

You're out of order! Legal culture and contemporary sophists?

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Abstract

In terms of what can be named "Juridical Culture", the representation of the legal professions gains a central contour. The intention of this article is precisely to work with the context of the formation of legal culture as a formulation of bourgeois Eurocentric thinking, aimed at perpetuating the capitalist discourse at the center of Latin American axiological dissemination. To do so, we use a figurative resource to explain the argument, that is, a vision of the context of advocacy that is demonstrated by what is called "Al Pacino Syndrome", constructing an allegory for this writing.

Keywords: Contemporary sophism. Eurocentric theory. Legal culture. Legal professions.

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Introduction

This article comes from research on the character of social exclusion provided by contemporary law. In this work, we intend to demonstrate three moments on the question of the Eurocentric legal culture present in the national ideology and its impacts on the process of segregation legitimized by the normative context.

In the first chapter, we cover some notes on the prism of modern legal culture, especially the social impact of it, from a paradigmatic example of the criminal field. Put another way, we demonstrate, from the 'prison question', the relational context between the market form and the legal form.

In the second chapter, we present the issue of the education of law professionals - especially lawyers - who are molded from a context inherent in the capitalism that underpins it. This time, we try to confirm that legal education is a reflection of the productive forces that inform and legitimize law as a means of class control.

Finally, in the third chapter, we work on what we call the "Al Pacino Syndrome", that is, how the examples inserted in three filmic projections of the actor demonstrate the relationship between Law and Capitalism that we denounce here as a cultural factor of modern society.

Notes on the prism of modern legal culture: impacts on the context of the legal form

In forming the legal apparatus, we take into consideration a whole legal culture inherent in society for such an act. We cannot exclude the association between normativist culture and the state formation itself. As Hans Kelsen¹ would say: "In a few words it can be said that the State is the embodiment of a juridical order" (Our translation). The discourse inserted in the logic of liberal theory needs to be fair – capitalist view –, Morris² discusses this in his theory:

What does a state need to do to be fair? A Fair State is presumably, above all, one who respects the limits of justice. Justice imposes limits on the behavior and intentions of people and, it is assumed, institutions. I suppose many of these limitations take the form of moral rights and duties. States, then, must respect the moral rights of individuals and fulfill their duties to them. (Our translation)

Every legal culture is influenced by several factors, geographical, social, and especially, economic, historical, and political. In modern societies the forensic discourses end up not separating Law and Politics, as see the interference of the rule of law in issues a priori debated by civil society itself, they live in a reciprocal relationship. Michael Foucault³ reports on this junction by stating that:

The law is neither truth nor the alibi of power. It is both a complex and partial instrument of power. The form of the law and the effects of interdictions that it carries should be replaced by many other non-legal mechanisms. Thus, the penal system should not be analyzed purely and simply as an apparatus of inter-mediation and repression of one class over another, nor as an alibi that shelters the lawless violence of the ruling class; it allows political and economic management through the difference between legality and illegalism. (Our translation)

Miguel Reale⁴ also mentions this subject when he says that: "The dialectic of justice is marked by this constant intentionality in the sense of the harmonic composition of values, which is always conceived as a moment of a process whose directives signal the different historical processes" (Our translation).

It is possible to perceive the logic of the cultural formation of the *retchstaat* and the rule of law as niches of applicability of the fundamental rights - especially of the first dimension - that establish the contemporary corpus of bourgeois juridical form. Take, for example, Antônio Carlos Wolkmer's⁵ position on European legal culture, who sustains that:

The legal culture produced throughout the seventeenth and eighteenth centuries in Western Europe resulted from a specific complex of conditions engendered by bourgeois social formation, capitalist economic development, justification of the liberal-individualist interest, and a centralized state structure. Certainly, this understanding not only shares the idea that a dominant legal practice exists in each historical period, but above all, it confirms the conception that law is always the product of organized life as a manifestation of social relations derived from human needs. (Our translation)

Observe the case of Roman law – although in terms of analysis of legal form from the materialist logic, it would not be possible to frame this form as synonymous with modern normativity - and how its institutions had an impact on diverse legal cultures in the world. Eduardo Bittar⁶ mentions, when it comes to write, that:

Not only did the spatial dimensions of Rome change during its growth, but also the conceptions it brought with it, whether cultural, political or economic, or legal; It was the Roman expansionist policy that spread the most elementary concepts of Roman politics and the way it ruled by Roman laws and Roman order, through Europe and the known world. This dissemination infiltrated itself in such a way that it became impossible to think the Law without references to the sources and the molds of Roman Law. (Our translation)

The appropriation of bourgeois normative discourse by instances of the concretion of juridical forms presents the vicissitudes of a broad social control aimed at the development of the productive system, thus forming a central facet of European legalistic culture.

In this context, mention should be made of the creation of pre-trial detention in Europe, which began in England and later spread throughout the continent, and how legal culture is shaped by economic and political interests. In the view of historical materialism, the sixteenth century in England brought a new insight into the pen that fell upon the individual committing an unlawful act. It does not make sense for a capitalist society that demands labor to continue with a system of punishments that generated corporal damages:

But the ideological connection between conservatives and liberals for the formation of a correctionalist criminology lies in the common notion that most social behavior is conventional, that is, adjusted to normative parameters, whereas unconventional behavior constituted by crime and deviance would be the minority of social behavior. The common approach of conservatives and liberals does not question the social structure, or its legal and political institutions (expressive of general consensus), but it is directed towards the study of the criminal minority, elaborating etiologies of crime based on individual pathology, traumas and deprivations of the past life, in deforming conditions of the autonomic nervous system, in anomalies in the genetic or chromosome structure, etc., in relation to the present circumstances, whose recurrence produces fixed, psychological, physiological or other tendencies. In the study of this etiology (and its relations), the criminologist would perform a neutral task, independent of personal interests and the system of reaction against crime, with its political and ideological conditions⁷. (Our translation)

Capitalist society demanded the so-called penalty of deprivation of liberty, promoting the ideal of "justice" which they believed is right (punishing the individual, for crime is a conscious act if it was free and conscious enough to commit the wrong, can be free and aware to pay the penalty). Calvinist ethics preached a discourse of "deification" of labor, a discourse that correctly fitted capitalist precepts:

La enorme injusticia social que implicó ese proceso de acumulación de capital a lo largo del siglo xix y que se inició a mediados del siglo xvm, se tradujo en un control social severísimo, destinado a la contención de quienes llevan la peor parte. La injusticia social en este período no puede caracterizarse simplemente como resultado de una sed de ganancia, de una apetencia burguesa desmedida, sino que es necesario comprender que fue resultado de una planificación estatal fría y calculada, que de ese modo obtenía su hegemonía o luchaba por ella⁸.

With the enclosure of the fields and the development of manufactures, there was an increase in the number of cities. The unskilled worker, the peasant who did not submit to works that exploited him (and consequently submitted to the capitalist Calvinistic view), ended up begging on the streets. The Law focuses on this field, and at that time the very context of fence the practice of vagrancy (considered as a crime):

Se inicia una época de capitalismo competitivo y salvaje (llamado más urbanamente "capitalismo liberal") en la cual es necesario acumular capital productivo para seguir aumentando la producción, como una forma de lograr la superioridad bélica y la hegemonía de la nación. Los trabajadores ya no estaban protegidos por el régimen penal, no eran "siervos" que tenían garantizados deberes de protección del señor feudal, sino que habían quedado "libres" para poder competir. Los "gremios" habían sido eliminados, porque nada debía interferir la "libre oferta y demanda". Los beneficios debían reinvertirse en capital productivo (compra de nuevos equipos), para lo cual se requería que los burgueses adoptaran una conducta austera, desechando toda tentación de caer en la suntuosidad feudal. La austeridad y sentido práctico del protestantismo resulta más afín con estos requerimientos —tal como lo señalaron por diferentes caminos MARX y WEBER— que el lujo feudal y renacentista católico, y, en cierta forma, las restricciones al consumo y la reducción de los "trabajadores improductivos" se imponen como necesidad derivada de la acumulación productiva, lo que respondía perfectamente al modelo de ADAM SMITH. NO debe olvidarse que luego, en la Revolución de 1917, LENIN considerará como "trabajadores improductivos" a los sacerdotes⁹.

Whoever, who did not work had no choice but to steal. Upon being convicted, the individual committing an unlawful act would go to the correctional houses. In these case, he/she would learn the importance of work, preparing it for work in factories (if the individual respects an authority in the jail, he will respect an authority in the factory and the demand given by it):

De cualquier manera, por sobre las diferencias que aparecen en este debate, lo cierto es que nadie duda de que el surgimiento de la prisión fue un producto de la revolución industrial, y, como lo señala con todo acierto BARATTA, se consolidaron dos tesis centrales que son comunes a ambas obras: "a) para que se pueda definir la realidad de la cárcel e interpretar su desarrollo histórico, es necesario tener en cuenta la función que efectivamente cumple esta institución en el seno de la sociedad; b) para individualizar esta función es menester tener en cuenta los tipos particulares de sociedad en los que la cárcel aparece y evoluciona como institución social"¹³. Si bien no pueden minimizarse las diferentes interpretaciones, no es menos cierto que estas se agudizan en la medida en que del nacimiento de la prisión quieren extraerse enseñanzas que nos permitan entender el actual momento del control social punitivo, especialmente en los países centrales. En cuanto al origen, no quedan dudas acerca de que su generalización fue el producto de la revolución industrial y con ello queda claro que sin capitalismo no hubiese habido cárcel como pena, más que en una limitadísima medida, casi reducida a lo que se ha dado en llamar "mala vida", o sea, control de "desviados menores", que solo parcialmente son disfuncionales al poder.¹⁰

This famous case of the creation of pre-trial detention shows how legal culture, like the order of a country, is hostage to relations of power, economic relations, and political relations. It justifies the position of Lola Aniyar¹¹ when mentioning the particularities of the materialist view on the subject:

Crime is a phenomenon dependent on the capitalist mode of production. [...] Criminal law is a structure dependent on the production system (economic infrastructure). It means that the legitimacy, by force, of the economic violence exercised by those who hold power. In fact, an analysis of the criminal codes clearly identifies the ideology which serves as a basis for both chapter ordering and the selection of criminal offenses and the disproportion and types of sanctions in relation to illicit offenses that violate interests protected in a differentiated manner. (Our translation)

A conception of Ordination influenced by real power relations is considered, since no legislator is completely immune from being influenced by so-called "holders" of the power (often given by the economic scope) of a nation. However, it is not only the Order that is influenced by harmful external factors, the entire normative culture is a victim of the symbiotic relationship between market form and legal form. At this point, the example of the lawyer may be of use to justify the thesis of the present.

The attorney's example? Is a sophist's logo appropriate?

After this introduction about the impact of legal culture, we must ask ourselves: To what extent does the formation of a legal culture vitiated by factors related to the connection between economic formulation and normative cosmology influence the training of legal professionals? Let us use the example of the lawyer, and consequently of the judge, in the Modern State.

The social view on the current lawyer is often deleterious. It covers the sin of vanity on a large scale. By virtue of the current legal education, it ends up transforming itself into a machine, molded with all the Legal Order in its mind, without any criticism (due to its learning in the process of "banking teaching"), removing social reflections from the constant search for survival in a saturated market. What, then, happens with the mission of procedural value formalism, for example, that teaches us to be the function of the essential magistrate to guarantee constitutional promises? About the scenario, argues Mitidiero¹²:

The civil case, considered in itself, is a fundamental right, whose essential age was even more pronounced in the face of the "vocation of our time to jurisdiction", well diagnosed by Nicola Picardi. It is even a "pivotal right," as Boaventura de Sousa Santos points out, inasmuch as his own realization is a condition for the realization of other fundamental rights, inasmuch as his "denial would entail that of all the others" • The process begins with the exercise of the "action" process, presenting to the Judiciary given legal situation so that it resolves it, doing justice. The right to proceedings, therefore, materializes, from the point of view of the plaintiff, granting the same the right and the claim to legal protection, thus extinguishing the procedural "action" as an effective vehicle for access to the process. From the point of view of the State, it guarantees the right to the process through the inafasability of the jurisdiction, and the court must provide adequate, timely and effective judicial protection to those who need it, promoting access to the just legal order, the process fair and equitable. As Robert Alexy points out: the fundamental right to judicial process is a right to an "effective legal protection" or simply is not, does not legitimize itself in the theoretical framework of fundamental rights. (our translation).

Curiously, the view on the judge is also the target of the same social mistrust. Magistrates, who present visions that preach by the exaggerated extremism of positivism, which do not contemplate a vision of equity necessary to specific cases, do not follow the evolution of society and its relations. Could they be a kind of "*Übermensch*" (Nietzsche) who is lost in his monetary aid, the object of constant accusations about the suitability of his role in the social sphere? Perhaps what we should think is that, in a dialectical materialist view, law

has been fulfilling the role of legitimizing the social exclusions of modernity, and for that reason its correct functioning should not be social justice but the maintenance of the *status quo*:

Si el análisis de la forma mercantil descubre en consecuencia el sentido histórico concreto de la categoría de sujeto y pone al desnudo los fundamentos de los esquemas abstractos de la ideología jurídica, el proceso de evolución histórica de la economía mercantil- monetaria y mercantil-capitalista corre parejo con la realización de esos esquemas bajo la forma de la supraestructura jurídica concreta. Desde el momento en que las relaciones humanas son construidas como relaciones entre sujetos, surgen las condiciones para el desarrollo de una supraestructura jurídica, con sus leyes formales, sus tribunales, sus procesos, sus abogados, etcétera¹³.

At this point a second question is: How did we let professionals of this caliber be trained for our society, and what teaching was given to them? The answer lies in education. Have no doubts. To educate is to socialize. As Paulo Freire¹⁴ would say: "To know that teaching is not to transfer knowledge but to create the possibilities for its own production or its construction"(our translation). There is no neutral legal education, much less one that does not have a commitment to ideological reproduction. However, it remains to be seen if we are performing criticism adequately, to demonstrate the suppressive character of bourgeois discourse, and then to think about alternatives in the legal field - even if it is overcoming it:

Since capitalism is a class society and class fractions, profit-seeking establishes a struggle between and intransitions, and history shows us that it has been solved by wars, revolutions, and coups. On the other hand, it is a society that has in its structure the crisis as its engine. An ever-deeper crisis and its confrontation is affected by the destruction of the means of production and the productive forces, in particular by eliminating the rights of the working class. This crisis is manifested on the one hand by the exponential capacity to produce goods, concentration of wealth, knowledge and power and its inability to distribute and socialize production to meet basic human needs; and, on the other, by the dominance of speculative financial capital which produces nothing, but which assails, through the public debt of the national States, the resources that would be destined to guarantee basic social rights, such as health, education, basic sanitation, housing, transportation, culture, etc. In Brazil, in 2016, in a criminal manner, more than 45% of the annual national budget is obligatorily obligated to pay interest and amortize a debt that grows geometrically. As the philosopher István Mészáros (2002) shows, unlike previous crises, the current one is universal, in the sense that it affects all spheres of life; is global, in the sense that a problem at a given point in the world has general reflexes; is no longer cyclical, but continuous and increasingly acute and destructive of rights and nature¹⁵.

In 1979, the British band Pink Floyd released a song that became a landmark not only in rock history, but a critique of the educational system, "Another Brick in the Wall Part II," inserted in the album "The Wall." Roger Waters defines education as an alienation. When we relate to Law, future lawmakers end up adhering to the vision of knowledge of the law, an exaggerated knowledge of norms and procedures, without a critical vision and contextualization with the social. In the song, the goal is the destruction of this "school", this is the attitude of the "non-alienated".

It is also worth mentioning another song from the album that can also be contextualized in this vision, "Comfortably Numb", in this case, when analyzed in the context of legal education, refers to the fact that students are "numb" by studies that only have a juspositivism and jusnaturalism, isolating a practical view of everyday law itself, and studying a law considered as "utopian," and finding that it is actually learning correctly and that it can go to reality and employ exactly as it has learned:

Para a manutenção deste sistema cada vez mais irracional, produziu-se paulatinamente a anulação do poder político dos Estados nacionais, transferindo o verdadeiro governo do mundo para os grandes grupos econômicos, hegemonizados pelo capital financeiro, e para os organismos internacionais que o os representam, mormente a Organização Mundial do Comércio e o Banco Mundial. Estrutura-se, então, um poder sem sociedade ou, como analistas têm caracterizado, um Estado de exceção permanente.³ Estado que no interior das nações é comandado pelos bancos centrais e ministérios de economia, os quais definem as medidas que garantem o lucro, em especial do capital financeiro. Um poder que se afirma no plano cultural e jurídico respaldado pela força de um Estado cada vez mais policial. No plano cultural, instaura-se uma profunda dominação com hegemonia do poder do império norte-americano. As grandes redes privadas de televisão e de informação, monopólios de poucos grupos, imputam os valores de consumo das economias centrais e do seu estilo de vida. Uma cultura mediada pelo dinheiro, pela pedagogia do medo e da violência, que é exposta online em tempo real. Mas, sobretudo, uma mídia que manipula a opinião pública com a produção sistemática das versões da realidade, versões que interessam a quem essa mídia representa e da qual é parte: o capital.¹⁶

An example of such "worship" by the characteristic procedures of this "alienated" education is the exacerbated exaltation of the process. The result of this exaltation came very well (even if fictitious) with the work of Franz Kafka "The Process". Forget the real case, the quirks, and insert each case into a mold. Kafka brings in his work this idea of the process as a "supreme being" of the state, everyone can be a victim, everyone is afraid.

The result of an education is faulty, incomplete and impractical in relation to the real function of law (which is to do justice). Urge to put one more question, what vision of justice, and above all, the ethical view, which are these individuals learning?

The legal world expresses a series of theories and possibilities of notions of ethics and justice. We have the possibility of the Platonic idea of divine justice, beyond that known and practiced by men; or the concept of Socratic ethics, lies in knowledge and happiness. There is the Aristotelian view where justice is treated as virtue; and ethics presents itself as a practical science that plays the role of determining what is just or unjust. Cicero brought the contribution of stoic ethics and its connection with ataraxia.

Christianity and its view of what is fair is that which comes from God, and what is ethical are the conduct that goes according to its teaching. Legal Positivism, on the other hand, presents its theory about a normative justice, which is in the correct and imposed Ordinance and by the State is what is fair. Rawls and his view of fairness, and the judge applying the norm according to his convictions, which for him is justice in the concrete case. Among several other concepts that contemplate the legal world.

Numerous possibilities for analysis of what is fair and ethical, however, most professionals who are leaving the legal educational centers end up not knowing or not giving importance to these views. Justice and ethics for these individuals will be produced unilaterally, without regard to other visions (and most of the time those "discover" concepts are misrepresented).

The royal function of the magistrates, or their heroic role¹⁷, inserted within the Capitalist Fairy tale has never disappeared. The function which presents the lawyer's vision as a member of society that seeks relentlessly for what is fair, which defends the party for moral satisfaction (and not just for monetary satisfaction), to assert its role in shaping a society which contemplates the much-esteemed Ethics and Justice also never disappeared. However, what we do not question is to whom the positions based on the rhetoric of ethics were directed.

Al Pacino Syndrome and the ideological face of the Law

The formation of the normative structure takes into account a whole Eurocentric matrix culture, a plural and intense formation to sustain the legitimizing machine of the capitalist system today. It is possible to present, after this reflection, what we called "Al Pacino Syndrome". This "syndrome" embarks on the situation we live in the field of legal professions and professional training, we name it with the name of the Lebanese actor Al Pacino, because this individual is present in three cinematographic films that present cases that can be encompassed to the presented situation.

We propose the use of an allegory to demonstrate how the filmic projection – here taken without the vicissitudes of its own methodology, but as allegory to design and construct the argument in debate - demonstrated in the films with Al Pacino's performance prove to demonstrate the particularities cited about the influence of capitalist Eurocentric culture on the way of thinking and practicing Law, that is, the paradigm in which we are centered in terms of cultural formation.

In the movie "The Merchant of Venice" (2004), directed by Michael Radford, an adaptation of the play by William Shakespeare, the character that Al Pacino represents is a Jew who puts money at interest, and ends up yielding to the request of Antonio, a Catholic merchant who despised him, on loan. The Jewish character ends up yielding to the request, on condition that they enter into a contract where it would be stipulated that if Antony did not pay for what he had taken, Shylock (the character of Al Pacino) could remove the meat equivalent of Antonio's body the amount.

As we all know, in the end Antonio cannot pay. Shylock went to court with him to enforce the contract. They were offered by merchants' friends of Antonio several agreements, but he did not accept, he wanted the norm stipulated in the contract to be fulfilled. By sticking so much to the saying in the contract, he ended up with nothing. The request was rejected because it was only that he would take the flesh, and not refer to the blood that would be lost and shed (he can have the flesh, not the blood of Antonio), and for not fulfilling the contract, Venice took his property and forced to become Catholic. In terms of social and normative criticism, we consider the work under analysis with degrees of irony on the part of Shakespeare, precisely demonstrating the maximum degree of

legal abstraction in bourgeois law, which serves only the interests of the capitalist class, and the marketing circulation which it supports:

De lo cual resulta que los rasgos esenciales del derecho privado burgués son al mismo tiempo los atributos característicos de la supraestructura jurídica. En las etapas primitivas de desarrollo, el intercambio de equivalente, bajo la forma de la compensación y de la reparación de los errores, produjo esa forma jurídica muy primitiva que se encuentra en las leyes bárbaras: de igual manera las supervivencias del intercambio de equivalentes en la esfera de la distribución, que permanecerán igualmente en una organización socialista de la producción (hasta el tránsito al comunismo evolucionado), obligarán a la sociedad socialista a encerrarse momentáneamente "en el horizonte limitado del derecho burgués" tal como Marx también lo había previsto.¹⁸

In "The Devil's Advocate" (1997), directed by Taylor Hackford, one has the story of a lawyer who accepts even to defend causes in which he knows that his client is guilty, but prefers to leave ethics and morality aside and lie to get the victory. The final scene where the Devil (Al Pacino) confronts the lawyer's moral (lived by Keanu Reeves) is shocking, because it deals with the vanity in the legal environment, the fact that the lawyer graduates and aims to win at any price, even giving up convictions. Once again, we can see in the allegory that we intend to construct argumentative coherence.

If in the first film the representation of Pacino was precisely to show us the bourgeois character of modern law taken to the extreme, here we are faced with the discourse of Manichaeism in the function of the lawyer, who, also for materialistic reasons, ends up being inserted in a Christian eschatology that does not allow him to see the point of inflection about his function: it is not a matter of advocating for metaphysical figures, but of losing the context about his representation of reality in favor of gains, that is, his own reification:

La esfera de la circulación, la esfera que es comprendida por la fórmula Mercancía-Dinero-Mercancía, desempeña un papel dominante. El derecho mercantil ejerce en relación al derecho civil la misma función que el derecho civil en relación a todos los demás dominios del derecho, es decir que le indica las vías de desarrollo. El derecho mercantil es por ello, por una parte, un terreno especial que sólo tiene significación para los hombres que han hecho de la transformación de la mercancía en forma monetaria e inversamente, su profesión; por otra parte, es el derecho civil mismo en su dinamismo, en su movimiento hacia los esquemas más puros de los que está extirpada toda huella de organicismo y donde el sujeto jurídico aparece en su forma acabada como el complemento indispensable e inevitable de la mercancía.¹⁹

The third and final film is a representative of Hollywood's militant cinema of the 70's. In "Justice for All" (1979), directed by Norman Jewison, Pacino plays a young lawyer who is tasked with defending the most rigid judge "of the city that was accused of rape. Aware that it is a frame for the judge, the character of Pacino agrees to defend the magistrate, but ends up finding that the judge is guilty of the crime, since he confesses that he committed the crime and still force to defend his "innocence" (in a direct criticism of the view that judges are "wells" of ethics and morals, and that by dealing with the wrongdoing and its consequences they cannot do so).

The final scene is stupendous, since in his defense speech, the lawyer ends up telling the truth and accusing the judge he was supposed to defend. The third filmic projection demonstrates the interpersonal relations between the professional categories in the forum, which are also backed by the question of the legal professions as a subtraction of the worker's own ontology. The lawyer interpreted by Pacino not only perceives the confrontation by reason of the public machine, but also needs to remove all his professional mask to realize how much his subjectivity had been subtracted, and of how the juridical norm realizes a standardization of the subjects like commodities in the society:

Así pues, el principio de la subjetividad jurídica y los esquemas que contiene, que aparecen en la jurisprudencia burguesa como los esquemas a priori de la voluntad humana, se desprenden con una necesidad absoluta de las condiciones de la economía mercantil y monetaria. La concepción estrictamente empírica y técnica del vínculo existente entre esos dos momentos encuentra su expresión en las reflexiones sobre el hecho de que la evolución del comercio exige la garantía de la propiedad, de buenos tribunales, una buena policía, etcétera. Pero si se va más al fondo de las cosas, es claro que no sólo tal o cual estructura técnica del aparato de Estado nace en el terreno del mercado, sino también que entre las categorías de la economía mercantil y monetaria y la forma jurídica misma existe un vínculo íntimo indisoluble. En una sociedad donde existe el dinero, en la cual en consecuencia el trabajo privado individual sólo se convierte en trabajo social por la mediación de un equivalente general, las condiciones de una forma jurídica, con sus oposiciones entre lo subjetivo y lo objetivo, lo privado" y lo público, ya están dadas²⁰.

Therefore, this "syndrome" portrays very well the aspects of vanity on the part of the lawyer; too much attachment to the law; and the "deification of the judges"; criticisms made by me in this text, facts that consume and misrepresent the judiciary and the training of the magistrate. In all the films the end ends up bringing the ideals of justice and even morals to the case presented. So

"Al Pacino Syndrome" serves as an inspiration (even if it is fiction), for a dream of confronting bourgeois justice.

He urges, therefore, that for an improvement in the legal culture of a nation, it is necessary to properly train legal professionals, aiming at greater security for the population and, above all, justice for all. It is a great challenge, it needs a change in the way the Law thinks in its mode of action as well. But as Nietzsche puts it, in his Zarathustra work, "Carefree, mocking, brutal, so we want wisdom," we have to encourage knowledge.

Conclusion

The structure of the contemporary legal culture is a derivation of a construct that comes from productive circulations since its most basic formation. The intention of this article was to present, in three co-related chapters, the relationship between Law and Capitalism in today's juridical form.

This time, what we call "Al Pacino Syndrome" is, in precise terms, an allegory whose purpose is to demonstrate the deficiency in the formation of criticism of bourgeois law as *modus operandi* of the current social orchestra of daily life. If we take the notion that law is an instrument of social control whose purpose is the maintenance of the productive system, we will conclude that the legal culture is shaped by the interests of the productive circulation in its most recent form.

Thus, the formulation that weaves the relationship between Law and Cinema proposed here aims at the elucidation of the body of modern legal culture, seen in the prism of the three films that function as a social denunciation, and, furthermore, as a proposal to rethink the way in which legal culture is simply reproduced - and not criticized - in countless situations.

Está fora de julgamento! ¿Cultura jurídica e os sofistas contemporâneos?

Resumo

Em termos do que pode ser denominado “Cultura Jurídica”, a representação das profissões jurídicas ganha contorno central. A intenção do presente artigo é justamente trabalhar com o contexto de formação da cultura jurídica como formulação do pensamento burguês eurocêntrico, voltado para a perpetuação do discurso capitalista no centro da divulgação axiológica latino-americana. Para isso, utiliza-se um recurso figurativo para explicar o argumento, quer dizer, uma visão do contexto da advocacia que se demonstra no que se denominou “Síndrome de Al Pacino”, construindo uma alegoria para este artigo.

Palavras-chave: Cultura Jurídica. Profissões Jurídicas. Sofismo contemporâneo. Teoria Eurocêntrica.

Notas

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- ³ Foucault, Michel. *Ditos e escritos IV: estratégia poder-saber*. Tradução de Vera Lúcia Avellar Ribeiro. Rio de Janeiro: Forense Universitária, 2003, p. 247.
- ⁴ Reale, Miguel. *Lições Preliminares de Direito*. 27 ed. São Paulo: Saraiva, 2002, p. 375.
- ⁵ Wolkmeyer, Antônio Carlos. *História do Direito no Brasil*. 4 ed. Rio de Janeiro: Forense, 2000, p. 1.
- ⁶ Bittar, Eduardo Carlos Bianca. *Curso de Filosofia Política*. 3 ed. São Paulo: Atlas, 2008, p. 115.
- ⁷ Santos, Juares Cirino. *A Criminologia Radical*. Rio de Janeiro: Lumen Juris, 2008, p. 4.
- ⁸ Zaffaroni, Eugenio Raul. *Criminología: aproximación desde una margen*. Bogotá: Temis, 1988, p. 102.
- ⁹ Zaffaroni, 1988, p. 102-103.
- ¹⁰ Zaffaroni, 1988, p. 106.
- ¹¹ Castro, Lola Aniyar de. *Criminologia da reação social*. Rio de Janeiro: Forense, 1983, p. 152.
- ¹² Mitidiero, Daniel Francisco. Processo e constituição: as possíveis relações entre o processo civil e o direito constitucional no marco teórico do formalismo-valorativo. *Revista Cadernos do Programa de Pós-Graduação em Direito/Ufrgs*, Porto Alegre, n. 1, 2004, p. 251-284, p. 259.
- ¹³ Pashukanis, Eugeniy. *La teoría general del derecho y el marxismo*. Cidade do México: Grijalbo, 1976, p. 16.
- ¹⁴ Freire, Paulo. *Pedagogia da Autonomia: saberes necessários à prática educativa*. 25. ed. São Paulo: Paz e Terra, 1996, p. 12.
- ¹⁵ Frigotto, Gaudencio. A gênese das teses do Escola sem Partido: esfinge e ovo da serpente que ameaçam a sociedade e a educação. In: Frigotto, Gaudencio. (org.). *Escola “sem partido”*. Rio de Janeiro: LPP, 2017, p. 18-19.
- ¹⁶ Frigotto, 2017, pp. 19-20.

- ¹⁷ Like Dworkins ideia: Where there is the Dworkinian view of the judge, which refers to the theory of “Judge Hercules,” which according to Adrian Sgarbi is a: “Judge-philosopher of superhuman ability, wisdom, patience and sagacity “; related to the idea of their interaction with the right exercised power. (SGARBI, Adrian. *Clássicos de Teoria do Direito*. Rio de Janeiro: Lumen Júris, 2006, p. 162).
- ¹⁸ PASHUKANIS, 1976, p. 17.
- ¹⁹ PASHUKANIS, 1976, p. 18.
- ²⁰ PASHUKANIS, 1976, p. 18.

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