

## The Crisis of Human Rights and Decolonization

*Zaki Habib\**

Received: 15/11/2022 Accepted: 01/05/2023  
DOI: 10.22096/hr.2024.1973534.1528

### Abstract

In the field of human rights, it is becoming increasingly more common to have a transdisciplinary approach to the subject as opposed to one that is usually limited to a legal analysis. It is thus necessary to conduct research on the decolonization of human rights. The purpose of this article is to bring about the political, economic and philosophical challenges to the way in which human rights and peace are theorized, all brought about from the perspective of the Global South. The first part of this article poses a dialogue between critical human rights theory and decolonial thought, delving into the history of colonialism and linking it to the current debates that take place in the legal setting of human rights. The second part of the article is an analysis of the coloniality of gender in the world with a proposal for a transmodern view of human rights and feminism.

**Keywords:** Decoloniality; Decolonial Feminism; Latin America; Middle East.

---

\* PhD candidate, Department of Political and Administration Sciences, Complutense University of Madrid, Madrid, Spain.  
Email: zakihabib820@hotmail.com



## 1. Introduction

In the current state of affairs there are numerous crises where the various solutions in the west are limited to a return to social-democracy, the deepening of neoliberalism, and more recently a rise of the extreme right-wing nationalism. This signifies an epistemological crisis in the west as a result of historical processes of colonialism and coloniality of power.<sup>1</sup> In the global south, many authors have proposed the decolonization of western thought and trans-modernization of the State. To contribute to this discussion, I propose rethinking human rights as one of the keys to the emancipation of humanity from the positioning of decolonial thought. It is important to analyze the hegemonic concept of human rights from the framework of decolonial thought that comes from a positioning of time and space that deconstructs the function of human rights within the modern/colonial world system.<sup>2</sup> The reconfiguration of human rights requires a different understanding of its context by understanding the vast division between being and non-being as well as cognitive injustice that denies the inhabitants of the Zone of non-being<sup>3</sup> the possibility to vindicate their rights with their own voice. Therefore, it is necessary to break with the liberal and Eurocentric myth of human rights as the legal/political/universal product of the 18th century and after 1948, which, according to the concept of coloniality,<sup>4</sup> there were political/legal processes of emancipation, but maintaining the power structures of colonialism intact. This is understood as a continuation of the same processes of destruction, epistemicide and pillage of knowledge in all parts of the world that have suffered from colonialism at the hands of western empires, in addition to the pillage of human rights of other cultures for the use of the west for westerners. This colonial discourse not only has an effect of making invisible the struggles and social movements for human rights in the world, it is also the justification for the continuation of economic plundering and destruction of countries considered “threats to the security of the west” and “violators of human rights”. Therefore, the hegemonic logic of human rights is utilized in the same discourse that reproduces the capitalist/racist/patriarchal world system, or, in

---

1. Anibal Quijano, “Colonialidad Del Poder, Eurocentrismo y América Latina,” in *La Colonialidad Del Saber: Eurocentrismo y Ciencias Sociales: Perspectivas Latinoamericanas*, ed. Edgardo Lander and Santiago Castro-Gómez (Buenos Aires: CLACSO, 2011), 122-151.

2. Ramón Grosfoguel, “Decolonizing Post-Colonial Studies and Paradigms of Political-Economy: Transmodernity, Decolonial Thinking, and Global Coloniality,” *Transmodernity: Journal of Peripheral Cultural Production of the Luso-Hispanic World* 1, no. 1 (2011).

3. Frantz Fanon, *Los condenados de la tierra* (Mexico City: Fondo de Cultura Económica, 2018).

4. Quijano, “Colonialidad Del Poder,” 122-151.

other words, in order to violate the rights of those considered to be non-beings. In order to redefine and re-conceptualize human rights, we must first understand the meaning of this concept as inadequate to unmask it, which is in reality “rights for humans”. The task at hand is the decolonization to find pluriversal and transmodern conceptions of human rights.

Currently, there have been many diverse movements that are irritated with the current state of affairs. In this context, there is a specific way of understanding peace in the world that must be analyzed. The Former Vice President of the United States, Mike Pence once stated: “There’s no greater element of American strength, there’s no greater force for peace in the world, than the United States nuclear arsenal.” There are examples such as this that are very obvious in their “epistemological jail” of peace which is to say that peace can only be thought of within certain constraints put into place by the hegemonic powers that dictate the terms under which that peace can take place. It is in this context that it becomes urgent to decolonize the way we think about human rights and peace.

## 2. Decolonizing Human Rights

Human rights, similar to the western thought from which they originate, were conceived in Europe and then projected outward as the universal “recipe” to live in a better and more just world. This makes a specific emphasis on how backwards the “underdeveloped” nations of the “third world” are, and how these are violators of human rights that must follow the United Nations’ definition of human rights in order to improve their quality of life, healthcare, education, development, wellbeing with a wide array of technical tools to measure whether or not they are improving their standards of democracy and wellbeing according to the North.<sup>5</sup>

But the question that needs to be asked is: Why are so many of the countries that are violators of human rights in the Global South? Is the Global North more illuminated? Why does the North have a higher quality of life than in the South? Is it by accident? Or the result of modern/colonial history? These questions bring us to the point of entry to begin to deconstruct what human rights really mean. Firstly, if the North has a greater quality of life than the South, and if the North has the moral authority to dictate to the South the standards of human rights to follow, it is not by chance. It is the result of a long

---

5. Joaquín Herrera Flores, *La reinención de los derechos humanos* (Seville: Ed. Atrapasueños, 2008).

history of Northern hegemony over the South. If we are to revise human rights, we must begin to think about how they are materialized for some and not for others, and the reason why there is such an asymmetry in human rights. Which is to say, who has rights in the modern/colonial world system, and who does not.

The legal thinking in human rights cannot be sightless to this reality. It is a way of creating ideas that are only applicable for the North, to obligate the South to follow the North, after the North has pillaged and destroyed the Global South. This is one case of epistemological violence, because after the non-western civilizations were destroyed, those civilizations were required to meet the criteria of democracy and standards of living that were achieved in the North at the expense of the destruction of the South.

That human rights are destroyed in the name of preserving human rights themselves constitutes what we term the inversion of human rights. This inversion has a long history. In fact, the history of modern human rights is precisely the history of their inversion, which transforms the violation of those rights into a categorical imperative for political action. The Spanish based the conquest of America on the denunciation of the human sacrifices committed by aboriginal American civilizations. Later, the conquest of North America was argued for based on the violations of human rights on the part of Native Americans. The conquest of Africa was justified by the denunciation of cannibalism, the conquest of India by the denunciation of widow immolation, the destruction of China by the opium wars was equally based on the denunciation of the violation of human rights in China. The West conquered the world, destroyed cultures and civilizations, committed genocides never seen; yet, all of this was done to save human rights. Hence, the blood spilled by the West does not leave stains. The West transforms itself into the great guarantor of human rights in the world.<sup>6</sup>

When a country in the Global South is deemed to be a violator of human rights, it is important to view this within the context of the coloniality of power. Anibal Quijano characterizes the current power structures as being direct inheritances of the colonial past. Although countries today have for the most part become independent from colonial rule in a legal and political sense, this is hardly the case when looking closely at the way power structures operate. The theory of dependency is a good example of this, in which countries that are former colonies are still economically dependent on former imperial

---

6. Franz Hinkelammert, "The Hidden Logic of Modernity: Locke and the Inversion of Human Rights," *Worlds and Knowledges Otherwise* 1, dossier 1 (2004): 1-27. [https://globalstudies.trinity.duke.edu/sites/globalstudies.trinity.duke.edu/files/documents/v1d1\\_HinkelammertF.pdf](https://globalstudies.trinity.duke.edu/sites/globalstudies.trinity.duke.edu/files/documents/v1d1_HinkelammertF.pdf).

powers. This means that they are still exporters of raw materials (minerals, petroleum, etc.) but have not yet achieved a level of development that can produce goods with aggregated value at a competitive price with the north. This is commonly referred to as the “benefits of free trade”, but in reality is what keeps certain countries in a position of underdevelopment and dependence on developed nations. Perhaps the most interesting aspect of the coloniality of power is that countries reproduce colonial power structures without the necessity of having a colonial power explicitly dictating how the power structures need to operate. The racial classifications of colonialism are another good example of how citizens of countries even in modern censuses are still placed into the same racial categories (white, black, mestizo, etc.) and the structural racism that separates between being and non-being still operates.<sup>7</sup> Therefore, when a country is committing human rights abuses, it is reproducing the colonial structures of power.

Cristopher Columbus initiated the conquest of the Americas in 1492. After 60 years of conquest (1492-1552), the theologians Juan Gines de Sepulveda and Bartolome de las Casas partook in their famous debate in Valladolid, Spain where the famous controversy was whether or not the Native Americans were human. For Juan Gines de Sepulveda, the “Indians” were not human and therefore their enslavement was justified. On the other hand, Bartolome de las Casas argued that the enslavement of the “Indians” was a sin in the eyes of God. Nonetheless, this did not break with the racist discourse of viewing the Native Americans as “sub-human” who could only be saved through conversion to Christianity. As Grosfoguel analyzes, “Both Las Casas and Sepulveda represent the inauguration of the two major racist discourses with long lasting consequences that will be mobilized by Western imperial powers for the next 450 years: biological racist discourses and cultural racist discourses.”<sup>8</sup> We must not be surprised, therefore, when this debate occurs in the present.

For example, the Interamerican Commission of Human Rights (IACHR) session of September 2017 on the Salvadoran State’s human rights violations with respect to the repression occurred in recent years produced a similar debate. The view of Las Casas was represented by the NGOs who were accusing the State of having committed extrajudicial executions, and the view

---

7. Fanon, *Los condenados*.

8. Ramón Grosfoguel, “The Structure of Knowledge in Westernized Universities Epistemic Racism/Sexism and the Four Genocides/Epistemicides of the Long 16th Century,” *Human Architecture: Journal of the Sociology of Self-Knowledge* 11, no. 1 (Fall 2013): 73-90.

of Sepulveda was reproduced by the Salvadoran State, which argued that the repression that the Police and Army are taking part in is justifiable because the gangs must be eliminated from society in order to achieve peace in El Salvador. However, the legal Human Rights perspective took a similar position to that of De Las Casas which considered that the force used by the State was excessive because people who are not members of the gangs had been murdered by the Police. This is important because those who are not members of the gangs are considered to be human, and therefore their deaths are important for the ICHR. The deaths of the gang members were not mentioned or given importance in the session because they are considered to be non-human.<sup>9</sup> In addition, the position of the NGOs is that those who are gang members can be “rehabilitated”, which is similar to the “humanization” presented by De Las Casas because they can be converted to Christianity and therefore be saved. The problem behind this position is that in humanizing the non-human is the racism that implies that a person can be considered non-human, which is a result of the false dilemma of whether or not indigenous people can be considered human.

The prosecution of human rights crimes in the Northern States versus the Southern States is another area of concern. What’s more, the only world leaders that have been tried by the International Criminal Court have been African countries. Many African leaders have begun to express discontent and argue for the prosecution of leaders of more powerful nations. We can therefore begin to see a coloniality of human rights, which means that we must not confuse the particular with the universal. When we perceive human rights as being universal and not particular, we are unable to see that the Universal Declaration of Human Rights is applied from a particular geopolitical standpoint.

The Preamble of the Universal Declaration of Human Rights (UDHR) of 1948 states: “Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world...” This is the liberal conception of human rights, which originates in the Declaration of the Rights of Man and of the Citizen, where all human beings are born with equal rights. In contrasting this theory with reality, it becomes evident that there is a great deal of inequality when it comes to determining what rights are actually

---

9. “Report on 164th Ordinary Period of Sessions of the IACHR,” Organization of American States, September 23, 2018. [https://www.oas.org/en/iachr/media\\_center/PReleases/2017/157.asp](https://www.oas.org/en/iachr/media_center/PReleases/2017/157.asp).

“materialized”.<sup>10</sup> This is where it really counts. Not all human beings live in countries where their right to free speech is actually guaranteed and protected. Not all human beings live in countries with universal healthcare, quality education, sufficient minimum wage, etc.

Article 1 states: “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”. Human beings are, according to this historic document, not subject to a time or a space, but subjects of rights. Again, we find the same problem as with the preamble, which is the assumption that all human beings are born free and equal. The problem with considering human rights as the product of birth means that it depoliticizes human rights, which is to say that it removes human rights from the political realm, when in fact all forms of organization of human life are political.

Article 2 of the UDHR states:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.<sup>11</sup>

The problem with the liberal conception of human rights is that it perceives rights as being the product of laws, whereas in reality, human rights are the products of social movements and struggles of oppressed groups of people for their own rights. Famous examples are the women’s suffrage movements all over the world, the civil rights movements in the United States, and the struggle against colonialism in India, to name a few. These were all cases in which groups of people were not guaranteed their rights and had to obtain them through social movements that pressured the State to guarantee human rights. Therefore, Joaquin Herrera Flores argues that we should “rewrite” the Universal Declaration in order to reflect the social and political context of Human Rights and the struggles that are taking place to make them a reality as follows:

Preamble: recognizing that human rights are not an ‘abstract ideal’ which

---

10. Flores, *La reinención*.

11. United Nations, Universal Declaration of Human Rights, A/RES/217(III), 1948, Art. 2.

like all horizons it becomes further removed the more we chase it, we proclaim that such rights are the joining processes that individuals and groups of people put to work every day to access the goods that are demandable for a life that is worth living.<sup>12</sup>

Therefore, the most important aspect of Human Rights is not necessarily the abstract theory, but the actual possibility of people being able to demand their rights. This means that what must be guaranteed above all else are the conditions under which people will be able to seek the materialization of their rights. The legal perspective of human rights as laws would reduce this simply to a bureaucratic process in which those who have been denied their rights must seek the approval of a Human Rights Commission and wait for a declaration in their favor to be made. What really needs to be done is for people to have sufficient education of human rights as well as individual and collective power to make their rights a reality.

In Herrera Flores the legal division and classification of human rights demonstrates that there is a hierarchy and prioritization of rights. The three generations of human rights are 1) Political and civil rights, (the right to private property, free speech, voting rights, free assembly) 2) Economic, Social and Cultural Rights, (education, healthcare, development, labor rights) and 3) Collective rights (the right to peace, environmental rights, the right to self-determination). The problem with this classification is the following: The first generation of human rights are considered to be “negative” rights, which is to say that they are “low cost” and must be immediately met without the direct intervention of the State. The second generation, on the other hand, are considered to be met over time with the intervention of the State and are considered to be costlier. The third generation of human rights is considered to be “soft law”, because they are not legally binding and entail rights such as environmental rights and the right to self-determination.

This hierarchy in the legal classification of human rights is quite troublesome for several reasons. First, it perceives rights as being in separate categories and invisibilizes their interdependence. It is impossible to perceive a society where there is free speech but an insufficient education system with high illiteracy rates that disallows the general public from being able to read a newspaper. Second, the classification of human rights proves that there is no universal individual of human rights, but, rather, as Herrera Flores states that historically, the primary subject of human rights has been the white, male

---

12. Flores, *La reinvencción*.

member of the bourgeoisie. For this reason, the right to property is treated as a right that must be guaranteed immediately, while the right to a fair wage, pension, good education and healthcare are rights of the second generation and must therefore be guaranteed in the long run.

One of the origins of western human rights is in the French Revolution,<sup>13</sup> which was originally a popular revolution but its Thermidor meant an appropriation of the revolution in the hands of the French bourgeoisie. A few years later, the Haitian revolution was denied the same right to “freedom, equality and fraternity” because they were deemed racially inferior. It is the origins of human rights that have led to the hierarchy that is being questioned. The problem with this is that it puts the rights of the bourgeoisie ahead of the rights of the working class, racialized groups, etc. In John Locke’s inversion of human rights, those who rebelled against the bourgeoisie were waging an unjust war and thus lost their rights and could be treated as beasts that could be killed, enslaved or have their lands legally taken from them. Thus was the case of justifying the slavery of the Haitians and the dispossession of lands in the Americas. For Locke, those who were not exploiting their lands did not have the legal right to own them and could therefore be taken away by the Bourgeoisie who had better use for them.<sup>14</sup>

Another important motive is the differentiation between the first and second generations with regards to the third generation of human rights. When comparing the first and second with the third generation (the third is considered “soft law”), which is to say that environmental treaties are not legally binding for States to follow. This is deeply important for indigenous movements in the Americas that strive for environmental rights, which means that countries such as Brazil can remove indigenous populations from their lands, and upon being condemned by the Interamerican Commission of Human Rights, Brazil simply threatened to withdraw funding from the Interamerican System of Human Rights. The idea that environmental rights and the right to peace are considered of lower importance than the right to private property and the right to development once again make it clear that the subject of Human Rights is the white male member of the bourgeoisie. Another important aspect of the third generation of rights is the right to peace, which is not considered in any legally binding document, making it perfectly legal for countries to declare war on each other without any legal consequences.

---

13. Flores, *La reinvencción*.

14. Franz Hinkelammert, *Totalitarismo de Mercado* (Madrid: Akal, 2018).

Furthermore, the second generation of rights (Economic, Social and Cultural) ordain the right to development and work within the current economic system but do not discuss the possibility to choose what economic system workers wish to partake in. It is automatically assumed that the only type of development under which people are to live is the capitalist system. Therefore, it stands to argue that the Economic, Social and Cultural rights are perceived within a very limited range of possibilities. It is for this reason that we cannot consider human rights from a universally abstract position, every enunciation has a time and a location where it takes place. For example, the United Nations Charter was conceived during the era of social-democracy and it is reflected in the way human rights were thought out. It was precisely during this era that Keynesian capitalism was implemented in Europe under the Marshall Plan as well as in the Americas with ECLAC. For this reason, the second generation of Human Rights was considered to be necessary under direct State intervention. This meant that the State's role was to raise taxes on the wealthiest sectors of society and increase spending on infrastructure, education, research and healthcare as a way of stimulating growth in the economy.

### **3. Decolonizing Feminism**

Decolonial Feminism is a movement that has its origins in the popular movement of black and indigenous women, and has occupied an important space in academia to allow for different ways of thinking about feminism that break from a universal theory of oppression against women. For this reason, it is important to consider the ways in which racially oppressed women are breaking from this mold and how it is essential to the idea of decolonizing human rights as a whole, as it is an important contribution to the discussion that unmasks the problems that arise from a universal theory of human rights and feminism. The Eurocentric construction of feminism is one that has been criticized by many decolonial feminists from Latin America and the Middle East. In this section, it is important to explore the alternative feminist points of view that have emerged.

Article 1 of The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) states:

For the purposes of the present Convention, the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the

recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.<sup>15</sup>

This has been a monumental document in the struggle of women against the patriarchy. In effect, it obligates States to eliminate all forms of discrimination in both generations of human rights (civil and political as well as economic, social and cultural rights). The problem with this idea of discrimination is that it only sees patriarchy as the form of oppression faced by women. The problem here is that there is a universal concept of “woman” that is imposed and therefore does not recognize and excludes the various different types of struggles that women who do not fit into the Eurocentric mold have to face.

In the case of Latin American Feminism, Maria Lugones proves that gender is a colonial construct and breaks with the linear progressivity of human rights. Eurocentric feminism assumes that there have always been men and women in every society, and that the patriarchal relation between them has always been the same. What Lugones proves is that before the conquest of the Americas, there were other forms of gender relations that were not constricted to the modern binary between men and women. It was the conquerors that put the Native Americans into male and female categories and forced them to enter into modern gender roles, which is the root of the racial/patriarchal logic behind the division of labor in the colonies that persists to this day. What Lugones also argues is for the change of focus of feminism to include not just the visibility of patriarchy, but to also include “multiple oppressions”.

I understand the dichotomous hierarchy between the human and the non-human as the central dichotomy of colonial modernity. Beginning with the colonization of the Americas and the Caribbean, a hierarchical, dichotomous distinction between human and non-human was imposed on the colonized in the service of Western man. It was accompanied by other dichotomous hierarchical distinctions, among them that between men and women. This distinction became a mark of the human and a mark of civilization. Only the civilized are men or women. Indigenous peoples of the Americas and enslaved Africans were classified as not human in species-as animals, uncontrollably sexual and wild. The European, bourgeois, colonial, modern man became a subject/agent, fit for rule, for public life and ruling, a being of civilization, heterosexual, Christian, a

---

15. United Nations, Convention on the Elimination of All Forms of Discrimination against Women, A/RES/34/180, New York 1979 [1249 UNTC 13], Art. 1.

being of mind and reason. The European bourgeois woman was not understood as his complement, but as someone who reproduced race and capital through her sexual purity, passivity, and being homebound in the service of the white, European, bourgeois man.<sup>16</sup>

What Lugones is stating is that the forms of oppression for Native American and black women have been very different from the forms of oppression faced by white women. This is not arguing against white feminism, far from it in fact. What is being discussed is the fact that while white bourgeois women were oppressed and forced to be “sexually pure” and “passive” and at the service of the white bourgeois man, the struggle of Native American women and black women was for their very existence because their humanity was in question. The capitalist oppression of white women was to serve the purpose of reproduction of the status quo in new generations, whereas racially oppressed women had to face this same oppression as well as genocide and slavery. In addition, decolonial feminism considers the oppression faced by men in similar circumstances, who, like their female counterparts, were “judged as bestial and thus non-gendered, promiscuous, grotesquely sexual, and sinful.”<sup>17</sup> Therefore, when creating a document such as CEDAW that envisions the struggle of all women, it is very difficult to consider a universal concept of a “woman” because women in different contexts have had to face a different set of obstacles and that has to be visible when discussing the rights of women.

In the case of Islamic decolonial feminism, the starting point is quite similar. Both Latin American and Islamic decolonial feminists agree that feminism in its Eurocentric form functions as a form of colonization of racially oppressed women and needs to be broadened so that women of different walks of life can identify themselves in the struggle for equality. The problem, Sirin Adlbi Sibai states is that the western-centric idea of the “Muslim woman with a hijab” is that of an underdeveloped, illiterate, passive, sexually repressed woman that needs to be saved by the west.

This vision is not an accident; it is the result of western epistemic racism and sexism, which proclaims the white man as the only subject capable of producing universal knowledge, whereas all other forms of knowledge produced in the

---

16. Maria Lugones, “Subjetividad Esclava, Colonialidad De Género, Marginalidad y Opresiones Múltiples,” in *Pensando Los Feminismos En Bolivia*, ed. Patricia Montes (La Paz: Conexión Fondo de Emancipación, 2012), 129–40.

17. Lugones, “Subjetividad Esclava.”

Zone of Non-Being<sup>18</sup> are considered to be provincial and therefore only applicable to local contexts. The problem with human rights and feminism is the same problem that we face in Western thought, which is the “ego cogito ergo sum”, or “I think therefore I am” of Descartes, which places western man in the “God’s eye view”<sup>19</sup> and therefore all thought produced by the western men of five nations (Germany, Italy, France, England and the United States) is universal and objective in nature and can therefore speak on behalf of all people because it removes itself from its time and space.

The way that western thought perceives itself is as if it can enunciate without being tied to its political, historical, social and epistemological constraints, whereas all other forms of thought are necessarily tied to their local constraints. This is the imperial arrogance with which the west views Islamic feminism as “antithetical”.<sup>20</sup> Therefore, for western thought, the Quranic view of human rights is inferior to the Western view of human rights because the latter is universal and speaks on behalf of all beings, and any other type of human rights or feminism is only applicable to “pre-modern” forms of human rights and must therefore become westernized in order to exist in the modern world. For Grosfoguel,<sup>21</sup> the Universalist hegemony of “I think therefore I am” was only made possible through 150 years of “I conquer therefore I am”, which began in 1492 with the conquest of the Americas. For Western thought to be considered universal, it first had to destroy all other forms of knowledge in its path and absorb those forms of knowledge in the sciences, philosophy, technology, etc. and then proclaim them as its own invention.

For Muslim Feminists, it is incorrect to construe “Islamic feminism” as a contradiction in terms. Rather, they allege that Islam has been a revolutionary religion since its inception, giving women the right to property and the right to divorce hundreds of years before the West. Asma Lamrabet analyzes divorce in Islam in the following manner:

In Islam, matrimony is construed as a contract uniting two parties together and entitling either, or both, to initiating its termination; accordingly, divorce in Islam is considered a lawful act, contrary to Christianity where matrimony is construed as sacred. While Christianity considers marriage to be a bond not subject to dissolution, Muslim law permits divorce. Ever since

---

18. Fanon, *Los condenados*.

19. Grosfoguel, “The Structure of Knowledge,” 73-90.

20. Sirin Adlbi Sibai, *La cárcel del feminismo: Hacia un pensamiento islámico decolonial* (Madrid: Akal, 2016).

21. Adlbi Sibai, *La cárcel del feminismo*.

the very beginning of the revelation, Islam has established the principles of divorce and has redressed what has, within the Arab community, been common practice in this regard. During the pre-Islamic era, divorce was known to be a unilateral act; in other words, only the husband had the right to divorce his wife whenever and however he pleased.<sup>22</sup>

The key difference here is the emphasis on legal proceedings in the Islamic tradition rather than religious beliefs of Christianity, which have significant repercussions on the way women's rights are thought of. Islam in its origins is not a religion; it is a form of spirituality. Christianity was originally thought of as a form of spirituality similar to Islam's "tawhid", which is being united in difference and accepting all forms of spiritual beliefs and embracing all forms of knowledge as being manifestations of the divine. It was in the 4th Century that Constantine "imperialized Christianity" and turned it into the religion it is today. Islam, has also undergone a similar change through colonialism, where the Christianization of Islam<sup>23</sup> has turned it into a form of dogma. It is for this reason that decolonial feminism in its many forms breaks with the Eurocentric idea of linear progressivity (the idea that the past was always worse than the present and the future will always be better than the present). In many cases, what decolonial feminists are arguing for is a return to a more egalitarian past, because modernization has meant a step backwards in the rights of women in the Middle East, Latin America and so on. It is for this reason that many decolonial feminists say "the future has already passed", which is to say that the time when life was better was in the past and that the future we are struggling to find has already occurred. This is a break with Eurocentric linear progressivity and envisions a different form of time and progress.

The decolonial critique of feminism lies in its struggle exclusively against the patriarchy and ignoring of other forms of oppression against women (racism and capitalism), it therefore reproduces racism and capitalism against women that have been "othered" by western-centric feminism and in doing so is reproducing the very patriarchy which they were supposedly rebelling against to begin with. This is the lesson of Kimberlé Crenshaw's intersectionality:<sup>24</sup> If one is to rebel against oppression, it must be done against

---

22. Asma Lamrabet, "The Principle of Equality in Divorce: The Qur'anic Perspective," in *Feminist and Islamic Perspectives: New Horizons of Knowledge and Reform*, ed. Omaira Abou-Bakr (Cairo: Women and Memory Forum, 2013), 177.

23. Adlbi Sibai. *La cárcel del feminismo*.

24. Kimberlé Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color," in *The Public Nature of Private Violence*, ed. Martha Albertson Fineman (New York: Routledge, 1994): 95-118.

all forms of oppression at the same time (racism, capitalism and patriarchy) otherwise, one is going to fall in the very same narratives under which one was trying to emancipate oneself.

What it is most interesting about these alternative views of feminism is that they take the form of a double-edged sword. Islamic decolonial feminism not only denounces the pressure on the part of white feminists to take off the veil, as well as the pressure from Arab patriarchy to wear the veil. In doing so, decolonial feminists have to navigate a very complex argument that has to simultaneously denounce the multiple forms of oppression that they face.

The question that needs to be asked then is: What of the role of men in the decolonial struggle of women against patriarchy, racism and capitalism? Men must not make the same mistakes as with traditional feminism (appropriation and “mansplaining”). Racially oppressed men need to work in two directions: the first is to become strong allies of their female counterparts, and the second is to determine their own struggle against these multiple forms of oppression, and these two directions are both interdependent on each other in the struggle for men and women in their liberation. This means answering the question: What does it mean for men to be multiply oppressed? What are the kinds of struggles against patriarchy, racism and capitalism faced by men? Looking back on Maria Lugones’ thesis, it is evident that the coloniality of gender has functioned in a specific way against racially oppressed groups. The colonizer needed to divide the colonized subjects into male and female categories based on their sexual organs and then assign them their roles so that forced labor and exploitation could be organized. In doing so, colonized men were given advantages over colonized women so that the colonizer could “divide and rule” his colonial subjects. It was much easier to dominate the colonies if the colonized men were doing part of the oppressing on behalf of the colonizer.

However, one must not forget that men were being oppressed in their assigned gender role that put them above women. Therefore, in the struggle against racism, patriarchy and capitalism, it is the role of men as allies with women that must make men conscious of the fact that they have a stake in this struggle as well, which means that they have faced oppressions in common. For men to be allies with women they must both be united in the struggle against their oppressor in common: the colonizer. The decolonial struggle for men must do away with the “divide and conquer” strategy that was imposed. Men must realize that in their advantageous position against women, they have been colonial subjects doing the dirty work of their oppressors. In order to

assume this role against women, colonized men had to be victims of patriarchy as well so that they could become victimizers against women.

In Adlbi Sibai,<sup>25</sup> one can understand more clearly the Islamic Wahhabi patriarchy as a “Westernization” of Islam that puts men in the position to force women into wearing a veil. In the original form of Islam, the creator “Allah” is neither a man nor a woman, and according to Adlibi Sibai and Grosfoguel,<sup>26</sup> does not impose the use of the veil on women. On the other hand, Wahhabism (the ultra-conservative wing of Islam) is the result of the Western-centric interpretation of Islam from the 18th century that has been heavily financed by the CIA in alliance with Saudi Arabia and is used to generalize the situation of human rights of women in Muslim countries and therefore justify the waging of wars against the very enemies that the West has helped create. It was the discourse utilized by George Bush in the invasion of Afghanistan and it was also used by Francois Hollande to invade Mali.<sup>27</sup>

This is a key difference between white feminism and decolonial feminism. White feminism reproduces the “divide and conquer” principle by funding projects that go to the global South and unite women against their male counterparts so that they seek their own liberation and forget about their communities. Government projects such as “Ciudad Mujer” or “Woman City” in El Salvador demonstrate this thesis. “Ciudad Mujer” was founded by the First Lady of El Salvador Vanda Pignato during the FMLN Presidency of Mauricio Funes (2009-2014). The project consists of founding a city just for women so that they may meet their economic, social and cultural rights. While the concept of the “island” for liberated women may function correctly with bourgeois women, the results in the global South are different. One of the aspects of this project formed an alliance with Walmart by training women to grow peppers, tomatoes, cucumbers, radishes and aromatic herbs under the quality conditions of Walmart so that the multinational chain may sell these products at the market. Yet, it is no secret that Walmart has a history of exploitation and in any economic relationship with these women is going to seek to buy these products at a price that is low enough for them to turn into profit.

On the other hand, decolonial feminism focuses on the communal role of men and women and therefore seeks to unite them against the oppression that

---

25. Adlbi Sibai, *La cárcel del feminismo*.

26. Ramón Grosfoguel, comp., *Feminismos Islamicos* (Caracas: Fundacion Editorial El perro y la rana, 2016).

27. Grosfoguel, *Feminismos Islamicos*.

they have in common. It has to do with being “united in difference”. Although there are differences in the way they have been oppressed, colonized men and women seek to find that which they have in common in order to liberate themselves in unity.

#### **4. Conclusion**

In conclusion, we must begin to think about the human rights that build a transmodern world, where at last the center and the periphery can dialogue horizontally, putting respect for the autonomy of peoples at the center of the table, to thus build a pluriverse, not a universe, of human rights. Inspired by the Zapatista motto: for a world of rights where many rights can fit. This means that we would no longer discriminate between which rights are more important than others, because this exclusive hierarchy is the root of many human rights violations. For this, the intersectional vision is fundamental, since multiple oppressions are considered as a way in which human rights must become more complex in the way in which they are fulfilled. Until now, human rights treaties have perceived class, race, and gender separately and without making visible the structural violence behind it. It would be necessary to conceive intersectional human rights that protect vulnerable groups against the forms of oppression and exploitation that are vestiges of colonialism. Human rights and feminism as stated in international treaties were established during the era of social democracy, where it was thought that reforming capitalism was a solution to the economic crises. From advances in decolonial thought, we know that this is impossible and that we must overcome not only capitalism, but also modernity, the civilization in which we are immersed. To do this, let us aim towards decolonial dreams of pluriversal human rights.

### Bibliography

- Adlbi Sibai, Sirin. *La cárcel del feminismo: Hacia un pensamiento islámico decolonial*. Madrid: Akal, 2016.
- Bauman, Zygmunt. "Times of Interregnum." *Ethics and Global Politics* 5, no. 1 (2012): 49–56. <https://doi.org/10.3402/egp.v5i1.17200>.
- Bautista, Juan José. *¿Qué Significa Pensar Desde América Latina? Hacia Una Racionalidad Transmoderna Y Postoccidental*. Madrid: Akal, 2014.
- Bensouda, Fatou. "Africa Debate - Is the ICC Targeting Africa Inappropriately?" The International Criminal Court Forum, September 12, 2018. <https://iccforum.com/africa>.
- Crenshaw, Kimberle. "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color." In *The Public Nature of Private Violence*, edited by Martha Albertson Fineman, 95–118. New York: Routledge, 1994. <https://www.taylorfrancis.com/chapters/edit/10.4324/9780203060902-6/mapping-margins-intersectionality-identity-politics-violence-women-color-kimberl%C3%A9-williams-crenshaw?context=ubx&refId=ac32ea48-56d9-4aba-9863-a89909343985>
- Fanon, Frantz. *Los condenados de la tierra*. Mexico City: Fondo de Cultura Económica, 2018.
- Grosfoguel, Ramón. "Decolonizing Post-Colonial Studies and Paradigms of Political-Economy: Transmodernity, Decolonial Thinking, and Global Coloniality." *Transmodernity: Journal of Peripheral Cultural Production of the Luso-Hispanic World* 1, no. 1 (May 13, 2011). <https://doi.org/10.5070/t411000004>.
- . "The Structure of Knowledge in Westernized Universities Epistemic Racism/Sexism and the Four Genocides/Epistemicides of the Long 16th Century." *Human Architecture: Journal of the Sociology of Self-Knowledge* 11, no. 1 (Fall 2013): 73-90.
- , comp. *Feminismos Islamicos*. Caracas: Fundacion Editorial El perro y la rana, 2016.
- Herrera Flores, Joaquín. *La reinención de los derechos humanos*. Seville: Ed. Atrapasueños, 2008.
- Hinkelammert, Franz. *Totalitarismo de Mercado*. Madrid: Akal, 2018.
- . "The Hidden Logic of Modernity: Locke and the Inversion of Human Rights" *Worlds and Knowledges Otherwise* 1, dossier 1 (Fall 2004): 1-27. [https://globalstudies.trinity.duke.edu/sites/globalstudies.trinity.duke.edu/files/file-attachments/v1d1\\_HinkelammertF.pdf](https://globalstudies.trinity.duke.edu/sites/globalstudies.trinity.duke.edu/files/file-attachments/v1d1_HinkelammertF.pdf).
- Lamrabet, Asma. "The Principle of Equality in Divorce: The Qur'anic Perspective." In *Feminist and Islamic Perspectives: New Horizons of Knowledge and Reform*, edited by Omaira Abou-Bakr, 177-193. Cairo: Women and Memory Forum, 2013. <https://wmf.org/eg/wp->

content/uploads/2023/04/Feminist-and-Islamic-Perspectives.pdf.

Lugones, Maria. "Subjetividad Esclava, Colonialidad De Género, Marginalidad y Opresiones Múltiples." In *Pensando Los Feminismos En Bolivia*, edited by Patricia Montes, 129–40. La Paz: Conexión Fondo de Emancipación, 2012.

Organization of American States. "Report on the 164th Ordinary Period of Sessions of the IACHR." September 23, 2018, [https://www.oas.org/en/iachr/media\\_center/PReleases/2017/157.asp](https://www.oas.org/en/iachr/media_center/PReleases/2017/157.asp).

Quijano, Anibal. "Colonialidad Del Poder, Eurocentrismo y América Latina." In *La Colonialidad Del Saber: Eurocentrismo y Ciencias Sociales: Perspectivas Latinoamericanas*, edited by Edgardo Lander and Santiago Castro-Gómez, 122–51. Buenos Aires: Fundación Centro de Integración, Comunicación, Cultura y Sociedad; Consejo Latinoamericano de Ciencias Sociales, 2011.

United Nations. Convention on the Elimination of All Forms of Discrimination against Women. New York 1979, A/RES/34/180 [1249 UNTC 13].

———. Universal Declaration of Human Rights. A/RES/217(III), 1948.

