LETTER FROM THE EDITORS

We are very pleased to present the first issue of 2016 of the Brazilian Journal of Empirical Legal Studies. Under the initiative of the Brazilian Network of Empirical Legal Studies, this journal reaffirms its mission of filling a gap in the Brazilian legal publications field. The goal of the Brazilian Journal of Empirical Legal Studies has been to pave the way and strengthen the community of legal academics that study the empirical manifestations of law, creating a space of dialogue and debate, in line with what the Brazilian Network of Empirical Legal Studies pursues since 2011.

Underlying the project of the Network, and this journal, is the belief that comprehending legal phenomena beyond the lenses of legal doctrine. Despite its crucial role, as being responsible for most of the relevant theoretical advancements in the field, in Brazil and abroad, it is far from exhausting the possibilities of understanding law in much more complex society than it is usually portrayed by legal theorists. Thus, we believe that research about law as social phenomenon is a task of grand importance, as it studies law through systematic observations of its empirical manifestations.

Since the first issue, we want to highlight two great concerns. First, the journal pays special attention to the methodological rigour of the articles selected. If they are a result of qualitative, quantitative or mixed methods research, the important thing to notice is that there is a convincing description of the research techniques and strategies used in the study. In the same sense, the thematic diversity and the interdisciplinary approach are characteristics that are standards in this publication. We believe that the field of empirical research can only be “defined” by the recognition of a vast plurality of themes. Therefore, our unity is in this multiplicity: both the view of the anthropologist that performs an ethnography of the informal norms of a prison, as well as the economist that is interested in the efficiency of courts are both objects of our interest. Among the great differences of theoretical frameworks and research techniques, both perspectives share a common interest of understanding an aspect of law through an observation of the empirical reality.

This issue has ten articles from authors of various Brazilian and foreign institutions. The contribution from Bryant Garth (University of California at Irvine), “Brazil and the Field Of Socio-Legal Studies: Globalization, the Hegemony of the US, the Place of Law, and Elite Reproduction”, brings a preliminary description of the field of socio-legal studies in Brazil, with possibilities to instigate critique and also contributions and open up another perspective of studies about the academic elites in the Brazilian legal world. The focus on the description of the field of socio-legal studies is also relevant in the paper from Sá e Silva (Institute of Applied Economic Research), entitled “Driving Forces, Challenges, and Possible Ventures in Socio-Legal (Empirical Legal) Research in Brazil”.

Through a different viewpoint, the article from Silva and Ribeiro (both from the Universidade Federal de Minas Gerais), entitled “Racism or Racial Insults? How the Minas Gerais’ Court of Appeal Stands on Racial Conflicts”. By means of an analysis of the decisions from this court of appeal, the paper examines how the courts from the state of Minas Gerais decontextualize the ethnic element in the origin of such conflicts.

In this issue, there are also three articles that address the treatment of torture by law. The paper authored by Jesus, Gomes, Magnani, Ramos and Calderoni, entitled “Case Law on the Crimes of Torture from Courts of Appeal in Brazil (2005-2010)”, presents the findings from a research project entitled “Judging torture”. This project assembled data from the decisions delivered by the Appellate Courts throughout all the Brazilian States in cases regarding the crime of torture. On the other hand, the article from Possas (Universidade Federal da Bahia), “The Brazilian Anti-Torture Act, the Construction of the Concept ‘Crime Against Hu-
manity’ and the Paradoxes of Criminal Punishment”, investigates, through interviews performed with politicians and militants involved in the creation of the law against torture, the development of the new category of crime. Finally, the third article on this topic, “The View of the Court of Appeal from the State of Rio Grande do Sul on Torture: judgements of public and private actors”, by Rudnicki and Matusiak (both from the Centro Universitário Ritter), examines how the Judiciary from the State of Rio Grande do Sul produces distinctions in the criminalization of the crime of torture depending on this crime being committed by public or private actors.

This issue also presents another paper on criminal matter, the article from Tonche (PhD from the Universidade de São Paulo), “Restorative Justice and Modern Penal Rationality: a real innovation in criminal matters?”. The author demonstrates, through the use of various research techniques (case study, interviews and observations) how this new criminal practice, even though it presents itself as innovative, still faces challenges in managing conflicts.

There are also important contributions in two other texts. Santos (Universidade do Amazonas) and Teixeira (Universidade Federal do Oeste do Pará), in the article, “Damage Against the Historical and Cultural Heritage and their Normative Instruments of Protection: Case Study from a Class Action”, present a case study on the performance of the Prosecutor’s Office as the legitimate party to advocate for the protection of the historical and cultural heritage. In the next contribution, by Hartmann, Ferreira and Silva Rego (all from the Fundação Getúlio Vargas in Rio de Janeiro), entitled “Deference to the Attorney General? The Probability of Success for the Attorney General in Direct Actions of Unconstitutionality”, the authors demonstrate, through the use of statistical regressions from the database known as “Supreme Court in Numbers” (“Supremo em Números”), that the Direct Actions of Unconstitutionality proposed by the Attorney General’s Office, as well as the ones proposed by chiefs of the Executive, have a higher probability of success.

The last article is from Valverde (University of Toronto) and it is entitled “What Counts as Theory, Today? A post-philosophical framework of socio-legal empirical research”. In this paper, the author presents an original contribution to overcoming the traditional theoretical frameworks from philosophy and sociology by giving legal empirical researches a new conceptual template.

At last, we need to present our gratitude. First, we should acknowledge the generous and voluntary contribution of all of our qualified body of reviewers, whom were indispensable to make this journal possible. Our Editorial Board, with representatives from prestigious institutions from various countries and different states in Brazil, had an important role in guiding us. We would like to recognize their contribution and thank all the people who contributed to make this space a relevant forum for research and knowledge about law.

Happy reading!

THE EDITORS.