"While I Talk To You, They Arrive": Rethinking Human Rights And Legitimate Differences From Mapuche Perspectives

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ABSTRACT: From a legal perspective, the last three decades can be seen as marking a substantial advance in the recognition of the rights of indigenous peoples. Beyond divergences in their scope and inconsistencies in their effective fulfillment by different nation-states, these rights make room for the expression of "legitimate differences" that, until now, have been blocked.

However, certain indigenous claims in particular seem to be seen as a problem that is difficult to solve, due to the way in which the differentiated rights that frame them would apparently conflict with other rights considered universal. In these cases, then, the "differences" invoked lose all legitimacy, being discredited and subordinated to other legal values.

This article does not examine the conflicts associated with these claims from the perspective of the Philosophy of Law or that of Political Philosophy, but from an ethnographic analysis that seeks to account for how what certain Mapuche claims are putting into

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crisis is the very idea of "legitimate differences" with which their rights are addressed. On this basis, it argues that a broadening of the idea of human rights would suffice to create frameworks that allow disagreements to be processed, without resorting to clauses that obliterate them asymmetrically, by programmatically subordinating differentiated rights to universal rights

In November 2017, the Albatros Group of the Argentine Naval Prefecture assassinated Rafael Nahuel in the framework of an operation to evict members of the *Lof Relmu Lafken Winkul Mapu*, who had recovered lands under the control of the Nahuel Huapi National Park Administration, thirty kilometers southbound from San Carlos de Bariloche, in the Argentine North-Patagonia. This has not been the first land reclamation undertaken by members of the Mapuche-Tewelche People and, unfortunately, not the first death in a similar context.[1] In August of that same year, there was the disappearance followed by the death of Santiago Maldonado, even without a court ruling assigning responsibility for this death, when the Gendarmerie sought to evict a roadblock that members of *Pu Lof in Resistance of the Cushamen Department* in the province of Chubut were carrying out to ask for the freedom of their *logko* or spiritual political leader Facundo Jones Huala, until now imprisoned in Chile.[2]

However, since then, "la Winkul" (as it is referred to locally) constitutes a leading case in terms of how Mapuche demands are received in the country for different reasons. On the one hand, because both then and today, its members have repeatedly stated that, if there is another eviction attempt, "they will take us dead out of here." On the other hand, because the conflict has not been limited to the Administration of the Nahuel Huapi National Park as a state entity that initiates the complaint of usurpation, but has been extended to residents of the nearby town of Villa Mascardi, San Carlos de Bariloche and the country. Thus, in addition to different legal cases for "usurpation" against the women of the community (the only

ones identified since the men wear hoods so as not to be recognized) and to the two young people who brought Rafael Nahuel's dying body to the route where the security forces were, in order to receive help, there have been other legal cases of individuals against members of the community and also against certain state officials for not making the eviction effective. Of note, various public demonstrations have taken place throughout 2020 on the route near the entrance to the *Lof* and in Bariloche itself, of people who mobilize under different slogans: "No to violence," "Yes to peaceful life," "Respect for private property," "That Justice act in a timely manner," "We don't want more occupiers; the state must defend public and private domains," "No to the breakings," "Security for the residents of Villa Mascardi, park rangers and users of routes and beaches." All this is within the framework of disqualifications, that those who support the recovery are not truly Mapuche but terrorists instead, or that the reasons they use to remain in place are nothing more than a "mystical delusion," based on "extrasensory messages," "supposedly received" by the person whom not only the Winkul but also other Mapuche-Tewelche communities and organizations recognize as *machi,* or spiritual advisor and healer.

From the reasons given by the members of *the Winkul* and the *machi* herself, the decision to protect that particular place responds to a legitimate action of historical reparation. It thus seeks justice for the way in which the Mapuche-Tewelche people who lived free in the region were successively and systematically assassinated, evicted, and expropriated by the military campaigns of the last quarter of the 19th century, and later by other state organisms and individuals until today. In addition to this, it is also explained that the one who was still a *machil* then, as she was training with other advisors and spiritual healers to become a full *machi*, received the mandate of the *kiufikecheyem* or ancestors to raise her *rewe* or ceremonial center precisely in that place. Likewise, once installed in the place, all

the members of the *Lof* sealed a commitment of mutual care and respect with sentient beings that inhabit there. On the one hand, their commitment with ancestors murdered in that area, whose *pullü* or spirit was left without being able to complete the *eltun* or road to *Pullü Mapu* or spiritual land, since their next of kin were not been able to perform the corresponding *eluwün* or funeral ceremony. On the other, a commitment also with different *pu newen* or forces and *pu gen* or spiritual owners of vital elements and species of the place. They've explained that breaking this pact, would have serious consequences for them but also for those who live in the region (whether they are Mapuche or not) that could be expressed through diseases, catastrophes, and deaths.

There are many subtleties that highlight the growing conflict that this case has been acquiring, in a context marked by violence and reciprocal violence between the confronted parties. In this article, I focus on analyzing what it involves and publicly expresses in terms of contesting and disqualifying rights. I do not do this from a perspective of Philosophy of Law or Political Philosophy, but from an ethnographic analysis that seeks to account for how what certain Mapuche demands are putting into crisis is the very idea of "legitimate differences" from which the members of the lot of community justify (and others question) their actions. On this basis, I argue that a broadening of the idea of human rights would suffice to create frameworks that would allow disagreement to be processed without obliterating it asymmetrically, and without programmatically subordinating Mapuche-Tewelche rights to rights reputed to be "universal." Ultimately, this is what has been clearly expressed in the Collective Document produced by the Tehuelche Rankulche Mapuche Autonomous Parliament, held in Relmu Lafken Winkul Mapu, on November 24, 2020, where it is clearly stated that "the existing legislation, in terms of recognitions of rights, is limited and restrictive."[3] To do this, I first briefly examine the foundations that give meaning to the exis-

tence of universal human rights and differentiated rights and the tensions often linked to their articulation. Below I analyze another way of thinking about what, in this case, the conflicting parties put into play when they wield or denounce ideas about what are the "legitimate differences" to be recognized at the time of settling certain claims as just or inadmissible. I finish by looking at how the associated conflicts could recede in finding another way of thinking about "human rights." I thus present new arguments from the Mapuche-Tewelche experience, to an idea anticipated by Viaenne (2017) regarding the protection of the right to life of water, rivers, and forests as a new legal argument. In this sense, coinciding with the statement by Izquierdo and Viaene (2018), I take as a starting point their assertion that "the hegemonic vision of human rights has not yet faced the pressing challenges caused by indigenous visions that question the divisions of the dominant modern ontology between culture/nature, mind/body, human/non-human, and belief/reality."

From Types of Discrimination to Rights as an Antidote

The anthropological field has been forged in settling the relationships between nature and culture and between the universal and the particular without questioning both divisions in themselves. Hence the relationship between human rights and differentiated rights has been extensively debated, so as to circumvent the failures of reducing the issue to two opposed and extreme abstract and polarized positions (Juliano 1997; Merry 1992 and 2006; Zechenter 1997; Dahre 2017). On the one hand, there is no doubt that the 1948 Universal Declaration of Human Rights is an initiative clearly geolocated in its gestation that, like other legal-political engineering initiatives of the modern capitalist world-system, has been imposed as a global parameter of values in principle considered "a-cultural"

or valid for all the different "cultures," that is, as universal. There are therefore those who defend such universality above all other considerations, as a way of agreeing on and regulating healthy inter- and intra-state coexistences. In any case, the recognition of this operation as an imposition says less about the values themselves than about the selective ways of adopting and generalizing them. On the other hand, there are those who (emphasizing the exclusions and subordinations legitimized by that operation) see such universalization as a sign of the coloniality of power (Espinel Bernal 2015; Pérez Volonterio 2018; Sánchez Rubio 2015) and denounce its Euro- and Anglo-centric perspective from the positive recognition of one's own values.

As an anthropologist, rather than analyzing the conflict between rights and the arguments to resolve it abstractly, I analytically approach the question as part of social processes of dispute that historically enable and stabilize languages of contention, within the framework of processes of construction of cultural hegemonies that are always open to controversy, at least to some extent (Roseberry 1994). This is demonstrated by the conceptualization of successive generations of rights (currently under review [Domaradzki, Khvostova and Pupovac 2019; Zieck 1992]) which were expanded over time. In any case, my departing point coincides with de Sousa Santos (2002: 59), in that "human rights can (and have been) used to advance both hegemonic and counter-hegemonic forms of globalization."

From these starting points, I fully adhere to the core significance of what is already in the Universal Declaration of Human Rights, as a point of stabilization of coexistence agreements that has sought to stop certain abuses that still occur in different parts of the world. For this reason, I speak and write from a "we" that is the "we" of human rights and the "we" of their authority, in terms of consolidating worthy forms of global coexistence. However, in this article I am interested in challenging certain truisms of that "we," from the viewpoint of certitudes "otherwise" (Escobar 2003; Palermo 2009) that arise from the ethnographic analysis of their processes of implementation,

processes that show how human rights are demanded and, at the same time, how they are disputed. My argument at this point is that, if honoring the declaration of human rights solves certain core problems of our failed coexistence, paradoxically that makes other issues invisible and inaudible, and it is precisely this asymmetry that is exacerbating certain conflicts.

Therefore, I strongly value the commitment to uphold the rights and freedoms to which every human being can aspire in an inalienable way and under conditions of equality. Undoubtedly, the statement that "all human beings are born free and equal in dignity and rights" allows us to combat one of the forms of discrimination that are ominous and repudiable and that I call "type 1 discrimination." The antidote to this form of discrimination is clear in the introduction of the Universal Declaration of Human Rights written in 2015 by Zeid Ra'ad Al Hussein, who was the United Nations High Commissioner for Human Rights between 2014 and 2018. Al Hussein said:

> The Universal Declaration promises all people economic, social, political, cultural and civic rights that support a life without misery and without fear (...) They are the inalienable rights of all people, at all times and in all places: of people of all colors, of all races and ethnicities, disabled or not, citizens or migrants, regardless of gender, class, caste, religious belief, age or sexual orientation (Naciones Unidas 2015: 6-7).

What is clear then from this idea of discrimination is that to discriminate is to make differences between people for reasons bound to sex, class, caste, socio-cultural background, religious belief, age, or sexual orientation. Clearly, the universal rights are the antidote to this type of discrimination.

We also know that social struggles have always made it possible to expand the type of rights to be considered. That is why different events after the 1948 Declaration were showing that it did not remedy another form of discrimination, which I call "type 2 discrimination." That is, discrimination also occurs

when there is no room for legitimate differences that, in the case of indigenous peoples, would be considered in principle as sociocultural, but with a different density than that recognized by what are simply defined as "cultural rights." That is why the United Nations Declaration on the Rights of Indigenous Peoples exists and had to be agreed upon sometime soon, in addition to other state and multi-state legal frameworks. Here, group-differentiated rights emerge as the antidote to this other form of discrimination (Carbonell 2000).

Now, both at the time of its negotiation and in terms of its implementation, much has been discussed from Political Philosophy regarding the possible relationships between universal rights and the different types of differentiated rights. It is not my purpose to review such debates here, but I am interested in summarizing what I see as three prevailing positions. Some understand that the recognition of differentiated rights conspires against the necessary agreements of rights that should order even a multipolar world-system (see Mouffe 1999 and 2004). Others are instead in favor of articulating universal and differentiated rights, although in disparate ways. In the latter case, while some seek the subordination of the particular to the universal when conflicts arise (see Flores Renteria 1999; Kymlicka 1996), others seek to complement forms of redistribution that resolve inequities attributable to political economy, with forms of recognition as to remedy historical oppressions (see Fraser 1997; Young 2001). In this last direction, one can bet on fostering a permanent dialogue of knowledge to avoid contradictions (cfr. Sieder 2010), or more sophisticated forms of exchange from a diatopic hermeneutic, anchored in the principle that "people have the right to be equal when difference makes them inferior, but they also have the right to be different when equality jeopardizes identity" (de Sousa Santos 2002: 81). Thus, a good part of these debates focuses on debating either the tensions and pre-eminences between individual rights and collective rights, or on finding equivalences between cultural

values that, in any case, would converge in setting their own standards about human dignity which may be different but still find ways of translation, for example, through intercultural procedural criteria (de Sousa Santos 2002: 68).

These discussions have been fruitful, but I also understand that they lead to certain deadlocks. Furthermore, they are not always operative to frame and address certain specific conflicts. For this reason, my argument will go a little further forward or a little further back. So, I am not interested in looking for alternatives by postulating the abstract and difficultly verifiable premise that all cultures have isomorphic cultural values that, through dialogue, can be made mutually intelligible. Nor do I limit the analysis of certain conflicts to what is not fulfilled today of the Declaration on the Rights of Indigenous Peoples of the United Nations approved in 2007 or the ILO Convention 169 issued in 1989 and ratified by 23 countries,[4] both adopted by Argentina as part of its own constitutional frameworks. Basically, the point I make here is that the increase in conflict that we are witnessing, at least in northern Patagonia, does not happen simply because certain economic, social, and cultural rights are not being fulfilled, nor are constitutionally recognized indigenous rights. Besides that, the problem is that we have reached a point where the bases of disagreement that certain claims place in the public arena go through the ways of understanding the facts and "the matters of fact."[5] And it is precisely on this diagnosis that I base my hypothesis, that if *we* do not modify the idea of human rights promoted by the Universal Declaration of 1948, the indigenous demands will not be able to be heard or understood, and *we* will not be able to process the disagreement that unleashes conflicts, nor to guarantee a fairer and more reliable coexistence. Hence, I would like to put forward a twofold proposal, so that indigenous demands can be heard and understood in their entity, while *we* avoid being caught in recurrent and equivocal discussions about the pre-eminence of universal rights or of the differentiated

rights that make it difficult to think about their articulation. First, *we* must expand again *our* idea of human rights, as *we* have already done it in the past by the pressure of successive social demands. Second, *we* must be willing to decentralize the debate around the question of values and creeds, to make a more in-depth review of what can be considered a "matter of fact." Or, at least, as de la Cadena (2017: 6-7) argues, *we* must be willing not to attribute in advance and unidirectionally the ability to define what is (has the right to be) and what is not (thus being lowered to the plane of a mere belief).

Putting the Idea of "Legitimate Differences" in Crisis

In this section, I propose to argue that the apparently insoluble nature of certain conflicts (and even the escalation of violence that they provoke) results from the fact that it is precisely the idea of "legitimate differences" that is put into crisis. And this is so not only in the sense that some of these differences are considered inappropriate (denying, for example, the ethnicity of those who wield them) but also in that certain broad sectors dismiss their reality and, therefore, their entity. As an effect, at most they are lowered to the status of beliefs that, as such, can in any case be confined to the private sphere, but cannot be taken into account as a rational public argument to explain what in conflict situations counts as "the reasonable facts" to be taken into account to find "solutions" within the available frameworks. Therefore, the possibility of introducing openings that allow agreeing how to handle these conflicts requires starting by recognizing two things. First, that what *we* consider differences usually occurs not so much *between* practices but *within* the same practice, and that then there may be different types of disagreements.[6]

When we speak for example of sex-generic rights, we may have differences about what they should imply and how to

implement them. Heteronormative paradigms of conservative hegemonies will start from the recognition of a binary and necessary equivalence between sex, gender, and sexual orientation. Other positions will think about sex, gender, and sexual orientation in a decoupled way. But in principle, it seems incontestable what and about what we are disputing, since they are predicated dissensions about the same reality that is read, interpreted, or conceptualized differently. That is why I consider this type of dissent and the friction that it generates as *ideological*.

When *we* refer to indigenous peoples, there are usually invoked (as said earlier) sociocultural differences explicitly marked as such. Paradoxically, many times, anthropological ideas of "the cultural" have been used to maintain that, in any case, "they" have culture and beliefs, and "we" (members of the majority, non-indigenous, western, hegemonic society, or whatever you want to call it) have knowledge. Because it is necessary to respect these "cultural differences" in order not to incur the type 2 discrimination, a limited recognition of their rights is made every time they are not seen colliding, in some way, with "our" way of understanding rights.

From this perspective, the collision between universal rights and differentiated rights can have different surfaces of emergence. A first tension that was and is often put in evidence is that between the individual and the collective. As of today, that tension is still not resolved. In Argentina, it is partly responsible for the difficulties in including indigenous community property in the Civil Code (Sterpin 2018), which explains why the idea of private property continues to emerge (and it does so more and more) in sovereign criterion to face intercultural conflicts with indigenous groups that recover lands. And this despite the fact that article 17 of the Universal Declaration of Human Rights says that "Everyone has the right to property, individually and collectively."

In any case, beyond disagreements between different notions about the how and why of the notion of property, the debate regarding alternatives to reform the Civil Code to regulate indigenous community property usually operates on the same reality and activates *ideological* frictions regarding how to deal with them, no matter if it is agreed or disputed whether indigenous lands are not or should (always and in all cases) be not seizable, transferable, disposable, and extinguishable (Abreut de Begher 2012: 92).

In any case also, stemming from a narrow assumption of disagreements and differences as only and solely ideological or cultural, the same UN Declaration on the Rights of Indigenous Peoples sets a limit to dissent, when in its Article 46 subsection 2 establishes that: "The exercise of the rights established in this Declaration will be subject exclusively to the limitations determined by law and in accordance with international obligations in the field of human rights" (Naciones Unidas 2008: 15).

Specifically, this subordination of the particular, of differences, to what is understood as a universal good (the liberal idea of the individual as a subject of law [Serrano Sánchez 2008]) enables arguments that I have heard in court hearings. Specifically, as the Argentine Civil Code does not recognize indigenous community possession and property, in cases where a community tries to sue an individual whose title disturbs their traditional, current, and public occupation, it is argued that claims in this direction are abstract or become abstract (Laplacette 2011), a point on which there is jurisprudence. Often, even when this subordination of differentiated rights to universal ones has been controversial, the problem has been identified and is often argued as a problem of the unjust supremacy of the *cultural* views of some, over the *cultural* beliefs of others.

But, conceptually, what is relevant is that this idea of "what becomes abstract" is never questioned about what is real, about a unique reality and temporality on which the facts are established and, from them, the values to defend and prioritize.

And the problem is that this way dissent is limited to "our" idea of "cultural values" (whether of one or the other), but it is not noticed that part of the dissent is also anchored in what is considered factual, in what are or are not "facts."

For this reason, some time ago, the very anthropology that has erected itself on the idea of culture has started questioning its premises, by noticing that the most conflictive disagreements do not occur simply around "cultural values," but around what *we* consider real, or what *we* understand as facts or matters of fact. This move has allowed that social and disciplinary common sense understandings of "culture" and "cultural differences" began to be seen as limited and problematic, while prompting different social scientists to rethink what is really at stake in certain kinds of disagreements. Briefly, *we* are now aware that continuing to maintain that some of *us* have *knowledge* and others have *beliefs* is a form of epistemicide (de Sousa Santos 2009) or of exercising epistemic violence (Spivak 1988; Castro Gómez 2000). But *we* have also begun to understand that certain disagreements are not established on the same and only transparent and univocal reality, on which it is easy to define facts and questions of fact, but on partially different realities. In turn, while different ways of world making lead to partially different ways of identifying facts or defining matters of fact, *we* have also learned that different ways of understanding or composing what a "fact" is goes hand by hand with different practices of knowing. And I emphasize here the idea of partially different realities or worlds, and of partially different practices of knowing, because (as I argued) what *we* call differences does not usually occur between practices but within the same practice.

And it is when these disagreements are not established from talking about the same reality, but from different ways of doing and knowing the world or reality, that the idea of cultural differences (centered on values and beliefs) becomes inoperative. In these cases, it is more appropriate to warn and

speak of edges of dissent or friction that, being centered on what constitutes the "facts," *we* have started calling them *ontological* and *epistemological*, and not merely *cultural* or *ideological*. A few examples may clarify the point.

We were talking with a *kimche* or Mapuche sage about *Mapunzungün*, a concept that he translated not as the Mapuche language or as the word of the people of the earth, but as the "language of the living beings of the earth," so it is worth noting the idea of *living beings*. He told us then that, by sharing a *kuifi ngütram* or story heard from their elders, the *pullü* of those *kuifikecheyem*, the spirit of those ancestors, is present in a way that "we" do not usually understand more than as a belief or, at best, as a symbolic statement. But the presence of these living or existents is another entity for those who are counting the *ngütram*.[7] In the *kimche's words*:

> Because when you talk, they arrive. Because one feels them on one's back (…) What we say remains much more based on reality. It remains, because it is based on reality.

In short, the presence of those *kuifikecheyem* that *we* do not see or hear is nevertheless real, it is "a fact" for the *kimche*, and not only for him. Speaking in turn of the very different occasions in which people have the *perimontu* experience (which has usually been translated as vision) the *kimche* told us:

> *Perimontu*? It is a seeing with the eye, like this (he signals the eye with his finger). *Pe* comes from seeing, and *perimontu*, (seeing) the strangeness that is in there (…) The thing is that I am (truly) seeing it.

And the *perimontu* is another fact, that surely many of *us* do not see or hear either.

In the same way, *we* do not usually give enough importance to the conviction that these *kuifikecheyem* speak, teach, warn through the *pewma* or dream, thus giving indications about

what should be done or what can happen. *We* call this conviction "spiritual belief," although for the Mapuche-Tewelche it is also a fact. And the problem is that when *we* translate *perimontu* as vision, *kuifikecheyem* as ancestors, *pullü* as spirit and *pewma* as dream, *we* think that we are talking about the same things, or that *we* know and understand what we are talking about. But this is not the case and that is why it is impossible or at least difficult for *us* to appreciate in the same way what that entails: facts for some, symbolic representations for *us*, of the kind *we* usually call "spiritual," because *we* consider them intangible abstractions. Even in the face of what appear to be indubitable materialities, "things" which for some are mere skeletal remains of scientific and historical interest ("collected" mostly during the military campaigns of the late nineteenth century), for others they incarnate existent beings held "in captivity" still.[8]

The real problem then is not only the land dispute itself, but that *our* idea of "the spiritual" denies issues that, for the Mapuche, have another entity. The *kuifikecheyem* and other forces of the environment such as *pu newen* and *pu ngen* are existent beings with their own agency, and not symbolic ideas or mere representations. Ultimately, they are real and not spiritual or imaginary entities, who produce real events and actions, and with which real relationships and commitments of mutual care are sustained.

This is precisely what is at stake in the refusal of the members of the *Lof Relmu Lafken Winkul Mapu* when, with perseverance and despite prosecutions and harassment from the security forces and nearby residents, they refuse to leave the place. Rather, in the face of each pre-announced possibility of eviction, they repeatedly maintain that: "They are going to take us out dead, we are not going to leave."[9]

It is clear, then, that the conflict is not only anchored in divergent interests and ideological frictions, which by the way are also operating.[10] What also supports the way in which antagonism has escalated (and even the support received from

other Mapuche-Tewelche communities and organizations),[11] is the way in which the different existents that give foundation and entity to the claim are discredited as mere beliefs. Because *our* ideas of facts and reality and *our* way of making the world render the ancestors invisible and inaudible, the intransigence of the members of the Lof can only be seen as the result of their stubbornness, opportunism, vandalism, or even terrorist propensity (Darrieux 2020).

On the contrary, if it could be seen that, along with ideological disagreements, other ontological and epistemological disagreements are at stake, new ways would be opened for the understanding of the foundations of certain conflicts. It could be understood that what is also being argued is that an eviction would deny the right to life to both the human persons that make up the lof, and different existents that also form part of it. At the same time, the likelihood of taking into account and as a part existents that have not been considered nor counted as a part until now (as Jacques Rancière [1996] would say) would offer a different framework to begin to process confrontations. It is precisely the need to repair this asymmetry of visibilities and audibilities that is at the base of my argument about the importance of rethinking, updating, and expanding *our* idea of human rights, to achieve a better and adjusted-to-law coexistence, a fairer coexistence. Summing up the point, if one limits the rights to the idea of human persons, or limits the rights of the *Wall Mapu*[12] to *our* idea of environmental rights, one will never be able to account for what is demanded, nor for what or for whom it is being demanded. At best one would enable a circumscribed listening to a banal idea of interculturality, which does not realize that what is claimed are broader inter-existences (Escobar 2020: xvii). Unlike demands of intercultural recognition, demands of interexistences include other living beings with their own agency. These beings are in the basis of all traditional, current, and public occupation of the lands. From the Mapuche perspective, they perform actions that are

as current, traditional, and public as the acts carried out by human persons. And, although *we* do not see or hear them, recognizing the entity of these existents is key (among other things) to understand what practices and "facts" (in addition to values and beliefs) are often put into play as a foundation of certain land and territory claims.

Rethinking *our* Crucial but Limited Idea of "Human Rights"

I do not doubt that my Mapuche-Tewelche interlocutors rever as much as I do Article 1 of the Universal Declaration of Human Rights when it establishes that "All human beings are born free and equal in dignity and rights and, endowed as they are with reason and conscience, must behave fraternally with each other." I do believe, however, that what in any case they are demanding in parallel is simply that *we* broaden and extend that idea of "fraternal behavior" and the values of equality, freedom, and fraternity to other existents. For this, a first step is to recognize that, in addition to respecting cultural differences and ideological borders, it is imperative to also recognize the ontological and epistemological frictions that are active but are silenced in and by the conflicts that *we* call intercultural. I would suggest that what ultimately requires the possibility of dealing with these frictions in non-violent ways is simply that *we* could also think as subjects of rights to various existing or living beings who, from *our* hegemonic common sense, are non-human.

If *we* ignore these demands, *we* could even presume that *we* would be, in principle, violating Article 18 of the Declaration of 48, which establishes that everyone has "freedom to manifest their religion or belief, individually and collectively, both in public and in private, by teaching, practice, worship and observance." But if *we* could hear and make this expansion, *we* would understand, for example, why, when indigenous peo-

ples oppose mega-mining enterprises, what they are objecting to is that it acts in open violation of Article 5 of the Universal Declaration of Human Rights. Briefly, in their ways of world making, these undertakings do nothing but subject the existing beings of the place to "torture and cruel, inhuman and degrading treatment or punishment." If *we* do not understand it like this, from their perspective it is not strange that *we* are all held responsible for these brutal treatments, including human rights and even environmental organizations.

As summary, if the conflicts that *we* call intercultural really concern us, I would say that it is not just a matter of complying, but also of reviewing *our* idea of rights and, above all, *our* ideas of "facts" and "persons." And not simply because for many indigenous peoples the person is not an individual but a social being woven into a collective subject of rights, but fundamentally because certain existing beings are also persons, in any case not human for *us*. In any event, they are not simply persons in the sense in which certain jurisprudence already speaks of certain animals as *non-human persons* (Peters 2016), but in a very different sense. I would also say that, by not doing so, the indigenous peoples will continue to be convinced that the *we* of human rights continues to violate article 7 of the Declaration that states that "We ***all*** have the right to equal protection against all discrimination."

Today this extension of rights may seem, perhaps, very counter-intuitive. However, it is not something that the *we* on human rights have not gone through or experienced before. And I make a parallel to finish clarifying the point.

It has been the movements that began as LGBT and now define themselves as LGBTIQA + that have helped heterosexuals to increasingly decouple the supposed iron equivalence between sex, gender, and sexual orientation that seemed unshakable a few decades ago. Likewise, it is becoming increasingly tangible that indigenous demands are vying to make clear that, for them, different existents are at stake in many

of the disagreements that are straining our coexistence. Now then, having been repeatedly alerted to who also makes up that "all" from indigenous perspectives, the time has come to wonder: For how long would if be still admissible, as a justification or as an excuse, that our legal frameworks persevere in not acknowledging them as a part simply because they are inaudible and invisible to *us*?

NOTES

1 Classical ethnology locates the different regional identities of the Mapuche or "Araucanian" people in what is now known as the Republic of Chile, and the different identities of the Tehuelche people mainly in Argentine Patagonia. However, it does recognize as well an early migration of the former to the east of the Andes Mountains, known in the literature as the "Araucanization of Pampa and Patagonia." The interpretation of all these processes and cultural characterizations is currently disputed by more contemporary studies, both in terms of the temporal depth and characteristics of these exchanges, as well as their dynamics and effects (Lenton and Lazzari 2002, among others). In Argentina, different organizations and communities have begun to identify themselves as Mapuche-Tewelche, as a way to confront those classic interpretations used to deny indigenous rights to the Mapuche in Argentina. By this means, they also stress the contemporary validity of the remote practices of imbrication and of economic, political, socio-cultural exchanges among people and groups of different origins in the Patagonian region. According to the latest official figures corresponding to the National Population Census carried out in Argentina during 2010, of almost one million people self-identified as indigenous or descendants of indigenous people (2.4% of the total population), 113,680 identify themselves as Mapuche (in Chubut, Neuquén, Río Negro, Santa Cruz, Tierra del Fuego, La Pampa, the rest of the Province of Buenos Aires, the City of Buenos Aires, and 24 Parties of Greater Buenos Aires), and 10,590 as Tehuelche (in Chubut, Santa Cruz, City of Buenos Aires and the 24 matches of Greater Buenos Aires). It is precisely the provinces of Chubut, Neuquén, and Río Negro (historical epicenter of the Mapuche-Tewelche membership) where the highest

percentages of indigenous self-identification in the entire country are registered (8.7%, 8%, and 7.2%, respectively, of the provincial population). In all cases, the urban population exceeds the rural population (CADPI 2017, CEPAL 2012, INDEC 2015). Take into account that different sources have denounced the under-representation of indigenous self-identifications linked to the same limitations of the census process. See, for example, Trinchero (2010).

2 Antecedents of land recoveries by Mapuche-Tewelche collectives can be found in Briones and Ramos (2020). To appreciate the repercussions of both deaths in the immediate political context, see Briones and Ramos (2018).

3 Mapuche Nation. Collective document of the Mapuche Autonomous Parliament Tehuelche Rankulche. Latin American Summary, November 26, 2020. https://www.resumenlatinoamericano.org/2020/11/26/nacion-mapuche-documento-colectivo-del-parlamento-autonomo-mapuche-tehuelche-rankulche/ (accessed November 29, 2020).

4 Of those 23 countries, 15 are from Latin America and the Caribbean. List of countries available in https://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312314 (accessed on November 30, 2020).

5 By this I mean "matters of fact" in the sense of Latour (2004: 244), that is, as "The indisputable ingredients of sensation or of experimentation; the term is used to emphasize the political oddity of the distinction, imposed by the old Constitution, between what is disputable (theories, opinions, interpretations, values) and what is indisputable (sensory data)."

6 I have developed this identification of types of dissent elsewhere (Briones 2014), in clear dialogue with the political ontology program systematized by Mario Blaser (2009, 2013, 2016; Blaser and de la Cadena 2009), and to which they also make key contributions Marisol de la Cadena (2010, 2014, 2015, 2016) and Arturo Escobar (2012 and 2016), among other authors framed in this branch of the ontological turn. However, my proposal not to speak, for example, of ontological conflicts, but of ontological edges or frictions (Briones 2020) has in turn incorporated some suggestions by Tim Ingold (2018), with the purpose of both avoiding totalizations and analyzing the conflictivities as processes and not mere occasional confrontations between different positions *in toto*.

7 The literature on the *ngütram*, the *kuifikecheyem*, or other expressions of Mapuche-Tewelche daily life is extensive. By way of

guidance and because they are linked to the region under review, see, for example, Briones and Ramos (2016); Golluscio (2006); Ramos (2010).

8 That is why in the Parliament of Communities held in *la Winkul* in November 2020, reference is made to the sayings of a *papay* or elderly woman who referred to the Museum of La Plata (formerly the Museum of Natural History) as the place that "still has 'in captivity' our ancestors (sic)." See reference to the document in note 3.

9 Affirmations of this type have been and continue to be recurrent, and are even repeated in the comparatively few public media that publish testimonies from members of the *Lof*, from a non-stigmatizing perspective. See, for example, "From the day before they were hunting us," in the national newspaper page 12 of 11/28/2017, available at https://www.pagina12.com.ar/78932-desde-el-dia-anterior-nos-estaban-cazando (accessed 12/5/2020). What is relevant is that almost a year later, within the framework of the creation of a dialogue roundtable, one of the spokespersons of the Lof reiterates that "we are not going to leave the place, if they want us to leave they are going to take us dead" (in "New dialogue table between the Mapuche community and National Parks," in the virtual local newspaper ANB of 7/17/2018, available at https://www.anbariloche.com.ar/noticias/2018/07/17/65013?fb_comment_id=1818536511547175_1819694928098000, accessed 12/5/2020). And almost three years after the first eviction attempt, within the framework of the protests of the neighbors mentioned at the beginning of this article, in a national newspaper the same spokesperson reiterates: "We have a commitment to the land, they are going to take us out dead, we do not give it up and we do not negotiate it, we take care of it (the land)" (in "Claims crossed in two marches for the occupation of land in Villa Mascardi," La Nación digital of 5/9/2020, available at https://www.lanacion.com.ar/politica/reclamos-cruzados-dos-marchas-ocupacion-tierras-villa-nid2441822, accessed on 12/5/2020).

10 In this direction, I have argued more extensively elsewhere (Briones 2019: 419) how the invisibility of ontological and epistemological frictions "aggravates a feeling of ignorance that, given within the framework of recognition laws already achieved, leads to mistrust of the possibility of a just and broadened "being together" within that framework and, therefore, to radicalize ways of demanding that not only question procedures or goals that are

not fulfilled or barely fulfilled, but also reject those frameworks in themselves."

11 The ways of making visible the demands that the members of *la Winkul* have implemented is what has largely transformed them into a *leading case* that is reviled from two main arguments. First, that the "good" or "true" Mapuche are not violent. Then and consequently, that the Mapuche-Tewelche communities and organizations that opt for other forms of demand do not support *la Winkul*'s claim. These arguments embed a double denial, not only of the political views of the members of *la Winkul*, but also of the perspectives of other people of identical self-identification who are in solidarity with them, even putting into action other forms of political demand. Take note, for example, in what those who participated in the Autonomous Parliament referred to in note 3 express, "We vindicate and recognize the ancestral authorities: Lonko, Machi, Pillan Kushe, Werken, and Kona of Lof Lafken Winkul Mapu, their recovered territory and the legitimacy of their self-defense (…) Finally, we warn that we are aware of the plans for predation and dispossession. We will not hesitate to take direct action measures to prevent the continued destruction of our territory. All forms of struggle are valid in the defense of our *wall mapu*."

12 From the Mapuche-Tewelche way of making the world, the *Wall Mapu* encompasses everything *we* call heaven, earth, and subsoil, and all the different existing beings who make it up, be they *kujfikecheiem* or *pu newen ka pu gen,* in addition to the *che* or people (Confederación Mapuce of Neuquén 2010).

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