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THE STUDY OF LAW AND LITERATURE IN BRAZIL: DEVELOPMENT, EVOLUTION AND EXPANSION

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ABSTRACT: In the United States, as well as in Europe, the history of Law and Literature refers to the beginning of the 20th century and its development led to different approaches and perspectives. In Brazil, over the last decade, one can observe the multiplication of studies and research on Law and Literature. This does not mean, however, that its emergence is recent in Brazilian territory neither that the great volume of intellectual productions is not directly proportional to its quality. This article seeks to study, historically, how the study of Law and Literature was developed in Brazil, by recovering its precursors, recognizing the researchers that contributed to its evolution and identifying the aspects that led to its expansion. This paper also reflects on the theoretical consistency (or lack of it) in the Brazilian production, based on a quantitative survey and qualitative analysis of the papers presented and published in the Conpedi events. The conclusion is that, in comparison to the American and European traditions, the Brazilian experience proves to be an innovative and promising one, although still very scarce from a theoretical point of view.

KEYWORDS: Law and Literature; History; studies; researches.

1 INTRODUCTION

Studies and research in Law and Literature still constitute “novelty” for Brazilian jurists, even for a large part of the scientific community, who

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sees these approaches and articulations with a certain strangeness, often associating them with an inconsistent academic practice, that is, a certain superfluous trend.

However, as is well known, the incursions in this field of research that has recently become more visible are not so “new”, especially on the international stage, but they are a centuries-old tradition, as they go through the history of the 20th century, as Sansone (2001) points out.

In the United States, for example, its origin has traditionally been attributed to the publication of John Wigmore’s essay *A List of Legal Novels* in 1908. Under the aegis of what later became known as *Law in Literature*, Wigmore lists several novels, especially modern Anglo-Saxon narratives, in which the most varied juridical themes emerge. Years later, in 1925, Benjamin Cardozo publishes the well-known essay *Law and Literature*, directed towards the study of *Law as Literature*, through which he examines the literary quality of Law³.

In Europe, the first articulated experiences resulted in the article published in Italy by Ferruccio Pergolesi (1927), for whom the literature of a people contributes, among other things, to the history of its law⁴; And the essays by Hans Fehr (1929, 1931, 1936), published in Germany and Switzerland, where Law appears as a cultural phenomenon, common to the education of jurists and literates, while Literature exudes as a source for legal knowledge and also constitutes a powerful means of criticizing legal institutions⁵.

³ John Wigmore and Benajmin Cardozo are considered to be the founding fathers of Law and Literature (Godoy, 2008), although Irving Browne (1883) has devoted himself to the subject in the late nineteenth century. It is also noted that Wilbur Larremore (1890) and Gilbert Ray Hawes (1899) had also written in the first series of *The Green Bag*, published in 1899-1914, small articles in which they related Law and Literature.

⁴ Still on the origins of Law and Literature in Italy, the works of Maria Paola Mittica (2009) and Arianna Sansone (2001) stand out.

⁵ It should be noted that in the early nineteenth century Jacob Grimm (1785-1863) – one of the Grimm brothers (the other was Wilhelm), who studied law in Marburg, where they were students and became friends of Savigny. Jacob was considered as one of the most important German linguist, and by many, the founder of German grammar, published, in 1815, *Von der Poesie im Recht*, where he affirmed that “law and poetry rose together from the same bed” (Grimm, 1815). Still in the nineteenth century, Rudolf von Iehring, in *The Struggle for Right* (1872), turned to Shakespeare’s famous play *The Merchant of Venice* to expound his argument. Another illustrious forerunner who ventured to reflect on a legal question from Literature was Hans Kelsen (1905), in his well-known thesis on the theory of the State of Dante Alighieri. In the same line, although they did not systematically dedicate themselves to the relations between Law and Literature, there are many Italian works on Dante and Law still in the nineteenth century: Ciriaco De

After a stage of maturity, the 1970s and 1980s represent the *revival* of studies and research in Law and Literature (Smith, 1979; Minda, 1995; Sansone, 2001; Mittica, 2015), becoming a determining historical milestone for the field's maturity, especially in view of the interdisciplinary potential that characterizes these productions.

In America, the first proposals for inclusion in university programs appear. The publication of the famous work of James Boyd White, entitled *The Legal Imagination. Studies in the Nature of Legal Thought and Expression* (1973), is considered a turning point, since it reformulates the legal-political discourse, and leads to the emergence of the so-called *Law and Literature Movement*⁶ – which becomes an important ally, under diverse fronts, in the criticism of juridical formalism (Minda, 1995) –, which result in innumerable developments over the years to come.

In the old continent, on the contrary, there is no institutionalization of studies in Law and Literature. The effervescence of interest is still limited to the sphere of lawyers who carry out individual research activities and projects, so that there is no proper European approach (Mittica, 2015, p. 11). Without the pretension of presenting an exhaustive list, at present, the main references are, in Portugal, Joana Aguiar e Silva and Paulo Ferreira da Cunha; In Spain, José Calvo González; In Italy, Maria Paola Mittica and Daniela Carpi; In Belgium, François Ost; In the Netherlands, Jeanne Gaaker; In Germany, Peter Häberle and Greta Olson.

Antonellis (1860), Francesco Carrara (1870), Emilio Costa (1890, 1893, 1898), Carmelo Grassi (1902), Vittorio Vaturi (1909) and Arrigo Solmi (1922). Other forerunners, even older, are, for the record, Jacques Cujas, Phillip Wilhelm Schindler, Eduard Platner, Raymon Osmin Benech, Eugène Henriot, Eugène Paringault, Ambrose Buchere, Alexandre Poidebard, Francesco Forlani, August Pietcher, Josef Kohler, Antonio Martin Gamero, Manuel Torres Campos and Rene Garraud (Delgado Citron, 2014, p. 120-129).

⁶ *Law and Literature Movement*, or *Law and Literature Scholarship*, or *Law and Literature Enterprise* – the latter expression used by Robert Weisberg (1989) – is an American movement inaugurated in the 1970s, which strategically uses literature, its theory and its texts to offer a postmodern and multicultural perspective to the conventional juridical studies by positivist and formalist authors (Minda, 1995). The debate promoted by the *Law and Literature Movement* was developed by thinkers such as James Boyd White, Richard Weisberg Robert Cover, David Ray Papke, Robert Weisberg, Richard Posner, Richard Delgado, Jerome Bruner, Sanford Levinson, Robin West, Ronald Dworkin, Martha Nussbaum, Stanley Fish, Owen Fiss, Ian Ward, Paul Heald, Paul Gewirtz, Peter Brooks, among others.

The culture of Law and Literature has developed in a slower, more isolated and punctual way in Latin America, intensifying especially since the 1990s and the successive decades, with emphasis to some countries like Argentina⁷, Peru⁸, Colombia⁹, Puerto Rico¹⁰ and, recently, Ecuador¹¹.

What about Brazil? Who are the precursors of studies in Law and Literature? How has its evolution happened, and, especially in recent decades, to what extent has this “new” field of research expand? Do Brazilian researches have a degree of scientific maturity compatible with that reached in other countries? Are there any common characteristics in the works developed among ourselves? Is there anything genuine and innovative in the Brazilian experience capable of contributing to the advancement of Law and Literature in the international arena?

These are the questions that the present article seeks to answer through the historical recovery of the development of Law and Literature in Brazil and a survey of the teaching, research and extension experiences practiced in the national territory in recent years¹². In order to do so, the research had the invaluable support of the Brazilian Network of Law and Literature (Rede Brasileira Direito e Literatura – RDL), which assisted both

⁷ It should be noted that, in Latin America, Argentina was the country where the first approximations between Law and Literature took place (Appleton, 1936, Schaffroth, 145, Calí, 1948) and also, from the 1980's and 1990's, it was incorporated, through the door of interdisciplinarity, to the critical theory constructed by Enrique Marí, Carlos Cárcova, Alicia Ruiz and Claudio Martyniuk, according to Roggero (2016).

⁸ In Peru, one of the precursors was Estuardo Núñez Hague, with the publication of the essay entitled *Goethe y la vocación por el Derecho* (1950). In the 1990s, Fernando de Trazegnais published *El Derecho como tema literario* (1997), recovering the speech given two years earlier during his tenure at the Peruvian Academy of Language. In Lima, in the 2000s, the first printed Latin American journal dedicated to the topic was published: *Revista Peruana de Derecho y Literatura* (RPDL), under the direction of Miguel Torres Méndez, Carlos Ramos Núñez and Julián Alberto Navarro.

⁹ In Colombia, since the 1990s, there has been what is called a *literary jurisprudence*, in honor of the decisions of the Council of State, the Supreme Court and the Constitutional Court, which show the application of literary resources, be they quotations, references to works or characters, paraphrases of narratives or any other means by which literature is used to justify judicial decisions (Torres Méndez, 2003; Leysser, 2004).

¹⁰ In Puerto Rico, since the beginning of the 1980s, Carmelo Delgado Citron (2014, p.94) has taught Law and Literature at the Law School of the University of Puerto Rico.

¹¹ In Ecuador, since 2015, the research group *Intertextos entre el Derecho y la Literatura* works, linked to the College of Jurisprudence of the Universidad San Francisco de Quito, under the coordination of professors Diego Falconí Trávez and Daniela Salazar Marín.

¹² For this survey, the following databases were used: RDL, Google, Google Scholar, WorldCat, Public Domain Portal, Lattes Platform, DGP / Lattes, CAPES Theses and Dissertations Bank. It should be noted that this research was limited to mapping data referring to the area of Law. However, although less expressive, the existence of research in Law and Literature in the area of Literature is noticeable, as well as the production of dissertations and theses.

in the mapping and collection of data and in the analysis of publications produced within the framework of the events of the National Council for Research and Post-Graduation in Law (Conselho Nacional de Pesquisa e Pós-Graduação em Direito) (CONPEDI).

Thus, in order to provide an updated overview¹³, the present study seeks to establish three stages related to the evolution and development of Law and Literature in Brazil. The *first phase* concerns its precursors, referring to the pioneering study of Aloysio de Carvalho, which is still little known, and especially to the revolution produced in legal education by Luis Alberto Warat, who influenced generations of lawyers. The *second phase* involves the attempts to systematize the studies in Law and Literature and its institutionalization, covering the end of the 1990's and the successive years. The *third phase*, finally, is related to the expansion verified over the last decade, represented by the multiplication of studies and surveys throughout the country.

2 FIRST PHASE: THE PRECURSORS OF LAW AND LITERATURE IN BRAZIL

In Brazilian history, since the seventeenth century, mainly because of the tradition of Law baccalaureate, countless are the examples of great writers who had degrees in Law¹⁴. One of the most well-known cases is certainly José de Alencar – the greatest exponent of Brazilian romanticism –, who served as Minister of Justice of the Empire from 1868 to 1870, also dedicating himself to writing notes and legal opinions, in particular on “holidays of public prosecutors, vacation of the forum, jurisdiction,

¹³ It should be noted, however, that Daniel Nicory do Prado (2007), while attending a master's degree in law at UFBA, devoted himself to the same attempt. Luiz Carlos Cancellier de Oliveira (2010), also, outlined a brief overview. Unlike the previous ones, the present study deepens the investigation about the precursors and, also, critically analyzes the *golden years* of Law and Literature in Brazil.

¹⁴ In this sense, by way of illustration, the following stand out: Gregório de Mattos, Cláudio Manoel da Costa, Tomás Antonio Gonzaga, Gonçalves Dias, Álvares de Azevedo, Castro Alves, José de Alencar, Raul Pompéia, Raimundo Correia, Alphonsus de Guimaraens, Augusto dos Anjos, Graça Aranha, Godofredo Rangel, Oswald de Andrade, Alcântara Machado, José Lins do Rego, Clarice Lispector, Jorge Amado, Monteiro Lobato, João Ubaldo Ribeiro and Ariano Suassuna. In the same vein, it should be noted that in March 2017, almost half of the members of the Brazilian Academy of Literature (ABL) had degrees in Law: Tarcisio Padilha, Carlos Nejar, Nelson Pereira dos Santos, Rosiska Darcy de Oliveira, Helio Jaguaribe, Sergio Paulo Rouanet, Celso Lafer, Lygia Fagundes Telles, Affonso Arinos de Mello Franco, Murilo Melo Filho, Alberto Venancio Filho, Marcos Vinícios Vilaça, Eduardo Portela, Geraldo Cavalcanti, Candido Mendes, Arno Wehling, José Sarney and Marco Maciel.

commutation of sentences, pardon of the Military Court, military jurisdiction, payment and execution of the fine imposed on the slave defendant, slaveholder's obligation to pay a fine to a slave, among others” (Godoy, 2002, p. 29-31).

However, the true Brazilian precursor of Law and Literature is Aloysio de Carvalho Filho, a jurist and politician from Bahia¹⁵, who began his investigations in the work of Brazilian author Machado de Assis in the legal field in the 1930s, having published two books on the subject in the late 1950s.

The first of these, entitled *O processo penal e Capitu*, was published in 1958, resulting from a conference given at the Academy of Literature of Bahia in the same year. In this small work, after presenting the literary fortune of the novel *Dom Casmurro*, Carvalho Filho examines, from a criminal perspective, the favorable and unfavorable evidence to the thesis of the narrator's betrayal (Prado, 2008).

The second, inspired by the monograph *Ideales penales de Anatole France*, by the Spanish jurist Mariano Ruiz-Funes (1926), was published in 1959 under the title *Machado de Assis e o problema penal (Machado de Assis and the judicial problem)*. In this pioneering study – but still little known among us, according to Prado (2008) –, which reveals a clear work of Law in Literature, Carvalho Filho brings together four articles in which he approaches legal issues in the light of the Machado de Assis literature, in addition to a fifth article, curiously more extensive than the previous ones, about the work of Dostoyevsky, titled *Aspectos penais na obra de Dostoiévski*.

In fact, the first two articles that compose the book – entitled *Machado de Assis e o problema penal (Machado de Assis and the judicial problem)* and *Crime e criminosos na obra de Machado de Assis (Crime and criminals in Machado de Assis)* – had originally been published in 1939, during the centennial of Machado de Assis' birth day. These are the works that, in fact, give Carvalho Filho the status of precursor of Law and Literature in Brazil.

¹⁵ Before this, it should be noted that the couple Clóvis Beviláqua (1859-1944) and Amélia de Freitas Beviláqua (1863-1946) published the work *Literatura e Direito* (Beviláqua, 1907), gathering texts of both – he, a jurist, she, a writer – published in two parts, one dedicated to Law and another to Literature, so that it cannot properly be considered a work of Law and Literature.

It is interesting to highlight the relevance of his thought to the role played by literary narratives in the understanding of human reality, as opposed to the idea in force at the time that such a task would be limited to the sciences: “a literary work is not to be asked, of course, for a legal or criminological systematization. It is no less certain, however, that, in dealing with criminal psychology, literature has attained on countless occasions such mastery, and even superiority over the empirical sciences” (Carvalho Filho 1959, p. 66).

Even before the middle of the last century, another well-known Bahian jurist searched in material literature for his juridical researches: José Gabriel Lemos Britto. In 1946, he published *O crime e os criminosos na literatura brasileira (Crime and criminals in Brazilian literature)*, a work in which the strong Lombrosian bias and the intense interest awakened, at the time, by the scientific investigations in the area of criminology.

Through literary narratives, Lemos Britto collects physical-anatomical and psychological characterizations that are offered by characters who practice criminal acts and, from these, seeks to establish a Brazilian criminal typology, in order to provide subsidies for the study of the profile of offenders and of delinquency in our country.

According to Campos (2003), examined in its proper context, the book by Lemos Britto is a valuable record for the understanding of the issues related to racial discrimination in Brazil:

The images that the author recovers when selecting the crimes and the criminals in the Brazilian literature end up pointing out how these types were assimilated throughout the national history, allowing to size the consequent damages in that it expresses a highly segregationist vision, closely linked to the theory of racial degeneration proposed by criminal anthropology.

In any case, despite the novelty regarding the investigations of Carvalho Filho and Lemos Britto, the great founder of legal interdisciplinary studies, especially the relations between Law and Literature¹⁶, is certainly Luis Alberto Warat, who was responsible for

¹⁶ In this sense, Albano Pepe affirms that Warat “inaugurated in Brazil this extremely fecund movement of dialogs and approximations of the literature with the legal texts. The seeds released have expanded over time, rhizomatically, adding new narratives, new readers and new interlocutors” (Pepe, 2016, p. 7).

influencing the formation of generations of jurists, in addition to contributing to the consolidation of *stricto sensu* graduation in Law, revolutionizing the area's education throughout the country¹⁷.

Since the 1970s, when he moved in to Brazil, initially in Rio Grande do Sul, because of the Argentine military dictatorship, Warat was already a great thinker who, from a solid knowledge, “passed freely from philosophy, psychoanalysis, literature to the theory of law. With his challenging and radical ideas, coming from unexpected places, he deeply marked the juridical universe” (Rocha, 2012, p. 203).

As is well known, literature was always one of his main escape routes for the construction of critical thinking through transdisciplinarity. His work is marked by the deconstruction of imposed and instituted knowledge. And here, the works of Argentine writers (Cortázar and Borges) and Brazilians (Mário de Andrade and Jorge Amado) – allied to the theoretical contributions of Bakhtin and many other – played an absolutely relevant role in breaking with the model of conventional pedagogy¹⁸, as Pepe recalls:

Warat already brought from Argentina a vast body of knowledge about the relations between such fields of discursive formations. A frequent reader of authors such as Jorge Luis Borges, Julio Cortázar and Manoel Puig, he added Brazilian authors such as Jorge Amado and Mário de Andrade to his library. Characters of some of these authors emerged in his ideas when dealing with possible relations between literature and the legal tradition. Some of them, such as the *famas* and *cronópios*, of *Stories of Famas and Cronópios*, of Cortázar (Warat, 1994-1997); Like *Dona Flor, Vadinho and Teodoro*, from *Dona Flor and her two husbands*, by Jorge Amado (Warat, 1985), began to compose the surrealist texts created by Warat in the production of a climate, an environment, an atmosphere (*Stimmung*), where law and literature approached each reflection, each page of sand – remembering Borges –, which was dialectically made and undone (Pepe, 2016, p. 7).

¹⁷ Dilsa Monardo (2000), in a dissertation defended at UFSC on the Waratian philosophical-pedagogical proposal, points out that theater, film and poetics were always brought by Warat to the classroom as a way to introduce the beginners to the process of Demystification and criticism of knowledge instituted *in* and *by* Law.

¹⁸ In the period in which he lived in Florianópolis, when he taught in UFSC, giving a course on *Language and Legal Argumentation*, in the 1980s, Warat adopted the novel by Umberto Eco *The Name of the Rose*, to the surprise of many (Rocha, 2012).

It is no wonder that his book *Legal Science and her two husbands (A ciência jurídica e seus dois maridos)*, published in 1985, has become a classic, becoming a must-read for all those who study Law and Literature. Based on the famous work of Jorge Amado, Warat metaphorically represents the two facets of legal science, resorting to the well-known husbands of Dona Flor: Teodoro is the icon of Cartesianism, cloistered in the dogmas erected by reason, while Vadinho is a symbol of marginal desire, the voice of the underground that is not afraid to reflect playfully its contradictions.

Equally significant is the publication in 1988 of his *Manifesto of Legal Surrealism (Manifesto do surrealismo jurídico)*, whose first sentence reveals the creative and emancipatory potential that literature offers to jurists: “Joining the Right to Poetry is already a surrealist ordeal [...] the twilight of the gods of knowledge [...] the fall of their rigid masks [...] the death of legal Manichaeism” (Warat, 1988, p. 13).

Finally, another author who has dedicated himself to the interfaces between Law and Literature and, therefore, deserves prominence among the forerunners - since his articulation also has no methodological concern – was the scholar from Paraíba (in northern Brazil) Eitel Santiago de Brito Pereira, currently sub-prosecutor of the Republic.

In honor of the centenary of the birth of the writer Graciliano Ramos (1892-1953), he published a brief study entitled *O direito em “Vidas secas” (Law in the work ‘Vidas Secas’)* (1992), which addresses the existing mismatch of social reality and legal order, after opposing the normativist bases of Kelsen to the sociological postulates of Ehrlich.

It is observed, therefore, that the studies in Law and Literature are not, properly, a “novelty” between us. Although the initial incursions were unknown to the researches developed abroad and did not present any specific methodology or proposal of systematization, it is necessary to recognize that the works of Aloysio de Carvalho Filho, José Gabriel Lemos Britto, Luis Alberto Warat – surely the most important of the precursors – and, finally, Eitel Santiago de Brito Pereira inaugurate the Brazilian tradition.

3 SECOND PHASE: SYSTEMATIZATION AND INSTITUTIONALIZATION ATTEMPTS

The works produced at the end of the 1990s inaugurated a second stage marked by the discovery of studies and research in Law and Literature developed abroad, especially in the United States, and its dissemination among the Brazilian academic community.

Junqueira is the first Brazilian author to deal with the relation, properly, between Law and Literature. Inspired by the *Law and Theater* and *Law and Cinema* cycles, organized by Nilo Batista – which took place in the Rio de Janeiro section of the OAB in 1983 – she published *Literatura e direito: uma outra leitura do mundo das leis (Literature and Law: another reading of the world of laws)*, in 1998, containing five articles which she had produced in isolation during her postdoctoral fellowship at the University of Wisconsin-Madison.

In the first chapter titled *Literatura e ciências sociais: oficinas de percepção da realidade social (Literature and social sciences: perceptions workshops of social reality)*, for example, she presents the tendency called *literature in law*, associated with the works and Benjamin Cardozo, focused on the possibility of legal texts being read and interpreted as literary texts; And also the current known as *law in literature*, which is dedicated to the analysis of literary narratives that focus on juridical questions (Junqueira, 1998, p. 20-30).

The first master's dissertation on the subject¹⁹ is written by Arnaldo Sampaio de Moraes Godoy, with the title *Direito e Literatura: anatomia de um desencanto – desilusão jurídica em Monteiro Lobato (Law and Literature: anatomy of a disenchantment – legal disillusionment in Monteiro Lobato)*, having been defended in 2000 at PUCSP, and published in book form two years later (Godoy, 2002).

The paper presents, preliminarily, a study on the relations between the two fields of knowledge. Next, it examines the disenchantment with the

¹⁹ Regarding dissertations and theses on Law and Literature produced in Brazil, in the area of Law, 22 titles were identified, between 2005 and 2016, according to the CAPES repository: Alexandre de Castro (UNIVEM, 2005); Cesar Vergara de Almeida Martins-Costa (UNISINOS, 2008); Rogério Monteiro Barbosa (PUCMG, 2008); Daniel Nicory do Prado (UFBA, 2009); Jose Rodrigues da Silva Neto (UFPE, 2009); Débora Elisa Marinho de Oliveira (PUCMinas, 2009); Renato Silva de Amorim (UNICEUB, 2011); Adreana Dulcina Platt (UFSC, 2011); Rômulo Filizzola Nogueira (UFRJ, 2011); Ernane Salles da Costa Junior (PUCMG, 2011); Eduardo de Carvalho Régo (UFSC, 2012); Fernanda de Mello Goss Lauth (UFSC, 2012); Miriam Coutinho de Farias Alves (UFBA, 2012); Cristian Kieffer da Silva (PUCMG, 2012); José Alexandre Ricciardi Szibera (UFSC, 2013); Ezilda Claudia de Melo (UFBA, 2014); Daisa Rizzotto Rossetto (UCS, 2016); Bianca Pazzini (UFRGS, 2016); Vinicius Ferrasso da Silva (UNISINOS, 2016); Eduardo Aleixo Monteiro (USP, 2016); Fernanda Otero Costa (UFMG, 2016); Gilberto Guimarães Filho (UNISINOS, 2016)..

legal universe in works of attic, humanist and Portuguese-language literatures. And, finally, it analyzes the legal disillusion in Monteiro Lobato²⁰.

In 2002, while attending a doctorate in Law at UFSC, Luiz Carlos Cancellier de Olivo also attended courses in the Postgraduate Program in Linguistics and Literature, with the aim of deepening his studies in Law and Literature. In that year, he published the essay entitled *Direito e Literatura: o ensino jurídico partir de Shakespeare (Law and Literature: Legal Teaching from Shakespeare)* (Olivo, 2002), later incorporated into the book *O estudo do direito através da literatura (The Study of Law through Literature)* (Olivo, 2005)²¹.

The first doctoral thesis involving Law and Literature was defended in 2004, at UNISINOS, by Maritza Maffei da Silva, entitled (“*O mercador de Veneza*”, *de William Shakespeare: um encontro na encruzilhada da Literatura, do Direito e da Filosofia* (“*The Merchant of Venice*”, *by William Shakespeare: a meeting at the crossroads of Literature, Law and Philosophy*), being published only ten years later (Silva, 2013).

In the same year, Vera Karam de Chueiri and Katya Kozicki, both professors at UFPR, formed the research group *Teoria do Direito, Democracia e Literatura (Theory of Law, Democracy and Literature)*, whose theoretical production integrated the book *Studies in law, politics and literature (Estudos em direito, política e literatura)* (2006), in which were collected works on law theory, hermeneutics, political justice and democracy, having as reference some theoreticians in the field of literature.

Another important event that deserves mention due to its repercussion until the present day was the *Journey of Law and Psychoanalysis* – whose first edition was about the work of George Orwell

²⁰ In fact, Godoy had already published previous essays to the dissertation: *Disenchantment with the Law in Literature of Humanism* (Godoy, 2000a) and *Aristophanes and Wasps: Disenchantment with Law in Attic Literature* (Godoy, 2000b). After master's degree, he continued his research in Law and Literature, becoming one of the Brazilian exponents. Among his works, the following stand out: *Law & Literature: essay of theoretical synthesis* (Godoy, 2008) and *Law, Literature and Cinema: inventory of possibilities* (Godoy, 2011).

²¹ Later, in 2007, Olivo founded Literato – *Group of Research in Law and Literature* (DPG / CNPq). In 2009, he created the *Seminary of Law and Literature*, within the scope of PPGDireito of UFSC. In 2010, he organized the *First Symposium on Law and Literature of UFSC*, bringing together researchers from Brazil and abroad, whose papers were published in the form of three-volume annals (Olivo 2011a). Among his main publications are: *Novas contribuições à pesquisa em direito e literatura* (Olivo, 2010), *Por uma compreensão jurídica de Machado de Assis* (Olivo, 2011b), and *Dostoievski e a filosofia do direito: o discurso jurídico dos irmãos Karamázov* (Olivo, 2012). In 2016, he was elected dean of UFSC.

1984, organized by the Nucleus of Law and Psychoanalysis of UFPR, under the coordination of Jacinto Nelson de Miranda Coutinho. This important event – of annual periodicity²² – is traditionally recognized for seeking new alternatives for the understanding of Law, from discussions provoked by literary works that allow the intersection with the fields of psychoanalysis and philosophy.

A landmark in the evolution of studies in Law and Literature in Brazil was undoubtedly the publication of the Brazilian edition of the book *Telling the law: the sources of legal imagery*, by François Ost, in 2005, inaugurating the *Dike Collection*, by publisher UNISINOS, idealized by Vicente de Paulo Barretto. The translation of this book into Portuguese can certainly be considered one of the propulsive elements of Law and Literature among us, especially in the south of the country, in such a way that, in a short time, it became a theoretical reference for Brazilian researchers, especially in the scope of Master's and Doctorate's graduate studies.

There was also the offer of the Law and Literature module, given by Germano Schwartz, who had already published an article on the subject in the magazine of the institution (Schwartz, 2004)²³, in the course of preparation for the career of the magistracy of the Superior School of Magistracy of AJURIS.

Also in 2005, two new groups of specific studies and research on Law and Literature emerge: the *Núcleo de Pesquisa Direito e Literatura (Research Center for Law and Literature)*, coordinated by Marcelo Campos Galuppo, at UFMG; And the *Novum Organum: Temáticas entre Direito e Literatura (Novum Organum: Thematic between Law and Literature)*, coordinated by Clarice Beatriz da Costa Söhngen and Alexandre Costi Pandolfo, at PUCRS²⁴.

²² The literary works discussed in the *Journeys of Law and Psychoanalysis were: 1984*, by George Orwell, in 2004; *The foreigner*, by Albert Camus, in 2005; *The suit*, by Franz Kafka, in 2006; *The Merchant of Venice*, by William Shakespeare, in 2007; *The kite hunter*, Khaled Hosseini, in 2008; *The hour of the star*, by Clarice Lispector, in 2009; *The Lord of the Flies*, by William Golding, in 2010; *The Reader*, by Bernhard Schlink, in 2011; *Grande sertão veredas*, by Guimarães Rosa, in 2012; *Antigone*, by Sophocles, in 2013; *Disgrace* of J.M Coetzee, in 2014; *Orange Burgess*, by 2015; *Essay on blindness*, by José Saramago, in 2016. The intellectual production resulting from each edition of the journals is compiled and published annually by the publisher Lumen Juris.

²³ During this period, Schwartz also received assistance from the Rio Grande do Sul Research Support Foundation (ARD) to develop a project titled *Law & Literature*, which resulted in two books (Schwartz, 2006, 2008).

²⁴ This group of studies organized and held the *Seminar on Law and Literature*, in Porto Alegre, which had four editions between the years 2006 and 2013, resulting in the publication of three collections (Söhngen, 2006, 2010, 2016).

Evidence of the growth of interest in studies and research in Law and Literature was the inclusion in 2006 of a specific term in the *Dictionary of Philosophy of Law*, organized by Vicente de Paulo Barreto: “Law and Literature is a new field of possibilities for formal and material issues that afflict both Law and Literature. However, in the field of law criticism, it incorporates into the political and ethical demands for the reconstruction of a more egalitarian and fair world the aesthetic sensibility of literary taste” (Chueiri, 2006, p. 235).

At the same time, in Rio Grande do Sul, the Instituto de Hermenêutica Jurídica (Institute of Legal Hermeneutics) (IHJ), under the direction of André Karam Trindade, Roberta Magalhães Gubert and Alfredo Copetti, created a line of research entitled *Law and Literature* and also implemented the interinstitutional project *Direito & Literatura: do fato à ficção* (*Law & Literature: from fact to fiction*), coordinated by Dino del Pino and Henriete Karam, whose results are reflected to date²⁵, due to their adaptation to television, which will be discussed later.

Within the framework of this project, carried out between 2006 and 2008, a seminar was held that lasted all year, with monthly meetings, at Livraria Cultura in Porto Alegre. The discussions counted on the participation of professors of Law, Language and Literature, from different institutions, providing reflections of legal, political and social questions from classics of western literature²⁶.

This initiative, promoted by a scientific society in partnership with graduate programs *stricto sensu*, represents the beginning of the institutionalization of studies in Law and Literature, which were being developed in an isolated way by teachers in their research activities.

²⁵ Among the results of this important project is the publication of three collective works that brought together the main Brazilian researchers and some foreign guests: *Law and Literature: theoretical reflections* (Trindade; Gubert; Copetti, 2008a) and *Law and Literature: critical essays* (Trindade; Gubert; Copetti, 2008b); *Law & Literature: discourse, imaginary, normativity* (Trindade; Gubert; Copetti, 2010).

²⁶ The works discussed were: in 2006, *Lord of the Flies*, by William Golding; *A passage to India*, by Edward Forster; *The Merchant of Venice*, by William Shakespeare; *Antigone* of Sophocles; *Incident in Antares*, by Érico Veríssimo; *The foreigner*, by Albert Camus; *1984* by George Orwell; *The House of Spirits*, by Isabel Allende; *Essay on lucidity*, by José Saramago; In 2007, *Crime and Punishment*, by Fyodor Dostoevsky; *The lawsuit*, by Franz Kafka; *The Orwellian Animal Farm*; *One hundred years of solitude*, by Gabriel García Márquez; *Dom Casmurro*, of Machado de Assis; *Great sertão veredas*, from Guimarães Rosa; *Faust*, by Goethe; *Oresteia*, of Aeschylus; In 2008, *Dishonor*, by J.-M. Coetzee; *Strange Case of Dr Jekyll and Mr Hyde*, by Robert Louis Stevenson; *Dona Flor and her two husbands*, by Jorge Amado; Khaled Hosseini's *Kite hunter*; *Brave New World*, by Aldous Huxley; *The penal colony*, by Franz Kafka; *Robinson Crusoe* by Daniel Defoe; *Oliver Twist*, by Charles Dickens; *Prometheus in chains*, by Aeschylus.

Since then, as will be seen next, the interest in Law and Literature grows significantly, resulting in numerous experiences from the north to the south of the country, both in graduate and undergraduate studies. Over the last decade, the number of courses has been multiplied, the execution of research and extension projects, the organization of events and, above all, bibliographic production.

4 THIRD PHASE: EXPANSION AND THEORETICAL / METHODOLOGICAL DEFICIENCIES

The expansion of studies and research in Law and Literature in Brazil results to a certain extent from two parallel events: *one*, the creation of the *Law and Literature* Working Group within the scope of the XVI CONPEDI National Congress, held from November 15 to 17 2007, in Belo Horizonte, on the initiative of Marcelo Campos Galuppo; *two*, the creation of the television program *Direito e Literatura (Law & Literature)*, produced by Fundação Cultural Piratini (TVE/RS), whose pilot was aired on March 14, 2008.

The television program has contributed to the expansion in a decisive way, above all because of the visibility, impact and reach that the mass media still provides. In fact, this is an initiative that is still unprecedented – including in the international arena, since there are no similar projects in other countries – and which, as already mentioned, resulted from an adaptation of the seminar promoted by Instituto de Hermenêutica Jurídica between 2006-2008.

The program, which has the executive production of André Karam Trindade and features the presentation of Lenio Streck, has been on air for ten uninterrupted years. From 2008 to 2012, it was produced by TVE-RS and, after that, by TV Unisinos, being shown – weekly – by TV Justiça. Currently, the project counts more than 320 programs, which can be watched through a *YouTube* channel. The formal recognition of its relevance came in 2013, when it received the Açorianos Prize for Literature, in the *Literary Highlights* category.

The program's audience is not restricted to students and researchers, reaching the most diverse sectors of society. However, the space where it produces the most significant effects is certainly the academic environment, in view of its dissemination among students.

It is in this context that the expansion seen in recent years is inserted. As an example, we can see some of the main nuclei that formed from then on and, in recent years, have consolidated themselves in the national scenario, with the regular functioning of research groups – registered in the DGP/CNPq – which maintain specific intellectual production in Law and Literature²⁷:

Intitution	Coordinator	Research Group	Latest Production ²⁸
UNISINOS	Lenio Luiz Streck	Dasein – Núcleo de Estudos Hermenêuticos	Streck; Trindade (2015, 2013)
UFSM	Angela Espindola	Phronesis: Jurisdição, Hermenêutica e Humanidades	Espindola (2016)
UFSC	Cancellier Olivo	Literato - Grupo de Pesquisa em Direito e Literatura	Olivo; Ferrareze (2016) Olivo; Siqueira (2016) Olivo; Lehmann (2015)
UFPR	Vera Chueiri Melina Fachin	Constitucionalismo e Democracia	Chueri (2015a, 2015b, 2014) Chueri; Câmara (2014) Fachin (2016)
FGV-SP	José Ghirardi	Núcleo de Metodologia de Ensino	Ghirardi (2016a, 2016b, 2015)
UCP	Hilda Bentes	Fundamentos da Justiça e dos Direitos Humanos	Bentes (2016a, 2016b, 2014) Bentes; Ferrari (2014)
PUCMG	Luciana Pimenta Fernando Ribeiro Bernardo Nogueira	Direito e Literatura	Ribeiro; Pimenta; Nogueira (2016) Ribeiro (2016) Nogueira (2016, 2015)
UFMG	Marcelo Galuppo	Núcleo de Pesquisa Direito e Literatura	Galuppo (2014) Galuppo; Diniz (2013)
FDV	Nelson Camatta Moreira	Hermenêutica Jurídica e Jurisdição Constitucional	Moreira; Soares (2016) Moreira; Oliveira (2015) Moreira; Escossia (2014)
UNB	Cristiano Paixão	Direito e História	Paixão (2016)
UNICEUB	Arnaldo Godoy	Grupo de Estudo e Pesquisa sobre Direito Constitucional	Godoy (2016a, 2016b)
UFPB	Marcelo Franca Filho	Laboratório Internacional de Investigação em Transjuridicidade	Franca Filho (2016) Franca Filho; Maia (2015) Franca Filho <i>et al</i> (2015)
FG	André Karam Trindade	SerTão – Núcleo Baiano de Direito e Literatura	Trindade (2016) Trindade; Karam (2016) Trindade; Sperandio (2016) Trindade; Rosa (2015) Trindade; Rosenfield (2015)
UFS	Miriam Alves	Direito, Arte e Literatura	Alves (2016)

²⁷ *KATHÁRSIS – Centro de Estudos em Direito e Literatura*, linked to PPGD/IMED, ran from 2011 to 2016, during which time it carried out many important activities – notably the first three editions of the International *Colloquium on Law and Literature (Colóquio Internacional de Direito e Literatura- CIDIL)* – but was deactivated after its coordinator retired from the project.

²⁸ The titles indicated are merely exemplary of the bibliographic production produced in recent years, with emphasis on the main books, chapters and scientific articles. It was not considered, of course, the participation and/or organization of events.

It is important to register, of course, the existence of other groups of studies and research that are not in the directory of CNPq²⁹ or whose results do not yet have greater impact³⁰. As well as the intellectual production of renowned researchers who have also dedicated themselves to studies in Law and Literature, but without coordinating or even integrating a research group in this field, such as Vicente de Paulo Barretto (2016), Alexandre Morais (2008), José Roberto de Castro Neves (2013), Judith Martins Costa (2013) and Nelson Cerqueira (2003).

In addition, it is observed that, as of 2012, there was an increase in curricular and extracurricular activities³¹, as well as the intensification of scientific events³², which began to be carried out by institutions other than those that had traditionally been promoting studies and research in Law and Literature.

Still in relation to the agenda of events, two in particular deserve to be highlighted, given the relevance they have assumed in the national scenario: (i) *Café Direito & Literatura*, which started in 2008, and currently accounts for more than thirty editions until the end of 2016, carried out in several bookstores in Vitória, under the coordination of

²⁹ In this sense, the study group *Novum Organum: Temáticas entre Direito e Literatura*, linked to PUCRS, which is not registered in the DGP / CNPq, although founded in 2005, should be mentioned.

³⁰ In the last few years, the intense work of professors Edna Raquel Hogemann (UNESA), Thaisa Haber Faleiros (UNIUBE), Joaquim Humberto Coelho de Oliveira (UNIFESO), Iara Pereira Ribeiro (USP-RP), Rosália Mourão UESPI and Alana Lima de Oliveira (UEPB).

³¹ In 2012, TRT / SC Judicial School pioneered the *Law and Literature* module (15h), in which the works *The Merchant of Venice*, by William Shakespeare, and *The Death of Ivan Ilitch*, from Liev Tolsói were discussed. The teaching staff was composed by professors Agostinho Ramalho Marques Neto, André Karam Trindade, Luiz Carlos Cancellier de Olivo and Luís Fernando Barzotto. Currently, among the undergraduate courses that offer the subject of Law and Literature, the most outstanding ones are: Faculdade Santo Agostinho (PI), Christus Faculdade do Piauí (PI), Universidade do Estado da Bahia (BA), Faculdade Baiana de Direito (BA), Universidade Federal de Ouro Preto (MG), Pontifícia Universidade Católica de São Paulo (SP), Universidade Federal de Santa Maria (RS) e Faculdade de Direito de Santa Maria (RS). Faculdade Ideal (PA) and Escola Superior Madre Celeste (PA) promote an extension project in Law and Literature. Within the *stricto sensu* graduate courses, the Law Master's course of Law at Faculdade Guanambi (BA) offers the subject *Law, Literature and Cinema*.

³² See, for example, some of the events held only in 2013: a) *26th IVR / Congresso Mundial de Filosofia do Direito e Filosofia Social / Internationale Vereinigung für Rechts – und Sozialphilosophie*, promoted by ABRAFI and other institutions, in Belo Horizonte / MG, which had the Law and Literature WG participating; (B) *Conferência Internacional Direito e Literatura na Virada do Milênio*, in Porto Alegre / RS, promoted in partnership by DAAD and UFRGS; (C) *Seminar on Law and Literature*, promoted by UNICEUB, in Brasília / DF; (D) *Brazilian Congress of Law and Literature*, promoted by Faculdade CET, in Teresina / PI; (E) *Seminar on Literature and Law*, promoted by ESMEC, in Fortaleza / CE.

Nelson Camatta Moreira, informally discussing literary works and their intersections with Law; (ii) *the International Colloquium on Law and Literature – CIDIL*³³, whose first edition took place in 2012, with an annual periodicity, which became itinerant from when it became an achievement of the Brazilian Law and Literature Network (RDL), in 2014.

In fact, the corollary of this expansion process was the appearance in 2014 of the *Brazilian Law and Literature Network*³⁴, a nonprofit scientific society that seeks to promote and disseminate studies on Law and Literature in Brazil, connecting researchers from all over the world and the country, and founded the first specialized journal in Law and Literature in Brazil.

Finally, bibliographic production has also skyrocketed. Hundreds of publications have appeared in short time, including scientific articles, book chapters, collections, and books³⁵. And here, precisely, the problem arises. In spite of the existence of productions of notorious quality³⁶, there are a great number of works that do not even have theoretical reference on Law and Literature, that is to say, they are of very low quality, and the quantity is not able to compensate this deficiency.

An analysis of the works presented and published, every six months, within the framework of the *WG Direito, Arte e Literatura* (Law, Art and Literature) of CONPEDI³⁷ – whose coordinators in recent years have been

³³ CIDIL is currently the most important event on Law and Literature in Latin America, bringing together hundreds of researchers, Brazilian and foreign ones, always in the last week of October. One of the great international exponents that has participated in CIDIL, since 2012, is José Calvo González. The results of the event are published annually in the annals format. CIDIL maintains an official website (www.rdl.org.br/cidil), in which videos of all activities are also available.

³⁴ The RDL was founded by André Karam Trindade, Lenio Streck, Henriete Karam, Angela Espindola, Fausto Santos de Moraes and Luis Rosenfield. It has approximately 140 members, including honorary, effective and correspondent members from different countries. Among its main activities are the executive production of the television program Law & Literature and the *International Colloquium on Law and Literature* (CIDIL), which became linked to the RDL in 2014; And the publication of *Anamorphosis – International Journal of Law and Literature*, multilingual periodical, whose first volume is from 2015. All information about RDL can be obtained at its official website: www.rdl.org.br.

³⁵ To illustrate this statement, we offer a list of works that contain only those not mentioned in the present article so far: Garcia, 2010; Rocha, 2010; Siqueira, 2011; Nogueira e Silva, 2013; Botero and Medina, 2013; Calvo González, 2013; Arnold and Korfmann, 2014; Franco and Gurgel, 2014; Szbiera, 2015; Oliveira (2015); Guerra Filho and Cantarini (2015).

³⁶ The book *Os modelos de juiz: ensaios de Direito e Literatura* (Streck and Trinity, 2015), nominated for the list of finalists of the Jabuti Prize, Law category, in 2016, stand out.

³⁷ As already mentioned, the *GT Law and Literature* was created in 2007/2, but later had its field expanded and, consequently, its name changed to *Law, Art and Literature*. In its

Marcelo Campos Galuppo and André Karam Trindade – provides enough elements to give an idea of the dimension of the problem to be faced.

Over the last decade, there have been 18 national editions of the event (2007/2 to 2016/1) – which is held twice a year, once with the name *Encontro* and the other time with the name *Congresso* – in which the *WG Direito, Arte e Literatura* happened, resulting in the production of a total of 339 articles, whose authors are professors and graduate students *stricto sensu*.

Considering this universe, a survey of the works presented in each of the editions of the event was carried out, seeking to identify areas of concentration and the quantity of corresponding articles, as well as the bibliography used and the main authors cited.

The 339 articles were grouped into 5 large groups, elaborated according to the categories that can be extracted from the menu of *Direito Arte e Literatura*: Direito e Literatura (Law and Literature) (D&L), Direito e Cinema (Law and Cinema) (D&Cine), Direito e Cultura (Law and Culture) (D&Cult), Direito e Arte (Law and Art) (D&A), and Direito e Música (Law and Music) (D&M).

Most of the works presented in the 18 editions of the *WG Direito, Arte e Literatura* fall under the category of Law and Literature (203 articles), followed by Law and Cinema (61 articles), Law and Culture (32), Law and Art 24 articles), and finally, Law and Music (19 articles), whose corresponding percentages are indicated in Illustration 1.

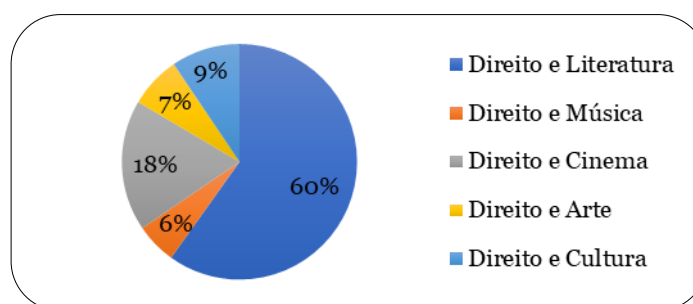


Illustration 1 - Concentration area (2007/2 a 2016/1)

current menu, it is stated: “Legal knowledge and interdisciplinarity. Literary narratives, artistic narratives and law. Representations of justice in the arts and literature. Law and cinema. Law and literature. Law and the plastic arts”.

The number of papers presented in each area of concentration, by edition, indicate that the category Law and Literature has always had the largest number of articles, during the period examined, reaching its peak in the second half of 2015 (Illustration 2).

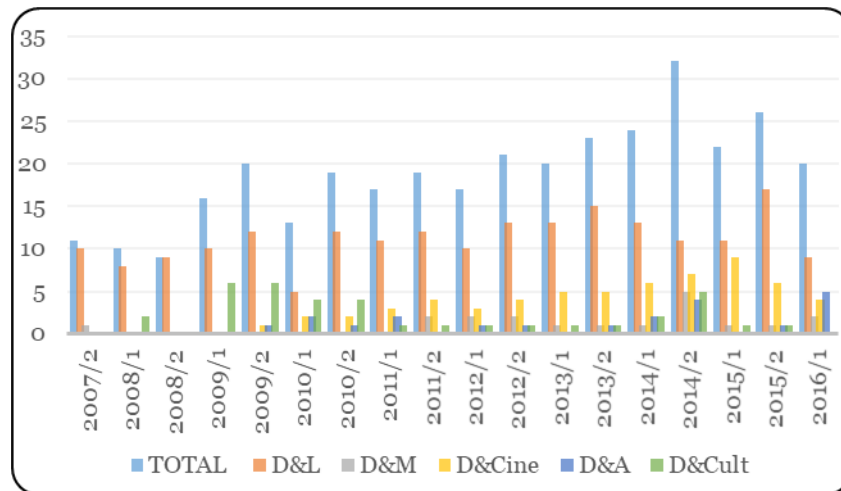


Illustration 2 - Concentration area x Number of papers per edition of the event

As regards the numerical progression of the works belonging exclusively to the *Law and Literature* category, it has been growing over the years, despite the falls in the second half of 2010 and the first half of 2016 (Illustration 3). The causes were not cleared out, since they escape the object of the study. To do so, it would be necessary to investigate, preliminarily, if in these editions of CONPEDI there was reduction of the work registered in all the WGs.

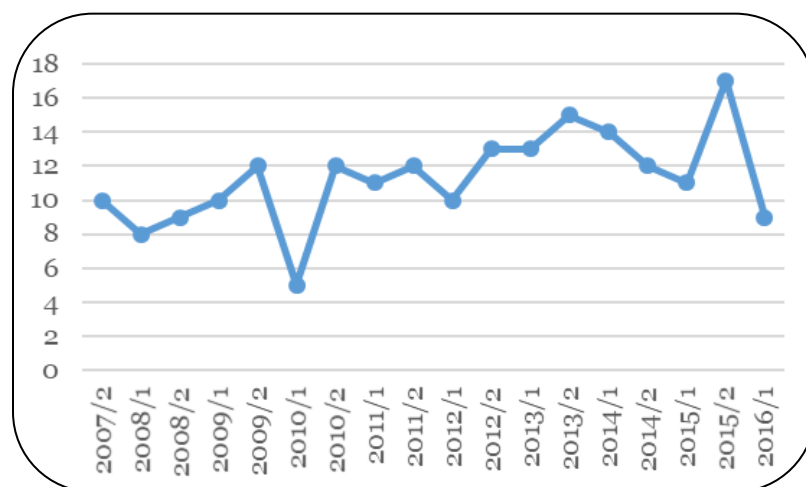


Illustration 3 - Progression of the number of works on Law and Literature

In relation to the theoretical basis of the 203 papers of the category *Law and Literature*, the mapping of the main national and international authors cited in the bibliography that properly addresses the relationship between Law and Literature (Illustrations 4 and 5) was carried out. The numbers indicated refer to the number of articles in which the author was quoted, regardless of the number of works and the number of times he is referred.

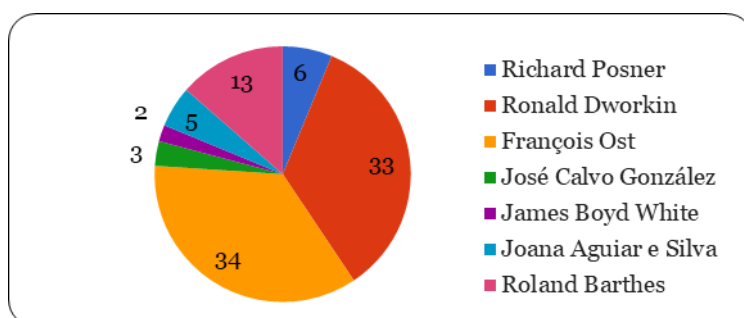


Illustration 4 - Most cited foreign authors

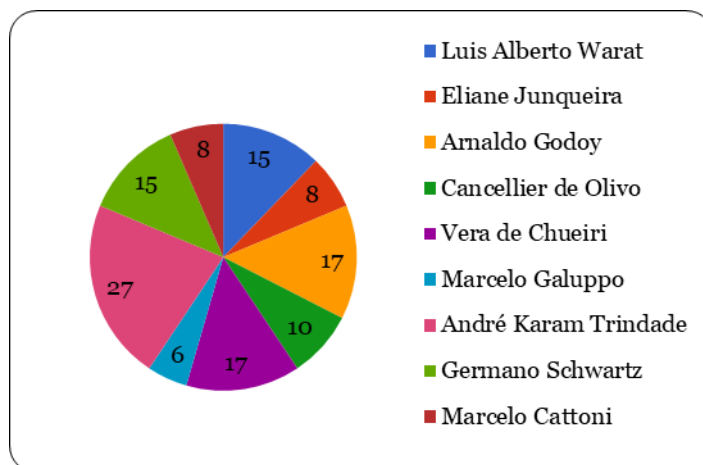


Illustration 5 - Most cited national authors

The inexpressive quantity of citations of national and international authors known to be linked to studies and research in Law and Literature led to the investigation of the number of theoretical works mentioned in the articles (Illustrations 6 and 7).

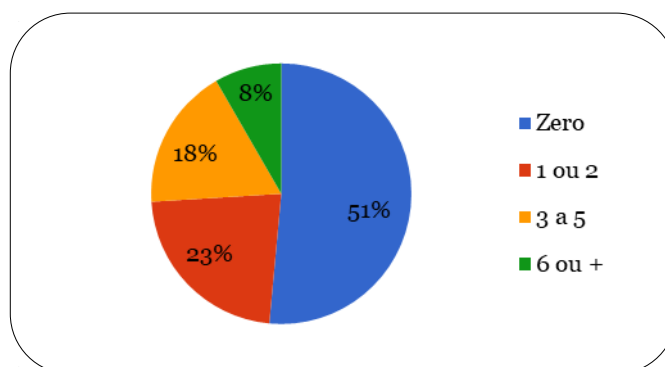


Illustration 6 - Number of theoretical works cited in the articles (2007/2 a 2016/1)

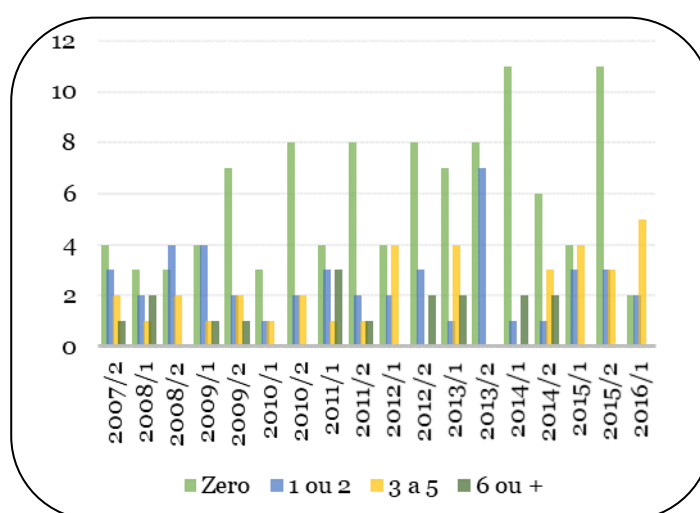


Illustration 7 - Number of theoretical works cited in the articles (by edition of the event)

The data collected and the resulting analysis confirm the hypothesis initially formulated, since more than half of the works presented and published in the *GT Direito, Arte e Literatura* have no specific theoretical basis on Law and Literature. It is observed, therefore, that the expansion of studies and research in Brazil – especially with regard to bibliographic production – occurred in the absence of any theoretical discussion or sedimentation. This is not to enter into the methodological question.

In short, if, on the one hand, one can see how much Law and Literature expanded rapidly, presenting a diversity that is compatible with the continental dimensions of the country; On the other, there is a flagrant theoretical deficiency, including in research that is enrolled at the graduate level.

5 FINAL CONSIDERATIONS

As proposed by Weisberg (1989), in relation to the United States, by Mittica (2009), regarding Italy, and by Roggero (2016), about Argentina, this article sought to rescue the origins and evolution of Law and Literature in Brazil. But not only that. In addition to an inventory – known as incomplete – it was also intended to map the numerous and distinct teaching, research and extension activities that have been developed in the national territory.

As we have seen, studies and research in Law and Literature are not as “new” as one might imagine. In fact, the Brazilian precursors – which are from the 1930s and 1940s – are not so far in time from the first publications that appear in the United States or Europe, but it was only in the late 1990s that we began to be aware of such investigations without being the subject of debate and discussion between us.

It happens that, while the lack of any theoretical debate about the advances of the experiences abroad hindered our attempts of systematization, the process of institutionalization of Law and Literature was successful, enabling its rapid expansion in Brazil.

One of the most positive aspects of this expansion – and which reveals the potentiality of the Brazilian experience – is the production of the television program *Direito e Literatura*, transmitted in a national network, in a channel whose audience can reach millions of viewers. In addition to the novelty and scope of this project, the program still assumes extraordinary relevance, insofar as it contributes to the formation of a culture of rights through literature – as proposed by Antonio Candido in his classic *O direito à literatura (The Right to Literature)* (1988) –, which is even more significant in the country with one of the worst education indicators in the world.

Also, worthy of mention is the creation of the Brazilian Law and Literature Network (RDL) – a scientific society responsible for the *Colóquio Internacional de Direito e Literatura (International Colloquium on Law and Literature)* (CIDIL) and the publication of *Anamorphosis – Revista Internacional de Direito e Literatura (International Journal of Law and Literature)* –, which has invested in the consolidation of Law and Literature in Brazil.

However, if the phenomenon of expansion is characterized by the increase in the number of events, research projects, study groups and, especially, of books, collections and scientific articles, it is precisely within the scope of bibliographic production that it is evidenced the theoretical and methodological deficiency that marks the Brazilian experience, as evidenced by the analysis of the work of CONPEDI.

Although the causes that contribute to this deficiency are not the object of this work, it is possible to associate them with two factors: *one*, the researchers who are dedicated specifically to this field of knowledge are not facing epistemological questions that are essential for the systematization of studies in Law And Literature; *two*, the interlocution between the researchers of the two areas is practically non-existent, which, therefore, will be productive for the success of an interdisciplinary proposal.

It should be added that the absence of translations in the Brazilian publishing market of texts that constitute the main references in Law and Literature makes it difficult for a large number of researchers, especially the beginners, to access. There are, for example, Portuguese editions of works such as *The Legal Imagination*, by James Boyd White (1973); *Law and Literature*, by Richard Posner (1988); or *Poetic Justice*, by Martha Nussbaum (1995). Not to mention authors who publish outside the US circuit, especially Calvo González (1996).

It is observed that a great part of the bibliographic production does not result from a research activity. Few are the researchers who, in fact, dominate, minimally, the conceptual apparatus proper to literary studies. Everything indicates that many texts are fruits of passion and fascination with literature. It is not uncommon to find works that use literary works in a merely instrumental or, what is worse, ornamental way. This is the empire of *doxa*, the prevalence of common sense and opinions, to the detriment of the *episteme*.

It should not be forgotten that the critical and subversive bias that generally marks research in Law and Literature, as opposed to legal dogmatism, does not exclude the burden of scientificity that characterizes academic production.

In the face of this context, it is impossible not to remember the following metaphor of Ost: “The jurist who lands on literary land resembles

Columbus setting foot in the new world – ignorant of the exact nature of his discovery: island or continent? India or America?” (2005, p. 58).

Well. In *terrae brasilis*, it seems that we still find ourselves dazzled by the discovery of Law and Literature. However, after the promises of spring and the enthusiasm of the summer, it is time to face the theoretical and methodological problems, so that we can advance, consolidate the Brazilian experience and contribute in an authentic way to the debate in the international community.

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