



Qualis A1 - Direito CAPES

Presentation

December 2019

We present December's edition of *Revista Direito e Praxis* (Vol. 10, n. 4, 2019, Dec-Feb), the last edition of the anniversary volume of 10 years of the journal. In this issue we bring, as always, twelve unpublished papers of both Brazilian and foreign authors, approaching the subjects of theory of law, human rights, history of law and critical approaches of criminology. The journal also contains a special dossier organized by the editors of the journal, which will be presented next, and two reviews in the fields of law and Marxism, as well as of violence, racism and history.

In this special edition, we would like to thank our collaborators, particularly the journal's staff in these 10 years of history. Until 2019, the *Revista Direito e Praxis* published approximately 600 articles and around 100 translations and reviews. The number of submissions as a whole surpasses 3000 manuscripts. These numbers state: without the technological structure and a committed staff, it would have been impossible to accomplish the high standards as we have been providing for our readers, authors and evaluators. In the sense, we the editors, own a special acknowledgement to the work of the Executive Editor, Bruna Mariz Bataglia Ferreira, who plays a key role in the coordination of the layout and the articles's standards, does the curatorship of the journal's data, besides in providing training for the journal's interns. In addition, we also count on, in this commemorative year, with the collaboration of invited editors, which organized the three dossiers of the editions of March, June and September: thank you Juliana Cesário Alvin, Assis de Oliveira, Silvia Maeso e Cesar Baldi for the excellent papers submitted to our journal. Finally, we also thank each invited editor of the



Rev. Direito Práx., Rio de Janeiro, Vol. 10, N. 04, 2019, p. 2303-2313.

José Ricardo Cunha e Carolina Alves Vestena

DOI: 10.1590/2179-8966/2019/45698 | ISSN: 2179-8966

previous dossiers of the journal, as well as the other members who have passed through the journal's team during these 10 years of publication.

As always, the journal counts with innovative articles, which were evaluated through the double blind review procedure. We also emphatically thank the work of our evaluators, both of those who directly worked in this edition and of those who contributed with us in the analysis of the submitted manuscripts along these 10 years of history. Without this sort of collaboration, it would not have been possible to keep the standards of the articles published by the journal.

We address another important acknowledgement to the PhD Students and to the Coordination of the Law Post-Graduation Program of UERJ, which cooperate with us in the translation of articles from other languages to Portuguese and in the development of versions in English and Spanish of our journal's contributions and editorials. In addition, we could not forget the contribution of Professor Guilherme Leite Gonçalves, who, in 2009, contributed with the suggestion of the name of our publication. Having the philosophy of praxis as inspiration, we baptized the journal with the name *Direito e Práxis*.

Finally, we would also like to thank the staff of the Portal de Publicações and of Editora UERJ for all the given support to our staff and to our users. We also thank the Editora Cubo for the joint effort in the conversion of the files in XML, and also to the SciELO staff, which has always been a supporter of our journal's academic standards, a key role for the dissemination of our work.

We remind that the editorial policies for the different sections of the Journal can be accessed in our website and that the submissions are permanent and always welcome! We are eager for the next 10 years of work and dissemination of the critical thought in the fields of law and its correlated sciences!

We wish you a good reading!

José Ricardo Cunha

Carolina Alves Vestena

The editors of Revista **Direito e Práxis**



Dossier Direito e Práxis: “10 year of Critique of Law”

José Ricardo Cunha

Universidade do Estado do Rio de Janeiro, Rio de Janeiro, Rio de Janeiro, Brasil. E-mail: jr-cunha@uol.com.br. <https://orcid.org/0000-0002-8737-7892>.

Carolina Alves Vestena

Universidade de Kassel, Kassel, Hessen, Alemanha. E-mail: carolina.vestena@uni-kassel.de. ORCID: <https://orcid.org/0000-0002-2133-8145>.

In the closing dossier of the 10 years volume of *Direito e Práxis*, we propose to undertake an evaluation of the editorial approach of the journal and of perspectives and theoretical debates, that have been following the publication's trajectory since its foundation. In this sense, the “Critique of Law” was the chosen theme, which we identified as the best representation of journal's mission. Critique of the law undoubtedly holds a wide range of meanings. In the call for papers, we mentioned specific approaches, which conceptualized the law both as a social phenomenon to be analyzed and scrutinized due to its limits and effects in society and as a philosophical or as a heuristic category to be unveiled in its structural features through the exercise of the reflection the socially engaged academic critique. In this sense, our call for papers was aimed at the more recently presented and debated approaches, such as the materialist and Marxist theories, the discursive perspectives, the decolonial debates and the theory of justice. It sought to reach the views of the critique of law which are found in *Direito e Práxis* and which are seen as meaningful within the field of the critical legal studies.

The critique of law is also important due to social and political reasons. In the last years, we observed, in different social and geographic contexts, the strengthening of authoritarian forces and of excluding and extremist ideologies. Such political projects challenge and cast doubts on the very existence of rights aimed at the protection of disfavored and subaltern social groups and delegitimize the very democratic tissue of a constitutional state, whose institutions should be spaces of guarantee of the political



achievements of historical political movements of social struggle. Unfortunately, it is possible to notice the strengthening of authoritarian political processes conducted through the law, the violation of the minimal guarantees of the due process and the hardening of the legitimized state's violence in opposition to the very legal guarantees established in the normative pacts. The critical observation of these processes is fundamental, and its academic critique is ought to operate as alternatives of thought and forms of resistance.

In this sense, the chosen articles for the dossier "10 year of critique of law" mirror the commitment with a socially engaged thought rendered by an academic critique, which is under no circumstance academicism. The social commitment of a journal, whose editorial aim also mirrors its title - the philosophy of the praxis -, is most certainly a space of critique and of thought of alternatives, either aimed at framing new paths for social change or new ways of interpreting the reality stained by inequalities. With such a purpose, the dossier was divided into five lines of dialogue with the academic production of the journal along these ten years of history and its manifold critical perspectives of law.

The first two papers approach the editorial project of the journal and the empirical analysis of its academic production. Opening the issue, we present the paper "Law and Praxis journal in perspective: 10 years of an editorial project for a critique of law". In this article the editors offer an assessment of the editorial challenges during the 10 years of the journal. Further on, we present the paper "Empirical research and imprisonment at *Direito e Práxis*: notes on method, critique and legal reform", written by Maíra Rocha Machado from Fundação Getulio Vargas de São Paulo. In the paper, the author analyses a group of articles published in the journal in order to evaluate the concept of critique, concerning particularly the research on prison and penal law matters.

A second group of works recovers a theme, which is of a great importance for the journal, the decolonial critique in the debates on the Latin American constitutionalism and in the research practices in the Global South. We present a paper from Antonio Carlos Wolkmer (UNESC/Unilassale), "Legal Pluralism: an epistemic and methodological referential in the insurgency of the critical legal theories", where the author proposes an evaluation of the legal pluralism and the critical theories of law. The



following paper, written by Andriw de Souza Loch, Lucas Machado Fagundes, UNESC, shares the same subject and holds the title of “Criticism of modern dimensions: the historicity of human rights since the our nuestroamericano decolonial turn”. It presents an extensive and deepened reconstruction of the debate on the decolonial turn grounded in a critique to the eurocentrism in the legal studies.

The third topic of the dossier approaches the papers written under the influence of the “Law founded in the Street” (Direito Achado na Rua) and of “Insurgent Law”. We present the paper written by José Geraldo de Sousa Junior, from Universidade de Brasília, “The Law Founded in the Street: social conditions and theoretical foundations”, which recovers the criteria and the foundations of this approach of critique of law, which still plays a key role in the tradition of the Brazilian critical sociology of law. The next paper, “The differences between legal marxism in Roberto Lyra Filho and Márcio Bilharinho Naves”, written by Nathalia Karollin Cunha Peixoto de Souza and Paulo Sérgio Weyl Albuquerque Costa, from Universidade Federal do Pará, presents a dialogue between the theories of the insurgent law and one of the most debated Marxist legal theories in Brazil.

From this dialogue, we arrive at the fourth line of critique of the law, which is represented by the studies undertaken in the fields of Law and Marxism. Here we present two papers, one written by Guilherme Leite Gonçalves (UERJ), “Legal Form and Legal Violence of the Capitalist Accumulation: On the Exchange and Expropriation Relations” and the other written by Vinícius Casalino, from PUC-Campinas, “Capital as subject and the subject of law”. In both papers, in spite of the their different theoretical viewpoints, the authors propose to deeply analyze Marxist texts, particularly *The Capital*, in order to refute common interpretations in Eugen Pachkanis’ reception and to recover central categories of Marx. This effort directs a sharp critic of law concerning the legal violence originated in the Capitalist accumulation, as well as the category of the legal subject.

At last, the fifth line of the critiques of law focuses on the approaches which dialogue with Materialist perspectives, are their affiliates or even with those which propose the development of other critical perspectives in innovative fields of research. In this group of contributions, the first one was written by Júlia Ávila Franzoni (UFRJ), entitled “Tropicalist legal geography: the critique of legal-spatial materialism”. The



paper presents an innovative view based upon concepts of Critical Geography and of Materialism in order to rethink both the concept of space and the one of the legal form. Following, the paper “For what does it serve to be a person on Law? Dialogues on the critical Field”, written by José Rodrigo Rodriguez and Simone Schuck da Silva, from Unisinos, delivers an argument over the idea of the legal personality based upon key authors in the critical debate of social sciences and of law, such as Franz Neumann, Michael Foucault e Judith Butler. In “Race as a central element of Brazil's death policy: visiting the teachings of Roberto Esposito and Achille Mbembe”, Danielle Ferreira Medeiro da Silva de Araújo and Walkyria Chagas da Silva Santos from UFSBA also propose a critical debate on the Eurocentric coloniality and offer ways to reflect about this matter in the field of law. Still within the scope of new perspectives for the critical legal thinking, Paulo Junior Trindade dos Santos, Cristhian Magnus de Marco and Gabriela Samrsla Möller (UNOESC), present the paper “Disruptive Technology and Disruptive Law: Understanding the Law in a New Technologies scenario”, in which they develop a debate on the new technologies and their effects in the legal thought.

Finally the dossier ends up with an article written by Sonja Buckel, from the University of Kassel, exclusively translated for the journal, “Between Protection and masks: Critique(s) of law”, in which the author proposes a reconstruction of the Materialist theories of law in dialogue with Feminist and Queer approaches and also with the theory of hegemony of Antonio Gramsci in order to scrutinize the relation of social movements with the legal form.

We hope to stimulate and open a continued debate with these multiple perspectives of the critique of law, which is for sure not limited by the themes selected by this dossier. We aim at helping to frame alternatives for a more fair and equal law and society. As it was already said above, we are eager for the next 10 years doing the exercise of the critique of law without losing the solidarity.

Rio de Janeiro and Kassel, December 1st 2019. The editors.



Issue's file

Editors:

Dr. José Ricardo Cunha, UERJ, Brasil

Dra. Carolina Alves Vestena, Universität Kassel, Alemanha

Executive Editor

Bruna Mariz Bataglia Ferreira, PUC-Rio, Brasil

Executive comission

Karoline Martins, UERJ, Brasil

Caroline Targino, UERJ, Brasil

Editorial board

Dra. Ágnes Heller (in memoriam), 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

Evaluators

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 Carolina Chasin**, UNIFESP, Brasil; **Dra. Ana Lia Vanderlei Almeida**, UFPB, GPLutas - Grupo de Pesquisa Marxismo, Direito e Lutas Sociais; **Dra. Ana Paula Antunes Martins**, UnB, Brasil; **Antonio Dias Oliveira Neto**, Universidade de Coimbra, Portugal; **Assis da Costa Oliveira**, UFPA Brasil; **Dra. Bianca Tavorali**, USP, Brasil; **Bruno Cava**, UERJ, Brasil; **Bruno Alberto Paracampo Mileo**, Universidade Federal do Oeste do Pará, Brasil; **Bryan Devos**, FURG, Brasil; **Dra. Camila Baraldi**, USP, Brasil; **Dra. Camila Cardoso de Mello Prando**, UnB, Brasil; **Dra. Camilla Magalhães**, UnB, Brasil; **Dra. Carolina Costa Ferreira**, IDP, Brasil; **Dra. Carla Benitez Martins**, UFG, Brasil; **Dra. Carolina Medeiros Bahia**, UFSC, Brasil; **Dra. Cecilia Lois (in memoriam)**, UFRJ, Brasil; **Dr. Cesar Baldi**, UnB, Brasil; **Dr. Cesar Cerbena**, UFPR, Brasil; **Dra. Clarissa Franzoi Dri**, UFSC, Brasil; **Dra. Claudia Roesler**, UNB, Brasil; **Dr. Conrado Hubner Mendes**, USP, São Paulo, Brasil; **Dailor Sartori Junior**, Unisinos, 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; **Eduardo Raphael Venturi**, UFPR, Brasil; **Eliseu Raphael Venturi**, UFPR, Brasil; **Eloísa Dias Gonçalves**, Panthéon-Sorbonne, França; **Emília Merlini Giuliani**, PUCRS, Brasil; **Dr. Ezequiel Abásolo**, Universidad Católica Argentina, Argentina; **Dr. Emiliano Maldonado**, UFSC, Brasil; **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 Frizzo Bragato**, Unisinos, 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; **Dra. Fiammetta Bonfigli**, Universidade Lasalle, Brasil; **Dr. Flávia Carlet**, Universidade de Coimbra, Portugal; **Dr. Gabriel Gualano de Godoy**, UERJ, Brasil; **Dra. Giovanna Milano**, UNIFESP, Brasil; **Dr. Giovanne 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 Minas Gerais, 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; **Jailton Macena**, UFPB, Brasil; **Dra. Jane Felipe Beltrão**, UFPA, Brasil; **Joanna Noronha**, Universidade de Harvard, USA; **Dr. 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 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; **Dra. Marília**



Denardin Budó, UFSM, Brasil; **Dr. Marxo Alexandre de Souza Serra**, Puc-PR, 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. Philippe Oliveira de Almeida**, UFRJ, Brasil; **Dr. Rafael Lamera Giesta Cabral**, UFRSA, Brasil; **Dr. Rafael Schincariol**, USP, Brasil; **Dr. Rafael Vieira**, PUC-Rio, Brasil; **Dra. Raffaella Porciuncula Pallamolla**, Universidade Lassalle, Brasil; **Dr. Ramaís de Castro Silveira**, UnB, 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; **Dr. 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; **Simone Andrea Schwinn**, UNISC, Brasil; **Talita Tatiana Dias Rampin**, UNB, Brasil; **Tatyane Guimarães Oliveira**, UFPB, Brasil; **Thiago Arruda**, UFRSA, Brasil; **Dr. Thiago Reis e Souza**, Escola de Direito Fundação Getúlio Vargas - São Paulo, Brasil; **Dr. Tiago de Garcia Nunes**, UFPel, Brasil; **Dra. Valéria Pinheiro**, UFPB, Brasil; **Dra. Verônica Gonçalves**, UNB, Brasil; **Dr. Vinícius Gomes Casalino**, PUC-Campinas, Brasil; **Dr. Vinicius Gomes de Vasconcellos**, USP/PUCRS, Brasil; **Dr. Vitor Bartoletti Sartori**, UFMG, Brasil; **Dr. Wagner Felouniuk**, UFRGS, Brasil.

