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Abstract for *II Visioni del Giuridico*

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Pier Paolo Pasolini, in his work entitled "Teorema", tells the life story of an Italian bourgeois family that suffers a central crisis following the arrival of a mysterious visit, which can involve everyone in a way to reveal and expose in each individual a repressed content and after externalizing it, transfigures (and collapse) the social role of each character.

The crisis in Pasolini's bourgeois family can be compared to the crisis of legal-procedural rationality experienced in society. The family breakdown in the seventies is consistent with the critical reality experienced by capitalism; moreover, the family crisis is the supreme crisis of socio-reproductive instance of capital, because it is the society cell-mater. Just as *Teorema* family is characterized as the nucleus of a social-capital organism at that time, the substantive and procedural rights in conjunction are the democracy core, given that when formalizing the law, the State does not make everything it is necessary for fulfill it, requiring the process for both. Therefore, the process becomes essential to democracy concretization; because there is no point in a list of materially coded and recognized rights, if there is no instrument of realization of these rights, especially in a society where self-defense is not allowed¹.

The rationalist classic decision-making mode (single-liberal-normative) has proved to be powerless in the solution of today's demands, since the constitutionalisation expansion and democratization it has been implicated in a progressive institutionalization of law into everyday life². The expansion of individual and social demands, in accordance with the impotent procedural rationality, have been requiring more and more forms of "alternative justice" that need greater participation of all parts in proceedings involving their interests.

¹ SILVA, Jaqueline Mielke. O direito processual civil como instrumento de realização de direitos. Porto Alegre: Verbo Jurídico, 2012, p. 171.

² STAFFEN, Márcio Ricardo. Processo administrativo disciplinar como procedimento em contraditório. Rio de Janeiro: Editora Lumen Juris, 2012, p. 49.

As it happens the social implosion of the family members with the mysterious visitor arrival, post-modernity brought with it the modern cultural paradigm shift causing an understanding by plurality and collective, and, in addition, a subjectivity in the social context, making one to think in a social/democratic sustainability and the individual as the law subject.

The alternative justice, within the legal sphere has participating features, highlighted by the redefinition of rationality and a new ethic; legal reflux of new concepts (collective); and normative decentralization. Anyway, it's the interactive and flexible dynamics of an open and democratic public space. Legal pluralism appears as a new mechanism of legitimacy production and consensus within society of contemporary capitalism³.

Legal pluralism, overcoming modernity paradigms and the promises, leads to the recognition of the basic rights for minimum existential brought to minorities, that is, appears as a new mechanism of legitimacy and consensus - settled in the light of social movements understood as new collective subjects of Law - within the society of contemporary capitalism which, therefore, has its worsening by state law's low efficiency and by the level of legitimacy crisis in the political system.

Decentralization and the permeability to citizen participation in law provides greater democratization, a fact that is consistent with the essence of the discussion on access to justice, that is, the intention of turning justice, in the literal sense of the term "accessible", of easy access, that can be achieved.

However, there are criticisms to be made about alternative justice in the Brazilian reality, since there is a clear lack of systemic differentiation between the official and unofficial levels of legality. That is, the state law and the plural right existing in society are strongly intricate, setting up a kind of "legal codes patchwork." The great challenge is not to recognize the plurality (alternative justice), but to ensure autonomy and with it, the effectiveness of own state law and the constant selectivity in the application of legal precepts.

In the case of Brazil it is difficult to see the unofficial law of the slums as consensus and greater rhetorical space. One cannot also ignore the difficulties inherent to the people living in extreme poverty, and the daily use of violence, marked with the illegal activities of the police, for example, the case of the slums. There is in our slums

³ WOLKMER, Antônio Carlos. Pluralismo jurídico: fundamentos de uma nova cultura no direito, p. 206.

the typical situation of legal pluralism, while, next to the neighbors associations, trafficking has become a major player in conflict resolution. Is that, while the neighbors association, often worth up dialogue and honesty aiming consensus, trafficking operates differently, constantly appealing to violence as a way of legitimizing decisions. The alternative justice counts as speech to please audiences, but in practice does not help to confront the problems that really plague the country's lower classes.

There is no opposition to the development of legal plurality, however, there are issues of major consequence that prevent (but that must be resolved) all positive effects for the arrival of the mysterious visit (post-modernity) that shook the structures of a classic decision-making model procedural and rationalist.