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CONFLICT MEDIATION AND THE CULTURE OF DIALOGUE IN THE LEGAL SYSTEM: A STUDY BASED ON *THE ISLAND OF DR. MOREAU*

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ABSTRACT: The distance between the people and the political community deepens social inequalities and the wide legitimacy crisis of the current powers. In this context, we perceive an apathetic behavior of the numerous segments and, hence, the need to promote a more inclusive public sphere. Given this context, the role of legal institutions in the construction of the aforementioned public sphere is questioned. This article aims to analyze the possibility of a new legal paradigm based on dialogue and fraternity. To this end, the bibliographic and documentary study was adopted as methodology, using as a background to illustrate this study, the novel entitled *The Island of Dr. Moreau* (1896), by Herbert George Wells. From the analysis of the plot, it is clear that many of the crises experienced at the present time could be predicted and find deep roots in past centuries. Therefore, the study results are distributed into three topics. The first of them presents the plot of *The Island of Dr. Moreau*, which will guide the following findings. The second presents Habermas's Theory of Communicative Action and conflict mediation, supported above all by Luis Alberto Warat's perceptions, as vectors of social transformation and modern legal culture. Finally, the third topic is about the importance of the interpreter of the law, who must be educated based on humanistic values, such as empathy, dialogue and otherness, as an agent for the implementation of this transformation.

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1 INTRODUCTION

The distance between the people and the political community deepens the social inequalities and the wide-ranging legitimacy crisis of the current powers. In this context, it is possible to perceive an apathetic behavior of several social segments. Hence the need to promote a more participating and inclusive public sphere.

Given such context, the role of legal institutions for the construction of the aforementioned public sphere is questioned. This article has the purpose, thus, of analyzing the possibility of a new legal paradigm based on dialogue and fraternity.

In order to do so, bibliographic and documental studies were adopted as methodology, with the technique of Law in Literature analysis, based on the novel *The Island of Dr. Moreau* (1896), by Herbert George Wells (2012). The analysis follows the methodological framework proposed by Karam (2017). Thus, it starts with the summary of the novel's plot, highlighting the necessary reflection aspects and critical specificities, which are then compared to the current social reality. From the plot analysis, it is possible to understand that many of the present-day crises could have been foreseen and have deep connections with the previous centuries.

Therefore, the final results of this research are hereby presented, split in three topics. The first one introduces the plot of *The Island of Dr. Moreau*, which guides the following findings. The second topic explains the Theory of Communicative Action, by Habermas, and the idea of conflict mediation, supported by Luis Alberto Warat's perceptions, as vectors of social transformation and the modern legal culture. Lastly, the third topic is about the importance of the interpreter of the law as an agent for the implementation of this transformation.

2 *THE ISLAND OF DR. MOREAU:* SHOULD MEN LIVE ON ISLANDS?

Herbert George Wells, British author, wrote, among other works, the scientific fiction novel entitled *The Island of Dr. Moreau*, in 1896. The novel was adapted to film three times: *Island of Lost Souls* (1932), *The Island of Dr. Moreau* (1977), and *The Island of Dr. Morea*u (1996). It is a social satire, whose plot is used hereby to introduce the topic and help the understanding of the initial questions posed by this research. The plot is introduced based on the aforementioned works in a general way, however, certain dialogues from the cinematographic version of 1996 are used with illustrative purposes[3].

In the story, after their ship sinks, three men are adrift, for a few days, on a lifeboat, in the Southern Pacific Ocean. Among them, there is Edward Douglas. His thoughts are the first lines of the 1996 film: "...they fought like beasts. Not men. Stop! I fought for my life just as savagely as they did".

The narrative reveals a background that is similar to a state of nature, where men act by pure instinct, more similar to a beast or animal, who acts by sole instinct, rather than a man, who acts by rationality. Besides that, the dialogues contain severe criticism to the legal, social, political systems.

It was Dr. Moreau who captured Edward at sea. In a certain scene of the film, in a dialogue with Edward, the doctor says sarcastically: "The people who fund this project... are afraid you'll sprain an ankle and sue us", and Edward responds: "Well. It's a litigious world". The conversation expresses judgement and reproach regarding the belligerent behavior of the legal system.

Further on, in another scene, following with the spotting of judgement on dialogues, Montgomery, who is also a veterinarian scientist on the island, states: "It is a hard way... the way of being a man. Sooner or later we all want a thing that is bad". The thing that is bad is related to the

[3] The original novel, from 1896, was adapted in new editions and for cinema in three versions, the most recent one from 1996. In it, there are some updates of the technologies adopted by Dr. Moreau, such as genetic engineering and electronics. However, the social and legal criticism that guides this research are maintained in all versions of the story.

fact that, even if men are willing to act straight within society, they end up giving in to their ego's desires, and acting egotistically[4]. When men act egotistically in opposition to collective life, instincts come forth while rationality is hindered. It is due to this dark human nature that the studies of Dr. Moreau begin.

Regarding Dr. Moreau, the narrative explains that he is a Nobel Prize-winning scientist and that he was later forced to isolate himself from the world as a result of conducting unauthorized animal experiments on an island. In his experiments, he was able to isolate the human gene and his objective is to "improve the human species" by eliminating actions that are dissociated from rationality. To do so, he introduces isolated human genes into animals of other species, creating what was called humanoids. Each humanoid represents a stage of eradication of destructive elements present in the human psyche.

The mechanism developed by Dr. Moreau to improve human imperfections was based on the implementation of a chip that caused pain when someone disobeyed the laws, which were repeatedly said out loud. Thus, law and sanction were the only order system on the island. Some of the laws that regulated the island community and that were to be followed were not to "eat flesh or fish" or "walk on all fours".

The questioning of this system begins when, at a certain moment, one of the humanoids, upon discovering that they all had chips in their bodies and that the punishment and shocks originated from them, pulls his out of his body and asks: If there is no more pain, then is there no law anymore?

In that society, Dr. Moreau had not developed any public spaces or forms of integration between the species involved in his researches. They were all considered to be children of the same Father, Dr. Moreau himself, and so they called him, despite not understanding why they were different from him in appearance and needs. This perception of differences and disconnection generated a feeling of non-belonging, of non-fraternity.

[4] In order to ensure understanding: the word egotism means to adore oneself: ego (self) + (tism).

The plot, in addition to criticizing the law-sanction model as a system of social progress and citizenship, makes it clear how much fraternity is necessary for the proper functioning of a social system, in any sphere, in at least three scenes. Citizens need to identify themselves as elements belonging to the same set in order to develop a sense of civic commitment among themselves to guide their citizenship.

The first of the aforementioned scenes may be considered as an attempt of fraternity development by the humanoids, with no involvement of Dr. Moreau. In the scene, Edward Douglas – who is on a UN mission – tries to escape the island, with the help of the humanoid Aissa. When they meet another humanoid who tries to attack them, Aissa asks him to touch Edward's hand and says: "Please don't kill him, he is also a five-fingered man". When the humanoid recognizes him as a "brother", he takes him to a place where there are others like him to talk to the "keeper of the law".

The narrative makes it clear that on the island of Dr. Moreau there was no effort on the part of scientists to implement a fraternal spirit, as well as its elements, such as dialogue, interaction, cooperation, solidarity, alterity and, above all, the promotion of the feeling of belonging on the part of those humanoids to that society. Considering that the objective of the research was to label those creatures as human, that society lacked the political element, so that when the humanoids removed their chip they were confused and the first attitude was to resort to their father.

In the second scene mentioned before, amidst the conflict, in attempt to understand what they are and what element connects himself to the other members of that society, even though it was a fragile link, one of the humanoids asks: Father, what am I? And the scientist replies: You are my son. This scene takes place in an environment where they are gathered to talk and, thus, they are given a chance to dialogue. The father, however, unaware that his children are no longer controlled by the chips, tries to torture them at the expense of dialogue. This attitude is neither accepted nor forgiven by the children, who end up devouring him.

From then on, the humanoids take over Moreau's control and subvert the system. This instability demonstrates the vulnerability of norm system based only on sanctioned laws, without the legitimacy of the community that could support a set of laws. Anyone can take control or anyone can dictate rules, but those who manage to remove the controlling chip from their bodies can easily detach themselves from the current system.

> TO WALK ON ALL FOURS
> THAT IS THE LAW
> TO SUCK UP DRINK FROM A STREAM
> WE ARE NO LONGER MEN
> TO EAT FLESH, OR FISH
> ANYTIME
> THIS IS THE LAW
> NOW... I AM THE LAW
> (Humanoids after subverting the system)

However, when all are connected though a common link, this element, without denying the importance of laws and norms, strengthens the society as a whole. Its normative system, the economic progress, guarantee of rights, respect for minimum legal boundaries within a constitutional State, and men's instincts become more controllable, as it comes closer to rationality by committing to civic ideals.

The third scene, in which it is possible to glimpse a desire of fraternity, or an attempt to implement a link between the humanoids, is visible in the following dialogue, which happens after Dr. Moreau dies:

> - Is there still law [after the death of Moreau]?
> - There is still law. Yes.
> - How can there be law without the Father?
> - He hasn't left us.
> - That is what I'll tell the others.
> - That his spirit is watching over us.

This union, which had not been fostered before, destroyed the society of the humanoids, because each wanted to have the power just for themselves. In the dispute over who would become the new father, who had all the powers, they all destroyed each other.

The construction of a link can be inspired in many ways. In this story, inspiration was sought in the spirit of the father – Dr. Moreau – who was the creator of those beings. Similarities can be seen in the

theological semantic conception, since the founding element of the brotherhood is also a Father: God. In the conception of the new civic culture, the republican divide is the founder of humankind, based on the equality of all.

It cannot be said that the title of the work, *The Island of Dr. Moreau*, was purposeful. However, it is possible, in addition to all the reflections listed, to extract yet another one, from the model inspired by the scientist, since one should not live as an isolated being, separated from their peers. Thus, "we begin to understand that each man is not an isolated monad, that they are not fragments without connection. Each person is independent and a forced product of interactions" (Warat, 2001, p.72).

From the abstraction of this set of events on the island and contextualizing it to the Brazilian reality, it appears that there is a separation in different pillars of the State, which hinders its balance as a whole. The following sections of this work aim at justifying, in contemporary reality, the criticism posed by Wells (1896) in fiction, as well as to propose a way to overcome these challenges.

3 TRANSITION OF PARADIGMS: AN ENZYME CALLED CONFLICT MEDIATION

Law has many definitions. According to Norberto Bobbio (1983, p. 347), it can be understood as a normative order that "ultimately can use physical force to obtain the respect of the norms, to make effective, as it is said, the order as a whole [...]". As for Miguel Reale (2001, p.02), "The Law is the essential and undeniable demand for an orderly coexistence, since no society could survive without a minimum of order, direction and solidarity".

The conceptions of Bobbio and Reale bring views of the Law as a science that imposes social norms, according to Jünger Habermas (1997, p. 72), following a "binary code: licit or illicit", and understood only from a "functional" perspective of "stabilizing the expected behavior". In fact, this understanding makes it difficult to define the very principle of fraternity

as a legal matter, since the materialization of it would imply on a more complex social life.

In the Brazilian context, there has been an ample litigation behavior, when checking the stock of 80 million legal proceedings in progress, according to the report entitled Justice in Numbers (2019), prepared by the National Council of Justice. On the same track, the Association of Brazilian Magistrates (AMB, 2015), indicates that 40% of the proceedings in progress in the Judiciary could be solved in an extrajudicial way.

The contemporary paradigm of law originates from 18th century contractualist conceptions of philosophers like John Locke and Jean Jacques Rousseau, which reflect the social and economic conditions of the bourgeoisie, becoming, according to Bobbio (1983, p. 349), the "main instrument through which political forces, which hold the dominant power in a given society, exercise their own domain". The paradigm dealt with here is the same as the one proposed in *The Island of Dr. Moreau*, which presents humans and humanoids in a state of nature and organizes them into a society based on a system of law-sanction.

Even in the 18th century, with the formalization of the principle of equality, there are no more differences between men, all are brothers in humanity. This is the conceptual basis of the fraternity principle that has its semantic root in the relationship between brothers. The word *frater* comes from the Latin language, and means *brother*. As of 1948, aspects of this relationship can be transferred to the relationships of citizens around the world.

The main characteristics of this relationship between brothers are: 1) horizontality, with no distinction between individuals; 2) relationality; 3) otherness; 4) listening, since the stimulus of speaking without listening does not contribute to social pacification; 5) cooperation and 6) solidarity, both are not to be confused with charity, since cooperation takes place bilaterally and horizontally, while charity takes place in a vertical and unilateral way, and solidarity, in turn, has a mixed character (Ribeiro, 2016).

These concepts represent, as Luís Alberto Warat (2001, p. 87) puts, the best formula found for this purpose. Clearly, the author thought this way because he understood conflict mediation was an instrument based on and creator of dialogue. Therefore, Habermas's approach is adopted in parallel to the culture of mediation, since both see the conflicts in a positive and constructive way in the social context.

According to Habermas, the normative model, illustrated in *The Island of Dr. Moreau*, has been criticized since the 1970s in the social sciences, as a consequence of the whole movement from the 60s, which envisaged a correlation between rights that had been formally acquired and their practical correspondence. That is what John Rawls (1981) accomplished, with his Theory of Justice of 1981, and the principles of atonement and difference.

For Dworkin (1990, p. 2-3), it is very naïve to remain attached to discourses and theories from the 17th and 18th centuries, "if the resumption of the rational law argument does not meta-critically take into account the change of perspectives of political economy and in the theory of society". This thought led great philosophers to start focusing on concepts such as "fair" and "good", which, for Ronald Dworkin, are not equivalent in the current theory of liberal influences.

In a reality where justice is fed back by individual interests, Habermas proposes a shift of paradigm to overcome the instrumental rationality, from a "paradigm of consciousness based on the idea of a lonely thinker who seeks to understand the world around him" to a communicative form of rationality, "fruit of the abandonment of an egocentric understanding of the world, whose foundation Habermas draws from Piaget's concept of decentralization" (Pinto, 1995, p. 79, translated).

> My intention is to argue that a paradigm shift to that of communication theory would make possible a return to the task that had been interrupted with the critique of instrumental reason; and this will allow us to resume those tasks, since then neglected, of a critical theory on society (Habermas, 1984, p. 386, translated).

Habermas's Theory of Communicative Action (TCA) proposes a culture of dialogue as a new way of acting, named dialogicity, that is, the idea of dialogue with one another. "Habermas prioritizes, for the

understanding of the human being in society, actions of a communicative nature. That is, actions related to intervention from the dialogue between various subjects".

In this way, culture, sociality and subjectivity gain space in what the author calls the world of life (WL). The objective is to overcome absences, either physical or communicative ones, enabling the construction of a society based on cooperation and alterity, which empowers its individuals for a negotiated solution of their conflicts, in opposition to the social organization presented in *The Island of Dr. Moreau*, solely based on the law-sanction binomial. For Warat (2001, p. 55, translated) "The world is the other in the others. What we call reality is one among all, the others of the others ".

The authors usually create separations between the environment of life, communicative locus, space for the accomplishment of happiness, among other names that split emotions from positive norms in the State. However, for Habermas: "it is not the sovereign who must represent the will of the people, but the people who must exercise their sovereignty communicatively, within the framework of procedures accepted" (Cortina, 2015, p.134, translated).

The biggest challenge to apply those theses proposed by Warat (2001) and Habermas (1997) is to break the cycle of citizens depending on a paternalistic state – similar to those who were in *The Island of Dr. Moreau* – which does not encourage participation in debates, in public hearings, the monitoring of political parties, unions, student movements, among other mechanisms of popular participation.

The result is a belligerent State, with unbalanced powers. According to Habermas's theory, the communicative sphere is responsible for the legitimation of public power. In this sense, José Renato Nalini (2014, p. 9, translated) highlights that "It is not healthy to have a belligerent society, which cannot solve its problems through dialogue, through a healthy exercise of argumentation, consideration and other tools that could be called common sense".

According to Habermas's theory of argumentative action, in the world of life we understand the space of social integration, in which "a relationship of tension is maintained with the social spheres

systematically integrated" (Gutierrez; Almeida, 2013, p. 161, translated). These other social spheres are the subsystems, in which strategic actions take place and where there is power, such as the Law. The WL works as a dock and a means of power and money, and is dependent on the solidarity of its members (Habermas, 1988, p. 442, translated):

> The coordination of actions and the stabilization of group identities have here (in the WL) their measure in the solidarity of the members, which is evident when looking at the disturbances of social integration, which thus translates into anomie and the corresponding conflicts.

The theory of communicative action, although having a stronger relation to the conception of fraternity politics, is mentioned by Eduardo Veronese in his legal conceptualization on principle. For the author, the studies by Jünger Habermas "contribute to the reformulation of public sphere conceptions, which directly affects the method of interpretation and formulation of the most public of rights, which is the constitutional one" (Veronese, 2015, p. 75, translated).

When dealing more specifically with the legal sphere, Habermas understands that "The moral character of the law could be exposed in the way of argumentation, that is, to understand a moral argument, but based on positivism, which is, the externalization of the political will" (Veronese, 2015, p. 81, translated).

The public sphere, according to Habermas, in which dialogue and the joint construction of norms and political decisions are stimulated, is exactly what lacked in the society of *The Island of Dr. Moreau*. In the story, the legal-social-political system represented the coercibility of the law through sanctions (electrical shocks) ensured by the inserted chips. Thus, the system fails and the sovereign is deposed as soon as his subordinates manage to free themselves from the sanctioning instrument, the chip. There is no legitimacy built through fraternity, which is only possible in a participatory and dialogued public sphere.

Sensibility and otherness, such recurrent values in Warat's works, and so necessary for both mediation and Habermas's dialogicity, are present in the fraternity principle, the same of the French republican motto, rescued by contemporary jurists to build the new paradigm. According to Veronese (2015, p. 99):

> Basic principles of Freedom and Equality, which make Fraternal, *a dynamic relationship among themselves*, Fraternity as a *unifier trait in specific historical moments*, [...] Fraternity as *materialization of complex relations of Cooperation*, or even as a guiding *principle and the solution for cases of social paradox*, in addition to being a *peacemaking principle* with a relational character.

Thus, the Law, with its transformative trait, can no longer transfer the responsibility of building a culture of citizenship to the political sphere. Such a culture is able to give life to norms, which are nothing but lifeless letters if not brought to action. Developing it is also up to the legal sphere. The fact that public spaces are open for discussion and interaction does not hinder the contributions of the Law, which should act regarding the purpose of social peacemaking.

Thus, this fraternal action is perceived as utopian due to the inaccuracy of certain judgements, such: when fraternity is introduced, does it mean that conflicts and disputes are extinguished? The answer is "no". According to Ricardo Cappi (2009, p. 28): "conflict is inherent to human beings, intrinsic to the human existence". In the same sense, Sales (2007) understands that living in a world with conflicts implies the understanding that these are natural and inherent to the human being, whereas they also act as drivers of progress, because without conflict it would be impossible to have evolution, and social relations would probably be stagnant at some point.

Thus, it is necessary that conflicts are managed at the moment they appear, if possible by the people involved. This prevents escalation, known as the conflict spiral. If their escalation is allowed, each action generates a more serious reaction than the previous one, giving rise to new points of dispute. The farther from the original cause a conflict is, the more serious and intense it tends to become (Azevedo, 2012). Hence the need to build a citizen culture strengthened by communicative action, allowing for better interaction between individuals and, consequently, better management of conflicts. With each well-managed conflict, bonds of community and trust are strengthened.

In this sense, the effort of rearranging conflicts and controversies, which has been carried out by those involved in the dissemination of the conflict mediation culture, becomes necessary. On the subject, Juliana

Demarchi (2008, p. 51) states that "Conflict is not something ontologically negative; [...] from the conflict an opportunity for growth may arise among those involved, which may end up improving their relationships."

Mediation of conflicts makes this rearranging process possible, since dialogue, with all its elements of fraternity, is a more humane way of solving problems. Dialogue is able to cope with the intimate expectations of those involved in conflict, in a better way than the State ever could, and, above all, it empowers the involved parties in the process in order to autonomously solve their possible future conflicts. It appears that in this situation there was no imposition of any structure, but the viability of the dialogue. This model urgently needs to be expanded for the sake of citizenship.

On the same line of thought, Nalini (2014, p. 9) understands that: "The Anglo-Saxon pragmaticism has made dozens of formulae for conflict resolution that do not require judicialization". Making it possible to see that the other person is my brother within a legal field goes beyond saving work for the judiciary. It is to commit to the redefinition of conflicts, and the purpose of the Law that has to do with the pacification of society.

Hence, it is necessary to bring back the principle of fraternity to the legal sphere, so that it is possible to contribute to the fostering of a paradigm shift in current Law – since its destiny is represented in the plot of *The Island of Dr. Moreau*. This would make possible a new culture of citizenship, with the possibility of seeing and valuing the other people. The improvement of relationships between citizens generates something that is of high esteem for current democracies: the enhancement of citizenship and the consequent strengthening of institutions.

Thus, above all, it is necessary to value the human being. In the legal sphere, that is the interpreter and the practitioner of the norm, as well as the mediator, as a facilitator of dialogue to solve disputing matters. Democracy, citizenship, mediation, all concepts centered on the human being, but that lack a more humanistic, more sensible definition, which should overcome the isolationist barriers and finally see the other person.

Legal modernity is also linked to the punitive normative territory. In that territory, the judge's interpretation is valid. However, if citizens are

not in permanent political control of state institutions, there is a scenario of insecurity. Thus, it must be overcome by a new paradigm, in which the transformation of conflicts stands out as a new legal model, more sensitive to social justice issues. On this shift in legal standards, Bobbio (2015, p. 290, translated) asserts:

> As the renovation of culture should correspond to the renovation of politics in a democratic sense, and as democracy is based on the principle of dialogue, of consensus, and of social progress, thus, should a culture adapted to a democratic society be not dogmatic, but critical, not closed off, but open, not speculative, but positive?

This new legal paradigm has an ambivalent trait, because even though it proposes a new perspective, it cannot escape conservative specificities. One of them is the need of legal security, maintaining the normative structure of the laws, created by the legislative power, elected by the people, a well-known standard. The other one is the legal omnipresence regarding every aspect of human life. The interpreter, here, is fundamental, and is a catalyst element for reactions.

The new paradigm inserts the old model in a context that values dialogue in the legal area. The culture of mediation, the principle of fraternity over individualism, and the confirmation of values in the Judiciary are elements that should reflect onto the Law and foster a new mentality. During the last two decades, solving conflicts has been the responsibility of the Judiciary, however, at present, the idea is to develop the individual's autonomy as a citizen, responsible for solving their own conflicts.

This step has been taken in the Brazilian legal system since the institutionalization of the Appropriate Dispute Resolution Methods, starting from Resolution nº 125/2010, of the National Council of Justice, which institutes a National Policy for the Proper Handling of Conflicts, passing through the New Code of Civil Procedures, of 2015, which regulates mediations and judicial reconciliations, completed by the Mediation Law (Law nº 11.340 / 2015), which regulates extrajudicial procedures for dispute resolution.

However, the regulation and institutionalization of these norms are not enough to shift the paradigm. It is necessary to develop a new culture and a new attitude. This evolution will only occur with the reconstruction of legal education, in order to train professionals to build a more fraternal and collaborative Justice System.

4 IT IS THE INTERPRETER'S TURN: THE APPROXIMATION OF THE SENSORY WORLD AND THE LEGAL SCIENCE

In Order to develop a new legal paradigm, it is necessary to renew the whole of legal education, and thus develop a new culture. The practitioners of Law, such as judges, professors, attorneys, lawyers, jurists, mediators, are educated and graduated, thus influenced by their education – which still reflects models from the Brazilian Empire. That is, the interpreter of the law has a fundamental role in this paradigm shift.

Warat (1980, p. 19, translated) calls "theoretical common sense" every "norm that ideologically disciplines the professional work of legal practitioners". For the author, it is about an "arrangement of ideas – representations – images – knowledges, present in several legal practices, and such an arrangement works as an arsenal of practical ideologies".

This "theoretical common sense" creates "humanoids", similarly to what happens in the *Island of Dr. Moreau*, people who are educated to recite norms of conduct, because "it presents a set of questions where the answers are already overdetermined". Thus, "theoretical common sense does not intend to build an object of knowledge about social reality, but to create norms and justify them by means of standardized knowledge" (Warat, 1980, p. 21, translated).

The relevance of this category for the legal science should not be underestimated, but, as Robert Cover (1982, p. 4) states, the Law should not also be reduced to it: "The rules and principles of justice, the formal institutions of the law, and the conventions of a social order are, indeed, important to that world; they are, however, but a small part of the normative universe that ought to claim our attention".

The construction of a new culture, a new social order requires, as stated by Warat (2005, p. 165, translated), "the deconstruction of the order of reasons that legitimized the current state of affairs, which has

become urgent to blow up into a thousand pieces". A great concern of the author is the common-place rationale, so he asks the question: how many revolutions were devoured by their own common-place ideas?

To propose the construction of something new is, above all, to leave common places. The common-place model of State is, generally speaking, faced with the interests of a minority. To transform this State of egotism, Warat (2005, p. 167) suggests the introduction of a female element, as he understands this would be an extremely relevant resource to break with the cycle of intellectual stagnation and allow the awakening of a new social order.

This female aspect, according to the author, has a combative and revolutionary importance, less warlike and more loving. Its representation in Law has been sculpted by the culture of mediation, since through it, dialogue has been fostered, as well as the redefinition of conflicts and dispute, and also the insertion of values such as alterity, relationality, cooperation and fraternity, which are essential for living together in society, improving the quality of life of individuals and social pacification. On this new order, Warat (2005, p.167-168), translated) mentions the need of purity and of the "power of the immaculate goodness, with solidarity, at the service of the other", and defends a "revolution of man, from man to himself".

These elements punctuated by Warat, such as the female aspect and, therefore, sensitivity, the combative, revolutionary, more loving and flexible trait, are part of this new paradigm of Law. This paradigm requires a new approach on the part of educators, who, aware of the obsolescence of the current model, are given the responsibility of preparing new practitioners. It is expected that these practitioners act no longer vertically, but in adequacy to the principle of fraternity, that is, horizontally and collaboratively.

The link that should be encouraged in society is a link of fraternity, of humanistic basis, whose focus is the common well-being, as long as the norms are respected, something the Law will never cease to demand. In a setting with serious social problems, deep inequalities and limited resources, humankind, with its intrinsic characteristics, emerges as a key

to face the challenges of the 21st century, in contrast to the crisis that had been established in the 20th century.

In this sense, research from the World Economic Forum (2015), as well as from other national and international institutions (Accenture, 2013; Gasparini, 2016), establish the understanding that the necessary skills for 21st-century professionals transcend technical-formal knowledge, and consist of what is called "soft skills". They are: solving complex problems, critical thinking, creativity, teamwork and people management. These skills demonstrate how essential it is, especially in contemporary times, to develop a posture that prioritizes dialogue, empathy and otherness. In this context, seeking dialogued solutions to conflicts is not only more efficient, but is more suited to the demands of the current legal paradigm.

Thus, the human aspect is the foundation for this transformation, and, since the current setting is highly litigious, the fostering of dialogue and the resignification of conflicts is crucial. It can be accomplished either via dispute mediation, or the creation of public spaces, virtually or physically, in order to work effectively with alterity, otherness, and dialogue.

Solution through dialogue is something that has occurred since time immemorial, in empirical ways, between members of the most diverse communities. Hence, Fisher, Ury and Patton (2004) understand that any negotiated solution can be assessed using three criteria: the wisdom of the agreement arising from it, its efficiency, and its impacts on the relationship between the parties. These criteria, especially the last one, demonstrate the importance of alterity, dialogue and empathy for the success of dialogued dispute resolution. The authors understand that the ability to listen and understand the interests of others is fundamental to the success of a negotiated conflict resolution.

On the same line of thought, Fisher and Shapiro (2006) carried out research that demonstrates the importance of emotions in relationships and especially in the process of negotiation and mediation. As a result of the research, the authors developed a methodology, which aims at encouraging individuals involved in dispute to arouse positive emotions

during the negotiation process, in order to use emotions in favor of a satisfactory outcome for both parties. To this end, the authors establish five steps: expressing appreciation, building affiliation, respecting autonomy, recognizing status and choosing an appropriate attitude.

This path of transformation of the current legal paradigm, which began with the institutionalization of the Appropriate Dispute Resolution Methods, as described, can only be concluded from an education that accompanies it. Otherwise, there may be a rupture between the factual reality and the world of ideas, which could break the transition sought, since these plans coexist in harmony, according to Cover (1982, p. 9), "Law may be viewed as a system of tension or a bridge linking a concept of a reality to an imagined alternative - that is, as a connective between two states of affairs".

This process of dialogue between science and the world of the senses suffered a rupture, according to Claude Lévi-Strauss (1978), between the seventeenth and eighteenth centuries, precisely in the period of illustration and enlightenment, when the bourgeois revolutions still took place, raising the bourgeois class to the regency of the social, political, economic and legal system until the present day. In the words of Lévi-Strauss (1978, p. 13, translated):

> By then, with Bacon, Descartes, Newton, and others, it became necessary for science to rise up and assert itself against the old generations of mystical and mythical thought, and it was then thought that science could only exist if it turned its back to the world of the senses, the world that we see, smell, taste; the sensory world is an illusory world, whereas the real world would be a world of mathematical properties that can only be discovered by the intellect, and which are in total contradiction with the testimony of the senses.

Nonetheless, the author has an optimistic view, and thinks that the gap between contemporary science – and that includes the legal science – is on the way to being overcome, so that the scientific explanation will become something that "has a meaning, that has a truth that can be explained" (Lévi-Strauss, 1978, p. 14, translated).

To illustrate this theory, the Law in Literature movement can be mentioned, since it has been constructing Law as narrative. This tool

works with hermeneutics in a more democratic and creative way, it has been used, mainly, after the 1990s, and "there is already a sufficient consensus as to the ability of literature to contribute to the improvement of legal analysis and to rethink problems of legal theory" (Rosenfield, 2016, translated).

For Cover (1982, p. 4-5), understanding the Law in narrative makes it possible to observe the rules, but also to bring them forth, along with the principles and norms, to the world of the interpreter, who starts to live them in context: "Once understood in the context of the narratives that give it meaning, law becomes not merely a system of rules to be observed, but a world in which we live". The more we understand the Law, the greater extent will our citizenship and democratic legitimacy have.

This new perspective demands an elevated sensitivity by the interpreter of the norm, and some aspects of artistic expression have been useful in order to develop sensitivity and emotion awareness among these practitioners. Warat, for example, suggests a surrealistic pedagogy in which the free flow of unconsciousness can break with logical rationale, which is rigid and formal, typical of the Western education foundations and its resulting products, such as the Law:

> Joining the Law and poetry is indeed a surrealist provocation. It is the twilight of the gods of knowledge. The fall of their rigid masks. The death of legal Manichaeism. A call of desire. A protest against the mediocrity of the learned mentality and, at the same time, a healthy contempt for teaching as a profession. It is to recreate men by provoking them to try to belong entirely, so that they feel a deep aversion to the infiltrations of a culpable and mystically objectivist rationality, converted into a "gendarme" of creativity, of desire, as well as of our connections with others (Warat, 2004, p. 187).

For the author, "The magic in the formation of a disciple (student) is the development of sensitivity. These are dimensions of feeling, of sensation", and creative beings cannot be reduced to filling in and delivering coursebooks and assignments, since "the production of the new has the to do with existence [...] So that nothing gets old, especially, so that we don't get old, we have to constantly try to be reborn in the new" (Warat, 2001, p. 42-43).

There are some who worry about the excesses of movements such as surrealism, and keep attempting to establish a minimum of order. It is the proposal of structuralism, with one of its greatest exponents in the field of the humanities, Claude Lévi-Strauss. According to the author "my problem was trying to find out if there was any kind of order behind this apparent disorder - and that was all" (Lévi-Strauss, 1978, p. 15, translated). Wallace Stevens (1954, p. 215) balanced both movements with the following expression: "A. A violent order is disorder; and B. A great disorder and order. These two things are one".

For the interpreter of the Law to be able to accomplish what Stevens describes, with authenticity reaching the summit of expression, it is necessary to develop an attitude of action towards a humanistic education, considering the multiple forms of intelligence. In this way, the transitory character referred to in the social satire *The island of Dr. Moreau* as "humanoid", in which instincts are more developed and reason is underused, can be subverted. This entire transition should be made by the mediators, as stated by Zygmunt Bauman (2010, p. 100, translated):

> The immense potential of humanity cannot become true without the help of mediators who interpret the precepts of Reason and act according to them, establishing the conditions that will transform individuals into those desired, or compel them to follow their human vocation.

The idea is to put an end to the scientific legal paradigm restricted only to the formula of crime and punishment, to the model of repetition of the law, inherited from an Enlightenment, which, according to Bauman (2010, p. 116), is "an entirely new social mechanism of disciplinary action and consciously designed, aimed at regulation and regularization of the relevant social life of the subjects of a teacher and administrator State".

Modernity brings complexity and multiculturalism with it, which, if not reflected in law, generates delays and incompatibilities, such as the atypical state that today presents itself as a "Supremocracy", with an imbalance between the three powers, and the preponderance of the judiciary. This conformation was generated by the need for the Democratic Rule of Law to materialize certain normative situations at the

mercy of other social spheres and powers, such as citizenship and the executive power itself.

Thus, as explained, the 21st century should be the century of creation, to overcome the crises of the 20th century, with the aim of obtaining solutions to the problems that have arisen, requiring greater flexibility from the Law, focusing on its purpose. And that purpose is composed of social pacification, the realization of justice, the improvement of life quality for the individuals that make up society, but without losing sight of legal security.

This new parameter has as its main representation the interpreter. In view of this, two mediating incursions should be carried out, one with the interpreter, aiming at working on their sensitivity together with society. The other one, through the interpreter together with the Law, in a relationship, the dialogue between the interpreter and the Law will allow an expansion of connections, raising the legitimacy degree of the Democratic Rule of Law. The new context is challenging, this chaos, although organized, imposes fear, however, in the face of the reality that presents itself, as Warat (2001, p. 46, translated) says: "the only thing to be done is to get in tune".

5 CONCLUSION

The Island of Dr. Moreau introduces a context from which one can learn a lot regarding the reality of our times. This paper had the objective of analyzing the possibility of a new legal paradigm, based on dialogue and fraternity, according to the Appropriate Dispute Resolution Methods. The analysis used the method of Law in Literature to read and analyze the novel with aims at developing on the need of building a new culture, with more dialogue and consensus, so that the legal system may become more democratic and efficient.

The conclusion is that the role of the interpreter of the norms, being a jurist or not, is of fundamental importance to the social transformation and empowerment of individuals. As citizens, it is necessary to develop individuals for active participation in public decisions and, in private life, for the solution of their own conflicts in a more efficient and satisfactory way.

This position of the interpreter can be provided by the Appropriate Dispute Resolution Methods. These means allow a reframing of the conflict that is now seen as a natural social process, and that has the potential to strengthen community and collaboration ties between individuals.

The development of an interpreter must, therefore, be guided by an education based on human values, transcending purely technical training, and valuing dialogue, empathy and otherness. The human element is shown as the basis of this transformation and, since the scenario that is currently constituted is one of litigation, the encouragement of dialogue and the redefinition of conflicts is essential, either through dispute mediation, or the creation of virtual or physical dialogue spaces.

This new paradigm proposed is based on the role of the interpreter, and it includes two mediating efforts. One regarding the interpreters themselves, who should be trained to be more sensible regarding society, and the other by joining the interpreter and the Law, in a dialogic relation that will expand connections, elevating the legitimacy degree of the Democratic Rule of Law.

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