

**CEUB**

EDUCAÇÃO SUPERIOR

ISSN 2237-1036

**REVISTA DE DIREITO INTERNACIONAL**  
**BRAZILIAN JOURNAL OF INTERNATIONAL LAW**

**Decolonial perspectives on  
the normativity of civilizing  
discourses and the metaphor of  
human rights**

Perspectivas decoloniais sobre  
a normatividade dos discursos  
civilizatórios e a metáfora dos  
direitos humanos

Antonio Carlos Wolkmer

Débora Ferrazzo

VOLUME 21 • N. 2 • 2024  
INTERNATIONAL LAW FOOD

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# Decolonial perspectives on the normativity of civilizing discourses and the metaphor of human rights\*

## Perspectivas decoloniais sobre a normatividade dos discursos civilizatórios e a metáfora dos direitos humanos

Antonio Carlos Wolkmer\*\*

Débora Ferrazzo\*\*\*

### Abstract

The hegemonic formation of human rights was marked by the dichotomy between civilized and barbarians, always Eurocentric, despite variations in the way the civilizing discourse is presented. In view of this, criticism has been growing, especially decolonial, which exposes the concealment of the monocultural origin of human rights and the guiding rationality of international law. These important criticisms benefits conditions for the emergence of other knowledges, challenging the silencing of subjectivities and the underlying colonizing dynamics. The general objective is to contribute to theorizing on the decolonization of human rights and, by connection, of international law and its institutions. Starting by historicizing the dichotomy between civilization and barbarism, advances to a discussion on how this dichotomy was subsumed in coloniality, having as a guiding thread the civilizing discourse as a justification platform of practices of domination. Last section demonstrates the need for decolonial critique in the face of Eurocentric limits that recolonize resistance practices. There is innovative potential in the discussion by employing methodology still little explored in the legal research: decolonial, based on an ana-dialectical approach (Dussel) and a historical-critical procedure (Wolkmer). The technique bibliographic prioritizes decolonial theories, as TWAIL. Although decolonial criticism cannot present a substantive paradigm, under penalty of becoming colonizing itself, it points to practices – such as those of Latin American constitutionalism, pluralist hermeneutics – and diagnoses of silencing and exclusion, demonstrating that both the ineffectiveness and insufficiency of human rights characterize them as a necessary moment, but not sufficient in a larger process: that of human liberation, as the sum of all its peoples.

**Keywords:** human rights; eurocentric paradigm; civilizing speeches; colonialismo; decolonial critique.

\* Recebido em 04/10/2024  
Aprovado em 27/09/2024

\*\* PhD in Law. Emeritus Professor and Retired Titular Professor at UFSC. Professor of Postgraduate Law Courses (Master's and Doctorate) at UNILASALLE-RS and UNESC-SC (Human Rights and Society), Brazil. CNPq Researcher - Level 1-A and ad hoc consultor at CAPES. Member of: Sociedad Argentina de Sociología Jurídica; GT – “Crítica Jurídica y Conflictos Sociopolíticos”, Conselho Latino-americano de Ciências Sociais (CLACSO, Buenos Aires/Mexico); International Political Science Association (IPSA, Canada), and Research Committee on Sociology of Law (RCSL) of Instituto Internacional de Derecho y Sociedad (Lima, Perú). Professor of the Master's Courses in Human Rights at UASLP (Mexico) and the Master's and Doctorate in Human Rights and Interculturality at UPO (Sevilla, Spain), as well as other Postgraduate Programs in several universities (Argentina, Colombia, Ecuador, Chile, Venezuela, Costa Rica, Mexico, Spain and Italy). E-mail: acwolkmer@gmail.com.

\*\*\* Doutora em Direito pela Universidade Federal do Paraná (UFPR); Mestre em Direito pela Universidade Federal de Santa Catarina (UFSC). Professora no Curso de Direito da Universidade do Extremo Sul Catarinense (UNESC), nas disciplinas de Direito Constitucional e Processo Constitucional. Pesquisadora no Grupo de Pesquisas em Pensamento Jurídico Crítico Latino-americano (UNESC). Currículo lattes: <http://lattes.cnpq.br/9032757156918407> . Orcid: <http://orcid.org/0000-0002-1051-2785> . E-mail: [debora@unesc.net](mailto:debora@unesc.net) .

## Resumo

A formação hegemônica dos direitos humanos foi marcada pela dicotomia entre civilizados e bárbaros, sempre eurocêntrica, apesar das variações na forma de apresentação do discurso civilizatório. Em vista disso, vem crescendo a crítica, especialmente a decolonial, que expõe a ocultação da origem monocultural dos direitos humanos e a racionalidade orientadora do direito internacional. Essas importantes críticas beneficiam as condições para o surgimento de outros saberes, desafiando o silenciamento das subjetividades e a dinâmica colonizadora subjacente. O objetivo geral é contribuir para a teorização sobre a descolonização dos direitos humanos e, por conexão, do direito internacional e de suas instituições. Começando pela historicização da dicotomia entre civilização e barbárie, avança-se para uma discussão sobre como essa dicotomia foi subsumida na colonialidade, tendo como fio condutor o discurso civilizatório como plataforma de justificação das práticas de dominação. A última seção demonstra a necessidade da crítica decolonial diante dos limites eurocêntricos que recolonizam as práticas de resistência. Há um potencial inovador na discussão ao se empregar uma metodologia ainda pouco explorada na pesquisa jurídica: a decolonial, baseada em uma abordagem ana-dialética (Dussel) e em um procedimento histórico-crítico (Wolkmer). A técnica bibliográfica prioriza as teorias decoloniais, como a TWAIL. Embora a crítica decolonial não possa apresentar um paradigma substantivo, sob pena de se tornar ela própria colonizadora, aponta práticas - como as do constitucionalismo latino-americano, da hermenêutica pluralista - e diagnósticos de silenciamento e exclusão, demonstrando que tanto a ineficácia quanto a insuficiência dos direitos humanos os caracterizam como um momento necessário, mas não suficiente em um processo maior: o da libertação humana, como soma de todos os seus povos.

**Palavras-chave:** direitos humanos; paradigma eurocêntrico; discursos civilizatórios; colonialismo; crítica decolonial.

## 1 Introduction

In the course of western history, at different times, there have been invasions, occupations, looting and colonization of peoples, conflicts that in the construction and development of nation-states could be considered

as “global” ones. Depending on the historical moment and the respective standard of rationality in force, different speeches were adopted to justify the wars, the looting and the practices of colonization which were in place. In the movements of colonization, this background has allowed countless people to be dominated, plundered or even exterminated, moreover, that the violence which accompanied such processes was justified before humanity on the grounds that the coloniser (of yesterday) or the intervener (of today) in fact, would have the legitimacy to always provide assistance or support to the peoples he dominates and who are now under his “protection”. This happened as described in Western pre-modernity, with the evangelizing mission and the “holy war” or “just war”, and, with the exhaustion of the theocentric rationality, it continued to be so with the civilizing mission, until today.

Hence the relevance of an analysis that seeks to highlight an element of identification, if such an element exists, in the different versions of “civilizing speech” projected in the West. It starts from the assumption that a decolonial perspective regarding the theme is capable of evincing that in different historical moments civilizing speeches took over the role of spreading an Eurocentric guiding reference (paradigm), as well as justifying its imposition before other subordinate subjects on the fringes of civilization. And the decolonial perspective is able to do this because it is a critique enunciated from subalternised bodies and converted into objects of human rights, which, through their critique, claim their position as subjects who also enunciate rights.

Based on this ontological and epistemological tension, this study proposes an approach in relation to human rights and, in a related way, to the system it integrates, international law and its institutions. It is hoped to contribute to the emerging field of decolonial criticism, which in recent years has consolidated new knowledge and driven the transformation of national systems and demanded the democratization of law and the organizations that structure the international system. Therefore, the role of colonization processes and the subsistence of contemporary colonialism, named by Pablo González Casanova<sup>1</sup> as “global colonialism” and by Aníbal Quijano<sup>2</sup> as “coloniality”, must be revealed.

<sup>1</sup> CASANOVA, Pablo González. *O colonialismo global e a democracia*. Rio de Janeiro: Civilização Brasileira, 1995.

<sup>2</sup> QUIJANO, Aníbal. *Colonialidade e modernidade/razionalidade*. *Perú Indígena*, v. 13, n. 29, p. 11-20, 1992. Available at: <http://www.>

led. The perception of these phenomenons provides a critical reflection on the limits (metaphor, as define Mutua<sup>3</sup>) and possibilities (are *necessary*, but not *sufficient* – Dussel's<sup>4</sup>, idea of *mediation*) of human rights. This interaction is sought in the idea of “decolonization of human rights”. So, to contribute to the theoretical and practical process of decolonization of human rights is the central objective of this study.

The methodological adopted will consist of an ana-dialectical approach<sup>5</sup>, as it constitutes a method of Latin American thinking, based on its own historical reality, in a sense in which it transcends dialectics – even Marx's materialist dialectics, by including the perspective of victims in the reflective moment. The ana-dialectical approach consists of understanding the *Totality* (European rationality – Eurocentrism) and its abstract determinations, which in the present study are delimited in human rights (and to a lesser extent, international law and its institutions). To these dialectical-materialist moments, is added the moment *beyond*, the “*and*” (as Dussel call) of ana-dialectical: the critical interpellation from the *Exteriority*, that is, from the victims who are affected by the consensuses of the *Totality*, without being part of its argumentative processes. This critique from *Exteriority* is delimited in decolonial debates, in interdisciplinary articulations, and will deal with a reflection in relation to the civilizing speeches and the paradigms they spread, extracting the analysis references from them, to later be applied in the reflection of what are identifies as manifestations of such speeches.

Employing the method of historical procedure, is presented the guiding thread of history, through which begins and develops the diffusion of a discourse that expands until it reaches – in modernity – a global scale and which maintains, since its origin, the dichotomy between civilised people and barbarians. The adoption of the critical historical procedure derives from its formulation in Wolkmer<sup>6</sup>, which places the conditions for

critical understanding of reality in the historical field, going beyond the strict field of normativity, establishing dialogue with philosophy, sociology, anthropology and other dimensions of knowledge that, despite Cartesian reason, indeed, are inseparable. Methodologically, the procedure examines legal phenomenon as a sociocultural expression, produced dialectically by human interaction through time and materialized by historical sources, legal documents, operating agents and regulatory legal institutions. Thus, the understanding of legal phenomenon demands their critical disciplinary reinterpretation, that is, law needs to be viewed as a reflection of a structure that is formed from the mode of production, relations of societal forces, ideological representations, power manifestations, among other factors.

Through such methodological procedures, it is possible not only to verify, but also to demonstrate the subsistence of colonizing dynamics, that aiming at the homogenization of the Eurocentric paradigm and of dependence and domination historically experienced by peripheral societies. This dynamic in relationships now is highlighted and questioned, especially in the scope of social sciences, in debates such as the one regarding the characterization of insurgencies from the global South, or de political and intellectual called movement named “Third World Approaches to International Law” (TWAAIL), and practices of resistance “from below” instrumentalised by Human Rights. The research technique adopted consists of consulting indirect sources, in particular, literature review. Regarding the selection of theoretical sources, will be prioritized authors from the critical decolonial field, as the TWAAIL, whose studies and theoretical elaborations have contributed to the systematization of a critique of colonial practices and widespread domination in the field of international law and, more specifically, human rights.

Given this scope, the first section will explore some theoretical bases of general nature but/and indispensable to the intended analysis, as a guiding reference (paradigm), which proposes itself as the genesis of the dichotomy between “civilization” and “barbarism”<sup>7</sup>, as well as how such dichotomy served since the beginning of western modernity to legitimise the colonizing violence undertaken against peripheral continents, especially

scribd.com/doc/36091067/Anibal-Quijano-Colonialidade-e-Modernidade-Racionalidade.

<sup>3</sup> MUTUA, Makau. Savages, Victims and saviors: the metaphor of human rights. *Harvard International Law Journal*, Cambridge, v. 42, n. 1, p. 201-245, 2001. Available at: [https://digitalcommons.law.buffalo.edu/cgi/viewcontent.cgi?article=1569&context=journal\\_articles](https://digitalcommons.law.buffalo.edu/cgi/viewcontent.cgi?article=1569&context=journal_articles).

<sup>4</sup> DUSSEL, Enrique. *Ética da libertação: na idade da globalização e da exclusão*. 4. ed. Petrópolis: Vozes, 2012.

<sup>5</sup> DUSSEL, Enrique. *Ética da libertação: na idade da globalização e da exclusão*. 4. ed. Petrópolis: Vozes, 2012.

<sup>6</sup> WOLKMER, Antonio Carlos. *Fundamentos de história do direito*. 3. ed. Belo Horizonte: Del Rey, 2005. WOLKMER, Antonio Carlos.

*História do direito no Brasil*. 2. ed. Rio de Janeiro: Forense, 1999.

<sup>7</sup> ZEA, Leopoldo. *Discurso desde a marginalização e a barbárie*: seguido de A filosofia latino-americana como filosofia pura e simplesmente. Rio de Janeiro: Garamond, 2005.

Latin America, here privileged. The second section, will advance to a reflection on how these discourses supported colonial practices and their subsistence in the form of coloniality, imposing a specific model of rationality as a justification platform for the global classification of modes of reality. The guiding thread between both sections will be the search to demonstrate how the civilizing discourse has been explored as a paradigm of human rights and of international law itself in its hegemonic manifestation.

Finally, the third section will defend the need for a decolonial critique of human rights. In synthesis, such decolonial criticism cannot claim to prescribe a model, nor aspire to a new substantive paradigm, under penalty of becoming, itself, a new colonizing mechanism. However, it can point to some practices – such as emerging models of Latin American constitutionalism, including a pluralist intercultural hermeneutics, as well as some diagnoses of silencing and exclusion, which demand the decolonization of the discourse of human rights and the institutions of international law.

The relevance of such diagnoses is evident in the face of monocultural Eurocentric limits, which even continued to recolonize resistance practices, and which had been promoting achievements, such as those of the aforementioned, Latin American constitutionalism. This practices not only opened up possibilities for the concretization of human rights, but also for the intercultural expansion of their canons. But possibly the main contribution of this text, is in the sense of problematizing ana-dialectically, that both the ineffectiveness and the insufficiency of human rights – for peripheral societies, in a multicultural world – characterizes them as a *necessary* moment, but not *sufficient* in a larger process: that of human liberation, as the sum of all its peoples.

## 2 The civilizational speech and the hegemony of the eurocentric paradigm

“[...] every speech is a certain peculiar expression of humanity”<sup>8</sup>

<sup>8</sup> ZEA, Leopoldo. *Discurso desde a marginalização e a barbárie*: seguido de A filosofia latino-americana como filosofia pura e simplesmente. Rio de Janeiro: Garamond, 2005.

Explicitly, the elaborations of the concept of paradigm that will be explored here are present in Western thought since the work of Plato, for whom such conceptualization meant a model. After Plato, Aristotle used the same term in the sense of example. In both cases, it is possible to notice that the “paradigmatic character” gives the status of a reference for validity or recognition to a comparable object. Contemporary, this attribute distinguished the historical development of the idea until it culminated in its most influential definition in thought; the elaboration of Thomas S. Kuhn<sup>9</sup>, who defines a paradigm as a set of beliefs shared by a group, giving rise to the sense of “paradigmatic tradition” and associating itself to the “discontinuous and revolutionary dynamics of cultural productions”, since a paradigm can be replaced under the influence not only of scientific factors, but also of extra-scientific factors.

The decolonial critic, in its various formulations, will commonly indicate precisely the geographic, political and cultural locus in which the contemporary paradigms were – and still are – conceived, but also seeks to evince the controversies found in the process of diffusing a paradigm from a specific centre – Europe and later North America, to the peripheries. This is a phenomenon which such critic has been naming as “eurocentrism”, whose apex was reached in modernity, but whose historical roots can be traced back to the antiquity. It is true that any type of periodization of history is controversial. Nevertheless, Dussel’s<sup>10</sup> lesson is accurate in regards of the need to divide the movement of history to allow the intelligibility of the continuity of the objective facts that constitute it, just as its criticism is accurate when alerting about the inescapable artificiality of such division into eras, epochs or stages, an artificiality that even interferes with the contents of history themselves. With the awareness of both the convenience and the risks in periodizing history, it is proposed here to reflect upon modern rationality and on how it developed up to the present time, based on the prescription of several ideal models, which, if correctly reproduced, could lead societies to the condition of civilised.

<sup>9</sup> KUHN, Thomas S. *A estrutura das revoluções científicas*. 5. ed. São Paulo: Perspectiva, 1997.

<sup>10</sup> DUSSEL, Enrique. *Oito ensaios sobre cultura latino-americana e libertação (1965-1991)*. São Paulo: Paulinas, 1997. p. 11-12.



This is how the realms of science adopted their specific sets of paradigms, as perceived and systematised by Thomas Kuhn, whose theory, reread by Celso Ludwig, synthesises the paradigm “in a model of rationality, in a theoretical standard, hegemonic in certain moments of history, and accepted by the community that uses it as a foundation of knowledge in the search for understandings and solutions”<sup>11</sup>. Agamben<sup>12</sup> also discusses the concept of paradigm, indicating that it “exerted a decisive influence on the development and global ordering of western society”. By analysing such influence, the author points two political paradigms arising from Christian theology: political theology, from which arises the modern theory of sovereignty, as well as the political philosophy and the paradigm of economic theology, from which arise the biopolitics and the primacy of political economy and government over the remaining aspects of social life.

Modern paradigms, which are in fact proper of a certain community, are announced by the community that conceives them as universal, in a process of dissimulation<sup>13</sup> of its connection with a specific reality, that is, of its origin. Paradigms, as ideal models assumed in modernity, stem from the monopoly in the development of Science and Social Theory, exercised in recent centuries by European and North American countries, and questioned by theorists such as Enrique Dussel<sup>14</sup>, Samir Amin<sup>15</sup> and Immanuel Wallerstein<sup>16</sup>, hence the phenomenon called Eurocentrism. This dynamic is also established in the field of international law, as Emanuele Torne-Jouannet<sup>17</sup> rightly observes:

<sup>11</sup> LUDWIG, Celso Luiz. *Para uma filosofia jurídica da libertação: paradigmas da filosofia da libertação e direito alternativo*. Florianópolis: Conceito Editorial, 2006. p. 26.

<sup>12</sup> AGAMBEN, Giorgio. *O reino e a glória: uma genealogia teológica da economia e do governo: homo sacer*, II, 2. São Paulo: Boitempo, 2011. p. 9-13.

<sup>13</sup> According to Baudrillard “To dissimulate is to pretend not to have what one has”. BAUDRILLARD, Jean. *Simulacros e simulação*. Lisboa: Relógio D’Água, 1991. p. 9.

<sup>14</sup> DUSSEL, Enrique. *Oito ensaios sobre cultura latino-americana e libertação (1965-1991)*. São Paulo: Paulinas, 1997. DUSSEL, Enrique. *1492: o encobrimento do outro: a origem do mito da modernidade, conferências de Frankfurt*. Petrópolis: Vozes, 1993.

<sup>15</sup> AMIN, Samir. *El eurocentrismo: crítica de una ideología*. Madrid: Siglo Veintiuno, 1989.

<sup>16</sup> WALLERSTEIN, Immanuel. *O universalismo europeu: a retórica do poder*. São Paulo: Boitempo, 2007.

<sup>17</sup> JOUANNET, Emmanuelle. Universalism and imperialism: the true-false paradox of international law?. *The European Journal of International Law*, v. 18, n. 3, p. 379-407, 2007. Available at: <https://academic.oup.com/ejil/article/18/3/379/363602>. p. 379.

This paradox stems from the fact that international law, past and present, is the reflection of a particular – Western – culture, whilst at the same time claiming not only to internationalize but also to almost universalize the values that it conveys.

The colonization process included the reproduction of the coloniser’s rationality, situated in an abstract and individualistic humanist culture. In the processes of independence in Latin America, a local elite emerges that adopts and spreads in the form of its own legal tradition the same abstract idealism and rationalist-dogmatic formalism of the law of the former colonisers. In the background of this colonial dynamics, there is the economic extractivism on the colony in the past that subsists in the form of an elitist, exclusive and individualistic socio-political system<sup>18</sup>.

Especially in Brazil, Carvalho and Freitas<sup>19</sup> demonstrate how the civilizational ideology, standardized theoretical production in the field of international law, also reproducing the colonizing legal rationality, initially through the standardization of the doctrines of internationalist jurists from the end of the 19th century onwards. These jurists, while striving to discredit Brazil as a completely uncivilized country, suggested paths and models to conclude the civilizing process, of course, models that led to the European model and its conception of progress. The International Law, attributed to the advances of European “civilization”, was one of these models and the importance of civilizing discourse was not limited to that historical period. It was present in the founding act of the United Nations, in its period of “admissibility” – selecting based on civilizational status which nations could compose the organization, and still maintains assumptions that “are remnants of contemporary domination practices”<sup>20</sup>. Such practices of dominations are visible in certain interventions of international law in internal spheres, under a Eurocentric perception of statehood, and therefore demands, as

<sup>18</sup> WOLKMER, Antonio Carlos; WOLKMER, Maria de Fatima S. A critical perspective on Latin American legal contemporary philosophy. In: JORNADA BRASILEIRA DE FILOSOFIA DO DIREITO, 8., 2013, Belo Horizonte. *Anais* [...]. Belo Horizonte: UFMG, 2013.

<sup>19</sup> CARVALHO, Fabia Fernandes; FREITAS, Lucas Chaves de. Do avesso: organização interna dos estados e a noção de civilização nos textos dos juristas internacionalistas brasileiros entre 1889 e 1930. *Revista de Direito Internacional*, Brasília, v. 20, n. 1, p. 35-51, 2023.

<sup>20</sup> CARVALHO, Fabia Fernandes; FREITAS, Lucas Chaves de. Do avesso: organização interna dos estados e a noção de civilização nos textos dos juristas internacionalistas brasileiros entre 1889 e 1930. *Revista de Direito Internacional*, Brasília, v. 20, n. 1, p. 35-51, 2023. p. 38.

these jurists argue, a better understanding of the interactions between the internal and the international, with a diversity of sources to include other civilizing ideals.

The present study intends to add to this order of theoretical efforts, because as this section aims to demonstrate, the result of the civilizational model that has been established, in the words of Ramón Grosfoguel<sup>21</sup>, are the “hegemonic Eurocentric paradigms that over the last five hundred years have inspired Western philosophy and sciences of the patriarchal/capitalist/colonial/modern world-system”. The author concludes that such paradigms present themselves as neutral and universally valid. Dussel<sup>22</sup> indicates that science, specially the one which is intended to be universal, is the most subtle instrument of domination. This is because, in the philosopher’s perception, there is no universal science: all science is founded on essential choices (political, cultural, among others), which precede science itself or its paradigms. It is thus evident how politics conditions science, since it is the surroundings of the community that gives science its project.

It was under the guidance of this colonial project of western modernity (15th and 16th centuries) that the indigenous peoples of the peripheral continents were conquered, catechised, and baptised in Christianity; that the peoples of the African continent were enslaved; that the soul of all these peripheral bodies (Latin America, Africa and Asia) was placed under suspicion and subordinated. Later, the extraction of natural resources intensified, and industries penetrated the forests, often with resistance and struggle from local peoples who did not accept to watch the looting of their riches to nourish the development of the metropolis, or of the central countries. Milton Santos<sup>23</sup> describes such trajectory as “the opium: from religion to consumption”, in which religions fought battles to instill in the spirits their code of coexistence and particular morality and that consumption instills faith through objects, distributed in the “modern temples” of consumerism (including in the architectural style): represented by shopping cen-

ters and supermarkets; it is the subordination of all the other models, including the civic one, to the economic model.

And then spirituality, that was once the foundation of civilizing speech and violent practices of colonization, was replaced by development – economic and technological. At one time or another, a large part of humanity was put to fulfill the project given by the daily life of European empires and their pretension of civilizational globalization. According to Cárdenas, Ortiz and González<sup>24</sup>, Europe places itself not only as a geographical space, but also as a “dominant figure”, as a reference to identify and recognise which experiences are valid, which allows the dissemination of its conceptual constructions and the reaffirmation of its paradigms, as well as the guarantee of its “civilizing” hegemony<sup>25</sup>.

This is how the “flames of the Spanish Inquisition” acted: although Mayan society was – as far as is known – one of the few with a writing system, this system was destroyed under the orders of the bishop of Yucatan, Friar Diego de Landa, who in 1562 ordered the burning of dozens of Mayan books and codices<sup>26</sup>. However, after rigorous study of ancient scripts, Houston, Baines

<sup>24</sup> CÁRDENAS, Diego; ORTIZ, Luisa Fernanda; RODRÍGUEZ GONZÁLEZ, Germán Darío. Globalización y cultura jurídica: una mirada a dos tradiciones paradigmáticas. In: CÁRDENAS, Diego *et al.* *Aproximaciones a la cultura jurídica en Latinoamérica y Colombia*. Bogotá: Universidad Nacional de Colombia, 2016. p. 83-101. p. 84.

<sup>25</sup> Hegemony is defined as the domination of a group over the whole society. The command of the dominant group emanates from the State and the “legal” government, relying on intellectuals who exercise subordinate functions of hegemony, as “deputies”, contributing to the formation of a “spontaneous” consensus that starts from the orientation of the dominant group in relation to social life and the foundation of the coercive power of the State to the great masses. The foundation of state coercion, in turn, stems from the legal exercise of power, applied in the discipline of those who diverge from the order, or, in the crisis, when consensus disappears, applied to the whole society. GRAMSCI, Antonio. *Cadernos do cárcere: os intelectuais, o princípio educativo, jornalismo*. 2. ed. Rio de Janeiro: Civilização Brasileira, 2001. v. 2. p. 20-21. In this specific case, civilizing discourses fulfill the function of affirming the superiority of certain peoples, cultures or societies, converting them into true champions, while disguising the self-declaration of superiority and the controversies in the processes of intervention over other peoples, cultures or societies.

<sup>26</sup> DOMÍNGUEZ AVILA, Carlos Frederico. Origen e transformações do estado e da sociedade na América Latina: apontamentos sobre o cânone maia. *Hegemonia: Revista Eletrônica do Programa de Mestrado em Direitos Humanos, Cidadania e Violência/Ciência Política do Centro Universitário Unieuro, Brasília*, n. 22, p. 127-156, 2017. Available at: [http://www.unieuro.edu.br/sitenovo/revistas/revista\\_hegemonia\\_22/Carlos%20F%20Dom%20C%20ADnguez%20Avila%20\(7\).pdf](http://www.unieuro.edu.br/sitenovo/revistas/revista_hegemonia_22/Carlos%20F%20Dom%20C%20ADnguez%20Avila%20(7).pdf).

<sup>21</sup> GROSFOGUEL, Ramon. Para descolonizar os estudos de economia política e os estudos pós-coloniais: transmodernidade, pensamento de fronteira e colonialidade global. In: SANTOS, Boaventura de Sousa; MENESES, Maria Paula (org.). *Epistemologias do Sul*. São Paulo: Almedina, 2010. p. 455-491. p. 458.

<sup>22</sup> DUSSEL, Enrique. *Oito ensaios sobre cultura latino-americana e libertação (1965-1991)*. São Paulo: Paulinas, 1997. p. 140.

<sup>23</sup> SANTOS, Milton. *O espaço do cidadão*. 7. ed. São Paulo: Editora da Universidade de São Paulo, 2007. p. 48.

and Cooper<sup>27</sup>, discovered a complex script in pre-colonial Maya society and, analysing the signs of its evolution and decay, assumed that Spanish clerics had little understanding of its structure and what it made known, and such clerics, for the most part, encouraged the burning of books or, at most, admitted the usefulness of calendars only for agriculture. There was talk of thousands of books about the Mayan culture – perhaps an exaggeration by the Spaniards to praise the triumph of their destructive mission – but the researchers conclude that, without a doubt, the destruction of that language allowed the uprooting of the community’s glyphic writing, this being the condition of diffusion of the Roman alphabet<sup>28</sup>.

Santiago Castro-Gómez<sup>29</sup> defines as “zero point” the process consolidated from the 18th century onwards, with the creation of a metalanguage to meet the pretension of a universal science, able to overcome the deficiencies of particular languages. But this “universal science” was constructed as if it were not located at any point on the map, as if it were “neutral” and observed the world from that “non-place”. That’s not the case. Also in the 18th century, the Russian Empress Catarina II asked the King of Spain, Charles III, for a compilation of languages originating in Latin American lands, to contribute to her project of identifying the universal bases of human languages. The king complies with the request, but that same sovereign had, two decades before, prohibited the use of these languages and determined the evangelization and literacy in Castilian, because his project for the colonies was another: to unify the language, subsuming the “vassals” in the voice of the coloniser, his mode of production, his way of life. So, he would free the colonised from their ignorance. This was followed by the diffusion of Spanish, English, French and Portuguese around the world, a phenome-

non that decolonial theorists perceived and emphasised as incomprehensible if dissociated from colonialism.

It is an imperial political imposition of language, even extending over the domain of the sciences, which also develop their own language, equally governed by colonial logic and, therefore, which conceals its particularity to impose itself as a universal standard. This form of domination has been increasingly criticized, while the linguistic rights of indigenous communities are claimed, since the “[...] non-recognition of LR of Indigenous Tribal Minorities, results in injustice and violation of their human rights”<sup>30</sup>. Such injustices are evident, for example, in the semantic reduction that operates on human rights, as Joaquim Herrera Flores<sup>31</sup> points out in the context of globalization of capitalist rationality. This goes through the generalization of individualist ideology (one of the elements of the colonizing discourse that operates as a subtext of the contemporary civilizing discourse, as has been argued in this analysis). In this way, still according to Herrera Flores, human rights are converted into mere conservative or evangelizing rhetoric, when they should be used to solve the real problems of humanity, which, according to the author, requires the theoretical redefinition of such rights.

### 3 Justification platforms of colonialism and coloniality

“If universality is not imposed, difference is not inhibited”<sup>32</sup>

Between the 15<sup>th</sup> and 16<sup>th</sup> centuries, in the West, direct domination was established through colonization expeditions – the colonialism<sup>33</sup>. This form of domination was rejected by the struggles for independence, first in Latin America and later in Africa and Asia. Ne-

<sup>27</sup> HOUSTON, Stephen; BAINES, John; COOPER, Jerrold. Last writing: script obsolescence in Egypt, Mesopotamia, and Mesoamerica. *Comparative Studies in Society and History*, v. 45, n. 3, p. 430-479, 2003. Available at: <https://ora.ox.ac.uk/objects/uuid:858cada1-8d44-4695-8972-9520b28d3aba>. p. 468.

<sup>28</sup> HOUSTON, Stephen; BAINES, John; COOPER, Jerrold. Last writing: script obsolescence in Egypt, Mesopotamia, and Mesoamerica. *Comparative Studies in Society and History*, v. 45, n. 3, p. 430-479, 2003. Available at: <https://ora.ox.ac.uk/objects/uuid:858cada1-8d44-4695-8972-9520b28d3aba>.

<sup>29</sup> CASTRO-GÓMEZ, Santiago. *La hybris del punto cero: ciencia, raza e ilustración en la Nueva Granada (1750-1816)*. Bogotá: Editorial Pontificia Universidad Javeriana, 2005. Available at: <http://biblioteca.clacso.edu.ar/Columbia/pensar-puj/20180102042534/hybris.pdf>. p. 11-14.

<sup>30</sup> HUQUE, Sheikh Sultan Aadil; MAHESHWARI, Chimirala Uma. Language rights of Indigenous Tribal Minorities (ITM) and their protection under the ambit of human rights law. *Revista de Direito Internacional*, Brasília, v. 19, n. 3, p. 190-227, 2022. Available at: <https://www.publicacoacademicas.uniceub.br/rdi/article/view/8407>. p. 191

<sup>31</sup> HERRERA FLORES, Joaquín. *A (re)invenção dos direitos humanos*. Florianópolis: Fundação Boiteux, 2009.

<sup>32</sup> HERRERA FLORES, Joaquín. *A (re)invenção dos direitos humanos*. Florianópolis: Fundação Boiteux, 2009. p. 21.

<sup>33</sup> FERRO, Marc (org.). *O livro negro do colonialismo*. Rio de Janeiro: Ediouro, 2004.

vertheless, colonialism was succeeded by imperialism and in any case, left as a legacy the human subcategorization, the division of the world's peoples into races, an idea that was very useful to make viable the conditions of exploitation of the world, given that the colonised ethnicities, starting with America, were the most plundered. The legacy left by colonialism subsists in the form of "coloniality", a form of domination even more complete and effective through which three axes of domination projected on a global scale converge: race, gender and work<sup>34</sup>. The coloniality would subsume contemporary institutions, including the narrative of human rights, in terms such as those analysed by Makau Mutua<sup>35</sup>, for who speaks of a metaphor in the discourse of these rights that "carries racial connotations in which the international hierarchy of race and colour is reinforced and revitalised. The metaphor is in fact necessary for the continuation of the global racial hierarchy".

The author refers to the metaphor of the saviour (white man) and the savages and victims (non-white men), dichotomy that Karine de Souza Silva<sup>36</sup> problematizes in her blunt criticism of the instrumentalization of international law by whiteness, projecting the "white racial identity as an ideal of innocence", and black racial identity as a pattern of criminality, so that the rationality of international law and its institutions continue to be guided by civilizing discourse. As an expression of coloniality, explains the jurist, the field incorporates the "narcissistic narrative of the colonizer" and their determining axes, such as domination and race and gender, in which specific bodies are marked by the absence of rationality and, therefore, subject to colonization and guardianship.

This domination had already been understood by the Ghanaian political leader Kwame Nkrumah<sup>37</sup> who

coined the term *neocolonialism* to describe imperialism in its final and, perhaps, most dangerous stage, because it was based on the "appearance" given to States of political independence and sovereignty in international relations, but with the maintenance of external direction on economics and politics. Evaluating this as an African problem, he does not fail to recognise it as common everywhere, underlining aspects such as the transfer of control from the hands of the metropolitan States to their financial consortia, enriching them while further impoverishing the exploited peoples.

Thus, it can be said that "coloniality" differentiates from "colonialism", because, although it only exists as a derivation of it, coloniality proves to be more lasting. Colonialism is the system in which the control of the means of production, natural resources and the political power of a population are exercised by a metropolis from another territorial space. In this sense, since the 15<sup>th</sup> century the colonialism over Latin America allows the internationalization of capitalism's economic model. Colonialism and Coloniality start merging to meet the needs of Eurocentric capitalism, thus inaugurating modernity, with a logic of power that will extend over the different types of human activities, dominating, especially, their forms of knowledge production. This dynamic becomes more evident from the 18th century onwards, when the Enlightenment (movement) effectively spreads the ideology that Europe is prior to the colonial pattern of power, therefore, the referential of evolution and rationality. Thus, reinforcing one of Coloniality's essential cores: the idea of humanity with inferior and superior races; primitives and civilised. In short: the traditional and the modern<sup>38</sup>.

This idea of "civilization" as a universal paradigm and its meaning, according to Zea<sup>39</sup> traces back to ancient Greek tradition, where the denial of the paradigm was the "barbarism". Speaking Greek was the condition for not being barbaric. After, the romans take the speech attributing barbarism to those who lived outside the city, the civitas. The dynamic established through such dichotomy (civilization/barbarism) defined western re-

<sup>34</sup> QUIJANO, Aníbal. Colonialidade e modernidade/racionalidade. *Perú Indígena*, v. 13, n. 29, p. 11-20, 1992. Available at: <http://www.scribd.com/doc/36091067/Anibal-Quijano-Colonialidade-e-Modernidade-Racionalidade>.

<sup>35</sup> MUTUA, Makau. Savages, victims and saviors: the metaphor of human rights. *Harvard International Law Journal*, Cambridge, v. 42, n. 1, p. 201-245, 2001. Available at: [https://digitalcommons.law.buffalo.edu/cgi/viewcontent.cgi?article=1569&context=journal\\_articles](https://digitalcommons.law.buffalo.edu/cgi/viewcontent.cgi?article=1569&context=journal_articles).

<sup>36</sup> SILVA, Karine de Souza. "Meu mundo, minhas regras": direito internacional, branquitude e o genocídio do povo negro brasileiro. *Revista de Direito Internacional*, Brasília, v. 20, n. 1, p. 11-34, 2023. Available at: <https://www.publicacoesacademicas.uniceub.br/rdi/article/view/8634/pdf>.

<sup>37</sup> NKUMAH, Kwame. *Neo-colonialism, the last stage of imperialism*. 1965. Available at: <https://www.marxists.org/subject/africa/nkrumah/neo-colonialism/introduction.htm>.

<sup>38</sup> QUIJANO, Aníbal. Colonialidade do poder e classificação social. In: SANTOS, Boaventura de Sousa; MENESES, Maria Paula (org.). *Epistemologias do Sul*. São Paulo: Almedina, 2010. p. 84-130.

<sup>39</sup> ZEA, Leopoldo. *Discurso desde a marginalização e a barbárie*: seguido de A filosofia latino-americana como filosofia pura e simplesmente. Rio de Janeiro: Garamond, 2005. p. 51-52.

relationships based on power and dependence, between the centre (civilised) and the periphery (barbarism), leading to the crystallization of Europe as a group of civilised nations. This dichotomy persists to this day, in an ideology that Makau Mutua<sup>40</sup> defines as a “metaphor of human rights” and which is based on the triad of savages, victims and saviours, including the discourse of human rights, as will be discussed in the third section.

In the beginning of colonization, in the end of the 15<sup>th</sup> century, the European worldview was theocentric. In its historical genesis, there is the recognition of the Christian religion, in 333 a. C. and in 391 a. C. its declaration as the official religion in Rome. This vision spread over the following centuries to other areas of the European continent so that, in 1493, Pope Alexander VI grants to the Catholic kings Isabel and Ferdinand, the Bull of Participation, or Bull *Inter Caetera*, which gave them dominion over the New World, as long as they spread the Christian faith<sup>41</sup>. It should be noted that the theocentric worldview was allied with a certain juridical culture and this is the reason why the Pope’s authorizing was an indispensable fundament of validity in order to guarantee the exploitation of the riches of the “new” continent (America).

As Antonio Carlos Wolkmer<sup>42</sup> explains, in the beginning Spain’s right to dominate the Indies was discussed, a controversy that was only resolved with the recognition, by Pope Alexander VI, of the “evangelizing mission”. But such recognition inaugurated another problem: that of defining the extent to which this mission authorised the wars and the servitude of indigenous peoples. Two tendencies emerge: the first maintained the superiority of the European over the savage and sinful condition of the natives, who should serve their superiors, and, in the refusal, the war would be just. This position was “legalised” in 1514, with the *Requirement (Requerimento)*, written by Palacios Rubios, authorizing the “just war”. The second tendency was represented

by theologians Francisco de Vitória and Domingos de Soto and by the Dominican religious Montesinos, Las Casas and Valdivieso. These theologians presented natural law as their basis and questioned the legitimacy of extending Spanish jurisdiction over its boundaries, but, above all, defended the dignity and rights of indigenous peoples.

The same 16th century rhetoric of “Just War” is taken up again in contemporary times, as Jouannet points out, to justify armed interventions, while they continue to aspire to the universalization of Western-specific values, therefore reproducing contradictions that are supported by part of the scientific community, so that the jurist considers

[...] worrying to see many renowned philosophers defending, alongside a number of jurists, armed interventions on the sole basis of morality and legitimacy, while considering, of course, that this option should only be open to Western liberal states<sup>43</sup>

Before the exhaustion of the speech and of the evangelizing mission trusted to the colonisers, to these was guaranteed a right of “indemnity” to cover their expenditures in carrying out their task. One of the ways to indemnify the evangelist-coloniser-conqueror was through the so called *encomiendas*. According to Antonio Carlos Wolkmer<sup>44</sup> this was the main labour regime in indigenous America: under the *encomienda* system, a coloniser could use the labour of free Indians, as long as he “protected” them. This resulted in both disguised slave labour and the preservation of communities, but Christianizing natives. While in the Spanish colonies there was the exploitation of metals, in the Portuguese colonies tropical products were exploited and, with indigenous resistance and extermination, African slaves were brought. Both colonies served the interests of the metropolises and in colonization, the speeches of evangelization interacted with the mercantile practice<sup>45</sup>.

In Latin America, there was a combination of physical violence and of moral violence by the colonisers against native peoples, which directly affected the digni-

<sup>40</sup> MUTUA, Makau. Savages, victims and saviors: the metaphor of human rights. *Harvard International Law Journal*, Cambridge, v. 42, n. 1, p. 201-245, 2001. Available at: [https://digitalcommons.law.buffalo.edu/cgi/viewcontent.cgi?article=1569&context=journal\\_articles](https://digitalcommons.law.buffalo.edu/cgi/viewcontent.cgi?article=1569&context=journal_articles).

<sup>41</sup> PIRES, Sérgio Luiz Fernandes. O aspecto jurídico da conquista da América pelos espanhóis e a inconformidade de Bartolomé de Las Casas. In: WOLKMER, Antonio Carlos. *Direito e justiça na América Indígena: da conquista à colonização*. Porto Alegre: Livraria do Advogado, 1998. p. 55-73. p. 56-64.

<sup>42</sup> WOLKMER, Antonio Carlos. *Direito e justiça na América Indígena: da conquista à colonização*. Porto Alegre: Livraria do Advogado, 1998. p. 83-85.

<sup>43</sup> JOUANNET, Emmanuelle. Universalism and imperialism: the true-false paradox of international law?. *The European Journal of International Law*, v. 18, n. 3, p. 379-407, 2007. Available at: <https://academic.oup.com/ejil/article/18/3/379/363602>. p. 389.

<sup>44</sup> WOLKMER, Antonio Carlos. *Direito e justiça na América Indígena: da conquista à colonização*. Porto Alegre: Livraria do Advogado, 1998. p. 79-80.

<sup>45</sup> HÖFFNER, Joseph. *Colonização e evangelho: ética da colonização espanhola no século de ouro*. 3. ed. Rio de Janeiro: Presença, 1986.

ty of these peoples, taking away their quality of human being. And as Bartolomé de Las Casas' denunciations of cruelty practiced by the colonisers did not cease, the Royal Council's reaction came in the affirmation that "the Indians were on the last steps of the scale of humanity to be able to receive the faith"<sup>46</sup>. Bartolomeu de Las Casas, who was even named Protector of the Indigenous, even suggested the importation of black slaves to supply the Spaniards' needs for manpower, but, years later, he acknowledged his error, stating that the same law should be applied to the Indigenous and to blacks. Debates over whether or not Indigenous have a soul lasted for many years. This debate ended only when Pope Paul III, chosen in 1534, determined that the Indigenous were rational beings, since no one would dare to question the Pope's authority. Unfortunately, in practice, the treatment given to the Indigenous remained the same<sup>47</sup>. However, the profound social transformations redefined the role of religion, strongly impacting the political power and the role of juridicity until then exercised by the Roman Catholic Church.

Through the genocides of the 16<sup>th</sup> century, it was articulated the project according to which the European man was put as the epistemic centre of the world. At this moment Christian God (Eurocentric) stops being necessary: the new God is the Western man. The first moment of colonialist racism is the discussion over the soul: peoples with soul and peoples without soul (inferior races). However, in the light of Christianity, this was a dubious debate, since "all are children of God", therefore, equal. Due to its contradictions, religious racism no longer served, being replaced by scientific racism in the 19<sup>th</sup> century. In this process, Europe appropriates knowledge, ignoring spirituality and ethics, becoming a dangerous project, since it was a project without ethics, in which there are no limits to reason. And this Eurocentric reason became the source of knowledge and measurement of all other, for sure, inferior<sup>48</sup>.

The point is that today, whether in the global projection of an economic model, a model of domination and exploitation of nature, in the predominant rationality

in international organizations, or in the monocultural character of human rights, the same ideology underlies albeit in a more subtle way, in the new discourse's civilisers: classifying humanity, by hierarchizing, in order to justify, by the (self-declared) superiority of a people and your mode of reality, which materialises for other peoples as the economic, political, cultural, ontological and other ways of domination. And with regard to international relationships, the current idea of sovereignty suggests that there independence and equality, but this appearance does not correspond to the truth, in which colonialism and various forms of dependence remain, as it is intended to analyze through a critical reflection about the powerful instrument of mediation in international relations: the discourse of human rights.

#### 4 The need to decolonise the human rights discourse

"The fact is that the vast majority of the world's population is not the subject of human rights, but the object of human rights discourses"<sup>49</sup>

Viljoen explains how human rights and their internal projection – as fundamental rights – are identified, chronologically, from a movement triggered by the French Revolution that would delimit them into three successive "generations": the rights of freedom, equality, and fraternity. In its most remote genesis, it also cites Magna Carta, in England in the 13<sup>th</sup> century. So, human rights are situated in a struggle against the oppression of the previous model (absolutist States in Europe), originating as freedom conquests, initially, being impacted by economic inequalities that came later and changed the role of the State. In this second moment, industrialization and poverty imposed a more articulated State, which, in turn, was also impacted by globalization and concerns that reached worldwide proportions<sup>50</sup>.

In the same sense, Fernanda Bragato characterises the dominant theory of human rights as a result of its

<sup>46</sup> GALEANO, Eduardo. *As veias abertas da América Latina*. 45. ed. Rio de Janeiro: Paz e Terra, 2005. p. 62. LAS CASAS, Bartolomé de. *O paraíso destruído*. Porto Alegre: L&PM, 1984.

<sup>47</sup> POMER, Leon. *História da América hispano-indígena*. São Paulo: Global Editora, 1983. p. 86-87.

<sup>48</sup> GROSFUGUEL, Ramon. Hay que tomarse en serio el pensamiento crítico de los colonizados en toda su complejidad. *Metapolítica*, Puebla, n. 83, p. 38-47, 2013.

<sup>49</sup> SANTOS, Boaventura de Sousa. Para uma nova visão da Europa: aprender com o Sul. In: SANTOS, Boaventura de Sousa; MENDES, José Manuel. *Demodiversidade: imagina novas possibilidades democráticas*. Belo Horizonte: Autêntica Editora, 2018. p. 51-72. p. 59.

<sup>50</sup> VILJOEN, Frans. International human rights law: a short history. *United Nations*, [2009?]. Available at: <https://www.un.org/en/chronicle/article/international-human-rights-law-short-history>.

central concepts, which underlie it: rights born from European political struggles and corresponding aspirations (historical-geographical dimension) and rights related to an individual, rational and self-sufficient being (philosophical-anthropological dimension) and thus, “[...] this discourse emphasises an idea of human being typical of modern-bourgeois ideas”<sup>51</sup>. Such a dominant theory is part of a system that is hegemonically defined based on the same particular conceptions – European and North American bourgeois culture. In this hegemonic manifestation – highlighted in international economic law, there are authors who recognize a “Imperial International Law, under the agency of the World Bank and the circulation of a hegemonic developmentalist legal culture conveyed in *The World Bank Legal Review*”<sup>52</sup> identifying a structural, mutual and inescapable relationship between international law and imperialism, which, in turn, evidencing the need to decolonize such a system. Hence, international law, but mainly human rights, are increasingly a space of struggle and resistance, assumed as a field of theoretical dispute also by decolonial thought, despite many of its strands, historically, not having aimed for this type of formalization.

In this sense, it is important to comment on the decolonial approach in the struggle for rights. Geslin and Jouannet problematize the role of “recognition” in the decolonization of international law. Noting Western European values at the basis of international law, they summarize the form of interaction in which this law and its discourses colonize national systems, reproducing relations of domination under the allegation to protect the weak and promoting equality. They shrewdly conclude that it is not enough for a legal norm to state decolonization for it to take place in the minds of jurists (in fact, this was proven in the Bolivian system, as will be mentioned later): legal knowledge also needs to be decolonized. They argue that

To the extent that the notion of recognition allows us to articulate the material and symbolic dimensions of the relations of domination at work on the

<sup>51</sup> BRAGATO, F. F. Para além do discurso eurocêntrico dos direitos humanos: contribuições da descolonialidade. *Novos Estudos Jurídicos*, Itajaí, v. 19, n. 1, p. 201-230, 2014. Available at: <https://periodicos.univali.br/index.php/nej/article/view/5548>.

<sup>52</sup> LEITÃO, Roberto Guilherme; LEITÃO, Rômulo Guilherme. Direito internacional imperial e a circulação de uma cultura jurídica hegemônica: por uma matriz desenvolvimentista brasileira. *Revista de Direito Internacional*, Brasília, v. 19, n. 3, p. 51-70, 2022. Available at: <https://www.publicacoesacademicas.uniceub.br/rdi/article/view/8622>. p. 52, our translation.

international scene and in the legal order that the structure, ‘decolonization’ and ‘recognition’ are two closely linked paradigms<sup>53</sup>.

But the idea of “recognition” does not have the same meaning in certain struggles of resistance and decolonization of law, as in the emblematic Bolivian case. Subjected to critical-decolonial scrutiny, the term recognition can be understood as a colonizing instrument, by assuming a system as a “reference model” (the modern State) in relation to “referential or referent objects” (original indigenous systems). For this reason, indigenous peoples organizations chose to avoid using the term in the 2009 Bolivian Constitution:

This is because the organizations of the Unity Pact, which were the drafters [of the Constitution], understood that the State should not recognize anything. Since the preexistence of indigenous peoples to the Colony and the Bolivian State is an unquestionable historical reality, the emerging plurinational State had to guarantee the aspects related to self-determination and its legal implications<sup>54</sup>.

It is true that an important network followed in the process of disseminating human rights, represented by the United Nations, and materialised in the set of mechanisms for the defence of rights resulting from its institutionalization. So much so that the struggle for decolonization does not postulate the rejection of human rights and their protection systems, but rather their intercultural interpretation and, as the critical perspective does, (mainly decolonial) historically and ontologically situates the substantive dimension of these rights, whose idea of universality is so widespread that it even becomes difficult to problematise. In fact, in their origin and historical development, human rights are not universal, they are aspirations of the white, European, modern man. And decolonial thinking brings a perspective that can reveal contradictions in the project of modernity, because by considering the “colonial wounds of Ameri-

<sup>53</sup> GESLIN, Albane; TOURME-JOUANNET, Emmanuelle. Propos introductifs: décoloniser et refonder le droit international au prisme de la reconnaissance. In: GESLIN, Albane; TOURME-JOUANNET, Emmanuelle (org.). *Le droit international de la reconnaissance, un instrument de décolonisation et de refondation du droit international?*. Aix-en-Provence: Confluence des Droits, 2019. p. 11-15. Available at: <https://sciencespo.hal.science/hal-02446011v1>. p. 14.

<sup>54</sup> TAMBURINI, Leonardo. La jurisdicción indígena y las autonomías indígenas. In: SANTOS, Boaventura de Sousa; EXENI RODRÍGUEZ, José Luis (org.). *Justicia indígena, plurinacionalidad e interculturalidad en Bolivia*. 2. ed. Quito: Fundación Rosa Luxemburgo, 2013. p. 249-274. p. 254, our translation.

ca” it becomes capable of questioning “the geopolitics of knowledge and the coloniality of power”<sup>55</sup>.

In its pioneering formulation, in 1789, the Declaration of the Rights of Man and Citizen, played an unprecedented revolutionary role, overcoming monarchical absolutism, a deeply concentrated model of oppression that subjugated various social classes. But later, it became a space epistemologically determined by the interests that became hegemonic along with the emergence of the new rationality, liberal-individualist and north-Eurocentric. The North-Eurocentric civilizing hegemony, mentioned in the first section, is guaranteed in the projection of this *locus* as a superior bastion of universal culture through its political-legal concepts, such as: “citizenship, State, civil society, public sphere, human rights, equality before the law, individual, distinction between public and private, idea of subject, democracy, popular sovereignty, social justice, scientific rationality, etc.”<sup>56</sup>. Such institutions and their meanings have been debated for decades by a political and intellectual movement called “Third World Approaches to International Law” (TWAIL).

Although the term “third world”<sup>57</sup> has been “strongly delegitimised by traditional scholars”, brought together this group of scholars who claim the legitimacy of this *locus* of enunciation of knowledge, from which severe criticism is opposed to the subsistence of colonialism in the consciousness of peoples and institutions subjected to colonization processes. The TWAIL diagnoses an “Imperial Global State” that operates by transferring the sovereignty of States to institutions control-

led by a transnational capitalist class, which some of these theorists understand as a “hegemonic legal order” under which international law continues to play a role as an instrument of oppression of the former colonies. There is a discussion about the origins of third world approaches, which is situated by some shortly after World War II, and by other intellectuals in the late twentieth century, TWAIL I and II, respectively. Both analyse the discourse of human rights, the first centring reflection on the right to development and bringing human rights closer to the action of States, while the second was concerned with individuals, marginalised groups such as women, peasants and other bodies not recognised by previous approaches, including TWAIL I. Thus, in an important way, TWAIL II was characterised by criticism of international human rights law, including the universalist character that these rights assume, defined by a universal and official “*corpus*” based on European philosophy, and the type of culture they aim to spread, without any kind of adaptation<sup>58</sup> to the needs of the Third World. Another criticism made by the same strand, “[...] is that they are a way to civilise peoples mired in a savage and barbaric culture (that is, the Third World), and a way to impose European standards often used as a toll for colonialist or imperialist practices and interventions”<sup>59</sup>.

In the context of these debates, the criticism formulated by the Kenyan theorist and professor of Human Rights and International Law at the University at Buffalo School of Law, Makau Mutua, has been very important. Mutua understands the “damning metaphor” of human rights that is based on a subtext, supposedly neutral and universal, but that divides savages on one side and victims and saviours on the other. This narrative, of victims-savages-saviours (SVS), is conducted hegemonically in a way “unidirectional and predictable, a black-and-white construction that pits good against evil”. Without disregarding the importance of human rights, attention should be paid to their Eurocentric na-

<sup>55</sup> ROSSI, Amélia Sampaio; KOZICKI, Katya. A colonialidade do direito: constitucionalismo e direitos humanos como categorias modernas em desconstrução. *Revista Culturas Jurídicas*, v. 8, n. 21, p. 23-50, 2021. Available at: <https://periodicos.ufr.br/culturasjuridicas/article/view/48342/32195>. p. 24.

<sup>56</sup> CHAKRABARTY, Dipesh. *Al margen de Europa*. Barcelona: Tusquets, 2008. p. 30.

<sup>57</sup> “The term ‘Third World’ here refers to a geographic, political, historical, developmental, and racial paradigm. It is a term that is commonly used to refer to non-European, largely non-industrial, capital-importing countries, most of which were colonial possessions of European powers. As a political force, the Third World traces its origins to the Bandung Conference of 1955 in which the first independent African and Asian states sought to launch a political movement to counter Western hegemony over global affairs (MUTUA, Makau. Savages, victims and saviors: the metaphor of human rights. *Harvard International Law Journal*, Cambridge, v. 42, n. 1, p. 201-245, 2001. Available at: [https://digitalcommons.law.buffalo.edu/cgi/viewcontent.cgi?article=1569&context=journal\\_articles](https://digitalcommons.law.buffalo.edu/cgi/viewcontent.cgi?article=1569&context=journal_articles). p. 206.

<sup>58</sup> Regarding the possibility of adaptation, there are comments below regarding the decolonial praxis and intercultural use of human rights, as example, in the Bolivian constitutional hermeneutics that began in 2009. This praxis demonstrates the necessary, but not sufficient, nature of human rights; it demonstrates a dimension that can be rescued from this discourse as a strategy for human emancipation.

<sup>59</sup> RAMINA, Larissa. TWAIL: Third World Approaches to International Law and human rights: some considerations. *Revista de Investigações Constitucionais*, v. 5, n. 1, p. 261-272, 2018. Available at: <https://revistas.ufpr.br/rinc/article/view/54595>.



ture – after all, such rights are the result of a particular struggle, that of societies subjected to tyrannies in Europe, and this undermines the movement’s basic claim to universality. So much so that pioneering and fundamental movements for human rights, such as the anti-slavery struggles, the struggles for women’s suffrage, anti-colonial struggles and many others that preceded the movement led by the United Nations in the post-World War II period, were neglected or underestimated in this process. So evaluate that “The arrogant and biased rhetoric of the human rights movement prevents the movement from gaining cross-cultural legitimacy” and in the face of this arrogance, “There is an urgent need for a human rights movement that is multicultural, inclusive, and deeply political”, a new movement is needed that overcomes Eurocentrism, no longer treating Eurocentrism as a starting point and other cultures as peripheral. “In order ultimately to prevail, the human rights movement must be moored in the cultures of all peoples”<sup>60</sup>.

Reviewing the contributions of TWAIL, Ramina mentions that among the flaws in the Eurocentric discourse of human rights, there is its subsumption to a particular culture, an ideology: liberalism. It so happens that these rights, which emerged to protect the European bourgeois class from its former absolutist States, translate a culture that does not attack the causes of inequalities, and this is still the greatest challenge of the Third World. This calls for a historical approach to the socio-economic rights of colonial societies and to go beyond the textual, formal, and institutional approach to human rights. It is necessary to recognise its role as a strategy or tactic of emancipation, identifying which of its contents are effectively universalizable, but not assuming them as the final objective, as this way one can perceive the contradictions in the manipulated use of human rights to promote neoliberal interests, when manipulated in this way, the human rights discourse serves as a platform for justifying an essential structure that remains: the civilizing mission of the Global North<sup>61</sup>.

<sup>60</sup> MUTUA, Makau. Savages, victims and saviors: the metaphor of human rights. *Harvard International Law Journal*, Cambridge, v. 42, n. 1, p. 201-245, 2001. Available at: [https://digitalcommons.law.buffalo.edu/cgi/viewcontent.cgi?article=1569&context=journal\\_articles](https://digitalcommons.law.buffalo.edu/cgi/viewcontent.cgi?article=1569&context=journal_articles). p. 206-208.

<sup>61</sup> RAMINA, Larissa. TWAIL: Third World Approaches to International Law and human rights: some considerations. *Revista de Investigações Constitucionais*, v. 5, n. 1, p. 261-272, 2018. Available at: <https://revistas.ufpr.br/rinc/article/view/54595>.

This civilizing mission, with a global reach, was pioneered by Europe in the colonial invasion of Abya Yala<sup>62</sup> in the 16th century and is based on the creation of the Indian and the black. From this historical experience narrated as “discovery”, the asymmetric distribution of power (not only geopolitical, but also geocultural), established a colonial difference. It so happens that this difference is hidden by the civilizing discourse, a logic that accompanies modernity, including the formation and development of human rights. The historical formation of human rights is a Eurocentric process, since its key events do not go beyond the geographical borders of European metropolises (English and French revolutions, American independence and even the Holocaust). Despite this, it is a story presented as universal and to tell the story of human rights in this way, it is necessary to silence the colonial difference and human hierarchization, racism, which are hidden in it; the success of the ideology of universalization of human rights imposes the need to conceal the difference that hierarchises bodies, with a “colour line”<sup>63</sup>.

Strong evidence of the silencing of this colonial difference and the monocultural limits of institutions, including in international law, is the absence of an goal in the 2030 agenda expressly dedicated to combating racism<sup>64</sup>. Which, in turn, highlights the need to decolonize

<sup>62</sup> Abya Yala was how the ancient peoples called the Latin American continent. Initially, it was an expression used by the Tule-Kuna community, who lived in the Panama region, and later many others began to adopt the same expression, which means “land of full maturity” or “land of lifeblood”. With the arrival of the European colonisers, this expression was replaced by another imposed in its place: “America” (LÓPEZ-HERNANDEZ, Miguel Ángel. *Encuentros en los senderos de Abya Yala*. Quito: Ediciones Abya-Yala, 2004). A study on ancestral cultures and the meaning of Abya Yala is presented by WOLKMER, Carlos; FERRAZZO, Débora. Cenários da cultura jurídica de Abya Yala: os valores pré-coloniais em institucionalidades jurídicas emergentes. *Revista sobre Acesso à Justiça e Direitos nas Américas*, Brasília, v. 1, n. 2, p. 36-66, abr./jul. 2017. Disponível em: <https://doi.org/10.26512/abyayala.v1i2.6984>.

<sup>63</sup> MATA QUINTERO, Gerardo. Derechos humanos y colonialidad: a 70 años de la Declaración Universal. *Cuadernos Electrónicos de Filosofía del Derecho*, n. 39, p. 507-525, 2019. Available at: <https://ojs.uv.es/index.php/CEFD/article/view/14004>. SILVA, Karine de Souza. “Meu mundo, minhas regras”: direito internacional, branquitude e o genocídio do povo negro brasileiro. *Revista de Direito Internacional*, Brasília, v. 20, n. 1, p. 11-34, 2023. Available at: <https://www.publicacoesacademicas.uniceub.br/rdi/article/view/8634/pdf>.

<sup>64</sup> UNITED NATIONS. *Transforming our world: the 2030 agenda for sustainable development*: A/RES/70/1. 2015. Available at: <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>.

debates on human rights and work carried out within institutions – national and international. For example, after the inclusion of officials and leaders representing black and indigenous movements in the national government, Brazil voluntarily adopted the *Goal 18* on Ethnic-Racial Equality<sup>65</sup>, at the end of the year 2023 and since then, the country has been internationally advocating for its inclusion in the 2030 Agenda. But it cannot go unnoticed that: on the one hand, a country with such diversity and with so many difficulties in combating racism and promoting equality; and on the other, world history, included recent, marked by so many practices of intolerance and human rights violations associated with racial discrimination, took so long to commit to such responsibilities.

In this logic, as Mignolo points out, “The First World was where humanity par excellence dwelled. The rest was inhabited by different kinds of anthropos.” From this centre, superior to subaltern diversity, various civilizing paradigms emanated, sustained on the “ideological stage” of liberalism, which illustrated the Second World as the threatening place where there were dangers such as communism. Even further away from humanity lay the Third World. A challenge to the 1948 Declaration, since all being equal, everyone should have the same rights: “This was the First World’s gift to the Second and Third Worlds”. With that, these worlds, far from “humanity” were informed that they had rights, but they were also informed that they lived in the second world (totalitarian) and in the third world (underdeveloped), so it was to be expected the violation of their rights. rights, something that was not expected in the first world, after all, “The First World was not setting up a Declaration to shoot on their own foot”<sup>66</sup>.

Balakrishnan Rajagopal, UN Special Rapporteur on the right to adequate housing<sup>67</sup>, it also presents criticisms

of the way human rights are discussed in this geopolitical division from the first to the third world. Starting with the terms used and the illustrations they produce in the imagination. Two ideas: “human rights” and “civil rights”: the first raises images of a third world with dictatorships, female mutilation, ethnic violence; the second is related to the first world. When one thinks about the issue in these terms and from the same perspective as the jurist, it is noted that human rights have never been and have never been universal. Moreover, a “historiography of exclusion”, shows human rights as a “benevolent response” of European nations and the United States to the barbarities of the Third World, which is placed as an object: it is not only marginal and with little contribution to the formation of the idea of human rights; he is also perceived as incapable of understanding and appreciating such an idea<sup>68</sup>. This Rajagopal approach converges with Mutua’s metaphor of the savior and victims and savages. It demonstrates how human rights (even if they are not just that) are frequently used as a civilizing discourse to prescribe a valid (North-Eurocentric) model of law, State, and society, discarding the others. Therefore, the author “[...] has questioned the progressive constitution of the human rights discourse as the only resistance discourse in the Third World”<sup>69</sup> which, considering the problematic relationship between colonialism and such discourse, can lead to the perpetration of colonial practices of representation while denying the Third World identification as a place of epistemological production. As summarized by Barreto:

For a geopolitical analysis of knowledge, the cultural colonization of world civilizations, rationalities and intellectual disciplines ended in the crucial assumption according to which the origin of legitimate thinking is confined to a certain geopolitical location—Europe—excluding the existence of other sites of knowledge generation.

The way human rights are commonly understood is a consequence of this dynamic. Egotism has blinded Europe. Being born out of European events and schools of thinking, the standard theory of human rights ignores or rejects the possibility of non-Eurocentric or Third-World approaches. The

<sup>65</sup> BRASIL. Presidência da República. Secretaria Executiva da Comissão Nacional para os Objetivos do Desenvolvimento Sustentável. *Resolução nº 02/CNODS, de 20 de dezembro de 2023*. Institui a Câmara Temática para o Décimo Oitavo Objetivo de Desenvolvimento Sustentável sobre Igualdade Étnico-Racial na Agenda 2030. Available at: <https://www.gov.br/secretariageral/pt-br/cnods/resolucoes/Resolucao20DS18IgualdadeEtnicoRacial.pdf>.

<sup>66</sup> MIGNOLO, Walter. Who speaks for the “human” in Human Rights? In: BARRETO, José-Manuel (ed.). *Human Rights from a Third World perspective: critique, history and international law*. Newcastle upon Tyne, UK: Cambridge Scholars Publishing, 2012. p. 44-64. p. 56.

<sup>67</sup> Check in: <https://www.ohchr.org/en/special-procedures/sr-housing/mr-balakrishnan-rajagopal>.

<sup>68</sup> RAJAGOPAL, Blakrishnan. *El derecho internacional desde abajo: el desarrollo, los movimientos sociales y la resistencia en el Tercer Mundo*. Bogotá: Instituto Latinoamericano de Servicios Legales Alternativos – ILSA, 2005. p. 205, 208-210.

<sup>69</sup> RAJAGOPAL, Blakrishnan. *El derecho internacional desde abajo: el desarrollo, los movimientos sociales y la resistencia en el Tercer Mundo*. Bogotá: Instituto Latinoamericano de Servicios Legales Alternativos – ILSA, 2005. p. 267.

decolonization of human rights can be seen as part of the wider task of decolonizing knowledge. The decolonization of the humanities, the social sciences and culture in general is both an intellectual and political project that emerges from the standpoint of the Third World, and aims at opposing colonialism and abuse of power<sup>70</sup>.

In this logic that classifies *modes of reality*<sup>71</sup> on a Eurocentrically defined scale, it is important to realise that systems such as international human rights law are *necessary*, but not *sufficient*, moments in the process of human emancipation. This idea is explored by Dussel in his *Ethics of Liberation*, assuming systems, experiences, models and paradigms as *mediations*, that is, versions of feasibility, possible expressions of reality. However, the author warns that *mediations* are *some* possibilities and do not exhaust reality itself. It is the *Totality* that limits the modes of reality in the *dialectic of the same*, but when *Critical Exteriority* questions these limits, showing that they are *necessary* but not *sufficient* moments, it reveals new possible modes of reality, beyond the hegemonic paradigms within the framework of Eurocentrism, of the reason of the white Euro-American man. For *Totality*, only the values of the capitalist mode of reality converge with a system of freedoms, but for an *Ethics of Liberation*, there are other possible modes, and the only material principle in fact universal is human life.

Such an order of critical interpellations is fundamental for overcoming the monopoly of civilizing rationality that has been established over time. Questioning modern rationality allows, for example, to recognise the importance of human rights as a tool for the defence of rights (*necessary*), but not to fetishise them, limiting all human needs and aspirations – which are not multiple, in this model that is culturally defined (not *sufficient*). Barreto<sup>72</sup> talks about rewriting the history of human rights, building an “alternate geographies” that, in terms of human rights, can open a substantial transformation in the theory that sustains them. The search

for a conception beyond the “clean centres of cosmopolitan power”, reaching the margins of provincial suffering, would expand the legitimacy of this discourse, by recognizing as valid the sources located in ignored regions, but this also demands the replacement of these marginal regions as centres, which is still not accepted by the colonial dynamics of the Borgesian sphere. Therefore, he defends the need to “deparochialise” legal theory and jurisprudence. In other words, decolonise.

The decolonial debates, that have been increasingly widespread over the last few decades, have adopted this strategy of subsuming human rights and critically reinterpreting them. An emblematic example has to do with the institutionalised intercultural interpretation in the new Bolivian constitutional order – including in the jurisdiction<sup>73</sup> – in which indigenous peoples, recognizing the importance of human rights, assumed them as an inviolable minimum of the legal order, however, going through a intercultural interpretation of its contents, so as not to exclude autochthonous traditions, *modes of reality* transmitted over centuries of historical succession in its various communities. The condition for the possibility of this intercultural interpretation has to do with the principle of decolonization, inserted in the 2009 Constitution. This hermeneutic strategy adopted by indigenous peoples in Bolivia,

It is, in summary, a revolutionary possibility, because, after centuries of interpreting positive law as a product of the bourgeois revolutions of the 17th and 18th centuries, a hermeneutic horizon opens to historicise and interpret a *possible* new legal-political paradigm based on popular *praxis* insurgent, revolutionary, rebel. An opportunity that was not given to Latin America not even in the triumph of its colonies’ wars of independence, when free determination was limited to republican reproductions<sup>74</sup>.

This decolonial praxis way, is part of a project that, recognizing that there is effectively hegemonic knowledge, is aware that such knowledge can be contested based on its own contradictions and inconsistencies, as

<sup>70</sup> BARRETO, José-Manuel. Introduction: decolonial strategies and dialogue in the human rights field. In: BARRETO, José-Manuel (ed.). *Human Rights from a Third World perspective: critique, history and international law*. Newcastle upon Tyne, UK: Cambridge Scholars Publishing, 2012. p. 1-42. p. 3.

<sup>71</sup> DUSSEL, Enrique. *Ética da libertação: na idade da globalização e da exclusão*. 4. ed. Petrópolis: Vozes, 2012.

<sup>72</sup> BARRETO, José-Manuel. Introduction: decolonial strategies and dialogue in the human rights field. In: BARRETO, José-Manuel (ed.). *Human Rights from a Third World perspective: critique, history and international law*. Newcastle upon Tyne, UK: Cambridge Scholars Publishing, 2012. p. 10-13.

<sup>73</sup> A study on the subject in the field of legal hermeneutics can be accessed in FERRAZZO, Débora; LIXA, Ivone Fernandes Morcilo. Pluralismo jurídico e interpretação plural na jurisdição constitucional boliviana. *Revista Direito e Práxis*, Rio de Janeiro, v. 8, n. 4, p. 2629-2657, 2017. Available at: <https://www.e-publicacoes.uerj.br/index.php/revistaceaju/article/view/24649>.

<sup>74</sup> FERRAZZO, Débora. *Democracia comunitária e pluralismo jurídico e os desafios à factibilidade da descolonização constitucional na Bolívia*. 2019. 402 f. Tese (Doutorado em Direito) - Setor de Ciências Jurídicas, Universidade Federal do Paraná, Curitiba, 2019. Available at: <http://acervodigital.ufpr.br/handle/1884/6629>. p. 171-172.

well as on the rationalities and experiences made invisible by the modern logic of coloniality. In the human rights discourse, this leads to the perception that its “limits do not allow the proposition of new discourses”<sup>75</sup>, therefore, they need to be decolonised. Mata Quintero<sup>76</sup> mentions the historical debt of the global north with the conquered and colonised peoples, confined in a single possible world: the one conceived by the coloniser. A world that needs to be decolonised. There are big obstacles in this decolonization process, which even precede the process of transition of rationality. This is the case of the decolonization of language. As previously mentioned, Huque and Maheshwari<sup>77</sup> analyzed the issue of linguistic recognition and how its legislative and jurisdictional negligence culminates in other violations of the rights of Indigenous Tribal Minorities (ITM).

Their analysis focuses mainly on cases from Indian law and, considering the variety and extension of ITM, suggests the relevance of replicating studies regarding the relationship between linguistic recognition and other rights of ethnic communities. A similar conclusion was reached by Ferrazzo<sup>78</sup> after carrying out an ethnographic study of decisions by the constitutional jurisdiction of Bolivia. One of the markers defined in the study referred to the linguistic field, since in an influence often attributed to ILO Convention 169, the country recognized plurinationality, legal pluralism and decolonization, among other constitutional foundations.

Under these foundations, indigenous communities began processes of institutionalization of their ancestral systems, which included the declaration of their “original languages” as the main ones, after all, the Bolivian Constitution includes them, as it recognizes more than

thirty official languages. Despite these formal bases, the colonial rationality prevailed among system employees, who decided to reject several of these provisions, in decisions that, from a critical-decolonial perspective, not only violated identity rights situated within the framework of legal pluralism, but also rights established within the framework of jurisprudential monism.

This decolonization process implies a dialectical advance, which allows peripheral societies to go beyond colonizing models. In this way, subsuming the republican perspective, peripheral societies such as Latin America have been betting on intercultural dialogue to expand and democratise the substantive and interpretative frameworks of civil society, as an alternative to the crisis of the liberal State, its insufficiencies, inequalities, and exclusions. In the field of law, this strengthens the perspective of legal pluralism, as a way of valuing new social identities and a space for participatory citizenship practices in which new rights are constructed “as expressions of human dignity” and with that human rights are re-signified, starting to harbor possibilities of “transgression of traditional forms of knowledge and deconstruction of hegemonic practices of power”<sup>79</sup>. Thus, human rights can become the starting point of a path full of possibilities.

## 5 Conclusion

The historical period understood, in Western terms, as modernity characterised a space-time of asymmetrical possibilities. Although in recent decades a notion of humanity as an equal convergence of all peoples has spread, a dynamic of differentiation, classification and hierarchization persisted, crossed by geopolitical aspects and which began with the movements of conquest and colonization (15th and 16th centuries). This dynamic has been based, over time, on what is assumed here as a set of “civilizing discourses”, whose success is precisely due to the hierarchical division (which is more or less explicit) of the peoples and bodies that constitute humanity. This study covered some of these historical moments, seeking to highlight different versions of

<sup>75</sup> BRAGATO, F. F. Para além do discurso eurocêntrico dos direitos humanos: contribuições da descolonialidade. *Novos Estudos Jurídicos*, Itajaí, v. 19, n. 1, p. 201-230, 2014. Available at: <https://periodicos.univali.br/index.php/nej/article/view/5548>.

<sup>76</sup> MATA QUINTERO, Gerardo. Derechos humanos y colonialidad: a 70 años de la Declaración Universal. *Cuadernos Electrónicos de Filosofía del Derecho*, n. 39, p. 507-525, 2019. Available at: <https://ojs.uv.es/index.php/CEFD/article/view/14004>. p. 522.

<sup>77</sup> HUQUE, Sheikh Sultan Aadil; MAHESHWARI, Chimirala Uma. Language rights of Indigenous Tribal Minorities (ITM) and their protection under the ambit of human rights law. *Revista de Direito Internacional*, Brasília, v. 19, n. 3, p. 190-227, 2022. Available at: <https://www.publicacoesacademicas.uniceub.br/rdi/article/view/8407>.

<sup>78</sup> FERRAZZO, Débora. *Democracia comunitária e pluralismo jurídico e os desafios à factibilidade da descolonização constitucional na Bolívia*. 2019. 402 f. Tese (Doutorado em Direito) - Setor de Ciências Jurídicas, Universidade Federal do Paraná, Curitiba, 2019. Available at: <https://acervodigital.ufpr.br/handle/1884/6629>.

<sup>79</sup> WOLKMER, Antonio Carlos. Sociedad civil, democracia y procesos participativos en la constitución de los derechos humanos. In: BELLOSO MARTIN, Nuria; JULIOS-CAMPUZANO, Alfonso de (coord.). *El retorno a la sociedad civil: democracia, ciudadanía y pluralismo en el siglo XXI*. Oñati: Dykinson, 2011. p. 191-204.

this discourse, among which a continuity is recognised as a function of an invariable element, from its origin until now: the prevalence of the white man, European or North American, as a paradigm of civilization, that is, the prevalence of Eurocentrism.

Human rights are situated in this historical continuity, so that they are characterised as a paradoxical field of struggle: on the one hand, they continue to reproduce colonial relations on the subjectivity of subaltern bodies and impose conditions of epistemological, political, and economic dependence. They represent, as Mignolo mentions, the white man's gift to the rest of humanity; the superiority of the savior, in the metaphor identified by Mutua and the line perceived by Rajagopal, which divides the world between those able to understand and experience rights and those unable. These are Third World bodies, which can only expect the violation of their rights, which makes these bodies objects and not subjects of human rights, as Santos observes. In this sense, human rights need to be decolonised to make room for the enunciation of the multiple discourses that constitute human diversity.

On the other hand, human rights enunciate elementary contents for a dignified existence that are very far from being realised for the majority of humanity. In this sense, human rights need to be realised. It has been argued that, from a liberation perspective, human rights are *necessary* but not *sufficient*. They are *necessary* because the so-called Third World peoples, the colonised peoples, continue to be dispossessed and their communities deprived of the conditions for the production and reproduction of life, including in the biological sense. But they are not *sufficient* because they are easily converted into prescriptive *models of a mode of reality*, which in Eurocentric modernity was reduced to the capitalist mode of production: the model of civilization, outside of which, there is only barbarism. Faced with this insufficiency, the decolonization of human rights is necessary.

Human rights need to be decolonised, to the extent that they are ethnocentric. But decolonizing human rights does not mean denying the substantive legitimacy of the enunciations of the 1948 Declaration. This balance between deconstructing what denies the conditions of production and reproduction of other *modes of reality* and guaranteeing the contents that, despite being colonial, are legitimate from an intercultural point of view, poses numerous challenges that polarize the theo-

retical community. With divergences even in the scope of criticism from the Exteriority – communities of victims subalternized by the decolonial system. Faced with such challenges, if the definition of one (or several) decolonial horizons for human rights is still unfeasible, the critique of colonial and domination systems is no longer so. What happens is that Eurocentric thought remains based on its theoretical and institutional hegemony and in the face of this hegemony, the relevance of constructing critical theories in relation to human rights and their systems is accentuated.

Decolonizing human rights has to do with breaking the monopoly on their enunciation and interpretation, going beyond what has already been achieved to establish an intercultural dialogue. It requires recognizing the importance of human rights as a resistance strategy, because they can be the difference between living or dying in such an unequal world, but without losing sight of the project of rebuilding recognition, towards other horizons, in which other worlds fit. And if there is only one horizon, let it be that of emancipation and respect for human life, as the sum of all its peoples.

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