

Eurocentrism, Modern Knowledges, and the 'Natural' Order of Global Capital

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In recent debates about hegemonic knowledge in the modern world, a number of basic assumptions have emerged that allow us to characterize the dominant conception of knowledge as *Eurocentric* (Lander, 2000a). After providing a concise description of its main assumptions, I will explore here the pervasiveness of the Eurocentric perspective in the principles or fundamentals that guide current practices by which the global order of capital is planned, justified, and naturalized (i.e., made less artificial). Along these same lines, I will demonstrate the presence of the fundamentals of Eurocentrism in the international norms of protection of private investment in the failed Multilateral Agreement on Investment (MAI) and in the protection of intellectual property set out by World Trade Organization (WTO) agreements.

The perspective of Eurocentric knowledge is the central axis of a discourse that not only naturalizes but renders inevitable the increasingly intense polarization between a privileged minority and the world's excluded, oppressed majorities. Eurocentric knowledge also lies at the center of a predatory model of civilization that threatens to destroy the conditions that make life possible on Earth. For this reason,

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the critique of Eurocentrism and the development/recovery of alternate knowledge perspectives cannot be interpreted as merely an esoteric intellectual or academic preoccupation, or for that matter as a topic for interesting debates within a narrow community of scholars working on epistemological problems. In reality, these issues are closely related to vital political demands, both local and global, which are linked in turn to communities, organizations, and movements that (in a variety of ways) confront and resist the growing hegemony of transnational capital throughout the world.

Basic Assumptions of Eurocentric Knowledge

The main assumptions of the perspective of Eurocentric knowledge can be summarized in the following terms.

1. Eurocentric knowledge is based on the construction of multiple and repeated divisions or oppositions. The most characteristic and significant of these—but not the only ones, to be sure—include the basic, hierarchical dualisms of *reason* and *body*, *subject* and *object*, *culture* and *nature*, *masculine* and *feminine* (Berting, 1993; Quijano, 2000; Lander, 2000b).
2. European regional or local history is understood as *universal History*. According to this perspective, Europe serves as the model or reference for every other history, representing the apex of humanity's progress from the 'primitive' to the 'modern' (Dussel, 2000; Quijano, 2000).
3. Differences from *others* are converted into value differences (Mignolo, 1995), time-space distances (Fabian, 1983), and hierarchies that define all non-European humans as inferior ('savage', 'primitive', 'backward', 'underdeveloped'). The category of race as an instrument for classifying the

different peoples of the world—on a scale from superior to inferior—plays a central role here (Quijano, 2000).

4. Scientific knowledge and technological development advance in an upward linear direction toward ever higher levels of knowledge and greater ability to usefully transform the environment.

The hegemony of these assumptions has had multiple consequences for the constitution of modern social knowledge. Here, I will simply highlight the following: First, one particular kind of knowledge—Western scientific knowledge—is understood to be *true*, *universal*, and *objective*—the form by which all other ways of knowing are simultaneously defined as ignorance or superstition. In Western knowledge, the separation of reason and body lies at the base of a 'disembodied', desubjectified knowledge; these divisions sustain its pretensions to objectivity and detachment from time and space as a universal knowledge. Second, through the oppositions of reason/body and culture/nature, a relationship of exteriority to 'nature' is established. This is a condition for the appropriation/exploitation that grounds the Western paradigm of unlimited growth. Third, by ignoring the colonial/imperial relationships between peoples and cultures—ones that made the modern world-system possible—Eurocentric knowledge understands modernity to be an *internal* product of European genius, owing nothing to the rest of the world (Coronil, 1997; 2000). Similarly, the current condition of the other peoples of the planet is seen as having no connection to the colonial/imperial experience. Their present status of 'backwardness' and 'poverty' is the result, rather, of insufficient capitalist development. Instead of being seen as the products of modern experience, such conditions are interpreted as being symptoms of the absence of modernity. We are therefore dealing with a history that dehistoricizes and conceals the constitutive relationships of the modern colonial world-system (Coronil, 1997, 2000; Mignolo 2000a, 2000b; Quijano 2000).

Fourth, proceeding from the basic assumptions of Eurocentrism, liberal society is assumed as the natural order of things. Once former 'primitive' or 'backward' historical phases are overcome, the particular historical experience of liberal capitalist society and the liberal worldview are ontologized as the 'normal' state of society. In this way, *possessive individualism* (Macpherson, 1970), the separation of the fields of collective life (political, social, cultural, economic), and a conception of wealth and the good life unilaterally associated with the accumulation of material goods characteristic of liberal society are transformed into a universal standard for judging the deficiencies, backwardness, or poverty of the rest of the peoples and cultures of the planet. It follows from the hegemony of this articulated body of assumptions that the main transformational practices of the contemporary world—including the globalization of markets and of financial movement, the politics of deregulation and opening, as well as structural adjustment and the dismantling of state social policies—are simply adaptations to 'technological transformations', or new conditions created for 'globalization'. These conditions are understood to be a new stage of modern or postmodern society. Given the *common sense* established by the hegemony of liberal thought, these practices are inevitably assumed to represent the course of *natural history*. In the analyses and debates surrounding these practices, the players, along with their interests, strategies, contradictions, and oppositions, disappear. The most powerful effect of the naturalization of social practices is its effectiveness in clouding the *power relationships* underlying the hegemonic tendencies of globalization.

The 'Natural' Order of Liberal Society

The view of liberal society as the natural, most advanced form of human experience has been an inseparable part of modern world history for the past three centuries. This view has been the legitimizing basis of the *civilizing mission* of the colonial/imperial system; in more recent times, since the end of the Second World

War, it has acquired renewed vigor with the “colonization of reality by the discourse of development” (Escobar 1995, 22). Along with the development imaginary, the process of conquest of the rest of the planet intensified and accelerated, by way of a dense global institutional network that defined (using the diagnosis provided by the social sciences) the vast majority of the planet’s population as lacking, poor, and backward, justifying a massive intervention to rescue it from such a pitiful condition.

A type of development was promoted which conformed to the ideas and expectations of the affluent West, to what the Western countries judged to be a normal course of evolution and progress... by conceptualizing progress in such terms, this development strategy became a powerful instrument for normalizing the world. (ibid., 26)

Behind the humanitarian concern and the positive outlook of the new strategy, new forms of power and control, more subtle and refined, were put in operation. Poor people’s ability to define and take care of their own lives was eroded in a deeper manner than perhaps ever before. The poor became the target of more sophisticated practices, of a variety of programs that seemed inescapable. From the new institutions of power in the United States and Europe; the offices of the International Bank for Reconstruction and Development and the United Nations; from North American and European campuses, research centers, and foundations; and from the new planning offices in the big capitals of the underdeveloped world, this was the type of development that was actively promoted and that in a few years was to extend its reach to all aspects of society. (85)

The organizing premise was the belief in the role of modernization as the only force capable of destroying archaic superstitions and relations, at whatever social, cultural, and political cost. Industrialization and urbanization were seen as the inevitable and necessarily progressive routes to modernization. (86)

Far from referring us to the colonial/imperial past that informs the relationships between people and cultures of the modern world-system, these assumptions maintain an extraordinary efficiency, both legitimizing and naturalizing

the most significant practices of design, negotiation, and establishment of the new global institutional order of capital. These assumptions make up a theoretical and normative patrimony on the basis of which the global technocracy of commerce and international finance legitimizes its expertise. In this sense, the content of the (failed) negotiations of the MAI¹ and the agreements of the WTO are particularly significant.

Any Obstacle to the 'Natural' Order Represents an Unnatural Distortion

We are writing the constitution of a single global economy.

—Renato Ruggiero, first director general of the World Trade Organization

The significance of establishing a global system called 'free trade'² is illustrated by the importance attributed by the WTO to the prolonged negotiations known as the Uruguay Round, which culminated in the creation of this global organization. "It was quite simply the largest trade negotiation ever, and most probably the largest

¹ The Multilateral Agreement on Investment was a treaty protecting investors' rights that was secretly negotiated among governments of the countries in the Organization for Economic Cooperation and Development (OECD) between 1995 and 1997. As a result of widespread global resistance that occurred when an excerpt of the text was published on the Internet in early 1997, negotiations on the treaty ended in December 1998 without it having been signed. In spite of the fact that these negotiations did not culminate in the adoption of the agreement, the negotiating text continues to be very significant for two basic reasons. First, more than any other text pertaining to the intense drama of international accords and trade agreements in the current globalization process, the MAI explicitly and clearly expresses the core aspects of what can be properly considered to be *the global agenda of transnational capital*. Second, the main aspects of this agenda, which are mainly promoted by large, transnational corporations and by the U.S. government, continue to appear (sometimes echoing the MAI text literally) in multiple other bilateral, regional, and multilateral forums and negotiations (bilateral agreements on the promotion and protection of investment, the Free Trade Agreement of the Americas, the Forum on Asia-Pacific Economic Cooperation, as well as in negotiations carried out within the WTO and the International Monetary Fund). For a detailed explanation of the content and political implications of this treaty, see Lander 1998. For the complete text of the treaty, see OECD 1998.

² In reality, it would be more correct to speak of a commercial regime that is "corporately administered" by large, transnational companies (Working Group on the WTO/MAI1999).

negotiation of any kind in history” (WTO 1999b, 12). The goal of this organization is to create “a system of undistorted commerce”: The WTO

“is a system of rules dedicated to open, fair, and undistorted competition... Essentially, trade is distorted if prices are higher or lower than normal, and if quantities produced, bought, and sold are also higher or lower than normal—i.e. than the levels that would usually exist in a competitive market” (ibid., 7 and 17).

This view of a *normal, natural* way of doing things, in contrast with *distorted* (or unnatural) approaches, can be seen quite clearly in the justifications for *performance requirement* bans envisaged by investment treaties—whether in the extensive range of bilateral agreements negotiated over the last few years on the promotion and protection of investment, or in the MAI negotiating text. In official U.S. government documents referring to this treaty, it is repeatedly affirmed, that “‘performance requirements’ generally distort trade and investment decisions that an investor would otherwise make in a free market” (Bureau of Economic and Business Affairs, 1998). “Performance requirements” is the term used to describe a wide range of *public policies* that could curb in some way the full freedom of the investor. The MAI negotiating text details the performance requirements that governments are explicitly banned from using.

A Contracting Party shall not, in connection with the establishment, acquisition, expansion, management, operation, maintenance, use, enjoyment, sale or other disposition of an investment in its territory of an investor of a Contracting Party or of a non-Contracting Party, impose, enforce, or maintain any of the following requirements, or enforce any commitment or undertaking:

- (a) to export a given level or percentage of goods or services;
- (b) to achieve a given level or percentage of domestic content;
- (c) to purchase, use or accord a preference to goods produced or services provided in its territory, or to purchase goods or services from persons in its territory;

- (d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment;
- (e) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales to the volume or value of its exports or foreign exchange earnings;
- (f) to transfer technology, a production process or other proprietary knowledge to a natural or legal person in its territory, except when the requirement: i) is imposed or the commitment or undertaking is enforced by a court, administrative tribunal or competition authority to remedy an alleged violation of competition laws, or ii) concerns the transfer of intellectual property and is undertaken in a manner not inconsistent with the TRIPS Agreement;³
- (g) to locate its headquarters for a specific region or the world market in the territory of that Contracting Party;
- (h) to supply one or more of the goods that it produces or the services that it provides to a specific region or the world market exclusively from the territory of that Contracting Party;
- (i) to achieve a given level or value of research and development in its territory;
- (j) to hire a given level of nationals;
- (k) to establish a joint venture with domestic participation; or
- (l) to achieve a minimum level of domestic equity participation other than nominal qualifying shares for directors or incorporators of corporations. (OECD 1998, 18–20)⁴

In accordance with this, the full freedom of the investor should always take precedence over any other social, cultural, political, or economic interest, goal, or value of the countries, regions, and communities toward which the investment is directed. Any effort to redirect, change, regulate, promote, limit, or ban any of the

³ The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The text of this accord is Annex 1C of the agreements of the WTO (1994).

⁴ “The reason that these categories are disciplined in this article is that requirements imposed by governments in these areas are major burdens on investors and impair the competitiveness of their investments” (Brooks 1997).

investor's activities constitutes *discrimination* or *distortion*. It follows that what is natural remains the free decision of the investor in a market that is equally free. From this perspective, any conditions attached to this freedom—as a result of social, cultural, or ethical criteria—become an unacceptable distortion of the natural order of things. Performance requirements are considered as “distorting investment decisions to the benefit of the jurisdiction imposing the requirement” (Singer and Orbuch, 1997).

Natural Order and Legitimate Functions of Government

In accordance with the stipulations just listed, no country, region, or local community could legitimately establish criteria to direct or shape investment carried out within its jurisdiction in terms of its own goals. This even holds true in cases where these terms were democratically established and represent a wide popular consensus. The various levels of government, in other words, must be content to be passive spectators, awaiting decisions made by national or foreign investors regarding the use of national or local resources, land, and human potential. The boundary determining what constitutes the very limited—and thus legitimate—core responsibilities of the states, in contrast with functions that are illegitimate (all the laws, standards, regulations, policies, or public investments that can in any way *distort* the functioning of the market and the free will of investors), represents one of the most significant normative concepts in the entire MAI text. According to the U.S. representative (the vice president of the negotiating group), in spite of the wide spectrum of limitations that the treaty imposes on public policy, a few exceptions are allowed. “These exceptions make sure that governments are assured they have the ability, subject to certain constraints, to do what they feel is necessary to carry out some of the core responsibilities of government” (Larson, 1997). This restriction on state investment is similarly present in WTO treaties. In the case of farming, for instance, the following terms establish which public investments are allowed and which are banned:

The Agriculture Agreement distinguishes between support programmes that stimulate production directly, and those that are considered to have no direct effect. Domestic policies that do have a direct effect on production and trade have to be cut back. (WTO 1999b, 18)⁵

From this naturalizing perspective, only public policies and government actions that move toward liberalization and deregulation are legitimate. Any policy aimed in the opposite direction is, by definition, the policy of “special interest groups interested only in protecting their own privileged positions at the expense of the rest of the population” (ibid., 58). For this reason a transnational judicial order is needed to safeguard governments from their societies’ democratic demands.⁶ This is the clear meaning of the following WTO text:

Every nation rightly wants to safeguard its economic sovereignty. Most would rather introduce economic reforms of their own, without outside pressure. But the reforms can be delayed or blocked by domestic special interest groups which put their own economic welfare ahead of that of the country as a whole. In such cases, the need to fulfil multilateral obligations can assist a government to promote economic growth and development through economic reform. In similar ways, the opportunity to engage in reciprocal trade negotiations with WTO partners—a country succeeding in obtaining lower trade barriers for some of its exports in return for lowering its own barriers on imports, for example—can also help a government overcome domestic

⁵ A wide variety of policies are considered “distorting” because governments promote them on the basis of criteria or priorities other than the absolute primacy of free commerce. This despite the possible importance of the objectives orienting these policies. Governments usually give three reasons for supporting and protecting their farmers, even if this distorts agricultural trade:

- to make sure that enough food is produced to meet the country’s needs
- to shield farmers from the effects of the weather and swings in world prices
- to preserve rural society. (WTO 1999b, 18)

⁶ This corresponds to an old desire to limit the “excesses of democracy,” present in rightist thought for decades. In this sense, Joseph Schumpeter’s (1983 [1942]) interventions and the report to the Trilateral Commission, *The Crisis of Democracy* (Crozier, Huntington, and Joji 1975), already can be recognized as traditional.

special interest groups interested only in protecting their own privileged positions at the expense of the rest of the population. (ibid.)

As Pierre Bourdieu (1998) aptly demonstrates, beyond the limiting the state's ability to act, this new global legal order is designed to "call into question any and all collective structures that could serve as an obstacle to the logic of the pure market."

Expert Knowledge

The naturalization of these processes of free circulation of investment and trade as criteria that dictate the terms under which all societies on the planet *necessarily* must be organized, is explicitly supported by the expertise of those who speak in the name of specialized knowledges, in this case of *economic science* (a knowledge in the singular):

It is widely recognized by economists and trade experts that the WTO system contributes to development. (WTO 1999b, 7)

The economic case for an open trading system based upon multilaterally agreed rules is simple enough and rests largely on commercial common sense. But it is also supported by evidence: the experience of world trade and economic growth since the Second World War. (8)

Economists agree that the greatest gains go to the country that slashes its own trade barriers. Readiness to open up to foreign suppliers of consumer goods and of inputs to production improves choices as well as competition in price and services offered. Protection that gives special favours to one sector or another of the economy distorts the way a country uses its productive resources. Removal or reduction of distortions allows resources to be used more efficiently. (WTO 1999a, 5)

Another manifestation of the “naturalization”/depoliticization of the issues at stake in international economic relations is the tendency to turn disagreements into technical issues that can be resolved in an ‘objective’ and ‘impartial’ manner by the relevant specialists. The Multilateral Agreement on Investment establishes that regulations (including environmental or health-related regulations) that can be considered polemical from the point of view of their scientific justification may be submitted to a body of scientific experts for consideration (OECD 1998, 66). Similar practices are established in WTO agreements.

A separate agreement on food safety and animal and plant health standards (sanitary and phytosanitary measures) sets out the basic rules. It allows countries to set their own standards. (WTO 1999b, 19)

Member countries are encouraged to use international standards, guidelines and recommendations where they exist. However, members may use measures which result in higher standards if there is scientific justification. (ibid.)

What in these texts appears to be the simple application of objective scientific criteria in reality relates to extremely complex and controversial matters. This is the type of situation that arises when, whether on the basis of scientific evidence (on which consensus may or may not exist) or based on specific preferences on the part of the population, standards are established that regulate, limit, or block the use of a certain product or technological process. This can be seen in the heated debate surrounding foods derived from genetically modified plants and animals. One well-known case illustrating the application of WTO standards is the U.S. lawsuit involving the European Union’s ban on the sale—in E.U. territory—of meat or milk from cows fattened with hormones. The WTO ruled in favor of the United States, categorizing this ban as an unfair, protectionist practice that went against free trade, forcing the European Union to either allow the importation of these products or face severe sanctions, in spite of the opposition of a great majority of the continent’s population. The opinion of a few experts, chosen by the WTO authorities dealing with conflict

resolution, thus overruled the democratically expressed wishes of the people of the European Union. In this case it was determined that the fear of consuming genetically altered meat lacked scientific basis; inside the new world order defined by the WTO, this preference was not one for which people could legitimately opt.

The majority of the ethical and political confrontations having to do with techno-scientific matters do not have a univocal scientific solution, and differences of opinion and interpretation can continue indefinitely (Nelkin, 1977; 1984). Generally, the issues at stake cannot be resolved solely on the basis of experts' opinions. People are being denied the sovereign right to found their decisions on ethical choices or on particular cultural contexts. This is an example of the growing authoritarianism of the global capitalist order, exposing the population to the potentially harmful effects of certain techno-scientific processes against its expressed will, merely because 'specialists' consider that their opposition is based on nothing more than *prejudice*. These are not issues that depend on the existence or absence of consensus in the scientific community. In any case, as Hans Jonas (1984, 118) argues, human capacity to wield power over nature is always greater than the predictability of this power's long-range effects, which, in case of doubt, calls for an *ethics of responsibility*.⁷ This ethical choice is denied when it is assumed that, to make this type of decisions, it suffices to take into account the opinions of experts and the rights of investors (Lander 1994). Beyond the internal controversies within Western, techno-scientific

⁷ According to Jonas (1984, 30), given that what is at stake in some contemporary technological decisions could be the survival of life on planet Earth—and thus the central point of ethics—and given the insufficiencies of our predictive knowledge, it follows that when doubts arise concerning the impact of our technological action, we should prioritize the “prophecy of doom” over the “prophecy of bliss”: It must be admitted now that this same uncertainty of all long-term projections becomes a grievous weakness when they have to serve as prognoses by which to mold behavior... The envisaged distant outcome should lead its beholder back to a decision on what to do or abstain from now: and one demands, not unreasonably, a considerable certainty of prediction when asked to renounce a desired and certain near-effect because of an alleged distant effect, which anyway will no longer touch ourselves. To be sure, in the truly capital issues of ultimate destiny, the order of magnitude of the unwilling long-term effects so far exceeds that of the intended short-term effect that it ought to outweigh quite some disparity in certainty. This approach by Jonas corresponds to what is usually called the *principle of precaution*.

communities lies the fact that in the thousands of conflicts occurring in the world today between the interests of transnational capital and those of rural or indigenous people concerning the use of the environment, there is generally also a conflict in the parties' views of the cosmos, an antagonism between different knowledge systems and different ways of conceiving the relationships between culture and nature. Nevertheless—and this is a perfect expression of the continual functioning of colonial mechanisms—in the new global capital order only one form of knowledge is recognized: Western scientific knowledge. From this discourse of knowledge the criteria and procedures are established by which all difference is dissolved.

The Metaphysics of a Linear History Leading to Global Liberal Society

In the metaphysics that sustains the current juridico-institutional design of the global order of capital, history can lead in only one direction, toward *ultraliberal society*. That is, toward the progressive deregulation of all economies, the reduction of state activity to “core” functions, and toward the full freedom of capital to circulate unrestricted in all economic activities, in any locality in any country on the planet. Through the legal system, the new global institutional framework attempts to impose a single possible direction on public policy. Only certain types of policies are acceptable—those implying more liberalization and less regulation. Political reforms that lean in a different direction are explicitly forbidden. In the MAI text this conditioning of public policy was established by way of two mechanisms proposed in the treaty. The first is called the *rollback mechanism*, and is expressed in the following terms: if, in connection to MAI standards, a country is granted any exemption that allows it to maintain an existing regulation, in most cases a schedule will be established for that exemption to be cut back, and finally eliminated. The

second mechanism, that of *standstill*, establishes that once a liberalized measure has been agreed upon, it can subsequently be neither reversed nor eliminated.

In WTO texts, this historical philosophy of a world that defines happiness as a progressive, irreversible advance toward increasing levels of freely circulating capital is presented under the apparently innocuous term of “binding.” As history moves toward the liberalization of commerce, the only thing in question is the rapidity of this process, not its orientation. As a result, modifications that may later affect commercial agreements can only be made toward greater liberalization, and never in the opposite direction.

In the WTO, when countries agree to open their markets for goods or services, they “bind” their commitments. For goods, these bindings amount to ceilings on customs tariff rates. (WTO 1999b, 6)

The market access schedules are not simply announcements of tariff rates. They represent commitments not to increase tariffs above the listed rates—the rates are “bound.” (16)

Countries can break a commitment (i.e. raise a tariff above the bound rate), but only with difficulty. To do so they have to negotiate with the countries most concerned and that could result in compensation for trading partners' loss of trade (ibid.)

In order to assure that this course, once undertaken, will be as irreversible as possible and will not be reconsidered by new governments in any of the signatory states, commitments that are obtained must be long term. In the case of the MAI, once a country had signed the treaty, it could only withdraw from the agreement after a five-year waiting period following the treaty's taking effect in its jurisdiction. In order for the country to withdraw, the treaty would have to remain active for another six months, beginning with presentation of the country's notification of withdrawal. As

for investments carried out while the treaty was in effect, conditions established by the MAI would remain in place for an additional fifteen years (OECD 1998, 105).

Intellectual Property Rights: The Colonization of People and the Environment Continues

Five hundred years ago, it was enough to be a non-Christian culture to lose all claims and rights. Five hundred years after Columbus, it is enough to be a non-Western culture with a distinctive worldview and diverse knowledge systems to lose all claims and rights. The humanity of others was blanked out then and their intellect is being blanked out now.

—Vandana Shiva

Intellectual property is the field of international negotiations where one sees most clearly how the assumptions (and values) of Eurocentric knowledges legitimize ongoing practices involving the colonization of people, culture, and the environment. According to the WTO (1999b, 26):

Ideas and knowledge are an increasingly important part of trade. Most of the value of new medicines and other high technology products lies in the amount of invention, innovation, research, design and testing involved. Films, music recordings, books, computer software and on-line services are bought and sold because of the information and creativity they contain, not usually because of the plastic, metal or paper used to make them...

Creators can be given the right to prevent others from using their inventions, designs or other creations. These rights are known as “intellectual property rights.” ...

The extent of protection and enforcement of these rights varied widely around the world; and as intellectual property became more important in trade, these differences

became a source of tension in international economic relations. New internationally-agreed trade rules for intellectual property rights were seen as a way to introduce more order and predictability, and for disputes to be settled more systematically.

The 1986–94 Uruguay Round achieved that. The WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an attempt to narrow the gaps in the way these rights are protected around the world, and to bring them under common international rules.

But what exactly is meant by intellectual property? Which rights are being defended? To whom do these rights belong? The WTO agreement begins by defining intellectual property rights as private rights. Classic liberal thought from John Locke to John Stuart Mill has justified European colonialism in the Americas and the rest of the world on the premise that, given the nonexistence of legal provisions regarding individual private property—as liberal doctrine conceived them—non-European lands were unoccupied lands. In the words of Bartolomé Clavero (1994, 21–22):

The rejection of the rights of the colonized originates with the affirmation of the rights of the colonizer; a collective right gives way to that of an individual. In his second *Treatise of Government*, Locke conceives of this right more specifically as a property right, as private property, for a very precise reason. Property, for him, is above all a right that the individual has with respect to himself. It is a principle of personal stance, of radical freedom. And the right to property can also be extended to things, when it derives from the individual's exercise of control not only of himself, but of nature, which he occupies and works. The subjective, individual right constitutes, must give form to, the objective, social right; the social order must respond to this individual faculty. No legitimate right exists outside of this structure.

“Let him [the Man] plant in some in-land, vacant places of America,” thereby colonizing the uninhabited lands of America, a territory that can be considered legally empty because it is not populated with persons who fulfill the requirements of that view, who occupy and exploit the land in this way that produces, first and foremost, rights, and, above all, individual rights.

...if there is no cultivation and harvest, not even effective occupation is enough to generate a right; other uses are not important. This part of the world, this continent of America, although populated, can still be considered unoccupied, at the disposal of the first colonizer who arrives and establishes himself. The native who does not conform to this concept, to this culture, has no rights.

This is precisely how intellectual property is conceived in the most powerful instruments existing in the world today for the defence of that property, the agreements of the WTO (Correa, 1999).⁸ The text referring to intellectual property begins with the categorical definition of 'intellectual property rights' as 'private rights'.⁹ In the support of these private rights, all the member countries of the WTO should establish a regime of national legislation that allows the granting of patents for "any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application" (WTO 1994, 12). Similarly, according to Article 27 of the agreement, member countries should establish patents for the protection of microorganisms and microbiological processes. They should also establish patents or other forms of *sui generis* protection for varieties of plants.¹⁰ Thus a universal regime is established, one

⁸ The main international body responsible for the defence of intellectual property is the World Intellectual Property Organization (WIPO), a specialized agency of the United Nations based in Geneva. The purpose of this organization is "to promote the protection of intellectual property throughout the world through cooperation among States and, where appropriate, in collaboration with any other international organization" (WIPO 1993, 2). Nevertheless, this agency—based on "cooperation between states"—has lacked the power necessary to guarantee compliance with agreements or to impose sanctions. For this reason, transnational corporations and major countries, using as justification "trade-related" issues relating to intellectual property, have imposed the much more powerful WTO as the new means for guaranteeing the effective protection of their intellectual property.

⁹ Among the basic premises explicitly established in the agreement on the regime of intellectual property, it is "recognize[ed] that intellectual property rights are private rights" (WTO 1994, 12).

¹⁰ The agreement states: "Members may also exclude from patentability... plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, Members shall provide for the protection of plant varieties either by patents or by an effective *sui generis* system or by any combination thereof" (WTO 1994, 12). Article 27 is drawn up in a deliberately ambiguous manner, probably with the objective of getting it signed before extending its coverage by successive interpretations of its meaning. None of the main concepts used in the text, such as *microorganisms*, *essentially biological processes*, or *sui*

that protects intellectual property and corresponds unilaterally to the liberal view of the cosmos and to the model of scientific and technological knowledge characteristic of Western society. Two crucial issues stand out here.

First, this regime determines that, in order for a patent to be granted, the discovery in question must be “new,” “involve an inventive step” and, moreover, be “capable of industrial application.” This is based on a model of knowledge in which novelty and individualized authorship (or that of a team of coauthors or coinvestigators) are recorded concurrently with their publication or with the request for a patent. This knowledge system has little to do with the ways of knowing of the world’s rural or indigenous communities. On the contrary, the latter are collective, communal knowledges preserved through oral tradition and shared practices, knowledges whose authorship and moments of innovation are difficult to document. Second, and as an expression of the radicalization of the capitalist regime’s all-embracing process of commercialization, this unilateral vision of knowledge assumes that it is possible to *create* new forms of life. Hence, the right of (private) property is established over these creations. This agreement constitutes the principal mechanism for extending to the entire world the controversial legal doctrine that has developed in the United States, Japan, and the European Union in recent years allowing the granting of patents to life (Ho and Traavik, n.d.).¹¹ The logic of capital thus confronts not only the *cosmovisions* of the planet’s rural and indigenous populations (Mapuche Documentation Center, 1993; “Indigenous Peoples’ Seattle Declaration”, 1999) but also the views of the West’s main religions (van Dillen and Leen, 2000).

Since the Eurocentric colonial assumption is that the only possible knowledge is Western university and industrial knowledge, it follows that only knowledges

generis, are defined. Neither is a distinction drawn—which in this case would be fundamental—between *invention* and *discovery*; thus the authors of Article 27 attempt to subsume under the notion of *invention* what juridical regimes in many countries have understood as *discovery*, and therefore as unpatentable.

¹¹ For an example of patents on life or manipulations of life that have been granted on the basis of Western intellectual property formulas, see RAFI1998.

which correspond to this paradigm can be registered and protected as intellectual property. All other ways of knowing can be freely appropriated (Khor, n.d.). In the case of biotechnology, all indigenous and rural knowledges and technologies involving the selection, combination, and preservation of diverse species are denied and devalued, since they are classified as part of nature. Thus, the selection and cultivation of vegetable species (*plant breeding*) is not considered to be either true production, knowledge, or technological application, for real breeding only begins when the “primitive germ plasm” is mixed or crossbred by scientists in international laboratories (Shiva 1997, 51–52). According to Vandana Shiva (1997, 9), one can identify three types of creativity:

1. The creativity inherent to living organisms that allows them to evolve, recreate, and regenerate themselves.
2. The creativity of indigenous communities that have developed knowledge systems to conserve and utilize the rich biological diversity of our planet.
3. The creativity of modern scientists in university or corporate laboratories who find ways to use living organisms to generate profits.

Given the hierarchical dualities between culture and nature—and between scientific knowledge and empirical and/or traditional knowledge—that characterize Eurocentric knowledge, the only kind of creativity that can be recognized, and thus protected as intellectual property, is based on the third type of creativity. Beginning with the reductive principle of genetic engineering, according to which it is possible to create life, the intellectual property rights agreements oblige governments worldwide to recognize patents on life, or other forms of protection of the private ownership of life.

Just as resources formerly considered to be *commons*, or of communal use, were privately appropriated through the *enclosure* and private appropriation of fields, rivers, lakes, and forests, leading to the expulsion of European peasants from their land and their forced conversion into factory workers during the Industrial

Revolution, through *biopiracy*, legalized by the agreements protecting intellectual property, the ancestral collective knowledge of peoples in all parts of the world is being expropriated and converted into private property, for whose use its own creators must pay. This represents the dispossession or private appropriation of intellectual *commons* (Shiva 1997, 10). The potential—but also real—impact of these ways of defining and imposing the defence of so-called intellectual property are multiple, yet another expression of the tendency, in the current process of globalization, to concentrate power in Northern businesses and countries, to the detriment of the poor majorities in the South. At stake are matters as critical as the survival of life-forms and choices that do not completely fit within the universal logic of the market, as well as rural nutritional self-sufficiency and access to food and health services for the planet's underprivileged majorities. As a consequence of the establishment of patents on varieties of life-forms, and the appropriation/expropriation of rural/ communal knowledge, by transnational seed and agrochemical companies, the patterns of rural production are changing ever more quickly, on a global scale. Peasants become less and less autonomous, and they depend more and more on expensive consumables they must purchase from transnational companies (Gaia Foundation and GRAIN 1998). These companies have also developed a “terminator” technology deliberately designed so that harvested seeds cannot germinate, forcing peasants to buy new seeds for each planting cycle (Ho and Traavik, n.d.; Raghavan, n.d.). All of this has had a profound impact, as much on the living conditions of millions of people as on genetic diversity on the planet Earth.

The “freedom of commerce” that the interests of these transnational companies increasingly impose on peasants throughout the world is leading to a reduction in the genetic variety of many staple food crops. This reduction in genetic diversity, associated with an engineering view of agriculture and based on an extreme, industrial type of control over each phase of the productive process—with genetically modified seeds and the intensive use of agrochemicals—drastically reduces the auto-adaptive and regenerative ability of ecological systems. And nevertheless,

the conservation of biodiversity requires the existence of diverse communities with diverse agricultural and medical systems that utilize diverse species in situ. Economic decentralization and diversification are necessary conditions for biodiversity conservation. (Shiva 1997, 88)

Agricultural biodiversity has been conserved only when farmers have total control over their seeds. Monopoly rights regimens for seeds, either in the form of breeders' rights or patents, will have the same impact on in situ conservation of plant genetic resources as the alienation of rights of local communities has had on the erosion of tree cover and grasslands in Ethiopia, India and other biodiversity-rich regions. (99)¹²

As much as for preserving genetic diversity—an indispensable condition of life—as for the survival of rural and indigenous peoples and cultures all over the planet—a plurality of ways of knowing must coexist, democratically. Current colonial trends toward an intensified, totalitarian monoculture of Eurocentric knowledge only lead to destruction and death.

¹² For an excellent summary of recent research on the close ties between biological and cultural diversity in farming communities in Asia, Africa, and Latin America, see Prain, Fuyjisca and Warren, 1999.

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