

Editorial

December 2018

The new issue of **Law and Praxis Journal** (vol. 9, n. 4, 2018, 24th edition, Oct-Dec) is online. In this issue, we present twelve unpublished articles, as well as reviews, translations and a dossier organized by Bruna Mariz Bataglia Ferreira (PPGD/PUC-Rio) and Bethânia de Albuquerque Assy (PPG/PUC-RIO e UERJ). The subject of the dossier is also unpublished in our journal, and deals with a growing and still under-explored field of debate within the framework of Human-animal Studies, with the title: “Between humanities and animalities: modern discourses in dispute”. With a fine selection of articles, the dossier covers topics ranging from criticism to the anthropocentric view of the world, bringing the decolonial perspective of criticism to political and civilizational hierarchies, presenting ways for a renewed debate on animal rights and political philosophy, involving questions about the ontology of legal-political subjects and its reflections on the understanding of a fairer and egalitarian community, as presented by the invited editors.

In the general section of articles, we present papers with three main focuses: feminist and criminological studies, legal-economic readings in the field of law and Marxism and critical legal studies, as well as works in the fields of constitutional theory and decolonial studies. In the translations section, we also present two highly interesting works for critical studies of law in a transnational perspective. The first is the article of Kolja Möller, of University of Bremen, Germany, “A conflict of the Constitution with itself? Destituent power and the transnational challenge”. Moreover, in the context of critical engagement with the interpretations of Marxism, we present the work of Stefan Kalmring and Andreas Nowak, “Considering Africa in Marx: Notes on Marx's Fragmented

Engagement with the African Continent”. Finally, we also bring two reviews of the works “What is structural racism?”, By Silvio Luiz de Almeida, and “Post-Democratic State”, by Rubens Casara. Once again, we would like to thank the contribution of the students of the PPGDir of UERJ and other translators for the realization of the reviews and translations, as well as the English versions of the published bilingual articles in this edition.

We would like to remind that the editorial policies for the different sections of the Journal can be accessed in our page and that the submissions are permanent and always welcome! We thank, as always, the authors, referees and collaborators for the trust deposited in our publication.

Enjoy your reading! **Law and Praxis** team.

Entre Humanidades e Animalidades: discursos modernos em disputa

Bruna Mariz Bataglia Ferreira

Pontifícia Universidade Católica do Rio de Janeiro, Rio de Janeiro – RJ, Brasil.

Bethânia de Albuquerque Assy

Pontifícia Universidade Católica do Rio de Janeiro/Universidade do Estado do Rio de Janeiro, Rio de Janeiro – RJ, Brasil.

Modernity offers us a way of understanding the world that continues to be affirmed and based on dichotomous relationships such as culture and nature, civilized and savage, human and animal, that strengthens colonialist, sexist, racist, anthropocentric, and speciesist hegemonic discourses. The purpose of the Dossier is to offer readers access to reflections that seek to problematize these discourses otherwise and to point out other possible ways of understanding these relations and their impacts on the juridical, political, ethical and moral fields. Somehow, the articles converge towards an expansion and breakdown of the various frontiers imposed by modernity, with other diagnoses of old problems, proposing ways of dealing with the "others" of our culture, be they animals, other humans or, why not, with the other who inhabits us.

In this sense, in the article *Human-Animal Studies: moral agency and animal play*, Bruna Mariz Bataglia Ferreira presents a horizon of research possibilities in the field of *Human-animal Studies*, and offers two reflections that try to understand and question, first, the idea, so fundamental - and already criticized - to law and political philosophy, moral agency as a presupposition of democracy bringing the role of the animal in its elaboration; then to show a possible way from the animal play in the work of Brian Massumi to think about the possibility of a form of sociability that is not based on a normative ethic in which all inclusion implies an exclusion, but a logic of mutual

inclusion that breaks with a "hierarchical organization of beings" and privileges the "living expression of processes".

From in *Playing, killing, eating: on morality and animal rights*, Juliana Fausto offers a look at animal play in its relation to justice, contained in the work of Mark Bekoff. The author problematizes Bekoff's reflections on the existence of morality among animals, but restricted to each species, from the question of feeding - "[for the author] a wolf, for example, would act morally within his group but not before the moose that he kills and eats" - identifying in this one key of reading to confront some discourses on morality and universal animal rights.

Is it possible to find in animality a "common mode of existence between human and nonhuman animals" that breaks with the hierarchy between beings? In *The opening: human, animal and animality on Hans Jonas*, Jelson R. de Oliveira provokes some reflections on the phenomenon of life. Rethinking the ontological and epistemological bases of discourse on animals, it shows us that the animal presents itself as an opening before which the human observes itself and from which it can return to its forgotten animality.

In the fascinating research presented in *The (indigenous) question of the Manifesto Antropofago*, Alexandre Nodari and Maria Carolina de Almeida Amaral investigate the aphorism *Tupi or not tupi?* contained in the *Manifesto* and seek, from this, to offer us an understanding beyond an "identity motto", restoring the character of an "eminently indigenous question". In this sense, they problematize the various nationalist and identity visions and appropriations that were made of indigenous peoples, diverting us to another understanding of "being", from a logic of becoming, so that, as we are shown, anthropophagy goes to be understood in the *Manifesto* as a "contraontology."

In the face of the understandings based on a "substantial binary logic of identity and origin that underlies the colonial and nationalist formulation of the opposition" among the *Tupi-Tapuia* peoples, the authors offer us a reading on the indigenous question in the *Anthropog* points to "an identity of another kind, which does not relate to what we are (or will be) unchangeably (in the future always postponed), but to what we can and want to transform (now)", what do, among other points, from the matriarchal communism of Oswald de Andrade. This, in turn, would offer another way of relating to objects and dealing with subjects, abandoning the binary logic that

excludes belonging to the political community, since relations would be of another legal kind

In this context, is a universalist moral conception possible that embraces all individuals? In the quest to extrapolate the division of mind and body and its borders, and also the idea of "human nature," Maria Clara Dias invites us to reflect on a more inclusive justice compatible with the ideals of a universalist moral conception - what she calls "Perspective of Runs (Pdf)" - in her *The Functionings Approach: a decolonial ecofeminist point of view*. Affirming that justice is only possible if we look at concrete individuals, specific and urgent demands, the author goes out in defense of the moral principle of respect, to indicate a perspective of justice committed to the basic functions of each individual, these understood as complex functional systems not limited to human animals.

Shedding light on the discussions about animal rights in *Citizenship, property and animal's rights*, Hernán Neira problematizes the concept of citizenship, historically an instrument of inclusion and exclusion of the political community. Based on rational human moral capacity, the author claims the granting of citizenship to animals, from the work of Donaldson and Kymlicka, since animal rights would not be "a break in the legal system, but part of its natural evolution."

Finally, in *Amazona vittata: Notes on cosmopolitics and xenocide*, Marco Antonio Valentim expands our imaginative horizons bringing the science fiction and the Yanomami shamanism to the center of its reflections, articulating the concept of xenocídio and the difference between cosmopolítica and cosmopolitismo Kantiano "As divergent policies as to the modes of articulation between humanity and extra-humanity." In pointing out the spectral and racist anthropocentrism of the Kantian reflections on cosmopolitanism (which would therefore be xenocida), which only stir up the asymmetry between humanity and nonhumanity, Valentim proposes, from the dialogue between fiction and shamanism, to think for as well as operators that imply mutual annihilation of the subjects, such as "chain mistrust" and "technological explosion", seeking operators that allow modes of reciprocal transformation of cosmopolitan collectives such as Donna Haraway's network simpoiese and "involutionary" creation "By Carla Hustak and Natasha Myers.

We are very grateful to the authors who contributed to the realization of this Dossier, as well as to Isadora Lins, for all their support throughout their execution

including the translations carried out, to Nina Zur for the inspiring consultancy to choose the incredible art of the cover of this edition the artist Rona Neves who graciously granted us the rights of the (sweeping) image, and the editors José Ricardo Cunha and Carolina Vestena for the invitation to organize this Dossier and the entire staff of the Law and Praxis Journal for the indispensable collaboration and inspirational presence to make this project a reality. Thank you.

Bruna Mariz Bataglia Ferreira

Bethania de Albuquerque Assy

Expedient of this issue

Editors:

Dr. José Ricardo Cunha, UERJ, Brasil

Dra. Carolina Alves Vestena, Universität Kassel, Alemanha

Executive Committee

Bruna Mariz Bataglia Ferreira, PUC-Rio, Brasil

Raíza Uzeda, UERJ, Brasil

Nicole Magalhães, UERJ, Brasil

Isadora Lins, UERJ, Brasil

Nina Alencar Zur, UERJ, Brasil

Editorial Board

Dra. Ágnes Heller, New School for Social Research, EUA

Dr. Andreas Fischer-Lescano, Universität Bremen, Alemanha

Dr. Alexandre Garrido da Silva, Universidade de Uberlândia, Brasil

Dr. Alfredo Culleton, Universidade do Vale do Rio dos Sinos, Brasil

Dr. Andrés Botero Bernal, Universidad Industrial de Santander, Colômbia

Dra. Bethania Assy, UERJ, Brasil

Dra. Cecília MacDowell Santos, Universidade de São Francisco, USA; Centro de Estudos Sociais da Universidade de Coimbra, Portugal

Dr. Costas Douzinas, Birckbeck University of London, Reino Unido

Dra. Deisy Ventura, Universidade de São Paulo, Brasil

Dr. Girolamo Domenico Treccani, Universidade Federal do Pará, Brasil

Dr. Guilherme Leite Gonçalves, UERJ, Brasil

Dr. Jean-François Y. Deluchey, Universidade Federal do Pará, Brasil

Dr. João Maurício Adeodato, UFPE e Faculdade de Direito de Vitória, Brasil

Dr. James Ingram, MacMaster University, Canadá

Dr. Luigi Pastore, Università degli Studi "Aldo Moro" di Bari, Itália

Dr. Marcelo Andrade Cattoni de Oliveira, UFMG, Brasil

Dr. Paulo Abrão, PUC-Rs e UCB, Brasília, Brasil

Dra. **Rosa Maria Zaia Borges**, PUC-RS, Brasil

Dra. **Sara Dellantonio**, Università degli Studi di Trento, Itália

Dra. **Sonia Arribas**, ICREA - Univesidade Pompeu Fabra de Barcelona, Espanha

Dra. **Sonja Buckel**, Kassel Universität, Alemanha

Dra. **Véronique Champeil-Desplats**, Université de Paris Ouest-Nanterre, França

Referees

Adamo Dias Alves, UFJF, Brasil; **Dr. Alejandro Manzo**, Universidade de Córdoba, Argentina; **Alexandra Bechtum**, Universidade de Kassel, Alemanha; **Dr. Alexandre Mendes**, UERJ, Brasil; **Dr. Alexandre Veronese**, UNB, Brasil; **Alice Resadori**, UFRGS, Brasil; **Dr. Alvaro Pereira**, USP, Brasil; **Dra. Ana Lia Vanderlei Almeida**, UFPB, GPLutas - Grupo de Pesquisa Marxismo, Direito e Lutas Sociais; **Antonio Dias Oliveira Neto**, Universidade de Coimbra, Portugal; **Assis da Costa Oliveira**, UFPA Brasil; **Bianca Tavorari**, USP, Brasil; **Bruno Cava**, UERJ, Brasil; **Bruno Alberto Paracampo Mileo**, Universidade Federal do Oeste do Pará, Brasil; **Dra. Carolina Medeiros Bahia**, UFSC, Brasil; **Dr. Cesar Baldi**, UnB, Brasil; **Dr. Cesar Cerbena**, UFPR, Brasil; **Dra. Clarissa Franzoi Dri**, UFSC, Brasil; **Dr. Conrado Hubner Mendes**, USP, São Paulo, Brasil; **Dr. Daniel Achutti**, UniLasalle, Brasil; **Dr. David Francisco Lopes Gomes**, UFMG, Brasil; **Dra. Danielle Rached**, Instituto de Relações Internacionais – USP, Brasil; **Diana Pereira Melo**, UNB, Brasil; **Diego Alberto dos Santos**, UFRGS, Brasil; **Dr. Diego Augusto Diehl**, UNB, Brasil; **Dr. Diego Werneck Arguelhes**, FGV DIREITO RIO, Brasil; **Dr. Diogo Coutinho**, USP, Brasil; **Dr. Eduardo Pitrez Correa**, FURG, Brasil; **Dr. Eduardo Socha**, USP, Brasil; **Eloísa Dias Gonçalves**, Panthéon-Sorbonne, França; **Emília Merlini Giuliani**, PUCRS, Brasil; **Dr. Ezequiel Abásolo**, Universidad Católica Argentina, Argentina, **Dra. Fabiana Luci de Oliveira**, UFSCAR, Brasil; **Dra. Fabiana Severi**, USP, Brasil; **Fábio Balestro Floriano**, UFRGS, Brasil; **Fabíola Fanti**, USP, Brasil; **Dra. Fernanda Vasconcellos**, UFPEL, Brasil; **Dra. Fernanda Pradal**, PUC-Rio, Brasil; **Dr. Fernando Fontainha**, IESP/UERJ, Brasil; **Fernando Maldonado**, Universidade de Coimbra, Portugal; **Dr. Fernando Martins**, UniLavras, Brasil; **Felipo Pereira Bona**, UFPE, Brasil; **Fernando Perazzoli**, Universidade de Coimbra, Portugal; **Flávia Carlet**, Universidade de Coimbra, Portugal; **Dr. Gabriel Gualano de Godoy**, UERJ, Brasil; **Dra. Giovanna Milano**, UNIFESP, Brasil, **Dr. Giovane Schiavon**, PUC-PR, Brasil; **Dr. Giscard Farias Agra**, UFPE, Brasil; **Dra. Gisele Mascarelli Salgado**, Faculdade de Direito de São Bernardo do Campo - FDSBC, Brasil, **Dr. Gladstone**

Leonel da Silva Júnior, UNB, Brasil; **Dr. Gustavo César Machado Cabral**, UFC, Brasil, **Dr. Gustavo Sampaio de Abreu Ribeiro**, Harvard Law School, USA; **Dr. Gustavo Seferian Scheffer Machado**, Universidade Federal de Lavras, Brasil; **Gustavo Capela**, UNB, Brasil; **Dr. Hector Cury Soares**, UNIPAMPA, Brasil; **Henrique Botelho Frota**, Centro Universitário Christus, Brasil; **Hugo Belarmino de Moraes**, UFPB, Brasil; **Dr. Hugo Pena**, UnB, Brasil; **Dr. Iagê Zendron Miola**, UNIFESP, Brasil; **Ivan Baraldi**, Universidade de Coimbra, **Iran Guerrero Andrade**, Flacso/México, México; Portugal; **Jailton Macena**, UFPB, Brasil; **Dra. Jane Felipe Beltrão**, UFPA, Brasil, **Joanna Noronha**, Universidade de Harvard, USA; **João Andrade Neto**, Hamburg Universität, Alemanha; **Dr. João Paulo Allain Teixeira**, UFPE, Brasil; **Dr. João Paulo Bachur**, USP, Brasil; **João Telésforo de Medeiros Filho**, UNB, Brasil; **Dr. Jorge Foa Torres**, Universidad Nacional Villa María, Argentina; **Dr. José de Magalhães Campos Ambrósio**, UFU, Brasil; **Dr. José Carlos Moreira da Silva Filho**, PUCRS, Brasil; **Dr. José Renato Gaziero Cella**, IMED, Brasil; **Dr. José Heder Benatti**, UFPA, Brasil; **Dr. José Renato Gaziero Cella**, Faculdade Meridional - IMED, Brasil; **Dr. José Rodrigo Rodriguez**, Unisinos, Brasil; **Juliana Cesario Alvim Gomes**, UERJ, Brasil; **Lara Freire Bezerra de Santanna**, Universidade de Coimbra, Portugal; **Laura Laura Madrid Sartoretto**, UFRGS, Brasil; **Dr. Leonardo Figueiredo Barbosa**, UNIFESO, Brasil; **Leticia Paes**, Birkbeck, University of London; **Ligia Fabris Campos**, Humbolt Universität zu Berlin, Alemanha; **Dra. Livia Gimenez**, UNB, Brasil; **Dr. Lucas Pizzolatto Konzen**, UFRGS, Brasil; **Dra. Lucero Ibarra Rojas**, Centro de Investigación y Docencia Económicas, México; **Dra. Luciana de Oliveira Ramos**, USP, Brasil; **Dr. Luciano Da Ros**, University of Illinois at Chicago, USA; **Dr. Luiz Caetano de Salles**, UFU, Brasil; **Dr. Luiz Otávio Ribas**, UERJ, Brasil; **Manuela Abath Valença**, UFPE, Brasil; **Marcela Diorio**, USP, Brasil; **Dr. Marcelo Eibs Cafrune**, UNB, Brasil; **Marcelo Mayora**, UFJF, Brasil; **Dr. Marcelo Torelly**, UNB, Brasil; **Dr. Marcos Vinício Chein Feres**, UFJF, Brasil; **Dra. Maria Lúcia Barbosa**, UFPE, Brasil; **Dra. Maria Paula Meneses**, Universidade de Coimbra, Portugal; **Dr. Mariana Anahi Manzo**, Universidad Nacional de Córdoba, Argentina; **Mariana Chies Santiago Santos**, UFRGS, Brasil; **Dra. Mariana Anahi Manzo**, Universidad Nacional de Córdoba, Argentina; **Dra. Mariana Trotta**, UFRJ, Brasil; **Dra. Melisa Deciancio**, FLACSO, Argentina; **Dra. Marisa N. Fassi**, Università degli Studi di Milano, Itália; **Dra. Marta Rodriguez de Assis Machado**, Fundação Getúlio Vargas - Direito GV São Paulo, Brasil; **Mayra Cotta**, The New School for Social Research, USA; **Dr. Miguel Gualano Godoy**, UFPR, Brasil; **Monique Falcão Lima**, UERJ, Brasil; **Dr. Moisés Alves Soares**, UFPR, Brasil;

Nadine Borges, UFF, Brasil; **Natacha Guala**, Universidade de Coimbra, Portugal; **Dr. Orlando Aragon**, México; **Dr. Orlando Villas Bôas Filho**, USP e Universidade Presbiteriana Mackenzie, Brasil; **Dr. Pablo Malheiros Frota**, UFGO, Brasil; **Paulo Eduardo Berni**, Universidade Ritter dos Reis, Brasil; **Dr. Paulo Eduardo Alves da Silva**, USP, Brasil; **Pedro Augusto Domingues Miranda Brandão**, UNB, Brasil; **Dr. Rafael Schincariol**, USP, Brasil; **Dr. Rafael Vieira**, PUC-Rio, Brasil; **Dra. Raquel Lima Scalcon**, UFRGS, Brasil; **Renan Bernardi Kalil**, USP, Brasil; **Dr. Renan Quinalha**, USP, Brasil; **Dra. Renata Ribeiro Rolim**, UFPB; **Dr. Renato Cesar Cardoso**, UFMG, Brasil; **Dr. Ricardo Prestes Pazello**, UFPR, Brasil; **Dra. Roberta Baggio**, UFRGS, Brasil; **Dr. Roberto Bueno Pinto**, UFU, Minas Gerais; **Roberto Efrem Filho**, UFPB, Brasil; **Rodrigo Faria Gonçalves Iacovini**, USP, Brasil; **Dr. Rodrigo Ghiringhelli de Azevedo**, PUCRS, Brasil; **Dr. Rodolfo Liberato de Noronha**, UNIRIO, Brasil; **Dr. Roger Raupp Rios**, Uniritter, Brasil; **Dr. Samuel Barbosa**, USP, Brasil; **Dr. Saulo Matos**, UFPA, Brasil; **Dra. Shirley Silveira Andrade**, UFES, Brasil; **Talita Tatiana Dias Rampin**, UNB, Brasil; **Tatyane Guimarães Oliveira**, UFPB, Brasil; **Thiago Arruda**, UFERSA, Brasil; **Dr. Thiago Reis e Souza**, Escola de Direito Fundação Getúlio Vargas - São Paulo, Brasil; **Dr. Tiago de Garcia Nunes**, UFPel, Brasil; **Dra. Verônica Gonçalves**, UNB, Brasil; **Dr. Vinícius Gomes Casalino**, PUC-Campinas, Brasil; **Vinicius Gomes de Vasconcellos**, USP/PUCRS, Brasil; **Dr. Vitor Bartoletti Sartori**, UFMG, Brasil; **Dr. Wagner Felouniuk**, UFRGS, Brasil.