

THE POSSIBLE TRUTHS: the importance of Anthropology to Law //

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Keywords

Truth / Anthropology of Law / Anthropology / Law /
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Abstract

This paper addresses the discussion of 'truth' involved in the application of Law in Brazil and the possible contributions of Anthropology to a broader sense of citizenship. The research draws upon previous ethnography on the aspects of citizenship in prostitute's lives and on the empirical findings of Anthropology of Law scholars. By doing so, it presents a perspective of how Brazilian Law actually functions and the reasons for it being so. While explaining the gains Law would have from Anthropological approaches, this work expands on the concept of culture and tries to demonstrate how different scientific paradigms can help illustrate the problems in Brazilian public sphere. Upon examination of these aspects, it becomes clear that Law has to open a dialogue with empirical research in order to deal with complex problems of the citizenship experience.

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AS POSSÍVEIS VERDADES: a importância da Antropologia para o Direito // *Gustavo Capela*

Palavras-chave

Verdade / Antropologia do Direito / Antropologia / Direito / Cidadania / Prostituição

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Resumo

Este artigo analisa as discussões sobre ‘verdade’ que subjazem a aplicação e o pensamento do Direito no Brasil. Para tanto, avalia as possíveis contribuições da Antropologia para um senso mais aberto de cidadania. A pesquisa está embasada em trabalho etnográfico anterior sobre os aspectos de cidadania vividos por prostitutas e nas visões de antropólogos do direito sobre o Direito brasileiro. Ao fazer isso, o artigo apresenta perspectivas sobre o funcionamento do Direito no Brasil e as razões para tal. Enquanto explica os ganhos do Direito ao se aproximar da antropologia, o trabalho também explora as diferentes concepções de cultura e tenta demonstrar como diferentes paradigmas de ciência podem lançar luz sobre os problemas que existem na esfera pública brasileira. A conclusão aponta para uma necessidade de o Direito se abrir ao estudo empírico a fim de compreender e lidar melhor com problemas complexos em torno da experiência concreta da cidadania.

1 Introduction

Sometimes it seems as if scientific knowledge in the social sciences must come with an asterisk. As if what is written and known by anthropologists and sociologists is, at best, an opinionated guess about something that goes on in social life. It could be said that the ‘truths’ social sciences produce are seen as less absolute and much more relative than those presented by “hard sciences”. Be it to laymen, be it to specialists. Why is that?

Perhaps it is due to much of the common sense about science: it embodies a notion of predictability or even straight objectivity that simply doesn’t exist when your primary objects are human beings. Or maybe it’s because the advances in the so-called hard sciences, at times, seem more palpable.

I would say, however, that the main reason it is seen like that is due to the fact that that’s exactly how social scientists see the knowledge they produce. First, because there are different and plural philosophical foundations on which researchers build their results; and second because social sciences are more contextual, demanding a grander mediation and more relative understanding of that which we call ‘objects’. I will build on these two aspects soon.

Law, usually understood in Brazil as an applied social science, faces all those problems. But besides those facets (which seem to be shared by all social sciences), Law has characteristics that can make ‘relativity’ a bigger problem. Law is a system of knowledge where definitions, interpretations and decisions bind and affect others directly. Usually, it functions through binary classifications (legal/illegal; crime/non-crime; guilty/innocent), that determine how rights are to be distributed; who gets access to privileges; and how citizenship is understood.

The main idea of this paper is to demonstrate how the problem of ‘truth’, while epistemic, also affects the concrete distribution and access of rights. For that reason, it seems necessary to analyze just how empirical studies, mainly those of Anthropology, can contribute to a more ample sense of Law as a scientific endeavor and also ‘citizenship’ as the concrete experience of rights.

To do so, I will first try to expose how the problem of ‘truth’ is experienced by those that are usually “on the outside looking in” of citizenship rights. The empirical example I bring is that of prostitutes in Brasilia, where I developed fieldwork for my masters (CAPELA, 2013). My thesis used ethnographical methodology (MALINOWSKI, 1922) in an urban setting, which, although located close to the University of Brasília and my usual dwellings, was quite distant in life experiences, perspectives and social expectations.

The research was on street prostitution and tried to reveal how citizenship is concretely experienced by sex workers in Brasilia. To do that, I developed fieldwork between 2012 and 2013 and used observant participation as well as non-scripted interviews to build empirical basis. The phrases spoken by them and used by me here were presented to me during that research. To have a broader sense of the methods used, see CAPELA (2013).

In this article, I will attempt to show how the perspectives of prostitutes bring about epistemological questions that are important to Law, but also to Anthropology.

Then, I will build on how Law and Anthropology have different methods and perspectives when defining ‘truth’ to show how the former would benefit from a connection to the latter when trying to assess and understand the experience of Brazilian citizenship. I will use the views of Luis Roberto Cardoso de Oliveira, Roberto Kant de Lima, Regina Lucia Teixeira Mendes and Luiz Figueroa on Law to gauge how the specifics of Brazilian system affects that experience.

Lastly, I will argue that the field of Law in Brazil would benefit from a closer relation to social sciences, but specifically Anthropology, for epistemological and democratic reasons. In the first case, because the lack of empirical training of legal scholars contributes to normative arguments that aren’t tied to concrete experiences. In the second case, because the experience of “citizenship”, as a *status* of “equality”, demands an understanding of difference that isn’t only normatively characterized.

It is important to make it clear that this article focuses on the Brazilian legal system, so that all that is writ-

ten about “Law” should be understood through the lenses of Brazil.

2 Prostitutes and ‘truth’

The problem of ‘truth’ is an important one for street prostitutes. Their work entails a constant mediation with the term for two main reasons. First, because of their duties. They need to understand their limits, interpret clients’ desires and construct the terms that conform the contract of their services. They typically have a notion of what is true and what isn’t (CAPELA, 2013). Second, the ‘truth’ is strategic for them to escape what they see as a prejudiced view of their profession. As it will be explained, it is very common for prostitutes to create *personas* to separate what they perceive as their ‘real’ self from the part they play on the streets (CAPELA, 2013).

The examples I use hereafter are all taken from the empirical study I developed during my master’s at the University of Brasilia (CAPELA, 2013).

Like these aspects, there are many others that could be utilized here to exemplify just how ‘truth’ is a part of their livelihood. To better serve the objective of this paper, however, I will focus on three problems that illustrate how conflicts of ‘truth’ are tied to their ‘citizenship’. First (1), there is the well documented (RAGO, 2008), but also felt (CAPELA, 2013) exclusion of prostitutes from the spaces where collective truths are constructed. Second (2), one must understand that the constitution of a prostitute’s identity is contradictory (DULCE GASPAS, 1985). These contradictions are compelling to understand how ‘citizenship’ presupposes values that are naturalized as ‘truths’ when defining dignity of subjects. Finally, (3) it is important to take into account the way in which they understand how the legal system interprets ‘facts’ and, hence, produces ‘truth’.

As it pertains to the first problem, it is paramount to understand that their complaints, at least as they were presented to me (CAPELA, 2013), don’t rest on a desire to run for office or hold some type of public position. It can be argued that this is due to their total lack of expectation in that regard, but I will get into that later. The first time I heard them mentioning

their desire to participate in this truth-bearing process was when I took three of them to a class I was teaching at the University of Brasilia. I wanted them to explain to my students how prostitution worked. Granted, my own proposal already had in its basis a perception of knowledge they possessed and no one else. The class was a huge success and, in the end, all three mentioned they should do it again. Mainly, because they felt it was rare for people to pay attention to what they knew. Ana, one of my main informants, said people who had interest in the ‘truth’ should open their ears and listen to them. As she saw it, it would be similar to what prostitutes do when they take the time to listen to clients, policemen, hot dog vendors and other typical actors of their habitat. “A complete prostitute listens, that’s why we know so much”, she would say.

Ana was a prostitute that was enrolled (at the time) in a University. She constantly pointed out that her classmates and Professors knew little about life. She would regularly say that “prostitution functioned like a school” (“é uma escola”) that taught more than the ‘normal’ educational institutions.

Tied to that, one of the recurrent complaints prostitutes expressed was the lack of ‘knowledge’ people had of their profession and how lies usually took prevalence over what actually went on. As one of my informants once said: “it is hard to obtain respect when people have no interest in my view of things”.

Like her, many women on the streets complained that the laws and the judicial system rarely took into account not only their opinion, but also the ‘reality’ of things. To them, the lack of respect that was shown to them on a daily basis was linked to what was unknown. Ana constantly said that people “didn’t understand” what the profession entails, being that the main reason why, in her words, there was so much prejudice. It was typical for prostitutes to argue that the devaluation of their livelihood wasn’t due to it being, in itself, an inferior life, but to the fact that people pre-judged, pre-conceived or were just plain hypocrites.

Mostly due to that perception, it is very common for prostitutes to hide (their words) what they do from their loved ones and who they are from their clients.

Many prostitutes, like Ana, Vivian and Mila, used wigs to hide their identity and, more often than not, did not share their real names. As Ana put it, two identities coexisted within her: Ana (her fake name) and Vicky (her real² name). The use of fake names is representative of a life in which they constantly negotiate between what they see as the 'real' person and that which they present as the 'faux' identity. It is through that contradictory coexistence of identities that prostitutes tend to produce knowledge about their own desires, their own thoughts and their feelings towards themselves and others. It is also along the lines of these contradictions that they see a clear difference between 'truth' and 'lies'. Fernanda, a prostitute who was new to the Brasilia scene at the time we first spoke, in 2012, said that the main thing she was trying to learn was how to "lie honestly".

To them, the liminality between what is 'true' and what isn't has become 'natural'. It is that relationship and the clear differences among each faction of their lives that guides their values and, in many ways, justifies what they do (to themselves, at least). As Vivian once said, if she doesn't take the time to separate things, her 'real' life would be in shambles. "If I were to start having sex with my boyfriend the way I do here, he would know." Through their lenses, that which is 'true', that which is 'real' can easily be discovered if one pays attention to signs and is willing to listen. The way they see it, their life and their way of dealing with problems is a clear example of that.

That is why it is very common to hear from prostitutes that those that judge them for what they do are either hypocrites or ignorant. It was a recurrent theme for prostitutes to liken their activity to what they thought wealthier women did when they went out to parties. The difference, they said, was that they got paid directly and not indirectly, like the "rich girls (patricinhas)". In many cases, they would argue that their profession was safer because they always demanded the use of contraceptives and never created expectations.

What is even more interesting is that although they saw themselves as women who knew more about life than their counterparts, they understood that their

perspectives would never have the same value in courts of Law or police stations. Ana once said: "who would believe the words of a prostitute?". Her phrase is echoed in other researches on prostitution (BARRETO, 2013; DULCE GASPAR, 1985).

Whatever the case, their perception is tied to a sense of 'truth'. Vivian, used to say that everyone is entitled to their own truth, but theirs (the prostitute's) weren't ever seen in the same light. To her (but it could be attributed to others' viewpoint as well), people had no interest in listening to what they had to say on subjects such as work, sex, marriage, relationships and other issues they had expertise on.

In reality, their words invoke a long-felt problem of exclusiveness within the Brazilian public sphere (CARDOSO DE OLIVEIRA, 2011) and the effects it has on citizenship. Their claims, however, are also tied to a notion of 'truth'.

The problem, then, reverts to Law. Both in the truths it produces through academia and in the ones formed through the institutions. Prostitutes claim there isn't enough openness to their views, their perspectives and their knowledge. Can Law absorb those critiques?

3 The problem of 'truth' in Law

One of the main reasons I chose to study prostitution with the help of Anthropology was due to the fact that I had a sense that Law rarely cared about 'what actually went on' or even had a fair discussion about methods of discovering or constructing 'truths' through empirical work. That, in itself, shows how the perception of Law as an empirical science is laid out within its undergraduate courses. Usually, legal scholarship works with a logic that the 'truths' of Law are rationally obtained from a historical process that has its founding tradition in the French and American Revolution (SARMENTO and PEREIRA DE SOUZA, 2013) and in Roman Law institutes (KANT DE LIMA, 2010).

One could say, with a dose of reason, that Law as a whole, as a discipline, or as a field of knowledge, has that tendency for two overlapping reasons. First, due to its normative nature. Because Law tries to correct behavior, it could be said that it also foments a nega-

2 I made up this name so I won't have to reveal her real name.

tive view on facts. In Law, the relationship between what is 'correct' and what is 'true' has important elaborations (HABERMAS, 1996) that perhaps need to be better exploited. The second reason is due to universalist discourses that see Law as the consummation of conscious and rational processes that generated social integration through functionally differentiated institutions (LUHMANN, 1995). Whichever the perspective, it seems that in Law, the conflict between 'norms' and 'facts' tends to the former's side.

It shouldn't come as a surprise, then, that empirical studies take a backseat to normative discussions. In Brazil, the works of Roberto Kant de Lima (2010) and Luis Roberto Cardoso de Oliveira (2010; 2011; 2002; 2007) are of special importance because they try to expose another side. They use a theoretical framework that sees Law as a local knowledge, as something that is part of its own system of justice and "legal sensibilities" (GEERTZ, 1983).

In other words, both Cardoso de Oliveira and Kant de Lima try to understand Brazil's legal system through its concrete experiences. To do that, they exploit the empirical differences between Brazil and the realities of other countries. Their comparative method relates facts and occurrences to try to understand how they are differently interpreted and experienced.

One of the differences Kant de Lima (2010) sees is tied to how 'truth' is constructed in Brazilian courts as opposed to how it is in the United States of America.

According to Kant de Lima (2010), Brazil's legal system understands truth as 'something to be found', while in the USA, it's 'something to be agreed upon'. While in the United States each party presents its case before the judge and, in the process, comes to an agreement on what will be accepted as "evidence", in Brazil judges will decide freely what piece of evidence they consider valid or strong enough. There isn't, however, any mediation, agreement or pre-established criteria that decides what proof is. That is why Kant de Lima (2010) asserts that the legal sensibilities of Brazil are more based on arguments of authority than on the authorities of the arguments.

As he explains, that could be traced back to the im-

part of the Catholic Church on the institutional logic present in Brazil. That logic sees authority as the finder of truths, since the parts involved don't really want to reveal it. Like a prophet that needs to understand the obscure messages sent to him or like a cleanser that needs to find the hidden dirt everyone has, the judge determines who has the right to what and what the truth of the case is.

Furthering that perspective, the empirical work of Luiz Eduardo Figueira (2008) demonstrates how the 'truths' of judges are extremely different from those sustained by the parties involved, the press or even the witnesses. In a similar fashion to what happens with prostitutes, this model of justice makes it common for people involved in conflicts to feel as if their stories are not really understood and, thus, rarely judged with justice.

Figueira utilizes a very famous case in Brazil to illustrate his and Kant de Lima's view. In the year of 2000, a young man held hostage people inside an urban bus in Rio de Janeiro. He was, then, killed by police officers. It was a highly scrutinized event where the media got heavily involved for months on end. Due to that fact, there were a myriad of narratives that arose from the case (media narratives, victim narratives, bystander narratives) and no criteria established to determine which stories would be accepted into the court of Law. It would be the one that mostly convinced the judge, whoever he or she was.

It is through the lenses of this specific case that he takes us into the interviews he held with judges and prosecutors in Rio. In them, he asked how they could tell which story was true or when something had been proven. Although the answers differed in specifics, one common thread pointed to their understanding of the judge's power to determine what the 'truth' is.

As Figueira shows, judges know that their view is the only one that counts and justify that logic by affirming that Lawyers and citizens that usually lie, wherein the judge and the prosecutor "have no reason to do so" (KANT DE LIMA, 1995). The total dependency on a judge's way of thinking exposes an arbitrary and authoritative tendency in the Brazilian legal system. The discussion of 'truth' or of 'what really happened' isn't

up for discussion. It really comes down to the judge's individual perspective.

The empirical studies of Regina Lucia Teixeira Mendes (2012) actually expand on that perspective by delving into what Brazilian Law defines as the "freedom of judges to be convinced". In a nutshell, it means that judges only answer to themselves and their conscience when determining what truth is. As Teixeira Mendes explains, judges understand this freedom as a burden, as a moral and legal duty, that demands of them an active chase of what 'the truth' really is. And, in the end, it justifies their arbitrariness.

Once 'convinced', judges believe they are the portrayers of 'truth' for, as Kant de Lima shows, the process of selecting judges in Brazil contributes to a sense of superior intelligence that grants them a privileged view of 'life as it is' (KANT DE LIMA, 2010). In that sense, most of the decisions by Brazilian courts don't open a dialogue with researchers, Lawyers or even the parties involved in the dispute. They tend to see the interpretation and implementation of Law as the fruit of their super-capacity and uber-authority. It is only through that mixture of capacity and authority, in their view, that one can have access to the real and hidden 'truth'.

What Figueira, Teixeira Mendes and Roberto Kant de Lima all propose to solve this problem is a closer relationship between Law and the framework of Anthropology. As Kant de Lima and Barbara Lupetti argue, Brazilian legal thought must "exit the transcendental conception that allows an unconditional acceptance of dogmas, without attention to context, internalizing a metaphysical logic to an empirical knowledge" (KANT DE LIMA and LUPETTI, 2010).

As they put it, Anthropology has methods of empirical research that require estrangement and – therefore – distance from the presumptive dogmatic truths that accompany the Law's field. It is necessary, then, for Law to question absolutes so that it doesn't naturalize privileged points of view and, with it, thwart participation in the creation of social truths.

Although I agree with the premise, I believe it is important to do as Anthropology says and "complexify"

that argument. As one can see, the argument brought forth by the aforementioned authors rests on two premises that complement each other. First, that Law would benefit from a closer attention to empirical studies since it would lead the discipline to a more complex understanding of problems and, therefore, give better insights as to how they can be solved. Second, that Anthropology can help breach Law's authoritative logic, opening it up (theoretically and in practice) to other points of view. With it being so, it becomes relevant to know just how Anthropology deals with facts and empirical studies, as well as the discourses of power that enables the constructions of truth within its own ranks.

4 Possibilities through Anthropology

It is true, as I will show, that Anthropology has a debate within its ranks that questions the very nature of Anthropology as a discipline or as an exponent of scientific knowledge (PEIRANO, 1997). However, even with it being so, its tradition involves methods and specific standards of validation that emphasize facts and empirical research rather than transcendental affirmations. That is important because of something Gadamer (2007) once said. In his attempt to explain how 'Truth' is constructed, he deems that every interpreter has a tendency to project meaning in what he sees, what he experiences, what he understands as facts, but that he should let himself be guided by the things themselves. To let that be the guide, he must try and comprehend how the naturalized and arbitrary views he holds can pollute his own interpretation.

Anthropology's methodology, especially ethnography, emphasizes fact-led interpretation (GEERTZ, 1983). Because of this, it seems that the dialogue between Law and Anthropology would help the former to ameliorate its guidelines as it pertains to the 'pursuit of truth'.

The reason for the aforementioned approximation shouldn't be to create technicians and specialists that can move away from ordinary people's view of Law. It is quite the contrary, actually. As Hegel (2014) proposes, knowledge about people should be constructed with them, in a close-knit relationship where object and subject interact dialectically, molding and conditioning one another. The dialectical relationship

between subject and object marked that which Hegel saw as the necessity to understand mediation (concepts) as the true production of knowledge. In that perspective there is a sense of sociability, or 'ethicity', that sees all knowledge as social and historic.

In that sense, it is important to understand that the conditions of possibility of anthropological thought relies on the sense that communication and language have a reflexivity that enables productive relationships between differences, between diverse 'horizons', which, in turn, should benefit an active sense of 'otherness' and an active sense of 'truth'. As Hegel understands it, truth claims can and should always be actualized. It should never be a finished product. Because different points of views, different perspectives and different contexts can shine a different light on the problem and renovate the knowledge once made available by it. Ethnographic methodology contributes to that sense of knowledge perspective because it demands a de-naturalization and social dislocation of the researcher in order to comprehend the facts of the researched within their own web of meanings. It opens the possibility of other 'truths' that are equally valid. This seems paramount to Law and its practitioners. It allows for a better understanding of pains, sufferings and other social reactions to conflict

This approximation would try to solve what Cardoso de Oliveira (2011) diagnoses as the lack of criteria within Law to establish the difference between rights and privileges. It would stay away from the normative solutions of legal texts and focus on how the distribution actually functions in every-day experiences. A better discussion and search for 'truth' - in these empirical terms - might help rethink our legal culture's sense of "public" through a logic of ever-changing, but constructed, truths.

With this I am arguing that Law in Brazil could be more democratic and open to alternative constructions if it sought out empirical knowledge. That is: it would be important for Law to know how prostitutes see themselves, how they see the Law system that surrounds them and also how they are effectively treated, for example. The way Law is taught (and thought) today makes Law students quote German, French and American philosophers, but rarely know the poor, the

difficulties of citizenship or even the concrete reality of prison life. How can one hope to judge, defend or prosecute human beings without truly trying to understand the complexity of their lives and the system they are subjected to? Of course there must be specific Professors and courses throughout Brazil that pay attention to these problems in Law, but it isn't the overarching and dominant discourse of the practices of Law.

4.1 Re-conceptualizing Anthropology

To make this contact between Anthropology and Law more fruitful, however, it is important to explore the limits of this social science. As I pointed out, it is the exposed frailty and incompleteness of the scientific discourse that should counter Law's claim to "know everything" (LEWANDOWSKI, 2014)³. That is why Anthropology can help in more ways than one. Its tradition is tied to self-criticism and continuing reflexivity that tries to look for the underlying ideologies that live within one's own discourse, even when that discourse is anthropological (STRATHERN, 1988). It is important to de-naturalize, to re-conceptualize, the native concepts of Anthropology. After all, if Anthropology is meant to help Law to stray away from perspectives that base themselves on "authority" and not on "arguments", it must also evaluate itself and its methods.

That shouldn't be a problem for Anthropology. Its tradition sees 'truth' as a difficult word. It brings back memories of a time when native populations were seen as "ignorant" or "not enlightened" by the colonial perspective. Anthropology believes in the process of "un-learning" or "de-naturalization" to gather information (MALINOWSKI, 1922).

However, as Mariza Peiranto (1997) shows, not all anthropologists believe that Anthropology has a common epistemological thread that unites all of those that practice it. As she argues, there are multiple ways of understanding Anthropology, ranging from those

³ The ethnography of Andressa Lewandowski shows that it is common for Supreme Court "Justices" in Brazil to cite different theoretical frameworks to corroborate their decisions without ever aligning themselves with one or another. They also rarely demonstrate the differences of context in which each theory was created. For a more concrete sense, see the opinions used on the emblematic cases of ADPF 132, ADPF 378, ADPF 388 and ADI 4578.

that don't see it as a "discipline" in foucauldian terms (Clifford Geertz) to those that understand its knowledge as a more collective and, hence, value-sharing endeavor (Triloki Nath Madan). Peirano demonstrates that those different perspectives, more often than not, are linked to the authors localized contexts. That, in itself, speaks of Anthropology's method for producing 'truths'. It is produced through context, cultures and histories of those that are involved in it. Be it the author, be it the researched.

That is why one of the main aspects, or one of the main concepts, that anthropologists use when trying to describe or ascertain the correlation of meanings that compose social structures - and the 'truths' that accompany it - is 'culture'. Culture, to Anthropology, is a founding notion (MERRY, 2006). Be it to those that began the studies of "native people" (CASTRO, 2005); be it of the founding fathers of ethnography (MALINOWSKI, 1978); or even to the more contemporary authors that see Anthropology in its multi-sitedness and global realities (MARCUS, 2011; FERGUSON, 2011; RIBEIRO, 2011).

The problem of 'truth' becomes, then, a cultural one. And the definition of 'culture' becomes an important battleground.

To this paper, that notion is important because the underlying argument behind Kant de Lima's perspective is based on a perception of Law as given by Geertz (1983). To him, Law is a "local knowledge" and fruit of specific "legal sensibilities". It is, therefore, understood through the lenses of "culture" as a product of local differentiation, unique histories, geographies, languages and customs of 'peoples'.

While the exposure of that difference is adequate to give us insights into how the Brazilian public sphere works, it presents limits. It doesn't really explain how 'culture' can be understood when globalization has blended local, national and transnational perspectives so intensely (RIBEIRO, 2001). It has become hard to gauge what these "spaces" are individually and how they interact to produce 'cultural knowledge'. That is: how should we understand the symbolic and empirical borders that define 'culture'?

Sally Engle Merry (2005) posits that rather than trying

to see culture as "traditions that must be upheld", as "national essences" or as the discourse of the instituted powers, it must be seen as the partial results of a continuing conflict. Conflicts of interests, conflicts of values and conflicts of different logics of space-time that, all, continually try to impose their 'truths' onto others. Culture, then, is fruit of conflictive relations that are, in some ways, presented as if they were unified aspects of every day life.

What that perspective points to is the fact that when one speaks of a 'Brazilian culture', or of a specific 'legal sensibility', the conflicts of those in favor and in opposition to the dominant practices must be taken into account. Otherwise, the picture painted simplifies the social and political process of how citizenship is molded. Teresa Caldeira's (2000) research in São Paulo elaborates on the different strategies people use to construct alternative paths to rights, goods and spaces. As she proposes, the city and its citizens are shaped by these conflicts and not necessarily by what the instituted powers propose.

James Holston's (2008) depiction of Brazil - and São Paulo - is similar. He points to a different type of citizenship, an insurgent citizenship, that forces itself onto the public sphere, creating paths and rights along the way. In saying that, he is demonstrating how the "symbolically pre-structured world" (CARDOSO DE OLIVEIRA, 2002) is continually negotiated and reworked by struggles of everyday life.

It is actually a reminder of one of Wittgenstein's (2008) main theses. He saw knowledge as a production of different "forms of life" that tried to elaborate truths according to the structures that had been agreed upon by the actors involved in the "language game". These "agreements", in fact, are the result of conflict.

That, of course, isn't to say that the work of Kant de Lima is less important to understanding how Law works in Brazil. It only calls for an understanding of the process as well as of its results when one hopes to explain Brazil's legal system and its citizenship. In other words, it hopes to "complexify" the views we take as "true" about Law and its concrete reality in Brazil by using the theoretical instruments Anthropology holds dear.

Sally Engle Merry's (2005) empirical work focused on the "International Human Rights Movement Against Violence to Women" because she believed it offered a good opportunity to understand how local legal practices (and culture) deals with transnational interests and their own legal logic. The discussion she proposes points to the fact that the ever-growing complexity of the world demands a re-conceptualized understanding of culture, but also of Law in its "local" facet.

Merry (2005) exposes the conflicts, which brings to light the struggles that exist within national borders, but also those between "local legal discourse" and the transnational community - composed of NGOs, the UN and what she calls "transnational social movements". As she points out, the intensified flow of information, people and commodities has reconfigured social relations and, in doing so, also reorganized the conflicts that define culture. With globalization, it has become increasingly difficult to understand a peoples "way of doing things" in a vacuum. Not only are they bred from a national and local history, but also from a global one.

Merry, like Ribeiro (1996), points to capitalism and capitalist structures as driving forces in the molding of culture in global societies. With that being said, it would not be a stretch to say that the 'truth' anthropologists see in culture is, nonetheless, tied to a network of meanings that needs to take capitalism's history, languages, politics and conflicts into account.

The problem of 'truth' in this regard calls for an understanding of capitalism's role in the shaping of symbols, expectations, social connections and even imagination within the sphere of "culture". The work of Anne Allison (2006) has demonstrated how the flow of merchandise and capital has been a fundamental part of how Japanese culture is understood both within the country and outside it, for example. The commodification of culture is a process that has to be better understood in a world where the overall tendency is to reify and monetize all aspects of life.

Therefore, it seems to me that Anthropology's contribution to the study of Law can be twofold: first due to its attention to fact-based studies that drive interpretation towards an understanding of more complex-

ity and not abstract premises; and second due to its technique of de-naturalization and de-mystification of native concepts and thoughts. While the first requires from Law a more attentive look to ethnography and the complexity it can present, the second demands that Anthropology (like any social science) can understand its own role in the reification of societal values as it pertains to capitalism and its ever-growing structures. Otherwise, the de-naturalization and de-mystification Anthropology prides itself on is found wanting.

4.2 The truths of Citizenship

If Anthropology does contribute to the study of Law and, hence, to an understanding of it through complexity and "otherness", how does that relate to citizenship?

It is the 'truth' of prostitutes' citizenship that seems to answer that question. Their constructed difference based on their job exposes the homogeneous force of citizenship (CAPELA, 2013). Not in the sense of equal distribution of rights, but because the concept of citizenship doesn't include some identities due to values and premises that are exclusionary. After all, a society that has at its basis the notions of "monogamy" and "true love" constantly points to prostitutes as aberrations (CAPELA, 2013).

The social perception that sexual relations do, in fact, define people and their worth has been well documented by Foucault (2010), but can also be understood through the perspective of Charles Taylor (2007), which, at this juncture, seems more meaningful. Because, although Taylor has defended an openness to difference as a necessary aspect of citizenship-rights and of democracy, he sees the functioning citizen in western society as an individual that: a) controls feelings and irrational emotions with reason; b) internalizes moral norms and its sources; and c) values free will, self control, self responsibility as virtues that differentiate human beings. In defending this "citizen" he points to authenticity as the main characteristic to be preserved through "recognition". In his words, one of the manifestations of authenticity in an individual is his ability to love and be intimate with a person of his or her choice.

So, although Charles Taylor is not known for his per-

spective on the importance of sexual relationships for the definition of ‘citizen’, the case of prostitutes may present a case where his theory is exposed to some of its limits. Even if one is to understand that prostitutes have sex with men for money by choice, it is difficult to say that they do so out of love. The relationship between sex and intimacy, or sex and love for that matter is not one that is shared by prostitutes. Many prostitutes would even challenge that their work involves intimacy, as they create what Weitzer has called “*bodily exclusion zones*” (WEITZER, 2010) to impede clients from doing things they are not comfortable with.

Prostitutes not only challenge that perspective but also question if sexual relationships don’t all involve money and some sort of financial transaction. The way Ana sees it, her job only cuts out the common deception of seduction and goes right to the point. Furthermore, in her view, there’s a big difference between what goes on during her job and what happens when she is with someone she loves.

Ana: “The problem is that these girls that go to clubs (boate) have sex with everyone hoping they will find a husband. If they want to find a husband, they can’t give it up (dando) like that. The problem is that these girls don’t know how men work. They fool them. They say they’re pretty, beautiful, whatever. So she thinks he wants to marry. But he only wants to screw you (te comer), girl! I don’t fall for that, you know? When I leave my job, I’m a different person. I look for someone to have a strong stable relationship. It’s hard. Nobody wants a prostitute. But if I go on a date, I don’t give it up easily. The guy has to work for it (merecer). If you want to give it up easily, it’s much better to become a prostitute (garota de programa), at least you make some money.”(CAPELA, 2013)

To many, the ‘authentic’ individual doesn’t have sex for money. Money can ‘force’ you to do other things, but not sex. To them, sex is reserved for the realization of authenticity in a different sphere, not the market’s. As one could guess, that is a limit imposed mainly on the sexuality of women, as men usually don’t get devalued based on their sexual encounters. Prostitutes do seem to understand that what the social values

seems to mind, in relation to their profession, is the fact that women are having sex with numerous men. It was constantly noted to me during my master’s research, that people don’t have an issue with men that have multiple partners, but frown upon women when it happens. As one prostitute put it (CAPELA, 2013), a man that is offered R\$ 5000 (a five hundred Reais) to have sex with a woman is a hero, a woman who is offered R\$3,000 (three Thousand reais) to do the same is a slut (vadia).

Of course, there’s the question of sexual exploitation and the historic coercion of women to have sexual relationships in disregard of their own wants and needs (BEAUVOIR, 1980), but these prostitutes don’t feel they are in the latter category. In fact, it seems they mostly want to be included in the category of “normal women” (CAPELA, 2013) . They see themselves as women who have a different job than most and who are mistreated because they comprehend sex in a different manner. It seems evident, especially if we take feminist theory seriously, that western customs are built around patriarchal and capitalist structures (STRATHERN, 1988). Prostitution is most definitely a job that links these two structural realities. But none of those aspects have been excluded in this analysis. Doesn’t seem to escape them either. As Vicky so many times put it, no job is free from oppression or exploitation, but prostitution gets more attention because the availability of sex perhaps brutally shows us, as a society, what really makes us do things. The prostitutes’ words seem to suggest that the moral substance behind the capitalist, individualistic citizen seems tied to a very specific way of having sex and a very keen view on family, relationships and even gender roles.

Whatever the case, the concrete reality of prostitutes actually brings light both to the need to reconfigure an re-conceptualize the notion of “citizenship” (as it is actually applied in every-day problems) and the way in which people fight the shared values and practices that compose culture.

5 Conclusion:

Citizenship in Brazilian Law is what Anthropology would call a native category (CARDOSO DE OLIVEIRA,

2002). And a category that must be well understood but also re-conceptualized in order to discuss if it can be, at the same time, a door to the universality of Law and a path to specific differences of people.

As I've defended throughout this paper, the anthropological emphasis on exposing what is naturalized and what is unconsciously operated by our society is a necessary aspect of that which is needed in the study of Law in Brazil. Basically, because the justice system needs to be de-sanctified and de-authorized to construct a new form of elaborating power discourses. But also because the concept of "citizenship" demands concrete furnishing. By that, I mean that the abstract notion of citizenship, as adopted by Law, not only turns a blind eye to the complexity of human relations, but also makes it difficult for difference to be accepted and understood as "equally dignified" (CARDOSO DE OLIVEIRA, 2002).

As I've come to see it, Brazilian public sphere congregates a myriad of differences and conflicts that need more profound understanding. An understanding I did not intend to accomplish in such a short piece. However, I have understood that it is in the plurality and divergence inside the public sphere that we can see the limits and even the potential of concepts like "citizenship".

It seems prostitutes, in their own way, also question our standard of living. They question the premises of what a "citizen" should look like, act or think. Their actions, like much theory, question the values that structure our truths, our powers, our knowledge. Can diverse identities participate in the construction of homogeneous structures like that of the citizen?

I believe Law needs to face those questions empirically. For only in doing so can "citizenship" function, in legal practice, as an open significant that can be filled through existence (HEIDEGGER, 2002). Law needs to reconfigure, critically, its own premises. Because, as it seems to me, for Law and its science to abdicate from authoritative rule and arbitrary decisions, there must be a reflective turn inside the conception of 'truth' and validity claims that only a social and reflective science, such as Anthropology, can make possible. Without it, the logical sense within the framework of our legal system will continue to accept its effects as if

they were justifiable in a complex society.

Otherwise – especially if we take into consideration all of the requirements Charles Taylor (1997) exposes as the basis for the "individual" to understand the "citizen" and, consequently, conform citizenship-rights – we will, inadvertently, configure a world for white, urban, upper-class, men. A world that already seems to exist and where prostitutes seem to demand some kind of rupture. To use Taylor's perspective of recognition against his own restricted model of "citizen", it would be important to expose all that is "forgotten" when one creates a homogeneous concept.



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