

## **Pictures for an exhibition: Colonial Fairs, International Law and Native Actors**

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### **Abstract**

Nowadays the idea of celebrating colonial fairs, where native peoples of the overseas territories could perform their ethnic habits in front on an European audience (who besides had payed for it), could seems nasty to us, disgusting or even more a crimen of slavery, but along side the 20s and the 30s of the last century, organised colonial fairs were at its hight to show to metropolitan populations and other Western country audiences, which were the benefits furnished to the natives by the Metropolitan country, and at the same time, how lucky those backward native peoples were, who thanks to their white masters, could be taken out from the darkness of the ignorance. This colonial effort, was sometimes carried out in good faith, but others it was no any other thing but looting, and greediness, a demonstration of racial imperialism and self-sufficiency, whose actors were (from the top to the bottom) governments officials, white settlers (mainly farmers), religious communities and a wide panoplia of bizarre people, such as traders, smugglers, Indiana Jones' adventures and prodigal sons. All of them represented a vivid fresco of Western racial superiority over the colonized local people.

In this paper we are going to examine which was: 1st.) the reaction of the International Community (if any) by the time those fairs were hold, and which international institutions (remarkably the League of the Nations and the International Labour Organization) could have faced such degrading spectacle, and hence its legal tools to put an end to it, 2nd.) in a sort of contrafactual exercise, which one could be the enforceable law today, applicable by the international bodies, entitled to prosecute such crimes, and which crimes could be fitted (or penal types) into such behaviours.

**Keywords:** Colonial fairs, slavery, human dignity, Human Rights.

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### **I. Introduction**

This article is devoted to one of the most nasty and unknown face of colonialism: the human dioramas of the colonial fairs, because at that time, when those facts took place no one raised his voice against such shameless demonstration of white's stupidity and racial supremacy (although a little bit naïve) and today almost nobody knows those facts.

During the previous century XXth, politicians, parochial intelligentsia or the metropolitan powers (remarkably the Second Reich, the French III and IV Republics, the United Kingdom and Portugal) tried to convince their own populations and themselves about the benefits of the "sacred mission of civilization", which was at the base of the whole colonial effort: indeed, the ultimate goal was to show to other's colonial powers, the entanglement of Metropolis with the development of those indigenous peoples to the colonial budgetary effort.

In those international events, France, the United Kingdom, the Second German Reich and Portugal, all showed up a wide panoplia of

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colonial achievements, whose sole existence expressed by itself the justification of colonialism and consequently constituted a scenario where national pride was deployed. One of the most flamboyant points and which more visitors seduced, was the replica of African rural villages erected by authorities of Colonial Fairs. It is out of question that native peoples were never taking into account or consulting about the design of their native villages.

There, metropolitan audience could observe how realistic the natives performing their idyllic lives were, under the protection of their paternalistic patrons, and how their lives had changed, for the better, thanks to the benefits of colonialism. To leave things clear, both worlds were separated by barbed wire (there were no checkpoints available to cross from one world to the other). These two worlds interchanged glances in a sort of reality show *id est* both sides carefully scrutinized each-other with curiosity and mistrust. We do not know if salary was paid to those amateur actors (native people) in nature or in money. Or if they were forced workers, but the fact is that their Western counterpart paid money to see the show. In that way, colonialism had achieved its apotheosis: getting back home the Empire by building thematic parks.

After the Second World War, Colonial Fairs metamorphosed into Universal Expositions or commercial exhibitions, placed under the aegis of a global capitalism and, since then, it was a common place in Western hemisphere to enjoy watching how native peoples lived in their environments, dressed in exotic disguises, but at the same time luxurious and attractive ones.

Going down to the detail, at least four colonial fairs took place in the Old continent previously to World War Two<sup>1</sup>:

- 1<sup>st</sup> Erste Deutsche Kolonialausstellung
- 2<sup>nd</sup> The Wembley's Colonial Exposition (1925)
- 3<sup>rd</sup> L'exposition colonial de Vincennes (1931)
- 4<sup>th</sup> A Exposição Colonial de Porto (1934)

The first one example, and not well known was the *Erste Deutsche Kolonialausstellung* (the First German Colonial Fair) fostered by

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1. After the 1929's Stock Exchange Crack, universal fairs multiplied : Stockholm (1930), Paris (1931), Chicago (1933), Brussels (1935), Paris again (1937), Glasgow (1938) and New York (1939).

initiative of German commercial entrepreneurs (Berlin 1896), but sponsored by the *Deutsche Kolonialgesellschaft* (the German Colonialist Society), and backed by the *Kolonialabteilung des Auswärtigen Amtes* or Colonial Section of German Foreign Affairs Department. Let us remember that by time, the II Reich was in possession of territories in South-West Africa (Namibia), Togo and Cameroon (Gulf of Guinée), Tanzania (East Africa), the Kingdom of Ruanda and Urundi (African Central Lakes) the Pacific islands of Papua-New Guinea, the archipelagos of Samoa, Palaos, Carolinas, Marshalls (sold by Spain) and the Chinese enclave of Jiaozhou and political authorities had to convince their populations about the profits of being part of an empire.

The major success of the *Kolonialausstellung* was the recreation of the so-called *Eingerborreddörfe* (native villages) or *Negerdörf* (black African villages) in which 103 indigenous peoples performed their lives, in a sort of a diorama in progress. And last but not the least, for those visitors who had paid an extra fee, there were some special shows, previously announced, called *Elitetagen* (elites days). However, no one raised her/his voice against such exhibitions of native people behind wired camps, only during the Sixth Missional Evangelic Conference, held in Bremen, some voices were raised in favour of those poor peoples, remarkably the Counselor of the Reichs Chancellory for Native Affairs and Evangelic Missions, but it is not so clear if his rejection of that insidious behaviour was due to the absence of Protestant authorities in the organisation of the event (since many of the native “actors” were Christianized people, which constituted one of the achievements of Evangelic Missions) and not a matter of human dignity.

Concerning French fairs, we cannot separate the *naissance* of the consumer *bourgeoise* alongside the desire to rivalize against the British Empire, (well represented under the crystal dome of the Hyde Park Fair in 1851), and the need to forget the defeat in Napoleonic wars. Indeed, the first French universal magazine was inaugurated in Paris in 1852<sup>1</sup> and it was then when the idiomatic expression *flanmeur*

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1. Aristide Boucicaut (1810-1877), marchand ambulant was considered the creator of the Great Magazines. When he bought some small shop devoted to handkerchief Le Bon Marche in 1852, this business man searched out the formula for the success. The clients (specially female customers) could take a promenade all along the general store but→

(to wander or to walk without any specific purpose) was coined. Notwithstanding the first universal expositions ( the 1878 and the 1889 Exhibitions to commemorate the first century of the French revolution), on the contrary public places were used (not an encapsulated Paxton's Crystal Palace greenhouse), exactly the 20 hectares of the *Explanade des Invalides* the *Quai d'Orsay* and the *Champ de Mars*. The 1889 Exhibition made a classification of different human cultures following a racial hierarchization (of course the white ones were at the top of the racial pyramid) on the *Quai d'Orsay* ground, where it could be found an ethnographic fair named "The history of the human dwelling", an exhibition whose urban designer was Charles Garnier (the architect of the Paris' Opera), from the Stone Age until the XIX century, meanwhile a "colonial city" was erected on the *Explanade des Invalides*<sup>1</sup>, zonified in three different World areas: the Arabic city, the Asia area, the African neighbourhood, all of them *tableaux vivants* (dioramas in motion) where ethnic performances were meticulously carried out by native people. Every colonial village was zonified thanks to various demarcation lines such as *Le passage de Tonkin*, *l'Avenue de Gabon* or *La Rue d'Haiphong*.<sup>2</sup>

It is not a coincidence that by that time anthropology was born as an specific science, where primitive universal colonial fairs helped to boost these emerging area of knowledge: for instance panelist of the International Congress of Anthropology made an educational tour for visiting the colonial city which was located at the *Explanade des Invalides*.

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←he/she was not forced to buy something. Besides prices were fixed so employees did not waste their time in bargaining the price. Consequently clients knew how much of his budget could be expended. Thirty years later, Le Bon Marché was the greatest general store of the world. Shopping had become a sort of a legal drug! Penfornis J-L "Français.com", 2002, Paris, p. 74

1. The so called Jardin d'Acclimatation where 400 natives figurants lived in an African scenario or a native village under the intellectual environment of the racial darwinism of the Count de Gobieau and his text *Essai sur l'inegalité des races humaines* where he declared without any doubt the superiority of the arien race over the others Coquery-Vidrovitch C. (2005) "El postulado de la superioridad blanca y de la inferioridad negra" in Ferro M. "El libro negro del colonialismo". Madrid Ed. la Esfera de los Libros, page. 796
2. This was not the only one case of racist exhibition: in the United States in 1864 an American missionary bought in Belgian Congo a pygmy named Ota Benga, who was exhibited at the International Fair of Saint Louis, the National Museum of Natural History in New York and inside of a cage in the Bronx's zoo. After being liberated by a humanitarian campaign he committed suicide.

However the most impressive of all of them was the *Exposition Coloniale Internationale et des Pays d'Outre Mer* (June-November, 1931); the whole country became crazy about the *grandeur* (greatness) of the French colonial power: it represented the paroxysm of the III Republic in regard to their dignity and national pride. Of course there were native peoples “invited” to participate in the event, working as craftsmen, not only as *chantillons* (collections of samples) of *français d'outre mer*, but also as beneficiaries of the *mission civilisatrice de la France*. So the consequence was that the III French Republic was disguised as a sort of colonial *Marianne*. At the same time, some native villages, were reproduced at the same scale of the temples of Angkor and the mosque of Yanné (French Sudan, Mali nowadays). The consequence was a poisoned gift for the coming generations, specially after the Second World War, when the IV Republic was forced to maintain an endless colonial effort for reasons of national prestige in Indochine, Algiers and subsaharian Africa. But after the disaster of Suez Channel (1956), it was not so “cool” being a colonial empire.

**Portuguese Fair:** *Exposição colonial portuguesa de Porto* (from June until September of 1934) whose site was the Palace of Colonies of Porto.

As many other colonial regimes the *Estado Novo* tried to build up a colonial myth or national spirit under the motto *nautas, santos e cavaleiros* (Portugal land of sailman, saints and knights). This is not the place to show the legal architecture built by the portuguese colonialism, but some words have to be said, since a vast and dense tissue of Laws, Regulations, Acts, Decrees, etc was implemented to frame the colonies (not yet “overseas territories”) into the colonial policy of the *Estado Novo* such as the news *Bases Orgânicas da Administração Colonial* the *Estatuto Orgânico das Missões Católica Portuguesas*<sup>1</sup> and the cornerstone of the whole colonial building the *Carta Orgânica do Imperio Colonial Português*<sup>2</sup> and the *Lei de Reforma Administrativa Ultramarina*, both released in 1933. The Colonial Act defined the *Quadro jurídico-constitucional geral de uma nova política para os territorios sob dominação portuguesa*.

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1. Decreto-Lei 13 de outubro de 1926

2. The Colonial Act done at 19 March 1933 and modified by Law nº 1900 of May 21, 1935

*Dentro da opção colonial global do Estado português [...] abre-se, assim, uma fase imperial nacionalista e centralizadora, fruto de uma conjuntura externa e interna traduzida num aproveitamento das colónias*<sup>1</sup>. The Colonial Act changed the label of *Dominios portugueses* by the more majestic and impressive title of Imperio Colonial. It was in this context when the Colonial Fair of Porto took place. The *Estado Novo* tried to boost a new patriotic spirit into the souls of their population specially now, when all European nations needed an extra helping of patriotism to march through the tumultuous decade of the 30s. Captain Henrique Galvão was named general manager of the Fair aided by the Secretary of Colonies, Dr. Armindo Monteiro and helped by archbishop's authorities, in a sort of partnership between the Portuguese State, the Catholic Church and the Porto's City Hall (a tactical and strategic alliance).

Some native villages were created with their African inhabitants (the most attractive amusement for local parishioners were topless African females, but the Portuguese Catholic Church did not consider this a peep show, or sin of lust, since they were no white women), plus some colonial settler houses: from Angola, Timor, Mozambique, and Guinea-Bissau (one a lacustrine-dwelling). It was not innocent that over the area of exposition visitors could find a military camp of native ranks of the 4<sup>th</sup> Indigenous Mozambique Company and also an uncertain number of musicians of an Angola's military band. Another novelty was the School of Tropical Medicine which had its own hall: in a primitive diorama a medical *posto de socorro*<sup>2</sup> could be seen where a white doctor, helped by an African paramedic injected a vaccine into the arms of two African children, under the grateful observance of their mother.

It was so great the success of this Porto's Fair that the Salazar's Regimen launched two more fairs: the *Exposição Histórica da Ocupação* (1937) and the *Exposição do Mundo Português* (1940). The

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1. "The Organic Charter of the Portuguese Colonial Empire defined the juridical-constitutional frame, in a general way, as a new policy, proper for the territories under Portuguese rule, carrying out the Portuguese colonial option [...] In such a way, a new imperial fresh phase is open, nationalist and centralized, as a consequence of a twofold juncture: internal and external, which can be transformed in an economic exploitation [of the] colonies." Translation of the author

2. Dispensary

idea underlying was how the *pessada obrigação*<sup>1</sup> of the Portuguese Nation has been carried out without hesitation having in mind, at the same time, the respect for the uses and customs of the native population and the protection of their rights and private property (whatever they could be)<sup>2</sup>. The other one, the *Exposição do Mundo Português*, was held not by chance in the fetichist date of 1940, *id est*, the supposedly eight centenary of the foundation of the Portuguese Nation and the rescue of the Portuguese sovereignty and independence in hands, by that time, of the Castilian Kingdom (1640). And finally the *Exposição* counted with a recreation of six “native villages” typical from Angola, Guinea-Bissau, Mozambique, Cabo Verde, São Tomé and Timor, dwelled by groups of native peoples and one more only monothematic: the *Aldeia des Muleques*.<sup>3</sup> All of them were encircled by lush vegetation and lacustrine environments. It goes without saying that those native villages constituted the main attraction for the European visitors in a sort of an ethnographic festival in which nude African breasts were the central point of interest for Portuguese, as it was mentioned above.

At the same time, the Portuguese intelligentsia paid attention to the gift done to the international academic community by putting light on African native peoples,<sup>4</sup> refused accusations carried out by a false humanitarianism<sup>5</sup> and showed an inextricable relationship between colonial anthropology and anatomy of native Africans.<sup>6</sup>

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1. White's man burden

2. As it was enshrined into the Administrative Decree of 1933

3. Childvillages

4. A nossos descobridores fizeram uma contribuição formidável para os progressos da Antropologia desvendando a Europa a existência de populações e razas até então ignoradas Mendes Correa A. 1933: “Discurso Inaugural do I Congresso Nacional de Antropologia Colonial”, Porto pag 3.

5. Perdido Brasil [...] faz-se a ocupação efectiva da Africa, e iniciou-se por fim uma política de valorização perante a qual se inclinam já estrangeiros que não deixam iludir pelas tendenciosas campanhas pretensamente anti esclavagistas com que num falso humanitarismo que encobre sómente apetites ou despeitos, lá fora se caluniam os nos propósitos mais civilizadores e filantrópicos Ibis pag. 6

6. Saudo especificamente a Sociedade Anatómica Portuguesa que reunindo-se conosco, veio confirmar os laços que unem quasi confundem mesmo anatómicos e antropológicos Ibid. Pag. 6.



## II. Crimes at the stake (applicable)

### 1<sup>st</sup> Slavery and forced labour

Following the same saga of the colonialism, in other words the juridical *iter*, we must mention the General Act of February, Berlin the 26<sup>th</sup>. 1885 and for the sake of laundering their bad conscience, two more covenants were issued: the Brussels Act of July on the 2<sup>nd</sup>, 1890 and the Convention of Saint-Germain-en-Laye (September the 10<sup>th</sup>, 1919), whose consequence was the constitution of the Permanent Consultative Commission on Slavery (September the 25<sup>th</sup>, 1925), attached to the Permanent Commission of Mandate of the League of Nations.

Later on, the same Covenant of the League of Nations contains a vague mandate, something like a general statement into their Article 23, focusing on the members States: *Subject to and in accordance with the provision of international conventions existing or hereafter to be agreed upon the Members of the League: a) will endeavour to secure and maintain fair and human condition of labour for man, woman, and children, both in their countries [...] b) undertake to secure just treatment of the native inhabitants of territories under their control*"

Having this in mind the League of Nations launched a so called "Temporary Slavery Commission-TSC (1924) to review the evidences on "slavery in all its forms" and suggest measures for finishing slavery. The TSC made part of the League of Nations structure. The TSC consisted of eight experts who were appointed by the League and were not answerable to their governments: the most important thing was that the TSC, whose members were, however nationals of the colonial powers (the UK, France, Italy, Portugal, Belgium and Holland), plus three ex-colonial officials<sup>1</sup> and a delegate from the International Labour Organization gave to the League a holistic (omni comprehensive) definition of slavery: "peonage in public works, debt-bondage, pawning, sale of children for domestic service, sale of brides under guise of dowry payments, forced retention of concubines and some indirect methods of forcing indigenous peoples into wage labour by devices such as taxation and vagrants laws."

Finally, the TSC recommended the negotiation of a new slavery

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1. Frederick Lugard, Maurice Delafosse and Alfredo Freire de Andrade.

convention, which was the *League of Nations Slavery Convention of September the 25<sup>th</sup>, 1926* (the so called *Chattel Slavery*) whose definition of slavery brings to us some problems . “ [ Slavery] *is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised*” . As we can see it literally contains a short but brilliant piece of wording concision in order to embrace every possible condition or status of slavery, such as “ debt bondage” and so on, and to prevent any case on technical grounds.

However this Convention had some pitfalls: the first one was the “Territorial Clause” of Article 9 related to Overseas Territories: “ *At the same signature or ratification or accession, any High Contracting Party may declare that its acceptance of the present Convention does not bind some or all the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage in respect to all or any provision of the Convention: it may subsequently accede separately on behalf of one of them, or in respect of any provision to which anyone of them is not a party*” . As we can see the “territorial clause” , it was nothing but a self-license allowing metropolitan States to determinate which ones of their territories would be bound by the obligations seth for in the Convention and for that reason which ones were exempted from the obligations flowing from the Convention itself, Article 9 permitted “forced labour for public works” if the administrative powers deemed necessary ( *id est*, those who were at the same time prosecutor and defendant considered essential to carry out these works for public safety, or prevention of natural disasters, etc). Indeed, the 1926 Slavery Convention reflected the equilibrium of powers typically of an inter-war period when colonialism was at its height. It was a sort of gentlemen agreement or a Mechanism of Peer Review.<sup>1</sup>

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1. Statemen of the Portugues, Government: 1º os preconceitos de raça não existiram nunca nem existem nas nossas colonias, mais do que na metropole e todos [...] e indígenas das nossas colonias, gozam dos mesmos direitos, garantidos pelas leis e a constituição da República Portuguesa

As leis portuguesas sobre o trabalho indígena foi guiada por dois principios fundamentais: a liberdade de trabalho e a repressão da ociosidade [...]; as nossas leis respeitantes ao trabalho foram feitas num sentido tutear e protector dos povos interessados. Todo o indígena valido das colonias portuguesas é submetido, en virtud desta lei, a abrigação legal de prover ele proprio a sua manutenção. Alem disso todo indígena válido que não tem domicilio e não exerce habitualmente nenhuma profissão, officio ou emprego [...] e que não pode invocar nenhuma razão de força major propria, ser julgado pelo curador dos indígenas ou segundo o caso, pela autoridade administrativa que poderá fornecer-lhe→

As final summary , the 1929 Convention was a minimum code of conduct in a very delicate matter adopted the whole civilized nations and the “incivilized nations”<sup>1</sup> in which a peculiar institution had to be eliminated in an exercise of cynicism. The Portuguese delegate, General Freire Andrade stated , without blushing , that forbidding forced labour would send a wrong message to the native populations, suggesting that its prohibition implied a right to idleness for them and that the abolition of forced labour would interfere in the developing of those African countries (sic) placed under the sovereignty of the Portugal Republic.

Besides the 1926 Slavery Convention had other serious flaws: 1st). there was neither final date (deadline) to sign the end into the Signatories Countries, nor a compulsory formula to implement such goals; 2nd) the various forms of slavery were not properly spelled out 2. 3rd) there was no mechanism for enforcement the Convention or monitoring its hypothetical results and 4th) there was no maritime convention against high seas slavery trade.<sup>3</sup> As a result in 1934 an Advisory Committee of Experts on Slavery (ACE) was created but purely as advisory and only with the purpose of collecting evidence from Colonial governments.

Another possibility would scrutinized their situation under the light of “native migrants workers” related to its conditions of working, transferring (voyaging), recruitment , etc under the “Recruiting of Indigenous Workers Convention of 1936”<sup>4</sup> This Convention was applied to the contracts of employment : by which a worker enters the service of an employer as a manual worker for remuneration in cash or in any other form whatsoever [...] The contract shall be made

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←trabalho, o qual nunca será inferior a três meses e não ultrapassara um ano.” Boletim Da Agência Geral das Colonias: “A questão da escravatura- O projecto de protocolo e Lord Robert Cecil e a resposta do Governo Português” Outubro de 1926, nº 16, ano 2, p. 154. Besides, since June of 1919 Portugal was a member State of the ILO.

1. The Delegates of the Imperial powers made differences between “natives” , “backward peoples” and to “semi” or “incivilised peoples”
2. The Convention included the vague formula of captives taken in battle, debtors working off their debt, house slaves, debt peons, concubines, galley slaves and indenture slaves.
3. The 1926 Convention was amended by the 1953 one by which all competences owned by the League of Nations were transferred to the United Nations-UNGA Resolution 794 (VIII), October 23, 1953, UNTS 182.
4. ILO Recruiting of Indigenous Workers Convention nº 50, Geneva 4-24, June, adopted by ILO on April the 20th. F 1936. Date of entry in force, September the 9th, 1939.

in writing” 1, because until then there were bilateral agreements between Colonial Powers that could rule the conditions of recruitment, stay and repatriation for native migrants workers. This shortage constituted an endless source of human right violations 2

For the purpose of this Convention the term “worker” means: “an indigenous worker that it is to say a worker belonging to or assimilated to the indigenous population of a dependent territory of a Member of the Organisation, or belonging to or assimilated to the dependent indigenous population of the home territory of a Member of the Organisation” and the term “employer” was “in the absence of any indication to the contrary, any individual company or association, whether nor indigenous or indigenous”<sup>3</sup> What was important on the ILO Convention (still in force) were those clauses written in order to protect the indigenous worker and this family. So Article 12 prescribed: “ (1) No contract shall be deemed to be binding of the family or dependants of the worker in the absence of an express provision to that effect. (2) The employer shall be responsible for the performance of any contract made by any sub-contractor or other person acting as the agent of the employer” The particulars to be contained in the contract shall in all cases include [...] (d) the duration of the engagement and the method of calculating its duration; (f) the conditions or repatriation 4 “The expenses of repatriation shall include (a): travelling and subsistence during the journey and (b) [ expenses] between the date of expiry of the contract and the date of repatriation 5

Supposedly it was the Colonial Administration which was in charge

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1. Article 2 of the Convention

2“ The South Africa Union, refused the implementation of this Draft Convention since the use of native workers, aiming by the Portuguese east-provinces [ Mozambique ] are regulated by bilateral agreement between the Portuguese Government and the Government of the South Africa Union, specially in those aspects concerning gold-mines and its facilities. For non regulated immigrations (spontaneous migrants) there is a 1937 Law, which covers all types of migrants but British citizens who have no restrictions at all. For all these reasons the South Africa Union do not find any necessity in implementing such Migrants Workers Convention related to Recrutement, Placement et Conditions de Travail (égalité de traitement) des Travailleurs Migrants” Geneva, (1939) p. 5.

3. Article 1(a) and (b) of the Convention.

4. Article 5 (2)

5. Article 12.(3). This article also covered the family of the migrant worker when repatriation or in the event of his death 12. (2).

of its supervision, so Article 6 (1) laid down: “ No contract shall be valid unless it has been attested by a public officer duly accredited for the purpose (2) Before attesting any contract the public officer shall ascertain that the worker has freely consented to the contract and that this consent has not been obtained by coercion or under influence or as the result of error or misrepresentation.”

### **III Other legal bodies at the stake**

#### **1<sup>st</sup> The definition of Slavery**

First in examination is the “1956 Supplementary Convention on the Abolition of Slavery, Slave Trade and the Institution and Practices Similar to Slavery” This notwithstanding some words must be said on this Convention: contrary to his precedent, the 1956 Convention was negotiated in a very different context: the Bandung Conference, the Suez Crisis and the anticolonial struggle of Algeria, so British and French delegations were at stake, when that process of negotiation took place. In fact, decolonizations had begun by the time of negotiations of the draft Convention, and the 1955 Bandung Conference, as it was shown by attitudes expressed by States’ delegates of Egypt, Indonesia and Pakistan backed by the USSR and other socialist States. And this was remarkably clear in the wording of Article 12, because only Western countries had “non-selfgoverning territories” in fact, overseas territories (Portugal empire) or the French *Département d’ Outre-mer*.

In 1949 the United Nations General Assembly requested the Economic and Social Council-ECOSOC to update the question and the responses done to the practices of slavery. As a result, the UN Secretary General appointed an “ad hoc” commission to study the new forms of slavery, or what has happened after the awesome experience of World War II. This Commission had some goals: 1<sup>st</sup>) to survey the question of slavery, in general and other institutions and customs resembling slavery in particular; 2<sup>nd</sup>) to assess all connected problems that implies the institution of slavery; 3<sup>th</sup>) to suggest methods of attacking the problem and 4<sup>th</sup>) to suggest a division of responsibilities among the various bodies having competence into the matter (into the structure of United Nations). The Secretary General also suggested that the newly established “Ad hoc Committee on

Slavery” might purpose a new Convention, substituting the 1926 one, having in mind Articles 1, 55 and 56 of the Charter of United Nations and Articles 1, 4, 5 and 6 of the Universal Declaration of Human Rights. In April 1955 the ECOSOC considered that in light of the situation as it was revealed in earlier reports on the subject it was desirable to prepare a draft convention, which will deal with those practices not covered by the 1926 Slavery Convention. As a result a committee of representatives of the Government of Australia, Ecuador, Egypt, France, India, the Netherlands, Turkey, the USSR and Yugoslavia and a consequent Conference of Plenipotenciaries (Geneva, August-September 1956), with the participation of fifty-one States and the presence of eight observes of the International Labour Organization reached an agreement on the wording for a new convention. The result was the 1956 “United Nations Supplementary Convention on the Abolition on Slavery, the Slave Trade and the Institution and Practices similar to Slavery”<sup>1</sup>

It gives us a definition on slave trade in Article 3<sup>rd</sup>, which is “*the act of conveying or attempting to convey slaves from one country to another by whatever means of transport (something which covers the vacuum of 1926 Convention that did not cover sea trade) or being accesory thereto*” and the definition of Overseas Territories: “*This Convention shall apply to all non-self-governing trust, colonial and other non-metropolitan territories of the international relations of which any state Party is responsible. The Party concerned shall subject to the provision of paragraph 2 of this article at the time of signature, ratification, or accession declare the non-metropolitan territory or territories to which the Covention shall apply ipso facto as a result of such signature ratification or accesión*”<sup>2</sup>

Another novelty was a different and more accurate definition of slavery, in Article 7 (a) which means “the status or condition of a person over whom any or all the powers attaching to the right of ownership are exercised. (b) Slave means a person in the condition or status defined in (a) above”, and too: “a person of servile status means a person in the condition or status resulting from any of the institutions or practice mentioned in Article 1 of this Convention”.

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1. Adopted by the ECOSOC, Resolution 608 (XXI) of 30 April 1956. International Legal Materials, Treaty Series n° 59 (1957)

2. Article 12. This article reflected the environment existing in the UN realm in the middle of 50s.

## 2<sup>nd</sup> Right to moral and physical integrity:

It is lodged at the European Charter of Fundamental Rights, whose Article 3<sup>rd</sup> says: “*Everyone has the right to respect for his or her physical integrity*” but not in the European Convention on Human Rights, which only could be fitted into Article 8<sup>th</sup> “protection of private life” that could encompass both physical and physiological integrity.<sup>1</sup> In other words are sides of the same coin: one side is the protection of the physical body of the applicant and the second one is his/her spiritual consciousness. And there is a *tertium genus*, the so called “psychich integrity”, which is recognized in the “American Convention on Human Rights”<sup>2</sup> and into the European Charter of Fundamental Rights<sup>3</sup>: moral integrity is the moral which can lead to the degradation of the dignity of persons putting them at the same level of an animal or thing for an exhibition: in that case it could be violated some other extremely personal rights such as the right to honour, privacy and his own-image and corporal privacy. Right to honour and dignity of the person are extremely interwoven, and both of them are protected under Article 10.1 of the Spaniard Constitution. The core of the problem is the free-will of the consent given by one of the subjects ( usually the weakest side) which normally suffers a huge pressure from the organizers (businessman or colonial officers) of the colonial fair. So the question that it is impossible to answer is this: How can these people defend themselves from such quantity of power? The right to moral integrity is based not only on an objective element -reputation- but also on a subjective one: honour. This right could be interpreted as the right of the individual to be treated properly, according to human dignity in his everyday life, which is linked directly to the prohibition of all forms of exploitation and degradation of man.<sup>4</sup> This is not only referred to physical integrity (for instance, not being beating in his place of work), or taking the prohibition of forced labour to an extreme point, but also to respect

1. Case n° 24209/94 of Y.F. v. Turkey, Application , done at Strasbourg, 22 July 2003. Fourth Section , European Court of Human Rights.

2. The San José of Costa Rica Pact, Article 5.1 “Every person has the right to have physical, mental and moral integrity respected”

3. Article II 63.1.

4. Article 5 of the African Charter on Human and Peoples Rights

dignity, as human being and consequently not being exposed as if he/she was an animal in a zoo, in group or lonely. In other words, being recognized as owner/possessor of a bunch/handfull of subjective rights ( not being treated as an object), with the right to deploy thereby a fully-fledge existence into his/her community.<sup>1</sup>

Others rights enshrined into the Charter could be the right to freedom and security<sup>2</sup> which is the temporary and arbitrary deprivation of liberty, and that must be distinguished from imprisonment, either subteined after judgment or after administrative measures , or *de facto* but this is neither arrest nor detention.<sup>3</sup>

Another crime that could be fitted into the exhibition of natives in colonial fairs would be “degrading treatment”,<sup>4</sup> but it can be put a remedy by recourse to the “Convention against Torture and other Cruel and Inhuman or Degrading Treatment or Punishment”,<sup>5</sup> and the second instrument of protection: the “Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel , Inhuman or Degrading Treatment or Punishment”,<sup>6</sup> on case of depriving him/her of his/her fairly support by forced transfer of the “actor”. Another rights affected could be “the right to work in equitable and satisfactory conditions”,<sup>7</sup> and the “right to health”,<sup>8</sup> , a very vague wording which is impossible to accomplish due to the need of great quantities of resources which virtually no African states can afford, indeed, both of them were rights much more “indicative/enunciative” than “binding”. Therefore we have to mention here some ILO Convention and other international legal instrument to face this problem.<sup>9</sup>

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1. Ougergouz, F. ,2003, “The African Charter on Human and Peoples Rights”, The Hague.

2. Article 6.

3. This crime requires setting out two cumulative conditions: the requirement of illegality and the presence of arbitrariness.

4. Not defined into the “African Charter on Human and Peoples Rights”

5. United Nations General Assembly Resoluion BUSCAR December the 10th, 1984

6. United Nations General Assembly Resolution 3452 (XXX) December the 9th, (1975)

7. Article 15 on the ACHPR

8. Article 16 on the ACHPR express the commitment of the State to ensure that their population will receive medical attention when they were sick, and by the time when Colonial fairs occured almost no one in Europe enjoyed.

9. ILO Covention n° 64 “Related to written contracts of indigenous workers” Geneva, June 1939 (only applicable to contracts whose period goes beyond six months of time. Some→



### 3rd) Dignity

It is a polisemic term, and at least evokes a baseline of decency or conditions of life and self-respect and/or others respect into his/her own realm. It implies that every person has an equal birthright to an “inherent dignity” as well, without any consideration of sex, race, religious beliefs, etc , and that cannot be taken away by whatsoever these public authority would be.

It could be equal to privacy, which is recognized by the International Covenant on Civil and Political Rights-ICCPR (1966) 1, Article 10: “All person deprived of her liberty shall be treated with humanity and with respect for the inherent dignity of the human person”and Article 17: “ no one shall be subject to arbitrary or unlawful attacks on his honour and reputation” and the European Convention on Human and Fundamental Freedoms (1950), Article 8, but here this right is described in an elusive form: “ Everyone has the right to respect for his private and family life, his home and his correspondance”

Besides, judgements assimilate dignity to many others phrase nouns: Dignity of individuals, dignity of man, individual dignity, indignity, dignity of human beings, the right to be treated with dignity, personal status , and going even further: no arbitrary deprivation of liberty and above all associating indignity to racial segregation (in this case segregation behind a barbed-wire facility) because deprivation of human dignity leads to privation of equality and hence of slavement, servitude of forced labor and finally ethnic indignity.

Into the regional realm we could face the problem under the light of the “European Charter of Fundamental Rights” of the European Union and the “European Convention on Human Rights” of the European Council and its jurisdictional organs: the Court of the European Union and the European Tribunal of Human Rights. Alongside their sentences they have built up a concept of dignity

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←African countries have ratified this Convention to protected their own natives: Burundi, Cameroon, Ghana, Kenia, Lesotho, Malawi, Nigeria, Rwanda, Sierra Leona, Swazilandia, Tanzania, Uganda, Zaire and Zambia. Other ILO's Convention were: n° 105 Minimum Age of Working (1973), Convention ILO n° 182 (1999) “Childhood Forced Worked” and the “Palermo Protocol plus Interpretative Notes to Present and Sanctionating the Traficking of Kids and Women” UNGA Resolution 55/25, November the 15 th 2000.

1. United Nations General Assembly Resolution 2200 (XXI) of 16th December, 1966.

base on standards of reasonableness<sup>1</sup> For instance , dignity is not only a fundamental right, but also the appropriated ground for many other human rights: “It is for the Court of Justice in its review of compatibility, of acts of the institutions , with the general principles of Community law to ensure that fundamental rights to human dignity and integrity are observed”<sup>2</sup> Therefore it has been the European Court of Human Rights which much more clearly has fixed the concept of dignity in its judgments, so in the case “El-Masri v. Former Republic of Yugoslavy-Macedonia” the Court stated: “no one can be treated in a such way to lose his dignity” or “tolerance and respect for equal dignity of all human beings constituted the basement of every democratic and tolerant society”<sup>3</sup>

That one was much more clearly stated in the judgment Cyprus v. Turkey, paragraphs 304-306: “ degrading and inhuman treatment whose origins are based on discrimination by its racial origen can lead to a violation of human dignity”<sup>4</sup> Therefore it is under the umbrella of Article 3 of the European Convention on Human Rights that a wide array of judgements has enabled to the Court fixing the concept of human dignity: so in the case of Badretinov and others vs Russia Applications n° 28682/07, Strasbourg 19th July 2016, Case United Nations v. Russia Application n° 14348/15 Judgement Strasbourg 26th July 2016, 5, case Aristove and Others v. Russia, Application n° 36101/11 Judgment, Strasbourg 21st July 2016 6, Affaire Tanko c. Grèce Requête n° 7811/15, Arrêt Strasbourg 21 Juillet 2016 7 , and so many others.

And finally two incidental observations. I would like to mention

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1. Following Hannah Arend writings, it was after the end of Second War Two, when the concept of human dignity came to alive. By that time, political refugees and apatrid peoples had no right to have rights, since they were no citizens of any State. So it was necessary to create a juridical fiction, the concept of human dignity, which could serve as ground of every kind of fundamental right. Arendt H. “Los origenes del totalitarismo” Madrid (2006)
  2. Netherlands vs. Parlament and Council Judgment 69/10/2001 “Principles , objectives and tasks of the Treaties”
  3. Günduz vs. Turkey Sentence . December the 4th (2003) paragraph 40.
  4. Application n° 25781/94 Strasbourg on 10 May 2001”Greek-Cypriot missing persons case”
  5. The extradition of citizen to Kyrgyrstan would breach of Article 3 of the Convention
  6. Inadequate conditions of their detention.
  7. Arrested in custody into a insane facility of the Enforcement Service on Clandestine Immigration in Thessalonique-Greece.

here two cases of law in which we could mirror or use the dignity of a human being as ground to sustain or revert a breach of Article 3 of the ECHR: the first one was the case *lancer de nain*. In a discothèque l'Embassy Club, situated in the village of Morsa-sur-Orge, France, a dwarf who was precisely presented as physical handicapped performed a show being throwing in a night show, against a wall as if he was a human missile, notwithstanding he was protected by a helmet and a armour. Local police put an end to this bizarre spectacle and imposed a fine of 10.000 French francs to the discothèque and to the enterprise organizing, based on legal grounds which is that such behaviour was a crime against human dignity and the fact the show could breach the peace among parochials i.e. a problem d'ordre public. The owner of the discothèque and the dwarf itself counterargued arguing that he was freely lent his consent in exchange of remuneration, indeed his only source of incomes, and that it was not any danger of breaching peace, and finally that the French Constitution protected the right to work. The Administrative Court of Versailles sustained the argumentation of the appellants by canceling the fine and lifted the prohibition of the show *lancer de nain*. Finally the Conseil d'Etat in his judgment turned back the decision of the Administrative Court of Versailles of February the 25th 1992, and confirmed the fine and the prohibition of the show based on the above mentioned Article 3 of the European Convention.<sup>1</sup>

In the second case 2 the Conseil d'Etat had to judge a teatric play called *Le Mur* which had a sharpened antisemitic bias, and made a severe disregard to the human dignity. Regarding this the Préfect of the Loire-Atlantique region suspended the pièce de théâtre, based on reason of breach of public order again and making an specific mention to the precedent of the case *lancer de nain*. The plaintives *Société Les Productions de la Plume et altera* appealed the administrative compulsory order of the Préfet based on the right to free speech, liberté d'expression, and the right to free gathering liberté de réunion. The Conseil d'Etat confirmed the commandment of the suspension of the spectacle issued by the Préfect of the region of the Loire-Atlantique,

1. Conseil d'Etat statuan au contentieux n° 136727, lecture du vendredi 27 October 1992 [www.Legifrance.gouv.fr](http://www.Legifrance.gouv.fr).

2. Conseil d'Etat n° 374508, lecture de jeudi 9 Janvier 2010. [www.Legifrance.gouv.fr](http://www.Legifrance.gouv.fr).

since this *piécé du théâtre* made apology or racial discrimination and celebrated the prosecution and forced transportation of French Jews during World War Two. The legal ground was the right to human dignity, enshrined in Article 3 of the ECHR, for the scorn showed in the theatrical play.

#### 4 Decent work

And last but not the least, there was an inextricable linkage between respect for human dignity and conditions in which those “spontaneous native workers” worked. I am talking about the modern ILO’s concept of “decent work”, following the interpretation done by the European Court of Human Rights in his sentence of July the 11th 2001, *As. I vs UK* interpreting Article 8 of the 1950 European Convention on Human Rights, and Articles 22 to 25 of the Universal Declaration on Human Rights for the everyone’s right to achieve his personal and social dignity which constitutes a “basic human right”. The concept of “decent work” formulated for the first time in 1989 by the Secretary General of the ILO, Mr. Juan Somavia in 1999<sup>1</sup> implies: 1st the right to receive adequate salary to self-sustain him/her and his family; 2nd. health protection against illness which leads to have security and salubrity in the place of working (against occupational and non occupational diseases); 3rd. social protection and 4th. the right to negotiate in terms of equality, labour environmental (bargain collectively, equal gender rights, trade union rights, old-age pension, etc). In other words, the right to enjoy a minimum of social standards or to be free from “fear” and from “need”. All these legal corpus contradicts the neo-liberal school of thought which is dominant and that considers this international legal instrument, which fosters minimum social standards, hurdles in achieving competence 2, specially for defeating those countries who uses social dumping for obtaining more market share.

The core of the issue is that the concept of human dignity informs all social rights and social rights are the foundation of human rights, as it was above mentioned in Articles 22 to 25 of the Universal

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1. ILO 87 International Conference Decent Work. Inform of the General Manager Mr Juan Somavia Geneva (1999)

2. Less regulations more jobs

Declaration and other concomitant international legal instruments, mainly ILO's Convention, considered fundamental for the implementation of human labour dignity, specially in times of "market fundamentalism".

From all of the above mentioned paragraphs we can assume that there is an indubitable connection between human rights (and its protection) and the application of international labour standards<sup>1</sup> particularly since the end of the World War Two. The first fruit on this field has been the issuance of all kind of conventions related to the prohibition of force labour<sup>2</sup> and freedom of association (whose contents was non discrimination in respect to employment and occupation, freedom of peacefully assembly, and refrain from arbitrary arrest), and non discrimination on equal remuneration (for natives and colonizers). Just for mention only a bunch of them, these Conventions could be: the 1948 Convention n° 87 "Freedom of Association and Protection of the Right to Organise", the "Right to Organise and Collective Bargaining Convention" n° 98 (1949), the "Equal Remuneration Convention n° 100" (1951), the "Discrimination (Employment and Occupation)" Convention n° 111 (1958), the "Equality of Treatment (Social Security) Convention" n° 118 (1962), and the "Worst Forms of Child Labour Convention" n° 182 (1991)<sup>3</sup>.

### Concluding Remarks

The target of all these colonial exhibitions was threefold: 1<sup>st</sup>) to confirm and reaffirm, beyond any reasonable doubt, the theory of white's man superiority, upon other races (a doctrine which dated back to the XVI century), that paved the way to genocide. And at the same time it shows how those savage peoples, the *chânon manquant* (the lost link) of humankind evolution, could be observed behind barbed-wire in order to test, steadily, the backwardness of them: these ideas were applied for instance to bushman and hottentote

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1. Jenks W, "Human Rights and International Labour Standards", London (1960)

2. Not only the enlarged freedom want, but in the primary sense of human dignity related to the conditions of working, such as non discrimination in the place of employment, or the equal work equal salary principle.

3. This is not an exhaustive catalogue.

subjects which were exhibited alongside other “freaks”, as the elephant men, bearded women and other races prone to be extinguished.

Hence the legitimation of the colonial enterprise, built up over the conviction of white’s supremacy, and the consequential obligation or burden to control, educate and taking care of those backward populations. In that way the glory and the *grandeur* of the III. French Republic, the British Empire and the Portuguese *Estado Novo* resulted as a sort of national placebo, specially in the incoming times of social turmoil (political elits were afraid of the bolschevic infection of their low classes ) during the decades of 20’s and 30’s. And last , but not the least, middle class tax payers were convinced that their money was invested properly into overseas facilities ( schools, roads, hospitals, modelic villages <sup>1</sup>) and other inmaterial goods (missionaries) for the benefits of native peoples, notwithstanding that only a handful of privileged local populations (chieferdoms, *assimilados* and *métis* <sup>2</sup>) could take advantage of those metropolitan gifts.

On the other hand, many of those fairs’organizers had no doubt about the ethical side of their conducts, and we are sure now that many of them thought that they were given a chance to “their” natives, in order to enjoy a good time stage in the Metropoli. During the interwar period many of those behaviours, not even were considered as breach of a certain corpus of “soft law”, but they considered that what they were doing was the “right thing” since it was a *vacuum legis*. The question lays in the fact that this argument ( that their own native population enjoyed some inherent basic human rights) sounded very sophisticated for the mentality of the metropolitan governmental officials during the decades of 30’s of the last century.

Of course, Metropolitan white’s population were aware of the existance of crimes against humanity, such as “slavery and forced labour” (some of the which into the Metropolitan countries) but others like those that constituted attempts to “dignity” and “moral

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1. The Salazar’s regime made the same for poor whites settlers. It was called the *colonato* or the erection of a Portugal in miniature in the lowlands of the Cossoi river in Angola, within of the two Overseas Development Plans (1953-58 and 1959-63). This European imported peasants would be a model for the indolents African peasants. The experiment was a failure”. Castelo C. “Reproducing Portuguese Villages in Africa: Agricultural Science, Ideology and Empire” in *Journal of Southern African Studies*, 2016, Vol. 42, No. 2, pp. 267-281.

2. Marrons

integrity” were not. This lesson was painfully learned during occupation of Europe in World War Two, when huge amount of european occupied population, was treated on the same way<sup>1</sup>.

Finally, we should be more critical on ILO's and League of Nations behaviour. Which was the role played by this instruments *ad hoc* buildet up, as the TSC and the ACE, to stop those performances ? Did they protect, in some way, the inherent rights of those native actors? Did they warn the National public officers about the inmortality of that show? This thorny questions are still unanswered.

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1. KERSHAW I. “Descenso a los infiernos: Europa 1914-1949” Ed. Planeta de los Libros, Madrid (2016)