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EDITORIAL

RHETORIC, ARGUMENTATION AND LAW

It is with great pleasure and pride that we present to you the issue at hand, which focuses on the relationship between rhetoric, argumentation and law. Some of its contributions are influenced by a specific type of discourse analysis often referred to as “Rhetorical Turn” or “Argumentative Turn” and now increasingly applied to the study of contemporaneous law. This is quite remarkable as, for centuries, legal theory was dominated by a natural sciences approach, based on the general assumption that it is possible to extract from law objective and universal knowledge. It was marked by a quest for general normative principles that should determine human conduct and serve as true axioms for logical deductions.

The reappearance of rhetoric in the 1960s puts an end to this apparent triumphalism of human knowledge that was generated by apodictic operations disregarding the exact space of discutability (*dialegesthai*) inherent to the juridical argumentation. As a matter of fact, the increasingly multicultural character of contemporaneous societies indicates the need for a non-absolute conception of law that takes into account the normative coexistence of values and conceptions of what might be regarded as desirable. In other words, this perspective seems to be more democratic and stimulates critical reflections on the present state of affairs.

As Plínio Pacheco Oliveira shows in his contribution, there even is a nexus between rhetoric and the concept of truth, in contrast to the concept of evidence which had historically played a crucial role in the construction of what is perceived as “world”. Hereafter, Camila Colares and João Maurício Adeodato inquire into the philosophical character of one of the most important Brazilian writers, being at the same time one of the most famous members of the so-called School of Recife, Sílvio Romero. Pedro Parini argues from the perspective of rhetoric that the legal discourse itself is to be constructed through recourse to irony and metaphors. Narbal de Marsillac and Roberta Gonçalves then applies the rhetorical analysis to the individuals or subjective rights, trying to show that their reality depends on the presupposition of modern subjectivity, being the true *tópos* of modern period and facilitating the comprehension of the right place of so-called transindividual or metasubjective rights in the contemporaneous juridical culture.

Last but not least, the present issue contains a series of articles which, albeit they do fit under its principal topic, nonetheless deserve equal attention as interesting and well written analyses. In his contribution, Robert Robinson

attempts to connect the concepts of legitimacy and justification with the Rawls theory of justice and his political liberalism, whereas Saulo Felipe Costa, Cleitiane Medeiros Araújo and Vilma Felipe Costa de Melo approach constitutional philosophy from the perspective of the theory of checks and balances, reflecting, amongst others, on its impact of a constitution's longevity and effective democracy. For distinguishing what we should do and what deem desirable, Roberta Gonçalves demonstrates the utility of meta-ethical theories.

We would like to express our sincere gratitude and appreciation to the colleagues and students who, in a way or another, contributed to the issue at hand.

João Pessoa PB Brazil, August 13th, 2012.

Narbal de Marsillac

Head of the network on "Rhetoric, Hermeneutic and Law", CNPq/UFPB

Reviewed and translated into English by Sven Peterke.
