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A Case Study for Zambia

Why Does the Malvinas Question Persist?

Highlights

Reverse Hospitality on the Outskirts

Contemporary Forms of Bourgeois Political

Discovering Thoughts, Inventing Future

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How and why does the Malvinas Question Persist?

By Edgardo Gastón Vetri
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Abstract- In 1982, shortly after the war between Argentina and the United Kingdom over the Malvinas Islands had concluded, the United Nations General Assembly - by a large majority - requested that both governments "resume negotiations in order to find a peaceful solution." to the Sovereignty dispute over said Islands", that is, it returned the status quo to April 1 of that year. More than four decades have passed and the conflict is still ongoing. While Argentina complains in various areas, the United Kingdom ignores the requests of this actor, as well as those made by multiple international forums that seek the advent of the parties to negotiate. Here, we seek to explore those possible causes contributing to the perpetuation of the conflict over time, and in turn, how this influences the relationship between societies that maintain historical ties.

Keywords: *conflict, malvinas, disinformation, desmalvinización, remalvinización.*

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How and why does the Malvinas Question Persist?

¿Cómo y Por Qué Persiste la Cuestión Malvinas?

Edgardo Gastón Vetri

Resumen- En 1982, al poco tiempo de haber concluido la guerra entre Argentina y el Reino Unido por las Islas Malvinas, la Asamblea General de las Naciones Unidas -por amplia mayoría-, pidió que ambos gobiernos "reanuden las negociaciones a fin de encontrar una solución pacífica a la disputa de Soberanía sobre dichas Islas", es decir, retrotrajo el *status quo* al 1° de abril de ese año. Han pasado más de cuatro décadas y el conflicto aún continúa vigente. Mientras Argentina reclama en diversos ámbitos, el Reino Unido desoye los pedidos de este actor, como también los realizados por múltiples foros internacionales que buscan el advenimiento de las partes a negociar. Aquí, buscamos explorar aquellas posibles causas contributivas a la perpetuación del conflicto a través del tiempo, y a su vez, cómo influye ello en la relación entre las sociedades que mantienen históricos vínculos.

Palabras claves: conflicto, malvinas, desinformación, desmalvinización, remalvinización.

Abstract- In 1982, shortly after the war between Argentina and the United Kingdom over the Malvinas Islands had concluded, the United Nations General Assembly - by a large majority - requested that both governments "resume negotiations in order to find a peaceful solution." to the Sovereignty dispute over said Islands", that is, it returned the status quo to April 1 of that year. More than four decades have passed and the conflict is still ongoing. While Argentina complains in various areas, the United Kingdom ignores the requests of this actor, as well as those made by multiple international forums that seek the advent of the parties to negotiate. Here, we seek to explore those possible causes contributing to the perpetuation of the conflict over time, and in turn, how this influences the relationship between societies that maintain historical ties.

Keywords: conflict, malvinas, disinformation, desmalvinización, remalvinización.

> *"Memorando Troutbeck (1936).* Ese mismo año, el jefe del departamento americano del *Foreign Office*, John Troutbeck, dejó sentada por escrito su opinión: 'La dificultad [para sostener] nuestra posición es que la captura de las islas *Falkland* en 1833 fue un procedimiento arbitrario, si se lo juzga con los criterios de hoy en día. No es, por lo tanto, fácil explicar nuestra posición sin quedar como bandidos internacionales"'[1]. Rodolfo Terragno (2002).

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I. Introducción

Es sábado 25 de mayo de 2024, un trabajador inglés, nacido y criado en la ciudad de Manchester, despierta y rápido sale de la cama antes que suene su despertador. Hace una semana que lleva puesto la misma remera roja para dormir; una con el número "7" en su espalda debajo del nombre "CANTONA". Está nervioso y enciende un cigarrillo mientras prepara el desayuno. Luego del té, logra calmarse, aunque aún vibra intensamente su interior. No demora en ir a despertar a su hijo porque les espera una larga jornada. Levanta el arrugado cuello de su remera al estilo del francés, besa la frente del niño y le dice en voz baja al oído: "despiértate, hoy es el día". El pequeño de diez años, abre sus ojos y salta de la cama dejando ver su improvisado pijama, una remera roja que lleva impreso en su dorso el número "17" y un nombre: "GARNACHO". Ese número y ese nombre, constituyen para el niño la esperanza de vivir junto a su padre una fecha que no olvidarán por el resto de su vida, aunque él aún, no sea consciente de ello.

El tiempo corre vertiginosamente, deben emprender un viaje de más de tres horas hasta Londres. En el Estadio de Wembley se disputará la final de *F.A. Cup* entre su amado *Manchester United Football Club* y su eterno rival, el *Manchester City Football Club.*

La prensa desde hace varias semanas viene ocupándose con creciente intensidad del clásico nacido en 1891; en la atmósfera hay mezcla de tensión con misticismo entorno a un partido de futbol. Conseguir las dos entradas no fue tarea sencilla, tampoco resultaron económicamente accesibles. El padre trabajó duro los últimos meses para poder compartir junto a su hijo esta experiencia, que supone, será inolvidable. Ambos saben que no se trata, simplemente, de una final de futbol. Para los mancurianos, sin importar si son aficionados de *The Red Devils* o de los *Citizens*, representa una cuestión de honor.

El encuentro estuvo lleno de nerviosismo, pero fue Garnacho el responsable de provocar en el estadio un estallido eufórico por su gol, y fundir en un abrazo al padre con su hijo. Con la finalización del encuentro, sobrevino la algarabía de los *reds*; tanta tensión y emoción, arrancó llantos de alegría en ambos.

[1] Terragno, R. "*Falklands*" (2002), p.278.

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Luego de que el príncipe heredero a la corona británica, premiara a cada uno de los jugadores y el campeón levantara el trofeo, la afición del *United* retribuyó a los deportistas con su afecto por todo el esfuerzo realizado por el club de sus amores. Ese fue el momento en que padre e hijo, exultantes de felicidad, gritaron fuertemente: "Ar-gen-tina! Ar-gen-tina! Ar-gen-tina!".

Ese mismo día, pero a algo más de 12.000km de Wembley, también resonó muy fuerte ese mismo grito. En la República Argentina, la ciudadanía celebró el 214° aniversarios del primer gobierno patrio, reuniéndose en plazas o cualquier otro espacio público. En esta tradicional celebración, naturalmente se entona el Himno Nacional Argentino, y también se comparte una taza de chocolate caliente y comidas típicas nacionales. Muy seguramente, en algún lugar del país, la alegría por los festejos también provocó la efusiva arenga. ¿Tal vez los hechos, que derivaron en el sentido grito fueron coincidentes?, Creemos, graciosamente, que lo fueron.

Pero esta azarosa empatía argentino-británica no ocurrió solo en el Reino Unido de la Gran Bretaña e Irlanda del Norte (RUGBIN). Hace unos pocos años atrás, un pequeño grupo de ciudadanos británicos causó un verdadero revuelo en el Río de la Plata.

Coldplay realizó una serie de presentaciones -diez conciertos en total- en el que vendieron más de 550.000 entradas; cada función con entradas agotadas. Durante la noche del 4 de noviembre de 2022, por sexta vez los artistas salieron al escenario en Buenos Aires.

Al finalizar el concierto, los artistas británicos y los miles de espectadores argentinos, alcanzaron un momento común de felicidad; cada uno por sus propias razones. Los argentinos recibieron del conjunto británicos un espectáculo impactante y conmovedor; mientras que los británicos, recibieron el caluroso afecto de sus seguidores sudamericanos. A los pocos días, *Coldplay* dejaba el país y cada espectador volvía a la cotidianeidad de su vida, todos felices por haber vivido una experiencia que recordarán por mucho tiempo.

Muy probablemente, lo que ninguno de los presentes en esa particular noche advirtió, fue que ese mismo 4 de noviembre se cumplían 40 años de la sanción de la Resolución AGNU N° 37/9-LV (1982), en la que la Asamblea General de las Naciones Unidas (AGNU), por amplia mayoría expresó:

> "*Habiendo examinado* la cuestión de las Islas Malvinas (*Falkland*), *Consciente* de que el mantenimiento de situaciones coloniales es incompatible con el ideal de paz universal de las Naciones Unidas, (…) *Tomando en cuenta* la existencia de una cesación de hecho de las hostilidades en el Atlántico Sur y la intención por las partes de no reanudarlas, *Reafirmando* la necesidad de que las partes tengan debidamente en cuenta los intereses de la población de las Islas Malvinas (*Falkland*) de conformidad con lo establecido por la Asamblea general en las resoluciones 2065 (XX) y 3160 (XXVIII), (…)
>
> 1.- Pide a los Gobiernos de la Argentina y el Reino Unido de Gran Bretaña e Irlanda del Norte que reanuden las negociaciones a fin de encontrar una solución pacífica a la disputa de Soberanía sobre dichas Islas; (…)"[2].

Es decir, en pocas palabras, que aquel triunfo militar de 1982 no otorgó ninguna clase de derechos a los británicos. La AGNU retrotrajo el *status quo* al día 1° de abril de ese año; esto es, al día previo a la recuperación de las Islas Malvinas por parte de las Fuerzas Armadas argentinas.

Tampoco ninguno de los presentes en Wembley recordó que otro 25 de mayo, el de 1982, argentinos y británicos se encontraban enfrentados en una guerra que cobró la vida de novecientas veinticuatro personas.

Huelga agregar, que la aludida Resolución AGNU se encuentra a la espera de ser cumplida, como muchas otras, en virtud de la reticencia británica a negociar con Argentina los términos de la soberanía sobre el archipiélago atlántico suroccidental. En suma, la norma sigue vigente, *ergo*, la Cuestión Malvinas[3] aún está viva.

Por lo antedicho, la vigencia de esta disputa permite preguntarnos, ¿Por qué la Cuestión Malvinas sigue pendiente de resolución en la arena internacional? ¿Cuáles son los factores que contribuyen a perpetuar el conflicto? ¿Cómo influye ello en la actual relación entre ambas sociedades?

Para abordar estas cuestiones, resulta necesario aclarar que la Cuestión Malvinas puede ser abordada desde múltiples perspectivas. La que aquí nos interesan resaltar son al menos dos que, se si bien serán abordadas por separado, se encuentran íntimamente vinculadas. La primera, se relaciona con los actores: la República Argentina y el RUGBIN; mientras que la segunda perspectiva, busca apreciar la relación entre ambas sociedades, distantes-naturalmente- a casi 13.000 km una de otra.

En virtud de lo expuesto, exploraremos las posibles respuestas a los interrogantes ya planteados, sin pretender alcanzarlos de modo definitivo.

II. Algunas Consideraciones Preliminares

Para simplificar el encuadre previo decimos que, por definición, una sociedad es un "conjunto de personas, pueblos o naciones que conviven bajo

[2] Transcripción parcial de la Resolución AGNU N° 37/9-LV (1982).

[3] El Estado argentino considera Cuestión Malvinas a: "(…) la disputa de soberanía entre la República Argentina y el Reino Unido por las Islas Malvinas, Georgias del Sur, Sandwich del Sur y los espacios marítimos circundantes (…)". Recuperado de: https://cancilleria.gob.ar/es/politica-exterior/cuestion-malvinas/la-cuestion-de-las-islas-malvinas el 18 de junio de 2024.

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normas comunes"[4]; en consecuencia, estas normas comunes, son la herramienta que organizan a dichas comunidades políticas, en pos del bien común de los individuos que la integran. Independientemente de la forma adoptada por ellas para gobernarse a sí mismas, las comunidades políticamente organizadas, determinan en principio, que un sujeto estará a cargo de los asuntos de su propio gobierno.

Asimismo, también vale aclarar que esta sociedad o comunidad política, lo es, con relación al espacio geográfico donde se emplaza, su territorio. Por lo tanto, al interior de cada comunidad política, el gobierno es el encargado de administrar los asuntos comunes, mientras que, hacia afuera de ese espacio geográfico común, a él se le encomienda llevar adelante las relaciones con otros semejantes. Es así que, primigeniamente, se relaciona la idea de actor internacional, con quien detenta la representación de una sociedad: un Estado; ante otros semejantes, respecto de la dinámica por la interacción con dos o más sociedades.

También resulta necesario aclarar que, en cada sociedad, dado los valores y principios que comparten en común, se le asignan un valor a determinados objetos o recursos que requieren para su subsistencia u otra finalidad. De aquí surge el interés de una sociedad en particular, que también debe ser expresado por quienes realizan la tarea de gobernar.

Suele ocurrir que dos o más actores posean intereses sobre un mismo objeto u objetivo. De resultas, que esta interrelación de intereses contradictorios entre los actores internacionales, pueden ser abordados mediante la cooperación o la competencia.

En consecuencia, verificaremos la existencia de un conflicto entre actores internacionales, cuando cada uno de ellos le asigne -para sí mismo- un valor estratégico a un mismo objetivo. Lo expuesto, es equivalente a afirmar que ambos poseen intereses antagónicos. Así es como un conflicto, se convierte en el elemento esencial de la estrategia.

Beaufre (1971) enseñó que el propósito perseguido por esta "(…) es alcanzar los objetivos fijados por la política utilizando lo mejor posible los medios de que se dispone"[5]. Complementariamente, también consideramos que "(…) la guerra no es más que la continuación del intercambio político con una combinación de otros medios"[6].

Con ello, verificamos que:

a.- La naturaleza de la guerra emerge de un conflicto preexistente;

b.- El uso de la fuerza, no es más que una opción estratégica para los actores;

c.- Por lo tanto, la guerra es un hecho político, y;

d.- Siguiendo a De Vergara (2010), agregamos que la guerra es un arte que se ejerce sobre elementos que reaccionan[7].

Respecto de los gobiernos de cada sociedad, resta señalar que, ellos constituyen su ápice estratégico, su conducción. En tal función, fijan sus metas nacionales, plasman, esbozan e instrumentan las maniobras estratégicas en acciones que articulan -de modo racional y concreto-, los fines perseguidos por cada el actor; fija el objetivo de la guerra, asigna los medios a disposición de la conducción militar e impone la guía general del proceso bélico conforme los medios que administra, esto es, su poder nacional relativo.

Respecto a esto último señalado, importa destacar lo explicado por Gullo (2008):

> "Si observamos la verdadera historia de los países que hoy conforman el centro del poder mundial se descubre que, llegaron a construir su poder actual a través del impulso estatal en sus diferentes formas: los subsidios estatales -cubiertos o encubiertos- para las actividades científico-tecnológicas, las inversiones públicas, la protección del mercado interno, por citar algunos de los más relevantes. Hoy esos mismos países ocultan la importancia que en la construcción de sus respectivos poderes nacionales tuvo el impulso estatal, al mismo tiempo que la critican, ridiculizan y hostigan a cualquier Estado de la periferia que quisiera seguir los pasos que ellos mismos siguieron en su momento para alcanzar su actual posición de poder. A través de la propaganda ideológica, engendrada en algunas universidades y difundida en todo el planeta por los medios de comunicación que controlan los países poderosos (…)."[8] (p.21)

Ahora bien, no podremos apreciar debidamente este conflicto, sino comprendemos su origen y su naturaleza, sus intereses y relaciones, las causas que dispararon la guerra en 1982. Para ello, realizaremos un breve recorrido por aquellos hechos históricos que proporcionen un marco de comprensión sobre la Cuestión Malvinas. Más adelante, exploraremos los aspectos socioculturales que actualmente lo rodean, y cuáles son los factores que lo perpetúan en el tiempo.

a) Rápido Viaje en el Tiempo

La toma de Constantinopla por parte del imperio otomano (1453), constituye el hito a partir del cual, las comunidades políticas europeas comienzan a sentir presión sobre las principales líneas comerciales provenientes del oriente europeo. Los reinos católicos y las principales Ciudades-Estados de la península itálica, retacearon su ayuda al Imperio Bizantino,

[4] Definición de Sociedad; Real Academia Española. Recuperado de: https://dle.rae.es/sociedad el 30 de junio de 2024.
[5] Beaufre, A. "Introducción a la Estrategia" (1971), ed. Rioplatense, p.14.
[6] Von Clausewitz, K. "De la Guerra" (1831), Biblioteca Virtual Universal, p.231.
[7] De Vergara, E. "Estudio de la Historia Militar. Evolución del pensamiento estratégico" (2010), p.9.
[8] Gullo, M. "Insubordinación y Desarrollo. Las claves del éxito y fracaso de las naciones" (2008).

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principalmente por causa del Cisma de Oriente (1054), contribuyendo así, a desangrar a este imperio mientras se encontraba asediado por los otomanos.

Desde la península ibérica, y con el fin de buscar rutas comerciales alternativas que los llevasen a los centros asiáticos de producción de especias, el Reino de Portugal se lanzó al mar. Así, el navegante portugués Bartolomeu Dias, alcanzó el cabo de Buena Esperanza en 1488, señalándole el camino a Vasco Da Gama en su ruta hacia las indias. Del otro lado de "La Raya", aprovechando las divisiones internas del reino nazarí, el 2 de enero de 1492, Isabel de Castilla y Fernando de Aragón derrotaron el último reducto musulmán en la península. Al poco tiempo, los reyes católicos españoles se dispusieron a competir con sus vecinos portugueses en la búsqueda de una ruta alternativa hacia oriente, apoyando el histórico viaje de Cristóbal Colon.

Por lo trascendental de la travesía del genovés, la corona portuguesa y la española entraron en una disputa diplomática. En una maniobra anticipatoria, esta última peticionó al pontífice Alejandro VI, la demarcación limítrofe entre ambos reinos respecto de los nuevos territorios pretendidos. A tal efecto, el papa emitió la bula[9] *Inter Coetera* (1493) y otras complementarias, con el fin de mantener la disputa en términos pacíficos.

La paz alcanzada mediante el Tratado de Alcáçovas (1479), contribuyó para que el 7 de junio de 1494, fuera celebrado en Tordesillas (Valladolid) un nuevo tratado entre ambas monarquías. Allí fijaron la nueva división territorial en función del reciente descubrimiento de América. En lo que aquí importa resaltar, acordaron que - por derecho de descubrimiento- a partir del meridiano de Tordesillas todos los territorios por descubrirse al oriente de dicha línea quedarían bajo dominio portugués, mientras que el Reino de España tendría soberanía sobre los ubicados al occidente de ella.[10]

Mucho antes de que el papa Clemente VII excomulgara al rey de Inglaterra Enrique VIII por divorciarse de la católica Catalina para casarse con Ana Bolena (1534); el 20 de septiembre de 1519, zarpó de Sevilla la "Armada del Maluco" que llegaría a circunnavegar la tierra, al mando de Hernando de Magallanes. Un motín iniciado a fines de marzo de 1520, obligó a recalar en el puerto San Julián de la costa patagónica. Varios meses pasaron allí refugiados del crudo inverno austral.

Podríamos conjeturar que, fue siguiendo la información proporcionada por la carta *Lettera* de Américo Vespucio (1504), o bien, porque éste se lo informó en persona a Andrés de San Martín[11], lo cierto es que:

> "En julio de 1520, la nave *San Antonio* de la expedición española de Magallanes, al mando del piloto portugués Álvaro da Mesquita, primo de Magallanes, partió del puerto San Julián y se dirigió a las que serían las Islas Malvinas, a donde llegó el 28 de julio conduciendo al cartógrafo sevillano Andrés de San Martín, que tendría información de la localización de las islas que le habría dado Vespucio, y durante el mes de agosto, llevó a cabo el que hasta ahora, se conoce como el primer mapa de las Malvinas"[12].

Una década antes de que naciera John Davis (1550-1605)[13], dos antes de que lo haga Richard Hawkins (1560-1622)[14] y un siglo y medio antes de que John Strong (1654-1693)[15] navegara por el Estrecho de San Carlos, tres naves de la Armada Española, zarparon de Sevilla (1539) bajo el auspicio de Gutierre de Vargas Carvajal (1504–1559), Obispo de Plasencia.

> "El 12 de enero de 1540 ancló en proximidades del Cabo Vírgenes. Alcanzada por tormentas, la nave capitana se hundió, pero el capitán de la armada y la tripulación se salvaron y continuaron viaje a Perú.
>
> La tercera nave, de la que se posee un fragmento del Diario de Navegación, víctima de las tormentas. Rota el ancla, se hizo a la vela y navegó hasta que, el 4 de febrero de 1540, 'vimos tierra, la cual nos pareció, unas ocho o nueve islas, *que en la carta están,* é por sernos ya metidos entre tierras, que teníamos tierra al nornordeste por la parte de babor, y también nos salía tierra por el sur. Es así por nos parecer a mí e a todos, ser en las dichas islas, nos dejamos ir corriendo, paresciéndome que entre ellas, *según amostraba la carta,* había canales para poder pasar, *por estar en las cartas sentadas cada isla sobre sí,* e todas limpias, sin ningún bajo"[16].

[9] Definición de Bula: "Del latín *bulla*. 1. Documento pontificio relativo a materia de fe o de interés general, concesión de gracias o privilegios o asuntos judiciales o administrativos, expedido por la Cancillería Apostólica y autorizado por el sello de su nombre u otro parecido estampado con tinta roja." Recuperado de https://dle.rae.es/bula el 7 de junio de 2024.

[10] "Inicialmente las líneas limítrofes de las bulas estaban a 100 leguas de las islas de Cabo Verde; a raíz del Tratado de Tordesillas, ratificado por el Papa en 1506, Portugal logró 270 leguas a su favor al quedar definida la ubicación de la línea limítrofe a 370 leguas de las citadas islas". Gajardo Alarcón, R. "Tratado de Tordesillas. 7 de junio de 1494" (1976), p.461.

[11] "Aquí y entonces apareció la figura de Andrés de San Martín, sevillano, hombre de entera confianza de Vespucio quien, el 4 de febrero de 1508, le otorgó poder para que lo represente en pleitos, cobranzas y otros asuntos.
Vespucio hizo partícipe a su apoderado, también experto cosmógrafo y cartógrafo, de sus técnicas astronómicas y cartográficas y de sus secretos profesionales: método de las distancias lunares. Fue el maestro de San Martín". Arnaud, V. "Las Islas Malvinas: Descubrimiento, primeros mapas y ocupación. Siglo XVI". (2015), p.129.

[12] Arnaud, *op. cit.*, p.130.

[13] *Britannica*, los editores de la enciclopedia. "John Davis". *Encyclopedia Britannica*, 26 de febrero de 2024, https://www.britannica.com/biography/John-Davis Consultado el 4 de junio de 2024.

[14] Morrill, John S. "*Sir* Richard Hawkins". *Encyclopedia Britannica*, 14 de abril de 2024, https://www.britannica.com/biography/Richard-Hawkins. Consultado el 6 de junio de 2024.

[15] *Britannica*, los editores de la enciclopedia. "Islas Malvinas". *Encyclopedia Britannica*, 15 de junio de 2024, https://www.britannica.com/place/Falkland-Islands . Consultado el 22 de junio de 2024.

[16] Arnaud, *op. cit.*, p.135.

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Cien años antes de que John Cook (s.d.-1684)[17] iniciara sus viajes de pillaje por los mares del sur, desde el Cabo Vírgenes -frente a las Islas Malvinas- y en nombre de la corona española, Pedro Sarmiento de Gamboa tomó posesión formal del Estrecho de Magallanes y de las islas adyacentes (1584).

Si bien la corona inglesa se lanzó al mar durante el siglo XVI, su finalidad principal se concentraba en interceptar el tráfico español de metálico desde América hacia la península, como así también, doblar el cabo de Buena Esperanza siguiendo la ruta del índico rumbo al oriente. En este sentido, para los ingleses, el archipiélago austral suscitaba un mero interés exploratorio. Consecuentemente, nunca protestó las medidas adoptadas por la monarquía española en dichos espacios geográficos.

En América, el imperio español fue trasvasando su cultura; llevó occidente al continente americano desde el mismo momento de su llegada. A modo de ejemplo, mencionamos que entre 1521 y 1524, Hernán Cortés creó el Hospital de Jesús, en la actual Ciudad de México; por cédula real, se fundó la Real Universidad de la Ciudad de los Reyes, en Lima (1551). Un dato curioso permite representarnos la época; poco menos de dos años después de que el *Mayflower* llegara a la bahía de Massachusetts, "el monarca [español] Felipe IV, a través de la Real Cédula del 2 de febrero de 1622"[18], creó la actual Universidad Nacional de Córdoba (Argentina).

Consolidadas las colonias británicas en América del Norte a lo largo del siglo XVII, las monarquías comenzaron a disputarse el dominio de los vastos espacios del continente americano. Es así que, con el objetivo de alcanzar la paz, ambas celebraron el Tratado de Madrid (1670). Allí, mutuamente, se reconocieron el dominio de estos reinos sobre los territorios coloniales en América. Entre otros asuntos, se estableció la prohibición para los barcos británicos, de navegar en los mares bajo el dominio español, y, de comerciar con sus puertos de América[19].

El comienzo del siglo XVIII, no sólo trajo aparejado el surgimiento del Reino de Gran Bretaña con la firma del Acta de la Unión (1707) entre Inglaterra y Escocia, también fue testigo del fin de la dinastía Habsburgos dirigiendo los destinos del imperio español. El fallecimiento de Carlos II (1700) desató una guerra en toda Europa, la "Guerra de Sucesión Española" (1701-1713). Respecto a lo aquí desarrollado, una vez finalizada la contienda europea, la Paz de Utrecht (1713), aseguró la integridad de las posesiones españolas en América y confirmó su exclusividad de navegación en el Atlántico Sur[20].

No obstante, en 1743, el archipiélago austral cobró interés para la *Royal Navy*, puesto que aspiraba a contar con un establecimiento estratégico frente al Estrecho de Magallanes. Ese mismo año, la corona española tomó conocimiento del proyecto británico y protestó enérgicamente. En consecuencia, el Reino Unido desistió de llevarlo a cabo[21].

En 1764, Louis Antoine de Bougainville (1729-1811) estableció la colonia "*Port St. Louis*" en la Isla Soledad del archipiélago malvinense. La corona española protestó formalmente y obtuvo el reconocimiento francés de su derecho sobre las islas. La monarquía francesa ordenó su restitución, que se concretó en 1767:

> "El 1 de abril entregue nuestro establecimiento a los españoles, que tomaron posesión de él enarbolando la bandera de España, que desde tierra y de los navíos saludaron con veintiún cañonazos a la salida y a la puesta del sol. Yo había leído a los franceses habitantes de esta colonia naciente, una carta del Rey, por la que S. M. les permitía quedar allí bajo el dominio del Rey Católico. (…)"[22]

En 1766, una expedición británica arribó clandestinamente a Malvinas. Los marinos británicos levantaron un fuerte en un lugar al que llamaron "*Port Egmont*", en la isla Trinidad del archipiélago. Los españoles tomaron conocimiento de que el *HMS Japan* merodeaba la zona. El 28 de noviembre de 1769, las fuerzas españolas destacadas en Malvinas desalojaron a los británicos a bordo del *HMS Tamar* capitaneado por Anthony Hunt. En virtud de los tratados preexistentes, le ordenaron su retiro del atlántico sur, puesto que eran aguas cerradas para la *Royal Navy*. Con total impertinencia, el capitán británico contestó que el archipiélago pertenecía a su rey y ordenó a las fuerzas españolas el retiro del lugar. Este hecho escaló más allá del terreno diplomático.

La corona española protestó insistentemente exponiendo sus derechos. Al no recibir una respuesta aceptable, "[e]l gobernador de Buenos Aires, teniente general Francisco de Paula Bucarelli ordenó expulsar a los ingleses de los dominios de Su Majestad Católica"[23]. El 10 de junio de 1770, se restableció la soberanía española en el archipiélago.

A raíz de ello, en 1771 tuvieron lugar unas acaloradas conferencias entre Masserano y Rochford en la que convinieron, empleando las seguridades que proporciona la palabra de cada monarca, restituir *Fort George* a los británicos, y, posteriormente, éstos lo abandonarían "por cuanto evidentemente una evacuación de *facto* significaría el abandono de las pretenciones británicas al derecho de libre navegación y

[17] Burney, M. "*History of Buccaneers of América*" (1816), p.132.
[18] Fuente: https://www.unc.edu.ar/sobre-la-unc/or%C3%ADgenes. Recuperado el 5 de junio de 2024.
[19] Kohen M. & Rodriguez F. "Las Malvinas entre el derecho y la historia. Refutación del folleto británico 'Más allá de la historia oficial. La verdadera historia de las *Falklands*/Malvinas'" (2015). Buenos Aires: (EUDEBA). pp.35-36.
[20] Kohen & Rodriguez, *op. cit.*, p.38.
[21] Kohen & Rodriguez, *op. cit.*, p.40.
[22] Bougainville "*Viajes alrededor del Mundo*" (1921), t1., p.59.
[23] GB (VGM) Soria "Primera Reconquista de las Malvinas" (s.f.).

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colonización"[24]. El 15 de septiembre de 1771 el Reino de España restituyó *Port Egmont* al Reino Unido[25], mientras que el 20 de mayo de 1774 los británicos abandonaron Malvinas[26].

No obstante, dicho acuerdo continuaba levantando suspicacias entre las monarquías, como también al interior de cada reino -principalmente en el Reino Unido-. Fue por un incidente en la bahía de *Nootka-Sound* (Vancouver), entre una fuerza española y comerciantes británicos, que el 28 de octubre de 1790 ambos reinos celebraron un tratado en el palacio real de San Lorenzo del Escorial, para poner fin a las disputas en América. En lo que atañe al archipiélago austral, acordaron:

> "Artículo 6°. Se ha convenido también por lo que hace á las costas tanto orientales como occidentales de la América Meridional y de las islas adyacentes, que los súbditos respectivos [británicos] no formarán en lo venidero ningún establecimiento en las partes de las costas, situadas al Sur de las partes de las mismas costas y de las islas adyacentes ya ocupadas por España. Bien entendido que los dichos súbditos respectivos [británicos] conservarán la facultad de las costas e islas así situadas, para los objetos de pesca, y de levantar cabañas y otras obras temporales que sirvan solamente á estos objetos"[27].

Además, dicha cláusula tenía una condición efectuada en secreto: "(…) se ha convenido y determinado por el presente artículo, que dicha estipulación no está en vigor más que entre tanto que no se forme algún establecimiento en los lugares en cuestión por súbditos de otra potencia."[28]

Así concluyó la disputa por el archipiélago atlántico suroccidental. De este modo, la monarquía británica reconoció la soberanía española sobre Malvinas.

Durante los cuarenta y cuatro años que transcurrieron entre 1767 y 1811, treinta y dos gobernadores españoles se sucedieron en Malvinas de manera pacífica e ininterrumpida, hasta que, en el marco del proceso de independencia, los primeros gobiernos argentinos continuaron con el ejercicio de soberanía y la administración del archipiélago, a las que consideraron parte integrante de su territorio, heredado de España por derecho de sucesión de Estados según el principio *uti possidetis iuris*[29].

i. *El encuentro de dos mundos*

El monarca español Carlos III (1716-1788), creó el Virreinato del Río de la Plata (1776-1810) y designó a Buenos Aires como su capital. En 1778 estableció el "Reglamento del Comercio Libre con los puertos de España y sus Colonias". Para ilustrar el funcionamiento socio-económico y político de aquel entonces en el Río de la Plata, Roberts (2006) señala:

> "Como en España, el gobierno era malo, pese a las muchas leyes buenas, pero que por falta de contralor no se cumplían. La justicia estaba corrompida, había grandes fraudes financieros, y el contrabando, debido a las leyes restrictivas del comercio, enriquecía no solo a los contrabandistas sino también a las autoridades que lo consentían. (…) La base del comercio era el contrabando."[30] (p.30)

En 1797, su sucesor Carlos IV, autorizó a Buenos Aires para el comercio neutral. Ello produjo que llegaran flotas comerciales estadounidenses. Si bien la medida fue derogada dos años más tarde, el comercio continuó fluyendo mediante los artilugios del contrabando.

Por otro lado, Roberts también apunta que:

> "La superioridad de la industria inglesa era tal que sus productos tenían venta mundial, a veces hasta en los países que estaban en guerra con Inglaterra, y siempre en las colonias americanas, aunque allí, debido a las restricciones, por medio del contrabando"[31].

En tal contexto, el ciudadano estadounidense William Porter White (1769-1842), nacido en Pittsfield*, Province of Massachusetts Bay,* encontró en Buenos Aires un lugar para desarrollar su controvertida actividad comercial, asignándole a la ciudad un particular objetivo de interés. Conocido localmente como "Pío", construyó y cultivó grandes relaciones sociales en el estuario del Plata, sin descuidar su estrecho vínculo con el Comodoro Home Riggs Popham (1762-1820). Sostiene Roberts:

> "No cabe duda que, en 1806, White escribió a Popham, quien acababa de tomar al Cabo, para que viniera a Buenos Aires, dándole detalles de los tesoros que esperaban oportunidad para ser enviados a España, tesoros que resultarían presa de los ingleses (…) Como veremos, White ayudó luego en la toma de Beresford y Whitelock en las invasiones de 1806 y 1807"[32].

Para cerrar el cuadro, agregamos que la batalla de Trafalgar (1805) resultó decisiva. Allí el Reino Unido de la Gran Bretaña e Irlanda obtuvo el señorío sobre los mares del mundo.

[24] Goebel (h.), *op. cit*., p.454.
[25] Goebel (h.), *op. cit*., p.454.
[26] Goebel (h.), *op. cit*., p.457.
[27] del Cantillo, A. "Tratados, Convenios y Declaraciones de Paz y Comercio que han hecho con las potencias extranjeras los monarcas españoles de la Casa de Borbón". (1843) Madrid, Reino de España, pp.623-633.
[28] del Cantillo, *op. cit.* p.625.
[29] Definición de *Utis Possidettis Iuris*: "'Como poseéis de acuerdo al derecho, así poseeréis'. Regla general de derecho internacional aplicable en la determinación de las fronteras de los Estados nacidos de un proceso descolonizador, que reconoce y acepta como fronteras internacionales, en la fecha de la sucesión colonial, tanto las antiguas delimitaciones administrativas establecidas dentro de un mismo imperio colonial como las fronteras ya fijadas entre colonias pertenecientes a dos imperios coloniales distintos. SCIJ, 22- XII-1986, Controversia fronteriza; SCIJ, 11-IX-1992, Controversia fronteriza insular, terrestre y marítima." Recuperado de https://dpej.rae.es/lema/uti-possidetis-iuris el 7 de junio de 2024.
[30] Roberts, C. "Las Invasiones Inglesas" (2006). Buenos Aires: Emecé.
[31] Roberts, *op. cit.*, p.38.
[32] Roberts, *op. cit*., p.54.

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Como vimos, por iniciativa de la sociedad White-Popham, se produce la incursión británica al Río de la Plata (1806). La historia es conocida, una pequeña fuerza militar ocupó Buenos Aires, y al cabo de cuarenta y seis días, las fuerzas rioplatenses recuperaron el control de la ciudad. Al año siguiente, ya con una fuerza superior a los diez mil hombres, fuerzas de Su Majestad Británica al mando de Whitelock fueron rechazados por el pueblo[33] de Buenos Aires alzados en armas, logrando, además, el desalojo de Montevideo; aunque la flota mercante, y su escolta de la *Royal Navy*, se mantenían con restricciones en el estuario. Ambos hechos, son considerados como los que prefiguraron los sucesos que desembocaron en la "Revolución de Mayo".

Por esto último, no resulta paradójico, ni coincidente, que los primeros en saludar la noticia de la formación de una "Junta Provisional Gubernativa de las Provincias del Río de la Plata a nombre del Señor Don Fernando VII" -en esto consistió la aludida revolución-, fuera una escuadrilla británica apostada en el puerto de Buenos Aires[34]. Aquí, claramente, verificamos el impulso estatal británico -al decir de Gullo[35]-, durante el proceso de independencia de las otrora colonias españolas.

El 9 de julio de 1816, los representantes de las Provincias Unidas de Sud-América -antecesora de la República Argentina- proclamaron su independencia, jurando promover y defender su libertad "y su independencia del Rey de España Fernando VII, sus sucesores y Metrópoli, y toda otra dominación extranjera."[36]

En 1820, el Coronel de la Marina argentina David Jewett tomó posesión de su cargo en las Islas Malvinas en nombre de las Provincias Unidas del Río de la Plata. Ello fue efectuado en un acto público en Puerto Soledad al que asistieron loberos y balleneros de varias nacionalidades - entre ellos estadounidenses y británicos-, que recalaban en las islas en el desarrollo de sus faenas. La noticia fue publicada en medios de los Estados Unidos y del Reino Unido[37], sin que recibiera comentario oficial alguno en esos países. La corona británica tampoco manifestó pretensión alguna a las Islas Malvinas en el proceso de reconocimiento del nobel Estado argentino, que culminó con la firma del Tratado de Amistad, Comercio y Navegación, el 2 de febrero de 1825.

A lo largo de esa década, diversos actos demostrativos de soberanía sobre las Islas Malvinas, fueron realizados por los sucesivos gobiernos argentinos: designación de gobernadores, legislación sobre recursos pesqueros y el otorgamiento de concesiones territoriales, celebración de matrimonios[38] y nacimiento de ciudadanos argentinos[39]. Así se fue desarrollando Puerto Soledad; sus habitantes se ocupaban de la cría de ganado, la caza de lobos marinos y la prestación de servicios a los buques que tocaban puerto. El 10 de junio de 1829 el gobierno argentino creó la Comandancia Política y Militar de las Malvinas, designando a Luis Vernet a su cargo.

ii. *"An Ungentlilymany Act"*

Durante la administración de William Pitt, resurgió el interés estratégico británico en el Atlántico Sur. Luego de haberse sucedido sin oposición británica alguna las administraciones españolas y argentinas en las Islas Malvinas, Ferns (1966) -entre muchos otros-, nos señala que intempestivamente el Reino Unido protestó el Decreto:

> "En 1829, en el momento de la entrevista entre Parish con Vernet, parece que otros ingleses se interesaron en Malvinas (…) Beckington escribió una larga e inteligente carta al Secretario del Foreing Office, en la que apremiaba al Gobierno para que estableciera una colonia británica en las islas. Creía que las Malvinas eran de gran importancia para fortalecer el poder naval británico y porque ofrecían una base que permitiría eliminar las actividades de corsarios y piratas y facilitaría la pesca de ballena. Cuando Langdon escribió al Foreing Office dieciocho meses después, confirmó los argumentos de Beckington y agregó uno propio: la ventajosa posición de las islas Malvinas para acrecentar el tráfico marítimo australiano.

Poco después de recibir la carta de Beckington, Aberdeen se dirigió a Parish y le ordenó que protestara ante el Gobierno de Buenos Aires (…)"[40].

En diciembre de 1831, el buque de guerra estadounidense *USS Lexington*, atacó Puerto Soledad como represalia por la captura de buques loberos de esa nacionalidad, que operaban en infracción a la legislación de pesca argentina. El gobierno argentino inició de inmediato las gestiones para obtener

[33] La población de Buenos Aires, por aquel entonces, fue estimada en algo menos de cuarenta mil habitantes, incluyendo niños, mujeres, ancianos y esclavos.

[34] La escuadrilla que, el 25 de mayo de 1810, saludó con salvas de homenaje la noticia de la conformación de la "Primera Junta", se conformó por la goleta *HMS Mistletoe,* al mando del capitán Robert Ramsay, el bergantín *HMS Nancy*, al mando del teniente John Arthur Killwick, reforzados con la corbeta *HMS Mutine*, al mando del capitán Charles M. Fabian, y el bergantín *HMS Pitt*, al mando del teniente Thomas P. Perkins. Colimodio, R., "El infaltable inglés en los acontecimientos históricos argentinos" (25 de mayo de 2018). Infobae. Recuperado de: https://www.infobae.com/opinion/2018/05/25/charles-montague-fabian-el-infaltable-ingles-en-los-acontecimientos-historicos-argentinos/ el 15 de octubre de 2023.

[35] Gullo, *op. cit.*, p.21.

[36] Extracto de la Fórmula de Juramente del Congreso de Tucumán (1816). Archivo General de la Nación, "Homenaje al bicentenario de la Declaración de Independencia 1816-2016" (2016), p.182.

[37] La noticia fue publicada en el periódico londinense *The Times*, el viernes 3 de agosto de 1821.

[38] "Domingo 25 de octubre [1829]. (…) A las once de la mañana se celebró el casamiento de Antonio y Marta, se juraron eterna felicidad ante cuatro testigos, (…) firmaron la contrata, y se convinieron en formalizarlo por la Iglesia los que fueran a Bs. Ays. (…)". (Vernet, 2020, p.34)

[39] El primer nacimiento formalmente registrado en Malvinas, fue el de Matilde Vernet y Sáez, el 5 de febrero de 1830.

[40] Ferns, H. "Gran Bretaña y la Argentina en el siglo XIX" (2011) (ed. fascimilar). Buenos Aires: Docencia, p.231-232.

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reparación de aquel país[41], y a la vez, envió la goleta Sarandí para restablecer el orden en las islas tras el ataque.

> "En agosto de 1832 el Almirantazgo envió al Foreing Office un proyecto de orden que se proponía a mandar al almirante del sector sudamericano, a fin de que 'tomara las medidas para ejercer periódicamente el derecho de soberanía de Su Majestad en las islas Falkland'. Palmerson prestó acuerdo a dicha orden"[42].

Tal misión recayó en el Capitán John Onslow, al mando de la *HMS Clío*, reforzada por la *HMS Tyne*. El 2 de enero de 1833 los marinos británicos anclaron frente a Puerto Soledad. Profirieron un *ultimátum* de veinticuatro horas a las autoridades argentinas, bajo pena de hacer uso de fuerza superior, exigiendo la rendición y entrega de la plaza. El jueves 3 de enero de 1833, las autoridades y civiles argentinos, fueron ominosamente desalojados de las Islas Malvinas.

> "Cuando las noticias de esta acción llegaron a Buenos Aires, el Encargado de negocios británico, Philip Gore, no estaba enterado de lo que había ocurrido. Se lo citó inmediatamente al Ministerio de Relaciones Exteriores. El señor Maza declaró que 'el Gobierno de Buenos Aires no podía ver en ello sino un *gratuito* ejercicio del derecho del más fuerte … para humillar y rebajar a un pueblo inerme e infante.'"[43]

De este modo quedó trabada la *litis*, desde hace casi dos siglos, la infamia impera en el atlántico sud; constituyéndose así, el principal hito que nos trae hasta nuestros días.

iii. *Pax Britannica, nada de lo que brilló fue oro*

Con relación al primer aspecto que estudiamos, esto es la relación entre actores, conocida es la historia: la República Argentina protestó incansable y reiteradamente. Durante el siglo XIX muchas fueron las gestiones diplomáticas realizadas para obtener la restitución de la soberanía en Malvinas[44] que, en igual proporción, obtuvo un retundo rechazo británico. Incluso, en 1884, Argentina propuso llevar la Cuestión Malvinas a un arbitraje internacional, y nuevamente, recibió la misma respuesta.

En 1908, la corona británica anexó -como dependencias de la colonia de Malvinas- al archipiélago de las Islas Georgias del Sur, Shetland del Sur, Islas Orcadas y Sandwich del Sur, a las que denominó "Tierras de Graham", produciendo una nueva protesta argentina. Cabe aclarar, que la pretensión de soberanía sobre las islas que se hallan al sur del paralelo 60°S, se encuentra en estado de latencia desde la firma del Tratado Antártico (1959); por ello, los archipiélagos de Malvinas, Georgias del Sur y Sandwich del Sur, son los que constituyen la Cuestión Malvinas.

Adentrados en el siglo XX, Argentina continuó reclamando sin respuesta alguna hasta que, el con fin de la Segunda Guerra Mundial (1939-1945) surgen una herramienta institucional con pretensión de alcanzar la paz mundial: la Organización de las Naciones Unidas (ONU).

iv. *La Cuestión Malvinas durante la Guerra Fría*

La década posterior a la finalización de la gran contienda, fue signada por un fuerte proceso de descolonización mundial, que hizo gran mella en las bases que sostenían el poder del RUGBIN. Guglialmelli (2007) esclarece el contexto de la Cuestión Malvinas:

> "El problema de las Islas Malvinas entra en la agenda de las Naciones Unidas cuando Gran Bretaña, como consecuencia de la Resolución 1514 (XV) (diciembre de 1960), incluye por propia decisión a nuestro archipiélago como territorio colonial del Reino Unido. En razón de ello, las Islas quedan sujetas al proceso de descolonización, y Londres comprometido a ejecutarlo."[45]

Así, después de ciento treinta y un años de infructuosa diplomacia, Argentina presentó el caso ante el Subcomité III del Comité Especial de la ONU, y posteriormente, la AGNU a aprobó la Resolución AGNU N° 2.065-XX (1965).

Al poco tiempo de acatar dicha Resolución, el RUGBIN detuvo el proceso negocial al que se había comprometido internacionalmente. Desde 1968, realizaba maniobras diplomáticas dilatorias, con el fin de perpetuar su ocupación, mientras simulaba mantenerse dentro del compromiso asumido ante la AGNU.

Promediando la década de 1970, Argentina incrementó la presión diplomática; el RUGBIN respondió con una expedición científica semioficial, cuyo fin era valorar intrínseca y estratégicamente al archipiélago. Dicha labor concluyó con el Informe *Shackleton* (1976), que advertía: "[e]l tema de la soberanía pende sobre nuestro Informe, como pende sobre las Malvinas, y la falta de un acuerdo podría cohibir el pleno desarrollo de las islas."[46] Entre otros aspectos, dicho informe resaltó el potencial de la zona en materia de hidrocarburos y pesca.

En 1978, *The Falkland Island Company* (FIC), principal factor económico del archipiélago, se

[41] "Alvear [embajador argentino ante EE.UU.] presentó inmediatamente la reclamación de su gobierno, por las pérdidas sufridas a raíz de la incursión de la *lexington*.". Goebel (h.), *op. cit.*, p.515

[42] Ferns, *op. cit.*, p.235.

[43] Ferns, *op. cit.*, p.235.

[44] A modo de ejemplo, se transcribe: "En los años 1833, 1834, 1841 y 1849, Manuel Moreno [Ministro Plenipotenciario de la República Argentina en el Reino Unido de Gran Bretaña e Irlanda] expuso claramente los argumentos históricos y jurídicos sobre los que se fundamentan los derechos de Argentina sobre las Islas Malvinas frente a los distintos funcionarios del Ministerio de Relaciones Exteriores del Reino Unido". Recuperado de: https://www.argentina.gob.ar/malvinas-nos-une/documentos-historicos-sobre-la-cuestion-malvinas/manuel-moreno-y-las-protestas el 4 de junio de 2024.

[45] Guglialmelli, J. "Pensar con Estrategia" (2007), p.321.

[46] Guglialmelli, J. "Informe Shackleton (Estrategia, Recomendaciones e Implementación)" (1976), p.115.

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encontraba controlada por *The Coalite Group PLC* y fue absorbida por *Charrington Industrial Holdings Ltd*.

> "Tanto la compañía *Coalite* como la *Charrington* estaban involucradas en la industria del combustible y el petróleo y, por pura coincidencia, un conocido presidente de otra conocida compañía petrolera no era otro que el Sr. Dennis Thatcher.
>
> El único periódico que recuerdo que puso a disposición del público algunos de los datos anteriores fue el *Sunday Times*."[47]

En 1979, Margaret Roberts, esposa de Thatcher, se convirtió en primer ministro del RUGBIN. Si bien se encontraba en vigor el Acuerdo de Comunicaciones (1971), las negociaciones por el traspaso de la soberanía a la Argentina estaban virtualmente detenidas. Londres continuaba con su característico comportamiento multifacético dilatorio:

> "Ridley todavía estaba decidido a llegar a un acuerdo, pero encontró resistencia por parte del feroz *lobby* pro-isleño en el parlamento. Thatcher no se oponía a la transferencia de soberanía, pero insistía en que no se hiciera nada sin el consentimiento de los isleños"[48].

En este punto, debemos aclarar que, la Resolución AGNU de 1965, claramente estipula el término "intereses" de los malvinenses; la expresión "deseos", es parte de la narrativa británica sobre el asunto, y en nada se ajusta al derecho internacionalmente reconocido: es solo una herramienta dilatoria más.

La rueda de negociaciones sobre la soberanía de Malvinas, llevada a cabo en Nueva York a fines de febrero de 1982, poco innovó sobre la Cuestión. No obstante, un comunicado unilateral argentino, ampliatorio del comunicado conjunto de estilo de aquel entonces, advertía el escalamiento del conflicto:

> "La Argentina ha negociado con Gran Bretaña con paciencia, lealtad y buena fe, durante 15 años, en un marco señalado por las resoluciones pertinentes de la ONU, la resolución de la disputa de la soberanía sobre esas islas. El nuevo sistema constituye un paso eficaz para la pronta solución de esta disputa. Por lo demás, si eso no ocurriera, *La Argentina Mantiene el Derecho de Poner Término Al Funcionamiento de Ese Mecanismo y Elegir Libremente el Procedimiento Que Mejor Consulte a Sus Intereses.*"[49] (CAERCAS, 1983, fs.18)

A mediados de marzo de 1982, falsas y alarmantes noticias daban cuenta en Londres de un presunto desembarco argentino en la Isla San Pedro, del archipiélago Georgias del Sur, cuya fuente fue la acción mala intencionada de funcionarios de alto rango británicos.

Remitiéndonos a la autorizada palabra del Alte. *USNavy* Harry Train (1987)[50], evitaremos entrar en detalles que ya han sido abordados por reconocidos autores, para ir al fondo de los temas aquí desarrollados, sin dejar de decir que:

> "El detonante fue el anuncio a través de la TV británica (que luego se probó era erróneo) de que dos submarinos nucleares habían zarpado de Gibraltar hacia el Atlántico Sur. Las autoridades argentinas tomaron como verídica esta información. (…) En un esquema mental de 'ahora o nunca' la Junta dispuso la ejecución de la Operación Malvinas, estableciendo como día D el 2 de abril de 1982." (p.236)

v. *La Guerra de 1982*

En virtud de la brevedad, y a los efectos de evitar entrar en detalles que nos distraerían del objeto principal de este aporte, tomamos las palabras del propio Leopoldo Galtieri que explica el motivo por el cual ordenó la recuperación de las Islas Malvinas y de las Georgias del Sur, mediante la utilización de las Fuerzas Armadas argentinas: "El objetivo para el empleo del poder militar, era contribuir a la acción diplomática para obtener la soberanía de las Malvinas. Es decir, el empleo militar no era un objetivo en sí mismo."[51]

Para aquellos aún escépticos, y a fin de poner claridad sobre los hechos en los que se desarrolla la contienda militar, valgan nuevamente las palabras de Train sobre el asunto: "El operativo Rosario fue planeado e inicialmente ejecutado como una 'invasión diplomática'. Como un aguijón de las atascadas negociaciones con los británicos sobre la soberanía de las Islas. Nunca fue planificada como operación de combate"[52].

Por lo antedicho, puede comprenderse acabadamente un dato que no es menor: el motivo para ordenar la ejecución de la Operación Rosario de manera incruenta; esto es, procurar recuperar las islas sin derramamiento de sangre del oponente, aún, a costa de la vida de los propios. Así se hizo gallarda y valientemente.

A esta acción, le sobrevino la reacción británica. Primero, en el Consejo de Seguridad de la ONU (CSNU), luego rompiendo las negociaciones de paz. El CSNU aprobó la Resolución CSNU N° 502 (1982), la que se exigía el cese de las hostilidades, el retiro de las tropas argentinas y exhortaba a los actores a "(…) hallar una solución diplomática a sus diferencias y a que respeten plenamente los propósitos y principios

[47] John Whitfield "*Not first time public fooled*" (2016). Recuperado de: https://www.sunderlandecho.com/news/not-first-time-public-fooled-366100 el 26 de junio de 2024

[48] Simon Jenkins: "*British sovereignty over the Falklands is an absurd imperial hangover that must end*" (7 de abril de 2022). Recuperado de: https://www.theguardian.com/commentisfree/2022/apr/07/british-sovereignty-falklands-absurd-imperial-hangover-argentina el 1 de diciembre de 2023.

[49] Comisión para el Análisis y Evaluación de Responsabilidades del Conflicto del Atlántico Sur (CAERCAS) "Informe Final" (1983), párrafo 69.

[50] Train, H. "Malvinas: Un caso de estudio" (1987).

[51] CAERCAS, *op. cit.* Testimonio de Leopoldo Galtieri: fs. 690, del Tomo IV de Anexo Declaraciones del Informe Final.

[52] Train, *op. cit.*, p.245.

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de la Carta de las Naciones Unidas"[53]; es decir, procuró retrotraer el *status quo* al 1° de abril: volver a las negociaciones.

Otra vez Train, sintetiza el lapsus que va desde la recuperación argentina de Malvinas hasta el inicio de la guerra:

> "Entre la ocupación de las islas el 2 de abril y el hundimiento del crucero ARA Gral. Belgrano, el 2 de mayo, las autoridades argentinas actuaron en la convicción de que estaban envueltas en el manejo de una crisis diplomática. Los británicos lo hicieron en la convicción de que estaban en guerra. El objetivo político argentino era "una solución diplomática para recuperar la soberanía sobre las Islas". Los objetivos británicos, "defender los intereses de los residentes en las Islas y castigar la agresión"[54].

De lo transcripto surge con claridad cual fue el hecho que originó de la guerra: El hundimiento del ARA Gral. Belgrano. Argentina contestó tal vileza dos días después, golpeando al *HMS Sheffield*, causando estupor en la sociedad británica; que conllevó a escalar las acciones hasta su finalización, el 14 de junio de 1982.

b) Las relaciones anglo-argentinas

No son comunidades vecinas, ni su génesis histórica es compartida. Tampoco lo son aquellos valores y principios en los que se apoya culturalmente el ideario social. No obstante, por diversos factores que procuraremos señalar sintéticamente, desde que ambas comenzaron a interrelacionarse, se produjeron intensos lazos que aún persisten y que las actuales generaciones han naturalizado.

i. *Las relaciones anteriores a 1982*

Dejemos establecido el punto de partida:

> "Las dos invasiones inglesas al Río de la Plata (1806/7) trajeron consecuencias de diversa índole: política, económica y demográfica. Vemos que constituyeron un quiebre, una especie de bisagra histórica entre dos momentos. Contribuyeron a la transición de una sociedad colonial -regulada por España- a otra independiente en lo político, pero dependiente en lo comercial, de Gran Bretaña. Y, demográficamente, más cosmopolita."[55] (Flores, 2011, p.174)

Ya mencionamos que, a principios del siglo XIX, el puerto de Buenos Aires se encontraba abierto al comercio lícito con barcos de distintas nacionalidades. A aquellos mercaderes que, en virtud de la prosperidad de sus actividades en el Río de la Plata, fueron afincándose -inicialmente- en la campaña bonaerense. Esta comunidad inmigrante y mercantil, halló buena acogida la sociedad de la ciudad-puerto. Naturalmente, las redes sociales que tejieron con los nativos, giraban en torno a esta actividad.

> "Entre 1800 y 1880 más de 15.000 individuos provenientes de Gran Bretaña arribaron a la Argentina. En la década de 1820 llegaron a conformar el grupo de extranjeros más numerosos en ingresar al puerto de Buenos Aires, aunque en las décadas siguientes fueron perdiendo peso e importancia numérica ante el avance de la inmigración española e italiana."[56] (Silveira, 2015, p.266)

Asimismo, corresponde aclarar que en la sociedad porteña de aquel entonces -y derivado de la sociedad virreinal española-, un número reducido de personas contaban con la capacidad para desarrollar el comercio internacional, como también, para ocuparse de los círculos de decisiones sobre las cuestiones del quehacer general.

Esta actividad económica relevante en la ciudad-puerto, además, implicaba un *status* social diferencial respecto de aquellos sectores mayoritarios cuya actividad económica, en gran medida, dependía de estos. Por consiguiente, estos grupos sociales marginados del círculo de poder local no representaban un actor social relevante. Lo antedicho puede verificarse en la nómina de participante en las Actas Capitulares del Cabildo de 1810[57].

Es justamente el circulo social influyente de la otrora sociedad virreinal quien acobijó a los mercaderes, puesto que, "los súbditos de la corona inglesa eran, en general, bien percibidos por algunos sectores de la sociedad local al punto que, entre determinados grupos, existía una cierta anglofilia"[58].

> "Los británicos representaban un modelo político y cultural que era admirado por ciertos miembros de la sociedad porteña. Estos poseían un importante capital simbólico dado que provenían de un imperio poderoso y poseían, a su vez, vínculos y relaciones sociales con Gran Bretaña que podían ser de gran utilidad para los criollos comerciantes vinculados al mercado internacional. Como consecuencia de estas relaciones amistosas muchos británicos se casaron con criollas."[59]

> "Paralelamente la revolución industrial, el desarrollo comercial y el aumento de los ingresos reales habían fomentado la atracción del Imperio Británico por los países sudamericanos en búsqueda de materias primas y alimentos y nuevos mercados para sus productos manufacturados. (…) El Tratado [de 1825] establecía una relación preferencial para las actividades y empresas mercantiles con Gran Bretaña y los súbditos británicos. Se les otorgó libertad de comercio y navegación; no debían pagar ningún tipo de canon especial para el comercio ni depender de locales para sus actividades. También se les

[53] Transcripción parcial de la Resolución del Consejo de Seguridad ONU N° 502 (1982). Recuperado de: https://www.iri.edu.ar/publicaciones_iri/manual/Malvinas/RESOLUCION%20502.pdf el 30 de junio de 2024.
[54] Train, *op. cit.*, p.234.
[55] Flores, R. "Británicos en la sociedad de Buenos Aires (1804-1810)" (Ene-Jun de 2011).
[56] Silveira, A. "Comerciantes británicos en el Río de la Plata. En torno a la construcción de una comunidad mercantil (1810-1860)" (2015).
[57] de Ángelis, P. "Actas capitulares". "Colección de obras y documentos relativos a la historia antigua y moderna de las Provincias del Río de la Plata" (1836) Tomo 3. Buenos Aires: Imprenta del Estado. pp.255-285.
[58] Silveira, *op. cit.,* p.269.
[59] Silveira, *op. cit.,* p.272.

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> aseguró el derecho de entrar, permanecer y residir en el territorio, alquilar u ocupar propiedades para fines comerciales, y se los eximió del servicio militar. En este contexto, los mercaderes británicos gozaron de una situación preferencial frente a comerciantes locales y/o de otras nacionalidades, estimulando su ingreso a la plaza local."[60]

En suma, en el período que va entre las décadas de 1820 a 1880, aunque en especial entre las décadas de 1850 y 1880, se establecieron las bases para la dependencia argentina hacia Londres. Dicha tendencia se acentuó a partir de las inversiones financieras y en infraestructura que realizaron capitales británicos y, estos, en asociación con nacionales.

El acelerado crecimiento económico del país manufacturero, en la última parte del siglo XIX, convenció a la elite nativa que el rol más conveniente para los intereses argentinos era el de aspirar a convertirse en un país proveedor de materias primas para la nueva metrópoli. El punto cúlmine de este modelo económico de dependencia, se manifestó en el Tratado Roca-Runciman (1932).

Por otra parte, los populosos grupos marginados de la sociedad argentina, en poco se vinculaban con las corrientes filo-ideológicas provenientes de las islas británicas. Grandes y sangrientas luchas se dieron por algo más de medio siglo para imponer estas ideologías en las clases populares, que aún seguían desarrollando sus vidas bajo profundas raíces hispánicas.

Fue la figura del Gaucho, sobre la que mayor furia ideológica y persecuciones se desataron en pos de lograr que el nativo se adaptara al modelo económico imperante; principalmente, con posterioridad a 1852. Aunque el Gaucho y sus caudillos se fueron extinguiendo por la fuerza y por los hechos que imponía la realidad social, subyacía su cosmovisión.

Finalizando el siglo XIX, las clases populares no tenían representación política. El sistema democrático formalmente establecido en 1853, era practicado con pasmosa simulación por las elites estrechamente vinculadas con la *Pax Britannica*. Violentas protestas sociales se produjeron durante décadas para qué, en 1916, alcanzara la presidencia del país, una fuerza política que contara con auténtica legitimidad social.

Y aquí es donde comienza, en la historia argentina, un período signado por la pulsión dada entre los intereses de minúsculos grupos de poder local, fuertemente vinculados a los intereses extranjeros -naturalmente incluidos los británicos-, con los intereses de las grandes mayorías, que aún añoraban su tradicional identidad y libertad.

La finalización de la Segunda Guerra Mundial brindó el contexto adecuado, para que apareciera el impulso estatal en la economía local y produjera beneficios en todos los actores sociales argentinos. Naturalmente, la forma histórica de distribución de la renta nacional se vio alcanzada, lo que provocó violentas crisis políticas, alcanzando su máxima expresión durante la década de 1970.

Como en todo lugar del mundo, tales intereses estaban en contradicción, *ergo* en conflicto. Con el fin de obviar este proceso histórico, importa destacar pocas cuestiones que permiten conocer el sentimiento que tenía el ciudadano argentino hacia lo británico, por aquel entonces.

Ya en las décadas de 1950 y 1960, las corrientes contraculturales surgidas a partir de la posguerra, trajeron aparejados un nuevo actor social claramente identificado con tales cánones. Así, la juventud pasó a constituirse en el actor social relevante a partir de las expresiones artísticas. El *rock & roll*, la pintura, el cine, la televisión y la literatura, entre otras manifestaciones de la época -confluyentes con los procesos revolucionarios que concomitantemente se llevaban a cabo en las ex colonias europeas de África y Asia-, rápidamente se diseminó por todo el mundo. Por supuesto, los países de la periferia occidental, no fueron la excepción.

En tal contexto, el 28 de septiembre de 1966, cerca de una veintena de jóvenes argentinos secuestraron el vuelo 648 de Aerolíneas Argentinas que cubría la ruta Buenos Aires-Río Gallegos.

Apoderados de la aeronave, obligaron al comandante a dirigirse a Malvinas, con la finalidad de reivindicar la soberanía argentina en el archipiélago y manifestarse contra la ocupación colonial británica. Dicho incidente, duró poco más de un día; casi con inmediatez, las fuerzas ocupantes británicas llevaron a los jóvenes ante las autoridades argentinas. Ello tuvo gran repercusión en el continente, más no en el RUGBIN. Dicha acción simbólica y reivindicativa no produjo más daño, que las huellas del avión en la improvisada pista del hipódromo local.

Ahora bien, refiriéndonos a otros jóvenes, los de 1982, debemos tenerse en cuenta que la masa de las tropas enfrentadas, no superaban los 22 años de edad; es decir, que nacieron a comienzos de la década de 1960 y su adolescencia transcurrió signada por la convulsionada década de 1970. Resulta obvio que, argentinos y británicos, se diferencian por la peculiaridad de cada sociedad, pero con la novedad de compartir visiones comunes. Así, no es difícil de imaginar que un ambos, podrían tener por gusto común -o cuanto menos no les era ajeno-, el fútbol o *Another Brick In The Wall* (*Pink Floyd*, 1979).

Para reflejar el influjo cultural británico, en parte de la sociedad argentina de aquel entonces, tal vez sirva el siguiente ejemplo: Un año antes de la guerra, la agrupación *The Queen* realizó su primer viaje por Sudamérica. La noche del 8 de marzo de 1981,

[60] Silveira, *op. cit.,* p.270.

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"Freddy" Mercury invitó a Diego Maradona al escenario, quién presentó la canción *Another One Bites the Dust* (1980), al tiempo que el cantante interpretaba la canción, vestido con la remera de la Selección Argentina de Fútbol y el emblemático número "10" en la espalda.

Mientras tanto, en el hemisferio norte, la relación británico-argentina en el imaginario mayoritario de la sociedad, pasaba por cuestiones nimias. Al encontrarse los países distantes, la representación de lo argentino, en el británico promedio, no se avizoraba mucho más allá de lo deportivo, y en menor medida, en lo cultural.

Orgullosos de su pasado imperial, aunque atravesados por las crisis socio-económicas de las décadas de 1960 y 1970, producto del reacomodamiento al nuevo *status* internacional durante la guerra fría, la moral británica se encontraba alicaída; su identidad nacional se encontraba conmocionada. Variadas y profusas expresiones culturales de la época, como es lo fue la irrupción del género *Punk Rock*, expresaron el descontento social que atravesaba el reino.

Ahora bien, en lo que respecta a la Cuestión Malvinas, he aquí la primer gran diferencia: Como vimos, para la sociedad argentina ya era un tema prioritario, mientras que en la sociedad británica desconocían -en términos generales-, la raíz de la controversia. Lo dicho, se apoya en las propias palabras de Lord Franks (1983):

> "Conversaciones en Roma
>
> 61. Antes de la primera rueda de conversaciones el Dr. Owen presentó un documento al Comité de Defensa en julio de 1977, en el que se argumentaba que era necesario realizar negociaciones serias y efectivas para mantener a los argentinos en el juego, dado que las islas eran militarmente indefendibles, excepto mediante la distracción de una importante, costosa e inaceptable corriente de recursos. El Comité adoptó el punto de vista de que posiblemente el Gobierno tendría que volver a considerar finalmente alguna variante de solución de arriendo, combinada con un programa de cooperación económica conjunto. El objetivo sería mantener la marcha de las negociaciones con el Gobierno argentino para ganar el tiempo suficiente para permitir la educación de la opinión pública en Gran Bretaña y en las Islas. En general la estrategia del Gobierno era la de retener a la soberanía tanto tiempo como fuera posible, haciendo concesiones de ser necesario, sobre las Dependencias y los recursos marítimos de la zona, a pesar de reconocer que finalmente solo alguna forma de arreglo en base al arriendo podría satisfacer a la Argentina."[61] (p.33)

Lo trascripto precedentemente, tiene la virtud de resumir y, a la vez, señalar las maniobras dilatorias llevadas a cabo por las administraciones del RUGBIN durante el período previo al 2 de abril de 1982. Al mismo tiempo, permite apreciar el nivel de desinformación que imperaba entre los británicos respecto de la Cuestión Malvinas. De tal modo, queda evidenciada la postura del RUGBIN, tanto respecto de los hechos ya narrados desde la perspectiva de los actores, como al factor psicosocial de su propia población.

ii. *Las relaciones anglo-argentinas postguerra*

Las noticias de la recuperación de las Islas Malvinas, rápidamente recorrió el mundo. El sábado 3 de abril, en horas de la mañana, Argentina también recuperaba las islas Georgias del Sur. Ese día, Thatcher y su gabinete enfrentaban duros embates en el parlamento. La situación política era crítica en el número 10 de *Downing Street.* Paradójicamente, a poco más de 15 kilómetros de allí, -en el marco de un partido de futbol- algunos ciudadanos británicos se expresaban con un improvisado cartel: "*Argentina can keep the Falklands, we'll keep 'Ossie'*"[62].

Con lo expuesto, buscamos señalar que, al inicio de las crisis, la percepción social británica era conducente hacia la solución negociada del conflicto. Fue obra de la acción psicológica de la prensa británica, la que fue alterando el clima social respecto de la disputa.

The Sun titulaba "*Surrender! A moment of humiliating defeat for our Marines*"[63], mientras que el 8 de abril, la revista francesa *Vendredi Samedi Dimanche* VSD titulaba: "*L'Angleterre Humiliée*"[64], en cuya portada retrataba a tres *Royal Marines* con los brazos en alto frente a un efectivo de la Armada Argentina, en señal de rendición. La imagen es sumamente impactante, fue un golpe directo al orgullo británico. La fuerza de tareas enviada tres días antes al Atlántico sur -la más grande desplegada desde la segunda guerra mundial-, ya no era vista con tan malos ojos por la población.

Ahora bien, conforme las previsiones de la *Royal Navy*, la aproximación al teatro de operaciones demoraría veinte días[65]. Este lapso, fue utilizado para la imposición del clima belicoso en la sociedad a través de la prensa. Una verdadera acción psicológica hacia la propia población.

Recordemos, en la acción militar argentina, ningún británico resultó herido -sea *Royal Marines* o residente en las islas-. Para alcanzar este resultado, es

[61] Lord Franks "Informe del Comité de Consejeros del Rey. Presentado al Parlamento por el Primer Ministro, por orden de su Majestad". (1983). Londres, Reino Unido de la Gran Bretaña e Irlanda del Norte

[62] Encuentro de futbol disputado entre *Tottenham Hotspur Football Club* y el *Leicester City Football Club,* por la semifinal de la *FA Cup*. El único jugador extranjero en el campo fue el argentino Osvaldo ¨*Ossie*" Ardiles.

[63] Recuperado de: https://www.forces.net/news/did-royal-marines-really-surrender-after-falklands-invasion, el 7 de junio de 2024.

[64] Recuperado de: https://www.zona-militar.com/foros/threads/im%C3%A1genes-del-conflicto-de-malvinas-fotos.258/page-1690 el 7 de junio de 2024.

[65] Franks, *op. cit.*, p.88; párr.153.

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decir, para que la autoridad colonial británica de Malvinas deponga las armas y se forzara a una negociación entre Argentina y el RUGBIN, el CF (PM) IM Pedro Edgardo Giachino ofreció su vida, dejando atrás dos hijas y una esposa.

La Guerra fue una estupenda oportunidad para levantar la alicaída moral británica, que debía adecuarse al papel estratégico secundario, al que la relegaron las superpotencias hegemónicas. También constituyó una oportunidad inigualable para la administración Thatcher para levantar su imagen política ante la sociedad que, con crecientes manifestaciones, expresaba su fuerte descontento por las políticas económicas implementadas. Finalmente, el almirantazgo británico, también encontró su chance para demostrar su importancia, ante los amenazantes recortes presupuestarios anunciados poco tiempo antes.

Se le atribuye al dramaturgo griego Esquilo (s. V a.C.), la autoría de la frase: "La verdad es la primera víctima de la guerra". Sensacionalismo, triunfalismo y desinformaciones fueron moneda corriente, tanto en Londres como en Buenos Aires; en razón de que dicha información se torna crucial durante una guerra.

Los medios de comunicación argentinos se encontraban fuertemente intervenidos por la Junta Militar de aquel entonces. Argentina Televisora Color (ATC) lideraba las informaciones sobre el desarrollo de los acontecimientos, a través de su programación. En el RUGBIN, la cadena televisiva *British Broadcasting Television* (BBC), abiertamente crítica a la administración Thatcher, no resultó un obstáculo para que la desinformación sea lanzada desde otros medios de comunicación de la época.

> "La falta de libertad para informar era evidente del lado argentino. (…) La BBC también tuvo que pensar a quién representaba y dónde estaba parada su audiencia, como detalla Seaton. El director general de la BBC de ese momento, Ian Thethowan, convocó a una reunión al directorio de Noticias y Actualidad y les adelantó que 'equilibrar el derecho del público a saber con la necesidad militar de ganar' no iba a ser fácil, y que a pesar de todo tenían que representar la opinión británica todo lo que fuera posible"[66].

Huelga agregar algo más a lo transcripto.

Sin perjuicio de la gravitación del factor mediático al interior de cada actor, y de la guerra informativa, existe un hecho de cuya relevancia fue punto de quiebre: lo dijimos más arriba, el hundimiento del crucero ARA Gral. Belgrano.

La tragedia fue enorme e injustificada. Sólo la racionalidad de frustrar el proceso de negociaciones que se desarrollaban bajo los auspicios del presidente peruano Belaunde Terry, explica el crimen que llevó a la súbita muerte a trescientos argentinos y condenó a la agonía por congelamiento en el mar austral, a veintitrés vidas más. Allí encontró causa, en el seno de la sociedad argentina, el rechazo a toda expresión que represente lo británico.

Para aclarar y sintetizar, una vez más, recurrimos a Train:

> "En el momento en el que el *HMS Conqueror* atacó y hundió al ARA Belgrano, el crucero argentino llevaba 14 horas con rumbo al Oeste.
>
> Con el hundimiento del ARA Belgrano terminaron todas las esperanzas de una solución diplomática y comenzó la guerra en el mar." (1987, p.239)
>
> "Los jefes militares [argentinos] vieron el hundimiento de ambos [el del ARA Gral. Belgrano y el del *HMS Sheffield*] como el punto de no retorno de la guerra. La dirigencia política [británica], en cambio, pensaba que el 'intercambio de sangre' ofrecía una oportunidad para las negociaciones." (1987, p.244)

El desenlace de la guerra, naturalmente provocó diversas reacciones en las dos sociedades. El triunfo militar del Atlántico Sur le recobró la popularidad a Thatcher:

> "Un año después de la guerra, el historiador británico Eric Hobsbawm dijo: 'Una de las más siniestras lecciones de las Malvinas/Falklands es la facilidad con la que los thatcherianos capturaron el brote patriótico que inicialmente no estaba, en sentido alguno, confinado a los conservadores, y mucho menos a los thatcherianos'"[67].

Mientras que en argentina se desató un proceso conocido como "desmalvinización". Explica Pestanha (2020):

> "La desmalvinización, para ser más precisos, fue concebida tiempo antes de concluir la batalla. Las condiciones de ocultamiento en las que regresaron nuestros soldados al continente y los episodios de Puerto Madryn, donde la muchedumbre logró romper el cerco que pretendía impedir el contacto de los veteranos con el pueblo, dan cuenta clara de ello.
>
> Impulsada ex profeso por la conducción cívico-militar, reproducida por las elites comprometidas con el régimen de entonces, y resignificada luego de recuperadas las instituciones democráticas, la desmalvinización tuvo por objetivo principal circunscribir la guerra a un episodio aislado y descontextualizarla de sus antecedentes históricos. (…), el artilugio desmalvinizador encontró justificativo en la necesidad de impulsar lenta y sistemáticamente el restablecimiento de las relaciones bilaterales entre ambos Estados, sentar las bases para determinar las condiciones reales y efectivas del cese de hostilidades, restablecer el sistema de intereses económicos y financieros de los británicos en la región, neutralizar un espíritu y la conciencia nacional y latinoamericanista que había podido expresarse a partir del

[66] Schejtman, N. "Una guerra en la tele: la batalla contra Thatcher de la BBC y la propaganda argentina en las Malvinas" (3 de abril de 2021). elDiarioAR. Recuperado de: https://www.eldiario.es/internacional/guerra-politica-atc-bbc_1_7373205.html el 7 de julio de 2024.

[67] Pardo, D. "*Do the British care about the* Malvinas/*Falklands?*" (9 de febrero de 2012). *BBC News World*. Recuperado de https://www.bbc.com/mundo/noticias/2012/02/120209_malvinas_falklands_opiniones_biritanicos_dp , el 22 de mayo de 2024.

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2 de abril, y por último, impedir cualquier justificativo para la rehabilitación de las Fuerzas Armadas"[68]

Así, ya de regreso en el continente, los veteranos argentinos se vieron obligados a seguir luchando. En Malvinas, les ordenaron replegarse y terminaron en un continente donde los esperaba un enemigo que no hablaba inglés: ahora lo elegía el mismo pueblo argentino para que lo represente.

Nos dice Schwarzstein (2022), que:

"(…) [E]l politólogo francés Alain Rouquié puso por primera vez sobre la mesa el concepto 'desmalvinización'. 'Quienes no quieren que las Fuerzas Armadas vuelvan al poder tienen que desmalvinizar la vida argentina. Porque para los militares las Malvinas serán siempre la oportunidad de recordar su existencia, su función, y, un día, de rehabilitarse. Intentarán hacer olvidar la guerra sucia contra la subversión y harán saber que ellos tuvieron una función evidente y manifiesta que es la defensa de la soberanía nacional', sostuvo Rouquié en la entrevista publicada por la revista Humor hace 39 años."[69]

Permítasenos hacer aquí una digresión. Con lo arriba señalado, nadie reivindica ninguna otra forma de gobierno, que no sea la que proviene de la elección legítima por parte de la ciudadanía; aunque ello no implica dejar de señalar con claridad, que existen gobiernos engalanados de una pretendida tradición democrática, pero que, con sus políticas, llevan el despotismo a todos los rincones del planeta.

Por lo expuesto, y como consecuencia de lo manifestado por el politólogo francés, entendemos que la ideologización de la que fue, y aún sigue siendo sujeto pasivo la sociedad argentina, proviene de la combinación de factores que, incluso teniendo puntos de contacto, obedecen a causales que se diferencian con rayana nitidez.

En razón de lo dicho, la última dictadura cívico-militar produjo un daño enorme en la sociedad argentina, y, aunque sin crueldad ni tormentos, los sucesivos gobiernos democráticos continuarán produciéndolo, mientras sigan siendo funcionales a la desmalvinización.

Este bombardeo padeció una inerme sociedad argentina, mientras sus hijos luchaban contra las heridas invisibles. En las principales ciudades del país, el anonimato propio de las grandes urbes, junto con la acción desmalvinizadora, y el silencio de los protagonistas, encontró el espacio propicio para que la situación se dilate en el tiempo.

No obstante, los lazos forjados en las islas fueron haciendo la tarea que no hicieron los responsables de administrar los destinos argentinos.

Nuestros veteranos, poco a poco comenzaron a superar los años de silencio, sus penurias y sus dolorosos recuerdos. De empuñar un fusil, pasaron a sostener un micrófono frente a las aulas. Las horas de vigilia en el monte, fueron reemplazadas por las horas frente a un procesador de texto, para que sepamos su propia verdad, la de primera mano. Así, combatieron a la propaganda desmalvinizadora que sesgó los hechos ocurridos; así se fue dando paso a la remalvinización.

III. Conclusiones

La Cuestión Malvinas es un conflicto complejo para analizarlo en un breve aporte.

Como vimos, se inició y concluyó entre actores europeos. Su naturaleza se debió al interés de las potencias europeas por el control del paso bioceánico del Mar de Hoces. Posteriormente, y ya establecida pacíficamente la jurisdicción argentina en Malvinas, resurgió el interés de la *Royal Navy*, agregando al anterior, el interés por la necesidad de un puerto de recalada en su ruta hacia Australia, lo que promovió la ominosa maniobra de usurpación en 1833.

Por lo dicho, destacamos que:

"La posesión británica fue controvertida, jamás consentida por España y, además, compartida con este país. La posesión española, luego argentina, fue pacífica, exclusiva, a título de dueño, desde tiempo inmemorial. Fue sólo interrumpida en la isla Saunders desde 1766 hasta 1774, pero volvió a ser exclusiva, sin contradictor alguno, hasta la protesta de Parish (representante inglés en Buenos Aires) en 1829."[70]

Asimismo, también apreciamos que, a instancias de la corona británica, fue extendida la jurisdicción del archipiélago a aquellas islas que consideró como "dependencias de la colonia" Malvinas, a los que -y, en consecuencia-, Argentina prorrogó su legítimo e inclaudicable reclamo.

Además, a poco tiempo de acatar la Resolución AGNU N° 2.065-XX (1965), el RUGBIN detuvo el proceso negocial al que se había comprometido internacionalmente. Desde 1968, realizaba maniobras diplomáticas dilatorias con el fin de perpetuar su ocupación, mientras simulaba mantenerse dentro del compromiso asumido ante la AGNU.

Ante tal panorama, en la década de 1970, Argentina incrementó la presión diplomática y el RUGBIN respondió valorando estratégicamente al archipiélago. El "Informe Shackleton", trajo aparejado el resurgimiento del interés particular de los factores económicos británicos, que contó con el apoyo de la corona.

[68] Pestanha "Desmalvinización y Remalvinización" (2020) Revista La Tiza N° 53.

[69] Schwarzstein, D. "Desmalvinizar, remalvinizar: el enemigo es la resignación y el olvido". (1 de abril de 2022). Rosario3. Recuperado de: https://www.rosario3.com/politica/Desmalvinizar-remalvinizar-el-enemigo-es-la-resignacion-y-el-olvido---20220331-0049.html el 7 de julio de 2024.

[70] Bologna. "Los derechos de Inglaterra sobre las Islas Malvinas. Prescripción" (s.f.)., p.7.

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También mencionamos que, con el objeto de forzar las negociaciones en torno a la Cuestión Malvinas, el gobierno argentino recuperó -mediante el uso de la fuerza- el control sobre la totalidad del archipiélago atlántico suroccidental[71]. Guiados por Beaufre, apreciamos que tal estrategia "(…) [fue] alcanzar los objetivos fijados por la política utilizando lo mejor posible los medios de que se dispone"[72][74]; en consecuencia, allí se puede explicar la racionalidad para ordenar la ejecución incruenta de la Operación Rosario.

También dijo Beaufre, que la estrategia es el "(…) arte de la dialéctica de las voluntades que emplean la fuerza para resolver su conflicto"[73]. Es decir, que la decisión estratégica adoptada por un actor tiene por finalidad generarle a su oponente, la convicción de que carece de sentido comenzar o continuar con la lucha. Por ello, *contrario sensu*, Londres procuró abortar las tratativas de paz llevadas adelante, mediante el ataque al ARA Gral. Belgrano.

Por lo expuesto, y desde la perspectiva que involucra a los actores, la disputa continúa pendiente de resolución por tres razones:

a.- Porque "de lo que realmente se trata es de un conflicto de soberanía en el cual la Argentina reclama la devolución de unas Islas que forman parte de su territorio, las que le fueron arrebatadas por Gran Bretaña mediante un acto de fuerza"[74];

b.- Porque, para las naciones civilizadas del mundo, el conflicto aún está vigente. No es una especulación, así lo expresaron en la Resolución AGNU N° 37/9-LV (1982), y;

c.- Porque el RUGBIN mantiene la postura de ignorar, este y otros, llamamientos para negociar la Cuestión Malvinas con Argentina. La reivindicación del mancillado derecho de autodeterminación de los pueblos, no es más que otra argucia, que afianza la infamia.

Ahora bien, considerando el punto de vista que pone foco en la relación entre las sociedades, debemos decir que, no es lo mismo la forma en que dicha relación se manifiesta en el hemisferio norte, como lo hace en el sur. En el primero de los casos, cualquier argentino entiende que el RUGBIN fue, es y será un país al que podrá ingresar, transitar y/o permanecer y salir, en la misma condición: siendo extranjero.

En el segundo de los casos, como también vimos, la relación entre ambas comunidades se inició con una invasión. Fueron dos sujetos "emprendedores" los productores del violento encuentro. Con el paso del tiempo, la corriente inmigratoria inglesa se fue arraigando en Argentina, la diferencia entre una y otra comunidad se fue borrando. Los británicos en Argentina, naturalmente fueron adoptando las costumbres locales y los argentinos, aún hoy, percibimos la huella británica cada vez que esperamos un tren. Pero esta caracterización no es azarosa. El pueblo argentino es producto de la fusión de pueblos: Son hijos de los pueblos originarios, hijos de los esclavos arrancados de sus familias y de sus tierras por la vileza humana, hijos de las corrientes inmigratorias europeas escapadas de los horrores de las guerras desatadas en el viejo mundo. Son la mezcla de todo eso; son un pueblo de brazos abierto que recibe y cobija al prójimo, dándole la oportunidad de desarrollarse y vivir libremente.

La declamada reciprocidad, manifestada en el Tratado de 1825, no tuvo correlato en la realidad. La diferenciación inicia en las decisiones de quienes gobiernan, permean al interior de las sociedades, y con el transcurrir de los años, encuentran arraigo en los respectivos imaginarios colectivos. Ello profundiza las heridas producidas por hechos como los que desarrollamos.

En consecuencia, y a nuestro juicio, los factores contributivos para la perpetuación del conflicto son:

I.- Como en cualquier país, existe un natural sentimiento de repudio porque el territorio se encuentra ocupado por una potencia extranjera. En este caso, la sociedad argentina no es la excepción a dicha regla;

II.- En el RUGBIN, la sociedad desconoce los antecedentes históricos y jurídicos que fundamentan las posiciones de los actores. Ello conlleva a formar juicios sobre la Cuestión Malvinas que impiden arribar a soluciones negociadas y/o cooperativas.

Las declaraciones de Dennis Thatcher, avalan lo postulado:

"Cuando arribé a Downing Street y se anunció que Argentina había ocupado las Islas Malvinas, todo el mundo estaba en pánico. No tenía idea dónde quedaban las Malvinas, pero no quería parecer como un tonto y preguntar dónde quedaban (…) Y muy pronto me di cuenta que había muchos en el gobierno británico en mí misma situación"[75].

Pero tal situación, es alimentada desde las mismas administraciones británicas, patrocinando a pseudos intelectuales[76] que desinforman a su propia comunidad en pos de mantener el *status quo*. Por otro lado, también debemos decir que, en el RUGBIN

[71] El día 2 de abril de 1982 se recuperaron las Islas Malvinas; al día siguiente las Islas Georgias del Sur, y, desde 1976 se contaba con una estación científica en la Isla Morrel, del grupo de Islas Thule, en el archipiélago Sandwich del Sur (que la *Task Force* desalojó por la fuerza, el 20 de junio de 1982).

[72] Beaufre, *op. cit.*, p.14.

[73] Beaufre, *op. cit.*, p.13.

[74] Guglialmelli (1976), *op. cit.*, p.21.

[75] "El marido de Margaret Thatcher no sabía dónde estaban las Malvinas" (1 de agosto de 2003) La Nación. Recuperado de: https://www.lanacion.com.ar/el-mundo/el-marido-de-margaret-thatcher-no-sabia-donde-estaban-las-malvinas-nid515808/ el 7 de julio de 2024.

[76] "Graham Pascoe, autor de un conocido ensayo que defiende la ocupación del Reino Unido en el archipiélago, pidió al canciller Josep Borrell que no escuche el planteo de Felipe Solá [Canciller argentino] de excluir al archipiélago en un acuerdo con el bloque". Recuperado de https://www.infobae.com/politica/2020/09/02/islas-malvinas-un-influyente-ensayista-britanico-solicito-a-la-union-europea-que-no-escuche-el-reclamo-argentino/ el 6 de junio de 2024.

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existen voces que sostienen abierta y racionalmente que "[c]uarenta años después de la guerra en el Atlántico Sur, el sentido común exige un acuerdo negociado con Argentina"[77]; pero claro está, no son las voces oficiales.

> III.- Que dicha ocupación tuvo origen en un acto ruin. Por consiguiente, constituye una justa causa en cualquier pueblo, y más aún si es amante de la libertad, por lo que no es ajeno al pueblo argentino;
>
> IV.- A ello, debe añadirse la prolongación del conflicto en el tiempo, y;
>
> V.- La sangre derramada;

En este punto en particular, debemos aclarar que, entre los protagonistas de aquella batalla, existen tantos puntos de vistas sobre este asunto, como veteranos. Naturalmente, entre ellos no hay un pensamiento uniforme; pero en líneas generales, se reproducen las opiniones generalizadas de ambas sociedades sobre la Cuestión Malvinas.

Tampoco es lo mismo la opinión que puedan tener los veteranos -británicos o argentinos-, respecto de los familiares de los que ya no están.

Quienes perecieron en la contienda, interrumpieron su vida; todo se detuvo allí. El dolor experimentado por una madre ante la muerte de su hijo, es equivalente en aquellas que residen en la Ciudad de Corrientes o en Birmingham; sólo los que practican un utilitarismo ortodoxo y exacerbado, pueden diferenciarlo. Fueron las infames decisiones las que hicieron fracasar deliberadamente a la política para llegar a la guerra. El golpe fue asestado a ambos pueblos.

En lo que respecta a ambas sociedades, mientras subsista la desinformación, se continuará reduciendo la Cuestión Malvinas a los hechos bélicos, con una mirada infantilizada por lo simplista sobre los sucesos; y, en consecuencia, el conflicto continuará vigente.

El veterano británico, cumplió con su doble deber: el primero, como súbdito leal a la corona, y el segundo, como militar profesional que fue y que es. Creemos que ello es legítimo. Lo que no lo es legítimo, es el empeño de la corona en mantener una postura elaborada por George Cornewall Lewis en 1841[78]. Es hora de dejar atrás las rancias pretensiones coloniales.

El 25 de marzo de 2013, Lord Lucius Falkland, en una carta dirigida a la embajadora argentina en el RUGBIN, le explicaba:

> "La conexión histórica de mi familia con las islas en el siglo XVII es curiosa y poco conocida o entendida aquí en Gran Bretaña. Mi antepasado tuvo un papel decisivo en la elaboración de un consorcio de inversionistas para tratar de recuperar valiosos restos de naufragios en la costa suroriental de América del Sur. Esto parece haber sido un esfuerzo semioficial a través de su alto cargo como Primer Lord del Almirantazgo y Tesorero de la Armada. (…) Las islas, que no tenían nombre, fueron entonces llamadas Islas Falkland por el líder de la expedición y creo que empezaron a aparecer como tales en las cartas de navegación marítima, ¡casi como piratería, me atrevo a sugerir!".[79]

Mientras tanto, el proceso "remalvinizador", lejos está de haber concluido. La "desmalvinización" aún impacta en la sociedad argentina.

Las fuerzas argentinas movilizadas a lo largo de la Patagonia durante el conflicto, todavía esperan ser reconocidas por el gobierno y reivindicadas por la sociedad: por ello siguen luchando. Defendieron el continente de incursiones británicas, o bien, pusieron a punto las aeronaves en las que nuestros pilotos exhibieron su intrepidez ante la *Task Force*. Diecisiete argentinos fallecieron en ese contexto.

Para finalizar, queremos resaltar, que la acción de nuestros veteranos no agota en Malvinas. Ante hechos que conmocionan a la sociedad argentina, aparecen ellos para poner el hombro. Participan o tienen la iniciativa en innumerables campañas solidarias para quienes tristemente lo necesitan, lo hacen por el prójimo.

Así contratacan, rompiendo el silencio y las brechas generacionales; sus palabras, provocan la reacción en muchos. Traen a la conciencia de los adultos de hoy, aquellos dibujos y cartas escritas cuando fueron niños, y que los acompañaron durante la gesta. También generan conciencia en los más jóvenes que, al tomar contacto directo con las experiencias de los protagonistas, van creando anticuerpos contra la propaganda.

Puede sonar presuntuoso, incluso exagerado, aunque no es otra cosa que una mera descripción:

> En este lugar del mundo, no necesitamos un caballero de la noche para que
>
> nos rescate; afortunadamente, los tenemos a ellos.
>
> No son perfectos, no son prohombres: Son argentinos.

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[77] Jenkin, *op. cit*.

[78] Cornewall Lewis, G. "*An Essay on the Goverment Dependencies*". (1841)

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Contemporary Forms of Bourgeois Political Domination: The Case of Sanitation Privatization in Rio de Janeiro

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Palavras-chave: financeirização; grupos econômicos; hegemonia; privatização de serviços públicos; saneamento.

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Contemporary Forms of Bourgeois Political Domination: The Case of Sanitation Privatization in Rio de Janeiro

Formas Contemporâneas da Dominação Política Burguesa: O Caso da Privatização do Saneamento no Rio de Janeiro

João Roberto Lopes Pinto

Resumo- **O presente artigo pretende discutir as formas contemporâneas da dominação política burguesa, no contexto da atuação de grupos econômicos, sob o domínio financeiro, na prestação de serviços sociais essenciais. Destacamos o caso das privatizações no setor de saneamento no Brasil, em especial sobre a concessão dos serviços de distribuição de água, coleta e tratamento de esgoto no Estado do Rio de Janeiro. Para efeito de uma aproximação maior sobre as formas assumidas pela hegemonia econômica e política de tais grupos, analisaremos de forma mais detida a atuação do grupo AEGEA/Águas do Rio, maior operadora privada de saneamento no Rio de Janeiro.**

Palavras-chave: financeirização; grupos econômicos; hegemonia; privatização de serviços públicos; saneamento.

I. Introdução

Ao longo de pouco mais de uma década, na esteira da crise financeira de 2008, assistimos a uma proliferação de estudos sobre a dinâmica atual da concentração e centralização de capitais, sob o domínio financeiro[1]. Tais estudos se concentram, normalmente, sobre as implicações da chamada "financeirização" sobre os fluxos de renda e riqueza; sobre as condições de trabalho e endividamento das famílias; e, também, sobre a gestão interna do mundo corporativo, a nomeada "governança corporativa". Raras são as análises, contudo, sobre como a atual configuração do capital oligopolista financeiro se traduz em poder político, ou, dito de outro modo, sobre quais são as formas contemporâneas da dominação política burguesa.

Vale dizer que as transformações no capitalismo contemporâneo têm levado a uma revalorização da perspectiva marxista, em especial das contribuições do Livro III de "O Capital" sobre "capital portador de juros" e "capital fictício"[2]. Sem perder de vista as contribuições das escolas "neokeynesianas" e "regulacionistas" sobre tais transformações, as reflexões e análises aqui expostas se filiam à tradição marxista.

Encara-se, pois, o fenômeno da financeirização

> *"não só a partir de uma mudança 'quantitativa' – com o maior peso da riqueza financeira sobre a riqueza total –, mas, essencialmente, a partir de mudanças qualitativas no processo de acumulação (...) A lógica financeira passa a ser internalizada no lócus da produção e da valorização dos capitais"(LAVINAS ET AL, 2024: 44-45).*

Com efeito, opera-se mudanças na organização e administração de grupos privados não-financeiros, que agora se voltam a atender às pressões dos seus acionistas por rentabilidade e valorização financeira. É esse imperativo da valorização financeira que determina a forma como a "hegemonia econômica" de tais frações monopolistas da burguesia é hoje exercida. Em recente artigo (PINTO; CAMPOS, 2023), buscamos indicar, sob inspiração gramsciana, algumas das formas em que essa "hegemonia econômica" se traduz em "hegemonia política" e vice-versa.

Chamamos a atenção para a dimensão organizativa do capital oligopolista financeiro na forma de "grupo econômico", de um conjunto de firmas interligadas pelo capital e que se conectam com outros grupos por meio de participações acionárias

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[1] Para um bom balanço da literatura sobre o assunto ver PALLUDETO; FELIPINI, 2019 e LAVINAS *ET AL*, 2024. No levantamento bibliográfico da produção em língua inglesa sobre "financeirização", Palludeto e Felipini (2019) constatam uma produção acadêmica tímida de apenas 25 publicações sobre o tema em 2008, quando ocorre um rápido crescimento com o número de publicações chegando a 326, em 2017.

[2] Como atesta a insuspeita revista The Economist – órgão europeu da aristocracia das finanças, como a definiu Karl Marx –, em edição de 05/05/2018, por ocasião do bicentenário do autor, em artigo em que afirma que "o diagnóstico de Marx sobre as falhas do capitalismo é surpreendentemente relevante" (ver em https://www.economist.com/books-and-arts/2018/05/03/rulers-of-the-world-read-karl-marx, acessado em 28/06/2024).

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compartilhadas. Do ponto de vista organizativo da propriedade e da gestão dos grupos privados, destacamos a interpenetração e associação de capitais, públicos e privados, domésticos e estrangeiros; a interligação de corpos diretivos/ administrativos, incluindo a burocracia pública, os chamados "*interlocking directorates*"; a verticalização e concentração da propriedade, sob controle de instituições financeiras, implicando a separação entre propriedade e gestão, que fica subordinada, assim, a exigências de remuneração crescente dos acionistas.

> *"a estrutura em rede da atual propriedade capitalista monopolista, que se configura a partir do entrelaçamento de capitais e de seus representantes em diferentes corpos diretivos, desempenha um papel político-organizativo intraclasse, no seio da sociedade civil. Papel fundamental na produção de coesão interna da fração monopolista da burguesia. Coesão capaz de conferir poder hegemônico não apenas sobre as classes trabalhadoras, mas também sobre outras frações da classe burguesa, traduzido no domínio da fração monopolista no interior da sociedade política via controle de 'aparelhos governamentais-coercitivos'" (Op. Cit., p. 4).*

Tal estrutura imprime, com certeza, enorme alcance e complexidade sobre a atuação burguesa na "sociedade civil" e "sociedade política". Desde a perspectiva de que tais grupos possam operar no campo político-ideológico por meio não apenas de suas associações de classe, mas também de suas redes transcorporativas, como "aparelhos privados de hegemonia", na acepção gramsciana[3]. Acrescente-se a interconexão entre agentes públicos e privados, via compartilhamento de posições acionárias e assentos em conselhos de administração, que conferem maior organicidade na forma como as frações oligopolistas financeiras incidem sobre as estruturas e políticas públicas – indo além das leituras pluralistas, baseadas em *lobbies* e grupos de pressão.

Tal hegemonia da fração monopolista financeira se manifesta por meio das atuais e agressivas estratégias de acumulação via a exploração máxima do trabalho travestida de "empreendedorismo", seja por meio dos regimes flexíveis de produção (*lean production*), seja através da desregulamentação de direitos trabalhistas e do avanço da precarização; a oligopolização crescente de mercados, via estruturas cartelizadas; a mercantilização de bens públicos e comuns, por meio do avanço do capital financeiro sobre bens e serviços sociais – a exemplo das privatizações no campo previdenciário, da saúde, do saneamento e da educação –, sobre a terra (*land grabbing*), as *commodities* (bolsa mercantil de futuros) e a biodiversidade ("economia verde") – produtos empacotados e legitimados com o selo ESG (*enviromental, social and govenance*); e a expropriação do fundo público e da poupança das famílias, via endividamento crescente, que seriam supostamente administráveis pela "disciplina fiscal" e "educação financeira", respectivamente.

No presente estudo pretendemos discutir o exercício da hegemonia da fração monopolista financeira no setor de saneamento no Brasil, discutindo o caso da privatização do saneamento no Estado do Rio de Janeiro, ocorrido em abril de 2021. Para tanto, pretendemos caracterizar os principais grupos privados envolvidos na referida privatização, suas estratégias de atuação na sociedade civil e política brasileiras, em particular no Estado do Rio de Janeiro. Destacaremos, neste contexto, o caso do maior grupo privado brasileiro no setor e também o principal vencedor da privatização de 2021, a saber, o Grupo AEGEA, controlador da concessionária "Águas do Rio".

II. A Privatização do Saneamento no Brasil

A privatização do saneamento no Estado do Rio de Janeiro se insere em um contexto mais amplo de avanço da presença privada no setor, a partir da mudança no marco regulatório do saneamento (Lei 14.026), ocorrido em junho de 2020, no Governo Bolsonaro (2019-2022)[4]. As mudanças legislativas se orientaram em favor da abertura ao capital privado do setor de saneamento, até aqui sob o domínio de empresas ou autarquias públicas[5].

Com efeito, somente de 2020 a 2023, a participação privada no setor pulou de 7% para 16%, um aumento de 129% em menos de três anos. As projeções da "Associação e Sindicato Nacional das

[3] "Numa determinada sociedade, ninguém é desorganizado e sem partido, desde que se entendam organização e partido num sentido amplo, e não formal. Nesta multiplicidade de sociedades particulares, de caráter duplo – natural e contratual ou voluntário –, uma ou mais prevalecem relativamente ou absolutamente, constituindo o aparelho hegemônico de um grupo social sobre o resto da população (ou sociedade civil), base do Estado compreendido estritamente como aparelho governamental-coercivo" (Gramsci, 2000, p. 253).

[4] Importante destacar que a política de privatizações do setor foi desenhada já no Governo Temer (2016-2019), logo após o "Golpe Parlamentar", sofrido pela presidenta Dilma Roussef (2015-16), eleita democraticamente nas eleições de 2014.

[5] Esta tendência em favor da privatização do saneamento no Brasil destoa com os processos de reestatização de serviços públicos pelo mundo. No caso do serviço de saneamento há estudos da Transnational Institute (TNI, 2020) que mostram o fracasso da privatização no mundo, principalmente no que se refere à qualidade e aos preços praticados pelos prestadores. Um destes estudos mapeou 924 cidades ao redor do mundo que reestatizaram seus serviços – no setor de água, foram 311 remuncipalizações –, entre elas estão Paris, Berlim, Atlanta, Indianópolis, Joanesburgo, Buenos Aires, La Paz, Maputo, Jacarta. As motivações que levaram a retomada do controle público dos serviços são diversas: recuperar o domínio sobre a economia e sobre os recursos locais; dificuldade de monitorar os prestadores privados; garantir serviços acessíveis às pessoas; garantir meios para transição energética e climática; diminuir violações aos direitos dos trabalhadores. Ver em https://www.tni.org/files/publication-downloads/o_futuro_e_publico_versao_digital_02122021-compactado.pdf, acessado em 05/07/2024.

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Concessionárias Privadas de Serviços Públicos de Água e Esgoto" (ABCON-SINDCON) são de que tal participação alcance 46%, já em 2026[6].

Vale dizer que a diretoria da ABCON-SINDCON é formada por uma presidência e quatro vice-presidências ocupadas pelas cinco maiores corporações privadas do setor, a saber: IGUÁ, AEGEA, BRK AMBIENTAL, ÁGUAS DO BRASIL e GS INIMA. Em pesquisa realizada em 2018, o Instituto Mais Democracia apontava que essas cinco corporações controlavam aproximada 80% das concessões privadas no País[7], algo que se reproduziu de forma ampliada após as recentes privatizações[8].

Todas essas corporações são controladas por instituições financeiras, destaque para as presenças do Fundo de Pensão dos Servidores Públicos do Canadá, na IGUÁ; do Fundo Soberano de Cingapura e do maior banco privado brasileiro, o Itaú, na AEGEA; o fundo de investimento canadense Brookfield, na BRK; da *holding* Developer, na ÁGUAS DO BRASIL; e do Grupo GS, conglomerado empresarial coreano, na GS INIMA.

No histórico constante do site da ABCON-SINDCON está registrado que "entre 2018 e 2020, a entidade se mobilizou em torno da discussão sobre o novo marco legal do saneamento, que culminou na aprovação da Lei 14.026/20"[9]. Sem dúvida, a ABCON-SINDCON tem atuado como "aparelho privado de hegemonia", expressando os interesses da rede transcorporativa, constituída pelas principais corporações do setor.

Acrescente-se que já no atual Governo Lula (2023-), mais sensível às demandas dos urbanitários, houve uma iniciativa do Executivo Federal de mudar dispositivos da nova lei que barravam a participação de empresas públicas de saneamento em novas licitações. Tais mudanças foram derrubadas pelo Congresso e no referido histórico da ABCON-SINDCON pode-se ler "em 2023, a entidade atuou em prol da manutenção dos mecanismos de competição nas regulamentações da Lei 14.026/2020". Como se pode ver, a associação representativa dos maiores grupos privados desempenha com grande êxito a sua "agenda legislativa".

Para além da atuação via a ABCON-SINDCON, a relação dos maiores grupos privados de saneamento com o Estado brasileiro se dá também por meio de posições acionárias compartilhadas entre empresas públicas e tais grupos. A exemplo do que ocorre no caso da BRK, em que o banco público, Caixa Econômica Federal, tem 30% do capital da empresa, por meio do FI-FGTS[10]. Algo que se observa também no caso da IGUÁ, em que o Banco Nacional de Desenvolvimento Econômico e Social (BNDES), um banco também público, possui 11% do capital da empresa. Como sócios das referidas corporações privadas, BNDES e Caixa Econômica Federal tem assentos nos seus conselhos de administração.

Esta interconexão entre agentes públicos e privados traz, sem dúvida, implicações para a formulação e implementação das políticas públicas no setor de saneamento. Digno de nota é o caso do próprio BNDES, que ficou responsável pela modelagem dos processos de privatização do setor. Como veremos em seguida, a IGUÁ foi uma das corporações vitoriosas na privatização do saneamento no Estado do Rio de Janeiro, gerando uma situação de flagrante conflito de interesses, já que o BNDES, sócio da empresa, foi também o responsável pelo desenho do edital de licitação.

Tal fato gerou mesmo uma ação popular visando a anulação da privatização por conta do referido conflito de interesse, mas a referida ação não prosperou[11]. Contudo, vale ressaltar os argumentos que o setor jurídico do BNDES usou em defesa da atuação do Banco no caso. Em resposta datada de 08 de outubro de 2021, os advogados do BNDES se valeram, em especial, do argumento de que o assento do BNDES no conselho de administração da IGUÁ não representaria os interesses do Banco, mas sim os da empresa.

Seguem os termos constantes da resposta do Banco: "a manifestação de vontade do conselheiro não se confunde com a do acionista que o indicou. Em consonância com as disposições legais e com as melhores práticas de governança corporativa, todos os conselheiros, uma vez eleitos, têm responsabilidade para com a Companhia". Para além da fragilidade do argumento, já que se trata reconhecidamente de uma indicação do Banco, não se pode perder de vista que estamos falando de um banco público, regido por regras públicas.

Se é fato que a Lei das Sociedades Anônimas (Lei 6.404/76) estabelece que os acionistas não podem agir contra o interesse da empresa, não se pode pretender, com isso, elidir a responsabilidade pública do acionista estatal. O BNDES segue, por sua vez, comprometido com a agenda de concessões do

[6] Ver em https://abconsindcon.com.br/wp-content/uploads/2024/07/Panorama_2024.pdf, acessado em 04.07.2024.

[7] Ver em https://www.youtube.com/watch?v=tL31Y0ReTeY, acessado em 04.07.2024.

[8] Vem em https://ondasbrasil.org/empresas-privadas-atuantes-no-saneamento-entre-a-financeirizacao-e-a-concentracao/, acessado em 04.07.2024.

[9] Ver em https://abconsindcon.com.br/institucional/, acessado em 04.07.2024.

[10] Trata-se do fundo de investimento associado ao "Fundo de Garantia por Tempo de Serviço" (FGTS), uma poupança compulsória, formada pela contribuição patronal de 8% sobre o salário do trabalhador, voltada a garantir o pagamento do seguro-desemprego e de iniciativas de geração de trabalho e emprego e que é gerido pela Caixa Econômica Federal.

[11] Ver em https://www.jusbrasil.com.br/processos/486061818/processo-n-501XXXX-5020214020000-do-trf02, acessado em 02.07.2024.

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serviço de saneamento para a iniciativa privada, apresentando em seu hub de projetos: 12 "concluídos", 14 em "estruturação" e 3 "em prospecção"[12].

III. A Privatização do Saneamento no Estado do Rio de Janeiro[13]

Após a mudança no marco do saneamento, o Estado do Rio de Janeiro concedeu em 2021 os serviços de distribuição de água, coleta e tratamento de esgoto à iniciativa privada pelos próximos 35 anos, período superior aos 25 anos permitidos pela Lei Estadual das Concessões (Lei n. 2831/1997). A promessa pública deste processo foi que após doze anos da concessão alcançaríamos a universalização do saneamento no Estado, conforme previsto no novo marco do saneamento[14].

O leilão da Companhia Estadual de Águas e Esgotos do Rio de Janeiro (CEDAE), maior empresa pública do estado do Rio de Janeiro – entre 2012 e 2016, o lucro líquido da CEDAE foi de R$ 4 bilhões – ocorreu no dia 30 de abril de 2021 na Bolsa de Valores de São Paulo (B3)[15]. O certame foi o maior leilão de saneamento já ocorrido no País, haja vista o envolvimento de 49 municípios, 12 milhões de pessoas e a arrecadação de R$ 22,6 bilhões em outorgas pagas pelas empresas vencedoras do leilão.

No leilão, o estado foi dividido em quatro grandes blocos formados por bairros da capital fluminense, municípios da região metropolitana e municípios do interior. O bloco 1 é composto pelos bairros da zona sul do município do Rio, o município de São Gonçalo e mais 16 municípios do interior do estado. O bloco 2 inclui os bairros da Barra da Tijuca e Jacarepaguá da capital e os municípios de Miguel Pereira e Paty do Alferes. O bloco 3 inclui os bairros da zona oeste do Rio e seis municípios do interior e da região metropolitana. O bloco 4 é composto pelos bairros do centro e da zona norte da capital e oito municípios da Baixada Fluminense.

Cabe destacar que essa divisão desconsiderou quaisquer regras de planejamento urbano, priorizando interesses econômicos das concessionárias. Dos quatro consórcios interessados no leilão, todos fortemente ligados ao mercado financeiro, dois arrematataram 3 dos 4 blocos: o Consórcio AEGEA Saneamento e Participações S.A., que tem entre seus controladores o Fundo Soberano de Cingapura e o Grupo ITAÚ, arrematou os blocos 1 e 4; já o bloco 2 ficou com o consórcio Iguá Saneamento S.A., que tem entre seus controladores o Canada Pension Plan Investment Board e o BNDES Participações S.A, uma subsidiária do BNDES. Quanto ao bloco 3, não houve oferta no leilão de 30 de abril de 2021, apenas em dezembro deste mesmo ano o Grupo "Águas do Brasil" arrematou este bloco, em um novo certame.

O controle destas grandes corporações sobre o setor privado de saneamento no Brasil traz o risco de cartelização do setor. Algo que chegou a levantar suspeição sobre o próprio leilão de privatização do saneamento do Rio de Janeiro. Isso porque, três supostas concorrentes no leilão, ocorrido em abril de 2021, Equatorial, Iguá e Aegea possuíam entre seus controladores os mesmos acionistas, a saber: o Fundo Soberano de Cingapura e o Fundo de Pensão Canadense. Organizações e movimentos sociais do Rio de Janeiro chegaram a levantar a suspeita de que teria havido uma concorrência fraudada[16].

O ITAÚ, por sua vez, adquiriu 10% da AEGEA apenas três dias antes do leilão, no mesmo dia em que o ministro Luiz Fux, do Supremo Tribunal Federal (STF), decidiu monocraticamente suspender preventivamente qualquer decisão judicial que viesse a impedir o leilão. Além de ser uma decisão completamente extemporânea, sobre acontecimentos futuros, a posição do ministro do STF, convergente com a posição do Banco ITAÚ, levanta, igualmente, suspeição sobre a sua real motivação.

Chama particular atenção como os contratos de concessão, de cada um dos quatro blocos, estabelecem os critérios para o investimento em "áreas irregulares não urbanizadas". Os contratos se baseiam no Sistema de Assentamentos de Baixa Renda (SABREN), do Instituto Pereira Passos da Prefeitura do Rio de Janeiro, que define tais áreas como "favelas e aglomerados subnormais" (GOVERNO DO ESTADO DO RIO DE JANEIRO, 2021).

A análise dos contratos indica que a realização de investimentos em "áreas irregulares não urbanizadas" deve obedecer ao disposto no Anexo IV – Caderno de Encargos da Concessão. No Anexo IV dos contratos está dito que:

> *"Nas ÁREAS IRREGULARES NÃO URBANIZADAS do município do Rio de Janeiro se prevê a ampliação do sistema de abastecimento de água e de esgotamento sanitário e respectiva operação e manutenção pela*

[12] Ver em https://hubdeprojetos.bndes.gov.br/pt/projetos/estatisticas, acessado em 08 de julho de 2024.

[13] Esta seção se baseou em PINTO; SILVA, 2024.

[14] Segundo dados do Sistema Nacional de Informações Sobre o Saneamento (SNIS, 2019), que é organizado pelo Ministério de Desenvolvimento Regional, o índice de atendimento total de água no país, em 2021, era de 84,2% da população, enquanto apenas 55,8% da população era atendida com rede de esgoto e, do esgoto coletado, apenas 51,2% era tratado. No caso estado do Rio de Janeiro, o SNIS mostra que o índice total de atendimento de água alcançava, em 2021, expressivos 90,7%, enquanto o atendimento por rede de esgoto era de apenas 70,5% e, do esgoto coletado, apenas 67,8% era tratado. (MINISTÉRIO DO DESENVOLVIMENTO REGIONAL, 2023a; 2023b).

[15] A empresa pública estadual, CEDAE, continuou responsável pelos sistemas de tratamento dá água, que não foi objeto da concessão.

[16] Ver em https://www.youtube.com/watch?v=v6LSOe13bIQ, acessad em 04.07.2024.

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*CONCESSIONÁRIA. **No entanto, os investimentos a serem realizados nestas áreas não serão quantificados para fins de cálculo das metas de universalização".** (GOVERNO DO ESTADO DO RIO DE JANEIRO, 2021, p. 15, grifo nosso)*

No mesmo Anexo IV está estabelecido que somente "áreas irregulares urbanizadas" serão quantificadas para fins de cálculo das metas de universalização. Segundo o próprio texto do Anexo IV, as áreas urbanizadas são aquelas que receberam melhorias de infraestrutura e áreas não urbanizadas aquelas em que ainda não houve investimentos de urbanização, conforme classificação da Prefeitura do Rio de Janeiro.

Aplica-se o regramento das áreas não urbanizadas também para as áreas classificadas como parcialmente urbanizadas. Evidencia-se, assim, que para efeito do cumprimento da meta de universalização estão excluídas as populações residentes em "áreas irregulares não urbanizadas" ou "parcialmente urbanizadas".

Na tabela abaixo apresentamos a população residente em área irregular urbanizada no município do Rio de Janeiro para que se tenha uma medida do universo da população excluída da meta de universalização.

Tabela 1: População da Cidade do Rio de Janeiro em Áreas Irregulares (2019)

Área Irregular	População (hab.)		
	Total	Área Urbanizada	Participação (%)
Rio de Janeiro Bloco 1 (Região 1)	186.032	61.656	33,14%
Rio de Janeiro Bloco 2 (Região 2)	251.941	13.820	5,49%
Rio de Janeiro Bloco 3 (Região 3)	273.202	37.206	13,62%
Rio de Janeiro Bloco 4 (Região 4)	807.912	189.222	23,42%
Total	1.519.088	301.904	19,87%

Fonte: Anexo IV do Edital de Concessão

Como se constata, do total de 1,5 milhão de pessoas vivendo em áreas irregulares no município do Rio de Janeiro, somente 300 mil se encontram em áreas urbanizadas. Verifica-se, assim, que 1,2 milhão de pessoas residem em áreas irregulares não urbanizadas ou parcialmente urbanizadas, que não estariam, portanto, contempladas pela meta de universalização.

Contudo, há uma previsão de investimentos em "áreas irregulares não urbanizadas", que totalizariam R$ 1,8 bilhão, em doze anos, para os quatro blocos, mas somente na cidade do Rio de Janeiro – desconsiderando a existência de "áreas irregulares não urbanizadas" nos outros municípios do Estado. Mesmo que efetivamente executado, esse montante de recursos se mostra amplamente insuficiente, considerando que só o município do Rio de Janeiro conta com 763 favelas, segundo o último censo.

Nas eleições para o Governo do Estado do Rio de Janeiro, ocorridas em outubro de 2022, o governador reeleito Cláudio Castro, alinhado com a privatização, foi acusado de se valer do dinheiro da outorga dos serviços de saneamento em proveito de sua candidatura. Em maio de 2024, o Tribunal Superior Eleitoral julgou improcedente, por apenas 4 votos a 3, o pedido de cassação da chapa que elegeu o governador[17].

Como se vê, as interconexões, os entrelaçamentos entre agentes públicos e privados redundam em garantias para os grupos privados no controle da prestação de um serviço social tão essencial, quanto o saneamento. Note-se, ainda, a fragilidade da agência reguladora, responsável por velar pelo interesse público na concessão.

A Agência Reguladora de Energia e Saneamento Básico do Estado do Rio de Janeiro (AGENERSA) apresenta uma grande debilidade institucional, que, inclusive, foi apontada por auditoria realizada, em março de 2023, pelo próprio Tribunal de Contas do Estado do Rio de Janeiro. A referida auditoria aponta problemas de governança e transparência na AGENERSA, com destaque para "situações que colocam em risco a autonomia e a independência da Ouvidoria da Agência, como o fato de a pasta ser indevidamente subordinada ao órgão executivo"[18].

[17] Ver em https://www.tre-rj.jus.br/comunicacao/noticias/2024/Maio/tre-rj-julga-improcedente-pedido-de-cassacao-do-governador-claudio-castro, acessado em 01/07/2024.

[18] Ver em https://www.tcerj.tc.br/portalnovo/noticia/auditoria_do_tce_rj_aponta_problemas_de_governanca_e_transparencia_na_agenersa, acessado em 03/07/2024.

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O comprometimento da AGENERSA com os interesses das concessionárias privadas se evidencia também pela falta de transparência da Agência, como apontado na referida auditoria. Some-se a isso, a leniência da AGENERSA em relação às concessionárias, notadamente à "Águas do Rio", alvo de muita insatisfação da população, por cobranças indevidas e abusivas.

IV. O Caso da Aegea/Águas do Rio

Após três anos da concessão da distribuição de água, coleta e do tratamento de esgoto em 49 municípios do Estado do Rio de Janeiro, a AEGEA/ Águas do Rio, maior vitoriosa do leilão ocorrido em abril de 2021, acumula ganhos milionários. A empresa arrematou a concessão dos Blocos 1 e 4, compreendendo 27 municípios, incluindo aí os bairros da Zona Sul, Centro e Norte da cidade do Rio de Janeiro, municípios do interior e da região metropolitana, abrangendo uma população de mais de 10 milhões de pessoas.

Tais ganhos contrastam com a enxurrada de reclamações associadas a aumentos abusivos na tarifa, cobranças indevidas, interrupções não planejadas de fornecimento de água, não compromisso com a universalização do serviço em áreas de favela etc. A "Fundação de Proteção e Defesa do Consumidor" estadual (Procon-RJ) registrou, em 2023, um número de reclamações contra a concessionária Águas do Rio 564% maior em comparação com o início de 2022[19].

Nos próprios formulários de referência da Águas do Rio 1 e 4 consta o surpreendente número de 26.920 processos cíveis sofridos pela empresa, que se referem, em sua maioria, a processos relativos ao direito do consumidor, que estaria sendo de alguma forma lesado[20]. Tais números atestam, como já assinalado, a inoperância da AGENERSA.

Segundo os mesmos formulários de referência, a empresa acumulava lucros no final do ano passado da ordem de R$ 1,2 bilhão – em pouco mais de dois anos de concessão, já que o contrato da Águas do Rio com o Governo do Estado do Rio só foi assinado em agosto de 2021. Em 2023, o lucro líquido da empresa, somando "Águas do Rio 1 e 4"[21], alcançou a cifra de mais de R$ 614 milhões (TABELA 2).

Esse valor representou 45% do lucro líquido total da sua controladora AEGEA de R$ 1,4 bilhão, no mesmo ano. Isso mostra o peso da Águas do Rio para o Grupo AEGEA, que opera hoje, por meio de 54 concessionárias, em 15 estados, 507 municípios, abarcando mais de 30 milhões de pessoas – hoje, o maior grupo privado de saneamento, abrangendo 58% do total da população atendida pelo setor no País. Este valor apurado em 2023 pela Águas do Rio também equivale a 6 vezes o montante total previsto, no mesmo ano, para investimento no universo de favelas dos Blocos 1 e 4, segundo o "Plano de Investimento em Áreas Irregulares Não Urbanizadas" (AINUs)[22].

Tabela 2: Lucro Líquido E Dividendos A Pagar – Águas Do Rio Spe 1 E Spe 4 (em R$ milhares)

ANO		SPE 1	SPE 4	TOTAL
2023		131.480	482.824	614.304
2022		125.661	342.744	468.405
2021		(5.832)	146.997	141.165
Total		251.309	977.965	1.229.274
DIVIDENDOS A PAGAR		214.490 (85,3%)	745.774 (76,3%)	960.264 (78%)

Fonte: Formulário de Referência - 2024 - Águas do Rio 1 e 4 SPE S.A.

Quanto ao saldo de dividendos a pagar trata-se da provisão de recursos para pagamento aos acionistas da Águas do Rio, ou seja, os mesmos da AEGEA, a saber: Itáu, Fundo Soberano de Cingapura e Grua Investimentos – todos eles, instituições financeiras. Importante esclarecer que se tratam de dividendos ainda a serem pagos, em razão da restrição prevista no Contrato de Financiamento junto ao BNDES, que garantiu um empréstimo de R$ 19,3 bilhões para a Águas do Rio, aprovado em dezembro de 2022 – no

[19] Ver em https://vejario.abril.com.br/cidade/reclamacoes-aumento-conta-agua-sobem-um-ano, acessado em 24.06.2024

[20] Vem em https://ri.aegea.com.br/debentures-companhias-abertas/aguas-do-rio/, acessado em 24/06/2024.

[21] Para efeito da concessão foram criadas duas sociedades de propósito específico (SPE): "Águas do Rio 1", responsável pelo Bloco 1; e "Águas do Rio 4", pelo Bloco 4.

[22] Os referidos planos de investimento podem ser encontrados em: https://sei.rj.gov.br/sei/modulos/pesquisa/md_pesq_documento_consulta_externa.php?d-qBlq_KF4_2fdKMgucKGw2SOOsdRDgKOTtYkpTOQj1AR1youeaQQsA1Hckv0yWy7HTW6Pr1bEJjkLYJBEv4HEMRkiUsEJvPNnBudpCPVt38uSvAc0hs5NkQzks_Vh0W e https://sei.rj.gov.br/sei/modulos/pesquisa/md_pesq_documento_consulta_externa.php?d-qBlq_KF4_2fdKMgucKGw2SOOsdRDgKOTtYkpTOQj1E1nCmM08AoLd9NQqm0tzCTXV_RDwWEpjbweJcSvToPwd7DXxninh1ABMS5O_yiMAMcbGWdOEYeLOT7MDaflQn, acessados em 08/07/2024.

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apagar das luzes do Governo Bolsonaro. Tal restrição proíbe a distribuição de dividendos aos acionistas da Águas do Rio até a assinatura dos instrumentos de garantia que serão celebrados no âmbito do referido financiamento.

Sobre o financiamento bilionário do BNDES, o segundo maior do Banco, importa destacar que o valor emprestado é R$ 4 bilhões superior ao valor da outorga a ser paga pela Águas do Rio para a exploração dos serviços de água e esgoto nos blocos 1 e 4. Trata-se, ainda, de um empréstimo subsidiado, com taxas de juros abaixo das de mercado e como cinco anos de carência. Já no Governo Lula, o BNDES estruturou a emissão de debêntures pela Águas do Rio no valor de R$ 5,5 bilhões, sendo que o Banco subscreveu R$ 1,9 bilhão das debêntures emitidas.

Chama a atenção que o total de dividendos a pagar aos acionistas da Águas do Rio, no valor de mais de R$ 960 milhões corresponde a 5 vezes o total dos recursos previstos para investimento, no valor de R$ 183 milhões, ao longo de cinco anos, na "Favela da Rocinha" – vale dizer que se trata da maior favela do Rio de Janeiro e o maior investimento previsto em uma AINU. O montante de dividendos a pagar equivaleria, aproximadamente, à doação de aproximadamente R$ 100,00 por habitante, no período, aos acionistas da Águas do Rio.

O caso da Águas do Rio se assemelha ao do Grupo Thames, que opera o saneamento em Londres e País de Gales, desde 1989. O grupo privado britânico tem, entre seus principais controladores, os fundos de investimento "Ontario Municipal Employees Retirement System" (OMERS) e o "Universities Superannuation Scheme" (USS), o maior fundo de pensão privado do Reino Unido.

Em 35 anos de operação, a Thames tem acumulado dívidas e contestações pela população e pelo governo britânico pela baixa qualidade do serviço, ao mesmo tempo que segue pagando elevados dividendos aos seus acionistas. Segundo o editorial do jornal *The Guardian*, de 12 de junho de 2024, *"em vez de investir em infraestrutura para lidar com uma população crescente, os monopólios privados de água e esgoto do país, que começaram a vida sem dívidas, tomaram emprestado £ 64 bilhões nas últimas três décadas e pagaram mais de £ 78 bilhões em dividendos a seus proprietários"*[23].

Constata-se que os lucros da empresa em vez de retornarem na forma de investimento na melhoria dos serviços concessionados, dirigem-se a engordar as contas dos acionistas, proprietários da empresa. Fica aí evidente a lógica predatória do domínio financeiro sobre grupos privados, a exemplo da Águas do Rio/AEGEA.

Há um outro elemento comum nos casos da AEGEA e Thames, que chama a atenção. Ambos os grupos têm, entre seus controladores, "instituições financeiras não-bancárias", os chamados fundos de investimento, que podem ser fundos de pensão (abertos ou fechados), fundos soberanos, fundos de participação (*private equity*) etc. Tais instituições lançam um complicador a mais nas relações de dominação política burguesa, já que o alheamento dos cotistas de tais fundos para com as aplicações realizadas pelos seus gestores ao redor do mundo torna a rentabilidade de seus investimentos, "custe o que custar", o seu único e exclusivo interesse.

Algo ainda mais grave, considerando que os tais "investidores", muitas vezes anônimos, não podem ser responsabilizados juridicamente pelas aplicações realizadas pelos gestores dos fundos em que são cotistas (exceção para o caso dos fundos soberanos, que são de propriedade governamental) – não por acaso, a participação das instituições financeiras não-bancárias tem crescido sua participação no sistema financeiro internacional, desde a crise de 2008, como atestam os relatórios do *Financial Stability Board* (FSB/G20, 2020).

Para que os acionistas, controladores da empresa, possam auferir o máximo de rentabilidade é necessário também que os gestores, dirigentes da empresa estejam alinhados e comprometidos com estratégias de elevação crescente dos lucros, que permitirão maiores dividendos e valorização acionária da empresa. Tal comprometimento dos dirigentes será garantido não apenas com salários elevados, mas também com participação nos resultados da empresa[24].

[23] Ver em https://www.theguardian.com/commentisfree/article/2024/jun/12/the-guardian-view-on-water-privatisation-end-an-experiment-that-has-failed, acessado em 28 de junho de 2024.

[24] "O desafio de, na crise, garantir os interesses dos acionistas da Thames Water é do novo CEO, Chris Weston que assumiu o cargo em 8 de janeiro com um salário anual de £ 850.000 e mais *fringe benefits* de £ 117.000 em pagamentos anuais de pensão e subsídio de carro. Ele ainda poderá receber um bônus anual no valor de £ 1,3 milhão – o que poderia aumentar sua remuneração anual para £ 2,3 milhões (cerca de R$ 14,5 milhões)". Ver em https://ondasbrasil.org/na-inglaterra-as-privadas-atolaram/, acessado em 03/07/2024.

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Tabela 3: Remuneração da Diretoria (Quatro Membros) da Águas do Rio, em 2023 (em R$)

Modalidade De Remuneração	Valores Anuais	Valores Mensais P/Diretor	Número De Salários Mínimos*
Salário ou pró-labore	14.073.964	270.653	205
Benefícios direto e indireto	644.614	12.396	9
Participação de resultados	4.450.652	85.589	65
Total	19.169.231	368.638	279

Fonte: Formulário de Referência - 2024 - Águas do Rio 1 SPE S.A.
(*) Valor do salário mínimo, em 31.12.2023: 1.320

Na Tabela 3 pode-se verificar o valor exorbitante, somando salários e participações, de quase R$ 370 mil mensais recebidos por cada um dos quatro diretores da Águas do Rio, no ano de 2023 – equivalente a 279 salários mínimos. Vale mencionar que um dos diretores da concessionária Águas do Rio, o Sr. Alexandre Bianchini, havia sido diretor da CEDAE, com uma remuneração que não chegava a 10% do valor recebido em 2023, como diretor da concessionária privada.

Embora não sejam servidores públicos, estes dirigentes atuam na prestação de um serviço público. A título de comparação, o limite máximo da remuneração do serviço público equivale ao salário dos ministros do Supremo Tribunal Federal (STF) – que em dezembro de 2023 era de R$ 41.650,92. Imaginemos que um diretor da empresa pública CEDAE ganhasse o que ganha um dirigente da Águas do Rio, certamente haveria grande comoção pública.

Já o valor de mais de R$ 19 milhões recebido pelos quatro diretores, no ano de 2023, ultrapassa, em muito, o valor total previsto para investimento, de aproximadamente R$ 16 milhões ao longo de três anos, na "Favela do Morro dos Macacos", segundo o "Plano de Investimento em Áreas Irregulares Não Urbanizadas" (AINUs).

Os dados aqui demonstram a incompatibilidade da privatização dos serviços de saneamento com a garantia do direito humano à água e ao saneamento, reconhecido pela Resolução A/RES/64/292 das Nações Unidas, desde 2010. Estes serviços não podem ser tomados como ativos financeiros a garantir rendas crescentes à predação rentista. Não por acaso, assiste-se à precarização do serviço, ao não atendimento às populações mais carentes de saneamento, à elevação e cobrança indevida de tarifas.

Segundo relatório produzido por Pedro Arrojo, relator do direito humano à água e ao saneamento das Nações Unidas, estamos diante de uma crise hídrica global, tendo em vista que 2,2 bilhões de pessoas não têm garantia de acesso à água potável segura e 4,2 bilhões não possui acesso a saneamento básico (ORGANIZAÇÃO DAS NAÇÕES UNIDAS, 2021). O relator destaca que o problema da água está mais relacionado a uma questão de prioridades do que de escassez, isso por conta da má utilização dos recursos existentes, priorizando o lucro. No relatório é identificado que a crise global de água que tem sido vista, possui três grandes aspectos causadores significativos, são eles: mercantilização e financeirização da água, alterações climáticas e aprofundamento das desigualdades por conta da pandemia de Covid-19 (RIBEIRO, 2023).

Ao tratar sobre a lógica de administração da água, Arrojo entende a mercantilização como extremamente negativa no sentido de que:

> *"Por aplicar essa visão, pessoas como meros clientes, que se aumenta a vulnerabilidade desses 2.2 bilhões de empobrecidos por torná-los em pobres clientes que acham difícil demais pagar. Em suma, essa visão, longe de resolver o problema da crise hídrica global, na verdade a agrava por fazer essas pessoas vivendo na pobreza ainda mais vulneráveis, enfraquecendo o cumprimento dos direitos humanos e degradando seriamente a governança democrática da água" (ORGANIZAÇÃO DAS NAÇÕES UNIDAS, 2021).*

No caso aqui estudado, tais abusos têm levado organizações locais a questionarem a legitimidade do contrato de concessão do saneamento no Rio de Janeiro, já que os próprios termos de contrato são permissivos em favor dos ganhos da empresa, em detrimento da observância do direito humano ao saneamento[25]. Ademais, a fragilidade institucional da AGENERSA - Agência Reguladora de Energia e Saneamento Básico do Estado do Rio de Janeiro, responsável pela fiscalização do contrato, torna irrealizável uma efetiva regulação pública.

O divórcio entre a lógica financeira que orienta a empresa e o enorme déficit de saneamento nas

[25] Ver a Carta da Rede de Vigilância Popular em Saneamento e Saúde do Rio de Janeiro, em https://informe.ensp.fiocruz.br/secoes/noticia/45098/54045, acessado em 01/07/2024.

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favelas e periferias da Região Metropolitana do Rio de Janeiro desnuda o quanto a privatização viola o direito humano à água e ao saneamento. Em menos de três anos, evidencia-se, assim, o déficit de legitimidade da concessão e da própria Águas do Rio/AEGEA na prestação do serviço de saneamento no Rio de Janeiro.

V. Considerações Finais

Como afirma o economista francês Chesnais (2005), para o "capital portador de juros" em busca de fluxos estáveis de rendimentos, não há melhor investimento que as indústrias de serviços públicos privatizadas. Os domicílios que estão habituados ao gás, à eletricidade, à água e ao telefone são "consumidores cativos" e "vacas de leite", fontes de ganhos regulares e absolutamente seguros aos rentistas. Ganhos esses que também servem para a alavancagem financeira destes grupos, via processos de superendividamento, algo notório no caso do Grupo Thames.

Este avanço de oligopólios financeiros sobre serviços sociais, processo iniciado com as privatizações e reformas gerenciais dos anos 1990 e só aprofundado desde então, tem se realizado por meio de novas formas da dominação política burguesa, do exercício da hegemonia política. Não apenas no campo da própria sociedade civil, em que os grupos privados atuariam eles mesmos como "aparelhos privados de hegemonia" (PINTO e CAMPOS, 2023). Mas, também, no interior da própria "sociedade política", do Estado *stricto sensu*, que tende a assumir um caráter cada vez mais empresarial, como "Estado-empresa", nos termos de Dardot e Laval (2018).

> *"Resulta desta primazia absoluta do direito privado,* ***um esvaziamento progressivo de todas as categorias do direito público que vai no sentido não de uma ab-rogação formal destas últimas, mas de uma desativação de sua validade operatória. O Estado é obrigado a ver a si mesmo como uma empresa,*** *tanto em seu funcionamento interno como em sua relação com os outros Estados" (DARDOT E LAVAL, 2018, p. 378, grifo nosso).*

Algo que nos parece fartamente demonstrado, no caso aqui estudado, pela inoperância da AGENERSA; pela associação flagrante de bancos públicos aos interesses das concessionárias privadas; pela não cobertura das populações mais carentes do serviço nos contratos de concessão; pelo uso questionável dos recursos oriundos da outorga pelo Governo do Estado do Rio de Janeiro; e pelos indícios de cartelização no leilão da CEDAE.

É verdade que, nas últimas décadas, a organização do mundo corporativo se alterou drasticamente, exigindo a atualização da agenda de pesquisa sobre as formas contemporâneas da dominação política burguesa. A complexa organização atual da propriedade capitalista, sob o domínio financeiro, cria novos e severos constrangimentos às instituições sociais e políticas, o que requer um enorme esforço de pesquisa e reflexão. Este ensaio pretende ser apenas mais uma contribuição nesta direção.

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Community Service Sentencing and it's Challenges in Implementation - A Case Study for Zambia

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Abstract- This article presents the challenges of the implementation of community service sentencing in Zambia. This study defines what community service sentencing is and further highlights the advantages and disadvantages of community service sentencing. It discusses community service sentencing in Zambia based on variables such as the historical context, implementation and challenges. The study further delves into other areas such as the legal framework of community service sentencing in Zambia, an exploration of the roles of Non-Governmental Organizations on these sentencings, effectiveness and impact of community service sentencing. It will go further and provide a comparative analysis of community service sentences in other countries to Zambia and conclude by identifying gaps and issues that exist after the thorough research.

Keywords: community service sentencing, non-governmental organizations (NGOs), recidivism, custodial sentencing, rehabilitation, reintegration, punishment.

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Community Service Sentencing and it's Challenges in Implementation - A Case Study for Zambia

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Abstract- This article presents the challenges of the implementation of community service sentencing in Zambia. This study defines what community service sentencing is and further highlights the advantages and disadvantages of community service sentencing. It discusses community service sentencing in Zambia based on variables such as the historical context, implementation and challenges. The study further delves into other areas such as the legal framework of community service sentencing in Zambia, an exploration of the roles of Non-Governmental Organizations on these sentencings, effectiveness and impact of community service sentencing. It will go further and provide a comparative analysis of community service sentences in other countries to Zambia and conclude by identifying gaps and issues that exist after the thorough research.

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I. Introduction

Community service sentencing is a form of punishment in which individuals convicted of a crime are required to perform unpaid work for the benefit of the community. This type of sentencing allows offenders to make amends for their actions while contributing positively to society. Community service sentencing is often seen as an alternative to incarceration, providing a more rehabilitative approach to punishment.[1]

a) Advantages of Community Service Sentencing

One of the critical advantages of community service sentencing is that it allows offenders to take responsibility for their actions and make amends to the community.[2] By performing tasks such as cleaning up parks, assisting at local charities, or helping with community events, offenders can demonstrate their willingness to give back and contribute positively. This can help foster a sense of accountability and encourage offenders to reflect on their behaviour.

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Additionally, community service sentencing can be a cost-effective alternative to incarceration.[3] When offenders are allowed to serve their sentences through community service, the burden on the criminal justice system is reduced. This is because fewer resources are required for housing and supervising offenders in prison. This also helps alleviate overcrowding in prisons and save taxpayer's monies.

Furthermore, community service sentencing can have a positive impact on the community as a whole.[4] When offenders are engaged in meaningful work that benefits the community, relations between the offenders and the members of the community are strengthened. This helps build trust and promote a sense of unity within the community.

b) Disadvantages of Community Service Sentencing

Despite its many advantages, community service sentencing also has some drawbacks.[5] One potential disadvantage is the lack of consistency in sentencing. Since community service sentencing is often left to the discretion of judges, there can be variability in the types and amount of community service required for different offences. This lack of uniformity can lead to disparities in sentencing and raise questions about fairness and equity in the criminal justice system.

Another disadvantage of community service sentencing is the potential for exploitation of offenders.[6] In some cases, offenders may be required to perform labor that is not in the best interest of the community and this can lead to resentment and injustice among offenders. This scenario undermines the rehabilitative goals of community service sentencing.

Additionally, there may be challenges in monitoring and enforcing community service sentencing.[7] Without proper oversight and supervision, offenders may fail to complete their community service requirements, leading to questions about the

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effectiveness of this form of punishment. It is important to have effective monitoring mechanisms in place to ensure that offenders are fulfilling their obligations and ultimately that the community is benefiting from their work.

II. Background and Context of Community Service Sentencing

In Zambia, the prison system faces numerous challenges, including overcrowding and poor health conditions for inmates.[8] As a result, there is a pressing need for alternative sentencing options that can alleviate these issues while still holding offenders accountable for their actions. Community service sentencing has emerged as a viable solution, offering a non-custodial punishment that benefits both the individual and society as a whole.[9]

Community service sentencing involves requiring offenders to perform unpaid work in the community as a form of reparation for their crimes. Community service sentencing not only allows offenders to make amends for their actions but also provides them with an opportunity to contribute positively to society. Research has shown that community service sentencing can reduce recidivism rates and promote rehabilitation among offenders.[10]

Furthermore, community service sentencing can help alleviate the strain on the prison system by reducing overcrowding and associated health risks for inmates. By diverting non-violent offenders away from incarceration and towards community service, the burden on prisons can be lightened, leading to improved conditions for those who must still be incarcerated.[11]

III. Legal Framework for Community Service Sentencing in Zambia

The legal framework for community service sentencing in Zambia is primarily governed by the Penal Code, Chapter 87 of the Laws of Zambia. Section 89 of the Penal Code empowers the courts to impose community service orders as an alternative to imprisonment for certain offences. The Community Service Act of 2010 further provides guidelines for the implementation of community service orders, including the types of work that can be assigned and the duration of the order.[12]

Despite the legal provisions, there are several gaps and issues in the implementation of community service orders in Zambia. One key issue is the lack of awareness among judicial officers about the availability and appropriateness of community service as a sentencing option.[13] This has led to the underutilization of community service orders and a reliance on custodial sentences, even for minor offences.

Furthermore, there is a lack of infrastructure and resources to effectively supervise and monitor community service offenders in Zambia.[14] This has resulted in poor compliance with community service orders and a high rate of reoffending among offenders who have been sentenced to community service.

To address these issues and improve the implementation of community service sentencing in Zambia, it is essential to raise awareness among judicial officers about the benefits of community service as an alternative to imprisonment.[15] Training programs can be developed to educate judges and magistrates about the legal framework for community service sentencing and the types of offences for which community service orders are appropriate.

Additionally, the government should invest in the establishment of community service centres and the recruitment of trained supervisors to oversee community service offenders.[16] This will ensure that offenders are able to complete their community service orders successfully and contribute positively to their communities.

Despite the legal framework for community service sentencing in Zambia being in place, there are significant gaps and issues in its implementation. Raising awareness among judicial officers, investing in both infrastructural development and operational resources for community service supervision can greatly improve the effectiveness of community service orders in Zambia.

IV. Effectiveness and Impact of Community Service Sentences

a) *The Efficacy of Community Service Sentences*

Recent studies have explored the effectiveness of community service sentences as an alternative to traditional fines or custodial sentences. Researchers have examined the impact of community service orders

[8] Zambia Human Rights Commission. (2019). *Annual Report*. Lusaka: Zambia Human Rights Commission.
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[13] Report on the Implementation of Community Service Orders in Zambia, Ministry of Justice, 2018
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[15] Training Manual on Community Service Sentencing, Zambia Judicial Training Institute, 2020
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on recidivism rates and the broader implications for offenders, society and the criminal justice system.

In a comprehensive review of 20 research studies, researchers found that community service sentences can be a valuable tool in reducing recidivism among offenders.[17] The research studies conducted by various researchers over the past two decades, consistently demonstrated that offenders who completed community service orders were less likely to reoffend than those who received traditional custodial sentences or monetary fines.[18] The research findings suggest that community service can have a positive impact on offender rehabilitation and reintegration into the community.

b) Recidivism Rates and Community Service Sentences

A longitudinal study by Johnson and Steiner (2018) followed a sample of 1,500 offenders who received community service orders over a five-year period.[19] The study found that the recidivism rate for offenders who completed their community service was 25%, compared to a 40% recidivism rate for those who received traditional fines or incarceration.[20] These findings are consistent with a meta-analysis conducted by Waller and Wilkins (2016), which reviewed 15 studies and concluded that community service sentences can lead to a significant reduction in reoffending.[21]

c) The Impact of Community Service Sentences

The potential impact of community service sentences extends beyond reducing recidivism rates. Researchers have found that community service orders can have a positive effect on offenders, society and the criminal justice system as a whole.

Community service can provide a sense of purpose and personal accountability to the offenders, as well as an opportunity to develop new skills and give back to the community.[22] Studies have shown that this can lead to increased self-esteem, improved social integration and a stronger commitment to law-abiding behaviour.[23]

From a societal perspective, community service sentences can help address the needs of communities and provide valuable services that might not otherwise be available[24]. By engaging offenders in meaningful work, community service can promote social cohesion and reduce the burden on taxpayers by reducing the need for traditional incarceration.[25] Additionally, the community service work performed by offenders can have a tangible positive impact on the lives of community members, such as cleaning up public spaces, assisting in social service programs, or providing support to vulnerable populations[26].

For the criminal justice system, community service sentences can be a cost-effective alternative to incarceration, which can be both financially and logistically burdensome.[27] Community service orders can alleviate overcrowding by reducing the number of offenders in the prison system and allow the justice system to focus resources on more serious offenders.[28] Furthermore, the successful implementation of community service programs can demonstrate the potential for alternative sentencing approaches that prioritize rehabilitation and restorative justice over purely punitive measures[29]

Overall, the research suggests that community service sentences can be an effective tool in reducing recidivism, promoting offender rehabilitation and benefiting both offenders and the wider community. As policymakers and criminal justice practitioners continue to explore ways to improve the justice system, the expanding use of community service as a sentencing option may be a promising avenue for further exploration and implementation.

V. The Role of NGOs in Community Service Schemes to Ensure Effectiveness

Non-Governmental Organizations (NGOs) are crucial in supporting and enhancing community service schemes. With a focus on improving prisoner well-being and addressing overcrowding in correctional facilities, NGOs can strategically align their efforts with community service orders. This paper will also explore the significance of NGOs in ensuring the effectiveness of

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community service schemes and their potential to contribute to the improvement of prisoner conditions.

a) NGOs' Contribution to Community Service Schemes

NGOs have been recognized for their expertise in providing support services to marginalized populations, including prisoners. According to a study by Smith et al., NGOs are instrumental in enhancing the success of community service programs by offering resources and support to individuals serving community service orders.[30] This highlights the importance of partnerships between NGOs and government agencies in delivering effective community service schemes.

b) Strategic Alignment with Community Service Orders

By strategically aligning with community service orders, NGOs can play a significant role in addressing overcrowding in correctional facilities. A report by the United Nations Office on Drugs and Crime (UNODC) emphasizes the importance of community-based alternatives to imprisonment, including community service orders.[31] NGOs can leverage their networks and resources to implement community service programs that provide meaningful opportunities for offenders to engage with their communities while serving their sentences.

c) Improving Prisoner Well-Being

NGOs have the potential to contribute to the improvement of prisoner well-being by supporting rehabilitation and reintegration efforts. A study by Jones et al. highlights the positive impact of NGO-led programs on reducing recidivism rates and promoting rehabilitation among offenders.[32] By offering support services such as counseling, skills training and job placement assistance, NGOs can help prisoners successfully re-enter society after completing their community service orders.

In conclusion, NGOs play a critical role in ensuring the effectiveness of community service schemes and improving prisoner conditions. By strategically aligning with community service orders and providing support services to offenders, NGOs can contribute to reducing overcrowding in correctional facilities and promoting rehabilitation among prisoners. Collaborative efforts between NGOs, government agencies, and other stakeholders are essential to creating sustainable and impactful community service programs.

VI. Comparative Analysis of Community Service Sentencing

Community service sentencing practices vary significantly across different countries, with each nation adopting unique approaches to address criminal behaviour. The implementation and effectiveness of these community-based approaches may differ across various jurisdictions, as they are influenced by cultural, social, and legal frameworks. Nonetheless, the widespread adoption of these practices highlights a growing recognition of the potential benefits of alternative sentencing methods in promoting rehabilitation, reducing recidivism and fostering stronger community ties.

In Iceland, community service is widely used as an alternative to imprisonment, focusing on rehabilitation and reintegration through restorative justice and community engagement.[33] In contrast, the United States utilizes community service as part of probation or parole conditions, with varying implementation and effectiveness.[34] Similarly, Kenya has embraced community service to reduce prison overcrowding and promote rehabilitation, although challenges exist in monitoring and enforcement.[35] South Africa[36], Zimbabwe[37] and Uganda[38] incorporate community service orders for eligible offenders, emphasizing community development and rehabilitation, but face challenges such as resource constraints and monitoring compliance. Canada, on the other hand, has a well-established community service sentencing program that focuses on offender accountability, community involvement and rehabilitation.[39] In Zambia, the use of community service as a sentencing option is limited and not as widely implemented as in other countries. The current legal framework in Zambia does allow for community service orders to be imposed as an alternative to imprisonment for certain offences. Still, the practice is not as expected or structured as in other

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jurisdictions. There is a need to enhance and formalize community service sentencing in Zambia to address issues such as prison overcrowding, rehabilitation of offenders and community engagement.

Then, Australia offers community service as part of Intensive Correction Orders or Community Correction Orders, with offenders contributing to social and environmental projects for varying hours to promote rehabilitation and community benefit.[40] Similarly, China officially adopted community corrections in 2003, focusing on community supervision and parole-like arrangements for repentant offenders, balancing punitive measures with rehabilitation.[41] Likewise, India has introduced community sentencing as an alternative to imprisonment, emphasizing rehabilitation and reintegration, although implementation varies across states.[42] Furthermore, Argentina[43] and Chile[44] utilize community service as an alternative to imprisonment, with offenders engaging in unpaid work for community development. Brazil[45] on the other hand has experimented with community service programs for juvenile offenders, focusing on rehabilitation and reducing recidivism. It is easier to deduce that they reflect a shift towards a more holistic and restorative approach to criminal justice, where the emphasis is on rehabilitation, community engagement and reducing recidivism, rather than solely on punitive measures. By providing offenders with the opportunity to contribute to their communities through community service and other alternative sentencing options, these initiatives aim to foster a sense of responsibility, empathy and social integration, ultimately aiding in the offenders' successful reintegration into society.

To sum up, Zambia can learn from these diverse approaches to enhance its community service programs, emphasizing rehabilitation, community engagement, and adequate supervision. By studying the successes and challenges faced by other countries, Zambia can tailor its community service sentencing to address specific needs and promote the successful reintegration of offenders into society. Through collaboration with international partners and adopting best practices in community service orders, Zambia can strengthen its criminal justice system and contribute to reducing recidivism rates and promoting community safety.

VII. Conclusion

a) Gaps and Issues Arising from the Study

It is evident from this research that several gaps and issues exist within the jurisdiction of community service sentencing in Zambia. To begin with, the lack of clear guidelines and procedures for determining eligibility and assigning community service tasks to offenders poses a significant challenge. Without a established criteria, there is a risk of inconsistent application of community service sentencing, leading to unfair and arbitrary outcomes.

Secondly, the inconsistencies in sentencing resulting from the lack of clarity in the guidelines and procedures further exacerbate the problem. This does not only undermine the credibility of the justice system but also raises concerns about the effectiveness of community service as a rehabilitative measure for offenders. Without clear and consistent sentencing practices, the intended goals of community service sentencing may not be achieved.

The third gap lies in the shortage of resources and infrastructure to support the implementation of community service sentencing. Inadequate funding and logistical support hinder the successful execution of community service tasks, limiting the opportunities available for offenders to fulfil their obligations. This does not only impede the progress of rehabilitation but also calls into question the feasibility of community service as a viable alternative to incarceration.

Additionally, there is a lack of adequate monitoring and evaluation mechanisms for community service orders. Without a proper oversight, there is a risk of non-compliance and lack of accountability among offenders. The absence of a robust monitoring and an evaluation process does not only compromise the integrity of community service sentencing but also undermines its effectiveness as a form of punishment and rehabilitation.

Also, the challenges in ensuring compliance and enforcement of community service orders present a significant obstacle. Without mechanisms in place to address non-compliance, there is a risk that offenders may disregard their community service obligations without facing consequences. This not only undermines the authority of the justice system but also diminishes the deterrent effect of community service sentencing on would-be offenders.

Overall, the lack of accountability and credibility in community service sentencing as a punishment

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underscores the need for urgent reform. The urgent need to address these gaps and issues is essential to enhancing the effectiveness and integrity of community service sentencing in Zambia thereby making this study very relevant in the circumstances.

Appendix

Statute

Criminal Procedure Code (Amendment) Act No. 13 of 2000, s. 306A, Chapter 88 of The Laws of Zambia.

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Judicialization for Supply of the Drug Tacrolimus to Patients with Lupus by the Brazilian State

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Abstract- This article aims to analyze the (un)necessity of judicializing the supply of the drug Tacrolimus to patients with lupus, who have the constitutional right to full health, like any citizen. Medical studies indicate the use of Tacrolimus in cases where conventional treatments are no longer effective, especially when lupus causes kidney impairment. Despite its proven effectiveness and the drug's registration with the National Health Surveillance Agency (ANVISA), Tacrolimus is not standardized by the Unified Health System (SUS) for the treatment of the disease, posing an obstacle to access. This scenario forces patients to go to court to obtain the medication, which can delay the start of treatment, worsening the clinical condition and leading, in some cases, to the loss of kidney function. The 1988 Federal Constitution guarantees the right to life as the primary foundation for the exercise of all other rights. Therefore, it is argued that the supply of Tacrolimus should be guaranteed immediately by the State, eliminating the need for legal action, especially for patients with kidney complications associated with lupus, thus ensuring the right to life to its fullest.

Keywords: *tacrolimus medication. lupus. right to life.*

GJHSS-F Classification: *JEL Code: I18*

JUDICIALIZATIONFORSUPPLYOFTHEDRUGTACROLIMUSTOPATIENTSWITHLUPUSBYTHEBRAZILIANSTATE

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Judicialization for Supply of the Drug Tacrolimus to Patients with Lupus by the Brazilian State

Da Judicialização Para Fornecimento do Medicamento Tacrolimus Para Pacientes Com Lúpus Pelo Estado Brasileiro

Olívia Danielle Mendes de Oliveira

Resumo- Este artigo tem como objetivo analisar a (des) necessidade de judicializar o fornecimento do medicamento Tacrolimus para pacientes com Lúpus, que possuem o direito constitucional à saúde plena, como qualquer cidadão. Estudos médicos indicam o uso do Tacrolimus em casos em que os tratamentos convencionais não são mais eficazes, especialmente quando o Lúpus causa comprometimento renal. Apesar de sua eficácia comprovada e do registro do medicamento na Agência Nacional de Vigilância Sanitária (ANVISA), o Tacrolimus não é padronizado pelo Sistema Único de Saúde (SUS) para o tratamento da doença, configurando um obstáculo ao acesso. Esse cenário obriga pacientes a recorrerem ao Judiciário para obter o medicamento, o que pode atrasar o início do tratamento, agravando a condição clínica e levando, em alguns casos, à perda da função renal. A Constituição Federal de 1988 assegura o direito à vida como fundamento primordial para o exercício de todos os outros direitos. Portanto, argumenta-se que o fornecimento do Tacrolimus deveria ser garantido de forma imediata pelo Estado, dispensando a necessidade de ações judiciais, especialmente para pacientes com complicações renais associadas ao Lúpus, assegurando assim o direito à vida em sua plenitude.

Palavra-chave: medicamento tacrolimus. lúpus. direito à vida.

Abstract- This article aims to analyze the (un)necessity of judicializing the supply of the drug Tacrolimus to patients with lupus, who have the constitutional right to full health, like any citizen. Medical studies indicate the use of Tacrolimus in cases where conventional treatments are no longer effective, especially when lupus causes kidney impairment. Despite its proven effectiveness and the drug's registration with the National Health Surveillance Agency (ANVISA), Tacrolimus is not standardized by the Unified Health System (SUS) for the treatment of the disease, posing an obstacle to access. This scenario forces patients to go to court to obtain the medication, which can delay the start of treatment, worsening the clinical condition and leading, in some cases, to the loss of kidney function. The 1988 Federal Constitution guarantees the right to life as the primary foundation for the exercise of all other rights. Therefore, it is argued that the supply of Tacrolimus should be guaranteed immediately by the State, eliminating the need for legal action, especially for patients with kidney complications associated with lupus, thus ensuring the right to life to its fullest.

Keywords: tacrolimus medication. lupus. right to life.

I. Introdução

Este artigo se propõe a analisar, de maneira acessível e sem pretensão de esgotar o tema, o acesso ao fornecimento do medicamento Tacrolimus para pacientes com nefrite lúpica e a responsabilidade do Estado em assegurar o direito à saúde, conforme os preceitos legais e constitucionais, sem que haja a necessidade de acionar o Poder Judiciário para garantir o acesso ao tratamento adequado, uma vez que é de conhecimento do Estado a eficácia do uso da medicação para o estágio mais avançado da doença.

A nefrite lúpica, uma manifestação renal do Lúpus eritematoso sistêmico (LES), é uma condição autoimune grave que afeta principalmente os rins e pode levar à insuficiência renal irreversível, demandando tratamentos de alta complexidade. Trata-de de quadro clínico decorrente do avanço do Lúpus.

O tratamento da nefrite lúpica apresenta desafios significativos, especialmente quando as terapias convencionais não mostram eficácia suficiente. O Tacrolimus, embora não tenha aprovação formal para essa condição, tem se mostrado eficaz em diversos estudos clínicos e na prática médica, sendo, por isso, prescrito de forma off-label.

Entretanto, o fornecimento de medicamentos fora das indicações formais de bula enfrenta barreiras substanciais no sistema de saúde pública brasileiro. No contexto da nefrite lúpica crônica, pacientes podem ser vítimas de recusa do Estado em fornecer o Tacrolimus, mesmo diante de uma recomendação médica clara.

Este cenário não apenas coloca em risco a saúde do paciente, mas também levanta questões cruciais sobre os direitos fundamentais à vida e à saúde, garantidos pela Constituição Federal de 1988. A recusa em fornecer o medicamento necessário para o tratamento adequado contraria os princípios constitucionais, que asseguram o direito à saúde universal e a responsabilidade do Estado em prover cuidados médicos.

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A saúde é um direito essencial para o exercício de outros direitos, e a falta de acesso a tratamentos adequados e oportunos prejudica diretamente a qualidade de vida da população, em especial de pacientes com doenças complexas como o Lúpus.

A recusa do fornecimento do Tacrolimus pode resultar em consequências sérias, como a progressão para insuficiência renal, necessitando de hemodiálise ou transplante renal, e colocando em risco a vida do paciente. Esses desfechos, frequentemente evitáveis com o tratamento correto, podem resultar em danos irreversíveis e, em casos mais graves, em morte precoce.

O direito à saúde no Brasil é constantemente debatido, principalmente pela precariedade do sistema público de saúde, que muitas vezes não oferece os recursos necessários para garantir tratamentos adequados.

A falta de medicamentos e serviços de saúde eficientes coloca em evidência a desigualdade no acesso à saúde, afetando a população mais vulnerável. A recusa em fornecer medicamentos essenciais, como o Tacrolimus, reflete a falha do sistema de saúde pública em cumprir com sua obrigação de garantir a assistência necessária e o respeito aos direitos fundamentais dos cidadãos.

II. Breves Considerações Sobre a Doença Lúpus

O Lúpus é uma doença autoimune crônica, na qual o sistema imunológico do paciente ataca erroneamente os próprios tecidos saudáveis do corpo, resultando em inflamação e danos em diversos órgãos. Entre os órgãos mais afetados, estão os rins e a pele. Importante destacar que o Lúpus não é uma doença contagiosa.

Por ser crônica e sem cura, o Lúpus exige tratamento contínuo, visando controlar a doença e permitir que o paciente leve uma vida saudável, desde que sejam observados cuidados específicos. A literatura médica classifica o Lúpus eritematoso sistêmico como uma doença multissistêmica, autoimune, que afeta vários órgãos e sistemas do corpo, sendo que até 50% dos pacientes com a doença podem desenvolver comprometimento renal[1].

Na ocorrência de inflamação renal em pacientes com Lúpus, a literatura médica define essa condição como nefrite lúica nos seguintes termos[2]:

> A Nefrite Lúpica (NL) é uma manifestação grave do Lúpus Eritematoso Sistêmico (LES), protótipo de doença autoimune, em que autoanticorpos marcam os próprios tecidos, e fazem com que uma resposta inflamatória se forme contra os próprios órgãos, incluindo os rins. Pode acometer mais de 60% do pacientes com este diagnóstico. Abrange vários padrões de acometimento renal, incluindo patologia glomerular, vascular e tubulointersticial (IMRAN *et al*., 2016). A NL é mais frequente e grave em pacientes jovens, quando comparado com adultos, causando maior morbidade e mortalidade (PINHEIRO *et al*, 2018; PARIKH *et al*., 2020).
>
> A NL acarreta processo inflamatório nos rins, destruindo néfrons e prejudicando a capacidade do sistema renal de remover adequadamente asescórias do sangue, proteger contra perda de proteínas importantes, manter a quantidade correta de fluidos corporais, pressão arterial sistêmica, regular os níveis hormonais do sistema renina-angiotensina-aldosterona, adequar a produção de vitamina D e eritropoetina.

Embora o Lúpus e suas complicações renais, como a nefrite lúpica, sejam doenças consideradas raras, a situação ganhou certa visibilidade com a aprovação da Lei nº 14.624/2023[3] que altera o Estatuto da Pessoa com Deficiência[4] (Lei nº 13.146/2015 e institui o uso do cordão de fita com desenhos de girassóis para a identificação de pessoas com deficiências ocultas), sendo o Lúpus, também considerada como doença oculta.

Em 31 de outubro de 2024, a Comissão de Assuntos Sociais do Senado Federal, em conjunto com profissionais de saúde e pacientes, realizou uma reunião para discutir propostas que tramitam no Senado visando a concessão de benefícios a pacientes com Lúpus. Este encontro destaca a crescente preocupação com as condições insuficientes de atendimento no Sistema Único de Saúde (SUS), que frequentemente falham em oferecer o suporte adequado para o tratamento da doença[5].

O reconhecimento da gravidade do Lúpus e da nefrite lúpica, especialmente quando não tratadas de

[1] RODRIGUES, Rodrigo Fellipe; PERES, Luis Alberto Batista; MIOLO, Natália. Uso de tacrolimus na nefrite lúpica. Rev Sociedade Brasileira de Clinica Médica. 2017 out-dez;15(4):279-81. Disponível em < https://www.sbcm.org.br/ojs3/index.php/rsbcm/article/view/312> Acesso em 15 de novembro de 2024, p. 279

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[3] Lei n. 14.624 de 17 de julho de 2023. Altera a Lei nº 13.146, de 6 de julho de 2015 (Estatuto da Pessoa com Deficiência), para instituir o uso do cordão de fita com desenhos de girassóis para a identificação de pessoas com deficiências ocultas. Disponível em <https://www.planalto.gov.br/ccivil_03/_ato2023-2026/2023/lei/l14624.htm> Acesso em: 22 de outubro de 2024

[4] Lei n. 13.146 de 06 de julho de 2015. Institui a Lei Brasileira de Inclusão da Pessoa com Deficiência (Estatuto da Pessoa com Deficiência). Disponível em <https://www.planalto.gov.br/ccivil_03/_ato2015-2018/2015/lei/l13146.htm> Acesso em: 22 de outubro de 2024

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maneira eficaz, exige uma ação mais efetiva do Estado. Pacientes com Lúpus necessitam de uma atenção contínua e especializada para evitar o avanço da doença para suas formas mais agressivas, que podem levar à perda da função renal e, em casos extremos, à morte.

Portanto, é imperativo que o Estado se comprometa com políticas públicas que garantam o tratamento adequado e o suporte necessário para melhorar a qualidade de vida dos pacientes.

III. Direito à Vida

A vida tem início no momento da concepção do ser humano, marcando o começo de uma proteção contínua que se estende desde a gestação até o término natural da existência. Com a descoberta da gravidez, surge a necessidade de cuidados integrais para a gestante e o bebê, enfatizando a importância da saúde e bem-estar como pilares fundamentais para o pleno desenvolvimento humano[6].

Ao nascer, o indivíduo adquire uma série de direitos garantidos pela legislação, sendo o mais essencial deles o direito à vida. Este é o fundamento para o exercício de todos os demais direitos, pois, sem a vida, não há como usufruir das demais garantias previstas no ordenamento jurídico.

A Constituição Federal de 1988 assegura a inviolabilidade do direito à vida no *caput* do art. 5º, que proclama:

> Art. 5º Todos são iguais perante a lei, sem distinção de qualquer natureza, garantindo-se aos brasileiros e aos estrangeiros residentes no País a inviolabilidade do direito à vida, à liberdade, à igualdade, à segurança e à propriedade, nos termos seguintes:

De forma complementar, o Código Civil Brasileiro (Lei nº 10.406/2002) [7] também protege o direito à vida, incluindo a salvaguarda dos direitos do nascituro: *"Art. 2º A personalidade civil da pessoa começa do nascimento com vida; mas a lei põe a salvo, desde a concepção, os direitos do nascituro."*

Nesse contexto, Rothenburg[8] destaca que:

> Por conseguinte, o direito à vida projeta-se para toda a sociedade, fazendo emergir deveres jurídicos decorrentes do direito à vida: o respeito à vida (dever de abstenção), a proteção à vida (dever de proteção) e a promoção da vida (assegurar condições adequadas) – que configura uma projeção positiva do direito à vida. Incumbe a todos – e ao Estado em especial – adotar medidas que assegurem o direito à vida, tais como as relacionadas à segurança no trânsito e à precaução e prevenção ambiental.

Essa proteção demonstra o reconhecimento jurídico da vida desde a fase uterina até a morte, consolidando o direito à vida como um valor absoluto e inviolável, o que permite que o cidadão usufrua de outros direitos que lhe são garantidos.

IV. Direito à Saúde

A Constituição Federal de 1988 assegura a todos os cidadãos o direito integral à saúde, nos seguintes termos:

> Art. 6º São direitos sociais a educação, a saúde, a alimentação, o trabalho, a moradia, o transporte, o lazer, a segurança, a previdência social, a proteção à maternidade e à infância, a assistência aos desamparados, na forma desta Constituição.
>
> (...)
>
> Art. 196. A saúde é direito de todos e dever do Estado, garantido mediante políticas sociais e econômicas que visem à redução do risco de doença e de outros agravos e ao acesso universal e igualitário às ações e serviços para sua promoção, proteção e recuperação.
>
> Art. 197. São de relevância pública as ações e serviços de saúde, cabendo ao Poder Público dispor, nos termos da lei, sobre sua regulamentação, fiscalização e controle, devendo sua execução ser feita diretamente ou através de terceiros e, também, por pessoa física ou jurídica de direito privado.
>
> Art. 198. As ações e serviços públicos de saúde integram uma rede regionalizada e hierarquizada e constituem um sistema único, organizado de acordo com as seguintes diretrizes:
>
> (...)
>
> II - atendimento integral, com prioridade para as atividades preventivas, sem prejuízo dos serviços assistenciais;

Em consonância com a Constituição Federal, a Lei Orgânica do Distrito Federal[9], no art. 204[10], por

[6] LEAL, Mirian Martins; OLIVEIRA, Karina Díaz Leyva de; PARENTE, Priscila Batista Corrêa; ARAÚJO, Gleiton Lima; SILVA, José Carlos Quinaglia e. Início da vida: uma visão multidisciplinar pautada na bioética. Biblioteca Virtual em Saúde. Com. Ciências Saúde. 2018; 29(3):191-200. Disponível em <efaidnbmnnnibpcajpcglclefindmkaj/https://bvsms.saude.gov.br/bvs/periodicos/ccs_artigos/inicio_vida_bioetica.pdf> Acesso em: 16 de outubro de 2024

[7] Lei n. 10.406 de 10 de janeiro de 2002. Institui o Código Civil. Disponível em <https://www.planalto.gov.br/ccivil_03/leis/2002/l10406compilada.htm> Acesso em: 22 de outubro de 2024

[8] ROTHENBURG, Walter Claudius. Direito à vida e direito à integridade. RIL Brasília a. 60 n. 237 p. 197-215 jan./mar. 2023. Disponível em <www12.senado.leg.br> Acesso em 15 de novembro de 2024

[9] DISTRITO FEDERAL. Lei Orgânica do Distrito Federal. Disponível em <https://www.cl.df.gov.br/leis> Acesso em 26 de julho de 2024

[10] Art. 204 A saúde é direito de todos e dever do Estado, assegurado mediante políticas sociais, econômicas e ambientais que visem: I - ao bem-estar físico, mental e social do indivíduo e da coletividade, a redução do risco de doenças e outros agravos; II - ao acesso universal e igualitário às ações e serviços de saúde, para sua promoção, prevenção, recuperação e reabilitação: § 1º A saúde expressa a organização social e econômica, e tem como condicionante e determinantes, entre outros, o trabalho, a renda, a alimentação, o saneamento, o meio ambiente, a habitação, o transporte, o lazer, a liberdade, a educação, o acesso e a utilização agroecológica da terra. § 2º As ações e serviços de saúde são de relevância pública e cabe ao Poder Público sua normatização, regulamentação, fiscalização e controle, devendo sua execução ser feita, preferencialmente, por meio de serviços públicos e, complementarmente, por intermédio de pessoas físicas ou jurídicas de direito privado, nos termos da lei.

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exemplo, reafirma o direito à saúde, incluindo a garantia de fornecimento de medicamentos, tanto de baixo quanto de alto custo, necessários para a recuperação do quadro de saúde do cidadão e para prevenir a evolução da doença para estágios irreversíveis.

O Estado Brasileiro possui políticas públicas voltadas ao fornecimento de medicamentos de alto custo para doenças crônicas e raras, incluindo o Lúpus, por meio do Sistema Único de Saúde (SUS). Essas políticas têm como base a Portaria nº 1555/2013, que estabelece a Política Nacional de Medicamentos, e a Constituição Federal de 1988, que garante o direito à saúde como dever do Estado[11].

No entanto, apesar da existência desses mecanismos, há lacunas significativas na inclusão de medicamentos inovadores, como o Tacrolimus, para o tratamento do Lúpus, especialmente em casos com comprometimento renal, o que evidencia a necessidade de aprimorar a implementação dessas políticas para assegurar a integralidade no atendimento e a universalidade no acesso aos tratamentos adequados.

V. Do Princípio da Dignidade da Pessoa Humana

O princípio da dignidade da pessoa humana é bastante aclamado, seja no ordenamento jurídico brasileiro, seja no ordenamento jurídico internacional, de modo que, sua reivindicação não se restringe a operadores do Direito, mas a toda sociedade.

Aludido princípio, reforça a necessidade de o Estado prover condições ao cidadão para que este possa ter ao menos, o mínimo de dignidade para a condução de sua vida, reforçando as premissas do Estado Democrático de Direito.

Na Constituição Federal da República Federativa do Brasil, ou seja, na Carta Magna de 1988, o princípio da dignidade da pessoa humana se apresenta no art. 1º, inciso III[12], não se restringindo a um valor meramente moral, mas que traz conforto espiritual ao cidadão.

A Declaração Universal dos Direitos Humanos, igualmente traz referido princípio no Artigo 1: "*Todos os seres humanos nascem livres e iguais em dignidade e direitos. São dotados de razão e consciência e devem agir em relação uns aos outros com espírito de fraternidade*."[13]

São direitos fundamentais garantidos aos cidadãos para que sejam concretizados o respeito à vida, à liberdade e à igualdade de cada humano, o que deve ser observado pelo Estado e pela própria sociedade.

O jurista Sarlet[14] magistralmente define a dignidade da pessoa humana nos seguintes termos:

> Temos por dignidade da pessoa humana a qualidade intrínseca e distintiva de cada ser humano que o faz merecedor do mesmo respeito e consideração por parte do Estado e da comunidade, implicando, neste sentido, um complexo de direitos e deveres fundamentais que assegurem a pessoa tanto contra todo e qualquer ato de cunho degradante e desumano, como venham a lhe garantir as condições existenciais mínimas para uma vida saudável, além de propiciar e promover sua participação ativa co-responsável nos destinos da própria existência e da vida em comunhão dos demais seres humanos.

Assim, a dignidade da pessoa humana constitui o alicerce fundamental da sociedade, do Estado e do Direito, servindo como princípio norteador para a formulação de políticas públicas, a garantia de direitos fundamentais e promoção da justiça social.

VI. Da Judicialização Para Fornecimento do Medicamento Tacrolimus

Sabe-se que todo indivíduo tem direito à saúde, e para exercer plenamente esse direito, é imprescindível o acesso à vida. Pacientes diagnosticados com Lúpus, especialmente aqueles que apresentam comprometimento renal devido à doença (nefrite lúpica), necessitam de tratamento médico contínuo.

É fundamental destacar que, independentemente da modalidade terapêutica, o paciente naturalmente encontra-se em uma situação física e emocional vulnerável. O uso de medicamentos essenciais para o tratamento pode ser um desafio, especialmente para indivíduos em situações financeiras precárias.

O custo elevado dos medicamentos, necessários para o controle da doença e a possibilidade de remissão, pode tornar o tratamento inacessível para muitas pessoas.

Nesse contexto, surge a necessidade de o paciente recorrer ao Estado para garantir o fornecimento de medicamentos, como o Tacrolimus, por meio de ação judicial. Vale frisar que, antes que o uso do Tacrolimus seja prescrito, o paciente deve ter

[11] Portaria 1555 de 30 de julho de 2013. Dispõe sobre as normas de financiamento e de execução do Componente Básico da Assistência Farmacêutica no âmbito do Sistema Único de Saúde (SUS). Disponível em <https://www.gov.br/saude/pt-br/composicao/sectics/daf/cbaf/medicamentos-e-insumos-de-aquisicao-descentralizada/legislacao> Acesso em 22 de outubro de 2024

[12] Art. 1º. A República Federativa do Brasil, formada pela união indissolúvel dos Estados e Municípios e do Distrito Federal, constitui-se em Estado Democrático de Direito e tem como fundamentos: (...) III – a dignidade da pessoa humana.

[13] Declaração Universal dos Direitos Humanos. Disponível em <https://www.unicef.org/brazil/declaracao-universal-dos-direitos-humanos> Acesso em 15 nov 2024

[14] SARLET, Ingo Wolfgang. A eficácia dos direitos fundamentais. 2ª ed. Porto Alegre: Livraria do Advogado, 2001, p.60

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feito uso de outros medicamentos considerados padrão para o tratamento da nefrite lúpica, conforme as diretrizes médicas[15].

Entre esses medicamentos, incluem-se corticoides, hidroxicloroquina, azatioprina, micofenolato de mofetila, ciclosporina, metilprednisolona (no tratamento por pulsoterapia) e ciclofosfamida (quimioterápico em regime de pulsoterapia). Esses fármacos são regulamentados pela Agência Nacional de Vigilância Sanitária (ANVISA) e incorporados ao Sistema Único de Saúde (SUS)[16].

Embora o Tacrolimus seja registrado pela ANVISA sob o número 1003301601, ele não é padronizado pelo SUS para o tratamento de Lúpus ou nefrite lúpica, uma condição em que a função renal é afetada e o uso de outros medicamentos se revela ineficaz. No entanto, estudos científicos na área da medicina comprovam a eficácia do Tacrolimus no tratamento da nefrite lúpica[17]:

> O TAC atua do mesmo modo que a ciclosporina A, porém estudos farmacológicos mostraram que o TAC é, aproximadamente, 25 vezes mais potente. Ele forma um complexo com a proteína de ligação FKBP-12 (FK506 imunofilina 12), que inibe a atividade da fosfatase da calcineurina e, como resultado, gera redução da transcrição de interleucina 2 (IL-2) e de outras citocinas, como fator de necrose tumoral alfa, interferon gama, IL-6 e IL-10, além de diminuição da ativação de células T. Ainda, a droga é metabolizada no fígado pela CYP3A.
>
> O TAC foi superior aos corticosteroides isolados (mais frequentemente prednisona ou prednisolona) na obtenção da remissão/resposta renal (resultado obtido com base na revisão que envolveu 37 estudos e 2.697 pacientes).

Esses achados fornecem respaldo suficiente para que o Poder Judiciário determine a obrigatoriedade do fornecimento do medicamento pelo Estado. A decisão judicial é amparada pela comprovação científica da eficácia do fármaco e pela urgência do tratamento, o que traz maior segurança para os juízes na análise dos casos.

O fornecimento de medicamentos não incorporados aos atos normativos do SUS deve seguir os critérios definidos pelo Tema 106 da Repercussão Geral do Superior Tribunal de Justiça (Recurso Especial 1.657.156/RJ)[18], pela Suspensão de Tutela Antecipada 175 do Supremo Tribunal Federal[19] e pelos Recursos Extraordinários 566.471 e 657.718 do Supremo Tribunal Federal[20].

Conforme o Tema 106 do STJ, o fornecimento de medicamentos não incorporados ao SUS é obrigatório em caráter excepcional, desde que atendidos os requisitos cumulativos estabelecidos. A vedação ao fornecimento de medicamentos *off label* ocorre apenas quando não há registro do medicamento na ANVISA.

No processo de Suspensão de Tutela Antecipada 175 do Supremo Tribunal Federal, o Ministro Gilmar Mendes destaca que:

> O fato é que a judicialização do direito à saúde ganhou tamanha importância teórica e prática que envolve não apenas os operadores do Direito, mas também os gestores públicos, os profissionais da área de saúde e a sociedade civil como um todo. Se, por um lado, a atuação do Poder judiciário é fundamental par o exercício efetivo da cidadania e para a realização do direito à saúde, por outro as decisões judiciais têm significado um forte ponto de tensão perante os elaboradores e executores das políticas públicas, que se vêem compelidos a garantir prestações de direitos sociais das mais diversas, muitas vezes contrastantes com a política estabelecida pelos governos para a área da saúde e além das possibilidades orçamentárias. (…)
>
> (…) A intervenção judicial não ocorre em razão de uma omissão absoluta em matéria de políticas públicas voltadas à proteção do direito à saúde, mas tendo em vista uma matéria de políticas públicas voltadas à proteção do direito à saúde, mas tendo em vista uma necessária determinação judicial para o cumprimento de políticas já estabelecidas.

Essas decisões ressaltam que, em casos excepcionais, quando o tratamento convencional falha, o Estado tem a obrigação de fornecer medicamentos como o Tacrolimus, especialmente quando o paciente não possui condições financeiras para arcar com os custos.

Idealmente, o fornecimento deve ocorrer sem a necessidade de intervenção judicial[21], mas, em

[15] RODRIGUES, Rodrigo Fellipe; PERES, Luis Alberto Batista; MIOLO, Natália. Uso de tacrolimus na nefrite lúpica. Rev Sociedade Brasileira de Clinica Médica. 2017 out-dez;15(4):279-81. Disponível em <https://www.sbcm.org.br/ojs3/index.php/rsbcm/article/view/312> Acesso em 15 de novembro de 2024

[16] Obra cit. p. 279

[17] Obra cit. p. 280

[18] Superior Tribunal de Justiça. Informativo de jurisprudência. Tema repetitivo 106. Disponível em https://processo.stj.jus.br/jurisprudencia/externo/informativo/?aplicacao=informativo&acao=voltarformulariopesquisalivre&b=&processo=1657156&refinar=S.DISP.&&b=INFJ&p=true&t=JURIDICO&l=10&i=1#:~:text=Recursos%20Repetitivos%20%2D%20Tema%20106%20%2D%20Fornecimento,Fornecimento%20pelo%20Poder%20P%C3%BAblico. Acesso em: 22 de outubro de 2024

[19] Supremo Tribunal Federal. Processo Judicial de Suspensão de Tutela Antecipada 175. Disponível em <https://www.stf.jus.br/arquivo/cms/noticianoticiastf/anexo/sta175.pdf> Acesso em: 22 de outubro de 2024

[20] Supremo Tribunal Federal. Recurso Extraordinário 566.471 e 657. 718. Disponível em <https://portal.stf.jus.br/jurisprudenciaRepercussao/verAndamentoProcesso.asp?incidente=2565078&numeroProcesso=566471&classeProcesso=RE&numeroTema=6> Acesso em: 22 de outubro de 2024

[21] Superior Tribunal de Justiça. Informativo de jurisprudência. Tema repetitivo 106. Disponível em https://processo.stj.jus.br/jurisprudencia/externo/informativo/?aplicacao=informativo&acao=voltarformulariopesquisalivre&b=&processo=1657156&refinar=S.DISP.&&b=INFJ&p=true&t=JURIDICO&l=10&i=1#:~:text=Recursos%20Repetitivos%20%2D%20Tema%20106%20%2D%20Fornecimento,Fornecimento%20pelo%20Poder%20P%C3%BAblico. Acesso em: 22 de outubro de 2024

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situações de urgência, como a progressão da nefrite lúpica para insuficiência renal, a rapidez na disponibilização do medicamento é crucial.

Caso contrário, o paciente pode necessitar de diálise ou transplante renal, o que pode resultar em óbito se não tratado a tempo. Assim, justificada a excepcionalidade no fornecimento do medicamento.

A prescrição do Tacrolimus é realizada, geralmente, por médicos reumatologistas e nefrologistas, especializados no tratamento do Lúpus e de doenças renais, respectivamente. Esses profissionais indicam o uso do medicamento para evitar a perda da função renal e promover a melhoria do quadro clínico.

No Brasil, o custo médio mensal do Tacrolimus é de aproximadamente R$2.489,84, considerando descontos de farmácias. Isso implica um custo anual de cerca de R$29.878,08, o que torna o medicamento inacessível para pacientes de baixa e média renda. Em comparação com o salário mínimo de 2024, que é de R$1.412,00, o valor do medicamento representa um ônus financeiro insustentável[22].

A seguir, apresenta-se um quadro comparativo dos valores do medicamento para melhor compreensão, considerando descontos aplicados pelas farmácias pesquisadas[23]:

Farmácia	Tacrolimo 1mg[24]	Tacrolimo 5mg
OncoExpress Medicamentos Especiais	R$658,00	R$1.890,00
4Bio	R$517,57	R$1.523,29
FarmaVisa	R$646,70	R$1.454,70
Custo médio:	R$2.489,84	

O Tacrolimus é considerado um tratamento "off-label", ou seja, não está indicado em sua bula para a doença tratada, mas possui comprovação científica de eficácia.

O Núcleo de Apoio Técnico ao Judiciário (NATJUS) do Tribunal de Justiça do Distrito Federal e Territórios[25] emitiu pareceres favoráveis ao fornecimento do medicamento em processos judiciais, como nos casos 0726136-07.2022.8.07.0016[26] e 0716047-90.2020.8.07.0016[27], com a conclusão de que a demanda é justificada, considerando a refratariedade da nefrite lúpica aos tratamentos convencionais e a necessidade de evitar a perda definitiva da função renal.

Observe-se a conclusão do parecer contido no processo 0716047-90.2020.8.07.0016[28]:

> O objetivo do tratamento da nefrite lúpica é evitar ou corrigir a deterioração da função renal, diminuir a proteinúria e a hematúria e assim impedir a progressão para o dano renal definitivo. O objetivo, com a terapia imunossupressora, é obter a remissão completa da nefrite, ou seja, a normalização da função renal associada à redução da proteinúria para menos de 500mg em 24h.
>
> Quando a nefrite lúpica é refratária a um dos regimes terapêuticos supracitados, deve-se trocar os imunossupressores que o paciente está fazendo uso por outros que ele não tenha usado anteriormente.
>
> O Consenso da Sociedade Brasileira de Reumatologia para o diagnóstico, manejo e tratamento da nefrite lúpica recomenda que aqueles casos de nefrite lúpica que foram refratários aos regimes terapêuticos de indução com ciclofosfamida e micofenolato mofetil deverão ser tratados com rituximabe ou tacrolimo (este isoladamente ou em associação com o micofenolato mofetil)
>
> (...)
>
> *Considerado* que a paciente apresenta nefrite lúpica refratária a todas as terapias disponíveis no SUS indicadas para o seu tratamento;
>
> *Considerando* que há evidências científicas sólidas sobre a eficácia do tacrolimo no tratamento da nefrite lúpica;
>
> *Considerando* que há risco significativo de perda definitiva da função renal caso a nefrite lúpica permaneça ativa;
>
> Este NATJUS conclui que a demanda é considerada *JUSTIFICADA*.
>
> (grifos no original)

[22] Pesquisa de preços de medicamento Tacrolimus. Disponível em <https://lojavirtual.oncoexpress.com.br/product-category/medicamentos/principio-ativo/tacrolimus/>; <https://loja4bio.com.br/todos-depar tamentos/transplante/tacrolimo>; > https://www.farmavisa.com.br/tacrolimo-1mg-c-100-caps-e-m-s> Acesso em 18 de novembro de 2024

[23] Pesquisa de preços de medicamento Tacrolimus. Disponível em <https://lojavirtual.oncoexpress.com.br/product-category/medicamentos/principio-ativo/tacrolimus/>; <https://loja4bio.com.br/todos-depar tamentos/transplante/tacrolimo>; > https://www.farmavisa.com.br/tacrolimo-1mg-c-100-caps-e-m-s> Acesso em 18 de novembro de 2024

[24] Necessária a aquisição de 2 (duas) caixas para tratamento nas doses prescritas pelo médico assistente para início do tratamento.

[25] Tribunal de Justiça do Distrito Federal e dos Territórios. Núcleo de Apoio Técnico ao Judiciário. Disponível em https://www.tjdft.jus.br/informacoes/notas-laudos-e-pareceres/natjus-df Acesso em: 22 de outubro de 2024

[26] Tribunal de Justiça do Distrito Federal e dos Territórios. Processo judicial 0726136-07.2022.8.07.0016. Disponível em https://www.tjdft.jus.br/pje> Acesso em: 22 de outubro de 2024

[27] Tribunal de Justiça do Distrito Federal e dos Territórios. Processo judicial 0716047-90.2020.8.07.0016. Disponível em https://www.tjdft.jus.br/pje> Acesso em: 22 de outubro de 2024

[28] Tribunal de Justiça do Distrito Federal e dos Territórios. Processo judicial 0716047-90.2020.8.07.0016. Disponível em https://www.tjdft.jus.br/pje> Acesso em: 22 de outubro de 2024

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Com base nos pareceres do NATJUS, os juízes têm maior embasamento para decidir a favor do fornecimento do Tacrolimus, podendo inclusive determinar a aplicação de multa caso o Estado descumpra a ordem judicial para o fornecimento do medicamento.

Isso significa que o Estado Brasileiro tem ciência das recomendações técnicas que indicam o uso do medicamento por pacientes com Lúpus e comprometimento renal, mesmo em tratamento *off label*. Contudo, o fornecimento da medicação é condicionado à judicialização, o que acaba atrasando o início do tratamento para aqueles que dele necessitam.

VII. Conclusão

Este trabalho abordou o fornecimento do medicamento Tacrolimus para pacientes com Lúpus, especialmente aqueles que desenvolvem nefrite lúpica, uma complicação renal associada a essa doença autoimune crônica. O Lúpus pode comprometer gravemente a função renal, e a nefrite lúpica, se não tratada adequadamente, pode levar a consequências irreversíveis, como insuficiência renal e a necessidade de transplante.

Para a apresentação do tema discorreu-se brevemente sobre o conceito do Lúpus (segundo estudos na área da medicina que tratam do assunto), bem como que abordados de forma singela o que são o direito à vida e à saúde, e por fim, discorreu-se a respeito da judicialização para o fornecimento de medicamento importante para o tratamento da doença.

Para o tratamento são indicados usos de medicamentos como cortecóides e outros. Contudo, em caso de ineficácia das medicações anteriormente utilizadas pelo paciente, os médicos especialistas podem indicar o uso do medicamento Tacrolimus, o qual, é utilizado em pacientes que passaram por transplante renal.

Neste estudo, verificou-se que o acesso ao medicamento Tacrolimus para pacientes com nefrite lúpica revela não apenas os desafios enfrentados pelos indivíduos diagnosticados com essa condição autoimune, mas também coloca em evidência a fragilidade do sistema de saúde pública brasileiro.

Embora o Tacrolimus não tenha aprovação formal para o tratamento da nefrite lúpica, diversos estudos e práticas clínicas demonstraram sua eficácia, levando médicos a prescreverem esse medicamento "off-label". No entanto, o acesso a esse tratamento no sistema público de saúde enfrenta barreiras burocráticas, com a recusa do Estado em fornecer o medicamento de forma imediata, mesmo diante de uma recomendação médica fundamentada e decisões judiciais favoráveis. Essa recusa compromete a saúde e qualidade de vida dos pacientes, evidenciando falhas no sistema de saúde brasileiro.

A recusa ou mesmo a demora do Estado em fornecer a medicação prescrita pelo médico assistente do paciente com Lúpus, fere o direito constitucional à vida e à saúde, uma vez que se trata de acesso universal e igualitário aos cuidados médicos.

O direito à saúde é fundamental não apenas para a preservação da vida, mas também para o exercício pleno da cidadania e para o bem-estar das pessoas, tanto que, se trata da dignidade da pessoa humana, o que igualmente é garantido pela Declaração Universal dos Direitos Humanos da qual o Brasil é signatário.

Portanto, a responsabilidade do Estado em assegurar o acesso a tratamentos médicos deve ser reafirmada, especialmente em casos de doenças complexas o Lúpus que podem ter desmembramentos mais graves, como é o caso da nefrite lúpica.

A recusa ou a morosidade no fornecimento de medicamentos essenciais não só agrava o quadro clínico dos pacientes, mas também evidencia as falhas de um sistema de saúde que, muitas vezes, não consegue atender às necessidades da população de forma eficaz e eficiente.

A judicialização dessa demanda, pode retardar a qualidade e eficácia do tratamento pois se revela burocrática, sendo verdadeiro obstáculo para o exercício do direito à vida e à saúde. Não deveria ser o Poder Judiciário, o responsável por garantir o fornecimento da medicação.

Dessa forma, é imperativo que gestores e formuladores de políticas de saúde pública se comprometam a garantir o acesso imediato aos medicamentos necessários para o tratamento de doenças graves, como o Lúpus, e que o sistema de saúde seja fortalecido para cumprir sua função de proteger a saúde e a dignidade dos cidadãos de forma eficiente e sem obstáculos burocráticos.

A partir das decisões judiciais favoráveis aos pacientes, é claro que o Estado já deveria ter implementado medidas para assegurar o fornecimento adequado do Tacrolimus, facilitando o acesso a esse medicamento essencial sem depender da judicialização. Isso não apenas garantiria um tratamento mais rápido e eficaz, mas também evitaria o desgaste de um sistema judicial sobrecarregado e promoveria o respeito ao direito à saúde de forma plena e ininterrupta.

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Reverse Hospitality on the Outskirts of Culture: Ritual Matrices of Creation in a Local Community of Beings, Human and Non-Human, Living and Dead, Gods and Elements

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First Approaches- Oblivion that saves; *dramatic representation in the backstage of Christian publicity*; *ritual matrices in local communities of beings, human and non-human*; *reverse hospitality* … in those experiences and expressions, there are other (very other) ethics, other politics, other epistemic ways of knowledge. Following their paths I have talked (and written, thinking with/in/on my feet) about "*semiopraxis*".

An extended common disciplinary and social sense perceives and thinks *Culture* as a way of seeing, feeling, and living within a community that gathers around this pregnating consensus. But this is a Westernized way of understanding culture, marked by Eurocentric defensive self-tropings and its policies of world colonization. In outer non-Western communities, the sense, the practices and, above all, the *medium* of *hospitality* is other (Grosso, 2014a; 2015a; 2017a). The concept of *community* expands there and embraces human beings together with the non-human, the living and the dead, gods and elements, in a network of relationships.

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Reverse Hospitality on the Outskirts of Culture: Ritual Matrices of Creation in a Local Community of Beings, Human and Non-Human, Living and Dead, Gods and Elements

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I. First Approaches

Oblivion that saves; *dramatic representation in the backstage of Christian publicity*; *ritual matrices in local communities of beings, human and non-human*; *reverse hospitality* … in those experiences and expressions, there are other (very other) ethics, other politics, other epistemic ways of knowledge. Following their paths I have talked (and written, thinking with/in/on my feet) about "*semiopraxis*".

An extended common disciplinary and social sense perceives and thinks *Culture* as a way of seeing, feeling, and living within a community that gathers around this pregnating consensus. But this is a Westernized way of understanding culture, marked by Eurocentric defensive self-tropings and its policies of world colonization. In outer non-Western communities, the sense, the practices and, above all, the *medium* of *hospitality* is other (Grosso, 2014a; 2015a; 2017a). The concept of *community* expands there and embraces human beings together with the non-human, the living and the dead, gods and elements, in a network of relationships. The plot of health, gifts, power, wise walking and feasts -in vast post-Christian territories and in Andean terms called "*suerte*", "*to get lucky*"- makes living and dying there would-be episodes of a dramatic narrative that is spent in its random and molecular becoming (Grosso, 2016a). It is not indoors community where reception takes place. Involving relations of welcome are renewed at every step. But not only in new ties, rather more revolving, shuffling and interweaving the practical matrix, re-constellating it together with all implied beings.

Community and *hospitality* involve the dramatic encounter and interaction of ancient and new, many nouns and renamed beings, huge and small ones, long-standing inhabitants and foreigners, in a vast intercultural scene. In it everything changes, turning each being, and all of them, into another. This re-constellation finds no rest in any monadic cultural horizon, but rather blurs contours and stages the ritual drama in its wide spectrum of a sensitive spectacle.

"I*dentity*" is perhaps an erroneous term for this erratic and indomitable torsion. Becoming another among others is a form of resistance not appreciated by the Western self-centering and repeated return on Self. It is neither the continuity of the Same, and nor is it the dissolution into nothingness. The *difference*, by virtue of (in)constant displacement, never falls into the undifferentiated. The *local community of beings*, in its ritual agency, goes out to meet the others, encounters them outside there, altering the uncritical assumed frame of inside "*hospitality*". And in doing so, it becomes a potent and silent *critical semiopraxis* in decolonizing politics. With scandalous evidence, from rural ways and "*customs*" ("*costumbres*") and not from the refined moods of the polis, this *difference in ritual agency* raises its emancipatory gesture from (Western) "barbarism", and not from the cosmopolitical "clash of civilizations". Fieldwork experiences in northern Argentina (Grosso, 2008a), in the Bolivian highlands (Grosso, 1994) and in the Colombian Cauca (Grosso, 2006) have made me think of this other as *reverse hospitality*.

II. Ritual and Community

Representation happens within the whole semiological, theatrical and performative range of drama. In ritual context, it integrates both, the mystical relationship and the *medium* in which it takes place. Sacred space-time generates a field of materialities and actions where the symbolic over-determination takes possession of the world, in width and depth. Power always mounts a spectacle. Dark and sublime forces intervene in that plot of relationships, animating a scenic magnetism that encourages multiple gifts and crosses everything with excess. Bodies, emotions, spaces, sacred figures and objects find a field of high intensity there, that constitutes an inaugural and renovated world

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of relationships. There they meet: the gods with the dead, the animals and the plants with the stars, the hills and the stones with books and fire... An *enlarged cosmic discourse* breaks down what the Greek-European-Western tradition has unsuccessfully attempted to delimitate: both, and each of them separately, the "human" and the "divine" from the rest. Always the rest, the residual, forgotten and growing up, surrounds and threatens to become an ignominious story, a spreading and dark hope, a matter of salvation. Mainly in post-colonial territories, this *enlarged cosmic discourse* invades the lights and shades of popular religiosity beyond (or rather, more over here) the "human" trope and the "divine" monotheistic pole.

This cosmic of high intensity meeting inhabits every sacred relationship and is untranslatable to logic, and irreducible. It even exceeds the commercialization of faith and the tourist supply through which capitalism has integrated the devotions and religious circuits to its circulations as a value of change, simultaneously expropriating expressions, feelings and symbols, and adding them to its accumulation device. There, we would say with Georges Bataille, that sacrifice fights against accumulation and, ultimately, we will always be in the religious (or mystical) scene (Bataille, 1998). Bataille says that sacrifice is "*to abandon and to give*" (Bataille, 1998: 52). It is the "*antithesis of production*" and accumulation, and their lasting in time; meanwhile "*consumption [is] not having more interest than for the instant*", often realised in fire combustion (53). Therefore, there are two figures of "*consumption*": an accumulative (capitalist) one, and a destructive (sacrificial) one. And, respectively, two modes of enjoyment: retention and gift. Capitalist retention comes together with the stability of things, while the *sacrificial gift* gets lost in festive suspension and derives each thing in another (frequently, smoke and ashes). This way, religiosity represents apotheosic combats in diverse assemblages of "*economy*" and "*culture*".

In postcolonial relations, these struggles adopt epic configurations that become the *mise-en-scène* of great shows of scrambled and frayed (hi)stories. Large dominant narratives found on them their embracing continuities, while subaltern counter-narratives collide with and rub against them. Confronting that dominant History, these counter-narratives deform, pervert and break the space and time that it sustains and naturalizes.

In Northern Argentina, some intense religious devotions –either widespread or more localized– grew under the ecclesiastic gaze, while others emerged in the wild grasses of popular beliefs. Among the first ones: the Virgin of the Valley of Catamarca, the Lord of the Miracles of Mailín, Saint Barbara of Manogasta, The Indian Virgin of Tuama, Saint Stephen of Sumamao, Saint Gil of Sacha Pozo (to those I dedicated in-depth studies, see Grosso, 2008a), Saint Rose of Tastil, and the Lord of the Miracle of Salta. And among the popular beliefs: the Gauchito Gil, the Defunct Correa (a woman), Carballito; and, darker and in underground: the *salamancas*.[1] These all are devotions of entrance and exit through which the agents circulate taking "*suerte*" ("*luck*"), and elaborating, through multiple passages, a knot/text, facing incompatibilities for the scope of a frozen orthodoxy. Many "religions" coexist there, and, among them, the devotees strengthen the ways of faith. Given the magnification of the combats - which is perhaps its more proper force-, religion has become the great scenario of the European-Western colonization and its intercultural contestation. Thus, against the ambivalences and evident failures of civilization and evangelization of local people, modern devices of domestication have been designed and applied seeking to weaken the *sacrificial gestae*. In this sense, the devices of Modernity reorient people to individual consumption, to Protestant asceticism and to multicultural aestheticism. But, behind all this formal politics, *sacrificial gesta* encourages popular (silent or tumultuous) uprisings and revolts, with fire always at hand, "*alumbrando*" (lighting candles) or burning. In spite of the colonization of the sacred relations and the reordering of faith, religious devotion is a dense, discontinuous and paradoxical fabric of powerful agencies and mystic gifts in Northern Argentina.

III. Ritual Matrices and Territories: The Other Sides of Representation

In the following twelve statements, I present some notes in which our thought could delay an eternity. Although, on this occasion, due to space and time concerns, they will seem to remain as falling autumn leaves on the surface of my text, constituting a mere hazardous collected enumeration.

[1] The "*salamanca*" is a mythic-ritual complex, generalized in the north of Argentina, that goes back to the colonial period and very probably it has transformed old Indigenous beliefs and rituals, and has incorporated other, Black ones. The names with which the Devil is called there: "*Diablu*" or "*Malu*", in quichuized Spanish; "*Supay*", in Quichua; and "*Mandinga*", one of the Black names for their gods, indicate an intercultural art in its creation. The *salamanca* is a cave in an old riverbed, or under a lagoon generated by some overflow. Whoever goes inside wants to make a deal with the *Diablu* / *Supay* / *Mandinga*. Every man who excels in music, dance, play, success with women, in business, and finally, in any dexterity or inspiration, is suspected of having learned in a *Salamanca*. Of all the arts that are learned there, the most important and the most common nowadays are related to music. Also female healers or witches have learned there; however women generally go there to have intimate dealings with the devil and to surrender to the bacchanal in the dance that develops in there. The "*cave*" itself is not seen: "*it opens when the one who is searching for it wants to*". Then he, or she, strips, denies Christ and the Virgin, and suddenly loses ground and falls into it. After passing a series of tests at the "*threshold*", the "*student*" finally enters it. In there, a great orgiastic peasant dance takes place, all naked, in the middle of which the devil teaches each one what they desire. These dances are frequented henceforth by the "*salamanqueros*", even after having learned their art in an excellent.

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1. In Northern Argentina, local sacred agencies define, open up, and dig *territories-other* that enable archaic and anachronic ritual popular circuits and god names to emerge.
2. These *sacred other territorialities* constitute a relational field, which is alternative and parallel to the formal territory, and is expressed in whatever it has to do with local devotions.
3. Sacred images are, in each case, one particular image made of specific materials (wood, plaster, stone, iron; painted or dressed), and as each one tells the legendary stories of local devotions, it *alters space-time*. The often-repeated story is that the Virgin (or the Saint) has decided to stay there. For example, it was being transported on mule back, and the animal stayed there, in that locality, under that tree or by that rock, and there was no way of moving it away. In other cases, the image has appeared in a hole of the local topography: a grotto, or in the hollow of a trunk of an old tree (almost always an *algarrobo*, carob tree, autochthonous being, ancestrally surrounded by beliefs and rituals) as if it were springing from there.
4. People get "*grace*" or "*suerte*" ("*luck*") by touching the sacred image and "*making him/herself to step*" bending under it. There is always a direct contact, a non-sacramental inter-corporality, a metonymic touch, that inverts the imposed "*spiritual*", eidetic-theological order into a *ritual semiopraxis* (*senses-in-the-intercorporal-course-of-action*). The relationship covers any distance, in a round trip: one should "*come back*" to touch the sacred image, once during each visit, again and again. "*Volver*" ("*to come back*") marks the *tempo* of this relations and formalizes the local "*structure of feeling*" (Williams, 2000), named "*añoranza*" ("*yearning*"), that is likewise the renovation and re-constellation of the whole encounter, each time, *in situ*.
5. The devotion consists of a "*cyclical*" celebration of the feast. But the devotees live and express that "*cycle*" like a "*turn*" ("*la vuelta*", "*el volver*") that has to do more with the "*añoranza*" ("*yearning*"), a kind of *nostalgia* very attached to the natal earth (the "*pago*"; from the Latin noun "*pagus*", and Greek "*págos*") and its beings, than with the mere repetition of the calendar. "*To return*" is more related to that "*structure of feeling*" than to the geometric figure of the "*cycle*". The "*turn*" is always a "*return*", and it operates like a performative "*turn*" that "*re-turns*". That is to say: *each return twists local forces of sense shuffling around the ritual plot*, again and again, strengthening intense nodes, both new and archaic.
6. The sacred image is very powerful in the *local community of beings* that it involves, and in which it is involved. The Virgin (or the Saint) heals, saves and destroys. She (or He) is extremely dangerous, and requires proper treatment and a display of "*respect*" ("*respeto*"). Her (or his) power threatens and overflows the established "*order of peace*". But it is a power not of the Virgin (or the Saint) alone, but of the net that She (or He) summons and integrates. It is this *cosmic community* what makes it so powerful, and not the polarization in a genesical or apocalyptic individual spirit. It is a *mystical* meeting and encounter in *changing space-times*, away from absolute beginnings and definitive endings.
7. The "*feasts*" are truly, as usually happens, "*total great feasts*" that involve ritual contact, economic mobilization, social effervescence, affective move, renovation of the collective local knots, erotic bloom, extension of new bonds, and expansion of the world.
8. An extended sacred immanence manifests and operates beyond (or rather, more over here) all eidetic separation and anthropic (a trope into the trope: a double trope toward humans) delimitation, which are sustained high both by theological and pastoral discourses. Trees and leaves, animals, stones, hills, paper, wooden, stone or plaster images, cigarettes, candles and other objects, various atmospheric phenomena, expressions and the dramatic representations of human beings and animals and plants knit a irreducible ritual, metonymic interweaving, definitely resistant to any generalization or abstraction in a unique sinec-doquical trope. A renovated and vigourous "*animism*" (Latour, 1993; Latour & Venn, 2002; Haber, 2009; 2012; Grosso, 2009) trascends all local materiality. All these agencies operate from/within/through a *ritual practical matrix* that impels action.
9. "*Total feasts*", then, adopt "*show*" dimensions, and the representative theatrical distance enables the scenic spot and restores, *in absentia*, the relationship with denied identities under the prevailing national, urban, Europhilic citizenship. The "*Indians*", dead, rest / residual of the "*past*", are represented in races, rythms and dances. "*Blacks*" are ostensibly silenced, but can be listened to everywhere in their invisibility. If "*Indians*" are often visibly represented, "*Blacks*" are only listened to in musical percussion and *salamanca* stories.
10. "*Spectacle*" in devotion is a plot of torsions pressed by subaltern senses that re-appropriate the "*public*" character as a specific lithurgic element of Christianity. This Christian "*publicity*" constitutes a genealogical back-stage of the "*publicity*" as medieval and Renaissance "*representation*" of power, according to the classic study of Jürgen Habermas (Habermas, 1999). This *Christian "publicity"* was manifested (and now I refer to Foucault in *Technologies of the Self*; Foucault, 1988) both in the dramatics of penitence, invested by the

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testimonial force of the martyrs (Christian version of the antique *exomologêsis*), and in verbal and written confession of faith that transports the salvation in a message ("*gospel*") for everybody while exposing the quality and brightness of the own thoughts to Other's surveillance, who is obeyed like a guide (Christian version of the antique *exagoreusis*) (Foucault, 1988). Therefore, the Enlightened "*publicity*" that magnetizes all the relationships toward the plot "*Light – to say explicitly – public sphere*" has a strong and unknown Christian side. In our postcolonial lands, that Christian-Enlightenment "*publicity*" battles in a popular great epic *gesta* against the sacred local forces of the "*tenebrous*" *medium* that never totally give its seminal darkness in which *space-times others* (are) gestate (Kusch, 1984; 1987; Grosso, 2014b; 2017b). In the popular devotions of Northern Argentina (and I have learned this as well in the Bolivian highlands and other Andean communities; and maybe it could be generalized to intercultural postcolonial relationships with the West) "*publicity*" allows – in dramatic representation, not in argumentative logic – the exposition of/to the "*stratigraphy of violences*" (Haber, 2011) which operates in everyday life, hidden below the weight and the robe of the imposed faith. This means: "*Publicity*" in Christian baroque dramatic confession rather than civic equalitarian homogeneous exposition. In that "*publicity*", "*tenebrous*" barbarians terrify "*civilization*". An ambivalent "*publicity*" that keeps *other emotive economies of sense*, more interactive than the rigorous Self-control and Self-domination of passions. The politics of Enlightened society are, in hetero-chronic manner, the main thing being fought over in this confrontation. Although public representation in citizenship school discourse is paradigmatically compressed to a naturalized consensus on modern values, morals and symbols, there is even a virtue in public Christian ritual representation as it allows *spectrally dramatics of denied pagans identities and barbarian modes of make senses*.

11. There are *denied, silenced, inhibited, and rejected sense forces* that appear profusely in devotions, transforming them into the more outstanding scenarios of *inter-cultural relationships* in our *postcolonial territories*.
12. Lastly, the *ritual extension of agency in the local community of beings*, and the *dramatic re-motion of historical identities that spectrally walk across the feast*, both open *space-times other* that abruptly jump into the sacred scenario. They make of the "*anachronism*" that weighs on these craftier manifestations of belief a *politics of, and in, faith*. Perhaps because belief is an evanescent way that tends –and takes to (and even rather maybe in reverse)– to welcome obscure and unspeakable ("*inavouables*") communities (Blanchot, 2016; Nancy, 2001; 2007; 2016; Grosso, 2012a; 2014a; 2014c; 2016a; 2017c; 2017d; 2017e).

IV. When Oblivion Saves

I am talking about *bodies, emotions,* and about *oblivion* and *denegation politics* in *intercultural postcolonial relationships*. But I don´t know exactly (and certainly not to what extent, even if definitely); I could be also talking about other postcolonial experiences and histories, about other diverse relationships in, and after, colonialism, from centuries ago. But I include, in my uncertainty, the suspicion that there isn't only one form of colonialism, but rather multiple ones that are different from the currently existing Occidental hegemonic colonialism. Perhaps I am also talking to some extent about other countries and experiences. Distant readers would know this better than me… What kind of familiarity is there between colonialisms? And resistances?

I am writing here in palimpsest with a reference to Francis Bacon, who, for the first time and in his *Essays* (1597), used the Latin word "*oblivion*" in an English discourse. He did it in the trace of the Latin word. In this sense, I emphasize both "*sides*" of ancient "*oblivion*": that which covers all, and has its opposite in conscious memory; and the other, crawling over and through inside tenebrous hells, which *saves in silence (and in bodies)* the matters in revolt, operating from there. I select this second sense, finding it in the "*añoranza*" (*yearning*) "*structure of feeling*", explicitly in Northern Argentine, but more extended in Latin American popular practices and sentiments. This sense relates to my expression "*semiopraxis*", that acknowledge *senses-in-intercorporal-action*: *the senses embedding action in other languages* than the logic-linguistic hegemonic one. Through Derrida, Heidegger and Nietzsche (and Kusch), in this random order, I will turn into *oblivion intercultural post-colonial intercorporal cosmic counter-sense*.

I came across the unsuspected reading of Francis Bacon's *The Essays* as I was looking for the first time the term "*oblivion*" was used in an English expression, and, as I have said above, this happens for the first time in the Baconian text, in the late 15th century. Then, reading the entry: *The Vicissitudes of Things*, the use of that word made me think of the main intervention of natural agents as *oblivion* agents. Bacon refers, primarily, to earthquakes, deluges, conflagrations, and great droughts as devastating elements that, although they always leave surviving rests, they submerge all in *oblivion*, and, since old times, it has always seemed (I quote Bacon:) "*as if none had been left*". *Oblivion*, then, Bacon says, always takes the figure of apparent novelty, like a merely blind and sweeping flux of movement, that nonetheless carries with itself sleeping

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histories in the revolted matter. *Oblivion*, therefore, *covers and guards other histories*.

The Latin word "*Oblīvium"*, *sicut* Francis Edward Jackson (2005) in *An Etymological Dictionary of Latin Language*, edited in 1825, is a composition of two linguistic roots: on the one hand, "*ob"*: that means "*in the way of*", "*in front of*", indicating an action that is done facing an antagonistic (op)position; and, on the other hand, "*lēvis"*: that means "*smooth*", "*which has been polished by taking away, or removing, in order to be straightened, flattened, leveled, smoothed*". In its etymological roots, "*līvium"* (in *ob-līvium*) is associated with "*lima"*: a file, an amend, "*that which takes away what it seems inconvenient*"; and with "*limen"*: the threshold of a door, a (new) beginning (after polishing the place); and, thereafter, with "*līmes"*: a mark, a limit which indicates something terminated and left off. All these Latin expressions derive from the Greek ones: **λέλειμαι λέλισμαι** or **λελείωμαι** that mean "*to smooth*", "*to polish*".

This smoothing, this flattening, oppressing, like the terror of the blank page, can be both the work of a natural or a social agent. Here we find the sediments of words and things like ashes, cinders, as the Latin "*līmo"* says: the mud, the slime, "*that which is left by waters after its sweeping pass*". *Oblivion* includes both "*sides*" of this work: the one, which emerges to the surface covering all, and which has a positive antagonism in the conscious memory; the other, which, crawling over and through inside tenebrous hells, *saves in silence (and in earth and body)* the matters in revolt, and remains operating in its repeated turns and returns from there. I call this second "*side*", this time in the case of *oblivion*, "*semiopraxis*".

Oblivion follows trace. All traces erased always leave a (new, in palimpsest) trace. The erasure, the *oblivion*, belongs to the trace, fold under fold, print over print, cinders on cinders. There is no terrestrial being that could efface by any touch their footprints (Derrida, 2008: 162). A *postcolonial bodies' discourse* (which maybe goes through other colonial histories too, like I said above) is made of *denials and erasures*, and it hosts them in its terrified and labyrinthine bury of *disruptive forces*. *Oblivion keeps histories in bodies*. *It makes-body. The dead interposes their blood, their flesh, their bones, their spectra*. This is their gift of infinite corrosion in the scene of the darkest "*pedagogical*" bon/es/d. It is the lesson of *oblivion*.

There is a *turn*, a *re-turn,* made by the vanquished under mono-logical, mono-thetical, hegemonic unique *sense-of-reality* (Benjamin, 2010; Grosso, 2014e). In the *erased*, *annihilated*, *unknown* beings and elements there is a nostalgic longing (in Northern Argentine Spanish called "*añoranza*"), pushing from there after: *a pain of being there again, to come again*. And it works inside any matter, folding over folds, printing in the back of print, pressing from *erasure* (Grosso, 2008a; 2012a; 2017d). *Oblivion-pain returns within oblivion-pressure, and vice versa*. A *semiopraxis* that involves *senses-in-intercorporal-action*. "*Intercorporal*" means here *between* (*human and non-human*) *corps/corpus/bodies/masses*. *Oblivion makes-sense in diverse manners along the flux of action*, in its becoming, and does it without searching *logos* expression. *Oblivion keeps and holds.* Its non-conscious "*memory*" (if there is one here as such) *does its work in revolving matter: bodies and cosmic human and non-human beings* (Grosso, 2009; 2012b; 2014d; 2016a; Vilca, 2010; 2017).

In this dense and thick medium, what oblivion saves is not "*memory*" in te sense of bringing to the present. *Oblivion* is not the same that "forgetting", like that lost in the past. There is a non linear continuity past-present-future operating in it; nor hermeneutical threads and texts where rather *anachronistic encounters renew the scene*. A *semiopractical counter-narrativistic*[2] *oblivion* works in this piecemeal writing, which is a flashing, antagonistic, and thus – as scattered in number and massively opposite–: a collective one. As the intermittent lament and agonizing cries of their relatives (specially mothers) don't let all the absence at the foot of the glorious heroism and bombastic memory of the eidetic cult of State, the relation with dead emphasizes in this paradoxical way the linguistic constitution of what is impossible to say, blocked by the pain that bursts toward the unredeemed spectrum that press from behind *oblivion* (Arteaga, 2013). The strong links that join those bodies are more than conscious. Darkest forces revolt history and epistemology in dense and opaque *oblivion's folds*.

Intercultural counter-narratives break down the minimum possibility of imposing a continued sense in a hermeneutic discourse (even if a diatopical one). A collective learning of other histories emerges in the silence of bodies' histories. Nor hermeneutic, neither reflexive, the oblivion makes sense in semiopractical tropes and refractions (Bajtin, 1999). *The ancestors – vanquished under univocal episteme and ontology– with the living have collectively learned, not at all a new History as a mimetic transposition of powerfull imposition of Present by the winners in logical narrative* (De Certeau, 1985; Spivak, 1988: 263; Grosso, 2014d; 2017d)*, but a dislocation of theory from logos to semiopraxis* (Grosso, 2017f)*, from reflection to refraction* (Bajtin, 1999)*, and from convergent, mono-logical, univocal thinking and ontology to intercultural, cosmic conversation* (Vilca, 2010; Haber, 2012; Grosso, 2016a; 2017a; 2017e).

[2] I created the concept of "*counter-narrative*" inspired by concepts of subaltern histories and their writing extracted from Michel de Certeau (2000) and Ranahit Guha (2002), in Grosso 2012b; 2017d.

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Semiopraxis opens to *senses involved in intercorporal action: sinuous and devious senses, pulling and pushing, in frictions and stuggles, often silent and sometimes noisy*. "*The form is fluid, but the sense is so even more*", Nietzsche said in the *Genealogy of Moral* (Nietzsche, 1985). In so doing, *semiopraxis lets to work* ("*désoeuvre*" is Maurice Blanchot and Jean-Luc Nancy's expression; Blanchot, 2016; Nancy, 2001) *an epistemic alteration* that both, it moves toward *popular-intercultural-postcolonial bodies' and voices' drama*, and *cracks the colonial epistemic hegemony* (Kusch, 1975; 1976; 1978; Grosso, 2008a). *Postcolonial bodies' discourse* is made by, and through, *denials, ignorance, and erasures*. That's why they break that naturalized order *rubbing inland deaf and overlapping layers of silence, where tropes germinate*. *Bodies' discourse* overflows toward *intercultural derives*, in *baroque manners*, and *symbolic struggles immerse critical praxis in refused, deleted, annihilated, expired, buried, despised, and disqualified situations and relations*. This drifting out and the unavoidable fights that splash mud and blood have been unknown by Social Theory in its distant and protected objectivist tradition, in spite of (or precisely because) their revolts under overwhelming knowledge policies, in the whispering shadows of History and Epistemology.

Denial, *effaces* itself, host *disruptive forces*. Meanwhile, the decreasing of its powers (the most effective aim for ruling interests) is the counter-effect of the opposite, brighty recognition of that deep *forces* through biopolitical visibility: the weakening strategy of "*putting-to-the-light*". This is the reason why the reproductive continuity, again and again, once and another time, facing imperial eyes, strengths the colonial situation giving ground for immovable objectivism. Even do (may be, even more) when the objectivist frame is enabled by critical thinking and its best emancipatory intentions. Brightest acknowledgement hides and buries the dark forces of *oblivion* (Grosso, 2014b 2014d).

Nearer, out of the linear continuity past-present-future, *oblivion keeps into bodies*, *makes-body*. From here, what cannot be said emerges: what interrupts speaking and normative grammatical writing, also what makes silence, what cries... Where do they *save*, the defeat, the impotence, the anger, the rage, the bitterness, the resentment, all the undeleted marks of torture, of massacre, of annihilation, of humiliation? *Thither is a return in the erased experience*: a yearning, longing, nostalgia, homesickness, "*añoranza*", and makes-sense, not "*as such*", but "*playing*" its proper game inside matter.

I will explain this "*as such*" and this "*play*" alternative concepts in Heideggerian terms. I refer to Derrida's reading of many Heideggerian texts: *Introduction to Metaphysics*, *Letter on Humanism*, and *Fundamental Concepts – 1929-1930 Seminar* (Derrida, 2008). The showing fundament of the *logos* like the "*as such*" of the world: the "*in front of*" position, the "*to have the world in front*", out there and ahead, remains however trapped into the ambiguity of objectivity and belonging (Derrida, 2008: IV). The showing gesture becomes at the same time "*master*" and "*slave*" respect the "*world*": who shows is simultaneously who drives and who serves the world, because the world is "*both the closest and the farthest thing*". Who shows is separated and also immersed in both: *to-having-world* and *not-to-having.* In this last sense, he/she would be an "*animal*", in Heideggerian bias. *Logos* displays things and shows itself simultaneously, resting nevertheless in a marking index, which is not *logos*. Because marking "*does not say, but indicates*" (Heraclitean words) in a silence discourse. So, showing oscillates between *ec-sistence* and life, between the *entity* and the *stay-in*. Therefore, (in Nietzschean perspective, Derrida says:) "*there is no 'as such' pure and simple*".

Heidegger has linked this oscillating ambiguity with a "*pain of belonging*": "*Das Heimweh als die Grundstimmung*". That is to say: the nostalgia as fundamental tone, the earth sentiment as a *way-of-being*, which is not a pure absence, nor "pure" absence at all. Rather, it "*is-in-play*", in the "*between*": *oblivion-pain and oblivion-pressure* oscillating (Derrida, 2008: *IV*). In *intercultural postcolonial relationships*, *oblivion-made-body* calculates another equation between memory and forgetting, which is dark for the light of saying, more specifically: for the logical coherence of the Historical narrative.

The "*historical materialist*" (Walter Benjamin´s expression in *On the concept of history*; Benjamin, 2010) is not a hermeneutist. *Critical praxis* is alien and antagonistic toward the intellectual field (evil that it would weigh to Bourdieu). Let us recall Marx himself in the *Introduction to Hegel's Philosophy of Law* (Marx, 2013). *Critical praxis* no matter with (re)telling History, but rather with *antagonistic counter-narrativistic senses* opening *other histories*, *other relationships*, by leaps, by turning back, by altering *ritual matrixes of creation*, by mythical reconnections, by messianic cadences. There is a *baroque* folding of inside/outside, above/below, in front/behind, face/mask, now/then, cover/core, surface/strata at that *counter-narratives*, that dislocate the usual and naturalized space/time references. This is the ground of/for/to *reversing hospitality* and, thereby, *decolonizing justice*.

Oblivion, conceived as a mere inversion in a single line and in a one-dimensional frame, fits in detriment to the Nietzschean dislocation, and resists with obstinance in Platonic *anamnesis*, its neglected precedence of ideas –reactivated facing their "*copies*"– and whose differential distance is traveled by the *logos* of/in language. Definitely, this is the scheme that survives, in mere inversion. Thus, the possibility of Memory (which opens and increases in the deep of formal consubstancial and mimetical Art) results really

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there: behind, forgotten, but on the same side and in the same storyline of History. Although in this way the compound of *oblivion-lógos-memory* incorporates the jump from objectivist "*representation*" to the event of "*un-hiding*", breaking thus all logical –and anyway, and at last– affirmative Hegelianism, it nevertheless reproduces the large thought continuity in "*philosophical*" "*seeing-say*" tradition. And, therefore, this jump, this decision, this practical shift, is still a "*metaphysical*" one, notwhithstanding Heidegger move. That is, the metaphysics of the manifestation of the Being that is the old Truth hidden behind the appearance (of the entity as "*representation*"). Now, uprising and unveiling itself, not under *lógos* discovery by science force. The story changes from appearance/truth to unveiling/retreat. This "*critical*" turn comes to an agreement with the same monological discourse that questioned, without submitting and stating it as a problematic "*as such*". It is yet the traditional scene of "*Being behind the entity*", reversing the direction of the stream. Zarathustra has not been there, he went/goes through very far. Heideggerian "*Nietzsche*" has been caught in the petty authorship of his (decimononic, but anacronic) books. Nietzsche has been reduced to "*Nietzsche, the last of the metaphysical philosophers in the history of Western metaphysics*" (Heidegger, 2000).[3]

The Heideggerian *photologism* (Lévinàs, 1993; Derrida, 1989a), withdrawing from the *non-ontological push of the vanquished as peremptory and delayed complot of dead and living*, to the positive clarification of Being, reinterprets their fundamental undermining gesture, polarizing it in the supreme glow of the "*will of power*" as representa-tion/tive of life. Perhaps the scope of biopolitics reaches this dark frontier. Thus, Heidegger includes Nietzsche in his "essential" – monological, monothetical and monotopical– style of criticism, and mobilizes his Heideggerianism of Being as "presence" that more illuminates, more hides, either just giving and/but jointly reserving itself.

The *force-of-oblivion*, that presses on/from below representation, is an even stronger *justice*, in becoming impossible any visual, enlightened manifestation of its power in the (platonic) epistemological technology of eidetic screen. *Justice* is what rests hidden in that light, what pulls hidden back when illuminated. I emphasize the actions, the will, on the verbs: "*presses*", "*rests hidden*", "*pulls hidden back*", for the intervention, just there and so, of a *force-of-sense*. *Justice* comes from beyond (or from nearer; hither there is not the distance that loves Metaphysics) and extends beyond (or closer), opening up the monological monothetical discourse to the poetic "*heteroglossia*" (Voloshinov (& Bajtin), 2009). Dancing, laughing, suffering and hoping in the band of the vanquished, who not stop waiting for, and not cease to give love to, and to believe in, their older/newer gods of heaven, earth and hell, this *justice* pushes the intercorporal senses that come from spectral *force-of-oblivion*. And, in that heteroglossical round, ones and others –alterous communities in the outskirts of History, Politics, and Culture– they meet in *reverse hospitality*.

The problem with *denial* and *oblivion* (as forgetting) is its absorption in the same logic of History which domesticates *justice*, bringing it from the irreducible *obliquity* to fictitious "*correctness*". But, *on the other hand (and band), otherwise, justice comes from others that do not dominate, obliquely and by refraction*. The *disrupted space/time* and the broken *discourse discontinuity* by *oblivion* and *denial* forces are the *working intercultural medium* to this *critical semiopraxis*. In any way it is not the Same History, upside down or right. The *oblivion drama*, its *scenic space of representation*[4], does not have the main purpose of take towards affirmative visibility, doing thereby (repressive and self-containing) "*justice*". Because such a "*justice*" requires, for its idealistic fulfilling, increasingly to emphasize and remark the border of the usual and naturalized "*State-of-being"* (Comarof & Comarof, 1991). These are the biopolitics of Memory, Truth and Justice, necessary in the Rule of Law and its daily states of exception, but insufficient *in the vast infra-history justice reaches*.

Nowadays, in Northern Argentine, still (paradoxically in spite of recent re-ethnicization processes) *dead-Indians, invisible-Blacks, erased-Cholos* (Grosso, 2008a) living and surviving in the *anachronistic element of intercultural ritual's matrixes of (re)creation*, that *drama of negation, denegation and oblivion* twists the proper matter of the world while convoking all local *spectra* (nor mere matter, nor pure idea). *All cinders, all traces, all rests touching the sense in that – and likewise other– mere-to-stay, no more, community*. That is: elements, places, animals, minerals, plants, elements, gods, living and dead, old and new; they all carry their pain, their oppression, their annihilation, their *power-of-negation*, their joys, their hopes, their *force-of-oblivion* (Grosso, 2008a, 2012a;

[3] This phrase resumes the five "*plans and projects*" of "*Nietzsche's metaphysics*", such as they run through Heidegger eyes and mind. These are: 1. the phrase "*will to power*"; 2. "*nihilism*"; 3. the "*eternal return of the same*"; 4. the "*Upper-man*"; and 5. "*justice*"; wherein the former four points come together into the last as their supreme splendor and glory (Heidegger, 2000). And, in so doing, in "*positive*" (being the more hidden masked "*positivity*" which allows the same discourse to continue), the critical gaze dodges and neglects the *force-of-oblivion* that works on page 257.

[4] Throughout this text I used "*representation*" in two divergent senses. "*Representation*" as "*putting-in-front*" for the gaze of eyes is not the same as "*representation*" as *dramatic inter-corporal interaction* (Derrida, 1989b). These two senses tune and match with Marxian differentiation between "*theoretic objective relationship*" and "*practical objective action*": static the first, and *dynamic* the second, which leads and pushes to *critical praxis* (Marx, 1985). The second sense is closer to what I call: "*semiopraxis*".

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2014d). The *work of representation* sets on the scene a *postcolonial justice* in which the "*affirmation of life lets itself to turning back and to furrow by denial*" (Derrida, 1989b: 321). No way to give back the *remains* to the formal monument (of Law, History, Tourism, in short: the "*State-of-being*" of the State; Grosso, 2014e) but to spread their proliferation getting impossible the containment of *oblivion*, and to spill them out of the limits that repress their otherness. *The force-of-oblivion saves space-times-other that rest (un)active, and emerge in its surly medium in weaving other histories folding bodies.*

V. Ritual Matrices of Reverse Hospitality

"*Semiopraxis*" recognizes that, in our Latin American lands (and in the wider post-Eurocentric-colonialism), colonial and national hegemonic formations, and their logocentric discourses, have sunk into bodies, folding over folded, identities made in *disqualification, stratification, effacement and denial*. The *postcolonial intercultural* frameworks, along the length and breadth of this historical tortuosity, cannot be described from a position that draws the maps and other iconic configurations of the objective knowledge (not even the reflexive and critical objectivation to the mode of the *Socioanalysis* of Pierre Bourdieu), but at the (paradoxical) price of suspending the management of the senses by social (and non-social-human) actors in their struggles. The *discourse of bodies* can be approached, in all its baroque density and historical-political conflict, if the (un)social fabric of *silences, denials and subalterns* that constitutes us is recognized as the place of production of scientific practice. Many expressions and concepts produce by social sciences aid us in this way: "*cultural struggles*", "*hidden polemics*", "*pluri-accentuations*", and "*symbolic fights*", latent in the formations of "*symbolic violence*" in which we live. They are all *sedimentations in ethnic and social practices, and arts-of-doing*, differentiated and stratified. In our scrambled territories, the *differences* are not only those that are exposed, clearly inferior or excluded. There is also, and above all, *invisibility, silence, self-censorship, self-denial, denial, ignorance, force-of-oblivion, dramatic night voices in bodies* (Grosso 2008b; 2017g; 2017h; 2017i; Kusch 1983; 1976; de Friedemann, 1984; Bartolomé, 1996; Segato, 1991; Wade, 1997).

When I arrived in 1986 at Santiago del Estero, in Northwest Argentina, to take up the chair of Philosophy of Culture at the National University and started to carry out fieldwork in the interior of the province, I was struck by how, in that vast dusty plain of low bush with gentle slide and slow rivers, a furious semiology was unleashed in every popular religious festival, and everywhere was flowing the omnipresence of music. In those years, I re-read, in a systematic way, the texts of Rodolfo Kusch (whom I had already known during the years of my initial formation in Buenos Aires). [5] Then, the *ritual relief of gesture* as cultural mediation appeared *in corpore* to me, as a very significant socio-cultural key. Five years of fieldwork in Santiago del Estero, with some trips to Bolivia and Peru, made me go through a *dense path of gestures, silences and languages* from which I could not get out. Irreplaceable gift of reflective, critical and thinking ethnography.

In 1993 I carried out an investigation in the North of Potosí, Bolivia, at the community of Bombori. There, many ritual circuits around a Saint Jacques ("*Santiago*"), performatively turned into an Andean god, with the scope that He has been "*converted*" (for the second time: now in outskirts of Christian faith) into the patron of the Bolivian shamans ("*yatiris*"), who meet annually in Bombori for the 25 of Julio. *Gesture and ritual interaction is the field where a powerful ethno-cultural policy is unfolded*.

The cult evolves around "*Tata Bombori*": a "*Santiago"* one (whose current image appears to be actually that of *San Cosme,* or *other* "*Spanish*" *saint*) that goes back, through local myths and legends, to the Conquest and the Colony. Associated with the *hills* ("*mallkus*") and with the *lightning* ("*rayu"*), He is submerged in the pre-Inca times of the Aymara lordships. The North Potosí region was the core of the great Charka Confederacy, constituted by five Aymara-speaking ethnic groups which after falling under (first) Inca and (then) Spanish rule retained its recognition as a political unit. But, increasingly, the Qhishwa language was displacing the Aymara. One of the ethnic groups, the Qaraqara, dominated the region where at present the sanctuary is, with its etnopolitical center in Macha, nowadays still organizational reference of the "*ayllus"* (*communities*) of the area. The *ayllus* annually congregate for May 3, *The Day of Cross* ("*Crus P'unchay*"), according to the old segmentary principle of organization (Platt, 1982; 1987). *A territorial palimpsest inhabits calendar, devotions and histories.*[6]

If we enter Bombori into the path of the pilgrims, we will observe a ritual circuit that circumscribes spaces, consecrates times, formalizes actions, and separates objects densely, symbolically charged. *The performance of this ritual circulation highlights (as an equivocal way of saying) the communicative and practical mediation that*

[5] Rodolfo Kusch (1922-1979) radicalizes and places, in the postcolonial Latin American context (more specifically Andean and indigenous), the remission of scientific rationality and philosophical language to the *geocultural* horizon of the historical common sense of emergence and belonging that phenomenology was proposing. Kusch, thus, acknowledges, in meaning and action, a *critical other* "*indigenous and popular*" *thinking* in ancestral cultural logics of difference, and its derives in the realm of colonialism, both under Hispanic and (even) Republican rule. See Kusch 1983; 1986; 1975; 1976; 1978.

[6] See about Santiago de Bombori *in extenso*: Grosso, 2007; 2017j. See also Platt, 1992; 1994.

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gesture operates in the Andean world, where the politics of difference go through ways of doing, rather than through linguistic argumentation or ideological enunciation.

When arriving at Bombori, the first thing that the pilgrims do is to visit the churches. In the new church, it is found the main image of Tata Bombori, transferred there from the old church since the late 1980s, under serious pressure by the parish priest of Macha. In the old church, the "*aggregate*" ("*agregadas*") images have been left. That is: those attached to accompany the principal one, and which had been brought later. Yet, despite the main image is not in the old church, the pilgrims go first to this. If the doors are closed (only during the month of July they remain open, daylight and nighttime), they kneel in front of them, "*crying*" ("*pidiéndose*": prayers and invocations amid sobs and tears, both, men and women) for a long time. The devotees make a kind of "*sign of the cross*" on their breasts, in the mode of a greeting, similar to the one performed by the peasants of the place when they face each other walking in the way: a vague circular drawing with the hand that crosses the face and the chest, and the head always bending over. If the doors are open, there are those who come in on their knees. Once inside, nobody should never turn his/her back on the Saints. Even still to retreat, everybody walks backwards or sideways. In a solemn gesture, hats ("*sombreros*", in the case of women) and wool bonnets ("*ch'ulus*") (men) are often been removed inside the church. Broadwise in front of the altar, there are candles lit on candelabra and iron tables. The devotees "*ch'allan*" (they make libations pouring drinks, serpentine and multicolored chopped paper), chew "*coca*" leaves ("*akullikan*"), smoke cigarettes, drink alcohol, burn incense ... The murmur, the fume, the smell, the heat (the small enclosure has only a narrow chimney and a tiny window), all added to the beverage, *coca* and tobacco, lead to a dozing ecstatic mood.

The pilgrims focus their devotion mainly to the tower ("*el turri*") of the old church. They sprinkle it by throwing in high, drink (alcohol, beer) and blood ("*la ch'allan*"). The tower, becoming thus "*el turri-mallku*" ("*the tower-hill*"), remains, from top to bottom, suffused in a mixture of coca, eggs, alcoholic drinks and, the most precious: blood, entrails and heads of animals, sacrificed at its foot, usually sheep or *llamas*. The bleeding is collected in an occasional container (metal, wood or plastic made of) and is thrown against the tower, forcefully, upwards. The entrails and heads are left for many days or weeks on the belfry, under the two bells, as a dead animal is left in the skirt of the hill to feed the "*kuntur-mallku*" ("*condor-of-the-hill*"). Undoubtedly "*el turri-mallku*" sprinkled with blood is the climax of the frictions of this Christian-Andeanized cult with the Christian communion that manages the Catholic Church.

The rest of the animals are carried by the whole propitiating group (with its *yatiri*, if that is conducted by one) and are cooked without salt and without condiments. The common meal concludes with the deposit of the bones without breaking them, on the skirt of one of the three near elevations on the left of the tower, which is called "*Tataj cielo*" ("*Father of sky*"). The other two mounds are "*sayris*", and "*asiru wayraña*". "*Tataj cielo*" is a more solid construction, like a calvary, larger than the other two. "*Sayris*", or "*Sayjata*", are rocks a little higher up, at the top of the elevation, destined for "*fiesta asuntus*". From here, the gaze reaches the mountain Tanka Tanka, which is the more powerful mountain of the region (from below it can not be seen). Standing in "*Sayris*", the view links Tanta Tanka and "*el turri*". Finally, the third elevation: "*asiru wayraña*", named the "*church of the devils*". It is conical, rome and thick, by the river, and its slope facing "*el turri*" is planted with bones. Sometimes, the community of pilgrims with its *yatiri* bury the bones on the slope beneath "*Tataj cielo*" and make "*ch'allas*" over them. The "*ch'allas*" and the act of depositing the bones on the skirt, or of burying them, are denominated "*to feed*". This is preferably performed on Tuesdays and Fridays, but never on Monday, because it is the "*día de ánimas*" ("*day of souls*", the dead). Instead, it is done throughout all July.

"*Tataj cielo*", "*sayris*" and "*asiru wayraña*" are three "*aviadores*" ("*that which provide the supplies*"), from the colonial Spanish verb: "*aviar*", "*to provide for the trip*", "*to give what is necessary for sustenance or for a qualified action*". "*Asiru wayraña*" is "*paña aviator*" ("*right side provider*"), "*qari*" (*male*); "*Tataj cielo*" is "*lloq'e aviador*" ("*left provider*"), "*warmi*" (*woman*); and "*turri aviador*" (also called "*turri of the Lord*" and "*turri mallku*") is "*chaupi aviador*" ("*provider of the center*"), and the most powerful. Perhaps "*sayris*", associated with "*el turri aviador*", constitute the point of mediation in *the ritual trace Tanka Tanka – el turri*. "*Asiru wayraña*", out of this tripodal order, is a provider of trucks (metonymically called "*Volvos*", a brand of trucks), money, sheep, *llamas* and cows; while "*Turri aviador*" and "*sayris*" are providers of animals with *ch'allas* of eggs, candles, "*korpas*" (food based on meat), *chicha* ("*fermented corn drink*"), alcohol, wine, but with *ch'alla* of blood, gives more, also trucks. "*Tataj cielo*" is animals and health provider. *These three "aviadores" associate and immerse, by ritual gesture, the Christian saint into the Andean cult of the hills*.

After three consecutive years, the pilgrims should offer a "*misa*". "*Misa*" is the well known liturgy celebrated by the priest in the new church, the Mass, but it is also the "*mesa*"[7] ("*table*") that offers a *yatiri* with

[7] It should be mentioned here that, in Quechua, the Spanish vowel sound "e" becomes the (Spanish and Quechua) sound "i", since "e" is not part of the phonetics of the subaltern language. Hence "misa" (Mass) is also "mesa" ("table", in Spanish), which is the surface of wood or stone on which the yatiri performs his ritual.

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multiple ingredients, and, beside it, is also the total ritual performed by the latter to make getting the new truck to "*suerte*" ("*luck*"), that is: the "*ch'allas*". Three years accomplished, the pilgrim must offer a "*Mass*" celebrated by Catholic priests; meanwhile the others "*misas*" ("*mesas*") are performed on each pilgrimage. The participation of a priest for the feast on July 25th (and, if possible, for the entire month) is indispensable, because (in addition to the Mass) blessings, baptisms and processions require him. In the morning, at noon, and in the afternoon of the festive day, processions are performed with the main image of the Saint, only ever around the ancient church, walking in the opposite direction of the clock, among prayers, pyrotechnics and the cadentious march animated by a band of metals and percussion (omnipresent group in all Andean festivities). The procession leaves aside the new church and enclose the old one, passing by some crosses of the old cemetery that survive around it. Along the circuit, two stops are made, behind and in front of the ancient church. Then, the priest sprinkles blessings with holy water. It seems that the sprinkling during the procession and the Mass itself -inasmuch as "*misa*" is also the "*mesa*" ("*table*") offered by the *yatiri*– have been assimilated to the *ch'allas*, as the ones proper to Christian powers. *Displacement of the senses and resignification are carried by the gesture in the very silence of the ritual action*.

Thus, "*Tata Bombori*", "*Lord Santiago*", is surrounded by these ritual circuits, among which are also different divinatory rites. *The Saint is incorporated into a ritual framework with the deities of the hills, who embrace him, becoming all others*. Perhaps the most notable enclave of this assemble is "*the turri mallku*", Christian and Andean *at the same time, undecided*. *In the extended relational gesture, on the outside, all find each (in) other, nothing, or nobody, remaining equal or the Same*. That is: the devote pilgrims-*Tata Bombori-kawallitu* ("*caballito*", which is one the most important accompanying images in the old church)-*turri mallku-yatiri-sayris-Tanka Tanka-Tataj cielo-asiru wayraña-diablus* (diabolic beings)-*kuntur mallku*-"*the stone split by the rayu*"-*cerru San Cosme-cerru Qilla Qilla* (the last both, hills surrounding Bombori)-*Bombori mayu* (the *Bombori* river)-*Santa Wara Wara* (*Saint Barbara*, "*el Luceru*", the star Venus)... *all this relations constituting a community of beings in an extensive and open gestographic network*. *This is a large and cosmic ritual tissue in the outskirts of culture, which huge hospitality in reverse recherche "suerte" ("luck"), and meet all beings out there, in the exteriority, as the more flexible and powerful politics without pólis. Therefore, a barbarian hospitality receives outside, and goes out to find always joy in some difference, in becoming other among others.*

In a more extense text (Grosso, 2017j), I talk (and write) about a *gestographic ritual tetra-semiopraxis in Tata Bombori's cult, that involves rayu – cielo – diablus – cerru, and in which motley matrix the Lord Santiago is welcomed, and returns another among others*. But, far from (en)closing this *gestographic ritual tetra-semiopraxis* in a structural scheme, I find an agency instability in *a "diablus fund", collected, withdrawn and buried in "asiru wayraña", from which they operate with force-of-oblivion, from below, from the dead, stretching hands out towards the rayu, the cielo and the cerrus, and, among them, the Saint*. Thus, *diablus works with rayu, and the hills, and the kuntur mallku, and the Saint, in rites of divination*; and *with turri-mallku, and sayris, and Tanka Tanka, and the Saint, in the scattered and buried bones that "feed"*; and *with tataj cielo, and turri mallku, and all the others, in the ch'allas*. *Diablus operates like a lightning-from-bellow that sprinkles and makes tremble with its force all the ritual gestograma*. *But nobody replace any other, all are invoked in ritual tension searching "suerte" ("luck").*

The "diablus fund" is an oblivion that (un)works ("desoeuvre"), always preceding from buried, from destroyed, from retired beings. An excess of hospitality in the exteriority, in the (un)measure that the mishearing and unknown beings are welcome, extending relations on a vast palimpsest where all ways carry their footprints, all traces erase others, all ashes integrate the new fuels, and all the fuels fires in the fire. An *Andean print*, in *intercultural dispersion*, on that old appreciation of Cicero, which says:

> *"… (quamquam) id quidem infinitum est in hac urbe; quacumque enim ingredimur, in aliqua historia vestigium ponimus."* (Cicero, 1914, *Libro V, 4*)
>
> *"(Although) this in effect is the infinite in this city (Rome): wherever, therefore, that we enter / walk, in any history we put footprints."*

"We put footprints": so much as we print there our new tracks ("*we enter*"), as much as we put our traces on the previous tracks that we find there ("*we walk on*"): *we unveil / walk on the palimpsest*. *Traces on/over traces. A corporal-material discourse emerges from below, from the silent and laborious, just (un)working, oblivion.*

Olivia Harris (1989: 220) had said, again in the Andes, that the material remains of ancient populations (ruins, ceramics, treasures, burials)

> "*are of great importance not only in the preservation of a collective memory of the past, but in maintaining a constant communication that past reactivates at certain moments in the life and in annual cycle*."

That is to say, *they are not only "things", but they keep a ritual sense, they still exist for changing relations, they are mediations and touches of power in the search of "suerte" ("luck"). From oblivion, the ritual matrix reconstelated of a local community of beings, human and non-human, living and dead, gods and elements,*

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does not deal with mere remains, but with remains that rest: they diminish, they repose, they re-turn, they (un)work, they do it undoing, they receive outside, where always all matter (nor chaos nor cosmos defined at all) awaits us. These rests are what just stay anymore, what was left, a semiopraxis from behind the bodies, a communication (common contact *sensu*, in hospitalary communities outside, in the always another difference)*, a disruptive communication that opens the justice of the others who non dominate, but play relations as perhaps the more archaic art of doing.*

The matricial plot is verse, groove, pathway, aperture, channel, lip, double event: mother and child, always two, never one, always more, always split, cut, multiple, in (re)constellation. The matrix tissue keeps (leaves and keeps) what is dark of the soil, dense, tight, enclosed, opaque, untouchable in its extensive thickness, stone blackness, tectonic handcraft, earth art, text, body, tomb, revolted earth, latent death, spectral dream, cosmic metamorphosis...

San Fernando del Valle de Catamarca, 2024.

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Classification of the Bulgarian-Tatar Epigraphic Monuments and Some Controversial Problems of their Study

By Vener Usmanov

The Purpose of the Study- Identification of some unsolved problems of studying and fixing the Bulgarian-Tatar epigraphic monuments. Performing high-quality photographic documentation with accompanying drawings and partial reconstructions. Complete or fragmentary restoration of damaged epitaphs becomes feasible only with a paleographic comparative analysis of calligraphic compositions. At the same time, the main carrier of information about the artifact, in addition to the object under study, is a full–fledged high-quality photograph of the epigraphic monument from all sides where the necessary data are available - compositional solutions, calligraphic decor, ornamental motifs, texts, etc.

In the course of our scientific work, local field studies were conducted on the ground, museum and archival materials were studied and the necessary literature on this topic was reviewed. In our opinion, previous researchers analyzed these artifacts one-sidedly, not comprehensively, for example, from the point of view of philologists only, without taking into account paleographic or artistic characteristics, or vice versa, art historians did not particularly delve into the content of texts and writing features.

Keywords: bulgarian-tatar epigraphy, bulgarian language, r-language, common turkic language, drawings, restoration of texts, transliteration, paleographic and orthographic norms, classification.

GJHSS-F Classification: LCC: JQ3599

CLASSIFICATIONOFTHEBULGARIANTATAREPIGRAPHICMONUMENTSANDSOMECONTROVERSIALPROBLEMSOFTHEIRSTUDY

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Classification of the Bulgarian-Tatar Epigraphic Monuments and Some Controversial Problems of their Study

Классификация Булгаро-Татарских Эпиграфических Памятников и Некоторые Дискуссионные Проблемы их Изучения

Vener Usmanov

The Purpose of the Study- Identification of some unsolved problems of studying and fixing the Bulgarian-Tatar epigraphic monuments. Performing high-quality photographic documentation with accompanying drawings and partial reconstructions. Complete or fragmentary restoration of damaged epitaphs becomes feasible only with a paleographic comparative analysis of calligraphic compositions. At the same time, the main carrier of information about the artifact, in addition to the object under study, is a full–fledged high-quality photograph of the epigraphic monument from all sides where the necessary data are available - compositional solutions, calligraphic decor, ornamental motifs, texts, etc.

In the course of our scientific work, local field studies were conducted on the ground, museum and archival materials were studied and the necessary literature on this topic was reviewed. In our opinion, previous researchers analyzed these artifacts one-sidedly, not comprehensively, for example, from the point of view of philologists only, without taking into account paleographic or artistic characteristics, or vice versa, art historians did not particularly delve into the content of texts and writing features. Despite the tremendous work done by epigraphists O. N.-A. Akchokrakly, N. F. Kalinin, G. V. Yusupov, J. G. Mukhametshin, F. H. Valeev and F. S. Khakimzyanov, there are many unresolved problems in this direction: for example, the question of the status of the Bulgarian (written and spoken) language in the Golden Horde period, the accuracy of its transmission in transliteration with elements of transcription, the correctness readings of some lexemes and personal names, uncertainty of the semantic meaning of a number of words, names and terms, etc. And also, when documenting: the lack of high-quality photographs, illustrations and prints. Often, many of the prints taken are not brought to their logical conclusion, as usual, they lack conscious ink images and texts where the paleographic subtleties of Arabic writing would be clearly displayed. As you know, the main carrier of information about the object is well-executed high-quality photography from all sides, where there is full-fledged graphic information about the cabretache with readable text; in epigraphy studies, ignoring high-quality photographs, prints, prints is unacceptable, since all this contradicts mandatory requirements and elementary methods of scientific work; i.e., the visual component is in this case, it prevails, and everything else is complementary; to offer readers the text of the reading (transliteration, transcription) without a case, i.e. without photographs of epigraphic monuments, we researchers are not satisfied at all, since the compilation of catalogs and registers, without proper quality of graphic images of gravestone steles, (we ourselves do not notice this) impose our own versions of reading epitaphs as an indisputable truth and do not leave the opportunity for readers to verify the correctness of the contents of the proposed lapidary texts.

If we recall some pages from history, in the Golden Horde, in particular, in the Bulgarian Vilayat, two independent Turkic languages continued to exist: international Kipchak-Oguz (Old Tatar) and Bulgarian (it often happens that specialists in Turkology leave this (Bulgarian) direction in linguistics outside of scientific interests (apparently for this reason for this reason, the author of this article, who has only an art education, has to deal with this problem). In this state, there were more opportunities for the spread and development of the Oguzo-Kipchak language (for obvious reasons), and Bulgarian continued to exist, in parallel, only within the Middle Volga region, i.e. both Turkic languages existed simultaneously. For more than 100 years, the Bulgarian territory has been part of the Juchi Ulus and the ethno-linguistic changes caused by it have been taking place in favor of the Kipchak-Oguz language of the general Turkic type. And these phenomena are fully reflected in the epitaphs of the XIII-XV centuries. For example, some Bulgarian words are eventually replaced by Old Tatar ones: instead of the Bulgarian word "grave monument" or "burial place" بلۏی ک (**«беләвике»**) the old Tatar is used, with a similar meaning زیارتی (**«зиярәте»**) [21, p. 249].

There is a need to consolidate and study the Bulgarian-Tatar epigraphic monuments at a qualitatively new level with good photographic fixation, without special material costs, at least using traditional methods of making drawings, as far as possible, taking into account the paleographic features of the texts, with further compilation of a complete set of artifacts with subsequent publication of catalogs.

Bearing in mind the above-mentioned guidelines, in recent years books with better printing and with the obligatory availability of rich illustrative material have been published [20, pp.1-282].

Keywords: bulgarian-tatar epigraphy, bulgarian language, r-language, common turkic language, drawings, restoration of texts, transliteration, paleographic and orthographic norms, classification.

Цель исследования- **выявление некоторых нерешенных проблем изучения и фиксации булгаро-татарских**

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эпиграфических памятников. Выполнение качественной фотодокументации с сопровождающими прорисовками и с частичными реконструкциями. Полное или фрагментарное восстановление поврежденных эпитафий становится осуществимым только при палеографическом сопоставительном анализе каллиграфических композиций. При этом главным носителем информации об артефакте кроме исследуемого объекта является полноценная качественная фотография эпиграфического памятника со всех сторон где имеются необходимые данные – композиционные решения, каллиграфический декор, орнаментальные мотивы, тексты и т.п.

В ходе нашей научной работы были проведены локальные полевые исследования на местах, изучены музейные и архивные материалы и обзор необходимой литературы по этой теме. Предыдущими исследователями эти артефакты были анализированы, по нашему мнению однобоко, не комплексно, например, с точки зрения лишь филологов, без учета палеографических или художественных характеристик или наоборот искусствоведами особо не вникая в содержание текстов и особенностей письма. Несмотря на огромную проделанную работу эпиграфистами О. Н.-А. Акчокраклы, Н. Ф. Калининым, Г. В. Юсуповым, Дж. Г. Мухаметшиным, Ф. Х. Валеевым и Ф. С. Хакимзяновым остается много нерешенных проблем в этом направлении: например, вопрос статуса булгарского (письменного и разговорного) языка в Золотоордынский период, точность его передачи в транслитерации с элементами транскрипции, правильность прочтения некоторых лексем и личных имен, неопределенность смыслового значения ряда слов, названий и терминов и т. д. А также, при документировании: отсутствие качественных фотографий, иллюстраций и эстампажей. Зачастую многие снятые оттиски не доведены до логического конца, как обычно, в них отсутствуют осознанные туширование изображения и тексты где четко были бы отображены палеографические тонкости арабского письма. Как известно, главным носителем информации об объекте является хорошо выполненная качественная фотосъемка со всех сторон, где имеется полноценная графическая информация о кабрташе с читабельным текстом; в исследованиях по эпиграфике игнорирование качественных фотографий, эстампов, оттисков недопустимо, так как, это все противоречит обязательным требованиям и элементарным методам научной работы; т.е. изобразительная составляющая является в этом деле превалирующей, а все остальное – дополняющей; предлагать читателям текст чтения (транслитерацию, транскрипцию) без корпуса, т.е. без фотографий эпиграфических памятников, нас – исследователей совершенно не устраивает, так как, составление каталогов и реестров, без надлежащего качества графических изображений надмогильных стел, (мы сами не замечая этого) навязываем свои варианты прочтения эпитафий как непререкаемая истина и не оставляем возможность читателям проверять правильность содержаний предлагаемых лапидарных текстов.

Если вспомнить некоторые страницы из истории, в Золотой Орде, в частности, в Булгарском вилаяте продолжало существовать два самостоятельных тюркских языка: международный кыпчакско-огузский (старо-татарский) и булгарский (нередко бывает так что, специалисты-тюркологи оставляют это (булгарское) направление в лингвистике вне научных интересов (видимо, по этой причине этой проблемой приходится заниматься автору этой статьи, имеющий лишь художественное образование). В этом государстве для распространения и развития огузо-кипчакского языка (по понятным причинам) было больше возможностей, а булгарский продолжал существовать, параллельно, лишь в пределах Среднего Поволжья, т.е. оба тюркских языка существовали одновременно. В течение более 100 лет пребывания Булгарской территории в составе Джучиева Улуса и вызванные с ним этно-лингвистические изменения происходят в пользу кыпчакско-огузского языка общетюркского типа. И эти явления полностью отражаются в эпитафиях XIII-XV вв. Например, некоторые булгарские слова со временем заменяются на старо-татарские: вместо булгарского слова «намогильный памятник» или «место погребения» بلۈی ک (*«беләвике»*) употребляется старо-татарское, аналогичного значения زیارتی (*«зиярәте»*) [Усманов 2023: б. 500].

Есть необходимость закрепления и изучения булгаро-татарских эпиграфических памятников на качественно новом уровне с хорошей фотофиксацией, без особых материальных затрат, хотя бы, используя традиционные способы выполнения прорисовок, насколько это возможно, учитывая палеографические особенности текстов, с дальнейшим составлением полного свода артефактов с последующим изданием каталогов.

Имея ввиду вышеназванные установки, в последние годы издаются книги с более качественной печатью и с обязательным наличием богатого иллюстративного материала [Д.Г. Мөхәммәтшин, Р.Г. Насыйров 2023: 282 б.].

Ключевые слова: булгаро-татарская эпиграфика, булгарский язык, р-язык, общетюркский язык, прорисовки, реставрация текстов, транслитерация, палеографическо-орфографические нормы, классиф-икация.

I. Introduction

В данной статье рассматриваются эпиграфические памятники (кабрташи) Волжской Булгарии эпохи Золотой Орды [Валеев 2020: 116]. Обычно, у мусульман вместо слова «*надгробие*» [Валеев 1984: 71] принято использовать термин «*на(д)могильный камень*». Они являются очень ценными первоисточниками, достоверными документами без последующих добавлений и исправлений (в отличии, скажем, от рукописных книг) по истории этногенеза шимали-тюркских народов, в частности, по вопросам происхождения и географического расселения казанских татар, да и не только [Эпитафии мусульманских ученых Самарканда (X-XIV вв.) 2019]. Кроме этого, мемориальные памятники являются произведениями искусства, где соединяются многие виды творчества: архитектура, декор, поэзия, каллиграфия и т.п. Они, с каждым годом, по причине отрицательных природных воздействий разрушаются и исчезают безвозвратно. И поэтому, сохранение, фиксация, документирование этих артефактов становится для нас насущной потребностью [Ашмарин 2017: 143].

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Эта работа, связанная по составлению каталогов (подобно хронологическому регистру) и издание их в виде печатных книг является вполне осуществимой задачей и она, шаг за шагом продвигается: например, из сохранившихся памятников XIII-XVII в. относительно хорошо изучены; а артефакты XVIII-XX в. тоже можно осилить, акцентируясь на наиболее значимых с художественной точки зрения эпитафиях). Только, таким образом, можно их собрать в одном месте и сохранить для потомков. (Кроме всего, это наследие может быть и в электронных носителях, сейчас ведь возможностей очень много).

Словом, изучение эпиграфических памятников требует целенаправленной работы по выявлению и фиксации (определение размеров, координат, аккуратная и осторожная очистка поверхностей камня от мха и лишайников со всей поверхности и со всех сторон, где имеется какая-либо информация, связанная непосредственно с текстом или с декоративным оформлением) всех булгаро-татарских кабрташей в ходе научных экспедиций по имеющимся «адресам». Обязательное «личное знакомство» с каждой значимой с исторической и с художественной точки зрения эпитафией на местах расположения.

Если камень частично «ушел в землю» то, в этом случае, необходимо аккуратно выкопать эпитафию для фотофиксации с последующей расшифровкой всего сохранившегося текста. Надо подчеркнуть, артефакты-эпитафии в процессе фиксации требуют особого внимания и бережного отношения: при очистке от следов биодеструкций требуется старание, аккуратность и предоставление необходимого времени – столько, сколько необходимо. «Обычно эти памятники, если раньше кем-нибудь не очищались с целью прочтения, бывают покрыты сплошным слоем разъедающего камень лишайника; с ними приходится долго возиться, отмачивая горячей водой с мыльной пеной и очищая травяной щеткой. Только такой тщательной очистки удается удовлетворительно разобраться в некоторых надписях» [Рахим 1930: 145-172].

При очистке и чтении текста важна любая маленькая деталь: элементы букв, огласовки, точки и т.п. А по другому, никак. Это первооснова! Без такого подхода к работе не может быть никакого серьезного исследования с последующим выполнением прорисовки.

В ходе эпиграфических исследований лишь в середине и второй половине XX в., после Н.Ф. Калинина была проведена корректировка классификации памятников времен Золотой Орды, чуть позднее, с некоторыми дополнениями Г. В. Юсуповым и Ф. Хакимзяновым [Мухаметшин 2008: 132] были разделены на две группы по языку, размерам и стилю оформлений. В ходе дальнейших исследований Дж. Мухаметшин осуществляет классификацию *булгаро-татарских эпиграфических памятников* на четыре группы по географическому принципу подчиняя к нему остальные: 1) булгарский, 2) кирмень-джукетауский, 3) восточный и 4) северный округа.

Мы предлагаем следующую классификацию (типологизацию):

1 тип – эпитафии созданные в мастерских г. Болгар: Этого типа эпитафии находятся в разных географических зонах: на современной территории Татарстана, Башкортостана, Чувашии, Ульяновской обл. и в г. Казани [Казаков 1987: 240]. (Не исключается существование отдельных мастерских по изготовлению надмогильных памятников в г. Казани в этот период, тесно связанной с Болгаром). Эпитафии г. Болгара отличаются высоким художественным уровнем исполнения, в особенности принадлежащие правящему классу общества. Видимо, в главном городе Булгарского вилаята существовала не одна, а, несколько мастерских, работающих по цеховому принципу.

В свою очередь, 1-ый тип можно разделить на следующие подтипы:

а) эпитафии созданные в мастерских г. Болгара почерком бегущий сульс (или насх) рельефным способом на арабском языке принадлежащие правящей верхушке, военной и торговой аристократии и служителям культа (Рис. 1);

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Рис. 1: Эпиграфический памятник Сабар-Илчи, дочери Бураш-бека, 1291 г. (г. Казань, Республика Татарстан)

б) эпитафии созданные в мастерских г. Болгара рельефным почерком бегущий сульс (или насх) на арабском и татарском[1] языках принадлежащих правящей верхушке, военной и торговой аристократии и служителям культа;



Рис. 2

Рис. 2: Эпиграфический памятник Шахидуллы, сына Мусы, 1317/1318 гг. (г. Болгар, Республика Татарстан)

[1] Как правило, эпитафии на этих памятниках написаны на арабском и на литературном старо-татарском языке кипчакско-огузского типа (*«татарским письмом»)* [Трепавлов 2024:773], который часто идентифицируется с (чагатайским) тюрки. Следует подчеркнуть, здесь нельзя противопоставлять поволжский тюркский (старотатарский литературный) язык со среднеазиатским, «чагатайский язык образовался в связи с культурным влиянием Золотой Орды на Туркестан, а не наоборот» [Бартольд 2020: 121]. Что касается староузбекских эпиграфических памятников, то они, вероятно, после эпохи великого Алишера Навои (преимущественно) выполнялись уже не на тюркском (староузбекском), а на персидском и арабском языках [Бартольд 2020: 7].

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в) эпитафии созданные в мастерских г. Болгара в сочетании с рельефным почерком бегущий сульс (насх) и рельефный куфи на арабском, татарском и булгарском языках принадлежащих правящей верхушке, военной и торговой аристократии и служителям культа (Рис. 3, 4);

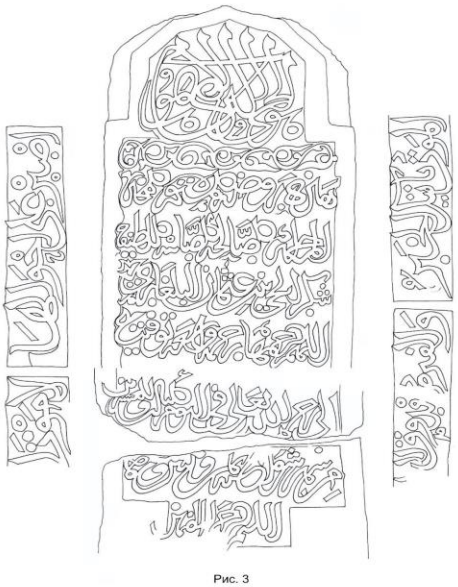

Рис. 3

Рис. 3: Эпиграфический памятник Шекер-илчи, дочери Османа Булгарского (с. Татарское Шапкино Алькеевского района Республики Татарстан).

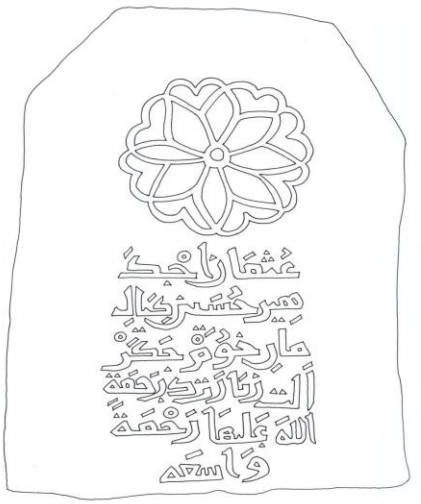

Рис. 4

Рис. 4: Эпиграфический памятник Джак-ар-Алти (село Татарское Шапкино Алькеевского района Республики Татарстан)

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г) эпитафии созданные в мастерских г. Болгара почерком рельефным куфи на арабском и булгарском языках принадлежащих среднему классу; (видимо, с принятием ислама для тюрко-булгарского языка и в последующие столетия традиционно использовался куфи («*бозык куфи*»), хотя куфический вид письма сами арабы избавились уже в IX веке [Алиева 2009: 392], (Рис. 6);



Рис. 6: Эпиграфический памятник Исмагила, сына Маджара, 1311/1312 гг. (с. г. Чистополь, Республики Татарстан).

д) эпитафии созданные в мастерских г. Болгара рельефным куфи и врезанным куфи на арабском и татарском языках (Рис. 7);



Рис. 7: Эпиграфический памятник Ар-Ходжи, сына Йуркуча. (с. Татарский Калмаюр Чердаклинского района Ульяновской области)

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е) эпитафии созданные в мастерских г. Болгара врезанным почерком куфи на арабском и булгарском языках (Рис. 8);



Рис. 8

Рис. 8: Эпиграфический памятник Йалу, дочери Хуалджи. (с. Чувашская Елтань Чистопольского района Республики Татарстан)

ж) эпитафии созданные в мастерских г. Болгара рельефным почерком куфи и врезанным почерком насх на арабском и татарском языках (Рис. 5);

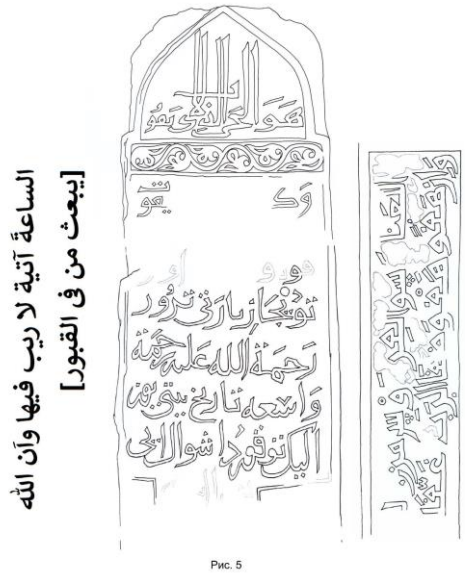

Рис. 5

Рис. 5: Эпиграфический памятник Туйджи, сына Кутлуга, 1358 г. (с. Татарский Калмаюр Чердаклинского района Ульяновской области)

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з) эпитафии созданные в мастерских г. Болгара врезанным почерком насх на арабском и татарском языках (Рис. 9);

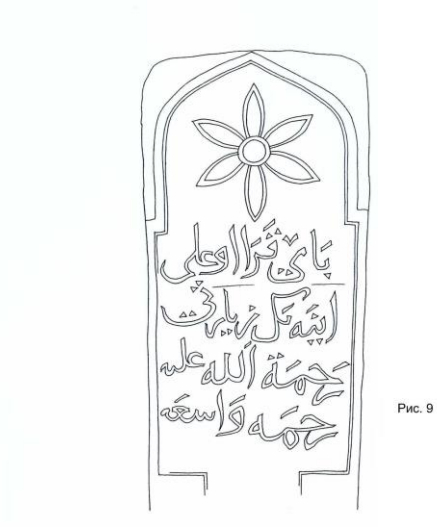

Рис. 9: Эпиграфический памятник Инабека, сына Байкары. (с. Татарский Калмаюр Чердаклинского района Ульяновской области)

2 тип – эпитафии созданные в кирмен-джукетауском округе.

Этой группы «провинциальные» кабрташи отличаются меньшим количеством, ниже уровнем исполнения, лаконичностью, а также, по особенностям типажа, размеров, пропорций и стиля;

а) эпитафии изготовленные рельефным простым почерком куфи на арабском, булгарском и старотатарском языках в мастерских Биляра, Джукетау (тат.:*Җүкәтау*) и Кирмени и примыкающим к этим городам населенных пунктов; эти памятники приземистые, с пологими арками и отличаются большей шириной [Д.Г. Мөхәммәтшин, Р.Г. Насыйров 2023: 282 б.] (Рис. 10);



Рис. 10: Эпиграфический памятник Мухаммада, сына Йусуфа, 1333 г. (с. Ст. Ромашкино Чистопольского района Республики Татарстан)

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б) эпитафии созданные врезанными почерками куфи и насх на арабском, булгарском и старотатарском языках в мастерских Биляра, Джукетау и Кирмени и примыкающим к этим городам населенных пунктов;

3 тип – эпитафии созданные почерком врезанный насх в провинциальных округах.

а) эпитафии созданные почерком насх на арабском и татарском языках на современной территории Татарстана, Башкортостана, Удмуртии, Кировской и Ульяновской областях разными местными резчиками письма по камню, в хронологическом отрезке – с конца XIII до середины XV вв; следует заметить, как обычно, каждый «провинциальный» катиб о бладал только ему присущим индивидуальным исполнением композиции упрощенного типа отличающийся от других, т.е. локальными вариантами некаллиграфического письма (Рис. 11);



Рис. 11: Эпиграфический памятник Йусуфу, сыну Шеиха, 1443 г. (с. Большие Нырси Тюлячинского района Республики Татарстан)

б) эпитафии созданные почерком насх на арабском и булгарском языках в течение 100 лет до середины XV вв. на более отдаленных территориях от основных городов разными местными резчиками письма по камню и несоответствующие высокому каллиграфическому искусству (Рис. 12);



Рис. 12

Рис. 12: Эпиграфический памятник, 1323 г. (п. Гордино, Белезинский район Удмуртской Республики)

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Предположения некоторых ученых-филологов в виде утверждения: «Язык же волжско-булгарских памятников лишь в Среднем Поволжье стал функционировать в качестве особого языка надмогильных плит» [Хакимзянов 1978: 206] считаем неприемлемым, так как, булгарские слова текстов эпитафий «р-языка» являлись широко употребляемыми на данной территории в тот период, если, было бы не так, то они вообще не использовались бы в эпиграфике. То есть, в золотоордынский период булгарский «р-язык» с разными диалектическими особенностями не был мертвым или архаичным «протоболгарским» языком [Ахметзянов, 1998: 99-119], а, продолжал существовать параллельно с «кыпчакско-огузским» (старо-татарским) литературным языком. На этом родственном «р-язык»е (т.е. на городском койне), очевидно, создавались небольшие литературные и художественные произведения, составлялись документы, переписывались сотни и тысячи книг в рамках Булгарского вилаята, несмотря на скромные и не совсем до конца сложившиеся местные письменные традиции [Мухаметшин 1987: 128]. И об этом говорят и доказывают факты существования многочисленных исторических документов «каменных архивов» в виде эпитафий до второй половины XIV века.[2] Более 70% этого письменного наследия выполнялись на этом языке, а зафиксированный последний кабрташ на «протоболгарском» с указанием даты относится к 1360 году. Если бы, у булгарских катибов живших в XIII-XIV вв. отсутствовала практика переписывания книг с особенностями орфографии на местном языке, то и не было бы и булгарских эпитафий – это аксиома! *Логически рассуждая об этом, по фактическим материалам: как раз в золотоордынский период в Среднем Поволжье получает дальнейшее бурное развитие булгарская эпиграфика на разных (булгарском, старотатарском и арабском) языках.* Но, однако, следует подчеркнуть то, что в пределах Среднего Поволжья для локального булгарского языка в «изолированном» от мировых языков не было тех условий и возможностей для развития и создания крупных литературных поэтических произведений, например, коим является «Кыйссаи-Юсуф» Кул Гали. Необходимо отметить интересные заключения некоторых современных среднеазиатских, крымских и азербайджанских специалистов (Бабура Аминова, Мемедуллы Усеинова, Мешадиханум Неймат): из созданных эпитафий во времена существования Джучиева Улуса текстов написанных на общетюркском языке на современной территории Узбекистана, Крыма и Азербайджана составляет от общего количества от 1 до 5%. Данных по Юго-Западной Азии у нас нет достоверных сведений, а по Среднему Поволжью использование булгарских и «чагатайских», помимо текстов на чисто арабском языке, эта цифра составляет значительное количество – до 85 %. Но, эти сведения никоим образом не уменьшают и не отрицают роли огромного и основного кыпчакско-огузского влияния этих регионов на возникновение и становление булгаро-татарской эпиграфики. Как видим, в истории могут быть и такие несоответствия.

По нашему мнению, именно, практикующие местные переписчики книг (катибы, хаттаты), архитекторы, ювелиры, а также, многие владеющие грамотой мастера различных ремесел занимались этим видом искусства и отражали в своих работах живой разговорный и литературный булгарский язык. Как раз, написанные пером формы и линии арабских букв на бумаге, автоматически, почти без изменений, переходили на поверхность камня с помощью резца. В этом деле мягкий местный известняк являлся одним из самых приемлемых материалов для передачи красоты каллиграфического декора. Здесь, необходимо отметить еще одну интересную мысль: очевидно, из тех текстов эпитафий «р-языка»[3] что создавались в булгарских городских центрах выполнялись на «наддиалектном койне», а в населенных пунктах, отдаленных от культурных столиц, тексты эпитафий производились на разных диалектах местного тюрко-булгарского языка отражавшие живой разговорный язык. Конечно же, при приспособлении арабского алфавита к нуждам булгарского языка учитывались общетюркские (в том числе, древнеуйгурские), персидские и арабские многовековые традиции письменной культуры.

По утверждению М. Ахметзянова, анализ так называемых "булгарских" текстов показывает ход интенсивного исчезновения булгарского языка, начиная с конца XIII в. [Ахметзянов 1998: 99-119]. Из вышесказанных слов М. Ахметзянова, необходимо сделать некоторые поправки и уточнения: по нашему мнению, сохранившиеся эпитафии показывают *ход интенсивного исчезновения булгарского языка, начинается не с конца XIII в., а (ориентировочно) с середины XIV в. Т.е., Булгарский народ со своим провинциальным тюрко-булгарским языком в составе Золотой Орды, (а потом, Казанского ханства) плавно переходил в кыпчакско-огузский (старотатарский) язык; другими словами – они в течение 300 сот лет, по существу, полностью подверглись ассимиляции, т.е. произошел процесс татаризации*[4] [Усманов 2023: 352], избегая потомков современных чуваш.

[2] В историографии впервые булгаро-татарские эпиграфические памятники были классифицированы Н.Ф. Калининым на две группы (стиля) по языковому принципу: 1) кипчакско-огузский (общетюркского типа), 2) булгарский (р-язык).

[3] "*Во́лжско*-булга́рский *р-язы́к* (*в* лингвистике используется также термин среднебулгарский *язык*) был распространён *в Волжской Булгарии* и в Булгарском улусе Золотой Орды. Одним из его прямых продолжателей является чувашский *язык*. Известен по написанным арабской графикой эпитафиям XIII—XIV вв". https://ru.wikipedia.org/wiki/Булгарский_язык#:~:text=Во́лжско-булга́рский%20р-язы́к%20(в%20лингвистике%20используется,языках%20народов%20Поволжья%20и%20Предуралья

[4] Однако, и в середине XVI века некоторые отатарившиеся деятели культуры Казанского ханства (в частности, поэт Мухамедьяр) писали свои художественные произведения на тюрко-татарском языке, но в то же время, не признавали себя татарами и продолжали негативно относиться к названию этнонима «татар».

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Исчезновение изготовления эпиграфических памятников на булгарском языке в XV в. нельзя наивно объяснять вымиранием специалистов-оформителей каменных плит [Хакимзянов, 1978: 206].

Здесь необходимо добавить и о некоторых сомнительных версиях объяснения присутствия элементов языка «чувашского» типа на языке эпитафий (2-го стиля). « Такое влияние стало возможным, по видимому, только из-за того, что мастерами-изготовителями надгробных камней служили чуваши (суасламари), которые, будучи мусульманами, затем ассимилировались среди обычно тюркоязычных булгар» [Закиев 2003: 496]. А также, надобно подчеркнуть еще одну мысль, связанная с фактом присутствия «чувашизмов»[5] в булгаро-татарской эпиграфике: современный этнос – чуваши, конечно же, к этим мусульманским артефактам имеют определенное отношение, так как оба этих родственных этноса имеют общие тюрко-булгарские корни, этот факт никто не может отрицать. Но, однако, если бы современные чуваши являлись прямыми и единственными потомками волжских булгар, то они назывались бы булгарами и исповедовали бы ислам [Усманов 2023: 352]. В любом случае, сохранившиеся мусульманские эпиграфические памятники на арабской графике являются общим культурным достоянием тюркоязычных народов Поволжья, в том числе и чуваш.

Сторонники «протоболгар»ского языка в противовес вышесказанной мысли ставят вопрос: «Если существовал булгарский язык в период Золотой Орды, где же оставшиеся от этого народа литературные произведения, рукописные книги и другие нарративные источники? А ведь, кроме определенного набора слов, в артефактах нигде не отражается живой разговорный язык или литературный, хотя бы, в виде, нескольких предложений» – говорят они. В тот период, из-за неперспективности конкурировать с мировым общетюркским языком, действительно булгарский язык сдал свои позиции и окончательно сошел с исторической арены. В научных трудах из-за отсутствия более-менее полных лапидарных текстов на тюрко-булгарском языке, кроме эпитафийной составляющей, многие вопросы в этой области остаются не решенными.

Для дальнейшего исследования материалов в этом направлении, к лексическому фонду «р» языка можно было бы добавить тюрко-булгарские слова – собственные (языческие) имена и прозвища погребенных, зафиксированных на эпиграфических памятниках, например: بوپس *Бүдәс*, بلدس *Бәлдәс*, جمارا *Җәмәрәү*, مَجَک *Мәҗәкә*, اڕجَو *Эрҗәү*, يَلَو *Әйү*, يَحَم *Йәхәм*, رقياج *Рәкыяҗ*, اعمَش *Әгъмәш*, پلُح *Исүх*, يلنوک *Үҗих*, اترَج *Әтрәч*, اوْرَان *Әүрән*, وُڕُم *Вөрүм*, موحشو بصَان *Мухшу Басан*, المُشاک *Әлмүшәк*, حوم باڕجنک *Хум Бәрҗәнәк*, القيسَ *Әлкыйс*, جُولَ *Җүлү*, کمک *Кәмкү*, يُوَل *Йүвәлү*, بلحس *Бәлхәс*, مُوَحْپس *Мухшу*, رَمَک *Рәмәк*, يَلبَه *Йәлбәh*, پسوياڕلِ اَصبَب *Аснаба Суярли*, تطای *Тотай*, и т.д. Вполне вероятно, что многие из них, как и тюрко-татарские имена, имеют определенные смысловые значения как, например: *Тәңребирде, Тимербәк, Үзбәк, Сатылмыш, Биктимер, Үлмәс, Алтынбай, Көмешбикә, Айбикә, и т.д.* Таким образом, есть возможность дальнейшего воссоздания хотя бы некоторых слов тюрко-булгарского языка.

Хаттаты-резчики «р-языка» были достаточно знакомы и с аббасидскими орфографическими традициями. Но, однако, остаются вопросы тюркологам для конкретного объяснения, связанные с использованием некоторых буквенных символов с применением точек под буквами локального характера (например: ڕ ڊ صٖ طٖ پس عٖ ي و (или одна точка над буквой و)).

Следует подчеркнуть: а, в дошедших до наших времен в текстах - эпитафиях на старо-татарском языке такие особенности, почему то, полностью отсутствуют или встречаются реже. Видимо, это было связано с особенностями орфографии персидского, древнетюркского (в частности, булгарского) языков. На этот вопрос до сих пор нет ясного ответа от тюркологов. Стоит заметить, применение точек под некоторыми арабскими буквами, мы встречаем на некоторых образцах эпитафий (кайраков) эпохи караханидов.

При изучении эпиграфических памятников Поволжья времен Золотой Орды, как было сказано выше, исследователями-предшественниками производилась классификация эпитафий и по внешним признакам: учитывая стиль, далее язык, оформление, орнаментика и другие особенности памятника [Мухаметшин, 2008: 132].

Пример разбора некоторых (типологически и по языковому принципу близких) «высокого стиля» эпиграфических памятников написанных каллиграфическим почерком сульс на арабском и на условном старотатарском («чагатайском») языках на образцах эпитафий г. Болгара – принадлежащих [Сафар[7]]-Малике и Хусейн-беку (находящийся на кладбище близ железнодорожной станции Чишмы в Башкортостане). Очевидно, оба этих памятника изготовлены одним и тем же мастером-резчиком из г. Болгара. Вполне вероятно, что обе стелы имели одинаковые формы. По внешнему и стилистическому оформлению обе надписи однотипны, вводные и благожелательные тексты однообразны. В обеих памятниках в навершии располагалось изображение выямчатой килевидной арки с плечиками (эта часть памятника называется тимпаном или по С. Вахиди – именуется «*михрабом*»), где расположены одинаковые коранические формулы [Гариф 2012: 308].

Вероятно, текст изначально был написан катибом с помощью тростникового пера скорописным

[5] *Хакимзянов Ф.С.* Язык эпитафий Волжских булгар. М.1978 - С.16.

[6] *Мухаметшин Д.Г.* Татарские эпиграфические памятники. Региональные особенности и этнокультурные варианты. Казань: Институт истории АН РТ, 2008. С. 15.

[7] Предполагаемый вариант прочтения: Шамар-Маликэ.

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Текст написан уверенной рукой резчика и хаттата (каллиграфа) в одном лице, который обладал хорошими знаниями, навыками и чувством художественного вкуса. Как правило, такие мастера имели опыт работы в различных сферах творчества: в ювелирном деле, в книжном искусстве, в каллиграфии, в деревообработке и т.п. Строки отделены между собой пустой полосой, что создает определенный порядок.

Современному зрителю (включая специалистов в области текстологии) трудно быстро прочитать или расшифровать этот каллиграфический текст XIV века, так как, витиеватые слова и буквы переплетенные друг с другом воспринимаются нами как криптограмма. Не обладающим достаточным опытом выполнения транслитерации современным специалистам-кодикологам такого рода эпитафии расцениваются как трудно читаемыми. Так как, многие буквы написаны с «нарушением» правил арабской орфографии с индивидуальными приемами письма резчиков-катибов. Поэтому, некоторые слова прочитаны предшественниками или современниками с ошибками. Например: الاوركانجى *ал-Үргәнчи* (Рис. 14)



Рис. 14: Фрагмент эпиграфической надписи

преподносился как *ал-Африкенджи*[8]. Если проделать палеографический анализ: в данном случае первая буква *алиф* изображается («неправильно») в виде отростка соединенная в навершии с буквой *лям*. Далее, *вау* без отрыва пера (каляма), как в скорописи, соединяется с *ра*, что противоречит элементарным правилам орфографии. Естественно, в прошлые века, прекрасно осведомленные в арабской графике ученые мужи, без никаких проблем, могли правильно прочитать эти слова. При транслитерации имени погребенной тоже могут быть разночтения: الشَريفة سَفار ملک *әш-шәрифәт Сәфар-Мәликә* или по Д. Мухаметшину: الشَريفة شَمر ملک *әш-шәрифәт Шамар-Малика.*

То есть, по ходу чтения ошибки могут быть, от этого никто не застрахован. Взаимные исправления – это нормальный процесс работы. Заметьте, устранять недочеты или неточности первопроходцев или предшественников на много проще.

На лицевых частях обеих эпитафий тексты написаны на арабском, а на боковых – часто используемые двустишия на «тюрко-чагатайском» языке (рис. 2):

[8]*Мухаметшин Д.Г., Хакимзянов Ф.С.* Эпиграфические памятники города Булгара. Казань. 1987 - С.119.

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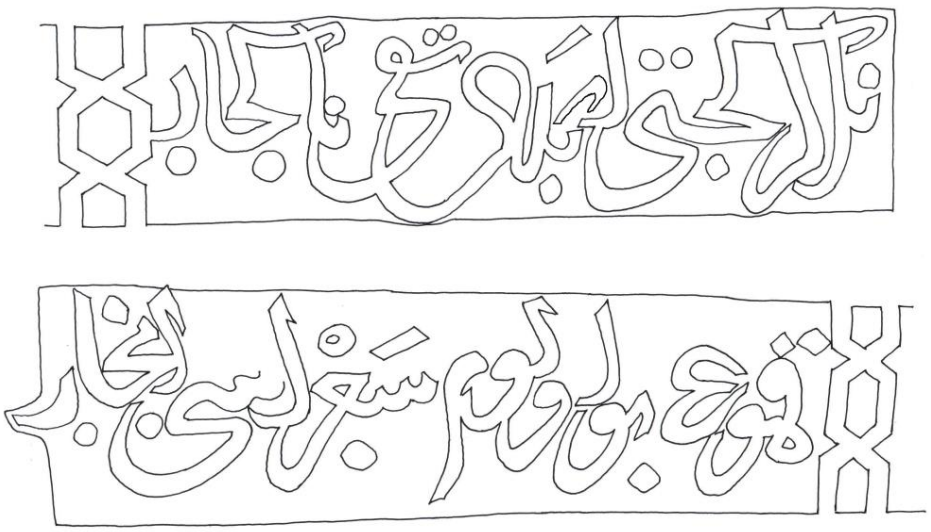

Эпиграфический памятник Шамар Малике. Надписи на левой стороне .

Рис. 13 (а)

Рис. 13: (а) Эпиграфический памятник (надписи на боковых сторонах)

نلار كچتى ابَلاى تقى نا كچار
قموع بو اولوم سَغر ايچار

Транслитерация:

[Ниләр кичте әбәләй тәкый нә кичәр, камуг үлем сәгърасы ичәр]

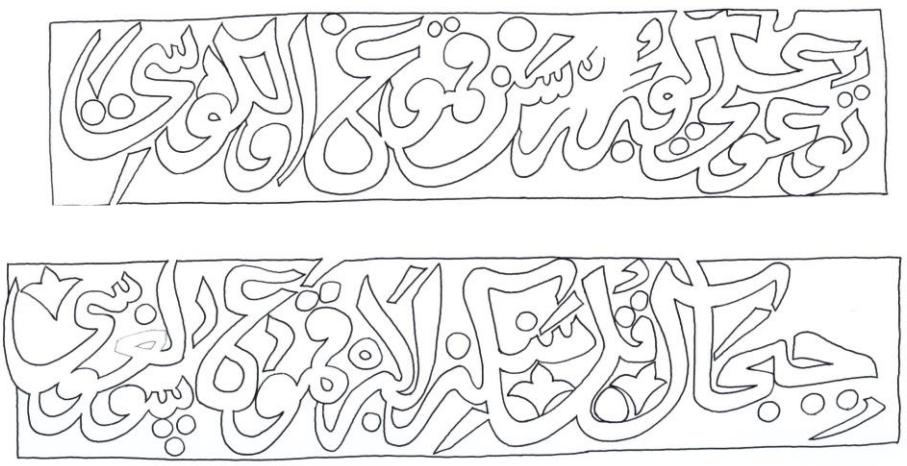

Рис. 13 (б)

Рис. 13 (б): Эпиграфический памятник (надписи на боковых сторонах)

[ثُعوعلي كورْرْ سَنْ قموعْ اولكوسي]
[چيجَک قُلسَنكِز لَارْ قَمُو پسُولغوسى]

Транслитерация:

[Тугуглы күрерсән камуг өлгүсе, чичәк кылсаңызлар камуг сулгусы]

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Выше приведенные слова пока остаются не прочитанным до конца. Видимо, эти сихотворные строки являются одним из свободных переводов какого-то, часто встечающегося в кабрташах, произведения неизвестного нам классика арабской литературы, который, со временем превратился в образцовый шаблонный вид. Кроме этого, как правило, могут быть и варианты этого двустишия перевода с персидского языка или мистический текст принадлежащий перу знаменитого суфийского поэта Ахмеда Ясави [Гарустович 2020: 400]. Таких нерешенных значимых задач в булгаро-татарской эпиграфике предостаточно, например, один из них – неопределенность точного имени погребенного на территории Казанского городища в Казани [Халит 2009: 392] (Архиерейской дачи) или другое слово خُوم («*хум*») которому до сих пор не имеется конкретного объяснения языковедами [Усманов 2023: 500].

Булгаро-татарские эпиграфические памятники, изготавливались из местного известняка. Одним из главных факторов появления традиции установления надмогильных стел является наличие легко обрабатываемого камня на территории Среднего Поволжья (как правило, они создавались из местного известняка или песчаника).

Итак, благодаря исследованиям предшественников были установлены временные рамки распространения булгарских эпитафий в Среднем Поволжье; с середины XIII по XV вв. с очевидным преобладанием кабрташей в 1320-1340 гг.

Изучение мусульманских татарских эпиграфических памятников в России имеет трехсотлетнюю историю. Эта важная работа связана с именами многих (более 40) представителей культуры и науки: (религиозных деятелей, историков, лингвистов, востоковедов, искусствоведов, краеведов) начиная с ахуна Кадыр-Мухаммеда Сунчалеева до молодого эпиграфиста А.М. Гайнетдинова [Малов, 1948: 41–48]. Среди них необходимо особо отметить огромную работу выдающихся ученых И. Н. Бороздина, А. С. Башкирова, Б. Н. Засыпкина, У. А. Боданинского, О.-Н. А. Акчокраклы, П.И. Голландского, Н. П. Эрста, Н. Ф. Калинина, Г. В. Юсупова, Д. Мухаметшина, Ф. Хакимзянова и, конечно же, Х. Фаизханова, который подобрал ключ для расшифровки булгарских эпитафий [Усманов 2023: 352].

Разумеется, в результате многолетних исследований по этой теме, о булгаро-татарских эпитафиях написано очень много книг и сотни статей. И пользуясь случаем, хочется сказать слова огромной благодарности всем нашим эпиграфистам-предшественникам. К сожалению, из тех особо ценных собранных полевых материалов – основная часть, находятся до сих пор в архивах в неопубликованном виде и ждут своих исследователей (правда, следует отметить, не все экспедиционные материалы выполнены на должном уровне, т.е. не доведены до желаемого логического конца и, поэтому, многие из них не дают полную информацию о лапидарном наследии (об этом подробнее будет сказано ниже). Время летит неумолимо быстро и эту работу необходимо делать оперативно, качественно – соответствующим по всем специфическим критериям научной практики. В этом деле прикладная часть должна стоять во главе угла. Без точного закрепления носителя информации (качественной фотографии) не может быть и никакого дальнейшего аналитического анализа эпиграфических памятников.

Здесь хочется сделать акцент об уровне качества выполняемых работ. Это напрямую касается нас, а также, и предшественников: в этом деле необходим «взаимоконтроль» и критический подход для своевременного исправления своих же недочетов и недостатков, для совершенствования общего дела.

До сегодняшнего времени, взятых на учет кабрташей (включая фрагментарные эпитафийные обломки) насчитывается более 4 0 0а , по словам Ф. Хакимзянова – около 600). Следует заметить, в этот список не входят золотоордынские эпиграфические памятники Хорезма, Нижнего Поволжья, Крыма и других бывших «татарских территорий».

По логике, на территории Улуса Джучи самое большое количество кабрташей, несомненно, было создано в Ургенче, или в столичном городе Сарай-Берке, чаще всего из привозных материалов: мрамора, известняка, песчаника и керамики. К сожалению, многое из того наследия не дошло до наших времен, т.к. оно было использовано как строительный материал [Закиев 2003: 496]. По причине исчезновения большей части этих объектов, некоторыми специалистами (например, археологами) отрицался сам факт существования тюрко-татарской эпиграфики за пределами Волжской Булгарии.

Вопрос: Откуда же и когда начинается традиция установления надмогильных эпитафийных надписей? Как известно, обычаи установления памятных знаков на могилах предков существует у всех древних народов с языческих времен, в том числе, и у тюрков с руническими надписями стелы (*тораташ*) или каменные изваяния (*балбал, сынташ*), олицетворяющие культ предков.

Например, всемирно известный надмогильный мемориальный комплекс VIII в. кагана Бильге и его брата Кюль-Тегина выявленный русским ученым Н. М. Ядринцевым в 1889 г. Надписи дешифрованы в 1893 г. датским лингвистом В. Томсеном, впервые прочитаны в 1894 г. В. В. Радловым. (https://tatarica.org/ru/razdely/istoriya/srednie-veka/kultura/kyul-tegina-stela).

До расширения влияния ислама в степных просторах Дешт-и-Кипчака получило распространение установка «каменных баб» (*сынташ*) на могилах предков, а после включения в ареал мусульманской цивилизации эти отголоски изображений скульптурных фигур приобретают скрытые антропоморфные очертания, в виде условного изображения (например, наподобие *башказык, ташбилге или башбата* [Красильников К. И., Апареева Е. К., 2021: 368].

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С принятием мусульманской религии у большинства тюркских народов начинают воздвигать надмогильные памятники уже с арабографическими текстами со строгим соблюдением исламских правил.[9] Очевидно, изначально эта традиция пришла в Поволжье из Аравийского полуострова через Аббасидский халифат, в первую очередь, через территорию Караханидского и Саманидского государств, далее через Ургенч. Кроме вышеуказанного, не исключаются и другие исходные направления маршрутов прямого культурного влияния на периферийные регионы, в частности, на Среднее Поволжье. Это воздействие очень сильно проявляется с приходом войск Батухана [Ахметзянов 1998: 99-119].

Видимо, Среднеазиатские (в частности, хорезмийские) мастера сыграли большую роль в возведении многих памятников (в том числе, эпитафийных) времен хана Узбека в городах Поволжья.

В рассматриваемый нами период истории, после 1240 г. после ожесточенной борьбы Волжская Булгария была подчинена Улусу Джучи, первой столицей которого (в XIII в.), политическим и торгово-ремесленным центром был город Булгар. Булгарские правители расширяли свое влияние главным образом в районах рек Вятка и Кама. Во 2-й половине XIII-XIV вв. основное население переселилось из Закамья в Предкамье. Внутри Волжской Булгарии выделились Казанское, Булгарское, Жукотинское и другие княжества. Как известно из истории, на территории Золотой Орды, включая Булгарский вилаят, существовало более сотни городов. Это государство представляло из себя симбиоз оседлых (городских) и кочевых культур, где мирно уживались различные религии, народы и племена. Наличие сохранившихся эпиграфических памятников подтверждают факт, о том, что этот регион, по существу, был самым северным высокоразвитым государственным образованием во всей мусульманской цивилизации.

В связи с развитием строительного дела: (кирпичного – среднеазиатского, каменного – крымско-закавказского и деревянного – местного) получает широкое распространение и изготовление и установка массивных надмогильных памятников, в первую очередь, среди высшего сословия и зажиточного населения [Мухаметшин 1987: 128]. Следует сказать, общее оформление булгаро-татарских эпиграфических памятников создавались в рамках общепринятых мусульманских установок связанных непосредственно с книжным искусством, с архитектурой, с ювелирным делом и т.д. То есть, булгаро-татарские эпиграфические памятники являются не только архивными документами, но и произведениями творчества, где синтезируются различные виды изобразительных искусств. По существу, внешний облик надмогильных стел напоминали рельефную декорировку фрагментов архитектуры Крыма, Закавказья или классические образцы убранства Среднеазиатских культовых сооружений, но исполненных в однотонном монохромном варианте из серого известняка.

Содержание текстов эпитафий говорят о том, что в изготовлении кабрташей участвовали не только местные мастера резчики по камню из Булгарского вилаята, но и приезжие каллиграфы-катибы из Средней Азии (Ургенча, Бухары, Самарканда, …), Нижнего Поволжья[10] (Сарай Бэркэ), Крыма (Солхата, …), Закавказья (Ширвана, …) и т.д. Следует особо отметить, и о влиянии ширванских классических традиций, что требует отдельного сравнительного анализа и изучения. Существует ряд эпиграфических документов, свидетельствующих о той важнейшей роли, какую играло мусульманское Закавказье в распространении ислама на территории Золотой Орды. «Золотоордынский хан Узбек, побывавший в ханака Пир Хусайна, возвратил имущество ханака, которое было разграблено во время нашествия Золотой Орды на Ширван» [Неймат 1991: 248]. Как известно, в город Болгаре, сохранились эпитафии мусульманских богословов Садр ад-Дина аш-Ширвани, Махмуда ибн Исмаила аш-Шемахии, шейх Имад ад-Дина аш-Ширвани» [Юсупов 1960: 92–93].

«Памятники эти, с их непонятными для широких масс народа арабизмами, - пишет известный эпиграфист Г. В. Юсупов, – были для них своего рода символами, обожествлявшими личность представителей правящей феодальной верхушки»» [Мухаметшин 1987: 128].

В отличие от представителей власти того периода, трудовое население было в состоянии ставить лишь деревянный кол (*башказык, башбата*) или простой дикий камень с родовой тамгой «*ташбилге*».

В то время в Золотоордынском государстве, в частности, в Булгарском вилаяте продолжало существовать два самостоятельных тюркских языка:международный смешанный кыпчакско-огузский (старо-татарский) и булгарский. В связи с подъемом экономики получает дальнейшее развитие письменно-деловые и литературные функции этих языков. Естественно, в пределах этого государства для распространения и развития наддиалектной формы языка общетюркского (кыпчакского), по понятным причинам, было больше возможностей, а булгарский продолжал существовать, параллельно, лишь в пределах Среднего Поволжья, т.е. оба тюркских языка существовали одновременно. В течение более 100 лет пребывания Булгарской территории в составе Джучиева Улуса и вызванные с ним этно-лингвистические изменения происходят в пользу регионального койне кыпчакского языка [Нуриева 2016: + 4 с. цв. вкл.].

[9] Некоторые балбалообразные надмогильные памятники (*сын ташы, кабер ташы, мазар ташы, гур ташы*) времен тенгрианства, уже в дальнейшем, приобретают скрытый антропоморфный внешний вид.

[10] Очевидно, эпиграфические памятники Нижнего Поволжья более всего напоминали Ургенчские или Хорезмские, наподобие булгарских (по определению Н. Ф. Калинина – эпитафии 1-го стиля). Эту версию могут доказать лишь чудом сохранившиеся археологические материалы в виде мелких фрагментарных остатков.

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В историографии (как отмечено было выше) впервые булгаро-татарские эпиграфические памятники были классифицированы Н. Ф. Калининым на две группы (стиля) по языковому принципу: 1) кипчакско-огузский (общетюркского типа), 2) булгарский (р-язык). В период существования Улуса Джучи на территории Среднего Поволжья (т.е. в Волжской Булгарии) функционировали несколько основных языков, назовем некоторые из них: арабский (язык науки), персидский (язык литературы), кыпчакско-огузский и местный булгарский язык с различными диалектическими особенностями. По сохранившимся из Средне-волжского эпиграфического наследия 70% памятников составляют язык булгар на городском койне, 15% старотатарский (поволжско-тюркский) и 15% арабский. В данное время, четких представлений о булгарском языке у языковедов не имеется, т.к. кроме, текстов эпиграфических памятников, других письменных артефактов не выявлены. И поэтому, иногда, появляются определенные сомнения о булгарском происхождении некоторых представителей литературы, в частности поэта Кул Гали. Вполне вероятно, он родился, учился и создавал свои художественные произведения на территории Средней Азии (например, в Хорезме), в окружении общетюркских мусульманских культурных традиций. Но, однако, не исключается вариант связанный со Средним Поволжьем и с ее письменной культурой. Так как, очевидно, еще до «монгольского нашествия» в Булгарском государстве наряду с арабским, персидским и булгарским широко употреблялся старо-татарский язык. Одним из доказательств этому являются сообщения Рычкова, о существовании памятника 1173 года из Биляра[10] (т.е., датированного еще с периодом «до татаро-монгольского ига»), а также, по сведениям Г. Ахмарова – факт наличия «в с. Ямбухтино Тетюшского района на пороге сельской церкви вырезанная «красивая надпись сульсом» на поверхности камня на татарском языке: [12]

٦٤٢ الدندا ٨٤ ياشندا عدد تاريخ التى يوز قرق ايكى ده

Есть очень большая вероятность в достоверности приведенных вышеуказанных слов, т.к. разборчивые надписи на старо-татарском языке не вызывает никаких затруднений или каких-либо сомнений. Если бы, они были выполнены на булгарском языке, то они не смогли бы разобраться в этих текстах. Кроме этого, до Х. Фаизханова духовные деятели из татар осведомленные о тюркских письменных традициях не могли читать смысл слов написанных на непонятном им (булгарском) языке. Из вышесказанных слов, становится очевидным то что, задолго до образования Золотой Орды в Среднем Поволжье существовала местная письменная традиция не только на старо-татарском, но вероятно и на булгарском языке. Видимо, до 1236 года в этом государстве центром по изготовлению надмогильных камней являлся столичный город Биляр, а также и другие города менее значимые – Болгар, Джукетау и т.п., включая Казань до Джучиевского периода и после. Так как, в последующие века Казань стремительно застраивался превращаясь в крупный промышленный центр, при этом теряя древние строения и памятники, в виде использования надмогильных плит как строительный материал и, поэтому, мало что осталось от них.

Вопрос: Конкретно где и кем создавались высокохудожественные эпиграфические памятники?

Имён мастеров резьбы по камню золотоордынского времени не сохранилось, за исключением булгарского ювелира Шахидуллы бин Муса и солхатского строителя-архитектора Махмуда бин Гусман, которые, очевидно, также занимались изготовлением надмогильных стел.[13]. В то время работала целая династия нам неизвестных каллиграфов. Среди резчиков были как приезжие хаттаты, например, (в первую очередь) из Средней Азии, Крыма, Ширвана и т.д., так и местные мастера, получившие образование в различных исламских центрах.

По нашему мнению, в ту эпоху в Золотоордынских городах были созданы свои самостоятельные школы камнерезного искусства со своими сложившимися традициями изготовления и декорировки эпиграфических стел [14], с определенными правилами и установками, без особых региональных отличий (если, конечно, не учитывать языковые различия или индивидуальные особенности авторов резчиков), которые всячески содействовали созданию исламской культуры единого облика. Кроме этого, в некоторых местах жили и работали провинциальные мастера (видимо, из числа катибов или грамотных ювелиров), которые выполняли менее скромные заказы из тех материалов, что было под рукой (например, кирменчукские, азнакаевские и т.д.).

В ходе анализа научных публикаций по кабрташам нами для себя сделаны некоторые выводы для дальнейших исследований. В наше время, необходимо вести работу по эпиграфике целенаправленно, системно, методично, комплексно, опираясь на образцовые труды наших ученых (например, некоторые статьи Х. Фейезханова [Фейезханов 1863: 396-404], доводя работу до

[11] Очевидно, этот памятник был написан на арабском и «старотатарском» языках, т.к. они точно прочитали дату, если бы текст был написан на булгарском языке, они не смогли бы определить время создания эпитафия, так как, на р-языке дата всегда указывалась не цифрами, а, непонятными словами для представителей литературного тюркского языка кыпчакско-огузского типа.

[12] *Юсупов Г.В.* Введение в булгаро-татарскую эпиграфику. М. – Л., 1960. – С.46.

[13] Хаттаты, по какой то причине, не посчитали нужным оставлять свои автографы, хотя, нам известны десятки имен Среднеазиатских или Закавказских мастеров-резчиков каллиграфов-художников.

[14] Кабрташи создавались на основе синтеза различных искусств. Но, однако, (по мнению автора) в первую очередь, они являются произведениями архитектуры малых форм, художественного творчества - резьбы по камню, каллиграфии, декоративного и ювелирного мастерства. И поэтому, изучением эпиграфических памятников, прежде всего, должны заниматься художники-искусствоведы.

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логического завершения, с тем, чтобы вслед за нами идущим эпиграфистам оставалось как можно меньше работы по качественной фотофиксации и полноценному документированию.

Вся работа по сбору и научной систематизации материалов по эпиграфике требует оперативности. Нам в этом деле медлить не коим образом нельзя[15]. Ведь, эти произведения искусства и каменные архивные документы, с каждым днем разрушаясь, исчезают безвозвратно. И по этой причине прикладная часть остается в приоритете.

Как некоторые ошибочно думают, что древние или старинные татарские кабрташи, якобы, уже все зафиксированы. Но, однако, это не так. До сих пор обнаруживаются «новые» неизвестные науке эпитафии, это во-первых. Во-вторых многие фотодокументы и эстампажи не имеют соответствующего качества.

Принимая во внимание особенности проблем графологического анализа кабрташей, следует сказать и то, что для полного и правильного прочтения «запутанных» текстов и плохо сохранившихся надписей, не поддающихся осмысленному чтению, необходимо задействовать не только людей с художественным образованием, но и специалистов в области текстологии, филологии, археографии, ведь такая работа требует коллективных усилий. По сути, без правильного чтения любого эпиграфического памятника нет возможности выполнения ясной и четкой прорисовки. Вопрос: А для чего нужна здесь прорисовка? Ответ: Всё здесь взаимосвязано, именно при выполнении прорисовки производится палеографический анализ, в результате чего, достигается точное или более приемлемое чтение (расшифровка) текста и таким образом осуществляется реконструкция плохо сохранившихся букв или изображений.

Хочется сказать в напутствие молодым, перед татарскими эпиграфистами стоят следующие первоочередные цели: в максимальном количестве успеть зафиксировать на должном научном уровне наиболее значимые сохранившиеся арабографические надмогильные памятники, пока они, не исчезли совсем. Время летит неумолимо, быстро – надо успеть привести это все в определенный порядок (эта вполне осуществимая задача).

Словом, автор этой статьи не в состоянии дать полную лингвистическую характеристику булгаро-татарским эпиграфическим памятникам ввиду малой компетентности в этой области. Цель всей нашей научной работы – это учет имеющихся памятников в виде фотодокументов с прорисовками, полная их публикация, палеографический анализ, чтение и перевод.

Необходимо отметить, в процессе изучения древних надмогильных камней мы допускаем повторяющиеся из поколения в поколение одни и те же ошибки: начинаем конкретную работу, и не завершаем исследование до логического конца. Надобно нам вести дело таким образом, чтобы после нас не оставалось кому-то доделывать – это, в идеале, но надо стремиться к этому. Наши главные недостатки в этом деле, относящейся к прикладной науке (перечислим их):

1) как известно, главным носителем информации об объекте является хорошо выполненная качественная фотосъемка со всех сторон, где имеется полноценная графическая информация о кабрташе с читабельным текстом; в эпиграфике игнорирование качественных фотографий, эстампов, оттисков недопустимо, так как, это все противоречит обязательным требованиям и элементарным методам научной работы; т.е. изобразительная составляющая является в этом деле превалирующей, а все остальное – дополняющей; (как известно – 80 % процентов информации человек получает через зрительные органы;
2) предлагать читателям текст чтения (транслитерацию, транскрипцию) без корпуса, т.е. без фотографий эпиграфических памятников, нас – исследователей совершенно не устраивает, так как, составление каталогов и реестров, без надлежащего качества графических изображений надмогильных стел, (мы сами не замечая этого) навязываем свои варианты прочтения эпитафий как непререкаемая истина и не оставляем возможность читателям проверять правильность содержаний предлагаемых лапидарных текстов; например, некоторые сомнительные варианты имен на эпитафиях, таких как: *Хаккау хафиз, Абыз Риким, Бу җуныл, Аккуҗад, Шусак, Башрана, ...* нас не удовлетворяют; и тому подобные случаи транскрипции не вызывают довер ия, так как, эти слова (в данном случае – имена) воспринимаются нами как «чужие», они должны звучать или по арабски, или на фарси, или по тюркски! Могут быть упрощенно-сокращенные варианты – *Җәләй (Җәләләддин), Мәмәткол (Мөхәммәдкол)* и т.д. Да, иногда могут встречаться искаженные (вместо, *Зөбәйдә – Сөбәйтә* سُبَيتَ) но, это в редких случаях.

Что же является главным при чтении эпитафий (при выполнении транскрипции с элементами транслитерации)?

Ответ: Правильное выполнение транскрипции с элементами транцлитерации текста: написание имен, тахаллусов, топонимов, социального статуса и т.д. Неточное и неправильное прочтение основной части эпитафия является главным нашим недостатком.

Кроме этого, в процессе коллективной работы часто приходится корректировать, дешифровывать запутанные и поврежденные слова или иногда есть необходимость выполнения частичной или полной графической реконструкции;

1. Знакомство с архивными материалами по эпиграфике, хранящихся в фондах С. Е. Малова,

[15] Эти рекомендации и замечания мы воспринимаем не иначе как нормальный рабочий процесс.

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Н. Ф. Калинина, Г. В. Юсупова, А. Б. Булатова и др.;

2. Есть потребность выведения в научный оборот весь «арсенал» богатога архивного изобразительного материала (фотографии, эстампажи, оттиски) наших предшественников; по неизвестным нам причинам, многие сохранившиеся в архивах эстампажи не представляют завершенный туширанный вид. Следует сказать, при снятии копий многие эстампажи выполненные предшествующими, по понятным причинам, в виду плохой сохранности древних эпиграфических памятников, не доведены до конкретики, т.е. нет ясного палеографического анализа.

Из вышесказанного мы для себя делаем вывод: в деле изучения эпиграфических памятников упомянутые требования нам следует впредь знать, не забывать и стараться по мере возможности не допускать повторения предыдущих недостатков.

3. Систематизация и анализ эпиграфического наследия путем составления каталогов по хронологическому, географическому, типологическому, палеографическому, языковому принципам [Мухаметшин 2008: 132].
4. Издание книг с качественной печатью и с обязательным наличием иллюстративного материала (фотографии, прорисовки, эстампажи, оттиски и т.д.). Здесь, следует особо отметить как образцовый сборник: монографию [МИРАС-НАСЛЕДИЕ. Татарстан-Крым. Город Болгар и изучение татарской культуры в Татарстане и Крыму в 1923-1929 годах : в 3 т. / Сост. и отв. ред. С. Г. Бочаров, А. Г. Ситдиков]. Свод иллюстративных материалов снабжены качественными фотоснимками, схемами, чертежами, рисунками участников научной экспедиции и переводами текстов О.Н.-А. Акчокраклы.
5. Составление каталогов в электронном варианте (размещение материалов, например, в различных сайтах), или 3D моделирование, которое позволяет видеть детали до долей миллиметра и тем самым дает возможность частичной или полной реконструкции эпитафия. Есть уверенность в том, что в будущем будут созданы копии особо значимых каллиграфических композиций (в частности, эпиграфические памятники I стиля – где надписи, исполнены рельефным шрифтом сульс). Следует добавить вышесказанному: Наука движется вперед семимильными шагами, появляются новые технологии и возможности для фиксации эпитафийных памятников, но, однако, не нужно списывать со счетов и старые традиционные способы документирования в виде эстампов, оттисков и прорисовок.

Нам предки оставили богатое культурное наследие. И, мы уверены в том, что в будущем книги по камнерезному искусства и каллиграфии, посвященные работам булгаро-татарских мастеров, будут востребованы среди специалистов и широкого круга читателей.

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Plagiarized content will not be considered for publication. We reserve the right to inform authors' institutions about plagiarism detected either before or after publication. If plagiarism is identified, we will follow COPE guidelines:

Authors are solely responsible for all the plagiarism that is found. The author must not fabricate, falsify or plagiarize existing research data. The following, if copied, will be considered plagiarism:

- Words (language)
- Ideas
- Findings
- Writings
- Diagrams
- Graphs
- Illustrations
- Lectures

- Printed material
- Graphic representations
- Computer programs
- Electronic material
- Any other original work

Authorship Policies

Global Journals follows the definition of authorship set up by the Open Association of Research Society, USA. According to its guidelines, authorship criteria must be based on:

1. Substantial contributions to the conception and acquisition of data, analysis, and interpretation of findings.
2. Drafting the paper and revising it critically regarding important academic content.
3. Final approval of the version of the paper to be published.

Changes in Authorship

The corresponding author should mention the name and complete details of all co-authors during submission and in manuscript. We support addition, rearrangement, manipulation, and deletions in authors list till the early view publication of the journal. We expect that corresponding author will notify all co-authors of submission. We follow COPE guidelines for changes in authorship.

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Appealing Decisions

Unless specified in the notification, the Editorial Board's decision on publication of the paper is final and cannot be appealed before making the major change in the manuscript.

Acknowledgments

Contributors to the research other than authors credited should be mentioned in Acknowledgments. The source of funding for the research can be included. Suppliers of resources may be mentioned along with their addresses.

Declaration of funding sources

Global Journals is in partnership with various universities, laboratories, and other institutions worldwide in the research domain. Authors are requested to disclose their source of funding during every stage of their research, such as making analysis, performing laboratory operations, computing data, and using institutional resources, from writing an article to its submission. This will also help authors to get reimbursements by requesting an open access publication letter from Global Journals and submitting to the respective funding source.

Preparing your Manuscript

Authors can submit papers and articles in an acceptable file format: MS Word (doc, docx), LaTeX (.tex, .zip or .rar including all of your files), Adobe PDF (.pdf), rich text format (.rtf), simple text document (.txt), Open Document Text (.odt), and Apple Pages (.pages). Our professional layout editors will format the entire paper according to our official guidelines. This is one of the highlights of publishing with Global Journals—authors should not be concerned about the formatting of their paper. Global Journals accepts articles and manuscripts in every major language, be it Spanish, Chinese, Japanese, Portuguese, Russian, French, German, Dutch, Italian, Greek, or any other national language, but the title, subtitle, and abstract should be in English. This will facilitate indexing and the pre-peer review process.

The following is the official style and template developed for publication of a research paper. Authors are not required to follow this style during the submission of the paper. It is just for reference purposes.

Manuscript Style Instruction (Optional)

- Microsoft Word Document Setting Instructions.
- Font type of all text should be Swis721 Lt BT.
- Page size: 8.27" x 11'", left margin: 0.65, right margin: 0.65, bottom margin: 0.75.
- Paper title should be in one column of font size 24.
- Author name in font size of 11 in one column.
- Abstract: font size 9 with the word "Abstract" in bold italics.
- Main text: font size 10 with two justified columns.
- Two columns with equal column width of 3.38 and spacing of 0.2.
- First character must be three lines drop-capped.
- The paragraph before spacing of 1 pt and after of 0 pt.
- Line spacing of 1 pt.
- Large images must be in one column.
- The names of first main headings (Heading 1) must be in Roman font, capital letters, and font size of 10.
- The names of second main headings (Heading 2) must not include numbers and must be in italics with a font size of 10.

Structure and Format of Manuscript

The recommended size of an original research paper is under 15,000 words and review papers under 7,000 words. Research articles should be less than 10,000 words. Research papers are usually longer than review papers. Review papers are reports of significant research (typically less than 7,000 words, including tables, figures, and references)

A research paper must include:

a) A title which should be relevant to the theme of the paper.
b) A summary, known as an abstract (less than 150 words), containing the major results and conclusions.
c) Up to 10 keywords that precisely identify the paper's subject, purpose, and focus.
d) An introduction, giving fundamental background objectives.
e) Resources and techniques with sufficient complete experimental details (wherever possible by reference) to permit repetition, sources of information must be given, and numerical methods must be specified by reference.
f) Results which should be presented concisely by well-designed tables and figures.
g) Suitable statistical data should also be given.
h) All data must have been gathered with attention to numerical detail in the planning stage.

Design has been recognized to be essential to experiments for a considerable time, and the editor has decided that any paper that appears not to have adequate numerical treatments of the data will be returned unrefereed.

i) Discussion should cover implications and consequences and not just recapitulate the results; conclusions should also be summarized.
j) There should be brief acknowledgments.
k) There ought to be references in the conventional format. Global Journals recommends APA format.

Authors should carefully consider the preparation of papers to ensure that they communicate effectively. Papers are much more likely to be accepted if they are carefully designed and laid out, contain few or no errors, are summarizing, and follow instructions. They will also be published with much fewer delays than those that require much technical and editorial correction.

The Editorial Board reserves the right to make literary corrections and suggestions to improve brevity.

Format Structure

It is necessary that authors take care in submitting a manuscript that is written in simple language and adheres to published guidelines.

All manuscripts submitted to Global Journals should include:

Title

The title page must carry an informative title that reflects the content, a running title (less than 45 characters together with spaces), names of the authors and co-authors, and the place(s) where the work was carried out.

Author details

The full postal address of any related author(s) must be specified.

Abstract

The abstract is the foundation of the research paper. It should be clear and concise and must contain the objective of the paper and inferences drawn. It is advised to not include big mathematical equations or complicated jargon.

Many researchers searching for information online will use search engines such as Google, Yahoo or others. By optimizing your paper for search engines, you will amplify the chance of someone finding it. In turn, this will make it more likely to be viewed and cited in further works. Global Journals has compiled these guidelines to facilitate you to maximize the web-friendliness of the most public part of your paper.

Keywords

A major lynchpin of research work for the writing of research papers is the keyword search, which one will employ to find both library and internet resources. Up to eleven keywords or very brief phrases have to be given to help data retrieval, mining, and indexing.

One must be persistent and creative in using keywords. An effective keyword search requires a strategy: planning of a list of possible keywords and phrases to try.

Choice of the main keywords is the first tool of writing a research paper. Research paper writing is an art. Keyword search should be as strategic as possible.

One should start brainstorming lists of potential keywords before even beginning searching. Think about the most important concepts related to research work. Ask, “What words would a source have to include to be truly valuable in a research paper?” Then consider synonyms for the important words.

It may take the discovery of only one important paper to steer in the right keyword direction because, in most databases, the keywords under which a research paper is abstracted are listed with the paper.

Numerical Methods

Numerical methods used should be transparent and, where appropriate, supported by references.

Abbreviations

Authors must list all the abbreviations used in the paper at the end of the paper or in a separate table before using them.

Formulas and equations

Authors are advised to submit any mathematical equation using either MathJax, KaTeX, or LaTeX, or in a very high-quality image.

Tables, Figures, and Figure Legends

Tables: Tables should be cautiously designed, uncrowned, and include only essential data. Each must have an Arabic number, e.g., Table 4, a self-explanatory caption, and be on a separate sheet. Authors must submit tables in an editable format and not as images. References to these tables (if any) must be mentioned accurately.

Figures

Figures are supposed to be submitted as separate files. Always include a citation in the text for each figure using Arabic numbers, e.g., Fig. 4. Artwork must be submitted online in vector electronic form or by emailing it.

Preparation of Eletronic Figures for Publication

Although low-quality images are sufficient for review purposes, print publication requires high-quality images to prevent the final product being blurred or fuzzy. Submit (possibly by e-mail) EPS (line art) or TIFF (halftone/ photographs) files only. MS PowerPoint and Word Graphics are unsuitable for printed pictures. Avoid using pixel-oriented software. Scans (TIFF only) should have a resolution of at least 350 dpi (halftone) or 700 to 1100 dpi (line drawings). Please give the data for figures in black and white or submit a Color Work Agreement form. EPS files must be saved with fonts embedded (and with a TIFF preview, if possible).

For scanned images, the scanning resolution at final image size ought to be as follows to ensure good reproduction: line art: >650 dpi; halftones (including gel photographs): >350 dpi; figures containing both halftone and line images: >650 dpi.

Color charges: Authors are advised to pay the full cost for the reproduction of their color artwork. Hence, please note that if there is color artwork in your manuscript when it is accepted for publication, we would require you to complete and return a Color Work Agreement form before your paper can be published. Also, you can email your editor to remove the color fee after acceptance of the paper.

Tips for writing a good quality Social Science Research Paper

Techniques for writing a good quality homan social science research paper:

1. Choosing the topic: In most cases, the topic is selected by the interests of the author, but it can also be suggested by the guides. You can have several topics, and then judge which you are most comfortable with. This may be done by asking several questions of yourself, like "Will I be able to carry out a search in this area? Will I find all necessary resources to accomplish the search? Will I be able to find all information in this field area?" If the answer to this type of question is "yes," then you ought to choose that topic. In most cases, you may have to conduct surveys and visit several places. Also, you might have to do a lot of work to find all the rises and falls of the various data on that subject. Sometimes, detailed information plays a vital role, instead of short information. Evaluators are human: The first thing to remember is that evaluators are also human beings. They are not only meant for rejecting a paper. They are here to evaluate your paper. So present your best aspect.

2. Think like evaluators: If you are in confusion or getting demotivated because your paper may not be accepted by the evaluators, then think, and try to evaluate your paper like an evaluator. Try to understand what an evaluator wants in your research paper, and you will automatically have your answer. Make blueprints of paper: The outline is the plan or framework that will help you to arrange your thoughts. It will make your paper logical. But remember that all points of your outline must be related to the topic you have chosen.

3. Ask your guides: If you are having any difficulty with your research, then do not hesitate to share your difficulty with your guide (if you have one). They will surely help you out and resolve your doubts. If you can't clarify what exactly you require for your work, then ask your supervisor to help you with an alternative. He or she might also provide you with a list of essential readings.

4. Use of computer is recommended: As you are doing research in the field of homan social science then this point is quite obvious. Use right software: Always use good quality software packages. If you are not capable of judging good software, then you can lose the quality of your paper unknowingly. There are various programs available to help you which you can get through the internet.

5. Use the internet for help: An excellent start for your paper is using Google. It is a wondrous search engine, where you can have your doubts resolved. You may also read some answers for the frequent question of how to write your research paper or find a model research paper. You can download books from the internet. If you have all the required books, place importance on reading, selecting, and analyzing the specified information. Then sketch out your research paper. Use big pictures: You may use encyclopedias like Wikipedia to get pictures with the best resolution. At Global Journals, you should strictly follow here.



6. Bookmarks are useful: When you read any book or magazine, you generally use bookmarks, right? It is a good habit which helps to not lose your continuity. You should always use bookmarks while searching on the internet also, which will make your search easier.

7. Revise what you wrote: When you write anything, always read it, summarize it, and then finalize it.

8. Make every effort: Make every effort to mention what you are going to write in your paper. That means always have a good start. Try to mention everything in the introduction—what is the need for a particular research paper. Polish your work with good writing skills and always give an evaluator what he wants. Make backups: When you are going to do any important thing like making a research paper, you should always have backup copies of it either on your computer or on paper. This protects you from losing any portion of your important data.

9. Produce good diagrams of your own: Always try to include good charts or diagrams in your paper to improve quality. Using several unnecessary diagrams will degrade the quality of your paper by creating a hodgepodge. So always try to include diagrams which were made by you to improve the readability of your paper. Use of direct quotes: When you do research relevant to literature, history, or current affairs, then use of quotes becomes essential, but if the study is relevant to science, use of quotes is not preferable.

10. Use proper verb tense: Use proper verb tenses in your paper. Use past tense to present those events that have happened. Use present tense to indicate events that are going on. Use future tense to indicate events that will happen in the future. Use of wrong tenses will confuse the evaluator. Avoid sentences that are incomplete.

11. Pick a good study spot: Always try to pick a spot for your research which is quiet. Not every spot is good for studying.

12. Know what you know: Always try to know what you know by making objectives, otherwise you will be confused and unable to achieve your target.

13. Use good grammar: Always use good grammar and words that will have a positive impact on the evaluator; use of good vocabulary does not mean using tough words which the evaluator has to find in a dictionary. Do not fragment sentences. Eliminate one-word sentences. Do not ever use a big word when a smaller one would suffice.

Verbs have to be in agreement with their subjects. In a research paper, do not start sentences with conjunctions or finish them with prepositions. When writing formally, it is advisable to never split an infinitive because someone will (wrongly) complain. Avoid clichés like a disease. Always shun irritating alliteration. Use language which is simple and straightforward. Put together a neat summary.

14. Arrangement of information: Each section of the main body should start with an opening sentence, and there should be a changeover at the end of the section. Give only valid and powerful arguments for your topic. You may also maintain your arguments with records.

15. Never start at the last minute: Always allow enough time for research work. Leaving everything to the last minute will degrade your paper and spoil your work.

16. Multitasking in research is not good: Doing several things at the same time is a bad habit in the case of research activity. Research is an area where everything has a particular time slot. Divide your research work into parts, and do a particular part in a particular time slot.

17. Never copy others' work: Never copy others' work and give it your name because if the evaluator has seen it anywhere, you will be in trouble. Take proper rest and food: No matter how many hours you spend on your research activity, if you are not taking care of your health, then all your efforts will have been in vain. For quality research, take proper rest and food.

18. Go to seminars: Attend seminars if the topic is relevant to your research area. Utilize all your resources.
Refresh your mind after intervals: Try to give your mind a rest by listening to soft music or sleeping in intervals. This will also improve your memory. Acquire colleagues: Always try to acquire colleagues. No matter how sharp you are, if you acquire colleagues, they can give you ideas which will be helpful to your research.

19. Think technically: Always think technically. If anything happens, search for its reasons, benefits, and demerits. Think and then print: When you go to print your paper, check that tables are not split, headings are not detached from their descriptions, and page sequence is maintained.

20. Adding unnecessary information: Do not add unnecessary information like "I have used MS Excel to draw graphs." Irrelevant and inappropriate material is superfluous. Foreign terminology and phrases are not apropos. One should never take a broad view. Analogy is like feathers on a snake. Use words properly, regardless of how others use them. Remove quotations. Puns are for kids, not grunt readers. Never oversimplify: When adding material to your research paper, never go for oversimplification; this will definitely irritate the evaluator. Be specific. Never use rhythmic redundancies. Contractions shouldn't be used in a research paper. Comparisons are as terrible as clichés. Give up ampersands, abbreviations, and so on. Remove commas that are not necessary. Parenthetical words should be between brackets or commas. Understatement is always the best way to put forward earth-shaking thoughts. Give a detailed literary review.

21. Report concluded results: Use concluded results. From raw data, filter the results, and then conclude your studies based on measurements and observations taken. An appropriate number of decimal places should be used. Parenthetical remarks are prohibited here. Proofread carefully at the final stage. At the end, give an outline to your arguments. Spot perspectives of further study of the subject. Justify your conclusion at the bottom sufficiently, which will probably include examples.

22. Upon conclusion: Once you have concluded your research, the next most important step is to present your findings. Presentation is extremely important as it is the definite medium though which your research is going to be in print for the rest of the crowd. Care should be taken to categorize your thoughts well and present them in a logical and neat manner. A good quality research paper format is essential because it serves to highlight your research paper and bring to light all necessary aspects of your research.

.

Informal Guidelines of Research Paper Writing

Key points to remember:

- Submit all work in its final form.
- Write your paper in the form which is presented in the guidelines using the template.
- Please note the criteria peer reviewers will use for grading the final paper.

Final points:

One purpose of organizing a research paper is to let people interpret your efforts selectively. The journal requires the following sections, submitted in the order listed, with each section starting on a new page:

The introduction: This will be compiled from reference matter and reflect the design processes or outline of basis that directed you to make a study. As you carry out the process of study, the method and process section will be constructed like that. The results segment will show related statistics in nearly sequential order and direct reviewers to similar intellectual paths throughout the data that you gathered to carry out your study.

The discussion section:

This will provide understanding of the data and projections as to the implications of the results. The use of good quality references throughout the paper will give the effort trustworthiness by representing an alertness to prior workings.

Writing a research paper is not an easy job, no matter how trouble-free the actual research or concept. Practice, excellent preparation, and controlled record-keeping are the only means to make straightforward progression.

General style:

Specific editorial column necessities for compliance of a manuscript will always take over from directions in these general guidelines.

To make a paper clear: Adhere to recommended page limits.



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Mistakes to avoid:

- Insertion of a title at the foot of a page with subsequent text on the next page.
- Separating a table, chart, or figure—confine each to a single page.
- Submitting a manuscript with pages out of sequence.
- In every section of your document, use standard writing style, including articles ("a" and "the").
- Keep paying attention to the topic of the paper.
- Use paragraphs to split each significant point (excluding the abstract).
- Align the primary line of each section.
- Present your points in sound order.
- Use present tense to report well-accepted matters.
- Use past tense to describe specific results.
- Do not use familiar wording; don't address the reviewer directly. Don't use slang or superlatives.
- Avoid use of extra pictures—include only those figures essential to presenting results.

Title page:

Choose a revealing title. It should be short and include the name(s) and address(es) of all authors. It should not have acronyms or abbreviations or exceed two printed lines.

Abstract: This summary should be two hundred words or less. It should clearly and briefly explain the key findings reported in the manuscript and must have precise statistics. It should not have acronyms or abbreviations. It should be logical in itself. Do not cite references at this point.

An abstract is a brief, distinct paragraph summary of finished work or work in development. In a minute or less, a reviewer can be taught the foundation behind the study, common approaches to the problem, relevant results, and significant conclusions or new questions.

Write your summary when your paper is completed because how can you write the summary of anything which is not yet written? Wealth of terminology is very essential in abstract. Use comprehensive sentences, and do not sacrifice readability for brevity; you can maintain it succinctly by phrasing sentences so that they provide more than a lone rationale. The author can at this moment go straight to shortening the outcome. Sum up the study with the subsequent elements in any summary. Try to limit the initial two items to no more than one line each.

Reason for writing the article—theory, overall issue, purpose.

- Fundamental goal.
- To-the-point depiction of the research.
- Consequences, including definite statistics—if the consequences are quantitative in nature, account for this; results of any numerical analysis should be reported. Significant conclusions or questions that emerge from the research.

Approach:

- Single section and succinct.
- An outline of the job done is always written in past tense.
- Concentrate on shortening results—limit background information to a verdict or two.
- Exact spelling, clarity of sentences and phrases, and appropriate reporting of quantities (proper units, important statistics) are just as significant in an abstract as they are anywhere else.

Introduction:

The introduction should "introduce" the manuscript. The reviewer should be presented with sufficient background information to be capable of comprehending and calculating the purpose of your study without having to refer to other works. The basis for the study should be offered. Give the most important references, but avoid making a comprehensive appraisal of the topic. Describe the problem visibly. If the problem is not acknowledged in a logical, reasonable way, the reviewer will give no attention to your results. Speak in common terms about techniques used to explain the problem, if needed, but do not present any particulars about the protocols here.

The following approach can create a valuable beginning:

- Explain the value (significance) of the study.
- Defend the model—why did you employ this particular system or method? What is its compensation? Remark upon its appropriateness from an abstract point of view as well as pointing out sensible reasons for using it.
- Present a justification. State your particular theory(-ies) or aim(s), and describe the logic that led you to choose them.
- Briefly explain the study's tentative purpose and how it meets the declared objectives.

Approach:

Use past tense except for when referring to recognized facts. After all, the manuscript will be submitted after the entire job is done. Sort out your thoughts; manufacture one key point for every section. If you make the four points listed above, you will need at least four paragraphs. Present surrounding information only when it is necessary to support a situation. The reviewer does not desire to read everything you know about a topic. Shape the theory specifically—do not take a broad view.

As always, give awareness to spelling, simplicity, and correctness of sentences and phrases.

Procedures (methods and materials):

This part is supposed to be the easiest to carve if you have good skills. A soundly written procedures segment allows a capable scientist to replicate your results. Present precise information about your supplies. The suppliers and clarity of reagents can be helpful bits of information. Present methods in sequential order, but linked methodologies can be grouped as a segment. Be concise when relating the protocols. Attempt to give the least amount of information that would permit another capable scientist to replicate your outcome, but be cautious that vital information is integrated. The use of subheadings is suggested and ought to be synchronized with the results section.

When a technique is used that has been well-described in another section, mention the specific item describing the way, but draw the basic principle while stating the situation. The purpose is to show all particular resources and broad procedures so that another person may use some or all of the methods in one more study or referee the scientific value of your work. It is not to be a step-by-step report of the whole thing you did, nor is a methods section a set of orders.

Materials:

Materials may be reported in part of a section or else they may be recognized along with your measures.

Methods:

- Report the method and not the particulars of each process that engaged the same methodology.
- Describe the method entirely.
- To be succinct, present methods under headings dedicated to specific dealings or groups of measures.
- Simplify—detail how procedures were completed, not how they were performed on a particular day.
- If well-known procedures were used, account for the procedure by name, possibly with a reference, and that's all.

Approach:

It is embarrassing to use vigorous voice when documenting methods without using first person, which would focus the reviewer's interest on the researcher rather than the job. As a result, when writing up the methods, most authors use third person passive voice.

Use standard style in this and every other part of the paper—avoid familiar lists, and use full sentences.

What to keep away from:

- Resources and methods are not a set of information.
- Skip all descriptive information and surroundings—save it for the argument.
- Leave out information that is immaterial to a third party.



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Results:

The principle of a results segment is to present and demonstrate your conclusion. Create this part as entirely objective details of the outcome, and save all understanding for the discussion.

The page length of this segment is set by the sum and types of data to be reported. Use statistics and tables, if suitable, to present consequences most efficiently.

You must clearly differentiate material which would usually be incorporated in a study editorial from any unprocessed data or additional appendix matter that would not be available. In fact, such matters should not be submitted at all except if requested by the instructor.

Content:

- Sum up your conclusions in text and demonstrate them, if suitable, with figures and tables.
- In the manuscript, explain each of your consequences, and point the reader to remarks that are most appropriate.
- Present a background, such as by describing the question that was addressed by creation of an exacting study.
- Explain results of control experiments and give remarks that are not accessible in a prescribed figure or table, if appropriate.
- Examine your data, then prepare the analyzed (transformed) data in the form of a figure (graph), table, or manuscript.

What to stay away from:

- Do not discuss or infer your outcome, report surrounding information, or try to explain anything.
- Do not include raw data or intermediate calculations in a research manuscript.
- Do not present similar data more than once.
- A manuscript should complement any figures or tables, not duplicate information.
- Never confuse figures with tables—there is a difference.

Approach:

As always, use past tense when you submit your results, and put the whole thing in a reasonable order.

Put figures and tables, appropriately numbered, in order at the end of the report.

If you desire, you may place your figures and tables properly within the text of your results section.

Figures and tables:

If you put figures and tables at the end of some details, make certain that they are visibly distinguished from any attached appendix materials, such as raw facts. Whatever the position, each table must be titled, numbered one after the other, and include a heading. All figures and tables must be divided from the text.

Discussion:

The discussion is expected to be the trickiest segment to write. A lot of papers submitted to the journal are discarded based on problems with the discussion. There is no rule for how long an argument should be.

Position your understanding of the outcome visibly to lead the reviewer through your conclusions, and then finish the paper with a summing up of the implications of the study. The purpose here is to offer an understanding of your results and support all of your conclusions, using facts from your research and generally accepted information, if suitable. The implication of results should be fully described.

Infer your data in the conversation in suitable depth. This means that when you clarify an observable fact, you must explain mechanisms that may account for the observation. If your results vary from your prospect, make clear why that may have happened. If your results agree, then explain the theory that the proof supported. It is never suitable to just state that the data approved the prospect, and let it drop at that. Make a decision as to whether each premise is supported or discarded or if you cannot make a conclusion with assurance. Do not just dismiss a study or part of a study as "uncertain."

Research papers are not acknowledged if the work is imperfect. Draw what conclusions you can based upon the results that you have, and take care of the study as a finished work.

- You may propose future guidelines, such as how an experiment might be personalized to accomplish a new idea.
- Give details of all of your remarks as much as possible, focusing on mechanisms.
- Make a decision as to whether the tentative design sufficiently addressed the theory and whether or not it was correctly restricted. Try to present substitute explanations if they are sensible alternatives.
- One piece of research will not counter an overall question, so maintain the large picture in mind. Where do you go next? The best studies unlock new avenues of study. What questions remain?
- Recommendations for detailed papers will offer supplementary suggestions.

Approach:

When you refer to information, differentiate data generated by your own studies from other available information. Present work done by specific persons (including you) in past tense.

Describe generally acknowledged facts and main beliefs in present tense.

The Administration Rules

Administration Rules to Be Strictly Followed before Submitting Your Research Paper to Global Journals Inc.

Please read the following rules and regulations carefully before submitting your research paper to Global Journals Inc. to avoid rejection.

Segment draft and final research paper: You have to strictly follow the template of a research paper, failing which your paper may get rejected. You are expected to write each part of the paper wholly on your own. The peer reviewers need to identify your own perspective of the concepts in your own terms. Please do not extract straight from any other source, and do not rephrase someone else's analysis. Do not allow anyone else to proofread your manuscript.

Written material: You may discuss this with your guides and key sources. Do not copy anyone else's paper, even if this is only imitation, otherwise it will be rejected on the grounds of plagiarism, which is illegal. Various methods to avoid plagiarism are strictly applied by us to every paper, and, if found guilty, you may be blacklisted, which could affect your career adversely. To guard yourself and others from possible illegal use, please do not permit anyone to use or even read your paper and file.

Criterion for Grading a Research Paper (Compilation) by Global Journals

Please note that following table is only a Grading of "Paper Compilation" and not on "Performed/Stated Research" whose grading solely depends on Individual Assigned Peer Reviewer and Editorial Board Member. These can be available only on request and after decision of Paper. This report will be the property of Global Journals

Topics	Grades		
	A-B	**C-D**	**E-F**
Abstract	Clear and concise with appropriate content, Correct format. 200 words or below	Unclear summary and no specific data, Incorrect form Above 200 words	No specific data with ambiguous information Above 250 words
Introduction	Containing all background details with clear goal and appropriate details, flow specification, no grammar and spelling mistake, well organized sentence and paragraph, reference cited	Unclear and confusing data, appropriate format, grammar and spelling errors with unorganized matter	Out of place depth and content, hazy format
Methods and Procedures	Clear and to the point with well arranged paragraph, precision and accuracy of facts and figures, well organized subheads	Difficult to comprehend with embarrassed text, too much explanation but completed	Incorrect and unorganized structure with hazy meaning
Result	Well organized, Clear and specific, Correct units with precision, correct data, well structuring of paragraph, no grammar and spelling mistake	Complete and embarrassed text, difficult to comprehend	Irregular format with wrong facts and figures
Discussion	Well organized, meaningful specification, sound conclusion, logical and concise explanation, highly structured paragraph reference cited	Wordy, unclear conclusion, spurious	Conclusion is not cited, unorganized, difficult to comprehend
References	Complete and correct format, well organized	Beside the point, Incomplete	Wrong format and structuring

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