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**EXPLORING DIALECTICAL CONFLICTS TO
FOSTER RESILIENCE:
Subaltern Perspectives on Violence, Justice, and Law
in Latin America and the Global South**

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Résumé

Cette thèse vise à comprendre une dialectique fondamentale en Amérique latine : la violence, la justice et leurs répercussions sur le droit. L'hypothèse suggère la présence de nombreux affrontements dialectiques chaotiques-fluides entre la violence organique et la promotion de la justice à l'intérieur et au-delà du droit. À partir de ces dialectiques, notre recherche explore l'hypothèse du développement d'une plateforme pour la transformation des conflits axée sur les fondements idéologiques et pratiques des subalternes en mesure de favoriser la construction d'une « justice subalterne ». À l'appui de cette hypothèse, la première partie réalise une analyse historique de la promotion de la justice par les mouvements sociaux subalternes en Amérique latine et vise à apporter un soutien argumenté à ces initiatives. La deuxième partie tend quant à elle à démontrer que la transformation du droit international ne devrait pas constituer l'objectif principal des subalternes en Amérique latine. En se fondant sur le cadre méthodologique de la réflexivité, la thèse met en évidence que l'outil le plus efficace pour tester les hypothèses proposées pourrait être une théorie intermédiaire reliant les théories gramscienne et foucauldienne.

Mots-clés : violence, justice, droit, dialectiques, subalternes

Résumé en anglais

This thesis seeks to comprehend a fundamental dialectic in Latin America: the interplay between violence, justice, and their impact on the law. The hypothesis posits the existence of multiple chaotic-fluid dialectical conflicts between organic violence and the pursuit of justice both within and outside the legal framework. Building upon these dialectics, our research aims to examine the hypothesis of constructing a platform for conflict transformation prioritising the ideological and practical underpinnings of the subaltern, thus facilitating the expansion of 'Subaltern Justice'. To substantiate this hypothesis, the primary goal is to examine the impact of subaltern social movements in Latin America on the progression of justice over time and propose methods for enhancing this advancement. The second part seeks to demonstrate that the subaltern in Latin America should prioritise objectives other than the transformation of international law. Rooted in the methodological framework of reflexivity, an intermediate theory that bridges the concepts of Gramscian and Foucauldian theories could serve as the most effective means to test the proposed hypotheses.

Keywords: Violence, Justice, Law, Dialectics, Subalterns



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LIST OF ACRONYMS

Most employed

APIB	<i>Articulação dos Povos Indígenas do Brasil</i> (Articulation of Indigenous Peoples of Brazil)
BIT	Bilateral Investment Treaty
CEPAL	<i>Comisión Económica para América Latina y el Caribe</i> (Economic Commission for Latin America and the Caribbean)
CIL	Customary International Law
CONAIE	<i>Confederación de Nacionalidades Indígenas del Ecuador</i> (Confederation of Indigenous Nationalities of Ecuador)
CONAQ	<i>Coordenação Nacional de Articulação das Comunidades Negrais Rurais Quilombolas</i> (National Coordination of Black Quilombola Communities)
IACHR	Inter-American Court of Human Rights
ICSID	International Centre for Settlement of Investment Disputes
ILA	International Law Association
ILC	International Law Commission
MAS	<i>Movimiento al Socialismo</i> (Movement Towards Socialism)
MNU	<i>Movimento Negro Unificado</i> (Brazil's Unified Black Movement)
MST	<i>Movimento dos Trabalhadores sem Terra</i> (Landless Movement)
MUPP-NP	<i>Movimiento de Unidad Plurinacional Pachakutik – Nuevo País</i> (Pachakutik Plurinational Unity Movement – New Country)

Others

ANI	<i>Asociación Nacional Indígena de Chile</i>
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	(Chilean Indigenous National Association)
CAOI	<i>Coordinadora Andina de Organizaciones Indígenas</i> (Andean Coordinating Body of Indigenous Organisations)
CERDS	Charter of Economic Rights and Duties of States
CFIA	Cooperation and Facilitation Investment Agreement
CIL	Customary International Law
CLOC	<i>Coordinadora Latinoamericana de Organizaciones del Campo</i> (Latin American Coordination of Rural Organisations)
CLS	Critical Legal Studies
COB	<i>Central Obrera Boliviana</i> (Bolivian Central Workers' Union)
COIAB	<i>Coordenação das Organizações Indígenas da Amazônia Brasileira</i> (Coordination of the Indigenous Organizations of the Brazilian Amazon)
COICA	<i>Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica</i> (Coordinating Body of Indigenous Organisations of the Amazon Basin)
CONACAMI	<i>Confederación Nacional de Comunidades del Perú Afectadas por la Minería</i> (Peruvian National Confederation of Communities Affected by Mining)
CONAICE	<i>Confederación de Nacionalidades Indígenas de la Costa Ecuatoriana</i> (Confederation of Indigenous Nationalities of the Ecuadorian Coast)
CONAMAQ	<i>Consejo Nacional de Ayllus y Markas del Qullasuyo</i> (National Council of Ayllus and Markas of Qullasuyu)
CONFENIAIE	<i>Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana</i> (Confederation of Indigenous Nationalities of the Ecuadorian Amazon)
CTE	<i>Confederación de Trabajadores del Ecuador</i> (Confederation of Ecuadorian Workers)
ECUARUNARI	<i>Ecuador Runacunapak Rikcharimui</i>

	(Confederation of Peoples of Kichwa Nationality)
EZLN	<i>Ejército Zapatista de Liberación Nacional</i> (Zapatist Army of National Liberation)
FDI	Foreign Direct Investment
FEI	<i>Federación Ecuatoriana de Indios</i> (Ecuadorian Federation of Indians)
FENOC	<i>Federación Nacional de Organizaciones Campesinas</i> (National Federation of Peasant Organisations)
FEPOIMT	<i>Federação dos Povos e Organizações Indígenas de Mato Grosso</i> (Federation of Indigenous Peoples and Organisations of Mato Grosso)
FET	Fair and Equitable Treatment
FTA	Free Trade Agreement
FUNAI	<i>Fundação Nacional do Índio</i> (National Indian Foundation)
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
IBGE	<i>Instituto Brasileiro de Geografia e Estatística</i> (Brazilian Institute of Geography and Statistics)
ICJ	International Court of Justice
ILO	International Labour Organisation
IMF	International Monetary Fund
INCRA	<i>Instituto Nacional de Colonização e Reforma Agrária</i> (National Institute of Colonisation and Agrarian Reform)
INEP	<i>Instituto Nacional de Estudos e Pesquisas Educacionais</i> (National Institute for Educational Studies and Research)
IPEA	<i>Instituto de Pesquisa Econômica Aplicada</i> (Institute for Applied Economic Research)
MDB	<i>Movimento Democrático Brasileiro</i> (Brazilian Democratic Movement)
NAFTA	North American Free Trade Agreement
NEP	New Economic Policy
NGO	Non-Governmental Organisation

NIEO	New International Economic Order
OCDE	Organisation for Economic Cooperation and Development
OPEC	Organisation of the Petroleum Exporting Countries
PP	<i>Partido Progressista</i> (Progressive Party)
PPT	Permanent Peoples' Tribunal
PT	<i>Partido dos Trabalhadores</i> (Workers' Party)
SCLC	Southern Christian Leadership Conference
SEPPIR	<i>Secretaria Nacional de Políticas de Promoção da Igualdade Racial</i> (National Secretariat for Policies Promoting Racial Equality)
STF	<i>Supremo Tribunal Federal</i> (Brazil's Supreme Court)
UK	United Kingdom
UNCTAD	United Nations Conference on Trade and Development
US	United States
USSR	Union of the Soviet Socialist Republics
VOC	<i>Vereenigde Oostindische Compagnie</i> (Dutch East India Company)
WB	World Bank
WW1	The First World War
WW2	The Second World War

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