Corporations in Latin America: human rights in dispute

By:

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The primary export regression in Latin America represents the core of the transnational corporations (TNCs), which advance through territories, directly impacting the environment and the lives of the people living in their surroundings. Among other elements, this historical moment is characterized by an increasing strengthening of TNCs, which have revenues that often exceed the Gross Domestic Product of the States where they operate, promoting the concentration of world wealth in a few economic conglomerates.

In recent decades, several cases of human rights violations relating to business activity had great repercussions all over the world, including the recent breakdowns of mining tailings dams in the Rio Doce Basin (2015) and in Brumadinho (2019), both in Brazil, when hundreds of people died. These tragic events exemplify the pattern of human rights violations committed by corporations and the inefficiency of national and international law to hold these companies accountable for their violations. In part, this phenomenon has

directly contributed to the findings that Latin America is the most dangerous region in the world for human rights defenders.

The existence of strong asymmetries between corporations and populations, or between corporations and states, has a striking similarity to the logics of coloniality, as the advance of capital across borders has triggered a private appropriation of the natural resources of countries considered to be 'underdeveloped'. This huge process of transformation carried out on territories of Global South is referred as development. In this sense, from the concepts of decolonial theory, notably the coloniality of power, I aim to investigate dynamic actors of contemporaneity: transnational corporations and processes of struggle for accountability for human rights violations.

The contribution of the concept of the coloniality of power to the decolonial theory deals with the understanding that, since the colonization of America, the population of the whole world has been classified in 'racial' identities and divided between the 'European dominant/superiors' and "Non-European dominated/ inferiors" and the phenotypic differences that underpinned the idea of race were used as an external expression of these "racial" differences. Thus, the concept comprises the political, cultural and scientific construction of the idea of race. The idea of liberation from this logic of coloniality goes through presuppositions of decolonization, which should necessarily imply breaking the dependent and capitalist barriers.

From the recognition of cases of human rights violations arising from the relocation process of polluting and electro-intensive industries to the Global South, it is clear that the large concentration of these industries has turned vast areas into "sacrificial zones" for local populations, that is, as the commodities travels its ways through global value chains, the devastation of nature continues on the ground.

Transnational corporations and colonial powers.

Transnational corporations are the main beneficiaries of the expansion of neoliberal policies that favored the entry of international investors, commoditized and made available to them basic sectors of people's lives through massive privatizations. In this scenario, in order to meet the

requirements of this development model and the process of economic restructuring of capital, at national and international level, there is a resurgence of austerity and deregulation strategies that imply substantial changes in social relations.

In parallel, in most of the world, people affected by human rights violations caused by TNCs already dominate the language of international human rights. However, the absence of instruments that could make these corporations responsible internationally highlights patterns of colonial relations between the global South and developed nations. Although companies submit to the legal system of the States in which they operate; this type of accountability seems insufficient in the context of the global economy and its imperialistic relations.

In addressing the absence of international mechanisms for holding transnationals accountable for human rights violations and development policies, the hypothesis is that this is not a coincidence, but the expression of the logic of financial capitalism. Yet, the discourse on the social responsibility of corporations is based on voluntarism, on the proposition of soft law regulations to be enforced in a conciliatory character. According to this view, TNCs autonomously and voluntarily *choose* to limit and control their direct and/or indirect action to avoid human rights violations.

Boaventura de Sousa Santos offers an interesting perspective on soft law, which according to him it is euphemistically called "soft" because it is ‘soft’ only to those whose entrepreneurial behavior is considered regular, and ‘hard’ for those whom suffer the consequences of its non-compliance. As colonial law, its application depends more on will of the colonizer than of anything else.

The need for corporate regulation is born of the ontological power of Law. Law, the principle of the polis, prescribes what constitutes a reasonable order accepting and validating some parts of collective life, while prohibiting, excluding others, making them invisible. Law and rights bind language with things or beings; they name what exists and condemn the rest to invisibility and marginality (COSTA DOUZINAS, 2013)

In this sense, the analysis of the dynamics of the coloniality of power when

there are TNCs involved and the imperial relations identified between States are identified as determining variables in the process of construction of international law. In other words, the discourse of human rights in disputes in these contexts must be understood through this normative frame. These observations, as well as the ethnography of fieldwork, suggest that we need to unveil the ways people think about the use of human rights in their daily lives.

There is the challenge of recognizing that the transnational corporations present in the international human rights forums are the same ones that are in the territories violating rights in Latin America. In this sense, the analysis of the dynamics of the coloniality of power when there are companies at stake, as well as of the imperial relations identified between states, are identified as determining variables in the process of construction of international law, which show how the language of human rights is at stake. dispute in these contexts. These observations, as well as the ethnography of fieldwork, suggest that we need to unveil the ways people think about the use of human rights in their daily lives.

As social movements and civil society continues to seek support within international law in their claims for justice, the reflection on the absence of international corporate accountability mechanisms is an open field for human rights discourse dispute.

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