

EDITOR'S NOTE

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Revista Culturas Jurídicas/Legal Cultures (RCJ) – periodical edited by the Post-Graduate Program in Constitutional Law housed in the Universidade Federal Fluminense (PPGDC/UFF) – proudly presents its fifth issue to the academic community. The editorial line is focusing on *Human Rights*.

We highlight the internationalization process of RCJ, which has been looking into publishing articles from foreign authors in bilingual format as to maintain an open and expansive dialogue with colleagues from abroad. Likewise, we have the goal that the knowledge generated by researchers in Brazil is made accessible to a broader public, thus giving impulse to science and knowledge itself and broadening the target reader of RCJ.

In this sense, the articles published herein are focused into analyzing present issues on the theme of the human rights and, under a critical theory perspective, into evaluating the HR as to verify their suitability to certain theories and realities – which is rather distinct to the usual discussions on the matter found in Brazil.

We start with a theme on human rights in the African continent, as South African Professor Anthony O. Oyowe, from the University of the Western Cape, states the unsuitability of the African *Ubuntu* moral theory to serve as cornerstone to individual freedom and human rights in a critical approach of the theory generated by North American Professor Thaddeus Metz, from the University of Johannesburg.

Then the same Professor Metz, on an article of his own making, challenges the objections made to the applications of the *Ubuntu* moral theory and that some consider inappropriate to the public morality in South Africa. The author stands behind his theory with emphasis, and states that the jurisprudential interpretation of *Ubuntu* offers a broad spectrum of intuitive human rights while presenting guidelines to solve current disputes on justice. Professor Metz stands by his opinion that *Ubuntu* may be the fundamentals behind a concept of public morality, and that the concerns regarding to impreciseness, collectivism and anachronism are not of substance.

Both texts from the South African Professors were translated from the original English language to Portuguese, and are published for the first time on both idioms in this issue of RCJ.

Closing this theme, Amélia Rossi and André Demetrio analyze the Regional Integration Law on the regional processes in Africa so to peruse the peace architecture and the respect for human rights within that continent, and also if this goal might be achieved through the consolidation of the African Union. For their paper they have investigated the actions taken by the Peace and Security Council (PSC) in the years of 2010 and 2013.

Moving to another theme, the articles now look into investigating public policies and State behavior observed from a human rights' perspective. In this line Dieyne Pantalão Sydney and Ivana Nobre Bertolazo write on compulsory psychiatric commitment as defined on Federal Law nº 10.216/2001, concluding that this is nothing more than a strict, exceptional and interdisciplinary legal act which must only be applied in a just and adequate way, and not indiscriminately for each and every subject.

Still on this theme, Igor Beltrão Castro writes on the Unconstitutional State of Affairs proclaimed by the Brazilian Supreme Court (STF) on ruling the Injunctions on the case set by ADPF¹ 347/DF wherein the Brazilian correctional system was brought into judgment. The author looks into the Latin-American genealogy of that concept and tries to set an alternative way for the legal enforcement of the fundamental rights in Brazil while exposing the risks faced by the Supreme Court by using this doctrine.

As for criminal policy, Marta Rodriguez de Assis Machado, Maira Rocha Machado and Luisa Moraes de Abreu Ferreira present an article on the episode known as *Carandiru Massacre*. In a theoretical-dogmatic exercise aimed into creating a public policy of accountability in case of human rights violation, the authors argue that it would be possible to hold the State Governor and the State Secretary of Security accountable for the death of 111 (one hundred and eleven) citizens who were imprisoned at that time, in October 02, 1992.

¹Note 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.

Closing this theme Aliny Rodrigues Miranda and Alexandre Melo Franco de Moraes Bahia present their article that concerns the right to food – specifically the public school meals – as paramount to an effective right to education. The authors maintain that the elected officials are negligent on the matter which causes the Judiciary to interfere on this policy through a “judicialization of Education”.

In a third theme, and specifically on the subject of the nature of the universality of human rights, Márcio Ricardo Staffen and Leandro Caletti question whether such universality is an actual and effective means to the protection of the dignity of people around the world, and both strive to renew the universality criteria in a dialogic and multicultural way.

Finally, in a similarly inquisitive article written from Pier Paolo Pasolini viewpoint, Brazilian Leilane Serratine Grubba and Italian Chiara Antonia Sofia Mafrica Biazi team up and present their bilingual text – original in Italian translated into Portuguese for publication in RCJ – that maintain the homogenization model mandated by Human Rights in the postwar period effectively excludes certain peoples from accessing rights which are universally recognized, this by distinguishing between the human beings that have and those who do not have effective access to the minimum subsistence guaranteed by human rights.

On the *Interviews* section we bring a conversation with Professor Salo de Carvalho, professor of Criminal Law and Criminology at UFRJ. On this discussion, the professor disserts mainly on the criminal policies in Latin America on the later years, perusing over a few polemic rulings from the Brazilian Supreme Court (STF). He puts emphasis on the axiological change of the Judiciary, which – according to the Professor – has begun incorporating an irrational punitive populism as a result of its relation with the Media.

In section *Digests* we review six recent and relevant works. It is noteworthy that all reviews were prepared by undergraduate Law students from UFF: (i) Larissa do Nascimento Oliveira, Rochanne de Miranda Correa and Vitoria Maria Fernandez Rodriguez discuss Bernard Edelman’s book *La légalisation de la classe ouvrière*, written in 1978 and just recently translated into Portuguese; (ii) Isabela Cardoso Bahé, Pedro Moreira Alonso and Yuri da Costa Campos Ferreira review Domenico Losurdo’s book *Class Struggle: A Political and Philosophical History*; (iii) Alice Rocha de Souza, Camilla de Brito Mendonça, Lorena Novis Brandão Cotrim Peclat and Melissa Moreira da Silva review Pierre Dardot and Christian Laval’s book *La*

nouvelle raison du monde: essai sur la société néolibérale, also just translated into Portuguese; (iv) Elenice Muniz Machado Coelho studied Fábio Silveira Molina's book *Megaeventos e Produção do Espaço Urbano* ("Mega-events and production of urban space"); (v) Leticia Machado, Lucas Souza and Pedro Khauaja comment on Joachim Hirsch's book *Materialistische Staatstheorie* ("Materialist State Theory"); and finally (vi) Ana Clara dos Santos Lima Peixoto, Marize Figueira de Souza, Juliana Venâncio Cardozo, Thábata Ribeiro Coelho and Thaís Jeronimo Vidal dissect Raquel Rolnik's book *War of places – the colonization of land and housing in the era of finance*.

On *Legislative Commentary* section Doctor's Candidate Larissa Claire Pochmann da Silva, from UNESA, goes through the *Amicus Curiae* figure as defined by the New (2015) Brazilian Civil Procedure Code in great detail, perusing its Article 138 and highlighting that dispositions that were previously sparsely found in several different laws are now consolidated and systemized on the procedural code. She comes to the conclusion that now it may be possible that the legitimacy of debates may be increased in all degrees of the Judiciary, but issues a warning that the Legislative – on its own interest – might have increased the possibilities for the *Amicus curiae* to file appeals.

And last but not least, on section *Abstracts* we may find the overviews of several Master's thesis from PPGDC/UFF Class of 2014 (graduated on 2016). Ana Beatriz Oliveira writes on *Democracy and Urban Spaces: dynamics and Right to the City in Juiz de Fora (MG)*, Fernando Guilherme de Oliveira Guimarães approaches the *Reasons for Inquisitorial Process against Father Antonio Vieira: Law and Prophecy in Seventeenth Century*, Gabriel Barbosa Gomes de Oliveira Filho disserts on *The Plurinational State of Bolivia: fundamental guarantees to the autonomy and self-government of the original native countrymen authority*, Joyce Abreu de Lira writes on *The Food (In)security in Brazil: Judicial Control on Public Policies*, Juliana Pessoa Mulatinho investigates *The (Lost) Paths of Citizenship in Brazil: The Constitution between Neoliberalism and Neo-developmentism*, Kelly Ribeiro Felix de Souza writes on "*Human Rights for Righteous Humans*": *police force legal killings and State of exception in Rio de Janeiro State*, Laíze Gabriela Benevides Pinheiro disserts on *Occupy Borel and the Militarization of Life: Human Rights violations in an slum occupied by the military*, Marcela Munch writes on *Vila Autódromo, a land in dispute: Fighting for rights from borderline subjects to insurgent practices*, Natália

Silveira Alves examines *The expansive effects of the diffuse constitutional review carried out by the Brazilian Supreme Court (STF) and the search for isonomic decisions of the effective protection of rights*, Wingler Alves Pereira presents his study on *The Dilemma on the Brazilian Constitutional Social Imaginary: tupi or not tupi?*.

We can only congratulate those authors who presented us with such significant and unique pieces of work for the scientific field and the development of RCJ. Therefore we gladly publish the present Volume, that will certainly provide the interested public with substantive contributions that will undoubtedly provoke remarkable considerations. 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, November 19, 2016.

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