

THAT WHICH NAMES THE LAW: *MADRE TIERRA* (MOTHER EARTH)

AQUILO QUE NOMEIA LEI: A *MADRE TIERRA*

LO QUE NOMBRA LA LEY: LA *MADRE TIERRA*

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ABSTRACT: This paper is supported by the theory of Discourse Analysis proposed by Michel Pêcheux. Its corpus is comprised of two legal texts: *Ley de Derechos de la Madre Tierra (Ley nº 71/2010)* (Law of the Rights of Mother Earth) and *Ley Marco de La Madre Tierra y Desarrollo Integral para Vivir Bien (Ley nº. 300/2012)* (Law of Mother Earth and Integral Development for “Well Living”), both passed in the Plurinational State of Bolivia. The emerge of *Madre Tierra* (Mother Earth) as the name of a law reverberates through the voice of indigenous peoples, a native cosmovisión memory as a resistance discourse against the process of silencing their history. By focusing on the process of subjectivity and the ‘rumbles’ that this event can cause, the goal is to analyze which effect of meaning and theoretical displacement are produced from the way one names, designates, refers to, and turns *Madre Tierra* into legal subject in its linguistic-discursive materialization within a legal text. Additionally, how it operates the concepts of lack, excess and strangeness (ERNST, 2009) in the analysis of the name that names a law.

KEYWORDS: Discourse. Subject. Mother Earth.

RESUMO: Este texto é sustentado teoricamente na Análise do Discurso de viés pêcheuxtiano e tem por corpus dois textos legais: a *Ley de Derechos de La Madre Tierra (Ley nº 71/2010)* e a *Ley Marco de La Madre Tierra y Desarrollo Integral para Vivir Bien (Ley nº 300/2012)* aprovadas na Bolívia. A irrupção da *Madre Tierra* como nome de lei faz ecoar, do lugar da voz dos povos originários, a memória cosmovisionária como discurso da resistência contra o silenciamento de uma história. Ao atentar para o processo de subjetivação e os ruídos que este acontecimento pode ocasionar, há por objetivo analisar que efeitos de sentido e deslocamentos teóricos são produzidos a partir das formas de nomear, designar, referenciar, subjetivar a *Madre Tierra* na sua materialização linguístico-discursiva num texto legal. E como se podem operar os conceitos de falta, excesso e estranhamento (ERNST, 2009) no trabalho de análise do nome que nomeia uma lei.

PALAVRAS-CHAVE: Discurso. Sujeito. Mãe Terra.

RESUMEN: Este texto se sostiene teóricamente en el Análisis del Discurso de perspectiva pêcheuxtiana, y contiene por corpus dos textos legales: la *Ley de Derechos de la Madre Tierra (Ley nº 71/2010)* y la *Ley Marco de la Madre Tierra y Desarrollo Integral para Vivir Bien (Ley nº 300/2012)* aprobadas en Bolivia. La irrupción de la *Madre Tierra* como nombre de ley hace eco, desde el lugar de la voz de los pueblos indígenas, a la memoria cosmovisionaria como un discurso de resistencia contra el silenciamiento de una

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historia. Al prestar atención al proceso de la subjetividad y los ruidos que este evento puede causar, se tiene por objetivo analizar los efectos de sentido y dislocamientos teóricos que son producidos a partir de las formas de nombrar, designar, referenciar, y subjetivar la Tierra Madre en su materialización lingüístico-discursiva en un texto legal. Y cómo pueden operar los conceptos de falta, exceso y extrañamiento (ERNST, 2009) en el trabajo de análisis del nombre con qué se nombra a una ley.

PALABRAS CLAVE: Discurso. Sujeto. Madre Tierra.

1 INITIAL CONSIDERATIONS: BETWEEN THE DESCRIPTION AND THE INTERPRETATION¹

Discourse Analysis (DA), the theoretical background that supports this work, presents, in its framework, an understanding of language that takes into account historicity and the constitution of the subject in the processes that produce meaning. In Orlandi's words, "discourse analysis aims to construct a method to understand language objects. For this, it does not work with language as a datum, but as *fact*" (2008, p. 31). It does so because it brings the political issue within the analysis, inasmuch as "it establishes itself within the interval between linguistics and these other sciences [of social formations], precisely in the region of the issues concerning the relation of language (linguistic object) with its exteriority (historical object)" (ORLANDI, 2008, p.33).

According to Pêcheux's proposal, ideology operates in the functioning of language, whose material basis is the discourse. The author, proposing that such a Saussurean system has relative autonomy and that the subject is constituted by the unconscious, will bring the work of ideology into the production of meanings. In articulation with history, language allows to communicate and not to communicate. This is the effect of ideology, not taken as a representation or dissimulation (ORLANDI, 2008), but as a force that

[...] through 'habit' and 'usage', therefore, it is ideology that designates both what is and what ought to be, sometimes with linguistically marked 'deviations' between observation and norm which operates as a device for 'the taking up of slack.' It is ideology that supplies the evident with which 'everyone knows' what a soldier is, or a worker, a boss, a factory, a strike, etc., the evident that makes a word or an utterance 'mean what it says' and thereby masks in 'transparency of language' what we shall call *the material character of the meaning* of words and utterances (PÊCHEUX, 1995, 160, emphasis in the original).

Two theses result from such functioning. The first consists of the proposition that the *meaning* of a word does not exist 'in itself' or, in Pêcheux's words, "*meaning ... is determined by the ideological positions brought into play in the socio-historical process in which words, expressions and propositions are produced (i.e., reproduced)*" (1995, p.160, emphasis in the original). This thesis could be summed up in the statement: words "*change their meaning according to the ideological positions held by those who use them, [...] they find their meaning by reference [...] to ideological positions*" and adds: it is through discursive formations that "what in a given ideological formation, that is, from a given position in a given conjuncture, set by the state of class struggle, determines what can and should be said" (PÊCHEUX, 1995, 160, emphasis in the original). The second thesis Pêcheux advances dictates that every discursive formation (DF), "*by the transparency of the meaning constituted in it, conceals its dependence on the complex whole in dominance of discursive formations, itself imbricated with the complex of ideological formations*" (PÊCHEUX, 1995, p.162, emphasis in the original).

This concealment, through the effect of transparency of meaning, is constituted in relation with the interdiscourse, understood as something that "[...] speaks before, elsewhere and independently" (PÊCHEUX, 1995, p. 162). In Orlandi's words, "[...] interdiscourse

¹ "[...] toda a descrição – quer se trate da descrição de objetos ou de acontecimentos ou de um arranjo discursivo-textual não muda nada, a partir do momento em que nos prendemos firmemente ao fato de que 'não há metalinguagem' – está intrinsecamente exposta ao equívoco da língua: todo enunciado é intrinsecamente suscetível de torna-se outro [...] não implica que a descrição e a interpretação sejam condenadas a se entremisturar no indiscernível. [...] a descrição de um enunciado ou de uma sequência coloca necessariamente em jogo [...] o discurso-outro como espaço virtual de leitura desse enunciado ou dessa sequência" (PÊCHEUX, 2002, p. 53-55)." (PÊCHEUX, 2002, p. 53-55). [...] any description – be it the description of objects or events or a discursive-textual arrangement, does not change anything once we hold firmly to the fact that 'there is no metalanguage' – is intrinsically exposed to the misconception of the language: every utterance is intrinsically susceptible of becoming another[...] which does not imply that the description and the interpretation are doomed to be intermixed in the indiscernible. [...] the description of an utterance or sequence necessarily brings into play [...] the discourse of the other as a virtual space for reading that utterance or that sequence".

is the set of that which is sayable, historically and linguistically defined. [...] It presents itself as a series of formulations that derive from distinct and dispersed utterances that form, in its whole, the domain of memory.” (ORLANDI, 1993, p. 91).

In short, interdiscourse

[...] is defined precisely as the whole complex in dominance of discursive formations. It represents the domain of 'knowledge', the memory of discursive formation. It is in the *interdiscourse* that the sayable is *constituted*, while the notion of *intradiscourse* is reserved not to the constitution, but to the *formulation*, that is, to the effective production, detailed and relative to a specific context of a concrete discursive sequence (ORLANDI, 2008, p. 46, emphasis in the original).

By following the Pêcheuxian theoretical framework and drawing on the key concepts of lack, excess and strangeness presented by Ernst (2009), I propose a discursive analysis of two legal texts: *Ley n. 71/2010*, called *Ley de Derechos de La Madre Tierra* (The Law of the Rights of Mother Earth) and *Ley n. 300/2012*, called *Ley Marco de La Madre Tierra Y Desarrollo Integral para Vivir Bien* (Law for Mother Earth and Integral Development to “Well Living”), both passed into law in Bolivia. For the author, who bases her analysis on Pêcheux’s proposals,

[...] such concepts can and should embrace countless ways of saying and not saying. Thus, in a given historical context in relation to a given event, what is said too much, what is said too little, and what seems not to be said in a given discourse constitute a possible way, even if preliminary and generic, to identify elements from which the corpus analysis procedures can be developed (ERNST, 2009, p. 2).

The entrance of the name *Madre Tierra* is a novelty in existing global legislation. In legal articles, it is possible to perceive the interdiscursive functioning that rescues historically constituted knowledge about ecological issues and the relation with the worldviews of indigenous peoples that are materialized intradiscursively through the process of naming, designation and reference, marked by the failure of ritual. It is the position of the indigenous cosmovision incursioning into the discourse of positive law. Naming here is understood to be the “semantic functioning by which something receives a name” (GUIMARÃES, 2002, p. 9). The laws referred to in this analysis were given names and such naming produces meanings. In addition, the elements that appear in the name (like *Madre Tierra* and *Bien Vivir*) are described in the legal articles, making the designation processes work there. The designations are the different forms of renaming, symbolizing the referent when entering the different events of the historical order, “working, in the text, as evidence of the points of stabilization of the reference relations in the interdiscourse” (ZOPPI-FONTANA, 2003, p. 253).

The name of the law does not arise when it is debated and approved by the legislative body; it comes from the discourse of the indigenous movements, which have long been debating about the necessary defense of what they denominate *Madre Tierra* (Mother Earth) before the laws were passed. It was the *Pacto de Unidad* that gathered, in several meetings, indigenous and peasant organizations of Bolivia² since April 2007 (PRADA, 2010). These conditions, under which the making of the laws in question take place, cause externality to intervene in the production of the effects of meaning marked in the discursive materiality. The history of the laws begins with a change in the political situation that was imposed on Bolivia after the rise to power of indigenous people. However, as Schavelzon warns, the discussion on plurinationality³, *Bem Viver* and the rights of the *Madre Tierra* encompasses content that go far beyond short-term issues, such as the presence of Indigenous peoples in governments” (2015, p. 9). For the

² *Confederación Sindical Única de Trabajadores Campesinos de Bolivia* (CSUTCB) [Single Trade Union Confederation of Peasant Workers of Bolivia], *Confederación Nacional de Mujeres Campesinas Indígenas Originarias de Bolivia “Bartolina Sisa”* (CNMCIQB “BS”) [National Confederation of Indigenous Peasant Women of Bolivia “Bartolina Sisa”], *Confederación Sindical de Comunidades Interculturales Originarias de Bolivia* (CSCIB) [Confederation of Trade Unions of Intercultural Communities Originating in Bolivia], *Consejo Nacional de Ayllus y Markas del Qullasuyu* (CONAMAQ) [National Council of Ayllus and Markas of Qullasuyu] and *Confederación de Pueblos Indígenas de Bolivia* (CIDOB) [Confederation of Indigenous Peoples in Bolivia].

³ “El concepto de plurinacionalidad encuentra su sentido político actual en los países andinos del crecimiento político y visibilidad de las organizaciones de pueblos y nacionalidades de tierras bajas y selva amazónica y la consecuente imagen pluriétnica de las sociedades en cuestión” (SCHAVELZON, 2015, p. 71). [The concept of plurinationality finds its current political sense in the Andean countries of the political growth and visibility of the organizations of lowland peoples and nationalities and the Amazonian jungle and the consequent multiethnic image of the societies in question].

author, “it is a question of seeing the entrance of indigenous worlds into modern politics [...] (and) how the indigenous world allows for the rethinking of politics, institutions and even the very idea of nature and society” (SCHAVELZON, 2015, p. 16). It is perhaps the emergence of what Boaventura de Sousa Santos calls the *epistemología del sur* (epistemology of the South):

[...] the demand for new processes of production and valuation of valid scientific and nonscientific knowledge as well as new relations between different types of knowledge based on the practices of classes and social groups that have suffered systematically unfair inequalities and the discriminations caused by capitalism and colonialism (SANTOS, 2010, p. 41).

It is the historical movement of a concrete struggle for the self-determination of the people that produces the *making* of the law. In the specific case of Bolivia, “it is the demand for control of natural resources, a struggle that has come – at least – since the 1952 Revolution and is once again central to the so-called ‘Water War’ (2000) and the ‘Gas War’ (2003)” (SANTOS, 2010, p. 84). It breaks with the dominant order of laws made *for* the natives to be a law made *by* the natives. It is the beginning of another way of thinking that incurs in the positive legal system.

The legal system is based on discourse of the legal subject. This, who in the words of Viveiros de Castro (2016, p.2), is “‘subject’ of a ‘sovereign’ state” For the author,

[...] this condition of subject (one of the euphemisms of subject is “subject [of rights]”) has absolutely nothing to do with the native, vital indigenous relationship with the land, the place where one lives and from which one makes their living, where one makes ‘life’ together with their relatives and friends. [...] The indigenous look down, to the Earth to which he is immanent; he takes his strength from the soil. The citizen looks upward, to the incarnate Spirit in the form of a transcendent State; he receives his rights from above (VIVEIROS DE CASTRO, 2016, p. 2).

In this sense, naming functions by the work of contradiction, playing with the historical form of the legal subject and with the dialectic of the law *for/by*, or the perspective of the one who “looks down” with that of the one who “looks up.” Viveiros de Castro, revealing the history of genocide, points to the process of “de-indianization.” In his words,

[...] it was really necessary to de-indianize them, to turn them into “national workers.” Christianize them, “dress them” (as if one had never seen “naked” Indians, these masters of adornment, feathering, body painting), forbid the languages that they speak or spoke, the customs that defined them to themselves, subject them to a system of work, police and administration (VIVEIROS DE CASTRO, 2016, p. 4).

It also promotes, because it is “necessary” to the capitalist logic, the individualization of the subject, a determined form of subjectivity, the legal subjectivity, to subjugate the State: an action that puts in “evidence” that such a free subject is solely the protagonist of his subjection. In the analysis proposed by Kashiura Jr (2015, p.58), “legal subjectivity is, in the strict sense, a historically specific form. It is only within the specifically capitalist mode of production that its conditions of existence are given”.

Ultimately, it is “[...] based on the legal form of the subject that the interpellation ‘recruits’ individuals as subjects and imposes on them, under the (legal) illusion of freedom, their place in the social process” (KASHIURA Jr., p. 65). They subject themselves to create the law. They subject themselves to name the law. They subject the object of law, which appears muddled between the legal subject and commodity, through the work of contradiction. Because in a name one can find, marked in the signifier, the functioning of the interdiscourse and that which is pre-constructed. Embracing one of the questions, how does the discursive functioning of the term *Madre Tierra* comprise a legal subject? The discursive analysis that follows is an attempt to answer it.

2 DISCURSIVE ANALYSIS: NAMES AND LAWS

Laws have numbers and some also have names. The number comes from a bureaucratic and ritual need of the State – if one law can be in discordance with another, there is need for an order to make clear what is current and in legal force and what is discarded in the timeline and in legal-political changes. I begin with *Ley n. 71: Ley de Derechos de La Madre Tierra*. In an attempt to make my reasoning about the functioning of the name clearer and make the paraphrase work, I bring some examples from the Brazilian legislation: *Lei Maria da Penha* (BRASIL, 2006)⁴ and *Lei da Justiça Gratuita* (BRASIL, 1950)⁵.

Such examples serve to illustrate the analysis of the functioning of the name in a heading of law. In the first, what follows the word *Lei* (Law) is a proper name – *Maria da Penha* – without a preposition. This law prescribes about domestic violence against women, and has a memory working through the name: Maria da Penha (a citizen and empirical subject in the world) had been a victim of violence and fought against this oppression. The law that bears her name represents, from then on, all women who are and have been victims of violence. If one can go a little farther, the people who adopt the face of Maria da Penha have their rights protected against gender violence. The second example brings the preposition: *Lei da Justiça Gratuita*. This law aims to establish criteria for granting legal aid. Unlike the above, in this case the name of the law does not attempt to commemorate a person, but rather approximate the description of the prescription of the law.

This brief observation about the names of laws relates to the analysis of the name of the *Ley n. 71: LEY DE DERECHOS DE LA MADRE TIERRA* (BOLÍVIA, 2010). In the first part of the formulation – *ley de derechos* or “law of rights” – we see the preposition that indicates what the law prescribes: *Derechos* (Rights). Now, what emerges is a *redundancy* [and non-redundant] in the expression: would not every law be a law of rights? The word *ley* (law) would already bring, based on the functioning of the memory that is attached to the word and given the conditions of production, the presupposition that the law arises to forge rights and duties. If we stipulated a paraphrase with the Brazilian example of *Lei da Justiça Gratuita*, we would see that the pleonasm is undone. In *Lei da Justiça Gratuita*, the possible interpretation is that there is a law (which exists to prescribe rights and duties) and whose theme is free legal assistance. In *Ley de Derechos*, it seems that there is a law that will prescribe *the right to have rights*. What follows – *de La Madre Tierra* – is the element that deconstructs this possible redundancy.

Drawing on the three operations proposed by Ernst (2009, p.2), which are lack (that which is “said too little”), excess (that which is “said too much”) and strangeness (that which “does not seem to fit within a given discourse”), the analysis of the sequence *Ley de Derechos* allows us to observe that the figure of *redundancy* ends up producing a *necessary excess* caused by the *historical lack* with respect to those that have been silenced historically, ultimately producing some *strangeness*. According to the author, strangeness consists of a “discursive strategy that exposes the conflict between discursive formations” and is “of the order of the ex-centric” (ERNST, 2009, p. 5). As stated earlier, it is through the term *Madre Tierra*, which names the law, that the redundancy is undone, balancing excess by lack, and promoting strangeness because of the bourgeois positivist law.

Its different names (*Abya Yala, Pachamama, Tonantzin, Madre Tierra*) come from the memory of the original peoples and refer to the “same” thing – the planet we inhabit, nature, the wilderness. The definite article *la* supports this understanding. There is only **one** planet – and here we see, in the pronoun, the pre-constructed of the ecological discourse strengthening the need for change or else we will perish. For the indigenous peoples, this planet has the semblance of a mother⁶. Therefore, the noun phrase consists of the compound name *MADRE TIERRA* and is inseparable. For this reason, I find it possible to say that *Madre Tierra* operates as a proper name, but works differently from the example given in the law *Maria da Penha*.

⁴ Law 11.340, August 7 2006 (Law of Maria da Penha).

⁵ Law 1.060, February 4 1950 (Law of Free Justice).

⁶ “No hagas a la Madre Tierra lo que no harías a tu propia madre” (Do not do to Mother Earth what you would not do to your own mother)” (WERMUS, 2002, p.10).

Here, as it has been said, it is not a question of giving rights only to the citizen Maria da Penha (“a single person”), but of guaranteeing the safeguarding of all women who may, at some point, be in the same situation of Maria da Penha. That means to say that if we were to write *Lei de Direitos da Maria da Penha*, it would be left up to herself to demand her own right to nonviolence. In *Madre Tierra* what occurs is somewhat different: in this case, the law is to give specific rights to those who take the name *Madre Tierra* and that formally acquire status as a collective subject of public interest through the name, and which, through the process of designation, becomes the semblance of all beings (living and nonliving). The first legal article will be transcribed to better elucidate the analysis:

Article 1. (PURPOSE). The purpose of this Law is to recognize the rights of Mother Earth, as well as the obligations and duties of the Plurinational State and society to ensure respect for these rights⁷.

The verb *reconocer* (recognize), through the prefix *re*, brings to discourse the assumption that the *Madre Tierra* from before, elsewhere, always had rights⁸ and that the law arises as the legal-political formalization necessary to institute and regularize something that still had to be written, either by the rise of the indigenous peoples to power or by the ecological crisis that emerges as the primary issue surrounding the survival of humanity. This “already-there”, retrieved in the prefix *re*, makes a certain dissolution of the constituted forms work by placing *Madre Tierra* in the name of law. This name, as it is designated and referenced, enables the emergence of a subjectivity far from what is logically stabilized – the one that will put the articulation between lack and excess to work.

According to Dunker, “Amerindian perspectivism proceeds according to the principle that the point of view creates the subject” (2015, p. 279). Viveiros de Castro, in dealing with the things *kumã* (“spirits and mythical beings”), proposes that notions such as

[...] ‘real’ and ‘imaginary’ are not notions that make any sense in this context; the relevant opposition lies between the original superlative, archetypal and/or monstrous things as well as the proper, authentic and current things, but which are also diminished replicas of the models (VIVEIROS DE CASTRO, 2014, p. 14).

In his resumption of Amerindian perspectivism within psychoanalysis, Dunker continues:

There are not only *humans* and animals, there are also ways of life – such as “spirits,” “pieces of bodies,” “zombies,” and “hurriedly-made men” – that may be, for example, not-entirely-humans or not-animals-yet. [...] Amerindian perspectivism is a *somatic perspectivism*, in which the body is understood as a clothing, wrapping or semblant that must be continually produced and manufactured (DUNKER, 2015, p. 295-296).

What lies, by the operation of the intradiscourse, by the subjects constituted therein, in the noise that the language, in working with the hole, makes happen in the discursive process, is an effect of legal subjectivity that is said in the law. It is a legal subjectivity that incurs in a certain order of discourse by contradictory positions: subjection of the subject to a historical form of positive law (it is necessary to make *Madre Tierra* a “legal subject”) and the resistance to the work of the State in individualizing *that* which emerges from a worldview.

Ley n. 300: LEY MARCO DE LA MADRE TIERRA y DESAROLLO INTEGRAL PARA VIVIR BIEN (BOLÍVIA, 2012) brings the indigenous language to the body of the law through the expression *vivir bien* and through the original form of writing in *Sumaj Kamaña, Sumaj Kausay, Yaiko Kavi Päve* in the body of law⁹. The “appearance” of the translation in Aymara, Quechua and

⁷ Originally: Artículo 1. (OBJETO). La presente Ley tiene por objeto reconocer los derechos de la Madre Tierra, así como las obligaciones y deberes del Estado Plurinacional y de la sociedad para garantizar el respeto de estos derechos.

⁸ These are the rights of Mother Earth listed in article 7 of the law: *A la vida* (Right to life), *A la diversidad de la vida* (Right to diversity of life), *Al agua* (Right to water), *Al aire limpio* (Right to clean air), *Al equilibrio* (Right to balance), *A la restauración* (Right to restoration) and *A vivir libre de contaminación* (Right to live free of pollution).

⁹ “El Vivir Bien (*Sumaj Kamaña, Sumaj Kausay, Yaiko Kavi Päve*). Es el horizonte civilizatorio y cultural alternativo al capitalismo y a la modernidad que nace en las cosmovisiones de las naciones y pueblos indígena originario campesinos, y las comunidades interculturales y afrobolivianas, y es concebido en el contexto de la

Guarani places, in the order of the legal discourse, the position of those who are in the political fight against oblivion and resist the process of silencing imposed by colonization. The languages silenced by the process of colonization return as laws not only as (some) guarantee of autonomy and self-determination of the peoples, but also as something capable of creating legal objects that impose an ought-to-be. They put the contradiction to work on what is missing and exceeds in the legal discourse that emerges from the indigenous worldview position.

Nevertheless, there is the question of the efficacy of legal requirements in the ideological daily life of political practices through the *vivir bien* as a horizon to be achieved. Would we be faced with an “idealistic vision of a materiality” because it is in the law? Through the functioning of the law’s name, even if alienated to the legal discourse that functions through the order of the bourgeois-capitalist ideology, the *Sumaj Kamaña*, *Sumaj Kausay*, and *Yaiko Kavi Päve* make the pre-construction of this possible previous existence return. A past/present existence that “before, elsewhere, independently” comes to mean by changing the order of the meanings.

3 FINAL CONSIDERATIONS

Madre Tierra and *Vivir Bien* (in their original translations written in the legal language) arise to supply the historical lack imposed by the Eurocentric epistemological colonization. The way of naming the law made it possible to perceive the different positions at play in the production of meanings and in the constitution of the subject in the field of legal discourse. Externality, marked interdiscursively by the silencing of a position, can be perceived through the work of lack. From this lack, marked by ideological determinations, there emerges the excess, marked in the expression *ley de derechos*, which is a ‘necessary addition’ to the subject that seeks to guarantee the stabilization of certain effects of meaning in view of the imminence (and danger) of having other meanings overlapping” (ERNST, 2009, p. 4). As if what is “obvious” to a position needed to be marked by excess to break with a certain order of discourse. Saying *Madre Tierra* as a legal subject – through the process of naming a law – is to say that something freely subjects itself as a resource. The one who names the law makes the strangeness work as an operation that “exposes the conflict between discursive formations [...] of the ex-centric order [...] marking a disorder in the utterance” (ERNST, 2009, p5). In this broad view, if the subjectivity was not perceived from the Amerindian perspective, it would be impossible to observe which redundancies and apparent inconsistencies make sense from a historicity functioning in legal discourse.

By way of final considerations, I bring up a proposed guiding question: would the indigenous cosmovision be the *real* (in the Lacanian sense) of the law, which the State symbolizes in legal language, constituting itself as a mouthpiece for the indigenous struggles in telling the Other (and itself, by virtue of the performativity of the very law) the ought-to-be of *Madre Tierra* and *Vivir Bien*? Being the *real* what is said when it comes to “the impossibility of naming the nameless, as Lacan tells us” (BALDINI and MARIANI, 2013, p.109), would the legal subjectivity of *Madre Tierra* and *Vivir Bien* be what emerges in the making of a law as “one” possible *real*, effect of the symbolic that comes precisely to break up because the distinction between symbolic, imaginary and real makes “no sense” for the indigenous people, according to Viveiros de Castro (2014)?

*interculturalidad. Se alcanza de forma colectiva, complementaria y solidaria integrando en su realización práctica, entre otras dimensiones, las sociales, las culturales, las políticas, las económicas, las ecológicas, y las afectivas, para permitir el encuentro armonioso entre el conjunto de seres, componentes y recursos de la Madre Tierra. Significa vivir en complementariedad, en armonía y equilibrio con la Madre Tierra y las sociedades, en equidad y solidaridad y eliminando las desigualdades y los mecanismos de dominación. Es Vivir Bien entre nosotros, Vivir Bien con lo que nos rodea y Vivir Bien consigo mismo.” (BOLÍVIA, 2012, Art. 5, § 2). [The “Well Living” (*Sumaj Kamaña*, *Sumaj Kausay*, *Yako Kavi Päve*). It is an alternative civilization and cultural horizon to the capitalism and to the modern thinking that borrows in the cosmovision of indigenous nations and native indigenous peasant world, and in the intercultural and afro-bolivians communities, and it is conceived in an intercultural context. It is reached through a collective, complementary and solidarity way, in its practical realization, among other dimensions, as social, cultural, political, economical, ecological, and the affection ones, aiming to fulfill the tender meeting between all humans, elements and resources of Mother Earth. It means living in complementarity, harmony, and equilibrium with the Mother Earth and the society, in equity and solidarity, and eliminating the inequality and the domination mechanisms. It is “well living” among us, “well living” with what surrounds us, and “well living” with oneself (BOLÍVIA, 2012, Art. 5, § 2)].*

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