

EDITOR'S NOTE

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It is with great satisfaction that *Revista Culturas Jurídicas/Legal Cultures* (RCJ) – periodical edited by the Post-Graduate Program in Constitutional Law housed in the Universidade Federal Fluminense (PPGDC/UFF) – is now presenting its fourth issue to the academic community. The editorial line is focusing on *The Constitution and Fundamental Rights*.

In this sense, the articles published herein are focused into analyzing present issues on the theme of the fundamental rights, especially with regards to the challenges found nowadays, the collision and weighting of fundamental rights as well as matters connected to citizenship in general.

From this starting point, Guilherme Del Negro, using an innovative approach, draws an analogy of International Human Rights Law and the *Pop Art* through the confluence of aesthetic and legal matters in order to identify the boundaries and the challenges faced by the human rights' movements in present days.

Working with critical theory, Karina Macedo Fernandes and Fernanda Frizzo Bragato analyze the repercussions that a colonial State conception has on the human rights safeguard within the Latin American context. This is carried out from the counterhegemonic perspective of Latin American Constitutionalism and the challenges it has made to the modern legal and politic conceptions as opposed to a refoundational perspective of the State on its plural, democratic and participative paradigms.

On the wake of fundamental rights, Tainá Fernanda Pedrini and Pollyanna Maria da Silva look on the collision between the Right to Life and freedom of religion, focusing on the issue the Jehovah's Witnesses have with blood transfusions. The case of Juliana Bonfim, still to be ruled by the *Superior Tribunal de Justiça*¹, is brought into light as a way to peruse the Brazilian Jurisprudence on the matter.

On his turn Reginaldo Cesar Lima Alvares deals with the fundamental right to *Education* with focus on people with special needs and disabilities and the present day discussion on the legality – or should one say *illegality* – of the practice of surcharging those

¹Note from translator: the *Superior Tribunal de Justiça* (STJ), or Superior Court of Justice is a high court whose role is to create an uniform interpretation of the Federal Law and is also the last degree of jurisdiction for civil and criminal cases where constitutionality is not discussed. It is not to be confused with the Supreme Court (STF), which is the Constitutional Higher Court of Brazil.

students who attend to private institutions. On his analysis, Reginaldo looks on international treaties, constitutional principles and the Brazilian ordinary laws.

Gilson Matilde Diana brings his contribution in an article on the right to freedom and the women's free will in cases of therapeutic induced labor for the termination of pregnancy of anencephalic fetuses, coming with an analysis of the decision made by the Brazilian Supreme Court (STF) on ruling the ADPF² 54, aiming to identify the concepts defined by the Court on its legal interpretation of the Case, and the legacy that comes from it. The advances on constitutional interpretation method brought by that judicial precedent is also analyzed.

Gisela Aguiar Wanderley deals with the concept of split citizenship in Brazil from an historical research on the arguments used by the Parliament to include the African slave trade on a slow and gradual abolition process. According to the author, from a rhetoric of fear of the Negroes it is possible to identify the negation of their freedom and civil and political rights from their categorization as dangerous and untrustworthy individuals.

Speaking on citizenship, Suellen Bezerra Alves comes with one article on the analysis of the social public policies aimed to the aging workers in Brazil taking into account the social protection in the country and the political rhetoric, typically neoliberal in essence, which fall back on the social guarantees and transfer the care to the elderly ones to the private sector, effectively placing them in a subordinated condition.

Closing the articles on this issue, from Argentina Professors Martin Becerra and Roberto Gargarella analyse the fundamental right to freedom of speech from the standpoint of the social regulation of media and the Argentinian Media Law (Lei de Mídias, Lei 26.522), which was enacted on October, 10, 2009 by then President Cristina Kirchner.

On the *Interviews* section we bring a conversation with the English Marxist Geographer David Harvey. Visiting Rio de Janeiro for giving lectures on the Course "*Rebel Cities and Spaces of Hope*" (original: "*Cidades Rebeldes e Espaços de Esperança*"), an initiative of the "*Se a Cidade fosse nossa*" (*If the City were ours*), Harvey discusses matters related to Right to the City in a context of global capitalism, which changes spaces of public and social coexistence into capital speculative spaces without any concerns to the realization of basic rights.

In section *Reviews* Pedro Silva Mingotti, a third-year Law student from UFF, review Eric Hobsbawn's book "Globalization, Democracy and Terrorism", wherein the British author

²Note from translator: ADPF (acronym for *Arguição de Descumprimento de Preceito Fundamental*, or Claim of non-compliance to a fundamental constitutional precept) is a type of constitutional action defined as a typical instrument of concentrated constitutional control which can be used, either directly or indirectly, to challenge a law or a regulation issued by a municipality, a State or the Federal Government.

reviews issues related to the international system of power, especially after 2001 and George W. Bush's initiatives to consolidate the United States hegemonic control over the whole world.

On *Legislative Commentary* section, PPGDC/UFF Master's Candidate Matheus Meott Silvestre review Draft Law 1539/2015, which has the purpose of establishing general standards and directives for the Regulatory Impact Assessment to be carried out by regulatory agencies, including the *Comissão de Valores Mobiliários* (Brazilian Securities and Exchange Commission) and any future regulatory body to be created. Meott concludes by demonstrating that the draft law is written according to the Constitutional Principles of Public Administration as found on Article 37 of the Brazilian Constitution, markedly Publicity and Efficiency, and that, in spite of being somewhat insufficient, it is also an important step for discussing the matter.

And last but not least, on section *Abstracts* we may find the overviews of several Master's thesis. Ana Patrícia Racki Wisniewski (PPGD/UNISINOS), writes on the "non-binary gender identities and the recognition of their demands as claims on Human Rights". Arion Escorsin de Godoy (PPGD/UCS) discusses "civilian claims on Right to Housing and the role of political and legal mediation played by the Public Defense Attorney's Office (*Defensoria Pública*). Gladstone Leonel da Silva Júnior (PPGD/UnB) analyses the "Constitution of Plurinational State of Bolivia as an instrument of hegemony of a popular project in Latin America". Viviane Grassi (PPGD/UCS) deals with the management of ecological risk on the exploitation of oil on the Pre-Salt layer. We also bring the overview of the Doctorate Thesis of Clarisse Stephan Farah Jorge (PPGSD/UFF), which discusses social and collaborative businesses.

Paying homage to those authors who presented us with such extraordinary works it is with true pleasure we publish the present Volume, certain to be delivering to our readers works of substance and capable of bringing serious reflections. Finally, we remind all who may be interested that the doors to RCJ are fully opened to receive works from authors engaged in strengthening the dialectic between the several legal cultures.

Niterói, March 24, 2016.

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