BETWEEN THE LETTER AND LIFE: HUMAN RIGHTS AS A FRUSTRATED PROMISE OF THE BOURGEOIS STATE

ENTRE A LETRA E A VIDA: OS DIREITOS HUMANOS COMO PROMESSA FRUSTRADA DO ESTADO BURGUÊS

ENTRE LA LETRA Y LA VIDA: LOS DERECHOS HUMANOS COMO PROMESA FRUSTRADA DEL ESTADO BURGUÉS

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ABSTRACT

This article critically analyzes the normative formulation of human rights, their historical origins, and the influence exerted by the bourgeoisie in their constitution. It also examines the gap between the universalist ideal enshrined in human rights documents and contemporary Brazilian social reality, marked by profound political, economic, and social inequalities, seeking to understand the reasons for their recurring non-implementation. For this study, a theoretical-critical approach was adopted, based on classical and modern authors such as Karl Marx, Adam Smith, and Eric Hobsbawm, as well as on scientific articles published in Brazil in specialized journals and statistical data. The results indicate a structural divide between formal legal equality and concrete material inequality, which is a determining factor in the realization of Human Rights as a universal ideal.

Keywords: Human Rights. Bourgeoisie. Critique. Inequality.

RESUMO

Este artigo analisa criticamente a formulação normativa dos direitos humanos, suas origens históricas e a influência exercida pela burguesia em seu processo de constituição. Examina-se, ainda, o distanciamento entre o ideal universalista consagrado nos documentos de direitos humanos e a realidade social contemporânea brasileira, marcada por profundas desigualdades políticas, econômicas e sociais, buscando compreender as razões de sua recorrente não efetivação. Para a realização do estudo, foi adotada uma abordagem teórico-crítica, fundamentada em autores clássicos e modernos, como Karl Marx, Adam Smith e Eric Hobsbawm, bem como em artigos científicos publicados no Brasil em revistas especializadas e dados estatísticos. Os resultados indicam uma cisão estrutural entre a igualdade jurídica

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formal e a desigualdade material concreta, que é um elemento determinante para a efetivação dos Direitos Humanos enquanto ideal universal.

Palavras-chave: Direitos Humanos. Burguesia. Crítica. Desigualdade.

RESUMEN
Este artículo analiza críticamente la formulación normativa de los derechos humanos, sus orígenes históricos y la influencia ejercida por la burguesía en su constitución. Asimismo, examina la brecha entre el ideal universalista consagrado en los documentos de derechos humanos y la realidad social brasileña contemporánea, marcada por profundas desigualdades políticas, económicas y sociales, buscando comprender las razones de su recurrente falta de implementación. Para este estudio, se adoptó un enfoque teórico-crítico, basado en autores clásicos y modernos como Karl Marx, Adam Smith y Eric Hobsbawm, así como en artículos científicos publicados en Brasil en revistas especializadas y datos estadísticos. Los resultados indican una división estructural entre la igualdad jurídica formal y la desigualdad material concreta, factor determinante en la realización de los derechos humanos como ideal universal.

Palabras clave: Derechos Humanos. Burguesía. Crítica. Desigualdad.

1 INTRODUCTION

> "If there is hope, it is in the proletarians."
> — George Orwell, 1984 (1949)

Human rights can be understood, based on the provisions of the Universal Declaration of Human Rights of 1948, as the foundations and guarantees essential for human life with dignity. Therefore, they are covered by universal norms that aim to safeguard the freedom and equality of individuals, in order to promote the quality of life in the social, psychological and physical spheres, contributing to personal and collective well-being.

In view of its thematic relevance, frequently debated in various spaces — educational, political, and academic — what can be seen is the failure to materialize these foundations. This is because, when analyzing the contemporary scenario in Brazil, one observes deeply marginalized and vulnerable social microcosms, resulting from historical and structural transgressions of human rights.

From this perspective, the present study seeks to reflect on the normative formulation of human rights, its historical origins and the influence exerted by the bourgeoisie in its constitution process, examining the effective evolution of these fundamental precepts.

The use of the concept of bourgeoisie and the analysis of the role played by this social class in the theoretical formulation of human rights is due to the direct relationship between the classical concept and the contemporary approach to the theme.

In this way, the work critically addresses the movements, revolutionary processes and historical events that contributed to the development of human rights, discussing the materialization of these norms, especially with regard to social groups that, historically, were subjected to relations of domination and oppression, with emphasis on the Brazilian situation.

To carry out the study, a theoretical-critical approach was used, based on a bibliographic review based on classical and modern authors, such as Karl Marx, Adam Smith, Hannah Arendt and Eric Hobsbawm, as well as on scientific articles published in Brazil in specialized journals.

From this study, the distance between the universalist ideal enshrined in human rights documents and the contemporary national social reality was verified. It is found that such transgressions become evident when examining the data and statistics of Brazil, which has a history of human enslavement, military dictatorships and curtailment of democratic freedoms.

Thus, the present work turns to the contemporary Brazilian reality in order to evidence the consolidation of an intergenerational cycle of power and accumulation of privileges by a

social class, in contrast to the reality of the majority of the population, which remains distant from the realization of the rights proclaimed until then.

2 DEVELOPMENT

2.1 THE GENESIS OF HUMAN RIGHTS IN THE LIGHT OF THE MODERN STATE AND BOURGEOIS PROMISE: A HISTORICAL-THEORETICAL APPROACH

Analyzing the process of formation of human rights is essential for its proper theoretical foundation, understanding both its emergence and its axiological elevation carried out by the European bourgeoisie, especially during the period of transition to modernity.

Historically, this passage is marked by the decadence of the European feudal system, the rise of small businesses, as well as a pandemic of catastrophic proportions that profoundly transformed the social structure of that region of the planet in the Middle Ages. According to Trindade:

> [...] this sequence of convulsions which began in the second half of the fourteenth century, periodically renewed as a result of interminable wars between the crowned heads of Europe, which disgraced the life of the peasant class, and waves of famine which made manifest and intolerable the privileged position of the nobility and the high clergy, opened the epoch of great social upheavals which, Over the next four hundred years, they would end up tearing down the edifice of European feudalism. European society could no longer be the same as before, kings, nobles and priests could no longer dominate as before. (TRINDADE, 2024, p. 04).

Europe went through a process of transition from feudalism to capitalism, marked by the emergence of the first National States and the replacement of fiefdoms by absolute monarchies. This movement was driven by the commercial and maritime expansion of the Great Navigations, guided by mercantilism, which enabled the exploitation of natural resources and populations in various regions of the world.

In this context, the bourgeoisie emerged as a relevant social class, accumulating capital and consolidating itself as the protagonist of the economic and social transformations of modernity. This protagonism resulted from the disaggregation of feudal structures and the reorganization of the forms of production and circulation of wealth, favoring the private appropriation of economic surpluses and the intensification of capital accumulation, as Trindade points out,

> Over time, little by little, a part of these city-dwellers managed to accumulate some capital in the practices of trade, usury (despite the Church's condemnation of loans with interest) and the exploitation of other people's labor power (still on a small scale), engaging in the production of artifacts of current use, luxury items for consumption by

> the nobility or equipment for intermittent wars. it came to constitute a small economically independent elite that, because it did not engage in manual labor and boasted a higher standard of living, distinguished itself from the mass of inhabitants of the towns and the larger cities. In the fifteenth and sixteenth centuries, this bourgeois class *stricto sensu* was already very active and influential in most cities of Western Europe. It lent money to kings, merchants, feudal lords in difficulty, provided competent advisors for the administration of the monarchical state, and was involved in all the flourishing businesses of the time, such as banking, shipbuilding, the opening of manufactures, and the exploration of the "new worlds" embodied by the great maritime discoveries. In the seventeenth to eighteenth centuries, the bourgeoisie was already quite diversified in various extracts, from the master craftsmen who expanded their workshops by hiring many employees and setting up manufactures, to large (for the time) industrialists and bankers, and constituted what could be called a "middle class" – in the sense of intermediate sectors between the aristocracy and the great mass of the people. (TRINDADE, 2024, p. 06).

From this perspective, several crises arising from the absolute monarchical regime began to arise, mainly due to the constant war conflicts, the excessive spending of the nobility and the generalized rise in prices. On the subject, as highlighted by Hobsbawm, in his work "The Age of Revolutions: 1789–1848", it is observed that:

> The monarchy's financial problems aggravated the situation. The fiscal and administrative structure of the kingdom was tremendously obsolete, and, as we have seen, the attempt to remedy the situation through the reforms of 1774-6 failed, defeated by resistance from the established interests headed by the parliamentarians. Then France became involved in the American War of Independence. The victory against England was won at the cost of final bankruptcy, and thus the American Revolution was able to proclaim itself the direct cause of the French Revolution. Various expedients were attempted with less and less success, but always far from a fundamental reform that, mobilizing the country's considerable taxable capacity, could face a situation in which spending exceeded income by at least 20% and there were no possibilities of effective savings. For although the extravagance of Versailles was constantly blamed for the crisis, court spending only amounted to 6 percent of total spending in 1788. War, navy and diplomacy constituted one-quarter, and half was consumed by servicing the existing debt. War and debt—American war and its debt—broke the back of the monarchy. (HOBSBAWM, 2003, p.88).

The emergence of humanist ideals dates from this period, while economic liberalism, driven by thinkers such as Adam Smith who, in one of his works, states that "wealth is power" (SMITH, 1983, v. I, p. 63), stimulated the bourgeoisie to rise up against the current system, since the nobility concentrated and enjoyed all privileges.

A revolution then emerged in France that would profoundly transform social and economic structures, in addition to constituting the primordial movement for the affirmation of human rights, with liberty, equality and fraternity as its motto, words that expressed a solemn vow in favor of the unfortunate. About this process, Hobsbawm also highlights:

> The French Revolution was not made or led by an organized party or movement, in the modern sense, nor by men who were trying to carry out a structured program. It did not even have "leaders" of the kind that the revolutions of the twentieth century have presented to us, until the emergence of the post-revolutionary figure of Napoleon. Nevertheless, a surprising consensus of general ideas among a fairly coherent social group gave the revolutionary movement an effective unity. The group was the "bourgeoisie"; His ideas were those of classical liberalism, as formulated by the "philosophers" and "economists" and spread by Freemasonry and informal associations. Up to this point the "philosophers" can justly be held responsible for the Revolution. It would have occurred without them; But they probably constituted the difference between a simple collapse of an old regime and its rapid and effective replacement by a new one. (HOBSBAWM, 2003, p.76-77).

In this context, with the social change that has occurred, the ideal of human rights emerges in a significant way, driven by ideas that start to place the human being at the center of discourses. Such currents emphasize the valorization of the body and human dignity, making this set of legal norms acquire special relevance in the historical and political scenario in this historical period.

It is worth noting that the ideas that underlie human rights today did not arise exclusively in the context of the formation of Modern States. Such conceptions were present in different periods of history, although not under this specific denomination, manifesting themselves as theoretical, philosophical and legal constructions that, gradually, contributed to the historical elaboration of the ideas of human rights. In this sense, as Trindade points out:

> Where to start a history of Human Rights? This depends on the point of view that one adopts. If it is a philosophical history, we will have to go back to some of its remote sources in classical antiquity, at least to Greek Stoicism, back in the second or third centuries BC, and to Cicero and Diogenes, in ancient Rome. (..) Or we can opt for a social history — or rather, for a method of study that seeks to understand how, and for what real or veiled reasons, the various social forces interfered, at each moment, in the sense of boosting, delaying or, in some way, modifying the development and practical effectiveness of Human Rights in society. (TRINDADE, 2024., p. 01).

Once established as a new dominant social class, with the advance of the consolidation of its ideals, the period between the post-French Revolution and the Second World War reveals a trajectory that already shows the complexity of the entire process of consolidation of human rights. As stated by Giuseppe Tosi (2004, p. 35):

> It was the result of a long and contradictory process that took place in Europe and in Western countries, in a differentiated way according to the cultural traditions of each nation and with different modalities and times. The "expansion" of human rights in

different cultures, political, social and religious systems, which have not gone through these historical vicissitudes is a complex problem.

From 1789 onwards, the rising bourgeoisie instituted, through the Declaration of the Rights of Man and of the Citizen, an ideology based on individual freedom, abstract legal equality and formal citizenship. However, this project remained restricted to the economic and political conveniences of a class that sought to legitimize and preserve its hegemony.

In this sense, Karl Marx in "On the Jewish Question" unveils the social and material foundation of this ideology by stating that the so-called "rights of man", distinct from the rights of the citizen, do not correspond to a universal human emancipation, but to the rights of the individual of civil society, that is, of the bourgeois man, isolated and proprietor.

By defining as natural and imprescriptible rights such as freedom, equality, security and property, the Declaration of 1793 legally enshrines the conditions of existence of bourgeois society, converting particular interests into universalized values. Thus, such rights operate as instruments of self-preservation for a class that, threatened both by the remnants of absolutism and by emerging social tensions, uses the legal form to limit political power, protect private property, and stabilize the social order necessary for the reproduction of its hegemony (MARX, 2010, p.28).

Throughout the nineteenth century, these principles were progressively appropriated, reinterpreted, and often restricted by national states that, although adopting liberal discourses, maintained structures of colonial exploitation, political exclusion, and social inequality, contrary to the universalist ideals of the 1793 Declaration.

At the beginning of the twentieth century, with the First World War, the inability of liberalism to implement the principles enshrined in bourgeois revolutions became evident, as well as to prevent the devastation produced by exacerbated nationalisms and imperial rivalries, accentuating the abyss between the proclaimed values and historical reality.

The Second World War, in turn, exposed even more radically the risk of moral and political bankruptcy of these promises, especially in the face of totalitarianism, genocide and destruction on an unprecedented scale, paving the way for a normative reconstruction. In this context, Hannah Arendt, in her work Origins of Totalitarianism (2012, p. 369–370), narrates the reality of the time:

> The spread during the twenty years of agitated peace were not only more cruel and bloodier than the previous ones: they were followed by the migration of compact human groups who, unlike their happier predecessors, were not welcome and could not be assimilated anywhere. Once out of their country of origin, they remained homeless; when they left their State, they became stateless: when they lost their human rights, they lost all rights: they were the refuge of the land that could be undone

> or avoided [...] Each event was defined as a final judgment, a judgment which was passed on by neither God nor the Devil, but which seemed the expression of some hopelessly absurd fatality.

In response to all these facts, there was the promulgation of the Universal Declaration of Human Rights, on December 10, 1948, by the United Nations, which represented not only an immediate response to the atrocities committed during the two world wars, but also the consolidation of an ideology built over more than two millennia. based on the search for dignity, freedom and equality among peoples.

As Martins (2023, p. 101) explains, this was the first phase of the international protection of human beings and intended to implement the principle of global respect for human rights already enshrined in this period, in addition to the Charter, they also adapted to other international instruments linked to particular rights that began to be protected. They are the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize.

Based on this historical contextualization, Martins (2023, p. 82) deepens the understanding of International Human Rights Law itself, conceiving it as a set of international legal rules that, regardless of the source from which they emanate, recognize human beings, without discrimination, rights and faculties aimed at ensuring freedom, the dignity of the human person and the effectiveness of fundamental guarantees. In this same analytical horizon, the structure of international protection of human rights reveals itself to be plural and articulated, operating through different normative systems that complement and reinforce each other, as Piovesan explains when he states that:

> Alongside the global normative system, the regional normative system of protection emerges, which seeks to internationalize human rights at the regional level, particularly in Europe, America and Africa. Thus, the coexistence of the global system — integrated by the instruments of the United Nations, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other international Conventions — with instruments of the regional system, in turn, integrated by the American, European and African system for the protection of human rights (e.g., American Convention on Human Rights). The global and regional systems are not dichotomous, but complementary. Inspired by the values and principles of the Universal Declaration, they make up the instrumental universe for the protection of human rights at the international level. In view of this complex universe of international instruments, it is up to the individual, who has suffered a violation of rights, to choose the most favorable apparatus, considering that, eventually, identical rights are protected by two or more instruments of global or regional scope, or even of general or special scope. From this perspective, the various systems of human rights protection interact for the benefit of protected individuals. (PIOVESAN, 2024, p. 01).

In this scenario, the Law emerges as a promise of human redemption in the bourgeois ideal of making all men equal and worthy, ensuring that no other atrocity of such magnitude occurs again and reaffirming humanity's commitment to never go back on the civilizational advances achieved.

Such ideals are present in several constitutions around the world, such as the Brazilian Federal Constitution of 1988, which incorporates them as immediate objectives and guidelines for the construction of a more just society, based on a horizon of the light of reason and focused on the evolution of humanity as a pact for the resumption of the dignity of human beings.

2.2 FRUSTRATION INSCRIBED IN THE VERY FORM OF THE BOURGEOIS STATE

Based on these considerations, it is necessary to reflect on the effectiveness of human rights, examining how the historical processes responsible for their formulation also condition the limits of their materialization in contemporary times. In this sense, the analysis of the bourgeois influence on the conformation of these categories reveals the centrality of legal positivism, whose institutionalization, although contributing to normative stability, predominantly sustains a promise of equality and justice of a formal nature.

Thus, a critical reading of modern revolutionary processes is required, questioning to what extent the ideals of freedom and dignity that guided them have achieved effective realization or remain circumscribed to liberal-bourgeois rationality. From this perspective, the persistence of structural inequalities and relations of domination that permeate the Brazilian historical-social formation is evident, manifesting themselves in the distance between the normativity of human rights and their effective realization in the material plane.

2.2.1 Utopian justice dressed in legal formalism

For the maturation of the Modern State, the need to implement a legal system emerged, through the positivization of law, in order to legitimize the organization of society. According to the understanding of Ferraz Júnior (2003, p.179):

> The conception of the order as a system is in line with the emergence of the modern State and the development of capitalism. The first manifestations of a difference between common private entities (religious and commercial societies) and public entities date back to the Middle Ages and occur for two profound reasons: finance and war. On the one hand, the growth in the number of free men changes the problem of the organization and financial management of the public sphere. On the other hand, the complexity of the art of war increases the demands for organization and efficiency [...].

Thus, legal positivism does not seek a moral evaluation of the norms, but intends to achieve recognition and validity, in order to establish, in a rational way, this organization based on the law, which was defined by legists, a group mostly composed of individuals from the bourgeoisie or the nobility. Thus, these professionals formalized the Law in written laws. According to Norberto Bobbio (1999, p.142):

> Legal positivism, defining law as a set of commands issued by the sovereign, introduces into the definition the single element of validity, thus considering as legal norms all norms emanating in a certain way established by the legal system itself, regardless of whether or not these norms are effectively applied in society: in the definition of law the requirement of efficacy is not thus introduced.

The understanding of the supremacy of the law then arises, which would symbolize the ideal of justice – justice that did not play a leading role in the modern reality of the State, since the adoption of a uniform legal text would not respect the singularities, for example, of the colonies dominated by the pioneering National States of this historical period.

By tracing this logic, it is observed that this picture marked the first moments of the legislation in force in Brazil, since, after the arrival of the Portuguese, Brazilian Law was not the result of the participation of the peoples from this territory, as it was structured from the Ordinances of the Kingdom of Portugal. Therefore, the national normative body was entirely based on Lusitanian notions, biased in the expansionist, exploratory and Eurocentric logic, bypassing all the organizational aspects of the colony, whether in the criminal, civil, procedural or administrative spheres.

Celso Silva Fonseca (2008) points out that there were a series of "legal and political procedures that contributed to providing the monarch with the conditions to govern without submitting to the uses, customs and arbitrariness of the privileged social classes" (FONSECA, 2008, p. 55).

In view of this, it is understood that these legal groups sought to mold individuals in conditions beneficial to the permanence of the privileges and interests of the metropolises, ensuring the king's control in social, administrative and economic issues and relations. In this sense, this legal body institutionalized discrimination, perpetuated inequalities, preserved hierarchical society and distanced the collectivity from access to the real objective of the Law.

> Any person who buys a slave who is sick with such an illness, who tries to use him, may reject him from the one who sold him, proving that he was already sick in his possession of the said illness, provided that he summons the seller within six months of the day, that the slave is delivered to him. (PHILIPPINE ORDINANCES, liv. 4th, tit. XVII).

From these premises, it is understood that the process of positivization of the law brought advances with regard to the stability of laws, consolidating a normative body based on predictability, which allowed for greater organization of legal categories. However, the legal systems arising from this process were flawed, insofar as they promised formal equality and the realization of the primary objective of law – justice – but produced norms marked by structural biases of privilege, resulting, consequently, in the distancing of non-bourgeois segments from the full realization of human dignity.

2.2.2 The metastasis of the liberal-bourgeois discourse: illusory emancipation in times of revolution

In the light of the historical-social context exposed, the effects of juspositivism and the effectiveness of the supremacy of the written law circumvented the evolution of the State throughout the historical periods. Therefore, it is understood that the law and the State walked together, evidencing the normative support that the former provides for the functioning of the governmental entity.

Thus, when tracing a timeline, it can be seen that the consolidation of Modern National States provided the concentration of power in the figure of the king, characterizing the form of government known as monarchical absolutism. Bobbio (2000, p. 115) addresses the legal relationship present during the process of formation of the Absolute State:

> the formation of the absolute state occurs through a double parallel process of concentration and centralization of power in a given territory. Concentration is understood as the process by which the powers through which sovereignty is exercised - the power to dictate laws valid for the entire community (to the point that customs are considered a valid right only to the extent that, by a legal fiction, they are presumed to be accepted or tolerated by the king who has not expressly cancelled them), The jurisdictional power, the power to use force at home and abroad exclusively, and finally the power to impose taxes, are rightly attributed to the sovereign by the legists, and are exercised in fact by the king and by the officials directly dependent on him.

In this sense, between the sixteenth and nineteenth centuries, monarchs had full powers to create laws, alter legal texts already sanctioned and execute any practice according to their will, since religion was instrumentalized as a legitimizing foundation for their behavior, allowing the diffusion of justifications of a political and theological nature, such as the Theory of the Divine Right of Kings.

From this perspective, Marcos Antônio Lopes, PhD in History from USP, addresses in his text "From God to the King: The Sacred Right of Command (Theological-Religious Implications in Modern Political Theory)":

> [...] The Christian prince went to the top of the hierarchy of political society. This means that the prince's prerogatives compelled everyone to bow to his will, but that he was not bound by anyone's will. It was thus that, throughout the seventeenth century, the prince's desire came to have the force of law and to be the very expression of law. (LOPES, 2010, p.03).

In this way, the Modern State develops from theoretical bases that legitimize the absolute authority of the king and his unquestionable power, consolidating a scenario of state control and absence of constitutional limitations, a situation that was intensified by the development of mercantilism, an economic doctrine that aimed at the accumulation of wealth and the strengthening of the State, which, consequently, perpetuated the power of the figure of the sovereign and his influence in other territories. In this context of royal hegemony, the exploitation of the colonies diffused such power and aggravated misery and colonial exploitation, contributing to the distancing of the well-being of these historically subjugated collectivities.

> In this sense, Althusser correctly specified its character: "The political regime of absolute monarchy is only the new political form necessary for the maintenance of feudal domination and exploitation in the period of development of a commodity economy." (ANDERSON, 1985, p. 19)

The culture of sacralization of royal power, combined with mercantilist dissemination, prepared a favorable soil for the development of capitalism and the consolidation of the bourgeois class, since commercial expansion and the domination of the colonies represented new markets, in addition to the submission of exploited peoples to European economic interests.

However, even in the face of this accumulation of wealth, the bourgeoisie — a class that progressively consolidated its influence — longed for greater political participation, a power that was limited by the arbitrary characteristics of the king, since this same class was no longer content to hold economic power; he now intended to take political power for himself, until then a privilege of the aristocracy (STRECK; MORAIS, 2001, p. 46). Furthermore, it is worth noting that this class remained subject to the state commands of the sovereign, which directly interfered with their pretensions and interests.

> The rising bourgeoisie, already master of the economy, no longer accepted a state that did not satisfy its desires. Expressing repudiation of the not yet completely capitalist components of the period, he referred to the social, economic, political and cultural structure of that period. (VICENTINO, 1992, p.116).

In search of substantiating their desires, this class clothed itself, at that moment, with rationality, in order to obtain support for the pursuit of its interests. These intellectual thoughts, often permeated by self-interest, gave rise to one of the most important movements in history: the Enlightenment, a philosophical, political, scientific and social current that promised to shed light on the darkness of the Ancien Régime, culminating in transformations in various aspects of modern life.

This doctrinal current was strongly influenced by bourgeois aspirations, which sought to combat the injustices of the scenario marked by the absolute authority of the monarch. In general, understanding this movement seems essentially revolutionary, it conveys a notion of combating misery and tyranny, as well as the search for effective freedom of the collectivity. It is precisely at this point that the strategies of the bourgeoisie aimed at consolidating their privileges become perceptible.

In the hopeful yearning for the progress of humanity, the bourgeois class financed, valued, encouraged and promoted study and research; Thus, a significant portion of the main thinkers of the Enlightenment movement belonged to the bourgeois class, invalidating the values and dogmas characteristic and legitimizing absolutism.

The Enlightenment reflections sought, in general, the reach of enlightenment, in order to break with submission and demystify superstitions, allowing philosophy and science to enable civilization to achieve progress. During this period, the Encyclopedia was published, a work of great relevance of the Enlightenment, and the press, with the financing of the bourgeoisie, played a fundamental role in the dissemination of these ideals (DARNTON; ROCHE, 1996).

Therefore, in the face of the rigid structures of absolutism, the Enlightenment movement provided theoretical foundations that made it possible to advance bourgeois ideals and aspirations. This philosophical current was guided, above all, by the principle of freedom, which was the basis, for example, of the defense of free enterprise in trade. In the economic sphere, the discourse of several thinkers was linked to the defense of non-state intervention, the limitation of state power, and the adoption of liberal policies.

In this regard, throughout the seventeenth century, the conflicts between the monarchy and the English Parliament made possible the so-called English Revolutions, which aimed to limit monarchical power and the supremacy of Parliament, consolidating the power of the bourgeois class and, consequently, establishing legal and political bases compatible with English capitalism, which boosted, for example, industrialization and the protection of private property.

This scenario of revolutions in England culminated in the elaboration of a fundamental document for the history of human rights, the Bill of Rights or English Bill of Rights of 1689, instituted by Parliament with the purpose of limiting the power of the State and containing the arbitrary practices of the king. Guimarães (2010, p. 09) points out that:

> In the historiography of human rights, the expression gives its name to the document prepared by the English parliament and promulgated on December 16, 1689. For a brief understanding, in 1688 the English throne was occupied by Jayme II, deposed by the invasion of William of Orange. The Bill of Right was a document composed of 16 clauses, which determined what the new king must obey, as a condition for being sworn in.

In this sense, Guimarães (2010, p. 09) also states that this document represented a warning from the lords to the king, so that he would no longer try to dominate Parliament, repeating the violations committed by King James II. Furthermore, for the author, although the document represented the demands of the lords, the people would have their freedoms protected, culminating in a starting point for eighteenth-century liberalism. it is worth mentioning and highlighting the importance of this document and its influence on the historical evolution of Human Rights, especially with regard to the imposition of limits on royal power, tracing a new trajectory of the State and its relations with society.

However, it is essential to understand that the English Revolutions, which culminated in the formulation of this document, were led by the bourgeoisie. Faced with this scenario of growing influence of this class — which especially aimed at the development of private property, capitalism and its political rise — the legal text of the English Bill of Rights, especially with regard to freedoms, was still mostly at the normative level, since the full exercise of these rights did not materialize in a practical way for the totality of the people. According to BEZERRA (2019):

> In this sense, the English declarations of law solidify the first legal bases of fundamental rights, however, it should be noted that as they predominantly had the function of limiting the power of the monarch, they are only partial normative precepts of fundamental rights. (BEZERRA, 2019)

Faced with favorable conditions for the development of industrialization in England and for the increase of bourgeois political power in Parliament, the political and economic bases conducive to the diffusion of liberal ideals and the Industrial Revolution were consolidated.

Thus, it was on French soil that these Enlightenment ideals gained greater prominence, culminating in one of the most significant events in world history: the French Revolution, presented as a revolutionary movement of freedom, symbolically represented by

Marianne, a female figure who personifies the French Republic and who, by wielding the Phrygian cap, became a universal symbol of the struggle against oppression, carrying with it the essence of the movement expressed in the motto "Liberty, Equality and Fraternity".

However, the French reality in the period after the Industrial Revolution was marked by poverty, misery and inequality, thus configuring a scenario conducive to the seduction of the vulnerable population by ideologies that disseminated in a theoretical way, what the collectivity needed to experience concretely.

In this logic, the dissemination of revolutionary ideals was intensified by the press, which enabled the wide circulation of these debates, contributing to the consolidation of public opinion.

> The literature of the underworld, which circulated among the popular strata, played a decisive role in the moments preceding the revolution. This less educated layer, which was the vast majority of the population, was reached by the literature of the underworld that incited the people against the regime (DARNTON, 1996, p. 17-18).

Thus, bourgeois dissatisfaction in France was significantly greater than in England, since the panorama of the French economy was weakened in the period after the Industrial Revolution. From this premise, it is understood that the bourgeoisie acted intentionally by consolidating a public opinion that was favorable to it, using the ideals of the Enlightenment and the literature of the so-called "underworld". For Cotrim (2010), the Revolution was the result of several factors, including great social inequality, economic problems and the need for change.

Leading this social and political movement, the French Revolution put an end to absolutism, symbolized by the fall of the Bastille in 1789, while consolidating bourgeois power and its influence on subsequent historical events and movements. In this way, the Declaration of the Rights of Man and of the Citizen represented a fundamental milestone for the definition of individual and collective rights, by listing natural and essential needs for human life.

However, this document was also the result of the need to represent the interests and demands of the bourgeoisie. Although essential for the understanding of human dignity, its content remained mostly on the theoretical level, not materializing effectively in the marginalized popular strata and vulnerable to the effects of the post-Industrial Revolution misery.

Thus, the Assembly of the Estates-General, convened by King Louis XVI, was converted, through the representativeness of the Third Estate – a social group led and represented by the bourgeoisie – into the National Constituent Assembly. According to Soboul (1981), the Constitution drafted by the National Assembly in 1791 transformed France into a

constitutional monarchy, ending the privileges of the nobility and the clergy and establishing freedom of trade and production that contemplated bourgeois interests. The bourgeoisie sought to guarantee, above all, economic freedom.

> In this way, as the bourgeoisie increasingly consolidated its economic power and intellectual values, the institutions of the Ancien Regime were overcome, and these advances led the bourgeoisie to make the revolution to ensure its power and thus direct the State in order to meet its interests (FLORENZANO, 1987, p.25).

Bourgeois action was not restricted to the fall of absolutism, but also extended to the initial moments of the implementation of the French Republic, a period marked by conflicts between Jacobins and Girondins, equally permeated by bourgeois interests. At first, the Jacobin government adopted measures that contradicted the plans of the high bourgeoisie, such as: price fixing, confiscation of land from nobles and the Church to sell at low prices to peasants, abolition of slavery in the colonies. However, Jacobin action was weakened by authoritarian practices and persecution of its opponents, which culminated in its fall and the rise of the Girondins.

> Thermidor (a coup led by the Girondin high bourgeoisie that overthrew the Jacobin dictatorship on July 27, 1794) is the end of the heroic and remembered phase of the Revolution: that of the tattered sans-culottes and the upright citizens in red caps (...). It was not a comfortable phase to live in, as most men were hungry and many were afraid, but it was a phenomenon as terrible and irreversible as the first nuclear explosion, and all history has been permanently transformed by it. And the energy it generated was enough to sweep away the armies of the old regimes in Europe as if they were made of straw (HOBSBAWM, 1982, p.90).

From this point of view, it can be seen that the social body weakened by misery and inequality did not constitute the central focus of these revolutionary movements, which, although they proclaimed fundamental values and needs for the promotion of human dignity, were unable to materialize these legal precepts in the reality of the population.

In this regard, it is relevant to reflect on whether individualism, the result of these modern currents, has not overshadowed the perception of real social needs, to the point that such logic is still reproduced in contemporary contexts, in which the search for profit has been superimposed on the real promotion of dignity and the realization of human rights for all individuals.

In the international context, the ideals and currents derived from these revolutions also guided other territories besides France, such as the United States, with the American Revolution, which marked the independence of that country and the rupture of the colonial

bond with England. This occurred to the extent that the English attempts to reduce a certain autonomy of the Thirteen Colonies generated discontent, especially among the local elites, who, clothed in liberal notions, started the independence movement.

Thus, in the American panorama, the liberal-bourgeois paradigm was implemented in the historical events that led to American independence, as well as in the formulation of the United States Declaration of Independence and the American Constitution (1787). Despite this, such currents were not able to break with structures of domination present in the North American territory, such as the oppressive experiences lived by native peoples and the enslaved black population.

In this context of colonial emancipation, especially in relation to the European powers, liberal aspirations influenced the ideological principles of popular struggles, including in Latin America, where bourgeois elites led revolutionary movements. According to Deyon (1999) and Nazaro (2007) it is possible to observe that the bourgeoisie sought new markets and this would be possible with the independence of the colonies.

An example of this is the Pernambuco Revolution of 1817, a separatist movement led by the Pernambuco elite, which led, through "ties of domination", popular participation dissatisfied with the Portuguese Crown, in a scenario marked by economic crisis, rivalries between Pernambuco and Portuguese, and rigid budget administration. At this juncture, the revolutionaries from Pernambuco were nourished by Enlightenment thought through university students returning from Europe, clandestine publications and spaces such as the Seminary of Olinda and other Masonic lodges that were the stage for debates and Enlightenment reflections.

In view of this, the objective of this study is not to entirely invalidate the revolutionary processes or the Enlightenment movement itself and its effects on the development of essential documents for the history of human rights, but, above all, to question and reflect on the motivations and results obtained in these revolutions, inquiring to what extent we can affirm that such mobilizations had, in fact, with the aim of promoting the well-being of society, especially vulnerable and historically oppressed groups.

By following this premise, it is clear that the bourgeois class, by leading and encouraging these movements, was understood as a group that carried the ideal of freedom. However, in the end, the consolidation of an intergenerational cycle of power and accumulation of privileges is evident, in contrast to the reality of the rest of the population, which remained distant from the realization of the rights proclaimed until then.

In this way, the discourse of progress and civilization also spread in the nineteenth and mid-twentieth centuries, during the process known as neocolonialism. Legitimized by

distorted theories, such as social Darwinism, the great capitalist powers, clothed in the same liberal and bourgeois currents, began to seek new markets and territories to oppress, exploit and dominate. To do so, they resorted to distorted moral concepts, in order to justify this oppression.

In literature, there is the excerpt "The White Man's Burden", a poem by the British Rudyard Kipling, which romanticizes the need for neocolonial domination in order to bring civilization to populations considered "undeveloped". Beyond this discourse, the fallacies sustained by social Darwinism and scientific racism represent nothing but a farce, that is, a manifestation of individualism clothed in capitalist, bourgeois and liberal logic, sown throughout successive revolutionary processes that proclaimed freedom, equality and dignity, but which, however, were obscured by the incessant pursuit of profit and the perpetuation of privileges and relations of domination.

Following this reasoning, Nilthon Fernandes in his academic work "Marginalized territories: a discursive semiotic reading of neocolonialism and its exploitations", argues that "historically marginalized territories, including countries in the Global South, peripheral regions, and traditional or indigenous communities, continue to be subjected to unequal power relations that resemble unwritten colonial contracts, in which benefits and resources flow in a to the centers of power." Such a scenario describes situations such as the breach of sovereignty and external interference, resulting in the exploitation of cheap labor, reduced quality of life and complete distancing from human rights.

Therefore, this framework of conceptions covered by bourgeois logic is understood to this day. In the scenario of globalization, it becomes evident that such discourses of the past are still present in international politics. Thus, doctrines such as those present in Manifest Destiny institutionalize political and economic interventions, disrespecting the singularities of peoples and placing profit above any human right.

> In fact, the globalization of markets, the nerve of contemporary capitalism, has conferred, without dispute, supremacy to a single pole of power, which dictates to the universe the technological tyranny of unemployment and exclusion, declaring freedom that has form but has no content or substance, because it is abstract, metaphysical and inconsistent, and subscribing to equality that does not go beyond the demagogy of texts, and that soon bows to the empire and the rise of more and more atrocious and profound inequalities. (BONAVIDES, 2001, p.100)

Therefore, tolerating geopolitical events that disregard sovereignty, especially of oppressed and exploited state entities, implies neglecting the very essence of the fundamental rights of individuals belonging to these marginalized homelands. Thus, it becomes essential, through critical reflection, to defend the effective materialization of human

rights, without submitting them to the logic of profit, so that dignity is concretized as a reality of the collectivity.

> Faced with this colonialist morality, which is related to specific social interests, the subjugated peoples have increasingly asserted their particular morality, learning to distinguish between their own virtues and their own duties. And they achieve this only to the extent that, growing their consciousness of their true interests, they fight for their national and social emancipation. In this struggle, his morality is no longer affirmed by the virtues that the oppressor presented to him as his own and that he had an interest in fostering (passivity, resignation, humility, etc.) or by the vices that were attributed to him (criminality, indolence, pretense, etc.), but by the peculiar virtues — those of a morality that the oppressors cannot accept: his honor, fidelity to his own, his patriotism, his spirit of sacrifice, etc. (SÁNCHEZ VÁZQUEZ, 2008, p.51).

2.2.3 Inequality in Brazil as empirical evidence of the limits of the promise of equality

To demonstrate, in an empirical way, the failure of human rights and the bourgeois promise of universal equality, it is necessary to observe the current Brazilian reality, marked, in various areas, by inequality and the lack of effectiveness of these rights.

According to the Human Development Report, the HDI (Human Development Index) of the country is in the high classification, which leads to the assumption that the community experiences the fullness of social well-being. However, such a perception is not consistent with the statistics that show transgressions of the fundamental norms that ensure the inviolability of the right to life and quality of life. (UNDP, 2024)

According to data released by the National Human Rights Ombudsman's Office, of the Ministry of Human Rights and Citizenship, Dial 100 — a service for registering and forwarding complaints of human rights violations — registered more than 657.2 thousand complaints in 2024, representing an increase of 22.6% compared to 2023, when 536.1 thousand occurrences were recorded. (BRAZIL, 2025)

In addition, the numbers indicate that most victims are female, totaling 372.3 thousand complaints, which reflects the persistence of inequality and gender violence. Domestic and gender-based violence is among the most recurrent violations in Brazil, reaching a record number in 2025, with 1,470 cases between January and December, according to data from the Ministry of Justice and Public Security. (G1, 2026)

Also with regard to violence, according to statistics released by the Ministry of Justice and Public Security, 6,519 people were killed by the police, which represents a 4.5% increase in deaths resulting from police intervention in 2025. (G1, 2026)

In this same scenario of vulnerabilities, according to information from the Ministry of Human Rights and Citizenship, 4,515 complaints of work in conditions analogous to slavery were reported in 2025. Thus, exhausting working hours, degrading conditions and restriction

of freedom constitute realities experienced by marginalized social groups, far from the slogans and ideals that, although theoretically praised, are not fully realized, and such individuals are often used as instruments for the consolidation of a lucrative and individualistic logic. (BRAZIL, 2026)

According to Inaf (Functional Literacy Indicator), in 2024, three out of ten Brazilians aged between 15 and 64 were functionally illiterate, which corresponds to 29% of the population. In the face of a fragile educational scenario and a community intensely impacted by inequalities and socioeconomic problems, the agenda of the realization of human rights must be faced, in order to prevent Brazil from remaining on this path of silencing transgressions. (G1, 2025)

With all the data presented, which demonstrate how reality abruptly distances itself from the letter of the law, the question arises about the reasons for this distancing: why are human rights not effectively applied? Why is the bourgeois promise of equality and the universalization of equality frustrated?

2.3 BETWEEN THE LETTER AND LIFE: WHY FRUSTRATION?

After studying, it becomes possible to perceive the deep abyss between the letter of the law and concrete reality. It is observed the permanence of a discourse of equality and freedom that has been repeated since the eighteenth century, presenting few transformations capable of producing real effects. In view of this, the following question arises: why are human rights not fully legitimized beyond the law?

To answer this question, it is necessary to analyze two central points. The first concerns the way in which the bourgeoisie appropriated and manipulated its own ideals, orienting them not to the liberation of the subaltern classes, but to the maintenance of relations of domination, while at the same time naturalizing misery and poverty.

The second point refers to the construction of an excessively rigid legal formalism, in which the individual ceases to be a subject and protagonist of the law to become only a means; Thus, the figure of abstract man emerges, dissociated from his social materiality.

2.3.1 Between freedom as dominion and dignity as distinction: paradoxes of exclusionary universalism

The promise of Human Rights based on the universalization of man as a subject of rights, projecting the construction of a just society, guided by the recognition of human dignity and the frustration of its practice, reflect how the letter of the law remains distant from human

reality. This problem is present when one analyzes how the bourgeoisie transformed freedom into dominion and dignity into privilege.

In the first analysis, it is important to highlight that the bourgeoisie manipulated its own ideals, so that the dignity proclaimed as universal was no longer understood as a right inherent to the human condition and began to function, in practice, as a privilege accessible to a few.

In this sense, it is essential to observe that the discourse of human rights, although it claims to be universal, reveals itself to be exclusionary by disregarding other conceptions of dignity and by aligning itself with an individualistic and neoliberal ideal, originating from a specific culture. As Santos and Martins (2019) point out, when analyzing the limits of the hegemonic conception of human rights:

> The hegemonic, North-centric conception of human rights is today at an impasse as a language for the emancipatory transformation of societies. The narrowness and selectivity of its purposes prove incapable of confronting the systematic injustices and oppressions caused by capitalism, colonialism and patriarchy. At the same time, considering itself the privileged depository of an untouchable civilizational achievement, the abstract universality of human rights is hostile to any counter-hegemonic conceptions arising from insurgent, revolutionary or simply non-Eurocentric perspectives. Hegemonic or conventional human rights are, in our view, hegemonic because they result from their Western monocultural origin, without this calling into question their universal ambition, because they have been at the service of double standards and imperialist justifications in the geopolitical arena, and because they are today the minimum denominators of law congruent with the individualistic global order. neoliberal, colonial and north-centric. They are also so because they are based on a conception of human nature as being individually and qualitatively different from non-human nature, because they are based on the idea that what counts as a violation of human rights is defined in international declarations, multilateral institutions and non-governmental organizations. (SANTOS and MARTINS, 2019, p. 21).

In this conception, the right to dignity for all, without exclusion, would be a bourgeois deception used to obtain the support of the lower classes and the less favored classes, persuading them to ally themselves in their search for greater freedom. After that, the rights conquered would be transformed into a privilege accessible only by the logic of meritocracy, however, "Merit is a farce" (MARKOVITS, 2021, p. 17).

Thus, any inequality that arises would be justified as normal, the result of a lack of individual effort. As analyzed by Borba et al. (2017), if, on the one hand, the bourgeoisie breaks the aristocratic notion of honor, with formally recognized inequality, by proposing a career open to talents and effort, the entire weight of man's life is now on his own shoulders.

As argued by Markovits (2021), meritocracy operates as a symbolic device that naturalizes social privileges. The author states:

> Meritocracy promises to promote equality and opportunity by giving the elite — in the past hereditary — access to ordinary people, armed only with talent and ambition. It also promises to reconcile private advantages with the public interest, by reaffirming that wealth and status must be obtained by conquest. Together, these ideals aim to unite society around a common vision of hard work, competence, and well-deserved reward. But meritocracy no longer works as it promises. Nowadays, middle-class children lose out to rich children in school, and middle-class adults lose out to the college-educated elite at work. Meritocracy blocks opportunities for the middle class, and in doing so blames those who lose the competition for income and status—competition that, even when everyone does everything right, only the rich can win. (MARKOVITS, 2021, p.17-18).

In this way, misery and exclusion begin to find support in this individualistic logic, being treated as inevitable phenomena, and not as violations of dignity and freedom previously promised by the French Revolution and the other revolutions that were inspired by it. In this sense, one of the central failures of these movements is evident: by not structurally confronting poverty, the very freedom advocated in their ideals was denied, because there is no true freedom where individuals remain imprisoned to their most basic material needs.

From this point of view, (ARENDT 1988, p.39) reaffirms that "he had been forced to open his space and his light to this immense majority of those who were not free, because they were trapped by the needs of everyday life".

Inserting this theoretical framework, VICENTE (2019) deepens the relationship between poverty, freedom, and the failure of bourgeois ideals, showing how the permanence of misery makes it impossible to achieve the freedom promised by revolutionary movements.

> Those who wished to be freed from the situation of misery therefore came to meet those who wished to create a space for public freedom, and these, out of compassion for them, set aside their goals and embraced the struggles and desires of the people to free themselves from the suffering caused by misery, thus leading the Revolution into the abyss. That is why Hannah Arendt, as Gottsen (1994, p.40-42) said, places the feeling of compassion in the "catalogue of emotions that are potentially dangerous to freedom" and makes a long defense of "coldness and insensitivity in politics". This position of the author, which, in general, is directly linked to her considerations on "social issues", appears in the eyes of some of her readers, as the most complex and as the most disturbing part of her work and, not by chance, was the target of several criticisms, as if Hannah Arendt was committed to eliminating, once and for all, the social issue of the agenda of modernity, or advocating a total indifference to the poor and oppressed. (VICENTE, 2019, p. 113).

Would human rights, as declared by the bourgeoisie, therefore be subject to annulment, given their achievements and frustrations, implying the need for a historical

setback? Such an annulment, however, would produce more problems than solutions for humanity, since the lack of cohesion in social life is not a modern phenomenon.

It is precisely for this reason that those who imagine a return to tradition as the only defense against disorder are profoundly wrong (HOLANDA, 1995, p. 33). It is therefore necessary to redirect the ideals of human rights, moving them away from bourgeois hegemony. After all, as Marx observes, the bourgeoisie "is incapable of dominating because it is incapable of assuring its slave its own existence within the framework of slavery" (MARX, 2015, p. 77), extending this condition to the majority of individuals.

In summary, it is necessary to recognize the limitations of the Enlightenment, meritocratic and bourgeois ideal, which, since the fall of the absolute monarchies, has been consolidated in such a profound and apparently irrevocable way that there is little question of effective alternatives for facing social problems. It becomes evident that there is no freedom where misery and poverty persist, just as dignity cannot be reduced to the exclusive product of individual labor without detaching itself from its own essence.

2.3.2 The construction of the Abstract Subject and the distancing from man as the end of the law

In order for the analysis of man's abstraction to be conducted with greater theoretical rigor, it is important to conceive law as a strictly formal system. In this sense, Pinheiro (2009, p. 4) characterizes bourgeois law by the adoption of rational-abstract and egalitarian forms, the first being a condition for the possibility of the second.

In fact, the intention of granting equal treatment to materially unequal individuals is only made possible by means of purely formal legal norms, that is, devoid of reference to concrete social or material contents.

The abyss of the legal form in relation to the concrete social content highlights one of the central aspects of the critique of bourgeois law: although it presents itself as universal, neutral and egalitarian, modern law depends on a specific content to ensure its stability and calculability, that is, abstract labor, whose centrality results from a historical process linked to the development of capitalism. The consolidation of this legal form occurred in parallel with the expropriation of the direct producers of the means of production, transformed into sellers of labor power and inserted into the market through contractual relations.

In this context, the figure of abstract man emerges, a subject of formally free and equal rights, stripped of his historical, social and material determinations. Such abstraction constitutes the foundation of both formal bourgeois law and the modern conception of human rights, which, by addressing a universal and undifferentiated subject, tend to operate on the

plane of formal equality, without confronting the structural inequalities proper to capitalist sociability.

Thus, human rights, when limited to this abstract dimension, run the risk of legally legitimizing material relations of exploitation and domination, instead of promoting effective human emancipation. In this sense, Pinheiro (2009, p. 04) reaffirms this understanding when he states that:

> This indifference of form in relation to content carries the paradox of requiring a fixed reference to which all other contents can be referred; a condition of stability of the form (i.e., of the adhesion of all) and of the calculability of the results. From a logical point of view, it can be said that the only content that serves this role is abstract labor; However, more than a logical relation, it is the result of the historical process of development of capitalism carried out by the bourgeoisie which, by expropriating the direct producers of the instruments of production, launched them on the market as sellers of labor power, created the conditions for all the objects that are the product of labor (and necessary for the satisfaction of human needs) to be exchanged on the market through purchase and sale operations. in the contractual form.

Therefore, there is a reflection on the possible misunderstanding of Human Rights idealized by the bourgeois State, articulating with the criticism of the conception of abstract man, that is, of the individual conceived in an isolated way, disconnected from his historical, social and material determinations. Thus, when the law is addressed to this abstract subject, reduced to a merely formal universality, it moves away from concrete life and ceases to operate as an effective expression of the universal Good. Thus :

> In the face of the universal Good, the internalized law is still a pale and very specific figure, one of its precarious and unstable manifestations. In front of the whole, we seem to be nothing, and we tremble. We are and we are not the whole. In this abrupt oscillation of perspectives, the subject almost disappears. There is hope, but hope is little. Despair is the bitter fruit of hope. Morality will need to exceed itself and effectively embrace the world. It will need to transcend itself as Ethics." (LUFT, 2020, p. 250).

In this way, internalized morality remains restricted to the subjective plane, incapable of fully realizing itself in the world, which deepens the split between the individual and the legal order. Human Rights, by ignoring the real conditions of existence of the subjects, lose their ethical dimension and become external commands, foreign to the lived experience, generating not only the fragility of the moral conscience, but also the feeling of helplessness and estrangement in the face of the social totality. Thus, the overcoming of the abstraction of man and the formalism of the law proves to be a necessary condition for morality to transcend its subjective insufficiency and materialize itself as effective ethics, reconciling the normative universal with social reality.

3 FINAL CONSIDERATIONS

This paper analyzed three central points. First, it examined the origin of human rights as a historical promise, marked by modern revolutions and a gradual process of consolidation that culminated in what is now recognized as the Charter of Human Rights. Secondly, the close interpenetration between the history of these rights and the process of the rise of the bourgeoisie was analyzed, explaining how this social class appropriated and shaped the predominant ideals of society, including through the financing and instrumentalization of religious conceptions, as well as the positivization of laws and formalism.

Once the phase of development of the letter of the law and its promise of the redemption of humanity was overcome, the Brazilian reality became evident, in which, since 1988, human rights have been formally guaranteed. However, such a guarantee coexists with a scenario marked by deep inequalities, especially with regard to poverty, health and education.

Thus, the central point revealed by this study consists in the identification of the causes of the frustration of human rights within the bourgeois state. Such frustration manifests itself, in the first place, in the manipulation of the notion of universal dignity, which, in practice, comes to be conceived as accessible only through meritocratic logic.

Added to this is the promise of freedom, which proves to be ineffective when individuals remain imprisoned in misery and the material needs of everyday life. Furthermore, the formation of abstract man constitutes another fundamental element for understanding this frustration, since the subject is considered in a way that is detached from his social and historical construction, resulting in an excessively formalistic legal form, which takes man away from his central role.

It is important to emphasize that the criticism developed is not directed at the denial of human rights as historical achievements or at their normative relevance. On the contrary, it is recognized that these rights represent fundamental advances in the limitation of arbitrary power and in the affirmation of basic guarantees of dignity. The problematization focuses, however, on the abstract legal form through which these rights are structured in the bourgeois state and on the material conditions that hinder their effective realization, evidencing the need for their defense simultaneously with a critical overcoming of their historical limits.

Therefore, this article questions the idea that the State and law are neutral or universal by nature by evidencing their historical and bourgeois character. Thus, by problematizing merely formal equality and the idea of an excluding universalism, the article seeks to promote a qualified critical reflection on historical limits and the need for a social form that overcomes the split between legal equality and real inequality. Thus, it becomes imperative to rethink the

law and the State so that man ceases to be just a means of the legal norm and starts to be recognized, in its historical concreteness, as the true end of the social order.

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