International climate change regime as a promoter of colonial systemic and symbolic violence: Its relationship with international environment security and food system thru the lens of feminist approach*

Régimen internacional de los cambios climáticos como promotor de la violencia sistémica y simbólica: Su relación con la seguridad ambiental internacional y el sistema alimentario a través de las lentes del enfoque feminista

Douglas Castro**

Bruno Pegorari***

** Pós-doutorando da Escola de Direito de São Paulo da Fundação Getulio Vargas. Doutor em Ciência Política - Relações Internacionais pela Faculdade de Filosofia, Letras e Ciências Humanas da Universidade de São Paulo (FFLCH-USP). Mestre em Direito pela Faculdade de Direito da Universidade de São Paulo. LL.M. em Direito Internacional pela Brigham Young University. Professor de Direito Internacional e Relações Internacionais na Universidade Paulista. E-mail: douggcastro@gmail.com.

*** Pesquisador em tempo integral do Núcleo de Direito Global e Desenvolvimento da Escola de Direito da FGV-SP. Mestrando em Direito Internacional pela Faculdade de Direito da USP. Bolsista do Fundo Sasakawa (SYLFF). E-mail: bpegorari@gmail.com.

Abstract

Climate change regime is formed to ameliorate the impacts of anthropocentric activities over the environment. The structure of the regime is formed by multilateral international agreements that reproduce a colonial logic in which metanarratives are used to cast the shadow of domination thru the language of international law. In this study the metanarratives are challenged by a feminist approach that provides the dialectic tools to expose the attempt to perpetuate the colonial ruling thru law. The empirical dimension of the study is conducted using the content analysis to identify the subtext and context underlying the text of international law in the climate change regime and its perverse relationship with the international environmental security and food system, being such task conducted using a *Computer Assisted Qualitative Data Analysis Software* (CADQAS) called *ATLAS.ti*.

Keywords: International Law. Imperialism. Feminist Theory. Metanarratives. Climate Change Regime.

Resumen

El régimen de cambio climático se forma para mejorar los impactos de las actividades antropocéntricas sobre el medio ambiente. La estructura del régimen está formada por acuerdos internacionales multilaterales que reproducen una lógica colonial en la que los meta narrativas se utilizan para arrojar la sombra de la dominación a través del lenguaje del derecho internacional. En este estudio las meta narrativas son desafiadas por lo enfoque feminista que proporciona las herramientas dialécticas para exponer el intento de perpetuar el dominio colonial a través de la ley. La dimensión empírica del

estudio se lleva a cabo utilizando el análisis de contenido para identificar el subtexto y el contexto que subyace al texto del derecho internacional para el régimen de los cambios climáticos y su relación perversa con la seguridad ambiental internacional y lo sistema alimentar, siendo dicha tarea realizada utilizando un software de análisis cualitativo de datos asistido por computadora (CADQAS) denominado ATLAS.ti.

Palabras clave: Derecho Internacional. Imperialismo. Teoría Feminista. Meta narrativas. Régimen de Cambios Climáticos.

1. Introduction

International regimes are formed to mediate the relationship between the distribution of power and the anarchical structure of the international system. In this sense, the formation of international institutions in the twentieth century occurs under a scenario marked by the rule of colonialism and imperialism[1].

Thus, instead of reducing inequalities in the world system, international institutions reproduce a prevalent logic of material and subjective discrimination based on a colonialist ideology marked by violence, which is communicated in a certain way so that it can justify its importance and legitimacy, while colonial violence is perpetuated under the form of symbolic violence manifested in language that imposes a universal meaning and systemic violence that manifests itself in the "perfect" functioning of the world economic and political system as the ultimate form of development[2]. One of the perverse and subtle dimensions of this violence is gender discrimination.

The struggle for recognition and representation of the women against the violence can be traced to the 1968 movement. From post-1968, according to Eagleton:

> Significant changes in the common culture or the academy may not be met by similar advances in political and economic spheres or those advances, though real, may be offset by other retreats or areas of neglect. The estimation that is so difficult to make is whether the glass of feminism is half empty

or half full.[3]

The central argument of this paper is built on the climate change regime case study that identifies the "moral grammar" of institutions in discriminating against women[4]. It is an attempt to provide an explanation through the lens of the Feminist Theory (FT) in International Law (IL) of the current paradox in this important international regime: while international community recognizes the urgency of acting for human survival, the climate change regime faces a disconcerting apathy due to the inaction of the countries. The figure below is representative, among other things, of the discrepancy in terms of participation, which we should stress is not confined to the sphere of climate change, however, it is very significant considering the nature of the threat upon survival:

Figure 1: Word cloud

Source: The Authors[5]

Identifying the moral grammar of discrimination against women, as proposed in the last paragraph, re-

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1   Pahuja, D. S. (2011). Decolonising International Law: Development, Economic Growth and the Politics of Universality. Cambridge University Press.
2   Zizek, S. (2008). Violence: Six Sideways Reflections. Picador.

3   Eagleton, T. (2007). Ideology: An Introduction (New and Updated Edition edition). London; New York: Verso, p. 2.
4   Honneth, A. (2015). The Struggle for Recognition: The Moral Grammar of Social Conflicts (1st edition). Polity.
5   This word cloud has been made by the author using a computer assisted qualitative data analysis software (CADQAS) called ATLAS. ti. The documents used for this analysis were: Geneva, 1991 section 2; Nairobi, 1991 section 3; Geneva, 1991 section 4; New York, 1991 section 5; New York, 1991 section 5-II; Geneva, 1992 section 6; New York, 1993, section 6; Geneva, 1993 section 8; Kyoto, 1997, section 3; Paris, 2015 section 20; and Marrakesh, 2016, section 22. These are the randomly chosen preparatory meetings for the conclusion of the United Nations Framework Conference on Climate Change (1992), Kyoto Protocol (1998), and Paris Agreement (2015). The provisional lists of participants can be found at <http://unfccc.int/documentation/documents/items/3595.php>. Last Access: July, 20, 2017.

quires a qualitative approach in which the epistemological foundation is deductive in the sense of applying the FT to find enough empirical evidences on how the systemic and symbolic violence permeates the climate change regime[6].

As seen in Figure 1, the climate change regime already shows a discriminatory evidence, maybe no different from other regimes, in which women´s participation is low. Of course, one might argue that in the field of climate changes requires specific scientific formation that is a field historically occupied by men, thus, the arguments or attempts for explanation of the low ratio of participation might go on. For that reason, the investigation procedure will consider procedures of content analysis of the chosen official documents to identify the moral grammar of gender oppression as one of the axes of a larger context of imperial power[7]. To conduct a more rigorous content analysis, the methodological path should follow the socio-legal approach[8] that consists a text analysis (law), subtext (the moral aspects of the law – deep or implicit meanings), and context (the undeniable connection between law and reality)[9].

The challenge is to find in such documents the antagonist language to hope, creativity, resilience, persistence, and solidarity, all concepts that play an important role in FT in the struggle for marginalization[10]. This task will be conducted using a *computer assisted qualitative data analysis software* (CADQAS) called *ATLAS.ti.*

2. IMPERIALISM AND FEMINISM: FIGHTING SISTEMIC AND SIMBOLIC VIOLENCE

Our starting point in developing the theoretical framework is presenting the general tenets of the concept of imperialism[11]. Young[12] presents the concept of imperialism in such way that is less problematic in terms of contrasting it with colonialism, which concepts for some are wrongfully interchangeably:

> The term 'empire' has been widely used for many centuries without, however, necessarily signifying 'imperialism'. Here a basic difference emerges between an empire that was bureaucratically controlled by a government from the centre, and which was developed for ideological as well as financial reasons, a structure that can be called imperialism, and an empire that was developed for settlement by individual communities or for commercial purposes by a trading company, a structure that can be called colonial

Therefore, the conceptualization of imperialism is based on the exercise of power […] either through direct conquest or (latterly) through political and economic influence that effectively amounts to a similar form of domination: both involve the practice of power through facilitating institutions and ideologies[13]. Interesting to note that even gender discourse is used as a tool for domination as the following passage states:

> Positing the nation as Imperial Mother can be viewed, on the one hand, as a reworking of France's imperial identity, but also as the expression of concerns relating to the future of the French

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6 King, G., Keohane, R. O., & Verba, S. (1994). *Designing Social Inquiry: Scientific Inference in Qualitative Research. Princeton University Press.* For as comprehensive study of the introduction of the climate changes in the realm of the social sciences see Chakrabarty, Dipesh. *The climate of history: four theses.* Critical Inquiry, Chicago, v. 35, n. 2, 2009, p. 197-222 <https://doi.org/10.1086/596640>.

7 Krippendorff, K. (2012). *Content Analysis: An Introduction to Its Methodology (*3 edition). Los Angeles ; London: SAGE Publications, Inc.. Bardin, L. (2011). *Análise de Conteúdo* (Linguistica). Edições 70.

8 *First, what is approached? Socio-legal approaches consider not only legal texts, but also the contexts in which they are formed, destroyed, used, abused, avoided and so on; and sometimes their subtexts. Second, how is socio-legal thinking and practice undertaken? It is interdisciplinary, drawing (analytically) on the concepts and relationships and (empirically) on the facts and methods of the social sciences, and sometimes the humanities. Third, why is socio-legal thinking and practice undertaken? Socio-legal approaches to international economic law aim to understand legal texts, contexts and subtexts, sometimes for the objective purpose of achieving clarity, sometimes with a view to changing them.* Perry-Kessaris, A. (Ed.). (2012). *Socio-Legal Approaches to International Economic Law: Text, Context, Subtext* (1 edition). Abingdon, Oxon: Routledge. p.6.

9 Perry-Kessaris, A. (Ed.). (2012). *Socio-Legal Approaches to International Economic Law: Text, Context, Subtext* (1 edition). Abingdon, Oxon: Routledge. *It is an essential task of any complete theory of society to investigate not just social institutions and practices, but also the beliefs agents have about their society – to investigate not just the social reality in the narrowest sense, but the social knowledge which is part of that reality.* Geuss, R. (1981). *The Idea of a Critical Theory: Habermas and the Frankfurt School.* Cambridge ; New York: Cambridge University Press. p. 56).

10 Otto, D. Feminist Approaches to International Law, in Orford, A., & Hoffmann, F. (Eds.). (2016*). The Oxford Handbook of the Theory of International Law.* OUP, Oxford.

11 The concept of imperialism and its relationship with the concept of colonialism is complex and controversial. For a deeper analysis on this matter: YOUNG, R. J. C. *Postcolonialism: An Historical Introduction.* 1st edition ed. Oxford, UK; Malden, Mass: Wiley-Blackwell, 2001.

12 Young, R. J. C. (2016). *Postcolonialism: an Historical Introduction* (1 edition). Chichester, West Sussex, UK ; Malden, MA: Wiley-Blackwell, p. 16.

13 Young, R. J. C. (2016). *Postcolonialism: an Historical Introduction* (1 edition). Chichester, West Sussex, UK ; Malden, MA: Wiley-Blackwell, p. 27.

race, sexual morals, and the position of France in the colonized territories. The feminized version of imperial identity functioned to some degree not only as an assertion of plenitude toward the colonized, but also as a symbol of the hope of a national regeneration abroad[14].

The key-point in this discussion involves the spreading of institutions and ideologies that propagates social and political structures as a form of domination and discrimination. Of course, the economic dimension is present in such notion of imperialism; however, note that it is not a simply colonial venture we are referring to but a larger one in scope and purpose that demands a high level of bureaucratic control that dictates the rules and conditions of minorities' participation.[15]

This is the kind of violence Zizek[16] is concerned of. The signals of violence human race receives are associated to crime and terror, civil unrest, and international conflict, thus, a type of violence that is perceived upfront and perpetrated by identified agents. According to the author, we should take a step back to perceive the context in which these outbursts of violence happen, so we might identify the violence that sustains our efforts to fight violence and promote tolerance (such a paradox).

The visible form of violence is called subjective, which brings undesired perturbation to the **normal** state of affairs. However, objective violence in which systemic and symbolic violence are part of, is the violence imposed to define the parameters of the **normal**[17]. For the author, symbolic violence is embodied in the language and forms that directs to domination or imposes certain universe of meanings, and systemic violence is related to the **smooth functioning** of the economic and political institutions. In this sense, not only material

conditions are needed to form the normal in international institutions, but the construction of this state thru a universe of meanings so powerful that becomes an ideology that shapes social reality within the boundaries of the dominant group[18].

Therefore, for the sake of the argument, challenging the climate change regime as institutionalized nowadays is a perturbation of what is institutionalized as normal for international community. Defying a system that is prevalent masculine or that excludes Third World Countries from the debate of what is the desired sustainable development disrupts the normal order of things as institutionalized in the world system in the process of the decolonization of the countries in the Global South[19]. This is what Chimni refers to:

> There is the old idea, which has withstood the passage of time, that dominant social forces in society maintain their domination not through the use of force but through having their worldview accepted as natural by those over whom domination is exercised. Force is only used when absolutely necessary, either to subdue a challenge or to demoralize those social forces aspiring to question the "natural" order of things[20].

Upon the prevalent logic of systemic and symbolic violence that permeates international institutions[21], we pose an important question: can the subaltern speak[22]? Going a bit further, the question should be: how will the subaltern speak? This is part of a deeper discussion in which the West needs to keep itself as the subject while maintaining the construction the subaltern thru politics, economy, law, culture and so forth[23].

14   Fischer-Tiné, H., & Gehrmann, S. (Eds.). (2008). *Empires and Boundaries: Race, Class, and Gender in Colonial Settings*. New York: Routledge.

15   The speech made by Lord Cruzon at the Byculla Claub in 1905 is representative if this logic: To fight for the right, to abhor the imperfect, the unjust or the mean, to swerve neither to the right hand nor to the left, to care nothing for flattery or applause or odium or abuse it is so easy to have any of them in India never to let your enthusiasm be soured or your courage grow dim, but to remember that the Almighty has placed your hand on the greatest of his ploughs, in whose furrow the nations of the future are germinating and taking shape, to drive the blade a little. In <https://archive.org/stream/lordcurzonsfarew00curzrich/lordcurzonsfarew00curzrich_djvu.txt.>. Last Access: July 10, 2017.

16   Zizek, S. (2008). Violence: Six Sideways Reflections. Picador.

17   Zizek, S. (2008). Violence: Six Sideways Reflections. Picador.

18   Eagleton, T. (2007). Ideology: An Introduction (New and Updated Edition edition). London ; New York: Verso. This is what Habermas calls forms of technocratic management. See Habermas, J. (1991). The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society (Sixth Printing edition). Cambridge, Mass: The MIT Press.

19   Wallerstein, I. (2004). *World-Systems Analysis: An Introduction*. Durham: Duke University Press.

20   Chimni, B. S. (2006). *Third World Approaches to International Law: A Manifesto*. International Community Law Review, 8(1), p. 15.

21   At this article, we should not present a complete inventory of the debate around the general claim made that international institutions reproduce colonial structures of domination. See: Chimni, B. S. (2004). International Institutions Today: An Imperial Global State in the Making. *European Journal of International Law*, 15(1), 1–37. <https://doi.org/10.1093/ejil/15.1.>; Magdoff, H., & Foster, J. B. (2003). *Imperialism Without Colonies*. New York: Monthly Review Press.

22   This question refers to and is the title of the books: Spivak, G. C. (2007). *Can the Subaltern Speak?*. Wien: Turia & Kant.

23   See: Spivak, G. C. (2007). *Can the Subaltern Speak?* Wien: Turia

CASTRO, Douglas; PEGORARI, Bruno. International climate change regime as a promoter of colonial systemic and symbolic violence: Its relationship with international environment security and food system thru the lens of feminist approach. Revista de Direito Internacional, Brasília, v. 15, n. 1, 2018 p.105-122

109

In terms of providing the basis for rationale and legitimation of this logic, international law is an important venue. To Mattei, in his book *Plunder-When the Rule of Law is Illegal*, the process of construction of this logic is based on the following process:

> The rhetorical artifice used in the process of curbing deviant behavior and claiming, as universal and inevitable, the Western modalities of social organization and economic development centered on individualism and social fragmentation, is usually an explicitly juridical concept: "international human rights". In the interests of these rights, a doctrine of "limited sovereignty" has threatened the traditional nature of international law as a decentralized system based on territoriality and has advocated the need for decentralization in order to make it more like any other West national legal system. (Translated by the authors).[24]

In this sense, international law constitutes a manifestation of the imperial project that permeates what we call the less-visible dimension of domination. It is an intentional historical process to promote order in the international system that confronts with the social emancipation as a set of unfulfilled experiences and expectations that Santos (2009) calls the "two pillars of modernity" (order and emancipation). Therefore, for that matter the study of international law to unfold the hidden forms of domination and exploitation prevalent in the imperial project needs to adopt a historical approach as suggested by Afonso:

> It is important to realize that the historiographic field involves uses and constructions related to the legitimation of forms of domination. And this aspect signals an integration of the dimension of the historiographic work propagated by TWAIL. It is about the persistent, institutionalized and normalized continuity of a past to tackle the present with degrees of colonialism very close to the sense that the geographer Derek Gregory attributes to the present colonial term. The perspective of a historical dynamic that, in his view, enshrines the advance of Reason through the trails of homogeneous and empty time, also enables the making of problematic value hierarchies over optimal emancipatory ones like TWAIL. (Translated by the authors)[25].

In this sense, inquiries on how international law is shaped needs to be grounded on theory and history to unfold old and new forms of domination by the application of a critical approach, which the TWAIL framework of analysis is the most representative. As such, colonial history provides the necessary elements to investigate whether and how the forms of domination in the past are carried out to the present in the form of institutions that reproduce and reproduce the colonial past[26] As stated by Mutua:

> TWAIL is driven **by** three basic, interrelated and purposeful objectives. The first is to understand, deconstruct, and unpack the uses of international law as a medium for the creation and perpetuation of a racialized hierarchy of international norms and institutions that subordinate non-Europeans to Europeans. Second, it seeks to construct and present an alternative normative legal edifice for international governance. Finally, TWAIL seeks through scholarship, policy, and politics to eradicate the conditions of underdevelopment in the Third World[27].

As part of the TWAIL approach, FT is one of the forms of resistance to colonial and domination logic, a reaction to the Kafkian nightmare metaphor that makes the individual impotent before the anonymous power of institutions. Tickner[28] describes FT as liberal, radical, socialist, psychoanalytic, postcolonial, and postmodern. The common traces among those strings of feminism are 1) explaining the causes for women´s subordination or unjustified economic and social asymmetry in relation to men, and 2) prescribing ways to end it. As put by Okin et al.[29] feminism is the flag for those […] *who believe that women should not be disadvantaged by their sex; women should be recognized as having human dignity equal with men and the opportunity to live as freely chosen lives as men.*[30]

& Kant; Said, E. W. (1979). *Orientalism* (1st Vintage Books ed edition). New York: Vintage. For the debate about civilizational formation and conceptualization we recommend reading: GONG, G. W. *The Standard of "Civilization" in International Society*. Oxford: Oxford University Press, 1984.

24   Mattei, U. (2013). *Pilhagem*. WMF Martins Fontes, p. 268. See also ANGHIE, A. *Imperialismo y Derecho internacional*. Bogotá: Siglo del Hombre, 2016.

25   Afonso, Henrique Weil (2016). A era da humanidade: reflexões para a história do direito internacional. *Revista de Direito Internacional,*

Brasília, v.13. n.3, 2016, p.247. See also FRANCO, Cristina de Oliveira. TWAIL´s opportunities and challenges in the Latin American context from indigenous peoples´ perspectives to international law. *Revista de Direito Internacional*, Brasília, v.12, n.2, 2015, p. 226-244.

26   Galindo, George Rodrigo Bandeira. Para que serve a história do direito internacional? *Revista de Direito Internacional*, Brasília, v. 12, n. 1, p. 338-354, 2015. p. 343-345.

27   Mutua, Makau (2000). What is TWAIL? 94 *Am. Soc'y Int'l L. Proc.* 31 2000. p. 31.

28   Tickner, J. A. (2001). *Gendering World Politics*. New York: Columbia University Press.

29   Okin, S. M., Al-Hibri, A. Y., Gilman, S. L., Raz, J., Sassen, S., Sunstein, C. R., & Tamis, Y. (1999). *Is Multiculturalism Bad for Women?* (J. Cohen, M. Howard, & M. C. Nussbaum, Eds.) (First Edition edition). Princeton, N.J: Princeton University Press, p. 23.

30   The various strings of feminism are formed by the disagreement in relation to what constitutes the subordination to men and how to overcome it. For additional knowledge in the debate: MC-

For the purpose of this article the string of FT adopted is the postcolonial one, as it intervenes in both feminism and postcolonialism due to their insufficient treatment to cultural, ethnic and gender difference. According to Zuckerwise, *[…] postcolonial feminists are in a unique position to articulate the politics of lived reality in its theoretical and material forms*[31], which provides a framework of analysis that goes beyond women´s sexual subordination and victimhood to a more empowering intervention and the formation of critical knowledge. For that reason, searching for the missing concepts of hope, creativity, resilience, persistence, and solidarity in IL results an analysis of finding the trouble boundaries in IL for the purpose of providing a more challenging account of its impacts and presenting a different story about its possibilities in the international system[32].

Bringing the theoretical framework of FT, especially of postcolonial feminism, to International Law (IL) provides a clear picture of the undesired structures of discrimination and domination in the international system, which discourse of the IL is sustained by metanarratives of objectivity, universality, and neutrality[33]. For Dianne Otto:

> I conclude by highlighting the paradoxes of feminism engagement with international law and argue that the practices of critique and reform, and their productive tensions, are essential to resisting the law´s colonization of feminist politics and keeping feminist imaginaries of a better world alive. It is in the interstices of hope and despair, conundrum and paradox, that feminists have the best chance of understanding how international law might yet be a means for promoting feminist change[34].

As seen from the debate, the questions arising from the encounter of FT with IL might be two-fold. The most visible dimension is the lack of participation of women in international regimes due to national structures that prevent their presence[35]. The lack of participation causes the less visible dimension, which is associated to the marginalization of issues/interests and/or the disrespect of women´s conceptions and practices of the social reality connected to their nurturing and caring nature.[36] In this sense:

> We can see that female politicians are defined more by their deficits than their strengths. In addition to failing to possess the strengths associated with being women (e.g., sensitive or compassionate), female politicians [are seen to] lack leadership, competence, and masculine traits in comparison to male politicians[37].

In addition, to reinforce the argument above, and advancing the debate of gender inequality in the climate change regime as perpetuator of colonial dominance, Sweetman citing Margareth Skutsch has stated:

> […] expert in development co-operation, energy, and climate change, offers two arguments for including gender considerations in the process of climate-change policy development: the idea that such gender mainstreaming may increase the efficiency of the climate-change process; and the idea that if gender considerations are not included, progress towards gender equity may be threatened. In other words, the quality of policy making will remain unacceptably low, if the discourse does not consider the gender issues, including relevant differences between women's and men's experience[38].

CANN, C.; KIM, S. (EDS.). *Feminist Theory Reader: Local and Global Perspectives*. 3 edition ed. New York: Routledge, 2013.

31   Zuckerwise, L. K. (2014). Postcolonial Feminism. In *The Encyclopedia of Political Thought*. John Wiley & Sons, Ltd. For a deeper discussion on postcolonial feminism, see: MOHANTY, C. T. Under Western Eyes: Feminist Scholarship and Colonial Discourses. *Boundary 2*, v. 12/13, p. 333–358, 1984.

32   Robinson, M. (2005). *International Law: Modern Feminist Approaches*; With a Foreword by Mary Robinson. (D. Buss & A. Manji, Eds.). Oxford, Portland, Oregon: Hart Publishing.

33   About metanarratives, see: Eagleton, T. (1996). *The Illusions of Postmodernism* (1 edition). Oxford, UK ; Cambridge, Mass: Wiley-Blackwell, and Lyotard, J.-F., & Jameson, F. (1984). *The Postmodern Condition: A Report on Knowledge*. (G. Bennington & B. Massumi, Trans.) (1st edition). Minneapolis: University Of Minnesota Press.

34   Otto, D., Feminist Approaches to International Law in Orford, A., & Hoffmann, F. (Eds.). (2016). *The Oxford Handbook of the Theory of International Law*. OUP Oxford.

35   Outshoorn, J., & Kantola, J. (Eds.). (2007). *Changing State Feminism*. Basingstoke England ; New York: Palgrave Macmillan.

36   *In a 2008 Pew Research Center survey of eight important leadership traits, women outperformed men on five and tie on two. Americans ranked women higher in honesty, intelligence, compassion, creativity, and outgoingness—by as much as 75 percent. And in the qualities of hard work and ambition, men and women tied, according to the survey. The only quality in which men scored higher than women is decisiveness, in which men and women were separated by a mere 11 percentage points. Yet when asked the single question if men or women make better leaders, the results seemed to contradict these other findings: a mere 6 percent of the 2,250 adults surveyed say women make better political leaders than men, with 21 percent favoring men and 69 percent saying the sexes are equal in this area, which explains the report's subtitle, "A Paradox in Public Attitudes." In* <http://bigthink.com/women-and-power/why-women-make-better-politicians.> Last Access: July 21, 2017. See also: Coleman, Isobel. (2013). Paradise Beneath Her Feet: How Women Are Transforming the Middle East. New York: Random House, and Fiske, S. T., Gilbert, D. T., & Lindzey, G. (Eds.). (2010). *Handbook of Social Psychology* (5th edition). Hoboken, N.J: Wiley.

37   Baksh, R., & Harcourt, W. (Eds.). (2015). *The Oxford Handbook of Transnational Feminist Movements* (1 edition). New York, NY: Oxford University Press. p. 237

38   Sweetman, C. (2009). *Climate Change and Gender Justice*. (G. Terry, Ed.). Warwickshire, UK : Oxford, UK: Practical Action. p. 156.

CASTRO, Douglas; PEGORARI, Bruno. International climate change regime as a promoter of colonial systemic and symbolic violence: Its relationship with international environment security and food system thru the lens of feminist approach. Revista de Direito Internacional, Brasília, v. 15, n. 1, 2018 p.105-122

111

At this point, we turn our attention to the empirical part of our paper that brings the application of the outlined concepts to the climate change regime. The idea is to propose a model that presents the underlying concepts to the climate change in order to observe the visible and less visible dimensions of the encounter of FT and IL.

3. CLIMATE CHANGE: AN EMPIRICAL ANALYSIS

3.1. Visible dimension of the encounter of FT with IL

In the introduction of this paper we have already made the initial point in terms of the visible dimension, which is related to the lack of participation of women in global institutions. An expansion of the empirical data on this is presented below.

Figure 2: Climate Change Regime Participation I
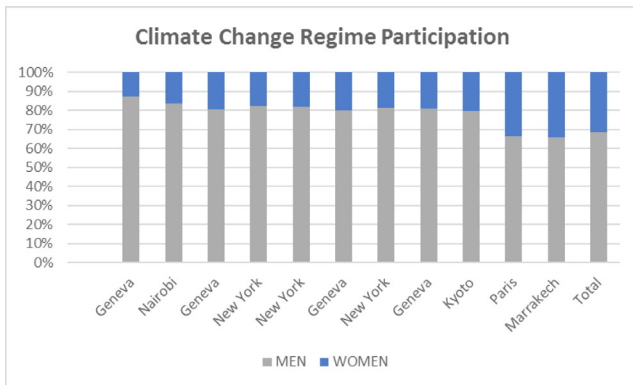
Source: The Authors.

Figure 3: Climate Change Regime Participation II

CLIMATE CONVENTIONS	MEN	WOMEN
Geneva	264	38
Nairobi	62	12
Geneva	432	103
New York	672	143
New York	642	143
Geneva	274	68
New York	382	88
Geneva	489	115
Kyoto	3628	915
Paris	16171	8198
Marrakesh	11645	6039
Total	**34661**	**15862**

Source: The Authors

As we can observe in Figure 2 and 3, participation of women is on the climate change regime is on the rise. The analysis has been made selecting the Provisional List of Participants of the following meetings: Geneva, 1991 section 2; Nairobi, 1991 section 3; Geneva, 1991 section 4; New York, 1991 section 5; New York, 1991 section 5-II; Geneva, 1992 section 6; New York, 1993, section 6; Geneva, 1993 section 8; Kyoto, 1997, section 3; Paris, 2015 section 20; and Marrakesh, 2016, section 22. These documents were chosen randomly among the preparatory meetings for the conclusion of the United Nations Framework Conference on Climate Change (1992), Kyoto Protocol (1998), and Paris Agreement (2015) (from now on only "Agreements"), the legal framework for the climate chance regime.[39]

According to Sweetman, this discrepancy between women and men participation affects directly the concept of climate justice:

> The United Nations is formally committed to gender mainstreaming in all policies and programmes, and that should include policy-making processes relating to climate change. Yet gender aspects are rarely addressed in climate-change policy, either at the national or at the international levels. Reasons include gaps in gender-sensitive data and knowledge about the links between gender justice and climate change; and the lack of participation of women and gender experts in climate-related negotiations. This chapter shares insights and experiences from the international climate-change policy process, recounting the history of women's participation, demonstrating progress achieved, and hoping to inspire women and gender experts to get involved – at the local, national, regional, and international levels[40].

One might argue that this claim is not supported by empirical investigation. That might be true; however, looking into regional e national levels of analysis will provide an evidential paradigm (*no fragment is an island*)[41]

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39   The provisional lists of participants can be found at <http://unfccc.int/documentation/documents/items/3595.php.> Last Access: July, 20, 2017.
40   Sweetman, C. (2009). *Climate Change and Gender Justice*. (G. Terry, Ed.). Warwickshire, UK : Oxford, UK: Practical Action. p. 155.
41   See Ginzburg, C. (2013). *The Cheese and the Worms: The Cosmos of a Sixteenth-Century Miller*. (J. Tedeschi & A. C. Tedeschi, Trans.) (Reprint edition). Baltimore: Johns Hopkins University Press.

that can be tested in the international level. As provided by Sweetman:

> In some European countries, women have been more supportive of their governments' climate-protection policies than men, and would also be more supportive of more ambitious reduction goals, basically expecting their countries and the European Union to take a leadership role. The international climate negotiations are in dire need of such support[42].

3.2. Less visible dimension of the encounter of FT with IL

We turn our attention now to the less visible dimension of discriminatory practices against women, which permeates the international institutions as one of the cause of the lack of participation in terms quantitative. This dimension is connected to a discourse that pretends to be objective, universal, and neutral on the surface, however, is loaded with domination-structured meanings beyond the mere text of the IL norms

3.2.1. Securitization of the climate change regime

The first language sign used in the climate change regime to justify action is the urgency of adopting measures to prevent anthropogenic affects over the environment. To analyze the content and meaning of the messages in the Agreements the code "securitization" has been assigned as a property of security as a strategy and discourse of the States.

Barry Buzan in his book "People, States & Fear" indicates that the concept of security is very problematic because it presents elements of moral, ideological and normative markers that impede its investigation and recognition empirically[43]. Buzan's attempt to find a more precise meaning of the term lead him to theorize the three elements of the modern state: the idea of state (nationalism); the physical reality of the State (population, natural resources, technology, etc.); and the institutional expression of the State (the political and administrative systems of management, the government apparatus). Upon identifying these elements, Buzan

infers the threats that might hit one of these elements and, therefore, threat the State´s security.

As a form of discourse, the objectification of security depends on the moral, ideological and normative markers in the international system at a certain point in history. For instance, during the Cold War the debates about security were confined to the strategic-military dimension (especially nuclear détente) within the sphere of high politics. According to Buzan:

> The security lens used here is a broad one. Security is taken to be about the pursuit of freedom from threat and the ability of states and societies to maintain their independent identity and their functional integrity against forces of change which they see as hostile. The bottom line of security is survival, but it also reasonably includes a substantial range of concerns about the conditions of existence. Quite where this range of concerns ceases to merit the urgency of the ' security' label (which identifies threats as significant enough to warrant emergency action and exceptional measures, including the use of force) and becomes part of the everyday uncertainties of life is one of the difficulties of the concept[44].

The end of the Cold War brought severe changes in these markers to a point in which inherent social transformations in the international system were necessary to incorporate a more comprehensive notion of international security that includes new threats and actors[45]. In this sense, Villa (1999, p.7) states:

> Thus, the new concept of security covers transnational risks, real and non-virtual, common to all, whose solutions depend in some cases on the voluntary and unilateral action of the State. Moreover, these threats are not monopolized by a few states, as in the case of atomic weapons, but are generated and shared, to a greater or lesser extent, by all political units, which makes it necessary to incorporate new actors that aim at the goal of safety (translated by the author)[46].

According to Ullman, a new meaning of security is necessary:

> A more useful (although certainly no conventional) definition might be: a threat to national security is an action or sequence of events that (1) threatens drastically and over a relatively brief span of time to degrade the quality of life for the inhabitants of

42   Sweetman, C. (2009). *Climate Change and Gender Justice*. (G. Terry, Ed.). Warwickshire, UK : Oxford, UK: Practical Action. p. 155.

43   Buzan, B. (2007). People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Era (2nd edition). Colchester: Ecpr Press.

44   Buzan, B., Wver, O., & Wilde, J. D. (1997). *Security: A New Framework for Analysis*. Boulder, Colo: Lynne Rienner Pub. p. 432-433.

45   Mathews, Jessica Tuchman. (1989). Redefining Security. Foreign Affairs, 68(2), 162–177; Ullman, Richard H.. (Summer, 1983). Redefining Security. *International Security*, 8(1), p. 129-153.

46   Villa, R. D. (1999). *Da crise do realismo à segurança global multidimensional*. Annablume. p. 7.

a state, or (2) threatens significantly to narrow the range of policy choices available to the government of a state or to private, nongovernmental entities (persons, groups, corporations) within the state[47].

Thus, the securitization of an issue in International politics means a deliberate political process that places a referential object (climate change for instance) in a special position or urgency that an immediate response is required by the State, region or International society. According to Buzan, Waever e De Wilde, securitization of an object that threatens the existence of the State or its population implies that:

> [...] the meaning of a concept lies in its usage and is not something we can define analytically or philosophically according to what would be the "best." The meaning lies not in what people consciously think the concept means but in how they implicitly use it in some ways and not others. In the case of security, textual analysis suggests that something is designated as an international security issue because it can be argued that this issue is more important than other issues and should take absolute priority[48].

As such, security [...] has to be staged as an existential threat to a referent object by a securitizing actor, [to generate] endorsement of emergency measures beyond the rules that would otherwise bind[49]. Presenting the issue as an existential threat provokes a generalized concern that justifies extreme measures followed by extra-budgetary reallocation of resources to combat it[50].

The process and discourse of securitization of the climate change follows the rationale described before, in which the existential threat is posed by developed countries. As stated by Bodansky:

> North American heat wave and drought of the summer of 1988 gave an enormous popular boost to greenhouse warming proponents, particularly in the United States and Canada. By the end of 1988, global environmental issues were so prominent that Time magazine named endangered Earth "Planet of the Year". A conference organized by Canada in June 1988 in Toronto called for global emissions of CO2 to be reduced by 20 percent by the year 2005, the development of a global framework convention to protect the atmosphere, and establishment of a

world atmosphere fund financed in part by a tax on fossil fuels[51].

The spill-over of the reaction of developed countries soon reached the international system, as climate change is impossible to address isolated. This is what we see below in Figure 4:

Figure 4: Quotes from Agreements - the number 19 refers to the Paris Agreement and 20 the UNFCCC)
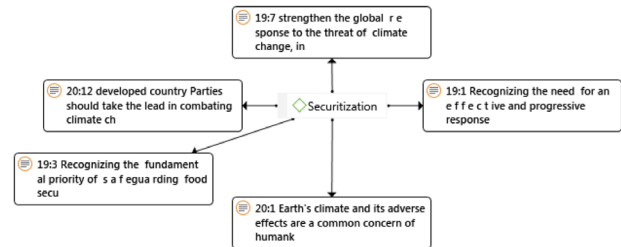
Source: The Authors

3.2.2. International food system and climate change regime

It is interesting to note how the climate change regime brings the food international regime as part of the concern, however, without considering that the food regime as it is tends to increase climate change. We observe an incongruence that lead both, climate change and food regime, to the discourse of securitization that instead of promoting security generates a spiral of insecurity at both ends. Let us examine this argument.[52]

The food crisis that hit the world food system in 2006 and 2008 (from now on food crisis) had devastating effects on developing countries[53]. Over the years of persistent crisis, developing countries' import bills increased by an average of 37%, leading to an unprecedented deficit in the domestic GDP. To the Food and Agriculture Organization (FAO) after the peak of the food, this amounts a total of 125 million in the world.[54]

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47   Ullman, Richard H.. (Summer, 1983). Redefining Security. *International Security*, 8(1), p. 133.
48   Buzan, B., Wver, O., & Wilde, J. D. (1997). *Security: A New Framework for Analysis*. Boulder, Colo: Lynne Rienner Pub. p. 24.
49   Buzan, B., Wver, O., & Wilde, J. D. (1997). *Security: A New Framework for Analysis*. Boulder, Colo: Lynne Rienner Pub. p. 21.
50   Buzan, B., Wver, O., & Wilde, J. D. (1997). *Security: A New Framework for Analysis*. Boulder, Colo: Lynne Rienner Pub. p. 21.

51   Bodansky, D. (2001). *The history of the global climate change regime in International Relations and Global Climate Change*, edited by Urs Luterbacher and Detlef F. Sprinz. Cambridge, Massachusetts London, England: MIT Press. p. 23-40. p. 27.
52   See Denny, Danielle Mendes Thame, Castro, Douglas, Witt, Gabrille, Valverde, José e Machado, Alexandre Ricardo. Segurança Alimentar e a Governança Econômica Global. *Revista de Direito Internacional*, Brasília, v.14, n.1, 2016, p. 125-141.
53   Clapp, J., & Cohen, M. J. (2009). *Global Food Crisis: Governance Challenges and Opportunities*. Waterloo, Ont.: Wilfrid Laurier University Press.
54   Modern agriculture is producing more food per capita than ever before. At the same time, according to estimates from the Food

The figure bellow is representative of this matter:

Figure 5: Impact of high prices by region

Impact of high food prices by region
(additional number of undernourished in 2007)

Sub-Saharan Africa 24 million

Asia Pacific 41 million

Near East / North Africa 4 million

Latin America / Caribbean 6 million
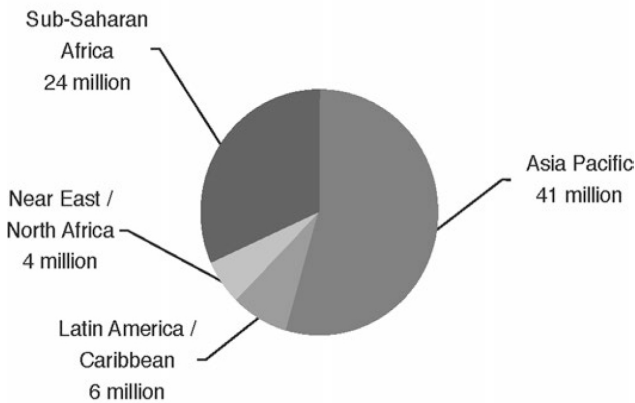
Source:
Food and Agriculture Organization,
"Briefing Paper: Hunger on the Rise" (2009)

Source: FAO (2009).

The crisis has caused a great social and political upheaval, especially in developing countries whose vulnerability in the food system is very large. Protests and violence have been reported in many countries in the Global South, of which we can cite the tragic case in Haiti that had coined the term "Clorox Hunger", which translates the excruciating sensation of hunger in the body as if the person had ingested bleach[55].

It was so serious that even among the Global South countries that share experiences and perceptions about their vulnerabilities in dealing with developed countries, the crisis made them to adjust the basis of their relationship to survive. Bello sums up this scenario:

> Alarmed by massive global demand, countries like China and Argentina resorted to taxes or quotas on their rice and wheat exports to avert local shortages. Rice exports were simply banned in Cambodia, Egypt, India, Indonesia, and Vietnam. **South-South solidarity crumbled in the crisis, a victim of collateral damage** (Emphasis added)[56].

The United Nation (UN) in the *World Economic Situation and Prospects* called the food crisis of 2008 a "perfect storm", placing the financial crisis in 2007 as the protagonist of the food riots. According to the report:

> Speculation in the actual, physical exchange of commodities certainly influenced prices as speculators bought and stored commodities, betting on price increases. Such positions have temporarily reduced the supply of goods and have no doubt affected price movements directly. The impact of speculation in futures markets (that is to say, where speculators do not physically trade any commodities) on price trends is much more difficult to determine, however. Futures trades are bets on buying or selling goods entitlements which are continuously rolled over. It is therefore not clear whether such trading does more to commodity prices other than increase their volatility.[57]

The speculation over commodities was the primary cause of the food crisis. As a direct consequence of the 2007 housing bubble in the United States, hedge funds directed their resources to the acquisition of the commodity stocks, whose simple market dynamics started to act, that is to say, the demand was artificially increased by the action of these investment funds by maintaining the level of the stocks or keeping the agricultural productivity. In the same vein, Bello states that the channeling of the agricultural production to biofuels is another direct cause that contributed to the crisis.

Bello also affirms that the remote cause of the crisis was the neoliberal structural adjustment programs

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and Agriculture Organization, approximately 795 million people are currently affected by hunger. An additional two billion people are suffering from micronutrient deficiencies, lacking key vitamins and minerals. In 2014, 1.9 billion people were overweight, of these 600 million were obese. Climate change will present an enormous new challenge to agriculture while the world population is predicted to increase to 9 billion by 2050. Whether clean water, fertile soils, forests, wetlands and other natural resources, as well as the biodiversity of the planet, will be available to future generations, in a condition that enables them to survive, will depend crucially on the way we produce our food and on our diets. Agricultural activities and the subsequent processing, storage, transport and disposal of its products are directly or indirectly responsible for almost 40% of human-induced greenhouse gas emissions. One third of the world's population obtains its livelihood from agriculture. Agriculture and food is by far the world's largest business and the measure of all forms of sustainable development. In <http://www.globalagriculture.org/report-topics/about-the-iaastd-report.html.> Last access: July 29, 2017.

55 Shiva, V. (1991). *The Violence of the Green Revolution: Third World Agriculture, Ecology and Politics.* London, Atlantic Highlands, N.J., USA: Penang, Malaysia: Zed Books. Even before the acute food crisis, the U.S. President George W. Bush had alerted his nations to the need to secure food: "It's important for our Nation to be able to grow foodstuffs to feed our people. Can you imagine a country that

was unable to grow enough food to feed the people? It would be a nation that would be subject to international pressure. It would be a nation at risk. And so when we're talking about American agriculture, we're really talking about a national security issue." In <http://www.presidency.ucsb.edu/ws/index.php?pid=63838.> Last access: July 29, 2017.

56 Bello, W. (2009). *The Food Wars (*Original edition). London ; New York: Verso. p. 1.

57 In <http://www.un.org/en/development/desa/policy/wesp/.> Last access: July 29, 2017.

(SAP) adopted in the 1980s imposed by the IMF and the World Bank to developing countries. The SAP programs helped to implement the so called Green Revolution, which underlying logic lays in export monoculture, technology-based productivity increase to overcome the constraints imposed by the ecosystem and increasing subsidies, thus launching millions of people in the extreme poverty level (less than US $ 1 per day to survive).

Thus, the food crisis is not related to not having enough food to feed the poor but rooted to development-oriented economic issues and the need to overcome the limits of the environment at all costs. However, mainstream academic, political and business does not see it that way. In the book The Bottom Billion, Collier[58] points out to three specific causes that reflects the mainstream view of the problem: governments' failure to encourage commercial agriculture in Africa, the continent with the greatest number of conflicts for food; the banning order of genetically modified seeds by the European Union; and the diversion of one third of North America's agricultural production to the production of ethanol.

The two first causes pointed out by the author suggest the maintenance of the current food system, which has already been proved to contain serious structural failures. It posits the need to the start of the Green Revolution in Africa and the abandonment of the precautionary principle in the name of increasing agricultural productivity by using GMOs. In this sense, the International Assessment of Agricultural Knowledge, Science, and Technology for Development presents a framework that confirms the fragility of these two pillars of Collier's theory:

> Underinvestment in developing country agriculture—including in local and regional market infrastructure, information and services—has weakened the small-scale farm sector in many countries. Trade liberalization that opened developing country markets to international competition too quickly or too extensively further undermined the rural sector and rural livelihoods. Many countries have been left with weakened national food production capacity, making them more vulnerable to international food price and supply volatility and reducing food security[59].

This model had the potential to initiate what Hobsbawm[60] called the death of peasantry (theorizing from Marx that the peasantry would be no more than 'potato sacks', denoting its disorganization and consequent inevitable future in the face of the capitalist market forces), the movement of abandonment of the countryside to live in urban slums in search of work in industry[61]. It is noteworthy that this notion came to be questioned from a larger organization of the *Via Campesina* movement, which internationalized an alternative paradigm for agricultural development called food sovereignty.

The merit of the debate initiated by Collier[62] was to oppose a food system based on high industrialized techniques and large-scale use of pesticides in monocultures with another system based on local biodiversity, distribution and consumption by small farmers and their families. As such, Bello states:

> To cite just one well-known study, a World Bank report on agriculture in Argentina, Brazil, Chile, Colombia, and Ecuador showed that **small farms were three to fourteen times more productive per acre than their larger competitors**. (Emphasis added)[63].

The *Fome Zero* Program (Zero Hunger) is a solid empirical evidence of the proposition made earlier. As originally conceived, the program is a two-fold approach: local production by providing for local farmers line of credit incentives, technical assistance, insurance, minimum price guaranteed, and local distribution thru government purchase policies of the surplus that was distributed in the school lunch network. The program has proved to reduce rural exodus by ensuring production on a sustainable basis and the distribution channels available to small producers. The program was also sponsored by FAO through the World Food Program and implemented in Africa in conjunction with the Linking Agriculture to School Feeding and Food Assistance:

> By linking local agricultural production to school meals, Home Grown School Feeding (HGSF)

58   Collier, P. (2008). The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About It (1 edition). Oxford: Oxford University Press.
59   In <http://www.unep.org/dewa/agassessment/docs/10505_

Trade.pdf.> Last access: July 29, 2017.
60   Hobsbawm, E. (1996). The Age of Revolution: 1789-1848 (1st Vintage Books ed edition). New York: Vintage.
61   Davis, M. (2006). Planeta Favela (Edição: 1). São Paulo: Boitempo.
62   Collier, P. (2008). The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About It (1 edition). Oxford: Oxford University Press.
63   Bello, W. (2009). The Food Wars (Original edition). London ; New York: Verso. p. 13.

CASTRO, Douglas; PEGORARI, Bruno. International climate change regime as a promoter of colonial systemic and symbolic violence: Its relationship with international environment security and food system thru the lens of feminist approach. Revista de Direito Internacional, Brasília, v. 15, n. 1, 2018 p.105-122

116

programmes multiply benefits for rural communities. They can increase enrolment, improve nutrition, boost local economies, improve smallholders' livelihoods and develop government capacity. Due to varied country contexts, each HGSF programme is unique, but are generally characterized by the incorporation of local food purchases into government-run school feeding programmes.[64]

However, the food sovereignty model is "popular" in the international institutions that reproduce the North/South perceptions of development. An example of this rhetoric is provided by the United States while defending the interests of its agricultural industry. During the Uruguay Round in 1986 the Secretary of Agriculture John Block, quoted in Bello, said (omitting the heavy subsidies granted by the government):

> […] the idea that developing countries should feed themselves is an anachronism from a bygone era. They could better ensure their food security by relying on US agricultural products, which are available, in most cases at lower cost[65].

The fallacy of this argument is that the prevailing food system is good for all. In fact: [...] not only in the South but also in the North, farmers and others seek to escape the vagaries of capital by reproducing the peasant condition, working with nature from a limited resource base independent of market forces[66].

The case of the corn pest in the United States is a representative case of this phenomenon. In the late 1970s it began to spread in the southern states and quickly spread to the north a pest called Bypolaris Maydis that left the yellow corn leaves and then hit the spike. In a study conducted by the National Sciences Academy, cited by Marshall (2009, p. 122), the vulnerability of maize crops in several North American states was proven due to their genetic uniformity, that is, the lack of biological diversity in the seeds allowed the proliferation of pathogenic elements with great ease by not finding resistance and self-regulation of diverse biological systems. The identification was reported in the following terms:

> In the [1960s], it became clear that relatively few corn breeding parents were being used to produce the bulk of American hybrid corn varieties," said

the report. "This narrowness of germplasm set the stage for potential vulnerability to diseases, insects and other stresses. In early 1970, environmental conditions in Southern and Northcentral corn producing regions were favorable for easy disease establishment and spread among vast plantings of highly uniform varieties. The [Southern Corn Leaf Blight] epidemic became of national and international significance[67].

Thus, the commodification of food that occurs after the adoption of the monoculture model is at the heart of the debate on food security, since it places the debate between the two paradigms: one focused on the global export market, whose main objective is not the eradication of hunger and endangers local biodiversity, and promotes the need for extensive and intensive transportation network – both very bad for climate change regime as increases outputs of greenhouse gases (petroleum, fertilizes, intentional burnings to clean the field, etc.); and the other model focused on production and distribution in the local market, which preserves biodiversity and protects the traditional knowledge of the family farming, thus, less anthropogenic impact in the environment as a whole[68]. To reinforce our argument with a more robust theoretical contribution to the second paradigm, we quote Shaw:

> More broadly, as environmental crises multiply, as the social dysfunctions of urban-industrial life pile up, and as industrialized agriculture creates greater food insecurity, the "peasant way" has relevance not only to peasants but to everyone threatened by the catastrophic consequences of global capital's vision for organizing production, community, and life itself[69].

This descriptive discussion of the international food system *vis-à-vis* its position in the climate change regime presents the clear contradiction. The Agreements pose the need to address climate change (needless to say urgently) at the same time seeking the eradication of poverty, food security, and economic development.

The empirical evidences of this incongruence are presented below in Figure 5. The code "food security" is operationalized based on the theory presented in

64   In <https://www.wfp.org/purchase-progress/news/blog/p4p-improves-links-between-small-scale-farmers-and-school-feeding-progra.> Last access: July 29, 2017.

65   Bello, W. (2009). *The Food Wars* (Original edition). London ; New York: Verso. p. 76.

66   Bello, W. (2009). *The Food Wars* (Original edition). London ; New York: Verso. p. 86.

67   Marshall, R. J. (Ed.). (2009). *Food Safety: A Practical and Case Study Approach* (Softcover reprint of hardcover 1st ed. 2007 edition). New York; London: Springer. p. 122.

68   Shiva, V. (2003). Monoculturas Da Mente. Perspectivas Da Biodiversidade E Biotecnologia. São Paulo: Gaia; Carson, R. (2015). Primavera silenciosa. Editora Gaia.

69   Shaw, D. (2007). World Food Security: A History since 1945 (2007 edition). Basingstoke England; New York: Palgrave Macmillan. p. 15.

CASTRO, Douglas; PEGORARI, Bruno. International climate change regime as a promoter of colonial systemic and symbolic violence: Its relationship with international environment security and food system thru the lens of feminist approach. Revista de Direito Internacional, Brasília, v. 15, n. 1, 2018 p.105-122

117

this part of the paper. The sufficient empirical evidences were find to confirm the theory in the Agreements, suggesting that complexities and intermingles of the regimes exacerbates the causes and effects that they assume to address either by the result of the complexity itself or a deliberate assumption of contradictory discourses and meanings that difficult addressing the pressing issues systematically, usually at the expenses of Third World Countries. In the case of climate change and international food system our inference is that both arguments are true.

Figure 6: Food System
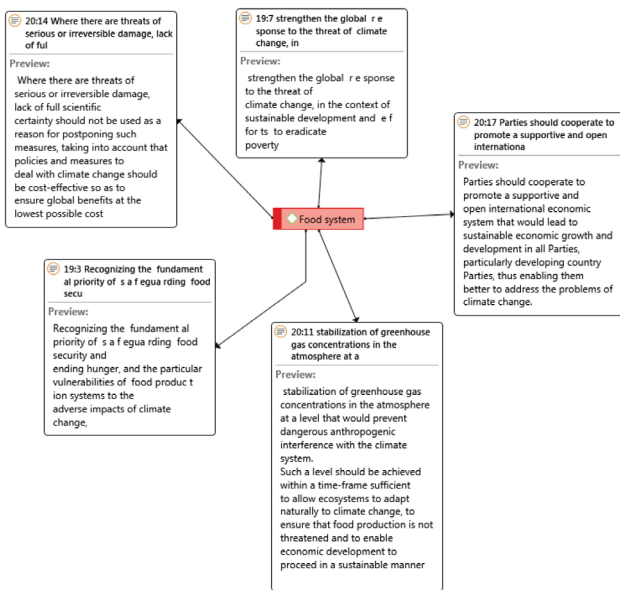
Source: The Authors.

3.2.3. Colonial language and FT operative concepts

Considering that we are analyzing the dimensions of the encounter of FT and IL, in this part of the paper we should expand the argument of the colonial roots of IL and how to find the underlying rational of colonialism in its language by using FT.

One of the persistent dimensions of colonialism is imbricated into the legal tradition. In this sense, Wolkmer presents:

> It is not too important to remember that in Latin America both the legal culture imposed by the metropolises throughout the colonial period and the legal institutions formed after the independence process (courts, codifications and constitutions) derive from the European legal tradition, In the private sphere, by the classical sources of Roman,

Germanic and canonical rights. Similarly, in the formation of the legal culture and the post-independence constitutional process, account must be taken of the inheritance of bourgeois political charters and of the illuminist and liberal principles inherent in the declarations of rights as well as of the new capitalist modernity, free market, based on false tolerance and on the liberal-individualist profile (translated by the author)[70].

This tension is captured by Débora Ferrazzo in the essay *O Novo Constitucionalismo e Dialética da Descolonização* by pointing out the premises of what she called the Eurocentric theorization of legal science inherited by the countries of the Third World. She states that:

> The hierarchical structure of norms is Eurocentric theorization of legal science. Consolidated by Hans Kelsen in his Pure Theory of Law, the proposal to submit rules of social regulation to other norms that confer efficacy to the reach of a fundamental norm spread throughout the West and much of the East. This means that all the expressions of law of different societies must be validated, identified with the law, in order to be able to take effect and be enforceable between members of these societies. In short: it is only right, the right put, positive law, validated by a higher norm, that in the legal culture homogenized in the world, would be the Constitution (translated by the author)[71].

In this same vein, according to Boaventura de Sousa Santos resisting this paradigm of domination requires to overcome what he calls the abyssal line:

> It consists of a system of visible and invisible distinctions, the latter of which are based on the former. Invisible distinctions are established by radical lines dividing social reality into two distinct universes: the "this side of the line" and the "the other side of the line." The division is such that "the other side of the line" disappears as reality, becomes non-existent and even produced as non-existent. Inexistence means not existing in any way of being relevant or understandable. Everything that is produced as non-existent is radically excluded because it remains outside the universe which the very conception of inclusion considers as the "other." **The fundamental characteristic of abyssal thinking is the impossibility of co-presence on both sides of the line. The universe "on this side of the line" only prevails insofar as it exhausts the field of relevant reality: beyond the line there is only non-existence, invisibility and non-dialectical absence** (translated by the author – our emphasis)[72].

70 Wolkmer, A. C. (2013). Constitucionalismo Latino-Americano. Tendências Contemporâneas (Edição: 1a). Juruá. p. 22-23.

71 Wolkmer, A. C. (2013). Constitucionalismo Latino-Americano. Tendências Contemporâneas (Edição: 1a). Juruá. p. 32.

72 Santos, B. de S., & Meneses, M. P. (2010). Epistemologias Do

CASTRO, Douglas; PEGORARI, Bruno. International climate change regime as a promoter of colonial systemic and symbolic violence: Its relationship with international environment security and food system thru the lens of feminist approach. Revista de Direito Internacional, Brasília, v. 15, n. 1, 2018 p.105-122

118

Therefore, the abyssal line of thinking requires homogenizing politics, law, values, and democracy, just to mention a few, so a non-existence and invisibility exists. This implicates in the prevalence of metanarratives reductionists that no longer respond to the challenges in the world as of today[73]. On the other hand, facing these metanarratives such as IL requires a critical thinking position that provides the tools to identify forms of domination, especially the subtle ones.

In Figure 6 we observe the dialectics of IL and FT grounded in the Agreements regulating the climate change regime. The concepts or codes representing metanarratives (in blue) bring simplistic goals of "development", "sustainable development", and "universality" that disregard the "stages of modernity" in which the North and South are historically located today[74].

The codes representing the FT (highlighted in yellow) are "~solidarity", "~resilience", and "~creativity". The codes are conceptualized based on FT, appearing with the "~" sign, which means the contradiction to the empirical evidences or the metanarratives found in the Agreements. The relationship between the metanarratives and the concepts of FT based on the empirical evidences are marked contradictory feature.

In addition, the exam of the Agreements showed the emergence of another contradictory concept that challenges the metanarratives of the IL: climate justice (in green). According to Heyward & Roser, the concept of climate justice is associated with the following debate:

> For most people, the main reason for limiting greenhouse gas (GHG) emissions is not the impacts on the environment per se but the resulting effects of climate change upon humans. Of particular concern is that climate change is expected to have disproportionate effects on regions where severe poverty is already widespread. At present, more than 2.2 billion people are vulnerable to multidimensional poverty and 1.2 billion people live on less than $1.25 per day (UNDP 2014: 19). Climate change stands to make the very poorest in the world even poorer. Indeed, it is 'one of the most critical challenges to the global development agenda' (UNDP 2014:12). Although the poorest

are potentially most affected by climatic impacts, they are least involved in creating the problem. Historically speaking, it is people in developed countries who have emitted the most (Den Elzen et al. 2013). Since climate change is primarily caused by some parts of humanity whilst the effects of climate change will be largely suffered by others, it is a matter of justice. Indeed, most theorists who write about climate change do so in the language of justice (e.g. Page 2006; Vanderheiden 2008; Gardiner 2011; McKinnon 2012; Cripps 2012; Caney 2014; Shue 2014). Some also express concerns about climate change in terms of its impact on human rights (see e.g.Caney 2010; Bell 2011a; and the collection by Humphreys 2010) (our emphasis)[75].

Figure 7: Relations between metanarratives and FT concepts
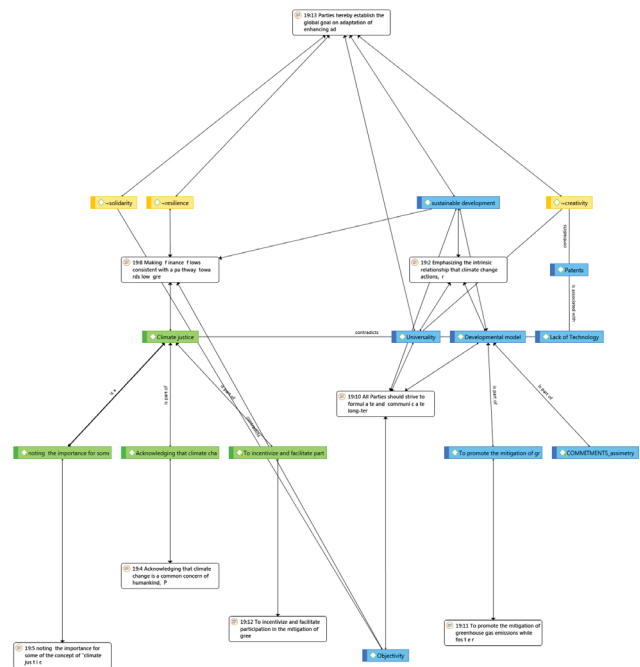
Source: The Authors.

The prevalence of metanarratives in the Agreements and the marginal location of ideational factors and FT concepts are clear from the observation of Figure 7:

Sul (Edição: 2a). Coimbra: Almedina.

73   Lyotard, J.-F., & Jameson, F. (1984). The Postmodern Condition: A Report on Knowledge. (G. Bennington & B. Massumi, Trans.) (1st edition). Minneapolis: University of Minnesota Press.

74   Lyotard, J.-F., & Jameson, F. (1984). *The Postmodern Condition: A Report on Knowledge*. (G. Bennington & B. Massumi, Trans.) (1st edition). Minneapolis: University of Minnesota Press.

75   Heyward, C., & Roser, D. (Eds.). (2016). *Climate Justice in a Non-Ideal World* (1 edition). Oxford: Oxford University Press. p. 2.

Figure 8: word cloud

Source: The Authors.

4. Final Considerations

This paper has presented sufficient empirical evidences on how the climate change regime is formed by a prevalent logic of colonialist domination. This logic presents itself in the visible and the less visible dimensions when International Law is confronted with Feminist Theory.

The results of this inquire represents an initial effort of a broader research agenda that intends to discuss the application of critical theories to international law taking the stand point of recognizing that the metanarratives of international law does not provide enough reach to emancipate, protect minorities, increase inclusion, and so forth.

It is a provocative piece of work that intends to frame a theory of medium spectrum to be tested in other international regimes.

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120

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121

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122