

**THE CONTEMPORARY CONCEPTION OF HUMAN RIGHTS:
BETWEEN CONCEPTS, FUNDAMENTALS AND DISTINCTIONS *The
Contemporary Conception of Human Rights: Between Concepts,
Foundations and Distinctions***

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SUMMARY

This work aims to present and discuss the contemporary conception of human rights theory. Based on the defense of the dignity of the human person, human rights are the result of achievements throughout history, having become effective in the international order since the end of the Second World War, when the United Nations (UN) promulgated the Universal Declaration of Human Rights. Human Rights, in 1948, when this document became the normative framework for humanitarian protection throughout the world. The aforementioned Declaration provides for a set of rights belonging to every human person, regardless of nationality, race, sex, religion or any other characteristic. Among these rights are the right to life, freedom, food, work, among others, which underlie a dignified existence. In contemporary theory, although there are different ways of designating human rights, such as "human rights", "individual rights", "fundamental rights", "natural rights", among others, these expressions have the same meaning. However, the majority doctrine essentially distinguishes between two terminologies in terms of their scope: "human rights", which are used to define the rights established by International Law; and "fundamental rights", which correspond to those referring to rights recognized and affirmed by States, as occurs in Brazil, in the text of the 1988 Federal Constitution. In methodological terms, this article is about a review study, categorized as qualitative research (in terms of nature), descriptive (in terms of objective) and bibliographic (in terms of object).

Key words: Human rights; Contemporary Theory; Fundamental rights; Dignity.

ABSTRACT

This work aims to present and discuss the contemporary conception of human rights theory. Based on the defense of the dignity of the human person, human rights are the result of conquests throughout history, having taken effect in the international order since the end of the Second World War, when the United Nations (UN) promulgated the Universal Declaration of Human Rights. Human Rights, in 1948, when this document became the normative framework for humanitarian protection worldwide. The aforementioned Declaration provides for a set of rights belonging to every human person, regardless of nationality, race, sex, religion or any other characteristic. Among these rights are the right to life, freedom, food, work, among others, which underpin a dignified existence. In contemporary theory, although there are various ways of designating human rights, such as "human rights", "individual rights", "fundamental rights", "natural rights", among others, these expressions have the same meaning. However, the majority doctrine essentially distinguishes two terminologies as to its scope: "human rights", which are used to define the rights established by international law and "fundamental rights", which are used to define the rights established by international law;

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corresponds to those referring to the rights recognized and affirmed by the States, as occurs in Brazil, in the text of the 1988 Federal Constitution. In methodological terms, this article is a review study, categorized as qualitative research (as to nature), descriptive (as to objective) and bibliographic (as to object).

Keywords: Human rights; Contemporary Theory; fundamental rights; Dignity.

1. INTRODUCTION

The United Nations (UN) defines human rights as a set of rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion or any other condition (UN, 2020). The right to life, liberty, freedom of opinion and expression, education, work, among others, are part of the list of rights protected and conferred on all humanity, without any distinction.

Faced with the atrocities that occurred in the Second World War, after its end, countries decided to come together to prevent other events of this nature from happening again, thus seeking to provide greater protection for humanity. In this environment, in 1948, the UN promulgated the Universal Declaration of Human Rights, an international normative protection document to guide States in the protection of human rights throughout the world. The Declaration arose from the need for an international protective architecture and the emergence of international human rights law (FACHIN, 2015).

Moraes (1998) highlights that the Universal Declaration of Human Rights represented the most important achievement of fundamental human rights at the international level of the entire 20th century. The Declaration, which would cover all nations, recognized the supreme values of equality, liberty and fraternity, the motto of the French Revolution of 1789.

At that time, the biggest concern became the granting and guarantee of minimum and fundamental rights for all people, guaranteeing not only their right to life, but also to a full existence, truly being a subject of rights.

After the Universal Declaration of 1948, the meaning of "human rights" began to be redesigned, as stated by Piovesan (2006, p. 07): "Considering the historicity of these rights, it can be stated that the definition of human rights points to a plurality of meanings. In view of such plurality, the so-called contemporary conception of human rights stands out" PIOVESAN (2006, p. 07):

The meaning of the expression "human rights" has its genesis in the idea of recognition and protection. Firstly, it is necessary to understand that human rights are the result of achievements throughout human history. For didactic purposes, however, Barreto (2019) states that the expression 'human rights' has been used to identify the rights inherent to the person

humanity, in the international order. However, it is common to see a variety of definitions for human rights, making it sometimes difficult to have a concrete understanding of the subject.

This work aims to present and discuss the contemporary conception of human rights theory. To this end, we take an approach covering the main concepts and definitions, foundations, characteristics and distinctions regarding these rights.

Given the complexity of defining what these rights are, we will seek support from some human rights thinkers, theorists and jurists who have formulated ideas on the topic, both in the past and currently. For this reason, the present work corresponds to a review study based on the study of leading authors in the area of human rights, such as Piovesan (2006), Ramos (2018), Fachin (2015), Moraes (2018), Canotilho (1993), Bobbio (2004), among others.

Regarding methodological aspects, the present research is categorized, regarding the nature of the research, as qualitative research; regarding the objectives of the research, defined as descriptive; and, regarding the object, considered a bibliographical research.

2 HUMAN RIGHTS: CONCEPTS AND DEFINITIONS

Rights arise as a result of social evolution and this does not happen overnight. So that today we can enjoy a legal system in the order of a Democratic Rule of Law, much has been done, gradually, slowly and with several back and forths. Jurist Bobbio (2004, p. 08) says that “rights are not born all at once”. A succinct, however, accurate description that law is the result of a historical evolution and that has man as the protagonist. In another famous and notable statement, the thinker explains that the most fundamental rights of man are historical rights, “born in certain circumstances, characterized by struggles in defense of new freedoms against old powers, and born gradually, not all at once and not once and for all” (BOBBIO, 2004, p. 08).

Bobbio (2004), in his reflection on how rights arise, talks about the dimensions of rights and brings very clearly the understanding that these dimensions arise through a process of evolution. For example, third-dimensional rights, such as those relating to the environment, could never have been conceived when the

second dimension rights, just as these could not have been imagined at the time of the conception of first dimension rights. This is because they emerged over time, as history progressed. Then, as new needs arise, these ideas of protection by law emerge.

At the international level, the human rights normative system gained strength after the Second World War. We can say that the internationalization of human rights emerged from a movement resulting from the post-war period, in the face of the horrors committed by the Nazi State in Germany, which stood out for its contempt and disposal of human beings. Piovesan (2006, p. 08) provides an overview of how this redefinition occurred:

It is in this scenario that the effort to rebuild human rights is outlined, as a paradigm and ethical reference to guide the contemporary international order. By crystallizing the logic of barbarism, destruction and disposability of the human person, the Second World War symbolized the rupture in relation to human rights, meaning the Post-War era the hope of rebuilding these same rights.

The need to protect human beings from other harmful events was at its source in the contemporary era, not an emergence, but a resurgence. This has a reason for being and is very simple to understand, as Piovesan (2013, p. 191) explains:

At the moment when human beings become superfluous and disposable, when the logic of destruction prevails, in which the value of the human person is cruelly abolished, it becomes necessary to reconstruct human rights, as an ethical paradigm capable of restoring the logic of reasonable.

It was from this rupture that the need to rebuild human rights emerged. At that time, the biggest concern became the granting and guarantee of minimum and fundamental rights for all people, guaranteeing not only their right to life, but also to a full existence, truly being a subject of rights.

After the Universal Declaration of 1948, the meaning of "human rights" began to be redesigned, as stated by Piovesan (2006, p. 07): "Considering the historicity of these rights, it can be stated that the definition of human rights points to a plurality of meanings. In view of such plurality, the so-called contemporary conception of human rights stands out".

The idea of "human rights" brings in its genesis the sense of recognition and protection. "Human rights were not given, or revealed, but conquered, and often at the cost of sacrificing lives", recalls Barreto (2019, p. 50). The author states that, for didactic purposes, the expression 'human rights' has been used to identify the rights inherent to the human person, in the international order. In view of how it arose, it is necessary

also explain the content of these rights, as well as their definition. Given the complexity of defining what these rights are, we will seek support from some human rights thinkers, theorists and jurists who have formulated ideas on the topic, both in the past and currently. However, Nucci (2019, p. 19), makes a reservation regarding the definition of human rights, which we would like to mention, before using the various concepts relevant to the matter:

The key point is to decipher the content and scope of this famous and widespread expression: human rights. Naturally, in terms of absolute simplicity, these are the rights of the human being. However, having said that, the definition and its scope are missing. It must be considered that human rights, firstly, are exclusive to human beings, excluding things and animals. Secondly, there must be basic rights, without which the being perishes. You begin to find a deeper meaning by establishing some boundaries. First generation or dimension rights come from natural law, to the point where more conservative positions argue that only these are human rights. They are the only universal and valid rights.

However, the doctrine is prodigal in presenting us with the most varied and precise concepts on the subject of human rights, saying exactly what we intend to expose. The United Nations (UN) itself defines human rights as follows: "Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion or any other condition" (UN, 2020, p. 01). According to the UN, these rights include the right to life, liberty, freedom of opinion and expression, education, work, among others, which must be conferred on all human beings, without any discrimination, as we can see. Next:

The concept of Human Rights recognizes that each human being can enjoy his or her human rights without distinction as to race, color, sex, language, religion, political or other opinion, social or national origin or condition of birth or wealth. Human rights are legally guaranteed by human rights law, protecting individuals and groups against actions that interfere with fundamental freedoms and human dignity (UN, 2020, p. 01).

As defined by Kalin and Kunzli (2013, p. 38), "it is the sum of civil, political, economic, social, cultural and collective rights stipulated by international and regional instruments and by international custom". This is a comprehensive and formal definition, considering the fact that the defense of human rights at the international level operates based on legally binding norms based on positive law, as explained by Peterke (2009). The aforementioned author considers that, among the definitions of "human rights", this is the most complete, as:

a) refers to the main sources of IHRL, that is, international treaties and international custom. It is safe to say that knowledge of these concepts is indispensable for the understanding and practical application of IHRL;

- b) concerns the difference between individual and collective DH. This allows us to analyze the issue of ownership of DHI;
- c) makes reference (indirectly or even involuntarily) to the so-called “generations” of DHI;
- d) implicitly recognizes the indivisibility, interrelationship and interdependence of human rights;
- e) recalls the division of the international human rights protection system into the universal system and regional systems. (PETERKE, 2009, p. 86-87).

Peterke (2009) observes that understanding the meaning of human rights is important and a basic prerequisite for identifying individual guarantees contained in human rights documents, as well as the obligations and protections arising from them.

We know that to be a subject of human rights there is only one condition: being human. Along these lines, Castilho (2019, p. 244) teaches that human rights can also be defined as a “set of rights that are recognized as belonging to human beings by their own nature”. Cavalcante Filho (2010, p. 06), in turn, understands human rights “as rights considered basic for any human being, regardless of specific personal conditions. These are rights that make up an intangible core of rights of human beings subject to a certain legal order”.

Based on the theory of Thomas Paine (British thinker and jurist, author of “The Rights of Man”), there is a doctrinal current that, according to Tavares (2018, p. 494), presents a definition of a natural law bias, according to which rights Human rights are: “the conjunction of natural rights, which correspond to Man by the mere fact of existing, and civil rights, that is, that set of rights which correspond to Man by the fact of being a member of society”. Human rights can also be defined, according to Luño (1979, p. 43) as “a set of faculties and institutions that, at each historical moment, materialize the demands of human dignity, freedom and equality, which must be positively recognized by legal systems legal issues at national and international level”. It is a concept that brings in its essence the basis for the emergence of the first ideas related to human rights, as it begins with dignity, individual and personal character, and then relates them to freedom and equality, two prerequisites for the achievement of these rights, in civil and political dimensions.

Santos Júnior (1996, p. 282) reminds us that human rights “will be those that are essential, without which the established concept of life cannot be recognized. There is no established and final list of such rights, since their character is progressive, corresponding at each moment to the cultural stage of civilization, as seen from successive ‘generations’”. In this definition, human rights have a historical bias, in which, in the author's view, their evolution occurred

sequentially, as conceived in dimension theory. Human Rights are also the subject of an interesting definition presented by Moraes (2018, p. 26), which can be understood as:

The institutionalized set of rights and guarantees of human beings whose basic purpose is to respect their dignity, through their protection against the discretion of state power and the establishment of minimum conditions of life and development of the human personality can be defined as rights fundamental humans.

Another definition, elaborated by Ramos (2018, p. 26), summarizes well the essence of what constitutes human rights: "Human rights consist of a set of rights considered indispensable for a human life based on freedom, equality and dignity. Human rights are the essential and indispensable rights for a dignified life."

As we see, almost all definitions of human rights refer to them as a "set of rights". In fact, human rights cannot be summarized as a single right, since all individual, social and trans-individual rights come from these rights, which presumes their broad character. Ramos (2018), in fact, remembers that there is no predetermined exhaustive list of this minimum set of fundamental rights for the dignity of the human person, since each human being, in each time and place, has different needs, these rights varying according to each context, and it is exactly as a function of these new demands that these rights are positive and, in turn, become part of the human rights relationship. Ramos (2018, p. 26) complements this understanding as follows:

Human rights represent essential values, which are explicitly or implicitly portrayed in Constitutions or international treaties. The fundamentality of human rights can be formal, through the inclusion of these rights in the list of rights protected in the Constitutions and treaties, or it can be material, being considered an integral part of human rights those that – even if not expressed – are indispensable for the promotion of human rights. human dignity. (RAMOS, 2018, p. 26).

"In general, every right expresses the ability to demand a certain obligation from a third party, which can be the State or even a private individual" (RAMOS, 2018, 26). According to the author, in the case of human rights, as they have a varied structure, they can come in four forms (RAMOS, 2018):

I – Right-claim: is the search for something, with the counterpart of duty (basic premise) of another, such as, for example, the right to fundamental education, in which the State has the duty to provide it free of charge , in accordance with art. 208, I, CF/88.

II – Right-freedom: which consists of the absence of right (basic premise), that is, the right to act without the interference of the rights of third parties, such as, for example, freedom of belief, according to art. 5th, VI, of CF/88.

III – Right-power: according to which the individual has the power to demand certain subjection (basic premise) from third parties or the State to comply with a certain norm, as in the case provided for in art. 5th, LXIII, of CF/88, which grants the power to demand that, upon being arrested, the person can request the assistance of family and a lawyer, which obliges the public authority to provide this measure.

IV – Right-immunity: corresponds to the right that the norm confers on the individual that third parties or the State are incompetent (basic premise) to interfere in their personal sphere. As an example, we can mention the person's immunity from arrest, except in cases of flagrant crime or by express and substantiated order from a competent judicial authority, or in cases of military transgression or strictly military crime, under the terms of art. 5th, LVI, of CF/88.

2.1 Human Rights and Fundamental Rights

There are several ways to designate “human rights”, depending on the period in which the object of study is concerned. According to Ramos (2018), this variety of terminologies can be observed both in doctrines and in national and international diplomas, but they all serve to designate the essential rights of the individual, namely: human rights, human rights, individual rights, fundamental rights, natural rights, public freedoms, subjective public rights, fundamental freedoms. However, they refer to the same thing.

All this diversity of terms is the result of the historical evolution in which human rights took place, as well as the redesign in which their delimitation and foundation took place. As these rights were achieved and a document expressed this achievement, there was a heterogeneous use of expressions, but with the same meaning: human rights.

For example, the 1948 American Declaration of the Rights and Duties of Man adopts the phrases “rights of man” and “essential rights of man”. The Charter of the United Nations uses the expression “human rights” as well as “fundamental freedoms”, both with the same meaning. The Universal Declaration of Human Rights, in turn, mentions in its preamble “human rights” and, immediately after, “fundamental human rights”, and also “fundamental human rights and freedoms”. The Charter of the United Nations uses the expression “human rights”, as well as “human freedoms”.

fundamental”, both with the same meaning. The 2000 Charter of Fundamental Rights of the European Union uses the expression “fundamental rights” and the 1950 European Convention on Human Rights and Fundamental Freedoms adopted the phrase “fundamental freedom” (RAMOS, 2018). Although, in most cases, these terms have the same meaning, it may occur, however, that in some contexts they are designating different meanings. However, the most used expressions in the 20th and 21st centuries are two: human rights and fundamental rights.

From 1948 onwards, with the adoption of international standards for the protection of human rights, the so-called “global normative system of human rights” was built (ARAKAKI; VIERO, 2018). These norms, to be valid in the States, must go through a recognition process, which occurs differently in each one, depending on their normative system.

As Ramos (2018, p. 53-54) rightly teaches, the majority doctrine tends to recognize that “human rights” are used to “define the rights established by International Law in treaties and other international norms on the matter, while the expression 'fundamental rights' would delimit those rights recognized and affirmed by the Constitutional Law of a specific State”. Thus, from this internalization, with the recognition of these human rights standards “they come to be called 'fundamental rights', based on their fundamentality in the protection of human beings, guaranteeing them the essential minimum that ensures their dignity”, according to explain Arakaki and Viero (2018, p. 205).

Canotilho (1993, p. 542), endorsing this distinction, explains that the expressions “human rights” and “fundamental rights” are generally used as synonyms, but that, according to their origin and meaning, we could distinguish them as follows: “human rights are valid rights for all people and at all times (universalist jusnaturalist dimension); Fundamental rights are human rights, legally-institutionally guaranteed and spatially-temporally limited”. For the author, human rights come from human nature itself, hence their inviolable, timeless and universal character; Fundamental rights would be rights related to those in force in a given legal system.

It is the same conception as Moraes (1998), who, when differentiating human rights from fundamental rights, explains that human rights are inherent to the human condition itself, without any connection with other peculiarities of individuals or groups thereof.

The author conceptualizes, in turn, that fundamental rights are “human rights recognized as such by the authorities to which the political power to issue norms is attributed, both within States and at the international level; These are human rights enshrined in Constitutions, laws, and international treaties” (MORAES, 1998, p. 36). It is also worth mentioning Cavalcante Filho (2010, p. 06), who explains well and briefly the difference between human rights and fundamental rights:

Indeed, fundamental rights and human rights, these (human) rights are attributed to humanity in general, through international treaties (UN Universal Declaration of Human Rights, 1948, for example). Fundamental rights are those enshrined in a specific legal system (Brazilian Constitution, German Fundamental Law, etc.).

In our work, we adopted the methodology described by Ramos (2018) and Canotilho (2013) to designate “human rights” and “fundamental rights”. However, we will address the expression “fundamental rights” more specifically when we deal with these rights referring to Brazilian domestic law, based on the 1988 Federal Constitution.

2.2 Characteristics of Human Rights

Human rights, like other types of rights, have their own characteristics. These characteristics can be presented according to their nature, ownership and principles. The doctrine has some main characteristics: historicity, universality, essentiality, irrevocability, inalienability, inexhaustibility, imprescriptibility, prohibition of retrogression and effectiveness.

According to Ramos (2016), knowledge and study of these characteristics is important for two reasons: the first is because it allows an understanding of the stage at which the protection of human rights is in the international order; the second reason, of an internal nature, is that knowledge of these characteristics is important for the operator of law, since Brazil is a signatory to several international human rights treaties, with binding force for Brazilian law.

In the case of Brazil, human rights standards have constitutional status, being in a higher hierarchy than infra-constitutional standards after their approval, as provided for in § 3 of Art. 5 of the 1988 Federal Constitution: “International treaties and conventions on human rights that are approved, in each House of the National Congress, in two rounds, by three-fifths of the votes of the respective members, will be equivalent to constitutional amendments”. Ramos (2016, p. 101) clarifies: “In Brazil, for

For example, the norms defining individual rights and guarantees are included in the Constitution and are still considered immutable clauses, that is, immutable, as they are not subject to modification even by the action of the Derived Constituent Power". Therefore, given the importance of these characteristics, we will briefly see some of them below.

The first characteristic, historicity, is the result of real situations, constructed over time and according to the conditions of each era. For Castilho (2019), historicity is opposed to the naturalist conception (whose rights are timeless and fixed), since it results from historical evolution, and, when it comes to fundamental rights, they also vary depending on the place. Bobbio (2004, p. 08) in this regard, also states: "human rights, however fundamental they may be, are historical rights, that is, born in certain circumstances, characterized by struggles in defense of new freedoms against old powers, and born gradually." Another characteristic is universality, which corresponds to the aspect of ownership of human rights, as a right that belongs to all people, without distinction. According to Ramos (2018, p. 101), this characteristic seeks to attribute ownership of these rights to all human beings, "regardless of any other additional quality, such as nationality, political option, sexual orientation, creed, among others".

The fact that human rights are essential by nature represents the characteristic called essentiality. According to Mazzuoli (2018, p. 37), they have content "the supreme values of the human being and the prevalence of human dignity (material content), also revealing themselves to be essential due to their special normative position (formal content)".

Human rights are considered an intrinsic value of the human being, and cannot be given up. Having it is not part of a choice, as it is a right that arises from birth, and, as a universal value, it does not only concern its holder. According to Moraes (1998), "fundamental human rights cannot be renounced", giving this characteristic the name of non-renounceability. This characteristic advocates that the authorization for the violation of its content by the holder, renouncing this right, cannot be justified or validated, as Barreto (2019, p. 34) explains: "Irrenunciation conveys the message that people do not have the power to dispose of the protection of their dignity, not having the ability to renounce the protection inherent to human dignity".

Barreto (2019) brings the emblematic example of the French case of dwarf throwing". As he says, it was a form of entertainment in bars in France, back in the 1990s, which consisted of throwing (throwing) dwarfs as if they were objects, towards a dance floor.

of mattresses, in which whoever threw the dwarf the furthest won. It turns out that, in the French city of Morsang-sur-Orge, City Hall vetoed the game, banning the practice and closing bars that did not respect the new law.

The case ended up in court, going to the Council of State (the highest body of French justice), which, in turn, dismissed the request to revoke the municipal law. The most curious detail in the entire story is that the aforementioned law was questioned by one of the dwarves, Lord Manuel Wackenheim. The applicant claimed in his request that this practice was his work, therefore, his only means of subsistence. In other words, it didn't matter to the dwarf whether that practice was also an unworthy form of human treatment, because for him, the most important thing was his survival. The legal discussion ended up at the UN Human Rights Council, which agreed with the French court's decision, also understanding that that practice violated the dignity of the human person. Therefore, the case to this day serves as a didactic example to show that dignity is indispensable.

Other situations can serve as examples of this same characteristic, such as those involving suicide, euthanasia, abortion, among others. In any case, what can be inferred is that dignity is such an important value that no human being is given the right to renounce it.

In addition to being inalienable, human rights are also inalienable, which gives rise to another characteristic, inalienability, and means that human rights are not subject to negotiation, of any nature, whether costly or free. Carvalho Filho (2010, p. 08) explains: "Alienating means transferring ownership. As a rule, fundamental rights cannot be sold, donated, lent, etc." For the author, human rights are rights of objective effectiveness, as they are of interest to the entire community. However, there are some exceptions, such as the right to property, which, even though it is a fundamental right, can be alienated (let us emphasize that not the right itself, but property as an object).

Human rights are also inexhaustible, that is, inexhaustible, in the sense that they will always be possible to expand, adding new rights to existing ones at any time, just as we observe the evolution of rights throughout history. This corresponds to another characteristic of human rights, inexhaustibility. In Brazil, we can find an example of this inexhaustibility in the constitutional text, as provided for in § 2 of Article 5 of the 1988 Magna Carta: "The rights and guarantees expressed in this Constitution do not exclude others arising from the regime and principles adopted by it, or from the international treaties to which the Federative Republic of Brazil is a party." Mazzuoli (2018, p. 38), in this regard,

notes that the constitutional text refers to the dual possibility of inserting human rights standards into the national order: “they can be complemented both by rights arising from the regime and the principles adopted by it and by rights arising from international (human rights) treaties. in which Brazil is a part.”

In the list of characteristics, we also find imprescriptibility, which means that human rights are not achieved after a period of time, that is, they do not cease to exist over time. According to Barreto (2019, p. 36): “Imprescriptibility means that the claim to respect and fulfill human rights does not end over the years, and can be demanded at any time”. This characteristic, it is important to highlight, does not refer to the prescription related to the reparation of damage due to violation of human rights, but only to the claim of respect for these rights.

As human rights are the result of historical evolution, it is not appropriate for them to suffer setbacks, starting to protect fewer rights than they protect, which is the essence of the characteristic called prohibiting setbacks. Therefore, it is prohibited for States to take steps backwards on matters related to human rights, or fundamental rights. Likewise, international Treaties can only provide for norms that expand the list of already existing rights, being prevented from reducing or eliminating rights. Mazzuoli (2019, p. 38) explains: “if a later norm revokes or nullifies a previous, more beneficial norm, that later norm is invalid because it violates the international principle of the prohibition of retrogression (also known as the 'prohibition of return' principle, of 'non-return' or 'effect *click*’”.

Regarding the characteristics of human rights, Moraes (1998) discusses in his doctrine on effectiveness, which is related to the actions of the Public Power, responsible for guaranteeing and enforcing the rights provided for in the legal system of each country, using, if necessary, its coercive power so that these rights are respected.

Finally, it is necessary to mention indivisibility, also called unity or interdependence, a characteristic that “This means that human rights must be understood as a set, as a single, indivisible and interdependent block of rights” (BARRETO, 2019, p. 36). In this regard, Ramos (2016) explains that all human rights must be recognized in a homogeneous and unified manner, without privileging one right over others, as everyone must have the same legal protection, an essential condition to provide a dignified life to all. In turn, Cavalcante Filho (2010, p. 08) observes that disrespect for any of these rights, consequently, will be disrespect for the entire

the set of human rights: "to make an exception in relation to one is to make an exception in relation to all. You cannot disrespect fundamental rights 'just a little', or 'just for one person'".

FINAL CONSIDERATIONS

This work aims to present and discuss the contemporary conception of human rights theory. In it, a theoretical approach was carried out on the main concepts and definitions, foundations, characteristics and distinctions regarding these rights.

Human rights are inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion or any other condition. These are basic rights, such as the right to life, equality, among many others, and have as their principle the dignity of the human person.

In this sense, we can say that human rights are one of the main achievements of humanity in the contemporary era, however, we must understand that this achievement is the result of historical struggles that span centuries.

A detailed study of human rights is important so that its concepts are better understood and applied. Understanding the theoretical framework in light of contemporary conceptions gives greater solidity to reflection on such a vast and globally relevant topic. Any incomplete or incorrect understanding consequently compromises the entire understanding of the legal system, both nationally and internationally, as well as the entire notion of justice.

However, it is necessary that human rights receive permanent attention, because, as society evolves and becomes more complex, new rights also emerge, creating the need for a new approach and reflection regarding these rights. Furthermore, the idea of human rights are principles that must be defended worldwide, as they concern everyone, including future generations.

Therefore, this topic deserves permanent and in-depth study, with new approaches and discoveries, especially because it is a topic of relevance to society and every new idea has a great contribution for everyone.

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