

**(RE)FRAMING THE HISTORIOGRAPHY OF THE HIATUS:
DEVELOPMENT AS AN ARGUMENTATIVE PATTERN AND THE
HISTORIOGRAPHY OF THE “COLD WAR”**

*(RE)ENQUADRANDO A HISTORIOGRAFIA DO HIATO:
DESENVOLVIMENTO COMO UM PADRÃO ARGUMENTATIVO E
A HISTORIOGRAFIA DA "GUERRA FRIA*

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ABSTRACT: The book “Cold War and International law” represents a great effort in presenting a different view in the historiography of international law about this important period of the 20th Century. The purpose of this paper is to engage with the proposal of the editors and reflect upon the issues arising from the traditional portray of the “Cold War”, although offering what could be a fourth perspective on the subject: that of the establishment of “development” as an argumentative pattern in international law. In a dialog with another recent work with special relevance to the history of International Law – Ntina Tzouvala’s “Capitalism as Civilisation” – we revisit some of the essays presented in the book to illustrate the thesis that an attention to the uses of the concept of “development” can be central to an account of this period that goes beyond the East-West feud, leaving a profound legacy in contemporary accounts of Law. By shedding light on perspectives once overlooked, the book shows how the Cold War can be analyzed as a moment of prolific development of standards of domination. The struggle for the Global South was much more than a dispute for military sway or political influence through international institutions, it also encompassed a refined project of creating concepts and a new perspective in international law that permitted the consolidation of political asymmetry through juridical institutions.

KEYWORDS: Cold War. International Law. Global South.

RESUMO: O livro “Cold War and International law” representa um grande esforço em apresentar uma visão diferente na historiografia do direito internacional sobre este importante período do século XX. O objetivo deste trabalho é o de se envolver com a proposta dos editores e refletir sobre as questões decorrentes do retrato tradicional da “Guerra Fria”, embora oferecendo o que poderia ser uma quarta perspectiva sobre o assunto: a do estabelecimento do “desenvolvimento” como um padrão argumentativo no direito internacional. Em diálogo com outro trabalho recente de especial relevância para a história do Direito Internacional - Ntina Tzouvala “Capitalism as Civilisation” - revisitamos alguns dos ensaios apresentados no livro para ilustrar a tese de que uma atenção aos usos do conceito de “desenvolvimento” pode ser central para um relato deste período que vai além da disputa Leste-Oeste, deixando um profundo legado nos contos contemporâneos do direito. Ao lançar luz sobre perspectivas uma vez negligenciadas, o livro mostra como a Guerra Fria pode ser analisada como um momento de desenvolvimento prolífico de padrões de dominação. A luta pelo Sul global foi muito mais do que uma disputa por influência militar ou política através de instituições internacionais, ela também abrangeu um projeto refinado de criação de conceitos e uma nova perspectiva no direito internacional que permitiu a consolidação de assimetrias políticas através de instituições jurídicas.

PALAVRAS-CHAVE: Guerra Fria. Direito Internacional. Sul Global.

SUMMARY: Introduction. 1 Between Promise and Sacrifice: The Standard of Civilisation and the Project of Development During the Cold War. 2 Beyond Capitalists and Socialists: The Developmental Argumentative Pattern Applied to the Third World. 3 Final Notes. References

INTRODUCTION

The construction of a historical narrative is a powerful tool to set light over certain issues and, simultaneously, cast shadows over others. This assertion - almost a truism in the context of the deepening turn to the Historiography of International law - and the invite to

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problematization it poses are, once again, explored in the book *International Law and the Cold War*, edited by Professors Matthew Craven, Sundhya Pahuja and Gerry Simpson. Published by Cambridge University Press, this new and relevant addition to the reflections about International Law in the 20th Century aims “to interrupt the historiography of hiatus” around the Cold War.¹

According to its editors, the depiction of the Cold War as a period of legal stasis uncovers important initiatives and legal deployments that happened in this period and, through the essays presented in the volume, they intend to disrupt this traditional narrative by locating different fields and places in which International Law had performative significance, provincializing the tale of the bipolar rivalry. In this sense, they propose three perspectives as stances for reflections: an anti-linear Cold War; a generative/productive Cold War; and a parochial/plural Cold War.

The purpose of this paper is to engage with the proposal of the editors and reflect upon the issues arising from the traditional portrayal of the “Cold War”, although offering what could be a fourth perspective on the subject: that of the establishment of “development” as an argumentative pattern in international law. In a dialog with another recent work with special relevance to the history of International Law – Ntina Tzouvala’s “*Capitalism as Civilisation*” – we revisit some of the essays presented in the book to illustrate the thesis that an attention to the uses of the concept of “development” can be central to an account of this period that goes beyond the East-West feud, leaving a profound legacy in contemporary accounts of Law. We suggest that the comprehension of the development’s rhetoric as a legal technique for imposing a particular way to justify and impose the International Law enables a reflection on the invisibility of counter-narratives in which the third world took part and offers possibilities for a critical agenda of analysis of the period. Complementary, to illustrate this point, we will reference the impacts of this logic in Latin America through the work of the other comments that are offered in this book symposium.

De-provincializing also means understanding the narrative of the Cold War outside the dichotomy between the plural-provincial and the central. In this sense, the very categorization

¹ CRAVEN, Matthew; PAHUJA, Sundhya; SIMPSON, Gerry. “Reading and Unreading a Historiography of Hiatus.” In: CRAVEN, Matthew; PAHUJA, Sundhya; SIMPSON, Gerry (eds). *International Law and the Cold War*. Cambridge: Cambridge University Press, 2019, p.4.



and ordering in the world based on a continuum that mimics the heritage of progress demands attention.

The great common point of the bipolar ideals of the future is the consensus about the incompleteness of the rest of the globe, to be filled by interventions that enable the acceleration of time. The narrative of bipolarity replicates the segmentation between agents - the first and second world - and scenario - the third world -, relegating its ways of life to a status of “archaic”, to be extinguished and absorbed as the project of development catalyzes its evolutionary process.

Although accounting for the experiences of the period usually framed as “The Cold War” outside the European continent and the US-USSR axis is still essential to understand the unfolding of International Law through this period, a more ambitious challenge still lies somewhat untackled: how to deconstruct the narratives around the divide between the First, the Second and the Third World, in which the facts and histories about the latter are somehow only “provincial” or “particular”, and the events of the “center” can be assessed without understanding it’s connections with the different experiences of the “periphery” that surrounds it.

We advocate here for a perspective that revisit this period of the “Cold War” as a dispute for the “global south”, based on rival projects for its future. The rhetoric of dispute feeds and shapes the rhetoric of development as an argumentative pattern that replaces the ideas of progress and survives the “Cold War” itself as a mediator of tensions and discrepancies between the counterfactuality of the normative promises of International Law and the practical and present reality interventions justified on its basis.

In the same way that, in Critical Race Studies, some have indicated that a history of racism demands a reflection on the history of “whiteness”², and, in Feminist Approaches, others have signaled how the formation of the idea of gender request the consideration of the notions of masculinities³, so the colonial studies have asserted that the comprehension of modernity

² For a general account of this movement at the United States in the field of history, see: KOLCHIN, Peter. *Whiteness Studies I*. Journal de la Société des américanistes (online), v. 95, n. 1, 2009, p. 117-143; KOLCHIN, Peter. *Whiteness Studies II*. Journal de la Société des américanistes (online), v. 95, n. 1, 2009, p. 144-163, both available at: <http://journals.openedition.org>.

³ About this debate, see WALLING, Andrea. *Rethinking Masculinity Studies: Feminism, Masculinity, and Poststructural Accounts of Agency and Emotional Reflexivity*. Journal of Men’s Studies, v. 27, n. 1, 2019, p. 89-107, available at <https://journals.sagepub.com/doi/pdf/10.1177/1060826518782980>.

calls for a more profound assertion of its relations with the coloniality. In this sense, for the history of international law in the 20th century, another hiatus must be untangled: the one created between the developed and the “developing”. In the search to retrieve the synchronicity that is broken by the construction of the identity of the Third World based on the idea of “absences” and “faults”, that would be corrected by the project of development as an acceleration of time, it is imperative to investigate how the idea of development is crucial to the construction of the “developed” center itself, that is, how the dispute for development has driven the actions of the superpowers and its allies.

In this proposal, the south and its events thus move from the periphery to the focus: the global security model, encapsulated in the paralysis caused by vetoes, is especially suited to make room for a multitude of violent forms of political intervention, from proxy wars to *coups d'État* and externally financed revolutions; the segmentation of human rights (civil and political rights, on the one hand, and economic, social and cultural rights, on the other) can be re-read as a selection of which ways of living would deserve protection of International Law and which would be labeled archaic structures to be eradicated; and even the metaphor of war may be replaced for a cooperation in defining the respective zones of influence, in a balance that makes the enemy on the side useful.

This paper is divided in two sections. At first, we present of what we propose as a comprehension of development as an argumentative pattern. Secondly, we revisit different essays from *International Law and the Cold War* to identify the application of this developmental pattern in the Third World by the North. Ultimately, we conclude with some considerations about possible ways in which this research agenda can be fostered, taking in account not only the relations between “developed” and “developing”, but also the pluralities inside the Third World.

1 BETWEEN PROMISE AND SACRIFICE: THE STANDARD OF CIVILISATION AND THE PROJECT OF DEVELOPMENT DURING THE COLD WAR

The link between the universalization of a specific set of values and forms of social, economic, and political organization and the project of development within International Law is already discussed in the literature of our field, especially after the pivotal work of Sundhya



Pahuja *Decolonising International Law*.⁴ The author skillfully points to the gap between law in its aspirational and technical dimensions as generating a tension that is stabilized by the notions of development and economic growth and the transformative logic behind the development discourse and conditionality.⁵

On another hand, an important argument about the structure of International Law is made by Ntina Tzouvala in her book *Capitalism as Civilisation*.⁶ Investigating the argumentative pattern of the “standard of civilisation”, the author identifies a dualistic format, in which the “logic of improvement” and the “logic of biology” combine to, simultaneously, distribute the rights, duties and privileges on accordance with the adoption of the imperatives of capitalist modernity and defer the achievement of the capitalist promise of a “civilised life” on the basis of insurmountable differences between western states and the rest of the world⁷. The openness of this argumentative pattern gives it the ductility to adapt to new demands of the capitalist enterprise, without giving up or compromising the commitment of law with it. This combination is one of the ways International Law ends up with a veiled, but permanent, pro-capitalist bias.⁸

Regardless the position one assumes towards Tzouvala’s argument – on the existence of such a material structure on International Law or if it only represents the linguistic interactions that generates the grammar of discussions on the field –, this provocative stand can invite us to ponder the connections between the standard of civilization and the project of development within international law, and in what ways International Law was and is connected, interdependent or independent of the capitalist enterprise.

The tension between agency and structure and the argumentative navigation between apology and utopia in international law gains, in the development field, a provocative edge through its ability to, simultaneously, define unchangeable identities, through the logic of biology, and offer pathways for transformation, via the logic of improvement. In this dynamic, it is interesting to map the way these argumentative patterns distribute the responsibilities for

⁴ PAHUJA, Sundhya. *Decolonising International Law. Development, Economic Growth and the Politics of Universality*. Cambridge: Cambridge University Press, 2011.

⁵ *Ibid*, p. 256-257.

⁶ TZOUVALA, Ntina. *Capitalism as Civilisation: A History of International Law*. Cambridge: Cambridge University Press, 2020.

⁷ *Ibid*, p. 212.

⁸ *Ibid*, p. 215.

the success of the project among the different international actors, as this ultimately can define those indebted with the sacrifices necessary to fulfill the promise of a “civilized life”.

If this agenda is deemed interesting for the comprehension of contemporary inequalities, the period of the so-called “Cold War” is of special significance as a moment of reordering of the International Law within a context in which some actors, exploring the aspirational dimension of International Law, were posing new challenges to the idea of civilization in the form of arguments based on International Law. This scenery is pierced by a warlike vocabulary that sometimes converged, sometimes disputed the priorities of action of the different actors involved in the development project, resulting in tactical argumentative appropriations of facts either by the competing superpowers and its allies or by the representatives of the underdeveloped world to foster specific goals and courses of action.

This rhetoric was embraced by the Third World as a central feature of the postcolonial project: it represented the possibility to solve the differences on space through the speeding of time, making the new nations achieve the prosperity of the old metropolises. For instance, one of the legacies of Bandung’s Conference was, at the economic level, the definition of the Third World agenda in terms of national development, bridging domestic and international law in a pathway of economic transformation and modernization.⁹

The formation and consequences of this legacy, and how the development argumentative pattern came to surpass Cold War and continues to be a reference in International Law, will be reviewed in the next section through the lenses of the works gathered at “*International Law and the Cold War*”. We revisit different essays from the book to point out different examples of this appropriation of the concept of development as a tool to mediate the gap between promise and practice in International Law and how this strategy feeds from the logics of biology and improvement composing the argumentative pattern of civilization.

⁹ In this sense, see ESLAVA, Luis; FAKHRI, Michael; NESIAH, Vasuki. The Spirit of Banfung. In: *Bandung,, Global History, and International Law - Critical Pasts and Pending Futures*. Cambridge: Cambridge University Press, 2017.

2 BEYOND CAPITALISTS AND SOCIALISTS: THE DEVELOPMENTAL ARGUMENTATIVE PATTERN APPLIED TO THE THIRD WORLD

The division of the world in the Cold War period was not restricted to the capitalist west and the socialist/communist east. The Third World emerges as a space of dispute between both projects, which are not necessarily divergent in all their aspects. The need for development over other territories, for example, encompasses both the rhetoric of the United States (U.S) and the Union of Soviet Socialist Republics (USSR). This argumentative pattern will be analyzed, in this topic, through seven chapters of the book *International Law and Cold War*, namely: (a) *Parallel Worlds: Cold War Division Space*; (b) *Contesting the Right to Leave in International Law: the Berlin Wall, the Third World Brain Drain and the Politics of Emigration in 1960s*; (c) *The Cold War and Its Impact on Soviet Legal Doctrine*; (d) *Environmental Justice, the Cold War and US Human Rights Exceptionalism*; (e) *Forced Labour*; (f) *The 'Bihar Famine' and the Authorisation of the Green Revolution in India: Developmental Futures and Disaster*; and, finally, (g) *Rupture and Continuity: North-South Struggles over Debt and Economic Co-operation at the End of Cold War*.

Scott Newton, in *Parallel Worlds: Cold War Division Space*,¹⁰ points out that a new territorial paradigm, called Division Space, was shaped during the Cold War. One of the effects of this division permeates the perspective of development. The non-aligned movement sought to highlight the primacy of a north-south axis over an east-west axis. This proposition does not escape the spatialization of the Cold War since it was produced and shaped by it. The “Development Division Space” incorporates not only the impacts of decolonization, but also the imposition of development on these territories. The author emphasizes that “each of the superorders, insofar as it was simultaneously a superproject, had a diachronic as well as a synchronic predicate” and adds that “they had described, and they now prescribed, alternative modernization processes, not just modernities. Alternative developmentalisms. Alternative linearities.”¹¹

¹⁰ NEWTON, Scott. “Parallel Worlds: Cold War Division Space”, In : CRAVEN, Matthew; PAHUJA, Sundhya; SIMPSON, Gerry (eds). *International Law and the Cold War*. Cambridge: Cambridge University Press, 2019, p. 117-136.

¹¹ *Ibid*, p. 130-131.



North American and Soviet assistance to Third World countries had the common denominator of development. Although in different ways, both promoted this developmental pattern over other countries. Newton's propositions corroborate this thought. He indicates that "development itself, as an interventionist project of the already developed world, became a kind of Cold War artefact or product, a manifestation of Division Space in bilateral and multilateral policy and regulation"¹². When this project was put into practice by capitalists and communists, one did not prevail over the other. This circumstance culminated in the juxtaposition of both rhetorics in the global south.

The fall of the Union of Soviet Socialist Republics did not result in the end of the Division Space proposed by Newton. The rise of the New International Economic Order and the right to development are examples of this.¹³ The continuous status of developing countries in search of prosperity reflects the latent need to reach the developmental pattern promoted during the Cold War by the two powers at the time.

During this period of the Cold War, this argumentative line is also verified in the conceptions of people's mobility. Sara Dehm, in *Contesting the Right to Leave in International Law: The Berlin Wall, the Third World Brain Drain and the Politics of Emigration in 1960s*¹⁴, highlights this topic. The author investigates the "right to personal self-determination", which enables the transition of people between countries, including the opportunity for individuals to leave their own countries. In the 1960s, this right was mitigated under certain circumstances in order to keep nationals out of the reach of rival ideologies. The author presents freedom of movement as one of the first casualties of the Cold War. Human mobility was, therefore, shaped within a context of ideological dispute. From this scenario, Dehm analyzes two possible interpretations of the right to personal self-determination.

For the author, the difference between both is that the first enunciates that "humans should be rendered as autonomous subjects of personal self-determination vis-à-vis the state", while the second expresses that people should be "bearers of labour power properly belonging

¹² *Ibid*, p. 131.

¹³ *Ibid*, p. 135.

¹⁴ DEHM, Sara. "Contesting the Right to Leave in International Law: the Berlin Wall, the Third World Brain Drain and the Politics of Emigration in 1960s, In : CRAVEN, Matthew; PAHUJA, Sundhya; SIMPSON, Gerry (eds). *International Law and the Cold War*. Cambridge: Cambridge University Press, 2019, p. 159-188.



to states to be harnessed in projects of state enrichment and transformation”¹⁵. In this second interpretation, the restriction to the mobility of people from the Third World to other places was justified, during the Cold War, by the supposed collective obligation in favor of developmental projects. It is noteworthy that “this fashioning of the Third World mobile, skilled citizen in relation to the collective enterprise of the Third World development occurred through, not in spite of, the individualized discourse of international human rights law”¹⁶. In short, the language of international law in the Cold War used the developmental pattern to shape and differentiate human mobility originated in the Third World. Development once again guided the actions of capitalist and socialist powers in the global south.

Still regarding the relation between nationals and development, Anna Isaeva shows important information on the subject in the chapter *The Cold War and Its Impact on Soviet Legal Doctrine*.¹⁷ The author spotlights that, for Elena Andreevna Lukasheva and Viktor M. Chikvadze, “Marxism-leninism doesn’t see a person as tool for the development of the state. [...] In socialistic society an individual is a purpose of the whole social development; this is the main objective of social progress, development of the state, law, and democracy”.¹⁸ This excerpt demonstrates that the developmental argumentative pattern also permeated societies aligned with the USSR.

Anna Isaeva underlines that, in the socialist context, “individual guarantees of human rights were easily neglected when there was a choice between ‘higher’ values of collective welfare or development of the state”. The development discourse was not restricted, therefore, to capitalist initiatives, even though the US bloc treated this subject differently. North American areas of influence in the Third World pursued a liberal logic of development, while Soviet territories saw development as part of a collective well-being.

As for the legal and political doctrines defended by the United States, is worthy to mention the discussion on the advances of judicial settlements of disputes during the Cold War proposed by Freitas, Lima and Soares in the article of this symposium entitled “Left out in the cold? Judicial settlement of disputes during the Cold War”. The lack of enthusiasm from the

¹⁵ *Ibid*, p. 161.

¹⁶ *Ibid*, p. 161-162.

¹⁷ ISAEVA, Anna. “The Cold War and Its Impact on Soviet Legal Doctrine.” In : CRAVEN, Matthew; PAHUJA, Sundhya; SIMPSON, Gerry (eds). *International Law and the Cold War*. Cambridge: Cambridge University Press, 2019, p. 256-270.

¹⁸ *Ibid*, p. 260.

United States to participate on these agreements can also be read as an indicative of the operation of the standard of civilization through the lenses of the American Exceptionalism thesis presented by Carmen G. Gonzales in *Environmental Justice, the Cold War and US Human Rights Exceptionalism*¹⁹.

The idea of superiority of the American system reflects within itself the notion of an ideal pattern that, ultimately, turns international law into an instrument to make the others at its image. An International System sufficiently institutionalized to prevent wrongful acts from states would be needed only for those nations who are not sufficiently developed to comply with International Law on their own forces. But, as Gonzales points out, the south of the north disagreed of this allegedly superiority, and some contradictions of the civilizational standard show themselves more clearly in the uses of International Law as a tool of resistance within the North.

The argumentative pattern of development can be seen not only on direct disputes between the U.S and the USSR, but also on specific agendas that one of these blocs pursue in the international arena. The dispute for the global South involved an attempt to introduce or even to formulate concepts that would mitigate contested practices in one bloc to the detriment of similar practices in another one. Take the case of *Forced Labour* as an example. As Anne-Charlotte Martineau points out in her chapter, the very concept of forced labor and the attempt to dissociate it from slavery were in dispute during the Cold War.²⁰

It was hard to conciliate a standpoint against forced labor meanwhile many Western states had adopted some kind of compulsory work in colonies or even inside their territories for specific groups.²¹ Also, in a narrow-minded view, these countries tried to develop a concept of forced labor in which the typification would only fit in Communist countries. The rhetoric of development in this case relies on the argumentative excuse from each side to neglect its own forced labor practices and, at same time, point the finger at the other bloc, accusing them of violating international law.

For Communist states, the compulsory work was directly related to their struggle for

¹⁹ GONZALEZ, Carmen G. "Environmental Justice, the Cold War and US Human Rights Exceptionalism", In : CRAVEN, Matthew; PAHUJA, Sundhya; SIMPSON, Gerry (eds). *International Law and the Cold War*. Cambridge: Cambridge University Press, 2019, p. 232-255.

²⁰ MARTINAU, Anne-Charlotte. "Forced Labour", In : CRAVEN, Matthew; PAHUJA, Sundhya; SIMPSON, Gerry (eds). *International Law and the Cold War*. Cambridge: Cambridge University Press, 2019, p. 271-286

²¹ *Ibid*, p. 272.



political development. Of course, they denied any kind of violation, but Western countries revealed that the Eastern bloc used forced labor also as means of political coercion and labor discipline. On the other hand, the USSR accused capitalist states to conceal forced labor practices in colonies by the argument of developmental purposes.²²

The plurality of arenas where this debate was going on revealed the dichotomy inherent to that time. In both ECOSOC and ILO there was discussion related to forced labor. A joint commission was created to “establish ‘what level of coercion was usual or tolerable in modern states, and to use this as a standard against which deviations could be judged’”.²³ It is important to see that they were not trying to abolish forced labor, but to frame this concept in specific terms. For this, some degree of tolerance was acceptable as soon as it was undermining the development of states.

The conclusions of this work revealed the prevalence of the Western rhetoric to the detriment of the Eastern bloc. Also, the waiver the old European countries had in overlooking forced labor practices in their colonies was not replicated in these same territories, after decolonization. Through a rhetoric of human rights, the same practices years before accepted as part of “economic development” were then forbidden. In this sense, the development argumentative pattern was used both to create exceptions for Western countries to explore their colonies and to forbid the same colonies – then independent states – to do the same.

The use of development as an instrument of a particular international law during the Cold War was seen in most of the global South. Even though the book does not present a Latin-American perspective of this issue, the chapter *The ‘Bihar Famine’ and the Authorisation of the Green Revolution in India: Developmental Futures and Disaster Imaginaries*,²⁴ by Adil Hasan Khan, shows a good study on how the rhetoric of disaster could generate an opportunity for the U.S to impose their development model to the Third World. In this case, to India.

At the beginning of the Cold War, the U.S had implemented many policies in order to export their model/vision of development in a multiple strategy. If the rhetoric was full of altruism and the attempt to avert the spread of Communism, there were also some pragmatic

²² *Ibid*, p. 274.

²³ *Ibid*, p. 279

²⁴ KHAN, Adil Hasan. “The Bihar Famine and the Authorisation of the Green Revolution in India: Developmental Futures and Disaster Imaginaries”, *I*: CRAVEN, Matthew; PAHUJA, Sundhya; SIMPSON, Gerry (eds). *International Law and the Cold War*. Cambridge: Cambridge University Press, 2019, p. 414-446.



points to observe. Famine, economic stagnation and poverty were issues that Third World countries were facing with some gravity. These problems were at the root of instabilities in many countries, and the Cold Warriors were aware not only of the problems, but also of the opportunities that these disasters would bring.

In this sense, the international law of development aid was a good strategy for the U.S Government to avert the spread of Communism in a ‘non-militaristic’ way.²⁵ Through words and deeds, state and private agencies, the U.S entangled countries and state elites to shape their development process in an American model. Also, Third World leaders used the perspective of a catastrophe to enrich their ties with the U.S by attracting more investment and, why not, stabilizing their internal political position against local opposition.

In India, the imaginary of another Bihar Famine was an instrument that the Federal Government used to closer ties with the U.S and to undermine the local administration. It does not mean that famine was not a problem in 1960s India. Years before, starvation razed Bihar state twice due to many factors. An imaginary of a disaster was alive in people’s minds. However, it was not a problem caused by nature; there was a political part in this issue.²⁶

The U.S, during the Cold War, used the “discourse of development” as a “form of global counter-insurgency”. In this sense. The argumentative pattern of development was not only an instrument of soft power, it was an exercise of hard power, inasmuch as international aid was considered a way to avert political chaos and, why not, the spread of Communism.

This thought was not a privilege of the U.S Cold Warriors. In Brazil, for instance, it was part of the foreign policy rhetoric of President Juscelino Kubitschek (1956-1961) and of the Brazilian elite. There were two intertwined concepts at stake. The first one is that misery would lead to subversion (also known as communism, for Brazilian elites).²⁷ The second one is that economic development, through international aid, was a fast track to Brazil’s enrichment. Therefore, a foreign policy towards the US was a way for economic prosperity.

This was clear on JFK’s term, when he faced a strong anti-American sentiment all over the region. The previous inspiration of a coalition to tackle underdevelopment in order to avoid – among other things – the spread of communism was thought in Brazil. Kubitschek’s

²⁵ *Ibid*, p. 417.

²⁶ *Ibid*, p. 419-428.

²⁷ SKIDMORE, Thomas E. *Brasil: de Getúlio a Castello*. São Paulo: Companhia das Letras, 2010, p. 212-218



Operation Pan America (OPA, in Portuguese) was presented in 1958 and was considered by US officials as a “good place to begin”.²⁸ Although OPA, as it was planned, was not put into force, JFK staff saw on this initiative a favorable way to address US concerns.

The launch of Alliance for Progress, in 1961, comprehended an attempt to shift anti-Americanism in Latin American region through the discourse of development and, by extension, fostering an anti-Communism propaganda.²⁹ Despite its relative failure, the Alliance for Progress was one of the best examples of instrumentalization of development³⁰ as a key for advancing an argumentative pattern of international law during the Cold War.

In addition, the U.S made use of their state and private agencies – such as USAID, Eximbank and, especially in the Caribbean, the United Fruit Company – to use the development rhetoric as a form of counter-insurgency.³¹ This context is best analyzed in the article “One Cuba is enough: Collective Security in Latin America during the Cold War”, written by Dalledone and Barros for this book symposium.

The attempt of advancing a land reform after the rise of Jacobo Árbenz in Guatemala was considered a threat to US interests, due to the risk of expropriation of great amount of land from United Fruit Company.³² Besides the anti-Communist and the development discourse, the intervention in Guatemala, in 1954, contributed to the gradual shift in the argumentative pattern of other institution of international law: from collective security to self-defense.

Both in Alliance for Progress and in Guatemala’s *coup d’état*, development was used as a way to undercover hard power initiatives and to consolidate US influence against USSR in the region.

In Khan’s chapter, this process is well described and analyzed in India. However, there is an interesting point that makes the Indian case very particular. The country’s effort for non-alignment revealed some features that merged economic planification and capitalist development. This chapter is one of the best examples of the use of developmental rhetoric in

²⁸ SCHLESINGER JR., Arthur M. *A thousand days: John F. Kennedy in the White House*. Boston: Houghton Mifflin Company, 1965, p. 190.

²⁹ *Ibid*, p. 199.

³⁰ DONGHI, Tulio Halperin. *Historia contemporánea de América Latina*. 13ª Ed. Madrid: Alianza Editorial, 2008, p. 524

³¹ *Ibid*, p. 523.

³² *Ibid*, p. 477



order to impose an international law perspective.

Another contribution worthy of mention for the purposes of this work is the chapter called *Rupture and Continuity: North- South Struggles over Debt and Economic Co-operation at the End of Cold War*.³³ In this analysis, Julia Dehm investigates the economic aspect of development in international law. The author's research object consists in the *Declaration on International Economic Co-operation, in Particular the Revitalization of Economic Growth in Development of Developing Countries* formulated during the 18th Special Session on international economic cooperation in 1990. The document arose from the need to rescue developing countries from the "decade lost to development".³⁴ On that occasion, countries of the South pointed, for example, to the decline in terms of trade, to the fall in international prices of commodities and to the protectionist policies of Northern countries.

In the preparatory discussions for the declaration, there was an expectation of greater cooperation between countries from the North and the South. Instead of guiding a more redistributive international economic order, the document reaffirmed the (neo)liberal economic policy. Third World countries sought to politicize the issue of unpayable debt and find a comprehensive international response to economic crises under management of the United Nations. In contrast, northern sovereignties asserted that International Financial Institutions should find technical answers in a case-by-case analysis. In the author's words, "my reading of the Declaration and the Debates in the Special Session thus shows the way in which the end of the Cold War should not be seen primarily in terms of geopolitical rupture", but should "be understood in terms of the continuities in North-South economic relations that were affirmed and stabilized during this period of transformation".³⁵

From Dehm's text, one can see the consequences and continuities of the stimulus to the development in the Cold War. This argumentative pattern is not restricted to the period that begins after the World War II and ends with the fall of the Union of Soviet Socialist Republics. The end of the Cold War, therefore, does not represent a narrative of rupture for the author. She emphasizes countervailing narratives of continuity.

³³ DEHM, Julia. "Rupture and Continuity: North- South Struggles over Debt and Economic Co-operation at the End of Cold War", In : CRAVEN, Matthew; PAHUJA, Sundhya; SIMPSON, Gerry (eds). *International Law and the Cold War*. Cambridge: Cambridge University Press, 2019, p. 414-446.

³⁴ *Ibid*, p. 287.

³⁵ *Ibid*, p. 289.



In short, this section sought to present, from the analyzed chapters, how the developmental standard emerged as Division Space at the beginning of the Cold War and remains after the fall of the USSR with the reaffirmation of the (neo)liberal economic order. In this context, the narrative of development could be observed in the interpretations of individual mobility rights, in the distinctions between capitalist and soviet interpretations of development, as well as in the construction of the concept of forced labor and in the export of the North American development model to India.

We can identify in the analyzed chapters the argumentative pattern of “standard of civilization” explored by Ntina Tzouvala. For the author, the “logic of biology” and the “logic of improvement” compose a dualistic format for this pattern. Both are simultaneous and intertwined. While the first defines the unchangeable identities of the global south, the second offers paths for transformation that will lead to the “standard of civilization”. This analogy can also be used in the scenario in which central countries export their developmental model (logic of improvement) to the Third World, that, however, cannot ultimately reach this civilization pattern due to its inherent characteristics (logic of biology).

In these essays, the logic of biology can be found in the way the capitalist and socialist powers view the supposed civilizational insufficiency of the global south. This logic is materialized, for example: (a) in the view that these countries need economic assistance without which they will not be able to achieve development (*Parallel Worlds*); (b) in the justification for restricting the mobility of people from the Third World (*Contesting the Right to Leave in International Law*); (c) in the withdrawal of human rights on the grounds that the Third World has not yet reached developmental standards (*The Cold War and Its Impact on Soviet Legal Doctrine*); (d) in the double standards applied by the United States regards to adherence to human right’s treaties (*Environmental Justice, the Cold War and US Human Rights Exceptionalism*) (e) in the (im)possibilities of applying forced labor depending on the context of application (*Forced Labor*); (f) in the intrinsic characteristics of countries like India, in which famine, economic stagnation and poverty stand out (*The ‘Bihar Famine’ and the Authorisation of the Green Revolution in India*); and, finally, (g) the economic crises expressed in the “decade lost to development”, due to the inability of the Third World to pay and manage their debts (*Rupture and Continuity*).

All these examples from the logic of biology supported the export of developmental



models by the Cold War powers within the logic of improvement. These enhancements were seen as necessary paths to reach a “standard of civilization” and, in this article, we extend this range to the argumentative pattern of development. This second logic can be identified, for example: (a) in the alternative developmentalisms proposed by the capitalist west and the socialist/communist east for the Third World; (b) in the supposed collective obligation in favor of developmental projects; (c) in the view that the North American areas of influence in the Third World pursued the liberal logic of development, while Soviet territories saw development as part of a collective well-being; (d) in the continuous violation of the rights of the “South of the North” (e) in the use of the forced labor concept to create exceptions for Western countries to explore their colonies and to forbid the same colonies – then independent states – to do the same; (f) in the implementation of U.S policies to export its development vision; and, lastly, (g) in the reaffirmation of (neo)liberal policy as a solution to the economic crises of the global south.

Following the discussions above, we can also analyze the book symposium article “What about fourth world self? American cosmovision Against Eurocentric self-determination”, written by Araújo, Squeff and Silva, through the lenses of Tzouvala’s concepts. The article sought to discuss an “indigenous self-determination in contrast to Eurocentric epistemologies”. By doing so, we can identify the narrative of the logic of biology in the Latin American context when the authors consider that “indigenous *self* has been silenced and denied by State-centric approaches and victims of epistemicide, which disregards Amerindians cosmovisions and the sustainability of their existence, livelihoods and relation to Natural world”. The inherent characteristics of the global south could not, according to this logic, change. For that reason, they will be passed over in favor of paths offered by central countries in search of the “standard of civilization” (“logic of improvement”).

Statehood was always imposed as an essential feature of modern International Law grammar. In the words of Eslava and Pahuja, “the *ius publicum Europaeum* provided the framework for the emergence of states and the elements of proper international behavior for the new nations”.³⁶ Statehood was the only possible way, within international law, to exercise self-

³⁶ ESLAVA, Luis; PAHUJA, Sundhya. “The State and International Law: A Reading from the Global South.” *Humanity: An International Journal of Human Rights, Humanitarianism, and Development*, v. 11, n. 1, 2020, p. 118.

determination. The state does not only create International Law, but, especially in the south, was also created by it.³⁷ The new political entities, entangled in this dynamic, could not opt out, whereas those who did not fit the project of statehood could not opt in. The “Fourth World” was destined to die if the Third World was to become an equal to the First. Therefore, the debate on self-determination itself may be understood in an Eurocentric context, which leads us to observe the duality of these two logics in the “Fourth World” case.

After these notes, it is worthwhile returning to the chapter *International Law and the Cold War: Reflections on the Concept of History* written by Richard Joyce³⁸. Recalling this essay, Schmittian notion of the *katechon* and its relation to an idea of paralysis can be represented as the permanent menace of the advent of chaos if the current order of affairs is not kept by a strong power, able to prevent the works of the antichrist. This idea of emergency is at the core of the argumentative pattern of war and conflict that claims for the urgency of the developmental project.

In a sense, although is easy to capture the progressive conception of history embedded with the development project, it can also be presented as a *katechon* itself, preventing the chaos that could come through the victory of the enemy - communism or capitalism -, and, in the same, making possible the transformation of the Third World without deranging the status quo in the center.

This order and transformation, however, is obtained by ragging chaos over the Third World. The events, either in the form of the Vietnam and other proxy wars, Latin American dictatorships, displacements and settler colonialism in Africa, Asia and Australia, is somewhat closer to apocalypse itself than of a temporary order - the sacrifice of life, today, in the name of an empty future. The prevention of the apocalypse in the center is obtained by the imposition of disorder on the rest of the World: a *katechon* that is, actually, the Antichrist of the Third World, speeding the end of days in the name of a paradise that remains, eternally, lost.

³⁷ *Ibid.*

³⁸ JOYCE, Richard. “International Law and the Cold War: Reflections on the Concept of History”, *In* : CRAVEN, Matthew; PAHUJA, Sundhya; SIMPSON, Gerry (eds). *International Law and the Cold War*. Cambridge: Cambridge University Press, 2019, p. 414-446.



3 FINAL NOTES

The book “Cold War and International law” represents a great effort in presenting a different view in the historiography of international law about this important period of the 20th Century. By shedding light on perspectives once overlooked, the book shows how the Cold War can be analyzed as a moment of prolific development of standards of domination. The struggle for the global South was much more than a dispute for military sway or political influence through international institutions, it also encompassed a refined project of creating concepts and a new perspective in international law that permitted the consolidation of political asymmetry through juridical institutions.

The discourse of development can be seen as a good example of that. Both the US and the USSR disputed this concept as a way to maintain their zones of influence and to advance economic projects in a non-military cooperation.

As we have analyzed in the sections before, some chapters of the book presented, in some way, this argumentative pattern of development. However, the transversality of this theme can be presented not only as a key to overcoming the historiographic hiatus, discussed at the beginning of the book. It also signals why this history was told in this way.

Development survives the Cold War as an ever-changing concept because of its capacity to preserve key features of the standard of civilization in an acceptable way for different grammars of International Law. During and after the decolonization process, development is a solution to explain some kind of the violence resulting from the transformation process that is embedded in the “civilizatory interventions” of different international (and national) powers, redeemed by its allegedly power to guarantee equality between center and periphery in the future.

With the end of the bipolarity, the concept once again adapts, feeding from the narrative of the hiatus. It was the bipolarity, and the mistakes that came from it (and, in a certain way, from Communism itself), that prevented the truly expedite transformation of the periphery. This transformation gave new powers to the civilizatory interventions – and the history of Latin American after the 80’s is, again, a good example of the material consequences for the lives of peoples of this project.

This is one of the reasons why, in addition, the lack of analysis of important regions,



such as Latin America, contributes to maintaining the hiatus, instead of shortening it. Studying the Cold War, mainly the implications of the bipolar dispute in the global South, without analyzing Latin America undermines important issues discussed in the book. Development is one of them.

Shedding light on the construction of the development argumentative pattern, and its possible relations with the standard of civilization, could also help us understand in which ways these techniques were also being constructed and used in the “south of the north”. Settler colonialism, displacement of native groups and domination of other minorities, differentiated on the basis of race or gender, for instance, can help us understand how the framework of human rights was stabilized through a deferring of the actual full fruition of these rights.

In this sense, it is important that more critical studies of the international law of the Cold War take into account a horizontal perspective about the argumentative pattern of development in the disputes among nations. Also, it is necessary to have a Latin-American perspective on the many aspects of the Cold War presented in the book.

Although accepting that we always cast a shadow when illuminating the past, it is of utmost importance to pay attention to the purposes of the darkness in mainstream narratives. Certainly, more than completing a story, the contradictions and experiences of the “border” can help us to map the persistence of some challenges that, beyond the Cold War, haunt the dreams of a “global utopia” for more than five centuries.

In sum, it is necessary to make the Cold War narrative more complex in order to understand the nuances of this context in the Third World, which also includes Latin America, a place that cannot be understood only as a space where Capitalist and Socialist influences struggled with each other. The experiences of the global South not only add scenarios to this conflict, but also introduce problematizations that question the narratives that come from the “north-east” and the “north-west” relations.

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