

**ORDER, PROGRESS AND COLONIALITY: CHANGES IN THE ENVIRONMENTAL LEGAL FRAMEWORK AND EXPORT OF WOOD IN BRAZIL IN 2020\***

*ORDEM, PROGRESSO E COLONIALIDADE: AS ALTERAÇÕES NO MARCO NORMATIVO AMBIENTAL E A EXPORTAÇÃO DE MADEIRA NO BRASIL EM 2020*

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**Abstract:** The article seeks to demonstrate how the modernity project sustains the process of exploiting natural resources in Brazil, contextualizing and critically analyzing the case of changes in legal framework for wood export made by IBAMA in 2020. Based on decolonial perspectives, the modernization project, that marks its beginning in the century. XV and involves multiple processes that, among other elements, are based on colonialism, is thought. Modernity and coloniality are legitimized by blatantly unconstitutional legal elements, which by political will privilege the private sector whose interests are profit through the exploitation of natural resources existing in the Legal Amazon. The research uses an inductive method and the procedure is the documentary investigation of the environmental legal framework pertinent to the case. As an extra-normative critical theoretical contribution, a bibliographic review from a decolonial perspective offers elements for the analysis of the epistemological substrates that support the government's orientations and positions.

**Keywords:** Legal Amazon; Decoloniality; Export of wood; IBAMA; Modernity.

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**Resumo:** O artigo busca demonstrar como o projeto da modernidade sustenta o processo de exploração de recursos naturais no Brasil, contextualizando e analisando criticamente o caso das alterações do marco normativo referente à exportação de madeira realizadas pelo IBAMA em 2020. Apoiando-se em perspectivas descoloniais, pensa-se no projeto de modernização que marca seu início no séc. XV e envolve múltiplos processos que, dentre outros elementos, sustenta-se sobre o colonialismo. Modernidade e colonialidade são legitimadas por elementos jurídicos flagrantemente inconstitucionais, que por vontade política privilegiam setor privados cujos interesses são o lucro via exploração de recursos naturais existentes na Amazônia Legal. A pesquisa utiliza método indutivo e o procedimento é a investigação documental do marco normativo ambiental pertinente ao caso em questão. Como aporte teórico crítico extra-normativo, uma revisão bibliográfica de perspectiva descolonial oferece elementos para análise dos substratos epistemológicos que sustentam as orientações e posicionamentos do governo.

**Palavras-chave:** Amazônia Legal; Descolonialidade, Exportação de madeira; IBAMA; Modernidade

## Introdução

The Amazon Forest is delimited, in Brazilian territory, by what is called "Legal Amazon", established by Law 1.806/53 and which includes nine states (not all of them entirely) and 772 municipalities, giving them a differentiated legal status in order to establish specific policies that take into account territorial and economic issues (IBGE, 2020).

Brazil's struggle to protect the Amazon is a huge challenge that has strained interests for decades: from agribusiness, miners, indigenous peoples and communities, environmental groups, construction companies, lumber companies, hydroelectric plants, pharmaceutical industries, among others, and more recently the President of the Republic Jair Bolsonaro, his Environment Minister Ricardo Salles and the president of IBAMA (Brazilian Institute for the Environment and Renewable Natural Resources, a federal agency linked to the Ministry of Environment), Eduardo Fortunato Bim.

This is because, in the historical course against deforestation in the Amazon, legislation, agencies, resources, non-governmental organizations, local population, among others actors, are dedicated to ensure preservation, as it is placed as a constitutional duty. However, despite an increase in deforestation also in other times and governments, institutional policies and legislative proposals were rarely as blatantly unconstitutional and aimed at the interests of private sectors as in the current administration of public representatives.

As a case study, this text seeks to analyze the normative changes in the document Interpretative Dispatch No. 7036900/2020-GABIN (Office of the Presidency of IBAMA), regarding the Export Authorization for forest products and by-products of native origin, which

declared forfeiture and the tactical revocation of the normative instruction (IN) IBAMA n. 15/2011, which sought to abolish the requirement of DOF (document of forest origin), among other requirements, in cases related to the export of wood.

In a record scenario of deforestation, in February 2020 timber companies (Association of Wood Industries of the State of Pará/AIMEX and timber company CONFLORESTA) filed a request via Joint Official Letter No. 001/2020 requesting the relaxation of inspection mechanisms related to exports. On the day after the administrative proceeding at IBAMA (Process No. 02001.003227/2020-84), the advice of the Directorate of Biodiversity and Forests (DBFLO) opened the procedure to the General Coordination for Monitoring the Use of Biodiversity and Foreign Trade (CGMOC) prepare a technical opinion on the matter, which vehemently opposed the timber companies' request (technical note No. 2/2020/CGMOC/DBFLO and technical note No. 3/2020/DBFLO).

However, following IBAMA's refuse to the technical note, the CGMOC coordinator was dismissed from his position. After these events, a new technical note was produced, opposing the first and in accordance with the request of the loggers, which quickly had the effective order 7036900/2020-GABIN, signed by Eduardo Fortunato Bim, current IBAMA's president.

This study seeks to take this process by analyzing not only its legal elements, already well contested in the Civil Public Action of number 1009665-60.2020.4.01.3200 processed in the 7th Federal Environmental and Agrarian Court of the SJAM of the Federal Court of the 1st Region, but also taking theoretical and epistemological components that support these positions.

Thus, it address to offer the decolonial paradigm as an opposition to coloniality, inseparable from modernity - as its other hidden face. The arguments in favor of deforestation in the Amazon largely subsist on the idea of progress, of modernity, which are based on a Eurocentric vision of life and production in the world. Nevertheless, its formalization as a legal document indicates the intragovernmental power relations and the role that institutions and law itself play in legitimizing these processes.

## **1. Decolonial Perspectives of Modernity**

The decolonial critique of Dusselian matrix locates the beginning of modernity in 1492, with the processes of occupation and invasion of America by Europe (DUSSEL, 1994).

Soon, Modernity and the coloniality are spheres of the same historical process of domination of knowledge, subjectivity and power, as highlighted Aníbal Quijano (2010). This means that modernity developmental discourse's conceals the colonial face that actually supports the development to only a small portion of humanity, while the vast majority suffer in misery, exploitation and degradation environmental, including in this package of dire consequences not only human subjects, but also nature.

In the same sense, Pazello (2018, p. 1562) highlighted that the idea of “[...] Americanity is a constitutive act of the modern world system and, thus, with this new world, not only coloniality, but also ethnicity arises, racism, and in its wake, novelty or modernity”; for this author, coloniality takes place as political and epistemic relations (2018, p. 1559). Therefore, among the instruments for the reproduction of these modern facets is the idea of the modern nation-state and the monocultural conception of legal production that cover up the material relations existing in modern sociability.

Based on these references, it is worth noting that critique is the criticize of the mode of modern sociability as a condition that produces coloniality, that is, it remains to be recognized that the immediate mutability of modern sociability is not possible without the mediate rupture of modern instruments as a strategy of transformation. Such is the case of the bets that many popular movements have been carrying out in the scenario of the so-called creative tensions of the revolution (LINERA, 2019) or the Law as a weapon of liberation (DE LA TORRE RANGEL, 2006).

Hence, Enrique Dussel proposes that the first moment of critical thinking is the geopolitical location as it structure the socio - historical space. Dussel himself (2011) mentions that being born in New York is not the same as being born in Africa or anywhere else in the world in the Global South (SANTOS, 2010)<sup>4</sup>. This is because the realities of the Global South were colonized by the metropolises on duty, in regarding subjectivity, epistemology and power relations, consolidating a hegemony of what Immanuel Wallerstein (2005) called the disseminated world-system as European universalism (2007).

The reproduction of this universalist hegemony is reproduced thanks to the modern instruments of the nation-state and monocultural law. Wallerstein (2007) calls attention to the fact that in the hegemonic arguments are specifics hidden interests, such as in the military

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<sup>4</sup> The idea of the Global South, approached by Boaventura de Sousa Santos, starts from the perspective that geopolitics, different from hegemonic geography, recognizes certain areas as perverse effects of capitalism and modern colonialism (SANTOS, 2010).

campaigns, for example, in the case of the conquest of America; its an investment simultaneously in capitalism transnationalized on territorialities and regional subjectivities.

In this sense, there is a punctual criticism against the most voracious result of modernity today, namely, capitalism. Philosopher Frantz Hinkelammert (2018) proposes that modernity is the cultural moment of capitalism, which in turn is the economic moment of modernity. With these pillars, modernity sustains its discourse in democratic, constitutional and human rights narratives only at the formal level, disconnected from the concrete reality and materiality of people's lives. For this reason, Juan Jose Bautista S. (2018, p 06. – our translation) asks: "The problem is, why amid so much 'supposedly true' knowledge, so much scientific and technological development, is there so much accumulation of misery and injustice and destruction of nature at levels never before imagined?"

It is then the market totalization which speaks Hinkelammert (2018). In the same sense, comes Atilio Boron with the idea of the commodification of social life (2001) and Carlos Rivera Lugo (2019) with the 'state in fact': both theses visualize the preponderance of a market boosted by the nation-state form and by the modern monist law . Finally, following the reflections of Juan Jose Bautista S. (2018, p 06.): "It is no longer only capitalism that is the problem, but the historical and cultural horizon that made it possible, called Modernity".

With this last statement, it is worth reinforcing the idea that by highlighting capitalism as a point of criticality, one is not reducing it to a purely economic critique of the phenomenon, because it is understood that the horizon of decoloniality is necessarily a critique of the coloniality of power, understood since Quijano as:

[...] power is the space and a mesh of social relations of exploitation/ domination/ conflict articulated, basically, in function of and around the dispute for control of the following means of social existence: 1) work and its products ; 2) dependent on the former, 'nature' and its production resources; 3) sex, its products and the reproduction of the species; 4) subjectivity and its products, material and intersubjective, including knowledge; 5) authority and its instruments, of coercion in particular, to ensure the reproduction of this pattern of social relations and regulate its changes (QUIJANO, 2010, p. 71).

For this reason, it is observed that decolonial criticism is the critique to the sociability of modernity, which is a sociability understood from the perspective of political economy, not reductionist to economism, as highlighted by Carlos Rivera Lugo (2019, p. 58)

[...] our understanding of political economy cannot reduce its structural dimension to the relations of power and strength that sustain it, but must necessarily also enter into its dimension as a process of production of subjects and constitution of subjectivities. Without this other dimension, only the danger of the most vulgar economism awaits us.

Therefore, talking about decolonial critique is a prime horizon of interpretation of modernity as a cultural structure that supports, together with the capitalist economic structure, a global process of exploration of subjects, subjectivities and their scopes of interpretation of the world; moreover, of course, that the sustaining point of such a project is a material exploration of the resources of nature existing in territorialities protected by a differentiated relationship logic: while for the modern subject, Being is Having, for the subjects in the dimension of the decolonial struggle, Being it is to live in harmony, within a non-exploratory cosmovision.

Boaventura Santos (2010a) called these decolonial perspectives Epistemologies of the South<sup>5</sup>, dimensioned as a pluricultural appreciation of different forms of knowledge that open the horizon of understanding the world beyond modern Western understanding, enabling the visibility of other forms of relationship between human beings and between humans and nature.

Following this understanding, Quijano (2000) proposes that America was the first space-time of a new pattern of power, being the first identity of modernity. Two processes were fundamental and are the axes of this new pattern of power: the idea of race and the articulation of all historical forms of labor control around capital and the world market. The idea of race is a mental category of modernity, which did not exist before America, and constitutes an instrument of classification<sup>6</sup> and social domination, as it is based on the idea that there is a supposed biological difference between human beings, making some supposedly naturally inferior to others.

In this scenario, capitalism is the new structure of labor control. With the conquest of America, all forms of control and exploitation of labor and of production-appropriation-distribution of products began to be articulated around the world market and the capital-salary relationship. This did not mean the exclusion of slavery, serfdom, etc., but these different modalities took on a new form, always being linked to capitalism and the world market. There was a change in the way these relationships are constituted, firstly because they were destined to produce for the world market and, secondly, because all these other forms were linked to capital and the market and, therefore, others. This process configured a new global standard of

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<sup>5</sup> “By Southern epistemology, I understand the demand for new processes of production and valorization of valid, scientific and non-scientific knowledge, and for new relationships between different types of knowledge, based on the practices of social classes and groups that have systematically suffered unjust inequalities and the discrimination caused by capitalism and colonialism” (SANTOS, 2010b, p. 43).

<sup>6</sup> On the subject, see: QUIJANO, Aníbal. Coloniality of Power and social classification. In: SANTOS, Boaventura de Sousa. Southern Epistemologies. São Paulo: Editora Cortez, 2010a.

labor control, the axis for the configuration of a new global standard of power, modernity/coloniality, and it is from this process that world capitalism is established and later consolidated (QUIJANO, 2000)

As soon as Europe established itself in control of the world market, it also began to impose its dominance in all regions of the world, attributing new identities such as Africa, Asia and the very idea of the Orient. As well as in the economic aspect, in which all forms of labor control came to be articulated under capital, the new pattern of power reduced experiences, cultures and histories to the global and hegemonic cultural order of Western Europe. What didn't fit that pattern was covered up and/or rated as exotic, primitive. Europe also came to dominate the production of subjectivity, culture, knowledge in particular. In other words, capitalism is not reduced to the economic sphere! As stated above. It was also imposed on the dominated races to learn the culture of the dominators, from the production of epistemes to subjective, religious domination, that is, there was (and still exists) a colonization of the imaginary of the dominated, of their intersubjectivity (QUIJANO, 2000).

This model of power was the first in fact global. The conquest of America, which produces modernity and the construction of the world power of Eurocentric capitalism, impacts the history of humanity and affects not only Europe, as one might believe, but the entire world. Quijano (2000) points out that the lie of the concept of modernity is that this process started in America and not Europe. America represents the hidden face of modernity: coloniality. The implications of modernity in Western Europe and the rest of the world, constituted as its periphery, are abysmal; therefore, every concept of modernity is necessarily ambiguous and contradictory.

In the context of the 21st century, we are experiencing a scenario of global warming, exacerbated emission of greenhouse gases such as carbon dioxide and methane, extinction of animal species, rise in temperature and sea level, deforestation and destruction of multiple ecosystems, environmental catastrophes etc., in short, a multiplicity of events that direct our gaze to ecological issues, imposing a reflection on how we got here and what we can do to change course, or, more tragically, what can happen if we don't. The prognosis is not very encouraging, however, it is a theoretical and political task that we think about the existing alternatives and to be developed, as well as that we look at the different forms of existing resistance, especially those that come from the periphery of the world or from the South global.

Here, we start from the idea that the ecological crisis is the result of the modern Western paradigm, which is one of the foundations of capitalism and the hegemonic vision of

what development means in this model of civilization. According to Josef Estermann (2012), it is actually a crisis of the entire civilizational model, of the entire model of society that is based on this dominant paradigm, since crises coexist and coalesce in different fields, such as financial, ecological and political.

In environmental terms, effectively, the system ignores climate change and the evident finiteness of natural resources, such as oil, mineral resources, fauna, flora and water, and the response of the constituted order is basically to consume until it runs out, with power of the North imposing (symbolically or militarily) on the countries of the global South that the policies of exploitation of raw materials remain in force (ESTERMANN, 2012).

The changes resulting from human interaction in exploring natural resources, together with its civilizational model centered on the use of fossil resources, is such that it inaugurated a new geological era: the anthropocene.

The term appears in the 2000s with Crutze and Eugene, two geographers who, based on changes in carbon dating – physical aspects such as carbon emission on earth – arising from the interference of man in the world and its social composition, characterized our time as a new geological era, given such changes.

Impressively, the theory followed by a series of criticisms that stress the centrality of “anthropos” in the composition of such changes, as well as discussing the dating of this new era, whether linked to the industrial revolution or even to the Neolithic period in the first human manufactures. Despite starting in the field of hard sciences, the human sciences started to be part of the discussion and multiply their approaches according to the centrality, as suggested by other interpretations such as the Capitalocene, Holocene etc.

This isn't just about global warming and climate change. 2015 data list nine paradigmatic markers for maintaining life on earth: climate change, atmospheric aerosol load, chemical pollution, ocean acidification, ozone layer degradation, drinking water use, land use, loss of biodiversity, interference in the hydrogen and phosphorus cycles, the latter two having already passed the controllable limits. Of the others, either are at medium risk or have not yet fully established their limits (STEFFEN et al, 2015).

The Anthropocene would be marked by a fundamental alteration of the human in nature. Elements such as colonialism and the industrial revolution, as well as the creation of human and natural sciences are aspects that mark the century. XVII not only for its carbon markings, but also in its social markers, enough elements to affirm that it is another geological era.



Viveiros de Castro and Déborah Danowski (2019) emphasize that a critique of the anthropocene cannot be reduced to a critique of capital, although this is one of its fundamental and structuring elements (MOORE, 2016). This is because, as modernity implies dimensions also related to the ontological status of humanity, man appears as a transcendental empirical double "on the foundation of positivities and in the element of empirical things" (FOUCAULT, 2002, p. 475), that is, the idea of "man" becomes itself an object of study while it is the protagonist of this investigation. It is the emphasis of *Anthropos*, discussed within anthropocene theorists, that we are questioning. This is to say that it is not enough just to deprive capital and its hegemony for the immediate and automatic solution of all problems, even though this is the first task.

Bruno Latour on two occasions (2019a; 2019b) conceptualizes the difference between moderns and non-moderns through symmetric anthropology. He argues that the advent of modernity is based on a separation between nature and culture, developed around the century. XVI-XVII, in which the company began to organize and distribute itself from and with a view to maintaining this separation. Carlos Marés (2018) states that nature was expelled from modernity, which opposed civil society to natural society, and one of the tasks of the present moment is precisely to reverse this falsely dichotomous split.

Difficult situation, this separation made through what we call science (humanities, legal, applied social, economic, etc.) will distribute the discourses in paradoxes: nature is not our construction, it is transcendent and surpasses us, while society is our construction and immanent to our action. On the other hand, we can reconstruct nature in the laboratory, immanence, while society transcends us and cannot be constituted by us (LATOURE, 2019a, p. 47).

It must keep in mind that a "modernization" project, a civilizing project, is not only about the exploitation of natural resources, even though it has one of its structuring pillars. It is also about bringing faith to primitive peoples, bringing technology, culture, development and civility, establishing hierarchies between human beings, in short, it is a whole civilizing project and the element of modern subjectivity is not of minor importance. This implies that both left and right orientations can be in favor of modernity, being a project that crosses distinctions within the political spectrum.

Latour's (2019b) argument, in a sense close to Isabell Stengers, is to offer a reorientation that revolves around the Humans vs. Earthlings axis, the latter being those against

modernity<sup>7</sup>. This is to broaden the criticism and realize that within leftist governments and leftist movements there are often enthusiasts of modernization projects, which in theory are different from the capitalist horizon, but which ultimately do not take into account the anthropocene problem.

However, of course, capitalism and colonialism present themselves as the target problems today. Colonialism and neocolonialism as processes of capital accumulation and continuous extraction of surplus value, currently through what Guattari called “Integrated World Capital” (2020) - and which has recently become popularized under the moniker of neoliberalism -, are the responsible for maintaining this scenario. Not abstract beings, but 90 companies that are in particular responsible for 2/3 of carbon emissions on earth (VIVEIROS DE CASTRO; DANOWSKI, 2019, p. 103). Modernity and coloniality are inseparable projects:

The genocide of the Amerindian peoples - the end of the world for them - was the beginning of the modern world for Europe: without the plunder of the Americas, Europe would never be more than the backyard of Eurasia (...) No plunder of the Americas, no capitalism, no Industrial Revolution, therefore, perhaps also no Anthropocene. (VIVEIROS DE CASTRO; DANOWSKY, 2017, p. 107).

The project of modernity introduced and submitted by Europe to other regions of the globe had and still has as a condition the exploitation, spoils and violence against other regions. The explorations, the caravels, the insatiable search for natural resources, the slavery of the original peoples of America, followed by the invasion and colonization of the African continent are well-defined and material characteristics: all this was a condition of modernity, without which perhaps Europe it would never have ceased to be a people dispersed in fiefs.

It happens that the establishment of modernity by coloniality is concomitant with the epistemological change that we have explained so far. It is also one of the elements that intensified and made possible multiple forms of violence, genocide and cover-ups also of languages and ways of life that clash with the modern project. Even today, the paradigm of modern life, called living well, the American way of life, imposes modes of existence on regions subjected to a dynamic of capital, universalizing a contextual particularity of the north of the world, which, even due to the material conditions of the planet, does not could be extended to the entire world population.

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<sup>7</sup> There is an interesting discussion here in Latour when he states that “We were never modern”, an epigraph that titles the work, in the sense that modernity is a project that did not materialize and the fainting of our time brings symptoms seen in the “post-moderns”, which would be those who no longer agree with the “constitutional guarantees of modernity”, but are unable to accomplish anything. The question is then to be non-modern, or according to Viveiros and Deborah (2019), not to return to anything but becoming other.

Victor Toledo (2019, p. 23-24) brings alarming data, from a report prepared for Oxfam by Tim Gore, and from a study by Richard Heede, a researcher at the United States Climate Responsibility Institute, which reveals that:

[...] the poorest half of the human population, some 3.5 billion individuals, generate as much as 10% of the gases that cause global warming, while the richest 10% emit half of those gases into the atmosphere. [...] The total emissions of the poorest half of China, about 600 million, represent only a third of the total emissions of the richest 10% of the United States, about 20 million. Similarly, the richest 10% of India pollutes on average only a quarter of what the poorest half of the United States does. [...] 90 companies, which include private and public corporations, are responsible for no less than 63% of accumulated carbon emissions in the atmosphere. Of the list, the first 20 are headed, as expected, the giant energy companies like Chevron, Exxon, British Petroleum, Shell, Saudi Aramco, Conoco Phillips, Peabody and Energy, but also state companies like Gazprom, of Russia, the State Company of Iran, Petróleos Mexicanos, Petróleos de Venezuela, Petro China and Sonatrach of Algeria. This twenty generated 30% of the carbon and methane emissions that go into the atmosphere..

Thus, modernity rests on some pillars/axioms, which also support the vision of economic growth and capitalist development, which, according to Josef Estermann (2012), are “optimism”, that is, the idea that development aims to build a kind of earthly paradise, with material bonanzas; the irreversibility of time and history, that is, the conception of time as linear and unidirectional, without considering the existence of other possibilities beyond what is already stated; the quantification of time, values and goals, in the sense that all areas of human life are monetized and quantified; the artificiality of the world, as richness in this vision translates into the transformation of Nature into a commercial product; the relationship between human beings and Nature, which is exposed in the anthropocentric position in which the human being is the subject and Nature the object to be explored and manipulated for the production of goods; the reduction of natural resources to raw material status ; the accumulation of money as a translation of wealth and quality of life; instrumental rationality, which preaches that technology must be governed by profitability, efficiency and accelerated growth; anthropocentrism and androcentrism, in this perspective, the non-human world and women are instrumentalized; economism in all areas, which implies that all aspects of life are reduced to instrumentalization and monetization.

In a similar sense, Carlos Federico Marés (2018) reflects on the exclusion of nature from modernity, pointing out that, by emphasizing individualism at the expense of community and contrasting civil society with natural society, modernity excludes all that nature that cannot be converted into merchandise. The hegemonic and modern view of nature is a predatory view, with an impetus for domination, which reduces the value of nature to the profits that can be extracted from it. Modernity set out to improve nature - because it is wild and dangerous,

according to this perspective - but it only managed to cage it. Nature in its natural state is seen as an obstacle to progress and development, therefore, the human attempt was to dominate it, to extract its wealth as much as possible. Now nature fights back and takes the bill, and awareness of the human potential to destroy nature and known life forms is more recently accepted, although the harmful activity is ancient.

Modernity, by separating civil society from natural society, considered the former as an empire of reason and civility, and the latter as something to be avoided and overcome, as something uncomfortable, ugly, that must be tamed. Thus, the illusion of self-sufficiency of the human being was created, as if it were possible to do without nature in order to survive. In addition, modernity implied the transformation of the land and all its natural resources into merchandise that could be exploited (MARES DE SOUSA FILHO, 2018).

In the context of the current environmental crisis, it is necessary to bring nature back to society, overcoming the separation caused by modernity and rebuilding the human-nature relationship, as there is a real threat that it will reach a point where it does not it is not even possible to satisfy the vital needs of human beings, due to the excessive exploitation and mistreatment of nature. In this sense, a change is required in society itself, in the current civilizational model, in the rationality that supports the system. Therefore, the challenge is also to overcome modern/capitalist subjectivity, that is, it is more than simply overcoming the mode of production, because even socialist experiences can - and have historically maintained, as in the case of the Soviet Union (MARTÍNEZ ALIER, 1992) - sustain practices that exploit nature.

Also worthy of consideration and reflection is the idea that the natural course of history brought us to the capitalist model, in a mystical way, naturalizing the existence of a specific and contextual model of production relations, which also brings the assumption of a grand narrative about the reality of such events, about the inevitability of capitalism, which Mark Fisher (2011) points out as the realism of capitalism. And if this present and the reality of this present is the reality imposed by capitalist realism (FISHER, 2011), as a way of suppressing creative horizons, it is not for this reason that it ceases to be less material.

Perhaps even better that Fisher's concept is what Victor Galdino (2020) proposes as "enlightened realism". Not only capitalism as the worst world we've had, as in capitalist realism, but, keeping a certain constant call of realism, that this is the best world to live in. Modernity appears as a bastion of progress and a symbol of all our achievements, which are, among them, *mass genocide and the destruction of nature*. The idea that we keep in our imagination is that

we are at the peak, that we have overcome the dark period of humanity with light and reason. For the author, enlightened realism has three fundamental characteristics:

I) Conjunction between a realistic picture of political progress - which is the copy of the image of scientific progress - and dystopian image of the past, breaking with Renaissance nostalgia for a return to past; II) association between rationality and progress, so that what is imagined/identified as a setback becomes irrational and must be exorcised in the name of combating all forms of “false consciousness”; III) a moral commitment to the intellectual hierarchy that allows both the claim of the superiority of the way of life achieved by progress and the defense of an enlightened personal identity. (GALDINO, 2020, p. 59)

There are two styles, therefore, of realism: the capitalist and the enlightened. Development emerges, then, as the apex of rationalism, of inevitable logic, so that the problems of capitalism present themselves, in this logic, as a lack of capitalism, as if there should be more and more capitalism for its apparent problems to be resolved, as if the illness in larger doses could bring a cure.

In this way, Victor Toledo (2019) develops the concept of *civilizionarios*, in a writing in which he proposes to rethink modernity based on political ecology. For him, *civilizionarios* are the subjects of change that the current scenario requires. Likewise, it starts from the observation that modernity is in crisis and that the issue related to climate change is urgent, proposing, given the global risk, that there is an interdisciplinarity between the social sciences and the natural sciences in the analysis of society and nature. In the globalized world, inequality has never been so abysmal, there has never been so much concentration and centralization of wealth, and all of this increases with environmental degradation and the ecological crisis, as greater quantities of raw materials that serve as inputs for industry and for the production of goods that will later be commercialized, that is, capitalist economic growth goes through the destruction of nature.

O modelo de vida ocidental é essencialmente um modelo predatório em relação aos recursos do planeta, especialmente nos países centrais, cujo consumo individual é muito maior do que o de indivíduos de outras latitudes, deixando uma pegada ecológica gigantesca. Porém, mais do que indivíduos ou famílias, as grandes causas da crise ecológica são as grandes corporações, o que mostra que, mais do que no consumo, o problema ambiental está inserido na esfera da produção.

The Western model of life is essentially a predatory model in relation to the planet's resources, especially in central countries, whose individual consumption is much greater than that of individuals from other latitudes, leaving a gigantic ecological footprint. However, more

than individuals or families, the great causes of the ecological crisis are the large corporations, which shows that, more than in consumption, the environmental problem is inserted in the sphere of production. It's more, that "[...] the half of contaminants emitted since the industrial revolution has been generated in the last 25 years!" (TOLEDO, 2019, p. 24 – our translation), that is, in recent years, when the system's destructive potential and the relationship between global warming and toxic gas emissions were already considered, it is precisely when there is an increase in contamination. This data exposes us to the urgency of taking the ecological issue seriously.

However, punctuating the results of excessive and disconnected exploitation of the biological cycles of nature, as well as criticizing the typical production model of capitalist modernity, does not mean defending nature intact or untouchable. It is understood that, for their survival, human beings need to act on their natural environment, the question, therefore, is how, what is the objective (whether the satisfaction of human needs or ostensible consumption and infinite profit) and guided by which principles.

## **2. Debates about the wood exportation in Brazil in 2020 and the normative framework permissive to illegal practices and negligent with inspection**

After the theoretical and epistemological contextualization, which guides the normative analysis that will be carried out as a theoretical framework, it is necessary to go into specifically with regard to the object of this article: the export of wood by Brazil in 2020 and the normative framework permissive to illegal practices.

The obligation to inspect and seal for the preservation of the environment is ensured in several legislative spaces. Constitutionally, article 170, item VI, elects the protection of the environment as a principle to which the economic order must be subordinated. Likewise, article 255, items I-IV, ensures the right to a balanced environment and imposes on the public authorities the duty to act actively to ensure the preservation and restoration, in different areas of the country, of the ecosystems that make up the Brazilian territory.

However, infra-constitutionally, the legislation also has imperatives regarding the handling of environmental issues. Law No. 6.938/1981 establishes the National Environmental Policy – especially in art. 7, III and IV-, as well as Law No. 13.844/2019 -art. 39 – establishes what refers to the areas of competence of the Ministry of the Environment. Likewise, Complementary Law No. 140/2011, designates in article 7 - item XIX - as one of the

administrative actions of the Union the control of the "export of components of Brazilian biodiversity in the form of wild specimens of flora, microorganisms and of fauna, parts or products derived from them".

The substantially legal discussion can be found by the reader mainly in Public Civil Action (ação civil pública - ACP) No. 1009665-60.2020.4.01.3200, proposed against the Union and Ibama, by the authors Instituto Socioambiental – ISA, Abramp (Brazilian Association of Members of the Public Ministry Environment) and Greenpeace Brazil. The action has as its object the annulment of the order 7036900/2020-GABIN issued by the president of IBAMA, Eduardo Bim, which authorized the export of native wood without inspection and specific authorizations, at the express request of loggers, on 02/26/2020.

This article departs from the Public Civil Action not with the aim of reproducing its legal argument, but rather to contextualize the reader about the changes in the normative framework regarding the export of wood, in view of the epistemological foundation that supports such positions, as shown in the topic previous. Furthermore, it is equally relevant to unravel the situation to highlight the nonsense of the situation, which cannot be legally justified, and which exemplifies one of the actions of the current government whose orientation is clearly in favor of private and corporate interests, to the detriment of the preservation of the environment and respect for constitutional obligations.

It's not just a legal or regulatory issue. Legally, the argument is untenable, except under a justification of “development” and “debureaucratization”, in short, in the name of a project of modernity that has been well discussed so far what it entails and carries in itself as postulates. Therefore, we move on to a brief analysis of regulatory changes to clarify the political intentions that drive government actions related to the environment, especially in 2019 and 2020.

The Forest Origin Document (document de origem florestal - DOF) was established by Ordinance No. 253/2006 and is the instrument for controlling, in national territory, the circulation, transport and storage of forest products of native origin, containing information on the origin of these products, such as information about the species, type of material, volume, value of the shipment, license plate, origin, destination, in addition to the detailed transport route, etc.

In 2011, IBAMA's normative instruction No. 15/2011 establishes (art. 1) “the procedures for the export of wood products and by-products of native species from natural or

planted forests.”. Article 4 of the afore mentioned normative instruction defines the list of documents required for the export of wood, as follows:

- I - copy of the Export Registration - RE of the Foreign Trade System - SISCOMEX;
- II - register in the category of exporter in the Federal Technical Register
- III - copy of the tax document (invoice);
- IV - packing of goods;
- V - authorization for transporting forest products adopted by the competent environmental agency; **(DOF or state correspondent)** – our emphasis.
- VI - certificate or license for the species listed in the appendices of the Convention on International Trade in Endangered Species of Wild Flora and Fauna - CITES.
- VII - export dispatch

The same instruction establishes in its articles 10 and 11 the rule that such documents must undergo a physical inspection at the responsible customs unit of IBAMA. In addition, all cargoes are subject to inspection by sampling.

It turns out that in 2014 IBAMA's normative instruction No. 21/2014 instituted the National System for Control of the Origin of Forest Products (Sistema nacional de controle de produtos florestais -SINAFLOR), with the DOF being one of the documents that feeds the system. It should be noted, from now on, that the insertion of information in the system is the responsibility of the users, that is, the loggers. That is: the loggers are responsible for digitally supplying the system that oversees them with the necessary documents, as per IN 21/2014 art. 33. This same instruction in art. 58 establishes the DOF for import or export, to be issued by the corresponding individual or legal entity (*in casu*, by the loggers).

The situation, then, is the existence of an export authorization, required by Normative Instruction n. 15/2011, with the DOF (Forestry Origin Document) established by Law No. 253/2006 and other documents of said law, in its art. 4th. In addition, there is the Normative Instruction n. 21/2014 which established the SINAFLOR (National System for the Control of the Origin of Forest Products) and also created the DOF for import and export, which apparently caused some legal confusion, which, at the request of the loggers, would lead to tacit revocation and expiry of IN 15/2011.

It turns out that the normative instruction they intend to revoke, and so far they have succeeded in, designated a series of documents, in addition to the mandatory physical inspection of the documentation, and not just a virtual DOF inserted by the loggers and with inspection via data crossing to be carried out after exporting the materials. Here, in addition to making documents other than the DOF for export not required, the form of inspection is also modified, making it a standard for inspection to occur a posteriori and relinquishing the physical



inspection in loco of documents and cargoes, so that it remains. The weakening of inspection, review, surveillance and examination apparatus is evident, violating environmental protection in the name of profitability and supposedly reducing bureaucracy in the export of wood. In practice, it favors the export of illegal wood of difficult-to-trace origin.

The announced idea is to turn it into a single document, to “cut bureaucracy”. However, Law 12.651/2012 (new Forest Law) in its articles 36 and 37 explicitly distinguishes transport and storage licenses from export licenses. How, then, could a document become unique and capable of different situations?

The timber companies' request was followed by administrative process No. 02001.003227/2020-84, which quickly proceeded requesting a technical note, prepared by the teams of the General Coordination for Monitoring the Use of Biodiversity and Foreign Trade (CGMOC) and the Directorate for Sustainable Use of Biodiversity and Forests (DBFLO), which demonstrated the legal impossibility of expiry and tacit revocation of Normative Instruction No. 15/2011, as well as pointing out the damages that such action would lead to, arguments that we summarized briefly above. André Sócrates de Almeida Teixeira, at the time coordinator of the CGMOC, immediately after the publication of the technical note against the request for the wood, was dismissed from the position of commission by Minister Ricardo Salles<sup>8</sup>.

Three days after his exoneration, a new technical note was prepared, now in favor of the loggers, quickly followed by dispatch No. 7036900/2020-GABIN, in response to the same request from the Association of Wood Industries of the State of Pará (AIMEX) and a timber company CONFOREST. A few days later, a note from the Centro das Indústrias do Pará (industrial company) was sent to the president of IBAMA as a acknowledgment<sup>9</sup>.

It is, therefore, that currently IN 15/2011 was considered expired and tacitly revoked by IN 21/2014, so that the specific authorization is no longer necessary, the existence of a single export DOF (virtual, provided by loggers, whose inspection is via data crossing and occurs after export), which facilitates the export of wood and allows for the export of illegal wood, making inspection and tracking difficult.

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<sup>8</sup> FOLHA DE SÃO PAULO. Ricardo Salles fires an analyst who was against exporting wood without authorization. April 09 2020. Available at: < <https://www1.folha.uol.com.br/ambiente/2020/04/ricardo-salles-demite-analista-que-foi-contra-exportacao-de-madeira-sem-autorizacao.shtml> >. Accessed on Nov. 28 2020.

<sup>9</sup> STATE. Loggers thank the president of IBAMA for releasing exports without specific authorization. 3 March 2020. Available at: < <https://sustentabilidade.estadao.com.br/noticias/geral,madeireiros-agradecem-presidente-do-ibama-por-liberar-exportacao-sem-autorizacao-especifica,70003218217> >. Accessed on Nov. 28 2020

The fact is that the push, at all costs, including the flexibility of inspection and omissive permissiveness to illicit practices, of a policy for exporting wood, in a context where deforestation in the Amazon reaches alarming levels, only reinforces the place occupied by Brazil in the international division of labor, as an exporter of raw materials and products with low added value. This is a place that has been occupied, say, since the beginning of the invasion and conquest of America by Europeans in the 16th century, in a way that denotes the reproduction of a new cycle that reproduces the colonial logic, as a museum of great novelties, with the future repeating the past, as Cazuza sang.

In the same sense, Maristela Svampa describes the period currently experienced, with an economic policy based on a primary-export policy, such as the "Consensus on Commodities", which produced new forms of dependence and domination and gave rise to a process of reprimarization in the region's economies, as it reoriented economic activities in the region towards the production of low added value raw materials (SVAMPA, 2013, p. 32). Svampa goes further and states that this export cycle is associated with a neocolonial logic, similar to what happened in the past in our societies, which produces "[...] strong social and regional fragmentation and configures socio-productive spaces dependent on the market international" (SVAMPA, 2013, p. 35).

In view of the current regulatory framework, the posture of the Ministry of the Environment and IBAMA, it appears that there is no intention of interrupting this logic, quite the contrary, the governmental discourse goes precisely towards reinforcing this position, focusing on if in an extractive economic policy, based on practices that deprecate the environment and to a great extent collude with illegal practices. This is affirmed based on the flexibility of inspection mechanisms and the strategic dismissal of the then coordinator of the General Coordination for Monitoring the Use of Biodiversity and Foreign Trade (CGMOC) of IBAMA, soon after having expressed his opposition to the request made by the Association of Industries of Madeira of the State of Pará (AIMEX) and Madeireira CONFLORESTA, which requested the immediate edition of a normative act that recognizes the expiry and tactical revocation of normative instruction n. 15/2011 by IN 21/2014 of IBAMA, to make the specific authorization to export forest products unenforceable when the DOF/GF Export already monitors the shipments of wood abroad. Three days after André Sócrates de Almeida Teixeira's resignation, order No. 7036900/2020-GABIN was issued, in favor of the timber application.

There is, moreover, a coherence with the vision of Western modernity with regard to natural resources, in the sense of reducing them to the status of raw material that can be

exploited to feed the productive processes of humanity, with the false perception of that nature is capable of being controlled by human beings – a view that, it must be said, brought us to the current scenario of ecological crisis unprecedented in known history. Development, in this perspective, is to take advantage of the supposed comparative advantages of Ricardian theory, and to continue investing and encouraging extractive practices that are based on the exploitation of natural resources, due to a supposed exuberance of natural goods in Brazil, which within the Western logic -modern are reduced to the supposed economic advantage they can generate in the short term.

In short, IBAMA, by dispensing with the specific authorization for exporting timber, ended up making it easier for illegally harvested timber to be exported. It is curious that the current President Jair Bolsonaro seems to be aware of the export of illegal wood by Brazil, and has done nothing or does nothing to stop this practice. That's because, in November 2020, Jair Bolsonaro, during a meeting of the BRICS (Brazil, Russia, India, China and South Africa), announced that he would release a list of countries that criticize Brazil for deforestation, but that buy illegal wood in the country<sup>10</sup>.

In other words, when trying to point out an inconsistent posture of other countries, Bolsonaro ended up confessing the negligence and collusion of governmental instances with the extraction and export of illegal timber. If the president is aware of the extraction and export of illegally sourced timber, why does he do nothing to stop such practices? Because it seems to show greater concern in pointing out the hypocrisy of other countries, which claim to be aware that they acquire such products of illicit origin, than in acting effectively and efficiently in our country to monitor such practices in order to stop illegal deforestation? The background, as already elucidated in the theoretical framework, is the idea of the development of modernity, in which nature is seen as an instrument to be explored in the name of progress: the president seems conveniently to forget that the Federal Constitution determines that the economic order must have as a principle the protection of the environment.

The same sense can be seen in the speech of the Minister of the Environment. In a recent interview given by the current Minister of the Environment, Ricardo Salles, to the program *Panico Jovem Pan* (2020), the modern/colonial vision is clearly shaped: Salles states, in short, that it is necessary to take development to the Amazon, with based on regulations for extractive activities, such as mining, including in indigenous lands. The minister argues and

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<sup>10</sup> G1. Documents show that Ibama facilitated the export of illegally harvested timber . Brasilia. Nov. 17 2020. Available at: <<https://g1.globo.com/natureza/noticia/2020/11/17/documentos-mostram-que-ibama-facilitou-exportacao-de-madeira-extraida-ilegalmente.ghtml>>. Accessed on Nov. 30 2020.

justifies the government's position in the supposed fight against hunger, poverty and thinking about improving the living conditions of the region's population. It is possible to use, at this point, the category of ideological inversion of human rights, a concept worked out by Franz Hinkelammert (2010). The ideological inversion concerns the ideological use of human rights, in a structural use that responds to the logic of dominance and exploitation of a group by others, using the discourse of human rights perversely to hide hegemonic discourses and practices, making use of, therefore, from the human rights discourse to justify the violation of human rights (ROSILLO, 2016).

In this sense, the speech of Minister Ricardo Salles, when announcing the fight against poverty as his main concern, hides the perverse socio-environmental consequences of extractive practices, hides that the extractive sectors are mostly led by large conglomerates and commanded by large estates with great economic power, not by small producers, and furthermore, it hides that sectors such as agriculture, for example, are increasingly automated, which implies that economic growth in these sectors does not necessarily result in job generation, a knowledge phenomenon such as jobless growth or stagnation dynamics (HINKELAMMERT, 1997).

### **Final considerations**

The purpose of this article was to analyze, using as a theoretical basis the decolonial critique of the modern idea of progress and development, the theme that involves changes in the Brazilian normative framework on extraction and export in 2020. For this, initially it was demonstrated how the modernity sees nature and natural resources: as capable instruments to feed the productive processes of humanity, so that environmental degradation is justifiable in the name of progress and development, in other words, the generation of profit. Modernity, coloniality and capitalism are categories that must be understood together.

Subsequently, an analysis of the changes in the normative framework involving the extraction and export of wood by Brazil in 2020 was carried out, which is briefly recapitulated: timber companies filed a request with IBAMA to declare the forfeiture and tacit revocation of IN n. 15/ 2011, which in practice implies the loosening of inspections related to timber destined for export; the first technical opinion prepared was contrary to the request made, and the person responsible for the technical note was dismissed from the position, and another note was subsequently produced, this time in line with the request made by the companies, and

immediately there was order 7036900/2020- GABIN declaring the forfeiture and tacit revocation of IN n. 15/2011 by IN no. 21/2014. The lumber companies then formulated a thank you note sent to the president of IBAMA.

Currently, there is, therefore, the declaration that IN n. 15/2011 is repealed in practice, which implies substantial changes in the form of inspection, being an omission that favors the export of wood from illegal practices and difficult to trace. This is because, in the current system, only a virtual DOF inserted by the loggers is required and with inspection via data crossing to be carried out after the export of the materials, making the standard that inspection takes place a posteriori and giving up the physical inspection in loco of the documents and loads. Before, another DOF was also required, among other documents listed in art. 4 of IN 15/2011, and the rule was the physical inspection of these documents at the responsible customs unit.

In this sense, what we sought to demonstrate is how the modern vision of progress and development at the expense of environmental protection seems to fit perfectly into the case analyzed, especially because more thorough inspection is waived, which could ensure more efficiently than the wood exported by Brazil does not have an illicit origin, in the name of an alleged reduction in bureaucracy of institutional mechanisms, all of this having as trigger the request of timber companies, which evidently aims to facilitate the export of the material and thus increase the profit margin by reducing time of the operation

This whole panorama becomes even more dramatic and critical due to the current scenario we are facing, of an unprecedented ecological crisis in the history of humanity, so that to save life on the planet, the urgent thing would be a change of course in the relationship between human beings and the environment, and a redefinition of what is meant by development and living well, but the response of the capitalist/modern/colonial system is to follow the same direction and with the same tactics that brought us to the abyss we are now facing.

The point is that government bodies, in theory, should be guided by other main ones beyond the corporate and private interests of a business sector, and precisely the Federal Constitution, in its art. 170, VI, provides that the economic order must observe the protection of the environment as a principle. However, the modern/colonial/capitalist systematic enhances the market-centric and commoditization logic of social life through the form of the nation-state, with the emergence of the de facto State in the materiality of concrete life, beyond all protective enunciations of the declared the rule of law.

Thus, after analyzing the normative framework regarding the export of wood and the changes that took place in 2020, the final considerations point to the fact that, in addition to a mere legal phenomenon, they respond to socio-political and economic issues and the interests of determined groups, a conclusion reached based on a theoretical framework based on the decolonial critique of modernity and its relationship with nature and environmental resources. In this way, it can be extracted that the reproduction of the colonial/modern perspective on nature and the place occupied by Brazil in the concrete system of world capitalism remains clear, as producers and exporters of low-added value commodities, even allowing for illegal practices due to government omission and negligent oversight.

In addition, due to the fact that such normative changes that waived the specific authorization for the export of wood occurred precisely after a request made by loggers, it is clear that the private interests of certain groups override the collective ideals of environmental preservation and the right to healthy environment, ignoring, furthermore, the express provisions of the Federal Constitution (in the current system, it is the environment that is subordinate to the economic order, contrary to the provisions of article 170, CF) and laws such as 12,651 /2012 (new Forest Law) with regard to environmental policy, reproducing the supremacy of profit as the ultimate good and justifying any barbarism in the name of progress and development, in the sense that capitalist modernity attributed to these terms.

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