

Capítulo IV

Delimitar y distinguir la Teoría del derecho de la Filosofía del derecho y la doctrina jurídica

Para delimitar y distinguir el campo epistemológico de la teoría del derecho, cabe observar también el campo propio de otras disciplinas fronterizas que tienen por objetivo el estudio y análisis del derecho, como es el caso de la filosofía del derecho y la doctrina jurídica o dogmática. Existen también otras disciplinas que observan dicho fenómeno social, como, por ejemplo, la historia del derecho, la sociología del derecho, pero sólo fijaremos nuestra atención en las señaladas filosofía y doctrina del derecho.

Delimitar y distinguir; esa pareciera que es la tarea clave para conocer el estatuto epistemológico de la Teoría del derecho.

Para delimitar cabe describir cuáles son las materias propias de ese campo del saber, y así comprobar si es realmente un observatorio adaptado a su objeto (el derecho, tal cual es en la *empíría*), único modo de dar cumplimiento a su rol de método de las ciencias del derecho (esto es, de la doctrina). Para distinguir cabe fijar sus fronteras con las otras disciplinas que observan el fenómeno jurídico, y así marcar deslindes, primero, con una relevante disciplina de la vecindad, la filosofía del derecho, cuyo objeto se identifica más bien con “lo justo” (el derecho tal como debiera ser, según los postulados de cada teoría de la justicia) y, en seguida, con la doctrina jurídica.

Intento responder estas dos cuestiones desde el *éthos* de un jurista, cuyo campo de acción es la doctrina, a través del cultivo de alguna disciplina jurídica especializada; o sea, desde dentro del fenómeno jurídico; acaso desde esa experiencia podré describir la configuración interna del derecho. Cabe, primero, precisar y delimitar el contenido básico de la Teoría del derecho y, luego, distinguirla de la filosofía del derecho y de la doctrina jurídica. Así, podrá observarse mejor su propia textura o entidad.

I. PRECISIONES SOBRE EL OBJETO Y DELIMITACIÓN DE LA TEORÍA DEL DERECHO.

Antes de trazar las líneas demarcadoras entre las distintas disciplinas fronterizas preocupadas de lo jurídico, debo revisar con precisión el campo del saber propio de la Teoría del derecho, que es el derecho en toda la experiencia de sus fuentes; también debo escrutar si tal observación teórica está adaptada con precisión a la realidad práctica de su objeto, el derecho contemporáneo; adaptación esta que es esencial tanto para no romper el canon metódico adelantado como para su delimitación.

I. Adaptación de la teoría a su objeto: el derecho contemporáneo.

Desde el punto de vista histórico, dentro de la época contemporánea, es posible distinguir tres etapas de las distintas formulaciones teóricas o de método jurídico. Desde los inicios del siglo XIX se generaron dos tradiciones distintas de teoría del derecho: por una parte, la llamada ‘teoría general del derecho’, elaborada en los países de Europa continental, bajo el influjo evidente de la idea de sistema propuesta por Savigny; y, por otra, la *Jurisprudence*, que es la Teoría del derecho de los países anglosajones, con raíz

Filosofia Moral

Diogo Ferrer



Filosofia da Moral:

Sartre and the International Impact of Existentialism Alfred Betschart, Juliane Werner, 2020-04-21 This edited collection re-examines the global impact of Sartre's philosophy from 1944-68. From his emergence as an eminent philosopher, dramatist and novelist to becoming the world's conscience through his political commitment, Jean-Paul Sartre shaped the mind-set of a generation influencing writers and thinkers both in France and far beyond. Exploring the presence of existentialism in literature, theatre, philosophy, politics, psychology and film, the contributors seek to discover what made Sartre's philosophy so successful outside of France. With twenty diverse chapters encompassing the US, Europe, the Middle East, East Asia and Latin America, the volume analyses the dissemination of existentialism through literary periodicals, plays, universities and libraries around the world as well as the substantial challenges it faced. The global post-war surge of existentialism left permanent traces in history, exerting considerable influence on our way of life in its quest for authenticity and freedom. This timely and compelling volume revives the path taken by a philosophical movement that continues to contribute to the anti-discrimination politics of today.

A Filosofia da História e da Cultura em Fichte Diogo Ferrer, 2019 Reunindo contribuições de alguns dos principais especialistas de língua portuguesa e espanhola na filosofia de J. G. Fichte (1762-1814), a principal questão focada neste livro é a relação entre a universalidade da razão humana postulada pela filosofia transcendental de que Fichte o principal cultor, entre Kant e Husserl, e a sua tradução em formas políticas, históricas e culturais concretas. Os textos reunidos incluem referências significativas a toda a obra de Fichte sobre os temas em causa, estendendo-se desde as obras ainda sob o impacto direto da Revolução Francesa, como a *Retificação do Juízo do Público* sobre a Revolução Francesa de 1793, até revalorização da importância do papel da religião e da história na Doutrina do Estado de 1813, passando pelo clássico da teoria racional do Estado e do Direito, os *Fundamentos do Direito Natural* de 1797, e o clássico fundador do nacionalismo linguístico e cultural alemão, os *Discursos Nação Alemã* de 1807. Estar o em questão a relação da Filosofia com o Direito, a necessidade de fundar racionalmente a legitimidade do poder do Estado, a relação da Moral e do Direito, o que a História humana, a Revolução, o Cristianismo, a guerra e o despotismo, temas cuja discussão nos alvares da contemporaneidade marcaram de modo indelével o nosso tempo.

Entre-lugares de la Modernidad Olalla Castro Hernández, 2017-07-04 Ante la sensación de que lo viejo no termina de abandonarnos y lo nuevo no termina de nacer, la nostalgia moderna y la desilusión posmoderna nos adentramos huerfanos en el siglo XXI. Si es cierto que las últimas filosofías modernas y los acontecimientos políticos del siglo XX llevaron contra las cuerdas a la humanidad impidiendo cualquier discurso utópico o emancipatorio, también lo es que la respuesta posmoderna no ha conseguido definir una solución para conseguir vivir el mundo mostrándose absolutamente estéril. Como y desde dónde pensarnos y pensar nuestro presente. Desde un otro lugar, un umbral, un entre-lugar que articule los valores modernos y los discursos posmodernos desde el Tercer Espacio que son los entre-lugares de la Modernidad. Olalla Castro aborda la dialéctica entre Modernidad y Posmodernidad rescatando los elementos más transformadores y subversivos que se

gestaron en los m rgenes de ambas discursividades y lleva a cabo una cr tica de los aspectos c mplices del statu quo fundamentalmente del capitalismo en tanto que continuum hist rico determinante sustrato que funciona como hilo conductor entre ambos mundos y modo de perpetuaci n A la vez se ala esos Terceros Espacios entre lugares alternativos desde los que a n es posible existir y resistir de otra manera combatiendo la terrible l gica neoliberal que nos asfixia Entre-lugares de la Modernidad Olalla Castro,2017-04-01 La Modernidad y la Posmodernidad se han pensado casi siempre en t rminos antag nicos y el debate en torno a ambas se ha saldado con posiciones de defensa o rechazo que casi nunca han indagado en las posibilidades transformadoras que los espacios intermedios los entre lugares de la Modernidad ofrec an El presente ensayo aborda la dial ctica Modernidad Posmodernidad a la luz de un aspecto casi siempre convenientemente olvidado o despreciado el capitalismo entendido como el continuum hist rico determinante como el sustrato que los dos paradigmas epist micos comparten y que funciona como hilo conductor entre ambos Entre lugares de la Modernidad Filosof a literatura y Terceros Espacios lleva a cabo una cr tica desde una ptica marxista y profundamente anticapitalista de aquellos aspectos de la Modernidad y la Posmodernidad cuya complicidad con el statu quo del poder es m s que evidente y a la vez intenta rescatar los elementos m s transformadores y subversivos que se gestaron en los m rgenes de ambas discursividades con el objeto de encontrar Terceros Espacios entre lugares alternativos desde los que a n sea posible existir y resistir de otra manera combatiendo la terrible l gica neoliberal que nos asfixia **Treatise on Basic Philosophy** Mario BUNGE,1989-07-31 The purpose of this Introduction is to sketch our approach to the study of value morality and action and to show the place we assign it in the system of human knowledge 1 VALUE MORALITY AND ACTION FACT THEORY AND METATHEORY We take it that all animals evaluate some things and some processes and that some of them learn the social behavior patterns we call moral principles and even act according to them at least some of the time An animal incapable of evaluating anything would be very short lived and a social animal that did not observe the accepted social behavior patterns would be punished These are facts about values morals and behavior patterns they are incorporated into the bodies of animals or the structure of social groups We distinguish then the facts of valuation morality and action from the study of such facts This study can be scientific philosophic or both wayan animal evaluates environmental A zoologist may investigate the or internal stimuli a social psychologist may examine the way children learn or fail to learn certain values and norms when placed in certain environments And a philosopher may study such descriptive or explan atory studies with a view to evaluating valuations moral norms or behavior patterns he may analyze the very concepts of value morals and action as well as their cognates or he may criticize or reconstruct value beliefs moral norms and action plans

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Filosof%C3%ADa Moral Introduction

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