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A pleasure to talk as always

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Before offering my commentary, I wish to warmly congratulate the Postgraduate Program in Social Anthropology of the University of Brasília (PPGAS-UnB) and *Anuário Antropológico* (AA), along with everyone who has contributed over the last 50 years to the excellence of both the academic centre and the publication, which have become reference points not just for Brazilian anthropology.

Luis Roberto Cardoso de Oliveira is without doubt one of the most prominent teachers and researchers in this enterprise, contributing, at UnB and far beyond, to seeding debates, research groups and networks that fertilised what today is a vibrant Anthropology of Law in Brazil. One example of his many collaborative relations is the partnership that we have cultivated for years, whether in diverse activities like those of the Brazilian Anthropology Meetings (RBA), the Mercosul Anthropology Meetings (RAM) and the Annual Encounters of the National Association of Postgraduate Studies and Research in Social Sciences (ANPOCS), or specifically at the National Encounters of the Anthropology of Law (ENADIR), coordinated by myself¹. His ideas and his work, therefore, have inspired not just his close circle of interlocutors but all those who produce research and analyses on law, ethics, morality and conflict management.

I am most grateful to PPGAS at UnB, AA and Luis for the honour of inviting me to read and comment on his text – a task as daunting as I imagine it was for him to summarize decades of dense studies, reflections and publications in just a few pages.

The comments that I shall make here are, for me, first and foremost another opportunity to dialogue, exchange ideas and interact with Luis, since, as the reader will observe, I imagined us having a conversation – just like the many others we have had in the past – in which I shall certainly learn much from his replies.

If Luis and I were sat down calmly at a bar table or in a restaurant, after a day of intense programming at some academic event, I would tell him that what most bothered me about the text was the order in which certain paragraphs or even items are placed. I would ask why he began the text with a paragraph citing three of the most classic and complex philosophers to have worked on the relations and frictions between moralities, discourses, norms and values, rather than initially approaching this question, just as poignant and central to the Anthropology of Law, from anthropologists like the classic Marcel Mauss, mentioned in the second paragraph and some other passages, or sociologists like Boltanski and Thévenot, cited in the third paragraph?

A little more radically – though acutely aware just how disconcerting it can be to hear from someone else that the sequence in which we chose to develop our ideas could have been otherwise – I would remark, in collegial fashion as always, that if the order of the items were switched and the sequence became IV, III, II, Conclusion, I, finishing with the first three paragraphs, in my view the text would be more seductive, especially since the reading public will probably be composed more by anthropologists interested in philosophical-moral-ethical-legal questions than by philosophers motivated by anthropological-moral-ethical-legal issues.

If it was up to me, for example, to select a passage to open the text, I would

1 Of the seven editions of ENADIR – <https://enadir2021.blogspot.com/p/apresentacao.html> – held biannually since 2009 by the Nucleus of the Anthropology of Law of the University of São Paulo (NADIR-USP – <https://enadir2021.blogspot.com/p/nadir.html>), Luís only missed participating in the fifth, in 2017. At the others, as he customarily does at all the academic events in which he participates, he involves himself not just with his own activities, but he was present in most of the others, accompanying and commenting on works by supervisees, students and colleagues from many different institutions.

choose the phrase that begins the first paragraph of item IV: “(...) the importance of ethical-moral rights in conflict management extends well beyond what happens in the judicial sphere or in demands for the recognition of diverse minority groups.” From there I would move directly to anthropological-legal approaches referring to this problematic in Brazil, highlighting the indispensable contributions of DaMatta, Kant de Lima and the generations of researchers who they trained. Based on Luis’s own reflections, I would explore just how powerful were and remain comparative approaches to different models of conflict management (items III and II). Finally, I believe that more wide-ranging and interdisciplinary reflections (Conclusion, Item I and the opening remarks) would acquire more argumentative force if, articulated with each other, they concluded the text. Moreover, the initial mention of the three philosophers and the tensions between them, in my view, deserve to be reprised in a closing section.

I may be mistaken but, as an anthropologist of law, trained in both areas but with a strong anthropological accent and who only very timidly risks incursions into the jargon of the philosophy of law, I find it more alluring when interdisciplinary-polyglot incursions come after earlier conversations in the native tongue (“anthropologuese”, in this case).

Were this hypothetical and casual conversation to continue – after what, I imagine, would be a lively and lengthy debate about my first comment – another remark I would make would concern the well summarized and articulated conclusions referring to the important studies that Luis developed in the United States, Quebec and Brazil. Here I would point to the absence of something extremely important to anthropologists: at least one ethnographic case, from each country, but densely reworked to contextualize more clearly not just the fieldwork involved but also the conclusions that could be reached through this in situ research.

I know that the proposal of the “PPGAS 50 Years section” of AA is to provide space for syntheses and critical reflections on the contributions of researchers from PPGAS-UnB, which explains the page limit and the absence of in-depth material on what Luis has already explored in much detail in other publications – incidentally, amply cited, enabling those who do not know these works to locate them. But, for example, at the end of item I, after the important observation that “it should not be supposed that demands for recognition or observation of ethical-moral rights, when well-founded, will also prove successful in the respective political or judicial processes” and that

[f]urthermore, we should not forget that, when poorly managed, conflicts motivated by violations of ethical-moral rights can move to the criminal courts, as in the case involving Anselmo, Natalício and Denílson in a court in Gama (DF), described by Gomes de Oliveira (2005: 90) and re-examined in my article on the relationship between violence and moral aggression (Cardoso de Oliveira 2008, 140–1).

I wanted to know what happened in this case and how it was re-examined

and analysed. Nonetheless, I recognize that Luis is responding to the proposal to condense and highlight results from his projects and lines of research at PPGAS, producing a kind of reading guide, both of works that were and are reference points in the field of the Anthropology of Law, and those that he himself produced and have become compulsory reading.

Finally and still thinking about how central it is for anthropology to think with and through ethnographies, since, as Mariza Peirano (2014, 383) put it so well, “ethnography is not method” because “every ethnography is also theory”, reiterate that, through the ethnographic cases cited, I would like to have accompanied in more detail movements and potential ethical dilemmas that Luis may have faced between “being there” and “being here” (Geertz 1998), not just in terms of ethnographic writing during and after each period of fieldwork, but in terms of theoretical constructs in dialogue with the viewpoints of the research participants. My final and perhaps least pertinent comment, since it is more tangential to the text in question here, concerns the ethical-moral dimension of conflicts during anthropological fieldwork.

Given that Luis has also produced important reflections on ethics in anthropological research, as well as on the challenges involved in their regulation in Brazil and in other countries (Cardoso de Oliveira 2004, 2010), and also that has not shied away from tackling the theme in his ethnographies², one potential line of inquiry I believe, based on the text on which I am commenting, concerns just how little we have analysed the perceptions of morality, ethics and rights that surface when conflicts occur between researchers and participants during or after fieldwork, which, very often, end up being managed either within postgraduate programs or by university ethics bodies or by a Research Ethics Committee (REC) belonging to the system formed by the National Research Ethics Commission (CONEP), the National Health Council (CNS) and their respective forms, reports, deadlines and resolutions.

In other words, I should like to know what analyses Luis would make, based on those ethnographic cases of which he has direct or indirect experience, in which anthropologists and research participants, related in more or less symmetric or asymmetric form, became embroiled in conflicts. I am thinking both of situations in which a greater proximity, identification or feeling of egalitarianism between anthropologists and interlocutors generates demands from the research participants, and those cases in which distances exist and in which expectations are cultivated among the participants for retributions in exchange for data given, received but not repaid.

Can the contrasts observed and analysed by Luis in relation, for instance, to the emphasis on the respect for the rights of the individual in the United States and the concern for the consideration of person in Brazil also be observed in conflictual relations between anthropologists and their interlocutors in the two countries? Does the same apply in relation to the demands for recognition in Quebec and in Brazil? Are there distinct effects in terms of the importance of observing the singular value of interlocutors in public space in the two contexts?

2 In his doctoral thesis, for example, Luis explains and reflects on the ethnographic strategy of taking on the roles of lay advisor to a small claims court in the United States and of an arbitrator at different moments of the research, without declaring, however, that he was researcher, since all the advisors and mediators were voluntary and thus performed other professional activities that they did not declare in the mediation or advice sessions (Cardoso de Oliveira 2010, 21–31).

What ethical-moral conflicts have occurred between research participants and anthropologists in Brazil since the publication of the Anthropologist's Ethical Code by the Brazilian Anthropology Association (ABA)³ and, especially, since CNS passed Resolution 510/2016?⁴ And what can these conflicts tell us about a country in which, on one hand, the institutions of the justice system (criminal justice in particular) continue to singularize more to exclude than include and equalize, but, on the other hand, for decades a vigorous anthropology has studied and expressed solidarity much more with excluded and vulnerable groups than with "those above" (Nader 2020)? A country in which higher education institutions, principally public, thanks to the adoption of affirmative action policies, are training more and more anthropologists from historically excluded and vulnerabilized groups?

In sum, just like in "live" conversations, this one would simply continue were it not for externally imposed limits since there are many topics that we share in common and that, with each reading of a new text by Luis, merit lengthy and pleasurable exchanges of ideas. I hope that my comments-reflections, beyond his response, in this section of AA, allow us to remain good partners for a long time.

3 Created during ABA's 1986/1988 administration and altered under the 2011/2012 administration, this text stipulates 7 "rights of anthropologists as researchers", 7 "rights of the populations under study to be respected by anthropologists" and 3 "responsibilities of anthropologists". <https://www.portal.abant.org.br/codigo-de-etica/>

4 This is the text that, in the context of the CEP-CONEP system, as set out in Article 1, "establishes the norms applicable to research in the Human and Social Sciences whose methodological procedures involve the use of data directly obtained from participants or identifiable information or any information that may pose greater risks than those existing in everyday life". <http://conselho.saude.gov.br/resolucoes/2016/Reso510.pdf>

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