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Do human rights really protect us? The evolution of the concept of human rights influenced by the work of the inter-american court of human rights

Abstract: This text explores the growing influence of International Human Rights Law, focusing on the Inter-American System. It argues that human rights have attained a status akin to a "secular religion," shaping the legitimacy of states globally. Criticizing the hierarchical and unaccountable nature of bodies issuing internationally recognized treaties, the text examines specific characteristics of the Inter-American Human Rights Law, such as autonomous treaty interpretation and the control of conventionality doctrine. The concept of a "minimum standard" is scrutinized, raising concerns about the infallibility of treaty body interpretations. The existence of parallel legal orders and the relationship between national and international frameworks is discussed, unveiling potential challenges and an "infallibility complex" among human rights defenders.

Keywords: human rights, Inter-American Court of Human Rights, International Court of Justice, nature law

1. Approach: an increasingly influential International Law

As a preliminary comment, the following reflections derive from my research on the Inter-American System and, in particular, from the work carried out by the Inter-American Court of Human Rights, which is why they refer primarily to the situation that is being experienced in that region of the planet. However, these reflections can also be applied to a great extent to International Human Rights Law in general.

Currently, the notion of human rights is so prestigious in the West that everything that is said about it is considered good and indisputable (to the point that it could be considered a "secular religion") telling factor on the legitimacy of States themselves, both before its citizens and internationally. That is why today the separation of powers (executive, legislative and judicial branches) or a democratic system is no longer enough, since a substantive content of their domestic law is required, inspired by these human rights, determined mostly by international law.

Consequently, human rights have become a kind of "Natural Law", albeit not discovered nor objective, but in permanent construction and reconstruction. This, thanks to the international consensus that has given rise to the current human rights treaties, whether at the universal or regional level, and above all –above all–, to the work of the monitoring bodies of these treaties (Courts, commissions, and committees).

For its supporters, this multilateral origin of international law makes in itself a more legitimate, superior and more "humanitarian" reality than any state law,[1] since the latter has only a unilateral genesis. The foregoing, since it is considered to be the result of universal or regional consensus (through the *pacta sunt servanda*), would make it infallible (unlike that emanating from a State), considering that this consensus could not be wrong.[2] That is why its content should be adopted without delay by all national legal systems, as we will see in time.

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[1] From multiple perspectives and nomenclatures, Sergio García Ramírez, "The Relationship Between Inter-American Jurisdiction and States (National Systems): Some Pertinent Questions", *Notre Dame Journal of International & Comparative Law*: Vol. 5: Issue 1, Article 5, L. 116 (2015), p. 127, https://scholarship.law.nd.edu/ndjicl/vol5/iss1/5; Mariela Morales Antoniazzi, "Interamericanización como mecanismo del *Ius Constitutionale Commune* de derechos humanos en América Latina", in: Armin Von Bogdandy, Mariela Morales Antoniazzi, Eduardo Ferrer Mac-Gregor, eds, *Ius Constitutionale Commune en América Latina. Textos Básicos Para Su Comprensión*, Instituto de Estudios Constitucionales del Estado de Querétaro / Max Planck Institute for Comparative Public Law and International Law (2017), pp. 420-423.

[2] Similar ideas in: Néstor P. Sagüés, "Obligaciones Internacionales y Control de Convencionalidad", *Estudios Constitucionales*, vol. 8 no. 1 (2010), p. 125; without calling it that, similar ideas in Mariela Morales Antoniazzi, "El Estado abierto como objetivo del *Ius Constitucionale Commune*. Aproximación desde el impacto de la Corte Interamericana de Derechos Humanos", in: Armin Von Bogdandy; Héctor Fix-Fierro; Mariela Morales Antoniazzi, eds., *Ius Constitutionale Commune en América Latina. Rasgos, Potencialidades y Desafíos,* UNAM / Max-Planck-Institut für Ausländisches Öffentliches Recht und Völkerrecht / Instituto Iberoamericano de Derecho Constitucional (2014), pp. 291 and 298; Néstor Sagüés, "Las relaciones entre los tribunales internacionales y los tribunales nacionales en materia de derechos humanos. Experiencias en Latinoamérica", *Ius et Praxis*, vol. 9, no. 1 (2003), p. 214.

However, human rights have evolved remarkably (to the point that it is sometimes difficult to recognize them or to predict how they will be understood in the future), as their interpretation has been monopolized by their treaty bodies (courts, commissions, and committees), often moving away from the original meaning of the treaties that enshrine them. These bodies are not controlled by anyone, and citizens have no part in their work. For this reason, this evolution has become a phenomenon that is increasingly hierarchical and lacking in accountability, due to the characteristics of Inter-American Human Rights Law that will be seen shortly.

Consequently, these organizations are becoming "censors of the world", establishing with remarkable freedom which human rights are to be protected, who complies with them and who does not. All of which directly affects the legitimacy of States before their citizens and the international community.

2. Some characteristics of Inter-American Human Rights Law and the problems generated as a result

To better understand this last phenomenon, it is essential to briefly recall some of the characteristics of International Human Rights Law within the Inter-American System, which complement and enhance each other. Thus, the system's supporters believe that:

a) Human rights treaties have an "autonomous meaning", in light of which their meaning depends on the monopolistic interpretation of their treaty bodies,[3] not on what the States have understood when signing them or later.[4]

b) They are "living instruments", so they must adapt to the new circumstances through this monopolistic interpretation, in order to better protect human rights.[5]

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[3] Cecilia Medina Quiroga, "Los 40 años de la Convención Americana sobre Derechos Humanos a la luz de cierta jurisprudencia de la Corte Interamericana", *Anuario de Derechos Humanos*, Vol. 5 (2009), p. 27; Héctor Faúndez Ledesma, "El Sistema Interamericano de protección de los Derechos Humanos. Aspectos institucionales y procesales", *Instituto Interamericano de Derechos Humanos* (2004), pp. 88-91; Manuel Núñez Poblete, "Principios Metodológicos para la Evaluación de los Acuerdos Aprobatorios de los Tratados Internacionales de Derechos Humanos y de las Leyes de Ejecución de Obligaciones Internacionales en la Misma Materia", *Hemicilo: Revista de Estudios Parlamentarios*, vol. 2 no. 4 (2011), p. 53.

[4] Antonio Cançado Trindade, "El Derecho Internacional de los Derechos Humanos en el siglo XXI", *Jurídica de Chile* (2006), pp. 29-31, 344-345 and 349.

[5] Eduardo Ferrer Mac-Gregor, "Interpretación Conforme y Control Difuso de Convencionalidad. El Nuevo Paradigma para el Juez Mexicano", in: Miguel Carbonell and Pedro Salazar,

c) Their interpretation is driven by the "principle of progressive interpretation" or "no regression", thanks to which it is increasingly protective of the rights it protects, prohibiting itself from regressing towards less favorable interpretations.[6]

d) They have ductile rules of interpretation because, together with the classic norms that regulate it (Art. 31 *et seq.* of the Vienna Convention), they must be evolutionary,[7] dynamic,[8] holistic,[9] systematic,[10] progressive,[11]

Derechos Humanos: Un Nuevo Modelo Constitucional, Universidad Nacional Autónoma de México, 2011, p. 392; Juana María Ibáñez Rivas, *Control de convencionalidad*, UNAM / Instituto de Investigaciones Jurídicas / Comisión Nacional de los Derechos Humanos, 2017, p. 136; Flavia Piovesan, "*Ius Constitutionale Commune* latinoamericano en derechos humanos e impacto del Sistema Interamericano: rasgos, potencialidades y desafíos", in: Armin Von Bogdandy; Héctor Fix-Fierro; Mariela Morales Antoniazzi, eds, *Ius Constitutionale Commune en América Latina. Rasgos, Potencialidades y Desafíos,* op.cit., pp. 69-70.

[6] Carlos Ayala Corao, "Inconstitucionalidad de la denuncia de la Convención Americana sobre Derechos Humanos por Venezuela", *Estudios Constitucionales,* vol 10 Nº 2 (2012), pp. 655 and 665-678; Gonzalo Aguilar Cavallo, "Los derechos humanos como límites a la democracia a la luz de la jurisprudencia de la Corte Interamericana de Derechos Humanos", *Revista da Ajuris* (Porto Alegre), Vol. 43 Nº 141 (2016), pp. 345-347; Hernán Olano García, "Teoría del Control de Convencionalidad", *Estudios Constitucionales*, vol. 14 Nº 1 (2016), p. 85.

[7] Gonzalo Aguilar Cavallo, "La Corte Suprema y la aplicación del Derecho Internacional: un proceso esperanzador", *Estudios Constitucionales,* vol. 7 Nº 1 (2009), pp. 92-93; Eduardo Ferrer Mac-Gregor and Carlos Pelayo Möller, "La obligación de 'respetar' y 'garantizar' los derechos humanos a la luz de la jurisprudencia de la Corte Interamericana", *Estudios Constitucionales*, vol. 10, no. 2 (2012), pp. 149-150; Cançado, supra note 4, pp. 23-25, 40, 46-49 and 530-531.

[8] Humberto Nogueira Alcalá, "Diálogo interjurisdiccional y control de convencionalidad entre los tribunales nacionales y la Corte Interamericana de Derechos Humanos en Chile", *Anuario de Derecho Constitucional Latinoamericano*, vol. 19 (2013), p. 521; Gastón Pereyra Zabala, "El control de convencionalidad en el sistema interamericano de derechos humanos", *Revista de Derecho* (Montevideo), Nº 6 (2011), p. 174; Alfonso Santiago, "El Derecho Internacional de los Derechos Humanos: posibilidades, problemas y riesgos de un nuevo paradigma jurídico", in: *60 Persona y Derecho* (2009), p. 111.

[9] Luis D. Vásquez and Sandra Serrano, "Los Principios de Universalidad, Interdependencia, Indivisibilidad y Progresividad. Apuntes Para su Aplicación Práctica", in: Miguel Carbonell and Pedro Salazar, eds, *La Reforma Constitucional en Derechos Humanos: Un Nuevo Paradigma*, IIJ, Universidad Nacional Autónoma de México, 2011, p. 155); Cançado, supra note 4, pp. 155, 164 and 166-167.

[10] Karlos Castilla Juárez, "Un Nuevo Panorama Constitucional para el Derecho Internacional de los Derechos Humanos en México", *Estudios Constitucionales*, vol. 9 no. 2 (2011), pp. 154-157; Lorena Fríes Monleón, "El Instituto Nacional de Derechos Humanos en Chile y sus desafíos para avanzar hacia una visión integral en el discurso y práctica de los derechos humanos en Chile", *Anuario de Derechos Humanos* (Universidad de Chile), vol. 8 (2012), pp. 169-171; José Orozco, "Los Derecho Humanos Y El Nuevo Artículo 1º Constitucional", *Ius: Revista del Instituto de Ciencias Jurídicas de Puebla*, n. 28 (2011), p. 93.

[11] Manuel Núñez Poblete, "Sobre la doctrina del margen de apreciación nacional. La experiencia latinoamericana confrontada y el thelos constitucional de una técnica de adjudicación

finalist,[12] etc., thus giving a lot of freedom to the interpreter. That is why new rights have emerged, either by expanding the current ones,[13] by discovering "implicit" rights,[14] or by making an exegesis contrary to the text that enshrines them.[15] In addition, if human rights are considered indivisible,[16] interdependent,[17] etc., the interpreter can make them say practically whatever he wants, as there is no objective hierarchy between them.

del DIDH", in: Acosta Alvarado et al., eds, *El Margen de Apreciación En el Sistema Interamericano de Derechos Humanos: Proyecciones Regionales y Nacionales*, Universidad Nacional Autónoma de México, 2012, p. 29; Cançado, supra note 4, pp. 23-25, 40, 46-49 and 532-533; Pereyra, supra note 8, p. 174.

12 Liliana Galdámez Zelada, "Protección de la víctima, cuatro criterios de la Corte Interamericana de Derechos Humanos: interpretación evolutiva, ampliación del concepto de víctima, daño al proyecto de vida y reparaciones", *Revista Chilena de Derecho*, vol. 34, no. 3 (2007), p. 445; Humberto Nogueira Alcalá, "Diálogo Interjurisdiccional, Control de Convencionalidad y Jurisprudencia del Tribunal Constitucional en el Período 2006-2011", *Estudios Constitucionales*, vol. 10 no. 2 (2012), p. 82; Núñez Poblete, supra note 3, p. 54.

13 Álvaro Francisco Amaya Villarreal, "El Principio *Pro Homine*: Interpretación Extensiva vs El Consentimiento del Estado", *International Law: Revista Colombiana de Derecho Internacional*, no. 5 (2005), pp. 337-380; Gonzalo Aguilar Cavallo and Humberto Nogueira Alcalá, "El principio favor persona en el derecho internacional y en el derecho interno como regla de interpretación y de preferencia normativa", *Revista de Derecho Público,* Vol. 84 (2016), pp. 17-19 and 20; David Lovatón Palacios, "Control de convencionalidad interamericano en sede nacional: una noción aún en construcción", *Revista Direito & Práxis*, Vol. 8 Nº 2 (2017), pp. 1405-1406.

14 Álvaro Paúl Díaz, "The American Convention on Human Rights. Updated by the Inter-American Court", *Iuris Dictio*, vol. 20 (2017), pp. 53-87; Gonzalo Candia Falcón, "Derechos implícitos y Corte Interamericana de Derechos Humanos: una reflexión a la luz de la noción de Estado de Derecho", *Revista Chilena de Derecho*, Vol. 42 Nº 3 (2015), pp. 874-884; Alfredo Vítolo, "Una novedosa categoría jurídica: el «querer ser». Acerca del pretendido carácter normativo *erga omnes* de la jurisprudencia de la Corte Interamericana de Derechos Humanos. Las dos caras del «control de convencionalidad»", *Pensamiento Constitucional*, Nº 18 (2013), pp. 369-373.

15 Álvaro Paúl Díaz, "La Corte Interamericana *in vitro*: notas sobre su proceso de toma de decisiones a propósito del caso 'Artavia'", *Revista Derecho Público Iberoamericano*, vol. 1 (2) (2013), pp. 303-345; Max Silva Abbott and Ligia de Jesús Castaldi, "¿Se comporta la Corte Interamericana como tribunal (internacional)? Algunas reflexiones a propósito de la supervisión de cumplimiento del *Caso Artavia Murillo vs. Costa Rica*", *Prudentia Iuris,* vol. 82 (2016), pp. 19-58.

16 Susana Albanese, "La fórmula de la cuarta instancia", p. 7, in LexisNexis, Lexis Nº 0003/001051, http://www.villaverde.com.ar/archivos/File/docencia/unlz-alimentos/Bibliografia/cuarta-instancia-Albanese.pdf (last visited Nov. 11, 2014); Vásquez and Serrano, supra note 9, pp. 148-159; Amaya, supra note 13, p. 345.

17 Ferrer, supra note 5, p. 366; Fríes, supra note 10, pp. 169-171; Cançado, supra note 4, p. 117.

e) The protection of these rights is influenced by the *"pro homine"* or "*favor persona*" principle,[18] which allows the judge, both local and inter-American, to choose quite freely the norm to apply to resolve a human rights case, whether this national norm or international.[19]

f) Finally, that the criteria on human rights established by International Law constitute only a "minimum standard" in terms of the requirements for their protection.[20] Therefore, the only task left to the States would be to match or exceed this "floating line".[21] This is a crucial aspect to which we will return later.

Consequently, the monopolistic interpretation of these treaties by their monitoring bodies has ended up eclipsing them, putting in jeopardy the traditional theory of the sources of International Law[22] (as established in article 38 of the Statute of

[18] José Luis Caballero Ochoa, "La cláusula de interpretación conforme y el principio pro persona (art. 1º segundo párrafo de la Constitución)", in: Miguel Carbonell and Pedro Salazar, eds, *La Reforma Constitucional de Derechos Humanos: Un Nuevo Paradigma*, op. cit., pp. 132-133 and 141-142; Amaya, supra note 13, pp. 337-380; Ferrer, supra note 5, pp. 340-358, 361-366 and 387-390; Castilla, supra note 10, pp. 149-153; Humberto Nogueira Alcalá, "Los desafíos del control de convencionalidad del *corpus iuris* interamericano para las jurisdicciones nacionales", *Boletín Mexicano de Derecho Comparado [BMDC]*, vol. 45, no. 135 (Sept. 26, 2011), pp. 1168-1170, 1176-1178 and 1187-1189.

[19] Juan Carlos Hitters, "Un avance en el control de convencionalidad. (El efecto '*erga omnes*' de las sentencias de la Corte Interamericana), *Estudios Constitucionales*, vol.11, no. 2 (2013), pp. 708-709; Eduardo Ferrer Mac-Gregor, "Eficacia de la Sentencia Interamericana y la Cosa Juzgada Internacional: Vinculación Directa Hacia Las Partes (*Res Judicata*) E Indirecta Hacia los Estados Parte de la Convención Americana (*Res Interpretata*) (Sobre El Cumplimiento del Caso Gelman vs. Uruguay)", *Estudios Constitucionales*, vol. 11 no. 2 (2013), p. 676; Claudio Nash Rojas, "Control de convencionalidad. Precisiones conceptuales u desafíos a la luz de la jurisprudencia de la Corte Interamericana de Derechos Humanos", *Anuario e Derecho Constitucional Latinoamericano*, vol. 19 (2013), p. 505.

[20] Eduardo Meier García, "Nacionalismo constitucional y Derecho Internacional de los Derechos Humanos", *Estudios Constitucionales*, vol. 9 Nº 2 (2011), pp. 332-333 and 369-371; Juan C. Hitters, "¿Son Vinculantes los Pronunciamientos de la Comisión y de la Corte Interamericana de Derechos Humanos? (Control de Constitucionalidad y Convencionalidad)", in: *Revista Iberoamericana de Derecho Procesal Constitucional*, no.10 (2008), p. 153, note 12; Nogueira, supra note 12, pp. 58-59, 64, 68, 71-72, 81, 84-85, 96, 100-102 and 124; Ferrer, supra note 19, pp. 657, 669, 671-672 and 677.

[21] Aguilar, supra note 6, pp. 337-365.

[22] Carlos Cerda Dueñas, "La nota diplomática en el contexto del *soft law* y de las fuentes del derecho internacional", *Revista de Derecho* (Valdivia, Chile), Vol. XXX Nº2 (2017), pp. 159-179; Sergio Fuenzalida Bascuñán, "La jurisprudencia de la Corte Interamericana de Derechos Humanos como fuente del derecho. Una revisión de la doctrina del «examen de convencionalidad»", in: *Revista de Derecho* (Valdivia, Chile), Vol. XXVIII Nº 1 (2015), pp.

the International Court of Justice[23]) and the initial *pacta sunt servanda* that gave rise to them.

In short, we are in the presence of "other" treaties because the initial consensus of the States has been replaced by the free interpretation of the human rights treaty bodies.

In the case of the Inter-American System, this has given rise, *inter alia*, to the *control of conventionality doctrine*,[24] created by the Inter-American Court case

171-192; Alan Diego Vogelfanger, "La creación de derecho por parte de los tribunales internacionales. El caso específico de la Corte Interamericana de Derechos Humanos", *Pensar en Derecho* (Universidad de Buenos Aires), Nº 7, vol. 4 (2015), pp. 251-284; Vítolo, supra note 14, pp. 357-380; Miriam Henríquez Viñas and José Ignacio Núñez, "El control de convencionalidad: ¿Hacia un no positivismo interamericano?", *Revista Boliviana de Derecho*, Nº 21 (2016), pp. 338-339.

[23] Statute of the International Court of Justice.
Article 38:
1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:
   a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
   b. international custom, as evidence of a general practice accepted as law;
   c. the general principles of law recognized by civilized nations; d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.
2. This provision shall not prejudice the power of the Court to decide a case ex aequo et bono, if the parties agree thereto.

Article 59
The decision of the Court has no binding force except between the parties and in respect of that particular case.

[24] García, supra note 1, pp. 115-151; Miguel Carbonell, "Introducción general al control de convencionalidad", UNAM, https://archivos.juridicas.unam.mx/www/bjv/libros/7/3271/11.pdf, pp. 67-95 (last visited May 14, 2014); Sagüés, supra note 2, pp. 117-136; Ernesto Rey Cantor, "Controles de convencionalidad de las leyes", in: Eduardo Ferrer Mac-Gregor, Arturo Zaldívar Lelo de Larrea, eds, *La Ciencia del Derecho Procesal Constitucional. Estudios en Homenaje a Héctor Fix Zamudio en Sus Cincuenta Años Como Investigador del Derecho, Vol. IX. Derechos Humanos y Tribunales Internacionales*, Unam, Instituto Mexicano de Derecho Procesal Constitucional, Marcial Pons 2008, pp. 225-262; Ariel Dulitzky, "El impacto del control de convencionalidad. ¿Un cambio de paradigma en el sistema interamericano de derechos humanos?", in: José Sebastián Elias et al., eds, *Tratado de los Derechos Constitucionales*, 1st ed., Abeledo Perrot 2014, pp. 553-569.

law,[25] which orders national judges to impose international criteria[26] (that is, their own case law) over its domestic laws, even if constitutional in rank.[27] In this way, the local judge could:

a) Declare the national standard inapplicable in favor of the international standard, in case of an absolute incompatibility between the two;[28]

[25] Christina Binder, "¿Hacia una Corte Constitucional de América Latina? La jurisprudencia de la Corte Interamericana de Derechos Humanos con un enfoque especial sobre las amnistías", in: Armin von Bogdandy, Eduardo Ferrer Mac-Gregor, Mariela Morales Antoniazzi, eds, *La Justicia Constitucional y Su Internacionalización. ¿Hacia Un Ius Constitutuonale Commune en América Latina? Tomo II*, Unam / Max-Plank-Institut für a Usländisches Öffentliches Recht und Volkerrecht / Instituto Iberoamericano de Derecho Constitucional 2010, pp. 169, 173-174 and 185; Néstor P. Sagüés, "Las opiniones consultivas de la Corte Interamericana, en el control de convencionalidad", *Pensamiento Constitucional*, Nº 20 (2015), p. 281; Víctor Bazán, "En torno al control de las inconstitucionalidades e inconvencionalidades omisivas", *Anuario de Derecho Constitucional Latinoamericano*, vol. 14 (2010), pp. 151-177; Karlos Castilla Juárez, "El control de convencionalidad; un nuevo debate en México a partir de la sentencia del caso Radilla Pacheco", *Anuario Mexicano de Derecho Internacional*, Vol. XI (2011), p. 600.

[26] Eréndira Salgado Ledesma, "La probable inejecución de las sentencias de la Corte Interamericana de Derechos Humanos", *Revista Mexicana de Derecho Constitucional*, N° 26 (2012), p. 224; Gonzalo Aguilar Cavallo, "Constitucionalismo global, control de convencionalidad y el derecho a huelga en Chile", *Anuario Colombiano de Derecho Internacional (ACDI)*, Vol. 9 (2016), p. 137; Claudio Nash Rojas, Constanza Núñez Donald, "Recepción formal y sustantiva del Derecho Internacional de los Derechos Humanos: experiencias comparadas y el caso chileno", *Anuario Mexicano de Derecho Comparado*, vol XLX, núm. 148 (2017), p. 207.

[27] Leonardo García Jaramillo, "De la «constitucionalización» a la cconvencionalización» del ordenamiento jurídico. La contribución a un *ius constitutionale commune*", *Revista Derecho del Estado*, Nº 36 (2016), pp. 131-166; David Andrés Murillo Cruz, "La dialéctica entre el bloque de constitucionalidad y el bloque de convencionalidad en el sistema interamericano de derechos humanos", *Revista de Derecho Público* (Universidad de los Andes, Colombia), Nº 36 (2016), pp. 1-35; Néstor Sagüés, "Derechos constitucionales y derechos humanos. De la Constitución Nacional a la Constitución convencionalizada", in: Humberto Nogueira Alcalá ed., *La Protección de los Derechos Humanos y Fundamentales de Acuerdo a la Constitución y El Derecho Internacional de los Derechos Humanos*, Librotecnia, Santiago 2014, pp. 15-23.

[28] Caballero, note 18, pp. 109-112 and 120-122; Gonzalo García Pino, "Preguntas esenciales sobre el control de convencionalidad difuso aplicables a Chile", in: Humberto Nogueira Alcalá ed., *La Protección de los Derechos Humanos y Fundamentales de Acuerdo a la Constitución y El Derecho Internacional de los Derechos Humanos*, op. cit., pp. 356 and 359-60; Rey Cantor, supra note 24, pp. 226 and 261-262.

b) Reinterpret the local standard in light of international criteria, in order to harmonize them with each other[29] (the so-called "compliant interpretation"[30]); or

c) Apply national norms, but only if it exceeds the "minimum standard" of international law.[31]

In addition, since the American Convention "lives" in the ductile and evolving interpretation of the Court[32] (because it considers itself the definitive[33] and unappealable[34] interpreter of the Convention), this tribunal considers that this treaty is "updated" with each of its verdicts. For this reason, it estimates that this interpretation is binding on all States, even if they have not been part of the dispute that gave rise to the judgment. In other words, that its *"res interpretata"*[35] would have an *"erga omnes"* effect.[36]

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[29] Pablo Contreras, "Control de convencionalidad, deferencia internacional y discreción nacional en la jurisprudencia de la Corte Interamericana de Derechos Humanos", *Ius et Praxis*, vol. 20, no. 2 (2014), pp. 237-38, 254, 261 and 263; Sagüés, supra note 2, pp. 215-216; Ibáñez, supra note 5, pp. 104-105.

[30] Caballero, note 18, pp. 109-112 and120-122; Karlos Castilla Juárez, "¿Control interno o difuso de convencionalidad? Una mejor idea: la garantía de los tratados", *Anuario Mexicano de Derecho Internacional*, Vol. XIII (2013), p. 56; Miriam Henríquez Viñas, "La Polisemia del Control de Convencionalidad Interno", 24 *International Law: Revista Colombiana de Derecho Internacional* (Colombia) 113 (2014), pp. 132-134.

[31] Sergio García Ramírez, "El control judicial interno de convencionalidad", *Ius: Revista del Instituto de Ciencias Jurídicas de Puebla*, no. 28 (2011), pp. 133-139; Cançado, supra note 4, pp. 310-314; Hitters, supra note 19, pp. 708-709.

[32] Nogueira, supra note 12, p. 72.

[33] Juan Carlos Hitters, "Control de constitucionalidad y control de convencionalidad. Comparación (Criterios fijados por la Corte Interamericana de Derechos Humanos)", *Estudios Constitucionales*, vol.7, no. 2 (2009), pp. 115, 118 and 122; Gonzalo Aguilar Cavallo, "«Afinando las cuerdas» de la especial articulación entre el Derecho Internacional de los Derechos Humanos y el Derecho Interno", *Estudios Constitucionales*, vol. 11 Nº 1 (2013), pp. 642-643; Nogueira, supra note 12, pp. 58-59, 62-63 and 90-98.

[34] Meier, supra note 20, p. 333; Humberto Nogueira Alcalá, "El control de convencionalidad y el diálogo interjurisdiccional entre tribunales nacionales y la Corte Interamericana de Derechos Humanos", *Revista de Derecho Constitucional Europeo*, vol. 10, Nº 19 (2013), p. 222; Aguilar, supra note 33, pp. 636 and 645.

[35] Carbonell, supra note 24, pp. 79-83; Nogueira, supra note 34, pp. 233 and 245; Ferrer, supra note 19, pp. 655-682 and 688-693.

[36] María Angélica Benavides Casals, "El efecto *erga omnes* de las sentencias de la Corte Interamericana de Derechos Humanos", *International Law: Revista Colombiana de Derecho Internacional*, Nº 27 (2015), pp. 141-166; Hitters, supra note 19, pp. 695-710; Ferrer, supra note 19, pp. 652-655, 662-677 and 688-693.

The same is happening with the *soft law* created by other human rights treaty bodies: committees and commissions. Despite not being binding, *soft law* is of crucial importance today, as it ultimately shows how these bodies "see" or understand the treaties that they are supposed to interpret. And it is in accordance with this *soft law* that these "censors of the world" judge whether or not the States are complying with human rights, making their legitimacy depend on it.[37]

Therefore, we are faced with the existence of *two parallel legal orders,* the national and the international, the latter demanding complete obedience from the former.

3. The relationship between these two parallel legal orders

Even when it is not the only factor –because they all complement and reinforce each other–, to better understand the foregoing, it is absolutely necessary to take into account in particular the principle of "minimum standard" to which reference has already been made, which is linked and derives from the multilateral consensual origin of human rights treaties.

Now, if we look closely, the situation is surprising. Indeed, the fact that the interpretation of human rights treaties made by their treaty bodies is considered to be the "minimum standard", implies that their defenders take for granted that their way of understanding these rights is correct and indisputable, or if we prefer, that it can't be wrong. Hence, one could speak in this regard of a kind of "infallibility complex".

The above would derive from the fact that original treaties are the product of international consensus, whether regional or universal, which is why considering that this consensus could be wrong is intolerable. That is why it was pointed out that this international law is currently becoming a new "Natural Law", although created, not discovered, to the point where even some of its defenders today give it an almost semi-divine character. However, it must be remembered that this original consensus has been "highjacked" and obscured by the monopolistic leadership and uncontrolled interpretation carried out by these guardian bodies.

Consequently, through this "authoritative criterion", these "censors of the world" intend to monopolize the notion of right and wrong at a global level, demanding

[37] Max Silva Abbott, "Algunos de los nuevos derechos humanos como instrumentos de dominación", in: Manuel Ramos-Kuri, Augusto Herrera Fragoso, Manuel Santos, eds, *El Embrión Humano. Una Defensa Desde la Antropología, la Biología del Desarrollo y los Derechos Humanos*, Tirant Lo Blanch 2019, pp. 505-510.

complete obedience from democratic national legal systems to achieve its legitimacy (dictatorships do not take them into account).

These bodies require "periodic reports" from the States, in order to "monitoring the commitments undertaken" and "may formulate such observations and recommendations as it deems pertinent" (or judge the States, if it is a court), for the "progressive compliance" of these treaties.[38]

The foregoing explains why this parallel international legal order requires that national legal systems must adapt without delay to their criteria, taken as the "minimum standard", exceeding it, if possible, but never contradicting it.[39]

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[38] The guardian bodies of human rights treaties in the region are:
a) The "Inter-American Commission on Human Rights" and the "Inter-American Court of Human Rights", created by the American Convention of Human Rights, "Pact of San Jose, Costa Rica" (Arts. 33-51, 70 and 73; 33 and 52-73, respectively).
b) The Inter-American Convention to Prevent and Punish Torture, refers to these same organizations (Art. 17).
c) The "Inter-American Economic and Social Council", and the "Inter-American Council for Education, Science and Culture", established in the Additional Protocol to the American Convention on Human Rights in The Area of Economic, Social and Cultural Rights, "Protocol of San Salvador". It is also possible to go to the Commission and the Inter-American Court (Art. 19).
d) The "Inter-American Commission of Women" was created by the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, "Convention of Belém Do Pará" (Arts. 10, 11 and 19).
e) The Inter-American Convention on Forced Disappearance of Persons, is also referred to the Commission and the Inter-American Court (Arts. XIII and XIV).
f) The "Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities", was created by the Inter-American Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities. It is also possible to go to the Commission and the Inter-American Court (Art. VI).
g) The "Inter-American Committee for the Prevention and Elimination of Racism, Racial Discrimination, and All Forms of Discrimination and Intolerance", was established by the Inter-American Convention Against Racism, Racial Discrimination and Related Forms of Intolerance. In the same way, it is also possible to turn to the Commission and the Inter-American Court (Art. 15).
h) Exactly the same organizations are referred to in the Inter-American Convention Against All Forms of Discrimination and Intolerance (Art. 15).
i) Finally, in addition to the tasks that are also assigned to the Commission and the Inter-American Court (Art. 36), The "Conference of States Parties" and a "Committee of Experts", was created by the Inter-American Convention on Protecting the Human Rights of Older Persons (Arts. 33-35).

[39] Eduardo Ferrer Mac-Gregor and Carlos María Pelayo Möller, *Las obligaciones generales de la Convención Americana sobre Derechos Humanos (Deber de respeto, garantía y adecuación de derecho interno)*, UNAM / Instituto de Investigaciones Jurídicas / Comisión Nacional de los Derechos Humanos, *passim* (2017).

However, regardless of this situation's legitimacy –or lack thereof–, it is impossible for national legal systems to adapt so quickly to the evolving and flexible interpretation of international law.[40] And surely this is one of the reasons for the jurisprudential emergence of the doctrine of conventionality control by the Inter-American Court, which orders domestic judges to prioritize international criteria over local ones when resolving human rights cases, as mentioned earlier.

In this way, thanks to the control of conventionality, this "minimum standard" emanating from the jurisprudence of the Inter-American Court, always ends up winning –always–[41]. This occurs, evidently, by failing to apply local regulations in favor of international ones. But the same thing happens when carrying out a "compliant interpretation", since it is guided and dominated by these foreign criteria, so that its effects can be as drastic as those of non-application.[42] And finally, it also happens if the local standard is used, since this is possible and has been authorized only because this "minimum standard" has been adopted and exceeded. Consequently, implicitly or explicitly, the criteria of this parallel international law always end up being applied.

Therefore, it is always local law that must adapt to international law, but not the other way around. Thus, a notable "legal Copernican twist" occurs between States and international law, as states end up being dominated by their own creation.

Obviously, the above is not mentioned, at least openly. Instead, it is pointed out that there would be no hierarchy between national and international law,[43] since

[40] Max Silva Abbott, "La doctrina del control de convencionalidad: más problemas que soluciones", in: Max Silva Abbott ed., *Una Visión Crítica del Sistema Interamericano de Derechos Humanos y Algunas Propuestas Para Su Mejor Funcionamiento*, Tirant Lo Blanch 2019, pp. 200-205.

[41] For example, thanks to the downgrading of the status of the unborn child (Inter-American Court of Human Rights, *Case of Artavia Murillo et al. (In Vitro Fertilization) v. Costa Rica*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 28, 2012. Series C Nº 257); the evolution of the concept of family (Inter-American Court of Human Rights, *Case of Atala Riffo ad daughters v. Chile*. Merits, Reparations and Costs. Judgment of February 24, 2012. Series C Nº 239); new forms of discrimination (Inter-American Court of Human Rights, *Case of Pavez Pavez v. Chile*. Merits, Reparations and Costs. Judgment of February 4, 2022. Series C Nº 449) or indigenous property (Inter-American Court of Human Rights, *Case of the Afro-descendant Communities desplaced from the Cacarica River Basin (Operation Genesis) v. Colombia*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2013. Series C Nº 270). All these matters have been influencing the legal systems of the region.

[42] In part and indirectly, Sagüés, supra note 27, pp. 17-18.

[43] Paola Andrea Acosta Alvarado, "Zombis vs. Frankenstein: sobre las relaciones entre el

both must work together in their common task of protecting human rights,[44] being possible to resort to one or the other under the *"pro homine"* principle,[45] independently of the formal rules of each one.[46]

However, international law always ends up triumphing, both for reasons of "form" and "substance". In form, since it establishes the rules of their mutual relationship (mainly thanks to the "*pro homine*" principle); and in substance, because by virtue of "minimum standard", international criteria always end up prevailing, whether openly or covertly.[47]

This is the reason why it is highly debatable that International Human Rights Law today has a "subsidiary" character, as its promoters insist.[48]

The foregoing means that the role of the States (at least the democratic ones) would become increasingly supportive and secondary, limiting themselves to humbly following or improving international criteria (thus losing considerable sovereignty and democratic self-determination), becoming a kind of amplifier of it, and placing all their resources at their disposal to make them come true. For this reason, conventionality control is also intended to be applied to the executive

Derecho Internacional y el Derecho interno", *Estudios Constitucionales*, vol. 14 Nº 1 (2016), pp. 29-31 and 53-55; Aguilar and Nogueira, supra note 13, p. 16; Castilla, supra note 25, p. 598.

44 Murillo, supra note 27, p. 25.

45 Castilla, supra note 10, pp. 149-153; Caballero, supra note 18, pp. 109-112, 128 and 130; Nogueira, supra note 18, pp. 1202-1203.

46 Henríquez and Núñez, supra note 22, pp. 338-339; partly, Nash and Núñez, supra note 26, pp. 224-225; Acosta, supra note 43, p. 33 (warning about this situation, from various perspectives and using different terminology).

47 Max Silva Abbott, "El control heterónomo de convencionalidad", in: Manuel Núñez Poblete ed., *Derecho Internacional, Derechos Humanos y Democracia. Liber Amicorum Eduardo Vio Grossi,* Universitarias de Valparaíso 2022 (forthcoming; developing this idea).

48 Juana Ibáñez Rivas, "Control de convencionalidad: precisiones para su aplicación desde la jurisprudencia de la Corte Interamericana de Derechos Humanos", *Anuario de Derechos Humanos*, vol. 8 (2012), p. 112; Manuel Núñez Poblete, "Introducción al concepto de identidad constitucional y a su función frente al derecho supra nacional e internacional de los derechos de la persona", *Ius et Praxis*, vol. 14 Nº 2 (2008), pp. 351-353; Karlos Castilla Juárez, "La independencia judicial en el llamado control de convencionalidad interamericano", *Estudios Constitucionales*, vol. 14 Nº 2 (2016), pp. 86-87 and 90; Néstor P. Sagüés, "El Control de Convencionalidad en Argentina. ¿Ante las Puertas de la «Constitución Convencionalizada»?", Conselho Nacional de Justiça 2016, p. 112; Eduardo Vio Grossi, "Jurisprudencia de la Corte Interamericana de Derechos Humanos: ¿del control de convencionalidad a la supra nacionalidad?", *Anuario de Derecho Constitucional Latinoamericano*, vol. XXI (2015), pp. 100-101.

and legislative branches,[49] so that they do not deviate from the jurisprudence of the Court when issuing their rules (laws, decrees, regulations, etc.), seeking to reach a sort of legal monism.

Similarly, democratic decisions would be limited by the "minimum standard",[50] generating a kind of democracy that is "tutored" or "protected" by these international human rights from a hierarchical approach. Local judges would thus become the first guardians to guarantee their submission through the application of conventionality control,[51] which is why a growing and aggressive judicial activism is advocated by delegates of the Inter-American Court.[52] And the same could happen with constituent power.[53]

The idea is to produce a growing standardization between both normative orders,[54] for which the Inter-American Court intends to become a continental constitutional court[55] and the American Convention on Human Rights a continental

[49] Eduardo Ferrer Mac-Gregor, "Control de Convencionalidad (Sede Interna)", in: Mac-Gregor et al., eds, *Diccionario de Derecho Procesal Constitucional y Convencional: Instituto de Investigaciones Jurídicas*, Universidad Nacional Autónoma de México 2014, p. 238; Nogueira, supra note 12, pp. 85, 93-94, 102-103 and 128; Sagüés, supra note 27, p. 18; Contreras, supra note 29, pp. 255-257.

[50] Aguilar, supra note 6, pp. 337-365; Víctor Bazán, "El Control de Convencionalidad: Incógnitas, Desafíos y Perspectivas", in: Víctor Bazán and Claudio Nash, *Justicia Constitucional y Derechos Fundamentales. El Control de Convencionalidad 2011*, Universidad de Chile 2012, p. 30; Hitters supra note 19, pp. 705-707; Ibáñez, supra note 48, pp. 103-104 and 109-113; Nash, supra note 19, pp. 498-499.

[51] Armin Von Bogdandy *et al.*, "A manera de prefacio. *Ius Constitutionale Commune* en América Latina: un enfoque regional del constitucionalismo transformador", in: Armin von Bogdandy, Mariela Morales Antoniazzi, Eduardo Ferrer Mac-Gregor, eds, *Ius Constitutionale Commune en América Latina. Textos Básicos Para Su Comprensión*, op. cit., p. 34; Murillo, supra note 27, p. 20; García Jaramillo, supra note 27, p. 138.

[52] Sergio García Ramírez, "Sobre el control de convencionalidad", *Pensamiento Constitucional*, Nº 22 (2016), p. 182; Armin Von Bogdandy, "*Ius constitutionale commune* en América Latina. Aclaración conceptual", in: Armin Von Bogdandy, Mariela Morales Antoniazzi, Eduardo Ferrer Mac-Gregor, eds, *Ius Constitutionale Commune en América Latina. Textos Básicos Para Su Comprensión*, op. cit., pp. 156-161; García Jaramillo, supra note 27, pp. 134, 136-143, 158-160 and 162; Piovesan, supra note 5, pp. 78 and 80-81.

[53] Néstor P. Sagüés, "Nuevas fronteras del control de convencionalidad: el reciclaje del derecho nacional y el control legisferante de convencionalidad", *Revista de Investigações Constitucionais*, vol. 1 Nº 2 (2014), pp. 26-27; Morales, supra note 1, pp. 433-434; Sagüés, supra note 25, p. 276.

[54] Filiberto Manrique Molina *et al.*, "Los retos y dificultades operativas del control de convencionalidad: una mirada desde el sistema jurídico mexicano", *Conflicto & Sociedad*, Vol. 3, N°2 (2015), pp. 20-21; Ibáñez, supra note 5, pp. 69-70.

[55] Ariel E. Dulitzky, "An Inter-American Constitutional Court? The Invention of the Conventionality Control by the Inter-American Court of Human Rights", 50 *Texas International*

constitution.[56] Therefore, it is intended that all the democratic States apply the *res interpretata* of this court with *erga omnes* effects, thanks to the work of their local judges (and other authorities) through the conventionality control doctrine. This system of precedents[57] (let us not forget: they are only the "minimum standard") aspires to homogenize local legal systems and achieve a "public order",[58] or an "inter-American *ius commune*"[59] on the continent, arriving at something similar to global constitutionalism.[60]

Therefore, the foundation of legitimacy of this process of primacy of International Law is the "minimum standard" (which is becoming increasingly demanding by virtue of the "principle of progressive development" or "no regression"); the tool to open the doors to the direct or indirect application of international law is the *"pro homine"* principle; and conventionality control would become the practical and concrete application of all of the above.[61]

Law Journal 46 (2015), pp. 64-65; Lawrence Burgorgue-Larsen, "La Corte Interamericana de Derechos Humanos como Tribunal Constitucional", in: Armin von Bogdandy, Héctor Fix-Fierro, Mariela Morales Antoniazzi, eds, *Ius Constitutionale Commune en América Latina. Rasgos, Potencialidades y Desafíos*, op. cit., pp. 421-457; Binder, supra note 25, pp. 169-170; Eduardo Ferrer Mac-Gregor, "El control difuso de convencionalidad en el Estado constitucional", pp. 187-188, https://archivos.juridicas.unam.mx/www/bjv/libros/6/2873/9.pdf (last visited Oct. 20, 2023).

56 Nogueira, supra note 18, p. 1188; Bazán, supra note 50, p. 25; Néstor P. Sagüés, "El 'control de convencionalidad', en particular sobre las constituciones nacionales", *La Ley* (2009), pp. 3-4, https://www.joseperezcorti.com.ar/Archivos/DC/Articulos/Sagues_Control_de_Convencionalidad_LL_2009.pdf (last visited Oct. 20, 2023).

57 Caballero, supra note 18, p. 133; Sagüés, supra note 27, p. 18; Hitters, supra note 19, pp. 705 and 707 (similar ideas, from different angles and depth).

58 Manuel Becerra Ramírez, "La jerarquía de los tratados en el orden jurídico interno. Una visión desde la perspectiva del Derecho Internacional", in: Sergio García Ramírez and Mireya Castañeda Hernández, eds, *Recepción Nacional del Derecho Internacional de los Derechos Humanos y Admisión de La Competencia de la Corte Interamericana*, Universidad Nacional Autónoma de México 2009, pp. 301-304; Humberto Nogueira Alcalá, "El uso del derecho convencional internacional de los derechos humanos en la jurisprudencia del Tribunal Constitucional chileno en el período 2006-2010", in: *Revista Chilena de Derecho*, Vol. 39 Nº1 (2012), p, 152; Ferrer, supra note 19, pp. 686 and 679-682.

59 García Ramírez, supra note 52, p. 175; Dulitzky, supra note 24, p. 548; Néstor P. Sagüés, "El «Control de convencionalidad» como instrumento para la elaboración de un *ius commune* interamericano", pp. 449-451 and 467, https://archivos.juridicas.unam.mx/www/bjv/libros/6/2895/15.pdf (last visited Oct. 20, 2023).

60 Aguilar, supra note 26, pp. 116, 116, 119 and 143; García, supra note 1, p. 122; Jorge Enrique Carvajal Martínez and Andrés Mauricio Guzmán Rincón, "Las instituciones del Sistema Interamericano de Protección a los derechos humanos: un análisis a sus procedimientos y orientación estratégica", *Revista Republicana*, vol. 22 (2017), pp. 190, 198-203 and 205.

61 Silva, supra note 47 (forthcoming).

4. Towards a single thought protected by the State

The remarkable prestige that human rights still have in the West, hand in hand with the work of their monitoring bodies, armed with an "infallibility complex", is imposing, with less and less dissimulation, a single thought that is increasingly difficult to resist, since it is currently considered that no one can be so heartless and vile not to enthusiastically support something as good and necessary for today's world as human rights,[62] elevated as it has been said, to the category of a new "Natural Law".

That is why human rights end up imposing their way of seeing things (by having a kind of *priority pass*), making dissidence or criticism increasingly difficult. Thus, because everything they "touch" becomes a dogma in our societies –despite its increasingly hierarchical origin–, what we call a "talisman effect" of human rights. But in addition, we must not forget that these rights are under permanent construction and reconstruction by the "censors of the world", raising the bar of the "minimum standard" more and more, thanks to the principle of progressive interpretation or no regression.

In fact, they have become so dogmatic, that those who disagree with their point of view will generally be accused of being arbitrary, discriminatory or of advocating hate speech. These are the "hinge-concepts", that seek to take out immediately and without the right to appeal anyone who opposes this dominant discourse.

Consequently, those who do not accept this state of affairs will be considered "heretics" of our time, and even a danger to society. For this reason, and in the name of these same human rights, they could be deprived of their own rights, despite human rights' supposedly universal nature, by opposing this kind of "hive thinking" that has ended up prevailing.

In short, these human rights would end up generating an authentic "thought police", ultimately dependent on these "censors of the world".

Finally, another aspect of great importance today, derived from the submission that is intended of democratic national legal systems to international law, is the growing role of the State in the implementation of these rights, which must be of

[62] Indirectly, Aguilar, supra note 6, pp. 344 and 346; Morales, supra note 2, pp. 273-274; Murillo, supra note 27, p. 20.

total support to making them a reality.[63] The foregoing, due to having freely and sovereignly committed to it by signing the treaties that gave rise to it.[64]

That is why it was pointed out that today a substantive content of national law is required. And since these rights have become a new "secular religion", we are ultimately in the presence of "confessional States",[65] being forced to adopt this substantive content derived from the "minimum standard" on which their legitimacy depends.

For the same reasons, since they are automatically assigned a positive content, human rights must affect all spheres of life.[66] With which, they give the State the perfect excuse to interfere in all areas of the existence of its citizens (life, family, childhood, sexuality, freedom of conscience, opinion, property, etc.). Therefore, far from being a kind of "shield" to protect against certain State interference to guarantee an area of freedom, today, the current human rights are quite the opposite.

5. Some conclusions

Perhaps the most important thing is to realize that the supporters of this process intend to give rise to two parallel legal orders, with international law as dominant and legitimizing, by endowing it with infallibility and unquestionable superiority (almost a deification), regarding it as the "minimum standard", and trying to turn the States into its mere executing instruments. This, because international law can always modify national law but not the opposite, except to improve it.

Thus arises a "heteronomous conventionality control" that forces local law to permanent adaptation.[67]

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[63] Ferrer and Pelayo, supra note 39, *passim*.

[64] Bazán, supra note 25, pp. 173-174; Sergio García Ramírez, "Admisión de la competencia contenciosa de la Corte Interamericana de Derechos Humanos", in: Sergio García Ramírez and Mireya Castañeda Hernández, eds, *Recepción Nacional del Derecho Internacional de los Derechos Humanos y Admisión de la Competencia de la Corte Interamericana*, Universidad Nacional Autónoma de México 2009, pp. 28-31; Aguilar, supra note 26, pp. 137 and 158.

[65] "Leyes LGTBI: el nuevo confesionalismo de Estado", *Aceprensa*, 7 October 2016, https://www.aceprensa.com/sociedad/leyes-lgtbi-el-nuevo-confesionalismo-de-estado/ (last visited Oct. 20, 2023).

[66] Cançado, supra note 4, pp. 87-88, 179-180, 279, 366 and 413-424.

[67] Silva, supra note 47 (forthcoming).

Today's human rights, the "secular religion" of our time, seek to arrive at a single thought, by transforming what they defend into dogma (the "talisman effect"), and prohibiting dissent. But being in permanent construction and reconstruction, and not being a reality to discover but to invent, they are a perfect Trojan horse to introduce the content desired by the "censors of the world", and thus impose "human duties" on societies, being endowed with a presumption of legitimacy and considered a kind of new "Natural Law".

For the same reason, these rights allow the State to intervene and regulate everything, becoming a "Big Brother", to promote them, establish them, punish those who violate them and prevent future violations thereof. Consequently, and paradoxically, far from being a protection for our freedoms, human rights as we know them, are becoming a new form of totalitarianism and a subtle but effective instrument of domination.

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