

Postivism, postmodernity and fictional subjectivities¹

Positivism, postmodernidad y subjetividades ficcionales

Positivism, Pós-modernidade e subjetividades ficcionais

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Abstract:

The consolidation of postmodernity causes conceptual dispersion, a prologue to political ambiguity and legal fragmentation. These dimensions enhance the validity of technocracy and its resulting effectiveness, which obtain recognition of their capacities from law and politics, through the production of problematic entities, among them fictional subjectivities with rights comparable to those attributed to natural persons.

Keywords: Postmodernity, positivism, technocracy, subjectivity, fictions, new rights.

Resumen:

La consolidación de la postmodernidad provoca la dispersión conceptual, prólogo de la ambigüedad política y la fragmentación jurídica. Estas dimensiones potencian la vigencia de la tecnocracia y su efectividad resultativa, que obtienen del derecho y de la política un reconocimiento de sus capacidades, mediante la producción de entidades problemáticas, entre ellas las subjetividades ficcionales con derechos equiparables a los atribuidos a las personas físicas.

Palabras clave: Postmodernidad, positivism, tecnocracia, subjetividad, ficciones, nuevos derechos.

Resumo:

A consolidação da pós-modernidade provoca a dispersão conceitual, um prólogo da ambigüidade política e da fragmentação jurídica. Essas dimensões potencializam a validade da tecnocracia e sua consequente efetividade, que obtêm reconhecimento de suas capacidades do direito e da política, por meio da produção de entidades problemáticas, entre elas subjetividades ficcionais com direitos comparáveis aos atribuídos às pessoas físicas.

Palavras-chave: Pós-modernidade, positivism, tecnocracia, subjetividade, ficções, novos direitos.

1 Introduction

This research aims to explain the process of high impact that the development of state-of-the-art technology has had on the framework of practices and relevant phenomena of human coexistence. Especially the decisive influence that it has projected on the spaces of politics and

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law, imposing criteria and behaviors very different from those in force until the decade of the 60s of the twentieth century, with the consequent influence on the private behaviors of citizens, with a disruptive scope that continues to act in the present.

State-of-the-art technology is understood to be those artificial achievements or those built by formulas or instrumental procedures of special effectiveness, with a high transformative impact on the organization of human relations and on the appropriation or treatment of material reality. Such achievements are specifically highlighted in their forms of artifacts, formulas, procedures and instruments that have made it possible to enhance the productive efficiency of value, optimize the use of natural resources, increase interpersonal and corporate connectivity, identify and manufacture new materials and produce artifacts with exceptional performance in terms of data processing, delivery of forecasts and organization of operational complexes.

With the intention of accounting for this process, this research is based on two basic theses:

Thesis 1 is that the postmodern process of conceptual ambiguity and rejection of substantive identities in subjects and objects has decisively influenced the decomposition of traditional positions in the production and content of matrix discourses or signifiers of practices and in the forms of intersubjective relations, including the criteria for dealing with the problem of human rights and the attribution of legal subjectivity.

Thesis 2 is that the consequences mentioned in thesis 1 were empowering of the new technologies, especially because of the validity, first, *de facto* and then *de jure*, of new subjectivities based on operational fictions and on ranges of functional effectiveness, in a process that feeds back into the deobjectification of "the real".

2 Law and new digital technologies

For the development of the demonstrative process of both theses, it is essential to recognize that the new technologies have established an elementary differentiation in the forms of existence and activity of developed contemporary societies, especially in the West and particularly in those of greater relative development. This differentiating effect is part of the appropriation of "the real" by technology, as a system of statements and practices that reconstitute "its reference" in a specific and original way and separate it from the usual canons of corporeality, existence and objectivity.

This innovative constitution depends on the validity of two elementary dimensions:

1. The real dimension

This dimension maintains, albeit in a confused way, the features of primary continuity and elementary resistance to human action, although it is reduced in its scope and importance for the life of human beings, dressed in "new cultural forms" arising from the application of complex or sophisticated technological instruments.

2. The digital dimension

This is the new reality of technology in the twenty-first century which, by aggregation of fictional factors or components, or by formal or virtual substitution through exemplary representations of facticity, significantly shapes the proper sphere of human action and substantially changes the way in which man relates to his environment. Without digital technology, there would be no possibility of life and development to organize the vital and material efficiency demanded by the new power, or the emerging effectiveness created by it.

The process of the last decades is the sharpening of the substitution of the real dimension of "the given" or "objective" by the digital, changing, unstable, multiple and fictional dimension. In these coordinates, an entity is fictional when its validity depends on a human decision and its content is an idea or a set of representations based on an immaterial or energetic support that does not exist objectively, in terms of graspable reality or of an autonomous entity operating in the dimension of bodies or substances directly perceptible by the senses.

3 The three basic phenomena of postmodernity and normative production

Postmodernity, as an intellectual movement, can be explained according to three elementary phenomena, with a high impact on collective life. These phenomena have enhanced the validity of the monstrosities and artifacts created by technology and the technocratic network that implied their efficient interfunctionality.

Such phenomena have been characterized as:

1. Conceptual dispersion.

Postmodernity, as a complex cultural process of the last decades of the twentieth century, can be described in different ways. In this paper it is interesting to highlight the extreme critical character and the consequent deconstructive dynamic of the modern discourse that claimed

aspirations of objectivity and universality, including that of science and, especially, those specific to the social sciences.

To the theoretical predisposition of postmodernity, which deconstructs the idea of concept and its character as a carrier of objectivity or real information about the world, was added the specific dynamics of technocracy, with high efficiency in the generation of "representations", apt to replace the real and move it to a plane of problematic ideation. The concept in the position of traditional epistemology allowed the transcription of the material and concrete to the realm of ideality or human consciousness, to be applied to the performance of the operations proper to knowledge. Postmodernity put an end to this conception and denounced the dominial sense of rational discourse, including that of science. This intellectual movement has promoted the production of signifiers based on a position condemning traditional or scientific discourses with objectivist pretensions. Such a movement basically denounced the concealing nature of any statement that postulates itself objective and universal. For the postmodernists, the objectivist veneer of the scientific statement served to hide the instrumental meaning of the categories involved and its application was intended to organize, maintain and ensure the validity of relations of power and social subjection.

In this dynamic, the sciences are denounced as having an effect of deception and fraud. The great narrative systems, in this sense, had to be repealed with the intention of avoiding their concealing and inhumane application, even if the replacement was a kind of nominal orthopedics, established to cover elementary needs and avoid conflicts. This position, which shares with Nietzsche the idea that the representation of the world is the product of human subjectivity, and especially the result of the will, persists in sustaining the entire postmodern effort of deconstruction and denunciation. In this sense, postmodernists condemn the objectivist claim because it is inscribed in the history of what they consider human perversity, especially the intention to organize "knowledge" in coordinates of an instrument of control and subjection of man to a "normality" that is hypocritical and inhuman. The social sciences, the criteria of behavioral normality, the canons of health or disease, the taxonomy of madness, the identification of symptoms to declare insanity, etc. are major features of this strategy of submission and control.

The analysis of the most representative texts of the period highlights three key components of conceptual designation, contrary to objectivist referentiality, and enabling the consequent process of technocratic "digital" resignification:

to. The first component is the "empty signifier".

Lacan's (2009) decisive concept establishes the need to have a malleable and ductile vehicle instrument, or a formula suitable for carrying different contents and fulfilling various linguistic functions, with ductility and functional adaptation. This "content", in the case of the political and social term, responds to the function of presenting and conveying requests or demands with solvency and speed. The empty signifier is a term that can carry or convey different contents according to the intention of the user and the function of presentation-demand of aspirations or desires to be satisfied, in the process of social and political transaction. The empty signifier responds in such a dynamic to the intention of the user to channel or direct requirements and propositions, in an environment of circulation of desires, aspirations and requests, which are channeled-presented to the decision-making authority or the person responsible for the response, according to conditions of variable time, mode and space. (Laclau, 2005)

The empty signifier is an instrument with which the citizen or interested group operates to convey messages, communicate and present demands or aspirations for satisfaction, which the government or responsible for providing a solution receives, in a political "turn", to deliver a response that makes it possible to overcome the need involved by the user. Then, that signifier, once the task of presenting the aspiration has been fulfilled and if it is resolved, passes to another user who uses it as a malleable and adaptive vehicle, with new desires or aspirations, in a circuit of requests and reactions functional to the current social and political order, allowing these demands not to accumulate and operate against the system of collective life. Thanks to the empty signifier, desires and aspirations circulate until they are resolved by power, in a mechanism of utility distributed among multiple agents by the use of the same term that changes its content.

Although Ernesto Laclau establishes that this way of operating is typical of "populist reason", in truth it is a mechanism that, both in its "pure" version, and in its derivative of adaptive signifier, is used in contemporary democracies by all the forces of the political spectrum, either through resignification or by paronymy of signifying equivalence. The empty signifier fulfills a function of deactivating conflicts and channeling demands that otherwise would have no solution in a process of lack of strong references or non-variable existential anchors.

b. The second component is "signifying resistance"

Faced with the ductility of the empty signifier to adapt to the different requirements of variable aspirations, alleged by different agents of the social body before the decisional subjects

of politics, a network of signifiers of a different type establishes what can be called the "signifying resistance". This type of resistance implies the rejection of the aforementioned function and a direct questioning of the unconditioned application of the empty signifier, that is, it responds to the intention of the "apocalyptic subjects not integrated into the system" to assert a position different from the Lacanian one (Eco, 1993). This position persists, characterized by the validity assumed by certain agents who recognize in some signifiers, characteristics or entities different from those of the empty signifier. A set or network of signifiers that oppose the entity and dynamics of the empty signifier can be made up of rigid and invariant signifiers and those others that present a practical character and sense of adaptability to concrete situations and specific problems. The characteristic of such concepts is that they claim their objective entity, that is, a non-arbitrary, non-conventional "flexible" referentiality on their specific connotation and denotation, in the first case, and a transformative resultative sense of the real, in the signifiers of the second type.

An interesting example of the struggle between the empty signifier and the signifying resistance is observed in the disputes between the extremists of the freedom of genetic creation and their interest in producing living beings, based on the modification of the DNA chains of existing animals, against the postulators of a restrictive criterion of work in that science. to avoid detours or alterations in "nature". The latter claim elementary rights to preserve life and conserve nature because they have a canon of one and the other based on an objective conception of reality. The former argue that every object persists to be constituted by man and that only the possibility of consummating its creation decides its legitimacy.

c. The third component is the "gimmicky significance"

The reality of the resultative signifier, so applied by empiricism, pragmatism, and utilitarianism, established a non-objectivist canon to legitimize the use of concepts, although it was not determined exclusively by intentionality and constituent subjectivism either. Anglo-Saxon social life is founded on this resulting version of the concept. With the era of radical egotism, the "creation of reality" is the expression of the will that produces representations and defines "what is in force", with no other limitation than that of its own expansion. This conception, which refers to Schopenhauer (2004) and Nietzsche (1972), is at the base of the stage of irresistible deployment of technocracy, a system governed by those who organize mediations and produce mechanisms and processes to transform the world and recreate it, according to subjectively defined aspirations and needs.

The "semantic virtue" of technocracy extremes the gimmicky scope of the linguistic signifier and thereby exacerbates its quality as a mere instrumental creation. This resignification

adapts words and gives them a "technical" position and function in a network or linguistic code with mere resultative effectiveness. This ability arises from the need to prioritize fiction over reality, precisely because of its specific instrumental nature to provoke a desired result. The technical monstrosity is a portent or instance that has its own network of significance, based on the way it is treated by the agent who applies or uses it and the conditions of its efficient use. The terms of technology are embedded in a network of functioning of a system of instruments and equipment that keep society in force and, without which, contemporary collective life would collapse.

Food, safety, security, health, work, the circulation of goods, their production, consumption and any activity relevant to social life is subject to complex technical processes and norms of use or behavior, which are determined by such networks of action. This network is of such magnitude and intensity that the life of a Western human being, in a contemporary urban society, would be impossible without the technological aggregate that governs most of the group's practices. This necessary conditionality of technology and its progressive extension to all areas of life establishes a network of functional significance that seeks effectiveness in the benefits that it can and should provide to users. The logic of the user comes to displace the logic of the citizen in such a way that it becomes more important than the latter. The current trend shows a progressive extension of the technocratic conception that is imposed, at least in the developed West, to resolve the conflict between empty signifier and signifying resistance, through an absolute change of register, which determines the viability of human creations based on the benefits that dispose of them confers. In the final analysis, technocracy realizes the egoic proposal of unlimited final expansion and unrestricted action, in an effort that feeds back on itself by exaggeratedly complying with the law of autonomy of the exemplary discourse and the "useful" activity built on it.

In this direction, reason warns that digital content can be defined in a plastic and creative way, providing it with malleability to generate multiple versions of its "entity" and apply it to different purposes, from entertainment to the mortuary efficiency of war at a distance.

2. Political ambiguity

The crisis of the criterion of truth and of the conceptual capacity for objective knowledge, both in the interpretation and in the scientific explicitation of reality, projects its decompositional features onto the statements of politics, altering the marks and measures of traditional political identities, to protect new forms of communication, praxis and social expression. The new forms present obvious problems of content transmission because political

statements cannot claim an origin and legitimation in traditional identities and canons. In these environments of circumstantial and changing action, politics must limit its enunciative aspirations by using empty or permeable signifiers, so that it is possible to adapt to variations in citizen aspirations and alterations in social behavior in an extremely dynamic and unstable context.

The dynamics of the citizen and his conditionality to achieve or maintain government define the discursive efficiency of the "new order" in random, adaptive, variable and conditional terms.

This dynamic presents important problems to:

- a. The "conservative forces", or anchored in more traditional principled positions, preventing us from having an invariant plexus, with a strong and fixed identity foundation.
- b. The "progressive forces", some of them also tied to the past, or projected on the transformation of the social with roots in historical materialism, which are forced to adapt to a relationship of coexistence with counterparts that reject positions of perception or contrary to systemic belongings or amplified narratives.

In both cases, meaning is presented as used by professional political forces (Panebianco, 2009) with a malleable, corrupted, altered, manipulated, changed and degraded character, as many times as necessary in the process of struggle for power and persuasion over citizens. In such terms, consensus-building and the achievement of representation persist dependent on an ambiguous practicality, which applies meaning according to objectives and environments, but never dependent on an invariant and substantive content.

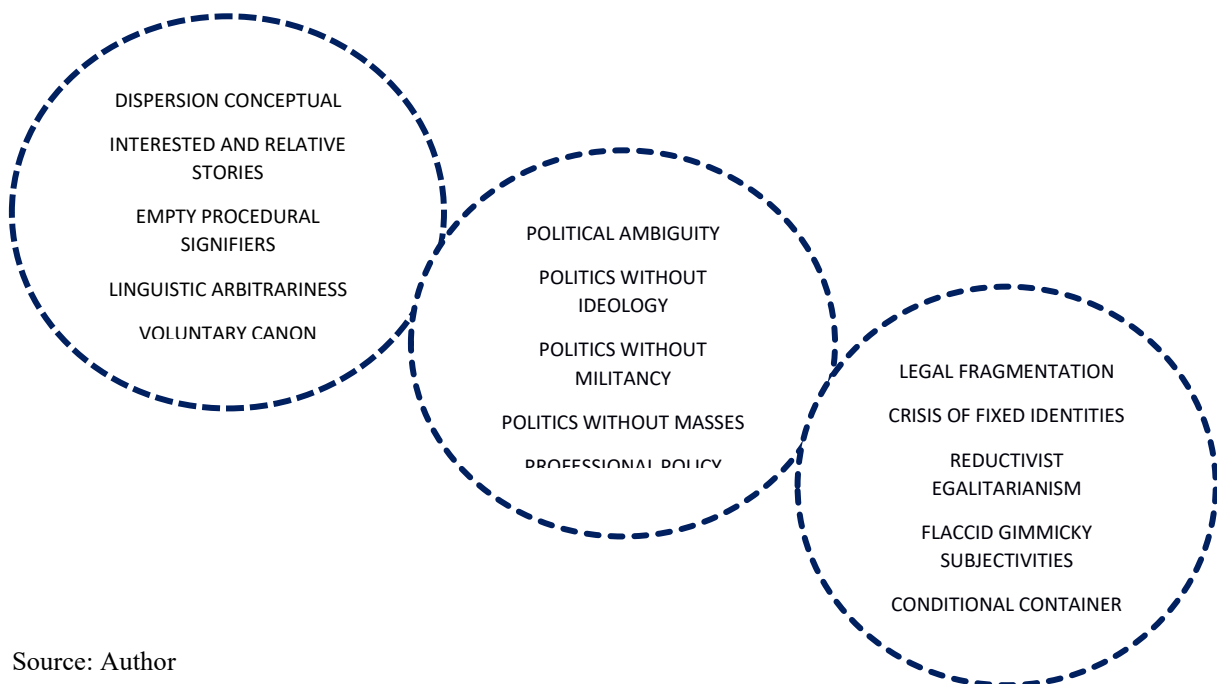
The ordering plexus of the statements issued by a postmodern political agent is concentrated in a set of guiding dictions and adaptive or empty signifiers, which channel the aspirations pending satisfaction towards the government. The current situation does not arise from the validity of the preponderance of postmodernity and its initiatory keys, but rather results from the convergence between some of its most problematic contents and technology as a way of governing human relations. The problem of political identity in postmodernity is linked to the attribution of subjectivity to entities considered collective agents or subjects of politics.

3. Legal fragmentation

The final consequence of such a combination of conceptual orphanhood with political ambiguity is the consolidation of a fragmentary positivism that produces a certain type of norm and makes possible a way of attributing rights and dictating justice. In other words, a political and institutional system cannot have general consistency and integrity based on conceptual dispersion and political ambiguity.

Ultimately, legal fragmentation is the normative crystallization of political ambiguity, which was previously provoked and promoted by conceptual dispersion. This process interprets subjective multiplicity and processes it, aggregating and constituting to the emerging groups or sets of attributions of legal capacity and the exercise of rights in an autonomous manner. Each group, arising from subjective or subjective postulations, has its set of norms because they exist or are sanctioned to recognize their validity. The first fact in fragmentation is that the positivism of this process gives existence to a group or group, based on its claims that, based on phenomena of self-perception, aspire to be recognized and endowed with the capacity to exercise the rights that arise from such attribution of subjectively delimited and requested legal personality. Because of this characteristic, the legal positivism in force in postmodern societies can be called "fragmentary".

Such attributive multiplicity ends up being fragmentary in order to be able to be valid without falling into the contradictions of a normative plurality that tends to recognize-attribute rights to human groups that have conflicting interests and contradictory capacities. In any case, such a contradiction exists, but ultimately it can be overcome by the interpretation of the judges who are part of such a legal system.



Source: Author

This fragmentation, by enshrining capacity to a group or human group, can affect the rights of others, and the conflict that arises on issues as important as the exercise of the right to

property of historical subjects and the exercise of the right of access to well-being of new groups or social agents is a common fact. In the most elementary issues, the rights to exercise beliefs and maintain religious traditions of the historical groups of a society collide with and contradict the rights of freedom of groups that reject such convictions and consider them contrary to their sexual rights, or of enjoyment and pleasure. In the case of European societies, in recent years a serious problem has arisen because, in order to guarantee the exercise of the rights of alternative or heterodox sexual identity, the exercise of freedom of expression by groups that reject or criticize such positions and perceive themselves victimized by them has had to be prohibited.

A special case persists represented by the rights to exercise the ethnic and religious identity of collectivities that present a differentiated singularity from the receptive group or society of installation in the migratory process. In these cases, the contradiction is essential since, in the same registry, in order to guarantee the exercise of the rights of ethnic or religious minorities, the rights of the majorities or groups of the receiving society must be limited. Conversely, in order to guarantee the rights of these majorities, religious content or worship practices must also be modified, which ultimately imply the violation of the rights of different ethnic groups.

Although postmodernity can only be held academically responsible for its task of conceptual deconstruction and questioning criticism, this process would not have had a significant effect outside the intellectual and educational spaces, if there had not been the correlative dynamic productivity with real and extensive impact of technology in the exploitation of the practical gaps generated by such intellectual positions. A key component of the equation of organization of collective life in flexible and democratic Western societies is that postmodernity has had a singular result in the establishment of interpersonal bonds and the reformulation of social practices, not only because of its postulation of new theses and categories, but especially because of the deconstruction procedure that, by making sterile discourses based on objective knowledge of reality, they give way to systems of generating effectiveness, whose results are perceived without the need for conceptual or discursive mediations.

4 The disruptive effects of technocracy, normative production and alternative rights

In the general process of law in the middle of the twentieth century, the development of studies and the explicitation of systems lead to the identification of two main positions in the field of Western law:

a. On the one hand, the validity of systemic positivism defined in logical-normative terms, by the pure theory of law enunciated by Hans Kelsen.

b. On the other hand, the response of the currents that sought to save a certain objective referentiality for the content of the norms, which were basically expressed through natural law, both in its rational humanist aspect and in its Christian personalist tendency (Mounier, 1972).

Between them, the observer notes alternative currents, although with little success or diffusion, such as the case of Alf Ross and his empirical emotivism, or the sociologism of Carl Schmitt. (David René & Jauffret-Spinosi, 2010).

Natural law postulated the validity of an objective reality and in it of a human nature endowed with laws of existence and development of an activity referenced in it.

The normative production of fragmentary positivism provokes the irruption of rights unthinkable in the system of traditional Roman roots and in the process of formation of alternative subjects to the human being.

Some authors, such as Juan Carlos Riofrío Martínez Villalba (2014), have concluded that the latest generation rights include in particular:

- a. The right to exist digitally,
- b. The right to digital freedom, and
- c. The right to digital responsibility and reputation, etc.

All these rights, in the different generations, combine concepts of recognition of new subjectivities, attributions of capacities to alternative entities different from the human being, aspirations for change and consecration of effectiveness protocols linked to potential exercises by new actors and especially by entities generated by the latest technologies.

In the observation of the general process, it is possible to highlight:

1. A high degree of insufficiency in the conceptualization of such capacities or attributions in general.

2. A problem of absence or lack of objective referentiality, necessary to reliably determine the scope and final meaning of new or "latest generation" rights.

3. The crisis of the canon of existence to precisely delimit the agent of exercise and especially the extent or real contents of such attributions.

In the case of "fourth generation" rights, the observer confirms the validity of a diversity of positions and perspectives that do nothing but create confusion and false meanings.

Some authors try to differentiate between "subject of law", as the holder of capacities and obligations in the traditional sense, and "subject of law", as an attribution of a certain derived integrity, inviolable or impossible to alter or destroy. In this second case, subjectivity has been created by the legislator or the judges, to prevent the person to whom it is attributed, not a human being, from being subjugated by the actions of man, or suffering subjected to processes that alter him, for example, making them suffer, as is the case with animals, or contaminating them. in the case of ecosystems.

If such were the problem, that is, whether the attribution of legal personality has been made for the sole purpose of protecting a non-human animal or entity, it is either overabundant or contradictory. In no case, in order to protect an animal, for example, should a "passive" or "active" legal personality be created, but rather emphasize the obligations and restrictions of the legal personality itself, which is the one corresponding to the person of physical existence. In other words, in order to protect an animal, it is not necessary to resort to the fiction of creating its rights, but rather to guarantee the validity of the prohibitions or impediments specific to the subject of law-man, to prevent animals from being violated or subjected to processes that affect social sensitivity. The same is true when legal personality is attributed to an ecosystem, a river or a natural resource. The Roman-based legal system is very clear in this regard. The protection of public goods or goods of general interest depends on the burdens and prohibitions imposed on man, based on that interest and not by virtue of the fact that inanimate or natural entities are legally comparable to human beings.

This decomposition of legal subjectivity leads directly to the confusion between subject, object and value, elements proper to the existence and validity of law. In this dynamic, in Anglo-Saxon law, the process is more acute and cases of clear subjectivation of animals or things are presented, without as many reservations as in the Roman system. In the Anglo-Saxon scheme, pets can receive inheritances and be holders of inheritance legacies, even displacing the human heirs of the deceased.

With the emergence of new digital agents operating in cyberspace, the situation is becoming more and more complicated.

An exercise that makes it possible to identify such confusions can provide insight into this process and confirm the contradictions that they contain in the eagerness to multiply capacities and faculties, based on a proliferation of procedural and entitative subjectivities, not always in accordance with the best advantage for the human being and collective coexistence.

For example, when Riofrío Martínez-Villalba speaks of digital rights and postulates powers attributing to individuals the capacity to exercise a certain type in the access and use of computer tools, could he not draw a final conclusion that may contradict a large part of his approach? In this sense, the observer could question whether or not there are impersonal rights or rights attributable to computer mechanisms and activity programs that can be considered intangible or complex entities of electronic validity. If so, wouldn't the digital rights of human beings have the counterpart of rights for digital entities that operate in special conditions in cyberspace and acquire autonomy once created? From the right to produce monsters or computer content attributable to human beings, can the observer reasonably conclude that the results of human action, when they have certain characteristics, should be subjects of rights themselves?

5 Rights of digital entities and computer activity programs. Robots and subjects of rights. Electronic personality

If we do not focus on the aforementioned exercise of obtaining the ultimate consequences of the approach to digital rights made by Riofrío Martínez-Villalba (2014), reason warns of a no less significant problem resulting from such development. In the new digital era, the evolutions of the entities and processes included in cyberspace present characteristics that pose potential problems of attribution of subjectivity.

In this case, the question would be: when can a digital entity or a computer process be subject to regulation and require a certain autonomous recognition by the system, in such a way that its existence and activity are guaranteed, beyond the rights of the author or programmer of the same? Digital reality presents virtual entities that have the capacity to generate legal effects and facilitate the exercise of rights of natural and legal persons who acquire, buy and apply them to achieve their purposes.

Let's suppose that an individual incorporates in his processor an avatar or computer application capable of identifying empathetic counterparts with the author of the same, in tastes,

affinities, hobbies, etc. and that allows those detected to convey relationships between themselves and with the person responsible for the avatar. The contents of these relationships and the resulting exchanges are not the avatar or the application, which is simply the support that makes such interactions viable, although a part of them is confused with it, since without it they would lose validity or disappear.

In such a case, the problem that could arise is that the contents can be claimed as productions of the different operators of the system, that is, of all of them as a whole and of none in particular, and whose validity can be demanded to remain in cyberspace so as not to cease to exist as such. In the logic of the new law, this would be a problem of the projection of real personal subjectivity on a digital medium that contains it and provides it with permanence in cyberspace. But it would also be something more than that. The final result of all the effort is not due to the avatar, although this has been a necessary condition to achieve it. Nor is the final result the work of one or each of the individuals who interact, but the effect of the set of dynamic interactions executed between them and the computer support that has provided technical sustainability.(Lacan J. E.)

In other words, the people included in a process of content conveyed or supported by a digital avatar, or a computer application, could demand that their productions organized around that digital creation not be destroyed, because this would imply an affectation or trauma of their own personality and a correlative alteration of the rights of the participants. In this case, the observer could recognize that such a right is part of the normative baggage that assists the individuals who have intervened in the process and not the result of it. However, if the result is not an exact correlative of the effort of each of the participants, but presents aggregates unrelated to them, and special conditions independent of its validity, then the situation becomes complicated.

In the new law, this problem could be solved if the digital entity or the computer application is a "subject of law", that is, if the avatar or program used by a person or individual in the computerized process to carry out activities and interact with other people, or even with other avatars, was the holder of a subjectivity attributed by the law, that would guarantee its existence and prevent its destruction, that is, deny the possibility of deactivating or suppressing it by anyone, be it an authority, its initial charger or the individuals who have given it validity. The avatar or application would be independent of its creator and capable of contracting obligations and exercising rights autonomously from those who have invented it or incorporated it into computer processes, which provide it with sustenance and "reality". What would happen if the avatar is guaranteed to be active according to its programmed logic and this presents

inconveniences for the person responsible for having uploaded it to the computer system in which it operates?

This subjectivity would provide the application, digital entity or computer avatar with an autonomous existence from its creator and thus could not be deactivated or destroyed by the individual who created it, or the company that uploaded it to the network. Let's imagine that this applies to complexes such as Google, Facebook or Instagram and how this would influence such applications, networks or search engines to have an existential autonomy and functional conditionality that it does not have in the current circumstances.

This idea, which can be difficult to understand in cases of ungraspable digital entities, can be better understood when it is presented with respect to concrete entities and easier to observe. In this case, the interested party can deal with the aforementioned position when it is directly related to the rights of "robots" or the so-called "self-programmed mechanisms", which can develop functional interactions with other similar entities or with human individuals. In these situations, the possibility raises the need to identify a "conscience" that can recognize practices rooted in values and principles that require a choice. In this sense, a "consciousness" for a computer application or a robot would be made up of a program that would respond to a code or metalanguage capable of defining and regulating the foreseeable sequences of activity. It is understood that such sequences would be referenced in values of some kind, obviously incorporated by the author of the spawn, but which could be used randomly by the robot to respond to a given situation. Suppose that the robot has references for "utility" decisions, or "truth" decisions, "solidarity" decisions, etc. The big issue is how the program would allow the spawn to combine those values to obtain an answer to a given challenge.

The problem arises from the fact that there may be several sequences with interrelations that imply alternative responses to the same situation, that is, combinations that are not always necessary in their procedural connections to obtain a relevant result. Artificial intelligence raises this question and it is not unlikely in the coming years to see that robots or machines of "automated behavior" have this type of "consciousness", understood as a collection of alternative responses to certain requirements of the environment. A way of resolving reactions in a way that is not always similar and containing variations that make the "behavior of the machine" not predictable in an exact certain way. In this direction, the scientist could program a field of options that would be available for the selection of the spawn, according not only to the data of the environment, but also to "evaluations" of position and perspective that the robot "subject" could make.

In cases of warspawn, the destruction sequences distinguish between friend and foe in order to be efficient in the expected outcome. The differentiation criteria are obviously programmed, but in the future the monsters must have the ability to evaluate situations or environments that will involve combining possibilities and selecting one among several of them.

So the problem is that there are:

1. A first element, which is the material-virtual entity operating according to a program of activity with sequences of action-reaction scheduled and duly organized.

2. A second element, which is the metalanguage of the program to which the variation of response from random combinations between multiple sequences can be incorporated, in the sense that they are not always similar in result, according to the reception of information and the undetermined or unambiguous evaluation of it. In these cases, the paradigm of the "best answer" differs from the scheme of the "single answer".

3. A third element, which is the network of functionality that every creature or robot integrates and from which it receives information and activity in order to remain "alert" and current in the fulfillment of its task or mission.

These three elements raise the dangers of autonomous systemic interfunctionality, which escapes human control itself, and the correlative need to maintain the attribution of rights in the human person in a central form and only derived in persons of legal or formal existence, formed by natural persons, avoiding the transfer of rights to objects or beings that are independent of those persons.

6 The Real Effects of Technocratic Postmodernity

The conclusion is that the developments of postmodern deconstruction in the field of meaning were highly efficient for the validity of dynamics of emergence, consolidation and expansion of processes of production of economic value and the organization of technical qualifications, with a relevant degree of autonomy, although they also had highly problematic effects on social coexistence.

1. In the first case, the expansion of transnational capitalism is especially illustrative.

Capitalism deploys its logic of accumulation according to a dynamic of expansion and consolidation of "rights of recognition" of personality and aspirations, in order to provoke the

rupture of resistances based on national or ethnic, religious or cultural identities, which limit their capacity for action.

In this direction, science observes:

a. The transformation of productive forms.

The special impact on the accumulation of capital through procedural fictions or formal derivatives, which multiply operations and generate profitability apart from the generation of real goods. The creation of cryptocurrencies is the ultimate realization of this process.

b. The modification of production methods.

The incorporation of entities that develop integrated actions and programs in production chains that do not require human intervention.

c. The formation of new operating forms, especially the organization of corporations, holdings and investment funds with their own decision-making spaces and their autonomous executive strategies.

2. In the second case, the research highlights the validity of globalizing technocracy, which implies distinguishing between:

a. The dynamics of the imposition of reductive technocracy:

Technocracy not only implies the sublimation of technical instruments and the ways of approaching reality based on substitute models to transform it, but also establishing a government that organizes the world and transforms it according to the technical procedures involved in its exercise.

In this logic, the basic law of technocracy is that technical procedures not only provide solutions to current problems, but also establish the canon for identifying and delimiting such problems. The technological discourse is therefore a hegemonic discourse that displaces any other discourse that seeks to impose a legality different from that of the production of authorizations. This process is of fundamental importance because, through it, technology displaces other instances of activity such as politics, economics, history, etc., to consecrate a situation or fact assuming it as a problem to be solved. In other words, technology presents the characteristics of a hegemonic system of statements and actions by which all reality is perceived, assumed and processed by it in an exclusive and exclusive way.

Technocracy is not only a form of government dependent on an elite, "the technocrats" who apply and impose it, but it is a way of life that all individuals assume and support with every action they execute, because it is in some way sustained or organized by technology. Technology, as a system of production and development of skills to transform and reorganize

the human world, is a process that affirms and expands to the extent that it is in force, that is, that each individual is an agent of reproducing technology systemically to the extent that he executes the procedure, applies the formula, uses the instrument, etc. that expresses and embodies it.

b. The formation of subjectivities sustained by new forms of communication and electronic activity.

Many of the new technical productions have implied substantial transformations in the forms of relations between human beings and have provoked or anticipated the emergence of "non-human subjectivities", with a profusion of rules and procedures that, in most cases, are disruptive, if not contradictory to the instances and institutions of traditional law.

The case of the so-called "electronic personality" is part of the problem of the attribution or "recognition" of the ability to act of spawns endowed with behaviors that are partly programmed, but with the possibility of variations in reactions to changing inputs or information. In these cases, the new theories are not talking about recognizing a mediation installed in cyberspace that represents a human person, but rather independent mechanisms or processes that develop activities by themselves and produce legal effects of various ranks.

The process unleashed by information technology imposes or intends to impose a procedure of identity of subjectivity based on algorithms that make differentiated "contents" explicit. One that contains an expression of the human physical being and another that attributes entity to a non-physical entity.

With alternative subjectivations of imputation of activity and exercise of rights, social networks and virtual subjects that emerged as systems of avatars or digital representations of real natural persons, constitute the beginning of the process and it should not be long before observing that the protocols of computer activity and applications are endowed with such personality to avoid excesses and to hold those who participate in them responsible.

The emergence of alternative groups, with their existence delimited based on positions or dynamics of reactive and heterodox behavior, compared to the behavioral regularity of traditional groups and sectors of society. These new sets postulate alternative forms of recognition of sexuality, of organizing social practices and of protecting relativized life behaviors according to "natural", "ethnic" or "animal" behaviours.

7 The scientist and value judgments

A crucial theme that runs through the entire argumentative process developed so far in this work is that:

1. The scientist must not make value judgments in the development of his task of investigation and explanation of reality, but purely and exclusively judgments of explicitness. Value judgments must be made by this scientist when he or she must assume responsibility for moral commitments and acts of relationship with other people, including in the use of his or her tools or monstrosities. In this direction, the scientist and the authority on which they depend must interpret the construction of automated spawns or autonomous instruments of activity as forms of mediation that allow human beings to relate and not independent entities in their activities or results.

2. Politics and law, which depend on human intersubjectivity, require the issuance of value judgments and can never be reduced to consecrating and applying exclusively judgments of explicitness. However, the explicitness of the general process of collective existence carried out scientifically allows us to observe the impact of real transformations on the lives of human beings, as well as to notice the emergence of uncontrolled or mentioned aspirations without taking into account the adverse consequences of their validity. This explicitness, in the case of law, consists of making explicit or describing the process of production of norms and their functions on the system of general human coexistence.

3. Therefore, the main problem, in the case of politics and law, is not the rational understanding of the process underway, but the interpretation that is applied to organize social bonds which, unlike the scientific approach, is the result of an ideological, religious, philosophical conception, etc.

4. In this direction, the referentiality of the content of rules of law in functional aspects derived from their technical qualities is in fact based on a more primary and elementary reference, which is the acceptance of the disvalues or counter-values of designation and of the non-questioning of the consistency and legitimacy of the acts and processes that constituted it as an intellectual movement and attitude.

Technocracy is extremely valid because there is a dismissive or renouncing attitude with respect to the canons of valuable forms and positions, originating in religion, philosophy or traditions, to assume the conclusions and achievements of science and technology. Technocracy

is a countercultural or acultural phenomenon that has highly serious consequences in the organization of human relations and ostensibly affects the validity of intersubjectivity, to the extent and with the intensity in which it is virtuous in affirming coexistence and collective peace. Because in their logic, technocracy and its agents are powerless to make value judgments and can only limit themselves to producing technical mediations and imposing them systematically, according to functions aimed at governing people's lives. In this process, technocracy has basically filled the conceptual vacuum left by postmodern designation with its demonstrated and progressive effectiveness.

Politics is like nature, and it cannot stand a vacuum. But we must recognize that technocracy has a special development from the emptying of the traditional significance caused by the skeptical reason of postmodernity and consequently from the unavailability of stable and consistent values or references, which function as impediments or obstacles to that development. The first phenomenon of importance in the validity of technocracy is that it implies the displacement of culture in its sense of community expression and resistance from a unity of collective existence that is historically realized and its correlative reduction to a mere set of practices solved in material and circumstantial productions of effectiveness.

5. Referentiality in the counterculture or acculturation has serious problems in keeping social life stabilized and at peace because:

- a. It generates conflicts due to the plurality of multiple artificial and fictitious subjectivities, many of which are competitors and antagonistic to human beings.
- b. Adopt a problematic canon for defining principles and postulating meanings
- c. It multiplies the positions of approach to the real, which ends up being reduced to the simplifications of technocracy and its substitutive dynamics of the objective.

In this dynamic, the allegation of values and rights lacks a center and a hierarchy because an objective order of natural reality or human existence and a consistent interpretation of them are not accepted.

Since designation based on the deconstruction of conceptual tradition and objective knowledge is the canon of the world's constitution, the negativity of the process impacts the attitude and positions of Westerners on key issues for their existence and future projection. This negativity reverts to the aspirations postulated by the postmodernity activist by not being able to base his claims and claims on consistent criteria through objective references. The problems of environmental pollution, overcoming marginalization phenomena, and the fight against discrimination become difficult to achieve when there are no values supported by strong and coherent positions, defined by ranks of cultural superiority and grounds that can be opposed to

third parties. Technocracy provides instruments to each party in conflict in each of these situations, with the only rigor of the resulting effectiveness in case it is decided to apply any of them.

6. The only way to solve the problem of updating the law that enhances coexistence, if this is a value that can be assumed by the majority, is by appealing to an interpretation that provides meanings, the application of which gives meaning to the common life of human beings, or a space of elementary coincidences, which relates them to each other for much more than the mere material productions of goods and services.

7. The problem is that such an interpretation does not originate in a scientific effort, and it never can have one. The main issue then is how to solve the problem: the adoption of an interpretation that can conform to the expectations of existence and the life aspirations of the members of the community, based on the real diversity of a world that is increasingly problematized and therefore conditioned in its ability to solve challenges.

8 The return to the sources

In reality, the problem presented implies a need to return to the sources of law and to recover the meaning and significance that it had before the postmodern debacle. Every jurist knows that there is a difference between philosophy of law and legal science. While the latter makes explicit the structures and functioning of normative systems, philosophy must solve the problem of the existence of law and the rigor of the values included in it.

The history of law in the West shows with total clarity that it presents a dimension of normative prescription that binds men to each other. There are several constituent elements in this right:

1. Two or more people.
2. A norm regulating conduct.
3. A content based on a value, the legally protected good.

Without any of these components, the law ceases to exist to become a protocol of regulated practices according to subjectively determined positions and functions.

In the traditional scheme, when the law contained a law for the protection of animals, it was not recognizing the legal subjectivity of the animal, but rather protected him because there was a value in such a function that involved man, by rejecting mistreatment by virtue of the fact

that it affected his sensitivity. The object of protection was the animal, but the subject of the law was man who, socially, claimed his power to sanction behavior that, degrading the animal, affected a necessary value to be protected for his person. Otherwise, the law would enter into the contradiction of protecting the animal during the day, but allowing it to be eaten at dinner. In the case of animal protection, man is the subject of law, in the case of its consumption, he is also the subject.

Likewise, when Western law of Roman roots introduces the fiction of the legal or ideal person, it is to enhance man's capacity for physical or real existence and maintain his integrity, not to replace it.

The validity of a value translated the assumption of a hierarchical existence and of a virtuous consecrated order for collective life. Underlying all legal philosophy is a paradigmatic anthropology and an existential determination of the real, with attributions of truth, goodness, beauty, utility, etc., at least in most of the history of the West. The rights of the "last generations" tend to attribute capacities or faculties to non-human entities, including intangibles and technical processes, as if they were the subjects of law, in a drift with the aim of unstoppable decomposition.

When political and legal egotism advances on these three elementary constituents of law, subjectivity reduces them to logical-formal components without objective contents that persist referenced in graspable and ponderable realities. This dynamic leads directly to the process of depersonalization of the law and its subsequent appropriating conditionality by the will or intention of one or more agents, based on arbitrary interests or positions. "Arbitrary" implies in this case "out of order". Order does not exist as an objective reality or value not dependent on the ego and in this position, the rupture of the right with the need to be protected and protected is evident. The depersonalization of the law is followed by its objectualization. The relationship of law does not arise in such a scheme between two or more real persons, but between entities that can be indistinctly physical individuals, non-human animate beings or inert things.

In this dynamic, the "system" begins to sanction norms that attribute "rights" or capacities to animals and to the entities or processes that man organizes to transform reality and improve life. This is the final result of egotism which, unable to maintain reality and contact with it, replaces the objective elements of law with fictions derived from its out-of-control will. The qualification of "absence of control" is difficult for postmodern man to understand, because its acceptance would imply recognizing and assuming that there is a real order and an existence not dependent on his will, nor subject to his imagination, two capacities contradictory to his constitutive egotism.

Contemporary man has entered into the dynamic of confusing his flesh and blood reality with the entity of his production and the result of fictions that he has created in his eagerness to improve life, or to position himself with an advantage in a highly competitive world. This process is exponentially aggravated by technocracy and the digital dimensions that are presented for the proclaimed option of optimizing human performance. The only possibility of overcoming this confusion is to recover the canon of the human in order to measure the scope of the law and reconstitute the meaning of the legal act. But this is a debate that involves philosophers, not scientists.

9 CONCLUSIONS

Postmodernity has created symbolic and meaningful voids that, in the anthropological field, have led to situations of ambiguity, changes in frustration and lack of satisfaction

Such symbolic and meaningful voids have exponentially enhanced the development of technocratic mediations, aimed at imposing effectiveness in the face of doubt and the result in the face of frustration.

The crisis of meaning provoked by postmodernity has implied, among other aspects, rejecting and discarding traditional subjectivities based on criteria of identity and canons of existential realism.

Western developed societies, especially affected by the postmodern movement, suffered the conflicts inherent in such positions of questioning and rejection of subjectivities based on individual identities and collective belongings, historical traditions and community experiences.

In these societies, the development of new technologies provided an alternative referentiality to those specific to traditions, history, culture, religion and ethnicity

Such referentiality demonstrated its superiority over that of other discourses by having the effect of transforming the world and access to habilitations that delivered material satisfactions and facilitated life according to criteria of convenience and comfort.

The new forms of subjectivity in law, without the possibility of objective anchors and determined by an ambiguous and circumstantial nominality, multiply the centers of imputation of rights and duties, without maintaining the responsibility that it implies, provoking systemic contradictions and conflicts of legality, which affect natural persons, elementary subjects of law in the traditional and historical conception of the law.

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