

THE TENSION BETWEEN NEOLIBERAL DEVELOPMENT AND THE RIGHT TO AN ECOLOGICALLY BALANCED ENVIRONMENT: THE COUNTER-HEGEMONIC THEORY OF HUMAN RIGHTS AS AN ALTERNATIVE

A TENSÃO ENTRE O DESENVOLVIMENTO NEOLIBERAL E O DIREITO A UM MEIO AMBIENTE ECOLÓGICAMENTE EQUILIBRADO: A TEORIA CONTRA-HEGEMÔNICA DOS DIREITOS HUMANOS COMO ALTERNATIVA

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Abstract

This study aims to identify the relationship between neoliberal development and violations of the human right to an ecologically balanced environment. To this end, the research addresses the concept of neoliberal rationality, how the system presents itself today, its premises and consequences, and its relationship with the protection of the environment. In addition, the work clarifies the definition of the human right to an ecologically balanced environment, how it is recognized in modern constitutions and international treaties on the matter, and what are the contours of this human right and its

Resumo

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INTRODUCTION

In this early 21st century, we are experiencing a profound crisis of civilization; a political, economic and cultural crisis marked by popular distrust of social institutions and any possibility of effective change. Nothing, however, better indicates the complete collapse of the developmental pattern of modernity than the environmental and climate emergency: environmental disasters, deforestation, extreme events, global warming. It is no longer possible to hide or ignore the effects and consequences of human action on the environment.

In order to modify the current scenario, it is necessary to understand how we arrived at it, and understanding the crisis of civilization necessarily involves understanding the rationality that commands global society: neoliberal rationality.

Thus, the aim of this study is to identify the relationship between neoliberal capitalist development and violations of the human right to an ecologically balanced environment.

For this, the work is divided into four parts. The first part addresses the concept of neoliberal rationality, how the system presents itself today, its premises and consequences and its relationship with the (lack of) protection of the environment.

The second part explains the definition of the human right to an ecologically balanced environment, how it was recognized in modern constitutions and international treaties on the matter and what are the contours of this human right and its importance today.

In the third part, the objective is to analyze, in depth, the relationship between neoliberal economic development and environmental degradation, understanding whether there is indeed an intrinsic relationship between these two factors.

Finally, in the fourth and last part of this article, alternatives to this rationality and neoliberal worldview are sought, based on counter-hegemonic theories of human rights (also called Epistemologies of the South).

The development of the research has as an approach the analectic method, thought by Enrique Dussel, having as a paradigm a decolonial analysis of the reality of the Global South in which the 'Other', as oppressed, is the starting point. This method allows for a plurality of focuses, going through a convergence of excluded and marginalized individuals, communities and peoples. Thus, priority is given to the dialogic construction of criticism based on the practice of otherness and a theory of liberation, with emphasis on the mode of production and conformation of reality from the understanding of the oppressed, the enslaved and the subalternized. The research technique is primarily bibliographic, through books, legal journals, scientific articles and international and regional documents.

1 NEOLIBERAL RATIONALITY

Neoliberal rationality is the logic that currently presides over capitalist economies and societies and rules public policies, world economic relations, social relations and even individual subjectivity. As a result, it is argued that neoliberalism is not just an ideology or a form of economic policy, but a global political rationality, a system of norms and governance, responsible for extending the logic of capital and competition to all life spheres, consisting of a true reason-world (DARDOT; LAVAL, 2016).

The hard core of neoliberalism, as identified by Dardot and Laval (2016), is equivalent to the understanding of the market as the natural reality of things, which would self-regulate following its own course, and, in this sense, would be disturbed and deregulated in case of state interventions, without any kind of regulation. In this sense, such rationality would represent a rehabilitation of the liberal dogmas of *laissez-faire*, Say's Law and the invisible hand of the market.

The neoliberal logic, however, goes far beyond a simplistic idea of the separation between the State and private interests – as it is often defined –, considering that, contrary to a general perception, it was not the markets that “conquered” the States, but they were, together with private actors and global economic organizations, responsible for introducing and internalizing the logic of competition and the business model in the economy, society and form of government (DARDOT; LAVAL, 2016).

Likewise, it should be noted that, contrary to what its most staunch

defenders may argue, neoliberalism, as it is currently known, requires the presence of a strong State, with marked interventions, mainly, in areas such as social control and even in the economy itself, as can be seen from the global financial crises (in the United States in 2008 and in the European Union from 2010, for example).

As a matter of fact, it was precisely the need for the State to help the market countless times that demonstrated the contradiction of liberal rationality with the dogmas themselves, generating the crisis of liberalism and its subsequent replacement (CASARA, 2021). As Polanyi (2007) expounded, the supposed radical separation between the market and the State, present in the liberal imagination, consists of a true historical fraud – as can be seen, for example, from the Chilean coup d'état in 1973, which enabled the establishment of neoliberal policies coined by the Chicago School in that country, considered the birthplace of neoliberalism.

In this sense, the neoliberal order was responsible for reaffirming the capitalist nature of contemporary societies, restoring many of their most violent characteristics, in addition to destroying the social order established after the Great Depression and the World War II, inspired by Keynesianism¹, and which fought for social development policies. In this way, neoliberalism is the result of the political action of a class of capitalist owners and of the institutions in which their power was concentrated in order to regain that power, considerably diminished with the crisis of liberalism (DUMÉNIL; LÉVY, 2004).

Thus, it appears that the defense of the market as something natural and neutral, in fact, seeks to hide the fact that the neoliberal capitalist State is not a given or previously defined reality, but only one of the possible political-economic systems. That is, the supposed non-intervention of the State in the economy is not something necessary or positive, but only a way for the capitalist State to guarantee the working conditions of the capitalist mode of production and the maintenance of the social structures of power that make it viable (NUNES, 2003).

Indeed, neoliberal logic ignores the existing power structures that dictate economic and social relations in contemporary society, and, as a result, places individual freedom above all other values, rejecting any policies that seek to achieve distributive social justice, as they would undermine such freedom. The problem with this conception is that it assumes that all individuals have the same freedom of choice and the same opportunities. Likewise, if the market is the supreme institution of life in society, as neoliberals claim, then those with greater purchasing

¹ Keynesianism is an economic theory developed by economist John Maynard Keynes, who advocated a "revision of liberal theory", stating that the State should intervene in the economy whenever necessary, in order to avoid economic downturn and ensure full employment (HENRIQUE, 2019).

power have a greater power of choice. Thus, as identified by Badiou, Cox and Whalen (2001-2002):

We live in a contradiction: a brutal state of affairs, profoundly inegalitarian – where all existence is evaluated in terms of money alone – is presented to us as ideal. To justify their conservatism, the partisans of the established order cannot really call it ideal or wonderful. So instead, they have decided to say that all the rest is horrible. Sure, they say, we may not live in a condition of perfect goodness. But we're lucky that we don't live in a condition of evil. Our democracy is not perfect. But it's better than the bloody dictatorships. Capitalism is unjust. But it's not criminal like Stalinism. We let millions of Africans die of AIDS, but we don't make racist nationalist declarations like Milosevic. We kill Iraqis with our airplanes, but we don't cut their throats with machetes like they do in Rwanda, etc.

Thus, the rhetoric of defending freedom actually hides the fact that the only supreme value defended by neoliberalism is the freedom to accumulate capital in an unlimited way; freedom that only serves a few individuals – the holders of economic power –, which intensifies with the formation of industrial conglomerates that undermine any possibility of effective competitiveness.

With neoliberalism, as already explained, all human action and all institutions are governed according to the values and interests of the market (CASARA, 2021). This is what Fisher (2020) calls the “business ontology” of capitalist realism, according to which the whole of society, and even social rights, such as health and education, must be managed based on a business logic.

This means that the State also becomes an instrument at the service of the market, in which political and economic powers are confused and all other values that oppose such rationality are seen as obstacles. In this way, fundamental rights, the environment, work, human dignity itself, are effectively considered commodities that can be traded, with the objective being to obtain and maximize the ends of the market (CASARA, 2021).

In this sense, it is not difficult to understand that the neoliberal project involves the complete deregulation of the normative system that guarantees the preservation and conservation of natural resources and the environment, in order to remove all obstacles to capitalist activity (BROWN, 2007).

This becomes very clear when one observes that neoliberal capitalism, although it cannot deny latent environmental issues, such as climate change and the possibility of depletion of natural resources – including incorporating them into publicity and propaganda –, depends on the fantasy that resources are infinite and that the limitless expansion of capital is possible (FISHER, 2020). Note, as a symbolic example of such rationality, the recent decision by the Indonesian

government to build a new political capital to replace the current one – Jakarta –, which has been suffering the effects of climate change and could sink completely by 2050. Jakarta is, currently home to 30 million people (INDONESIA..., 2019).

Next, the contours of the human right to an ecologically balanced environment will be analyzed, so that the relationship between neoliberal economic development and environmental degradation will be examined in more depth in the third part of this article.

2 THE HUMAN RIGHT TO AN ECOLOGICALLY BALANCED ENVIRONMENT

Human and fundamental rights consist not only in guaranteeing the most elementary interests of every human being, but in a project of civility that places limits and benchmarks on the actions of all social institutions, such as the State and companies, which must respect and guarantee all such provisions at the time.

Thus, it deserves consideration the fact that the first declarations of rights in history, such as the Universal Declaration of Human Rights of the United Nations (UN), do not contain any prediction regarding the environment, guaranteeing only civil and political rights. Even those documents that sought to guarantee economic, social and cultural rights, such as the International Covenant on Economic, Social and Cultural Rights (1966) and the European Social Charter (1961), made no mention of an autonomous right to healthy environment.

Although, as Latour (2019) points out, politics has never been discussed without mentioning nature, with the passage from modern society to a risk society, all its consequences are added to all objects, not just “natural” ones. unexpected events, their producers, instruments, laboratories and plants². Thus, one can no longer separate the social or political world from that of objectivity and profitability by which such objects were treated, so that those who caused damage leave the invisibility that protected them and can be held responsible for the consequences that properly belong to them. Therefore,

The historical importance of ecological crises does not stem from a new concern for nature, but, on the contrary, from the impossibility of imagining for any longer a policy, on the one hand, and a nature, on the other, which would serve, at the same time, to standard, chisel, reserve, source and public trash (LATOUR, 2019, p. 102).

² This is evidenced by the disasters of Chernobyl in 1986, the leak of Methyl Isocyanate (MIC), by Union Carbide, in the city of Bhopal (India) in 1984, and the recent Covid-19 pandemic, which, in addition to natural causes, has its roots in the forms of interaction established by human beings with non-human animals.

Thus, in the Declaration of the United Nations Conference on the Environment, held in Stockholm in 1972, the foundations were laid for a human right to an ecologically balanced environment, bringing, in its 1st principle, that man has the fundamental right to enjoy dignified and adequate living conditions in a quality environment that allows them to enjoy well-being and, also, the obligation to protect the environment for present and future generations (UNITED NATIONS, 1973).

Likewise, in 1987, the World Commission on Environment and Development published the Report “Our Common Future”, which recognized that the pattern of economic development at the time was shown to be unsustainable and exclusive, striving for sustainable development³. The Commission established that “growth by itself is not enough. High levels of productive activity and widespread poverty can coexist, and can endanger the environment” (UNITED NATIONS, 1987), exactly what still happens today.

Furthermore, continuing the sustainability project set out in previous documents, the United Nations Conference on Environment and Development, held in Rio de Janeiro in 1992, originated the Rio Declaration on Environment and Development, bringing 27 guiding principles. Principle no. 3, which determined that “the right to development must be fulfilled in order to equitably satisfy the environmental and development needs of present and future generations”, as well as principle n. 4, which stipulated that, “to achieve sustainable development, the protection of the environment must be an integral part of the development process” (UNITED NATIONS, 1992).

It should be mentioned the anthropocentric nature of this development, since Principle n. 1 of the aforementioned Declaration provides that “human beings are at the center of concerns for sustainable development” (UNITED NATIONS, 1992).

In this context, several international human rights treaties recognized the human right to a healthy environment, such as the 1998 Protocol of San Salvador (art. 11),⁴ the 1981 African Charter on Human and Peoples’ Rights (art. 24)⁵, the

3 Sustainable development, according to the Commission, is that development that “meets the needs of the present without compromising the ability of future generations to meet their own needs”. In this sense, it contains in itself an indeterminate concept, which is the concept of “needs” (UNITED NATIONS, 1987).

4 “1. Everyone shall have the right to live in a healthy environment and to have access to basic public services. 2. The States Parties shall promote the protection, preservation, and improvement of the environment” (CIDH, 1998).

5 “All peoples shall have the right to a general satisfactory environment favorable to their development” (ACHPR, 1981).

2012 Declaration of Human Rights of the Southeast Asian Nations (art. 28.f)⁶, the 2004 Arab Charter of Human Rights (art. 38)⁷, among others.

At this point, it is necessary to emphasize the intrinsic relationship between the protection of the environment and the realization of human rights, since all human rights are vulnerable to environmental degradation. In addition, for environmental protection to materialize, it is fundamental to guarantee vital human rights for the formulation of informed, transparent and adequate policies (UNITED NATIONS, 2012).

Thus, in 2015, around 76 countries already recognized the right to the environment expressed in their Constitutions (DALY; MAY, 2015). As Carvalho (2021) explains, such a proliferation of constitutional environmental provisions is the result of a transnational environmental constitutionalism movement that began in the 1970s, marked by the influence exerted by the United Nations Conference on the Human Environment in Stockholm in 1972.

It is noteworthy that, despite being inserted in this international context, each country opts for the provision of environmental constitutional rights in accordance with its own traditions, legal cultures, doctrines and constitutional jurisprudence, with a great variety in the constitutional treatment of the subject (CARVALHO, 2021).

In Brazil, the right to an ecologically balanced environment is recognized in Article 225 of the Constitution as a right for all (BRASIL, 1988), which the national doctrine understands to demonstrate a broad anthropocentrism, which means that nature must be the object of autonomous protection, regardless of any direct utility for humans. It is important to emphasize, however, that, at the same time, the perspective of broad anthropocentrism ends up preventing a more ambitious protection of the environment, resulting from an ecocentric conception, as intended, for example, by the deep ecology movement (CARVALHO, 2020).

The right to a healthy environment therefore has individual and collective connotations. The first concerns direct or indirect effects on the interests of specific people, which may even cause irreparable damage. When it comes to the collective dimension, it refers to the universal interest in protecting the environment and preserving natural resources for present and future generations (CORTE IDH, 2017).

6 “28. Every person has the right to an adequate standard of living for himself or herself and his or her family, including: [...] f. the right to a safe, clean and sustainable environment” (ASEAN, 2012).

7 “Everyone shall have the right to an adequate standard of living for himself and his family, ensuring well-being and a decent life, including adequate food, clothing, housing, services and a right to a safe environment. The State Parties shall take appropriate measures within their available resources to ensure the realization of this right” (OHCHR; LAS, 2004).

The African Commission on Human and Peoples' Rights (ACHPR, 2001) also emphasizes that the right to a healthy environment imposes on States the obligation to adopt reasonable measures to prevent pollution and ecological degradation, promote conservation and ensure the development and sustainable use of natural resources, as well as monitoring and supervising projects that may affect the environment.

In this sense, it should be noted that the autonomous right to a healthy environment protects nature, ecosystems and living organisms as legal interests in themselves, even if there is no risk to the rights of human beings, such as the right to life, to personal integrity or health. Thus, the World Declaration of the International Union for Conservation of Nature establishes that "each State, public or private entity and individuals have the obligation to care for and promote the well-being of nature, regardless of its value to human beings, as well as to impose limitations on their use and exploitation" (UICN, 2016).

It should be noted that only on October 18, 2021 did the UN Human Rights Council officially recognize the existence of a human right to a clean, healthy and sustainable environment (UNITED NATIONS, 2021), as the General Assembly from the same organization only did so on July 29, 2022 (UNITED NATIONS, 2022). Furthermore, it is noteworthy that the European Court of Human Rights does not recognize the autonomous right to a balanced environment, granting protection to it only reflexively or indirectly to other human rights. Even so, as Sampaio (2017) points out, it demonstrates resistance to doing so, "giving a large margin of discretion to local authorities in favor of economic activity".

It appears, therefore, that there is a long way to go towards regulations that place the protection of the environment in a central position, recognizing an autonomous right to a healthy environment, which only recently occurred in the Universal System of Human Rights. For this, the African and Inter-American systems can serve as a paradigm.

3 THE RELATIONSHIP BETWEEN NEOLIBERAL DEVELOPMENT AND ENVIRONMENTAL DEGRADATION

As seen in the first part of this article, neoliberal rationality is currently responsible for completely dominating global economic relations and all other dimensions of life, such as social relations and even individual subjectivity, imposing the logic of competition and all against all.

This situation was intensified with the collapse of the Soviet bloc after the

Cold War, with a real imposition of the Northern countries on the conception of the right to development as a duty of capitalist development. As Santos (2014) points out, the beginning of the 21st century reached a stage where such antisocial development presents a true crisis of civilization, surpassing the limits of the environment, which is observed from the frequent and extreme climatic phenomena. In the words of this author:

Everything is interconnected: the food crisis, the environmental crisis, the energy crisis; financial speculation on raw materials and natural resources, appropriation and concentration of land, the disorderly expansion of the agricultural frontier, the voracious exploitation of natural resources, the scarcity of potable water and the privatization of water, rural violence, the expulsion of people from their ancestral lands to make way for large infrastructures and mega projects, the diseases induced by an environment degraded to dramatic extremes – which are manifested in a higher incidence of cancer in some rural areas than in urban areas – the genetically modified organisms, the ingestion of pesticides, etc. (SANTOS, 2014, p. 70).

Thus, it appears that neoliberal capitalism, in its nature, depends on a fanciful assumption that the planet's natural resources are infinite, precisely because of the constant need for capital expansion and its “fetish for growth”. As a result, such rationality is incompatible in itself with the ecological conditions necessary for the survival of the human species and other species⁸, as well as with any notion of sustainability (FISHER, 2020).

Precisely for this reason, the notion of “sustainable development”, so acclaimed in official and academic discourses, appears to be a rhetorical and meaningless gibberish nowadays, given that the development that such a concept strives for is based on neoliberal capitalist foundations which, invariably, will promote the destruction of the environment, fauna, flora and human and non-human collectives.

In fact, Sachs (1992) had already decreed the “death” of the dominant idea of development – due to its ineffectiveness and injustice –, which aimed no more than the westernization of the world. Such developmentalist rationality, in the post-World War II, was marked by an attempt by the United States to assert its hegemony over those countries that it categorized as “underdeveloped”. Soon after, the notion of development was completely reduced to the idea of economic growth.

8 In 2020 the International Union for Conservation of Nature declared 31 species of plants and animals extinct. Furthermore, the International Union for Conservation of Nature (IUCN), being the highest authority on the state of nature, states that, currently, 42,100 species are threatened with extinction (IUCN, 2023).

Therefore, it is argued that the concept of sustainable development, adopted in the 1990s, and sold as a “green and democratic renewal”, is nothing more than a strategy to legitimize the dominant concept of development focused on economic growth, and which does not support, in fact, the possibility of a diversified natural and social life (ESTEVA, 1992).

It is observed that the development paradigm of neoliberal capitalist societies is one of “senseless cancerous growth”, compatible with the idea shared by the vast majority of economists that the greatest law of human behavior is that of “maximization” at any cost (HEILBRONER, 1973). It so happens that such a conception is not a natural or scientific law of human behavior; quite the contrary: it consists of an assumption endowed with judgment and ideology and oriented to justify an economic model that considers that more is always better⁹.

Therefore, the premise followed is that everything that can be understood as an obstacle to this unlimited economic growth must be removed. This includes even the individuals’ fundamental and human rights, the tackling of social problems such as hunger, poverty and unemployment – which the boundless development project itself entails – and, of course, the protection and preservation of the environment.

In this way, the neoliberal project aims to remove obstacles to the unlimited accumulation of capital, which involves the deregulation of environmental rights and bodies for the protection, preservation and inspection of measures and undertakings that may affect the environment. A flagrant example of such a project is the current Brazilian scenario¹⁰, since the country had been suffering a real dismantling of environmental policy (BARCELOS, 2020), removing the power of decision-making instances and environmental prevention and precaution devices and passing to flexibility and “self-regulation” mechanisms commanded by the dominant sectors¹¹.

9 In this sense, the strands of economic-ecological thinking, or simply ecological economics, point to the need to overcome the dominant vision of development and the humanity-nature dualism, which ends up justifying the instrumentalization of the latter (VIANNA FRANCO; MISSEMER, 2022).

10 From 2019 to 2022, Brazil was governed by a representative of the radical right, with several authoritarian agendas. Contrary, however, to what defenders of neoliberalism argue, such rationality is not incompatible with ultra-authoritarian governments, as is the case of Jair Bolsonaro (as a rule, conservative in customs and neoliberal in economics). As Casara (2021, p. 155) points out, “neoliberalism with a democratic veneer is replaced by a ‘new’ neoliberalism, now with an ultra-authoritarian character. To justify the loss of rights, bets are made on the manipulation of popular resentment and anger against the system, but neoliberal rationality, the normativity that led to this system, remains hegemonic in these “new” neoliberalisms and in the power projects of the parties that claim to be anti-system.

11 Among these dominant sectors, it is possible to mention business entities linked to agribusiness

Among the measures and normative acts of the Brazilian federal government (2019 to 2022) that undermine the protection of the environment in the country, the following stand out: the approval of around 1,411 new pesticide labels in three years of office, with some classified as highly toxic to the environment (SOUZA, 2021); the extinction of several federal environmental collegiate bodies and the emptying and mischaracterization of the National Council for the Environment – Conama (HARTWIG, 2020); permission to invade, exploit and even commercialize indigenous lands that have not yet been ratified (SILVA; SOUSA, 2020); the transfer of competence for the demarcation of indigenous lands and *quilombos* from the National Indian Foundation (Funai) to the Ministry of Agriculture, Livestock and Supply (Mapa)¹², among many others.

As a result, on August 24, 2021, around 6,000 indigenous people from 170 different peoples throughout the national territory, protested in Brasília, at the Esplanada dos Ministérios, against the environmental management of the federal government of Jair Bolsonaro, as well as against measures that aimed at making the demarcation of indigenous lands more difficult and facilitating the practice of mining activities in their territories – an activity that has already been defended several times by the former president (CRUZ, 2021).

In addition, between the years 2019 and 2021, an increase of 56.6% in the annual rate of deforestation was observed in the Amazon biome as compared to the years 2016 to 2018. Furthermore, more than half of the deforestation in the last three years took place on public lands, 83% of which belong to the federal domain, while the clearing of forests on indigenous lands increased by 153%. According to the Amazon Environmental Research Institute (IPAM, 2022), responsible for this study,

The disruption of the environmental governance apparatus, which took place from 2019 onwards, has influenced the increase in deforestation as a whole, both in land for private use (rural properties and lots in rural settlements) and in public lands, especially in land categories of less restrictive protection (EPAs) and those without any destination.

The policy of the aforementioned federal government, with regard to the deregulation of environmental norms and leniency to deforestation, can be summarized in the phrase of the former Minister of the Environment, Ricardo Salles:

and the extractive industry (oil, mining, energy); political agents of the agro-hydro-mining-business, such as the Agricultural Parliamentary Front (*Bancada Ruralista*); and multilateral agents such as the World Bank.

¹² § 2, I and II, of art. 21 of Provisional Measure no. 870, of January 1, 2019, later converted into Law no. 13,844, of June 18, 2019 (§ 2 of article 21).

“rush the cattle through”, that is, to increase deregulation” It is noteworthy that the former minister himself is identified by the federal police as having strong evidence of involvement with illegal logging in the Amazon Forest (GONÇALVES, 2021).

Another issue that illustrates the harmful relationship between neoliberalism and environmental degradation is the emission of greenhouse gases into the atmosphere and the consequent increase in global temperature, generating the current climate emergency. This is because, as demonstrated by Altvalter (2017), the capitalist dynamics inherently and inevitably depends on the burning of fossil fuels, mainly oil. It appears, in this sense, that the United States – great representatives of the neoliberal capitalist ideal of unlimited economic growth – are the largest emitters of polluting gases throughout human history until the present day, with about 20% of the total emissions (EVANS, 2021).

It is also important to mention the case of Associação Lhaka Honhat (Nossa Terra) *vs.* Argentina, which was judged in 2020 by the Inter-American Court of Human Rights (CORTE IDH, 2020). This case demonstrates how interference in indigenous territories with economic activities, such as illegal logging and cattle raising, without prior consultation, violates these peoples’ rights, including the right to a healthy environment¹³. The importance of this case stems from the fact that it was the first judgment in which the Court recognized the violation of the autonomous right to the environment (art. 26 of the American Convention on Human Rights) (CIDH, 1969).

For all these reasons, it is clear that the current model of neoliberal capitalist economic development is incompatible with any idea of sustainability. For this reason, the notion of “sustainable development”, advocated since the end of the 1980s and long perceived as ineffective, does not serve the need for social change, as it does not break with the paradigm of economic growth at all costs. For this reason, it is necessary to think about other forms of experience that are not included in the neoliberal reason for the world, which will be done in the fourth and last part of this article.

13 Such activities generate environmental degradation, such as water contamination, the disappearance of herbaceous species, loss of biodiversity, floods, among others. It should be noted that the Inter-American Court determines that the State has the obligation to prevent and avoid the violation of human rights by individuals. Thus, due to the many complaints that were made by indigenous communities regarding the economic exploitation of their territory and the resulting environmental damage, the Argentine State failed in its duty of protection (CORTE IDH, 2020).

4 THE COUNTER-HEGEMONIC THEORIES OF HUMAN RIGHTS AS AN ALTERNATIVE

One of the greatest merits of neoliberal capitalism in terms of its self-reproducing power is its ability to present itself as something natural and immutable, as the only viable political and economic system. Neoliberal capitalist rationality promotes a process of “general equivalence” of all cultural manifestations, which are equally monetized and transformed into mere aesthetic objects. In this way, neoliberal capitalism colonizes the dreams and utopias of the general population, producing the belief that it is impossible to imagine an alternative to it (FISHER, 2020).

In this segment, as identified by Mignolo (2010), knowledge is also an instrument of colonization and, therefore, the decolonization process involves a decolonization of knowledge and being (of subjectivity). In this sense, the imposition of western capitalist hegemony on the rest of the world was only possible through the control of subjectivity, the colonization of cognitive perspectives, ways of producing knowledge, imagination and, in short, the culture of peoples. Thus, the Eurocentric perspective of knowledge became hegemonic by violently overlapping all other concrete knowledge (QUIJANO, 2005) – this is what Santos (2011) calls injustice across forms of knowledge, which sustains and reproduces all other injustices.

Precisely because of this, the phenomenon that Bauman (2017) calls “retrotopia” arises, that is, the hope for a better world, but linked to an abandoned or non-existent past, as there is no belief in the possibility of building positive future alternatives. This feeling is often rescued by opportunist political campaigns of an ultranationalist nature that will not be able to solve the current problems of humanity, such as the ecological crises.

For this, the counter-hegemonic and decolonial theories¹⁴ of human rights can offer another paradigm of human development that is not oriented towards an anthropocentric model of superiority and dominion of human beings over all other animals and over nature, in an unlimited way.

This study proposes to see other forms of experience and knowledge production – beyond neoliberal ideas – from the point of view of interculturality, which asserts the recognition of cultural pluralism (BARRETTO; BRAGATO,

¹⁴ According to Bragato (2014, 9. 210), “decolonial thought is part of the path of counter-hegemonic forms of thought of modernity and is inspired by social movements of resistance generated in the colonial context”.

2017). That is, it is not about perceiving such cultures from a “distant” point of view, facing them with mere tolerance or respect, but understanding how they can effectively offer better paradigms than the Eurocentric culture seen as dominant, precisely in the sense of the relationship between human beings and nature.

For this to be possible, care must be taken in mind at all times not to give in to exoticism, both the one that makes Westerners believe that they would be separated from nature, because they would be unaware of the teachings of other cultures, living in a world of pure, effective, profitable and objective things, and the one that imposes the idea that other cultures would live in a fusion between the natural order and the social order, and that, in order to reach modernity, they would need to “discover” the nature of things such as they are. To overcome these symmetrical exoticisms, it is necessary not only to consider and validate all cultures, but also to elevate nature, through which there would be no separation between “us” and “others”, but only multiple associations of humans and non-humans who keep the unity of the same land through collective work (LATOUR, 2019).

For this, in addition to political ecology, the concept of Epistemologies of the South is used, as the claim for new processes of production and appreciation of knowledge, scientific or non-scientific, based on the practice of oppressed classes and social groups and discriminated against by the capitalist and colonialist logic and all the naturalizations of inequality in which they unfold, such as patriarchy. It should be noted that the South is a metaphorical concept, not a geographic one, permeated by anti-imperialism. In this sense, one of the premises of such an epistemology is that there are different ways of understanding, acting and relating in the world beyond the Western view, and therefore, social transformation can also occur through ways and methods unthinkable for the West (SANTOS, 2011).

A clear example is the indigenous utopias of Ecuador¹⁵ and Bolivia¹⁶, which respectively established *Pacha Mama* and *Mãe Terra* as subjects of rights, as well as putting into effect the principle of *Buen Vivir* in their constitutions. The political and social project, based on indigenous experiences, resists developmental and extractive policies, as well as rejects the “utilitarian and mercantilist conception

15 Article 71 of the chapter 7 of the Constitution of Ecuador states: “The nature or *Pacha Mama*, where life is reproduced and realized, has a right to fully respect its existence and the maintenance and regeneration of its vital cycles, structure, functions and evolutionary processes” (ECUADOR, 2008).

16 The *Ley Marco de la Madre Tierra y del Desarrollo Integral para Vivir Bien*, approved in Bolivia in 2012, established “the vision and the fundamentals of integral development in harmony and balance with Mother Earth for Living Well, guaranteeing the continuity of regeneration capacity of the components and life systems of Mother Earth” (art. 1) (BOLIVIA, 2012).

of nature that is typical of the hegemonic paradigm of progress” (FUSCALDO; URQUIDI, 2015). In this sense, the *Buen Vivir* of indigenous utopias consists of a life with fullness, in a relationship of well-being and complementarity with nature and all beings, human and non-human.

It should be noted, therefore, that other countries already recognize nature as a subject of rights, as is the case of Colombia, whose Constitutional Court has established more than once its understanding that nature is entitled to autonomous legal protection from a perspective anthropic ecocentric (COLOMBIA, 2018). That is, according to the Court, the human being should not be placed at the center of the universe, as occurs with the anthropocentric paradigm, but in the ecosystem environment, in order to avoid the overbearing, careless and irresponsible treatment of environmental resources to satisfy materialistic ends, which currently occurs with the present development paradigm.

It is evident that the establishment of nature as a subject of rights at the constitutional level, by countries, still needs to be better worked on, since it poses many possibilities for facing the relationship between human beings and nature, as can be seen from the question of animal rights. In particular, veganism must be mentioned as a form of utopia in the face of the harmful impacts of industrial farming on the environment (FAO, 2006), considered a form of ethical and political activism and, also, a social movement that “promotes a fight against the food hegemony based on the consumption of meat and derivatives and the exploitation of living beings”, and, it should be noted, of nature (LONDERO, 2019, p. 75).

All these utopias – as we chose to name them here – consist of means of organizing social, political and economic life that, although incipient in some cases, point to the existence of other worlds beyond the neoliberal capitalist world that intends to present itself as the only alternative. It is up to society, as a whole, to recognize such experiences as legitimate and to learn from them, modifying the patterns of predatory development, because there is no point in criticizing the neoliberal capitalist world and its by-products and doing nothing to modify it.

CONCLUSION

From all that has been exposed, it is concluded that neoliberal rationality is currently responsible for completely dominating global economic relations and all other dimensions of life, such as social relations and even individual subjectivity, imposing the logic of competition and competition of all against all. Inherent to such logic is the inexistence of limits to personal satisfaction and

capital accumulation, which denotes the extremely individualistic character of the development paradigm of modernity.

Such limitless development, as noted, goes through the complete deregulation of environmental rights and of bodies for the protection, preservation and inspection of measures and undertakings that may affect the environment, with the objective of always obtaining more profit and economic advantages for a very limited portion of the world's population.

In this sense, human and fundamental rights, particularly the right to an ecologically balanced environment, which should guide the actions of all social institutions, such as the State and companies, are removed whenever they can become an “obstacle” to market interests. This occurs, particularly, because, during the process of consolidation of this right on the international scene, a fragile and rhetorical idea of “sustainable development” was built, which did not break, at any moment, with the neoliberal capitalist logic and which serves as a pretext to legitimize the dominant concept of development focused on economic growth at all costs.

Thus, it was found that the protection of the environment is incompatible with the neoliberal “fetish for growth”. For this reason, it is understood that, as a global community, the moment of “sustainable development” has long passed; this idea of development must be stopped before it destroys planetary ecosystems and the human species’ chance of survival.

For this, we sought to offer alternatives that are situated under the counter-hegemonic theory of human rights, or Epistemologies of the South, demonstrating that — despite attempts at cultural reductionism operated by capitalist realism — there are many people and social groups organizing themselves and fighting for the right to live differently, more justly, equitably, with dignity and in tune with nature and all other beings, human and non-human.

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