

For a Borderless Legal Journal

About the Editorial Project of RBDJ/BJLJ and its Inaugural Issue

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1. ABOUT THE EDITORIAL PROJECT OF THE RBDJ/BJLJ – BORDERLESS AUTHORS AND READERS.

In the “*hors concours*” article, which is part of the inaugural issue of the *Revista Brasileira de Direito e Justiça*, or *Brazilian Journal of Law and Justice*,[†] emeritus Professor Barbara Hudson, who is the first author to receive well-deserved homage from the new Journal, wrote the following passage in her scientifically based, ethically oriented and globally applicable reflection: “we may well be different in important ways and may never completely understand each other but, as Appiah claims, cosmopolitans believe that between different cultures and ways of life, there is enough overlap for a conversation to begin” (HUDSON, *infra*, p.177).

The RBDJ/BJLJ was created with this cosmopolitan, ethical, and humanitarian vision: the possibility of an authentic sincere dialogue among Law students of various countries, about various themes, and aligned in a truly universal community of authors and readers of Law. The Journal aims to be a rigorously scientific, genuinely Brazilian Journal with *open borders* for global interchanges between students and professors of Law, between legal scholars, researchers, and practitioners of Law, and between Law, Philosophy, Politics, and Social Sciences in general. In addition to this purpose, linguistic openness, academic integration, and ethical-humanitarian commitment will play a decisive role in the articles published in the RBDJ/BJLJ.

With regard to linguistic openness, each article will be simultaneously published in English and in Portuguese (or in Spanish, a manageable language for speakers of Portuguese, if manuscripts are originally written in Spanish, not solely in the original language of the manuscript, as is common in some Brazilian or Latin American legal journals that publish texts

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of foreign authors. The bilingualism of the journal will help to break the “north-south” academic barrier and serves at least four editorial and academic goals.

First, the bilingualism is attractive for qualified Brazilian and Latin American researchers because it presents the possibility of having Portuguese or Spanish articles translated into English after the article has undergone the double-blind peer review process. Conversely, to researchers from other countries who submit their manuscripts in English, RBDJ/BJLJ will offer them the possibility of having their manuscripts translated into Portuguese, attracting the potential attention of a considerable audience of Portuguese-speaking readers but without requiring a previous connection with Brazil.

Second, the reception of articles in English or Spanish facilitates effective and increased collaboration of foreign researchers in the review process of manuscripts submitted to RBDJ/BJLJ.

Third, linguistic openness facilitates the presentation of high-level research in a bilingual Brazilian journal and helps to promote the Brazilian journal (and its authors in various academic contexts worldwide, with gradual insertion in international indexes).

Fourth, the reciprocal knowledge and use of Brazilian pieces of research by foreign researchers and the knowledge and use of foreign pieces of research by Brazilian researchers can lead to the formation of international research networks.

Notwithstanding, RBDJ/BJLJ also intends to cross other borders. As the journal’s title indicates (with the inclusion of “Law” and “Justice”, an important feature of the editorial profile of RBDJ/BJLJ is its attempt to articulate theoretical and dogmatic pieces of research and discussion (*direito*/law with social, political, and philosophical dimensions using an ethical and value-based framework (*justiça*/justice. Indeed, the Journal intends to stimulate the production of a scientific knowledge of Law that is not tied either to purely abstract thinking or to purely abstract or dogmatic reflections, while counterbalancing the political dimension of the legal science (and its correlations with values such as justice, equality, and democracy and/or the concrete operational aspects of the legal institutions (effectiveness of rights).

Another important consideration for the editorial line of RBDJ/BJLJ is the fact that because the Journal is intended to be an international journal, the published articles will discuss themes that, despite their local origins, can be well understood and analysed by a global community of readers. Readers will be capable of associating, criticizing, and discussing themes of analogous interest – *mutatis mutandis* – in their own countries. Consequently, the

RBDJ/BJLJ will favour texts that are “cosmopolitan”, in the sense that they can stimulate a fruitful dialogue and the free flow of ideas, regardless of the article’s national origin or the institutional affiliation of its authors.

With such prerequisites, it is no wonder that articles submitted to the Journal tend to have a very high rejection rate. A reduced number of articles go through a triple filter: the first editorial filter, related to the adequacy to the differentiated profile of the journal; the second filter by the internal body of specialized assistant editors; and the third filter by a council of anonymous reviewers that individually and independently assess the scientific merit of the manuscripts submitted to the Journal (double-blind peer review).

The double-blind peer review, a process performed by a Scientific Editorial Board, integrates researchers of various institutions and places with different backgrounds and with the purposeful scarcity of members located in the State of Paraná, Brazil, or even south of Brazil (that would be the natural area of influence of Universidade Estadual de Ponta Grossa – UEPG – the university responsible for the publication of the journal). Double-blind peer review is thus conducted by an Editorial Board with the exogenous character of a truly scientific journal, indicating that RBDJ/BJLJ takes its “borderless” character seriously, not only in relation to the circulation of the printed material but also in relation to the editorial and scientific decisions about the acceptance or rejection of manuscripts. Therefore, RBDJ/BJLJ does not intend to belong to UEPG or to its local editors. The selection of texts will not be intended to reflect issues of the editors’ personal preferences or academic affinities but will result from assessments of an intraregional and international network of researchers.

The bulk of articles published in RBDJ/BJL will be new articles, selected by the double-blind peer review method, but RBDJ/BJL will also publish, in the “*hors concours*” section, texts written by invited scholars. The phrase “*hors concours*” refers to the fact that the scholar’s article is not submitted to blind review, as a tribute to the invited author and an acknowledgement of the importance of his/her work. The contribution of the scholar can either be an original manuscript or, with his/her authorization, reprints of some of his/her acclaimed texts. The published text will be followed by a gentle discussion and a rereading, or a short commentary on the “*hors concours*” text. In this way, the Journal will honour scholars’ consolidated intellectual trajectories and try to link them to the contributions of new researchers, providing a fruitful dialogue between scholars of different generations.

2. ABOUT THE EDITORIAL PROJECT OF THE RBDJ/BJLJ – BORDERLESS EDITORS.

The RBDJ/BJL is obviously the result of the efforts of an enlarged and idealist editorial staff that deserves direct mention and sincere gratitude.

First, it is important to mention that the RBDJ/BJLJ only became a reality because of the support and enthusiasm of Professor Tanya Hernández of Fordham University School of Law in New York, and Professor Susan (“Sue”) Uttley-Evans of the University of Central Lancashire Law School in the United Kingdom. Their help is the first indication that solidarity, friendship and cooperation certainly contribute to the success of editorial partnerships. Tanya and Sue were tireless in gathering editors from different countries for the first issue of the Journal. Tanya and Sue were our partners in the first and last hour.

As an example, as soon as Tanya knew about problems with the financial sustainability of the Journal, she asked her research assistant, John Summerlin, to join the editorial project and edit the English translation of the articles so that the final texts could sound more natural to native English speakers. John graciously accepted the invitation and completed with task with the highest competence, for which the RBDJ/BJLJ expresses its special gratitude. Sue, in turn, suggested that we choose, as the “*hors concours*” article, the text of Professor Barbara Hudson. Then, she contacted Leanne Webber, coordinator of the original publication of the article, as well as with Routledge, Taylor & Francis Group, the original publisher, to gain authorisation for the reprint of the inspiring article, as well as its translation into Portuguese (which I had the honour of personally carrying out). Tanya had the great idea of inviting Ediberto Román to comment on Barbara’s article, and Román (to whom we thank for the prompt acceptance of our invitation to collaborate) proved that Tanya’s choice was exceptional.

These are only some of the reasons why, without Tanya Hernández or Sue Evans, the first issue of the RBDJ/BNJL would not have been consistent with its scientific, ethic, humanitarian, and global vision. Further, it is particularly rewarding to see growing friendships despite the distance, amidst the challenges of an ambitious academic enterprise, and in the modest structural context in which it was created. The cooperation between the three main Editors proved that Professor Hudson was right when she wrote “because the world is a sphere and not a flat plane, people cannot separate themselves from each other: every step away from someone brings a person closer to someone else.” (HUDSON, *infra* p. 174).

It is also important to mention, with equal emphasis, that RBDJ/BJLJ was only feasible because of the enthusiastic support of a highly qualified group of intellectuals from different

universities of Brazil and from other Latin American countries, who not only agreed to formally participate as members of the Scientific Editorial Board but also to act as anonymous reviewers of the Journal. Because they deserve full acknowledgement and gratitude for their contributions, we mention their names here, in addition to their mention in the credits of the first pages of the Journal.[‡] The Editor got to know many of them through his participation in the “SELA” group (*Seminario en Latinoamérica de Teoría Constitucional y Política/Seminar in Latin American on Constitutional and Political Theory*), a “north- south” academic interchange maintained by the Yale Law Faculty for more than twenty years that gathers legal scholars from many countries of the American continent and Europe for annual seminars and publications.

To all the anonymous reviewers (both the permanent members of the Scientific Editorial Board and the “ad hoc” reviewers asked to collaborate in the absence of the permanent reviewers and consultants) we express our utmost gratitude for the generous donation of their precious time that could have been used on their own work, in favour of a silent, anonymous contribution to the improvement of the work of a fellow researcher. It is perhaps the most noble of what the blind review process can provide: altruism and solidarity among researchers, in favour of the progress of science.

My colleagues on the Law Faculty of the State University of Ponta Grossa (UEPG), Paraná, Brazil, who worked as Assistant Editors, were also very important in securing the

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quality of the texts approved. Alexandre Almeida Rocha, Dircéia Moreira, Jeaneth Nunes Stefaniak, Jefferson Marcos Biagini Medina, Kleber Cazzaro, Murilo Duarte Costa Correa and Zilda Maria Consalter were key in helping the Editor-in-Chief pass the submitted articles through a first filter of quality (“desk-review”) before subsequent blind review by many qualified members of the Scientific Editorial Board. This first filter ensures that the Scientific Editorial Board receives only potentially qualified contributions and assesses the adequacy of the text, articulation of ideas and presentation of data.

Our special thanks to Vicente Paulo Hajaki Ribas, Director of the Law Faculty of UEPG and to Lucia Cortes, Director of the UEPG University Press, for the essential institutional support of the differentiated project of the journal from the beginning.

Finally, our special thanks to the Postgraduate Programme in Law at UENP (State University of Northern Paraná), institutional partner of this Journal, as well as to Fundação Escola do Ministério Público do Estado do Paraná (FEMPAR), represented by its president, Marcos Bittencourt Fowler, which helped us overcome the final hurdles in publication of the first issue of a new scientific legal journal of open access, with scarce funding, human resources, and material support, supported by a public university in an age of political and economic crisis in Brazil.

3. ABOUT THE INAUGURAL ISSUE OF THE RBDJ/BJLJ – ETHICAL AND SOCIAL-POLITICAL DIMENSIONS OF LAW, IN A BORDERLESS LEGAL COMMUNITY.

The “hors-concours” article, written by Professor Barbara Hudson (“Moral Communities across the Border: the Particularism of Law Meets the Universalism of Ethics”), is an excellent choice for the inaugural issue. This is true not only because of the outstanding contributions of Professor Hudson and her academic links to Brazil in the last years of her life but also because the chosen article is timeless. The article discusses migration from the point-of-view of “cosmopolitan justice”, a very unorthodox and innovative approach for a critical contemporary issue. Upon reading Hudson’s article, some people might consider it excessively optimistic and idealistic, but these features – if effectively recognized – will only lend the article more strength, as they offer an indispensable counterpoint to discuss the problem of migration in the present day. Humanity and hospitality matter, especially in the contemporary global scene of horror, conflict, disbelief, and hopelessness.

Because Professor Hudson’s article was written before the flights of refugees from Syria, before Brexit, and before the victory of Donald Trump, few scholars are more qualified than Professor Ediberto Román to revisit Hudson’s thoughts and offer us his views about the

feasibility, challenges and ethical perspectives related to cosmopolitan justice as applied to global migrations in the present day. The biobibliographical profiles of Professor Hudson and Professor Román well demonstrate that they are examples of scholars that the Journal intends to publish and honour: those who bring together high-level scientific reflection and sincere social, ethical, and humanitarian commitment. The review article, “Doing Justice to Difference: Moving Towards a Cosmopolitan Vision of Justice – Barbara Hudson’s Legacy”, written by our Associate Editor, Susan Uttley-Evans, completes this trilogy of articles about “cosmopolitan justice”, inspired by the tribute paid to Professor Hudson.

The first article that went through the double-blind peer review process is written by Leandro Zanitelli, from the Federal University of Minas Gerais entitled “Capitalism, Democracy, and the Difference Principle”. Far beyond the already overused “social inclusion versus (neo)liberalism” contrast, Professor Zanitelli brings a fruitful analysis of legal, political and institutional possibilities of the so-called “material democracy” in a scholarly and innovative article that collates current reflections of Schweickart with classical texts of Rawls. When the scarcity of resources is inversely proportional to the raising of demands, democracy is asked to commit sustainable resources to values such as social justice and equal opportunities.

The second article is an interesting contribution from Maristella Tesi, of the University of Calabria, Italy entitled “From an Anthropocentric Criminal Law to an Anthropomorphic Criminal Law”. The article addresses the ongoing issue of an increasingly globalized (and supposedly diversified) world with different sorts of cultural interchange, notably catalysed by migrations; the article also examines the extent to which cultural anthropology is (or should be) relevant to the general theory of criminal law, especially when issues of responsibility are at stake. Tesi discusses the foundations and limits of the consideration of the so called “cultural defense” in theory and practice in systems of justice worldwide. Specifically, she explores the idea that a cultural affinity imperative that is strong in determining *mens rea* and *actus reus* could have an impact (total or partial) on the criminal responsibility of those who commit crimes in the context of intercultural traditions.

André Luiz Costa-Corrêa of the University Center of Higher Education in Amazonas, Brazil, in his article “Considerations on Tax Efficiency for Taxing in the 21st. Century”, explores a new perspective of Tax Law, arguing that its contribution is as an instrument to reduce social inequality. In fact, considering the frequency of tax law texts that either are developed around “state reasons” to tax, or around constitutional provisions that taxpayers can invoke “against the State” to appease its tax power, Dr. Costa-Corrêa’s article appropriately

highlights the social ends of taxing and the State's responsibility for human development, as well as implementation within the demands of the democratic rule of law.

Michelle Amorim Sancho Souza, a judge in the state of Maranhão, Brazil, wrote an article: "The Accomplishment of Collective Dignity through Collective Moral Damage". The article provides us with an excellent civil topic: the legal protection of a "collective moral community" (as Hudson would say) that surpasses the classic Civil Law notions (in Brazil and elsewhere) of the supposedly individual nature of victimization for unlawful acts. In contemporary risk societies, where actions involving diffuse and collective interests gain special dimension (notably in legal issues related to consumerism, environment and a wide list of groups in situations of oppression, discrimination or vulnerability), the idea of a collective legally protected moral dignity that could result in sanctions to the perpetrators is certainly an important contribution for new theoretical horizons in civil law, civil procedure, constitutional law and the human rights framework. "Regarding the pain of others" demands legal responses not only to violations of individual rights but also to a whole class of "invisible" people who are silently and equally hurt by the violation of rights.

Thus, the first issue of an editorial project in Law is born in Brazil, but the project intends to host a universal community of authors, readers, reviewers, promoters, and supporters. Our special thanks to the authors of the first issue (Ediberto Román, invited commentator, Leandro Zanitelli, Maristella Tesi, Michelle Souza and André Costa-Corrêa), who have been enormously patient and generous in waiting for the publication. It was worth the wait. Their contributions are directed toward improvement of the Law as a science but also to the development and legal protection of people and their rights to decent lives, for themselves and for those around them.

Let us combine our efforts, citizens and legal scholars of the world, so that ethics, empathy, and the global dimension of human rights can inspire and illuminate the scientific discussions in a "Borderless" Legal Journal, as the *Revista Brasileira de Direito e Justiça/Brazilian Journal of Law and Justice* intends to be.

At last, a personal note: all the efforts of this enterprise are dedicated to the memory of my beloved sister, Dr. Eliane Borges da Silva, who died in April of this year. For all that she lived for and fought for, in academic and professional venues, for a more fair, more equal, and more democratic world, especially for women and black people in Brazil.