

ABSTRACTS

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1. Society, law, justice: conflictive relations, harmonious relations?

Raúl Enrique Rojo & Rodrigo Ghiringhelli de Azevedo

The origins of legal sociology mingle with those of sociology. That is a result of the interest in Law and legal subjects, both by those seen by Raymond Aron as the pioneers (Montesquieu, Tocqueville and Marx) and the founders of sociology (Durkheim and Weber). However, it is somewhat paradoxical that such interest in legal sociology has had no continuity. Sociologists seem to have lost interest in law in spite of a few isolated initiatives, especially those by Gurvitch, Lévi-Bruhl and Timasheff. In fact, it was as criminology that legal sociology remained being practiced, especially in the United States, even though criminal law remained as its only object of study. That phenomenon is not a result of chance; it is rather a result of the nearly hegemonic *academic* position enjoyed after the 1960s by a sociology based on suspicion and on a hunt for the actor, which dismissed the study of Law, seen as a mere superstructural product of relations of production, and saw institutions as mirrors that deformed and were deformed by the social relations system. In fact, it was only in mid-1980s that sociologists started to come to terms with the tradition of pioneers and founders. Then a renewed interest in a legal sociology with only criminal law as its objects emerged, and gradually spread not only in Germanic or Anglo-Saxon countries but also in those of Latin tradition, in both sides of the Atlantic. Nowadays, legal sociology is alive, as seen in the "Presentation" and evidenced by the present Dossier.

Key words: Sociology. Legal sociology. Sources of legal sociology. Current issues in legal sociology.

2. For a sociology of law, power, and domination

Raúl Enrique Rojo

Law and power have numerous and complex relations. One of the problems posed by the analysis of such relations is the difficulty to define both notions. Jurists have never agreed about the notion of law, just as that of power has been the object of heated debates among social scientists for several decades. We may classify

definitions of power recently proposed into three groups: voluntarists, systematic and critical. Max Weber plays a special role in those debates, even though his distinction between power and domination has not been much considered. Sociology can take advantage of recent theoretical and empirical investigations about power, especially to capture the content of the definition of law, its role in conflicts, power and domination relations, and symbolic dimensions of law. And while State monopoly of violence and law are closely related in nearly all theories, by legitimating the latter to the former, reality shows that it is ultimately a pretension or a claim by the State rather than a true monopoly strongly established and recognized by everyone.

Key words: Legal sociology. Power. Domination. Legitimation. Symbols. Legitimate violence

3. Courts and the new communication and information technologies

Boaventura de Sousa Santos

This article discusses how, after the 1990s, the problem of the relationship between Law courts and new communication and information technologies (NCIT) and especially that between courts and social communication, poses new issues to an analysis of relations between judiciary institutions and society. On the one hand, there emerges the State's capacity and will to regulate new technologies and new communication and information interests, as well as to incriminate and punish new socially harmful activities that became possible through those technologies; on the other hand, there is impact of the enormous expansion of new technologies and new informational and communicational interests within Law and its institutions, namely Law Courts. The article debates issues such as computerization of courts, new management techniques and their impacts on interprofessional relations, on a media-based justice, on the internal functionality of Courts, on rules and styles of professional action, as well as the impact of new information and communication technologies – and above all, of the media – on the relation between courts and a computerized and media-oriented society. It concludes by sustaining the need to explore the democratic potential of new technologies, the new possibilities of deliberative and participatory democracy, new forms of public control both over the State and over private production of public goods.

Key Words: Courts, New communication and information technologies, State regulatory capacity

4. Ideologies of professionalism under dispute within São Paulo's magistracy

Maria da Glória Bonelli

The article compares ideas prevailing at the São Paulo Justice Court with that of the Association of Judges for Democracy and the public image of judges in printed media. It relates the distinct contents of those ideas to theories of civic professionalism and democratic professionalism. The analysis is based on the conception that there is a pluralization of identity forms of professional groups and that those identifications are a result of negotiated construction between peers, competitors, and the public.

Therefore, professional groups' publications and mainstream media are relevant instruments to investigate the process of negotiation about judges' professional identity. The database includes content analysis of the texts about judges or written by them, published on the newspaper *Folha de São Paulo* from 1996 to 2002; of the news section and speeches published on São Paulo Justice Court's journal *Revista de Jurisprudência* from 1968 to 1997 and articles on the newspaper *Juízes para a Democracia* from 1992 to 2002. Each of those collections was classified in four broad themes, focusing on professional ideas, judges' relations to other State powers, the interprofessional and intraprofessional relations and interests expressed by them. The study compares those three bases in order to form a broad picture of São Paulo judges and chief judges' collective identifications.

Key words: Magistracy, Professionalism, Ideologies, Cognitive struggles, Identity representations.

5. Power bodies: legal operators in São Paulo's outskirts

Jacqueline Sinhoretto

This text aims at interpreting situations observed in field research carried out on an innovative public facility regarding organization of justice and security services. It is a survey about implementation and workings of Integrated Citizenship Centers, known as CIC – a government program developed in São Paulo (Brazil) in order to improve access to justice and citizenship rights as well as the safety of populations of neighborhoods located in the outskirts. The program was based on the view that democratization of Brazilian society is closely related to the adoption of different functions and features by Judiciary organs: instead of being agents of criminal repression in the outskirts, justice operators, based on the CICs would become agents of citizenship rights in spaces of more social exclusion. For the analysis, Foucaultian thought was elected as the analytical reference, to which the issue of corporification – the cultural and political production of bodies – is crucial. The question posed is to which degree the performance of the program's operators points out possibility of resistance, introduces ruptures in the permanent differentiation between bodies, which mark classical legal activity, opens possibilities for the emergence of a new corporification of justice's public agents, thus reducing inequality between operators and common citizens (so as to contribute to the construction of a citizenship based on legal equality and democracy). We try to reveal the subtle mechanisms through which State action creates effects of power validation of one class over others.

Key words: Access to justice, Justice operators, Corporification, Power, Inequality.

6. Autonomy of will and legal pluralism today

Jean-François Perrin

"Autonomy of will" – that beautiful matrix of classic liberal private law ("he who says contractual, says fair") is currently an important instrument for regulating social relations. Observation of real – effective – functioning of that legal tool reveals in a paradigmatic way the identity of the social post-modern individual

whose freedom is both immense and insignificant, an unlimited source of power and servile subjection to directives by public and private organizations which establish what we should want in order to want effectively. Exercising that prerogative means adhering to norms that really impose themselves regardless of their sources, but at a degree that can be determined. Such degree – sociologically interesting and politically useful – implies a broad definition of normative and legal “pluralism”, as Gurvitch proposed. That definition, without exclusions and quite inaccurate, has the advantage (as well as the inconvenience) of warranting men of Law as the new “professionals” of certain domains that recently used to be strange to them. To those who question the opportunity of such interventions, it could be answered that in practice they are often effective guarantees against arbitrariness. Therefore, this work presents examples of that recent development within the field of sports Law and the protection of privacy (especially on the Internet). In any case, those new spaces have been conquered by literate people and thus Legal sociologists have no other option than taking an interest in them if they want to be professionally faithful to phenomena within their field.

Key words: Autonomy of will; Legal pluralism; Free and informed consent; Mobilization of resources.

7. Relations between social control and globalization: Fordism and discipline. Post-Fordism and punitive control

Roberto Bergalli

The article firstly presents the historical, cultural, epistemological and methodological differences between the categories of *social control* and *punitive* (State) *control*, linking the latter to continental European tradition. Therefore, the generic reference to the idea of “social regulation”, often used in several disciplinary fields, is the object of analysis in relation to that of *social control*, born and employed within very precise cultural scenario and historical period. In any case, and within multidisciplinary approaches related to globalization of society and control of the population, the author thinks that we should reject any glimmer of application of punishment with an “organizational”, controlling” or “regulating” sense that emerges from modern criminal systems. A second part of the work approaches the impact that – in the author’s opinion – changes on the notions of *time* and *space* have in the field of physical-mathematical disciplines, regarding the control that is

to be exercised through means that are traditionally seen as instruments for *social control*. Therefore, the aim is to explain the distance that separates – in social and legal disciplines – concepts and institutions when it is presumed that both can be eternally suitable for the same ends. That is so because forms of knowledge are absolutely connected and pervaded by phenomena that, coming from societies' economic spheres, cross all their levels. Based on those elements we advance to a third part in the presentation, which is related to globalization and the distinct phenomena resulting from it, especially the approach of changes seen in what can be currently understood as *social control*.

Key words: Social Control. Globalization. Fordism. Post-fordism. Discipline. Punitive Control.

8. Crime and criminal justice in Latin America

Rodrigo Ghiringhelli de Azevedo

After a presentation of indicators that allow to assess the degree of democratization in the criminal justice system in the context of democratization processes in Latin America, this article points out the discrepancy existing in that domain, in the several instances that make up the justice system, from criminal legislation to the prison system. Examining the specific situation of Brazil and Argentina, problems in the functioning of institutions responsible by crime as well as the increase in crime control are pointed out as factors that cause a growing loss of legitimacy for the system, which is unable to justify its high degree of selectivity and arbitrariness. Some efforts under way to approach that phenomenon are listed. Finally, a few alternatives for institutional improvement are presented, among which the action of social scientists by producing research and analyses, as a crucial instrument to enlarge institutional ability to deal with current social conflict on democratic bases.

Key words: Criminal justice; Democracy; Crime; Social control; Criminal policy.

(ARTICLES)

9. Lawsuits as data source: power and interpretation

Fabiana Luci de Oliveira & Virginia Ferreira da Silva

The Article discusses, based on the interpretation of the authors' research experience with criminal and constitutional lawsuits, the use of lawsuits as data sources, focusing on two main methodological implications: the issue of power and the issue of interpretation. Approaching lawsuits as narratives, it demonstrates how it is possible to discuss the construction of discourse by some social groups involved in those lawsuits.

Key words: Lawsuits, Power, Interpretation, Narrative.

10. Karl Mannheim's contribution to qualitative research: theoretical and methodological aspects

Wivian Weller

The present work resumes Karl Mannheim's contribution to the construction of an interpretive research method. It discusses methodological reflections and the development of a method of analysis of worldviews called *documentary method of interpretation*. Ethnomethodology was the first theoretical-methodological line of thought to recognize the importance of Karl Mannheim's documentary method of interpretation for the analysis of quantitative data. In Germany, sociologist Ralf Bohnsack resumed and updated the documentary method both from the point of view of method and methodology, turning it into a tool to analyze individual and group interviews, images, photographs, and documents. The documentary method as theory and practice of sociological interpretation can be seen as an instrument that allows to place the researcher in unknown social contexts, understanding and conceptualizing worldviews or collective orientations of a group as well as its actions and ways of representations. Therefore, the documentary method transcends the level of intuitive or deductive analysis and instigates the construction

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of analytical instruments able to map and shape everyday experiences, which lack theoretical reflection.

Key words: Karl Mannheim, Qualitative research, Documentary method of interpretation, Analysis of interviews.

11. Nationalism and authoritarianism in Alberto Torres

Ricardo Luiz de Souza

The text examines Alberto Torres' work, stressing its core themes: authoritarianism and nationalism. It emphasizes the innovative character of the work when it questions racial theories then present in Brazilian culture and stressing the need to take as starting point the empirical study of Brazilian reality. It also studies the impact of the author's ideas as well as their importance for the creation of a Brazilian authoritarian thinking and the construction of nationalist ideas.

Key words: Authoritarianism, Nationalism, Modernity.

(INTERFACE)

12. Is the human body obsolete?

Adroaldo Gaya

This article analyses the change in the natural human body towards the bionic body full of artificialities. On the other hand, Isadora Duncan is examined as an expression in which Rousseau's philosophy is made explicit – a gestural language of adjustment of movements to an artistic and political project; the aesthetic of bare feet, loose clothes, undulatory movements, freedom from conventional codes that imprison the body in a society that dates from the second half of the 19th century. On the other hand, project "*Primus Posthuman*" is presented as a prototype of the body of the future: a body that is absolutely manageable by technoscience, designed to overcome all defects of the biological body, a bionic body, a machine to which soon the mind's context will be transported. 21st century society. The

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farewell to the biological body. A virtual world. The world of machines. The death of the human body?

Key words: body, technoscience, body culture of human movement

(Book Review)

13. The Cemetery of the living: a sociological analysis of a female prison

LEMGRUBER, Julita. 2nd ed., Rio de Janeiro: Forense, 1999.

Luiz Antônio Bogo Chies

A pioneer work both within social sciences approaches on prison environments and about the issue of female inmates in those environments, Julita Lemgruber's "*Cemitério dos Vivos*" (The Cemetery of the Living) brings us important reflections about social dynamics and processes that took place between 1976 and 1978 at Rio de Janeiro's Talavera Bruce Penitentiary. Having been the author's Sociology Master's Thesis at IUPERJ (Instituto Universitário de Pesquisas do Rio de Janeiro), the work is always up-to-date in the context of the penitentiary issue. Its value – still and exemplarily – aggregates a whole professional trajectory based on the committed and confident search for mitigating human suffering and abolishing the punishment of deprivation of freedom.

Key words: Prisons, Female inmates, Penitentiary sociology.