



Legal culture, intellectual circulation, and appropriation of ideas in Brazil:

The case of Law School's academic journals

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Abstract

This article will analyze legal journalism through a case study of the academic legal periodicals in the Brazilian First Republic (1889-1930). This was a period marked by some crucial discussions about Brazilian social formation (e.g. social control in a recent post-slavery society, the development of a working-class and unprecedented urban growth, the creation of a Civil Code and a Family Law after the official separation between Church and State, reconstruction of the judicial apparatus under republican shape, among others...) in which the jurists and other legal professionals will be called to position themselves. At the same time, they will have to deal with a reorganization of the legal field itself. It was an intellectually turbulent period; therefore, it offers significant material to analyze the process of circulation and appropriation of ideas as well as the social function of knowledge in producing new discourses. Thus, with a selected sample of Law School's journals, some theoretic-methodological considerations about the work with periodicals, be it as a historical source or as an object, will be drawn. On the theoretical side, the article reflects on the action of journalism in the transnational exchange of socio-legal knowledge, appropriating, reinterpreting, and disseminating ideas and concepts that circulated in the hegemonic intellectual field. Regarding methods, this article examines how to deal with this type of em-

pirical analytical material, and its advantages and differences for sociology or the history of law. Both elements will be grouped around three fronts of observation: the role of enforcing a collective production of knowledge, the processes of intellectual appropriation, and the factor of ideological convergence. Broadly, the article aims to highlight the importance of these sources in empirical research on socio-legal themes, but also of the usefulness of thinking of them as an interesting object for researching national legal cultures.

Keywords: Legal Culture; Legal Journalism; Law Schools in Brazil.

1. Introduction

Journalism has always been an important part of modern intellectual life. Since the late eighteenth century, it's not uncommon to see intellectual movements or minor groups gathered around journals or reviews. For instance, we can ask ourselves, as once Beatriz Sarlo (1992, p. 9) did, how many hundreds of times has an intellectual, facing a peer, proposed: "let's publish a journal!?" Journals and reviews can be seen as knowledge build/exchange spaces, which makes them an interesting analytical material (be it as a primary source or as an object itself). Unlike books (that have more lasting pretensions, aiming for the long and medium durations), periodicals operate within a

certain conjuncture, they act and dialogue over (sometimes brief) socio-historical contexts. Because they're often looking to the public dimension and the concrete dialogue with their contemporaneous themes, the history of a periodical is a valuable observatory for rebuilding the cultural and intellectual debates of a determined period (Grossi, 1983).

This remark is particularly valid when applied to specialized journalism. In fact, Paolo Grossi (1983) observed this in his pioneer study about Italian legal journalism. Due to this inalienable temporal dimension of a periodical publication, while researching the academic intellectual networks in the Brazilian First Republic (1889-1930)¹ the Law School's academic journals appear as an outstanding primary source and analytical material. This paper's theoretic and methodological observations, therefore, were drawn over the analysis of the five most prominent legal academic journals of that period: *Revista Acadêmica da Faculdade de Direito de Recife* (RAFDR), 1891-1930; *Revista da Faculdade de Direito de São Paulo* (RFDSP), 1893-1930; *Revista da Faculdade Livre de Direito do Rio de Janeiro* (RFLDRJ), 1899-1918; *Revista da Faculdade Livre de Direito da Bahia* (RFLDBA), 1892-1932; *Revista da Faculdade Livre de Direito de Minas Gerais* (RLFDMG), 1894-1928².

The Law Schools, as legal training centers, left marks in the build-up of Brazilian legal culture. The first ones were created in 1827, headquartered in the cities Recife and São Paulo. Each of them echoed a particular perspective on the law. São Paulo with its more pragmatic, technicist, classic liberal perception and oriented towards forming personnel for political and bureaucratic careers. Recife, with an "Enlightening" view of the law, open to interdisciplinary dialogues and theoretical innovative approaches, more worried with doctrine and theoretical discussion than to a pragmatic execution of the law. They remained the only law schools in the country until the beginning of the republican era, which legally allowed the creation of other centers of legal education³ (for example, the "Free" Law Schools of Minas Gerais, Bahia, Rio de Janeiro, among others). This was followed, consequentially, by a great circulation of intellectuals and ideas within the Brazilian legal field.

Since the First Republic was a period of vital discussions about Brazilian social formation (e.g., social control in a post-slavery and developing free working-class country; creation of a Civil Code and Family Law over the official juridical separation between the Catholic Church and national State; the rebuilding of the judicial apparatus under a republican shape, etc.), jurists and lawyers, treated as the core of the country's *intelligentsia*⁴, were called to position themselves. At the same time, they were dealing with the reorganization of the legal field itself, due to the emergence of the new colleges. Their political positions, ideas, and internal debates found in their academic journals a welcoming space to be expressed and published, which, by their turn, became important places for intellectual sociability and circulation (and confrontation) of ideas.

This "call" for thinking the projects of the new (imagined) modern nation, thus, came with an urge to publicizing the ideas, by a voluntarist impulse to the "great public", or what as understood as one's targeted audience (therefore, the need to publish a journal, to divulge and debate ideas, to intervene in the historical conjuncture). No wonder that every single one of the Laws Schools at the time had its journal. Publishing journal is, thus, somehow, to make cultural policy, to tear the conjuncture with an aesthetic or ideological discourse (Sarilo, 1992). A periodical's time is the (their) present precisely because the goal of their action is the audience (even if it's the audience of an enclosed field of knowledge). The very form of such specialized periodicals is a practice of production and circulation of knowledge, with its own syntax (whose authenticity is inseparable from its publishing environment). A syntax that carries the marks of a historical past that were, then, the imagined present.

Considering this imagined present (and imagined projects for the future) is crucial when dealing with a periodical that represents intellectual movements, such as the ones treated here. The articles of a journal can beget other connotations when considered individually, as external to its journals. If so, they are grasped, in a way, out of their time. This means that if, on the one hand,

a history of literature can be thought of as a history of the forms of reading, [on the other hand] the journals are there showing, in obvious occasions, how the texts were read, what were the ideological and aesthetic limits that made them visible or invisible, which were the contextual foundations (and, why not, historic) of their judgment, those which have been mistaken in their predictions and those which, from their present time, have been able to anticipate the future. (Ibid., p. 11)

In this perspective, when used as historical sources, the journals preserve the evidence of how the future was thought and planned from the, now past, present. The periodicals are built in a way that is, simultaneously, synchronic, contextual, and with hypotheses about the future. So, in an expanded sense, the specialized journalism and the segmented periodicals can also be observed as an object, particularly for those interested in making historical sociology of some field of knowledge. Since they first appeared, in the areas of legal sciences and medicine, segmented periodicals have been following a purpose of spreading and reproducing ideas, but also have been part of projects of affirmation and legitimization of certain fields of knowledge within its strategies of differentiation (Bourdieu, 2004; Luhmann, 2014).

As a type of specialized periodicals, legal journalism is an ideal space to observe both the predominant legal culture of a certain historical context and the future's projects in the field of law of such period. The aforementioned book about Italian legal journalism organized by Paolo Grossi (1983) is an example of how such themes and sources became research topics from the 1980s on. Since then, several other works that took legal journalism as either source or object appeared. Amongst them, the notorious edited book about the French legal culture organized and published by André-Jean Arnaud (1988), Victor Tau Anzoátegui's (1994) seminar about the Argentinian case, and, about the Portuguese one, Luís Bigotte Chorão's (2002) research. In Brazil, a similar timeline of publications occurred with the works of Sérgio Adorno (1988), Lília Mortiz Schwarcz (1993), and Gizlene Neder (2012 [1995]). They all have in common the interest in observing legal journalism as a mirror for the intellectual debates of defined historical contexts.

Brazilian legal journalism began in a context of intense debate between different conceptions about the law, that is, between different legal platforms seeking hegemony⁵. The legal ideas of the period, pushed forward by an intellectual elite that was a spokesperson of themselves, echoed a limited set of beliefs about the field substantiated in the enlightenment legal paradigm, like the neutrality of the law, the judge, and the dogmatism of the norm. This arrangement, already under heavy fire in the first half of the XIX century, will be the background of the legal debates in the late XIX-early XX centuries. These debates found a welcoming place, in the mentioned academic journals, not only because they were somehow directed to the public (the intervention in the historical conjuncture), but because they reflected the development of a Brazilian legal field in itself, with its urges of modernization. Furthermore, creating a journal is sometimes an act of a determined group (this is the case here) and represents the tangible dimension of a particular sociability network seeking to expand its influence over others.

Based on these preliminary remarks, and inspired by the work of Arnaud (1988), some guiding questions can be put: which "legal culture" are represented by the authors that published in these journals? What does it tell us about its editors, directors, and authors? Are the journals a mere informational instrument of unbiased registers of the diverse internal trends of legal knowledge? Or, instead, do they follow a specific cultural program? The editorial policy and goals coincide with their results? Do the subjects involved organize themselves around established common hypotheses? How is the journal "utilized" within the tradition of their correspondent Law Schools? In this regard, are there any discontinuities, short-circuits? What do they mean? Who are the "ideal readers" of those journals? Are the journals an instrument purely internal to the legal field, to the world of jurists and lawyers, or are they directed also to other areas of humanities and social sciences?

With these guiding questions in mind, this study case of Brazilian legal journalism on the First Republic draws some considerations of theoretic (reflecting about the action of these journals in the politics of

knowledge) and methodologic character (e.g. how to analytically deal with this kind of empirical material) regarding the intellectual production and the role of legal journalism in the formation of the legal field. This is done on two fronts: 1) the production and collective building of knowledge with the attached processes of circulation and appropriation of ideas; 2) the constitution of a certain ideological convergence movement. While the first explores the dissemination of ideas and concepts that were around in the intellectual world, building an open environment for scientific exploration and theoretical and practical innovations, the latter thinks over the importance of sociability networks in directing a journal – the hypothesis here is that the data reveals a proneness to establishing a uniformization of knowledge as well as allows to analyze the disputes over intellectual hegemony within a single field.

2. Building and circulating legal knowledge

Journals and reviews are knowledge-build institutions. They're the tangible evidence of the existence of such things as "schools" of thought or "movements" (Kaluszynski, 2006, p. 304). Its texts are important historical documents, empirical material, to analyze and understand the development (internal and external) of an intellectual movement: its disputes, formation, and establishment of an emergent body of knowledge. In other words, they are communicative spaces where one can observe the conceptual transfers (which are not limited by national borders), historical imports, appropriations, innovations, and translations regarding the concepts and ideas of a period (Marjanen, 2009, p. 240). In this sense, the mentioned academic legal journalism is a pivotal source to investigate the extension of what from the European debates were reproduced (or not) in the Brazilian legal culture while it built its own body of knowledge.

In the structure of knowledge circulation, one of the most important platforms of dissemination was the international congresses. The specialized journalism acted to spread and consolidate the critical ideas acquired/produced in these congresses in such a way

that it offers a more "local" view on this general phenomenon (Olmo, 2004, p. 265). It echoed the relative appropriations of trending ideas in the hegemonic centers by other national formations, thus reflecting their (critical or not) reception and translations to local issues. Due to that, the notion of appropriation and circulation of ideas is key to this work. The concept of appropriation helps to evaluate the differences of the cultural sharing in the creative invention that is at the core of the process of reception of ideas (Chartier, 1989). With it, one can historicize the process of intellectual circulation. After all, it's an act of historical and sociological investigation to realize that certain ideas have differential uses, considering the historical, social, spatial, and emotional criteria. That means that the jurists and lawyers involved in the researched journals (as well as their intellectual projects) weren't historical subjects detached from the relations of force that connected them to society. They were, obviously, part of a determined class, political field, and sociability network.

Within this scope, Sarlo (1992) points out that journals have two observable cultural geographies: the concrete intellectual space in which they circulate (the academic field, for example, and their regional cut-outs) and the "space-*bricolage*" where they are ideally located. This, so to speak, geography of a periodical is "a *via regia* to its cultural imaginary" (Sarlo, 1992, p. 12). In this metaphorical geographic construction, the policy of translations, citations, the divulging of national and foreign authors gains particular importance. These data are indexes of how certain intellectual movement thinks its cultural and/or political intervention. With it, one can ask, for example, their program is to strengthen or change *canon*? Or is it a confrontational display against the very idea of *canon*, a proposal of reorganizing determined intellectual tradition?

The policy of bibliographic promotion and the glossary of quotations also indicates the relationship of a publication, in the Brazilian case, with its self-perception, or criticism, as a peripheral cultural field. This is not far from the intellectual projects built around the Law Schools in the Brazilian First Republic (1889-1930). It was the context of the almost

self-explanatory expression “a bunch of new ideas” (Romero, 1888). “New ideas” was a metonym for the rejection of the old heuristic patterns in the name of “progress” and of “civilization”. So, if the new ideas were those related to “positivism, evolutionism, critique of religions, naturalism and scientism in law and politics” (Romero, 1900, pp. XXIII–XXIV), the “old” ones were those of spiritualist, catholic, and eclectic philosophy. The “new ideas” were represented by the reception of a new different array of reference authors: Ernst Haeckel, von Martius, Rudolf von Jhering, Hermann Post, Franz von Liszt (from Germany), Herbert Spencer, Charles Darwin, Henry Buckle (England), Émile Littré, Gustave le Bon, le Play, Gobineau, Charchot (France), Cesare Lombroso, Raffaele Garofalo, Enrico Ferri (Italy), amongst others.

It was also a period of opening to a somewhat interdisciplinary scope with the, then, new disciplines: sociology, anthropology, social psychology, and legal medicine. New ideas against old enemies: Catholicism, monarchy, romanticism. Specifically, in the legal field, this all came together to propose a “scientific” view of Law in shaped by the patterns of the natural sciences – with evolutionary biology, physical and deterministic anthropology while opened to interdisciplinarity to pursue the laws and general traits of national character. A socio-historical process that can be synthesized as the Brazilian initiation in the “criminological wave” (Pifferi, 2014)

The legal scholars immersed in this conjuncture hoped to build not only new theories but a new vision of the nation through the (imagined) unlimited explanatory power of science (Schwarcz, 1999). They started to challenge the immutable rigidity of the social order projected by the natural law of religious cleavage. This epistemological turn implied an openness to a more secular discourse about the law, sedimented in the rejection of the divine and, through biological and Darwinian readings, with a specific perception of the individuals’ role (along with all its methodological implications). These were understood as the intellectual beacons for the long-awaited Brazilian transition to cultural modernity and are explicit in the legal academic journal analyzed here.

The RAFDR, during the 31 volumes edited in the

researched period, published 586 articles. Around 60 of them were directly dedicated to the spreading themes and issues of the “new” sciences of the time: criminal anthropology, sociology, criminology, psychiatry, social psychology, legal medicine. It is the largest thematic group of the journal. Trending authors (especially Lombroso, Spencer, Garofalo, and von Liszt) were directly quoted in articles of varied themes, which supports the suggestion that the journal was a modern media of diffusion of their ideas as well as a space for discussing the local appropriation of transnationally circulating social knowledge. This pattern repeats in the other mentioned journals. Of the 434 articles published in the RFDSP (spread through 27 volumes), 14% are explicitly directed toward these new disciplines. On the RFLDRJ, 12%. In the RFLDMG the same goes for 16% of the articles. Finally, in the RFLDBA, the rate percentage is 21%. These data are evidence of the journals’ imaginary geography.

Their intellectual space can be grasped by the frequency of the published authors and their regional and academic connections. A research strategy here is to draw a map of the most frequent authors’ sociability networks and observe the continuities and discontinuities in it. Here, “sociability network” should be understood as the organization of a determined intellectual field around common ideological and cultural sensibilities, crossed by social relations like friendship, regional and familiar links, and the position of class inside the socioeconomic structure of the Brazilian socio-historical formation (Sirinelli, 1996). It’s an important analytical tool. For example, of all the 79 authors that appear in the RFDSP, 38 are naturals from São Paulo and 58 were alumni of its Law School. If the area of influence is extended to all the Southeast there’s a rate of 62% of authors naturals from that region. This might seem obvious due to the Brazilian physical geography, but the data of the other journals from the Southeast shows different intellectual geography. While the RFLDMG follows the patterns, with 65% of its authors being originally from the State of *Minas Gerais* and 65% alumni of São Paulo’s Law School, the RFLDRJ goes in another direction. Of the 25 authors that published in it, 8 were from the

Southeast and 10 from the North and Northeast, with 20% of them being alumni of São Paulo and 32% alumni of the Recife's Law School.

Although this escapes the general scope of this paper, the data also provides interesting insights about the strategies for the intellectual formation of each regional elite and the area of influence of one over another. The RFLDBA, for example, reflects their scholars' regional connections. 67% of their authors were from the Northeast, 46% from the State of *Bahia*. It also shows a strong academic connection with the historic Medical School of Bahia (founded in 1808) and with Recife's Law School. 36% of the author were educated in the latter while 20% in the former.

These journals were, thus, suggestive about the national problems at the turning of the nineteenth to the twentieth century. They illustrate the movements of Brazilian intellectual vanguards (not only in the legal field, since the blossoming "cultural" magazines happened in the same conjuncture). The discursive fabric of these journals was a space *par excellence* of theoretic experiments and for affirming ideological positions. As once Jean-François Sirinelli (1996) said, in the nineteenth-century intellectual milieu the intellectual bonds were often tied around a periodical editorial room or its editorial board or publisher. The structures expressed in these spaces (the journal, the review, the editorial board, the publisher), the sociability networks, are constituted by a field through which antagonistic forces of adhesion and exclusion are conveyed. Adhesion in the relations of friendship, elective affinities, favor relations, class belongings, spaces of political influence, occasional radicalisms (Candido, 1978). Exclusion by the limits and objective difficulties of socio-political access, divisions, schisms, emotional ruptures, the divergence of ideas, political party roles.

Therefore, analytically, as an instrument of cultural and political intervention, these journals can be analyzed both through "central issues" chosen by their editorial boards and through the themes that, purposely or not, were excluded. This was cleverly noted in the open editorial lines of the first volume of the RAFDR. In it, the journal explicit its purpose of being

a space for the widening of ideas and "socio-legal" discussions. It was one of the first times that Brazilian legal academia treated the law as intimately linked to its social part. The law appears in the editorial as a field of social knowledge not only related to several other social sciences (interdisciplinary knowledge) but as dependent on them to reach "truthful ideas" (A Redação, 1891, p. 8). The "refreshment and consolidation of the ideas, by the effect of its variations and contrasts" (Idem), would be reached by exploring the movements of the collective production of knowledge. It's also interesting that this editorial from 1891 wraps up calling the youth, exposing the commitment of the editors in captivating and encouraging young scholars.

Beyond the editorial's expressed goals of circulating ideas, its authors defended the need for the (scientific) law to emerge from these "modern" groups of knowledge. The meaning of "modernity" (to be a "modernized" legal scholar) can be abducted as the affirmation of determined authorized authors and ideas. They dove

into paleontology and particularly into paleoethnology, documents were requested from experimental psychology, biology, linguistics, anthropology, ethnology, sociology, all sciences, in short, that deal with living beings and especially with man and the products of his intelligence. From this deep and laborious work of revision, the science of law emerged. (Ibid., p. 7)

In a few words, their project was to reshape the law as a scientific practice (attached to the evolutionist, deterministic, and naturalistic analytic modules), creating a legal discourse that expressed these thoughts.

Finally, we must have in mind that, as tools in cultural and political disputes, journals can also serve institutions of direct political action, such as political parties and other groups more or less structured. It is, therefore, important never to disconnect the reading of the periodicals from the political events of their time. As Foucault (1995) once said, there's no relation of power that hasn't developed a correlated field of knowledge. There is also no field of knowledge that does not simultaneously assume and constitute power relations. From a formal analytic point of view, one

can see this element of collective political action condensed in the sociability networks of its authors and, usually, represented by the editorial boards. These boards are responsible for the decisions about the articles' order and the formal structure of the journal. The summaries, for instance, are interesting testimonies, against which historians and sociologists must prevent themselves from anachronisms. In the case of academic journals, thematic prevalence is certainly meaningful, for it reveals the contextual preferences and the projection of "future" that was then made.

3. Appropriation of ideas and ideological convergence

Another feature that must be explored when dealing with periodicals is their role in ideological reproduction and convergence within the members of an academic community, sometimes even more important than being an instrument of spreading and circulating ideas. This is what can be called an "endogenous" posture of a periodical. That part of it that is turned to itself (in specialized journals this usually a sign of "success" instead of failure). In the field of Law, as Pierre Bourdieu remembers, the internal debates, the constant internal strife, are usually exposed, symbolically projected outwards, to the outside spectator of the legal field as a strong sign of cohesion (Bourdieu, 1998). In this sense, the legal journalism studied here should not be seen only as means for propagating a type of specialized knowledge, but also as a political tool of seduction and cooptation for the several legal views in dispute.

This is one of the reasons these journals can be taken either as sources or as an object. They were places where, in its respective temporalities, history was thought and made. More than selectively extracting texts of specific interest, one should adopt a comprehensive contextualized view of the journals' place in their time. In the legal academic journals, the political action of the intellectuals involved can only be grasped by collating the data about the ways of thinking the law, the debates about the directions of the political regime and its legal reformulations, the the-

oretical conflicts, with the life trajectories of the ones who gave those journals their directions. The editorial boards and commissions, again, are an important index to analyze how the vector of idea circulation correlates with the journal's role in pushing the ideological convergence of a field of knowledge. In this studied case the intellectual prominence of certain members of the editorial commissions over other authors is evident.

The members of the editorial boards of the analyzed volumes of the RAFDR, under the incontestable leadership of Clóvis Beviláqua (editor of 14 of the 31 volumes), published, together, 54% of the journal's articles. Beviláqua alone wrote almost a tenth of the overall articles. In São Paulo the rate of the board's authored articles rises to 73%. This tendency follows in the others: 41% in the RFLDRJ, 48% in the RLDMG, and 50% in the RFLDBA. Just as it happens with Beviláqua in Recife, the boards' most frequent members of the respective other journals also exercise certain intellectual direction. In São Paulo: Pedro Lessa (6% of the overall articles), João Mendes de Almeida Jr. (6,5%), João Braz de Oliveira Arruda (9,5%), and Braz de Souza Arruda (10,5%). In Minas Gerais and Bahia, respectively, Edimundo Pereira Lins (10%) and João Rodrigues Doria (11%). In the RFLDRJ, Lacerda de Almeida, Augusto Olympio Vieiras de Castor e Cândido de Oliveira wrote 31% of all the journal's production.

This production concentrated (sometimes more, sometimes less) in a few hands show how, in the dynamic of circulation and appropriation of ideas through a journal, the specific editorial lines, even if implicit, should be taken into account. As many nineteenth-century specialized journals, these were the materialization of the leadership of a determined group of intellectuals over the field (or an extract of it)⁶. This is relevant because it helps to, through the actions of a specific group, see the differentiations within the same legal field. In the analyzed Brazilian legal field, this happens even in the "official" journals of the Law Schools be it because they also represented the regional elites or because they were attached to more or less consolidated traditions within the national legal culture. The journals' data about the

regional circulation of academics and their formation shows that. In the RAFDR 94% of the editors were educated in the correlative Law School, while in the RFDSP were 89%. In the, then, new Law Schools it goes as follows: in the RFLDMG a great prevalence of scholars formed in São Paulo (76%); in the RFLDBA 76% formed in the Bahia's Free Law School or Recife's Law School; in the RFLDRJ, of the 13 scholars the acted as editors, 6 were from Recife's Law School, 4 from São Paulo's.

The Law is a field of knowledge and social practice, thus, it cannot be said that these journals fall exclusively into the classification of scientific journals (not even the academic journals). Its broad area of influence is also reflected in uses for practical purposes (a public use, a public action effect). Since the legal field is very affected by the rules of rhetoric, these journals were a source to jurisprudence and other official decisions, supporting judges, prosecutors, attorneys, and lawyers, eager to demonstrate erudition and include the most "modern" ideas in their defenses and decisions as a strategy of legitimacy. The authority effect of the known jurist speech should not be separated from the affirmative effect of the intellectual as an actor for cultural transformation.

The political, social, and cultural role of the legal "bachelors" and the "bacharelism" of the Brazilian legal culture in the passage of the nineteenth to the twentieth century has been a recurrent theme in Brazilian sociology (Adorno, 1988; Holanda, 2008; Venâncio Filho, 1982). The "bachelors" are usually seen as having a contradictory and non-linear role. On one side, they're part of the extract of political and social actors that operate defending the established order and the stabilization of the social relations through institutional cooperation and intellectual support to the State's apparatus. On the other, they're part of the defense line of fundamental human rights against the authority's excesses. Contradictions are proper of intellectual movements with a part in the social process. Also, they're an inherent part of every analysis of the social reality, the legal scholars do not escape this pattern.

The Brazilian *fin-de-siècle* was, as said before, a period of important legal debates, especially about the

positive law around major codes (Civil Code, 1916; Penal Code, 1890; the Constitution of 1890; reorganization of the laws regarding working issues, brought to the scene after de abolition of slavery in 1888). This circumstance, together with the expansion of the new sciences and fields of knowledge characteristic of the period, gave a special push to the creation of legal journals. Moreover, it has been observed that, as in other countries, the emergence of a Republican government produced a propitious environment for the development of the press (in general) and the specialized press specifically. "The reordering of conceptions implied by the changing of the regime lead to attempts for adapting the laws and institutions to the new political situation, as well as to questions about the ways of thinking the role of the law" (Silveira, 2014, p. 102). From the point of view of institutional and normative reordering, bachelors and jurists were called upon to act publicly as intellectuals.

Resorting to legal journalism as a source-object helps to think about the field of law and its intellectuals from the inside. The logic of circulation of ideas and the political disputes around the social roles assumed by the "bachelors" ensued mostly through three major groups of the legal career: magistrates, lawyers, and legal scholars. The legal discourse is (re)produced via these three groups whilst imposed as universally ethical and logical, legitimized by the very own rationalized work that constantly submits the normative system (Bordignon, 2017). According to Bourdieu (1998), that legal constructions only differentiate themselves from acts of political force insofar as they present themselves as a necessary result of a regulated interpretation. Legal culture, then, is presented somewhat as an art and a moral that are technically grounded and characterized by the accumulation of both the generalist classical culture and the culture of the specialist.

But, unlike Bourdieu's analysis, the opposition between the theoretical elaboration of the legal doctrines (space of the scholars, generally attached to the generalist classical culture) and the interpretation directed to the practical cases (space of the magistrates and lawyers, part of the culture of the specialist) doesn't

quite exist, independently defined, in the Brazilian legal field of the studied period. That is why is impossible to properly analyze the case without being attentive to the intellectual role of the “bachelors” in general. Regarding the journals, that means to recognize as part of the body of ideas and the political field they represent not only the high-profile well-known authors but also those of minor expression.

On the other hand, the composition of the mentioned editorial boards is made majorly of scholar and jurist highly recognized. So, to analyze the sociability networks expressed in these journals a quick commentary must be made regarding the social and institutional conditions of access for the professor career in the First Republic's Brazil. The social place designed for the “bachelors” in the hierarchy and the opportunities of career indicates the position that legal education has in the strategies of social reproduction as well as the distance between specific social universes and the educational system. The legitimization given by the bachelor's degree in law imposes a logic of opportunities where the higher the positions and careers desired (within the hierarchy of the social and political relations of the legal field), the more dependent on the social capital and sociability networks they are. The professional and intellectual success depends on the multiple investments the “bachelors” make in these spaces, which, in the face of the legal tradition of the moment, requires the capacity to explore sociability networks and familiar cultural heritage, as well as adequating oneself to the established array of valued knowledge.

The labor division in the Law Schools reflected the methodological prevalence of the natural sciences as the main expression of the very idea of science (a phenomenon not restricted to the legal field). With the creation of career opportunities produced by the educational reform of 1891 and the creation of the Free Law Schools, adhering to this scientific ideology became part of the strategies of reaching career goals. In this sense, the journals were very important to produce this movement of ideological convergence. They established a pattern of accepted authorized frames for interpreting legal issues. When writing about the educational reform, Clóvis Beviláqua said that it “op-

erated great transformations in the country's educational system by printing a more consentaneous character with the ideas of the period” (Beviláqua, 2012, p. 306). The reform is greeted in the editorial of the first volume of the RAFDR for pushing forward, with the requirement that every Law School has a journal, the “scientific production, still weak in our country” through the “establishment of bonds of intellectual solidarity between the several productive nuclei of the nation and abroad, that are dedicated to the cultivation of a certain group of sciences” (RAFDR, 1891, p. 5).

Nonetheless, it is worth saying that, in this context, there were relative conditions of success since they were crossed by political and ideological disputes associated with partisanship, regionalisms, theoretical struggle relative to the conception of society and politics, and with the religious field inscribed under its ideological form (Neder, 2020). So, even in such a limited place as the Brazilian academia of the first years of the republican era, one could find space for significant differences, “deviant” trajectories, and marginal positions. While the social origins of legal scholars were to some extent homogenous, a deep analysis of legal thinking and its disputes in that context reveals several contradictions. As Edward P. Thompson (1987, p. 354) pointed out, legal studies should have in mind that the area of Law and the body of laws are institutions rooted in social relations with multiple exits. There will always be men and women that actively believe in Law's procedures and logic, independently of their positions on the political spectrum, as well as there will always be intellectuals that cherish a critical and autonomous posture. As social actors, lawyers, jurists, scholars sometimes oscillate between the positions of enforcers of the order and critics of the power. They put a variety of values up for debate: on the one hand, stability, order, authority, tradition, on the other, the ideas of justice, truth, legality, and curbing the exercise of discretion. A historic-sociological analysis can explore those tensions and contradictions.

4. Conclusion

The history of legal journalism is a path to retrace the intellectual history and a sociological reconstitution of sociability networks of that period's academia. The political and intellectual sociability condensed in these journals were conditioned by the historical conjuncture in which they were inserted. In this Brazilian case, in the early years of the republican regime, still in 1890, two legal texts crucial to the consolidation of the republican political project were promulgated: The Civil Marriage Law (decree 181 of January 24th) and the republican Penal Code (decree 847 of October 11th)⁷. With the pluralization of legal education (represented by Benjamin Constant's reform), an opening for intellectual enterprises ensued, together with the drive for less centralized academic legal journalism. These journals, as instruments of institutional cultural dissemination (attached to the School's corps of scholars), generated an inflection in the journalism towards more theoretical concerns. They externalized the preoccupations regarding the role legal knowledge would have in the formation of the new republican State. The legal knowledge acted as a guarantor of the Brazilian society to the process of republican "modernization" of norms.

At the same time, it's the Republic that allows the widening and circulation of new ideas in the legal field. As an extension of the greatest values of the Republic, the Law would become whole, grounded on the positive norm, giving to the society institutions and legal patrimony precisely through the republican institutionality. This is established, for example, in the relationship between the advent of the Republic and the creation of "modernized" codifications. The aggregate of educational reforms of higher education made in this period of passage to modernity does not change the verticality of the access for career jobs in the legal field. However, a plurality of opinions inside one same institution and between different ones exists and is reflected (therefore, can be observed through) in the legal academic journals.

These reflections can serve as subsidies to think the debates that occurred inside the Brazilian legal field, between different conceptions, expressed in the

academic journals, without separating the work of jurists, lawyers, and legal scholars from a broader intellectual role in that context. Every oriented political action is an intellectual mediation. Brazilian jurists and "bachelors" always were, at least, involved in the production and enlargement of the *ouillage mental* of their own field, but that, many times, slid to other fields like history, social theory, political theory, and philosophy. Finally, seeing legal journalism through the prism of the theoretic-methodological remarks made in this article is a path to think and analyze the legal culture without the analytical exclusivism (still very present in Brazilian social theory) that only focuses on the "great jurists" and in the elaboration of legal monuments like codes (Lacombe, 2004). Legal culture is not exclusively expressed in the canons of the history of Law, in the specialized literature that institutes the works of these "great jurists" in the fundamental order of legal doctrine. A critical comprehension of the Brazilian legal field requires accessing a critical view of these new analytical sources.

5. References

- A Redação. (1891). Palavras iniciais. *Revista Acadêmica Da Faculdade de Direito Do Recife*, 1, 5–8.
- Adorno, S. (1988). *Os Aprendizizes do Poder: O bacharelismo liberal na política brasileira*. Paz e Terra.
- André-Jean Arnaud. (1988). *La culture des revues juridiques française* (A.-J. Arnaud (Ed.)). Giuffré.
- Anzoátegui, V. T. (Ed.). (1994). *La Revista Jurídica en la Cultura Contemporánea*. Ediciones Ciudad Argentina.
- Beviláqua, C. (2012). *História da Faculdade de Direito do Recife* (3rd ed.). Ed. Universitária da UFPE.
- Bordignon, R. da R. (2017). As faculdades de direito e o recrutamento de professores de ensino superior na Primeira República. *Sociedade e Estado*, 32(3), 749–770. <https://doi.org/10.1590/s0102-69922017.3203009>
- Bourdieu, P. (1998). A força do direito. In *O poder simbólico*. Bertrand Brasil.
- Bourdieu, P. (2004). *Os usos sociais da ciência: por uma sociologia clínica do campo científico*. Unesp.
- Candido, A. (1978). Radicais de ocasião. *Discurso*,

- 9, 193–201.
- Chartier, R. (1989). Texts, prints, readings. In L. Hunt (Ed.), *The New Cultural History*. University of California Press.
- Chorão, L. B. (2002). *O Periodismo Jurídico Português do Século XIX*. Imprensa Nacional-Casa da Moeda.
- Foucault, M. (1995). *Discipline and punish: the birth of prison* (2nd ed.). Vintage Books.
- Grossi, P. (1983). *La Cultura delle riviste giuridiche italiane* (P. Grossi (Ed.)). Giuffrè.
- Holanda, S. B. de. (2008). *Raízes do Brasil* (26th ed.). Companhia das Letras.
- Kaluszynski, M. (2006). The International Congresses of Criminal Anthropology: shaping the French and international criminological movement, 1886-194. In P. Becker & R. F. Wetzell (Eds.), *Criminals and their Scientists: the history of criminology in international perspective*. Cambridge University Press.
- Lacombe, A. J. (2004). A cultura jurídica. In S. B. de Holanda (Ed.), *História geral da civilização brasileira, v.5: Reações e transações* (8th ed.). Bertrand Brasil.
- Luhmann, N. (2014). *A sociological theory of law* (2nd ed.). Routledge.
- Marjanen, J. (2009). Undermining methodological nationalism: Histoire croisée of concepts as transnational history. In M. Albert, G. Bluhm, J. Helmig, A. Leutzsch, & J. Walter (Eds.), *Transnational political spaces: agents, structures, encounters* 2. Campus Verlag.
- Neder, G. (2012). *Discurso jurídico e ordem burguesa no Brasil: criminalidade, justiça e constituição do mercado de trabalho (1890-1927)* (2nd ed.). Editora da UFF.
- Neder, G. (2020). Educar, disciplinar e reprimir (Brasil: 1890-1918). In G. Neder, A. P. B. R. da Silva, & J. R. M. Gomes (Eds.), *Direito, estudos culturais e sociabilidades políticas* (pp. 164–199). Autografia.
- Olmo, R. del. (2004). *A América Latina e sua criminologia*. Revan/ICC.
- Pifferi, M. (2014). Global criminology and national tradition: the impact of reform movements on criminal systems at the beginning of the 20th Century. In Thomas Duve (Ed.), *Entanglements in legal history: conceptual approaches*. Max Planck Institute fo European Legal History.
- Romero, S. (1888). *História da Literatura Brasileira*. B.L. Garnier.
- Romero, S. (1900). Explicações indispensáveis. In S. Romero (Ed.), *Tobias Barreto: Varios Escritos*. Laemmert e C. Editores.
- Sarlo, B. (1992). Intelectuales y revistas: razones de una práctica. *América: Cahiers Du CRICCAL. Le Discours Culturel Dans Les Revues Latino-Americaines (1940-1970)*, 9–10, 9–16.
- Schwarcz, L. M. (1993). *O Espetáculo das Raças: cientistas, instituições e questão racial no Brasil (1870-1930)*. Companhia das Letras.
- Schwarcz, L. M. (1999). *The Spectacle of the Races: Scientists, Institutions, and the Race Question in Brazil, 1870-1930*. Hill and Wang.
- Silveira, M. de M. (2014). Revistas jurídicas brasileiras: “cartografia histórica” de um gênero de impressos (anos 1840 à 1940). *Cadernos de Informação Jurídica*, 1(1), 98–119.
- Sirinelli, J.-F. (1996). Les intellectuels. In R. Rémond (Ed.), *Pour une histoire politique*. Editions du Seuil.
- Thompson, E. P. (1987). *Senhores e caçadores: a origem da Lei Negra*. Paz e Terra.
- Venâncio Filho, A. (1982). *Das Arcadas ao bacharelismo (150 anos de Ensino Jurídico no Brasil)* (2nd ed.). Perspectiva.

Notes

¹ Also referred in the Brazilian historiography as the “Old Republic” or the “Oligarchic Republic”.

² In a free translation, respectively: *Recife's Law School Academic Journal*, *São Paulo's Law School Journal*, *Journal of the Rio de Janeiro's Free Law School*, *Journal of Bahia's Free Law School*, *Journal of Minas Gerais's Free Law School*. Each of them corresponding to a Law School in some of the most populated estates of Brazil.

³ By the Decree 1232-H of 1891, known as the Benjamin Constant Reform. The name is not related to the famous Swiss-French liberal writer and political activist, but to his Brazilian homonymous, the politician Benjamin Constant Botelho de Magalhães, Minister of Public Education of the first republican government.

⁴ Brazilian historians and sociologists noted the influential role that those with a bachelor's degree in Law had over the national intellectual life in late XIXth early XXth centuries. Bachelors in law not only hegemonized the legal careers, but also the political and bureaucratic ones as well as the enlarged field of humanities like history, journalism, philosophy. This socio-cultural phenomenon was named “bacharelism”. This issue is further developed in the third point of this article.

⁵ The first legal journal published in Brazil was the

Gazeta dos Tribunaes, in 1843.

⁶ For example: *Archives d'anthropologie Criminelle* (1886-1914), leded by Alexandre Lacassagne; *Zeitschrift für die gesamte Strafrechtswissenschaft* (1881-), edited by the intellectual group of Franz von Liszt until 1919; *La Scuola Positiva* (1891-1956), journal dedicated to spread the criminal positivism edited by Enrico Ferri, in collaboration with Cesare Lombroso and Raffaele Garofalo.

⁷ It is worth mentioning the anticipatory appeal of these two norms, since they were promulgated even before the republican Constitution (February 24th, 1891).

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