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Maria Tereza Fonseca Dias

How Researches are done in the Law Field? Reflections from the Study of Monographs of Law Courses in Brazil

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Edited by:
Goethe University Frankfurt am Main
Department of Law
Grüneburgplatz 1
60629 Frankfurt am Main
Tel.: [+49] (0)69 - 798 34341
Fax: [+49] (0)69 - 798 34523

Maria Tereza Fonseca Dias, Belo Horizonte/ Brazil[*]

How researches are done in the Law field?
Reflections from the study of monographs of Law courses in Brazil

Abstract: In order to understand the impact of new technologies on the law through the science of law, it is essential to observe how Law researches are done. This paper pursues the following models of legal science: analytical (theory of formal rule); hermeneutics (interpretation theory) and empirical (decision theory) to appraise methodological procedures used in monograph researches in some Brazilian Law courses. This study was to detect which model of law science was used in the development of Law researches. The study was conducted, through Juris Doctors' interviews. All of these respondents have written a monograph, which is a requirement to complete a Law course in Brazil. The main conclusions of this study were the following: 1) most of the monographs produced do not specify the methodology used for developing the work; 2) when the papers indicate the methodology used, the analytical model was prevalent. In these cases, the science of law appears as a systematization of rules for obtaining possible decisions. 3) Hermeneutic and empirical models were also used, but on a smaller scale. These researches revealed the inaccuracy of the methodological tools used to apprehend the reality. However, these strategies are significant to define the objects of study of law in the contemporary time. Answering the question about how Law researches are done in some Brazilian Law schools, this paper discusses the construction of classical models of science of law, which were taken as the theoretical framework of this work before the hypercomplex current problems.
Keywords: Theoretical models of Law Science: Empirical model, Hermeneutic model, Analytical model, Methodological aspects in the law research, Monographs of Law students, Brazilian Law courses

I. Theoretical and methodological introduction

This study sought to understand how researches are done at Brazilian Law schools through the investigation about the elaboration of Monographs of Law students. For this purpose, 143 Law students enrolled in the eighth semester, but in four different classes at the same University named Universidade Fundação Mineira de Cultura (FUMEC) in the city of Belo Horizonte, Brazil, developed, in 2009, a practical activity interviewing several Juris Doctors (J.D.) about this theme: "The Law science models used in the development of legal

[*] Public Law Professor at Fumec University and Minas Gerais Federal University, Lawyer and Special Advisor. Productivity Professorship from Brazilian Council for Scientific and Technological Development.

research."[1]: In order to be interviewed, Juris Doctors should have done a monograph, or a specialization or a paper[2]. The questions asked during the interviews considered the following issues: 1) What was your monograph theme? 2) How was your research developed in order to elaborate your monograph? 3) What was your research's main purpose?

The collected data were analyzed from theoretical perspective of law science models developed by Tercio Sampaio Ferraz Junior (1980), as followed: analytical model, hermeneutic and empirical. They were developed in this work in section four.

Respondents' profile would also be analyzed from the following information: position/function the professional currently performs, age, gender, year of graduation and if their Law schools were private or public. The analysis of these respondents' characteristics sought to assess whether some of them would interfere in the way Law researches are developed in these schools in Brazil.

At the end of this research, students should be able to say how the answers given by respondents could be classified and interpreted through the Law Science theoretical models they have chosen to development their monographs and whether the respondent's profile affected or not the classifications given in the interviews.

From these collected data, and the discussions carried out by students at that time, this article has made a compilation of answers to achieve other considerations beyond those proposed by students, particularly to investigate how Law researches are done in Brazil, and through these results, the role of the research methodology for the development of these papers.

II. Profiles of respondents

A total of 313 Juris Doctors, who have done their monographs, were interviewed. We researched their profile, characteristics position/function performed by them, age, gender, year of graduation and if the Juris Doctor's school was a private or public one. Regarding to their position/role performed currently, respondents are mostly lawyers (54.96%), followed by the category of public servants (25.56%). See data from Table 1[3]. Together, the two major functions make up over 80% of the total respondent number.

[1] The work of the four student group was excluded from this analysis because they did not meet any of the guidelines of the interview script. Therefore, in the beginning 147 students in the 8th semester of law course participate in this research.
[2] This is because monographs or senior papers only became a requirement in Brazil in order to become a J.D., in 1994 by the Ordinance nº. 1.886/2004 from the Brazilian Education and Culture Ministry.
[3] When a Juris Doctor indicates he or she had more than one occupation, for example, he is a lawyer and a professor, only the first one was considered because the number of double statements is not so important for this sample.

Table 1

Position/function performed by Juris Doctors respondents

Position/function	**N**	**%**
Lawyer	172	54,96
Public servants	80	25,56
Profession that was not related to the legal area	18	5,75
Unemployed	12	3,83
Other legal profession	11	3,51
Magistracy Juridical Careers, public advocacy, public defenders, Brazilian Public Prosecution Service	9	2,88
NA*	11	3,51
Total	313	100,00

* Not answered

The rest of respondents, a percentage which were not meaningful for the purpose of this study, indicated that 5.75% of them did not work as lawyers (they were bank managers, businessmen and even a handicraftsman was listed). 3.83% of the respondents - especially those who graduated in the year the survey was done - were unemployed and they identified themselves as students. They have been studying to be approved in a test in order to get a public job, and they dedicated their full time studying. 3.51% of the respondents had another kind of profession that was not related to the legal area. These activities were neither a lawyer work nor related to public service, such as a legal advisor, a consultant or even a law professor. A low number of respondents belonged to Magistracy Juridical Careers, public advocacy, public defenders, Brazilian Public Prosecution Service etc. They represented only 2.88% of interviews.

Regarding to age, the data were collected in Table 2:

Table 2

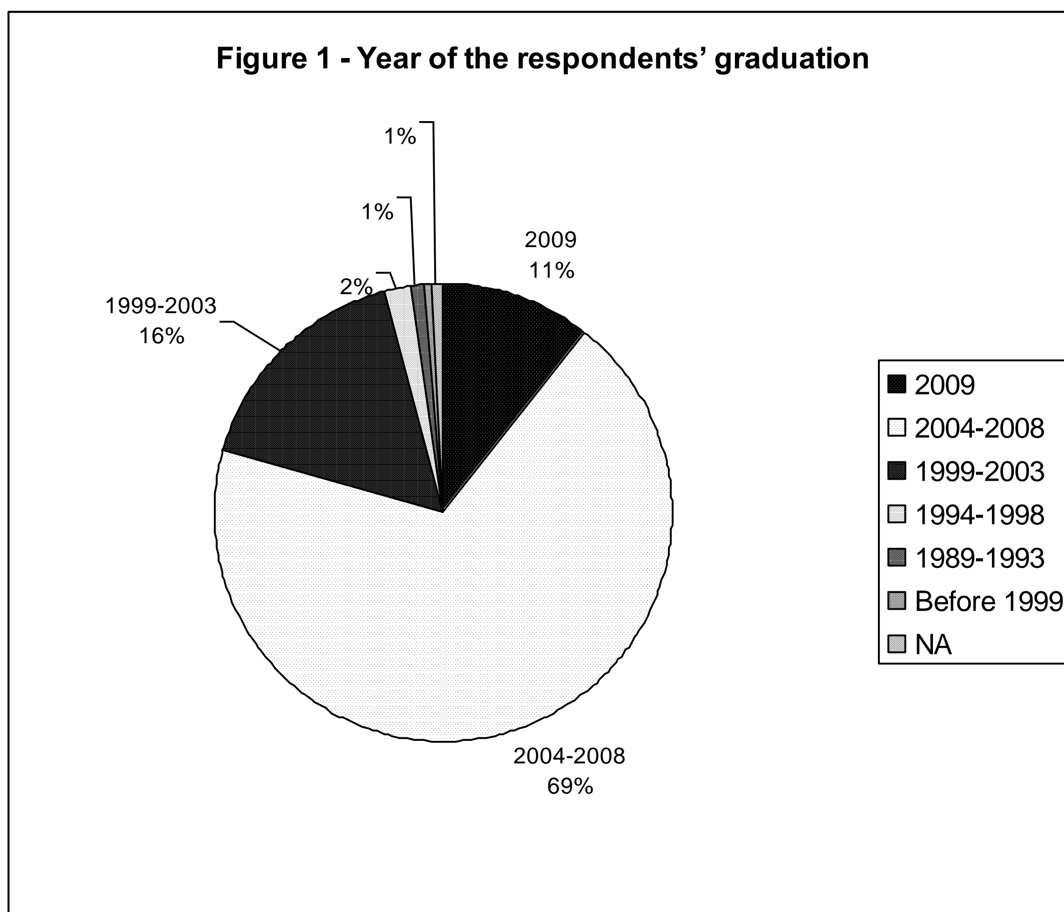
Age of Juris Doctors respondents

Age	**N**	**%**
22-25	75	23,97

26-29	126	40,26
30-33	48	15,34
34-37	19	6,07
38-41	12	3,83
42-45	10	3,19
More than 45	12	3,83
NA	11	3,51
Total	313	100,00

A relevant fact is that 64.23% of respondents were less than 30 years old. Therefore they are young legal professionals, if we consider that the average amount of regular students graduate at the age of 23. It happens because in Brazil when the students finish their high school, they are able to enroll themselves at a Brazilian Law school to take a Law course. In this way there are undergraduate Law courses in Brazil and most of students are Bachelors of Law at the age of 23.

The year of the respondents' graduation also reveals that they were young legal professionals, since 80% of them graduated in the last five years, according to data figure 1.



The data also indicated that, when the interviews were conducted, the requirement to carry out the final monograph for these Law students was already consolidated within the Brazilian legislation. In other words, after the enactment nº 1.886 of the Brazilian Ministry of Education, December 30th, 1994, under its section 9th[4], it became necessary that Law school programs prepare students to do researches. The idea was to prepare them for the Monograph or Senior Paper. This requirement has been maintained and reinforced by Brazilian legislation. (Resolution nº. 9, September 29th, 2004 - section 2nd, § 1º, subsection XI[5], section 5º, subsection III[6], and most notably in its section. 10[7]). In this sense, it is assumed that respondents have received specific training in Law research methodology, to carry out their work.

Regarding the gender, interview sample is well balanced: 52.08% are male, 46.97% female and the rest (0.95%) did not answer to this question.

Concerning the nature of these institutions, 80.83% of respondents received their Law degree from private schools, 18.22% from public schools and the rest (0.95%), as in the previous item, did not answer to this question.

In summary, the profile of the respondents can be described as lawyers and public servants, male and female. It is composed by young legal professionals due to age they have finished their Law course, and most of them studied at private institutions over the past five years.

[4] Section 9th: In order to complete the Law course, students must present and defend a final monograph, for an examining board, with a theme and an advisor chosen by the student. See: Brazil. Ministério da Educação e Cultura. (1994) Portaria n. 1.886. 30 dez. 1994. In: *Manual da monografia jurídica.* ed. Saraiva, 2000, 209.

[5] Section 2nd: The organization of Law courses, taking into account the Brazilian National Curriculum Guidelines is expressed through its education program. It covers the profile of graduated students, skills and abilities, the curriculum contents, supervised traineeship, complementary activities, the assessment system, and the Monograph as obligatory curriculum of the course, the academic regime of provision, course duration, without prejudice to other aspects that make such a consistent pedagogical project. § 1st. The course Educational Project, beyond its clear conception of the law school, with its peculiarities, its curriculum and its full operationalization, shall cover, without prejudice to others, the following structural elements: [...] XI - mandatory inclusion of the Monograph. (See: Brazil. Resolução n. 9, de 29 de setembro de 2004. <http://portal.mec.gov.br/>).

[6] Section 5th: Law course must include in its Pedagogic Project and in its curriculum organization, contents and activities that address the following interconnected streams of formation: [...] III – Stream of practical training: aiming the integration between practice and theoretical contents developed in the other streams, especially in activities related to the monographs [...] (See: Brazil. Resolução n. 9, de 29 de setembro de 2004. <http://portal.mec.gov.br/>).

[7] Section 10th: Monograph is a mandatory curriculum component. It must be done individually, having contents determined by the Education Institutions in accordance with their pedagogical projects. (Sole Subsection: These Institutions have to issue their own regulations which must be approved by the Council in charge of it and it has to have criteria, procedure and evaluation mechanisms, *and also technical guidelines relating to their preparation*. (See: Brazil. Resolução n. 9, de 29 de setembro de 2004. <http://portal.mec.gov.br/>)

III. How Law researches are done

When respondents were asked: "how your research for preparing the monograph was developed", they gave a wide range of responses. The total number of answers was higher than the number of respondents because it is an open question that allowed more than one answer from an interviewee. This investigation tried to uncover some methodological aspects in the law research. Theoretical-methodological contributions are essential therefore law science may diagnose and understand the new changes that science and technology have brought to the understanding of the role of law in contemporary societies, as well as to comprehend the consequences of Law research for the society awareness, emancipatory movements and their freedom from the and socio-cultural and the state domination. Therefore the study of contemporary legal issues assumes methodological tools of apprehending the reality and they are required to define their objects of study and knowledge reasoning. It is assumed therefore that the lack of methodological reflection and its use in the development of law researches may result in the weakness of knowledge building and enhance the traditionalism of legal research, which also reflects in its teaching.

The data were collected in the following categories to enable its analysis as the data in Table 3.

Table 3

How Law researches are done, according to respondents

How Law researches are done	N	%
Only indication of the reference sources	269	75,56
Presentation of the content developed	35	9,83
Indication of the methodological perspective of the research, the type of research and / or methods of approach	22	6,18
Conducting field research	18	5,06
Case studies	10	2,81
Indication and solving a legal problem	2	0,56
Total	356	100,00

The absolute majority of the indications from respondents (85.39%), when they were asked about their research development, either they indicate the reference sources for its development (75.56%) or they presented a synthesis of the content they worked through, without any indication about the research procedure (9.83%).

It is important to notice that the question asked to the respondents was not "what sources were used to develop your research" and not "what was the content of their developed work", that would have been more appropriate for the two most frequent answers given by them.

Some examples elucidate the most frequent answers given by respondents. A 28 year old, female, public servant, graduated in 2004, at a Brazilian public institution called Universidade Federal de Minas Gerais (UFMG), when she was asked about how the researches were developed; she presented the contents of her work and at the end, the reference sources for the development of her monograph, namely: "My research was done considering the concept of family embraced by Brazilian Federal Constitution of 1988, facing the Adoption Institution under Brazilian Civil Code of 2002. Analysis of origin and evolution of family concept were also done, as well as law case researches and doctrines have been done about conflict [Adoption by homosexual couples][8]. "

In another example, a young Juris Doctor, who completed the law course at a private institution named Faculdades Integradas do Oeste de Minas (FADOM), in 2009, at the age of 23. When he was asked how his research was developed, he spoke about its contents, which belong to the Field of Criminal Law. The respondent's answer was: "The research focus was the explanation regarding the merger of sections 214 and 213 of Brazilian Penal Code, which revoked the rule contained in its section 214, incriminating the indecent assault as an autonomous criminal rule. First of all, 213 and 214 sections, from the Brazilian Civil Code were dismembered, in order to accomplish a theoretical study [...]"

Significant number of responses given by respondents (75.56%) just pointed out the Reference sources. The answer given by a 27 year old lawyer, graduated in 2006 at private institution named Universidade José do Rosário Vellano (UNIFENAS), stating that "The research was based on jurisprudence, doctrine, articles from the Internet.[9]" This was something recurring among respondents who have chosen mostly for the use of so-called "secondary Reference sources" or "Reference sources of paper. "

Some respondents added they have talked to some specialists in the area and it was considered as a research resource, as occurred with this 31 year old, public servant, graduated in 2002 at private institution named Faculdade de Direito Milton Campos. She said:

[8] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.
[9] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.

"Research for the preparation of the monograph was developed by the research doctrines, through consulting lawyers and judges who work in family law area and researching articles on the Internet.[10]"

Perhaps the previous understanding of the purpose of the monograph - as deepening studies and not as scientific research[11] - would contribute to this lack of concern in relation to its methodological aspects, or else they reveal their unpreparedness to develop a scientific research.

As it will be seen and discussed in Table 4, 10% of respondents' answers, when they were asked about the objective of the research, said it was only "deepening studies", as revealed by response of a 26 year old lawyer, graduated in 2007, at a private institution named Fumec. She said: "[...] considering that this was a senior paper or monograph, I tried not to innovate too much, because we need to have more experience and empiricism on the subject. I believe the Monograph should not be anything groundbreaking, but it should be a summary of what there is in the legal world, dealing with different opinions and bringing a personal position about it at the end." [12]

From the collected data, it was observed that answers showing some concerns on the development of a methodological nature monograph had the lowest amount (14.61%) and they corresponds to the last four statements in Table 3.

These responses discuss innovatively even the existence and the possibility of developing methodologies to address the legal phenomena and knowledge production on equality condition with other scientific fields. As stated by a 27 year old, General Public Attorney, graduated in 2004 at a private institution called Faculdade Milton Campos, The main goal of his research was "to identify the challenges and possibilities of developing a rational method making the law more capable to deal with differences and diversity that characterize modern and postmodern society"[13].

Regarding to respondents who had some kind of concern of methodological nature during their research development to write their monographs in order to get the law degree, 6.18% indicated one or some best known methodological instruments in law Researches, such

[10] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.
[11] According to Gustin & Dias for the purpose of research as, a simple studying of a particular theme in textbooks, encyclopedias, newspapers, magazines and other texts with some deepen level of the matter, was supposedly transmitted, by professors, who insisted on calling "research" any further study about a given topic previously chosen and to the students. To the authors "[...] Despite of it, the product of this effort is merely a kind of deepen study but it may not be considered as a scientific investigation [...]" (Gustin, Miracy Barbosa de Sousa; Dias, Maria Tereza Fonseca, *(Re)pensando a pesquisa jurídica*, 2010, 12).
[12] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.
[13] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.

as: the methodological perspective of the research, the type of research[14] and / or methods of approach[15], as in the case of this research, developed by a 24 year old lawyer, graduated in 2008 at Public University called Universidade Federal de Minas Gerais (UFMG). According to the respondent: "In respect to research methods we used hypothetical-deductive methods (preparation of conjectures or hypotheses, which were submitted to reviews and analysis making an effort to explain the problem in question), historical (the analysis of the evolution of the constitutionality control institute in Brazilian constitutional history) and comparative (comparison among the effects the constitutionality control in Brazil and the effects on Comparative Law)."[16]

5.06% of the respondents reported having carried out a field research in order to understand the phenomenon. A female public servant, at the age of 27 and graduated in 2006 at Centro Universitário of Belo Horizonte (UNI-BH), a private institution, said she "[...] visited APAC[17] in Nova Lima[18]" to try to be familiar with alternative penitentiary system and to know about law of criminal executions." Although the case studies[19] are important methodological instruments to do law research, they were used in only 2.81% of replies. For instance, the research done by a public servant, at the age of 25, graduated in 2007 at a private institution named Pontifícia Universidade Católica de Minas Gerais (PUC/MG).

An empirical analysis of judicial review of decisions of the CADE (Administrative Council for Economic Protection) in cases of two companies: Nestle and Garoto."[20] Another example of case study appeared in the investigation on civil law field. In order to study the civil liability in contracts of air transportation, a 24 year old female lawyer, graduated in 2009 at PUC-MG decided to study the case of the aircraft crash of the 1907 Gol Airlines flight.[21]

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[14] According to Gustin and Dias, the methodological aspects of legal research are legal-theoretical research, legal-sociological research and legal-dogmatic research. As types of research the authors suggest: comprehensive/descriptive, exploratory, historical, comparative, propositional and projective. To deepen the concepts, see Gustin, Miracy Barbosa de Sousa; Dias, Maria Tereza Fonseca, *(Re)pensando a pesquisa jurídica* 2010.

[15] According to Lakatos & Marconi, the methodological approaches of scientific research suggest the kind of reasoning used for its development. They are classified as inductive, deductive, hypothetical-deductive and dialectical. (Lakatos, Eva Maria; Marconi, Marina de Andrade. *Metodologia científica*, 2000).

[16] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.

[17] The method used by the Association of Protection and Assistance to the Detainee (APAC). It is a nongovernmental organization, a civil entity of private law. It aims to develop in the penitentiary, an activity related to the rehabilitation of detainee, reducing the state failure in this area, by acting as an auxiliary body of the Justice and Security in Enforcement of the Sentence. See APAC em Santa Luzia forma voluntários. *Jornal PUC Minas*. 270 (2005)

[18] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.

[19] A case study, from a methodological point of view, refers to a set of data describing one stage or the entire social process of a unit, in its several internal relations and in its cultural attachments, even if that unit is a person, a family, a professional, a social institution, a community or a nation (See Young In: Gil, Antônio Carlos. *Como elaborar projetos de pesquisa*, 1996, 59).

[20] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.

[21] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.

From the collected data it is noticed that for those who have completed a degree in law, more important than having used some investigation methodology for their monograph it was to present the research sources. These end up creating in the imaginary of these legal professionals, as being the research methodology itself, without the need for further studies and discussions on the subject. After doing these considerations about how the researches are done we move on to the analysis of their main objectives.

IV. The research objectives and the law science models

When respondents were asked about "what was the main objective of their research," as it happened in the previous question, they gave a quite varied of answers. The total number of answers was higher than the number of respondents because it is an open question, which accepted more than one reply from them, despite of the fact they were asked only the "central" purpose of the research.

Some answers indicated several objectives and they were classified into different items presented in the Table 4, as exemplified by the study developed by a 24 year old female lawyer, graduated in 2008 at Faculdade Milton Campos, which is a private institution. She has developed a research about the environmental licensing of mining and her study presented the following objectives: "[...] to evaluate the challenges to link the requirements given by the state and federal environmental licensing;; to check how mining companies may develop mineral exploration reducing impacts to the environment, to seek legal documents and certifications involving this kind of exploitation segmentation; to examine the coexistence between sustainable development and environment [in this type of development]."[22]

In this example, the objectives are focused on two: "to analyze and interpret the law on this theme" and "evaluate the social context for implementation of the rules, such as problems concerning licensing and the coexistence between sustainable development and environment.

The data were put into categories listed below, to enable their analysis as the data in Table 4:

Table 4

Main law's researchs objectives, according to respondents

Main research's objectives	**N**	**%**
Analysis and interpretation of legislation	112	25,87

[22] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.

Practical application of legal institution (analyzing their efficacy, efficiency and effectiveness) in the social environment	49	11,32
Deepening the studies	44	10,16
Evaluate the social context to implementation of rules	41	9,47
Theoretical study (definition of concepts and law foundations)	41	9,47
Jurisprudence analysis	31	7,16
Solve the problem posed by the research	28	6,47
Confrontation of conflicting theoretical positions	20	4,62
Proposing changes (legislative, in the studied Institutes and observed practices)	17	3,93
Discussing the theme	16	3,70
Promoting external and practical effects through research	13	3,00
Doing comparative law studies	7	1,61
Observing trends (research projective)	4	0,92
Completing the Law course	3	0,69
Publishing the results	1	0,23
NA	6	1,38
Total	433	100,00

As could be expected, large number of researches (25.87%) had as their main objective the analysis and interpretation of legislation. It is important to remember that these studies focused on the study of normativity, without having concerns about its application context, the observation of trends or change proposals in the legal field. These items were analyzed separately. There is an example that could demonstrate this frequent objective. By studying the Brazilian Institute of injury and the elements shaping the Brazilian legal system, a public servant of 26 years, graduated in 2006, at a public university (UFMG) stated: “The main objective of the study was to assess what are the necessary requirements to configuring a damage to understand the concept of this legal transaction effect, regulated by 2002 Civil

Code and the importance of the Institution providing [...], defining if the intention of exploitation is indispensable to the characterization of that addiction." [23]

Two revealing (and disturbing) data related to the objectives of researches were the indication, in 11.32% of the answers, that the main purpose of the study was a "practical application of legal institution, analyzing their efficacy, efficiency and effectiveness in the social environment "and an indication, in 9.47%, to "assess the social context to apply the rules.

The research performed by the male lawyer, at the age of 37, graduated in 2007, at a private school called Faculdade Santo Agostinho, had as main scope the practical application of legal instrument the field of criminal law when he define the objective: "To demonstrate that the method [APAC][24] is really effective and it achieves a much higher level of resocialization than traditional methods [rehabilitation of prisoners sentenced][25]

Concerning the objective to "evaluate the social context to implementation of rules" three interesting examples were drawn from answers. The first was in the Family Law field. A male, public servant of 31 years, graduated in 2002 at Faculdade de Direito Milton Campos, a private institution of higher education: "The main objective of this research was to demonstrate and to question whether the shared custody, nowadays brings benefits or harmful effects to a child, especially in his or her relationship with parents and in the society[26]. " I was also observed that same purpose in two other different answers, from the Labor Law field. A female lawyer, 27 years old, graduated in 2007, at Faculdade Padre Arnaldo Janssen, a private institution of higher education, pointed out as an objective of her the study "to examine the need for flexibility of labor regulations because of the verification of increased competition in markets defined by unrestrained process of globalization"[27] and the 24 year old, businessman, graduated in a private institution named Pontifícia Universidade Católica de Minas Gerai*s*, in 2009, pointed out the need to "readdress the disequilibrium among sides during a negotiation and the role of the Union as an entity responsible for representing the workers against the company".[28]

These data are revealing as they indicate higher approximation of legal researches with their object of social research, however they are disconcerting because, without a specific methodological guidance - discussed through the data in Table 3 - it is difficult to imagine the

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[23] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.
[24] See footnote 17 above.
[25] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009
[26] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.
[27] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.
[28] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.

consistency of the efficacy, efficiency and effectiveness analysis, as well as the assessment of the social context in order to apply the law without conducting field researches, indicated by only 5% of responses as a used methodological approach, while a sum of 20.79% of the answers have sought to understand a broader social context in order to apply the rules.

Moreover according to data in Table 4, over 10% of answers, as previously analyzed, present as the main objective of the research “deepening the studies", as indicated by a public servant, graduated in 2003 at Universidade Federal de Minas Gerais (UFMG), a public school. Her intention to develop this work was the "Improvement of legal knowledge, and in order to get her degree."

Unlike the mentioned needs to approach the social context and practical implementation of legal institutions, almost 10% of respondents indicated the theoretical study - which is the definition of concepts and law foundations – as the main research scope, enhancing the practice that is very frequent and traditional in the legal studies. The research of the 25 years old, female attorney, graduated in 2008, in a private school named Centro Universitário UNA, illustrates this classification, when she states that the main goal of her research was "To demonstrate that the virtual title does not affront one of the oldest note principles.”[29] The same was found in the research of a female attorney, at the age of 27, graduated in 2005 at the public school called UFMG. Her monograph sought "[...] to verify whether the concept of public interest in administrative law could be used for economic law, specifically in the regulatory agencies.”[30]

The jurisprudence analysis, which is a rich source for legal research, was elected as the scope of researches by 7.16% respondents’ answer. This is a considerable rate, although it could be used more as a methodological technique and as the objective for research in the law field. A monograph of a male lawyer, at the age of 24, graduated in 2008 at a private institution named Fumec, explored this possibility when he pointed as his research objective as to "[...] demonstrate the jurisprudence divergence about a theme and an important debate exists about the statement or not of an employment bond with the “game maker” of a Brazilian outlaw game of chance with the owner of this kind of “Lottery”, considering that this is criminal contravention, or illicit activity[31].

The confrontation of conflicting theoretical positions, as the objective of investigation, was reported by only 3.42% of the respondents. It was a much lower rate than expected, mainly because it is a thinking technique well known amongst lawyers. The monograph of a

[29] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.
[30] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.
[31] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.

female lawyer, graduated in 2009 at a private school called UNI-BH, illustrates this assertion by stating that "[...] the basis of the research was to anticipate advance relief against the Treasury, as doctrine and jurisprudence are still diverge if it should be granted interim relief against the Treasury, although the section 273 of the CPC does not bring any impediment" since doctrine and jurisprudence still disagree whether it should be granted early relief against the Treasury, even though the section 273 of the CPC does not bring any impediment".[32]

The objective of "proposing changes (legislative, in the studied Institutes and observed practices)", "discussing the theme"; " promoting external and practical effects through research"; "doing comparative law studies"; "observing trends (research projective)"; "completing the Law course" and "publishing the results" were said, in less than 4% of replies.

The low rate achieved by the objective to propose changes (whether legislative, or in the studied institutes and even in the observed practice) is regrettable because that should be central scope of all juridical research, as indicated by Gustin & Dias[33]. The absence this purpose also make innocuous the ones mentioned more often by the respondents' answers, because what is the point "to analyze and interpret the law"; "to understand the practical implementation of legal institutions in the social environment" and "deepening studies in the field of law, " if there is not the commitment to propose something or to make difference? Therefore, there are few researches willing to study their object of investigation and at the end to propose same changes. It was the case of a female public servant's research, at the age of 47, graduated in 2006, at a private school named Faculdade de Direito Arnaldo Janssen. Her research scope was "to present a model of reference term to the Public bid, which hires monitoring services, since the law considers it as a mandatory subsection for the Bid Official Announcement but without deciding all variables of its contents."[34]

3.00% of the preferences sough to promote, through research, the external effects and practical to the academic field. A female Public servant, 30 years old, graduated in 2002 at Pontifícia Universidade Católica de Minas Gerais (PUC/MG), which is a private institution, when she was developing her theme about the mechanisms of the new Bankruptcy Act firms to recover the companies, she had the objective "To demonstrate to the debtor some suitable ways to develop plan for the company's recovery",[35] in other words, the study sought reach the audiences outside the academic field. The same objective was sought by a female lawyer's

[32] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009
[33] Gustin, Miracy Barbosa de Sousa; Dias, Maria Tereza Fonseca, *(Re)pensando a pesquisa jurídica* 2010.
[34] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.
[35] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.

monograph, at the age of 23, graduated in 2008, at Faculdade Milton Campos, a private institution. When she studied the loyalty provision in some contracts done by mobile phone companies, she aimed "[...] to try to help the millions of clients who have gone through these problems related to these loyalty provision imposed by telephone companies. In this sense the clients were not the owners of their mobile phone number that belonged to its telecommunication company. She sought to explain their operation and reason for their existence."[36]

Nevertheless this research objective cannot be achieved either by the student or by the educational institution if it does not offer students the opportunity to participate in university extension programs. Thus, the research itself if it is not debated and circulated for target audience, will never be accomplished this scope, even if it has been the intention of its authors.

The questioning about the objective of the research, besides checking the teleology of these studies, it also worked to gather information required to analyze the possible models of the science of law that were used by students who have completed the law courses, even if these are not described .

To perform the analysis about which law science model research has use the science of law models, developed by Ferraz Júnior[37] will be taken as the basis, such as the analytical model, the hermeneutic model and empirical model.

1. The models of the science of law

As Ferraz Júnior assumes, nowadays positive law is not a unique creation of legislative decision. In other words it may not be taken as a causality regarding to regulations edited by the Parliament. To this author, it comes from the imputation of the Law validity towards some decisions (legislative, judicial, administrative) because "[...] assertiveness and decision are correlated terms "[38]. By the evolution of the Law science there was a process of "legalization" of the law changing and the legal statements are validated, not by imposition but through its legal relevance. The legal thinking, which is the law science, is an explanatory system of human behavior while it is controlled by rules. For the author, it is the main object of legal science, then "[...] it is neither positivization nor the set of positive rules, but these beings (human beings) that from the interior of the legal positiveness which surrounds them,

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[36] Direct research. The interview was conducted by a group of Law students in their 8th semester, in 2009.

[37] See Ferraz Júnior, Tércio Sampaio. *A ciência do Direito*, 1980; Ferraz Júnior, Tércio Sampaio. *Introdução ao estudo do direito:* técnica, decisão, dominação. 2008; Ferraz Júnior, Tércio Sampaio. *Estudos de Filosofia do Direito*, 2003.

[38] Ferraz Júnior, Tércio Sampaio. *A ciência do Direito*, 1980, 41.

represent themselves, discursively, the sense of rules or prescriptive propositions which they establishes by themselves, obtaining, after all, a representation of their own positivization".[39]

There are several forms and objectives of the study of this controlled behavior by rules and models that result on the Science of law, described by the author, in accordance to the way the issue of the decidability is faced.

a) Analytical model

In this model, since the human being is endowed with needs which are revealing of interest, and they might conflict in social relations, the science of law appears as a systematization of procedures for achieving possible decisions.

The main features of the analytical model of science of law are the following, as mentioned by author:

• Law science attempts to capture the legal phenomenon as a regulatory one, performing a systematization of rules in order to achieve possible decisions.

• Rule is its theoretical core;

• Its objective is to promote the sequence of rules in a system (coherent and integrated);

• It has a crypto-normative feature, in other words, law theories have a function to solve social disturbance and conflict;

• Its conceptual problems are distinguishing legal rules from other behavior standards (moral, religious, etc.) to determine the elements of legal rules such as: validity, effectiveness and efficiency, sanction, etc.

When we confront these characteristics with the collected data in Table 4, there are three objectives listed by researched law professionals as being a constituent of the analytical model, which would be: "analysis and interpretation of the law"[40]; "practical appliance of legal institutions (efficiency , efficiency and effectiveness) and "theoretical study (definition of concepts and positive law foundation), " they added up together, 46.66% of replies collected during data analyses in respect to the research purpose.

b) Hermeneutic model

In the hermeneutic model, the human being is a life form which acting has a meaning and the law science is an interpretive activity, building itself up as a comprehensive system of human behavior.

[39] Ferraz Júnior, Tércio Sampaio. *A ciência do Direito*, 1980, 42.
[40] As the interviews did not differentiate whether the study of legislation was only its systematization or just its interpretation, the data had to be grouped and relativized in the analysis of the hermeneutic model, as following.

This model faces an issue like its own idea of the interpretation and the variety of methods of interpretation (grammatical, logical, systematic and historical). There is also a struggle, in the hermeneutic model; between the subjectivist doctrine (understanding the thinking of the legislator) and objectivist (the rules have their own meaning).

The main features of hermeneutic model of the science of law are following, as mentioned by author:

• Its task is to interpret texts and their intention regarding a practical purpose;

• it addresses the question of integration of law, making sure the interpreter may go beyond the understanding of the rule setting new normative assumptions when the existing law do not foresee them or even when it expects, but it is not in such a way satisfactory;

• It promotes the fulfillment of a system of rules through an argumentative procedure in the fulfillment of the gaps.

When we compare these features with collected data in Table 4, only the purpose of "analysis and interpretation of the legislation" would be framed into the hermeneutic model, with 25.87%. However, this percentage also refers to the analytical model, which is why the hermeneutic model, even though has been suggested by some researchers, it seems not to have been the focus of the methodological choices for law researches that were studied here.

c) Empirical model

In empirical model, the human being is gifted with functions. it means a human being is capable to adapt him or herself by continuous evolution and transformation of environment demands and the science of law is an investigation of regulations of conviviality, and the rules are considered a decision procedure.

Therefore empirical model must be understood not as a "[...] description of law as a social reality, but the investigation of legal instruments and behavior control."[41]

The main features of the empirical model of law science are the following, as quoted by the author above:

• It shall be seen not as a theory about a decision, but as a theory to achieve the decision;

• There is not a theory of legal decision (which happens in hermeneutic and analytical models);

• Decision is a procedure in which the high point is the act of response. Through it we may intend to get an immediate satisfaction for a conflict in the sense that the incompatible proposals are accommodated or overcome;

[41] Ferraz Júnior, Tércio Sampaio. *A ciência do Direito*, 1980, 87 et seq.

• Decision making act is seen as a component of a communication situation which is understood as an interactive system;

• Science of law as a decision making theory captures well the problem of decidability of social conflicts which is seen as a law continued intervention in human society. It is also seen of a system of intermittent conflict;

• Law may be understood as a way of communicating by which one side is able to establish a specific commitment (a consequence) in respect to the other side, by controlling the one's possible reactions;

• Rule is not necessarily a law or sentence, but every communicative intervention of a third factor, which is able to define a commitment between the parties.

In spite of not having appeared in a high level, this data showed the existence of research based on the model of decision theory. They appear especially when the purpose of the research was "proposing changes (legislative, in the studied institutes and in the observed practices)" - 3.93% of the answers – since in this model human beings adapt themselves to the changes; "promoting, as research, external and practical effects"(3.00%) since the law science must give the basis for the existing decision making processes and "to observe trends" (0.92%), since conflicts are discontinuous.

IV. Final remarks

A total of 313 Juris Doctors were interviewed in this research. Their profile is described as lawyers and public servants, male and female. They are considered young legal professionals due to the age they have gotten their degrees. They have also graduated over the past 5 years, especially at private institutions.

From the collected data we are able infer that there are those who have completed their law course, and methodology is not as important during the investigation for the research for their monograph. They mixed the investigation with the research sources used. These two issues configure in the students' imaginary, as the research methodology itself, without further needs to deepen the studies and further discussions on the subject. Thus, most of the monographs produced for the conclusion of the Law course did not even present the methodology used for its development.

Regarding the research objectives and science law models, the main conclusions of this study were: when they indicate methodology they have used, the developed research of their monograph is carried out predominantly in the analytical model (46.66%). In these cases the science of law seems as rule systematization in order to get possible decisions. Hermeneutic

and empirical models were also used, but on a lower level. The way law researches are done in this studied law schools revealed the inaccuracy of the methodological tools which were very useful to apprehend the reality. Indeed they are required to define the law objects of study in the contemporary moment.

Address: Maria Tereza Fonseca Dias, Belo Horizonte / Brazil.
E-mail: mariaterezafdias@yahoo.com.br