

Part I

**MULTICULTURAL CITIZENSHIP
AND HUMAN RIGHTS**

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Human Rights as an Emancipatory Script? Cultural and Political Conditions

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INTRODUCTION

For the past fifteen years I have been puzzled by the extent to which human rights have become the language of progressive politics. Indeed, for many years after the Second World War human rights were very much part and parcel of Cold War politics, and were so regarded by the Left. Double standards, complacency towards friendly dictators, the defense of tradeoffs between human rights and development—all this made human rights suspect as an emancipatory script. Whether in core countries or in the developing world, the progressive forces preferred the language of revolution and socialism to formulate an emancipatory politics. However, with the seemingly irreversible crisis of these blueprints for emancipation, those same progressive forces find themselves today resorting to human rights in order to reconstitute the language of emancipation. It is as if human rights were called upon to fill the void left by socialist politics. Can in fact the concept of human rights fill such a void? Only if a politics of human rights radically different from the hegemonic liberal one is adopted and only if such a politics is conceived as part of a broader constellation of struggles and discourses of resistance and emancipation rather than as the sole politics of resistance against oppression. Accordingly, my analytical objective here is to specify the conditions under which human rights can be placed at the service of a progressive, emancipatory politics.

The specification of such conditions leads us to unravel some of the dialectical tensions that lie at the core of Western modernity.¹ The crisis now affecting these tensions signals better than anything else the problems facing Western modernity today. In my view, human rights politics at the beginning of the century is a key factor to understanding such a crisis.

I identify three such tensions. The first one occurs between social

regulation and social emancipation. I have been claiming that the paradigm of modernity is based on the idea of a creative dialectical tension between social regulation and social emancipation that can still be heard, even if but dimly, in the positivist motto of "order and progress." At the beginning of the twenty-first century this tension seems to have vanished. The tension between social regulation and social emancipation was based on the discrepancy between social experiences (the present) and social expectations (the future), between an unjust, difficult, and precarious current social and personal life and a better, more just, and, in sum, more positive future. However, since, in the mid 1980s, neoliberalism began to impose itself globally as the new version of *laissez-faire* capitalism, the relation between experiences and expectations among ever larger bodies of population worldwide was reversed. No matter how difficult the present looks, the future looks even more difficult. In a social and political context of negative expectations, emancipation has ceased to be the opposite of regulation in order to become the double of regulation. Herein lie the deep roots of the crisis of modern left politics. The latter has always been based on a critique of the status quo in the name of a better future, that is, in the name of positive expectations. The differences within the left have, accordingly, derived from the measure of the discrepancy between experiences and expectations: a wider gap sustaining a revolutionary politics and a narrower one, a reformistic politics. In a context of negative social expectations, the left often sees itself in a position of having to defend the status quo, a political task for which it was not historically tailored. While until the mid-1970s any given crisis of social regulation was met by the strengthening of emancipatory politics, today we witness a double social crisis. The crisis of social regulation, symbolized by the crisis of the regulatory state, and the crisis of social emancipation, symbolized by the double crisis of social revolution and social reformism. Human rights politics, which has been predominantly used to manage and to keep the tension between social regulation and social emancipation under control, is trapped in this double crisis while attempting, at the same time, to overcome it.

The second dialectical tension occurs between the state and civil society. As Dicey perceptively noted in the nineteenth century (1948: 306), the modern state, although initially a minimalist state, is potentially a maximalist state, to the extent that civil society, as the other of the state, reproduces itself through laws and regulations that emanate from the state and for which there seems to be no limit, as long as the democratic rules of lawmaking are respected. Human rights are at the core of this tension; while the first generation of human rights was designed as a struggle of civil society against the state as the sole violator of human rights, the second and third generations of human rights resort to the state as the guarantor of human rights. As a result

of this historical process, the state came to be seen as the solution for the problems confronting civil society. Indeed, civil society came to be viewed as inherently problematic and in need of an ever more interventionist state. Accordingly, a strong civil society could only be the mirror of a democratically strong state. For reasons that I cannot go into here, all this changed from the 1980s onwards with the rise of neoliberalism. The state turned from a source of infinite solutions into a source of infinite problems, civil society ceased to be the mirror of the state and became the opposite of the state and, accordingly, a strong civil society came to demand a weak state. Human rights politics, both in its hegemonic and counter-hegemonic versions, was caught in this fast turn of conceptions and has not as of yet recovered from it.

Finally, the third tension occurs between the nation-state and what we call globalization. The political model of Western modernity is one of sovereign nation-states coexisting in an international system of equally sovereign states: the interstate system. The privileged unit and scale both of social regulation and social emancipation is the nation-state. The interstate system has always been conceived of as a more or less anarchic society, run by a very soft legality, and even working-class internationalism has always been more an aspiration than a reality. Today, the selective erosion of the nation-state due to the intensification of neoliberal globalization raises the question of whether both social regulation and social emancipation are to be displaced to the global level. We have started to speak of global civil society, global governance, global equity. The worldwide recognition of human rights politics is at the forefront of this process. At this point however this displacement raises many more problems than it provides solutions. To begin with, most enforceable human rights are still enforced (and violated) at the state level and, therefore, the weakening of the state may bring with it the erosion of enforceability. Second, as from the 1990s onwards neoliberal globalization began to be confronted by social movements and progressive NGOs, leading to a counter-hegemonic globalization, a globalization from below,² new conceptions of human rights emerged offering radical alternatives to the liberal North-centric conceptions that until then had dominated with unquestioned supremacy. According to the latter conceptions, the global South was in general problematic concerning its respect for human rights, while the Global North, considered to be immensely more respectful of human rights, offered its example and its international aid to help improve the situation of human rights in the global South. With the emergence of counter-hegemonic globalization, the global South began to question these conceptions by showing, in striking ways, that the global North and its imperial domination over the South—now intensified by neoliberal global capitalism—was indeed the root source of the most massive violations of human

rights: millions and millions of people condemned to famine and malnutrition, pandemics and the ecological degradation of their livelihoods. With such contradictory conceptions of human rights and human rights violations being played out on a global scale, the whole field of human rights politics has become rather contentious. The third problem haunting human right politics is also related to the emergence of conflicting globalizations. It has to do with the fact that in very crucial aspects human rights politics is a cultural politics, so much so that we can even think of human rights as symbolizing the return of the cultural and even of the religious at the end of the twentieth century and at the beginning of the twenty-first century. But to speak of culture and religion is to speak of difference, boundaries, particularity. How can human rights be both a cultural and a global politics?

My purpose in this chapter is to develop an analytical framework that will serve to highlight and support the emancipatory potential of human rights politics in the double context of competing globalizations, on the one hand, and cultural fragmentation and identity politics, on the other. My aim is to establish both global competence and local legitimacy for a progressive politics of human rights.

ON GLOBALIZATIONS

I shall begin by specifying what I mean by globalization. Globalization is very hard to define. Most definitions focus on the economy, that is to say, on the new world economy that has emerged in the last two decades as a consequence of the globalization of the production of goods and services and financial markets. This is a process through which transnational corporations have risen to a new and unprecedented preeminence as international actors.

For my analytical purposes I prefer a definition of globalization that is more sensitive to social, political, and cultural dimensions. I start from the assumption that what we usually call globalization consists of sets of social relations; as these sets of social relations change, so does globalization. There is, strictly speaking, no single entity called globalization; there are, rather, globalizations, and we should use the term only in the plural. Any comprehensive concept should always be procedural, rather than substantive. On the other hand, if globalizations are bundles of social relations, the latter are bound to involve conflicts, hence, both winners and losers. More often than not, the discourse on globalization is the story of the winners as told by the winners. In actuality, the victory is apparently so absolute that the defeated end up vanishing from the picture altogether.

Here is my definition of globalization: it is the process by which a given local condition or entity succeeds in extending its reach over the globe and, by doing so, develops the capacity to designate a rival social condition or

entity as local. The most important implications of this definition are the following. First, under the conditions of the Western capitalist world system there is no genuine globalization. What we call globalization is always the successful globalization of a given localism. In other words, there is no global condition for which we cannot find a local root, a specific cultural embeddedness. The second implication is that globalization entails localization. In fact, we live in a world of localization as much as we live in a world of globalization. Therefore, it would be equally correct in analytical terms if we were to define the current situation and our research topics in terms of localization rather than globalization. The reason why we prefer the latter term is basically because hegemonic scientific discourse tends to prefer the story of the world as told by the winners. Many examples of how globalization entails localization can be given. The English language, as *lingua franca*, is one such example. Its expansion as a global language has entailed the localization of other potentially global languages, in particular the French language. Therefore, once a given process of globalization is identified, its full meaning and explanation may not be obtained without considering adjacent processes of relocalization occurring in tandem and intertwined with it. The French or Italian actors of the 1960s—from Brigitte Bardot to Alain Delon, from Marcello Mastroiani to Sophia Loren—who at the time symbolized the universal technique of acting, seem today, when we see their movies again, as rather ethnic or parochially European. Between then and now, the Hollywoodesque manner of acting has managed to globalize itself.

One of the transformations most commonly associated with globalization is time-space compression, that is to say, the social process by which phenomena speed up and spread out across the globe. Though apparently monolithic, this process does combine highly differentiated situations and conditions and for this reason it cannot be analyzed independently of the power relations that account for the different forms of time and space mobility. On the one hand, there is the transnational capitalist class that is in fact in charge of the time-space compression and capable of turning it to its advantage. On the other hand, the subordinate classes and groups, such as migrant workers and refugees, which are also involved in a lot of physical moving, are not at all in control of the time-space compression. Between corporate executives and immigrants and refugees, tourists represent a third mode of production of time-space compression.

There are also those who heavily contribute to globalization but who, nonetheless, remain prisoners of their local time-space. The peasants of Bolivia, Peru, and Colombia, by growing coca, contribute decisively to a world drug culture, but they themselves remain as "localized" as ever, just like the residents of Rio's favelas, who remain prisoners of the squatter

settlement life, while their songs and dances are today part of a globalized musical culture.

Finally, and still from another perspective, global competence sometimes requires the accentuation of local specificity. Most tourist sites today must be highly exotic, vernacular, and traditional in order to become competent enough to enter the market of global tourism.

In order to account for these asymmetries, globalization, as I have suggested, should always be referred to in the plural. In a rather loose sense, we could speak of different modes of the production of globalization to account for this diversity. I distinguish two main modes of the production of globalization, which, I argue, give rise to two forms of globalization. The first mode consists of a twin process of *globalized localisms/localized globalisms*. Globalized localism is the process by which a particular phenomenon is successfully globalized, whether it be the worldwide activities of a multinational corporation, the transformation of the English language into a *lingua franca*, the globalization of American fast food or popular music, or the worldwide adoption of the same laws of intellectual property, patents or telecommunications and, most recently, anti-terrorism, all of them aggressively promoted by the USA. In this mode of the production of globalization, what is globalized is the winner of a struggle for the appropriation or valorization of resources, for the hegemonic recognition of a given cultural, racial, sexual, ethnic, religious, or regional difference, or for the imposition of a given international (dis)order. This victory translates into the capacity to dictate the terms of integration, competition/negotiation and inclusion/exclusion. The second process of globalization is localized globalism. It consists of the specific impact on local conditions produced by transnational practices and imperatives that arise from globalized localisms. To respond to these transnational imperatives, local conditions are disintegrated, oppressed, excluded, destructured, and, eventually, restructured as subordinate inclusion. Such localized globalisms include: the elimination of traditional commerce and subsistence agriculture; the creation of free-trade enclaves or zones; the deforestation and massive destruction of natural resources in order to pay off external debt; the use of historic treasures, religious ceremonies, or places, craftsmanship and wildlife for the purposes of the global tourism industry; ecological dumping (the "purchase" by Third World countries of toxic waste produced in the core capitalist countries in order to pay for the foreign debt); the conversion of subsistence agriculture into agriculture for export as part of "structural adjustment"; the ethnicization of the workplace (the devaluing of salaries because the workers belong to an ethnic group considered "inferior").

These two processes operate in conjunction and constitute the hegemonic globalization that is also called neoliberal, top-down globalization or glo-

balization from above, in sum, the most recent version of global capitalism and imperialism. The sustained production of globalized localisms and localized globalisms is increasingly determining or conditioning the different hierarchies that constitute the global capitalist world, converging in the global North/Global South divide. The international division of the production of globalization tends to assume the following pattern: core countries specialize in globalized localisms while peripheral countries only have the choice of localized globalisms.

There is, however, a second mode of the production of globalization. I call it *insurgent cosmopolitanism*, a counter-hegemonic globalization, or globalization from below. It consists of the transnationally organized resistance against the unequal exchanges produced or intensified by globalized localisms and localized globalisms. This resistance is organized through local/global linkages among social organizations and movements representing those classes and social groups victimized by hegemonic globalization and united in concrete struggles against exclusion, subordinate inclusion, the destruction of livelihoods and ecological destruction, political oppression, cultural suppression, etc. They take advantage of the new possibilities for transnational interaction made possible by the revolution in information and communications technologies and by the reduction of international travel costs. Insurgent cosmopolitan activities include, among many others: egalitarian transnational North/South and South/South networks of solidarity among social movements and progressive NGOs; the new working-class internationalism (dialogues among workers' organizations in the different regional blocs; transnational coalitions among workers of the same multinational corporation operating in different countries; workers' and citizenship groups' coalitions in the struggle against sweatshops, discriminatory labor practices, and slave labor); international networks of alternative legal aid; transnational human rights organizations; worldwide networks of feminist, indigenous, ecological or alternative development movements and associations; and literary, artistic and scientific movements on the periphery of the world system in search of alternative non-imperialist, counter-hegemonic cultural values emerging from post-colonial perspectives.

The confrontations surrounding the World Trade Organization meeting in Seattle on 30 November 1999 was a first eloquent demonstration of insurgent cosmopolitanism and the World Social Forum is today its most accomplished manifestation. The use of the term "cosmopolitanism" to describe the global resistance against the unequal exchanges produced by hegemonic globalization may seem inadequate in the face of its modernist or Western ascendancy. The idea of cosmopolitanism, like universalism, world citizenship and the rejection of political and territorial borders, has indeed a long tradition in Western culture, from the cosmic law of Pythagoras and the

philallelia of Democritus to the “*Homo sum, humani nihil a me alienum puto*” of Terence, from the medieval *res publica christiana* to the Renaissance humanists, and from Voltaire, for whom “to be a good patriot, it is necessary to become an enemy of the rest of the world,” to working-class internationalism. This ideological tradition has often been put at the service of European expansionism, colonialism, and imperialism, the same historical processes that today generate globalized localisms and localized globalisms. Insurgent cosmopolitanism, on the contrary, refers to the aspiration of oppressed groups to organize their resistance and consolidate political coalitions on the same scale as the one used by the oppressors to victimize them, that is, the global scale. Insurgent cosmopolitanism is also different from that invoked by Marx as meaning the universality of those who, under capitalism, have nothing to lose but their chains—the working class. In addition to the working class described by Marx, the oppressed classes in the world today cannot be encompassed by the “class-which-has-only-its-chains-to-lose” category. Insurgent cosmopolitanism includes vast populations in the world that are not sufficiently useful or skilled enough to “have chains,” that is, to be directly exploited by capital. It aims at uniting social groups on both a class and a non-class basis, the victims of exploitation as well as the victims of social exclusion, of sexual, ethnic, racist and religious discrimination. For this reason, insurgent cosmopolitanism does not imply uniformity, a general theory of social emancipation and the collapse of differences, autonomies and local identities. Giving equal weight to the principle of equality and to the principle of the recognition of difference, insurgent cosmopolitanism is no more than a global emergence resulting from the fusion of local, progressive struggles with the aim of maximizing their emancipatory potential *in loco* (however defined) through translocal/local linkages.

This character is both the strength and the weakness of insurgent cosmopolitanism. The progressive or counter-hegemonic character of the cosmopolitan coalitions cannot be taken for granted. On the contrary, it is intrinsically unstable and problematic. It demands constant self-reflection on the part of those who share its objectives. Cosmopolitan initiatives conceived of and created with a counter-hegemonic character can later come to assume hegemonic characteristics, even running the risk of becoming converted into globalized localisms. It is enough to think of the local initiatives in participatory democracy, which had to fight for years against authoritarian populism, the “absolutism” of representative democracy, and the mistrust of the conservative political elites, and which nowadays are beginning to be recognized and even adopted by the World Bank, seduced by their efficiency and lack of corruption in managing funds and development loans. Self-reflexive vigilance is essential in order to distinguish between the technocratic concept of participatory democracy sanctioned by the World Bank and

the democratic and progressive concept of participatory democracy as an embryo of counter-hegemonic globalization.

The instability of the progressive or counter-hegemonic character is derived from another factor as well: the different concepts of emancipatory resistance held by cosmopolitan initiatives in different regions of the world system. For example, the struggle for minimum standards in working conditions (the *international labor standards*)—a struggle led by trade unions and human rights organizations in the more developed countries to prevent products produced by labor that does not reach these required minimum standards from circulating freely in the world market—is certainly seen by the organizations that promote it as counter-hegemonic and emancipatory since it aims to improve the conditions of the workers’ lives. However, it can be seen by similar organizations in peripheral countries as yet another hegemonic strategy of the North to create one more form of protectionism that favors the rich countries and harms the poor ones.

In spite of all these difficulties, insurgent cosmopolitanism has succeeded in credibly demonstrating that there is an alternative to hegemonic, neoliberal, top-down globalization, and that is counter-hegemonic, solidary, bottom-up globalization. From now on, what we call global and globalization cannot but be conceived of as the provisory, partial and reversible result of a permanent struggle between two modes of production of globalization, indeed, between two globalizations. The conflicting conceptions and politics of human rights, far from being above such a struggle, are an important feature of it.

INTERCULTURAL RECONSTRUCTION OF HUMAN RIGHTS

The complexity of human rights is that they may be conceived of either as a form of globalized localism or as a form of insurgent cosmopolitanism, that is, in other words, as a globalization from above or as a globalization from below. My purpose is to specify the conditions under which human rights may be conceived of as a globalization of the latter kind. In this chapter I will not cover all the necessary conditions but rather only the cultural ones. My argument is that so long as human rights are conceived of as universal human rights they will tend to operate as a globalized localism, a form of globalization from above. To be able to operate as a cosmopolitan, counter-hegemonic form of globalization human rights must be reconceptualized as multicultural. Conceived of, as they have been, as universal, human rights will always be an instrument of Samuel Huntington’s “clash of civilizations,” that is to say, of the struggle of the West against the rest, of Western imperial cosmopolitanism against any alternative conceptions of human dignity that are socially accepted elsewhere. Thus conceived, the global competence of

universal human rights will be obtained at the cost of their local legitimacy. On the contrary, progressive multiculturalism, as I understand it, is a precondition for a balanced and mutually reinforcing relationship between global competence and local legitimacy, the two attributes of a counter-hegemonic human rights politics in our time.

We know, of course, that human rights are not universal in their application. Four international regimes of human rights are consensually distinguished in the world in our time: the European, the Inter-American, the African and the Asian regimes.³ One of the most heated human rights debates is indeed whether human rights are a universal or rather a Western concept and, concomitantly, whether they are universally valid or not. Though closely related, these two questions are nonetheless autonomous. The first one deals with the historical and cultural origins of the concept of human rights, the second with their claims to validity at a given point in history. The genesis of a moral claim may condition its validity but it certainly does not determine it. The Western origin of human rights may be made congruent with their universality if, hypothetically, at a given point in history they are universally accepted as ideal standards of political and moral life. The two questions are, however, interrelated, because the mobilizing energy that can be generated to make the acceptance of human rights concrete and effective depends, in part, upon the cultural identification with the presuppositions that ground human rights as a moral claim. From a sociological and political perspective, the elucidation of this linkage is by far more important than the abstract discussion of either the question of cultural anchorage or of philosophical validity.

Are human rights universal, a cultural invariant, that is to say, part of a global culture? I would assert that the only transcultural fact is that all cultures are relative. Cultural relativity (not relativism) also means cultural diversity and incompleteness. It means that all cultures tend to define as universal the values that they consider ultimate. What is highest is also most widespread. Thus, the specific question about the conditions of universality in a given culture is itself not universal. The question about the universality of human rights is a Western cultural question. Hence, human rights are universal only when they are viewed from a Western standpoint. The question of the universality of human rights betrays the universality of what it questions by the way it questions it. In other words, the question of universality is a particular question, a Western cultural question. The extent to which this standpoint can be shared, rejected, appropriated or modified by other cultures depends on the cross-cultural dialogues made possible by the concrete political and sociological power relations among the different countries involved.

Because the question of universality is the answer to an aspiration of

completeness, and because each culture "situates" such an aspiration around ultimate values and universal validity, different aspirations to different ultimate values in different cultures will lead to isomorphic concerns that, given the adequate hermeneutical procedures, may become mutually intelligible and mutually translatable. At best it is even possible to achieve a mixture and interpenetration of concerns and concepts. The more equal the power relations among cultures, the more probable it is that such *mestizaje* might occur.

We may then conclude that, once posed, the question of universality betrays the universality of what it questions, no matter what the answer may be. Other strategies to establish the universality of human rights have, however, been designed. This is the case of those authors for whom human rights are universal because they are held by all human beings *as* human beings, that is, because independently of explicit recognition they are inherent to human nature.⁴ This line of thought begs the question by dislocating its object. Since human beings do not hold human rights because they are beings—most beings do not hold rights—but because they are human, the universality of human nature becomes the unanswered question that makes possible the fictive answer to the question of the universality of human rights. There is no culturally invariant concept of human nature.

The concept of human rights is based on a well-known set of presuppositions, all of which are distinctly Western, namely: there is a universal human nature that can be known by rational means; human nature is essentially different from and higher than the rest of reality; the individual has an absolute and irreducible dignity that must be defended against society or the state; the autonomy of the individual requires that society be organized in a non-hierarchical way, as a sum of free individuals (Panikkar, 1984: 30). Since all these presuppositions are clearly Western and liberal, and easily distinguishable from other conceptions of human dignity in other cultures, one might ask why the question of the universality of human rights has become so hotly debated, why, in other words, the sociological universality of this question has outgrown its philosophical universality.

If we look at the history of human rights in the post-war period, it is not difficult to conclude that human rights policies have been by and large at the service of the economic and geo-political interests of the hegemonic capitalist states. The generous and seductive discourse on human rights has allowed for unspeakable atrocities, and such atrocities have been evaluated and dealt with according to revolting double standards (Falk, 1981). But the Western and indeed the Western liberal mark in the dominant human rights discourse could be traced in many other instances: in the Universal Declaration of 1948, which was drafted without the participation of the majority of the peoples of the world; in the exclusive recognition of

individual rights, with the sole exception of the collective right to self-determination (which, however, was restricted to the peoples subjected to European colonialism); in the priority given to civil and political rights over economic, social, and cultural rights; and in the recognition of the right to property as the first and, for many years, the sole economic right.

But this is not the whole story. Throughout the world, millions of people and thousands of non-governmental organizations have been struggling for human rights, often at great risk, in defense of oppressed social classes and groups that in many instances have been victimized by authoritarian capitalistic states. The political agendas of such struggles are often either explicitly or implicitly anti-capitalist. For instance, counter-hegemonic discourse and the practice of human rights has been developing, non-Western conceptions of human rights have been proposed, cross-cultural dialogues on human rights have been organized. The central task of emancipatory politics in our time, in this domain, consists in transforming the conceptualization and practice of human rights from a globalized localism into an insurgent cosmopolitan project.⁵

What are the premises for such a transformation?⁶ The first premise is that it is imperative to transcend the debate on universalism and cultural relativism. The debate is an inherently false debate, the polar concepts of which are both equally detrimental to an emancipatory conception of human rights. All cultures are relative, but cultural relativism, as a philosophical posture, is wrong.⁷ All cultures aspire to ultimate concerns and values, but cultural universalism, as a philosophical posture, is wrong. Against universalism, we must propose cross-cultural dialogues on isomorphic concerns. Against relativism, we must develop cross-cultural procedural criteria to distinguish progressive politics from regressive politics, empowerment from disempowerment, emancipation from regulation. To the extent that the debate sparked by human rights might evolve into a competitive dialogue among different cultures on principles of human dignity, it is imperative that such competition induce the transnational coalitions to race to the top rather than to the bottom (What are the absolute minimum standards? The most basic human rights? The lowest common denominator?) The often-voiced cautionary comment against overloading human rights politics with new, more advanced rights or with different and broader conceptions of human rights (Donnelly, 1989: 109–24) is a latter-day manifestation of the reduction of the emancipatory claims of Western modernity to the low degree of emancipation made possible or tolerated by world capitalism: low-intensity human rights as the other side of low-intensity democracy.

The second premise is that all cultures have conceptions of human dignity but that not all of them conceive of human dignity as equivalent to human rights. It is therefore important to look for isomorphic concerns among

different cultures. Different names, concepts and *Weltanschauungen* may convey similar or mutually intelligible concerns or aspirations.

The third premise is that all cultures are incomplete and problematic in their conceptions of human dignity. Such incompleteness derives from the very fact that there is a plurality of cultures. If each culture were as complete as it claims to be, there would be just one single culture. The idea of completeness is at the source of an excess of meaning that seems to plague all cultures. Incompleteness is thus best visible from the outside, from the perspective of another culture. To raise the consciousness of cultural incompleteness to its possible maximum is one of the most crucial tasks in the construction of an emancipatory multicultural conception of human rights.⁸

The fourth premise is that no major culture is monolithic. Cultures have different versions of human dignity, some broader than others, some with a wider circle of reciprocity than others, some more open to other cultures than others. For instance, Western modernity has unfolded into two highly divergent conceptions and practices of human rights—the liberal and the Marxist—one prioritizing civil and political rights, the other prioritizing social and economic rights.⁹

Finally, the fifth premise is that all cultures tend to distribute people and social groups among two competing principles of hierarchical belongingness. One operates through hierarchies among homogeneous units. The other operates through separation among unique identities and differences. The two principles do not necessarily overlap and for that reason not all equalities are identical and not all differences are unequal.

These are the premises of a cross-cultural dialogue on human dignity that may eventually lead to a *mestizo* conception of human rights, a conception that instead of resorting to false universalisms organizes itself as a constellation of local and mutually intelligible meanings, networks of empowering normative references. But this is only a starting point. In the case of a cross-cultural dialogue the exchange is not only between different knowledges but also between different cultures, that is to say, between different and, in a strong sense, incommensurable universes of meaning. These universes of meaning consist of constellations of strong *topoi*. *Topoi* are the overarching rhetorical commonplaces of a given culture, self-evident, and, therefore, not an object of debate. They function as premises for argumentation, thus making possible the production and exchange of arguments. Strong *topoi* become highly vulnerable and problematic whenever “used” in a different culture. The best that can happen to them is to be moved “down” from premises of argumentation into arguments. To understand a given culture from another culture’s *topoi* may thus prove to be very difficult, if not impossible. I shall therefore propose a *diatopical hermeneutics*. In

the area of human rights and dignity, the mobilization of social support for the emancipatory claims they potentially contain is only achievable if such claims have been appropriated in the local cultural context. Appropriation, in this sense, cannot be obtained through cultural cannibalization. It requires cross-cultural dialogue and diatopical hermeneutics.

Diatopical hermeneutics is based on the idea that the *topoi* of an individual culture, no matter how strong they may be, are as incomplete as the culture itself. Such incompleteness is not visible from inside the culture itself, since the aspiration to totality induces taking *pars pro toto*. The objective of diatopical hermeneutics is, therefore, not to achieve completeness—that being an unachievable goal—but, on the contrary, to raise the consciousness of reciprocal incompleteness to its possible maximum by engaging in the dialogue, as it were, with one foot in one culture and the other in another. Herein lies its *dia-topical* character.¹⁰

A diatopical hermeneutics can be conducted between the *topos* of human rights in Western culture, the *topos* of *dharma* in Hindu culture, and the *topos* of *umma* in Islamic culture. According to Panikkar, *dharma*

is that which maintains, gives cohesion and thus strength to any given thing, to reality, and ultimately to the three worlds (triloka). Justice keeps human relations together; morality keeps oneself in harmony; law is the binding principle for human relations; religion is what maintains the universe in existence; destiny is that which links us with future; truth is the internal cohesion of a thing [. . .]. Now a world in which the notion of Dharma is central and nearly all-pervasive is not concerned with finding the "right" of one individual against another or of the individual vis-à-vis society but rather with assaying the dharmic (right, true, consistent) or adharmic character of a thing or an action within the entire theantropocosmic complex of reality. (1984: 39)¹¹

Seen from the *topos* of *dharma*, human rights are incomplete in that they fail to establish the link between the part (the individual) and the whole (reality), or, even more strongly, in that they focus on what is merely derivative, on rights, rather than on the primordial imperative, the duty of individuals to find their place in the order of the entire society and of the entire cosmos. Seen from *dharma* and, indeed, from *umma* also, the Western conception of human rights is plagued by a very simplistic and mechanistic symmetry between rights and duties. It grants rights only to those from whom it can demand duties. This explains why, according to the Western concept of human rights, nature has no rights: it cannot be imposed any duties. For the same reason, it is impossible to grant rights to future generations; they have no rights because they have no duties.

On the other hand, seen from the *topos* of human rights, *dharma* is also incomplete due to its strong undialectical bias in favor of harmony, thereby occulting injustices and totally neglecting the value of conflict as a way toward a richer harmony. Moreover, *dharma* is unconcerned with the principles of democratic order, with freedom and autonomy, and it neglects the fact that, without primordial rights, the individual is too fragile an entity to avoid being run over by whatever transcends him or her. Lastly, *dharma* tends to forget that human suffering has an irreducible individual dimension: societies do not suffer, but individuals do.

At another conceptual level, the same diatopical hermeneutics can be attempted between the *topos* of human rights and the *topos* of *umma* in Islamic culture. The passages in the Qur'an in which the word *umma* occurs are so varied that its meaning cannot be rigidly defined. This much, however, seems to be certain: it always refers to ethical, linguistic or religious bodies of people who are the objects of the divine plan of salvation. As the prophetic activity of Muhammad progressed, the religious foundations of *umma* became increasingly apparent and, consequently, the *umma* of the Arabs was transformed into the *umma* of the Muslims. Seen from the *topos* of *umma*, the incompleteness of individual human rights lies in the fact that on its basis alone it is impossible to ground the collective linkages and solidarities without which no society can survive, much less flourish. Herein lies the difficulty for the Western conception of human rights to accept the collective rights of social groups or peoples, be they ethnic minorities, women, or indigenous peoples. This is in fact a specific instance of a much broader difficulty, the difficulty of defining the community as an arena of concrete solidarity and as a horizontal political obligation. Central to Rousseau, this idea of community was flushed away in the liberal dichotomy that set asunder the state and civil society.

Conversely, from the *topos* of individual human rights, *umma* overemphasizes duties to the detriment of rights and, for that reason, is bound to condone otherwise unjust inequalities, such as the inequality between men and women and between Muslims and non-Muslims. As unveiled by diatopical hermeneutics, the fundamental weakness of Western culture consists in dichotomizing too strictly between the individual and society, thus becoming vulnerable to possessive individualism, narcissism, alienation, and anomie. On the other hand, the fundamental weakness of Hindu and Islamic cultures consists in that they both fail to recognize that human suffering has an irreducible individual dimension that can only be adequately addressed in a society not hierarchically organized.

The recognition of reciprocal incompletenesses and weaknesses is a *condition-sine-qua-non* of any cross-cultural dialogue. Diatopical hermeneutics builds both on the local identification of incompleteness and weakness and

on its translocal intelligibility. As mentioned above, in the area of human rights and dignity, the mobilization of social support for the emancipatory claims that they potentially contain is only achievable if such claims have been appropriated in the local cultural context and if a cross-cultural dialogue and diatopical hermeneutics are possible. Many highly differentiated exercises in diatopical hermeneutics between Islamic and Western cultures in the field of human rights have been tried in recent times. Some of the most notable cases are provided by Abdullahi Ahmed An-na'im (1990; 1992), Tariq Ramadan (2000, 2003), and Ebrahim Moosa (2004).

There is a longstanding debate on the relationships between Islamism and human rights and the possibility of an Islamic conception of human rights.¹² This debate covers a wide range of positions and its impact reaches far beyond the Islamic world. Running the risk of excessive simplification, two extreme positions can be identified in this debate. One, absolutist or fundamentalist, is held by those for whom the religious legal system of Islam, the Shari'a, must be fully applied as the law of the Islamic state. According to this position, there are irreconcilable inconsistencies between the Shari'a and the Western conception of human rights, and the Shari'a must prevail. For instance, regarding the status of non-Muslims, the Shari'a dictates the creation of a state for Muslims as the sole citizens, non-Muslims having no political rights; peace between Muslims and non-Muslims is always problematic and confrontations may be unavoidable. Concerning women, there is no question of equality; the Shari'a commands the segregation of women and, according to some even stricter interpretations, excludes them from public life altogether.

At the other extreme, there are the secularists or modernists who believe that Muslims should organize themselves in secular states. Islam is a religious and spiritual movement, not a political one and, as such, modern Muslim societies are free to organize their government in whatever manner they deem fit and appropriate to their circumstances. The acceptance of international human rights is a matter for political decision unencumbered by religious considerations. Just one example, among many: a Tunisian law of 1956 prohibited polygamy altogether on the grounds that it was no longer acceptable and that the Qur'anic requirement of justice among co-wives was impossible for any man, except the Prophet, to achieve in practice.

An-na'im criticizes both extreme positions. The *via per mezzo* he proposes aims at establishing a cross-cultural foundation for human rights, identifying the areas of conflict between Shari'a and "the standards of human rights" and seeking a reconciliation and positive relationship between the two systems. For example, the problem with historical Shari'a is that it excludes women and non-Muslims from the application of this principle. Thus, a reform or reconstruction of Shari'a is needed. The method proposed for such an "Islamic Reformation" is based on an evolutionary approach to Islamic

sources that looks into the specific historical context within which Shari'a was created from the original sources of Islam by the founding jurists of the eighth and ninth centuries. In the light of such a context, a restricted construction of the other was probably justified. But this is no longer so. On the contrary, there is in the present, different context within Islam full justification for a more enlightened view.

Following the teachings of *Ustadh* Mahmoud, An-na'im shows that a close examination of the content of the Qur'an and Sunna reveals two levels or stages in the message of Islam, one of the earlier Mecca period and the other of the subsequent Medina stage. The earlier message of Mecca is the eternal and fundamental message of Islam and it emphasizes the inherent dignity of all human beings, regardless of gender, religious belief, or race. Under the historical conditions of the seventh century (the Medina stage) this message was considered too advanced, was suspended, and its implementation postponed until appropriate circumstances might emerge in the future. The time and context, says An-na'im, are now ripe for it.

It is not for me to evaluate the specific validity of this proposal within Islamic culture. This is precisely what distinguishes diatopical hermeneutics from Orientalism. What I want to emphasize in An-na'im's approach is the attempt to transform the Western conception of human rights into a cross-cultural one that vindicates Islamic legitimacy rather than relinquishing it. In the abstract and from the outside, it is difficult to judge whether a religious or a secularist approach is more likely to succeed in an Islamic based cross-cultural dialogue on human rights. However, bearing in mind that Western human rights are the expression of a profound, albeit incomplete process of secularization that is not comparable to anything in Islamic culture, one would be inclined to suggest that, in the Muslim context, the mobilizing energy needed for a cosmopolitan project of human rights will be more easily generated within an enlightened religious framework. If so, An-na'im's approach is very promising.

But he does not stand alone and, indeed, Islam scholars and activists have been contributing in recent years to intercultural translation and diatopical hermeneutics in new and important ways. This is most notable in the case of Tariq Ramadan. Addressing himself to the Muslims living in the West and to their socio-economic conditions (most of them being immigrants), he encourages them to join forces with all the other oppressed social groups, independent of their cultural or religious background, with the following rationale:

The one who has already worked on the ground with grassroots communities, developing at the local level, social and economic strategies, can only be surprised with their similarities to the experience of Muslim forces. The reference points are certainly different as are the grounds and application, but

the spirit is one and the same in the sense that it is nourished from the same source of resistance to the blind interest of the great superpowers and the multinationals. We have already said it: it is not a matter of affirming the reality of a beatific Islamic third-worldism, which would echo the one that we have known for a long time in our part of the world. The truth is that Islam, by the fact that it is the reference point for many active Muslims, results in the same demand for dignity, justice and pluralism as those ideas which shape the mobilization of the Christian or humanistic community. Thus in this respect, the relations should be multiplied and the exchanges of experience made permanent (2003: 14).

For Tariq Ramadan, the impulse for intercultural translation lies in the overriding need to build broad coalitions to fight against neoliberal globalization: "it is necessary to be both a friend and a partner of those, in the West, who denounce the global oppression and invite us all to bring such change" (2003: 10).

In India, a similar way of combining cultural integrity with broader struggles for social justice is being pursued by some human rights groups and, particularly, by untouchables' social reformers. It consists in grounding the struggle of the untouchables for justice and equality in the Hindu notions of *karma* and *dharmā*, revising and reinterpreting them or even subverting them selectively in such a way as to turn them into sources of legitimacy and strength for contestations and protests. An illustration of such revisions is the increasing emphasis given to "*common dharmā*" (*sadharana dharmā*) in contrast to the "*specialized dharmā*" (*visesa dharmā*) of caste rules, rituals and duties. According to Khare, the "*common dharmā*,"

based on the spiritual sameness of all creatures, traditionally promotes a shared sense of mutual care, avoidance of violence and injury, and a pursuit of fairness. It traditionally promotes activities for public welfare and attracts progressive reformers. Human rights advocates might locate here a convergent indigenous Indian impulse. The *common dharmā* ethic also eminently suits untouchable social reformers (1998: 204).

The "Indian impulse" of the "*common dharmā*" provides human rights with cultural embeddedness and local legitimacy whereby they cease to be a globalized localism. The revision of the Hindu tradition not only creates an opening for human rights claims, it also invites a revision of the human rights tradition to include claims formulated following other cultural premises. By getting involved in reciprocal revisions, both traditions act as guest cultures and as host cultures. These are the paths necessary for the demanding exercises of intercultural translation (diatopical hermeneutics). The outcome

is a culturally hybrid claim for human dignity, a *mestiza* conception of human rights. Herein lies the alternative to an all-encompassing general theory, the peculiar version of universalism that conceives as particularity whatever does not fit in its narrow confines.¹³

Diatopical hermeneutics is not a task for a single person writing within a single culture. It is, therefore, not surprising that, for example, An-na'im's approach, though a true *exemplar* of diatopical hermeneutics, is conducted with uneven consistency. In my view, An-na'im accepts the idea of universal human rights too readily and acritically.¹⁴ Even though he subscribes to an evolutionary approach and is quite attentive to the historical context of Islamic tradition, he becomes surprisingly ahistorical and naively universalist as far the Universal Declaration goes. Diatopical hermeneutics requires not only a different kind of knowledge but also a different process of knowledge creation. It requires a production of knowledge that is collective, interactive, inter-subjective, and networked.¹⁵ It must be pursued in the full awareness that there will be black spots, zones of irredeemable mutual unintelligibility, which, in order not to lead to paralysis or factionalism, must be relativized by overriding common interests in the struggles against social injustice. This much is emphasized by Tariq Ramadan:

The West is neither monolithic nor diabolic, and the phenomenal assets in terms of its rights, knowledge, culture and civilization are too important to simply minimize and reject. [However, t]o be a Western citizen from a Muslim background and to maintain these truths is to, almost systematically, undertake the risk of being regarded as someone who is not successfully "integrated." Thus the suspicion remains on such a person's true allegiance. Everything proceeds as if our "integration" has to be bought with our silence. One needs to refuse this kind of intellectual blackmail (2003: 10–11).

The diatopical hermeneutics conducted from the perspective of Islamic culture must be matched by a diatopical hermeneutics conducted from the perspective of other cultures, most notably from the perspective of Western culture. This is probably the only way to embed in Western culture the ideas of collective rights, of the rights of nature and of future generations, and of the duties and responsibilities *vis-à-vis* collective entities, be they the community, the world, or even the cosmos.

CULTURAL IMPERIALISM AND THE POSSIBILITY OF COUNTER-HEGEMONY

Given the historically intimate connection between Western human rights and colonialism, submitting them to a diatopical hermeneutics is definitely

the most difficult translational task. Learning from the South is only a starting point, and it may actually be a false starting point if it is not borne in mind that the North has been actively unlearning the South all along. As Said has frequently pointed out, the imperial context brutalizes both the victim and the victimizer and induces in the dominant as well as in the dominated culture "not just assent and loyalty but an unusually rarified sense of the sources from which the culture really springs and in what complicating circumstances its monuments derive" (1993: 37).¹⁶ Monuments have, indeed, messy origins. Viewing the pyramids, Ali Shariati once observed:

I felt so much hatred toward the great monuments of civilization which throughout history were praised upon the bones of my predecessors! My predecessors also built the great wall [*sic*] of China. Those who could not carry the loads were crushed under the heavy stones and put into the walls with the stones. This was how all the great monuments of civilization were constructed—at the expense of the flesh and blood of my predecessors (1982: 19).

In my view, the same could be said about human rights as one of the greatest monuments of Western civilization. The clean, clear-cut, ahistorical formulations to which they have lent themselves hide their messy origins, ranging from the genocides of European expansion to the Thermidor and the Holocaust. But this rarification of cultures occurs in the subordinate cultures as well, as Said has shown:

Young Arabs and Muslims today are taught to venerate the classics of their religion and thought, not to be critical, not to view what they read of, say, Abbasid or *nahda* literature as alloyed with all kinds of political contests. Only very occasionally does a critic and a poet like Adonis, the brilliant contemporary Syrian writer, come along and say openly that readings of *turath* in the Arab world today enforce a rigid authoritarianism and literalism which have the effect of killing the spirit and obliterating criticism (1993: 38).

As became evident in the analysis of diatopical hermeneutics above, to recognize the reciprocal impoverishment of victim and victimizer alike, however asymmetrical, is the most basic condition for a cross-cultural dialogue. Only the knowledge of history permits us to act independently of history. Scrutiny of the relationships between victim and victimizer cautions us against too strict distinctions among cultures, a caution that is particularly relevant in the case of the dominant culture. According to Pieterse, Western culture is neither what it seems, nor what Westerners tend to think it is: "What is held to be European culture or civilization is

genealogically not necessarily or strictly European" (Pieterse, 1989: 369). It is a cultural synthesis of many elements and currents, many of them non-European. Bernal has undertaken a deconstruction of the concepts of "classical civilization" to show its non-European foundations, the contributions of Egypt and Africa, Semitic and Phoenician civilizations, Mesopotamia and Persia, India and China, regarding language, art, knowledge, religion, and material culture. He also shows how these Afro-Asiatic roots of Ancient Greece were denied by nineteenth-century European racism and anti-Semitism (Bernal, 1987).

In line with this inquiry, the messy origins of human rights, as a monument of Western culture, can be seen not only in the imperial and domestic domination that they once justified, but also in their original composite character as cultural artifacts. The presuppositions of human rights, which were indicated above in their clear-cut, Enlightenment, rational formulations, echo the vibrations of other cultures, and their historical roots reach far beyond Europe. A cross-cultural dialogue must start from the assumption that cultures have always been cross-cultural, but also with the understanding that exchanges and interpenetrations have always been very unequal and inherently hostile to the cosmopolitan dialogue that is here being argued for. Ultimately, the question is whether it is possible to construct a post-imperial conception of human rights. Put differently, the question is whether the vocabulary or the script of human rights is so crowded with hegemonic meanings as to exclude the possibility of counter-hegemonic meanings. Although I am fully aware of the almost insurmountable barriers, I give a positive answer to my basic question. In the following I try to specify the conditions under which the possibility of counter-hegemony can be actualized. I will start by addressing the conditions for the multicultural conception of human rights laid out above and will then present an outline of a counter-hegemonic, emancipatory conception of human rights.

Difficulties of an intercultural reconstruction of human rights

Diatopical hermeneutics offers a wide field of possibilities for the debates going on in the different cultural regions of the world system, on the general issues of universalism, relativism, cultural frames of social transformation, traditionalism, and cultural revival.¹⁷ However, an idealistic conception of cross-cultural dialogue will easily forget that such a dialogue is only made possible by the temporary simultaneity of two or more different contemporaneities. The partners in the dialogue are unequally contemporaneous; indeed, each of them feels himself or herself only contemporaneous with the historical tradition of his or her respective culture. This is most likely the case when the different cultures involved in the dialogue share a past of inter-

locked and unequal exchanges. What are the possibilities for a cross-cultural dialogue when one of the cultures *in presence* has been itself molded by massive and longlasting violations of human rights perpetrated in the name of the other culture? When cultures share such a past, the present that they share at the moment of initiating the dialogue is at best a *quid pro quo* and, at worst, a fraud. The cultural dilemma is the following: since in the past the dominant culture rendered unpronounceable some of the subordinate culture's aspirations to human dignity, is it now possible to pronounce them in the cross-cultural dialogue without thereby further justifying and even reinforcing their unpronounceability?

Cultural imperialism and epistemicide are part of the historical trajectory of Western modernity. After centuries of unequal cultural exchanges, is the equal treatment of cultures fair? Is it necessary to render some aspirations of Western culture unpronounceable in order to make room for the pronouncability of other aspirations of other cultures? Paradoxically—and contrary to hegemonic discourse—it is precisely in the field of human rights that Western culture must learn from the South¹⁸ if the false universality that is attributed to human rights in the imperial context is to be converted into the new universality of cosmopolitanism in a cross-cultural dialogue. The emancipatory character of diatopical hermeneutics is not guaranteed *a priori* and, indeed, multiculturalism may be the new mark of a reactionary politics. Suffice it to mention the multiculturalism of the Prime Minister of Malaysia or of the Chinese gerontocracy when they speak of the “Asian conception of human rights” (Rajagopal, 2004: 212–216).

One of the most problematic presuppositions of diatopical hermeneutics is the conception of cultures as incomplete entities. It may be argued that, on the contrary, only complete cultures can enter into an intercultural dialogue without risking being run over by and ultimately dissolved into other, more powerful cultures. A variation of this argument states that only a powerful and historically victorious culture, such as Western culture, can grant itself the privilege of proclaiming its own incompleteness without risking dissolution. Indeed, cultural incompleteness may be, in this case, the ultimate tool of cultural hegemony. None of the non-Western cultures are allowed today such a privilege.

This line of argumentation is particularly convincing when applied to those non-Western cultures that endured in the past the most destructive “encounters” with Western culture. Indeed, so destructive were they that they led in many cases to utter cultural extinction. This is the case of the indigenous peoples and cultures in the Americas, in Australia, New Zealand, India, etc. These cultures have been so aggressively *incompleted* by Western culture that the demand for incompleteness, as a precondition for a diatopical hermeneutics is, at least, a ludicrous exercise.¹⁹

The problem with this line of argumentation is that it leads, logically, to two alternative outcomes, both of them quite disturbing: cultural closure or conquest as the sole realistic alternative to intercultural dialogues. In a time of intensified transnational social and cultural practices, cultural closure is, at best, a pious aspiration that occults and implicitly condones chaotic and uncontrollable processes of destructuring, contamination, and hybridization. Such processes reside in unequal power relations and in unequal cultural exchanges, so much so that cultural closure becomes the other side of cultural conquest. The question is then whether cultural conquest can be replaced by intercultural dialogues based on mutually agreed conditions and, if so, on what conditions.

The dilemma of cultural completeness, as I would call it, may be formulated as follows: if a given culture considers itself complete, it sees no interest in entertaining intercultural dialogues; if, on the contrary, it enters into such a dialogue out of a sense of its own incompleteness, it makes itself vulnerable and, ultimately, offers itself to cultural conquest. There is no easy way out of this dilemma. Bearing in mind that cultural closure is self-defeating, I do not see any other way out but that of raising the standards for intercultural dialogue to a threshold high enough to minimize the possibility of cultural conquest, though not so high as to preclude the possibility of dialogues altogether (in which case it would revert into cultural closure and, hence, into cultural conquest).

Conditions for an intercultural reconstruction of human rights

The conditions for a progressive multiculturalism vary widely across time and space and primarily according to the specific cultures involved and the power relations among them. However, I venture to say that the following contextual procedural orientations and transcultural imperatives must be accepted by all social groups interested in intercultural dialogues.

From completeness to incompleteness. As I said above, cultural completeness is the starting point, not the point of arrival. Indeed, cultural completeness is the condition prevailing before the intercultural dialogue starts. The true starting point of this dialogue is a moment of discontent with one's culture, a diffuse sense that one's culture does not provide satisfying answers to some of one's queries, perplexities or expectations. This diffuse sensibility is linked to a vague knowledge of and an inarticulate curiosity about other possible cultures and their answers. The moment of discontent involves a pre-understanding of the existence and possible relevance of other cultures and translates itself into an unreflective consciousness of cultural incompleteness. The individual or collective impulse for intercultural dialogue and thus for diatopical hermeneutics starts from here.

Far from turning cultural incompleteness into cultural completeness, diatopical hermeneutics deepens, as it progresses, the cultural incompleteness and transforms the vague and largely unreflective consciousness of it into a self-reflective consciousness. The objective of diatopical hermeneutics is thus to create a self-reflective consciousness of cultural incompleteness. In this case, self-reflectivity means the recognition of the cultural incompleteness of one's culture as seen in the mirror of the cultural incompleteness of the other culture in the dialogue. It is very much in this spirit that Makau Mutua, after arguing that "[t]he relentless efforts to universalize an essentially European corpus of human rights through Western crusades cannot succeed," states that

[t]he critiques of the corpus from Africans, Asians, Muslims, Hindus, and a host of critical thinkers from around the world are the one avenue through which human rights can be redeemed and truly universalized. This multi-culturalization of the corpus could be attempted in a number of areas: balancing between individual and group rights, giving more substance to social and economic rights, relating rights to duties, and addressing the relationship between the corpus and economic systems (2001:243).

From narrow to wide versions of cultures. As I mentioned above, far from being monolithic entities, cultures comprise rich internal variety. The consciousness of such variety increases as the diatopical hermeneutics progresses. Of the different versions of a given culture, one must choose that which represents the widest circle of reciprocity within that culture, the version that goes farthest in the recognition of the other. As we have seen, of two different interpretations of the Qur'an, An-na'im chooses the one with the wider circle of reciprocity, the one that involves Muslims and non-Muslims, men and women alike. From a different perspective, Tariq Ramadan assumes a contextual conception of cultural and religious differences with the objective of putting them at the service of cross-cultural coalitions in the struggle against global capitalism. In the same way and for similar reasons, the untouchables' social reformers emphasize "common dharma," to the detriment of "specialized dharma." I think the same must be done within Western culture as well. Of the two versions of human rights existing in Western culture—the liberal and the social-democratic or Marxist—the social-democratic or Marxist one must be adopted because it extends to the economic and social realms the equality that the liberal version only considers legitimate in the political realm.

From unilateral to shared times. The time for intercultural dialogue cannot be established unilaterally. Each culture and therefore the community or

communities that sustain it must decide if and when they are ready for intercultural dialogue. Because of the fallacy of completeness, when one given culture starts feeling the need for intercultural dialogue it tends to believe that the other cultures feel an equal need and are equally eager to engage in dialogue. This is probably most characteristically the case of Western culture, which for centuries felt no need for mutually accepted intercultural dialogues. Now, as the unreflective consciousness of incompleteness sets in in the West, Western culture tends to believe that all the other cultures should or indeed must recognize their own incompleteness and be ready and eager to enter intercultural dialogues with it.

If the time to enter an intercultural dialogue must be agreed upon by the cultures and social groups involved, the time to end it provisionally or permanently must be left to the unilateral decision of each culture and social group involved. There should be nothing irreversible about diatopical hermeneutics. A given culture may need a pause before entering a new stage of the dialogue, or feel that the dialogue has brought it more damage than advantage and, accordingly, that it should be ended indefinitely. The reversibility of the dialogue is indeed crucial to defend the latter from perverting itself into unassumed reciprocal cultural closure or unilateral cultural conquest. The possibility of reversion is what makes the intercultural dialogue into an open and explicit political process. The political meaning of a unilateral decision to terminate the intercultural dialogue is different when the decision is taken by a dominant culture or by a dominated culture. While in the latter case it may be an act of self-defense, in the former case it will be most probably an act of aggressive chauvinism. It is up to the politically progressive forces inside a given culture and across cultures—what I have called above "insurgent cosmopolitanism"—to defend the emancipatory politics of diatopical hermeneutics from reactionary deviations.

From unilaterally imposed to mutually chosen partners and issues. No culture will possibly enter a dialogue with any other possible culture on any possible issue. The intercultural dialogue is always selective both in terms of partners and of issues. The requirement that both partners and issues cannot unilaterally be imposed and must rather be mutually agreed upon is probably the most demanding condition of diatopical hermeneutics. The specific historical, cultural, and political processes by which the otherness of a given culture becomes significant for another culture at a given point in time varies widely. But, in general, colonialism, liberation struggles, post-colonialism, and anti-capitalism have been the most decisive processes behind the emergence of significant otherness. In this vein, Tariq Ramadan encourages the Muslims in the West, "however in the heart of industrialized societies, [to] remain the conscience of the Sotuh and of the destitute" (2003: 10). Concerning issues,

the agreement is inherently problematic not only because issues in a given culture are not easily translatable into another culture but also because in every culture there are always non-negotiable or even unspoken issues, taboos being a paradigmatic example. As I discussed above, diatopical hermeneutics has to focus on isomorphic concerns, rather than on "same" issues, on common perplexities and uneasinesses from which the sense of incompleteness emerges.

From equality or difference to equality and difference. Probably all cultures tend to distribute people and groups according to two competing principles of hierarchical belongingness—unequal exchanges among equals, such as exploitation (by capitalists over workers) and the unequal recognition of difference, such as racism or sexism—and thus according to competing conceptions of equality and difference. Under such circumstances, neither the recognition of equality nor the recognition of difference will suffice to found an emancipatory multicultural politics. The following transcultural imperative must thus be accepted by all partners in the dialogue if diatopical hermeneutics is to succeed: people have the right to be equal whenever difference makes them inferior, but they also have the right to be different whenever equality jeopardizes their identity.

INTERCULTURAL POST-IMPERIAL HUMAN RIGHTS

A new politics of rights is needed, a fresh approach to the task of empowering the popular classes and coalitions in their struggles for emancipatory solutions beyond Western modernity and global capitalism. A new architecture of human rights based on a new foundation and with a new justification is called for. Since it is not my purpose in this chapter to go beyond proposing a new research agenda, I will limit myself to some exploratory remarks and general guiding principles. The new architecture of human rights must go to the roots of modernity, both to the roots that it recognized as its own and to the roots that it rejected as its colonial exteriority. In this sense, to go to the roots involves going beyond the roots. This inquiry and building plan is a genealogy, in that it looks for the hidden transcript of the origins, of inclusions as well as exclusions, of legitimate as well as bastard ancestors; it is also a geology because it is interested in layers of sedimentation, gaps and faultlines (that cause both social and personal earthquakes); it is finally an archaeology as well in that it is interested in knowing what was once legitimate, proper, and just, and which was then discarded as anachronistic, suppressed as deviant, or hidden as shameful. While for centuries modernity was taken to be universal from an assumedly Western point of view, from the nineteenth century onwards it was reconceptualized as a universal, from a

supposedly universal point of view. Universal Western human rights became, then, universal human rights. From then on, a totalizing relationship between victimizers and victims evolved that, however unequal in its effects, brutalized both of them, forcing them both to share a common culture of domination in their acceptance of rarified and impoverished versions of their own respective cultures. Modern social sciences are the most sophisticated epistemology of such rarification and impoverishment.

Under these conditions, building a cross-cultural post-imperial conception of human rights is first and foremost an epistemological task. At this level, the founding, underground rights must be designed—I call them *ur-rights*—which the Western colonialist and capitalist modernity suppressed in order to build, upon their ruins, the monumental cathedral of fundamental human rights. Conceiving of *ur-rights* is an exercise in retrospective radical imagination. It means to establish and denounce an abyssal act of negativity at the core of colonial expansion, an abyssal negativity upon which Western modernity built its glaring epistemological, political, economic and cultural constructions. As conceived here, *ur-rights* are therefore not natural rights in the Western idealist tradition; they are rights that exist only in the process of being negated and as negations. Indeed, they are not *ur-rights* but rather *ur-wrongs*; they are *ur-rights* that only exist to signal the perpetration of *ur-wrongs*. To vindicate them is to open the time-space for a post-colonial and post-imperial conception of human rights.

The right to knowledge. The suppression of this *ur-right* was responsible for the massive epistemicide upon which Western modernity built its monumental imperial knowledge. In a period of paradigmatic transition,²⁰ the vindication of this *ur-right* involves of necessity a right to alternative knowledges. Such alternative knowledges must be grounded on a new epistemology from the South, from the non-imperial South. Since the abovementioned tension between social regulation and social emancipation is also an epistemological tension, the right to alternative knowledges is a right to move away from knowledge-as-regulation in the direction of knowledge-as-emancipation,²¹ from a form of knowledge that proceeds from chaos to order toward a form of knowledge that proceeds from colonialism to solidarity. Such a knowledge is the epistemological precondition to break the vicious circle of a reciprocal manufacturing of victims and victimizers. When from this perspective we analyze the institutional and organizational knowledges that underlie the practices of state governments and international agencies, we can easily observe how their exclusive emphases on order render unthinkable the passage from colonialism to solidarity. Since no distinction is made between the two categories, victims and victimizers are equal before the liberal conception of human rights.

The right to bring historical capitalism to trial in a world tribunal. The suppression of the second ur-right grounded the conversion of capitalism into an irreversible and unconditional manifestation of progress. The vindication of this ur-right demands that capitalism, as represented by core capitalist actors (states, multilateral financial agencies, and transnational corporations [TNCs]), be made accountable for its crucial quota of responsibility for massive violations of human rights, occurring in the form of mass immiseration, cultural impoverishment, and ecological destruction. As this ur-right emerges from the archaeological excavation of Western capitalist and colonialist modernity, the history of world capitalism and Western modernity will gradually evolve into a tragic history of ethical degradation.

Whatever happened in history did not just happen; it also prevented other pasts (and thus other presents) from happening. Lacunae in the present are therefore seen to have their source in suppressed pasts. By the same token, no confrontation between facts and non-facts can be adjudicated factually: the debate over facts and non-facts becomes a debate over rights and wrongs. The tribunal and the trial, though modern forms in themselves, will be put to a trans-modern use. As a world tribunal, the institutional setting will be a transnational time-space of its own, a counter-hegemonic globalization, or globalization from below. The proceedings will be guided by an overarching principle of global responsibility, the idea of global *Sorge*, an expanded version of the idea formulated by Hans Jonas.²² Rather than looking for narrowly defined disputes over short-range responsibilities and for well-delimited courses of action and consequences, this ur-trial will conceive of the world system as a single collective dispute, leaving nobody out, either as a victim or as a victimizer. Since many parties will be both victims and victimizers, the relative weight of each partial identity will be at the core of legal-political argumentation. The adjudication of responsibility will be determined in light of long-range, intergenerational courses of action occurring both in society and in nature. The decisions, always provisional and reversible, will be the result of rhetorical capital accumulation either around the arguments of emancipatory coalitions, those of the victims and their allies, or around the arguments of regulatory coalitions, those of the victimizers and their allies. The verdict will be enforceable through the type of collective action being undertaken by the social actors involved in bringing about counter-hegemonic globalization and will constitute an ongoing, never-ending project, the project of a socialist society.

The right to a solidarity-oriented transformation of the right to property. The ways by which the third ur-right has been historically suppressed bears witness to the inherently colonial character of Western modernity. As an ur-right, it is not a right to property precisely because it did not exist as such

before colonial usurpation. Again, it is negativity that founds the colonial land occupation. Conceived as an individual right in the Western conception of human rights, the right to property is at the core of the global North/global South divide. It develops historically through a series of transformative legal questions: from the general question of the legitimacy of the European land occupation in the New World (sixteenth century), to the question of the public relation of *imperium* or jurisdiction grounding individual claims to land by individual states (seventeenth century), and, finally, to the question of the nature of land as a thing, an object of private property (seventeenth and eighteenth centuries). While in the first two questions property implied the control over people, in the third it expresses merely control over things. The bourgeois property theory is wholly contained in this move. A concept ridden by political connotations, such as the concept of occupation, is followed by a neutral concept of physical possession involving the right of property over a thing. This thing, at the moment that property theory is created, is basically the land, the concept of property itself designating now in the common language the thing itself, i.e., land as property. Locke (1952) [1689] is the great creator of this conception.²³ With great forethought, Rousseau saw, in the right to property conceived as an individual right, the seeds of war and of all human suffering, as well as the destruction of community and nature; the problem rested, as Rousseau clearly saw, in the dialectics between the consequences of individual and collective holdings. This dialectics has reached a climax in recent decades with the rise of the TNCs to world economic prominence. Though constituted by large collectivities of stockholders and managers, with resources exceeding those of many nation-states, operating worldwide and controlling the provision of public services that are essential to the survival of large bodies of population, TNCs are nevertheless considered right-holder individuals and are dealt with as such by both domestic and international law. An insurgent cosmopolitan politics of human rights must confront head-on the possessive individualism of the liberal conception of property. Beyond the state and the market, a third social domain must be reinvented: a collective, but not state-centered, private, but not profit-oriented, a social domain in which the right to a solidarity-oriented transformation of property rights will be socially and politically anchored.

The right to grant rights to entities incapable of bearing duties, namely nature and future generations. The suppression of the fourth ur-right grounds the symmetry between right-holders and duty-bearers that is at the core of the Western conception of rights. According to this conception, only those susceptible of being duty-bearers are entitled to be right-holders. This symmetry narrowed the scope of the principle of reciprocity such that it

left out women, children, slaves, indigenous peoples, nature, and future generations. Once removed from the reciprocity circle, these were included as things in economic and political rationales and calculations. The progressive transformations of the last two centuries have been too timid to neutralize the tragic result of these arbitrary exclusions. The broad principle of responsibility mentioned above provides the normative orientation for the enlarged scope of reciprocity within which rights held by non-bearers of duties will be recognized as paramount.

The right to democratic self-determination. With a long tradition in Western modernity, the suppression of this right legitimated the popular defeats in the wake of the revolutions of the eighteenth and nineteenth centuries, as well as of the elitist independence of Latin American colonies throughout the nineteenth century. The same suppression could be traced in the almost simultaneous proclamation of the right of nations to self-determination by both Woodrow Wilson and Lenin (Wallerstein, 1991: 5). In the postwar period, the vindication of this *ur-right* has been present in the process of decolonization and is now being invoked by indigenous peoples in their struggle for social, political, and cultural identity. Though the strength of this tradition is undoubtedly a progressive historical fact, it may also become a serious barrier to the further vindication of the *ur-right* to the democratic self-determination called for by an insurgent cosmopolitan practice of human rights.

The trajectory of the right to self-determination during the past fifty years shows how much is still to be done in this area. The moderate and relatively ambiguous formulation of this right in the United Nations Charter was soon superseded by the strength of the anti-colonialist movement (the Bandung Conference was held in 1955) and the predominance of the socialist doctrine of self-determination over that of the Western world (Cassese, 1979: 139). While expanding the concept of self-determination to mean liberation from colonialism, racist domination (for instance, South Africa and Southern Rhodesia), and foreign occupation (such as the Arab territories occupied by Israel), socialist countries, together with Arab and African countries, restricted its use to external self-determination; for sovereign independent states, self-determination was tantamount to the right to nonintervention. On the contrary, Western countries maintained that self-determination should also be understood as internal self-determination, that is to say, as the right of peoples against sovereign states that massively violated human rights—meaning the totalitarian regimes of the Communist bloc. Normative developments in the United Nations system, particularly after the International Covenants of 1966, show that the UN has been one-sidedly concentrated on “external”—to the detriment of “internal”—self-

determination. In my analysis of indigenous peoples' struggles (Santos, 2002: 237–257), I have tried to lay bare the almost insurmountable barriers raised by the principle of sovereignty against the recognition of “internal” self-determination. Although the priority given to “external” self-determination may have been justified during the anti-colonialist process, it has since lost all justification.²⁴

From the perspective of a non-imperial conception of self-determination, a special reference must be made to a non-governmental document that has gained worldwide moral authority and in which the right to self-determination of peoples receives the fullest recognition. I am referring to the Algiers Declaration of the Rights of Peoples of 1976, and, specifically, to its Articles 5, 6 and 7.

Article 5

Every people has an imprescriptible and unalienable right to self-determination. It shall determine its political status freely and without foreign interference.

Article 6

Every people has the right to break free from any colonial or foreign domination, whether direct or indirect, and from any racist regime.

Article 7

Every people has the right to have a democratic government representing all the citizens without distinction as to race, sex, belief or color, and capable of ensuring effective respect for the human rights and fundamental freedoms of all.

The Algiers Declaration comes closest to the full vindication of the *ur-right* to democratic self-determination. It provides, in my judgment, an adequate foundation for a broader and deeper conception of the right to self-determination insofar as it acts as a guiding principle in the struggles for a counter-hegemonic globalization. Shivji has proposed the right of people to self-determination as one of the core rights in the African context, a collective right “embodying the principal contradiction between imperialism and its compradorial allies vis-a-vis [*sic*] people on the one hand, and oppressor vis-a-vis [*sic*] oppressed nations, on the other” (1989: 80). According to him, the right-holders of this right are dominated/exploited people and oppressed nations, nationalities, national groups, and minorities, while the duty-bearers are states, oppressor nations and nationalities, and imperialist countries. Although basically in agreement with Shivji, I would like to stress that, in my conception, the right to self-determination can be exercised both

as a collective *and* as an individual right: at the core of any collective right is the right to opt out of the collectivity. Furthermore, I put an equal emphasis on the political outcome of self-determination and on the participatory democratic processes towards self-determination. Peoples are political entities and not idealized abstractions: they do not speak with one voice and, when they do speak, it is imperative to establish participatory democracy as the criterion for the legitimacy of the positions voiced.²⁵

The right to organize and participate in the creation of rights. The suppression of the sixth ur-right has been the foundation of capitalist rule and domination. Without such suppression, minorities would never have been able to govern over majorities in a political field consisting of free and equal citizens. By relying on radical conceptions of democracy, the emancipatory struggles converging in the counter-hegemonic globalization of our time vindicate this ur-right as their guiding political principle. The conflict between neoliberal globalization and anti-capitalist counter-hegemonic globalization is a relatively unmapped social field characterized by relatively and totally uninsurable risks of oppression, human suffering and destruction, as well as by new, unsuspected possibilities and opportunities for emancipatory politics. The risks feed on the atomization, depoliticization, and *apartheidization* of people that derives from the downward spiraling of old forms of resistance and organization: the vicious circle between declining mobilizing energies and increasingly pointless organizations. Far from being an "organic" process, such spiraling down is actively provoked by repressive measures and ideological manipulation.²⁶ On the other hand, the opportunities for emancipatory politics depend, according to the circumstances, either on the invention of new forms of organization specifically targeted to meet the new risks or on the defense of old forms of organization, which are then reinvented to measure up to the new challenges, new agenda, and new potential coalitions.

The right to organize is a primordial right, without which none of the other rights can be minimally achievable. It is an ur-right in the strictest sense since its suppression is at the core of the modern conception that the most fundamental rights do not have to be created: they are already there as natural rights, as a "given." Without the denunciation of this abyssal suppression it will be impossible to organize all necessary solidarities against all existing colonialisms. Upon this ur-right the indigenous peoples are founding their struggles to win the right to follow their own rights.

The right to organize and the right to create rights are thus two inseparable dimensions of the same right.²⁷ According to the vulnerabilities of specific social groups, the repression of human rights is targeted against either the creation of rights or the organization to defend or to create rights. The

morally repugnant divide between the global North and the global South and, related to it, the growing interiorization of the Third World in the global North (the poor, the permanently unemployed, the homeless, the undocumented migrant workers, the asylum-seekers, the prisoners, as well as women, ethnic minorities, children, gays, and lesbians), clearly show the extent to which an emancipatory politics of rights is deeply interlocked with the politics of participatory democracy, and calls for the theoretical reconstruction of democratic theory.

CONCLUSION

As it is conventionally understood, human rights politics is based on a massive suppression of constitutive rights, or ur-rights, as I have called them. Such a politics is a child of colonialism and imagines no future beyond capitalism. It is also a kind of Esperanto, which can hardly become the everyday language of human dignity across the globe. In this chapter I have laid the grounds for an intercultural conception of emancipatory human rights politics. Such politics must be based on two radical reconstructions. On the one hand, one has an intercultural reconstruction by means of translational diatopical hermeneutics, whereby the networking of mutually intelligible and translatable native languages of emancipation finds its way into an insurgent cosmopolitan politics. On the other hand, there must be a post-imperial reconstruction of human rights centered on undoing the massive acts of constitutive suppression—the ur-rights—upon which Western modernity was able to transform victors' rights into universal rights.

This project may sound rather utopian. But, as Sartre once said, before it is realized an idea has a strange resemblance with utopia. Be that as it may, the important fact is not to reduce realism to what exists.

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Notes

- 1 Elsewhere, I deal at length with the dialectical tensions in Western modernity (Santos, 1995).
- 2 On the nature of globalization, see the following section.
- 3 For an extended analysis of the four regimes, see Santos, 1995: 330–337; 2002: 280–311, and the bibliographies cited there.
- 4 For two contrasting views, see Donnelly, 1989 and Renteln, 1990. See also Schwab and Pohs, 1982; K. Thompson, 1980; A. Henkm, 1979; A. Diemer, 1986; Ghai, 2000b; Mutua, 2001. See also Ghai's commentary at the end of this volume.
- 5 As I said above, to be emancipatory a politics of human rights must always be conceived of and practiced as part of a broader politics of resistance and emancipation.

- 6 I will say more on the premises in the following section.
- 7 For a recent review of the debate on universalism versus relativism, see Rajagopal, 2004: 209–216. See also Mutua, 1996.
- 8 See, for instance, Mutua, 2001; Obiora, 1997.
- 9 See, for instance, Pollis and Schwab, 1979; Pollis, 1982; Shivji, 1989; An-na'im, 1992; Mutua, 1996.
- 10 See also Panikkar, 1984: 28.
- 11 See also K. Inada, 1990; K. Mitra, 1982; R. Thapar, 1966.
- 12 Besides An-na'im (1990; 1992), see Dwyer, 1991; Mayer, 1991; Leites, 1991; Afkhami, 1995. See also Hassan, 1982; Al Faruqi, 1983. On the broader issue of the relationship between modernity and Islamic revival, see, for instance, Sharabi, 1992; Shariati, 1986; Ramadan, 2000; and Moosa, 2004.
- 13 Volume 5 of this collection will develop in great detail the work of translation as an alternative to the idea of a general theory.
- 14 The same cannot be said of Tariq Ramadan.
- 15 A more sophisticated formulation of the relations between universal human rights and Islam can be found in Moosa (2004).
- 16 Gilroy criticizes the "overintegrated conceptions of pure and homogeneous cultures which mean that black political struggles are construed as somehow automatically *expressive* of the national or ethnic differences with which they are associated" (1993: 31).
- 17 For the African debate, see P. Hountondji, 1983, 1994, 2002; O. Oladipo, 1989; O. Oruka, 1990; K. Wiredu, 1990; Wamba dia Wamba, 1991a, 1991b; H. Procee, 1992; M. B. Ramose, 1992; R. Horton *et al.* 1990; R. Horton, 1993; P. H. Coetzee and A. P. J. Roux, 2003. A sample of the rich debate in India is in A. Nandy, 1987a, 1987b, 1988; P. Chatterjee, 1984; T. Pantham, 1988; Bhargava, 1998; Bhargava, Bagchi, and Sudarshan, 1999. A bird's-eye view of cultural differences can be found in Galtung, 1981.
- 18 Elsewhere, I deal in detail with the idea of "learning from the South" (Santos, 1995: 475–519).
- 19 In this chapter I concentrate on the diatopical hermeneutics between Western culture and the "great Oriental cultures" (Hinduism and Islamism). I am aware that a diatopical hermeneutics involving indigenous peoples' cultures raises other analytical issues and demands specific preconditions. Focusing on the indigenous peoples of Latin America, I deal with this topic in Santos (1997) and in Santos and Villegas (2001).
- 20 On the paradigmatic transition, see Santos, 1995 and 2002.
- 21 On the distinction between these two forms of knowledge, see Santos, 1995: 7–55. In Volume 5 I will defend that knowledge-as-emancipation is a mere starting point and that it is necessary to go beyond it. See also the introduction to this volume.
- 22 Jonas, 1985. See also Santos, 1995: 50.
- 23 On the debate over the evolution of Locke's thought on property, see Santos, 1995: 68–71.
- 24 As Casse puts it, "new forms of oppression are developing and spreading (neo-colonialism, hegemonical oppression, domination by multinational corporations and transnational repressive organizations) and minorities are awakening from secular oppression to a more vital sense of freedom and

independence" (Cassese, 1979: 148). See also Ghai's commentary at the end of this volume.

25 See Volume 1 of this collection (Santos, 2006).

26 For instance, in the core countries, particularly in the US (but also in Europe and Japan), the right of workers to organize in labor unions has been undermined by union-bashing, while at the same time their interests have been ideologically miniaturized as "special interests" and, as such, equated with any other special interests (for instance, those of the National Rifle Association).

27 The right to organize, conceived as an *ur*-right, is a politically grounded formulation of the more abstract "right to have rights" proposed by Hannah Arendt (1951). It is the denunciation of concrete *ur*-wrong suppressions of organized resistance.