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**Human Rights and Democracy:
a dialogue between Brazil-US**
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Human Rights and International Politics: between the construction of universalism and the geopolitics of North-South Relations

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Summary

The article aims to contribute to current debates on the dilemma of the universality of human rights and the complexity of international politics. First, we intend to demonstrate the contradiction of the historical construction of the universality of human rights, more specifically in the foreign policy of world powers (selectivity, excessive political bias, double standards). We additionally wish to explain how the cultural diversity and differences between North and South but also between East and West involve different normative concepts and applications of human rights in the international political arena. We subsequently examine, in empirical terms, Brazil and South Africa's foreign policy, examining the human rights concepts that emerge as a result of the cultural, social and historical factors that underlie the domestic policies of both countries: aspects which form the groundwork for the construction of a critical vision from the South and East (counter-hegemonic) vis-à-vis the Universalist affirmation of the human rights norms of the North and West (hegemonic).

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Introduction

Human rights comprise the norms that define the prerogatives of all men and women attributable to their human nature. Their essential characteristic is that they are natural, equal and universal. They are natural because they are inherent to all human beings; equal because all human beings have the same rights; universal because they are applicable to all mankind, indiscriminately. However, the perception of the universality of human rights has varied throughout history as a function of human needs and political, social and cultural factors, which have also evolved and changed. The universal character of human rights is contradictory: concurrently to the concept of universality accepted as a standard to be attained, there are also different interpretations of such universality. Additionally, the use of double standards in the use of international norms and their different applications lead to persistent criticisms.

In fact, the Western perception of the universality of human rights based on the primacy of the individual, the protection of human dignity and the equality of rights predominated at the time when human rights were integrated into international normative instruments. They were institutionalized in the United Nations Universal Declaration of Human Rights in 1948, enshrining the Western hegemonic perception of the geopolitical North and West on the international debates on human rights. However the argument about the universal quality of the norms that originated in the North/West is permeated by contradictions that are linked to the selective policies used at the time when international rules and sanctions are effectively applied, which in turn leads to conflicts between the universal vision and the foreign policies of

certain countries, especially developing countries in the South and the West. This chapter will not only examine the different conceptions of human rights derived from the social, cultural and political context of developing countries but it will also attempt to demonstrate both empirically and historically the contradictions inherent to the construction of Western Universalism based on two case studies: Brazil and South Africa.

1. The construction of Western Universalism on human rights

The concept of the universality of human rights was created throughout the course of history and undertaken with specific purposes. It was preceded by projects to universalize values that contributed to the construction of the Western perception of the universality of human rights. Norberto Bobbio (2004, pp. 47-49) defines three different stages in the history of human rights: a stage which emphasized philosophy and recognized that human beings have rights by nature, inspired on Jus Naturale; the stage of positivism, where rights are recognized within States and become the rights of the citizens; and the stage of internationalization that started with the UN Universal Declaration of Human Rights and where the affirmation of human rights is positive and universal.

The idea of the universality of human nature, a basic tenet of the theory and practice of human rights, originated and was disseminated by Christian tradition. The contribution of Christianity to the conception of the universality of human rights stemmed from the affirmation of the equality of each and every human soul in the eyes of God. The process of universalization of Christianity, initiated by Byzantium, aimed at the establishment of Christianity throughout Europe, through the (forced) conversion of peoples considered barbarians or pagans. Centuries later the same evangelical logic governed the colonization of the "New World". Europe launched a civilizing process

intending to bring "civilization" to the peoples in the Americas or according to Elias (1994, p.62), "the idea of a moral standard and practice" derived from Christian Universality.

However, the Universalist project created by Christianity historically involved only a portion of humanity, the "civilized" portion. In spite of the idea that all human beings were equal and deserving respect and dignity because of their divine origin, the treatment afforded to the conquered peoples by the European colonizing forces (especially the Spanish and Portuguese that had Catholic Monarchies) ignored the humanity of the conquered and demonstrated Europe's contempt for its own Christian rules, especially the notion of the divine dignity of human beings. The debate between Bartolomeo de las Casas and Juan Ginés de Sepúlveda, in the XVI century about the humanity of Indians is a perfect example of this controversy.

In addition to the theological dimension of Universality, the Jus Naturale conception originated the social aspect of human rights. It made the universality of human beings "natural" giving it precedence over individual rights. Jus Naturale or the Law of Nature is a universally valid, objective, immutable principle derived from human judgment, preceding any divine manifestation. The first natural right of human beings according to Hobbes⁴ is the preservation of life, guaranteeing to all the necessary means for their self-preservation. The theory based on the Law of Nature supplied the essential elements to substantiate the first universal guidelines of human rights: from the rational justification of universal equality in nature (thus outlining the secularization of liberal political institutions), to reaffirming the preservation of humanity

4 According to Hobbes, natural law consisted on the principle established by reason that would forbid men to do things that could destroy their lives or deprive them of the means to preserve it. (HOBBS, 1974, p.83).

mainly by safeguarding the life of the individual through social pacts and political power, arriving finally at the concept of the triad of natural rights (liberty, equality and property), a triad that would later be elevated to the condition of fundamental rights within the context of liberal thinking. The theory based on Jus Naturale, although constructed on the basis of an idealized situation (the state of nature), justifying rights on an absolute basis, disseminated the perception of the natural rights of humanity.

The great revolutions of the 18th Century were the framework for the politicization of human rights. Modern civil rights, introduced by the liberal, universal and egalitarian ideals of the French and American revolutions became the model from which later universal human rights declarations and covenants were developed. The US Declaration of Independence in 1776 and the Declaration of the Rights of Man and Citizen in 1789 are the product of Liberal ideals and provided human rights with a civil and an individual meaning and were disseminated as examples of universal human rights declarations. This Western-Liberal philosophy of human rights predominated in the substantiation of the UN Universal Declaration of Human Rights, since the essential texts of human rights legislation derive from the corpus of domestic legislation in Western Europe and the United States. In this fashion, the traditional liberal doctrine attained international legitimacy through the institution of the UN document.

Hence, the universality of the traditional concept of human rights was established by the process of global predominance, which elevated the liberal perception of the respect for human rights to a universal status, by means of a two-pronged project driven by capitalism and democracy. Modern universality was constructed with the specific objective of affording legitimacy to the prerogatives of

a certain group of people. The understanding that all human beings, independently from geographical, ethnic, economic and gender specificities, have rights that are a function of their humanity, needed time and other extreme circumstances (mostly during the 20th Century) to establish itself in Western narratives as universally valid and above local historical contexts. The arguments used to justify human rights were varied: created by God, established by nature, the product of reason; both equality and universality changed in nature in accordance with the dominant ideals. The same can be said of rights: the understanding of fundamental rights changed in meaning in different circumstances or eras.

2. Transforming the liberal universal in theory: considering differences

Natural human rights were transformed into positive rights as they went through the processes of generalization and internationalization. International Organizations started to share the stewardship of human rights with the states (their main guarantors). In normative terms human rights are usually divided into three categories: the so-called negative rights that protect individuals against abuses from society itself, such as the right to freedom of expression and religious freedom; positive rights such as the right to work, education, health; and the rights that transcend individuals such as the right to peace and the need to defend communities that are being threatened especially because of ethnic conflicts and within the States (MENDES, 2006, p.23). Conceived as a philosophy to disseminate liberalism throughout the world, the original body of human rights was at the time, in favor of political and cultural homogenization and hostile to difference and diversity (MUTUA, 2004, p.54). The universality of the traditional, liberal conception of human rights would encompass only that which was humanly common, ignoring social and cultural differences that are also inherent to human societies.

With the restructuring of liberal societies an alternative way to determine who were entitled to rights was revealed: specification. The citizens covered under specification are the underprivileged, the victims of discrimination, individuals or groups that pursue a fair distribution of

resources and/or equal access to those resources: issues of gender, race, ethnicity, the different stages of life (such as childhood and old age). The specification of the subjects and therefore the multiplication of human rights are conditioned by a given social context. The weight shifted from the individual, as idealized by the liberals, to those who make up humanity as a whole. Thus, the concept of dignity acquires a double significance: universalism through the principle of equality for all and specificity or the politics of difference, which recognizes the specificity of individuals and groups. The affirmation of differences and the defense of collective identities were a response to the primacy of individual rights that emanated from liberal thinking, especially from three schools of thought: Communitarianism, Multiculturalism and Recognition.

The scholars of Communitarianism criticize individualism and, and to liberalism itself they add, they add the perception that individuals are integrated into several cultural and social contexts. They observe that different interests are identified and represented by social roles that create different identities within the social group; thus universal welfare should be understood through the specificities extant within a homogenous, liberal universalism. On the other hand, Multiculturalists focused their criticism on the assumption of the existence of the State's ethno-cultural neutrality (KYMLICKA, 2001) based on a common civic identity. Nevertheless, liberal democracies themselves allow for the emergence of differences, independently from civic identity, where ethnic and national minorities insert individuals within a social group. The demands for the rights of minorities are treated as a response to the civic universalism of nation building, which would transform difference into disadvantage, understanding the right of minorities as "mechanisms to prevent injustice" (KYMLICKA, 2001, pp. 1-2). The policy of recognition seeks to acknowledge the

unique identity of individuals or groups, their distinction from all others (TAYLOR, 1992, p.38), by means of their own liberal institutions, drafting laws that protect and promote differences while not violating the universal rights derived from liberalism. We should remember that authors labeled as multiculturalists have different interpretations and proposals on the issue of differential policies, which are not relevant for this chapter.

Extending equality to minorities by means of the creation of specific legislation can be interpreted as a transformation in the perception of the universality of human rights. Contemporary law should encompass not only the rules that protect individual citizens but also a differentiated content (or specific rights), to meet the needs of diversity in society thus transforming the concept of universality. This transformation is based on the assertion that since the liberal universalism of human rights does not effectively protect socio-cultural differences, its universality may be challenged by the need to expand equality (SILVA, 2011, p.86). Specific rights can be integrated into the universality of human rights without disturbing the indivisibility of civic and political rights because their specificity does not overlap but rather complements the gaps left by liberal thinking as it constructed its concept of human rights. There is therefore a difference between modern human rights and contemporary human rights: the modern conception (European and liberal) denies the diversity of subjects, its starting point is human universality derived from reason, but its focus on the individual thwarted the growth of collective rights. Contemporary conceptions on the other hand, recognize the diversity of peoples in the world; denounce violations derived from modern conceptions and see human rights as the constructs of social movements and struggles in specific regions such as for example Latin America (ESTEVEZ, 2012, p. 225-228).

3. The international institutionalization of the Western concept of human rights: from excessive politicization to selectivity

The liberal theory was responsible for the fact that Nations transformed human rights into positive rights and for their consequent insertion in international legislation. When Kant conceived in 1795 the cosmopolitan society, he underscored the need for national and international legislation whose main contribution would be respect for human rights based on the Kantian claim of the existence of a natural and universal law, independent from historical specificities and centered on the individual. Through the civil constitution of each state (Republics), the federation of free states and the cosmopolitan right of hospitality, Kant proposed a universal order without the coercion of a World State. Thanks to this German philosopher as well as to the contributions from John Stuart Mill (JAHN, 2005), the principles of liberal cosmopolitanism forcefully educated and structured the international order (RAO, 2007, p.14), since it was in the West that individuals were first designated as bearers of fundamental rights which in turn led to institutionalized demands for public powers to respect them (FORSYTHE, 2012, p.40).

The Universal Declaration of Human Rights was adopted in 1948 as a common ideal to be reached by peoples and states with the objective of guaranteeing peace and collective security. The United Nations Organization attempted to coordinate the relations among states in the post WWII era, and by means of the Declaration, the UN sought to put into practice a universal system of principles for the international protection of human rights that would prevent the repetition of the cases of severe violation that took place during both Great Wars as well as during the colonization processes. With this declaration as a basis, human rights became the fundamental object of international law and acquired their own instruments, agencies and application procedures, defined in its essence as a system for the protection of individuals.

The declaration basically reinforces the recognition of the liberal principles that affirm that everyone has the right to be treated with dignity and respect and to be recognized as a person vis-à-vis the law and that nobody can be excluded from the protection of the law. The universality that characterizes the declaration is related to the intrinsic humanity of every individual, it is "transcultural and trans-historical as it encompasses the individual independently from any specific community to which he may belong" (QUINTANA, 1999, p.323). However, because such universality is made up by a group of doctrines and ethical perspectives derived from the European context that have the ambition to be global universal values, in reality we are talking about a European universalism, a doctrine which is morally ambiguous, which attacks the crimes of some and overlooks those of others (WALLERSTEIN, 2007, p 60).

The first clash between the concepts of universalism and human rights in international relations took place

during the geopolitical context of the Cold War. During its initial phase, human rights were granted not only by the Universal Declaration (merely recommendatory in nature), but also by two other binding instruments which were enacted in 1966: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. This thematic division mirrored the ideological split of the Cold War where the capitalist block emphasized the Covenant on Civil and Political Rights and the socialist block the Covenant on Economic, Social and Cultural Rights.

Alves explains the relation between the historical context and the human rights framework:

“The speed at which the Universal declaration was drafted during the first three sessions of the Human Rights Commission, and its approval by the III session of the General Assembly held on December 10, 1948, hides the profound ideological differences among the participants who were divided along the lines of the Cold War, with conflicting visions between Western individual liberalism, the economic collectivism of the socialists and the cultural and religious collectivism of the Asians. Nevertheless it was approved without consensus with 48 votes in favor and eight abstentions (South Africa, Saudi Arabia, Belarus Yugoslavia, Poland, Czechoslovakia, Ukraine and the Soviet Union)” (1994, p 138).

The historicity of the Universal Declaration of Human Rights creates for international organizations the problem of having to ensure the evolution of its principles by means of the generation of other interpretative and/or complementary documents to maintain the concept of human rights open and allowing for the reformulation of their universality. The emergence of

international documents for specific rights attempted to acknowledge the value of social groups for human universality, which were somehow invisible among the generalities of the existing documents, given that the threats to human dignity change through time and international human rights norms should accompany this evolution (FORSYTHE, 2012, p.62). Thus, other rights were recognized such as the rights of women, children, indigenous peoples, African descendants and people with special needs. Specialized agencies were created to ensure the protection of those rights. In the UN examples of the above are: the Declaration on the Elimination of Discrimination against Women (1967), the Declaration on Race and Racial Prejudice (1978), the Declaration on the Elimination of Violence against Women (1993), the Declaration on the Rights of Indigenous Peoples (2007).

However, some contentious issues arose on the interface between human rights and international politics. There is a latent dilemma between the two principles that are enshrined in the mandatory provisions of international law: on the one hand the sanctity of national sovereignty and on the other the guarantee of the protection of human rights; the ethnocentricity of the concept of human rights, based on the ideals of Western liberal democracies; the repeated inconsistency between human rights discourse and its enforcement and practice by Western powers and as part and parcel, the intense debate on the (in)effectiveness and (absence of) political neutrality in humanitarian interventions. Human rights together with democracy were the basis for the moral and political justification of the world system at the end of the 20th Century and at the beginning of the 21st (WALLERSTEIN, 2007, p.59) which viewed as acceptable the intervention of the strong (Western countries), on the territories of countries that

did not share the same morality (other countries that violated human rights).

The relationship between foreign policy and human rights is one of the issues that triggers most debates in the international relations arena. The antagonism between human rights and foreign policy can be identified as a reproduction of the terms of the first debate between idealism and realism, which sends us back to the classical dilemma between morality and politics. According to Vincent (2009), there is no obvious connection between human rights and foreign policy given the fact that the *raison d'état* emphasizes a specific morality among states, based on the principle of non-intervention. Since most of the governments base their foreign policy on a realistic vision of international relations (defense of sovereignty and national interest), intergovernmental actions that reflected the concern with human rights were scarce, nevertheless the violation of human rights was regularly invoked as propaganda from a government to condemn another (WALLERSTEIN, 2007, p.43). The philosophical perception of realism, which negates individual rights when faced with the world of politics, perishes in the extent that the rejection of human rights has effects on States of the rejection of human rights.

The construction of the normative structure known as the international human rights regime reflects their politicization, that is to say excessive political interference in decision-making: the organ directly responsible for the monitoring of human rights at the UN, the Human Rights Council, is under constant assault by the selectivity of the countries that defend their interests and that of their allies, protecting them from condemnation (politicization by subtraction), as well as the inclusion of countries in the list of those

which violate human rights only because of political criteria (politicization by addition) (BELLI, 2009 p.109). Hence, double standards are regularly used to deal with the cases that are submitted to the council.

The "thawing" in the relations between world powers favored a decade of international conferences, such as the World Conference on Human Rights held in Vienna in 1993, and nourished utopian desires for a Kantian liberal order, the feasibility of which was challenged by the genocides in Rwanda and the former Yugoslavia. The efforts to guarantee the principles of universality and indivisibility of human rights were seen as elements that could either be promoted or conveniently forgotten in keeping with the convenience of the countries. After the end of the Cold War and especially after the attacks of September 11, the trend has been for superpowers to combine traditional ethnocentrism with a renewed contempt for international law and multilateral institutions (BELLI, 2009, p.104). The actions of countries situated outside the Europe–US axis may open the door for new interpretations on the universality of human rights and particularly to foreign policies that question the functioning of the international human rights institutions, which have been systematically politicized to meet the needs of the countries that created the universal concept of human rights. We shall now examine Brazilian and South African policies within the above-mentioned perspective.

4. Questioning the international regime: human rights foreign policy in Brazil and South Africa

The international political and economic situation of the 21st century and the systemic context where developing countries played more prominent roles afforded more leeway to Brazil and South Africa. The financial crisis in 2008 strengthened new diplomatic initiatives involving both countries, such as the IBSA (India, Brazil, South Africa) Dialogue Forum, the B-20/G-20, and the BRICS. These coalitions proposed alternatives to the key international institutions as well as topics for an agenda, which were based on the autonomy which Brazil and South Africa have found, as compared to the 1990s, when both countries, in their respective domestic contexts, were starting to move towards the democratization of the relations between state and society. Since then, both countries' international projection has been focused on the respect for democratic laws and human rights as well as on the defense of multilateralism and peaceful solution for international conflicts. Their pre-eminent role in the international arena and in their specific regional contexts during the first decade of the 21st-century, has exposed their respective human rights foreign policies to frequent criticisms especially by civil society organizations, social movements as well as on the opinion pages and editorials of all major national and international newspapers.

4.1. Brazil

Brazilian foreign policy has been traditionally characterized by the defense of multilateralism, the peaceful resolution of conflicts and by cooperation with international human rights normative instruments, especially after the end of the military dictatorship. However, it was during the Lula da Silva administration (2003-2010) that an international posture governed by the principle of non-intervention, criticisms to the politicization in the international treatment of cases of human rights violations and support for the principle of non-indifference was consolidated.

For strategic reasons, President Lula's administration positioned pragmatic interests above normative concerns with regards to human rights. An example of this stance was Brazilian support to China and Iran, a measure aimed at trying to obtain a permanent seat in the Security Council and to support the right to development (ENGSTROM, 2011, p.17). During his government Brazil faced a growing demand to condemn countries that violated human rights, especially by human rights NGOs. The underpinning for these demands was the belief on the predominance of human rights over sovereignty and nonintervention in the affairs of other countries. Brazil's abstention in the UN Human Rights Council and the General Assembly on resolutions that condemned human rights violations in certain countries (Sudan, Sri Lanka and North Korea), as well as the rapprochement with countries with adverse reputations in that area (as for example the Brazilian-Turkish mediation in the Iranian nuclear crisis) was criticized by its own domestic media and human rights activists that qualified the Brazilian position on the issue as lenient with respect to those regimes (MILANI, 2012, p.50).

That is exactly the sticking point between foreign policy strategic objectives and the defense of human rights. Lula's and Celso Amorin's "active and lofty" foreign-policy aimed at diversifying partnerships and proposing alternatives to the world order. This translated into changes in human rights foreign policies on behalf of revisionist strategies, which changed the evaluation criteria for human rights in developing countries. Within the norm classified by Celso Amorin as "nonintervention and non-indifference", which used cooperation as the preferential means to improve human rights, "developing countries were positioned, during Lula's government, in a political framework that associated the defense of human rights to South-South cooperation and potential strategic transformations in the international order" (MILANI, 2012, p.54). This was a striking change that underscores a moderately revisionist position: when Brazil became party to the institutionalized mechanisms of the International Regime of Human Rights, it began to question its effectiveness.

Nevertheless the policies of President Lula's government strengthened Brazilian participation in the UN human rights institutions and cooperated in the quest for solutions for economic and social problems at a global level, forcefully connecting development to human rights. Lula's foreign policy was formulated to promote Brazilian development and that of other countries. In fact, in his government's human rights foreign-policy agenda the most important issues are interrelated: the fight against hunger and poverty and the development of countries especially on social issues, which were incorporated into foreign policy as an upshot of the guidelines for social policies in the domestic sphere. This effort was undertaken without prejudice to the Brazilian participation in the international human rights system (especially with reference to the signature and ratification of agreements and standing invitations to special rapporteurs).

This moderately revisionist position was continued by the current Rousseff administration (2011 -), which maintains the "active and lofty" Brazilian foreign policy in the defense of human rights, reinforcing the Brazilian position vis-à-vis the multilateralization of debates on human rights violations, while still guided by the principle of nonintervention but complemented by concepts of "nonintervention and non-indifference" as was the case during Lula's government. The most recent examples were the Brazilian support for the mission of inquiry into human rights violations committed by Israel during the recent military operation in Palestine and the rejection of the continued use of physical force by countries in the international system as the main route for the solution of conflicts, with Libya, Syria, Iraq and Ukraine as the most recent examples.

The project for a more sovereign, proactive and autonomist international insertion by the Lula-Dilma governments employed human rights as an instrument in the Brazilian strategy of moderate revisionism of the world order. The changes in Brazilian voting in the most important multilateral organizations was an argument used by Brazil in its criticism of the policy of double standards by Western powers and may be considered strategic for the diversification of Brazilian partnerships with countries accused of human rights violations by the West – such as Iran, Turkey, Russia and China. At the same time actors in the field of human rights, especially human rights NGOs and voices from the national media condemn Brazilian positions and its partnering with those countries, creating tensions that are the crux of the dialectic crossroads that Brazil faces today: does the Brazilian revisionism compromise or strengthen its human rights agenda?

We defend the argument that Brazilian revisionist practices reflect a change in scale in its foreign-policy

(MILANI, 2012a), generating contradictions between strategic and normative agendas as was the case in the history of other powers going through transitions in the international system. World powers make choices based on diagnostics constructed as a function of their strategic interests. The rationale created for the colonial project, for development assistance practices, for humanitarian intervention among other practices in the recent history of the international human rights regime demonstrates that when faced with human rights violations, Western powers have adopted diverse positions in accordance with economic, geopolitical and energy policy interests. Some of those powers have not even ratified important conventions of the human rights system, as is the case of the US on the issues of the rights of children and discrimination against women.

In the case of Brazil, changing its voting practices in the Human Rights Council for example does not undermine its commitments to the various human rights treaties and conventions. The existing distortions in the functioning of the international human rights regime demand a critical stance from moderately revisionist powers. The problem that arises with the changes in Brazilian voting could lead to questions about whether the country is being revisionist or is also behaving selectively and is therefore reproducing the patterns of Western powers. In that sense it is important that the country be consistent within its revisionism and that it underscore its position as a country that is geopolitically unsatisfied but ethically responsible. That is the paradox that Brazilian foreign policy has to resolve: the country must define criteria that justify its votes, applicable to its situation as a revisionist power.

Rather than being inconsistent with the values defended and enshrined in the constitution, Brazilian actions denounce a human rights international regime

characterized by the politicization and selectivity towards the condemned (BELLI, 2009). Challenges and criticisms are part of foreign-policy dynamics as a public policy exposed to the scrutiny of the several actors (NGOs, social movements, media, the academic world and political parties) who have a direct involvement on those issues. This is a positive symptom of Brazilian democratization and the diversification of the actors that play a role in the foreign policy agenda. The state's acceptance of the interference by international bodies (as for example the acceptance of the competence of international tribunals and committees), as well as the defense of democratic and human rights principles in the South American region, mitigate the onerous effects of the conflictive relationship between sovereignty and human rights – and it is in the confrontation of the paradoxes within that normative dilemma that the consistency of human rights foreign policies must be analyzed.

4.2. South Africa

Post apartheid South Africa endured a profound double transformation process: democratization and reinsertion in the international system. To build international credibility, the country demonstrated its adherence to the rules of the Washington consensus and undertook structural economic reforms that included fiscal reforms, monetary policy discipline, primary surplus targets, privatizations, flexibility in labor legislation and tariff reductions (PERE, 2002, p.9). At the time, credibility was synonymous with following the precepts of neo-liberalist theories in order to gain the trust of the major actors in the international system. This strategy also resulted in South Africa's participation in international regimes such as the human rights system.

During the Mandela administration South Africa signed and ratified several human rights conventions from the international human rights regime, both international treaties, the conventions for the elimination of racial discrimination and discrimination against women as well as the Rome Statute (in 2000). Therefore the concern to renew its diplomatic credentials and reestablish regional leadership was translated into compliance with human rights regimes and illustrates the crucial importance of human rights in post-apartheid South Africa's foreign-policy agenda. The defense of human rights was defined as the cornerstone of the country's foreign policy with a view to restore South African identity by negating its history of segregation according to Serrão and Biscoff's (2009) constructivist interpretation. Mandela was emphatic: "South Africa's future foreign relations will be based on our belief that human rights should be the core concern of international relations, and we are ready to play a role in fostering peace and prosperity in the world we share with the community of nations" (1993, p. 97).

South Africa volunteered to be a world harbinger for the defense of human rights thus increasing expectations and the potential for frustration when the country exhibited ambiguous positions on the interface between foreign policy and human rights, a recurrent issue in the political process.

With an initial clear position, South Africa adopted the embargo on arms exports to Turkey in 1995 because of concerns for human rights violations in that country; during the Iranian president's visit in 1996 (Rafsanjani), Mandela refused to draft a joint communiqué because he did not accept Iran's position on human rights issues (MALUWA, 2000, p 208). But to what extent would South Africa be ready to sacrifice alliances on behalf of the defense of human rights? These conflicts become more latent in the relations with the South as for example in the rapprochement with countries with poor human rights records but which supported the anti-apartheid struggle of the African National Council (ANC) such as Cuba and Libya.

During Thabo Mbeki's Government (1999–2008) foreign policy principles were virtually the same as in 1994 (NATHAN, 2005, p.362), underscoring commitments with democracy and human rights (GELDENHUYS, 2008, p. 8). However his defense strategy was deliberately different: it was based on an international vision committed to the "African renaissance". Mbeki strengthened the country's power resources in the region through the restructuring of the African Union (AU) and the status of the country as a regional power was demonstrated on empirical grounds such as economic strength, military capabilities and population size (GELDENHUYS, 2008, p. 20). The commitment to Africa gave momentum to partnerships with the global South through multilateralism (PERE, 2002, p.20) and the reinforcement of South-South cooperation.

With Zuma the rhetoric of global values was still strong but it changed towards cooperation and national interest including urgent domestic issues such as unemployment, violence and corruption. Recent controversies surrounding South Africa's votes in the crises of Zimbabwe, Swaziland, Madagascar, DRC and Burundi demonstrate, according to the critics, the country's departure from a human rights foreign policy (LANDSBERG, 2012, p.4). Borer e Mills (2011) classified the country's human rights foreign policy as paradoxical, especially because the country tried to reconcile its commitment to democracy and human rights with a pan-African and anti imperialist agenda. These criticisms are noteworthy in certain decisions such as: support for Zimbabwe's president Robert Mugabe, in spite of the growing humanitarian crisis in the country; South Africa's involvement in the policy of refoulement, or the forced return of refugees; and the defense of countries such as Myanmar and East Timor on the votes on violations of human rights in the UN system (BORER; MILLS, 2011, p.77). During its first mandate as a non-permanent member of the UN Security Council in 2007 and 2008, South Africa voted in favor of 120 out of 121 resolutions, however during the council vote against human rights violations by Myanmar, South Africa did not consider the country to be a threat to international peace and security; a draft resolution to impose sanctions on Myanmar failed, because of divisions within the Security Council. South Africa's position was challenged and it damaged the country's international and moral authority (SMITH, 2012, p.75).

These matters led to criticism by social movements, especially from domestic actors and human rights NGOs. The history of struggle and the breadth of the transnational activist network against apartheid (SATURNINO BRAGA, 2011), contributed to the creation in South African civil society of a culture of active participation and demand for social and political rights as well as participation in

the process of foreign policy formulation. The vibrant South African civil society demanded that the country comply with the expectation that it be a moral authority in the world; the Congress of South African Trade Unions (COSATU) played an active role in putting pressure on the government to ensure that countries in the region such as Nigeria, Zambia and Swaziland respected human rights (MALUWA, 2021, p. 213).

A significant action by the government was to revise its post-apartheid foreign policy and create a future scenario more in keeping with South African capabilities. After the normalization of diplomatic relations and regular participation in international organizations, the demand for a crucial role for South Africa in the defense of developing countries especially in Africa, has grown beyond its capabilities and resources (LANDSBERG, 2012, p.9). The Zuma government has emphasized the importance of foreign policy for domestic problems, as a means to manage the burden of expectations on its human rights foreign policy. The regional dimension of domestic problems justifies the priority afforded to its relations with Southern Africa and multilateral actions are increasingly becoming the focus of its foreign policy.

The trouble with adopting a more assertive posture vis-à-vis human rights violations in other countries arises mostly as the product of the tension within the guidelines for international action: South Africa's effort to attain regional leadership by means of a Pan-African ideological stance clashes against human rights violations in many countries that should be its allies. The selectivity of the international human rights regime directly impacts African states that spearhead resolutions on human rights violations in the UN General Assembly and the Human Rights Council. The problem of double standards and selectivity that dominates the regime reinforces the need for an African

leadership that is more sensitive to historical and cultural specificities in all the countries in the region and which can use its historical example to propose alternatives. The difficulty that South Africa must resolve is the absence of continuity on its votes, an example of which is Zuma's hesitation to condemn the abuses committed by President Bashar al Assad in Syria while at the same time supporting the African Union's decision to suspend Egypt because of the abuses committed by its military. South Africa must demonstrate that it is not reproducing the politicization and selectivity, which are the standard behavior of Western powers in the international human rights regime. Transparency in the motivation for the positions taken by the country and an open dialogue with its society are some of the choices the country can make to avoid the use of those paradoxes as a reason to challenge the legitimacy of its foreign policy.

Conclusion

The perception of human rights is conditioned in space and time by multiple historical, political, economic, social and cultural factors. Therefore their real content is defined in diverse manners and the modalities in which they are realized vary with the development of societies: in the same fashion that the emergence of new interests and needs stimulates the emergence of specific human rights for minorities, the interests, the domestic determinants and the geopolitical vision of the countries in the South result in a moderately revisionist posture vis-à-vis the international human rights system.

In political theory the criticism to the transformation of the universal concept does not consist in replacing hegemonic Western human rights but rather in complementing them with the protection of specificities, accepting that they are also part of the universal Human. Nonetheless, in the case of the criticism against the anti-hegemonic policy of the countries in the South what we observe is an incompatibility between the demand for the universal political perspective of human rights - beginning with the construction of its standards - to be more inclusive and pluralistic, and the perceptions originated in societies from the North and South and the West and East. From the systemic point, the demand for the respect for human rights does not have universal application, because they are often subservient to the geopolitical and strategic interests of core countries, who were for the most part, responsible for their conceptual and normative construction.

In light of the distortions of the international regime, its selectivity and double standards, the challenges that the votes and alliances by both Brazil and South Africa have been facing lose legitimacy. Questions have to be

asked about the countries' political calculations before condemning their human rights foreign policies: the decisions that are criticized are paradoxical because they challenge the normative human rights standards (who defines the rules?) or because they go against the interests of the countries in the North that constructed the normative structure of the human rights international regime? For Brazil to assert itself as an emergent power in the international system, worthy of a place in the Security Council, should it have to exhibit positions that are favorable to the hegemonic blocks on issues of human rights violations or should it continue to be seen as a critic of this biased system? Should South Africa adopt a discourse of condemnation and sanctions against countries within its sphere of influence or should it establish dialogue and cooperation using its projection of power in the African continent? Do the countries in the North relinquish their strategic alliances when they have to vote on human rights violations?

We illustrate this last point with the map below of a recent vote in the UN Human Rights Council on sending an inquiry mission to investigate human rights violations by Israel in its recent offensive in Palestine, which helps to understand world geopolitics and demonstrates the clear posture by emerging countries as anti-hegemonic forces. The mission was approved solely with the vote of the countries in the South while the US as Israel's preferential ally voted against and the Europeans abstained.

Brazil and South Africa requested the meeting and voted in favor of sending the fact-finding Mission. Both tried to be consistent in their position as moderate revisionists claiming for new standards of systemic organization, based on multilateral dialogue and cooperation rather than on coercion. To that end, it is essential that the diplomacy of both countries adopt transparency as a mainstay in their respective foreign policies so that the alliances and votes within Human Rights International Institutions



are understood within the anti-hegemonic perspective proposed by the countries of the geopolitical South. The contradiction inherent to the predominance of the interests and preferences of the Western hegemonic block is apparently no longer accepted by the leadership of the countries in the South. That is what the conceptions on the universality of human rights by the countries in the South, which result from their own social, economic, political and cultural trajectories seem to have been articulating in the multilateral arena.

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