

THE CRISIS OF THE REASON IN THE XX CENTURY AND THE DISCOURSES OF LEGITIMATION OF THE HUMAN RIGHTS: OVERCOMING THE DISPUTE BETWEEN UNIVERSALISM AND CULTURAL RELATIVISM AND THE AFFIRMATION OF A COSMOPOLITAN PROJECT OF HUMAN RIGHTS

A CRISE DA RAZÃO DO SÉCULO XX E OS DISCURSOS DE LEGITIMAÇÃO DOS DIREITOS HUMANOS: SUPERANDO A DISPUTA ENTRE UNIVERSALISMO E O RELATIVISMO CULTURAL E A AFIRMAÇÃO DE UM PROJETO COSMOPOLITA DE DIREITOS HUMANOS

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Abstract: Philosophy, during the history of the western civilization, was supplanted by the technoscience relatively to the explanations of the world and by the Christianity relatively to the sense of life, under the point of view of the masses. However, modernity takes it to the disenchantment of the safety that was provided by the metaphysics - especially the one of the Christianity - and the science stops being the safe harbor that it promised to be in the XIX century. Facing that, the philosophical skepticism, that had been relegated to the ostracism, returns with energy in the XX century, fact that becomes relevant for the analysis of the individual and the culture, especially concerning the cultural relativism. Nevertheless, when applying the relativism to the cultures, where peoples or small groups would have the right of maintaining autonomy in relation to moral norms of conviviality; even if that represents the acceptance of violative practices concerning the rights established as fundamental to the human dignity by the remaining of the population; it comes across the questioning of how pressing is the debate about the necessity or not of establishing universal ethics, fact that culminates in the debate concerning the human rights. In this sense, two main philosophical currents rise: the universalism, whose theorists defend the existence of universal moral judgments and, therefore, of human rights with global validity; and the cultural relativism, whose followers defend that the values – so that the human rights – can only be culturally valid. Those discourses do not dialogue amongst themselves, so they end up representing an impediment for making the human rights effective, so that it is necessary to overcome the simplistic dispute between relativists and universalists to guarantee the widest effectiveness for these rights and to guarantee the development of a cosmopolitan project of human rights.

Key-words: Crisis of the Reason; Skepticism; Cultural Relativism; Universalism; Human Rights.

Resumo: A filosofia, durante a história da civilização ocidental, foi suplantada pela tecnociência, relativamente às explicações do mundo, e pelo cristianismo, relativamente ao sentido da vida, sob o ponto de vista das massas. No entanto, a modernidade toma-a para o desencanto da segurança que foi fornecido pela metafísica - especialmente a do cristianismo - e a ciência deixa de ser o porto seguro que prometia ser, no século XIX. Diante disso, o ceticismo filosófico, que havia sido relegado ao ostracismo, volta com energia no século XX, fato que se torna relevante para a análise do indivíduo e da cultura, principalmente em relação ao relativismo cultural. No entanto, quando aplicado o relativismo para as culturas, onde povos ou grupos pequenos teriam o direito de manter a autonomia em relação a normas morais de convívio, mesmo que isto represente a aceitação de práticas violatórias relativas aos direitos estabelecidos como fundamentais para a dignidade humana pelo restante da população, isto

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coloca o questionamento de quão premente é o debate sobre a necessidade ou não de estabelecer a ética universal, fato que culmina com o debate sobre os direitos humanos. Neste sentido, duas principais correntes filosóficas emergem: o universalismo, cujos teóricos defendem a existência de juízos morais universais e, portanto, dos direitos humanos com validade global; e o relativismo cultural, cujos seguidores defendem que os valores – e assim também os direitos humanos – só podem ser culturalmente válidos. Esses discursos não dialogam entre si, situação que acaba representando um impedimento para fazer dos direitos humanos algo eficaz. Este diálogo é necessário para vencer a disputa simplista entre relativistas e universalistas, a fim de a maior eficácia a esses direitos, bem como garantir o desenvolvimento de um projeto cosmopolita de direitos humanos.

Palavras-chave: Crise da Razão; ceticismo; Relativismo Cultural; Universalismo; Direitos Humanos.

INTRODUCTION

Can reason lead to the knowledge of the truth? The skeptical answer, that denies such possibility to reason, although it has been present since the Classical Antiquity, increases excessively starting from the XX century, when an unprecedented crisis uncovers in relation to the promises of the rationality, crisis that, when disturbing the foundations of the great building of the western thought that had its origin with the appearance of the philosophy in Greece, has casted doubt on the defense possibilities of a rational acting in the wide areas of knowledge.

For the analysis offered here, the theme will be treated under a historical perspective, where some of the consequences of the denominated western nihilism will be seen. In methodological terms, it is believed that it is possible to rebuild a philosophical current in a reasonably objective way, although many points can remain uncertain and subjects to controversy. Differently from the philosophy, the history of philosophy is an empiric science. While philosophy discusses on its object, the history of philosophy has a defined object: what was thought and written by philosophers of the past.

So, facing the crisis of reason and, at the same time, the unrest of the debates concerning the relation between law and moral, between jusnaturalists³ and positivists⁴ after the Second World War, the following question is uncovered: is there the possibility of defining universal ethics for the human rights?

After the barbarisms witnessed in the Second World War, with the terror promoted by the Third Reich, a movement of internationalization of the human rights begins. The international Community, haunted by the death of millions of Jews, gypsies and Poles, tries to restore ethical and juridical paradigms of

³ The theory of natural law is characterized by sustaining two main theories: “a) An ethical philosophy that sustains the existence of principles of moral and justice universally valid and acceptable by the human reason. b) A theory concerning the definition of the concept of law, according to which a normative system or a rule cannot be qualified as ‘juridical’ if they contradict those principles of moral or justice”. (free translation) (NINO, Carlos Santiago. **Introducción al análisis del derecho**. 2.ed. ampl.rev. Buenos Aires: Ástrea de Alfredo y Ricardo Depalma, 1980, p. 27-28).

⁴ “The juridical positivism, opposite to any theory of the natural law, associated to the philosophical positivism, denier of any philosophy of values, was the dominant democratic ideology in the Occident until the end of the Second World War. It eliminates from the law any reference to the idea of justice and, from the philosophy, any reference to values, trying to model as much the law as the philosophy by the sciences, considered objective and impersonal and from which it is necessary to eliminate everything that is subjective, therefore arbitrary”. (PERELMAN, Chaïm. **Lógica jurídica: nova retórica**. Translation of Vergínia K. Pupi. São Paulo: Martins Fontes, 1998, p. 91).

protection of the human person, being reborn from the ashes, in an even more competitive way, the old debate between positivists and jusnaturalists.

Besides, with the end of the Second War, another phenomenon comes to light, generating more difficulties in relation to the application of the law, especially of the rights of the human person: the *displaced persons* (stateless persons). They appear in the international scenery as people without nation and, therefore, without a State to assure their rights.

In that context, on December 10, 1948, the Universal Declaration of Human Rights was approved, giving opportunity to a process of reformulation of the international legal order as a whole and, especially, of the field of the human rights, which resurge with longings of universality. However, that assumed universalization gives origin to another quarrel that grows around the controversy of the universal legitimation of the human rights, because these bring with themselves, although implicitly, moral opinions predominantly from the westerners.

Two antagonistic fundamental lines of argumentation appear, in this sense, and bipolarize the discourses of legitimation of the human rights: the universalism and the cultural relativism.

It is noticed, therefore, that the concern with the legitimation of the human rights, in order to cover them of universality, far away from being a controversy eminently theoretical and abstract, assumes practical importance, as it becomes a decisive factor for such rights to acquire efficacy.

That happens bearing in mind that the biggest resistance in relation to the concrete application of the human rights internationally has been the allegation that they would clash with the axiological paradigms of non-western cultures, for expressing values intrinsically from the westerners. Under that perspective, therefore, the policy of expansion of the human rights is nothing else than a discourse of legitimation of the world's hegemonic disposition, an ideological discourse that was used at the time of colonization.

With the purpose of supplanting such arguments and demonstrating that the human rights can be applied in a way to promote the inclusion and the human being's development in all their dimensions, without annihilating the cultural identity of the non-westerner "other", this present article uses as essential backdrop the Ethics and Philosophy of the liberation, in the molds proposed by Enrique Dussel; and the diatopic hermeneutics, as suggested by Boaventura de Sousa Santos.

Thus, the objective of this present article is delimited as being the one of demonstrating the anachronism of the manicheist strife established between the cultural relativism and the universalism; and, mainly, to emphasize the need of overcoming the cultural cannibalism ingrained in the modernity, so that, only in this way, a cosmopolitan movement of acknowledgement of the human rights can be settle down.

1 CRISIS OF THE REASON IN THE XX CENTURY

When it is spoken about crisis of the reason soon another subject comes to light, at least in academic environments, the idea of a phenomenon that took place

in the XX⁵ century, crisis that has been associated as a typical characteristic – if not the most important - the *post-modernity*, although until today there is not an agreement concerning what is that *post-modernity* and if the modern times indeed reached the end, or still, as in the case of Brazil, if they have started in fact.

Without entering this controversy, the controversy that is introduced now is the one of knowing why so much importance has been granted to the attacks that the reason suffered in the century that has just finished and that seems to continue suffering also in this new century, once, from the origins of the philosophical thinking, the reason lives together with the indisposition of the skeptical doubt, doubt that in certain moment (with the rationalism inaugurated by Descartes) - paradoxically - became the starting point of the philosophical thought.

Why only now then, after more than two millennia of constant attacks, does the reason enter in crisis?

The attempt of answering this question can be made starting from an analysis of the emergence of the philosophy, of its goal and how those goals were (if they were) achieved along the history of the thought.

It is not intended here to make a rigorous and exhausting analysis of the context of the emergence and development of philosophy, but to start from some impressions that can lead to the understanding of the crisis of the reason suffered in the XX century.

According to Aristotle, philosophy is born from the fright caused by the events of the world⁶, of what is unexpected, of what is to come. In a first moment the man creates the myth so that it takes care of the existent chaos, looking for a sense of order. However, the myths survive from beliefs that can be easily destroyed and that do not have the radicality that philosophy, since the beginning, intended to search, in other words, “the idea of a *knowledge that is irrefutable*; and that is irrefutable not because the society and the individuals have faith on it or live without doubting it, but because *it* is capable of refuting *all* its opponents. The idea of knowledge that cannot be denied neither by men nor by gods, nor by changing of times or habits. Absolute, definitive, incontrovertible, necessary, indubitable knowledge.”⁷

Through the *episteme*, foreseeing and advancing the future of life, the man gets free from the terror, making what was before unexpected now predictable. The *episteme* emerges as the great medicine against the terror of life.

That attempt of making the unexpected predictable will culminate in the modern science and in the scientific-technological contemporary organization of the experience, that became another great medicine against the terror of life, even not having the same pretension of the *episteme*, in other words, a knowledge that gets its totality, which has the pretension of incontrovertible truth.

Also the Christianity came as a medicine against the unhappiness and the pain, but an ultramundane and transcendent medicine. Then the capacity that the

⁵ “The contemporary philosophical situation [...] has been marked, since the end of the XIX century, with the stigma of the crisis and, very particularly, of the crisis of the subject and the reason” (CARRILHO, Manuel Maria. (Org.). **Retórica e comunicação**. Porto: Asa, 1994, p. 9).

⁶ ARISTÓTELES. **Metafísica**. Translation of Marcelo Perine, São Paulo: Loyola, 2002, A 2, 982 a 29 – b 22, p. 11.

⁷ SEVERINO, Emanuele. **A filosofia antiga**. v. 1. Translation of José Eduardo Rodil. Lisboa: Editions 70, 1986, 3 v, p. 19.

Christianity had to communicate with the masses that the philosophy does not have.

However, as much the Christianity as the techno-science, or yet, all western civilization grows in the center of the open dimension, once and for all, by the Greek philosophy: the search of an irrefutable knowledge that makes what is to come in life predictable, the *episteme*.

It is exactly against the idea of the philosophy as *episteme* that, from the antiquity, going through the Middle Age and modernity, that the contemporary thinkers will rebel, among them Friedrich Wilhelm Nietzsche seems to be the most radical.

For Nietzsche, the gigantic building built by the culture and by the Westerner civilization to protect the man from the chaos and the irrationality of the future (building that would culminate and would be summarized to the concept of God) ended up overloading the man's existence, becoming a weight more unbearable than the one constituted by the threat of what is to come.

The origin, the sense, the cause, the principle, the law, the unalterable and divine reality evoked by the *episteme* form the medicine against the terror provoked by the unpredictability of the future, but sometimes they possess a terrible appearance, because when foreseeing and advancing the future, they annul it and destroy also the man's own life.

Man appears like this as the most disturbing and unexpected of the things to be faced, but the medicine that he finds appears to him as suicide. The medicine destroys the life, because being the man unpredictability, when wanting to become predictable, he gets free of himself destroying himself.

Then Nietzsche's acknowledgement that the medicine was worse than the problem, from where Jean-Paul Sartre could say that if God exists, the man cannot live.⁸ That is the thought that can illustrate the most characteristic aspect of the contemporary nihilism.

The nihilism shows that the humanity is here, in the world, literally abandoned, however, this nihilism is focused on the man's accomplishment, to liberate him from the currents that impeded him of living, to liberate him from God.

The nihilism is exactly the refusal of answering the metaphysical whys, because it notices that there is no end to be reached.

According to Nietzsche, all the great constructions of the traditional knowledge concerning the principles, the metaphysics, the art, the morals, the values of the society, the individuals' rules of conduct, allow life to be bearable. They are the fundamental instruments with which the man tried to reach the pleasure, running away from the pain, instruments that also allowed man to survive. But they are a big simulation, they pretend to be the truth, however, they are nothing more than lies and illusions useful to the survival, vital errors disguised of truth.

The search of an end, a truth that gives sense to existence, is already the nihilism, for being this task impossible of being reached. Therefore God, as creator

⁸ Cf. SARTRE, Jean Paul. **O existencialismo é um humanismo**. In: Os Pensadores. Translation of Vergílio Ferreira, Luis Roberto Salinas Fortes, Bento Prado Júnior, São Paulo: Abril Cultural, 1978, p. 22 e ss.

of a sense, is also exposed. This way, the vital error, the nothing that moves the western culture, is the own God.

The only world is this one that presents itself as threatening and terrifying, where the man's certainty has as content the threat and the chaotic and irrational unpredictability of the things.

For Nietzsche, the history of the Occident is the history of a great error, where the big lie culminated in God, as there was the pretension of affirming him as cause and purpose of the world. In the origin is the end, but the world, just like it is, neither has a sense nor an end to be reached: "The world subsists; it is not anything that will be, anything that perishes. Or before: it will be, it perishes, but it never began to be and it never ceased perishing, - it is *conserved* in both... It *lives* from itself: its excrements are its nourishment."⁹

It is worth to say that not only the philosophical thought did affect the man's self-esteem and reason, but also the modern science. With effect, from Galileo, when it was revealed that we were not in the center of the universe as we imagined, our *vanity* had been already shaky. But that was little if compared to the theories of Sigmund Freud and Charles Darwin that, respectively, expelled us from the center of the *creation* and from the control of our mental faculties. The philosophies of the language equally affected the building of the faiths of the modern man when they demonstrate the outrage of those faiths starting from linguistic analyses.

However, it is not intended to affirm that the philosophical reflections and the scientific discoveries were responsible by generating the crisis of the reason in the XX century. Unlike what can be imagined, the theories do not emerge by chance, but in function of circumstances historically located in a geographical area: the Occident.

The beginning of the XX century was also the beginning of a crisis among the neocolonialist potencies, whose consequences made that century, according to Eric Hobsbawm, the "... most murderer than we have register, so much in the scale, frequency and extension of the war that filled it, barely ceasing for one moment in the decade of 1920, as well as for the unique volume of human catastrophes that it produced, from the largest hunger of history to the systematic genocide."¹⁰

The contemporary thought, that affirms the collapse of the reason – at least of the reason as *episteme*¹¹ – was certainly conditioned by the already nascent

⁹ NIETZSCHE, Friedrich Wilhelm. **O eterno retorno**. In: Os Pensadores. 5. ed., v. I. Translation of Rubens Rodrigues Torres Filho. São Paulo: Nova Cultural, 1991. 2 v., § 1066, p. 176.

¹⁰ HOBSBAWM, Eric. **Era dos extremos: o breve século xx: 1914-1991**. 2. ed. reimp. Translation of Marcos Santarrita, São Paulo: Companhia das Letras, 1997, p. 22.

¹¹ "Let us return, then, to the 'crisis of the reason'. If confined to the domain of philosophy, 'crisis of the reason' is an expression that is only pertinent to the classic reason, that is, to the one that, saying that this world of our common life is mere appearing, it intended to transcend it and to discover the world of the being. The diagnosis that there is such crisis reflects the capture of conscience that the attempt of transcending the land metaphysically neutral did not achieve the wanted results of knowing the 'structure of the world' or of establishing unquestioned theories on the 'nature of the things'. That capture of conscience, however, only has the flavor of a crisis when it still wants another rationality that establishes, somehow, a metaphysical theory. The possibility of talking about a 'crisis of the reason' shows that the current philosophy, despite of its 'linguistic turning', is still not completely free from some form of dogmatism, what maybe can explain good part of the discussions and of the ambiguity of some thoughts. For the skeptic, that situation expressed first the own condition of the dogmatic philosophy and the need of its constant surveillance: once the parameters of our rationality get lost and we penetrate the darkness of the delirious imagination, nothing is more natural than the senseless

collapse of the effective political systems and consequent international crises. The fact is that, still according to Hobsbawm, materially and morally the great European empires arrived to the XX century in decline:

[...] Unlike the “long XIX century”, that seemed, and actually was, a period of almost uninterrupted material, intellectual and *moral* progress, it means, of improvement in the conditions of civilized life, there was, starting from 1914, an accentuated regression of the patterns then had as normal in the developed countries and in the environments of the middle class and that everybody piously believed were dispersing to the latest areas and to the less illustrious layers of the population.¹²

Hobsbawm continues:

Even more obvious than the uncertainties of the economy and of the world politics was the social and moral crisis, reflecting the post-decade of 1950 transformations in the human life, which also found widespread expression, although confusing, on those Decades of Crisis. It was a crisis of faiths and suppositions on which the modern society leaned on since the Modern won their famous battle against the Ancient, in the beginning of the century XVIII: a crisis of rationalistic and humanists theories embraced as much by the liberal capitalism as by the communism and that made possible the summary but decisive alliance of them both against the fascism, that rejected them. [...]

However, the moral crisis did not regard only the assumptions of the modern civilization, but also the historical structures of the human relations that the modern society had inherited from a pre-industrial and pre-capitalist past and that, now we see, had made its operation possible. It was not the crisis in a way of organizing societies, but of all the forms. The strange appeals in favor of a non specified “civil society”, of a “community”, were the voices of lost and drifted generations. They made themselves heard in an era where such words, having lost their traditional senses, became insipid sentences. There was not another way of defining group identity except defining who were not in it.

For the poet T. S. Eliot, “it is like this that the world ends - not with an explosion, but with a whining”. The Brief XX Century put an end to both.¹³

2 SKEPTICISM AND TOLERANCE

According to Eduardo A. Zannoni, the crisis that fell on the reason, on the other hand, also had good benefits:

In this state of things there is [...] the anguish in which the first forth of the XX century lives with the First World War that, in the juridical and philosophical order, implicated in a deep revision of the truths that the reason had intended to extract from its own deductive eagerness.

However, this same reason was impotent to conduct the reality, the history, the humanity, through the paths of peace, of solidarity, of justice.

proliferation of opinions” (SMITH, Plínio Junqueira. **Ceticismo filosófico**. Curitiba: UFPR, 2000, p. 254).

¹² HOBBSAWM, Eric. **Era dos extremos: o breve século xx: 1914-1991**, p. 22.

¹³ *Idem*, p. 20-21.

That anguish will be fruitful for the thought.¹⁴

One of the results of the crisis suffered by the reason - above all in face of the historical events above narrated - was the abandonment of the defense of the possibility of a dogmatic science castled in rigid normative principles, that would impose themselves as monolithic truth.¹⁵

The dogmatic attempts of founding knowledge were indeed shaken. The dogmatic thinkers started to be accused of being absolutists, objectivists. On the other hand, the skeptics and their relativism breathe and start to rescue all their millenarian tradition.¹⁶

According to Oswaldo Porchat, until today, all the attempts of founding a rational knowledge in search of the truth were nothing more than combat efforts against the skepticism. So:

[...] dogmatic philosophy invented the theory of knowledge: it elaborated the theme of the truth, it distinguished between the evident and the non-evident and it formulated a notion of evidence, it introduced the notion of criterion of reality and truth and it distinguished species of criteria, it built a conception of the human being as subject of knowledge and it studied their faculties, it took long in the analysis of sensibility and understanding as privileged sources of our alleged knowledge and apprehension of the real, it

¹⁴ ZANONNI, Eduardo A. **Crisis de la razón jurídica**. Buenos Aires: Depalma, 1980, p. 76.

¹⁵ Bento Prado Jr. mentions the crisis the dogmatic sciences went through when talking about the neopositivism: "But, in the United States, at least, that welcomed many German speaking philosophers in the end of the 30's inspired by the Circle of Vienna, who escaped from the Nazism, an undeniable hegemony of the neopositivism in the epistemology in general was settled, from the physics to the social sciences. More than that, the imported philosophy seemed to find favorable land, as if there was a preset harmony between the logical empiricism and the behaviorism of North American origin, or the practice of a limited and quantifiable positive economy. Out of the mathematical models and of the empiric evidences there would not be salvation. Therefore, though, the neopositivist program began to collapse, and to show its limitations with the crisis of the dogmas of the immaculate conception and of the immaculate observation. Quine, for instance, gets his shot in the heart, showing the impossibility of drawing a clear line between analytical propositions and synthetic propositions, between what is purely logical and what is purely empiric. On the other hand, philosophers as N. R. Hanson say that a new philosophy of the science walks in the same direction, insisting on the 'theoretical impregnation' of the observational data. In Germany the positivism opposed dialectics and hermeneutics to the 'post-positivism' of Popper (since it had sacrificed the famous principle of verification), replacing it with the oblique criterion of the falsifiability, that supplies a more ductile idea of demarcation. In the English speaking countries, the physics philosophers - recovering the compared epistemology of Duhem and Alexandre Koyré - reintroduce the history of the science in the heart of the epistemology and, with it, the idea of the multiplicity of the paradigms. In all of the cases, it is the ideal of the *unicified science* that gets into crisis. It is to a wider conception of the Reason and Science that the spirits turn themselves, then. Or, at least, to the recognition of the fact of a minimum pluralism or methodological perspectivism, that commits the hegemony of the ideal of the whole science unified in the style of the *hard science*" (PRADO JR., Bento. **Retórica na economia**. (Org. José Marcio Rego). São Paulo: Edições 34, 1996, p. 7-8). Sobre o tema, ver ainda CARRILHO, Manuel Maria. (Org.). **Retórica e comunicação**. Porto: Asa, 1994, p. 23 e ss.

¹⁶ "The skepticism as philosophical conception and not as a series of doubts related to the traditional religious faiths had its origin in the ancient Greek thought. In the period of the Hellenism several observations and attitudes of Greek philosophers of previous periods were developed, forming a group of arguments, establishing that (1) no form of knowledge is possible; or that (2) there is no appropriate or sufficient evidence to determine if some form of knowledge is or is not possible and that, therefore, we should suspend the judgement concerning all the controversies related to knowledge" (POPKIN, Richard. **História do ceticismo de erasmo a spinoza**. Translation of Danilo Marcondes de Souza Filho. Rio de Janeiro: Francisco Alves, 2000, p. 13).

developed a doctrine of representation and, particularly, of the "apprehensive" representation, it carefully analyzed the inferential proceedings that allegedly guide us from the sphere of common evidence to the domain of non-evident realities, through signs or demonstrations. And it built an entire theory of signs and an entire logic of demonstration.¹⁷

Facing the new historical circumstances that characterized the XX century, the dogmatic philosophies, which were prestigious before, started to be seen with distrust, the inverse happening with the skepticism.

In effect, starting from the self-esteem crisis that afflicted the humanity in face of the impact in works as the one of Darwin, Freud, Nietzsche, as well as for the philosophies of the language, crisis that became worse starting from the explosions of two atomic bombs in Japan in 1945, from what techno-science lost the credibility it used to have, things started to be seen as an insane posture (predicate that used to be traditionally attributed to skepticism), being the pretensions of "[...] wanting to justify everything, it would become a senseless enterprise, because it was completely impossible, taking it nowhere but to a regression to the infinite. The hyperbolic exercise of criticizing is senseless because, in its anguish for the absolute, it dissociates thought and context, it neglects the demands of action in thought, their constant interactions and leaves, after all, the demand for continuity escape without which the exercise of reasoning would become incomprehensible."¹⁸

As mentioned above, techno-science, seen before as a field endowed with an unshaken knowledge¹⁹, suffered the interference of that "[...] new open land for the *unified science* crisis of the ideal or of the 'modernism' [...]. The limits of that new land are defined: critic of the positivism, but starting from different points of view. Such points are the neopragmatism of Rorty, the critical theory in his habermasian version, the ricoeurian integration of the instruments of the analytical philosophy, phenomenology and hermeneutics, the kuhnian epistemology, with its ideas of scientific revolution and paradigm change".²⁰

Once the extension and the strength of the blow suffered by the reason was known, it is not difficult to conclude that not only was the techno-science affected, but also other branches of the human culture were not unharmed, such as religion, politics and moral.

It is worth to say that the relevance of the problem of the relativism due to the skeptical posture is not limited to the academic campuses. In effect, while Ortega y Gasset already used to say in the decade of 1920 that this is the problem of our time, in the current days, when the progress in transports and communications make us interact more and more with people from all over the globe, it cannot be ignored that there is no consensus in the world, or maybe, paradoxically, there is only consensus as for the fact that there is no consensus. For one, the absolute truth is one; for the other, another; and for third ones, more and

¹⁷ PORCHAT, Oswaldo. **Ceticismo e argumentação**. In: Vida comum e ceticismo. São Paulo: Brasiliense, 1993, p. 224. The same article can be found in CARRILHO, Manuel Maria (Org.). **Retórica e comunicação**. Porto: Asa, 1994, p. 123-164.

¹⁸ GRÁCIO, Rui Alexandre. **Racionalidade argumentativa**. Porto: Asa, 1993, p. 44.

¹⁹ Above all with the advent of the philosophical positivism, that arose in the XIX century with Augusto Comte's work, that originated other aspects later, as for instance, the ones of John Stuart Mill and Herbert Spencer.

²⁰ PRADO JR., Bento. **Retórica na economia**, p. 08-09.

more numerous, the same divergence indicates in a simple way that there is no absolute truth.

So, the acknowledgement that the truth is relative, even not being close to consensual, is proclaimed today by any high school student, sounding like someone telling an absolute truth.

If everything is relative, there is no absolute right or wrong; if everything is relative, there is no absolute truth. The “[...] dogmatism is not sustained without conclusive argument, but the skepticism showed that no argument is conclusively true.”²¹ The consequences of the relativism are, from the ethical point of view, the cynicism and, from the gnoseological point of view, the skepticism.

Still according to Porchat, the dogmatic, whose argument was allotted strength of absolute persuasion, “[...] it should recognize the eminently relative character of his arguments that persuade only some private audiences. The ideal of the universal consensus of the men of reason, obtained through arguments, is a myth”.²²

Is there a possibility of consensus through argumentation? Does the truth exist? In fact, the acceptance of those points of view takes to the dominant characteristic of the contemporary culture: the cynicism and the skepticism.

Maybe because of that the anthropologist Ernest Gellner used to affirm, parodying Karl Marx²³, that “a ghost haunts the human thought: the relativism.”²⁴

This ghost is exactly the theory that there is no absolute truth, in other words, that the truth of a proposition is relative to the circumstances in which it is formulated.

One of the classic expressions of relativism maybe is Protagoras’ maxim, for whom “man is the measure of all things; of things that are, that they are, of things that are not, that they are not.”²⁵

It is worth to say that this relativist posture was always combated in the ancient times - maybe the reason for being of the platonic philosophy that opposed the sophists – however, the dispute was fierce, because the philosophers that suspended the reason because of the impossibility of truth were very popular at that

²¹ PORCHAT, Oswaldo. **Ceticismo e argumentação**, p 226.

²² *Idem*, p. 226.

²³ “Um espectro assombra a Europa: o espectro do Comunismo” (MARX, Karl, ENGELS, Friedrich. **O manifesto comunista**. Translation of Maria Lucia Como. Rio de Janeiro: Paz e Terra, 1996, p. 7).

²⁴ With that sentence Gellner began, on May 17, 1994, his lecture entitled “The Relativism versus the Only Truth”, that was given in the cycle of Lectures “The Relativism as Vision of the World”, promoted by the National Bank between 17 and May 20, 1994, in the city of São Paulo-SP.

²⁵ OS PRÉ-SOCRÁTICOS. **Fragmentos, doxografia e comentários**. In: Os Pensadores. Translation of José Cavalcante de Souza, Anna Lia Amaral de Almeida Prado, Ísis Lana Borges *et alii*, São Paulo: Nova Cultural, 1996, p. 32. According to Alf Ross, Protagoras taught *skepsis* (□□□□□□□□: sensorial perception through the vision): “*skepsis* in the knowledge and in the morality - summarized in the formula: ‘the human being is the measure of all the things.’ However, it is bounden to remind that the knowledge in relation to which Protagoras was skeptical was the one that then had been the philosophers objective: the absolute perception of the immutable; and that the moral in relation to which he was skeptical was the absolute law, the divine validity. Protagoras noticed the uselessness [and fatuity] of the philosophers’ attempts of knowing the absolute essence of the existence and of the things, and he taught that all the knowledge lives in the perception of our senses and it is, consequently, necessarily relative and individual. The things are just as we see them, but the human beings see them in different ways. But the man whose mind is healthy sees them just as others that are in the same condition” (ROSS, Alf Niels Christian. **Direito e justiça**. Translation of Edson Bini. Bauru: Edipro, 2000, p. 274-275).

time. There are countless examples, besides Protagoras, of classic Greek philosophers with relativist postures, such as Xenophanes of Colophon:

But if cattle and horses and lions had hands or could paint with their hands and create works such as men do, horses like horses and cattle like cattle also would depict the gods' shapes and make their bodies of such a sort as the form they themselves have.²⁶

And also the posture of Gorgias²⁷, who, according to the synthesis elaborated by Enrico Berti, considered reason unable to apprehend the truth:

[...] 1) being is not; 2) although it was, it would not be cognizable; 3) although it was cognizable, it would not be communicable. The consequence of those three theories was that the *logos*, in other words, the discourse, does not have the function of making the communication possible anymore, transmitting from a person to another the knowledge and meaning, through knowledge, the reality. It, on the contrary, substituted reality, it establishes it, so to speak, itself, it creates it, instead of communicating thoughts, it produces the effects directly, that is, causes of the passions, dominating completely the person.²⁸

But nothing compares to the skepticism that had been professed by Pirro²⁹, whose critic is expressly driven against the ones who intend to have found the truth. They are the philosophers to whom it was stipulated to denominate dogmatic, the ones who think they have an exact knowledge of how things are by nature. The dogmatic thinkers expose the things on which they discourse as really existent; their discourse is intended as the true expression of a reality as such known. That discourse frequently assumes the form of a doctrinaire system that composes and articulates dogmas one with the other and with the phenomena that are imposed to our common acceptance.³⁰

²⁶ XENÓFANES de Colofão. Fragment 15, OS PRÉ-SOCRÁTICOS. **Fragmentos, doxografia e comentários.** In: Os Pensadores. Translation of José Cavalcante de Souza, Anna Lia Amaral de Almeida Prado, Ísis Lana Borges et alii, São Paulo: Nova Cultural, 1996, p. 70-71.

²⁷ Appointed by Aristotle as the discoverer of the rhetoric.

²⁸ BERTI, Enrico. **As razões de aristóteles.** Translation of Dion Davi Macedo, São Paulo: Loyola, 1998, p. 167.

²⁹ "Then embraced by Sextus Empiricus, whose thought, denominated neo-pirronism, resurged reinvigorated in the XX century, including the juridical extent. It is worth to say that, according to Porchat, even Descartes made use of the pirronic skepticism: "Inaugurating a style of philosophizing basically justificacionist, that requests, as previous condition for the constitution of the philosophical knowledge, a *tabula rasa* of our common certainties, in general - and of our certainties on the external world, especially - the Cartesianism reserved to the skepticism a curious destiny. Because, when using instrumentally the skepticism which methodologically feeds it, it strangely preserves it, although intending to overcome it. The skeptical suspension of judgement about the external world became pattern-strategy and methodological preliminary when philosophizing. So, the Cartesianism gave a decisive step into the incorporation of the skeptical message to the modern thought, what allows us even to speak appropriately of a *skeptical-cartesian model* established in the beginning of the *Meditations*" (PORCHAT, Oswaldo. **Ceticismo e argumentação**, p. 124-125).

³⁰ Cf. PORCHAT, Oswaldo. **Ceticismo e argumentação**, p. 224. The same article can be found in CARRILHO, Manuel Maria (Org.). **Retórica e comunicação**, p. 213-214, where there is the systemization of the thought of Pirro starting from Sextus Empiricus. In the same way, cf. ADEODATO, João Maurício. **Pirronismo, direito e senso comum: o ceticismo construtor da**

It was against those dogmatic attempts that the skeptics, starting from the same premises accepted by the dogmatic thinkers - inside the logic of them, will establish an impressive series of contrary arguments:

[...] that the truth does not exist, just like the dogmatic thinkers conceived it, nor there is something true; that there is no evident reality, that nothing is evident; that there is no truth criterion, because none of the criterion species proposed by the dogmatic thinkers provides us with safe knowledge; that it is inconceivable and inapprehensible the human subject, as the dogmatic thinkers understand it; that the truth cannot be discovered nor the things can be judged by the sensibility or by the understanding, or for the united operation of one and the other, that is, by none of our supposedly cognitive faculties;³¹ that the dogmatic representation (*phantasia*) is inconceivable, inapprehensible, nor the objects can be judged by it; that the sign, just as the dogmatism defines it, is inconceivable, unreal, the sign does not exist; that conclusive arguments are inapprehensible, that true arguments cannot be discovered, nor it is possible to discover an argument that deduces something *ádelon* (non-evident) starting from evident premises, given the same relation that connects conclusion and premises; that there are really no demonstrations and the demonstrations are therefore unreal, they are nothing; that the demonstration is, in fact, inconceivable, it is something non-evident [...]

Therefore, the skeptics question:

[...] the acceptability of the premises of the proposed argument and of the premises of those premises, renewedly demanding justification and basis, waiving therefore with a regression to the infinite. It will also take care of preventing any dissembling circularity in the opposing argument that eventually introduces a subject in the premises due to the theory to be proven. And, above all, it will not allow the opponents to try to stop the grounding process, assuming something *ex hypothesi*, that is, like a "principle" or axiom, alleging to be a statement that is impossible to be shown and that from itself it imposes to our apprehension, of a truth that makes itself acceptable by the reason and that dispenses other ground. The dogmatic thinkers, in effect, intend that not only the demonstration, but the whole philosophy, proceeds the *ex hypothesi*.³²

That relativity showed of all things was always recognized by the skeptics as one of the decisive reasons that induce them to suspend the judgment (*a epokhé*) about the truth and their absolute reality. The *epokhé* is, therefore, this “[...] resting state of the understanding due to which we deny or assert nothing, unable to choose something as true or false, the balance of the contrary reasons incapacitating us for dogmatizing.”³³

tolerância. *In:* Ética e Retórica: para uma Teoria da Dogmática Jurídica. São Paulo: Saraiva, 2002, p. 328-335.

³¹ PORCHAT, Oswaldo. **Ceticismo e argumentação**, p. 224-225.

³² *Idem*, p. 222-223. Principles (*arkhé*), in the Aristotelian notion, are those propositions that carry out the role of premises in the arguments, without establishing their truth as conclusion of previous arguments. The validity (at least as truth) of such principles is incisively denied by the skeptics.

³³ PORCHAT, Oswaldo. **Ceticismo e argumentação**, p. 228. For João Maurício Leitão Adeodato, the skepticism is constructor of tolerance because, in “[...] first place, from a gnoseological point of view, the postulate of an accurate knowledge of the world, a entirely inadequate relation among the mind of

3 THE INDIVIDUAL AND THE CULTURE

Starting from the idea of reason as what relates means and ends, with the adaptation of proceedings for established purposes and not considering the degree of rationality of those ends, the phenomenon of the objective is had as not rational, it is the one that implicates some kind of profit, of usefulness. The actions are not considered if they are not useful, and reason becomes instrument. It is that idea of reason, called by Horkheimer subjective reason, that is opposed to the objective reason present in the social relations and institutions besides the individual, which prevailed during much time and is going through a crisis, as already mentioned.

That concept of reason [aims at] never excluded the subjective reason, but it simply considered it as the partial and limited expression of a universal rationality, from which the criteria of measure of all beings things were derived. There was more emphasis on the ends than on the means.

Therefore, the objective reason would be a principle inherent to the reality, with means to understand the being fundamental structure, starting from which human destiny can be estimated, while the other form would be a faculty subjective of the individual mind.

The subjective reason has its part of importance if verified its contribution to the dissolution of the mystic thought. However, the current crisis of the reason, that was subjectivized according to Horkheimer, consists exactly of the fact that the human thought is getting more incapacitated of noticing the objectivity: it denies or ignores it, and the reality, private or collective, starts to be seen as not rational for itself.

Starting from the moment when the thought is considered an instrument for the human actions, and it serves for actions that can be evaluated as good or bad, not establishing judgment criteria, in which the reason “basis [...] as much the ideology of profit and reaction as the ideology of progress and revolution”³⁴, it opens up space for the possibility of an ideological manipulation. When analyzing the cultural industry³⁵, Adorno and Horkheimer talk about a colonization of thought done by the massified culture, fact that, associated to the principles of a capitalist society, gives even more opportunity to the emersion of economical interests. The thought, neutralized by the cultural industry, becomes mechanic, automatic and instrumentalized ideas, without its own sense, just an adaptation to ends less and less determined by reason.

Horkheimer talks about the change of sense in the political constitution and with ideals that lost their original sense. For him, the political constitution:

each human being and the objects around them is not possible, which puts into perspective in an insurmountable way the perception of the same events; then, from an axiological point of view, the postulate that the skepticism does not consist of the contempt for the justice nor the abandonment of any ethical parameters, but that serves as an immunizing element against the intolerance and the dogmatism” (ADEODATO, João Maurício. **Pirronismo, direito e senso comum: o ceticismo construtor da tolerância**, p. 317).

³⁴ ADEODATO, João Maurício. **Pirronismo, direito e senso comum: o ceticismo construtor da tolerância**, p. 33.

³⁵ Cf. HORKHEIMER, Max; ADORNO, Theodor Wiesengrund. **Dialética do esclarecimento: fragmentos filosóficos**. Translation of Guido Antonio de Almeida, Rio de Janeiro: Jorge Zahar, 1997.

[...] in its origin, [...] it was idealized as an expression of concrete principles based on objective reason; ideas of justice, equality [...] were proclaimed to correspond to reason. Later the content of the reason was arbitrarily reduced to be simply a part of this content; [...] the particular took the place of the universal.³⁶

Therefore concepts that were already related to reason lose their intellectual roots and the formalization makes it a practical social instrument³⁷ for the humanity, together with the idea of tolerance, that although allows more freedom regarding rules, brings with itself the neutrality and the rigidity, leading to the relativism what cannot (and many times even what can) be proved scientifically by data and statistics.

When relativism is applied to cultures, where peoples or small groups would be entitled of maintaining autonomy in relation to moral rules of conviviality, even if that represents the acceptance of practices that can be violating rights established as fundamental to the human dignity (the recurrent and current clash between cultural relativism and the universalization of the human rights could be analyzed here) by the remaining of the population, the questioning of how pressing the debate about the need or not of establishing universal ethics shall appear.

Apel³⁸ presents that idea of universal ethics as paradoxical: necessary and impossible.

Taking into account the globalization, the interaction made possible to the cultures by the technological progress and by the information that overcame and renewed concepts of time and space, the argument of Apel that we live in a unitary civilization cannot be neglected in any analysis that has as object the theme of the individual and the culture. For that, he invokes examples as the one of the technical-scientific international interaction, in which the trade clearly inhabits the roll of global community's interests as a whole, uniting it; while moral is still conservative and defended locally. Another argument in favor of the unit is the one of the effects of environmental degradation that affect the planet as a whole and demand collective reaction beyond the notion of moral communities:

The technical-scientific civilization confronted all the peoples, races and cultures, without consideration of their group specific and culturally related moral traditions, with an ethical problem common to all of them. For the first time in the history of the human species the men had practically the task of assuming the solidary responsibility for the effects of their actions in planetary measure.³⁹

³⁶ HORKHEIMER, Max. **Eclipse da razão**. Translation of Sebastião Uchoa Leite, São Paulo: Centauro, 2002, p. 29.

³⁷ *Idem*, p. 27.

³⁸ "Universal ethics, intersubjectively valid, of solidary responsibility, seems [...] to be at the same time necessary and impossible" (APEL, Karl-Otto. **Estudos de moral moderna**. Translation of Benno Dischinger, Petrópolis: Vozes, 1994, p. 76).

³⁹ APEL, Karl-Otto. **Estudos de moral moderna**. Translation of Benno Dischinger, Petrópolis: Vozes, 1994, p. 74.

According to Apel, besides the need of the peoples to notice themselves as a single community, the philosophy has the role of finding a way of validating the possible universal ethics in an era of science.

With the crisis of reason taken to proportions where everything is seen as relative, objectively validating rules or opinions of value is a task practically impossible, relegated to irrationality or arbitrariness. The need of neutrality, of rigidity and absence of estimating value opinion imposed to all and any analysis directly affects the possibility of grounding ethical rules:

Analytical 'metaethics', in this context, resulted from traditional ethics or practical philosophy that, in general, understands itself as scientific-theoretical description, not as estimating value, of the use of language or of the logical rules of the so called 'moral discourse'. The philosophy that does not get adjusted to that transformation, that is, all the philosophy that tries to overcome the 'theory of neutrality', of the analytical metaethics in favor basing moral rules, seems to deduce rules of facts, and, with that, to lack the humesian principle of distinction between what is and what should be.⁴⁰

Therefore, for the establishment of ethics that can overcome moral or cultural differences, the ideal of scientific neutrality does not seem to be the mediator between theory and practice, at least not in the form that appears to be prioritized in the phenomenon here denominated as crisis of the reason.

4 UNIVERSALISM VERSUS CULTURAL RELATIVISM – THE DISCOURSES OF LEGITIMATION OF THE HUMAN RIGHTS

In the end of the XIX century jusnaturalist doctrines gradually lost their authority, in the same measure that the juridical positivism tried to solidify⁴¹. God was dead⁴², and with him the transcendent explanations of moral values. In the modern context, the formation of societies of plural character definitively disabled the religious validation of moral rules. Jürgen Habermas affirms:

[...] With the passage to the ideological pluralism in the modern societies, religion and the ethos rooted in it get decomposed as public basis

⁴⁰ APEL, Karl-Otto. **Estudos de moral moderna**. Translation of Benno Dischinger, Petrópolis: Vozes, 1994, p.76.

⁴¹ CELLA, José Renato Gaziero. Positivismo Jurídico no Século XIX: Relações entre Direito e Moral do Ancién Regime à Modernidade. Work presented as partial requirement for evaluation of the Thematic Seminar "Às Vésperas do Leviathan: o Nascimento do Estado Moderno Europeu", presided by the doctors professors Arno Dal Laughs Júnior and Antonio Manuel Hespanha.

⁴² There is here a reference to Nietzsche's famous affirmation "God is dead! God remains dead! We killed him!" (NIETZSCHE, Friedrich Wilhelm. **A gaia ciência**. Translation of Paulo César de Souza. São Paulo: Companhia das Letras, 2001, p. 148). This sentence, badly interpreted along the centuries, synthesizes the nietzschean nihilism, philosophy that announces the destruction of the transcendental fundamentals for the human existence in the century XIX, in other words, of the Christian thought that used to see God as the only axiological source and justification of the world. In this sense, the author continues: "The biggest recent event – the fact that 'God is dead', that the faith in Christian God lost its credit – has already begun to throw its first shadows on Europe. At least for those few whose eyes, whose the suspicion in the eyes is strong and refined enough for that show, some sun seems to be showed, some old and deep trust seems to have been transformed into doubt: for them our old world should seem each day more crepuscular, stranger, 'older'". (NIETZSCHE, Friedrich Wilhelm. **A gaia ciência**. Translation of Paulo César de Souza. São Paulo: Companhia das Letras, 2001, p. 233).

for validation of obligatory moral shared by all. In every case, the validation of obligatory moral rules for all cannot be explained with principles and interpretations that presuppose the existence and the role of a transcendental god, creator and savior.⁴³

However, before positivism was consolidated as the legitimator doctrine of the law exempt of subjectivities and axiological criteria, the cataclysms lived after the end of Second World War woke up the asleep debates between right and moral.

After the atrocities verified in the Nazi and Fascist systems, the strict application of the law, in the restricted and sovereign extent of the Nation-state, no longer answered to the two main problems raised with the end of the Second War: how to judge the losers for the crimes committed during the validity of the dictatorial systems and what treatment to give to the so-called *displaced persons* (stateless persons) and minorities marginalized by the legal systems.

The atrocious crimes committed during the Third Reich revived the controversy of the legality of the power that instituted a certain legal system in the measure that many Nazi officials in their defenses in the Tribunal of Nuremberg sought protection under the central argument that the acts they committed were in accordance with the effective legal system at the time. So, seeking the acquittal of their crimes, they invoked the central axis of the juridical positivism.

Hannah Arendt saw, as a correspondent of the magazine *The New Times*, a paradigmatic case in the House of the Justice of Jerusalem: the trial of Otto Adolf Eichmann, directly responsible for the deportation of millions of Jews to the fields of Nazi extermination. The consonance of his acts with the German legal system current at the time in the national-socialist system, constituted the cornerstone of the defense of Eichmann.⁴⁴

⁴³ HABERMAS, Jürgen. **A Inclusão do Outro**: estudos de teoria política. Translation of George Sperber and Paulo Astor Soethe. São Paulo: Loyola, 2002, p. 19.

⁴⁴ For this purpose, it is interesting to note what Hannah ARENDT does when affirming that this Nazi official deliberately altered the kantian formula of the categorical imperative, in a way to adapt it to the strict accomplishment of the law that supported the crimes committed. "The first indication that Eichmann had a vague notion that there were more things involved in that history other than the soldiers that executes clearly criminal orders in nature and intent appeared in the police questioning, when he declared, suddenly, with great emphasis, that he had lived all his life in agreement with the moral principles of Kant, and particularly according to the kantian definition of duty. That was apparently outrageous, and also incomprehensible, once the moral philosophy of Kant is intimately linked to the judgement faculty of the man, what eliminates the blind obedience [...] Eichmann gave an almost correct definition of the categorical imperative: 'What I wanted to say with my mention of Kant was that the principle of my will should always be in such way that it can be changed into the principle of general laws' [...]. After more questions, he added that he had read the Critic of pure reason, by Kant. And he explained that, starting from the moment when he had been responsible for executing the Final Solution, he had stopped living according to the kantian principles, that he knew that and that he was consoled with the idea that he was no longer 'master of his own acts', that he was unable to 'change anything'. What he did not refer to the court was that 'in that period of crime legalized by the State', as he had already said, he had discarded the kantian formula as something no more applicable. He had distorted its meaning for: act as if the principle of your actions was the same of the legislator or of the local legislation - or, in Hans Frank's formulation for the 'categorical imperative of Third Reich', that Eichmann must have known: 'Act so that the Führer, if he gets to know your attitude, approves it' (Die Technik des Staates, 1942, PP. 15-6). [...] the unconscious distortion of Eichmann is in agreement with what he called a version of Kant 'for domestic use of the common man'. In the domestic use, everything that remains from the spirit of Kant is the demand for the man to do more than to obey the law, to go beyond the mere call of obedience and identify his own will with the principle that is behind the law - the source from where the law sprouted. In Kant's philosophy, that source is the practical reason; in the

Therefore, the application of the law in its strict terms – positivist posture – started to be seen with distrust. Besides, it is seen that these Tribunals of exception - Nuremberg and the Court of Jerusalem - could only be legitimated with a law external to the German legal system, so that the violations that happened in the extent of the German Nation-state started to be judged in the international extent and, like this, the conception of sovereignty was put in doubt.

In the same way, such trials raised a natural and inevitable revision of the human rights, the ones which could not be considered in the strict limits of the Nation-states anymore, but they started to be thought in a global extent.

Another phenomenon that had decisive influence in the process of reformulation of the human rights in the postwar period was the *displaced persons* (stateless persons). The civil wars of the XX century were marked by the irregular migrations of oppressed human groups that, being forced to migrate from their countries of origin and not being absorbed by other nation-states, found themselves without any legal help, they were the “waste of Earth.”⁴⁵

In the view of Hannah Arendt⁴⁶, the matter of “right to have rights” and of “belonging to some type of organized community” only had genesis “when millions of people that had lost those rights appeared and they could not recover them due to the new global political situation.”

In this conjuncture of searching for balance in the international juridical order it is approved, on December 10, 1948, the Universal Declaration of the Human Rights, that represented a paradigm change. Under Flávia Piovesan’s point of view, it inserted the coeval understanding of human rights in the international order, distinct for its pretensions of universality and indivisibility.

Universality in the measure that it protested for a universal applicability, under the principle that the only premise to be titular of these rights is the condition of person. Indivisibility because the help of the civil and political rights is indispensable for the guaranty of the social, economical and cultural rights, being the reciprocal true.⁴⁷ So, the author defends that the human rights form an “indivisible unit, interdependent and interrelated.”⁴⁸

Thus, the international normative system is constituted formed by a wide variety of treaties, laws and international pacts that seek for broader reach to the human’s rights. However, far from pacifying the understandings around the applicability of the human rights and of giving them universal efficacy, this system of human rights soon began to be questioned under the point of view of its legality and grounding.

This questioning happened mainly because of the axiological load implicit to the human rights. About this, Habermas affirmed that the contents of these rights have a moral feature precisely due to the aspect of universality that is given to them, in other words, for being valid beyond the borders of the nation-state:

domestic use of Eichmann’s, it would be the will of the Führer”. (ARENDR, Hannah. **Eichmann em Jerusalém**: um relato sobre a banalidade do mal. 5. ed. reimp. Translation of José Rubens Siqueira. São Paulo: Companhia das Letras, 2004, p. 336).

⁴⁵ ARENDR, Hannah. **Origens do totalitarismo**. Translation of Roberto Raposo. São Paulo: Companhia das Letras, 1989, p. 300.

⁴⁶ *Ibidem*, p. 330.

⁴⁷ GOMES, Luiz; PIOVESAN, Flavia (coords) et al. **O Sistema interamericano de proteção dos direitos humanos e o direito brasileiro**. São Paulo: Revista dos Tribunais, 2000, p. 18.

⁴⁸ *Idem*, p. 18.

The concept of human rights has a moral origin, but also a specific manifestation of the modern concept of subjective rights, in other words, a manifestation of the juridical conceptuality. Human rights have a juridical nature starting from their origin. What gives them the appearance of moral rights is neither their content, nor their structure, but a sense of value beyond the characteristic juridical orders of national States.⁴⁹

After the end of the Cold War, with the beginning of a plural society, the debate about the grounding of human rights gets tougher. In this context, the discourses get bipolarized and established mainly in two currents: the universalism and the cultural relativism. The followers of the first current propose the existence of universal moral opinions capable of finding a global validity of the human rights; those that joined the second current defend that the values of the human person can be considered only in the strict limits of certain culture, and, therefore, they cannot aim at universality.

However, Jack Donnelly breaks up with the antagonistic character of this division and makes the complexity of the theme appear - that transcends in an absolute way the simplistic fight between relativists and universalists - when defending that such positioning can be presented starting from a scale of gradations, becoming separated in the following currents: radical relativism, radical universalism, strong relativism, weak universalism, weak relativism and strong universalism.

In this sense the author punctuates, in synthesis, that the radical relativism represents the cultural relativism in its exalted form, so that, besides considering that the internal judgments of a given society prevail to the external ones (cultural relativism), he also affirms that there are not another valid source of right or moral that is not the culture. The followers of a radical universalism defend the irrelevance of the culture for the definition of the universal validity of moral and law rules. The strong relativism, on the other hand, affirms that the culture is the basic source of validity of a right or law. In its lower end (weak universalism), the followers of this positioning accept some fundamental rights with universal applicability, however, it allows a vast amount of cultural variations. Finally, the weak relativism, also denominated strong universalism, considers the culture as a source of validity of the rules and rights, however, just as a secondary source. For the followers of this theory, the universality of the rights is initially assumed, however, the relativity of the human nature and the existence of communities stop possible excesses of the universalism⁵⁰.

By this mean, it is seen that extreme positioning lead to the legitimization of social aberrations as, for instance, the neocolonialism - in the case where the imposition of the western values through their unrestricted universalization and without taking into consideration the cultural aspects of their recipients is defended - and of authoritarian systems - in the case of defense of the absolute sovereignty of each people and their cultural aspects.

The fact is that, in the contemporaneity, the main cause of resistance in relation to the applicability and acceptance of the legality of the human rights has been the allegation that these rights are fundamentally found in western values and

⁴⁹ HABERMAS, Jürgen. **A Inclusão do Outro**: estudos de teoria política, p. 214.

⁵⁰ DONNELLY, Jack. **Universal Human Rights in Theory and in Practice**. Ithaca: Cornell University Press, 2003, p. 89-90.

represent an imposition of values of the Occident to the rest of the world, being characterized as an Eurocentric discourse and as the manifestation of cultural cannibalism. In this aspect, it is important to analyze the “eurocentrism”, and the real influence of it on the politics of human rights. In Enrique Dussel’s point of view “eurocentrism” would precisely consist in:

[...] constituting as human abstract universality in general moments of the European particularity, the first particularity in fact of the world (it means, the first concrete human universality). The modern-European culture, civilization, philosophy, subjectivity, etc. were considered as culture, the civilization, the philosophy, the subjectivity, etc. without further ado (abstract universal human).⁵¹

This way, it is feared that the contact of the western culture with the other cultures, although through a benevolent discourse as the one of the human rights, may result in an inevitable “shock of civilizations”⁵², as foreseen and described by Samuel P. Huntington, with the consequent annihilation of the weakest culture, in other words, the non-western one. Amartya Sen was guided in this line of thought when asserting that the “smashing power of the culture and the westerner lifestyle to undermine traditional ways of life and social habits”⁵³ represents a strong and concrete threat to those who “worry about the value of the tradition and of the native cultural costumes”⁵⁴.

As already seen, with the crisis of the reason, and the rooting of moral and cultural differences among the several peoples, the scientific neutrality and the metaphysical explanations of moral values were no longer enough to establish universal ethics. But which would be the solution for the politics of the human rights then? Is there the possibility of a universal discourse of the human rights to cross the moral and cultural differences, without using them as a form of ideological dominance of the western culture over the other cultures?

Habermas, when handling the problem of what he called “innate minorities”⁵⁵, which can appear in any social pluralistic formation and intensify with the multiculturalism, handled a “universalism sensitive to diversifications”, affirming that this would be the “type of a *non-leveling and non-apprehensive inclusion of the other in its full otherness.*”⁵⁶

However, Habermas was accused by Enrique Dussel of adopting an ethnocentric view, in the measure that he considers that the counter-discourse of the minorities begins in Kant, disrespecting the view of the really excluded. In this sense, Dussel formulates a criticism to the habermasian thought, in the following terms:

⁵¹ DUSSEL, Enrique. **Ética da libertação**: na idade da globalização e da exclusão. Translation of Ephraim Ferreira Alves, Jaime A. Clasen and Lúcia M.E.Orth. Petrópolis: Vozes, 2000, p. 69.

⁵² HUNTINGTON, Samuel P. **O choque de civilizações e a recomposição da ordem mundial**. Translation of M.H.C. Côrtes. Rio de Janeiro: Objetiva, 1997.

⁵³ SEN, Amartya. **Desenvolvimento como liberdade**. Translation of Laura Teixeira Motta. São Paulo: Companhia das Letras, 2000, p. 275.

⁵⁴ *Idem.*

⁵⁵ HABERMAS, Jürgen. **A Inclusão do Outro**: estudos de teoria política, p. 166.

⁵⁶ *Idem*, p. 55.

Firstly, Habermas places the beginning of that ‘counter-discourse’ in time: it is Kant (so it would be two hundred years-old). In a history with world perspective, with a non-Eurocentric view of the modernity, that counter-discourse will be five centuries old: it began on the island of Hispaniola, when Antonio of Montesinos attacked the injustice with the indians and from there it got to the classes of Salamanca (that continued the criticism initiated in 1514, as theoretical and practical work, by Bartolomeu de las Casas), when he expressed that nascent counter-discourse in the academic lessons of Francisco Vitoria about *De indis*. As always, for the Central European and German philosophers particularly, the XVI century does not count, and much less Latin America.⁵⁷

Still regarding the need of contact with the “other” to start seeing under the prism of the otherness, starting from a non-ethnocentric view, and for the formation of a true European counter-discourse, the author defends that:

[...] it is absolutely possible that it is *out of Europe* the place where that counter-discourse can be developed in a more critical way, and not as continuation of a strange or *exclusively* European discourse, but as continuation of a critical activity that the periphery already left printed in the *counter-discourse* produced in Europe and in its own *peripheral discourse* (in fact and almost integrally when it is not Eurocentric, it is already a counter-discourse), that is built with the peripheral or dominated in the world-system and from the acknowledgement of the exteriority of the excluded.⁵⁸

So, it cannot be talked about a discourse of otherness of the human rights without, necessarily, talking about Philosophy and Ethics of Liberation, in the molds proposed by Enrique DUSSEL.

Philosophy of the Liberation would consist of a philosophical project destined to act as a counter-discourse in relation to the Eurocentric paradigm ingrained in the modernity, in which the western ideals and values are disseminated as incontrovertible truths, independent and self-accomplished, not only in Europe and the United States, but also in the “world periphery.”⁵⁹ In the author’s words Philosophy of Liberation is covered with:

[...] a counter-discourse, it is a critical philosophy that is born in the periphery (and starting from the victims, from the excluded) with world pretension. It has an expressed conscience of being peripheral and of exclusion, but at the same time it has a world pretension. It faces the European or North American philosophies consciously (the post-modern and modern ones, procedural and communitarist, etc.), that confuse and even identify its concrete European core with its unknown “center-philosophy” function for five centuries.⁶⁰

This philosophical project seeks, therefore, to break with the Eurocentric modernity, emerging the conscience of the “colonial other, of the barbarian, of the

⁵⁷ DUSSEL, Enrique. **Ética da libertação**: na idade da globalização e da exclusão, p. 70.

⁵⁸ *Idem*, p. 72.

⁵⁹ *Idem*, p. 51.

⁶⁰ *Idem*, p. 73.

cultures in asymmetrical position, dominated ‘inferior’, excluded, as a source or appeal (*sources*) essential in the constitution of the identity of the modern me.”⁶¹

Altogether, it is about considering the dimension of the other as other, not as a mere projection of ‘me’ limited by western parameters; it is the respect to the other in his otherness. However, it is not enough the other to be respected in his integrality so that it transposes the obstacle of subjudging his own culture by the majority or hegemonic ones and, like this, be culturally affirmed. Under this prism, Enrique Dussel defends that the integral acknowledgement of culture would be impracticable without two precedent moments:

[...] 1) the discovery, by the own victims, firstly, of the oppression and exclusion that weighs on their culture; 2) the critical and self-reflexive conscience of the value of what is related to themselves, but that is affirmatively cut out as a dialectically prefixed act and with regard to the materiality as negativity.⁶²

Dussel describes a cogent moment, subsequent to the victim’s understanding, that concerns the occasion in which the other (excluded-oppressed) also fights for the inclusion in the group of victimized people and those that join them. So, he affirms that Ethics of Liberation has as base exactly giving voices to the oppressed ones:

Ethics of Liberation has insisted for many years on the ‘interpellation of the other facing an ear that knows how to hear (what we denominate ‘ethical conscience’ in the system), as origin of the liberation process. Nowadays we should propose a new development, because there is a previous process, starting from the conscience of the other (oppressed-excluded), that begins the recognition and solidarity process first (among the others as victims, among the oppressed ones, in the people excluded among themselves) starting from its own responsibility originated from themselves as subjects of new history.⁶³

Once the premises of this discourse of otherness founded mainly on Philosophy and Ethics of Liberation are understood, it is time to question the form through which this discourse can be transposed to politics of human rights, so that it can be covered with a truly emancipating character and with social inclusion.

5 OVERCOMING THE DISPUTE UNIVERSALISM VERSUS RELATIVISM AND THE COSMOPOLITAN MOVEMENT OF HUMAN RIGHTS

Boaventura de Sousa Santos, in the attempt of defining the conditions through which the human rights would be established to promote a progressive and emancipating policy, proposes the following questioning: “How could human rights be a policy that is simultaneously cultural and global?”⁶⁴

⁶¹ DUSSEL, Enrique. *Ética da libertação*: na idade da globalização e da exclusão, 2000.

⁶² *Idem*, p. 420.

⁶³ *Idem*, p. 425.

⁶⁴ SANTOS, Boaventura de Sousa. *Reconhecer para libertar*: os caminhos do cosmopolitismo multicultural, p. 432.

In order to answer this question, the author points out suitable conditions to impress a global character to the human rights, without removing their local validity, so that on these conditions, progressive politics of human rights are founded to seek social insert and development in a multicultural and dialogic context.⁶⁵

The author affirms the need of a cosmopolitan project of human rights. However, it is necessary to explain here that the “cosmopolitan” conception used by Boaventura de Sousa Santos diverges from the habitual modern concept⁶⁶, to understand it; it is imperious to present the forms of globalization considered by him.

“Globalized localism” is characterized by the victorious globalization of certain phenomenon of local nature (e.g.: American language recognized as universal language); “localized globalism” consists of the impact effects caused by praxis and international commands on certain local cultures, that lost their structure and became, for that reason, constrained to adapt to these global demands (e.g.: deforestation and environmental degradation in order to make possible the payment of foreign debt); the “common heritage of mankind”, that happens with the genesis of themes that are intrinsically global (e.g.: environmental preservation) and, finally, cosmopolitanism, that materializes the subordinate’s fight against his subordination.⁶⁷

Cosmopolitanism is constituted, therefore, by a group of practices, organizations and movements, broad and of several natures, that struggle for the promotion of social inclusion and against the marginalization and social discrimination, and environmental degradation (side effects of globalized localism and localized globalism), through the formation of interlinked chains of communication and transnational information.⁶⁸

It is important to highlight that globalized localism and localized globalism are characterized as “upside-down, neoliberal or hegemonic” globalization⁶⁹, while the common heritage of mankind and the cosmopolitanism act as “downside-up, solidary or counter-hegemonic globalization.”⁷⁰

Thus, Boaventura de Sousa Santos emphasizes the fact that while the conception of universal human rights prevails, these will tend to act as form of hegemonic globalization, in other words, of projection of the Occident on the other cultures, as this concern of universality in the human rights is eminently western.⁷¹ With this perspective, he defends that the human rights are only capable of

⁶⁵ SANTOS, Boaventura de Sousa. **Reconhecer para libertar**: os caminhos do cosmopolitismo multicultural.

⁶⁶ “Cosmopolitan: [From the gr. Kosmopolítēs]. 1. Individual that lives sometimes in a country, sometimes in another, adopting its uses and habits easily. 2. Person that feels like a citizen of the whole world, for whom homeland is the world [...]. 3. Who spends life traveling to several countries. 4. Who belongs to all the countries. 5. Who presents aspects that are common to several countries: [...]”. (COSMOPOLITA. In: FERREIRA, Aurélio Buarque de Holanda. **Novo Dicionário Aurélio Da língua Portuguesa**. 2. ed. 17. reimp. Rio de Janeiro: Nova Fronteira. [19--], p. 489).

⁶⁷ SANTOS, Boaventura de Sousa. **Reconhecer para libertar**: os caminhos do cosmopolitismo multicultural, p.435-437.

⁶⁸ *Idem*, p. 436.

⁶⁹ *Idem*, p. 438.

⁷⁰ *Idem*.

⁷¹ *Idem*, p. 439.

instrumentalizing a counter-hegemonic globalization through re-conceptualization as multicultural:

Being conceived as universal rights, as it has been happening, the human rights will always tend to be an instrument of the ‘shock of civilizations’ as conceived by Samuel Huntington (1993), in other words, as weapon of the Occident against the rest of the world (‘the West against the rest’). Their global inclusion will be obtained at the expense of their local legitimacy. The balanced and mutually strengthening relation between global competence and local legitimacy, that, from my point of view, is the pre-condition for a counter-hegemonic policy of human rights in our time, it demands that these are transformed with what is called emancipatory multiculturalism [...] ⁷²

So that there is the possibility of this reallocation of human rights in a multicultural dialogic aspect the author points out five premises: overcoming the separatist fight between universalism and relativism; identification of “isomorphic concerns” within the different cultures, concerning the conceptions of dignity of the human person; enlarging the conscience that such cultural conceptions are covered with a natural incompleteness; the acceptance that each culture has its vision of human dignity, and the one with the largest reciprocity should prevail; and, finally, the acceptance that the cultures present the tendency of separating the people and the social groups according to the “principle of equality”, that acts through hierarchies between homogeneous units and the “principle of difference”, that acts through the intercession of the hierarchy between identities and singular distinctions. ⁷³

In this context, the author presents the grounds of diatopic hermeneutics, that is a hermeneutic proceeding through which it is intended to enlarge to the maximum the self-awareness of the cultural incompleteness, aiming at giving more efficacy to the fight for the human rights.

However, so that this proceeding does not result in an inevitable assimilation of the weakest culture by the strongest one being characterized as a cultural neocolonialism, it is necessary to verify some conditions on the part of the totality of those interested in an intercultural dialogue. Such conditions can be synthesized in the following way:

1. *From completeness to incompleteness.* [...] The true starting point of the dialogue is the moment of frustration or dissatisfaction with the culture to which we belong, a feeling sometimes diffuse that our culture does not satisfactory supply answers to all of our questions, perplexities or aspirations. This feeling raises the curiosity for other cultures and their answers, a curiosity almost always based on very vague knowledge of those cultures. [...] 2. *From narrow cultural versions to the wide versions.* From the different versions of a culture the one that should be chosen for the intercultural dialogue is the one that represents the wider reciprocity circle, the version that is going farther in the recognition of the others. [...] 3. *From unilateral times to shared times.* The time of the intercultural dialogue cannot be established unilaterally. It is due to each cultural community to decide

⁷² SANTOS, Boaventura de Sousa. **Reconhecer para libertar: os caminhos do cosmopolitismo multicultural**, p. 438.

⁷³ *Idem*, p. 441-442.

when they are ready for the intercultural dialogue. [...]. 4. *From partners and themes unilaterally imposed to partners and themes chosen by mutual agreement.* [...] diatopic hermeneutics has to be centered not on the ‘same’ themes, but on the isomorphic concerns, on perplexities and discomforts that appear virtually in the same direction besides being formulated in different languages and incommensurable conceptual pictures [...]. 5. *From equality or difference to equality and difference.* [...] The diatopic hermeneutics presupposes the acceptance of the following transcultural requirement: we have the right to be the same when difference makes us inferior; we have the right to be different when equality decharacterizes us.⁷⁴

From the argumentative line developed by the author one can see similarities with the philosophy of liberation in the way proposed by Enrique Dussel, and already outlined in the previous item, regarding the victim’s perception as such – moment of intercultural dialogue by excellence – notably in the measure it represents the dissatisfaction of the excluded, victimized and overwhelmed people with certain characteristics of their culture, when compared with diverse culture.

It also gives the cogent character of being open for the dialogue and invigoration of the democratic channels, in order to give voice to the oppressed. Ana Letícia Baraúna Medeiros emphasizes that it is “indispensable the guaranty of a transcultural dialogue, empirically built based on exchange and not on imposition of values.”⁷⁵

Based on this character of otherness and multiculturalism, the affirmative discourse of human rights is founded as instrument of liberation and social inclusion, in the measure that the oppressed communities, noticing situations of injustice and social exclusion, can handle them with “minimum legal and moral”⁷⁶ to maintain their own cultural specificities. Following this line of thought, Joaquín Herrera Flores defends that:

Human rights in the contemporary world need this complex view, this resistance rationality and these intercultural practices, nomad and hybrid to overcome the universalist results and particularities that have impeded a committed analysis of the rights for a long time. Human rights are not textual declarations. Neither are they unambiguous products of a certain culture. The human rights are the discursive, expressive and normative ways that reinsert the human beings in the circuit of reproduction and maintenance of life, allowing us to open up spaces for fight and claim. [...]

The only valid universalism consists, therefore, in the respect and in the creation of social, economical and cultural conditions that allow and accelerate the fight for dignity: in other words, it consists on the

⁷⁴ SANTOS, Boaventura de Sousa. **Reconhecer para libertar: os caminhos do cosmopolitismo multicultural**, p. 458.

⁷⁵ MEDEIROS, Ana Letícia Baraúna Duarte. *Direito Internacional dos direitos humanos na América Latina: uma reflexão filosófica da negação da alteridade*. Rio de Janeiro: Lumen Juris, 2007, p. 25.

⁷⁶ BARRETTO, Vicente de Paulo. **O Fetiche dos Direitos Humanos e outros temas**. Rio de Janeiro: Lumen Juris. 2010, p. 231.

generalization of the value of freedom, understood as the “property” of the ones that never “existed” in the construction of the hegemonies.⁷⁷

Although it is considered, consequently, that the human rights represent eminently western values, disentailed of the positioning that has been casting doubt on them, removing their efficacy, these rights can be instrumentalized by the oppressed individuals and social groups in a way to promote a truly emancipatory policy of social inclusion.

It is indispensable to overcome the theoretical sectarianisms promoted by the philosophical discourses that aim at grounding the human rights, overtaking the moral and cultural questions, in order to promote an effective policy of human rights that does not disrespect culture, but get universalized through it.

CONCLUSION

This present article adopted as starting point the crisis the reason has been going through since the beginning of the XX century and the consequences of that crisis on the philosophy of science, where it was seeing that the so called western nihilism, in many aspects, was quite fruitful, with the abandonment of the defense of the possibility of a dogmatic science castled in rigid and inflexible normative principles, which would impose itself as monolithic truth; and it also propitiated, due to the attacks of the skeptics to the dogmatic thought, a larger political tolerance.

The impossibility of getting to the truth does not remove the need of acting, and for it there are action rules that are firm, being the science, with its capacity to do wise forecasts, an action rule that works or that at least has been working with significantly better results than other forms of faith.

However, on one side it can be seen that the reason - and its crisis - is grounded on what can be denominated capitalist instrumental reason; and, on the other side, that the tolerance derived from the ideal of scientific neutrality is not capable of handling the debate concerning the need or not of establishing universal ethics and which would be its principles, fact that culminates, ultimately, in the debate concerning the human rights, whose principles still represent an open controversy, as Roberto Vernengo adduces:

Los derechos humanos son asunto importante: a todos nos incumbe personalmente que se respeten y que se extiendan. Pero son también problemas. Como tales, no estamos muy seguros de ellos; dudamos de que efectivamente los hayamos conquistado. Ni siquiera estamos muy seguros de que los entendamos cabalmente: no tenemos aún una teoría suficiente para pensarlos con plenitud. Quizás los recursos tradicionales y envejecidos de la ciencia jurídica no responden a fenómenos nuevos que necesitan de nuevas categorías y de nuevos recursos teóricos.⁷⁸

⁷⁷ FLORES, Joaquín Herrera. Direitos Humanos, Interculturalidade e Racionalidade. In: WOLKMER, Antonio Carlos. **Direitos Humanos e Filosofia na América Latina**. Rio de Janeiro: Lúmen Jurídica, 2004, p. 377-378.

⁷⁸ VERNENGO, Roberto J. **Dos ensayos sobre problemas de fundamentación de los derechos humanos**. Buenos Aires: Cuadernos de Investigaciones 13 del Instituto de Investigaciones Jurídicas y Sociales “Ambrosio L. Gioja”, 1989, p. 03.

As analyzed, the postwar period revived the debates regarding the relations between right and moral (positivism *versus* jusnaturalism). This happened due to the atrocities seen during the nazist and fascist systems and the consequent inadequacy of the law, strictly considered and applied in the limits of the national-states, to answer to the demands of the postwar period, especially to the need of punishing the crimes committed during the Third Reich and to the judicial and political status of the stateless people.

In this conjuncture, the current conception of human rights, universal and indivisible, consolidated with the Universal Declaration of the Human Rights of 1948. Transcendental explanations were discarded and the man himself, nude in his humanity, started to be the first and last principle for his own rights.

However, with the progress of the modernity and the consolidation of a pluralistic society, the legality of the discourse and the politics of the human rights are doubted. The human rights started to be accused of having a strong ideological burden, for diffusing the values and ideals of the hegemonic culture, in other words, occidental. The quarrel between universalism and cultural relativism starts then.

Though, as seen, overcoming this debate is premise for the politics of human rights truly emancipatory and of social inclusion, as such manicheist separation – cultural relativism *versus* universalism - closes the doors for the indispensable dialogue in the context of the contemporary multicultural society.

Regarding this purpose, it was searched to demonstrate, mainly through Philosophy and Ethics of the Liberation, in the models proposed by Enrique Dussel, that is through the perception and respect to the other (belonging to the minority non-hegemonic culture, of the oppressed, excluded and victimized), in its otherness, that promotes a liberating inclusion.

Like this, the critical conscience on the part of the victims makes it possible to fight for the social insertion and emancipation to be accomplished from inside-out and not imposed with the adoption of majority values external to the victim's culture.

Under this prism of otherness, Boaventura de Sousa Santos developed his diatopic hermeneutics that, as delineated in this present article, is a hermeneutic criterion, whose basic proposal is to enlarge the self-awareness of the cultures concerning their incompleteness, so that there is a reformulation of the human rights through a multicultural dialogue.

Added to this hermeneutic method, the author presents some premises so that the human rights can be handled, not as a form of dominance, but of liberation, among them it was preferred to focus, in this present work, on the cogent overcoming of the debate between universalism *versus* cultural relativism.

It is denoted, consequently, that the human rights should serve the human being in their wider dimension, not the sectorized ideologies of hegemonic communities. These rights should assure the man his dignity, whatever the concept or understanding of human dignity that certain culture has.

The human rights can never be used as form of oppression or exclusion, so that it would collide with their own purposes.

Finally, it is highlighted that any theoretical sectarianism in relation to the principles of human rights - universalism and cultural relativism - just makes nebulous a discourse that should be more clear and comprehensible to the most diverse cultures. It just closes up the possibility of intercultural dialogue,

indispensable for the consolidation of a true cosmopolitan project of human rights that does not disrespect the culture, but make itself universal through it.

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