

# THE ACKNOWLEDGMENT OF HUMAN'S RIGHTS AND THEM VICTIMS THE DISASTERS

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## ABSTRACT

This study aims at demonstrating another way to understand human rights through awareness of moral values. To achieve this purpose, this study aimed to theoretical foundation in the Doctrine of Kant, the analysis focused on the victims of disasters resulting from natural events.

**Keywords:** Kant; Moral values; the human rights.

## INTRODUCTION

The present work has main intent realize analysis about convergence between the systematic the Doctrine of Kant, the duties to others humans from respect due to them and the changes in the understanding of the human rights, considering the situation of disaster events victims.

The survey was divided into three items, and in the first one we study the systematic the Doctrine of Kant, considering the structured external system in the works “Metaphysics of the grounds of the Customs and Other Writings” e “The Metaphysics of Morals”. Study the Doctrine of Kant, the duties to others and the categorical imperative as central idea, weighing fraternity as the motivating goodness of interpretative choice before the face-to-face with each other.

In the second item, the historical development of the state is analysed to establish the ways that this has been transformed over time and determine the constant movements that competed in the formation and modification of the idea of human rights. Finally, the third item, the event is analysed owing to disasters, from a reflection of human rights through the prism of moral awareness.

## THE SYSTEMATIC DOCTRINE OF KANT

The last century showed us the collapse of modern society, expressed in two world wars and the bourgeois need for the realization of an emancipated form of life, that is, “the participants themselves must be understood preliminarily, it is not difficult verify that self- democratic organization of a legal community form the normative core of this project.”<sup>2</sup>

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<sup>2</sup> HABERMAS, Junger. *Direito e democracia: entre facticidade e validade*, v. I. 2. ed. ver. pela Nova Gramática da Língua Portuguesa. Tradução de Flávio Beno Siebeneichler. Rio de Janeiro: Tempo Brasileiro, 2012, p. 9.

Kant held a double specification in the term “system”<sup>1</sup> stating that there is no systematic scientific and the system is a set of propositions that must be deduced from a single principle. The system concept corresponds to an accumulation of organized concepts according to an idea.

The task of the philosopher is to study the mechanism by which the external system in the summary can receive new content.<sup>2</sup> Always there should be link between the component parts of a system.

The systematic Kant is present in there critical reasons – Critique of Pure Reason (1781); Critique of Practical Reason (1788) and Critique of the Faculty of Judge (1790):

(...) The first reflects on the limits of knowledge, laws priori reason to impose-knowledge. The Critique of Practical Reason states that, in the order of human action, the reason to practice driving mode unconditional and formal human action, determines the categorical imperative of apodictic way of duty. A Critique of the Faculty of judge, in turn, establishes as pure a priori principles governing through aesthetic judgment, what we call inter-subjective communication. In all considered critical if the rational priori that will pave the sapereaude of modern man.<sup>3</sup>

In his works “Metaphysics of the grounds of the Customs and Other Writings “and” The Metaphysics of Morals”, Kant demonstrates in practice systematic, given that the work Critique of Pure Reason is the precursor of his works and considered the basic text of Kantian thought.

Michael J. Sandel comments on Kant’s philosophy:

(...) The Rationale raises a big question: What is the supreme principle of morality? In answering this question, does another, also extremely important: What is freedom?

The answers to these questions Kant part of the moral and political philosophy ever since. But its historical influence is not the only reason to pay attention to it. No matter how challenging the philosophy of Kant may seem at first glance, it is actually from behind much of contemporary thinking on moral and policy, even if we did not give it out. So in trying to understand Kant we are not examining some of the key assumptions implicit in our public life.<sup>4</sup>

<sup>1</sup> LOSANO, Mario G. *Sistema e estrutura no direito*, v. I: Das origens à escola histórica. Tradução de Carlos Alberto Dastoli. São Paulo: WMF Martins Fontes, p. 250.

<sup>2</sup> LOSANO, op. cit., p. 133.

<sup>3</sup> BARRETTO, Vicente de Paulo. *O fetiche dos direitos humanos e outros temas*. 2. ed. rev. e ampl. Porto Alegre: Livraria do Advogado, 2013, p. 43.

<sup>4</sup> SANDEL, Michael J. *Justiça – O que é fazer a coisa certa*. Tradução de Heloisa Matias e Maria Alice Máximo. 3. ed. Rio de Janeiro: Civilização Brasileiro, 2011, p. 137.

It is observed that the work “Metaphysics of the grounds of the Customs and Other Writings” divided into three parts, Kant developed the fundamentals and principles of the Theory of Knowledge, dealing with moral and philosophical knowledge. Since this work the philosopher addressed the Critique of Pure Practical Reason. All concepts are developed considering the idea of categorical imperative.

Kant's work “Metaphysics of Morals”<sup>5</sup> addressed the Doctrine of Law and the Doctrine of Virtue. Regarding the Doctrine of Law, the work is divided into two parts: Part I-Public Law (three chapters). Already in the Doctrine of Virtue, the work is divided into three headings: Metaphysical First Principles of the Doctrine of Virtue; Ethics doctrine of the elements, with two parts: Part I- Duties to Himself in General and Part II of Virtue Duties with the others; and the title on the Doctrine of Ethics Methods.

### DOCTRINE OF LAW KANTIAN

In the introduction to the “Doctrine of Right, left untreated in the work”, Kant establishes the systematic of the general division of rights and basic concepts for understanding of Kantian doctrine of law. Describes how the concept of law “the sum of the conditions under which the choice of someone can be attached to the choice of others according to a universal law of freedom.”<sup>6</sup>

Feel the freedom as the only birth right belongs to all humanity of these men. Unlike the usual thought until then that conceived freedom as natural liberty (do what you want); Legal freedom (do what the law does not prohibit) or free will (college of choice). The idea of freedom as autonomy appeared in Kant, the central theme of Kantian ethics. As noted by Karina Salgado:

Freedom in Kant is presented in the form of a negative concept, which is possible to extract a positive concept. Freedom, as the Critique of Pure Reason, is presented as a kind of different from that causality of nature. Freedom is able to be the first cause of a particular stock without interference from something external. Here already reveals the concept of negative liberty. Free is one that is not determined by something external. This negative concept it is possible to extract another positive: if the individual is not determined by anything external, the phenomenal world, he necessarily determines itself up. The independence of spontaneous causality of action in relation to the phenomenal world is self-determination. (...)

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<sup>5</sup> BARRETTO, op. cit., p. 48

<sup>6</sup> KANT, Immanuel. *A metafísica dos costumes*. A doutrina do direito e a doutrina da virtude. Tradução de Edson Bini. Bauru: Edipro, 2003, p. 76.

The notion of freedom arises, then, as autonomy, in that it is only free one that is determined by your reason, without influence of sensitive, meaning that establishing a maximum of action that can be elevated to universal law.<sup>7</sup>

The negative concept allows establishing the possibility of error, beholding, and the will that triggers the cognitive desire requires knowledge regarding the general content to avoid the error. In the case of action, freedom appears as a link between the provision of mandatory and the will:

Where, however, the limits of our possible knowledge are very narrow, where the urge to judge is very strong, the illusion that presents very misleading, and the prejudice caused by considerable error, then the negative in education, serving only to prevent -In the errors, it is more important than many positive teachings by which our knowledge could grow. It is called discipline coercion limiting, and ultimately eliminate, the constant impulse to disregard certain rule.<sup>8</sup>

The kind of causality that freedom is related to actions that it triggers and the phenomena<sup>9</sup> which are observed. It is admissible that the intelligible men practice an action without influence of empirical that results only of pure reason. Free will gives the human being intelligible the power to determine a maximum coinciding with the moral law, since the action is set in a willingness to seek a universal law.

Line with the above, Michael J. Sandel to explain the concept of autonomy according to Kant:

(...) So if we are able to be free we must be able to act not only in accordance with a law that has been given to us or imposed, but according to a law that we grant ourselves.

But where would this law? Kant's answer: reason.

(...) The Kantian concept of reason – practical reason that it has to do with morality – is not that of an instrumental reason, but “A pure practical reason, which creates its a priori laws, despite any empirical goals.”<sup>10</sup>

Kant deals with the innate equality as a human quality to be your own master, thank you up with more than you can turn. The Copernican revolution of Kant located in the pure rational grounds (reason), the man is not subject to

<sup>7</sup> SALGADO, Karine. *A paz perpétua de Kant – Atualidade e efetivação*. Belo Horizonte: Mandamentos, Faculdade de Ciências Humanas/Fumec, 2008, p. 52-54.

<sup>8</sup> KANT, Immanuel. *Crítica da razão pura*. Tradução de e notas de Fernando Costa Mattos. 3. ed. Petrópolis/RJ: Vozes; Bragança Paulista/SP: Editora Universitária São Francisco, 2013, p. 529, B737.

<sup>9</sup> KANT, op. cit., p. 535, B748.

<sup>10</sup> SANDEL, op. cit., p. 150-151.

the nature or the transcendent will, focuses on freedom, and that, all being free and rational beings carry with them equality.

The concepts of law and freedom, sets the universal law of right, namely “acts externally so that the free use of your referee can coexist with the freedom of all according to a universal law.”<sup>11</sup>

As in the construction of a building, all real system there is a definite need in the basic idea, which brings together the concepts that have links. After the construction of each floor, comes to an understandable result. It being understood that each floor is a step, which should be explained by the precedent.

## THE KANTIAN DOCTRINES OF VIRTUE AND THE DUTIES TO OTHERS

In the Doctrine of Virtue, Kant discusses the concepts of ethics according to the central idea of the categorical imperative, objective criterion of morality, sets it as the supreme principle of the doctrine of virtue: “Act in accordance with a maximum of purposes that can be a law universal to be considered by all.”<sup>12</sup> The Kantian moral is facing the subject and not isolated from the others, and freedom of choice the supreme principle of morality. “The treatment of others as ends. That’s because the man knows no other like thing in itself, but only as a phenomenon.”<sup>13</sup> The validity of the categorical imperative must be thought of as a condition of possibility of assigning a sensitive and rational being a will.<sup>14</sup>

Virtue<sup>15</sup> is treated as unattainable, so it must be in constant progress. It is possible to establish ends that are also duties, for example, the very perfection. Also it is a must promote the happiness of other human beings as its own end. However, happiness<sup>16</sup> itself cannot be considered a duty, not to be a desired order reluctantly.

Ethics has the maximum of the shares, being the maximum of voluntary actions only condition of being suitable for producing a universal law. The reward for the end achieved in voluntary action generates the moral pleasure, for making their happiness his own, with the recognition we have the sweet without merit and recognition bitter merit, and that the greatest merit.

The Doctrine of Virtue has Kantian categorical imperative as central idea, which is on duty: “always act in accordance with a maximum would you want that could be both a universal idea.”<sup>17</sup>

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<sup>11</sup> KANT, 2003, op. cit., p. 77.

<sup>12</sup> BARRETTO, op. cit., p. 53.

<sup>13</sup> SALGADO, 2008, op. cit., p. 47.

<sup>14</sup> SALGADO, 2008, op. cit., p. 50.

<sup>15</sup> KANT, 2003, op. cit., p. 238.

<sup>16</sup> SALGADO, 2008, op. cit., p. 109.

<sup>17</sup> KANT, Immanuel. *Fundamentação da metafísica dos costumes e outros escritos*. Tradução de Leopoldo Holzbach. São Paulo: Martin Claret, 2005, p. 51.

In structuring the appropriate system Kantian, settled divisions of ethics, considering the subject and having the duties of human beings to him and other beings.

The ethics requires that human beings act according to rational nature, to effectiveness of the principle, “acts with respect to every rational being (yourself and others) so that it at your maximum worthwhile to order in itself.”<sup>18</sup>

Thus, the act ethically is to ensure the healthy social life, because it is a duty to him, which also includes the duty to “be a useful member of the world, since it also concerns the humanity of value in their own person who should not defile.”<sup>19</sup>

By not being able to demean the value of humanity, in the Doctrine of Virtue man must seek perfection as a moral order, whose duty love with other humans.

The Doctrine of the division of Virtue considering the duties of human beings to other beings in the work “The Metaphysics of Morals” is well prepared: two chapters: Chapter 1. Duties to others simply as human beings, being divided into two sections- section I. the duty of love with other humans and Section II. The duties of due to other human beings from the respect due to them, in chapter 2. Of the reciprocal ethical duties of human beings in relation to the condition of these.

Kant when dealing with love to the next established the distinction between benevolence and beneficence. Grace is the duty to prepare ourselves to help someone in need acting to spare him the humiliation and saving your respect for yourself. The division of duties of love is: a) Charitable b) Gratitude and c) Solidarity. It is mercy “satisfaction with happiness (welfare) of others; beneficence, however, is the maximum to make the happiness of others the very end, and the duty corresponding to this is to be the subject constrained by his reason to adopt this maxim as a universal law.”<sup>20</sup> It is observed that benevolence requires an active attitude to do well, it will be possible for those who admittedly are closer to me; have mercy is to will to all others as my end.

The sympathetic feeling is related to the duty to humanity, and means of promoting active benevolence front of another’s suffering, what Kant called aesthetic duty. Already gratitude is a duty to return a favour, and his transgression capable of destroying the moral stimulus to charity.

The vices of hatred to humans: envy, ingratitude and malice, are opposed to the duty of love with other humans. And any sense that makes the hateful human nature is seen as addiction to Kant.

Kant, in Section II: Of the virtue of duties to other humans from the respect due to them, emphasizes dignity:

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<sup>18</sup> KANT, 2005, op. cit., p. 68.

<sup>19</sup> KANT, 2003, op. cit., p. 287.

<sup>20</sup> KANT, 2003, op. cit., p. 296.

Everyone has a legitimate right to respect of his fellows and is, in turn, obliged to respect everyone else. Humanity itself is a dignity as a human being (or by other or even for yourself), but should always be used at the same time as an end.<sup>21</sup>

In the book “Metaphysics of Morals the Rationale and Other Writings”, Kant had stated that in the kingdom of ends is considered worthy thing which admits of no equivalent, therefore, is priceless.<sup>22</sup>

About Chapter 2: Of the reciprocal ethical duties of human beings will respect these conditions, Kant stated “They are just modified rules according to differences of persons to whom the principle of virtue (the prism of what is formal). It is applied in cases arising in the experience (the material).<sup>23</sup>

Virtue is the product of pure reason (moral rule), which must fight inside enemy within the human being.<sup>24</sup> This time, one must have the sacrifices of the joys of life of joyful way, so that in the face of situations that threaten morality can master them.

## THE INTERNATIONAL ORGANIZATION HUMAN RIGHTS

The Peace Treaties of Westphalia (1648) had the existence of documentation character of a new type of state, with the feature of overcoming the notion of absolute sovereignty. It was the modern state.

The eighteenth century is marked by great changes that gave start to the new state model.

The initial phase of industrialization cominava in forced labour, long shifts and few rights the working class. The public order was affected by inequality and the pursuit of equality raised sedition.

In France, the concept of the State based on the Social Contract of Jean-Jacques Rousseau was structured, the role of the state to guarantee citizens the light of the general will, the effectiveness of the natural rights of liberty, equality and fraternity develop.

The French Revolution influenced by the humanist movement of the Renaissance modifies the idea of justice, to the conception of justice equality of human beings as free beings, creators of its political and legal orders:

This new law, given the magnitude and bold revolutionary principles would be both a new public law articulated in a new relationship with

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<sup>21</sup> KANT, 2003, op. cit., p. 306.

<sup>22</sup> KANT, 2005, op. cit., p. 65.

<sup>23</sup> KANT, 2003, op. cit., p. 311.

<sup>24</sup> KANT, 2003, op. cit., p. 327.

citizens and the power they emanated, and new private law hum, which provide a Society for the egalitarian and stripped [privileges] An Open Society and free, its own functioning, fluid and spontaneous.<sup>25</sup>

The language of rights inaugurated by the French Revolution is not studied with specificity for Kant; however, it is undeniable that their principles were important to the nineteenth century the German school to establish the subjective right as a central figure of the legal system.

The notes Joaquim Carlos Salgado:

Although the Revolution put, along with the freedom and equality, fraternity, which later developed into social purpose of the rule of law, while this should achieve the common good (art. 1 of the French Constitution of 1793), Kant did not take into consider centralizing their concept of justice in a highly ethical element, freedom, and beside her equal. The first suum, the first well to be recognized in each, for the simple fact of being human, is freedom.<sup>26</sup>

The Kantian philosophy to free him from the metaphysical tradition, established the philosophical principles of modernity, characterized as the historical era in which man erect reason as nuclear instrument in knowledge and human action.<sup>27</sup>

The currents of utilitarianism and pragmatism stood at opposite side to Kantian, since both were ruled on empiricism (concrete experience) and not in pure rational grounds (reason):

The Kantian conception of State differs from other developed throughout history and seems to be a step forward in building the theory of the state. In affirming the state as rational or right, Kant breaks with the classical and medieval tradition. The idea of the state as an expression of human rationality differs from the Aristotelian tradition, which considers the natural social organization to man as it is, in essence, a political animal, and also opposes the theological view that prevailed in the middle Ages, according to which the state is justified because it is God's service. (...) Kant returns to man his independence from the story to deny their subjection to nature or transcendent will.<sup>28</sup>

The phrase of Kant ['let it be justice, the world ends'], considering the pure rational basis the principle of law, describes the obligation of those in power:

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<sup>25</sup> ENTERRÍA, Eduardo García de. *La lengua de los derechos – La formación del derecho público europeo tras la revolución francesa*. Madrid: Alianza, 1994, p. 45.

<sup>26</sup> SALGADO, Joaquim Carlos. *A ideia de justiça em Kant*. 3. ed. Belo Horizonte: Del Rey, 2012, p. 4.

<sup>27</sup> BARRETTO, op. cit., p. 42.

<sup>28</sup> SALGADO, 2008, op. cit., p. 108.



(...) Not refuse anyone the right nor restrict by antipathy or sympathy for another person; for this, it is required above all an internal constitution of the State in accordance with the pure principles of law and in view of a legal adjustment (analogous to a universal state) of their discord.<sup>29</sup>

Industrialism, the formidable technical development, transport, communications and commerce raises liberalism, in which the will of the new dictated Law oriented individual rights.

During the fights between ownership s established in the Liberal State occurred the collapse of Western civilization wars. Requiring the transformation of the state, to check the effectiveness of the primacy of equality and, establish a dignified existence for the poor.

The idea of an individualistic law has been rejected by the appreciation of idea the corporate interests. This change started to occur in the first decades of the century past when, influenced by the social movements and the industrialization, the state we had to intervene in the economy starting up the state of social nature.

In the twentieth century, are identified in the Brazilian Constitutions principles and standards establishing social duties to the development of private economic activity. The Brazilian Civil Code of 1916, which outlined individualistic and patrimonial ideas, it has been weakened by editing extravagant laws that already lay out principles facing justice social.<sup>30</sup>

After World War II, consolidates the welfare state. No more presupposes equality among men as stated in the previous period, when the proclamation of the Rights of Men and Citizens of 1789 precepts, soon your art.1, that “men are born and are free and equal in rights”, whose application was to produce deep social inequalities. Then attaches itself to the State, in its new conception, the mission to seek effective equality. To this end, should intervene in economic and social order, seeking to help the poor.

The biggest concern moves from freedom to equality, generating. Unlike the prevailing individualism in the liberal state, a greater concerns the common good and public interest. It was found, however. That with the establishment of the Social state of law and its overgrowth, would be put at risk individual liberty, affecting the separation of powers (with the strengthening of Executive Branch and leading to inefficiency in the delivery of services.

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<sup>29</sup> KANT, Immanuel. *A paz perpétua*. Um projecto filosófico. Tradução de Artur Mourão. Covi-lhão: LusoSofia, 2008, p. 43.

<sup>30</sup> PERLINGIERI, Pietro. *Perfis do direito civil: introdução ao direito civil constitucional*. Tradução de Maria Cristina de Cicco. Rio de Janeiro: Renovar. 1999, p. 6

The negative consequences produced by social rule of law. They complained about new changes in the state's role, adding thereby to Social status, the idea of democratic rule. The state, while remaining State Right protective of individual liberties, and without ceasing to be the welfare state guard the common good, also happened to be Democratic, aiming thereby to participation popular in the political process, the decisions of the Government in the control of management Public.

In the modern state, the evolution of the liberal state to the rule of law and, later for Social state of law could lead one to believe that the state Right democratic would be a simple combination of the above terms and ideas however, as well explains Jose Afonso da Silva:

The configuration of Democratic rule of law is not just unite formally the concepts of democratic state and rule of law. Is actually in creating a new concept, which takes into account the concepts of the elements but to the extent that outweighs It incorporates a revolutionary transformation component of the status quo. And demonstrates the extreme importance of art. 10 of the 1988 Constitution, when it says that the Federative Republic of Brazil constitutes State Democratic rights, the horn mere promise to organize such a state, because the Constitution there is already proclaiming and funding.<sup>31</sup>

The democratic state is concerned not only with material goods that initiative aims of freedom, but also with values considered essential to In fact dignified existence, freedom and dignity overlap which requires action State to reduce social inequalities and to take the whole community's well-being.

In fact, the aim was to replace the idea of State Legal purely formalistic, by the rule of law linked to the ideals of justice. It is intended to submit the States Law and u n the only formal sense law. Then talk-democratic state Law, which includes the aspect of citizen participation (Democratic State) and material justice (rule of law).

Kant describes the democratic form of government the most composed of all and also the best "(...) she first joins the will of all to form a people then joins the will of the citizens to form united public affairs (Republic); and then it sets this sovereign, who is himself the united will of the citizens, the public thing."<sup>32</sup>

In this sense, explains Vicente de Paulo Barretto:

(...) The democratic regime is more than simply the manifestation of the will of the majority becomes a regime endowed with moral values that underlie and justify. The importance of the recovery of the Kantian

<sup>31</sup> SILVA, José Afonso da. *Curso de Direito Constitucional* positivo. 15. ed. São Paulo: Malheiros, 1998, p. 123.

<sup>32</sup> KANT, 2003, op. cit., p. 182.

tradition becomes all the more urgent as the emptying of the positivist perspective, in the context of modern techno-scientific culture requires the construction of a new theoretical paradigm in the theory of law that responds consistently to the legitimacy of requirements law of the democratic rule of law.<sup>33</sup>

The starting point of modernity took place in the late eighteenth century, its symbolic closure occurred with the fall of the Berlin Wall in 1989. "In the meantime, the natural rights proclaimed by the statements of the eighteenth century turned into human rights, its scope and jurisdiction expanded in France and the United States for all humanity (...)."<sup>34</sup>

The evolution of natural rights, for human rights and human rights began with the statements of the eighteenth century: Declaration of Independence (1776) and Bill of Rights (1791), the strong American and Declaration des Droits del'Homme et du Citoyen (1789), in France.<sup>35</sup> The claims brought in their Introductory texts that were guaranteed rights universal and inalienable. Already in the body of the statements had assured identity of the rights and principles governing the relationship then society and state, who followed the precepts of rights natural, free membership of state intervention. The statements entirely exhausted their legitimacy in their acts of emancipation.

The Declaration of Human Rights (1789) substantially influenced the Universal Declaration of Human Rights (1948), signed three years after the signing of the United Nations Charter (1945), which is the common denominator between the existing ideological currents in the different legal systems. Human beings began to radiate the human rights standards and rights.<sup>36</sup> In modernity, the legal essence was the protection of the rights of "man" against state power.

The Commission on Human Rights (CHR) d United Nations was responsible for negotiating the Universal Declaration of Human Rights (1948). Sixty years after its creation, the 62 Session was declared extinct giving way to the Board of Rights Human. The justification of extinction was that the HRC dissipated amid excessive "politicization of its decisions"<sup>37</sup>, embraced the selectivity and consequently. lost authority and legitimidade.<sup>38</sup>

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<sup>33</sup> BARRETTO, op. cit., p. 41.

<sup>34</sup> COSTA DOUZINAS. *O fim dos direitos humanos*. Tradução de Luiza Araújo. São Leopoldo: Editora Unisinos. 2009, p. 99.

<sup>35</sup> ENTERRÍA, op. cit., p. 66-67.

<sup>36</sup> LORENZETTI, Ricardo Luis. *Fundamentos do direito privado*. São Paulo: rt. 1998, p. 159.

<sup>37</sup> BELLI, Benoni. *A politização dos direitos humanos: o conselho de direitos humanos das Nações Unidas e as resoluções sobre países*. São Paulo: Perspectiva, 2009, p. 3.

<sup>38</sup> BELLI, op. cit., p. 3.

The board of Human Rights was established on 1 March 5, 2006 through Resolution 60/25 1 adopted by the UN General Assembly by 170 countries, with 04 countries against and 03 abstentions, to review the system established by the former Commission on Human Rights (CHR), in order to create a more effective monitoring system.

The CHR resolutions<sup>39</sup> that served as instruments to deal with human rights violations in recent years the CHR lost credibility by serving certain groups, being used to criticize and condemn opponents pushed into the plan the human rights issues.

The established between polarization states within the CHR was between two groups of countries: the first formed by sponsors of condemnatory resolutions (Among them US, European Union and Canada) and the second group integrated by those who were targets of the resolutions.

The polarization of human rights in doctrinal discussions, the practice of States and human rights promotion system is evidenced by dichotomies: civil and political rights versus economic, social and cultural rights; University versus particularity historical, religious and cultural: democracy versus development.

The main interest of countries such as Brazil, as regards the Council of the Human Rights. With regard to the “function of its internal commitments, cannot be to completely eliminate the political pressure, whose function was and will remain important for the protection of human rights, but to create instruments that condition this pressure treatment as objective as possible of situations.”<sup>40</sup>

The UN’s active role in the libertarian strand of human rights today is used as a tool by power politics; once, it was driven largely by social movements in several countries. Including Brazil. Such measures are contrary to the Kantian principle of self-respect and respect for others that violate the duty of respect inherent in people as rational beings, who hold humanity:

Respect Kantian; however is respect for, humanity itself. The rational capacity that we all possess. This explains why the infringement regarding a person herself is as reprehensible as the violation of respect for others, and explains why the Kantian principle of respect applies the doctrines of human rights of all, regardless of where they lived or degree of knowledge we have of them, simply because they are human beings, rational beings and therefore worthy of respect.<sup>41</sup>

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<sup>39</sup> BELLI, op. cit., p. 3.

<sup>40</sup> BELLI, op. cit., p. 7.

<sup>41</sup> SANDEL, op. cit., p. 155-156.

The Universal Declaration of Human Rights (1948) is criticized for expressing the Western-liberal brand of the dominant discourse of human rights, having been “developed without the participation of most people in the exclusive recognition of individual rights, with the sole exception of the right collective self-determination (...); the priority given to civil and political rights to social and cultural rights.”<sup>42</sup>

Regarding the argument that the Universal Declaration of Human Rights (1948) was drafted without the participation of the majority of people<sup>43</sup>, it must be remembered that the time the UN had 58 member states. several territories were still colonial domains and groups representing various cultures and religions were present. Over the years “it was recognized that much of the Declaration Customary international, thus taking mandatory for all.”<sup>44</sup> In the II World Conference on Human Rights held in Vienna (1993) participated in 171 states, 95 observer bodies organizers and 841 NGO's, Universal Declaration of Human Rights was rejected by the Asian countries<sup>45</sup>. contrary universality of human rights, because they understand that the argument Cultural diversity is always favor the state and used to justify the exercise arbitrary power.<sup>46</sup>

It is noteworthy that there expressly in II World Conference Document Human Rights (1993) parameters that recognize the universality<sup>47</sup> of rights Humans without exception, while recognizing the importance of the particularities Cultural. Representing a breakthrough in the quest to prevent are used, “in S-modern powder episteme globalized economically and culturally anti Universalist, As a cover to legitimize yourself a universal system falsely free, ethical and façade Inhuman in content.”<sup>48</sup>

## THE RECOGNITION OF HUMAN RIGHTS BY MORAL AWARENESS AND DISASTER VICTIMS

In the twentieth century, the repercussions of globalization<sup>49</sup> triggered numerous inequalities and exclusions for its process have been instrumental to Consolidations of interest to economically stronger groups raising questions about the language adopted on human rights:

<sup>42</sup> SANTOS, Boaventura de Souza. *Para uma concepção multicultural dos direitos humanos. Contexto Internacional*: Rio de Janeiro, v. 23, n. 1, p. 7-32, jan./jun., 2001, p. 17.

<sup>43</sup> BELLI, op. cit, p. 45

<sup>44</sup> BELLI, op. cit., p. 45.

<sup>45</sup> BELLI, op. cit., p. 98.

<sup>46</sup> BELLI, op. cit., p. 99.

<sup>47</sup> <<http://www.dhnet.org.br/direitos/anthist/viena/viena.html>>.

<sup>48</sup> ALVES, José Augusto Lindgren. *Relações internacionais e temas sociais: a década das conferências*. Brasília: Funag/Ibri, 2001, p. 148.

<sup>49</sup> SANTOS, Boaventura de Souza. *Para uma concepção multicultural dos direitos humanos. Contexto Internacional*: Rio de Janeiro, v. 23, n. 1, p. 7-32, jan./jun., 2001, p. 7.

The international system of human rights protection could be considered additional element in the struggle for enlightenment utopia mentioned by Rorty<sup>50</sup>, which certainly does not mean to endorse the idea that mankind necessarily goes toward the strengthening of human rights. The problem today is that there is enormous skepticism with regard to any philosophical position to defend some form of utopia. The old Enlightenment reason seems to have given way, at least in practice, instrumental reason, as well as demonstrates the return of torture as a means tolerated for confessions and valuable information for combating terrorism.<sup>51</sup>

There doctrinal voices willing to consider human rights from the perspective of morality. In post-modern<sup>52</sup>, there is a disbelief of the doctrine that the legal recognition of human rights represents a breakthrough in its effectiveness, since legal recognition is the promise of justice always yet to come.<sup>53</sup> Defends a look beyond the legal recognition of human rights by moral awareness of these values.

Costa Douzinas, adds on human rights from the perspective of moral:

(...) the writing of the history of human rights is doubly involved the duplication of a look back that is firmly established in the future policy. The natural law, the parent and a companion of Human rights, unlike other theories and practices classic, not entirely belong to any era. It violates the constraints of time, in In order to preach the eternal law in place of a temporal positivity decadent, but to judge this according to the protocols of the past on behalf of the future.

(...) Human rights represent the negative principle in the heart of Social imaginary. The end of human rights, as well as the end of the law Natural is the promise of the “not yet”, the indeterminacy of autocracia before the existential fear of uncertainty and inauthentic certainties present. When the apologists of pragmatism proclaim the end of Ideology, history or utopia, they do not mark the triumph of rights Human; on the contrary, they put an end to human rights. The end of Human rights comes when they lose their utopian order.<sup>54</sup>

Address human rights through moral awareness is connected to the principle of freedom of choice of Kant (this principle requires the individual to act

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<sup>50</sup> RORTY, Richard. Human rights, rationality and sentimentality. In: Shute, Stephen; Hurley, Susan (Eds.). *On human rights*. New York: Basis Books, 1993, p. 180.

<sup>51</sup> BELLI, op. cit., p. 256.

<sup>52</sup> COSTA DOUZINAS, op. cit., p. 359-360.

<sup>53</sup> NINO, Carlos S. *Ética e direitos humanos*. Tradução de Nélcio Schneider. São Leopoldo: Editora Unisinos. 2011, p. 21.

<sup>54</sup> COSTA DOUZINAS, op. cit., p. 380-384.

according to their own will, that takes universal legislator)<sup>55</sup> and the inviolability of rights, which was treated by Carlos Santiago Nino:

Only when we take into account the way I treat others, the purposes they choose for themselves. I'm treating them as ends and not by imposing sacrifices illegitimate. I treat others as simple means as adversely to affect the heat exercised their autonomy in choosing and carrying out life plans.<sup>56</sup>

Disasters allows us to reflection of human rights through the prism of moral awareness, since the free human activity is managed to develop and structure complex systems grounded in greed<sup>57</sup>, geared to meet only economic interests, which combined with natural hazards lead each disaster more painful.

Natural hazards expose the risks also include any person, but in practice, proportionally, the most disadvantaged are the most affected. Due to the fact that there a much larger number of low-income population living in more houses fragile, in more densely populated areas and increased susceptibility of land to dangers.

The analysis of the situation of the victims affected by disaster events is inserted in global discussions of the century<sup>58</sup>, which leads us to question the current itself<sup>59</sup>. This is the essential function established from the modern philosophy (late eighteenth and nineteenth centuries), that keeps on postmodernity, with the continuity of the cultural process of *Aufklärung*<sup>60</sup> puts us in the past, for the future and in relation to this, so we make changes within the present. It is essential to the enlightenment of the people as a means of human progress:

Enlightenment is the liberation of man from his guilty disability. The failure means the inability to make use of his intelligence without the orientation of others. This inability is guilty because his cause no is the lack of intelligence, more decision-making and value to serve for you it without tutelage of another.<sup>61</sup>

Kant in the text of the second dissertation *Conflict Colleges*, describes the conflictual relations between philosophy and the right<sup>62</sup> through the question:

<sup>55</sup> BARRETTO, op. cit., p. 53.

<sup>56</sup> NINO, Carlos S., op. cit., p. 198-199.

<sup>57</sup> SANDEL, op. cit., p. 16.

<sup>58</sup> <<http://www.igeologico.sp.gov.br/downloads/livros/DesastresNaturais.pdf>>.

<sup>59</sup> FOUCAULT, Michel. *O governo de si e dos outros: curso no Collège de France (1982-1983)*. Tradução Eduardo Brandão. São Paulo: WMF Martins Fontes, 2010, p. 14-21.

<sup>60</sup> FOUCAULT, Michel. *O governo de si e dos outros: curso no Collège de France (1982-1983)*. Tradução Eduardo Brandão. São Paulo: WMF Martins Fontes, 2010, p. 14-21.

<sup>61</sup> KANT, Immanuel. *Respuesta à pergunta: O que é esclarecimento?* (Beantwortung der Frage: Was ist Aufklärung?) Tradução de Floriano S. Fernández. In BUZZI, Arcangelo R; BOFF, Leonardo. *Immanuel Kant – textos seletos*. Petrópolis: Vozes, 1974, p. 41.

<sup>62</sup> KANT, 2008, op. cit., p. 33-34.

there is a steady progress for mankind? So there's reminiscent signals (signals that has always been so), statement (signs that is what currently happens) and prognosis (which shows us what will happen permanently so) a progress that stems from a trend and ensure a general trend mankind its entirety. In a text excerpt Kant states:

Do not expect this event [reminiscent of value, statement, prognosis; MF] consists of high made important gestures or committed by men as a result than what was great among men is small, or what was small becomes big, nor in ancient and brilliant political buildings disappear as if by magic, while in its place are other, in a way, the earth's depths. That's not it.<sup>63</sup>

In this text, Kant explains that they are not in the great events that we get the reminiscent, demonstrative signs and prognosis, but in almost imperceptible. What matters is how individuals who are not involved in the event they see it, that is, the enthusiasm that the event generates in those who are not essential actors for change. It is visible progress from the changes of these smaller events.

In the context of disasters, after major disasters changes legal in the legal, internal order and the internal standard does not have the factuality social utility recognized in full. It can be pointed out as a factor account for the low social validity not to be a collective action for that succeed in actions related to the reduction of disaster risks, constituting a rationally motivated agreement among the partners involved on the legal conditions to be fulfilled.

The systematic structured activities to disasters can be divided into three moments: a) overcoming of grief; b) reconstruction of what was destroyed and c) return to normal life. It is observed that structured systematic does not contribute to the recognition of the moral argument the situation of victims of disasters, since it gives priority to re-establish the situation quo, without anything substantial is done to prevent future harmful events, aiming to save future expenditures associated with: injuries and deaths, problems in services and loss in productivity. There is no incentive to attitudes necessary for structuring a good society, that is, do not settle discussions on issues of morality.

Think of the notion of a well-ordered society as an interpretation of the idea of a kingdom of ends thought of as a human society under circumstances of justice. Now the members of such society are free and equal and so our problem is to find a rendering of freedom and equality that it is natural to describe as Kantian.<sup>64</sup>

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<sup>63</sup> KANT, 2008, op. cit., p. 40.

<sup>64</sup> RAWLS, J. A kantian conception of equality. In: FREEMAN, S. (Org.) Collected Papers. Cambridge (Massachusetts): Harvard University Press, 1999, p. 264.



The State action should not have an ephemeral character, but designing a condition that represents an end in itself<sup>65</sup>, namely that represents the ratio of morality and freedom of choice that Kant described as necessary in order to establish a universal law through its maximum. "Now morality is the only condition that can make a rational being an end in itself, because only by she is able to be legislator member of the kingdom of ends."<sup>66</sup>

## FINAL THOUGHTS

Kant to structure the external system on the Doctrine of Virtues in the work *Metaphysics of Morals*, established the constructivist method to treat the duty of being human to the Other.

It being understood that the Kantians the system design central principle of Ideas is the categorical imperative to act with the utmost which can be taken universal in the specification introduced by Kant, the system concept of match an accumulation of organized concepts according to an idea, it is shown in maximum that the human being must advance their virtues, seeking knowledge priori constraint necessary for the exercise of moral right to respect for other.

This time, is on duty with the other merely as human beings, specifically, the duty to love one's neighbor, which Kant dealt with the imperative categorical to make the happiness of others the very end, in order to stimulate the duty of humanity charitable. In the quest to improve the virtues that humans must not differ from the suffering of the other, cultivating a sense of solidarity.

Human rights progenitor's natural rights were being treated in International documents, which served as a common denominator between the chains ideological on human rights in different legal systems.

In post modernity, the discussion on human rights from the perspective of moral demonstrates that the exercise of improvement of virtues, is the autonomy of will not treat the other as medium. The events resulting from natural disasters prove that the human being to create addicts systems by greed (addiction hate to humans) requires sacrifice and other illegitimate medium condition, which is Unlike the Kantian categorical imperative to act according to the maxim that can taking universal.

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<sup>65</sup> SANDEL, op. cit., p. 154.

<sup>66</sup> KANT, 2005, op. cit., p. 65.

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