

Towards a (radically) decolonial anthropology: revisiting the Iberian school of peace's encounter with (the rights of) Amerindians

*Rumo a uma antropologia (radicalmente) decolonial:
revisitando o encontro da escola ibérica da paz com (os
direitos d)os ameríndios*

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1. The decolonial turn in human rights

One of the sites of contestation of the current decolonial turn in the human and social sciences is the concept of human rights. Building, in part, on the earlier “cultural relativism” debates that brought together an epistemological critique, from within the global North, of the universalism (purportedly) inherent in human rights, and a political critique, from the global South, of their (alleged) attachment to hegemonic projects¹, the decolonial literature has sought to uncover what Walter Mignolo has termed the “logic of coloniality” that pervades the discourse of (Western) modernity, including human rights². However, the decolonial perspective goes beyond these earlier critiques in that it seeks, again in the words of Mignolo, to “shift the geography of knowledge and recast critical theory within the frame of a geo- and bio-politics of knowledge [with] the first step in the grammar of

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1 See, for instance, EVANS, 1998; CAMPBELL, 2001; and HOFFMANN, 2012, pp. 81-96.

2 See MIGNOLO, 2007.

decolonization [...consisting of] learning to unlearn”³. Such unlearning calls both for a historical deconstruction of the modern narratives deriving from the concrete colonial past -and, hence, for a methodological “turn to history”-, as well as for the explicitation of the ever-present yet ever suppressed radical alterity against which modern human rights have been constructed -and which implies a parallel “turn to language”. The objective is both to expose what Makau Mutua has called, in relation to international (human rights) law, “[its uses] as a medium for the creation and perpetuation of a racialised/genderized hierarchy of [...] norms and institutions that sub-ordinate non-Europeans and Europeans alike”⁴, as well as to reverse the colonial epistemicide by which, as Ramon Grosfoguel puts it, the South has been reduced first to a place without culture, then to a place without history, then to a place without development, and, finally to a place without democracy⁵. The latter, in particular, implies the need for a turn to a new anthropology in which the (colonial) experience of the global South is resurrected from its connotation as merely “parochial wisdom [...] antiquarian traditions [...] exotic ways and means [and] above all [...] unprocessed data [...] not] sources of refined knowledge [...]but] reservoirs of raw fact”⁶. Instead, a new perspective sees that experience as the key to, as the Comaroffs put it, a “privileged insight into the workings of the world at large”⁷. It is from here, they add, “that our empirical grasp of [this world’s] lineaments, and our theory-work in accounting for them, ought to be coming...”⁸.

The point of a decolonial anthropology is, therefore, not to simply invert the modern (colonial) account of subjectivity by outlining its radical opposite, but to understand it from and through its encounter with the radical alterity inscribed in the colonial experience. Indeed, instead of focussing (only) on the unfolding of the “logic of coloniality” within a universalist Eurocentric modernity in which, epistemically, all otherness has already been absorbed and subjected, a decolonial perspective seeks to recover

3 MIGNOLO, 2007, p. 485.

4 MUTUA, 2000.

5 GROSGOUEL, 2011.

6 COMAROFF; COMAROFF, 2012. This is an agenda articulated in various strands of ‘southern theory’ such as in CONNELL, 2007; SOUSA SANTOS, 2014; or BHAMBRA, 2014.

7 COMAROFF; COMAROFF, 2012, p. 81.

8 COMAROFF; COMAROFF, 2012, p. 81.

the role which the irreducible and, in that sense, *a-colonial* alterity of non-European peoples at the moment of contact has played for the constitution of that very modernity. For, as shall be illustrated in the following, this radical alterity remains inscribed in some of the core concepts that form the vocabulary by which 'we' moderns behold our world.

The formation of international law as of the (European) sixteenth century and the resort to the language of (human) rights as an epistemic base for relations with (radical) others (such as the Amerindian populations of what would become the Americas) -rather than merely as a way of epistemically subjugating these others, as conventional critical histories of human rights tend to argue⁹- are a prime case in point to illustrate this new perspective. For it is on account of this contact that the concept of (natural) rights begins to be articulated as a transnational one by counterreformation scholastics in and around the Iberian School of Peace as a central topos in the emerging doctrine of a universal(ized) *ius gentium*. It was the experience of radical alterity and the challenge it posed to a European narrative already in flux on account of endogenous developments such as the reformation that provoked this intellectual move. For the formula that human rights necessarily derived from the concept of an international society constituted by law is not only a response to these endogenous developments, but also, and perhaps more importantly, as an attempt to grapple with Amerindian civilizations that appeared, to contemporary Europeans, at once highly sophisticated and entirely alien.

That the Iberian School¹⁰ should have resorted to the language of human rights to confront this deep epistemic challenge is, arguably, owed to their particular power of signification in moments of intellectual crisis, that is, transitional moments in which established vocabularies are challenged by radically new experiences and cognitive horizons, such as those of post-colonial international relations. It is at such *kairoi*, that is, moments in between time, that the language of human rights has often been resorted to as a means to (re-)signify what cannot actually (yet) be signified. The

9 See, for instance, BARRETO, 2013.

10 As nomenclature varies across different regions in the Americas, the common (anthropological) denomination *Amerindian* shall be used here; and in relation to the School of Salamanca, we shall, despite the significant differences between the authors commonly counted as belonging to the School, refer to them collectively as the 'Iberians' on the basis of the assumption that there is a broad core of shared ideas that unite all of its exponents; see, inter alia, KOSKENNIEMI, 2009; KOSKENNIEMI, 2014.

Iberians' response to this crisis has, of course, become one of the most referenced moments in decolonial historiography for the role it played in the formation of international law, not least because of its re-appropriation of the language of natural rights as a means to articulate the relationship between human beings and the incipient state system. Its historiography has been highly contested, with a conventional position seeing the use of natural rights as mitigating the colonizing universality of the incipient *ius gentium*, and a revisionist position that views these same natural rights as instruments of colonial domination¹¹. Yet, this debate has mostly focussed on the impact of Iberian thought on the European history of ideas and it has tended to leave the latter's significance as a response to the experience of radical alterity vis-à-vis the Amerindian encounter underexplored. While this focus on European reception history remains crucial for understanding the deep coloniality of the international legal project, it is bound to underestimate the extent to which the Iberians' resort to rights language was *also* their particular way of coming to grips with the experience of radical alterity -in the form of Amerindia- from within their existing (scholastic) framework of reference. If seen in this light, certain aspects of Iberian natural rights theory come to the fore that highlight the power of (re-)signification that the language of human rights has had at this foundational moment.

2. Encountering the other through rights: the Iberian school of peace in Amerindia

Giuliano Gliozzi has argued in a seminal piece on the birth of anthropology as colonial ideology that sixteenth century conquest literature has tended to be simplified to a reading in which the West constructs itself and its others through stylized colonial binaries, such as good versus bad savage, civility versus barbarism, rationality versus bestiality¹². Sixteenth century conquest studies would, thus, be a case in point for the (Western) conflation of philosophy, history and anthropology, for the modern history of ideas is necessarily traversed by the historicity of the American conquest. For one of the principal aspects that characterize this period is the series of contradictions and theoretical divisions that emerge in and

11 For the first position, see ZAPATERO, 2009; and CAVALLAR, 2008.

12 See, GLIOZZI, 2000; see also TODOROV, 1999.

through the historical encounter of European metaphysics with its Amerindian other. One of this encounter's effects has been the triggering of a deep engagement with the question of how radical alterity can be dealt with from within a pre-existing cognitive framework. As shall be seen, this engagement partly crosscuts the contemporary interpretative portfolio which only allows for either straightforward (Kantian or Hegelian) universalism or for (pluricultural) relativism. What, instead, marks out the Iberian literature is a deep ambivalence flowing from the quest to render their experience of radical alterity consistent with their scholastic mindset while preserving the latter's original premise of (European) epistemic supremacy and its corollaries for the formation of international law¹³. The outcome, paradoxical as it is, can nonetheless be seen as one of the first genuine comparative ethnographic operations in early modernity¹⁴. The deep otherness of Amerindian populations and the concomitant need to engage with a radically diverse symbolic universe posed an enormous intellectual challenge to those attempting to translate indigenous categories into the scholastic rationality of contemporary Catholic Christianity¹⁵. And natural rights were one of the lines of attack the Iberians pursued in order to refute the pretense of conquest sovereignty and to deny its legitimacy. For in their struggle to square the static Aristotelian category of humanity with the historical facticity of cultural difference they observed in Amerindia, the Iberians resorted to the earlier concepts of *ius naturale* and *ius gentium* and referenced these to the long-standing discussion on the rationality of nature and of the soul¹⁶.

By contrast with secular dissident treatments of the question, such as Michel de Montaigne's *Des Cannibales*, this move locks the School clearly into a universalist-Eurocentric mindset¹⁷. However, seen in historical context, there is more to the Iberian position than merely epistemic imperialism. For not only was the secular language of Montaigne simply not available to them, but their objective was different, notably to make sense of the Amerindian universe from within the Catholic missionary setting that formed

13 See FITZPATRICK, 2014; GARCIA-SALMONES; ESLAVA, 2010.

14 GLIOZZI, supra note 12.

15 See: TOSI, 2014.

16 See PAGDEN, 1982.

17 See MONTAIGNE, 2004.

the horizon of their practical experience¹⁸. They, thus, re-appropriated the Roman law categories of *ius naturale*, *ius gentium*, and *ius civile* and grafted them onto the scholastic dichotomy between divine law and human law¹⁹. On one side was divine law, that is, the reason that was deemed to govern the whole universe and that (only) existed in the divine mind. It was, in turn, divided into natural divine law and positive divine law. The former connoted the participation of all humans in the divine law by virtue of the social and rational capacity to spontaneously comprehend common principles. The latter consisted of human law, which, even though derived from natural law, was created by humans and reflected the singularity of each community. It was, in turn, sub-divided into a *ius gentium* and a *ius civile*, with the former also deemed to derive from natural law and concerning the laws governing the peaceful coexistence of sociable subjects, and the latter incorporating the precepts of civil law. With the *ius gentium*, thus, set between divine natural law and human positive law it became a conceptual staging ground for the encounter between nature and culture in and through contact with Amerindia²⁰.

To understand the specific take the Iberians had on natural law and the *ius gentium*, an originally patristic distinction, later taken up by Thomas Aquinas, between paganism and Christianity has to be considered²¹. It presumed the pre-existence of two epochs in world history: an age of innocence (the golden age before the Fall), which the Iberians identified with the Amerindian universe and which was deemed to be governed by natural law; and an age of sin (the iron age after the Fall) governed by the law of nations (*ius gentium*). This distinction implied, of course, that the law of Amerindian populations had to be considered as originary, received prior to the law of nations, and, thus, necessarily a form of (Amerindian) *ius naturale*. As Sílvia Loureiro has shown, several conclusions derived from this premise became important conceptual tools for dealing with the Amerindian “problem”²². Firstly, the original sovereigns of the people of the New World were legitimate – they had both ownership of the land and authority of its

18 For early accounts of this see, for instance, CARLYLE, 1903; GIERKE, 1999; and TUCK, 1999.

19 See, inter alia, TUORI, 2012; and LESAFFER, 2004.

20 See: TRELLES, 1933.

21 See GLIOZZI, 2000; and LOUREIRO, 2013; see also CALAFATE; LOUREIRO, 2013.

22 See LOUREIRO, 2013, at p. 17.

people (*dominium jurisdictionis vel auctoritatis*); secondly, the enslavement of gentile peoples was incompatible with the contemporary legitimation of slavery, as it was forbidden to subject previously free and peaceful people without just cause and without any (purported) benefit to those enslaved²³. Thirdly, based on Thomas Aquinas, the doctrine of property ensured that in the state of nature all things were deemed to have been common and the possession of property (*dominium proprietatis*) was a natural right.²⁴ Hence, for the Iberians, both Amerindian *dominium jurisdictionis vel auctoritatis* and *dominium proprietatis* were rooted in natural law and natural right(s). As such, the correlation between *ius gentium* and *ius naturale* was more ambiguous than is commonly assumed and it led to a more complex and paradoxical conception of the relationship between nature and culture, for the postulate of the existence of an Amerindian *ius gentium* required the assumption that the *ius naturale* was mediated by the *ius gentium*, that is, by the natural common sense of each people and of each culture. On the basis of this construct it then became possible to see Amerindian title as an original right and, thus, as prior to the law of nations – a notion that amounts to a sort of Amerindian jusnaturalism²⁵.

One aspect of this rather peculiar conception of natural law has generated significant discussion, notably the implications it has for the idea of the innate rationality of the soul, which was, of course, a key component of the debate about the conception of humanity. Hence, in his seminal Sermon on the Fourth Sunday of Advent of 1511, Antonio de Montesinos, referring to Amerindians, asked whether they “are not men and do they not have rational souls? Are you not obliged to love them as yourselves?”²⁶. There were, of course, three possible answers to these questions: either the Amerindians were deemed to be endowed with rational souls and, therefore, as fully capable of enjoying rights; or, although human, they were deemed *amentes* (literally ‘de-mented’) and, thus, incapable of self-government; or they were deemed the equivalent brute animals devoid of reason and humanity. Thus, Mateus Nogueira, in answer to Gonçalo Álvares’s

23 The Iberians did not, notoriously, apply this logic to the enslavement of Africans, which puts the present reflection in perspective and impels a comparative approach which, however, goes beyond the confines of this text; see generally MIGNOLO, 2000; and BOHRER, 2017.

24 CALAFATE, 2012.

25 For this notion, see VELASCO GÓMEZ, 2007, pp. 67-77.

26 Cited in CALAFATE, 2015; see also CALAFATE, 2014.

query –“do those ‘barbarians’ have a soul like us?”, notoriously stated that “this is clear, for the soul has three powers, namely understanding, memory, and will, which we all have”²⁷. Likewise, Francisco de Vitória, in the first part of his *Relectio de Indis*, responded that in relation to their evident social organization, Amerindians had to be deemed to have reason because they were capable of properly ordering their lives, including the maintenance of social and affective relations, material exchanges, and religion²⁸. He, thereby, effectively disassociated indigenous ontology from the sliding scale that the presumption of their semi-rationality had established and, instead, assigned to it a historical space in which Amerindians had the same rights of intellectual change as any other human subject.²⁹ Hence, by framing intellectual capacity as linear and evolutionary, he simultaneously affirmed the irreducible culturality of Amerindians and established a civilizational progress scale on which Europeans remained superior. Likewise, Vitoria at once affirmed the superiority of the colonizers yet argued that this did not justify either the conquest of Amerindian lands or the enslavement of its population.

This ambivalence also extended to the Iberians' conception of reason itself, for while it remained their ultimate measure for humanity, the experience of the radical alterity of Amerindia forced them to historicize and pluralize that conception in a significant departure from the abstract transcendental category that would dominate the European history of ideas; instead, reason is deemed to be evidenced by the capacity to organize all spheres of life and, as such, denotes the subject's participation in eternal law. The crucial point is that even though universal human nature is not conceived as cultural but as deriving from *ratio*, that *ratio* is itself sculpted by culture. Thus, reason is cultural – in the Amerindian case a culture marked by, from the Iberians' perspective, pure otherness. In addition, this culturalist (re-)reading of reason has, of course, implications for the way the human rights of Amerindians are theorized. For the attribution of rights to Amerindian populations, including in relation to their (own) political and social organization, derives from the fact that they inhabited the new world before the arrival of the *ius gentium*. For that reason, Amerindian original rights must necessarily be grounded in natural law, which,

27 CALAFATE, 2015; CALAFATE, 2014.

28 VITORIA, 1967; see also ANAYA, 2004, p.16.

29 PAGDEN, 1982, p. 99.

in turn, means both that natural law is capable of accommodating cultural diversity, and that the subsequent *ius gentium*, as a derivative of natural law, must also be premised on this diversity.

Pedro Calafate, amongst others, has drawn attention to this entanglement of universal principles with a conception of radical plurality. It represents, to him, the essence of a baroque form of thinking that is symbolized by the labyrinth which transgresses, compromises and dispenses with abstract rationality.³⁰ Indeed, the discussion around natural law did not take place around a set of purely speculative and abstract principles, but instead focused on a realist conception of natural rights founded on the consonance with 'reason' but on the backdrop of a radical openness to historical otherness³¹. Hence, the very complexity of the Iberian argument on natural rights is due to their attempt to situate it within historical time as opposed to within a (mere) abstract universality. As such, the *ius gentium* becomes effectively the historical expression of natural law, with the latter's conception of rationality being tied to the concreteness of the Amerindian experience. That experience, then, opened up, within the shell of late scholastic universalist realism, the space to think its opposite, notably a realist universalism based on the factual plurality of the human and justified not by abstract principle but by cultural particularity.

The Iberians' conception of natural law can, then, be read to amount, to use Ambrosio Gomez' expression, to a *multicultural jusnaturalism*, and it is this that demarcates, to them, the real challenge of thinking humanism³². However, and importantly, this pluralist *jusnaturalism* is not meant as a recognition of a cultural relativism that is inscribed, a posteriori, into the *ius gentium*. Rather, it expresses a shared access to the universal, which ties together the *ius naturale* and the *ius gentium*. At the heart of this reading lies the contention that the universalization of *ius naturale* on account of reason can only be thought historically and empirically, notably through the concreteness of the factual experiences of the other, which, in the case of the Iberians, came in form of the Amerindian world. If Vitoria recognized this only tentatively and reluctantly, Bartolomeu de La Casas went all the way when he directly engaged with what at the time was considered to be a primary

30 CALAFATE, 2015; CALAFATE, 2014.

31 VELASCO GÓMEZ, 2007, pp. 67-77.

32 VELASCO GÓMEZ, 2007, pp. 67-77.

sign of the radical otherness of Amerindians, namely cannibalism. In fact, not only did he mount a culturalist defense of the practice, but he sought to invert its connotation, showing it to be culturally superior to the Spanish conquistadors and thereby rendering the latter as the true barbarians³³.

As Enrique Dussel has recently argued, with this move, Las Casas, the intricacies of whose position have largely been ignored in the subsequent (European) history of ideas, makes a highly innovative contribution to at least two of the core themes of his times, namely how to deal with radical otherness and whether that otherness could, by right, be conquered³⁴. Unlike some of the more influential Iberians such as Vitoria, Las Casas was immersed in the Amerindian world and felt compelled to think about the epistemological consequences of the encounter with radical alterity from within this context, even if still in an essentially European mental frame. It, thus, represents one of the first attempts to articulate a universal demand for truth compatible with the dissent of (an)other, that is, with the material negativity of that other. For to Las Casas, Amerindians had a right to such dissent including a defense of that right through armed force. To Dussel, Las Casas had thereby brought to the fore several relevant challenges early modern philosophy has systematically ignored and neglected, notably that all human beings have reason, that that reason, however, is, by nature, plural and makes sense of the world in different ways, that this also implies the plurality of truth claims made on account of reason, and that, therefore, a relation of equivalence exists that enables the recognition of difference and dissent, and that, lastly, either side, including the Amerindian side, is, by right, free to accept or reject the propositions of the other.

Although most subsequent Aristotelian re-readings of the Second Scholastic literature have centered on either the well-known defense of natural bondage by Sepulveda or on the Iberian defense of rationality as a (mere) prerequisite for conversion, the new figure of the natural-cultural Amerindian that emerged from this debate brought out a series of contradictions in either argument.³⁵ In this vein, Anthony Pagden has argued that the Iberians, in order to avoid both Montaignean relativism and Sepulveda's denial of the humanity of Amerindians, ended up concocting a new doctrine

33 See TOSI, 2014; and SKINNER, 2004, p. 170; and LAS CASAS, 1988.

34 DUSSEL, 2002.

35 For the former debates, see classically HANKE, 1994.

on the universality of natural law³⁶. Indeed, one might even venture to go a step further and read the Iberians' pluricultural jusnaturalism in light of what Eduardo Viveiros de Castro has termed Amerindian "multinaturalism", that is, the inversion of the (Eurocentric) presumption of the plurality of culture and the universality of nature to one where culture is universal but nature(s) are plural³⁷.

From this perspectivist viewpoint, the Iberian attempt to pluralize the *ius naturale* in order to ground Amerindian *ius gentium* might amount to a (tentative) recognition of radically different Amerindian cosmologies which, in turn, implies a recognition of the plurality of reason -derivative, as it is for the Iberians, from nature - within a multinaturalist conception of natural law. This, to modern (Eurocentric) eyes, paradoxical effort to decode and defend indigenous culture without giving up the notion of natural law has a bearing on the deadlocked contemporary dispute between abstract universalism and pure cultural relativism. Seen from this perspective and despite their irreducible entanglement with colonial violence, the Iberians can be read as developing a new multinaturalistic vocabulary that does not only challenge the particular rationality of (European) modernity, but also incorporates an archaic perspectivism based on the historically contingent experience of Amerindia which, in turn, opens up a new comparative ethnography of the relationship between reason and nature³⁸.

3. Putting human rights in (decolonial) perspective: towards a radical anthropology

This Iberian 'solution' of a historically concretized pluricultural jusnaturalism is neither entirely coherent nor free from Eurocentrism, but its counterfactual genesis through a combination of late scholastic universalist realism and Amerindian multinaturalism shows that the Amerindian encounter

36 See LAS CASAS, 1988: "As Montaigne pointed out, the fact that some people turned their back as a sign of greeting and ate their parents as an act of devotion was surely sufficient to disturb any faith one might have in universally binding laws. But if the natural law was not, as most of those discussed in this book insisted it was, supra-cultural, what safeguard could there be against truly unnatural behavior –cannibalism, for instance, or human sacrifice? [...] there might, of course, exist a wide variety of local customs (the *ius gentium* or law of nations was a record of such customs); but they had all to conform to a body of meta-laws, the law of nature, the *ius naturae* itself".

37 See VIVEIROS DE CASTRO, 2011.

38 See VIVEIROS DE CASTRO, 2014; for a broader reflection of some of the repercussions of this logic on the conception of subjectivity, see ASSY, 2014; and ASSY, 2015, pp. 14-25.

was intellectually much less one-sided than its European reception history would acknowledge. Yet, this acknowledgement requires not only a (subtle) shift towards an ethnographic perspective but also a (radically) anthropological reconstruction of the historiography of human rights (law).

This optic must, however, itself resist essentialization, not least by refraining from simply inverting the progress narrative that has informed the “mainstream” narrative. If, as post/decolonial theorist Amy Allen has argued, “forward-looking progress with respect to the decolonization of the normative foundations of critical theory can take place only if we abandon the backward-looking story that positions European modernity as the outcome of a historical learning process”³⁹, then, likewise, the assimilation of non-European forms into a post-Eurocentric Eurocentrism is not the way ahead either. Instead, a fundamental openness to alterity, hybridity, and contingency as the structural determinants of “human rights in practice” is called for. Connected to this is the proposition that the insights of critical comparative law impel a new ethics of knowledge production, one based on a continuous second-order contextualization of the terms and objects of inquiry with a view to conversing with, rather than rendering, translating, or normalizing incommensurate others. Allen has framed this ethics as one in which one’s “first-order normative commitments require – in a further reflexive turn – a metanormative or second-order reflexivity about the status of [one’s] own normative horizon”⁴⁰.

In this vein, the colonization experience can be (re-)framed as being about the encounter with something outside of the established epistemic horizon, something genuinely “other”, which challenges the integrity of these horizons and which, therefore, provokes a response. This established horizon is, of course, the European mode of governmentality, a mode inherently premised on colonialism as a form not just of control over people and territory, but also and primarily of epistemic domination. It involves a particular rationality that constitutes the specific techniques of power that the ordering of people and space in what would become the Westphalian world requires, a rationality that would come to be epitomized in sovereign statehood and that is articulated by what would eventually be called

39 ALLEN, 2016.

40 ALLEN, 2016, p. 218.

international law⁴¹. The latter is much more than a set of rules devised by states to regulate relations amongst each other with a view to control access to sovereignty as the key to their hegemony. It is, in the Foucauldian sense, a discourse, that is, a specific configuration of power/knowledge that constitutes an epistemic horizon, a mental map by which people know and act in the world⁴². This map of uniform states and nationalities divided by clear-cut borders did not, of course, emerge as a representation of the world “out there” which always consisted of many and much more than the forms on the map. It was always merely a simulacrum of the world, superimposed over its raw plurality to produce a stratified order privileging those purporting to be at its top. Over time - notably in the period during which the parochial and contingent European map was forcibly imposed on everyone and everything across the globe - it merged with truth itself and became one of the mythological foundations of the modern world.

However, as with all hegemonic forms, this never went entirely unchallenged; in fact, the evolution of international law and (thus) of international human rights was driven by the sequential crises generated by the encounter with its other(s), those outside or underneath the map whose existence threatened the integrity of the myth⁴³. The latter could only be (re-)generated in light of these crises by a paradoxical mixture of absorption and rejection of the outside. Hence, international law - or rather the historical articulators of international law - would at once draw in the outside through the universalization of the inside and reaffirm the inside through a particularistic differentiation against the outside. The other is, hence, transcribed into the language and categories of the inside, yet it simultaneously serves as the indicator for an exterior that is framed as the inside's opposite. It is, arguably, this paradoxical move that characterises the specific imperality of international law and, indeed, of modernity itself, a continuous oscillation between inclusion and exclusion, recognition and rejection, universalization and particularization.

This ambivalence and in-betweenness has come to be embodied in certain (legal) concepts such as human rights, for they at once express an abstraction from individual humans in the name of a (Eurocentrically

41 See HOFFMANN, forthcoming.

42 See, inter alia, LEMKE, 2002; RAJKOVIC; GOLDER, 2008.

43 See ORFORD, 2006.

defined) humanity and a recognition of individual dignity on account of that humanity. The Iberian resort to human rights in their effort to recognize Amerindians as (other) humans while at the same time allowing for the incorporation of their world into the European map is a case in point. For human rights are here rendered polyvalent by the application of their universalist logic to a scenario outside of it, the result being both contradictory and coherent, hegemonizing and self-relativizing. Hence, while Iberian thought is clearly woven into the colonialist fabric of what would become international law, it cannot be reduced to it, in the same vein as the idea of human rights applied to Amerindians cannot be reduced to epistemic imperialism. The complex repercussions that the Iberian position generated beyond the European debate, notably in the Americas itself, and the ways in which human rights ended up being semantically re-appropriated by different interlocutors across the (colonial) board shows that, as a discourse, they are fundamentally marked by semantic indeterminacy and openness. It is this feature that has bestowed upon human rights their extraordinary power of signification, all the way from the sixteenth century up to the twenty-first.

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