

The Brazilian modernism and the new Latin American constitutionalism: value the native and decolonize¹

O modernismo brasileiro e o novo constitucionalismo latino-americano: valorizar o nativo e descolonizar

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Abstract

The general objective of this research is to analyze the points in common between Brazilian Modernism and the New Latin American Constitutionalism regarding the valorization of the nativist feeling and decolonization. In methodological terms, the textual language is set via systematic reading. This is an exploratory research. It was used as a technical procedure the survey of bibliographic data, as well as statistical data, so that the research technique used is the bibliographic. Regarding the results and conclusions, it is clear that the appreciation of the native and decolonization are common aspects of the studied movements, since the first touches on the national awareness for the production of art in the country, independent of European models, and the second proposes a decolonization from the rescue of essence in actions to resist domination and exploitation and re-exist.

Keywords: Appreciation of the native; Brazilian Modernism; Decolonize; Latin American Constitutionalism.

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Resumo

o objetivo geral desta pesquisa é analisar os pontos em comum entre o Modernismo Brasileiro e o Novo Constitucionalismo Latino-americano quanto à valorização do sentimento nativista e à descolonização. Quanto à metodologia, a linguagem textual está posta via uma leitura sistemática. Trata-se de uma pesquisa exploratória. Utilizou-se como procedimento técnico o levantamento de dados bibliográficos, assim como dados estatísticos, de modo que a técnica de pesquisa empregada é a bibliográfica. No que diz respeito aos resultados e às conclusões, percebe-se que a valorização do nativo e a descolonização são aspectos comuns dos movimentos estudados, uma vez que o primeiro aflora a consciência nacional para a produção de arte do país independente dos modelos europeus e o segundo propõem uma descolonização a partir do resgate da essência em ações para resistir à dominação e exploração e, assim, reexistir.

Palavras-chave: Descolonizar; Modernismo Brasileiro; Novo Constitucionalismo Latino-americano; Valorização do nativo.

Introduction

It is recurrent to perceive contests between the colonizing western culture and the native (or originating) values of the dominated and exploited countries. The Brazilian Modernism and the New Latin American Constitutionalism are movements that aim to reflect on the servitude and submission of the peripheral region in relation to Europe, especially with regard to cultural, socioeconomic, and political systems.

The general objective of this research is to analyze the points in common between the two movements regarding the valorization of the nativist feeling and decolonization. In this way, it is questioned to what extent there are affinities between the Brazilian Modernism and the New Latin American Constitutionalism about the epistemological rupture of the precepts based on models of European countries.

Therefore, the first specific aim studies Brazilian Modernism, highlighting the manifestation of national consciousness, the Week of Modern Art of 1922 (as an exponent of the movement), the eagerness to destroy conservatism and the expansion of the nativist feeling (that is, brazilianness), especially for purposes to promote the development of artistic expressions independent of European paradigms.

The second specific objective is to examine the New Latin American Constitutionalism, the idea of coloniality of power, some aspects related to decolonization and the rescue of the essence of multifaceted societies. At this point, are highlighted the three cycles of the movement (multicultural, pluricultural and plurinational). Finally, the last moment of this research verifies the elements that resemble the two movements in question.

As for the results (and conclusions too) of this study, it is clear that the appreciation of the native, as well as decolonization, are common aspects of the Brazilian Modernism and the New Latin American Constitutionalism, because the first touches on the national conscience for the production of art of the country – independent of European models – and the second proposes a decolonization based on the rescue of the essence in actions to resist domination and exploitation and re-exist.

In relation to research methods it is possible to say that textual language is set through a systematic reading. This is an exploratory research. It was used as a technical procedure the survey of bibliographic data, as well as statistical data, so that the research technique used in the investigation is the bibliographic.

1. Modernism in Brazil: exaltation of national culture

The history of America did not begin in 1492. Christopher Columbus did not discover the “New World” – which already existed –, he only found it. The devaluation of the fact that the American continent had a civilizational plot before the arrival of the Europeans is typical. Further, there is a common misalignment of feelings regarding the exaltation of western culture and the exaltation of values originating in Latin America, especially with regard to artistic expressions.

Colonization transplanted and imposed on the peoples of Latin America not only the language and religion of the colonizers, but also

an entire socioeconomic, political and cultural system, conceived for a completely different context from the American one: a system founded on a predominantly ethnocentric interpretation of the world, which gave rise to the distorted and distorted perspective through which, for centuries, the reality of those young nations was analyzed. The same ideologically alienating perspective allowed and justified colonization.³

It is possible to assert that in Brazil (as well as in other Latin American states) intellectuals were constantly torn between the urge to promote the precepts of internal culture and the almost irresistible attraction to European culture. This dichotomy is seen within the literature, solely for example, which sometimes privileges the ideology of the metropolis, sometimes intends to subvert that system, a situation that causes conflicts of national interests versus colonial interests⁴.

Despite the strength of the western “enchantment”, around the 1920s there was an awakening in Brazil, with a certain fervor, to the internal gaze. In this way, the Brazilian Modernism was the first genuinely Brazilian movement, that is, a true cry of the national conscience, which guaranteed a place of prominence to certain groups, because they have become cultural and political symbols of the transformational powers coming from this region, which is considered peripheral⁵.

In this perspective, the cultural modernization movement in Brazil was promoted by artists and intellectuals in the city of São Paulo. One of the main initial point is the painting exhibition by Anita Malfatti, in 1917⁶. Furthermore, it is highlighted that the great symbol of rupture was the Week of Modern Art, which

³ Original text: “*um inteiro sistema socioeconômico, político e cultural, concebido para um contexto completamente diferente do americano: um sistema fundado numa interpretação preponderantemente etnocêntrica do mundo, que originou a ótica distorcida e deformada pela qual, por séculos, se analisou a realidade daquelas jovens nações. A mesma ótica ideologicamente alienante permitiu e justificou a colonização*”. OLIVEIRA, Vera Lúcia de. **Poesia, mito e história no Modernismo brasileiro**. Unesp, 2001. p. 13.

⁴ OLIVEIRA, Vera Lúcia de. **Poesia, mito e história no Modernismo brasileiro**. p. 13.

⁵ SIMIONI, Ana Paula Cavalcanti. *Modernismo brasileiro: entre a consagração e a contestação. Perspective: Actualité en histoire de l'art*, n. 2, 2013.

⁶ “The Exhibition of Modern Painting - Anita Malfatti, held in São Paulo, between December 12, 1917 and January 11, 1918, is considered a milestone in the history of modern art in Brazil and the trigger of the Week of Modern Art in 1922, under the terms of historian Mário da Silva Brito.” Original text: “*A Exposição de Pintura Moderna - Anita Malfatti, realizada em São Paulo, entre 12 de dezembro de 1917 e 11 de janeiro de 1918, é considerada um marco na história da arte moderna no Brasil e o “estopim” da Semana de Arte Moderna de 1922, nos termos do historiador Mário da Silva Brito.*” Therefore, for more information about the exhibition, consult the website: <https://enciclopedia.itaucultural.org.br/evento238102/exposicao-de-pintura-moderna-anita-malfatti>.

took place in 1922, while the terminal reference is the year 1945, when the cultural panorama began to acquire a new configuration⁷.

However, it is necessary to be clear that the origin (or origins) of Brazilian Modernism is under permanent discussion. In this sense, it is evident that the most widespread view is that the trigger for the modernist movement occurred in 1922 in São Paulo, but there are differences as to what is meant by Modernism, as well as regional cleavages involving some groups of intellectuals, universities, museums, galleries and collectors⁸.

Despite recognizing the divergences, this research considers that the starting point of Brazilian Modernism is the “Modern Art Week”, in 1922, which took place at the Municipal Theater of São Paulo⁹, in which there were several artistic events (literary, musical and plastic). For many people, this event represents an important change in the history of Brazilian art¹⁰.

The Week of Modern Art was organized on the occasion of the centenary of the Independence of Brazil, so that the defense of a new point of view aesthetic and the commitment to the country's cultural independence made modernism synonymous with “new style”, directly associated with the production carried out under the influence of 1922¹¹.

Thus, it is possible to affirm that the main function of the “Week of 22” for the history of Brazilian art was to break the prevailing conservatism in the cultural scene at the time. There was no concept that united the artists, nor a definite aesthetic program. The intention was to destroy the *status quo*¹².

That said, the Brazilian modernist movement arose from an urge for affirmation, which came from the establishment of the Republic in 1889, that is, it

⁷ NASCIMENTO, Evando Batista. A Semana de Arte Moderna de 1922 e o Modernismo Brasileiro: atualização cultural e “primitivismo” artístico. **Gragoatá**, v. 20, n. 39, 2015. p. 378.

⁸ SIMIONI, Ana Paula Cavalcanti. Modernismo brasileiro: entre a consagração e a contestação.

⁹ For more information about the Municipal Theater of São Paulo, one of the largest Opera Houses in Brazil, it is suggested to visit the website: <https://theatromunicipal.org.br/pt-br/theatro-municipal/>.

¹⁰ SIMIONI, Ana Paula Cavalcanti. Modernismo brasileiro: entre a consagração e a contestação.

¹¹ SÃO PAULO. **Saiba mais sobre a Semana de 22**. Available at: <https://www.cultura.sp.gov.br/semana22/>. Accessed on: 4 nov. 2021.

¹² SÃO PAULO. **Saiba mais sobre a Semana de 22**.

can be said that there was a desire to break with the nineteenth-century intellectuality and academicism in the visual arts¹³.

In other words, it can be said that was born the affirmation of a desire to expand and spread the nativist feeling regarding the physical and cultural reality that, until then, was neglected by the elites who identified with Europe¹⁴.

Thus, it can be said that this nationalist statement, that is, Brazilianness, with all that it implies

of dimensioning the modernist proposal and even redefining what is understood as being modern, it only constituted an inquiry for the modernists in the unfolding of their discussion on modernity. It can even be said that the nationalist vocation of modernism, which broadly manifests itself from 1924 onwards is the point of arrival of a line of inquiries about the entry of Brazilian artistic production into the order of modernity. And that, when placed in all its complexity, the question of Brazilianness made it possible, on the part of those who defended the modernizing project, to define the very concept of modernity for the Brazilian case¹⁵.

Furthermore, it is important to state that Brazilian Modernism considered that the spirit of the country was in the cultural sources of the people and, therefore, sought to articulate it in an avant-garde art. Brazil asked for its own being in relation to the outside world, without copying and without isolating itself from it. The fact is that it was not just a matter of producing modern art and life in Brazil (being made in Brazil), but of composing modern Brazilian art and life (being from Brazil)¹⁶.

¹³ AMARAL, Aracy. O modernismo brasileiro e o contexto cultural dos anos 20. **Revista Usp**, n. 94, p. 9-18, 2012.

¹⁴ AMARAL, Aracy. O modernismo brasileiro e o contexto cultural dos anos 20.

¹⁵ Original text: “*de dimensionamento da proposta modernista e até de redefinição daquilo que se entende como sendo moderno, só constituiu uma indagação para os modernistas no desdobramento de sua discussão sobre a modernidade. Pode-se mesmo afirmar que a vocação nacionalista do modernismo que se manifesta grosso modo a partir de 1924 é o ponto de chegada de uma linha de indagações sobre o ingresso da produção artística brasileira na ordem da modernidade. E que, ao ser colocada em toda a sua complexidade, a questão da brasilidade possibilitou, da parte daqueles que defendiam o projeto modernizador, a definição do próprio conceito de modernidade para o caso brasileiro.*” MORAES, Eduardo Jardim de. Modernismo revisitado. **Revista Estudos Históricos**, v. 1, n. 2, p. 220-238, 1988.

¹⁶ DUARTE, Pedro. O Modernismo interdisciplinar do Brasil. **Convergência Lusíada**, v. 26, n. 34, 2015.

There was an identification of Brazilian modernist language with native expression. It is noteworthy, in this sense, that the dimensioning of life (intellectual and artistic) in Brazil in the 20th century led to

the directions of modern Brazilian culture, expressed in the combination of a modernist spirit with the construction of portraits of the country; of a thought and an art tied to the bonds of the formation of the modern nation. In this process, the language of the avant-gardes was born among us, affirming our particularities; in sync with the modernization projects, it highlighted our singularities, weaving the links between culture and modernization¹⁷.

The central exaltation of the country's culture, prominent in Brazilian modernism, is present in the work of many artists of the time, including Maria Martins¹⁸. In an exhibition at the MASP, Museum of Art of São Paulo Assis Chateaubriand, (from August 2021 to January 2022) entitled “Maria Martins: *desejo imaginante*”¹⁹ the description of the sculpture “*Uirapirú*”, from 1944, converges with what has been exposed here by stating that in the first half of the 20th century, many Brazilian modernist artists resorted to elements of indigenous

¹⁷ Original text: “os rumos da moderna cultura brasileira, expressos na combinação de um espírito modernista com a construção de retratos do país; de um pensamento e uma arte presos às amarras da formação da nação moderna. Nesse andamento, a linguagem das vanguardas vicejou entre nós afirmando nossas particularidades; em sincronia com os projetos de modernização destacou nossas singularidades, tecendo os ligamentos entre a cultura e a modernização.” ARRUDA, Maria Arminda do Nascimento. Modernismo e regionalismo no Brasil: entre inovação e tradição. **Tempo social**, v. 23, n. 2, p. 191-212, 2011.

¹⁸ “As a Brazilian, and as a sculptor, she maintained a magical and passionate relationship with her personal life and her sculptural production. Her production is marked by an autobiographical, intimate, existentialist and nationalist theme, where the artist shows the tropical and sensual nature of Brazil. Its language is biomorphic and surreal, through its refined technique in bronze. Maria played an important role in contributing to international modern art museums, in addition to being one of the founders of the Rio de Janeiro and São Paulo biennials. [...] Maria is an important figure for having been a woman ahead of her time, representing Brazil abroad through myths and the exuberance of the Amazon.” Original text: “Como brasileira, e como escultora, manteve uma relação mágica e passional de sua vida pessoal e sua produção escultórica. Sua produção é marcada pela temática autobiográfica, intimista, existencialista, e nacionalista, onde a artista mostra a natureza tropical e sensual do Brasil. Sua linguagem é biomórfica e surrealista, através de sua técnica apurada no bronze. Maria teve grande relevância na contribuição para os museus de arte moderna internacionais, além de ser uma das fundadoras das bienais do Rio de Janeiro e de São Paulo. [...] Maria é uma figura importante por ter sido uma mulher à frente de seu tempo, representando o Brasil no exterior através de mitos e da exuberância da Amazônia.”. SILVA, Rebecca Corrêa; MARTINELLE, Stella Weicamp; SILVA, Ursula Rosa da. **A escultura surrealista de Maria Martins**. XVII CIC; C Enpos, 2008.

¹⁹ For more information about the exhibition, see the link: <https://masp.org.br/exposicoes/maria-martins>.

and afro-Brazilian cultures to build a real Brazilian art, independent of European models.²⁰

This description can be seen in the following photographs, the first of which is an image of the sculpture “*Uirapirú*”,²¹ the second presents your description²², placed in the lower right-hand corner of the sculpture:

Image 1 and 2: sculpture and the description of the sculpture “*Uirapirú*”.



Source: Foto de Talissa Truccolo Reato²³.

It is noticed that the Brazilian Modernism reveals a disposition aimed at the liberation of European orientations, that is, an appreciation of the native culture of Brazil. This situation of western preponderance is not isolated in artistic expressions, so much so that it is present in Latin American legal institutions. Thus, the movement of the New Latin American Constitutionalism (NCLA), which

²⁰ MASP. Exhibit “**Maria Martins: desejo imaginante**” – sculpture description “*Uirapirú*”, 1944. Bronze. Private collection. 2021.

²¹ REATO, Talissa Truccolo. **Fotografia Uirapirú 1 MASP**. ISO 640. 3,68 MB. Dimensions 3024x4032. Photographed on: 29 oct. 2021.

²² REATO, Talissa Truccolo. **Fotografia Uirapirú 3 MASP**. ISO 640. 3,08 MB. Dimensions 3024x4032. Photographed on: 29 oct. 2021.

²³ REATO, Talissa Truccolo. **Fotografia Uirapirú 1 MASP**; REATO, Talissa Truccolo. **Fotografia Uirapirú 3 MASP**.

emerged in the 1980s, proposes a decolonizing project, which is studied in the next fragment of this research, to later verify if there is a convergence between the objective of valuing what is native to Brazil (typical of Brazilian modernism) and the precepts in favor of decolonization present in the NCLA.

2. New Latin American Constitutionalism and its decolonizing project

The term “colonize” means to migrate and settle in another territory, including as the first or main inhabitants. It can be said that colonizing expresses the desire to propagate, spread and, also, invade²⁴. In this sense, it is possible to reflect that in Latin America the feeling of invasion prevails, because the Europeans of the 16th century not only seized the region's wealth, but also imposed their culture, politics, religion, etc. in many circumstances, such as the history presents.

In this way, the conquest of America configures the so-called “coloniality of power”, which took place in the same process in which globality emerged, in the sense of world interconnection, as well as the constitution of the capitalist mode of production. Thus, it can be said that these central movements have as their main consequence the emergence of an unprecedented system of domination and social exploitation, and with them a new model of conflict²⁵.

At this point, it is adduced that coloniality had great impacts on the social foundation of Latin America, since it founded the conformation of the new republics, shaping their institutions and reproducing the historical-structural dependence²⁶.

It cannot be denied that there are many exploiting and decimating consequences of colonization, especially due to the preponderance of western

²⁴ MICHAELIS. **Colonizar**. Dicionário Brasileiro da Língua Portuguesa. Available at: <https://michaelis.uol.com.br/palavra/Ox8b/colonizar/>. Accessed on: 04 nov. 2021.

²⁵ QUINTERO, Pablo; FIGUEIRA, Patrícia; ELIZALDE, Paz Concha. Uma breve história dos estudos decoloniais. In: Amanda Carneiro (Org.) **MASP Aftrall**. Tradução de Sérgio Molina e Rubia Goldoni. São Paulo: Museu de Arte de São Paulo Assis Chateaubriand, p. 1-12, 2019.

²⁶ QUINTERO, Pablo; FIGUEIRA, Patrícia; ELIZALDE, Paz Concha. Uma breve história dos estudos decoloniais.

society in terms of social, economic, organizational behavior, etc., to the detriment of the way of life of the native peoples who inhabited Latin America pre-colonial.

It so happens that, little by little, the intensity of the exploration of the metropolises in the Latin American territory was perceived and, therefore, attention was paid to a need for zeal and preservation of many social, environmental and cultural aspects originating in the region in question. In this sense, it can be understood that the westernization of the world is no longer possible, because an increasing number of people are resisting being integrated into it. On the contrary, people start to re-exist²⁷.

One of the movements that characterizes an exponent of this decolonization process is the so-called Latin American Constitutionalism (NCLA). At this point, it is noteworthy that the Constitutions of Latin America, in general, expressed the interests of the hegemonic elites, because they were influenced by European culture, which portrays the broad colonial load in those countries. It is clarified that these Constitutions rarely met the needs of less prestigious social segments, that is, the interests of indigenous populations, african-americans, peasants and among others²⁸.

The NCLA is considered a constitutionalism without parents, because of the autonomy and the rescue of its original essence. The fact is that for a long time Latin America experienced constituent processes led by elites, that is, far from the democratic nature of an authentic constituent power. Therefore, before the movement, the Constitutions only fulfilled the objectives that the elites had determined: the organization of state power and the maintenance, in some cases, of the basic elements of a formal democratic system²⁹.

It turns out that, from the 1980s onwards, many social movements began to seek a break with colonial relations, arising from the aforementioned affluence

²⁷ MIGNOLO, Walter D. **A colonialidade está longe de ter sido superada, logo, a decolonialidade deve prosseguir**. São Paulo: Museu de Arte de São Paulo Assis Chateaubriand, 2019.

²⁸ LAURINO, Marcia Sequeira; VERAS NETO, Francisco Quintanilha. O novo constitucionalismo latino-americano: processo de (re) descolonização?. **Juris**, Rio Grande, v. 25: p. 129-140, 2016.

²⁹ PASTOR, Roberto Viciano; DALMAU, Rubén Martínez. Aspectos generales del nuevo constitucionalismo latinoamericano. In: LINZÁN, Luis Fernando Ávila (ed.). **Política, Justicia y Constitución**. Quito: Corte Constitucional para el Período de Transición, 2012.

to the main bases for the New Constitutionalism of Latin America, called Andean, plurinational or even transformative – which, gradually, began to take strength in the region³⁰. When approaching Constitutionalism in Latin America, it is important to clarify that it has taken place in three cycles, the multicultural, the pluricultural and the plurinational, in line with the research carried out by Raquel Fajardo³¹.

With regard to the first cycle (from 1982 to 1988) – Multicultural Constitutionalism – its axis supports the emergence of multiculturalism and the right to cultural diversity. Thus, the foundations of recognition are multiculturalism (in Canada, in 1982³²), the right to cultural identity (in Guatemala, in 1985³³, and in Nicaragua, in 1987³⁴), as well as multi-ethnicity (in Nicaragua) and indigenous rights (in Guatemala³⁵ and Brazil, in 1988³⁶)³⁷.

The following cycle (called pluricultural), which took place between 1989 and 2005, encompassing the Constitutions of Colombia (1991³⁸), Mexico

³⁰ LAURINO, Marcia Sequeira; VERAS NETO, Francisco Quintanilha. O novo constitucionalismo latino-americano: processo de (re) descolonização?.

³¹ FAJARDO, Raquel Z. Yrigoyen. El horizonte del constitucionalismo pluralista: del multiculturalismo a la descolonización. In: GARAVITO, César Rodríguez. **El derecho en América Latina: un mapa para el pensamiento jurídico del siglo XXI**. Buenos Aires: Siglo Veintiuno Editores, p. 139-159, 2011.

³² JUSTIÇE LAWS WEBSITE. **Constitution act, 1982**. Available at: <https://laws-lois.justice.gc.ca/eng/Const/page-12.html>. Accessed on: 10 nov. 2021.

³³ SITEAL. **Constitución Política de la República de Guatemala**. Available at: https://siteal.iiep.unesco.org/sites/default/files/sit_accion_files/siteal_guatemala_4000.pdf. Accessed on: 10 nov. 2021.

³⁴ CONSTITUTE. **Constitución de Nicaragua, 1987, con enmiendas hasta 2014**. Available at: https://www.constituteproject.org/constitution/Nicaragua_2014.pdf?lang=es. Accessed on: 10 nov. 2021.

³⁵ SITEAL. **Constitución Política de la República de Guatemala**.

³⁶ BRASIL. **Constituição da república federativa do Brasil de 1988**. Available at: http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Accessed on: 10 nov. 2021.

³⁷ FAJARDO, Raquel Z. Yrigoyen. El horizonte del constitucionalismo pluralista: del multiculturalismo a la descolonización.

³⁸ CONSTITUTE. **Colombia's Constitution of 1991 with Amendments through 2015**. Available at: https://www.constituteproject.org/constitution/Colombia_2015.pdf?lang=en. Accessed on: 10 nov. 2021.

(1992³⁹), Paraguay (1992⁴⁰), Peru (1993⁴¹), Bolivia (1994 and 2004⁴²), from Argentina (1994⁴³), Ecuador (1998⁴⁴) and Venezuela (1999⁴⁵), have as axes of recognition the affirmation of the right to identity and cultural diversity, and from the right to diversity to the definition of a pluricultural state, in addition to the inclusion of a list of collective rights of indigenous peoples, and more, the right to consultation and participation⁴⁶.

The last (the plurinational) cycle, from 2006 to 2009, is based on the decolonizing project, with egalitarian legal pluralism. This phase includes the Constitutions of Bolivia of 2006 and, mainly, of 2009⁴⁷ and the Constitution of Ecuador of 2008⁴⁸. This cycle is truly emblematic for the recognition of the pre-colonial existence of indigenous nations and their free determination, as well as new rights individuals, groups, communities, peoples, nations and indigenous nationalities.

Furthermore, the third cycle of the Latin American Constitutionalism movement brings in its essence new social rights (water, *bien vivir*, food security, etc.), in addition to the rights of nature in Ecuador, indigenous autonomy, mixed

³⁹ UNAM. **Political constitution of the United Mexican States**. Available at: <https://www2.juridicas.unam.mx/constitucion-reordenada-consolidada/en/vigente>. Accessed on: 10 nov. 2021.

⁴⁰ CONSTITUTE. **Paraguay's Constitution of 1992 with Amendments through 2011**. Available at: https://www.constituteproject.org/constitution/Paraguay_2011.pdf?lang=en. Accessed on: 10 nov. 2021.

⁴¹ CONSTITUTE. **Peru's Constitution of 1993 with Amendments through 2009**. Available at: https://www.constituteproject.org/constitution/Peru_2009.pdf. Accessed on: 10 nov. 2021.

⁴² POLITICAL DATABASE OF THE AMERICAS. **Constitución Política de la República de Bolivia**. Available at: <https://pdba.georgetown.edu/Constitutions/Bolivia/consboliv2005.html>. Accessed on: 10 nov. 2021.

⁴³ POLITICAL DATABASE OF THE AMERICAS. **National Constitution of the Argentine Republic**. Available at: https://pdba.georgetown.edu/Constitutions/Argentina/argen94_e.html. Accessed on: 10 nov. 2021.

⁴⁴ POLITICAL DATABASE OF THE AMERICAS. **República de Ecuador**: Constituciones de 1998. Available at: <https://pdba.georgetown.edu/Constitutions/Ecuador/ecuador98.html>. Accessed on: 10 nov. 2021.

⁴⁵ POLITICAL DATABASE OF THE AMERICAS. **Constitución de la República Bolivariana de Venezuela**. Available at: <https://pdba.georgetown.edu/Constitutions/Venezuela/ven1999.html>. Accessed on: 10 nov. 2021.

⁴⁶ FAJARDO, Raquel Z. Yrigoyen. El horizonte del constitucionalismo pluralista: del multiculturalismo a la descolonización.

⁴⁷ POLITICAL DATABASE OF THE AMERICAS. **Republica of Bolivia**: Constitution of 2009. Available at: <https://pdba.georgetown.edu/Constitutions/Bolivia/bolivia09.html>. Accessed on: 10 nov. 2021.

⁴⁸ POLITICAL DATABASE OF THE AMERICAS. **República del Ecuador**: Constituciones de 2008. Available at: <https://pdba.georgetown.edu/Constitutions/Ecuador/ecuador08.html>. Accessed on: 10 nov. 2021.

multi-country intercultural institutions, as well as the explicit recognition of indigenous jurisdiction⁴⁹.

These changes have a significant representation with regard to decolonization, because there are several cultural expressions that were neglected by colonization, resuming fundamental aspects of the Latin American essence.

The cycles under discussion have the virtue of progressively questioning the central elements of the configuration and definition of Latin American States projected in the 19th century, as well as the legacy of indigenous colonial tutelage, representing a (long-term) decolonization project. Changes in the Constitutions drive indigenous demands, even though they also express the resistance of colonialism⁵⁰.

The complex contexts in which the changes take place impose their tensions and contradictions (apparent or real) on the constitutional texts, which require a pluralist interpretation to overcome their limitations and resolve the tensions in a way that favors the realization of the objectives and principles of the pluralist constitutional project. This exercise in interpretation is an exercise in power and, therefore, an exercise also shared by indigenous peoples within the scope of the plurinational State⁵¹.

Having demonstrated the cycles in question, it goes on to elucidate that one of the most dynamic theoretical categories regarding the structuring of the Latin American reality is that revealed by the colonality of power (and of knowledge), not only as a perspective of the analysis of the past, but also with regard to permanent and current reflection, which has a wide capacity to penetrate the social strata of Latin America⁵².

⁴⁹ FAJARDO, Raquel Z. Yrigoyen. El horizonte del constitucionalismo pluralista: del multiculturalismo a la descolonización.

⁵⁰ FAJARDO, Raquel Z. Yrigoyen. El horizonte del constitucionalismo pluralista: del multiculturalismo a la descolonización.

⁵¹ FAJARDO, Raquel Z. Yrigoyen. El horizonte del constitucionalismo pluralista: del multiculturalismo a la descolonización.

⁵² RICOBOM, Gisele; FRIGGERI, Félix Pablo. La descolonización del derecho y la justicia comunitaria em el marco del nuevo constitucionalismo latinoamericano. **Derechos en Acción**, v. 12, n. 12, p. 305-305, 2019.

The issue of coloniality authorizes the understanding of the characteristics of power that were founded on the Latin American region by virtue of the affirmation of world capitalism, promoting its ideology and pattern of domination and exploitation since the first moment of territorial invasion. It is worth saying that the last decades of the 20th century and the beginning of the 21st century are witnesses of a process that achieved a nuclear contribution from the proposal of decolonization (political and epistemic), which is reflected in various fields of knowledge⁵³.

In this way, it is observed that one of the main trends of this Latin American Constitutionalism consists in the tutelage of pluralism and diversity, which rescue and value multifaceted, mestizo and multiethnic societies, showing itself as a process of true decolonization⁵⁴. This reinforces the importance and viability of Latin America imposing itself in the face of so many years of attempts to annul and replace its essence, especially with regard to original peoples.

Thus, reflecting on the New Latin American Constitutionalism is not just thinking about a legal process

of legislative and constitutional comparisons, but rather in a profound process of epistemological rupture with the main foundations of western modernity, in which representative democracy, constitutionalism, the concept of fundamental rights, the idea of civil society and representativeness, among others, are inserted. Therefore, the “new” of the new Latin American constitutionalism is not the new of the Latin American constitutional movement, as if its matrix were just a discussion within the constitutional scope of Latin American countries. That would be a totally simplistic form of this emancipatory movement. Otherwise, this paradigm presents itself as new in its post-colonial movement, breaking with hegemonic concepts and precepts that were grounded in the thinking of modern societies, always based on (insofar as it is inserted in a sub-paradigmatic movement and post-colonial) in the ethics of the other⁵⁵.

⁵³ RICOBOM, Gisele; FRIGGERI, Félix Pablo. La descolonización del derecho y la justicia comunitaria em el marco del nuevo constitucionalismo latinoamericano.

⁵⁴ LAURINO, Marcia Sequeira; VERAS NETO, Francisco Quintanilha. O novo constitucionalismo latino-americano: processo de (re) descolonização?

⁵⁵ Original text: “*de comparações legislativas e constitucionais, mas sim em um processo profundo de ruptura epistemológica com os principais alicerces da modernidade ocidental, no qual se inserem a democracia representativa, o constitucionalismo, o conceito de direitos fundamentais, a ideia de sociedade civil e representatividade entre outros. Portanto, o “novo” do novo constitucionalismo latino americano não é o novo do movimento constitucional da América latina como se sua matriz fosse apenas uma discussão no âmbito constitucional de países latino-americanos. Isso seria uma forma totalmente simplista deste movimento emancipatório. Do contrário, tal paradigma apresenta-se como novo em seu movimento pós-colonial, de ruptura*”

In this perspective, it is emphasized that the NCLA movement, especially in the last cycle, is one of the key elements of the path that intends to make decolonization viable in an area that involves many original perspectives.⁵⁶ Thus, it is observed in the legal sciences, with emphasis on the constitutional area, a tendency to move away from the colonial ties, also due to the fact that, in addition to economic domination, colonialism was also a process

of cultural and epistemological domination, which suppressed and disregarded a whole complex of characteristics, forms of organization and regulation of colonized indigenous peoples. This process of colonial domination left in Latin America a legacy that is verified today through the exploitation of groups historically invisible in the capitalist division of labor⁵⁷.

It should be noted that people belonging to indigenous peoples are not immigrants, they are not refugees, since they habited America when the Europeans arrived and, as is known, settled in the lands of the region. The fact is that many stories of rebellions (because of discontent) among native peoples were recorded by the colonizers. Thus, resisting and re-existing are actions that have not ceased since the 16th century. Furthermore, it can be said that without this constant re-existing it would not be possible to understand the continental resurgence of these peoples for the purpose of regaining their dignity and humanity⁵⁸.

From the above, it is clear that there is a strong relationship between the NCLA's precepts and the decolonization project, with a view to valuing the original

com conceitos e preceitos hegemônicos que foram alicerçados no pensamento das sociedades modernas, baseando-se sempre (na medida em que se insere em um movimento sub-paradigmático e pós-colonialista) na ética do outro." RODRIGUES, Saulo Tarso; BELLOSO, Núria Martín. Do pós-moderno ao pós-colonial: o Constitucionalismo Latino Americano e novas intersubjetividades coletivas. Uma desconstrução do paradigma hegemônico da fundamentalidade dos direitos a partir da ética do outro. **Revista Jurídica UNIGRAN**, Dourados/MS, v. 16, n. 32, jul./dec. 2014.

⁵⁶ RICOBOM, Gisele; FRIGGERI, Félix Pablo. La descolonización del derecho y la justicia comunitaria em el marco del nuevo constitucionalismo latinoamericano.

⁵⁷ Original text: "*de dominação cultural e epistemológico, que suprimiu e desconsiderou todo um complexo de características, formas de organização e regulamentação próprias dos povos indígenas colonizados. Esse processo de dominação colonial deixou na América Latina um legado que se hoje verifica por meio da exploração de grupos historicamente invisibilizados na divisão do trabalho capitalista.*" BRUZACA, Ruan Didier; QUEIROZ, Sarah Valery Mano. Sobre a colonialidade no direito e as perspectivas de descolonização no contexto dos países latino-americanos. **Revista Paradigma**, v. 27, n. 1, 2018.

⁵⁸ MIGNOLO, Walter D. **A colonialidade está longe de ter sido superada, logo, a decolonialidade deve prosseguir.**

culture of Latin America. It does not mean that there is an intention to remove all the values that were introduced by the Europeans in the region, but the aim is to recover precepts that were repressed and that can help in the construction of a more prosperous social, environmental, economic life for the inhabitants of the Latin American region. The release of impositions, as noted in the first part of the research, is present in Brazilian Modernism, as well as in NCLA, so that the next act is what verifies the approximations between these two movements.

3. Meeting points between Brazilian Modernism and the New Latin American Constitutionalism

First, it must be clear that Federal Constitution of Brazil of 1988⁵⁹ belongs to the movement of the New Latin American Constitutionalism. Although it is not included in the cycle of greatest rupture (the third), it still represents many social advances, in addition to being quite principled and evaluative. This Constitution, in terms of time lapse, did not succeed the Brazilian Modernist Movement (including there was a dictatorial period between the two exponents), but affinities can be found between the impetus of the movements in question.

Brazilian Modernism involved ideas aimed at breaking away from traditional forms of artistic expression, the search for a national (and, obviously, innovative) artistic expression, valuing everyday life, etc. It was intended, through art, to represent Brazilian reality. Brazil, at the time a young republic, sought an identity⁶⁰. This identity, therefore, is related to the desire to expose Brazilian attributes.

Thus, to elucidate, it should be noted that Brazilian Modernism does not seek the European reference for the description of indigenous peoples, on the contrary, there is an orientation in the vision of the indigenous themselves, that is, Brazilian culture is sought without influences of the colonizer. Mário de Andrade, for example, in the literary work “Macunaíma” mixes popular beliefs with customs of indigenous peoples, philosophical thoughts and capitalist reality, in

⁵⁹ BRASIL. **Constituição da república federativa do Brasil de 1988.**

⁶⁰ STOODI. **Modernismo no Brasil: o que foi e características!** Available at: <https://www.stoodi.com.br/blog/portugues/modernismo-brasileiro/>. Accessed on: 8 nov. 2021.

such a way that by stating that Macunaíma is a “hero without character”, he means to say that the Brazilian people is a people without character, not in the moral connotation, but cultural, because Brazilians were very influenced by European culture⁶¹.

This feeling of colonized is also very present in the New Latin American Constitutionalism, considering that in a constitutional history, it can be said that Latin America is strongly

marked by its trajectory of intellectual servitude to the European matrix, after centuries of submission to models inspired by liberal theories. At the present time, some South American countries are attempting the decolonization procedure, using legal instruments that originally legitimized the interests of the ruling elites. This movement, unlike the institutional independence of the State in the nineteenth century, now reveals itself, in the sphere of thought and political and legal practices, through a differentiated vision committed to social and mainly economic transformation⁶².

The NCLA is opposed to the traditional monist, individual, liberal and Eurocentric law, because it is characterized by being plural, with a broad democratic and emancipatory perspective⁶³. This allows us to reflect that both Brazilian Modernism and the constitutional movement in Latin America have this aspect of decolonization, because both propose a review of the historical and cultural past.

In addition to proposing an empowerment of minority groups, it is important to make it clear that the NCLA movement did not seek to destroy what was already in place, but rather to unveil the possibilities for a new non-peripheral

⁶¹ MAGALHÃES, Luana Santana. **A Figura do Índio na Literatura**. 2006. Available at: <https://www.uni7.edu.br/recursos/imagens/File/publicidade/ic/2006/figuradoindio.pdf>. Accessed on: 10 nov. 2021.

⁶² Original text: “*marcada por sua trajetória de servidão intelectual à matriz europeia, após séculos de submissão aos modelos inspirados nas teorias liberais. No presente momento, alguns países sul-americanos intentam o procedimento de descolonização, utilizando-se de instrumentos jurídicos originalmente legitimadores dos interesses das elites dominantes. Tal movimento, diferentemente da independência institucional do Estado no século XIX, agora se revela, no âmbito do pensamento e das práticas políticas e jurídicas, mediante uma visão diferenciada e comprometida com a transformação social e principalmente econômica.*” WOLKMER, Antonio Carlos; FAGUNDES, Lucas Machado. Tendências contemporâneas do constitucionalismo latino-americano: Estado plurinacional e pluralismo jurídico. **Pensar-Revista de Ciências Jurídicas**, v. 16, n. 2, p. 371-408, 2011.

⁶³ LAURINO, Marcia Sequeira; VERAS NETO, Francisco Quintanilha. O novo constitucionalismo latino-americano: processo de (re) descolonização?

enunciation guided by the multiethnic and pluricultural issue that characterizes these Latin societies⁶⁴.

Thus, it is similar to what happened with Brazilian Modernism, in the sense that it aimed at freedom and the creation of a national identity, as there was a kind of disturbance caused by the reproduction and constant importation of external ideas (European ideas).

Therefore, it is evident that there are common points between Brazilian Modernism and the New Latin American Constitutionalism, especially with regard to decolonization and the appreciation of what is native, because the two movements do not totally reject the European influence on Latin America and, in turn, in Brazil, but they aim to free themselves from the parameters that despise cultural strength and the expression of what is original and native to the region.

Both Brazilian Modernism and the New Latin American Constitutionalism increase the impetus to consider and, more than that, to value regional attributes, the first aiming to build an identity and the second re-signifying the exercise of constituent power, respecting and ensuring rights for all.

While the 1922 Modern Art Week shocked with demonstrations that art was changing, the NCLA made an impact by breaking with colonial paradigms and impositions. Therefore, the movements analyzed here represent important points of rupture and the need for transformation.

⁶⁴ VALE, Fábio do et al. O constitucionalismo no que concerne a descolonização. **Revista Latino-Americana de Estudos Científicos**, v.2, n.11, p. 56-63, sep./oct. 2021.

Final considerations

Resist and re-exist are two verbs that deserve great attention in this research. Resist the domination and exploitation of Latin America (and Brazil) by colonizers. Re-exist to promote an epistemological rupture of concepts based on the ethics of the other. It is observed that the appreciated movements (Brazilian Modernism and New Latin American Constitutionalism) have aspects in common, the first connected to artistic expressions (literature, music, art) and the second related to law sciences.

It can be understood that the main affinity between them is the appreciation of the native, which culminates in the processes of decolonization. In this way, colonization affected the language, religion, social, economic, political and cultural system of the invaded countries, which caused what is called the coloniality of power (domination and exploitation of land - and everything that was in it) by the metropolis. Therefore, it is evident that the decolonization promoted by the NCLA is not something sudden because it is about half a millennium of servitude, including intellectual, by Latin America in relation to Europe.

With regard to this intellectual submission, for a hundred years there has been an urge in Brazil to bring out national consciousness. The Week of Modern Art in 1922 represents an important conjecture aimed at the destruction of conservatism, as well as the expansion of nativist sentiment, to honor what belongs to the country, that is, what Brazil portrays. In this sense, there is a clear need to build Brazilian art independent of European standards.

What is observed, therefore, is a desire, in both movements, to rescue the essence of multifaceted societies, to search for a true identity, expanding the possibilities of the Latin American region (in the case of the NCLA) and specifically of Brazil (in the case of Brazilian Modernism) for the purpose of propagating decolonization and the valorization of the native.

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