THE SYMBOLIC POWER OF POSITIVISM IN THE FIELD OF LEGAL TRAINING

O PODER SIMBÓLICO DO POSITIVISMO NO CAMPO DA FORMAÇÃO JURÍDICA

EL PODER SIMBÓLICO DEL POSITIVISMO EN EL ÁMBITO DE LA FORMACIÓN JURÍDICA

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ABSTRACT: The main objective of the research was to investigate the symbolic power of legal positivism as a mechanism of domination and reproduction in the training of law graduates. Through qualitative research, the scientific method and the analysis perspective of Pierre Bourdieu (1930-2002) were used. To this end, the main regulatory frameworks of Brazilian legal education and the curricular matrices of five Law Courses at universities in Santa Catarina were examined; and semi-structured interviews with 12 (twelve) teachers were carried Oct. Among the main findings, there was a predominance of dogmatic Law content in the legal curriculum, and, in the courses investigated, the students' predilection for classical normative content and the appreciation of technical knowledge resulting from the teacher's professional experience. It was concluded that the symbolic power of the norm, founded on the positivist paradigm rooted in the science of law, is a mechanism of domination and reproduction in the training of law graduates.

KEYWORDS: Legal education. Positivism. Symbolic power. Curriculum. Law.

***RESUMO**: O objetivo geral da pesquisa foi investigar o poder simbólico do positivismo jurídico como mecanismo de dominação e de reprodução na formação dos bacharéis em Direito. Por meio de pesquisa qualitativa, utilizou-se do método científico e da perspectiva de análise de Pierre Bourdieu (1930-2002). Para tanto, examinou-se os principais marcos regulatórios do ensino jurídico brasileiro e as matrizes curriculares de cinco Cursos de Direito de universidades catarinenses e realizou-se entrevistas semiestruturadas com 12 (doze) docentes. Dentre os principais achados, verificou-se o predomínio dos conteúdos dogmáticos do Direito no currículo jurídico e nos cursos investigados, a predileção dos estudantes por conteúdos normativos clássicos e a valorização do saber técnico decorrente da experiencia profissional do professor. Concluiu-se que o poder simbólico da norma, fundada no paradigma positivista, enraizado na ciência do direito, é um mecanismo de dominação e de reprodução na formação dos bacharéis em Direito.*

***PALAVRAS-CHAVE**: Ensino jurídico. Positivismo. Poder simbólico. Currículo. Direito.*

***RESUMEN**: El objetivo general de la investigación fue indagar en el poder simbólico del positivismo jurídico como mecanismo de dominación y reproducción en la formación de los licenciados en derecho. A través de una investigación cualitativa se utilizó el método científico y la perspectiva de análisis de Pierre Bourdieu (1930-2002). Para ello, se examinaron los principales marcos regulatorios de la educación jurídica brasileña y las matrices curriculares de cinco Carreras de Derecho en universidades de Santa Catarina y se realizaron entrevistas semiestructuradas a 12 (doce) docentes. Entre los principales hallazgos, se encontró el predominio de contenidos dogmáticos del Derecho en el currículo jurídico y en los cursos investigados, la predilección de los estudiantes por los contenidos normativos clásicos y la apreciación de los conocimientos técnicos resultantes de la experiencia profesional del docente. Se concluyó que el poder simbólico de la norma, basado en el paradigma positivista arraigado en la ciencia del derecho, es un mecanismo de dominación y reproducción en la formación de los licenciados en derecho.*

***PALABRAS CLAVE**: Educación jurídica. Positivismo. Poder simbólico. Currículo. Derecho.*

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Introduction

The history of law teaching in Brazil goes through countless curricular reforms that, according to renowned scholars of this subject, such as Bastos (2000) and Rodrigues (2005), were never enough to change its pragmatic and technical character. The development of the quality of Law courses in Brazil does not follow the exponential growth of these courses in the country. According to data published in Senso da Educação Superior, in 2000 Brazil had 442 (four hundred and forty-two) Law courses, while in 2020 the number of Law Courses already reached 1,625 (one thousand six hundred and twenty-five). The total number of vacancies offered, consequently, rose from 133,272 (one hundred and thirty-three thousand two hundred and seventy-two) in the year 2000 to 507,146 (five hundred and seven thousand one hundred and forty-six) in the year 2020 (INEP, 2020). The data therefore reveals that in 20 (twenty) years the number of Law courses in Brazil increased by 367.6% (three hundred and sixty-seven point six percent), while the number of places offered grew in a similar proportion, 380.9% (three hundred and eighty point nine percent). The expansion in the number of Law courses is justified especially by the expansion of the private sector's role in higher education, with a clear emphasis on obtaining profits from this branch of the market.

This scenario highlights the relevance of studies that aim to understand the mechanisms of reproduction of traditional legal education, far from the needs of contemporary society. New social demands instigate the development of new legal knowledge and new rights that are not limited to disciplines, but are interrelated with classical and transdisciplinary legal knowledge. This is why unveiling the reproduction mechanisms of Brazilian legal education is one of the keys to opening the doors to new practices, new knowledge and values in the *field of legal training*. In this scenario, the main objective of this research was to investigate the symbolic power of the norm, based on legal positivism, as a mechanism of domination and reproduction in the training of law graduates, based on the sociological theory of Pierre Bourdieu (1930-2002).

The symbolic power of legal positivism is evident in its various forms of manifestation, such as in the dogmatic structure of law, in professional practice that interrelates with legal education, in the curricular guidelines established by the State and in the *habitus* the *field of legal training*. The *habitus*, in turn, is understood as systems of acquired, durable and transposable dispositions; "structured structures predisposed to function as structuring, that is, as generating and organizing principles of practices and representations" (BOURDIEU, 2009, p. 87, our translation). The internalization of the *habitus* depends on the agent's own contact

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with the language of the field. "As he travels, as he frequents the *field*, the agent will acquire ways of acting, selecting, perceiving, doing, thinking and expressing himself from this place [...]" (VOLPATO, 2019, p. 370, our translation). Therefore, to be part of the field, the agent needs to be recognized in it through the incorporation of the *habitus*, which causes durable structures to be established in the field and in the agents, which will only be modified by principles that generate actions, normally resulting from crises within the field.

This theoretical construction demonstrates that the fundamental elements for maintaining legal education in traditional ways involve state control mechanisms, such as the codification of law and the structures that hierarchize and legitimize power relations in the legal field, in addition to the interests established in the field itself, university students who, interrelated with the professional field, reproduce the privileges established within them.

This time, considering the general objective of the work and the sociological theory of Pierre Bourdieu (1930-2002), two specific objectives for the research were outlined, namely: 1) identify possible privilege of classic dogmatic contents in the teaching of law from the analysis of the historical configuration of Brazilian legal education, the curricular matrices of the Law Courses investigated and the perception of the interviewed teachers; and 2) verify, in aspects relating to the teaching *habitus* in legal education, manifestations in the positivist perspective that influence the training process of law graduates.

The article is structured in two main parts: in the first, the structure of the Brazilian legal curriculum is analyzed, moving on to the curricular matrices of the five Law Courses investigated; and, in the second, the perception of the professors about the investigated phenomenon is presented. However, before going into the central parts of the study, the following section presents the research methodology and the data collection procedures adopted.

Methodology

Bourdieu (2021) invites the researcher to identify, in the invisible structure of the theoretical field, the trait that is nullified when this complete space is not constructed. Fields are relatively autonomous in relation to their surroundings, but it is in them that the essential explanation of what happens in that space must be found. In a specific field of symbolic production, different types of capital have greater or lesser value, according to the competitive games in that field. According to Volpato (2019, p. 369, our translation), "the field is

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particularized, therefore, as a space where power relations are manifested, it is structured based on the unequal distribution of a social *quantum* that determines the position that each specific agent occupies in that space". The *quantum* to which Volpato (2019) refers is what Bourdieu (2015) calls social capital, and the volume of this capital depends on the extension of the network, the relationships in which it can assert its specific capitals (economic, cultural or symbolic). Depending on the field, capital may have greater or lesser value and, therefore, it is possible to say that there is a hierarchy of these symbolic goods within the field, which also serves to hierarchize the individuals who hold them.

For Bourdieu (2011), in the case of the legal field, the set of codes, the domain of jurisprudence and legal doctrine are examples of objectified cultural capital, the appropriation of which matters for the rise of professionals to the best positions in the possible provisions of this field. Positive law, therefore, becomes symbolic capital that has the power to produce effects both in the legal field and *in the field of legal training*.

Therefore, given that "the notion of field is essentially a method for constructing the object" (BOURDIEU, 2021, p. 300, our translation), the theoretical elaboration of the *field of legal training* proved to be essential for understanding the symbolic power of legal positivism in the training of law graduates. This is because it is necessary to return to the root of the structural way of thinking so that it is possible to become aware of the arbitrary and understand the mechanisms that support the reproduction of traditional legal formation.

Based on these premises, this qualitative research was carried out, using the scientific method and the Bourdieusian perspective of analysis. Data was collected through consultation of public documents (decrees, laws, ordinances) relating to the main curricular reforms of Brazilian legal education and the curricular matrices of Law Courses at five community universities in Santa Catarina, located in different regions of the State, namely: Universidade do Vale do Itajaí – Univali, Law Course recognized by Federal Decree nº 69,799, of December 15, 1971; Community University of the Chapecó Region – Unochapecó, Law Course authorized by Presidential Decree No. 91,264/85, of May 22, 1985; Universidade do Planalto Catarinense – Uniplac, Law Course authorized by Presidential Decree nº 91,252, of 05/17/1985; University of the Joinville Region – Univille, Law Course authorized by Opinion nº 181/96/Cepe, of April 25, 1996; and Universidade do Extremo Sul Catarinense – Unesc, Law Course authorized by Ordinance MEC nº 802, of August 7, 1996.

The analysis of Law Courses, distributed in different regions of the State of Santa Catarina, is justified by the commitment of this study to legal education in the territory of Santa

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Catarina, since the research was financed by the Santa Catarina University Scholarship Program (UNIEDU) from the Support Fund for the Maintenance and Development of Higher Education (FUMDES) - Postgraduate.

Considering the time required to dedicate to interviews and the research schedule, it was decided to interview 12 (twelve) professors, 6 (six) in the oldest Law course of the selected Universities, namely, the Univalli Law Course –Itajaí Campus, and the other 6 (six) in the most recent course, the Law Course from Unesc. It is important to clarify that, even considering such a temporal parameter, both courses already have a relevant trajectory in legal education, with the first having been established for approximately 52 (fifty-two) years and the second having been established for 27 (twenty-seven) years of activity.

Of the interviewees, 5 (five) have doctors and 7 (seven) have masters. 9 (nine) practice law, 1 (one) is a Military Police Officer and 2 (two) are dedicated exclusively to teaching higher education in Law. The time dedicated to teaching varied between 7 (seven) and 27 (twenty-seven) years teaching in legal education. The subjects and/or curricular components taught by the interviewees were informed by them at the time of the interview and cover both dogmatic and propaedeutic and zetetic contents.

The heterogeneity in the profile of the interviewees guaranteed views from different perspectives, but revealed convergence in relation to most of the aspects investigated, as will be demonstrated in the following items. The interviews were carried out by the first author via the *Google Meet application,* with the video camera deactivated and exclusively audio recording. The anonymity of the participants was a condition agreed with them and preserved throughout the research work.

The positivist paradigm in the curriculum and curricular matrices

The training curriculum goes beyond the mere formal organization of a course; it brings with it the epistemological perspective on which professional training is based. Even though the historical evolution of the country's Law Course curriculum demonstrates the undertaking of actions aimed at moving away from the prescriptive basis in legal education, the positivism of the science of law, educational regulation and the bureaucratic structure of the State have the power to favor the maintaining the symbolic power of positivism in the curricular matrices, as well as supporting the stability of positions in the *field of legal training*.

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The legal curriculum reveals historical movements resulting from struggles established within the field. It contains the dominant values, epistemological choices, and the defense of positions and dispositions in the *field of legal training*. Therefore, understanding the historical evolution of the curriculum is essential for verifying the structural configuration of Brazilian legal education and, consequently, the invariable patterns that structure institutions and agents in the *field of legal training*.

Public documents that regulated changes in the Law course curriculum in Brazil since the implementation of the first law course in 1827 were selected. Afterwards, a comparative analysis was carried out of the curricular structure of Law Courses established by the main curricular reforms carried out after the Proclamation of the Republic (BRASIL, 1891; 1895; 1911; 1915; 1931; 1962; 1972; 1994; 2004; 2018), since, in the Imperial Period, the country's constitutional model was very different from that established from 1889.

The regulatory frameworks made it possible to identify the regular contents of the curricular structure and outline the invariable profile of Brazilian legal training. The similar contents of the curricula, defined in each of the main Brazilian curriculum reforms, were grouped into five groups, according to their nature.

The first group is related to the **Dogmatic Contents of Law**. Legal dogmatics is a way of thinking that calls on the jurist to reduce problems to individual conflicts that can be resolved based on the imposed rule. The second group represents the curricular components of **Propaedeutic and Zetetic Contents**. It deals, therefore, with the disciplines that enable general, humanistic, reflective and critical training. The term "propaedeutic" refers to what is introductory, preliminary, preparatory in nature, while " zetetic " refers to investigation, the tireless search for truth through questioning (MICHAELIS, 2015). The third group is identified as **Professional Practice** and refers to practical experiences, such as those carried out in internships, as well as the development of conflict resolution skills through consensual means. The fourth group is called **Other Content and/or Curricular Components**. It refers to content other than those specified in the previous groups and which provides other learning experiences, such as the practice of physical education, monographs and complementary activities. Finally, the fifth group was destined to **Optional or Exemplary List Contents**, identified in only two regulatory frameworks in the history of legal education. The first was due to CFE Resolution nº 3/72 (BRASIL, 1972), which determined the choice of at least two optional subjects from the list determined by it. Regarding the exemplary list, which emerged on the occasion of Resolution CNE/CES nº 5/2018 (BRASIL, 2018), it is proposed that general training and

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curricular diversification be mandatory even without the identification of the respective essential contents.

The data demonstrated that the Dogmatic Contents of Law prevailed in the legal curriculum throughout the analyzed period. Constitutional, Civil, Criminal, Commercial and Business, Procedural and Administrative Law remained in 100% (one hundred percent) of the proposals. Labor Law ensured this space from 1962 onwards, while Tax Law did so from 1972 onwards; and Social Security Law, unfortunately, only joined the essential contents in 2018. Propaedeutic and Zetetic Contents appeared less frequently. In this group, the State's interest in maintaining the subjects related to Economics and Political Science, State Finance and Accounting was evident, which appear in 80% (eighty percent) of the curricular structures studied. Introduction to the Study of Law appears in 60% (sixty percent) of the structures, while the other disciplines, such as Philosophy and Sociology, have fluctuated throughout history. Philosophy appeared as a mandatory curricular component in 50% (fifty percent) of the curricular reforms and Sociology in only 30% (thirty percent) of them, which demonstrates an inconsistency, given that Law is a social science.

In short, the examination of the historical configuration of the curricular matrices of Law Courses in Brazil showed that educational regulation supports the symbolic power of legal positivism in Law training, since the classic dogmatic contents of Law, with a codicist character, such as Criminal Law, Civil Law and Procedural Law in all its branches have a prominent place in the chronography of Brazilian legal education. In one case, the propaedeutic and zetetic contents, which allow a broad evaluation of legal phenomena and the effects of the norm, were historically placed on a secondary level, as is the case of Sociology, Ethics, History of Law, and even Philosophy.

Moving on to the analysis of the curricular matrices of the investigated courses, inserted in the Pedagogical Projects of the Law Courses at Univali (2018), Unochapecó (2023), Uniplac (2018), Univille (2015) and Unesc (2019), it was possible identify more similarities than dissimilarities between courses. Comparing the large groups of curricular components, it was found that all courses allocate the majority of their workload to curricular components focused on the Dogmatic Contents of Law and in a much higher proportion than the time allocated to other contents and/or curricular components. See below:

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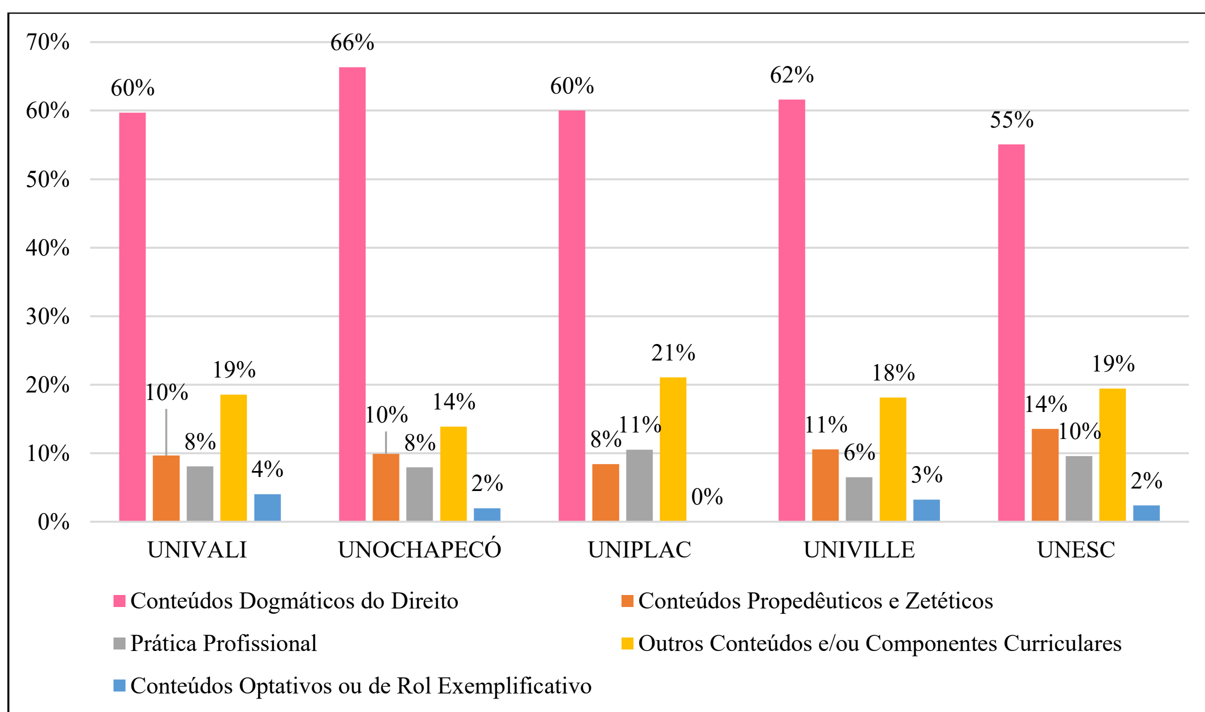
Graph 1 – Distribution of the workload of the Law Courses analyzed (%)



Source: Prepared by the authors (2023)

The Dogmatic Contents of Law were subdivided into Classical Contents of Material Law[3], Other Contents of Material Law and Classical Contents of Procedural Law. This classification was carried out based on the curricular structure of Brazilian legal education. The contents classified as Other Contents of Material Law also have a dogmatic nature, founded on a normative basis, but they have become stronger in legal education only in recent decades, which is why they make up the subgroup with that name, as is the case of Environmental and Urban Law, Social Security Law, Consumer Law, etc.

In all the courses analyzed, the emphasis was on the workload allocated to the contents of Civil and Criminal Law, followed by Business and Constitutional Law, remaining in similar percentages for Labor, Administrative and Tax Law.

Curricular components with Classic Contents of Procedural Law occupy the second position in the composition of the workload of the Law Courses investigated and, as occurs in the components with Classic Contents of Material Law, also in this group some identical curricular components gain prominent workload in all HEI. In the curricular components with

[3]Substantial law is substantial law or "[...] complex of norms that govern legal relations, defining their subject matter. For example, civil law, criminal law, commercial law, etc. It is opposed to adjective or formal law, which represents procedural law" (LUZ, 2022, p. 177, our translation).

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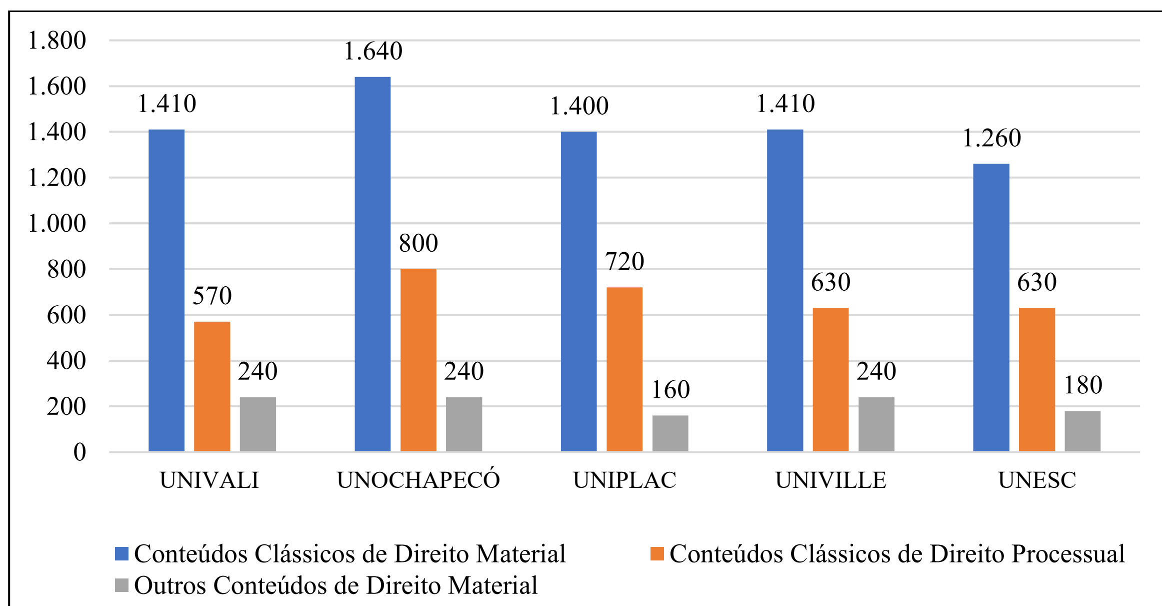
Classic Procedural Law Contents, there is a supremacy in the workload allocated to Civil Procedural Law and Criminal Procedural Law, in line with the material law contents.

As expressed throughout the previous items, in the Dogmatic Contents of Law, components with Other Contents of Material Law were also grouped. In this group, the contents of Environmental and Social Security Law appear in all HEIs, but there is no uniformity in the incidence of other contents, nor is there a considerable investment of time in any of these curricular components by any of the HEIs investigated. See if:

Graph 2 – Composition of the workload of curricular components with Dogmatic Law Contents



Source: Prepared by the authors (2023)

The graph above demonstrates that the new rights are not yet relevant in the scope of the curricular matrices of the courses investigated, which consolidates the thesis that the *field of legal training* is marked by historical provisions, built from the original model of national legal education and supported by the force of the norm, which promotes the structuring effects of the State, the legal field and *the field of legal training*. In addition to the predominance of positive law structuring the science of Law and State structures, the university field is a social space where a real struggle takes place to classify what belongs or does not belong to this world and where different power games are produced (CATANI, 2011). Thus, there is a historical maintenance of valid content for the training of Law graduates and curricular movements for change have not achieved significant results. In summary, from the analysis of the curricular matrices it was possible to demonstrate that:

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1) the Law Courses investigated maintain the same curricular structure predominant in the history of Brazilian legal education, therefore prevailing curricular components with Dogmatic Law Contents;

2) positive law is shown in the curricular basis of the analyzed courses, which allocate the majority of the workload from the Dogmatic Contents of Law to the Classical Contents of Substantive Law and the Classical Contents of Procedural Law;

3) all courses investigated dedicate the largest workload to the same classic content, especially Civil Law and Civil Procedure, Criminal Law and Criminal Procedure, Constitutional Law, Administrative Law and Business Law;

4) by regulatory force, a significant amount of time is dedicated to Professional Practice, Final Course Work and Complementary Activities in the training of Law graduates;

5) the Propaedeutic and Zetetic Contents occupy an average percentage of 10% (ten percent) of the workload of the courses investigated;

6) Other Material Law Contents and Transdisciplinary Contents have low expressiveness in the composition of the workload of the curricular matrices analyzed.

In this way, the analysis of the curricular matrices of the investigated courses demonstrated parity with the findings relating to the historical structural basis of the Brazilian legal curriculum, ratifying the positivist epistemological foundation that contributes to maintaining the training of law graduates in the traditional model of legal education.

The *habitus* and perception of teachers in the *field of legal training*

To achieve the objectives outlined in this research, it was important to go beyond the documentary base, as empirical data allows us to identify the incorporation of field structures by the subjects, who express the practical reasons for their respective actions. This time, empirical data was collected through semi-structured interviews, through which it was possible to capture elements for the scientific objectification of the recurrence of the respective interlocutors' forms of action.

The script for the interviews was structured considering the need to compare the theoretical elaboration of the effects of the symbolic power of legal positivism on the mechanisms of reproduction of the classic training parameters of law graduates, synthetically described:

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1) **the nationalized view of the social world,** which is common to all subjects, who recognize the legitimacy of the norm and are subject to its obedience, identifying legal education as the technical domain of positive law;

2) **the *habitus* of the *field of legal training*,** which values mastery of the norm and through it translates the appearance of impersonality and impartiality in the judicial resolution of conflicts, contributing to the maintenance of the State's monopoly in the control of private and collective relations;

3) **power relations at the university**, which ratify, albeit unconsciously, the state proposal to preserve legal education with the privilege of content and classical knowledge to the detriment of new rights and reflections on emerging social demands, given that the agents tend to maintain structures to guarantee their positions in the university field;

4) **state regulation and evaluation**, which contribute to maintaining the essentiality of codified content, subjecting HEIs to compliance with curricular guidelines and, consequently, leading them to the reproduction of traditional content in the teaching of law;

5) **the pedagogical training of teachers in Law Courses**, which cooperates in the reproduction of traditional teaching practices, especially technical ones, since the State recognizes the training of teachers in higher education exclusively through postgraduate courses, which have an emphasis in the search. Furthermore, the legislation also establishes the possibility of recognizing “notorious knowledge” for entry into higher education, making pedagogical knowledge essential for teaching in higher education, encouraging the reproduction of the pragmatic teaching model rooted in academic culture.

The interviews were carried out with a heterogeneous group of interviewees, who teach different types of curricular components. Likewise, teaching time also varied widely, between 7 (seven) and 27 (twenty-seven) years. Furthermore, the academic training of the interviewees included professors with a master's degree and doctors. This heterogeneity ensured views from different perspectives and also revealed convergence in relation to most of the aspects questioned.

Regarding the nationalized view of the social world as an effect resulting from the symbolic power of legal positivism, based on Bourdieusian theory it is possible to affirm that codification is a mechanism that gives publicity and universality to State thought, which monopolizes it and imposes it on subject to its parameters of vision, division and classification of agents, institutions and positions established in social provisions. Therefore, there is a worldview pre -constructed by the State. This vision is already structuring for the subjects and,

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therefore, is incorporated into the students when they enter the Law Course. They recognize norms because they already produce effects in their social life, as well as legitimizing the legal field and the repercussions of normative transgression. Thus, the positivist epistemological paradigm underpins the nationalized view of the social world and students, in addition to naturalizing such content, also yearn for it because they aim for entry and professional recognition in the legal field.

The investigation in this regard demonstrated that, for the teachers interviewed, the main object of study of curricular components with Dogmatic Contents of Law – which have a predominant workload in the curricular matrices – is positive law. For these teachers, students have a greater predilection for normative content, especially codified content, and, on the other hand, they show little interest in subjects with preparatory content. To illustrate the teachers' thinking in this category of analysis, some of the teachers' statements stand out: "I care a lot about meeting the normative requirements of the discipline" (Teacher J, 2022); "The main object of study is legislation, with practical application, but the main foundation is through legislation" (Professor D, 2022); and more:

> I've already taught classes in the 1st phase, 2nd phase, and they want to have contact with the dogmatics. **And everyone, socially, shares within the Law that... 'ah, I never needed Aristotle in my professional activity',** yes, right, why are you a lawyer or a jurist? Because the jurist goes further! **And also the subjects, especially Civil Law and Criminal Law, it's funny... they are the big subjects that divide people** [...], but the basis of everything is the Constitution, so this should be the most prestigious (Professor G, 2022, emphasis added, our translation).

And still:

> These subjects are more available, we have a greater workload for these subjects. [...] we realize that from the first period, second, they already have contact with the subjects of Criminal Law and Civil Law. In the labor area, they will have contact in the fifth period and Social Security in the seventh period, before it was the tenth period and now the seventh period because the matrix changed, **so the workload is much less than what they have in the Criminal area and in the Civil area** (Professor A, 2022, emphasis added, our translation).

As stated above, among the mechanisms of domination and reproduction in the training of Law graduates, categories pertinent to power relations at the university, regulation and state evaluation were also listed. Regarding these aspects, teachers agree that there are subjects that are more prestigious than others, precisely the same ones that historically predominate in the curricular structure of Law Courses in Brazil and in the curricular matrices of the courses

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investigated, essentially Civil Law and Civil Procedure, Criminal Law and Criminal proceedings. Therefore, no points were identified in the interviews that differed from the documentary analysis in this aspect. Below is an excerpt from one of the statements in this regard:

> **I always joke that my subjects are *bullied*, right [laughs]**, precisely for that reason, because I ask on the first day of class: which subject do you like the most? Criminal Law always comes first, right, maybe because it causes a certain curiosity, the issue of the matter, and the civil area... **if I put it on a scale, it always comes there, at least in relation to the classes I teach, Criminal Law, Civil Law** and below, interests in the labor area and the social security area, which are the areas in which I work (Professor A, 2022, emphasis added, our translation).

Teachers justified the highlighting of some subjects for different reasons, but all of them are aligned with the theoretical perspective of the present study, such as the historical structure of the curriculum, the highlighted workload, the requirements in public competitions and the OAB Exam, the demand in the professional field and institutional options. In that regard:

> On the one hand, due to the situation in which this appears in the evaluation processes through which our students end up applying, **be it the Bar Exam, Public Competition or other instruments**. On the other hand, due to the question of how the internship process takes place, **there is a more open field for some areas and more restrictive ones in other areas**, and this also ends up impacting this perception of importance. I also judge that at a certain **political moment that any country will go through**, certain matters end up being more impactful at that moment and at another moment this scenario goes to another level, almost a zone of ostracism so to speak, a point that at that moment it seems that no one there's so much interest. **And on the other hand, even talking about the point of having experience in the administrative part of the University, at times there is a pedagogical option by some departments of the University to give prestige to one area to the detriment of others, so this is also very clear to me.** At some point it's a **marketing issue**, let's say, you need to please an audience and you need to meet what your competitor is doing, not that I necessarily agree with that, but I see it in that format. The other situation is the **profile of the Institution to which the Course is linked**, some with a bias much more focused on immediate results, others on a more contemplative, humanistic training, some that have a very clear verticalization at the doctorate level up to graduation, so this also ends up impacting training, and others that is merely the bachelor's degree, so it is another way of structuring the curricular matrix and, to some extent, **even the question that exists about who the full professors are and the need for these disciplines to include certain profiles professionals who are already within the Institution** (Professor C, 2022, emphasis added, our translation).

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Despite teachers' numerous justifications for the greater prestige of some curricular components, it was possible to perceive that they do not have a broad understanding of the complexity of the phenomenon that leads to the historical prestige of some curricular components and, furthermore, that the influence of power relations at the university is the most veiled aspect in their statements. This is perhaps because administrative experience in the university field is relevant for acquiring such perception or because this point is really sensitive to the debate and there was no interest in joining this discussion.

Finally, the approach also entered the *habitus* of the *field of legal training* and the pedagogical training of teachers. When questioned, the teachers reported that they expand the approach of classes beyond the normative content, however, when asked about how they do it, the majority of them state that they approach professional practice, in most cases, through jurisprudence, ratifying, with this, the primacy of legal pragmatism and reinforcing the perpetuity of the norm through interpretation.

Teachers also state that students show a lot of interest in the technical knowledge they have as a result of their experience in the professional field, which is in line with the appreciation of legal technicality by the students themselves and with the influence of the symbolic power of legal positivism in the training of Law bachelors.

Teachers also report that, when preparing their classes, they seek references mainly from their teachers or from teachers with outstanding performance today, as well as from legal doctrine and professional practice, in addition to other references with less incidence in the speeches. Such findings are compatible with the reproduction of the traditional legal teaching methodology, given that, in addition to positive law being the central object of most curricular components, teachers also tend to reproduce the practices of their teachers, equally based on historical-positivist logic of Law.

Therefore, from the analysis of the answers obtained in the block of questions that constitute the category relating to the *habitus* of the *field of legal training*, it was possible to conclude that the teacher's *habitus* in legal education is marked by the legal technique approach of a normativist nature and by the reproduction of methodologies traditional teaching of Law. Such elements are supported by the student expectation of recognizing successful practices in the professional field and incorporating them to be subsequently recognized in the legal field.

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Conclusion

The documentary analysis of the regulatory frameworks, the curricular matrices of five Law courses and the data collected in interviews with twelve teachers, demonstrated, synthetically, that: 1) the classic dogmatic contents of Law have a prominent space in the chronography of Brazilian legal education, with constant predominance of the same positive law disciplines; 2) the five Law Courses investigated maintain the same curricular structure predominant in the history of Brazilian legal education, with a greater workload for traditional normative-based subjects; 3) propaedeutic, zetetic and transdisciplinary contents have low expressiveness in the workload of the courses investigated; 4) according to teachers, the main object of study of most curricular components is positive law; 5) in the perception of teachers, classical dogmatic subjects are the most prestigious in the field of legal training; 6) students have, in the teachers' view, a predilection for dogmatic subjects and demonstrate a significant interest in technical knowledge resulting from the teacher's experience in the professional field; 7) to prepare their classes, the teachers interviewed seek reference, mainly, from their teachers with outstanding performance, as well as in legal doctrine and professional practice. It was concluded, then, from the data analyzed, that the symbolic power of the norm, founded on the positivist paradigm rooted in the science of law, is a mechanism of domination and reproduction in the training of law graduates.

It was also possible to evidence in the teachers' speech that they want legal education to expand its formative dimension and, certainly, they seek to undertake practices in this sense. However, innovation almost always takes on a renewal profile, led by agents who already occupy dominant positions in the *field of legal training*. This renewal takes place within a space of struggle, where agents aim to preserve the positions and/or privileges obtained due to investments made in light of historically established rules.

Thus, it seems that the path will be followed more successfully if, first, agents in the *field of legal training* understand the genesis of the legal phenomenon and the mechanisms of reproduction and domination in the training of law graduates. Because a sociological and paradigmatic discussion precedes the elaboration of a new legal education, truly adapted to current demands and to meet new social demands.

Finally, it is important to highlight that, although the approach to the regulatory frameworks for legal education was carried out considering the national scope of these normative acts, the universities selected as the locus of the research are located in the State of Santa Catarina. Therefore, it is pertinent to carry out new studies on the same theme, expanding

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the number of universities in Santa Catarina and/or covering institutions located in other Brazilian states. Different perspectives can also be addressed by teachers and students regarding the object of study, expanding the research database and the subsidies for scientific understanding of the *field of legal training*.

REFERENCES

BASTOS, Aurélio Wander. **O ensino jurídico no Brasil.** 2 ed. Rio de Janeiro: Lumen Juris, 2000.

BOURDIEU, Pierre. **Escritos de Educação**. 16. ed. Petrópolis, RJ: Vozes, 2015.

BOURDIEU, Pierre. **O senso prático**. Petrópolis, RJ: Vozes, 2009.

BOURDIEU, Pierre. **Razões Práticas**: sobre a teoria da ação. Tradução: Mariza Côrrea. 11. ed. Campinas, SP: Papirus, 2011.

BOURDIEU, Pierre. **Sociologia Geral:** *habitus* e campo: Curso no Collège de France (1982-1983). Tradução: Fábio Ribeiro. Petrópolis, RJ: Vozes, 2021. v. 2.

BRASIL. **Decreto nº 1.232-H, de 2 de janeiro de 1891**. Approva o regulamento das Instituições de Ensino Juridico, dependentes do Ministerio da Instrucção Publica. Rio de Janeiro, 2 jan. 1891. Available at: https://www2.camara.leg.br/legin/fed/decret/1824-1899/decreto-1232-h-2-janeiro-1891-517957-publicacaooriginal-1-pe.html. Access: 04 Oct. 2023.

BRASIL. **Decreto nº 11.530, de 18 de março de 1915**. Reorganiza o ensino secundario e o superior na Republica. Rio de Janeiro, 18 mar. 1915. Available at: https://www2.camara.leg.br/legin/fed/decret/1910-1919/decreto-11530-18-marco-1915-522019-republicacao-97760-pe.html. Access: 04 Oct. 2023.

BRASIL. **Decreto nº 19.852, de 11 de abril de 1931**. Dispõe sobre a organização da Universidade do Rio de Janeiro. Rio de Janeiro, 11 abr. 1931. Available at: https://www2.camara.leg.br/legin/fed/decret/1930-1939/decreto-19852-11-abril-1931-510363-republicacao-85622-pe.html. Access: 04 Oct. 2023.

BRASIL. **Decreto nº 8.662, de 5 de abril de 1911**. Approva o regulamento das Faculdades de Direito. Rio de Janeiro, 5 abr. 1911b. Available at: https://www2.camara.leg.br/legin/fed/decret/1910-1919/decreto-8662-5-abril-1911-499813-republicacao-101881-pe.html. Access: 04 Oct. 2023.

BRASIL. **Lei nº 314, de 30 de outubro de 1895**. Reorganisa o ensino das Faculdades de Direito. Rio de Janeiro, 30 Oct. 1895. Available at: https://www2.camara.leg.br/legin/fed/lei/1824-1899/lei-314-30-outubro-1895-540752-publicacaooriginal-41651-pl.html. Access: 04 Oct. 2023.

BY-NC-SA

BRASIL. Portaria 4 dezembro 1962: homologa currículos mínimos. **Revista Documenta**, Ministério da Educação e Cultura, n. 10, p. 13-15, dez. 1962.

BRASIL. **Portaria nº 1.886, de 30 de dezembro de 1994**. Fixa as diretrizes curriculares e o conteúdo mínimo do curso jurídico. Brasília, 30 dez. 1994. Available at: https://www.oabrn.org.br/arquivos/LegislacaosobreEnsinoJuridico.pdf. Access: 04 Oct. 2023.

BRASIL. Resolução CFE nº 3, de 25 de fevereiro de 1972. Currículo mínimo de curso de graduação em direito. **Revista Documenta,** Ministério da Educação e Cultura, n. 140, p. 566, jul. 1972.

BRASIL. **Resolução CNE/CES nº 5, de 17 de dezembro de 2018**. Institui as Diretrizes Curriculares Nacionais do Curso de Graduação em Direito e dá outras providências. Brasília, 17 dez. 2018. Available at: http://portal.mec.gov.br/docman/dezembro-2018-pdf/104111-rces005-18/file. Access: 04 Oct. 2023.

BRASIL. **Resolução CNE/CES nº 9, de 29 de setembro de 2004.** Institui as Diretrizes Curriculares Nacionais do Curso de Graduação em Direito e dá outras providências. Brasília, 29 set. 2004. Available at: http://portal.mec.gov.br/cne/arquivos/pdf/rces09_04.pdf. Access: 04 Oct. 2023.

CATANI, Afrânio Mendes. As possibilidades analíticas da noção de campo social. **Revista Educação & Sociedade**, Campinas, v. 32, n. 114, p. 189-202, jan./mar. 2011, Available at: https://www.cedes.unicamp.br/publicacoes/edicao/70. Access: 04 Oct. 2023.

INEP. Instituto Nacional de Estudos e Pesquisas Educacionais Anísio Teixeira. **Censo da Educação Superior**: Resultados. Brasília, 2020. Available at: https://www.gov.br/inep/pt-br/areas-de-atuacao/pesquisas-estatisticas-e-indicadores/censo-da-educacao-superior/resultados. Access: 04 Oct. 2023.

LUZ, Valdemar. **Dicionário jurídico**. Barueri: Manole, 2022.

MICHAELIS. Dicionário Brasileiro da Língua Portuguesa. **Busca de Termos.** São Paulo: Melhoramentos, 2015. Available at: https://michaelis.uol.com.br/moderno-portugues/. Access: 04 Oct. 2023.

RODRIGUES, Horácio Wanderlei. **Pensando o ensino do direito no século XXI**: diretrizes curriculares, projeto pedagógico e outras questões pertinentes. Florianópolis: Fundação Boiteux, 2005.

UNESC. Universidade do Extremo Sul Catarinense. Matriz curricular proposta. *In:* UNESC. **Projeto Pedagógico do Curso de Direito**. Criciúma: Unesc, 2019. Available at: https://www.unesc.net/portal/resources/official_documents/17923.pdf?1575666786. Access: 04 Oct. 2023.

UNIPLAC. Universidade do Planalto Catarinense. Estrutura Curricular. *In:* UNIPLAC. **Projeto Pedagógico do Curso de Direito**. Lages: Uniplac, 2018. Available at: https://data.uniplaclages.edu.br/publicacoes/resolucoes/faeed730b46d74f608c0c417d3a9e15b.pdf. Access: 04 Oct. 2023.

(cc) BY-NC-SA

UNIVALI. Universidade do Vale do Itajaí. Anexo da Resolução nº 265/CONSUN-CaEn/2018. Matriz Curricular do Curso de Direito. *In:* UNIVALI. **Projeto Pedagógico:** Curso de Direito, modalidade Presencial, Biênio 2020-2021. Itajaí: Univali, 2018. Available at: https://bit.ly/3LH6D75. Access: 04 Oct. 2023.

UNIVILLE. Universidade da Região de Joinville. Matriz Curricular. *In:* UNIVILLE. **Projeto pedagógico do curso Direito:** *Campus* Joinville. Joinville: Univille, 2015. Available at: https://www.univille.edu.br/community/novoportal/VirtualDisk.html/downloadDirect/1269904/PPC_Direito_Joinville.pdf. Access: 04 Oct. 2023.

UNOCHAPECÓ. Universidade Comunitária da Região de Chapecó. Matriz Curricular do Curso de Direito. *In:* UNOCHAPECÓ. **Síntese do projeto pedagógico do Curso de Graduação em Direito (bacharelado)**: Matriz 1410. Chapecó: Unochapecó, 2023. Available at: https://www.unochapeco.edu.br/static/data/portal/sites/ppc/42.pdf. Access: 04 Oct. 2023.

VOLPATO, Gildo. Campo científico, conhecimento e relações de poder na universidade: uma revisão a partir do pensamento relacional de Pierre Bourdieu. **Revista Contrapontos**, Itajaí, v. 19, n. 1, p. 365-381, jan./jun. 2019. Available at: https://siaiap32.univali.br/seer/index.php/rc/article/view/14774. Access: 04 Oct. 2023.

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