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LITERARY CULTURE OF THE LAW IN BRAZIL: A TRIBUTE TO CALVO GONZÁLEZ¹

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ABSTRACT: This article approaches the importance of José Calvo González's contribution to the formation of a Literary Culture of the Law in Brazil. Internationally recognized as one of the main exponents of studies in Law and Literature, with extensive and consistent academic production since the 1990s, Calvo González regularly visited Brazilian institutions, between 2010 and 2019, a period in which he developed several activities and kept very close relationship with some researchers, especially from Rede Brasileira de Direito e Literatura. This article analyzes eight of his lectures, all presented at the International Colloquium on Law and Literature, as well as other relevant scientific activities carried out by him. The relationship between Calvo González and Brazil was quite intense and could be interpreted as a two-way street: on the one hand, his presence and interaction enabled constant dialogue, opening paths that led us to important and innovative projects in *terrae brasilis*; on the other hand, the expansion and diversity of investigations in Law and Literature in Brazil also were inspirational and encouraging for Calvo González's own thinking. In conclusion, it is possible to state that Calvo González was certainly one of the greatest characters in the history of Law and Literature in Brazil, like Warat was in the 1980s and 1990s.

KEYWORDS: José Calvo González, Law and Literature, Literary culture of the Law, Brazil.

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1 INTRODUCTION

José Calvo González (1956-2020) was a jurist of the highest degree and intellect. His name is certainly canonized as one of the greatest among the 21st century scholars. He was a leading figure in the interdisciplinary field of studies in Law and Literature, with extensive and consistent intellectual production, especially regarding his theoretical view on the *Literary Culture of the Law*.

He freely moved through Philosophy, Education, History, Language, Sociology, Anthropology. Thus, it was said that he knew of everything; if he did not know of a specific fact, he had certainly read something related. In the art field, to which he dedicated himself more closely, Calvo González wrote about the relations between the Law and Cinema, Music, Iconography, Photography, Architecture, Philately, and, above all, Literature. Intersection was his favorite place. One of the main characteristics of his research work was his cleverness associated with his huge capacity for investigating legal phenomena. This combination allowed him to see the Law where it was not apparent.

Internationally renowned as one of the greatest exponents of the European movement associated to Law and Literature, he wrote hundreds of publications, including books, chapters, articles, and other papers. Calvo González began his scholar career in 1980, at *Universidad de Málaga*, where he was consecrated Professor of Theory and Philosophy of Law, in 2010, and founded the *Cátedra Abierta de Derecho y Literatura*³, in 2011/2012. He was also alternate magistrate of the Superior Court of Andalucía, from 1996 to 2015. Peruvian institution *Universidad Ricardo Palma* granted him the title of *Doctor Honoris Causa*, in 2016, due to his career in Law and his contribution to research in the area⁴.

³ At *Universidad de Málaga*, Calvo González was attached to the Department of Financial Law, Political Economy and Philosophy of Law. Therefore, the creation of *Cátedra Abierta de Derecho y Literatura* (Open Chair of Law and Literature), although lacking formalization, significantly expanded his possibilities to develop, with greater autonomy, a series of teaching and research activities developed in the discipline, always with the encouragement and support by Felipe Navarro Martínez and María Pina Fersini.

⁴ Upon receiving the aforementioned title, Calvo González released an important publication: *Justicia constitucional y literatura* (2016a), in which he analyzes the

This paper – which can also be read as a humble tribute – addresses the importance of the contribution by José Calvo González and his legal thought to the development of a Literary Culture of the Law in Brazil. As will be explained, the Andalusian jurist regularly visited Brazilian institutions between 2010 and 2019, a period in which he produced several publications and maintained a very close relationship with some researchers.

Eight conferences will be analyzed by this paper: (1) *Curved Law*; (2) *For a Narrativist Theory of Law*; (3) *Tolstoy and the Law*; (4) *Legal Marginalities in “Smithfield Decretals”*; (5) *“Going towards the other”: affection and justice in “Mineirinho”, by Clarice Lispector*; (6) *Quixote or the laughable justice*; (7) *Nothing in Law is extra-fictional*; (8) *Constitution, Literature, and the Fragility of rights* – all of them lectured during the International Colloquium on Law and Literature, besides other publications and scientific activities he developed with equal relevance.

In reality, the relationship of Calvo González with Brazil was intense throughout ten years, and can be seen as a two-way street: on the one hand, his presence created constant interlocution, which opened ways that led us all to develop important and innovative projects in *terrae brasilis*; on the other hand, the expansion and diversity of the research in Law and Literature from Brazil also inspired and stimulated Calvo González’s thoughts.

2 FROM VIRTUAL NETWORKING TO DISCOVERING BRAZIL

Beginning in 2006, *Iurisdictional-lex malacitana*⁵ was a blog – with 3.457 posts made within 15 years – through which Calvo González intensely expressed ideas and thoughts, publicized his activities and academic production, offered analyses and comments. He also used his blog to share the most diverse experiences, especially his trips and journeys around the world, besides socializing the work – and giving it

Constitution *with* literature, Constitution *as* literature, Constitution *in* literature, and constitutional justice from fiction.

⁵ Available on: <https://iurisdictional-lexmalacitana.blogspot.com>.

visibility, which is the most important – of all those who dedicated to research on Law and Literature, as well as Law and Humanities as a whole. The blog was, in short, a plural virtual space where anyone interested could be in touch with the latest news, discoveries from the past or recent releases, under the singular view of Calvo González.

The same happened on Facebook, since González's profile, opened in 2011, was very active and gave him the advantage of being able to follow step-by-step those who integrated his network, besides interacting with a huge community of followers and admirers of his work.

However, long before all this virtual connection promoted by the social network era, Calvo González was already a very connected person, with several contacts acquired one by one and maintained by e-mail. That was how I first got to contact him, as well as what happened to other researchers from Europe and Latin America.

To illustrate, after the release of the books *Direito & Literatura: reflexões teóricas* and *Direito & Literatura: ensaios críticos*, both organized by me (Trindade *et al.*, 2008a, 2008b), Calvo González wrote to me introducing himself and giving thanks for the references I had made of his work. At that very moment a deep partnership and a dear friendship began.

In the following year, 2009, we met personally, in Braga (Portugal), for the doctorate bench of Joana Aguiar e Silva, who was supervised by Paulo Ferreira da Cunha, at *Universidade do Minho*. After that, we met in Florianopolis (Brazil), together with Luís Carlos Cancellier de Olivo, Vera Karam de Chueiri, Cristiano Paixão, Alexandre Morais da Rosa, and Lenio Streck. After that, we met in 2012, in Benevento (Italy), together with Jacinto Nelson de Miranda Coutinho, Aldacy Rachid Coutinho and Henriete Karam, and at that occasion I invited him to intensify his relationship with Brazilian scholars.

The proposal was bold: the organization of an event, in Brazil, that could gather yearly all the researchers dedicated to Law and Literature in Latin America, beginning in 2012. The opening conference was about a metaphor he had suggested in conversation before, the idea of a *curved*

Law. He accepted the double challenge, and thus was born the *International Colloquium of Law and Literature (CIDIL)*, which has reached its ninth edition⁶ and soon became one of the most important events on the subject.

Thus, after a long period of virtual contacts, it is possible to say that Calvo González truly discovered Brazil. This is because, even in a period of just ten years (2010-2019), his visits resulted very expressive scientific production, both from the point of view of quantity as well as quality⁷. To illustrate, he delivered a total of 25 (twenty-five) conferences, lectures, and courses. In 14 (fourteen) trips, he got to know 13 (thirteen) cities and 12 (twelve) Brazilian universities, besides 4 (four) centers of research. Not

⁶ In 2020, the 9th CIDIL had the following leading topic: *Narratives of a curved law – a tribute to José Calvo González*. The publication of the book with the production of the event is still in press as of now.

⁷ Over these ten years, besides his participation in CIDIL, Calvo González participated in other 17 (seventeen) interventions in Brazil: (1) the conference *Law and Literature: the Literary Culture of the Law* and (2) the conference *Justice and Law in the Work of César Vallejo (1892-1938): bionarrative and journalism*, both delivered at the 1st Symposium on Law and Literature, at Universidade Federal de Santa Catarina, in 2010; (3) the lecture *Puppets and Law: Justice and injustices in the puppet opera “Vida do Grande Don Quixote e do gordo Sancho Pança”*, by Antônio José da Silva, for *Journey on Law and Literature*, and (4) the course *Don Quixote and Law*, both at Universidade Federal de Santa Catarina, in 2011; (5) the conference *Interpretative Processes and Textual Games*, at Universidade Federal do Paraná, in 2012; (6) *Law and Literature Seminar*, offered in the Postgraduate Programme in Law at Centro Universitário de Brasília, in 2013; (7) the conference *Court of memory and jurisdiction of forgetting in “Disgrace”*, by J. M. Coetzee, or *The transitory evil: a fable of dogs*, in the XI Journey of Law and Psychoanalysis. *“Intersections and Interlocutions from Disgrace, by J. M. Coetzee”*, at Universidade Federal do Paraná, in 2014; (8) the lecture *Norm and Fact: playing the hermeneutics of legal interpretation*, in a seminar of the Post-Graduation Programme in Law at Universidade do Vale do Rio dos Sinos, in 2014; (9) the lecture *On legal science and normative production. A crossroads with Borges*, at the Jorge Luis Borges and Law Seminar, at Universidade Federal da Paraíba, in 2014; (10) the conference *Narrative consistency and procedural reporting (patterns of discursiveness in judicial narrations)*, at the V International Congress of Procedural Law, at Universidade Maurício de Nassau, in 2015; (11) the lecture *On “Blindness”. “Reveal my glasses”: disillusionment of the visible and the spectacle of the Law*, at the XIII Journey of Law and Psychoanalysis. *“Intersections and Interlocutions from Blindness, by José Saramago”*, at Universidade Federal do Paraná, in 2016; (12) the roundtable at the 1st International Seminar on Law and Literature: *Law, Narrative and Violence*, at Universidade de Brasília, in 2016; (13) the *Advanced Studies in Law and Literature Course*, organized by the *Judicial Academy of the Court of Justice of the State of Santa Catarina*, in 2017; (14) the conference *Pictorial turn and Criminology: postage stamps as imagery artifacts of ideological and legal acculturation*, at the 8th International Congress of Criminal Science of Pontifícia Universidade Católica do Rio Grande do Sul, in 2017; (15) the lecture *Lex et scribendi actu: colonial domination and the writing of the Law*, at the II International Seminar on Law and Literature: *the narrative of crises*, at Universidade de Brasília, in 2018; (16) the conference *Literary institution and legal art: the writing of the Law*, at Escola Superior da Magistratura do Estado do Ceará, in 2018; (17) the mini-course *Law, Literature and Juridical Decision*, at Escola da Magistratura do Estado do Rio de Janeiro, in 2019.

to mention the several books and papers published in Brazilian journals (CALVO GONZÁLEZ, 2011, 2012b, 2012c, 2013a, 2013b, 2015a, 2015b, 2015c, 2018b, 2018c, 2018d, 2019b).

3 THE BRAZILIAN JOURNEY OF JOSÉ CALVO GONZÁLEZ: CONFERENCES AND PAPERS

3.1 Curved law

The Opening Conference that Calvo gave at the first CIDIL⁸ was entitled *The Curved Law*, and it begins with a quote by Nietzsche that relates truth to a curve. Soon after, the premise adopted comes from the short story *Sereníssima República*, by Machado de Assis, which portrays Brazilian politics. The fragment refers to the straight, curved, and straight-curved geometries, which characterize the political parties in the Republic of Spiders, in the story. And from it, Calvo González concludes that legal theories about rights are as fragile as spider webs.

In fact, after posing the dilemma of the *tertium non datur* principle, represented through different poems by Le Corbusier and Oscar Niemeyer – whose only common denominator is the idea of geometry applied to modern architecture –, Calvo González presents his main objective: to explain the so-called *curved Law*.

For this, the renowned Spanish jurist develops his thesis in four stages, which are covered in the welcome company of philosophers, writers, painters, artists and jurists: (a) the geometric aspirations of jurists, driven by Cartesian rationalism and the empire of deductive logic; (b) the relations between the pure theory of law and the figurative order of Cubism; (c) the undulations suffered by Law from the *flexible*, *ductile*, *fragile*, and *soluble* conceptions, which have emerged in recent decades; (d) and, finally, the explanation of the “curved Law” paradigm.

Indeed, among straight lines and curves, the way Calvo González traces his own itinerary is impressive, establishing the most unusual points of contact between Nietzsche, Machado de Assis, Niemeyer, Le Corbusier, Hobbes, Wolff, Descartes, Spinoza, Leibniz, Ortega y Gasset,

⁸ The I CIDIL happened in the city of Passo Fundo (RS, Brazil), in 2012. The conference is available on <https://www.youtube.com/watch?v=Ppw2JwuWwcM&t>. The text is published as *O direito curvo* (Calvo González, 2013a).

Kelsen, Merkl, Schmitt, Picasso, Braque, Carbonnier, Zagrebelsky, Arnaud, Belley, Kandinsky, Mondrian, Reale, and Borges

Through this rhizomatic dialogue, Calvo González highlights the pyramidal, cubic and hemispheric forms that operate as hermeneutic models of Law, and postulates that the revolutionary character of curved Law resides, on the one hand, in the idea of legal circularity and, on the other, in the decentralization of classic *topoi* of legal-normative imputation: while circularity can be perceived, for example, in the new way of relating the sources of international law and domestic law; decentralization is easily recognizable in the curvature of dividing lines and in the transposition of thresholds between categories from different spheres of law, by mixing institutes, reorganizing relationships, reshaping contours, volumes, perimeters and thicknesses.

Thus, if in 2012 the paradigm proposed by Calvo González came to offer a creative, genuine and effective contribution to the Law, the tendency is for *Curved Law* to take its place in the contemporary legal tradition, becoming increasingly present in any discussion about what goes on, daily, *in* and *though* the Law.

This is because the construction of this new legal paradigm – the *Curved Law* – presupposes a viewpoint that certainly transcends the limits of the legal universe: which remains to be the greatest challenge for jurists.

3.2 For a Narrativist Theory of the Law

At the Closing Conference of I CIDIL, entitled *For a Narrativist Theory of the Law*⁹, Calvo González introduces the foundations of the theoretical model he had been developing since the early 1990s in several of his works (Calvo González, 1993, 1996, 1998, 2002; 2008, 2012a).

His starting point is a beautiful poem by Wallace Stevens – *The Man with the Blue Guitar* (1957), inspired by the painting *El viejo guitarrista ciego* (1903), of Picasso –, a renowned modernist North American writer, who had legal training and was a lawyer in the beginning of the 20th century.

⁹ The Conference is available, in full, on https://www.youtube.com/watch?v=n6RCO4L_Ai8&t and was also published in the book *Direito curvo* (Calvo González, 2013a).

That because, even if it does not directly refer to Gadamer, the narrativist theory of the Law is structured on a hermeneutic premise: “*things exactly as they are* do not exist”. It is, indeed, an anti-objectivist, anti-naturalist, anti-essentialist, and thus anti-methodological theory.

As is known, since the advances brought by the *narrative turn* and, above all, the consequences it developed in the most various of disciplines and sciences of humanities and social studies – among them the Law, with the so-called *narrative jurisprudence* –, the application of the idea of “narrative” to the legal theory takes two diverse lines of action, especially over the last decades, both of them related to the production of legal speech in the construction of procedural reality.

On the one hand, in the United States, there have been diverse contributions linked to the theory of judicial decision and, equally, to rhetoric. On the other hand, in Europe, similar proposals were developed, although more linked to the elaboration of evidential standards, such as, for example, *narrative footings*, *narrative anchors*, and *narrative schemes*.

In any case, regardless of the line adopted, Calvo González observes that “narrative coherence” has always been the subject that received greater attention, especially from the studies carried out by authors such as Ronald Dworkin, who developed the metaphor of *chain novel*, and Neil MacCormick, who defends the *test of narrative coherence*, as a criterion of truth, in the absence of direct evidence about the facts.

However, for Calvo González, the narrative applications used by jurists must not be mistaken by his narrativist theory of the Law. That is because, for him, narrative coherence must be seen as a mechanism for building senses and meanings, which may act exclusively as a condition for verisimilitude criteria.

Hence, knowing that the “truth of the facts” is always the interpretive product of the facticity resulting from a discursive activity with an inventive narrative structure, aimed at justifying the best answer, the theory created by Calvo González consists in the study of structures that, from factual and normative materials, *sustain narratives*.

His critical view is clear because his theory does not deny the fact that the attribution of meaning often implies a series of elements that make up the interpreter's horizon of expectations. In this context, a factual statement ends up becoming discursively coherent also due to the influx of meaning subsystems, such as memory (individual) and imagery (social).

So, the narrativist theory of Law introduced by Calvo González helps us understand how our legal systems are fictitious and, oftentimes, hyper-fictitious. Law, as he sees it, is a linguistic fictional version of a purely textual world. It inhabits the narrative speech and, thus, is never rid of the effects of fictionality.

3.3 Tolstoy and the law

In his presentation at II CIDIL¹⁰, Calvo González's first observation was the following: considering the extensive and important production by the Russian novelist, how to choose which of his works could interest jurists the most? From this question, he assesses that, for different reasons, most of Tolstoy's novels would not be advisable to address in a legal event. For him, both *War and Peace* and *Anna Karenina* would be reckless and risky choices, due to certain narrative situations that question the bases of society or that problematize the functioning of the judiciary; in *The Death of Ivan Ilitch*, the magistrate's agony is accompanied by the agony of a juridical-reformist experiment; despite the fascination that war and terrorism play on jurists, the posthumous *Khadji Murát* would demand great caution and would present numerous risks in the selection of quotations, finally, *Kreutzer Sonata* and *Resurrection* would undoubtedly not be recommended for such an event.

¹⁰ O II CIDIL foi realizado no ano de 2013, em Passo Fundo (RS), com o tema *A representação do juiz e o imaginário social*. A Conferência está disponível, na íntegra, em https://www.youtube.com/watch?v=BSvK2GrVhxo&persist_app=1&app=desktop&gl=US&hl=en&client=my-google. Posteriormente, o texto de Calvo González (2015c), assim como de outros participantes do evento, foi publicado na obra *Os modelos de juiz*, organizada por Lenio Streck e André Karam Trindade.

Calvo González (2015c, p. 48) then states that the possible works are minor but better for jurists, such as “A just judge”, which allows for the “introduction for the study of argumentation techniques and proof through evidence, as well as the unveiling of abductive logic”. But, certainly, seeking references and mentions to topics related to the Law in the *Diaries* and in *Correspondence* would be a much more exciting task, fraught with obstacles to be overcome, as it would include “exhuming and recovering from this huge set of documents the most confidential aspects of Tolstoy’s experience in the face of the legal world and its leading people” (Calvo González, 2015c, p. 49, translated).

From this wide universe of private writing, he chose as his starting point the famous statement from the entry of March 25, 1847 – “It is not enough to keep people away from evil, it is necessary to encourage them for good” – when Tolstoy was only 18 years of age and studied the second year of Law at the University of Kazan, and the notes that follow that same day.

For Calvo González, such notes hint at Tolstoy’s possible inclination towards disenchantment with the Law – as they supposedly express his doubt about the ability of the Law to, in addition to suffocating evil, providing good and well-being – and its meaning can only be correctly reached in comparison with later reflections, especially if a double perspective shift is carried out: from *Diaries* to *Correspondence* and from the *Study of Law in the Tolstoy’s education* to *Tolstoy in the education of a Law student*.

Here, Calvo González finds the worries of a Tolstoy from 1909, over six decades after the writing of his diaries as a Law student – worries that came before his giving up on the legal career – as compared to those written a year before his death, an elder Tolstoy, with his considerations about the legal education.

In the letter written by the Russian novelist, as an answer to the questions by Isaac Solomonovich Krutik, a student at the Law School at the University of Saint Petersburg and a fierce believer in the religious beliefs of Tolstoy, the author reinforces his views that had previously been put, on the scientific nature of the Law, on land property, on social order

injustice, on moral supremacy. Besides that, in the letter, Tolstoy overcomes his “disbelief on the historical possibility to reform the legal-social, pre-revolutionary ideas” (Calvo González, 2015c, p. 61, translated) and draws a socialist conception of the Law.

According to González, even though such a conception may seem obsolete for nowadays’ eyes, the criticism to the legal science and the problem of legal morality discussed in the *Letter to a student* deserve extra attention and remain current, especially due to the innovations of “introducing the *moral education* of Law in the agenda of transformation and excellence of our Law Schools” (Calvo González, 2015c, p. 62, translated). As the old letter written by Tolstoy reminds us, as highlighted by Calvo González, of the extraordinary moral responsibility of Law professors, the reading of the Andalusian jurist contributes to his idea of a literary culture in Law.

3.4 Legal marginalities in the *Smithfield decretals*

“The marginal is the most beautiful” – this quote of J. L. Borges was used to introduce his analysis of the legal manuscript from the 15th century often referred to as *Smithfield Decretals*. It is a note of the *Decretals* by Pope Gregory IX, which is cataloged among the *illuminated manuscripts* in the British Library

When participating at the III CIDIL¹¹, Calvo’s first reflection – which is linked to the formulation proposed by Bobbio that the *legal science is primarily language analysis* – concerned the existence of three languages in the manuscript: the language of the law; the language of jurists, which is present in the notes and represents the pioneering of the legal science; and the language of the details and decorations.

Thus, his analysis of the manuscript initially comprises the spatial disposition of these three languages in the whole of the page, the morpho-textuality that can be established from the connection between them and the way they are articulated: in the center, the text of the *Decretals*; the

¹¹ The III CIDIL, with the subject *Crime, process and (in)justice*, took place in Passo Fundo (RS), in 2014. The lecture by Calvo is available, in full, on: <https://www.youtube.com/watch?v=kmFW-XdIzOA&feature=youtu.be>. The written text was later published in Spain (Calvo González, 2016b).

notes surrounding the legal text; and, occupying the margins and other blank spaces, the details.

Calvo González's interest falls exclusively on these *marginalities*, since, if the life of the Law is found in the legal texts, life on the margins of Law is in the decorations, composed of figures representing flowers, trees, monsters, grotesque beings and images of men, women and animals that compose narrative scenes.

Besides emphasizing the metaphorical character of these figures that illustrate the manuscript, Calvo González offers several possible interpretations for the symbolic elements of those *marginalities*, especially forensic practices and brutal, fierce punishment methods.

Thus, the articulation between these three languages and textual levels, – of the *Decretals*, the notes, and the *marginalities* – allow us to think that: (1) if the legal text and the notes constitute the legal world, the decorations represent the extra-legal world; (2) the notes work as a mediation between the legal world and the real world; (3) in the context of medieval people, the idea of Law as punishment is predominant, and manifests itself regarding crimes as well as sins, which confirms the strong relation between Law and Religion, as well as between Law and Morality, which is still strong to this day.

Calvo González's examination of the images of the rabbit as a recurrent metaphorical element in the *marginalities* is particularly interesting. The rabbit – which in medieval tradition and context is a dangerous animal – represents secular justice: sometimes decapitating humans, sometimes hanging dogs, sometimes torturing or punishing. But there is an image in which the rabbit takes the posture of a magistrate and a papyrus comes out of its mouth. This image, according to Calvo González, transpires the expression of written Law and, at the same time, the illustrator's criticism of written Law, condemning the normative conflict between the normative Law, of the noble and powerful, and the non-normative, non-written Law.

An even more thorough analysis of the narratives presented through the illuminations make it possible to perceive both the abuse and violence of the Law that was applied and the clear distinction between the language

of the law, the language of the legal science and, in the decorations, the language of jurists, judges, and lawyers, which is outside the official Law.

Calvo González brings many elements to show how narratives of power, sex, and violence in these decorations point to secular Law and do not even dialogue with the text in the *Decretals* not in the notes, which were the expression of the canon Law.

Such elements could evidence not only the contradiction between two legal systems and their respective jurisdictions, but also a *feeling of fairness*, the desire and hope of *another Law*, which the decoration drawer lets escape to the margins.

3.5 “Going towards the other”: affection and justice in *Mineirinho*, by Clarice Lispector

Censorship, democracy, and Human Rights was the subject of the IV CIDIL¹². To the surprise of all present, Calvo González analyzed the article *Mineirinho*, by C. Lispector, with aims at approaching the imagery of violence and citizenship in Brazilian literature, with the proposal of developing an analysis called by him *literary culture of the Law* and taking a post-narrativist interpretation view.

The first aspect that Calvo González explores concerns the difficulties of identifying the textual genre to which the *Mineirinho* article belongs: in terms of form, it presents similarities with *fait divers* and *crônica roja*, which are expressions of the ephemeral; in terms of content, it could be classified as a police chronicle. However, its narrative complexity prevents it from being included in any of these modalities.

Aware of the characteristics that allow it to be included in the scope of literary journalism and legal journalism, Calvo González proposes to grant it a legal-literary status, since he recognizes that literature can

¹² The IV CIDIL took place in the city of Vitória (ES), in 2015. The lecture by Calvo González is available on <https://www.youtube.com/watch?v=LvtzZzyP37k&feature=youtu.be>. The writing was published under the title “*Sair ao outro: afetividade e justiça em Mineirinho*, de Clarice Lispector”, in *Anamorphosis – Revista Internacional de Direito e Literatura* (Calvo González, 2016c).

express the legal and that the Law is conceived as a material of literary expression.

These demands are met insofar as *Mineirinho* combines literary aspects and the defense of human rights, through the use of a type of narrative strategy in which the coherence of the report is reached from the exercise of *thinking about difference*. Thus, in his analysis, Calvo González privileges the representation of the *other* in reporting about the *self*.

In this context, the expression “going towards the other” refers to a *specular ontology*, in which it is not just a matter of placing oneself in front of the other, but in placing oneself as another in front of oneself. It is about going back and forth: exiling oneself from oneself to go where others are and repatriating from others to oneself. It is about recognizing “the existence of the other in itself, because the other is the multiple response to our heteronymic identity” (Calvo González, 2016c, p. 134, translated).

With that in view, the question to be faced is to investigate the social consequences that result from this form of intertwining with the other, that is, the social effects promoted by the perception of a self-alienated from itself and, therefore, aware of the constitutive inclusion of the other, of the other’s intertwining possibilities.

This is how a kind of estrangement would be instituted with signs of *otherness*, favoring an intrinsic affection to the relationship between the subject and the other, which could enable a social construction capable of promoting justice from a *violent compassion of revolt*, which translates, for Calvo González, into a *poetics of feeling the contagion* and the *substitution of the other in me*.

In this estrangement, based on a *unity in difference*, individual and collective identities merge, and the expansion of affectivity that binds us to one another is a condition for the experience of a shared humanity.

Calvo González highlights that the reflections offered by Clarice’s article about an ethics of social justice in the public life are not limited to the event that, more than fifty years ago, gave rise to this her reflections: the Carandiru Massacre and the Candelária massacre both proof the

constant violations of human rights, which occur either in Brazil or in many other places on the planet.

Hence the importance of *Mineirinho* for the Literary Culture of the Law – as it proposes a route toward the other so as to give him/her a voice –, as well as of the Literary Culture of the Law to understand Clarice Lispector's commitment to human rights, and also for the importance of *thinking about difference*.

3.6 Quixote and the laughable justice

As usual, Calvo González starts his exhibition at V CIDIL¹³ by using two excerpts that work as a flight plan, a guideline, for the questions he approaches. One of them is from the work *Thus Spoke Zarathustra*, by Nietzsche: “Let us consider false any truth in which there has not been even one laugh!” The other fragment is taken from *Don Quixote* itself: “The feats of Don Quixote must be celebrated either with admiration or with laughter”.

To prove that Quixote is both a laughable individual and a fighter, Calvo González refers to the Spanish Civil War (1936-1939) and evokes two literary works: *Dom Quixote bolchevique*, by the Portuguese jurist Ary dos Santos, in which we see the fighter; and *El payaso de las bofetadas y el pescador de caña*, by León Felipe, a tragic poem in which we see the laughable Quixote.

The first aspect that deserves attention is that the fact he had read many books is what made the nobleman Alonso Quijano become Quixote: “from reading too much, Quijano became mad, a madman who calls himself Quixote”. It was this madman that made us laugh when we read *Quixote*, whether a slight smile or a loud laugh. Quixote laughs at himself, points out Calvo González, but it is only in the last chapter of Part I, in the last adventure, that Don Quixote is the object of laughter, in the plot of the work.

Quixote has a protean and Promethean capacity, according to Calvo González, an overflow capacity, “because his eyes and his conscience see

¹³ With the subject *Justice, power, and corruption*, the V CIDIL took place in the city of Uberaba (MG), in 2016. The lecture by Calvo González is available, in full, on: <https://www.youtube.com/watch?v=957-Uuyqq8I&feature=youtu.be>.

and organize the world not as it is, but as it should be”. Thus, Calvo González observes that, like Quixote, “the Law builds the world that should be, the Law does not see nor organize the world that is”.

If in León Felipe’s poem produced in the context of the Spanish Civil War the protagonist wonders what justice is and is confronted with silence, in the re-elaborated edition of 1947, even after World War II, there is a no less surprising addition, as Calvo González highlights, which says:

When Don Quixote uttered the word justice, for the first time, in Campo de Montiel... there echoed in the plain of La Mancha a roaring laugh that has been spreading, century after century, over land, sea and wind, until it became stuck. in every man’s throat with a cynical, metallic grimace. Ha, ha, ha! Laugh!... Laugh everyone! Because justice is nothing more than a grotesque laugh. Ha, ha, ha!

But the clown gets up and turns against the entrepreneur, against men and gods, and shouts:

Enough!

Enough! Enough of laughter!

Let no one laugh anymore! Let no one laugh anymore! My clown blood is worth as much as the blood of Christians. I am not a clown! I am Prometheus! I come from the lineage of the ancient redeemers of the world, and I gave my blood, not to make gods and men laugh, but to fertilize the desert.

Do you understand now? Don Quixote is the Promethean poet who escapes from his chronicle and enters History as symbol and flesh, dressed as a clown and shouting in all directions: Justice! Justice! Justice! (Felipe, 1963, p. 983-984, translated)¹⁴.

In conclusion, Calvo González points that jurists are used to talking about justice with extreme solemnity: “We speak of natural justice, divine justice, justice as impartiality, justice as equality, social justice, political

¹⁴ Originally: “Cuando don Quijote pronunció por primera vez la palabra justicia en el Campo de Montiel... sonó en la llanura manchega una carcajada estrepitosa que ha venido rodando de siglo en siglo por la tierra, por el mar y por el viento hasta clavarse en la garganta de todos los hombres con una mueca cínica y metálica. ¡Ja, ja, ja! ¡Reíos!... ¡Reíos todos! Que la justicia no es más que una risa grotesca. ¡Ja, ja, ja!

Pero el payaso se yergue y se vuelve contra el empresario, contra los hombres y los dioses gritando:

¡Basta!

¡Basta ya! ¡Basta ya de risas!

¡Que no se ría nadie! ¡Que no se ría nadie! Mi sangre de clown vale tanto como la sangre de los cristos. ¡Yo no soy un payaso! ¡Yo soy Prometeo! Vengo de la casta de los viejos redentores del mundo, y he dado mi sangre, no para hacer reír a los dioses y a los hombres sino para fecundar el yermo.

¿Entendéis ahora? Don Quijote es el poeta prometeico que se escapa de su crónica y entra en la Historia hecho símbolo y carne, vestido de payaso y gritando por todos los caminos: ¡Justicia! ¡Justicia! ¡Justicia!”.

justice... and justice is... justice is nothing more than the clown with the slap”. And, in a performative act that surprises the audience, he puts on himself a clown’s nose and adds: “Quixote wants to do justice and becomes the clown, the clown of justice. Quixote is invincible. Do you know why? Because he gets up after every defeat. After each defeat he gets back on his feet. The clown of justice, justice with slaps, the necessary belief in the possibility of victory. And I believe Quixote was a jurist who taught much more than we have recognized”.

3.7 Nothing in Law is extra-fictional

The modality of Calvo González’s participation at the VI CIDIL¹⁵ was very singular and served to premiere a certain type of activity, so far never accomplished in legal events in Brazil, and developed with aims at fostering effective theoretical interlocution. Previously, the activity consisted of proposing a thesis and writing a supporting text to be given to the four professors who, with it, would compose the Discussion Table. At the event, after having presented his thesis orally to the public, Calvo González was questioned by the four professors – Jorge Douglas Price (Argentina), Cristiano Paixão (Brazil), Luis Meliante Garcé (Uruguay) and Dino del Pino (Brazil) –, with the possibility of replies and rejoinders.

In general terms, Calvo González’s thesis was summarized in the title *Nothing in Law is extra-fictional*, and it is part of the intersection defined by him as Law *with* Literature, and part of a reflection on writing – since writing is fundamental in Law and that the Law adopted it from Literature –, characterizing the legal writing as translation, and differentiating the spirit and the letter in the writing of the law.

Calvo González defines the Law as “the narration of alternative facts accepted as a *should be*” and adds “these imaginary facts are admitted as Law through a pact of fictional writing that is the simulation of their reality” (Calvo González, 2018b, p. 22, translated). To accomplish the

¹⁵ The VI CIDIL took place in 2017, in the city of Porto Alegre (RS), and was dedicated to the subject *Illusions of truth and procedural narratives*. The Discussion Table that Calvo participated in is available, in full, on: <https://www.youtube.com/watch?v=Jzw5DQ3wxKY&feature=youtu.be>. The writings on the theses defended during the two discussion tables of the VI CIDIL, as well as the presentations, interventions, replies and rejoinders, are published in the work *Por dentro da lei* (Trindade; Karam, 2018).

demonstration of the fictionality of Law – fiction understood not as fantasy or imagination, but as construction, artifice, device, artifact, *ars* by the *factor* –, Calvo González approaches four aspects: the writing of the law and fiction; the real and the unreal of a fictional text; legal fabulation as a narrative pact; and the real imaginary of Law as a writing pact.

This path leads from the conception of *accounting as an intra-fictional condition of Law* to the idea that *the writing of Law is the ink stain of its simulacrum*. In this idea, are implied both the understanding of writing as *poetics* that institute the world and the finding that the Law appropriates this poetics and that it is with it that the Law brings order into the chaos of the real and establishes a sense, a should-be, which did not exist before, which is why writing has the status of fiction.

Together with the premise of fictionality of Law, Calvo González examines Law and the worlds of fiction, highlighting that “The fictional world of the legal duty is configured as the account of a possible world” (Calvo González, 2018b, p. 29, translated), likely to be read as a *hyper-reality*.

This is because the Law accounts for something that is not the reality, not the being; Law is about what should be, it tells fiction: civilizing fiction, useful fiction, but fiction, which, like any other fiction, is not innocent, because, as Calvo González says, “there are no innocent fictions. And the fictions of Law are not an exception” (Calvo González, 2018b, p. 30, translated).

3.8 The constitution, literature, and the frailty of rights

To introduce the issues, he addressed in his intervention at VII CIDIL¹⁶, Calvo González mentioned, this time, an excerpt by Gustavo Zagrebelsky, from *II diritto mite: legge, diritti giustizia*, in which the Italian jurist asserts that the solution to major legal problems is not found

¹⁶ The VII CIDIL took place in 2018, in Belo Horizonte (MG), and its subject celebrated the 30th anniversary of the promulgation of the 1988 Brazilian Constitution: *Narratives and challenges of a Balzacian Constitution*. The intervention by Calvo González is available on: <https://www.youtube.com/watch?v=jilvKg8gqPY&feature=youtu.be>. The written version was published under the title “La Casa”, *metáfora edilicia constitucional. Variaciones literarias de diseño y crisis constructiva en Poe, Cortázar y Borges*, in the journal *Doxa: Cuadernos de Filosofía del Derecho* (Calvo González, 2019d).

in the various forms of positive Law, whether in constitutions, codes and laws, or in the decisions of judges.

For Calvo González, the meaning we grant to the Constitution must be historically investigated, based on the very origins of Constitutional Law: European Law, derived from the liberal legal science from the late Middle Ages, suffers deep transformations by the end of the 19th Century and the first third-part of the 20th century – in the context of crisis for the liberal state –, and moving from the private sphere, its traditional object, toward the public Law and the construction of a General Theory of the Constitution.

Thus, if the Law became *urbanized* with public law, it is due to public law that constitutional law started to be *built*. The choice for these architecture terms, *urbanization* and *built*, are parallel, according to Calvo González, to the metaphor used by Santi Romano, in 1925, when comparing constitutional law to a building, whose parts are interconnected and need one another to mutually support and complete each other, so, if one of the parts fails, the whole building may fall down.

Another view Calvo González points out is the concept of significance – employed by Julia Kristeva and Roland Barthes – which makes it possible to analyze a text by its classification, through the application of social, economic, religious codes... that give shape to its possible meanings.

With these ideas, Calvo González proposes to apply a code of *edifying* typology based on four literary texts – a short story by E.A. Poe, two by J. Cortázar, and one by J.L. Borges – “to open the significance to a productive dialogue with constitutional legal issues”.

Thus, exploring the constructive codes presented in these stories, he establishes relations between the narrative elements of each of them, the historical moment of their production and certain types of constitution: *The fall of the house of Usher* (1839), by Poe, with the inevitable collapse of the monarchical ideals and the Gothic constitution; *Casa Tmada* (1946) and *Segunda Vez* (1977), by Cortázar, with the political and constitutional contexts of Peronism and the Argentine military dictatorship, respectively;

Borges' *La Casa de Asterión*, with a mythical-fantastic model of constitution.

Calvo González highlights that the references to Germany, in the story by Borges make it possible to associate this mythical-fantastic model of constitution with the Weimar Constitution, more mythical – he says – than the French Constitution of 1791. Furthermore, the figure of Asterion, the minotaur, his monstrosity and the game between the house and the minotaur.

Calvo González then refers to the criticism Borges makes to Hitler in the article *La Guerra, ensayo de imparcialidad* – published on October, 1939, in the literary journal *Sur* –, and observes that the Argentine writer calls Hitler the *atrocious son of Versailles* and concludes: “what is in the background is Versailles, what is closest is the house of Asterion, which is the very monstrosity of Weimar; monstrosity because postwar German jurists speak of Weimar as a monster, because it is a social state incompatible with a Rule of Law”.

For Calvo González, it is significant that at the end of the story by Borges, after having killed Asterion, Theseus reports to Ariadne that the minotaur had barely defended itself. The same occurs, according to him, with Weimar: “it was not necessary for Hitler to destroy Weimar, ordinary legislation was enough for him to promote the demolition of the Constitutional Charter of Weimar, the so-called coordination measures were enough for him, which allowed the Nazi government to legislate, from 1933, on the content of the Weimar Constitution, until it became insubstantial, non-transcendent and insufficient”.

In summary, articulating narrative elements from the four selected stories, especially architectural aspects and spatial metaphors, Calvo González makes, with his peculiar mastery and erudition, dense reflections on the frailty of the rights guaranteed by the Constitutions (Calvo González, 2004).

4 LITERARY CULTURE OF THE LAW IN BRAZIL: A TWO-WAY STREET

Law and Literature are intertwined, whether by language or by culture. This is a thesis that structures the very conception of a *Literary Culture of the Law*. If literature is one of the most important cultural and

artistic manifestations of man, then it is necessary to investigate how it relates to Law. After all, as said before, *there is much more life in a novel than in a legal norm*¹⁷.

Calvo González transcended the most conventional methods of approaching Law and Literature, especially the widely known classification of Law *in* Literature, Law *as* Literature, Law *of* Literature – whose origins go back to the works by Richard Posner (1988) and Thomas Morawetz (1996). González suggests the existence of the *instrumental*, *structural* and *institutional* intersections between the two knowledge areas and culture (Calvo González, 2008).

Also, Calvo González emphasizes that the *Law and Literature Movement*, which took place in the 1970s in the United States, is not repeated today, not even among North Americans. On the contrary, European countries – as well as Latin America, especially Brazil – develop a different Law and Literature, or rather, produce Law and Literature in a different way, even methodologically, which is still widely debated.

In this context, Calvo González proposes the so-called *Literary Culture of the Law* (Calvo González, 2012a). It is not properly conceived as a culture made from the activity of writers, but rather as a result of the readers' activity. Therefore, it is a reading culture. This is because writing texts is not comparable to the cultural experience acquired by reading texts previously written. Furthermore, if the Law is currently conceived as an interpretive practice, then the hermeneutic exercise is a privileged example of how reading – and all the cultural experience it provokes – is essential to the training and the activity of jurists. For Calvo González:

As jurists, our most frequent activity consists of legally reshaping the understanding of conflicts. To do so, legality is our source of legibility, legality as legal intelligibility of the conflict. The legal text, however, frequently admits multiple readings, sometimes very different from each other; its readability is not closed and unique. The factors responsible for such a state are

¹⁷ Between the years 2008 and 2020, a television program called *Direito & Literatura* was uninterruptedly produced in Brazil. The episodes, lasting 56 minutes, were shown weekly, on national television, by *TV Justiça*, linked to the Federal Supreme Court. All videos are available on Youtube, where they count thousands of views. In 2014, Calvo González participated in the show as a special guest. The full interview is available on: <https://www.youtube.com/watch?v=CTm8FstkepY>.

several; *v. gr.*, the contextual disposition, as well as that of production, as well as the suitability of the audiences to recognize texts as legible, and of course the intertext or type of support and effect of meaning intended, known, or even possible. Consequently, the hermeneutical praxis of penetration into normative messages is invented according to an open cognitive readability (Calvo González, 2012a, p. 340, translated)¹⁸.

Thus, based on the principle that cultural experience acquired by jurists from literature contributes to a better understanding of legal texts and, thus, of Law itself, the idea of a *Literary Culture of the Law* encompasses two dimensions: on the one hand, a *literary Reading of the Law*; on the Other hand, a *legal Reading of Literature*. According to Calvo González:

The progress of competence in these new perspectives – a *literary reading of Law* and a *legal reading of Literature* – results from a gradual acculturation, that is, through the gradual reception and assimilation of literary cultural elements and values within the legal cultural tradition. Naturally, the level of contact and the relative state of acquisition and profit are not – and this occurs in every process of acculturation – invariably uniform and continuous, but often changeable and intermittent, without either being disposable episodes of stubborn resistance or even of direct rejection, including involuntary damage (Calvo González, 2012a, p. 341, translated)¹⁹.

It must be observed, taking into account this phenomenon of acculturation, that the literary culture of law also reveals a critical perspective of legal dogmatics, which can serve to reduce its high degree of

¹⁸ Originally: “Como juristas nuestra actividad más cotidiana consiste en resemantizar jurídicamente la comprensión de los conflictos. En esa labor la legalidad es nuestra fuente de legibilidad; legalidad como inteligibilidad jurídica del conflicto. El texto legal, no obstante, frecuentemente admite múltiples lecturas, a veces muy diversas entre sí; su lecturabilidad no es cerrada y única. Los factores responsables de tal estado son también varios; *v. gr.*, la disposición contextual, así la de producción, como también la idoneidad de los auditorios para reconocer textos como legibles, y desde luego el entretexo o tipo de soporte y efecto de sentido previsto, conocido, o siquiera pronosticable. En consecuencia, la praxis hermenéutica de penetración en los mensajes normativos se inventa sobre la base de una legibilidad cognitiva abierta”.

¹⁹ Originally: “El progreso competencial en estas nuevas perspectivas – *lectura literaria del Derecho* y *lectura jurídica de la Literatura* – resulta a través de una gradual aculturación, esto es, mediante la paulatina recepción y asimilación de los elementos y valores culturales literarios dentro de la tradición cultural jurídica. Naturalmente, el nivel contacto y el relativo estado de adquisición y provecho no es – y así sucede en todo proceso de aculturación – invariablemente uniforme y continuo, sino con frecuencia inconstante e intermitente, sin que tampoco sean descartables episodios de obstinada resistencia y hasta de frontal rechazo, e incluso también de involuntario prejuicio”.

abstraction, rescuing the practical world neglected by the positivist theories that were preeminent in the 19th and 20th centuries.

Maybe that was the reason why Calvo González was so impressed, in the case of Brazil, with the way in which the *Literary Culture of the Law* found focus not only on excellent literature, but also in a universe of activities, courses, events and publications, with very different approaches between them, however admirable and invaluable for reflection and criticism to the Law. The dimension, the dynamics, the strength, and the enthusiasm that characterize all Brazilian production in Law and Literature drew a lot of attention by him. And, for him, this could be the path to be followed by other countries in Latin America. Therefore, his trust in the theoretical evolution and maturation of the Brazilian movement.

No wonder that, every year, Calvo González waited for October, when he knew he could return to Brazil, to participate in the CIDIL. As he stated several occasions, for him this was the biggest event of the year, among the countless trips he took. In the Brazilian Law and Literature Network (RDL), founded in 2014, Calvo González found a group of people to debate, dialogue and articulate common projects. But this was no ordinary group. Perhaps calling it a family would be more genuine, considering the affection, care, and admiration among its members. Another distinctive feature was the fact that the activities were also fun, that is, they never lost sight of the playful and affective character that marks the entire relationship between Law and Literature. Parallel to the commitment and seriousness typical of academic debate and scientific investigation, CIDIL provided countless gatherings and experiences, with visits to second-hand bookstores and coffee shops; participation in literary soirees; tours of book fairs, parks, museums, art exhibitions; presentations of plays and other cultural events; wine tasting & haute cuisine festivals. All of this, in the end, was the genuine result of a well-cultivated friendship, as he himself said, and was part of *the game of Law*.

We should recognize here, on the other hand, that his constant presence among us also influenced Brazilian production in Law and Literature, considerably raising the quality of research, especially at the

master's and doctoral level²⁰. Calvo González discovered true literary relics, stimulating several investigations of the Literary Culture of Law in Brazil.

For example, in one of his last articles, he recovered the literature by Francisco de Oliveira e Silva (1897-1989), stating that we had not yet advanced in the historical research of Brazilian precursors.

At present times, the History of Literary Culture in Brazil – considered in its dimension of “Law and Literature” – presents itself from a valid partition that chronologically delineates two periods: one corresponding to the beginning stage, in the mid-twentieth century; another refers to the development that took place from the end of the 1990s (Trindade and Bernsts, 2017). However, between the first, which includes the record of precursors, and the next step, characterized by attempts to systematize the study and methodology, as well as growth and institutionalization guidelines, the manifest imbalance in the number of references recovered so far is evident, as are their examination [...] Therefore, from the first vestiges about them, previously offered by Eliane Junqueira (1998), to the appearance of recent works (Prado 2007, 2008), the content of this phase remains invariable and without significant changes. From my point of view, since this limitation is so striking and, moreover, for extending over almost three decades, it should have deserved cause analyzes of some kind, or rather favored a more detailed and attentive examination of bibliographic – and hemerographic – collections, that should be made available in order to better complete this period, through refined references and new data. However, neither one thing nor the other has been accomplished thus far. It is, therefore, how this stage remains, showing fragile research and insufficient explanation. Faced with such precariousness, this study establishes itself as a subsidy; that is, as a necessary contribution to remedy, or at least alleviate, the present state of negligence and carelessness, if not open negligence. And this, too, to show that the task of forming and composing a History of Literary Culture in Brazil requires continued, rigorous, and precise efforts,

²⁰ In this sense, mention should be made to how the legal thinking of Calvo González was adopted by Paulo Ferrareze Filho, in his doctoral dissertation entitled *Judicial decision and narrativity: a look at the facts from the narrativist theory of law by José Calvo González*, defended at Universidade Federal de Santa Catarina, in 2017, and later published (Ferrareze Filho, 2018). Drawing on the narrativist theory of Law by Calvo González, the dissertation sought to revitalize, within the scope of the judicial decision theory, the discussion around issues of fact. As the author states, from the idea of narrativity, the concepts of narrative consistency and coherence were operationalized to offer a new epistemology of the judicial decision.

capable of effectively reaching its real dimension (Calvo González, 2019b, p. 613-614, translated)²¹.

But perhaps the most promising project with a direct influence by Calvo González was the *Literary Culture of the Law at Schools*. Considering the potential of its theoretical formulations, since 2017, the Brazilian Law and Literature Network has been developing the *Law, Literature and Citizenship* programme, which aims to develop strategic actions to be implemented at different levels and modalities of basic education²².

As can be seen, in summary, the closeness of Calvo González to Brazilian researchers brought not only the exchange of ideas, but did contribute to the very development of the Literary Culture of the Law in Brazil, and allowed for the implementation of unprecedented projects in the international context; and, at the same time, it showed the relevance, necessity, and importance of the thoughts by this great jurist of the 21st century.

²¹ Originally: “En la actualidad, la Historia de la Cultura literaria en Brasil – considerada en su dimensión de “Derecho y Literatura” – se nos presenta a partir de una válida divisoria que demarca cronológicamente dos períodos; uno correspondiente a la etapa de inicio, a mediados del siglo XX, y el otro a la de desarrollo desde finales de los años 90 (Trindade e Bernsts, 2017). No obstante, entre la primera, que intenta el registro de los precursores, y la ulterior, caracterizada por los intentos de sistematización de estudio y metodología, como también por las pautas de crecimiento e institucionalización, es del todo apreciable un manifiesto desequilibrio en orden al bagaje de referencias hasta ahora recuperadas y su oportuno examen [...] Por tanto, desde la primera noticia sobre ellos, ya ofrecida por Eliane Junqueira (1998), hasta la aparición de trabajos aún recientes (Prado 2007, 2008), el contenido de esta fase permanece invariado y sin modificaciones significativas. Desde mi punto de vista, siendo esta limitación tan llamativa y, además, por extenderse en casi tres décadas, debería haber merecido análisis causales de algún tipo, o bien favorecido un más detenido y atento escrutinio de los acervos bibliográficos – y hemerográficos – disponibles a fin de completar en mejor medida, mediante afinadas referencias y nuevos datos, dicho período. Ni lo uno, ni lo otro, sin embargo, se ha hecho todavía. Es así, pues, que aquél subsiste mostrando una endeble pesquisa y sin suficiente explicación. Frente a tal precariedad, estas páginas están planteadas como un subsidio; es decir, como una contribución necesaria que ponga remedio, o al menos palíe, el presente estado de negligente descuido, si no de abierta desidia. Y ello, siquiera para evidenciar que la tarea de formar y componer una Historia de la Cultura literaria en Brasil ha de requerir de esfuerzos continuados, rigurosos y precisos, capaces, efectivamente, de concretar su real dimensión”.

²² The objectives of this programme are: (a) promoting the emancipation of subjects; (b) transmitting democratic principles, ideas and values; (c) encouraging the effective exercise of citizenship; and (d) favoring the construction of a freer, fairer and more solidary society. All stages of the programme include activities guided by the articulation of literary narratives potential to raise awareness, humanize and develop critical thinking with constitutional commitment, to fulfill fundamental rights and preserve the Democratic Rule of Law.

5 BY WAY OF CONCLUSION

Among the pioneering researchers of Law and Literature in Brazil²³, highlighting Aloysio de Carvalho Filho e José Gabriel Lemos Brito – whose works date back to the 1930s –, there was a foreigner who occupied a special place: Luis Alberto Warat.

Not denying the importance of his predecessors, Warat was noticeably an idealizer and founding researcher in interdisciplinary studies, especially regarding Law and Literature²⁴. Over the decades of 1980 and 1990, he was responsible for influencing the education of generations of jurists, especially critical, besides contributing to the consolidation of the *strictuosensu* post-graduation in Law, which revolutionized the legal education throughout the country²⁵.

To our luck, the year when we lost Warat, 2010, was the same year that, by coincidence, Calvo González started to regularly come to Brazil. Of course, his production was already mandatory as a reference for us, by then. However, besides all the references used, his presence served as fuel for the advance and the qualification of the national research in the area. Calvo González was, undeniably, one of the great theoretical sponsors of the Brazilian Network of Law and Literature (RDL) and, thus, of all the movement it leads in Latin America.

²³ On the history of Law and Literature in Brazil, see Trindade and Bernsts (2017).

²⁴ “Warat brought from Argentina a vast amount of knowledge about the relation between these fields of discursive formations. As an assiduous reader of authors such as Jorge Luis Borges, Julio Cortázar and Manoel Puig, he added Brazilian authors such as Jorge Amado and Mário de Andrade to his library. Characters of some of these authors emerged in his thinking when dealing with possible relations between literature and the legal tradition. Some of them such as the *famas* and the *cronopios*, from *Histórias de Famas e Cronopios, de Cortázar* (Warat, 1994-1997); as well as Dona Flor, Vadinho and Teodoro, from *Dona Flor e seus dois maridos, de Amado* (Warat, 1985), began to compose the surrealist texts created by Warat in the production of a climate, an environment, an atmosphere (*Stimmung*), where law and literature approached each reflection, each page of sand – recalling Borges –, which was dialectically made and unmade” (Pepe, 2016, p. 7, translated).

²⁵ In this sense, Warat “inaugurated, in Brazil, this extremely fertile movement of dialogues and approximations between literature and legal texts. The seeds sown expanded over time, rhizomatically, adding new narratives, new readers, and new interlocutors” (Pepe, 2016, p. 7, translated).

Warat and Calvo González – these two foreigners who were so fascinated by Brazil – had not had the opportunity to meet. When the former was gone, the latter arrived; and, recently, has also left us. But the community of Law and Literature is not orphaned in Brazil. Despite the sadness of such a sum of losses, the legacy of these two thinkers and great jurists left a greater meaning for us. Both were central characters whose contribution was fundamental to consolidate a genuinely Brazilian tradition of studies on Law and Literature, to which we can add the late Cancellier de Olivo and Dino del Pino. The physical absence of them all does not hinder the fact that their works are an endless source of inspiration.

This is how, with these big names, the Law and Literature movement has been built in Brazil; or better, the Literary Culture of the Law in Brazil. Thus, to honor our inherited obligation, the first step is to be able to narrate its history.

REFERENCES

CALVO GONZÁLEZ, José. *El discurso de los hechos: narrativismo en la interpretación operativa*. Madrid: Tecnos, 1993.

CALVO GONZÁLEZ, José. *Derecho y narración: materiales para una teoría crítica narrativista del Derecho*. Barcelona: Ariel, 1996.

CALVO GONZÁLEZ, José. *Verdad [Narración] Justicia*. Málaga: Universidad de Málaga, 1998.

CALVO GONZÁLEZ, José. *Justicia como relato*. Málaga: Ágora, 2002.

CALVO GONZÁLEZ, José. La fragilidad de los derechos. *Revista de Derecho*, n. 8, p. 201-218, 2004. Disponible em: <https://doi.org/10.5377/derecho.voi8.987>.

CALVO GONZÁLEZ, José (Dir.). *Implicación Derecho Literatura*. Granada: Comares, 2008.

CALVO GONZÁLEZ, José. Derecho y Literatura. Anatoliï Fedorovich Koni (1844-1927) (Sobre cultura literaria del Derecho y Cultura jurídica de la Literatura en la Rusia imperial de Alejandro II a Nicolás II). *Sequência – Revista do Curso de Pós-Graduação em Direito da UFSC*, v. 32, n. 63, p. 13-76, 2011. Disponible em: <https://periodicos.ufsc.br/index.php/sequencia/article/view/2177-7055.2011v32n63p13>.

CALVO GONZÁLEZ, José. *Escudo de Perseo*. Granada: Comares, 2012a.

- CALVO GONZÁLEZ, José. *Occasio iuris*. Florianópolis: Funjab, 2012b.
- CALVO GONZÁLEZ, José. De iusticia pingenda. *Prim@ Facie* – Revista Eletrônica do Programa de Pós-Graduação em Ciências Jurídicas da UFPB, n. 11, v. 21, p. 237-245, 2012c. Disponível em: <https://periodicos.ufpb.br/ojs2/index.php/primafacie/article/view/17452>.
- CALVO GONZÁLEZ, José. *Direito curvo*. Porto Alegre: Livraria do Advogado, 2013a.
- CALVO GONZÁLEZ, José. Derecho y Literatura, ad usum scholaris juventutis (con relato implícito). *Sequência* – Revista do Curso de Pós-Graduação em Direito da UFSC, n. 34, v. 66, p. 15-45, 2013b. Disponível em: <https://periodicos.ufsc.br/index.php/sequencia/article/view/30115/0>.
- CALVO GONZÁLEZ, José. Consistencia narrativa y relato procesal (Estándares de discursividad en las narraciones judiciales). *Revista Jurídica da Universidade do Sul de Santa Catarina*, n. 6, v. 11, p. 191-219, 2015a.
- CALVO GONZÁLEZ, José. O compasso e o prumo. Poética espacial e metáfora literária em Direito e Arquitetura. *Anamorphosis* – Revista internacional de Direito e Literatura, n. 1, v. 1, p. 37-68, 2015b. Disponível em: <http://rdl.org.br/seer/index.php/anamps/article/view/30>.
- CALVO GONZÁLEZ, José. Tolstói e Direito: sobre a educação jurídica. In: STRECK, Lenio Luiz; TRINDADE, André Karam (ed.) *Os modelos de juiz: ensaios de Direito e Literatura*. São Paulo: Atlas, 2015c, 45-79.
- CALVO GONZÁLEZ, José. *Justicia constitucional y literatura*. Lima: Centro de Estudios Constitucionales, 2016a.
- CALVO GONZÁLEZ, José. *Marginalias jurídicas en el “Smithfield Decretals”*. Valencia: Tirant lo Blanch, 2016b.
- CALVO GONZÁLEZ, José. Sair al otro: afetividade e justiça em Mineirinho, de Clarice Lispector. *Anamorphosis* – Revista Internacional de Direito e Literatura, n. 2, v. 1, p. 123-145, 2016c. Disponível em: <http://rdl.org.br/seer/index.php/anamps/article/view/220>.
- CALVO GONZÁLEZ, José. *La destreza de Judith*. Granada: Comares, 2018a.
- CALVO GONZÁLEZ, José. Nada no Direito é extraficcional (escritura, ficcionalidade e relato como ars iurium). In: TRINDADE, André Karam; KARAM, Henriete (ed.). *Por dentro da lei*. São Paulo: Tirant lo Blanch, 2018b, p.13-80.
- CALVO GONZÁLEZ, José. *Criminologia visual*. São Paulo: Tirant lo Blanch, 2018c.
- CALVO GONZÁLEZ, José. Práctica jurídica y cultura literaria del derecho. *Revista Eletrônica do Curso de Direito da UFSM*, n. 13, v. 3, p. 1268-1278, 2018d. Disponível em: <https://periodicos.ufsm.br/revistadireito/article/view/35881>.

- CALVO GONZÁLEZ, José. *Proceso y narración*. Lima: Palestra, 2019a.
- CALVO GONZÁLEZ, José. Subsídios para uma história da Cultura literária do Direito no Brasil: Francisco de Oliveira e Silva [1897-1989]. *Anamorphosis – Revista Internacional de Direito e Literatura*, n. 5, v. 2, p. 613-655, 2019b. Disponível em: <http://rdl.org.br/seer/index.php/anamps/article/view/710>.
- CALVO GONZÁLEZ, José. (Dir.). *La cultura literaria del Derecho: alianzas transatlânticas*. Granada: Comares, 2019c.
- CALVO GONZÁLEZ, José. “La Casa”, metáfora edilícia constitucional. Variaciones literarias de diseño y crisis constructiva en Poe, Cortázar y Borges. *Doxa: Cuadernos de Filosofía del Derecho*, n. 42, p. 335-359, 2019d. Disponível em: <http://www.cervantesvirtual.com/nd/ark:/59851/bmco984150>.
- CALVO GONZÁLEZ, José. (Dir.) *La cultura literaria del Derecho: escritura, derecho, memoria*. Granada: Comares, 2020.
- FELIPE, León. *Obras completas*. Buenos Aires: Losada. 1963.
- FERRAREZE FILHO, Paulo. *Decisão judicial no Brasil*. Narratividade, normatividade e subjetividade. Florianópolis: EMais, 2018.
- PEPE, Albano Marcos Bastos. Direito e Literatura: uma intersecção possível? Interloquções com o pensamento waratiano. *Anamorphosis – Revista Internacional de Direito e Literatura*, n. 2, v. 1, p. 5-15, 2016. Disponível em: <http://rdl.org.br/seer/index.php/anamps/article/view/207>.
- POSNER, Richard. *Law and Literature: A Misunderstood Relation*. Cambridge, MA: Harvard University Press, 1988.
- MORAWETZ, Thomas. Law and Literature. In: PATTERSON, Denis (ed.). *A Companion to Philosophy of Law and Legal Theory*. Oxford: Blackwell Publishing, 1996, p. 446-456.
- TRINDADE, André Karam; GUBERT, Roberta Magalhães; COPETTI NETO, Alfredo (org.). *Direito & Literatura: reflexões teóricas*. Porto Alegre: Livraria do Advogado, 2008a.
- TRINDADE, André Karam; GUBERT, Roberta Magalhães; COPETTI NETO, Alfredo (org.). *Direito & Literatura: ensaios críticos*. Porto Alegre: Livraria do Advogado, 2008b.
- TRINDADE, André Karam; BERNSTIS, Luísa Giuliani. O estudo do "direito e literatura" no Brasil: surgimento, evolução e expansão I: surgimento, evolução e expansão. *Anamorphosis – Revista Internacional de Direito e Literatura*, n. 3, v. 1, p. 225-257, 2017. Disponível em: <http://rdl.org.br/seer/index.php/anamps/article/view/326>.
- TRINDADE, André Karam; KARAM, Henriete (ed.). *Por dentro da lei*. São Paulo: Tirant lo Blanch, 2018.

TRINDADE, André Karam. El aporte de José Calvo González a la cultura literaria del derecho en Brasil. *LawArt. Rivista di Diritto, Arte, Storia*, n. 1, p. 263-293, 2020. Disponível em: <http://doi.org/10.17473/lawart-2020-1-10>.

WARAT, Luis Alberto. *A ciência jurídica e seus dois maridos*. Santa Cruz do Sul: Faculdades Integradas de Santa Cruz do Sul, 1985.

WARAT, Luis Alberto. *Manifesto do surrealismo jurídico*. São Paulo: Acadêmica, 1988.

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