ONTOLOGICAL PAREIDOLIA AND THE SAFE DISSIPATION HYPOTHESIS: TOWARD A NON-REIFIED LEGAL ONTOLOGY

PAREIDOLIA ONTOLÓGICA E A HIPÓTESE DA DISSIPAÇÃO SEGURA: POR UMA ONTOLOGIA JURÍDICA NÃO-REIFICADA

PAREIDOLIA ONTOLÓGICA Y LA HIPÓTESIS DE LA DISIPACIÓN SEGURA: HACIA UNA ONTOLOGÍA JURÍDICA NO REIFICADA

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Flávio Furtado de Farias[1], Francisco de Sousa Vieira Filho[2]

ABSTRACT

The article proposes the concept of ontological pareidolia as a diagnostic tool to examine processes of conceptual reification in contemporary law. It begins from the hypothesis that successful legal theories tend, progressively, to shift from analytical instruments to implicit ontological assumptions, operating not only as interpretive lenses but as supposedly neutral transparencies of the legal object itself. The phenomenon is analyzed through the theory of the balancing of principles developed by Robert Alexy, chosen as a paradigmatic case not because of structural defect, but because of its institutional success and practical diffusion. Three recurring diagnostic triggers are identified: (i) grammatical agency of concepts, (ii) colonization of the central question of the case, and (iii) inflation of defensive qualifications. It is argued that such dynamics do not constitute a theoretical error, but rather a predictable outcome of paradigmatic consolidation. The study does not seek to invalidate specific theories, but to offer a reflective protocol for the analysis of judicial decisions and normative arguments, distinguishing the conscious instrumental use of concepts from their consolidated ontological reification. In conclusion, it is suggested that the problem may be better understood in light of a broader relational ontology, according to which concepts persist insofar as they remain compatible with the institutional fields that sustain them.

Keywords: Ontological Pareidolia. Conceptual Reification. Balancing of Principles. Robert Alexy. Legal Theory. Judicial Discretion. Post-Positivism. Legal Methodology

RESUMO

O artigo propõe o conceito de pareidolia ontológica como ferramenta diagnóstica para examinar processos de reificação conceitual no Direito contemporâneo. Parte-se da hipótese de que teorias jurídicas bem-sucedidas tendem, progressivamente, a transitar de instrumentos analíticos para pressupostos ontológicos implícitos, operando não apenas como lentes interpretativas, mas como transparências supostamente neutras do próprio objeto jurídico. O fenômeno é analisado a partir da teoria da ponderação de princípios de Robert Alexy, escolhida como caso paradigmático não por defeito estrutural, mas por êxito institucional e difusão prática. Identificam-se três gatilhos diagnósticos recorrentes: (i) agenciamento gramatical de conceitos, (ii) colonização da questão central do caso e (iii)

[1] Dr. in Pathology. Universidade Federal de Minas Gerais.
[2] Master's degree in Law. Universidade Autônoma de Lisboa.

inflação de qualificações defensivas. Sustenta-se que tais dinâmicas não constituem erro teórico, mas deriva previsível de consolidação paradigmática. O estudo não pretende invalidar teorias específicas, mas oferecer um protocolo reflexivo para análise de decisões judiciais e argumentos normativos, distinguindo o uso instrumental consciente de conceitos de sua reificação ontológica consolidada. Ao final, sugere-se que o problema pode ser compreendido à luz de uma ontologia relacional mais ampla, segundo a qual conceitos persistem enquanto compatíveis com os campos institucionais que os sustentam.

Palavras-chave: Pareidolia Ontológica. Reificação Conceitual. Ponderação de Princípios. Robert Alexy. Teoria do Direito. Discricionariedade Judicial. Pós-Positivismo. Metodologia Jurídica.

RESUMEN

El artículo propone el concepto de pareidolia ontológica como herramienta diagnóstica para examinar los procesos de reificación conceptual en el derecho contemporáneo. Se parte de la hipótesis de que las teorías jurídicas exitosas tienden, progresivamente, a transitar de instrumentos analíticos hacia supuestos ontológicos implícitos, operando no solo como lentes interpretativas, sino como supuestas transparencias neutrales del propio objeto jurídico. El fenómeno se analiza a partir de la teoría de la ponderación de principios desarrollada por Robert Alexy, elegida como caso paradigmático no por un defecto estructural, sino por su éxito institucional y difusión práctica. Se identifican tres desencadenantes diagnósticos recurrentes: (i) agenciamiento gramatical de los conceptos, (ii) colonización de la cuestión central del caso y (iii) inflación de calificaciones defensivas. Se sostiene que tales dinámicas no constituyen un error teórico, sino una deriva previsible de la consolidación paradigmática. El estudio no pretende invalidar teorías específicas, sino ofrecer un protocolo reflexivo para el análisis de decisiones judiciales y argumentos normativos, distinguiendo el uso instrumental consciente de los conceptos de su reificación ontológica consolidada. Finalmente, se sugiere que el problema puede comprenderse a la luz de una ontología relacional más amplia, según la cual los conceptos persisten en la medida en que permanecen compatibles con los campos institucionales que los sostienen.

Palabras clave: Pareidolia Ontológica. Reificación Conceptual. Ponderación de Principios. Robert Alexy. Teoría del Derecho. Discrecionalidad Judicial. Pospositivismo. Metodología Jurídica.

1 INTRODUCTION - THE PARADOX OF CONCEPTUAL SUCCESS IN LAW

Modern law is, to a large extent, a highly effective conceptual technology. To deal with social complexity, it produces abstract categories — principles, institutes, guarantees, decision-making techniques — capable of stabilizing expectations, coordinating behaviors, and reducing uncertainties. Concepts such as *the rule of law*, *legal certainty*, *human dignity* or *proportionality* do not arise by chance: they emerge as intellectual and institutional responses to concrete problems of governability, conflict and legitimacy. The paradox, however, is that the more successful these concepts become, the greater the risk that they will cease to operate as tools and start functioning as a presupposed reality.

It is this phenomenon that this chapter calls ontological pareidolia in Law. By analogy to the cognitive process by which familiar patterns are perceived where there are only ambiguous stimuli, ontological pareidolia designates the movement by which historically situated legal constructs come to be treated as entities endowed with their own existence, internal necessity, or self-evident validity. The concept ceases to be an analytical mediation and becomes an ontological ground: it is no longer asked *how* it operates or *under what conditions* it is maintained, but only whether the concrete case "fits" to it. Conceptual success, in this sense, produces reflective blindness.

Critical legal literature has long identified processes of conceptual reification, fetishization, and naturalization. From the Weberian analysis of legal rationalization and its effects of closure [Weber, 1919], through the Marxist critique of the fetishism of legal forms, to contemporary readings on the autonomization of legal discourse and the judicialization of politics [Habermas, 1992; Latour, 2010], the diagnosis is relatively well known: Law tends to forget the historical and instrumental character of its own categories. The problem is that this diagnosis often ends in itself. Reification is denounced, but an alternative ontology capable of sustaining the critique without falling back into another essentialism is not offered.

It is here that the central dilemma that guides this chapter emerges: diagnosing conceptual reification without offering a minimally consistent ontological alternative is insufficient. Criticism, when devoid of its own ontological infrastructure, oscillates between two equally problematic poles. On the one hand, it can slide into a skeptical relativism, in which every legal category appears as a mere ideological fiction. On the other hand, it can implicitly depend on the same inflated ontologies that it intends to criticize, reproducing them in a negative way. In both cases, the result is a loss of analytical capacity: the error is denounced, but the mechanism that produces it is not understood, nor are there criteria for avoiding it.

The purpose of this chapter is to address this impasse through a double gesture. Firstly, to offer a systematic diagnosis of ontological pareidolia in Law, identifying its training cycles, its cognitive and institutional mechanisms, and its practical effects on legal decision-making, teaching and the public space. Secondly — and this is the decisive move — to present a disciplined ontological antidote, capable of allowing the analysis of the functioning of Law without conceptual reification. This antidote is provided by the Safe Dissipation Hypothesis (HDS).

HDS is not a theory of law, nor a new dogmatics, nor a normative legal philosophy. It is a minimal, relational and processual ontology, originally formulated to describe how systems — biological, social or institutional — manage to persist over time without canceling themselves, that is, keeping their flows and tensions within compatible limits. Its value for legal thought lies precisely in the fact that it was built from the beginning with explicit mechanisms of self-limitation, which prevent its reification: a principle of ontological containment, anti-principles against undue extrapolation, and a checklist of disciplined use.

Cautiously transposed to the legal field, the HDS allows for a decisive shift: Law is no longer thought of as a set of conceptual entities endowed with purpose or essence, and is now described as a set of patterns of institutional persistence, sustained by flows (of norms, decisions, legitimacy, coercion), interfaces (courts, procedures, laws, organizations) and thresholds (of crisis, saturation, loss of adhesion). This description does not legitimize the existent, does not moralize it and does not teleologize it. It only answers a more austere and more potent question: *how does this arrangement manage to persist — and at what cost?*

By integrating the critique of ontological pareidolia with the conceptual infrastructure of the HDS, this chapter proposes a reorientation of critical legal thought. Instead of fighting reified concepts with other equally inflated concepts, a legal culture of ontological surveillance is proposed, in which categories remain provisional tools, always exposed to revision, wear and tear, and contestation. What is at stake is not to abandon the central concepts of Law, but to prevent its success from becoming destiny.

2 THE ANATOMY OF ONTOLOGICAL PAREIDOLIA IN LAW: HOW LEGAL CONCEPTS BECOME REALITY

Ontological pareidolia in Law is not a punctual error or an exceptional pathology of legal thought. It is a structural process, recurrent in highly conceptualized legal traditions, in which successful analytical categories cross a critical threshold: they cease to operate as historical mediations and begin to function as non-thematized ontological assumptions. To understand this process, it is necessary to describe it in its internal dynamics, identify

paradigmatic examples, and explain the cognitive and institutional mechanisms that sustain it.

2.1 THE TRIPLE CYCLE OF REIFICATION: EMERGENCE → INSTITUTIONALIZATION → NATURALIZATION

The first step in understanding ontological pareidolia is to recognize that it begins legitimately. No legal concept is born reified. On the contrary, it emerges as a contingent response to concrete problems: social conflicts, normative gaps, crises of legitimacy or decision-making impasses. This moment of emergency is creative and productive. Concepts such as *legal certainty* or *proportionality* arise to organize expectations, reduce arbitrariness or offer minimally shareable criteria for decision [Weber, 1919].

The second moment is that of institutionalization. The concept is incorporated into repeated practices: judicial decisions, legislation, academic curricula, public exams, manuals and administrative routines. At this stage, it gains operational stability and coordinating value. Institutionalization is not, in itself, problematic; it is a condition for the functioning of modern Law itself. However, it is at this point that the concept begins to acquire institutional inertia: its reproduction begins to depend less on continuous justification and more on tacit recognition.

The third — decisive — moment is that of naturalization. Here the ontological leap occurs. The concept is no longer perceived as a historical response to a specific problem and starts to operate as a condition of possibility of Law itself. It is no longer asked why it exists, under what disputes it has formed, or what alternatives could replace it. It becomes "obvious", "necessary", "structuring". At this stage, the concept not only guides decisions: it defines the horizon of the thinkable. It is exactly at this point that ontological pareidolia is installed: the conceptual construct begins to be confused with the reality that should only mediate.

This cycle — emergence, institutionalization, naturalization — is not accidental. It expresses a general tendency of cognitive and institutional systems to convert effective solutions into stable assumptions, reducing argumentative cost and decision-making uncertainty. The problem is not the cycle itself, but its opacification: when the transition to naturalization ceases to be perceived as such.

2.2 PARADIGMATIC EXAMPLES: RULE OF LAW, LEGAL CERTAINTY, BALANCING

Some legal concepts clearly illustrate this process.

The Rule of Law, for example, has historically emerged as a response to the arbitrariness of power, the personalization of sovereignty, and normative instability. Its original

function is to limit the exercise of power through general rules, publicity and predictability [Habermas, 1992]. However, once naturalized, the Rule of Law begins to operate as an ontological entity: something that "exists" or "does not exist", that "strengthens" or "weakens", regardless of the concrete analysis of its institutional devices. Instead of asking *how* certain legal arrangements produce (or do not) predictability and control, the discourse begins to invoke the concept as if it were a subject endowed with its own properties.

Legal certainty follows a similar trajectory. Initially conceived as a relational criterion – reasonable stability of expectations in the face of the mutability of Law – it transforms, over time, into an absolute and often defensive value. Once reified, legal certainty begins to function as an ontological barrier to change, being mobilized to block normative revisions or corrections of injustices under the argument of preserving an almost substantial good [Brown, 2015]. The concept ceases to describe an institutional effect and starts to impose a prior limit on the debate.

Weighting and proportionality tests offer an even more sophisticated example. Created as argumentative techniques to deal with normative collisions in complex contexts, these instruments were progressively naturalized as if they expressed the very rationality of contemporary constitutional law [Alexy, 2002]. In many contexts, there is no longer any discussion about whether weighting is appropriate for a certain type of problem; it becomes the default problem, colonizing the decision-making agenda. The method ceases to be one tool among others and begins to silently define what counts as a legitimate legal issue.

2.3 THE PSYCHOCOGNITIVE AND INSTITUTIONAL MECHANISMS OF NATURALIZATION

The persistence of ontological pareidolia cannot be explained only by strategic interests or bad faith. It is sustained by deep psychocognitive and institutional mechanisms, which often operate unconsciously.

From the cognitive point of view, conceptual naturalization reduces the argumentative cost. Working with presupposed categories is less onerous than permanently reopening their genesis, their limits, and their alternatives. In addition, stabilized concepts work as heuristic shortcuts, allowing quick decisions in environments of high complexity and time pressure.

At the institutional level, pareidolia is reinforced by organizational coordination mechanisms. Courts, universities, control bodies and legal careers depend on relatively stable vocabularies to function. Naturalized concepts facilitate training, standardization, and internal predictability. Questioning them implies high institutional costs, as it threatens consolidated routines and symbolic hierarchies.

There is also a component of professional legitimation. Mastering reified concepts is a sign of belonging to the legal field. Ontological criticism, by exposing the contingency of these categories, can be perceived as a threat to technical authority or professional identity, which generates diffuse but persistent resistance.

These mechanisms explain why ontological pareidolia is not an occasional deviation, but a structural risk of conceptual success itself. The more a concept organizes decisions, curricula, and practices, the more likely it is to become a presumed reality. It is precisely at this point that the critique needs to go beyond denunciation and offer an alternative ontological infrastructure, capable of sustaining the analysis without producing new reifications — a task that will be assumed, in the following sections, by the Hypothesis of Safe Dissipation.

3 ONTOLOGICAL FOUNDATIONS: THE SAFE DISSIPATION HYPOTHESIS AS AN ANTIDOTE TO REIFICATION

The critique of ontological pareidolia in Law inevitably comes up against a fundamental problem: denouncing conceptual reification without offering an alternative ontology implies remaining stuck in the same terrain that one intends to criticize. By revealing that successful legal concepts tend to become naturalized, one runs the risk of merely replacing one vocabulary with another, keeping intact the implicit ontological structure that sustains reification. The diagnosis alone is insufficient.

This impasse stems from a silent ontological crisis in contemporary legal thought. Law oscillates between two equally problematic poles. On the one hand, a naïve physicalism, in which norms, institutions and principles are treated as "things" endowed with their own, almost material existence. On the other hand, a normative idealism, in which legal concepts operate as self-sufficient abstract entities, capable of generating effects in the social world by virtue of their internal coherence. In both cases, the result is the same operation: analytical constructs come to take the place of the real, and the historical, material, and political contingency of legal practice is progressively erased.

It is at this point that the HDS presents itself not as a new theory of Law, but as a minimal and disciplinary ontology, capable of sustaining the critique of reification without reproducing its vices. HDS does not ask what the Law "is", nor what ends it should accomplish. Its fundamental gesture is more restrictive: it establishes conditions under which one can describe the persistence of institutional arrangements without attributing to them a higher purpose, essence, or rationality.

From this perspective, Law is no longer understood as a system oriented to the realization of values or the realization of abstract principles, and is now analyzed as a set of institutional practices that persist as long as they manage to manage conflicts, uncertainties, and demands within limits compatible with their own continuity. Legal stability is not an intrinsic attribute of norms, but a precarious effect of couplings between decisions, procedures, material resources, symbolic adhesions and coercive devices.

This ontology shifts the focus of the analysis to three central dimensions: flows, interfaces, and thresholds. Flows refer to the circulation of demands, interpretations, decisions, financial resources, social expectations and legitimacy. Interfaces are the concrete devices that modulate these flows — courts, laws, procedures, administrative routines, forms of access to justice, filtering mechanisms, and decision-making hierarchization. Threshold refers to the critical points from which these arrangements cease to absorb tensions and start to produce saturations, crises of legitimacy or functional collapses.

In this framework, normative conflicts are not "resolved" in the strong sense of the term. They are conditionally dispelled. Deciding does not eliminate conflict; it redistributes its costs in time, space and among different social groups. A court decision stabilizes expectations for a period of time, while shifting tensions to other arenas—administrative, legislative, economic, or symbolic. The persistence of the Law depends precisely on this ability to redistribute conflicts without them returning in an immediate and destabilizing way.

This redistribution is only intelligible when the idea of isolated norms is abandoned. No legal rule operates alone. What is called "legal certainty" emerges from dense relational fields, composed of couplings between higher courts, lower courts, administrative bureaucracies, advocacy, media, social expectations and material structures of execution. When these couplings stabilize, the appearance of an ontological property of the norm is produced. It is at this point that pareidolia sets in: the relational effect is treated as essence.

Courts and legislatures do not act passively in this process. They actively modulate legal flows, filtering demands, producing institutional redundancies, altering decision-making temporalities, modulating retroactive effects, and adjusting the pace of normative production. These operations do not express a telos of the legal system or the progressive realization of universal values. They function as strategies to contain decision-making saturations and preserve institutional compatibility in contexts of permanent conflict.

Such a reading allows us to face one of the most sensitive points of legal theory: the management of life by the Law. Under the lens of HDS, the Law manages lives, expectations and risks without immanent ethical purpose. Protections, guarantees, exclusions and sacrifices vary according to the limits of tolerance of the current institutional regime. Moral

lexicons—dignity, humanity, proportionality, reasonableness—often accompany these decisions, but do not explain them at their operational core. What ultimately decides is the compatibility of these choices with the persistence of the institutional arrangement as a whole.

This is precisely where HDS operates as an antidote to reification. By refusing to attribute purpose, meaning, or historical necessity to the legal patterns that persist, it prevents successful concepts from becoming implicit ontologies. Its function is negative and disciplinary: to block the slide from description to justification, from analysis to legitimation.

This self-limitation is constitutive. The HDS does not intend to replace dogmatics, hermeneutics, sociology or the political theory of Law. It operates as a minimal ontological infrastructure, capable of sustaining critical analysis without allowing the conceptual apparatus itself to be transformed into a new pareidolia. In doing so, it provides critical legal thinking with a material-procedural ground in which it is possible to describe institutional persistence, identify redistributed costs, and map deliberative closures without naturalizing the existing.

In the terms of this chapter, HDS is not a new sovereign vocabulary, but a discipline of ontological surveillance. It allows Law to be analyzed as a historical and institutional practice of contingent persistence — and not as a system of concepts endowed with a life of its own. It is this condition that makes it possible to advance from the diagnosis of pareidolia to the construction of effective tools of conceptual denaturalization, developed in the following sections.

4 OPERATIONAL DIAGNOSIS: THREE TRIGGERS OF REIFICATION

Tools for real-time identification

Ontological pareidolia in Law is not only manifested in great theoretical constructions or canonical concepts. It operates, above all, on the microscopic plane of language, method and everyday justification. Therefore, the diagnosis cannot depend only on retrospective analyses or historical-conceptual reconstructions; It requires operational tools capable of detecting, in real time, when a legal explanation begins to slide from description to reification.

The following three triggers work as pragmatic alerts. They do not indicate, by themselves, theoretical error or argumentative bad faith. Its role is to signal the exact point at which a concept, a method, or a qualification begins to operate as if it had its own existence, causal autonomy, or intrinsic necessity—that is, when ontological pareidolia begins to set in.

Grammatical agency: when the Law starts to "act"

The first trigger is manifested in the very structure of legal language. It occurs when abstract concepts assume the position of an active grammatical subject, starting to "act",

"demand", "prevent", "authorize" or "determine" results. Expressions such as "the rule of law does not allow", "legal certainty requires", "proportionality imposes" or "the constitutional system responds" shift the agency from concrete institutional practices to abstract conceptual entities.

This grammatical agency is not a simple rhetorical resource. It produces a specific ontological effect: it transforms emergent effects of decisions, couplings, and disputes into autonomous causes. Language ceases to describe the functioning of Law and starts to speak *in the name* of Law, as if it were an agent endowed with its own will. What was the result of contingent institutional choices reappears as an objective requirement of the system itself [Austin, 1962; Bourdieu, 1986].

Under the lens of HDS, this trigger indicates the loss of vigilance over flows and interfaces. Instead of locating who decides, through which devices, and with what redistributed costs, the analysis is satisfied with the personification of the concept. The consequence is the opacification of the relational field that sustains institutional persistence.

Colonization of the standard question: when only one question becomes legitimate

The second trigger acts on the methodological level. It occurs when a certain question becomes hegemonic, silently excluding other forms of problematization. In contemporary law, recurrent examples include the almost exclusive centrality of the question "is the measure proportional?", "is there a violation of principle X?" or "was the precedent correctly applied?". When these questions colonize the debate, they cease to be instruments among others and start to define the very field of the thinkable.

Colonization of the standard question does not eliminate conflict; she reorganizes it. Issues related to the material distribution of costs, long-term institutional effects or power asymmetries are displaced outside the legitimate debate. The problem is not that such questions are invalid, but that they become the only authoritative questions. The method starts to define the object, and not the other way around [Foucault, 1975; Kennedy, 1997].

From HDS's perspective, this trigger signals a premature closure of the analytic interfaces. Rather than mapping how an arrangement persists, redistributes stresses, and manages saturation thresholds, the analysis focuses on verifying internal compliance with an already stabilized methodological scheme. The result is the naturalization of the method itself as a requirement of the real.

Inflation of defensive qualifications: when criticism needs to be too justified

The third trigger manifests itself in a more subtle way, but no less relevant. It appears when a critical argument needs to be constantly accompanied by defensive qualifications: "without prejudice to the importance of...", "recognizing the centrality of...", "without denying

the advances brought by...", "despite its fundamental character...". Although prudent at first glance, these formulas may indicate that the criticized concept has already acquired an almost untouchable status.

The inflation of defensive qualifications reveals a discursive field in which certain concepts operate as zones of secular sacredness. Criticizing them directly generates institutional, moral, or symbolic resistance, requiring a series of rhetorical safeguards for the criticism to be accepted. The concept ceases to be a debatable tool and starts to function as an unavoidable normative presupposition [Habermas, 1992; Koselleck, 2006].

In the grammar of HDS, this trigger indicates that the institutional persistence of the concept has already crossed a threshold of symbolic protection. The critique does not threaten only an argument, but the compatibility of the discursive regime that was organized around that concept. The defensive reaction is thus a symptom of ontological saturation.

Triggers as an expression of dissipative surveillance failures

Although distinct, the three triggers share the same underlying logic. All of them signal moments in which relational and contingent effects come to be treated as necessary, finalized or self-explanatory entities. In ontological terms, they indicate failures of vigilance against reification: language personifies, the method colonizes, and justification shields itself.

The connection with HDS is direct, although not explicit in the current legal discourse. Whenever analysis abandons the tracing of flows, the identification of interfaces and the observation of institutional thresholds, space is opened for successful concepts to take the place of the real. Pareidolia does not arise due to individual error, but as a systemic effect of the search for interpretative stability and institutional coordination.

Therefore, triggers do not work as accusations, but as instruments of self-correction. They make it possible to interrupt reasoning at the exact point where the description begins to become an implicit ontology. Its function is not to delegitimize the Law, but to restore to it contingency, historicity and materiality — indispensable conditions so that legal criticism does not itself become a new form of reification.

In the next section, these triggers will be put to the test in concrete analyses, in which traditional reading and HDS-oriented reading will be contrasted to make explicit the analytical gain of a non-reified legal ontology.

5 CASE STUDIES: PAREIDOLIA AND DISSIPATION IN OPERATION

Concrete analyses with a double lens

The following case studies have a precise methodological function. It is not a matter of illustrating abstract concepts, nor of evaluating the normative merit of the institutes

analyzed, but of demonstrating, in operation, how ontological pareidolia is installed and how the reading guided by the HDS allows the analysis to be dislocated without resorting to purposes, essences or personifications of Law.

In each case, the comparison between traditional reading and reading disciplined by HDS makes explicit the analytical gain: what appears as an entity endowed with will, internal coherence and normative direction reappears as a contingent pattern of institutional persistence, sustained by historically situated flows, interfaces and thresholds.

The "Rule of Law": normative entity or pattern of institutional persistence?

In the dominant legal reading, the Rule of Law is usually treated as a normative entity endowed with its own ontological density. It "exists", "protects", "resists", "enters into crisis" or "is threatened", functioning as an implicit subject of numerous judicial decisions and doctrinal analyses. This personification allows concrete political conflicts to be translated as violations or reaffirmations of a supposedly unitary and stable entity [Ferrajoli, 2007; Canotilho, 2003].

Under this pareidolic lens, the Rule of Law operates as the ultimate foundation: it is not explained, but invoked. Its historical persistence is taken as evidence of its normative necessity, and its institutional variations are interpreted as deviations, erosions, or failures to realize a previous ideal. The effect is an analytical closure: discussing *how* the rule of law works gives way to the defense of *what* it should be.

HDS-guided reading radically displaces this framework. The rule of law is no longer treated as an entity and is described as a pattern of institutional persistence, contingent and historically unstable. Its continuity depends on the compatibility between multiple flows — social legitimacy, coercive capacity, bureaucratic adherence, decision-making predictability — modulated by concrete interfaces, such as constitutions, courts, administrative agencies, and procedural routines [Luhmann, 1995; Tilly, 1992].

From this perspective, there is no "essence" of the rule of law to be preserved, but thresholds to be administered. Constitutional crises, states of exception, or institutional erosions are not moral anomalies, but signs of saturation or incompatibility between flows and interfaces. The question is no longer "has the rule of law been violated?" and becomes "what couplings have ceased to sustain its persistence?". The analytical gain is immediate: criticism ceases to operate by sacralization and begins to operate by material description of the operating conditions.

Penal system: from normative finalism to the teleological management of populations

The penal system constitutes one of the most fertile grounds for ontological pareidolia. Traditional discourses attribute clear purposes to it: to punish the guilty, prevent crime,

resocialize the offender, protect society. Even when these purposes are recognized as partially failed, they continue to organize the debate, producing the impression of a system that "does not work as it should", but whose raison d'être remains unquestioned [Beccaria, 1764; Roxin, 2006].

This finalist reading transforms recurrent empirical effects — mass incarceration, penal selectivity, institutional violence — into contingent deviations from a normatively correct model. The penal system appears as a misused instrument, and not as an arrangement whose very persistence depends on the unequal redistribution of social costs.

HDS-guided reading breaks with this scheme. The penal system comes to be described as a device for the teleological management of populations, whose continuity does not depend on the fulfillment of declared purposes, but on the ability to maintain institutional violence within limits compatible with the stability of the political regime [Foucault, 1975; Wacquant, 2009].

Under this lens, mass incarceration is not a functional failure, but a specific mode of dissipative modulation. Certain social groups are treated as manageable costs (over-incarceration), others as functional resources (prison labor, territorial control), and still others as eliminable surplus (selective police lethality). The system persists as long as these flows of violence, exclusion, and control do not cross thresholds of generalized political crisis.

The advantage of this reading is not to moralize less, but to describe better. It allows us to understand why penal reforms oriented towards new ends – more punishment or more guarantees – often produce similar results. The problem is not in the chosen purpose, but in the persistence of institutional interfaces that redistribute costs in a structurally asymmetric way.

Control of constitutionality: a dissipative system of normative conflicts

The control of constitutionality is usually described as a mechanism for protecting the supremacy of the Constitution and the ultimate guarantee of fundamental rights. This narrative attributes to the constitutional court — in the Brazilian case, the Federal Supreme Court — the function of guardian of values, final interpreter of the constitutional text and neutral arbiter of normative conflicts [Barroso, 2012; Alexy, 2008].

This reading, although functionally effective, tends to reify both the Constitution and the Court itself. The court appears as the rational center of the system, and its chronic overload is interpreted as a sign of institutional success, and not as a possible indication of saturation.

The reading guided by the HDS reconstructs the control of constitutionality as a dissipative system of normative conflicts. Constitutional demands, direct actions,

extraordinary appeals, and complaints function as flows that need to be continuously modulated to avoid decision-making collapse. Interfaces such as general repercussion, binding precedents, modulation of effects and procedural filters are not only legal techniques, but devices for controlling institutional load [Sunstein, 2001; Vermeule, 2014].

From this perspective, paradigmatic decisions are no longer seen only as affirmations of constitutional meaning and are understood as operations of redistribution of tensions. The temporal modulation of effects, for example, does not only express normative prudence, but management of political, economic and administrative thresholds. Crises of legitimacy, accusations of activism, or judicial retraction are signs of dissipative adjustments in a system under constant pressure.

Once again, the analytical gain lies in the refusal of personification. The STF does not "decide because it wants to", nor does it "protect the Constitution by essence". It persists as long as it manages to modulate normative conflicts without producing unsustainable systemic incompatibilities. When it fails, it is not because it has betrayed its mission, but because certain flows have exceeded its capacity for institutional absorption.

Together, the three case studies demonstrate that the HDS does not replace traditional legal categories, but reorganizes their ontological status. What previously appeared as a normative entity, purpose or vocation reappears as a contingent pattern of persistence, sustained by material couplings and vulnerable to critical thresholds. It is this change of lens — and not the introduction of new values — that allows legal thought to escape pareidolia without falling into skepticism or naïve functionalism.

6 INSTITUTIONAL CONSEQUENCES: THE COST OF REIFICATION

Ontological pareidolia in Law is not only a theoretical or terminological problem. When successful legal concepts cease to operate as historical mediations and start to function as presupposed entities, the effects are manifested in a concrete way in institutional practice, in the way the legal debate is organized and in the relationship between Law and society. Conceptual reification has cumulative costs, which are not expressed as punctual failures, but as silent transformations in the architecture of legal thought and action.

These costs do not stem from the "misuse" of the concepts, but precisely from their success. The more a category stabilizes decisions, coordinates expectations, and reduces uncertainties, the more likely it is to become opaque to its own contingency. What is lost, then, is not only analytical precision, but institutional capacity for adaptation, criticism and self-correction.

Narrowing of the legal imagination

The first effect of conceptual reification is the progressive narrowing of the legal imagination. When concepts such as the rule of law, legal certainty, proportionality or dignity are treated as ontological realities, the field of the possible is reduced. Institutional alternatives, distinct normative arrangements, or solutions not foreseen by the dominant categories tend to be discarded not because of empirical infeasibility, but because of conceptual inconceivability.

In this context, thinking outside the consecrated repertoire is no longer seen as a critical exercise and is perceived as a threat to the very rationality of Law. Institutional creativity is replaced by internal variations of the same conceptual scheme, and the debate shifts from the invention of solutions to the reaffirmation of already given frameworks. Law becomes capable of responding to problems only to the extent that they fit into previously naturalized categories.

Circular debate and scholastic fragmentation

Conceptual naturalization also produces a specific impoverishment of the legal debate. When reified concepts function as self-evident foundations, controversies cease to question assumptions and start to revolve around internal interpretations, gradations, and exceptions. The debate becomes circular: the scope of the concept is discussed without ever reopening its genesis, its limits or its material effects.

This movement favors the scholastic fragmentation of the legal field. Schools, currents and positions are organized around the defense or criticism of conceptual entities treated as given, producing disputes that are highly sophisticated from a technical point of view, but poor in terms of real institutional impact. Criticism loses transformative power and becomes an internal variation of the same ontological lexicon that it intends to contest.

Opacification of contingency and the political

One of the most profound effects of ontological pareidolia is the opacification of the historical and political contingency of Law. When legal categories are treated as necessary, natural or structural, the decisions that produced them — and the conflicts that sustain them — disappear from the analytical horizon. What was the result of disputes, compromises and asymmetries now appears as an objective requirement of the legal system itself.

This erasure has direct political consequences. Distributive conflicts, institutional choices, and decisions with broad social impact are recoded as inevitable technical or normative problems. Politics is not eliminated, but displaced: it reappears as the administration of the data, and not as a dispute over alternatives. Law, in this sense, contributes to the naturalization of the existing by transforming contingency into necessity.

Practical frustration and diffuse skepticism

The growing distance between the reified legal discourse and the concrete experience of the institutions produces a relevant subjective effect: the practical frustration of the legal operators. Judges, lawyers, defenders and managers realize, on a daily basis, that the available categories often do not account for the complexity of the problems faced. However, since these categories operate as ontological assumptions, the difficulty is not attributed to the conceptual apparatus, but to "reality", "culture" or "inefficiency".

This mismatch feeds a diffuse skepticism. On the one hand, the high rhetoric of principles and guarantees is maintained; on the other hand, it is tacitly accepted that they do little to alter the effective patterns of institutional functioning. The result is not an articulate critique, but a pragmatic resignation: one does "what is possible" within categories that one no longer fully believes in, but that one cannot abandon either.

Extra-legal circulation and institutional fragility

Finally, conceptual reification produces effects beyond the legal field. Naturalized concepts tend to circulate in the public space as simplified normative slogans, used in political, media, and institutional disputes. Expressions such as "defense of the rule of law", "threat to legal certainty" or "respect for the Constitution" start to operate as identity markers, often disconnected from the concrete analysis of practices and provisions.

Paradoxically, this circulation increases institutional fragility. The more concepts are mobilized as abstract entities, the less capable they become of sustaining minimal consensus when confronted with real crises. In contexts of acute tension, the invocation of reified entities does not stabilize the system; on the contrary, it exposes its inability to respond materially to emerging incompatibilities. What is presented as the ultimate foundation is then revealed as empty rhetoric.

Taken together, these consequences show that ontological pareidolia is not a peripheral problem, but a structural risk of the conceptual success of Law itself. By transforming analytical tools into presupposed realities, the legal field reduces its capacity for imagination, impoverishes its debate, hides its political contingency, produces practical frustration and weakens its relationship with the public space.

It is precisely in this context that a systematic practice of ontological surveillance becomes necessary. Not to abandon the central concepts of Law, but to prevent its success from turning into blindness. The following section proposes, in this sense, an applied tool — the PARC-Jus — anchored in the minimum ontology of the Safe Dissipation Hypothesis, as an attempt to institutionalize this surveillance within the legal practice itself.

7 PRACTICAL PROPOSAL: PARC-JUS AS A SURVEILLANCE TOOL

If ontological pareidolia is a structural risk of the conceptual success of Law, and if HDS offers a minimum ontology capable of containing this risk, a decisive problem remains: how to translate this ontological discipline into everyday analytical practice? Conceptual vigilance cannot depend only on individual critical disposition or ex post reflections; It needs operational instruments that make it possible to interrupt, in the course of analysis, the slide from description to reification.

This is where PARC-Jus comes in. More than an interpretative method or technique, PARC-Jus functions as an ontological self-correction protocol, intended to maintain legal concepts in their instrumental and contingent status. Its objective is not to produce correct answers, but to create conditions so that legal analysis does not naturalize its own assumptions.

PARC-Jus revisited: ontological foundation

PARC-Jus was originally born as a diagnostic device aimed at identifying conceptual pareidolias in legal discourse. In the light of HDS, it can be reinterpreted in a more profound way: not only as a critical tool, but as an applied expression of an ontology of unreified persistence.

Its central function is to block three recurring movements:

1) the transformation of institutional effects into ontological causes;
2) the conversion of methods into demands of the real;
3) the symbolic shielding of successful concepts.

Anchored in HDS, PARC-Jus assumes a simple and demanding premise: no legal concept should operate as a final explanatory entity. Whenever a category seems to "solve" the problem for itself, the protocol is triggered to reopen the analysis in terms of flows, interfaces, costs, and thresholds.

In this sense, PARC-Jus does not replace dogmatics, hermeneutics or legal sociology. It acts transversally to them, functioning as a layer of ontological surveillance that prevents any of these approaches from crystallizing into implicit ontology.

Application steps with anchoring in HDS

The application of PARC-Jus can be described as a sequence of analytic movements, not rigidly linear, but logically chained.

The first movement consists of suspending conceptual evidence. Faced with a legal argument that invokes central categories – the rule of law, dignity, legal certainty, proportionality, public interest – the protocol requires that reasoning be interrupted before

automatic adhesion. The question is not whether the concept is valid, but whether it is being treated as a tool or as a reality.

The second movement is relational reconstruction. Instead of accepting the concept as a cause, the analysis is led back to the practices and devices that sustain it. What decisions, routines, institutions, and couplings produce the effect that the concept names? What flows are being modulated? What interfaces make this modulation possible? Here, the HDS ontology operates silently: the concept is only maintained if it can be reconnected to concrete institutional processes.

The third movement is the identification of redistributed costs. All conceptual stabilization dissipates conflicts at the cost of displacing them. PARC-Jus requires that it be made explicit who absorbs these costs — in terms of time, resources, exposure to coercion, exclusion, or vulnerability — and who benefits from stabilization. This step prevents institutional persistence from being confused with normative legitimacy.

The fourth movement is the evaluation of thresholds and incompatibilities. The analysis asks whether the conceptual arrangement in question remains compatible with the institutional field that sustains it or whether there are signs of saturation: excessive judicialization, decision-making overload, loss of social adherence, crises of legitimacy. The concept is no longer a criterion of correction and becomes an indicator of tension.

These movements do not produce a ready-made normative response. Its effect is different: to reopen the field of the thinkable, returning contingency to what had become naturalized.

Examples of integrated analysis

Applied to the cases discussed in this chapter, the functioning of PARC-Jus becomes clearer.

In the case of the Rule of Law, the protocol prevents the category from functioning as an abstract moral subject. Instead of asking whether a given decision "defends" or "threatens" the rule of law, the analysis is redirected to the institutional couplings that produce predictability, control, and adherence. The concept remains useful, but loses its ontological aura.

In the penal system, PARC-Jus blocks finalist explanations. Discourses on punishment, prevention, or resocialization are suspended in favor of the analysis of how the system redistributes violence, exclusion, and control of populations. Criticism ceases to oscillate between moralism and cynicism and starts to operate in terms of institutional persistence and social costs.

In the control of constitutionality, the protocol denaturalizes both the Constitution and the Court. Instead of treating decisions as an expression of ultimate constitutional meaning, the analysis focuses on load modulation devices, procedural filters, and temporal adjustments that allow the system to absorb normative conflicts without collapsing.

In all these cases, the gain is not to replace traditional concepts, but to reorganize their ontological status. PARC-Jus, anchored in HDS, functions as an epistemological brake: it prevents conceptual success from becoming an analytical destiny.

By institutionalizing an ontological surveillance practice, PARC-Jus responds directly to the problem that motivated this chapter. It offers a way of operating critically within the Law, without resorting to normative transcendences or skeptical reductions. Its commitment is not to permanent deconstruction, but to the maintenance of the provisional, historical and contestable character of legal categories.

With this, the chapter approaches its conclusion: it is not enough to identify ontological pareidolia; It is necessary to create conditions so that legal thought does not produce it again in new forms. Conceptual surveillance, when anchored in a minimal and self-limiting ontology, ceases to be an exceptional gesture and can become a collective practice.

8 ALEXY'S PRINCIPLED WEIGHTING AND THE TENUOUS DISTINCTION BETWEEN THEORY AS A LENS OR TRANSPARENCY AND THE CURRENT CONFUSION WITH THE SUB OCULI OBJECT ITSELF

Not only in the field of the sciences of *physis* (exact, natural and biological), but also in the field of the sciences of *the nomos* (social, cultural and contemporary), what we could abbreviate (and only for the purposes of primary understanding) persists as the author's 'passion' (in the proper sense of *pathos*) for the theory he constructs or even of the cultivators of science (those who make use of the theories), so that, not infrequently, the theory and the object of study itself are confused.

At this level, it is intended to center the analysis on Robert Alexy, with his theory of the weighing of principles and that, as a result, principles would be relativable, colliding when faced with a concrete case, so that – in the face of a dimension of weight and importance – greater value should be attributed to one of them (in the concrete case, as already mentioned) (ALEXY, 1993).

Post-positivism (as a school and philosophical current) and neo-constitutionalism (as a movement) in which Alexy's thought is inserted, cannot be understood as unitary currents, but as great theoretical labels, which harbor conceptions that are more often than not heterogeneous, and even, at times, contradictory to each other (SARMENTO, 2009). An

indistinct criticism of these movements would run the risk of reaching imprecise targets, which is why we choose, then, to concentrate the present analysis on the theoretical strand of Robert Alexy, considered emblematic of the conceptual and practical problems that it is intended to highlight: to what extent is the theoretical lens raised by Alexy confused with the very principled object that he intends to discern? In the well-known clash between Ronald Dworkin and Herbert Hart, Dworkin launched a general attack on positivism (DWORKIN, 2002). Here a systematic attack on post-positivism is proposed, especially in its Alexian formulation that principles are relative and collide when faced with the concrete case – and more specifically, unveiling an ontological pareidolia, which is embodied in this confusion that occurs between method and object or between theoretical shield and object.

The structuring axis of the criticism raised here is the notion of principle. The contemporary debate on legal principles has been conducted in an uncritical manner and, in many cases, inattentive to the most elementary meaning of the term. Recovering its etymology and its use in the philosophical tradition, especially among the pre-Socratics, the principle goes back to the *arkhé,* which, for the pre-Socratics, designates that which inaugurates, founds, orders and confers unity to a system (REALE, 1999; GHIRALDELLI, 2007). Principles, in this sense, are not accessory, instrumental or contingent elements, but the foundations that sustain the identity and coherence of any system of knowledge, including the legal one.

From this understanding, the notion of principle is inseparably linked to the idea of system (FERRAZ JR., 1976). A system only exists as such because it has structuring elements that guarantee its unity and permanence, even in the face of historical transformations. Change, far from signifying a total rupture, always presupposes something that remains, under penalty of the object ceasing to be entirely what it was and becoming non-being, in the terms of the paradox of Ulysses' boat. It is exactly this element that subsists in *becoming*. Thus, to admit that principles can be relativized, displaced or treated as common norms would mean to erode the very foundations of the legal system, putting at risk its continuity and identity, since principles are presented as the foundation, the basis, the foundation, the founding nucleus.

The traditional (and sustained by modernity) opposition between *physis* and *nomos*, often associated with the distinction between natural sciences and cultural sciences, as an absolute split is untenable. Even in the exact, biological and natural sciences, there are conventional components and human constructions, such as measurement scales, in physics and numerals in mathematics (cultural elements, created by the human being, in sciences where discovery predominates). Conversely, in the human sciences — and in Law in

particular — there are elements that are not created by human will, but discovered historically (DWORKIN, 1999; CANOTILHO, 2000). It is in this space that the legal principles and, especially, the so-called fundamental rights are inserted.

Fundamental rights are not products of legislative activity, but historical discoveries recognized over time – to support this premise the text of the great declarations and bills of rights, in which the legislator does not dare to use the term "equality or freedom or dignity" is now created, but rather recognizes that it exists and that they must be protected and safeguarded. Historicity, a characteristic that marks Human and Fundamental Rights, does not mean absolute contingency, but a process of gradual revelation of values and normative structures that concern the human condition itself – historical discoveries and not historical creations. When constitutional texts claim to "recognize" rights, and not create them, they highlight this dimension discovered — and not created — of fundamental principles (BONAVIDES, 2003). For this reason, principles belong more to the pole of *physis* than to that of *nomos*, even if they are expressed juridically through positive and, as a rule, written norms.

Revisiting the historical clash between natural law and positivism, as a thesis and antithesis, it cannot be denied that positivism has consolidated itself as the dominant paradigm, for pragmatic reasons (the fair is not very technical and even subjective, while the legal is more measurable and scientifically viable. Even in the context of the positivist tradition, the logical precedence of principles in relation to norms has always been recognized. Now, principle means beginning and beginning, so it precedes norm. The central problem of positivism, however, was to restrict legality to the established norms, relegating the principles to a secondary, merely interpretative or integrative role, activated only in situations of normative gap (KELSEN, 1998). By defending the primacy of the law (rule), principle as an element that precedes it loses strength, is not a norm and, therefore, has no cogency.

Strictly speaking, among the many strands of positivism, there remains the common element that Law boils down to the norm. And this limitation opened space for judicial discretion. See, when there are legal gaps, factual situations in which there is no law that can be applied, positivism points out as a solution: analogy, customs and general principles of Law, in this sequence (BRASIL, LINDB, art. 4). Principle, in the positivist sphere, should only be used as a last resort. A principle that, in theory and by virtue of etymology, has primacy, comes first, is only in fact used as a last resort, when there is no longer a norm, when analogy or custom do not resolve the legal conflict. What to say when neither analogy, nor customs,

nor principles offered a clear solution? The positivist answer is discretion: that the judge decides without any ballast or support or guideline, freely and with absolute power.

It is precisely to face this problem that post-positivism arises, with the promise of conferring greater normative force to the principles and, simultaneously, reducing the judge's margin of discretion. Both Dworkin and Alexy are labeled post-positivists and neo-constitutionalists, but the solutions proposed by both follow profoundly different paths.

Ronald Dworkin rejects judicial discretion in a strong sense and maintains that Law, understood as an integral and coherent system, always offers a correct answer to difficult cases. This answer does not emerge from the subjective will of the judge, but from the systematic interpretation of the legal system, guided by principles endowed with binding force. The legitimate decision, for Dworkin, is the one capable of justifying itself before the legal and political community as a whole, guaranteeing social pacification and conviction that all possible means were used to solve the collision between principles, preserving the integrity of the system and avoiding the arbitrary innovation of the Law. In the construction of the concrete case, Dworkin proposes, as a method, unity, integrity and chain romance (DWORKIN, 2002). Unity would be for the judge to get out of the hot seat, admit that he cannot simply incur in the rationalizing vice (STRECK, 2000) and pre-judge, imposing on that side that he subjectively disagrees the defeat in the lawsuit. Integrity would involve the judge's duty to analyze, in a totalizing way, jurisprudence, ordinary legislation and the Constitution, so as not to prioritize understandings that only confirm the position that he – the judge – subjectively already has. In a chain novel, the judge would necessarily have to listen, to call to manifest himself within the process, social sectors that can contribute with positions for and against the object under analysis in the trial (DWORKIN, 2002).

Robert Alexy, in turn, proposes a solution of a different nature. In part, it finds an elegant solution to the problem that principles at the same time collide and are the foundation of the system. The collision could jeopardize the support of the entire Legal System. For him, principles are mandates of optimization and *prima facie reasons*, whose application depends on the circumstances of the specific case. Prima facie reasons inform that principles only collide when faced with the concrete case (ALEXY, 1993). Metaphorically, it would be to say that, if we consider as pieces of a chess game, principles in the game box, in the Constitution, abstractly considered, do not collide (they would all be equal and on the same level, serving as a support and foundation for the Order),

The collision between principles is not resolved by exclusion, but by weighting, and it is up to the judge to determine which principle should prevail and to what extent, but always and only in the face of the concrete case. The concrete case would be the chess game, where

one piece can defeat the other. Returning to the constitution box, all would be equal and, there, none could collide with another.

Although this proposal is presented as a rational decision-making technique, it significantly expands judicial discretion, by not providing objective or scientific criteria capable of guiding or controlling the choice made by the judge (OLIVEIRA, 2007). Who says which principle wins the collision in the concrete case? The judge. And with what ballast? None. Here is the obvious problem,

Balancing, as conceived by Alexy, transfers to the judge the power to define the relative weight of the conflicting principles, shielding himself in the generic idea that the concrete case will provide the appropriate answer. This decision-making openness weakens legal certainty and allows decisions to be rationalized *a posteriori* and based on previously formed convictions. Instead of reducing uncertainty, the theory of weighting institutionalizes it, making the protection of principled rights dependent on the subjectivity of the interpreter-judge (STRECK, 2006).

The criticism raised here finds its nodal point when faced with Alexy's treatment of the Dignity of the Human Person. By admitting that dignity, under certain conditions, prevails practically absolutely over other principles, Alexyan theory comes into tension with its own premise of relativization and optimizability of principles (ALEXY, 1993. In addition, the oscillation between treating dignity sometimes as a principle, sometimes as a rule, reveals a conceptual inconsistency that compromises the internal coherence of the model. In other words, in order to be sustained, Alexy's theory must absolutely sustain that principles are relative, that is, without exception, but it is faced with an unquestionable obstacle that the Dignity of the Human Person prevails over all other principles and this is far from the context of concrete cases, but in the abstract. Even in the constitution box, the dignity piece of the game has supremacy over all the others. And here we come to the crucial point of this analysis: in order to save his theory, Alexy chooses to maintain that what tends to be absolute is dignity as a rule and not as a principle – a situation that evidences the thesis now raised that an ontological pareidolia is evidenced there.

In another turn, post-positivism, especially in its Alexian version, it is argued, does not represent a true overcoming of positivism, but a reformulation of its central assumptions. By insisting that only what is regulated is part of the Law, post-positivism reinforces the positivist core that it intended to overcome. The simple classification of principles as species of the norm genus does not, by itself, confer on them greater normative force or concrete applicability, revealing itself to be a more rhetorical than effectively transformative operation. Principles would only have force (cogency) because they are framed by post-positivism as a

norm. But the motto that only what is the norm belongs to the Law is positivist – a coat of arms that post-positivism does not overcome, but rather embraces it.

9 CONCLUSION — TOWARDS A VIGILANT LEGAL CULTURE

This chapter started from a seemingly simple but structural paradox: the fact that the most successful legal concepts tend to become invisible as concepts. By stabilizing expectations, coordinating practices, and reducing uncertainties, they cross a critical threshold at which they cease to operate as analytical instruments and begin to function as presupposed reality. It is this silent displacement — from mediation to ontology — that has been called ontological pareidolia in Law.

Throughout the text, it has been shown that this phenomenon does not result from individual error, bad faith or specific theoretical deficit. It is a structural effect of one's own conceptual success in highly institutionalized legal systems. Concepts emerge to solve problems; they are incorporated into decision-making routines; and, once naturalized, they begin to define the horizon of the thinkable. The result is a Law that continues to operate with high technical efficiency, but with increasingly reduced ontological surveillance.

The answer to this diagnosis cannot be the simple denunciation of reification. Criticism that limits itself to revealing the constructed character of concepts runs the risk of remaining dependent on the same inflated ontologies that it intends to contest, or of sliding into a skepticism incapable of guiding institutional analysis. It was to escape this impasse that the chapter proposed HDS as a disciplined ontological antidote.

The central contribution of the HDS, as mobilized here, is not to offer a new theory of law, nor to replace consolidated dogmatic vocabularies. Its role is more restricted – and precisely for this reason more robust: to provide a minimal, relational and procedural ontology, capable of describing the persistence of legal arrangements without attributing to them a purpose, essence or historical necessity. By shifting the question from "what is this for?" to "how does it persist – and at what cost?", HDS allows Law to be analyzed as a contingent institutional practice, sustained by historically situated flows, interfaces, and thresholds.

This ontological displacement does not delegitimize Law or empty its normativity. On the contrary, it gives it back material density and historicity. Norms, principles and institutions continue to operate, but they no longer take the place of reality. They become what they have always been—though often forgotten as such: interim tools for managing conflicts, expectations, and social risks.

The PARC-Jus proposal, presented as an instrument of conceptual surveillance, translates this minimum ontology into analytical practice. By allowing the identification in real

time of reification triggers, the protocol creates conditions for jurists, researchers, and operators to interrupt reasoning exactly at the point when the description begins to become an implicit ontology. Its value lies not in producing correct answers, but in preserving the openness of the analytic field.

With this, the chapter advances a thesis that is, at the same time, modest and demanding: contemporary legal thought does not need more concepts, principles or totalizing theories. It needs a vigilant legal culture, capable of recognizing when its own instruments begin to behave as autonomous entities, shielded from criticism and historicization.

This vigilance cannot be individualized or heroic. It depends on collective practices: in research, in teaching, in judicial decision-making, in legislative elaboration. It demands that established concepts can be questioned without this being interpreted as an institutional threat; that dominant methods can be relativized without delegitimizing the field; and that ontological critique be recognized as a condition of theoretical maturity, and not as a destructive gesture.

Finally, thinking about Law from the HDS implies assuming a less comfortable, but more honest, image of legal practice. Law does not appear as a progressive realization of universal values, nor as a neutral machine for the application of norms, but as a historical practice of responsible persistence. It persists as long as it manages to redistribute conflicts without collapsing; protects while being able to modulate risks without saturating; it legitimizes itself as long as it manages to absorb tensions without losing social adherence.

Recognizing this condition does not weaken the Law. On the contrary, it makes visible their limits, their costs and their choices. And it is precisely this visibility — not the belief in essences or purposes — that constitutes the most fertile soil for effective, responsible, and intellectually honest legal criticism.

Closing this chapter, therefore, does not mean closing the problem of ontological pareidolia, but making explicit a commitment: to keep concepts in motion, to prevent success from becoming destiny and to sustain, within Law itself, an ontology sufficiently austere not to become another conceptual idol.

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APPENDICES

A. HDS-Jur Glossary

This glossary has no definitional function in the classical sense. Its objective is to establish limits of use, preventing the conversion of the concepts of the Safe Dissipation Hypothesis into new ontological entities in the legal field. Each entry should be read as a provisional tool, not as a dogmatic category.

Ontological pareidolia (in Law)

Process by which historically situated legal constructs come to be treated as entities endowed with their own existence, internal necessity or causal agency. This is not a one-off conceptual error, but a systemic effect of the institutional success of certain categories.

Institutional persistence

The ability of a legal arrangement (norms, courts, decision-making practices) to continue operating over time, managing conflicts and expectations without producing immediate collapse. It does not imply legitimacy, justice or intrinsic rationality.

Dissipation (legal)

Redistribution of normative conflicts, social tensions and political risks in time, space and between different groups, through decisions, procedures and institutional devices. To decide is always to redistribute, never to eliminate conflict.

Dissipative compatibility

A condition under which a legal arrangement can persist because the costs it redistributes remain below critical thresholds of institutional crisis, loss of adhesion or political rupture.

Legal flows

Circulations that cross the legal field: demands, appeals, decisions, expectations, symbolic legitimacy, material coercion, public attention. They are not abstract: they are always anchored in concrete practices and devices.

Institutional interfaces

Devices that modulate legal flows: courts, procedures, appeal filters, laws, bureaucracies, deadlines, rites, competences. Interfaces do not resolve conflicts; regulate its passage.

Institutional threshold

A critical point from which the redistribution of conflicts ceases to be absorbed and starts to produce saturation, crisis of legitimacy or functional disorganization. Threshold is not collapse; it is a sign of his approach.

Teleological management

Administration of conflicts and lives without immanent normative purpose. Management occurs as a function of the persistence of the arrangement, not the realization of declared values, even if these accompany the justificatory discourse.

Ontological surveillance

Continuous reflective practice that prevents concepts, methods or analytical categories from becoming non-thematized ontological assumptions.

B. Checklist for the use of HDS in Law

This checklist is not meant to "apply" the HDS as a general explanatory theory, but to audit the use of ontology in concrete legal analyses.

Before the analysis

☐ Is the object being treated as an entity ("the Law", "the system", "the State") or as a situated institutional arrangement?

☐ Is there any implicit purpose being attributed to the phenomenon analyzed?

During the analysis

☐ Were the relevant flows made explicit (decision-making, symbolic, material)?

☐ Have concrete institutional interfaces been identified?

☐ Is there explicit recognition of cost redistribution (who wins, who absorbs, who bears)?

☐ Is some concept being used as an explanatory cause rather than a relational effect?

Risk Alerts

☐ Do concepts appear as active grammatical subjects?

☐ Did a specific method colonize the problem before the description?

☐ Does criticism require excessive defensive qualifications?

After the analysis

☐ Does the text avoid concluding with implicit justification of the existing?

☐ Is there a clear distinction between description of persistence and normative evaluation?

☐ Has the very use of HDS been maintained as a tool, not as a totalizing ontology?

C. Cases for analysis

The following cases are suggestions for pedagogical and analytical use of the protocol. They do not aim to produce "correct answers", but to exercise ontological vigilance.

Case 1 — Legal certainty and public policy review

- Traditional question: "Does the review violate legal certainty?"

- HDS Question: "What flows were stabilized before, and what costs are being redistributed now?"

Case 2 — Over-incarceration and penal reforms

- Traditional question: "Does politics fulfill its purpose?"
- HDS Question: "What thresholds of institutional violence are being administered, and to whom?"

Case 3 — Judicial activism in the Supreme Court

- Traditional question: "Has the court overstepped its role?"
- HDS Question: "What normative and political pressures are being dissipated via decision?"

Common methodological guide

1. Describe the arrangement without assigning purpose.
2. Map flows and interfaces.
3. Identify cost redistribution.
4. Find possible thresholds.
5. Only then, if desired, introduce normative (explicitly separate) assessment.