



Qualis A1 - Direito CAPES

Presentation

June 2019

Continuing the year of commemoration of a decade from the launch of Law and Praxis Journal, we present our most recent issue (vol. 10, n. 2, 2019, 26th edition, june-august). In this second issue of 2019, we arranged our traditional section of unpublished papers, reviews, translations and another new dossier. In the general section of the journal, we present unpublished papers that involve different areas of critical legal thinking, starting with the theory and history of law and passing by topics such as judicialization and intersectionality, as well as social movements.

The dossier, organized by Professor Assis da Costa Oliveira, from Federal University of Pará, presents a reflection on the "Challenges and perspectives for guaranteeing the rights of children, adolescents and young" within the framework of the 30th anniversary of the United Nations Convention on the Rights of the Child. In times of political controversy over the value of human rights, it is fundamental to evaluate and reinforce their centrality — with inner potentialities and limits — for the construction of more just, humane and less unequal societies. In the specific case, it is a matter of reflecting on the challenges of implementing rights for one of the most vulnerable groups in our societies. In this regard, we invite everyone to read the Guest Editor presentation below and access the papers included in this dossier.

In the translation section, we present a set of highly relevant and, until then, unpublished texts in the Portuguese Language. The first one is the text "The State and



Rev. Direito Práx., Rio de Janeiro, Vol. 10, N. 02, 2019, p. 836-845.
 Revista Direito e Assis da Costa Oliveira
 DOI: 10.1590/2179-8966/2019/42608 | ISSN: 2179-8966

the *Everyday Struggle*", by John Holloway, a fundamental work for constructing materialist perspectives of the State along with the theory of social movements. In addition, we present a translation of the text "Weimar — and What Then? Formation and actuality of the Constitution of Weimar", by Otto Kirchheimer, prominent jurist and social scientist in the scope of the Frankfurtian thought. The translation is followed by an explanatory note and introduction by the translator, Bianca Tavorari. Finally, we present a translation of a lecture given by the German philosopher and jurist Ingo Elbe on the Pachukanian legal theory.

In the review section, we gathered texts on the books "The New Way of the World: On Neo-Liberal Society", by Christian Laval and Pierre Dardot, and "Critical Epistemologies of Law", organized by José Ricardo Cunha. We remind you that the editorial policies for the different sections of the Journal can be accessed on our website and that the submissions are permanent and always welcome! We thank, as always, our authors, evaluators and collaborators for the trust in our publication.

Enjoy your reading!

Law and Praxis team



Presentation: reaffirm the rights of children, adolescents and young in times marked by the advancement of punitive, discriminatory, and tutelary conservatism

Assis da Costa Oliveira

Federal University of Pará, Altamira, PA, Brazil.

In 2019 the United Nations Convention on the Rights of the Child (UNCRC) completes 30 years of promulgation. Adopted in 1989, this international treaty on the human rights of children and adolescents was essential to disseminate the legal paradigm of the Integral Protection Doctrine (IPD) throughout many countries and is, to this day, the international document with the highest amount of National States ratification.

Because of this special reason, Law & Praxis Journal publishes the dossier "Perspectives and challenges for guaranteeing the rights of children, adolescents and young", alluding to the 30th anniversary of the United Nations Convention on the Rights of the Child, bringing together 12 articles authored by researchers from Argentina, Brazil, Canada, Spain, and Mexico, in order to promote public reflection on the ways for sustaining (or not) the guarantee of the rights of children, adolescents, and young in the light of the UNCRC and other normative documents, as well as a background based on empirical and theoretical data in an interdisciplinary perspective.

In Brazil, the UNCRC had an inspiring role in encouraging discussions and ways to implement the rights of children and adolescents, especially by the influence that the reflections of its working group generated in the national debates for the constitutionalization of the FPD in 1988, with the promulgation of the Federal Constitution, regarding to aspects such as the view of integral protection and absolute priority of the guarantee of rights, the subsequent implementation of the Child and Adolescent Statute (Law n. 8,069/1990), the strengthening of social struggles by effective enhancement on conditions of life of children and adolescents, and the



improvement of public policies. With the Constitutional Amendment n. 65/2010, which expressly included youth under the scope of article 227 of the Federal Constitution of 1988, these also came to be recognized in the field of legal safeguard of the IPD.

However, the celebration of the 30th anniversary of the UNCRC is an important occasion for a broad reflection on the historical, current, and future situation for guaranteeing the rights of children, adolescents, and young, especially at a moment when so many threats are being placed against these rights and its owners within the scope of the Brazilian Executive, Legislative and Judicial branches.

In the ideological aegis of the hate speech and the military-religious conservatism, currently lived in our country, inequalities and violence are driven against certain social groups in which children, adolescents, and young are involved, including the use of legality to strengthen processes of criminalization, exclusion, and extermination.

Undoubtedly, with the arrival of Jair Bolsonaro (PSL) to the Presidency of the Republic and the wave of conservatism in the National Congress and in the Judiciary, with similar backgrounds in the municipal and state spheres, we live today the most threatening moment of the dismantling of IPD in Brazil, in which adolescents and young black, indigenous, landless, women, LGBTI, among others, are treated as "enemies of the State", through an institutional and mediatic apparatus that aims, as a last act, elimination, incarceration, and/or "non-citizenship" of the subjects, as well as the reform of the legal documents, especially the Child and Adolescent Statute, highlighted the debate on the reduction of the age for criminal liability and the School Without Party movement. It is clear that these scenarios and goals are just the tip of the iceberg of other interferences of punitive, discriminatory, and tutelary conservatism in the lives, rights and policies of children, adolescents, and young.

At the international level, it is also necessary to reflect on how these discussions are being debated and guaranteed in countries that have adopted the IPD, aiming at the exchange of ideas, theoretical approaches, and political-normative perspectives that allow the expansion and updating of the legal-political field to reflect and implement these human rights. Particularly in the countries from which the authors



of this dossier are originated, namely Argentina, Canada, Mexico, and Spain, there is a question regarding the advancement of legal guarantees along with the difficulties for tackling inequalities and discrimination, as well as the recognition of the legitimacy of the political activism of subjects, organized or not, to report modern/colonial ills that not only continue to prevail, but selectively affect the generational categories treated in this dossier.

In general, the papers presented in this dossier discuss the rights of children, adolescents and young not only from a formalist or "paradigmatic change" perspective, but as a set of subjects, institutions, values, economic resources, public policies, and norms in process and context of diverse disputes. Hence, there is an intellectual awareness that such instruments are used for different political, ideological, and moral purposes, in many cases also using legalities to enforce actions against the laws or to use them to reproduce discriminatory and subjugating perspectives of the subjects directly involved: children, adolescents, and young, together with social groups of belonging, such as indigenous peoples, black population and LGBTI groups.

In schematic terms, the dossier contains a first group of papers — composed of articles written by Antônia Picornell-Lucas, Pablo Ariel Vommaro, Elisa Guaraná de Castro and Severine Carmem Macedo — directed to a general analysis of the historical process for guaranteeing the rights of children, adolescents, and young on the global, Latin American and national scale, along the verification of normative formulations, political-organizational activism, and operational logics of public policies.

The second group of papers — written by Allyson Stevenson, Assis da Costa Oliveria, Jahel López Guerrero, Andreza do Socorro Pantoja de Oliveira Smith and Felipe da Silva Freitas — emphasizes the repercussion of rights, violence, and inequalities on the diversity of identity expressions of "being a child, adolescent, and young", especially for markers of ethnicity, race, gender, and sexuality.

In the last group of papers — authored by Luanna Tomaz de Souza, Fernando da Silva Albuquerque, Josilene Barbosa Aboim, Josiane Rose Petry Veronese, Wanda Helena Mendes Muniz Falcão, Ilana Lemos de Paiva, Tabita Aija Silva Moreira, Amanda de Medeiros Lima, Ana Christina Brito Lopes and Marcio Soares Berclaz — the approach



is intended to discuss how certain normative, institutional, and budgetary intervention instruments are being implemented (or not) in the realities of children and adolescents, with special regard to socio-educational measures, humanitarian aid, institutional reception, and cultural and sport policies.

In summary, we hope to use the UNCRC's special 30th anniversary to discuss the historical and contemporary scenarios aiming to enforce the language of rights, report violations, and announce possible ways to confront adultcentrism in the social and institutional relations in which children, adolescents, and young participate, always with an analysis that considers identity intersectionality and the oppression suffered by these subjects.

We stand in the hope of more democratic and pluralistic winds that can ensure us the fulfillment of rights to all children, adolescents, and young, guaranteeing the recognition of their social diversity, autonomy, and knowledge, as well as the displacement of the punitive, discriminatory and tutelary biased framework – which still to dominate the institutions responsible for safeguard these rights – and in favor of a well structured context, composed with active and purposeful participation of the subjects directly interested and under the normative subsidies of the UNCRC itself.

Therefore, we conclude this presentation with a certain tone of hopeness, because we know well that children, adolescents, and young are also subjects of contemporary history and are acting, in different ways, to resist governmental mismanagement and neoliberal capitalism advancement. It is from the uprising, insurgencies, and mobilizations of these subjects — together with other social movements — that we can learn lessons for the flourishing of democracy, citizenship, and State in directions other than the punitive, discriminatory and tutelary conservatism that still rules society and the rights of children, adolescents, and young.

* This editorial was **translated** from Brazilian Portuguese by **Jordan Vinícius de Oliveira**, UERJ/Brazil.



Issue's file

Editors:

Ph.D. José Ricardo Cunha, UERJ, Brazil

Ph.D. Carolina Alves Vestena, University of Kassel, Germany

Executive commission

Bruna Mariz Bataglia Ferreira, PUC-Rio, Brazil

Nicole Magalhães, UERJ, Brazil

Isadora Lins, UERJ, Brazil

Nina Alencar Zur, UERJ, Brazil

Editorial board

Ph.D. Ágnes Heller, New School for Social Research, USA

Ph.D. Andreas Fischer-Lescano, University of Bremen, Germany

Ph.D. Alexandre Garrido da Silva, Federal University of Uberlândia, Brazil

Ph.D. Alfredo Culleton, Unisinos, Brazil

Ph.D. Andrés Botero Bernal, Industrial University of Santander, Colombia

Ph.D. Bethania Assy, UERJ, Brazil

Ph.D. Cecília MacDowell Santos, University of San Francisco, USA; Centre for Social Studies of the University of Coimbra, Portugal

Ph.D. Costas Douzinas, Birkbeck University of London, United Kingdom

Ph.D. Deisy Ventura, University of São Paulo, Brazil

Ph.D. Girolamo Domenico Treccani, Federal University of Pará, Brazil

Ph.D. Guilherme Leite Gonçalves, UERJ, Brazil

Ph.D. Jean-François Y. Deluchey, Federal University of Pará, Brazil

Ph.D. João Maurício Adeodato, UFPE, Brazil; FDV, Brazil

Ph.D. James Ingram, MacMaster University, Canada

Ph.D. Luigi Pastore, University of Bari Aldo Moro, Italy

Ph.D. Marcelo Andrade Cattoni de Oliveira, UFMG, Brazil

Ph.D. Paulo Abrão, PUC-RS, Brazil; UCB, Brasília, Brazil

Ph.D. Rosa Maria Zaia Borges, PUC-RS, Brazil



Ph.D. Sara Dellantonio, University of Trento, Italy

Ph.D. Sonia Arribas, ICREA – Pompeu Fabra University, Spain

Ph.D. Sonja Buckel, University of Kassel, Germany

Ph.D. Véronique Champeil-Desplats, University Paris Nanterre, France

Evaluators

Adamo Dias Alves, UFJF, Brazil; **Ph.D. Alejandro Manzo**, National University of Cordoba, Argentina; **Alexandra Bechtum**, University of Kassel, Germany; **Ph.D. Alexandre Mendes**, UERJ, Brazil; **Ph.D. Alexandre Veronese**, UNB, Brazil; **Alice Resadori**, UFRGS, Brazil; **Ph.D. Alvaro Pereira**, USP, Brazil; **Ph.D. Ana Lia Vanderlei Almeida**, UFPB, GPLutas - Grupo de Pesquisa Marxismo, Direito e Lutas Sociais; **Antonio Dias Oliveira Neto**, University of Coimbra, Portugal; **Assis da Costa Oliveira**, UFPA Brazil; **Bianca Tavorari**, USP, Brazil; **Bruno Cava**, UERJ, Brazil; **Bruno Alberto Paracampo Mileo**, Pará West Federal University, Brazil; **Ph.D. Carolina Medeiros Bahia**, UFSC, Brazil; **Ph.D. Cesar Baldi**, UnB, Brazil; **Ph.D. Cesar Cerbena**, UFPR, Brazil; **Ph.D. Clarissa Franzoi Dri**, UFSC, Brazil; **Ph.D. Claudia Roesler**, UNB, Brazil; **Ph.D. Conrado Hubner Mendes**, USP, São Paulo, Brazil; **Ph.D. Daniel Achutti**, UniLasalle, Brazil; **Ph.D. David Francisco Lopes Gomes**, UFMG, Brazil; **Ph.D. Danielle Rached**, Institute of International Relations – USP, Brazil; **Diana Pereira Melo**, UNB, Brazil; **Diego Alberto dos Santos**, UFRGS, Brazil; **Ph.D. Diego Augusto Diehl**, UNB, Brazil; **Ph.D. Diego Werneck Arguelhes**, FGV DIREITO RIO, Brazil; **Ph.D. Diogo Coutinho**, USP, Brazil; **Ph.D. Eduardo Pitrez Correa**, FURG, Brazil; **Ph.D. Eduardo Socha**, USP, Brazil; **Eduardo Raphael Venturi**, UFPR, Brazil; **Eloísa Dias Gonçalves**, University of Paris Panthéon-Sorbonne, France; **Emília Merlini Giuliani**, PUCRS, Brazil; **Ph.D. Ezequiel Abásolo**, Pontifical Catholic University of Argentina, Argentina; **Ph.D. Emiliano Maldonado**, UFSC, Brazil; **Ph.D. Fabiana Luci de Oliveira**, UFSCAR, Brazil; **Ph.D. Fabiana Severi**, USP, Brazil; **Fábio Balestro Floriano**, UFRGS, Brazil; **Fabíola Fanti**, USP, Brazil; **Ph.D. Fernanda Vasconcellos**, UFPEL, Brazil; **Ph.D. Fernanda Pradal**, PUC-Rio, Brazil; **Ph.D. Fernando Fontainha**, IESP/UERJ, Brazil; **Fernando Maldonado**, University of Coimbra, Portugal; **Ph.D. Fernando Martins**, UniLavras, Brazil; **Felipo Pereira Bona**, UFPE, Brazil; **Fernando Perazzoli**, University of Coimbra, Portugal; **Flávia Carlet**, University of Coimbra, Portugal; **Ph.D. Gabriel Gualano de Godoy**, UERJ, Brazil; **Ph.D. Giovanna Milano**, UNIFESP, Brazil; **Ph.D. Giovane Schiavon**, PUC-PR,



Brazil; **Ph.D. Giscard Farias Agra**, UFPE, Brazil; **Ph.D. Gisele Mascarelli Salgado**, FDSBC Law School, Brazil; **Ph.D. Gladstone Leonel da Silva Júnior**, UNB, Brazil; **Ph.D. Gustavo César Machado Cabral**, UFC, Brazil; **Ph.D. Gustavo Sampaio de Abreu Ribeiro**, Harvard Law School, USA; **Ph.D. Gustavo Seferian Scheffer Machado**, Federal University of Lavras, Brazil; **Gustavo Capela**, UNB, Brazil; **Ph.D. Hector Cury Soares**, UNIPAMPA, Brazil; **Henrique Botelho Frota**, Unichristus, Brazil; **Hugo Belarmino de Moraes**, UFPB, Brazil; **Ph.D. Hugo Pena**, UNB, Brazil; **Ph.D. Iagê Zendron Miola**, UNIFESP, Brazil; **Ivan Baraldi**, University of Coimbra, **Iran Guerrero Andrade**, Flacso/México, Mexico; **Jailton Macena**, UFPB, Brazil; **Ph.D. Jane Felipe Beltrão**, UFPA, Brazil; **Joanna Noronha**, Harvard University, USA; **Ph.D. João Andrade Neto**, University of Hamburg, Germany; **Ph.D. João Paulo Allain Teixeira**, UFPE, Brazil; **Ph.D. João Paulo Bachur**, USP, Brazil; **João Telésforo de Medeiros Filho**, UNB, Brazil; **Ph.D. Jorge Foa Torres**, National University of Villa María, Argentina; **Ph.D. José de Magalhães Campos Ambrósio**, UFU, Brazil; **Ph.D. José Carlos Moreira da Silva Filho**, PUCRS, Brazil; **Ph.D. José Renato Gaziero Cella**, IMED, Brazil; **Ph.D. José Heder Benatti**, UFPA, Brazil; **Ph.D. José Renato Gaziero Cella**, IMED, Brazil; **Ph.D. José Rodrigo Rodriguez**, Unisinos, Brazil; **Juliana Cesario Alvim Gomes**, UERJ, Brazil; **Lara Freire Bezerra de Santanna**, University of Coimbra, Portugal; **Laura Madrid Sartoretto**, UFRGS, Brazil; **Ph.D. Leonardo Figueiredo Barbosa**, UNIFESO, Brazil; **Leticia Paes**, Birkbeck, University of London; **Ligia Fabris Campos**, Humbolt University of Berlin, Germany; **Ph.D. Livia Gimenez**, UNB, Brazil; **Ph.D. Lucas Pizzolatto Konzen**, UFRGS, Brazil; **Ph.D. Lucero Ibarra Rojas**, Center for Research and Teaching in Economics, CIDE, Mexico; **Ph.D. Luciana de Oliveira Ramos**, USP, Brazil; **Ph.D. Luciano Da Ros**, University of Illinois at Chicago, USA; **Ph.D. Luiz Caetano de Salles**, UFU, Brazil; **Ph.D. Luiz Otávio Ribas**, UERJ, Brazil; **Manuela Abath Valença**, UFPE, Brazil; **Marcela Diorio**, USP, Brazil; **Ph.D. Marcelo Eibs Cafrune**, UNB, Brazil; **Marcelo Mayora**, UFJF, Brazil; **Ph.D. Marcelo Torelly**, UNB, Brazil; **Ph.D. Marcos Vinício Chein Feres**, UFJF, Brazil; **Ph.D. Maria Lúcia Barbosa**, UFPE, Brazil; **Ph.D. Maria Paula Meneses**, University of Coimbra, Portugal; **Ph.D. Mariana Anahi Manzo**, National University of Córdoba, Argentina; **Mariana Chies Santiago Santos**, UFRGS, Brazil; **Ph.D. Mariana Anahi Manzo**, National University of Córdoba, Argentina; **Ph.D. Mariana Trotta**, UFRJ, Brazil; **Ph.D. Melisa Deciancio**, FLACSO, Argentina; **Ph.D. Marisa N. Fassi**, The University of Milan, Italy; **Ph.D. Marta Rodriguez de Assis Machado**, FGV DIREITO SP, Brazil; **Mayra Cotta**,



The New School for Social Research, USA; **Ph.D. Miguel Gualano Godoy**, UFPR, Brazil; **Monique Falcão Lima**, UERJ, Brazil; **Ph.D. Moisés Alves Soares**, UFPR, Brazil; **Nadine Borges**, UFF, Brazil; **Natacha Guala**, University of Coimbra, Portugal; **Ph.D. Orlando Aragon**, Mexico; **Ph.D. Orlando Villas Bôas Filho**, USP, Brazil; Mackenzie Presbyterian University, Brazil; **Ph.D. Pablo Malheiros Frota**, UFG, Brazil; **Paulo Eduardo Berni**, UniRitter, Brazil; **Ph.D. Paulo Eduardo Alves da Silva**, USP, Brazil; **Pedro Augusto Domingues Miranda Brandão**, UNB, Brazil; **Ph.D. Rafael Schincariol**, USP, Brazil; **Ph.D. Rafael Vieira**, PUC-Rio, Brazil; **Ph.D. Raquel Lima Scalcon**, UFRGS, Brazil; **Renan Bernardi Kalil**, USP, Brazil; **Ph.D. Renan Quinalha**, USP, Brazil; **Ph.D. Renata Ribeiro Rolim**, UFPB; **Ph.D. Renato Cesar Cardoso**, UFMG, Brazil; **Ph.D. Ricardo Prestes Pazello**, UFPR, Brazil; **Ph.D. Roberta Baggio**, UFRGS, Brazil; **Ph.D. Roberto Bueno Pinto**, UFU, Minas Gerais; **Ph.D. Roberto Efreim Filho**, UFPB, Brazil; **Rodrigo Faria Gonçalves Iacovini**, USP, Brazil; **Ph.D. Rodrigo Ghiringhelli de Azevedo**, PUCRS, Brazil; **Ph.D. Rodolfo Liberato de Noronha**, UNIRIO, Brazil; **Ph.D. Roger Raupp Rios**, Uniritter, Brazil; **Ph.D. Samuel Barbosa**, USP, Brazil; **Ph.D. Saulo Matos**, UFPA, Brazil; **Ph.D. Shirley Silveira Andrade**, UFES, Brazil; **Simone Andrea Schwinn**, UNISC, Brazil; **Talita Tatiana Dias Rampin**, UNB, Brazil; **Tatyane Guimarães Oliveira**, UFPB, Brazil; **Thiago Arruda**, UFRSA, Brazil; **Ph.D. Thiago Reis e Souza**, FGV DIREITO SP, Brazil; **Ph.D. Tiago de Garcia Nunes**, UFPel, Brazil; **Ph.D. Verônica Gonçalves**, UNB, Brazil; **Ph.D. Vinícius Gomes Casalino**, PUC-Campinas, Brazil; **Ph.D. Vinicius Gomes de Vasconcellos**, USP/PUCRS, Brazil; **Ph.D. Vitor Bartoletti Sartori**, UFMG, Brazil; **Ph.D. Wagner Felouniuk**, UFRGS, Brazil.

