A CRITICAL ANALYSIS OF THE UNIVERSALIZATION OF HUMAN RIGHTS IN THE FACE OF SYSTEMIC RELATIVISM: A REALITY BEYOND HERMENEUTICS

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ABSTRACT

This article analyzes human rights based on the observation that their genesis occurs in a specific historical and cultural context, and that they express the worldview of their birthplace - the Western world - with its ideologies, customs, values and beliefs. Ramon Panikkar and Boaventura de Sousa Santos, who refer to this analysis, advocate the thesis that the universality of human rights can only be achieved through a diatopical hermeneutics, which contemplates the multiplicity of cultures existing in the whole world, because a hermeneutics that insists on the predominance of the values of Western cultures will not find legitimacy before several other cultures, which will feel excluded. The problem that pervades this research is rooted in the universalism/relativism binomial of human rights. The research is justified due to the disparate ways of understanding and applying Human Rights in the various regions of the world, and the importance of overcoming the universalism/relativism antithesis with regard to Human Rights. The diatopical hermeneutics and emancipatory multiculturalism, both making use of intercultural dialogue, are configured as a path for the construction of dialogue on the universalization of rights and the reconstruction and reconceptualization of human rights at a global level, respecting the local particularities of each culture. To this end, the analytical-deductive investigative methodology is employed.

Keywords: human rights; universalism; relativism; society; multiculturalism.

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INTRODUCTION

The expression "Human Rights" has been used recurrently as an expression of universal and, perhaps, absolute values. Thus, when approaching this theme in law books, what is usually done is just to talk about the historical origin of Human Rights and its "evolution", highlighting the "generations" or "dimensions" of Human Rights without, however, proceeding to a critical analysis of these rights. In this sense, Boaventura de Sousa Santos (2014, p. 15) argues that it is necessary to ask whether human rights effectively serve the struggle of the excluded, exploited and discriminated or if, on the contrary, it makes it more difficult. That is, "is the hegemony enjoyed by the discourse of human rights today the result of a historic victory or, on the contrary, of a historic defeat?". The question posed demands its confrontation, and both Boaventura de Sousa Santos Santos and Ramon Panikkar carry out this confrontation using analytical instruments called Diatopic Hermeneutics and Emancipatory Multiculturalism.

In this article we intend to discuss issues about diatopic hermeneutics in the view of the aforementioned authors, among other possibilities of analysis and understanding of Human Rights in the face of multicularism, guided by an intercultural dialogue.

First, it considers the tensions between universalism/relativism with regard to human rights, second it proceeds to the analysis of diatopic hermeneutics and its intercultural perspective in the view of Panikkar, third, the analysis of the emancipatory multiculturalism advocated by Boaventura de Sousa Santos, and finally, the convergence of these instruments for the reconstruction and reconceptualization of Human Rights is considered. It will be considered the viability of using these instruments to promote intercultural dialogue with a view to the realization of the universality of Human Rights, and as an alternative to contain the idea of Western hegemony.

If, on the one hand, the hegemonic conception of Human Rights is an expression of Western hegemony, on the other hand this perception by non-Western cultures is at the root of the crisis between these two modalities of cultures, making it necessary for the transposition from the abyss that separates them, the realization of a comprehensive dialogue between these two cultural universes, with all their peculiarities, values, traditions, forms of organization etc.

In this sense, an epistemological reconstruction of human rights is necessary, so that they are the expression of traditions and values of the various world cultures, and can, therefore, be legitimately called "Human Rights" and adjectived as universal.

We do not intend to exhaust here the entire discussion about the intercultural debate on human rights, since the complexity and scope of the subject go far beyond the efforts made in a scientific article, but only to make some considerations on the subject in the view of some scholars who follow this field of study.

1. AN ANALYSIS OF THE EPISTEMOLOGICAL DIMENSION OF HUMAN RIGHTS

Human Rights, which emerge from natural rights, conceived as rights inherent to man, constitute the foundation on which modern Constitutions were built, especially with regard to fundamental rights and guarantees, having the human person as its epicenter and gravitational axis.

They are presented as historical achievements driven by social struggles and were incorporated in the declarations of rights and successively affirmed in the constitutions of the States, thus becoming, within the scope of domestic law, fundamental rights. Struggles and social pressures seek recognition of Human Dignity. In this sense, Norberto Bobbio affirms that human rights,

> [...]as fundamental as they are, they are historical rights, that is, born in certain circumstances, characterized by struggles in defense of new freedoms against old powers, and born gradually, not all at once and not once and for all (1992, p. 5).

It is undeniable that the construction of any right is always grounded in the history of a certain culture, that is, they are struggles followed by demands for new freedoms and justice by people who are being oppressed through some form of power.

Note that the first document in draft form of the Universal Declaration of Human Rights was attended by more than 50 countries, was presented in September 1946 and had its final text written in less than two years, hence, the Universal Declaration of Human Rights began to be discussed when the world felt the effects of the Second World War.

Having human equality as a principle of rights, whether civil, political, economic and social, after the disastrous First and Second World Wars, the political leaders of the great powers created the United Nations - UN - and entrusted it with the task of to prevent war and

to promote peace among nations. In 1946, the UN created the Human Rights Committee responsible for drafting the Universal Declaration of Human Rights.

With the promulgation of the Universal Declaration of Human Rights‖, on December 10, 1948, by the UN, and Brazil being one of the Member States, it committed to promoting universal respect for fundamental human rights and freedoms and the observance of these rights and freedoms (COMPARATO, 2015, p. 225).

The Universal Declaration of Human Rights (UDHR) was approved in 1948 at the General Assembly of the United Nations (UN). The document is the basis of the universal fight against oppression and discrimination, defends the equality and dignity of people and recognizes that human rights and fundamental freedoms must apply to every citizen on the planet.

According to Oliveira (2014), the promulgation of the Universal Declaration of Human Rights by the General Assembly of the United Nations, in Paris, in 1948, three years after the end of World War II, was the starting point for a new vision in the field of Rights Humans, bringing a new scenario to the international world. For this reason, the principle of absolute sovereignty of States was relativized and the genuine principle of the protection of human beings was opened up, which became the main issue in national and international legal relations.

However, one question deserves to be discussed: is it totally correct to affirm the universality of Human Rights, or should they be considered in their cultural relativity? As noted by Flávia Piovesan (2006, p. 114) "The universal conception of human rights demarcated by the Declaration has suffered and suffers, however, from strong resistance from supporters of the cultural relativism movement". The discussion is aimed at verifying the reach of human rights norms, that is, if they can have a universal meaning or if they are culturally relative.

From the perspective of relativists, the notion of human rights is associated with the political, economic, cultural, social and moral system in force in a given society, and in this sense, cultural pluralism would be an impediment to the formation of a universal morality, demanding that differences cultural peculiarities of each society are respected, such as the peculiarities of Hindu and Islamic cultures. Indeed, the understanding of a culture requires an immersion in it, so such understanding can only occur in an existential condition.

Therefore, it would be necessary to conclude that there is no universal morality, and all moral universalism, such as Kantian universalism, would be an imperialist expression, a universal imposition of a local morality. It so happens that, as Piovesan (2006, p. 115) observes,

"international human rights instruments are clearly universalist, as they seek to ensure the universal protection of fundamental rights and freedoms". And the statements "all people have the right to life and liberty" – art. 2 of the Declaration, "no one shall be subjected to torture" – art. 5 of the Declaration, among others, points to its universal character.

For relativists, the claim to universality of Human Rights indicates the arrogance of cultural imperialism in the Western world, which would thereby be universalizing their own beliefs, and, as a consequence, would lead to the destruction of cultural diversity.

In turn, the universalists, as Flávia Piovesan (2006, p. 144) observes, react "by claiming that the relativist position reveals the effort to justify serious cases of human rights violations that, based on the sophisticated argument of cultural relativism, would remain immune to the control of the international community".

Thus, the universalists point out that, behind the arguments of the relativists, what is found is an enormous resistance on the part of some governments and cultures to submit to Human Rights norms in order to continue practicing acts that would be considered violations of Human rights. Furthermore, universalists object that "the existence of universal norms relevant to the value of human dignity is a requirement of the contemporary world (PIOVESAN, 2006, p. 145)".

Another argument used by the universalists is the fact that, since the international instruments for the protection of human rights have been ratified by the signatory States of these instruments, therefore, they have the political and moral duty to exercise the control of the international community in case of violation of these rights, as such conduct entails non-compliance with international obligations.

In view of this fundamental question arising from the tension between universalism and relativism concerning human rights, the Vienna Declaration and Program of Action, of June 25, 1993, in its article 5, established this:

> All human rights are universal, indivisible, interdependent and interrelated. The international community must treat human rights globally, fairly and equitably, with the same parameters and with the same emphasis. National and regional particularities and historical, cultural and religious bases must be considered, but it is the obligation of States, regardless of their political, economic and cultural system, to promote and protect all human rights and fundamental freedoms.

What the Declaration intended, among other things, was to affirm that there is no contradiction between the universal principles of the UN Declaration and the diverse cultures existing in the international community.

2. CULTURALLY UNDERSTANDING HUMAN RIGHTS

Despite the considerations developed in the previous topic, the big issue is that the human rights approved by the Universal Declaration in 1948 were based on Western roots with assumptions and implications of the Western concept of man, values, rights and nation. The formation of these conceptions dates back to the French Revolution, when Western man went from a corporate belonging to a community of blood. In this sense, Panikkar points out the assumptions of the foundations of the Declaration:

> 1. At the base of the discourse on human rights is the assumption of a universal human nature, common to all peoples (...) this idea, in turn, is linked to the old notion of natural law. a) this human nature must be knowable, as it is one thing to accept human nature in an uncritical or mythical way, and another thing is to know it (...) b) that this human nature is known through an instrument also universal knowledge, usually called reason. (...)c) that this human nature is, in its essence, different from the rest of reality. Other living beings are inferior to man and obviously do not have human rights, and it is likely that there are no creatures superior to man.
> 2. (...) The second presupposition is the dignity of the individual. (...) They defend the dignity of the individual vis-à-vis society as a whole and the state in particular.
> 3. (...) The third presupposition is that of the democratic social order. It assumes that society is not a hierarchical order founded on will or divine law, but rather a sum of "free" individuals, organized to achieve goals that otherwise would not be possible. (...) This society is crystallized in the State that, in theoretical terms, expresses the will of the people, or, at least, of the majority. (...) (PANIKKAR, 2004, p. 212).

Based on the aforementioned assumptions, it is noted that the Universal Declaration was clearly articulated in accordance with the historical trends of the Western world, but these assumptions are not universally or unanimously recognized in the field of Western culture.

In this sense, we bring up the consideration of Bobbio (2004, p. 53): "The rights listed in the Declaration are not the only and possible human rights: they are the rights of the historical man, as this is configured in the minds of the editors of the Declaration after the tragedy of World War II".

Western culture, shaken by the barbarism of World War II, and with the aim of building a world under new political axes, sought to reinvent itself on new bases. The leaders of the nations that emerged as powers in the postwar period, led by the United States and the Soviet Union, established, at the Conference of Yalta, in Crimea, in 1945, the bases for a future world peace, creating areas of influence of the powers and agreeing to create a multilateral organization that would promote negotiations on international conflicts, to prevent wars and promote peace and democracy, with a view to strengthening human rights.

In the foundations of human rights there is the understanding that these are essential to all human beings, without any discrimination whatsoever. They can be civil, political and social, such as the right to life, equality before the law and freedom of expression. The guarantee of universal human rights is built through the law, which can cite as an example, the treaties and international laws, therefore, there must be a dialogue between cultures for a better understanding of the protected rights.

Furthermore, as already mentioned, human rights are historic achievements promoted by various struggles and were incorporated in the declarations of rights and later legally affirmed in the constitutions of national states, thus becoming fundamental and essential human rights.

It is noted that human rights have as its axis the preservation of human dignity and that it was from the Second World War, after thousands of deaths involving Jews, Soviets, Europeans, etc., that debates on the need for creation of Universal Human Rights.

What cannot be ignored is that it was in the West that the attempt to universalize rights according to their own ideologies and cultures emerged, and this often leads to exclusivism and the idea of localism, which is the belief that its culture, its laws or ideologies are absolute and genuine truths, which cannot and should not prevail, as no culture can by itself determine the universalization of law based on its unique history. Therefore, for human rights to be universalized, it is necessary to dialogue about the concepts of rights that are intended to be protected between different cultures.

It is observed that the universalization of human rights created by the Western world aims to apply unique values to all human beings, taking the Western model as a starting point. Human rights are based on a set of assumptions, all of which are typically Western. Furthermore, the Universal Declaration of 1948 was drawn up without the participation of the

majority of peoples in the world, restricting the participation of dominated peoples, subjugated by European colonialism (BOAVENTURA, 2004, p. 266).

Note, for example, that South Africa was only truly freed from British yoke in 1993 with the election of Nelson Mandela, and this almost 50 years after the publication of the Universal Declaration of Human Rights. Thus, such assumptions are based on a dispute for hegemony at the international level, and are initially enshrined in the text of the Universal Declaration of Human Rights in 1948.

Thus, it is essential that human rights become a universality, and are built from the bottom up, in a cosmopolitan way, contrary to the universality of today, based on Western imperialism.

Panikkar (2004) presents a possible path, or a starting point for the factual universality of human rights through diatopic hermeneutics, which proposes intercultural dialogue on isomorphic concerns, that is, the search for similar concepts between cultures, as in that the debate for human rights can evolve into opposing dialogue between cultures on the principles of human dignity, without the prevailing idea of imposing the hegemony of any culture, but the exchange of knowledge that can actually complement each other . Intercultural dialogue is a necessary path for the construction of human rights under a perspective of horizontality and otherness, in the context of a multicultural and plural world.

Pannikar was the forerunner of contemporary intercultural discussion in the field of human rights. However, before delving into the issue of diatopic hermeneutics proposed by the author, it is important to highlight a little about the author's life, as it is clear that the study of diatopic hermeneutics was triggered by his own life story.

Panikkar is the son of an Indian father and a Hindu religion and a Roman Catholic Catalan mother. He was educated at the priests' college even though he was the son of an Indian. He studied philosophy in India and then engaged in a Hindu-Christian dialogue, and thus came the idea of diatopic hermeneutics. It is noteworthy, however, that his study initially aims at analyzing "intra-religious" relations, and not intercultural dialogue, inspired by his own family experience, which was widely used to construct this theme. Panikkar presents the theory of "diatopic hermeneutics" as a condition for intercultural dialogue to be possible.

About "diatopic hermeneutics", Panikkar (2004, p. 205) teaches that the method of interculturality cannot interpret or compare texts, as it would be an interpretation based on contexts. Thus, the expression "diatopic hermeneutics" points to an interpretive task in dialogue with human beings from another culture.

For Panikkar (2004) "hermeneutics" is a word that expresses a notion of interpretation, and this term comes from the Greek verb hermeneuein, which means to declare, enunciate, interpret, or clarify. The word "diatopic", in turn, is the conjunction of two Greek words: dia, which means through and topos, which can be translated as common cultural place. Thus, the expression "diatopic hermeneutics" carries the notion of an interpretation made through a common cultural place.

For the interpretation of any content, one should, according to the author, study the reason for that, and not the perspective of who interprets it. The choice of the term "diatopic hermeneutics" for such intercultural interpretation was due to the meaning of the word diatopic, which, as already mentioned, derives from the Greek dia e topos, which would be through and cultural place or the already known as *topoi.*

> The foundation of one culture did not need to be that of another, as in that case the meanings are not transferable... So what should we do? We must dig until we find a homogeneous soil or a similar problem; we must look for the homomorphic equivalent – in this case, the concept of Human Rights... Homeomorphism is not the same as analogy; it represents a specific functional equivalent, discovered through a topological transformation. It's a kind of existential functional analogy PANIKKAR, 2004, p. 209).

Diatopic hermeneutics is based on the idea that the topos of a culture are never complete, and that one culture depends on the other for completion, not being imposed by any culture. Therefore, the incompleteness of a given culture can be complemented with the *topoi* of another culture through intercultural dialogue, which means reciprocity or solidarity, respecting the other as he is and not from the perspective of Power and the imposition of cultural standards and values of superiority, but at the same hierarchical level of dialogued learning.

It is worth highlighting some important data from the Indian vision for the issue under discussion and for intercultural dialogue: In India, human rights are not just individual, animals also have rights, and in a much broader sense than in the West, given that many of them are considered deities that survive and follow the millenary history in this journey. So for Indians,

the issue of human rights treating only the human being as a subject of rights is already a matter of rejection.

The Cartesian and Kantian logos (reason) does not by itself explain human rights, the language of myths and other narratives must be objects of learning. In this sense, the research carried out by Gustav Jung on archetypes would need to be more valued in the field of studies in the West, given the value it gives to myths. And it is interesting that Jung dedicated himself to the study and the approximation of Western and Eastern thought, having studied Hindu culture, yoga philosophy, among others. In this aspect, Panikkar affirms the need for a new hermeneutics:

> In short, we need a new hermeneutics: diatopic hermeneutics that can only be developed in an intercultural dialogue. It would show us that we cannot take the pars pro toto, nor believe that we see the totum in parte. We must accept what our partner tells us: simply, that we take the totum pro parte, when we are aware of the pars pro toto, which is, of course, what we will respond to you without hesitation. It is the human condition and I would not regard it as an imperfection; once again this is the theme of pluralism (1996, p. 134).

It is noted that the great mission of the universality of human rights is to define the concept of universal human dignity, using the mechanism of intercultural dialogue, and to achieve universality there is a need for dialogue and understanding between the differences and incompleteness between cultures.

It is concluded that Panikkar presents "diatopic hermeneutics" as a condition for intercultural dialogue, with a view to making the universality of human rights, which are currently Western disguised as universal, genuine. The diatopic hermeneutics proposed by Panikkar has been considered by Boaventura de Sousa Santos, whose thought, regarding the discussion developed here, will be considered in the next topic.

3. THE POSSIBILITY OF RECONSTRUCTING THE REACH OF HUMAN RIGHTS

Boaventura de Sousa Santos is another researcher who has been dedicated to confronting the issue of universalism and relativism of human rights, and his contribution has been significant to this debate. For him (2004, p. 250) "although all cultures tend to define their most important values as the most comprehensive, only Western culture tends to formulate them as universal".

On the other hand, for Santos (2004, p. 251), human rights, which claim to be universal, are not universal in their application. And he points out that currently four international regimes for the application of human rights are consensually identified: the European, the Inter-American, the African and the Asian.

We understand that really, with regard to its application, human rights are treated differently, and not only that, it seems to us that the way the Western world perceives the non-Western world is also different, especially the way of perception present in the North developed as Europe and North America. The feeling is that the lives of people who live in these regions are more valuable than the lives of people who live in other regions of the globe.

When it comes to a terrorist attack in Paris or the United States, this fact is remembered by the media for years on end, and celebrations are held to remember what happened. When the same happens in Afghanistan, Iraq, Egypt, Sudan, Kenya, this fact is reported in one day and the next day it becomes forgotten. The same can be seen today with regard to the refugee crisis.

Boaventura de Sousa Santos (2010, p. 441) puts forward the following proposal for overcoming universalism x human rights relativism:

> My thesis is that human rights will tend to operate as globalized localism and, therefore, as a form of hegemonic globalization. In order to operate as a form of insurgent cosmopolitanism, as a counter-hegemonic globalization, human rights must be reconceptualized as intercultural. Conceived as universal rights, as has happened, human rights will always tend to be an instrument of the "clash of civilizations" as conceived by Samuel Hintington (1993-1997), that is, as a weapon of the West against the rest of the world ("the West against the rest"), as the cosmopolitanism of the imperial West prevailing against any alternative conceptions of human dignity. In this way, its global reach will be obtained at the expense of its local legitimacy. On the contrary, emancipatory multiculturalism, as I understand it and will specify it below, is a precondition of a balanced and mutually enhancing relationship between global competence and local legitimacy, the two attributes of a counter-hegemonic human rights policy in our country time.

In the view of Santos (2004, p. 447), the diatopic hermeneutics advocated by Panikkar consists in accepting the idea that Human Rights, when analyzed in their claim to universality, find resistance in cultural differences between peoples. Therefore, the divergence between cultures does represent a difficulty for the universalization of Human Rights as we conceive from the 1948 UN Declaration.

For Santos, cultures have their incompleteness, so if it is the awareness of incompleteness that gives the first impulse to dialogue, it is from this and diatopic hermeneutics that cultures start to reflect and ponder on their constructions and recognize the constructions of Other cultures.

The distinction between the secular and the religious assumes very specific and linked contours in Western culture and, in such a way, that what this distinction distinguishes, when applied within Western culture, is not equivalent to what it distinguishes when applied within a non-Western culture. In addition, Sousa Santos observes that not even in the West secularization has ever been fully achieved, and what is claimed to be secular is the product of a consensus, generally obtained democratically, on the scope of commitments to religious demands.

For Boaventura (2014, p. 36), secularism comes from the cultural and political paradigm of Western modernity:

> After centuries of conflict in Europe, this paradigm reached an unprecedented resolution of the religious question, the question of the role of religion in society: on the one hand, the values of Christianity were recognized as "universal"; and, on the other, institutional Christianity was relegated to the government of the private sphere, the sphere of the autonomous and voluntary decisions of individuals. This Western resolution of the religious question has been questioned in many parts of the world, including the Western world, and is reflected in the claim of the role of religion in public life".

For Santos (2014), the modern western resolution of the religious issue is a globalized localism, that is, a local solution that, through the economic, political and cultural power of those who promote it, expands its scope to the entire globe".

Not without reason, there is strong resistance regarding the discourse of Human Rights in the Muslim universe, considering that Human Rights, with its secular matrix reverberate to this universe as an antipode of its values, of its culture, strongly rooted in values and conceptions of religious life. In this sense, as Santos observes, the most radical currents of Islam perceive Human Rights as an expression of the Western cultural and political paradigm, rejecting it in its entirety, without opening to the possibility of a dialogue, different from the more progressive theological currents. in Islam, with which it is possible to establish dialogues, bearing in mind some points of convergence, such as with regard to female emancipation.

With regard to Islam and its fundamentalist strand, however, the understanding is expressed by Boaventura (2014, p. 96):

> Religion must be omnipresent and permeate all dimensions of life equally. This understanding of religion, which is consensual in Islam, is made by fundamentalist political Islam the most decisive political weapon. In other words, religion is converted into a political weapon against all traces of secularization left by the projects of modernization of Arab nationalism considered to be failed. Hence, the frontal attack on the secular State, on the separation between public and private space and on all institutions that intend to be governed by rules foreign to *shari'a.*

Therefore, a reconstruction of Human Rights should take into account intercultural dialogue, and seek to build a set of Human Rights that encompasses the various cultures and their values.

The concept of human rights proposed by Boaventura de Sousa Santos is based on the observation that human rights are not a universal principle, considering that the current model of human rights is inserted in a context of expansion policy, territorial domination and imperialism cultural. The big issue is that not all cultural traditions participated in the elaboration of international human rights instruments and not all non-Western cultures were included in the dialogue.

Furthermore, it is through the foundations of universalism, and through hegemonic globalization, that Western values cover themselves as universals, in order to allow the propagation of ideas that are umbilically linked to liberalism, individualism and the Western market.

For the author, the fallacy around the universality attributed to human rights in the imperial scenario of hegemonic globalization must change into a new universality, built from the bottom up: cosmopolitanism. Sousa Santos does not deny efforts to universalize a set of values that can be shared by all cultures, whether Western or non-Western. However, he warns:

> As long as they are conceived as universal human rights, human rights will tend to operate as globalized localism and, therefore, as a form of hegemonic globalization. In order to operate as a form of cosmopolitanism, as a counter-hegemonic globalization, human rights must be reconceptualized as multicultural (SANTOS, 2010, p. 96).

In this regard, if what is intended is intercultural dialogue on the universality of Human Rights among the different cultures of the world, cultural discourses need a relocation in order to reach the realities of each culture, so that they become mutually intelligible.

The author proposes, through intercultural dialogue, the search for the construction of a conception of human rights that can be shared with different cultures. Therefore, without a deep understanding of the history, cultures and civilizations and peoples of the world, it is impossible to make progress on the issue of dialogue on the universality of human rights.

Santos lists some premises to be followed to achieve intercultural dialogue with a view to transforming human rights into an insurgent cosmopolitan project:

> 1. The first premise is to overcome the debate on universalism and cultural relativism. This is an intrinsically false debate, whose polar concepts are equally harmful to an emancipatory conception of human rights.
> (...) 2. The second premise of the cosmopolitan transformation of human rights is that all cultures have conceptions of human dignity, but not all of them conceive it in terms of human rights. It is therefore important to identify isomorphic concerns between different cultures. Different designations, concepts and Weltanschaungen can convey similar or mutually intelligible concerns or aspirations.
> 3. The third premise is that all cultures are incomplete and problematic in their conceptions of human dignity. The incompleteness comes from the very existence of a plurality of cultures, because if each culture were as complete as it is believed, there would be only one culture. [...] Raising awareness of cultural incompleteness as much as possible is one of the most crucial tasks for building a multicultural conception of human rights.
> 4. The fourth premise is that no culture is monolithic. All cultures hold different versions of human dignity, some broader than others, some with a wider circle of reciprocity than others, some more open to other cultures than others.
> (...) 5. The fifth premise is that all cultures tend to distribute people and social groups between two competitive principles of hierarchical belonging: the principle of equality and the principle of difference. One – the principle of equality – operates through hierarchies between homogeneous units (the hierarchy of socioeconomic strata; the citizen/foreigner hierarchy). The other – the principle of difference – operates through the hierarchy between identities and differences considered unique (the hierarchy between ethnicities or races, between sexes, between religions, between sexual orientations). The two principles do not necessarily overlap and, for this reason, not all equalities are identical and not all differences are unequal. Hence, an emancipatory human rights policy must know how to distinguish between the struggle for equality and the struggle for the equal recognition of differences in order to be able to fight both struggles effectively. (SANTOS, 2010, p. 445-447).

It is observed that the central point on the issue of the universality of Human Rights in an intercultural perspective is the issue of the "dignity of the human person", as the various cultures have some kind of conception or vision about human dignity, everyone wants to live well , and even if they don't use the terminology "human rights", something close they will always find. All cultures are incomplete and debatable in their views of human dignity. In this sense, it is necessary to increase awareness of the incompleteness of cultures to create an emancipatory and multicultural vision of human rights.

It is noticed that Boaventura believes that only the dialogue between different cultures can be able to change the idea of universality of Human Rights, as without the search for some common meanings as an example: What is the meaning of "human dignity" in other cultures not westerners? There is also a need to recognize the importance of the existing religiosity of cultures, as if all cultures are based on their political and social histories, struggles, symbols, signs and cultural meanings, which are expressed in religion, customs, family and community , there is no way to start a dialogue and reach a common denominator without these considerations.

The way to recognize the universality of human rights is to build a new guise on the universality of Human Rights through intercultural dialogue, considering that every culture has its legal apparatus of protection with the peculiarities and historical values of peoples of a given nationality. Dialogue can lead to the understanding that a regional institute can be complemented through global stakeholders with other institutes, and vice versa.

Furthermore, the transformation of the current human rights model proposed by Sousa Santos starts from the verification that human rights do not have a universal source or matrix. The current model of human rights is inserted in a context of western monocultural construction, therefore hegemonic, which is why it encounters resistance among other cultures.

In this sense, Boaventura (2010, p. 447) also brings the idea of an emancipatory human rights policy, in the sense that an emancipatory human rights policy should know how to distinguish between the struggle for equality and the struggle for the equal recognition of differences, in order to be able to fight both fights effectively.

This is necessary so that human rights can operate as a form of cosmopolitanism, as an emancipatory policy, and not as globalization or localism, in a counter-hegemonic way, and can be reconceptualized as multicultural. It is in this perspective that human rights must be affirmed, in the search for the realization of justice as distribution, but also as recognition.

4. BEYOND HERMENEUTICS: THE MULTICULTURAL ISSUE

Intercultural dialogue, that is, the dialogue established between the various cultures of the world, presupposes respect for differences and the absence of any superior spirit of one culture over another. That's what Arenhart observes (2007, p. 81):

> The intercultural attitude implies a commitment to valuing the other's perspective and trying to be aware of it, even without understanding it. This is an attitude of the intercultural philosopher: conversation with the other, who represents another world, another point of view, the other being, in each case, a living person, a source of consciousness, not a computerized mind. Before being a relationship between cultures, interculturality is an encounter between human beings.

Thus, diatopic hermeneutics is a proposal by Panikkar and Santos as a mechanism for intercultural dialogue for the formation of a transforming state. And in intercultural dialogue, the exchange is of different knowledge, of different cultures that consist of strong topoi constellations. There are no major or minor knowledges, what exists are different knowledges, this is the understanding that cultures need to have. It is the reflection of Francois Julien (2009, p. 16), in the sense that the common of cultures can no longer be understood as a synthesis, nor as a denominator or foundation, but rather as a continuous unfolding and guiding by this universal regulator.

The diatopic hermeneutics hypothesis brings an important tool to the problem of incompleteness of cultures. Although completeness is not a purpose to be achieved, given its impossibility, the objective of diatopic hermeneutics is to raise awareness of this incompleteness as much as possible through a dialogue.

In this sense, the intercultural dialogue proposed by Panikkar and Sousa Santos through the interpretation of diatopic hermeneutics seems to be a path to the universalization of human rights.

Thus, interculturality is a discussion about updating the value of fairness and justice within each culture, taking into account that one cannot discuss a common and shared sense of justice without asking, that is, asking about who shares it and your scenario.

On the other hand, in intercultural dialogue, the exchange is of different knowledge from different cultures that are equivalent in strong topoi constellations. These topoi function as unquestioned propositions of argumentation that become controversies between different cultures.

In this sense, it is also worth highlighting the consideration of Chistoph Eberhard (2004, p. 175) when he stated that "for a productive intercultural dialogue also on law, it is not satisfactory to be aware of the sociolegal processes and logics of different cultures; it is essential to recognize their specific visions, horizons or legal universes, and their underlying myths and symbols".

Boaventura de S. Santos (2014, p. 256) explains that the different universes of meaning, which are crossed and mixed through intercultural dialogue, consist of strong topoi categories. "Topoi are broader rhetorical commonplaces of a given culture. They function as argumentation premises which, by not being discussed, given their evidence, make possible the production and exchange of arguments".

In the same sense, Panikkar observes that human rights belong to one of those common places from which we interpret the universe of human rights: "Human rights are a window through which a given culture conceives a just human order for its individuals".

Therefore, we cannot see the other culture only through our window, because the other culture in turn sees through another window, we need the help of another culture, and for that we must transform the various portals into a single window. Intercultural dialogue brings this axis as a mission.

Also according to Boaventura de S. Santos, it is possible to rehearse diatopic hermeneutics "between the tops of Human Rights and the tops of an Islamic culture", a notion that always refers to the ethnic, linguistic or religious community of people who are the object of divine plan of salvation.

And still in the view of Panikkar (2004, p. 237), it is essential that "non-Western cultures" create space for themselves and "formulate their own homomorphic visions corresponding to or opposed to Western 'Rights'"; in order to make this indispensable condition of its survival concrete, "the role of an intercultural philosophical approach is fundamental".

Finally, the theory of diatopic hermeneutics brings an interesting technique to the question of incompleteness of cultures. Even though completeness is not a goal to be pursued, given its impossibility. The aim of diatopic hermeneutics is to maximize awareness of this incompleteness through an intercultural dialogue.

The intercultural dialogue, the complementation of the topos of diatopic hermeneutics, proposed by the aforementioned authors, as well as the introduction of a plurinationality, are instruments found to reject the internal colonialism, which consists of the remnants of the colonial heritage of Latin America.

The idea of intercultural dialogue seems utopian just as human rights in their Universal essence are. However, dialogue still seems to be the way to rebuild the Universality of tangible and acceptable human rights, considering that there is no way to force two cultures or more to achieve the same purpose or objective if one of them intends to achieve only its own purpose

or its own goal. Remembering as Laura Brito observes that "the universality of human rights and cultural diversities are in a relationship of mutual implication in which mediation is done for freedom."

The convergence of these elements is what, for Boaventura de Sousa Santos, enables an emancipatory multiculturalism, in which human rights actually take on a counter-hegemonic character.

This is a challenge to be pursued with realism, conscience and human and political will, despite the difficulties in achieving it. Faced with such a great challenge, Santos (2010, p. 270) concludes:

> This project may seem quite utopian. It is certainly as utopian as the universal respect for human dignity. And even so, the latter is an ethical requirement. As Sartre said, before it came to fruition, an idea bears a strange resemblance to utopia. In these times the important thing is not to reduce reality only to what exists.

And certainly what exists goes beyond the apparent, the visible, even because we see through cultural lenses, which ends up generating cultural myopia, requiring a broadening of vision through the lenses of the various cultures of the world. Only in this way will it be possible to have an expanded view of the world, life, existence, a holistic view that enables true reconstructions and reconceptualizations of Human Rights with a view to their universality.

FINAL CONSIDERATIONS

Considering that the hegemonic idea of Human Rights posed by the 1948 Universal Declaration is a reality given the crisis between Western and non-Western cultures, an intercultural dialogue is necessary with a view to rebuilding and reconceptualizing Human Rights.

The hegemonic idea of Human Rights from the Universal Declaration of 1948 is a reality, however, this reality ends up translating into a cultural shock, especially with regard to Western and Eastern cultures, in view of the different perception existing in these cultures , due to its cultural context, human rights and the dignity of the human person, which requires, for the construction of human rights that are intended to be universal, an intercultural dialogue, considering that the concept of human rights that was erected to from the Universal Declaration of Human Rights is an expression of Western thought and perception, disregarding values and perceptions of other cultures.

The authors Panikkar and Sousa Santos criticize the thesis of the universality of human rights propagated in the declarations of the liberal-bourgeois revolutions and in the Universal Declaration of Human Rights of the United Nations, considering that their universalism is clothed in the garb of the seal of imperialism Western, configuring a central and Eurocentric view of human rights, and that would be part of the colonialist mark of the hegemonic Western powers. Thus, traditional theories used an ideology to construct the idea of human dignity.

It is undeniable that human rights are essential rights for all human beings, without any discrimination, whether by race, color, gender, nationality or any other reason, such as religion or politics. They can be civil, political and social, such as the right to life, equality before the law and freedom of expression. However, for Human Rights to be truly universal, there must be dialogue between other cultures that were not part of the construction of these rights.

Furthermore, the guarantee of universal human rights is built through the law, which may cite as an example, the international treaties and laws, therefore, there must be a dialogue between cultures for a better understanding of the rights protected and said to be universal. How can a culture, represented by a political state, ratify international rights treaties whose creation it did not participate? However, what is important is that these protection rights, whether national or international, have as their axis the protection of human dignity, is also understood from an intercultural dialogue. Therefore, the intercultural dialogue proposed by Panikkar and Sousa Santos through diatopic hermeneutics, intercultural dialogue and emancipatory multiculturalism seems to be a way to build effectively universal human rights.

The diatopic hermeneutics hypothesis brings an important tool to the problem of incompleteness of cultures. Even though completeness is not a purpose to be achieved, given its impossibility. The objective of diatopic hermeneutics is to heighten awareness of this incompleteness as much as possible through dialogue, as there is no way to talk about universality when protected rights are based on minority culture, further nurturing existing inequalities and exclusion, in addition to the idea of hierarchy between cultures.

The diatopic hermeneutics proposed by Panikkar and also defended by Sousa Santos as an instrument of cultural understanding and cultural differences, provides the conditions for the development of an intercultural dialogue, which in turn contributes to the development of an emancipatory and counter-hegemonic multiculturalism.

Therefore, it makes no sense to talk about universal human rights without considering the issue of identities, cultural diversity, the multicultural universe, as this would imply the imposition of rights and values of a particular culture that intends to be superior over the others, depriving the search for effective universality.

Diatopic hermeneutics and intercultural dialogue contribute to the formation of an awareness of the richness of cultural diversity, rather than clinging to cultural monolithism, which narrows the worldview and, therefore, impoverishes understanding of the various existing cultures, and which constitute a great wealth of humanity.

The search for a path to confluence is fundamental to achieving the objective of overcoming the universalism/relativism conflict with regard to the real scope and application of Human Rights.

It is neither reasonable nor possible to simply disregard the path traveled so far in the construction of Human Rights, stating that they have no legitimacy since they are the expression of an imperialist and localist conception of the world, but on the other hand, it is not It is possible to disregard that the application of these same Human Rights are indeed an expression to a large extent of Western culture, in addition to their application following different parameters when referring to certain regions and cultures of the world.

It is understood that the epistemological effort made by R. Panikkar and Boaventura S. Santos in building heuristic instruments for the analysis of Human Rights in relation to its cultural dimension is commendable and significantly contributes to a better and broader understanding of the dilemmas faced by Human Rights with regard to the diversity of world cultures, as they constitute important windows or lenses that enable us to broaden our vision to understand the problem that involves the universalism/relativism of human rights, and will certainly contribute to facing this issue insofar as be considered in the political and legal treatment of human rights.

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