

**RESEARCH IN LAW: A TESTIMONIAL ON GROUP  
RESEARCH, THE METHODOLOGY OF “SPRECHSTUNDE” AND  
SCIENTIFIC INVESTIGATION IN POSTMODERN TIMES<sup>1</sup>  
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## INTRODUCTION

...any viable education theory has to begin with a language that links schooling to democratic public life, that defines teachers as engaged intellectuals and border crossers, and develops forms of pedagogy that incorporate difference, plurality, and the language of the everyday as central to the production and legitimation of learning. ... Postmodern educational criticism offers the opportunity for a discursive practice, works in the interest of mankind...acknowledging difference as the basis for a public philosophy that rejects totalizing theories that view the Other as a deficit, and providing the basis for raising questions the dominant culture finds too dangerous to raise.

(ARANOWITZ and GIROUX, *Postmodern Education – Politics, Culture & Social Criticism*, University of Minnesota Press, Minneapolis, 1993, pp. 187-188).

Restlessness, curiosity, and an interest in the new are normal characteristics of those who would learn, of those who are developing and accumulating knowledge, like law students in the Brazilian university. I think it is possible to steer and use this force of inquietude and of doubt for scientific study; for the beauty of discovering and explaining reality; for the pleasure of constructing thought; of developing reasoning, deductive or

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<sup>1</sup> This article was first presented as an oral presentation in the IX Encontro Nacional do CONPEDI - Conselho Nacional de Pesquisa e Pós-Graduação em Direito, PUC-RIO, September, 19<sup>th</sup> 2001 (GTR4-Cooperação Interinstitucional e Programa Simon Bolívar) and discussed on September 20<sup>th</sup>, (GTE1-Direito Internacional e Integração regional: os efeitos da globalização). The author would like to thank (and honor) Prof. Michael R. Will and the DAAD/CAPES Program for the financial support received during her studies in Germany.

\* Originally published in the *Revista da Faculdade de Direito da Universidade Federal do Rio Grande do Sul*, Vol. 20 (Porto Alegre: Nova Prova Grafica e Editora, 2001), pp. 63-89. An earlier version of this translation into English and the accompanying essay responding to the article was distributed at the CAPES-FIPSE Annual Project Directors' Meeting in Florianopolis, SC, Brazil, October 6-9, 2004. This translation was reviewed by UFRGS Masters' degree candidate in Law Antonia Espindola Longioni Klee.

inductive; for the pleasure of discovering a solution to a case or a problem in life; to experience respect and admiration for the discoveries and the paths of jurists who preceded us; to know and accompany the jurists of today; to develop our own vision of reality, to admire and unveil logic – rational or sentimental – in current juridical solutions to old and new conflicts and problems of our society.

To research is to think, reflect, read, discuss, question, criticize, discover and, finally, to search for a vision, an explanation, an idea, a solution to the questions and problems that motivate and interest us; to build, form and organize a thought (original or not); and to reach a result which calms that initial inquietude.

To research in law is something so simple and hermeneutic, almost natural and intrinsic to science. Why is it treated as something so complex, egotistical and exclusive for only a few? There are many explanations: power games<sup>2</sup>; the influence of positivism, and empiricism in our scientific thought<sup>3</sup>. It seems useful, in this ninth national meeting of CONPEDI (National Council of Research in Law), PUC-RIO, 2001, to reflect on this question and analyze current answers from a postmodern view<sup>4</sup>. (Erik Jayme, “Identité culturelle et intégration: le droit internationale privé postmoderne,” in *Recueil des Cours de l’Académie de Droit International de la Haye*, 1995, II, pp. 36 et seq.) This may contribute a little, which in my view is necessary, towards the reconstruction and redirection of our own prejudices in relation to research in law and the way that research is carried out in our law schools.

In this sense, I would like to divide my reflections into two parts, the first analyzing research in law in the university and the difficulties of doing legal research today as a consequence of the crisis of post-modernity<sup>5</sup>. Reality is such that looking within the university and within other sciences, research carried out in law is less respected. We will reflect on why there is this prejudice against juridical research; defend the plurality of research methods<sup>6</sup>,

<sup>2</sup> Cf. TRINDADE, Héglio, *Universidade, Ciência e Poder*, in *Universidade em ruínas*, 2ed., Ed. Vozes, 2000, p. 14-21.

<sup>3</sup> Cf. SAMAJA, Juan, *Aportes de la metodología a la reflexión epistemológica*, in *La posciencia - El conocimiento científico en las postrimerías de la modernidad*, Esther Díaz (Editora), Ed. Biblos, Buenos Aires, 2000, p. 151.

<sup>4</sup> This post-modern analysis is in honor of Prof. Dr. Dr.h.c. Erik Jayme of the University of Heidelberg, the author’s doctoral dissertation advisor (orientador), who in his course at the Hague Academy of International Law launched his theory on post-modernity as reflected in the law. See JAYME, Erik, *Identité culturelle et intégration: Le droit internationale privé postmoderne* - in: *Recueil des Cours de l’Académie de Droit International de la Haye*, 1995, II, pg. 36 et seq.

<sup>5</sup> On the reflection of current post-modernity in research and in the science of law, see my article *A crise científica do Direito na pós-modernidade e seus reflexos na pesquisa*, in *Cidadania e Justiça-Revista da AMB*, ano 3, n. 6 (1999), p. 237 et seq. (republished in the *Revista Arquivos do Ministério da Justiça*) and in the book of the Annual Record of the Conference, *Rumos da Pesquisa - Múltiplas Trajetórias*, Maria da Graça KRIEGER & Marininha Aranha ROCHA, eds., Porto Alegre: Pró-Reitoria de Pesquisa/Ed. UFRGS, 1998, pp. 95-108.

<sup>6</sup> This work was inspired by Aranowitz and Giroux, who demonstrate how the post-modern paradigms, like pluralism and the end of absolute and universal meta-narratives for all the sciences (as, for

especially in postmodern times<sup>7</sup>; and construct a positive attitude<sup>8</sup> for ourselves as jurist-researchers, denying exclusion and of prejudice in relation to our colleagues, in the universities and institutions of society<sup>9</sup> (Part I). The second part will be dedicated to the problems and difficulties of teaching research in law. In our academic reality, extracurricular research outside of students' classes, research for scientific initiative/investigation without the finality of a grade or work without conclusion, is increasingly less frequent in our country. I have had the privilege and luck to be a junior researcher at the University of Saarland, at the Max Planck Institute in Germany and at the Swiss Institute of Comparative Law. Since joining the Universidade Federal do Rio Grande do Sul (UFRGS) some ten years ago [Tr. Note: as of 2001, when this article was written], I have worked in scientific initiatives and group research. So I think I can contribute to the discussion with a personal testimony. I want to share something about the format, the method, the difficulties and the results of this work of group research at the UFRGS law school. This story's goal is not only to explore the methodology that

example, the end of the traditional meta-narrative of the need to use empirical methods for a study to be considered "scientific"), can and should be used to discuss the crisis in education and our methods in today's university: *"Regardless of whether critics see postmodernism as pastiche, parody, or serious cultural criticism, the postmodern temperament arises from the exhaustion of the still prevailing intellectual and artistic knowledge and the crisis of the institutions charged with their production and transmission - the schools. The "nihilism" of postmodern discourse does not signify its rejection of ethics, politics, and power, only its refusal to accept the givens of public and private morality and the judgments arising from them. Of course, we go further in this book and argue that critical postmodernism provides a political and pedagogical basis not only for challenging current forms of academic hegemony but also for deconstructing conservative forms of postmodernism in which social life merely made over to accommodate expanding fields of information in which reality collapses into the proliferation of images. At its best, a critical postmodernism signals the possibility for not only rethinking the issue of educational reform but also creating a pedagogical discourse that deepens the most radical impulses and social practices of democracy itself."* ARANOWITZ, Stanley and GIROUX, Henry A., *Postmodern Education - Politics, Culture & Social Criticism*, University of Minnesota Press, Minneapolis, 1993, p. 187.

<sup>7</sup> I defend the idea that the crisis of post-modernity in Law originated in the modification of relevant economic benefits, that in the Middle Ages meant immovable assets, in the Modern Age meant movable economic goods, and that in the current time means movable immaterial assets, or the dematerialized "doing" of services, of *soft ware*, communication, leisure, safety, education, health, credit. If it is only these immaterial benefits and performances that are wealth today, then the contracts that authorize and regulate the transference of these "riches" to society also have to change, evolving from a model of buying and selling to new models of services and complex transactions, adapting to this dematerialized "post-modern" challenge. See our book, *CONTRATOS*, 3.ed., p. 89 et seq. Sociologists prefer to study the phenomenon of change in the means of production: pre-industrial, industrial and post-industrial or *informationalism*, as Castells analyses the teachings of Tourraine, in CASTELLS, Manuel, *The rise of the network society*, vol. I, *The Information age: economy, society and culture*, Blackwell, Massachusetts, 1996/1999, p. 14 et seq.

<sup>8</sup> According to ROSENAU, Pauline Marie, *Post-modernism and the social sciences*, Princeton Univ. Press, Princeton, 1992, p. 117. In Rosenau's classification, one must be a "skeptical" post-modern, in order to counter the "affirmative" post-modern, referring to those who clamor for the reconstruction of and who use of part of the meta-narratives of modernity, like the position defended in this article. *Id.*, at 53, 57.

<sup>9</sup> Research in Law is not restricted to law schools and universities; on the contrary, from my experience in research institutes in Germany and Switzerland and in BRASILCON - the Brazilian Institute of

developed to teach research, called “Sprechstunde,” but also and principally, as a mixture greatly influenced by German methods and not common in Brazil, to assist reflection on the necessary opening of spirit in relation to the efforts of colleagues in scientific initiatives and in teaching research. Perhaps, therefore, we can reflect a little on the normal egoism of professor-researchers and of the rejection of research<sup>10</sup>. Perhaps, also, we can start a counter-tendency of working more cooperatively, interdisciplinarily, in groups, respecting differences and pluralism in a type of “postmodern educational criticism”<sup>11</sup> (defined as a “. . . need for constructing a critical discourse to both constitute and reorder the ideological broader parameters of a radical democracy,” Aranovitz and Giroux, op. cit, p. 188) also in the Law<sup>12</sup>.

## I. RESEARCH IN LAW IN THE UNIVERSITY

As Pádua teaches,

in a broad sense, research is all activity aimed at solving problems, activities of search, inquiry, and investigation of reality; activity that permits us, in the realm of science, to work out an idea or a collection of ideas that helps our comprehension of that reality and orients our actions.<sup>13</sup> (PÁDUA, Elisabeth Matallo Marchesini de, *Metodologia da pesquisa – Abordagem teórico-prática*, Ed. Papirus, 2.ed, Campinas, 1997, p. 29)

Consumer Law and Policy (Instituto Brasileiro de Política e Direito do Consumidor), I consider that the future of research, also in Brazil, will be conducted as much in the organizations and institutes of the Third Sector as in the universities.

<sup>10</sup> I defended pluralism in the research published as “A crise”, p. 95 et seq.

<sup>11</sup> The expression “Postmodern educational criticism” is slightly incongruous, since the critic is typical of modernity, but this expression was used by ARANOVITZ and GIROUX, p. 188, to describe the theory of reconstruction of education, in a democratic, pluralistic and critical way, in full post-modernity: “*Postmodern educational criticism points to need for constructing a critical discourse to both constitute and reorder the ideological broader parameters of a radical democracy*”.

<sup>12</sup> For some, this is a very difficult task, that involves a return to epistemological thought. Thus the Argentine master, Carlos Alberto Ghersi (GHERSI, Carlos Alberto, *Tercera Via - Ambito Jurídico*, Ed. Gowa, 2000), considers that post-modernity constructs a dangerous legal subjectivity and an abstract method of teaching that is removed from reality and a discourse on law postulated as if it were real, even though it cannot be effective, (p. 30), that exalts individualism and sees law as an end in itself (p. 44), which is the destruction of the validity and social function of Law (p. 45). The author argues for a counter-tendency (p. 33), that “el derecho debe enseñarse como fenómeno social complejo” and as a resource for the other sciences, because “definir la frontera de una ciencia, es limitar la investigación, es no permitir la consubstanciación o entrecruzamiento de los saberes, lo social es un todo inescindible, pues apunta a la humanidad en comunidade, parcializada en Estados o globalizada en un solo mundo” (p. 33 and 34) and he concludes: “Pensamos que a partir de involucrar el derecho con los saberes que están en lo social, mostramos aspectos de las normas que las sumergen en un mundo de contradicciones y de causalismos; la contextualización enfrenta así a la abstracción individualista, es la corriente de reacción o su contratendencia.” (p. 37).

<sup>13</sup> See PÁDUA, Elisabeth Matallo Marchesini de, *Metodologia da pesquisa- Abordagem teórico-prática*, Ed. Papirus, 2.ed, Campinas, 1997, p. 29 (defining research).

During the sixteenth and seventeenth centuries, the epistemological bases and methodologies of modern scientific understanding were established<sup>14</sup>, of which Galileo Galilei, Isaac Newton and Johannes Kepler are considered precursors, and which resulted in a new way of comprehending reality and the foundation of knowledge, an empirical method:

Scientific thought abandoned the unquestionability of dogma and the tradition that medieval thought had to oppose the legitimacy and the force of empirical facts/observations. Reason linked with experience allowed knowledge of physical and natural phenomena. Observation, experimentation and meditation were the fundamental methods that facilitated this fruitful relationship between theories and deeds.<sup>15</sup> (LUQUE, Susana de, *El objeto de estudio en las ciencias sociales*, in *La posciencia-El conocimiento científico en las postrimeras da la modernidad*, Esther Díaz (Editora), E.Biblos, Buenos Aires, 2000, p. 223)

The successes of the exact sciences permitted the thinkers of the seventeenth century to transfer this “scientific” vision to the analysis of social phenomena, forcing social and applied sciences<sup>16</sup>, such as law, to use these methods in order to be valid and advance toward the “truth”<sup>17</sup>. Thus began the crisis of the method of research in law.

### A. Difficulties of Research in Law and of University Dialogue in Postmodern Times

The term “method”, used in the context of scientific research, has a double meaning: a) it can refer to the proceedings to obtain knowledge, to discover it, to know it or to investigate it; and b) it can refer to the proceedings to “validate” or “justify” an understanding, an assertion or a result which is already known<sup>18</sup>.

<sup>14</sup> See Trindade, op. cit., p. 14.

<sup>15</sup> LUQUE, Susana de, *El objeto de estudio en las ciencias sociales*, in *La posciencia - El conocimiento científico en las postrimeras de la modernidad*, Esther Díaz (Editora), Ed. Biblos, Buenos Aires, 2000, p. 223.

<sup>16</sup> On the theme of specifics in areas of science and the ever greater distinction between “basic science” and “applied science”, see the summary of the conference in REGNER, Anna Carolina K. P., *O fazer científico: as especificidades das áreas e uma nova agenda para a ciência*, in *Rumos da Pesquisa-Múltiplas Trajetórias*, Maria da Graça KRIEGER and Marininha Aranha ROCHA, eds., Porto Alegre: Pró-Reitoria de Pesquisa/Ed. UFRGS, 1998, p. 273.

<sup>17</sup> LUQUE, *La posciencia*, p. 223: “Los éxitos alcanzados en el ámbito de las ciencias físicas impulsaron a los pensadores del siglo XVII a trasladar la mirada científica hacia dos fenómenos sociales...[las ciencias sociales] sólo alcanzarían la verdad en la emedidad en que siguieran el modelo de la físico-matemática...”

<sup>18</sup> See SAMAJA, Juan, *Aportes de la metodología a la reflexión epistemológica*, in *La posciencia - El conocimiento científico en las postrimeras de la modernidad*, Esther Díaz (Editora), Ed. Biblos, Buenos Aires, 2000, p. 151.

The basic difficulty of research in law is its method, as well as its result, a polemic<sup>19</sup>.

Effectively, in law, what matters is the polemic as much as the method of research itself (method of investigation)<sup>20</sup>, or as much as the method of validation of juridical research (method of justification)<sup>21</sup>. The first crisis was that of its method of validation. In the nineteenth and twentieth centuries, the “Wienerkreis,” the Circle of Vienna, including Carnap<sup>22</sup>, the founder of empirical sociology, and the founder of the positivist method, Auguste Comte<sup>23</sup>, began to defend the idea that only that which could be explained positively and empirically could be scientifically valid, rejecting everything metaphysical and speculative. This had enormous repercussions for Philosophy, Religion and Law. Initially, Law did not change its methods of research, of investigation and of “discovery” of knowledge; the use of the hermeneutic method (dogmatic and deductive)<sup>24</sup> continued to be typical of legal studies from the Roman books through the Middle Ages. This resulted in a great crisis of validation (or of justification) for research in law, aiding in the triumph of the positivist method, the only one considered “scientific” in this period<sup>25</sup>.

### 1. The Hermeneutic Method and the “Menosprezo” for Research in Law: The Lack of Validation or Justification of Qualitative Methods

For a long time, thinkers underrated the importance and also the possibility of research in law<sup>26</sup>. Without wanting to repeat this sterile discussion (happily overcome today)<sup>27</sup>, I would like to emphasize that this vision and type of mono-methodology of the modern age is no longer conducive to the pluralism of methods<sup>28</sup> of the current postmodern age<sup>29</sup>.

<sup>19</sup> Today, the so-called products of research in Law are initially the same as those of other sciences: books, articles, studies, reports, lectures, conferences, etc. But also the indirect results of research in Law are the objects of Law, a statute, a treaty, a new doctrine, an opinion or consultation, a forensic work, a leading case decision. These are not normally considered to be products of science, but they are juridical facts.

<sup>20</sup> “[Los métodos de investigación]... están dirigidos al incremento del conocimiento, a conocer nuevos hechos, propiedades, relaciones y regularidades.” GIANELLA, Alicia E., *Introducción a la epistemología y la metodología de la ciencia*, Ed. da la Universidad Nacional de la Plata, La Plata, 1995, p. 78.

<sup>21</sup> “[Los métodos de validación o justificación] tienen por función ejercer una especie de “control de calidad” de los conocimientos, evaluar las hipótesis y teorías desde los fundamentos que ofrecen.” *Id.*

<sup>22</sup> See SAMAJA, op. cit., p. 152.

<sup>23</sup> See LUQUE, op. cit., p. 228.

<sup>24</sup> See the classic words of Reinhold Zippelius: “*Der Gegenstand bestimmt die Methode*”, ZIPPELIUS, Reinhold, *Juristische Methodenlehre*, 5. Aufl., Beck, München, 1990, p. 1.

<sup>25</sup> Cf. PÁDUA, op. cit., p. 31.

<sup>26</sup> See ZITSCHER, Harriet Christiane, *Como pesquisar?*, in *Revista da Faculdade de Direito da UFRGS*, vol. 17(1999), p. 103 et seq. (distinguishing between conceptual/dogmatic research and empirical research, both in Law).

<sup>27</sup> See REGNER, op. cit., p. 274 (sufficiently post-modern).

<sup>28</sup> On pluralism of methods, as a necessary reflection of current times, see JAYME, Curso, p. 36 et seq.

<sup>29</sup> See SILVA, Tomaz Tadeu, *A produção social da identidade e da diferença*, in *Identidade e Diferença*, SILVA, Tomaz Tadeu, ed., Ed. Vozes, São Paulo, 2000, p. 73 (a fine defense of pluralism). See also,

As Pádua teaches,

Until the middle of the Twentieth Century, it was considered as scientific knowledge produced from the bases established by the positivist method, aided by experimentation, measured and rigorous control of data, as much in the natural sciences as in the human sciences. The idea of “scientific” was associated with experimental and quantitative research, whose objectivity would be guaranteed by the instruments and techniques of measurement and by the neutrality of each researcher confronting the investigation of reality. As the development of investigations in the human sciences, the so-called “qualitative studies,” sought to consolidate procedures that could surmount the limits of merely quantitative analyses. Starting from presuppositions established by the dialectic method, and also aided by phenomenological bases, one can say that qualitative research is concerned with the significance of social phenomena and processes, considering motivations, beliefs, values, social representations, that permeate the network of social relations. As these aspects are not susceptible to measurement and control, in the dominant scientific mold, their “science” is frequently questioned. (Op cit., p. 31)<sup>30</sup>

Recall, however, that in the Middle Ages, the scientific method was completely hermeneutic. When the first universities were established, hermeneutics was science for excellence, comprehension, and interpretation of texts, scriptures and laws. The first three schools to be organized were, rightly and justly, Theology (Philosophy); Law; and Medicine<sup>31</sup>.

Law, Theology, and Philosophy constructed their knowledge, their science, their understanding from hermeneutic forms. Historically, the empirical method was considered scientific, from the experiments of Galileo up to the empiricism of Locke and others. As we previously saw, it was only in the Nineteenth and Twentieth Centuries that thinkers began to

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particularly on pluralism in Law, FRIEDMAN, Lawrence, *The Republic of Choice*, Cambridge, Harvard University Press, 1994, p. 11 et seq. As Vattimo explains in his introduction, “*O pós de pós-moderno indica, com efeito, uma despedida da modernidade...*”, VATTIMO, Gianni, *O fim da modernidade-niilismo e hermenêutica na cultura pós-moderna*, São Paulo, Martins Fontes, 1996, p. VII. Cf. Veja uma bela defesa do pluralismo, in SILVA, Tomaz Tadeu, A produção social da identidade e da diferença, in *Identidade e Diferença*, Coord. SILVA, Tomaz Tadeu, Ed. Vozes, São Paulo, 2000, p. 73. Veja também excepcional sobre pluralismo no Direito, FRIEDMAN, Lawrence, *The Republic of Choice*, Cambridge, Harvard University Press, 1994, p. 11 e seq. Como explica Vattimo em sua introdução, “*O pós de pós-moderno indica, com efeito, uma despedida da modernidade...*”, veja VATTIMO, Gianni, *O fim da modernidade-niilismo e hermenêutica na cultura pós-moderna*, São Paulo, Martins Fontes, 1996, p. VII.

<sup>30</sup> Cf. PÁDUA, *Op. cit.*, p. 31.

<sup>31</sup> See TRINDADE, *op. cit.*, p. 12 (on the medieval university).

consider the empirical method, more used in the exact sciences and sciences other than Law, as the only one to be “scientific”, in a perfectionist vision typical of the universal and absolute beliefs of the modern age<sup>32</sup>. The hermeneutic method traditional to the Law, surprisingly, was considered problematic, non-scientific, and invalid. It became necessary to flee this method, necessary to separate from it, and to measure, compare and prepare empirical and quantitative studies of reality, in order for research in law to be considered scientific.

Going beyond the disdain for the methods of production of juridical knowledge existing up to that time, jurists and scholars of this modern age began to be disdained, as “non-scientific”. This forced research in law to change, to use other methods exclusively, as if complex social reality could be comprehended and captured only by empirical methods and quantitative research.

In our universities even today, we find some who think that the scientific character of research depends on the use of empirical methods. Within the university, they criticize non-empirical jurists and their methods, they criticize their supposed lack of dedication to research and their low level of “scientific” production, they criticize their preoccupation with practice and their lack of professionalism<sup>33</sup>. This structural disdain for the hermeneutic method used in the Law contributes to the isolation and closing off of thought, of discourse, and of scientific activities of jurists in the universities. In the Eighteenth and Nineteenth Centuries, Law was a science of distinction, and jurists were the elite thinkers of their societies. In the Twentieth Century, since the decade of the ‘60’s, with the reform of the universities and with a new “neutral-science” imposed on law professors, this scientific position of distinction was modified, isolating us from our predecessors even more. Law Schools valued and elaborated scientific thought in a form distinct from the other social sciences<sup>34</sup>, independent of “incomprehension,” a lack of dialogue. Research was individual, for the private interest of the teacher<sup>35</sup> or the commercial interest of the publisher<sup>36</sup>, without reaching students, much less colleagues in other areas<sup>37</sup>.

<sup>32</sup> Cf. PÁDUA, op. cit., p. 31.

<sup>33</sup> TRINDADE really proves that the “professionalism” in the university is intimately linked with research and academic dedication, and has been ever since the 18th century: “*Com a criação das academias científicas, intensifica-se a profissionalização das ciências, fato que vai permitir sua inserção nas universidades através da pesquisa. Até o século XVII, o cientista não tem um papel especializado na sociedade, mas a partir daí desencadeia-se uma mudança profunda no sistema de valores e normas universitárias, reconhecendo-se, não sem conflitos, a legitimidade de uma atividade relacionada com as ciências em geral.*” Op. cit., p. 12.

<sup>34</sup> See OLIVEIRA, Luciano and ADEODATO, João Maurício, *O Estado da Arte da pesquisa jurídica e sócio-jurídica no Brasil*, Ed. CJF/CEJ, Brasília, 1996, p. 11: “*Há um notório descompasso entre a pesquisa jurídica e o estágio atual*” in the other sciences.

<sup>35</sup> Oliveira and Adeodato use the very critical expression “almost dilettante” to describe the research of the Law schools of this period of time. *Id.*, at 12.

<sup>36</sup> One cannot ignore the fact that the market for legal books is linked very strongly to the names of the academy. In Brazil, for example, there is a tradition of publishing the professors from the Law School of the University of São Paulo.

<sup>37</sup> See Oliveira and Adeodato, p. 11, noting that legal research is almost completely concentrated in the public universities, but that the “debate sobre a pesquisa e o ensino jurídico no Brasil remonta a San Thiago Dantas e Rui Barbosa”, *Id.*, at 9.

Rarely was the work of jurists, using their methods, criteria or questions, classified as scientific in the assessment of the scientific production from university professors. Even documents from the university claimed that we do not have “scientific research” in the Law Schools in spite of our intellectual production, especially books with great impact originating there<sup>38</sup>. Only statistics on impact were considered important, an abstract effect of means used for national and international publications, and not the citations or repercussions from our books, not practice which we show was followed by courts or society, not laws which we helped to enact, not constitutions or jurisprudence in general<sup>39</sup>. We reached the point of considering the great authors and theoreticians of law from the beginning of this century to be “non-scientific”<sup>40</sup>.

The error of this logic of exclusion of juridical production from the university rests principally in a limited methodological vision. An example may be illustrative: medical doctors, generally, also dedicate less time to the university; they practice and apply their techniques in society, modifying reality and applying their science to the collectivity. Never does anyone, on account of this, accuse these brilliant professors and practitioners of medicine of being “non-scientific.” And why not? Simply because in Medicine, unlike in Law and Theology, they always use the empirical method. It is easy to accuse a hermeneutic of being “non-scientific,” but difficult to accuse a medical doctor, who almost exclusively uses empirical methods, of being non-scientific. We observe, therefore, a source of the prejudice, a preconceived myth of a single scientific method for research. If the dedication of our predecessors was not principally to the university and the research that at that time was considered scientific, it was due to a lack of understanding of the specifics of our traditional science and methods.

<sup>38</sup> The surprising number of publications by the law professors from 1904-1975 is by the late Professor Santos. SANTOS, João Pedro, *A Faculdade de Direito de Porto Alegre - Subsídios para sua História*, Ed. Síntese, Porto Alegre, pp. 189-277 and pp. 341-370.

<sup>39</sup> As much as Law is part of the culture, even so it possesses its own culture and reflexes typical of society. “...o sistema jurídico é constituído de uma “cultura”. São as atitudes que fazem do sistema um todo, uma unidade, e que determinam o lugar dos aparelhos e das normas na sociedade globalmente considerada. A cultura jurídica engloba tanto as atitudes, hábitos e treinamento dos profissionais quanto do cidadão comum.” LOPES, José Reinaldo de Lima, *Direito e Transformação Social*, Belo Horizonte, Ed. Nova Alvorada, 1997, p. 77. This line of thought is traditional in Brazil, from the School of Recife and the influence of the “legal culture” of Tobias Barreto; on this theme, see our article “Cem anos de BGB e o Código Civil Brasileiro”, in *Revista dos Tribunais* vol. 741, p. 21 et seq.

<sup>40</sup> On scientific intolerance as a means of maintaining paradigms, see Thomas Kuhn, *Die Struktur wissenschaftlicher Revolutionen*. Suhrkamp, Frankfurt, 1996, p. 38 et seq. On neo-radicalism, as a response to intolerance in the face of post-modern pluralism and nascent neo-orthodoxy, see GELLNER, Ernest, *Pós-modernismo, Razão e Religião*, Instituto Piaget, Lisboa, 1992, p. 70 et seq. The author calls this latter the neo-orthodoxy of “ultra-subjectivism” as a form of responding to the old modern ultra-scientism. On the work of Kuhn and the evolution of epistemology, see, in Portuguese, BOMBASSARO, Luiz Carlos, *Ciência e Mudança conceitual - Notas sobre Epistemologia e História da Ciência*, Edipucrs, Porto Alegre, 1995, p. 61 et seq.

Today, jurists are overcoming the prejudice and embarrassment of our own method, we are reconsidering our role in the university, we are strengthened by the pluralism of thought and multiplication of juridical research, we accept and use many methods and we discuss research as equals with other social scientists<sup>41</sup>. The pluralism of methods, of approaches, of procedures of juridical research is a reality<sup>42</sup>

Qualitative research today does not use only the hermeneutic method, comparative and historical, but also qualitative jurisprudential analysis and discursive methods, the study of differences in Postmodern Comparative Law<sup>43</sup>. There is also a growing use of quantitative research in Law, such as the case study<sup>44</sup>, jurisprudential or precedential analysis<sup>45</sup>, and field studies, in their most varied forms<sup>46</sup>. Generally, today, we opt for a combination of methods of investigation. With the consolidation of post-graduate studies in Brazil, scientific production in Law has grown<sup>47</sup>, as has the professionalism of the professor-researcher. What seems like a calm and certain advance, however, suffers from the lack of a model due to the social crisis of post-modernity<sup>48</sup>. It is necessary to continue to build<sup>49</sup>.

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<sup>41</sup> See Zitscher, *Como pesquisar?*, pp. 104 -107.

<sup>42</sup> See VENTURA, Deisi, *Monografia Jurídica - uma visão prática*, Ed. Livraria dos Advogados, Porto Alegre, 2000, p. 76-78 (as a good example of this pluralism).

<sup>43</sup> See JAYME, Erik, *Visões para uma teoria pós-moderna do Direito Comparado*, in *Revista dos Tribunais* n. 759, janeiro 1999, pp. 24-40.

<sup>44</sup> See ARAUJO, Nadia, *Formação do jurista pesquisador: Pressupostos e requisitos. Técnicas de pesquisa e ensino na pós-graduação*, in *Revista Direito, Estado e Sociedade*, n. 14, jan./julho. 1999, PUC/RJ, pp. 23-37.

<sup>45</sup> A good example is quantitative and qualitative research on the jurisprudence/precedents in Rio Grande do Sul State on health insurance and the CDC, conducted by the CNPq Research Group entitled "Mercosul e Direito do Consumidor", Claudia Lima Marques and Harriet C. Zitscher, coordinators, together with students, whose Report was published in the *Revista Direito do Consumidor* (São Paulo), vol. 29, jan./mar 1999, pp. 88-105.

<sup>46</sup> A good example of field research is provided by RIZZATTO NUNES, Luiz Antônio, *Manual da Monografia Jurídica*, 2. ed., Ed. Saraiva, São Paulo, 1999, p. 22.

<sup>47</sup> See LEITE, Eduardo de Oliveira, *A monografia jurídica*, Ed. Revista dos Tribunais, 3. ed., 1997, pp. 288 et seq (list of monographs published in Brazil from 1980-1995).

<sup>48</sup> See MINDA, Garry, *Postmodern Legal Movements - Law and Jurisprudence at Century's end*, New York University Press, New York, 1995, p. 247 and Conclusion, p. 249: "*Academic trends in legal scholarship do not occur in a vacuum, nor are law schools and legal scholars autonomous. To understand what has been going on in contemporary legal theory, one must look to what has been going on at the university... an intellectual and cultural revolution is now under way at American Universities... The crisis of representation, known as postmodernism, has reached the legal academy and it is represented by a new form of postmodern jurisprudence.*" ZIMA, Peter, *Moderne/Postmoderne*, UTB, Francke, Tübingen, 1997, p. 61, identifies neoliberal, conservative and economic movements (in Law) as the arms of post-modernism. MINDA, p. 83, identifies the conservative movement of the "right", the economic analysis of Law, as post-modern.

<sup>49</sup> The same is true for all the social sciences, according to REGNER, p. 276.

## 2. Crisis of Post-Modernism: “Deconstruction” of Law and Initiation of New Methodology

Effectively, looking at the crisis of post-modernity<sup>50</sup>, uncertainty and chaos have affected all the sciences<sup>51</sup>. As an irony of destiny, it was precisely the science of Law that was the most affected by the crisis of post-modernity, and one of the last to notice the effects of this crisis in its science, perhaps because of the isolation that continues even now. As Rosenau teaches, to know the phenomenon of post-modernity and its effects on the social sciences is the best path towards overcoming its destructive effects:

Postmodernism haunts social science today. In a number of respects, some plausible and some preposterous, post-modern approaches dispute the underlying assumptions of mainstream social science and its research product over the last three decades. The challenges post-modernism poses seem endless. It rejects epistemological assumptions, refutes methodological conventions, resists knowledge claims, obscures all versions of truth, and dismisses policy recommendations. If social scientists are to meet this challenge and take advantage of what post-modernism has to offer without becoming casualties of its excesses, then an adequate understanding of the challenge is essential.<sup>52</sup> ROSENAU, Pauline Marie, *Post-modernism and the Social Sciences* (Princeton University Press, 1992), p. 3.

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<sup>50</sup> “Legal theory is an arena where post-modern views of epistemology and method have created one of the most serious intellectual crises, questioning the very legitimacy of judicial systems and the integrity of legal studies”. ROSENAU, 1992, p. 124.

<sup>51</sup> As previously written in *A crise*, p. 99: “A realidade denominada pós-moderna (LYOTARD, 1994, p. 13) é a realidade da pós-industrialização, do pós-fordismo, da tópicia, do ceticismo quanto às ciências, quanto ao positivismo (HABERMAS, 1992, p. 35); época do caos, da multiplicidade de culturas e formas, do Direito à diferença, da ‘euforia do individualismo e do mercado’, (GHERSI, p. 27) da globalização e da volta ao tribal. É a realidade da substituição do Estado pelas empresas particulares, de privatizações, do neoliberalismo, de terceirizações, de comunicação irrestrita, de informatização e de um neo-conservadorismo. Realidade de acumulação de bens não materiais, de desemprego massivo (GHERSI, 1994, p. 13), de ceticismo sobre o geral, de um individualismo necessário, da coexistência de muitas metanarrativas simultâneas e contraditórias, da perda dos valores modernos, esculpidos pela revolução burguesa e substituídos por uma ética meramente discursiva e argumentativa, de legitimação pela linguagem, pelo consenso momentâneo e não mais pela lógica, pela razão ou somente pelos valores que apresenta (KAUFMANN, 1994, p. 224). É uma época de vazio, de individualismo nas soluções (LIPOVETSKY, 1996, p. 7) e de insegurança jurídica, onde as antinomias são inevitáveis e a de-regulamentação do sistema convive com um pluralismo de fontes legislativas e uma forte internacionalidade (JAYME, 1995, p. 36) das relações. É a condição pós-moderna que, com a pós-industrialização e a globalização das economias, já atinge a América Latina e tem reflexos importantes na ciência do Direito. É a crise do Estado do Bem-Estar Social.”

<sup>52</sup> ROSENAU, p. 3.

About this subject, I have already written in a critical and activist way:

“Se o desafio do passado era ver a pesquisa em Direito reconhecida como tal na Universidade, o desafio do presente é superar a crise da pós-modernidade, de forma a reconstruir uma razão para a pesquisa jurídica e viabilizar um avanço do Direito no futuro. A reação necessária é, pois, de uma pesquisa renovada, ao mesmo tempo científica e jurídica, plural e tolerante, como se está tentando fazer na Faculdade de Direito da UFRGS,<sup>53</sup> apesar das dificuldades. Pesquisa renovada esta que, consciente da crise pós-moderna, possa responder à crescente disputa vazia de formas, métodos e linhas de pensamento, que ameaçam hoje devastar as nossas Faculdades, reduzindo-as em um misto de radicalismo, intolerância e passividade científica no final de século. Pesquisa esta que demonstre que a ciência do Direito ainda possui um valor em si mesmo, que o Direito ainda pode e deve dar respostas aos problemas do homem em sociedade e não só pesquisar sobre seu método, sua ideologia, seu discurso, seus atores, suas relações de poder, isto é, que a ciência do Direito ainda está legitimada a procurar o justo e o equitativo, apesar da sua atual e profunda crise de fundamentos.

... Neste sentido, como Rosenau, mister alertar que ao quebrar sua legitimidade como ciência de conduta, a crise pós-modernidade levou a uma desconstrução dos fundamentos do Direito tão profunda que nenhuma teoria ou linha de pensamento mais seria absolutamente válida e a pesquisa teria ficado “sem objeto”.<sup>54</sup> O foco o ponto de concentração seria

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<sup>53</sup> Consulting the records of Research at UFRGS from 1988 to 1992, the Law School lists 41 professors as authors of books and articles, in Brazil and abroad, which means that over half of the 80 professors of the institution, and 70% of the professors active in the classroom, conducted research and submitted themselves to critical review upon publication. The records of Research at UFRGS from 1993 to 1994, this number grew to 51 professors-authors from the Law School, and in the records of Research for 1995-1996, the number reached 54 authors, which means that 67% of the professors officially connected to the university and almost 90% of the 62 professors active in the classroom conducted individual research and published. Since 1988, the number of research groups officially recognized by CNPq has reached six, of which two are with our “A1” researchers. This means that we have a scientifically active post-graduate program, especially if one multiplies the individual research projects of students advised by professors in our Law School for the iniciação científica de acadêmicos times 3 for the 32 presentations registered in 1998 for the first Salon, as well as two prizes for “Young Researchers” and various prizes and honorary mentions in the ten years of the Salon. This quantitative growth is accompanied by a growing preoccupation with the academic preparation of professors, doctoral and masters-degree candidates, and awareness of scientific research.

<sup>54</sup> See ROSENAU, 1992, p. 50.

qualquer outro objeto que não o Direito, dos sentimentos, do discurso, à literatura ou à economia.<sup>55</sup> Rejeitada a verdade jurídica, aberto o sistema do Direito, deslegitimado o Direito e suas instituições, cria-se assim um vazio científico e uma desconfortante igualdade científica dos discursos, todos iguais<sup>56</sup> uma vez que todos sem base e subjetivados ou flexibilizados<sup>57</sup> há uma grande dificuldade para os estudantes e professores identificarem e avaliarem a qualidade das pesquisas e suas contribuições à sociedade e ao Direito.

Esta crise da pós-modernidade é, em verdade, uma mudança na maneira de pensar o Direito a resultar um certo apatismo e imobilismo em relação às novidades por parte da maioria, combinado com um certo radicalismo por parte de minorias, face aos novos desafios da sociedade pós-moderna. É uma desconcertante crise de ideais e de valores, entre pluralismo e radicalismo de verdades, que tem grande influência no Direito e na pesquisa deste final de século. Como ensina Rosenau,<sup>58</sup> o vazio e a insegurança nas ciências sociais são grandes: “Post-modernists reduce social science knowledge to the status of stories.. Post-modern methodology is post-positivist or anti-positivist. As substitutes for the ‘scientific method’, the affirmatives (post-modernists) look to feelings, personal experience, empathy, emotion, intuition, subjective judgment, imagination, as well as diverse forms of creativity and play.”

...Como ensina Rosenau<sup>59</sup>, esta fragmentação e desconstrução não pode ser aceita totalmente, uma reação deve existir. Em outras palavras, para evitar o atual vazio do estudo do discurso é necessário um revival do sério estudo da filosofia do Direito. Para combater o vazio das formas metodológicas, é necessário revisitar a especificidade do conhecimento jurídico,<sup>60</sup> aceitar as

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<sup>55</sup> “Post-modernists in almost every field of the social sciences have been experimenting with a subjectless approach in their inquiries... Rejecting the subject permits them to shift the focus of the inquiry elsewhere...” *Id.*, at 50-52.

<sup>56</sup> *Id.*, at 77 and 89.

<sup>57</sup> FACHIN, Luiz Edson and CARNEIRO, Maria Francisca, *Aspectos da avaliação institucional dos programas de pós-graduação em Direito: instrumentos e concepções*, in Revista de Informação Legislativa, Brasília, ano 35, n. 137, jan/mar 1998, p. 205.

<sup>58</sup> See ROSENAU, 1992, p. 91 and p.117.

<sup>59</sup> *Id.*, at 124.

<sup>60</sup> See Facine and Carneiro, p. 205.

bases do Direito como procura do justo e valorizar mesmo seus métodos tradicionais e específicos.<sup>61</sup> Para combater a guerrilha metodológica, é necessário defender o pluralismo de pesquisas e a tolerância científica, única forma de evitar que os radicais “antimodernos” acabem excluindo vários cientistas que poderiam dar alguma contribuição à criação de um Direito adaptado ao novo milênio. Em outras palavras, há que se superar a visão que o Direito em si, sua metodologia e seu discurso ou a economia seria o único objeto de pesquisa válido. Há que se defender a pesquisa em Direito como contribuição à ciência do Direito, contribuição à procura do justo e da solução dos problemas individuais e sociais atuais, não importando a sua linha de pensamento, se alternativa desdogmatizante, se tradicional ou se conservadora neo-liberal.”<sup>62</sup> MARQUES, Cláudia Lima. *A Crise Científica do Direito na Pós-Modernidade e seus Reflexos na Pesquisa*. In: *Cidadania e Justiça*. Revista da AMB, ano 3, n. 6 (1999), p. 237 et seq. (hereinafter *A Crise*)

It seems to me, then, if we are going to be post-modern, we should be, at the least, conscious of our role in the evolution of the science of Law, we should be, at the least, affirmative post-modernists<sup>63</sup>. This is the moment of the revival of postmodernism, plural and tolerant, of human rights reflected in our own academy and scientific liberty of each as a form of construction of a non-discriminatory, effective theory of social harmony, a theory of scientific inclusion for Law in the new century. I repeat: the challenge of this beginning of the century is not the simple inclusion of juridical research in the social sciences, but their development as an effective contribution to society<sup>64</sup> and to Justice, not to science and bureaucracy.

## II. LEARNING TO RESEARCH: THE RESEARCH GROUP CNPq “MERCOSUL AND CONSUMER LAW” AND THE DEVELOPMENT OF THE METHODOLOGY OF LEARNING TO RESEARCH CALLED “SPRECHSTUNDE”

### A. Methodology of Group Research called “SPRECHSTUNDE”

Having developed a method of teaching research and researching in a group, combining German and Brazilian influences, the final result is more an experience than a path, a method,

<sup>61</sup> Cf. LARENZ, Karl, *Methodenlehre der Rechtswissenschaft*, 6. Aufl., Springer, Berlin, 1992, p. 6.

<sup>62</sup> Cf. Excerpts from my article, “A Crise”, pp. 96-101.

<sup>63</sup> Cf. ROSENAU, 1992, p. 57.

<sup>64</sup> Cf. GELLNER, Ernest, *Pós-modernismo, Razão e Religião*, Instituto Piaget, Lisboa, 1992, p. 60.

and one I want to share with its errors and its successes. As earlier noted, the project was directed by UFRGS Law School, and thus, when I was an undergraduate Law student I could collaborate in quantitative research with Prof. Dr. Michael R. Will, Professor of the University of Saarbrücken, during his six-month stay in Porto Alegre. These two experiences confirmed my vocation to be a professor and to continue to research. Invited by Germany to study with Professor Will, I earned a Master's degree and a specialization. I had the luck and honor to have been an assistant researcher for six months at the University of Saarland and a contract researcher for three months at the Max Planck Institute at Freiburg im Breisgau, working with Professor Hühnerfeld, as well as to have been a scientific collaborator with Professor Alfred von Overbeck. Upon returning to Brazil, I wanted to share these lessons. I wanted to base my work on the European models that I observed, adapting them to our reality and needs.

The solitude of research, of beginning a work, is inevitable. I learned, however, that it is possible to grow as a group, observing and sharing the preliminary work of elaboration of scientific products with the great masters. I observed that one can make a brilliant successor of a talented apprentice, and that various motivated apprentices maintain and renew important schools of thought. Actually, I myself learned much from the precision, rigor and intellectual sincerity of great professors-researchers, and founding a research group was a way that I chose to multiply these lessons. Since my arrival at the Universidade Federal do Rio Grande do Sul some ten years ago, I have worked on scientific initiatives and group research. I developed a method for teaching research which I named "Sprechstunde," a German word, to honor the accessibility and the greatness of my European masters.

## **1. Combining German And Brazilian Influences To Form "SPRECHSTUNDE"**

Monitoring is a good experience for whoever wishes to be a professor, and researching is a good experience for any future professional in Law. Legal research is a differentiating element, perhaps the most important today, when so many people study law and pass through the law schools, earning a diploma that authorizes them to practice the profession. Knowing how to research is a means of creating competence in Law, and achieving a degree of excellence and specialization that is ever more desirable in the marketplace. Research is a base for one's own training, to fill in the blanks in the curricula in law schools or the limitations of our own professors or libraries. To know how to research is a way to confront any new challenge in Law and, in professional life, a constant means to meet these challenges.

I consider that research was my path to distinction and excellence. When Professor Michael Will invited me to select and research with him all the cases of international adoption in Porto Alegre in the previous five years, I could have said "no," but I accepted, and this unveiled the world of international law to me. One cannot research in international law, however, without knowledge of foreign languages and, in this case, I was chosen initially

because of this aptitude<sup>65</sup>. Then in the fourth year in the law school, I had the pleasure of accompanying the master of Saarbrücken in the preparation of case records, forms, and files on lectures and bibliographies, to photocopy the sources and legal documents from lawsuits. I observed his rigor and precision, his concern about errors, exactitude and exhaustion of sources. This first research with cases was an important experience that helped me greatly in the future, especially in the choice of my topics for the Master's degree and Doctorate in Law. Nothing is better for noticing the important questions than to know what has happened in practice and what pages are still blank in our legal system. This research helped me greatly with the work of preparing and critiquing the Statute on Children and Adolescents when I worked in the Legal Consultancy of the Ministry of Justice (Lei Ordinária Federal n. 8.069, 1990 – ECA – Estatuto da Criança e do Adolescente). As an irony of destiny, due to the change in the Brazilian law in 1990, the work resulting from this research remained unpublished. On the other hand, this quantitative and qualitative research helped me broaden my horizons also to interdisciplinary work, because I had the opportunity to work for one year with the social and psychological assistants to the entire Judiciary for Minors<sup>66</sup>.

Then in Germany, I was hired as a junior researcher in the Max Planck Institute in Freiburg together with Prof. Dr. Peter Hühnerfeld. The Institute, which includes a marvelous library, conducts studies for the German government and I participated in several research projects, later transformed into books, one on abortion and the condition of women in Brazil, and the other on the protection of the environment in Brazil. I learned that the simple selection of a bibliography and indexing of work is already a moment of great growth for a student. To learn to summarize, to analyze work for its relevance, its organization, its citations, or for the origin of its principle themes, is a valuable exercise, one that saves the time of a senior researcher (even more in Brazil where everyone publishes). It is also an enriching experience, one that solidifies the knowledge of the junior researcher and highlights the intellectual sincerity of the German masters. It was very positive for me to be able to observe them and help them to prepare their notes and their detailed re-examination of the sources and logical organization of ideas. The junior researchers never write, but always participate, and this participation, including at conferences and in discussions in groups of researchers, is a time of great growth for the researchers. Another highlight is the freedom in research in that the organization of time (including weekends) and time off is the choice of the junior researcher. She has control over the job and the hours and dedication to the work, which clearly shows in the concrete results of the undertaking.

In Tübingen, I had the pleasure to accompany Prof. Dr. Wolfgang Knutt Nörr to many of his "Sprechstunden." My attention was caught as this great historian of law was there, every week, at the same time, at our disposition, together with his assistants, to advise

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<sup>65</sup> See also ARAUJO, p. 29.

<sup>66</sup> Recognition for her assistance and models is due to the social assistant Sylvia Nabinger, who conducted research on these same cases for her doctorate at the law school in Lyon, France.

and resolve doubts, to guide us and review the literature and tasks with us, as if this were part of one mission. Access to a professor-advisor was one factor in feeling secure. Contact with the master, and the ability to participate in meetings of the Chair and observe his discussions with his assistants, enriched the student. Another good experience in the School of Law in Tübingen was to have participated in the “Doktorseminaren,” seminars where the doctoral candidates explain their research in order to submit to the critiques of the professors and assistants. The mixture of both, undergraduate and graduate students, pleased me very much<sup>67</sup>.

As a master’s candidate, I was hired to be a scientific collaborator at the Swiss Institute of Law in Lausanne, where I wrote an article that received the van Calker Prize, and I wrote opinions on International Private Law (Conflicts of Law) together with Prof. Alfred von Overbeck. The Institute consisted of approximately ten collaborators who met regularly with the coordinating professor, and the collaborators from every continent wrote the books from the Institute together. Each collaborator or researcher had his individual topic, reflecting his origin, his native language, juridical system or religion, and thus everyone worked together with a common goal, but still individually and with freedom of opinion. This method seemed to me to be very fruitful, as it stimulated cooperation and group effort, and a convergence on the common goal, while valuing individualism and different origins. (In 1987, for example, we formed a group containing specialists on the socialist systems, on China and Japan, on the Muslim countries, on Israel, on Australia and the South Pacific, on the system of common law, on German law, on French law, on Swiss law, and on Latin American law).

Upon my return to Brazil, in 1998 and again in 1990, after passing the examination to be a member of the Faculty of the UFRGS Law School, I began to organize something similar, adapted to our circumstances and contexts. It is not possible, however, to fail to mention the enormous influence on me of the years of the doctoral program, spent at the Institute of Foreign Law and International Private Law at the University of Heidelberg under the coordination of Prof. Dr. (and multiple Dr. h.c.) Erik Jayme. I observed this Institute during the preparation for editorial meetings of the journal *IPRAX*, where all 26 researchers (senior and junior) of the Institute collaborated on material, translations, and articles. I observed how they organized conferences together, the traditional celebration of the end of the semester and seminars; how they cooperated to carry out the tasks assigned by the three professors who were Directors; and how they shared their knowledge with their “successors,” always with the aim of achieving excellence and camaraderie. Organization of an Institute like Heidelberg’s (which also has one of the most outstanding libraries I know) is the dream of any researcher.

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<sup>67</sup> See also the testimonial in GUERRA, Willis, *Cr terios de avalia o e reconhecimento dos cursos de p s-gradua o em Direito*, Cad. P s-Grad. Dir. UFPA, Bel m, Ed. Especial, out.1999, p. 79.

## 2. The Final Result: the “SPRECHSTUNDE”

If the final result seems like a little bit of everything – and nothing is identical to anything that I knew – I resolved to designate the method by a German name, with the hope that it would be something as solid and fruitful as what I had observed. I wanted to emphasize the influences that I had experienced. I called it the “Sprechstunde”, a word which is posted on the door of each Professor in every School of Law in Germany. “Hour of Consultation,” “Hour of Conversation,” “Hour of Meeting,” are some possible translations of this German expression.

The method of teaching research is simple. It rests on three basic pillars:

- a) Academic freedom;
- b) Positive use of interests, tasks and errors; and
- c) Learning to research, researching, and observing.

Academic freedom is shown in the group in two aspects: the freedom of the senior researcher to choose the overall point of the research, and the freedom to choose the individual themes for the junior researchers. The researcher-leader freely chooses the overall research theme, depending on her interest or immediate necessity, and chooses also the tasks that need to be completed by the junior researchers and their deadlines, explaining them. To receive an assignment is a signal of confidence in the potential of the student. Whoever wishes to participate in that week, asks to collaborate, whoever cannot, gives a reason why he cannot participate. Valuing the assignment enough allows the group to develop its own dynamic of helping those who receive the assignment and not allowing them to complete it alone. The meeting is all conducted by the leader, who determines the order in which the topics will be discussed. When the weekly meetings finish, the leader is available to the junior researchers to consult individually with them and advise them on their difficulties<sup>68</sup>.

The method used distinguishes itself from other research groups by never assigning readings, theoretical references or discussion of texts previously read together. The growth of the student from scientific investigation is individually stimulated by the dynamic of the group, by the reoccurrence of assignments, never by prescribed thoughts. Assigned readings, coordinated reflexes in the group, drive and manipulate the interests of the students and level off and equalize ideas. The “Sprechstunde” method establishes the maintenance of differences and individual tendencies. Readings are individually chosen and never decided by the group. Naturally, however, the participants in the group may read the intellectual production of the professors who participate in the group for curiosity or interest, but not by imposition.

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<sup>68</sup> Referring to Foucault, sometimes to be less democratic, to shape and direct the conduct of individuals in formation can be positive, “nesse sentido, é estruturar o campo possível de ação dos outros” (“in this sense, it is to structure the possible field of action of others”). GORE, Jennifer, *Foucault e Educação: fascinantes desafios*, in SILVA, Tomaz Tadeu, *O Sujeito da Educação*, Ed. Vozes, Petrópolis, 1994, p. 12.

The rhythm of readings by each one, with the awakening of their own interests (more philosophical, more aimed at practice, more towards comparative law, etc.), is one of the objectives of the method.

Scientific investigation by undergraduate students, or “umbrella research,” is done by means of observation, by one’s own development and by imitation, not by being driven. The method is not discussed or revealed to the students, a methodological choice only of the leader of the group. There is no assigned methodological reading, nor any discussion of the method between the student of scientific investigation and the professor-researcher. The methodological readings develop from the need felt by the student, who is then guided.

A student’s academic freedom is demonstrated by the individual’s choice of a topic. Each student who participates in an “umbrella research group” has to choose a theme, an aspect, within three possible topics in the research group conducted by me: “Consumer Law,” “MERCOSUL,” or “Postmodern Jurisprudence.” Each student has to research an individual theme, freely chosen by her- or himself, in accordance with her or his curiosity, interests, and individual career<sup>69</sup>. Each student prepares a short oral presentation on this theme for 10-20 minutes to be presented in front of the Academic Conferences of Brasilcon (Brazilian Institute of Consumer Law and Politics); as part of international exchanges (as happened in 1996-1999 with academic conferences organized in Argentina and Paraguay) and, particularly, in the UFRGS “Salons” (or Forum) on Scientific Investigation. These latter have occurred for twelve years at UFRGS [Tr. Note: seventeen years, in 2005], usually in September or October. There is also a preparatory Salon in the UFRGS Law School, over the last four years, usually in August or September, organized by the Research Commission of the School of Law (which actually coordinates the Salon) and by the André da Rocha Academic Center at UFRGS Law School. This was the first Salon in a department or school of UFRGS and had as its goal to share and define research at the Faculty, as well as to train and prepare the students for their principal presentations in the University.

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<sup>69</sup> As an example, we can see the diversity of themes chosen by the most advanced students (senior researchers) in 2000 for the Salões de Iniciação Científica at UFRGS and at the Law school:

1. Aspectos da Harmonização do Direito Societário na União Européia: Um exemplo para o Mercosul - Lucas Faria Annes, 2. Publicidade Abusiva: sua regulamentação no Mercosul - Daniela Correa Jacques, 3. Serviços públicos essenciais e o princípio da continuidade: tutela do consumidor versus Estado-Fornecedor - Fernanda Girardi, 4. As várias nuances do dever de informar no Código de Defesa do Consumidor - Fernanda Nunes Barbosa, 5. Medicamentos genéricos: a liberdade de escolha do consumidor - Laura Ederich, 6. Cláusulas abusivas na Argentina e no Brasil - Guillermo Campbell (UFRGS/Univ. de Cordoba, Argentina), 7. Fundamentos da proteção dos direitos da personalidade: a evolução da tutela do direito de imagem na jurisprudência do Tribunal de Justiça do Rio Grande do Sul (1984 a 2000). - Bruno Nunes Barbosa Miragem; 8. Internet e Direito - Antonia Espíndola Longoni Klec, 9. Garantia globalizada: Análise de um possível leading case - Rafael Garcia; 10. Limitação de juros nos cartões de crédito - Odiléa Oliveira de Almeida Simão.

There is freedom to determine the time devoted to research, but the important thing is the realization of the assignment, not when or how the student completes it. I observed at the Max Planck Institute that self-determination of time is an excellent means of discipline and adaptation. Everyone has a personal rhythm of work, and research often requires inspiration or increased attention. To choose to research perhaps one hour each day or five hours in a row or two nights a week depends on each person and their inclinations. It seems to me that we should not have required hours to research, or require the presence of the researcher at the university. Freedom is also shown by the fact that attendance is not required at the meetings of the group. Meetings are the most intimate contact with the professors-advisors and teaching them is an offering. If the student can accept the offer, excellent, and if not, in any case she or he can do the research.

Especially with students who work during their university studies, two routes are possible: either the students maintain communication by email and participate in the group's other activities (seminars, meetings, conferences) or the students arrange with their bosses to participate in some meetings. Many volunteer researchers do not have scholarships or grants, so they just do internships or study in the courts. Since the research group meetings are between 12:30 and 2:00 p.m., almost everyone with an internship can participate. The combination of practice and learning to research in a group has been very successful, so much so that various judges from Rio Grande do Sul today prefer (or invite) researchers from our group to be assistants (law clerks); various law firms and large businesses from Porto Alegre and São Paulo have telephoned asking for "researchers" in the last few years; and the letters of recommendation for the group have opened various professional doors, as well as permitting comparative advantage in competitions for scholarships. The group also offers small classes on the methodology of research, given by masters' candidates and visiting professors from DAAD and CAPES.

The positive use of interests, of assignments, and of errors, is a way of respecting individualism and of permitting each one to develop her or his own rhythm in conformity with her or his thematic inclinations (linguistic and ideological). All researchers speak at least one foreign language and understand Spanish, which is considered to be a working language in Rio Grande do Sul. The group facilitates access to language courses for the researchers, through applying for scholarship, principally from Germany, with the constant collaboration of the Goethe Institute and of DAAD<sup>70</sup>. The assignments are evaluated through an explanation of their function: the student then knows the importance of the survey of the "umbrella research" for the professor or for the group, and knows they are providing a road-map or a recent critique of the position defended by the professor, in a form that shows that the student is collaborating with the senior researcher. Mistakes are criticized and explained.

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<sup>70</sup> In 2000, Rafael Garcia and Aline Jackisch received short-term grants from DAAD for summer courses in German at the Universities of Heidelberg and Freiburg.

Criticism is always constructive, both to demonstrate the value of the student's work and because if the error remains, the principal work can be compromised. For example, if a student photocopies a source and does not identify the journal from which he took the article, or forgets to photocopy one page, the error will be identified by the advisor, who will then ask the student to correct it, explaining that the source is incomplete and cannot be cited, or that it is unusable. In Brazil, there is a certain hesitancy to criticize and show errors, but this can lead to repetition of the mistake. In Germany, to criticize is synonymous with respect and the seriousness of one's work that allows growth and improvement. To err is human, and it is an indication that the student is trying, is actively researching. Only one who does something can make mistakes. Whoever errs because they are just beginning and developing in research deserves to know how to get it right the next time<sup>71</sup>.

The group serves both a functional and a communal purpose. Learning occurs among companions. It is this which distinguishes the law school within the university; it is a forum and a place for companionship. The German model of *hiwi* teaches the beauty and pleasure of learning and living more intimately with the great masters. The research group is a manner of living with the advising professor, principally by meeting the professors invited from abroad, accompanying and assisting them during their time in the city. To know an important foreign professor, a professor from another university, a doctoral candidate, or a research associate, is also to unveil new horizons, new interests, new themes, new bibliographies, new ideas, and above all, important motivations and a model for continuing to research. It is the mark of a true researcher to always want to know more, to glimpse this world that starts to be and then becomes achievable. To receive the assignment to accompany, or to be the "angel" of the visiting master, can determine the place where the student pursues his future masters' or doctorate degrees, and can change the junior researcher's perspective on life. As I learned in Heidelberg, one needs to make time to find oneself at times outside the University, especially with parties and commemorations, making the companionship within the group extremely important.

The third pillar is the practice of research: to learn by studying. If the Research Group functions as a group of assistance and discovery of sources for the senior researchers and for the leader, assisting in the development of their scientific and academic production, especially by locating articles on doctrine, books, quantitative jurisprudential studies, new leading cases, and new bibliographies to keep up with the speed of legislative modifications. The Group functions primarily as a laboratory for students learning how to research, who try primary research without reducing their course load, which is exclusively for the senior researchers, since the junior researcher does not write articles or scientific texts<sup>72</sup>. They find

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<sup>71</sup> See the analysis of error (Fehleranalyse) in learning: "Fehler sind aus dieser Sichtweise also durchaus etwas natürliches, nämlich Indizien dafür, dass der Lerner sich aktiv mit [dem Objekt] auseinandersetzt." EDMONDSON, Willis & HOUSE, Juliane, *Einführung in die Sprachlehrforschung*, Ed. Francke, Tübingen, 1993, p. 205.

<sup>72</sup> "Junior researchers are not permitted to write any text, only to assist senior researchers in their

material and discuss its relevance, precision, orientation and temporal context, individually take notes on lectures from material selected as important by senior researchers, observe the techniques of narrowing the focus, of precision, of clarity, of intellectual sincerity and of reflection used by senior researchers, as well as learning how to master the technical instruments of research (lecture notes, bibliographic notes, development of notes analyzing cases, etc.) and materials from the great resources of the libraries existing in the University and the city, the quantity of documents available on the Internet, the publications and prior submissions of the group itself, etc. Thus without writing or elaborating texts, it is possible to learn to research. To observe various habits and methods of the advisor, to research in one's own style, to achieve something useful with advice, is the chosen goal.

## **B. The Research Group CNPq\*\*\* “Mercosul and Consumer Law” and**

### Research in International Law

[\*\*\*Translator's note: “CNPq” stands for the National Research Commission of the Brazilian Ministry of Education (MEC). Every line of research pursued in Federal universities is registered and approved, and the leaders of the research groups are accountable on an annual basis. Sub-groups may be created under the umbrella of an established Research Group.]

Since I teach undergraduate courses in the UFRGS Law School in Private International Law (Conflicts of Law) and the Law of International Relations (“Law of Integration,” or Communitarian Law), I was especially honored to be invited by my colleague and eminent collaborator Prof. Dr. Nádia de Araújo to participate in the discussion of Thematic Group 1 entitled “International Law and Regional Integration: the Effects of Globalization.” I would like to share some observations and reflections on two aspects: 1. The potential of research in International Law for production of knowledge in research groups that are interdisciplinary, inter-institutional and international, through comparative analysis, shared research and diversity; and 2. The intrinsic and structural goal of International Law, as material and of research in this field of knowledge, to reflect, develop, and serve as an instrument of regional integration.

As a form of organizing these two themes, I used my experience with over nine years' practical experience in International and Comparative Law as leader and founder of the CNPq Research Group “MERCOSUL and Consumer Law”.

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research for the masters' degree or doctorate, although a certain exploration of ideas and texts by junior researchers and maintenance of the intellectual integrity of their work is part of the German model, which permits their participation only in basic activities, following the results and observing the methods of each senior researcher."

## 1. Evolution and Structure of the Research Group CNPq “Mercosul and Consumer Law” at UFRGS

The CNPq Research Group named “MERCOSUL and Consumer Law,” which I founded and have the honor to lead, now has eleven years of experience [Tr. Note: fifteen years in 2005]. I began this in the end of 1990, with students from my first term of Private International Law at UFRGS Law School, formed with the same proposed method, but nothing came of it. As at the time I had a Masters’ degree and Specialization in European Communitarian Law, we were part of the Research Group on MERCOSUL led by Prof. Dr. Martha Lucía Olivar Jimenez in the Post-Graduate Program in Law (PPGD) of UFRGS, with a sub-project entitled “MERCOSUL: Juridical Reality” as part of the PPGD-UFRGS line of research entitled “Integration as a Task for the Science of Law.” I oversaw the group research, therefore, on the current themes of Private International Law<sup>73</sup> and the newborn MERCOSUL<sup>74</sup>.

Since all the students in Private International Law were taking the course, as required, during their ninth or tenth semester at UFRGS, a preliminary difficulty was that they were graduating that year and beginning their careers, so the weekly meetings were difficult and became less frequent. Requested assignments were not finished on a regular basis and the incentive to research was slight. In 1991, I taught several classes in Civil Law to students in their first years of undergraduate Law study, and at their request, I revived the meetings. This small group of four students continued and presented work in Private International Law at the university-wide academic competition (“Salão de Iniciação Científica”) at UFRGS in 1992<sup>75</sup>. I had observed the students’ difficulties with the subjects related to Private International Law so in 1993, I allowed only the fifth year Law students to present research in those subject matters. The other students, who were not in the last year of their undergraduate studies, were allowed to research about MERCOSUL and/or Consumer Law in the MERCOSUL<sup>76</sup>. The improved

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<sup>73</sup> This research project in the line of research entitled “Integração como tarefa para a ciência do Direito” had three phases entitled: 1991/92 - Phase I: Contratos Internacionais e Mercosul/Circulação de bens; 1992/93 - Phase II: Contratos Internacionais e Mercosul/Circulação de pessoas; 1993/94 - Phase III: Proteção do Consumidor no Mercosul.

<sup>74</sup> This research project entitled “Integração do Cone Sul – Realidade Jurídica?” had two phases: 1991-Fase I - Mercosul - Aspectos Jurídicos; 1992-1994 – Fase II – Mercosul – Realidade Jurídica.

<sup>75</sup> Individual research projects presented in 1992 had the following titles: 1. Mercosul e Harmonização: Política de Transportes (Ana Inês Algorta Latorre); 2. Mercosul - Realidade Jurídica (Luiz Carlos Hagmann); 3. O Contrato de Transporte Internacional de Cargas no contexto da integração Latino-americana (Sabina Cavalli); 4. O papel do projeto de Código de Conduta da ONU sobre transferência de tecnologia nos países em desenvolvimento (Elaine Ramos da Silva).

<sup>76</sup> Individual research projects presented in the Salão de Iniciação Científica at UFRGS, in 1993, had the following titles: 1. Sobre a necessidade da Harmonização das Legislações nos países integrantes do Mercosul (Elaine Ramos da Silva); 2. Responsabilidade do Importador no Mercosul (Kátia Kneipp); 3. A pessoa como consumidor no Mercosul (Fabiana d’Andrea Ramos); 4. Direito Internacional Privado - O casamento e as novas uniões (Ana Inês Latorre); 5. Relações de Sucessão no Mercosul (Sabina Cavalli).

results led to the victory in 1993 of the voluntary researcher Elaine Ramos da Silva in the UFRGS and CNPq V Conference on Scientific Investigation competition in Section III: Applied Social Sciences, with her work entitled “The Necessity for Harmonization of Laws of the Countries belonging to MERCOSUL.” This was the first time someone from the Law School won the “UFRGS Young Researcher Prize”.

In 1994, in light of the departure of the senior students, I resolved to reform the process, directing the projects towards research in themes involving MERCOSUL and domestic consumer law, in a way that permitted students in the first years to participate in the group. Again we won awards, and the group revitalized itself<sup>77</sup>, but as I returned to Germany in late 1994 to write my doctoral thesis until March, 1996, the group was coordinated by Prof. Dr. Martha Lucía Olivar Jimenez.

Returning to UFRGS with my doctorate in 1996<sup>78</sup>, I determined to formalize the group and my position as research leader with CNPq, giving it a structure and the name “MERCOSUL and Consumer Law.” Since then the Research Group has been very active. Between 1996 and 2001<sup>79</sup>, students in the Research Group received twenty-five prizes for

<sup>77</sup> Individual research projects presented in the Salão de Iniciação Científica at UFRGS, in 1994, had the following titles: 1. A informática e o Direito à Privacidade (Ângela Dumerque); 2. Direito de Arrependimento no Código de Defesa do Consumidor (Clarissa Costa de Lima); 3. A nova concepção de oferta e cláusulas abusivas no CDC (Elaine Ramos da Silva); 4. Os contratos de adesão e as cláusulas abusivas sob a perspectiva do CDC (Ana Letícia Fialho); 5. O sistema de solução de controvérsias no Mercosul (Pedro Montenegro); 6. O dever de informar e a publicidade no CDC (Fabiana D’Andrea Ramos).

<sup>78</sup> Individual research projects presented in the Salão de Iniciação Científica at UFRGS, in 1995 had the following titles: 1. O direito da Concorrência no Mercosul (Pedro Montenegro); 2. Mercosul: Arcabouço jurídico e políticas universitárias (Fábio Morosini); 3. Meio ambiente e consumidor (Ana Letícia Fialho); 4. Importância do conceito de consumidor no Mercosul (Ariane Freitas); 5. Evolução da Família no Direito Brasileiro (Clarissa Costa de Lima); 6. A responsabilidade civil por dano ambiental (Jesus Tupã Silveira Gomes).

<sup>79</sup> Individual research presented in the Salão de Iniciação Científica da UFRGS, in 1997, had the following titles: 1. Ilusão de Segurança Jurídica no Mercosul (Pedro Montenegro); 2. Comissão de Comércio do Mercosul (Rodrigo Cogo); 3. A importância do Art. 28 do CDC - A Desconsideração da Personalidade Jurídica frente ao consumidor (Bárbara Garcia); 4. Contratos à distância e a proteção do consumidor (Ariane Freitas); 5. Quantificação do dano moral: determinação de critérios (Patrícia Peressutti); 6. O conceito de consumidor no CDC (Fernanda Nunes Barbosa); 7. Contratos de Seguro-Saúde e o Código de Defesa do Consumidor (Alberto Franco); 8. Direito do consumidor de serviços médicos (Giovanna Maciel); 9. Reconhecimento de Paternidade: Um estudo paralelo entre Brasil e Argentina (Fábio Costa Morosini). Individual research presented in the Salão de Iniciação Científica da UFRGS, in 1998, had the following titles: 1. A publicidade enganosa e abusiva no CDC e suas tendências (Aline Jackisch); 2. Consumo sustentável e o Direito do Consumidor (Bárbara Garcia); 3. Novo regime das incorporações imobiliárias e o CDC (Fernanda Nunes Barbosa); 4. A responsabilidade civil no CDC pelo fato do produto e pelo vício do produto (Fabiano Menke); 5. O atual direito do consumidor de serviços no Brasil (Giovana Maciel) 6. O consumidor equiparado: reflexos nos serviços bancários (Fábio Costa Morosini); 7. Contratos à distância e perspectivas de harmonização das leis (Ariane Freitas); 8. Atividade da Comissão de Comércio no Mercosul (Rodrigo Cogo). Individual research presented in the Salão de Iniciação Científica da UFRGS, in 1999, had the following titles: 1. A cláusula

de indexação no contrato de leasing e o consumidor (Laura Oliveira Ederich); 2. A garantia como pós-venda no direito do consumidor (Rafael B. Garcia); 3. O prazo de carência nos contratos de incorporação imobiliária (Fernanda Nunes Barbosa); 4. A prestação de serviços educacionais à luz do direito do consumidor (Carina Bonzanini da Silva); 5. O Bug do milênio e seus reflexos para o consumidor (Roberto Silva da Rocha); 6. Multipropriedade (Rosaura Macagnan Viaw); 7. A problemática dos serviços prestados através das linhas 0900 (Odiléia Oliveira de Almeida Simão); 8. O Plano Nacional de Desestatização e o consumidor (Bruno Nubens Barbosa Miragem) 9. A agência estadual de regulação dos serviços públicos delegados do Rio Grande do Sul – AGERGS e o consumidor (Cláudia Travi Pitta Pinheiro); 10. As sociedades comerciais no Mercosul (Simone Stabel Daudt); 11. Comunicação de Massa: implicações legais das tecnologias emergentes (Fábio Costa Morosini). Individual research presented in the Salão de Iniciação Científica da UFRGS, in 2000, had the following titles: 1. Aspectos da Harmonização do Direito Societário na União Européia: Um exemplo para o Mercosul (Lucas Faria Annes); 2. Publicidade Abusiva: sua regulamentação no Mercosul (Daniela Correa Jacques); 3. Serviços públicos essenciais e o princípio da continuidade: tutela do consumidor versus Estado-Fornecedor (Fernanda Girardi); 4. As várias nuances do dever de informar no Código de Defesa do Consumidor (Fernanda Nubens Barbosa) 5. Medicamentos genéricos: a liberdade de escolha do consumidor (Laura Oliveira Ederich); 6. Cláusulas abusivas na Argentina e no Brasil – Guillermo Campbell (UFRGS/ Univ. de Cordoba, Argentina); 7. Fundamentos da proteção dos direitos da personalidade: a evolução da tutela do direito de imagem na jurisprudência do Tribunal de Justiça do Rio Grande do Sul (1984 a 2000) – Bruno Nubens Barbosa Miragem); 8. Garantia globalizada: Análise de um possível *leading-case* (Rafael Garcia); 9. Limitação de juros nos cartões de crédito (Odiléia Oliveira de Almeida Simão). Individual research presented in the XIII Salão de Iniciação Científica da UFRGS, in 2001, had the following title: 1. A Homologação de Sentenças Arbitrais Estrangeiras pelo Supremo Tribunal Federal: comércio Brasil-Alemanha (Ana Gerdau de Borja); 2. **Dever de Informação e os Produtos Transgênicos** (Ana Rispoli d’Azevedo); 3. A Proteção dos Consumidores nos Contratos Eletrônicos (Antonia Espíndola Longoni Klee); 4. Alimentos Transgênicos: Ética, Consumo e Meio Ambiente (Laura Oliveira Ederich); 5. **Aspectos Jurídicos do “Recall” e sua Introdução no Direito Brasileiro (Lucas Faria Annes)**; 6. Análise Crítica do Caso Colgate/Kolynos (Lúcia Carvalho Sica); 7. Aspectos Jurídicos da Proteção aos Programas de Computador com Código-Fonte Aberto no Brasil (Maitê de Souza Schmitz); 8. O Código de Defesa do Consumidor enquanto Lei de Função Social (Marília Zanchet); 9. Os Contratos de Previdência Privada e o Código de Defesa do Consumidor (Odiléia Oliveira de Almeida Simão); 10. O Uso da Internet para a Aquisição de Bens e Serviços: alternativa segura? (Rafael Barreto Garcia); 11. Posição Imutável do Superior Tribunal de Justiça: A Questão da Importação de Merluzas (Rafael Pellegrini Ribeiro); 12. Comparação Principiológica entre a Affirmative Action e o Código de Defesa do Consumidor (Ricardo Medeiros de Castro); 13. Responsabilidade do Transportador Aéreo por Extravio de Bagagem (Tatiana de Campos Aranovich); 14. O Cartel de Preços e a Defesa do Consumidor (Thales Gonçalves Della Giustina); 15. As linhas gerais da responsabilidade pelo fato do serviço no CDC e sua recepção ou não pelo Tribunal de Justiça do Rio Grande do Sul (Thomaz Francisco Silveira de Araújo Santos). Individual research presented in the XIV Salão de Iniciação Científica da UFRGS, in 2002, had the following titles: 1. A questão do dano moral à imagem da pessoa jurídica no posicionamento do Tribunal de Justiça do Rio Grande do Sul no período de 1999 a 2002. (Elírio Putton Junior). 2. Direito de danos e o *quantum* indenizatório: o caso do dano morte na jurisprudência do STJ. (Thomaz Francisco Silveira de Araújo Santos). 3. A legislação aplicável aos direitos de propriedade intelectual na transmissão via satélite. (Diego Fraga Lerner). 4. Certificação digital – análise da infra-estrutura de chaves públicas brasileira. (Carlo Rosito da Silva). 5. Perspectivas dos acordos e instituições intra-ALADI face a uma futura instituição da ALCA (Tatiana de Campos Aranovich). 6. A ordem pública como restrição da autonomia da vontade nos contratos internacionais. (Ana Gerdau de Borja). 7. A aplicação jurisprudencial, em segunda instância, do princípio constitucional da dignidade da pessoa humana no âmbito das relações privadas (decisões do TJRS e TARS 1986-2002).

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(Alexandra Pretto). 8. Os princípios contratuais da defesa do consumidor – jurisprudência comparada entre o TJRS e o TJRJ. (Marília Zanchet). 9. Arrecadação de poupança popular por meio de título de capitalização e o direito do consumidor. (Andreza Mainardi). 10. A energia elétrica como serviço público essencial: o princípio da continuidade justifica a gratuidade? (Maitê de Souza Schmitz). 11. Análise jurisprudencial da aplicação do art. 46 do Código de Defesa do Consumidor: o dever de informar sobre o conteúdo do contrato. (Antonia Espíndola Longoni Klee). 12. Aspectos jurídicos do “diagnóstico pré-implantação” de embriões – perspectiva alemã. (Julia Barros Schirmer). 13. FCTC e a restrição à publicidade do tabaco. (Simone Regina Backes). 14. As campanhas de “recall” e a responsabilidade civil do fornecedor. (Ana Rispoli D’Azevedo). 15. Do direito moral do autor conforme o artigo 6bis da Convenção de Berna para a proteção de obras literárias e artísticas – análise à luz do Direito Brasileiro. (Lucas Lixinski). 16. Violação antecipada do contrato na Convenção da ONU sobre os contratos de compra e venda internacional de mercadorias (CCVIM). (Miguel Augustin Kreling). 17. Responsabilidade civil objetiva: a compensação como forma de reparação de danos ambientais irreversíveis. (Felipe François Motta). 18. Fundamentos do dano moral ambiental nos sistemas jurídicos brasileiro e alemão. (Raquel Thaís Hunsche). 19. Da reparabilidade do dano moral ambiental coletivo no direito brasileiro. (Laura Miller). 20. Consumo sustentável como costume internacional e seu reflexo no comércio. (Ricardo Medeiros de Castro). 21. O Protocolo de Olivos e o sistema de solução de controvérsias no Mercosul. (Rafael Pellegrini Ribeiro). 22. Um desafio para o Mercosul: a harmonização do direito societário. (Lucas Faria Annes). 23. O Pacto de San José da Costa Rica e o ordenamento constitucional brasileiro: a inconstitucionalidade da prisão civil do depositário infiel. (Tâmara Biolo Soares). 24. A eficácia do acordo para reassentamento de refugiados ACNUR-Brasil para as crianças refugiadas. (Luciana Goulart Quinto). Individual research presented in the XV Salão de Iniciação Científica da UFRGS, in 2003, had the following titles: 1. Leis imperativas e arbitralidade. (Ana Gerdau de Borja). 2. A inserção das empresas brasileiras nas disputas internacionais: as novas regras de arbitragem da CCI. (Cyro Faria Annes). 3. *Lex Mercatoria*: estudo de uma uniformização de regras do comércio internacional à luz das decisões de tribunais arbitrais internacionais. (Luiz Gustavo Meira Moser). 4. A responsabilidade dos Estados por omissão legislativa frente às convenções europeia e americana de direitos humanos. (Fernando Lusa Bordin). 5. A clonagem terapêutica na Alemanha: entre a inviolabilidade do ser humano e a possibilidade do avanço na cura de doenças. (Julia Barros Schirmer). 6. Transexualismo e direito ao próprio corpo: reflexões acerca da impossibilidade de limitação voluntária aos direitos da personalidade e da vedação ao ato de disposição ao próprio corpo. (Alexandra Pretto). 7. A exigência de um montante mínimo de capital para a constituição de sociedades limitadas e por ações e o princípio da autonomia da vontade. (Eduardo Guimarães Wanderley). 8. Contratos bancários e de crédito face ao Código de Defesa do Consumidor e o princípio da boa-fé objetiva. (Carla Marrone Alimena). 9. O aspecto punitivo dos danos morais. (Lucas Faria Annes). 10. A função interpretativa do princípio da boa-fé objetiva e a teoria da declaração no direito civil brasileiro. (Fernando Gavronski Guimarães). 11. O Swap de proteção cambial e o contingenciamento do crédito ao setor público (Miguel Augustin Kreling). 12. A pesquisa em Direito e a questão da mudança: análise parcial da produção científica do Programa de Pós-graduação em Direito da UFRGS. (Tâmara Biolo Soares). 13. A onerosidade excessiva e a teoria da imprevisão: distinção entre o Código de Defesa do Consumidor e o Código Civil. (Matheus Faganello). 14. Cláusula penal nos contratos de consumo. (Mari Tozawa). 15. Marca e o conceito de fornecedor: o caso Panasonic. (Simone Regina Backes). 16. A busca da eficiência econômica pelo controle de concentração de empresas na defesa da concorrência (Andreza Mainardi). 17. O Ministério Público na defesa do consumidor – experiência gaúcha. (Marília Zanchet). 18. Reconstrução dos sistemas jurídicos de países abalados por guerra e o papel dos organismos internacionais. (Filipe Scherer de Oliveira). 19. A poluição transfronteiriça em blocos econômicos: NAFTA e Mercosul frente aos resíduos perigosos. (Lucas Lixinski). 20. Proteção internacional à criança e ao adolescente: a Convenção Internacional de Haia relativa à proteção das crianças e à cooperação em matéria de adoção internacional em casos de adoção entre Brasil e

Alemanha. (Letícia Franceschini). 21. Risco do desenvolvimento: estudo comparado entre o direito do consumidor brasileiro e o direito norte-americano. (Antonia Espíndola Longoni Klee). 22. O tratamento jurídico das águas subterrâneas e o princípio da cooperação hídrica internacional: perspectivas para o Mercosul. (Laura Martins Miller). 23. O caso *Estrada do Colono*: colisão entre o meio ambiente e o desenvolvimento econômico como direitos fundamentais. (Raquel Thais Hunsche). 24. A implementação do mecanismo de desenvolvimento limpo (MDL) no Brasil : aspectos jurídicos e terminológicos. (Luciana Quinto). 25. A proteção do conhecimento tradicional no ordenamento jurídico brasileiro. (Diego Fraga Lerner). Individual research presented in the XVI Salão de Iniciação Científica da UFRGS, in 2004, had the following titles: 1. O Novo Direito das Obrigações no Brasil e na Alemanha: em Busca de um “Padrão Mínimo para as Relações Contratuais”? (Alexandra Pretto) 2. O Sarbanes-Oxley Act e o Dever de Informar no Mercado de Capitais do Brasil e dos Estados Unidos (Ana Gerda de Borja) 3. A Súmula 283 do Superior Tribunal de Justiça e a Proteção do Consumidor nos Contratos de Cartão de Crédito (André Luiz Cruz Sousa) 4. A Reprovação, pelo CADE, do Ato de Concentração das Empresas Garoto e Nestlé. (Andreza Mainardi) 5. Considerações sobre a Atividade Médica e o Abuso de Direito (Ane Streck Silveira) 6. A Extradicação no Direito Brasileiro: Histórico e Perspectivas. (Anne Caroline Diesel de Oliveira) 7. A Transferência Internacional da Sede Social da Pessoa Jurídica – Desafios para os Sistemas Jurídicos Nacionais: uma Comparação entre o Direito Brasileiro e o Direito Alemão (Carl Friedrich Nordmeier) 8. A Problemática do Consumidor Superdividido: o Dever de Renegociação para a Garantia do Mínimo Existencial. (Carla Marrone Alimena) 9. Conseqüências da Violação do Artigo VI do TNP e Alternativas para a Não-Proliferação e o Desarmamento Nuclear. (Carolina Paranhos Coelho) 10. O Direito Moral de Proteção da Propriedade Intelectual no Brasil e no Japão (Cláudio Arêdes Rodrigues Filho) 11. O Conflito de Leis: o Fenômeno da Materialização no Direito Internacional Privado Contemporâneo (Cyro Faria Annes) 12. Análise sobre as Perspectivas Russa e Brasileira acerca do Protocolo de Quioto (Daniel Paulo Cays) 13. Dano Moral Decorrente de Abuso em Planos Privados de Assistência à Saúde (Denise Dias de Castro Bins) 14. O Status Jurídico das Normas Facultativas Oriundas de Organizações Internacionais e a sua Utilização Como Fundamento Decisório nos Painéis de Solução de Controvérsias da Organização Mundial do Comércio. (Diego Fraga Lerner) 15. Atos de Concentração Face à Figura do Consumidor: A Cartelização no Codeshare VARIG-TAM. (Eduardo Guimarães Wanderley) 16. A Responsabilidade Civil das Empresas de Tabaco por Danos Causados à Saúde dos Consumidores (Fabiano de Andrade Correa) 17. Violação e Importância da Cláusula de Confidencialidade no Contrato de Know-How e suas Implicações, uma vez Violada, para as Partes Contratantes (Fabiano Galafassi) 18. “Barriga de Aluguel”: Análise da Problemática Ético-Jurídica da Gestação de Substituição (Felipe Rocha dos Santos) 19. Análise Econômica da Cláusula Penal e o Tratamento Jurídico do Instituto no Direito Brasileiro (Fernando Gavronski Guimarães) 20. A Função Social do Contrato no Novo Código Civil e no Código de Defesa do Consumidor (Fernando Goya Maldonado) 21. A Personalidade Internacional do Indivíduo e o “Direito A Um Tribunal”: Reflexões Acerca da Capacidade Processual da Pessoa Humana na Ordem Jurídica Internacional (Fernando Lusa Bordin) 22. Compartilhamento de Obras Musicais pela Internet e a Proteção dos Direitos Autorais no Brasil (Filipe Scherer Oliveira) 23. O Brasil e a Reforma na Composição do Conselho de Segurança da ONU (Guilherme Antônio Chies Malgarizi) 24. Affirmative Action e a Implementação de Cotas na Educação Superior no Brasil (Julia Barros Schirmer) 25. A Proteção do Interesse Difuso ao Meio Ambiente Qualificado nos Estados Unidos da América: um Paralelo com o Brasil (Laura Martins Miller) 26. Proteção Internacional da Expressão Folclórica (Lucas Lixinski) 27. A Inscrição Indevida no SPC e a Indenização por Dano Moral: Critérios de Quantificação Adotados pelo TJRS e Turmas Recursais-JECRS (Luciana Goulart Quinto) 28. As Cláusulas de Hardship e sua Aplicação no Ordenamento Jurídico Brasileiro (Luiz Gustavo Meira Moser) 29. Quando a Manifestação Política se Transforma em Crime Internacional: os Limites entre o Crime Político e o Terrorismo (Maitê de Souza Schmitz) 30. A Proteção ao Pequeno Investidor do Mercado de Capitais e o Dever de Informar (Marcelo Boff Lorenzen) 31. Sociedade de

research<sup>80</sup> including, in the area of Applied Social Sciences, another “UFRGS Young Researcher Prize” in 1999<sup>81</sup>, for the work of FAPERGS Fellow Fábio Costa Morosini. He won the highest award from UFRGS for his individual work entitled “Mass Communications: Legal Implications of Emerging Technologies.”

Consumo como sendo uma Sociedade de Risco: a Questão da Responsabilidade Objetiva quanto aos Riscos nos Serviços sob a Luz do Código de Defesa do Consumidor (Maria Luiza Kurban Jobim) 32. Da Equiparação do Alienante Fiduciário ao Depositário e a Prisão Civil: Interpretação da Norma Constitucional à Luz da Legislação Infraconstitucional ou Restrição de Direitos Fundamentais? (Matheus Rocha Faganello) 33. Da Cláusula de Comércio da Constituição dos Estados Unidos enquanto Fonte do Direito Ambiental Norte-Americano (Miguel Augustin Kreling) 34. A Convenção de Haia para a Proteção de Bens Culturais em Caso de Conflito Armado: sua Aplicação e Técnicas de Salvaguarda (Paulo de Tarso Reale) 35. Os Efeitos da Vedação do Uso da Arbitragem por Pessoas de Direito Público e de Economia Mista. (Rafael Pellegrini Ribeiro) 36. Análise do Artigo 49 Caput do Código de Defesa do Consumidor: o Direito de Arrependimento sob Nova Perspectiva (Rafaela Hias Moreira Huergo) 37. O Direito Fundamental ao Meio Ambiente Ecologicamente Equilibrado: Há um Padrão Mínimo a ser Protegido? (Raquel Thais Hunsche) 38. Projeto de Lei 1151/95: uma Tentativa de Regularização da União Civil entre Pessoas do mesmo Sexo (Renata Lontra de Oliveira) 39. Planos de Assistência Privada à Saúde – A Lei 9656/98 e seus Reflexos sobre o Setor de Saúde Suplementar (Simone Regina Backes) 40. A Tutela Constitucional do Meio-Ambiente no Brasil e nos Estados Unidos: um Diálogo entre Sistemas (Thomaz Francisco Silveira de Araújo).

<sup>80</sup> Prizes received by members of the Research Group, during their graduate studies, were: 1. Researcher with a scholarship PROPESQ-UFRGS Patrícia Peressutti, DESTAQUE in the XI Salão de Iniciação Científica UFRGS and CNPq, Seção III, 1997. 2. Researcher with a scholarship FAPERGS Giovana Maciel (PUC), DESTAQUE in the IX Salão de Iniciação Científica UFRGS and CNPq, Seção III, 1997. 3. Researcher with a scholarship CNPq/UFRGS Pedro Montenegro, PRÊMIO in the I Salão de Iniciação Científica da Faculdade de Direito/UFRGS, Bolsa de estudo do Mestrado em Direito/UFRGS para 1998. 4. Pesquisadora CNPq/UFRGS, Bárbara S. Garcia, DESTAQUE no I Salão de Iniciação Científica do Direito, Faculdade de Direito UFRGS, 1998. 5. Pesquisadora CNPq/UFRGS, Ariane Cunha Freitas, DESTAQUE no I Salão de Iniciação Científica do Direito, Faculdade de Direito UFRGS, 1998. 6. Pesquisador voluntário Fabiano Menck, UFRGS, DESTAQUE no X Salão de Iniciação Científica UFRGS e CNPq, Ciências Sociais Aplicadas, 1998. 7. Pesquisadora voluntária Cláudia Travi Pitta Pinheiro, 2. PRÊMIO no III Salão de Iniciação Científica da Faculdade de Direito/UFRGS, 1999, Bolsa de estudo do Mestrado em Direito/UFRGS para 2000. 8. Pesquisadora CNPq/PIBIC Aline Jackisch, Co-orientador o Prof. Sérgio José Porto, DESTAQUE no III Salão de Iniciação Científica do Direito, Faculdade de Direito UFRGS, 1999. 9. Pesquisadora CNPq/PIBIC Laura Oliveira Ederich, DESTAQUE no III Salão de Iniciação Científica do Direito, Faculdade de Direito UFRGS, 1999.10. Pesquisadora PROPESQ/UFRGS Rosaura Macagnan Viau, DESTAQUE no III Salão de Iniciação Científica do Direito, Faculdade de Direito UFRGS, 1999.11. Pesquisador PROPESQ/UFRGS Bruno Nunes Barbosa Miragem, DESTAQUE no III Salão de Iniciação Científica do Direito, Faculdade de Direito UFRGS, 1999. 12. Pesquisadora voluntária Odiléia Oliveira de Almeida Simão, DESTAQUE no III Salão de Iniciação Científica do Direito, Faculdade de Direito UFRGS, 1999. 13. Pesquisador FAPERGS Fábio Costa Morosini (PUC), DESTAQUE no XI Salão de Iniciação Científica UFRGS e CNPq, Ciências Sociais Aplicadas, 1999. 14. Pesquisadora voluntária Fernanda Nunes Barbosa (PUC), DESTAQUE no XI Salão de Iniciação Científica UFRGS e CNPq, Ciências Sociais Aplicadas, 1999. 15. Pesquisador CNPq/PIBIC Aline Jackisch, Co-orientador o Prof. Sérgio José Porto, DESTAQUE no XI Salão de Iniciação Científica UFRGS e CNPq, Ciências Sociais Aplicadas, 1999. 16. Pesquisador FAPERGS Fábio Costa Morosini (PUC), PRÊMIO JOVEM PESQUISADOR do XI Salão de Iniciação Científica UFRGS e CNPq, Ciências Sociais Aplicadas, 1999. 17. Pesquisadora voluntária, ex-CNPq/PIBIC, Laura Oliveira Ederich, DESTAQUE no IV Salão de Iniciação Científica do Direito, Faculdade de Direito

UFRGS, 2000. 18. Pesquisador PROPESQ/UFRGS, Bruno Miragem, DESTAQUE no IV Salão de Iniciação Científica do Direito, Faculdade de Direito UFRGS, 2000.19. Pesquisadora voluntária, Daniela Jacques, DESTAQUE no IV Salão de Iniciação Científica do Direito, Faculdade de Direito UFRGS, 2000. 20. Pesquisadora voluntária, Fernanda Girardi, DESTAQUE no IV Salão de Iniciação Científica do Direito, Faculdade de Direito UFRGS, 2000. 21. Pesquisador CNPq/UFRGS, Rafael Garcia, DESTAQUE no IV Salão de Iniciação Científica do Direito, Faculdade de Direito UFRGS, 2000. 22. Pesquisadora voluntária, Antonia Espíndola Longoni Klee, DESTAQUE no IV Salão de Iniciação Científica do Direito, Faculdade de Direito UFRGS, 2000. 23. Pesquisadora voluntária, ex-CNPq/PIBIC, Laura Oliveira Ederich, DESTAQUE no XII Salão de Iniciação Científica UFRGS e CNPq, Ciências Sociais Aplicadas, 2000. 24. Pesquisador PROPESQ/UFRGS, Bruno Miragem, DESTAQUE no XII Salão de Iniciação Científica UFRGS e CNPq, Ciências Sociais Aplicadas, 2000. 25. Pesquisador CNPq/UFRGS, Rafael Garcia, DESTAQUE no XII Salão de Iniciação Científica UFRGS e CNPq, Ciências Sociais Aplicadas, 2000. 26. Pesquisadora CNPq/UFRGS, Ana Gerdau de Borja, DESTAQUE no XIII Salão de Iniciação Científica UFRGS e CNPq, Ciências Sociais Aplicadas, 2001. 27. Pesquisador FAPERGS/UFRGS, Thomaz Francisco Silveira de Araújo Santos, DESTAQUE no XIII Salão de Iniciação Científica UFRGS e CNPq, Ciências Sociais Aplicadas, 2001. 28. Pesquisadora FAURGS, Ana Rispoli D’Azevedo, DESTAQUE no XIV Salão de Iniciação Científica UFRGS e CNPq, Ciências Sociais Aplicadas, 2002. 29. Pesquisadora CNPq/UFRGS, Antônia Espíndola Longoni Klee, DESTAQUE no XIV Salão de Iniciação Científica UFRGS e CNPq, Ciências Sociais Aplicadas, 2002. 30. Pesquisador voluntário, Miguel Augustín Kreling, DESTAQUE no XIV Salão de Iniciação Científica UFRGS e CNPq, Ciências Sociais Aplicadas, 2002. 31. Pesquisadora voluntária, Raquel Thais Hunsche, DESTAQUE no XIV Salão de Iniciação Científica UFRGS e CNPq, Ciências Sociais Aplicadas, 2002. 32. Pesquisadora voluntária, Alexandra Pretto, DESTAQUE no I Salão de Iniciação Científica do Centro Acadêmico André da Rocha (Faculdade de Direito UFRGS), 2003. 33. Pesquisadora voluntária, Julia Barros Schirmer, JOVEM PESQUISADORA no I Salão de Iniciação Científica do Centro Acadêmico André da Rocha (Faculdade de Direito UFRGS), 2003. 34. Pesquisadora CNPq/UFRGS, Maitê de Souza Schmitz, DESTAQUE no I Salão de Iniciação Científica do Centro Acadêmico André da Rocha (Faculdade de Direito UFRGS), 2003. 35. Pesquisador voluntário, Ricardo Medeiros de Castro, DESTAQUE no I Salão de Iniciação Científica do Centro Acadêmico André da Rocha (Faculdade de Direito UFRGS), 2003. 36. Pesquisadora FAPERGS, Tâmara Joana Biolo Soares, DESTAQUE no I Salão de Iniciação Científica do Centro Acadêmico André da Rocha (Faculdade de Direito UFRGS), 2003. 37. Pesquisadora voluntária, Alexandra Pretto, DESTAQUE no II Salão de Iniciação Científica do Centro Acadêmico André da Rocha (Faculdade de Direito UFRGS), 2003. 38. Pesquisadora voluntária, Ana Gerdau de Borja, DESTAQUE no II Salão de Iniciação Científica do Centro Acadêmico André da Rocha (Faculdade de Direito UFRGS), 2003. 39. Pesquisador voluntário, Diego Fraga Lerner, DESTAQUE no II Salão de Iniciação Científica do Centro Acadêmico André da Rocha (Faculdade de Direito UFRGS), 2003. 40. Pesquisador voluntário, Filipe Scherer Oliveira, DESTAQUE no II Salão de Iniciação Científica do Centro Acadêmico André da Rocha (Faculdade de Direito UFRGS), 2003. 41. Pesquisador voluntário, Lucas Faria Annes, DESTAQUE no II Salão de Iniciação Científica do Centro Acadêmico André da Rocha (Faculdade de Direito UFRGS), 2003. 42. Pesquisador CNPq/UFRGS, Lucas Lixinski, DESTAQUE no II Salão de Iniciação Científica do Centro Acadêmico André da Rocha (Faculdade de Direito UFRGS), 2003. 43. Pesquisadora voluntária, Luciana Goulart Quinto, DESTAQUE no II Salão de Iniciação Científica do Centro Acadêmico André da Rocha (Faculdade de Direito UFRGS), 2003. 44. Pesquisador voluntário, Matheus Rocha Faganello, DESTAQUE no II Salão de Iniciação Científica do Centro Acadêmico André da Rocha (Faculdade de Direito UFRGS), 2003. 45. Pesquisadora CNPq/UFRGS, Tâmara Joana Biolo Soares, co-orientação com Francisco Silveira de Araújo Santos, JOVEM PESQUISADORA no II Salão de Iniciação Científica do Centro Acadêmico André da Rocha (Faculdade de Direito UFRGS), 2003. 46. Pesquisadora voluntária, Alexandra Pretto,

DESTAQUE no XV Salão de Iniciação Científica da UFRGS e CNPq, Ciências Sociais Aplicadas, 2003. 47. Pesquisador voluntário, Diego Fraga Lerner, DESTAQUE no XV Salão de Iniciação Científica da UFRGS e CNPq, Ciências Sociais Aplicadas, 2003. 48. Pesquisador voluntário, Fernando Gavronski Guimarães, DESTAQUE no XV Salão de Iniciação Científica da UFRGS e CNPq, Ciências Sociais Aplicadas, 2003. 49. Pesquisador voluntário, Filipe Scherer Oliveira, DESTAQUE no XV Salão de Iniciação Científica da UFRGS e CNPq, Ciências Sociais Aplicadas, 2003. 50. Pesquisador voluntário, Matheus Rocha Faganello, DESTAQUE no XV Salão de Iniciação Científica da UFRGS e CNPq, Ciências Sociais Aplicadas, 2003. 51. Pesquisadora CNPq/UFRGS, Tâmara Joana Biolo Soares, co-orientação com Francisco Silveira de Araújo Santos, DESTAQUE no XV Salão de Iniciação Científica da UFRGS e CNPq, Ciências Sociais Aplicadas, 2003. Quanto aos prêmios internacionais, em 2001 recebemos dois destaques internacionais: primeiro lugar no Brasil na Eliminatória nacional realizada na UFSC do Philip C. Jessup International Law Moot Court Competition/2001, participação em Washington, D.C., Estados Unidos, com Professores Cláudio Moretti e Manoel André da Rocha), e estudantes do grupo: Ana Gerdau de Borja; Thomaz Francisco Silveira de Araújo Santos, Maitê de Souza Schmitz, Ricardo Medeiros de Castro. Prêmio de Melhor Delegado, representando o Canadá, na Comissão de Direitos Humanos, no IV Americas Model United Nations (AMUN), realizado em Brasília, D.F, entre 14 e 19 de julho de 2001 para Thomaz Francisco de Araújo Santos. Em 2002, pesquisadores do grupo também foram agraciados com prêmios no V Americas Model United Nations, realizado em Brasília, D.F, sendo premiados Thomaz Francisco de Araújo Santos (Melhor Delegado – Conselho de Segurança), Tâmara Joana Biolo Soares (Menção Honrosa – Comissão de Direitos Humanos) e Miguel Augustin Kreling (Menção Honrosa – Comitê Jurídico); no Inter-American Human Rights Moot Court Competition, realizado em Washington, D.C., com os prêmios de melhor orador em português (Thomaz Francisco Silveira de Araújo Santos) e melhor memorial em português pelo peticionário (Thomaz Francisco Silveira de Araújo Santos e Rafael Pellegrini Ribeiro); e no Harvard WorldMUN, realizado em Belo Horizonte, para Thomaz Francisco Silveira de Araújo Santos (Menção Honrosa – Comissão de Refugiados). Em 2003, novamente o grupo obteve destaque internacional ao conquistar prêmios no VI Americas Model United Nations, sendo os prêmios para Lucas Lixinski (Menção Honrosa – Comissão de Direitos Humanos) e Miguel Augustin Kreling (Menção Honrosa – Comitê Econômico e Financeiro). Em 2004 o grupo alcançou ainda maior destaque, ao conquistar prêmios na etapa nacional da Philip C. Jessup International Law Moot Court Competition/2004, conquistando os prêmios de melhor orador (Thomaz Francisco Silveira de Araújo Santos), melhor conjunto de memoriais escritos e melhor equipe, o que levou à participação em Washington, D.C., Estados Unidos, sendo composta a equipe dos seguintes alunos-pesquisadores: Diego Fraga Lerner, Lucas Lixinski, Luciana Goulart Quinto, Maitê de Souza Schmitz, Thomaz Francisco Silveira de Araújo Santos, e Rafael Pellegrini Ribeiro como *coach*; no Inter-American Human Rights Moot Court Competition, os prêmios de melhor oradora em português (Tâmara Joana Biolo Soares) e melhor memorial em português (Ana Gerdau de Borja e Tâmara Joana Biolo Soares); e no VII Americas Model United Nations, sendo os prêmios para Filipe Scherer Oliveira e Thomaz Francisco Silveira de Araújo Santos (Menção Honrosa – Conselho de Segurança).

<sup>81</sup> Individual research projects presented in the Salão de Iniciação Científica da UFRGS, in 1999, had the following titles: 1. A cláusula de indexação no contrato de leasing e o consumidor- Laura Oliveira Ederich; 2. A garantia como pós-venda no direito do consumidor- Rafael B. Garcia; 3. O prazo de carência nos contratos de incorporação imobiliária - Fernanda Nunes Barbosa; 4. A prestação de serviços educacionais à luz do direito do consumidor - Carina Bonzanini da Silva; 5. O Bug do milênio e seus reflexos para o consumidor - Roberto Silva da Rocha; 6. Multipropriedade - Rosaura Macagnan Viau; 7. A problemática dos serviços prestados através das linhas 0900 - Odiléa Oliveira de Almeida Simão; 8. O Plano Nacional de Desestatização e o consumidor - Bruno Nunes Barbosa Miragem; 9. A agência estadual de regulação dos serviços públicos delegados do Rio Grande do Sul - AGERGS e o consumidor - Cláudia Travi Pitta Pinheiro; 10. As sociedades comerciais no Mercosul - Simone Stabel Daudt. 11. Comunicação de Massa: implicações legais das tecnologias emergentes - Fábio Costa Morosini.

The CNPq Research Group “MERCOSUL and Consumer Law” brought together twelve undergraduate students<sup>82</sup> (there are now more than forty students) from the UFRGS Law School, three students from the PUC-RS Law School<sup>83</sup>, a foreign exchange student<sup>84</sup>, six masters’ candidates from PPGD-UFRGS<sup>85</sup>, who acted as co-advisors to the group as part of their teaching experience, and one doctoral candidate in economics specializing in regulation. Until January 2001, the group was co-coordinated by a young German professor with a long-term teaching appointment from DAAD and CAPES<sup>86</sup> at UFRGS Law School, and foreign professors<sup>87</sup> invited to the Law School for a short period of time, as well as Brazilian

<sup>82</sup> The following students are members of the Research Group that met every Tuesday at the Law School of the Universidade Federal do Rio Grande do Sul in the UN Depository Library: Ana Gerdau de Borja, Ana Rispoli d’Azevedo, Antonia Espíndola Longoni Klee, Laura Oliveira Ederich, Lucas Faria Annes, Lúcia Carvalho Sica, Maitê de Souza Schmitz, Marília Zanchet, Odiléa Oliveira de Almeida Simão, Rafael Barreto Garcia, Rafael Pellegrini Ribeiro, Ricardo Medeiros de Castro, Tatiana de Campos Aranovich, Thales Gonçalves Della Giustina e Thomaz Francisco Silveira de Araújo Santos.

<sup>83</sup> Ana Rispoli d’Azevedo, Lúcia Carvalho Sica e Tatiana de Campos Aranovich, Faculdade de Direito da Pontifícia Universidade Católica, PUC/RS, Porto Alegre.

<sup>84</sup> The following foreign students also participated in the Research Group: No ano letivo de 1996, o aluno alemão Christian Schindler, aluno então matriculado na Universidade de Heidelberg, Alemanha, hoje assistente do Prof. Dr. Erik Jayme, no Instituto de Direito Estrangeiro e Direito Internacional Privado da Univ. de Heidelberg, justamente por seu conhecimento do Direito brasileiro. O Doutorando Schindler, que recebeu na época crédito educativo do governo alemão para sua estada na UFRGS, é o secretário da Associação de Juristas Luso-Alemã da Univ. de Heidelberg e coordenou a ida de alunos do grupo para a Alemanha, como o mestrado de Fabiana D’Andrea Ramos na Universidade de Heidelberg, e os cursos de verão em alemão, na Universidade de Heidelberg de Rafael Barreto Garcia e Aline Jackisch. No ano de 2000, por dois meses, duas alunas da Universidade conveniada de Santa Fé (Argentina). Este Intercâmbio de estudantes da graduação da Faculdade de Direito da Universidad Nacional del Litoral, Argentina, por dois meses na Faculdade de Direito da UFRGS, para assistir aulas e pesquisar sobre Direito do Consumidor, em maio/junho 2000, foi uma experiência muito positiva para o grupo e foi financiando pela UNL, que deu prêmios de pesquisa às duas estudantes, e esperamos que se repita em 2001. Atualmente, temos acompanhado a estada de Helene Heyd, aluna de Relações Internacionais da Universidade de Berlim, Alemanha.

<sup>85</sup> Fernanda Nunes Barbosa, Daniela Correa Jacques, Michele Costa da Silveira, Bruno Nubens Barbosa Miragem, Cristiano Heineck Schmidt e José Salvador Cabral Marks, PPGD/UFRGS. Antonia Espíndola Longoni Klee, Marília Zanchet, and Ricardo Medeiros de Castro participated in the Research Group as masters’ degree candidates. Marília Zanchet and Antonia Espíndola Longoni Klee are LL.M. candidates at UFRGS Law School. Ricardo Medeiros de Castro is a MA candidate at UFRGS International Relations Program. Cristiano Heineck Schmidt participated as a doctoral candidate at PPGD/UFRGS, and Bruno Nubens Barbosa Miragem participated in the general co-organization of the group.

<sup>86</sup> Until January, 2001, Dr. Ulrich Wehner, visiting professor at UFRGS, with a long-term grant from DAAD/CAPES, participated and co-directed the research group. From the University of Köln, Germany, he was nominated by the University of Heidelberg, which has an exchange agreement with UFRGS. Earlier, Dr. Harriet Christiane Zitscher, from the Max-Planck Institute in Hamburg, Germany, was a visiting professor invited by UFRGS/DAAD/CAPES, in the German chair at UFRGS Law School during 1998 and 1999. [Tr. Note: Profa. Dra. Catherine Tinker of New York is the CAPES Visiting Professor of International Law for 2004-2005.]

<sup>87</sup> Between June and October, 2000, we had the collaboration of a researcher from the Centre de Droit de la Consommation of the Catholic University of Louvain-la-Neuve, Belgium, the German

professors and those with masters' degrees from other institutions<sup>88</sup>, and two professors from the Law School itself<sup>89</sup>.

## 2. Institutional and inter-institutional relations and relations between the University and society

UFRGS maintains various academic cooperation agreements<sup>90</sup>, as does the Law School<sup>91</sup>. The group maintains its own informal contacts in addition to those already formalized, especially with the Brazilian Institute of Consumer Law and Politics (São Paulo), some departments of the University of Buenos Aires (UBA) and the Universities of Rosário and Santa Fé (Argentina), with UROU in Montevideo, with the Center for Consumer Law in Belgium, with the Institute for International Private Law at the University of Heidelberg, and more recently with the Center for European Research at the University of Rennes I in France, with the Center for Comparative Law at the University of Baltimore, and with the Texas International Law Journal at the University of Texas-Austin, USA.

The Research Group actively participates in the Academic Department of Brasilcon, the Brazilian Institute of Consumer Law and Politics, a non-governmental organization of a scientific character, created by the authors of the Brazilian Consumer Defense Code to study the effect of this law and to monitor its applicability in the Brazilian marketplace. The

Masters'candidate Jens Karsten, sent by Prof. Dr. Thierry Bourgoignie to research about consumer protection in MERCOSUL. We tried to send our Masters'candidates to the Center for the same exchange, but we did not obtain funding. The Exchange of Masters' Candidates of the Research Group CNPq "Mercosul e Direito do Consumidor"/UFRGS with the Centre de Droit de La Consommation da Universidade de Louvain-la-Neuve, Bélgica, in research internships of 4 months, began with the visit of Me. Jens Karsten.

<sup>88</sup> The young professors from the Law Schools in Porto Alegre, masters'degree candidates and specialists, who began as members of the Research Group, usually join in the meetings of the Research Group to collaborate in advising the younger researchers in their areas of specialization, including the following professors: Fabiana D'Andrea Ramos (PUC/RS), Elaine Ramos da Silva (UFMS/RS), Sandra Lima Alves (CEUB/Brasília), Sabina Cavalli (Católica/CE). Additionally, specialists in law collaborate: Fabiano Menke, Roberto Silva, Gustavo Aguiar, Alberto Franco, masters'candidates Cláudia Pitta Pinheiro (UFRGS) and Evelena Boenning (UFRGS) and the doctoral candidate Fábio Costa Morosini, University of Texas, Austin.

<sup>89</sup> The colleagues who collaborated in the collective publications of the group, in the organization of conferences and group events, as well as accompanying the group on trips abroad, were Véra Maria Jacob de Fradera (UFRGS) and Martha Lucía Olivar Jimenez (UFRGS). For the last 4 years [Tr. Note, 8 years in 2005] Prof. Me. Sérgio José Porto (UFRGS) served as a co-advisor for a scholarship student.

<sup>90</sup> The group used the exchange agreements of UFRGS with the Universities of Heidelberg, Tübingen, Kiel in Germany, Universidad de Buenos Aires, Universidad Nacional de Córdoba e Universidad Nacional del Litoral, in Argentina, University of Baltimore, in the USA, Universidad Nacional de Assunción, Paraguay, and the Universidad da República, Uruguay.

<sup>91</sup> The Law School and the Program of Post-Graduate Studies in Law have agreements with the University of Münster, Germany, Universidade de Paris I (Panthéon- Sorbonne), Universidad Nacional de Rosário, Argentina and USP, São Paulo.

collaboration with Brasilcon was cemented in various ways, in the first place, through publications, work that was initiated with the organization of conferences and afterwards with the coordination of a book entitled “Studies in Consumer Protection in Brazil and in MERCOSUL,” published in 1994 by Editora Livraria dos Advogados in Porto Alegre.

Especially after returning to UFRGS with my doctorate, the group began doing translations from French<sup>92</sup>, German<sup>93</sup>, English<sup>94</sup> and Spanish<sup>95</sup> into Portuguese and publishing them in the Journal of Consumer Law (Revista do Brasilcon) and also in the UFRGS Law School Journal (Revista da Faculdade de Direito UFRGS). We also organized and published collaborations in Spanish with our “foreign correspondents<sup>96</sup>,” especially our visiting professors from Argentina<sup>97</sup>.

<sup>92</sup> See the articles by Alfred von Overbeck of the Instituto Suíço de Direito Comparado (Swiss Institute of Comparative Law), “Eleição de Foro segundo a nova lei suíça sobre Direito Internacional Privado de 18 de dezembro de 1987”, in Revista da Faculdade de Direito da UFRGS, vol. 12, 1996, pp. 7-18 and the article by Prof. Bernard Dutoit.

<sup>93</sup> Translation of an article by Michael R. Will (Europa Institute, Saarbücken), “A experiência de harmonização das legislações na Europa-Harmonização Autônoma?”, translated by Elaine Ramos da Silva and published in the Revista da Faculdade de Direito da UFRGS, vol. 13, 1997, pp. 207-234, and translation by the leader of the Research Group of a chapter in the book by Eike von HIPPEL, “Verbraucherschutz” and published in the Revista Direito do Consumidor, São Paulo, vol. 1, pp. 7-15, “A proteção do consumidor-comprador” and also the translation of the article from German to Portuguese by Prof. Dr. Dr.h.c. Erik Jayme, with 31 pages, published in the Revista dos Tribunais, nr. 759, January 1999, pp. 24-40, on the topic: “Visões para uma teoria pós-moderna do Direito Comparado” (Visions for a Post-Modern Theory of Comparative Law).

<sup>94</sup> Translation of an article by J.H.A. van Loon, from English to Portuguese, “Os Aspectos Legais da Adoção Internacional e a Proteção da Criança - Relatório da Associação de Direito Internacional”, published in the book Homenagem à Carlos Henrique de Carvalho, Ed. Revistas dos Tribunais, São Paulo, 1995, pp. 241 et seq.

<sup>95</sup> See the translation by the leader of the Research Group, from Spanish to Portuguese, of the article by Prof. Rúben S. Stiglitz (Universidad de Buenos Aires), published in the Revista Direito do Consumidor, São Paulo, vol. 13, January/march 1995, pp. 5-11, entitled “Aspectos Modernos do Contrato e da Responsabilidade Civil”.

<sup>96</sup> We also published the work of the following young professors and foreign researchers who participated in the Research Group: Diego P. Fernández Arroyo, Argentinian, professor at Universidad Autónoma de Madri (“Sobre la Existencia de una Familia Jurídica Latinoamericana, in Revista da Faculdade de Direito da UFRGS, vol. 12, 1996, p. 93-110), Gilles Cistac, French, Dean of the Universidade de Maputo, Moçambique (“Poder Legislativo e Poder Regulador na Constituição Moçambicana de 30 de novembro de 1990”, in Revista da Faculdade de Direito da UFRGS, vol. 12, 1996, p. 148-160), Christoph Benicke, German, assistant at University of Heidelberg (“La convención sobre los derechos del niño de las Naciones Unidas y la reforma del derecho de custodia y de visita en Alemania”, in Revista da Faculdade de Direito da UFRGS, vol. 13, 1997, p. 51-70), Erasmo Marcos Ramos, Brazilian, LL.M. candidate of University of Heidelberg, Germany (“A influência do BGB na parte geral do novo Código Civil português”, in Revista da Faculdade de Direito da UFRGS, vol. 15, 1998, pp. 75-98).

<sup>97</sup> See the articles by Carlos Alberto Ghersi (UBA) published in the Revista da Faculdade de Direito da UFRGS (La contracción entre la reformulación de la categoría jurídica del daño resarcible y ele acceso al daño resarcible en el final del siglo XX, in vol. 11, 1996, pp. 24-39 and Posmodernidad jurídica- el analisis contextual del Derecho como contracorriente a la abstracción jurídica, in vol. 15, 1998, pp. 21-

Serving as the editorial board of *Juridical Review* (*Revistas Jurídicas*) initially between 1992 and 1998, we helped the pioneering work of Antônio Herman Benjamin, president and founder of *Brasilcon*<sup>98</sup>, in editing the “Journal of Consumer Law” (*Revista Direito do Consumidor*). Upon assuming the editorship of the Journal in 1998, we created a special section for international legal doctrine, where we continued to publish, in Spanish, the work of our correspondents<sup>99</sup>. The research leaders and international correspondents are from the Argentine “Journal of Civil Liability and Insurance,” whose director is Prof. Atilio Alterini, published by La Ley, Buenos Aires, and from the Belgian-English Consumer Law

32 ) and in the *Revista Direito do Consumidor*, by Ricardo Lorenzetti (UBA), published in the *Revista da Faculdade de Direito da UFRGS* (*La descodificación y fractura del Derecho Civil*, in vol. 11, 1996, pp. 78-93 and *Redes Contractuales*, in *Revista da Faculdade de Direito da UFRGS*, vol. 16, 1999, p. 161-202) and in the *Revista Direito do Consumidor* and the presentation of the book by Lorenzetti published by Editora *Revista dos Tribunais* (*Fundamentos do Direito Privado*), Maria Blanca Noodt Taquela (UBA) published in the *Revista da Faculdade de Direito da UFRGS*, vol. 15, 1998, pp. 181-192, Atilio Alterini (UBA), *Informe sobre la Responsabilidad Civil en el Proyecto de Código Civil de 1998*, vol. 17, 1999, p. 3 et seq. And the publications in the *Revista Direito do Consumidor*.

<sup>98</sup> Also the following articles by our correspondents were published, with the initiative of Professor Antônio Herman Benjamin, in *Revista Direito do Consumidor* (RT, São Paulo): Gabriel Stiglitz “O direito contratual e a proteção jurídica do consumidor”. RDC n. 1, pp. 184-199; “O Direito do Consumidor e as práticas abusivas -Realidade e perspectivas na Argentina”. RDC n. 3, set/dez 1992, pp. 27-35; and “Las acciones colectivas en proteccion del consumidor”. RDC n. 15, jul/set 1995, pp. 20-27. Rubén S. Stiglitz “Aspectos modernos do contrato e da responsabilidade civil”. RDC n. 13, jan/mar 1995, pp. 5-11. Ricardo Luiz Lorenzetti “Análisis crítico de la autonomia privada contractual”. RDC n. 14, abr/jun 1995, pp. 5-19. Atilio Aníbal Alterini “Os contratos de consumo e as cláusulas abusivas”, in RDC n. 15, jul/set 1995, pp. 5-19 and “Control de la publicidad y comercialización”. RDC n. 12, out/dez 1994, pp. 12-16; Roberto M. López Cabaña “Ecología y consumo”. RDC n. 12, p. 25-28; Gabriel A. Stiglitz, “Danõ moral individual y colectivo, medioambiente consumidor y dañosidad coetiva”, RDC n. 19, jul./set. 1996, p. 68/76, Atilio Aníbal Alterini – Bases para armar la teoría general del contrato em el derecho moderno, RDC n. 19, jul./set. 1996, pp. 7-24; Rubén S. Stiglitz – Seguro contra la responsabilidad civil. Control estatal de las condiciones generales de la poliza - estado actual en los países del mercosul, RDC n. 20- out./dez. 1996, pp. 9-14; Ricardo Lorenzetti- La relación de consumo: conceptualización dogmática en base al derecho del mercosul, RDC n. 21, jan./mar 1997, pp. 9-31; Rubén S. Stiglitz- La obligación precontractual y contractual de información. El deber de conseso, RDC n. 22- abr./jun. 1997, pp. 9-25; Carlos Alberto Ghersi - Los profesionales y la posmodernidad- los abogados, RDC n. 23/24- jun./dez. 1997, pp. 9-18.

<sup>99</sup> Cf. the work of our correspondents from Argentina published in the *Revista Direito do Consumidor*: Gabriel Stiglitz, “Modificaciones a la ley argentina de defensa del consumidor y su influencia en el mercosul”, RDC n. 29, jan./mar. 1999, pp. 9-20; Carlos Alberto Ghersi - La caracterización de los servicios profesionales de la abogacia. El poder cultural y la desigualdad en la formación contractual. RDC n. 25- jan./mar. 1998, pp. 9-18 and *Consumo sustentable y medio ambiente*, RDC n. 31- jul./set. 1999, pp. 97-103; *Medida anticipativa. Prevención de agravamiento del daño a la persona*, RDC n.32- out./dez. 1999, pp. 149-154 and *Esquema de una teoría sistémica del contrato*, *Revista de Direito do Consumidor* n. 33, jan./mar. 2000, pp. 51-77; Ricardo Lorenzetti - *Redes Contractuales: Conceptualización jurídica, relaciones internas de colaboración, efectos frente a terceros*, RDC n. 28, out./dez. 1998, pp. 22-58, *Esquema de una teoría sistémica del contrato*, RDC 33, jan./mar. 2000, pp. 51-77; Atilio Aníbal Alterini - *Tendencias en la contratación moderna*, RDC n. 31- jul./set. 1999, pp. 104-114 and Roberto M. Lopez Cabaña- *Defesa jurídica de los más débiles*, RDC n. 28, out./dez. 1998, pp. 7-21.

Journal, which has as general editors Thierry Bourgoignie (Univ. de Louvain-la-Neuve) e Geraint Howells (Univ. of Sheffield), published by the Center of Consumer Law – CDC (Centre de Droit de la Consommation, France)<sup>100</sup>.

Another example of the collaboration with Brasilcon was the collection and publication of a report on the exhaustive research on health insurance prepared by the group from TJ-RS (Rio Grande do Sul State Court of Appeals) upon the entry into force of the CDC after the enactment of the health insurance law, from 1996-1998. This report was published in the journal of the Institute, the *Journal of Consumer Law-RT*<sup>101</sup> and in a book from the Institute entitled “Health and Responsibility” in 1998. It was also part of the Brasilcon research on Brazilian jurisprudence on health insurance plans, coordinated nationally by Prof. Dr. José Reinaldo de Lima Lopes (USP). I had the opportunity to coordinate the research in Rio Grande do Sul and Paraná, conducted in Rio Grande do Sul with the assistance of the visiting German instructor, Dr. Harriet Zitscher, and including Paraná with the contribution of cases from Caroline Araújo of PUC-PR, also a co-author of the Group’s report.

The Group’s jurisprudence appeared in the journal of the Institute, the *Journal of Consumer Law*, that was called the third-best selling journal by Editora Revista dos Tribunais, edited in São Paulo. In the same way, the German professor Dr. Harriet Zitscher’s book, “Methodology of Teaching with Practical Cases – Examples of Consumer Law<sup>102</sup>,” with my preface, was published by Brasilcon, beginning a new series of publications by Brasilcon-MG.

On the subject of interdisciplinary and inter-institutional relations, I want to emphasize that the group had an important connection with the Small Claims Court legal clinic (“Juizado Especial Cível da Faculdade de Direito da UGRS”). Usually one of the masters’ candidates doing a teaching internship with the Group coordinated this clinic with a position in the Court and did research for the Masters’ degree in consumer law, through the Foundation on Economics and Statistics of the State of Rio Grande do Sul (FEE). Once an economist from FEE advised us on regulation, regulatory agencies and other work related to the impact of privatizing federal and public companies on consumers; another time members of the group worked in the Regulatory Agency for the State of Rio Grande do Sul.

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<sup>100</sup> See *Informações sobre jurisprudência e legislação brasileira*, articles by Claudia Lima Marques, in “Consumer Law Journal” (CDC Publications, Bélgica), vol. 7 (1999), pp. 108-109 and pp. 119-120: “Consumer car leasing contracts- Repayment indexed in dollars -Currency devaluation - Court applies principles of Consumer code” and “Brazil - New health insurance law”, in vol. 8 (2000), with Gabriel Stiglitz: “New Consumer Protection Laws in Mercosur” stating: “The cigarette industry has the burden of proving that nicotine is not addictive to consumers”.

<sup>101</sup> Report of quantitative and qualitative research on jurisprudence in Rio Grande do Sul on health insurance and on the CDC, conducted by the Research Group CNPq “Mercosul e Direito do Consumidor”, coord. Claudia Lima Marques and Harriet C. Zitscher, together with the students, published in the *Revista Direito do Consumidor* (São Paulo), vol. 29, jan/mar 1999, pp. 88-105: “Relatório BRASILCON sobre seguro-saúde no TJRS, de 1991 até maio de 1998”.

<sup>102</sup> Pocket Book, *Metodologia do Ensino com Casos Práticos: exemplos do Direito do Consumidor*. Belo Horizonte: Del Rey, 1999. Presentation by Cláudia Lima Marques, pp. 1-19.

At UFRGS, the group maintained contacts with the Center and Library specializing in Integration, and their Interdisciplinary Specialization Course called “MERCOSUL and Integration” (IFCH-UFRGS), coordinated by Prof. Dr. Maria Suzana Arrosa Soares. Once the students in the scientific investigation group conducted their research there and all the professors involved in the group gave classes in this course<sup>103</sup>, similar to the Specialization Course at the Law School called “The New International Law<sup>104</sup>.” The group also cooperated with the TERMISUL project in the compilation of a dictionary of International Environmental Law terms, coordinated by Prof. Dr. Maria da Graça Krieger<sup>105</sup>.

Related to international relations<sup>106</sup>, the group maintains contact with the University of Buenos Aires, with the chair of Carlos Alberto Ghersi (Civil Law: Obligations and Contracts), such that various students in the group participated in conferences in Argentina in 1993, 1994, 1997 and 1998, and the professors from the group and Brazilian chairs are invited annually to present lectures in Argentina. With this collaboration, various joint publications have emerged in Argentina<sup>107</sup> and in Brazil<sup>108</sup>. We also maintain group collaboration with the chair of Prof. Ricardo Lorenzetti of the University of Buenos Aires and Prof. Gabriel Stiglitz of the University de La Plata, with the University of Rosário and the Universidade Nacional del Litoral, Santa Fe.

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<sup>103</sup> The professors of the course, in addition to the author, are professors Vera Maria Jacob de Fradera, Martha Lucia Olivar Jimenez and Fabiana D’Andrea Ramos, and the professor invited by DAAD/CAPES, Ulrich Wehner.

<sup>104</sup> The professors of the course of the Department of Public Law and Philosophy of Law, in addition to the author, who coordinated it together with Prof. Manoel André da Rocha, are professors Vera Maria Jacob de Fradera, Martha Lucia Olivar Jimenez and Fabiana Ramos, and the professor invited by DAAD/CAPES, Ulrich Wehner.

<sup>105</sup> The students cooperating in the project were Fábio Costa Morosini, Fernanda Nunes Barbosa, Luciana Goulart Quinto and Laura Martins Miller, in addition to the leader of the group.

<sup>106</sup> As stated by FERNÁNDEZ ARROYO, Diego P., *Propuestas para la enseñanza y la investigación del Derecho Internacional Privado en América Latina*, in the book “Jornadas de Derecho Internacional”, Ed. OEA/Sec. de Asuntos Jurídicos, 2000, pp. 93-112, it is necessary to create a “jurista americano abierto al mundo” (“an American jurist open to the World”), p. 96, and especially to emphasize studies and research on “integración latinoamericana” (“Latin American integration”), p. 97.

<sup>107</sup> In 1993 see the chapter of the book published in Argentina, “MERCOSUL - Perspectivas desde el Derecho Privado”, Carlos Alberto Ghersi (Director), Editorial Universidad, Buenos Aires, 1993, pp. 167-209: Cap.VIII.”Tranferencia de Tecnología”, and 1996, the Brazilian Part of the Chapter IX of the collective book published in Argentina, “MERCOSUR - Perspectivas desde el derecho privado - Segunda Parte”, Carlos Alberto Ghersi, Editorial Universidad, Buenos Aires, 1996, Spanish translation by Carlos Alberto Ghersi, pp. 199-226: Chapter IX – “*Los derechos del consumidor. Una visión comparativa entre el Brasil y la Argentina.* A) El Código Brasileño de Defensa del Consumidor y el Mercosur” and in 2000, the chapter in the book published in Argentina, “Los Nuevos Daños- Soluciones modernas de reparación”, vol. 2, Carlos Alberto Ghersi (Director), Editorial Hammurabi, Buenos Aires, 2000, translated into Spanish, pp. 69-105: Cap. IV.”Contratos de Time-Sharing en Brasil y la protección de los consumidores: crítica al Derecho Civil en tiempos posmodernos”.

<sup>108</sup> Cf. the articles published by the assistants to the Chair of Carlos Alberto Ghersi, Manuel Cunha Rodriguez (El Sistema de Franchising y la tutela de los consumidores y usuarios en el derecho

## CONCLUSION

As we see, it is possible to research in a group, productively and seriously, in Law. The method described here is just one; many others can be developed and perfected by colleagues interested in research. Research in international law is one path available for joint work, for the creation and evolution of thought and new Latin American doctrine. Collaboration with organized civil society is not possible except as extension, but it can also occur through academic research and publications directed towards the solution of regional or sectoral problems. The Brazilian University has evolved greatly concerning learning to research in scientific investigation (“*iniciação científica*”) and this shows us a positive direction for students and professor-researchers in Law.<sup>109</sup> We hope that this personal testimonial may motivate and assist others in this development.

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argentino, in *Revista da Faculdade de Direito da UFRGS*, vol. 13, 1997, p. 147-172), Graciela Lovece (El tiempo compartido, in *Revista da Faculdade de Direito da UFRGS*, vol. 13, 1997, pp. 131-146), Eduardo Barbier (La tutela del cliente bancario desde la ley de defensa del consumidor en el derecho argentino, in *Revista da Faculdade de Direito da UFRGS*, vol. 13, 1997, pp. 99-116), Célia Weingarten (Estado de la doctrina y jurisprudencia en la responsabilidad medica, in *Revista da Faculdade de Direito da UFRGS*, vol. 13, 1997, p. 39-50).

<sup>109</sup> Prof. Dr. Catherine Tinker is the CAPES visiting professor at UFRGS Law School in 2004 and 2005, and participated and co-coordinated a sub-group of Profa. Dra. Cláudia Lima Marques' Research Group on MERCOSUL and Integration. This sub-Research Group was created on the topic of the Aquífero Guarani, a source of groundwater located in part in the State of Rio Grande do Sul, subject of growing interest in developing new international and regional law. Dr. Tinker came from Pace University in New York City, which has an agreement with UFRGS as part of a consortium with UFPA and the University of Texas at Austin for the FIPSE-CAPES exchange program that Profa. Dra. Catherine Tinker and Profa. Dra. Cláudia Lima Marques created together in 2000.