Courses on Indigenous rights: an anthropological contribution to the training of magistrates in Brazil

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Abstract

In this article I discuss how Brazilian magistrates have begun to approach the realities of Indigenous peoples through experiences in the elaboration and implementation of training courses for judges on the theme of Indigenous rights. These courses are an important step toward a necessary curricular adjustment, with a corresponding impact on how magistrates understand the theme and in collective efforts to develop a plural and multicultural justice. In this context, anthropology assists magistrates in expanding their knowledge of Indigenous societies in Brazil, particularly in what pertains to different peoples' conceptions of justice, thereby making intelligible the complex realties that typically unfold in inter-ethnic situations.
Key words: Indigenous rights; inter-ethnic justice; cultural pluralism; magistrates; Brazil.

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Cursos de Direitos indígenas: uma contribuição da antropologia na formação de magistrados no Brasil

Resumo

Discuto aqui um processo de aproximação de magistrados brasileiros à realidade dos povos indígenas, a partir das experiências de elaboração e implementação de cursos de formação para juízes sobre a temática dos direitos indígenas. Tais cursos representam um passo importante em direção a uma adequação curricular necessária, com consequente impacto na compreensão dos magistrados a respeito desse tema e no desenvolvimento de uma justiça plural e multicultural. Nesse contexto, a antropologia contribui para que os magistrados se aprofundem no conhecimento das sociedades indígenas no Brasil e, especialmente, nas concepções de justiça de diversos povos, de modo a tornar mais inteligíveis realidades complexas que frequentemente ocorrem em situações interétnicas.
Palavras-chave: Direitos indígenas; justiça interétnica; pluralism cultural; magistrados; Brasil.

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Introduction

My aim is to analyse how members of the Brazilian justice system, in particular magistrates, are approaching the realities of Indigenous peoples through my experience in elaborating and implementing training courses for judges on the theme of Indigenous rights.

Indigenous Lands make up a considerable part of the national territory, emerging as common sites for legal disputes, particularly in what concerns territorial rights. However, it was only in 2016 that the Escola de Magistratura Federal da Primeira Região (ESMAF, Federal Judiciary School of the First Circuit), a teaching institution that is a part of the organizational structure of the Tribunal Regional Federal da Primeira Região (TRF1, Federal Regional Court of the First Circuit), began to offer courses on Indigenous themes for magistrates. The Escola Nacional de Formação e Aperfeiçoamento de Magistrados (ENFAM, National School of Magistrate Training and Professional Improvement) offered its first course on the theme in 2017.

By 2021, five courses had been offered to judges via partnerships with magistrate training and professional improvement schools. These courses are not, as of yet, a regular part of curricula, but are offered as optional or elective courses. Nonetheless, as we will see, they amount to an important step in curricular change, with an attending impact on how magistrates perceive the matter of Indigenous rights and the development of a plural and multicultural justice system.

The first course was offered to candidates who passed the 16th magistrate contest, which inducted 93 judges. The new judges were divided into two groups, the first of which took the course in 2016. A second course had always been intended, but it was decided that it would only be offered if the first course was well evaluated. Since it was highly praised, the second group took the course at the start of the following year.

After the first evaluation, it was decided that magistrate courses should also include classes alongside Indigenous peoples, in their communities, to promote dialogue and shared experiences between all parties. In December 2016, a first group of judges travelled to the Waimiri-Atroari Indigenous Land in the states of Amazonas and Roraima. The first course to feature classes in Indigenous Lands was held by the ENFAM in partnership with the Escola Judicial do Amazonas (Amazonas Judicial School). The group, made up of 11 judges, two appellate judges, and nine instructors, remained in the Indigenous Land for one day.

In early 2017, the course was offered in the state of Amapá, with classes held in the Waiãpi Indigenous Land, where ten instructors and 24 magistrates stayed for three days. This course was held through a partnership between ESMAF (Magistrate School, linked to the Federal Regional Courts for the First Circuit) and the Amapá Judicial School.

In November 2017, ENFAM offered a course in Boa Vista, in partnership with the Judicial School of Roraima State. During this course, activities with Indigenous people were held in the Raposa Serra do Sol Indigenous Land, with 11 instructors and 24 judges staying for three days in the area.

In 2019, the course was held through a partnership between the Acre Judicial School and ENFAM. The course held classes in the city of Cruzeiro do Sul and in the Ashaninka Indigenous Land, where ten instructors and 24 magistrates stayed for three days.

In total, some 180 judges participated as students in at least one of the five courses offered by the magistrate schools. The number of students is still small, around 1% of the 18,000 magistrates in Brazil. It is nonetheless noteworthy that these initiatives were extremely well-received, so that there is a possibility that these courses might shift from optional to regular aspects of the magistracy curriculum. This fact will, no doubt, positively affect the views of a larger number of magistrates regarding Indigenous rights, shining the spotlight on a theme that has so far had low visibility and interest in the judicial field.

Creating the course: the curriculum as a disputed field

The creation of the course emerged from the initiative of people linked to judicial institutions, foremost among them Andrea Brasil Martins, federal justice employee, and the federal judges Célia Bernardes and Davi Wilson. Brasil reflected on the process of creating the course in her MPhil dissertation (Martins, 2017):

> As advisor to a federal appellate judge, analysing complex cases of the most diverse sorts, I came to realize how much agents of the Justice System have to gain from a multidisciplinary and transdisciplinary training that enables them to understand legal phenomena through a wider perspective. This is the case with the Indigenous issue, considering the distinct character of their rights. Mere knowledge of law is insufficient as a base for legal decisions with serious and direct impact on the ways of life of traditional people.
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> For example, we can refer to requests for the disapporpriation of lands that have traditionally been occupied by Indigenous peoples; demarcation of territories; review of demarcated "reserves" carried out before the Federal Constitution of 1988; regularization of landing strips with Indigenous Lands; discussions involving the extraction of energy sources and minerals; among other, including, more recently, the issue of the temporal marker.
>
> Institutional change in the judiciary demands a sensitive eye from the agents of justice, and the recognition of the singularity of originary peoples, with a focus on the reality of human societies and with the aid of cognate disciplines such as Anthropology, Sociology, Psychology, "since, whatever the legal conflict, these aspects will always be present and it is important for legal professionals to know how to recognize them" (Dallari 1996: 28).
>
> I thus came to reflect on our legal training – imposed upon us through a universalist curriculum, presented through far-reaching, generic and abstract concepts, directed toward learning norms, codes, and laws without the requisite cross-referencing between the judicial order and social problems (Santos 2007). This has direct repercussions on legal decisions, which curb the judge's eyes away from the legal texts. Boaventura de Sousa Santos (2007: 72) calls this model of learning "judicial deformation", since it is based on a normative techno-bureaucratic culture that "knows law well and how it relates to case-files, but does not know how the case-files relate to reality" (:14)

The team understood the inevitable resistances to curricular change, particularly in what affects the "privatism" paradigm. But it was precisely this challenge that the team set out to meet by proposing a curricular approach that would sensitize judges to the distinct character of the rights of Indigenous peoples, drawing attention to the diversity of these legal subjects and to the need to establish channels for communication between formal law, with its tradition of privatism, and Indigenous knowledge systems and ways of life, in the hope of building shared spaces for dialogue. They realized that the curriculum was a disputed field of power that often-disregarded non-hegemonic identities:

> If for Foucault (1997, in Cortiano Junior 2002: 216) discourse "is a space not only of words, but of struggle, and its production – through struggle – acts to impose a determinate truth or will to knowledge". Since the curriculum is a disputed field, "where the subtlety of discourse and the microphysics of power lead to symbolic violence and the denial of non-hegemonic identities" (Silva 2007: 23), we advocate a curriculum for legal schools the discourse of which also reflects the cultural and epistemological traditions of subordinated groups, rather than only those of dominant groups" (Silva, 2005) (Martins, 2017: 39).

It should be noted that the proposed changes to the curriculum did not emerge randomly. They are mostly anchored in the Federal Constitution of 1988, which, in line with the protection of cultural diversity, of multiculturalism, and inter-culturality, seeks to overcome the historically attested policies and legal practices of integration in Brazil and in most Latin American countries. Thus the judicial recognition of new subjects and new rights, positively inscribed in a particular socio-political context, enabled some authors to conceive of the emergence of "a paradigm of cultural diversity", or even of an era of diversity (Melo, Burckhart, 2020: 2).

This shift in the constitutional paradigm represented a great leap forward for Indigenous movements. The rights that they had long claimed were embraced by the justice system, and could thus be ensured by legal decisions[1]. In this landscape, the team that proposed and elaborated the courses on Indigenous rights for magistrates considered that it would be fundamental for judges to have knowledge of the historical achievements of Indigenous peoples and to assume the mantle of their own "politicity", which, according to Dallari (1996), is not tantamount to a partisan politics. According to this author, judges exercise political activity in two senses: as members of the apparatus of power of the State, which is a political society; and by applying legal norms that are necessarily political (Dallari 1996 in Martins, 2017: 30-31). Thus:

> Through the Constitution, the people confer on the judge the formal legitimacy of his or her decisions, which can often have extremely severe effects on the freedoms, family, wealth, place in society, and a range of fundamental interests of one person or many people. This legitimacy must be permanently ratified by the people, which can only take place when, through permanent conviction, judges fulfil their constitutional role, efficiently protecting rights and making just decisions. This legitimacy is exceptionally important because of the political and social effects that judicial decisions can have (Martins, 2017: 31).

In this context, federal judge Bernardes recognized that judges' lack of knowledge on Indigenous rights underscores a process of de-Indigenization linked to the interests of the dominant elites, which marked the colonial period and part of the republican period.

> It seems to me that magistrates' ignorance of Indigenous affairs fulfils the inexplicit, but latent, function of serving a centuries-old project of usurping the rights of Indigenous peoples, of maintaining reality as it is and always has been, wherein Indigenous peoples do not enjoy the rights beautifully inscribed in our normative diplomas, rights which are promised but never delivered. (ibid: 82)

Thus, ever since the first course took place, there has been a push for an ESMAF curriculum that is guided by the perspective of critical interculturality, conceived as a political and social project aimed at changing the pedagogical processes for training federal judges by drawing their attention to these right-bearing subjects.

1 Examples include the legal decisions that require Funai to instate working groups to study the identification and delimitation of Indigenous Lands, and to ensure the conclusion of their work. Failure to comply results in fines.

Some resistance: the influence of stereotypes

Being innovative and differential courses, they are not a regular part of the training of judges, and are still being consolidated in schools. Their innovation derives from the fact that a part of them takes place in Indigenous Lands, enabling the coexistence between judges and members of Indigenous communities, even if only for a short time. Furthermore, the teaching staff always includes Indigenous instructors.

Despite these characteristics, which most tend to view in a positive light, not all students unanimously approve of them. Indeed, some students resits or disapprove of certain activities and some of the teaching content. There was some resistance and even tension during the first version of the course which contained visits to Indigenous communities, which included classes in Manaus and an exchange with the Waimiri-Atroari in their Indigenous Lands. The course was held by the school of the Justice Court of Amazonas (ESMAN), in partnership with ENFAM, and was the first to take judges to Indigenous communities. Some judges feared for their safety. Even though the Waimiri-Atroari agreed to host the magistrates, making it clear that they would be happy to welcome them and would host a special reception, there were talks between judges and representatives of the military police of the state of Amazonas concerning whether they should be accompanied by an armed police escort, and even by undercover officers. To argue for the need for police protection, representatives of the military police referred to an episode in 1968 when Indigenous peoples attacked the expedition of Father Calleri, resulting in numerous deaths. This reference emerged many times during the meeting, as part of the argument that it is "better to prevent incidents than to remedy them".

According to Baines (1993: 5), this episode has frequently been used by sectors of Brazilian society to paint the Waimiri-Atroari in negative light, with stereotypes such as "treacherous", "wild", "bad", "perverse", "savages", etc. Since the team that was organizing the course did not agree to the armed escort, as the Waimiri-Atroari had prepared a welcoming reception, some judges decided not to take part in the trip to the Indigenous Land. Nonetheless, most of the enrolled students took part in the visit, which was peaceful and friendly.

In the Indigenous Land, Waimiri-Atrorari leaders told the judges their own understandings of the long history of violent invasions of their territory, which were at first related to interests in forest products. They narrated how, at the end of the 1960s, the Federal Government began to intensively occupy their lands through large regional projects. Between 1972-1977 this territory was crossed by the BR-174 highway. The Waimiri-Atroari resisted its construction, and their resistance was met with extreme violence by the Brazilian Army, resulting in an estimated 2,650 deaths (CNV 2014: 248) and almost leading to the extinction of the Kinja (the Waimiri-Atroari auto-denomination). In 1982, the Wiamiri-Atroari population had reached the nadir of 332 people (Baines, 1988: 109). When the judges visited the Waimiri-Atroari in 2016, they were celebrating their demographic recovery and the birth of a baby which pushed their population to the 2000-people mark. In his speech, one Waimiri-Atroari chief claimed that this was the first time a delegation of the State went to their lands in peace.

After the visit, and the conversation with the Waimiri-Atroari in their villages, many judges approved of the activity, claiming that it had been a highly educational activity, and even, in a way, transforming:

> The visit was very important for my professional growth, not only for all of the information that was transmitted, but above all for enabling a reflection on Indigenous issues and for revealing how we need a more sensitive eye to realities that are very different from that with in which we are inserted. Experiences such as this provide a valuable coexistence in the professional career of magistrates, since we are able to get to know a reality through our senses, propitiating an understanding that goes well beyond formal debates, which are, often times, indifferent to social issues that involve the Indigenous interests. In other words, studying this theme requires that we relieve ourselves of our prejudices in order to have a better understanding of that which is different from us through a methodology that is not girdled to the formalism of ideas written down on paper (judge who attended the course) (Brasil, 2017: 61).

With positive evaluations of the classes and activities in Indigenous Lands from judges, succeeding courses adopted the same model and were partially held in Indigenous Lands, in close cohort with its inhabitants.

Anthropologists in the team

Since the first course, Bernardes and Wilson were in favour of the inclusion of anthropologists in the team[2]. I was invited to take part in the courses because of my experience with legal issues, having for many years worked in preparing anthropological reports for situations in which Indigenous people were defendants in legal proceedings. I also participated in teaching federal attorneys and public defenders on Indigenous issues.

Since before joining the team and taking part in elaborating and putting into practice the courses, I was already interested in how law professionals, and particularly judges, conceive of Indigenous individuals and communities. Likewise, I had made efforts to understand the principle of free motivated conviction (Mendes, 2012), as well as how magistrates represented the use of this principle. In the production of anthropological reports, I sought to understand the mechanisms for conflict resolution of each of the peoples being studied, according to each form of social organization. In this context, I insisted with law professionals that, even though we are socialized so as to naturalize "our" idea of justice as the only one available, both immutable and natural, anthropology teaches us that the idea of justice is a social construct, varying cross-culturally. As Mendes (2012) has stressed:

> It is indispensable that both the idea of justice and that of law are relativized, taken to be local knowledge, socially constructed and varying in time and space, so that we can reflect on them.
>
> The essentially conventional and precarious character of the idea of justice makes the recognition that a solution is a just solution for the group a constitutive element of the very idea of justice. In other words, a just solution for a conflict is one that is recognized as such by the social group that adopts it (2012: 45).

It is fundamental that law professionals develop this sort of perception, particularly in cases which involve Indigenous citizens. Following the unfolding of legal proceedings where Indigenous persons are defendants, I was taken by how many magistrates refused expert anthropological opinions. While, on the one hand, there are magistrates that made efforts to take into account anthropological reports and studies, on the other there where many who considered them unnecessary and judged according to their own convictions and (lack of) knowledge. In these situations, anthropology, its rigour and precepts, ate substituted by the pseudo-anthropology of legal and administrative knowledge, or by a "spontaneous anthropology" (Souza Lima & Barroso-Hoffmann, 2002), re-elaborated and explained according to criteria formulated judges, lawyers and administrators.

Such situations are not exclusive to the Brazilian justice system. The anthropologist Julie Cruikshank (1992) refers to the case known "Delgamuukw v British Columbia" in Canada where three anthropologists were called in as expert witnesses. One of the purposes of their testimonies was to provide the court with basic information on how oral traditions reveal Indigenous dominion over lands on the northwest of British Columbia. Chief Justice Allan McEachern categorically rejected anthropological evidence and, according to Cruikshank, "invented anthropology itself', proposing a structure of assertive evidence for the case:

2 I have thus far taken part in five courses on Indigenous rights. Other anthropologists have also joined the team, taking part in a few courses. I take the opportunity to stress the valuable contributions of Gersem Luciano, José Pimenta, and Leda Martins.

> Justice McEachern ultimately concludes that the Gitksan and Wet'suwet'em had social organization of some kind but finds no proof that they had "institutions and governed themselves" or that they had occupied territories for a period of time long enough to establish Aboriginal rights (McEachern: 49, 226). In order to buttress the argument which he claims to offer in support of social organization, he turns not to social sciences but to a 1919 legal decision made by the Judicial Committee of the Privy Council in England with respect to a case heard in the courts in Rhodesia. That decision concluded that "some tribes are so low in the scale of social organization that their usages and conceptions of rights and duties are not to be reconciled with the institutions or the legal ideas of civilized Society" (McEachern: 226). "I have no doubt", Judge McEachern states, referring to the Gitksan and Wet'suwet'em, that "life in the territory was extremely difficult, and many of the badges of civilization, as we of European culture understand that term, were indeed absent…" (McEachern: 31). Citing no evidence, he speculates that "warfare between neighbouring or distant tribes was constant, and the people were hardly amenable to obedience to anything but the most rudimentary form of custom" (McEachern: 73). Given the judge's dismissal of anthropological evidence, it is alarming to see him turn to decisions justifying apartheid or to his imagination for examples from which to frame his judgment. (Cruiksahnk, 1992: 30)

In the Brazilian courts it is likewise not uncommon for pseudo-anthropology of an integrationist persuasion to be applied by judges, producing negative effects on the Indigenous population. A part of available jurisprudence has dispensed anthropological expertise and the application of differential rights to Indigenous citizens when the judge decides that the person being tried is "integrated" or "acculturated"[3]. According to this view, understanding the national idiom, having attended school for some time, coexistence with national society, and voter registration are taken to be indexes of the extinction of cultural specificity. This posture is criticized by anthropologists and by law professionals, such as the federal prosecutor Villares:

> "To consider, by means of easily apprehended external aspects, that the Indian is entirely capable of understanding the illicit character of certain facts, or reaching decisions based on this understanding, is part of the arrogance of law, and of the judge, who believes him or herself to have the requisite knowledge to judge without the aid of specialists. To take formal aspects such as the degree of schooling, an understanding of the official language, voter registration, etc., is to privilege formal truth over the real world. The Indian may reveal him or herself to be extremely capable in all acts, and still, internally, lack a perfect understanding of the illicit character of his or her conduct, or, even if the illicit character is understood, may be incapable of acting differently because of cultural demands" (Villares, 2007: 447).

An examination of legal processes has revealed that interpretations that Indigenous people are *integrated* or *acculturated* are extremely harmful for defendants, since it rejects anthropological studies and prevents the argumentative construction of a defence based on sociocultural factors. Even formally accepting that these defendants are Indigenous persons, many judges have made this identification irrelevant for processual purposes, since by considering these persons to the *integrated* they ignore protective legislation. Consequently, a whole range of Indigenous defendants have been excluded from the protection of specific legislation, coming to be tried in a generic manner. Furthermore, the superficiality of the elements used to attribute the *integrated* label to Indigenous defendants is noteworthy, a fact that has a direct impact on the unravelling of the process and the fate of the defendants. Let us turn to some concrete examples[4]:

3 For a more detailed discussion of these categories, see (Menezes & Miller, 2015) and (Menezes, 2016).

4 These extracts were taken from http://jusbrasil.com.br, consulted on the 15/05/2015, except for the final extract – referring to the Waiãpi case – which was received in 2021 from a magistrate who was collaborating with this research.

> The fact that the patient signed power of attorney excludes any possibility that the aborigine is not acculturated, since, if this were the case, he would not even be able to sign over power of attorney (Vote of a judge denying the right to Habeas Corpus, Campo Grande-MS, 2005).
>
> The attenuating circumstance of Article 56, Law n. 6.001/73 is inapplicable, consistent with the fact that while the accused is Indigenous, he is acculturated and integrated with urban culture, including speaking the Portuguese language, possessing characteristics that distance him from his original race (Vote of a judge denying appeal, Rio Branco-AC, 2009).
>
> It is public knowledge that the Indians of the Mangueirinha Reservation are all acculturated, integrated into the community, consuming in the city's commerce, planting their gardens in the manner of the whites and selling their produce according to local custom. Thus, the accused being adapted to civilization and completely aware of his acts, he is fully imputable (Vote of judges in an Appeal in the Strict Sense, Mangueirinha-PR, 2013).
>
> In what pertains to the plea that seeks the incidence of attenuating circumstances based on the fact that the appellant is Indigenous, I dispose that it does not proceed. I reach this decision because Article 56 of Law 6.001/73, on which the current plea is based, is here to be applied for an aboriginal person undergoing an acculturation phase, and that, were this not the case, the Article does not allow for the judge, on sentencing, to observe the aborigine's degree of integration. Hence, the sentencing magistrate did well to reject attenuation of the sentence, since he will have noted that the appellant was well-integrated to urban culture, including speaking Portuguese perfectly, attending Church, stressing that the attenuating circumstances under consideration are inapplicable (Vote of a judge denying appeal, Rio Branco-AC, 2009).
>
> In regards to the absence of an anthropological report, whether or not this is needed is assessed during the process, for when the Indigenous person is already "integrated" [with knowledge of the symbolic and material mechanisms of non-Indigenous society] there is no need to apply these rules of Law 6.001/73 [the "Indian" Statute], as is the understanding of the Court of Justice of the State of Amapá: "1) Breach of procedure will not be declared if it does not entail prejudice to the interested party that claims it. Interpretation of Article 563 of the CPP. 2) In this concrete case, there is no breach of procedure in not applying the Indian Statute, given the defendants condition as an Indian perfectly integrated to society, capable of responding for his actions according to common law, therefore not demonstrating any prejudice to the defence, while in court, duly assisted by an attorney, having the defendant pleaded guilty (...)". (Appeal. Process Nº --- Comptroller Judge ---, Single Chamber, sentencing on the 19th of November 2014). In the concrete case, there are indications that the defendant is "integrated" into non-Indigenous society, since he was staying at a hotel in the city of Pedra Branca and had a cell phone with a chip. These facts allow, for now, that the penal suit proceed, with no prejudice of the need for an anthropological report if and when doubts emerge concerning the "integration" of the defendant to non-Indigenous society. In what concerns the defendant not being judged in an "ethnical forum" (Art 57 of Law 6.001/73], the importance of this fact in the present case depends on the defendant's degree of "integration", which, for the time being, removes the need for a juridical-anthropological analysis of the punishment of the agent by his people. Dispatch by the judge, Pedra Branca do Amapari-AP, 2020).

We thus see practices aimed at producing ethnical invisibility within state structures, as has been noted by other authors (Miller, 2003; Silva 2009). These authors argue that it is easier for state bureaucracy to administer policies of a universalizing nature. Differential rights are hence only maintained in theory, while being repressed in practice. What is surprising is the ease with which law professionals pass over knowledge of aspects of Indigenous culture, identity, and worldview, all of which can be extremely relevant

to understanding conduct, or settling doubts concerning relevant matters. Note that widespread misinformation concerning Indigenous history, alongside the dissemination of negative stereotypes of Indigenous peoples, helps to create an atmosphere of disapproval among large swathes of Brazilian society in what relates to any sort of differential policies that benefit Indigenous peoples. Through an analysis of concrete cases, I consider that this atmosphere of disapproval also affects may law professionals, including magistrates.

In this sense, the Indigenous rights courses mentioned here are initiatives that can contribute toward re-dimensioning this reality, since the analysis of these categories have been carried out systematically, becoming a part of the curricula of these courses. Statements by judges who have taken part in some of these courses underscore this view:

> The class on Indigenous rights was extremely important, considering that most of us come from places where we do not regularly have contact with these communities. Learning how these communities culturally function, understanding the need for dialogue between the Judiciary, FUNAI, and the representatives of these communities is essential for us to act in the most adequate way possible and to interfere as little as possible in the culture of these communities. The class was extremely important and we are already making plans to visit one of these Indigenous communities to come to know their reality better (Judge from the Southeast Region of Brazil) (Martins, 2017: 80).

> Today's class was extremely important, really very relevant. We will be working in the hinterlands of the country, in states with a large number of Indigenous communities, with delicate themes which we are not prepared to deal with. We are not anthropologists, we are not sociologists, so we today have different judicial approaches, which matter when we work as federal judges. I think that when we reach the courts of judicial sessions we will at least have a view, a panorama of the reality of Indigenous peoples, which is indispensable for Federal Justice, which specifically deals with these Brazilian citizens and is constitutionally bound to do so. Truly, the class was of the utmost importance, I will carry it with me, for life, and will even research books on the theme, to decide in the best way possible when I am at the bench as a Federal Judge (Jude from the Northeast Region of Brazil) (Ibid: 81).

> Today's class is very important for the training of a Federal Judge, considering that the actions of a Federal Judge require a knowledge that goes beyond a knowledge of law. Ethnic minorities in Brazil, such as, for example, Indigenous peoples – the study of Indigenous culture is not taught in colleges nor in schools in Brazil, seeing as knowledge of Indigenous cultures is not part of the school curricula nor is it demanded in the curricula of law degrees. The problem is that we interfere in the life of communities because we are juridically bound to do so in all of the national territory, and these people, being in the national territory, they end up somehow being submitted to our purview in some form. Knowing the culture, knowing the diversity of Indigenous communities, is essential because Indians do not have a single culture, there are many different types of Indigenous communities, and understanding what they think, how they live, is fundamental for reaching decisions that respect the individuality and difference of these peoples (Judge from the Southeast region of Brazil) (Ibid: 81).

Concluding remarks

Anthropology and law have different views of life in society. Anthropology produces knowledge based on empirical research and is concerned with learning (and learning with) the point of view of the actor or the subjects of research. Law is a normative discipline that analyses "facts" taken to court, and is concerned with the duty of being the reference for predefined rights. However, anthropology and law are similar in being interpretative sciences; the former interprets social relations, the latter norms that regulate many of these relations, generally formally established by the State.

According to Castilho (2012: 21), admitting anthropological knowledge in the creation, practice and application of law can revolutionize Brazilian society's representation of the latter, since it allows us to move from the model of *rule by Law* (what is not in the law is not proper, is worthless, cannot be imposed) to one of *rule of Law* (law is constituted within society).

Latour (2019) proposes that the ethnographer should not be ashamed of her methodical ignorance, but rather proceed in describing law "as it is done". I take on a similar perspective here, that the anthropologists' contribution to the study of law stems from how she can focalize it, frame it not as a set of normative principles that prescribes certain conduct and establishes penalties for infractions, but as an integral part of social processes. This requires seeking out the values and ideological projects that are expressed in and consolidated through laws; determining which effective social interests specific laws answer to, and what are their true implications for the social groups involved; it also requires indicating how, and to what degree, this abstract set of prescriptions is actualized in social practice, passing through a selective sieve of mechanisms and instances of decision-making and implementation.

In this way, one of the outstanding factors of the courses I have dealt with in this article is the possibility of presenting the results of studies of laws and rights to the magistrates themselves, confronting them with the fragility of certain decisions involving Indigenous peoples and showing them other, more comprehensive contexts and perspectives. In the context of these courses, anthropological analysis has the potential to review certain conceptions and impact social processes. It thus gives continuity to a characteristic of Brazilian anthropology, linked to the ethical commitment for nation building (Oliveira, 1993: 13), that has, for some time, been reflected in the participation of anthropologists in the formulation of state policies aiming for a more just and solidary nation.

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