



Sociology of Law

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4 to 7pm

Analyse 5 from the sentences below. Please consider that:

- Four questions must be from Group 1
- A fifth question must be from Group 1 OR from Group 2

Accepted languages: Portuguese, English, Spanish, French, Italian and German.

Group 1

1) "Like all other social groups, the state, the most significant of them all, is the specific unity of a multitude of individuals, or at any rate of individual activities, and the inquiry into the nature of the state is fundamentally an inquiry into the nature of this unity. The problem is in what manner, according to what criterion, is this multitude of individuals welded into what we are wont to assume to be a higher unity? How do the separate individuals forming the state, or their individual activities, combine into a super-individual whole?". KELSEN, Hans. "The Conception of the State and Social Psychology: With Special Reference to Freud's Group Theory".

2) "By this word [governmentality] I mean three things: [...] 3. The [...] result of the process through which the state of justice of the Middle Ages, transformed into the administrative state during the fifteenth and sixteenth centuries, gradually becomes 'governmentalized' ". FOUCAULT, Michel, "Governmentality".



3) "(...) there appears to be a specific sensitivity that is taking root globally. It can be recognized in cases in which *asymmetries of roles become fixed and are treated as irreversible by a reference to outside*". This applies particularly to cases in which race is used as a criterion for the allocation of role (especially with reference to the allocation of life or death, hunger or proper food). LUHMANN, Niklas. *Law as a social system*.

4) "(...) the legal code not only keeps one foot in the medium of ordinary language, through which everyday communication achieves social integration in the lifeworld; it also accepts messages that originate there and puts these into a form that is comprehensible to the special codes of the powersteered administration and the money-steered economy. To this extent the language of law, unlike the moral communication restricted to the lifeworld, can function as a transformer in the society-wide communication circulating between system and lifeworld". HABERMAS, Jürgen. *Between Facts and Norms*.

5) "(...) such a rhetoric of autonomy, neutrality, and universality, which may be the basis of a real autonomy of thought and practice, is the expression of the whole operation of the juridical field and, in particular, of the work of rationalization to which the system of juridical norms is continually subordinated". BOURDIEU, Pierre. "The Force of Law".

Group 2

6) "This violence stretches from one extreme to the other: it includes the everyday distribution of individuals among different activities and functions so "customary" that power barely needs to become legally asserted; or the violence is its consequence rather than its cause, it betrays the intrinsic *excess* of any vested power relation, as well as spectacular processes of elimination of 'internal enemies' and 'aliens' ". BALIBAR, Etienne. "Ontological Difference, Anthropological Difference, and Equal Liberty".

7) "The way in which men produce their means of subsistence depends first of all on the nature of the means of subsistence they actually find in existence and have to reproduce. This mode of production must not be considered simply as being the reproduction of the physical existence of the individuals. Rather it is a definite form of activity of these individuals, a definite form of expressing their life, a definite *mode of life* on their part. As individuals express their life, so they are. What they are, therefore, coincides with their production, both with *what* they produce and with *how* they produce. Hence what individuals are depends on the material conditions of their production". MARX, Karl and ENGELS, Friedrich. *The German Ideology*.

8) "Whatever form law and legal practice may come to assume under the impact of these various influences, it will be inevitable that, as a result of technical and economic developments, the legal ignorance of the layman will increase. The use of jurors and similar lay judges will not suffice to stop the continuous growth of the technical elements in the law and hence of its character as a specialists' domain. Inevitably the notion must expand that the law is a rational technical apparatus, which is continually transformable in the light of expediential considerations and devoid of all sacredness of content". WEBER, Max. *Economy and Society*.

9) "What matters for sociology is to know what are the connections which really exist between things, and not those according to which the concepts must be logically arranged". DURKHEIM, Émile. "Review of Richard's Essay on the Origins of the Idea of Law".

10) "I would suggest that (...) situations of destitution constitute an effect at the place where two vectors meet: one, the axis of integration/non-integration through work — in other words, the relationship to the means by which individuals succeed (or do not succeed) in reproducing their existence on an economic level; the other, an axis of integration/non-integration into a social and family network — in other words, involvement in (or breakdown of) a system of relationships, within which they can reproduce their existence on an emotional and social level". CASTEL, Robert. "The Roads to Disaffiliation: Insecure Work and Vulnerable Relationships".

Correction Grid

The analysis of a sentence should contain in around one page:

- a) the formulation of the problematic to be analyzed (1 mark),
- b) its analysis (1 mark)
- c) and a personal position (1 mark)
- d) theoretically based, that is, based on the theoretical concepts and theories of the studied authors (1 mark).

A problematic relates what is written in the sentence with something that is not written in the sentence (an idea, a concept, a theory, a criticism ...).

Ex: "Jurists are the hypocritical guardians of collective hypocrisy, that is, of the respect for the universal. The verbal respect that is universally granted to the universal is an extraordinary social force and, as everyone knows, those who manage to have the universal at their side are endowed with a significant social force "(Pierre Bourdieu, The jurists, guardians of collective hypocrisy). Possible problematics:

- The codification of law according to Bourdieu: production of rationalization, universalization, normalization and hypocrisy.
- Universal reason: a priori, historical or hypocritical? An analysis with Bourdieu