Law from the perspective of Pierre Bourdieu's theory[1]

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El derecho a partir de la teoría de Pierre Bourdieu

Abstract

The present work deals with an analysis of relevant aspects of Pierre Bourdieu's theory in relation to the understanding of Law, proposing the problematization of certain notions, and a dialogue from the work of this author with perspectives of authors such as Kelsen, Weber and Marx. Finally, the importance of Bourdieu's proposal is postulated, both as a framework for theoretical analysis related to the legal, as well as a relevant tool for understanding legal practices.

Keywords: Pierre Bourdieu; Socio-legal theory; Law.

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Resumen

El presente trabajo aborda un análisis de aspectos relevantes de la teoría de Pierre Bourdieu en relación a la comprensión del Derecho, proponiendo la problematización de ciertas nociones, y un diálogo desde la obra de este autor con perspectivas de autores como Kelsen, Weber y Marx. Se postula, finalmente, la importancia de la propuesta de Bourdieu tanto como marco de formación y análisis teóricos relativos a lo jurídico, así como una relevante herramienta de compresión de las prácticas jurídicas.

Palabras clave: Pierre Bourdieu; Teoría socio jurídica; Derecho.

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> Far from being a mere ideological mask, this rhetoric of autonomy, neutrality, and universality, which can be the beginning of a real autonomy of thought and practice, is the very expression of the entire functioning of the legal field and, in particular, of the work of rationalization in the dual sense of Freud and Weber, to which the system of legal norms has been continuously subjected for centuries.
>
> Pierre Bourdieu[2]

I. Introduction

Law usually appears as an autonomous phenomenon, distinct from all other social, political, or economic phenomena. *Legal discourse*, monopolized by legal actors—lawyers, judges, jurists—generally presents itself as a hermetic, complete, and closed discourse, and the knowledge produced by legal science as knowledge for initiates, unsuitable for the average citizen.

Legal science was constructed on the premises of *autonomy*, *neutrality*, and *universality*, as a *pure* science with little connection to social experience. Legal professionals themselves, from their very training, acquire and reproduce this conception not only in their discourse but also as a guide for their practices.

One of the most relevant characteristics of *Law*, as Roger Cotterrell[3] pointed out, is that, despite the fundamental role it plays in society, legal experience presents itself as isolated from other

2 *Poder, derecho y clases sociales*, Bilbao, Desclée de Brouwer, 2001, p. 174.
3 *Introducción a la Sociología del Derecho*, Barcelona, Ariel, 1991.

social factors, which in turn aims to justify the supposed professional autonomy of legal agents, who see themselves as the legitimate producers of legal discourse.

The monopoly on this discourse held by legal professionals, understood as a systematic body of knowledge difficult for the uninitiated to access, allows the legal field an apparent self-sufficiency and independence from the social body in which it operates. This apparent self-sufficiency is maintained by the legal professionals themselves, who present arguments isolated from other social phenomena, seeing themselves as the legitimate producers of legal discourse.

Pierre Bourdieu proposes a theory that links the legal with the social, providing new dimensions to the analysis of *law* and the understanding of legal practices. Bourdieu's theory has been defined by Moishe Postone *et al*.[4] as an attempt to overcome the traditional dichotomies of the social sciences, allowing for a reflexive approach to the social. In Bourdieu's analytical perspective, a distinction is made between "the construction of concepts and the development of an original logic of operation that allows us to explain and understand social phenomena"[5], including *law*.

For Bourdieu, social practices are understood as a relationship between agents within a specific field, where diverse habitus influence the configuration of the actors them-selves, and where specific forms of capital are at play. In this sense, the notion of field enables the approach to the social from a relational perspective, with the methodo-logical aim of overcoming the subjectivism-objectivism dichotomy. "To think in terms of the social field is to think relationally", that is, to understand the social as a world of observable relations; "what exists in the social world are relations—not subjective interactions or links between agents, but objective relations that exist independently of individual consciousness"[6].

The concept of field also allows for the identification of the configurations of the agents themselves, since their positions within the

4 Moishe Postone, Edward LiPuma & Craig Calhoun. "Introduction: Bourdieu and Social Theory", in Craig Calhoun, Edward LiPuma & Moishe Postone (eds.). *Bourdieu: Critical Perspectives*, Cambridge, Polity Press, 1993, p. 3.

5 Alicia B. Gutiérrez. *Las prácticas sociales. Una introducción a Pierre Bourdieu*, Villa María, Eduvim, 2012, p. 17.

6 Pierre Bourdieu & Loïc J. D. Wacquant. *Respuestas. Por una antropología reflexiva*, México D. F., Grijalbo, 1995, pp. 71-72.

field are what define them socially. For Bourdieu, belonging to a field, and the position one occupies within it, implies properties that, although not "natural", are incorporated as such by the agents (naturalized) through *habitus*. As Alicia Gutiérrez states, "a field consists of a set of objective relations between historically defined positions, while habitus takes the form of a set of historical relations incorporated into social agents"[7].

Applied to the study of legal practices, Bourdieu's theory allows us to explain the configurations of the legal field by considering the relationships between the various agents (legal actors), their specific *habitus*, and their *specific capital*. Within the legal field, it becomes possible to discern a process of struggle among these agents for the monopoly of legal discourse—that is, for the socially recognized capacity to interpret legal texts that embody the legitimate vision of the social world.

This paper offers a concise analysis of Bourdieu's theory as applied to *law*, exploring key concepts derived from it and their relationship to law, thereby enriching legal and social analysis. We will also engage in dialogue between Bourdieu's conception and those of other thinkers such as Hans Kelsen and Max Weber, and compare his position with the views of materialist authors like Karl Marx, ultimately asserting the enduring importance of Bourdieu's proposal not only in terms of academic training and theoretical analysis of law, but also as a tool for understanding legal practices.

II. Law for Bordieu

Law, in general, is often viewed as a phenomenon isolated from other social phenomena. For the vast majority of jurists and legal professionals, it is an autonomous field, independent of the social context in which it develops. From this perspective, legal discourse is monopolized by the *initiated*, actors trained in a legal technique that is often incomprehensible to the layperson.

Many legal professionals share this perspective, and the classrooms of Law Schools and Faculties generally train professionals under an apparent disciplinary *autonomy*, manifested in *esoteric* knowl-

7 Gutiérrez. *Las prácticas sociales. Una introducción a Pierre Bourdieu*, cit., p. 32.

edge and in a technical language that is not very accessible to the average citizen.

The *legal* sphere is thus revealed as a space distinct from the social sphere, as an area populated by norms that have nothing to do with the social, political, economic, and cultural vicissitudes of the peoples, groups, or individuals who dictate them. However, as Renato Treves[8] stated, since antiquity various thinkers have reflected on the relationship between *law and society*. With the emergence of the modern state and modern legal conceptions, theories attempting to explain the relationship between law and society acquired a new dimension, recognizing the former as a social phenomenon, inextricably linked to other cultural, political, and economic aspects that govern human life.

This intensified with the emergence of Sociology as a scientific discipline, transforming Law into another factor in explaining social reality –although the academic field of Law often remained detached from this perspective– which does not imply failing to recognize the need for *legal theories* that account for Law, but rather understanding that these theories are produced and must be inserted in a broader context.

Bourdieu's interest lies primarily in the study of the social in its various manifestations. He does not have a specific interest in *law*, although he recognizes the importance of this dimension in social practices. It is clear that for Bourdieu, norms and law play an important role in social practices, a point that is generally evident in his work. However, he rarely addresses the analysis of the legal field specifically in his extensive body of work[9].

In this text, Bourdieu begins by defining a "science of law" that takes "legal science" as its object of study, thus separating the author's approach from the dichotomy between *formalism*—which, following Weber, we can also call internalism—"which affirms the absolute autonomy of the legal form in relation to the social world" and *instrumentalism*—or *externalism* in Weberian terms—"which conceives of law as a reflection or a tool at the service of the dominant"[10].

Thus, Bourdieu's distance becomes clear, on the one hand, from positions that establish the possibility of an autonomous analysis of

8 *Introducción a la Sociología del Derecho*, Barcelona, Taurus, 1985, p. 21.

9 As is clearly the case with his book *Poder, derecho y clases sociales*, Bilbao, Desclée de Brouwer, 2001.

10 Ibid., p. 165.

law, without considering social aspects, finding perhaps the most extreme example in Kelsen, in his attempt to construct a *pure theory of law*. Recall that Kelsen sought to generate a pure theory of law, one that would become a true normative science, and would detach law from other aspects such as politics. In the preface to the 1934 German edition of his *Pure Theory of Law*, Kelsen maintains that his intention was "to elaborate a pure theory of law, that is to say, a theory purged of all political ideology and all elements of the natural sciences, and conscious of having an object governed by its own laws"[11].

There, the author stands out whose contribution was perhaps the most significant, and most criticized, to separate the legal and political spheres, a separation that his adversaries did not want to admit

> Since they do not want to give up the rather ingrained habit of invoking the objective authority of legal science to justify political claims that have an essentially subjective character, even when in all good faith they correspond to the ideal of a religion, a nation or a class[12].

Kelsen clarifies that a science of this nature should only focus on Law and not on everything that exceeds its definition, eliminating from its object of study and its method the elements that are foreign to it, among which he places social aspects, for example, or even substantial aspects concerning the normative content that each legal system might contain.

By distinguishing between the *science of law* and the *sociology of law*, Kelsen views law as a normative system, an organized set of legal norms, thus distancing himself from those who see law as "a means of creating in the minds of men certain representations strong enough to provoke the desired conduct"[13]. For Kelsen, the sociology of law should not focus on the study of legal norms, but rather on "certain natural phenomena that in the legal system are classified as legal facts". According to Kelsen, the sociology of law does not establish a relationship between facts and norms, but between "facts and other facts that it considers as their causes or effects," and therefore "the object of this science is not law itself, but certain natural phenomena that are parallel to it"[14].

11 Hans Kelsen. *Teoría pura del derecho*, Buenos Aires, Eudeba, 1987, p. 9.
12 Ibid., p. 11.
13 Ibid., p. 95.
14 Ibid., p. 97.

Kelsen then distinguishes legal sociology as a science that "is not interested in the norms that constitute the legal order, but in the acts by which these norms are created, in their causes and their effects on the consciousness of men", while the pure theory of law postulated by him intends to be a science

> specific to law, [which] does not study the facts of consciousness that are related to legal norms [...] but only these norms taken in themselves, in their specific sense [...] it does not concern itself with a fact except insofar as it is determined by a legal norm[15].

Kelsen's distinction between *legal sociology* and *the science of law* thus refers to the differentiation between *causal sciences* and *normative sciences*. He understands the former to be those that apply the principle of causality to human conduct within the order of nature, such as psychology, ethnology, history, and sociology, which he characterizes as causal social sciences, sharing this latter characteristic with sciences like physics, biology, and physiology. On the other hand, law belongs to another type of social science, where the principle of causality is not applied, but rather that of imputation, since in these sciences human conduct is studied in terms of prescribed behavior, which is carried out through norms[16]. The *science of law* is therefore, for Kelsen, a *normative science*, insofar as it deals with prescriptions of conduct, legal norms that contain prohibitions, permissions, or obligations, and that refer to the realm of what *ought to be*, not *what is*.

Thus, the Kelsenian perspective attempts to construct a normative science that manages to embody the principles of universality, autonomy, and neutrality in the legal field, independent of sociological approaches.

Returning to Bourdieu, it should be noted that the critiques of legal formalism

> are not directed toward a radical denial of legality and legal practice as a mode of formal domination (which it is) [nor toward] a commitment to other, less formal social mechanisms or channels, such as the discourse of consensus, which would be nothing more than cruder forms of the same domination[17].

15 Ibid., pp. 98-99.

16 Ibid., p. 25.

17 Andrés García Inda. "Pierre Bourdieu o la ilusión del campo jurídico", in Juan Antonio García Amado (ed.). *El derecho en la teoría social. Diálogo con catorce propuestas actuales*, Madrid, Dykinson, 2001, p. 430.

As ANDRÉS GARCÍA INDA rightly points out

> What BOURDIEU's anti-formalist analysis offers us is the possibility of better understanding how some use (or we use) legality to serve different interests. This allows (or allows us) others to participate more coherently in the struggle that, in the legal field and in various social fields, is waged for the monopoly of the means that contribute to legitimate domination[18].

On the other hand, BOURDIEU also seeks to distance himself from positions that understand law as a mere instrument of power or a tool of domination, understanding law instead as a "*direct reflection* of existing power relations, where economic determinations are expressed, and in particular the interests of the dominant"[19]. In this sense, BOURDIEU distances himself from MARXISM, or at least from a certain Marxist view of law.

With the notion of *interest*, BOURDIEU breaks with any mystifying and idealized view of human behavior, while with that of *strategy*, this thinker suggests that

> It does not refer to the intentional and planned pursuit of calculated ends, but to the active development of objectively oriented lines that obey regularities and form coherent and socially intelligible configurations, that is, comprehensible and explainable, taking into account the external social conditions and those incorporated by those who produce the practices[20].

It should be clarified that, as GUTIÉRREZ argues, developing a *general theory of the economics of practices* does not imply adopting a reductionist attitude toward economics, but rather attempting to define a logic for the functioning of social practices through these concepts of *capital* and *interest*[21]. The specificity of each field will function as the principle of differentiation; that is, within each field we will find specific *capital* and *interests* at stake. *Capital*, understood as those goods at stake in each specific field, thus constitutes an expression that goes beyond the purely economic. And so does the concept

18 Ibid., p. 431.

19 BOURDIEU. *Poder, derecho y clases sociales*, cit., p. 166.

20 BOURDIEU, cited in ALICIA B. GUTIÉRREZ. "Con Marx y contra Marx: El materialismo en Pierre Bourdieu", *Revista Complutense de Educación*, vol. 14, n.° 2, 2003, available in [https://revistas.ucm.es/index.php/RCED/article/view/RCED0303220453A/16414], p. 470.

21 Ibid., p. 471.

of *interest* (or *illusio*), which transcends the economic and allows us to understand the motivations of the agents acting in each specific field, and who, therefore, recognize the value of the capital at stake and the rules of the field.

When analyzing social practices from the concept of *field*, and understanding this as a playing field with its own institutions and laws, the notion of *strategy* acquires particular importance since it defines the ways in which different agents carry out the *game* or the *struggle* among themselves, in order to increase their own capital within the field, and thus improve their position.

GUTIÉRREZ also points out a continuity and, at the same time, a rupture between MARX and BOURDIEU with respect to *theory of the classes*, fundamentally around two aspects: "how a class is constructed in BOURDIEU's perspective and what explanatory weight that notion has to account for social practices"[22]. Without delving into GUTIÉRREZ's analysis, we will highlight here that BOURDIEU breaks with Marxist economism by defining social classes not only by relations of economic production, although this is an important property for such purposes. For this thinker, "social space is a *pluridimensional space* of positions, where every current position can be defined in terms of a multidimensional system of coordinates, each of them linked to the distribution of a different kind of capital"[23]. Thus, for Bourdieu, *class* "constitutes a fundamental explanatory principle in the explanation and understanding of social phenomena, but after the mediation of the field (as a specific structure of positions) and of *habitus* (as the objective conditions associated with classes and incorporated along a social trajectory)"[24]. This, precisely, is where the break lies. of this author regarding MARX.

It is clear that for MARX[25], society has a foundation provided by the structure of the productive system, with people generating specific relations of production that are linked to a particular stage of development of the productive forces. Therefore, this material base, structured by the relations of production and the productive forces,

22 Ibid., p. 472.
23 Ibid., p. 477.
24 Ibid., p. 480-481.
25 KARL MARX. *Historia crítica de la teoría de la plusvalía*, t. I, México D. F., Fondo de Cultura Económica, 1945; ID. *El Capital. Crítica de la economía política*, México D. F., Fondo de Cultura Económica, 1992.

conditions all other social or cultural manifestations, such as *law*, which is nothing more than a *superstructure* legitimizing the economic structure. Herein lies the *ideological* function of law, as a superstructure legitimizing a particular relation of production and, consequently, making the mode of production appear *neutral*, *natural*, and the only valid mode possible. Even in Marx's critique of the notion of *human rights* developed in *On the Jewish Question*[26], or in a certain conception of justice that appears in his *Critique of the Gotha Programme*[27], we find the *instrumental character* of the legal system, as a means to achieve another end. Therefore, from this perspective, it is difficult to maintain that *human rights* can be an end in themselves; rather, they represent the tool for establishing a "good society", built on a criterion of justice that transcends the bourgeois liberal meritocratic conception.

In contrast to the Marxist position, Bourdieu complicates the study of social practices, providing a set of theoretical tools for their analysis by expanding economic concepts such as *capital* or *interest* and applying them to other fields. This serves as a theoretical arsenal for understanding social practices. By extending these concepts to other fields, Bourdieu attempts to explain all practices, even those that appear disinterested or gratuitous, as practices oriented toward maximizing material or symbolic benefit, even if these benefits are not exclusively economic.

In this framework, law appears for Bourdieu as a *legal field*, as

> the place of a competition for the monopoly of the right to say the law, that is, the good distribution (*nomos*) or the good order in which agents invested with an inseparably social and technical competence confront each other, which consists essentially in the socially recognized capacity to *interpret* (in a more or less free or authorized way) a corpus of texts that consecrate the legitimate, correct vision of the social world[28].

For Bourdieu, it is possible to maintain a *relative autonomy* of law without falling into the formalistic *naiveté* of asserting its *absolute auto-*

26 Karl Marx. *La cuestión judía y otros escritos*, Barcelona, Planeta-Agostini, 1994.
27 Karl Marx. "Crítica del Programa de Gotha", in Karl Marx. *Teoría Económica*, Madrid, Altaya, 1999.
28 Bourdieu. *Poder, derecho y clases sociales*, cit., p. 169.

nomy in relation to external factors such as the economic or political spheres. Thus, this thinker seeks to overcome the merely *instrumentalist* Marxist view of law, departing from the traditional distinction between *structure* of the *superstructure*, by understanding that diverse social spaces constitute different *social fields*, each with its own specific capital at stake.

We can therefore argue that BOURDIEU's theoretical approach presents a continuity with that of MARX insofar as it strongly criticizes the formalist notions of *Law*, where Law appears as a neutral, naturalized discourse, coinciding in this in denouncing the ideological function of this legal discourse, legitimizing a certain prevailing social order.

However, BOURDIEU's approach also breaks with MARX insofar as it refuses to reduce the legal phenomenon to a superstructure that responds to a base of economic structure. BOURDIEU rejects Marxist economic reductionism, paradoxically extending *economic logic* to fields other than the economic one, constructing a set of analytical tools that allow him to explain social practices without reducing them to economic causes.

Finally, BOURDIEU aims to construct a notion of *Law* that transcends the dichotomy of *formalism* versus *instrumentalism*, one that, while acknowledging the ideological and legitimizing functions of legal discourse, understands the complexity of the legal field in its specificity, accounting for its particular phenomena and its relative autonomy while linking it to other areas of the social field.

BOURDIEU's argument seems to align with WEBER's[29] analysis of the relationship between *law and economics*, with the latter challenging the Marxist conception of law as a superstructure dependent on the economic structure. While WEBER[30] argues that a specific economic orientation does indeed require a particular legal framework to sustain itself, law is not *solely* the guarantor of economic interests; rather, diverse interests come into play, relating both to material aspects (property, physical integrity) and to ideal aspects (honor, religious beliefs). Nevertheless, it is clear that for WEBER, law played a

29 MAX WEBER. *Sociología del derecho*, Granada, Comares, 2001; ID. *Economía y sociedad*, México D. F., Fondo de Cultura Económica, 2016.

30 WEBER. *Sociología del derecho*, cit.

fundamental role as an instrument for establishing *capitalist rationality* in the West.

Let's see an example of this in Weber's study of the legal professions[31] and their influence on the process of rationalizing law. For Weber, there is a notable influence on the ways in which the legal professions develop when determining legal systems, procedures, and legal ideas, and even on social actions and ideas in general.

In *Practical Reasons*, when referring to the symbolic dimension of state power, Bourdieu[32] states that, in order to account for it,

> One can turn to the decisive contribution that Max Weber made, in his writings on religion, to the theory of symbolic systems, reintroducing specialized agents and their specific interests. Indeed, despite sharing with Marx his lesser interest in the structure of symbolic systems (which he also does not call by that name, incidentally), which, by its very function, has the merit of drawing attention to the producers of these particular products (religious agents, in the case that concerns him) and to their interactions (conflict, competition, etc.)[33].

It should be clarified that for Bourdieu, the *effectiveness* of law does not lie solely in the use of legal language by its agents, but rather that this use must occur within a social context and according to appropriate social norms. Therefore, if we want to understand the power of legal discourse, we must link *language* to the

> social conditions of its production and use, [seeking] beyond the words themselves, in the mechanisms that produce both the words and the people who utter and receive them, the principle of power that a certain way of using words allows us to mobilize [thus, the use of appropriate language is] one of the conditions for the effectiveness of symbolic power and a condition that operates only under certain conditions[34].

In other words, the use of language is a necessary but not sufficient condition for discursive effectiveness.

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31 Idem.

32 Bourdieu. *Razones prácticas. Sobre la teoría de la acción*, cit.

33 Ibid., p. 121.

34 Pierre Bourdieu. *La nobleza del Estado. Educación de elite y espíritu de cuerpo*, Buenos Aires, Siglo xxi, 2013, p. 64.

Thus, for example, the insult of an individual, as private discourse, will not produce the same effect –nor does it have the symbolic power– as the verdict of a judge, when putting an end to a conflict by issuing a sentence, publicly proclaiming how things are, through *acts of nomination or institution* that "represents the quintessential form of the authorized word, public, official word, which is enunciated in the name of all and in the presence of all", a discourse that goes beyond individual views and that manifests "the sovereign vision of the State, holder of the monopoly of legitimate symbolic violence", thus consecrating an established order, which is also "a vision of that order which is a vision of the State, guaranteed by the State"[35].

For Bourdieu, "law makes the social world", but he also recognizes that law is simultaneously *made by* that world. Bourdieu thus rejects a "radical nominalism" (which he observes in some of Michel Foucault's arguments) and posits a "realistic nominalism", which understands that the categories with which the world is understood are both constructed by the social world and the product of "a collective historical work" constituted

> from the very structures of that world: structured, historically constructed structures. Our categories of thought contribute to producing the world, but within the limits of their correspondence with pre-existing structures[36].

It is through this type of *realistic nominalism*, or "nominalism grounded in reality", that it is possible to understand the effect of naming.

However, when Bourdieu addresses the *effectiveness of law*, it is not enough to understand the symbolic effectiveness of naming; we must also consider the specific aspects of legal effectiveness, inherent to the norm and the law. This is especially true when addressing the effects of legal norms, which are stated rules whose non-compliance is associated with a sanction and which are enforceable (that is, whose compliance can be demanded through the use of force).

Thus, the *specific effectiveness* of law is found in the "work of *codification*, of shaping and formulating, of neutralization and systematization carried out, according to the laws of their own universe, by the professionals of symbolic work", although we must remember that

35 Bourdieu. *Poder, derecho y clases sociales*, cit., p. 201.
36 Ibid., p. 204.

> This effectiveness, which is defined in opposition to pure and simple non-application or to application based on pure coercion, is exercised to the extent, and only to the extent, that the law is socially recognized, and finds agreement, even tacit and partial, because the law responds, at least in appearance, to real needs and interests[37].

Therefore, for Bourdieu, the *effectiveness* of law lies in the *symbolic violence* that law exerts, which enables legal discourse to fulfill the behavioral prescriptions of its norms without the need, in principle, for the exercise of physical force.

To understand what Law is, we must consider the set of objective relationships that exist in the legal field, and the relatively autonomous logic that develops within it—a logic of objectification linked to the work of *formalization*, an exercise of symbolic violence that serves as the foundation for the effectiveness of Law. Legal work thus generates "multiple effects". Legal agents, through *codification*, start from particular situations (and exemplary decisions) and generate norms with a form

> intended to serve as a model for subsequent decisions, and which simultaneously authorizes and favors the logic of precedent, the foundation of the properly legal mode of thought and action [therefore] legal work continually links the present to the past and guarantees that, except in the case of a revolution capable of calling into question the very foundations of the legal order, the future will be in the image and likeness of the past[38].

Following García Inda[39] it is possible to argue that there are certain effects inherent to the formalization of the legal code: the effect of *universalization/generalization*, the effect of *normalization/naturalization*, and the effect of *officialization/homologation*, which will be analyzed below.

On the one hand, the *universalization/generalization* effect implies that, starting from particular conflicts, the task of codification allows for the generation of exemplary decisions that can serve to resolve future conflicts. With this systematization and rationalization of legal decisions through universalization, the law achieves its symbolic

37 Ibid., p. 205.
38 Ibid., p. 208.
39 García Inda. "Pierre Bourdieu o la ilusión del campo jurídico", cit.

efficacy, transforming the particular worldviews, interests, and values of dominant sectors into universal and general worldviews, interests, and values, applicable to all individuals, at all times and in all places. This effect simultaneously generates two consequences: on the one hand, it universalizes practices, that is, it generalizes a particular mode of action and expression; and on the other hand, it inscribes a logic of conservation in legal work[40].

On the other hand, related to universalization and generalization is the *naturalization* or *normalization* produced by the forms and formulas of law. By establishing a systematic and formally coherent set of rules of behavior (official and universal), law exerts symbolic domination, legitimizing a particular social order. In this way, a *normalizing effect* occurs, where universalized practices appear as the most appropriate for everyone within that social order. The established patterns, which reproduce the viewpoint and interests of the dominant group, appear as the "normal" and "natural" patterns within the social order. In Bourdieu's words, this produces a

> ontological promotion [that] operates by converting regularity (what is regularly done) into a rule (what is legally required), normality in fact into normality in law [...] the legal institution undoubtedly contributes universally to imposing a representation of normality in relation to which all different practices tend to appear as deviant, anomic, that is, abnormal and pathological[41].

For Bourdieu, law is the "instrument of normalization par excellence", and he is surprised by how little reflection has been given to the relationship between the normal and the pathological[42]. At this point, we recall Emile Durkheim's[43] arguments, particularly when analyzing these concepts of *normal* and *pathological* in relation to criminality.

In the *normalization and naturalization* effect that Bourdieu argues for, the *vis formæ*, the *force of form*, is clearly evident: by moving from a "statistical regularity" to a "legal rule", a true change in social nature occurs; codification implies a rationality, clarity, explicitness,

40 Bourdieu. *Poder, derecho y clases sociales*, cit., p. 212.
41 Ibid., p. 21.
42 Ibid., p. 216.
43 Emile Durkheim. *Las reglas del método sociológico*, Madrid, Orbis, 1982.

and predictability that goes beyond the effects of habitus and social sanctions. Furthermore, by universalizing one's own values, viewpoints, and perspectives on the world, what Bourdieu calls the *ethnocentrism of the dominant* occurs; dominant values are posited as natural and normal.

Third, we can find an effect of *officialization or homologation*. In *The Practical Sense*, Bourdieu argues that *officialization* is

> The process by which the group (or those who dominate it) teaches itself, and masks its own truth, binding itself through a public profession that legitimizes and imposes what it proclaims, tacitly defining the limits of the thinkable and the unthinkable and thus contributing to the maintenance of the social order from which it derives its power[44].

Applying this to law, we can clearly understand the legitimizing character of the effect of officialization on a legal system. Regarding *officialization strategies*, that is, those through which agents "manifest their reverence for the official belief of the group", Bourdieu states in *Practical Reasons* that these

> are strategies of universalization that grant the group what it demands above all else, namely, a public declaration of reverence for the group and for the representation it seeks to offer and to offer itself[45].

For Bourdieu

> The universal recognition given to the official rule means that respect, even formal or fictitious, for the rule guarantees benefits of regularity (it is always easier and more convenient to be in compliance) or of "regularization" (as bureaucratic realism sometimes says, for example, "regularizing a situation")"[46].

Therefore,

> Universalization […] is the universal strategy of legitimation. Whoever conforms to the rules puts the group on their side by ostensibly siding with the

44 Bourdieu. *El sentido práctico*, cit., pp. 172-173.
45 Bourdieu. *Razones prácticas. Sobre la teoría de la acción*, cit., p. 222.
46 Ibid., p. 223.

> group in and through a *public act* of recognizing a common norm, universal insofar as it is universally approved within the group's boundaries.
>
> He proclaims that he accepts to assume in his behavior the point of view of the group, valid for every possible agent, for a universal X[47].

Alongside the *officialization effect* appears the *homologation effect* of law. Bourdieu reminds us that "*homolegein* means saying the same thing, or speaking the same language"[48]; applied to objectification in the form of an explicit code, this code enables different actors to make explicit the principles of consensus and dissent. For this author, *homologation* allows for a form of rationality that enables predictability and calculability; thus, the agents involved in a codified action, having an explicit and coherent norm, can calculate the consequences of obedience or disobedience to it.

However, Bourdieu recognizes that only those who are at the same level of the regulated universe of legal formalism can enjoy the effects of homologation: the professionals who hold a specific competence, leaving the laypeople only as those who can suffer the violence of the form;

> condemned to suffer the force of the form, that is, the symbolic violence that those who, thanks to their art of putting into form and putting into forms, know, as is often said, how to put the law on their side, come to exercise[49].

Finally, it could be argued that another effect of law is the reproduction and maintenance of the social order. For Bourdieu, law not only implies reproduction within the legal field itself, but is also a fundamental tool of symbolic domination, of maintaining the symbolic order and, therefore, the social order. Thus, the legal field also plays a fundamental role in social reproduction; it serves as an instrument for legitimizing and reproducing social domination.

In *The Practical Sense*, Bourdieu states that

> law does nothing other than symbolically consecrate, through a register that eternalizes and universalizes, the state of the power relations between

47 Ibid., p. 223.
48 Bourdieu. *Poder, derecho y clases sociales*, cit., p. 218.
49 Ibid., p. 219.

> groups and classes produced and practically guaranteed by the functioning of these mechanisms[50].

By virtue of the dominant role, it plays in social reproduction, the legal field—according to Bourdieu—has less autonomy than other fields such as the artistic, literary, or scientific. Therefore, external changes "are more directly reflected in it", while "internal conflicts are more directly resolved by external forces". Thus, for example, the privileged position granted to civil law within the hierarchy of the legal division of labor, in relation to other branches such as labor law, depends on "the place occupied in the political field by the groups whose interests are directly related to the corresponding forms of law"[51].

It should be remembered that for Bourdieu it is not possible to consider that the legal field lacks *relative autonomy* (Bourdieu would not accept speaking of *absolute autonomy* in any case), nor that the legal space is completely *determined* by the economic or the political, although from such a position it can be recognized that the influence of economic and political factors is greater in law than in other areas such as science or art.

It is also significant that both the reproduction of the legal field and the function of maintaining the symbolic and social order that this field helps to ensure are part of the field's "structure of play", even beyond the intentions of the agents. Bourdieu[52] thus concludes that, even in revolutionary processes, the function of maintaining and reproducing the symbolic order by the legal field is such that the "subversive attempts of the vanguards" end up constituting an "adaptation of law and the legal field to the new state of social relations", which ensures and legitimizes the new balance of power established[53].

III. Conclusions

Bourdieu's interest lies not specifically in studying law, but rather in social practices in their various manifestations, recognizing the im-

50 Pierre Bourdieu. *El sentido práctico*, Buenos Aires, Siglo xxi, 2007, p. 214.
51 Bourdieu. *Poder, derecho y clases sociales*, cit., p. 219.
52 Bourdieu. *Poder, derecho y clases sociales*, cit.
53 Ibid., p. 223.

portant role that *law* plays in them. However, when addressing the legal field, his analysis aims to offer a perspective on law that transcends the dichotomy between *internalist* or *formalist* views, on the one hand, and *externalist* or *instrumentalist* positions on the other.

Bourdieu's development involves a strong critique of internalist or formalist positions, those that uphold the absolute autonomy of the legal field—pure theories rooted in a discourse founded on the supposed *neutrality* and *objectivity* of law and legal practice. For Bourdieu, this stance only intensifies the ideological role of law as a tool for social reproduction and symbolic domination, disregarding the concrete practices upon which it is based.

In this critique, as in other aspects, Bourdieu adheres to Marx, and it can be argued that Bourdieu's position is materialist to some extent, since he grounds social practices, in particular, in the material conditions of their production and in the power relations between the various agents interacting within the field. However, Bourdieu does not reduce these material conditions to merely economic aspects, while also recognizing the existence of ideal or symbolic aspects in the constitution of the social.

Bourdieu also distances himself from Marx and Marxism in his understanding of law insofar as he tries to avoid economic reductionism, while also trying not to fall into mere externalism or instrumentalism that understands law only as a tool or instrument of domination.

Bourdieu's approach to law allows us, on the one hand, to break with the naive (or obfuscating) view of *legal formalism*, a hegemonic position in the discourse of legal agents themselves, including those working in judicial and academic spheres. But at the same time, this approach does not fall into an *anti-legal* position; rather, it allows for a return to problematizing law when it comes to understanding relations of power and domination. Bourdieu's position does not imply viewing law solely in terms of power or domination (which would be mere externalism or instrumentalism), but, conversely, analyzing power in terms of law, in its relationship to the legal field, and how it is influenced by and, in turn, influences other fields such as the political or economic.

At the same time, this perspective seems to provide a framework that allows progress in two directions. From a theoretical standpoint, it offers a starting point for advancing a theorization of law that is not merely formalistic and recognizes the relationship between law and other dimensions such as the economic and the political, but which also does not reduce law to a mere superstructure, acknowledging the relative autonomy of legal constructions and practices. From a practical and academic standpoint, Bourdieu's theory is of fundamental importance in the training of future legal professionals; by avoiding both an anti-legal position and economic reductionism, Bourdieu's perspective allows for a reevaluation of the role of law and legal practices as a space for reflection on law as a socio-legal phenomenon, and on the practices themselves within the field.

Finally, perhaps Bourdieu's most important contribution to law is that, through his analysis, he breaks with the *hegemonic legal discourse* and, therefore, with a certain *legal common sense*. His approach questions legal practices and theories, inviting us to explore a path of understanding and analyzing law based on our own practices, and providing us with one of the most interesting tools and perspectives for the social analysis of law in recent times.

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