisoners held in one of the enemy powers. Some of the citizens who were spared deportation to U.S. immigration camps were also held in internment camps in their own countries, restricting some of their rights such as the use of their language in public or movement within and outside the country[39].

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[38] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p. 183.
[39] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p. 183.
  MOLINA LODOÑO, L.F., "Expolios, deportaciones e internamientos: el destino de los alemanes durante la segunda guerra mundial", in OXÍMORA International Journal of Ethics and Politics, nº11, 2017, pp. 7-9.

5.- The German question at the Tehran Conference

The Yalta, Potsdam and Paris conferences are usually considered the most relevant in terms of their role in the European configuration after World War II, since they were the first steps towards the creation of the United Nations Organization or the International Monetary System, as well as being decisive in the distribution of post-war spheres of influence[40]. However, the conference held in Teheran, in November 1943, between the so-called Big Three, marked the beginning of a series of concessions that would be imposed on the most important principles that inspired both the League of Nations and the subsequent United Nations Organization.

Churchill, Roosevelt and Stalin negotiated the transformation of Poland's borders along the Oder-Neisse line, so that, on the one hand, the part occupied by the Soviet army would be incorporated into the Soviet Union; and, on the other hand, the new Poland would include a large part of the Prussian territories, considered at that time to be the cradle of Germanic nationalism[41]. In relation to this question, the American president asked whether it would be possible to forcibly transfer the population in the event of problems arising in these territories, to which Stalin stated categorically.[42]

Although the question of Poland's borders had been a recurring topic of discussion since the Teheran Conference, they remained unresolved at both Yalta and Potsdam[43]. In spite of this, the new Polish borders were decisive in the deportations of Germans that took place during the post-war period, since the largest population groups that

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[40] ARACIL, R., OLIVER, J., SEGURA, A., *El mundo actual. De la Segunda Guerra Mundial a nuestros días*. Barcelona, 1998, p. 24.

[41] GLEJDURA, S., "Thirty Years of a Tragedy: the German Völkerwanderung", in Review of International Politics, no. 145, 1976, p. 71.

[42] MAYLE, P. D., Eureka Summit. Agreement in Principle and the Big Three at Tehran, 1943, Ontario, 1987, pp. 145-146.

[43] ROBERTS, G., "Stalin at the Tehran, Yalta, and Potsdam Conferences", in *Journal of Cold War Studies*, no. 9, 2007, pp. 34-35.

were expelled inhabited the lands east of the Oder and the Neisse, where, according to German government data, about seven million Germans resided[44]. In relation to this frontier, already in Teheran, Stalin proposed the confiscation of the property of the Germans who were east of the Oder River, as punishment for the responsibility of the German people for the atrocities of the Nazi Regime, an idea that was not rejected by Roosevelt, nor by Churchill[45]. The deportations of Germans from these territories had a double purpose: on the one hand, the national integration of the German territories that were incorporated into Poland; on the other hand, they served as a reward for the expulsion of Poles from the areas invaded by the Soviet Union[46].

Although the modification of these borders can be seen as a convenient solution for the interests of all parties involved, the truth is that the great gain was obtained by the Soviet Union, whose history has been interpreted at the national level under the myth of a great people that has been continuously besieged by different foreign agents and whose only protection has always been the great territorial extension of the country, Therefore, the displacement of its borders, in this case, the western ones, fulfilled a political and military necessity for the Soviets, especially at the time when only a few years ago, in 1941, the Nazi army had almost reached Moscow.[47]

[44] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p. 191.

[45] MAYLE, P. D., Eureka Summit. Agreement in Principle and the Big Three at Tehran, 1943, Ontario, 1987, pp. 76-77.

[46] KAMUSELLA, T., "The expulsion of the population categorized as "Germans" from the post-1945 Poland", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 26.

[47] FIGUERAS VALÉN, F., "El papel geopolítico del espacio alemán", in Boletín de la AGE, n1 17, 1993, p. 51.

While the issue of the Polish borders was initially supported by the Allies, and more specifically by the British, it was not long before its repercussions in Europe were analyzed[48]. The economic implications were warned of by Churchill in the House of Commons as leader of the opposition, where he felt that the new Polish borders, which included a quarter of Germany's agricultural territory, compromised Europe's future economic development[49].

In support of the Soviet Union's strategic defensive interests, the idea of the collective responsibility of the German people for Nazi crimes, which some authors attribute to Stalin, provided the moral basis for the expulsions[50]. This idea was supported by other governments, such as the Czechoslovak government, which used it to establish its political priorities[51].

6.- The German Völkerwanderung

Although the question of the expulsion of Germans was taken up again at the Potsdam Conference, it was not established in the agenda, so that some authors interpret that this was not an issue to be discussed but was already taken for granted. Already in the Final Act of Potsdam, in its Protocol XIII, minimum standards on the deportation of German

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[48] On the methods employed by the United Kingdom within its borders and in colonial territories to deal with nationalist and insurgent movements: MARTÍNEZ PEÑAS, L. "In Her Majesty's Name. Doctrine, strategy and jurisdiction in 20th century British counterinsurgency" (Doctrina, estrategia y jurisdicción en la contrainsurgencia británica del siglo XX). Valladolid, 2016.
[49] GLEJDURA, S., "The Great Problems of Eastern Europe: Poland", in Review of International Politics, No. 106, 1969, p. 126.
[50] GLEJDURA, S., "The Great Problems of Eastern Europe: Poland", in Review of International Politics, No. 106, 1969, p. 127.
[51] PYKEL, P. "The expulsion of the Germans from Czechoslovakia", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 16.

citizens were established[52]. It was agreed that the expulsions should not take place before the Allied Control Council could take over, so that, at least officially, they would not begin until August 1945.

However, the displacements had already started much earlier, partly as a result of the ethnic cleansing strategies of the Soviet Army. Still at Yalta, when the question of the transfer of the German population was discussed, Stalin pointed out that most of the Germans had already fled the territories because of the advance of the Red Army[53]. Thus, the massacres in which Soviet forces were involved, such as the one in Katyn, would not only be useful in military terms, since, in addition to facilitating the advance of the Red Army, they prepared the occupation of the territories by Soviet citizens.

Organized expulsions also began before the date agreed upon at Potsdam. The anxieties of some states, such as Poland and Czechoslovakia, caused the deportations to begin even in the absence of control and monitoring bodies. This reality was already warned in Protocol XIII itself, where it is established that the Czechoslovak, Polish and Hungarian authorities were to suspend the expulsions until the Allied Control Council could examine the deportation requests. Despite this, the Czechoslovak government under Beneš authorized the expulsion before obtaining confirmation from the Allies[54]. In fact, the return of the Czechoslovak government from exile was accompanied by its first public declaration, on April 5, 1945, which already enunciated the first policies, known as the Košice Program, where it devoted chapter eight to the question of the German population[55]. The

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[52] GLEJDURA, S., "Thirty Years of a Tragedy: the German Völkerwanderung", in Review of International Politics, no. 145, 1976, p. 72.
[53] LOWE, K., Wild Continent. Europe after the Second World War. Madrid, 2012, p. 183.
[54] PINTOR PIRZKALL, H., "A Journey of No Return for the German Sudetenland," in Studia politicae, no. 44, 2018, p. 105.
[55] PYKEL, P. "The expulsion of the Germans from Czechoslovakia", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 16.

expulsions which took place before the Potsdam authorization were called "wild expulsions" or "wilde vertreibungen".[56]

Shortly after the publication of Protocol XIII, the conditions for removals improved[57]. Either because of pressure from the Allies in Potsdam or because the fever of the first expulsions gradually subsided, the Polish government drew up regulations to improve the conditions of movement. The measures restricted the deportation of unaccompanied children and the elderly to certain months of the year with milder temperatures, ensured the supervision of medical personnel on the trains themselves, and even reached an agreement between the British and Poles that only healthy individuals would be deported. Germans who were to be expelled were subjected to medical examinations before being transported to immigration camps, where they waited until sufficient numbers were accumulated to be taken on trains to Germany[58].

It is estimated that at least 12 million Germans were resettled between 1944 and 1948 in one of the two parts of postwar Germany, according to the first censuses of the 1950s, although these figures do not include those other Germans who were sent to other European countries [59]. Despite the censuses and reports on the displaced population that were produced during and after the deportations, other displacements such as those who fled their countries for fear of the

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[56] KAMUSELLA, T., "The expulsion of the population categorized as "Germans" from the post-1945 Poland", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 27.

[57] PYKEL, P. "The expulsion of the Germans from Czechoslovakia", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 19.

[58] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p. 188.

[59] PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 4.

Soviets are not included, nor are those who died in transit, nor are the displacements within the former Soviet Union of Germans counted. Nearly 65% of the displaced would be resettled in West Germany and the rest to Soviet-occupied German territory[60].

The response of states to the possibility of expelling German minorities was not homogeneous. In contrast to the ethnic cleansing urge of some countries, the Hungarian government questioned the demand of the Allied Control Council and the Soviet Union to deport ethnic Germans. The Hungarian Foreign Minister, János Gyöngyösi, considered that the idea of collective responsibility was Hitler's idea first, which implied the loss of the moral basis for accepting the expulsion of citizens on the basis of ethnic criteria[61].

The reason for authorizing the expulsion of the German population in Hungary, known as "Swabians" or "Danube Swabians", was based on several reasons: on the one hand, the pressure of the National Peasant Party, which sought the redistribution of the properties of those expelled, being finally most of those deported from rural areas; on the other hand, the Czechoslovak government had already expressed its desire to expel also the Hungarian population from its territory, so that the vacuum left by the Germans in Hungary would allow to accommodate the Hungarian minorities expelled from other states[62].

Under cover of the Potsdam expulsions, which only applied to the German populations of Czechoslovakia, Poland and Hungary, other powers such as the Baltic states or Yugoslavia initiated their own. Even

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[60] FASSMANN, H. y MUNZ, R., "European East-West migration, 1945-1992", in *International migration review*, Nº28, 1994, p. 523.

[61] APOR, B., "The expulsion of the German Speaking Population from Hungary", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 37.

[62] APOR, B., "The expulsion of the German Speaking Population from Hungary", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, pp. 34-35.

in those states where they were not welcomed with enthusiasm, such as Romania, the Soviet occupation imposed deportations[63]. Some authors estimate that, all in all, more than 14 million people were affected in this process[64].

As for the conditions of the deportations, they varied depending on the state organizing them. After all, Potsdam only stipulated that they should be carried out in an orderly and humane manner. The first population movements were guarded by soldiers, who accompanied the deportees to the cities where they could be loaded onto trains to Germany. In some cases, they had to walk up to 60 kilometers, so the goods they could carry were limited to what they could carry themselves for the entire journey[65].

In Czechoslovakia the Germans had 30 minutes to collect their belongings, with a limit of 60 kilos and enough food for 3 to 7 days[66]. The expulsion of the Sudeten Germans lasted more than a year and was organized by the German interim government of the American occupation zone with the collaboration of other powers, such as Poland and Czechoslovakia. In this case, the expellees were allowed to take with them a luggage of 25 kilos of food and personal belongings and a

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[63] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p. 194.

[64] PREECE, J.J., "Ethnic cleansing as an instrument of Nation-state creation: changing state practices", in *Human Rights Quarterly*, nº 4, 1998, p. 829.

[65] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p. 186.

[66] PYKEL, P. "The expulsion of the Germans from Czechoslovakia", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, pp. 17-18.

maximum of 500 Reichsmark[67]. In Hungary, on the other hand, they were allowed to take 20 kilos of food and 80 kilos of clothing[68].

Although not all Germans were expelled, many of those who were able to stay would eventually leave their homes voluntarily. In Czechoslovakia, it is estimated that at the end of the deportations on October 29, 1946, the date on which a symbolic act was held at the Karlsbad train station, at least 300,000 Germans remained in the territory and, a couple of years later, emigrated to Germany for fear of further persecution[69]. In the case of Poland, although the vast majority of the German population was expelled, at least one million of them were able to stay in the country when they proved to be Catholics or married to Polish nationals[70]. In other examples, temporary exemptions were granted for specific population groups. Some German families were temporarily excluded from expulsion because a member was considered an "indispensable German", i.e. those who had technical knowledge essential for the reconstruction of the territory [71]. In

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[67] PINTOR PIRZKALL, H., "A Journey of No Return for the German Sudetenland," in Studia politicae, no. 4 APOR, B., "The expulsion of the German Speaking Population from Hungary", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 40.4, 2018, p. 106.

[68] APOR, B., "The expulsion of the German Speaking Population from Hungary", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 40.

[69] PYKEL, P. "The expulsion of the Germans from Czechoslovakia", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 20.

[70] FASSMANN, H. y MUNZ, R., "European East-West migration, 1945-1992", in *International migration review*, N°28, 1994, p. 521.

[71] KAMUSELLA, T., "The expulsion of the population categorized as "Germans" from the post-1945 Poland", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, pp. 27-28.

Hungary, the Communist Party preferred to favor German industrial workers or miners.[72]

There were also economic factors that slowed deportations. The U.S. suspended removals on several occasions because of the poor state of transportation, and the high cost of subsequent resettlement[73]. For Lowe, the motivation behind the requirement that expulsions should take place in an orderly and humane manner was based on the inability to cope with the number of displaced persons arriving in Germany for whom new accommodation had to be found[74].

It is necessary to remember that the leaders of the main powers not only supported the expulsions, but also created the need to justify them to the public opinion or, at least, to improve the image of the deportations with a new narrative. In the case of Roosevelt, he asserted that these removals should be carried out stating that "while this is a harsh procedure, it is the only way to keep the peace", an idea that was similarly supported by Churchill who pointed out that the "mixing of populations" caused persistent problems and that, in order to solve them, expulsion was the "most satisfactory" method.[75]

The re-contextualization of the deportations was manifested in all possible spheres beyond the speeches of the authorities. The logistical maneuver developed by the British in their German

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[72] APOR, B., "The expulsion of the German Speaking Population from Hungary", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, pp. 39-40.

[73] APOR, B., "The expulsion of the German Speaking Population from Hungary", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 41.

[74] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, pp. 184-185.

[75] PREECE, J.J., "Ethnic cleansing as an instrument of Nation-state creation: changing state practices", in *Human Rights Quarterly*, nº 4, 1998, p. 828.

occupation zone in 1945 was baptized "Operation Swallow"[76]. The name suggests the similarity between the seasonal return of these birds to their nests, and the resettlement of the deportees in the new post-war Germany, despite the fact that a good part of them were Germans who had been outside Germany for generations, having adopted some cultural singularities of their countries of residence and whose language, which had been one of the criteria for expulsion, had been transformed over time and had become different from the language used in Germany, which meant that when they were resettled, the native population easily identified them as foreigners, as they spoke and had different traditions.

The deportations of German or German-speaking citizens should not be understood as a form of punishment for collaborators of the Nazi government, since it indiscriminately affected individuals who had no connection with German institutions or organizations during the war. Most of them suffered deportations, internment in refugee camps and expropriation of property because of their German origins, however remote[77]. Only a few states based expulsions on other criteria, such as Hungary.

The first measures taken in Hungary were not indiscriminate against the German population. In January 1945, the Hungarian provisional government initiated arrests and arrests of war criminals, associations and organizations linked to the Nazi party were dissolved, confiscated land in Hungary was taken mostly from Nazi sympathizers, such as members of the Volksbund, a pro-Nazi organization of German speakers in Hungary. However, these measures were not without problems, since the confiscated property would be redistributed in favor of new settlers, arriving from Czechoslovakia, which generated resentment among the native Hungarian population, in addition to the

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[76] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p. 191.

[77] MOLINA LODOÑO, L.F., "Expolios, deportaciones e internamientos: el destino de los alemanes durante la segunda guerra mundial", in OXÍMORA International Journal of Ethics and Politics, nº11, 2017, p. 5.

problems derived from the technological backwardness in agrarian matters of the new refugees arriving in the country[78].

The theory of collective responsibility used with emphasis by the Soviets was not consistent with the reality of most of the expulsions. Both the non-discrimination of the German population and the expulsions of other minorities in this period support that the ultimate intention of the deportations was to create nation-states without minorities through ethnic cleansing. To this end, the identification of Germanic as evil had a decisive effect on the construction of some national identities after the end of the war[79].

In 1945, Norway retroactively applied a law so that women married to a citizen of an enemy state automatically acquired the nationality of that state, so that many lost their nationality and became Germans, with the danger of being deported[80]. Taking advantage of the situation, the Soviet Union transported minorities of the non-Slavic population from Central Asia, allegedly for collaborating with the Germans[81]. Thus, the deportations of the German population paved the way for campaigns against other groups, as happened at the time of the reconstruction of the Czechoslovak state, when the expulsion of the Hungarian population was proposed[82].

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[78] APOR, B., "The expulsion of the German Speaking Population from Hungary", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, pp. 36-37.

[79] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p. 50.

[80] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, pp. 127-128

[81] ARACIL, R., OLIVER, J., SEGURA, A., *El mundo actual. De la Segunda Guerra Mundial a nuestros días*. Barcelona, 1998, p. 18.

[82] PYKEL, P. "The expulsion of the Germans from Czechoslovakia", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 15.

Apart from expulsions, assimilation policies allowed for the homogenization of their states in other ways. The Czechoslovak government, for its part, reserved the right to grant citizenship, which, as Pykel points out, is a way of differentiating "good" Germans from "bad" ones:

> "The German speakers would be deprived of Czechoslovak citizenship, with the exception of those who had held the citizenship before the Munich Agreement and were able to prove their ant-fascist activity during the war. As anti-fascists and anti-nazis the program defined those Germans who before the signature of the Munich Agreement had struggled against Henlein and his party; who suffered persecutions because of their ant-nazi views and loyalty to the Czechoslovak state; and those who had been forced to escape from Czechoslovakia by the German occupation terror"[83].

In some cases, Germans who were held in U.S. immigration camps during the conflict were naturalized in the United States, although they remained under the surveillance of the Enemy Alien Control Unit[84].

In addition, a process of erasure of all reminders of their former German origin was promoted, so that the names of streets and cities were changed, monuments were demolished, it was forbidden to speak German and, in some cases, educational content was designed to review historical events. In Poland, the German territories that were

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[83] PYKEL, P. "The expulsion of the Germans from Czechoslovakia", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 16.

[84] MOLINA LODOÑO, L.F., "Expolios, deportaciones e internamientos: el destino de los alemanes durante la segunda guerra mundial", in OXÍMORA International Journal of Ethics and Politics, nº11, 2017, p. 9.

incorporated into the state were identified in school textbooks as "recovered territories"[85].

7.- Arrival in Germany

Once the expellees arrived in West Germany, they were concentrated in refugee camps known as "Durchgangslager" managed by the American military forces in collaboration with the Red Cross and the United Nations through the UNRRA. One of the ways to avoid uprisings within the immigration camps was to distribute the expellees from the same cities in different settlements, so the break, not only with their country, but with their families and friends was, in part, intentional[86]. Some families would be forcibly separated by means of different regulations: some forbade traveling to Germany or leaving to meet their families, other administrative measures ended up breaking ties with the people they left behind, such as those that encouraged divorce for wives who had been separated from their husbands[87].

The psychological impact of the deportations could be recorded in some cases. According to Czechoslovak government statistics, in 1946, more than 5,000 deaths by suicide were recorded among the Germans who were expelled[88]. A Soviet report reveals that the deportees in Leipzig were still not integrated into the population and

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[85] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p. 193

[86] PINTOR PIRZKALL, H., "A Journey of No Return for the German Sudetenland," in Studia politicae, no. 44, 2018, p. 106.

[87] KAMUSELLA, T., "The expulsion of the population categorized as "Germans" from the post-1945 Poland", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 29.

[88] PYKEL, P. "The expulsion of the Germans from Czechoslovakia", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, pp. 17-18.

were "deeply depressed"[89]. Although the numbers of forcibly displaced persons vary too much depending on the sources, there is no doubt that the readjustment process was long and hard. It is estimated that one in four Germans today has a family member who was forcibly displaced in the post-war period and that the integration of the expellees took between 30 and 40 years[90].

It would take several years from the beginning of the first expulsions before the first organization for the support and integration of German exiles was created in 1949. The Ministerium für Vertriebene, Flüchtlinge und Kriegsgeschädigte was created in the Federal Republic of Germany for the integration of the exile communities in addition to the management of economic aid[91]. While in West Germany the expellees were compensated for their lost property, in the East the expulsion was considered a taboo subject, which prevented any form of compensation[92].

In West Germany, cultural institutions such as the "Bundesministerium fur vertriebene" were also set up and financed the creation of a historical archive to record the experiences of Germans during the deportations, which was given the name "ostdocumentation"[93]. One should not lose sight of the fact that

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[89] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p. 192.

[90] PINTOR PIRZKALL, H., "A Journey of No Return for the German Sudetenland," in Studia politicae, no. 44, 2018, p. 107.

[91] PINTOR PIRZKALL, H., "A Journey of No Return for the German Sudetenland," in Studia politicae, no. 44, 2018, p. 106.

[92] [92] KAMUSELLA, T., "The expulsion of the population categorized as "Germans" from the post-1945 Poland", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 29.

[93] PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 1.

historical traumas, such as the German Völkerwanderung, remain central elements in the construction of national myths even today[94].

Even without government intervention, the Germans who were expelled also created, with the support of the people who saw them leave, political and cultural organizations that were able to give expression to the feeling of uprootedness. As an example of this, on August 5, 1950, the Charter of the German Expellees was proclaimed in Stuttgart, in which the representatives of the deportees expressed themselves in the following terms:

"First: we, the expelled, renounce revenge and retaliation. This resolution is formal and sacred, in memory of the immense sufferings of Humanity in the last ten years.

Second: We will vigorously support any initiative to create a united Europe, in which people can live without fear and violence.

Third, we will participate in the reconstruction of Germany and Europe by working tirelessly.

We have lost our homeland. Those without a homeland are exiled in this world. God has placed men in their homeland. To forcibly separate them from their homeland is to kill their soul. We have lived and suffered this destiny. We feel called, therefore, to demand that the right to a homeland be recognized and realized as one of the fundamental rights conferred by God on humanity.

As long as this right is not realized for us, however, we do not want to remain apart, condemned to inactivity, but we wish to work and work with all the members of our people in new purified forms of understanding and fraternal coexistence. Therefore, we demand today as yesterday:

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[94] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p. 276.

First: Equal rights as citizens, not only before the law, but also in everyday reality.

Second: Fair and reasonable sharing of the burdens of the last war by the entire German people and a sincere execution of this principle.

Third: intelligent integration of expellees of all professions into the life of the German people.

May the peoples of the world feel their share of responsibility for the fate of the expelled, who are the most affected by the misfortunes of our time. Let the peoples of the world act in accordance with their Christian duties and conscience. The peoples must know that the fate of the German expellees, as well as that of all refugees, is a worldwide problem whose solution demands the greatest moral responsibility and the obligation of enormous efforts.

We call upon the peoples and men of good will to get down to work so that we may all move from the abyss of crime, misfortune, sorrow, poverty and misery towards a better future[95]."

The memory of the deportations of Germans during this period continues to resonate today. In 2002 this topic was taken up again in Brussels in connection with the debate on the accession of the Czech Republic to the European Union[96]. The last controversy occurred in 2011 when it was approved that August 5 would be established as the official day for the remembrance of the German expellees with the rejection of seventy historians - Germans, Poles, Czechs, among others

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[95] GLEJDURA, S., "Thirty Years of a Tragedy: the German Völkerwanderung", in Review of International Politics, no. 145, 1976, pp. 73-74.
[96] PYKEL, P. "The expulsion of the Germans from Czechoslovakia", in PRAUSER, S. y REES, A., *The expulsion of the "German" communities from Eastern Europe at the end of the Second World War*. San Domenico, 2004, p. 11.

- who denounced the absence of mentions to the context of Nazi atrocities in the Charter of the German Expellees[97]. The truth is that it does not seem appropriate to justify the injustice of the deportations of German citizens, in many cases with no connection to the Nazi regime, based on the other injustices committed in World War II by the Third Reich and its collaborators, opening the door to the theory of compensation and collective responsibility as the final justification of the Völkerwanderung. As Lewis reminds us in relation to the Second World War, "No side possesses a monopoly of virtue",[98]a statement that could be extended to the vast majority of conflicts and that summarizes in essence the complexity of historical analysis and the importance of the professional responsibility of the historian.

8.- Conclusions

In short, the main driving force behind the deportations was the belief, already widespread in the early 20th century, that the stability and success of states depended on the homogeneity of the nation, an idea already put into practice in the peace treaties of the Great War, which served as a guide for the post-war expulsions after World War II.

Although the Soviet Union emphasized the theory of the collective responsibility of the German people to justify the deportations on the basis of the atrocities committed by the Nazis, the truth is that, with the exception of Hungary, most states expelled citizens of German origin without proving their collaboration with the Third Reich. In other examples, such as Czechoslovakia, they even took advantage of the circumstances to expel other non-German minorities as well.

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[97] https://www.lavanguardia.com/internacional/20110217/54116136848/protesta-de-historiadores-por-la-aceptacion-de-la-carta-de-los-expulsados-en-el-bundestag.html Last revised on March 1, 2022.

[98] LOWE, K., "Wild Continent. Europe after the Second World War". Madrid, 2012, p. 269.

At the same time that the theory of collective responsibility took hold among the population, the leaders pushed through legislative reforms with the intention of eliminating any trace of the German minority, nationalizing former German territories, as in the case of Poland, or withdrawing the nationality of their own citizens if any link with the Germans was demonstrated, as in Norway. The authorities, supported by the media, made public hate speeches, leading to further displacements that caused those Germans who were not expelled to leave their homes for fear of pogroms. Finally, the climate of hatred was compounded by the benefit of deportations for some citizens due to the redistribution of the property of expelled German citizens.

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